SUBJECT: Appeal of Decision of the Historic Preservation Commission Concerning Property Located at 1300 Oxford Road by Jeremy Catlin and Alycia Downs

ATTACHMENTS (PAGES)

1.Attachment list (page 1)

2.Appeal (pages 2-5)

3.Denial Form and Decision Form (pages 6-9)

Documents below this line were provided to the preservation commission for their consideration in making their decision.

4.Staff report (pages 10)

5.Application and supporting material (pages 11-26)

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Clark Harrison Building
330 W. Ponce de Leon Ave
Decatur, GA 30030

Application to Appeal a Decision of the DeKalb County Historic Preservation Commission

All appeals must comply with the procedures set forth herein.

An application to appeal a decision of the Historic Preservation Commission on a certificate of appropriateness application must be filed within fifteen (15) calendar days after the issuance or denial of the certificate of appropriateness.

To be completed by County:
Date Received:

To be completed by appellant:

Name: Jeremy Catlin and Alycia Downs

Address of appellant: 1300 Oxford Road Atlanta GA 30306

Address of Property: Same

This appeal is a review of the record of the proceedings before the preservation commission by the governing authority of DeKalb County, Georgia. The governing authority is looking for an abuse of discretion as revealed by the record. An abuse of discretion exists where the record presented to the governing authority shows that the preservation commission: (a) exceeded the limits of its authority; (b) that the preservation commission's decision was not based on factors set forth in the section 13.5-8(3) or the guidelines adopted by the preservation commission pursuant to section 13.5-6 or; (c) that the preservation commission's decision was otherwise arbitrary and capricious.

If the governing authority finds no abuse of discretion, then it may affirm the decision of the preservation commission. If the governing authority finds that the preservation commission abused its discretion in reaching a decision, then it may; (a) reverse the preservation commission's decision, or; (b) it may reverse the preservation commission's decision and remand the application to the preservation commission with direction.

Date(s) of hearing, if any: May 16, 2022

Date of Historic Preservation Commission decision: The decision is dated May 20, 2022 and was provided to appellants on May 23, 2022.

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In the space provided below the Appellant must describe how the preservation commission's decision constitutes an abuse of discretion. Specifically, the appellant must, citing to the preservation commission's written decision, show at least one of the following: that the preservation commission exceeded the limits of its authority, or that the preservation commission's decision was not based on factors set forth in the section 13.5-8(3) of the DeKalb County Code or on the guidelines adopted by the preservation commission pursuant to section 13.5-6 of said code or that the preservation commission's decision was otherwise arbitrary and capricious.

Grounds for appeal:

The stated reason for the denial of this request was a violation of guideline 9.1. However, there is a significant dispute as to whether that guideline even applies to the request at issue. The board members who heard this request were split on that issue with the chairperson, Matthew Stoddard, agreeing that it did not apply and voting in favor of granting this request. As is detailed in the supporting explanation, appellants contend the applicable rule is 9.7, which governs 'Residential Landscape Design', and is on point for this request. Further, all voting members of the board, as well as preservation representatives agreed that the rules were "ambiguous" as applicable to the current request. Mr. Stoddard acknowledged that ambiguously drafted rules should be construed in favor of the applicant. Notably, the motion for the denial of the certificate during the hearing expressly did not not include a statement that the members of the board believed any rule was broken. Rather, the split decision was based on the personal preference of three members of the board. The decision should be overturned because rule 9.1 was not violated, the preservation commission exceeded the limits of its authority, the decision was not based on factors set forth in the section 13.5-8(3) of the DeKalb County Code, the decision was not based on the guidelines adopted by the preservation commission pursuant to section 13.5-6, and the decision was arbitrary and capricious.

The appellant may submit a written supplementary explanation in support of the appeal. The supplementary explanation shall be submitted with the appeal. The supplementary explanation may not exceed three pages and must be typewritten and double-spaced using a twelve-point font with a one-inch margin on all four sides. The governing authority will not consider text in excess of the page limit set forth herein.

Date: June 4, 2022 **Signature**: Jeremy Catlin

Instructions: The appellant shall also deliver copies of this appeal to the planning department and the county attorney. The appellant and any person who has filed a statement in opposition to, or in support of the appeal may attend the meeting at which the appeal is considered and may be called upon by any member of the governing authority to provide information or answer questions. There shall be no other public participation in the appeal.

Supplemental Statement is Support of Certificate of Appropriateness for 1300 Oxford Road

- What is at Issue?

The work at issue relates to paving stones that were placed in the front yard of the property in question extending from the front porch to the sidewalk.

- Why are we here??

At the hearing related to this request, the certificate for appropriateness was approved in part and denied in part. The board approved work that was done to the front walkway that extends to the driveway and the driveway itself. The board denied the request as it pertains to pavers that extend to the sidewalk. The homeowners are now appealing that denial.

- What happened at the hearing?

At the hearing there were four voting board members. The chairperson at the meeting, Matthew Stoddard, made a motion to approve the entire request of the homeowners. However, that motion was not seconded and a second motion was made to approve part of the request and deny part (as detailed above). This motion was seconded and ultimately passed by a vote of 3-1. Matthew Stoddard voted against that motion as he did not believe the work in question violated the rules at issue. Notably, the motion that ultimately succeeded specifically did not include a statement that the board members believed there was a violation of any rule. This question was asked directly by the applicants and was answered with a response that the motion did not include a conclusion that any rule was broken. Rather, it appeared that the decision was based on the personal preference of the three people who voted in favor of the motion.

- What are the rules at issue?

The decision denying the request, as well as the position set forth by the county representatives prior to the hearing, cites a violation of Rule 9.1. Rule 9.1 is the first rule in section 9 of the historic guidelines and is titled 'Original Subdivision Forms'. A thorough reading of rule 9.1 makes no mention of individual property elements. Rather, it speaks of governing "the physical framework of the district" and discussed the "configuration of streets, public open spaces, and private lots." This section is discussing high level layout of Druid Hills, not whether individual lots have paving stones in their front yard. A reading of this rule made it clear to the applicants, as well as some of the board members, that it did not apply to the current request.

Further supporting that position is the fact that there is a rule that is exactly on point, Rule 9.7, which is titled 'Residential Landscape Design'. This rule discusses specifically the "intent for front yards" and is clear that it pertains directly to the type of work at issue in the current request. Notably, there is no contention that this rule has been violated in the decision provided. The recommendation provided by this rule is that "for residential yards, created without the assistance of landscape designers, historic landscape plans for other residential lots within the district should be used as guidance."

The appellants submit that they followed this recommendation precisely. Before taking on this project they reviewed many other properties within the district that have nearly identical steps extending from the front porch to the sidewalk. The appellants submitted photos of these properties as part of their request. In short, the work at issue is consistent with other homes within the district and is therefore compliant with the applicable rule governing the request in question.

- What else should I know?

As stated above, there was significant discussion about the request at issue here during the hearing. There were long periods of silence, discussion, and reading of rules. Ultimately, the board was split on what to do. After the vote, at the end of the call, there was a discussion about changing the rules to make them more clear. That is the one thing everyone agreed on, that the rules were not clear. When the rules are not clear, I believe the benefit of the doubt should be provided to homeowner. We took action that we in good faith believed was within the rules and regulations and one fourth of the voting panel agreed. We believe it is not fair to hold homeowners to rules that are ambiguous and doing so would cause our family a significant hardship in the case. As such, we are asking that this decision be reversed as it was not based on the violation of a rule. Enforcing this decision is not in line with the overarching purpose of the historical board review as stated clearly by Matthew Stoddard at the beginning on the hearing, which is to enforce a set of rules.

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Decatur, GA 30030

Chief Executive Officer
Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

Director
Andrew A. Baker, AICP

May 20, 2022

NOTICE OF DENIAL

SITE ADDRESS: 1300 OXFORD RD
PARCEL ID: 18 054 09 041

APPLICANT: Alicia Downs & Jeremy Catlin
MAILING ADDRESS: 1300 Oxford Rd
Atlanta, GA 30306

THIS IS TO ADVISE YOU THAT THE DEKALB COUNTY HISTORIC PRESERVATION COMMISSION, AT ITS PUBLIC MEETING ON May 16, 2022 REACHED THE FOLLOWING DECISION ON THIS APPLICATION:

ACTION: DENIAL

The commission determined that the walkway between the front porch and the street does not comply with Guideline 9.1 and approval would have a substantial adverse effect. This decision is in accord with the sections of the DeKalb County Code and the Druid Hills Design Manual listed below.

Sec. 13.5-8(1) Application for Certificate of appropriateness. Owners of historic property or of property in a historic district, or their duly authorized agents, must make application for a certificate of appropriateness on forms and according to procedures promulgated by the preservation commission for such purpose. All applications for certificates of appropriateness shall be accompanied by drawings, photographs, plans and documentation as required by the preservation commission. Notarized authorization of the property owner shall be required if the applicant is not the owner of record.

Sec. 13.5-8(3) Review of Applications When reviewing applications for certificates of appropriateness, the preservation commission shall consider, in addition to any other pertinent factors, the historical and architectural value and significance; architectural style; scale, height, setback, landscaping; general design; arrangement, texture and

materials of the architectural features involved and the relationship thereof to the exterior architectural style and pertinent features of other properties in the immediate neighborhood. When considering applications for existing buildings, the Secretary of the Interior's *Standards for Historic Preservation Projects*, including the *Standards for Rehabilitation* shall be used as a guideline.

The Design Manual for the Druid Hills Local Historic District

9.1 *Original Subdivision Forms* (p81) Guideline - Elements of the original layout to be retained include lot layouts for public and private spaces and the alignment of streets, drive, walkways, and streetscape profiles.

5-20-2022

Matthew Stoddard, Vice Chair — Date

Decision of the DeKalb County Historic Preservation Commission

Name of Applicant: _____ Alicia Downs & Jeremy Catlin _____

Address of Property: _____1300 Oxford Rd _____

Date(s) of hearing if any: ____June 21, 2022_____

Case Number: _____1245758_____

☑ **Approved** ☑ **Denied** ☐ **Deferred**

Approval: The Historic Preservation Commission, having considered the submissions made on behalf of the applicant and all other matters presented to the Preservation Commission finds that the proposed change(s) will not have a substantial adverse effect on the aesthetic, historic, or architectural significance and value of the historic district and hereby approves the issuance of a certificate of appropriateness.

Any conditions or modifications are shown below.

☑Pursuant to Code of DeKalb County, § 13.5-8(3), the Preservation Commission has considered the historical and architectural value and significance; architectural style; scale; height; setback; landscaping; general design; arrangement; texture and materials of the architectural features involved and the relationship of such texture and materials to the exterior architectural style; pertinent features of other properties in the immediate neighborhood, as prescribed generally by county code and specifically by the district design guidelines.

☑This application relates to an existing building, pursuant to the authority granted to the Preservation Commission by Code of DeKalb County, § 13.5-8(3), the Preservation Commission has also used the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guideline for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings therein as guidelines. The Preservation Commission finds that all relevant guidelines have been met.

Additional pertinent factors:

Replace bricks beside the driveway with concrete and replace the concrete front walk between the porch and the driveway with rectangular stepping stones on a different footprint.

Application is approved with conditions or modifications ☑./without conditions or modifications ☐

Conditions or modifications (if applicable):

The proposal to install a walkway between the house and the street was not approved.

Denial: The Preservation Commission has determined that the proposed material changes in appearance would have a substantial adverse effect on the aesthetic, historic or architectural significance and value of the historic property or the historic district ☑/ or, the applicant has not provided sufficient information for the Preservation Commission to approve the application ☐. Specifically, the Preservation Commission finds as follows:

The commission determined that the walkway from the porch to the street does not comply with guideline 9.1 and would have a substantial adverse effect.

Deferral: The Preservation Commission has deferred action on this application for the following reasons:

The application will be re-heard by the Historic Preservation Commission at its meeting on _____.

Date: 5-20-2022

Signature: _____

Vice Chair, DeKalb County
Historic Preservation Commission

DeKalb County Historic Preservation Commission

Monday May 16, 2022- 6:00 P.M.

Staff Report

Regular Agenda

N. 1300 Oxford Road, Alicia Downs & Jeremy Catlin. Replace nonhistoric bricks along the driveway and relocate the front walk. 1245758

Built 1929. (18 054 09 041)

This property is the Druid Hills National Register Historic District and Druid Hills Character Area 2.

Summary

The applicants have replaced bricks that had been laid alongside the driveway with concrete, replaced the concrete front walk that ran between the porch and the driveway on a different footprint with rectangular stepping stones, and laid a stepping stone walkway from the porch to the sidewalk. The applicant says he was not aware that a certificate of appropriateness was required before he made these changes.

The applicant says the front walk was in very poor condition and interfered with the Japanese maple that has been planted between the walkway and the house. (Historic Google street view photo shows that the tree had been planted prior to 2007.)

The applicant says that the material for the walk and the walk from the porch to the sidewalk were based on similar walkways he had seen in the historic district. He has provided photos of several of these.

Recommendation

1. Approve. The replacement of the bricks along the driveway with concrete brings the driveway more into compliance with the guidelines.
2. Approve. Since the concrete walkway needed replacement and the walkway interfered with the Japanese maple, relocating it a short distance is appropriate. While the original was concrete, the stepping stones in that location are not extremely visible from the right-of-way.
3. Deny. The walkway to the street does not comply with guideline 9.1 and would have a substantial adverse effect on the property and the historic district.

Relevant Guidelines

5.0 *Design Review Objective* (p45) - When making a material change to a structure that is in view from a public right-of-way, a higher standard is required to ensure that design changes are compatible with the architectural style of the structure and retain character-defining features. When a proposed material change to a structure is not in view from the public-right-way, the Preservation Commission may review the project with a less strict standard so as to allow the owner more flexibility. Such changes, however, shall not have a substantial adverse effect on the overall architectural character of the structure.

9.1 *Original Subdivision Forms* (p81) Guideline - Elements of the original layout to be retained include lot layouts for public and private spaces and the alignment of streets, drive, walkways, and streetscape profiles.

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RECEIVED
By Rachel Bragg at 9:15 am, Apr 25, 2022

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178 Sams Street
Decatur, GA 30030

Chief Executive Officer
Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

Director
Andrew A. Baker, AICP

Application for Certificate of Appropriateness

Date Received: _____ Application No.: _____

Address of Subject Property: 1300 OXFORD ROAD NE ATLANTA, GA 30306

Applicant: ALYCIA DOWNS & JEREMY CATLIN E-Mail: JEREMYCATLIN@GMAIL.COM

Applicant Mailing Address: 1300 OXFORD ROAD NE ATLANTA, GA 30306

Applicant Phone(s): 443 745 2696 ; 301 704 7705 Fax: N/A

Applicant's relationship to the owner: Owner ☑ Architect: ☐ Contractor/Builder ☐ Other ☐ _____

****

Owner(s): JEREMY CATLIN E-Mail: JEREMYCATLIN@GMAIL.COM

ALYCIA DOWNS E-Mail: AEDOWNS@GMAIL.COM

Owner(s) Mailing Address: 1300 OXFORD ROAD NE ATLANTA, GA 30306

Owner(s) Telephone Number: 301. 704. 7705

Approximate age or date of construction of the primary structure on the property and any secondary structures affected by this project: 1929

Nature of work (check all that apply):

New construction ☐ Demolition ☐ Addition ☐ Moving a building ☐ Other building changes ☐
New accessory building ☐ Landscaping ☑ Fence/Wall ☐ Other environmental changes ☐
Sign installation or replacement ☐ Other ☐

Description of Work:

DUE TO GROWTH OF MATURE JAPANESE MAPLE & DETERIORATED CONDITION OF OBSTRUCTED, CONCRETE WALKWAY, WE REMOVED WALKWAY AND REPLACED WITH PAVING STONES FURTHER AWAY FROM THE TREE TO PROTECT ROOT SYSTEM, ALLOW FOR GROW SPACE, AND CREATE SAFE PASSAGE. THE PAVERS WERE SELECTED AFTER REVIEW OF MANY PROPERTIES IN THE NEIGHBORHOOD FOR UNIFORMITY & TO COMPLEMENT ORIGINAL DESIGN. BRICKS WERE REMOVED FROM SIDE OF DRIVEWAY (8 FT) AND REPLACED WITH CONCRETE TO MATCH EXISTING DRIVEWAY. THE BRICKS HAD BECOME A HAZARD & RESULTED IN TRIPS & FALLS.

This form must be completed in its entirety and be accompanied by supporting documents, such as plans, list of materials, color samples, photographs, etc. All documents should be in PDF format, except for photographs, which may be in JPEG format. Email the application and supporting material to plansustain@dekalbcountyga.gov An incomplete application will not be accepted.

Alycia E Downs / 4.22.2022
Jeremy Catlin
Signature of Applicant/Date

Revised 10/5/2020

Thirteen Hundred

Thirteen Hundred

Hundred

ADT
1045

1184

PAK4245
BLACK
LIVES
MATTER

1374

BOXWOOD
794