

Opposition to the Appeal of a Historic Preservation Commission Decision

Property Address: 1551 Briarcliff Rd, Atlanta, GA 30306

Date of HPC Decision: 4/17/2017

Appellant: Barbara Miller Goldman

Respondent: Residential Recovery Fund, LLC (“Minerva Homes”)

Respondent Address: 2292 Henderson Mill Rd, Atlanta, GA 30345

FIRST: The appeal does not meet the requirements for an appeal

The appeal itself is not valid, since it does not meet the requirements for an appeal, as described in Dekalb Code Sec. 13.5-8(12). The appellant has not claimed that an abuse of discretion exists as required by the Code, but instead just expresses displeasure with the decision reached by the Historic Preservation Commission (HPC). To be a valid appeal, the appellant must show that one of the following apply:

- a) the *“commission exceeded the limits of its authority” (it did not)*; or
- b) the *“commission’s decision was not based on factors set forth in section 13.5-8(3) or the guidelines adopted by the preservation commission pursuant to section 13.5-6” (the HPC’s decision was properly formed using all of the criteria outlined in these sections)*; or
- c) the *“commission’s decision was otherwise arbitrary and capricious” (it was not)*.

Therefore, we feel the grounds for appeal do not meet the required standards for an appeal, and should therefore be dismissed.

SECOND: Contrary to the appellant’s statement, the listed issues were all reviewed in great detail by the Historic Preservation Commission during its deliberations.

We realize that it is not the Board of Commissioners’ role to consider the detailed design issues that were raised by the appellant. However, it is important to note that these issues were all raised at the three HPC meetings (two deferrals and the final approval

meeting), together with a wide array of other issues that fall under the responsibility of the HPC. In reaching its decision, the HPC considered these issues and rendered its decision in full compliance with the requirements of the Historic Preservation Ordinance.

In the event you wish to review the specific areas of concern outlined in the appeal, we have addressed them below:

1. The appellant questions the ability of the HPC to determine the layout of a three building development on 2.2 acres.

Response: The HPC has been reviewing a wide variety of projects in the Druid Hills Historic District for many years, including many multiple building projects. They clearly have the ability to understand and assess a multi-building project. (As a side note, the project is only two buildings, not three).

2. The appellant states that the site is an old growth forest.

Response: This is incorrect. The site is not an old growth forest, as confirmed in writing by a certified arborist. This was also confirmed via a site visit by a Druid Hills Civic Association board member who had a career with the US Forestry Service. The HPC already considered this issue and reached the same conclusion.

3. The appellant states that the commission did not address the proximity of the buildings to the appellant's house.

Response: This is incorrect. The commission paid very close attention to both the surrounding neighborhood and the proximity to Old Briarcliff Road. In the initial two meetings, the HPC members made a series of comments regarding the original land plan and architecture. In response to these comments, the applicant incorporated a long list of changes to the final version of the plans to ensure the new project would fit appropriately into the Druid Hills Historic District.

These changes included: a) moving a building farther from the street; b) reducing the height of both buildings closest to the street; c) adding infill tree planting along the street frontage to further nestle the buildings into the forest and buffer the neighbors; d) adjusting the roof pitch; e) adjusting color tones; f) preserving roughly half the site with a perpetual conservation easement.

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Property Address: 1551 Briarcliff Rd, Atlanta, GA 30306

Date of HPC Decision: 4/17/2017

Appellant: Frederic and Judy Shaw

Respondent: Residential Recovery Fund, LLC (“Minerva Homes”)

Respondent Address: 2292 Henderson Mill Rd, Atlanta, GA 30345

The appellant states that the Commission *“demonstrated an abuse of its discretion by interpreting Sections 8.1 (Open Space Linkages) of the Design Manual too narrowly”*, quoting Section 8.1 of the ordinance which states that *“large scale historic, public and private open spaces be preserved to provide a rich habitat for plants and wildlife and also to protect the stream corridors”*

RESPONSE: In their deliberations, the Commission correctly noted that the site is not listed as open space in Section 8.1 or 4.1.2 of the Druid Hills Historic District Design Manual. They also noted that the applicant still made the effort to meet the general intent of the ordinance by designing the plan to protect the stream corridor by committing to place the corridor in a perpetual conservation easement so it will remain protected forever.

That appellant states that the Commission *“did not take into account unknown or potential archeological materials”* due to the existence of a historical marker for 4th A.C. at Durand’s Mill.

RESPONSE: In their deliberations, the historic preservation specialist on the Commission confirmed that the Durand’s Mill site is ¼ mile to the north of the subject site, and has no connection to the subject, other than being in general proximity to the area.

Based on their clear and thoughtful deliberations and a focused adherence to the Historic Preservation Ordinance, the Commission’s decision was in no way arbitrary or capricious.

Opposition to the Appeal of a Historic Preservation Commission Decision

Property Address: 1551 Briarcliff Rd, Atlanta, GA 30306

Date of HPC Decision: 4/17/2017

Appellant: Jean Krugman

Respondent: Residential Recovery Fund, LLC (“Minerva Homes”)

Respondent Address: 2292 Henderson Mill Rd, Atlanta, GA 30345

The appellant states that the Commission “took an unnecessarily restricted view of its mandate, which is to preserve a site of natural or aesthetic interest that is continuing to contribute to the cultural or historical development and heritage of the county, state or nation”, and referenced a code section that “open spaces, preserved in Olmstead’s original concepts for Druid Hills, remain as major open spaces today”.

RESPONSE: In their deliberations, the Commission correctly noted that the site was not part of either the original Olmstead land plan or the subsequent Kauffmann land plan, as they are identified in maps D and E in the Design Manual. Also, this private property is not designated as an open space on map C in the Design Manual.

Based on their clear and thoughtful deliberations and a focused adherence to the Historic Preservation Ordinance, the Commission’s decision was in no way arbitrary or capricious.

Opposition to the Appeal of a Historic Preservation Commission Decision

Property Address: 1551 Briarcliff Rd, Atlanta, GA 30306

Date of HPC Decision: 4/17/2017

Appellant: Katherine M. McRitchie

Respondent: Residential Recovery Fund, LLC (“Minerva Homes”)

Respondent Address: 2292 Henderson Mill Rd, Atlanta, GA 30345

Rather than explaining why the Commission’s decision was arbitrary or capricious, the appellant lists a collection of reasons why she personally does not like the project, primarily due to her opinion that the new project will *“disrupt the harmony between the natural and built environments of the adjacent Briarpark Court neighborhood”* and concludes that the project *“is a threat to public health and safety”*.

The only issue raised that lightly touches on the parameters of the Historic Preservation ordinance is the appellant’s statement that due to traffic on Old Briarcliff road, the proposed development *“is inconsistent with the thoughtful site and road planning of inherent to the Olmstead design legacy”*.

RESPONSE: Old Briarcliff Road was not part of Olmstead’s land plan area, as identified in map D of the Ordinance. The Commission correctly pointed out that the design of existing roads and the area traffic patterns are not within their mandate pursuant to the Historical Preservation Ordinance.

Based on their clear and thoughtful deliberations and a focused adherence to the Historic Preservation Ordinance, the Commission’s decision was in no way arbitrary or capricious.

Opposition to the Appeal of a Historic Preservation Commission Decision

Property Address: 1551 Briarcliff Rd, Atlanta, GA 30306

Date of HPC Decision: 4/17/2017

Appellant: Carol S. Tarver

Respondent: Residential Recovery Fund, LLC (“Minerva Homes”)

Respondent Address: 2292 Henderson Mill Rd, Atlanta, GA 30345

The appellant does not provide any reason why the commission’s decision was arbitrary or capricious. Instead, the applicant discusses the architectural style of her own neighborhood.

RESPONSE: When designing the architecture for the subject property, we selected the Prairie style from the Druid Hills Design Manual. The Commission commented that the design meets the requirements and intent of the Druid Hills Historic Preservation District ordinance, while having the added benefit of visually tying in with the mid-century modern design of the homes in the abutting non-historic community.

Based on their clear and thoughtful deliberations and a focused adherence to the Historic Preservation Ordinance, the Commission’s decision was in no way arbitrary or capricious.

Opposition to the Appeal of a Historic Preservation Commission Decision

Property Address: 1551 Briarcliff Rd, Atlanta, GA 30306

Date of HPC Decision: 4/17/2017

Appellant: Jonathan R. Haynie

Respondent: Residential Recovery Fund, LLC (“Minerva Homes”)

Respondent Address: 2292 Henderson Mill Rd, Atlanta, GA 30345

The appellant does not list any examples of how the Commission’s decision was arbitrary or capricious, but instead lists a series of personal opinions about what is appropriate and inappropriate – as though the appellant was responding to a rezoning application versus a Historic Preservation Commission decision.

The appellant does attempt to make a land use argument that the site should remain untouched so that it can provide a buffer for his house from the Fox 5 station, which is 700 feet away.

RESPONSE: It is not the Commission’s mandate to make zoning and land use decisions. In their deliberations, the Commission did acknowledge the substantial preservation of half the site in its existing forested state, to be preserved via a perpetual preservation easement. Also, they acknowledged the new infill tree planting along the Old Briarcliff Road frontage, intended to preserve and maintain the visual aesthetics and character of the existing road.

Based on their clear and thoughtful deliberations and a focused adherence to the Historic Preservation Ordinance, the Commission’s decision was in no way arbitrary or capricious.