



BOARD OF HISTORIC PRESERVATION

Promoting the use and conservation of historic properties for the education, inspiration, pleasure and enrichment of the citizens of Sioux Falls

Meeting Minutes for May 9, 2018

Members Present:

Josh Chilson
Rob Collins
Jennifer Dumke
Stephen Jackson
Thomas Keller, Chairperson
Pam Merchant
Rachael Meyerink, Vice Chairperson
Lura Roti
Shelly Sjovold
Robbie Veurink

Members Absent:

None

Staff Present:

Diane deKoeper, Staff Liaison and Urban Planner

Public in Attendance:

Marianne Larsen	Dennis Hartman
Scott Abdallah	Sue Mogan
Steve Johnson	Richard Sundem
Shannon Falon	Cheryl Rath
Pierce and Barb McDowell	Lloyd and Mona Schrader
Jesse Deffenbaugh	Alex Halbach
Marlys and Gerald Wiehl	Jordan Deffenbaugh
Carla Fauske	Spencer Ruff
Peter Lieberman	
Sharon Beckstrom	
Norma Muller	

Call to order –Chairperson, Tom Keller, called the meeting to order at 4:00 p.m., welcomed board members and guests, and gave introductory comments.

1. Approval of the April 11, 2018, Meeting Minutes

Chairperson, Tom Keller, requested a motion to approve the April 11, 2018 meeting minutes. Member Rachael Meyerink made a motion to approve the meeting minutes as presented.

Member Lura Roti seconded the motion. The motion to approve the April 11, 2018 meeting minutes passed unanimously.

2. New Business

- A. 1323 S. 2nd Avenue Modifications
McKenna Park Historic District
(Board action required)

Jesse Deffenbaugh, 4D Design Consulting
Josh and Sarah Sapienza, Homeowners

Note: Every effort has been made to accurately transcribe the audio recording of this meeting. Where persons may not have been clearly heard, staff has tried to clarify based on context of the discussion.

Chairperson Tom Keller:

There is one item and one item only on the agenda today. It is the application for 1323 South Second Avenue. The property owners are Josh and Sarah Sapienza. The applicant is Jesse Deffenbaugh who is the consultant and builder. We'll allow the applicant to make the presentation and then we'll ask questions of the applicant. There will be a portion then when we'll take input from the public. We'll ask you to come up to the podium and state your name so that the record will reflect who's speaking at all times. We'll ask the Board members to do the same thing. I'll turn it over to Mr. Deffenbaugh to begin. Welcome.

Jesse Deffenbaugh:

My name is Jesse Deffenbaugh, I've been involved in the custom home building and design business pretty much my whole life. I've been working with my father Dudley Deffenbaugh Homes while growing up. My education was in both architecture and construction management at the University of Nebraska. I spent six years in Denver working for a commercial contractor doing a wide variety of projects, two of which were historic preservation projects for Mapleton Elementary School in downtown Boulder and Denver South High School in the city of Denver. Since I've been back, we started a design business. It's 4D Design & Consulting, specializing in residential design, and that's a little bit of who I am. The reason why we're here today, is to talk about the application for submittal to the Board of Historic Preservation, and focusing on the standards set by the Department of Interior Standards. Most of our presentation, is visual comparisons of why we feel the design meets the, the standards. So I think it first makes sense if I can do a highlight of our application submittal that was sent to the Board. Our drawing set was submitted to Diane deKoeper with the Planning Department for Historic Preservation. In coordination with Butch Warrington as well as Diane there's a few things that we worked with them in modifying to get to this set. A couple of the changes that I'll kind of go through in the plans were a roof cutout to the north elevation of the house to bring the wood-burning fireplace of 1325 into compliance with the standards set by the City of Sioux Falls. Just for clarification, the opening of the chimney needs to be 10 foot over and 2 foot down free from all obstacles in that path. So we'll go to the roof plan and I'll show you kind of those pieces. As I go through this, if you have any specific questions as it relates to the plans, feel free to ask. I'll just kind of be toggling back and forth between these pdfs. The first page here shows our cover page. We want to make this as clear as possible for everybody so they know what our design changes are to the home. We want to make sure everyone is properly informed of what we're doing so we can come up with a solution for this. The picture on the left shows the existing rendering as well as existing photo. The picture on the right shows a modified rendering of our design at street elevation. The next slide here shows our site plan. We had a licensed surveyor verify the location of the house with setbacks. We'll touch on it in further detail on our setting portion of our slide show. But the north property setback is 5.93 feet from the house to the north property line, and then the house to the south property line is 16 feet. Ah, that property line is roughly the center of the driveway. Each of the driveways are private driveways for both 1323 as well as 1321. The front property setback is 30.14 feet to the covered porch. The house is an additional 7.57 feet. So all these dimensions fall within Planning and Zoning's requirements for historical neighborhoods. Sheet 8 or E1 shows the existing footprint of the home. All our perimeter dimensions are on the E pages for the existing roofline and existing elevations. I want to show the differences between the two elevations to try to make that as clear as possible. Sheet E7 goes over all of our materials used in the home. There's 6 1/2-inch LP siding with a 4 1/2-inch window wrap detail. Very reminiscent of style, design, look, the historic colonial home, with contemporary materials. Obviously, in the standards it states clearly that use of modern day contemporary materials are encouraged mainly for longevity. Just these materials aren't going to require the maintenance that they would if you were talking about a wood double-hung window and

wood siding. Some of the other materials shown on the house include round columns, railing, and then the fir front door. Sheet A2 shows our new roof design. It's a combination of a 5/12 roof pitch with a 10/12 roof pitch. In going through a redesign of the house we felt the massing both in the front elevation over the house. We felt like the two hip, pieces on the front portion of the house needed to have a little bit taller massing to give the home some balance. I'll be working some other designs that had a 4/12 roof pitch and a 5/12 and we felt like it had the best appeal to the house and we'll kind of show it on the elevations. We felt like the hip details needed some appeal and that's where we introduced the arched eyebrow window details. You'll see in the elevations on kind of how that came together. On the upper portion of the page is showing a location of the current wood-burning chimney on 1325 South Second as it relates to the home. These dash lines are showing the 10-foot diameter clearances from this, and this would be something upon approval of the plan with detailed dimensions showing City Building Department to make sure all those clearances are met to bring the fireplace into compliance. Sheet E83 shows the front elevation of the home with the reference to the dash line being the existing roofline. The roofline is being brought down over 5 feet to 35 feet 10 inches tall. For clarification there the baseline elevation of that is the midpoint grade elevation as the front of the home. We surveyed verifications of this and it comes basically right where the steps come to the sidewalk. So that's where all these baseline elevations are generated from. You can see there and I'll go through the height slide a little bit later showing details where our new height is located.

Tom Keller:

Jesse, can you go back one page for me.

Jesse Deffenbaugh:

Yep.

Tom Keller:

So the circle that you drew, maybe I just don't understand. Can you tell me what it means where it intersects with the existing gray area of the house?

Jesse Deffenbaugh:

So where the existing gray area is, that's a flat roof cutout.

Tom Keller:

That's right now where the roof goes. Is that what that reflects?

Jesse Deffenbaugh:

Why don't I pull up the model here? What that would be is a roof cutout here to maintain 10 foot of clearance in a diameter. That's what that circle is for.

Tom Keller:

I see. Okay.

Jesse Deffenbaugh:

It's not just 10 feet here but 2 foot over and these were clarifications that we worked out with Butch Warrington. This here is a 1/12 slope for flat roof detail on there that's roof membrane. This section of roof would have to be foam insulated to maintain energy requirements for ceiling spaces. These are all things that we've been working on coming up.

Tom Keller:

Okay.

Rob Collins:

It's hard to tell from this model view, is that EPDM or is it a different material?

Jesse Deffenbaugh:

EPDM coming up the side elevation of this, mainly for function. EPDM only requires to come out 6 inches off the horizontal surface. They're based on its proximity to how this is going to be viewed. We feel like it makes sense to make sure that there is not a water infiltration.

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Rob Collins:

Are you able to zoom in on that cutout a little bit closer?

Tom Keller:

And I said at the opening of the meeting we're all supposed to say our name. So I asked the first question and forgot. This is Tom Keller and it was Board Member Rob Collins that asked the second question.

Rob Collins:

Correct.

Rob Collins:

So with it being black, it's hard to tell, but you're saying there's a 6-inch vertical surface between the 1/12 slope versus the other materials?

Jesse Deffenbaugh:

There's a, there's a 1/12 slope from the top of the fascia back to this point and then this wall here is 2 foot 6 inches. Does that make sense? In the elevations here we're showing the front elevation as it relates to that dashed line being the current top of a ridge height. Kind of talked about our baseline elevations of how that got to that point. This is a, a side elevation, the southern elevation of the home. This would be the west elevation and the north elevation. In talking with Diane and just having a better feel of space and how it relates to the two adjoining properties we worked with her to put together this representation showing the heights of the home as they relate to one another as well as separation between the two. So the one thing here is all these heights, again, we're referencing back to that baseline grade elevation. Obviously the topography of the site varies slightly between house to house. Is there any other questions with this portion of it before I go to the slides?

Tom Keller:

You can go ahead.

Jesse Deffenbaugh:

So, obviously the 11 points that fall under the standards is what we're going to highlight for the majority of the rest of the presentation. This here is basically showing the difference between the two front elevations as the roofline and the home sits now as compared to the proposed. Trying to get the same aspect ratios between the two. Some of the defining characteristics of the home: the home is a colonial revival inspired architectural design. Like we discussed with the use of contemporary materials that fit well in the historic neighborhood, but still practical in today's environment. It's similar to homes in the McKennan Park Historic District. In the National Registry for Historic Places inventory, it highlights that McKennan Park is eclectic and substantial homes which typify the district and we feel like the home definitely falls in that category and with others around it. The window details are Anderson 400 Series, double-hung windows with molding details to separate some of the glass openings and provides some more detail. The wood front door is very, very typical of the district with transoms and sidelights, lap siding and corner boards detail throughout the home, covered porch with railing and the covered porch with round columns. Here's some pictures of the home and the details. So I want to discuss the standards. Compatibility of design. We feel like the home is very compatible with other homes in the district. We're going to touch on a few of them here. 1324 East 21st Street, this is a picture of this home here. We feel like the rhythm and scale is similar between the two homes. The materials are very, very similar between the two. Color railings and roof shape are very similar. This home actually originally had round columns which were referenced in a different picture which kind of makes the home feel very similar between the two. This is 221 East 21st Street and we feel this home has very similarly placed on the scale of openings. The materials are all very similar with the exception of the shutter details are obviously different, different colors, little bit more ornamental detailing on this particular home. We're not trying to replicate a historic home. We're trying to put a modern take that fits well in its

surroundings. Similar roof shape with the hip roof detail. 1601 South Second Avenue, again has very similar color, similar proportions, and rhythm and scale are kind of all blending with what the design is. 1613 South Second, again, hip roof detail, lesser openings, a little bit more doors, dental detailing on this. This is a brick exterior with the eyebrow dormer with similar detailing to what we have here. At 1619 South Second, again, proportion, rhythm, and scale, and roof shape all similar. The neighboring house, 1325 has a similar roof shape, similar eyebrow dormer to the two new ones that we're proposing. At 1310 South Fourth Avenue, again, proportion and roof shape. Height as referenced in paragraphs 15 and 16 from the state Supreme Court order, the new construction of the home is limited to 36.08 feet. This is determined based on an average height of 32.84 feet being no greater than 10 percent above this average. The new height of the home is at 35 foot 10 inches with is under the maximum height for the home. This shows the existing home as it relates to the new proposed design showing differences between the two. Width of the subject property, ours at 1323 South Second Avenue, the width of the home is 46 feet 6 inches. The north setback is 5.93; south setback is 16 feet. I listed the setbacks on here because I feel like as a majority of the homes in the park use the space that they're given when designing their home. I will reference some of the other ones and how they're similar. This is a corner lot here. So this width is 39 foot 9 inches, north setback being 12 foot, and the south setback being the minimum 25 feet for a corner lot. The lot width here is 76 feet 5 inches. Adjoining property to the north, 3221, width is 39 feet 8 inches, or 39.8 feet, the north setback is 12.7 feet, south setback is 2.1 feet. All this information was based on surveys to get this information just if anyone is wondering. The adjacent property to the north, 1319 South Second Avenue, the width is 45 foot 6 inches with lot width being 80 feet. 221 East 21st is 75.7 feet wide with setbacks being quite large based on the lot size. Proportions, if we look at the existing proportions as it relates to the size of the home it's roughly a square ratio. That 23 to 22 reference references the width as compared to the height. In our new design, the ratio gets dropped down to 22 by 18 or 23 by 18. These squares as it compares to these overlays are a direct proportion related to these particular homes. So that's 1619 South Second Avenue, 1601 South Second Avenue and 1613. Rhythm and scale, we feel like the placement of the openings or placement of the windows and openings of the house is giving that kind of light, airy feel, bringing all the natural sunlight in from the east represents well on the design of the home. This is a similar home at 503 East 21st of just using window openings to create and bring light into the space. At 221 East 21st Street, again, bringing natural light into the space and just keeping a sense of symmetry between either sides of the home. 1323 South Second again with the detailing of the windows, with molding details, separating the grills up with the windows. 320 East 21st Street again, very symmetrical with round columns on the covered porch detailing. Window details are a little bit different on this particular home. Again, very, very close to that symmetry. Materials that are used in the home are very similar, or majority of the homes in the park. 114 East 20th Street showing the detail of the siding and a lot of these homes were obviously built on either brick or stone foundations. Those are something that we felt like added some, a little bit more charm to the home versus seeing some, 3 foot of concrete on the side of the house as well as the porch detail, and that's something that we implemented in design to just bring a little more charm to it. 304 East 19th again, showing siding details, window wraps are very similar. 324 East 21st, again, we showed this kind of for that overall rhythm and scale, again with a lot of the same detailing, very similar to this. Color, we touched on a lot of yellow houses in the park. Here's just a few that are all in the historic district. Details and ornaments again, we talked about mutton detailing on the windows, bringing some separation to the space to help bring some balance to the large window openings. Eyebrow dormers, on the roof to break up the roof plane and just give some visual appeal and interest. 324 East 21st Street, again, like we were saying before, the original columns in the home were round columns very similar to what we're looking at now, but very similar railing detailing on this particular home and a lot of what some of the initial designs are

referenced off of. Again, we talked about the covered porch with the round columns, again, very similar to the 320 East 21st Street. Roof shape and skyline, hip roof detail, we're going to highlight some homes in the neighborhood as well. 1310 South Fourth, 1619 South Second Avenue, 1613 South Second. Setting we touched on in the plan of kind of showing the setting of our setbacks, making sure everything was in compliance. As far as the front yard setback, we feel like it's in the proper location with respect to the adjoining properties. The front covered porch is identical of same line as the front elevation of 1325 South Second Avenue and the main part of the house is directly in line with the front entry, the front part of the house 1325. I'm sorry, I said that wrong. The covered porch is in line with 1321 and the house is in line with 1325 on the south side. This can better be shown here as it relates between the two front elevations. Again, the front setback to the porch is at 30 feet 10 inches, well within the City Zoning standards which is 25-foot minimum. So we feel like the home is in the correct location. The property line as it sits between 1321 and 1323 that survey pin there shows the property line as it sits between the two homes. 1323 is 5 foot 11 inches, 10 3/4 on that tape and 1321 is 2 foot from the property line. So that's where the 7.93 feet distance between the two homes comes into play. Here's a copy of the surveys for both 1323 South Second Avenue as well as 1325 South Second Avenue. This survey here does not include additional buildings that haven't been built since the '91 survey. So the relationship to the home as it is to the lot, the percentage of the home's width to the width of the lot on 1323 South Second Avenue is 68.8 percent, as compared to the survey of 1325 South Second is 70.1 percent. So they're very similar percentages as far as the width of 1321. That's a typo in that, on that top one, but they're similar width as proportion to the lot width. And like we're saying before, a lot of these homes were built based on the size of their lot. That's what's dictating their widths. Here shows an aerial view of the settings of the three homes. Again, the, the original historic homes at both 1321 and 1325 have been since added on. Very much similar with the district and encompassing the majority of the lot. This is existing elevation from 25 foot from the curb line on the street at the park showing an existing picture of what that front elevation looks like between the three houses and then the elevation, or the rendering below shows the proposed elevation of the three houses as they relate to one another. Landscaping and ground cover, use of landscaping around the home to soften where the ground meets the bottom of the foundation. Details have been done. Use of a paver walk as it comes to the front porch has been done. We feel like it ties the home very well into the parklike setting that is across the street. So those are the slides that we have today. If there are any questions you have, we can go over those now.

Tom Keller:

Does the Board have questions now or would the Board rather hear from some others before they ask questions of the applicant? Any sense of anybody right now? Jesse, thanks. I think what I want to do is hear from some other people.

Tom Keller:

That might sharpen the questions a little bit for us.

Deffenbaugh:

Okay.

Keller:

Or, but you don't get to leave yet.

Deffenbaugh:

That sounds good.

Keller:

All right. Thank you. We invite comments from the public on the proposal that's in front of the Board today on 1323 South Second. I'm going to let you start, Mr. Johnson.

Steve Johnson:

My name is Steve Johnson. I'm a lawyer in Sioux Falls with Johnson, Janklow, & Abdallah and we have represented the McDowell's in this matter for about three years. I know that there are seven new Board members that were not involved in the initial application.

Rachael Meyerink:

Can you speak into your microphone? I'm sorry. It's kind of hard to hear you.

Johnson:

Sure. I know that there are seven different Board members than there were three years ago and because I have been involved in this thing for that long and the Board obviously wasn't involved in the litigation aspect of it. I think it's important to give the Board some history as to how we got where we are today. And so I'd like to do that if, if it's okay. Much of what you saw today in fact I, I suggest probably 100 percent of it was never presented to the original Board. It was never presented to the trial court. It was never presented to the Supreme Court. In fact, this drawing about this cutout that they now are suggesting that they could put into this house, we didn't get until about 10 minutes before the hearings started today. That's kind of the way this thing has gone. Let me just show you, I guess I can use this. . . . This is what your Board was shown over three years ago as to what this was going to look like. Obviously that isn't what was built. This was a design by a Bob Natz. There was nothing given to the Board that showed the structure with regard to adjacent structures. As you can see, it was shown that there would be trees and all kinds of space between this home and the McDowell home. The Board nevertheless, discussed this with the Sapienza's at the time. And by the way, what I'm about to tell you isn't just my recollection of what happened, it's in the trial transcript. This case was litigated fully. Both parties had their day in court. Both parties were represented by counsel. Both parties put in whatever evidence they wanted to with regard to the same issues that we're talking about here today. And so what I'm telling you is in the transcript of the trial. The testimony was that the Board asked Mr. Sapienza some questions. His representation to the Board were that there would be more green space after they built their home than the home that was there that they were going to remove. It showed trees. It showed different siding. And ultimately, the Sapienza's and Mr. Natz parted company. When they parted company, they took the drawings that Mr. Natz had done, gave them to their builder, Mr. Sorum who is not an architect, who had never built a home in the historic district, who wasn't a draftsman even. He's a very nice guy. But they asked him to redraw the drawings and he redrew all of them. And the others were basically thrown away. When Mr. Natz found out about it, there were a hundred and some changes that were made including moving the house closer. A lot of changes that should have come back before you. Your rules require that if there's going to be material changes, that the people have to come back and reapply and get those approved. That never happened. They took those drawings that were then redone by Mr. Sorum and had him build this house. When my client found out about it, he asked Mr. Sapienza, "Would you please put your driveway on the north side," to have greater separation between the homes. And this is in the court testimony. Mr. Sapienza told him no because of principles of Feng shui. That Feng shui would allow negative energy from the north and therefore, they would not put the driveway on the north so that they could have a greater separation. Now bear in mind, that without having a context, a scale of how this house fit into the adjacent properties, all of these analysis are meaningless. You can't compare something to something across the park and say that it fits for scale. You have to look at what the house looks like where you intended to put it. When it was discovered that this home was being built in violation of your rules, in violation of South Dakota law, and by the way, the historical standards are not a wish list, they're not permissive, they're mandatory. It's South Dakota law. When that was discovered, we were asked to look into the matter and we wrote the Sapienza's on May 8th, 2015, which is almost three years to the day where we

are now, and we told them that they were building a home in violation of the law and that they should stop. And at that point and time, there weren't any windows in there, no doors, no electrical, no plumbing. It was basically a shell. They did nothing to stop construction. They never sought counsel. They never sought an architect. They never went back to the City to find out, well, what should we do? They kept right on going. At that point, my clients had no choice but to file a lawsuit. And so that you are aware of the motivation behind this lawsuit, it was not for money. Most lawsuits are. This one was not. It was for adjunctive relief. Relief to require this home to be built in accordance with South Dakota law. They never asked for a penny. All they wanted was to have this home built in accordance with the law, to preserve the integrity of their home, which by the way was a landmark home, the highest designation you can have in historical district. Their home has been there for almost one hundred years, and to preserve the integrity of the McKennan Historical District. That's why they brought this lawsuit. So, we litigated that case. We had a trial for three days. I deposed every member of this Board under oath. Not one after having been shown the diagram that they were shown and what was actually built said that they would have voted to approve the home as it currently exists. Not one Board member of the whole nine said that they would have approved it. Frankly, the Board was misled. The Supreme Court found the Board was misled right in the Supreme Court opinion. They referred to various misrepresentations that were made. So we're not trying to suggest that this Board wasn't trying to do the right thing. But as I asked each Board member, I said, "Do you expect the people that appear before you even though they're not under oath to be honest and truthful so that you can rely upon those representations," and each Board member said yes, as well they should have. The court after three days of trial after reviewing the law ruled that this home violated a number of aspects of South Dakota law. I ask that I had to give each of you one of these so that we could look at it together, and, and bear in mind, and I think this is really critical, what the applicants want is a redo. They want another bite of the apple. They want to retry the lawsuit. Well, that isn't the way it works. There's a principal called res judicata, which means finality. This case was tried. It was appealed. The Supreme Court unanimously upheld the findings of the trial court and this is not a redo. What you heard earlier today was an attempt to redo what wasn't done previously. And this Board nor can anyone overrule the South Dakota Supreme Court, and the court has ruled. What did the court rule? The court ruled that the home is too large with regard to adjacent properties. That it was dominating (and that word as you know appears in your admonition with the Department of Interior Standards). Is the home dominate? And that's specifically what the Supreme Court found. It was distracting to surrounding historic landscape, violation of both height and width and out of proportion to adjacent historic buildings. It violated mass . . .

Keller:

And I get it, you know, and we do want some history here. Obviously, what we're trying to do today, Mr. Johnson is talk about this proposal. Almost as though there has not been a prior proposal. How does this comply or not comply with the standards for new construction in historic districts? I think everybody in here is aware there's been some lawsuits and again, I have read them but I couldn't quote you a chapter and verse. What we're trying to do is, our limited job here, which might not be resolving your lawsuits, you know, one way or the other, but to decide whether this project as presented today complies or does not comply with the standards for new construction. So, and again, I'm not trying to shush anybody here. I want everybody to feel like they get heard, but I do want to keep the topic to what it is that we can and can't do today, ah, and I think that is our jurisdiction.

Johnson:

Well, not meaning to disagree, however, the only reason that we're here today is because Judge Pekas ruled that they were required to come back to you and I have the order. This is the order. The court has jurisdiction over this matter. And the only reason we're here today is because the court ordered the applicants to provide, and there's the order, of such renovation plans shall provide plans that will bring

the home into conformance with all the requirements of the South Dakota law and with this court's memorandum decision. That's what they have to do.

Keller:

My question is if they would have come before the Board, and I'm assuming you're against the proposal as they presented it today, Mr. Johnson, on behalf of your clients, but if they'd come today with a proposal to change size, scale, proportion, and everything else of this house such that it complied with every standard of South Dakota law, would you be here in opposition to it today or is there something that you think they haven't done to comply with South Dakota law in the redrawing and redesign of this building?

Johnson:

Yes, there is. Yes, there is. And I'm, I'm getting to that, but because the other seven Board members are not lawyers like you are, or were not involved, I think it's important to find out how did we get here. Okay. And one of the things that happened at the trial court, and I think will happen here today is that Spencer Ruff who is an experienced architect in historical preservation architecture. He's appeared before you. He testified, he was the only architect that testified at the trial. And he's here. We gave you his evaluation of this new application. We gave that to you. And yes, what they have done does not solve what the court told them they could do or should do which is address each of the violations of law. Mass, size, scale, proximity between the homes. They didn't do it. In fact, their drawing right on it says they didn't change the footprint of the house. Lowering the roof by 8 1/2 feet doesn't change the footprint of the house. It doesn't move it any farther away. The mass and the scale are essentially the same other than you've lowered the roof a little bit. It's still way higher than the McDowell house. It's way higher than the Schwebach house so, absolutely, it does not resolve those problems. And, but I simply wanted you to be aware of the fact that the court asked them to come back for this application and based upon whatever it is you folks decide, we go back next week to Judge Pekas. We advise him of whatever your decision was and then the judge takes it from there. That's the way this seems, you know, that's the way this works. But Spencer Ruff is here to answer any questions from an architectural perspective, which I think is, you know, what you're really searching for is my guess. I do need to say though that, you know, there's a personal aspect of this thing as you might expect. My clients have gone through three years of this. Okay. And because of this, the Board approved the home and the City allowed it to be built in violation of the law as the court has found. These homes are so close together that my client can't even get in between to weed. When she was out there trying to weed, Mr. Sapienza called the police to have her arrested for trespassing. Because they've got a security camera lined up right there looking in to my clients' home. That's the personal side of this thing. You can talk about architecture all you want. But the sanctity of living in McKennan Park has to be valued based upon looking at these homes, not in a vacuum, not just by themselves, but how do they affect the people that live there. And this home was there nearly a hundred years before the Sapienza home. So, that's what I have to say about it and if there's any questions that you folks have of me, I'm happy to answer that. Again, Mr. Ruff is here. And if it's okay with you, Mr. Keller, he could probably enlighten you on some of the niceties of that.

Keller:

This is Tom Keller. I don't know if I'm speaking on behalf of everybody, but I am anxious to steer the conversation towards the specific violations of the federal and state law that are, you know, inherent or not inherent in the redraw of this building. And I know there's going to be responses and please understand everybody's going to get a chance to respond, so if that means you have to take some notes and wait your turn, maybe that's what has to happen. But I would like to hear from the architect.

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Johnson:

Thank you very much. I appreciate your time.

Spencer Ruff:

Good afternoon. I'm Spencer Ruff. I'm the supposed expert witness. I think I can say with great humbleness that I am. I've spent the last 25 years of my life dealing with all aspects of historic preservation. With every form, with every document, I have dealt with City commissions, I've dealt with Planning Commissions. I'm probably best known for my work in Deadwood, South Dakota. If you walk down the street of Main Street of Deadwood, you will walk by all the buildings, you will walk by I've been involved in one-third of those buildings. I served 15 years as a board member on Preserve South Dakota and I served three consecutive, three-year terms as the advisor from South Dakota to the National Trust for Historic Preservation. So, enough about me. I do ask for a little bit of understanding. I'm a little shaky today. I am still recovering from three days of the results of food poisoning, so my hands are trembling, which is not normal, and I get very dehydrated very quick. I'm not asking for you to be sorry for me, I am only telling you why you see something that you would never see for me. It's not because I'm nervous. It's just a reaction to what I've gone through. I do need to compliment Jesse on the beauty of this presentation. The problem with his presentation is the vast bulk of it has nothing at all to do with what you're considering today. The reason for that is he ignores a really important word, in the state law which is *adjacent*. I think we all know what adjacent means. Adjacent means this: What he showed you was a lot of examples of buildings that are way over here and that are not adjacent. And if you look at the state law, you will see the word adjacent referenced several times. And so, excuse me, it's my opinion as an expert witness that all those examples have really nothing to do with your consideration. He did address the lowering of the building, which is Item 2 on the state law. I don't disagree with that at all. What he hasn't addressed that Steve has said is the massing, the size, and the scale of the new construction as it relates to an adjacent building which is the McDowell building. So even though they reduced the roof by 8 1/2 feet, the visual appearance of the new construction and my expert opinion still dominates and is a distraction to the McDowell house. So that's Item No. 1. Item No. 2 is width. They've done nothing to change the width of the building. And again, I'd like to reiterate. The width of Sapienza's building has really nothing to do for your consideration with the width of any other house in the district except for the McDowell house. And what it says is Item 3: The width of new buildings or additions to existing buildings shall be similar to adjacent historic buildings, adjacent historic buildings. You look in the dictionary—that means abutting, adjoining, next to, and it also means that there's nothing that separates those two. There's nothing of the same kind that separates it. A building here in the middle, let's say this is the building and there's a building here, that's not adjacency. The adjacency is next to each other, and you have to keep that in mind about all of these. In terms of proportions, again . . .

Meyerink:

Excuse me, Mr. Ruff.

Ruff:

. . . It's supposed to be, pardon?

Meyerink:

I have a question about the width. My name is Rachael Meyerink. I have a question about the width. The language in the standards say it should be, must be similar to adjacent historic buildings versus the height gives you a nice number of 10 percent of the average. I'm just wondering what your opinion is. How do you use the word *similar*?

Ruff:

Well, okay, I will give an example of that which I was going to get to but thank you for asking the question. . .

Meyerink:

Oh, sorry.

Ruff:

. . . Is what building is adjacent to McDowell's house besides Sapienza's? It's the house to the north. The distance between those two houses is 28 feet. That's an adjacent example of the width, the distance between houses. Okay and in terms of the width itself, is the width is what's adjacent to it, which is the McDowell house. Okay. Now, there's been reference to the house to the south. What I think is interesting about that and Steve alluded to this is that it is not a historical home in the Historic District, which seems weird. It's not a landmark structure. It's a contributing structure. In order to be a landmark structure a house or any structure has to be historically significant enough to be placed on the National Register of Historic Places, even though it's not in a historic district. A contributing building can only be contributing to historical building, to a historic district. So, it's not truly a historic house; it's a contributing building. The third definition is an intrusion which there are several intrusions in historic districts which means that it just frankly shouldn't be there. Rhythm and scale, again, what Jesse showed you was the rhythm and scale of other houses. But in my opinion, that doesn't apply. It's the rhythm and the scale of the house that's adjacent to, the McDowell's, or adjacent to the Sapienza's which is the McDowell home. Materials. I'm not going to get into a picky issue about whether the new materials are present in the historical district because they are. In terms of color, that's very interesting because what it says must be similar to those colors on existing historic buildings or must match colors used in previous historic periods for identical feature within the historic district. Just imagine if all those examples that Jesse showed were barn red. Would you think that the Sapienza's could paint their house barn red? Now, I'm not disagreeing that colonial paint colors don't include yellow. But that doesn't mean that the examples that he showed have the appropriate color on it. Those houses over a period of time have been repainted. And while I can't document this, I would, based upon my knowledge of colonial architecture, some of those houses or maybe most of them were painted white in the beginning, which is the prevalent color. So, if I was an expert architect in historic preservation, we're going to pick appropriate colors. I would go find out what they are historically, and I would do that by going to one of two resources or maybe both of them. I would go to the historic colors of Williamsburg or I would go to the Sherwin-Williams historic colors that they have that are documented. And again, going to Item 8, what occurs there is the word *adjacent* buildings. Contemporary design that is complementary to those features of physical or decorative functions on adjacent historic buildings. The adjacent historic building is the McDowell house. It is not houses scattered all over McKennan Park. The roof shape and skyline, again, Jesse showing you examples of other buildings rather than comparing the roof shape and the skyline of the McDowell house, which again is the adjacent one. In terms of setting, says the relationship of new buildings or additions to existing buildings must maintain the traditional placement of historic buildings in relationships to streets, sidewalks, natural topography, and lot lines. Okay. 5 feet is not a historical distance in that district, and if you would go back and look at Jesse's examples, you would find rather generous yards on the sides of most of the houses that he showed you. That is the prevalent feel in that district. In terms of landscaping, yeah, I'll yield on that one. I don't really think that that's a big issue. So, in conclusion, it's my professional opinion that the proposal that Jesse presented to you addresses only one of the violations that are in the judgement of the district court as confirmed by the Supreme Court. So, the other comment I'd like to make and I don't mean to be disrespectful, but we were presented with new information today. Three pieces of new information.

This cutout for the fireplace, never saw it until today, right now. It's hard for me to be an expert witness. It's impossible for me to stand here before you and comment on that because I'd have to go back and study what the Uniform Building Code has to say. So I don't know if what Jesse has proposed really does allow the McDowell's to use their fireplace. I don't know. He showed an elevation, a 3D perspective of the three houses. The house to the south and Sapienza's house and McDowell's house, never saw that until it just showed. How do I react to something like that? Well, frankly what I see on there is between the house to the south and Sapienza's is an appropriate spacing between houses in the Historic District. What I see is 7 feet between Sapienza's and McDowell's, which is not appropriate and what doesn't conform to state law. My other comment is when I first saw Jesse's drawings showing a 10/12 pitch and a 5/12 pitch, I thought how in the heck can that work? Now, realize I'm an architect that started out drawing on pieces of paper. I didn't have the advantage of all this 3D stuff that young architects have. But, you know, I still managed to do that. And when I look at the shape of that roof and I look at the proposed cutout that he's proposing for the chimney, I would have to say it looks weird. So, I open myself up to questions.

Keller:

Are there questions for this witness from the Board? So, one of the things you talked about and this is Tom Keller, or I don't even know if this is a question. But, you know, you focus on the word *adjacent*, but often times in the definitions, it talks about adjacent properties in the plural, meaning not just the one right next door to it. I mean, I don't think you're proposing that they should have designed this home solely to mimic the home of the next door neighbors.

Ruff:

Correct.

Keller:

Right. And it is . . .

Ruff:

In fact, that would be contradictory to the state law itself.

Keller:

Right. That's supposed to be complimentary. So, what I'm asking is the comment on massing, size, scale, height, relative position. I understand as it specifically relates to the house to the north. But what is your take as your testimony today in terms of how that should relate to the larger picture of the Historic District of McKennan Park?

Ruff:

Well, maybe I'll answer this in a different way. But I think if the Sapienza's house is to remain as proposed by lowering the roof, that it will be an intrusion on the park. The judge himself and Steve can talk about that. I don't remember the exact language. But basically says, I use the word *blight*, but I'm not sure that's what he said. So, yeah, I, I just don't see it as an issue of adjacency. I just think that it's too big of a house. And I, you know, and I would further kind of talk about this. Mr. Natz who's the original designer of the house, either he or the Sapienza's or both of them working together decided to select a style of house that is big and wide and tall, and they put it on a lot that's just too damn narrow.

Keller:

Thank you. You know, I'm going to just because I don't want to get too far afield of this, I am going to give Jesse another chance to respond to these kind of things just so that we are structuring the questions. I keep saying to raise your hand so I'm going do that, and then we're going to open it up to the general public for people to come up and testify. So thank you for your patience.

Deffenbaugh:

When going through property searches, there's a difference between adjoining and adjacent. Adjoining would be properties at 1321 and 1325. Adjacent would be buildings that may be close or near

something. As it sits in the standards for both width, it discussed specifically as Rachael pointed out that the height is 10 percent above the average. The width must be similar to adjacent buildings. Now we touched on historic buildings versus, contributing versus landmark which in the Register of Historic Places, which was done in '84, that's the last page of testimony. There's a pretty good map showing which homes shows landmark versus contributing, and at that time they called them intrusions. In working with the Department of Interior and truly trying to find out what the definition of an intrusion is, that is something that the Department of Interior is actually looking at removing from the standards because it's not easy to find on what an intrusive home is to a historic district.

Keller:

Could you hold the microphone closer to your mouth please?

Deffenbaugh:

Sorry. The other thing that was touched on as far as preservation. Obviously, this is a little bit non-typical from a typical preservation meeting, which would be preserving a historic building and one thing that I came across when doing some research was the original front elevation of 1321 actually had a different detail here as it relates to the front elevation, which, and I'm not sure if this was done, in the last 20 years or when that was changed, but if you go to the front elevation there, there's a difference, by 2 feet on this line here extended over between the two.

Roti:

Can you put your definitions back under there because I'd like to read it one more time.

Deffenbaugh:

Yep. . . . Close to or near something. And that's when reading through these it seems like adjacent would be . . .

Roti:

But it says your next door neighbor is a person who lives in the house or apartment, it says your next door neighbor is the person who lives in a house or apartment adjacent to you. So basically it says what we just heard from Spencer. I'm just clarifying.

Deffenbaugh:

Yep, so go to adjoining. Which are obviously similar words and we're using them out of context from some of these definitions.

Keller:

Jesse, this is Tom Keller again. Can I ask what to me is a larger picture question. Its 7.93 feet between the two structures. What's the next closest adjacent or adjoining structural difference between two houses in the McKennan Historic District neighborhood?

Deffenbaugh:

The home on the, to the west of it, which is . . .

Keller:

No, I mean what's the, next closest of any two homes in that neighborhood are from one another? I mean 7.93 feet is what we have here. What's the next closest proximity of any two homes in the McKennan Park neighborhood?

Deffenbaugh:

I don't have specific examples, but if you pull up Google Earth there are homes to the west side of both, both garages, and then you go to the south on Second the first four south. All those homes along that stretch there are very, very close to that 5 foot off each property line which would put that at 10-foot width.

Meyerink:

This is Rachael Meyerink again. This afternoon I did take this map and looked at Google Earth street line images of five addresses with small lots like the one to the north of the Sapienza residence, and it was

really interesting to see how that was handled with the adjacent properties to that. Most of those were small houses with small houses next door to them. 1612 South Fourth Avenue does have a house close on the south side, very close with trees between the two, but that house does appear to be just slightly taller. It was kind of interesting information for visual for me to see how it was handled in other places in the park. So there are other houses that are close but, the mass is not comparable to the mass that we're talking about next door.

Deffenbaugh:

One other thing in regards to Mr. Johnson's statement as far as being misled. I wouldn't mind seeing the full set of plans which shows the site plan on page 2, which obviously artist rendering on cover page is one thing versus the full set of plans which would have been reviewed at the previous meeting.

Keller:

Thank you. So folks again, this is Tom Keller for the record. I would like to hear, and you don't have to be a neighbor in the neighborhood. Part of this is the spirit of the community. Our job is to compare this to the standards for new construction in a historic district, but if anybody has testimony they'd like to give, I think the Board would find that valuable. No disrespect to the new speakers, but we're going to keep everybody to five minutes for purposes of public comment if that's okay so we can keep this moving along.

Tom Hurlbert:

No problem at all. My name is Tom Hurlbert. I'm a licensed architect. I live in this historic district. I'm familiar with historic preservation. I received the South Dakota Chapter of the American Institute's merit design of work for historic preservation in 2017. I'm speaking only for myself today. I walk past these two houses nearly every day with my wife and young son. I've often stood in front of these two homes and wondered what the right solution is, and I'm guessing that's what you're trying to do here today too. What you're doing is difficult and you should be commended here for participating in this Board. Second, I know you're interested in preservation and not the ramifications that may surround an issue like this, but I'm trying to think of this if I were in your shoes today. I would try to boil this question down to one thing and I would try to eliminate all the other noise. I would boil it down to historic preservation which is ultimately why you are here and what you're interested in. You're not alone of course. Countless communities around the country have boards made up of people just like you that take historic preservation seriously and want to do right by preservation in their communities and want to be stewards of the past and of the future. They rely on the Secretary of Interior guidelines to inform their decisions. And that's what I would do if I were sitting in your position right now. The Secretary of Interior guidelines which I'm sure you are all very familiar with request a thoughtful consideration of massing, size, and scale and particularly with relationship to adjacencies. I would ask myself if I were sitting where you are has the historic relationship between the buildings been thoughtfully considered. I would review this proposal and I would evaluate the provided building elevations or building model submitted and then look at those alongside the adjacent properties elevation submitted and per the Secretary of Interior guidelines. I would decide if the massing, the size, and the scale was appropriately considered. If the submission is thoughtfully and earnestly considered massing size and scale related to adjacent properties, then we can judge it and know we've done right as stewards of historic preservation. But I don't believe the submission thoughtfully considered those things and I don't believe this is in compliance with the intent of the Secretary of Interior guidelines and I do believe it's still negatively impacts this neighbor. If I were in your position, I would therefore vote accordingly. Thank you.

Keller:

Thank you. Other comments? Ma'am.

Carla Williams:

My name is Carla Williams and I hope you're ready for a non-expert now because I am not an expert on anything but I do live in the neighborhood. I live in the next block down on Second Avenue. I've been in my house for about 40 years and, um, it wasn't even a historic district when we moved in there and later we had to go through very careful process. We wanted to take a tiny little window out once that looked down to our garage and had to go through all that process of getting it approved, and so I know what that's like. Here's what it comes down to it for me. I don't need to be in that big house anymore. My children are long gone, but I love it there so much. And the first time I walked in that house when I was 20-something, I went in there and it was a cold rainy day and I was sick and my 1 1/2-year-old son was sick, and we walked into this place and the realtor said, "Hurry up and get over here now" because it's not going to last long, and I walked in. It was all red carpet and all pink walls and amazing light just from every direction. Even on this cold rainy day and I said, "I'll take it." And my husband was behind me and we hadn't even gotten beyond the front door at that point. I knew I needed to live in that house. And the realtor said, "Okay, how much do you want to offer?" And I said, "All of it." And so we got it and we've been there. So, it was love at first sight. If I think now what would happen if God forbid anything would happen to my neighbor's house, if it burned down or something happened and it wasn't there anymore and someone else came in to build, could this happen to me? Could that block out my light too? And I sympathize so much, but it goes beyond just how I feel about the people who are affected by this because I feel sorry for both sides frankly. But to take that away from a neighborhood that security that you have that we've got people like you who are protecting us from things like this happening to our neighborhood. I hope that we can trust that that will still be there in the future. Thank you.

Keller:

Thank you.

John Rozell:

My name is John Rozell. We live at 201 East 21st. I want to offer you a perspective of how this should have worked. We have had a house next to us since we've been in that house, 1976, to the west of us, a little white house. Some folks, the Barnesses bought that house and tore it down and from the first opportunity they had to get some plans and all that, they came and visited with us. They wanted us to be absolutely comfortable with how that house sat on the lot line. They wanted us to be absolutely, comfortable with everything that they were doing that would impact us as a neighbor. And it is about neighbors and it's just a polar opposite of what happened here. So, that was just my perspective for you.

Keller:

Thank you.

Matt Parker:

I'm Matt Parker and I'm not an expert on anything. I just like to write things down. My family has lived in McKennan Park for four generations now. My wife and I made the decision to move back to Sioux Falls, we started actually looking at the place where I was born and my house is next to, my birth house is next to the McDowells. Through conversations with my neighbors that I've grown up with, we located the house that we're in now on Second Avenue and that's the house that we've been in now for 13 years. When we were updating our home both internally and externally, we poured through all of the levels of historic preservation, state, national, anything we could get our hands on including the Benjamin Moore colors of appropriate housing styles. We still continue to research our house because we wanted to ensure that our home maintained its respectful fit with the history of the surrounding neighborhood. We did this because we believe that the historical neighborhoods like McKennan, All Saints, Cathedral, and our downtown, are gifts. Preservation is the way that we take care of those gifts. The law surrounding the standards of preservation are how we ensure that those gifts can be passed down from generation to generation. I fear that without such laws and vigilance and the adherence to those laws,

many historical homes and areas may fall victim to improper development that's not keeping with the standards of preservations that are guarded by boards such as yourself. The legal framework like this constitute issues with a larger section of our society and constitute threats to the larger sections of civil society. When we're threatened the law that's been handed down to us to this point. My hope is that the Board agrees to protect our gifts and our neighborhoods by affirming the court-ordered standards and preservation. Thank you.

Keller:

Okay.

Mary Katherine Lanpher:

Hello. My name is Mary Katherine Lanpher.

Keller:

Bring that closer to yourself.

Lanpher:

How's that? Can you hear me now?

Keller:

Better. Thank you.

Lanpher:

Okay. A few years ago, I lived in the McKennan Park area. We don't live there anymore. We live on Pendar Lane now. A few years ago, we were subject to maybe being a historical area. So when they came to us and told us that there were rules and regulations when you build your home. And part of those rules and regulations are building materials that you can and cannot use. What I have not heard here is what the home looked like before they took it down. What the plot looked like before they took it down. And I just think that what has been presented is you're the stewards of a historical preservation and you have to consider that your responsibility is to make sure that this could go nationwide, you know. What if this little case as it were, were to go nationwide? And all of a sudden that somebody decided to take down something that was very historical and just demolished it and wanted to build something new and it was accepted because the historical society, historical preservation society said okay. But you were given plans and then the architect and the builder decided not to go through with the plans that were presented. So what you've been given today has nothing to do with what they originally presented. So I think the only way you can vote is no because they didn't comply with anything. That's just my opinion. I mean, I, I wouldn't want the neighbors next to me to not have the option of building a home. But when you look at your lot size, you have to make it comply with what's there and what you're going to put on that property. If you look at their garage, its tiny compared to the massive size of the house that they built. I agree, I think the woman that was up here before put it quite eloquently. I mean, you have to want to be in that neighborhood for a reason, but you also want to be a good neighbor. We originally lived on Main and moved away and came back, and we wanted to be in the McKennan Park area because we love the style of the homes. They're not cookie cutter because back in the day when they were built in the '20s and the '30s when Mrs., you know, was named for the McKennan Park area, there were standards back then too. If you look at the history of Sioux Falls and I'm sure you would, you can see that there were rules and regulations when people bought lots and they went in and investigated a contractor or a builder and they just were good neighbors. That's all I have to say.

Keller:

Thank you.

Samuael Ogdie:

I'll make this real short. I live at 320 East 21st Street right on the boulevard right across from the basketball court. And we've been remodeling our house ever since we moved in there almost 27, 28 years ago. And every time we do it, we come to this Board and we bring our builder along and we do what you guys suggest, and we arrange it, we change it so everything fits what you say is right. I guess I just want everybody that does any renovations in that neighborhood to follow the rules and that's it. So, we did and I think everybody else should. So, thanks.

Keller:

Thank you.

Alex Halbach:

Hello, my name is Alex Halbach and I live at 650 East 21st Street which is just a block or so up from McKennan Hospital on the boulevard and it was about four or five years ago that I came before this body and requested my own renovations to my home. Included in that presentation was a discussion about materials about recreating some of the details and preserving some of the details of that home and I don't feel like we've talked or that I've heard a lot of testimony today about materials, and I understand that, that's somewhat insignificant as Mr. Ruff maybe pointed out, but I think it's important, for you to consider, and it's definitely one of the standards that you're supposed to consider. I don't know that the wide clapboard siding is really appropriate in the neighborhood. I don't know that the windows the way they are, are appropriate, the doors are appropriate, the scaling, the mass, the size, all of those items that you're supposed to look at are appropriate. Now, I came before this body and presented my plans and was actually denied the first time. I went back and did some more research and came back to this body a second time and had decided at that point and time that when I presented my plans the second time that if they weren't approved that it wasn't meant for me to stay in that neighborhood. As painful as that was going to be for me to leave, I trusted that this body was going to preserve the integrity of the neighborhood and if what I was presenting was not maintaining that integrity, that it was appropriate that I move on to a different property. I want you to think about the integrity of not only the neighborhood and of the neighboring McDowell property, but the integrity of everything that people move into that neighborhood for. Again, I think you guys have a really important, role in this and it's a difficult one to say the least. But, I think it's really inappropriate to be looking at the house from a scale perspective and when comparing this property to the Heidepriem house for people that maybe don't know. The Fisher house I don't think is an appropriate house to use from a scale perspective. The Elekes' home three or four houses down, is not an appropriate property to use from a scale perspective. I think the definition of adjacent should weigh more heavily on the properties to the north and to the south. And when you look at the property to the north, the scale is inappropriate based on what has been presented today. So I think there's additional modifications that need to be made from a massing, size, and scale perspective, and again a materials perspective. I think that you would be doing everybody sitting here today a disservice because they're passionate about what's going on by not considering all of those additional elements. If just lopping 8 1/2 feet off the property brings it into compliance I just don't think that that's accurate. So, thank you.

Keller:

Thank you. I think in terms of keeping this moving and again for the record, Tom Keller. What I'd like to do is have the Board ask questions of the applicant as they relate specifically to the standards for historic preservation. So if the Board has specific questions for the applicant before the Board has discussion amongst themselves, let's take care of that now. Anybody have any specific questions for the applicant?

Collins:

Rob Collins. As I was looking at this material to start, one of my immediate thoughts was to shift the drive to the north. As you look at the context of the neighborhood, I don't know that they're other properties that have driveways side by side to adjacent properties and so my immediate thought was that driveway should have been to the north and it could have preserved the historical spacing of properties as you look at the context of the neighborhood. You kind of addressed that. Is there any further clarification that you could give on that?

Deffenbaugh:

So one of the reasons was the existing and garage were in the location where it is now. Another, someone did touch on was, there versus what's there now and how it relates. One thing good about Google Earth is it shows the before and what it is now. So we have a good representation of what was there before which the driveway and the garage stayed the same. Now as Spencer Ruff alluded to the previous home was an intrusion which leaves that kind of up for debate which is why the Board has standards for new construction which lets you build new construction in the neighborhood. I know one gentleman touched on materials as far as lap siding being the correct material of use. It was used on another house, two houses in recent years on a new construction home. Again, we're mimicking a historic home or are we providing materials for a home that blends in with the neighborhood.

Collins:

Rob Collins again. That garage is easily relocatable. In hindsight now, that garage could have easily have been moved and really to me isn't a factor in deciding where the house was located on the site.

Deffenbaugh:

So we touched on the plans that were submitted in that site plan clearly shows where the house is located on the site. I know that's up for debate whether that's discussed or not with what it was versus what it is now.

Keller:

Questions for the applicants?

Pamela Merchant (board member):

Pamela Merchant. I do have a question on the roof. The chimney modifications if you could explain that a little bit better. I know that that's not in the standards, but that would be engineering requirements so it would allow them to use their chimney. How guaranteed are we that that would actually work? Where did you model that from?

Deffenbaugh:

So that was, that's based on the top of the chimney. It's on the top of the chimney being 2, um, over 2 foot above the fascia which needs to be verified. Um, and these were, these were, um, requests working with the City and again, not, not a direct requirement, um, as part of the court ordered documents. Ah, but to get, how we got that dimension of where that's at would be the chimney being 2 foot, over 2 foot above the fascia and then the perimeter, um, shows the 10-foot diameter for clearance required on a wood burning fireplace. Ah, that 10-foot is then 2 foot down. What it, what it does is if embers come out of your fireplace, ah, rule of thumb is by that 10 foot out, 2 foot down, those embers are no longer, no longer hot. That's where the mechanical code derives from.

Merchant:

Another question. The roofline being brought down, is 8 feet?

Deffenbaugh:

Yep.

Merchant:

Overall, what would you say the bulk has been diminished by?

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Deffenbaugh:

That's half. So that if you look at the elevation here, it shows the current gable end details is that dash line above, so it's half.

Merchant:

Of the roof. Correct?

Deffenbaugh:

Yep.

Merchant:

Okay. But from the overall building structure?

Deffenbaugh:

The overall building structure is being brought down 8 feet out of 40.

Merchant:

A fourth maybe?

Deffenbaugh:

Yeah, it's over a 50 percent reduction of mass. 15, sorry.

Meyerink:

I have a question as well. Rachael Meyerink. The 3D images make the house look like it has kind of a flat roof, but the architectural drawing here does not communicate that same look. Which one is more accurate as how it will actually appear if you're standing at the park looking at the house?

Deffenbaugh:

This picture was taken actually 30 feet in from the curb on the street and by scaling in aspect ratios, obviously the trees make a little bit difficult seeing everything, but that would be the look that we feel is pretty close based on perspective.

Meyerink:

So the dormers right now are very, you know, they're 90, 90 degrees.

Deffenbaugh:

Yep.

Meyerink:

You know, so these dormers look like they have a pitch to them.

Deffenbaugh:

Yep, that would be that. That'd be the hip roof details so it's a 5/12 pitch going backwards, and then 10/12 on the sides to give it some presence. In working on some options we felt like this gave the roof enough scale, as proportioned to the rest of the home.

Meyerink:

Thank you.

Merchant:

Jesse, Pam Merchant again. Could you please show from 1321 more of an angle going inward? Is that possible to do that? Near the chimney, is there kind of a street or one view? Thank you.

Deffenbaugh:

Yep.

Keller:

Board members, any other questions of the applicants? Yep, go ahead, ma'am.

Merchant:

Is there any consideration for color on this as well? Has there been any discussion?

Deffenbaugh:

I mean we feel like the color fits with the historic neighborhood, but obviously that's why we're here. I mean we're here for a solution and ever since I've been working with the Sapienza's, that's what we're

here to come up with. So if we feel like there's a color that definitely blends better than the current color on the home, that's something that we'd consider.

Keller:

Thanks, Jesse. Do you want to speak? You know, the only other thing we're going to do is have discussion amongst the Board and then a motion.

Josh Sapienza:

My name is Josh Sapienza. I'm the resident at 1323 South Second Avenue for a couple of years now, and to open up and address the issue of the color, it was our understanding that the color needs to be similar to those that exist in the neighborhood. I don't know if it exactly matches, but we, they're over a dozen homes of that similar color family, and we did a survey initially of the park, not only of the those homes immediately surrounding the park but an eight-block radius to decide on that color, especially since the home we had originally intended and hoped to purchase was that color. So, you know, to address that, I feel for her. She doesn't want this to happen to her or anyone else. If they're building, within the limits of the law, I don't believe that could happen. I don't believe anyone else is at risk. Mr. Tom Hurlbert. His intent in discussing the law and whether or not the law was appropriately considered. Mr. Tom Wissel talked about the fact that we presented plans and invited opinion. A lot of these comments. Mr. Matt Parker talking again about the standards of preservation. The resident on Pendar Lane said that you have to consider that this can go nationwide that the builder decided to do nothing with the original plans. You know, all of these comments, Alex Halbach, the integrity of the neighborhood is, you know, not as he pointed out. It's not any one property, but the law specifically states how it impacts the historic landscape of all properties, of all homes in the historic property and the historic district of McKennan Park is itself considered a historic property, which means all of the homes should be considered and not just one. As Mr. Spencer Ruff himself said, you know, 7 feet is not sufficient distance between the homes. That might be but it's my understanding that the purpose of this meeting is determine whether or not our home with these proposed changes, not the history lesson that we got, not with the original plans look like or anything, but it's our understanding that the Supreme Court asked for additional proceedings, and it was the circuit court's determination that those additional proceedings be in your hands to determine whether or not with the proposed changes we meet all 11 points of the administrative ruling. Not to amend those laws, consider the intent, whether or not it was appropriately considered initially, whether or not we're going to establish a proposed stricter requirements than 7 feet setbacks, or address any other thing, whether it be original plans or what maybe could have been done differently at this point. These are things that are not specifically detailed on these 11 standards, and I would be grateful if we could really stay focused on those specific 11 standards and whether or not the plans as presented today meets those 11 standards as articulated specifically in the standards for new construction in historic neighborhood in the Historic District. That's all I wanted to ask. Thank you.

Keller:

Thank you. So Board discussion? And again, I'm going to ask the Board members to say their names for the record when they bring points up for discussion. Lura, go ahead.

Lura Roti:

So I read through this application several times like I'm sure everyone on the Board did, and I've read through the standards many times and I really believe that the home with its proposed modifications, has an adverse effect on the McKennan Park Historic District based on the standards for new construction. Number 10 which deals with settings; and for those of you that don't have this in front of you, it reads, which I guess we all do, so, do you want me to read that setting? Okay. The relationship of the new building or additions to existing buildings must maintain the traditional placement of historic buildings in relation to streets, sidewalks, natural topography, and lot lines. Based on this, my belief

is that this home has an adverse effect because is overwhelming in its relationship to 1321 South Second Avenue. It does not maintain the tradition of placement of existing historical structures in the McKennan Park Historic District. So that's what I came up with after reviewing all the information and the standards.

Keller:

Board members?

Meyerink:

This is Rachael Meyerink. I was wondering if perhaps we should kind of just go through the standards and then if anyone has any comments, we can all just kind of say a comment based on that one standard and then move to the next to make sure that we're thorough. I mean I, I would just like to say that I appreciated the thoroughness of both sides. I thought it was very helpful for us. I too spent many hours this week, late last night, much of today, reading, thinking, researching, calculating, and appreciate the thoroughness that both sides brought. I will start with let's discuss the first standard: compatibility of design. Massing, size, and scale of new construction must be compatible with surrounding historic buildings. I feel like the architectural features of the new construction are contemporary. They are not over mimicking or trying to be confusing as how old this house is. I feel like it's well documented by comparing it to other houses in the neighborhood. The windows do look similar in some ways to other houses. So I feel like that is compatible. The last sentence of Number. 1 says, "The overall visual appearance of new construction may not dominate or be distracting to the surrounding historic landscape," and that's where I stumble with this. I do feel like it is distracting to me when I look at it. I feel that it does dominate the landscape of that stretch of the McKennan Park neighborhood.

Rob Collins:

Rob Collins. I also think the detail that was submitted for the fireplace notch out would be even much more distracting. I was walking around the site this week and that part of the building is very prominently seen as headed south on Second, so I focused on that last sentence as well and I think the detail we saw today just exacerbates that even more.

Shelly Sjovold:

This is Shelly Sjovold and I'll have to agree. I really kind of like what Rachael highlighted and caught up on that last sentence about dominating and I just feel like it kind of goes with Number. 10 too. I really spent time in the neighborhood looking at the placement of houses and how much space there was and, and it is distracting.

Meyerink:

The second standard is height which they are in compliance of. The, the court case gave it and they did a survey. They determined the height that it needed to be, it is within that so I didn't have any comments about the proposed height. The width of the new buildings or additions to existing buildings must be similar to adjacent historic buildings. I wish they'd given us a number. The standards can be a little bit gray sometimes, which is a little hard to interpret. To me, I wonder if the 10 percent listed in the height is an example. I did some calculating. The proposed width, or the width of the Sapienza residence is 16 percent wider to the house on the south and 17 percent wider than the house on the north. So that's just some numbers that I came up or used the numbers provided to figure out. It does look large compared to others.

Keller:

This is Tom Keller. The presentation as I understood it talked about the width of the house and there are wider houses in McKennan. But the question in my mind becomes are there houses wider proportion to the size of their lot? I mean, independent of where it sits next to everything else, is there any other house that takes up that percentage of its lots as a width measure? Yeah, I mean to me, width is not just a number. You can't, it has to be less than 64 feet wide. If you have a 64-foot-wide property on a 74-

foot-wide lot, it's going to look funny. I think maybe Jesse, you have an answer to that and I know we're mostly just talking amongst ourselves, but you guys did address some of this in terms of percentage of total lot size taken up by the width of an individual property.

Deffenbaugh:

That, that's a typo. That's 21percent. 1321 takes up 70.1 percent of the lot width as relationship to 1323 takes up 68 percent.

Keller:

Okay.

Meyerink:

So the house to the north has a wider percentage. So that's very interesting. I think the McDowell residence is an unusual house for the district because it's a very small lot compared to most and it's very low or wide which is part of its distinctiveness too. This is a historic house, this is the one that's a landmark house. So it's a low, very wide house for the lot. I don't think that there are any other houses in the district that are that wide for that small of a lot based on when I looked through other lot sizes.

Collins:

Rob Collins. I would concur with you about the width and proportion go hand in hand. I agree that you have to look at how much of the width of the lot does the house fill. I think those two go together. I think in establishing that, you got to look at the context of the neighborhood. We can't look at one example and, and use that as a precedent per se. So I think when you look at the context of the neighborhood, I think 1321 is not conforming to the precedent of the rest of the neighborhood.

Keller:

Say that again for me. 1321, the house to the north?

Collins:

I think you have to look at more than just the one property to see the context of the neighborhood. That one house, yes, does fill a large percentage of the width. As I look at all of the houses within just visual range of the house in question, most of them are much smaller percentages, and I think that establishes the context of the neighborhood.

Keller:

I don't know if this is width or which of the 11 standards, but just in talking to people, people from your office, people that are across the hall from you, just say, "Have you seen this house next to its neighbor," and then somebody hasn't actually seen it. They haven't driven by there. They haven't gone around the park and they drive by there. There's one universal comment. I mean it is not, "Boy that house is a long way from its neighbors and seems appropriate for its lot size." It is, "How in the world could they build a house that big that close to their neighbors." And, you know, speaking for myself and this is Board discussion, I am one of the two people that was on this Board when we got deposed and when we approved that original design, and I was taken in by the trees on both sides and I looked at the house and said, "That's a beautiful house." I mean that's an architecturally beautiful house. It's appropriate for, there's a lot real big houses in McKennan. It's appropriate for what it is. It's a beautiful new home. It doesn't try to be one of the historic properties, but it doesn't steal from historic properties. I felt as though the design and I'm sorry to say it felt very uncomfortable to me that I was part of that. It's not about my personal guilt or responsibility for being there, but I did feel as though Mr. Johnson pointed out, I said if I'd seen that relative to the neighbor's house, I think my opinion would have been different when that came up and I think that was the universal opinion of all nine people that were on the Board and you were the other person, Jennifer, that was on the Board when that happened. I think we're here today talking about its height relative to its size and its width relative to what seems to me less the point here. I don't mean to be crass about this, but to me and this is a little lawyerly thing, but it's like the Supreme Court said about pornography. I'm not sure I can define it, but I

know it when I see it. I know it when I see it whether something contributes or doesn't contribute to the historic value of a neighborhood and that's my sense of things as we're here. I get it again, I think you guys have tried very hard to sort of make this comply with the rules and thought you were doing that when it happened. And then a lawsuit blew up and all these other things happened. But here's where we are today, does this house as designed, mass, and scale, and next to the neighbors and with the change in the roofline and its proximity and massing and everything else, does it detract from the historic neighborhood of McKennan Park District and I don't know a single person, no offense you guys, who's ever gone past that house and looked at it who said they feel like it complies and should be there. Not one.

Roti:

Well and if we feel that way, we have these standards that we're following and I really think the width, it says it must be similar to adjacent houses, I don't think it meets that qualification. I don't think it is similar to the adjacent house.

Keller:

And to me, standards Number 9 with the modification to the roof, roof shape and skyline that this is a nonconforming roof shape as Rob pointed out, this is Tom Keller again. I think Number 10, the relationship of this building to the existing buildings maintains traditional placement. I don't see how you can look at this and say this is traditionally placed like a house next to other houses in the neighborhood. And again, Number 1, the last sentence as Rachael pointed out, the overall visual appearance may not dominate or be distracting. I don't see how you can go past that house and say that it does not dominate or is distracting, and again, as much as these changes might modify some numbers, I don't think it changes the fact that it dominates and is distracting. Again, we can go through each one of these. I don't think we need a thousand of them and no disrespect to anybody and I'm not trying to give anybody the bum's rush and I told everybody they'd get to be heard today, and the chair does not get to vote. So, keep that out there. The chair would entertain a motion regarding the proposal for today's hearing if anybody is ready to give one.

Collins:

Rob Collins. I propose the design as presented would have an adverse effect on the McKennan Park District.

Keller:

An adverse effect on the McKennan Park neighborhood. Is there a second to that motion?
Oh, it's been seconded. Go ahead.

Sjovold:

This is Shelly. Do we need to add why and just say based on standards 1, 9, and 10, it has an adverse effect?

Keller:

That would be an amendment to the motion and in terms of procedural, I think we would add that amendment to the motion. So, Shelly has made an amendment to the motion that it is, Sections 1, 9, and 10 predominately cause the pause of the Board, as far as that . . .

Sjovold:

We can, we can discuss 2 if someone has more to add.

KELLER:

But again, Nos. 1, 9, and 10 being the predominate objections, is there a second to Shelly's motion that that would be added to the overall motion of the adverse impact.

MEYERINK

Um, this is Rachael Meyerink. Ah, 9 is roof shape and skyline. I don't think we had discussed a lot about the roof shape being, um, the adverse effect.

KELLER:

The discussion about it was more what Rob had indicated with the cutout to accommodate it.

Meyerink:

Okay, yep, that's part of it.

Keller:

It's not like it's shaped like any other roof. So I'm not stepping on your toes saying that. I think that's the consensus of what folks were saying. With that understanding, Shelly has moved that we supplement the motion to say that it is predominately Sections 1, 9, and 10 that are the things that cause the Board pause in terms of the conformity with the standards of the neighborhood. Is there a second to Shelly's amendment to the motion? Hearing none, the amendment fails. The original motion is that the modifications as presented would have an adverse effect on the McKennan Park District. That has been seconded. I think for our purposes, we're going to ask each individual Board member to say yes or no so that we keep a vote of this and know whether there are ties or needs or anything else. I'm going start at the end. Josh, why don't you start and tell us, do you understand the motion as presented that this presentation would have an adverse effect on the McKennan Park neighborhood?

Josh Chilson:

Yes, it would have an adverse effect.

Stephen Jackson:

Yes, it would.

Keller:

Stephen Jackson says yes. Rob?

Collins:

Rob Collins. Yes.

Keller:

Go ahead.

Robbie Veurink:

Robbie Veurink. Yes.

Roti:

Lura Roti. Yes.

Meyerink:

Rachael Meyerink. Yes.

Jennifer Dumke:

Jennifer Dumke. Yes.

Sjovold:

Shelly Sjovold. Yes.

Merchant:

Pamela Merchant. Yes.

Keller:

Folks, the decision of the Board of Historic Preservation in regard to the petition at 1323 South Second Avenue is that it would have an adverse effect on the McKennan Park Historic District. Folks, we do have regular Board meetings every month. Generally, we do take on other topics and if people are here to talk about things other than the specific agenda items, we generally take those on. We're not doing that

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tonight. We'll see you next month if you have something other than this project to talk about. Thank you everybody. We appreciate your attendance today.

Adjournment

24:52:07:04. Standards for new construction and additions in historic districts. New construction or additions within a historic district must comply with **The Secretary of the Interior's Standards for the Treatment of Historic Properties** as incorporated by reference in § 24:52:07:02. In addition the following standards apply:

- (1) Compatibility of design. Massing, size, and scale of new construction must be compatible with surrounding historic buildings. Overall architectural features of new construction must be of contemporary design which does not directly mimic historic buildings. Architectural elements such as windows, doors, and cornices must be similar in rhythm, pattern, and scale to comparable elements in adjacent historic buildings. The overall visual appearance of new construction may not dominate or be distracting to the surrounding historic landscape;
- (2) Height. The height of new buildings or additions to existing buildings may not exceed a standard variance of ten percent of the average height of historic buildings on both sides of the street where proposed new construction is to be located;
- (3) Width. The width of new buildings or additions to existing buildings must be similar to adjacent historic buildings;
- (4) Proportion. The relationship between the height and width of new buildings or additions to existing buildings must be similar in proportion to existing historic buildings. The proportion of openings in the facades of new construction or additions must be compatible with similar openings in adjacent historic buildings;
- (5) Rhythm and scale. The rhythm, placement, and scale of openings, prominent vertical and horizontal members, and separation of buildings which are present in adjacent historic buildings must be incorporated into the design of new buildings or additions to existing buildings;
- (6) Materials. Materials which make up new buildings or additions to existing buildings must complement materials present in nearby historic properties. New materials must be of similar color, texture, reflective qualities, and scale as historical materials present in the historic district;
- (7) Color. The colors of materials, trim, ornament, and details used in new construction must be similar to those colors on existing historic buildings or must match colors used in previous historical periods for identical features within the historic district;
- (8) Details and ornament. The details and ornament on new buildings or additions to existing buildings must be of contemporary design that is complementary to those features of similar physical or decorative function on adjacent historic buildings;
- (9) Roof shape and skyline. The roof shape and skyline of new construction must be similar to that of existing historic buildings;
- (10) Setting. The relationship of new buildings or additions to existing buildings must maintain the traditional placement of historic buildings in relation to streets, sidewalks, natural topography, and lot lines; and
- (11) Landscaping and ground cover. Retaining walls, fences, plants, and other landscaping elements that are part of new construction may not introduce elements which are out of character with the setting of the historic district.

Source: 16 SDR 239, effective July 9, 1990; 21 SDR 50, effective September 21, 1994; 24 SDR 73, effective December 4, 1997; 28 SDR 182, effective July 10, 2002.

General Authority: SDCL 1-19A-5, 1-19A-11, 1-19A-29.

Law Implemented: SDCL 1-19A-5, 1-19A-11.1.