

**A New Castle City Board of Adjustment Hearing took place on June 4, 2012 at 7 p.m. in the City of New Castle's Town Hall.**

Present: Mayor Donald R. Reese  
Daniel R. Losco, City Solicitor  
David J. Athey, City Engineer

City Personnel: Jeff Bergstrom, City Code Official

Mayor Reese called the meeting to order at 7:10 p.m. Roll call was taken.

Mayor Reese read the Notice of Public Hearing that states, "An application has been filed by Lena Deemer, P.O. Box 148, New Castle, Delaware, for property located at 207 Harmony Street, New Castle, Delaware, parcel numbers 21-015.40-008, appealing a decision by the Historic Area Commission to require a new six-panel front door be replaced with a four-panel door and the Anderson (aluminum) full view storm door be replaced with a full view wooden door.

For the purpose of considering this application, the Board of Adjustment will hold a Public Hearing on Monday, June 4, 2012, at 7 p.m. in Old Town Hall, 2<sup>nd</sup> Floor, located at 2<sup>nd</sup> and Delaware Streets, New Castle, Delaware."

An affidavit of publication was published in the News Journal and the New Castle Weekly. Mr. Bergstrom testified the property has been properly posted.

*(Mr. Mark Brown was sworn in.)*

Ms. Renee Duval, counsel for Mr. Brown, questioned her client. Mr. Brown testified he lives at 207 Harmony Street, New Castle in a property owned by Mrs. Lena Deemer. He has been given authority by Mrs. Deemer to make maintenance and repair decisions relative to this property. He installed a six-panel solid oak front door. The Historic Area Commission (HAC) guidelines for rehabilitating historic structures state that "deteriorated architectural features shall be repaired rather than replaced whenever possible." Mr. Brown stated he did attempt to repair the door by using wood putty in the cracks in the door, but after numerous patching attempts and several attempts to install weather stripping to the exterior door, the living room was still uncomfortable due to drafts. He testified he had been told by two contractors that the door was formerly an interior door that was modified to be used as an exterior door.

Mr. Brown did not appear before the HAC because he travels frequently, the Commission meets once a month, and he wanted to remedy the draft problem and lower his energy costs. When questioned about the historical character of the structure, Mr. Brown said he is unaware of any except for its location in the historic district. A number of changes have been made to the structure over the years.

Ms. Duval said there are seven (7) guidelines listed by HAC of stylist periods typical of the historical area to help property owners to recognize the style and historic features of structures. Mr. Brown does not believe any of those guidelines fit the subject building. HAC had no issues with the material of the interior door (wood).

Mr. Athey questioned why Mr. Brown appeared before HAC after the modifications were complete. Mr. Brown said in his absence Mr. Bergstrom contacted Mr. Tim Skully (does work for Mrs. Deemer) informing of a number of issues being raised by HAC. Mr. Skully applied for a building permit when he filed an application for HAC. Initial work was performed without a building permit.

HAC's issue with the interior door is the door should be a four-panel door, not a six-panel door. Prior to installing both doors Mr. Brown walked the historic neighborhood and took photos of doors and made his decision based upon what others (number of panels; materials used) were doing to keep in harmony with the historic district. He testified there are a number of doors in the historic district that do not meet HAC's historic guidelines. Solicitor Losco asked Mr. Brown to elaborate four panels vs. six panels and wooden storm door vs. aluminum storm door. Mr. Brown said on the one square block where he resides there are approx. 65-67 doors, 52 are six panel doors, 4 are four panel doors, and several are multi-panel doors. Within two blocks of his house there are 32 metal (aluminum) storm doors, 17 are identical to the door he installed at 207 Harmony Street.

Mr. Bergstrom stated the building permit is pending until HAC gives its approval. Mr. Brown paid for the building permit and HAC application and assumed the building permit was issued.

Mr. Athey asked what prompted the replacement of the doors. According to Mr. Brown the doors were cracked for a period of time and he made the decision to install new doors.

Mayor Reese said most of the doors shown in the exhibit are painted and said there are none finished in natural wood on Harmony Street. Mr. Brown disputed this statement saying there are more than several doors made of natural wood within a couple block area in the historic district. Ms. Duval added that HAC's concern was the number of panels on the door and not that the door was natural wood versus painted.

Mayor Reese stated when HAC makes a decision they take streetscape into consideration. Ms. Duval entered pictures of three (3) doors on Harmony Street that represent Mr. Brown's door and his neighbors' doors.

Mr. Brown stated he initially wanted to install a four-panel door, but after looking at the historic area he noted more six-panel doors, including his neighbors on both sides, and decided upon a six-panel door to be consistent.

A photo of the Anderson full view aluminum storm door with a red finish to it was entered as an exhibit. Mr. Brown testified there are two (2) doors within a two block area in the historic district that are the same color and reiterated there are 17 the same as his door.

Ms. Duval noted that HAC guidelines state aluminum storm doors are "discouraged" but not "disallowed."

Solicitor Losco asked if Mr. Brown reviewed the HAC guidelines prior to doing any work. He said he has lived in the City of New Castle for about eight (8) years and knew there was a "HAC" but did not know there were guidelines.

Solicitor Losco inquired whether HAC guidelines addressed four panel vs. six panel doors. Ms. Duval said they speak to the seven (7) styles for the historic area, including the types of doors for each style. Mr. Brown's home does not fit any of the styles listed. Ms. Duval added that Mr. Brown attempted to maintain the integrity of the neighborhood.

At the HAC hearing Mr. Brown presented pictures of the door prior to and after replacement. The total cost to Mr. Brown for both doors was approximately \$800.

Solicitor Losco asked Mr. Brown if HAC provided rationale as to why a six-panel door was inappropriate for 207 Harmony Street. Mr. Brown testified 'no'; they said their policy is that replacement doors should be four-panel doors. Mr. Brown was trying to stay consistent with what others in his area had done. Additionally, there are 10 entrance doors in his row house section. Six (6) of those doors are six-panel, two (2) are four-panel and two (2) are half wood and half glass.

Concern was expressed by Mr. Athey that HAC is tasked with maintaining the historic character of a certain portion of town and there are so many homes not in compliance for reasons unknown to him.

Ms. Duval said HAC's policy is they prefer a four-panel door. She acknowledged if an application had been made to HAC, Mr. Brown would have known what their policy was. Guidelines are in place to notify homeowners how they should maintain and make changes to their home. She noted that no HAC guidelines make reference to four-panel doors.

Mayor Reese referenced the discussion and motion made by Mr. Heckrotte at the April 2012 HAC meeting stating HAC tries to put four-panel doors on homes where appropriate.

Mr. Brown was unsure how old the original door was but believes he made a considerable improvement to the home by replacing the former door with the current door. Mayor Reese said all the doors he looked at along Harmony Street are painted and asked if Mr. Brown intends to paint his door. He responded 'no' adding he paid extra for glass in the door that provides UV protection.

HAC's existence and guidelines were again recognized by Mr. Athey who said if Mr. Brown had applied for a building permit he would have known about HAC and followed the appropriate path.

The floor was opened for public comment.

Michael Alfree, 203 Harmony Street, (sworn in by Solicitor Losco) testified he knows Mr. Brown and considers him a good neighbor. He questioned whether Mr. Brown has the legal authority to present this case. Mrs. Deemer has lived in the city over 60 years and knows the rules. Solicitor Losco said the applicant can appear through counsel and that Mrs. Deemer signed the application as the property owner and has chosen not to appear. Mr. Alfree is aware of the procedures for improvements to his house. He commended the work done on the subject door and has a four-panel door on his house per HAC's instructions. He has wooden shutters on his door rather than a storm door, per HAC's instructions. There is nothing unique with his block of the city that makes four-panel doors historically accurate.

Mr. Alfree objects to the aluminum storm door. It is a nice door but is not accurate for the area. There are shutters and/or just a front door on neighboring properties. Mrs. Deemer owns one of the neighboring properties and has shutters. He is not questioning the six-panel door; the house next door has six-panels. Mr. Alfree believes HAC's ruling stems from the previous door being a four-panel door and the replacement should also be a four-panel door. Streetscape is important. He questions contractors being able to remove and replace on their homes without some kind of City intervention.

Thomas Little (sworn in by Solicitor Losco) identified himself as an attorney and Mr. Brown's neighbor. There is no conformity on the block. He likes the doors the way they are and would like to have the same. He represented Mr. Brown at the April 2012 HAC meeting and had pictures to submit as exhibits but said HAC members were not interested.

Patsy Martino, 158 E. 3<sup>rd</sup> Street, (sworn in by Solicitor Losco) believes HAC is more of a problem in the City. She cited a personal experience with HAC and questions the architectural education of members to make decisions.

Robert C. Sigman, City resident (sworn in by Solicitor Losco) said he has seen work done to homes in the City when residents believe there is little chance of being noticed by an inspector. He questions freedom of speech of homeowners and residents to have something on their home that reflects them. He additionally questioned the credentials of HAC members. He likes keeping the character of the community and suggested training for HAC or compassion for individuals.

There were no members of HAC present to address the application.

Ms. Duval noted the verbal support for Mr. Brown. Mr. Brown acknowledges not seeking HAC permission before making modifications to the home and believes he is being penalized for not seeking permission beforehand. It appears as though HAC was looking for a reason to find that the doors were not in compliance. She agreed with Solicitor Losco that aluminum storm doors are not historically accurate. She added the guidelines say they are "discouraged." Solicitor Losco reiterated Mr. Brown did not read the guidelines and had he read them he might not have installed an aluminum storm door.

Solicitor Losco commented that if everyone in a historic district were permitted to put up aluminum storm doors they would be denigrating the historic character of New Castle that makes it a historic treasure. Ms. Duval did agree adding Mr. Brown has paid an application fee to appear before this body tonight.

Solicitor Losco raised the matter of accountability of Mr. Brown not going before HAC and knowing the guidelines first. He does not consider that argument to be a good excuse for not following the rules initially. Ms. Duval responded that Mr. Brown is being punished for not applying to HAC initially and there was no guarantee that if he would have applied he would have been rejected, rather he is being punished.

Mayor Reese noted the shutters on the houses on either side of 207 Harmony Street. Mr. Brown looked at many wooden, full view doors in the historic area but they did not have the same integrity and quality. Shutters are difficult to keep open. He felt "safe" in assuming that what he installed would be adequate. Mayor Reese indicated proper hardware would adequately secure the shutter doors.

Solicitor Losco asked Mr. Bergstrom to confirm Mr. Brown's testimony that 17 full view metal storm doors are identical to the door he installed. Mr. Bergstrom said "people do things all the time." Those doors would have been installed without the appropriate authorization and are subject to citations. He testified he has never known HAC to approve aluminum doors.

Mr. Brown restated the number of aluminum doors in a two-block area of his residence in the historic area and added a "significant" number of metal storm doors throughout the historic district.

Solicitor Losco responded that Mr. Brown's statement indicates an erosion of the historic character of the area by people putting up doors without the appropriate action by HAC and that this application can be viewed as an addition to that group. Mr. Brown disputed this saying when he saw so many aluminum doors he assumed "they must have been approved by someone because he couldn't envision that many doors being present without some kind of approval." Mayor Reese reminded Mr. Brown of his comment that he didn't know he needed approval when walking around the area looking at doors. Mr. Brown said he did what he saw others doing.

Solicitor Losco asked Mr. Brown if he asked Mrs. Deemer if any governmental regulations for exterior approvals were needed for historic districts. He said 'no.' He informed Mrs. Deemer he was replacing the door and she told him she did not know if HAC would approve or not. At that time he applied for a permit and HAC.

Solicitor Losco asked when Mrs. Deemer said she didn't know if HAC would approve what he was planning; was it before he installed the doors. Mr. Brown responded they didn't go into the matter in depth. He acknowledged being aware of HAC. He said he did not know about HAC guidelines until making an application.

Mayor Losco noted that each month there is a list of applications going before HAC printed in the *New Castle Weekly*. HAC guidelines are available online, in the library and City offices. Mr. Brown does not receive the *New Castle Weekly*.

There were no comments in support of or in opposition of this application. The presentation portion of the hearing was adjourned and deliberations began.

Solicitor Losco stated the question with this application is not the beauty of the doors but of historic accuracy. Had Mr. Brown heeded Mrs. Deemer's statement of not knowing whether HAC would approve the doors or not and approached HAC or its guidelines he would have known what procedures were required. Simply canvassing the neighborhood and making assumptions is problematic. He does not have any problem with the six-panel door or it not being painted or stained. The two (2) neighboring doors are six-panel doors and a number of photos were presented supporting six-panel doors. He expressed his disappointment with HAC not providing more rationale as to why something is not historically proper. The guidelines should be more clear, but this applicant did not read those guidelines. Mr. Brown recognizes the aluminum storm door is not historically accurate.

Mr. Athey noted this is the not first time a HAC decision has been appealed to this board making similar arguments and suggested City Council should review HAC. It is agreed that an aluminum door does not have historical significance. Homes in the historic area have value in part because HAC is tasked with maintaining the historic integrity of the area. He is fine with the wood door; it is beautiful and he does not know how much an issue there is between four-panel and six-panel. He agrees the aluminum storm door should be replaced with a wood storm door.

Solicitor Losco faults HAC with their lack of rationale between a four-panel door versus a six-panel door and which was historically accurate in this matter. In response to negative comments made about HAC members' credentials, he recognized that HAC has a historic architect on its panel and his guidance on historic issues is valuable. The aluminum storm door is handsome but not historically accurate. He is not unsympathetic to Mr. Brown's statement about the difficulty in maintaining a wooden storm door, but wood is an important part of a historic district.

Mayor Reese said there is a whole page on the City calendar that describes HAC and its rules. He has no problem with stain or paint on the wood door. Mr. Brown has produced a number of photos showing four-panel doors and six-panel doors on Harmony Street. He does not support the aluminum storm door. It does not fit the streetscape which is an important part of how HAC makes decisions. He is disappointed streetscape was not mentioned by HAC. He is not in favor of keeping the aluminum storm door.

A motion was made by Solicitor Losco that HAC's decision requiring the six-panel door be replaced with a four-panel door be reversed and HAC's decision to replace the aluminum storm door with a wood, full glass door be affirmed. The motion was approved by unanimous vote.

The hearing was adjourned at 8:44 p.m.

Respectfully submitted,

**Debbie Turner**

Debbie Turner  
Stenographer

- Exhibit #1 -- Two (2) pictures of the exterior side and interior side of the door.
- Exhibit #2 -- Pictures of doors in the historic district.
- Exhibit #3 -- Pictures of storm doors in the historic district.
- Exhibit #4 -- Pictures of Mr. Brown's doors and his left and right side neighbors.
- Exhibit #5 -- Pictures of Mr. Brown's Anderson full view aluminum storm door.