

MINUTES OF A MEETING OF THE MANCHESTER HISTORIC ZONING COMMISSION

June 7, 2018

Call to Order

The regular meeting of the Historic Zoning Commission was called to order at 4:33 p.m. in the city hall board room with Chairman Ray Amos presiding. In attendance were: Evans Baird, Pat Berges, John Mancini, Gary Trail, Jamie Sain, Cheryl Swan, Gerald Ewell, Scott van Velsor, Ellen Fletcher.

Minutes Approval

Minutes of the previous meeting were read and approved upon a motion by Cheryl Swan and seconded by Evans Baird.

Ray Amos shared an email from Jane-Coleman Harvison, Tennessee State historic preservation specialist about holding a training meeting to help answer questions that the community and commission might have. Elected officials, community and property owners to attend.

Old Business

Guidelines for murals to be presented to BOMA and other mural related matters were discussed:

Pat Berges presented an outline of proposed guidelines for the commission to consider, which was drawn from a few other cities' guidelines for murals. Scott van Velsor stated that many of the proposed guidelines would not pass the first amendment because The American Bar Association has guidance and stated that there are four things that can be considered for regulations: incitement to violence, pornography, swear words, or slander or something that would generate legal action. Pat Berges informed the commission that the Tennessee State historic preservation specialists have informed her that additional regulations can be made on things such as colors and size of murals.

The commission reviewed the proposed guidelines:

(A.)The mural contains no commercial content, commercial or copyrighted logos, or corporate marketing themes or colors. John Mancini stated that this is ok and Jamie Sain agreed. (B.) The mural creates an aesthetic appearance which complements the historic buildings or other structure. Ellen Fletcher stated that the word aesthetic is too subjective. The commission agreed to omit this proposed (B) guideline (C.)No murals allowed on residence or structures in the historic zone which are on the National Register of Historic Places. John Mancini stated that the courthouse should not be painted on. The commission agreed. Cheryl Swan stated that the only building on the national register is the courthouse. Gerald Ewell stated that the national register rules would govern that. Guideline (C.) omitted. (D.) No murals are allowed on the facades (frontages) of buildings within the historic district. Swan stated that codes dictate what the front facade has to be. Jamie Sain said there is an architectural design requirement that the front of your building can't have certain materials on it and has to be 100% of approved

materials on the facade, but paint is not part of the restrictions. Swan added that the City codes already dictate the fronts of buildings. Type of paint was discussed, but the commission agreed that the type of paint should not be restricted. Van Velsor suggested that be applied to any type of medium used. Gerald Ewell stated that you can regulate medium if it is harmful or an issue of health and safety. He stated that it is probably already covered in codes. (E.) No obscene, suggestive or offensive mural content will be permitted (F.) No neon or psychedelic colors. Will be discussed again. (G.)The right to place a mural on another's property. The commission agreed to eliminate this. (H.) Amount of time a mural stays up. Swan stated that maintenance and timing of maintenance can't be dictated. Swan stated that having a copy of an agreement with an artist and property owner should be obtained.(I) Approval by commission. Swan stated that needs to come before the commission for approval. Fletcher agreed and said there should be a checklist. Van Velsor disagreed, stating that the commission should only need to be informed. Ewell stated that in a historic zone you can regulate speeches to time, place, and manner, but not content. The content is protected by the 1st amendment. You can't say it can't say something or has to say something, but can regarding colors, size, or if it's lighted or not because that is not message related. Ewell said Art doesn't get a pass, because it's not content related. Cheryl Swan stated that we should have a form that artists should fill out and present to the commission for discussion and approval.

The commission will finalize the mural regulations at a later date. Gerald Ewell will review the commission's mural guidelines before they are presented to BOMA.

Further discussion:

Gary Trail asked what can be done if someone goes against the HZC regulations? Ewell responded art doesn't get an amulet. Speech has certain constitutional protections, but you don't lose your general police power in zoning just because it's art. You can't regulate content of speech that somebody has to promote or denigrate something there's all sorts of time place and manner regulation of it. If somebody violates the code you can have it painted over. Then you can get into an argument of whether it has first amendment protection or not. John Mancini asked about property owner rights. Ewell stated that the first amendment rights are the property owners rights, but they're not absolute. Gerald Ewell also stated that if they can regulate it, then they will regulate it whether it's electricity, water, paint on the outside, such as if it's flammable paint. "Just because it's art, doesn't mean you can use flammable paint." The commission can't tell them what to do, but can tell them what not to do.

Cheryl Swan made a motion for Gerald Ewell to look into the federal regulations that can be governed by the commission and for him to attend the July meeting, Ellen seconded it. The commission voted in favor.

New Business

Cheryl asked for all members of the commission to look at the current guidelines and determine if we need to make any changes. Pat and Ellen agreed that it was a good idea.

Date change for next meeting because of July 4 discussed. The next meeting change of date and time for 4:30 on July 9 was approved upon a motion by Cheryl Swan and seconded by Ellen Fletcher.

The meeting was adjourned at 5:47

The July Historic Zoning Commission meeting will be held on Monday, July 9 at 4:30pm in Manchester City Hall board room.

Respectfully,

Ellen Briggs Fletcher