

Village of Skaneateles
Historical Landmarks Preservation Commission
June 8, 2011

Modification – change to the application for 52 East Genesee St.

Present: Charles Williams, Chairman
Mona Smalley, Member
Katharine Dyson, Member
Karlene Miller, Member
Pat Blackler, Member
David Neibert, Member
Beverly White, Member
Kihm Winship, Member

Jorge Batlle, Clerk to the Historic Commission

Robert Eggleston, Architect for the applicant
Julie Sharpe, Applicant

Linda and Daniel Roche, West Lake Street
Robert Baldwin, Attorney for Linda Roche

Absent: Andrew Ramsgard, Applicant's representative

Chairman Williams opened the meeting at 7:34pm. Robert Eggleston, Architect for the project made the presentation. He said, "we have come in for a slight modification. Actually, we came in in February 2010 for the initial approval. At that time, the elevator and the stairs were going to be shared with the adjacent neighbor, Linda Roche's building, and Julie Sharpe's building. We had open elevator lobbies. The elevator opened to an outside walkway, so that the 2 buildings could share it. Because one can't pass through a building, from one building to another building. They have to pass to the outside.

So, we got initial approval for that. Then we came back in September, after some negotiations and discussions broke down and Julie decided that in the Linda wasn't going to participate, she was going to enclose the elevator lobbies. So, the only difference was whether the space in front of the elevator was inside or outside. Then there was some questions that came up regarding easements that had been written in the 1800s giving Linda Roche's building the ability to pass through Julie Sharpe's building. So, this has kind of been in the legal system – negotiations and what-ever to try to figure out whether Linda has the right to use these stairs or not. In the meantime what we needed to do, what we wanted to do, is, right now, the stairs have

been taken down. We put in the structural footings for it, but we haven't gone any farther. It's put us in a position where neither building is safe because there's no stairs. So, what we have discussed with Linda's lawyers is to build the stairs and the elevator so that we have a combination of the two schemes.

The basement and the first floor is like the second approval where the elevator is enclosed, so we've provided for that wall and door in front of the elevator. The second and 3rd floors are like the first approval where it's open so the door and access from Linda's building is free and open so that Linda's people could use the stairway. So, what we are doing is we are taking half of the first approval, half of the second approval for this hybrid approval. So, what that does is – what we are hoping is that it would allow us to build the stairs so that now both buildings are safe again by having the second means of exit and nothing will be done to prevent Linda, should she prevail, and have entitlement to the use of the stairs. That she would have the use of the stairs. If Julie should prevail, and she wants to come back, she could put in the non-structural walls to enclose it, should that be the case, which we go back to the second approval.

So, we have the first approval, the second approval and this would actually be a hybrid where we have the enclosed on the first floor and basement, and the open in the second floor and 3rd floor. Other little things that have happened since then, in the original approvals we had windows in the back of the elevator so that when you are on that floor you could look through a window on the elevator to a window on the outside just so it's light and airy. She has since decided she's not going to do that. It was a feature that was costly and she decided that she wasn't going to do it. So, we've removed the windows that were kind of hidden by the stairs anyway – those are removed.

One other thing that after today, Julie decided that she really wanted to do is put a retractable awning between the elevator wall and the end of her building up on the 3rd floor deck, so that she would have the ability to screen the sun. I have a couple of brochures. We are interested in using Sunair. It is provided by a local vendor. Basically it's just an awning. It has 3 arms on it, so it will come out and support it. Again, you pull it back in when you don't need it. We do have a color selection for that. The exterior is going to be a mocha color which actually is very similar to the trim color on the building. So, it will blend in with the trim. Then we have chosen this pattern. We wanted a stripe that takes advantage of the brown ???coats that we have on the rest of the building. So, it will be an appropriate accent on the 3rd floor. **Tempotest 636/14.** Member Dyson asked, "is that a crank out or an automatic?" Eggleston said, "she has the option and probably will have the automatic put on it. It's a large awning. You can always crank it if for some reason the power fails. It will be an electric option."

Eggleston continued, "so, that's what we are here for. Basically, it's taking half of the first approval and half of the second, eliminating the windows in the elevator, and allowing the retractable awning on the 3rd floor deck."

Member Dyson asked, "could you describe for me – since our main charge is esthetic, rather than fire safety, could you explain to me the difference between where we were the first 2 times and where we are now?" Eggleston said, "the only difference is – when one is looking at it from the Lake, you are going to see the stairs. You are going to see the railings. Then, you are

going to see the elevator shaft. The question is, where is the door? On the first 2 levels, basement and the first floor, the door is going to be flush with the elevator. On the other 2, it's recessed back another 6 feet. So, it's against the original building. That's the only difference."

Member Blackler asked, "is this elevator only for Julie Sharpe's building? Is it in the Julie Sharpe building?" Eggleston said, "it's on Julie Sharpe's property. I believe Linda has no interest in the elevator. At one point there was talk about sharing the elevator and the stairs. At this point I believe she's only interested in the stairs." Member Blackler asked, "to Linda Roche's building is only stairs?" Eggleston said, "correct." Member Miller asked, "are you OK with that?" Member Neibert said, "but it's a mutual stairs." Eggleston said, "no. It's a stair owned by Julie Sharpe. The question is does Linda Roche have an easement that allows her to use the stairs." Member Neibert said, "so if there is no easement then there's no access to..." "... access is not required from Linda's building into the stairway." Member Neibert said, "right. So there is no access." Member Blackler asked, "so how does she go up and down?" Eggleston said, "she has stairs in her own building.. Linda has stairs in her building." Member Miller said, "I'm confused about this. You have stairs in your building."

Linda Roche said, "inside...but we've always had them out the back. The wood doors have been there since '77. When we bought it in '91 we knew that that wood door was there. On our deed it's ingress and egress to the second and 3rd floor from Genesee Street up to Julie's stairs. So, the only ingress and egress that we knew out the back was out the wooden doors that Wesley Clark put there in '77 and the staircase was there. It's on our deed that we have an easement. And it's on Julie's deed that the easement exists. But, and when Bob came last march 10th in the Minutes, he said we'd like to exchange the front easement and put you down the back stairs. Now Julie is saying that we don't have an easement. So, that's why we are in court. When I talked to New York State, the Fire Codes, they are saying that building is 67 foot long. They are going to jump in now and I know that Jorge has been saying the Village has it's own codes. But I talked with somebody from New York State. They are coming out to assess it because they are saying you had a fire. The problem is that the kitchens are in the center of that second and 3rd floor. If a fire ever breaks out on a winter's night, and you can not get out that back – whether it's Joe and Dorothy Owens or who ever is up on that 3rd floor. They will burn in that building. Jorge says that they can break the windows out. But as the Fire Code person said on the second floor which is the 3rd floor in the back, you are up 32 feet, the next floor you are 42 feet, you can not take a step ladder on a stormy night when you look at the fire that happened across the street. So, New York State now is going to come out also and look at this for fire safety because they are saying that was there when we bought the building. That's the only easement that we knew was there. When we redid the building, we put the doors in the same place. So, now it's all in question. That's why in 17 minutes, when you change this by a swipe in letting those doors be boarded up. Danny and I never knew about the change of plans. That's why we got word - in other words we were never notified. Usually when something is going to happen with your building, or you are loosing a fire exit, somebody notifies you. Or you see the change of plans or something. I would have loved to go in on the elevator and stairways with Julie. It's just the lack of communications broke down. We hired lawyers, and Julie feels – and I understand that she'd rather have the elevator for herself, and that nobody else would get in it and mess it up. We understand that. But the one thing that we can not, and we are in court right now, we can not give up that fire exit. So, that's why I've gone to New York State to seriously look at this for the fire

safety issues on it. They are coming out because they are saying NY State will over ride what ever villages. They are concerned because they are saying that when the wind comes off that lake, if a fire breaks out in the center of that building and they can't get out that front way, there's no way you are going to get those ladders up those back windows and get people out."

Member Neibert said, "so basically you are going to put the stairs in and then it's going to be determined at some point in time about the access. So, it's either going to be open or closed up at that point. Chairman Williams said, "the stairs would have to be there as an alternative for an elevator. If the power goes off you don't have elevator."

Eggleston said, "right now, the injunction that is in place makes both buildings unsafe. We are trying to make the buildings safe because it's been 6 months and it's ridiculous. No one has – right now Solomon split the baby and the baby is dead." Member Neibert asked, "is that the only access that Julie Sharpe has to her upstairs? Is there another stairway? So, both properties have 2 stairwells?" Eggleston said, "right now, Julie only has one because this one has been taken down and we want to put it back. Julie has 2 and Linda has one. Linda has taken out some internal stairs in her building over the years. But she has relied on this exit here onto Julie's property."

Member Blackler asked, "getting back to what Kihm said, what kind of decisions do we make on the interior of buildings? We don't. So, why are you here?" Eggleston said, "this is a physical change. Chuck felt that it was neither 'A' nor 'B' it's ½ 'A', it's ½ 'B' it should come back to you. Again, we are not here to listen to legal arguments. While Linda has stated her legal case, I'm not sure that Julie feels compelled to express her legal case. You've only heard half the story. The legal issues are not what this Board needs to be concerned about. What we are concerned about is the physical esthetic issues. I have explained that this is a solution that we can get the stairs built. It's doesn't prevent Linda's interest from being maintained. It allows Julie – if Julie prevails and Linda can't solve her fire exit problems on Julie's property, Julie would be able to go and make the modifications she needs or wants. Also, there is another solution that Julie has offered to them that would allow Julie to have the enclosed fire stair and for Linda to have her emergency access. But that wasn't accepted. But if that were to be the resolve, then we'd have to come back for that because it would be a different physical change."

Member Blackler said, "you talked about the look from the Lake, now are you going to talk about what changes you are making for the look from the street?" Member Miller said, "there are no changes on the street." Member Blackler asked, "our concern is only with the back look?" Eggleston said, "it is where we placed this door on the second and 3rd will change back to what it was in the first approval. The basement and first floor stays like it was for the second approval and we've added the awning and we've taken out the windows in the elevator."

Robert Baldwin, Linda Roche's attorney was advised by the Clerk, "you have to deal with the topic before this Board. We are not here to discuss Julie's issues or your issues, just the appearance of the project." Baldwin said, "I just want to say, so long as was presented, so long as that access is there, we have no objections to the plans as revised and submitted. That's all." Member Dyson asked, "the doors, if you look at it from the back now, the change on the upper – you are not going to see the doors?" Eggleston said, "you can't see the door from the ground

because – visually I would say, no change.” The Chairman said, “it’s behind the staircase and parallel with the view from the Lake.” Eggleston said, “it’s a technical change in the drawings.”

Member Dyson asked, “if she doesn’t prevail, and the stair is there, can there to be a door there that’s locked that in case of emergency could be burst through? Can be unlocked?” Eggleston said, “the problem is, New York State Code, when Wesley Clark renovated the buildings he enclosed what is now a non-conforming situation where he passed from his building into Julie’s building and down the stairs. It was grandfathered when it was there. But, as soon as he closed that off, he can not put it back unless you go to New York State for a variance. So, right now, what we are doing is – one of 2 things could happen. The elevator stays unenclosed so Julie goes outside to come into her apartment. Or, the door from Julie’s building shifts over about 4 feet onto the landing and they could enclose this so you have the best of both worlds. There’s a couple of options. If the final legal decision requires a physical change, then we come back and show you the physical change for your approval.”

Member Winship asked, “just to assuage my curiosity, who’s responsibility, is there a Board that is responsible for the fire safety?” Jorge battle is the Code Enforcement Officer with the Village. Then you have New York State writes the Code. If there are questions about it, they have professional staff people that Jorge can consult. If a property owner wants to deviate from the Code there’s a variance process with the State of New York. So, that’s kind of how that done.” Member Dyson asked, “but the stairs are going to go in?” Eggleston said, “we would like very much for the stairs to go in.” Member Winship said, “everyone wants it.” Julie Sharpe said, “may I point out that it would be one of the few buildings this whole downtown block that would have both exits. Most of them do not have this.” Member Winship said, “essentially our charge here is to rule on the esthetics of the situation.” Member Dyson said, “I don’t see an issue on this.” Chairman Williams said, “the stairs that were there are now gone. And they were a disaster.” (multiple conversations) Sharpe said, “my architect did review the plans with Danny before we started the removal of the stairs. He was there the day the boarded up the doors, and he said thank you.” Daniel Roche said, “I had no idea that you had the right to board somebody’s doors up. How can you do that? Take your next door neighbor, board your doors up and can’t use them anymore.” The Chairman said, “that is above and beyond our Board here.”

Member Blackler said, “the awning is our vote at this time.” Member Smalley added, “and the windows in the elevator.” Eggleston said, “yes, but you really wouldn’t see them anyway. That was kind of questioned to begin with, so they are gone.” Member Smalley asked, “and there was no mention about the frosted glass in the doors.”

Linda Roche asked, “if these doors are boarded up then you would have to come to what Board Bob?” Eggleston said, “we come back to the Historical...” “...but they said that they don’t have anything to do with that,” said L. Roche. Eggleston said, “no, no. Once the legal decision is take care of, and if the legal solution requires a physical change to the exterior of the building, then we would come back to apprise them of what that physical change is. They don’t determine what physical change occurs. They determine if and how the physical change is appropriate to the Historic District.” The Chairman said, “we just need that in our record – in other words, if you move a door 6 feet from here over to here, it should show in our records somewhere.” D. Roche asked, “so if you block someone’s doors off, it should be in the record?”

Member Dyson said, “before another Board.” Member Miller asked, “are the doors already blocked off?” Eggleston said, “yes because there’s no stairs, and Julie’s doors are blocked off.” The Chairman asked, “Jorge, one point, the ladder truck probably can not get back there?” Batlle said, “no. We would have to carry ladders back to any of the buildings. We have ladders that will reach 40 feet.”

Member Neibert said, “we are not dealing with the legal issue, we are dealing with the appearance of the elevator shaft and the awning.” The Chairman said, “the hybrid of the 2 plans.” Member Miller said, “it is still frustrating to me.” Eggleston said, “just deal with the esthetic issues.” Member Neibert questioned, “you say the hybrid of the 2 plans, the first plan was total access from both sides?” Eggleston said, “correct.” Member Neibert said, “now it’s just access to the top two floors and not the two bottom floors.” Eggleston said, “correct. There’s no question – Linda Roche has no claim to access from the first and basement level.” Member Miller asked, “it was never grandfathered in?” The Chairman said, “that’s not our problem.” Eggleston said, “all you need to know is that this is a plan that both sides agree to. Linda Roche has expressed that they have no opposition to this. I think it’s an excellent interim plan that allows us to build the stairs and make it safe for everyone, and then they can talk about legal issues and not have an unsafe building.” Member Neibert said, “at least there’s a stairway there.” The Chairman asked, “everybody on the same page now?”

Linda Roche said, “in the future, if this ever happens to another building, because it will happen, because the building we are in now has stairs, shouldn’t people be notified if your building is being boarded up? That’s all I want to say to the future. If Danny and I would have known the plan had changed six months ago, and we were being boarded up – we found out in January, 2 days before we were leaving for Florida – so we were shocked that we were never notified. That’s all I’m saying. This might now be with this Board but somewhere, somehow when Kiltz does anything I get notified in the mail. When my own building is being boarded, nobody notified us. And Jorge says that he doesn’t have to.” Eggleston said, “I think what the challenge is...” Batlle said, “Linda, as I explained to you a hundred times before, the notices you received from Kiltz were for public hearing for the Zoning Board of Appeals. Sometime the Planning Board send out legal notices to everybody. The Historic Commission has in the 24 years I’ve been doing this, never sent out personal notices to anybody. It’s all in the newspaper.” L. Roche asked, “should this have gone back to the Planning Board when the doors were being filled up?” Batlle said, “no., it’s not a Planning Board issue. It is strictly esthetics, which is what this Board does. It is an esthetic issue which is what this Board deal with. The Fire Code issues are dealt between me and the architects, not this Board, not the Zoning Board, and not the Planning Board.” L. Roche said, “I just think for someone’s life, when you find out a door is being sealed up you should be notified Jorge.” Batlle asked, “by who?” L. Roche said, “by you, by somebody.” Batlle said, “no, by the architects.” L. Roche said, “ok. In all my years here I’ve never heard of – ok.” D. Roche said, “take your neighbors’ doors and seal them up.” Batlle said, “that is an issue between the neighbors, not an issue that the Village gets involved in. No matter which side the Village takes, they are one the wrong side. So, we don’t take any sides. Somebody complains about a neighbor that did something to the other neighbor – moved a fence – that’s their problem. The Village does not get involved with that stuff.” L. Roche said, “this is life of death if someone burns in there.” Eggleston said, “I think we are off the topic. I refuse to

get into the legal aspects. I have lots of comments that I could be making now. I don't want to go there." The Chairman said, "we don't need them."

Baldwin said, "just to put it in another perspective perhaps, this happens frequently, where someone comes in and gets plans approved with an audience and everyone's there. Then the next week somebody comes back and says oh by the way here's some amended plans, and there's nobody there." Batlle said, "if there is an amendment that has to go before the Board, it is up to the Chairman of that Board to determine whether or not another public hearing is made. Not me or anybody else – the Chairman." Baldwin said, "no, I didn't say that. All I'm saying is, and just generically saying, that probably it's not a bad idea in the future to do that." Batlle said, "we do that, sir. We do that all the time, but it is up to the Chairman of the Board to determine whether or not another hearing is done." Baldwin said, "no need to be defensive, I was just making a comment."

Chairman Williams said, "we very often, because of rental shops downstairs we know they've got to get permission from the owner of the building before they can put a sign up. If they want to change the color, the owner has the veto rights." Baldwin said, "I drafted the legislation that created and represented the first historic commission in this County in the Village of Fayetteville, back in the 70s. So, I'm very familiar with this. I just was making a comment, that's all." The Chairman said, "we have not gotten into that point where easement and this kind of stuff." Baldwin said, "just a gratuitous thought." Member Dyson said, "I just want to throw one thing in. It is possible that common courtesy among neighbors would have required or enlisted that kind of comment? I think that if I had a neighbor and I was shutting their door, I would like to go to them. I'd take it away from the Boards but it seems to me that it should be something done between the neighbors as a courtesy. It's hard to legalize perhaps that." Eggleston said, "again, as we stated there was a breakdown of communications which was unfortunate. Communication is a 2-way thing and we are here now and I think what we have now is a great solution to make the building safe again."

Chairman Williams said, "Bob has a presentation here. That's a modification of the two plans previous plus the new awning." Member Blackler said, "who ever makes the motion better have the right things said to it. I'm not making it. I'll vote on the awning. I like it." Member Winship asked, "**could we make a motion to accept the plans as submitted per plans dated 31 May 2011?**" Member Dyson said, "I second it." Member Blacker said, "now who ever wins this, this is the discussion after the motion, then we might have to go back and vote again." The Chairman said, "depends of it there is a change." Baldwin said, "and it also may very well be that the parties get together and resolve the matter. The next person to make a decision o how you want to do this is the judge." Member Miller said, "that would be the best thing."

The Chairman polled the Commission. 7 in favor and 1 Member Miller abstaining. The motion was declared passed. The meeting was closed at 8:04pm.