

Capitol Hill Restoration Society
P.O. Box 15264 Washington, D.C. 202.543.0425

June 18, 2014

Ms. Gretchen Pfaehler
Chair, Historic Preservation Review Board
1100 Fourth Street, SW, Suite E650
Washington, DC 20034

Re: Tungal-Hartley House, 1229 E Street, SE, HPA 14-435 (raze permit application)

Dear Ms. Pfaehler:

The Capitol Hill Restoration Society (CHRS) opposes this application for a permit to raze the building at 1229 E Street, SE. This building, an example of a shotgun house (a vernacular building tracing its origins to many areas including New Orleans, Haiti, and Africa), is a contributing building in the Capitol Hill Historic District, and the building still retains its historic integrity.

Summary

The applicant has engaged in demolition by neglect by failing to maintain 1229 E Street, SE, and as a result, has blighted the surrounding neighborhood for a number of years. Neighbors on E Street have contacted CHRS expressing concern about the condition of the building. Prompt action is needed. We suggest several options for the Historic Preservation Review Board (HPRB) to address this problem:

(1) The HPRB should find that 1229 E Street, SE is a contributing building retaining its historic and structural integrity and recommend denying the permit to raze and require applicant to promptly stabilize and restore the building. This is by far the best alternative.

(2) Or, if the HPRB determines that the building has lost its structural integrity, any raze permit should be conditioned on promptly reconstructing the building (as described in detail on the last page of this letter).

(3) A far less desirable option than either (1) or (2) above, and one that several members of the CHRS Historic Preservation Committee strongly oppose, is that any raze permit should be conditioned on a project of special merit (as defined in DC Code § 6-1102(a)(10)).

We request that all requirements described in (2) and (3) above should be included in all HPRB actions on any future applications concerning 1229 E Street, SE and all adjacent properties, (including properties on the 1200 block of Pennsylvania Avenue, SE).

History of shotgun house form and shotgun house at 1229 E Street, SE

Shotgun houses are a vernacular building tradition with a long history beginning in Africa, then moving to Haiti, New Orleans and the south. Many of the over 25,000 slaves that French planters brought to Haiti from west Africa (present-day Nigeria) during 1780-1790 were members of the Yoruba tribe. The Yoruba built one-story two-room houses, typically 10 x 20 feet, with wall heights of 6 to eight feet. Sometimes additional rooms were added, continuing the pattern. The building had one door, under a front gable facing the road. Walls were solid mud one foot thick, with thatch roofs. In Haiti, the Yoruba shotgun house tradition melded with a similar house form (a bohio) built by the Arawak Indians, a rectangular room with a front-facing gable and a front porch. French settlers built similar houses for themselves, and for slaves. These shotgun houses typically measured 10 x 21 feet with wall heights ranging from 6 to 8 feet, with a front-facing gable and porch. However, Haitian shotguns were built with wood framing, sometimes half-timbered. One historian concluded that Haitian slaves adapted a familiar form, the Yoruba shotgun, to meet their housing needs, and maintained a cultural continuity. In 1791, Haiti became independent. In 1809, many free blacks left Haiti and settled in New Orleans, where a large number of free blacks (as well as slaves) already lived. Free blacks from Haiti, able to own land, and skilled in the building trades, built shotgun houses in response to a need for housing. Documents from the early to mid-nineteenth century show that shotgun houses were common in New Orleans. The shotgun house moved outward to Louisiana and the rest of the south.

The Tungal-Hartley House has the typical form, massing and alignment of a shotgun house: The house's narrow front (14 feet wide) faces north toward E Street, SE. There is a single door and window on the north elevation; a gable roof covers an area with a front porch (the front porch is not extant). The building is three rooms deep. See attached drawing of 1229 E Street, SE by Judith Capen. 1229 E Street, SE is one of only two shotgun houses known to exist on Capitol Hill; the other is at 518 9th Street, SE.¹

The building at 1229 E Street, SE was constructed sometime before 1853 by John Biegler, who operated a store on the corner of the block. In 1853, Ernest Tungal, a German immigrant who worked as a peddler, purchased the house; his family lived there for the next 40 years. Sometime before 1887, a third room was added to the building. Daniel Hartley, a bricklayer, purchased the house and lived there until the 1940s. In 1917 they added an outbuilding in the rear yard, in 1925 a new front porch replaced an earlier front porch, and in the 1930s, added a kitchen to the house.²

For these reasons, the building is a contributing building in the Capitol Hill Historic District, and that the building retains its historic integrity.

¹ John Michael Vlach, "The Shotgun House: An African Architectural Legacy." *Pioneer America* 8 (1976, 47-56, 57-70.) Vlach, "1229 E Street: Death and Life of a Shotgun House on Capitol Hill," unpublished paper. Staff report (HPA 09-394 (Feb. 25, 2009)).

² Vlach, *ibid.* EHT Tracerics, "Square 1019: Summary Property Histories" (1999, excerpt attached). Staff report (HPA 09-394 (Feb. 25, 2009)).

³ Mayor's Agent Decision and Order, In the Matter of: House of God, Inc., HPA No. 11-488, (22 Oct. 2011). HPRB order dated and HPO staff report 27 May 2010; HPO staff report dated 27 Oct. 2011.

⁴ 1322 9th Street, NW, HPA No. 13-322, staff reports and HPRB orders dated 13 Jan. 2013, 27 June 2013, 24 Apr. 2014 (staff report misdated as 24 Apr. 2013).

⁵ 1310 East Capitol Street, HPA No. 11-488 staff report for 27 May 2010 HPRB meeting. See also cases cited in the staff report recommending denial of requests to replace a stable at 1822 4th Street, NW with a parking pad, despite the stable's loss of "considerable integrity" resulting from partial demolition without a permit; 1911 stable near Anthony Bowen YMCA, 2201-2011 14th Street, NW, despite partial collapse of roof and second floor framing; three stables at 461-465 Florida Avenue, NW "badly neglected and were also in a state of collapse:'

⁶ 1310 East Capitol Street, HPA No. 11-488 staff report for 27 May 2010 HPRB meeting.

⁷1310 East Capitol Street, HPA No. 11-488 staff report for 27 May 2010 HPRB meeting. See also cases cited in the staff report recommending denial of requests to replace a stable at 1822 4th Street, NW with a parking pad, despite the stable's loss of "considerable integrity" resulting from partial demolition without a permit; 1911 stable near Anthony Bowen YMCA, 2201-2011 14th Street, NW, despite partial collapse of roof and second floor framing; three stables at 461-465 Florida Avenue, NW "badly neglected and were also in a state of collapse."

⁸ Although demolition of a contributing building is not a desirable outcome, if the HPRB designates a building as noncontributing because its structural integrity has been irretrievably lost, HPRB has the authority to compel the owner to reconstruct the building. See DCMR § 703.1.

Recent history of Tungal-Hartley House

Applicant purchased 1229 E Street, in 1993.

In fall 1999-winter 2000, St. Coletta of Greater Washington offered and then withdrew a proposal to use the house at 1229 E Street, SE as part of a plan to construct a school on the 1200 block of Pennsylvania Avenue, SE. Staff visited the building in 1999 and found that the main block of the building was in relatively good condition. See staff report, HPA 02-524, Oct. 24, 2002, discussed below.

In 2002 the applicant sought a permit from HPRB to raze the building at 1229 E Street, SE (and also 1224 and 1226 Pennsylvania Avenue) (HPA 02-524, Oct. 24, 2002). After staff, the HPO inspector and DCRA's chief building inspector inspected the building, the staff report concluded based on its inspection and multiple photographs entered into the record that 1229 E Street, SE was in a deteriorated but salvageable condition. HPRB recommended that no raze permit be issued for 1229 E Street, SE (but did recommend raze permits for 1224 and 1226 Pennsylvania Avenue). CHRIS supported both HPRB positions

On January 23, 2003, the HPRB heard a case on potential demolition by neglect concerning 1229 E Street, SE (Neglect Case No. 03-1). The staff report noted "continuing deterioration of roof, wall, and floor framing members, structural failure of the rear porch which is pulling away from the building, holes and leaks in the roof, bowing ceilings, rotted floor joists, broken window glass, and loose board trim on the front facade." The staff stated that the condition of the building violated at a minimum DC Code § 6-1104.01(a)(2), (3), (4), (5), and (6). HPRB recommended that:

- (1) the Mayor's Agent officially determine that, based on the record and advice of the HPRB, that the house at 1229 E Street, SE is threatened by demolition by neglect,
- (2) that the Mayor's Agent notify the owner of this action, and
- (3) that the Mayor's Agent proceed with all appropriate action under the Act, including, if necessary, seeking an order from the DC Superior Court to prevent demolition by neglect.

CHRIS supported the HPRB's position.

In March 2004 the Board of Condemnation of Insanitary Buildings (BCIB) found that "the continuing damage and decay to the ... property must be halted." Accordingly, on March 24, 2004, the BCIB ordered that 1229 E Street, SE be rendered sanitary, and in particular, that the following checklist was to be completed and verified by inspectors: major structural components (roof, floors, walls) to substantially comply with the DC Building Code; removing trash and debris from the interior of the building; rat bait the first floor and basement and treat for vermin as needed; cap the main sewer line below all fixtures; repair and/or replace roof; install and/or repair gutters and downspouts, including as needed, waterproof treatment of fascia boards; correct as needed, the drainage pattern of the cited lot and clean and remove all trash, debris and unlawful weeds; barricade all doors, windows and other openings with 1/2 inch exterior grade plywood; raze and remove rear porch; repaint and foundation walls. All items were to be performed by the owner. (BCIB Case 00-125). To the best of our knowledge, this work was not completed.

In 2005, JPI proposed to restore 1229 E Street, SE as part of a larger project on the 1200 block of Pennsylvania Avenue, SE. CHRIS supported the project, which was approved by HPRB, but did not go forward.

At some point in 2008, the property tax rate on 1229 E Street, SE was increased to the five percent rate for vacant and abandoned buildings.

In 2009, applicants sought to retain the two-room front section of the building, and incorporate the shotgun house into a new construction project. The staff believed that the original block of the building was salvageable. The staff report stated that "[d]ecades of vacancy, poor maintenance and unrealized improvements to the property have been frustrating for the neighbors on the block and for the community as a whole and the house has likewise suffered due to neglect." The staff recommended that HPRB approve the amount of demolition proposed, and the basic height, massing and visual connection between the new construction and the remaining portion of the historic house, and that the applicants continue development of the plans, and consider reducing the size of the new addition. The project was not built. (HPA 09-934, Feb. 25, 2009).

Demolition by neglect

"Demolition by neglect" is defined by DC Code § 6-1102 (3)(A) as the "neglect in maintaining, repairing, or securing a historic landmark or a building or structure in a historic district that results in substantial deterioration of an exterior feature of the building or structure or the loss of the structural integrity of the building or structure."

Examples of demolition by neglect include, but are not limited to, the failure to cure any of the following defects:

- (1) Facade or facade elements that may fall;
- (2) Deteriorated or inadequate foundation, defective or deteriorated flooring or floor supports, deteriorated walls, or other vertical structural supports;
- (3) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that sag, split, or buckle due to defective material or deterioration;
- (4) Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations, or floors, including broken windows or doors;
- (5) Defective or insufficient weather protection for exterior wall covering, including lack of paint or weathering due to lack of paint or other protective covering; or
- (6) A fault or defect in the building or structure that renders it structurally unsafe or not properly watertight.

DC Code § 6-1104.01(a)(1), (2), (3), (4), (5), and (6).

Applicant has failed to keep the building in good repair and has shown a pattern of delay in complying with the recommendations of the HPRB and the order of BCIB. Applicant has engaged in demolition by neglect, contrary to the Act.

Engineer's report

Applicant has failed to prove that the building lacks structural integrity. Applicant supports his raze request with an engineer's report and photographs. The report concludes that the building is unsafe to make repairs to, and concludes, without any support, reasoning, or analysis of each element of the building, or of repair techniques that "the existing walls, floors, foundation, and roof trusses have been severely damaged, deteriorated and cannot be repair [sic]." Buildings in poor condition are successfully repaired all the time. The report offers no alternatives to razing. In spite of neglect, the building is still standing. An internet search of the consulting engineer revealed no information as to whether this firm has any experience in historic preservation. As discussed below, we urge that if the staff concludes that they can safely inspect the building, that the staff and DC building inspectors should inspect the interior and exterior of the building as soon as possible, and file a report to the HPRB before any further action on this raze permit request is taken, as the HPRB has done in at least one other case.

HRPB precedents on raze applications

One of the purposes of the Historic Landmark and Historic District Protection Act of 1978 as amended (the Act) is "to retain and enhance those properties which contribute to the character of the historic district and to encourage their adaptation for current use." DC Code § 6-1101(b). The HPRB recommended denial of raze applications in historic districts for contributing buildings that have become dilapidated by lack of maintenance because such action would compromise historic integrity and because it would reward neglect of contributing buildings. For example, in 1310 East Capitol Street (rear), (HP 11-488), the owner of a two-story stable (constructed in 1908) in alley in the Capitol Hill Historic District had allowed the stable to deteriorate between 1979 (the date of purchase) and winter 2010, when the stable's roof collapsed. In May 2010 the owner applied for a raze permit. The HPRB recommended denial of the raze permit as inconsistent with the Act.³

In 1322 9th Street, NW (HPA 13-091), Blagden Alley-Naylor Court Historic District, the applicant sought to raze a brick stable constructed in the 1860s, a contributing building. The owner had allowed the building to fall into a total state of disrepair. On January 24, 2013, the HPRB accepted the staff's recommendation and found that the stable was a contributing building and recommended denial of the raze application as inconsistent with the Act. On June 27, 2013 the HPRB accepted the staff's recommendation to allow a partial demolition of the stable (primarily nonoriginal elements) as part of a new project. However, as of April 24, 2014, additional investigation had revealed that multiple vehicle strikes had destabilized the building more than expected, and that one wall had no footing, and was too far out of plumb to be safely pulled back into plumb. For these reasons the staff recommended and the HPRB approved demolition of the building "on the condition that it be reconstructed to match its historic materials and dimensions." Although in this case the applicant was willing to reconstruct the building, the key point is that the HPRB has exercised its authority to require reconstruction of a historic building demolished by neglect. ⁴ In another case, the HPRB recommended reconstruction of a neglected frame carriage house at 3350 17th Street, NW as a condition of approval of an addition and alterations to the rest of the property.⁵

In the 1310 East Capitol Street case, the deterioration was, in the staff's words, "almost certainly foreseeable and preventable by routine maintenance that appears to have been deferred over the owner's tenure."⁶ In this case, the deterioration is completely foreseeable because the HPRB had recommended in 2003 that the owner maintain the building.⁷

Actions requested

(1) We urge the HPRB to find that applicant has engaged in demolition by neglect with respect to the building at 1229 E Street, SE.

(2) We urge the HRPB to direct that staff determine whether it is possible for staff and DC building inspectors to safely inspect the interior and exterior of building at 1229 E Street, SE (as was done in HPA 02-524 for 1229 E Street, SE and with 1322 9th Street, SE, HPA No. 13-322, also in poor condition (no roof, unstable walls)). If an inspection by staff and DC inspectors is possible, we request that this be done as soon as possible, a report be filed with the HPRB, and that no action be taken on the raze permit until staff has completed their inspection and filed a report.

(3) We urge the HPRB to affirm that the building at 1229 E Street, SE contributes to the character of the Capitol Hill Historic District, that the building retains its historic integrity, and that the HPRB recommend to the Mayor's Agent that the application for a raze permit be denied because it is inconsistent with the purposes of the Act.

(4) Alternatively, if the HPRB determines that the building at 1229 E Street, SE has lost its structural integrity, we urge the HRPB to recommend approval of the application for a raze permit on the condition that the building be reconstructed to match its historic materials, design, and dimensions, based on measured drawings and photographs, in consultation with HPO staff, and that the HRPB set a deadline for completion of the reconstruction.⁸

(5) As an additional, but undesirable alternative, if the HPRB determines that the building at 1229 E Street, SE has lost its structural integrity, we urge the HRPB to recommend approval of the application for a raze permit, that the HPRB require that the building at 1229 E Street, SE be replaced by a project of special merit (as defined in DC Code § 6-1102(a)(10)).

(6) If the HPRB determines to take any of the actions set forth above in (3), (4), or (5), we urge the HPRB to include those requirements in its actions on any applications submitted in the future concerning 1229 E Street, SE (Square 1019, lot 816) or concerning all lots adjacent to 1229 E Street, SE, including properties on the 1200 block of Pennsylvania Avenue, SE.

Thank you for considering our views.

Sincerely,

Beth Purcell

Beth Purcell
Chair, Historic Preservation Committee

Attachments:

EHT Traceries report excerpt (Dec. 1999) (pdf)

Drawing of 1229 E Street, SE by Judith Capen (pdf)

cc:

Kirsten Oldenburg, ANC6B04

Nichole Opkins, ANC6B06

Dr. Quillian