

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING, HISTORIC PRESERVATION OFFICE
MAYOR'S AGENT FOR HISTORIC PRESERVATION
1100 4TH STREET SW, SUITE E650
WASHINGTON, D.C. 20024

HPA No. 15-296

In the Matter of:

**1223 4th Street NW
Mount Vernon Square Historic District
Alteration**

Square 523, Lot 20

DECISION AND ORDER

This is an after-the-fact application to add a third window between two existing windows on the second floor of the façade of a rowhouse in the Mount Vernon Square Historic District. The house is noncontributing, having been constructed in 2007, but it had been built with a façade that largely duplicated four historic neighboring houses dating from around 1870. The Historic Preservation Review Board had expressly approved the design of the façade of the subject house in 2006 as a condition of permission to demolish a prior historic house in the same row, which had lost integrity through decay from neglect. In this case, the homeowner, Erin Stevens, acquired the property after 2007 and retained a contractor who installed the third window on the second level without obtaining any building permit. When she sought an after-the-fact permit for the third window, the Board, on April 23, 2015, recommended denial of the application based on the staff recommendation and its understanding of the Historic Landmark and Historic District Protection Act. The Mayor's Agent held a hearing on Ms. Stevens's application on August 14, 2015. For the reasons explained below, clearance of the application must be denied.

If Ms. Stevens had applied for a permit to add the third window before installing it, as she was legally obligated to do, the permit would plainly have been denied as inconsistent with the purposes of the Act, because adding the third window departs from the established window pattern of the historic houses in the row. Even if the applicant's failure to secure a permit arose from honest ignorance, the Board appropriately considered this case on the same basis as if the new window had not already been installed. "The Mayor's Agent has repeatedly held that the failure to seek a permit cannot justify a post hoc argument for the use of inappropriate design or materials." *In re: 2422 Tracy Place, N.W.*, HPA No. 13-600, at 3 (2014). The published guidelines for *New Construction in Historic Districts* provides: "The spacing of repetitive facade elements, such as projecting bays, storefronts, windows, doors, belt courses and the like, give an elevation its rhythm. A new building should respect the rhythm of its neighbors as well as that of the street." The question of whether ganging three windows on the second level in new construction is appropriate when the relevant neighboring houses have two separated windows is

construction is appropriate when the relevant neighboring houses have two separated windows is a question primarily for the historical and architectural expertise of the Board and the staff. “The Mayor’s Agent generally defers to the expertise of the HPRB on questions of style and material compatibility.” *Id.* at 2.

The applicant argues essentially that the guidelines for historic houses should not be applied to her recent house, but the Board plainly has the authority to require that new construction be not incompatible with the character of the historic district. D.C. Code 6-1107(f). Not preserving a 2007 house for its own sake, the Board’s rationale for the conditions on that building’s construction and the subsequent retention of its façade as rebuilt was the retention of the character of the entire essentially uniform historic row, consistent with the purposes of the Act.

The staff report had also argued for a general compatibility with historic fenestration patterns elsewhere in the historic district. The applicant pointed to modifications of other nearby historic buildings, but could not say whether they predated the designation of the historic district or were alterations for which permits were subsequently granted. There was no showing that the Board has been less than consistent in its application of guidelines for windows.

Accordingly, historic preservation clearance of the application is **DENIED**.

Date: June 10, 2016

Confirmed June 24, 2016:



J. Peter Byrne
Mayor’s Agent Hearing Officer

Eric D. Shaw
Director, D.C. Office of Planning

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Decision and Order was served this 24th day of June 2016 via email to the following:

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