

Michigan State Historic Preservation Review Board Meeting Minutes May 21, 2021

Minutes of the State Historic Preservation Review Board Meeting

Friday, May 21, 2021, 10:00 a.m.

Meeting held via Zoom. In compliance with Michigan Executive Order 2020-165, this virtual meeting was open to the public.

BOARD MEMBERS PRESENT

Dean Anderson, Devan Anderson, Daniel Bollman, Kemba Braynon, Matthew Daley, Janet Kreger, Krysta Ryzewski

BOARD MEMBERS ABSENT

Rhonda Baker, Lane Demas (pre-excused).

STAFF MEMBERS PRESENT

Amy Arnold, Martha MacFarlane-Faes, Robbert McKay, Nathan Nietering, Todd Walsh, State Historic Preservation Office (SHPO)

Jon Stuckey, Michigan Office of the Attorney General (AG)

MEMBERS OF THE PUBLIC PRESENT

From list.

1. CALL TO ORDER AND ROLL CALL

Board Chair Kemba Braynon called the meeting to order at 10:00am.

2. APPROVAL OF AGENDA

Motion to approve the agenda of the May 21, 2021 regular board meeting

Motion: Devan Anderson

Second: Bollman

Vote: 7-0

3. APPROVAL OF MINUTES – January 29, 2021

Board Comments: Kreger sent along minor edits to the minutes in advance of this meeting.

Motion to approve the minutes with minor changes as proposed.

Motion: Kreger

Second: Devan Anderson
Vote: 7-0

4. ELECTION OF VICE-CHAIR

Motion to elect Krysta Ryzewski as vice-chair of the Michigan State Historic Preservation Review Board for a term of the remainder of 2021.

Motion: Braynon

Second: Devan Anderson

Vote: 7-0

5. MISCELLANEOUS BOARD BUSINESS

Jon Stuckey (AG) – An appeals tracking sheet for local historic district (LHD) appeals has been created and used to track appeals as they move through the process both before and after they are heard by the Review Board. Mr. Stuckey asked the board for any feedback or recommendations from the Board as to the use of this tracking document. Devan Anderson responded that monthly seemed reasonable, but only if there were new changes to report. Kreger asked if it was possible to highlight the most recent procedural item(s) that have taken place each time. Devan Anderson agreed that bolding or highlighting the most recent items would be useful. Kreger pointed out that because there are over 75 local Historic District Commissions (HDC) in the state, and if each HDC reviews as few as a dozen applications for Certificates of Appropriateness, that's well over 900 LHD approvals that take place each year. Anderson commented that Detroit alone reviews hundreds of projects. The point being made is that this review board only sees a few appeal items each year where something has been contested, which speaks to the large overall success of local historic district reviews and the process. Appeals are very rare.

6. SHPO REPORT – Martha MacFarlane-Faes

MacFarlane-Faes provided a summary of recent changes and activities in the office:

- New Michigan Strategic Fund (MSF)/Michigan Economic Development Corporation (MEDC) director Quentin Messer Jr. will begin in this role on July 12. He is coming from the New Orleans Business Alliance.
- Staffing: We are expecting that a new State Historic Preservation Officer shall be appointed and announced before the next Review Board meeting. Newly-hired archaeologist Michael Hambacher started May 17. The SHPO anticipates hiring two new Section 106 staff to assist with expected increase in projects due to expected federal stimulus funds.

- The SHPO celebrated National Historic Preservation Month with the return to our annual Governor's Awards for Historic Preservation, held virtually on May 6. Five sites and projects were recognized. It was a great success as a virtual event with lots of lessons learned and new ways of approaching content, such as quality video productions and utilizing the voices of SHPO staff to discuss projects.
- SHPO participated in this month's MHPN conference. Several staff were speakers; SHPO also held a special sponsor session on the Governor's Awards and other recent activities. On May 15, SHPO co-hosted the National Alliance of Preservation Councils (NAPC) CAMP for local historic district commissioners and staff. With 87 registrants, it was the largest virtual CAMP event NAPC has held, indicating the strong need for such training.
- The Certified Local Government (CLG) program welcomed the city of Ewart as a newly certified community earlier this year. Also, program coordinator Alan Higgins assembled a first ever Michigan CLG Annual Report for 2020 highlighting metrics and successes of the program. This is available online at [this link](#).
- Relating to Cultural Resource Management, a Federal Highway Administration (FHWA)/Michigan Department of Transportation (MDOT) Programmatic Agreement (PA) for state trunkline and, for the first time, Local Agency Projects is under development. SHPO has had a PA with FHWA since 1998 and this is part of a periodic update. Tribal interest in this agreement is very high and a year has been added to the timeline to accommodate thorough tribal consultation.
- Three Michigan Lighthouse Assistance Program (MLAP) lighthouse preservation grants have been awarded for 2021, totaling \$126,667 in funding for these sites: Crisp Point Lighthouse, North Manitou Shoal Light, and Fort Gratiot Light Station.
- Michigan Archaeology Day is scheduled for Saturday, October 30, to be held in-person at the Michigan History Center if no gathering restrictions are in place (date later revised to Oct. 23).
- Our focus on Civil Rights sites continues as SHPO works with MEDC's Marketing and Communications (MarComm) to collaborate with bike clubs in Detroit to promote the Detroit Civil Rights Bike Tour and add new and additional content, such as live video coverage.

National Register Report – Todd Walsh

Recently listed sites include the remaining Detroit civil rights sites as part of the Civil Rights grant project, the Gwen Frostic Studio, all of the sites presented in

January meeting have been listed, also a recent move request in Holly to relocate their depot ahead of their move. Proposed National Register program rule changes which would change the way ownership was accounted for has been withdrawn. The National Park Service (NPS) has recently expanded the subcategories for two areas of significance: Ethnic heritage and Social History. Two RFP's are also out right now for consultants to respond to which will continue our Civil Rights National Register work in Detroit, for the McGhee House, and Sojourner Truth Homes. SHPO has also finalized our supplemental photographic guidance document to help National Register nomination authors take and submit the best possible photos of their site.

Draft State Historic Tax Credit Rules – Robbert McKay

We are at the point where we are ready to submit the draft rules for the new State Historic Tax Credit program in advance of the initiation of the formal public comment process. McKay highlighted several key pieces of the structure of the new program. The SHPO is being very careful to state that this is not a reinstatement of the state credit program but rather a new credit program as this new program is vastly different from the state credit in its prior iteration. The MSF Board is also reviewing the draft program rules at their scheduled May meeting, next week.

Board Comments: Kreger celebrated the participation of the governor for the Governor's Awards program. Kreger also recognized and thanked Walsh for the detailed – and somewhat humorous – photo guidelines document recently posted. Ryzewski pointed out that the old photo guidance still comes up on Google. SHPO will track that old file down to delete it. Kreger proposed that the Review Board submit comments for the Tax Credit Draft Rules collectively to use the platform of the Board. Stuckey suggested that Board comments be provided no later than the end of the public comment period to ensure they are incorporated. Kreger asked if there is any insight if the term credit reservation is used instead of pre-approval letter as found in the Rules. McKay responded that a credit reservation is the actual purpose of any pre-approval letter. Kreger suggested that it would be beneficial if these two terms were the same so as to avoid any confusion long into the future.

7. CORRESPONDENCE

Four letters of support were received for the Alpha House nomination, three for the Nettleton-Cond House nomination.

8. PUBLIC COMMENT

Summary of Public Comment:

NOTE: Comments offered by the public are limited to 2 minutes per speaker.

Catherine Allchin – agenda item 9b, Fox Island Light Station nomination – spoke in support of the nomination and slideshow to be presented today.

9. NATIONAL REGISTER NOMINATIONS

a. Fishtown Historic District, Leland Township, Leelanau County

Presented by Laurie Sommers

Board Comments: Kreger inquired about the process of “shanty-lifts” to elevate some buildings above the height of the water level which has been historically high for the past few years, but wondered if more needed to be said about the constant nature of change within this area. Sommers responded that this could be stated succinctly in the physical description section. Three shanties have already been lifted. Although these lifts are new, it is not a new thing to be jacking up and raising buildings here. Walsh pointed out that this further illustrates that this district is still a working waterfront, still responding to and accommodating changes. Kreger thanked Sommers for pointing out the section of Bulletin 38 which discusses “portable properties.” Dean Anderson added that anyone who walks through Fishtown recognizes the new buildings, but the Traditional Cultural Property (TCP) model of nomination does a good job of weaving the newer properties in with those more historical in nature. Ryzewski stated she was impressed with the construction of the narrative in a non-Euro centric nature, highlighting Native activities in the area and also noting archaeological resources in the vicinity and inquired about the inclusion of Criteria D, particularly relating to underwater archaeological resources. Dean Anderson asked if there had been an evaluation of archaeological resources in the area; with so many changes to the waterfront in that area there may not be a lot left. Tchorzynski added that there has not been a recent evaluation/maritime survey in this area. The height and fast-moving nature of the water in the past few years has made it challenging/impossible to do this. If the flow and pace of the water slows, an archaeological evaluation is something that could be valuable in the future. Kreger pointed out that adding a reference to possible archaeological remains underwater, and also industrial remains in the vicinity, might at least be mentioned.

Motion to approve the nomination as presented, with the addition of brief information about archaeological potential and discussion of integrity relating to shanty lifts.

Criteria and Level: A, state
Motion: Kreger
Second: Bollman
Vote: 7-0

b. South Fox Island Light Station, Leelanau Township, Leelanau County
Presented by Cheri Szcodronski

Board Comments: Stacy Tchorzynski of the SHPO inquired if archaeological site 20LU139 was incorporated into this nomination. Such inclusion would be important for the co-management of the site between the State and a non-profit organization, and also relating to the potential for shoreline stabilization, and this would help ensure shoreline remains are noted for future planning purposes. Dean Anderson responded that there is a statement that mentions this site by number and the increased likelihood for other sites to be located here, particularly near no longer standing structures. He continued that he would be reluctant to go after criteria D, but agrees that making mention of the locations of potential sites is useful. Dean continued, inquiring about the potential inclusion of underwater remains from the 195 foot-long pier which were surveyed in 2011 as a contributing feature in the nomination. Walsh responded that adjusting the boundaries would be appropriate and help would be needed to accurately show it on a map and adjust the boundary. Walsh indicated the previously-completed Historic Structures Report may be useful and Dean suggested the DNR Maritime Archaeologist Wayne Lusardi's survey should include descriptions and may have GPS points as well. Dean Anderson also inquired about the contributing element of the cemetery, asking if it associates enough with the light station to be consider contributing. Cheri responded that it is intact and was cared for and protected by individuals who worked at the light station, a part of the social fabric of the site. Dean also pointed out that in the historical discussion, early contact, etc. there are some elements which may require a bit more detail and finessing, which could be fine-tuned in a follow up meeting. All agreed.

Motion to approve the nomination as presented.
Criteria and Level: A&C, local
Motion: Bollman
Second: Ryzewski
Vote: 7-0

c. Alpha House, Detroit, Wayne County

Presented by Brian Williams and William Herbert

Board Comments: Kreger complimented the presenters on their skillful and well written nomination, something that is not expected when non-professionals do the research and writing. Williams and Herbert said they appreciated the help the SHPO staff had provided. Kreger suggested under section 8, on page 26, it might be clarified that Epsilon Chapter was a college fraternity chapter, and Gamma Lambda was an alumni chapter. Devan Anderson inquired why the period of significance closes in 1971. Walsh responded that Period of Significance typically ends 50 years ago, even in cases where activities continue up to the present day, which they certainly do in this case. Braynon inquired if the house rises to a higher level of significance, such as state level. Walsh responded that level of significance always relate to context. It appears there may be a case for state level significance, but a context would have to be written to support this. Ryzewski inquired about the history of the date of construction around 1918 and then later states around 1912. Williams and Herbert responded that the 1912 was late-learned new information, and the document will be reviewed an additional time to make sure this date is consistent.

Motion to approve the nomination as presented.

Criteria and Level: A, local

Motion: Kreger

Second: Devan Anderson

Vote: 7-0

d. Nettleton-Cond House, Constantine, Saint Joseph County

Presented by Nathan Nietering

Board Comments: Kreger inquired if the pointed discussion of Nettleton-Cond's integrity should be moved up further in the nomination to highlight its individuality. Nietering responded that this suggestion will be incorporated.

Motion to approve the nomination as presented.

Criteria, Consideration and Level: C, b, local

Motion: Bollman

Second: Dean Anderson

Vote: 7-0

Board chair Braynon called for a 10 minute break at 1:00pm. Board business resumed at 1:10pm.

10. LOCAL HISTORIC DISTRICT STUDY COMMITTEE REPORTS – Amy Arnold

**a. Grosse Pointe Estates Local Historic District,
Grosse Pointe, Wayne County**

Board comments: None.

**b. Application to delist 6071 Livernois (Ye Olde Flower Barn),
Troy, Oakland County**

Board comments: Kreger inquired who was seeking the delisting. Arnold responded that she believed it was initiated by the property owner, but the delisting was submitted by the building inspector's office.

**c. Eureka Fruit Farm (1021 Harding Road) LHD Proposed Elimination,
Rochester Hills, Oakland County**

Board comments: Kreger asked who requested the elimination of this LHD? Arnold responded that she believed it was initiated by the owner, but a local study committee was appointed to research and submit the request providing a well written document.

11. APPEALS – Jon Stuckey, Michigan Office of the Attorney General

a. Hanlon v. Detroit Historic District Commission (HDC)

Initial Board Comments: Kreger proposed that the Review Board accept the Administrative Law Judge's (ALJ) findings 1, 3 & 4, and reject findings 2 & 5. Devan Anderson added that the City of Detroit also has fence and hedge guidelines which have been approved by the Michigan SHPO.

Motion made that the Michigan State Historic Preservation Review Board takes the following action with respect to the matter of Heidi M. Hanlon, Petitioner v. City of Detroit Historic District Commission, Respondent: namely, that the Board accepts the findings and conclusions of the Michigan Office of Administrative Hearings and Rules, and the Administrative Law Judge as reflected in its deliberation, and that the Board rejects others, that the Board directs the Attorney General's office to draft a Final Decision and Order reflecting the Board's decision; and

that the Board authorizes the Chairperson of the Board to sign and issue the Final Decision and Order on behalf of the Board. Further move that the final order and decision relative to the order of summary disposition note the following changes 1) that the HDC instruction to require paint rather than stain be allowed to stand and (2) that the HDC instruction to replace the fence be allowed to stand.

Motion: Bollman
Second: Kreger

Additional Discussion: Bollman stated that this appears to be an unusual case in that the ALJ parsed the findings of the HDC, agreeing with some HDC findings and not agreeing with others. To this, Kreger noted that approximately three years ago, a previous case relating to the Clarkston HDC recognized that the ALJ did not appropriately interpret the language of PA 169 of 1970 (as amended) and thus disagreed with an HDC finding. In regards to the fence in this current appeal, for example, the ALJ said it was not historic and thus was outside the purview of the HDC. Kreger pointed out that the very first amendment to that Act was to fully establish that an HDC does indeed have the ability to review both historic and non-historic resources. It is this definition of a resource that fully drives the HDC's work. The fence is a resource, as meeting this definition so it does come under the HDC's purview. Bollman next expressed disappointment that some of these issues could not be addressed at the local level. Kreger said that there is a remedy to this embedded in PA 169, even after an appeal. Subsection 12 of section 399.205 states that a commission can modify the work so that it qualifies for a Certificate of Appropriateness. Therefore, an HDC can be flexible to find a means to a better solution. Devan Anderson stated that a lot of freedom lies with the applicant, to pull a permit or not, what to bring before the commission, to amend a decision if denied or appeal and elevate it to a higher authority. That path is outlined by PA 169. Kreger suggested that if the HDC knew of the possibility of using subsection 12, that perhaps a path even after an appeal might yet lead to a remedy satisfactory to both the owner and the HDC. Kreger continued in regard to the ALJ's finding number 5 that the HDC had no authority over staining or painting. Kreger and Anderson pointed out that the local historic district ordinance provides the framework, including relating to elements of design, such as stain or paint. Detroit's Historic District Style and Color Guide clearly outlines the appropriate uses for each.

Vote: 7-0

12. DATES OF NEXT MEETING

September 24, 2021, January 28, 2022

13. ADJOURNMENT

Motion to adjourn: Devan Anderson

Second: Kreger

Vote: 7-0

Meeting adjourned at 1:49pm

Minutes prepared by Nathan Nietering