MONTGOMERY COUNTY HISTORIC PRESERVATION COMMISSION
STAFF REPORT

Address: 5813 Surrey St., Chevy Chase  
Meeting Date: 3/27/2019

Resource: Secondary (Post-1915) Resource  
(Somerset Historic District)  
Report Date: 3/20/2019

Applicant: Dan & Aviva Rosenthal  
(Tahani Share, Architect)  
Public Notice: 3/13/2019

Tax Credit: N/A

Review: HAWP  
Staff: Michael Kyne

Case Number: 35/36-19C

PROPOSAL: RETROACTIVE site alterations and retaining wall removal

STAFF RECOMMENDATION

Staff recommends that the HPC deny the HAWP application.

The applicants should submit a revised HAWP application for the following:

- Alterations to the unapproved/as-built driveway, with the revised driveway (including apron) not exceeding 16’ at any point.

- Replacement of the retaining wall at the left () side of the driveway, with all dimensions and materials of the previously removed retaining wall and the new retaining wall specified.

- Replacement/construction of a matching retaining wall at the right (south) side of the driveway.

- Backfilling the front/right (southwest) side of the property, restoring the grade and thus the amount of exposed foundation wall on the patio to its previously approved condition.

- Partial removal and alteration of the rear (east) walkway, with the incompatible gravel expansions removed from the proposal.

- Revisions to the approved right (south) side patio, with all revisions (i.e., additional steps, design changes, railing installation, etc.) clearly specified.

- Installation of a metal handrail at the right (south) side of the new front steps/walkway, with all materials and dimensions specified.

ARCHITECTURAL DESCRIPTION

SIGNIFICANCE: Secondary (Post-1915) Resource within the Somerset Historic District
STYLE: Colonial Revival
DATE: 1937
BACKGROUND

The applicants previously appeared before the Commission with a HAWP application for a side addition and hardscape alterations. The previous application, which was subject to two preliminary consultations before being approved at the December 6, 2017 HPC meeting, included widening the existing driveway from 8’-4” to 16’ and relocating the existing retaining wall on the right side of the driveway.

PROPOSAL

The applicant proposes the following RETROACTIVE work items at the subject property:

- Removal of the retaining wall at the right (south) side of the driveway.
- Significant regrading at the front/right (southwest) side of the property.
- Removal of the retaining wall at the left (north) side of the driveway.
- Construction of a new retaining wall at the left (north) side of the driveway.
- Partial removal and alterations of the existing rear (east) walkway.
- Revisions to the previously approved right (south) side patio.
- Installation of a handrail at the new front steps/walkway.

APPLICABLE GUIDELINES

When reviewing alterations and new construction within the Somerset Historic District several documents are to be utilized as guidelines to assist the Commission in developing their decision. These documents include Montgomery County Code Chapter 24A (Chapter 24A), and the Secretary of the Interior’s Standards for Rehabilitation (Standards). The pertinent information in these documents is outlined below.
Montgomery County Code; Chapter 24A-8

(a) The commission shall instruct the director to deny a permit if it finds, based on the evidence and information presented to or before the commission that the alteration for which the permit is sought would be inappropriate, inconsistent with or detrimental to the preservation, enhancement or ultimate protection of the historic site or historic resource within an historic district, and to the purposes of this chapter.

Secretary of the Interior’s Standards for Rehabilitation:

The Secretary of the Interior defines rehabilitation as “the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features, which convey its historical, cultural, or architectural values.” The pertinent Standards for this case are as follows:

2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

STAFF DISCUSSION

This is a retroactive application, and the proposed alterations have already been completed without an approved HAWP. As noted above, the proposal is to remove the retaining wall at the right (south) side of the driveway, to significantly regrade the front/right (southwest) side of the property, to remove the retaining wall at the left (north) side of the driveway, to construct a new retaining wall at the left (north) side of the driveway, to partially remove and alter the existing walkway at the rear (east) of the house, to make revisions to the previously approved right (south) side patio, and to install a handrail at the right (south) side of the new front steps/walkway.

When the applicants initially appeared before the Commission for a preliminary consultation regarding a right (south) side addition and hardscape alterations at the September 19, 2017 HPC meeting, they proposed to widen the 8’-4” driveway of the historic house to 20’. The Commission found that the proposed 20’ driveway was too wide and incompatible with the existing driveways and streetscape of Surrey Street. The applicants returned for a second preliminary consultation at the October 25, 2017 HPC meeting, at which time they proposed to widen the driveway to 18’, and the Commission still found the proposed driveway too wide. The Commission ultimately approved a 16’ wide driveway as part of the applicants’ HAWP at the December 6, 2017 HPC meeting. The applicants submitted a Staff Item Revision, seeking approval of an 18’ wide driveway at the January 10, 2018 HPC meeting, but the Commission denied the revision.

According to the current application, the driveway has been enlarged to the approved 16’; however, staff visited the subject property on March 19, 2019 to measure the driveway and found the following:

- The new driveway apron is flared and measures 20’-1” adjacent to Surrey Street, reducing to 10’-1” at the sidewalk, with an additional 9” to 20” flagstone on dirt border at the right (south) side of the apron.

- The new driveway measures 19’-6” at the sidewalk, reducing to 16’-4” as it approaches the house, with an additional 9” to 19” flagstone on dirt border at the right (south) side of the driveway.
Fig. 2: As-built/unapproved driveway dimensions, as measured and prepared by staff.

As the Commission previously found, the existing driveway (and apron) is incompatible with character of the subject property, the surrounding streetscape, and the historic district, where it exceeds 16’.

Throughout the entire process – from the first preliminary consultation to the Staff Item Revision – the proposed driveway enlargement included the relocation of the existing retaining wall on the right (south) side of the driveway and preservation of the consistent grading on both sides of the driveway. The proposal did not call for removal or replacement of the retaining wall on either side of the driveway; however, the right (south) side retaining wall has been removed and the front/right (southwest) side of the property has been significantly regraded. The result is inconsistent grading on either side of the driveway. This is incompatible with the character of the streetscape along Surrey Street, where the existing hardscaping – for both front walkways and driveways – is bound by consistent grading on either side. This is also incompatible with the historic character of the subject property, where the driveway was clearly delineated by the retaining walls and bound by consistent grading on either side.

Altering the grade in this manner has also resulted in nearly 8’ of exposed concrete foundation wall for the new patio, which directly faces Surrey Street (See Figures 4 and 6). The approved drawings (Figure 5) showed at most 18” to 2’ of exposed concrete wall for the patio. Flattening out the grade in this large section of the front and side yard has two negative consequences: 1) it has altered the consistent grading and character of the landscape of the historic property, which are character defining features; and 2) the now exposed 8’ high by 16’ wide concrete foundation has altered the appearance of the previously approved patio addition to such a large degree that the patio is of questionable compatibility with the historic house.

Although the applicants did not include it in their current HAWP application, staff has compared before and after photographs of the subject property, and it appears that the retaining wall at the left (north) side of the driveway has been removed (or significantly altered), and a new retaining wall has been constructed in its place. This was not part of the December 6, 2017 HAWP application, and the HPC has
not reviewed or approved this alteration. The style and material of the new retaining wall at the left (north) side of the driveway are generally compatible with the subject property and surrounding streetscape, but this alteration has not been approved and is currently in violation of the applicants approved HAWP.

Fig. 3: Subject property driveway, before.

Fig. 4: Subject property driveway, after.
Fig. 5: Approved front elevation, showing proposed driveway, retaining walls, and grading.

Staff has also compared the approved and as-built site plans and found that the footprint of the as-built right (south) side patio has slightly increased. Whereas the rear (east) edge of the patio was curvilinear in the approved site plan, the as-built patio is rectilinear. As depicted in staff’s photograph below, a high-tension cable railing has also been installed on the patio. This was not reviewed or approved by the HPC and was likely added to satisfy code requirements, since the unapproved grade changes at the front/right (southwest) side of the property increased the height of the patio to more than 36”, and the approved patio was at grade. An additional step has been added from the house to the patio, and three steps have been added from the patio to grade. The applicants’ approval also called for a pergola to be constructed on the patio, which has not been completed. The proposed patio revisions are generally compatible, but they have not been approved and are currently in violation of the applicants approved HAWP.
During staff’s March 19, 2019 site visit, staff also found that the walkway at the rear (east) of the house has been altered without the HPC’s approval. The southernmost part of the walkway has been removed, and the northernmost part has been replaced and altered. A landing has been added at the rear (east) entry to the house and a gravel expansion bordered by railroad ties has been added to either side of the walkway where it meets the sidewalk along Cumberland Avenue. While the walkway alterations are generally compatible, the gravel expansions on either side of the walkway where it meets Cumberland Avenue make the width of the walkway inconsistent with the surrounding streetscape and with the historic district, where the average walkway is 5’ wide or less.
Fig. 9: Rear (east) walkway, before.

Fig. 10: Rear (east) walkway, after.
Staff also found that a metal handrail has been installed at the right (south) side of the new front steps/walkway. While the front walkway was approved as part of the applicants’ December 6, 2017 HAWP application, the handrail has not been reviewed or approved by the HPC. The handrail is generally compatible with historic character of the subject property, but it is currently in violation of the applicants approved HAWP.
Fig. 12: Unapproved handrail at new front steps/walkway.

Utilizing the Standards to evaluate the proposal, staff finds the following:

- The proposal alters features and spaces that characterize the subject property and surrounding historic district. By altering these character-defining features and spaces, the proposal detracts from the streetscape and negatively affects the way that the historic house and surrounding historic district are experienced from the public right-of-way.

Accordingly, staff finds that the proposal is inappropriate, inconsistent with, and detrimental to the preservation, enhancement, and ultimate protection of the historic resource within historic district, per Chapter 24A-8(a). Staff recommends that the HPC deny the HAWP application and that the applicants take to the appropriate actions to bring the subject property into compliance with their previously approved HAWP.

The applicants should submit a revised HAWP application for the following:

- Alterations to the unapproved/as-built driveway, with the revised driveway (including apron) not exceeding 16’ at any point.

- Replacement of the retaining wall at the left (north) side of the driveway, with all dimensions and materials of the previously removed retaining wall and the new retaining wall specified.

- Replacement/construction of a matching retaining wall at the right (south) side of the driveway.
• Backfilling the front/right (southwest) side of the property, restoring the grade and thus the amount of exposed foundation wall on the patio to its previously approved condition.

• Partial removal and alteration of the rear (east) walkway, with the incompatible gravel expansions removed from the proposal.

• Revisions to the approved right (south) side patio, with all revisions (i.e., additional steps, design changes, railing installation, etc.) clearly specified.

• Installation of a metal handrail at the right (south) side of the new front steps/walkway, with all materials and dimensions specified.

**STAFF RECOMMENDATION:**

Staff recommends that the Commission deny the HAWP application under the Criteria for Denial in Chapter 24A-8(a), having found that the proposal will substantially alter the exterior features of the resource and is incompatible in character with the resource and the purposes of Chapter 24A and with the Secretary of the Interior’s Standards for Rehabilitation.
APPLICATION FOR
HISTORIC AREA WORK PERMIT

Contact Person: Tahani Share
Contact Email: Tahani@landisconstruction.com
Daytime Phone No.: 202-370-3410

Tax Account No.: ______

Name of Property Owner: Dan and Aviva Rosenthal
Daytime Phone No.: ______________________
Address: 5813 Surrey St. Chevy Chase MD 20815

Contractor: LandisArchitectsBuilders
Phone No.: 202-370-3410

Contractor Registration No.: ________________________________
Agent for Owner: ________________________________ Daytime Phone No.: ________________________________

LOCATION OF BUILDING/FENCE SITE

House Number: ________________________________ Street: ________________________________
Town/City: ________________________________ Nearest Cross Street: ________________________________
Lot: _______ Block: _______ Subdivision: ________________________________
Lot: _______ Block: _______ Subdivision: ________________________________

PART A. TYPE OF PERMIT, LOCATION AND USE

1A. CHECK ALL APPLICABLE:
☐ Construct ☐ Extent ☐ Alter/Remove ☐ A/C ☐ Stah ☐ Room Addition ☐ Porch ☐ Deck ☐ Shed
☐ Move ☐ Install ☐ Windows/Door ☐ Solar ☐ Furnace ☐ Woodburning Stove ☐ Single-Family
☐ Revision ☐ Repair ☐ Revocable ☐ Fence/Wall (complete Section 4) ☐ Other: ________________________________

1B. Construction cost estimate: $ ________________________________

1C. If this is a revision of a previously approved active permit, see Permit # ________________________________

PART B. UTILITIES AND CONSTRUCTION AND EXCAVATIONS

2A. Type of sewage disposal: 01 ☐ WSSC 02 ☐ Septic 03 ☐ Other: ________________________________

2B. Type of water supply: 01 ☐ WSSC 02 ☐ Well 03 ☐ Other: ________________________________

PART C. COMPLETED OR PROPOSED FENCE OR RETAINING WALL

3A. Height ______ feet ______ inches

3B. Indicate whether the fence or retaining wall is to be constructed on one of the following locations:
☐ On party line/property line ☐ Entirely on land of owner ☐ Public right of way/assistance

I hereby certify that I have the authority to make the foregoing application, that the application is correct, and that the construction will comply with plans approved by all agencies listed and I hereby acknowledge and accept this to be a condition for the issuance of this permit.

Tahani Share
Signature of owner or authorized agent 2/25/19 Date

Approved: ________________________________ For Chairperson, Historic Preservation Commission
Disapproved: ________________________________ Date: ________________________________
Application/Permit No.: ________________________________ Date Filed: ________________________________ Date Issued: ________________________________

SEE REVERSE SIDE FOR INSTRUCTIONS
1. **Written Description of Project**
   a. Description of existing structure(s) and environmental setting, including their historical features and significance:

   A proposed addition and some alterations to the property at 5312 Surrey Street were approved by the Commission. The proposed work included a front-facing side addition, enlarging an existing driveway and some hardscape elements. The proposal showed two existing retaining walls with one being relocated to make way for the enlarged driveway and to retain what appeared to be a high grade on the right side. During construction and after the removal of existing small trees and vegetation, the site revealed a much less grade than anticipated which eliminated the need for the retaining wall. Therefore, we are asking for a revised HAWP to approve the removal of that retaining wall.

   Picture (1) below shows the existing property before the addition. Some lines were added to illustrate the existing width of the driveway and the proposed enlargement and its location on the site. This illustration shows that the enlargement of the driveway is at a low grade level. Picture (2) shows the property after the addition and what the existing grade looks like. It's worth mentioning here that the two pictures were taken at different times of the year. The newer picture shows no vegetation or any plants present at the site. The homeowners appreciate any input or recommendations that the Commission may have.

2. **Site Plan**

   Site and environmental setting, drawn to scale. You may use your plot. Your site plan must include:
   a. the scale, north arrow, and data;
   b. dimensions of all existing and proposed structures; and
   c. site features such as walkways, driveways, fencce, ponds, streams, trash dumpsters, mechanical equipment, and landscaping.

3. **Plans and Elevations**

   You must submit 2 copies of plans and elevations in a format no larger than 11" x 17". Plans on 8 1/2" x 11" paper are preferred.
   a. Schematic construction plans, with marked dimensions, indicating location, size and general type of walls, window and door openings, and other fixed features of both the existing resource(s) and the proposed work.
   b. Elevations (facades), with marked dimensions, clearly indicating proposed work in relation to existing construction and, when appropriate, context.
   All materials and fixtures proposed for the exterior must be noted on the elevations drawings. An existing and a proposed elevation drawing of each facade affected by the proposed work is required.

4. **Materials Specifications**

   General description of materials and manufactured items proposed for incorporation in the work of the project. This information may be included on your design drawings.

5. **Photographs**

   a. Clearly labeled photographic prints of each facade of existing resource, including details of the affected portions. All labels should be placed on the front of photographs.
   b. Clearly label photographic prints of the resource as viewed from the public right-of-way and of the adjoining properties. All labels should be placed on the front of photographs.

6. **Tree Survey**

   If you are proposing construction adjacent to or within the drip line of any tree 6" or larger in diameter (at approximately 4 feet above the ground), you must file an accurate tree survey identifying the size, location, and species of each tree of at least that dimension.

7. **Addresses of Adjacent and Confronting Property Owners**

   For all projects, provide an accurate list of adjacent and confronting property owners (not tenants), including names, addresses, and zip codes. This list should include the owners of all lots or parcels which adjoin the parcel in question, as well as the owner(s) of lot(s) or parcel(s) which lie directly across the street/highway from the parcel in question.

**PLEASE PRINT IN BLUE OR BLACK INK OR TYPE THIS INFORMATION ON THE FOLLOWING PAGE.**
**PLEASE STAY WITHIN THE GUIDES OF THE TEMPLATE, AS THIS WILL BE PHOTOCOPIED DIRECTLY ONTO MAILING LABELS.**
# HAWP APPLICATION: MAILING ADDRESSES FOR NOTIFYING
[Owner, Owner’s Agent, Adjacent and Confronting Property Owners]

<table>
<thead>
<tr>
<th>Owner’s mailing address</th>
<th>Owner’s Agent’s mailing address</th>
</tr>
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<tbody>
<tr>
<td>Dan and Aviva Rosenthal</td>
<td>Landis Architects Builders</td>
</tr>
<tr>
<td>5813 Surrey St.</td>
<td>7059 Blair Road NW</td>
</tr>
<tr>
<td>Chevy Chase, MD</td>
<td>Washington, DC</td>
</tr>
<tr>
<td>20815</td>
<td>20012</td>
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</tbody>
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**Adjacent and confronting Property Owners mailing addresses**
Existing Property Condition Photographs (duplicate as needed)

Picture (1) The existing property before the addition. Some lines were added to illustrate the existing width of the driveway and the proposed enlargement and its location on the site. This illustration shows that the enlargement of the driveway is at a low grade level.

Detail: Picture (2) The property after the addition and what the existing grade looks like. The two pictures were taken at different times of the year.
ROSENTHAL RESIDENCE
5813 Surrey Street  Chevy Chase, MD

This pictures shows the existing property before the addition. The added red lines illustrate the existing width of the driveway and the proposed enlargement and its location on the site. The picture shows that the edge of the enlarged driveway is at a lower grade level.

The design proposal showed two existing retaining walls with one being relocated to allow for the enlarged driveway and to retain what appeared to be a high grade on the right side. During construction and after the removal of existing small trees and vegetation, the site revealed a much less grade level than anticipated which eliminated the need for the retaining wall.

Pictures of the property that shows grade after the addition.
The proposed site plan approved by the Commission shows front-facing side addition, enlarged driveway and some hardscape elements. The proposal showed two existing retaining walls with one being relocated to allow for the enlarged driveway and to retain what appeared to be a high grade on the right side.
During construction and after the removal of existing small trees and vegetation, the site revealed a much less grade than anticipated which eliminated the need for the retaining wall.
FRONT ELEVATION (AS APPROVED BY HISTORIC)

SCALE: 1"=10'
APPROVED PLANS

Reviewed and Approved at the December 6, 2017 HPC Meeting
BEFORE PHOTOS
AFTER PHOTOS