

CITY COUNCIL
CITY OF NEW YORK

-----X

TRANSCRIPT OF THE MINUTES

of the

SUBCOMMITTEE ON LANDMARKS, PUBLIC SITING
AND MARITIME USES

-----X

February 8, 2010
Start: 11:00 am
Recess: XX:XX am

HELD AT: Council Chambers
City Hall

B E F O R E:
BRAD S. LANDER
Chairperson

COUNCIL MEMBERS:
Leroy G. Comrie, Jr.
Peter A. Koo
Rosie Mendez
Annabel Palms
James Sanders, Jr.
Jumaane D. Williams

A P P E A R A N C E S [CONTINUED]

Brad S. Lander
Opening Statement
Chairperson
Subcommittee on Landmarks, Public Siting and Maritime
Uses

Mr. and Mrs. Bernick
Owners of property under consideration
For Landmark status

Jenny Fernandez
Landmarks Preservation Commission

Silberman
General Counsel
Landmarks Preservation Commission

Christian Hilton
Counsel to the Committee
Subcommittee on Landmarks, Public Siting and Maritime
Uses

1 SUBCOMMITTEE ON LANDMARKS, PUBLIC SITING AND 3
MARITIME USES

2 CHAIRPERSON LANDER: Hi. Good

3 morning. This hearing is called to order. I'm--
4 hi guys. [Chuckling]. How's your tour going?
5 Okay. All right. I'm Brad Lander the Chair of
6 the Subcommittee on Landmarks, Public Siting and
7 Maritime Uses. And I want to introduce the
8 members of the Committee who are here. Council
9 Member Mendez, Council Member Palma and Council
10 Member Williams and Council Member Koo, good
11 morning.

12 We just have one item before us on
13 today's calendar. And that's 20105201, the
14 application for Landmarks Preservation Commission
15 for the designation of the Ocean on the Park
16 Historic District. We held the public hearing on
17 this last week and closed the public hearing. So
18 we're not taking any new public testimony today.

19 What we can do is if the members
20 would like to ask any additional questions of
21 those who did testify at the hearing and I see in
22 the audience both Jenny Fernandez from the
23 Landmarks Preservation Commission who presented
24 the application to us and Mr. and Mr. Bernick who
25 are homeowners in the historic district. And they

3 both testified at the public hearing and therefore
4 could be asked additional questions today.

5 So why don't we have Ms. Fernandez
6 come up first. I'm not sure whether members
7 actually have additional questions for you but
8 we'll at least make an opportunity for questions
9 of both you and the Bernicks.

10 [Pause]

11 CHAIRPERSON LANDER: You would like
12 to talk to the owners first. Okay. All right.
13 Council Member Williams would like to speak first
14 with the owners and without--unless there's
15 objection from any of the other members we can go
16 in either order. So okay. So let's have Mr. and
17 Mrs. Bernick come up to the stand please.

18 [Pause]

19 CHAIRPERSON LANDER: Thank you for
20 making time again to be with us today. And as
21 much as I'm tempted to ask you about pressing
22 vinyl, we're going to restrict ourselves to
23 questions that reflect your testimony from last
24 time. Council Member Williams has some questions.

25 COUNCIL MEMBER WILLIAMS: Thank you
for coming back, I appreciate it.

1 SUBCOMMITTEE ON LANDMARKS, PUBLIC SITING AND 5
MARITIME USES

2 MRS. BERNICK: Thank you for having
3 us back.

4 COUNCIL MEMBER WILLIAMS: And I
5 mean I've been struggling with what is the right
6 thing to do here and I just wanted to see if I
7 could get a better understanding of what you're
8 dealing with. So I understand--we were talking a
9 lot about development and not allowing the
10 structure of the community itself to change. So I
11 know you were saying that you would not develop.
12 But I understand that there is a sign on your
13 house saying that it's available for development
14 site. So I was wondering why that is, if that's
15 not what you're interested in.

16 And two, can I get a better
17 understanding of the damages to you if it was
18 Landmarked? Would you not be able to sell the
19 house at all? Do you still have the mortgage that
20 you're paying that is going to be--not be able to
21 be fulfilled, something like that? I just wanted
22 to get a clearer understanding.

23 MRS. BERNICK: Okay. First of all
24 I'd like to thank you for letting me speak today
25 and thank you for letting me submit the reports

2 for your consideration. I--to answer your first
3 question--

4 [Off mic]

5 MRS. BERNICK: Okay. To answer the
6 first question of why I had a sign in my [skip in
7 audio] said development site, we have been in
8 litigation with the developers and they--I was
9 told by my broker that they needed to secure a
10 loan for commercial building. And we thought that
11 if we put the house for sale, when the bankers
12 came to look at their property they would be
13 discouraged in giving them a commercial loan
14 because it would saturate the market if there was
15 an additional development site for sale.

16 They did offer to purchase our
17 property and we declined. And we were offered at
18 one point by another developer to purchase our
19 property which we declined. We dropped the price
20 on our house after everything seemed to be--we
21 weren't successful with our litigation with the
22 developers. And we decided to just go ahead and
23 sell the house as an end-user house, meaning it
24 would just be a single family living at the home.

25 So we dropped the price. And we

2 had people that were interested. And when they
3 began to research the situation that they would be
4 put in, the interests went away. And we dropped
5 the price further to much less than what the house
6 next door sold for to the developer. And they--
7 they purchased it as a residential home not as a
8 development site. And so we dropped the price to
9 \$300,000 less than what it sold for. And the
10 people that were, again, buyers came and they were
11 somewhat interested. And when they researched
12 what it meant being in the home and it was
13 Landmarked and that you were next to a
14 cantilevered development, they lost interest.

15 So the more information we gave
16 them that they requested, the less they were... the
17 less they wanted to purchase our home. So we've
18 since removed the house from the market.

19 [Pause]

20 MRS. BERNICK: What we're actually
21 trying to do is we've been in the last year trying
22 to solicit preschools to take over the space. And
23 those are our intentions for the house going
24 forward. We reached out to the Maple Street
25 School and they--the faculty and staff unanimously

2 decided on taking the house but because it's a
3 cooperative when it went to the vote of the
4 parents because of the negative publicity we've
5 received, they felt that they were nervous to
6 enter into a contract with us.

7 We had promised them a 10-year
8 lease. And so now we have another preschool
9 that's very interested in the space and they're
10 checking into it also.

11 We are--we have a lease drawn up.
12 We're very close to working something out with
13 them. Those are our intentions going forward.

14 CHAIRPERSON LANDER: And how would
15 the--go ahead Council Member Williams.

16 COUNCIL MEMBER WILLIAMS: No
17 please.

18 CHAIRPERSON LANDER: Now would the
19 Landmarking affect the daycare lease plans?

20 MRS. BERNICK: The Landmarking
21 would affect the daycare because it would cap how
22 many children they're allowed to have regarding
23 building out the site. So right now the
24 neighborhood little--Lefferts Garden has just
25 received a charter, grant for a charter school

2 because there's a very limited amount of where you
3 can send your children to school. And the
4 preschools are also--they're very full. So there
5 isn't--Maple Street had 250 parents that they
6 turned away this past September. So--

7 CHAIRPERSON LANDER: [Interposing]
8 Have you had discussion with either preschool
9 about the scale of development that would be
10 required to satisfy their goals?

11 MRS. BERNICK: That was actually
12 one of their concerns and I spoke to Richard
13 Baraquette [phonetic] in Marty's office and he
14 said if I were a Landmark then I would have
15 possibly max 4,000 buildable square feet in the
16 back but if I weren't Landmarked then you could--
17 the children would have--there would be a bigger,
18 of course, opportunity for the school to grow as
19 their needs grew.

20 CHAIRPERSON LANDER: Thank you.
21 Council Member Williams.

22 COUNCIL MEMBER WILLIAMS: I just
23 want to make sure I just understand clearly. So
24 you're not interested anymore as a development
25 site, you're trying to sell it as a residential

2 home and you're having trouble doing that as well.

3 MRS. BERNICK: Yes.

4 COUNCIL MEMBER WILLIAMS: How much
5 were you trying to sell it for and what did the
6 house beside you sell for and when was that?

7 MRS. BERNICK: The house next to us
8 sold for \$1.2--

9 COUNCIL MEMBER WILLIAMS:
10 [Interposing] When.

11 MRS. BERNICK: --in April of 2007.

12 COUNCIL MEMBER WILLIAMS: Then
13 you're trying to sell it now.

14 MRS. BERNICK: Now, our listing
15 price was \$900,000.

16 COUNCIL MEMBER WILLIAMS: That--it
17 concerns me to connect the Landmark with that
18 because the house is dipped--tremendously down
19 home [phonetic] and I'm very upset about how much
20 it's worth right now. But it has nothing to do
21 with Landmarking. It has to do with just the
22 housing situation. And I'm having a little
23 trouble connecting you being able to sell it as a
24 residential with the fact that it may be
25 Landmarked.

1 SUBCOMMITTEE ON LANDMARKS, PUBLIC SITING AND 11
MARITIME USES

2 MRS. BERNICK: I agree. But the
3 comparables in the neighborhood are more. Place
4 are still selling in Prospect Lefferts Garden for-
5 -that don't face Prospect Park for more, that
6 don't have the amenities our home has. So the--I
7 agree with you but the comparables are not showing
8 that.

9 COUNCIL MEMBER WILLIAMS: Anybody
10 that testified before that had [audio stop]

11 CHAIRPERSON LANDER: We didn't seek
12 testimony on values and all that. Council Member
13 Mendez.

14 COUNCIL MEMBER MENDEZ: Good
15 morning. To me the most important thing is the
16 character and the architectural integrity of the
17 building. Can you explain to me why this building
18 is different than other buildings in that area
19 that should not be part of this district?

20 MRS. BERNICK: I requested that
21 Professor John Young do an analysis of my home.
22 And I asked him, can you just tell me the truth,
23 should my home be Landmarked. And in his report
24 which we've submitted, thank you for accepting it,
25 he cites that our home is completely different

1 SUBCOMMITTEE ON LANDMARKS, PUBLIC SITING AND 12
2 MARITIME USES

3 than the limestones on the row. Our home is built
4 a decade after. It's different building
5 materials. It's been altered significantly since
6 it was first built.

7 COUNCIL MEMBER MENDEZ: And who's
8 Professor or who did you say, Professor John Long
9 or--

10 MRS. BERNICK: [Interposing] Dr.
11 John Young is a professor at Columbia University.
12 He's an architect and he, I believe, his bio is
13 included in the report. He is a specialist in
14 Landmarking and he's worked on many sites as the
15 architect for preserving different Landmarked
16 buildings.

17 COUNCIL MEMBER MENDEZ: Okay. And
18 I apologize if I'm repeating any questions; I
19 wasn't at the last hearing, so, thank you very
20 much.

21 MRS. BERNICK: Thank you.

22 CHAIRPERSON LANDER: Any other
23 questions for the Bernicks? Council Member Koo.

24 COUNCIL MEMBER KOO: Good morning.

25 MRS. BERNICK: Good morning.

COUNCIL MEMBER KOO: Last time you

3 were here you didn't have lawyers to represent
4 you, right? But you have it now.

5 MRS. BERNICK: My--yes. The
6 attorneys that I have, have agreed to work for
7 very little and we actually had to negotiate with
8 them to come in today.

9 CHAIRPERSON LANDER: Any other
10 questions for the Bernicks? Thank you very much
11 for your time and your willingness--

12 MRS. BERNICK: [Interposing] Thank
13 you.

14 CHAIRPERSON LANDER: --to speak
15 with us. And now I'll ask Jenny Fernandez from
16 the Landmarks Preservation Commission to come back
17 up.

18 [Pause]

19 MS. JENNY FERNANDEZ: Thank you
20 Chair Lander. I'm joined by Mark Silberman, our
21 General Counsel at the Landmarks Preservation
22 Commission to help answer any additional
23 questions.

24 CHAIRPERSON LANDER: Great. Thank
25 you. I think it might not be bad since we have a
couple of members who weren't with us last time,

2 if you would just begin by restating why you
3 believe that these--that the house does merit from
4 LPC guidelines and provisions the designation.
5 And again perhaps for Council Members Palma and
6 Mendez, just quickly remind us the entirety of the
7 row that was originally imagined for designation.
8 I assume when the edge building, the adjacent
9 building, was then developed you reconsidered the
10 question of these two adjacent homes and still
11 decided to move forward with designation of all of
12 them. So can you just remind us of that?

13 MS. FERNANDEZ: Sure. Just for
14 clarification purposes, we didn't reconsider the
15 designation of the two adjacent buildings. We
16 took up at the Commission's hearing an additional
17 consideration that Mr. Silberman can talk about
18 and that'll help shed some light on what we
19 considered additionally.

20 MR. MARK SILBERMAN: I mean the--at
21 our hearing on the original calendar, district did
22 not include the development site that is adjacent
23 to Mrs. Bernick's home because they had a permit
24 and because they were moving forward. She raised
25 that question of including the lot, nonetheless,

2 at the hearing. At her request the Commissioner
3 said okay well let's look into this and see
4 whether it might make sense to include this. And
5 there was an additional hearing on that and
6 consideration by the Commission. And in the end
7 they decided that given where that project was,
8 that they were not going to modify the designation
9 of the Ocean Park District to include this
10 additional district. So there was explicit
11 consideration of her request to look at it about
12 whether that district should be amended to include
13 the lot.

14 CHAIRPERSON LANDER: Then can you
15 just go ahead for, I think, for Council Members
16 Mendez and Palma and as a refresher for the rest
17 of us on--from an, you know, esthetic and historic
18 context point of view, the Commission's
19 recommendation to include these two homes--both of
20 these two homes including the Bernick's and the...

21 [Pause]

22 MS. FERNANDEZ: And so if it's okay
23 with Chair Lander for the benefit of the members
24 who weren't here, I'll just restate--

25 CHAIRPERSON LANDER: [Interposing]

2 Wonderful.

3 MS. FERNANDEZ: --part of the
4 testimony that was read in.

5 The Ocean on the Park Historic
6 District comprises a group of 12 row houses built
7 between 1909 and 1918 on Ocean Avenue between
8 Lincoln Road and Parkside Avenue in Flatbush
9 overlooking Prospect Park. In 1905 Charles G.
10 Reynolds, a prominent Brooklyn developer,
11 purchased a large parcel on Ocean Avenue across
12 from Prospect Park that had once belonged to
13 Jeremiah Vanderbilt, a descendant of Jan Aertsen
14 Vanderbilt, progenitor of that Vanderbilt family
15 in America which had most likely been part of the
16 1661 land patent granted to the family by Peter
17 Stuyvesant. I'll fast forward a little.

18 In 1909 Reynolds hired Axel S.
19 Hedman, a prolific designer of row houses in
20 Brooklyn to design a row of 14 houses.
21 Construction was halted in 1910 after completion
22 of only 10 houses. Numbers 193 to 211 Ocean
23 Avenue are fine examples of the Renaissance
24 Revival style with limestone facades featuring
25 angular or rounded bays, terraces and balustrades

3 or parapets above raised basements. Taking
4 advantage of the 150-foot deep lots, Hedman set
5 the row back 30 feet providing unusually deep
6 front yards that he interconnected by a common
7 walkway and a low wall adjoining the sidewalk.

8 In 1915 Philip Faribault, a civil
9 engineer, purchased one of the remaining lots from
10 Reynolds and designed his own residence in the
11 Federal Revival style. The brick house at 191
12 Ocean Avenue has stone sills and lintels, a
13 simple cornice and segmental arched entrance
14 surround with ionic columns characteristic of this
15 style.

16 In recognition of the growing
17 polarity of the automobile among the middle class
18 a garage which has since been converted to a
19 medical office was incorporated into the first
20 story of the house.

21 Number 189, the house in question,
22 Ocean Avenue was designed for Charles G. Reynolds
23 in 1917 by Eric Holmgren, another prominent
24 Brooklyn architect, and completed the following
25 year. The Arts and Crafts style house, while
altered, retains its simple form, subtle brick

2 detailing and a bracketed metal cornice surmounted
3 by a hipped roof with pantiles.

4 In addition the, you know, in
5 additional information from our research staff is
6 that that--those two houses do match the existing
7 row in its massing, its setback and even though it
8 doesn't look exactly the way the other row houses
9 look, they were part of the original development
10 site and developed by prominent Brooklyn
11 architects.

12 CHAIRPERSON LANDER: Thank you for
13 refreshing us. Are there questions that the
14 Council Members have for the Commission?

15 [Pause]

16 CHAIRPERSON LANDER: Council Member
17 Williams.

18 [Pause]

19 CHAIRPERSON LANDER: Council Member
20 Mendez?

21 [Pause]

22 CHAIRPERSON LANDER: Council Member
23 Williams.

24 COUNCIL MEMBER WILLIAMS: Two
25 questions, one, can you address the fact that they

2 said the Landmarking would restrict their daycare
3 of the amount of kids that are there? And the
4 second was they submitted testimony showing that
5 there was a lot of changes that had been made.
6 One that it really doesn't look like the other row
7 houses that we're trying to Landmark. And two,
8 the submission that they gave that there's a lot
9 of changes that have happened there. I'm just
10 still a little unclear as to why it would have to-
11 -how it would fit into Landmark status.

12 MR. SILBERMAN: Councilman, I'll
13 answer the first question and Ms. Fernandez will
14 address the second.

15 I'm not sure where the owners'
16 information came from, I wasn't clear. Landmark
17 designation does impose restrictions, potential
18 restrictions on development, depending on where
19 the development is and you have to get approval
20 from the Landmarks Commission to make sure that
21 all changes are appropriate. I do not know where
22 the number 4,000 square feet comes from. I do not
23 know--it is impossible, I think, for anyone to say
24 at this moment in time that Landmark designation
25 would limit the number of students that would--

3 could attend this daycare center to any particular
4 number today.

5 The Landmarks Commission approves
6 rear yard, rooftop additions on properties all the
7 time. We have--and for schools and other kinds of
8 community facilities we do it routinely. Does
9 that mean that they would be entitled to build out
10 to the full FAR that the site might have? The
11 answer is I don't know, it would depend--we'd have
12 to look at it and see what they're proposing. It
13 may not. But at this point in time I think it's--
14 no one could say with any degree of certainty
15 what--how much the building could be changed. I
16 think we could say with certainty that the
17 building could be enlarged somewhat in certain--
18 depending on what they needed.

19 CHAIRPERSON LANDER: Council Member
20 Mendez.

21 COUNCIL MEMBER WILLIAMS: Yeah,
22 there's the second part of my question--

23 CHAIRPERSON LANDER: [Interposing]
24 Oh I'm sorry. Go ahead.

25 MS. FERNANDEZ: So to answer your
second question is that the building has changed

2 over time, most of the time, obviously, looking at
3 the age of the houses, particularly in this row
4 and in other historic districts, it is commonplace
5 to have alterations over time. But the house
6 still retains its original detailing, its cornice,
7 so a lot of the essential elements of the house
8 are still there and it hasn't been altered
9 significantly in any way, shape or form that would
10 detract from its historic value or esthetic.

11 CHAIRPERSON LANDER: Thank you.
12 Council Member Mendez.

13 COUNCIL MEMBER MENDEZ: Thank you.
14 I was just getting clarification since I wasn't at
15 the last hearing as to the length of the district
16 which I understand is just that block, is that
17 correct?

18 MS. FERNANDEZ: That is correct.

19 COUNCIL MEMBER MENDEZ: And so LPC
20 can do these as individual Landmarks or as a
21 district? Why did LPC decide to move forward as a
22 district in this case?

23 MS. FERNANDEZ: In this particular
24 case they weren't being considered as individuals.
25 These are--these types of homes would not

3 necessarily rise to the level of individual
4 landmarks which as you may imagine is a pretty
5 high criteria in order to be an individual
6 landmark but certain do fit the characteristics of
7 a historic district level building.

8 MR. SILBERMAN: And if I could say
9 something, Councilwoman. The Commission early in
10 its history looked at historic districts sometimes
11 and said that they wanted to see buildings on both
12 sides of a street. And in those cases--and where
13 they didn't have that, sometimes they did
14 designate long rows of individual buildings, as
15 individual landmarks.

16 Way before I came to the Commission
17 15 years ago or 14 years ago the Commission has
18 moved beyond that. And districts really, you
19 know, stand as an identifiable, discreet, sort of
20 sense of place, can be created by having buildings
21 on one side of the street. And I think the
22 pictures of this district and the--if you've been
23 there, it really is a very coherent and
24 identifiable row of buildings along Prospect Park.

25 COUNCIL MEMBER MENDEZ: Thank you
very much.

1 SUBCOMMITTEE ON LANDMARKS, PUBLIC SITING AND 23
MARITIME USES

2 CHAIRPERSON LANDER: Council Member
3 Koo?

4 COUNCIL MEMBER KOO: What would
5 happen if you skipped their houses and like just
6 Landmarking the other part of the row? Can we do
7 that?

8 MR. SILBERMAN: Well the Council as
9 you know has the power under the Landmarks Law to
10 modify--

11 COUNCIL MEMBER KOO: [Interposing]
12 Yeah.

13 MR. SILBERMAN: --Landmark
14 boundaries. What I can say is that the Commission
15 made its decision based on all the facts before it
16 and based on the research of its Research
17 Department, the expertise of the Commission,
18 public testimony, the owners of the property have
19 been very diligent in making their case that their
20 building isn't of the--isn't identical to the
21 other buildings in the district and have been, you
22 know, quite forceful on why their building should
23 not be considered. And what I can say is that the
24 Commission heard their concerns, went so far as to
25 consider modifying the boundaries to include the

3 vacant lot but ultimately decided not only not to
4 include their buildings in this district but not
5 to go a step further. So, you know, I would hope
6 and the Commission would hope that the Council
7 would not modify the boundaries.

8 COUNCIL MEMBER KOO: Because right
9 now you're putting a heavy financial burden on the
10 owner of the building. I mean if Landmarking
11 increases value of course we would love to--but if
12 it decreases the value of the owner, I mean it's
13 the government's job to help the land owners not
14 to destroy their home values, yeah.

15 MR. SILBERMAN: I don't--I don't
16 think the Landmark designation is destroying their
17 land value. I think that the issue of districts
18 and boundaries there's always--there's always an
19 issue. And by taking this building out there's
20 another building that, I mean these, the owners
21 testified now that they're entering into a lease
22 for ten years. Who's to say in 12 years another
23 large building won't be there and then their
24 neighbor will have the same issues. So it's
25 understandable from their perspective why they
wouldn't want to be on the edge of the district.

2 Unfortunately the reality is somebody is always on
3 the edge of a district.

4 CHAIRPERSON LANDER: Council Member
5 Williams.

6 COUNCIL MEMBER WILLIAMS: I'm sorry
7 I took a little offense to something you said,
8 that it's not affecting their financials. I mean
9 it clearly is because if they--it can affect them
10 if they want to build a 14-story or not which I
11 think is something worthy to take into
12 consideration. But that itself does affect their
13 financials if whether or not they can build high
14 up or they can't build high up. My only thing
15 that I think that's a worthy thing to be taking
16 into consideration. My concern is really that
17 particular house, if it's worthy--other than that
18 to be Landmarked.

19 MR. SILBERMAN: Obviously, and you
20 should consider that, what I was responding to was
21 the question by the Councilman that this was
22 destroying the value of the house. And I think
23 that the Landmark designation does not destroy the
24 value of their house. It may in fact--and I don't
25 know this particularly, diminish the value of what

2 they could build on it and that's true. But their
3 house still retains a lot of value and it's-

4 [Off mic]

5 MR. SILBERMAN: --that I was just
6 reacting to that particular word.

7 CHAIRPERSON LANDER: Any other
8 questions for the Commission? If not I'm going to
9 recommend that we have a 5-minute--thank you first
10 of all for coming back--

11 MR. SILBERMAN: [Interposing] Thank
12 you very much.

13 CHAIRPERSON LANDER: --and
14 answering our questions. I'm going to recommend
15 we take a 5-minute recess, just 5 minutes. And
16 then we'll come back to consider this matter.
17 Just recess, no? Don't bang anything oh all
18 right.

19 [Pause]

20 CHAIRPERSON LANDER: All right.
21 The hearing is resumed. We have a couple more
22 questions for the Commission, so if you don't mind
23 coming back up. Thank you for your patience.

24 [Pause]

25 CHAIRPERSON LANDER: In the answer-

3 -in their answers the Bernicks referred to
4 additional development, either in the back of the
5 building or on the side of the building, you know,
6 where they have a driveway that is shared with the
7 adjacent development. And development there may
8 lead them to want to do something, either on the
9 side or back of their building. Especially for
10 the sake of those of us who are new to the process
11 and the Committee and the Council, can you tell us
12 what would fall under the purview of the LPC if
13 they brought it, you know, how visible it has to
14 be, how big, where, what would fall under the
15 purview of the LPC and what would not? And then
16 what are--for what would fall under the purview of
17 the Commission, what are the criteria that would
18 be brought to considering approval to additional
19 development in those places?

20 MR. SILBERMAN: I'd be happy to try
21 to answer that question. The Landmarks Law gives
22 the Commission jurisdiction over the entire
23 building on the lot that it would be on in this
24 case. So all development that affects the
25 exterior of this building except for some very,
very--or what are called by the statute ordinary

3 repair and maintenance requires some sort of
4 review and approval by the Landmarks Commission.

5 We have a large body of rules that
6 deal with things that are restorative in nature,
7 have no effect on exterior architectural features,
8 are not visible. And the staff is allowed to
9 approve those kinds of applications. Typically
10 90% of all applications to the Landmarks
11 Commission are reviewed and approvals are issued
12 by staff pursuant to these rules. For the other
13 10%, they usually involve things that are visible,
14 things that aren't necessarily clearly
15 restorative, expansions, stuff like that. It
16 could be something that's almost restorative, for
17 instance, if a stoop was removed that was
18 historically a straight stoop but the street was
19 widened and now they can only put back an L-shaped
20 stoop, that would have to go to the full
21 Commission because the Commission would have to
22 decide whether an L-shaped stoop was in fact
23 appropriate. So it's not, you know, even though
24 everyone would agree it makes sense to have a
25 stoop back on the building, the Commission would
have to approve that.

3 Those Commission-level approvals
4 are called Certificates of Appropriateness. They
5 occur at public hearings in public meetings. The
6 public is invited to testify. There are
7 presentations by applicants and members of the
8 public and the Commission staff. And so with
9 respect to additions to this building because
10 there is a driveway, there is visibility to the
11 side of the building, so any addition to the side
12 of this building would be visible and would have
13 to be approved by the Commission.

14 To the extent that there was an
15 expansion, maybe a small L in the back of the
16 building that you could not see from the street,
17 there is--the Commission rules would allow the
18 staff to approve a small addition back there if it
19 met certain criteria. For example, it wasn't
20 removing the full width of the rear wall and it
21 wasn't going the full height of the building. And
22 it would also depend on how deep it was going into
23 the lot. So if it was a community facility, full
24 rear lot extension, that would have to go to the
25 full Commission.

But in general what the Commission

3 looks to is how the proposed work, in terms of
4 materials, scale, color, design, relates to the
5 building itself. And that does not mean that
6 additions to historic buildings have to replicate
7 historic additions. They can be modern but they
8 have to relate in some way, in a significant way,
9 and be appropriate to the style, scale, massing
10 and architecture of the building.

11 So for example, we approve modern
12 rear yard additions and we also approve more
13 traditional rear yard additions. It really
14 depends on visibility and what's being proposed by
15 the applicant.

16 CHAIRPERSON LANDER: Thank you.
17 I'm sorry one moment. Other questions elaboration
18 of that question? Anything else? No? All right.
19 Thank you very much.

20 MR. SILBERMAN: Thank you.

21 [Pause]

22 CHAIRPERSON LANDER: All right.
23 We're now going to move to a vote on this matter.
24 As people have seen, we're not--I think that the
25 Committee is satisfied. We've gotten a lot of
information. This has obviously been an issue

3 that--especially for the new members but for the
4 returning members as well, is a complex one. And
5 I think it's been at least an education in the
6 Landmarks rules.

7 We're going to move to a vote now
8 on the application as proposed. And I'll make a
9 few remarks at first. I feel very much for the
10 Bernicks in this situation and I see that this has
11 been a frustrating couple of years in the process.
12 I am nonetheless recommending a vote of yes on the
13 application for a couple of reasons. First I've
14 spoken to the local Council Member and he feels
15 that preserving the character of this place is
16 important to him and to his constituents and he
17 recommends a vote of yes in this situation. And
18 while there is, as we've heard, some argument on
19 both sides about the--how closely the buildings
20 that we're talking about on the side track the
21 remaining limestone buildings, the character of
22 the full place, its esthetic characteristic, the
23 setbacks, the way that it preserves something
24 unique across from Prospect Park in my opinion
25 does merit preservation. I think the
conversations we've had about development

3 potential, about community facility, about values,
4 about a range of other issues, you can sort of see
5 on both sides. It's certainly very easy to hear
6 it from the point of view of the owners and I'm
7 sympathetic to their concern but I think we also
8 heard the testimony, the point of view of others
9 on the block. And so to me if you take a step
10 back and look at the core questions of kind of the
11 character of this place, if we seek to preserve
12 it, then I certainly support that designation and
13 support Council Member Eugene's recommendation and
14 will recommend a vote of yes on the motion. And
15 we will now call the roll.

16 MR. CHRISTIAN HILTON: Christian
17 Hilton, Counsel to the committee. Chair Lander.

18 CHAIRPERSON LANDER: Aye.

19 MR. HILTON: Council Member
20 Sanders.

21 COUNCIL MEMBER SANDERS: Aye.

22 MR. HILTON: Council Member Palma.

23 COUNCIL MEMBER PALMA: Aye.

24 MR. HILTON: Council Member Mendez.

25 COUNCIL MEMBER MENDEZ: Permission
to explain my vote?

1 SUBCOMMITTEE ON LANDMARKS, PUBLIC SITING AND 33
MARITIME USES

2 CHAIRPERSON LANDER: Yes, sure of
3 course.

4 COUNCIL MEMBER MENDEZ: Thank you
5 Chair Lander. I've been a member of this
6 Committee in the previous term and I had a lot of
7 questions today 'cause I wasn't at the last
8 hearing. Certainly a Landmark building and a
9 historic district are somewhat different but there
10 are many things that go into determining what is
11 historic, what is architecturally significant.
12 And upon having all my questions answered and
13 knowing also that the Council Member of the
14 district is in favor and having the LPC come back
15 on the stand and, of course, clarify some of the
16 things I didn't know, I am voting yes on this
17 matter. Thank you.

18 MR. HILTON: Council Member
19 Williams.

20 COUNCIL MEMBER WILLIAMS: May I be
21 explain--thank you [chuckling].

22 CHAIRPERSON LANDER: Yes.

23 COUNCIL MEMBER WILLIAMS: I still
24 have a lot of reservations but I think they are
25 actually larger than this one particular case and

3 I'm looking forward to sitting down to get some of
4 those answered. And as well, I'm going to have to
5 defer to my colleague Council Member Eugene
6 because I, in this short timeframe, can't get
7 everything I wanted answered. I have to assume
8 that because he's been working on this issue for
9 such a long time, he has dug in a little more
10 deeply than I can. So I'm going to vote aye.

11 MR. HILTON: Council Member Koo.

12 COUNCIL MEMBER KOO: I will vote
13 yes but I want to explain to. I want the
14 Commission to help the land owner to make sure
15 that the land owners' value on the house don't
16 diminish. We have to help them how to improve, to
17 retain the value of their house.

18 MR. HILTON: By a vote of 6 in the
19 affirmative, none in the negative, no abstentions,
20 LU 18 is approved and referred to the full Land
21 Use Committee.

22 CHAIRPERSON LANDER: Thank you very
23 much. If there's not other business we'll adjourn
24 the meeting and leave the roll open for 15
25 minutes, 5 minutes? Everyone's here, right? Oh
no, okay, you know what we don't need to leave it

1 SUBCOMMITTEE ON LANDMARKS, PUBLIC SITING AND 35
 MARITIME USES

2 open. We'll just adjourn the hearing. She told
3 me that she had--that she wasn't going to be able
4 to be here so. All right.

5 [Gavel banging]

6 CHAIRPERSON LANDER: We're
7 adjourned.

8 MR. HILTON: Good job.

9 [END TAPE 1002]

C E R T I F I C A T E

I, Laura L. Springate certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

A handwritten signature in cursive script that reads "Laura L. Springate". The signature is written in black ink on a light-colored background.

Signature _____Laura L. Springate_____

Date _____February 12, 2010_____