



16 October 2018

Honorable Sarah Carroll
Chair, New York City Landmarks Preservation Commission
One Centre Street, Ninth Floor North
New York, NY 10007

RE: Proposed Rules Changes

Dear Chair Carroll,

I am writing to express my support for the revisions to the proposed changes to the Rules, and would like to reiterate my support in the context of the need for clear standards that are acceptable to both the public and the owners of designated properties and sites to maintain and advance support for preservation in New York City. Public review is an important element of reviews for applications for work on the variety of designated landmarks, and will continue to be an essential component of preservation activities that do not conform to the standards.

I am offering my comments with unique qualifications, as I have served as a commissioner reviewing applications for Certificates of Appropriateness, as Chair of the Commission with responsibility for oversight of all applications for permits – whether for archeology, environmental or staff and commissioner permits, and lastly as an applicant for virtually all of the permit types described in the current and proposed Rules.

ROLE OF THE RULES

The basis for the Rules is built into the New York City Charter; each agency established by the Charter must have Rules to govern its operations. The Department of Buildings, for example, adopts a building code, and issues bulletins to clarify matters, and maintains reference standards to guide work on all buildings in New York City; the City Planning Commission and Department of City Planning have adopted the Zoning Resolution. The comparable guidelines for the Landmarks Preservation Commission are the Rules in Title 63 of the Administrative Code of New York City, most recently updated in 2013. The Rules address many operational tasks of the Commission, and include the types of work that can be reviewed by the staff and granted Permits for Minor Work and Certificates of No Effect to be issued. These permits exist because there are mutually agreed upon standards for preservation and/or replacement that have been established and updated periodically.

These standards and resultant permits are based on multiple preservation guidance sources, including the Secretary of the Interior Standards, ICOMOS protocols, and our own unique New York City determinations. The standards are also based upon community and owner requests for specific direction in the district Master Plans. Such standards are important for informing owners to understand the Commission's expectations, and to provide community boards and public with the basis for staff level reviews.

The reorganization of the Rules to better guide applicants and owners to the guidance for work regulations is overdue. The current organization is unwieldy and confusing, and has led to a variety of interpretations over the years. The proposed outline and order of work descriptions is a huge improvement, and answers many questions that

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are raised by all parties to application reviews. The overarching goal of maintaining our historic properties remains the same.

The Rules also serve to inform and guide the public in their reviews of decisions taken by the Commission as a standard for approvals. The Rules however are not mandatory guidelines for work that is not covered by these standards; the Commission must remain the final arbiter, and public input via these hearings must inform their decisions.

STANDARDS FOR STAFF REVIEWS

Staff Approvals:

The role of the staff in evaluating applications for work on designated properties is obviously essential, as they are working with applicants for all types of permits. The Commission's Preservation Department, led by a Director, First Deputy Director, and 3-4 Deputy Directors is the first stop in a review process that includes multiple evaluations. Applications are first assigned to a staff reviewer, who initially looks through the application materials and responds with a checklist and comments on the application to inform the applicant of any missing materials, necessary additional information, and/or advice on the need for a public hearing. The staff also will arrange a meeting if the application is complicated or unclear, and may include a Deputy Director in such a meeting. The preservation staff also reviews applications as a group to gain a broader consensus on the application, especially if there are multiple aspects to the work. It is essential to the adoption of the proposed Rules that there be sufficient staff to provide reviews, and to assure that their qualifications in the fields of architecture and preservation be maintained.

The changes in standards that are offered in the proposed Rules clarify the Commission's positions regarding common application types. Allowing for staff reviews of some of these types of applications will be helpful, as described below.

Mechanical Equipment:

The changes that will define equipment separately from rooftop additions, and additional clarifications are welcome, and create a more user-friendly evaluation tool. Some additional consideration should be included for situations where mandatory screening is required at rooftops.

Window Definitions:

The change in definition for arch-headed windows, oriels and bays is a welcome change as the window infill for many of these types of openings is not special, but the construction detail for these features can be important to the character of a building, especially on small row and townhouse structures. This modification will preserve the features while allowing for window infill that can better restore the historic appearance.

Rooftop Additions:

The establishment of clear criteria for the measurement and definition of "minimum visibility" is welcome; as the Commission has established more restrictive standards for rooftop additions over the past twenty years, the fuzziness of this standard has continued debate regarding this element.

The new definitions and accompanying methods of measurement establish clear limits to additions, and allow for those additions that prolong useful life of buildings while responding to life safety needs of current construction.

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Rear Yard Additions:

These additions have enjoyed staff level approvals for many years, as they are out of public view. The constraints on their design are well established, but little understood. This is one area of work that frequently has the greatest impact on those nearest to the work site, and should be reviewed with an opportunity for feedback. The Rules need to be very clear and understood by all so that surprises do not occur, and additional outreach in the historic districts should be undertaken along with any changes to the regulations. It is also important to clarify to owners and their representatives that the Commission regulates the rear.

Contemporary Codes and Regulations:

An additional issue related to all of these subject areas is the need for historic buildings to conform to modern codes and standards of construction. A historic building may also have inadequate access/egress, leaky walls and windows, and eroding roof and wall systems. Buildings undergoing conversion to residential use are frequently required to represent “special risks” as their construction standards do not measure up to best practices in use today. Allowing for stair and mechanical bulkheads, substitute materials, and contemporary window types that can replicate historic appearances as indicated in the revised text will allow us to maintain historic appearance even when the original materials have deteriorated and/or failed. These modern materials and methods no longer represent cheaper or more expedient solutions to modern regulations, but address these challenges in conformance to historic appearance.

Substitute Materials:

I understand the desire to maintain original and/or historic building elements, and support that direction when building elements are sound or repairable. However, the fragility of some structures that have suffered alterations over years of use, and the need to repair for the next 150-200 years may require the consideration of newer materials. Our office has seen too many instances of chopped out joists and beams, deteriorated mortar and bricks, and heavy cornices that cause deterioration in parapet walls to simply say replace in kind. We are also very aware of historic construction details that led to water infiltration or more damage than may be visible in first inspections. I urge the Commission to lead investigations into suitable substitute materials that can be appropriate. This conversation has begun among the preservation community at the AIA, and should be guided by regulatory discussions for best outcomes.

SUMMARY

The need to update the Rules is clear: they should be clear, concise and understandable by all to establish the basis for work on historic buildings. The current Rules are difficult to use, and create confusion in interpreting what should be allowed.

At the same time, it is essential that the changed Rules do not create a “cookie-cutter” approach to preservation practice, and maintain the variety of historic buildings and districts in New York City today. The approach taken in the revised Rules proposal allows for flexibility in a variety of districts and locations, while establishing clearer standards for work applications in every borough.

The Rules are not whimsical directives that aim to limit the public’s view of work on historic buildings, but should be well considered standards that guide such work. The goal of preservation is to maintain buildings, sites and districts of architectural, historic or cultural significance, and the best practices for continuing such presence. Those

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best practices evolve as technology changes, as environmental sustainability advances, and as tastes change. The proposed rule changes are welcome and clear, and should be supported by the public and adopted by the Commission.

Sincerely,
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