



FROM: JUNE & JULY 2008 (A 2-part feature)

# A very serious challenge to historic preservation

**A**N ELDERLY IRVINGTON woman who illegally installed new windows in her historic home has sparked a significant challenge to the way the Indiana-polis Historic Preservation Commission does business.

It is a challenge which should concern everyone who lives in any of the city's 16 protected neighborhoods, to everyone who believes the historic preservation effort is worth the trouble. It is a challenge which could – which will – inject politics into a process in which politics has no place.

Benjamin Hunter, a first-term member of the City-County Council, is championing the Irvington woman's cause because the IHPC ruled that she must remove the 18 vinyl windows installed without the required Certificate of Appropriateness. Her recourse, as outlined in the Indiana statute which established the historic preservation commission, is to seek a remedy in court. That is, see if a judge will decide that IHPC's final ruling was outside its bounds.

Hunter said he is not against historic preservation or the IHPC – but thinks that citizens should have some recourse other than legal action. "My goal is accountability, not to politicize it" he said at a recent meeting of the council's Metropolitan Development Committee, of which he is a member. He said that IHPC's nine members, all appointed by the mayor, have a lot of power, which no one else within city government, elected or otherwise, can control.



**BABBLIN' BROOKS**

*Musings from the editor about life downtown (or just about anything else he wants to write about.)*

**By Bill Brooks**

The hearing featured testimony from IHPC Administrator David Baker and President James Kienle. Hunter asked their thoughts on creating an appeals system akin to that available to people who lose rezoning bids – review by the City-County Council.

Baker didn't the idea outright – but was open about his concerns that the system become politicized. His said state legislators purposefully created a historic preservation commission which is isolated from the political process as much as possible.

He also noted that the vast majority of IHPC's decisions involved design, form, mass and materials of renovation and new construction projects. "I am concerned about the effect of making these decisions about design and materials subject to political – political with a small 'p' – decisions," he said.

Hunter countered that the system was already political, in that the commissioners are appointed by the mayor. "I'm talking about good government, about some type of attainable appeals process, whether vetted to the Council or other body, who will weigh both sides." To that end, Hunter has already approached state legislators to amend the statute.

There are inherent problems with Hunter's idea. Giving citizens the right to appeal any IHPC decision to the City-County Council is the worst of all possible plans. Every petition would potentially become a political one, subject to the whim of councilors untrained in

historic preservation concepts. More importantly, historic preservation issues would be subject to decisions made along party lines. Hunter is a Republican on a Republican-controlled Council; his endorsement of the Irvington woman's case would likely spark a vote of solidarity. In the City-County Building, few votes do not.

Another problem: Does the City-County Council really want its docket to be dotted with appeals about windows and doors and inappropriate siding? Hunter should be careful what he wishes for.

But Hunter said maybe another body could be created to give citizens an appeal. Who would appoint those people? Would they be well-versed in IHPC's rules and the guidelines of each individual historic preservation district? And, would

petitioners who know there is a “higher court” stop working with IHPC to find reasonable solutions? Or with the neighborhood associations which they now also seek to appease?

Anyone who has watched IHPC over the years knows the system is not perfect, and that decisions sometimes fall victim to personality disputes. Anyone who has watched knows that petitioners sometimes seek continuances because they know that Commissioner A won’t be at the next hearing – or that he will.

Still, the process works – as pointed out by City-Councilor Jackie Nytes. Also a member of the Metropolitan Development Committee, Nytes has long-standing experience with the historic preservation districts. She pointed out that each neighborhood came under IHPC jurisdiction voluntarily, with a strong majority of neighbors in favor of the notion. She cited the uniqueness of a system in which people agree – for the common good – to place themselves under such oversight, and to largely pay for it themselves through fees. “It’s a pretty amazing process our citizens have gone through to protect the treasures we have here in town.”

That system, sadly, is now under attack because of a very, very dubious case. It must be noted that the Irvington woman was clearly aware of the historic protections, because she had already secured a Certificate of Appropriateness to install a new slate roof. IHPC staff also noted that, had the woman sought advice beforehand, alternative options were available.

She did not, and in fact she subsequently rejected a compromise proposed by IHPC involving only the front-facing windows. When subsequent hearings failed to resolve any of the issues, the commissioners took the only stand they could. Had they not, every property owner would be inspired to the same tactic: Ignore IHPC rulings, do what you want, then stare down the historic preservationists.

The current nine-member commission is led by Kienle, a Lockerbie Square resident and architect who specializes in historic renovation. It contains two other architects – William Browne and Diana Brenner – as well as a history professor, a building contractor and a real estate developer. Seven of the nine members reside in historic preservation districts.

I want these folks, or people like them, to continue making the historic preservation decisions. I want IHPC staff to follow the written guidelines, to continue to be flexible (as they are) when need arises, and I want any appeals to be directed to a judge – someone who will analyze the case, follow the rule of law, and not be subject to partisan politics.

If you agree, let your city-county councilor know about it. Let your Statehouse representative know, as well, that IHPC is not broken. We do not need to fix it. ■

## Part 2: Appreciating historic preservation

**T**HE PEOPLE OF IRVINGTON HAVE SOMETHING in common with many relative newcomers to Downtown’s historic neighborhoods. They don’t understand the true benefits of historic preservation, because they don’t remember the days when neighborhoods such as Lockerbie Square and the Old Northside were dominated by dilapidated buildings occupied more by rats than people.



### BABBLIN’ BROOKS

*Musings from the editor  
about life downtown  
(or just about anything else  
he wants to write about.)*

**By Bill Brooks**

The subject came up in May, during a meeting of the City-County Council’s Metropolitan Development Committee. The agenda was set by City-County Councilor Benjamin Hunter, who was going to bat for an Irvington woman who had bypassed the Indianapolis Historic Preservation Commission when she replaced historic windows in her Irvington home.

Hunter’s proposal that IHPC rulings be subject to review, perhaps by the City-County Council itself, was the fodder for this space in last month’s issue of Urban Times. (That column can be found at [www.brookspublications.com](http://www.brookspublications.com).) But what we’re here to talk about this month is another idea which bubbled up during the discussion, as presented by City-County Councilor Jackie Nytes.

Nytes, who serves with Hunter on the Metropolitan Development Committee, talked about the pains Irvington residents are now going through as they fully realize the impact of becoming an historic preservation district. That action was finalized less than two years ago, in October 2006, after significant public support for the idea. But the theory often collides with reality, when people realize that they need approval to paint their house or replace their windows or build a side porch. Such approvals are often painless, requiring little more than a telephone call; other approvals come with more difficulty.

Nytes is well familiar with historic preservation, since over half of her council district lies within IHPC jurisdiction. She herself owns property within IHPC boundaries. She has also been around awhile. Referring to the longest-standing IHPC neighborhoods, Nytes noted that, in their formative years, they

## **HISTORIC PRESERVATION / page 3**

were all populated by what I think of as “urban pioneers.” She called them “folks with historic interests, when worry about preservation which was extremely intense.”

She said those folks were patient with the IHPC system because they lived in truly blighted neighborhoods, and because they could see what historic preservation could do for their revitalization interests. “We came from a place so bad, so at risk of loss – a loss of things that were really part of our heritage – that we were willing to subject ourselves to a fairly high level of scrutiny by a group of people we perceived as being knowledgeable on the subject.”

That “group of people” would be, of course, the Indianapolis Historic Preservation Commission, staffed by historic preservation professionals, and governed by a mayor-appointed panel featuring historians, architects and design professionals (that reference in rebuttal to Hunter’s idea that an appeals process be established involving elected officials).

Nytes, again talking about the origins of the historic preservation movement: “Things were so awful everyone was willing to go through the rigor of this review and be told what you could do with your windows – when you could see how much difference it made. It’s harder when you’re in a neighborhood that’s not as bad, where things haven’t fallen as far. It’s harder to understand what it is we’re fighting to protect and to celebrate.”

The Irvington debate sparked her comments – but they apply equally as well to folks who today buy into sparkling neighborhoods such as Lockerbie, Chatham Arch, the Old Northside, and others where years of IHPC oversight have resulted in significant revitalization. These newcomers see house after handsome house, uncluttered yards, nice sidewalks – and don’t have a clue about the battles fought by those urban pioneers. They can’t appreciate the stability brought to these once-blighted neighborhoods by the concept of historic preservation, or the fact that stabilization made the difference to bankers who would never have previously granted any renovation loans in the “inner city.”

Most importantly, however, they now take for granted that a sparkling neighborhood today will sparkle forever. The Victorians thought that when they strolled these streets in the late 1800s. And then they all moved north, leaving relics in their dust. And, soon, the rats took over. ■