

**HISTORIC DISTRICT COMMISSION**  
PUBLIC MEETING  
Judge Welsh Room, Town Hall  
Provincetown MA

**WEDNESDAY, OCTOBER 4, 2017**

Members Present: Thomas Biggert (TB), Chairman; Lisa Pacheco Robb (LPR); Hersh Schwartz (HS); Marcene Marcoux (MM); Martin Risteen (MR)

Absent: Laurie Delmolino (LD)

Others Present: Annie Howard (AH), Building Commissioner

The meeting was called to order by TB at approximately 3:30pm.

**1. Work Session: VOTES MAY BE TAKEN**

**a) Update on potential violations reported to the Building Commissioner.**

AH said she was still dealing with the fence at 20 Winthrop St. and that the asbestos siding at the main structure at 32 Bradford St. is getting on schedule to be removed, which, AH noted, is a good time of year to get the job done. AH said that the fence at #307, at the corner of Allerton and Bradford, is under a large permitting application process. TB reported that he's seen a 4' replacement fence in place there, but felt it still sits quite high. AH said Tom Thompson has plans for review on the fence and would re-connect him on the matter.

**b) Consideration of an awning at 34 Commercial Street.**

HDC reviewed materials. TB noted the awning extends more than 54"; AH said it extends to more than 8'. TB said he had no problem with it as it's retractable. LPR asked if awnings are excluded from review; MM said it has a level of ambiguity. AH said it's larger than typical awnings and visible from Point St. and is a permanent attachment.

TB made a motion to accept as presented; LPR seconded the motion and it passed 4-0-1; TB, LPR, HS, MR, in favor; MM, abstained.

**c) Determination as to whether the applications below involve any Exterior Architectural Features within the jurisdiction of the Commission; with Full Reviews to be placed on the October 18<sup>th</sup> Public Hearing agenda and Administrative Reviews to be acted on by a subcommittee appointed by the Commission.**

TB made a motion to accept as Full Review for a later agenda the following:

v., 7 Freeman St.; ix., 105 Commercial St., #2; x., 51 Commercial St., shack; xi., 53 Commercial St., Rear; xii., 53 Commercial St., Front; xiii., 7 Commercial St., #3; xiv., 4 Baker St.; xv., 403 Commercial St.

MM seconded the motion, and it passed, 5-0-0.

TB made a motion to treat as Administrative Review for consideration today:

i., 123 Bradford St.; ii., 623 Commercial St.; iii., 7 Commercial St., #17; iv., 138 Commercial.; vi., 4 Central St.; vii., 283 Commercial St.; viii., 221 Commercial St.; xvi., 402 Commercial St.; xvii., 444 Commercial St.  
MM seconded the motion, and it passed, 5-0-0.

- i. 123 Bradford St. – To re-roof and re-shingle.  
MM noted applicant was going to wood trim from composite.  
TB made a motion to accept as presented; LPR seconded the motion, and it passed, 5-0-0.
- ii. 623 Commercial St. – To re-roof.  
TB made a motion to accept as presented; MM seconded the motion, and it passed, 5-0-0.
- iii. 7 Commercial St., #17 – To replace 3 windows in kind.  
MM noted they were replacing trim in kind.  
TB made a motion to accept as presented; LPR seconded the motion and it passed, 5-0-0.
- iv. 138 Commercial Street – To replace first and second floor windows, in kind.  
MM noted they are using wood trim, asked if opening size would have to change.  
A.J. Santos presented, said replacements would be casement in kind, brought in a diagram for another option that owner preferred; would also be in-kind – same width, wood trim, looked more like a double-hung. LPR remarked the second option was nicer. All agreed they were fine with either version.  
TB made a motion to accept as presented; LPR seconded the motion, and it passed, 5-0-0.
- vi. 4 Central St. – To replace 5 windows in kind and re-shingle.  
MM noted wood trim on application.  
TB made a motion to accept as presented; MM seconded the motion, and it passed, 5-0-0.
- vii. 283 Commercial St. – To re-shingle.  
MM noted applicant was putting in red cedar.  
TB made a motion to accept as presented; MM and LPR seconded the motion, and it passed 5-0-0.
- viii. 221 Commercial St. – To replace two windows and shutters and modify an ATM vestibule.  
TB said he felt this qualified for Full Review. MM countered that the bank was merely simplifying by removing the glass sides; suggested that it was not HDC's purview to object for aesthetic or consumer reasons.  
TB made a motion to accept as presented; LPR seconded the motion, and it passed, 5-0-0.

xvi. 402 Commercial St. – To re-side.

MM noted use of wood trim.

TB made a motion to accept as presented; MM seconded the motion, and it passed, 5-0-0.

xvii. 444 Commercial St. – To replace a slider in kind.

MM expressed her concern that this replacement would be in-kind.

TB made a motion to accept as presented; MM seconded the motion, and it passed, 5-0-0.

**c) Review and approval of Minutes:**

No minutes were reviewed and/or approved.

**2. Public Comment:** On any matter not on the agenda below.

TB opened up Public Comment at approximately 3:50pm.

No public comments or letters.

MM spoke of the level of professionalism within the current board, congratulated TB on doing a great job as Chairman and thanked the Alternates for the level of work they had taken on and for a job well-done. MM pointed out that only Nantucket carries on more Historic District cases than does Provincetown, which, as #2 in the state, made about 285 cases last year, not even counting all the hundreds of administrative reviews. TB thanked MM, as well, for her service.

A short break was taken, awaiting start of Public Hearings at 4:00pm.

MR spoke of information he had on awnings that he would send to AH, regarding sun blockage, public safety, and that additions present no damage to the historical integrity of the property; questioned if more discussion might be necessary for consideration of 34 Commercial St. HDC decided to continue discussion at the end of the meeting.

**3. Public Hearings: VOTES MAY BE TAKEN**

**a) HDC 18-026 (continued from the meeting of September 27<sup>th</sup>)**

Application by **Paul Fiore & David Foley Builders, Inc.** requesting to renovate additions on a cottage, including replacing a skylight and windows on the south elevation and replacing siding, trim, roofing shingles and an entry door, located at **22 Bangs Street.**

MM recused herself and left the room during deliberations as she is an abutter. LPR also recused herself as she was not present at the initial meeting with the applicant and had reviewed the file, but not previous deliberations.

Applicant presented, focused on changes: doubles door to a single door, removed Bay window and siding, leaving white cedar with dormer; double-hung windows; only metal roof will now be in breeze-way.

TB made a motion to accept as presented; HS seconded the motion, and it passed, 3-0-0. TB, HS, MR.

**b) HDC 18-021**

Application by **A.J. Santos**, on behalf of **479 Commercial Street Property Trust, Jonathan Murray Trust**, requesting to add a 3' extension to a fence on the property located at **479 Commercial St.**

TB recused himself as an abutter after reporting that he had first brought the issue to Building Commissioner Howard after receiving feedback from friends and abutters, and was not trying to create difficulty for any neighbors.

A.J. Santos (AJS) and lawyer, Lester J. Murphy (LJM) presented. LJM acknowledged on behalf of his client that the work had been done without HDC approval and clients wish to now publicly apologize and recognize the need to comply as residents in an Historic District.

LSM said that the 3' fence was put in to offer his client privacy based on neighbor's addition of a beach-side landing with stairs and also to prevent the public from abusing the right-of-way to enter the applicant's property; fence extension will match existing fence completely. Also, AJS will remove retaining board that extends to neighbor's property.

AJS asked if not this extension, what would HDC recommend to keep the public from gaining access to applicant's property.

Ann McGuire spoke as an original abutter, since sold, but has maintained management of property identified as Chandler House; said there has never been an issue of complaints due to public trespassing. Ann McGuire passed out an e-mail from gallery building owners at 481 Commercial St. against both initial fence put in illegally and the addition.

LJM said fence indicated in e-mail is not the same fence in question; Ann McGuire countered that the argument was against the gallery owners' view being blocked by the addition regardless and reiterated that there have never been reports by police of vandals or other complaints.

Janet Whelan, resident at 5 Cook St., spoke on behalf of the Inn at Cook St. Janet Whelan said she was appalled at fence addition as an act of hostility and unfriendliness.

AH introduced a letter from the owner at 481 Commercial St.

HS read a letter from the owner at 474 Commercial St., Deborah Sanders, in defense of the fence and in favor of the removal of the offensive panel.

LPR read a letter from Susan Brown with a dated photo of the installed fence to alert HDC of these actions.

MM read a letter from Margo Hammer at 470 Commercial St. in opposition to the fence extension as it was built without benefit of a permit and is an affront to the neighborhood, creating an exclusionary atmosphere; that footings are located in the right-of-way owned by friend, Mary Moore, without her permission.

MM announced the closing of public comments, asked for feed-back from HDC.

LPR asked if fencing was a zoning issue as well as an historic matter. AH said she could not answer definitively; that HDC's ruling would affect any additional determinations.

MR asked if a cut-down was possible in regards to current fence.

LJM remarked that there have been incidents of trespass according to the owners but could not verify if they had been documented by police.

MM asked if perhaps the addition could be sloped downward as MR mentioned, or reduced in height by half.

LPR said she felt the fence is counter-spirit to the current bylaw and that if HDC allows this to go forward what is to prevent future owners from erecting fencing based on a dislike of their neighbors.

LJM pointed out that both the clients and the neighbor's fences jut out from the deck an extra foot and a half. HS and MM both spoke of the need to reduce the height to one and a half, sloping down and cornered at 45. MM added that HDC would need to see this design presented.

Before HDC went to make a motion, AJS asked if there was no other option, questioning the ownership of that right-of-way and who should be paying rent there.

MM made a motion to accept, providing that the present 3' fence is reduced by a foot and a half or more depending on how far it extends beyond the deck-line and the remaining foot and a half be angled at 45 degrees. HS seconded the motion, and it passed, 4-0-0.

MM asked AH for the distance whereby abutters must recuse themselves from sitting on cases as board members, citing herself as an abutter to the previous case of 446 Commercial St. AH replied that the footage is 75' for the HDC; 300' for Planning and Zoning boards.

**c) HDC 18-037**

Application by **Wesley Price, of C.H. Newton Builders, Inc.**, on behalf of **Neil Jacobs & Eric Ganz**, requesting to replace an existing fence on the east elevation and construct a new i.p.e. deck on the west elevation of the property located at **6 Cottage Street**.

No one presented.

LPR noted three different heights in three different packets.

No public comments or letters.

TB mentioned that a good deal of the request in the packet is not in HDC's purview, with the exception of the fence, but the water feature was inconclusive. HDC was not able to determine the fence heights in question.

Noting the absence of any time-constraints, TB made a motion to move discussion of the request to the meeting of October 18<sup>th</sup>. MM seconded the motion, and it passed, 5-0-0.

**d) HDC 18-038**

Application by **Mary Gallach** requesting to raise a roof deck 9" above a previously-approved plan on a structure located at **25 Tremont Street, #A1**.

Applicant presented aspects of request that she said all complied to code.

No public comments.

TB read a letter from neighbors Peter Reinboldt and Sean Murphy at 17 West Vine St. who said that while they were not personally negatively impacted by the willow's roof deck, they were concerned with setting a precedent for new elevations in Historic Districts in the future as they find the decks unsightly to public view.

MM read a letter from Kent Filantro of 103 West Vine St. who spoke against the proposed roof deck elevation as it would obstruct his Harbor view and Lighthouse from his condo and drop his property value.

MM made it clear that all changes would have to be wood. Applicant said new elevation would not rise above the roof-line.

TB said he was hoping to see a photograph. LPR asked for clarity on property location of 103 West Vine as it seems that this neighbor does not stand in close proximity to applicant. Applicant argued that the deck is not visible anywhere above the roof-line and expressed confusion over complainant's claims.

TB made a motion to accept as presented; LPR seconded the motion and it passed, 4-0-1; TB, LPR, HS, MM, in favor; MR, abstained.

e) **HDC 18-039**

Application by **Michael Czyoski** requesting to replace an existing slider with 2 double-hung windows on the structure located at **104A Bradford Street, #4**.

No one presented. AH clarified that 104 Bradford St. is Gabriel's Guest House.

TB suggested a postponement due to incomplete packaging; picture of slider replacement is unclear and there are no elevations. LPR agreed that HDC needed an elevation.

TB made a motion to hear the request at the Oct. 18<sup>th</sup> meeting with more information. LPR seconded the motion, and it passed, 5-0-0. AH said Nov. 4<sup>th</sup> was the date of the time-constraint.

f) **HDC 18-041**

Application by **Hal Winard**, on behalf of **Zygmunt Plater**, requesting to replace an existing door with 3 windows on the north elevation and replace a window with a French door on the west elevation on the structure located at **197 Bradford Street**.

Hal Winard (HW) presented, pointing out the current plans were approved April of 2016 and his intent today was to get those same plans re-approved; however he has come to learn that the French door proposed will not fit and so came in with a re-design for that feature, which HDC all agreed was a nice change.

TB made a motion to accept with current modification; MM seconded the motion, and it passed, 5-0-0.

g) **HDC 18-042**

Application by **Scott William Grady**, on behalf of **Paula Gately**, requesting to replace a bay window with French doors on the structure at **156 Bradford Street, #6**.

Presenter said the request was pretty straightforward, presented mounted diagrams.

No public comments or letters.

LPR said she felt the replacement was an improvement, as did MM and MR, who said he was very comfortable.

TB said he felt out-voted as he found the addition totally inappropriate; that putting French doors on an historic façade was a mistake. Presenter

claimed the property was not historic and that the French door will work within an inner courtyard.

MM made a motion to accept as presented; LPR seconded the motion, and it passed, 4-1-0; MM, LPR, HS, MR, in favor; TB, opposed.

**h) HDC 18-043**

Application by **Cotuit Bay Design, LLC**, on behalf of **Kip Financial, LLC**, requesting to remove decks, stairs and a one-story section of an existing structure and to construct new decks, dormers and a detached 1½ story cottage on the property located at **446 Commercial Street**.

MM recused herself, as she is an abutter.

Rep from Kip Financial, Steven Cook (SC), project designer at Cotuit Bay, and Kevin Bazarian, builder presented. Rep addressed bylaw which, he said, would allow him to keep the house as is; requested to re-place one-over-one windows with six-over-six; pointed out that the house is deeply recessed from visibility on Commercial St.

Jane Larson read from a letter signed by multiple owners of 442 Commercial St. Condominium Association, voicing concerns over the project's negative impact to their properties; owners stated they were never approached by the applicants of redesign; cited concerns of disruption to residents along Santos Court and the impact of a structure that will transform from a single-family to a four-family property; requested a revised plan for a shielded parking feature by prohibiting the trimming or removal of the hedgerow on Santos Court that currently acts as a property barrier.

Of the design plans, Jane Larson said there was a discrepancy and confusion in that the floor-plan indicated the proposed free-standing townhouse is 26x20, while the site plan reads as 16x20; that any structure in an historic district is restricted to 1½ floors, while this plan seems to indicate 2 floors.

TB read a letter from the Richard Keys, owner at 442 Commercial St. Condominium Association in support of letter opposing the project.

Dave Drabkin, owner at 442 Commercial St. spoke of his chief concern that is the newly created parking and inherent traffic flow; also that he believes there will be made two additional parking spaces for non-residents.

Public comments closed.

Rep said he reached out to Jane, as spokesperson of 442 Commercial; that the former property was a former guest house now in disarray, not a single-family home; confirmed that design was made smaller to comply with the planning director and staff and is now 16'x20'; same elevation. TB said if drawings in hand are incorrect, they need to be re-submitted with corrections for the cottage.

LPR agreed, adding HDC needs to see the ridge-height, as well; recommended a site visit. LPR addressed the public speakers to suggest that many of their complaints qualify as zoning issues, not historic concerns.

MR said he concurred, needed new plans.

Feedback on the main house: LPR has no main complaints with this structure, with the possible exception of sliding doors on the 2<sup>nd</sup> floor; builder said they could adjust for full-grills. TB felt there was too much negative space and said HDC would double-check the views for visibility.

Feedback on the cottage: MR said he felt it should subordinate itself to the main house. SC said height would probably be in the 21'-22' range to the ridge-line.

AH stated that, per parking, each of the two one-bedroom condo units will have one parking space and the other unit will get two spaces; any other parking spaces newly created would qualify as a parking lot by zoning and cannot be sold as condo parking.

TB made a motion to continue the decision to the Oct. 18<sup>th</sup> meeting, following a site visit and new designs. HS seconded the motion, and it passed, 4-0-0.

LPR asked AH for the defining feature that differentiates between a full-story and a half-story. AH replied it was the knee-wall; that 5 is a full story, anything 3 and below is a half-size; in between is the grey area.

**b) Consideration of an awning at 34 Commercial Street.** *(continued from earlier discussion)*

TB made a motion to revisit decision of consideration of the awning at 34 Commercial St.; MM seconded and motion, and it passed, 5-0-0.

MR read from the awning bylaw. Regulations specify building materials and size projections; public safety concerns. AH read additional copy on awning provisions as non-exclusionary.

TB made a motion to let previous decision stand; MM seconded the decision, and it passed, 5-0-0.

SC approached HDC to request copies of letters read at last hearing for the Planning Board. AH complied.

**4. Deliberations on Pending Decisions: VOTES MAY BE TAKEN**

Decisions by MR, read by MM:

**s) HDC 18-028: 18 West Vine St.**

Additional windows on 2<sup>nd</sup> floor; decision from Sept. 27, 2017.

No vote taken.

**r) HDC 18-027: 20 Court St.**

Request to relocate existing window; decision from Sept. 27, 2017

No vote taken.

**5. Any other business that shall properly come before the Commission**

**a) AH brought up LD's wrongful participation in decision of **HDC 18-028, 18 West Vine St.** which has rendered the decision two, in favor; two, opposed, and so it has not passed.**

HDC discussed the situation and determined that it was not the applicant's fault, as LD sat on the decision when she should not have, but that the negation of the decision must now stand. MR suggested a letter to be written to applicant apprising the applicant of the situation.

- b)** MM said she would work with AH's notes to provide HDC with updated meeting minutes from the back-log.
- c)** AH said she had received MR's demolition letter concerning 25 Cottage St, and would address it shortly.

TB made a motion to adjourn the meeting at approximately 6:02pm; MM seconded the motion and it passed, 5-0-0.

Respectfully Submitted,  
Jody O'Neil  
Dec. 9, 2017