

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

WEDNESDAY, DECEMBER 20, 2017

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

Others Present: Annie Howard (AH), Building Commissioner; Jody O'Neil (JON), Recording Secretary.

The meeting was called to order by TB at 3:36pm.

1. WORK SESSION: VOTES MAY BE TAKEN

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

- i. AH informed HDC that at the meeting of Oct. 20th, in which she was absent, the applicant at 20 Winthrop St. included photos of a fence in its building application which related to a previous violation but that was never addressed at the meeting. AH said she has since spoken with the applicant who is now informed he needs to return to HDC for further discussion.
- ii. Commercial St. was closed today from 12:30pm to 4:30pm for the installation of a marquee at Water's Edge cinema in Whaler's Wharf.
- iii. Ongoing work at Crowne and Anchor has involved the removal of a 6x6 wood retaining wall which will be replaced with block covered by veneer and will not be over 4'. AH commented that the railroad tires were tired and the replacement will be more substantial so that going forward people can be more aware of the work at hand. TB asked if the owners would be in front of HDC for review; AH said not yet as they haven't made the choice of veneer and they are focusing on setting up the bar where the doggie dining room used to be, but eventually they would present.
- iv. AH met with the owner & the contractor of the Aquarium; as reported it is to be a 5-year project wherein they've paid particular attention to the current tenants and don't want to lose any tenants due to renovation closure; they've worked with designers and engineers on a phased project that would work around the summer businesses.
The first phase will concern the roof as it is most egregious, starting with the parapet on the water side. The interior is to be divided into sections, left and right. AH said they've given up the ghost on a tear-

down, are paying more attention to doing it safely and as the site concerns about 100 employees and trickle down businesses.

TB asked if the plans would be coming to HDC piece-meal. AH responded that they are pretty close on the exterior elevations and that the original look of the building will be preserved, plus two parapets.

- v. MM inquired of the Center Street fence and the proposed changes. AH said it was to be on today's agenda and they are aware of it; that he was planning to reach out to Wayne at Landmark Fence to see what could be done without losing the entirety of the installed fence. AH said she would reach out if he doesn't arrive by meeting's end.

Before introducing item 1, b, Determinations, TB introduced the HDC board.

b) 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 January 3, 2018 Public Hearing agenda and Administrative Reviews to be acted on by a subcommittee appointed by the Commission.

- i. 349 Commercial St. UA – (continued from the meeting of Dec. 7th) – To re-shingle front of structure.
Peter Grasso presented. TB mentioned the request concerns the wood feature to be replaced with shingle.
LPR and MR said they are fine with the changes; MM said she liked it the old way; HS said she was on the fence.
TB noted that the wood is over 50 years old, is of the tongue-in-groove variety and that the wood differentiates the structure as a retail store; that shingles were traditionally more residential. MM said she doesn't think the shingles are inappropriate, but the wood is historic and might be important to preserve; asked if HDC was in agreement that the shingle option would involve a Full Review.
TB made a motion to accept as Full Review for the Jan. 3rd mtg; MM seconded the motion, and it passed, 5-0-0. TB, MM, LPR, MR, HS.
- ii. 96 Bradford St., U13. – To replace a door in kind.
Hal Winard (HW) presented; stated the replacement was in kind except for the fiberglass feature.
HW confirmed, per TB's comment, that it was a commercial space regarding the egress at the AIDS Support Group building, and that, per MM's question, the request was to go from steel to fiberglass.
TB made a motion to accept as Administrative Review; MM seconded the motion, and it passed, 5-0-0. TB, MM, LPR, MR, HS.
TB made a motion to accept as presented; MM seconded the motion, and it passed, 5-0-0. TB, MM, LPR, TB, HS.
- iii. 352 Commercial St. – To replace 6 windows in kind.
Pavel Fiodarau (PF) presented; request is for 4 double-hung windows; 2 on Commercial St. side, 2 on Center, and 2 double-hung structures,

with a big, middle plate, that are rotting and leaking; will keep some openings and grill patterns.

MM asked if the windows were currently wood. PV said they were and replacement will be the 400 series, vinyl-clad. MM said she would have a problem if it wasn't wood for wood, considering its visibility and commercial aspect.

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

Motion to approve as presented was interrupted by a debate on vinyl-cladding. LPR said the material was the one HDC frequently approved. MM countered that on certain historic and commercial significant buildings there are exceptions. LPR said the historic window aspect relates to the glazing, sashes; that these are fairly new windows.

TB read from the application that exterior color white is to be painted to match. PF said double-hungs will be painted blue to match the front end of the gallery, others white.

TB made a motion to accept as presented; LPR seconded the motion, and it passed 4-1-0. TB, LPR, MR, HS in favor; MM, opposed. PF said he was planning to return for a Full Review.

- viii. 352 Commercial St. – To replace windows and enlarge a deck and replace handrails. This request concerned the bottom windows on the Commercial St. side. HDC then opted to have applicant return for Full Review on Jan. 3rd.

AH asked if Ellen Battaglini, Community Development – Building, had already signed off on this as a Full Review, to confirm applicant had already started the process before moving the decision to the Jan. 3rd meeting. It was determined he had, and TB made the motion to move the request to a Full Review for the Jan. 3rd meeting. LPR seconded the motion, and it passed, 5-0-0. TB, LPR, MR, MM, HS.

- iv. 4 Nickerson St. – To replace windows in kind.

Tom Fitzgerald (TF) presented, confirmed to TB that windows were wood, to be replaced to be Anderson 400 series; wood window with vinyl casing. LPR added that this is of the architectural profile.

TB felt all wood is the way to go with no cladding as building is in pristine condition. LPR remarked that HDC has only required an owner to replace with complete wood in kind when the building in question was of significant historic concern and has permitted the Anderson 400 Series in other cases.

TB said the bylaws allow HDC to be a bit stricter when buildings are quite pristine, and that this property falls into that category. MM agreed.

LPR asked how is HDC to differentiate between this house and one that just presented at 352 Commercial St. which was allowed. TB said that was a good question and it is on a case-by-case basis.

MR doesn't have a problem with it. HS asked if there were 16 or 17 windows in question; TF said 17. MR noted aluminum over windows in photos; TF said those will go away. HS said then she was in favor.

TB made a motion to accept the application as Administrative Review; LPR accepted the motion and it passed, 5-0-0. TB, LPR, MR, MM, HS.

TB made a motion to accept as presented; HS seconded the motion, and it passed, 3-2-0. HS, MR, LPR, in favor; TB, MM, opposed.

LPR commented that last year in a case involving 65 or 75 Commercial St., the applicant was looking to replace the Commercial St. side windows with Anderson 400 series windows which were used on the property next door and HDC did a site review and decided it was fine. MM responded that HDC operates on a case-by-case basis with the stated preference being for wood, especially in instances of high visibility and historic significance.

v. 4 Conwell St., #4 – To re-side

TB noted that the request was wrongly stated and that it was for re-shingling, not re-siding. HDC concurred and TB made a motion to accept as Administrative Review. LPR seconded the motion, and it passed, 5-0-0. TB, LPR, MR, MM, HS.

AH passed out materials for review. TB made a motion to accept as presented; LPR seconded the motion and it passed, 5-0-0. TB, LPR, MR, MM, HS.

LD arrived at 4:00pm.

vi. 539 Commercial St. – To re-side.

AH passed out materials.

TB made a motion to accept as Administrative Review; LPR seconded the motion, and it passed, 5-0-0. TB, LPR, MR, MM, HS.

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

vii. 76 Commercial St., U1 – To install new fence and gate.

Don DiRocco and Leif Hamnquist presented.

LD asked if she was an abutter and should be recused. AH handed out materials. MM remarked that as it was a new fence, the request required a Full Review. TB concurred and made a motion to accept as Full Review. MM seconded the motion, and it passed, 5-0-0. TB, MM, LPR, MR, HS.

AH asked if Leif Hamnquist had anticipated a Full Review; he said, no because it was the patio and not the street-side but understood that a new fence required a Full Review regardless. AH said the request could not be heard at the Jan. 3rd meeting as notices for neighbors and abutters needed to be posted.

ix. 371 Commercial St., U11 – To remove sliders and enlarge a deck and replace handrails.

TB made a motion to accept as Full Review; MM seconded the motion, and it passed, 5-0-0. TB, MM, LPR, R, LD.

1. c) **Review and approval of Minutes**

TB made a motion to move this item to the end of the meeting and said a lot of progress has been made with the minutes thanks to the leadership of Vice-Chair Marcoux and Clerk, Martin Risteen.

2. **PUBLIC COMMENTS:** On any matter not on the agenda below.

- a) MM commented on yesterday's two-hour-plus meeting hosted by David Panagore, Town Manager, and David Gardner, Assistant Town Manager, for regulatory board members to voice their concerns and for notifications of changes at Town Hall, including David Gardner's growing role in terms of the community development and regulatory boards as well as the push to have more training for boards and the Open Meeting Law that will usher in changes in January 2018.

MM said she was grateful for JON in that one of the changes coming January 1st is that after three meetings or 30 days, the minutes must be posted as well as the Executive Session minutes, otherwise any given board will be in breach.

MM distributed a notice about the upcoming Conflict of Interest law seminar scheduled for Feb. 7, 2018 at 1:30pm and sponsored by the State as an opportunity to address questions of potential conflicts of interest, financial or otherwise. At least 30 must sign up in order for the seminar to be held; attendees can include board members, employees and the general public. At least 30 must be signed up to book meeting.

No other public comments.

3. **PUBLIC HEARING: VOTES MAY TAKEN**

- a) **HDC 18-056** (*continued from the meeting of Dec. 6th*)
Application by **Don DiRocco, of Hammer Architects**, on behalf of **Jay Anderson**, requesting to demolish an existing three-story structure and construct a new two-story structure on the south elevation of the property located at **53 Commercial Street, Rear**.

Lester J. Murphy (LJM), Don DiRocco (DD) and Leif Hamnquist (LF) presented with on-screen projections.

TB took issue with not having plans in hand until today; that as a regulatory board, HDC cannot do its due diligence if materials are not received in a timely fashion. TB pointed out that plans are due the Friday before any HDC meeting, but that he felt this was not enough time. MM concurred, said there were no plans available yesterday. DD said they were dropped off yesterday, Dec. 19th and that AH had them.

AH said that the current time-frame for submitting plans cannot guarantee that between hearings A and B, plans will be linked to the website in time for review. AH said she is speaking with Ellen Battaglini on the matter.

TB suggested moving the decision to the Jan. 3rd meeting. LJM asked if all HDC would be sitting. LPR said she couldn't verify participation in the Jan. 3rd meeting as she needs to go before the Board of Selectmen on Jan. 8th to discuss her continued role with HDC; HS said that was her

case, as well, but that she didn't anticipate any problems with her continuation, which AH concurred.

LD asked if HDC would prefer to give an overview of current plans of **HDC 18-056** at that time; TB and MM said that would not be advisable.

TB made a motion to accept a time-waiver continuation. MM seconded the motion, and it passed, 5-0-0. TB, MM, LPR, MR, LD.

TB made a motion to hear the case at the Jan. 3rd meeting. MM seconded the motion, and it passed, 5-0-0. TB, MM, LPR, MR, LD.

LD said she may have to leave right after this case is heard on Jan. 3rd in order to get to Boston.

b) HDC 18-078 (continued from the meeting of December 6th)

Application by **Mark Kinnane, of Cape Associates, Inc.**, on behalf of **Barry Peskin**, to demolish and reconstruct a structure on a new foundation at the property located at **11 Brewster St.**

No one presented; AH said structural engineer had just returned from a cruise that day so as there wasn't time to properly prepare; the request is to move the decision to the meeting of Jan. 3rd.

TB asked if there was a time-constraint; AH said there was one in place that would suffice.

TB made a motion to continue the case to the meeting of Jan. 3rd; LPR seconded the motion, and it passed, 5-0-0. TB, LPR, MM, MR, LD.

TB remarked that drawings have not been submitted for this case and if they had come in today, HDC would be in the same situation as the previous case. MM added that the other issue in linking current drawings to the site online is that it gives the abutters a fair chance to evaluate the impact of the proposal on their own properties and the neighborhood.

TB read a statement by HS who invoked the Mullin Rule, attesting that while she missed the Dec. 6th meeting involving **HDC 18-078**, she had reviewed the tape and materials of the case on Dec. 18th and so was able to sit on the decision in good standing.

d) HDC 18-116

Application by **Don DiRocco, of Hammer Architects**, requesting to modify a previously-approved decision, HDC 17-211, to reduce the width of an approved dormer and to reconfigure/redesign/omit fenestration on the west elevation of the structure located on the property at **6 Cottage Street**.

LD recused herself as a direct abutter and left the room.

Don DiRocco (DD) and Leif Hamnquist (LH) presented with on-screen projections of all four elevations. DD apologized for returning, said that they had run into a code issue and were working with AH on resolution.

DD directed HDC to view the rear windows which are located less than 5' of the property line and so unacceptable; presented two new proposals, one of which would involve no fenestrations.

MM interrupted to ask if they had heard from the State on their appeal; DD said, no that it's a long process, that Kevin Bazarian had begun work and they hope to have a decision shortly. LH added that the fenestration originally approved did not look correct.

DD said the new design was made to look like three separate windows and a fire separation that would be within State code. DD assured AH that they had changed the permits to comply with the drawings.

No public comments or letters.

MM sought clarification; that without State approval they were looking at an unacceptable proposal.

TB made a motion to approve as presented, elevations with new windows, A7, with back-up plan for A8 depending on State ruling. MM seconded the motion, and it passed, 5-0-0. TB, MM, LPR, MR, HS.

e) **HDC 18-121**

Application by **Ben deRuyter (BD)** on behalf of **New Art Realty Corp.**, requesting to replace an existing skylight with a 12' wide dormer containing 3 awning windows on the north and south elevations of the structure located at **212-214 Commercial Street**.

Ben deRuyter presented; remarked that the windows in question concern the structure in the northwest corner of the property which houses one of four apartments in the building and seven total on the grounds between the two buildings built in 2004-2005.

BD said they are proposing to remove a skylight on the south elevation of the building in question and replace it with a shed dormer that is 12' in width and contains 3 Anderson awning windows units; also proposing to install a symmetrical shed dormer on the north elevation where nothing currently exists. Exterior materials used will be the same that comprise the rest of the building; composite materials that are grey shingle and white trim and 3 Anderson windows on each of the 2 dormers.

No comments or letters.

LD remarked that as it was a new building the request follows a contemporary design and had no problem with it.

MM said she'd like larger photos and noted that there are no exact measurements in terms of height. But, as per the proposal, considering it is not of historic significance and with minimal visibility she could go along with what is presented. MR said he is comfortable as presented.

LPR said she was also comfortable as presented, but agreed with MM per the need for accurate dimensions; echoed LD in saying that as a contemporary building it is fine, but not typically what we see; suggested that in the future, applicant present full dimensions and pitch of roof for review.

TB suggested HDC make a motion on the decision but to not sign off on the drawings until applicant can return with more accurate renderings. TB suggested another option would be small double hungs. BD said that while that was a good idea, that they didn't have the height available based on where the dormer falls.

TB made a motion to accept as presented with the condition of revised drawings to be approved and filed. LPR seconded the motion and it passed, 5-0-0. TB, LPR, MR, MM, LD.

BD said he appreciated HDC meeting this close to the holidays; TB responded that HDC likes to move things along and feels a sense of responsibility to applicants.

f) **HDC 18-122**

Application by **Don DiRocco, of Hammer Architects**, on behalf of **Cynthia Cross & Anna Vicente**, requesting to replace, re-locate and install new windows and doors and replace trim and siding as needed on the structure located at **18 Pleasant Street, #3**.

DD, LH presented projections, building designated as corner of Pleasant and Bradford Sts. Looking to install 3 double-hung windows; existing fenestration is a mixture of 2-over-1's; keying off of 6-over-6 patterns.

No public comments or letters.

LD disclosed she had a financial relationship with the owners and recused herself, leaving the room.

TB suggested the revamp was an improvement and made a motion to accept as presented. LPR seconded the motion, and it passed, 5-0-0. TB, LPR,MR, MM, HS.

TB noted the reference was drawing #A3, dated 12-11-17.

g) **HDC 18-124**

Application by **Lisa Pacheco-Robb**, on behalf of **Scott Stevens**, requesting to remove decks on the west elevation, add a deck on the east elevation and replace railings and deck boards on remaining decks and replace existing windows and doors on the structure at the property located at **155 Bradford Street**.

LPR said she was recusing herself. TB suggested State Ethics board be contacted to ascertain if HDC should continue with the case. Discussion ensued about whether LPR should recuse herself, or not.

LPR asked at whose suggestion; TB said that Town Manager had made the suggestion that the case be put on hold until State Ethics is contacted. MM said it was a complicated case and the State decision is needed.

LPR said she was surprised because she's sat on and heard other cases as a member of HDC where the people involved in a case, as she is here, were not singled out; reminded HDC that at the time of her appointment to HDC she expressed her position as a prominent architect in town.

TB said that HDC are not experts on this matter; that it is a good idea to get the State's input. LPR asked if, as a procedural point, could her name simply be dropped from the application and replaced with her client's. MM suggested it could not as her name is already legally posted on the current application.

LPR made the point that every home-owner has the right to go before any board, which MM concurred and spoke of abutter conflicts.

LPR said she wanted to say for the record that she would expect to be treated as anyone else who came in for a presentation, but has witnessed situations with boards concerning business owners in town and their patrons sit at the table for review looking for applications to go through, which she feels is a greater conflict than someone who presents themselves as an architect submitting professional drawings.

LPR stated that she does not have relationships with any HDC board members outside of the HDC review process and apologized to her client, Scott Stevens, for taking time off from work to make the trip in.

TB also apologized to Scott Stevens.

LD said, based on phone calls she's had with the State Ethics Board representing her own company, her understanding is that a board member is allowed to present her own home for consideration but can not be present for the deliberations; that there is a form that can be signed indicating the board member's financial relationship to the applicant/owner.

AH said no were no time constraints .TB made motion to continue the case to the Jan. 3rd meeting; MM seconded the motion, and it passed, 5-0-0. TB, MM, MR, LD, HS; LPR, recused.

TB said to LPR that there are other options to pursue, but LPR said to just leave it as it is for now, other options can be discussed going forward.

Scott Stevens said that, as of now, Jan. 3rd is not okay with his schedule, but that he would see what he can do.

1. c) Review and approval of Minutes:

TB made a motion to approve the minutes of Wed., December 6, 2017; MR seconded the motion, and it passed, 5-0-0. TB, MR, LPR, MM, LD.

TB made a motion to approve the minutes of Wed., October, 18, 2017; LD seconded the motion, and it passed, 5-0-0. TB, LD, MM, LPR, MR.

TB made a motion to approve the minutes of Wed., Oct. 4, 2017; MM seconded the motion, and it passed 5-0-0. TB, MM, LD, LPR, MR.

TB made a motion to approve the minutes of Wed., September 27, 2017; LD seconded the motion, and it passed, 5-0-0. TB, LD, LPR, MR, MM.

4. DELIBERATIONS ON PENDING DECISIONS: VOTES MAY BE TAKEN

LPR pointed out that she has been holding onto the decision for **HDC 18-057: 53 Commercial St., Front Left** for a month awaiting new drawings of the porch, changed from a flat roof to a pitched roof with open railings.

AH said she has not seen the new drawings for the case which dates to Oct. 18, 2017, noting she was not at that meeting.

Decision by MR, read by LD:

g) HDC 17-275: 10 Atlantic Ave. Decision from July 5, 2017

TB made a motion to approve the decision; LD seconded the motion, and it passed, 5-0-0. TB, LD, LPR, MR, MM.

Decision by MR, read by TB:

k) HDC 17-296: 25 Tremont St. Decision from July 26, 2017

TB made motion to approve the decision; LD seconded the motion, and it passed 5-0-0. TB, LD, LPR, MR, MM.

Decision by MM, read by MM:

MM remarked on the good progress of HDC in filing decisions as well as the thoroughness of the decisions compared to those in the past.

HDC 18-109: 315A Commercial St. Decision from Dec. 6, 2017

TB made a motion to approve the decision; LD seconded the motion, and it passed, 5-0-0. TB, LD, LPR, MR, MM.

LD asked if it was necessary for all sitting HDC members to be present on decisions being read at any given meeting. MM said three would be necessary. AH offered that it is an opportunity for all HDC members to weigh in on changes for any decision being read. MR added that it is also helpful if not instrumental having all members who were present at a site visit to be on hand for the reading of that decision.

Decision by MM, read by LPR:

HDC 18-108: 43 Commercial St. Decision from Dec. 6, 2017

TB made a motion to approve the decision; LPR seconded the motion, and it passed, 5-0-0. TB, LPR, MR, MM, LD.

5. ANY OTHER BUSINESS THAT SHALL PROPERLY COME BEFORE THE COMMISSION

MM inquired of AH if A.J. Santos had returned with new drawings of the fence from the Oct. 4th meeting. AH said he had not done so; that the home owner was not in town and a further conversation was to be had on their part.

HS mentioned Shawn from PTV's recommendation for board members to be able to conduct site visits as part of applicant paperwork protocols.

TB replied that this item had come up at the meeting yesterday with the idea of putting a disclaimer and time-frames onto the paperwork application.

AH thanked HDC for having a meeting today so close to the holidays; asked who will be on hand for the Jan. 3rd meeting. MM said she would be on hand and told LPR that she is able to attend as her hearing is upcoming.

TB wished a happy holiday and new year to everyone on hand as well as those tuning in; thanks to AH for all her hard work; to JON for his work as recording secretary, and to MM and Martin Risteen for taking the initiative to submit the minutes; and thanks to PTV.

TB made a motion to adjourn the meeting at 5:22pm; MM seconded the motion and it passed, 5-0-0. TB, MM, LPR, MR, LD.

Respectfully Submitted,
Jody O'Neil