

HISTORIC DISTRICT COMMISSION
PUBLIC MEETING
Town Hall
Provincetown MA

WEDNESDAY, JULY 19, 2017

Members Present: Thomas Biggert (TB), Chairman, Pilgrim Monument Rep.; Marcene Marcoux (MM), Vice Chair, Chamber of Commerce Rep.; Laurie Delmolino (LD), Historical Commission Rep; Martin Risteen (MR), Alternate; Hersh Schwartz, (HS), Alternate.

Others Present: Annie Howard (AH), Building Commissioner; Ilana M, Quirk (IMQ) of KP Law, P.C.; David Gardner (DG), Assistant Town Manager.

Absent: Lisa Pacheco-Robb, PAAM Rep.

1. Work Session: VOTES MAY BE TAKEN

a) 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 August 2nd agenda and Administrative Reviews to be acted on by a subcommittee appointed by the Commission.

i. 38 Bradford St. – To replace a chimney in kind.

MM expressed concern that the chimney must be brought back exactly as is.

LD referenced the replacement as not being the one in the house. MM said she thought it was a better design and LD added that it was more historic.

TB read the features of the chimney re-vamp as written in the application, suggested HDC make a condition that the joints be the same size and color.

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

TB made a motion to accept as presented with the condition that the brick be the same color; joints of the same color and size; and the detailing be retained. LD seconded the motion, and it passed, 5-0-0. TB, LD, MM, MR, HS.

ii. 665 Commercial St. – To re-side in kind.

MM said it was Administrative, even though it was a strange case; an older house with vinyl throughout the entire structure, except where there is pine trim; said she is familiar with the house and the older use of vinyl.

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

TB made a motion to accept as presented with the condition that pine trim be replaced in kind. MM seconded the motion, and it passed, 5-0-0. TB, MM, LD, MR, HS.

- iii. 487 Commercial St. – To renovate a structure, including roofing, siding, windows and exterior decks.
MM said she thought it was a Full Review; that the word “renovate” was a little odd as they are putting in a new fence. TB noted changing windows.
TB made a motion to accept as Full Review; LD seconded the motion, and it passed, 5-0-0. TB, LD, MM, MR, HS.
- iv. 24 Bradford St. – To install solar panels.
TB sited minimal visibility at the property. MM said her only issue when she looked on line was that the roof looked like it needed a little relief as it appeared to be completely covered; suggested maybe one less panel.
LD said she didn’t think you could see the house at all from the street with a roof that was about 4 stories high. TB said he agreed with MM that it was potentially visible. MR said he couldn’t see the roof while at the site.
TB made a motion to accept as presented; LD seconded the motion, and it passed, 4-1-0. TB, LD, MR, HS, in favor; MM, opposed.
MM said that given the great work they’ve done, the panels will ruin the look and one less panel would be better.
- v. 16 Carver St. – To change windows and doors on a previously-approved project.
Lyn Plummer presented, said she had submitted all the paperwork and, with the changes, she was prepared for a Full Review.
TB made a motion to accept as Full review; LD seconded the motion, and it passed, 5-0-0. TB, LD, MM, MR, HS.

b) Review and approval of Minutes:

No meeting minutes were presented for review and approval.

2. Public Comments: On any matter not on the agenda.

Lyn Plummer (LP) presented on behalf of a pending matter regarding the 2-bay garage at 3 Cudworth; said she went back to draw the plans and maintain the same height of approximately 16’, but which she said she could not do based on current building codes requiring a height of 17’1””; also retaining original boards would not meet code for sustaining 100 mph winds, and so has to use plywood.

TB asked if AH had LP’s initial drawings, which she did not. TB suggested putting the item on the next agenda.

MM asked to verify the difference in heights, per what was allowed and what was built, which LP said was 13”.

MR said HDC needed to follow the code and TB cited that per the engineer’s appraisal the structure needed to be rebuilt. LD said the applicant was looking at a demolition.

Discussion broke out as to determine if the item would return as Administrative Review, if an appeal could be filed, or if a new application was required. LP and HDC decided to wait for IMQ to return to meeting to determine if an appeal would be applicable.

3. Public Hearing: (Begun at 4:05 pm)

MM read a letter she wrote to the Provincetown Banner referencing the day, June 12th, that the Board Of Selectmen (BOS) made a motion, put forth by Cheryl Andrews and seconded by Robert Anthony and which passed 4-1-0, that the BOS cease its effort to craft and send a letter seeking the removal of MM from the Historic District Commission, concerning incidents on or before May 8, 2017. MM thanked the public and friends for their support; quoted a lyrical passage from Leonard Cohen's "Hallelujah."

a) HDC 17-294

Application by **Leon R. Roy** to replace an existing fence and add a fence with a gate on the property located at **48 ½ Bradford Street**.

Leon Roy (LR) presented, cited an error on the plans on the website, said the true plans are less dramatic; that the fence is already down but they don't plan to replace that fence as the neighbors said they loved the open look with the gardens and the owners agreed; but that for the sake of their terrier losing his eyesight, they would be putting a 3 ½ scallop fence on the east side with a gate to the house; on west side of house want to put a scallop fence from the house to the garage with a gate to keep the dog and any children safe.

No public comments or letters.

TB said the fence is in keeping with the bylaws. AH sought to verify that nowhere was the new fence exceeding 6'; owners said it was not.

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

b) HDC 17-296

Application by **Peters Property Management**, on behalf of the **Willows Condominiums**, requesting to replace asphalt and rubber roofs, to replace deck boards and deck trim with Azek, to replace pressure-treated railings and lattice with white rails and balusters and to repair deck framing as required on the structure at the property located at **25 Tremont Street**.

Laurie Ferrari (LF), of Peters Property Management, presented, cited an approval by HDC in 2015 for E1 & E2 and in 2016 on F2, using the same railing system and are so seeking uniformity on the property as they are condominiums; added HDC gave approval for Azek decking on the C building in 2006, or 2007.

Roger S., owner and resident at the Willows and one of the Trustees took the mic to give his approval of the design and spoke in favor of uniformity.

LD spoke of the degree of visibility as one of HDC's leading factors in making determinations, cited the visibility of A1, C and B buildings, and F & G buildings as less visible; remarked on LF's comment about prior approvals as being dependent on the age of the buildings and what were current codes.

LF responded by saying that the E building that was previously approved can be seen from Tremont St.

TB asked where the railing currently existed and LF said on the back of the F-building, and added that #6 Nickerson has the same railing and is highly visible from Tremont St.

TB said when he did his site visit, he saw very little of the railing; said that the two things to balance were the desire by HDC for wood trim and wood

railing systems. MM concurred, said that the Azek for the decking was not a problem but would be looking for the railing to be wood.

TB advised a site visit for HDC to determine what can and cannot be seen from a public way regarding all the buildings on the property. LF asked to be included at the meeting.

IMQ stated that a site visit was not required to be posted, but that no deliberations or expression of opinions were allowed at the meeting.

TB made a motion to conduct a site visit at the property at 25 Tremont St., on Thursday, July 25th at 11:00 am; MM seconded the motion, and it passed, 5-0-0. TB, MM, LD, MR, HS.

AH asked if TB requested the meeting be posted; he said, yes.

IMQ said that a note should be added when posting, that it would be up to the applicant to grant permission to enter the property.

AH said there were no time-constraints and TB made a motion to continue reviewing the case at the August 2nd meeting. LD seconded the motion, and it passed, 5-0-0. TB, LD, MM, MR, HS.

TB entered HDC into Executive Session at 4:21pm, as stated below:

4. Executive Session. Binder v. HDC, Barnstable Superior Court C.A. No. 1772CV00191.

A declaration and vote, under G.L., c.30A, §21(a)(3), are expected to allow the HDC to go into executive session to discuss litigation strategy as a discussion in open session may have a detrimental effect on the litigation position of the HDC. The litigation concerns requests for permission from the HDC to allow a project to remove a mounded septic system and install a new addition at 242 Bradford St.

HDC returned to Public Hearing from Executive Session at 5:15 pm. DG joined the meeting.

5. Business Meeting: Review of HDC Agenda format, protocol for filing decisions and timeline for HDC applications.

a) New Decision, application form.

MR stated his frustration with not having a new decision form approved in that the old one is still coming to him with decisions signed off while, with other cases, the new one is being employed; noted tricky wording on new form concerning “significant” and “highly significant”, but said overall it was very good, detailed.

IMQ said the idea behind the new form was to have boiler-plate questions to select as it can be easy to skip over particulars.

MR referenced a point made at a previous meeting by David Panagore who asked, “Does HDC write for litigation?”, and MR’s reply was no, that he is not a lawyer and cannot write like a lawyer even as he said he is trying to expedite decisions efficiently; added that he thought he needed a little more room on the back for writing out his decisions, to which IMQ suggested that the form be made available as a Word document that can be altered. LD said that was a good idea. TB agreed and suggested HDC move ahead with the new form.

IMQ said the idea behind the form she created, along with staff, was to make sure the nuts and bolts are included in every decision; that the various questions everybody can skate over in trying to make a quick decision will be addressed.

MM said she would be prepared to accept the new decision form but that one of her issues had always been, referencing question #6 on the form, with qualifying the determination of historical significance pertaining to the difference between “high” and “very high.” LD said she had the same concern on that point; that we know it’s high or it isn’t, but that there might be a “moderate” qualification and a determination if a property is, or is not, “heavily modified.” AH referenced 24 Bradford St. as a building in the historic district that would have qualified as heavily modified.

IMQ said her main concern on the new form was question #5, which dealt with degree of visibility as it’s a big district with many buildings, and added that when the hearing is held, HDC might go through a check-list for its findings.

MR asked for the clarification of how “Pending Decisions” would translate to the public in terms of transparency. DG suggested pending decisions might include discussion, review and approval, which MR said he liked. LD said it would take HDC one extra minute with every decision made that the condition of minimal visibility be included in the copy. IMQ said she recommended that LD’s suggestion be followed.

TB made the suggestion that the cases be divided up to ease MR’s work-load. MR said that when MM mentioned to MR that he hadn’t been bringing his decisions to the meetings, he said it was because there hadn’t been a procedure. IMQ said the new form would help to expedite the writing process as well as alert the applicant during the hearing.

MM said she felt this current HDC board is always addressing visibility, as per question #5. IMQ said that making the determination on visibility as a standard would help keep uniformity in the decision-making.

LD said that she felt giving people the most information possible will help everyone, especially during Town Meeting when things sometimes get heated; suggested the new application form be tweaked at the present time before a vote is taken on its approval.

HDC added “Because” as the first word on the form in reply to reasons stated on #6, #7, #8, #9 and #10; “moderate” to #5 #6 and #7, along with “no;” “minimal;” “high;” and “very high.” MM suggested “reasons” also be retained in the form.

TB made a motion to approve the new decision form as discussed; MM seconded the motion, and it passed, 5-0-0. TB, MM, LD, MR, HS. LD noted a typo on the second page. TB referred to the decision form as an “application.”

b) Meeting Minutes and On-Call Secretary.

MM spoke out against having the meeting minutes list for approval being continually placed on the HDC meeting agenda when there is still no recording

secretary and with the history of minutes that had been recorded being lost; stated her preference for having only those meeting minutes on the agenda that are ready for approval.

IMQ cautioned against that practice, stated that for the sake of transparency, the public's access to the full record is key; suggested that copy could be added to alert the public per the backlog and the reasons for it.

AH said she was not prepared to record meeting minutes and DG stated that Ellen Battaglini, Permit Coordinator, has her hands full keeping track of four different boards that she is supporting; that what was key was to keep an ongoing record so we're not letting things fall through the cracks.

TB said the problem was that HDC didn't have a secretary and hadn't had one for a long time; that the solution was to secure one and get caught up; said there was someone who, he thought, was interested in the position, but TB said he declined to state the name for the record.

LD asked if the job had been posted. DG said on-call secretaries were advertised for annually; that there is a list of on-call secretaries which could be referenced and that HDC could also offer up candidates to be put on the list.

LD asked if staff might be tapped to help with recording minutes. DG replied that regulatory boards have budgets for secretaries; suggested there may not be people currently who want to be taking board minutes. DG said when they find a secretary who is interested, they ask them how many boards they'd like to take on; that he'd speak with Elisabeth Verde, Administrative Assistant, tomorrow to ask for secretary references and urged HDC to help with by asking around.

c) MR as PGB Rep on the HDC.

TB stated that MR had been elevated to full commissioner but that Town Clerk has a letter from the PGB that has stalled. MR said there was a letter from the PGB for MR to be their appointee. MM said she thought the letter was sent by the PGB to Town Clerk, but not to the Board of Selectmen and that then the Town Clerk left the position so it was not forwarded. DG said that HDC needed to inform the BOS secretary that MR has accepted the PGB rep position.

d) Pending Decisions on Agenda.

MM said she felt the pending decisions that appear on the agenda are inappropriately placed. DG responded that the other regulatory boards carry their cases through the entire process on their agenda, and HDC needed to list their pending decisions. IMQ concurred.

AH asked what was the new wording on decisions; DG replied that it would read as "Deliberations on Pending Decisions;" which IMQ said was excellent.

e) HDC Guide.

TB made a surprise appeal to MM to take on the guide project such as she is an academic and it is up her alley; that HDC would help out. LD agreed. TB said HDC would bring up the measure at the next meeting.

f) HDC Filing Guidelines

DG gave HDC a copy of its new Filing Guidelines for approval, which LD read aloud, referencing eight talking points for Administrative Reviews and Full Reviews. HDC deliberated on the talking points with IMQ and DG, including the number of signatures required for reviews, number of copies of decisions and where they should be filed.

LD suggested it was asking a lot for a volunteer board. MR disagreed, saying this was what HDC wants as a board and DG cited the need for board consistency.

TB thanked IMQ for her council and she parted the meeting.

g) Angel's Landing.

AH asked if anyone had conducted a site visit to Angel's Landing. TB responded that they had questioned if they had trespassed. AH said, no, that they had gotten permission from the owner.

TB said he wasn't sure if a violation was in effect. LD said that if the door replacement had been a good imitation of wood she would be able to approve, but as is, she was not. HS agreed.

MM added that the degree of visibility was also in play.

TB made a motion that wood be retained at the property at Angel's Landing. LD seconded the motion, and it passed, 5-0-0. TB, LD, MM, MR, HS.

h) 600 Commercial St., fence.

AH passed around new plans of 600 Commercial St. for HDC to sign-off on, but it was determined that MR had already written the decision.

6. Pending Decisions:

TB made a motion to approve MR's decision for case # HDC 17-273: 600 Commercial St. MM seconded the motion and it passed, 4-0-0. TB, MM, MR, HS. LD did not vote as she was reviewing HDC 17-282.

TB made a motion to approve MR's decision for case # HDC 17-282: 212 Bradford St, LD seconded the motion, and it passed, 5-0-0. TB, LD, MM, MR, HS.

TB made a motion to adjourn the meeting at 6:20 pm; MM seconded the motion, and it passed, 5-0-0. TB, MM, LD, MR, HS.

Respectfully Submitted,
Jody O'Neil