



HISTORIC DISTRICT COMMISSION
February 6, 2013
Work Session/ Public Hearing 3:30 p.m.
Judge Welsh Hearing Room

Members Present: Mr. Thomas Biggert, Ms. Marcene Marcoux
Mr. David McGlothlin, Ms. Polly Burnell
Mr. Lance Hatch

Excused Absence: Mr. John Dowd, Mr. Ryan Landry

Other Staff Present: Ms. Maxine Notaro, Permit Coordinator

The meeting was called to order by Commissioner David McGlothlin at 3:30 p.m.

Administrative Reviews:

- **82 Bradford Street, Provincetown MA**, Ethan Poulin on behalf of owner proposes to replace existing block wall, 50-70 feet of wall has fallen over. Applicant would like to replace with a poured concrete wall in the existing location with a brick top.

APPROVED

Polly Burnell 1st

Thomas Biggert 2nd

- **184 Bradford Street, Provincetown MA**, Paul Van Apeldorn on behalf of Steve Tait, to replace second floor double hung windows in kind.

Commissioner Marcene Marcoux informed the Commission that she could not hear the case due to being an abutter.

Mr. Tait explained to the Commission the applicant is proposing to replace 3 windows on East elevation on second floor, and 2 windows on North elevation on second floor in kind (4 over 1).

Commissioner Biggert asked the applicant if there were exposed Mullions?

Mr. Tait assured Commissioner Biggert the Mullions were exposed on both sides, and the 4 over 1 window configuration is the original style.

There was no other discussion from the Commission on the Administrative.

APPROVED

Polly Burnell 1st

Thomas Biggert 2nd

- **495 Commercial Street, Provincetown MA**, Deborah Paine, Inc. on behalf of Bay Shore Condominiums, to replace existing casement window with a slighter smaller window. (Larger casement window is no longer available)

Mr. Ryan Weber, Project Manager, proposes to replace a triple casement window with a modern triple casement window on the North side of the structure facing the ally way as shown on the plans.

Commissioner David McGlothlin asked the other Commissioners if they had any questions.

No further discussion from the Commission on this Administrative.

APPROVED **Polly Burnell 1st** **Thomas Biggert 2nd**

- **10 Commercial Street, Provincetown MA**, John Zipperman, Sea Level Builders, on behalf of Jeff Swanson, to replace windows and doors in kind.

Mr. Zipperman informed the Commission they would be working on three sides of the structure. For the Commercial Street side they propose to replace a bay window & two double-hung windows (one unit) in kind, on the back of building replace 2 double -hung windows in kind, and on the right of building replace patio door and screens in kind.

No further discussion from the Commission on this Administrative.

APPROVED **Polly Burnell 1st** **Thomas Biggert 2nd**

- **167 Commercial Street Unit #3, Provincetown MA**, David M. Datz proposes removing porthole window and replace with a double-hung window, replace two double-hung windows and add one double-hung window (not visible from a public way).

Mr. Datz informed the Commission he was moving his office to this location. On the top floor he proposes to replace 2 windows due to rot in kind.

Commissioner David McGlothlin asked the Commissioners if they had any questions.

No further discussion from the Commission on this Administrative.

APPROVED **Polly Burnell 1st** **Marcene Marcoux 2nd**

- **405 Commercial Street, Provincetown MA**, the applicant was not present, the Commission moved to the next administrative.

- **25 Court Street, Provincetown MA**, Victor Santos on behalf of applicant proposes to replace 3 double-hung windows in kind.

No discussion on this Administrative.

APPROVED **Polly Burnell 1st** **Thomas Biggert 2nd**

- **496 Commercial Street, Provincetown MA**, Joe Butt, North Bay Building & Remodeling on behalf of applicant proposes to replace upper window and door in kind with grills.

The Commission had no questions on this Administrative.

APPROVED **Thomas Biggert 1st** **Lance Hatch 2nd**

- **510 Commercial Street, Provincetown MA**, Ted Smith, Architect, proposes to replace fence on the East side of property starting from the street about 10 ft. back with a 3-4 ft. picket fence and then transition into a privacy fence.

Commissioner Thomas Biggert suggested it might be nice if the picket fence was continued as far back as the first post on the fence you propose to replace. Commissioner Biggert also asked the applicant how far the house was set back from the street. Mr. Smith believes its 148 ft. back from the property line.

Ms. Maxine Notaro, Permit Coordinator, clarified that the setback is to be 10 ft. back from the phesad of the house not the property line.

Commissioner Lance Hatch read the fence guidelines into the record as follows:

“However, in the spirit of addressing privacy concerns of some applicants the Commission will allow up to 6 ft. wooden fences on side and rear yards only, side yard privacy fences may start a minimum of 10 ft. from the front facade of the house. If the lot is a corner lot the privacy fence should be constructed at the rear only, special consideration given on a case by case basis”.

Mr. Smith feels it really depends on which property owner is putting up the fence and stressed the existing picket on the right side of the property was put up by the neighbors. Given the applicant is looking for some middle ground to conform to the Commissions guidelines, he asked the Commission to defer to the last sentence of their fence guidelines.

Commissioner Polly Burnell is concerned about the height of the privacy fence stating the fence could block the sun to the neighbor’s house.

Responding to the concerns Mr. Smith proposed running the fence from the existing post on the right of the property, 35 ft. back at the lower height (3-4 ft.) and then transition into the privacy fence height.

Commissioner Marcene Marcoux asked the Mr. Smith what height they were proposing for the privacy fence.

Mr. Smith responded, as per the Commission's guidelines they were considering a 5-6 ft. privacy fence to extend to the back property line.

Commissioner Thomas Biggert pointed out the uniqueness of the property because of the distance it's set back from the street. The commission is faced with having to make an exception in this case. Commissioner Biggert agrees with Commissioner Burnell regarding the sunlight possibly being blocked from the neighbors by the height and extension of the privacy fence.

Commissioner Lance Hatch asked the applicant if he has had any dialogue with the neighbors regarding the proposed changes. The applicant said he has had no communication with the abutters.

Commissioner David McGlothlin feels the Commission should stick to the guidelines due to the existing discrepancy with the location of the property line.

The Commission informed Mr. Smith the Commission avoids approving 6 ft. privacy fences in front yards as in this case. However, they did feel comfortable approving a 4 ft. picket fence to match existing and to extend the 4 ft. picket fence from the front right property line back to the existing privacy fence. Mr. Ted Smith agreed that would be fine.

APPROVED **David McGlothlin 1st** **Marcene Marcoux 2nd**

- **10 Pleasant Street, Provincetown MA**, Kate McFadden, Cape Tip Construction, on behalf of applicant, to replace a 6ft fence in kind remaining in continuity with the surrounding property's.

Commissioner Marcene Marcoux asked how far back the 6 ft. fence would go. Ms. McFadden replied "about 30 ft."

APPROVED **Thomas Biggert 1st** **Marcene Marcoux 2nd**

- **357 Commercial Street, Provincetown MA**, Tom Sayers on behalf the applicant would like to replace 2 sliding windows on the side of the property in kind. At the rear of the property window facing the water, change to a double-hung window. On the opposite side of property they propose removing the existing window and board up to allow for more display space in the gallery.

The Commission had no questions regarding this administrative.

APPROVED **Polly Burnell 1st** **Thomas Biggert 2nd**

- **2 Baker Avenue, Provincetown MA**, the applicant proposes to change windows from 2 over 1 to 1 over 1. Previously approved double-hung windows. Property is not visible from a public way.

The Commissioners discussed the plans and informed the applicant the Commission would not approve windows 1 over 1.

Commissioner Polly Burnell motioned to accept changes on West elevation from the original plan from double-hung windows to awning windows on West elevation. The Commission denied the request to change windows to 1 over 1.

APPROVED **Polly Burnell 1st** **Thomas Biggert 2nd**

A motion by Commissioner Polly Burnell to close the work session of the Historic District Commission and move into the Public Hearing portion of the meeting. The motion was seconded by Commissioner Thomas Biggert. VOTE 5-0.

Commissioner David McGlothlin opened the Public Hearing at 4:12 p.m.

Commissioner's Hearing today's cases:

Mr. Thomas Biggert, Ms. Marcene Marcoux, Mr. David McGlothlin, Ms. Polly Burnell, and Mr. Lance Hatch.

CASE # FY13-32 838 Commercial Street, Provincetown MA.

Application by Mariellen Serena for a certificate in accordance with the Provincetown Historic District Commission established under the Town of Provincetown General Bylaws, Chapter 11, Demolition Delay Bylaw. The applicant seeks approval to demolish an existing two-car garage and construct a new two-car garage at the property located at **838 Commercial Street, Provincetown MA.**

Ms. Serena is seeking a demolition permit to take down a 2-car garage and rebuild a new 2-car garage. Photos of the existing garage have been provided to the Commission. Ms. Serena informed the Commission that the structure is not within the Historic District, however, given the property is over 50 years old it would require her to obtain a demolition permit issued by the Commission.

Ms. Serena informed the Commission she sent a letter to all her neighbors explaining her intent for the existing structure and if anyone new if the garage was of any historic significance. Ms. Serena received no responses from her neighbors.

Ms. Serena contacted the previous owner of the property to see if they had any information regarding the structure and its historical significance. The previous owner had no knowledge of the structure being of any historic significance. The previous owner did emphasize her sentimental connection to the structure. Ms. Serena stressed to the Commissioners that the current state of the garage is in complete disrepair and unusable.

Commissioner David McGlothlin asked the public if there were any comments for or against the proposed project. There were no public comments.

Ms. Maxine Notaro, Permit Coordinator, informed the Commission they had received 13 letters regarding this case, 10 letters in favor and 3 letters in opposition.

Board Discussion:

Commissioner David McGlothlin expressed that some of the letters requested the Commission have input over what may be built in place of the existing structure. Commissioner McGlothlin emphasized the HDC did not have the authority in this case because the structure is not within the Historic District. It would be the Commission's responsibility to determine whether to grant the demolition permit or a demolition delay permit.

Commissioner Marcene Marcoux doesn't feel a structural engineer is necessary, however, she doesn't find any evidence in the photos suggesting the structure is in disrepair and emphasized the photos only show the outside of the structure. Ms. Marcoux feels the application lacks the detail needed to make a determination. Ms. Marcoux would like the applicant to provide other pictures showing the shingle rot, roofing, interior walls, etc.

Ms. Serena said she could provide interior photos as per the Commission's request. She apologized to the Commission for not having detailed photos of the structure. Ms. Serena informed the Commission she was also requesting this demo permit because the current structure lacks interior space deeming the structure unusable as a car garage.

Commissioner Marcene Marcoux informed Ms. Serena that intended use of the structure is a separate issue from weather or not the Commission should grant a demolition permit or a demolition delay permit. She emphasized that based on the Commission's guidelines she would like the Commission to be provided with more detailed photos showing the interior structure.

Commissioner Thomas Biggert shared similar feelings as Commissioner Marcene Marcoux, and in his opinion the structure looked okay from the photos aside from the rotted shingles. Commissioner Biggert would also like to see detailed photos showing the building is in disrepair.

Commissioner Polly Burnell read for the record the Demolition Delay Bylaw as follows:

“The purpose of this ordinance is to protect from demolition, historically significant buildings which reflect the Historical, Cultural, or Architectural heritage of the Town of Provincetown and to encourage the owners of such buildings to develop acceptable alternatives to demolition such as preservation, restoration, or relocation. Significant Buildings or portion there of that is not subject to regulations under M.G.L, or under regulations set by the Cape Cod Commission that are over 50 years old, associated with one or more historic persons or events contributing to the cultural, political, or social history of Provincetown. Also, if the structure is historically or architecturally important in terms of period, style, method of building construction, or association with a famous architect or builder either by itself or the context of a group of buildings”.

Commissioner Polly Burnell informed the applicant she had done research on the structure and could not link it to a significant historic event, person, or of any information specific to significance of the structures design or style. As much as she loves the small working buildings of the town she feels she cannot prevent anyone from taking down a structure that is not within the Historic District.

Commissioner Marcene Marcoux notified the Ms. Marcoux a demolition delay allows the Commission to prevent the demolition of any structure for up to 60 days to determine if the structure is culturally or historically significant and to give a chance for any interested party to move it to another site for preservation.

Ms. Serena asked the Commission, if she really had an obligation to provide further detail re: the structural integrity of the garage to obtain a demolition permit? It has not been determined the structure is historically or architecturally significant in any way, and is not in the Historic District.

Commissioner Marcene Marcoux told the applicant that she did not necessarily share the same opinion. It's her belief the determination of Historic significance of the structure has not been determined yet. Ms. Marcoux points out the disagreements surrounding the structures historic relevance, as shown in the letters of opposition and support.

Commissioner Lance Hatch stated he feels similarly to Commissioner Polly Burnell. Based on the bylaws and the Commissions guidelines, Commissioner Hatch feels it's not within the purview of the Commission to prevent the demolition. The only circumstance he would be able to support a demolition delay permit is if there was an individual interested in moving the structure from its existing location.

Commissioner Marcene Marcoux stated she agreed with the other Commissioners that the Commission does not have purview over interior space, but certainly feels the Commission has purview over the internal structure with the use of a structural analysis detailing the interior and exterior to determine the building's structural integrity.

Commissioner Polly Burnell stated there has been cases before the HDC in the past requesting a demolition permit, were not in the Historic District and the Commission never has asked the applicant to provide any evidence of the structure's interior.

Commissioner David McGlothlin asked the Commission if they were ready to vote on this case.

A motion by Commissioner Polly Burnell to accept Case # FY13-32, demolition delay permit as presented. The motion was seconded by Commissioner Lance Hatch. VOTE 4-1 (Commissioner Marcene Marcoux).

CASE # FY13-33 422 Commercial Street, Provincetown MA.

Application by Ted Smith, Architect, on behalf of Brendon Sheehan for a certificate to be issued in accordance with the Provincetown Historic District Commission established under the General Bylaws, Chapter 15 of the Town of Provincetown. The applicant seeks approval to remove and replace windows, relocate window, replace existing 4' French Door with a 7' slider at the property locate at **422 Commercial Street, Provincetown MA.**

Mr. Ted Smith, Architect, is proposing replacement of windows and a door on the west and back portion of the property. None of the proposed work is visible from a public way. Mr. Smith continued to explain the proposal using the photos he submitted to the Commission.

Commissioner David McGlothlin opened the meeting to public comments pertaining to this case. No comments from the public.

There were five letters received from the public all in favor of the proposed project.

Discussion:

Commissioner Thomas Biggert likes the window placement, and confirmed there is no visibility from a public way. Commissioner Biggert informed Mr. Smith the Commission does not normally approve sliders, however, given this case and the lack of visibility from a public way he would support the project.

Commissioner Marcene Marcoux and Commissioner Lance Hatch support the application, due to the lack of visibility from a public way.

A motion made by Commissioner Polly Burnell to approve Case # FY13-33 as presented. The motion was seconded by Commissioner Marcene Marcoux. VOTE 5-0.

A motion made by Commissioner Polly Burnell to close the public hearing portion of the meeting at 4:58 p.m. The motion was seconded by Commissioner Thomas Biggert. VOTE 5-0.

A motion made by Commissioner Polly Burnell to re-open the work session portion of the meeting at 4:59 p.m. to hear the remaining Administrative Reviews (applicants had not arrived). The motion was seconded by Commissioner Thomas Biggert. VOTE 5-0.
Administrative Review:

- **199 Commercial Street Unit # 16, Provincetown MA**, Hal Winard on behalf of Valerie Samuels, to replace two flanker style windows with triple double-hung windows, replace single double-hung window, replace two entry doors and a patio door.

Mr. Winard proposed changes to windows and doors, 2 flanker style windows to a double-hung in kind, a double-hung on either side of the structure change to triple double-hung windows, replace ½ light door with a full-view door. Mr. Winard informed the Commission he had received permission from the condo association.

Discussion:

Commissioner Thomas Biggert would like to see a ½ light 3-panel door rather than a full view door. Commissioner Biggert does not feel a full view door is appropriate in this visible area. Mr. Winard told the Commissioner the homeowner was seeking approval for the full view door due to the lack of natural light.

APPROVED

Polly Burnell 1st

Lance Hatch 2nd

A motion made by Commissioner Polly Burnell to re-open the Public Statement portion of the meeting at 5:30 p.m. The motion was seconded by Commissioner Thomas Biggert. VOTE 5-0.

Public Statements:

- **Carla Anderson & Linda Rinquist of the Recycling and Renewable Energy Committee**, brief discussion on renewable energy technologies in a Historic District.

Ms. Anderson informed the Commission they were before them to hopefully gain some knowledge regarding the Historic District Commission's feelings regarding different types of Renewable Energy technology being used within the Historic District.

Ms. Anderson also informed the Commissioners that the Town of Provincetown was awarded the Green Communities Grant from the state. In order to keep this designation and the grant funding, the Town of Provincetown has to meet certain requirements. It's her hope that in collaboration with the Historic District Commission and the Recycling/Renewable Energy Committee the Town of Provincetown can keep their Green Communities designation, and give the

Historic District Commission the opportunity to establish guidelines or policies pertaining to the use of Renewable Technology within the Historic District.

Commissioner Polly Burnell provided Ms. Anderson and the other Commissioners a copy of the policies from the National Trust for Historic Preservation as it pertains to the use of solar panels. Commissioner Burnell urged Ms. Anderson to forward any information they have regarding Renewable Energy technology to the Commission.

Commissioner David McGlothlin thinks it would be very beneficial for the Renewable Energy Committee and the Historic District Commission to meet in a joint meeting to discuss the use of Renewable Energy Technology in a Historic District, and how they can work together to implement a policy that would suit the Historic District Commission and help the Town of Provincetown keep it's Green Communities designation.

The Commissioner's thanked Ms. Carla Anderson and Ms. Linda Rinquist for their time.

- **5 Tremont Street, Provincetown MA**, applicant proposes replacing the shingle siding in diamond pattern in kind.

No discussion from the Commission, moved to approve.

APPROVED **Polly Burnell 1st** **Thomas Biggert 2nd**

- **405 Commercial Street, Provincetown MA**, applicant proposes to replace front windows and change to 2 over 1 factory applied. West side replace 3 windows in kind 2 over 1.

No discussion from the Commission, moved to approve.

APPROVED **Polly Burnell 1st** **Thomas Biggert 2nd**

Minutes for Approval:

The Commission moved to hold on the approval of the minutes from October 24, 2012 until their meeting on February 20, 2013 pending review from the Commission.

A motion made by Commissioner Polly Burnell to approve the January 16, 2013 minutes of the Historic District Commission as amended. The motion was seconded by Commissioner Thomas Biggert. VOTE 5-0.

- **Discussion on Walls & Retaining Walls:**

The Commission postponed their discussion on Walls/ Retaining Walls until the meeting of February 20th, 2013. The Commission would like to invite the Building Commissioner to the February 20, 2013, discussion.

- **Discussion on Revised Decision Form:**

The Commission moved this discussion to their meeting on March 6th, 2013.

Ms. Maxine Notaro, Permit Coordinator, informed the Commission that the application from 525 Commercial Street would like to withdraw without prejudice and would need a motion.

A motion made by Commissioner Polly Burnell to withdraw without prejudice, the application from 525 Commercial Street. The motion was seconded by Commissioner Thomas Biggert. VOTE 5-0.

The next meeting of the Historic District Commission will be held on February 20th, 2013 in the Judge Welsh Hearing Room at Town Hall.

A motion made by Commissioner David McGlothlin pursuant to M.G.L. Chapter 30A, § 21 (a) (3) for the purpose of discussing strategy with respect to the matter of Brahm v. Historic District Commission were an open meeting would have detrimental effect on the position of the Commission, and specifically, to revise the minutes of the Commission August 31, 2011 Executive Session in accordance with guidance from the Attorney General's Office. The motion was seconded by Commissioner Thomas Biggert. VOTE 5-0.

Reconvene in Caucus Hall for the Executive Session

ROLL CALL VOTE:

Thomas Biggert	Aye
Marcene Marcoux	Aye
Polly Burnell	Aye
Lance Hatch	Aye
David McGlothlin	Aye

VOTE: 5-0

Respectfully submitted,

Edward F. Atwood
Recording Secretary

Approved by _____ on _____, 2013

