

Minutes October 7, 2020

The Provincetown Historic District Commission Work Session of 3:30 PM and Public Hearing of 4:00PM, Wednesday, October 7, 2020.

NOTE: THIS IS A REMOTE PARTICIPATION MEETING

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place, this meeting of the Provincetown Historic District Commission will be conducted via remote participation to the greatest extent possible. Specific information and the general guidelines for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting can be found on the Provincetown website, at <https://www.provincetown-ma.gov/>.

For this meeting, members of the public who wish to watch/listen and participate in the meeting may do so in the following manner:

1. Watch on PTV GOV Channel 18, as well as an online livestream of PTV GOV at <http://www.provincetowntv.org/watch.html>
2. To listen and participate in this meeting, dial **(833) 579-7589**. When prompted, enter the following conference ID number: 250 048 195#. Please do not speak until the chair or the meeting moderator asks for public comments or questions. Please mute your phone until you are called upon to speak.

No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that we are unable to do so, despite best efforts, we will post on the Provincetown website an audio or video recording or other comprehensive record of proceedings as soon as possible after the meeting.

Members by remote: Thomas Biggert (TB), Chairman, Pilgrim Monument Rep.; Laurie Delmolino (LD), Vice-Chair, Historical Commission Rep Hersh Schwartz (HS), Clerk, Chamber of Commerce Rep.; John Dowd (JD), PGB Rep.; Christopher Mathieson (CM), PAAM Rep.; Michela Carew Murphy (MCM), Alternate.

Staff present: Anne Howard (AH), Building Commissioner; Thaddeus Soule (TS), Town Planner.

TS gave opening remarks at 3:40pm and called for TB to give quorum by roll call.

TB issued roll-call and called the meeting to order, then gave the meeting over to TS who read the rules governing Public Meeting protocols under current State guidelines regarding the pandemic.

Work Session: VOTES MAY BE TAKEN

1. Update on potential violations reported to the Building Commissioner.

AH issued permits for roofing at 24 Winthrop St.; 312 Commercial St.; 269 Commercial St., and 254 Bradford St. Last Saturday, a roofing violation was cited at the Elena Hall beach cottage for lack of a permit and a violation was given at 12 Brewster St. for the insulation of a shed constructed without benefit of a HDC review.

JD mentioned work done on a porch built at 122 Commercial at Whorf's Court; depth and detailing not quite right. AH said there was an inspection of the attic frame for foam for the installation of a HBAC system, but the property has not otherwise been reviewed. JD asked if there is a final drawing on record they could sign off on. AH said she would look into the matter.

CM asked per units at 79 Shank Painter Rd., which AH said is not in the Historic District,

2. 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 21, 2020 Public Hearing agenda and Administrative Reviews to be acted on by a subcommittee appointed by the Commission.

TB made a motion that i), ii) and viii) be considered as Administrative Review. JD seconded the motion and it passed, 5-0-0; TB, JD, LD, HS, CM.

TB made a motion that iii) through vii) be considered as Full Review: 5 Brewster St., U1, 38 Bradford St., U1, 8 Conwell St., 18 Bangs St., 20 Court St., U1. JD seconded the motion and it passed 5-0-0; TB, JD, LD, HS, CM.

CM asked per the absence of photos of 38 Bradford St., on the Conwell St. side. TB concurred, added that there is also no spec sheet of the bay window at 5 Brewster St.

- i) 14 Center St., U4 – To replace a front step in kind.
No one presented. AH referenced the previous HDC approval of July 12, 2019; said per the photo on the current screen that the Building Dept. was never called for a final check of the unsafe step; run and rise of the stairs will note a change in not being in excess of 20"; property cited as an attorney's office.

TB made a motion to approve as presented. LD seconded the motion and it passed, 5-0-0; TB, LD, HS, JD, CM.

- ii) 171 Bradford St., U9 – To replace a door in kind.
No one presented. TB noted what looked like an exact match. HS said it took 21 clips to go through this entire application which was frustrating. TS responded that this situation has been brought to the attention of the Community Development office. HS mentioned a steel door as replacement, said she doesn't have a problem with it. CM said he couldn't tell if the existing is steel and questioned the type of steel, to which TB concurred, adding there wasn't enough information to make a decision.

TB made a motion to continue the decision to the meeting of October 21, 2020. LD seconded the motion and it passed, 5-0-0; TB, LD, HS, JD, CM.

- iii) [171 Bradford St., U9](#) – To replace handrails and balusters on a deck.
No one presented. HS noted the request for Azec. LD said she drove by the property today and the posts did not appear to be wood. AH said the job has been stopped and started and cited the lack of a building permit; believed the existing posts are clad in Azec or pine, not cannot determine if they were already covered; size of deck is not be changed.

TB stated the style of the railing is changing, but not the size, asked AH if she thought the applicant wanted an approval today for all wood, or would rather return since work has already begun in Azec. AH said she understood the desire was to replace with a more durable material, but that the owner was assuming a Full Review was required.

TB made a motion to continue the decision to the meeting of October 21, 2020. LD seconded the motion and it passed, 5-0-0; TB, LD, HS, JD, CM.

3. Any other business that shall properly come before the Commission:

242 Bradford Street, #3 Rear

Regina Binder presented; referenced a prior approval for a rear cottage in 2014 that was later required to be raised 4' based on the Building Code per new FEMA guidelines; several meetings with the HDC followed that resulting in a denial of certificates and which prompted Ms. Binder to file a lawsuit. Ms. Binder said the building is not historic and noted that several buildings have since been raised in Town to comply with Code.

TB stated that at the time of the original application there was not the imperative to raise buildings by FEMA code due to rising water marks as there is currently and cautioned against incurring further legal costs to the Town. LD said her recollection was that the approved cottage was later determined to need a 4' elevation raise after which the new drawings indicated a raise that was much higher than 4' and also included many other changes to the original. Ms. Binder replied that the issue was one of an error in head height and that they are now hoping to avoid continuing litigation

CM said he recalled the request for receiving more elevations for the Board to review in order to make a more informed determination. AH reminded the HDC that the item in discussion has come under Any Other Businesses and, as such, the applicant is actively seeking a dismissal of the current lawsuit in order to go forward with building plans.

Ms. Binder reported that the property is not viewed from a public way north of Bradford from Hancock on the west and minimally visible from the east, no visibility from the north; said they would submit final design plans to the HDC.

TB canvassed the Board to determine who might be comfortable voting on the measure today to end the lawsuit and weigh in on future plans. MCM said the applicant is the party who can choose or not to drop its lawsuit against the HDC. AH said as a Full Review, the earliest hearing for the case would be the first meeting in November. Ms. Binder said they were not aware that a Full Review was needed but would request another extension to delay the pre-trial.

10 Whorf's Court

Rupert Bankert made the case for Azec to be allowed on the railings at his property which, he said, has been approved at other properties around Town. TB reminded Mr. Bankert that Azec is generally not approved or approved, at most, on a case-by-case basis based on location and public view.

MCM said she didn't feel comfortable asking a property owner to re-do such work at financial expense with what else is going on in the world, would be fine letting the existing elements remain. CM countered that the Board's prior approval was firm and that the onus is not on the HDC to correct an error in its judgment where one hadn't been made. JD said that while he would not ordinarily approve a result in non-wood, based on the location of this building as a dead-end and with limited public view, he would be alright not voting for a change-out. HS placed her vote for wood in honor of the original approval. LD sought confirmation of Whorf's Court as a public way and weighed in for wood, in keeping with the guidelines.

TB made a motion to require wood for the railing at 10 Whorf's Court. LD seconded the motion and it passed, 3-2-0: LD, HS, CM, in favor; TB, JD opposed.

Mr. Bankert sought clarity on the HDC's demands as pertains to wood. TB replied that the same design, and elements as exist, should be retained in wood, and that paint is not in the HDC purview. Mr. Bankert asked if there was a time-line for the work to be completed to which TB said June 30, 2021 would be acceptable. AH informed Mr. Bankert that his next remedy would be an appeal to the Superior Court.

4. **Public Comments:** On any matter not on the agenda below

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

a) [HDC 20-171](#) (continued from the meeting of September 16th)

Application by **Ocazo Construction** requesting to replace a front door on the structure located at **606 Commercial Street**.

AH said that while there is not an application on file to withdraw without prejudice it is the cleanest measure to take based on the owners' inability to secure a contractor.

TB made a motion to continue the decision to the meeting of October 21, 2020. LD seconded the motion and it passed, 5-0-0; TB LD, HS, JD, CM.

b) [HDC 20-175](#) (continued from the meeting of September 16th)

Application by **Nathaniel Fridman** requesting to add a dormer and windows and replace an existing bump-out picture window with a similar style of window on the structure located at **8 Court Street, UC**.

TS said he reached out to Mr. Fridman by e-mail with and that Mr. Fridman followed up with information, but was not found to be engaged by phone at this time.

TB made a motion to continue the decision to the meeting of October, 21, 2020. LD seconded the motion and it passed, 5-0-0; TB, LD, HS, JD, CM.

c) [HDC 20-2027](#)

Application by **Tom Thompson**, on behalf of **Amandio V. Correia**, requesting to remove a non-historic (circa 1976) brick fireplace and chimney from an east wall, restore the wall, gable end and soffit moldings and install a direct vent fireplace to accommodate a new propane fireplace in the same location in the structure located at **188 Bradford Street**.

Tom Thompson presented; said chimney is not historic, causing problems in not being attached to the house, pulling in water and not in scale; owners seek its removal in rendering a simpler structure more in keeping with what it was; added that the chimney was over-built.

HS noted per Form B that the original structure was built between 1840 and 1860, with massive changes made in 1970. LD said there was no historic relevance to the chimney and that she felt it fell to HDC guidelines to permit its removal. JD agreed, asked if other members were on board with the bump-out feature currently in place. LD concurred, as did CM, who

added that two surrounding properties have the same chimneys on their structures and that something could be lost in removing one of the stacks so tightly clustered in the same area. MCM agreed with CM, JD and LD.

Mr. Thompson dated the chimney to 1976 which, he said, makes it a non-historic structure and its removal brings the building back to its original elevation. TS read Chapter 15.11.8b from the HDC bylaws which determines that chimneys, either original or added later, and of importance, are to be retained. HS said that internal chimney machinations can be altered without affecting the exterior structures in voting for the chimney to remain.

LD said she felt the bylaw refers to those chimneys that are original or otherwise added to mimic the centrally located chimneys as opposed to modern add-ons at the end of buildings; asked if Mr. Thompson's client might be in favor of adding a faux-central chimney to restore the historic architecture of the house. JD agreed with LD in terms of the chimney policy but questioned the bylaw wording on what constitutes later, add-on, chimneys.

MCM left the meeting at 4:53pm.

CM agreed with JD and LD. Mr. Thompson said he could confer with his client on the addition of a skinnier chimney on the end or a centrally placed chimney. The Board stated a preference for a centrally appointed chimney.

TB made a motion to continue the decision to the meeting of October 21, 2020. LD seconded the motion and it passed, 5-0-0; TB, LD, HS, JD, CM.

d) [HDC 20-2034](#)

Application by **Nate McKean**, of **McKean Artisan Builders, Inc.**, requesting to re-side a shed, replace an asphalt roof with a corrugated metal roof, replace a picket fence on an east elevation with reclaimed shutters, install privacy fence along the north elevation, and install a custom gate into a garden on the property located at **466 Commercial Street**,

TB recused himself; LD assumed the chair.

Nate McKean presented; said the shed was an original structure, apologized for not coming before the HDC to apply for the metal roof; said shuttered fence is a shower enclosure.

HS said she is having a difficult time in that the applicant has taken it upon himself to do work three times without seeking approval through the proper channels, to which Mr. McKean apologized. CM asked what other property views are available from a public way, related the slight visibility from Cook Street. Mr. McKean said the only view is from behind the Moore house while driving down Cook Street.

Ken Faulk, neighbor, spoke of his consistent consideration of the integrity of all historic Town properties and apologized for not going through proper channels on making improvements to this one, expressed his support of Mr. McKean's work and improvements to the shed, and on other structures throughout Town.

CM noted the privacy fence is set back at least 10' from the house per the bylaws, spoke in favor of the work done on the shed, as did JD. HS concurred but said she is bothered by applicants not following through on proper protocols concerning applications. JD agreed the shed is preferable to some of the pre-fab options sometimes employed in Town.

LD made a motion to approve as presented JD seconded the motion and it passed, 4-0-0; LD, JD, HS, CM.

e) [HDC 20-2038](#)

Application by **Andrew Walsh** requesting to add and replace windows and doors on an existing accessory structure, including replacing a shed door on an east elevation and adding a window and replacing two existing windows on a north elevation located at **11 Tremont Street**.

Andrew Walsh presented; said the door replacement would be a full glass to match the windows, was a former artist studio from 2016 that they are trying to make into an office.

No public comments or letters.

AH noted the original dimensions of the shed as 8x15 which is larger than permitted for sheds and so it was to be rendered a non-electrified, non-plumbed artist studio, pertaining to the application of May 2017. Mr. Walsh said there is no plumbing now, but there is electrical.

LD cited minimal changes, would vote in favor, to which HS agreed. JD questioned 4/4 windows and accompanying door replacement style. CM said the changes as proposed were not appropriate to an artist studio; that the variations of window and door features of sheds around Town are more desirable than this one, but he is fine with the window on the east side.

TB recused himself as his phone connection had gone out for part of the hearing.

LD tallied votes for and against and agreed with JD for 6/6s, as did CM, but added that he preferred the door remain the same, to which Mr. Walsh said would not work.

LD made a motion to accept with the condition that the windows are 6/6. HS seconded the motion and it passed, 3-1-0: LD, HS, JD, in favor; CM, opposed.

d) [HDC 20-2039](#)

Application by **Steven Latasa-Nicks**, on behalf of **Strangers & Saints**, requesting to change a previously-approved awning structure to a wood-framed structure, measuring 35'0" L x 15D x 10'6"H, sloping to 8'0" H, with 5 square columns to mimic the square columns on the corners of the east elevation of a structure located at **404 Commercial Street**.

Steven Latasa-Nicks presented; said request will stay within the same dimensions but with a change of materials based on supply availability.

No public comments or letters.

JD said he doesn't have any issues with the design other than that what is proposed cannot be built based on the dimensions and drawings as submitted, questioned the placement of the awning and columns, explained his case at length, to which TB concurred. Mr. Latasa-Nicks said the property at the north elevation is 6' higher and the east elevation is also not visible but that he had faith in his architects and builders to implement the scope of the work which had already been approved; would return to the steel and canvas structure if the HDC cannot approve the plans as submitted, which are rendered for a working restaurant.

AH suggested another perspective from Ted could be more reflective of the roof's orientation. Mr. Latasa-Nicks replied that the rear of the property is three-tiered making for a challenge to the north and east elevations as represented. AH expressed the creative build plan to TB, adding that the snow load is minimal after which TB related that it might be difficult for the Board to interpret the effect of a doubled sloping roof creation.

HS said the depth of the design intricacies are a bit beyond her scope and CM said he could see what JD and TB were suggesting, but also wondered if another configuration of the concept could be presented. TB suggested three-dimensional drawings could be useful, to which Mr. Latasa-Nicks said would be an expensive undertaking and would that they would need to confirm the pertinent elevations before undergoing such work plans.

JD said he is in favor of the design as long as the windows and columns align in practical and constructive ways. TB said JD's concerns are legit but noted a fabulous design.

JD made a motion to approve as presented pursuant to the drawings dated August 25, 2020. TB seconded the motion and it passed, 4-0-0; JD, TB, HS, CM.

LD left the meeting prior to the last determination, due to phone issues, at 5:55pm.

6. Review and approval of Minutes:

HS made a motion to approve the September 16, 2020. TB seconded the motion and it passed, 4-0-0; HS, TB, HS, CM.

Recording Secretary O'Neil requested the meeting minutes of Aug. 19, 2020 be removed from the agenda as they have previously been approved and sent to the Town Clerk on Sept. 23, 2020.

AH stated that 9 Bangs Street was filed with the Town Clerk on September 17, 2020.

7. Deliberations on Pending Decision: VOTES MAY BE TAKEN

TB made a motion to approve the October 7, 2020 decision of HDC 20-2034, 466 Commercial Street, as written and read into the record by HS. HS seconded the motion and it passed, 4-0-0; TB, HS, JD, CM.

TB made a motion to approve the October 7, 2020 decision of HDC 20-2038, 11 Tremont Street, as written and read into the record by HS. HS seconded the motion and it passed, 4-0-0; TB, HS, JD, CM.

TB made a motion to approve the October 7, 2020 decision of HDC 20-2039, 404 Commercial Street, as written and read into the record by HS. HS seconded the motion and it passed, 4-0-0; TB, HS, JD, CM.

TB made a motion to approve the March 4, 2020 decision of HDC 20-134, 53 Commercial Street as written and read into record by TB, HS seconded the motion and it passed, 4-0-0; TB, HS, JD, CM.

TB reminded the Board that it is the HDC's, not the applicants', responsibility to determine property visibility from a public way.

TB made a motion to adjourn the meeting at 6:09pm. HS seconded the motion and it passed, 4-0-0; TB, HS, JD, CM.

Respectfully Submitted,
Jody O'Neil