



## HISTORIC DISTRICT COMMISSION

### Judge Welsh Hearing Room

June 6, 2012

3:30 p.m.

**Members Present:** Polly Burnell, John Dowd, Ryan Landry,  
and Marcene Marcoux

**Member Absent:** David McGlothlin (excused)

**Alternate Present:** Thom Biggert

**Staff:** David Gardner and Justin Post

**Work Session was called to order at 3:35 p.m.**

#### ●Election of Officers

This didn't happen.

#### ●Public Statement

The following is the statement and motion read into the record at the HDC June 6<sup>th</sup>, 2012 meeting; it was read by Marcene Marcoux:

The HDC has received yet another Open Meeting Law complaint from Mr. Brahm, which has been distributed to the members of the HDC and will be made part of the minutes of this meeting. In short, the complaint concerns the HDC's May 2, 2012 meeting, and its consideration of an earlier complaint filed by Mr. Brahm. The complaint alleges that the HDC failed to properly deliberate over the merits of his complaint, and that the public was not invited to participate with respect to the complaint. Town Counsel has reviewed the complaint and relevant HDC meeting minutes and notice, and has made a recommendation with respect to resolution of the complaint, which I believe is appropriate under the circumstances.

Therefore, I move that the HDC resolve the complaint at issue by voting as follows:

The complainant has made several Open Meeting Law complaints against the HDC and is the plaintiff in an ongoing lawsuit against the HDC;

The HDC has complied with the Open Meeting Law and responded to such complaints in accordance with law;

In response to a complaint concerning its March 21, 2012 meeting, the HDC included a detailed item on its May 2, 2012 meeting notice, including the possible use of executive session;

The meeting notice was posted in advance of the 48-hour deadline imposed by the Open Meeting Law;

The HDC discussed the agenda item at its meeting, with the Chair introducing the matter and a detailed motion being made;

The motion was prepared prior to the meeting in a form consistent with that recommended by Town Counsel, but such preparation did not involve a quorum of the HDC;

Following the motion there was such discussion as to the merits and drawbacks of the potential response as the members collectively deemed appropriate to allow each of them to form a decision, and then a vote was taken;

There is nothing in the Open Meeting Law that requires a public body to dedicate a particular amount of time to deliberations;

Members of the public were not invited to participate, and are not required by law to be permitted to do so; instead, the Open Meeting Law simply provides members of the public with the right to be present at open meetings of public bodies;

The HDC is concerned that all actions that it takes with respect to the ongoing litigation involving Mr. Brahm, and with respect to the complaints he has filed, will be challenged in a fashion similar to the current challenge, and further, that such challenges will eventually act as a disincentive to Town residents' willingness to volunteer for and continue to serve on the HDC.

For all these reasons, the HDC finds that it complied with the Open Meeting Law in scheduling, deliberating and voting on the complaint concerning its March 21, 2012 meeting, and further that no remedial action is required.

Town Counsel is authorized to send a response consistent with this vote.

**Motion: Marcene said that this problem has come before us for the 4<sup>th</sup> time. We were very concerned with the complaint and we went into Executive Session and we basically took into consideration and followed all the procedures.**

**Motion: Marcene Marcoux    Seconded: John Dowd            Vote: 5-0-0.**

● **Administrative Reviews**

**14 Winslow Street**

The owner of the Portuguese bakery had the windows replaced without grids. The owner said the house were compromised already and was originally built in the 1930s. One of the issues was “replace in kind” and that can’t be done.

Polly Burnell said that the 2 over 1 doesn’t look right and continued that the proportions don’t look right. John said that the 2 over 1 is a defining feature of the house. The HDC told the owner that – by the next meeting – we’ll have a good answer for you regarding the windows.

**322 Commercial Street** - It was approved.

**100 Bradford St** – Mary Jo and Dwayne Steele said that there’s a tremendous amount of foot traffic and skate boarders who are wrecking the corner of their property. Dwayne said that he originally wanted an iron fence but it would have cost \$1,500. The picket fence proposal was approved.

**155 Commercial Street** – The contractor has to get to the rubber roof under it and he’s going to reroof. The project was approved.

**9 Bangs Street** – The contractor will be moving the door to the present window opening and the window will go away. He is trying to make more interior room for the bathroom. This was approved.

**47C Commercial Street** - this fence has already been done. An abutter complained. It was deemed a non problem and they just want to put up a fence to hide rails. The HDC wants to see the problem again with an accurate drawing.

**11 Pleasant Street** – The owners want a hedge replacement. Approved.

**176A Commercial St** – The owner wants windows to match others in the house. This was approved.

**25 Winthrop Street** – The property is behind the fire station and they want to put on awnings. It was not seen as a problem. It’s basically protecting the roof of the porch.

Polly read the guidelines, again.

**5 Johnson Street** - The owners want to add a rather large skylight on the Arch St. side of the property. (30' x 26' skylight) It needs a full review – thus no vote.

**74 Commercial Street** – replace existing garden shed – This project was approved.

**652 Commercial Street** –They came before us for a portion of the house window replacement and now they're getting around to the back of the house. This was approved.

**●Review and approve previous minutes**

**Motion: Move to approve the minutes of the May 2<sup>nd</sup> meeting as amended.**

**Motion: Marcene Marcoux    Seconded: Polly Burnell    Vote: 5-0-0**

**Motion: Move to approve the minutes of the May 16<sup>th</sup> meeting as amended.**

**Motion: Marcene Marcoux    Seconded: Polly Burnell    Vote: 5-0-0.**

**Motion: Move to expel Benji Fox for inattendant at HDC meetings.**

**Motion: John Dowd                      Seconded: Polly Burnell    Vote: 5-0-0.**

**●Any other business that shall properly come before the board**

There was none.

**Pending Cases**

**Case# FY12-35 (continued from May 16, 2012)**

**Application by Mark Kinnane of Cape Associates, Inc. on behalf of Johnny Pak** for a Certificate to be issued in accordance with the Provincetown Historic District Commission established under the General By-Laws, Chapter 15 of the Town of Provincetown. The applicant seeks approval to demolish the existing structure and rebuild a new structure at the property located at **149 Commercial Street, Provincetown, MA.**

Many more negative letters had been received from abutters and the public really came out in force against FY12-35, thus the following motion was made:

**Motion: Move to not allow a continuation of project FY12-35.**

**Motion: Polly Burnell                      Seconded: Ryan Landry**

**Vote: 3-0-2 ab (MM & TB)**

## **New Case**

### **Case# FY12-41**

**Application by Amy Germain** for a Certificate to be issued in accordance with the Provincetown Historic District Commission established under the General By-Laws, Chapter 15 of the Town of Provincetown. The applicant seeks approval for the placement of an approximately five foot by 22 foot solar panel on the south facing roof. The panel will sit approximately five inches above the roof at the property located at **150 Commercial Street, Provincetown, MA.**

The owner requested a continuation and the following motion was made:

**Motion: Move to allow the continuation of FY12-41 without the time constraints.**

**Motion: Marcene Marcoux    Seconded: Thom Biggert    Vote: 5-0-0.**

### **Case# FY12-42**

**Application by Ted Smith Architect, LLC on behalf of Eric Schultz** for a Certificate to be issued in accordance with the Provincetown Historic District Commission established under the General By-Laws, Chapter 15 of the Town of Provincetown. The applicant seeks approval to extend an existing dormer on the south elevation at the property located at **10 Washington Avenue, Unit #4, Provincetown, MA.**

(The Commissioners sitting on this case were Thom Biggert, Polly Burnell, John Dowd, Ryan Landry, and Marcene Marcoux.)

The architect said that he is just extending the dormer to make it wider; it will give more volume and more light. It is overlooking Law Street. There were no letters in the file and the owners did get signatures from neighbors who approved of the project. Polly said that it looked as though it had too many windows and she has suggestions. John said that there was an asymmetry – 4 windows on one side and then 3 on the other side. Mr. Smith said that he could look over the placement of the windows and see what he could do.

Since the architect couldn't really make a decision for the owner, the only sensible thing for him to do was to withdraw without prejudice.

**Motion: Move to allow FY12-42 to withdraw without prejudice.**

**This motion was approved by all members of the HDC in attendance.**

### **Case# FY12-43**

**Application by Mark Juairé** for a Certificate to be issued in accordance with the Provincetown Historic District Commission established under the General By-

Laws, Chapter 15 of the Town of Provincetown. The applicant seeks approval to replace existing windows with new Anderson units including code compliant egress windows and replace an existing window and slider with a new gliding door unit at the property located at **166 Bradford Street, Unit #4, Provincetown, MA.** The Board members sitting on this case were: Thom Biggert, Polly Burnell, John Dowd, Ryan Landry, and Marcene Marcoux.

He wanted to do this under Administrative Reviews but was told that it had to be full hearing. On the north elevation, he will be moving a window to the middle of the side and adding a small window.

There was nobody from the public either in favor or opposed. – The building used to be a fish market and Mr. Juairé’s unit is the whole 2<sup>nd</sup> floor. John Dowd said that the doors don’t make sense and the owner should stay away from the colonial revival.

**Motion: Move to approve FY12-43 as presented.**

**Motion: John Dowd                      Seconded: Marcene Marcoux                      Vote: 5-0-0.**

Polly Burnell noted that we were getting more and more requests for solar panels and – as yet – had no guideline for them.

Ryan Landry said he would like to have the time to research many things to do with the historic mission and he felt a facebook page for the HDC would be the answer. It could contain examples of different styles, i.e., Victorian, Cape Cod, etc.

Polly Burnell suggested - why not have it on our town site. Ryan said that he’d look into it.

**Adjournment happened at 5:35 p.m.**

Respectfully submitted,

*Evelyn Gaudiano*

E. Rogers Gaudiano

**Approved by** \_\_\_\_\_ on \_\_\_\_\_, 2012.  
John Dowd, Chair

**Attachment:** OPEN MEETING LAW COMPLAINT FORM