

HISTORIC DISTRICT COMMISSION

January 17, 2007

Judge Welsh Hearing Room

3:30 p.m.

Members Present: Polly Burnell, John Dowd, Marcene Marcoux, and Carol Neal.

Members Absent: Nathan Butera and E. Clothier Tepper

Staff: Maxine Notaro

Work Session at 3:30 p.m.,

2007-07 (Continued from January 03, 2007)

Application by Robert Valois 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 raise the roof 6'6" and add dormers and a spiral stair at the property located at **43 Commercial Street, Building "B", Provincetown, MA.**

Robert Valois presenting. **Carol Neal stepped down.**

In the new plan the building height has been reduced by 2 ½ ft. He took all the suggestions from the Board and put them into the new plan. Polly Burnell thought it reads O.K. The windows on the second level have become smaller to keep the proper scale.

Motion: Accept as presented by citing many of the guidelines under the 15 series as the reconsideration for the addition.

Motion: John Dowd Seconded: Polly Burnell Vote: 3-0-0.

259 Commercial St – shingle over roof. O.K.d

10 A Commercial Street – O.K.d

184B Bradford Street – reroof – remove deck - O.K.d

240 ½ Bradford Street – remove chimney & install direct vent. – **not approved.**

Minutes of November 15th and December 13th meetings.

Motion: Approve the minutes of the above two meetings.

Motion: John Dowd Seconded: Carol Neal Vote: 4-0-0.

Peter Page will notify all the contractors to have a meeting to discuss procedures and address any concerns the contractors may have. The meeting will take place on **February 6th at 4:00 p.m.** At the regular meeting on **February 7th at 3:30 p.m.**, Doug Taylor and the Commissioners will discuss enforcement issues and responsibilities.

4:00 p.m. Special Public Meeting (continued from January 10, 2007)

2006 – 59 531 Commercial Street – Richard Bready c/o Parker Thompson Consideration of Stop Work Order and Demolition Issues

This meeting was called to order at 4:08 p.m. by John Dowd.

Glen Parker, Cheryl Bready, and Ed Patton, their attorney, discussed all the facts of the case that had been presented to the Commissioners at the previous meeting on January 10th. Glen Parker again said that anything done in error was done by him and it's important to convey that point. Pursuant to this he has letters of recommendation from projects they have done as they relate to the concerns of preservation. He hopes this will provide a character reference – from architects in RI etc.

Parker Thompson letters of professional support were from:

Jack A. Gold - Executive Director - Providence Preservation Society

William L. Kite, Jr. - Principal - William Kite Architects, Inc.

Scott Weymouth - Arris Design - Providence, RI

Thomas A. Jenckes historic house renovation - Providence, RI

The local contractors who have been employed on the project follows:

E.F. Winslow - South Yarmouth

Long Point Electric - N. Truro

Winkler Construction - Truro

Lower Cape Construction - Provincetown

Cape Cod Alarm - West Yarmouth

Marc E. Schaefer - N. Eastham

Bouse House - Forestdale

Patrick Trainor - N. Eastham

Cape Cod Vacuum Maart - S. Dennis

A1A Steel - Hyannis

MV Hardwood Floors - Vineyard Haven

Douglas T. Papp - Orleans

Wesley Medeiros Welding - Provincetown

East Harbor Construction - Provincetown

Ethan Poulin, Inc. - N. Truro

J&L Enterprises - Truro

Glen Parker continued reiterating the timeline on how this project unfolded. On August 8th he presented the final plan to the HDC. A building permit was approved on Sept 11th; it was filed and issued on Sept 18th. He met with Doug Taylor and began construction on Sept 25th. In doing this reconstruction, they found that the building had been compromised and were told to get a structural engineer. They had the engineer come in, he did an assessment and deemed that the building was not structurally sound. A stop work order on the foundation happened on November 9th. Glen had conversations on all of this and went through the structural drawings and sent out letters to neighbors, etc. letting them know what had happened. C.H. Pressler sent documents that said how they could meet the building requirements.

On November 12 & 13th, Glen Parker had an initial meeting with Dick Anderson, the Building Inspector, and told him that they were going to reconstruct the building. They would only stamp restructuring the building. Carol Neal asked if the word "demolition" was ever discussed? Answer: No – because we were trying to restructure the building. The building was basically held together

with trim and plaster. We did what we were anticipating and what we had to do. We were upfront and did the work that was indicated by those drawings and then Polly Burnell and Carol Neal looked over the building on December 15th. Polly said, "There's nothing left." It was determined that Polly had said this to Dell who reported that they were satisfied that everything was fine. Marcene Marcoux asked, "Did we issue a violation on that day?" Answer: "No, but Polly spoke to Doug Taylor about this." On January 3rd Glen Parker got a call from Doug Taylor about the structure and on January 5th a stop work order was put on the site. A meeting was held on January 8th, the following Monday, and they talked about the temporary structure and reason that they had not notified the HDC. Carol Neal said, "So that brings us to this meeting."

Glen Parker said they did – to the best of his ability – comply with all the requirements you had. Ed Patton presented the photos of the existing conditions of when Glen Parker's company went to the site. What happened here could be an oversight - whether there was an oversight – or what, Ed Patton believes Mr. Parker has been very forthcoming and upright. He then named all the committees that they had gone through (Zoning, Planning, Conservation, and Historic) and he thinks that Glen covered all the bases. Ed Patton said that he's not minimizing anything but the HDC is not faced with someone who wantonly avoided procedures. Major renovations had to be done and we're here to try to find a solution. Mr. Patton sincerely hoped that we can come to some resolution.

Glen Parker said that it is still our desire and intention to complete this project with the approved design and we have salvaged much of the material and we want to use them.

Doug Taylor then began his recollection of events: On Dec 15th, 2006, Carol Neal, Polly Burnell, and he went to the site and Polly felt that it was in bad shape but the roof and sidewalls were still intact. Something the HDC needs to decide when it has to be demolished and when it doesn't - as far as Doug Taylor was concerned the building was going to be restructured in whatever way was appropriate. Doug Taylor felt it wasn't demolished at that time. On January 4th, the fire marshall, fire chief and Dick Anderson met at the site and that's when a stop work order was placed on them. Until January 4th they hadn't done anything that other contractors hadn't done. Other than that demo they followed everything that the HDC had deemed necessary. A demolition permit was issued for the interior. When they had a full demo then Carol Neal was notified. They have not done anything else since. On the Friday Doug Taylor said it was completely down. That was on the January 4, 2007.

Glen Parker understands that now but he never took the whole building down. Once the dormers were taken off, then the roof that was left became dangerous for his workmen.

Doug Taylor said that when he went out there, the 2nd and 3rd floors looked scraped off. All he saw was the one story. On the 15 of December, 2006, it looked at though they had reconstructed the entire floor.

Tom Boland, Chair of the Historic Study Committee, said this is a very complicated issue. The troubling thing is that there are so many gray areas. This whole construction is compromised and the HDC had no representative invited to see how this was going. No outside source was invited and this is the big problem of this commission whose job was mandated – to oversee this – and he has a problem with someone saying it's O.K. take it down.

The contractor talked about how different designers supported him - but – we don't have a paper trail

and that is another difficult precedent. The 143 MA general by-law – section 6.2 - is vague on preventing demolition. The benchmark is the Building Commissioner - he has the right to authorize demolition.

Dick Anderson, the Building Inspector, said he didn't understand it to be a total demolition. He thinks this is a big problem since most structures in town would never get a guarantee from an engineer that this building will stand up to a hurricane. It's incumbent on an Historic Commission to determine how far is too far? There has to be a mechanism where an applicant has to report changes prior to a demo.

John Bennett, a member of the audience, said he is working with Parker Thompson and in working closely with these guys there has been no talk of demolition. (He is a native of Provincetown and lives in Truro.) We did everything possible to save this building and we were there every day and working in peril.

Another contractor said that he's upset and he's working on a building right across the street that is compromised – they're all compromised!

Negative letters:

Michael Mazur - 561 Commercial Street - Once a house is down you can do whatever you want. He cited Blanch Lazelle's house that was torn down. Also chopping off the top of the hill of Cook and Bradford. Letter continued - let's add bite to its bark. Fines should be 10 to 15% above the cost of the house.

Sheila McGuiness - Standish Way - This house will become a rental and they've exceeded their bedrooms. The letter had a very sarcastic tone and cited a case of iron decks as an illegal structure that remains. It's easier to apologize than to get permission first.

Support letter:

Joan and Albert Marsh - 533 Commercial Street - They would like to see construction restarted and completed by June 2007 as originally planned. They say that they are the family most affected by the construction and they would like to see it continue.

Doug Taylor received commentary from our town counsel through the Town Manager and John Georgio, the counsel, said that the fine cannot exceed \$500.

15.10 enforcement penalties state \$250/day – Doug Taylor said that our local guidelines trump state guidelines – meaning per day..... it's a new violation each day.

Carol Neal contacted the MA historic commission – she also contacted one of the architects of the by-laws – Eric Dray – and the house should be made to build back whatever was there. Fine should be levied on a per day basis. She thinks she should bring an article before town meeting and determine fines for unauthorized demolition.

Dick Anderson was called in and asked – when the drawings were brought to you – did you think that their intention was to demolish the building? Answer: No, we wouldn't have said just go ahead and take it down.

Ed Patton asked: "What is the definition of demolition since this was piece by piece." He was evidently making a lawyer's argument for the definition of demolition.

John Dowd says if we find out that 500 dollars is the upper limit for the total fine, then maybe we're wasting our time here. John Dowd also said that we want to find out through town counsel that we're not going to be overturned.

Doug Taylor said applicants should be handed a sheet with specifications. The applicants feel they were building something identical to what it was.

Glen Parker said the application was exactly the same as was approved. Thought we were abundantly clear with that. The intent has not been violated. What is the best for 531 Commercial Street – I've made the mistake and the owner should not be penalized. Isn't that why we're here..... I urge you not to punish the owner, the neighbors, etc. he's willing to accept whatever HDC wants to hand out.

Then the Commissioners' deliberations began:

Carol Neal and Polly Burnell felt that they needed more investigative time and cited the MLK holiday as holding up their investigation into procedural issues - even though at a meeting a week ago the research was going to begin.

Marcene Marcoux stated that - granted we were out of the loop - but this is significant in terms of intent. HDC wasn't easy on the applicant and they have tried to work with us. Who is responsible for all of this? We met last week and we needed more time. Fine from Jan 5th until the building is externally completed. This could be a compromise situation. Marcene thinks it should be resolved today. We have to be responsible professionally.

John Dowd said that \$250/day is what our by-law reads.

Glen Parker knows HDC has a global issue in town but he has individual issues. If the fine is imposed until he has the building reframed and then HDC could come and reinspect the building and I could resolve the issue. It would take 4 or 5 weeks to frame the building and the violation could be remedied in 5 or 6 weeks.

Doug Taylor said if you want us certify the framing – 5 weeks is about a \$10K fine or more!

Carol Neal still debated while Marcene Marcoux said we need a resolution - now. This is what she felt last week and we're not any farther ahead than we were. We need some kind of action.

Glen Parker said he was willing to offer community service or willingly provide a contribution to a special HDC fund. The Bready's have not done anything wrong. It involves substantial money to me personally. He thinks this is a reasonable position.

John Dowd feels this is right.

Marcene Marcoux said she is citing HDC guidelines and fines should be imposed up until the building is reframed. So I think we have something in concert. Right now some are talking about the future and this case involves the present. This is a significant fine given the case. Glen Parker is trying to

work with HDC.

Doug Taylor – when you say – get the framing up – HDC is concerned with the exterior. At that point it will include the frame, siding, windows, and everything in place..... Does that give you a comfort level? That's a 3rd party view.

John Dowd – there will be a fine on top of this. He wants to decide this. We may be in a deadlock here.

Glen Parker said that he would accept the fine from the day Polly Burnell said she was offended and in addition he will personally provide money for the HDC for a special fund to provide information and education about the HDC. He's reaching out as far as he can. Glen Parker doesn't take this fine lightly since he has five children to support and three of them are currently in college.

Motion: Allow the project to proceed and charge a \$250/day fine from December 15th until the building is framed and the shell of the building reflects the approved HDC plan. Also accept a donation of \$5K from Glen Parker to an HDC special fund to help educate and deal with HDC concerns

Motion: John Dowd Seconded: Carol Neal Vote: 4-0-0.

The meeting adjourned at 5:43 p.m.

The secretary was then asked to reopen her computer so that an attorney, Jay Murphy, for 43 Commercial Street - Building B - could find out about the property and the disposition of the case so that he might tell the abutters.

Respectfully submitted,

Evelyn Gaudiano

E. Rogers Gaudiano

Approved by _____ on _____, 2006.
John Dowd, Chair