

Historic District Commission Minutes
Wednesday, April 07, 2010
Grace Gouveia Building, Room 10
26 Alden Street, Provincetown, MA 02657

Historic District Commission Members Present: John Dowd, Carol Neal, Marcene Marcoux, David McGlothlin and Polly Burnell.

Absent: Nathan Butera.

Staff Present: Maxine Notaro, Permit Coordinator.

Carol Neal, John Dowd called the meeting to order at 3:30 PM.

Work Session 3:30 p.m. Administrative Reviews

Michelle Jarusiewicz, Consideration of support for the Library's Mass Historical Commission/MPPF grant application for completion of the façade, 460 Commercial Street

Michelle Jarusiewicz said the grant application is for repairs to the front façade of the Library. The maximum grant is for \$100,000.00. The Library is looking for a letter of support from the Historic District Commission.

Motion: To draft a letter of support for the Library.

Moved: John Dowd. Seconded: Polly Burnell. Voted: 5-0-0.

Sandra M. Turner and Ken Joudrey, discussion on Fire House #2, 189 Commercial Street for a canopy over back door

Sandra Turner said they have ordered the wood doors, however, should they become a problem, they will come back to the HDC to install fiberglass doors.

John Dowd asked if the window in the eve will be replaced because at present it is boarded up. Also, the original window trim had thicker stock and what is on the window now is thinner and that the corner boards were thinner and rounded corners.

Sandra Turner said the window is in the process of being worked.

Marcene Marcoux said she appreciated the fact they are keeping the board members informed and letting the board know they will be installing wood doors and should they need to make changes they will come back to the board members for review.

Ellen C. Burbank, request consideration of support for the Pilgrim Monument & Provincetown Museum Mass. Historical Commission grant application, 1 High Pole Hill Road

Ellen Burbank said the Pilgrim Monument and Museum are also looking for a letter of support for interior renovations.

Motion: To write a letter of support as requested.

Moved: John Dowd. Seconded: Carol Neal. Voted: 5-0-0.

12 Pleasant Street

John Reis stated the Commission members had previously approved the bump-out eliminating the lattice. The homeowner would like to install a 6-panel wood door in the bump-out in order to get appliances in and out. **Approved as requested.**

Discussion regarding 333R Commercial Street Violations

Present was Jay Murphy, Attorney for the applicant, William N. Rogers, II, P.E. & P.L.S., Karen DePalma, Attorney, Gary Locke of William Rogers office and William Bonn, property owner.

Mr. Bonn was in receipt of the violation notice sent him.

Attorney Murphy said the members know the history of the building. A request to demolish had originally been applied for through the HDC but was withdrawn by the applicant. A new application had been filed to reconstruct the building. This project is considered a control construction project. The Building Commissioner worked with the Engineer and the Construction Supervisor. The contractor/construction supervisor tried to keep as much of the building as feasible.

The building was constructed in 1970, therefore, is not an historic structure. The building had materials not of quality. William Rogers did the original design but did not oversee the project when it was originally built. Structural components of the building have been exposed to the elements therefore it needed replacing.

On December 2, 2009 Gary Locke from William Rogers office met with the Historic Commission to encounter what was happening with the building. In spite of weather exposure which compromised the building, he alleges that every effort was made to save the building. It was agreed by the applicant, the engineer and the construction supervisor to keep the Historic District Commission informed.

From December 2, 2009 to July 11, 2010 things occurred such as inclement weather which further undermined and compromised the building. On January 11, 2010 a letter was forwarded to the HDC keeping the HDC informed and the building commissioner was notified. It was determined at that point that the building could not be saved but the HDC was not so notified.

The Historic District Commission at their January 20, 2010 meeting discussed the letter of January 11, 2010, by which there was no response from the Historic District Commission. The Building Commissioner determined the structure to be unsafe. He has the authority to make the determination that the building be removed due to an unsafe structure in order to protect the community. Gary Locke has a log he has kept keeping the Building Commissioner informed.

It was decided that the building needed to be demolished on the opening up of the building coupled with the several months of exposure to the weather. It was the intent of the applicant, the engineer and the construction supervisor to save as much of the structure as possible. The Building Commissioner made the determination that the building must come down. Again, the Building Commissioner has the authority under the HDC guidelines to authorize demolition but the HDC needs to be notified.

William Rogers said he did the original survey in 1974 for Mr. Rutherford. Ted Boxe became involved and he wanted to have it as a boat building structure so Mr. Rogers did the Chapter 91 plans.

In 1976 Joe Kelly, Architect/Designer was introduced to the job to design a second floor for the building. The existing structure at that time was unstable. Mr. Rogers did not supervise the construction of this project; he only did the Chapter 91 plans.

John Dowd said one could say it is structurally sound or not structurally sound, however, the Historic District Commission would defer to the Building Commissioner for that. The HDC feel as though they have not been kept in the loop from the Building Commissioner. The information that was discussed with the Building Commissioner was not passed on to the HDC members from the Commissioner.

Russ Braun, Building Commissioner said it was left that the HDC were going to get reports on what was happening. He said the HDC guidelines put the sole determination of the demolition with the building department. The letter of the bylaw states there is no requirement for the Building Commissioner to consult with the HDC; not in the building code or in the HDC bylaw. Would it have been more politic, yes, but it would not have changed his decision.

Marcene Marcoux asked what date determined the building must come down. At what point was it deemed unsafe? What letters, documents, structural engineering reports were given to the HDC to determine that the building was unsafe? She stated "It was made clear at the meeting on Dec. 2, 2009 with Gary Locke that you had to come back to us". It is clear that there is rapport with the Engineer and the Building Commissioner but the Historic District Commission was not in the loop.

As for the Building Commissioner, he is a Building Commissioner in a town where there is a Historic District and not to come back to the HDC was in violation of their bylaws.

David McGlothlin asked why the report of yesterday states there was a structural report in June of 2008 yet the commission members had not seen any of this until yesterday regarding the second floor framing, etc.

William Rogers stated that was just made up for the board members last week.

Marcene Marcoux again asked, why was it until now that the board members are just getting all of the materials. The Commission did not receive the structural reports.

David McGlothlin said it was indicated at the December 2, 2009 meeting that the Historic District Commission members were to receive all correspondence.

Gary Locke said you didn't get them?

David McGlothlin told Mr. Locke while he might have given them to the Building Commissioner; they were not passed on to the HDC members. The commission members have not been well re-presented through the process. It's not a question of the structural integrity or safety; however, he felt the commission members would have received the correspondence out of mere courtesy. When was the structural analysis done?

The answer was in June of 2008.

Polly Burnell said there appears to be a lack of communication and the commission not being kept in the loop. The Commission was making decisions on only what they had in front of them and not the whole picture.

Are the plans the original plans of September 17, 2008 with the final approval and is that the building that is going to be there?

Neal Kimball responded yes it is.

Marcene Marcoux asked how do the commission members know that. People have been saying the footprint has changed.

William Rogers said the building was squared up to make it 90 degrees but the footprint has not changed.

Russ Braun said the footprint of the structure is not changed.

Marcene Marcoux asked if they had received permission from Chapter 91 to demolish the building and William Rogers and Karen DePalma said, no.

Karen DePalma said they have draft conditions from DEP and they have made application and have paid into the Harbor Gift Fund but they have not received final approval yet.

William Rogers said construction has stopped until they receive 91 approvals.

Rick Pozzo, Construction Supervisor said the building was shored up because of weather conditions. The structure was sitting on nothing, no foundation. There were tarps around the building but they had become a problem due to wind, etc.

Polly Burnell moved to rescind the violation notice and the fines.

John Dowd agreed.

Rosemary Hillard spoke in favor of the project. She stated in 1997 she lived in this building and it was not stable then. The whole building moved.

Carol Neal said people make note of when a demolition happens in town and they make sure to let the commission know. The applicant needs to keep the commission informed in person and not just through a letter. Directing her comment to Russ Braun, she stated he needs to let the commission members know. There should be more communication.

Polly Burnell said she was familiar with the building, therefore, she feels she did not keep up on top of things. In the past, members would be assigned a property to follow through with.

Susan Leonard asked when does a non-historic building be allowed to be demolished.

Marcene Marcoux said this building has a whole history with it. It was a boat building and the neighbors gave part of their land and part of the Town Landing for the boat works building to be built. The key aspect here is that the HDC had not been kept informed. There was a good rapport with the Engineer and the Building Commissioner but the HDC did not know. It is the commissions' bylaws and procedures that were not carried out. That is the abrogation here; not the integral structure of the building.

Jay Murphy said the Commission was notified through the letter of January 14, 2010. The HDC bylaw 15 cites demolition.

Marcene Marcoux asked what date did that happen, where is the report, did the public know the building was unsafe, was it noticed out or posted, did Russ Braun have a report he sent to you to say it was unsafe? We did not have any of these things.

Polly Burnell said obviously they feel they have kept us in the loop.

Marcene Marcoux said they kept the Building Commissioner in the loop but not the Historic District Commission. We should have been notified to do a site visit.

Polly Burnell said she did not feel comfortable imposing a fine giving the information presented.

Marcene Marcoux said she still viewed this as a violation based on the Historic Commission Bylaws.

Carol Neal said Russ Braun has agreed to keep the HDC apprised of future cases involving possible demolition.

Russ Braun said public safety demolition is quite different from that of regular demolition. The Building Commissioner, the owner, the Engineer, the Construction Supervisor were all on site and deemed the structure as unsafe. This is a controlled construction project and it is required of the Engineer to send reports and updates. From that standpoint, the project functioned perfectly. Under the HDC bylaw everything was done kosher, he alleges.

Short Term – let's communicate. Long Term – Building Commissioner needs to keep HDC informed and institutionalized.

Seconded: John Dowd seconded the motion made by Polly Burnell. No vote taken.

Marcene Marcoux said you are putting up a new structure; however, the Commission gave a Certificate of Compliance on the renovation of an existing structure. You might have the right to demo but not the right to put up a new building without HDC approval. The certificate issued was not for demolition.

Polly Burnell said if it was the Red Inn-an old historic building, it would have been different. This building in question was built in the 70's and shoddy at that.

Marcene Marcoux said it was differently built and perhaps the first green building in town.

David McGlothlin said the commission needs to clean up what has happened here.

Motion: To rescind the violation notice and fines.

Moved: Polly Burnell. Seconded: John Dowd. Voted: 4-1-0.

A new public hearing will be held for new construction in order for a new certificate to be issued.

Motion: Request the applicant to submit a new application for a hearing on the reconstruction.

Moved: David McGlothlin. Seconded: Marcene Marcoux. Voted: 5-0-0.

Public Hearing 4:00 p.m.

Pending Case

FY10-20 (No quorum present)

Application by Robert Valois on behalf of Fine Arts Realty Trust, Warren Cresswell 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 following renovations: West Elevation: construct dormer, add new egress decks and stairs; South Elevation: Reconstruct decks and add an egress spiral stairway, construct third floor balcony and replace widow with a door and to reconfigure/replace doors and windows and add new doors and windows on West, South and East Elevations at the property located at **417 Commercial Street, Provincetown, MA.**

FY10-24

Application by Timothy Holmes on behalf of Stephen Syta 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 install a building mounted wind turbine to the North (rear) gable wall of the existing two-story structure at the property located at **5 Pleasant Street, Provincetown, MA.**

The Commission members had discussed at the previous meeting they research wind turbines in other areas.

Marcene Marcoux said her position on a wind turbine at this property has not changed.

Stephen Syta, property owner, said ten (10) to twenty (20) years from now this type of wind turbine will be considered obsolete. It will be replaced with new technology.

Russ Braun said this particular type of wind turbine is not a structure onto itself because it cannot support itself.

David McGlothlin said he did some research and found that most other places had a fall zone. He is leaning towards try it and see what happens.

Tim Holmes said he would get the instructions from the engineers as to how secure it is to the building.

John Dowd asked if they thought they would like to see them on other buildings throughout town.

Stephen Syta said he would like to see one on every building in town because of green energy.

Both John Dowd and Polly Burnell felt they were large sculptural objects in an historic district.

Russ Braun said it would be helpful to come up with other visuals for the neighborhood; i.e. view of the neighborhood or the block to scale. It could be done as a prototype.

Tim Holmes said he had received approval from the Truro Zoning Board of Appeals with the condition that sound measurements be submitted for one year.

Carol Neal said the distinction between Truro and Provincetown is that Provincetown is a small fishing village and a tourist community where the houses are in close proximity and neighbors are directly impacted by size and noise.

Russ Braun said the town has conceptually bought into the green energy communities act, although nothing is being done as of yet. The Commission could do it as a prototype for one year if the applicant is willing to agree to that.

Marcene Marcoux said there needs to be a first step to going green. It could be done as a prototype for one year. She suggested trying it for the one year and we can learn from this.

Polly Burnell said the best thing to do for green is preserve your old house.

Motion: To accept the wind turbine proposed on a temporary basis for one year with monthly sound measurements and get feedback from the community.

Moved: David McGlothlin. Seconded: Marcene Marcoux. Voted: 2-1-2.

FY10-28

Application by Richard Flores dba Riptide Building Co. on behalf of Burton Ogata 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 construct a small addition to an existing cottage at the property located at **29 Alden Street, Unit #6, Provincetown, MA.**

Richard Flores said he was constructing a small addition to the rear of the structure for a kitchen addition.

One letter from Wayne Siar, a direct abutter was read into the record. He was questioning the location of the existing cottage with respect to property lines. He believes a portion of the cottage is on his property. He is in the process of having his property surveyed by a survey company out of Brewster, MA.

The board members had no concerns with the proposed project.

Motion: To approve the plans as presented.

Moved: Marcene Marcoux. Seconded: Polly Burnell. Voted: 4-0-0.

Russ Braun informed the commission members about the new EPA rules that take effect on April 22, 2010.

FY10-29 (Request to withdraw without prejudice)

Application by Deborah Paine Inc. on behalf of Russell Friedman and Wayne Briggs 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 rebuild the house utilizing the existing first floor and west gable end to a new design by DPI to be placed over the existing location and; to relocate the cottage 5' north just inside the setbacks and to expand the cottage by going up a story at the property located at **8 Fishburn Court, Provincetown, MA.**

No action taken. To be voted at next meeting.

Review and approve minutes of March 31, 2010

Motion: To approve as presented.

Moved: Polly Burnell. Seconded: Marcene Marcoux. Voted: 4-0-0.

Discussion on Policy and Procedures

No discussion.

Adjournment: 5:50 p.m.

Respectfully submitted,
Maxine Notaro
Permit Coordinator/Recording Secretary