

**MINUTES OF
MEETING OF THE
HISTORIC DISTRICT COMMISSION
ONE JUNKINS AVENUE
PORTSMOUTH, NEW HAMPSHIRE**

EILEEN DONDERO FOLEY COUNCIL CHAMBERS

7:00 p.m.

**November 7, 2007
to be reconvened on November 14, 2007**

MEMBERS PRESENT: Chairman Sandra Dika, Vice-Chairman John F. Golumb; Richard Katz, John Wyckoff, Tracy Kozak; Planning Board Representative Jerry Hejtmanek, Alternates Elena Maltese, Joseph Almeida

MEMBERS EXCUSED: City Council Representative Edward Raynolds

ALSO PRESENT: Roger Clum, Assistant Building Inspector

Prior to the meeting, an orientation session was held with City Attorney Robert Sullivan and Planning Director, David Holden. Topics discussed were the workings of quasi-judicial boards, behavior of commissioners in and out of Public Forum, recusal, attendance, the process of work sessions, site walks, and public hearings, and the making of and acting on motions. Mr. Sullivan and Mr. Holden agreed to come back for another session in the near future to discuss additional topics.

Chairman Dika reconvened the regular meeting at 7:05 p.m.

I. OLD BUSINESS

Approval of minutes – October 3, 2007

It was moved, seconded, and passed (7-0) unanimously to approve the minutes as presented.

II. PUBLIC HEARINGS

1. Petition of **Elizabeth Wohler-Berry, owner**, for property located at **774 Middle Street**, Unit 1, wherein permission was requested to allow demolition of an existing structure (remove chimney) and allow new construction to an existing structure (rebuild chimney with cultured brick) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 153 as Lot 9-1 and lies within the General Residence A and Historic A Districts.

SPEAKING TO THE PETITION

Ms. Wohler-Berry, owner of the property, was present to speak to the application. She explained that she would like to remove a non-functioning chimney. She pointed out that it was not

properly supported on the second floor of the structure. She said that she would like to replace it with a cosmetic chimney that would be painted to match the other existing chimney.

Mr. Wyckoff pointed out that the existing chimney was in need of painting as well. Ms. Wohler-Berry replied that it had just been repainted and the new chimney would be painted to match.

Ms. Kozak asked if the cultured brick would be applied with the same detailing to match the other chimney at the top where there was some corbelling. Ms. Wohler-Berry replied yes and she added that the chimney cap would be reattached.

Chairman Dika stated that the Commission does not have purview over paint color but she said the Commission was appreciative that the chimneys would match in color.

Chairman Dika asked if there were any more questions for the applicant. Hearing none, she asked if anyone from the public wished to speak to, for, or against the application. Seeing no one rise, she awaited a motion.

DECISION OF THE COMMISSION

Mr. Hejtmanek made a motion to approve the application as presented. The motion was seconded by Mr. Katz. Chairman Dika asked for discussion.

Mr. Hejtmanek said that the current chimney was a safety hazard and they should allow the application to move forward.

Mr. Katz thought there was no reason why the new chimney should not be able to match the one being removed. He added that he knows the work of the chosen mason and was pretty confident that that will be the case.

The motion to approve the application as presented passed by a unanimous (7-0) vote.

2. Petition of Fleet Street Properties, LLC, owner, for property located at 154 Fleet Street, wherein permission was requested to allow demolition of an existing structure (demolish existing building) and allow a new free standing structure (construct 4 story, mixed use building, previous approval expired) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 117 as Lot 6 and lies within the Central Business B, Historic A, and Downtown Overlay Districts.

Vice Chairman Golumb stated that he would be recusing himself from the discussion and vote.

SPEAKING TO THE PETITION

Ms. Lisa DeStefano of DeStefano Architects was present to speak to the petition. She explained that in August of 2005, after two work sessions, the project received final approval from the HDC. She said that the owner decided to sell to a buyer who wanted to take over the project. Ms. DeStefano said that the new owner has extended the TAC and Site Review approvals – the HDC approval was the only one that had lapsed.

Ms. DeStefano told the Commission that they have not made any changes to the original design. She said a site walk was held with the previous Commission to examine the condition and architectural details of the building. She pointed out that it had been an apartment for a number

of years and as a result, there was not much of value left inside the building. Ms. DeStefano explained that the first part of their application was the demolition of the building.

Chairman Dika commented that the Commission has had many changes since the application was heard. She asked what Commissioners were not present when the original application was presented. Mr. Almeida, Ms. Kozak, Mr. Hejtmanek, and Ms. Maltese stated that they were not on the Commission at the time. She asked Ms. DeStefano to keep that in mind as she moved forward with her presentation.

Ms. DeStefano stated that she was presenting a four story, mixed use building. She said that there would be first floor retail space with residential units above. She explained that the lower level had a horizontal band that tied the lower façade together. The projected awning at the center of the building reinforced the verticality of the center of the building. Ms. DeStefano reminded the Commission that easements were in place for the projection out and over the sidewalk. Materials for the project include cementitious clapboard for the stairways and elevator overruns and Morin Old Port brick. She said that she understood that an on-site review of the brick and mortar would be required.

On the southeast elevation, Ms. DeStefano pointed out that the building would be at the property line. She explained that beyond the front of the building was an ell that had the appearance of an addition. It will be wrapped in cementitious clapboard.

Ms. DeStefano said that the entry would have a canopy. She pointed out how the brick, the cornice and the continuous band all tied together. She said that it breaks down the scale with all of the materials working together. She pointed out the enameled tiles at the top of the building to add uniqueness.

At the rear of the building, there would be wood balconies to give the owners some outdoor space. She said that they were not in a visible location. She added that they have incorporated as much glass as possible because of the close proximity of the adjacent building.

Ms. DeStefano pointed out that on the northeast elevation, there was very little window penetrations because of building code issues.

Ms. DeStefano stated that they were proposing a plant buffer on the rooftop. Also, the mechanical units would be tucked into the back of the building so they would be hidden. She added that there would be staircases for a couple of the units for an upper deck.

Ms. DeStefano explained that there would be gate between the applicant's project and the small wood framed building to the right of 154 Fleet Street.

Chairman Dika said that the Commission spent a great deal of time with this application when it came before them in 2005. She pointed out that the approval had lapsed and was now coming before what was virtually a new Commission. She said that she was concerned that if they get into what looks like a work session, she would like to postpone the application.

Mr. Wyckoff asked about some roof details on the fencing between units. He said that he was not seeing it on the plans. Ms. DeStefano replied that she would have to get the details for him.

Mr. Hejtmanek asked why the building was approved to be demolished. Mr. Katz gave his recollection of the past meetings concerning the project. He said that as far as the streetscape was concerned, the building was the anomaly. He said that the Commission at the time looked at all of the buildings surrounding it and felt that this proposed building was a nice rendition of a

small, turn of the century city brick building. Mr. Katz explained that the approval process was a long and drawn out one.

Chairman Dika said that she also went through the building at the time. She commented that it was in very rough shape and had lost most of its architectural details. She said she voted for the demolition.

Mr. Almeida stated that he appreciated the time that the Commission devoted to the project however; he was not quite ready to approve the demolition and a very large building.

Chairman Dika also commented that the surrounding area has changed a great deal since they first approved the project.

Ms. Maltese said that she felt that the proposed building was a significant building and she felt it would be hard for her to approve the demolition of the existing building without having more education on it.

Chairman Dika suggested that a site walk would be appropriate. She felt that a Saturday morning would be best. She felt it would be best to postpone the application.

DECISION OF THE COMMISSION

Ms. Maltese made a motion to postpone the application to the December 12, 2007 with a site walk to be scheduled prior to the meeting night. The motion was seconded by Mr. Wyckoff. The motion to postpone the application to the December 12, 2007 meeting passed by a unanimous (7-0) vote.

3. Petition of **William R. Buckley Jr. Revocable Trust and Rebecca Gould 1996** Revocable Trust, owners, for property located at **500 Market Street, Units 9L and 9R**, wherein permission was requested to allow exterior renovations to an existing structure (replace solariums and add operable center window skylights) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 120 as Lots 2 – 9L and 9R and lies within the Central Business A and Historic A Districts.

SPEAKING TO THE PETITION

Ms. Rebecca Gould explained that the two properties are Nobles Island condominiums. She said that the solariums are in the rear of the units and are in need of replacing. There has been damage done to the frame and the sills. She explained that they no longer make the existing solariums and so they would like to replace it with new technology that has much better energy efficiency. She added that they would like to replace them with a unit that allows the center top panels to open for ventilation. It would open like a normal skylight. Ms. Gould pointed out that it gets extremely hot in the unit. There would be no difference in the look.

Mr. Clum pointed out that it was a very small change but because it was a change, it had to come before the Commission.

Mr. Almeida said that the manufacturer's drawing shows a round face. Ms. Gould replied that it would not have rounded glass.

Chairman Dika asked if there were any more questions for the applicant. Hearing none, she asked if anyone from the public wished to speak to, for, or against the application. Seeing no one rise, she declared the public hearing closed and awaited a motion.

DECISION OF THE COMMISSION

Mr. Clum suggested that if additional condominium owners come forward with this same exact request that they not have to come before the Commission for approval.

Mr. Wyckoff made a motion to approve the application as presented with the understanding that the approval would extend to all subsequent applicants proposing the same exact product. The motion was seconded by Ms. Maltese. Chairman Dika asked for discussion.

Mr. Wyckoff stated that the new solariums would look exactly like what was currently there so it was totally appropriate.

Chairman Dika called for the vote. The motion to approve the application as presented with the understanding that the approval would extend to all subsequent applicants proposing the same exact product passed by a unanimous (7-0) vote.

4. Petition of **Friends of the Music Hall, owners**, for property located at **28 Chestnut Street**, wherein permission was requested to allow exterior renovations to an existing structure (remove two doors, replace with brick and stone foundation base to match existing configuration, replace remaining doors with new wood doors and transoms, center door to be modified to allow for ticket transactions) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 126 as Lot 7 and lies within the Central Business B, Historic A, and Downtown Overlay Districts.

SPEAKING TO THE PETITION

Ms. Maltese stated that she would be recusing herself from the discussion and vote.

Mr. John Merkle, architect with TMS Architects was present to speak to the application. He said that he has been involved with the Music Hall in their restoration efforts. He explained that this proposal was in conjunction with a larger project – a total redo of the lobby and the relocation of the lobby to the exterior wall. Mr. Merkle said that they would like to remove the two doors opposite the center doors and reinstall the granite foundation base. They would also like to retain the frame of the center door, remove the sub frame, and install a fixed door that would also serve as a box office transaction window. He added that the other doors will be replaced but they would retain the door frames and the trim work. He said that they did not think that they were the existing doors.

Mr. Wyckoff asked if the doors were of an unusual thickness. Mr. Merkle replied no. Mr. Wyckoff asked if they would be duplicating the molding on the new doors. Mr. Merkle replied yes. He pointed out that the main exit doors have been modified. They have a mullion bar in the center of them. Originally they did not. He said that they would be putting the molding bar back as they will have a vestibule just inside the doors.

Mr. Almeida asked if there would be one piece of granite spanning the front. Mr. Merkle replied that there was a pilaster on one side of the opening and so it was the intent to put the stone across the full opening.

Mr. Almeida also asked if they would be tooting the brick back in where it was cut. Mr. Merkle said that they might not be able to do it where it hits the pilaster but they will on the other side.

Chairman Dika asked if there were any more questions for the applicant. Hearing none, she asked if anyone from the public wished to speak to, for, or against the application. Seeing on one rise, she declared the public hearing closed and awaited a motion.

DECISION OF THE COMMISSION

Mr. Wyckoff made a motion to approve the application as presented. The motion was seconded by Mr. Hejtmanek. Chairman Dika asked for discussion.

Mr. Wyckoff stated that the application maintains the integrity of the district and the defining character of the property. They are rebuilding essentially what was there with standards that are to the national standards.

Chairman Dika called for the vote. The motion to approve the application as presented passed by a unanimous (7-0) vote.

5. Petition of **Martin F. Kurowski and Cristina Galli, owners**, for property located at **111 New Castle Avenue**, wherein permission was requested to allow new construction to an existing structure (add two shed dormers, add second floor over existing one story connector, add 6'x36' deck) and allow exterior renovations to an existing structure (new windows and doors) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 101 as Lot 53 and lies within the General Residence B and Historic A Districts.

SPEAKING TO THE PETITION

Ms. Anne Whitney, architect, was present to speak to the application. She had additional sketches to give to the Commission. She also gave the Commission a letter from an abutter in support of the project.

Chairman Dika explained that a site walk was held regarding the project on Saturday, November 3, 2007.

Ms. Whitney said that the house was a New Englander with a one story connector to an addition off the back of the house. She explained that they would like to add shed dormers on either side of the existing house. Over the area of the one story connector, they would like to bring the same proportion of the gable up as the existing house.

Ms. Whitney explained that page 1 of the plans showed a view of the west side of the structure. She said that the Commission had a concern at the work session about the returns on this elevation. She said that where the new gable is over the one story, she will be bringing those returns and matching the front returns on the existing elevation. She also talked in detail about the window spacing.

Ms. Whitney said that on the front elevation the only change would be to replace the front door, the bay window, and a recessed second door and window.

On the right side elevation, Ms. Whitney said they would be adding a shed dormer. She pointed out that the windows on the first floor have snap in grills and are fairly new. She said that the

addition steps back five feet. They will be removing a sliding door and will replace it with French doors with a transom over it.

Ms. Whitney stated that on the rear elevation, they would be removing a door. The existing windows have snap in grills. She said that they would remove the grills to make the windows one over one. She pointed out that the gable on the east side would be coming forward and aligning with the width of the house which would allow for a porch and a deck.

Mr. Katz asked if the revised sketches submitted that evening was the final proposal. Ms. Whitney replied yes.

Ms. Kozak asked about the trim detailing of the doorway off of the kitchen area. She pointed out that on some of the doorways there is a cap trim over them. She wondered if the second front door could have a cap over it. Ms. Whitney replied that she could add that. It would be door number 2.

Ms. Kozak stated that the changes that were made were an improvement and helped to bring the scale together. She liked the way that Ms. Whitney treated the gable windows on the cross gable but she was surprised that the top windows did not line up with the other windows. Ms. Whitney replied that she thought the three windows would work well there. Mr. Katz asked if the lower windows were centered on the gable. Ms. Whitney replied yes. Mr. Katz said that he had no problem with it.

Chairman Dika asked if there were any more questions for the applicant. Hearing none, she asked if anyone from the public wished to speak to, for, or against the application. Seeing no one rise, she declared the public hearing closed and awaited a motion.

DECISION OF THE COMMISSION

Mr. Wyckoff made a motion to approve the application as presented. The motion was seconded by Mr. Hejtmanek. Chairman Dika asked for discussion.

Mr. Wyckoff stated that the proposal was a big improvement from the work session. He felt the applicant had done a good job of picking up details from the other houses in the neighborhood.

Ms. Maltese said that she has seen clear developments from the work sessions. She indicated that she would not be voting in favor of the motion because she finds that in taking the home and making it larger, the original home gets lost. She felt that the original architecture was lost in the design and that the scale of the project overtakes the original building.

Mr. Katz stated that the renovations added a sense of integrity to the structure, rather than looking at a collection of small buildings connected in a haphazard manner. He felt it added a sense of unity. He added that they would be saving the original piece of architecture and it would give the owners a more livable structure. He said he would support the motion.

Chairman Dika asked if there was any more discussion. Hearing none, she called for the vote.

The motion to approve the application as presented passed by a 6-1 vote with Ms. Maltese voting in opposition.

6. Petition of **Jamer Realty, Inc., owner, and A.J. P. Billiards, Inc., applicant,** for property located at **80 Hanover Street,** wherein permission was requested to allow an

amendment to a previously approved design (allow fence to remain up year round) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 117 as Lot 2-1 and lies within the Central Business B, Historic A. and Downtown Overlay Districts.

SPEAKING TO THE PETITION

Mr. James Perrin, owner of Legends Billiards on Hanover Street was present to speak to the application. He explained that he received approval a couple of years ago to erect a fence around a concrete patio on the front of his property. He said that the fence was allowed to be up from April 1 – November 1. Mr. Parrot explained that the insurance company had an issue with the retaining wall that abuts the property and is 16” higher than the City sidewalk that is in front of it. The sidewalk is on Hanover Street. He said that even though the step is within building code for not having a railing, the insurance company has there own code that they go by. He said that they felt it could be a potential hazard for tripping.

Mr. Perrin explained that a second issue has come up with no indoor smoking allowed. He pointed out that his patrons would be smoking outside now and he was concerned about snow and ice on the concrete patio area. He felt that the fence would shield that area from snow as well as shield the smokers. He thought the fence would be a more pleasing look than an open area.

Chairman Dika said that although the smoking issue was an interesting one, the Commission need only concern themselves with the appearance of the fence.

Chairman Dika asked if there were any questions for the applicant.

Ms. Kozak asked why there was a temporary time approval. Chairman Dika said that it was part of the original application and at the applicant’s request to only have it up from April 1 – November 1 of each year.

Vice Chairman Golumb asked if the fence would remain the way it was currently and that there would be no modifications to it. Mr. Perrin replied yes, it would remain as is.

Chairman Dika asked if there were any more questions for the applicant. Hearing none, she asked if anyone from the public wished to speak to, for, or against the application. Seeing no one rise, she declared the public hearing closed and awaited a motion.

DECISION OF THE COMMISSION

Ms. Maltese made a motion to grant a Certificate of Appropriateness for the application presented. The motion was seconded by Vice Chairman Golumb. Chairman Dika asked for discussion.

Ms. Maltese stated that this was a previously approved design. Vice Chairman Golumb said that it made sense to extend the season for the applicant and to not put the additional burden on the applicant to take it down each time.

Chairman Dika asked if there were any more questions for the applicant. Hearing none, she called for the vote.

The motion to grant a Certificate of Appropriateness passed by a unanimous (7-0) vote.

7. Petition of **George C. Hurtt Revocable Trust, owner**, for property located at **69 New Castle Avenue**, wherein permission was requested to allow exterior renovations to an existing structure (replace top front step with granite, reuse top front step at lower level) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 101 as Lot 49 and lies within General Residence B and Historic A Districts.

SPEAKING TO THE PETITION

Ms. Heather Hurtt, owner of the property, was present to speak to the application. She explained that they would like to improve the look and usage of the front steps as they are currently unsafe. The existing step has a 9 inch drop. She pointed out that the building code sets the limit at no more than 7 3/4 inches. She said that the current depth of the step is a problem also as it is only 17” deep. Ms. Hurtt stated that she was proposing to replace the top step with granite with a depth of 3 feet and then to reuse the existing top step as the bottom step. She indicated that she did not think the steps were original to the house.

Chairman Dika asked if there were any questions for the applicant. Hearing none, she asked if anyone from the public wished to speak to, for, or against the application. Seeing no one rise she declared the public hearing closed and awaited a motion.

DECISION OF THE COMMISSION

Mr. Hejtmanek made a motion to approve the application as presented. The motion was seconded by Vice Chairman Golumb. Chairman Dika asked for discussion.

Mr. Hejtmanek stated that it was important that it be safe. Ms. Maltese said that the applicant was using appropriate materials and that it was appropriate to the site.

Chairman Dika asked if there were any more questions. Hearing none, she called for the vote.

The motion to approve the application as presented passed by a unanimous (7-0) vote.

III. OTHER BUSINESS

24 Johnson Court – clarification of HDC approval dated July 18, 2007

Mr. Clum explained that there was a complaint by an abutter concerning the installation of an HDC approved fence. A five foot fence was approved but when the fence was installed, it was actually 5’4” tall because of the gap that was allowed at the bottom of the fence. Mr. Clum said that he spoke with the City attorney and the Planning Director and everyone determined that when you buy a five foot section of fence and place that section of fence touching the ground, it will rot quickly.

Mr. Clum said that he had been instructed to ask future applicants seeking approval for fences how far off of the ground do they plan to install it.

Chairman Dika stated that the abutter was displeased that the fence was taller than it was said to be. She said the question now is how we handle something that has already been approved and installed.

Ms. Maltese said that there could be a problem when the grade drops off but she did not think that anything from 2-6 inches off of the ground constituted a new height.

Mr. Wyckoff suggested that 4 inches from the ground would be a good measurement. He felt it had some precedence with regards to decks and balusters.

Mr. Clum said that going forward; the Commission will need to ask each applicant how far off of the ground the fence will be. Chairman Dika said that that was agreeable.

Mr. Almeida thought it was a minor issue.

Chairman Dika reminded the Commission that review of fences is fairly new to them so whatever they can do to clarify it would be helpful. She said that for this situation, it was a done deal and it would have to remain as it is.

Mr. Barry Shore, the abutter at 91 South Street stated that he met with the Traceys. He said that that he and his wife wanted no fence but the Traceys wanted a 6 foot stockade fence. He explained that they compromised with a five foot fence. He said that the Traceys were granted approval of the 5 foot fence at a prior HDC meeting. Mr. Shore explained that he and his wife did not attend the meeting because they were in agreement as to the proposal. He said that the project was started and the yard was regarded which added another three inches of dirt. The fence was installed and the fence currently measures 5 feet, 9 ½ inches to grade. He explained that the zoning officer was called and the work was suspended. Two days later, the work resumed.

Chairman Dika asked Mr. Shore to limit his comments to what will help the Commission with future policy, not to problems with his neighbors.

Mr. Shore stated that he did some internet research and he determined that without exception, the height of a fence is measured from grade. He gave the Commission copies from his research. He said that he was unhappy with what has happened and has come before the Commission for advice and clarification.

Chairman Dika said that the comments this evening indicated that a five foot fence included a somewhat higher level because of grade.

Ms. Kozak said that a five foot section of fence might vary by manufacturers so she felt the Commission should verify the actual measurement.

Ms. Maltese stated that it might be in the Commission's best interest to have the height of the top of the fence be considered when it is brought forward for approval. She said that height between neighbors is a definite issue.

Mr. Almeida apologized for his current comments as they were based on a 4" discrepancy. He said that a 9 ½" discrepancy was something much different. He thanked Mr. Shore for bringing in the information because they might want to adopt some of the guidelines for the future.

Vice Chairman Golumb pointed out that with manufactured fences; there could be a discrepancy with the measurements. He felt it would not be a problem with custom fences.

Mr. Katz felt that he did not think this was something that the Commission should be concerned with. He said that the Commission approved a 5 foot fence. If it turned out to be a 5'9" fence, he felt Mr. Shore might have recourse to Code Enforcement.

IV. ADJOURNMENT

At 8:55 p.m., it was moved, seconded, and passed unanimously to adjourn the meeting.

Respectfully submitted,

Liz Good
HDC Secretary

These minutes were approved at the Historic District Commission meeting on December 12, 2007.