

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

**EILEEN DONDERO FOLEY COUNCIL CHAMBERS**

**6:30 p.m.**

**June 4, 2014  
to be reconvened on June 11 & 18, 2014**

**MEMBERS PRESENT:** Chairman Joseph Almeida; Vice Chairman Tracy Kozak; Members John Wyckoff, City Council Representative Esther Kennedy; Planning Board Representative William Gladhill; Alternates Dan Rawling, Reagan Ruedig

**MEMBERS EXCUSED:** George Melchior

**ALSO PRESENT:** Nick Cracknell, Principal Planner

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*The Board's action in these matters has been deemed to be quasi-judicial in nature.  
If any person believes any member of the Board has a conflict of interest,  
that issue should be raised at this point or it will be deemed waived.*

Chairman Almeida stated that, due to the length of the agenda, Public Hearing Items 1 through 14 would be heard that evening. Old Business Public Hearing # 15 and Work Sessions A through F would be heard at the next meeting on June 11. The remaining items on the agenda, Work Sessions G through J, would be heard at the June 18 meeting. Chairman Almeida turned the meeting over to Vice-Chair Kozak because he had to recuse himself from one of the postponed applications. Vice-Chair Kozak said that she would go through the five applications that had requested postponements.

**Old Business, Item A, Petition of Frank and Irja Cilluffo, owners, for property located at 179 Pleasant Street, request to postpone to the July 2, 2014 meeting.**

*Mr. Wyckoff moved to **approve** the Request to Postpone. Mr. Gladhill seconded. The motion **passed** unanimously with all in favor, 6-0.*

**Old Business, Item B, Petition of Bo Patrik and Eva C.F.K. Frisk, owners, for property located at 44 Pickering Street, request to postpone until later in the evening.**

*Mr. Gladhill moved to **approve** the Request to Postpone. Mr. Wyckoff seconded. The motion **passed** unanimously with all in favor, 6-0.*

**Public Hearing, Item #14, Petition of Joseph and Zulmira Almeida Revocable Trust, owner, for property located at 27 Rogers Street, request to postpone to the June 11, 2014 meeting.**

*Ms. Ruedig moved to **approve** the Request to Postpone. Councilor Kennedy seconded. The motion **passed** unanimously, 6-0.*

**Public Hearing, Item #15, E-port Properties** for property located at **175 Market Street**, request to postpone to July.

*Mr. Wyckoff moved to **approve** the Request to Postpone to the July meeting. Mr. Gladhill seconded. The motion **passed** unanimously, 6-0.*

Councilor Kennedy asked if there was a rule similar to what the BOA had for how many times the Commission could postpone petitions. Mr. Cracknell thought there was a limit to how long the petition would be postponed so that the public would know. Councilor Kennedy felt that the applicant in the 3-4 month range might want to re-advertise after four months.

**Work Session for J Harborcorp** for property located at **Deer Street, Russell Street, and Maplewood Avenue**, request to postpone to July.

*Kennedy moved to **approve** the Request to Postpone to July with the following stipulation;  
1) that the application be re-advertised and that Harborcorp pay for it.*

*Mr. Gladhill seconded. The motion **passed** unanimously with all in favor, 6-0.*

## **I. APPROVAL OF MINUTES**

1. April 2, 2014
2. April 9, 2014
3. April 16, 2014

*Mr. Wyckoff moved to **approve** all three sets of minutes as presented. Ms. Ruedig seconded. The motion **passed** unanimously with all in favor, 7-0.*

## **II. NEW BUSINESS**

1. Request for Re-Hearing of the Certificate of Approval for 195 Hanover Street – granted on April 16, 2014.

Chairman Almeida stated that he had received a response to the motion for a re-hearing, and he reminded everyone that the Request for Re-Hearing was not an opportunity to open up the discussion for design but was simply to grant or deny the request or to suspend the decision pending further consideration. The Commission was required to determine whether the Request for Re-Hearing presented a good reason for granting the rehearing, and he cited and read Section # 10.646.42. He assumed that the Commission had read the information and asked if they wanted to discuss it. Councilor Kennedy asked if they could discuss the third option because it

wasn't clear what it entailed. Chairman Almeida told her that it was to suspend the decision pending further consideration.

Mr. Cracknell gave the example of the 111 Maplewood Avenue and 175 Market Street application where the Commission chose Option 3 because the minutes hadn't been prepared or adopted at the time. Letters of Decision for any Certificate of Approval issued the previous year did not include the findings of fact or review criteria in the decision, and it was required by statute to be provided within five days of the vote. By not having them imbedded in that decision, the public didn't have a reasonable venue under the statute. The minutes were months behind then, but because the change had been made the previous Fall to the Letters of Decision, the Commission wouldn't have to suspend the decision on the rehearing request because the findings of fact and the review criteria were included in the April 16 vote. He recommended that the Commission either grant or deny the request based on the facts that were presented in the May 7 petition, and they could ascertain if any of the 12 allegations were worthy of rehearing the substitution of the vinyl windows on the hotel portion of the building.

Mr. Gladhill asked if they were allowed to ask about the one the Commission had received that day, and Chairman Almeida told him no because there was no presentation by the requestor and no response and public comment. Mr. Cracknell added that the Commissioners could discuss a question among themselves. Mr. Gladhill asked about Point #9, the Domino Effect issue, about the New Hampshire Supreme Court upholding the decision of Land Use Boards. He asked if it was one specific case or an over time case law. Chairman Almeida thought that if one decision was made on one case, it did not automatically bind or set precedent on decisions.

Mr. Cracknell didn't think that it would be a settled piece of case law and that it was only one case, given how many Boards had discretionary permits on a case-by-case basis. He believed that each case that came before the HDC was unique. He referenced his comment letter and thought that when people came in for something like a window replacement, the primary factors that the Commission used to determine whether a window was appropriate was the value of implied importance of the building itself. In that case, it was a parking lot and not a building. The historical survey was an important part in differentiating between a focal building, a contributing building, a non-contributing building, intrusive, and a parking lot with no building. He thought it was an important factor that may have not been picked up fully in the petition. The Pierce Mansion and the Portwalk Building were at opposite ends of the spectrum. The secondary factor with the contributing building was the context. New construction was about context and the style of proposed building that seemed to be the salient point for many allegations in the petition by trying to make similarities between focal buildings and how they were treated in the Portwalk Building. The fact remained that 465 windows had been approved as vinyl.

Chairman Almeida asked the Commission if they wanted to discuss any of the 12 points in the letter. Councilor Kennedy told him that they had just received the letter and asked whether the public had the right to have it before the Commission made a vote. She was concerned because it had been given to the Commission late, and the public would not have input or recourse before the Commission voted. Chairman Almeida agreed that they had received it late, but in that case, neither the petitioner nor the public had the opportunity to speak, so it didn't concern him that much. However, they could go to Option 3 and suspend the decision. Councilor Kennedy stated

that Portwalk had the document in advance so they could write a rebuttal, and the Commission was looking at the rebuttal at a late hour. Also, the public may not have had the chance to respond to it. Mr. Wyckoff stated that the Commission had already discussed the fact that there was no discussion by the petitioner or Portwalk themselves but only the Commission's decision. There had been no public comment, even though they had a chance to look at the information and take it to the next step. The next step would be the BOA and then court. He felt that the Commission could make a decision on the Request for Re-Hearing that evening.

*Mr. Wyckoff made the motion to **deny** the Request for Re-Hearing. Vice-Chair Kozak seconded.*

Mr. Wyckoff said that the argument the Commission had of limiting the change of windows in the Pierce Mansion, for example, was that the applicant was not going to replace them with vinyl but with Andersen Fibrex windows that the Commission had approved on other applications. They could not compare that type of building and the precedent wasn't there because they looked at every petition depending on where it sat in the community and whether or not it was a focal building. Portwalk was a new building with no historical context, so it would eliminate the objectives of keeping in the spirit and defining character of the surrounding properties. The Portwalk team had said that the windows let them have a LEED certification, but it went back to one of the Commission's criteria about new sustainable products and technology. Windows had already been installed, and the Commission had changed some of them and requested that all the windows on the top floor of the hotel be changed, so he did not feel that it was a problem. PDFs of windows were models, and they had provided material to the Planning Department about the vinyl windows, and the difference between construction documents was something the Commission had dealt with before. They were trying to do the best they could with the process and the lack of mitigation. They had done some mitigation and made some changes. The Domino Effect went back to the precedent question and he didn't feel that he was setting a precedent because the Commission looked at each project differently. He didn't see the removal and disposal of windows as their problem, so he understood why they had to bring the motion for a re-hearing. Mr. Wyckoff thought that the findings of fact could be related to him because the Commission had been taking chunks out of the hotel building and putting them up for approval at midnight, and perhaps he had not discussed it enough. However, he didn't feel it was reason to throw the baby out with the bathwater. For those reasons, he felt they should deny the request.

Councilor Kennedy stated that she could not vote for denial because they were working so hard on the petition and they received the request too late on a document that had been out for four weeks. She would be happy with suspending the decision so that the public could respond to the document. Vice-Chair Kozak said that it was challenging to get things at the last minute, but if the Commission gave it another week or month, they would get another document at the last minute, suspend it, and then get another document. She felt that the applicant played the game and gave them the input at the last minute so there could be no rebuttal, and the only way around it in the future would be to have a deadline for rebuttals or more information a day or a week before they reviewed it.

Chairman Almeida asked Mr. Cracknell if he had clarifications from the Planning Department's perspective. Mr. Cracknell said the struggle the Planning Department had was in bringing information to the HDC, which was the primary audience for the applicant and the staff. He had

not been aware that it would come in so late. Given the likelihood of information from other sources on different applications, the rule of thumb was that the HDC would welcome any information they would get as late as they got it. They had the right to reject it, but he thought it was always better to get something even if it was late because it would be in the applicant's best interest. In that particular case, if any Commissioner did not want to address the new information because it came in so late, they had the right to do that, and it would probably send a message to outside parties about forwarding things in a timely fashion or else run the risk of the Commission not considering it. Chairman Almeida said that regardless of what came in and what time, they were looking back on a decision they had made and analyzing its validity and technicality, and he wanted to ensure that they were not allowing the information to affect their decision. They could analyze the decision that they made without it. If the Commission didn't want to consider the new information, they didn't have to, but he asked that they all analyze the information and let him know if they found a technical error.

Mr. Gladhill referenced Point #1 regarding 'standing' and asked who actually had standing to bring it forward. The Responder used case law to prove it was the person directly affected for standing purposes, stating that the appealing party must show some direct interest in the action. Their own Zoning Ordinance said to promote the use of the District for the education, pleasure, and welfare of the residents and visitors. He asked whether anyone in the City had legal standing for a motion for a re-hearing. Chairman Almeida said it could be anyone who lived anywhere, even Wichita. Mr. Cracknell thought it was a question for the Legal Department. If it was a presumption of standing, it should come before the Commission, but if it had a substantive change in the outcome, the applicant could question if it should go back to a re-hearing process, as could the appellants. Mr. Gladhill said that another reason that the Commission should get things ahead of time was if they had questions for the City Attorney. Mr. Cracknell said they would have to figure out how to get the HDC questions to the Legal Department. The only document relevant to their decision was the one filed on May 7 and not the one filed that afternoon. Chairman Almeida said the Commission just needed to ask themselves if there was a good reason or if anything unlawful had been done. Did they make substantive errors, or was the decision found to be unreasonable based on facts and evidence submitted during the review process.

*The motion to **deny** the Request for Re-Hearing **passed** with 6 in favor and 1 opposed (Councilor Kennedy), for the following reasons:*

- 1) Based on the facts, findings, and information submitted and presented within the work sessions and public hearing, the Commission determined that the original decision was not unlawful or unreasonable.*
- 2) Based on the facts, findings, and information submitted and presented within the work sessions and public hearing, the Commission determined that no procedural or substantive error was made when rendering their decision.*

### **III. OLD BUSINESS (PUBLIC HEARINGS)**

A. Petition of **Frank and Irja Cilluffo, owners**, for property located at **179 Pleasant Street**, wherein permission is requested to allow demolition of existing structure (remove

*Request To Postpone*

widows walk) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 108 as Lot 15 and lies within the Mixed Residential Office and Historic Districts. *(This item was postponed at the May 7, 2014 meeting to the June 4, 2014 meeting.)*

*At the applicant's request, the Commission voted (7-0) to **postpone** the application to the July 2, 2014 meeting.*

B. Petition of **Bo Patrik and Eva C.F.K. Frisk, owners**, for property located at **44 Pickering Street**, wherein permission was requested to allow exterior renovations to an existing structure (replace front door and transom) and allow new free standing structures (install stone wall and fence, install mechanical equipment) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 102 as Lot 19 and lies within the General Residence B and Historic Districts. *(This item was continued at the May 7, 2014 meeting to the June 4, 2014 meeting.)*

### **SPEAKING TO THE PETITION**

Councilor Kennedy recused herself.

The architect Ms. Anne Whitney and Mr. Chuck Hugo were present to speak to the petition. Ms. Whitney stated that she resubmitted a new elevation for the door, which would replace the existing door in the same configuration, 6'8". Instead of altering the transom above, they would take the panel area and turn it into a single transom light. Mr. Wyckoff asked about brackets, and Ms. Whitney said the brackets were in good shape. The pitch of the hip roof had been another issue, and she said the 12" matched the clapboard height of the existing bay, and it was a shallower pitch than shown originally. Related to the fencing and wall plan, they reduced the wall height and made significant changes to the fence. Previously, the stonewall wrapped around the corner and the 5' fence followed it, but due to the sight lines, they dropped the fence back from the corner 20'6" on Pickering Street and 20'1" on Pickering Avenue. The wall would still wrap around and the fencing would come down on Pickering Street. The wall started at almost 0" and then went to 2'2" at the point of the curve. It would cut diagonally across to Pickering Avenue and then step down after the turn and continue around. An opening was created halfway down the Pickering Avenue side for access. The wall dropped again and wrapped around the driveway. The fence was 3'6", down from 5' and then picked up again after the garage, then dropped down again to a gate. There was a taller fence in the back of the property.

Mr. Hugo told the Commission that the wall details were the same as the previously-proposed ones. They made the spacing greater in the pickets to match the existing but scaled it down because it was much lower than the previous 4'6" fence. The fence would be natural unpainted cedar. The 5' fence for the back was also an open picket that replaced the existing 5' picket fence. Mr. Wyckoff asked if the wall would be granite, and Mr. Hugo said it was a mortared wall similar to granite. Mr. Rawling said the Commission was previously shown a photo of a squared-off block mortared together, but the drawings showed a fieldstone-like wall, and he asked if the intent was to show it as a fieldstone wall in the drawings or like the one in the photograph. Mr. Hugo said it would be somewhere in-between the two. They would try to use larger stones, but it was a rough-hewed pattern. Mr. Rawling said that the approval should be

based on the rough-hewed pattern rather than the regular concept. Chairman Almeida agreed because it was an unusually large amount of wall for the immediate area, so if the Commission agreed that the wall was appropriate, they should make sure. Ms. Whitney told him to look at the photo to see the sense of scale. The existing fence went for several hundred feet and had a similar height and scale, so the impact would not that different than what was typical in the neighborhood. Vice-Chair Kozak asked what the masonry cap was, and Mr. Hugo told her it was bluestone. Chairman Almeida verified that it would be mounted on top of bluestone rather than through it. Mr. Gladhill verified that the stone wall part of the fence would go around the property line, but the wooden part would take a sharp angle and go diagonally across. Ms. Whitney said a planting bed would be created on the street side to get the necessary sight lines. The existing fence did not meet code, and the new fence's sight lines had to be maintained.

Chairman Almeida asked Ms. Whitney to explain why a 3'6" fence was needed. Ms. Whitney told him that the property sloped, and the wall would allow a flat area so that the yard could be used. Because it was a busy street, the wall would also afford some privacy. The wall's height would vary along the street, with the highest point being 6'8". She felt that bringing the previous 5' fence down to 3'6" was a good compromise. Some of the photos showed that there was a precedent for even taller fences and she mentioned one on Gate Street. Chairman Almeida asked for more clarification on the fence because at the fence's highest point, there seemed to be a small stairway where the fence could be around 7'6". Ms. Whitney told him that the fence at the left of the stairway would be 5'6" and then another 6" higher before it stepped down again. The return would be set back 8' from the corner and would match the height of the fence as it ran down Pickering Avenue. Chairman Almeida said that eased his concern.

Mr. Rawling felt that the new design reflected the character of the neighborhood more and breaking up the scale of it helped. He asked if the Commission would be comfortable specifying that the stone pattern resemble the one at the Wentworth-Gardner House. Ms. Whitney said it didn't have a cap and was varied because it had massive 10' pieces and some little pieces. Mr. Rawling still felt that the Commission needed a standard to approve. Mr. Wyckoff thought they had a stipulation of a rough-hewed Ashlar pattern. Mr. Rawling said that Ashlar tended to suggest a mill-cut stone edge, and he felt that the fieldstone edge was more appropriate for the neighborhood. Chairman Almeida agreed that a rustic pattern rather than a fine-cut square edge would be more appropriate. Vice-Chair Kozak disagreed and cited a house on Pleasant Street across the Wentworth-Gardner House that had a nicely-cut wooden fence on top of a stone wall.

Chairman Almeida said the Commission would need a sample before the wall was constructed. Mr. Wyckoff disagreed that it had to be fieldstone. He said it was Portsmouth, not some little village in Lebanon, and it was an area where granite was used all over the City. He reminded them of the stipulation on record. Vice-Chair Kozak asked if the utility screen fences were the same style as the spaced picket fence. Ms. Whitney thought they were probably the same style but said she might make the pickets closer together. There was a gray material they could put on the inside that would disappear and help with attenuation, so they could put the pickets closer.

Vice-Chair Kozak had a letter from an abutter who was concerned with visibility on the garage side. There was a screen on the side facing the street but not one facing the abutter except for the existing fence. She asked Ms. Whitney if she would consider adding an additional screen on the

side for the equipment. Mr. Gladhill said the abutter could see the mechanicals from their 2<sup>nd</sup> floor bedroom even over their 6' fence. He suggested putting the mechanicals on the north side of the garage. Ms. Whitney said they couldn't because they had to bring them on the side where there was at least a 10' setback and have the generator out from the building.

### **SPEAKING TO, FOR, OR AGAINST THE PETITION**

Mr. Glenn Normandeau stated that he owned the property across on Pickering Avenue which was surrounded by stone and ran for the entire distance that the applicant's property did. He didn't feel that the Commission had to be too picky about the stonework because there was a variety of stonewalls around the buildings in that area. He mentioned that the one in front of the Wentworth-Gardner House was falling into the street because it had been poorly built. He stated that he supported the project.

No one else rose to speak, so Chairman Almeida closed the public hearing.

### **DECISION OF THE COMMISSION**

*Mr. Wyckoff moved to **grant** a Certificate of Approval as presented with the following stipulations:*

- 1) That a rough-hewed Ashlar pattern for the stone wall with a bluestone cap shall be used as presented.*
- 2) That the utility screen shall be extended along the southern edge of the generator.*

Mr. Wyckoff stated that the petition preserved the integrity of the District, and he appreciated the work of saving the front door entryway and replicating a door that may or may not be historical but was in existence, so it maintained the special character of the District. The historical significance of the building was minor but it was in an important location and would complement and enhance the architectural and historic character and would help everyone's property values. For those reasons, he supported the application.

*Vice-Chair Kozak seconded. The motion **passed** unanimously (7-0) with all in favor.*

## **IV. PUBLIC HEARINGS (CONSENT AGENDA ITEMS)**

1. Petition of **Louigi and Bella, LLC, owner**, for property located at **261 South Street**, wherein permission was requested to allow a new free standing structure (install condensing unit) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 111 as Lot 34-2 and lies within General Residence B and Historic Districts.
2. Petition of **Strawbery Banke, Inc., owner**, for property located **off 55 Atkinson Street**, wherein permission was requested to allow demolition of an existing structure (remove fencing) and allow a new free standing structure (install fencing and gates) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 104 as Lot 7 and lies within the Mixed Residential Office and Historic Districts.



3. Petition of **Harbour Place Group, LLC, owner**, for property located at **1 Harbour Place**, wherein permission was requested to allow exterior renovations to an existing structure (seeking approval for prior installation of two vents, relocate one vent) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 105 as Lot 2 and lies within CD5, Historic, and Downtown Overlay Districts.

*Ms. Ruedig moved to **remove** Item #3, the Harbour Place Group petition, from the Consent Agenda for discussion. Vice-Chair Kozak seconded. The motion **passed** with 6 in favor and 1 opposed (Mr. Wyckoff). (This petition appears at the end of the Consent Agenda Items).*

4. Petition of **Worth Development Condominium Association, owner**, and **Scott Pulver, applicant**, for property located at **113 Congress Street**, wherein permission was requested to allow new free standing structures (install two HVAC units on rooftop) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 126 as Lot 6 and lies within the CD5, Historic, and Downtown Overlay Districts.

5. Petition of **American Legion, owner**, for property located at **96 Islington Street**, wherein permission was requested to allow new construction to an existing structure (construct rear deck) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 137 as Lot 24 and lies within the Central Business B and Historic Districts.

6. Petition of **Donovan-Hess Family Revocable Trust, owner**, for property located at **54 Rogers Street**, wherein permission was requested to allow a new free standing structure (construct shed) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 116 as Lot 44 and lies within Mixed Residential Office and Historic Districts.

### **SPEAKING TO THE PETITIONS**

Chairman Almeida read the remaining petitions into the record and reminded the public about the Consent Agenda procedure, saying that anyone could request that a petition be removed from the agenda and discussed in further detail.

Councilor Kennedy asked whether the shed in Petition #6 was an exact replacement. Mr. Cracknell replied that it wasn't an exact replacement but had gone to the BOA the year before, and the new shed was the same or smaller but in the same location and consistent with BOA's approval. Councilor Kennedy said she was more concerned about the doors and asked if it was a replacement in kind. Mr. Cracknell said it wasn't, otherwise it wouldn't be on the agenda. It was a new shed in the same location. Councilor Kennedy said she was willing to leave it on the agenda but was concerned because she thought the Consent Agenda was more suitable for something minor, like a window change. Moving forward, she felt that something of the magnitude of a shed should not be on the Consent Agenda. Ms. Ruedig agreed.

Mr. Wyckoff referenced Petition #1, the 260 South Street application for a freestanding structure, and he noted that Chairman Almeida had not read the parentheses stating it was to install a condensing unit. He wanted to clarify it for the public in case they thought it pertained to

building an addition instead of just adding a condensing unit. Mr. Wyckoff also mentioned Petition #5 pertaining to the American Legion deck that had major alterations to the back of the building. He was willing to let it go through but felt it was a large project to be on the Consent Agenda. Chairman Almeida noted that the Planning Department should notify the Commission of such items in the future. He also emphasized that the Commission could pull any item off the list. The point of the Consent Agenda was only to expedite things.

### **SPEAKING TO, FOR, OR AGAINST THE PETITIONS**

Ms. Chelsea Gardner, General Manager of the Alehouse Inn on Bow Street, told the Commission that she wanted to know more details about Petition #3, the Harbour Place Group, regarding the construction and installation of two vents and the relocation of one vent. She asked how long they intended to have construction as well as the hours and noise magnitude it would create. She was concerned because surrounding noise complaints could cause revenue loss for the inn.

Chairman Almeida said the Commission would be happy to address details of the design and pull it off the Consent Agenda. Attorney Bernie Pelech rose to speak to the petition. He said that the vents had been installed for some time and matched other vents in the building, but because one vent wasn't on the same plane, they had to relocate it to match the other vents.

No one else rose to speak, so Chairman Almeida closed the public hearing.

Chairman Almeida asked the Commission if they wanted to pull any other items off the Consent Agenda or further discuss any. No one did.

*Mr. Wyckoff moved to **approve** Consent Agenda items 1, 2, 4, 5, and 6. Ms. Ruedig seconded. The motion **passed** unanimously with all in favor, 7-0.*

3. Petition of **Harbour Place Group, LLC, owner**, for property located at **1 Harbour Place**, wherein permission was requested to allow exterior renovations to an existing structure (seeking approval for prior installation of two vents, relocate one vent) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 105 as Lot 2 and lies within CD5, Historic, and Downtown Overlay Districts.

### **SPEAKING TO THE PETITION**

Attorney Bernie Pelech was present to speak to the application on behalf of the applicant. He stated that had resubmitted a new application to address the two existing vents. One vent would move up to be on the same plane and line up with the same course of bricks as the other one. The picture submitted previously had not been clear and there had been concern about the color of the vents, so what he showed what a good match that was the same color used on the other vents and also showed the actual location of the vents. A question had been raised about the possibility of installing ventless fireplaces, but the manufacturer had said that the code still required the same type of a vent even if the fireplaces were ventless.

Mr. Wyckoff said that Ms. Gardner had been concerned about the construction and noise involved, and he asked Attorney Pelech to discuss how large the project would be. Attorney Pelech said the workers would have to cut structural members and relocate the duct work so the vent on the right went up 10". Mr. Wyckoff asked if there would be staging on the building, and Attorney Pelech told him that there wouldn't because it would be done from the interior.

### **SPEAKING TO, FOR, OR AGAINST THE PETITION**

No one else rose to speak, so Chairman Almeida closed the public hearing.

### **DECISION OF THE COMMISSION**

*Vice-Chair Kozak moved to **approve** the Certificate of Approval for the application as presented. Councilor Kennedy seconded.*

Vice-Chair Kozak said it was a minor adjustment to one vent to re-establish the symmetry that the Commission had requested in an earlier session, and it was in keeping with the context of the building.

*The motion **passed** unanimously with all in favor, 7-0.*

## **V. PUBLIC HEARINGS (REGULAR AGENDA ITEMS)**

7. Petition of **Samuel and Jacob Winebaum, owners**, for property located at **70 Congress Street**, wherein permission was requested to allow exterior renovations to an existing structure (replace door at 72A Congress Street) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 117 as Lot 42 and lies within the CD5, Historic, and Downtown Overlay Districts.

### **SPEAKING TO THE PETITION**

The co-owner Mr. Sam Winebaum told the Commission that the building was circa 1850 and the addition in the back was a little younger. It had been a grocery store in 1922 when his grandfather ran it, previous to becoming the Market Square News. The building had been extensively remodeled on the ground floor, from the sign down, in two phases. The new storefront and entrance were put in during the 1970s, and the front office on the 2<sup>nd</sup> floor had been separated from the rear office in the 1980s. He wanted to replace the metal clad green door in the alcove, which was in fair condition but had lots of rust and bad hinges. It had very little glass with narrow panes and was inset 45" from the curve of the street. It was 31" across the front and 38" with the frame at the back. Customers had trouble finding the entrance because it was so deeply inset, which had led to some problems in tenant turnover. He thought that the proposed door was in keeping with the style of the red doors at 74 Congress Street. The new door would have three-quarters of glass with a bronze mail slot and bronze door set. The transom would remain, and the door in the alcove area would be painted.

Vice-Chair Kozak as if the new door would be in the same exact location and was told that it would. Councilor Kennedy said she appreciated that Mr. Winebaum was trying to save the trim. Chairman Almeida was glad that he would keep the transom. Mr. Winebaum said that his carpenter had told him that there should be no problem keeping it, but if it had to be replaced, it would be replaced exactly in kind. Chairman Almeida asked that the Commission make it a stipulation that the transom remain.

Mr. Wyckoff asked what the term 'flush glaze' meant. Mr. Winebaum told him that it was the glass perimeter molding set down with the face of the surrounding door. Chairman Almeida didn't think it meant that the glass was flush to the door but, rather, around its perimeter there was a molding flush with the surround of the door's style and the glass was set in from that. If the glass was on the same plane as the rest of the door, it would be awkward. Mr. Winebaum said it wasn't, that the frame came down and the glass was flush with the back of the frame, so there was texture to it. Mr. Wyckoff asked if the door would be painted, and Mr. Winebaum confirmed that both the door and the alcove area would be painted.

### **SPEAKING TO, FOR, OR AGAINST THE PETITION**

There was no one to speak to the petition, so Chairman Almeida closed the public hearing.

### **DECISION OF THE COMMISSION**

*Councilor Kennedy moved to **grant** a Certificate of Approval as presented with the following stipulations:*

- 1) That a bronze mail slot and hardware will be used as presented.*
- 2) That the transom window will remain in place.*
- 3) That the door will be painted as presented.*

*Vice-Chair Kozak seconded. The motion **passed** unanimously with all in favor, 7-0.*

8. Petition of **Lawrence P. McManus and Mary Elizabeth Herbert, owners**, and **David Lovelace, applicant**, for property located at **40 Pleasant Street**, wherein permission was requested to allow exterior renovations to an existing structure (install lighting) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 107 as Lot 81 and lies within the CD5, Historic, and Downtown Overlay Districts.

### **SPEAKING TO THE PETITION**

The tenant Mr. Dave Lovelace stated that he wouldn't use gas lamps and had to figure out a way to get power. There were two components, lighting on the 12' wide sign above the new patio door and lighting on the protruding sign on Pleasant Street. He thought that the light over the patio door would illuminate the granite steps. For the patio itself, he proposed five 36" bollard lights that would be placed behind the railings of the wrought-iron fence, with the exception of the one on Church Street, which would need to be away from the building and the gate. The fence was 10" higher than the lights, which had a shield to them and would only throw light on the ground around the tables so that the whole space wouldn't be lit up. Related to power, there

was a window above the door with wood casing around it, and he wanted to bring the power out through the wood to prevent drilling through the granite, and then drop the conduit down. A ledge above the 12' Book and Bar sign protruded a foot from the face of the building, and he hoped to mount three lights above it. He had thought about mounting it to the granite and using Azek, but it would deface the building, so he had realized it was a bad idea and would remove it from his petition. The conduit would continue along the back of the ledge and go around the building to Pleasant Street so that it would feed the two lights that illuminated the sign.

Chairman Almeida thought it was a great idea. Going through the granite would be a big mistake because the Commission rarely approved conduit on a building, but since it would be going through the wood and would not be seen, he thought it was appropriate. Vice-Chair Kozak asked Mr. Lovelace to show exactly where the lights would go, so he showed where the conduit would come out and drop down and where the three lights would go on the 12' sign, and also how the conduit would continue around the building and where the two lights would be mounted. He was trying to get a more concentrated light so that it would throw most of the light directly on the sign. Mr. Gladhill asked if he would fasten the conduit to keep it on the ledge, and Mr. Lovelace agreed that he would.

Ms. Ruedig thought that going through the granite was less desirable and that little mounting screws in the mortar joints would be preferable. She wanted to clarify for the future that conduit would be more easily removed and reversed rather than using Azek. Mr. Wyckoff agreed and said he was more concerned with the conduit on top of the ledge and the three lights over the 12' sign. He asked whether the three lights were interconnected at the lower level or if they would have three separate drops with junction boxes at each location, with each drop going over the cornice to another box. Mr. Lovelace said it would mount on the box connected to the conduit above the ledge and then come out past the ledge. He said he could customize the length so that it had a longer throw. Mr. Wyckoff didn't understand how he would get two lights in the hanging sign location. Mr. Lovelace told him that it would extend. Chairman Almeida suggested bringing the conduit down longer and over horizontally. Mr. Wyckoff said it would have to get around the ledge and go back down and curl around then go down in the corner. Mr. Lovelace said the arm came out with two lamps on it shooting down from either side. Chairman Almeida said if it didn't, it would just be a junction box on the edge that would stick out up to 3'. It was too convoluted, so Mr. Lovelace said he would table the Pleasant Street sign until he came up with a better solution. Chairman Almeida thought that was a good idea.

Ms. Ruedig asked about the color of the lights and the conduit. Mr. Lovelace said the conduit would be standard gray and the lights were black. Ms. Ruedig suggested that the conduit be painted a granite-type color to blend in. Chairman Almeida said the Commission had insisted before that stainless steel fasteners be used with no acidic reaction. Mr. Lovelace said his idea for a simple and affordable lighting design would be one placed behind the fence that cast low light on the ground. He thought five bollards would be the right amount because the streetlights would provide some light. The power would be lowered out through the window casing and brought around to the lights. Chairman Almeida thought it was very straightforward.

## **SPEAKING TO, FOR, OR AGAINST THE PETITION**

There was no one to speak to the petition, so Chairman Almeida closed the public hearing.

## DECISION OF THE COMMISSION

*Vice-Chair Kozak moved to **grant** the Certificate of Approval as presented with the following stipulations:*

- 1) That the conduit will transition through the second floor wood window and will be located along the upper side of the ledge and fastened into the grout lines.*
- 2) That the conduit shall be painted a gray color and stainless steel fasteners shall be used.*
- 3) That the Pleasant Street sign lighting will be withdrawn at this time and resubmitted at a future date.*

*Mr. Wyckoff seconded.*

Vice-Chair Kozak thought it would be a discrete use of lighting on an old building with the fixtures complementing the existing building. The iron fixtures above the 12' sign were the same as seen in many locations throughout the District. The bollards were minimalist in mass and height and were lower than the fence they were behind, so they wouldn't have visual weight from the street and would enhance the use of the building, so she would support it. Mr. Wyckoff agreed but hoped that the applicant searched for warm-tone LED lights rather than the higher number bluish lights.

*The motion **passed** with 6 in favor and 1 opposed (Mr. Gladhill).*

9. Petition of **Adam Warwick Bell, owner**, for property located at **284 New Castle Avenue**, wherein permission was requested to allow a new free standing structure (install fencing) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 207 as Lot 73 and lies within the Single Residence B and Historic Districts.

## SPEAKING TO THE PETITION

The owner Mr. Adam Bell told the Commission that he wanted to build a 104 s.f. fence along the western lot line of his property that would terminate 7" from the road line. The fence would be a 6' solid cedar board with cedar board posts and rails and would transition from 6' to 4' at the end, which would bring it in line with the existing structure of a front step with baluster railings.

Councilor Kennedy said a neighbor was concerned about the visibility of backing out of the driveway. Mr. Bell said he would be happy to transition the fence lower so that it would terminate in line with the existing structure and wouldn't add additional impediments to the structure. He could amend the application to lower the fence or do a fence with a trestle on the top to make it easier for people to see, but he didn't believe that it presented any other impediments as proposed. Ms. Ruedig asked if he could transition the fence further. Mr. Bell said that transitioning the last 6' or 12' to 4' or 3' would not be a problem. Mr. Rawling asked if there would still be driveway use, and Mr. Bell said there would not. The deed specifically stated that there would be no driveway use and no easement. One of the reasons he needed the

fence was because of a boisterous dog next door, and bringing the fence back further or lowering it would reduce the element of safety.

Mr. Gladhill asked if the fence would transition down diagonally or have a full panel. Mr. Adam said he had pictures of 111 New Castle Avenue showing a fence that transitioned down and he wanted to do something similar, but he would be happy to comply with a better solution. Mr. Gladhill said it was decided that it wasn't supposed to be a driveway, so he would have no liability if someone did park there and backed out. Mr. Bell told him that the stairs already came out to the same spot as the fence would terminate, so there would be no additional impediment for the neighbor's ingress or egress. Vice-Chair Kozak asked Mr. Gladhill if there was a regulation in the Planning Board Ordinance regarding fence heights at a street edge. Mr. Gladhill didn't know. She thought it would look odd if the fence protruded past the front of a house. Mr. Bell said it would be 7'7" back from the road. Chairman Almeida said Mr. Bell was willing to lower the fence if necessary. Mr. Wyckoff thought the Commission was setting a design standard. There was an existing fence on the street a few houses up that Mr. Bell would duplicate. He asked Mr. Bell if he had a surveyor. Mr. Bell said a professional surveyor from Ambient Engineering had come out in 2010. Additionally, an Ambient engineer was going to go back and do a site visit and reassess the boundaries and put it in writing, and Mr. Bell said he would invite the neighbor to come out on the day he did it.

Mr. Rawling asked about bringing the fence lower to the street edge yet still maintaining the height on the second section of it using a curve to make the transition, which would allow him to have one end lower and then transition to the high spot. Mr. Wyckoff said it was a subjective idea because Mr. Bell wanted to copy an existing fence. Chairman Almeida thought it was alright because Mr. Bell had invited them to suggest ways of modifying the fence to make it appropriate. Councilor Kennedy was concerned about the neighbor's question regarding oncoming traffic and asked if it would be something sent to Traffic and Safety. Mr. Cracknell was not aware of an Ordinance that prevented that from happening beyond the Commission. Mr. Bell said that at 4' or 3', it shouldn't be an issue because of the parallel 3'7" structure.

### **SPEAKING TO, FOR, OR AGAINST THE PETITION**

There was no one to speak to the petition, so Chairman Almeida closed the public hearing.

### **DECISION OF THE COMMISSION**

*Mr. Wyckoff moved to **grant** a Certificate of Approval for the application as presented. Ms. Ruedig seconded.*

Mr. Wyckoff said that good fences made good neighbors. The integrity and character of the District would be preserved. It was a board fence with posts and caps, which the Commission usually insisted on, so it had historical significance in the design. Vice-Chair Kozak said she would not support it because she thought the fence came too close to the road. There were no other houses on that stretch of New Castle Avenue that had a fence that came right out to the road, so it was inconsistent with the context. She felt that it was a big safety issue, given the amount of pedestrian, bicycle and vehicular traffic on that road. Councilor Kennedy agreed, and

added that she wanted to have the information about the boundary lines from the surveyor before making the decision about the height of the fence. Ms. Ruedig said the fence's design had precedence and was appropriate for what Mr. Bell wanted to do. Mr. Rawling found the extension of the fence that close to the street out of context with the neighborhood and not something that the Commission wanted to make a precedent for, so he did not support the application. Mr. Gladhill was concerned about the safety of the road and sight lines. They didn't have different angles of it to see if it would block cars or pedestrians, so he was a bit leery of it.

Mr. Wyckoff was confused because there was a photo of two other fences, one of which terminated in the same area. If it was not coming out to the curb and was back from the sidewalk, he asked what it was obstructing because there was no driveway. Chairman Almeida said he wouldn't support it because he didn't consider it an ideal fence for the neighborhood. The solution was for the first few panels to be lowered. The example from the corner of 111 New Castle was much too close to the street and a terrible example, and to match it would be a mistake. Vice-Chair Kozak said she knew the location well, and the example of New Castle Avenue was where New Castle Avenue was between Marcy and South Streets, and the traffic was not quite as heavy as where the property was located. There was also a right-of-way for sidewalks so the driveway didn't go to the curb and was held back 4-5', whereas the project didn't have a 4-5' sidewalk easement.

*Mr. Wyckoff rescinded his motion Ms. Ruedig rescinded her motion to second.*

*Mr. Wyckoff made the motion to **grant** the Certificate of Approval for the application as presented with the following stipulation:*

*1) That the first two panels closest to New Castle Avenue shall step down to four (4) feet in height.*

*Ms. Ruedig seconded the motion.*

Mr. Wyckoff felt that it was more appropriate. Ms. Ruedig wasn't clear as to how long the panel was and asked for a stipulation that the two panels be a particular dimension or line up with the house. Councilor Kennedy asked if Mr. Wyckoff would agree to move the fence back and not have it so close to the street. Mr. Wyckoff said it would be another stipulation. Chairman Almeida felt that the lowering of the fence to 4' mitigated it.

*The motion **passed** with 4 in favor and 3 opposed (Mr. Gladhill, Vice-Chair Kozak, and Councilor Kennedy).*

10. Petition of **Worth Development Condominium Association, owner, and Friends of the Music Hall, applicant**, for property located at **131 Congress Street, Unit 101**, wherein permission was requested to allow exterior renovations to an existing structure (replace storefront window) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 126 as Lot 6 and lies within the CD5, Historic, and Downtown Overlay Districts.

## **SPEAKING TO THE PETITION**



Ms. Carla Goodnight of CJ Architects and Mr. Michael Tucker, Director of Operations at The Music Hall, were present to speak to the petition.

Ms. Goodnight said they wanted to remove the fixed panel window and replace it with an operable unit. She had documentation for the head jambs, the sill conditions and the existing corner as well as an illustration of the operable window proposed for that opening. The construction change proposed was to retain the existing window frame, remove the glazing and glass stops, and install the operable window within the existing frame so that it would be continuous with the remaining storefront. She showed the orientation for the head jamb and sill details. The screen was on the interior, as required by the Health Department, and the screen track had been removed from extrusion. The color would match existing as close as possible.

Mr. Wyckoff confirmed that there was a screen. Ms. Goodnight said it would be a roll screen mounted on the interior. Mr. Wyckoff asked if it rolled horizontally across the entire opening. Ms. Goodnight said it had to meet in the middle. Mr. Wyckoff asked if the center style would remain and if there were two 8' units. Ms. Goodnight said it would become four units because the two large panes would become two fixed and two operable. Mr. Wyckoff assumed that there would be two units with no structural elements between them. Mr. Goodnight agreed. Mr. Wyckoff asked if the two units would be glued together. Ms. Goodnight replied that they would be mounted in the existing frame because they were commercial doors manufactured by New Hampshire Glass and were an Arcadia architectural product. Mr. Wyckoff verified that only the two center ones moved.

### **SPEAKING TO, FOR, OR AGAINST THE PETITION**

There was no one to speak to the petition, so Chairman Almeida closed the public hearing.

### **DECISION OF THE COMMISSION**

*Councilor Kennedy moved to **grant** the Certificate of Approval as presented. Vice-Chair Kozak seconded.*

*The motion **passed** unanimously with all in favor, 7-0.*

11. Petition of **Cottage Senior Housing LP, owner, and Portsmouth Housing Authority, applicant**, for property located at **5 Junkins Avenue**, wherein permission was requested to allow exterior renovations to an existing structure (replace windows) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 110 as Lot 1-1 and lies within the Municipal and Historic Districts.

### **SPEAKING TO THE PETITION**

Mr. Geoff Aleva of Civil Consultants and Mr. Craig Welch, Executive Director at Portsmouth Housing Authority, were present to speak to the application. Mr. Aleva stated that the windows were in terrible condition and there were safety issues. They tried to get more information from the window manufacturer, specifically the proposed panning system they wanted to install to

enclose and encapsulate the window and reduce maintenance in the masonry openings. The plan was to replace all the windows in the structure. They proposed single hung awning-style windows, and fixed encasement windows in the solarium sections that would be replaced with the same size and style. They would also replace the woodwork with composite material to match the existing appearance and would repair moisture infiltration and wood rot. The Commission had questioned the extension of the pan, and Mr. Aleva met with the manufacturer who told him that it was a detail to show the pieces and parts. The pan sat tight on the woodwork. Mr. Aleva showed photos of the existing windows to illustrate how it would all fit.

Mr. Rawling verified that the existing frame and brick mold would remain on the building and the panning would go over the top of that. Vice-Chair Kozak asked Mr. Aleva why he wouldn't use a panning with a profile similar to the existing profile. Mr. Aleva said the manufacturer didn't make a panning system that had a profile. They had looked at Paradigm windows, but they didn't manufacture awning-style windows in the larger size, so the sashes wouldn't be equal. Also, it was more expensive. Mr. Aleva included the warranty that Harvey provided for public housing projects, which was a 25-year glass warranty and a lifetime warranty on the vinyl. Mr. Gladhill asked if the windows were vinyl clad or all vinyl. Mr. Aleva said they were vinyl-extruded windows and the color would match. Chairman Almeida thanked him for showing the windows in the actual opening and said the drawings were very helpful. He was glad that Mr. Aleva pulled the panning back much further and that he was going to leave it there in case the historic mold ever got uncovered. He said it didn't appear that the glass size would be decreased as much as he had thought. Mr. Aleva said he made sure that reduction wasn't in that area and stated that he would have the pan system be 2" max to fit in. Chairman Almeida said it made a big difference because the dimensions were very small.

Ms. Ruedig asked if Mr. Aleva had specified that the muntins would have a spacer between them, and Mr. Aleva agreed that they would. Vice-Chair Kozak thought that the profile of the brick mold was such a departure from what was already there, and she asked if there was a way to match it more closely, perhaps by getting an Azek-type molded profile to ease the transition from the masonry to the 2" flat face. The Commission was already considering a huge departure to a vinyl window in a very historic building, and the only way to make it work was to transition between the window and the masonry more authentically. Mr. Aleva asked if she meant a piece of trim work coming out from the extension of the pan. Vice-Chair Kozak said it was just the jamb and the heads, not the sill. The photo of the existing showed something sticking out 3/4" with a rounded profile as it turned into the brick and then went flat. It was abrupt and would look like a modern insert. She suggested that Mr. Aleva get a rounded or profiled trim piece for the corner if he couldn't get prefab panning so that it was not so abrupt.

Chairman Almeida asked how many windows would be affected. Mr. Aleva said about 200 double hungs. Chairman Almeida thought it was a valid concern, but he understood the challenges with the building and felt that the windows in the application were appropriate. Mr. Wyckoff said the only mitigation he could think of as a contractor was having someone custom bend the side and top pan. Mr. Aleva could use the previously-presented pan on the window sill and the contractor would bend lots of metal to give an angle so that it would be tighter to the woodwork instead of square. He didn't think anyone would walk up to the building and view it up close. Chairman Almeida agreed that it was a different context from Market Street. Mr.

Aleva said it was not reasonable due to the economics. The building was renovated in 2004, and they were ten years out from that. Mr. Wyckoff asked if Mr. Aleva was purchasing the side and top pans. Mr. Aleva said they were manufactured by Harvey and each one was custom fit into each opening and already attached to the frame, which was the nice part because it encapsulated the whole window and reduced maintenance. Mr. Wyckoff asked if the brick mold would remain and be covered, and Mr. Aleva said that it would.

Ms. Ruedig noted that the same thing was done to the Lafayette School Apartments. Mr. Aleva agreed that it was similar. The windows in the Lafayette building were Paradigm, but there was no pan system because the wood surround remained. She asked if the proposed window was the awning style and was told yes. She thought the Lafayette School windows were appropriate. Mr. Rawling agreed with all the concerns about the profiles and thought that every single line was important on a Federal building. Because of the use of the building and because the existing moldings would be encapsulated and preserved for the future, he found it acceptable.

### **SPEAKING TO, FOR, OR AGAINST THE PETITION**

Ms. Patricia Dean Flynn of Connors Cottage, Apartment 102 read a letter from her neighbor Ms. Lucy Therrien that summarized the problem. Ms. Therrien wrote that she had been a resident for three years and had frozen for three years due to the inadequate windows. She lived on the north side of the building, and the drafty windows, strong winds and lack of sun left her with a temperature of 59 degrees in the winter. She had to wear a jacket, hat and gloves in the winter and usually a sweater year around. She was self-employed and the cold made it hard to concentrate. She tried taping the gaps around the windows but it caused mold to grow inside the window frames. Mold grew on the outside sills as well and encouraged the mold around the gaps and the windows because her side of the building was so dark and drafty. She had colds and allergies. Her electric bill was over \$90 a month due to the necessity of a separate heater. She asked the Commission to let common sense and their humane side reign in their decision to provide them with updated and well-insulated windows.

No one else rose to speak to the petition, so Chairman Almeida closed the public hearing.

### **DECISION OF THE COMMISSION**

*Mr. Wyckoff moved to **grant** the Certificate of Approval for the application as presented. Councilor Kennedy seconded.*

Mr. Wyckoff said the Commission had heard the problems with the existing replacement windows and the proposed windows that would replace them, and there would be no loss of historic sashes in the building. By maintaining the 6/6 character of the windows, it would maintain the character of the District and promote the welfare of the City residents which was very important, so for that reason he supported it. Councilor Kennedy stated that she would support it, even though she was not in favor of vinyl windows. She agreed that vinyl was a concern, but the Commission had recently supported vinyl windows in some commercial projects which she couldn't let slide through and not help the City's population of elderly people, so she supported it. She felt that the Commission should be equal to all parties.

Mr. Gladhill said that, because the regulations didn't allow him to consider who the applicant was or their financial situation when voting, he could not support vinyl windows in the historic building. He would not vote in favor of vinyl windows for any other historic building in town, so to be fair and consistent, he could not support the motion to approve. Chairman Almeida stated that he would not support the application if they were removing the entire historic windows out of the building, but because the windows were long gone and the historic remnants were being encapsulated and not removed from the building, he was convinced that it was the appropriate window.

*The motion passed with 6 in favor and 1 opposed (Mr. Gladhill).*

12. Petition of **Melvin D. and Elizabeth C. Reisz Revocable Trust, owner**, for property located at **49 Market Street**, wherein permission was requested to allow exterior renovations to an existing structure (replace windows) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 106 as Lot 27 and lies within the CD5, Historic, and Downtown Overlay Districts.

### **SPEAKING TO THE PETITION**

The owner Mr. Melvin Reisz and the window supplier were present to speak to the petition. Mr. Reisz told the Commission that they had cross-sections of the windows and were in agreement about using 6/6 windows.

Mr. Gladhill asked if he would use 3/3 windows for the 3<sup>rd</sup> floor. Mr. Reisz agreed that he would because it was a small window. Mr. Gladhill said it showed 6/6 in the packet, and Mr. Reisz admitted that it was incorrect. Chairman Almeida stated that it would have to be a stipulation. He asked if the screen issue had been resolved. Mr. Reisz said that the people on the 4<sup>th</sup> floor of the building had removable half screens and that was what he would use throughout the building, ensuring that there would be no exterior screens in any of the windows.

### **SPEAKING TO, FOR, OR AGAINST THE PETITION**

There was no one to speak to the petition, so Chairman Almeida closed the public hearing.

### **DECISION OF THE COMMISSION**

*Councilor Kennedy moved to **grant** a Certificate of Approval for the application as presented, with the following stipulations:*

- 1) That the third floor windows shall be 3/3.*
- 2) That no exterior screens will be used.*

*Mr. Wyckoff seconded. The motion **passed** unanimously with all in favor, 7-0.*

13. Petition of **Michael DeLaCruz, owner**, for property located at **75 Congress Street**, wherein permission was requested to allow exterior renovations to an existing structure (repair

brick dentil work on parapet wall, restore historic decorative parapet railing) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 117 as Lot 5 and lies within the CD5, Historic, and Downtown Overlay Districts.

### **SPEAKING TO THE PETITION**

The owner Mr. Mike DeLaCruz told the Commission that he was in the process of repairing the masonry on the Fleet Street side of the wall and also removing the arches that had been put in improperly in the other windows. The wrong type of mortar had been used on the parapet wall and caused a problem called spalling, which was when water got behind a lime mixture that had too much cement in it. While fixing the arched windows, he discovered that the upper parapets had begun to fall apart. The first course of bricks was falling off and he didn't know how many courses were behind it. Consequently, he had studied the wall for a few weeks to ascertain if it could be fixed. Mr. Cracknell had noticed him doing so and suggested that he submit it to the HDC. Mr. DeLaCruz made a Photoshop sketch the next morning and superimposed it on the original. He had tried to restore some of the original horizontal lines and vertical lines in the corbels and then tie the two halves of the building together, using matching sandstone blocks. The basic design brought back the original lines in the exact positions that they were. He found the exact location of the horizontal lines and vertical corbels and said they could put in almost all of the original horizontal lines and many of the corbels so that everyone could see what the original intent of the design was. He would find a close replacement for the historic railing that went along the top and he would place the rail on the Fleet Street side and then go all the way around the building.

Chairman Almeida asked Mr. Cracknell what the height of the building was and was told that it was 52'. He thought that the Commission was therefore modifying a non-conforming structure by adding features above it. Mr. Cracknell said that the parapet exemption called for a minimum of 2' above the building's height, so there was no modification of pre-existing. Chairman Almeida said the building was a massive box but they all loved it because it was an anchor to Congress Street because its quality of design was so high.

Ms. Ruedig asked which photo Mr. DeLaCruz had Photoshopped, and he replied that it was the original picture of the Franklin Block. Ms. Ruedig asked if he had put the new windows in. Mr. DeLaCruz said they were the original windows moved up. Ms. Ruedig asked whether he was restoring the top parapet of just that side of the building and Mr. DeLaCruz agreed. Mr. Gladhill noted that the original windows used to have a keystone at the top of the archway, and he asked when and why it was taken down and replaced with brick. Mr. DeLaCruz said he didn't know.

### **SPEAKING TO, FOR, OR AGAINST THE PETITION**

No one rose to speak, so Chairman Almeida closed the public hearing.

### **DECISION OF THE COMMISSION**

*Councilor Kennedy moved to **grant** a Certificate of Approval to the application as presented. Vice-Chair Kozak seconded.*

Councilor Kennedy stated that the application met the integrity of the District. She also mentioned that if other components were restored, Mr. DeLaCruz could go to the BOA for a variance because it was an option to have the variance in place even with the new zoning regulations. Chairman Almeida felt that Mr. DeLaCruz continued to do amazing things with the building. Chairman Almeida was aware of the financial challenges and finding the right craftsman. Mr. Gladhill told Mr. DeLaCruz that he was very appreciative that he had researched the building to see what it looked like in its heyday, and he was trying to restore it to what it was, a beautiful building. It was rare to see that nowadays and he appreciated that Mr. DeLaCruz took the time, effort, and finances to do it.

Mr. Wyckoff played Devil's Advocate and said that unfortunately, the building was probably considered ugly in the 1940s through 1960s, and perhaps the keystone had been removed to modernize the building. The Commission had to be aware that, as time went by, buildings from the 1960s could come up in the next few years. He was in favor of the renovation of the building and bringing it back because he felt that not everything should be made modern.

*The motion **passed** unanimously with all in favor, 7-0.*

14. Petition of **Joseph and Zulmira Almeida Revocable Trust, owner**, for property located at **27 Rogers Street**, wherein permission is requested for construction to an existing structure (construct rear addition) and file in the Planning Department. Said property is shown on Assessor Plan 147 at Lot 41 and lies within the Mixed Residential Office and Historic Districts.

*At the applicant's request, the Commission voted to **postpone** the application to the June 11, 2014 meeting.*

## **VI. ADJOURNMENT**

*At 9:20 p.m., it was moved, seconded, and **passed** unanimously to **adjourn** the meeting.*

Respectfully submitted,

Joann Breault  
HDC Recording Secretary

These minutes were approved at the Historic District Commission meeting on July 9, 2014.