

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

**EILEEN DONDERO FOLEY COUNCIL CHAMBERS**

**6:30 p.m.**

**September 10, 2014  
reconvened from September 3, 2014  
to be reconvened on September 17, 2014**

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

**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.*

**I. PUBLIC HEARINGS (CONTINUED)**

10. Petition of **City of Portsmouth, owner**, for property located along **Maplewood Avenue and Vaughan Mall (Worth Lot)** wherein permission was requested to allow a new free standing structure (install new trash enclosure) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 126 as Lot 3 and lies within the Municipal District, Historic, and Downtown Overlay Districts.

**SPEAKING TO THE PETITION**

Mr. Dan Wallis representing the Work Development Condo Association and Mr. Ed Ganem, property owner for the Worth Building and President of the Association, were present to speak to the application. Mr. Wallis stated that it was a concrete pad and they were proposing that the enclosure around it be steel posts. They wanted to do a lap siding to make it look better than the current chain-link fence. He mentioned that the screening descriptions were vague and he wasn't sure what was appropriate for a parking lot.

Mr. Wyckoff said that it appeared that the lap siding was applied on nothing and asked if there was a framework. Mr. Wallis replied that the steel framing was square tubing attached to the main posts and there would be a pressure-treated 2/4' side frame. Mr. Wyckoff asked if there would be vertical studs every two feet. Mr. Wallis said they would every 16 inches. Mr. Wyckoff asked if that would be substantial enough, and Mr. Wallis said that it would be.

Vice-Chair Kozak asked how tall it was. Mr. Wallis said it was between 7 and 7-1/2 feet. They wanted to go higher because they were trying to deter people from throwing their trash and having it end up on the ground. Mr. Rawling thought that clapboards were neutral but there was nothing in clapboard around it, so he suggested vertical boards. Mr. Wallis said that the regulations for enclosures that he had reviewed had no definite description, and they wanted to go with a vertical siding with lattice work on top for the last foot or so, but some people had told them it may not be appropriate. Mr. Rawling stated that lattice had a residential feel to the area. Mr. Wallis thought it would be more cost-effective.

Chairman Almeida asked what type of boards they were considering, and Mr. Wallis replied that any type of siding or fencing board except for stockade. They were considering decking material with no spacing but with routed edges and a cap on top. Councilor Kennedy asked Mr. Wallis if he would consider cedar. Mr. Wallis said he preferred cedar to pressure-treated. Chairman Almeida recommended changing the application to cedar and to boards. Mr. Wyckoff agreed with Mr. Rawlings that vertical siding was more appropriate.

Mr. Ganem did not think that the cedar was a good choice because of the parking lot and the amount of traffic. There were vandals and other things that would make the board break down, and cedar marked up very easily. The lap side would hold over time and would not be an eyesore. Mr. Wyckoff told him that composite decking was usually wood grain and if markings got on it, they would never get off, so he suggested going back to pressure-treated decking. It would look the same and would be less costly. Mr. Wallis stated that they had a lot of problems with spray painting, so the material would have to be paintable and hold up. They could dress up pressure-treated wood with trim. Vice-Chair Kozak suggested that they stay with fiber cement siding instead of the pressure-treated wood.

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

No one rose 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 for the application as presented with the following stipulations:*

- 1) That the enclosure shall be constructed of either vertical wood boards or vertical cement fiber panels.*
- 2) That the height of the enclosure shall be between 7' and 7'6".*

*Mr. Wyckoff seconded the motion.*

Vice-Chair Kozak stated that it would help not call attention to the enclosure, and it was utilitarian and simple in nature. The vertical orientation would help make it look more like a fence.

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

11. Petition of **Eport Properties 1, LLC, owner**, for property located at **173-175 Market Street**, wherein permission was requested to allow a one year extension of the Conditional Use Permit (CUP) approval granted on August 7, 2013 as per plans on file in the Planning Department. Said property is shown on Assessor Plan 118 as Lots 3&4 and lies within the CBA/CD4, Historic, and Downtown Overlay Districts.

### **SPEAKING TO THE PETITION**

Mr. Chris Erikson on behalf of Eport Properties was present to speak on behalf of the project for the Conditional Use Permit (CUP). He related the history of the process, saying that it had begun in October 2012. Nine work sessions focused on detailing out a plan for the project to secure the Certificate of Approval in July 2013. The City Council passed the first reading of a proposed Zoning Ordinance that would change the zoning from 50 feet to 45 feet or 3 stories, whichever was less. Mr. Erikson stated that the only reason the project was subject to that zoning amendment was because the design review did not exist when they started the project to have the zoning vested. The design review process passed around 2013, after the process was begun. Therefore, the City Council passed it without going to the Planning Board. When the applicant went for the Certificate of Approval in July, the July hearing was continued to the August session, when they applied for the CUP. When the zoning rule changed to 45 feet, they didn't need the CUP because the building height still met 45 feet. However, they needed the CUP for the amount of stories because the existing building's stories exceed three stories. The CUP and Certificate of Approval were appealed and treated as two separate issues. When it went before the Board of Adjustments (BOA) on February 19, procedural errors were brought up by Attorney Jerry Zelin, who stated that a step had been skipped in the process prior to granting the CUP and it had to go to the Planning Board. The BOA took all of Attorney Zelin's arguments into consideration but still granted the CUP in February 2014. In April 2014, the BOA denied the motion for rehearing on that issue. Therefore, they were not clear of the issue until May 25, and no further appeals were taken, making the CUP final. Because the appeal process dragged on so long, they didn't get out of it until the end of May, causing the CUP to lapse because it had been granted in August 2013. They then filed for an extension.

Mr. Erikson stated that they were asking the HDC to extend their CUP for an additional year. They had been trying to get the project to an acceptable conclusion and needed relief on the height and the amount of stories that currently existing on the building.

Chairman Almeida stated that he would ask for public input before the Commissioners commented.

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

Mr. Jerry Zelin of 70 Kensington Road stated that he was speaking as a citizen. He had not taken an active role one way or another in the project except for a letter to the HDC for re-application to extend the CUP. He had pointed out the missing step and why it had to be referred to the Planning Board. He stated that he was speaking for Mr. Duncan MacCallum, who could not attend the meeting. Mr. MacCallum had filed a Memorandum of Law on the Fisher vs.

Dover issue, which was more relevant to the second stage of the public hearing rather than the CUP. He asked Chairman Almeida if he had a copy of the memo from the Planning Department on that issue, and Chairman Almeida replied that he did. Mr. Zelin had noted that wasn't posted on line so he was concerned.

Mr. Cracknell summarized the memo from the Planning Director that they had received. The primary comment or suggestion from the Planning Board was asking the Legal Department for a procedural clarification as to whether the CUP that was granted in August 2013 had an expiration date. The City Attorney had stated that the CUP would mirror the expiration date of the Certificate of Approval. A Certificate of Approval for any project would expire within one year of the approval but could be extended. The City Attorney had stated that the CUP granted in August 2013 would expire in August 2014, so the applicant submitted an extension request prior to that date and the HDC extended the meeting so they could take public comment. The project was being revised, so there was a second public hearing that evening for a new CUP. Mr. Cracknell stated that it was important that the HDC consider the evaluation criteria of the Ordinance in place at the time, which was the September Ordinance. It was their job to look at the revised version of the project and ensure that it was consistent with last year's approval. Therefore, the letter from the Planning Director was restricted to that one question that the Planning Board asked him to address with the City Attorney regarding the expiration date. Mr. Cracknell said that the letter dated September 9, 2014 from the City Attorney stated what he had just said, and he felt that it was prudent to treat it as a one-year extension.

Mr. Zelin stated that the applicant had pointed out a memo that Mr. Zelin himself wrote, and it was not a memo submitted for that particular case. He had been doing research in the State Capitol related to HarborCorp and had found a revision of the Statute. He did not argue with the CUP issued the year before. The BOA concluded a year ago that the CUP should not be reversed because the HarborCorp issue had not been raised as a motion for a rehearing for the HDC and was untimely at that time. The Ordinances had marched on as well, and the provisions the applicant had relied on had been repealed and replaced by the Form-Based Zoning Ordinance, which limited the building to 40 feet or two stories with a short third story. It was the current law. Mr. Zelin asked if the CUP should be extended on an old law when that law had been replaced and the dimensions of the proposed building now violated the existing Zoning Ordinance.

Mr. Joe Caldarola of 170 Dennett Street read Mr. MacCallum's comments aloud. The CUP had been repealed and should not be extended. The City Council had declared that new projects should be reviewed using the Form-Based Zoning code. It should not have been granted in the first place because the regulations were in a state of flux at the time. He felt that the HDC should have waited for the new criteria. Had they waited, the project would not have met the more stringent criteria granted by the City Council. After the project was disapproved, it should have gone back to the HDC to be judged by the new criteria. The new plan did not meet the new criteria.

Ms. Barbara DeStefano of 99 Hanover Street stated that she was not an attorney but thought that the CUP should be extended. They needed to play by the rules that were in effect at the time. She felt that just because the City Council had made mistakes and changed the rules, the

applicant should not have to redo their whole plan. It had been two years of process. The BOA approved the CUP but just didn't approve the plan. She hoped the HDC would extend the CUP so the applicant could move on to the next step and get the entire plan approved.

Mr. Jeff Kissell of 21 Wallis Road stated that the HDC and the developer had worked hard on the project and a lot of money had been spent. The extension of the CUP made sense. There was no massive public outcry regarding the extension. He asked the HDC to consider doing the extension.

Chairman Almeida opened up the discussion to the Commissioners.

Councilor Kennedy asked for a copy of the City Attorney's memo so that she could read it. Mr. Cracknell read the letter into the record. Councilor Kennedy stated that the Planning Board submitted a request of August 29 to the City Attorney for information. She asked if the Planning Board had received that information and if so, had been able to give the input to the City Council. She said she was confused as to whether it took place. Mr. Cracknell replied that the information did not make it back to the Planning Board, based on the September 9 letter. Councilor Kennedy surmised that it wasn't followed through. They had not had a chance to review Attorney Sullivan's input, which was what they asked for, and she believed that they had not finished their procedure to come forward. The Board had not voted to make any comment for an extension. There were different interpretations about the CUP, so the Board voted to ask the City Attorney to provide an opinion on whether the CUP expired after one year.

Mr. Cracknell stated that he spoke to the Planning Director and got the impression that the Planning Board did not and would not have any comments on the site design that was presented that evening. They only had the sole question, and if they rejected the answer, it would be valid indefinitely, so there was nothing for the Planning Board to add to the meeting.

Mr. Erikson stated that the Planning Board's comment was to have the City Attorney render the opinion to the HDC, not back to the Planning Board. It was a harmless error. Mr. Zelin had written another letter recently when the applicant filed their extension for the CUP, and to abide by whatever process had to take place, the project agreed to suspend the previous hearing and go to the Planning Board to get their comment, which was to have the legal question answered and given to the HDC. Mr. Cracknell agreed that it was the sole question for the Planning Board, but what was less clear was the purpose of sending it to the Planning Board. The purpose of sending it to them was not to generate a legal question but to get feedback on the project in an informational and advisory function, but it had not played out that way.

Mr. Gladhill stated that he could not speak for the Planning Board on that issue but felt that if the HDC was looking for an architectural comment from the Planning Board, they would not get it. It was the HDC's jurisdiction. The Planning Board provided comment on one memo. The other issue was that if the HDC voted on the CUP one way, he wondered whether they had to vote on the Certificate of Approval another way. Chairman Almeida stated that it was both complicated and simple. The HDC should ask themselves if the Certificate of Approval still held, based on the required criteria. They did not usually stumble on whether it was appropriate to approve it or not, but it was worth everyone's reading Article 5 for the language that determined whether a

CUP is granted or not. He read the Article 5 criteria related to whether or not the HDC still believed that the CUP should be extended.

Councilor Kennedy asked if Mr. Zelin's dimensions were accurate. Mr. Cracknell said they were accurate relating to the 40-foot height and 3-story maximum, but Councilor Kennedy wanted to ensure that they were right, so Mr. Cracknell stated that he would get the information.

Mr. Erikson stated that they were vested in the zoning in which they began their project, and the reasons given for granting the original CUP had been maintained. The CUP was only to maintain a story that already existed on site, not for additional height. Everything else was the same and was being maintained. Therefore, the notion that they should be punished as a result of being drawn through a 9-month appeal process only to see zoning changes result would just promote everyone in the City to draw out every project and reward them as a result. The fundamental issue of fairness came into play.

Mr. Rawling stated that the HDC had been subjected to technical issues, some of which they were not fully able to evaluate. It got down to what their job was and how they did it. They evaluated whether a design was appropriate and then approved it. In that particular case, they had not granted any special height allowances but only granted the floor levels matching existing buildings. It seemed like an appropriate decision to make. It would have been inappropriate if they had demanded different floor heights. They followed their guidelines in approving the design that was presented to them using their criteria.

Councilor Kennedy stated that she was still not comfortable with the issue of protection for a visual corridor and felt they were closing a corridor by expanding the building. She had a problem with the front of the building in particular, and the dormers. (Mr. Erikson told her the dormers would be removed). Councilor Kennedy still felt that the criteria for granting a CUP extension were different. She said that she voted for the Form-Based Zoning and for the two stories and 40 feet on the waterfront, which had a lot of public support. Therefore, she had to stick to the way she had voted before. She appreciated that the dormers were being removed, but she was uncomfortable going against what she had voted for in the Form-Based Zoning and the view corridor.

Mr. Cracknell stated that the original version reviewed for the CUP should be the criteria applied to the revised site plan, and it was clear that the language was generated and adopted by the City Council. The Ordinance language from September 16 applied to the project. The HDC applied the criteria that had not yet been adopted but was only drafted. The August 7, 2013 decision was very clear and was a menu, not an all-inclusive list. He felt it was consistent with approval, taking the same language adopted in September and applying it to the project. The project had been revised and it was an unusual circumstance. The project had changed in design, so the criteria used a year ago needed to be re-applied. He recommended reviewing the revised plan and determining if the CUP should be extended.

Chairman Almeida asked the Commissioners if they could identify any of those items listed as satisfying the CUP. Mr. Cracknell read the four findings made by the HDC in granting the CUP



into the record. On August 8, the Commission had found significant benefits and granted the CUP.

Ms. Ruedig said that when the CUP was granted the previous year, the BOA did not have a problem with it, so it wasn't fair to hold them accountable. The legal appeals had prevented them from acting on it. She was fine with continuing the process. Mr. Wyckoff agreed. Vice-Chair Kozak went through the six conditions and stated that most of them had improved with the new design, such as the underground parking, higher-quality materials, scaling elements, and significant restoration. The project was better without the dormers on Market Street, and she felt that nothing had gotten worse. Chairman Almeida stated that what had been reinforced was the significant restoration of a contributing building, and the removed dormers strengthened that point. One thing in the revised plan that made a big difference was that the developer pulled the addition back from the site line, leaving an opening forever. It allowed for windows to be placed on that side and also wrapped the storefront around the corner, which added to the positive elements. He felt that it qualified as a permanent protection for the significant view corridor.

No one else rose to speak, so Chairman Almeida closed the Public Hearing.

#### **DECISION OF THE COMMISSION**

*Mr. Gladhill made a motion to **grant** the one year extension of the CUP. Mr. Wyckoff seconded the motion.*

Mr. Gladhill stated that the applicant was invested in the CUP and that he had never seen an application go through so much for a one-year extension. He felt that they still met the requirements of significant restoration and quality materials. Vice-Chair Kozak stated that she did not care for the argument that the zoning had changed because what also changed with Form-Based Zoning was best invested in the design review.

*The motion to extend the CUP **passed** with 6 in favor and one opposed (Councilor Kennedy).*

12. Petition of Eport Properties 1, LLC, owner, for property located at 173-175 Market Street, wherein permission was requested to allow new construction to an existing structure (construct side and rear additions) and allow exterior renovations to an existing structure (renovations to existing structure) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 118 as Lots 3&4 and lies within the CD4, Historic, and Downtown Overlay Districts.

#### **SPEAKING TO THE PETITION**

Ms. Carla Goodknight of CJ Architects representing the applicant was present and went through the presentation, showing the proposed new building on Market Street and the restoration of the Frank Jones Building. Dormers had been removed in favor of the skylight openings, and iron shutters replaced the previous shutters. The existing storefront was a replica of historic photos

prior to the 1970 renovations, which had cut several large openings into the back of the building. She stated that it would all be restored to the original condition. She showed the plans for the Ceres Street and Market Street levels, mentioned that Ceres Street would have an 18-foot setback on the roadway. They had opted to clean the front and left sides of the building and repaint it rather than expose the existing brick. Ms. Goodknight showed windows that were removed from earlier renovations as well as loading docks and bays, and also showed the various facades of the building. The setback penthouse area necessitated lowering the roof form substantially. They installed a setback between the historic structure and the new building to allow the exposure of the rear façade and create a separation. The balconies were pulled back and not projecting anymore on the rear façade so that the Ceres Street north view was not interrupted. There was new brick on the back addition as well as copper gutters and metal rails and brackets. There was a fencing detail with a retaining wall and standard brick on the new construction.

Mr. Gladhill confirmed that the storefront window design showed a spacer for the muntin and asked if they would have it. Ms. Goodknight stated that she preferred not to because it would be a better value. Mr. Wyckoff said that it was something the HDC normally requested.

Councilor Kennedy asked whether the fence detail was PVC and was told that it was and would be painted. Councilor Kennedy asked if the applicant would consider a wood product. Chairman Almeida stated that their previous request for wood was agreed to and that the particular spot was special due to the storefront turning the corner. The public would see and touch the material, so it should be a high-quality wood. Mr. Wyckoff added that it should also have a fence cap molding on top of the boards, which was appropriate in the District. Ms. Goodknight confirmed that the fence would be wood with a cap molding. Chairman Almeida asked that it be mahogany.

Councilor Kennedy asked if the skylights could have wooden trim so that they wouldn't shine off the top of the roof. Ms. Goodknight asked if there were color choices and said they could do a dark color in charcoal or bronze. Councilor Kennedy said the trim would have to match the roofing. Mr. Erikson stated that they would match it as much as possible from the available colors. Councilor Kennedy asked what color of slate would be used. Mr. Erikson replied that it would be gray and a different color. Chairman Almeida asked about the grout color, and Ms. Goodknight said it was natural sand. Chairman Almeida mentioned that a subtle tinting of grout could be successful. Ms. Ruedig thought it would be more of a problem where the colors did not match, and they should avoid a bright white so that it would fit in with surrounding buildings. Ms. Goodknight said they could stipulate a tint that matched the grout on the existing building or one of the neighboring buildings.

Mr. Wyckoff asked if the PVC trim around the storefronts were molded trim pieces or pieces that would put together on site. Ms. Goodknight said they were a cut square edge that would be painted. Mr. Wyckoff asked if the commercial windows had a panel under them and was told that they did. He confirmed that the panel would be constructed with molding, that there would be PVC with the exception of the soffit, and that the downspouts and gutters were copper. Ms. Goodknight agreed with all of it. They also discussed asphalt replacing the faux slate.

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



Mr. Jerry Zelin spoke about Mr. MacCallum's filing of motion and said that the point he had raised was that the BOA reversed the granting of the Certificate of Approval, with the main reason being the mass of the building and the bump-out at the back of the Ceres Street building. He referred to Mr. MacCallum's Memorandum of Law and pointed out pages 9, 10 and 11 that had block quotes from the BOA's deliberations. One block quote was Mr. Lemay saying it was mostly the mass and the scaling of the first building that was the problem. Mr. Parrott had a problem with the bump-out on the back and had noted that the HDC Ordinance talked about mass over and over. The building was too massive and he had suggested that the bump-out be sharply reduced. Mr. Zelin urged the HDC to read the block quotes before making a decision that evening. It was clear that the BOA turned it down due to the mass and the bump-outs, and it was significant that the new plans rectified that problem in a minute way. Mr. MacCallum had pointed out that the new plans reduced the bump-out by 15%, which was minimal. They reduced the volume of the overall structure by just 6%. Given those very small changes, the question was whether the HDC had a new application before them or just a rehash of what the BOA had turned down. If it was just a rehash, then the HDC was barred from considering the application. He mentioned the Latin term, *Race Judicata*, which meant that if a court made a decision, the litigant could not go back a year later and ask for a different decision. Administrative Boards applied that same principle. He mentioned the Fisher vs. Dover case and said that the HDC was bound by the BOA's decision and could not just redo it if the plans were not materially different from what the BOA had decided. He emphasized that there was no material change if the reduction was only 6% and 15%. He mentioned the vesting concept and said the applicant had locked itself into the past Zoning Ordinance and the BOA's decision was sort of like vesting because it was final. The applicant could not come before the HDC to seek approval for a plan that the BOA rejected and that the applicant did not appeal unless a significant material change occurred.

Mr. Joe Caldarola of 170 Dennett Street stated that it had not changed nearly enough to meet the legal requirements that Mr. Zelin had just discussed. Review factors included the historical time period of the structure's architecture and its importance to a historically-recognized event. The BOA had referred to that in their decision. This was the Frank Jones Warehouse, and there was no more historically-important development property in the District. It was visible from the water, which was just as important a view as the Market Street view. The length of the addition had not been reduced at all and caused the new building and the addition to render the warehouse unrecognizable. The addition stepped back 5 feet, but the entire height of the warehouse was still the same height. He referred to the criteria of the historical value of an existing structure and stated that the waterside problem had not changed since the original approval. The warehouse still remained unrecognizable. He suggested leaving the warehouse alone.

Ms. Barbara Ward, Director and Curator of the Moffatt-Ladd House, stated that the Colonial Dames had asked her to reiterate that their position was the same as in the letter delivered at the previous meeting. The mass and scale of the addition were still too great, and they were still concerned about the Pilot House structure and the penthouse on the back. They felt that the opening on the wall adjacent to their property and the large upper window were concerns and not in keeping with the rest of the building. They were also concerned about the balcony material.

Mr. Jeff Kissel of 21 Wallis Road stated that when the project was sent back to the HDC, it was not ready for Portsmouth. The dormers were removed, the scale and mass reduced, and the materials were changed. He felt that it was in the City's best interest to approve it because it extended Ceres Street and allowed the public to enjoy the waterfront, and it also extended foot traffic down Market Street. He said it had been long enough and asked the HDC to approve the application so they could move forward.

Mr. Matthew Morton stated that he was an abutter and owned properties on Market Street. He had seen the plans many times in the last nine months. He felt that the main problem was the bump-out that everyone was concerned about. If the bump-out didn't exist, the application would have passed eight months ago. He felt that the developers had to have the bump-out because it was all about money and maximizing the sale of the condos. It changed the whole flavor of the street. He hoped that the HDC kept reviewing it and seeing what had changed. He asked why anyone would care about the windows. The bump-out was outrageous.

Ms. Clare Kittredge stated that she felt the same way. Before the building was reduced slightly, it was excessively large and tall and overwhelmed the Building National Guidelines. She felt that it would change the view down Ceres Street and the flavor of the waterfront. Visual clutter like electrical wires and widening the sidewalk were not good enough reasons for annihilating the historic appearance of one of the gems of the waterfront.

Ms. Barbara DeStefano of 99 Hanover Street thought it was a high-quality project. Ceres Street behind the building was not a public street but belonged to the applicant, and she felt that they had the right to put the bump-out. She did not think it ruined the view. The building behind the proposed development was not historic and it already blocked the view of the water. The developer pulled the building back so that the old portion of the building could still be seen. She admonished that it was almost 2015, and the project was a great addition to the waterfront. She thought it should be approved as presented.

Mr. Rick Becksted of 1395 Islington Street recommended that the Board ask itself why they were there again. The BOA had claimed that the Board had not done its job as far as blending with the environment. Ceres Street was an important street. He asked if they were all afraid that the bump-out was a big deal to the BOA and if they would say that the HDC did not perform due diligence with the City.

Mr. Chris Erikson thanked everyone for their comments and said that he and his team had done a lot of soul searching since getting turned away from the BOA about whether to continue the project or move in a different direction. They decided to abide by the process, meet with everyone and take in input, and implement some of the changes from them, the HDC and the work sessions. He questioned Mr. MacCallum's motion of Fisher vs. Dover and saying they had not done enough material changes. He felt that the Dover issue had nothing to do with the HDC or getting a Certificate of Approval. The process of attaining a variance did not translate to an architectural review board like the HDC and was a different process. He mentioned the Morganstern vs. Town of Rye case and a second variance application addressing the BOA's concern about the rejection of the first variance. That was what they had done by taking the BOA's criticism and concerns and taking a look at the style to bring all the elements of Ceres

Street to their building and blend it with the surrounding landscape. They had gone over material changes and had eliminated all the dormers on the existing building. He reminded everyone that it was dramatically altered in the early 1970s and was not the historical structure from the 1900s. To eliminate the dormers was significant to the Board and was a massive change. They changed the shutters on the front to metal and reduced the massing of the project. They even looked into the parking situation. They not only reduced the massing of the addition by 5 feet but did the recessed connector to improve the pedestrian experience. They had done their best to maximize the coverage on only the portions altered from the 1970s. The addition was 32 feet reduced to 27 feet, so it was no longer a large structure. The penthouse was reduced by being pushed back and having the height reduced by a total reduction of 20%. At the request of the BOA who felt that there was too much glazing on the back and the circular form was too contemporary, they took elements of Ceres Street and completely redesigned that back addition. They changed the storefront to a chamfered corner, which made the design simpler. They reduced the windows and made them simple and rectangular in a repetitive pattern. They changed the use of the bottom area, making the residential lobby a commercial storefront. They kept the single-pane windows and brought the brick down underneath the windows, with a simple awning and cast iron brackets. They changed the window pattern on the new building and changed the two curved dormers to a shed dormer. The cornice detail was brought over to the addition to relate to the two buildings. Another important issue was the masonry. They were going to build a veneer wall but would now repair all the brick and paint the entire existing building. It was a monumental decision and a huge material change. They addressed every criticism of the BOA and did plenty of material changes that were successful.

Ms. Barbara Ward stated that the building was an early 29<sup>th</sup> century building. One thing that struck her was the BOA's comments about the mass and scale. Going back from 5 feet was still a very large addition to the back because it went up four stories with an additional 5<sup>th</sup> story. The scale still concerned people, even with the changed details. The new part of the building wrapped around the original building and seemed to obliterate it. She emphasized that it was not personal but an intellectual issue. The waterfront was an enormous benefit in terms of the visitors and its quality and character. She asked if a few million-dollar condos made up for that. She asked the Commission to think about the historic character as a whole and think about why people came to Portsmouth.

Mr. Jerry Zelin said he applauded the developers for all their changes and all the improvements to the façade of the building, but it was still about the bump-out. He again urged the Commission to read the block quotes of the BOA members. The bump-out would increase the overall size of the existing building by over 50%, and that was not historic preservation but a major alteration.

Chairman Almeida read the actual Certificate of Disapproval from the BOA and the four items listed from February 2014. He said they had to ask themselves if those items were addressed and changed in a material way. Mr. Lombardi said that when he had looked at the plan, he found the bump-out shocking. He considered the front of the house the part of the building facing the water, and the front of the house looked like it had been eaten by the new structure. He found it very uncomfortable and didn't think it fit. He didn't think the windows and the mass fit as well.

Chairman Almeida reminded everyone that it was not a waterfront lot and there was a lot in front of it that could be developed.

Councilor Kennedy stated that she had an epiphany that evening while listening to the developer speak about the Certificate of Disapproval. She realized that, given what the BOA had said, that was what the HDC was voting on that night. The HDC had to look at the criteria, and the first thing was the scale and mass. She asked if the criteria had been met. Their mission that night was to look at the massing and size and whether the four items that Chairman Almeida read had been addressed. Chairman Almeida noted that the word 'scale' was never used in the Certificate of Disapproval. It was a massing and style issue.

Mr. Zelin stated that it was a two-step process. He asked if the BOA's decision ended it. If the changes were not material, that was the end of the discussion. If the HDC found that the changes were material, they went to Step 2, which was whether a Certificate of Approval should be granted, which then required that they revisit whether the application complied with the HDC Ordinance. One of the most objectionable features was the bump-out.

Mr. Cracknell stated that whether the Fisher vs. Dover issue applied and whether the material changes were appropriate, scale, massing and style appeared to be part of the BOA's record. All three design factors were in play, and he felt that it was a mistake to focus in on the number of feet of change in a building. The projections had to be looked at as well as the banding and elements that broke up the scale. It was not simply the change in the footprint in dimensions.

Chairman Almeida declared the Public Hearing closed and asked for a motion that would satisfy the HDC's requirements and that addressed the review criteria.

## **DECISION OF THE COMMISSION**

*Mr. Wyckoff moved to **grant** a Certificate of Approval for the application as presented. He asked if there were stipulations.*

Mr. Cracknell said that there were and thought it made sense to have two separate votes like the BOA did in respect to the Fisher vs. Dover case as to whether there had been a material change in the application that the HDC denied and the one currently before them.

*Mr. Wyckoff **withdrew** his motion and moved that the HDC find if there was a material change to the BOA's dismissal. Vice-Chair Kozak seconded the motion.*

Mr. Wyckoff stated that the proposed rear addition that obscured the building from Ceres Street and detracted from the historic architectural value of the original structures had been modified so that two lines of windows were showing. The addition had been pulled back, showing more of the historic building, which was a significant change. The rear addition was originally very different in style and mass from the other buildings, and that had been changed. The proposed rear portion with extensive windows and surround was very different from the other buildings and a design could be developed that would better fit the streetscape. The original building had a rounded front and a rounded door and had a significant amount of glazing, so it had not fit in

with the rest of the buildings, whereas the new proposed addition had a more traditional fenestration layout as far as style and massing. The shape of the building and the window styles with the granite sills had changed. The elimination of the dormers on the front was a significant change to the design. The texture and detail of the rear portion did not previously complement the existing structure, which went back to his previous comment about the previous design having quite a bit of mish-mash. However, it was mostly all traditional now. The back of it fit in with what one would expect to see.

Vice-Chair Kozak told Mr. Wyckoff he had missed two things. The first item of disapproval was the addition obscuring the original building and removing the brick wall and leaving the existing stucco wall. They also reduced the roof forms on top.

Councilor Kennedy stated that she would not vote for it because she believed the bump-out did not meet the BOA or HDC criteria. The addition's style and mass did not fit in and obstructed the Ceres Street corridor. She felt that the historic building on the back side should be left intact. From the water and Ceres Street views, it did change the historical waterfront. The penthouse addition did not fit in and changed the historic waterfront. There was no back side of the house in that building – it was all the front side. She had gone to the BOA meeting and their concerns were loud and clear. She felt that the developer had addressed some of the concerns but was not quite there yet. She encouraged the developer to move in a positive direction. Mr. Gladhill thought that the applicant had developed something better but it was still different in style and mass from the other buildings in the area. He could not vote for it, especially in light of the new information.

Chairman Almeida reminded everyone that it was not only about what the BOA had determined but what the HDC had to determine regarding whether material changes had been made. He told the Commissioners not to feel confined to just the changes regarding the four items. Mr. Cracknell advised them to simply determine whether the material changes had been made. The adequacy of that came with the Certificate of Approval. They could vote two different ways using the two-step process.

Chairman Almeida believed that significant material changes had been made. The reduction in 5 feet went up the full height of the building. The addition, or the bump-out, had gone through significant changes, and the most major one was that it was no longer a curved structure. There was a significant recess and a more sensitive treatment. The penthouse had been reduced. The brick wall treatment had been contentious and had been changed significantly. He stated that he had watched the BOA meeting live and was familiar with what they said. He spent many hours walking around the Ceres Street corridor and studied all the angles and view corridors. The waterfront lot belonged to the site. There was a significant turn in the Ceres Street corridor – it physically turned and went around the corner. He did not see a huge amount of alteration of the Ceres Street corridor and was convinced that there had been significant changes and that the HDC had addressed the BOA's concerns. He would support the application.

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



1. *A spacer bar shall be used in all the windows;*
2. *The proposed fence along Market Street shall be mahogany with a fence cap molding;*
3. *The color of the skylights shall match the roofing material; and,*
4. *The grout on the brick shall be tinted to match the grout of the existing Frank Jones Warehouse building.*

*Vice-Chair Kozak seconded the motion.*

Mr. Wyckoff stated that the purpose and intent of preserving the District's integrity by renovating a building which had been physically altered and structurally altered and had significant problems had been met and maintained the special character of the District. They had assessed the historical significance of the building and it complemented the architectural historic character. By renovating the building and doing an addition on the side of it as a complementary addition that took elements like the keystone and storefronts helped complement the historic and architectural character. The property values had been maximized by the building's renovation and restoration, and it would promote the education and welfare of the surrounding districts. The Frank Jones Building would be put out there and people would understand that the City at one time was controlled by one person. It was consistent with the special and defining character of the surrounding properties, and the changes made to the addition, especially the first-floor storefront and the granite sills and headers, were consistent with the defining character of the surrounding properties. The Ceres Street storefront had vintage iron brackets that related to the historic and architectural value of existing structures. In renovating the building, the developer had looked at other properties on Market Street and had a good relationship with the other buildings. By changing the back of the addition's design, they made it compatible with the design of surrounding properties. There was innovative technology with surrounding properties due to the very small amount of contemporary material. It was all brick and granite, with iron shutters. The changes met all the findings of fact.

Councilor Kennedy stated that she would not vote in favor because she wanted to maintain the character of the District in style, scale and mass and being consistent with the special defining characteristics of surrounding properties. She was concerned that the extension and penthouse changed the character of Ceres Street. The Board's mission was not to change a whole street. They were supposed to preserve streets, views and buildings. The BOA had said that the HDC did not have the right to change things and had sent the developer back to them, saying it did not meet their criteria.

Chairman Almeida stated that he was clearly considering the surrounding properties.

Mr. Gladhill stated that what the applicant had done to the Market Street side was amazing by restoring the façade to a hundred years ago, along with the materials used. He felt that the new building's façade was also wonderful. By putting retail on the bottom of Ceres Street, they would bring people further down the street. He mentioned that the BOA had thought that the rear addition was different from the other styles and felt that it still obscured the original building. However, he had to vote against it because he had to follow the BOA's recommendations.



Chairman Almeida asked Mr. Gladhill why he felt that he had to follow the BOA's convictions. He asked where in their Ordinance it said that the HDC could not approve buildings that were different from other properties in the area. Mr. Gladhill replied that he had contacted the City Attorney and asked if it was like an appellate court.

Ms. Ruedig stated that she would support it and was not aware that it was a particular landmark. It was a warehouse. Frank Jones had a lot of buildings around town. As a preservationist, she could not tell what the building's front side was supposed to be from the water as far as character because it had been changed so much. She felt the applicant did a great job on the Market Street side. She said she had not voted and wouldn't have voted for the original application because she did not like the massing and styling of the rear addition, but she was impressed by the changes made on the design, old and new. There were simplified window and door openings, and the scaling of those elements improved because proportions were taken from surrounding properties. The mass on the back was originally much too big, but the applicant had cut it back and made setbacks. They improved the setback to the penthouse and had removed the dormers. The style made a huge difference. It was much more in keeping with the scale and style of surrounding buildings. They were not trying to replicate a fake old addition in the back, and were differential to the materials and scaling of surrounding properties.

Vice-Chair Kozak stated that she concurred with Mr. Wyckoff and Ms. Ruedig. As far as Criteria 1, it was consistent with the special and defining character of surrounding properties. When most people walked down Ceres Street and saw the essence of that street, the back of Merchants Row and the tall buildings connected. She thought the revised design had captured that essence. It maintained and was consistent with the defining character. Some existing buildings on Merchants Row had roof dormers and other dormers facing the water, so the dormers on the roof were not out of line. The height has been maintained and matched, and by wrapping the bump where the road jogged, was consistent. The real controversial issue about the bump-out was the location of mass. Relating to Criteria 3, it was an important façade. She mentioned the Standards of the Secretary of the Interior and felt that it was clear what the original building was and what the addition was, from looking down Ceres Street.

*The motion passed with 5 in favor and 2 opposed (Councilor Kennedy and Mr. Gladhill).*

## II. WORK SESSIONS

A. Work Session requested by **Mark A. and Deborah Chag, owners**, for property located at **404 Middle Street**, wherein permission was requested to allow exterior renovations to an existing structure (upgrade foundations, exterior modifications and additions) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 136 as Lot 21 and lies within Mixed Residential Office and Historic Districts. *(This item was postponed at the July 16, 2014 meeting to the September 10, 2014 meeting.)*

(Mr. Rawling recused himself from the Board because he was the project architect).

The owners Mr. Mark Chag and Ms. Debbie Chag were present to speak to the application as well as their architect, Mr. Dan Rawling. Ms. Chag gave an overview of the project and stated

that they were renovating the barn and putting the cars under the barn. She had spoken to all her neighbors and had gotten incredible support. She had 23 signatures from neighbors, three letters from abutters, and one neighbor in attendance to give public comment. Everyone liked the idea of green space, and the neighbors were confident that the Chags would do a good job. Mr. Rawling went through the packet that included photos. The barn was behind the main house. He noted that the entire basement floor was at street level and the foundation was exposed, which was a typical condition of several houses along the street. They were a half-story or ¾-story out of the ground before the foundation began. He showed the parking layouts. The barn was at zero setback and they wanted it moved over two feet, so the location would be slightly different. They wanted to move it toward Middle Street two feet from the property line. There was a new enclosed porch on the side of the barn as well as a covered deck on the rear of the property.

Mr. Lombardi asked how deep the barn foundation was. Mr. Rawling said the barn was on granite piers, and he showed images of various barns in the area. He stated that a study model was done to assess the barn's proportions and massing. The cupola would be kept. Mr. Lombardi asked for foundation details. Mr. Rawling showed raised elevations of the barn with masonry foundation and the piers with wood doors between them. It was vertical wood to give it a barn look. There would also be modified fencing to replace the 12" chain-link fence.

Councilor Kennedy asked what material was between the doors, and Mr. Rawling told her it was brick. Mr. Lombardi asked if it was an 8-foot rise, and Mr. Rawling said they were adding 8 feet to the base, but otherwise the barn's features were the same except for the concept of the windows. They needed to add some fenestration. They could work with smaller windows, and they would infill door openings with glazing. All the original features were exposed on the second-floor level.

**Chairman Almeida opened up the Public Comment session.**

Ms. Colleen Spiller of 33 Cabot Street stated that she lived right next to the western side of the barn and had been a neighbor for 22 years. The Chags were conscientious and hard-working people who had done a lot of research regarding the barn. They would preserve the integrity of the barn and the home. They were environmentally knowledgeable, and all the neighbors agreed that raising the barn would be the best thing to do. The parking situation in the neighborhood was difficult, so they were all for putting the cars under the barn. Her common area directly faced the barn, so they would be the most impacted neighbor and was very much in favor. Also, their basement was often flooded due to the low-lying area, so it made sense to raise the barn.

No one else rose to speak, so Chairman Almeida closed the Public Comment session.

Mr. Rawling said that the chicken coop would be reconstructed, and the north elevation would repeat what was on the other side of the barn. He mentioned that he had done a study concept of the heights of surrounding homes. Vice-Chair Kozak asked about grading. Mr. Rawling thought it was much lower than it actually was and that it looked level until it ramped up to the existing opening. Mr. Wyckoff stated that he was more pleased with the new plan than the original one and thought the four paned small windows for the barn was a great idea. Mr. Gladhill agreed.

Vice-Chair Kozak thought the height of the lower level changed the proportions. Most examples of raised barns were on hills and it seemed like there was a small rise in the back of the barn. She asked that they look at it and also that they recess the parking a foot or two so that the driveway sloped down a bit. She also noted that the shutters on the windows were not usually seen on barns. Mr. Rawling said they were historic existing shutters.

Chairman Almeida stated that it was an area of grand homes, and he thought the barn should be big. It seemed to be sinking and looked like it was sitting in a hole. Raising it would make it a prominent structure. As far as the driveway side and the large opening remaining, he said that the purpose of upper openings were for things like hay, and he did not want the final design to look like there used to be a door at ground level. The base needed to become an actual base and part of the structure. The door was wide, but he felt there was a way to have a large door that allowed two cars and not be so wide. Mr. Rawling told him that it was actually two doors that read as one giant door.

Ms. Ruedig stated that she had no major comments but thought of it more as a carriage house than a barn. Her only concern was the addition of so many windows, which make it seem more like a house. She advised them to be careful about adding too much glazing because it would be more like a house than a secondary structure. Councilor Kennedy liked the barn windows and did not think that three doors were needed because most barns had two. She asked about the shutters and was told they were wood. They further discussed the square window look. Mr. Lombardi thought it was a nice project and agreed that it would be nice to add 6 feet instead of 8 feet.

## **DECISION OF THE COMMISSION**

*The applicants stated that they received valuable feedback and would **return** for a future work session.*

B. Work Session requested by **Joan H. Boyd and Theodore M. Stiles, owners**, for property located at **425 Pleasant Street**, wherein permission was requested to allow new construction to an existing structure (construct dormer addition on right side of structure, replace existing windows, misc. new window and door locations) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 102 as Lot 70 and lies within the General Residence B and Historic Districts.

Councilor Kennedy recused herself.

The owner Mr. Ted Stiles and the architect Ms. Anne Whitney were present. Ms. Whitney stated that the major structural change proposed was a dormer on the right side. They would replace the existing windows. She showed the Pleasant Street elevation and the side where the dormer would be placed. The attic was timber frame and came in about 8 feet on either end. She would place the dormer between the front and rear timber rafters. The dormer would be set back 12" from the wall because of the limited headroom, and she got the steepest pitch that she could.

The windows sizes would stay the same but she wanted to go to clad. The new windows would be Marvin clad windows. The Pleasant Street windows were all existing and would be replaced. The right side elevation had two new windows as well. The dormer windows were casements that looked like double-hung windows. She wanted to keep the end gable as double hung and keep the windows consistent.

Mr. Wyckoff asked how old the house was and was told that it was 1797. Ms. Whitney stated that they wanted to gain space with the dormer and remove the existing chimney and replace it so that it was not so tall by bringing it up to the peak. Mr. Gladhill asked if other colonial houses in the area had shed dormers and was told that they did. Ms. Whitney said that she would submit the packet before the public hearing. On the Pleasant Street façade, Ms. Whitney stated that there was a funky shed structure on the back, and they would bring a small window around and move the door to the back elevation. It would be a small casement window. A single window against the addition would be removed and replaced with two windows with a 4-inch separation.

Mr. Wyckoff asked if the rake would be altered, and Ms. Whitney said that it would not. Vice-Chair Kozak asked if all the windows would be replaced. Ms. Whitney replied that they would, and existing windows would have Marvin tilt windows. Vice-Chair Kozak asked if the existing windows had different styles. Ms. Whitney said they would go with 2/2s predominantly, but there were some bad storm windows. They would get rid of two windows. Vice-Chair Kozak asked if they were original widows, and Ms. Whitney replied that she didn't know. Vice-Chair Kozak further discussed whether the framing timbers were original or not and talked about the chimneys and the dormers. She suggested that the chimney on the side of the house be kept in that location because it was too skinny to be a central chimney. Mr. Rawling said that he could support the changes and fenestration, but the HDC consistently voted against getting rid of chimneys.

Chairman Almeida said that he normally preferred that a shed dormer did not go up to the ridge and that it be held back 3-4 feet from the rake. In a house of that age, you could not go below the ridge. He discussed shed dormers and chimneys further and suggested shifting the chimney up near the shed dormer. Ms. Ruedig said she wasn't a fan of removing an original chimney, and popping a fake one on top of a shed dormer was bizarre and would make it look smaller and strange. Ms. Ruedig also said that she could not vote for replacing wooden historic windows that had leaded glass. Mr. Lombardi thought the chimney looked strange. Chairman Almeida was not comfortable with the casement windows because they were foreign to the neighborhood. The means of egress on the 2<sup>nd</sup> floor was also discussed. Mr. Stiles asked if they should get rid of the chimney altogether. Vice-Chair Kozak said maybe they should, but

## **DECISION OF THE COMMISSION**

*It was decided that the applicant would **return** for another work session.*

C. Work Session requested by **Hanover Apartments, LLC, owner**, for property located at **5 Portwalk Place (previously known as 195 Hanover Street)**, wherein permission was requested to allow exterior renovations to an existing structure (modifications to storefront

window system) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 125 as Lot 1 and lies within the CD5, Historic, and Downtown Overlay Districts.

Mr. Rob Harbeson and Mr. Shore Gregory, owner of the Boston Oyster Bar and Row 34 restaurants, were present to speak to the application. Mr. Gregory gave a brief history of his restaurants and said he was excited to open up a new restaurant in Portsmouth. Mr. Harbeson went through the presentation. He showed a right-hand entry door with an awning and said he wanted to remove the awning. Signage was discussed. He mentioned that the awning on the other side was removed. Their goal was to increase the amount of glass and visibility at that corner and get people to go over and see what was going on. He showed the elevations. At the lower left corner, the reason for the awning was for the primary entrance.

Mr. Gladhill stated that he was not comfortable removing the door on the corner because it looked awkward without a main entry door. Mr. Rawling stated that the large solid spandrel panels across the entrance were disturbing to him. Mr. Harbeson said that Row 34 had a minimalistic and industrial esthetic, but he was open to layering texture. He suggested a layer of different material on the spandrel to break up the scale and said he had considered it before but had wanted to create a clean line all the way across. Chairman Almeida thought that lowering the glass was a huge improvement, and he echoed Mr. Gladhill's concern about activating the street level and not removing the door. He thought more glass was needed. Mr. Harbeson stated that he was willing to making the spandrel glass and thought it might be a better way to get activity to the corner. He discussed grade levels.

Chairman Almeida said that he fought hard to keep that door for the street level experience, and something else would have to embellish the street level to make the door not as important. He suggested making the material all wood instead of artificial. Councilor Kennedy asked why the door problem wasn't brought up before. Mr. Harbeson replied that he didn't know why it was done the way it was. There would be a vestibule in that corner, so it was usually occupied space. They had thought that seasonal panels could be completely and would encourage lots of street activity. Mr. Gregory stated that from a conceptual standpoint, corners were the most desirable places to be in restaurants, and they usually make the corners as active as possible. They preferred to have patrons at tables on that corner to activate the restaurant attendance.

Mr. Wyckoff said he didn't understand the outdoor seating because the sidewalk along Hanover Street was only 8 feet wide, so some of it would be taken up with café tables. His concern was about clogging the whole corner up. Mr. Harbeson told him that it was at a different grade level. Mr. Wyckoff asked if it would be fenced in and was told that it would. Therefore, he thought the wonderful sidewalk experience would be chewed away. Mr. Gregory said that they could forego the patio seating. Mr. Rawling said the building was designed to invite to the corner.

Vice-Chair Kozak thought they were Planning Board issues but was concerned about wrapping the cornice, which was a defining element of the building. Chairman Almeida said it was an important spot. Most of the talk was about the door in the corner, or lack of, and it was a tight space. Mr. Wyckoff suggested that instead of an extrude aluminum door, a mahogany or hardwood door be put in and thought it would make a huge difference. Ms. Ruedig said that putting wood did not mean the energy would be increased. If a doorway didn't work, then more glass should be installed to show the activity inside.



Chairman Almeida said that the loss of the awning bothered him because there was no shelter at all and no shade. Mr. Gregory said he understood the Chairman's point and would prefer to do a metal awning rather than canvas. Mr. Harbeson further discussed the grade at the entry door and mentioned that it was 11 feet up, so people would be looking at people's legs. Councilor Kennedy was still baffled that the main door could not be used and thought an awning would soften the appearance of the other entry. Mr. Harbeson didn't think a functioning door at the corner was a good idea because there would be no great visibility for the evening. Vice-Chair Kozak asked if they would consider the sign height and location as to how it related to the rest of the building. She didn't know if they wanted to drop the windows and put signs in the middle of the glass. Mr. Harbeson said it was due to the existing mullion. Chairman Almeida thought it was an exciting opportunity to further humanize the building by putting detail into the corner.

## DECISION OF THE COMMISSION

*The applicant indicated that they would **return** for another work session.*

D. Work Session requested by **Dale W. and Sharyn W. Smith, owners, and Green and Company, applicant**, for property located at **275 Islington Street**, wherein permission was requested to allow demolition of existing structures (demolish existing buildings, construct two multi-family structures) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 144 as Lot 8 and lies within Central Business B and Historic Districts. *(This item was continued at the August 13, 2014 meeting to the September 10, 2014 meeting.)*

Councilor Kennedy recused herself.

Ms. Wendy Welton of Art Form Architecture was present to represent the applicant. Ms. Welton said that they had found the last session helpful. She went through the presentation and noted that the mansard had been reversed and now hugged the property line. One of the major changes was that they were able to save the New Englander. The boundary was correctly located on Cornwall Street and set up so that the front steps kissed the property line and gave enough space to tuck the attached garage behind it. She discussed alignment on Islington Street. The entrance on the far right was set back. The mansard still had two side-by-side doors collecting into a common entrance. The middle building had only once entrance. She discussed all the center and side entries. The gambrel on Rockingham Street was New England vernacular, and she paired the existing New Englander with another New Englander via a connector. Locations for mechanical equipment would be between the buildings on Islington Street. Retaining 3-foot walls would cover the equipment so it would not be seen. The mechanical equipment on Cornwall Street would be set back. There were roof top units on the New Englander. Elevations were improved. The greenscape was still in the middle, and they were bringing out sidewalks and adding support to the rear decks so they read more like porches.

Mr. Wyckoff asked about pilaster cornerboards. Ms. Welton said there was nothing less than 10" cornerboards. She continued to discuss the mansard and showed the gambrel on Cornwall Street with stepbacks. Shed dormers eliminated headroom problems and the roof pitches were tilted. She also discussed the Greek-style buildings.



Chairman Almeida asked the Commissioners for comments. Vice-Chair Kozak said she had nothing major to say and thought it was great that the New Englander had been saved. The scale was in keeping with the surrounding properties, and there was a lot of texture and detail accentuating the entrances. Mr. Rawling thought the project was going in the right direction, especially with the property line setbacks. The streetscape was taking on a richness and texture. It had substance that it didn't have before, and refining the details was nice. His favorite thing on Cornwall Street was the gambrel because it used wide stud pockets on the windows. The triple upper windows were well done.

Ms. Ruedig took issue with the mix and match of styles thrown together and thought it made it feel like Disneyland. It was not cohesive and did not take enough from the buildings in the immediate area. There was no Islington Street feel. Islington Street had very formal facades, and she felt the developer was moving in that direction but was having trouble with the doors not being on center and instead being side doors tucked away. The central building had a side street feel, and the front gable was not formal enough. There was a lot of fenestration and way too many windows. Mr. Lombardi thought they had come a long way from what he had seen before and he was impressed with their progress. He agreed that there were a lot of windows compared to the rest of Islington Street and also agreed that the grandness was missing.

**Chairman Almeida opened up the Public Comment session.**

Mr. Rick Becksted of 1395 Islington Street commended the developers for sticking it out after the generation of modern designs. The neighbors seemed to be for it. He asked the Board to point out to the developer which buildings were good and not so good and give them more direction on what worked.

No one else rose to speak, so Chairman Almeida closed the Public Comment session.

Vice-Chair Kozak commented that on the hip building, the windows were a bit big and she suggested graduating the windows that were higher. Ms. Welton replied that the windows were smaller than before but they could take more off. Vice-Chair Kozak wondered whether there was some chimney expression somewhere in the block, saying it was a pronounced feature of Islington Street. Chairman Almeida stated that he loved the five separate buildings and thought the project had come a long way. He was disturbed by a newspaper article and said he went to City Hall to review everything that had been submitted on the project. There were a series of drawings with a huge amount of detail that were dropped off that never made it to the HDC, and he wanted to share them with everyone. The drawings addressed widths and profiles of moldings, windows, and so on, and were necessary to get into the details. He was ready to see very specific detail. Ms. Welton replied that they still have volume changes to make, and their intent was to have heights and widths for the next meeting.

Ms. Welton stated that they had wondered if the middle building among the three on Islington Street should be more symmetrical and formal, but they felt it was risky to make more changes. She asked the Board how they felt because some members had previously commented that it was a bit casual. Mr. Wyckoff said that he appreciated the center building, but it might be a mistake for the developer to look at the project as the 'three buildings on Islington Street' because they

would not be seen as three buildings but would simply be part of Islington Street. So, trying to have the grander building in the center didn't make sense to him. Chairman Almeida thought it looked suburban, with its straight lines and no difference in molding and details. He thought more details would make it much better. Mr. Rawling thought that the Greek building could work but had assumed that a building right across the park would be more formal. Mr. Wyckoff thought that classic siding, no wood shingles, big cornerboards, big pilasters and shutters on the Greek building would make it pop. Ms. Ruedig believed that a grander façade might make the gable a central piece rather than having it on the side. Vice-Chair Kozak thought the form could be kept on the side and said that the Greek style was generally formal and symmetric.

## DECISION OF THE COMMISSION

*Vice-Chair Kozak moved to **continue** to work session to next month's meeting. Mr. Wyckoff seconded the motion. The motion **passed** unanimously, with all in favor, 7-0.*

E. Work Session requested by **7 Islington Street, LLC, owner**, for property located at **40 Bridge Street**, wherein permission was requested to allow demolition of an existing structure (demolish building) and allow a new free standing structure (construct three story mixed use building with below grade parking) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 126 as Lot 52 and lies within the CD4, Historic, and Downtown Overlay Districts. (This item was postponed at the August 13, 2014 meeting to the September 10, 2014 meeting.)

As Chairman Almeida was reading the application into the record, Mr. Bill Brassil interjected that the property was scheduled for a foreclosure sale on September 18 and wondered whether the Commission should view the plans if the property was to be foreclosed. Mr. Cracknell replied that the property had not been foreclosed on at that time, so there was no reason why the Board wouldn't review it.

Mr. Steven McHenry of McHenry Architecture and the project architect Mr. Brandon Holben were present to speak to the application. The revised scheme was shown. Mr. McHenry said that the goal was to figure out the scheme for massing. He thought a modified shingle style massing would give it less weight and stated that another massing option had been added, the 'urban row' option, making two primary options to review: the shingle style or urban row.

Mr. Holben went through the plans and stated that the existing conditions had not changed. He showed some view of the two options. Councilor Kennedy asked about a 3-story building that looked like a 4-story one due to the shingle style. Mr. Holben replied that it was three stories as defined in the Ordinance. Mr. McHenry showed photos of buildings in the neighborhood, most of which were shingle-style buildings. Mr. Holben discussed changes from the prior version, the modulation of the façade, space created on the third level, 5-foot setbacks that were increased to 7 and 8 feet, minor adjustments to roof lines, and doors that had been pulled in to reduce the gable end.

Mr. McHenry showed the lower and streetscape parking levels. He showed the elevation view of the urban row style and noted that it had a different set of materials and window patterns but the same overall mass in terms of streetscape and setback. Its front elevation moved in and out more than the shingle style, and it was broken up into modalities that were closer in scale to the other buildings in the neighborhood. He stated that the models needed to fit into City context models, and he showed how the two versions fit into the larger context. He asked the Board for their opinion on the two versions.

Ms. Ruedig did not think that the urban row scheme was appropriate because it didn't fit with surrounding properties. All the buildings were older wooden frame buildings as well as single buildings. She thought the shingle style was more appropriate but felt that it was still a little too big. She thought the architect had done a good job of trying to diminish the mass but did not think the shingle style was appropriate in a building that size and in that area. She noted that it would be more appropriate for a larger-ocean front mansion but not downtown Portsmouth. She thought that the area on the right side with the three window bays and dormers worked well and that the roof and eave lines were modernized to fit in. It also added activity to the street with its commercial use. Councilor Kennedy was uncomfortable with the stories because they looked like four stories. She referenced the historical guidelines and noted that the surrounding properties were mostly two stories. She didn't see how it related to neighborhood context and stated that every Commissioner had an ongoing problem with the scale and mass. Mr. Holben spoke of the shingle option, where they started with a larger mass to make it a more prominent building on a larger and unique site. The flat wall seemed to be imposing according to some, so they tried to do it a different way to reflect the proportion width of the smaller structures.

Mr. Rawling stated that he had trouble with the urban row scheme because the massing along the street edge reflected the opposite pattern. The shingle-style scheme had things that were working quite well and were intriguing. He referenced the illustration that showed the gray house echoed the gambrel feature in the gold house. The way it went downhill and the building climbed had a nice form and flow to it. It aligned itself up to the taller height. He loved the shingle style but couldn't see it in context to the street. Mr. Wyckoff thought that the shingle style was skewing the Board. He liked the way the roof was handled, bringing it closer to the Buckminster House. The only problem was the 4<sup>th</sup> floor, which he thought was too much. The windows were odd, and the massing needed to be brought down as it went downhill. He thought that perhaps the solid building could be divided into two buildings.

Chairman Almeida thought that the shingle style had an inviting feel of the street level, with the awnings and glass, and was wonderful. He felt that it was too big of a building to come all the way to the street. He thought that it could be possible to combine it with the urban row style and be successful. The bays had been brought out and had the same expression as the abutting houses. If the volumes could be more horizontal and relate to those structures, the urban row could rise up behind it in a very different style. They had to be respectful of the Buckminster House and continue to develop the urban row to do that, but he was not suggesting that the developer construct 19<sup>th</sup> century facades but rather be more reflective of those forms. It also looked like the shingle style held the building back further from the Buckminster House, but the windows seemed enormous. He realized that something was being done to the back of the buildings on Tanner Street, and they needed to know what that view would look like. The height

didn't bother him because it was in compliance, but he felt that wherever that height went would determine its success. Mr. Lombardi thought that the urban row style had merit but was bothered by the large windows on the 1<sup>st</sup> floor because they emphasized the height. The vertical aspect was huge, and some of the contrast could be softened. He didn't care for the multicolored white, gray, and red. He thought the shingle style looked more massive.

Vice-Chair Kozak asked Mr. McHenry which option he preferred. Mr. McHenry said he preferred the shingle style originally, but after hearing the comments from the Commissioners, he thought the urban row style was preferred. It broke up the proportions, and he agreed that the elements of the shingle style could be incorporated, especially the streetscape part. He indicated that he would like to pursue the urban row style. Vice-Chair Kozak thought the rough massing form worked better on the shingle style and also thought it was simpler, although frenetic with rich detail, but it was set among simple buildings. She thought there were elements of both styles that could be incorporated. Mr. McHenry thought that the urban row elevation could be calmed down and they could pick up the shingle style's good points and then come back with a single massing option. He wanted to solve the massing problem and then go with other elements of the building, such as fenestration, doorways, and so on.

Chairman Almeida liked the way that the tower-like element was recessed back and separated the mass, and if it were taken away, he thought the contemporary expression would be lost. Mr. McHenry thought it echoed the elements on the Buckminster House. Councilor Kennedy warned Mr. McHenry to be careful of the surroundings. The street had predominantly 2-story buildings, so the development would stick out, and if they made it too contemporary, it would really stick out. Mr. Wyckoff agreed, noting the urban infill and shadow lines. The development was up against the Buckminster House, and the rest of the homes were small Colonial structures. The context didn't fit. Mr. Wyckoff noted that the street was very visual.

#### **Chairman Almeida opened up the Public Comment session.**

Mr. Bill Brassil of 7 Islington Street stated that the building was too high, and even though it was in compliance, the Buckminster House was 26 feet tall and the other house was 24 feet tall. No other building in the lot was above 30 feet. A 45-foot building in the middle of that would ruin the Buckminster House concept. They had already lost some of their parking lot and had been promised three parking spaces. Tanner Street was a narrow one-way street, and the development would bring more traffic to that area. The building's setback was inadequate for fire protection, ice and snow removal, and also didn't leave much room for the Buckminster House residents. Looking out from his deck, he would be able to see a bedroom right in front of him.

Mr. Rick Becksted of 1395 Islington Street stated that he was hearing opinions that were different from the ones he heard at the previous meeting. The Board had been concerned about the massing and bringing it down completely, but that viewpoint had not been brought up. It was a 4-story building and an injustice to Bridge Street, the Buckminster House, and the rest of the houses. The building going up 45 feet was not justified. The Buckminster House was very historical, and he felt that the development's height was an injustice to it and overpowered it. The third floor rose over the Buckminster House. He had a lot of concerns for the Buckminster House residents. He mentioned the two-story rental building on Tanner Street and said that their

driveway would be the access to the development, and he asked where the rental building's tenants would park. His main point was that the development needed to come down a complete story and not overpower the street.

### **DECISION OF THE COMMISSION**

*It was decided that the applicant would **return** for another work session.*

### **III. ADJOURNMENT**

*At 12:30 a.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 October 1, 2014.