

## **Newburyport Historical Commission**

May 27, 2021  
Online Meeting  
Minutes

### **1. Call to Order**

Chair Glenn Richards called an online meeting of the Newburyport Historical Commission to order at 7:00 p.m.

### **2. Roll Call**

In attendance were members Glenn Richards, Peter McNamee, Joe Morgan, Christopher Fay and Patricia Peknik. Marc Cendron and Malcolm Carnwath were absent. Also in attendance were Planning Director Andy Port, Planner Katelyn Sullivan and note taker Gretchen Joy.

### **3. DOD/DCOD Advisory Review**

#### **276 High Street**

Glenn Richards drafted a DCOD Historical Report regarding the plan to modify a carriage barn and move it to a new location on the property. Peter McNamee moved to approve the DCOD Historical Report for 276 High Street. Joe Morgan seconded the motion. The motion was approved by a 5-0 vote (Glenn Richards, yes; Peter McNamee, yes; Joe Morgan, yes; Christopher Fay, yes; Patricia Peknik, yes).

### **4. General Business**

#### **a) 10 Auburn Street Discussion**

Chuck Griffin described the landscaping work that has been done at the Old Gaol and the additional improvements he is proposing. A patio bordered by granite blocks has been installed in front of the Keeper's House. Mr. Griffin is proposing to mount trellises to the blocks that would be covered with vines to provide privacy for the owners of the Keeper's House. He is proposing to install two elm trees on Auburn Street and one Vernon Street. He said the Auburn Street trees would not block the view of the Keeper's House. He believes its primary view is on the diagonal from the Superior Courthouse. A hedge would be added to cover the foundation on Vernon Street. Mr. Griffin is also proposing to add a granite slab to extend the brick walkway to the street, install a granite post with a street number sign and mailbox on the front lawn and add a railing to the front walkway steps. In exchange for the addition of the front trellis, he offered to preserve a granite wall and keep the shade garden intact. Privacy walls would not be installed between the two condo units, but instead a four-foot fence with open pickets would be added. Attorney Jeff Roelofs said he is working with Nick Cracknell to revise the preservation restriction.

Patricia Peknik said she has a grave concern that the NHC should not discuss a new project until after the preservation restriction has been signed. The restriction was first proposed in 2016 and has not yet been completed. She said the property is very different now than it was at the time the NHC agreed to hold the preservation restriction. The Commission was promised an open landscape and was provided with baseline photographs. The NHC agreed to hold the restriction in order to provide the public with an open lawn and view of the Gaol. No walls, fences, signs or plant materials that would

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obstruct or impair view of the building could be installed without approval of the Commission. The only action that should be taken at this time is for some of the language in the restriction to be clarified and for the document to be signed.

Christopher Fay said he agrees that no changes should be discussed until the preservation restriction has been signed. The document states the open landscape is to be preserved except for approved parking and landscape features. He said the language is straight forward.

Glenn Richards said he has confirmed with Planning Director Andy Port that the draft preservation restriction has force and the applicant is bound by it. The proposed landscaping changes are ones that would not be permissible without review. He said the trellis is problematic, as the vines would obscure the view of the building.

Andy Port said the draft preservation restriction was incorporated into the ZBA decision and is enforceable. The Commission and applicant should reach an agreement on the landscaping elements that would require additional review.

Attorney Roelofs said two steps should be taken concurrently. The applicant should work to complete the preservation restriction and the Commission should vote to accept the proposed work. The review process should proceed as if the document has already been signed. He said preservation restrictions on structures in the city contain the same language. Guidelines explain which types of changes would trigger a review. Landscaping that obscures the view of the structure must be approved. He said the applicant has agreed that the work he is proposing would require NHC review.

Christopher Fay said the members have received a one-sided legal opinion and description of the roll of the Commission. The trellis has been described as a privacy screen for the homeowners and he does not see how this would benefit the public.

Patricia Peknik said it is not only elements that would obscure views of the structure that must be approved. The preservation restriction states that changes that alter, impair and obscure views are to be approved. She said the Commission should not vote on any proposals until the preservation restriction has been signed. She said Attorney Roelofs has said the Commission members should base their decision on the language that is standardly attached to preservation restrictions, not the language that is attached to this preservation restriction. This restriction specifically states the lawn and landscape should be open with an exception for an alternate ground cover. There is no addendum to this preservation restriction

Joe Morgan said he does not think the two steps could be taken on parallel tracks. The intent of the restriction is an open landscape, with no tall trees or landscape elements that would obstruct the view of the building. It would be necessary to change the language of the preservation restriction in order to consider the proposal.

Nick Cracknell said he drafted the preservation restriction and is responsible for the amount of time the process has taken. The language was based on a State Street property and needs clarification. After the Kelley School preservation restriction, the template was changed. He said Mr. Griffin recognizes that the preservation restriction is binding, which is why he is requesting approval for his proposed changes.

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Glenn Richards read the section on the purpose of the preservation restriction. He said the document is clear and consistent. It requires that the view of the Gaol is preserved. He asked the members to vote on the proposed landscape changes.

Glenn Richards moved to approve the addition of a patio, trellis and granite blocks on the lawn in front of the Keeper's House. Joe Morgan seconded the motion. The terrace and granite blocks were installed without review. The motion failed by a 0-5 vote (Glenn Richards, no; Peter McNamee, no; Joe Morgan, no; Christopher Fay, no; Patricia Peknik, no).

Glenn Richards moved to approve the addition of a tree on Vernon Street. Peter McNamee seconded the motion. The motion failed by a 3-1 vote with one abstention. (Glenn Richards, yes; Peter McNamee, yes; Joe Morgan, abstain; Christopher Fay, yes; Patricia Peknik, no).

Glenn Richards moved to approve the addition of two trees on Vernon Street. Joe Morgan seconded the motion. The motion failed by a 2-2 vote with one abstention. (Glenn Richards, yes; Peter McNamee, yes; Joe Morgan, no; Christopher Fay, abstain; Patricia Peknik, no).

Glenn Richards moved to approve the addition of a hedge no more than 2'-6" high to cover the Vernon Street foundation. Joe Morgan seconded the motion. The motion failed by a 3-2 vote (Glenn Richards, yes; Peter McNamee, yes; Joe Morgan, no; Christopher Fay, yes; Patricia Peknik, no).

Attorney Roelofs said some members have expressed a lack of understanding about the intent of the preservation restriction. He said the applicant had requested time to present more history on the work that has taken place on the property. He asked that the votes be withdrawn and a working session be scheduled to discuss the historical significance of the front lawn. Glenn Richards responded that the Commission is not unclear about the intention of the preservation restriction. The document requires that proposed changes to the open landscape are reviewed and approved. The applicant presented the proposals, the Commission has reviewed them and is now voting on whether to approve them.

Glenn Richards moved to approve the addition of handrails on the steps. Peter McNamee seconded the motion. The members would like more information on ADA requirements. The motion failed by a 1-1 vote with three abstentions (Glenn Richards, yes; Peter McNamee, abstain; Joe Morgan, abstain; Christopher Fay, abstain; Patricia Peknik, no).

Glenn Richards moved to approve the installation of a piece of granite between the sidewalk and the curb. Peter McNamee seconded the motion. It is not known if this property is owned by the City or the applicant. The motion failed by a 1-2 vote with two abstentions (Glenn Richards, yes; Peter McNamee, no; Joe Morgan, abstain; Christopher Fay, no; Patricia Peknik, abstain).

Glenn Richards moved to approve the installation of a granite address post and mailbox. Peter McNamee seconded the motion. The motion failed by a 1-3 vote with one abstention (Glenn Richards, no; Peter McNamee, no; Joe Morgan, abstain; Christopher Fay, yes; Patricia Peknik, no).

Glenn Richards said there seems to be a need for more information on some of the proposed changes and the intent of the restriction. Patricia Peknik said some of the members worked on the document and are not unclear on its intent. She said she had asked that the document be completed before any review of proposed changes takes place. Peter McNamee agreed that the preservation restriction should be completed before any further changes to the property are considered.

Peter McNamee moved to set aside the votes so that they might be considered without prejudice after the preservation restriction has been finalized. The motion was not seconded and no vote was taken. Joe Morgan said he based his votes on the intent of the preservation restriction as he understands it and it is irrelevant if the document has been signed. He is unclear as to how to make progress with the document in its current state. Glenn Richards said the document contains language that is standard to preservation restrictions. The NHC must review and approve proposed changes to the property. Attorney Roelofs said the Commission has authority to modify the preservation restriction. Some revisions would be needed to accomplish the objectives of the document.

Peter McNamee moved to continue the matter to the June 24 meeting and for the Chair to select two Commission members to be a part of a working group to review the preservation restriction. Christopher Fay seconded the motion. Andy Port said the applicant should provide language in advance of the meeting on any proposed modification to the restriction and a plan set rather than slides. The motion was approved by a 5-0 vote (Glenn Richards, yes; Peter McNamee, yes; Joe Morgan, yes; Christopher Fay, yes; Patricia Peknik, yes).

#### **b) Masonry Pamphlet Discussion**

Tom Kolterjahn said the pamphlet that was created to advise homeowners and contractors must be updated. Some of the information has changed. He suggested that the NHC might adopt the pamphlet and distribute it through the Planning Office. The members will review the materials. Glenn Richards moved to continue the matter to the June 10 meeting. Christopher Fay seconded the motion. The motion was approved by a 5-0 vote (Glenn Richards, yes; Peter McNamee, yes; Joe Morgan, yes; Christopher Fay, yes; Patricia Peknik, yes).

### **5. Correspondence**

#### **Letter from MHC**

The Commission was copied on a letter from MHC regarding the preservation restriction for 64 Purchase Street.

### **6. Updates from the Chair**

#### **17-21 State Street Variance Application**

The owner of Brine is a tenant in the Fowles building and wishes to replace the fixed plate glass windows with ones that are operable. The changes would impact the historical aspects of the structure, which is protected under the DOD. A change in the

operation of windows is prohibited under DOD Ordinance. The applicant has requested a variance from the ZBA. The role of the NHC is to make recommendations to the ZBA.

Patricia Peknik said there is an error on the Form B and the plans. The material under the windows is incorrectly identified as granite. It is instead structural glass tile. The brand name of the material, which was developed in 1900, is Vitrolite and is a feature of the Art Moderne period. The material is non-porous and sanitary, making it widely used in the food service industry.

Ms. Peknik said the material above the windows is also structural glass. It is not a band sign. The sign could not be removed without dismantling the façade. The lettering could be restored. She said the design of the historic façade is cohesive and a great one for a restaurant. An awning once hung under the sign. The reintroduction of this feature would be a good way to advertise the business. She showed examples of facades in which Vitrolite was used, one of which is now a restaurant in a former bus station.

Glenn Richards read a passage from a Preservation Brief on historic storefronts. He said the restaurant owner argued that the change would be important to the vibrancy of the downtown. He said not enough consideration has been given to the economic value of restoration and rehabilitation. Changes should not be made to buildings that would have an adverse impact on their historic value. The Fowles storefront is iconic. He said there are successful restaurants in Newburyport that do not have operable windows. Multiple pane windows would destroy the existing storefront presentation and he would not support the change.

Joe Morgan said the building has some maintenance issues that must be addressed, but visually there is no doubt it is a storefront. Replacing the plate glass windows with a window system with divisions would not be appropriate. He said the alternate architectural approach of retaining the art deco elements could do more to attract more people to the building than conventional fold-up windows.

Christopher Fay said he is not convinced by the argument that the pandemic has caused a hardship that necessitates the replacement of the windows.

Glenn Richards will draft a memo to the ZBA indicating the NHC members would not support the change from plate glass to windows with multiple panes on the basis they would greatly alter the storefront presentation.

## **7. Approval of Minutes**

Joe Morgan moved to approve the minutes of the May 13 meeting. Christopher Fay seconded the motion. The motion was approved by a 5-0 vote (Glenn Richards, yes; Peter McNamee, yes; Joe Morgan, yes; Christopher Fay, yes; Patricia Peknik, yes).

## **8. Adjournment**

Christopher Fay moved to adjourn the meeting at 9:24 p.m. Joe Morgan seconded the motion. The motion was approved by a 5-0 vote (Glenn Richards, yes; Peter McNamee, yes; Joe Morgan, yes; Christopher Fay, yes; Patricia Peknik, yes).