

## **Newburyport Historical Commission**

December 10, 2020

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, Patricia Peknik, Peter McNamee, Joe Morgan and Christopher Fay. Ron Ziemba and Malcolm Carnwath were absent. Also in attendance were Planning Director Andy Port, Planner Katelyn Sullivan and note taker Gretchen Joy.

### **3. Demolition Delay Historical Significance**

#### **265 Water Street**

Mark Griffin represented the applicant, who is proposing to renovate a structure that was built in 1710. The Georgian style house is listed as contributing to the Newburyport Historic District. Attorney Griffin said the structure is historically significant and preferably preserved but requested that it be released for demolition. The work would take place at the rear of the structure, which has been modernized. The non-historic dormer would be removed and replaced with a full-length shed dormer. The ridgeline would be raised one foot. Attorney Griffin said the work would only be fully visible from the water.

Patricia Peknik moved that the structure is historically significant. Joe Morgan seconded the motion. The motion was approved by a 5-0 vote (Glenn Richards, yes; Patricia Peknik, yes; Peter McNamee, yes; Joe Morgan, yes; Christopher Fay, yes).

Patricia Peknik moved that the structure is preferably preserved. Peter McNamee seconded the motion. The motion was approved by a 5-0 vote (Glenn Richards, yes; Patricia Peknik, yes; Peter McNamee, yes; Joe Morgan, yes; Christopher Fay, yes).

Rachel Harris reviewed the architectural plans. She said the ceiling height on the second floor is low. The existing beam would not support a new dormer and would prevent the desired head height from being obtained. An exemption from the building code may be obtained for head height but not for structural requirements.

Peter McNamee agreed that the existing head height is not sufficient, but he does not like the flat aspect of the proposed dormer. He said the existing dormer has the appearance of a sloped roof and asked if it would be possible to set the dormer back from the edge of the roof. Ms. Harris responded that it is a structural issue. The ridge beam is not centered under the ridge.

The hearing was opened to comments from the public. Tom Kolterjahn, 64 Federal Street, said there are very few first-period houses in the city and few of these are saltboxes. The structure is an icon on the waterfront. The proposal would not meet the guidelines for dormers. He said the proposed change would distort the form of the roof and would worsen an already bad situation.

Stephanie Niketic, 93 High Street, said the house is very visible from the river, which is a public way. She said the proposed change is not needed to make the structure more livable. It is being proposed in order that a roof deck might be added, which is not

historically appropriate. She asked the Commission members to visit the site and recommended that they request a report on the way in which the proposal would impact the house structurally.

The applicant, Walter Long, asked for comments on the way in which the proposal might be made more acceptable. Patricia Peknik said this rare first-period house is highly visible. According to the Demolition Delay Ordinance, the Commission must adhere to the Secretary of the Interior's Standards, which recommend against substantially changing a roof that is important in defining the overall character of a building. The Standards are concerned with the protection of the physical fabric of a historic property, not just the way it is viewed from a public way. The lack of headroom at the attic level is the most common argument for a roofline change and the most commonly proposed solution is the addition of large and out-of-scale dormers with contemporary windows that contrast strongly with the materials of the historic structure. The Standards recommends against the alteration of the physical fabric of the roof itself and any alteration that changes its form. The roofline of this house is a character-defining feature. She opposes raising the ridge height and the addition of a full-length shed dormer, which would be seven feet longer than what could be constructed by right.

Glenn Richards said a proposal should result in a minimal change to the existing materials, features, spaces and special relationships. The historic character should be preserved. The alteration of a feature that characterizes a property shall be avoided.

Christopher Fay said there are not many saltboxes in the city. He said decisions are made at points in time about livability and convenience at the expense of preservation. He said the changes that were previously made to the structure were bad and the proposed ones would be worse. He commented on the prevailing desire to convert a house built with two floors and an attic to a three-story house. He is opposed to the roof deck and the dormer.

Joe Morgan said he has no problem with the proposal. He does not think it would make the existing situation worse. Peter McNamee said he does not like the existing condition and the dormer that is being proposed is worse. It would further alter the saltbox form. He said owners of historic properties are stewards who must protect the legacy of the city.

Peter McNamee moved to impose the Demolition Delay in order to protect the historic integrity of the property. Patricia Peknik seconded the motion. The motion was approved by a 5-0 vote (Glenn Richards, yes; Patricia Peknik, yes; Peter McNamee, yes; Joe Morgan, yes; Christopher Fay, yes).

#### **4. General Business**

##### **a) James Bourque Construction, Inc.**

##### **3 Hancock Street**

##### **Demolition Delay Plan Revisions**

Patricia Peknik said she must abstain from voting on the matter. She was not present when the plans were discussed at the November meeting. While she has listened to the recording of that meeting, she was not able to obtain the necessary paperwork from the Planning Office that would allow her to participate in any votes.

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Olympia Bowker and Scott Brown represented the applicant. The Demolition Delay was imposed at the October 8 meeting. The Commission did not approve the revised plans that were presented at the November 12 meeting and provided the applicant with guidance on the ways in which the proposal could be modified to be acceptable.

Scott Brown presented the latest version of the plans. He said the rear portion of the roof would be raised 20 inches. The ridgeline would not change. The windows would remain in their existing locations in relationship to the ridge, but they would be raised in proportion to the increased height of the roof. Mr. Brown said he undertook some exploratory demolition to determine the size of the original window openings. He was surprised to find a beam located at the bottom of a second-floor window in the gable end. He said the beam is the top plate of the original timber frame house. The house was originally one-and-a-half stories. When the second story was added, the exterior walls were hinged and the old sheathing is not tying the upper half of the wall to anything below, which will create a challenge during construction. The windows on the first floor would be made four inches higher, but it would not be possible to increase the height of windows on the second floor.

Joe Morgan said structural issues are often present when openings are modified or the roofline is changed. He said the applicant has found the front wall lacks structural integrity and he will encounter the same hinge condition on the sides of the structure when the roof is raised. He wants information on the way in which the historic framing would be retained and supplemented to achieve the change to the roofline. He said the Commission must address the structural issues in the applications it receives.

No one from the public spoke in favor of or in opposition to the proposal. Glenn Richards asked if an engineering firm has been consulted. Mr. Brown replied that he is aware that he would not be permitted to rebuild the exterior wall and an opinion from an engineer would not change the proposal. He said the timber framing appears to be in good condition and it would be reinforced.

Glenn Richards said the Commission could decide to allow the applicant to proceed with the work and be asked to return with a report after more demolition has been done. Joe Morgan said he wants evidence that the structural issue would be addressed. He said the applicant should be required to provide a proposal that addresses the preservation of the integrity of the vintage framing and its reinforcement. He said the applicant should not request that the Commission lift the Demolition Delay until after he has conducted a thorough examination of the framing that is to be impacted.

James Bourke said he has complied with all of the requests of the Commission. He said he is a local builder and has worked on many structures. He said the Commission should not be able to tell him how to build and preserve the house. Scott Brown said if the Commission has no objections to the design, the delay should be lifted and the applicant should report at a later day on the way in which any problems would be addressed. Glenn Richards responded that the Commission members want to know the impact of the removal of the interior walls. The details of the framing would be exposed when the interior is gutted. He said the Commissioners are seeking to protect the exterior walls and framing. Their role is to review the demolition plan. Olympia Bowker said a guarantee of this protection has been built into the process. If the applicant finds that the

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plans are not feasible, he must come back before the Commission. A certificate from a structural engineer would not be necessary.

Joe Morgan said that if the Commission is concerned about the framing, there must be a follow-up representation from an engineer that the design could be achieved without the removal of vintage materials and the framing would be supplemented as required. The Commission would otherwise have no control over what happens in the field after the existing conditions are discovered.

Peter McNamee said the Commission has a duty to protect the city's properties. The framing is a part of the history of the structure and must be protected. He said the Commission should recommend that the project be monitored. He asked about the mechanisms that are at the Commission's disposal. Glenn Richards said the Building Commissioner and Zoning Enforcement Officer would have the authority to visit the site. Patricia Peknik confirmed that the ordinance protects the framing of the house.

Peter McNamee moved to lift the Demolition Delay and make a written recommendation to the Building Commissioner that the construction should be inspected regular intervals during construction, especially when the framing has been exposed in the demolition stage, and to require that work be stopped if it were found substantial changes are being made to the framing. Joe Morgan seconded the motion. Olympia Bowker said the Commission does not have the jurisdiction to govern work on the inside of a house or to impose a stop-work order. She also said the Commission does not have the ability to confer jurisdiction to stop work over historical concerns. Patricia Peknik said the Commission has the jurisdiction to require a report from an independent structural engineer as a condition of the lifting of the Demolition Delay, which the applicant might prefer. Mr. Bourque said he would not. Joe Morgan asked if a structural engineer has been consulting on the project. Mr. Brown said one has not. He said a structural engineer is usually retained to review the existing structure and design the appropriate reinforcements. The engineer may or may not visit the site, depending on the complexity of the project. The Building Department does not require an engineer's stamp. The architect's stamp is considered to be sufficient. The motion failed by a 3-1 vote. (Glenn Richards, yes; Patricia Peknik, abstain; Peter McNamee, yes; Joe Morgan, yes; Christopher Fay, no). Christopher Fay said it is outside of the jurisdiction of the Commission to require that the work be stopped.

Christopher Fay moved to lift the Demolition Delay and allow the applicant to proceed with the plans as submitted. Peter McNamee second the motion. The motion failed by a 2-1 vote. (Glenn Richards, abstain; Patricia Peknik, abstain; Peter McNamee, yes; Joe Morgan, no; Christopher Fay, yes).

Peter McNamee moved to lift the Demolition Delay and recommend to the Building Commissioner that he monitor the structure during the demolition process to protect the historic framing. Christopher Fay second the motion. The motion failed by a 3-1 vote. (Glenn Richards, yes; Patricia Peknik, abstain; Peter McNamee, yes; Joe Morgan, no; Christopher Fay, yes). Joe Morgan said the NHC would have no control unless the Building Department would agree to conduct inspections. Without this assurance, a plan would not be in place to address the structural issues. He said he would not vote in favor of lifting the Demolition Delay unless an evaluation would take place

during the design process or the Commission could certain it is able to rely on enforcement during demolition to enforce the preservation aspects of ordinance.

Glenn Richards moved to lift the Demolition Delay if and only if the Zoning Administrator can and will provide a written assurance that she would monitor construction consistent with her role to avoid excessive demolition. Peter McNamee second the motion. Patricia Peknik asked if the Zoning Administrator would be asked to verify that the structure would be able to withstand the approved work. Glenn Richards said that is not the intent of the motion. The motion failed by a 3-1 vote. (Glenn Richards, yes; Patricia Peknik, abstain; Peter McNamee, yes; Joe Morgan, no; Christopher Fay, yes). Joe Morgan said that if a City official is not able to verify the integrity of a structure, the Commission should require a report on the structural conditions relative to the proposed design.

Olympia Bowker requested a continuance. Peter McNamee moved to continue the matter to the January 14, 2021, meeting. Christopher Fay seconded the motion. The motion was approved by a 4-0 vote (Glenn Richards, yes; Patricia Peknik, abstain; Peter McNamee, yes; Joe Morgan, yes; Christopher Fay, yes).

### **b) 3 Liberty Street**

Brian Murphy, co-owner of the Figtree Kitchen Bakery, said he is requesting a variance to replace a fixed first-floor window with one that would be operable. The proposed six-over-six, double hung window would be wood with true divided lights and would be of the same size as the existing 12 pane window. Sales are currently being conducted through the door, which makes curbside delivery difficult. The employees of the bakery would be able to transact business through an operable window, which would allow for social distancing and improved air circulation. The applicant was before the ZBA on November 24. The ZBA continued the matter in order to receive an opinion from the NHC.

Tom Kolterjahn, 64 Federal Street, said the Newburyport Preservation Trust opposes the application. He said the ordinance does not provide for a Covid hardship and the Historical Commission should review the application under the DOD Special Permit process. He said the proposal would involve a permanent change to a historic structure to solve a temporary problem. During urban renewal, the windows were restored to be as close to the original as possible. The window is consistent with the other fixed first-floor windows in Market Square. First-floor storefront windows should not be the same as the double hung windows on the upper floors. He said he is sympathetic to the impact of Covid on small businesses and thinks other alternatives should be explored.

Stephanie Niketic, 93 High Street, said the existing window is consistent with others in Market Square and is character defining. She said a change to the door could be a temporary solution to temporary problem. The items could be displayed in the window and sold through the upper portion of a Dutch door, which would prevent the loss of a character defining feature. She said she is opposed the application, which she sees as being a circumvention of the DOD process. Andy Port said the ordinance prohibits a change to the mode of operation of historic windows through a special permit. Councilor

Eigerman and the Planning Office determined that a variance would be the only alternative available to the applicant.

Patricia Peknik said the proposal would not meet the Secretary's Standards for either windows or storefronts. Windows are a character-defining feature and changes to them have a dramatic impact on the appearance of a structure. Replacement windows should match the design of the original ones. Windows do not need to be original to be historic. Both the appearance and operation of windows are considered to be historic elements. The double-hung windows at Starbucks were installed before the creation of the DOD. She said the installation of a Dutch door would be a reasonable and practical solution.

Glenn Richards moved to authorize the chair to draft a report that indicates the Commission is opposed to the proposed window change but would support a temporary alteration to the door in response to the pandemic. Patricia Peknik seconded the motion. The motion was approved by a 4-0 vote (Glenn Richards, yes; Patricia Peknik, yes; Peter McNamee, yes; Joe Morgan, yes; Christopher Fay, absent).

**c) 190 High Street Preservation Restriction**

Glenn Richards said the preservation restriction had previously been approved by former members of the NHC. The document has been updated to conform to the original approval. The references to the swimming pool and gardens have been deleted, as they were not a part of the original document. MHC has approved the document and it will now be sent to the Mayor and City Council.

**d) 25 Water Street Preservation Restriction**

Greg Colling said no changes of any substance have been made to the draft preservation restriction. Some minor changes were made to the language. MHC had requested more information on the architecture, especially on the interior of the structure, and this has been included along with photographs. The preservation restriction is a requirement of the receipt of CPA funds. MHC has approved the document and it is now before City Council.

**e) Discussion on Demolition Delay Procedures**

Patricia Peknik requested that separate votes be taken when determining if a structure is historically significant and preferably preserved. If a structure is determined to be historically significant but not preferably preserved, the oversight of the NHC is ended and the plans are not reviewed. Ms. Peknik said many other historical commissions in the state separate the votes. Members of the public should be allowed to have input on a vote about a structure being preferably preserved, as they might have information not available to the Commission members. She said that a vote that a structure is preferably preserved means that its loss would be detrimental to the architectural history of the city. Joe Morgan said a building might be historically significant solely due to its age. He said it appears that the ordinance intends for there to be a discussion before it is determined if the structure is preferably preserved as well. Glenn Richards said a public hearing is not

required, but the Board has the discretion to ask for comments from the public before a vote.

Ms. Peknik also said a structural engineering report is essential to the assessment of whether a structure should be preferably preserved. The Commission should not take a report from an applicant at face value. The ordinance allows for an independent second opinion. This should be required when the applicant claims a structure cannot be saved or when the proposed removal of walls or a roof could create structural risks. The posts and beams are the most historic elements of a timber frame house. Due diligence on the part of the Commission requires that a report be submitted from an independent structural engineer experienced in timber framing. Andy Port said it makes sense to get a third opinion and to do this as early in the process as possible. He said it would be useful for the Commission to develop a list of consultants. Glenn Richards said he would speak with the Zoning Enforcement Office about immediately informing an applicant who is seeking a determination that a structure is not preferably preserved that it would be necessary to obtain a report from an independent engineer experienced in timber framing.

Stephanie Niketic, 93 High Street, pointed out that under the Demolition Delay Ordinance, when a report is requested, the applicant has the right to select the structural engineer. This is unlike the DCOD and DOD ordinances, which gives the City the authority to choose the engineer. Andy Port said it would be a good idea to update the Demolition Delay ordinance. Ms. Niketic also said that the Commission members often attended site visits when the vote on historical significance and the public hearing took place at separate meetings.

#### **f) CPC Representative**

An NHC represented is needed for the Community Preservation Committee to replace Ron Ziemba. The grant applications for the next funding cycle are due in February.

#### **5. Approval of Minutes**

Patricia Peknik moved to approve of the minutes of the November 12, 2020, meeting. Peter McNamee seconded the motion. The motion was approved by a 4-0 vote (Glenn Richards, yes; Patricia Peknik, yes; Peter McNamee, yes; Joe Morgan, yes; Christopher Fay, absent).

#### **6. Adjournment**

Peter McNamee moved to adjourn the meeting at 10:45 p.m. Joe Morgan seconded the motion. The motion was unanimously approved.