

Durham Historic District Commission

Thursday, Feb. 12, 2015

Attendance:

Chair Candy Descipkes

Vice Chair Ben Love

Secretary Seth Koenig

Paula Erdmann-Purdy

Codes enforcement officer Paul Baines

Call to Order and Establishment of Quorum

Pledge of Allegiance

Acceptance of minutes

Motion: Candy to accept the minutes of the Jan. 8, 2015 meeting

Seth seconded

Vote: 3-0 (Ben had yet to arrive)

– Membership update

Candy introduced Paula Erdmann-Purdy, who was appointed to the commission by the Board of Selectman since the Jan. 8 meeting.

– Town website and TV channel

Candy talked to John Ricker; who suggested we post the mission, members, instances when it's appropriate to contact the commission, the application form.

Candy said the TV channel is one or two screens, 30 words or less; Ricker suggested using a picture from the district with a brief blurb telling people

Seth said those are reasonable things to do; maybe not use a photograph without property owner's permission

Candy suggested maybe using a photo of the Old Town Hall

Paul suggested not putting forms up on the website, because many people don't understand how much information they need to gather to really fill out the application; if people are directed to meet with the CEO, he can have a conversation about the nature and scope of the project so they understand how to fill out that application correctly.

Paula said it may be good enough to redo the informational letter to district, which should be a more targeted way to distribute the importance of visiting the CEO with proposed changes.

Paul said having it up on the website would prevent us from missing homeowners when properties change hands.

– **Historic District Commission records**

Paul said he and Joe were scheduled to meet about this, but Joe called and said he had no records to speak of, so meeting would not be necessary.

Candy said Ruth is fine keeping a binder with agendas, minutes and a copy of records

Paul said minutes kept in the binder will say which properties are being reviewed, and if someone has interested in following up, they can go look it up by property in the town office's fire-proof public record room

Seth said the commission's concern was that each property application would be kept in a separate place, leaving interested parties having to look in multiple places to see what the HDC has done over a period of time; Paul said those property-by-property applications could be kept under a single HDC file.

– **Map of district**

Candy and Paul discussed map making with GP COG; they can make larger, poster-size map.

Candy said the map we currently have drafted must be updated to reflect partial lots.

Paul said the ordinance needs to be updated to reflect that lot 47 has been divided into three lots (47, 47A and 47B). The ordinance only describes lot 47 in its entirety, so it must be changed by a town meeting vote to include 47A and 47B.

Seth pointed out that under the letter of the ordinance, 47A and 47B are not currently part of the district, because the ordinance only refers to lot 47.

Paul said to avoid the shrinking of the district through future subdivisions, we would need to update the ordinance to specify that lots resulting from the subdivision of Historic District lots must continue to be included.

Seth asked when a proposed ordinance change would need to be turned in to the selectmen to make it onto the town meeting warrant?

Candy said she would ask.

Paula asked why, if there are undeveloped lots in the district, the district was drawn to include them?

Paul said undeveloped lots were included in the Historic District, in theory, because if they're developed in a way that's inconsistent with the district, it could have a negative impact on the surrounding structures; properties are judged on visual impact (if proposed buildings are not visible from public view ways or other properties, property owners have lower threshold for approval)

Ben asked if someone put in a gas station and just hide it behind trees.

Paul said they likely could, legally, but setbacks, wetlands restrictions and simple business savvy would prevent somebody from hiding a gas station in the historic district (why put a business somewhere

people couldn't find it?)

Paul said amended ordinance language could read, 'All portions that are within the district at the time of the subdivision must remain within the district after subdivision.'

Seth said it's probably too close to the April town meeting to get an ordinance change on the warrant; the district probably won't fall apart over the next year, and suggested making this a high priority for the 2016 town meeting.

Paul noted the ordinance describes “portions” of properties, but it will take some interpretation to decide exactly which portions of the properties.

Seth asked if we could we update the district description to include full lots, eliminating partial lots, to make the map more easily drawn?

Paul said the commission should tour the district to understand which partial lots would be affected, so entire properties aren't being encumbered by proposed district border changes. If the intent of the ordinance is historic preservation, that should be the lens we use when reviewing the district.

Seth suggested the commission wait to revisit the map after a site walk and more review of the lots in question.

- **Budget request**

Candy said Ruth suggested to leave \$200 in the budget for the map and let the budget committee review it.

Candy also said the HDC budget will be included as a line in the Planning Board budget.

- **Town Report**

Candy said early draft of HDC page for the Town Report was written before we knew whether Paula had been officially sworn in.

Seth said the final draft includes her name.

- **Question of authority over the district**

Candy said technically nobody has authority over the HDC

Paul said the commission reports to the ordinance or to the selectmen as necessary; the selectman have to approve town meeting warrant articles (ordinance changes, etc.) and commission budget requests.

Paul said anyone who wants to dispute the ruling of the HDC can go to the Board of Appeals and then to court.

- **Brochure/mailer**

Candy recalled that we decided not to get into a brochure just yet, but posed the question of whether we want to distribute handouts at the town meeting or do a mailer to district property owners.

Ben said he thinks we should do a mailer.

Paula asked whether we know which properties are in the district.

Seth said the mailer is a higher priority (last mailing was sent out 7 years ago)

Ben said he would revise the previous letter for mailing out.

– **Question of shortening process for minor requests**

Paul said the ordinance is clear the commission cannot delegate any of its authority to CEO.

Ben reached out to the city of Portland to ask if some applications can be approved at an administrative level, hasn't heard back.

Paul said the commission could propose mimicking the planning board structure that allows for some administrative review, but you have to specifically define where the HDC authority stops and the CEO's begins and vice versa.

Paul said the commission would need language allowing for any applicant or the CEO to put decision before the full HDC, even under minor requests.

Paul said during our future site walk/inventory, you could identify period details and architecture to decide better how to amend the ordinance.

Seth should we go through the ordinance for homework to look for parts we would be comfortable delegating.

Seth said he called Bath, city manager said he hasn't had any problems with administrative reviews since they streamlined several years ago, but wasn't able to find the specific ordinance language.

– **By-laws review**

Ben looked at Planning Board sample by-laws to compare them to the HDC's.

Ben found a couple of Planning Board by-laws potentially worth adopting; for instance, language related to an HDC checking account.

Paul said to talk to (administrative assistant) Ruth, but that there is probably no HDC specific account; expenditures will go through town review.

Ben brought up special meetings' public notice requirements, saying the HDC by-laws only require 12 hours; Planning Board has 36 hours

Paul said he believed special meetings have to have at least 48 hours public notice; probably more for public hearings.

Ben asked Paul to see what state law requires in terms of public notice.

Paul asked if the commission planned to seek to add alternate/associate members? If so, that would need to be part of an ordinance revision, which might be a simple enough change to get on the 2015 Town Meeting warrant.

Motion: Seth made a motion to recommend amending Article II, Section 3, Item B, to include the passage "as well as two associate members" after the phrase "commission shall consist of five members," as well as the passage, "Associate members would be non-voting members when five voting members are present. Associate members would become voting members in the absence or disqualification of one or more of the five regular members. Once an associate member serves in the place of a regular member on a particular application or matter, the associate member shall continue to hear and act on this matter until the board action is completed."

Candy seconded.

Vote: 4-0

Paul suggested just simply adding "as well as two associate members," then referring to the by-laws to describe how those associate members will participate, which we can adapt without town meeting approval.

Motion: Seth made a motion to withdraw his previous motion.

Paula seconded.

Vote: 4-0.

Motion: Seth made a motion to recommend amending Article II, Section 3, Item B of the Historic District ordinance, to include the passage "as well as two associate members" after the phrase "commission shall consist of five members,"

Paula seconded.

Vote: 4-0.

Ben said the reconsideration clause of Section 7 allows the Planning Board 30 days to overturn its own decision based on factual errors. Should we consider a similar by-law?

Paul said the appeals process should give the HDC the coverage it needs to reconsider decisions.

Candy asked if we can update and pass the by-laws.

Seth said we haven't changed them since the by-laws we approved last meeting.

Ben said we still have to wait on the possible public notice time frame before updating the by-law regarding special meetings.

New business

- **District list needs updating**

Candy and Paula will update list of HD property owners.

- **Mission statement**

Candy said the version that went out in the 2007 letter to property owners must have been adopted at some point.

Seth asked how we get proposed ordinance amendment (regarding associate members) on the Town Meeting warrant.

Paul said there is a specified format for how to document the proposal, which then needs to be placed on the warrant by the selectmen.

Seth said he would visit Paul Tuesday morning to draft the ordinance change proposal and schedule an appearance with the selectmen.

Motion: Ben made a motion to adjourn.

Candy seconded.

Vote: 4-0

Homework

- Candy/Paula historic district to update property owner list
- Candy is going to type up the by-laws with minor changes
- Candy is going to see Ruth about keeping an HDC binder at the town office
- Ben is going to review/revise letter to property owners
- Seth will meet with Paul on Tuesday morning for warrant article
- Candy meeting with John Ricker again on TV/website
- All review ordinance specifically looking for parts that can be passed on for administrative review