

Historic District Commission Meeting Minutes 09/19/2017

Historic District Commission

Minutes

Landuse Meeting Room

September 19, 2017

Members present: Chair Ken Fowler, (JB); Mark Smith (MS); Jason Berger, (JB); Kameron Spaulding, (KS)

Absent with notification: Pat Jaouen (PJ)

Absent without notification: Elaine Steinert, (ES);

Staff present: Gwen Miller, Land Use Director/Town Planner, (GM); Peggy Ammendola, Land Use Clerk, (PA); BJ Church, Building Commissioner

The meeting was called to order at 5:30 PM. KS arrived at 6:00 PM.

Violation update-MS began the discussion by asking Ms. Church about the process in dealing with violations which for the most part deal with signage. He stated that it appears that merchants are not interested in compliance and noted that even after going through the HDC application process and securing a permit from the Building Department for signage often install something not permitted. Ms. Church, acknowledging that she has only one year in her position in Lenox, asked that there be a consistent method in submitting violations to her.

Ms. Church said that she has acted upon a list of violations that she had been given and has had some success with compliance. Sotheby's and Bob Romeo complied, but the others, Gateways and Brava have not. The latter two have to do with neon signs which are not allowed.

Regarding Brava, the owner argues that his sign pre-dates the District's bylaw. It is believed that Village Snack Shop originally had the neon sign, but since they closed, there have been two other businesses there, with Brava being the second and existing one. Ms. Church doesn't believe that signage doesn't fall under the exception of "pre-existing non-conforming". She asked the owner to come before the Commission with an application for his neon sign, and he insists that he did this previously.

It was noted that 33 Main applied for their sign, and were told that internally illuminated was not appropriate, yet their newly installed sign is internally lit.

The Zoning Bylaw, Historic District Bylaw and Guidelines were discussed and it was agreed that there is a lot of room for interpretation.

KF suggested that the issue with Brava's neon sign be referred to Town Counsel for an opinion. Ms. Church will approach the owner of Gateway again.

JB stated that there is no historical precedence to approve flashing neon or illuminated signs.

JB said that the function of the HDC is to turn over a violation to the Building Department and that it is up to them as to how they wanted to handle the violation.

KF asked that Ms. Church notify the Commission of the action she has taken on their reported violations so that the information could be recorded in the minutes.

KF asked Ms. Church to let the HDC know about any work that has been permitted in the District. He spoke of having exchanges with former Building Inspector, Bill Thornton about activity in the District. In kind maintenance, e.g. replacing clapboard with clapboard wouldn't need the HDC's approval. Ms. Church said that she was comfortable with making the determination that a project was "in kind".

There was discussion regarding the establishment of better communication between the HDC and Building Department as well as the process of enforcing violations. Ms. Church said that she preferred to work out a resolution, before moving on to fining those in violation. The violator would be asked to obtain approval, remove the violation or be fined. KF told Ms. Church that he would accompany her should she have to take someone to court.

Note: KS arrived at this point and was briefed on what had been discussed.

JB asked if someone did qualify for being "grandfathered" wouldn't they have to show proof that a sign was in existence prior to the HDC Bylaw and consistently being used. Ms. Church said that she would check with Town Counsel.

MS, noting that the sign "413" has come down, but in its place is either a banner/guilt. KS responded that there needs to be a better definition for sign rather than "anything which promotes a business".

Regarding violations, KS is of the opinion that there isn't a business in the District which isn't in violation, sign or otherwise. He feels the definition of signs as anything that draws attention to ones business isn't definitive enough. Additionally, he feels that it is wrong to pick one violator and ignore the others. JB responded that having the Building Commissioner go door to door to address violations is not a reasonable approach, and that the Commission had previously discussed that the first order was to submit to the Building Commissioner the violations that had been brought to the HDC's attention which was the illuminated sign violations.

Ms. Church was thanked for taking the time to come to before the HDC to have this discussion.

Discussion of HDC goals-

The Commissioners expressed frustration with regards to the number of violations. These are not limited to the fact that some business and property owners don't apply to the HDC, but include some who do but then do not comply with the approval. The pros and cons of having the Guidelines were discussed.

MS said that when he repeatedly sees a lack of compliance by the merchants, he wonders if people want the District and asked the others their opinion on how to deal with it. JB suggested bringing the issue to Town Meeting to see how the voters feel and researching the process to eliminate an established historic District. KS agreed, but he believes there should be a standard for the District and supports the idea of a "design review". He pointed out that the District does not represent a distinct time period, but instead is a mixture. KS said that there is a "look and feel" of the District and said that maybe an overlay could be established to preserve it. He thinks the merchants would like to have some protection as they feel this is good for business. His suggestion was that if this should go to Town Meeting, that the voters be given the choice of maintaining the Historic District or have an overlay that would protect the "look and feel" that is in the District.

GM said that eliminating a historic district or reducing the size can be done and described the process of holding a hearing and notifying all property owners, Massachusetts Historical Commission, the local Historic Commission etc. A historical district does not have to be contiguous.

JB suggested taking the commercial aspect out of the District as most of the applications deal with commercial properties and most of the applications are regarding signs. It is the signage issues that create the frustration.

It was felt that a vote at Town Meeting would be useful. The Town supported establishing a historic district in the first place, so the Commissioners felt that it would be helpful to see if there was support to continue. Before taking it to Town Meeting, the Commission would need to determine recommendations they could share with the voters. JB suggested a discussion on the content of the bylaw as there may be important pieces that should be kept under some other bylaw.

Discussion ensued on the process for eliminating a historic district, changing it, or excluding signs from the purview of the HD, etc. GM agreed to research and provide the information to the Commissioners at their next meeting. GM reminded the Commissioners that they have the authority to be a part of the process to address violations.

JB stated that he felt that the HD would not be eliminated and suggested that the Commission look at other ways of operating without frustration. The signs have been identified as the source of that frustration. KS suggested that the HDC advise the Planning Board that the HDC was going to revert the sign restriction back to the zoning bylaw. This, he felt, would encourage the Planning Board to take action to propose an amendment to the zoning bylaw. KS also felt that this would easily pass at Town Meeting.

Approve Minutes

June 20, 2017- JB made a motion to approve the minutes and MS seconded the motion. The Commission voted to approve 3-0-1. KS abstained as he was not at that meeting.

July 18, 2017- There wasn't a meeting as there was not a quorum. These are the notes.

August 15, 2017- KS made a motion to approve the minutes and MS seconded the motion. The Commission voted to approve 3-0-1. JB abstained as he was not at that meeting.

September 5, 2017 JB, MS, PJ were present for this meeting. The Rule of Necessity was invoked as there were only two members present. JB made a motion to approve the minutes and MS seconded the motion. The Commission voted to approve 4-0.

JB made a motion to adjourn. KS seconded the motion and the Commission voted to agree. The meeting was adjourned at 7:15 PM.

Respectfully submitted,

Peggy Ammendola

