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## Historic District Commission Meeting Minutes 01/19/2016

Historic District Commission  
Minutes  
Auditorium  
January 19, 2016

**Members present:** Chair Ken Fowler, KF; Lucy Kennedy, LK; Elaine Steinert, ES; Mark Smith, MS; Jason Berger, JB

**Staff present:** Gwen Miller, Land Use Director/Town Planner, GM; Peggy Ammendola, Land Use Clerk, PA

KF called the meeting to order at 5:30 PM.

Clarence Fanto of the Berkshire Eagle was present.

There were approximately 55 members of the public present.

**Anthony Chojnowski, 50 Church Street (Map 43, Parcel 120)**, Certificate of Appropriateness and Certificate of Hardship to demolish and reconstruct the existing structure through dismantling of and the salvaging of materials for reuse when possible. The petitioner also seeks to restore an architectural element of the original structure as part of the reconstruction.

Before the presentation KF advised everyone that when the applicant presented an application in the summer of 2015, many comments from the public strayed from the actual application being presented to the applicant and the effects of the project on the Historic District. He stated that after the presentation those present would be permitted to ask questions in regards to the project presented.

Suzanne Pelton wanted to know why the project was being presented before making a determination of whether or not the structure could be demolished. KF explained that the hearing process was being followed whereby the applicant would be permitted to present his proposal.

MS disclosed that he has worked with EDM in the past and will do so in the future, but he sees no conflict with this project.

Representing Mr. Chojnowski were John Ineson and Jeromy Richardson of EDM, an architectural and engineering firm from Pittsfield.

Mr. Ineson began the presentation by stating the current use of Mr. Chojnowski's building is residential, a use that is no longer allowed, but its use could continue to exist as apartments. The applicant wishes to change the use to retail, which is permitted in the district, but in order to do so the project must meet building code requirements. The proposal is to dismantle the structure, carefully store and reuse the elements of the building which can be salvaged. Mr. Ineson described details of the plan to restore and recreate the architectural details of the original structure by referring to historic photos. He said the applicant's intention is to replace the historic porch railing which had been removed at some point and remove the plastic lattice. The plan is to salvage and restore what they can of the dentil molding and the bay window elements. The proportion of the windows will be altered slightly due to the increase in the height of the building of about 3 feet. Plans and perspective drawings were provided.

Olga Weiss interrupted the presentation to declare her disappointment in how the hearing was proceeding. She identified herself as Chair of the Historical Commission and stated that in that capacity she serves as advisor to the Town on historic issues. She said that the HDC is charged with preservation and that demolition of this structure hasn't been decided. KF responded that at this stage of the hearing, the application was being presented and that discussion would come later. George Jordan argued that the applicant has applied for a Certificate of Hardship and therefore that should be discussed at this point. JB responded that the applicant has applied for both a Certificate of Hardship and a Certificate of Appropriateness and that the Commission was following the hearing process as they always have. He asked that the Commission be allowed to continue with the hearing as there would be plenty of opportunity for public comment.

Mr. Ineson proceeded with his presentation and answered questions from the Commission. He said that there are some decorative elements that are too far gone to be restored. The existing roof is asphalt. The cedar siding cannot be restored, therefore it will be replaced. The existing windows are not original, but are instead vinyl replacements. The new windows will be slightly wider to keep the building aesthetically proportioned. The new ones will be built in and trimmed out like traditional windows are. KF asked if there was any intention to take away any architectural elements and replace them with extruded plastic products. Mr. Ineson said that it is their intention to keep as much of the elements as possible, but if they find sections that can't be repaired or replaced, they would use an epoxy or a like product to patch, restoring as best they can to the original configuration. The existing steps cannot be recreated due to today's accessibility requirements. There is an existing addition at the rear of the structure and that will be made a little wider. At some point during the project, the lot will be vacant with the exception of the existing barn in the rear. This is because of the new foundation. The plan is to wait until the fall, after the busy season, to begin the project and to work at getting the structure closed in before the winter weather.

Mr. Ineson stated that the roof line would remain the same. LK questioned this and referred to the drawing saying that it indicated it would be different. Mr. Ineson explained that earlier on, a change in the roof had been considered, but the dentil molding would not be plumb, therefore the angle of the roof will remain the same as the existing.

The driveway and parking lot will remain. A pea stone surface will be used and there will be appropriate landscaping. The reveal of the basement will remain the same. They will go deeper to make the basement usable, and they will use some of the existing stone on the exterior of the foundation.

The existing colors, tri color, are not historical. LK said that originally it was probably white and that photos from the 1970s indicate that it was white. JB pointed out that for new construction, color is within the purview of the HDC. Mr. Ineson consulted with the applicant and Mr. Richardson and it was decided that the color would be white on white or light grey with white trim.

Letters that were read into the record during the meeting were from the following:

Diane Wright Pierce-Email Dec. 11, 2015  
Sally Flanders Gustavson-Email Dec. 11, 2015  
Olga Weiss, letter to the editor of the Berkshire Eagle-Jan. 12, 2016  
Jan Chague, letter to the editor of the Berkshire Eagle-Undated  
Historical Commission, memo-Dec. 14, 2015  
Architect David Rothstein, Architect (Retired)-Jan. 19, 2016

After a 30 minute presentation, the public was invited to comment.

*Olga Weiss* questioned “replication” when changes were being proposed that included “changing the roof line, changing the windows, removing the chimney and having a transom over the front door”. (Mr. Ineson had previously stated that the roof line would not be changed from the existing.) She continued that the HDC is charged with preservation when the town voted in favor of having the District in 1975.

JB stated that he didn’t believe that the proponents had stated that the building would be an exact replication. He said her point is well taken but asked her to address the application that is being presented.

*Robert Murray*, owner of two properties in Lenox and the President of the Chamber of Commerce, spoke in support of the project and stated that he owns an 1850 property in the District. He related that at was two houses and a barn but that at some point in time they were combined to make one building. The building has 11 different styles of windows. The combining of buildings and the condition of the windows causes him to question what is considered historic in the District. He considers this project to be a substantial improvement over the existing and he feels that the result will be a building that will be very similar to the existing. Mr. Murray said that there are 7 or 8 vacancies in the District that they are having trouble filling. He feels that this project will carry and help maintain the District in being a shopping destination that is not just for tourists.

LK responded that some seem to think that tearing down a historic building is “pro-business” and repurposing is “anti-business”. She feels that it is important to keep the Village unique and as historic as possible. She pointed out that recently two developers have repurposed existing properties and they are not vacant. Mr. Murray countered that the buildings she described as “repurposed” required all elements of the exteriors to be replaced.

JB asked Mr. Ineson if the building could be repurposed. Mr. Ineson responded that because this is a change of use, from residential to mercantile, there are several building code issues which are non-negotiable. Therefore repurposing is not an option.

*Suzanne Pelton* identified herself as a preservationist, having served on the Historic Commission and Historic District Commission. She doesn’t understand why the entire house could not be raised and a just reconstruct the basement. Doing this she feels would give the applicant the height that is needed and will preserve the exterior. Mr. Ineson said that this could not be done and attempted to explain. Ms. Pelton said that architects have said that this could be done and that she doesn’t feel that the Commission could go forward with listening to only one architect. She argued that as per the HD bylaw, nothing could be changed that is visible from a public way. LK corrected her and said that changes could be made, but only with the HDC’s approval. Ms. Pelton told the Commissioners that their duty, as prescribed by the Massachusetts Historical Commission, is to preserve which means that the Commission cannot permit the demolition. She wants the windows to be historic.

*Kate McNulty Vaughan* said that she has sat on the HDC and that the Commission is limited by what is in the bylaw. Referring to Mr. Murray’s comments on the economy, she said that it is a fact of life in New England and Massachusetts that our economy lags. She feels that there is pressure for economic development and that even if the entire town were razed in order to accommodate economic development, she insists that the economy of the town would not change. She described the proposed structure as a “caricature” and questioned the value of taking down a historic structure because one wants to put in a commercial use. She complimented the preservation that has taken place on other buildings in the district.

*Mary Jane White*, owner of Cohen and White Associates, said that her business is across the street from this address. She has confidence in the project and in the applicant. She would like to see this building converted to commercial and when reconstructed it would last for the next 150 years.

*Olga Weiss* suggested that it would be appropriate to bring in a preservationist architect and engineer, neutral parties, to advise in situations like this. She also believes that there should be an alternate plan.

Mr. Ineson said that EDM has been involved in the restoration of both the Beacon Cinema and Colonial Theatre in Pittsfield and he has been personally involved in a project for a tenant of the Bedford Custom House in New Bedford, MA, which is designated a National Historic Landmark and listed in the National Register of Historic Places. He said that he and EDM are sensitive to preservation.

*Frank Newton* said that he understood that when a petitioner is turned down for a project, as this similar project had been in 2015, the applicant could not come back for two years. This is true of the ZBA, but not for the HD. GM confirmed that she looked into the HD bylaw and that the HD does not have that restriction.

*Scott Barrow* said that he looked at this building as a possible purchase 10 years ago when it was for sale. He described it as a disaster then and the foundation was in disrepair. He feels that the replacement proposed will look like the existing and that the retail use will be positive for the District.

*Cornelia Brooke Gilder* said that she is in favor of preservation and suggested that the structure could be mixed use with commercial on the ground floor and residential on the second floor.

*Evelyn Pascal*, a property owner in Lenox, said that she is confused as to the words historic and preservation. She maintains that the building does not have a historic designation and that it is merely an old building in a historic district. She questioned what era is being preserved, the way the structure was when the District was formed or as it is today? She pointed out that the building has undergone changes since 1975 and that in 1975 the building was different than it was in 1888. Ms. Pascal said that the owner cannot use the existing structure for retail.

*Dave Roche*, a selectman, said that there is a conflict in that Lenox needs to be an economic powerhouse, but in 1975 the voters weighed in to have an historic district. He suggested that perhaps the voters should vote again to redefine the District or adopt a new plan, but until that happens all should work with the guidelines and work to preserve what is existing.

(A break was taken after 1.5 hours.)

The hearing was resumed and it was determined that no one else in the audience wished to speak.

The Commissioners entered into their discussion phase.

ES stated that originally the District buildings were houses that have since evolved into stores which must comply with building codes. She feels that the new structure will look old.

MS agreed that the change of use triggers a number of issues regarding building codes which is challenging. He recalled seeing the interior of the deteriorating structure at the Commission's site visit when the applicant had come before the Commission last summer. He said that he is in favor of the application.

LK said that the HDC bylaw stipulates that the responsibility of the Commission is to preserve the historic character of the town and therefore it can't allow demolition. She stated that approval of this application sets a dangerous precedent and is inconsistent with the role of the Commission. She said that she is opposed to application.

JB agreed with LK that part of the Commission's charge is to preserve the historic character of the town, but asked if she felt that the application didn't incorporate the historic character of the Village. He commented that he felt that the proposed structure looked incredibly similar to the existing structure.

LK responded that the Village could be flattened and rebuilt to look as it did before, but it would no longer be a historic district.

JB asked LK if chipping off all materials and leaving a shell was preservation. He said that maintenance and repair is allowed by the HD bylaw and it can be done without HDC approval provided that it was put back the way that it was, e.g., the siding can be stripped, windows removed, roof removed and replaced with the same materials under the bylaw. This is replication and it has been done in the District, therefore JB feels that there is flexibility within the bylaw and believes that this project incorporates a lot of characteristics of the existing building. The only real difference in what is being proposed is the height and a small change to the rear of the building.

LK argued that the work cited by JB could not be done without approval. JB countered that he has spoken to the Building Commissioner regarding this application and the Building Commissioner said that under Chapter 40C, Section 9 if an owner comes before him with a maintenance or repair issue, he can issue a building permit without HDC approval provided it meets the criteria of Chapter 40C, Section 9. (This section reads in part: "Nothing in this chapter shall be construed to prevent the ordinary maintenance, repair or replacement of any exterior architectural feature within an historic district which does not involve a change in design, material, color or the outward appearance.") LK said that in her experience as a member of the HDC, applicants routinely come before the HDC requesting permission to do such work. JB agreed, but said that it was probably because the applicant wanted to be sure they were complying with HDC requirements. LK said that she will agree to disagree.

KF said that he has been on the HDC for over a decade and he agrees that it is the HDC's job to preserve the integrity of the architectural features of these buildings. He is pleased that the applicant wishes to build the structure to look like the existing building but better. He referred to the Commission's previous site visit to this property with the building inspector and the report of the conditions then was not promising. He pointed out that this structure did not fall into disrepair under the ownership of the present owner. KF noted that there is a certain element of distrust among opponents that the building may not end up as proposed; therefore he suggested that a member of HC and member of HDC oversee the project. JB responded that it is the Building Commissioner's responsibility to see that the building is built according to the approved plan. LK agreed with JB.

*Olga Weiss* said that as a representative of the Historical Commission she feels that before the HDC can consider this plan for demolition, it must consider an alternative plan. She referred to the HD guidelines and said that the HDC is obligated to consider an alternative plan that would incorporate preservation. Further, she said, that Massachusetts Historic Commission guidelines speak to preservation and quoted a MHC spokesman as saying that "replication is not preservation". Ms. Weiss said that the Commissioners are not representing preservation and believes that it is due to their lack of education or misunderstanding.

JB disagreed, offered to discuss, and asked if Ms. Weiss was referring to a particular law. LK read from the HD Guidelines:

"Demolition, or partial demolition, of architecturally or historically significant buildings or structures is prohibited except when in the opinion of the Commission it is warranted for extraordinary circumstances. Demolition or partial demolition of later additions to an historic building that are not architecturally or historically significant, i.e. which date after 1923, may be permissible and are subject to review etc." She added that the Commission must decide if this situation would be considered "extraordinary circumstances", but agreed with JB that there was no requirement that the owners present an alternative plan.

JB made a motion to approve the application as presented. MS seconded the motion. ES asked to add a condition to add a chimney. ES was asked if she was suggesting amending the motion. Discussion ensued and JB said that to add such a condition without discussing with the applicant was unfair to the applicant. ES withdrew her statement to add a condition.

GM interjected into the discussion two points:

- Speaking to KF's proposal that a representative from the HC and a representative from the HDC oversee the project referred to language in the Guidelines which states: "In instances where the property to be demolished is of historical significance, the Commission may require documentation of a building or structure to be demolished using the standards of the Historic American Building Guidelines and Standards which are provided by the Department of Interior." She stated that the Building Commissioner as code enforcer will be making sure that the applicant complies with the plans.
- In regards to the discussion regarding ES suggesting a chimney as a condition, she said that if the Commission thinks it is moving toward a no vote, the Commissioners are allowed to recommend changes or features to be included in the application to make the project

acceptable to the Commission.

The vote was taken and the Commission voted to approve 4-1 with LK casting the dissenting vote.

The hearing was adjourned at 7:45 PM.

Respectfully submitted,  
Peggy Ammendola