

MINUTES

**Barnstable Historical Commission
Town Hall
367 Main Street, Hyannis
Town Hall Hearing Room
March 17, 2015**

Laurie Young, Chair	Absent
Marilyn Fifield, Clerk	Present
Nancy Clark	Absent
Nancy Shoemaker	Absent
George Jessop	Present
Len Gobeil	Present
Ted Wurzburg	Absent
Paul Arnold, Alternate	Present
Marylou Fair	Admin Assistant, GMD
Jo Anne Miller Buntich	Director, GMD

Len Gobeil called the meeting to order at 4:01pm

Acting under the provisions of the Code of the Town of Barnstable, ss 112-1 through 112-7, the Historical Commission held a Public Hearing on the following applications previously determined significant and referred to Public Hearing:

**Griffin, Corey & Deirdre, 371 Wianno Avenue, Osterville, Map 140, Parcel 174
Built 1930, Not Inventoried, Not in a National Register Historic District**

Partial demolition – Hearing continued from February 17, 2015

Represented by Tim Luff, Archi-Tech Associates

Mr. Luff gave a brief description of the proposed demolition and the rebuild, explaining that the structure is currently broken into 3-4 components, including the colonial portion which was built in 1930. The proposed demolition would involve the 24' x 36' wing on the easterly elevation and the 10' x 27' wing on the rear elevation, both built in the 1950s, and the 12' x 28' sunroom porch on the westerly side. He said the homeowners also intend to repair and upgrade the colonial main section with new siding and roofing, and the demolition will support a more updated floor plan with new wing additions to accommodate the family. He noted that the street façade will appear similar to what exists, as the new additions will hardly be visible. George Jessop concurred that there will be very little substantive change from the street view.

Len Gobeil asked for any public comment and, finding none, called for the vote.

Motion duly made by Paul Arnold, seconded by George Jessop, that the Historical Commission finds, after review and consideration of public testimony, application and record file for partial demolition proposed at 371 Wianno Avenue, Osterville, that the portions of the structure (i.e., 24' x 36' wing on easterly elevation, 10' x 27' wing on rear elevation and 12' x 28' sunroom porch on westerly elevation) to be demolished are not preferably preserved, per the plans submitted by Archi-Tech Associates dated January 21, 2015, and site plan by CapeSurv dated January 23, 2015.

So voted unanimously

Motion duly made by Paul Arnold, seconded by George Jessop, that, in accordance with Chapter 112F, the Historical Commission determines that the proposed partial demolition of portions of the structure at 371 Wianno Avenue, Osterville, would not be detrimental to the historical, cultural or architectural heritage or resource of the Town.

So voted unanimously

Lahey, Francis & Sheila, Trustees of the Ocean Avenue Nominee Trust, 151 Ocean Avenue, Centerville, Map 227, Parcel 007

Built c.1872, Inventoried, Contributing Building - Craigville National Register Historic District

Partial demolition

Initial vote required to determine the applicability of Cape Cod Commission Development of Regional Impact Threshold pursuant to Cape Cod Commission Act Section 12 (c) (1) and Cape Cod Commission Enabling Regulations Governing the Review of Developments of Regional Impacts Chapter A, Section 2 (a) (i) (a).

Represented by Francis & Sheila Lahey

Len Gobeil read the regulations regarding the enabling act of the Cape Cod Commission into the record and noted that this Commission needs to determine whether this is a substantial alternation that meets the definition of a Development of Regional Impact. George Jessop noted that this structure is a Contributing Building in the Craigville National Register **Historic** District and is known as the Alpha Cottage. He said he understood that the original structure is to be retained.

Motion duly made by Paul Arnold, regarding the enabling regulations of the Cape Cod Commission, that the Historical Commission does not find that the proposed partial demolition of the portions of the structure would constitute a substantial alteration that would jeopardize the historic structure's status as a contributing structure in a National Register Historic District.

George Jessop seconded for the purpose of discussion.

Len Gobeil confirmed that a yes vote by the Historical Commission would not refer this application to the Cape Cod Commission. Marilyn Fifield said she considered this a substantial addition to a cottage that is the emblem of Craigville, adding that experience has shown that a collaborative review with the Cape Cod Commission can be a good experience that benefits everyone.

VOTE:

AYE: None

NAY: Gobeil, Jessop, Fifield, Arnold

Motion did not pass

Motion duly made by Paul Arnold, regarding the enabling regulations of the Cape Cod Commission, that the Historical Commission does find that the proposed partial demolition of portions of the structure would constitute a substantial alteration that would jeopardize the historic structure's status as a Contributing Structure in a National Register Historic District.

George Jessop seconded

Len Gobeil opened the discussion up for public comment

Francis & Sheila Lahey spoke as the homeowners, saying they respect the Commission's consideration of the project and understand the concerns. They said they have put many hours into this project and intend to maintain the entire structure of Alpha Cottage. The existing addition on the rear of the cottage is not livable, although they purchased Alpha Cottage in 2002 with the intent to keep the cottage unchanged. They noted they had purchased the house next door in 1982 and brought it back to its historic look. Mr. Lahey referenced a letter received from Nancy & Roger Hansen stating that "if Craigville is to continue its vibrant character in the long term the homes must be historically authentic and attractive, but also livable" (Exhibit E). They stated their intent to make it livable; noting that the design involved a lot of thought, and they felt the addition enhances the structure. They said the slope of the roof was done in the right way, and they even looked at how to shingle the addition so that the Alpha Cottage would stand out. Mrs. Lahey stated that she believes they are improving it and restoring it to the way it was. The entrance to the house will be in the new addition and Alpha will remain the way it was. The windows are replacement windows and they plan to remove them all and replace with appropriate ones. They said they are not even removing the entire back addition, as a part of the wall and roof will stay. She submitted two additional photographs that outline the areas that are proposed for removal. (Exhibits A & B).

Jim Lane, President of the Christian Camp Meeting Association, stated that he has worked with the Laheys for many years, and that Craigville is on the National Register because Sheila Lahey was the one who did all the work to research the area and get it on the National Register. Since this is a relatively small house, he asked that the Historical Commission consider not sending it to the Cape Cod Commission.

Lee Williams spoke in favor of the Laheys' project after looking at what they are proposing to do, noting that it is a historic cottage, but obviously needs updating as the area has become more of a year-round community.

Marilyn Fifield explained that the Cape Cod Commission represents another level of review and no one seeks to deny improvements. Cape Cod Commission review might not even change anything, she said, but she felt further review from another agency would be appropriate.

Paul Arnold questioned how long this process would take, and Jo Anne Miller Buntich replied that the timeframe depends on the project and the pre-application review, with the Historical Commission assisting in the review and moving it along as quickly as possible. She also reported that Cape Cod Commission staff had confirmed that this project would qualify for referral to the Cape Cod Commission.

Hearing no further discussion, Len Gobeil called for the vote:

AYE: Fifield, Jessop, Arnold

NAY: Gobeil

Motion to refer to the Cape Cod Commission passes with a 3-1 vote

Len Gobeil acknowledged for the record the following letters received in support of the project:

Edward & Carroll Lynch (Exhibit C)

Martha Sheehy (Exhibit D)

Nancy & Roger Hansen (Exhibit E)

John & Judith Troy (Exhibit F)

Sue & Gerry Connolly (Exhibit G)

McNamara, Alfred & Sheila, Trustees of the Alfred & Sheila McNamara 2011 Qualified Residence Trusts, named Buyers in a Purchase & Sale Agreement, 91 Point Isabella Road, Cotuit, Map 073, Parcel 025 Built c.1874, Inventoried, Not in a National Register Historic District

Full demolition of single-family dwelling

Represented by Alfred McNamara

Mr. McNamara explained that this house has gone through numerous renovations and conversions as well as a major undertaking in 2003. After consideration, the buyers decided that the entire structure should be demolished in order to build a new one that fits their needs.

Motion duly made by Paul Arnold, seconded by George Jessop, that the Historical Commission finds, after review and consideration of public testimony, application and record file for full demolition proposed at 91 Point Isabella Road, Cotuit, that the structure proposed to be demolished is not preferably preserved.

So voted unanimously

Len Gobeil opened Public Comment.

Gary Souza from Rogers & Marney detailed his company's long history with the property, having completed numerous renovations and conversions to modernize the structure, leaving very little of the original 1874 house remaining.

With no further comments, Len Gobeil closed Public Comment.

Motion duly made by Paul Arnold, seconded by George Jessop, that, in accordance with Chapter 112F, the Historical Commission determines that the proposed demolition of the structure located at 91 Point Isabella Road, Cotuit, would not be detrimental to the historical, cultural or architectural heritage or resource of the Town.

So voted unanimously

Acting pursuant to Section 112-5 - Violations and Penalties of the Code of the Town of Barnstable, the Historical Commission next held a Public Hearing regarding the demolition of the historically significant building at 95 Summerbell Avenue, Centerville, located on Assessor's Map 226, Parcel 060, to determine whether a violation of the Commission's February 4, 2014, decision issued to John & Catherine Gahan occurred and, if so determined, to discuss the imposition of penalties.

Len Gobeil opened the Public Hearing on the following application at 4:46pm

Gahan, John & Catherine, 95 Summerbell Avenue, Centerville, Map 226, Parcel 060

Partial demolition & construction of additions & dormers

(Built 1895, Inventoried)

Represented by Attorney Michael Schulz and John & Catherine Gahan

Len Gobeil outlined the materials the Commission received and asked Building Commissioner Tom Perry to give a report. Mr. Perry stated that the Building Department received a call on Tuesday, February 3, 2015, that the demolition exceeded what this board and the building permit called for. The Building Inspector went out and verbally issued a stop-work order. On Wednesday, February 4, 2015, he formally placed a Stop-Work Order on the structure and all work stopped. Further orders were given to clean up the site of building materials and to make it presentable, and the work crew did adhere to this.

Len Gobeil noted that a year ago this Historical Commission allowed the property to be renovated, with portions allowed to be removed, and, as Mr. Perry reported, more was removed than was authorized.

Jo Anne Miller Buntich explained that the first vote the Commission would need to take would be to determine whether there was a violation of the Commission's decision, and the second vote would determine if a delay would be imposed.

Attorney Michael Schulz appeared for the homeowners and noted that Mr. & Mrs. Gahan were present along with Steve Cook, the designer for the project. He added a procedural note to remind that a monetary fine of \$300 could be imposed, which was confirmed by Town Attorney Ruth Weil, under section 112-5A, but noted that this is not the only penalty the Commission can consider. Attorney Schulz stated that the key issue before the Commission is whether the Gahans voluntarily demolished the structure with purposeful intent, and he said they did not. He introduced Mr. Gahan to speak on his own behalf.

Mr. Gahan stated that he and his wife, who was raised on Cape Cod, purchased the property in 1980. It had no foundation and only a half bath on the first floor. Before the DCPC regulations, he said, they started to think about renovating it, but due to the implementation of the DCPC they were not able to proceed until 2013. At this point, they decided they did want to stay in the Village and upgrade the property with a little more space, just basically a foundation and a bathroom on the second floor so that they could stay in the house for more than the summer months. He met with several Town officials to seek guidance, and he said they followed the guidance every step of the way – from Conservation, Health, Historical Commission and the Zoning Board of Appeals. Upon approvals, they waited until the end of the summer so as not to impact neighbors, and at this point he stated that he left it in the hands of the contractor and subcontractors. On February 2, 2015, he heard from a good friend that there had been some problems at the property, as there had been a horrible storm and there were issues regarding access and respecting neighboring properties. He made it clear that neighbor relations were very important to them. The next day there was another horrific storm, and he called the day after to check to see if the access problem had been resolved, only to be told that the second floor of his home was being removed. He did not have any discussion with the contractor or anyone else about taking down any of these portions, but the next thing he knew they were removed. He arrived as soon as possible to see what had happened to his property, and he insisted that this was not a voluntary demolition. He said their intent remained, as it always was, to live in the Village with slightly more space.

Attorney Schulz pointed out that the Gahans have done everything they could within their power to adhere to the process set forth by the many Town committees whose approvals they had sought. He produced two pieces of correspondence to submit for the record:

1. An e-mail from Hostetter Homes addressed to Building Commissioner Tom Perry which he read into the record (Exhibit H)
2. An e-mail from Attorney Timothy Wenger, representing the framing subcontractor, which he also read into the record (Exhibit I)

Attorney Schulz reiterated that the Gahans did not know what was happening with their property, and they are the ones who will suffer, along with the neighbors, who will have to live with this site as it is for the next two years, if a construction delay is imposed. Even if this Commission does not impose the delay, he said they will have to go back to the many other Town committees, and this will be a lengthy delay in itself. He asked that the Historical Commission find that this was not a voluntary demolition.

Len Gobeil opened Public Comment.

Jim Lane, President of the Christian Camp Meeting Association, stated that he has worked closely with the Gahans to accommodate an easement so that they could put in a new septic system. He said it was the neighborly thing to do, and the Town suggested a deed restriction. He said he carefully reviewed the design and proposed changes, and he was in favor of the project. He said he watched the process of the installation of the new foundation that was meticulously done, and he would question why someone would do this if they did not want to maintain the house. He said he would hope that any responsibility or punitive damage would be directed at the contractor, while allowing the Gahans to rebuild with the modest addition they requested.

Lee Williams spoke in support of the Gahans and added that this building is an important part of the Village and she would hate to see it stay in this derelict condition for two years. She said it is a very close community and the Gahans could not possibly have wished this to happen. She hoped that the Historical Commission would allow them to rebuild.

James Igoe, President & Executive Director of Preservation Massachusetts, also spoke in favor of the homeowners, noting he has been in his current capacity at Preservation Massachusetts for 16 years and in preservation for 30 years. He said he has known John Gahan for many years, and it was he who asked Mr. Gahan to become a member of the Executive Board of Preservation Massachusetts. He called him an esteemed member of the Executive Board,

as well as a longtime member of the National Trust for Historic Preservation, with a commitment to historic preservation as strong as anyone's.

Mia Walsh of Hyannis recalled a similar demolition in Osterville a number of years ago, saying she could not remember any major penalties imposed on that property owner. She stated mistakes like this don't just happen, and she felt it was a very convenient mistake, with the only remedy to delay any kind of rebuilding or allow it to be rebuilt only as it was before. If this Commission does not do anything, she feared many more similar mistakes.

John Gahan replied that people can believe whatever they want, but he knew what their intent was, and they were true to what they proposed. He said he had spent tens of thousands of dollars to lift the house and build a new foundation. He repeated that this demolition was never intended, and he asked Commissioners to look at all they did during this process and come to the conclusion that this was not a voluntary act.

Len Gobeil acknowledged receipt of 14 pieces of correspondence and listed the names of the authors, the date and content of the correspondence. *See correspondence noted as Exhibits J-W)*

Len Gobeil then asked for a motion, saying if a second was received, he would open Public Comment again on the imposition of the delay phase.

Motion duly made by Paul Arnold, seconded by George Jessop, that after review of the record and public testimony for 95 Summerbell Avenue, Centerville, the Barnstable Historical Commission finds that the February 19, 2013, decision of the Commission was violated because significant portions of the structure determined to be preferably preserved were demolished.

VOTE:

AYE: Fifield, Jessop, Arnold

NAY: Gobeil

Len Gobeil then explained that the Commission did find that a violation happened, and he opened Public Comment for anyone who wished to speak on the penalty phase.

John Gahan stated that he understood what the motion meant and understood what violation means. He said that the cottage as is could not be rebuilt to what was there before. He indicated that the ordinance states "voluntary" demolition which allows the permit delay, but he believed the word "voluntary" is tied to the word demolition, and he wanted to be perfectly clear that this was not a voluntary demolition on their part.

Len Gobeil sought clarification from Town Attorney Ruth Weil, and she reviewed the steps of the process per the ordinance, noting that the applicant is considered the responsible party. She noted that the ordinance does not say that the person responsible is held liable; the ordinance refers to the applicant who hires the contractor who hires the subcontractors, and she noted this was different from an act of God. Although she said she has tremendous sympathy for the Gahans, the reason for the DCPC was to retain this Village, and she noted the basic principle of agency is that it is the applicant who hired the contractor.

Len Gobeil then asked Attorney Weil if this Commission could amend any wording in this ordinance, but Attorney Weil found no provision allowing the Historical Commission to vote for a lesser penalty.

Mr. Gahan noted that the applicable section of the ordinance states that "no building permit shall be issued" but said he already has a building permit and he asked how this works with a stop-work order. Len Gobeil asked Building Commissioner Tom Perry regarding Mr. Gahan's existing permit, and Mr. Perry acknowledged that he does have a building permit with a stop-work order, and they have not revoked the permit. Len Gobeil confirmed, however, that this could be a possibility depending on the outcome of this meeting.

Len Gobeil again asked for Public Comment on the penalty phase.

Mia Walsh stated that she would like to see the building permit revoked and would also like to see a minimum of 24 months delay. She added that perhaps the Historical Commission could also vote to have the owners rebuild only what was there originally, and she asked that the maximum monetary penalties be imposed.

Joseph Twitchell, who lives on Prospect Avenue, stated that to leave this structure as it is would be a tremendous hardship to everyone in the Village, not just to the Gahans.

Tom Sheehy of Summerbell Avenue felt that the Gahans have paid a high penalty as it is, with the house now a disgrace and even the thought that the Historical Commission would consider leaving the house the way it is would also be a disgrace.

Lee Williams confirmed that if the penalty is imposed, it would be two more years before any building permit could be issued. She stated that this would leave their community with an eyesore and a safety hazard and asked the Commission to allow the Gahans to build what they wanted.

Len Gobeil asked the Building Commissioner if he is authorized to have the two remaining walls taken down, if the motion carries, and Mr. Perry replied that if the two-year penalty is imposed, there will most likely be nothing left of the structure.

Jim Lane noted that they run very large conventions, with 20,000 people visiting, and this would be a nuisance not just for the 90 cottage owners, but for the Conference Center as well.

With no further speakers, Len Gobeil closed Public Comment.

Motion duly made by Paul Arnold, seconded by George Jessop, that because the preferably-preserved portions of the significant building located at 95 Summerbell Avenue, Centerville, Map 226, Partial 060 were voluntarily demolished in violation of the Commission's 2/19/2014 decision pursuant to Section 112, no building permit shall be issued for a period of two years from 2/4/2015-2/4/2017.

VOTE:

AYE: None

NAY: Gobeil, Fifield, Jessop, Arnold

Motion did not pass and there will be no penalty involved in this action.

A brief recess was taken at 5:48pm and the meeting resumed at 5:51pm

Approval of Minutes

November 18, 2014

Motion duly made by Paul Arnold, seconded by Marilyn Fifield, to approve the Minutes of November 18, 2014, as submitted.

So voted unanimously

December 16, 2014

Motion duly made by George Jessop, seconded by Marilyn Fifield, to approve the Minutes of December 16, 2014, as submitted.

So voted unanimously

January 20, 2015

Motion duly made by George Jessop, seconded by Marilyn Fifield, to approve the Minutes of January 20, 2015, as submitted.

So voted unanimously

Communications from Commissioners

CPC Update – Marilyn Fifield

Marilyn Fifield reported that there were no historic properties before the CPC at the last meeting.

With no further business before this Commission, a motion was duly made by George Jessop, seconded by Paul Arnold, to adjourn the Meeting at 5:53pm.

So voted unanimously

Respectfully submitted,
Marylou Fair, Recording Secretary
and Commission Clerk Marilyn Fifield