

GRANBY HISTORIC DISTRICT COMMISSION MEETING MINUTES

Meeting Date: January 12, 2016

Location: Carnegie Building, 1 Library Lane, Lower Level

Members Present: Gayle Demary, Chair
Robert Camus, Secretary
Lori Meister
Lisa Petraglia
Steven Nally - Alternate

Absent: Kathleen Morris, Vice Chair

Also in attendance: Lillian Camus
Terry Lajoie, Granby Historical Commission
Christopher Martin, Town Administrator
Mary McDowell – Selectboard
Lisa Anderson – Planning Board
Christopher Skelly, Mass. Historical Director of Local Government Programs
Greg Leonard

Gayle Demary called the meeting to order at 6:33 p.m.

Christopher Skelly

Mr. Skelly described his role as a resource to local Historic District Commissions and then asked if there were specific questions he could answer.

Gayle Demary noted there are some homes in the district having some work done but haven't come to our Commission. What is our recourse?

Lisa Petraglia asked if Mr. Skelly had any success stories on applications to demolish.

Gayle Demary asked how the relationships between the town departments and historical commission should be structured.

Mr. Skelly explained the local historic district was established in 1979. A certificate is needed to make any changes to the outside of a building in the district. Mr. Skelly suggested the Building Inspector should tell the person when applying for a building permit that he/she needs to first fill out a form to be approved by the Historic District Commission. Once they receive approval from the Historic District Commission the next step would be to go back to the Building Inspector for a building permit.

Mr. Skelly explained there are three certificates that could be issued by the Commission which are allowed under Massachusetts General Law Chapter 40C:

- Certificates of Appropriateness
- Certificates of Non-Applicability
- Certificates of Hardship

Mr. Skelly went on to say the Historical District Commission determines if the change the person is making is something they have authority over. If not, a Certificate of Non-Applicability is issued. To speed up the process you can also have a list of things the Commission does not need to review and provide it to the Building Inspector. In this case, the Building Inspector can sign a non-applicability form on behalf of the Commission. Mr. Skelly noted some other Commissions have this arrangement.

If what the person wants to do does need a Certificate of Appropriateness, a public hearing needs to be held. There are guidelines as to the timeline of when the hearing, etc. needs to be held. Once the hearings are done, the Commission makes a decision. The decision is either no, not appropriate and then they deny the certificate. The project can also be approved with certain conditions.

Chris Martin asked if the Commission can decide if the public hearing can be waived. Mr. Skelly responded that there are certain conditions such as it is inconsequential where the Commission can waive a public hearing. The Commission will still have to notify the abutters and wait a certain amount of time before issuing a certificate.

The third is a Certificate of Hardship. This has to be something very specific to that site and not in conflict with the goals of the bylaw itself. An example would be adding a fire escape to the outside of a building.

Mr. Skelly has more information on Certificates of Hardship which he will send to the Commission.

Mr. Skelly then responded to the question, "What happens if your application is not complete?" If the property owner agrees to it in writing you can continue your decision making process. You have 60 days from when the certificate comes in to make a decision. If you don't make the decision in 60 days you have to issue a Certificate of Hardship due to your failure to act.

The applicant should say, "I'm going to put it in writing that you don't have to make a decision in 60 days to issue a certificate." The other option is the Commission could simply deny it as you do not have enough information.

Lisa Petraglia asked if there is any guidance about reapplying for a certificate after an adverse decision. Mr. Skelly responded the person could come forward with something very similar with a formal application to start the process over again. Some commissions have found they need to put wording in procedures that an applicant who submits an incomplete application has to wait a specific amount of time before submitting another one.

Gayle Demary asked about the Commission's autonomy/relationship/pecking order – Who is our boss? Mr. Skelly responded that the appointed boards have a separation from the elected officials of the town. The Commission has autonomy for their decisions. This is the same as the Planning Board, Zoning Board, etc.

Steve Nalley inquired about the timing of the application. State law says a decision must be made a certain amount of time from the date of application. What happens when some time elapses that is greater than the amount of time before a decision is made? For example, someone files an application on June 1 and by the time it gets to the Commission it is more than 14 days. The law says we have to hold a meeting within 14 days to make a decision. Mr. Skelly noted that the Chairperson of the Commission can make the decision without holding a meeting.

Mr. Skelly noted the determination as to whether a public hearing is necessary depends on the type of certificate. A Certificate of Appropriateness and a Certificate of Hardship will require a public hearing. A Certificate of Inappropriateness does not need a public hearing.

Terry Lajoie asked if two certificates, one for appropriateness and one for hardship, were applied for in the same application what do you do about a public hearing? Mr. Skelly responded the only way to dispense of a public hearing is if all abutters approve dispensing of the hearing.

Bob Camus asked what happens if not all abutters agree to the project of the person applying for the certificate. Mr. Skelly responded the abutters have the ability to address the Commission at a public hearing. Your role as a Commission is to listen to them and take the information. The Commission has the final approval. The abutters have a formal role to speak to the Commission in the hearing process.

Gayle Demary noted that, in every case, unless non-applicable, you need to hold a public hearing. Mr. Skelly responded yes, if there was a concern. If it was an inconsequential change, the Commission can waive a public hearing. If it is consequential to the public there would be a finding for a hearing.

Terry Lajoie asked if the Commission does not have any money for a public hearing who pays for it.

Chris Martin asked if a fee schedule could be adopted for the applicant to pay for the public hearing. Mr. Skelly agreed a fee schedule could be adopted.

Terry Lajoie asked if adopting a fee schedule would be considered procedural. Chris Martin responded a fee schedule is a procedural issue that does not need a town vote.

Mr. Skelly noted the fee should cover the cost of the Committee's role. Examples of expenses are stamps, two mailings and a notice in the paper of the meeting.

Terry Lajoie asked if the person who is making the application have to be at the public hearing or the Commission meeting where the application is reviewed. Mr. Skelly responded the person did not if the building inspector takes in what appears to be a complete application.

Mr. Skelly noted it is a good idea to for the Commission to meet with the Building Inspector when there isn't anything active going on to review the procedures. The Building Inspector is the key relationship.

Gayle Demary asked what the Commission's recourse is when people do not abide by our decision. Mr. Skelly responded you may notice something that is being done without a certificate, receive a call from an abutter, etc. In that case there are two tracks that can happen.

Track 1 – The person was supposed to have gotten a building permit. The Building Inspector issues a stop work order.

Track 2 – What if the person needed a certificate but not a building permit? If the Building Inspector looks at something and says it's not anything I have review over. An example would be if someone puts up a low fence that doesn't require a building permit. It comes down to the Commission to enforce. The Commission will write a letter to the person that work is being done and to please come in and apply for a certificate, even if it is after the fact. The Commission will review the application as if the fence is not installed.

Gayle Demary asked if this Commission does not have any money to hire a lawyer once an issue goes to court what do we do. Mr. Skelly responded the best way to deal with violations is to not have any. To do this you have to educate the public. You will write letters to the violators to file an application. If that is ignored you have to potentially go to court. These issues usually get resolved before they get to court. The Building Inspector will be the enforcing officer. Additionally, you have to get to Superior Court to get to the fines.

If legal counsel is not granted by the Select Board, your options are limited. On your application for certificate there is a check off box. Are there any outstanding violations on this property? If so, this application is incomplete. If the property owner wants to make further changes later they will be denied until the original violation is resolved.

The Commission could also send a letter to the folks in the district letting them know of the violation and they are working on it. Also, the Commission should send a letter to the property owners in the district to let them know how the process works in the district, attach a map of the district, and any other pertinent information. Include information on violations the Commission is aware of and what is going on with the violations. Send a copy to a realtor for any properties that are for sale.

Lisa Petraglia asked what a certificate looks like when you are issuing one for approval. Mr. Skelly responded that it is a letter from the Commission.

Greg Leonard noted that when he was on the Historic District Commission none of the members felt as if we had good guidelines for denying someone the opportunity to paint their home based on colors. There isn't a "historical pallet" but there is a "regional pallet".

Gayle Demary responded that the Commission has a board which has colors that were selected by a prior Historical District Commission.

Mr. Skelly noted that reading from the Commission's bylaws a two-thirds majority vote needs to be obtained for approval of paint colors. Mr. Skelly discourages paint to be in bylaws. Some Commissions do, but most do not. Steve suggested dropping it from the bylaws.

Gayle Demary asked to go back to the question as to when a public hearing is needed. Mr. Skelly responded if the Commission decides not to have a public hearing because it is inconsequential.

Gayle Demary asked if the Commission met and decided the point is inconsequential are we not in violation? Mr. Skelly referred her to Massachusetts General Law, Chapter 40C, Section 8.

Steve Nally questioned the Commission's responsibility regarding failure to hold a public hearing when one should clearly be held. Specifically, the demolition of a building and notification to the abutters and no public hearing and it has been more than 60 days.

Gayle Demary noted she believes there was some confusion as to the procedures and when the clock starts and stops.

Terry Lajoie responded that the Commission was not provided the additional information requested.

Chris Martin asked what constitutes notice -- verbal or written?

Mr. Skelly declined to answer.

Mary McDowell asked why the process could not begin again as long as everyone understands the procedural guidelines from the State. Mr. Skelly agreed that the process could begin again.

Steve Nally asked if applications for demolitions are always a Certificate of Hardship. Mr. Skelly responded not necessarily.

Mr. Nally asked what criteria the Commission uses to demolish a structure. Is it the difference between a hardship and appropriateness?

Greg Leonard noted a previous Commission made a decision that the building in question had no historic value. Mr. Leonard asked what jurisdiction this Commission had to override that decision.

Mr. Skelly noted that Commissions do not make a decision if a building is historic or not. He also noted that a present Commission is not bound by decisions of a previous board.

Lisa Petraglia asked if you remove a building in a historic district should the boundaries be redrawn. Mr. Skelly responded that the boundaries are not redrawn as the land still remains in the historic district. A lot of times you can have vacant land in an historic district so you can review what is being built on it.

Steve Nally asked how a Commission determines when to issue a Certificate of Appropriateness? Mr. Skelly responded that you refer to your design guidelines.

Steve Nally asked what options the Commission has if we do not have design guidelines. Mr. Skelly responded the Commission can use the national standards and the guidelines in 40C.

Steve Nally asked what criteria you use to grant the Certificate of Appropriateness if no guidelines are adopted. Mr. Skelly responded the Commission should refer to the Secretary of Interior's guidelines.

Mary McDowell noted that this Commission is a powerful commission in terms of a historical district. They have guidelines to go by.

Gayle Demary inquired further as to what constitutes notice so people are informed. Do you need to send a direct notice to the person who submitted the application? It would be the Commission's first meeting since the application is submitted. Do they need a special letter other than the official notice with their application on the agenda? Mr. Skelly responded the people do not need a special letter of notification.

Gayle Demary asked if a special meeting needs to be held if the Committee is not meeting within the required amount of time to respond to the application. Mr. Skelly responded that would be when you have a delegated person to make the decision such as the Chairperson of the Commission.

Steve Nally asked if Mr. Skelly could point out where the Commission has the authority to delegate a person to make these decisions.

Chris Martin noted when a certificate of applicability is determined you should still notify the abutters of your decision. Mr. Nally responded it is not necessary to let them know, but can be used in an update to the folks in a general communication.

Mr. Skelly noted that as a Commission you need to decide what is considered a Certificate of Non -Applicability. As a Commission look at design guidelines. Mr. Skelly will send a link to the guidelines and suggested the Commission share the design guidelines with the people in the historic district.

Gayle DeMary asked when alternates come into play? Mr. Skelly explained an alternate will step in when someone needs to recuse themselves or you do not have a quorum. If more than one alternate is at the meeting it is up to the Commission to decide which alternate will step in.

Lisa Petraglia asked how the design guidelines speak to demolition if at all. Mr. Skelly noted they do speak to demolition.

Terry Lajoie asked about the order of the bylaws. Does the Commission's bylaws supercede the state bylaws? Mr. Skelly responded that everything will have to follow the state law at a minimum.

Terry Lajoie asked that since this body is responsible for the decisions and discussion of the application shouldn't the Select Board be coming to this meeting instead of this Commission going to the Select Board meeting with a limited amount of time for discussion. Mr. Skelly responded that it really doesn't matter.

Any other business to come before the Committee

None

Next Meeting Date

Tuesday, February 2, 2016 at 6:30 p.m. in the Lower Level at the Carnegie Building.

Adjournment

Motion made to adjourn by Steve Nally and seconded by Lisa Petraglia. Approved unanimously and adjourned at 9 p.m.

Respectfully submitted,

Lillian Camus
Recording Secretary