

Approved 4/12/10

## Minutes of the Half Crown-Marsh Neighborhood Conservation District Commission

Mon., Oct. 19, 2009, 6:00P.M., Friends Meeting House, 5 Longfellow Pk., Cambridge

Members present: James Van Sickle, Chair; Dennis Wolkoff, Vice-Chair; Robert Banker, Bill King, Judith Dortz, Members; Deborah Masterson, Alternate Member

Staff present: Charles Sullivan, CHC Executive Director  
Sarah Burks, CHC Preservation Planner

Members of the Public: See attached list

---

The Chair, James Van Sickle, called the meeting to order at 6:01PM. He made introductions and explained the hearing procedures.

### Public Hearing: Alterations to Designated Properties

**45 Foster St. John Greenup, owner.** Review staff report regarding compliance of existing conditions to previously-approved project and pending expiration of construction delay imposed per enforcement and remedies section of 2.78.270 of the Municipal Code.

Ms. Masterson, alternate member, recused herself because of her status as an abutter to the subject property. She left the table and sat in the audience.

Mr. Sullivan outlined the history and current status of the project. He reviewed the timeline of the cases related to the project. The Commission and ISD had determined that the original house had been demolished without benefit of a Certificate of Appropriateness, and a two year moratorium had been imposed on the property per the procedures of the neighborhood conservation district enabling ordinance, Chapter 2.78 of the City Code. Appeals had been filed by the property owner to the Middlesex Superior and Land courts. A revised application had been submitted and disapproved by the Commission at a January 2009 hearing. The moratorium had now expired.

Mr. Sullivan explained the procedure under which a project could resume after the conclusion of a moratorium. This depended on a staff determination that the completed project would conform to the design that had originally been permitted by the Commission. If the project was found to conform, he would sign off on the building permit and the project could proceed. If it was found not to conform, the staff would require the owner to submit revised plans that would rectify the nonconformities. When the staff was satisfied as to conformance, building activity could resume per the original permits. Mr. Sullivan noted that his memo had inaccurately stated that this procedure had been followed in previous violations of the neighborhood conservation district ordinance.

In fact, there had been no such violations to date in neighborhood conservation districts, and this was the procedure used in response to violations of the city's demolition delay ordinance, which was a related section of the City Code.

Mr. Sullivan compared the existing and permitted dimensions of the main house and the addition as described in his memo of October 15, 2009. He reported that CHC staff and a building inspector had measured the existing building shell and adjusted those measurements for finish materials. Because there was no longer a second floor, all the existing building dimensions were taken except the height. Surveyor David Gosselin had determined that the original height was 24' - 1½," which he reported to John Greenup in an e-mail dated December 13, 2007. That number was used as a starting basis. Setback measurements were not taken.

The measured dimensions did not conform to the permitted plans in several areas. Some of the discrepancies were significant and could require reframing for compliance. The procedure from this point would be for Mr. Greenup to submit plans showing how the existing structure would be modified to meet the permitted dimensions. Mr. Sullivan said he would review the plans for compliance and sign off on them when he was satisfied.

John Greenup, the owner, said he was prepared to work with the staff to provide the necessary documentation for assuring dimensional accuracy of the reconstructed building and addition.

Mr. King asked noted that there seemed to be nothing that the Half Crown Marsh NCD Commission needed to do at this juncture, unless it disagreed with the staff report. He suggested that the Commission could at least put the report on file.

Mr. Sullivan stated that the procedure becomes administrative after the moratorium expires. The purpose of the hearing was informational. He agreed that the Commission could put the report on file, unless it disagreed with it.

Dennis Wolkoff noted that some of the dimensions were off considerably, by 4 or 5 inches. He asked what the allowed tolerance would be.

Mr. Sullivan replied that he had been informed by the Inspectional Services Commissioner that the allowed tolerance was ¼".

Ms. Dortz asked if the frame would have to come down and be rebuilt.

Mr. Sullivan answered that parts of the frame would have to come down. The owner might find that there had been deterioration of the framing that had been exposed to the weather for two years.

Mr. Van Sickle asked for public questions.

Mary Field, of 39 Foster Street, said the dimensions of the foundation and the basement were much larger than they were supposed to be. The original house should not have been demolished. She said the City had made an agreement with John Greenup so that the court case would be dropped. She would pursue her rights by other means.

Mr. Sullivan said he had been advised by the Inspectional Services Department that it was the dimensions of the framing of the building above the foundation that would have to comply with the plans on file.

Mr. Greenup said he was committed to making the building meet the accepted plans.

Deborah Masterson, of 53 Foster Street, asked what authority the staff was referencing for the procedure outlined in the memo. She said that Section 2.78.260 of the City Code did not apply.

Mr. Sullivan explained that the circumstances of moratoriums in the two sections of the ordinance were parallel, and the Law Department had agreed that the accepted practice of allowing a property owner to proceed with the original project when the two year moratorium came to an end should apply in NCD cases. There was no expressed requirement for a property owner to return to an NCD commission for a hearing *de novo*.

James Rafferty, an attorney representing some of the neighbors, said the Certificate was for “remodeling” and that it would seem necessary for the owner to get a new certificate for new construction on an empty lot. He questioned that the prior certificate was in effect.

Mr. Sullivan said he had been advised by the Law Department about the procedures.

Melvin Field, of 39 Foster Street, said the basement had been extended toward his garage. The plan had only ~~showed~~-shown that it would extend to the end of the house.

Mr. Van Sickle explained that the Half Crown-Marsh Neighborhood Conservation District (NCD) Commission could only regulate what was visible from a public way. The BZA would be responsible for compliance with the overall FAR.

Mary Louise Kent, of 2 Foster Place, said she would like to see the actual approved plans. Matthew Curtis had changed the design a little at a time.

Mr. Van Sickle closed the floor to questions of fact and asked for comments.

George Kent, of 2 Foster Place, said he had several concerns about the staff report. He submitted written comments. He disagreed with the idea that the previous building permit should still apply. There was no precedent for it in the NCDs. The demolition delay ordinance procedures did not fit with this case. The plans approved by the Marsh NCD Commission should be used. It was not reasonable to assume that the city staff should be responsible for such a thorough review of construction plans. That would shift the onus from the board to the staff. He requested that the report be amended before being accepted or be returned to the staff for resubmission.

Ms. Masterson urged the Commission to reject the report and sent it back to the staff to be reconsidered. There had been no case like it ever before. She said that Mr. Greenup should have to get a new certificate.

Neil Levine, of 5 Foster Place, said that a more objective yardstick should be used in determining the allowable measurements. The measurements on file had been provided by the architects and surveyors of the owners. The absolute retention of the height and footprint of the original house should be required. The house was built at the same time as the others on Foster Place. It would be simple to take measurements of the neighboring houses as a baseline. He submitted photographs for the record.

With no further comments from the public, Mr. Van Sickle closed the public testimony period. He asked the Commission members to make comment.

Judith Dortz said she was concerned about any increase to the basement dimensions.

Dennis Wolkoff said it had been a very interesting discussion. He asked whether there was merit to Mr. Rafferty's claim that a new certificate was needed. He asked if there was any written or oral reports from the Law Department.

Mr. Sullivan said the Law Department had reviewed, corrected, and amplified the staff memo.

Mr. Wolkoff asked why the same strict requirements for dimensions did not apply to the foundation.

Mr. Sullivan said he had consulted with the Inspectional Services Department on that matter and was informed that it was the usual practice to measure the framing when making calculations for zoning.

Mr. Wolkoff asked about the height of the foundation and the height of windows and doors.

Mr. Sullivan said the approved plans had an overall height of the house of 24' high from grade. The windows and doors would need to be constructed as shown on the approved plans.

Mr. Wolkoff asked if the staff felt they had an accurate basis.

Mr. Sullivan answered affirmatively. He clarified that there was no prescribed procedure in 2.78. There was need of an administrative remedy in the absence of a legislative remedy. The procedure had been determined in consultation with the Law Department.

Mr. Van Sickle commented generally on the case, which he said had put the NCD Commission and the neighborhood under a lot of stress. He said the Commission does its best to protect and maintain neighborhood character. He said perhaps the Commission's initial approval of the project was regrettable. Ideally, neighbors come together to find a resolution to disputes. He said it was unfortunate that there was no mutual resolution in this case. The Commission had followed normal procedures.

Mr. Wolkoff asked the staff to request a written opinion from the Law Department as to why the building could be replaced as permitted instead of coming back for a new certificate. He noted that the neighbors had supported the original design that the Commission had approved. He said there had been regret later by some of the neighbors and some of the Commission members about the approved design.

Ms. Dortz registered her agreement with Mr. Wolkoff's comments and request.

Mr. Sullivan said he would ask the Law Department if they wanted to submit a written response, but he was not sure they would due to current and possible future litigation.

Mr. King moved that the Commission place the staff memorandum on file and that the comments made by the Commission members and responses of Mr. Sullivan be made a part of the record.

Mr. Banker seconded the motion, which passed 5-0.

[Mr. Sullivan left the meeting].

[Ms. Masterson left the meeting].

**HCM-54 (continued): 7 Willard St., by Jerrold M. & Louise B. Grochow.** To install pergola.

Ms. Burks showed slides and summarized the case. The application of last month had not included a pergola, so the hearing was continued and readvertised to discuss the pergola, which had been constructed without prior approval.

Jerrold Grochow, an owner, noted that the pergola was consistent in size, or smaller, than other pergolas in the vicinity. He submitted a letter of support from his neighbor, Rosalind Gorin of 114 Brattle Street.

Ms. Dortz asked about the size of the pergola, and Mr. Grochow answered that it was 5' wide, 5' long, and 6½' to 7' high. He indicated that he could touch the top with his hand outstretched.

Mr. Banker asked if there was vegetation on the pergola, and Louise Grochow answered that they intended to plant climbing roses and clematis there.

Mr. Van Sickle read the letter from Rosalind Gorin, then closed public comment.

Mr. King noted that the color, while not within the Commission's jurisdiction, helped to make the pergola fit in well with the others in the area.

Mr. Wolkoff noted that the Gorin's house was in the Old Cambridge Historic District, not the Half Crown-Marsh NCD. He said the pergola was a garden feature and he did not object to its design. The scale was appropriate to the house. He moved to approve a Certificate of Appropriateness, on the condition that the vegetation described by Mrs. Grochow be planted at the base of the pergola, and with the understanding that the approval was for this case in particular, not for all pergolas in the future.

Mr. King said he agreed that the proportions were appropriate, with the height being greater than the width, which was consistent with the vertical emphasis of the massing of the house. He seconded the motion, which passed 5-0.

**HCM-58: 19 Lowell St., by Anne Ellsworth.** To replace slate roof with Certainteed laminated shingles.

Mr. Wolkoff recused himself because his house, 20 Lowell Street, was across the street from the subject property. He left the Commission table and sat in the audience.

Ms. Burks showed slides and summarized the application. She showed a sample of the proposed Certainteed shingle.

Anne Ellsworth, the owner, explained that her house sat on a rise and the roof was very high. She said she wanted to use asphalt architectural shingles instead of slate due to the cost. The color would be a dark gray.

Mr. King noted that while slate cost more, the roof would not have to be replaced again for over 100 years. The asphalt roof would need to be replaced several times during that time. He asked what the price quote had been for slate.

Ms. Ellsworth said the cost of slate, for the front half of the roof would be \$25,000-\$30,000 compared to \$16,000 for asphalt shingles. The back half of the roof had already been replaced with asphalt shingles about 5 years ago. She proposed a better quality asphalt shingle than what was on the rear half of the roof.

During the public comment period, Dennis Wolkoff noted that he enjoyed looking at the slate roof. He commented that he had considered putting slate or faux slate on his own mansard roof, but in the end chose asphalt shingles because the faux slate was too fussy looking. He asked if faux slate would require a hearing, and Ms. Burks replied in the affirmative; any change in roofing material would require a hearing.

Aaron Kemp, of 245 Mt. Auburn Street, asked if the existing slate could be repaired rather than replaced. Or removed and replaced.

Ms. Ellsworth answered that the slates were falling off. The felt paper underneath had worn out. The Welsh slate was thin and did not usually last as long as other slates, but it was possible to buy new Welsh slate. None of the roofers that she had consulted had suggested that it could be patched because the underlayment needed to be replaced.

Ms. Dortz moved to approve a certificate of appropriateness for the asphalt shingles, as described by the applicant in either the Granite or Georgetown colors.

Mr. King seconded the motion.

Mr. Van Sickle acknowledged that slate can deteriorate to a point at which it could not be reused though he didn't know if that was the case here. He stated that 19 Lowell Street was unusual in the district. It was not a workers cottage, but was a more imposing structure with more elaborate materials and detailing than many houses in the district. He encouraged the applicant to reconsider using slate.

Ms. Burks supported that suggestion, especially because the estimates were reasonable and were not two or three times the cost of the asphalt architectural shingle.

Ms. Dortz amended her motion to include a recommendation to consider using slate. Mr. King seconded, and the amended motion passed 4-0.

**HCM-60: 245 Mt. Auburn St., by Aaron Kemp.** Replace windows, siding, trim. Remove stucco from brick foundation. Correct structural settling.

Mr. Wolkoff returned to the Commission table. Ms. Dortz left.

Ms. Burks showed slides and summarized the application for alterations to the house (built 1858).

Aaron Kemp, the owner, explained that he wanted to restore the house, which had been modified in 1929, closer to its original mid nineteenth century appearance. He said he wanted double glazed windows because the street was very noisy. He said he wanted to match the original window sizes, after inspecting the evidence under the shingles. He noted that the house was leaning dramatically to the left and that the floors were up to 9" out of level. He said he might not be able to afford major structural interventions at this time. He wanted to remove the wood shingles and replace the clapboard siding. The entry would remain on the left side of the façade.

Ms. Burks advised against a proposal for a window with sidelights on the front wall, because it resembled a mid twentieth century picture window. She cautioned that there could be zoning implications to moving or enlarging windows.

Mr. King suggested that 2-over-2 double hung windows would be more appropriate than 6-over-6 for this era of house. He asked how long the project would take.

Laurie Dietz, of 3 Sparks Place, said she had grown up on Camden Place, in a house which also had uneven floors. She cautioned that trying to fix that could open a whole can of worms and become very expensive. She supported his intention to return the house to its original appearance.

Mr. Banker asked for more information about the replacement windows, and Mr. Kemp distributed a Pella window catalogue. He said the windows only came with a PVC/Azek type casing. The casing would be 4" and he would match the existing sill dimensions. He proposed wood clapboards and removal of the stucco on the brick, which would be repointed.

Mr. King recommended delegating review and approval of all those details to the staff.

Mr. Banker moved to approve the project in concept, to restore the cedar clapboards and use 2-over-2 windows in the selected locations, with the authority granted to the staff to review and approve other construction details.



Mr. Van Sickle recommended that the new clapboards and trim be installed plumb, not parallel to the existing settled foundation and floors. He suggested that the mullion between the two windows be the same dimension as the side casings, not a double width.

Mr. Wolkoff said he was not opposed to Azek trim, if approved by the staff.

Mr. King seconded Mr. Banker's motion, which passed 4-0.

Mr. King moved to adjourn the meeting.

Mr. Wolkoff seconded the motion, which passed 4-0. The meeting adjourned at 8:24 P.M.

Respectfully submitted,

Sarah Burks  
Preservation Planner

**Members of the Public  
Who Signed Attendance Sheet October 19, 2009**

|                          |                                |
|--------------------------|--------------------------------|
| Mary Louise Kent         | 2 Foster Pl                    |
| George Kent              | 2 Foster Pl                    |
| Mary Alice Van Sickle    | 15 Brown St                    |
| James Bygar              | 24 Foster St                   |
| Karl Klaussen            | 20 Brown St                    |
| Mary E. Field            | 39 Foster St                   |
| Melvin D. Field          | 39 Foster St                   |
| Lily Delaney             | 508 Summer St, Arlington 02474 |
| William Bean             | 21 Foster St                   |
| Elias Tucker             | 46 Foster St                   |
| S. Miller Havens         | 151 Brattle St                 |
| John Greenup             | 45 Foster St                   |
| Wm. Shaw McDermott       | 1 Lincoln St, Boston 02111     |
| Jerrold & Louise Grochow | 7 Willard St                   |
| Anne Ellsworth           | 19 Lowell St                   |