

**TOWN OF GILMANTON
HISTORIC DISTRICT COMMISSION
ACADEMY BUILDING
TUESDAY, SEPTEMBER 2, 2008 – 7 p.m.
MINUTES OF MEETING**

In the absence of Chairman Perry Onion, Deborah Chase was appointed as Acting Chair. She called the meeting to order at 7:05 p.m. Also present were members Ella Jo Regan and George Carpenter and Recording Clerk Wendy Keane.

D. Chase explained public hearing procedures and then opened the first public hearing.

Public Hearing - Case #5-2008 - Tina A. Mirabella, owner/applicant: Request to paint exterior doors “Sayward Pine”, cover the metal track of barn’s sliding doors with wooden hood and repair breach in stonewall. Property located at 541 Meeting House Road in the SMH Historic District; Tax Map/Lot #414-61.

George Roberts, abutter, was in attendance and questioned the legality of the meeting with only three members of the Commission present. Recording Clerk Wendy Keane stated that she spoke with the Selectmen’s Office, received confirmation from the Board of Selectmen, as well as researched the NH Planning and Land Use Regs, and it was determined that three of five voting members of the Commission are considered a quorum; therefore, this is a legal meeting.

Mark and Tina Mirabella were in attendance to address the Commission. Mr. Mirabella stated that the only change to the application is the color of the door, and the other items are merely requests for extension in order to complete them.

Mr. Mirabella stated that when they originally sought approval from the Commission, the request included changing the color of the structure from white to red. At this time, the applicants wish to leave the house white; however, they would like to paint the front door “Sayward Pine”, which is similar to other colors currently in the Historic District. This color comes from the California Paints Historic Colors of America catalog and is an acceptable color by the HDC.

Mr. Mirabella continued that he is requesting an extension of time to complete the metal track that was originally approved for the barn door. George Roberts inquired if the metal track would be the same as the one approved at a previous meeting?

D. Chase stated that the applicants have stated that they are planning to adhere to the original track as previously approved by the Commission.

G. Carpenter stated that he is not familiar with the house and inquired which door the Mirabella’s are planning to paint Sayward Pine?

Mrs. Mirabella stated that there are five exterior doors. She explained that the trim would not be painted, only the doors themselves.

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G. Carpenter inquired whether the thresholds would be painted? Mrs. Mirabella reiterated that only the doors would be painted Sayward Pine and that the thresholds would be stained a natural color.

D. Chase inquired if the hardware to the doors were going to remain the same? Mrs. Mirabella stated that it would.

Mr. Mirabella stated that the stonewall located on the property has been widened several feet in order to access and clear the fields. Upon completion of the work, the stonewall was restored to its original state. The wall currently has an approximately 8' breach, which was present prior to the work they did.

G. Carpenter moved to enter into executive session, seconded by E. Regan. Motion carried 3-0.

E. Regan stated that she does not see any problem with the proposed color change to the doors.

D. Chase stated that she agrees. E. Regan inquired if there were any photos of the wall in question? D. Chase stated that she has not seen any, but all agreed that it would be helpful to the HDC in their decision if there were photos taken.

G. Carpenter stated that if the proposed color of the door is similar to others in the District then he does not foresee a problem with it.

D. Chase noted the facts of the application as follows:

- 1) That the house shall not be painted red and will be left white with doors painted Sayward Pine. If the applicants should decide they would like to change the color of the house in the future they would have to file another application with the HDC.
- 2) The applicants are requesting an extension to install a cover for the metal track on the barn as previously approved. It was suggested that an extension be granted until 11/4/08.
- 3) The stone wall has been restored to its original status. However, the Commission would like to view it to see if anything is strikingly out of character and verify that it is in keeping with the neighborhood.

The members in attendance discussed continuing the third item to the next regularly scheduled meeting so that they would be able to view, and possibly get pictures of, the stone wall.

G. Carpenter moved to approve facts 1 & 2 of the application as outlined above, seconded by E. Regan. Motion carried 3-0.

E. Regan moved to exit executive session, seconded by G. Carpenter. Motion carried 3-0.

Acting Chair D. Chase opened the next public hearing on the agenda.

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Compliance Hearing – Case #1-2008 – Tim Pease, applicant; Richard Fraser, owner: Follow-up to determine compliance with HDC approval of 1/29/08 to construct retaining wall, woodshed and site elevation change. Property located at 623 Meeting House Road in the SMH Historic District; Town Tax Map/Lot #414-65.

Tim Pease, the present owner of the property, was in attendance and conveyed that he was not aware of the specific plans that were approved at the 1/29/08 HDC meeting for Richard Fraser. He continued that the agreement to put monies into escrow to have the wall rebuilt to the specifications of the Commission was made between the HDC and Mr. Fraser, and not with him.

E. Regan explained that any approval or denial follows the property, not the property owner, and that the items were specifically explained to Mr. Fraser and the Realtor, Emily Bracey, who represented him at the 1/29/08 meeting.

D. Chase stated that as per the minutes of that meeting, the Commission was very specific as to the size of the rocks to be used for the stonewall, as well as the length, height, and width. She further stated that the minutes reflect that the wall is to be no wider than two stones equaling a width of 22” to 26”. D. Chase indicated that she went to the property and measured the stonewall and the measurements show that the stone wall ranges in width from 13” to 36” with some large gaps between the stones. Most of the stones do not fall within the parameters of what was approved by the HDC on 1/29/08.

Mr. Pease stated that he was not aware of any other paperwork other than the approval letter and the contract between Mr. Fraser and the stonemason. He stated that the approval letter does not specify the maximum width of the stonewall as approved by the HDC. He further stated that it is the responsibility of Mr. Fraser and the Realtor to have made sure the wall was being constructed correctly and that he does not have the funds to pay the mason to correct it.

D. Chase stated that the approval was made "per plans as amended" which included a sketch of what was to be acceptable to the Commission. She inquired if the Realtor and Mr. Fraser had received copies of the amended plans as approved. D. Chase read a letter into the record, provided by HDC Chairman Perry Onion, attached.

Clerk Wendy Keane stated that along with the approval letter, the Realtor was given a sketch approved by the Commission on what the dimensions of the wall were to be. Wendy further stated that she had attempted to contact the Realtor, Emily Bracey several times to follow up on the wall reconstruction to no avail. Wendy made the Commission aware that Ms. Bracey did not return her calls.

Discussion continued between the Commission and Mr. Pease as to what his responsibilities are as the property owner to ensure that the wall is constructed as per the Commission’s 1/29/08 approval.

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Mr. Pease stated that he does not feel that the responsibility is his because the approval letter was not clear what the dimensions were and that he was not privy to the approved sketch provided to the Realtor. He continued that when he was in the process of purchasing the property he was made aware that a Certificate of Occupancy had not been issued and that it was Mr. Fraser's responsibility to procure this document before the sale was final. Mr. Pease stated that when he purchased the property a Certificate of Occupancy had been issued by the Building Inspector based on the HDC approval regarding the stonewall and site elevation.

D. Chase reiterated that any HDC approval or denial follows the property, not the owner, and that it was not the Commission's responsibility to oversee the fact that the Realtor did not convey the approved plans to Mr. Pease. She further stated that the Commission was very clear to both Mr. Fraser and the Realtor as to what was being approved and the monies to reconstruct the wall were to be held in escrow until the wall was completed to the Commission's approval.

D. Chase stated that in addition to the stonewall there is an issue with the lean-to on the side of the house. She stated that upon her visit to the property she did not see that the cedar shingles had been installed as approved by the Commission. Nor was the trim painted white as per the same approval. Discussion continued between the Commission and Mr. Pease regarding what needs to be accomplished before the Commission grants final approval.

MOTION: E. Regan moved to enter into Executive Session, seconded by George Carpenter. Motion carried 3-0.

E. Regan stated that based on the approval granted on 1/29/08 and as per the plans as amended, it is clear that the present stone wall does not meet the HDC's requirements at all.

D. Chase asked G. Carpenter if he had the opportunity to visit the property. George stated that he had seen the property from the roadway and it is his perception that the wall is not presently constructed to what was approved by the Commission as per the 1/29/08 approval.

D. Chase read the motion from the minutes of the 1/29/08 meeting. She again stated that when she measured the wall, it ranges from 13" to 36" in width. Some rocks are too large and there are gaps between them.

E. Regan stated that she also noticed in some places there were single boulders. She also clarified that the roof on the lean-to has not been shingled per the approval, and the trim has not been painted white.

D. Chase stated that if a tree well were to be constructed as specified in the original plans, then it would have had to been done; however since the owner has opted not to construct one, that's okay.

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MOTION: E. Regan moved that in light of the information provided, below, that the public hearing be continued until the next meeting.

- 1) That the stones used to build the wall do not meet the very specific requirements set forth for height and width.
- 2) The roof of the shed does not have wood shakes and the trim is not painted white as stipulated in the original approval.
- 3) That the work has not been completed per the plans, minutes and approval of 1/29/08 and that the responsibility follows the property; meaning that the escrow cannot be released and that the new owner needs to see that the work is completed to the specifications and sketches, as amended, as well as the HDC minutes of 1/29/08.

D. Chase indicated that out of 38 stones, only 9 or 10 met the parameters of the approval.

Motion was seconded by G. Carpenter, vote passed 3-0.

E. Regan moved to exit Executive Session, seconded by G. Carpenter. Motion carried 3-0.

Mr. Pease commented that the tree that was supposed to have the well constructed around it was removed because the excavation that was performed killed the tree. He also expressed concern that neither he nor the Realtor Emily Bracey have any leverage against Mr. Fraser.

MOTION: E. Regan moved that the stone well surrounding the small trees is now irrelevant because the trees have died and have been removed. Seconded by G. Carpenter, motion carried 3-0.

ADJOURNMENT: E. Regan moved to adjourn, seconded by G. Carpenter. Motion carried 3-0.
Meeting adjourned at 9:10 p.m.

Respectfully submitted,

Wendy L. Keane
Recording Clerk