

**MINUTES  
CHARLESTOWN PLANNING BOARD  
JANUARY 6, 2015**

Members Present: Robert Frizzell (Chair); Sharon Francis (Vice-Chair); Steve Neill (Ex-Officio); Richard Lincourt, Rose Smith-Hull, Roger Thibodeau

Alternates Present: None

Staff Present: David Edkins – Planning & Zoning Administrator  
Regina Borden – Recording Secretary

**CALL TO ORDER & SEATING OF ALTERNATES:** Mr. Frizzell called the meeting to order at 7:00 PM. He noted that regular member, Pat Royce, and alternate member, John Bruno, were not present. Mr. Frizzell advised that meetings are tape recorded and asked that anyone wishing to speak identify themselves for the record.

**NORM BEAUDRY CONSTRUCTION for ST. CATHERINE’S CHURCH – Sign Permit – St. Catherine’s Cemetery – Southwest Street – Map 119, Lot 46 – Zone G-1 (Southwest Street):** Mr. Edkins advised that this new sign is being donated by Norm Beaudry. It does conform to the regulations. Mr. Neill pointed out that the design is different.

**Mr. Thibodeau moved to approve this Sign Permit for Norm Beaudry Construction for St. Catherine’s Church. Mr. Neill seconded the motion.**

Mr. Lincourt asked what material is being used for the sign. Mr. Edkins felt wood. The lettering will be black on a white background. Mr. Frizzell said it will have granite posts.

**Vote: With six members in favor, the motion was approved.**

**APPROVAL OF MINUTES OF DECEMBER 16, 2014:**

**Mr. Lincourt moved to approve the Minutes of the December 16, 2014, meeting as presented. Mr. Neill seconded the motion. Mrs. Francis made the following correction: Page 4, last paragraph, 4<sup>th</sup> line, change “Mrs. Francis wrote” to “Mr. McClammer and she wrote”. Mr. Lincourt made the following comments on the Building Code: Page 1, Building Code discussion, 7.3.1 – 2<sup>nd</sup> line, remove the word “and” before occupancy and strike “and maintenance”. Also indicate that the other modifications pertain to the second paragraph. With four members in favor, the Minutes were approved. Mrs. Smith-Hull and Mr. Thibodeau abstained as they were not present at this meeting.**

**PUBLIC HEARING – Proposed Historic District Ordinance:** Mr. Frizzell opened this Public Hearing on the Proposed Historic District Ordinance. Copies of the proposed Ordinance were available for the public in attendance.

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Mr. Edkins summarized that at last year's Town meeting the voters approved the Warrant Article to grant the Heritage Commission the duties and responsibilities of a Historic District Commission. Before they can exercise those duties and responsibilities they are required by law to prepare a Historic District Ordinance which must be adopted by the voters. The Planning Board is charged with holding a Public Hearing on the proposed Ordinance before it goes to the voters.

Mrs. Joyce Higgins, Chair of the Charlestown Historic District Commission, reported that they have been working with people at the State level, reading the RSAs, and held a number of open public meetings to get input. They took a model ordinance and modified it. After that they asked the Preservation Alliance people and Mary Kay Ryan at the New Hampshire Division of Historic Preservation to review it. The members met with the Planning Board several times.

Mr. Lincourt asked Mr. Edkins if he could comment on the next steps. Mr. Edkins explained that after this Public Hearing the PB could make revisions to the Ordinance if they wanted to, if they make substitutive revisions they have to hold another Public Hearing and that would be at the next PB meeting on January 20<sup>th</sup>. If they do not make any substitutive revisions they would make a decision on the final form of the Ordinance to be submitted to the voters and it would then go on the Ballot for a Town Meeting vote at the March 10<sup>th</sup> ballot voting session. Mr. Frizzell mentioned that it will also be brought up at the Deliberative Session. Mr. Edkins said they do not usually get into a lot of detail on zoning changes during the Deliberative Session and this would be handled in the same manner as a zoning change. There has been a change in the State Statute this year that requires when there is a zoning change proposed that would affect 100 or fewer properties the owners of those properties need to be notified by regular mail. This was done with all the property owners in the proposed Historic District; they were mailed a Notice of this Public Hearing and a copy of the proposed Ordinance. Mr. Lincourt noted if the Ordinance is approved then the CHDC will go on to develop the regulations. Mrs. Higgins said that issues to be addressed in the regulations are basically already discussed in the Ordinance. Mr. Edkins summarized that this came about as the result of the consternation over the demolition of the Hassam House for the construction of the Jiffy Mart on North Main Street. Mr. Frizzell added that they certainly had a lot of people come to meetings that did not want to see the Hassam House torn down. Mrs. Higgins noted that the only way for the people to have any say was to have a Historic District created.

Mr. Frizzell recommended that Mrs. Higgins go through the proposed Ordinance section-by-section.

Mrs. Higgins started with the Purpose, Numbers 1 through 5, came straight from the State RSAs. The first sentence "The Town of Charlestown voted in 2014 to establish a Historic District Commission" was not a part of the RSAs.

Boundaries: Mrs. Higgins read this section. Basically it will be a contiguous district from the north of Dr. Caloras' property on the west side of the Main Street and on the east side it would start at the Johnson property. On the south end of Main Street it would end by the "West" house (it sits facing north on Main Street) and on the other side it is the good sized house (first house beyond Paris Avenue). They added two properties that were not on the National Register

Historic District; one is the vacant lot on the corner of Paris Avenue and Main Street that is a buildable lot and the second one is the Dr. Caloras property on the north end. The National Register Historic District listing they had in Charlestown for 30 years was not correct so they had to work on this to make it match. They are now talking about a local Historic District. Mr. Edkins explained that the difference between the National Historic District and the local Historic District is that there is no regulatory authority that goes with the National Register Historic District.

Mr. Terry Spilsbury understood that there were two homes affected on the south side of Paris Avenue. Mr. Edkins clarified that Mr. Spilsbury's two properties that are affected are the Main House and Carriage House but the property on the corner of East and Paris Avenue is not included. Mrs. Higgins explained that they thought properties with addresses on South Main Street were included but they were not. The district does not follow property lines; it follows a demarcation line that was drawn in 1987. Mr. Edkins pointed out that the two properties still have Main Street addresses but they do not have frontage on Main Street. The Concord House does not have a Main Street address. Mrs. Higgins advised that they have now put on the Town's web-site both of the Town's Historic District maps; Main Street and North Charlestown.

Mr. Andy Jellie asked why North Charlestown was not included. Mrs. Higgins explained they had conflicting opinions from the Preservation Alliance people and the NH Division of Historical Resources about whether they could or should put in two districts that would probably have slightly different criteria. They are very different; one has a business district and the other is rural. The Commission voted to not include North Charlestown at this time to make it easier. It could be added sometime in the future.

Definitions: Some wording came from the model ordinance they used and some referred to the local Planning Board (PB) language.

Scope of Review and Certificate of Approval: This section talks about the activities requiring a review (E) and the activities that are exempt from a review (F). She encouraged people to look at the activities that are exempt because that will answer a lot of questions. Some people are concerned about things that will not require a review. The Commission might ask the applicant to come in, not to say it cannot be done, but try to advise that there are other ways to do the project. They would like to talk to people about their options but have nothing to say about interior renovations. They will look at Building Permit applications that go through the Building Inspector but only if they are in the Historic District. The Commission members did a walk through Main Street and looked at the changes since 1987. Many structures already have vinyl siding on them and replacement windows. If the Commission absolutely refuses to allow something to happen the applicant(s) would have the right to go to the Zoning Board of Adjustment (ZBA) who could overrule the Commission.

Powers and Duties: This is spelled out in the State RSAs. The Commission is supposed to adopt design guidelines and standards. Mrs. Higgins stated that this will all be written down so everyone will have a copy of the information. They want to keep the Town looking good and keeping its historical appearance. They do not want to see more buildings get torn down and Main Street start to look like a strip mall.

Mr. Jellie went to some meetings and the majority of the people wanted guidelines but the Commission blocked that. Why can't they put guidelines in to back-up everything otherwise after this is voted in the property owners can just hope that they will do what they presented. He is all for the Historic District but would like to see the guidelines. Mrs. Higgins pointed out that this came up so much that she sent it to two different people to review and the Commission was told it is not the way it works; most of what is in the Ordinance is pretty much what they will get. Mr. Jellie read some of the suggested guidelines that stated no parking in front of the buildings, no solar panels on the back of houses, etc. He has a problem with all of them. Mrs. Higgins said it is mostly what you can see from the road.

Ms. Chaffee attended all the meetings and did some research since the last meeting. She reached out to Mary Kay Ryan at the State level who sent her some information. A report was done in 1997 that explains the steps and it does state they have to adopt the ordinance first. She read a portion of the report. There are a number of examples that show it is done in multiple steps.

Ms. Clair Lindo read her written statement that included some of the following. She understands the desire to have a Historic District on Main Street. She too was sad to see the demolition of the two buildings but she strongly objects to the ordinance being adopted before the regulations. She wants to know what the regulations are and strongly objects to their powers for approval. As a business owner she wants to grow and make changes; she has concerns and fears over this. Both she and her husband agree with preserving Main Street but not a demand as to what they can or cannot do. She is not okay with an Ordinance that gives this Commission unlimited authority to make decisions on what every property owner on Main Street can or cannot do.

Mrs. Judy Murray wants to know what the process will be if someone gets a Building Permit in the Historic District. Mr. Edkins advised if it is a residential property the Building Inspector would refer it to the CHDC. The PB has no jurisdiction over one-and-two family residences. The Building Inspector makes his judgment based on what the Building Code states but not this Ordinance. If a Building Permit application in this district came in the Building Inspector would refer that Building Permit to the CHDC. If it was a commercial or industrial property or even a residential property that contained more than two units it would go to the PB and the CHDC. The Building Code has to do with safety, not appearance. The Building Inspector would not issue a permit until he gets approval from the CHDC.

Mr. Jon LeClair, Building Inspector, continued the discussion between the Building Inspector and the Heritage Commission. He cares about what somebody does on the inside of a building. According to code if somebody wants to turn a den into a bedroom they have to have certain size windows for egress, etc. This changes the appearance of the building on the outside. What will happen in these situations? Mrs. Higgins responded that they would discuss this with the Building Inspector. Every case will be different. Mr. LeClair pointed out that the Commission will want to review everything but if they do not want a change what will happen. This is where the guidelines come in. Mrs. Higgins said it would be reviewed; the homeowner would come in to explain the reason. She cannot see the Commission saying "no" very often. Mr. Spilsbury feels this cannot be left ambiguous; his reading of the Ordinance is that it is an overlay of existing jurisdiction. A person that comes in for a Building Permit will have to get an affirmative answer from both otherwise one could put a stop to the other. Mr. Frizzell feels it is

to save some old houses on Main Street. There is no simple answer. Mr. Spilsbury also attended several Commission meetings; not a single comment he made was incorporated. The demolition of the Hassam House was nothing that the PB could have addressed. He is passionate about historic preservation but is opposed to this Ordinance. They should be looking for solutions to demolition but instead pulled out a template for a Historic District that affects about 68 structures. Within those 68 structures there are non-conforming structures like the banks and historic public buildings like the Bakery building, old Town Hall and Library. He believes there are only 21 buildings that are single or two-family buildings. This Ordinance will not do anything to commercial structures. Mr. Spilsbury referenced the Definitions as they are very potent. He does not feel that anything Mrs. Higgins says can be relied upon as legal. The dilemma of this is that if the Ordinance goes forward in March and is approved by the voters then the CHDC will develop regulations that will not be voted upon by the Town. The Ordinance will be voted upon by all the voters in Town but will only affect about 68 properties.

Mrs. Murray said this could not have been done prior to the Jiffy Mart and Dollar General Store therefore she agrees with Mr. Spilsbury in that most of the single family property owners do not need to be told what to do to feel responsible for the history of their homes. However they will not always be the owners. She applauds Mrs. Higgins and the Commission members for their work but she feels that with more discussion about it and more public meetings they can come up with something that is fair to the homeowners.

Mr. Vincent Jordan stated that before one builds a house or approve things they need a foundation. This is the beginning of a way to save this Town from becoming a strip mall. The Ordinance does not say how many people can sit on the Commission; people can join. Something has to happen to preserve this Main Street. Mr. Frizzell clarified that the commission members must be appointed by the Selectboard.

Ms. Chaffee attended the last PB meeting when Mrs. Francis referred Mr. Laughlin's book; when Mrs. Francis was referring to his opinions she said it should be broad strokes. This is that broad stroke. Mrs. Francis said it might be appropriate to quote from Mr. Peter Laughlin and the book he updates every two years called "New Hampshire Practice - Land Use Planning and Zoning". He documents case law, the RSAs and the interpretation of them, so it is invaluable guidance for communities attempting to deal with further protection of our historic heritage. She read a quote from Section 34:10 Historic District Regulations. One of the issues in her mind now with what they have before them is that the proposed Ordinance is purely the result of Concord and the NH Preservation Alliance; they are fine people. She is disappointed that with the many suggestions made to the CHDC so far they have listened to the experts in Concord and they would be better served if they listened to the residents in Charlestown. Both she and Mr. McClammer spent more than a day reviewing ordinances all over NH and a number of them do include criteria and guidelines within the Ordinance. They need to give the voters a foundation of what the criteria will be.

Mrs. Francis had several questions. She asked if the CHDC will include a demolition permit in the proposed Ordinance; will they include this in their regulations. Mrs. Higgins responded that they are thinking about this; it is mentioned in the Ordinance. The basis of this was written by two attorneys and they felt that was what they should do. The Commission wants to talk about

this. If the Ordinance should pass they intend to have public meetings to get input for the regulations. The Commission feels it is safer for them and the Town to stay within what the experts say and that is what they tried to do to the best of their ability.

Mrs. Francis questioned what the role of people in Charlestown was and their ability to make suggestions; a number of other people have attempted and have been rebuffed by the Commission. Why should people in this room believe that when this gets to the regulatory stage the Commission will listen when they will not listen now? Mrs. Higgins said they have listened to everyone but some suggested things are not in accordance with what they have been told to do; some were opinions. They know that most people value their houses and take care of them.

Mr. Thibodeau commented that nobody was waiting in the wings to buy the Hassam House or the Charlestown Inn. Nobody was living in them for many years. What would they have done with these properties? How long would they wait? It is expensive to tear down a house but even more expensive to rehabilitate it. It leaves an option to tear it down and rebuild another structure. Mrs. Higgins noted that they will never have anything to do with who sells to whom. She has a problem with not have any regulations at all. She objects that houses are allowed to deteriorate to the point that she agrees it should come down. Mr. Thibodeau thinks the intent of this Ordinance was to stop something like the demolition of the Hassam House but not what the Spilsbury's or the Clark's want to do with their windows.

Ms. Lindo stated that once this Ordinance passes the property owners will have no recourse on the regulations. She feels they need an ordinance to preserve Main Street but this ordinance does not accomplish the goal of not turning it into a strip mall.

Reza Marukelli agrees with most everybody's goals. Their animal hospital needs repairs but they intend to make the repairs and have no intention of moving. If they want to make improvements they should not have to ask permission even though they meet the guidelines. They do appreciate the Historic District but what makes them nervous is that too much power would be handed to a few people and it makes them uncomfortable. When they first read the ordinance they liked it but now they do not feel confident that their viewpoint would be heard. If there was a different format to this and if there were guidelines they would feel different.

Mrs. Francis mentioned that every voice she heard tonight is sympathetic; they cherish the historic heritage in Charlestown and want to do justice to it. There are a lot of ways to improve the prospects when a property is on the edge of demolition or preserving. It would be nice to preserve our properties before a crisis hits. She would like to think that putting together an educational piece of information for Main Street property owners on maintaining the authenticity of their properties would make a difference. What are their options, remodeling or sale, something illustrated that would be easy to understand and that is legally correct.

Mr. Frizzell asked where they go from here. Mr. Edkins recommended that they could close the Public Hearing, and then the PB would have to decide if they want to make changes and, if so, a notice would have to be sent by Friday for a second Public Hearing to be held on January 20<sup>th</sup>. They could make minor editorial changes without holding another Public Hearing. Ultimately the PB would have to decide what the final form of the Ordinance is that they will present to the

voters. That can include that they are not going to present it to the voters. If they decide to present the Ordinance to the voters it would be placed on file in the Town Clerk's office, there would be an Article on the Warrant, and it would be a question on the ballot. The one other piece of the puzzle is that in the statutes there are provisions for a Protest Petition. If the owners of 20% of the properties that would be affected by this Ordinance submit a Protest Petition at least seven days before the actual vote; it would then require a two-thirds vote to pass rather than a simple majority.

Mr. Thibodeau noted that under the Powers and Duties who would develop the guidelines and standards to be adopted. Are professionals or qualified people involved? Mrs. Higgins advised that the RSAs say that the CHDC makes those decisions.

Mr. Spilsbury mentioned that there is a broad array of things that would not require a Building Permit. Is there a trigger point with the Historic District Commission? He spoke about the appeals time period of 30 days. Mrs. Higgins stated that they have to keep written records of everybody they talk to. The ZBA does not have to read what the CHDC writes down. Mr. Edkins clarified that on the appeals process if either side disagrees with their decision they can request a re-hearing before the ZBA. Either way if either party does not get a desirable decision from the ZBA they can appeal to the Superior Court.

Mrs. Francis explained to Mr. Jordan that the voters voted that the Charlestown Heritage Commission assume the duties of the CHDC but it did not say ordinance, controls, etc. Mr. Jordan felt if the voters decided on that then they should have the right to vote on the ordinance.

Mr. LeClair feels we rely too much upon the State's authority to tell us what we will do but who knows better than the people of Charlestown. It should be done by us and not the RSAs. He does not necessarily agree that if somebody owns a piece of property that they should be told what they can or cannot do with it.

Mrs. Francis asked Mr. Edkins if this ordinance is referred by the PB to the voters and the voters approve it do we have information on what it will cost to carry it out. There is a lot of record keeping, mapping, etc. Mr. Edkins said it is hard to know because we do not have any experience. Mr. Thibodeau asked how it will be implemented. Mr. Edkins felt if there is a Public Hearing on an application there would be the costs of advertising the Public Hearing and notifying the abutters. They do not know how many applications there will be in a given year.

There were 21 people in attendance during this Public Hearing.  
Mr. Frizzell closed this Public Hearing at 9:06 PM.

**PUBLIC HEARING – Proposed Building Code Revision:** Mr. Frizzell called this Public Hearing on the Proposed Building Code Revision to order at 9:08 PM. Copies of the proposed Building Code were available for the public.

Mr. Edkins advised that this is a proposed revision of the Town Building Code. The primary purpose is to bring it into conformance with the current NH State Building Code and State Fire

Code. The codes currently in place are well over 20 years old. State statute requires that if they are going to enforce a building code it must be the State Building Code that they enforce. The Town's code currently refers to the 1996 BOCA Code and the Fire Code, the 1994 Life Safety Code and the 1993 National Plumbing Code; those are grossly outdated. There are a couple of other minor editorial revisions to this document.

Mr. Frizzell asked Mr. Jon LeClair, Building Inspector, and Mr. Bud Von Ahnen, Deputy Building Inspector, if they had reviewed the document. Mr. LeClair was glad to see that some of the sentences / sections from the current Building Code were taken out of the proposed Building Code as well as when a Building Permit is required. They were requiring Building Permits that are more restrictive than this revised form. It should state that when adopted it complies with all International and State Building Codes. The codes have minor guidelines but they can enforce them with stricter guidelines. Mr. Edkins pointed out that this refers to the NH Building Code and states that it may be amended from time to time. Mr. LeClair and Mr. Von Ahnen have been enforcing these newer codes. Mr. Edkins pointed out that if they did not have this the Town would not have a Building Code; State law says that if you are going to enforce a Building Code it has to be the State Code but there is nothing that says they have to enforce a Building Code so there has to be something on the local level that gives them the authority to do that.

Mr. Frizzell closed this Public Hearing at 9:19 PM.

**Building Code:** There was a consensus to wait until the next meeting on January 20<sup>th</sup> to make a final decision on approval of the Building Code revision. Mr. Thibodeau requested more time to review it. This will be on the Agenda for the next PB meeting.

**Proposed Historic District Ordinance:**

**Mr. Thibodeau moved that the PB hold this Historic District Ordinance for one year for the Commission to do more research and to come up with more information. There needs to be more substantiation for their Ordinance. This is the decision after listening to the public after this Public Hearing. There are still a lot of questions to be addressed; one of which is how historic buildings will be torn down. Mrs. Smith-Hull seconded the motion.**

The biggest concern that Mr. Edkins heard expressed was that people do not know what they will get for regulations after the Ordinance is adopted. He wondered if it would be worthwhile to suggest to the Commission that they work on some regulations to say that if this Ordinance passes these are the regulations they intend to adopt.

Mrs. Francis distributed "Issues with Proposed Historic District Ordinance" that she wrote. She feels that maybe it needs to be done by local people. The Commission could be advisory to the PB. Mr. Edkins suggested that they put together some regulations so people know what they will be getting if they adopt this Ordinance. Until they have an actual Ordinance the PB is more than willing to refer applicants in the Historic District to the CHDC for advice.

Mr. Lincourt is in agreement with the comments. There are too many unanswered questions now for him to put it on the ballot.



Mr. Thibodeau felt there needs to be more clarity, how will it be set up and operated and what costs will be associated with it.

Mr. Neill heard over and over again from some people that attended the Commission meetings and made suggestion that Mrs. Higgins and the other Commission members did not address the concerns. He assumes the above motion will pass but if the Commission does not come back with anything different the PB will be in the same position a year from now. He assumes the voters that voted for this last year did so because of the Jiffy Mart as they felt it would eliminate the potential for another commercial building. This Ordinance will not solve that.

Mrs. Francis proposed deferring this Ordinance for one year and to invite the Commission members to work with the PB on an Ordinance to go to the voters the following year.

It was mentioned that the other Commission members present at this meeting besides Mrs. Higgins were: Joanne Hipp, Duane Wetherby, and Wes Van Velsor. There are five members on this Commission.

**Mr. Neill moved the question.**

Mr. Lincourt pointed out that there was a lot of good faith work put into this. If the PB is going to make a decision to table this Ordinance for one year they need to give the Commission clear reasons why they are doing this. Each person can put their list together and bring it back to the next meeting. Mr. Thibodeau felt he could wait two weeks and then make the motion that would include the list of concerns.

**Mr. Thibodeau withdrew his original motion. Mrs. Smith-Hull withdrew her second to the motion.**

**Mr. Thibodeau moved to table taking any action on this Ordinance until the next meeting on January 20<sup>th</sup>. Mrs. Smith-Hull seconded the motion. Mrs. Francis added that the PB is doubtful that this Ordinance will work therefore they are putting together a list of concerns and deferring a decision until the next meeting. Mr. Thibodeau and Mrs. Smith-Hull accepted this amendment. With six members in favor, the motion was approved.**

**PLANNING & POLICY ISSUES:**

**Next Planning Board Meeting:** Mr. Edkins advised that there is no New Business for the next meeting on Tuesday, January 20<sup>th</sup>, 2015.

**ADMINISTRATION & CORRESPONDENCE:**

**Dollar General Store:** Mr. Edkins advised that the Dollar General Store has applied for a Combination Beer, Wine and Tobacco license from the State of NH Liquor Commission.

**ADJOURNMENT:**

**There being no other business, Mr. Thibodeau moved to adjourn this meeting. Mrs. Smith-Hull seconded the motion. With six members in favor, the meeting was adjourned at 9:55 PM.**

Respectfully submitted,  
Regina Borden, Recording Secretary

Minutes Filed: 01-12-15

**(Note: These are unapproved Minutes. Corrections, if necessary, will be found in the Minutes of the January 20, 2015, Planning Board meeting.)**