

**HERITAGE COMMISSION**  
**MINUTES**  
**July 6, 2006**

The Heritage Commission held its regular monthly meeting in the City Council Chambers at 37 Green Street, Concord, NH, on Thursday, July 6, 2006, at 4:30 PM.

Present at the meeting were James McConaha, Chair; Members Phil Donovan; Carol Brooks; and Robert V. Johnson II; and Alternate Member Elizabeth Hengen who was seated for an absent member. Doug Woodward, City Planner; and Kathy Temchack, Chief Assessor, were also present.

The meeting was called to order by Chairman McConaha at 4:45 PM.

1. The Commission considered the minutes of June 1, 2006. A motion to approve the minutes was made by Ms. Hengen and seconded by Ms. Brooks. Motion passed.
- 2a. The Commission gave further consideration to an Agricultural Discretionary Easement Application at 100 Iron Works Road. Ms. Brooks discussed the statutory purposes and public benefits pursuant to RSA 79-D that could lead to a recommendation from the Commission for a reduction or abatement in the assessment. She further suggested a ranking system to assist the Commission in reaching a decision.

Mr. Johnson moved to deny the application, and Mr. Donovan seconded the motion. Mr. Johnson recalled last month's discussion, noting that he had made two site visits, and indicated that he does not believe that this application meets the three statutory criteria.

The Chief Assessor noted that a reason for denial must be stated.

Ms. Brooks spoke in opposition to the motion, indicating that she felt that this application should qualify for a small rebate, consistent with the lower percentage of public benefit.

Ms. Hengen indicated that she felt the scenic enjoyment is limited as the structure is not highly visible to the public, the structure is not on the National Register or deemed eligible therefore, and there is no local history associated with the structure, so therefore she supports the motion.

Chairman McConaha indicated that he cannot support the application but thanked Ms. Brooks for her analysis of the statute.

Mr. Donovan cited RSA 79-B:5 relative to the value of the structure vs, the loss of tax revenue. He supports the motion.

The Chair called for a vote and the motion passed 3 to 1 with the Chair not voting. Ms. Hengen's rationale for supporting the motion was cited as the basis for the vote, and it was

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noted that the applicant had been asked to supply information on the history of the structure and had not.

- 2c. The Commission then considered application of the NH Political Library in the Historic District. The first step is to make a determination of completeness of the application prior to setting the matter for public hearing. Christopher Carley, architect and agent for the application, explained the application to the Commission consisting of a stair tower to be added to the barn (which is to be converted to a museum and offices), creation of a new entry, and alteration of a roofline. A longer range plan was submitted to the ZBA to include a visitors center, but it is unknown as to the timing of such. The visitor center would be connected via the stair tower to the museum.

Members of the Commission asked about materials to be employed and specifications for the same. They asked to have a more detailed explanation with a listing of the proposed changes, and they requested existing photos as well as photo-simulations of the stairway and the ell with the new entry and roofline changes.

Historic District neighbor Eric Steinhauser was recognized and asked a question. The presence of Ward Councilor Dick Lemieux was also acknowledged.

The Commission found that the application as presented was not complete and requested a bulleted narrative so that they might gain a better understanding of the scope of the work contemplated including changes to the manse and the site, as well as the background and reasoning for the changes. They asked for details and specifications of the materials, both new materials where there will be new additions, and old materials where replacement is proposed. They also requested before and after photos and photo-simulations of the building with particular focus on the new entry, the stairway addition, and the altered roof line.

The City Planner was asked to send to the applicant a summary of the Commission's concerns and requests. Once additional materials are submitted, a member or members of the Commission will review the same to make a determination of completeness. If deemed complete, the Commission will employ email to communicate and decide on a meeting date and time. The Commission's regulations require a two week notice, and Mr. Woodward indicated that does not include the day the notice is sent or the day of the meeting, and there is a need for some lead time to prepare the notice for mailing.

5. New Business – A new Historic District application has been submitted by Eric Steinhauser at 11 Horseshoe Pond Lane for replacement of a stone walkway with brick. The house was built in 1984. Mr. Steinhauser explained his application. The Commission declared it complete and set it for a hearing at the next regular meeting on August 3, 2006. They requested a photograph of the existing walkway and a specification of the proposed brick.
- 2b. Chairman McConaha indicated that he had arranged for a Historic District Commission Training Session to be held on Monday, August 17, 2006 at 3 PM. He provided copies of current rules, regulations, and application forms. A staff member from the NH Division of Historical Resources will conduct the training session.

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- 2d. Ms. Hengen reported for the Master Plan Subcommittee that she had completed her final edits. Chairman McConaha asked that he and subcommittee member Richards be given a final look prior to submitting it to the Planning Board.
  
5. More new business – Mr. Johnson inquired about the proposals by the State of NH for parking garages in the Civic District. The City Planner indicated that the Planning Board and City Council were trying to arrange a joint meeting for a briefing by the State. The Commission indicated that they would like to be a participant in this process. It was agreed that the Chairman will write to the Mayor and City Council to express the Commission interest in being party to the meeting.

The Commission discussed amending the Historic District application form. They also asked the City Planner to provide copies of the sections of the Zoning Ordinance that relate to the Historic District.

Meeting was adjourned at 7:00 PM.

A TRUE RECORD ATTEST:

Douglas G. Woodward  
City Planner; Secretary pro-tem

## Excerpts from the Concord Zoning Ordinance with respect to the Historic District

### 28-3 Overlay Districts

28-3-1 Generally. Certain lands within the City of Concord are included in the following Overlay Districts for the purposes so stated in this Article, and as shown on the Zoning Overlay District Maps, and established pursuant to Section 28-2-2, Zoning Districts Established, of this ordinance. The Overlay Districts are superimposed upon the Base Districts, and the provisions of each Overlay District shall be in addition to the provisions of the Base Districts. Land subject to the restrictions of a Base District and one or more Overlay Districts shall be used only if and to the extent that a proposed use is permitted both in the Base District and the applicable Overlay Districts. Wherever the regulations differ between the Base and Overlay Districts, the regulations that impose the more restrictive provisions or the higher standards shall control.

#### 28-3-4 Historic (HI) District.

(a) Purposes of the HI District. The HI District is established for the purpose of preserving and safeguarding the heritage of the City by:

- (1) Providing for the protection of buildings, structures, sites, and areas that represent significant elements of the City=s cultural, social, political, and architectural history;
- (2) Enhancing the visual character of the City by encouraging new construction to respect established architectural traditions
- (3) Fostering public appreciation and civic pride in the City=s historical resources;
- (4) Strengthening the City=s economy through protection and enhancement of the attractiveness of the community to residents, tourists, and visitors;
- (5) Conserving property values within the City of Concord; and
- (6) Promoting the use of the HI District for the education, pleasure, and welfare of the citizens of Concord.

(b) Authority for the HI District. The HI District is established in accordance with the provisions of RSA 674:46, Authority Granted.

(c) Certificate of Approval Required in the HI District. Within the HI District, no construction or activity shall occur which will affect the exterior appearance of a building, structure, or site, and that is or will be visible from a street or limited access highway, unless a Certificate of Approval shall have been issued therefor by the Heritage Commission in accordance with the procedures specified in Section 28-9-5, Decisions by

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the Heritage Commission, of this ordinance. Activities which require a Certificate of Approval include the following:

- (1) The erection, construction, alteration, reconstruction, restoration, relocation, sandblasting, abrasive cleaning, siding, or demolition of a building or structure;
- (2) The erection, alteration, or removal of any exterior feature of a building or structure;
- (3) The erection, construction, alteration, reconstruction, restoration, relocation, or removal of any stone wall, fence, masonry work, walkway, pavement, exterior lighting fixture, or sign; and
- (4) Any site work including excavation, grading, or paving, or the removal of any significant tree.

(d) Activities Exempt from a Certificate of Approval in the HI District. The following activities are exempt from the requirement for the issuance of a Certificate of Approval by the Heritage Commission:

- (1) The ordinary maintenance and repair of a building or structure provided that there is no change in the design, dimensions, materials, or appearance of the architectural features of the building or structure;
- (2) The painting or repainting of a building or structure including changes in color;
- (3) The construction of accessory structures provided that no accessory structure has a gross floor area in excess of one hundred twenty (120) square feet; and
- (4) Interior alterations of a building or structure to the extent that such alterations are not visible from the exterior of the building or structure.

(e) Notification of Other Applications in the HI District. Whenever an application or appeal to the Zoning Board of Adjustment, the Planning Board, or the Technical Review Committee directly concerns or involves a property within the HI District, notification of said application or appeal, including the date of any hearing thereon, shall be given to all owners of property in the HI District by first class mail at least ten (10) days before the date of the meeting at which the Board or Committee will consider the application or appeal. For parcels added to the HI District after the date of adoption of this ordinance, the notification for an application or appeal related to such parcel shall be limited to owners of property within the HI District that are within three hundred (300) feet of the exterior boundary of the parcel.

## Excerpts from the Concord Zoning Ordinance with respect to the Historic District

(a) Generally. Consistent with the Code of Ordinances of the City of Concord and the New Hampshire Revised Statutes Annotated, the City shall establish or designate such boards, commissions, committees, and departments as may be necessary for the administration and enforcement of this ordinance. Such boards and departments shall have the authority, powers, and duties as conferred or imposed by this ordinances, the Code of Ordinances, and the New Hampshire RSAs.

(b) City Departments. Among the several City Departments created pursuant to Article 30-2, Municipal Departments, of the Code of Ordinances, the Community Development Department has been assigned primary responsibility for the administration and enforcement of this ordinance.

(c) City Boards. The following City boards, commissions, and committees have been established or designated to have specific administrative powers and duties within this ordinance:

(3) Heritage Commission. Pursuant to RSA 673, Local Land Use Boards, and Section 30-3-11, Heritage Commission, of the Code of Ordinances, a Heritage Commission has been established consisting of seven (7) members, appointed in accordance with said authority. The Heritage Commission was designated to assume the duties of the historic district commission, and has promulgated and adopted rules of organization and procedure.

### 28-9-3 Decisions by the Zoning Board of Adjustment (ZBA).

(a) Generally. In accordance with the powers granted by RSA 674:33, Powers of the Zoning Board of Adjustment, the ZBA shall hold hearings and make decisions on the following:

(5) Appeals of decisions of the Heritage Commission, in accordance with RSA 677:17, Appeal When Zoning Ordinance Exists;

(e) Other Appeals.

(2) Decisions by the Heritage Commission. The ZBA may hear and decide appeals of decisions by the Heritage Commission involving interpretations or applications of the Historic District regulations. These appeals shall be treated and considered in the same manner as administrative appeals.

### 28-9-5 Decisions by the Heritage Commission.

## Excerpts from the Concord Zoning Ordinance with respect to the Historic District

(a) Requirement for a Certificate of Approval. A certificate of approval is required from the Heritage Commission pursuant to Section 28-3-4, Historic (HI) District, of this ordinance, prior to the issuance of a permit within the HI District for any construction or activity which will affect the appearance of a building, structure, or site, and that is or will be visible from a street or interstate highway.

(b) Application and Review Procedure.

(1) Application Form, Fees, and Submission Materials. The application form and fees for a certificate of approval in the HI district shall be as provided in the Historic District Regulations, duly promulgated and adopted by the Heritage Commission. An application shall be accompanied by any and all plans and materials submitted pursuant to this ordinance and to the Building Code. The Heritage Commission may request supplemental information as may be necessary to clearly understand and consider the location, use, materials, colors, and the nature and extent of improvement or change relative to the activity for which the application is filed. Supplemental information may include site plans, building elevations, samples of materials, photographs, sketches, or other information that may assist the Commission in reaching a decision on the application.

(2) Notification. A notice of a public hearing on an application shall be given to the applicant and to all property owners in the HI District by first class mail not less than ten (10) days before the date of the hearing. Notice shall also be given to each member of the Heritage Commission. A public notice shall be posted in two (2) separate and distinct public places, or placed in a newspaper of general circulation in the City, not less than ten (10) days before the date of the hearing.

(3) Public Hearing. At the public hearing, the Heritage Commission shall hear or receive oral or written testimony from the applicant and HI District property owners, and any others who can demonstrate that they are directly affected by the application upon which the hearing is being held. The Commission may convene or reconvene the public hearing at the site of the proposed action in order to allow observations concerning the building and/or site to become part of the record of the hearing and decision by the Commission.

(4) Requests for Reports. Before taking final action on any permit application, the Heritage Commission may request reports and recommendations from the Planning Board, administrative officials of the City, or such professional, educational, cultural, or other organizations or persons as the Commission deems necessary in order to reach a decision on the application.

(5) Action on the Application. The Heritage Commission shall vote to approve, disapprove, or approve with conditions, each application upon which a hearing has been held. Action on the application may be tabled by the Commission from the date of the hearing to another meeting of the Commission. A majority vote of

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a quorum of the Commission members shall be necessary for a decision on an application. Only members who were present at the hearing may vote on the application.

(6) Issuance of a Decision. Within forty-five (45) days after the submittal of the application, the Heritage Commission shall issue a Certificate of Approval or a Notice of Disapproval. Failure to make a decision on an application within the forty-five (45) day period shall constitute approval by the Commission. A Certificate of Approval shall describe any conditions or stipulations of the approval, and a Notice of Disapproval shall state the reasons for the decision. Within seventy-two (72) hours after a vote on an application, a written record of the decision shall be available for public inspection at the office of the Commission. The record of decision shall state whether the application was approved or disapproved, include any conditions of approval, and in the event of disapproval, state the reasons for the decision.

(c) Standards for Review of Applications. In reviewing an application, the Heritage Commission shall take into account the purposes of the District, and give consideration to the following:

- (1) The historical and architectural significance of the building or structure and its setting;
- (2) The general compatibility of the proposed exterior modifications including design, scale, arrangement, textures, colors, and materials in relationship to the existing building or structure and its setting, and to the HI District as a whole;
- (3) The general size and scale of proposed new construction in relationship to the existing surroundings, including such factors as the building height and mass, orientation to adjacent streets, type of roof, fenestration, materials, colors, and architectural details;
- (4) The design, scale, arrangement, textures, colors, and material of site features and improvements including yards, parking lots, driveways, walkways, signs, and landscaping as they affect the setting for a building or structure and the character of the HI District;
- (5) Where the application involves a partial demolition, the extent to which such demolition will diminish the historical and architectural significance and disrupt the integrity of the design of the overall structure; and
- (6) Where the application involves a complete demolition, the structural condition of the building, the extent to which it is a contributing element to the historical and architectural significance of the HI District, and the foreseeable or reasonable uses for the building within the context of the permitted uses in the HI District.

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(d) Appeal of a Decision of the Heritage Commission. Any person aggrieved of a decision of the Heritage Commission shall have a right to appeal to the Zoning Board of Adjustment (ZBA) in accordance with Section 28-9-3, Decisions by the Zoning Board of Adjustment (ZBA), of this ordinance.

(e) Expiration of Certificate of Approval. If a permit, for which a Certificate of Approval has been issued, has not been exercised within two (2) years from the date of the decision of the Heritage Commission to issue the Certificate, or, in the event of an appeal of that decision to the ZBA, within a two (2) year period from the date of the decision of the ZBA, then the Certificate shall be deemed to have expired and the Heritage Commission's decision rendered null and void. Upon request, submitted prior to the date of expiration, the Heritage Commission may extend the period of validity of a Certificate of Approval for one (1) additional year provided that the applicant presents evidence of a good faith effort made to commence the use or construction so authorized by the Certificate of Approval, that the delay in commencement was beyond the applicant's control, and that the circumstances relating to the property and the surrounding neighborhood have not changed substantially since the date of the original decision. Once an extension has been granted, should the use or construction so authorized by a Certificate of Approval not be commenced within the one (1) year extension period, then the Certificate of Approval shall be deemed to have expired and the Heritage Commission's decision rendered null and void.