

**MINUTES
DEMOLITION REVIEW COMMITTEE
PORTSMOUTH, NH**

400 LITTLE HARBOR ROAD (A.K.A. CAREY COTTAGE)

**EILEEN DONDERO FOLEY COUNCIL CHAMBERS
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

6:30 P.M.

May 07, 2019

MEMBERS PRESENT: Elizabeth Moreau, Chairman; Jon Wyckoff, Historic District Commission Representative; Robert Marsilia, Chief Building Inspector; Barbara Ward, Portsmouth Historical Society Representative; Nicholas Cracknell, Planning Director Designee

MEMBERS ABSENT: N/A

ALSO PRESENT: N/A

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I. APPROVAL OF MINUTES

A. January 23, 2019

*It was moved, seconded, and passed by unanimous vote to **approve** the January 23, 2019 meeting minutes.*

**II. STATUS OF DEMOLITION REVIEW FOR: 400 LITTLE HARBOR ROAD
(a.k.a. Carey Cottage)**

Chair Elizabeth Moreau explained the procedure for a demolition review, stating that the goal was to decide whether or not the structure had historical significance.

III. PRESENTATION FROM THE APPLICANT

Society for the Protection of New Hampshire Forests, Owner

Attorney Elizabeth Boepple, legal counsel for the Society for the Protection of New Hampshire Forests (or Forest Society) was present on behalf of the applicant. She introduced Jack Savage, Vice-President of Communications and Outreach for the Forest Society. Mr. Savage gave a brief history of the Forest Society, emphasizing that they were a forestry organization, land trust, and an advocacy as well as an education organization. He stated that they conserved land by acquiring it, and by acquiring conservation easements. Attorney Boepple gave a brief summary

of the demolition process that the applicant went through with the City. She said the Forest Society did not dispute the building's historic background but had the right as a private property owner to do what they wanted with the property, within limits set by zoning as well as limitations based on the Society's mission and purpose, including land stewardship, public access, and land trusts.

Mr. Savage reviewed how the Forest Society acquired the property, pointing out that the property was sold to them in 2000 with a deed that had a provision requiring that the Forest Society demolish the house no later than two years after the death of the grantor and maintain the property in an undeveloped state to allow Portsmouth citizens to enjoy it. He said the responsibility to maintain the appropriate use was in the Forest Society's hands, but a Trustee appointed by the grantor would oversee the Forest Society in perpetuity. He said that money couldn't be raised to restore the Carey Cottage, even though they negotiated for 18 months with a prospective tenant who decided not to proceed. He said another prospective party also withdrew. He noted that the Music Room was small enough to be maintained at a renovation cost of \$750,000 and that the entire property site would be open to the public. He said it would cost around 3-4 million dollars to restore the building and that any tenant would be required to maintain the historic character of the home. He emphasized that the cottage was constrained by being surrounded by public and private uses, with no room to expand parking, and that a new water line would be necessary. He said all those negatives discouraged potential tenants, especially non-profit ones. He said the mission of the Forest Society was to protect the 35 acres and that there was nothing they could do with the cottage, so they had to demolish it per their agreement with the landowner. He noted that there were a few parties who were interested.

Mr. Marsilia asked whether the Forest Society would delay the application process, seeing that there were two interested entities. Mr. Savage said they could determine if there were viable options in the time they had. Mr. Marsilia asked whether Plan B was to preserve the Music Room and the upstairs story. Mr. Savage said they considered removing the upstairs room for aesthetic and safety reasons, but it would require donations from the community and there was no current funding activity because people wanted to see the outcome of the demolition process.

Ms. Ward asked what the conditions were in terms of use. Mr. Savage said the entities wanted to remain anonymous and that the use was a non-profit one that would be compatible with the Society's purposes for managing the property, such as public access and protection of natural resources. Ms. Ward asked why the Society wanted to go forward with the demolition process. Mr. Savage said they had been looking for a solution for 20 years and had gone through two long negotiations that didn't work. He said they had nothing in hand with the current entities, and if it resulted in no prospective tenants, they would go forward with the demolition. He noted that they already had the money to demolish the building.

Mr. Wyckoff said it seemed that, when a lot of non-profits were begging for money and the Society had a building that wasn't falling down and would spend \$130,000 to tear it down, it wasn't their mission as a forest society. He asked how they justified spending that money to their membership. Mr. Savage said they weren't in a position to raise money for historic preservation but had set aside funds left over from the Cornell University lease to demolish the building. Ms. Ward asked whether Cornell University had done periodic maintenance, as required in the lease.

Mr. Savage said they installed new heating units and kept the building going but didn't renovate it. Ms. Ward said the Forest Society's legal obligation was to enforce what was in the original lease. Mr. Savage said that was different because they had a lease with an entity who promised to raise \$5 million to renovate the building and then pulled out.

Chair Moreau asked if the applicant had considered selling the building and leasing the land. Mr. Savage said they had, but it raised other issues, including that the buyer might want to resell the building to another entity but would have to be approved by the Trustee. He said it was difficult to realize a gain on that investment because it was a heavily-burdened property, and that someone had to have a use that was perfect for the site or cared so much for Carey Cottage that they were willing to do it. Chair Moreau said she was thinking of a non-profit.

Mr. Marsilia asked what the hurry was to demolish the building since it wasn't falling down and the Forest Society could find the right tenant to preserve it. He said if the Forest Society forced the issue to get the demolition permit, they would eliminate the possibility of that potential tenant, and that he wasn't convinced that they couldn't find that person, given the time. He noted that he received many calls about the issue and had never seen so many citizens present for a single application. Mr. Savage said their Board concluded that they were not at that point, after 20 years of trying, and that there was nothing to suggest that waiting two years would bring a candidate. Mr. Marsilia said that some people wanted to donate funds now that they knew about the threat of demolition. Mr. Savage said the Society also needed long-term management and maintenance. He said it was a complex real estate transaction, and that two entities thought they could make it work but that he couldn't promise they would be successful.

Ms. Ward said the community only found out about the status of those negotiations when the applicant applied for the permit, and as a result, there was significant public interest. She said non-profits were in a special category because they were exempt from taxes and should be taking that public benefit by listening to people and giving the issue more time.

Mr. Cracknell said that the main challenge seemed to be the rigid contract with the owner, but that the donor softened her position in 2004 so that the building didn't have to be demolished and instead could be re-used with something compatible with the Forest Society's mission. He said it seemed that the Forest Society took a very narrow view of the use potential for Carey Cottage. He said the Society tried for 20 years to find a suitable non-profit, but with a narrow aperture of what the donor's wishes were, and it seemed like a drastic measure to file a demolition application rather than revisit the limitations that the Forest Society and perhaps the Trustee were placing on the building. He said it would be an asset to Portsmouth and to the Forest Society to be able to leverage that asset with someone in the private or non-profit sector and meet the owner's wishes as ameliorated in 2014, and also to provide a revenue stream so that the Forest Society wasn't burdened with the maintenance. He suggested treating it like an annuity. Mr. Savage said the owner had stated that the house could stand only if the Forest Society found a specific kind of tenant and also left a Trustee to determine what that was. He said the Forest Society thought the parameters placed on the property were reasonable and that they had been open to anyone coming forward to lease the property.

Mr. Marsilia read a letter from the City Council that came in that afternoon addressed to the Forest Society, in which they urged the Society to reconsider its decision to proceed with the demolition of Carey Cottage. They wrote that Carey Cottage was recognized as one of the most ambitious examples of shingle-style architecture in New Hampshire and that the role that Creek Farm and the Carey family played during informal negotiations associated with the 1905 Treaty of Portsmouth suggested that the property had national significance. They asked that the Forest Society redouble their efforts to develop a solution that met their needs and returned the cottage to active use, ensuring its preservation for future generations. They urged the Forest Society to postpone their demolition application while there were discussions concerning potential tenants. Mr. Savage said he contacted Historic New England, who said they had neither the means nor capacity to maintain Carey Cottage. Ms. Ward asked if the Society had considered Strawberry Banke's method of preserving properties by granting long-term leases. Mr. Savage said they had, but that they needed a use, funds for renovation, and evidence that there were the means to maintain the building long term.

IV. RESPONSE FROM THE OBJECTIONER(S)

Sheridan Lloyd, 45 Cliff Road

Kerry Vautrot, Chair of the Portsmouth Advocates, was present on behalf of Sheridan Lloyd to object to the application. She reviewed the reasons why Creek Farm should be considered a significant building such that its removal would be to the detriment of the public interest. She reviewed the historic origins of Creek Farm, noting that it was historic for its role in the Treaty of Portsmouth and peace talks, where social events were hosted with prominent citizens and Russian and Japanese delegates. She said the Noels brought the property in 1957 and converted part of the house to apartments without destroying the building's character. She said the removal of Carey Cottage would be counter to Portsmouth's preservation ethos. She explained that the New Hampshire Division of Historical Resources determined in 2000 that Creek Farm was eligible for listing in the National Register of Historic Places because of its historical significance and integrity of design, and that the designation could bring benefits related to grants and tax credits. She asked that the Committee find Creek Farm significant and that the demolition process be paused so that an open discussion could be had with the Forest Society about alternatives to demolition.

Chair Moreau asked whether any tenant qualified for tax credits and possible grants. Ms. Vautrot said tax credits needed an incoming generating use, like rent, but that grants were more open. She said the Forest Society could apply for an Eljer grant that protected land and buildings.

V. PUBLIC COMMENT

Martha Fuller Clark said she was an architect historian and preservation consultant, a founder of the New Hampshire Preservation Alliance, and an advisor to the National Trust for Historic Preservation. She said that if no alternative solution could be found to preserve Carey Cottage after 90 days, the demolition would proceed but not without certain conditions that would document the building before it was destroyed. She urged that the Forest Society not act on the demolition permit for one year while others tried to find a suitable tenant. She also asked that the

Society review their stipulations as to what would be a suitable tenant because they were so restrictive that it was almost impossible to find a non-profit to meet the requirements. She said it was inappropriate of the Forest Society to agree to take ownership of such a historically and architecturally significant building since preservation of buildings had never been part of their mission. She said that preserving the land surrounding the building without a commitment to preserving the cottage violated the integral relationship of the cottage and its surrounding gardens and landscape. She said she was disappointed that the Society wasn't willing to be more flexible in finding a tenant and asked them to provide additional time to help everyone look nationwide as well as internationally to find a suitable tenant.

Judd Pittman of 799 South Street said he had lived at Creek Farm for a while and was privy to many of the owner's conversations. He said she and her husband stood by its preservation until she died, and that he had never heard her express a desire to damage the cottage in any way.

David Choate said he was the realtor who was contacted by the Trustee to help the Forest Society identify an acceptable use for the property. He said they negotiated for a year, but the candidate dropped out. He said Mr. Savage had the best interests of the building at heart, but he agreed with Ms. Fuller Clark that the Society should postpone the demolition process. He urged the applicant and the Demolition Review Committee to put things on hold for a short period.

Adam Irish of 107 Market Street said that filing the demolition permit was the best thing to do for the cottage because it might be the kick in the pants that the community needed to recognize the building's historic significance. He said it was time to withdraw the application for the permit because people were working to get donations to save the building.

Jack Fremeau of Rye said he was a Portsmouth High senior and felt that Carey Cottage had a lot of significance to people of all ages. He said he went to Japan during Christmas break and saw the love of the Japanese for Portsmouth and that it was important to preserve the cottage.

Lee Roberts of 66 State Street said Carey Cottage and Creek Farm were a significant part of Portsmouth's heart and soul and meant a great deal to so many. She said the City lost the North End but that many other homes had been saved that were essential to its history and culture.

Emma Nelson of 87 Richards Avenue said a lot had changed in 20 years and that the demolition permit could be the best thing that happened to Carey Cottage because controversy bred interest. She asked that the public at least be granted access prior to any demolition.

Peter Terwillger of Rye said he was a director of product marketing and had tried to market the cottage during the past six weeks, but the Forest Society had been missing in action. He defied anyone to find a message on the Society's website about saving the Carey Cottage. He said the work had not been done by the Society to save the building, and that there were many interested parties and alternatives. He asked that the demolition permit be withdrawn.

Drew Kellner of Brookline said he was a Trustee for the Forest Society Board and understood the duty and burden that came with service, but that the Society must follow the owner's intent and make a decision. He said he had grappled with many of the questions raised, but after a

lengthy search for suitable tenants, he agreed that demolition was a viable vote. He said the key points were that the donor consulted her attorney to choose the Forest Society to conserve the national resources for the public's enjoyment; otherwise, her attorney would have advised her of other suitable choices and would not have allowed the deed requirement. He noted that the donor also chose a trustee to have a final say over suitable tenants. He said they were happy to have the building stand if an appropriate tenant could be found but must respect the donor's wishes if not.

Holly Zerr of Kittery said she had lived at Creek Farms for several years and knew Billie Noel. She said she hoped there was a way to save Carey Cottage and suggested that other options be explored and that the building be stabilized in the meantime.

Reagan Ruedig of 70 Highland Street said it was clear that the site and cottage were very significant and that it wasn't the Forest Society's mission to upkeep historic properties, but she couldn't imagine that pulling demolishing the cottage would be something the Society would be proud of. She hoped the Society delayed the demolition request because there were more people interested in the property, and that they also did their due diligence and exhaust all options.

Lisa Oakes of 325 Little Harbor Road said the Noels were friends of her parents and would be horrified that the cottage could be torn down. She said the Forest Society had let the place go by not doing simple things like repairing broken windows to protect the interior. She asked why the Trustee wasn't present at the meeting and where the money would come from to demolish the building because it would cost more than \$130,000. She also thought the Society should have gone after Cornell University for money since they broke the contract.

Mariel Sorensen of 460 Richards Avenue said the spiritual quality of Creek Farm and Carey Cottage took one back to another time. She felt that the owner picked the best choice available to her at the time and that preserving the property was the most important thing. She said people had a higher consciousness and hoped that the best vision for the place could come through.

Robin Najar of 10 Martine Cottage Road said Creek Farm was in her backyard and that she was on the Creek Farm Advisory Committee as well as a commissioner for the Wentworth Coolidge mansion, so she understood constraints with historic houses. As a board trustee of the Southeast Land Trust of New Hampshire, she also understood the challenges that land trusts faced. She said the Forest Society's mission was to protect land and not buildings, but that the limitations placed on the property in finding a suitable use had restricted the opportunities.

Joanna Landis of 540 Marcy Street said she was warmed by the enthusiasm for history and perplexed by the sense of the Society's urgency and thought an annuity option was viable.

David Meuse said he was a State Representative for Portsmouth and had been on Creek Farm many times. He said he was surprised when he heard that the Forest Society was the party behind the demolition because he was familiar with their work in preventing things like the Northern Pass. He said if the issue was not resolved and demolition took place, irreparable harm would come to Portsmouth and to the Society. He asked the Society to make sure the demolition was something they wanted because if the cottage was demolished, it would be a lose-lose situation.

Richard Candee of the Portsmouth Advocates said he was present to read a statement from William and Susan Bank of 380 Little Harbor Road regarding the demolition. The statement summarized that the Banks were abutters who wanted emphasize the relationship of the cottage to the architectural history and cultural structures within the 17-mile New Hampshire coastline, like the Wentworth Hotel and others. They supported all efforts to save and restore Carey Cottage. Mr. Candee stated that one fact Mr. Savage left out was that, when Ms. Noel withdrew the deed requirement of the demolition, she penned a postscript to the State Division of Historic Resources asking that the Forest Society nominate the building to the National Register of Historic Places, which they had not.

Pat Meyers said she represented the New Hampshire Preservation Alliance and urged the Committee to confirm the building's historic and architectural significance. She said the members of the Alliance had heard concerns about the demolition and believed the property had a win-win preservation solution with a use that was compatible with its historic site.

Carl Martland of Sugar Hill, NH said he was the Chair of the North Country Scenic and Cultural Byways Council and aware of the value and importance of properties like Creek Farm. He said Carey Cottage was a historic building that was important to Portsmouth, which was famous for its historic sites, and that there was no question that the property had the significance required. He said he was surprised that the City Council sent a letter two hours before the meeting indicating that they were interested. He said the City and its representatives should work with the trustees and should be able to put up the money to save the building.

Peter Michaud of Portsmouth Advocates said he wrote the National Significance statement and felt that very few properties were listed at that level. He noted that the Forest Society once wrote a letter regarding the Northern Pass, encouraging that a higher bar be set for how New Hampshire cultural resources were treated. He said he encouraged the Society to practice what they preached and pull the demolition permit until more options had been explored.

Bill Downey of 67 Bow Street said he was the owner of Portsmouth Kayak Adventures and that the Carey Cottage was the first item they spoke about on their tours. He said it had much more essence beyond being just a building and thought it was unfortunate that the Forest Society had such a narrow purview of their responsibilities. He said people were just asking for more time.

SECOND TIME SPEAKERS:

Adam Irish of 107 Market Street said that, unless the Trustee and the rest of the Board changed the vote, the house would be torn down. He asked the Forest Society to let the public access the interior of the house before then.

No one else rose to speak, and Chair Moreau closed the public comment.

Chair Moreau said it was evident that the building was a significant one and that, depending on the Committee's decision, another hearing would be scheduled.

VI. DECISION OF THE COMMITTEE

Ms. Ward moved to find the building historically significant, and Mr. Cracknell seconded.

Mr. Cracknell stated that the record of the extensive objection letters and that night's testimony left no doubt in his mind that Carey Cottage was culturally, architecturally, and historically significant. He said the Committee should encourage the Forest Society to work with all interested parties, including potential City staff, to explore alternatives to demolition, and noted that the Committee had up to 15 days to engage in a meeting with the applicant to explore those alternatives. He suggested that the Society be given three weeks to extend the first meeting and have other meetings in June prior to the July 3 deadline. He said that a waiver would be needed from the applicant to have a meeting on June 28 versus June 21.

Mr. Wyckoff said it was obvious that the community didn't know until January that the property was endangered. He said he hadn't seen any advertisements or solicitations for tenants or interested parties, which was something that could change now that the forum was established. He said it was great to see so many people come out and speak. He noted that the property was also a nationally and internationally important one relating to the Japanese/Russian War. He said there was a responsibility one had when owning a property to maintain and find someone to use the property, and he suggested that the Forest Society's criteria could be changed a bit. He asked whether the cost of the renovation was really a criterion. He said he was in favor of calling the property a significant one and hoped the Committee could set up a meeting.

Ms. Ward agreed and said it would be good to find out more details of the potential tenants and discuss the possibilities of how the City or State could help. She said a high barrier was set by the Forest Society to anyone taking on the property, and she encouraged the Society to think about their responsibility of owning such an important property. She noted that there were other times when the Society had endangered other properties because they didn't take care of them. She said the Society had an obligation to benefit society and that they should step up to take care of Carey Cottage the way the community asked for. She said she was also concerned about the Society's Trustee, who happened to be the current president of the Portsmouth Historical Society Board. She said that, given the Trustee's interest in being the president of a non-profit whose mission was to preserve the history of Portsmouth, he could be prevailed upon to work with the Committee and make more reasonable parameters for a potential tenant to come forward, perhaps by withdrawing the demolition application.

Mr. Cracknell said the gorilla in the room was that the property's appointed Trustee was not present. He said the Forest Society indicated that a wider net was cast but that the property's Trustee played governor and restricted potential outcomes for other tenants. He said the Committee needed direct input at subsequent meetings from the Trustee to define the restrictions and intention of the donor. He thought a site visit would be a great thing for the public and should be part of the process because it was such a unique application and deserving of an Open House. He said the public had the right to at least see the Music Room because it was amazing, and he also thought it could make the pathway more possible to opening up the building to the people who were interested in it. He recommended a one-hour Open House on May 18th so the public to see the Music Room and explore the property. He said the Committee and the applicant could then meet on May 28th to explore alternatives to demolition.

Chair Moreau said she could see that the building was architecturally, historically, and culturally significant but could also see the trials and tribulations. She said she supported the motion but asked the Forest Society to loosen their restrictions and consider a multi-organization scenario. Speaking as a real estate attorney, she said it was possible but might take more time.

*The motion **passed** by unanimous vote.*

Chair Moreau asked the applicant if they would waive the fifteen days to the next meeting or if they wanted to stick to the provisions of the Ordinance. Attorney Boepple said they wanted the opportunity to confer among themselves because they would rather not agree to an extension, so they would not waive the fifteen days and would use the opportunity for a quick timeline to review what had come up that evening. She said they would also like to consider the Open House but would not commit to a date that evening.

After a brief discussion, the applicant stated that they would grant a one-day waiver so that they could meet on May 23.

Chair Moreau said the Committee would meet at 5:30 p.m. on May 23 to discuss the Ordinance and that the public meeting would be held at 6:30 p.m.

VII. ADJOURNMENT

*It was moved, seconded, and passed by unanimous vote to **adjourn** the meeting at 9:25 p.m.*

Respectfully submitted,

Joann Breault
Demolition Review Committee Recording Secretary