

**REGULAR MEETING OF THE  
HISTORIC DISTRICT COMMISSION  
PORTSMOUTH, NEW HAMPSHIRE  
1 JUNKINS AVENUE  
City Council Chambers**

**7:00 p.m.**

**November 1, 2006**

**MEMBERS PRESENT:** Chairman John Rice, Vice-Chairman David Adams, Richard Katz, John Golumb, Ellen Fineberg, City Council Representative Ned Reynolds, Planning Board Representative Jerry Hetjmanek, and Alternates Sandra Dika, and John Wyckoff

**MEMBERS ABSENT:**

**ALSO PRESENT:** Roger Clum, Assistant Building Inspector

\*\*\*\*\*

**I. OLD BUSINESS**

A) Approval of minutes – October 4, 2006

It was moved, seconded, and passed unanimously to approve the minutes as presented.

\*\*\*\*\*

1. Petition of **Regan Electric Co., Inc, owner, and Bruce A. Clark, applicant** for property located at **6 Dearborn Street** wherein permission was requested to allow exterior renovations to an existing structure (replace windows and doors) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 123 as Lot 4 and lies within Mixed Residential Office and Historic A Districts. *This item was tabled at the October 4, 2006 meeting.*

**DECISION OF THE BOARD**

Mr. Adams made a motion to table the application to the January 3, 2007 meeting. The motion was seconded by Mr. Golumb. The motion passed by a unanimous vote.

\*\*\*\*\*

2. Petition of **Harbour Place Condominium Association, owner,** for property located at **135 Bow Street** wherein permission was requested to allow exterior renovations to an existing structure (replace wood siding of dormer areas with vinyl siding) as per plans on file with the Planning Department. Said property is shown on Assessor Plan 105 as Lot 2-1-00 and lies within the Central Business A, Historic A, and Downtown Overlay Districts. *This item was tabled at the October 4, 2006 meeting.*

**DECISION OF THE BOARD**

Mr. Adams made a motion to table the application to the January 3, 2007 meeting. The motion was seconded by Mr. Hetjmanek. The motion passed by a unanimous vote.

\*\*\*\*\*

3. Petition of **North Church of Portsmouth, owner, and Milestone Engineering and Construction, Inc. applicant** for property located at **2 Congress Street** wherein permission was requested to allow exterior renovations to an existing structure (remove slate roof, replace with architectural asphalt shingle roof) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 107 as Lot 83 and lies within the Central Business B, Historic District A, and Downtown Overlay Districts. *This item was tabled at the October 4, 2006 meeting.*

Mr. Adams made a motion to remove the application from the tabled status. The motion was seconded by Mr. Golumb. The motion passed by a unanimous vote.

Chairman Rice recused himself from the discussion and vote. Ms. Dika asked if the Commission could have a few minutes to review information given to them at the start of the meeting.

**SPEAKING TO THE PETITION**

Ms. Betty Gilman of 277 Coolidge Drive spoke to the petition. She stated that she was the Chair of the North Church Cabinet. She introduced individuals present who were representing North Church – Ms. Dawn Shippee, minister of North Church, Mr. David Baer, contractor with Milestone Engineering, Inc., Mark Goldstein, also from Milestone Engineering, Inc., and Rich Roberts, vice president of Foley, Buhl, Roberts and Associates, Inc. Ms. Gilman updated the Commissioners on the steeple restoration process – the clock has been taken out for restoring, bricks have been repointed, brownstone repaired, trim has been scraped and repainted, and the stain glass protection will be replaced. She stated that by reroofing the building, it will assure long-term protection of the building. It will also reduce the roof weight and will increase the snow capacity load. She also said that they are proposing to replace the copper flashing, copper ice belt, snow guard and repair copper gutters. Ms. Gilman explained that structural issues that were discovered during the restoration have added up to over \$100,000.00. She said that their concern is that the roof may have some of those same structural concerns that might go undetected unless they remove the whole roof covering.

A power point presentation was shown to the Commissioners. Ms. Gilman pointed out the copper work as well as slate tiles that were in a deteriorating state. There was also rust beginning to occur on the roof. She said that they took the time to research the synthetic slate. It was a relatively new product and they had some concerns such as fading and the deterioration over time from the exposure of UV light. She continued that it was the opinion of the State architectural historian, Mr. Gavin, that these materials have not sufficiently been tested. She said that the church would like to move forward with the asphalt proposal. It would provide a completely new, watertight solution that should last for 50 years. It was affordable and it was the best option for the long-term preservation of the structure. Ms. Gilman pointed out the weight comparisons between an asphalt roof and a slate roof. She also pointed out the color choices. Two samples were placed on the roof for the Commissioners to view. Ms. Gilman also added that the copper flashings, ice belt gutters, and snow guard will be replaced as well. She summarized that this was their best option for long-term preservation of the entire structure.

Mr. Wyckoff asked if the snow guard would be similar to what is there now. Mr. David Baer said that the existing snow rails will be restored but the ice belt will be new.

Ms. Dika asked what the names of the samples colors were on the roof. Ms. Gilman said that the top color was called Fieldstone and the bottom color was called Smokey Quartz.

Ms. Fineberg asked Mr. Roberts how the roof, which was built to hold the weight, has held this weight for all this time and what concerns them now that it cannot do the job it has done for the past 150 plus years.

Mr. Roberts said that it has done the job for the last 150 years but it is a wooden structure and subject to slow deterioration. He said that this is an opportunity to enhance the snow load capacity of the roof. They estimate the capacity currently at 30 pounds a square foot. With the savings in weight with an asphalt roof, it is an increase in capacity of about 25%. He said that due to the age of the structure, that provides an extra margin of safety.

Ms. Fineberg asked if they would be taking everything off of the roof and examining the structure. Mr. Baer replied that no, they would not be taking everything off. The sheathing will stay but they will still be able to inspect the structure. Ms. Fineberg asked if this would give them an opportunity to detect and correct the problems. Ms. Gilman replied no, because they will not be able to afford to remove and replace all of the slate at one time. That is not part of what they have budgeted. Ms. Fineberg asked if the part of the roof that they do remove can be examined at that time and reinforced if need be, no matter whether they use asphalt or slate. Ms. Gilman replied that it is much more difficult to do it piece meal. Mr. Baer added that he would not say it would be reinforced, instead it would be repaired.

Mr. Golumb asked Mr. Roberts if they are seeing any leaks from the roof into the church that concerns them. Mr. Roberts replied that is quite a bit of staining on the timbers, which is evidence of water leaking into the building. Mr. Golumb asked what percentage of the area he thought that was. Mr. Roberts replied it is irregular but a substantial portion is in the sanctuary. Mr. Baer added that he felt most of the leaking was caused by the snow rail. The snow rail was possibly an addition in the late 1940's or early 1950's. He said that most of the leaking is at the eave line.

Mr. Hetjmanek asked about the snow load. He wondered if the increase in snow load would be greater than the increase in weight the slate. Mr. Roberts replied that there would be a difference but the snow guard would retain the snow in any case.

Vice Chairman Adams asked if there were any more questions for the applicant. Hearing none, he asked if anyone from the public wished to speak to, for, or against the application. Seeing no one rise, he declared the public hearing closed.

### **DECISION OF THE BOARD**

Ms. Fineberg made a motion for the purposes of discussion, to approve the application as presented. The motion was seconded by Ms. Dika.

Ms. Fineberg stated that the North Church is an icon. Its appearance is important to the Commission as well as to the community. She said it was apparent by the output of support for the building that the community treasures the building. She continued to say that she could not support the idea of an asphalt roof on the structure. She said that she understood the issues about increased capacity but the roof was built to withstand the load. Although the repair work would

be piece meal, it would allow the building to do the job it was built to do, to hold a slate roof. She said she would not vote in favor of the application.

Ms. Dika said that she believed that the building was built to support the weight 150 years ago. What has changed since then is that slate has become all but an obsolete product. She said that there are very few contractors these days that are competent to put on a slate roof. She added that she did not want to throw out dollar figures, but the dollar figure has grown so great because they are dealing with something that is all but obsolete in the community. She said she looked at the samples on the roof, and as much as she would like to see slate roof up there, she accepts the fact that it will be all right with asphalt.

Mr. Wyckoff stated that he agreed with Ms. Dika. He felt the material looked excellent. They are the heaviest shingles he has ever seen. From the ground, he could not tell a difference. He felt it was a good option.

Mr. Hetjmanek agreed with Mr. Wyckoff that from the ground, the shingle samples were attractive looking. He felt the issue was to preserve the structure.

Mr. Katz said that he could not accept the argument that the structure has held a slate roof for the past 150 years. He thought it was difficult to view the samples because of the angles. He said that he was not willing to insist that it be a slate roof or nothing so he stated that he would support the application.

Mr. Golumb agreed with Ms. Fineberg that the structure is an icon in Portsmouth. He pointed out that the letter included in the packet that evening from Mr. Gavin gave two different opinions in regards to option two and option four concerning snow load. He said that if part of the concern is the weight, Mr. Gavin pointed out that that might not be the case. He also felt that the samples on the roof are inappropriate for the structure and its surroundings. For that, he would not be supporting the application. He quoted Section 10-1004 (B) 1 from the ordinance.

Vice Chairman Adams stated that he appreciated the work of the engineer to put some numbers together for a better understanding of the situation. He said that in his work, he has seen structures that have stood the test of time. He felt that was a test that was valid. He said that the structure was built to receive a slate roof and to bear its load. The damage and decay was consistent with what he has seen in other structures. He had concern over the water tightness. Vice Chairman Adams said that he understood the issue of cost but he questioned the value of a less expensive, less durable material than slate. He thought the cost was an issue but not a long term issue since a slate roof seems to have good value in terms of durability over time. As for the aesthetic look, Vice Chairman Adams felt the most valuable thing to give to those who come after us, is to give them the town that we started with. He did not think that the shingles would provide the same reflectivity and the sense of mass that the slate does. And for those reasons, he said he would not support the application.

Hearing no other discussion, Vice Chairman Adams called for a roll call vote. Mr. Katz voted yes, Ms. Fineberg voted no, citing 10-1004 (B) 2, Mr. Golumb voted no, citing 10-1004, 1 and 3, Mr. Wyckoff voted yes, Ms. Dika voted yes, Mr. Hetjmanek voted yes, and Mr. Adams voted no, also citing 10-1004 (B) 2 from the ordinance. The motion passed with a 4 – 3 vote.

Mr. Reynolds appeared during the taking of testimony, so Mr. Wyckoff voted in his place.

\*\*\*\*\*

## II. PUBLIC HEARINGS

1. Petition of **7 Islington Street, LLC, owner**, for property located at **7 Islington Street** wherein permission was requested to allow demolition of an existing structure (southern wing of building, garage building, house structure, and commercial building), new construction of an existing structure (new 3-4 story mixed use building), and exterior renovations to an existing structure (renovate exterior, replace windows, add exterior stair and canopy) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 126 as Lot 51, Plan 126 as Lot 49, and Plan 126 as Lot 52 and lies within the Mixed Residential Office, Central Business B, Historic A, and Downtown Overlay Districts.

### SPEAKING TO THE PETITION

Attorney Paul McEachern, representing the applicant spoke to the petition. He pointed out that he put forth a memorandum to the Commissioners as well as a Recusal Request, asking that Mr. Adams recuse himself from the public hearing. He stated that he had also submitted a complete transcript of all of the meetings that have taken place in this matter. He also included a copy of the State statute which sets forth the mandate the Commission is obligated to follow by law. He pointed out that part of the structure is in the historic district and part is not. He also said that it was a preliminary matter that the request to have Commissioner Adams to recuse himself for bias be taken up.

Chairman Rice stated that they were in receipt of that request. He said that Mr. Adams met with the City attorney and based on his advice, he did not see any reason for Mr. Adams to recuse himself. Chairman Rice denied the request.

Attorney McEachern said that the application was submitted last April. Five work sessions were held. He pointed out that in RSA 676:9 the board has 45 days on wish to act on an application. He said that after the May 10 hearing, there was no acceptance by the applicant that this process continue for the five months that it continued. He said that as a matter of law, the Commission has waived its right under the statutes, to act on it, and its deemed approved under RSA 679:9. Attorney McEachern said the effective date of when the approval should have been granted by law was June 25. The statute specifically states that “the applicant must agree to a longer period of time.” He said that that is not present in the transcripts of the hearings. He pointed out that 676:8 is the statute on which they are to act under the law as a historic district commission. He highlighted the key phrase in that statute, “for their impact on the historic district.” Attorney McEachern stated that they have to follow the law and the law says that the role of the historic district commission is to review applications for their impact upon the historic district. He asked them to review the application for its impact upon the historic district and not what it impacts outside the district. He said that the City ordinance while it talks about proximity, it cannot override the statute. Attorney McEachern stated that this particular parcel is partially in the district. He stressed that the commission cannot take into consideration properties outside the district. The front of the project faces the Bridge Street parking lot. He said they have to take that into consideration. He pointed out that Kline building, the Keefe House, the Library, Jumpin’ Jay’s, the Worth health food store and parking lot, 30 Maplewood Ave. building, and the Parade Mall. Those are the structures that they are to consider. Mr. McEachern stated that the State, from which all municipalities get their powers, has laid out the process. He said that if you look at RSA 676:8, it lays out how you approach an application. He read from RSA 676.8. He continued that the City zoning ordinance says that they have to find facts based on Section 10-

1004 (B). He said that if they could do that, then they would have properly and legally approached the application.

Chairman Rice asked if there were questions for Attorney McEachern. Mr. Wyckoff stated that Mr. McHenry was bringing three different sets of plans to the various work sessions. He believed that one of those work sessions was June 25. If that was the case, Mr. Wyckoff said it would have been difficult to adhere to the mandatory approval. Attorney McEachern replied that there were three separate work sessions before June 25. He said that it was up to the Commission to get on the record that Mr. McHenry was accepting a longer duration than 45 days. He said that he has searched the record and can find no recording of that.

Mr. Steve McHenry spoke for the purpose of reviewing the process. He stated that he would try to lay out some clear evidence regarding four criteria stated in Section 10-1004 Scope of Review as it relates to the approval of this project. One key problem was that the boundaries of the historic district were not clear at the beginning. In his first presentation, Mr. McHenry said that he used a map from the City's website which happened to be inaccurate. He said that there have been questions about what properties are included in the district and what ones are not. He stated that the debate is where you see the boundary of your decision about the context surrounding the building and the proximity of the building. He said that he has stated several times during the process that whoever defines the context tends to win the debate - what impact do other buildings have on the site and what impact does the building have on other sites. He said that that is what is spelled out in the criteria of the zoning ordinance. Mr. McHenry read from the zoning ordinance.

Mr. McHenry said that the reason they were back before them tonight is to try to show that they were serious in their efforts to get them to look at the context of the building site as being in similar scale with other buildings in the historic district. Mr. McHenry showed a graphic of the buildings within a 50 foot radius of the proposed project. They were all either of large scale or had flat roofs. He felt it was not accurate to say that the proposed building was very distinct compared to the other surrounding buildings. He pointed out that Mr. Katz said in his final vote that it was important to look 360 degrees around the building and not just down Tanner Street. Mr. McHenry said in terms of the first criteria of the zoning ordinance, he felt that their building related to that. The second criteria, he felt were met because the project was an addition to the historic Buckminster House. He reflected on the process that got them to this point. He pointed out that they had five work sessions and one public hearing. He felt everyone was working in good faith with an understanding of the complexity of the zoning and the technical restraints of the site. He said that in the April, May, and June work sessions, they worked through about ten different massing options. All of those options were three and four story buildings. He said that some of those massing options showed buildings with the maximum height allowed. He pointed out that in the end; they came to a design that was far smaller than what was possible there. He felt it was important to note that throughout the process, everyone had very widely divergent views about the designs. He said it was important to note that in the work sessions, everyone was working and responding to the criticisms and that they didn't come out in an arbitrary manner. During that process, even in the earliest session, Chairman Rice stated that "the right hand wing of the building could be dropped down a floor or two to be more in tune with the small residential buildings around it, maybe the left side of the building could be the same, a little diminished so as to respect the historic house on its left, allowing you to be a little taller in the middle to give you some height and at the same time respecting the buildings around it." He pointed out that that was said at the first work session. He pointed out that the final design they came up with six months later was exactly what was stated. Mr. McHenry stated other comments that were made by the Commissioners, Mr. Wyckoff said "I want to say I like, thank you, from where we were

last time this is very good. One thing I really like is that your storefront sits between two bows and the second floor overhangs that. That's very nice." Mr. Golumb said "I think this is very nice. It's a lot warmer than before, you need that blend. I'm saying this in a complimentary way and it is an interesting design." Mr. Adams said "I imagine myself standing across the street quite a distance, maybe on the other side of Middle Street. I think you've done a fairly workman-like job of fitting this thing into the streetscape, and the first part of what needs to be accomplished, this is a good representation." Mr. Katz stated, "We talked about details as far as this concept is concerned and the nuts and bolts which many times we've done in the past. And then when the time is for a public hearing, we throw a bomb in. I would like to go on record right now and say that I am unreservedly in favor of this concept." Ms. Dika stated, "I'm comfortable with what you brought in tonight." Mr. McHenry said that the reason he was going through all of this detail is to give the Commissioners a sense of how they were feeling about the presentation. Are they succeeding in addressing the major massing of the building? He said that there was no reason to go to a work session if you can't first work out the major issues. He felt they got a lot of mixed signals during the work session process. By the time they got to the public hearing, they had a confident feeling about what they had achieved in the long process and that feeling was taken away from them based on incorrect judgment at the time of the public hearing. Mr. McHenry addressed the third criteria in the ordinance. He said that the final design had details that were well branded in historical architectural types that they were familiar with. He felt there should not have been any great surprises. He stated that the fourth criteria spoke to encouraging the innovative use of technologies, materials, and practices. He said he felt they addressed that as well with the introduction of the green roof technology, some of the siding materials, and the overall respect of the context of these materials and their use on the site.

In summary, McHenry said that he felt they made an incorrect evaluation of the context from the beginning. He reminded them that Attorney McEachern addressed the issue of where the context starts and stops. He felt the process that they followed was thorough and their solution was a restrained one given what they were by zoning allowed to do. Their materials and details were compatible with historical and vernacular architecture and that new technologies were implemented without sacrificing the aesthetics of the building. He thanked the Commissioners for granting the rehearing. He said it was an opportunity to reverse a decision that may have been made hastily.

Chairman Rice asked if the application could be tabled to a work session. Mr. Clum said yes, they could do anything they liked. Chairman Rice thought that might be the best way to go so that they could hash out what their problems with the design were. He said that they don't take turning down applications lightly including this one. He added that a number of the Commissioners were disturbed with how the vote came out because they thought it would be approved and then found themselves changing their vote at the last minute. Chairman Rice said they had a meeting to discuss what kind of signals they give off at work sessions. They do not like to lead applicants down the primrose path, and he guessed that was what happened here. He said they were concerned about Tanner Street and anything on Tanner Street could be considered in their vote. They discussed that with the City attorney. Chairman Rice stated that the City attorney disagreed with the applicant's conclusion. He said that the City attorney felt that the ordinance was written in a nebulous way. The City attorney's interpretation was that the City Council, or whoever it was that wrote the legislation, wanted to give the Commission the opportunity to look over the fence to make sure that the impact of the application takes into consideration what was there. In regards to Section 10-1004 (A) 2, Scope of Review, it was felt that it was an open ended use of the term "area". Also in Section 10-1004 (B) 4, it was felt that that was left open for that reason. He said that that was the interpretation they were given. They take their legal guidance from the City attorney. Chairman Rice pointed out that they will be

considering Tanner Street with this application. He also said that he recalled saying at the last work session, that they should have another work session. He remembered Mr. McHenry hesitating with that so Chairman Rice said that at the least, they should have a site walk. He felt that after the site walk, it impacted the Commissioners and caused some to change their minds. At the public hearing, it was the first time they heard from abutters as well. Chairman Rice stated that he felt they should have one more work session to give them the benefit of the doubt. He felt it would be worth their while to do that.

Mr. Katz mentioned that Chairman Rice cited the advice of the City of attorney on the use of the word "area" to open up the scope of review. He said he considered it advice and opinion but he did not consider it definitive. He looked up the work "area" in a dictionary. One of the definitions was "a particular extent of space or one serving a special function." He said that led him to believe that "area" refers to the historic district. He added that, valuing the advice that was given, he has his own opinion on it.

Mr. Katz asked if a work session can be imposed on an applicant. Chairman Rice said he could not give him a definitive answer, but he thought not. But he thought that there were several elements in the application that made them uncomfortable and that another work session might be helpful.

Mr. Golumb said that under Section 10-1004 (B) 3, there is a footnote of interest in the back of Section 10, number 23. He said he has been studying the ordinance and he feels that that footnote includes the surrounding area to include Tanner Street and on down. Chairman Rice replied that that is how the City attorney and one of the chief planners interpreted it.

Attorney McEachern stated that in law there is a hierarchy. He said there is a difference in the City ordinance and the State statute. The State statute always controls. He said that they should read their ordinances so that they conform to the State statute. There are two places in the State statute where they get their primary authority to act under the law that says that they are restricted to look at impacts within the historic district. He said if they think about it, why would a historic district have authority to go outside of the bounds for any reason. The State statute does not give them that power. Attorney McEachern added that he would not agree to another work session, as there has been five and a site walk over a long period of time. He felt it was unfair to the applicant.

Ms. Fineberg asked that if there was no opportunity of a work session, were they being asked to vote up or down on the same application that was voted down originally. Chairman Rice said that was correct. He said that one of the reasons he voted for a rehearing was to give the applicant the opportunity to address some of the issues that he and the other Commissioners had a problem with which they did not all have to do with Tanner Street.

Chairman Rice asked if anyone from the public wished to speak to the petition.

### **SPEAKING TO, FOR, OR AGAINST THE PETITION**

Mr. Martin Burns, a resident of Tanner Street, spoke to the application. He stated that after hearing Attorney McEachern's comments, he wondered who one would go to talk about tearing down 29 Tanner Street. This is a concern of his. He said that he went on the site walk and found the proposed building to be massive on the Tanner Street side. He wondered if it was fair to people who live on the borderline of the historic district. He felt the building did not fit the historical character of the neighborhood.



Ms. Rebecca Conway of 37 Tanner Street spoke against the petition. She spoke in opposition at the last meeting as well. She shared her concerns about the project. She said that her property is within walking distance from downtown and is a residential neighborhood with single family two story New Englanders. She said it has a quaint neighborhood feel. She understands that change is inevitable and she can't expect Tanner Street to remain unchanged forever. She is optimistic that the right plan could be proposed but what she has seen and heard so far leads her to believe that they are headed down the wrong path. She realizes that the proposal is within the allowable limits but in her view, the drawings that she has seen show a great deal of departure from the neighboring roof lines. She does not think the building is a good fit for the neighborhood. She added that she does not think this building will increase her property value. If the building is approved, she will no longer have the privacy to go on her back deck or tend her flower garden. Ms. Conway stated that the new proposal does not appropriately address the concerns raised on the side of the building facing Tanner Street. She felt the back of the building has been an afterthought in the design process. She also expressed concern about the proposed parking lot that will be next to her house as well as the increased traffic that will be coming down the street. She said that she hoped that 29 Tanner Street can remain a single family home and that any building put at the back of her house will share a roof line similar to the surrounding buildings.

Mr. William Gladhill of 8 Barberry Lane spoke to the petition. He said that in regards to RSA 676:8, he felt it did not limit the impact to the historic district only. He felt that properties in the surrounding area should be considered. He said that he agreed with Chairman Rice's interpretation.

Hearing no other discussion, Chairman Rice declared the public hearing closed.

### **DECISION OF THE BOARD**

Mr. Katz made a motion to approve the application as presented. The motion was seconded by Mr. Hetjmanek. Chairman Rice asked if there was discussion.

Mr. Adams said that with respect to Attorney McEachern's opinion, he still does not see an error in the way it was reviewed. He stated that they had a useful meeting to grapple with what went wrong and he is hopeful that it will change the process of work sessions. He said that he came to an understanding over time, that this proposal did not have merit to receive approval. Mr. Adams stated that Attorney McEachern showed them the State law involved with this. He did not believe that he had, in his review of the application, disregarded the State law in so much as he did not believe he was reviewing a building outside the historic district. He is concerned about the building's impact on the historic district. He said he had utilized his understanding of the zoning ordinance and the section that he adheres to. He said that when there are opportunities to use the words "historic district" in the ordinance, it uses the words "Portsmouth." It mixes the words "city" and "historic district" together. It refers to the city's residents and its visitors. He said that the footnotes in the back of Section 10 are to aid the reader in the process of reviewing the ordinance and they describe the district in some instances. He also said that in some specific areas the footnotes say "does not detract from the special defining character of an immediate area." He felt that that was defining more than just the site itself. He said it did not say "on the immediate area in the historic district". Mr. Adams said that he felt that was what he was doing. He said the words "cityscape", "area", and "immediate area" are used over and over again. He stated that there was a definitive problem in drawing a line. He said that the line does not, to him, describe the last building he can look at as he is trying to understand the special and defining character of the neighborhood. Mr. Adams agreed that there are buildings in the area that are

compatible with the proposed building, however, he still had a conflict with the buildings that it is most incompatible with that are in its most immediate neighborhood. That conflict and incompatibility was what will lead him to vote against it.

Mr. Hetjmanek stated that he did not vote incorrectly. He said that he was prepared to vote to approve the project but once he realized that the Tanner Street house would be torn down, he found that objectionable and changed his vote. He said that he felt there was a conflict with the incompatibility that Mr. Adams pointed out. He felt that Mr. Adams was saying that the proposal was compatible with the architecture around it but there was a property that it wasn't compatible with it. He said that he looked around the property and felt that it was 80% compatible with what was around it so he found it compatible. He added that there is a lot of playing with the language of the ordinance. He found the proposal compatible within the boundary and does not find it incompatible outside of the boundary. He agreed with Chairman Rice that your eye can go beyond the boundary but said you have to ask if it is compatible in the boundary. Mr. Hetjmanek pointed out that the ordinance stated "to foster Portsmouth heritage and economic well being." He said the project would enhance the property value and if the retail is successful, it will attract people to that area of town. He also pointed out from the ordinance "promote use of the district for education, pleasure, and welfare." Mr. Hetjmanek said that what is there now is virtually nothing. He felt the project was for the betterment of the City.

Mr. Wyckoff pointed out that he would not be voting but wanted to make a couple comments. He felt that Mr. Hetjmanek made a good point. He felt that sometimes they may get caught up on one particular detail and they have to resolve that within themselves. He also pointed out a building permit could be applied for right now to tear down the Tanner Street property and there wasn't a thing the Commission could do about it because it is not in the historic district.

Councilor Reynolds said that this was a tough one for him as this is his first term on the Historic District Commission. He said that in going back to the fundamentals, they are always trying to balance private rights, the property rights of owners, and citizens addressing the public good. He stated that it is always hard to admit mistakes and it's even harder to do that in the public light. He pointed out that you don't always get 100% perfection. The lot for the proposed building faces the downtown and zoning allows for economic demands. He felt that the back of the proposed building could be improved upon and he hoped that something could be done to add some character to that side of the building. He stated that he was going to change his vote.

Ms. Dika pointed out that she would not be voting but had a comment. She said that the least the Planning Department could do for the people who serve on this board, is to provide them with an accurate map of the historic district. She stated that she has two maps and they both say different things. Chairman Rice asked that new maps be included in their next packet.

Ms. Fineberg stated that she would not be voting in favor of the application. She cited Section 10-1004 (A) 2. Given its immediate neighbor, the Buckminster House, which is part of the project, she felt it did not meet the criteria. She also cited 10-1004 (A) 3. She did not believe the structure as it has been designed, meets the criteria. Ms. Fineberg added that she did not feel that the architecture relates to Portsmouth and the properties surrounding it. She felt they need to look at a structure and its larger context. The historic district is an artificial boundary but their vision does not stop at where the line stops. She felt there were special and defining characters of properties in the proximity of the project that is not compatible with, especially the Buckminster House.

Mr. Katz responded to Ms. Fineberg’s comments. He felt that the Buckminster House is the exception but he did not think the exception should drive the approval or disapproval of the application. He was troubled by the thought that they can expand the historic district at will. He felt that lines count. They are there for a reason, to delineate the area. He said that they cannot, simply because they would like to, extend their jurisdiction out of the area, or bring considerations out of the area into their determination. Mr. Katz said the historic district is the historic district and to carry it any further is an expansion of powers that they do not have.

Mr. Golumb replied that at the September 6 meeting, he said that he thought the building on Bridge Street was a handsome building. He also said that from Tanner Street he felt it was too monolithic and too large for the area. He stated that looking from Tanner Street, the back of the proposed building, into the historic district has got to be a purview they are allowed to look at. He said he would not be voting in favor of the application and cited 10-1004 (B) 1, 3.

Chairman Rice stated that he had hoped to see the rehearing move to a work session as he had concerns with the design. He would have like to work with the applicant to resolve those. He may have been able to override his concern about the project’s impact to the general area. He did not see that the circumstances have changed. He felt that the Commission has demonstrated an introspection and thoughtfulness that he deeply respected. He felt that everyone has given the situation deep thought. Chairman Rice said he would not be changing his vote based on 10-1004 (A) 2, 4 and also the Findings of Fact (B) 1.

Chairman Rice called for the vote. The motion failed by a 4-3 vote with Ms. Fineberg, Mr. Golumb, Mr. Adams, and Chairman Rice voting in opposition.

\*\*\*\*\*

2. Petition of **David A. and Catherine A. Anderson, owners**, for property located at **394 Pleasant Street** wherein permission was requested to allow exterior renovations to an existing structure (install bluestone rain caps on three chimneys) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 102 as Lot 63 and lies within the General Residence B and Historic A Districts.

**SPEAKING TO THE PETITION**

Ms. Catherine Anderson was present and spoke to the application. She said that they are seeking permission to put bluestone rain caps on three chimneys on their home. The design and construction materials would be consistent with what the commission has previously approved.

Chairman Rice asked if there were any more questions for the applicant. Hearing none, he asked if anyone from the public wished to speak to, for, or against the application. Seeing no one rise, he declared the public hearing closed.

**DECISION OF THE BOARD**

Mr. Adams made a motion to approve the application as presented. The motion was seconded by Mr. Hetjmanek. The motion passed by a unanimous vote.

\*\*\*\*\*

3. Petition of **Jarvis Revocable Trust, owner**, for property located at **20 High Street**, wherein permission was requested to allow a new free standing structure (install entrance gate to parking lot) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 117 as Lot 15 and lies within the Central Business B, Historic A, and Downtown Overlay Districts.

### **SPEAKING TO THE PETITION**

Mr. Sam Jarvis, proprietor of The Metro Restaurant, spoke to the petition. He stated that he would like to install a gate to monitor the parking in his lot. He said that it would be an identical gate to the one at the Porter Street Condominiums. Mr. Jarvis added that the wiring would be cut through the brick.

Mr. Adams asked if the installation of the gate necessitated the removal of the granite posts. Mr. Jarvis replied that the gate would be placed right next to one of the granite posts.

Mr. Adams asked about the width of the gate. He noted that the opening was about 24 feet wide. He asked if the gate would be 24 feet long. Mr. Jarvis replied that the length would be about three quarters of that.

Mr. Hetjmanek asked if the gate would be closed all of the time. Mr. Jarvis replied that it would be closed at the end of business each evening. Chairman Rice mentioned that that was not within their purview.

Mr. Wyckoff asked if the gate would be white. Mr. Jarvis replied that the gate would be white and the gate mechanism would be orange.

Mr. Raynolds asked about the spacing between the gate mechanism and the granite post. Mr. Jarvis replied that the gate mechanism would sit behind the granite post and would be inside the lot.

Mr. Wyckoff asked the Commission if they were comfortable with the orange gate mechanism. Chairman Rice asked if the mechanism could also be white. Mr. Wyckoff confirmed that it comes in white. Chairman Rice stated that they could recommend in their approval that the mechanism be white.

Chairman Rice asked if there were any more questions for the applicant. Hearing none, he asked if anyone from the public wished to speak to, for, or against the application. Seeing no one rise, he declared the public hearing closed.

### **DECISION OF THE BOARD**

Mr. Katz made a motion to approve the application as presented. The motion was seconded by Ms. Fineberg. Chairman Rice asked if there was any discussion.

Mr. Adams said that he had a concern with how the gate was going to look. He did not know where the gate mechanism would be placed, how tall it would be and how the gate would function with the streetscape. He added that there is a small planter and a pair of bollards in the area. He was also concerned that it would have an industrial feel to it.

Mr. Golumb stated that he agreed with Mr. Adams. He asked if would make sense to table the application to next week and have Mr. Jarvis bring an electrician with him to help explain the project.

Ms. Fineberg replied that she did not feel it was necessary to have the electrician come; the commission just needed more information.

Chairman Rice said that that seemed reasonable.

Mr. Raynolds mentioned that he felt the gate design was not very historic looking. He wondered if the applicant could research other gate designs for the next meeting as well.

Mr. Adams said that he has seen gates with rails that retract horizontally. They can also install a face of boarding on them for a different look. He agreed with Mr. Raynolds that he would like to see something with a little more sense of place.

Ms. Fineberg pointed out that there are at least two other gates like this one in the historic district, at the Porter Street Condominiums and the Sheraton. She felt they were making the applicant go to extraordinary measures for what is a parking lot.

Mr. Raynolds said that that was a fair point; however, they make decisions one by one on their merits.

Mr. Hetjmanek stated that he agreed with Mr. Raynolds that the gate is about as unhistorical as you can create it. He said that the Porter Street gate came before the Planning Board and they made a temporary review. He added that the Planning Board asked if the Historic District Commission would approve this. At the time, they did not have a Planning Board representative on the Historic District Commission, but he thought the answer was yes. As far as the Sheraton goes, Mr. Hetjmanek said that there is not as much context there as there is in the downtown area. He said he would like to see something more aesthetically pleasing there.

Chairman Rice told Mr. Jarvis that they would need to see measurements as to exactly where the gate will go in relationship to the granite posts, specific measurements of the gate itself, and if possible, alternative designs to the proposed gate.

Mr. Adams made a motion to table the application to the November 8, 2006 meeting. The motion was seconded by Mr. Golumb. The motion passed by a unanimous vote.

\*\*\*\*\*

- 4. Petition of **Robert Finney and Jane McIlvaine, owners**, for property located at **93 High Street, Unit 4**, wherein permission was requested to allow exterior renovations to an existing structure (change rear roof design from shed to gable to allow for an exterior porch and change window configuration on rear elevation) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 118 as Lot 23 and lies within Central Business B, Historic A, and Downtown Overlay Districts.

**DECISION OF THE BOARD**

Mr. Adams made a motion to table the application indefinitely at the will of the applicant. The motion was seconded by Mr. Golumb. The motion passed with a unanimous vote.

\*\*\*\*\*

5. Petition of **Argeris N. and Eloise M. Karabelas, owners**, for property located at **461 Court Street** wherein permission was requested to allow exterior renovations to an existing structure (change roofline and windows at rear kitchen, replace all existing windows) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 105 as Lot 7 and lies within Central Business B and Historic A Districts.

#### **SPEAKING TO THE PETITION**

Mr. Peter Kasnet spoke to the application. He stated that the existing kitchen addition was put on some time ago. The owners would like to renovate it but would not change the existing footprint. They would however like to change the roofline since it currently has a shed roof. This should not significantly impact the exterior. Mr. Kasnet said they would be rebuilding the walls, the roof and using the existing foundation.

Chairman Rice asked if he would need to replace the brick. Mr. Kasnet replied no, that this particular part of the home is wood shingle and will remain wood shingle. The rest of the home is brick. Mr. Kasnet replied that the left and right walls will be in the same spot. They will be lowering it by 6" because of the roof line. He said that there is brick behind there and they would be repointing it.

Mr. Adams stated that the shed roof is a much more classic addition. He commented that it is a typical shed roof addition. He continued that the boxed bay along the water side of the building could be enhanced with a padded crown on it. He asked Mr. Kasnet if that was something that he could do. Mr. Kasnet replied yes.

Mr. Kasnet stated that they would also like to replace the rest of the windows in the home. They are deteriorating and leaking. He said they would attempt to remove the storm windows and have new windows made to match the old ones. He showed the commission a sample of the window sash. Mr. Kasnet said that they will make every attempt to duplicate what is already there. They would use clad sash with wood on the inside and would be replacing the wood jam with a new wood jam. He added that the storm windows would not go back on; however, there would be screens.

Ms. Fineberg asked if there were any existing windows with the original panes of glass in them. Mr. Kasnet replied that he has not found any.

Mr. Wyckoff asked if he would be putting new casings within the brick openings. Mr. Kasnet replied yes. Mr. Wyckoff asked if they would be changing the brick openings. Mr. Kasnet said that it was hard to say because the storm windows are glued to it. It is about a 4" flat casing. Mr. Wyckoff asked if there was molding around the casing. Mr. Kasnet said that if there is, they will try to duplicate it.

Mr. Adams estimated the width of the existing casings to be about 3". He asked if it was his intention to remove the casings and remove the jams that line the masonry opening and replicate that and put the new windows in. Mr. Kasnet replied yes. He also added that he planned to put 2 1/4" sills on all of the windows. Mr. Adams asked if the shutters would be retained. Mr. Kasnet replied yes, same size and configuration.

Mr. Kasnet addressed the front porch. He said that when he went in to fill out this application, he found out there was an issue with the porch that dated back to 2001. The owners at the time came to the Historic District Commission to repair the porch. They received approval but never repaired it. Mr. Kasnet asked if he could go ahead and replace the porch to the 2001 approval specifications.

Chairman Rice asked if there were any more questions for the applicant. Hearing none, he asked if anyone from the public wished to speak to, for, or against the application. Seeing no one rise, he declared the public hearing closed.

**DECISION OF THE BOARD**

Mr. Hetjmanek made a motion to approve the application as presented. The motion was seconded by Mr. Reynolds. Mr. Adams made an amendment to the motion to include a 3” gutter molding around the bay window. Ms. Fineberg made an additional amendment to extend the applicant’s 2001 approval for the porch. The motion passed by a unanimous vote.

\*\*\*\*\*

6. Petition of **Temple Israel, owner**, for property located at **200 State Street** wherein permission was requested to allow exterior renovations to an existing structure and new construction to an existing structure (new entry addition, apply brick veneer, replace windows, add retaining wall, stairs, and handrails) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 107 as Lots 65, 66, and 75 and lies within Central Business B, Historic A, and Downtown Overlay Districts.

**SPEAKING TO THE PETITION**

Ms. Fineberg stated that she would be recusing herself from the discussion and vote.

Mr. Tom Emerson, architect for the project, spoke to the petition. He stated that there were three pieces to the site. There is the existing 1820 sanctuary, a 1967 community center addition, and an existing concrete block building. All three buildings will remain. Mr. Emerson said that they plan to skim the existing concrete block building with brick. There will be an addition between the sanctuary and concrete block building for the installation of an elevator. Also, there will be an addition that will serve as an entrance on the Court Street side. He added that they would be replacing the old canopy over the existing entrance. He also said that they would be attempting to replicate the brick detailing that is on the 1827 sanctuary building. They would be using The Players Ring building as their guide. They will be duplicating the arched windows and cornice detail. The addition for the entrance would also be clad in brick. He pointed out that the entrance would be placed on the bias and would help to facilitate drop offs in relationship to the church, Hebrew school, and daycare. He mentioned that there was some concern about the addition being on the bias. He said that if they were to turn it off of the bias, in order to shed moisture off the roof, it would have to be higher to shed the water off to an existing roof. They did not want to be up above the 1967 building.

Mr. Wyckoff told Mr. Emerson he felt that he did a nice job on the windows of the 1967 building in bringing in a more historic context. He asked why they decided to not face the back of the concrete block building with brick. Mr. Emerson replied that the current plan is to paint the building to match the original brick of the building next to it. The building is currently rental

space and they do not know what will happen with it in the future so it made sense to not put the added expense into that building.

Chairman Rice asked if there were any more questions for the applicant. Hearing none, he asked if anyone from the public wished to speak to, for, or against the application. Seeing no one rise, he declared the public hearing closed.

**DECISION OF THE BOARD**

Mr. Katz made a motion to approve the application as presented. The motion was seconded by Mr. Hetjmanek. Chairman Rice asked if there was discussion.

Mr. Adams stated that the architect had done a masterful job of refacing, reinterpreting, and redirecting the building and including handicap accessibility with very little impact to the building. He said that he was opposed to the entrance on the bias since it was out of character with the 18<sup>th</sup> and 19<sup>th</sup> century buildings. He felt that otherwise, it was a wonderful addition.

Mr. Wyckoff said that this is a synagogue. Churches and synagogues always have a special style. They are not a commercial rectangular building on a street. He said he felt the building made a lot of sense.

Mr. Katz commented that this was the first time he had seen a rendering of the project. He said he felt the proposed project lives very well in the area. The novelty of the design does not detract from its historical appropriateness.

Ms. Dika said that it is a nice addition to the streetscape. It is a temple and it should have that identity.

Mr. Raynolds agreed with Mr. Katz. He wondered about the emergency exit on the left of the new entrance. He thought maybe it could be improved upon.

Mr. Wyckoff said that there were no details on rails in the plans. Mr. Adams replied that page 6 of the plans showed the existing rails. Chairman Rice asked if they were changing the rails. Mr. Emerson replied no.

Chairman Rice called for the vote. The motion passed by a 6-1 vote with Mr. Adams voting in opposition.

\*\*\*\*\*

7. Petition of **Barbara S. Miller Trust 1999, owner**, for property located at **287 Marcy Street** wherein permission was requested to allow demolition (remove existing structure) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 103 as Lot 46 and lies within General Residence B and Historic A Districts.

**SPEAKING TO THE PETITION**

Ms. Dika stated that she would be recusing herself from the discussion and vote.



Chairman Rice asked the Commission if they had a chance to read the memorandum from the Planning Department. He said that when they have applications with particular issues, sometimes they get a memorandum to help them interpret the ordinance.

Mr. Tom Emerson, architect for the project, spoke to the petition. He said that the owners bought the property next door to their residence. He reminded the Commission that he had been before them with a two part project at a work session. He stated that they are before them this evening with just the one application since the other application has zoning issues. The proposed plans for the other project are in violation with setbacks and lot lines. They are in the process of working with the Planning Department on those issues.

Mr. Emerson said that the proposed property had been a rental unit and the owners purchased it sight unseen. They were concerned about safety, economic viability, and neighborliness. They did not purchase it with the intent of tearing it down. They thought they had a young couple to rent it but because of no on site parking, the couple backed out. It became apparent that it would be difficult to rent the property. At this point, the owners started to look at the other possibilities for the site. Mr. Emerson said that it was a difficult, almost economically unviable property. The amount of money that it would take to bring the house up to the standards of the others houses around it would make it economically unreasonable.

In regards to the Planning Department memorandum, Mr. Emerson said he disagreed with the nature of the character of the area. Approaching Marcy Street from the south, there is a fence, pocket garden, and parking. From the north, there are fences, parking, and pocket gardens. He felt that the nature of the area is that there are houses with space between them. He said that yes, they would be creating a hole in the streetscape, but it is no different than some of the other open spaces on the street.

Mr. Emerson continued that in regards to Section 10, the house is part of the defining character of the neighborhood, but the fact that there are other structures of similar design in the immediate area; taking away one of them does not take away from the character of the neighborhood.

Chairman Rice asked if anyone from the public wished to speak to, for, or against the application.

### **SPEAKING TO, FOR, OR AGAINST THE PETITION**

Mr. Fred Engelbach of 305 Marcy Street spoke against the petition. He felt that if the application was approved, they would lose the documentation of a historic space. He pointed out three houses on Mr. Emerson's plans that were built about the same time, 1875-1880. When they were constructed, they were similar in architectural style. From doing some research, he thinks the style is vernacular Greek revival. He said that when you look at the three lots side by side, you can tell historically what was originally there by the design and detail of the trim. If the building in the middle were removed, it would result in a loss of historical perspective. He was also opposed to the hole that it would leave if the building was removed. There has always been a building on each of the three lots. Also, if the building were removed, it would open up the façade of the neighboring house that has been altered significantly over the years and does not have historical features. Mr. Engelbach encouraged the Commission to hold the line on removing buildings, particularly those built in the 19<sup>th</sup> century.

Mr. Bob Pollard of 294 Marcy Street spoke next. He said that he lives in the house directly across the street from the building being discussed. He stated that the house is a mess. He does not care about the age of the house. The condition of the house and its economical potential is

almost zero. He said that anyone who buys the house would have to invest a significant amount of money to bring it back. Because of the fact that it does not have any parking is a significant issue as well. He said that he was in favor of removing the house and opening up the space. It would be a more pleasant view for him personally as well as the neighbors up and down the street. He encouraged the Commission to approve the removal of the building.

Ms. Patricia Fitzpatrick of 267 Marcy Street spoke in favor of removing the house and replacing it with the proposed pocket garden. She felt that because the house was so close to the other houses, it looked like it had been wedged in there. She said that part of the pleasure of walking around the neighborhoods of Portsmouth was not only to admire the historical architecture but to enjoy the creativity of the pocket gardens.

Mr. Jerry Ackman of 326 Marcy Street said that he agreed with the previous two speakers. He felt they covered all of the points completely. He strongly urged the Commission to approve the petition because it would be a significant improvement to the neighborhood and the Historic District.

Chairman Rice asked if there was anyone else wishing to speak. Seeing no one rise, he declared the public hearing closed.

#### **DECISION OF THE BOARD**

Chairman Rice thanked all of the neighbors for coming to speak to the petition.

Mr. Katz made a motion to approve the application as presented. Ms. Fineberg, for the purposes of discussion, seconded the motion.

Mr. Hetjmanek said that he could not support the motion. He read from the ordinance, Article 10-1004 Scope of Review and felt that a pocket garden was not justification for tearing a house down. He thought just because two houses are too close together, does not mean that one should be torn down to make a pocket garden. He talked about the old towns of Europe. They do not tear anything down that is historic because it is about how the buildings relate to one another. They would be destroying their history. He said that the Commission's decisions have to be made by fact and he was not sure about the economics of the situation. He concluded that it was a difficult situation he was going to vote no.

Mr. Adams asked Mr. Hetjmanek that, using the criteria that he stated from the ordinance, would there be anything that he would tear down. Mr. Hetjmanek replied that it should be the choice of last resort. He said if it was truly going to fall down, that was one thing, but it is not.

Mr. Wyckoff commented on the pocket garden. He said it is being used as a reason to tear down the house. What he sees is a parking lot, brick, and cars backing out of lot, and two porches being placed down onto the site. He said he would have to agree with Mr. Hetjmanek. He felt the problem with older cities is that buildings are torn down and continue to be torn down and before you know it, there is nothing left. Mr. Wyckoff felt that the building will probably be restored. He said that he lived on Marcy Street for a number of years and Marcy Street is buildings, not pocket gardens.

Mr. Hetjmanek stated that Marcy Street is a very important street in town and they need to be very careful.

Mr. Adams recalled approving a demolition on Fleet Street. He said the building had no extraordinary architectural merit and had grown over time largely out of context. It was an easier decision to make than this one because of the context. Mr. Adams felt the argument should be based on context. He said they are a pair of buildings beside one another. He felt it was in conflict with Article 10-1004, (A) 5.

Ms. Fineberg said that she would not support the motion. She stated that she did not go on the site walk but with information given to her she believed that the building is not so far gone that it can not be saved. She also believed it makes a significant contribution to the street. She said that it was the Commission’s job to preserve architecture. The house is in poor shape but it is not beyond repair. If given the care that it needs, it can be a contributing member to the block.

Mr. Katz commented that he has heard a lot of optimistic forecast about what is going to happen to the house. He said he wished he could be as optimistic. It would be nice to preserve it if you were not footing the bill. He said that he went through the house and found little that was worth preserving. The applicant bought the house because it created a hazard to her and her neighbor who occupied it. He stated that he could see a reason for keeping the house as a point of minor historical interest but he thought it was outweighed by the welfare of the applicant and the neighbors. He said that he predicted that the house will be an example of demolition by neglect.

Mr. Golumb said that he agreed with Mr. Katz that the house needs quite a bit of work; however, he agreed with Ms. Fineberg that it makes a significant contribution to the street. Losing a piece of architectural history does not preserve the integrity of the district. He said that he would not be supporting the motion.

Chairman Rice stated that he agreed with Mr. Katz and he agreed with the lack of economic viability. He was not sure about the architectural contribution that it makes. He thought the idea of the pocket garden was a good one. He thought it would give it a sense of place. He did agree that the removal of the house revealed the unattractive face of the building next to it but he was hopeful that in time, that would be improved.

Chairman Rice asked for a roll call vote. Mr. Katz voted yes, Ms. Fineberg voted no, Mr. Golumb voted no and cited 10-1004 (A) 1, 2, Mr. Adams voted no and cited 10-1004 (A) 1, 2, (B) 1, 2, Councilor Raynolds voted yes, Mr. Hetjmanek voted no, and Chairman Rice voted yes. The motion failed by a 4-3 vote.

\*\*\*\*\*

3. Petition of **Chad and Laura Morin, owners**, for property located at **36 Market Street**, wherein permission was requested to allow exterior renovations to an existing structure and new construction to an existing structure (new third floor addition at rear of building, stair enclosure, three story elevator, and lobby structure at rear of building, replace existing windows and add new windows) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 117 as Lot 29 and lies within the Central Business B, Historic A, and Downtown Overlay Districts.

**SPEAKING TO THE PETITION**

Ms. Julie MacDonald, architect for the project, spoke to the petition. She walked the Commissioners through the drawings that were submitted. They are proposing an addition on the existing two story portion of the building to make it three stories. They are also proposing an

elevator and lobby addition. On top of the three story area, they are proposing a stair tower that goes up to a roof deck. Ms. MacDonald said that they planned to use SDL Andersen windows. She pointed out drawings that showed the spacing of the windows. She also mentioned that they have added an entry overhang to the rear of the building, to the elevator lobby. They will be using cementitious siding in a pre-stained red color to match as closely as possible the existing brick. Ms. MacDonald showed a sample of the roof deck. She said it was a Trex product that feels like wood. She added that it is pristine and it will stay that way with no maintenance.

Ms. Dika asked if it was vinyl. Ms. MacDonald replied no, but it did have vinyl in it.

Ms. MacDonald showed drawings that showed the stair tower, the small portion of the rail and the roof deck. Mr. Adams asked if one of the chimneys they were extending belonged to an abutter. Ms. MacDonald replied that both chimneys belonged to the abutter.

Mr. Wyckoff asked if it was going to be a hydraulic elevator. Mr. Butch Ricci, contractor for the project replied it would be a rope hydraulic elevator. It would only be servicing two floors.

Ms. Fineberg asked what was behind the parapet walls. Ms. McDonald replied that behind the parapet walls was a section of the roof.

Mr. Adams asked about the new windows on the Ladd Street façade. He pointed out that building has been brick mastered. He said he did not see that lasting for a long time. When the new windows are put in, are they going to someday see that outside material come off and wish they had never done it? Mr. Ricci said that they are only cutting in a couple of the windows. The other windows have openings already there. He said two of the windows on each floor were cut in after the brick master system. They did a trim detail with the Azek type wood, painted it, caulked and sealed it, and it seemed to be holding up pretty well. He said he did understand Mr. Adams concern. If a problem arises in the future, the condominium association will have to make a decision about it.

Chairman Rice asked if there were any more questions for the applicant. Hearing none, he asked if anyone from the public wished to speak to, for, or against the application. Seeing no one rise, he declared the public hearing closed.

## **DECISION OF THE BOARD**

Mr. Adams made a motion, for the purposes of discussion, to approve the application as presented. The motion was seconded by Mr. Golumb. Chairman Rice asked for discussion.

Mr. Adams stated that there are very few things about the application that are problems. But for him, he had a design issue of the fenestration on the gable end of the rear portion of the building. He said that he also having difficulty with the wood-looking nature of the addition as you look at from the rear of the building. From the parking garage, it is towering construction. He felt that it really sticks out. He pointed out that most of the buildings have red brick and prominent roof lines. He thought the last 5 feet of the addition was probably the most important and the clapboard nature of it belies the history of this part of the town.

Ms. Fineberg said that she was having trouble with the parapet. She felt they did not fit with Portsmouth. She suggested that they table the application to a work session so that they could work out some of the details.

Mr. Golumb stated that he felt the cementitious clapboards were an improvement. He said that when you stand at the back of the building and or at the parking garage, all you see is red brick. He felt the clapboard will not fit into that area.

Chairman Rice said that he felt there was enough concern with the design that a work session would be helpful.

Mr. Wyckoff pointed out that the parapet roof was very common practice for that type of building. He could not understand the concern as it was only extending one foot above roof.

Mr. Adams made a motion to table the application to a work session at the next meeting, November 8, 2006. The motion was seconded by Mr. Golumb. The motion passed by a unanimous vote.

### **III. ADJOURNMENT**

At 11:05 p.m., it was moved, seconded, and passed unanimously to adjourn the meeting.

Respectfully submitted,

Liz Good  
HDC Secretary

These minutes were approved at the Historic District Commission meeting on December 6, 2006.