

Westport Historical Commission
Meeting of Aug. 6, 2018

Chair Rud Lawrence opened the meeting in the basement meeting room at Town Hall at 6 p.m.

Present: Members Rud Lawrence (RL), Beverly Schuch (BS), Henry Swan (HS), Caroline Bolter (CB), Janet Jones (JJ), Geraldine Millham (GM), Bill Kendall (BK). Alternate: David Paddock (DP). **Absent:** None

Others In Attendance: Jeanne Kendall, Mary Ellen Kennedy, Jane Loos, Marylin Beck, William Pardee, Pam Stenberg, Richard and Dorothy Tongue, Benjamin and Elizabeth Squire, and others.

Minutes: The minutes of the July 2 meeting were reviewed, with BK seeking to correct the information on item C. 1, Bylaw Amendment by deleting the latter portion of the first sentence and all of the second sentence in that paragraph. BK made a motion to approve the minutes as amended, seconded by DP; the vote was unanimous.

Treasurer's Report: GM presented an update on commission accounts and financial activity for the previous month. BK made a motion to accept the report, seconded by JJ; the vote was unanimous.

Correspondence: RL noted the receipt of a letter from the Westport River Watershed Alliance indicating they were foregoing their planned addition to the Head Garage, and indicated there was no action required by the commission at this time. Ms. Loos clarified the statement, noting the Historical Commission must sign off on the revised building plans, and suggesting the WRWA be notified that revised plans must be submitted to the commission for approval.

GENERAL BUSINESS

1. Monitor's Reports: BK reported he had checked the detail of the trim around the windows of the Furtado property and found the work had been done exactly as indicated on the submitted drawings.

2. Certificate of Non-Applicability: CB visited 2043 Main Road and reported the repairs done had replaced materials "like for like" and she would prepare the certificate of non-applicability for that site.

3. Review of Preservation Determination: Benjamin and Elizabeth Squire were present to request that the commission reconsider its vote to place a one-year demolition stay on the building located at 126 Cornell Road, outlining the efforts made to preserve or move the house, as detailed in their July 23, 2018 letter to the commission. The main points of their presentation was that the necessary repairs were too expensive and would exhaust their available funds for renovations and updates to the house. Mrs. Squire indicated they could not find anyone interested in moving the building to a new site; Mr. Squire suggested only the roof rafters were salvageable, and most other parts of the house were not worth recycling.

BK still felt the house should be preserved, possibly moved to a new location on the property and repurposed for storage or a guest house, but the owners indicated they could not afford that option. HS suggested the owners had made a good faith effort to save the building, but felt a delay of another six months would be unfair. GM suggested an addition to the remodeled original structure might be an option to consider, but the owners indicated they could not afford that extra expense. HS made a motion to lift the demolition delay, seconded by BK; the motion passed 4-3, with HS, DP, BK and RL in favor, and JJ, CB, and GM opposed. BS served as the alternate on the matter.

6:30 PM PUBLIC HEARING – COMMISSION BYLAWS

The chair opened the public hearing on proposed changes to the WHC bylaws at 6:30 p.m., reading letters of opposition from Thomas and Rosemary Downer, and Siobhan and Richard DiNatale. Mary Ellen Kennedy spoke in opposition, noting the lack of an effective appeal process for property owners; GM read a letter from Susan Montgomery outlining her concerns with the proposed changes. William Pardee suggested more detailed guidelines for the commission were needed; Marylin Beck opposed any extension of commission authority over the district. Jane Peck, Jonathan Paull, Dorothy Tongue, Richard Tongue, Grace Newcomer and others all rose to speak about their concerns with the revised bylaw language.

RL addressed issues raised about walls and fences, and roofing colors, noting those features are addressed in all other historic district regulations or guidelines; BK also spoke on the need to include roof colors and materials. GM suggested that the proposed changes should not be advanced to a town meeting vote without the support of a majority of district residents, and urged members of the audience who had voiced concerns to volunteer to join the commission. RL indicated that adding more regulations would create more problems than would be solved. With no other members of the public seeking to provide input, the hearing was closed.

ADJOURNMENT: BK made a motion at 7:45 p.m. to adjourn the meeting, seconded by HS. The vote was unanimous.

ATTACHMENTS: Benjamin and Elizabeth Squire letter; Susan Montgomery letter; Siobhan and Richard DiNatale letter; Thomas and Rosemary Downer letters; Marylin Beck and William Pardee letter.

(Approved 9/10/18)



WESTPORT RIVER WATERSHED ALLIANCE

To restore, protect, celebrate and sustain the natural resources of the Westport River and its watershed

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July 10, 2018

To: Members of the Westport Historical Commission,

The Westport River Watershed Alliance has changed the planned configuration for the building at the Head Landing, which we call the River Center. Due to our protracted permitting schedule and rising costs in the construction industry, we have decided to forgo building an addition on the East elevation.

This change will have little if any effect affect WRWA programming, and we remain committed to our site plan as it was originally presented. The only difference: more open space between the parking along the east elevation, which will allow for a more comfortable and safe walking area for access to River.

We are in the process of informing all interested Boards and parties. Please let us know if you require further information.

Very truly yours,

Tom Schmitt

Deborah Weaver

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Deborah Weaver
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Robert Scorsone
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Steve Connors
Community Engagement
Manager

Shelli Green
Communications Director

Gary Galloway
Development Director

Jennifer Louch
Development and Finance

July 23, 2018

Westport Historic Commission
Westport Town Hall
816 Main Road
Westport, MA 02790

Dear Chairman Lawrence and members of the Westport Historic Commission:

The intent of this letter is to revisit the preservation determination of the house situated at 126 Cornell Road in Westport that was made at the March 12th meeting. The Commission voted that our property preferred to be preserved, and our intended plans to rebuild were put aside to work to find a solution that we could afford while keeping the structure intact. The proposed solutions offered for us to explore were a) to build another house on our property; or b) to find someone to purchase the structure and relocate the house. In the last five months, we have made vigorous efforts, as well as spent a great deal of time and money towards exploring these goals, all while digging deeper into the history of our home.

As you know, this has been a very long ordeal for us. Our original intentions in 2015 were to restore our home using an architect that specialized in historic structures to keep the original structure, bring it up to code, and make it livable to today's safety and spatial standards. We worked with and paid this architect to draw full home blueprints for the restoration. After all that, we were devastated to find that in order to keep the framing, walls, and foundation, raise the roof, and keep the current chimney, the cost was 150% over what we could afford. After much family deliberation, and increasing need for space and our children's safety, we decided in 2017 that we would like to rebuild completely. It would not be affordable to maintain the current structure as well as build and maintain a new structure on the same property.

Since March, five separate individuals who own and operate historic preservation, salvage, or building companies have made professional assessments of and/or visits to our home. Their experience was broad, ranging from physically moving old homes to years of knowledge in preserving antique or historic homes. Their companies were based all over New England from Connecticut to Maine. We were troubled, but not surprised to find that the unanimous conclusion is that our structure is beyond the condition of which valuable artifacts or timber can be salvaged. One builder in particular was working to restore a historic home in Maine and he was looking for period floors, hinges and beams. He determined that there was no value in salvaging any parts of our structure. Another builder noted that the exposed, visible framing was "extremely buggy" and

partnering this with the data outlined in the next paragraph, renovating would be an intensive, expensive endeavor resulting in little to nothing of the original structure remaining.

These professional opinions are supported by a 50 page document that we now possess after hiring a certified antique home inspector whose qualifications are exemplary for this type of appraisal. This individual is a charter member of the Historic Building Inspectors Association, a member of the Society for the Preservation of New England Antiquities and a member of the National Trust for Historic Preservation. He wrote the thorough report after spending a weekend inspecting the entire house. Each portion of the building was dated by period and condition. Again, his data and unbiased findings reiterate that the value of our house as historic home was compromised in the early 1950's before my grandfather purchased the property. He concluded that the only original 18th Century remains in the home were a handful of doors and partial framing, which showed considerable rot and insect damage. The remaining structure, windows, sills, flooring and walls were replaced from 1945-1950.

We are now even further puzzled by the disconnect in the decision making of the Historical Commission and the professional opinions of the industry. We have made considerable efforts to contact professionals who are knowledgeable and unbiased. Our energy towards a solution to satisfy The Commission has been constant since our last meeting as we truly are trying to move forward with a solution. We keep coming back to the same conclusion: that our home is not of historical value enough to preserve, move, or salvage; and it is unaffordable to rebuild the safe, efficient home that our family needs on an attached or separate structure on our property.

We are asking that you please take our efforts and new data into consideration and reverse your vote which would allow us to move forward with our demolition plans in October of this year. Rising interest rates, increasing costs in building supplies, and summer house rental prices during construction time all place an enormous financial burden on us if we are to wait until March for demolition. Please contact us with any questions or concerns. We appreciate your timely response and can be reached via phone (781) 801-3943, email at lizlsquire@gmail.com, or mail at 126 Cornell Road Westport MA.

Sincerely,

Benjamin & Elizabeth Squire

Rud Lawrence, Chairman
Westport Historic District Commission
Town Hall
Westport, MA 02790

Re: Proposed changes to the By Laws
August 6, 2018 Public Hearing

Dear Mr. Chairman:

We write as residents of the Westport Historic District since August 1991. We have twice appeared before the Historic District Commission (HDC) for approval of substantial projects to our property at 1875 and 1877 Main Road. We have been full time residents of Westport since 2012 and have voted here since that time. Previously we lived in an Historic District in Dedham MA from 1991 until 2012, the significance of which we will later explain.

The proposed changes to the By Law are significant and attempt to change the statutory scheme agreed upon by the Town and its residents in 1973. When Historic Districts came into existence there was always a compromise and in some instances, as with the Head of Westport, the residents were so resistant to oversight that the Historic District failed altogether. This proposed change to the By Law gives the Westport HDC authority to exercise control over the roofs, stonewalls and fences on property within the District all of which are now exempt from the purview of the HDC. This change also incorporates the HDC's guidelines into the By Laws which appears to be an attempt to give the Guidelines the force and effect of Regulations, an altogether different category of laws. Regulations must go through a much more open and rigorous process than mere Guidelines. Massachusetts law requires regulations to go to a Public Hearing where they are subject to public comment before they can be adopted. The HDC Guidelines have never been subjected to such a review by the public. This proposed By Law change also attempts to regulate "temporary structures" without defining what those are.

We are opposed to these changes for the following reasons:

1. Our experience with the 1991 HDC was entirely different from our most recent experience which began in 2010 and ended with a court order in 2012. This underscores the fact that each Commission feels that it can impose whatever requirements it sees fit, within certain wide parameters seemingly without regard to past decisions. For example, our neighbor, Steven Ferrari, received an order from the 1991 HDC allowing him to take down an old shed that is attached to the rear of his home at 1981 Main Road. He did not get to that project within the year before that order expired and when he came back in 2017 to request the same order from the then sitting HDC he was denied that right and told he could move the structure to another location on his property but he could not take it down. Two different orders by two different commissions, which caused much angst to the home owner and greatly increased the cost from the first to the second order, demonstrate that the Commission's decision making is whimsical.

2. This goes to our second point. When the decision of the different HDCs is so varied it creates uncertainty for all homeowners within the District. We owned a Federal style home in Dedham MA that dates back to 1790. While we were physically within the Historic District, our home and some others were excluded from the District because the people who owned those homes at the time the Dedham HDC was created strongly resisted inclusion in the Historic District. It did not occur to us how important this exemption was until we went to sell the property. We were told by multiple realtors that prospective buyers were not interested in buying a home that was subject to HDC approval for all exterior changes. Houses in Westport's HDC have been slow to sell and perhaps that is the explanation. Of note, although unregulated, that house and others in the District that did not fall within the purview of the Dedham Historic District Commission remained consistent with their original style. People who buy old houses do so because they love them and want to maintain their character.

3. With regard to roofs, we are big fans of metal roofs and would have put one on our barn when we re-roofed it but for the high cost. There is a very handsome metal roof in full view from Main Rd located near the carriage house at 1991 Main Rd. If you oppose loud inappropriate colored roofs, make that one change by regulation, again subject to public hearing.

Of further concern is the fact that we plan to put solar shingles on the south side of our house roof when they become commercially available. A drive around the South Coast or anywhere in the state will demonstrate how popular these energy efficient solar roofs have become. Betty Slade and Dave Cole have long had solar panels on their back house. We would not want to fight to have to install solar shingles because they did not exist when our house was built in the 1840's. Litigation is expensive both for the homeowner and for the Town and these proposed changes will only lead to more litigation. We are sorry to say that when approached by people who want to know what our experience with the HDC has been and what we suggest they do to obtain the best outcome, we always suggest they bring a lawyer to their hearing.

4. Finally, as attorneys we are dismayed by the fact that the opposition which was presented to the WHDC at its first and only public hearing on this matter in February 2017 was not communicated to the Board of Selectmen and Women (BOS) when they voted on the HDC's request to put the first iteration of this change on the Town Warrant. According to the minutes of the BOS meeting for February 20, 2018, Mr. Kendall and Ms Loos appeared on behalf of the HDC and represented that the Westport Point Neighborhood Association (WPTNA) supported these changes with no mention of the strong opposition voiced at the WPTNA meeting or the opposition at the HDC's own public hearing. To be clear, since you do not live in the District, the WPTNA is a social group, as was testified to at our trial by Martin Kelly and Betty Slade, and does not

a mission

Rud Lawrence, Chair
August 6, 2018
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represent the residents of the Historic District. Not all people who live in the District belong to this social group, nor were District residents given notice of your appearance at the WPTNA to gain support for the By Law change. In fact the minutes to that July 2017 meeting, which were just approved in July 2018, noted that Richard Brewer stated that he would NOT speak on behalf of these changes at Town Meeting because the people present at the business meeting had conflicting viewpoints.

Although we both appeared at the Feb 2017 HDC meeting and we each spoke against the proposed changes (which did not include the change in regard to "temporary structures" or the incorporation of the Guidelines), as did Nancy Paul, who objected to any expansion of the HDC's authority and Sharon Connors who noted some of her neighbors weren't happy with the roof regulations, our opposition was NOT conveyed to the BOS even though there exists a video tape record of that HDC meeting. Our neighbors, Tom and Rose Downer, sent a letter in opposition to those By Law changes last year and have resent it this year.

We are putting our opposition in letter form this year so that we can be sure it will make its way to the Select Board and we will attend the BOS meeting this year when this matter is discussed to make certain the record is clear and represents all viewpoints.

Mr. Chairman, you seem compelled to challenge every criticism of these By Laws. While you couch your response in a call for civility, you are actually asking that the authority of WHDC not be challenged to do what it deems right. As residents of the HD, property owners and voters it is our right to challenge further restraints on our living in our homes in the way we choose and we will continue to do so. We are looking for consistency, reasonableness and an appreciation of the fact that while we have great respect for the past, we live in this District in the present.

Sincerely,




Marylin A. Beck & William L. Pardee
1875 & 1877 Main Rd
Westport Point. MA 02791

cc: Shana Shufelt, Chairwoman
Westport Selectboard

addends

TO: Westport Historic Commission
FROM: Susan Montgomery
DATE: August 2, 2018
RE: Comments on proposed changes to Westport Historic Commission By-Law

I write these comments because I am unable to attend the Commission's meeting on August 6, 2018 and present my comments to you in person, due to my obligation to participate in a proceeding in Chicago on the same date. Accordingly, I ask the Commission to consider these comments along with other public comments it receives.

I live in the District and I have lived on or within walking distance of Westport Point since 1971. I say that so you will understand both my abiding attachment to the neighborhood, my participation in the appearance of the District, and my familiarity with the establishment of the District and subsequent activities of the Commission. Although I cannot say that I agree with 100% of the Commission's statements and decisions over the past few decades, I am ever mindful that 'reasonable minds can differ' and I truly appreciate and respect the time and attention its members devote to the Commission and to the District.

I am moved to express my views now because I have significant concerns about these two proposed changes. I respectfully ask the Commission to withdraw both for further study and reconsideration. Based on what I know now, I am opposed to one proposed change and, absent the clarification sought below on the other, I would vote against both.

Proposed change to By-Law 5911

This proposed change strikes me as both 'a solution seeking a problem' and 'likely to cause far more harm than good.' By-Law 5911 currently states that the Commission "shall not have the power to review" a number of things, including "walls and fences" and "the color or nature of materials used on roofs," both of which are identical to exclusions listed in the Historic Districts Act. That has been the rule and the Commission's practice *for more than 40 years*. Not a problem. During that time I can recall many 'walls' (stone, cement) that have gone up, come down, moved or otherwise altered, 'fences' (a variety and combination of materials: wood, cast iron, metal wire, netting, paint) that have gone up, come down, changed height or color, or otherwise altered, and 'roofs' of various materials (asphalt, wood, metal) and colors (red, green, grey, brown and black) – all without injury to the 'distinctive character' of the District. Comparing the District when established to now, the overall impact is barely evident and certainly not a problem. If one or two changes are bothersome to a few, that is not sufficient basis to change a rule that affects all of the

District going forward. We do not have an impact study of the current rule nor an impact projection for the proposed rule. Indeed, changing this rule could lead to actions that do injure the neighborhood. (1)

I also ask the Commission to consider carefully the new and added burden such a change would impose on the District and the residents and property owners who would be affected by it. You know well the requirements for an application (drawings, photographs, documentation, and fee), one or more hearings, and period from application to decision that are currently applied to requests for approval to alter buildings. Consider the unjustifiable burden and consequential harm of applying all of that to requests to alter a fence or wall (such as putting up a fence to keep deer or woodchucks out of a garden, putting up a fence for the safety and well-being of children or pets or taking it down when no longer needed, or lowering a wall or fence to improve a view) or repairing a leaking roof, etc. X

Proposed change to By-Law 5905

By-Law 5906 calls for the Commission to conduct its business in accordance with two laws: the state Historic Districts Act and the By-Law town ordinance. The proposed change to 5905 would make the Commission "obligated to follow" the guidelines that the Commission "may" choose to formulate. It would be helpful for the Commission to explain its reason for proposing this change and the impact of the change on the conduct of its business going forward. For example: How would this change impact the Commission's obligation to act in accordance with the two laws? In what ways do the guidelines add to or vary from the two laws? How do we know what this proposed change means? Are the guidelines entitled to the same enforcement as the Commission's Rules and Regulations?

No.

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call deficit

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Historic District Commission
Town Hall
Westport, MA 02790

RE: Proposed By-Law Change

7/31/18

To Whom it may concern,

I Am writing to the Commission
to oppose the HDC with any further Authority
with regards to roofs, fences, walls and
control of temporary structures on site for
over 30 days.

Thank you for your time
in this matter.

Siobhan & Richard DiNatale
1871 Main Rd
Westport Point

July 31, 2018

Mr. Rud Lawrence, Chair
Westport Historical Commission
Westport Town Hall
816 Main Road
Westport, MA 02790

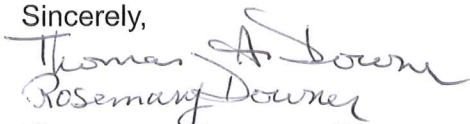
Dear Mr. Lawrence,

It has been brought to our attention that the WHC is holding a public hearing regarding proposed changes to the WHC By-Laws.

We are voicing our opposition to any extension of authority by the WHC with respect to roofs, fences and temporary structures.

We call your attention to our letter of February 1, 2017 (copy attached) explaining our position on this matter.

Sincerely,

Handwritten signatures of Thomas and Rosemary Downer. The signature of Thomas is written over the signature of Rosemary.

Thomas and Rosemary Downer
1865 Main Road
Westport Point, MA 02791

Cc: Westport Board of Selectmen

February 1, 2017

Mr. William Kendall, Chair
Westport Historical Commission
Westport Town Hall
816 Main Road
Westport, MA 02790

Dear Mr. Kendall and members of the Westport Historical Commission,

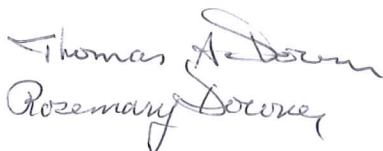
It has come to our attention that the WHC is considering a proposal to change the Town By-laws to require that those of us who live in the historic district seek the approval of the WHC for any changes (even replacements) regarding the color and material to be used on our roofs and to put up or take down fences and stone walls.

Our house located at 1865 Main Road could be impacted by this change. We have been part of the community since 1987. We worked closely with former Westport historian and resident Dick Wertz throughout the renovation and repair of our historic house. Mr. Wertz, as you likely know, co-authored several books on Westport history, and was chairman of the committee that resulted in the formation of the historic district at Westport Point. We respect and appreciate that Westport Point is a unique place. However, we believe that the proposed measure being considered by the Historical Commission would place restrictions on individual choice that are contrary to the history and spirit of Westport Point as well as the current Town By-laws. Part of Westport's charm is its individuality. Westport is neither Colonial Williamsburg nor a museum. Westport is a living, vibrant community. We urge the Commission to allow the By-laws to remain unchanged in this area, giving property owners the continued right to make certain esthetic choices regarding our dwellings and property.

Thank you for considering this request.

Sincerely,

Thomas A. Downer, AIA
Rosemary J. Downer

Handwritten signatures of Thomas A. Downer and Rosemary J. Downer in cursive script.

1865 Main Road
P.O. Box 331
Westport Point, MA 02791

tadowner70@gmail.com
rosedowner@gmail.com