

TOWN OF AMHERST  
Historic District Commission Work Session

January 31, 2023

**APPROVED**

In attendance: Doug Chabinsky – Acting Chair, Chris Buchanan, Martha Chabinsky (remote), Sarah Chastain (remote), Tom Grella – Board of Selectmen Ex-Officio, Nicole Crawford.  
Staff present: Nic Strong, Community Development Director, and Kristan Patenaude, Recording Secretary

Doug Chabinsky, Acting Chair, called the work session to order at 7:00 p.m. He explained that the group would use this meeting to work through Nic Strong’s proposed changes, accept or reject the comments, and end up with a final draft.

**Work Session Topics**

**1. Updates to the HDC Regulations**

Nic Strong explained that in order to get to a set of regulations, boards/commissions have to start at the State statute. In New Hampshire, unless the State has an enabling statute, the Town is not allowed to do it. There are a set of statutes for historic district commissions which give the purposes and what commissions are allowed to do. A town can then take that statute and make it into a zoning ordinance which establishes the districts’ setbacks, dimensional requirements, use aspects, etc. The regulations then include requirements on how to do what is allowed by the zoning ordinance, and historic districts can also create guidelines, which are recommendations or suggestions. Separately, there should be a set of rules of procedure, which govern the way that commissions run their meetings. At the moment, the Commission has a mishmash within these documents with multiple items in multiple places. The intention of this process is to split the regulatory language away from the guideline language.

Nic Strong stated that, regarding page D.4. of the document, Purpose, this language comes from the statute and is mirrored in the zoning ordinance. It states that an application comes to the Historic District Commission (HDC) not just for construction, maintenance, or rehabilitation, but also demolition, alteration, and reconstruction. Article 1, Purposes, Section B discusses applications for the construction, maintenance, or rehabilitation of a property, but the Commission may want to consider adding demolition, alteration, or reconstruction as well. The Commission agreed.

Nic Strong stated that the last part of the same section stated that, if the Commission finds that the applicant meets the general criteria set forth herein, it shall grant the requested permit. This item likely should be expanded to say that the Commission can conditionally approve or disapprove an application, as it currently reads that the Commission will grant every one of them. The Commission agreed.

Nic Strong stated that, regarding the general criteria, the first six subsections currently read as guidelines in nature. She suggested that it should be made clear what the Commission is requiring of an applicant to meet these items and thought the Commission could make the following a checklist item, ‘In making a determination on an application, the HDC shall take into account these regulations as follows: the historical, architectural, or cultural value of subject buildings, structures, or landscapes, and their relationship and contribution to the setting.

TOWN OF AMHERST  
Historic District Commission Work Session

January 31, 2023

**APPROVED**

Chris Buchanan suggested that the HDC's proposed classification of properties already addresses this item by enumerating when a property is contributing or noncontributing because this designation considers the historical, architectural, or cultural value of a property.

Doug Chabinsky noted that the next step in this process will be to update the application to match the regulations. He explained that this section could be amended to state that an applicant shall indicate whether the property is contributing or noncontributing and provide the National Register number, if applicable.

Nicole Crawford stated that these subsections feel like more of an explanation or a description of what the Commission takes into account.

Chris Buchanan suggested that the Commission place these into the guidelines section or convert this into a checklist to consider with each application. Nicole Crawford stated that she likes having this as a checklist to make it clearer as to why the Commission makes its decisions. Nic Strong stated that this could become part of the Commission's findings which is important in light of recent statutory changes.

Doug Chabinsky stated that massing is something the Commission assesses, and is included in items C. and D. This item is key in an approval and the Commission needs to better quantify this item for the applicant.

Chris Buchanan stated that he believes the findings portion of each case is inconsistent or feels nebulous. He stated that he would like to see this section converted into a findings checklist. Doug Chabinsky stated that some of this section could be, but not all of it.

Nicole Crawford asked if some of these items should be taken out and placed in the regulatory sections. Doug Chabinsky stated that these are the items the Commission considers when approving or disapproving. The section could state that the HDC shall take into account these following items.

Nic Strong stated that it needs to be clear to applicants how the items are taken into account.

Chris Buchanan stated that this could be a checklist where the applicant has an opportunity to speak to each item, to be included as part of the findings. If the section reads that the HDC shall consider the items, it becomes more regulatory and helps with consistency.

Doug Chabinsky stated that these are things the applicant ought to be aware of when designing a project.

Nic Strong stated that she believes it is appropriate for this to be in this general criteria section, but that the HDC could expand the first sentence to mention that it will consider these items

TOWN OF AMHERST  
Historic District Commission Work Session

January 31, 2023

**APPROVED**

during findings. This still does not explain to an applicant how or when these will be considered. Approvals will be much clearer if the Commission considers each item in these five sections for each application.

Chris Buchanan explained that the proposal is to amend the sentence that describes Article II to state that the HDC will consider this in its findings. Secondly, the HDC can work to form a checklist from this as part of the application. Doug Chabinsky stated that he does not believe this is an application checklist, but a checklist for the HDC to consider as it works through an application in front of it for approval. Chris Buchanan asked how that information will be known to the applicant. Doug Chabinsky stated that it will end up being on the application.

Doug Chabinsky stated that he believes Article II is worded to explain to an applicant how the HDC will assess their application, and that, if they believe they have a valid reason for not following the regulations, what the waiver process is.

Nic Strong noted that Article III should remain, and Article IV is okay as written.

Regarding Article V, Nic Strong stated that Section B, Minimum Maintenance, states that, “in situations where it is impracticable to repair these features or prohibitively expensive to replicate them, they shall be stored and not discarded.” She asked how this can be required. Chris Buchanan explained that an example of this was a past case with the Brick School. The Brick School inadvertently replaced their original windows with vinyl windows, without going through the HDC. After the fact, the Brick School came to the HDC and the recommendation was to keep the original windows and, at a future date, rehabilitate the original windows and replace the vinyl windows with them. Nic Strong stated that it may be impractical to require applicants to store old items for a potential future use, as part of an application or an after the fact approval. She also noted the difficulty of enforcing such a requirement and that it may not be possible to pass along historical information about properties such as that just relayed by Chris Buchanan to future employees or Commissioners. The Commission agreed to remove the sentence.

Doug Chabinsky stated that there have been past occasions where buildings have gone into such disrepair that they had to be torn down. He asked how the Town/HDC enforces minimum maintenance by homeowners. For example, the Amherst Gas Station has rotting boards that need to be replaced and painted. Nic Strong stated that if someone is not following the regulations, this is an enforcement issue. The Building Inspector, Scott Tenney, will initially send a letter to owners to address an issue. There are other instances of people who do not care or who cannot afford to make the changes. The HDC could invite homeowners to discuss the situation and potential options. There are fines and penalties that can come into play with enforcement situations. This can become a difficult conversation that could involve the Selectmen. Martha Chabinsky stated that the gas station’s current appearance detracts from other properties around it. This is an important item to enforce. Chris Buchanan explained that the regulations mention situations which could cause an unsafe condition or a detrimental effect upon the character of the

TOWN OF AMHERST  
Historic District Commission Work Session

January 31, 2023

**APPROVED**

Amherst Village Historic District. It seems clear that all owners of all buildings shall provide sufficient maintenance on all buildings in the Historic District.

Doug Chabinsky asked if there is a copy available to applicants of the standards for demolition from the Secretary of the Interior's Standards for Rehabilitation as noted in the regulations. Nic Strong stated that there is a copy online and available in the Community Development Office.

Doug Chabinsky suggested a one-page summary overview for those new to the Historic District that included information on items such as this would be very helpful to homeowners. Chris Buchanan noted that this document has already been written, at least in part. A similar letter at some point was being sent to new people or to everyone in the whole District.

Sarah Chastain asked if a similar outreach happens to contractors who may do work in the district. Martha Chabinsky stated that this would be difficult due to the sheer volume of potential contractors in the area. Doug Chabinsky noted that many likely do not want to go through the process.

Nic Strong stated that the Commission should decide whether to or not capitalize the letters after the Section numbers for consistency. Chris Buchanan suggested that the Commission follow the Chicago Manual of Style.

Nic Strong stated that, regarding Section 8.1.D, there is a sentence which does not make sense, "personal wireless service facilities as defined by the Telecommunications Act of 1996 and including accessory and related structures, must use concealment techniques and/or engineering designs which minimize the height and visibility of any structures and including designs which promote the use of any existing structures to the extent technologically the character and integrity of the Historic District." The Commission discussed the confusing sentence. Nic Strong checked an older edition of the regulations on the server and found the same language. The Commission decided to end the sentence after "... which promote the use of any existing structures" and delete "...to the extent technologically the character and integrity of the Historic District."

Regarding Section 8.3.A., Nic Strong explained that this states that materials used for roadway, driveway, walking paths, or other similar surfaces, should be considered in the following descending priority..." She asked how an applicant would know what to do when filling out an application for this type of item. She asked who decides when to go down the list of priorities, and what gives the HDC the authority to deny an asphalt application, based on the language in this section. Chris Buchanan stated that he believes, the way this is currently written, all options are permitted. If an applicant were to choose asphalt, it would not be against the regulations.

Nic Strong stated that she believes this section needs to be clear that all the materials listed are permitted. The application could ask applicants to identify why they have chosen a particular material. Doug Chabinsky stated that the HDC's preference is for natural materials.

TOWN OF AMHERST  
Historic District Commission Work Session

January 31, 2023

**APPROVED**

172

173 Chris Buchanan asked if the sentence after A. needs to be a bit more descriptive. Nicole  
174 Crawford stated that, if all materials are allowed, the HDC's preference does not matter. The  
175 HDC should either allow all materials, or only allow certain materials in certain instances. The  
176 section should not speak to the Commission's preference. Doug Chabinsky stated that asphalt  
177 should be limited to the main driveway; auxiliary parking spaces shall use the other materials, as  
178 listed in the section. Chris Buchanan stated that he believes the current language for this section  
179 is very hard to read and kind of ambiguous. He stated that he believes there is a benefit to  
180 indicating a preference. While some applicants may want to do the best thing, others may only  
181 want to do the cheapest thing. Doug Chabinsky stated that he believes, for historic preservation  
182 reasons, the Commission should mention natural materials, or more historically accurate  
183 synthetic materials that mimic natural materials. Asphalt is acceptable for main driveways only.  
184 Additional parking areas, walkways, and pathways shall be of the materials listed.

185

186 Doug Chabinsky suggested that the language read that asphalt would only be allowed for  
187 driveways, not for walking paths or auxiliary parking spaces for private residences. For public  
188 infrastructure, material will be up to the Department of Public Works. All of the 'shoulds' in this  
189 Section should become 'shalls.'

190

191 Nic Strong stated that Section 8.4., Outdoor Lamps, lists priority items, but Section 2 gives  
192 options for when that is not possible. She asked what the criteria is for this, who determines it,  
193 and how an applicant will know what to do when filling out an application. Chris Buchanan  
194 stated that he believes it will always be best if an applicant has documentary or physical evidence  
195 for requests that are outside of the regular items allowed.

196

197 Doug Chabinsky stated that he believes the language in this section should read, 'shall be  
198 considered in the following descending priority.' Nic Strong stated that the Commission needs to  
199 decide if it wants this documentary or physical evidence to be submitted as part of an  
200 application. Chris Buchanan stated that he does not believe many applicants will come in with  
201 documentary or physical evidence, but this was included for that rare instance, especially as a  
202 way to deviate from the regulations. He noted that an e-mail to the Historical Society will often  
203 yield a good result on this topic. Doug Chabinsky stated this section should be made a 'shall'  
204 statement, with a parenthetical note that the Historical Society would be a good source for  
205 information.

206

207 Nicole Crawford asked if noncontributing capes in the Village are required to have colonial post  
208 lanterns. Chris Buchanan explained that, without documentary evidence, applicants should find a  
209 style consistent with the history of the property. Outdoor fixtures are not part of the structure  
210 itself. As part of the streetscape, the regulations seek to standardize the style of the District as a  
211 whole. Applicants can pick from the pre-Victorian post-colonial era when the District was at its  
212 height. There would be a loophole if the applicant had documentary evidence of something  
213 completely out of style. Doug Chabinsky stated that he believes contributing properties should  
214 follow part 1. of this Section, all others should follow the rest of the guidelines.

TOWN OF AMHERST  
Historic District Commission Work Session

January 31, 2023

**APPROVED**

Chris Buchanan suggested that every instance of descending priority lists in the regulations, which refer to documentary physical evidence, should include language regarding contributing properties.

Nicole Crawford asked if there are any exceptions for noncontributing properties regarding materials in this Section. Doug Chabinsky stated that lamppost styles shall be considered in the descending priority listed. Nicole Crawford stated that a Cape with a copper framed colonial post lantern might not look aesthetically pleasing, as opposed to a light in a similar style of the house. She stated that she believes the HDC wants noncontributing houses to look good and aesthetically pleasing, without necessarily trying to achieve historical accuracy. Chris Buchanan noted that the Commission should never rule on aesthetics. The HDC should rule on items that are anachronistic and may detract from the District as a whole.

Doug Chabinsky stated that a colonial post lantern would look okay in front of a 1960s ranch. These lanterns have a pretty innocuous style. He suggested that items 5 and 6 be combined to state that wrought iron lampposts and other metal, vinyl, acrylic, or synthetic posts are not permitted.

Nicole Crawford asked why the Commission is allowing synthetic materials for walkways, but not for lanterns. Chris Buchanan stated that he believes this mostly deals with the cost of materials. Asphalt roofs and asphalt driveways are likely tolerated because the alternatives are extremely expensive. Mandating cedar shakes would be seen as an egregious financial burden. Doug Chabinsky noted that stone, gravel, and granite pavers are natural materials, versus natural man-made pavers, bricks, etc.

Regarding item 4, Nic Strong asked who will decide, based on a particular property, if granite posts are discouraged or not. She asked how an applicant would propose this on an application. Chris Buchanan stated that granite posts are popular and people like how they look. However, they are technically anachronistic. Granite posts did exist as they are currently seen in a few locations but were very rare and were split posts not the modern sawn posts. Doug Chabinsky stated that he would include with item 5 that granite, wrought iron, etc., lampposts shall not be used. An applicant can file a waiver for the HDC to review for a unique case.

Martha Chabinsky stated that the HDC should remember this conversation when discussing mailboxes.

Martha Chabinsky asked if applicants have to file to get a permit to do this kind of work. Doug Chabinsky stated that if someone has an existing lamppost, they will likely replace it themselves without much consideration. Chris Buchanan suggested that the HDC's letter to homeowners in the Village contain a bulleted list of items, including lampposts and mailboxes, and the associated regulations for them.

TOWN OF AMHERST  
Historic District Commission Work Session

January 31, 2023

**APPROVED**

In response to a question from Nicole Crawford, Doug Chabinsky stated that all posts should be wood.

Nic Strong stated that Section 9.1.D. is not regulatory. She asked if the Commission wants to leave this section in or include it in a separate informational guideline document. Chris Buchanan stated that, in order for the regulations to become more regulatory it appears that this information needs to be subtracted. He suggested that the informational language in the regulations become the basis for the guidelines. Then the informational items can be removed from the regulatory document, and the guideline document can retain these items. He would like these documents to keep a similar format, rather than having the regulations and a completely different document for information.

Doug Chabinsky stated that he is okay with this idea, but item D from this Section does not belong in the regulations. This may be an easier project once the HDC creates an application checklist.

Nic Strong addressed Section 9.2, Replacement Windows. She asked who makes the determination on this item and how an applicant can indicate it on an application. Doug Chabinsky stated that the first sentence should say that if an applicant cannot repair a window or if a window has already been replaced at an earlier time, then the applicant can look at an in-kind replacement and follow the guidelines for doing so. There should be a list of descending options. Chris Buchanan stated that he believes there is language included somewhere that a window restoration professional could make this determination. The burden of proof is on the applicant.

Doug Chabinsky stated that Section 9.1.A could include language that, for original windows deemed unrepairable by a historic window expert, an in-kind replacement may be considered. See section 9.2. Nic Strong noted that the Commission may want to make sure the completed application section spells out what information is needed to submit to meet the requirements. Doug Chabinsky stated that this will be on the application checklist.

In response to a question from Nic Strong regarding Storm Windows, Section 9.4. Doug Chabinsky stated that the language in this section should be changed to 'shalls.' This also goes for the language regarding shutters and screens.

Nicole Crawford asked if the Commission could enforce maintenance of these items. Chris Buchanan stated that the Commission does what it can.

Doug Chabinsky asked about the language for combination storm windows. Chris Buchanan stated that the language discourages this. He included this upon finding out, specifically with the Church's application, regarding other options for storm windows that are not large metal boxes. He likes that there are storm windows that can be inserted into the frame. Doug Chabinsky agreed with leaving that language in as a trial.

TOWN OF AMHERST  
Historic District Commission Work Session

January 31, 2023

**APPROVED**

Chris Buchanan noted that the language regulating that screens have to be removable should be 'shall.' He mirrored language from Exeter's regulations.

Martha Chabinsky noted that Section C.2. states that full window screens which cover the entire window covering are discouraged. Chris Buchanan explained that this was included as it impacts how much of the window can be seen. Doug Chabinsky stated that the screen material will either be aluminum or fiberglass, and either is acceptable.

In response to a question from Nic Strong regarding Article X, Roofs, Doug Chabinsky stated that items E. and F. should contain 'shall' language. These items should also be placed in the completed application section.

Nic Strong stated that Section 11.5. is informational and uses some 'should' language. Doug Chabinsky stated that the language should read 'fences shall conform to the following styles.'

Doug Chabinsky asked that the photo and caption about spite fences be deleted and suggested removing the parenthetical comment regarding fence viewers from Section 11.9. This can be included in the informational document.

Doug Chabinsky stated that this Section discusses proportions, with pictures of diminutive posts and excessive picket spacing. He asked how excessive and diminutive are determined. Chris Buchanan stated that this is subjective. Doug Chabinsky noted that it could instead be very specific. Martha Chabinsky stated that it is better to have specific information, as opposed to it being subjective. Chris Buchanan explained that he would add finding specifics for proportions to the HDC's to-do list.

In response to a question from Chris Buchanan, Nic Strong stated that the title of Article XIII, Administrative Rules, can now be deleted. She explained that when revisions were made in the past to remove the content of this section it was probably easier to leave the title and a notation that it was deleted than to remove it completely and have to renumber the rest of the document.

Regarding Article XIV, Nic Strong suggested that a separate document be created for the rules of procedure. This will keep from muddying up the regulations with meeting procedures and make the rules of procedure easier to amend. This can be done at a regular meeting. Many towns also adopt their application forms and checklists as part of the rules of procedure. She will work to complete these items.

Regarding Section 14.1.B., Nic Strong stated that there are some outdated references to statutes to be deleted. She also suggested making all definitions consistent between the zoning ordinance and the regulations.



TOWN OF AMHERST  
Historic District Commission Work Session

January 31, 2023

**APPROVED**

Nic Strong stated that Section 14.4.D., Officers, is very outdated. It discusses a member of the Commission to be the Secretary to take the minutes and publish them. The HDC has a recording secretary, Kristan Patenaude, to do that job. The Commission agreed to delete this section.

Nic Strong stated that regarding Section 14.5.C.3., for some reason the statute says that the Planning Board Chair has to chair a joint meeting of the two groups. She will adjust this language.

Nic Strong stated that Section 14.5.C.6. states that the HDC shall make all reasonable efforts to hold at least one joint meeting per year with the Heritage Commission for the purpose of coordinating preservation activities that overlap within the boundaries of the Amherst Historic District. She noted that she had not seen such a meeting take place. Chris Buchanan stated that it was important and helpful to do this and suggested that the Commission should get back to doing this. The Commission agreed to keep this language.

Nic Strong suggested referring to RSA 91:A for the next section, D., on nonpublic sessions rather than copying language from the statute. That way when the statute is updated, the regulations do not have to be amended because they will already refer to the current statutory language.

Regarding site reviews, Nic Strong asked if the Commission wanted to add a sentence regarding making every effort to schedule a site review prior to the meeting. The Commission agreed. Nic Strong noted that this language should be in the regulations, as well as the rules of procedure.

Nic Strong stated that the Administration Section of the regulations mentions a requirement for an applicant to float a balloon or erect a pole with a flag upon the top to indicate the maximum height of the proposed construction. While the Commission agreed that it is important to show proposed massing, this item could be removed.

Nic Strong stated that Section G., Work or Study Sessions, states that no quorum shall be required. This is not true, according to RSA 91:A. The Commission agreed to this change.

Nic Strong stated that Section 14.6.A.1., states that the certificate of approval/notice of disapproval form appended hereto shall be the form upon which all approvals are granted and shall be deemed to be a part of these rules of procedure. The rules of procedure in this section should be labeled regulations and she suggested adopting all the forms and checklists as part of the rules of procedure.

Regarding Section 4., Deadlines, Nic Strong stated that this section is problematic. The Commission does not file the certificates of approval or disapproval. These are done in-house by the Community Development Office. The statute, 676:3, regarding the issuance of a certificate of approval requires public availability within five business days, with additional deadlines. She will work on suggested language for this item for a future date.

TOWN OF AMHERST  
Historic District Commission Work Session

January 31, 2023

**APPROVED**

Nic Strong stated that Section 7, Inspections, states that a representative of the Commission shall be assigned to inspect the work for compliance with the certificate of approval. She asked if this language should reference the Building Inspector. Doug Chabinsky stated that this should be the Building Inspector or a Commission member.

Nic Strong stated that the completed application section needs to be beefed up with everything the Commission wants to have submitted as part of an application. Currently, this does not specify plans, elevations, or any specifications. The existing checklist does not mirror the regulations. Checklists should never be a replacement for the regulations, but an easy way to follow the regulations.

Nic Strong stated that, regarding the Administration section, 5. Notice, there are items regarding how notice is provided for various applications. Item C states that notices for applications, other than for new construction, new exterior additions, demolition, moving of structures, site work, change of use, or fencing, only get sent to applicants not abutters. She stated that she is unclear what would fall into a category other than those things already listed. Doug Chabinsky noted that this appears to be for work happening inside a building and the Commission does not regulate this. Nic Strong suggested removing this item, but leaving item B., stating that applications for new construction, additions, demolition, moving, site work, change of use, and fencing have to have notice.

Chris Buchanan asked if there could be items so innocuous that they do not merit informing all abutters, such as replacement of a lamp. Doug Chabinsky stated that he would like to figure out how to make it so that applicants are not charged for conceptual discussions. Nic Strong explained that the Board of Selectmen adopted a fee schedule which includes a \$60 application fee. Chris Buchanan stated that this discourages design consultation, which should be encouraged by the Commission. Nic Strong stated that she will supply the Commission with the fee schedule for further discussion at a future meeting.

Martha Chabinsky asked about enforcement for after the fact items that go against the regulations. She noted that there is currently a generator installed on the corner of Foundry and Boston Post Road with no plantings around it. There is another house with an installed unit which was not permitted. Nic Strong stated that the enforcement procedure is through the Building Inspector. The Building Inspector will send information regarding the enforcement to the HDC.

In response to a question from Martha Chabinsky, Nic Strong stated that enforcement becomes a lot harder once a property has changed hands. If conditions of approval were not met, the owner could potentially be required to comply. If an item was installed by a prior homeowner without having an approval at all, it is very difficult to enforce this upon a current property owner. The Commission could nicely request that the item be screened.

TOWN OF AMHERST  
Historic District Commission Work Session

January 31, 2023

**APPROVED**

428 Doug Chabinsky stated that the Commission should discuss this with the Building Inspector.

429

430 Nic Strong stated that H. should be deleted from Section 14.7, Code of Conduct. The  
431 Commission agreed.

432

433 Nic Strong noted that the application form appended to this set of regulations is not the one  
434 currently being used by applicants. She suggested, once these regulations are in place, and the  
435 guideline document and the rules of procedure completed, the application form and checklist be  
436 created to mirror accurately what is contained in the document.

437

438 The Commission stated that it will meet again next Tuesday, February 7, 2023, to hopefully  
439 review a final draft of this document and discuss next steps.

440

441 **OTHER BUSINESS:**

442 **2. Any Other Business**

443

444 **The meeting was adjourned at 9:11pm.**

445

446 Respectfully submitted,

447 Kristan Patenaude

448

449 Minutes approved: February 16, 2023