

Historic District Commission

August 6, 2020

Final Minutes

Call Meeting To Order: Patrick Gordon, Chairman, called meeting to order at 7:00 pm via ZOOM.

Members Present: Patrick Gordon, Chairman, Julie Gilman, Select Board Rep, Doug McCallum, Grayson Shepard, new member, Pam Gjettum, Gwen English, Planning Board Rep, Doug Eastman, Building Inspector, David Cowie, Developer, Jay Caswell, Developer, Sharon Somers, legal counsel, Christine O'Brien, architect, Adam Wagner, architect

New Business: Public Hearing: A request from IOKA Properties, LLC seeking clarification of the Certification Of Appropriateness issued at the July 16, 2020 meeting for improvements to the existing structure located at 53 Water Street, Case #20-3. Sharon Somers, legal counsel, said they are here tonight to seek clarification of the commission's order from July 16th. Their letter of July 30th was supported by two things. One was the July 31st letter from JSN and also there was another letter today from August 4th from JSN. They are there to seek permission to temporarily remove the marquee for all of the items cited in their July 30th letter. It includes safety issues and issues pertaining to the construction and renovation to the building. As indicated in their letter, they believe the proposed duration of the removal if this is approved, would be during the duration of the appeal process. They will be taking the HDC decision up on appeal to the ZBA. Depending on the outcome of that and this could be a very lengthy period of time. Their proposal is to remove the sign temporarily and store it safely off site. They would restore the sign if they are not successful with their appeal efforts. She then stated that the letter from August 4th, from an engineer's perspective, strongly believes it would make the most sense to remove the sign temporarily so any improvements could be worked on off site. Sharon then wanted to walk through all the points of Laurie Couture's letter. First item is the reference to the previous correspondence from the NH Preservation Alliance Of Historic Resources. This letter speaks to the importance of apparent structures and not altering structures unnecessarily while repairing them. The previous two letters that were supplied did not address scenarios where safety is concerned. The next item is whether or not JSN physically inspected the marquee on site and has the Exeter Building Inspector, Doug Eastman, declared the marquee a hazard to the public. She said last Friday, JSN was on site and did inspect the sign. Doug Eastman was also present on that site walk. The third point is that the removal of the marquee of safety concerns is necessary because the sidewalk and parking area can be blocked off. The problem with this is that is not practical given the period of time they are talking about. If this is temporarily removed and they will pursue the appeal to the ZBA and possibly thereafter, there could be a very lengthy period of time which will follow. The fourth paragraph talks about support beams. On the face of that, it is true, however given the time period it is going to take

for the appeals to unfold, it is not practical to expect for a period of months that scaffolding and support beams are going to be holding this sign up. The fifth item is that it was suggested for an independent structural engineer to perform a snow load test. She responded to this by saying that Jeff Nerocky is a very reputable structural engineer and he has been around for thirty years. She personally knows him and feels he is very experienced. His conclusions are also not based solely on the snow load. She thinks this is an unnecessary request and she would request the commission not to proceed with it. The sixth point is that a protective covering could be outfitted or built around the marquee to protect it during construction. She said this could be possible, but she would let the construction crew and owners speak to that. Even if this was to be the case, it does not address all of the other issues they have raised in their letter. The next point is paragraph seven which references a Portsmouth sign as communication that was provided to Laurie Couture on July 27th. She feels this is really not relevant. First of all, Portsmouth Sign Company will not be doing any work on their site. They do not have any evidence that Portsmouth Sign has any expertise to talk about the impact to the building. The Portsmouth Sign Company to the best of their understanding has no licensed engineers or architects. In regards to paragraph eight which says the lean or pitch of the marquee can be seen in earlier photos from 1990 and 1994. The JSN letter of July 21st contains photo number one that shows the side view and shows that the upper portion of the sign is pulled and tilted upward. The lean is indicative of safety problems as evidenced by JSN's letter. In regards to paragraph nine, they have indicated in their letter, if in fact as part of the removal of the sign, there is any scarring of the building, they will repair that. Next is paragraph ten and she thinks the answer to that is quite simple. If they do not prevail in their efforts to appeal the decision of the HDC, the intent would be to proceed with the construction of the building and then at the end of the construction as they stated in their letter, they would reinstall the sign. The compliance of this requirement is guaranteed because without them doing this, they do not get their certificate of occupancy and they will work very hard to get this. Finally, with regards to paragraph eleven, it is an expression of doubt as to whether or not following any temporary removal, they do intend to reinstall it. She said they do intend to reinstall it if they do not prevail. If they do prevail and there is some damage to the building, they will fix the building. The comments and she wanted to put this in context, they did indicate in earlier meetings to the HDC that they had concerns about the safety of the sign and it became apparent to them that it was necessary to engage in getting some expert opinion from a structural engineer as to the safety of the building. They did this as quickly as possible. She thinks it is critical for the owners, commission and the town to have the benefit of this expert opinion that has been rendered to try and act appropriately after all that. She does not think that the concern that is expressed about early removal and some conclusions means it is not going to be installed afterwards. She thinks those are misplaced. If they do not prevail, the marquee is going to be going back up. The proof of having this happen is that they will not get their COA unless it happens.

Patrick then stated that he could speak for all the members and they would like to hear from Doug at some point having been present with the meeting with JSN. Prior to that, Sharon had claimed in previous HDC meetings that she raised a concern about the safety of the marquee. Patrick does not remember that being raised in previous meetings until he had actually talked about the clarification of the commission's guidelines which says the marquee does not pose

any immediate threat to the public. The letter from JSN was preceding that. What was interesting was as a pretty permanent place in town driving by every day, the date that letter was issued to the selectboard talking about it being a threat to the public, your client's own crew were in the shade directly underneath the marquee protecting themselves from the hot sun that day. If it had been an immediate threat to the public, he thinks that would not have happened. The irony of where that letter came from as an immediate threat to the public came after the commission said it was not and that was grounds for not removing it. Patrick also wanted to ask what is the load of the turnbuckle. What is the rating of the turnbuckle that is holding the sign up. Sharon said that she does not know the answer to this. Patrick asked her if JSN knew and she said he may, but he is not present here tonight because he is on vacation. Patrick then shared his screen with a picture of the inside of the marquee. Not having any information about the connection of the marquee is boggling. Patrick then spoke about the lean of the marquee being not near the drain. He showed the inside of the marquee once again and you could see the sediment that is collecting along for the drain in the corner on the right hand side and there is a positive pitch to the drain where the sediment is collecting. He does not think there is an issue in terms of pitch of the marquee currently. Patrick then said that what the commission is being asked to do tonight is to bring a clarification to their judgement which is the removal of the marquee from the building as the only element of the application that is not historically appropriate. Should we make a reversal of that decision tonight or make a conditional approval allowing it to be temporarily removed is what they are being asked to do tonight. Patrick then asked for Doug Eastman's thoughts. Doug said he was at the meeting and his recommendation basically was to get a report from JSN that was more detailed. He said he does have some concerns about it after walking through and looking at it that day. He said it is unpredictable because nobody knows at this point. He would never say it was going to be fine. It is old and what is going on with the building with all the construction that is going to be happening there, it would be his opinion to remove the sign temporarily to protect the sign from being damaged in any way. He thinks it really needs to come off so they can see what is holding the sign on and how it has been secured. He thinks this is critical. When it does get reinstalled, it will meet the current codes. Patrick asked if that was not available, the connection to the building, other than the chain. Doug said he did not look inside the marquee because there was no way of seeing how it was attached to the building. The only thing he saw from inside the building was the chain connection. David Cowie spoke and said that the temporary removal of the marquee will allow them to achieve all of the points that Sharon has gone over with the board. He said if the marquee stays, it will be very cumbersome to work around it. Patrick asked him what the process of removal would be. David said they would rig it and just lift it off. Patrick then opened it up to the commission members. Doug McCallum said that he thinks this is a reasonable request in lieu of information from a structural engineer. He thinks the commission is getting beyond their purview getting into means of construction. When he voted to maintain the sign, he assumed they would have to remove the sign in order to restore it. He would put a condition on the resolution that it would be stored in an enclosed safe place. He said their resolution did not address the restoration of the sign, it just had to stay on the building. He did not intend it to mean that it literally stayed on the building during the process of construction. That is crazy. The second guessing of engineers is something he does not do nor

pick them apart. If an engineer tells him that something may be dangerous, he does not say well probably not. He has designed buildings where contractors have told him are over engineered and it turns out there is an earthquake and they survive. He does not think they should get into the nitty gritty of means and methods of construction because he does not believe this is the commission's purview. Patrick then said for clarification about their COA, it was for saying that the demolition of that historic element on the building was not significantly appropriate. Doug then said that he thinks their request is completely reasonable and he cannot believe the commission is trying to nitpick. Julie said that she just wants to be clear on a process that what they are doing here is further clarifying what wasn't clear and because of the process of restoring a building she completely agrees with Doug that the retention of the marquee was the aim of the motion because she made the motion. She understands the complexity of leaving the sign in place while doing the construction. She is comfortable with the request for the marquee to be temporarily removed. She agrees with Doug that it is not in their jurisdiction to tell the owner how to do that. Julie wants to know if the commission decides and makes a motion to approve the temporary removal of the sign during the construction period would this project still continue to the ZBA. Sharon said yes because what they will be appealing would be the decision of the HDC to require that the marquee be retained on the building as part of the overall construction. This will be the issue they will be appealing. Pam said that everything has already been said and she also agrees with Doug and Julie and if a construction engineer tells her something is dangerous, she accepts that yes, it is dangerous. Patrick wanted to clarify this and what Doug was saying in terms of nit picking an engineer, he is not nit picking an engineer but he wants to bring complete clarity to what the commission is evaluating at this time. Also to make sure they have all the information in front of them to render a decision. That being said, it is not adversarial towards a professional engineer in any way, other than lets make sure we have all the information. Gwen is not an engineer or architect so she comes at this from a very different view point. She appreciates Doug's and everyone else's concern about safety. She cannot argue against any of the points that have been made by the engineers. The only thing that she would offer is one component missing from the discussion is the involvement of a sign person in this process. Dave Cowie stated that they did hire Bridgeroad Sign Company out of Newbury, Mass. Grayson said he has not been as intimately involved in this process as everyone else. He said that Mr. Cowie has somewhat addressed this but his question is as far as the timing of the removal, what is the purpose besides just getting it over with. Removing it while this is pending vs doing it once there is a resolution in the appeals process. Dave said not to do it twice. Patrick said at this time, they have heard from all commission members and then asked the owners and counsel if they had any comments before it is opened up to the public. Sharon said not at this time.

First from the public to speak is Michael Maslowski who lives in Tampa, Florida. He is a former resident of Exeter and was allowed to speak at the last meeting. The commission all agreed for him to speak. He had them pull up photo three, showing bolts going up through the building. He said it is connected by an eye bolt welded to a plate. He would like to know that it is structurally attached before it comes down.

Dan Chatand is an Exeter resident and he has had a business downtown for 25 years. He owns the Water Street BookStore. He said he has the reputation of someone who likes to

streamline things so business development can happen. He thinks the marquee is a critical component of the historic street. He would ask the HDC not to bring any change to the July 16th decision until the commission as a body is reassured by your own structural engineer of the IOKA's sign of long term integrity as a historic resource.

Mairead Carr and she is an Exeter resident. Her concern is that if the marquee is taken down, it will stay down and not be put back up again. She said it could very well be damaged and there has been no information if removing it would damage it. The marquee could also get damaged sitting in some storage facility while the appeals are going on. When it is on the building, you can see that it is safe. Safety concerns were not brought forward until the HDC decided the marquee should remain up. She finds this to be very telling and concerning. As an Exeter resident for 31 years, she has never noticed a change in IOKA positioning or how it is attached. She would like to see the marquee remain on the IOKA because it can always be fixed when it is up there.

Michelle Norton is a Dover resident but was an Exeter resident for 20 years. The commission agreed to let her speak. She is concerned because at the July 16th meeting, the owners were concerned about the views and selling and now it is about safety. Her concern is if you take the marquee down, does that in fact change any kind of grandfathering when it has to go back up. She thinks they should be able to find a way to keep the sign in place and maintain its structure while still doing the development.

Elizabeth Rollins is a Farmington resident. She was at some point, an Exeter resident and she spoke at the last meeting. The commission agreed for her to speak. What she wants to bring up which no one has touched upon is if they take it down, now are they going to restore it back to the building if construction is already underway and partially completed. There has been no touching on this whatsoever. She feels this is very important. The other point she wants to make is that at the 7/20 Select Board Meeting, Attorney Somers addressed the safety concerns and requested the removal of the marquee temporarily because it would be a danger to the public if it was not removed. If this is a safety concern, why wait until August 4th to come up with another go around with this.

Sheila Mullen is an Exeter resident and is speaking as to the importance of keeping the IOKA sign on the building. She does not have a lot to add to what Elizabeth said. She was very elegant and covered many points. She said it seems very self serving to have your own structural engineers looking at something that is in question. It is also very disturbing that the proceedings could go on and on in order to block the maintenance of the sign. The cost of the appeals could possibly pay for the restoration.

Dawn Jelley is an Exeter resident and wants to support the HDC's original decision to keep the IOKA marquee in place. She is concerned that if the marquee is removed that it would not go back up.

Laurie Couture was next to speak. She lives in Newmarket but lived in Exeter for many years. The commission agreed to let her speak. She said on the 16th of July, a decision was made by the HDC that the marquee needs to stay on the building. She is concerned because the owners are not hiring a local sign company. She said that Portsmouth Sign would be able to if hired, restore the marquee on the building. First it was the view and now it is the safety. With all the storms, the marquee has not moved. It has weathered 80 years of storms. She thinks it is

crucial that the board sticks to its original decision because there is no intention of putting the marquee back on the building when it is removed.

Linda Wade lives in Northampton but was an Exeter resident. The commission agreed to let her speak. She said she doesn't think she can do any better than everyone else who has spoken, especially Laurie. She wanted to know if there is an itemized report on how the engineers determined that the marquee is unpredictable. She is also wondering how unpredictable all the other signs are on other historical buildings in town.

John Maslowski resides in Arizona but lived in Exeter. The commission agreed to let him speak. He agrees with what everyone else has said but if they take down the marquee and something happens to it, who pays for that.

Scott Reffner and he is an Exeter resident. He has a question concerning the marquee being some sort of monumental historical piece and the HDC pointing out that it is a resource of communication for letting the community know about events and different things happening in town. His question is if the marquee is retained, what is the commission's expectation that the marquee will continue to be used as a communication resource to the Town of Exeter. He said the marquee has not been readily available for the past five years for community events. Will this come back. Patrick said there is no purview for the HDC to require it to continue as being a communication piece to the community, nor can they dictate what goes on the marquee. It would be the discretion of the current owners. Patrick wanted to be clear on what they are talking about tonight is the decision that was made by the HDC on July 16th that the marquee is to remain and not to be destroyed. Tonight is the request for a temporary removal to better evaluate the building and the sign and to restore it if they are not successful with their appeal to permanently remove the sign.

Michelle Norton spoke again and wanted to know if the town engineer had inspected the sign. Patrick said that the town's building inspector, Doug Eastman was on site with the engineers at the last site walk evaluation.

Linda Wade spoke again and said wouldn't it be fair to get another opinion on the safety of the marquee. What can they tell us that it is unsafe and unpredictable?

Mairead Carr spoke again and she just wanted to say that there should be an engineer to look at whether the sign would be damaged if taken off before a decision is made. No one has said how it is attached on the inside and she thinks this should be heard before a decision is made. She said she went online and looked up Bridgeroad Sign Company in Newbury. They do not have any experience with anything similar to the IOKA. There is no historical element or restoration to their business. The community is very willing and happy to help raise money to restore the sign.

Karyn Weeks spoke and she is an Exeter resident. She is wondering why Jeff was the one to come and why Sharon keeps calling him a structural engineer. The website says he is a civil engineer. She thinks they could do some exploratory work to find out how the sign is attached. Focusing on the chain seems to be just one bit of a bigger picture that they aren't getting.

Laurie Couture spoke again because she just wanted to add that they could restore the marquee for approximately \$25,000.

Sheila Mullen spoke again to say that she would like the HDC to stick to their original decision and that scalloping be put up for safety.

Michael Masloweski spoke again and said he thinks they have beat the horse enough to make a decision.

Patrick then opened it up to counsel and the applicants. Adam Wagner spoke and said he had three relatively simple points that he wants to make with regards to the comments they have heard. The first being the defense of JSN Engineers. In NH there are a lot of crossover between civil engineering and structural engineering. He said that JSN is a very highly qualified structural engineering firm. They have done hundreds of millions of dollars of building construction with them. Jeff and his team are top notch and know what they are doing. The second point is in relation to the parallels that a lot of the comments being made are in relation to the Yoken sign. If a sign is to be restored, the proper way to do it is remove it from the building and restore it property and return it to the building. The last point he wanted to make is that there were a lot of comments about, well, what happens. The protection that the community has in this regard is the approval. The approval states right now that the end result of this construction project is a facade that looks like what they have presented to the board. If they get to the end of the project and the facade does not look like that, then Mr. Eastman will not issue the COA for the building. Sharon then spoke and said they encourage the commission to grant what has been requested. She wants to state publicly that everyone understands that they as developers do not leave their rights at the door to be able to select their own contractors, their own sign people, their own engineers and to pursue their appeal rights. They have the right to select their team and also to pursue appeal if it is needed. Patrick asked the commission if they felt they needed a second opinion to render a decision and he did this by roll call. Julie said state statutes allow the Planning Board to get a third party opinion. The HDC does not have that authority so if they wanted to get another engineering opinion, they would have to pay for it and Julie said they do not have the budget for it. Being said, this project follows the Demolition Commission Guidelines under the Zoning Ordinance. The Demolition Review Committee of the HC has not been requested to have any input on this project. The HC can hire a consultant such as a third party engineer for this kind of review. Julie said she has not seen the building permit, but the application to the HDC proposed removal of the marquee and that does fall within the line of procedure. Doug Eastman stated that there were two opportunities at the other meetings and he thanked Julie for bringing it up to bring it to the HC prior to making any decisions. He applauded her for making that but unfortunately you were not supported and he thinks that would have been the right thing to do to make that condition. He again said they had two opportunities to do this.

Patrick said do they as commission members feel that they need a third party to evaluate the marquee before they can make a decision tonight about the change to the COA. He took a roll call for a decision. All were in favor of no third party evaluation. Patrick then opened it up to the members for any questions before rendering a decision. Gwen asked if the applicant takes the marquee down, will they be taking into account the reapplying of it to the building. David said this will all be part of the process and like he said earlier, they do not want to do things twice. Julie wanted to point out something for the public. When a project is going through an appeal process, if they proceed with the work, it is on their own risk. There were no other questions or comments. Patrick did want to ask a very bold question of the applicant and the attorney. Is there any way they can forego an appeal process by granting the temporary removal of the

marquee for the purposes of restoring it to be replaced back on the building. Sharon said the answer is no.

With that, Patrick asked the commission to bring forth a motion which is either a denial of the temporary removal and upholding of the existing judgement so that the marquee is to remain in place or a motion to grant the temporary removal of the marquee and if this comes forward as a motion, he would say the conditions that apply to this should be as Doug has requested bonded and insured contractors working on the restoration and removal of the marquee. The second one would be storing it off site in an enclosed, secure location. John chose the second motion and he said Patrick said it much better than he could. Patrick said the motion being brought forward by Doug is a motion of approval for the temporary removal of the marquee for the purposes of the restoration of the marquee by bonded and insured contractors and it is to be stored in an indoor location off site. With this motion, it does not counter their decision and allow the demolition of the marquee. Pam seconded. All were in favor and motion approved. This concludes the application and public hearing for this project and the COA will be so amended. Dave stated that the marquee will be in a secure location.

With no other business, Pam made a motion to adjourn. Julie seconded. All were in favor and the meeting adjourned at 9:15 pm.

Respectfully submitted,

Elizabeth Herrick
Recording Secretary