



## HISTORIC DISTRICT COMMISSION ORGANIZATIONAL MEETING

2 Fairgrounds Road  
Nantucket, Massachusetts 02554  
[www.nantucket-ma.gov](http://www.nantucket-ma.gov)

**Commissioners:** Linda Williams (Chair), Diane Coombs (Vice-chair), John McLaughlin, Raymond Pohl, Kristine Glazer  
**Associate Commissioners:** Abigail Camp, Vallorie Oliver, Matt Kuhnert  
**Staff:** Mark Voigt, John Hedden

~~ MINUTES ~~

**Tuesday, March 29, 2016**

Public Safety Facility, 4 Fairgrounds Road, Training Room – 5:00 p.m.

Called to order at 5:05 p.m.

Staff in attendance: J. Hedden, Administrative Specialist; Leslie Snell, PLUS Deputy Director;  
T. Norton, Town Minutes Taker

Attending Members: Williams, Coombs, McLaughlin, Pohl, Glazer, Camp, Oliver, Kuhnert

Absent Members: None

Late Arrivals: None

Early Departures: McLaughlin, 8:45 p.m.

Town Counsel: George Pucci, Kopelman & Paige, P.C.

Agenda adopted by unanimous consent.

### I. PUBLIC COMMENT

None

### II. CONSENT

1. Sweeney, Michael – 65571	1 Longwood Drive	Addition&dormer exist. cottage	71-54	Ethan McMorrow
2. Pierpont, Sam – 65572	17 Washington Street	Entry door/stoop	42.3.1-97	Permits Plus
3. Chen-Yu – 65573	1 Paul Jones	Rev.64941: move house on site	30-618	Thornewill Design
4. Meyer, Stafford – 65574	41 Dukes Road	Window & door change	56-327	NAG
5. Wongsarok, Pilaiwan – 65575	2 Dennis Drive	Remove dormer	67-357	Self
6. Jemison, Sue – 65576	5 C Street	Change deck,porch&shower	60.2.1-25	Val Oliver
7. Maury, Larry – 65577	54 Old South Road	Change doors – storage build.	68-18.2/18.3	Val Oliver
8. Mack, Robert – 65578	2 Farm View Road	Demo deck & add stairs	66-176	Self
9. Glenhurst West RT – 65579	137 Cliff Road	Rev: MH door color	30-610	CWA
10. Glenhurst West RT – 65580	137 Cliff Road	Rev: GH door color&dorm chg	30-610	CWA
11. Glenhurst West RT – 65581	137 Cliff Road	Rev: garage change doors	30-610	CWA
12. Glowacki, Greg – 65582	21 Greglen Avenue	Hardscape: driveway&apron	68-142	Self
13. Keith, Robert – 65583	2 Capaum Road	Rev.64898: rmv door&chg wind	30-218	Botticelli & Pohl
14. Sawyer, Charles – 65584	8R Back Street	Hardscape: arbr, fen&patio	55-355	Self
15. Raftery, William – 65585	78 Madaket Road	Rev.65430: add door	41-462.6	Val Oliver
16. 36 Orange Street LLC – 65586	36 Orange Street	Hardscape: extend fence	42.3.2-219	Val Oliver
17. Lemberg, Edwin – 65587	12 Skyline Drive	Rev: to garage windows	79-7	Val Oliver
18. Lemberg, Edwin – 65588	12 Skyline Drive	Rev: to dwelling windows	79-7	Val Oliver
19. 3 Beacon Land NT – 65589	3 Beacon Lane	Move/demo 1989 main dwell	21-16.9	Workshop ADP
20. 3 Beacon Land NT – 65590	3 Beacon Lane	Move/demo 1989 cottage	21-16.9	Workshop ADP

Sitting Williams, Coombs, McLaughlin, Glazer, Kuhnert

Alternates Camp

Recused Pohl, Oliver

Documentation Associated site and elevation plans, photos, correspondence, and required historical documentation.

Representing None

Public None

Concerns No comments.

Motion **Motion to Approve. (Glazer)**

Vote Carried 4-0//McLaughlin abstain

**Certificate # 65571 to 65590**

**III. CONSENT WITH CONDITIONS**

1. Kruger Sullivan FT - <b>65591</b>	3 Academy Lane	Hardscape:arbor,shower&patio	42.4.3-110	Atlantic Landscape
*4-ft NTW board fence around shaped natural cleft stones	A/C units can be attached	to outdoor shower; less formal	patio, needs	to be irregular
2. 5 Quaise LLC – <b>65592</b>	5 Quaise Pasture Road	Demo existing shed	26-21	Botticelli & Pohl
*Or move				
3. Fogarty, Brian – <b>65593</b>	10 Uncatena Street	New garage	80-16	Emeritus
*Move garage ten feet north so A windows to B to match B in	always will be ten ft farther main house; smaller 4-lt	N than the house should the windows to be narrower &	house also 4-6 inches	move N; change taller.
4. Southstar Mntnvw LLC – <b>65594</b>	3 Traders Lane	Shed	42.3.3-116	Structures Unltd
*Vents to be vertical; window to be	TDL; barn door to be	natural to weather		
5. Ice Baer LLC – <b>65595</b>	5 Parson Lane	Reverse pair doors w/windows	75-111	Jason Olbres
*No change to 15lt doors.				
Sitting	Williams, Coombs, McLaughlin, Glazer, Oliver			
Alternates	Camp, Kuhnert			
Recused	Pohl,			
Documentation	Associated site and elevation plans, photos, correspondence, and required historical documentation.			
Representing	None			
Public	None			
Concerns	No additional concerns.			
Motion	<b>Motion to Approve through staff per noted conditions. (Coombs)</b>			
Vote	Carried 4-0//McLaughlin abstain		<b>Certificate #</b>	<b>65591 to 65595</b>

**IV. SIGNS (5:08)**

1. Kaschuluk, Jeff	88 Old South Road	Club sign	68-400	Self
Sitting	Williams, Coombs, McLaughlin, Pohl, Glazer			
Alternates	Camp, Oliver, Kuhnert			
Recused	None			
Documentation	Associated site and elevation plans, photos, correspondence, and required historical documentation.			
Representing	None			
Sign Advisory	<b>Kevin Kuester</b> , Sign Advisory Committee – Recommend Approval			
Concerns	No concerns			
Motion	<b>Motion to Approve. (Coombs)</b>			
Vote	Carried unanimously		<b>Certificate #</b>	<b>65596</b>
2. Giorgio, Paul	48 Center Street	Sign	42.3.1-1	Emeritus
Sitting	Williams, Coombs, McLaughlin, Pohl, Glazer			
Alternates	Camp, Oliver, Kuhnert			
Recused	None			
Documentation	Associated site and elevation plans, photos, correspondence, and required historical documentation.			
Representing	None			
Sign Advisory	<b>Kevin Kuester</b> , Sign Advisory Committee – Recommend Approval			
Concerns	No concerns			
Motion	<b>Motion to Approve. (Coombs)</b>			
Vote	Carried unanimously		<b>Certificate #</b>	<b>65597</b>
3. Udelson, John	9 Center Street	Sign	42.3.1-203.1	Dalton Frazier
Sitting	Williams, Coombs, McLaughlin, Pohl, Glazer			
Alternates	Camp, Oliver, Kuhnert			
Recused	None			
Documentation	Associated site and elevation plans, photos, correspondence, and required historical documentation.			
Representing	None			
Sign Advisory	<b>Kevin Kuester</b> , Sign Advisory Committee – Recommend Approval			
Concerns	No concerns			
Motion	<b>Motion to Approve. (Coombs)</b>			
Vote	Carried unanimously		<b>Certificate #</b>	<b>655j98</b>

4.	Studio Nantucket – 65599	23 Federal Street	Projecting sign	42.3.1-9.3	Meaghan Scannell
5.	Studio Nantucket – 65600	23 Federal Street	Wall sign	42.3.1-9.3	Meaghan Scannell
Sitting	Williams, Coombs, McLaughlin, Pohl, Glazer				
Alternates	Camp, Oliver, Kuhnert				
Recused	None				
Documentation	Associated site and elevation plans, photos, correspondence, and required historical documentation.				
Representing	None				
Sign Advisory	<b>Kevin Kuester</b> , Sign Advisory Committee – Recommend Approval				
Concerns	No concerns				
Motion	<b>Motion to Approve. (Coombs)</b>				
Vote	Carried unanimously			<b>Certificate #</b>	<b>65599 &amp; 65600</b>

**V. APPLICATIONS**

1.	Forgaard, Julie	20 West Sankaty Road	Hardscape: fen,pat,wall&A/C	73.4.2-121	Val Oliver
Sitting	Williams, Coombs, McLaughlin, Pohl, Kuhnert				
Alternates	Camp				
Recused	Oliver				
Documentation	Associated site and elevation plans, photos, correspondence, and required historical documentation.				
Representing	<b>Val Oliver</b> – Reviewed retaining walls in this area. Retaining timbers from 6” to 30”; the goal is to keep the wall as low as possible. The air conditioning unit (A/C) would go where the tallest section of the wall is; also willing to put a fence around it and sink the A/C into the ground.				
Public	None				
Concerns (5:10)	<b>Williams</b> – The A/C used for context were not approved by the HDC. It should go up next to the house. It’s freestanding here. <b>Pohl</b> – Most or all properties along there have a drop off with retainage, most of which is stone. There are plenty that are 30” high. He’s okay with putting a board fence around the A/C. The closer to the house the A/C goes, the more visible it will be. He doesn’t think it will need a vegetative screen with the fence. <b>Coombs</b> – It’s got a good hedge along Lincoln. It will blend in with a fence and hedge; would prefer that rather than next to the basement stairs. Suggested using holly as a screen; it’s an evergreen. <b>Kuhnert</b> – He thinks the applicant should come back with a precise height. The A/C should be in the least visible space and agrees with Ms Williams that it should be closer to the house surrounded by a fence. He thinks a fence is sufficient. <b>McLaughlin</b> – Doesn’t object to the wall. Okay with the A/C with a fence and hedge surround. Thinks a policy for A/C needs to be set so it’s the same every time. <b>Williams</b> – The privet hedges aren’t going to do it. The fence is not going to do it. This is below the street and they will be looking at the top of the A/C; it’s 5 feet from the street. It would have to be sunk down to get it below the height of the fence, which shouldn’t be higher than 36” and not have any detail on it and surround the A/C on all four sides.				
Motion	<b>Motion to Approve through staff in the proposed location with a 36”-high, natural-to-weather, board fence; the unit not to appear above the fence; and with year-round vegetation along the road side. (Coombs)</b>				
Vote	Carried 3-2//Kuhnert & Williams opposed			<b>Certificate #</b>	<b>65601</b>

2.	1 Pleasant St. ACK LLC	1 Pleasant Street	Rev.64228: color chg &shutters	42.3.3-112	Botticelli & Pohl
Sitting	Williams, Coombs, Camp, Oliver				
Alternates	None				
Recused	Pohl				
Documentation	Associated site and elevation plans, photos, correspondence, and required historical documentation.				
Representing	<b>Lisa Botticelli</b> , Botticelli & Pohl – The foundation is painted dark green at the rear but otherwise it is natural.				
Public	None				
Concerns (5:28)	Discussion about the color pallet: door & shutters black, clapboard stony-blue grey, pillar & trim white, foundation brick on the main body. <b>Camp</b> – She is for keeping the brick foundation natural in the front.				
Motion	<b>Motion to Approve through staff with the foundation on the main house to remain natural brick; operable shutters and front door to be black; clapboard to stony-blue grey; and pillars and trim stay white. (Coombs)</b>				
Vote	Carried unanimously			<b>Certificate #</b>	<b>65602</b>

## VI. HDC ORGANIZATIONAL ITEMS

1. Town Counsel - Enabling Act amendments; legal representation on appeals  
\* Revisions to Demo-by- Neglect in Town Code section. May not be sustainable as written.
2. Defining 50-year findings Contributing to architectural history or significance
3. Non-sitting members not participating in discussions on applications
4. Staff Report
5. Informational pamphlet
6. Update of historic surveys
7. Rules and regulations
8. Consent guidelines

Sitting Williams, Coombs, McLaughlin, Pohl, Glazer, Camp, Oliver, Kuhnert

Concerns (5:34) **Williams** – Things come up and she has to say what Town Counsel said; it would be edifying for everyone to hear it from Town Counsel. (Passed out copies of proposed amendments to the legislation at the table.)

**Pucci** – A lot of issues that come up with the board end up being high profile. There is the conflict of one Town elected board being the appellate board over another Town elected board. When opinions come from Town Counsel office, the question goes through a Request for Legal Services (RLS) through the Town Manager; the formal response comes back through her.

Amendments to the Enabling Legislation should go on the agenda, be discussed, voted on by the board, then get approved by the Town Manager; his office would “red-line” or track change version of the legislation with any amendments. Our recommendations wouldn’t be policy decisions; they just rule on the legality of what the board hopes to accomplish.

**Williams** – The return of regular members to being elected has not yet made it back into the enabling legislation copy being used at the table. The yellow-lined copy is the Workgroup foray into fixing the Act and reflects changes to include changes to the appeal process and a proposed inclusion of some aspects of 40C into the Act. The Town Code section pertaining to HDC might not be strong enough to stand up to a challenge.

**Snell** – Stated that what is in the Town Code needs updating and reorganization; the title itself does not draw attention to its addressing the HDC.

**Kuhnert** – Asked if Town Code Chapter 124 talks about hardship applications; there is nothing about that in the enabling act.

**Williams** – 40C does address hardship applications; she believes that was included in the yellow-line draft.

**Snell** – That hardship clause addresses minimal maintenance.

**Steven Cohen**, Cohen & Cohen Law PC – He sat on the HDC Workgroup, as he recalls the yellow-lined copy Ms Williams passed out was created for discussion, not approval. There are some things that are good ideas and some things were not; it is a starting point.

**Pucci** – If you want to adopt 40C wholesale, the process is complicated. The most streamline way is to round up a set of proposed revisions to the Special Legislation and send it to Town Meeting for approval. One recommended change was to detail minor items of a routine nature that could be signed off by an agent.

**Williams** – Our Act currently does not allow HDC to designate staff to sign off on any application, not even like-kind. One proposed change is to legally allow staff to sign off on like-kind applications and other minor projects. Though staff is legally supposed to be doing that, we going to continue allowing it to keep like-kind applications off the agenda.

**Glazer** – She believes the consent agenda is something the chair needs to come up with a formula that allows all board members, on some level, to take part in the consent review process; it would help the longevity of the board if they are all privy to the mind-set of the process. Suggested rotating the board members to sit down with Ms Williams and go through the consent items to learn the process she uses. This is a collaborative board.

**Pohl** – What he thinks Ms Glazer is suggesting does not mean each board member see each consent item but that the board in general terms sets the policies for what constitute consent items.

Discussion about the feasibility of instituting Ms Glazer’s idea.

**Michael May**, Nantucket Preservation Trust – You did do a best practices report; one thing looked at is the need for more staffing. Having a staff report is very important.

**Williams** – Ms Snell needs to talk about staffing levels.

**Ken Beaugrand**, Vice President Nantucket Association of Real Estate Brokers (NAREB) – Without staff support and doing the routine work, the commissioners end up doing an inordinate amount of work; that results in fewer people willing to be on the board.

**Williams** – We cannot legally give staff any power.

**Beaugrand** – He’s not suggesting that. By staff reviewing the files and preparing a report, that saves the commissioners from having to review the entire file.

**Williams** – I am going to continue reviewing the files because somebody has to see the files before they hit the meeting.

**Beaugrand** – Procedures of the most successful HDCs through the state, the staff does a lot of the “dog” work and then presenting a recommendation to the commissioners so that the commissioners don’t have to review every detail of the file.

**Williams** – We are trying to get staffing to that point but presently there is only John Hedden. At this time, he does not have the expertise to do that; she is training him to identify incomplete applications.

**Beaugrand** – The point Ms Glazer was making, and is identified in the report, is that it is the role of the HDC to put in place a process and procedure to be able to get where they need to be and what needs to be done to get there.

**Williams** – This board has no control over staff or staffing; that is under Town Administration and PLUS Administration. She speaks with Ms Snell about staffing which is changing. Reviewed what she does in the office to ensure that applications are ready for review.

**Cohen** – The problem is that the staff doesn't do any review of the files, Ms Williams is volunteering excessive hours a week doing that. That is unfair to Ms William and unwise and inappropriate for a governmental body. The problems and solutions are relatively simple to identify and work together. Noted the Town puts no money into getting the HDC application process or the enforcement process correct. There should be document with clearer consent guideline as well as guidelines on how to design a structure and get it approved in one or two meetings. There is so much here that is easy to identify and easy to address and the community would support it. As to Ms Glazer's comments about the consent agenda, it isn't to take over doing it, it is to make the process less opaque to the commissioners and the public.

**Williams** – (Pamphlet listing application requirements passed out at the table.) Mr. McLaughlin asked for increased information about consent items be included in the agenda. Reviewed what she has done to the agenda to make it more accurate. Stated that otherwise it is incumbent upon board members to go to the office to review any applications they have concerns about.

**Kuhnert** – We've spent time talking about staffing and staff report. We haven't talked about 50-year findings and non-sitting members participation in discussions.

**Williams** – We've often talked about our own representation for appeals. Expressed frustration about HDC's inability to get its own legal counsel for appeals. When HDC had its own budget, it had a legal budget and its own counsel

**Pohl** – He never got the sense that Town Counsel was representing the Board of Selectmen (BOS) and not HDC at appeals. Town Counsel was rendering an opinion solicited by the selectmen or the HDC. In several instances it worked in HDC's favor. Asked if Mr. Pucci feels like he is representing the BOS in a fight against the HDC.

**Pucci** – He does not see it that way. We are Town Counsel and we represent the Town and answering questions in a forum that is the BOS meeting. It is not his place to advocate one position or another. Any question goes through the BOS Chair; if the chair wants us to answer the question, we do.

**Williams** – We are without an advocate and that has created concerns and problems during some appeals. If HDC had someone there in a legal capacity, the BOS might not be so quick to overturn us where there are no grounds for arbitrary and capricious. If we had our own representative, it would be different.

**Kuhnert** – Arbitrary and capricious is more than that; it is untenable and whimsical. He feels this board should be more informed about the standard of review that we are being held to.

**Williams** – The BOS don't stick to that standard of review. We've had to argue and argue. They don't stick to arbitrary and capricious; they do submit their own judgment, which they're not allowed to do.

**Pucci** – Explained that when the BOS finds HDC was arbitrary and capricious, they feel HDC was arbitrary in its application of the applicable standards that are facts to the issue. Noted HDC doesn't get overturned by the BOS that often.

**Coombs** – If the BOS says HDC is arbitrary and capricious or overturn a ruling in the old historic district (OHD), we have no legal representative to explain why they are wrong.

**Pucci** – When we are at an appeal as Town Counsel, we are answering questions that are posed to us. We are not advocating; we are giving a legal opinion. That opinion can be accepted or rejected. The BOS is not using Town Counsel as an advocate against the HDC. You might feel that way but they are an appellate board. The BOS Regulation of the Town Charter, Section 3.4 gives the BOS executive power to appoint Town Counsel. The Town Manager's responsibility is covered in Section 4.2. Read the section. The only time a board or commission is entitled to its own counsel paid for out of the Town budget is when it is a defendant to litigation and the Town is the party plaintiff.

**Williams** – This isn't the first time the lack of an advocate for the HDC has come up. There was a period when the BOS did not support the HDC; every applicant dissatisfied with the HDC decision appealed it. The board overturned every decision, inappropriately at time, or remanded it back to the HDC. That is when it became painfully clear that we needed an advocate representing our position; that became clear again this past fall.

**Kevin Kuester**, former HDC Chair – In cases where it has a profound effect on the historic aspect of an area, that is when this board needs its own counsel.

Discussion about the 3 Martin's Lane appeal as an incident when HDC should have had its own counsel.

**Coombs** – It says we are responsible for maintaining an area as to the historic aspect and streetscape and what fits into the context of that area. We are being told by the Chair that HDC has to allow a building to go in the way it is and that we can't deny it. If it's our charge to keep an area looking historic, wonders why the commissioners are not able to make the applicant do that and not have to give up the historic area because apparently legally we can't do it.

**Pohl** – This discussion, preservation of the streetscape, came up with North Liberty Street. Similarly a recent application came up that qualified for 41-81L Subdivision, the owner wanted to remove a non-contributing structure hovering around

50 years old on the lot, on a street of old houses, it to make space for a new infill structure. The question becomes, to what degree can we “play the streetscape card.” When we allow a structure on an empty lot, we are changing the streetscape. Asked what exactly does preserving the streetscape mean.

**Kuhnert** – Read the Statute and Bylaws Section 9 B and Section 9C. Section 9C says a building that is incongruous to the surrounding area will not be allowed. Sections 9B and 9C talk about different standards of review for non-contributing versus contributing buildings. Since 1975, Nantucket has been a National Historic Landmark and National Register. We have those designation reports telling us whether or not a structure is contributing to help make a determination. It seems this board hesitant to discuss a structure’s significance and is unwilling to deny applications. Cited a Supreme Court case in which it was ruled that historic preservation laws are not a taking.

**Williams** – The Planning Board cannot say no to a 41-81L subdivision request and neither can the HDC.

**Pucci** – Recommended submitting an RLS for an opinion on a specific application. Generally the answer is in Section 9B, second sentence about new construction or additions to existing building HDC should consider the appropriateness of the size and shape in relation to the streetscape. The implication on that HDC can’t deny it out-right; if an application can be conditions to make it palatable, do it. There is no taking provision in the HDC Act. If an applicant claims HDC has gone too far in regulating the property, the burden of proof is on the HDC to prove otherwise. It is in the legislation that HDC should take the setting into account.

**Kuhnert** – It goes back to standard of review for historical setting and other kinds of settings. Gave hypothetical example of a contemporary setting and asked if setting is a valid argument to dictate the design of a structure. National Historic Landmark goes up to 1975; theoretically, HDC can consider anything prior as an historic setting.

**Cohen** – There should be different levels of review for historic or sensitive areas and non-historic areas. It would be nice to have a manual listing HDC legal issues. Another issue is also how binding the National Historic Landmark is; that should be discussed and paneled by the board then published for the public explaining the parameters. The legal parameters under which the HDC operates should be written down for the public.

**Kuhnert** – Most other historic districts have designation reports for individual landmarks and historic districts the define the boundaries and lists the character defining features and what is and isn’t significant. When applications come before the commission regarding properties in the district, they can turn to the designation report. He is aware of the existence of historic surveys for every historic structure, but this board doesn’t used them. Noted that once a contributing structure is moved, it is no longer contributing; this commission should report that change to the National Register and the State Historic Preservation Office (SHPO) in Boston so that they know to remove the structure from their databases.

**Williams** – Stated that sometimes the word “contributing” has been miss-used. Just because a structure is 50 years old does not make it architecturally significant or contributing. Many structures were given that status of contributing based solely upon the 1938 or 1957 aerials with no reference to the architectural significance or the history of the building. The word “contributing” cannot be abused any longer.

**Kuhnert** – Agrees about the abuse but explained the benefits the owner of a contributing structure may receive due to that status whether or not the appellation of “contributing” is done in error.

**Williams** – Stated the fact has to be considered that buildings have been moved all over this Island since the 1600s and that has not depleted their structural integrity or historic architectural significance. Everyone talking at once.

**Glazer** – The owner has the right to build on his property. If an existing building in an historic district is permitted for removal, the issue is whether or not this board can reasonably require what is built in its place in relation to matching the massing and scale to the structure being removed, especially in historically sensitive areas.

**Pucci** – In that case, the board has to apply Section 9B.

**Glazer** – We can consider the setting.

**Pohl** – Every decision this board makes is arbitrary and capricious in some way. We’ve made similar decisions differently.

**Pucci** – Arbitrary and capricious goes more to ignoring standards. Here you have a clear standard that applies.

**Kuhnert** – The Section 9B standard is clear; however, when the Massachusetts Historic Commission is doing its State 106 review process, it turns to the National Historic Landmark designation report and how that reports what is significant about particular properties and what its contributing features are. This commission doesn’t do that; it doesn’t turn to the National Historic Landmark.

**Pohl** – Stated that he reviewed that report for the North Liberty Street project. Noted that all the 1970s houses in Madaket are listed on the National Registry. Suggested the possibility that means those houses are now the context and we are supposed to have new structures designed that way.

**Williams** – The 1970 Kennedy Bill was put in here because of those townhouses in Madaket. The report, which is full of errors, lists them as contributing. Questions how they can be contributing when they are the reason the whole Island was made a National Historic Landmark.

**May** – Because the National Park Service made us use 1975 as the cut-off date, everything built then or before is considered as contributing; it doesn’t mean it should be saved, it just says that it should receive extra consideration. A building from 1970 built by a famous architect should be protected. 1975 should be used as a guide. If a building is going to be demolished, there should be rational reasons and those have to be made clear.

**Williams** – We do that now; we specify the reasons why a demolition is being permitted particularly in the OHD. Stated the 1989 surveys need to be updated and that the NPT information would be helpful as well.

**Cohen** – More of this stuff should be written down, and staff should track and makes notes of buildings that have been moved and/or lost their contributing status and send that to the State. Increasing the fees will help with the staffing process. The only way it will be approved by the BOS is if there is a plan in place.

**Oliver** – Stated she made a copy from the National Register about age, integrity, and significance. (Passed that out at the table.)

**McLaughlin** – In regards to the 50-year-old is historic rule, in 1991 or 1992 is when it started being used. It was never voted on by the board as a proper reference point. Before that, about 1967, the rule of thumb was anything before World War II was considered old Nantucket.

**Williams** – Clay Lancaster (*Nantucket in the Nineteenth Century*) dated everything before the 1920 as historic and everything after was useless. She doesn't agree with that, but everyone is throwing the dart on the board 400 years of history. 50 years is a rule of thumb to use to establish where a structure is in place and time.

**Kuhnert** – Noted examples when the National Register ignores the 50-year rule. History or work of a master should be used to determine significance, not age; however, a later vernacular could also be a reason for significance.

**Oliver** – The character-defining features relative to a structure's significance must still be present and relatively intact. Sometimes the original bulk of a building is no longer there.

Discussion about determining whether or not the historic integrity is intact.

**Pucci** – On the 50-years, you're really talking about significant changes to a structure; go to the setting and substantial evidence in the record and if there are legitimate reasons to maintain the exterior the way it is; in the case of moving or demolition a structure or substantial changes, the board must consider whether or not those changes are in the public interest. Whether or not a structure is contributing in a historical area, the standard of 9B should still be applied; either a structure is appropriate for its setting or isn't. He's told the BOS, HDC is entitled to deference to interpretation of the regulations and the BOS is not allowed to substitute their judgment.

**Williams** – As far as streetscape, every time we approve something, we are changing the streetscape. Feels it is disingenuous to say moving a 1975 structure off an historic street is damaging the streetscape when every structure in the OHD has had an additive mass put on. It can't be invoked when we feel like it. We have to decide whether or not a change is historically and contextually appropriate.

**Kuhnert** – Preservation regulations aren't about freezing things but about melding.

**Williams** – Stated that Mr. Pucci told "us" in the past that if someone is not one of the five sitting on an application, that person could not make comments.

**Pucci** – Stated that he did not recall saying that. The Chair should clearly designate who is sitting (voting); if someone is not recused, they can participate in the discussion. Repeated that he doesn't see a problem with an alternate speaking to the project if they are not conflicted.

**May** – Other districts allow non-sitting members talking but they aren't voting.

**Williams** – Stated that for 20 years she had been told the exact opposite because it is confusing to the public.

**Pucci** – Reiterated that she wasn't told that by him.

**McLaughlin** – Asked if he wants to speak to a project but he is not sitting and is not a neighbor, can he voice an opinion.

**Williams** – If you previously sat on the project and are currently off due to missing a meeting, you cannot the comment on a project.

**Pucci** – They can't vote but can render an opinion. Unless someone is conflicted or "Mullened" out, legally they can speak on the project even if they can't vote. As long as the chair recognizes the person, they can speak. If someone missed a meeting and didn't "Mullen" back in, that is a little different.

**Pohl** – Noted how it could become chaotic for the applicant; what has to be absolutely clear to the applicant is whether or not someone is speaking as a voting member or just rendering an opinion. That is up to the Chair.

**Pucci** – There is the legal difference between who may speak and who is barred from speaking. There is the policy matter about the chair deciding about how the meeting will proceed. It should be clear to the application who the designated voting members are and to recognize anyone who wants to speak. If the Chair doesn't want to recognize someone, she doesn't have to.

**Williams** – The upshot is, I don't have to allow it.

**Kuhnert** – Speaking for himself, things he would wish to share are to inform his fellow board members.

**Coombs** – As much knowledge as the members can learn from each other is most important.

Motion  
Vote

None  
N/A

- 9. Staffing
- 10. Enforcement
- 11. Fee changes
- 12. Redo applications
- 13. Changes to submission requirements
- 14. Update of RFP for *Building with Nantucket In Mind*

Sitting Williams, Coombs, McLaughlin, Pohl, Glazer, Camp, Oliver, Kuhnert

Concerns **Snell** – Pointed out the first organizational meeting she was involved in was 2012 or 2013; at that time, there was an extreme amount of dissatisfaction with staff performance. We’ve come a long way and a lot has improved though there is still room for improvement.

When PLUS started, inspection wait time was 6 weeks; now the administrator held to a 48-hour standard to perform the inspection. He is also required to put together an inspection report that explains why a property has passed or failed; and he is further required to provide PLUS Administration with a weekly report of the time spent on each inspection. There were a lot of agenda errors and meeting postings resulting in open meeting law complaints; those have been removed due to the involvement of the Chair.

The operation of the meeting from a staffing level has improved; a single staff person coming to the meeting has helped with the order and proper inclusion of files in the basket for the meeting.

Overall customer satisfaction with the process has improved. They are receiving far fewer complaints than in 2012. The 60-day constructive-grant deadlines are now being tracked; violations aren’t happening any longer.

They have hired a new land-use specialist and expanded the position; Holly Backus has a degree in historic preservation. Her current interest is with the Planning Board and Zoning Board but her interest is historic preservation and can be used as a resource if needed. She has taking over the Request for Proposal (RFP) for updating *Building with Nantucket in Mind*. The chair and office have been talking about fee changes since 2013; same with updating the application form, which is cumbersome, outdated, and expensive to print.

**Williams** – Reviewed the past efforts to increase the fees. We will have to hold a public hearing to discuss and then ratify the latest proposed schedule. (Proposed fee schedule changes passed out at the table.)

**Pohl** – Asked what happens with the HDC fees collected; they don’t stay with the HDC.

**Snell** – Funds collected by any board or commission into the General Fund, but additional monies collected help make an argument for increasing the staff. HDC fees haven’t been updated in 10 or more years. Explained the proposed schedule.

**Williams** – The new schedule applies a fee to Like-kind applications because there is a paper chase involved. Suggested saving any comments about the fee changes be saved for the public hearing. The proposed fee schedule will go out to all concerned parties. This would not be in effect until FY2017.

**Beaugrand** – What you are seeing is NAREB’s belief that there needs to be some restructuring and additional staff to make the HDC more efficient. You want to show that the fee increase will provide enough additional revenue to justify the addition of that staff.

**Williams** – Other things are happening that will allow that.

**Snell** – Doesn’t think they will be able to provide the level of analysis Mr. Beaugrand wants. Another point is that fees don’t have to run with the fiscal year and can be made effective at any time. Noted that the number of applications are tracked though not the type; HDC doesn’t use the GOPMS tracking program so that level of detail would only be found by going through file by file.

**Beaugrand** – He’s not looking for a level of detail; he’s looking for a valid reason to say this makes sense.

**Williams** – The last time we had our own budget, Dirk Roggeveen did an analysis. What we learned was that we were bringing in one-third of what it cost to run the office. What that tells us that we are not charging nearly enough of what it costs to run the HDC.

**Snell** – We now have a specific line item on the budget for HDC revenue.

**Marsh Fader** – Asked the board to keep in mind during the review of the fee structure that there are different levels of applicants and this process is very expensive for people who live here year round and are not building large homes; there are some areas where people are barely making due. Suggested looking for a way to offset costs to provide relief. Working for non-profits she knows there are people where \$25 is a large amount of money.

**Williams** – It’s illegal of us to do that though they can ask for a fee waiver. That will be discussed in the public hearing.

**Snell** – The corrected schedule can be redistributed to the board members. It would help that if any board members have comments, those should go to Mr. Hedden; he will compile them before the public hearing.

**Williams** – She will send the proposed schedule out on her database to all the builders and designers.

**Snell** – Asked for a date for the public hearing so that it can be advertised.

**Williams** – Schedule the public hearing for fees for May 3.

**Snell** – Pointed out that this HDC has the last triple-carbon application form in the state. Stated people are asking for something more user friendly.

**Oliver** – (Passed out the draft revised application at the table.)

**Williams** – The revised application will be done in house. The template is set up.

**Fader** – About the RFP for *Building with Nantucket in Mind*, asked if the revision will be done all in-house by Ms Backus or will a formal RFP be put out for that work. A grant was issued for that work.

**Snell** – Had put out a letter of interest and got no response. Ms Backus is working with the Community Preservation Commission representative to put together a formal RFP.

**Cohen** – Asked if PLUS management will put together a proposal for the staff role and function and if all these things discussed today will be written down and disseminated to the public.

**Snell** – That might be what *Building with Nantucket in Mind* could morph into.

**Williams** – *Building with Nantucket in Mind* no longer relates to much this board is seeing today. It also isn't very user friendly for the lay person.

**Oliver** – Suggested reinstating the Design Advisory Committee.

Discussion about reconstituting the Design Advisory Committee and how it useful it was in the past.

Motion None

Vote N/A

Break 7:47 to 7:57 p.m.

15. Borel®/Body Guard® policy

Sitting Williams, Coombs, McLaughlin, Pohl, Glazer, Camp, Oliver, Kuhnert

Concerns (7:57) **Williams** – The Borel® is no cheaper than cedar but lasts longer. Shepley Wood Products and Marine Lumber are waiting for a HDC policy. It is used solely for trim and is made from coal ash. We agreed to allow it but have to come up with a policy for use.

We've allowed Body Guard®, which is sustainable pine, for use at Sachem's Path. One suggestion is that Body Guard® should not be used in the OHD. Old historic homes shouldn't have pine trim.

**Pohl** – Half the houses in Town have pine trim. We can't deny the use of pine trim; but we can deny Body Guard®.

**Kuhnert** – Suggested basing the use on the age of the structure regardless of where that historic structure is located. There are historically significant structures outside of Nantucket and 'Sconset OHDs and areas of concern.

**Williams** – On non-historically significant structures outside the OHDs.

**Pohl** – It wouldn't be evident on a new structure; but if it's used to repair wood trim, it will be immediately apparent.

**Policy Circumstances:** Not useable within the OHDs or on historically significant structures and must be identified on the application.

**Williams** – With the Borel®, it could be permitted outside the OHDs and if the structure is a certain distance from a travelled way. There had been discussion of a pilot program.

**Pohl** – He wouldn't want it within tactile distance from the road. Once the Borel® is painted, if you are 20 feet away, you can't tell it's not wood.

**Williams** – Suggested it be allowed where there are 30-foot setbacks.

**Policy Circumstances:** Useable outside the OHD, at least 35 feet from a publicly traveled way, has to be identified on the application, and not on historically significant structures.

Motion **Motion to Approve the use of Borel® and Body Guard® under the stated circumstances.** (Coombs)

Vote Carried unanimously

16. Validate hardscape plans in reduced size

Sitting Williams, Coombs, McLaughlin, Pohl, Glazer, Camp, Oliver, Kuhnert

Concerns (8:08) **Williams** – The ¼-inch scale hardscape plans are too large, the plans should be allowed to be a smaller size. A lot come in at 1/16<sup>th</sup>. Reviewed what needs to be included with a hardscape application.

Discussion about the type of stone for retaining walls that are appropriate for use on Nantucket.

Motion **Motion to Allow hardscape plans to be no less than 1/16" scale provided all details are legible and to include materials to be used for walls and patios, etc.** (Coombs)

Vote Carried unanimously

17. Time limit per application

Sitting Williams, Coombs, McLaughlin, Pohl, Glazer, Camp, Oliver, Kuhnert

Concerns (8:09) **Williams** – We tried limiting time per application; it didn't work.

**Kuhnert** – Other jurisdictions impose time limits: public testimony is allowed 3 minutes per speaker and board members are allowed 5 minutes. Everyone knows that and are prepared.

**Oliver** – Some projects have taken over an hour. Also addressed the problem of large developments coming in piece meal; if we know something big is coming in, we need to have everything at once.

**Williams** – Reminded the board that the submission requirements are being changed to include that revisions to COAs require a copy of the previous approval in the file.

Motion **Motion to Require that the previous approval be included on all applications which are revisions to an existing COA and photos of existing house for revisions and second dwelling.** (Glazer)

Vote Carried unanimously

18. Creation of new areas of critical concern, Wauwinet Quidnet, Old Madaket, Brant Point and Monomoy

Sitting Williams, Coombs, McLaughlin, Pohl, Glazer, Camp, Oliver, Kuhnert  
Concerns (8:20) **Williams** – Mr. Vorce said don't do new Historic Districts; he suggested Neighborhood Conservation Districts or Neighborhood of Critical Concern. She asked the Madaket Advisory Board to come up with a map of what they consider old Madaket. (Handed out the map and the Town of Cambridge pamphlet at the table.) Asked Mr. Kuhnert to look into how to create these new areas. Suggested putting the discussion about these on the May 3 Public Hearing.  
**Glazer** – Prefers calling them Neighborhoods/Areas of Critical Concern.  
**Kuhnert** – Neighborhood Conservation Districts are used where there is no preservation restrictions.  
**Coombs** – Read the Cambridge Massachusetts handout that indicates they have authority over changes to the interior. Asked why HDC can't do that.  
**Williams** – That is how our Enabling legislation is written. When we've tried to change that, people get upset.  
Motion None  
Vote N/A

19. Town of Nantucket – to be obligated to follow the HDC guidelines and procedures when it comes to structures such as street lighting, signs, bike racks, sidewalks, benches, trash bins, etc.

Sitting Williams, Coombs, McLaughlin, Pohl, Glazer, Camp, Oliver, Kuhnert  
Concerns (8:26) **Glazer** – We clearly have jurisdiction over that.  
**Williams** – She put in a RLS to ask Town Counsel for advice about HDC jurisdiction over street furniture and materials; the Town Manager denied that request.  
**Pohl** – Feels this is a case in which HDC needs its own legal representation. Suggested writing out an enforcement action against the Department of Public Works (DPW).  
**Oliver** – The disconnect between HDC and the Town doesn't look good. Suggested that someone from the DPW meet with the HDC.  
**McLaughlin** – Agrees with Mr. Pohl  
Motion **Motion to have the Chair write a letter to DPW attention Kara Buzanoski requesting that all unapproved material around Town be applied for and that they send a representative to have a discussion with the HDC.** (McLaughlin)  
Vote Carried unanimously

20. Advisory Committees

Sitting Williams, Coombs, McLaughlin, Pohl, Glazer, Camp, Oliver, Kuhnert  
Concerns **Kuhnert** – Thinks it would be helpful of representatives of the advisory committees attended the meeting to speak to applications they have reviewed, as Mr. Kuester does for the Sign Advisory Committee.  
Discussion about how helpful when they did in the past and how it is helpful when Mr. Kuester represents the Sign Advisory Committee.  
**Williams** – Those applications used to be grouped on the agenda; they no longer are. Suggested the advisory committees “pick their battles”; they should choose applications for which they want to send a representative to the meeting.  
Motion None  
Vote N/A

21. Roberts Rules of Order

Sitting Williams, Coombs, McLaughlin, Pohl, Glazer, Camp, Oliver, Kuhnert  
Concerns (8:32) (Passed out at the table: list put together by Mr. McLaughlin, small board rules from Roberts Rules, “cheat sheet” put together by Ms Oliver.)  
**McLaughlin** – Asked Ms Williams to not interrupt people; it makes it hard for him to follow the discussion. Reviewed his list of procedures for each hearing which he took from Roberts Rules; the purpose is to speed up each review. He thinks that except for a new application, the representative should not speak first: the staff should give comments first, then the public speak, then the commissioners, then the representative response to comments, and last the motion and call to vote.  
**Pohl** – He believes that the very first speaker is the applicant to make a presentation.  
**Williams** – Under regulations, the applicant speaks first. In general this works; however, a large section of Roberts Rules is devoted to small boards. Read Roberts Rules procedures for small boards. Stated that she gives the staff comments because she has been working with the applicant and has worked to fix the application.  
**Coombs** – Agrees the staff report should be first; however, then the applicant gives his/her presentation.  
**Williams** – We tend to get bogged down when applicants don't do as requested. Need to bubble changes and highlight landscape plans.  
Motion **Motion to Require all plans with revisions be bubbled and hardscape plans be highlighted.** (Glazer)  
Vote Carried unanimously

22. HDC workgroup status

Sitting Williams, Coombs, McLaughlin, Pohl, Glazer, Camp, Oliver, Kuhnert  
 Concerns None  
 Action None  
 Vote N/A

23. Update to previous organizational meeting agenda items

Sitting Williams, Coombs, McLaughlin, Pohl, Glazer, Camp, Oliver, Kuhnert  
 Concerns **Williams** – This has been sent to the commissioners.  
 Action None  
 Vote N/A

24. Miscellaneous items

Sitting Williams, Coombs, McLaughlin, Pohl, Glazer, Camp, Oliver, Kuhnert  
 Concerns None  
 Action None  
 Vote N/A

**VII. HDC BUSINESS**

Approve Minutes	March 15, 2016: held
Review Minutes	March 22, 2016
Other Business	Special Meeting: 106 Surfside 40B review to make recommendation to ZBA on March 31, 2016 at 1:00 p.m.
Commission Comments	None

Motion to Adjourn: 8:47 p.m.

Submitted by:

Terry L. Norton

Nantucket Old Historic District

Sconset Old Historic District

Tuckernuck

Old Madaket Village