

HDC-OFC – Best Practice Recommendations (as adopted 11/17/22)

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HDC APPROVED

HDC-OFC – Best Practice Recommendations (as adopted 11/17/22)

- 1) Establish protocols for “**Digital Review of Applications**” (using tablets & projector at Meetings):
 - a) *Initiative*: Go full-digital for more effective use of time. Use tablets and projector to: reduce significant staff and Commissioner paper-shuffling; provides independent, quick access to drawings and information during meetings, provide zoom-capability, also creates a quieter process (with respect to paper rustling and member-to-member discussion re. clarifications).
 - b) **11/17/22 HDC APPROVED BY UNANIMOUS VOTE THE FOLLOWING REQUIREMENTS**: Secure tablets (already ordered). And, all application materials submitted i) digitally via email, ii) timely, iii) with pages presented right-side up, iv) with drawings and imagery compiled legibly into PDF-format; application materials submitted v) per our established deadline schedule, vi) submissions loaded to the HDC agenda view-packet, per normal, and new step vi) digital files verified as accessible (e.g., 146 Main, 2 Stone Alley). Projector to be used as back-up at meeting (for Commissioners) and for so long as Zoom-meetings continue, for applicants and abutter monitoring.
 - c) *Action Item(s)*: Deliberate, offer modifications if any; vote these requirements ().
- 2) Establish protocols for “**Conduct of Application Hearings**”:
 - a) *Initiative*: For effective proceedings and responsive duty to applicants and the community, the HDC requires reasonable control over its application hearings.
 - b) **11/17/22 HDC APPROVED BY UNANIMOUS VOTE THE FOLLOWING REQUIREMENTS**: Adopt the following “Conduct of Application Hearings” protocol, to be linked to our web page and followed at each meeting:

Conduct of Application Hearings: The HDC role is to review and deliberate on the appropriateness of structures and architectural elements (consist with its mission under its Act, its guidelines including Building with Nantucket in Mind, and its established policies). With respect to consistently functional meetings: i) the HDC functions under Robert’s Rules and all meeting participants are expected to act accordingly, and ii) applicants and their agents are expected to provide application materials timely (to allow Commissioner preview, and for abutter and public viewing). In addition, the following protocols shall be observed:

- 1) The Chairperson opens the application hearing and announces the sitting board.
- 2) Subject to a time allotment (2 minutes for applicant and their agent, 1 minute per for 1st three abutters randomly selected; thereafter, 30 seconds per):
 - a) Applicant or agent provides a description of matters in front of the Commission.
 - b) The Commissioners, through the Chair, may ask questions to solidify their understanding of matters at hand.
 - c) Commission receives staff comments.
 - d) Abutters and public may then speak for or against the matters at hand.
 - e) The applicant or agent is allowed a rebuttal.
- 3) The Commissioners deliberate on the merits only. Note: Except for questions arising of the Commission’s deliberations, no further applicant, agent nor public comments are received by the Commission.
- 4) Through the Chair, Commission makes its determination; where applicable, its decision is recorded on the application (including as fitting, through use of an Exhibit).
- 5) In each of the foregoing, comments of Commissioners, applicants, agents, abutters, and the public, are reserved to the *merits of the design with respect to appropriateness*. And, unless as a Point of Information through the Chair, no comments (Commissioner, applicant, agent, abutters, or public) are to involve policy or procedure—under Robert’s Rules, such matters are properly addressed as separate, noticed agenda items. **Throughout each hearing, both off-topic redundant comments are strongly discouraged.**

- c) *Action Item(s)*: i) Deliberate, offer modifications if any; ii) vote the protocol, iii) print and post the protocol, iv) bring copies of the protocol to meetings for reference until it becomes integrated as standard practice. A copy of this protocol shall, as a separate page, be attached to each printed and web-posted HDC agenda.

3) Establish protocols to “Responsibly Advance Consent Items”:

- a) *Initiative*: Applications which are “Consentable” currently languish in the queue due to a lack of timely review, these applications also take up unnecessary time at meetings; process steps include as we know: setting up then opening the hearing, listening to introductions, then determining that in fact the application is consentable; each such application takes on average 10 minutes on the clock, which in person-hours, including both Commissioners and staff, equates to a minimum one-and-a-half hours. Instead, Commissioner review of queue to determine consentables effectively eliminates this circumstance providing too, more effective, and timely review of other applications while ensuring appropriate oversight. There are however benefits to staff involvement. This initiative includes a “staff apprenticeship component” ... an interactive, Commissioner-directed mini-review session (a teaching while determining approach). Note: An onboarding process is required of any staff to quickly become accustomed to, and proficient in, determining factors which constitute a consentable application. In large, “consentable” is more an art than a science; certainly, some are straightforward, but some are not and wrong decisions due to lack of understanding the art can create significant issues. The “art of it” involves not only HDC guidelines and policies, but also specifics, including but not limited to: application-vs.-application circumstances, institutional knowledge, matters of location and proximities, etc. Take for instance a retaining wall—there are widely different, specific circumstances that make one instance consentable and the other a pox (which leaves the community wondering “What the hell were they thinking?”). The same applies to “a shed.” Certainly, there are many consentable retaining walls and sheds; an apprenticeship program i) addresses how staff identifies relevant specifics, ii) providing necessary tools for their independently processing consentables (with confidence and correctly).

- b) **11/17/22 HDC APPROVED BY UNANIMOUS VOTE THE FOLLOWING REQUIREMENTS:** Commissioners’ review incoming applications for an hour or so, on a rotating basis, in a Zoom environment or in person, with staff. As the Commissioner progresses through review of an application, they share with staff a brief explanation of relevant specifics; an approach akin to a design charette is perhaps most helpful if time allows, but bullet-point approach works too. Under current application load, each Commissioners contribution of an additional hour or so on a rotating basis is once every two months—i.e., 7 members, so once every two months give-or-take. *Any item placed on Consent shall bear the name of the person having elected such consent.*

- c) *Action Item(s)*: Deliberate, offer modifications if any; vote these requirements, and in relation, respectfully request necessary administrative assistance of PLUS, ii) as may be required, scope implementation and related matters (resources, timeline to implement, etc.).

4) Establish rule to eliminate “Material Non-responsiveness by an Applicant/Agent”:

- a) *Initiative*: A tremendous amount of time and good-will are expended reviewing application revisions. For every minute a requested revision is required to be reviewed, another minute is taken from other applicants. A reasonable amount of revision review is to expected. Where on a repeated basis, requested and material revisions are not made, the result (wittingly or not) is an abuse of process that is unfair to other applicants, and abutters; it is also disrespectful to the Commission. The cure is to curb such activity.

- b) **11/17/22 HDC APPROVED BY UNANIMOUS VOTE THE FOLLOWING REQUIREMENTS:** Commission adopt the following rule, named here for convenience as the “Three-and-out Rule”: After an initial hearing, applicants, through their agents or themselves, who submit revisions without materially responsive changes in keeping with Commissioners consensus request, will, upon discretion and vote of the Commission, have their application denied. Any such application will be “Denied due to lack of responsiveness to the Commissions’ requests.”
- c) *Action Item(s):* Deliberate, offer informed modifications if any, vote rule; post rule (in Legal Notice form) at the PLUS Building, Town Building, and with the Inquirer & Mirror; and, compose and post to HDC web page a compilation of rules.
- 5) Revisit protocols for “Incomplete Applications”:**
- a) *Initiative:* Commission hearing incomplete applications is wasteful and time consuming, often resulting in additional wasteful time when the same application is extended into a follow-up meeting; this waste of time includes staff time, and time of other applicants and the public. Instead, staff shall redirect applicants, requiring submission of materially complete applications for an application to be accepted and processed for a hearing; such redirection creates and perpetuates more effective use of staff and Commissioner time and a fair and even playing field for other applicants, and reasonable review by abutters.
- b) **11/17/22 HDC APPROVED BY UNANIMOUS VOTE THE FOLLOWING REQUIREMENTS:** Applications are reviewed by staff for material completeness prior to acceptance by HDC; this, using existing checklists; materially incomplete applications are not accepted; staff shall redirect applicants, requiring submission of materially complete applications for an application to be accepted and processed for a hearing.
- c) *Action Item(s):* Deliberate, offer modifications if any; vote these requirements, and in relation, respectfully request necessary administrative assistance of PLUS, ii) as may be required, scope implementation and related matters (resources, timeline to implement, etc.) w/PLUS.
- 6) Revisit rule addressing “Waiting Period after Denial”:**
- a) *Initiative.* Eliminate wasteful, painful, unproductive review time spent rehearing previously denied applications; and, to create prophylactic, non-punitive effect on similar behavior, initiate a rule requiring a waiting period after denial.
- b) **11/17/22 HDC APPROVED BY UNANIMOUS VOTE THE FOLLOWING REQUIREMENTS:** Commission adopt a rule to establish a two (2) year waiting period to re-hear an application that is substantially the same or like the application previously denied, which waiting period shall automatically become effective upon a unanimous vote for denial of an application.
- c) *Action Item(s):* Deliberate, offer informed modifications if any, vote rule; post rule (in Legal Notice form) at the PLUS Building, Town Building, and with the Inquirer & Mirror; and, compose and post to HDC web page a compilation of rules.
- 7) Revisit protocol for timely submission of “Supplemental Application Materials”:**
- a) *Initiative.* Eliminate meeting delays, tendency for incoherent reviews, and processing burden on staff, which arise when material, supplemental information is provided “at the table.”
- b) **11/17/22 HDC APPROVED BY UNANIMOUS VOTE THE FOLLOWING REQUIREMENTS:** Supplemental application material shall be submitted to staff, in hard copy and digitally, not later than one week before the applications next anticipated hearing date; late submissions will not be accepted. In the event of late submission, hearing will proceed without the supplemental materials, or applicant/its agent may elect to delay hearing of their application

one week. Except due to extenuating circumstances, delays are one-time per application. Accommodation by exception shall be provided for additional images, limited-volume background information, and other quick-clean information that is not a design change.

- c) *Action Item(s)*: Deliberate, offer modifications if any; vote these requirements, and in relation, respectfully request necessary administrative assistance of PLUS, ii) as may be required, scope implementation and related matters (resources, timeline to implement, etc.) w/PLUS.

8) Establish rule for “Repeated Postponement of Hearings by Applicant/Agent”:

- a) *Initiative*. Applicants, directly or through their agents, repeatedly postponing hearings can amount to an abuse of process. When deployed, or deployed by multiple applicants’ agents, the course of other hearings is disrupted causing ripple-effect issues throughout the system (including with respect to needs of other applicants). A rule to prevent repeated postponements is both reasonable and beneficial. ...The Commission deems the following a reasonable approach to postponements, including to provide notice to abutters (both opponents and proponents) and the public, including to allow generally sufficient advance notice for travel arrangements.
- b) **11/17/22 HDC APPROVED BY UNANIMOUS VOTE THE FOLLOWING REQUIREMENTS:** Commission adopts a rule to establish that: More than one hearing postponement by an applicant or their agent shall result in the application being moved to a later point in the queue, two calendar meetings from the date of the second postponement. In the event of a third or subsequent postponement, the application shall be moved to the then current bottom of the queue—i.e., last in line in the list of applications remaining to be heard, which list is appended to each agenda under the heading “Upcoming Matters”. *Note:* Applicants or their agents that i) submit, two or more weeks before an application’s likely hearing date, a request for postponement to the HDC ii) with that request acknowledged by the HDC, are iii) in that instance excluded from this rule. In instances of an acknowledged request for postponement, notice of such postponement shall be posted i) as a notation to the application ii) within the “Upcoming Matters” list, indicating “HOLD until ___/___/___”; the HOLD notation shall remain in place until the meeting at which the application was held initially scheduled to be held until.
- c) *Action Item(s)*: Deliberate, offer informed modifications if any, vote rule; post rule (in Legal Notice form) at the PLUS Building, Town Building, and with the Inquirer & Mirror; and, compose and post to HDC web page a compilation of rules.

9) Establish protocol for “Reflecting Material Grade-changes in Applications”:

- a) *Initiative*: When an application proposes a grade change of >2’, accurate Grading Site Plan, Cross Section, and Retaining Wall Information are required as follow:
- b) **11/17/22 HDC APPROVED BY UNANIMOUS VOTE THE FOLLOWING REQUIREMENTS:**
- i) Cross Section Elevation(s) to show existing in black line with notations in black, proposed in maroon, and of course the structure(s); cross section(s) shall be of areas i) of greatest proposed change and ii) of typical interest to HDC review; where grade change is within 5’ of an abutting property, cross sections grade lines shall accurately project over the lot line(s) of the applicant’s property (into the abutting lots) a minimum 10’.
- ii) Grading Site Plan shall be 1’ contour lines; all structures shall be shown; show existing in black line, proposed in maroon line and notation color; contour lines shall be of the entire property; where grade change is within 5’ of an abutting property, contour lines shall accurately project over the lot line(s) of the applicant’s property (into the abutting lot(s) a minimum 10’.

iii) Accurate Retaining Wall Notations: Grade changes of >2' shall show existing and proposed retaining walls accurately, including their location and "Top of Wall (TOW)" and "Bottom of Wall (BOW)"; any existing retaining walls and notations shall be shown in black, proposed in burnt sienna.

c) *Action Item(s)*: Deliberate, offer modifications if any; vote these requirements, and in relation, respectfully request necessary administrative assistance of PLUS, ii) as may be required, scope implementation and related matters (resources, timeline to implement, etc.) w/PLUS.

10) Establish rule for "Flood Resistant portion of Approvals – Wet-proofing Type":

a) *Initiative*: Ensure structures are not constructed higher than the Design Flood Elevation required under 780 CMR.

b) **11/17/22 HDC APPROVED BY UNANIMOUS VOTE THE FOLLOWING REQUIREMENTS:** As a condition of review, applications that include Wet-Proofing Type Flood Protection shall include a i) Flood Elevation Certificate, a ii) licensed surveyor stamped certification to indicate "for [insert Property Address and Scope of Work] the maximum floor structure height is [insert Feet and Inches], which height is no higher than the minimum 780 CMR required Design Flood Elevation for the property based on [insert Flood Zone]; and iii) submission of the applicable Firmette. Such applications shall, as a matter of submitting a complete application, include all information required to be in conformance with the HDC's "Resilient Nantucket Guidelines".

c) *Action Items(s)*: Deliberate, offer informed modifications if any, vote rule; post rule (in Legal Notice form) at the PLUS Building, Town Building, and with the Inquirer & Mirror; and, compose and post to HDC web page a compilation of rules.

11/17/22 HDC APPROVED BY UNANIMOUS VOTE THE FOLLOWING: With respect to each of the foregoing, the Commission may waive strict conformance subject i) to a public vote in favor, ii) which vote is consistent with the spirit and intent of the respective initiative.