

BOROUGH OF FENWICK
HISTORIC DISTRICT COMMISSION
REGULAR MEETING & PUBLIC HEARING – JULY 8, 2017
4 NIBANG AVENUE, 9:00 AM

A Regular Meeting and Public Hearing of the Fenwick Historic District Commission was held at 4 Nibang Avenue, Old Saybrook, Connecticut on Saturday, July 8, 2017. Notice of the meeting was posted in a timely manner on the Fenwick kiosk and in the Borough office.

Members Present: Matt Myers, Valerie Bulkeley, Patsy Jones, Joan Wright, Deborah Neely, Christine Duncan (Alternate), Susan Webster (Alternate).

Members Absent: Lucy Borge (alternate).

Others Present: Marilyn Ozols, ZEO and HDC Compliance Official, Lori and Wayne Arute, Brooke Girty, Art Wright.

1. Call to order.

Chairman Myers called the meeting to order at 9:00 a.m. All regular members were present; no alternates were seated. A quorum was established (Myers, Bulkeley, Jones, Wright, Neely).

2. Election of Officers.

J. Wright moved to elect Matt Myers as Chairman, Valerie Bulkeley as Vice Chairman, and Deborah Neely as Secretary. P. Jones seconded the motion and the slate was approved unanimously.

For: Myers, Bulkeley, Jones, Wright, Neely.

Against: None.

Abstain: None.

3. Certificate of Appropriateness Number HDC16-029 Inconsistencies. 9 Pettipaug Avenue, map 10, lot 27. 9 Pettipaug LLC, owner; Haynes Group, contractor.

M. Myers stated that the order of business would be 1) the Arutes will have an opportunity to explain why they believe the outdoor kitchen is in compliance; 2) the Commission will have an opportunity to ask questions; 3) the chair will entertain a motion as to whether or not the kitchen is in compliance with the C of A; 4) if it is in compliance they will be done; if not, they will discuss options.

W. Arute submitted a letter from Patrick Haynes, Vice President of Haynes Materials, certifying that “the prefabricated modular outdoor kitchen is not permanently fixed to the patio and it can be relocated or removed at the request of the homeowner.” He stated that when he met with Tom Haynes prior to the purchase he explained that whatever he did had to be moveable. He added that it was delivered in components and assembled onsite and he submitted photos of the installation, the final placement, and the wheels.

L. Arute stated that they have been in Fenwick for nine seasons and have tried to be respectful of the regulations and the historic status of their house; that they would have sought approval if they had believed that HDC had jurisdiction but it has wheels and is not affixed in any fashion; that it is not visible from the public view because there is shrubbery on all three sides that kind of conceals it; that the intention was to have it look like a garden structure; that it is not offensive and is not visible; and that they acted in good faith.

V. Bulkeley asked B. Girty, who presented the plans at the December meeting and stated that there would be no outdoor kitchen, to address to address the subject. B. Girty stated that the application at that time

did not include an outdoor grill or fire pit. She also noted that it was not noticeable from her house across the street.

V. Bulkeley asked L. Arute if there is an intent to move the grill. C. Duncan asked if there would be any winter preparation of the grill or the outdoor faucets that would affect the appearance in the winter. L. Arute responded that it could be moved for the winter but there are no specific plans at this time and that they may want to use it in the winter.

J. Wright asked if the pergola is in compliance. M. Myers stated that the builder told him that it is in compliance except that the two columns are displaced by 6 inches. L. Arute stated that the bar stools are moveable.

M. Ozols explained to the Commission that Connecticut courts had interpreted “affixed” as it relates to historic district commissions to include items affixed by gravity; no specific attachment is required. She added that the Commission should determine how this relates to its regulations. W. Arute stated that it can be lifted and relocated; L. Arute stated that they can move it every 30 days if necessary. In response to questions about the 30 days, M. Ozols read from the section of the regulations identifying regulated activities, “temporary structures, such as tents, in place for more than 30 days”. L. Arute stated that they considered it “moveable site furniture for any use” which is not regulated because Haynes considered it moveable outdoor furniture for cooking use.

Members suggested that they should have considered checking with the Borough and that the original application included an outdoor kitchen but the C of A specifically stated that no outdoor kitchen or fire pit was included. L. Arute stated that they had not authorized Glance to submit the application for the outdoor kitchen that was not approved; rather they were going by the new description submitted by Girty Design and their understanding from Haynes that it was not under HDC jurisdiction, he had done them in other historic districts.

There was additional discussion as to whether it was attached or not, whether it was considered moveable if it was necessary to have someone come in to move it, and what the difference was between this and a large fountain or other decoration that might be lifted with the proper equipment. L. Arute stated that she was sensitive to the concerns but it was buffered; they could add more tall bushes to conceal it, but all agreed that no one would like that. The Commission noted that it had pictures from the road at the driveway and from the sidewalk and it was visible from the public way.

M. Myers asked if there were any additional questions. There were none so they moved to discussion of whether the kitchen is in compliance with the December Certificate of Appropriateness.

J. Wright noted that many times owners are not involved in the presentation of their application and it would behoove the Commission to require that they are present. There was an in depth discussion with the builder in this case and if the Arutes had been present they would have heard the comments.

P. Jones stated that the units are moveable and maybe with more screening would be okay. She added that people are not required to get a C of A for a new grill or new furniture.

S. Webster stated that they are moveable and not visible from the road.

V. Bulkeley noted that the question is whether it is what was approved, and what was approved is not what is there now.

D. Neely stated that it is not what they applied for and recalled the discussion when the Commission did not approve an outdoor kitchen.

C. Duncan expressed concern that this is a slippery slope especially with regard to outdoor kitchens and concern about the winter look. L. Arute stated that they are open to a mandate for how it is covered and W. Arute added that there is already a grill cover there which is all that there would be in the winter.

M. Myers stated that the outdoor kitchen is not in compliance with the C of A which specifically prohibited an outdoor kitchen.

Members reviewed the application and Certificate of Appropriateness. Then, based on the discussion, **M. Myers moved to find that the outdoor kitchen is not in compliance with the Certificate of Appropriateness issued on December 3, 2017 which specifically prohibited an outdoor kitchen. V. Bulkeley seconded the motion.**

P. Jones noted that it is not the same kitchen as was shown in the original application. Members further discussed whether or not it was moveable.

The motion carried 4-1-0.

For: Myers, Bulkeley, Jones, Neely.

Against: Wright.

Abstain: None.

M. Myers explained that at this point, the options are to make an application in arrears for the outdoor kitchen or remove it. He observed that it cannot be moved on the wheels as provided; an industrial forklift would be needed. B. Girty observed that it looks like part of the garden beds but perhaps could be softened more. L. and W. Arute asked whether vegetative screening could be considered in the application. HDC members confirmed that it could. M. Myers noted that the hedge at the property line is over 6 feet tall and could be cut back to the preferred 4 feet with a higher row inside to screen the kitchen. Additional discussion of screening options followed.

After discussion, members determined that if an application is submitted prior to July 21 (30 days after installation), an after-the-fact fee will not be required since until that date it could be considered a temporary structure not needing a C of A. Commission members also agreed that the application will be considered as a modification rather than a new application and that they will schedule a special meeting once the application is received.

M. Myers noted that when the application is received, it will need to be reviewed according to the current criteria, but all agreed that they should also consider amending the Regulations and Design Criteria to address outdoor kitchens. M. Ozols will research what other Commissions have done and the item will be carried on the agenda for the next regular meeting.

4. Approval of Minutes: June 8, 2017.

V. Bulkeley moved that the minutes of the previous HDC meeting on June 8, 2017 be accepted as written. J. Wright seconded the motion and it passed unanimously.

For: Myers, Bulkeley, Jones, Wright, Neely.

Against: None.

Abstain: None.

5. Old Business / Other Business.

The tents at 6 and 10 Mohegan Avenue have been up for more than 30 days. Therefore, they do not qualify as temporary and a Certificate of Appropriateness is required.

There was question as to whether the lattice at 18 Pettipaug Avenue is consistent with the C of A. M. Ozols will check.

6. Adjourn.

On a motion by V. Bulkeley, seconded by M. Myers, it was voted unanimously to adjourn at 10:10 a.m.

Respectfully submitted,

Marilyn M. Ozols, Acting Clerk