



Planning Department

TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
Telephone (978) 929-6631
Fax (978) 929-6340
planning@acton-ma.gov

MEMORANDUM

To: Board of Selectmen
Historic District Commission
Planning Board
Acton 2020 Implementation Committee
Finance Committee

Date: May 21, 2013

Cc: All Boards and Committees

From: Roland Bartl, AICP, Planning Director *R. B.*

Subject: **Citizens' Zoning Petition**
Protecting Acton Historic District

At the Board of Selectmen's meeting on May 13, speakers said that the Zoning Bylaw somehow ties the Historic District Commission's ("HDC's") hands whereby it must allow the maximum development potential that zoning allows. I do not agree that this must necessarily be the case, and I thought it would be helpful to review the role that Historic Districts can play in overall planning in the Town.

Zoning and Historic Districts are concurrent laws that independently and with equal authority regulate land under different criteria and standards. Zoning usually sets a theoretical maximum development potential. But, a landowner or developer is not necessarily entitled to such density, disregarding other laws and regulations. Aside from M.G. L. Chapter 40C (Historic Districts), and local bylaws and regulations adopted pursuant to it, other laws and regulations can limit development to below the maximum zoning potential, for instance: M.G.L. Chapter 131, §40 (Wetlands Protection Act) or 310 CMR 15.00 (Title V regulating septic systems).

Regardless of size or density, and regardless of what the Zoning Bylaw says about maximum theoretical development potentials, the HDC is not compelled to approve a development that is inconsistent and incompatible with the historic districts' significant architecture, setting, and context¹. I suggest that the HDC's actions can result in less than maximum potential development

¹ There are, however, limits on the HDC's ability to regulate buildings or structures within the Historic Districts. For instance, the Acton Local Historic District Bylaw (Chapter P) states in section 8.2: "*In the case of new CONSTRUCTION or additions to existing BUILDINGS or STRUCTURES, the COMMISSION shall consider the*

for certain projects in certain Historic District locations as long as the reasons for the HDC's actions are:

- based on solid historic preservation principles,
- follow standard historic preservation practices,
- fall within the review jurisdiction of the HDC pursuant to G.L. c. 40C and General Bylaw Chapter P; and
- serve the purpose of “preventing developments incongruous to the historic aspects or the architectural characteristics of the surroundings and of the DISTRICT”;

and are not motivated and founded in a more general desire to stop or minimize growth and new development. In order to assist the HDC in making its decisions, as well as assist those homeowners and developers seeking relief from the HDC, the HDC should articulate a solid foundation for its actions. In my opinion, this foundation includes:

1. Detailed descriptions of each historic district's characteristics and unique features, including characteristics and features of district sub-areas, and a rationale for how these characteristics, based on established preservation principles, properly influence new development in various district locations.
2. Detailed design principles, guidelines, and codes for new development based on established historic preservation principles and practices that touch on design, massing, placement, spacing, and layout and that are predictable so as to minimize the guess work for land owners, real estate appraisers, and developers.
3. Certificates of Appropriateness or denials from the HDC that are clearly articulated on the basis of and consistent with the district descriptions, and the principles and guidelines for new development.

This foundation is necessary to further the purpose of the Historic Districts in Acton, which goes beyond simply maintaining the status quo in each district. The purpose of Acton's Local Historic District Bylaw speaks with equal emphasis about “*encouragement of new building designs compatible with the historically significant architecture existing in the Local Historic District*” as it does about “*preservation and protection of the distinctive characteristics and architecture of buildings and places significant in the history of the Town of Acton*”.

Properly justified, documented, and articulated, historic preservation principles that focus on design, massing, placement, spacing, and layout are entirely sufficient to provide the HDC with the tools necessary to protect the historic districts from incompatible new development. The context in each individual situation matters. An architect for a new development project should be given an opportunity to design a project in a manner that meets established criteria. When approved in accordance with such established criteria, the resulting project then by definition is consistent with Acton's historic districts, regardless of floor area ratio, number of dwelling units or similar expressions for development intensity. Thus, the regulation of development density or intensity has

appropriateness of the scale, shape and proportion of the BUILDINGS or STRUCTURE both in relation to the land area upon which the BUILDING or STRUCTURE is situated and in relation to BUILDINGS and STRUCTURES in the vicinity. The COMMISSION may in appropriate cases impose dimensional and setback requirements in addition to those required by applicable statute or bylaw, however, such requirements shall not further limit the maximum floor area ratio and height of a BUILDING as defined and permitted in the Acton Zoning Bylaw.” (Emphasis added). This section mirrors text found in Chapter 40C, except that the ‘however’ clause has been specifically added in the Acton Bylaw. This addition is original from the adoption of Local Historic Districts in Acton in the October 1990.

nothing to do with what ultimately may or may not be compatible with the historic districts. Relying on regulations that arbitrarily and unilaterally limit density or intensity of development as a foundation for regulating land in historic districts fundamentally misses the point and purpose of historic districting and historic preservation. Rather, it makes historic districting suspect for being just another NIMBY method for preventing, diverting, or stopping development. Ultimately, such an approach weakens the credibility of historic districts and undermines their long-term viability as a regulatory historic preservation tool.

Therefore, the HDC's challenge and, indeed its opportunity, is to take part in the preservation of dynamic historic districts that live and breathe with the times while retaining the roots of their origin. It should not succumb to the easier path of locking up the districts, frozen in times past, like a museum dependent on charity, a well-to-do class of property owners, or public subsidies.

The proposed citizens' petition to stop new construction in the West Acton Historic District and surrounding area can be seen as a cry for help from the HDC. In light of statutorily granted tools and procedures that may prevent the petition's aim to have any effect on the proposed development(s), the situation highlights an urgent need for the preparation of clearly articulated historic district descriptions, standards, design guidelines, and decision principles. I realize how difficult it is for HDC volunteers to accomplish such a task without professional assistance. I have advocated for years that the Town should create and fill the position of a historic preservation planner, at least part time. I will continue to do so. For now, I would like to propose that the Town invest in its historic districts and engage professional consulting services to do the heavy lifting of analyzing the historic districts and preparing the appropriate and necessary historic district management tools. This would also be consistent with one of Acton 2020's core goals and objectives – "Preserve and Enhance Town Character & Preserve Historic Buildings and Landscapes" – and a big step forward in making Acton's historic resources more secure than ever.