

**Town of Effingham, New Hampshire  
Historic District Commission**

**Public Hearing Minutes  
Lord's Hill Historic District  
Lord's Hill Fire Station (Fire Station #1)  
596 Province Lake Road, Effingham  
September 8, 2014**

Present: P. Potter (Chair), R. Harrington (Assistant Chair), E. Jones (Secretary), J. McRae, N. Potter

Absent: L. Edwards (Selectmen's Representative)

The public hearing was called to order by the Chair at 6:30 p.m.

Members of the public in attendance were: P. Casinelli, J. Earle, S. Jones, J. Lee, P. Leonard, R. Leonard, J. Murphy, E. Nordbeck, R. O'Neal, W. Piekut, P. Riker, I. Riordan, B. Robinson, M. Socha, and N. Socha.

The Chair first explained that this was a public hearing required by state RSAs to be held in the historic district for the purpose of accepting questions and/or comments from the public on the proposed changes to the Historic District Regulations. Since Effingham is somewhat unique in the state in that we have two separate historic districts, two public hearings, one in each district, must be held. The second public hearing scheduled to be held later in the evening at the Effingham Public Library. The Chair further explained that the process by which the hearings would be conducted would be the same and members of the public were welcome to attend one or both hearings. Following the conclusion of the second public hearing, the Commission would then consider any action to be taken, whether that be to approve the changes, delay the changes, disapprove the changes, etc.

The Chair then explained the process by which the Public Hearings would be conducted. The proposed Historic District Regulations, copies of which were available for all in attendance, would be reviewed page by page, and questions and/or comments would be taken as each page was reviewed. Once the entire proposed document was reviewed, the Public Hearing would be adjourned at Lord's Hill so that the Commission could move to the Effingham Public Library for the second public hearing.

The Chair reviewed the changes to page 1. There were no questions and/or comments from the public.

The Chair reviewed the changes to page 2. R. O'Neal inquired whether language indicating that paint color should be consistent with buildings in the Districts meant that a home in Lord's Hill would have to be consistent with homes in Center Effingham. The Chair advised no, that the requirement for consistency only applies within the specific district where the structure exists.

The Chair reviewed the changes to page 3. J. Lee inquired whether restoring the chimney on her home to the original painted brick would be permitted. The Commission noted that there are no restrictions on the painting of brickwork. Several members of the public, including J. Murphy, E. Nordbeck, I. Riordan, M. Socha, and N. Socha, spoke to the issue that the last five words of the sentence related to livestock fencing in paragraph 13 were not in the original regulations.

The Secretary provided the copy of the original from which he transcribed the document and explained that it was the original provided to him. N. Socha indicated that he had a different version at home. With the agreement of the Chair, he left to obtain it. Upon his return, and after review of the document by the Chair it was determined that there appear to be two versions of the document circulating. Members of the public expressed concern that for those with livestock, fencing is a necessity, both for the protection of the livestock and for the public, and that a requirement of review would be cumbersome. It was also expressed that when the original regulations were passed, every effort was made to make them the least cumbersome possible to those individuals resident in the districts while still achieving the goals of the historic districts. There was a general inquiry as to whether or not the regulations had ever been changed before. Neither the Commission nor members of the public could ever recall this process having been undertaken before. The Chair made the general comment that he recalled that when the Zoning Ordinances were put into place, many of the rules of the Historic District Regulations were incorporated in that document and that perhaps the change occurred at that time. The Secretary explained that, by law, the official version of the regulations is that version which is held on file by the Town Clerk. Unfortunately, the Town Clerk was not immediately able to locate the document when it was requested recently. She indicated to the Secretary at that time, that she would continue to search for it. The Secretary explained that the Town Clerk has discovered that many of the records in her care were not necessarily well-maintained by previous holders of the office and that the arduous process of organizing them suitably organized is in process but that it will take time. R. O'Neal inquired if the minutes of the Commission had been reviewed to determine if changes had ever been made before. The Chair indicated that we could research the issue more fully by reviewing the minutes of the Commission but that since they are on file at the Municipal Offices in Effingham Falls, they were not available for review immediately. The Chair indicated that we would move on to further review of the proposed regulations but that the Commission would undertake further research on this issue, including a request to the Town Clerk to undertake a full search of her files for the regulations and a review of the Commission's minutes to determine if changes had been made to the regulations at some point in the past.

The Chair reviewed the changes to page 4. There was an inquiry from J. Murphy regarding paragraph 19 on landscaping and whether or not this affected things like the installation of raised beds for gardens. The Commission explained that the restrictions on changes to the existing ground level applied only in so far as they related to the installation of septic systems and that beyond the restriction on the use of tie-type timbers, no restriction on the installation of garden beds exists, in part because they are by their nature a somewhat temporary structure, which could easily be removed.

The Chair reviewed the changes to page 5. The Secretary explained that the deletion in paragraph 21 was due to the fact that when the original regulations were written, the town had no driveway regulations of its own and that only those driveways which would enter onto a state highway would have been regulated due to state DOT rules. Since the town now has a driveway permit process which covers all roads, this sentence was both inaccurate and outside the purview of the Commission. In addition, it was explained by the Commission that the definition of a tree utilized here matches the definition of a tree as defined in the RSAs for scenic roads and that this was chosen in order to make the definition of a tree consistent for all areas of the Historic Districts over which the Commission has authority. The Secretary also explained how the rule is applied, specifically with regard to size of the setback from the right of way of the road. It was further explained that any tree falling outside that setback is not regulated and can be cut. In addition, it was explained that trees which may represent a danger to life or property (e.g. dead or falling trees) may be cut at any time without permission and that

normal pruning for the health of a tree was also permitted without application to the Commission. I. Riordan inquired whether this could be written in to the paragraph. The Commission advised that since these rules are part of the referenced RSA it seemed unnecessary to do so as those rights are ensured by state law.

The Chair reviewed the changes to page 6. After an inquiry from the public, it was explained by the Commission that since the ability to photocopy even large documents provided as part of an application has improved so greatly since the original regulations were written, it is no longer necessary to require two copies of plats and/or plans from the applicant, thus the proposed deletion in paragraph 25. Several members of the public, including J. Lee, E. Nordbeck, I. Riordan, M. Socha, and N. Socha commented on paragraph 26 relating to Maintenance. The general concern was that some persons may not have the ability to comply with this section, for a variety of potential reasons. In addition, a comment was made questioning the ability of the Commission to enforce such a requirement. The Secretary did point out that the paragraph is part of the original regulations and the Chair noted that during a recent question and answer session for town board members with the town's attorney, the issue of regulations and ordinances that are not being enforced was discussed. The town attorney generally believed that while the fact that a regulation has not up been enforced up to a certain point in time could be problematic if the regulation is challenged, so long as it is enforced equitably and fairly to all once it begins to be enforced, that it should hold up in a court of law in so far as the issue of its enforcement is the reason for its being challenged. The Commission did acknowledge the challenges inherent in enforcing this particular regulation. The Chair then advised that since removal of this paragraph is not currently proposed, it cannot be struck as part of these public hearings, but rather would have to be brought up as new business at a regular commission meeting for discussion and then go through the same proposal process as the changes currently under discussion.

The Chair reviewed the changes to page 7. The Commission explained that the changes to paragraph 33 were necessary to bring our regulations into compliance with state law. N. Socha inquired whether this meant that the town could not set lower amounts. The Chair advised in the affirmative, explaining that since these are the fines permitted under state law and which the courts would have the authority to levy, that any limits on these amounts which the Town might impose would be void in the event a case proceeded to court. W. Piekut commented that the mere presence of a regulation imposing fines is not all that is required to collect them, noting that an individual in violation of Historic District Regulations is still entitled to due process under the law and that even then, collection of levied fines, even those imposed by the courts, is not guaranteed. N. Socha also commented that since property owners in the Historic Districts must go through two application and permitting processes, one for the Historic District Commission and one through the Zoning Enforcement Officer related to the general Zoning Ordinances that the application fee should remain only fifteen dollars. Other members of the public were in agreement with this position.

The Chair reviewed the changes to page 8. There were no questions and/or comments from the public.

The Chair reviewed the changes to page 9. There were no questions and/or comments from the public.

The Chair reviewed the changes to page 10. There were no questions and/or comments from the public.

The Chair reviewed the changes to page 11. There were no questions and/or comments from the public.

The Chair reviewed the changes to page 12. There were no questions and/or comments from the public.

The Chair reviewed the changes to page 13. There were no questions and/or comments from the public.

The Chair reviewed the changes to page 14. There were no questions and/or comments from the public.

The Chair reviewed the changes to page 15. There were no questions and/or comments from the public.

The Chair reviewed the changes to page 16. There were no questions and/or comments from the public.

The Chair reviewed the changes to page 17. There were no questions and/or comments from the public.

A general inquiry was made as to whether or not, if work is done in complete compliance with the specifications noted in the regulations, an application is necessary. The Secretary, by way of response, referred to page 1, where the Statement of Purpose notes that all proposed construction or change shall be filed with the Commission. The Chair advised that, as noted in the Statement of Purpose, the regulations cannot foresee every eventuality and that applications and the changes requested in them will be reviewed on a case by case basis, with the intention of determining that they meet not only specific requirements of the regulations but also that they comply with the spirit of the regulations and the purposes of the Historic Districts.

The Chair, noting that the Commission needed to proceed to the Effingham Public Library for the second public hearing, advised those in attendance that the period for comments would have to be ended but reminded them again that the process at the second public hearing would be the same, that additional comments and questions could be heard at that time and that all members of the public were welcome and encouraged to attend both hearings.

The Chair also asked that, in order to assist the Commission and the Fire Department with the cleanup and securing of the building, each person be responsible for collapsing and removing to the outside of the building, their folding chair, so that the chairs could be returned to the Effingham Historical Society from whom they were borrowed.

The public hearing was adjourned at 7:21 p.m.

Respectfully submitted,

Erik Jones  
Secretary