

Minutes of the **By-Law Review Committee** meeting held
May 21, 2013
7:30 PM

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Board of Registrars Conference Room, Town Hall, 455 Concord Avenue

Attendees: Charles Hamann, Chair, Mark Thurber, Raymond Miyares, Ellen O'Brien Cushman (ex-officio)
Other attendees: Bob McGaw, Liz Allison

Agenda:

Annual Town Meeting Articles

Demolition Delay:

The Substitute Motion with By-Law Review Committee edits was voted unanimously as to form and placement with our edits to 35.5

Bob McGaw 1st Amendment – changes to the opt-out method. The Committee reviewed and made edits. Unanimous vote as to form and placement.

Bob McGaw 2nd Amendment “cooperative”.

Liz reported that the Planning Board may offer an amendment to require each property to be added separately in lieu of having one accepted list. .

Special Town Meeting – Recodification

Ellen reported that Town Meeting Members are very appreciative of all the efforts of the Committee in taking on Recodification of the General By-Laws and the materials we have thusfar provided.

Article 4 – Amendments (1 and 2) by Ed Kazanjian to eliminate the gender neutral references when recodifying. The Committee disagreed and unanimously voted unfavorable action. Charles will report the vote at Town Meeting, Ray will explain it in context of the full set of By-Laws and the intent.

Snow Removal – Bob McGaw volunteered to work on the Snow Removal for another attempt.

Minutes of May 16, 2013 meeting were approved unanimously

Meeting adjourned at 9:12 PM

Respectfully submitted,
Ellen O'Brien Cushman

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Bob McGaw 1st Amendment – changes to the opt-out method. The Committee reviewed and made edits. Unanimous vote as to form and placement.

Bob McGaw 2nd Amendment “cooperative” amendment described by Bob. The text was reviewed and edited by the Committee. Unanimous vote as to form and placement.

Liz reported that the Planning Board may offer an amendment to require each property to be added separately in lieu of having one accepted list. No text is available yet.

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Substitute Motion

for
Approved
Unanimous.

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ARTICLE 35 Demolition Delay

35.1 Intent and Purpose.

This Article is adopted for the purpose of preserving and protecting Significant Buildings within the Town of Belmont that constitute or reflect distinctive features of the architectural, cultural, economic, political, or social history of the Town; and to limit the detrimental effect of demolition on the character of the Town. Through this Article, owners of Preferably Preserved Buildings are encouraged to seek out and consider alternative options that will preserve, rehabilitate or restore such Buildings; and residents of the Town are alerted to impending demolitions of Significant Buildings. By preserving and protecting Significant Buildings, this Article promotes the public welfare by making the Town a more attractive and desirable place in which to live and work. To achieve these purposes, the Belmont Historic District Commission is authorized to advise the Inspector of Buildings with respect to Demolition Permit applications.

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35.2 Definitions.

For the purposes of this Article, the following terms shall have the following definitions:

- (a) APPLICANT – Any person or entity that files an Application for a Demolition Permit.
- (b) APPLICATION – An Application for a Demolition Permit, including the information required in Section 35.3.2.
- (c) BUILDING – A roofed Structure enclosing useful space.
- (d) COMMISSION – The Belmont Historic District Commission.
- (e) DEMOLITION – The removal or dismantling of a Building, in whole or substantial part, with or without the intent to replace the construction so affected. For purposes of this Article, the term “Demolition” shall not include routine maintenance, interior renovations, removal or construction of porches, decks, windows or other types of renovations for which Commission approval is generally not required.
- (f) DEMOLITION PERMIT – The permit required by the Inspector of Buildings for Demolition of a Building, excluding a permit required solely for the Demolition of the interior of a Building.
- (g) INSPECTOR OF BUILDINGS – The person authorized by law to issue Demolition Permits within the Town of Belmont.

Deleted: If the Applicant is not the owner of the premises upon which the Building is situated, the owner must indicate, on or with the Application, his/her assent to the filing of the Application.

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- (h) INVENTORY – A list of Buildings, entitled *Belmont's Significant Historic Buildings Not Protected By Local Historic District Designation*, to be kept on file in the Town Clerk's office as it may be amended pursuant to Section 35.4 of this Article. The Inventory shall be made available to the public. Deleted: .2
- (i) PREFERABLY PRESERVED BUILDING – Any Significant Building that the Commission determines, following a public hearing, should be preserved or rehabilitated rather than demolished.
- (j) SIGNIFICANT BUILDING – A Building that is listed on the Inventory.
- (k) STRUCTURE – Anything constructed or erected, the use of which requires fixed location on the ground.

35.3 Procedure.

35.3.1 No Demolition Permit for a Significant Building shall be issued until the provisions of this Article have been satisfied.

35.3.2 An Applicant proposing to demolish a Significant Building shall file with the Inspector of Buildings an Application containing the following information:

- The address of the Building to be demolished;
 - The owner's name, address and telephone number;
 - A description of the Building; and
 - A photograph or photographs of the Building and photographs of neighboring Buildings.
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If the Applicant is not the owner of the premises upon which the Building is situated, the owner must indicate, on or with the Application, his/her assent to the filing of the Application.

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35.3.3 The Inspector of Buildings shall, within seven (7) days of receipt of such Application, forward a copy thereof to the Commission.

35.3.4 Within thirty-five (35) days of receipt of the Application from the Inspector of Buildings, the Commission shall hold a public hearing to determine if it is in the public interest for a Significant Building to be preserved or rehabilitated rather than demolished and, based on such determination, whether the Significant Building is a Preferably Preserved Building. Public notice of the time, place and purpose of the hearing shall be posted in a conspicuous place in the same manner as meeting notices posted in Belmont under the Open Meeting Law, MGL c.30A §20, for a period of not less than seven (7) days prior to the hearing date. The Inspector of Buildings, the Applicant and the owner of the Building (if different

from the Applicant) shall be notified in writing of the meeting time and place no less than fourteen (14) days prior to the hearing date.

- 35.3.5 Within ten (10) days of the first date of such Public Hearing, the Commission shall provide written notification to the Inspector of Buildings and the Applicant as to its determination of whether the Significant Building is a Preferably Preserved Building. If agreed to in writing by the Applicant, the determination of the Commission and notification to the Inspector of Buildings may be postponed to a specified date. If the Commission does not provide written notification to the Inspector of Buildings and the Applicant of its determination in writing by such deadline, then the Inspector of Buildings may issue the Demolition Permit.

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- 35.3.6 If the Commission determines that the Significant Building is not a Preferably Preserved Building, the Commission shall so notify the Inspector of Buildings and Applicant in writing. The Inspector of Buildings may then issue the Demolition Permit.

- 35.3.7 If the Commission determines that the Significant Building is a Preferably Preserved Building, a Demolition Permit may thereafter be issued no sooner than six (6) months for residential Buildings and twelve (12) months for commercial, institutional, and religious Buildings after the date that the Application was filed with the Inspector of Buildings, unless a shorter time is otherwise authorized by the Commission based on its finding that the intent and purpose of this Article, as provided in Section 1 hereof, will be adequately served. If a Building is of mixed use, having both residential and commercial, institutional or religious uses, then the relevant delay for issuance of a Demolition Permit shall be the longer of the applicable delay periods.

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- 35.3.8 In computing any period of time prescribed in this Article, the day of the act, event, or default after which the designated period begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next business day.

35.4 Administration.

- 35.4.1 The Commission may adopt such rules and regulations as are necessary to administer the provisions of this Article, but may not increase the length of the delay period stated herein.

- 35.4.2 Except as otherwise provided in this Section, the Commission may add Buildings to or remove Buildings from the Inventory upon a written determination, based on a preponderance of the evidence presented at a public hearing, as to whether the Building is historically significant. Such determination shall be made by a majority vote of the Commission's members and shall include a statement of the reasons therefor. Such vote shall be deemed to be a final decision of the

Substantial

the Commission when the written determination is filed with the Town Clerk, but shall become effective only upon ratification by a vote of the Board of Selectmen. Owners of record of Buildings ~~proposed~~ *for which a* for such listing or removal shall receive written notice of the time and place of the public hearing no less than fourteen (14) days in advance thereof. Public notice of the time, place and purpose of the hearing shall be posted in a conspicuous place in the same manner as meeting notices posted in Belmont under the Open Meeting Law, MGL c.30A, §20, for a period of not less than seven (7) days prior to the date of said hearing.

Deleted: The Commission may add Buildings, or remove Buildings, from the Inventory only with the approval of Town Meeting by a majority vote of Town Meeting Members. The Commission shall hold a public hearing at least thirty (30) days prior to the opening of the Town Meeting.

35.4.3 The Demolition of a Building following the issuance of a Demolition Permit shall automatically result in the removal of such Building from the Inventory.

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35.4.4 The Commission may not add to the Inventory any Building for which an application for a Demolition Permit is pending, or a Demolition Permit has been issued and is in effect.

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35.5 Responsibility of Owners. *Applicants.*

35.5.1 The owner of a Significant Building *for which a* who has applied for a Demolition Permit *is being sought* shall:

- Provide such information as is reasonably requested by the Commission in connection with its consideration of whether the Significant Building is a Preferably Preserved Building;
- Allow exterior access to the property on which the Significant Building is located, as reasonably requested by the Commission;
- Secure the Significant Building, if vacant, to the satisfaction of the Inspector of Buildings until a Demolition Permit is issued;

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An Applicant who has applied for a
~~The owner of a Preferably Preserved Building who has applied for a Demolition Permit shall:~~ *for a Preferably Preserved Building shall*

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- Participate in the investigation of preservation options for the Preferably Preserved Building; and
- Reasonably cooperate with the Commission and any interested parties in seeking alternatives to the Demolition of the Preferably Preserved Building.

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35.5.2 If the owner of a Significant Building fails to secure the Building to the satisfaction of the Inspector of Buildings, the subsequent destruction of the Building through any cause shall be considered a voluntary Demolition in

violation of this Article if such destruction could have been prevented by the required security measures.

35.6 Emergency Demolition.

35.6.1 Nothing in this Article shall restrict the Inspector of Buildings from ordering the immediate Demolition, in accordance with applicable law, of any Building in the event of imminent danger to the safety of the public. In the event that the Inspector of Buildings is informed that a Significant Building is dangerous to life or limb, or otherwise may be subject to a removal order, the Commission shall be notified and, where practicable, the Commission or its designee shall be allowed to accompany the Inspector of Buildings during the inspection of the Building.

35.6.2 As soon as practicable after the Inspector of Buildings has issued an emergency Demolition order for a Significant Building, a copy of such order shall be provided to the Commission, together with copies of all documentation relevant thereto.

35.7 Enforcement and Remedies.

35.7.1 The Commission and/or the Inspector of Buildings are each specifically authorized to institute any and all actions and proceedings, in law or equity, as either of them may deem necessary and appropriate to obtain compliance with the requirements of this Article or to prevent a threatened violation thereof.

35.7.2 Any owner of a Significant Building that is demolished without first obtaining a Demolition Permit in accordance with the provisions of this Article shall be subject to a penalty of Three Hundred Dollars (\$300.00). Each day that such violation exists until a faithful restoration of the demolished Significant Building or other remediation or remediation plan has been approved by the Commission shall constitute a separate offense. The Inspector of Buildings may enforce this Article by non-criminal disposition as provided in MGL c.40, §21D.

35.7.3 If a Significant Building is voluntarily demolished without first obtaining a Demolition Permit in accordance with the provisions of this Article, no building permit authorizing construction on the lot on which the Building was located or on any adjoining lot under common ownership therewith shall be issued for a period of two (2) years from the date of the Demolition, unless agreed to by the Commission.

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Inspector of Buildings

35.8 Severability

If any provision of this Article shall be found invalid for any reason, such invalidity shall be construed as narrowly as possible, and the balance of the Article shall be deemed to be amended to the minimum extent necessary, so as to secure the purposes thereof, as set forth in Section 35.1.

BLRC
Maximum

Demo Delay
Amendment

Bob McGaw
w/ BLRC Edits

Bob will
Provide to
Ellen
Tomorrow

35.4.2 The Commission shall, by certified mail return receipt requested, send a written notice to each owner of record of the Buildings listed in the Inventory, enclosing a copy of this Article and expressly stating that the owner has 60 days after receipt of the notice to elect to have the Building excluded from the Inventory, such election to be accomplished by ~~mailing or~~ delivering to the Town Clerk a letter signed by the owner (or the owner's representative or attorney) stating such election. Thereafter, the Commission shall reissue the Inventory, excluding therefrom all Buildings that owners have duly elected to exclude.

Renumber 35.4.2 through 35.4.4 as 35.4.3 through 35.4.5

35.9 Effective Date

This Article shall ~~not~~ be effective ~~until~~ 90 days after the Commission has filed with the Town Clerk a certificate that it has sent the notice required by Section 35.4.2.

5/21/13 BLRC
Discussion
manimans

Robert E. McGaw

23 Louise Road • Belmont • Massachusetts 02478-3922

617-484-6518 robert.mcgaw@gmail.com

Tuesday, May 21, 2013

DRAFT FOR DISCUSSION PURPOSES ONLY

Town Clerk
Town of Belmont
Belmont Town Hall
Belmont, MA 02478

Amendment of Warrant Article 21, "Demolition Delay."

Dear Ms. Cushman:

Set forth below is an amendment I am hereby proposing to Article 21 of the Warrant for the 2013 Annual Town Meeting. Its purpose is to add some definition to what is meant by "cooperation," what is meant by "interested persons," and to avoid needlessly drawing out the delay period if there are no reasonable alternatives.

Amendment to Warrant Article 21 "Demolition Delay"

1. Amend the proposed Article 35 by substituting the following bulleted paragraph for the fifth bulleted paragraph in Section 35.5.1 of the proposed Bylaw.

- Reasonably ^{the} cooperate with the Commission, any parties in interest (as defined in Section 7.6.3(a) of Belmont Zoning Bylaw), and any organizations whose primary purpose is the preservation of buildings ^{the efforts of} in seeking alternatives to the Demolition of a Preferably Preserved Building, but the owner or applicant, as the case may be, ^{charitable} is not required to incur costs or expenses, to initiate any legal or administrative proceedings, or to incur economic loss or additional delay in connection with the alternatives. ^{substantial} If no alternatives reasonably exist, the delay period shall end and the Inspector of Buildings shall forthwith issue the Demolition Permit. ^{provided in section 35.3.7} ^{may} ^{If the Commission determines that}

Sincerely,

Robert E. McGaw

Applicant

Section 35.4.2 (First Sentence)

- Option 1: The Commission may add Buildings to or remove Buildings from the Inventory upon a determination as to whether the Building is historically significant, made by a majority vote of the Commission's members following a public hearing; provided, however, that such vote shall be deemed to be a final decision of the Commission when a record thereof is filed with the Town Clerk.
- Option 2: The Commission may add Buildings to or remove Buildings from the Inventory upon a determination as to whether the Building is historically significant, made by a majority vote of the Commission's members following a public hearing; provided, however, that such vote shall be deemed to be a final decision of the Commission when a record thereof is filed with the Town Clerk but shall become effective only upon a vote of the Town Meeting.
- Option 3: The Commission may add Buildings to or remove Buildings from the Inventory upon a determination as to whether the Building is historically significant, made by a majority vote of the Commission's members following a public hearing; provided, however, that such vote shall be deemed to be a final decision of the Commission when a record thereof is filed with the Town Clerk but shall become effective one year thereafter or upon a vote of the Town Meeting, whichever occurs sooner.
- Option 4: The Commission may add Buildings to or remove Buildings from the Inventory upon a determination as to whether the Building is historically significant, made by a majority vote of the Commission's members following a public hearing; provided, however, that such vote shall be deemed to be a final decision of the Commission when a record thereof is filed with the Town Clerk but shall become effective one year thereafter unless overruled by the Town Meeting prior to such effective date.
- Option 5: The Commission may add Buildings to or remove Buildings from the Inventory upon a determination as to whether the Building is historically significant, made by a majority vote of the Commission's members following a public hearing; provided, however, that such vote shall be deemed to be a final decision of the Commission when a record thereof is filed with the Town Clerk but shall become effective one year thereafter.
- Option 6: The Commission may add Buildings to or remove Buildings from the Inventory upon a determination as to whether the Building is historically significant, made by a majority vote of the Commission's members following a public hearing; provided, however, that such vote shall be deemed to be a final decision of the Commission when a

record thereof is filed with the Town Clerk and shall be effective unless and until overruled by the Town Meeting.

Option 7: The Commission may add Buildings to or remove Buildings from the Inventory upon a determination as to whether the Building is historically significant, made by a majority vote of the Commission's members following a public hearing; provided, however, that such vote shall be deemed to be a final decision of the Commission when a record thereof is filed with the Town Clerk and shall be effective unless and until overruled by the Town Meeting within one year of such effective date.

From: Edward Kazanjian [mailto:~~eakazanjian@verizon.net~~]
Sent: Monday, May 20, 2013 6:42 PM
To: Cushman, Ellen
Subject: Re: RE: RE: Article 4 Special Town Meeting

BLRC
5/21/13.

Two different amendments please.

Ed Kazanjian

Ellen,

Amendment 1

Unanimously
BLRC recommend
Unfavorable Action

Moved: to amend the main motion of Article 4 of the Special Town Meeting, May 29, 2013 as follows:

Item C. by deleting the phrase "To update the terms 'Chairman' and 'Chairperson' to 'Chair.'" and replacing it with the following phrase :

"To update the terms "Chair" and "Chairperson" to "Chairman".

Rationale: I would propose, Chairman be used exclusively. The title of the position is Chairman. It is a gender neutral word as are Director or Governor. When addressing a female Chairman you might say, "Madam Chairman". There is great support for this in Robert's Rules, National Association of Parliamentarians, etc. I am able to site many proper uses of Chairman when referencing a female. I do not want our "politically correct and gender neutral society to make this change. It may be politically correct to a minority but it is not a proper use.

Unanimously
BLRC recommend
Unfavorable Action.

Amendment 2

Moved: to amend the main motion of Article 4 of the Special Town Meeting, May 29, 2013 as follows:

Item E. by adding after the phrase, "are cited in numeric form only;" , the phrase "except when a number begins a sentence or when round numbers greater than 10 are used.;

Rationale: The proposed language would require the sentence. "10 little Indians are arriving." when it should be written "Ten little Indians are arriving." AND require "We are enlisting 1,000,000 workers." when it should be written "We are enlisting a million workers." Another example would be "The temperature stayed in the 90s." when it should be written, "The temperature stayed in the nineties."

Edward A. Kazanjian

TMM Precinct 6

eakazanjian@verizon.net