

**Town of Milton  
Board of Adjustment  
Historic Preservation Board  
November 1, 2007**

**Members Present:**

Jack Vessels	Marion Jones	Margo Goodman
Brenda Burns	Matt Dotterer	Larry Savage

**Members Absent:**

Denise Suthard

**Others Present:**

Robin Davis                  John Brady

The Public Hearing was called to order at 7:00 pm

**Item #1: Public Hearing**

The applicants, Kim & Jeff Hamer, are requesting a demolition permit to raze/demolish the structure located at 207 Union Street further identified by Sussex County Tax Map and Parcel # 2-35-14.19-173.00.

Brenda Burns: I'm going to open the public hearing portion of the meeting. Is there anybody here on behalf of the applicant who would like to speak? Please identify yourself and come up to the microphone. Thank you.

Fred Legg: I am the structural engineer of record for the report dated August 11, 2007 as of the condition of the property at 207 Union.

Brenda Burns: We have read your report. What would you like to add to that?

Fred Legg: If you have question as to the...as I understand it, members of the have been out to look at the property today, is that right?

Brenda Burns: Yes, that's correct.

Fred Legg: Okay. Do you have any questions based on that?

Margo Goodman: I have several. Could you tell me the age of the building? You indicated it was an old building.

Fred Legg: I don't know for sure. That was not identified to me.

Margo Goodman: You have no idea? Do you know how long it's been standing vacant?

Fred Legg: No, again, I was told that it had been standing vacant for a good number of years, and that's stated in the report there.

Margo Goodman: Right, it just doesn't give a figure.

Fred Legg: That I don't know. I was told that it had been vacant for a good number of years.

Brenda Burns: I do have a question concerning...you're saying that the roof has moved and that's evidenced by the fact there is water penetration. How do you determine that the roof has actually moved if...it would appear to me that the roof leaked because of the

age of the roof; you know water has come in because the roof is not as stable, but you actually state in here that the roof moved. How did you determine that?

Fred Legg: Yes. There are some...if you go to the second floor you can see some cracking in the walls which is evident that the roof has spread slightly, so that the roof is actually moving. I'm not saying that's the cause of the leak. The age of the roof would be the cause of the leak, but it's certainly the structural integrity is somewhat compromised up there.

Jack Vessels: Brenda, the cracks that I saw in the plaster could just as well as happened from the sagging of those partitions as the beams underneath would sag a little. It would pull the whole thing down.

Fred Legg: Well, that's another possibility but I identified as being the roof that had spread slightly. I didn't actually go into the roof space. I did actually go up through the hatch as best we could to look. As you're probably aware, they didn't build the roofs like they do today. There's no ridge board; the rafters tend to be a much wider spacings than they used to be, or they are today, sorry. But yes, I mean the cracks could as well be, like you say, from failing beams underneath.

Jack Vessels: Most the water damage it sounds to me to be around chimneys and such, where probably the flashing just rusted out over the years.

Fred Legg: As you're probably aware, property that isn't lived in for any length of time deteriorates very quickly. It does; it accelerates.

Jack Vessels: Oh yeah, it does. It was in much better shape than I expected.

Brenda Burns: You also state in your report that masonry blocks have been added to the foundation, either to enclose the crawl space under the rear section of the building or provide additional support to the first floor structure. It appears to me that originally the summer kitchen, which is the rear portion you are referring to was built on piers, brick piers which was standard building practice in this area and so at some point, someone merely came in and added block between the piers.

Fred Legg: To enclose the area underneath.

Brenda Burns: To enclose it.

Fred Legg: But they...sorry.

Brenda Burns: You're actually stating here that it's to sure up the foundation and I didn't see any indication of that. I saw an indication that they are merely closing in the space between the piers.

Fred Legg: Well, people very often do it for two reasons. One is that you say it's just to enclose it to keep critters out, but also very often the gird is that the span between the piers start to fail so they add blocks underneath to assist with the supporting the structure. I see this a lot in Rehoboth. A lot of the homes there are similar construction. They have piers and then they have girders spanning between them, but they are usually very much under size.

Brenda Burns: Does anyone else have any questions?

Matt Dotterer: Yes, actually. Has anyone looked under the crawl space or done an inspection in the crawl space?

Fred Legg: I went...the crawl space access is at the rear as you are probably aware and although I went in that area there, underneath the original property, I didn't consider it safe to venture in there, so...

Matt Dotterer: And you said you already went into the attic area. Do you know if the Town has condemned this structure at all?

Fred Legg: The Town? No, not as far as I'm aware.

Matt Dotterer: Do you know anything about the history of the house at all?

Fred Legg: None whatsoever.

Matt Dotterer: That's all I have, thank you.

Brenda Burns: Anyone else? Ok. Since this is a public hearing, I am going to open the floor to the public. If anybody would like to make a comment, if they will come forward and identify themselves and say whatever they have to say.

Jim Welu: 30231 East Mill Run, Milton. I thought the meeting was next week so I didn't get a chance to do some research I wanted to do in terms of at the courthouse but I suspect that the, what is called the summer kitchen is probably very early 1800 original cabin, like a one-room house. I know it's very common to have somewhat larger cabins that were built in the early 1800's, that were larger than that, and usually a story and a half, but I suspect with the pier structure and that it was a separate building and most likely a cabin, and to me that is something I think very well worth preserving. Secondly, I think from historic preservation, the historic district, I think one of these we have to be really concerned with is the streetscape and to take this house down and put something new in there is going to really change that streetscape as you come up and down Union Street, and I think really strong consideration has to be given to that. In my little viewing of this house from the outside, it looks pretty square to me, and I've dealt with some pretty un-square properties over the years and I really think that it should be preserved. I think, you know, there's enough of bones there that it is worth preserving in the Town of Milton where we don't have a lot of historic structures and this is probably one of the oldest ones on Union Street itself; not the oldest one in Town, but certainly one of the oldest ones on Union Street. With regard to the comments of the engineer with regard to lifting the building, I am no expert on lifting buildings, but there are people that I've hired that have lifted and they've lifted some very difficult buildings and actually moved them and I think the bigger danger is in moving it than it is in lifting it and I would think that certainly before any approval ever be given to demolish this building, there ought to be a review by at least one or two major house movers, in terms of lifting this if it is the foundation, which is really the major problem. As you all probably know, Mr. Jefferson has moved some houses on Union Street, just for the purpose of putting new foundations under them and a lot of other people. People on the panel have some experience with moving buildings and putting in foundations, and I just don't think that the integrity of this building is so deteriorated that it could not be shorn up and lifted with a new foundation put under it and give it sturdiness and to keep the streetscape that it would provide on Union Street.

Brenda Burns: Ok. Thank you. Is there anyone else who would like to make a comment?

Jeff Hamer: I'm one of the applicants that owns the property with my wife, Kim Hamer. To just address a couple of comments, when I was at the settlement with Draper Holdings, it was relayed to me that nobody lived in the house in approximately 30 years. Now, for the validity of that, I do not know; that's what I was told by the representative for Mr. Draper and I have to go on their word for that, and that was relayed at the settlement. For the gentleman's comment about the streetscape and not changing the

streetscape, there's a lot of ways to address that with a new home or a new building on the lot. You can do that through an architectural review committee that makes you rebuild a Victorian style, brick, a lot of the hardy plank, things that are more modern that last and will stand the test of time, 30 years, you know, architectural shingles, cedar shake, you can do a lot of things to address the streetscape of a new building. When we hired the engineer, it was never addressed to him to say hey, can you come here and say this building is condemned, you know, we want to condemn this building. We just asked him to give us his opinion of the building, shape of the building, and tell us where the problems are, and when he came back to us and told us, then that's when we decided; it wasn't something that we decided that to tear this building down when we purchased it, or we would have been here a lot longer, a long time ago. It was actually after we had addressed this situation and started to move on the building and do some work and this is why what brought us here tonight. If there're any questions that you have for me, I'm happy to answer them.

Brenda Burns: How long have you owned the building?

Jeff Hamer: A little over a year.

Brenda Burns: Thank you.

Jeff Hamer: Alright. Thank you.

Brenda Burns: Okay, I am going to make the announcement again that this is a public meeting and this is your opportunity to speak. Do we have anyone else who would like to make any comment or ask any questions? If not, we will close the public hearing.

May I have a motion to that affect?

Margo Goodman: I make a motion to close the meeting.

Matt Dotterer: Second.

Brenda Burns: Thank you. Motion so carried and the public hearing portion of the meeting is closed.

## **Item #2: Business Meeting called to order at 6:13pm**

### **Item #3 & 4: Additions or Correction/ Approval of Agenda**

Brenda Burns: Do we have any additions or corrections to the agenda?

Marion Jones: I would like to request at the end of the business portion of this meeting that we hold a brief business meeting ourselves. I have a few issues and I know a couple of the members of the board do as well.

Brenda Burns: Ok. May I have a motion to that affect?

Margo Goodman: I make a motion.

Matt Dotterer: Second.

Brenda Burns: Thank you. So carried.

Jack Vessels: Shouldn't you vote on the motions?

Brenda Burns: Ok. Let's have a roll call vote then, thank you. We'll start with:

Margo Goodman: I approve to make motion for the meeting

Larry Savage: I approve to make the motion of a meeting

Jack Vessels: Approve

Marion Jones: Approve

Matt Dotterer: Approve

Brenda Burns: And I approve as well

So carried. Thank you

**Item #5: Approval of Minutes**

Brenda Burns: Alright. Now we have minutes to review and we have minutes from the meeting that was held June 26, 2007. Those in attendance were Jack Vessels, Matt Dotterer, Marion Jones, Brenda Burns, Margo Goodman and Denise Suthard. Do we need any correction? Does anyone like to make any comments concerning the minutes?

Margo Goodman: I make a motion to approve as written.

Brenda Burns: May I have a second?

Marion Jones: Second the motion.

Brenda Burns: Thank you. So carried. Do we need a roll call vote in this? Ok. All those in favor say "Aye". Opposed – None. Motion Carried.

**Item #6: Business**

- a. The applicants, Kim & Jeff Hamer, are requesting a demolition permit to raze/demolish the structure located at 207 Union Street further identified by Sussex County Tax Map and Parcel # 2-35-14.19-173.00.

Brenda Burns: We did view the house tonight although it was rather dark. Would anybody like to make any comments on the board concerning this request?

Jack Vessels: We should have a motion on to discuss, isn't it?

Brenda Burns: I make a motion to discuss. We can discuss.

Jack Vessels: We can discuss without a motion?

Brenda Burns: Yes.

Jack Vessels: Ok. The house is in better shape than I've been led to even hope for from the engineers report. I've certainly been in a lot worse and I've certainly worked on a lot worse over the years and I think it's highly restorable. It reminds me very much of one the state owns out in state parklands; the old Wolfe House. The plaster is very similar, the layout's similar and...this is a little smaller but it's certainly worth saving. I can't say a unique structure but along that streetscape it's certainly unique and it adds greatly to the streetscape. I'll let it go at that, I guess. (unintelligible)

Marion Jones: I have a question for the solicitor, please. Is this not an opportunity for our questions being asked of the applicant in open forum?

John Brady: If you have any question that comes up as a result of your discussion, you may ask the applicant if the applicant is present. It does not re-open the public hearing, so no additional public comment will be taken.

Marion Jones: Understand. Thank you. A question for the applicant. Have you contacted anybody in reference to restoration of this home?

Kim Hamer: Yes, that's how this all came about. We wanted to restore the home and apply, obviously down the road, for a approval to put a restaurant there. So we had Shell Brothers come out, Eschelon, their local builder, and that's when the issue came up that they didn't think it was suitable and said we should probably get a structural engineer first before we proceeded and that's when we got the structural engineer involved.

Marion Jones: So they looked at the property as a restoration to open a commercial business or as a private home?

Kim Hamer: For a business.

Marion Jones: Ok, and so they...you never got to the point where they gave you a quote

for those repairs?

Kim Hamer: No. They said it would not, when we talked about pricing, and obviously what things go for in Milton it wasn't...obviously if we had a million dollars, we could do anything, but that's not feasible. We don't have that, so...

Marion Jones: And it stated that you now have owned the home for about 15 months and though I am certainly not a building expert, I would say that the damage there is longer than the last 15 months. Is there any reason why nothing was done to restore or at least to secure the house, meaning particularly the roof and the water damage before now?

Kim Hamer: Just very busy. It was on our project list. We got to it when we could.

Marion Jones: Ok. And the question for the chairman, do you happen to know if this house is encompassed in the historic registry that exists for the Town of Milton. I know it sits in the district...

Brenda Burns: It is in the district. Whether it's on the registry, I do not know.

Marion Jones: Thank you. Those are my only questions.

Larry Savage: Madame Chairman, do we have a letter from Mrs. Huff on the history of the house, that could be read into the...

Brenda Burns: No, we do not.

Larry Savage: Pardon me?

Brenda Burns: No, unless she submitted it to the Town. Did she?

Larry Savage: She said she had and it contains some information on the house. It's startling to me.

Robin Davis: I haven't seen anything.

Brenda Burns: That would have been helpful.

Matt Dotterer: I do have a couple different questions for the homeowners. Basically, your wife actually answered one of the questions as far as estimates. Have you had any estimates as far as just redoing it as residential? I know you are in Town Centre.

Jeff Hamer: No.

Matt Dotterer: I believe you're in Town Centre so you can have commercial on first floor and residential on the second floor.

Jeff Hamer: Exactly. We looked at it just to have Eschelon come out and do, which Eschelon is a premier builder and they only build custom homes, and the first person we had come out and look at it was them and they said you know you need to get, really get the structural engineer out here because I don't think we could actually rebuild this building. And that was the first sign that there was a problem. I mean, I actually bought the house site unseen. I never walked in it. I figured, it's downtown Milton, it's an old house, it could be worked on. It was a busy summer, I own other restaurants and I was working at the time and my wife said this came up on the market and I said let's go ahead and buy it. I said Milton's a cute town. It's up and coming. It would be a great place to put a business or renovate a house and put a business in it; maybe even a restaurant. And, to be honest, I hadn't walked into the house until 6 months after I purchased it. And it sounds silly, but it was summertime and we were busy and I don't get up to Milton very much. I work a lot in Rehoboth. And to answer the other question, when we did come and see the damage, reading a lot of things in the paper about getting permits and doing work in Milton, I said you know, if we start patching the roof here, then maybe we've got to take the whole roof off, and we've got to take the whole roof, do we have to go get approval, so if we have to get approval, why don't we find out what we've got to do first to work on this house? Why don't we get Eschelon's guy out there and have him take a look at it and tell us where to start and that's how that procedure got...that's why we

didn't worry about there's a hole in the back summer kitchen. Well, if we're going to fix that hole, what if the whole wall's going to come down eventually. So next thing you know is you're throwing good money after bad if you patch one thing and then they say they are going to take that whole wall down. Well that whole foundation's bad, this whole thing's going to get reframed and done. So, there are a lot of people that are affluent that can do that, but...

Matt Dotterer: Thank you. On the...if it is demoed, what are the future plans for that? Or do you have any?

Jeff Hamer: As my wife I think expressed, we thought about putting a commercial building on there; more of a house looking structure-like. I don't know if you've been downtown in Rehoboth. I've renovated an old farmhouse and it was in bad shape and I spent that kind of money when I rebuilt Claw's Crab House and that building was there from 1888. And I took that building apart and there's probably 8 or 10 boards still standing in the frame that are the original building, but we did manage to hold the second floor up and keep the second floor, but almost the entire downstairs floor, because we are in a commercial district, it's conforming to the type 2 materials that need to be built in Rehoboth Beach. It's all steel, it's all fake looking, it's all fake wood, it's composite; all the plywood is fire rated, fire retardant; it cost about twice as much as regular plywood, it's treated. We did a really nice job and if you've seen that building, it actually won an award for it, for rebuilding that building and...

Brenda Burns: What is the name of your...

Jeff Hamer: Claw's Crab House. That building, it's right next to the post office in Rehoboth and we rebuilt that building at an extreme cost and I'm also in this Sir Guy's building which was built to mimic more of a Victorian, old Victorian 3-story; maybe more of a southern, savannah style house, and I have Fin's Fish House in that building. And this town lends itself to another building like that. Now I can rebuilding a building that looks very much Victorian that would be like Claw's Crab House; that would fit the image of the Town. I'm probably one of the only last buildings on Rehoboth Avenue, one of maybe 3, that are the original buildings that were rebuilt. But you can also build a building that looks like that for half the cost of renovating it and that way you have the plumbing that complies; you have the type 2 materials that you need to use to prevent from fire spreading when you have full restaurant; you can do all the things you need to do if you rebuild the building properly with the right materials. And the height of the ceilings in there first thing won't allow a commercial establishment; it's only 7' high in that one room. The doors all have to be removed; I mean you can't put an 8' door in any of those rooms. You could put a handicap door in a lot of those rooms, so the structure doesn't lend itself to do what I intend to do, which may not be the city's purpose to have another restaurant downtown. We are happy to give the house to somebody if they want to move if it can be moved, for free, as a historical house if there's another lot in town that somebody wants to put it on. We're happy to do that as well. And I more than anybody understand. I've renovated several houses myself and like I said, if you go downtown and everyone's been down to Rehoboth and seen next to the post office, we did a beautiful job renovating that building. But it was at a hefty cost. Every time you opened up a wall, something else is rotten, and you find yourself bracing everything, replacing everything that was in there, so nothings really left of the original building when you're done, except for the look of the original building. Which you can rebuild?

Matt Dotterer: Okay. I appreciate that, thank you.

Brenda Burns: You might as well stay there, because we're going down the line here.

Margo Goodman: With the extensive cost of what you've put in to previous buildings that you've had to renovate and looking at restructuring, did you think to have an inspection even though you could not make it for the inspection yourself?

Jeff Hamer: No. Actually I looked at what I was going to pay for the lot downtown and I said lots, it's a very large lot, it's 50 x 173 or 143' it's a large lot. And I said you know what, we can work with what's down there if we have to but we'll do what we do. That's kind of what I thought. It's a house. I've done it. I've renovated one before...an extreme makeover. If that's the case, and that's the procedure everybody wants to file, then that's fine. That's what we'll eventually do. But we're following the procedures of the Town now to apply to see if we can and like I said, we started out with Eschelon; we went that route to try and renovate it and then he said get a structural guy. We got a structural guy and the he said I wouldn't try this and so...

Kim Hamer: And I think to what you just said we won't go that route again. We're not going to put the money in that we put into Claw's, because it's not feasible for our business, our profitability.

Jeff Hamer: This discussion is not on top now.

Kim Hamer: But I'm just saying we won't. We'll sell it; we'll do something else.

Jeff Hamer: Yeah, we'll just turn around and sell the property, probably because when you start opening, anybody that's renovated and you said you've renovated some things, you start opening up walls and you start, oh god all those rotten...and then you've got to call a building inspector and say what do we do about this. You can't have those cross bars; you've got to take them out. You've got to re-stud that wall. Okay, next thing you know you're bracing and you're re-studding every wall. So you start opening up and you open up the floor and you've got to redo the floor joists because all the floor joists are rotting because there's termite damage. You don't know that until you start ripping everything up and then the next thing you know you're in the cost, or so prohibitive to the business that you want to open that there....

Kim Hamer: And when we bought this, we weren't full; we weren't done with the cost of Claw's. We didn't know the full cost. Thinking back on it, we probably wouldn't have purchased it.

Jeff Hamer: I just finished building Claw's in June. I opened June 1, 2006, so I was still getting all the bills in from all the guys, from all the contractors that worked that I said just do it, it's got to be done, just do it and...

Kim Hamer: It's not cost...it's cost prohibitive for us to have to do the building now that we know what we know about it, so you know it's....and maybe you don't want another restaurant in town, that's fine. We'll go to another town.

Jeff Hamer: And I like Milton.

Kim Hamer: We just thought it would be a good addition to this town. It's adorable; nice town.

Jeff Hamer: And its growing and I own property outside the town that I'm building houses on it and I like this town, you know, and...

Brenda Burns: So are you saying that if you were to receive a demolition, you will absolutely build a restaurant?

Kim Hamer: Well, it's the Town Code. We'd have to get approval. We'd have to go through another whole process.

Jeff Hamer: But, we've gone through all the other stuff and I can't guarantee that would happen because I could get turned down in another...

Kim Hamer: (unintelligible) the Town Code, I believe Robin tells us we can have a

business there; we can have a business with apartments over it, but a restaurant is an exception, so I know it's still another process we have to go through. No guarantees.

Jeff Hamer: So, I can't guarantee something I could get turned down for and then you'd come back and say hey you guaranteed me, and I've turned down some course, I don't know who was in charge of that, but that's my thoughts.

Kim Hamer: We're just learning all this code that Robin us; a couple hundred pages so...

Jeff Hamer: I think it's all a lot of new code, too, so it's all...things have just changed recently.

Brenda Burns: Yes they have.

Marion Jones: May I make a comment?

Brenda Burns: Sure.

Marion Jones: I'd just like to assure Mrs. Hamer that the board isn't making a decision on whether we welcome you as a new restaurant. The board is simply looking at the historic fabric and integrity of the town and the location of the home. I just want you to be clear on that.

Jeff Hamer: Okay.

Brenda Burns: Mrs. Goodman, do you have any questions?

Margo Goodman: No.

Brenda Burns: Mr. Dotterer, I believe you did.

Matt Dotterer: Yes, it was to them, I'm sorry.

Brenda Burns: Oh, it was?

Matt Dotterer: No, it was basically for us. Did we get an engineers...

Brenda Burns: No. You don't mind waiting do you?

Jeff Hamer: No, I'm fine.

Matt Dotterer: I just wanted to make sure we didn't have an engineers report from the town. Since we set a precedent and had one done for the Wagner's, why don't we have for these?

Brenda Burns: Well, that's something we could consider but quite frankly I didn't consider it either report to be very substantiated and anyway, that it's...we certainly go that route again if this board so decides.

Kim Hamer: We did ask Robin if there was a certain structural engineer we needed to call. I mean, I didn't know a structural engineer, I had to ask Schell Brother's who should I call. I mean, if there was one that you guys had wanted us to use, we would have been happy to use them.

Matt Dotterer: It wasn't against Mr. Legg at all. It was that we set a precedent by having an engineer go to another demolition, or offer of demolition, and we sent an engineer there so we set a precedent so we should do it for all of them that ask for a demolition. That's nothing against you at all.

Jeff Hamer: Ok.

Brenda Burns: Is that so, Mr. Brady? Is that a precedent now? Because we did it once?

John Brady: You did it once, the last time you meet as this board...

Robin Davis: Mr. Brady.

John Brady: You did it once. No one asked me if should do it that time, but it was done. If you're asking me if you should do it this time, I'm going to say there was no request before the hearing to have it done, you have 90 day window to act. This was filed on September 11, so we have until 12/11 to resolve this application.

Brenda Burns: Thank you Mr. Brady.

Marion Jones: City Solicitor, question. If we are now operating under the new historic

preservation ordinance, the one adopted by Robin's recollection in summer, it actually gives the historic preservation board the power to request a structural engineer. Is that not correct?

John Brady: It gives the new board that power, that's correct. This application was filed after the council approved the new measure but before the board was constituted and appointed, so I said because it was in that period before the new board took its oath of office, which they haven't done yet, that this would go under the old board and the old law.

Marion Jones: Thank you.

Brenda Burns: Alright. Mr. Savage, do you have any questions for the applicant?

Larry Savage: No I didn't. I did walk through the property and I can see it's...well, upstairs it looks like termite damage; I'm not sure if it is or not but if it's termite damage in the building it's in pretty bad shape. That's just my personal opinion.

Brenda Burns: Okay. Well, you stated you bought the property sight unseen and that you feel like you're throwing good money after bad and that it seems like to me it's primarily a monetary issue.

Jeff Hamer: May I correct that?

Brenda Burns: Pardon?

Jeff Hamer: For a second? I think I was misquoted there. What I said was that I'd be throwing good money after bad if I went to repair a leak in the roof and then was told to replace the whole roof, or if I was to replace a hole in the wall and someone said hey, you can't put that asbestos shingle back up there because it's asbestos, you need to take all those down and replace them with siding. So that would be throwing the good money after bad. I think that's in the preference that I made it, if everyone's in agreement, but that was....

Kim Hamer: I think that is what when he said why didn't we shore up the house or do something as soon as we bought it.

Jeff Hamer: Because, I would be coming constantly to the town for a permit for one thing but then I would be told I need to do something else in order to...you know, you can take asbestos off a house to fix a hole, you have to remove all the asbestos and you have to have a company do it or yourself and you have to...that's what I didn't want to start doing in process when I looked and said oh, I need to fix this but then really what I would need is a whole roof.

Brenda Burns: Well, it seems you know as you've gotten in to it that its cost prohibited to restore the property for your intent, but the point is in this town, we have lost quite a few historic properties and even though you're saying the streetscape would actually improvement, you're losing history. Once the building's gone, history is gone. I like the idea that you're willing to give the building away, and I think that is something that might need to be looked at further. My concern is not whether...well, I think it needs to remain in the historic district, but that certainly could be an alternative that we could take under consideration. We don't want to lose another historic property in this town. So, my opinion is that you know this comes down to money as it always does and I certainly empathize with you on that fact...

Jeff Hamer: Not to argue one more time, but I think the reason we came here was because of the structural engineer saying that the house wasn't sound first before...which is why more so than money was more so that he said it's not...the foundation is not sound; the roof's not sound; you know the walls are pulling away. That's basically the house and termite damage which we did have...I mean that's pretty much the entire

house. That's more so why we are here is because...

Brenda Burns: Well, that wasn't stated in the report, but there's barely a house in Sussex County that doesn't have termite damage.

Jeff Hamer: But that's more so why we're here today is because of the structural report that we received, not saying oh it's going to cost me a lot of money to repair this. I've dealt with that before but more so went with the structure not being sound at all and...

Kim Hamer: We were looking at it as more of a safety issue. I mean, I'm worried the house is going to fall over and hurt somebody.

Jeff Hamer: I think we premised that when you guys came in the house, we were worried about you even going in the house after the report and I believe I was on the second floor and just kind of feeling if the place, if the floor was giving or not. Ms. Jones asked me not to do that because she was worried whether the floor would cave in. So, and I think she did make that comment, nicely, but I just wanted to show them that I was having concerns about the second floor, too, and...they're not made-up concerns.

Brenda Burns: Well, it was in better condition than I anticipated and I do think the house is savable. That's my opinion. So, what we're going to do is...does anyone want to make a motion to hire an engineer, to approve the demolition, or disapprove the demolition? I am going to open that to the board and I'm looking for a motion.

Jack Vessels: I make a motion to deny the demolition.

Brenda Burns: May I have a second on that?

Marion Jones: Second that motion.

Brenda Burns: Thank you. Roll call vote:

Jack Vessels: For the motion.

Marion Jones: My vote is to deny the demolition of the property based on the fact that my limited observation I think the property is worth the time and effort to try to save it to preserve the historic integrity of that area.

Matt Dotterer: I'm for denying it.

Margo Goodman: I'm for denying it for the purpose behind Milton being very much into saving our historic buildings but I am highly for the idea of moving the building within Milton so that you may construct on that piece of property and bring commerce as you're planning to do but also within keeping within the historic making of the town by refurbishing it.

Larry Savage: I am for the demolition because I feel that when I went into the house I felt it wasn't safe and I saw where there was termite damage. So, I'm for the demolition.

Brenda Burns: and I against the demolition. I've seen any number of homes in Milton in much worse condition that have been restored beautifully and I think the house has tremendous potential.

Brenda Burns: So at this time, you're demolition permit is denied and thank you very much.

- b. The applicant, Bryan Selders, is requesting a building permit to install a fence at 419 Chestnut Street further identified by Sussex County Tax Map and Parcel # 2-35-20.07-137.00.

Brenda Burns: Is there anyone here on behalf of the applicant.

Bryan Selders: Hello. I was hoping that Jim would be here to help me out, but no dice.

Brenda Burns: We've looked at your application and this picture you have on the last page, that's the fence you plan to install?

Bryan Selders: That is correct.

Brenda Burns: Okay. And it says here that it is a wooden picket fence and please expedite if at all possible. Okay, we'll see what we can do for you.

Bryan Selders: We're beyond the point of expedition.

Brenda Burns: January is closing in.

Bryan Selders: It most certainly is.

Jack Vessels: I make a motion to approve the request.

Matt Dotterer: I second it.

Brenda Burns: Okay, lets do a Roll call vote:

Jack Vessels: In favor

Marion Jones: In favor

Matt Dotterer: In favor

Margo Goodman: Approve

Larry Savage: In favor

Brenda Burns: And I'm in favor as well.

Bryan Selders: Thank you. Charlie thanks you to. So now he can run around and be crazy.

Brenda Burns: Congratulations.

Bryan Selders: Is that it? Am I dismissed?

Brenda Burns: That's it.

Bryan Selders: Fantastic. Thank you.

Brenda Burns: There was a request for a business discussion

Marion Jones: I know there're two other members of the board who wanted to talk. I have a couple of general questions. One is specifically for Mr. Brady. Well, actually I think they are both going to end up in his lap. The first one is, as a member of the Board of Adjustment, you heard a case...Planning & Zoning heard a case in October in which it was clear and brought up by one of the commissioners that the property as it's conditional use was granted was going to cover 87% of the property in an R-1 zoned property. And the R-1 code calls for 70%, and one of the commissioners asked what ordinance or zoning law you were sighting that allowed that because you said that did not have to come before the Board of Adjustments? And I wonder if you could help explain that to me.

John Brady: Conditional Uses go in front of Planning & Zoning for review and then go to the Town Council. The issue that came up was on the preliminary site plan. At that point for the application, as I'll tell the Council Monday night, preliminary site plan is not the standard for review under the ordinance. It is a current site plan with proposed

buildings and that is what I told them they had to look at and that's what's going to be discussed on Monday night.

Marion Jones: But there is still right now an overage of covered space in an R-1 allowance.

John Brady: The overage, because it's not...they haven't filed a site plan on which they want to build. That's when I said they could look at that, but it's the one word that threw off people that night was the difference between preliminary and the current plan as proposed.

Marion Jones: So if there is a need for a variance, it will be referred to the proper board?

John Brady: Correct.

Marion Jones: Thank you. Second question for you.

John Brady: Okay. Since the number of people on the board, is that question answered?

Marion Jones: Yes sir, this is about how can you appoint more people to the Board of Adjustment than is allowable now by law and how will there be a do-over or a correction of some sort?

John Brady: That's on the agenda for Monday night.

Marion Jones: Okay. I have not looked at the agenda for Monday night. Thank you.

John Brady: There is a new item where it has Town Solicitor's Report and those questions that come up in the month that I have to answer in public is where I am going to answer them. I just figured it was easier to answer them that way.

Marion Jones: Thank you very much.

Matt Dotterer: Mr. Brady? Just a quick question for you. Ms. Goodman and myself went to this class that the Town thankfully sent us to for the Board of Adjustment classes and we were enlightened by quite a few things actually and prior to giving you headaches actually, and I apologize, but one of the things I have a question on that was brought up was are we a home ruled charter?

John Brady: No.

Matt Dotterer: Okay. So we have to follow the state guidelines then?

John Brady: Yes.

Matt Dotterer: Okay.

John Brady: The only home ruled charters in the state as I understand it is Wilmington, Newark and Dover. None of the other towns in the state have a home ruled charter because every time we want to do something, we have to go back and have our Charter amended. The City of Wilmington can act without most times having their charter amended. So can the town...the Town of Newark is a question because they just went in for 6 charter changes to permit stuff, but we are not considered a home ruled charter, from when I previously inquired earlier this year.

Matt Dotterer: Okay. So that means we have to follow, and correct me if I'm wrong, then we have to follow Title 22, Section 322D; exactly what Marion was talking about then.

John Brady: Right.

Matt Dotterer: Okay.

John Brady: I heard my buddy Max Walton was teaching you all and I'll be having words with him.

Matt Dotterer: Yeah, thank you.

Margo Goodman: He did a fine job.

Matt Dotterer: Excellent job. May you have to not have to actually go against him any time soon!

John Brady: He showed up at Dewey Beach a couple weeks ago so I understand.

Matt Dotterer: Condolences.

Brenda Burns: Okay. Anybody else? Does anybody have anything they'd like to discuss?

Margo Goodman: I'd just like to mention within light of the training that was sponsored by the state and looking back on what we've done for establishing our boards within the zoning ordinance and then what the state is saying that we need to follow and that we are pursuant to the laws of the State of Delaware, we're trying to copy that. I really think that if we do find flaw, that we do need to amend such at this time and we do wish to be in compliance and the things that were brought to our attention during this meeting I do think that it needs to get out to each and every board member once we do have a set board with people either being put on or taken away from the board in the near future.

John Brady: In looking at the outline inside the front cover, I think that we've been acting as a 322D because you've always elected your chair from among the members and that is only provision under 322D and that has been going on for a number of years, way before I got here. And so, I'm pretty sure it is a 322D board. I'm going inside the front cover of Title 22. And as I said earlier this year when I looked into it, that was the ruling I got back when I inquired.

Brenda Burns: Okay, anybody else?

John Brady: And it's also further done because of as you remember all the fun you had by electing a secretary from among your board member; the other two don't elect a secretary, it's appointed by the Mayor. So that's why I further it that we are not a home ruled charter and you do come under 322D and we'll probably be reviewing some appointments Monday.

Brenda Burns: Alright, may I have a motion to adjourn the meeting if there is no other discussion?

Margo Goodman: Actually, I have a housekeeping issue. Apparently there is an issue of whom we are to contact whether it be the Town or the chairperson if we will not be able to make attendance and I'd like to have that clarified.

Brenda Burns: Mr. Brady, I'll...I was told it should be the chairperson but is that correct? Or should it be the Town?

John Brady: I heard it, I'm just trying to craft the right words. What happened was that I showed up to a meeting, 2 people said they couldn't make it by telling the chair and 2 people told the Town they couldn't make it, so there wasn't a quorum and I said it doesn't matter to me but you need to pick one. So, whatever your pleasure, I'll be happy with just you can't have half the people doing one thing and half doing another.

Brenda Burns: Well, I think then we should discuss that and make a decision tonight on whether you want to call the Town or you want to call me. I'm not always home but I do have an answering machine. You know, maybe it would be easier if, it would have to be before 5 again, if it's the Town. Anybody have any thoughts on that?

Margo Goodman: I do. I believe that we should report to the town as we are the Board of Adjustment for the town and they have the responsibility of collecting that data.

Matt Dotterer: Shouldn't this be discussed in the new committees, in the Board of Adjustment section in the Historic Preservation side? Because we are just...

Jack Vessels: This is our last meeting.

Matt Dotterer: This is our last meeting so it should actually be discussed with the new members. Let them have their decisions on that.

Brenda Burns: Alright. Would somebody like to make a motion to table that until those...

John Brady: Both new boards after they're sworn in at their first meeting of the new board, we'll have to organize and that should be one of the things done at organization.

Brenda Burns: Okay.

John Brady: And that line, on the agenda for both of them, should be organization including chair, secretary and procedures.

Marion Jones: I have a, Margo I think put it very well, I have another housekeeping issue; a general question for Robin. Can you tell me what kind of criteria you look at for requiring a building permit? I've known of a couple of instances in the historic district where building's going on; one where I know for a fact no permit was obtained, and the contractor didn't have a business license in the Town to operate. So, can you tell me because I am one of those homeowners who came downtown and got a building permit for just the smallest thing that I probably could have gotten by without?

Robin Davis: Yeah, Mrs. Jones. Well, with one of the probably 5,000 jobs that we have at Town Hall, it's kind of hard to pick or walk through town every day and check and make sure somebody's got a building permit or not. We do have a new Code Enforcement Officer, Mr. Dennis, and he is going out every day and he's...last month he ended up with 40 new business licenses for the Town last month; he's made contact with several owners in with basically grass, code issues and building permits. Several people that hadn't gotten a permit, some of the ones that had been in town for a long time, he kept hearing a response well the old Mayor and Council never made us get permits; they used to tell us it was okay, we didn't need it. So we are getting a lot of that. He is working to get with, trying to go through town and get these violators on building permits and on everything. And making them come in they are being issued a permit. Some of them will fall through the cracks, but he is trying to work on...now that's his job to go out and check all the violators and that does include business licenses, building permits and grass, all the property maintenance issues. So, like I said, some of it probably was in the past has gone unnoticed. We have received phone calls from a lot of residents, questioning if somebody had a permit; they don't see a permit in the window, and that's great; that's what we need more of too.

Marion Jones: I'd hate to see it turn in to neighbor ratting on neighbor.

Robin Davis: Yes, that...

Marion Jones: And the other issue is actually what this boards primary reason tonight besides Mr. Selders met and that was demolition and I know of a property on Federal Street with the big mansford roof, sits across from the Draper home, that has not had a window in it for a couple of years and that was brought to the attention of the town and it still doesn't have a window in it. Now that house is going to up for demolition or tear-down or something and I think we're going to lose something very vital. So, is there anything that you might make note of tonight or anybody that you would recommend I call to tell again, that this house is going to deteriorate? There are pigeons living in that upper portion of that, not a turret, what do call that?

Jack Vessels: A tower?

Marion Jones: The tower on that house. It's a gorgeous piece of architecture and if we can identify that you have a homeowner that's not caring for their home in a historic district, what action can be taken? Is there any action that can be taken?

Robin Davis: Do you have an address? Names are... Is it closer to...

Marion Jones: The house is directly across from the Draper house.

Robin Davis: I don't know. Is it closer to Town Hall from Tony's Tv or Shorts?

Marion Jones: Yes.

Robin Davis: Is it on the same side as Town Hall?

Marion Jones: Yes. With a mansford roof.

Robin Davis: Mill Street?

Marion Jones: And it has a round window up top and that window on the north side has been missing for...

Jack Vessels: There's chunks of molding that are just gone and it's been totally...

Marion Jones: Demolition by neglect.

Jack Vessels: Yes, that's what they're doing.

Marion Jones: And I think if we're really serious, now I'm about to be split because I am obviously going to stay with the Board of Adjustment, but if we're going to be sure that were not sitting here for demolition over and over again, a pro-active approach in a piece of property like that being sighted, may avoid the board having to hear it.

Robin Davis: Yes, that's understandable and like I said, I can't talk about what happened in the past and there's millions of stories that I can tell you. We have houses on Mill street that have been neglected for 15 – 20 years and now we're getting heat from everybody why isn't something being done immediately. Well, like I said, those houses didn't just fall apart overnight, so hopefully we can now with Mr. Dennis being here, he's going out like I said and hopefully would catch some of these before they get to the point.

Unfortunately some of them have gone to the point where there's nothing you can do or better to unfortunately put a match to them. But hopefully we can catch the ones that need to and sometimes like I said, we do need to help other citizens and it's not maybe ratting on the person but maybe its you know as a lot of the residents say we need to work together. And so hopefully it can be, we can stop this before it gets to the point of somebody saying okay, well it's been vacant for 30 years, now we want to tear it down.

Marion Jones: I will telephone you tomorrow with the number of that residence on Federal Street.

Brenda Burns: I drew a little map because the Edgertons live on the corner of Mill and directly across is that big Victorian, and I can't remember that lady's name, her husband died, and then there's the tall white and it's the 3<sup>rd</sup> house up, isn't it, from Mill? It's about the 3<sup>rd</sup> house up.

Matt Dotterer: Yeah.

Jack Vessels: Andriotti's on the corner.

Brenda Burns: Andriotti, that's the one I was trying to think...

Marion Jones: And then there's that lovely Italian-looking white villa.

Brenda Burns: Yes, that's the second one.

Jack Vessels: That's Mrs. White.

Marion Jones: And the (unintelligible).

Robin Davis: I'll get Mr. Dennis to go look at it.

Brenda Burns: The name is Copans.

Marion Jones: I appreciate that.

Robin Davis: Okay. Alright.

Margo Goodman: Is it inhabited, do you know?

Jack Vessels: There's nobody in there. Maybe 2 weekends a year or something, if that.

Brenda Burns: Well, they lived there full time until his wife died and he remarried, and I think he moved to Rehoboth, but I thought on his kids was there.

Jack Vessels: But that's a house we can't afford to lose architecturally.

Brenda Burns: Oh, it's magnificent.

Robin Davis: Yeah, like I said, the board has said in the past it's a shame that any home that you have in the district that has to be knocked down or demolished or however you want even partially, because once you lose that, I mean you lose that.

Brenda Burns: Well, that's why I tried to say something tonight about if they chose to give that house away and move it, I think it should remain in the historic district.

Jack Vessels: Yes, it should.

Brenda Burns: Not moved out of town on one of somebody's lot, you know, or in Lewes...

Jack Vessels: Where it can be allowed to just fall apart, yeah.

Brenda Burns: It really should stay in the Town of Milton and I think that should be a condition.

Matt Dotterer: I have clients that want to do that. I have a client that wants that house now.

Brenda Burns: Well, you know who's followed them out, so.

Matt Dotterer: He's not my client.

Brenda Burns: But anyway, does anybody have anything else they want to talk about.

Marion Jones: No, but thank you for giving the extra business time.

#### **Item #7: Adjournment**

Brenda Burns: Alright. Would somebody please make a motion?

Marion Jones: Motion to adjourn the meeting.

Jack Vessels: I make a move we adjourn.

Matt Dotterer: Second.

Brenda Burns: So moved.

Meeting for the Board of Adjustments and Historic Preservation Board was adjourned at 8:01 P.M.