

**Milton Historic Preservation Commission Meeting**  
**Milton Library - 121 Union Street**  
**Tuesday, November 9, 2010**  
**7:00 p.m.**

**[Minutes are NOT Verbatim]**

**Recording Secretary: Helene Rodgville**

1. Call to Order: Dennis Hughes called the Historic Preservation Commission Meeting to order at 7:00 p.m.

2. Roll Call:

Michael Filicko	Present
Michael Ostinato	Present
Dennis Hughes	Present
Sally Harkins	Present
Kevin Kelly	Present

3. Correction/Approval of Agenda

Dennis Hughes: Next is the correction and approval of the agenda. I've looked it over and we have two things and I don't think there is anything else. If not, I'll entertain a motion to accept the agenda.

Sally Harkins: I'll make a motion to accept the agenda.

Kevin Kelly: Second.

Dennis Hughes: We have a motion made and seconded; are there any questions on that motion? If not, all in favor, aye. Opposed. Motion carried.

4. Approval of Minutes - October 12, 2010

Dennis Hughes: The next is the approval of the minutes from October 12<sup>th</sup>. Does everybody have a copy of those in front of them? Have you read them over? If nobody really has any questions on them, we'll entertain a motion to approve the minutes of October 12, 2010.

Kevin Kelly: So moved.

Sally Harkins: Second.

Dennis Hughes: We have a motion made and seconded to approve the minutes. Are there any questions on that motion? If not, all in favor say aye. Opposed. Motion carried.

5. Business

- a. Discussion and possible vote on the application for Endeavor Lodge No. 17 for the replacement of the awning and railing for the Mill Street side entrance

to the building. The building is located at 117 Chestnut Street, further identified by Sussex County tax map and parcel 2-35-20.08-19.08.

Dennis Hughes: Representing them is Rob Coulbourne.

Robert Coulbourne: I'm the head of the building committee for Endeavor Lodge No. 17. We would like to make a motion to put an awning over the side stairs of the Lodge.

Dennis Hughes: Okay everybody has their packet and he has a picture on that what it looks like right now and then there's what they want to do; a drawing. Does anybody have any questions on this for Mr. Coulbourne?

Michael Filicko: Was there an awning on that building many, many years ago?

Dennis Hughes: Yes, I have a picture of it right here.

Kevin Kelly: Mr. Chairman could you pass that around?

Dennis Hughes: Yes I will.

Sally Harkins: I make a motion to approve the installation of the awning.

Michael Ostinato: Second.

Robert Coulbourne: We had also asked for a railing system to be put on there.

Sally Harkins: I make a motion to approve the awning and the railing for Lodge 17.

Michael Ostinato: Second.

Dennis Hughes: If you all note that all of the materials he is going to use are accepted in our Code. We have a motion made and seconded. Does anybody have any questions on that motion? If not, we'll take a roll call vote:

Michael Filicko	Approve
Michael Ostinato	Approve
Dennis Hughes	Approve
Sally Harkins	Approve
Kevin Kelly	Approve

Dennis Hughes: Motion carried.

Robert Coulbourne: Thank you committee.

Michael Filicko: Bringing it back to its original state.

Robert Coulbourne: Bringing it back. Any adjustments that you would like to make historically, I approve. Thank you.

- b. Dennis Hughes: If everybody has a few minutes, I asked Robin to put a discussion of the procedures and interpretations of the Codes, so at the end we had some questions, so as he has it tonight with the Applicant and everything; is that suitable to everybody? The way that Robin has it tonight with the application and everything?

Kevin Kelly: Very nice.

Dennis Hughes: So that's as far as Robin doing a good job. Second thing is, and I had a couple of questions; at the last time with Mr. Jefferson's, and on the porch I really didn't have; I know they've been done, and that wasn't a

really good thing. But the door and I've been reading the Code and maybe some other people can help me out with this; I was looking at a couple of things from the minutes, what we had talked about and we were talking about; and again too; am I okay; I don't want to... He had talked about moving the door and replacing the siding and it came down to this; and I was in with the Mayor the other day and I saw he was talking to him; and it really came down to one word; it shall adhere to other things. But then, and some of the others were maybe the door would not be centered with this. I went around looking at different houses in the town and that's not a kind of a standard thing even the houses up here; and I've never noticed that too; but you could see there's a door, there's the other door there. But one thing I liked about what he was doing and again, too, I don't know how much freedom we really have. I do know that if somebody wants to appeal something, they have to appeal it to the Council. One of the things that I did like what he was talking about doing was taking this old siding off and putting the old back on. I was looking again too down here and when it comes to the architect's details up in number 6, where they were talking about architectural details and windows; if you go down to number 8, which is architectural details and this term applies to such building features as windows, door trim styles, cornices, ornament brackets, porch entrances, porch pillars, banisters, gable peaks, etc. It does talk about the door and because it was talking about; this part has "shall" again and my thing is that would we ever have the opportunity, if he used the same door trim or materials like it actually is to get the old part of the house put back; whether we could actually some kind of flexibility to say yes we would agree to that; use the same door styles, the trim and then we would actually get this taken out; because I think he was going to take this and this out and put the lapboard back.

Kevin Kelly: Can you show what you're pointing to?

Dennis Hughes: This was a picture he submitted. Right here is the porch; that is where the 2X11 siding is, right there; and then we give him permission to change this window and at the same time I think he was going to go ahead and put that type siding all the way here and all the way around.

Kevin Kelly: But that's the side porch that you're talking about there?

Dennis Hughes: This is for the kitchen.

Kevin Kelly: That's the side porch and the door is on the front porch.

Dennis Hughes: No, this is not the front porch.

Kevin Kelly: But the door is on the front porch.

Dennis Hughes: Yes, just like that. Here's the door that faces on Mill, right here.

Michael Filicko: Denny, I believe he's completed that; it's painted and everything's... I looked at it; that door is painted and those columns are in proportion with the porch.

Sally Harkins: I don't think he's...

Dennis Hughes: I'm using that as an example in the future. If somebody comes to us and says in the same situation; basically some kind of scenario like that; anybody, I'm not talking about Mr. Jefferson now; I'm just using his

because this is a good example; whereas we could say yes, you're going to place that; put a window like the others; you're going to replace that siding; you want to replace the trim. When you look at that door, once he moves it and you look at an original picture of the house, you're probably not going to see... You'll see the door is moved over, but you'll see it has all the original siding type with it. So I'm just wanting to know if there is ever a situation or something; or how much flexibility that we, as a Board, have.

Kevin Kelly: On what, on interpreting "shall"?

Dennis Hughes: Yes.

Kevin Kelly: I don't think we have any; my reading is. If you look at Article 2 in the original Covenant...

Dennis Hughes: Where is that?

Kevin Kelly: It's 220:6; it's after the Amendments and the Revisions; it's in the actual document; but it isn't affected by the Revisions; because it didn't address them.

Dennis Hughes: Okay.

Kevin Kelly: There's a listing there and it says "Interpretations, Separability and Conflict" and if you look down at Number 6, it says in black letters, the word "shall" is always mandatory. It would seem to me that if we want to have flexibility there, then we need to amend that; and I don't know what the amendment process is for that.

Dennis Hughes: But again too we're not destroying the architecture of the building.

Kevin Kelly: No, but the way we have to interpret the word "shall" is pointed out here; and then if the word "shall" is used in the Covenants, then you have to apply it as mandatory term. You don't have any wiggle room there. That's how I read it; I don't know that I'm right. But that's how I read it.

Dennis Hughes: But it says "the architectural details of the exterior shall be reserved."

Kevin Kelly: Shall maintain them.

Dennis Hughes: That doesn't say if you move the door or you move the window; if you use the same. When you look at that house and that door is like this and he moves the door over some and you look at that house and you didn't know where that door was; you are still not going to say, well that door doesn't look right.

Michael Filicko: Denny it is centered right in the middle of the columns.

Dennis Hughes: Yes, but not all doors in the town are.

Michael Filicko: That's what makes that house so uniquely...

Dennis Hughes: But if you look at this, it's not centered. Look in the columns; it's not centered.

Michael Filicko: It's pretty close.

Dennis Hughes: I'm just bringing up the question; because people have asked me and I've said really, I don't know. I think the thing is when it says here the architectural details shall be preserved; so you might have a chance to get someone to use the same stuff, move it and get this that does not; well actually if you look at that, it deters from the architectural details of the original house.

Michael Filicko: Denny the way he has it painted, I think it looks great; I think it would look worse with the door being moved.

Dennis Hughes: We're not talking about Mr. Jefferson, right now; we're talking about if someone else comes. Because what I'm saying, if it says in the future it would save the Applicant a lot of time and save us a lot of time, then if it says shall and he wants to do that, then there is no need for him to file an application; because we have no flexibility at all. Right, Kevin?

Kevin Kelly: I'm trying to read what we actually did in the vote.

Sally Harkins: On the door?

Kevin Kelly: As I say, when I read that it doesn't seem to be that it gives us much wiggle room; I don't, but I'm open to suggestions that people can make about if we think that's an important thing to change. But I really think that's the way it's been written and that for those kinds of things, I think that's sort of at the heart of what Historic Preservation is; that you can repair and replace, you can renovate, but you really can't change and alter the appearance of the structure. You can change the paint.

Michael Filicko: I agree with Kevin. The architectural rendering made that house look like a new home and if we hadn't voted so he could not knock down that chimney and all the other things that he wanted to do; if he was able to do that; just let me finish Denny. I know that we're not talking about Mr. Jefferson's house; I'm just using his home as an example.

Dennis Hughes: I know but I brought up one section, 6 and 8; let's get those before we go into something else.

Kevin Kelly: Denny, let's do this. How do you read it? You've had questions about it; fair enough. How do you interpret this same section?

Dennis Hughes: It would be different if in there it said door; it does not say door.

Kevin Kelly: In where?

Dennis Hughes: In Number 8.

Kevin Kelly: Let me get there. Let me get to Number 8.

Dennis Hughes: Number two, is an architectural detail something that you put on the house or is added to the house? I don't know. People ask me questions; I don't know what to tell them.

Michael Filicko: Denny, tell them we're following the ordinances of the Town of Milton. That's it.

Dennis Hughes: Well it's hard to say when they say show it to me and I can't because even though it says this here; it still doesn't you know.

Sally Harkins: Did we ever ask our attorney about this; what is his reading, Denny?

Dennis Hughes: No. I did ask. I said if we had questions or anything, would the attorney be available to deliberate on that? He said if we had something that we wanted to; he said maybe we could have a Workshop one night and even the Mayor could be there. I don't know.

Kevin Kelly: That's a good idea.

Dennis Hughes: The thing is, I don't know. To me though it's clear and it says "shall" and that's why I voted on it; but I mean, is the architectural detail

of the house is where every little thing is; or is it the detail like it said in here all the other things, the shutters, the ornaments? I don't know.

Kevin Kelly: What I'm looking for Denny and I can't find it right now; but it came up when we were looking at the chimney; when we were looking at the chimney. The section in the non-amended part, but in the old part of the document, the original part of the document the still existent part; it said there that if it was something which was; I can't remember the phrase exactly; if it were the common view, or what people had seen, that this was how it appeared, the common appearance of the structure; that that was something that you could not alter. That was the justification or the argument of not removing the...

Dennis Hughes: There would be no chimney there; if you looked at a picture of the house and it had two chimneys and now it has one; you've really altered the house. But if you look at a building and it has a door and that same door is there; it's two foot down; that's my question.

Kevin Kelly: It was five feet.

Dennis Hughes: Or whatever.

Kevin Kelly: I'm not quibbling about that; but it does shift it in terms of its appearance, relative to the building. I think that's where the judgment does come in; because I think for us that is where you decide is that a substantive change in the exterior appearance of the project?

Dennis Hughes: But then do you weight that you've got a whole side here and a whole front that have changed; that you could have it changed back; so if you looked at a picture of that house and again too; I'm just looking at this; if you looked at a picture of that house now and then, you look at it; the first thing that people are going to look at is well that window there which needs replacing, it doesn't look like it was there. This siding wasn't there and this siding wasn't there. So if he puts the window back like this, it changes that.

Kevin Kelly: He's restoring it to its original appearance.

Dennis Hughes: That's right and whether if he's using everything the same, if the door gets moved over a foot...

Michael Ostinato: You're saying that if he was able to shift the door down five feet, he would redo things...

Dennis Hughes: That's what he said.

Michael Ostinato: And now he says he's not, because...

Dennis Hughes: He said well if I'm not going to move the door...

Michael Ostinato: I'm not going to move the door I'm not going to change anything.

Michael Filicko: And that's fine. That's his prerogative.

Dennis Hughes: Yes, but what I'm saying is that maybe, I would rather have seen... If you're going to keep the same door and you move the door a little, and you get the siding back on and this, wouldn't that present the house better.

Michael Filicko: I don't believe so.

Dennis Hughes: Okay, I don't know.

Michael Filicko: That's my opinion.

Dennis Hughes: I'm just asking the question.

Michael Filicko: That's only my opinion.

Kevin Kelly: Can I maybe ask this question also, just as we're pursuing this; though I'll tell you something Denny, I think this is a terrific conversation; and I do think that this is exactly the kind of thing we should talk about.

Dennis Hughes: I agree. When we're sitting here and somebody's out there and we're, you know...

Kevin Kelly: It's very hard.

Dennis Hughes: That's why I say, if every so often we need to have a Workshop, that's why I asked Robin to put this on here so we can sit down and discuss this question.

Michael Ostinato: I think it's great so we don't look like idiots.

Dennis Hughes: That's right.

Michael Ostinato: But Mr. Jefferson threw that out there too, to tie our hands. Okay, if you're not going to do this, then I'm not doing that.

Kevin Kelly: What I was going to say here is; it seems to me that we want to tread lightly on having discretion, because then it turns it into maybe the skill of the Applicant; maybe the ability of the Applicant to argue a case that makes it seem reasonable, as opposed to some other Applicant who isn't particularly good at that and doesn't do a very good job of explaining it. We end up maybe making it... If we follow the rules that we have, exactly as they are written, we're on very safe ground there. These are the rules and we're simply enforcing them. If we don't follow the rules, as they're written and we want more room to interpret, I understand the advantage there, in the sense that you can... And your argument that he would have done other work and that sort of thing, and that might have been to the town's advantage, that's a fair argument to make; but we're in a position where we're just going to make these judgments on a case by case basis; I think that's risky.

Dennis Hughes: Everything should be on a case by case basis.

Kevin Kelly: As long as you are following the same rules for each case by case decision.

Dennis Hughes: Right. If somebody else said that well I want to move the door, but I'm not going to change this; or I'm going to put aluminum siding there. I think each thing... But I'm just saying and I don't know and then maybe I don't know when the Commission reported, then maybe they had somebody that the lawyer gave an opinion on that.

Kevin Kelly: And that may well be.

Dennis Hughes: I don't know.

Kevin Kelly: I would like to ask, and I've asked you before Robin about it; and I understood your answer then, I just didn't remember at the time; there is some timeframe or schedule when these revisions are going to actually be implemented into the document and that must follow a schedule that you folks have that goes with publishing these kinds of things.

Robin Davis: Yes, I'm not quite sure exactly, I wasn't part of the General Code thing. I know there are certain times during the year, that they will put the amendments in the book. I do not know when that is, but there are several, we do have several that need to be put in there. Of course it would be

nice to do them, to see if they were done; that way everybody would be on the same page; but unfortunately...

Kevin Kelly: So should we take a straw vote to authorize additional staff for you to be able to get that done. I'm not sure that's going to do you much good, but we'll take the vote.

Sally Harkins: I'm not taking that vote.

Kevin Kelly: Denny, I'm really pleased; when I saw this on the agenda I was hoping this is what it meant, because I'm really pleased that we are having this conversation.

Dennis Hughes: I think we need to do it; because sometimes we only meet once a month; or somebody has missed a meeting or two; or somebody comes back...

Kevin Kelly: I like having an opportunity to talk with all of you about these things ahead of time and think through; otherwise, we're all just interpreting as best we can. I don't know that I'm right; I know that I read it the way that I read it.

Dennis Hughes: I'm not saying that this is totally wrong. I'm just saying that it's...

Kevin Kelly: We want to enable people to restore homes; we want to protect the historic interest and value of this community; we want to encourage people like Truitt Jefferson and others to do the work that they do; we don't want to be a problem for any people; on the other hand we need to have a document that we follow and we need to always follow that document. I think that's what we have to do, but I like the idea of having conversations. I guess we can do that, as long as we publish that we're having those meetings; then it's a public meeting and anyone can come. Am I correct in that, Robin? Is that right?

Dennis Hughes: You can have a workshop.

Kevin Kelly: We can't just meet by ourselves, we have to announce it.

Michael Filicko: So why don't we have a meeting at some point, with the attorney.

Dennis Hughes: Now I asked and Cliff said that would be no problem.

Michael Filicko: I'm sorry I have to excuse myself. I want to say one more thing before we part, Robin I wanted to have on the agenda that you would be allowed to add things at your discretion; because I misunderstood the way I voted at last month's meeting; and I apologize to you formally.

Robin Davis: There are certain things that, of course, we're allowed to do and we're not allowed to do. It's the same thing as what's in this book. There are certain things that can be adjusted on the agenda, at certain times. There are certain things that can't. So it's not just a blanket authority to say we're going to go ahead and change this Monday night; before the meeting. The seven day requirement is necessary to give everybody notice, the public and everything like that; so there are certain things that you have to adhere to on this. So just making changes, I'm still allowed to make changes prior to those seven days; so that's not an issue of making [the changes]. If the applicant comes in and says okay I want to go ahead and add this. That's not a problem

to do that. It's just that after that seven days, that's when we get into the [situation of] is it an emergency situation; if somebody's house fell down or some heating system, or something like that; it's all different. But you have those FOIA rules that you have to follow and it's the seven day.

Dennis Hughes: If not, then everybody would just be coming in at the last minute; and you do have the flexibility like we did last time to amend the agenda; or something like that.

Kevin Kelly: But you're happy with the task of presenting the agenda you did for us tonight.

Robin Davis: Yes.

Dennis Hughes: That was very good. If nobody has...

Sally Harkins: I just want to say, backing up everybody else's statement, I think it's a good idea for us to have a workshop. I've been on the Board a couple of years and we've never had a workshop the whole time I've been here. Sometimes I feel like I'm fumbling when I read something and then somebody brings another point up, which is really interesting and then I get confused; so I think a workshop would be good. Because we are here to serve the people; that's why we're here and help the people; to serve the people; and I think the more we know and the more educated we become, the more we can be servants to the people.

Michael Filicko: I agree Sally.

Kevin Kelly: Absolutely.

Robin Davis: Unfortunately I see classes for the Board of Adjustment; I see classes for Planning and Zoning, but you really don't see anything for Historic Preservation Commission because every municipality has their own little rules, as I've heard people say, I will not go to Lewes and try to get something in the historic district, because they are so strict. We have people come here and say I like what you do; you still have that flexibility, but you are strict on certain areas. Lewes is no, no, no; from what I hear a lot of times. So I think that's the problem with not having some sort of formal classes on Historic Preservation because it can be so broad based.

Kevin Kelly: But the idea of us meeting, with you, if you have that time and with the Mayor and the attorney; and just talking this through. I think that would do us a world of good.

Dennis Hughes: And just say what's your interpretation of this; and he says, yes, that means it's got to be right there; then that's fine. Because it could be someday that we have an appeal and again, too, the appeal goes to the Council and the Council might say well I agree with them. I would rather do a little flexibility here; then somebody that hasn't even looked at it. Again, too, if they say that the rule; I'm not an attorney; I don't interpret that; I'm not an architect and I don't know what they... I do think if we need that, then maybe we need to put doors in there too; because technically as long as it needed that material thing, he can put any door in that he wants.

Kevin Kelly: It still goes to that issue.

Michael Ostinato: It still goes to the issue of integrity and the appearance of the dwelling.

Kevin Kelly: And there's another part in here that I, again, I just can't find it and put my hands on it right now, Denny; that deals with the materials and that sort of thing.

Dennis Hughes: And another thing too, everything is so confusing; that they need to adopt these things so when we open up and I say I'm on 220, you say where's that at? You say where's that at? We're sitting here and the people out there say they don't even...

Kevin Kelly: When you read our minutes from the last meeting, we're having a conversation just trying to figure out what page we're on.

Dennis Hughes: That's right.

Kevin Kelly: And that is frustrating, but, once we all found the page it made a difference.

Dennis Hughes: It's good to do this and I think... I will get up with Cliff and Robin.

Robin Davis: Yes, because you might not want the Mayor to be part of this; I'm not saying because the Mayor might be part of the appeal process; so your attorney is going to be the one and unfortunately; and I don't want to use the budget or money-wise, but we have an attorney that is sitting here for an Applicant; that attorney eventually the money that the attorney charges the town is going to go back to that Applicant; and if you have a case like tonight, we have an attorney that's going to have, say roughly a \$200 fee that's going to be charged to the Endeavor Lodge; if the attorney is sitting here for something like that. But we also want to cover the Commission, if we need an attorney; so it's got to be on a case by case basis unfortunately, but if it gets to that point where we need an attorney, then we'll have to do that.

Dennis Hughes: No I'm just talking about a one time only.

Robin Davis: Yes, just to go over some questions.

Kevin Kelly: More really for us.

Robin Davis: Yes.

Kevin Kelly: Not even with an Applicant.

Dennis Hughes: And again too, maybe before that if we can get and go through Robin; so we're not thumbing all through everything.

Kevin Kelly: As he said, there's a schedule for reprinting it and that kind of stuff.

Robin Davis: What you could do, is if there are sections in that Code that you have questions about, go over that and say what about the shallow portion; maybe we need to add something or subtract something and then when all that comes back, we get with the attorney and the attorney says this reason, this is why, this is how and he can say this is the pace you need to go at.

Kevin Kelly: That's a good idea.

Michael Filicko: I don't know what the proper way to excuse myself is, other than say excuse me, I have to leave, but I've got to go.

## 10. Adjournment

Kevin Kelly: Mr. Chairman, I move that we adjourn.

Sally Harkins: Second.

Dennis Hughes: We have a motion made and seconded. Everybody in favor say aye; opposed no. Motion is carried. Meeting adjourned at 7:39 p.m.

Kevin Kelly: Hey Denny, thanks very much.

Michael Ostinato: Yes that was good, we needed to do this.