

**Town of Milton
Historic Preservation Board
December 6, 2007**

Members Present:

Brenda Burns Jack Vessels Gwen Foehner
Richard Greig

Members Absent:

Michael Ostinato

Others Present:

Robin Davis John Brady

John Brady: Good evening. This is the first meeting of the newly constituted Historic Preservation Board. We'll ask each of the members present to raise their right hand and to affirm and state after me the following oath. (All members were sworn in under oath by John Brady, Town Solicitor). Ok, now that all four of you have been sworn into together, we look at who is the most senior member and that senior person becomes that acting Chair until the Chairperson is appointed. Alphabetically speaking, according to this, Brenda Burns would be the first one alphabetically, so Ms. Burns you're acting Chair and you would be chairing until, it says Discussion and Approval of Procedures and Protocol, that includes picking a Chair and a Secretary.

Brenda Burns: Okay. Well I received a letter from the Town appointing me as Chair so I don't know what you want to do about that.

John Brady: Robin, do you have the new Ordinance for this? Miss Burns, I understand what the Mayor, I think, tried to do.

Brenda Burns: Yes.

John Brady: But that's not what the Code says.

Brenda Burns: Okay.

John Brady: The Code says the members shall pick a Chair, a Vice-Chair and a Secretary.

Brenda Burns: Alright.

John Brady: Now if the pair, the members do that, that would probably make it a whole lot easier if they would confirm the Mayors recommendation, but they didn't copy me on that letter or I would have been a little more prepared for it tonight. I'm sorry.

Brenda Burns: Okay.

John Brady: I was under the impression I had to for two boards, I had to have a Chair picked, a Secretary picked, and then let the new Chairs run with it, but I think at this point if you would call for nominations for Chair, I think we should be able to get moving.

Brenda Burns: Okay, well have you called the meeting to order?

John Brady: Well, no, you call the meeting to order. I procedurally swore you in so you all had the power to do what you want to do, or what the Town says you're going to do.

Brenda Burns: Alright. Well then we'll get started.

Brenda Burns called the meeting was called to order at 7:30 pm

Brenda Burns: I would like to welcome our newest members Richard Greig and Gwen Foehner. Welcome.

Item # 2: Discussion and Approval of Procedures and Protocol

Brenda Burns: I know we had some discussion about who to contact if you're not going to make a meeting. What? Oh, nominations first? Okay. Well, we'll go ahead and open for nominations for Chairperson. Would anyone like to make a nomination for Chair?

Jack Vessels: I would nominate Brenda, confirm the Mayors nomination.

Brenda Burns: Okay. We have a nomination, would anyone like to second that nomination.

Gwen Foehner: I would like to second that nomination.

Brenda Burns: Okay. So moved. Thank you.

Jack Vessels: Vote on it.

Brenda Burns: Oh, we have to have a vote, Roll Call vote:

Jack Vessels:	In Favor
Gwen Foehner:	In Favor
Dick Greig:	In Favor
Brenda Burns:	In Favor, myself.

Brenda Burns: Thank you! Alright, the next item will be Secretary. Do we have any nominations for Secretary? We should nominate the person that didn't come tonight.

Dick Greig: Then maybe he'll never come. (Laughter)

Brenda Burns: So, do we have any volunteers for Secretary? Can I make a nomination?

Mr. Brady?

John Brady: It would be better that somebody else nominate.

Brenda Burns: Okay.

John Brady: The job of Secretary is basically you just take...the minutes are recorded. They are just to confirm the minutes are accurate and to make sure that a written report of each months proceedings are submitted to Town Council for the written reports that are read into the record, as part of the record. It's not a time consuming job but until you pick a Secretary you can't go forward tonight.

Gwen Foehner: Who prepares the written? Does the Secretary prepare that or is it prepared in the Town Office?

John Brady: Robin, who transcribes the tapes now?

Robin Davis: We do at Town Hall. Michele does it.

John Brady: Michele at Town Hall transcribes it. The Secretary just reviews it and makes sure it's correct for the...make sure the draft minutes...and does a summary of, for example tonight would be the Chair was selected, the Secretary was selected. There were three agenda items, and we do a report of passed or not passed. And that would be for next months Town Council meeting.

Robin Davis: Mr. Brady, I think what, I'll go back to when the two boards were combined. Marion Jones, when she was doing it, what she would do is she would do a brief synopsis of what happened at the meeting and turn it in to the Mayor at the Town

Council meeting and they would approve the written record. Michele would actually do the full minutes of the meetings. I would review them and then give them to the members at the next meeting so they could approve them at that meeting. So the Secretary would actually just do a synopsis of what was on the agenda, how basically the vote went and then turn it into Council.

Brenda Burns: And usually the minutes have already come from the Town by the time you have to submit your report to the Town Council and a lot of times you can submit the minutes as written.

John Brady: And the big thing is you get double the pay. Members get paid nothing so you get double nothing.

Brenda Burns: So, again, would anyone like to nominate someone for the position of Secretary?

Jack Vessels: I would like to nominate Gwen Foehner.

Brenda Burns: Okay, may we have a second?

Dick Greig: I'll second.

Brenda Burns: Alright. I'd like to have a Roll Call vote:

Jack Vessels:	In Favor
Gwen Foehner:	In Favor
Dick Greig:	In Favor
Brenda Burns:	In Favor as well.

Brenda Burns: Thank you very much. Is there anybody else that needs to be nominated or we're okay...we're ready to go. So Discussion and Approval of Procedures and Protocol. At our last meeting, we had some discussion as to who to notify if you're not going to attend a meeting, should it be the Chairperson or the Town, and that's something...I think it was decided that you should let the Town know if you're not able to attend the meeting. If it's after 5pm, I guess you can call me and hopefully you'll catch me. But, what other procedures and protocols do we need to discuss tonight?

John Brady: I picked your first meeting date as the first Thursday of the month. Is there a date you would be more comfortable with?

Brenda Burns: Well, I think that gives us a good amount of time to have our report ready for the Council because we're basically going to be the same week as the Council meeting. How does anyone else feel about that? Does that work for everyone, the first Thursday of the month, or would like to change that?

Gwen Foehner: It's fine with me.

Jack Vessels: Sounds good to me.

Brenda Burns: Does that work for everyone? Okay, do we need to vote on that Mr. Brady?

John Brady: Just that you'd be saying this establishes the first Thursday of the month and the next meeting date would be January 3rd.

Gwen Foehner: That's not fair. That's my birthday! (Laughter)

Brenda Burns: Okay, the next meeting is going to be held January 3rd.

Dick Greig: It's Gwen's birthday, you'll have to arrange a party for her.

John Brady: Robin, is there anything involved for the next meeting?

Robin Davis: Well that's what I getting ready to say, as of right now, and actually the time has passed, there will be nothing on the January agenda.

John Brady: That's okay. You'll be able to celebrate your birthday.
Gwen Foehner: Okay. All those candles... (Laughter)
John Brady: Okay, first Thursday. I think that covers the Procedures and Protocols. The last one that you would cover is that you use Roberts Rules of Order as your basic rules.
Brenda Burns: Yes, everyone agree with that?
Dick Greig: Sure.
Jack Vessels: Approve.
Brenda Burns: Approved? Okay. Alright, now we move on to...

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

Brenda Burns: Would anyone like to make additions or corrections to this month's agenda?
Jack Vessels: I would like a time to make one brief comment about something that happened last month.
Brenda Burns: Yes.
Jack Vessels: Otherwise I would approve it as presented.
Brenda Burns: Okay. Go ahead.
Jack Vessels: You want me to do it now.
Robin Davis: If Mr. Vessels wants to make comments, it has to be done at (unintelligible) basically what would be 6D, is that correct?
John Brady: That's correct.
Brenda Burns: Okay.
Jack Vessels: It has to be what?
Robin Davis: 6D. Be added to the Business section. It will be under D.
Jack Vessels: Alright.
Robin Davis: So you need a motion to amend the agenda.
Brenda Burns: Okay, so may I have a motion to amend this month's agenda? To add 6D, so Mr. Vessels can make a comment concerning the last meeting?
Jack Vessels: So moved.
Brenda Burns: May I have a second?
Gwen Foehner: Second.
Brenda Burns: Alright, let's have a Roll Call Vote.
Jack Vessels: In Favor
Gwen Foehner: In Favor
Dick Greig: In Favor
Brenda Burns: In Favor as well.

Brenda Burns: So moved. Alright, we're going to go to:

Item # 5: Approval of minutes

Brenda Burns: Wait a minute...
Robin Davis: If I may interrupt, I better ask Mr. Brady. Since, what I did is I, the November 1st meeting was combined board, and since we had 2 members from then, the Board of Adjustment and Historic Preservation, I gave the minutes to both new boards. Is that something they need to review?

John Brady: That night they were meeting as the Historic Preservation Board which is a sub-part of the Board of Adjustment. The Board of Adjustment at about 6:45 tonight approved those minutes, those minutes would fall under that board. If there are any comments you want to make any comment that's fine but they've been now approved by the Board of Adjustment who had authority to approval.

Brenda Burns: So we don't need to revisit that?

John Brady: You don't need to revisit it.

Brenda Burns: Okay. Does anyone want to discuss the minutes, Jack; do you have any problems with that? I don't.

Jack Vessels: No.

Brenda Burns: Okay.

Item #6: Business

Brenda Burns: So now we are going to move on to the business portion of the meeting and we have three applicants this evening. The first is:

- a. The applicant, Lester Radke, is requesting a building permit for exterior renovations to the property and structure located at 222 Union Street further identified by Sussex County Tax Map and Parcel #2-35-14.19-97.00.

Brenda Burns: Mr. Radke, do you have anything to say?

Lester Radke: No, Robin has all the application and most of what I've requested.

Brenda Burns: Does everyone on the board had an opportunity to review this request?

Jack Vessels: I would move approval of the request.

Brenda Burns: So we have a motion to approve the request, may I have a second?

Dick Greig: Second.

Brenda Burns: So moved. Let's have a Roll Call vote:

Jack Vessels:	In Favor
Gwen Foehner:	In Favor
Dick Greig:	In Favor
Brenda Burns:	In Favor

John Brady: Okay, I am going to stop you right there and ask you for purposes of the taping system, could you say your last name and then favor or disapprove just to make the record clear for when the transcriber transcribes it.

Brenda Burns: Alright. (Members restated their votes.) So moved. Congratulations.

Lester Radke: Take care. Thank you.

Robin Davis: I'll get back to you about your permit.

Lester Radke: Okay, alright. Thank you.

Brenda Burns: Okay, the second item we have this evening is:

- b. The applicant, Vintage Café & Bake Shop, is requesting a building permit to install a neon sign at 113 Union Street Unit "C" further identified by Sussex County Tax Map and Parcel # 2-35-14.19-184.00.

Brenda Burns: We have the applicant before us. Would you identify yourself please?

Martha Audet: I am the owner of Vintage Café & Bake Shop located at 113 Union Street, Unit C.

Brenda Burns: And you are requesting a neon sign in the window that essentially says opened or closed, right?

Martha Audet: It basically says open. If it's lit up, that means I'm open. I have submitted a picture showing the window with the sign in and with the sign out. I don't know if it's there for everybody to see but I have another copy that you can pass around.

Robin Davis: They've got it.

Brenda Burns: We have a copy, thank you very much. I want to make a comment. I was looking over the ordinances to see, because we've had a lot of discussion at a lot of our meetings concerning signs. I know there is a limitation as to how my signs you can have, the size of the sign, where they can be placed, and I was given a new set of ordinance as I hope everybody was, and I don't know if I'm understanding this correctly and perhaps Mr. Brady can help with that, but it says in the...let me find the right page here first...it's Town Center district...in the beginning but when they address zoning ordinances of the Town of Milton, it gives a list and that is Ordinance # 8.0.4 and that's on page 86. It gives 6 different restrictions here and it says for #6, no animated electronic message signs or center is permitted in any district. And then if you move over to page 89, in the Town Center district, it says the following types of signs are permitted in the Town Center: window signs, wall signs, projecting signs, ground signs, awnings, sandwich board signs, and the signs permitted in Sec. 8.1. I think in here somewhere there was...okay, a window sign shall occupy no more than 40% of the total area of the window upon which it is located. And then again it says, well it's under wall signs, it says no sign shall include moving, flashing or animated parts. That is not included under window signage. So, Mr. Brady, if you could clarify this for us, I certainly would appreciate it.

John Brady: If I understand your question correctly, the question is is a lighted open sign and animated electronic message sign or center permitted in any district. Animated electronic message signs would be the type of scrolling signs or something that say "special today: bagels 3 for a \$1" or, they never sell them that cheap I guess...

Martha Audet: You ain't getting that deal.

John Brady: Okay. Alright, 3 for \$5.00. That type of scrolling sign would be an animated electronic message sign. A sign that just stays fixed and doesn't change, except to be turned on or off, would not be considered an animated message sign.

Brenda Burns: Okay.

John Brady: The issue then becomes, you have to first make sure it doesn't occupy more than 40% of the total area of the window. Then you have to look at does the signage on the, because of 8.2.2, does the signage on the building exceed 1.5 s.f. of display area for each lineal foot of building frontage facing the main street or highway.

Martha Audet: I believe that was taken care of, correct Robin?

Brenda Burns: Well, originally the sign that's on your fascia board, that was approved and I'm not sure of what percentage of the space that took up.

Robin Davis: Ok, what...Me and Mr. Brady did have a conversation about this and it was determined that Mr. Reed actually owns all those buildings.

Brenda Burns: Right.

Robin Davis: And Mr. Reed came in originally before the Historic Preservation Board and got approval for all the signage for each individual tenant unit. At that time, if I'm

not mistaken, the total frontage of the building is 110'. It was calculated 110 x 1.5 which comes out to 165 s.f. of available space for signage. Mr. Reed was approved for six 2x10 signs, and one 54x48 inch sign which comes out to 138 s.f. If you subtract the two, he is still eligible for 27 s.f. of signage on that whole building, since the building does belong to Mr. Reed, he should be the one making the determination of whether he'll allow the one tenant to have the 27 s.f. or if he wants to divide it up. And if I'm not...stop me if I'm going out of whack Mr. Brady, but I think that's what our conversation was. At the time that this sign, if it does get approved, Mr. Reed will be getting a letter stating that he had 27 s.f. of signage left, that this sign takes up approximately 2 s.f. roughly, that he will now have 25 s.f. of signage left for his building. The applicant has submitted a letter that Mr. Reed is aware that she is applying for this sign and he has no problem with the sign.

Brenda Burns: Okay.

John Brady: That is correct and that is how I reviewed the sign based on the s.f. and the process that I asked for that letter to be part of the packet because it would reduce the owner's amount of signage left. We've had this come up before the board in the past and as part of the record I wanted to make sure that we had the owner of the building as well as the applicant, that the applicant, we had the owner's concurrence with the application, before you make your determination.

Brenda Burns: I have a question because we had a request by another tenant there for a sign in the back of the building and it was not approved.

Robin Davis: I think one of the reasons, I don't want to cut you off Mrs. Burns, but that's one of the areas that, I think then Marion Jones had a problem with is it talks about a sign on a public way and since it was on the back she felt it wasn't a public way back there because there were no sidewalks or no way to get there even though she did have a door back there it wasn't accessible to the public.

Jack Vessels: It was also visible from the park which I think she had an issue.

Brenda Burns: Right, we all had an issue, several of us did.

John Brady: It wasn't an issue about the availability of the signage at that location, it was different sections that it did not see that it fit in with the character of the district as I recall what the final motion said.

Brenda Burns: Does any one have any questions of the applicant? This board? Would anybody like to ask her a question or comments? Okay, would anyone like to make a motion for the sign?

Jack Vessels: I'll make that motion.

Dick Greig: I'll second it.

Brenda Burns: Okay. We'll take a vote, Jack we'll start with you:

Jack Vessels:	In Favor
Gwen Foehner:	In Favor
Dick Greig:	In Favor
Brenda Burns:	In Favor

Martha Audet: Thank you very much.

- c. The applicant, Elizabeth Cleary, is requesting a building permit to replace (9) nine windows at 104 Mill Street further identified by Sussex County Tax Map and Parcel # 2-35-20.07-93.00.

John Brady: Madame Chair. It is my understanding that Applicant C has been called out and is unavailable tonight but she requested that the application proceed on the paperwork filed. Am I correct Mr. Davis?

Robin Davis: Yes. When I called to remind everyone of the meeting, she said she was being called into work and wondered if we could go ahead and go forward with it. What, after speaking with her because she came in originally for a building permit not know that she needed to come before the Historic Preservation Board, she submitted the paperwork for a building permit and some pictures, trying to show what she actually wanted to do. As you can see, the one picture shows that they are Thermostar Pella window that she was requesting to put in. What she was saying is she has 9 windows...I think there's 5 in the front, 2 on each side...that were originally put in as replacement windows that have no panes in them and she submitted a drawing, or picture, showing that. What she would like to do is take those 9 windows out and replace them with a 6 over 6 window like the original ones that were in the house, and as she has submitted pictures of those. I don't know the whole count of the original windows that are still left in the house but she does have pictures of them showing that they were 6over 6. So all she actually wants to do is take windows out that have no panes in them and replacing them with a Pella-type, I guess vinyl window that matches the 6 by 6 that are original, still in the house.

Brenda Burns: Okay, does anyone have any questions or comments concerning this applicant?

Robin Davis: When I was talking to her, I tried to figure out when she was explaining that these replacement windows were, didn't have any grills in them, and whether she had to come before the board. But I told her yes since she was, the replacement windows she was removing were no panes, even though she is putting like what the original windows are, she should come back just to get a clarification.

Jack Vessels: So the motion then would be to approve replacement windows with a 6 over 6 configuration?

Robin Davis: Yes, like the original ones that are still in the house.

Jack Vessels: I'll make that motion.

Gwen Foehner: Second.

Brenda Burns: Okay, we'll take a Roll Call vote:

Jack Vessels:	In Favor
Gwen Foehner:	In Favor
Dick Greig:	In Favor
Brenda Burns:	In Favor

Brenda Burns: So carried. Onto our next item.

d. Jack Vessels' Discussion.

Brenda Burns: Jack, you wanted to discuss something from one of our previous meetings?

Jack Vessels: Yes. At the last meeting we had a vote and we denied a demolition request and a comment was made. In fact, you might have made it, Brenda, that maybe the house could be moved, and a day or so later somebody spray painted "free house" on it and I

don't think that's what we want in our Historic District and I think the whole reason for not allowing a demolition is that the structure contributes to the historic district so you probably want it moved unless they came back and made another whole application for that thing. But I don't think it's something you want to happen without authorization from this board after the fact. That was my only comment; I just thought we ought to...

Brenda Burns: Well, I think you're right. I think there were a couple of things that were not covered correctly and another would be I made the comment after the fact as well, you know reading the minutes, that if it was moved it should stay in the Town of Milton and in the historic district. I had a council person ask me if that was part of the motion, if that was something that we covered, and I think it was a comment after the fact and so I think we're gonna probably need a little legal advice on this one and I apologize for that. It was my understanding, I guess the reason I made the comment, because you know when people are trying to move forward with their project or their property, you want to work with them and sometimes you try to find other solutions. And you know they, I remember him stating he would give the house away.

Jack Vessels: Yeah, he did say that.

Brenda Burns: Somebody would move it and I thought well, that's probably one way we could work with him but you're correct when you say it should have been put to a vote or...and that was a careless comment on my part so...and I know that several people have been pursuing the option of moving the property. One of them that I know does own a lot in the historic district but that's not to say he's going to be the one to get it. So...

Jack Vessels: It also affects the streetscape when you take that out and we don't have control, well some control maybe in the future, of what goes back in, but you try to do things after the fact a lot of times you end up getting burned.

Brenda Burns: Yeah, you're right Jack. So what do we do about it now Mr. Brady?

John Brady: Alright. Do you want the good news or the bad news? The bad news is you can't restrict them from where...you could encourage them to keep it in the Town, but you can't pass a legally viable resolution as part of their application to demolish, to require them to only give it or keep it in the Town. That unfortunately is a violation of their property rights. They were never given notice when they bought it that it would not be able to leave Town. The only way that could be done is if an ordinance was passed by Council after Public Hearing saying that any current houses in the Historic Preservation District, if they are denied a demolition permit, and they are sought to be moved, that notice be given that they'd have to stay in the Town, and I'm not exactly sure if that would be constitutional either. I understand that trying to keep the historic nature of the Town, but the alienation, it comes in under eminent domain and does that type of ordinance mean the Town buys it, and after **(unintelligible – 7:57:10)** and the new law passed by the General Assembly, you've got to give 6 months notice before you can condemn property for economic development purposes, so it's a little bit of a legal quagmire. What was clear to me was spray painting the words "free house" on the building was a violation of our sign ordinance and I instructed that a letter be immediately given to the owner that that had to be painted over or removed. They could put a sign up that said "free house" and a phone number as a temporary sign under the code but you can't spray paint anything on the house that you want to get somebody's attention. I got that phone call last Thursday when I was on a plane out west and Friday I

told them what to do and I believe a letter was issued, Robin? I think CC took care of that?

Robin Davis: Yes. He actually did it verbally and I don't know if he did follow up with a letter, but the owner did go out that weekend, actually I think he did it Friday, and covered over the "free house" sign.

John Brady: Right. So the owner was responsive as I understood, but to the extent that your motion let when the historic preservation considered as part of the Board of Adjustment, I would have said that you can't legally require it to stay within the Town. So they were commenting and encouraging it to stay in the Town and hoping somebody would come forward to move it, that's fine. And you could suggest, recommend, cajole but you can't mandate.

Brenda Burns: What about the moving part, was that legal? I mean was that....

John Brady: The moving part, in order to move a residence in the historic district, has to come before this board for a permit. It also has to be approved by the police department and as I believe that it's going to come across a state road, DelDOT would have to be involved also, correct Robin?

Robin Davis: Yeah. I think anything to do with DelDOT and what, from what I hear from several people, the power lines in that area are going to be a big problem.

John Brady: Right, so Delmarva Power has the power service for the Town, so Delmarva Power would also have to be there and it's going to be a very involved process in order to move it.

Brenda Burns: Well let me ask you this. For future reference, when this subject comes up again, is that something that is an owner's option when they're denied the demolition permit or is it now an option for them because I opened my mouth?

John Brady: I will never criticize a chair about comments made during a meeting.

(Laughter) I will talk to our Town Manager, our building official and project coordinator about an information pamphlet on the process to move an existing building within the Town, because once we give that information out and post on the internet, and we come up with a process that has the approval, then we know exactly how to handle it. I've dealt with two houses being moved in Town's before and we need to do something. I don't think this issue's come up in the last couple years, Robin?

Robin Davis: No.

John Brady: And that's why we need to get some...Madame Chair you were correct in trying to come up with an idea about establishing a process and I think now it's an incumbent on myself, the Town Manager, the building official and the project coordinator to recommend a process for historic preservation to consider recommending to Town Council to implement by ordinance.

Brenda Burns: Okay.

Jack Vessels: Well, the motion that I made was to deny their request to demolish it.

John Brady: That's correct.

Jack Vessels: And that was passed.

John Brady: That was passed.

Jack Vessels: So that should stand?

John Brady: So they can't demolish it, but nothing was addressed about moving it because that would have exceeded the scope of their application.

Jack Vessels: They would have to reapply if they wanted to move it, right?

John Brady: Well, I guess the people who get...say they give the house to somebody; that somebody would have to apply and go through a process and that's what Robin and I and Mr. Dickerson and CC are going to sit down and talk about; what that process should be and how to get something in place.

Jack Vessels: So actually you could have your whole historic cleaned out by house, by house, by house. They can move out, theoretically.

John Brady: And that's why I think we need to work on that and that's on my list of things to talk to Robin. Robin and I meet about twice a month now and somehow our lists never get finished but we're working on it.

Jack Vessels: Thank you.

Item #7 – Adjournment

Brenda Burns: Thank you. Okay. So now we are...is there anything else we need to discuss. Would somebody like to make a motion to adjourn.

Gwen Foehner: I make a motion that we adjourn.

Jack Vessels: Second.

Brenda Burns: So done. Adjourned. Thank you.

Meeting for the Historic Preservation Board was adjourned at 8:02 P.M.