

Town of Barnstable

Hyannis Main Street Waterfront Historic District Commission

Cheryl Powell – Chair Taryn Thoman – Vice Chair Dave Dumont – Clerk
Dave Colombo – Regular Member Marina Atsalis – Regular Member Elizabeth Young – Regular Member Jonathan Kanter – Regular Member
Timothy Ferreira – Alternate Member Cecelia Carey – Alternate Member

Minutes

June 5, 2019

Cheryl Powell – Chair	Present
Taryn Thoman – Vice Chair	Present
David Dumont - Clerk	Present
David Colombo – Regular Member	Present
Marina Atsalis – Regular Member	Present
Betsy Young – Regular Member	Present
Jonathan Kanter – Regular Member	Present
Tim Ferreira - Alternate	Present
Cecelia Carey - Alternate	Present

Also present were Ruth Weil – Town Attorney, Elizabeth Jenkins – Director of Planning & Development, Paul Wackrow – Senior Planner, and Carol Puckett – Administrative Assistant

To all persons deemed interested or affected by the Town of Barnstable's Hyannis Main Street Waterfront Historic District Commission Ordinance under Chapter 112, Article III of the Code of the Town of Barnstable, you are hereby notified that a hearing is being held at Town Hall, 367 Main Street, Hyannis, MA Selectmen's Conference Room, 2nd Floor 6:30 P.M. on Wednesday, June 5, 2019.

Call to Order

Since a quorum has been met, Cheryl Powell opens the meeting at: 6:30 PM.

Cheryl Powell reads the following with no response:

Notice of Recording

Please note that this meeting will be recorded and broadcast on Channel 18 and, in accordance with MGL Chapter 30A §20, anyone taping this meeting please make their presence known.

They observe a moment of silence to people from the news whose lives were lost.

Cheryl asks for roll call attendance

Roll Call

All members present introduce themselves including Ruth Weil, Elizabeth Jenkins, Paul Wackrow and Carol Puckett

Welcome to New Members, Special Guests, and Advisors

Housekeeping

Cheryl notes that some members could be recusing themselves once applications are called.

Cheryl polls the members about the July 3rd meeting and asks the members if they want to go forward with that meeting since the following day is a holiday (July 4th). Taryn Thoman, Dave Colombo and Marina Atsalis state that they will not be here for the July 3rd meeting. Cheryl will still hold the July 3rd meeting as there will be 6 members who indicated that they will attend.

Reminder of Commission's Purpose and Proper Procedure

Cheryl Powell reads Commission purpose.

Election of Officers

Cheryl Powell announces the Election of Officers:

Election of Chair:

Dave Dumont, Taryn Thoman and Dave Colombo support Cheryl Powell for re-election as Chair.

Motion is made by Taryn Thoman and seconded by Marina Atsalis to re-elect Cheryl Powell as Chair

Vote by hand:

AYE: Taryn Thoman, Marina Atsalis, Jonathan Kanter, Dave Dumont, Dave Colombo, Betsy Young, Tim Ferreira (Alternate Member)

NAY: None

ABSTAINED: None

Election of Vice Chair:

Nomination is made by Marina Atsalis and seconded by Tim Ferreira to re-elect Taryn Thoman for Vice Chair.

Nomination is made by David Colombo to elect Elizabeth Young as Vice Chair

Cheryl Powell suggests a vote on Taryn Thoman's nomination as it was the first nomination before another is proposed

Vote by hand:

AYE: Taryn Thoman, Marina Atsalis, Jonathan Kanter, Cheryl Powell, Timothy Ferreira (Alternate Member)

Cheryl Powell states that if any of the members don't vote it will be counted as a yes and asks who votes no:

NAY: Dave Colombo, Elizabeth Young

ABSTAINED: Dave Dumont

Election of Clerk:

Cheryl Powell asks Dave Dumont if he would be interested in continuing as Clerk. Mr. Dumont answers yes.

Nomination is made by Elizabeth Young and seconded by Dave Colombo to re-elect Dave Dumont as Clerk

Vote by hand:

AYE: Cheryl Powell, Marina Atsalis, Jonathan Kanter, Timothy Ferreira (Alternate Member), Dave Colombo, Elizabeth Young

NAY: None

ABSTAINED: Taryn Thoman

Continued Business

Discussion of and possible vote on a discretionary referral for Verizon New England, Inc. Certificate of Appropriateness and Certificate of Hardship Applications at 49 Ocean Street, Hyannis – Map 326 Parcel 025

Cheryl Powell announces that some board members may be interested in recusing themselves from this matter.

Dave Colombo and Betsy Young recuse themselves. Dave Dumont recuses himself after Cheryl Powell explains that Marina Atsalis has invoked the Mullin Rule and gives a copy of that form to Attorney Ford and Marina Atsalis.

Cheryl Powell, per advice from Ruth Weil, opens the public hearing on Verizon and assigns members:

Members assigned: Cheryl Powell, Taryn Thoman, Marina Atsalis, Timothy Ferreira, Jonathan Kanter, Cecelia Carey

Ruth Weil states that the first thing on the agenda tonight is whether a referral can be made to the Cape Cod Commission (CCC). She reminds the members that this commission needs to be cognizant of the time frame that this commission has to deal with under Section 112-31.K of the Hyannis Historic Waterfront District Act. Ruth Weil explains that under that act, those sections require that this commission needs to act within forty-five (45) days from the date application was made unless otherwise extended. As she understands it, the time has been extended by

Verizon through their attorney, Michael Ford, to June 12, 2019. Paul Wackrow confirms that date. Weil states that the Cape Cod Commission regulations for mandatory referral of a Development of Regional Impact indicate "the suspension of municipal agency review shall extend all constructive grant periods for municipal agencies for a period equal to the duration of commission review, such periods to resume running after a final commission decision is rendered". She states that as she reads that, she isn't sure that the CCC will see this as a mandatory referral or not. If they do, then when it comes back to this commission, the commission would have six (6) days to act. In terms of a discretionary referral, the timing is different. Local time to review a proposed project is stopped at the time the CCC accepts the discretionary referral.

Ruth Weil goes on to explain that in terms of the discretionary referral, the suspension of the local permitting time clock begins when the CCC accepts the discretionary referral. Associated with that is a hearing process also. She is skeptical that this could happen within six days. If this commission fails to act within the prescribed time frame then the ordinance specifically says that the applicant can apply for approval of a constructive grant.

Taryn Thoman asks as to why HHDC is just learning this now. Ruth Weil explains that this question came up at the last meeting and didn't change the timeframe. Taryn Thoman asks for clarification as to what the different is between a mandatory and discretionary.

Ruth Weil explains again. Cheryl Powell asks, if the CCC deems this as a discretionary referral, does the period for HHDC review restart from the day of that decision or the day that the HHDC receives it? Ruth Weil will research but reiterates that it is still a short time frame.

Marina Atsalis notes that she was not here for most of this commission's meetings; however, she doesn't understand how this began in November of last year, how Verizon was able to put this off because of their absentee members, and how it got continued until now.

Cheryl Powell and Paul Wackrow explain that the time extensions were mutually agreed upon.

Ruth Weil explains that the time frames wouldn't be changed and that Verizon gave this commission additional time to write its decision with each continuance and what occurred on or about May 1st didn't affect their ability to refer only that the time frame would be shorter and feels it is important to bring it to the commission's attention because they are faced with a constructive grant situation.

Paul Wackrow explains the 45 days in which they need to make a decision and how a mutual agreement to extend time limits extends that period.

Taryn Thoman asks again about the time frame between mandatory and discretionary referral. Taryn also asks if they could ask the applicant for more time. Cheryl Powell says one can only ask and then asks if the members want to open the certificate of appropriateness or go for the referral to the CCC.

Thoman thinks this issue belongs with the CCC and this is not the type of thing that this commission does. She wants to know if the applicant will give a time extension in order to let the CCC review this. She also wants it on the record that "they asked and that the applicant would prefer to win by default".

Attorney for Verizon, Michael Ford asks for clarification if an individual or if this commission is making a request for a time extension? Cheryl Powell polls the members sitting on this matter who all agree that they would like to make a request of Verizon for another time extension.

Attorney Ford needs to confer with his clients and asks for a short recess.

Powell calls for a 5 minute recess. Back in session at 7:14 pm

Attorney Ford states that he did discuss the time extension with his client and they have made a decision not to grant any further extensions. Also, to put this into perspective from Verizon's viewpoint, the whole notion of this being referred to the CCC has been talked about with the Town over the past year and a half. It was a question that came up at the Planning Board and a decision was made with advice from the CCC that it was not required to go; there were changes in the GIZ subsequently after they started the process with the Planning Board and another inquiry was made by one of the members of the Planning Board to the Town Attorney's office asking that since now the GIZ language has changed, whether now it should be sent to the CCC. The advice from the Town Attorney's office was

again, that it was not required to be sent. He wants it on the record that they don't believe it is a situation where Verizon is saying they want to win by default and is a question that could've been addressed by the Town a long time ago. The first time this DRI issue came up was 3 hours before their last HHDC public hearing as a result of an inquiry that the Chair made to CCC staff the day of that meeting requesting clarification. The applicant came to the meeting on May 1st and a DRI had never been a question that the applicant understood was going to be before the historic commission. The applicant also could've said at the last meeting that they (Verizon) didn't want to give another time extension, however, they submitted a lot of new information and thought it was important that this commission have time to review that information. Therefore, they agreed to a suggestion from this commission's staff to continue this to June 12th.

Cheryl Powell asks the members if they are ready to discuss. Marina Atsalis is confused.

Taryn Thoman clarifies that the permit process was started in 2017, GIZ regulations went into effect of April of 2018 and then got this application in October of 2018. Taryn asks if they now want a vote on whether or not they want to refer this. Powell explains that they can either vote on it or move onto the next agenda item, the Certificate of Appropriateness Application.

Public Comment:

Powell opens it up for public comment and asks people for new information or comments directed only in reference to a CCC referral.

Deb Krau from Hyannis Civic Association asks for clarification again about the 6 day period regarding accepting the referral. Ruth Weil explains the discretionary referral process and that the CCC would have to accept it within six (6) days. She wants to make a point for the record that the CCC has not made a formal jurisdictional determination whether or not the GIZ applies to applications filed post the new GIZ. That is an unanswered question. She knows that Attorney Ford presented an informal jurisdictional determination by Jonathan Idman that was dated January, 2018 but that didn't approach the subject of subsequent applications that were filed after the adoption of the reauthorized GIZ and is a subject she can't speculate as to what would occur. However, in a mandatory referral, as soon as it is made, the clock stops running on that aspect of it and when returned is still a short window of time.

Deb Krau asks if there is any way that this can be deemed a mandatory referral and if that decision can be made in six days? If they can't get a decision in six days then the discretionary referral gives the County six days. The town has taken 2.5 years and doesn't think they could get the CCC to do anything in six days.

Elizabeth Jenkins explains that there are two paths: discretionary referral which the CCC has to vote to accept. If they make the discretionary referral the clock continues to run and is very unlikely that the CCC could get a committee together to make a decision within six days and therefore would likely result in a constructive grant. In the mandatory referral, the clock stops immediately and there is no guarantee that the CCC will accept the mandatory referral. However, whatever day they issue their decision it then comes back to this commission to act on within six days.

Taryn Thoman asks how this commission would be informed by the CCC. Elizabeth Jenkins states that there would be scheduled hearings and is somewhat unclear in the Act exactly when the clock stops and starts. However, they would have to make a decision at a hearing and it would be anticipated when those hearings would take place.

Attorney Ford isn't sure that the question of mandatory referral is properly before this board tonight, is the first time he has heard about this, and is not on tonight's agenda. Cheryl Powell explains that at the last meeting there was a mention of a letter from Sarah Korjeff in response to a call she had made to Mr. Idman who responded that he didn't believe it was a mandatory referral. Cheryl Powell agrees with Attorney Ford that it is not on the agenda as mandatory.

Ruth Weil is not sure that, for the purpose of a vote, it will make a substantive difference whether it is mandatory or discretionary. Cheryl Powell clarifies with Ruth Weil that they could continue with a discussion of a referral to CCC and would be up to the HHDC as to what type of referral. Ruth Weil thinks that there is sufficient notice that there was going to be a discussion of a referral to the CCC and is not sure there is a substantive difference and would like Attorney Ford to explain how this commission's role would be different if it is mandatory instead of discretionary.

Attorney Ford believes that they are two different types of referrals and that one was on the agenda and one was not and states that it is an Open Meeting Law point.

Fred LaSelva from the Hyannis Civic Association and president of the Taxpayers Association thinks that "matters not anticipated" covers the discretionary versus mandatory" discussion. He also agrees with Taryn Thoman that six (6) days at this point, to come to light at this point, is an insult to the village of Hyannis.

Peter Cross of Hyannis notes that at the last meeting, Attorney Ford delivered a significant amount of information and wants to know what the hardship is. Cheryl Powell will address that issue when they come to that as part of the agenda. As resident he would like to have this commission vote it down and have Verizon appeal it.

Alan Feldman of Hyannis asks if there will be another opportunity for public comment. Cheryl Powell states that they will make a determination on this agenda item and then go on to the other items for this applicant. Mr. Feldman will wait to make further public comment.

Deb Krau speaks again and asks if this group can make a mandatory referral to the CCC that they can accept. Cheryl Powell states that only discretionary is on the agenda and ask Ruth Weil to clarify again.

Ruth Weil understands the point that Attorney Ford made about the agenda posting, and that perhaps the statement by Deb Krau is about the mechanics of the referral. She explains again that if this group votes to make a mandatory referral that CCC could accept the referral and then determine whether or not it meets the mandatory requirements. During that process the time clock stops but after that process is completed then they are back to the six day window.

Krau asks that if this commission votes tonight to do a mandatory referral what happens between now and when that CCC accepts or rejects that referral?

Ruth Weil explains that the clock stops running once this commission makes a mandatory referral. If the CCC determines that it was not a proper mandatory referral it will be sent back to the HHDC and they will have that same six day window.

Cheryl Powell asks for clarification if they can address the mandatory referral without it being on the agenda. Ruth Weil states that it is an Open Meeting Law question because there is a section "Not Reasonably Anticipated by the Chair" and that it could be raised in an Open Meeting Law complaint. This new information about the timing of a discretionary referral did just come to light at this meeting and might have informed why people are now looking at a mandatory referral.

Deb Krau clarifies her concern that most of the Hyannis residents would want the commission to vote no on the discretionary referral thinks this commission should've received this before the Planning Board, and shows a map of the fall zone of the tower (Exhibit A).

Taryn Thoman wants it on the record that they were blind-sided by this and wants input as to what everyone else feels. Deb Krau clarifies that her concern is that this commission was supposed to vote on it before the Planning Board got this.

Commission agrees to leave that part of the agenda and go onto the Certificate of Appropriateness and Certificate of Hardship and asks if there is anything additional by Attorney Ford.

Certificate of Appropriateness

Verizon New England, Inc. – 49 Ocean Street, Hyannis – Map 326 Parcel 025
Proposed reinforcement and 50 +/- ft. extension to existing tower

Certificate of Hardship

Verizon New England, Inc. – 49 Ocean Street, Hyannis – Map 326 Parcel 025
Proposed reinforcement and 50+/- ft. extension to existing tower

Attorney Ford states that this is responsive to the letters that were read into the record at the past meeting. With him tonight is George Maier from Orion Broadcast Solutions, has been retained by Verizon and is prepared to speak about the reason for the height increase and directly to the testimony to questions about 5G, etc.

Taryn Thoman calls Point of Order.

Attorney Ford explains that there is typically an opportunity for rebuttal and is why they have brought people to speak to the comments that were made last time and will address both the Certificate of Appropriateness and hardship.

George Maier hands in a resume for the record (Exhibit B). He owns his company, in business for the last 22 years. He explains a microwave point-to-point and a cellular system. He explains that between here and Nantucket, there are no undersea cables or fiber optics, etc., and that the only way to transmit is by microwave. He has read the reports that Isotope put out and thinks that they have missed a few points. The reason for the elevation is when it was designed, back in the 60's, most of the circuits were analog. He explains difference between digital and analog. In looking at the analysis of the tower when it was designed the criteria was a lot more lax and the fact that the weather has a profound effect on microwave beams was not known. It was refined in the 70's. The next problem is weather fronts and what was not talked about in the report was fog density. He talks about decorolation. Historically this is what the technicians have been monitoring and have been seeing errors in the data as the weather fronts come through. (Taryn leaves the room at 8:04) Maier goes on and talks about adverse conditions. Also, in the path profile, NEC did not take the worst case. The best decorolation is at 30 feet. (Taryn comes back at 8:07).

Jonathan Kanter asks about the performance purpose. Mr. Maier states that it is more reliable performance for the microwave link for Hyannis and Nantucket for both phone and internet.

Marina Atsalis thinks that if someone chooses to live on an island you choose to have limited conveniences and perhaps design restrictions on your lifestyle. Why put the tower in Hyannis, why not in Yarmouth. She thinks Verizon can relocate to other places where this can be installed.

Attorney Ford reminds the members that this was town owned surplus property that Verizon purchased in 1962 and established a switching station there. Also, previous testimony from Mr. Jessop indicated that it wouldn't have any effect on any historic properties, that the only issue would be the view from the water but didn't know why it had to be higher which is why Mr. Maier is here.

Attorney Ford would also like to add to comments from Mr. Maier's with testimony by Kevan Williams who could not be here tonight but has submitted comments. Cheryl Powell requests that Attorney Ford reads the comments from Kevan Williams into the record (Exhibit C) to the issue of need and 911 calls.

Ford also addresses the 5G comment which he explains has nothing to do with this proposal and asks Ellen Cummings from Verizon to address.

Mr. Cross from the audience asks for a point of order regarding the 911 calls. Powell doesn't think it is a point of order but can be brought up during public comment.

Ms. Cummings states that this is a microwave tower, not a cellular tower and this is not a 5g service. She explains that the state of Massachusetts runs the E911 service. When someone from Nantucket dials 911, it goes from the microwave into the tower in Hyannis and sent to one of the four state tandems which then gets handed off.

Jenkins wants to make a point for the record that the in regards to issues raised from individuals tonight, were issues that were addressed in the Planning Board review for months with a benefit of a technical consultant. Having that information presented to this commission without the benefit of that technical consultant, she thinks it is important to understand that town staff is not able to comment on the information that was provided in that letter or by Verizon's expert tonight.

Cummings notes that as far as cell service and 5G, it is a requirement to come back to the Planning Board for permission to do so.

Ford reiterates that the Planning Board decision has conditions that no other antennae can go on the increased height without coming back to the Planning Board.

Powell asks Cummings if satellite is an option. Cummings says no because microwave is line-of-sight. Jenkins notes that Mr. Maier also brought up the issue of other potential options such as undersea and fiber optic which was never part of their analysis.

Attorney Ford again addresses a letter from Jessop regarding David Maxson's report and is here to rebut all comments.

Thoman asks Cummings her position with Verizon and asks how many calls were dropped 911 calls. Cummings explains that she is the Regional Director of External and State/Government Affairs with Verizon and part of her responsibility is the Cape and the Islands. She doesn't have that information about the exact number of dropped calls but states that their technicians are seeing bit errors and having intermittent problems which have increased over time and this proposal is to avoid total failure. Thoman asks if documentation was presented. Cummings and Ford states that there was an affidavit submitted when their initial application was made.

Powell opens public comment:

Peter Cross makes public comment. Recently the Town and the Hyannis Fire District agreed to have district 911 calls routed through the Barnstable Police Department. All the calls go through the Barnstable Police Department and says that if they can do it why can't Verizon do it.

Laura Cronin, resident of Hyannis and member of Greater Hyannis Civic Association has heard nothing tonight that has changed her perception or confirmed that technology has changed. However, wants it relocated to another place rather than Hyannis.

Powell calls a 5 minute break
Back in session at 8:55

Public comment continues. Deb Krau says the town has offered space for this tower over by the sewer treatment plant which was turned down. Everything she has heard is that this a technical issue as to why the tower needs to be taller. She would like to enter into the record the map of the fall zone around the existing tower (Exhibit A).

Alan Feldman speaks again. This commission is to look at aesthetics and this has gotten away from that. He thinks that this commission is also supposed to listen and support the residents. They haven't touched on health because we don't have that information. He would recommend a no vote and have this go to another location.

Fred Laselva speaks again. He believes that this technical issue is a fog to create confusion. As a former member of the Planning Board, he didn't buy the mitigation. He is also suspect that a company as large as Verizon has brought in many knowledgeable people regarding old technology. Wants this board to say no.

Larry Decker, resident and member of Hyannis Greater Civic Association thinks the existing tower is ugly and that the added height will make it uglier.

Attorney Ford wants to rebut an assertion from Ms. Krau that Verizon was offered land for this tower. Ford states that he has checked with Verizon officials and that there has never been an offer from the town to Verizon about land for this tower. Also, he was advised at the break by the Verizon people that it is not easy to pick up a tower and move it which is controlled by the brain that is located in the building adjacent to the tower. Powell asks for explanation regarding the "brain". Ford and Cummings explains.

Jenkins states that although the town has never made an offer of land to Verizon, if there was to be a viable alternative the town would've been more than willing to engage in an analysis of municipal assets to potentially relocate the tower.

They discuss having a tower without a central office. Cummings addresses the central office function and the microwave's direct line of sight.

Attorney Ford asks where in HHDC regulations are applicants required to consider relocation. Thoman reads information on MGL 40C. Attorney Ford agrees that this commission does not have any jurisdiction over use and notes that Verizon has their zoning permit. Thoman states that the tower is big an ugly, doesn't belong in this historic district and in terms of their aesthetics, this is inappropriate.

Powell states that there was one additional letter from Felicia Penn which Thoman reads into the record (Exhibit D)

Powell closes public comment and takes a recess.

Back in session at 9:24.

Board deliberates. Thoman asks why the applicant didn't come here first. Paul Wackrow explains that it went to Site Plan Review where there was a requirement to go to Planning Board and then HHDC but no requirement for a sequence.

Thoman asks if the experts have been paid by Verizon. Ford answers yes that Mr. Maier was paid by Verizon as well as the expert who presented at the Planning Board. Thoman thinks that there is conflicting testimony between the two experts and asks how the mitigation was arrived at. Ford explains that a discussion was had with Elizabeth Jenkins at her office after which he talked with his client. There was also a discussion about visually uplifting the area since they couldn't do anything to the tower itself and whether Verizon would update the front of the lot including the side walk which was included as conditions on the special permit from the Planning Board. Jenkins explains that there had been a discussion about all this for approximately six months.

Thoman thinks that the mitigation is insulting. They were asked to consider the impact on resources in the district and it was determined by the state that there was no adverse conditions. However, they represent the HHDC and residents of this district who are against it and thinks they need to listen to them. She asks staff about the Verizon inquiry letter sent in October of 2017. Wackrow says that there was tracking information from the postal service but can't definitively say that they ever received it. She would suggest that the vote be against the certification of appropriateness.

Powell makes comments, went through the additional papers provided by Verizon, refers to the FAA letter but notes that from that letter submitted, the determination expired in July of 2018. She has issues with aesthetics with heightened tower and asks Paul Wackrow to display pictures on the whiteboard which she comments on (Exhibit E).

Thoman went over the agendas and didn't see any letter from Verizon and asks if a balloon test was done. Attorney Ford states that no balloon test was done.

Certificate of Appropriateness

Marina Atsalis moves that the Commission make findings on the Certification of Appropriateness

1. The purpose of the Hyannis Main Street Waterfront Historic District as described in Section 112-24 is to "promote educational, cultural, economic and general welfare of the inhabitants of the Town of Barnstable, and the Town's unique community character" through several measures, including "the preservation, maintenance and improvement of appropriate settings for such buildings, structures, and places, and the encouragement of new design which is compatible with the existing historical and community character."
2. Along with application, the applicant submitted a Visual Impact Analysis prepared by Advanced Engineering Group, PC showing renderings of the proposed tower extension from roads, intersections, public parks, and gateways throughout Downtown Hyannis. The proposed tower extension will create one of the tallest structures in the Hyannis Main Street Waterfront Historic District, significantly increasing the visibility of a structure that will be incompatible with the character of the Hyannis Main Street Waterfront Historic District from major streets, public parks, and Hyannis Harbor. The tower's proposed height at 150' far exceeds that of other surrounding structures; for comparison, the height of Town Hall, one of the tallest buildings in the district, from grade to ridge is 71'.
3. The subject property is directly adjacent to the Municipal Group Historic District and in close proximity to the Pleasant - School Street Historic District, both of which are included in the National Register of Historic Places for their associations with the early development of Hyannis and the variety and quality of historic architectural styles found within the districts. In addition to Town Hall and the School Administration Building, the Municipal Group Historic District includes the Village Green (Town Common) as a significant landscape in the district. The communication tower at 49 Ocean Street is located approximately eighty feet from Town Hall, and approximately twenty-five feet from the Village Green landscape. Both of these National Register districts are within the Hyannis Main Street Waterfront Historic District. The immediate vicinity of the subject property also includes one building individually listed on the National Register of Historic Places, within 1000 feet of the project site. The position of the proposed tower extension in relation to buildings included on the National Register of Historic Places is not compatible with the districts' historical and community character.

4. The Commission considered, among other things, the historical and architectural value and significance of the site, structure, setting, and place; the general exterior design, scale, color, placement on the lot including dimensions and setback, arrangement, proportions, texture, material of the structure; the setting, topography, landscaping, and general appearance of the tower extension and the relation of the proposed tower extension to similar features of buildings and structures in the surrounding area; and the position of the tower extension in relation to the streets, ways and to other buildings or structures. The Commission also considered the appropriateness of the size, shape, and location of the building or structure, both in relation to the land area upon which the building or structure is situated and to buildings, structures, and general setting in the vicinity. The proposed tower's increased height, industrial appearance, and lack of any architectural value make it visually incompatible with historic residential, municipal, and commercial buildings in the immediate vicinity and throughout the district.
5. The topography of the site (at elevation 30', as compared to portions of the district surrounding Hyannis Harbor, at elevations 3' – 20') make the tower and proposed extension highly visible within the district and, as demonstrated by the visual impact study.
6. The Commission finds the proposed tower extension at 49 Ocean Street, Hyannis, to be inappropriate for and incompatible with the preservation and protection of the Hyannis Main Street Waterfront Historic District.
7. The Commission reviewed several documents submitted to Planning Board in support of a Special Permit application, including:
 - a. An affidavit from Michael Shea, Senior Manager of the E911 Customer Care Center for Verizon, submitted by the Applicant indicates that under normal conditions, 911 calls are carried via the microwave transmission system, which includes the Nantucket-Hyannis link.
 - b. Regarding the necessity of tower extension, the Applicant submitted an affidavit from Joseph Baker, a licensed radio technician holding an FCC General Radio Operator's License assigned to Cape Cod and the Islands for Verizon, which documents the Hyannis-Nantucket link's high susceptibility to atmospheric conditions. Mr. Baker concludes that reengineering the path to include an elevated position for the transmitters and receivers should avoid total network outages in the future with regards to path interference.
 - c. In accordance with MGL Chapter 44, Section 53G, the Applicant funded an independent consulting engineer who provided a peer review of the whether the proposal will fulfill the objectives outlined by the Applicant, an assessment that the proposed improvements to the tower are the minimum necessary to accomplish the Applicant's stated objectives, and an assessment of any available alternatives that would equally serve the Applicant's stated objectives. David Maxson, WCP, of Isotrope, LLC, was the selected consultant. The consultants' initial report was issued May 31, 2018 followed by additional correspondence with the Board and Applicant resulting in a Final Report issued on September 12, 2018. Mr. Maxson concludes that the Applicant's design approach would be typical of a new tower proposed for the first time, but states there is no pressing need for the tower extension with respect to either public safety or the provision of Verizon's telecommunications service. Mr. Maxon's final report indicates that calculations submitted by the Applicant suggest the tower extension results in a nearly imperceptible increase in reliability of the Hyannis-Nantucket link. The report indicates it is best practice to study historical logs of link performance to assess the risk of subrefraction events that cause the link to degrade or fail, but "the Applicant keeps no logs." The report also indicates that the estimation method used in computer modeling submitted by the Applicant may result in excessive antenna heights.
8. The applicant submitted evidence to the record at the public hearing on June 5, 2019, giving the Hyannis Main Street Waterfront Historic District Commission insufficient time to review evidence prior to the deadline for the Commission to make a determination on June 12, 2019. The meeting on June 5, 2019 is the final regularly scheduled meeting before the deadline to make a determination on this application.

The motion was seconded by Taryn Thoman.

Attorney Ford asks for a copy of the findings since he has not seen them until tonight.

Findings:**Vote by hand:****AYE:** Taryn Thoman, Marina Atsalis, Timothy Ferreira, Jonathan Kanter, Cecelia Carey, Cheryl Powell**NAY:** None**ABSTAINED:** None

Wackrow explains that the findings are consistent with what was in the staff report dated April 25, 2019 (Exhibit F).but tweaked to make it in line with the Planning Board and with new evidence and additional information with regards to the historical district and distance from tower to town hall and the village green.

Ford notes that they got the previous findings but did not get the ones just read tonight which were not available until immediately before the meeting.

Motion is made by Taryn Thoman to issue a disapproval of the Certificate of Appropriateness as described in the application submitted on October 23, 2018

Second by Jonathan Kanter

Vote by hand:**AYE:** Taryn Thoman, Marina Atsalis, Timothy Ferreira, Jonathan Kanter, Cecelia Carey, Cheryl Powell**NAY:** None**ABSTAINED:** None

CERTIFICATE OF APPROPRIATENESS DENIED

Certificate of Hardship:

Thoman states that the peer review stated reasons why the extension was unnecessary, Verizon says they need this to improve service, their own paid testimony is all they have to go on, no logs of dropped calls, lack of service, no testimony from anyone on Nantucket, they don't see any justification to support dropped calls, Isotope didn't feel there were any safety issues, our Hyannis Chamber contacted the Nantucket Chamber and had no records regarding problems with 911 calls, no data showing dropped calls, not enough data to prove need and no alternatives were suggested. While it may be troublesome and expensive Verizon can build another tower somewhere else in a more appropriate setting but they cannot build another historical district and the hardship is theirs.

Powell asks Attorney Ford about the lack of logs and if that information is now available. Ford states that they submitted all the information that was available.

Thoman moves the Commission make the following findings:

1. There is no conclusive evidence that failure to approve this application will involve a substantial hardship, financial or otherwise, to the applicant to provide service via the tower. Supporting this finding, the Commission reviewed several documents submitted to Planning Board in support of a Special Permit application, including:
 - a. An affidavit from Michael Shea, Senior Manager of the E911 Customer Care Center for Verizon, submitted by the Applicant indicates that under normal conditions, 911 calls are carried via the microwave transmission system, which includes the Nantucket-Hyannis link.
 - b. Regarding the necessity of tower extension, the Applicant submitted an affidavit from Joseph Baker, a licensed radio technician holding an FCC General Radio Operator's License assigned to Cape Cod and the Islands for Verizon, which documents the Hyannis-Nantucket link's high susceptibility to atmospheric conditions. Mr. Baker concludes that reengineering the path to include an elevated position for the transmitters and receivers should avoid total network outages in the future with regards to path interference.
 - c. In accordance with MGL Chapter 44, Section 53G, the Applicant funded an independent consulting engineer who provided a peer review of the whether the proposal will fulfill the objectives outlined by the Applicant, an assessment that the proposed improvements to the tower are the minimum

necessary to accomplish the Applicant's stated objectives, and an assessment of any available alternatives that would equally serve the Applicant's stated objectives. David Maxson, WCP, of Isotrope, LLC, was the selected consultant. The consultants' initial report was issued May 31, 2018 followed by additional correspondence with the Board and Applicant resulting in a Final Report issued on September 12, 2018. Mr. Maxson concludes that the Applicant's design approach would be typical of a new tower proposed for the first time, but states there is no pressing need for the tower extension with respect to either public safety or the provision of Verizon's telecommunications service. Mr. Maxon's final report indicates that calculations submitted by the Applicant suggest the tower extension results in a nearly imperceptible increase in reliability of the Hyannis-Nantucket link. The report indicates it is best practice to study historical logs of link performance to assess the risk of subrefraction events that cause the link to degrade or fail, but "the Applicant keeps no logs." The report also indicates that the estimation method used in computer modeling submitted by the Applicant may result in excessive antenna heights.

2. This application will involve substantial derogation from the intent and purpose of this chapter as follows:

- a. The purpose of the Hyannis Main Street Waterfront Historic District as described in Section 112-24 is to "promote educational, cultural, economic and general welfare of the inhabitants of the Town of Barnstable, and the Town's unique community character" through several measures, including "the preservation, maintenance and improvement of appropriate settings for such buildings, structures, and places, and the encouragement of new design which is compatible with the existing historical and community character."
- b. Along with application, the applicant submitted a Visual Impact Analysis prepared by Advanced Engineering Group, PC showing renderings of the proposed tower extension from roads, intersections, public parks, and gateways throughout Downtown Hyannis. The proposed tower extension will create one of the tallest structures in the Hyannis Main Street Waterfront Historic District, significantly increasing the visibility of a structure that will be incompatible with the character of the Hyannis Main Street Waterfront Historic District from major streets, public parks, and Hyannis Harbor. The tower's proposed height at 150' far exceeds that of other surrounding structures; for comparison, the height of Town Hall, one of the tallest buildings in the district, from grade to ridge is 71'.
- c. The subject property is directly adjacent to the Municipal Group Historic District and in close proximity to the Pleasant - School Street Historic District, both of which are included in the National Register of Historic Places for their associations with the early development of Hyannis and the variety and quality of historic architectural styles found within the districts. In addition to Town Hall and the School Administration Building, the Municipal Group Historic District includes the Village Green (Town Common) as a significant landscape in the district. The communication tower at 49 Ocean Street is located approximately eighty feet from Town Hall, and approximately twenty-five feet from the Village Green landscape. Both of these National Register districts are within the Hyannis Main Street Waterfront Historic District. The immediate vicinity of the subject property also includes one building individually listed on the National Register of Historic Places, within 1000 feet of the project site. The position of the proposed tower extension in relation to buildings included on the National Register of Historic Places is not compatible with the districts' historical and community character.
- d. The Commission considered, among other things, the historical and architectural value and significance of the site, structure, setting, and place; the general exterior design, scale, color, placement on the lot including dimensions and setback, arrangement, proportions, texture, material of the structure; the setting, topography, landscaping, and general appearance of the tower extension and the relation of the proposed tower extension to similar features of buildings and structures in the surrounding area; and the position of the tower extension in relation to the streets, ways and to other buildings or structures. The Commission also considered the appropriateness of the size, shape, and location of the building or structure, both in relation to the land area upon which the building or structure is situated and to buildings, structures, and general

setting in the vicinity. The proposed tower's increased height, industrial appearance, and lack of any architectural value make it visually incompatible with historic residential, municipal, and commercial buildings in the immediate vicinity and throughout the district.

- e. The topography of the site (at elevation 30', as compared to portions of the district surrounding Hyannis Harbor, at elevations 3' – 20') make the tower and proposed extension highly visible within the district and, as demonstrated by the visual impact study.
 - f. The Commission finds the proposed tower extension at 49 Ocean Street, Hyannis, to be inappropriate and incompatible with the preservation and protection of the Hyannis Main Street Waterfront Historic District.
3. The application will involve substantial detriment to the public welfare, including "educational, cultural, economic and general welfare of the inhabitants of the Town of Barnstable" referenced in in Section 112-24, Purpose, of District regulations, by:
- a. Significantly increasing the height and visibility of a structure incompatible with the preservation and protection of the distinctive characteristics of buildings, structures, and places significant in the history and architecture of Barnstable;
 - b. Extending a tower that will be incompatible with the preservation of appropriate settings for such buildings, structures, and places significant in the history and architecture of Barnstable;
 - c. Extending a tower that will be in incompatible with the existing historical and community character; and
 - d. Failing to preserve and enhance the amenities and historical aspects of the various villages and areas which make Barnstable a desirable place to live and for tourists to visit.
 - e. Extending a tower in a location where Town Hall, the Village Green, the Harbor Overlook, and Artist Shanties are within the tower's fall zone. Large portions of the fall zone are located outside of property on which Verizon New England has a legal interest.
4. The applicant submitted evidence to the record at the public hearing on June 5, 2019, giving the Hyannis Main Street Waterfront Historic District Commission insufficient time to review evidence prior to the deadline for the Commission to make a determination on June 12, 2019. The meeting on June 5, 2019 is the final regularly scheduled meeting before the deadline to make a determination on this application.

The motion was seconded by Marina Atsalis. The vote was by hand:

AYE: Cheryl Powell, Taryn Thoman, Marina Atsalis, Jonathan Kanter, Timothy Ferreira, and Cecelia Carey

NAY: None.

Jonathan Kanter makes a motion based on the findings of fact, to issue a disapproval on the application for a Certificate of Hardship for the communications tower extension at 49 Ocean Street, as described in the application submitted on October 23, 2018, as the application fails to meet the conditions of a Certificate of Hardship.

Seconded by Marina Atsalis.

The vote by hand was as follows:

AYE: Cheryl Powell, Taryn Thoman, Marina Atsalis, Jonathan Kanter, Timothy Ferreira, and Cecelia Carey

NAY: None

ABSTAINED: None

CERTIFICATE OF HARDSHIP DENIED

New Business

Leslie Bondaryk d/b/a Wackenhammer's Arcade – 541 Main Street, Hyannis – Map 308 Parcel 130 Mural.

Mary Ann Agresti is here representing the applicant who had to leave. She shows a picture of the mural from the application. She notes that the design inspiration reminded her of Ralph Cahoon's work and will add details that

references his work. Proposed additions to the mural will be a little description of how this fits into the history of Hyannis and the Heritage Trail and art on Main Street. Taryn clarifies that people will be able to take pictures in front of it. Mary Ann shows samples of Ralph Cahoon's work and has permission to do so.

Dave Columbo comes back. Dave Dumont and Betsy Young had to leave because of the hour.

Marina Atsalis comments that

- she is not happy with the coloration or that greetings from Hyannis, Cape Cod Mass
- doesn't see balance or anything neat and knows they are trying to honor Ralph Cahoon
- doesn't like the shape of the balloon, wants it rounder
- likes lower case lettering or get rid of the writing or say Hyannis or Cape Cod, Mass
- doesn't like the boat
- suggests another sketch

Marina Atsalis makes a motion to accept the idea but wants to change some of the renderings, script, lettering and make it more readable but change the shape of the balloon to make it more as Ralph Cahoon would've painted and to be compatible with the preservation and protection of the district.

Seconded by Taryn Thoman

Findings:

Vote by hand:

AYE: Cheryl Powell, Taryn Thoman, Marina Atsalis, Jonathan Kanter, Cecelia Carey, Dave Columbo

NAY: None

ABSTAINED: Timothy Ferreira

Motion is made by Taryn Thoman and seconded by Jonathan Kanter to issue a Certificate of Appropriateness as described in the submitted application with edits

AYE: Cheryl Powell, Taryn Thoman, Marina Atsalis, Jonathan Kanter, Cecelia Carey, Dave Columbo

NAY: None

ABSTAINED: Timothy Ferreira

CERTIFICATE OF APPROPRIATENESS APPROVED

Pablo C. Martinez for 640 Main Street, Hyannis – Map 308 Parcel 053

New roof/color change (Has asked for continuance to June 19th)

Cheryl Powell states that the applicant has requested to continue because of the late hour. Thoman asks if they can approve without the applicant being present since it is just a subtle change of color.

Findings:

Motion is made by Taryn Thoman and seconded by Jonathan Kanter to find that this application for shingles is compatible with the preservation and protection of the district to change the color from brown to beige.

Vote by hand:

AYE: Cheryl Powell, Taryn Thoman, Marina Atsalis, Jonathan Kanter, Cecelia Carey, Dave Columbo Timothy Ferreira

NAY: None

ABSTAINED: None

Motion is made by Taryn Thoman and seconded by Jonathan Kanter to grant this application as described in the submitted application

Vote by hand:

AYE: Cheryl Powell, Taryn Thoman, Marina Atsalis, Jonathan Kanter, Cecelia Carey, Dave Columbo Timothy Ferreira

NAY: None

ABSTAINED: None

CERTIFICATE OF APPROPRIATENESS APPROVED

Benjamin Surro for Tap City Grill – 586 Main Street, Hyannis – Map 308 Parcel 068

Paint color change

Paul Wackrow states that this applicant has asked for a continuance.

Motion is made by Marina Atsalis and seconded by Taryn Thoman to continue to June 19, 2019 at 6:30 PM.

Vote by hand:

AYE: Cheryl Powell, Taryn Thoman, Marina Atsalis, Jonathan Kanter, Cecelia Carey, Dave Columbo Timothy Ferreira

NAY: None

ABSTAINED: None

CONTINUED TO JUNE 19, 2019 AT 6:30 PM

Liz Hartsgrove for Town of Barnstable and Elizabeth Wurfbain for Hyannis Main Street Business Improvement District – Main Street Road Layout from Stevens Street Intersection to Pleasant Street Intersection and at 367 Main Street - Map 326 Parcel 021

Installation of white rope lighting around each lamp post along Main Street and the Village Green

Members present: Cheryl Powell, Taryn Thoman, Marina Atsalis, Timothy Ferreira, Jonathan Kanter, Cecelia Carey, Dave Columbo

Dave Columbo recuses himself.

Elizabeth Hartsgrove – Assistant Director of the Planning & Development Department is the applicant in collaboration with Elizabeth Wurfbain – Executive Director of the Hyannis Main Street Business Improvement District (BID) and residents who have funded this project.

Taryn Thoman asks if this applicant can be before the committee since their application for boxes on Main Street was denied. Cheryl Powell explains that they are two different applications and would like to separate them and treat them as such. She notes that the application for the boxes will be forthcoming sometime in July. Elizabeth Jenkins explains the events leading up to the new application for the boxes.

Elizabeth Hartsgrove explains that the project is to put ambient warm glow rope lighting around 56 lampposts on Main Street as well as on 19 lampposts on the Village Green. She explains that the lighting will help safety concerns and addresses pedestrians with disabilities.

Elizabeth Wurfbain states that it is a great way to link up different parts of the street and refers to a consultant study that also suggests linking up the Town with the harbor. The Chief of Police also thought it was a great idea for the lighting on the Village Green. She shows pictures in other communities similar to what they are proposing.

Marina Atsalis is opposed to the warm glow lighting and thinks it should be bright white. Cheryl Powell thinks it is more for ambience and will be a warm white. Atsalis wants to know if they will be up all year long and how long the ropes will be on each lamppost. Wurfbain explains that the color of the lights will be a warm white similar to what is displayed in Newburyport and Portland, will be an installation and will remain until they change it. Each strand will be cut to 37 feet for each pole.

Findings:

Motion is made by Jonathan Kanter and seconded by Timothy Ferreira to find that this application is compatible with the preservation and protection of the district

Vote by hand:

AYE: Cheryl Powell, Jonathan Kanter, Cecelia Carey, Timothy Ferreira

NAY: None

ABSTAINED: Taryn Thoman, Marina Atsalis

Motion is made by Cecelia Carey and seconded by Jonathan Kanter to approve the certificate of appropriateness

Vote by hand:

AYE: Cheryl Powell, Jonathan Kanter, Cecelia Carey, Timothy Ferreira

NAY: None

ABSTAINED: Taryn Thoman, Marina Atsalis

CERTIFICATE OF APPROPRIATENESS IS APPROVED

Brandi Williams d/b/a 606 Thrift Ave – 606 Main Street, Hyannis – Map 308 Parcel 066

Sign

Motion to continue to June 19, 2019 at 6:30 PM is made by Taryn Thoman and seconded by Cecelia Carey

Vote by hand:

AYE: Cheryl Powell, Taryn Thoman, Marina Atsalis, Timothy Ferreira, Cecelia Carey, Dave Columbo

NAY: None

ABSTAINED: None

CONTINUED TO JUNE 19, 2019 AT 6:30 PM

Shannon Connolly d/b/a Bugg's Place Toys – 616 Main Street, Hyannis – Map 308 Parcel 063

Sign

Shannon Connolly gives a summary of her project which will be a specialty store dealing with educational items and toys. She will also hold classes and provide information to parents about early childhood development as well as hosting game nights. Her store will be based on lady bugs which was also the theme of her previous stores. Dave Columbo asks where the sign will be located. Paul Wackrow shows a picture of the hanging device outside up high and over the door from which the sign will hang. Ms Connolly explains that she will be making the sign and that it will consist of three colors, will have prefabricated lettering and asks also, if this committee finds to approve it, that she will add iridescent fine glitter. The finish will be either satin or matte.

Findings:

Motion is made by Jonathan Kanter and seconded by Taryn Thoman to find that this application is compatible with the preservation and protection of the district

Vote by hand:

AYE: Cheryl Powell, Taryn Thoman, Marina Atsalis, Jonathan Kanter, Cecelia Carey, Timothy Ferreira, Dave Columbo

NAY: None

ABSTAINED: None

Motion is made by Cecelia Carey and seconded by Jonathan Kanter to approve the certificate of appropriateness

Vote by hand:

AYE: Cheryl Powell, Taryn Thoman, Marina Atsalis, Jonathan Kanter, Cecelia Carey, Timothy Ferreira, Dave Columbo

NAY: None

ABSTAINED:

CERTIFICATE OF APPROPRIATENESS IS APPROVED

Other Business

Approval of May 1, 2019, Minutes (tabled from May 15, 2019)

Motion is made by Taryn Thoman and seconded by Dave Colombo to table the minutes to the June 19, 2019 meeting.

Vote by hand:

AYE: Cheryl Powell, Taryn Thoman, Marina Atsalis, Jonathan Kanter, Cecelia Carey, Timothy Ferreira, Dave Columbo

NAY: None

ABSTAINED:

TABLED TO JUNE 19, 2019 AT 6:30 PM

Old Business

Referrals to Building Dept.

Dave Columbo notes that he has found two locations on Main Street which have both done improvements without the benefit of approval from this committee which are:

- **the building which houses a new Italian restaurant that was previously the Island Merchant has painted the exterior bright yellow**
- **the cement type planters in front of the Egg & I are painted lime green and notes that the cement type planters were never previously approved**

Paul Wackrow explains that they can vote to send a referral letter to the businesses. However, he suggests getting more information for the next meeting to see if they ever came before this committee.

Matters not Reasonably Anticipated by the Chair

Next HHDC meetings scheduled for June 19, 2019; July 3, 2019

Adjournment

Motion is made by Taryn Thoman and seconded by Jonathan Kanter to adjourn

Vote by hand:

AYE: Cheryl Powell, Taryn Thoman, Marina Atsalis, Jonathan Kanter, Cecelia Carey, Timothy Ferreira, Dave Columbo

NAY: None

ABSTAINED:

Verizon Exhibits:

- Exhibit A – Map of Fall Zone from Deb Krau
- Exhibit B – Resume of George Maier from Orion Broadcast Solutions
- Exhibit C – Testimony of Kevan Williams – NEC Senior Systems Engineer
- Exhibit D – Letter dated June 3, 2019 from Felicia Penn
- Exhibit E – Pictures that were displayed on whiteboard by Paul Wackrow
- Exhibit F – Staff Report Updated April 25, 2019