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BOROUGH OF LITCHFIELD HISTORIC DISTRICT COMMISSION 2187
Litchfield, Connecticut 06759

The Borough of Litchfield Historic District Commission held **Public Hearings** on **Thursday, May 04, 2023** at the First Congregational Church Pilgrim House, 21 Torrington Road, Litchfield, Connecticut. The hearings were called to order by Commissioner, Julia Metcalf, at 7:00pm.

Present were Commissioners Julia Metcalf, Wendy Simoncelli, Glenn Hillman, Tony Cecchinato and Alternate Commissioner Norman Ambrose-Sauer.

Mr. Hillman made a motion to seat Mr. Ambrose-Sauer as a regular Commissioner. Seconded by Ms. Simoncelli. Motion carried.

Also present were Cassie Simoncelli, Priscilla Jeffery, Caylin Jensen, Courtney Murray, Danielle Mailer, Peter McEachern, Rosie Furniss, Elizabeth Warner, Steven Bryne, Nicole Bryne, Schuyler Samperton, Mark Lazard, Steve Simonim, Pete Dauten, Burke Gibney, Matt Moran, Scott Bond, Danielle Torres, and John Kinnear.

Mr. Hillman read the legal advertisement of each hearing as published. The Chair explained the procedure for conduct of the hearings and described each application.

1. The public hearing, published April 28, 2023 in the Republican American, Application #2391, Litchfield Housing Trust, 42 Tannery Brook Rd., to replace the roof and install new windows, convened at 7:00pm. The Commission reviewed the application.

There being no further members of the public present to speak in regard to the application, the public hearing was adjourned at 7:02pm.

2. The public hearing, published April 28, 2023 in the Republican American, Application #2395, Denise Raap and David Vigeant/The Old Village Inn LLC, 25 West St., for the installation of a large mural on the west/alley facade, convened at 7:02pm. The Commission reviewed the application with members from the Litchfield Arts Council, Priscilla Jeffery, Caylin Jensen, Courtney Murray, muralist Danielle Mailer, and Peter McEachern.

Danielle Mailer introduced herself and highlighted the 3 murals that she has created in the area – two in Torrington and one in New Milford.

The Litchfield Arts Commission answered the question that the HDC had asked at the last meeting regarding how the mural will be attached to the brick wall. The multiple light weight Diebond pieces will be attached via tap-con screws into the

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bricks and/or mortar joints of the wall. Four to six screws per figure will be used – but this quantity will be checked. The largest mural figures will be assembled from up to four sheets of Diebond. The mural pieces will be attached very closely to the wall with no space/air flow behind the mural.

Additional questions were asked by the Commission and answered by the Arts Council and muralist. Re maintenance, the Litchfield Arts Council will be financially and operationally responsible for maintenance. In the event of graffiti on the mural, the Arts Council will work with the muralist to clean it up as needed. The mural will have a semi-glossy finish which should enable graffiti removal. Re other murals in the area, the other murals are not located on historic/old brick buildings.

The Arts Council highlighted the CT Magazine article about murals in CT.

Motion made by Mr. Hillman to contact the CT Circuit Writer to assess the building on which the mural will be affixed. Seconded by Mr. Ambrose-Sauer. Motion carried unanimously.

Ms. Simoncelli read into the record excerpts from an article entitled, Historic Preservation Considerations for Murals, by Leigh Burns, Director of Fox Theater Institute. In summary, key considerations include installing a mural on a non-historic building, rather than a historic building; should follow treatment recommendations documented in the Secretary of the Interior Standards for Treatment of Historic Properties; should not become a reliant theme whereby a theme or art is applied to all buildings, and should have clearly defined responsibility for maintenance and a documented maintenance plan. Full article is attached.

Steven Byrne, Attorney for the Litchfield Borough and the HDC, read into the record his letter addressing two questions raised by the HDC regarding murals. One question was whether the Commission can regulate murals and an additional question was if/how the Commission can regulate murals without violating any constitutional rights of the applicant. In summary the conclusions were the following: the Commission can apply its regulations in order to determine whether a certificate of appropriateness should be granted – and – while the mural does come within those constitutional protections afforded to free speech, this does not prevent this Commission from applying its regulations to this application as it would to other applications that come before it. Letter is attached.

Stephen Simonin from Northfield - Opposed. He stated that he doesn't believe a modern mural with a 15 foot runner is appropriate on a historic building in the

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historic district. He made the suggestion to put the mural inside the halls of one of the schools or the town hall. Believes that it will be too flashy and distracting.

Rosie Furniss - Opposed. Personally does not think it is appropriate for the Town of Litchfield. She stated that the mural is not appropriate for the town and believes it would set a bad precedence for allowing many murals. She stated that she is all for the Arts, but not for this project.

Pete Dauten, Bantam - Opposed. He raised the issue of the fact that the location of the mural is above a driveway, which is a right of way for delivery trucks and other traffic. The mural would be something that people would be standing and viewing and this would present a safety issue for adults and children as delivery trucks are attempting to use that alleyway for deliveries. Location is a very busy area.

Burke Gibney, Litchfield - Opposed. He said he found the site to be odd, as it is a driveway and not the proper place to view a mural. His biggest concern is the precedence that allowing one mural sets for other businesses and homeowners. He thinks that the mural would be incongruous with the historic nature of the town, and if approved any future application for murals will need to be approved. Does not want that happening in town, specifically in the historic district and would be more appropriate for this to be installed in Bantam which is the 'official town art district'. He supports the Arts and applauds the efforts, but he strongly encourages the denial of this application.

Matt Moran, Litchfield - In favor of the mural. If denied, it would also set a negative precedence against tourism. A lot cheaper to fix something that is fixated to the building than something that is painted directly onto the building. Believes this mural will usher people into the town.

Peter McEachern spoke and noted that the mural is able to be removed. He also commented on the importance of history and that history is not static – it keeps moving forward.

There being no further members of the public present to speak in regard to the application, the public hearing was adjourned at 7:55pm, but the public hearing will be continued at the next meeting on May 18, 2023.

3. The public hearing, published April 28, 2023 in the Republican American, Application #2396, Richard and Rosie Furniss, 39 Wolcott St., for the installation of privacy fences, convened at 7:57pm. The Commission reviewed

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the application with Rosie Furniss. A modification to existing application was made and reviewed with the Commission.

There being no further members of the public present to speak in regard to the application, the public hearing was adjourned at 8:03pm.

4. The public hearing, published April 28, 2023 in the Republican American, Application #2397, Nick Priola, 118 West St., for installation of new windows, convened at 8:04pm. The Commission reviewed the application.

There being no further members of the public present to speak in regard to the application, the public hearing was adjourned at 8:05pm.

5. The public hearing, published April 28, 2023 in the Republican American, Application #2399, Schuyler Samperton and Mark Lazard, 63 Old South Rd., for reconfiguring the driveway and adding a fence, convened at 8:05pm. The Commission reviewed the application with the applicants.

There being no further members of the public present to speak in regard to the application, the public hearing was adjourned at 8:08pm.

6. The public hearing, published April 28, 2023 in the Republican American, Application #2400, Borough of Litchfield, West St., for replacing 13 light fixtures and poles along the sidewalks of West and South Streets, convened at 8:08pm. The Commission reviewed the application. This is to replace the non-historically appropriate and glaring bright lights installed by Eversource, by mistake, without approval.

There being no further members of the public present to speak in regard to the application, the public hearing was adjourned at 8:09pm.

7. The public hearing, published April 28, 2023 in the Republican American, Application #2401, Elizabeth Warner, 98 Meadow St., for replacing windows, garage doors, and siding on the barn, convened at 8:09pm. The Commission reviewed the application with Elizabeth Warner.

Rosie Furniss- in favor of the application.

There being no further members of the public present to speak in regard to the application, the public hearing was adjourned at 8:13pm.

8. The public hearing, published April 28, 2023 in the Republican American, Application #2402, Elizabeth Warner, 98 Meadow St., to replace house windows

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and replace door with a window, convened at 8:13pm. The Commission reviewed the application with Elizabeth Warner.

Rosie Furniss - two thumbs up.

There being no further members of the public present to speak in regard to the application, the public hearing was adjourned at 8:16pm.

9. The public hearing, published April 28, 2023 in the Republican American, Application #2403, Elizabeth Warner, 98 Meadow St., for moving the driveway and adding gravel, convened at 8:17pm. The Commission reviewed the application with Elizabeth Warner. The driveway will not be moved, just re-graveled. The Applicant has withdrawn the application for a Certificate of Appropriateness in favor of a request for a waiver.

There being no further members of the public present to speak in regard to the application, the public hearing was adjourned at 8:19pm.

Respectfully submitted,
Glenn Hillman, Clerk

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BOROUGH OF LITCHFIELD HISTORIC DISTRICT COMMISSION 2187 Litchfield, Connecticut 06759

The **Regular Meeting** of the Borough of Litchfield Historic District Commission was held at the First Congregational Church Pilgrim House, 21 Torrington Rd, Litchfield, Connecticut on **Thursday, May 04, 2023.**

I. Call To Order

Chair Metcalf called the meeting to order at 8:20pm.

II. Recording of Attendance

Present were Commissioners Julia Metcalf, Wendy Simoncelli, Glenn Hillman, Tony Cecchinato, and Norman Ambrose-Sauer.

Also present were Cassie Simoncelli, Priscilla Jeffery, Caylin Jensen, Courtney Murray, Danielle Mailer, Peter McEachern, Rosie Furniss, Elizabeth Warner, Steven Bryne, Nicole Bryne, Schuyler Samperton, Mark Lazard, Steve Simonim, Pete Dauten, Burke Gibney, Matt Moran, Scott Bond, Danielle Torres, and John Kinnear.

III. Business Pertaining To Certificates of Appropriateness

1. Application #2391, Litchfield Housing Trust, 42 Tannery Brook Rd., to replace the roof and install new windows, Motion made by Mr. Hillman to approve the application as submitted. Mr. Cecchinato seconded. Motion carried.

The roll call vote was: Metcalf - yea Simoncelli - yea, Hillman - yea, Cecchinato - yea, Ambrose-Sauer - yea. The Certificate of Appropriateness is hereby issued for work described in said application as stipulated and is valid for one year from approval.

2. Application #2395, Denise Raap and David Vigeant/The Old Village Inn LLC, 25 West St., for the installation of a large mural on the west/alley façade. The public hearing is held over to the next meeting.

3. Application #2396, Richard and Rosie Furniss, 39 Wolcott St., for the installation of privacy fences. Motion made by Mr. Ambrose-Sauer to approve the application as submitted and seconded by Mr. Hillman. Motion carried.

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The roll call vote was: Metcalf – yea, Simoncelli - yea, Hillman - yea, Cecchinato – yea, Ambrose-Sauer - yea. The Certificate of Appropriateness is hereby issued for work described in said application as stipulated and is valid for one year from approval.

4. Application #2397, Nick Priola, 118 West St., for installation of new windows. Motion made by Ms. Simoncelli to approve the application as submitted and seconded by Mr. Hillman. Motion carried.

The roll call vote was: Metcalf – yea, Simoncelli - yea, Hillman - yea, Cecchinato – yea, Ambrose-Sauer - yea. The Certificate of Appropriateness is hereby issued for work described in said application as stipulated and is valid for one year from approval.

5. Application #2399, Schuyler Samperton, 63 Old South Rd., for reconfiguring the driveway and adding a fence. Motion made by Mr. Ambrose-Sauer to approve the application as submitted and seconded by Mr. Cecchinato. Motion carried.

The roll call vote was: Metcalf – yea, Simoncelli - yea, Hillman - yea, Cecchinato – yea, Ambrose-Sauer - yea. The Certificate of Appropriateness is hereby issued for work described in said application as stipulated and is valid for one year from approval.

6. Application #2400, Borough of Litchfield, West St., for replacing 13 light fixtures and poles along the sidewalks of West and South Streets. Motion made by Mr. Cecchinato to approve the application as submitted and seconded by Mr. Hillman. Motion carried.

The roll call vote was: Metcalf – yea, Simoncelli - yea, Hillman - yea, Ambrose-Sauer - yea. Cecchinato- yea. The Certificate of Appropriateness is hereby issued for work described in said application as stipulated and is valid for one year from approval.

7. Application #2401, Elizabeth Warner, 98 Meadow St., for replacing windows, garage doors, and siding on the barn. Motion made by Ms. Simoncelli to approve the application as submitted and seconded by Mr. Ambrose-Sauer. Motion carried.

The roll call vote was: Metcalf – yea, Simoncelli - yea, Hillman - yea, Cecchinato – yea, Ambrose-Sauer - yea. The Certificate of Appropriateness is hereby issued for work described in said application as stipulated and is valid for one year from approval.

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8. Application #2402, Elizabeth Warner, 98 Meadow St., for replacing house windows and replacing a door with windows. Motion made by Mr. Cecchinato to approve the application as submitted. Seconded by Mr. Ambrose-Sauer. Motion carried.

The roll call vote was: Metcalf – yea, Simoncelli - yea, Hillman - yea, Cecchinato – yea, Ambrose-Sauer - yea. The Certificate of Appropriateness is hereby issued for work described in said application as stipulated and is valid for one year from approval.

9. Application #2403, Elizabeth Warner, 98 Meadow St., for adding gravel to driveway, as is. Withdrawn by applicant and made into a waiver by the Commission.

The roll call vote was: Metcalf – yea, Simoncelli - yea, Hillman - yea, Cecchinato – yea, Ambrose-Sauer - yea. The Certificate of Appropriateness is hereby issued for work described in said application as stipulated and is valid for one year from approval.

IV. Other Business Public Participation

A. Applications

1. Application #2404, Russell Barton, 43 West St., for new signs for the Byrde Hair + the b tenant. The Commission reviewed the application with the applicants Scott Bond and Danielle Torres.
2. Update to Application #2338, Belden House Holdings LLC, 31 North St., for placement and screening of mechanicals. The Commission reviewed the application with John Kinnear, Architect.
3. Application #2405, Anthony Champalimaud, 115 North St, for adding a fence to shield the propane tank and adding a gravel loop to the driveway. The Commission reviewed the application with John Kinnear, Architect.
4. Waiver for Valerie Chausse, 61 Gallows Lane, for window replacement in kind. The Commission reviewed the application.
5. Application #2406, Nick Priola, 131 Old South Rd., for new roof. The Commission reviewed the application.
6. Application #2407, Jean Leahey, 122 Woodruff, for replacing the front door and storm door. The Commission reviewed the application.

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B. Other business

V. Correspondence

VI. Approval of Minutes

Motion to approve the Minutes from April 20, 2023 as is made by Ms. Simoncelli and seconded by Mr. Hillman. Motion carried unanimously.

VII. Adjournment

There being no further business, the meeting was adjourned at 9:00pm on a motion by Mr. Hillman, seconded by Mr. Ambrose-Sauer and unanimously carried.

Respectfully submitted,
Glenn Hillman, Clerk

Historic Preservation Considerations for Murals

Leigh Burns, Director, Fox Theatre Institute

Below are a list of suggestions, questions and considerations when considering adding murals as an artistic feature of local historic districts as well as National Register of Historic Places Districts. A reminder that before you begin these projects a historic building may be individually listed on the National Register of Historic Places or individually landmarked by your local historic preservation commission individually or as part of a larger district.

Consider the following in planning mural installation.

- Is the building listed locally in the historic district? If so, have you sought involvement from the local planning office and the historic preservation commission chair to find out if the building is even permitted to have a mural. Many local districts include the review of mural and art installation and if so, do you have that process and paperwork completed? If the mural is to be painted on a historic building the applicant should consider moving the mural to a non-historic, non-contributing building to the local or national register historic district. Historic buildings have finishes and fenestration that contribute to the overall aesthetic to the building and to the larger district. These locations, on significant historic properties should not be the first location for murals.
- If the building for installation is historic and has a historic mural, that mural should be repainted or reapplied as the art or advertisement applies to that type, style or period of not just architecture, but social history of the community. The building should not have a new mural, but convey the historic message of the building.
- If the approval is given for an installation on an historic building, these precautions and best practices should be used:
 - The applicant should use treatment recommendations in the Secretary of the Interior Standards for Treatment of Historic Properties and that information may be found here <https://www.nps.gov/tps/standards/treatment-guidelines-2017.pdf>
 - Painting and installation materials that are used should always be reversible, and the building service should not be harshly cleaned, stripped or compromise the masonry of the building. If possible, the mural could be installed on a surface of a temporary film and applied. This means the film could be easily removed and research into this process could be supported by the Historic Preservation Commission and the applicant together.
- If an HPC (Historic Preservation Commission) reviews murals and approves murals then the city or county municipalities should be aware that murals should not become a reliant historic theme, or use the process to begin applying a theme and art to all buildings. These changes affect the historic feel of the city and all the architecture within the district. Each mural should be treated as a case by case approval and not part of a larger, mass approval. Each mural should be significant individually and not become a “petting zoo” type of environment for murals.
- It is important to note who will be responsible to maintain the mural. Who is financially responsible for keeping the mural painted, cleaned and clear of potential graffiti? The city or county government should apply the same policies for neglect of public art and maintenance

that they do for landscape and buildings. As part of the mural plan for instillation the applicant should submit a maintenance plan to the local permitting authority.

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February 23, 2023

Julia Metcalf, Chair
Litchfield Historic District Commission
P.O. Box 913
28 Russell Street
Litchfield CT 06759

Re: Regulation of Murals

Dear Ms. Metcalf:

The Litchfield Arts Council has filed an application to install a mural on the side of the Village Restaurant. The mural would be composed of 4 separate figures, all of whom are pictured as running. The mural would not be painted directly on to the surface of the building. Instead, the figures composing the mural would be painted on "Diebond" and then mounted to the wall. The mural is to become a permanent part of the building it is affixed to.

A question raised was whether the Commission can regulate murals. A follow-up question is how the Commission can regulate murals without violating any constitutional rights of the applicant.

Commission's Jurisdiction

The Commission's regulations provide the scope of its authority. Article II.B. states what work requires a certificate of appropriateness [COA] from the Commission. The work that requires a COA includes the erection, alteration or changes to buildings or structures as well as the installation of a new sign, unless the sign is temporary [Article II.C.4].

While murals installed in historic districts have been viewed as signs¹, the Commission could also treat this mural as an alteration or change to an existing building. Either way, the Commission has the authority to decide whether the application should be approved or denied.

Freedom of Expression and Historic Districts

Murals, such as the one proposed by this application, are viewed by our courts as embodying artistic expression and therefore protected as speech by the State and U.S. Constitutions. However, speech can be regulated pursuant to the proper exercise of police powers by government agencies.

¹ *Burke v. City of Charlestown*, 893 F. Supp. 589 (1995).

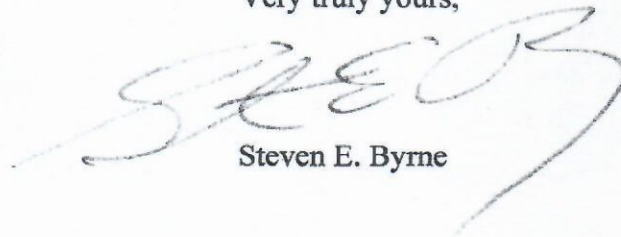
This includes the government regulation of private property in the interest of historic preservation.² Courts have long recognized that “structures with special historic, cultural or architectural significance enhance the quality of life for all”³ and it is a valid exercise of the police powers of the state to protect this public interest.

In the exercise of this police power, a government agency can impose reasonable restrictions on the time, place and manner of speech. Such restrictions are consistent with the First Amendment to the U.S Constitution as long as they serve a legitimate government interest. These interests include aesthetic interests as well as the promotion of tourism, both of which are served by the preservation and protection of the distinctive characteristics of buildings and places associated with the history or indicative of a period of architecture of a municipality.

The Pending Application

Whether this Commission views the application by the Litchfield Arts Council as an application to alter a historic building or install a sign, the Commission can apply its regulations in order to determine whether a certificate of appropriateness should be granted. While the mural does come within those constitutional protections afforded to free speech, this does not prevent this Commission from applying its regulations to this application as it would to other applications that come before it.

Very truly yours,



Steven E. Byrne

² Connecticut General Statute Sec. 7-147a(b) provides in part that a municipality has the authority to create an historic district

³ *Penn Central Transport Co. v. New York*, 438 U.S. 104 (1978).