

**BOROUGH OF NEWTOWN
NEWTOWN, CONNECTICUT**

Minutes of the Annual Meeting of the Borough of Newtown Board of Burgesses on Tuesday, September 14, 2021 at Edmond Town Hall, Newtown. Warden Jay Maher called the meeting to order at 7:32 p.m.

Present: Warden Jay Maher, Senior Burgess Chris Gardner, Burgess Anthony Baiad, Burgess Jim Gaston, Burgess Sarah Phillips, Burgess Jarod Modzelewski, Treasurer Paula Brinkman, Tax Collector Jodie Enriquez and Clerk Ann Scaia.

Absent: Burgess Bill Lucas and Tree Warden Rob McCulloch.

Also Present: 1 member of the public.

Warden Maher identified the annual reports submitted by the following departments/commissions: Engineering, Conservation, Fire Marshall, Historic District, Zoning Commission, and Zoning Board of Appeals. An annual report from the Building and Health Department was not received by the time of the annual meeting.

Warden Maher asked that the Board look over the reports and asked if there were any questions.

He thanked the Board, Commissions, and Sub-Committees for all their hard work. The Fire Marshal's office conducted 5 school inspections, 2 Day Care inspections, 9 inspections at churches & church buildings, 30 inspections at the 19 Main Street Restaurant & Apartments, 20 inspections at 11 Church Hill Road, 110 inspections at business and professional buildings and inspections at miscellaneous locations. The Zoning Commission noted approval of text amendments at the October 28, 2020 meeting which is outlined in the document entitled, "Borough of Newtown Zoning Regulations for Accessory and Detached Apartments". The Zoning Commission also submitted applications to add "Article 13, Borough Landmark Buildings (BLB) Floating Zone" to zoning regulations to establish procedure for the Newtown Board of Selectmen to request specific municipal buildings be designated as landmark buildings and for Edmond Town Hall to be designated as a Landmark Building. The applications were approved at the April 12, 2021 meeting. The Historic District held two public hearings during the 12-month period: 1) Repair & Restoration of 19 Main Street; 2) Addressing a newly installed fence at 32 Main Street. The Zoning Board of Appeals noted there were no applications for variances and the Conservation Director, who also acts as the Borough Zoning Enforcement Official outlined 20 site plan reviews, 39 site inspections and 2 violation inspections as it relates to Inland Wetlands. He also conducted 43 site plan reviews and 23 site design meetings as it relates to Borough Planning and Zoning. Ron Bolmer, Borough Engineer, noted continued construction designs and inspections for various projects, assisted various agencies and property owners with determining road right of ways and property lines and determining where sewer lines and laterals are located as well as other public utilities and continued to investigate road and drainage complaints from homeowners.

Burgess Gaston made a motion to accept the annual reports, seconded by Senior Burgess Gardner and unanimously approved.

There being no further business, Senior Burgess Gardner made a motion to adjourn the Annual Meeting at 7:37 p.m., seconded by Burgess Baiad and unanimously approved.

Respectfully submitted,

Ann Scaia
Borough Clerk

Conservation Director / Zoning Enforcement Official Annual Report for the Borough of Newtown 2020 - 2021

The Conservation Director for the Borough of Newtown acts as the agent for the Inland Wetlands Agency, Aquifer Protection Agency, and Forest Practices Agency. The Conservation Director is also responsible for federal reporting and local regulations for flood plain management. The Borough Zoning Official is the agent for the Borough Zoning Commission.

A summary of the actions of the Agent and the commissions in the Borough of Newtown during this past year:

I. Inland Wetlands –

- Agent

- 20 Site Plan Reviews
- 39 Site Inspections
- 2 Violation Inspections

- Commission

- 2 permit approvals
- 0 permit denials
- Amount of wetlands for alteration – 0.3 Acres
- Amount of linear stream for alteration – 0F
- Amount of created wetlands for mitigation – 0.6 Acres

II. Borough Planning/Zoning –

- Agent

- 43 Site Plan Reviews
- 23 Site Design Meetings

III. Flood Plain –

- Agent

- 3 Site Plan Reviews
- 8 FEMA Reviews
- 2 Meetings with DEEP/FEMA on municipal responsibilities

Respectfully Submitted,

Robert Sibley

Conservation Director / ZEO, Borough of Newtown

August 31, 2021

3 PRIMROSE STREET
NEWTOWN, CONNECTICUT 06470
TEL. (203) 270-4260
FAX (203) 270-1528



RICHARD FRAMPTON
FIRE MARSHAL

TOWN OF NEWTOWN

ANNUAL REPORT BOROUGH OF NEWTOWN JULY 1, 2019 TO JUNE 30, 2020

During the past fiscal year the following activities were conducted by the Fire Marshal's Office

5	School Inspections
2	Day Care Center Inspections
9	Churches and Church Building Inspections
10	St. Rose Church – Construction Inspections- Site Plans review, Building plans review and Site Inspections
30	Church Hill Village Construction inspections-Site Plan, Building Plan Reviews, Site inspections
2	Lexington Garden- Tenant Fit outs-Plan Review-Building Inspections
3	11 Church Hill Rd.- Building plan reviews, site inspections
01	Group Home Inspection
104	Business and Professional Building Inspections
12	Open Burn Permits

Richard Frampton, Fire Marshal
August 14, 2020

***Borough of Newtown
Zoning Commission
Newtown, Connecticut 06470***

August 31, 2021

Jay Maher, Warden
Borough of Newtown
P.O. Box 164
Newtown, CT 06470

Re: Annual Report for Borough of Newtown Zoning Commission

Dear Warden Maher:

I submit the following information regarding the period July 1, 2020 through June 30, 2021:

- Borough of Newtown Zoning Commission submitted an application for text amendment to the Borough of Newtown Zoning Regulations by: (1) adding definitions for “kitchen facilities”, “roomer or boarder” and “transient lodging”; (2) adding Paragraph 4.07F regarding one accessory (attached) apartment to a single family dwelling; and (3) adding Paragraph 4.06L regarding one detached accessory apartment. Said proposed text amendments were described in a document entitled “Borough of Newtown Zoning Regulations for Accessory and Detached Apartments Draft (Rev 9/9/20)”. The text amendments were approved, with amendments, at the 10.28.2020 meeting.
- Borough of Newtown Zoning Commission submitted an application for text amendment to the Borough of Newtown Zoning Regulations by: (1) delete reference to two (2) occupants in Paragraphs 4.07.G.1.c and in 4.07.F.4; and (2) in Paragraph 4.07.G.1.a delete "(1) acre and be" and replace with "and a half (1.5) acres unless". Said proposed text amendments were described in a document entitled “Borough of Newtown Zoning Regulations For Accessory and Detached Apartments Proposed Text Amendments 02.10.2021”. The proposed text amendments, as presented, were approved at the 03.10.2021 meeting.
- The Town of Newtown submitted an application to add “Article 13, Borough Landmark Buildings (BLB) Floating Zone” to zoning regulations to establish a procedure for the Newtown Board of Selectmen to request that specific municipal buildings be designated as landmark buildings. The Town of Newtown also submitted an application to apply Article 13 to Edmond Town Hall for a Landmark Building designation with proposed permitted uses. At the 04.14.2021 meeting, the following was approved: (1) the application to add Article 13 was approved,

Jay Maher, Warden
Borough of Newtown
Page 2
August 31, 2021

as amended; (2) the application to designate Edmond Town Hall as a landmark building in accordance with Article 13 of the Borough zoning regulations; and (3) the application of proposed permitted uses pursuant to Article 13, as amended.

If you should have any questions, please do not hesitate to contact me.

Very truly yours,

Doug Nelson

Douglas Nelson
Chairman

/mco

c: Rob Sibley, Borough ZEO

***Borough of Newtown
Zoning Board of Appeals
Newtown, Connecticut 06470***

August 31, 2021

Via Email Only

Board of Burgesses
Borough of Newtown
P.O. Box 164
Newtown, CT 06470

Re: Annual Report for Borough of Newtown Zoning Board of Appeals

Dear Ladies and Gentlemen:

During the period July 1, 2020 through June 30, 2021, there were not applications.

Should you need anything else, please do not hesitate to contact me.

Very truly yours,

John

John Madzula
Chairman

/mco

BOROUGH OF NEWTOWN
NEWTOWN, CT 06470

August 10, 2020

Ann Scaia
Borough Clerk
Borough of Newtown
P.O. Box 164
Newtown, CT 06470

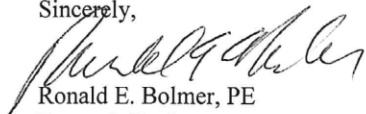
RE: Annual Report

Dear Ms. Scaia:

In the past year I have been involved with the following:

1. Continuing construction designs and inspections for various projects. These designs and inspections include road/drainage projects as well as driveways and development sites.
2. Assist various agencies and property owners with determining road right of ways and property lines.
3. Assist property owners in determining where sewer lines and laterals are located as well as other public utilities. Issue permits to homeowners and public utility companies in order to tie into or install utilities in the Town right of way.
4. Continue to investigate road and drainage complaints from homeowners. Work with the Public Works Department in resolving these issues.
5. Engineering reviews and inspections for various development projects. These include the Lexington Garden project, the Assisted Living Facility on Church Hill Road and The Boulevard and the sidewalk project.

Sincerely,



Ronald E. Bolmer, PE
Borough Engineer

*The Borough of Newtown
Historic District Commission
Newtown, Connecticut
Est. 1996*

August 15, 2021

Elizabeth Shapiro
Director of Arts & Historic Preservation &
Secretary, Historic Preservation & CT Freedom Trail Connecticut Commission on Culture and
Tourism
One Constitution Plaza, 2nd Floor
Hartford, CT 06103
Elizabeth.Shapiro@ct.gov

Re: Borough of Newtown Historic District Annual Report of Activity

Dear Ms Shapiro,

Enclosed please find the Report of Activity for the Borough of Newtown Historic District (BNHDC) for the period July 1, 2020 to June 30, 2021. A full list of Commission members, alternates, and consultants follows.

Please contact me if you have any questions regarding this report or if you require my assistance with matters pertaining to the BNHDC.

Regards,

Mark P. Poirier
Secretary
Borough of Newtown Historic District Commission
53 Main Street
Newtown, CT 06470
(203) 270-9916
markppoirier@hotmail.com

cc: Ann Scaia, Borough Clerk

Regular Business:

- The commission held two public hearings during this 12-month period:
 - July 9, 2020
 - 19 Main Street llc for 19 Main Street: repair and restoration of the existing building (formerly dba Mary Hawley Inn) to include a restaurant in the front and seven apartments in the rear wing.
 - The application was approved as presented in the application.
 - April 21, 2021
 - 32 Main Street (Robin and Jason Lynch) for a fence: 450 feet (approx.) of 4 ft. high cedar split rail [sic] fencing installed at the side and back of property (not extending past the front of the house).
 - The hearing was continued to May 6.
 - May 6, 2021
 - 32 Main Street (Robin and Jason Lynch); continued from April 21
 - The BNHDC hired a historical landscape specialist recommended by the Connecticut Trust for Historic Preservation to consult.
 - The hearing was continued to May 27.
 - May 27, 2021
 - 32 Main Street (Robin and Jason Lynch); continued from May 6.
 - The following statement including motion was read into the record and approved by the commission by a vote of 4 to 1:
 - The Applicants, Jason and Robin Lynch have submitted an Application for a Certificate of Appropriateness for the erection of a “4 foot high cedar split rail fencing” to be installed to the side and back of property within the boundaries of the property line, not extending past the front of the actual house, on the property of 32 Main Street, Borough of Newtown, CT. Said Application was submitted April 7, 2021. On April 7, 2021, the Applicants prior to filing an application were informed by Historic District counsel that they needed a Certificate of Appropriateness as at that time approximately 70% - 80% of the fence had been erected. The Applicants represented to counsel that the Borough Zoning enforcement officer had given them “the Green light” to erect the fence zoning-wise. The Applicants informed the zoning enforcement officer that their property was in the Borough of Newtown Historic District. The zoning enforcement officer represented that they had a green light as for zoning. The Applicant’s assumed correctly that a Historic District is part of zoning per statute, ordinance and regulations. The zoning enforcement officer challenges whether a Historic District is part of a municipalities zoning. Upon Historic District counsels April 7, 2021, meeting with the Applicants at their premises the applicants never mentioned any disability or child concerns. The Applicant’s did emphasize that they needed the fence to contain their two dogs. Counsel provided contact information to secure the Application for Certificate of Appropriateness that the Applicants exercised. The Applicant’s thanked Counsel for the information. The Applicant’s proceeded to continue with the 20% - 30%

completion of the fence despite notification of the necessity of a Certificate of Appropriateness. In addition to the fencing the Applicants have added green wiring within the fencing, not included in the Applicants Application. Numerous evidentiary photographs document the fencing and interior wiring, as well as house and abutting property structure.

- The fencing referenced in the Application and erected is not “4 ft. high cedar split rail fencing.” It is actually a three-level farming Round Rail fencing, identical to the fence at Stew Leonard’s Danbury animal farm.
- The first public hearing was duly noticed and conducted on April 21, 2021, and continued to May 6, 2021. The May 6, 2021, meeting was duly continued upon the request of the Applicants as they indicated they sought time to secure legal representation. Shortly thereafter, the Applicants notified the Commission Chairperson that they were not seeking legal representation. We are now here regarding the continued Public Hearing.
- For the Record, we accept the Public Record and documentation of 32 Main Street as a Colonial c. 1790 Post and beam construction, two-chimney style, fanlight over doorway. Originally owned and used as an Inn by Caleb Baldwin, Justice of the Peace and Town Clerk, Major in CT Militia, Newtown Representative to the General Assembly 1778. Later owned by Caleb Baldwin, Jr., who was Newtown’s first Postmaster 1800-1818 and succeeded his father as Town Clerk. Bordering the property is the Scudder Building 30 Main Street, formerly known as the Brick Building. Greek revival, c. 1845 Red brick, two stories, brickwork pilasters at corners, gabled roof with overhanging cornice. Formerly it was an antique reference library, now commercially maintained by the Bee Publishing Company, this structure was originally the town’s clerk’s office and probate court; evidence of an exterior stairway on south wall is visible. The first town library was installed on the second floor.
- Next, the erected 3 level Farm Round Railing fencing that extends on the northerly, easterly, southerly and westerly (street) boundaries of the property is visible from the street (Main Street). Therefore, pursuant to Connecticut General Statutes, ordinance and regulations the Borough of Newtown Historic District has jurisdiction over the historic appropriateness of it and whether to approve a Certificate of Appropriateness. The Commission finds that the rural, round farm style fencing intended to corral farm animals is inappropriate and not historically consistent with both the period properties of 30 and 32 Main Street, as well as the residential and commercial colonial and Early American period of the Historic District area. The Commission also finds that the westerly (street) portion of the fencing inappropriately breaks up the overall Historic District open lawnscape and presents an unbalanced historical view of 32 Main Street. Finally, the Commission finds that the fencing historically contrasts sharply with the historical red brick building at 30 Main Street.

- The next consideration of the Historic Commission is whether the Applicants have claimed any other affirmative defense contained in the Borough Historic District Commission Connecticut General Statutes, ordinance and regulations. It is inferred from the presentation of the Applicants as to the process of events that the Applicants are advocating an Economic Hardship. When an Applicant claims Economic Hardship the Chairperson may appoint a Committee to review the Applicant's Evidence of economic hardship, however it is not mandatory. The evidence in this matter is that the cost of the fencing was approximately \$18,000. The Commission takes notice that removal of the fencing would cost thousands of dollars and reinstallation of different type fencing would likely cost approximately a similar \$18,000. Of note, applicants may not create their own hardship. Although, the Applicants did create approximately 20% of their own hardship by continuing to erect the fencing despite notification of the necessity of a Certificate of Appropriateness, the substantial portion of the economic hardship was created by the misinformation provided by the Borough Zoning Enforcement officer who failed to inform them of the zoning/Historic District necessity of a Certificate of Appropriateness. In so far as an Economic Hardship, it is also the case that Applicants have a duty to mitigate damages and the Commission has the duty to take appropriate remedial measures given the circumstances.
- The Historic District Commission engaged Phillip Barlow, a historic landscape expert independently recommended by the liaison of the State of CT Historic Preservation and his report is included in the record.
- In accordance to the evidence, Connecticut General Statutes, Borough of Newtown Historic District Ordinances and Regulations, the Historic District Commission finds the following:
- 1) The Applicants application for a Certificate of Appropriateness for the fencing erected at 32 Main Street is approved with stipulations. The Stipulations are as follows:
 - (a) At minimum 30 inch high hedges are to be planted street side completely along the westerly (street) fencing so as to substantially conceal the westerly side fencing from the Main Street view; said cover is consistent with the recommendations of the historic landscaping expert recommended by the State of CT; In addition the applicants may choose from 3 shrubs recommended by the landscape expert; inkberry, Japanese holly or dense yew.
 - (b) Said hedges shall be installed within 30 days of today's Commission vote;
 - (c) Said hedges shall be continuously maintained and kept in good health by the Applicants and/or owners of 32 Main Street;
 - (d) The Applicants and/or owners of 32 Main Street shall have the right to resubmit proposed changes as to said westerly fence covering should good cause occur, and the Historic District Commission shall retain jurisdiction thereof;

- (e) Any failure to comply with the Stipulations shall result in a Cease and Desist Order issued upon the Applicants and/or owners of 32 Main Street to which there will be 30 days to comply. Failure to comply will result in the nullification of Approval of this Certificate of Approval and subject the Applicants and/or owners of 32 Main Street to remove all fencing visible from Main Street.

The Borough of Newtown Historic District Commission

Regular Commission Members updated 08/10/2021

Chair, Stephanie A. Gaston

18 Main Street
Newtown, CT 06470
203-417-4702

Sixth Term 07/15 – 07/26

Secretary 07/96 – 07/98

Chair 07/98 – present

Vice Chair, Betsy S. Kenyon

62 Main Street
Newtown, CT 06470
203-426-5709

Sixth Term 07/16 -07/26

Vice Chair 07/96 – present

Secretary, Mark P. Poirier

53 Main Street
Newtown, CT 06470
203-270-9916

Secretary 07/07 – present

Fourth Term 07/18 – 07/23

Charles Fulkerson

8 Currituck Road
Newtown, CT 06470
203-270-8492

Fifth Term 07/17 – 07/22

Ellen Whalen

65 Main Street
Newtown, CT 06470
203-426-6425

Fourth Term 07/19– 07/24

Alternate Commission Members

Karen Boyle

53 Main Street
Newtown, CT 06470
203-270-9916

Third term 7/19 – 7/23

Vacancy (2)

Consultants

Scudder Smith

57 Elm Drive
Newtown, CT 06470
203-426-4882

History/Research

James O. Gaston

18 Main Street
Newtown, CT 06470
203-417-5890

Legal