

Erin Zwirko

From: Edward F. Libby <Ed_Libby@msn.com>
Sent: Tuesday, February 22, 2022 5:34 PM
To: Erin Zwirko
Subject: 115 Portland St.

Erin,

I have the below comments regarding the application being reviewed tomorrow night by the Planning Board. Unfortunately I am unable to attend the zoom meeting, so I ask that you share them with the PB as soon as possible.

1. I feel strongly that IF the Town wishes to enact ordinances that intrude so much on private property rights and into private citizen's pocketbooks, that they should support whatever the public good sought with public money. In other words, if it is so important for Town folks driving down Portland Street to be able to observe a chimney rather than not, then the Town folks should provide financial support to that goal. I remember this being a primary concern of the public and the PB in developing this ordinance. It was one of the primary reasons to start with an advisory only ordinance. Without funding so support such a regulation, the public and the PB did not think it was fair to the private property owners.
2. It was my understanding from watching the historic preservation ordinance work its way through several PB meetings last year that the PB ultimately backed off from such an invasion of private property rights as they finalized their recommendation to the TC for the ordinance. That was done in deference to private property owners, public feedback received AND that the PB members honored the intentions of the townspeople by following the Comprehensive Plan's precise wording to NOT be regulatory. Rather, the Comp Plan specifically states any initial ordinance to be educational and *advisory* with historic preservation for now, and IF sometime in the future the Town experienced a pattern of loss of historic buildings, THEN consider something with more teeth. I assumed that type of policy was what we were getting but apparently something got changed since that was expressed by the PB based on public feedback. As you are aware, any ordinance that is adopted must be consistent with the Comp Plan, and this portion of the ordinance clearly is not, opening it up to legal challenge.
3. With regard to the ordinance, the other 3 instances within the ordinance with this type of prohibition require the Owner's cooperation. You can't get on the Nation Register, get official designation from Maine Historic Preservation Commission as "Eligible" or become a local landmark without the property owner's consent in the first place. There is a huge difference, I would say amounting to a "taking of private property rights", when the Town steps in to prohibit activity such as what this ordinance now says, against a property owner's will.
4. The Town has been a bit schizophrenic in its application of historic preservation. Last year the PB declared the building at 251 West Main Street to be a building of value during its review of a demolition request. The owner came back with a Contract Zone request that included preserving the very same house by working with Maine Preservation to establish a historic preservation easement as a public good, the PB rejected that idea, stating that historic preservation was NOT a public benefit, but rather a private benefit.
5. Finally, this applicant has been actively in front of the PB and Town staff with his proposal for close to 2 years. The ordinance being applied was adopted midstream in his effort. It would seem that the PB would have

some deference to the applicant considering that the ordinance was adopted just past this summer, well after he engaged the Town in this process.

Thanks,

Ed.