



## CAPE COD COMMISSION

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DATE: July 13, 2006

TO: Laura M. Boucher, Atty.  
Toabe and Riley  
P.O. Box 707  
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FROM: Cape Cod Commission

RE: Development of Regional Impact  
Cape Cod Commission Act, Sections 12 & 13

APPLICANT: Sylvia Habib  
Central Park North Family Limited Partnership  
62 West 62<sup>nd</sup> Street, #19B  
New York, NY 10023

PROJECT #: TR06008

PROJECT: Habib Historic Residence / 43 Holway Street, Chatham, MA

BOOK/PAGE: Book 19490 / Page 48

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### DECISION OF THE CAPE COD COMMISSION

#### SUMMARY

The Cape Cod Commission (Commission) hereby approves with conditions the application of Sylvia Habib for a Development of Regional Impact (DRI) pursuant to Sections 12 & 13 of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, for the proposed alteration and expansion of the historic residence at 43 Holway Street, Chatham, MA. The decision is rendered pursuant to a vote of the Commission on July 13, 2006.

#### PROJECT DESCRIPTION

The Habib Historic Residence, located at 43 Holway Street in Chatham, is a one and a half story wood frame building constructed circa 1850 in the Greek Revival style on approximately 1/4 acre of land. It is located within the Chatham Old Village Historic District and is listed as a contributing property on the State and National Registers of

Historic Places. The applicant proposes to renovate and alter the circa 1850 historic structure, demolish rear portions of the building that were constructed in the 20<sup>th</sup> century, and construct a large new addition to the rear.

### PROCEDURAL HISTORY

The project was referred to the Cape Cod Commission by Kevin S. McDonald, Director of Community Development on March 22, 2006 under Section 3(a) of the Cape Cod Commission DRI Enabling Regulations, Barnstable County Ordinance 90-12, as amended.

A duly noticed public hearing was conducted by the Commission pursuant to Section 5 of the Act by an authorized subcommittee of the Commission on May 18, 2006 in the Chatham Town Annex on George Ryder Road. The public hearing and record were closed on July 13, 2006.

At a duly noticed subcommittee meeting held on June 20, 2006, the subcommittee voted 3 to 0 to recommend to the full Commission that the proposed alterations and addition be approved with conditions. At the July 13, 2006 full Commission meeting, the Commission voted unanimously to approve the project as a DRI, subject to conditions.

### Materials submitted for the record

#### From the applicant:

- DRI application, with photographs, building elevations by Polhemun Savery DaSilva dated March 20, 2006, and site plan, received March 28, 2006.
- Revised building elevations for Habib Residence, showing change in dormer window height, dated Revised May 3, 2006, received May 9, 2006.
- Revised architectural drawings of Habib Residence, showing lower tower height, received June 6, 2006.
- Revised architectural drawings of Habib Residence, showing change in dormers on main house, dated Revised May 3, 2006, received June 13, 2006.
- Revised building elevations and roof plan for Habib Residence, showing change in bay window and lower height of dining room addition, dated Revised June 20, 2006, received June 30, 2006.

#### From Cape Cod Commission staff:

- DRI referral notification letter, dated March 31, 2006.
- DRI subcommittee notice, dated April 28, 2006.
- Staff Report, dated May 12, 2006.
- Subcommittee Memo re: subcommittee meeting and project update, dated June 13, 2006.
- Minutes of May 18, 2006 public hearing and June 20, 2006 subcommittee meeting.

#### From state/local officials:

- DRI referral form and supporting documents, dated March 22, 2006, including opinion of the Chatham Historical Commission at their February 28, 2006 meeting, received March 24, 2006.

- Letter from Donald Aikman, Chair, Chatham Historical Commission to Sarah Korjeff, dated June 30, 2006 re: approval of 6/26/06 plans to renovate the historic section of the Habib Residence.
- Letter from Massachusetts Historical Commission to Laura Boucher, dated June 21, 2006, re: proposed Habib project.

From the public:

- Letter from Mary Hughes Boyce Gelfman to Cape Cod Commission, dated May 4, 2006, re: concern about proposed expansion of Habib Residence.
- Letter from Helen H. Knight and Louis A. Knight to Cape Cod Commission, dated May 5, 2006, re: opposition to proposed expansion of Habib Residence.
- E-mail from Mrs. Nancy H. Koerner, Old Village Association, to Sarah Korjeff dated June 20, 2006, re: items of concern in the Habib Residence design.
- Letter from Carol Pacun, Old Village Assoc., to Sarah Korjeff, dated June 26, 2006, re: the need to reduce the proposed building mass.

The application and notices of public hearings relative thereto, the Commission staff's notes, exhibits and correspondence, the transcript and minutes of meetings and hearings and all written submissions received in the course of our proceedings are incorporated into the record by reference.

TESTIMONY

The Commission heard oral testimony at the May 18, 2006 hearing and at the June 20<sup>th</sup> subcommittee meeting. At the May 18<sup>th</sup> hearing, Bill Riley, attorney for the applicant, presented the project. Peter Polhemus, project architect, described the proposed renovations and addition. Sarah Korjeff presented the staff report. Don Aikman, Chair, Chatham Historical Commission, suggested lowering the height of the addition and the proposed tower. Nancy Yeaw, Chatham Historical Commission, stated concern about the height of the tower and the addition. Mark Harrington, Chatham Historical Commission, noted the importance of the streetscape and suggested removing the bay window and some of the dormers on the front façade of the house. Bill Manly, Chatham Historical Commission, stated that the tower should be reduced in size.

Carol Pacun, Old Village Association, noted their desire to pay special attention to the mass and scale of additions and large decorative features such as towers to protect the character of the historic district. John Whalen, abutter, stated concern about the massive size of the addition. Sam Streibert, architect, noted the large increase in gross floor area and suggested a roof deck as an alternative to the tower. John Cullinan, abutter, voiced concern about the size of the addition, but did not mind the tower. July Pollack, abutter, stated concern about the large size of the tower.

Mr. Riley stated that the tower was intended to evoke the feeling of a lighthouse or the old Coast Guard Station. He noted that the tower would likely be visible from the beach. Mr. Whalen suggested pulling the tower into the house to hide its mass and limit its protrusion above the roofline.

At the June 20<sup>th</sup> subcommittee meeting, Peter Polhemus introduced the revised building plans, showing the tower reduced about 2 1/2 feet so the railing is below the roof ridgeline, changes to the dormers on the main block of the house, and changes to the trim on the bay window to reduce its prominence. Mr. Polhemus stated that they could change the tower finial to a weather vane. Don Aikman, Chair, Chatham Historical Commission, stated strong opposition to the bay window and asked about possible alternatives to this design. Nancy Yeaw, Chatham Historical Commission, stated there are too many changes to the historic building and it will not be recognizable. Mr. Polhemus stated that some changes should be allowed on historic buildings, and noted that the existing vinyl siding will be removed. Sam Streibert, architect, suggested changes to the bay window to reduce its profile and impact on the front façade. John Whalen, abutter, stated his appreciation that the tower was lowered. Nancy Koerner, Old Village Association, noted numerous changes to the design that should be considered.

### JURISDICTION

The proposed Habib Historic Residence/43 Holway Street, Chatham, MA project qualified as a Development of Regional Impact (DRI) under Section 3(a) of the DRI Enabling Regulations governing review of Developments of Regional Impact, which requires review of "any proposed demolition or substantial alteration of an historic structure or destruction or substantial alteration to an historic or archaeological site listed with the National Register of Historic Places or Massachusetts Register of Historic Places, outside a municipal historic district or outside the Old King's Highway Regional Historic District."

### FINDINGS

The Commission has considered the application of Sylvia Habib for the proposed alteration and expansion of an historic residence at 43 Holway Street, Chatham, and based on consideration of such application and upon the information presented at the public hearings and submitted for the record, makes the following findings pursuant to Sections 12 & 13 of the Act:

1. The residence at 43 Holway Street, Chatham, MA, is a contributing property in the Chatham Old Village National Register Historic District. Because it is a contributing part of the historic district, it is listed on both the National Register of Historic Places and the State Register of Historic Places.
2. The Habib Historic Residence was built circa 1850 and follows the Greek Revival style. The main mass of the house is 1 1/2 stories with a front-facing gable and three bays. A side wing, also 1 1/2 stories, is set back on the west wall. A one-story rear ell extends back from the wing and reflects several building campaigns in the early 1900s and post World War 2. The exterior of the building maintains its historic integrity in that its original form and architectural detailing have not been significantly changed, other than the application of vinyl siding. The original architectural trim around the doors, building corners, and along the roofline are visible beneath the vinyl siding.

3. The project is located within the Chatham Old Village Historic District, which was listed on the National Register of Historic Places in December 2001. The district includes approximately 220 contributing properties and encompasses approximately 95 acres east and southeast of Chatham's Main Street commercial area, framed by the Mill Ponds and the Atlantic coastline. The district's character is largely related to its primary period of growth and development during the mid 19<sup>th</sup> century, as economic prosperity and population growth followed the area's maritime successes in shipping, trading, fishing, shellfishing and related pursuits.

4. The proposed alterations and expansion will preserve the building's key character-defining features as required by RPP MPS 6.1.1, namely its low roofline and massing, and its Greek Revival architectural detailing on the main block of the building. The proposed dormers on the side ell and on the east side of the main block are traditional means of expanding space in an historic building and will not destroy the building's character-defining features. The dormer on the east side of the main block is set back from the front façade to limit its visual impact on the streetscape. The proposed bay window on the side ell has been designed with a narrow profile to reduce its visual impact on the façade. Though the proposed bay will replace an original door and window on the side ell, the rest of the historic features on the front façade will be retained and thus the change will not impact the overall historic integrity of the building.

5. The proposed new addition is consistent with the historic building's architectural style in terms of roof shape and materials, and does not diminish the historic and architectural significance of the original building as required by RPP MPS 6.1.1. The proposed addition is consistent due to its location to the rear of the historic building, the fact that its roof height does not exceed the historic structure's roof height, and its façade setbacks that separate and distinguish the original building mass from the new building mass. The proposed tower is designed so that only the upper windows extend above the ridgeline of the historic building, and the tower has been located to the rear of the addition where it will have the least impact on the historic structure.

6. At their meeting of June 27, 2006, the Chatham Historical Commission approved the most recent plans and sketches (dated Revised June 26, 2006) for the proposed renovation of the historic portion of the Habib Residence at 43 Holway Street. The Chatham Historical Commission did not directly address the size and scale of the proposed addition, but rather focused on preservation of the historic materials and features of the existing building.

7. The proposed alterations and expansion will retain original exterior building materials that are a record of the building's construction history, including historic framing and sheathing materials and architectural trim, where they exist in good condition, except in portions of the rear wall where the new addition is proposed. To limit the loss of original materials, additional bracing should be accomplished through "sistering" or other means that do not involve the removal of historic materials whenever possible. Where original architectural trim is deteriorated and cannot be reused, the replacement trim should match the old in design and material.

8. As requested by the Chatham Historical Commission, the Cape Cod Commission will require a final set of building elevations and plans that show where the historic building walls and roof materials will be replaced and where they will be retained in the proposed project.

9. The Massachusetts Historical Commission (MHC) reviewed the original plans submitted to the Cape Cod Commission for review and, in a letter dated June 21, 2006, stated that the size and scale of the proposed addition, in particular the tower element, overwhelms the historic structure due to the additional height. MHC recommended a reduction in the height in order to bring the addition into a scale that is more in keeping with the modest massing of the traditional Greek Revival style house. The applicant's current plans show a reduction in the tower's height by approximately 2 1/2 feet, as well as a reduction in the height of the dining room addition, and thereby appear to address the concern raised by MHC. MHC also noted that the existing rear additions are not historically significant and therefore their removal is not of concern to the character of the historic district.

10. The Old Village Association, which promoted nomination of the Old Village National Register Historic District, has expressed concern regarding the scale and massing of the proposed addition and their impact on the character of the neighborhood. The Commission finds that the mass of the proposed addition, as modified during the review process, does not impact the integrity of the historic structure. However, the Commission recognizes that the issue of appropriate lot coverage and scale for the neighborhood will be addressed by the Chatham Zoning Board of Appeals in their review of this project.

11. According to the Chatham Department of Community Development, the project will require approval from the Chatham Zoning Board of Appeals (ZBA) as it expands a pre-existing non-conforming structure. The ZBA may determine that the proposed project should be modified in order to better conform with current zoning requirements and specific neighborhood conditions. If changes to the exterior design are required by the ZBA, Commission staff should review the modifications to insure that the project is still consistent with the Regional Policy Plan.

12. The town of Chatham does not have a certified Local Comprehensive Plan.

13. The proposed project is not located within a District of Critical Planning Concern.

### CONCLUSION

Based on the findings above, the Cape Cod Commission hereby concludes:

The benefits of the proposed project outweigh the detriments resulting from the development. This conclusion is supported by the facts that the project as proposed involves the alteration and expansion of an historic building on the National Register of Historic Places and that said alterations will preserve the key character-defining features

of the building and will not diminish its historic and architectural significance. Findings #4, 5, 7 and 8 support this conclusion.

- The project only trips the DRI threshold relating to demolition or substantial alteration of historic properties, and is subject to the Minimum Performance Standards in Section 6 (Heritage Preservation/Community Character) of the Cape Cod Regional Policy Plan. The proposed project is consistent with the Heritage Preservation/Community Character chapter of the Cape Cod Regional Policy Plan. This conclusion is supported by findings # 4 through 9.
- The town of Chatham does not have a certified Local Comprehensive Plan and is not located within a District of Critical Planning Concern. This conclusion is supported by findings # 12 and 13.
- The proposed project will require approval from the Chatham Zoning Board of Appeals. The Zoning board of Appeals may be more restrictive than the Cape Cod Commission and may determine that modifications to the project are required to better conform with current zoning requirements and specific neighborhood conditions. This conclusion is supported by finding # 11.

The Commission hereby approves with conditions the application of Sylvia Habib for the proposed alteration and expansion of the historic residence at 43 Holway Street, Chatham, MA as a Development of Regional Impact, provided the following conditions are met:

#### CONDITIONS

1. This DRI decision is valid for 7 years and local development permits may be issued pursuant hereto for a period of 7 years from the date of the written decision.
2. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this decision.
3. The applicant shall obtain all necessary state and local permits for the proposed project.
4. No development work, as the term "development" is defined in the Act, shall be undertaken until all appeal periods have elapsed or, if such an appeal has been filed, until all judicial proceedings have been completed.
5. The proposed new dwelling shall be constructed in accordance with those plans approved by the Commission, entitled "Habib Residence, 43 Holway Street, Chatham, MA," by Polhemus Savery DaSilva, dated March 20, 2006, revised June 20, 2006, or as modified and approved in writing by the Chatham ZBA and Cape Cod Commission staff.
6. Prior to submittal of a Building Permit application in the Town of Chatham, the

applicant shall submit final site plans and elevation drawings approved by the Chatham Zoning Board of Appeals to Commission staff to confirm that they are consistent with those plans approved by the Cape Cod Commission. Final plans and elevations shall indicate where the historic building walls and roof materials will be replaced and where they will be retained in the proposed project.

7. Prior to issuance of a Building Permit from the Town of Chatham, the applicant shall obtain a Certificate of Compliance from the Commission, indicating that Commission staff has reviewed the final plans and found them consistent with RPP performance standards, and that all other required conditions have been met.

8. Prior to submittal of a Building Permit application to the Town of Chatham or requesting a Certificate of Compliance from the Cape Cod Commission, the applicant shall be responsible for providing proof of recording of the decision.

The Cape Cod Commission hereby approves with conditions the application of Sylvia Habib pursuant to Sections 12 & 13 of the Act, c. 716 of the Acts of 1989, as amended, for the proposed alteration and expansion of the historic residence at 43 Holway Street, Chatham, MA.

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W. Bradford Crowell, Chair

\_\_\_\_\_  
Date

Commonwealth of Massachusetts

Barnstable, ss.

\_\_\_\_\_, 2006

Before me, the undersigned notary public, personally appeared \_\_\_\_\_, in his/her capacity as Chairman of the Cape Cod Commission, whose name is signed on the preceding document, and such person acknowledged to me that he/she signed such document voluntarily for its stated purpose. The identity of such person was proved to me through satisfactory evidence of identification, which was [ ] photographic identification with signature issued by a federal or state governmental agency, [ ] oath or affirmation of a credible witness, or [ ] personal knowledge of the undersigned.

\_\_\_\_\_  
Notary Public  
My Commission expires: