

Non-Regulatory Preservation: Exploring the Available Alternatives

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Overview

- Introduction:
Historic New
England
- Defining the Term
- Why Needed or
Necessary?
- Available
Alternatives

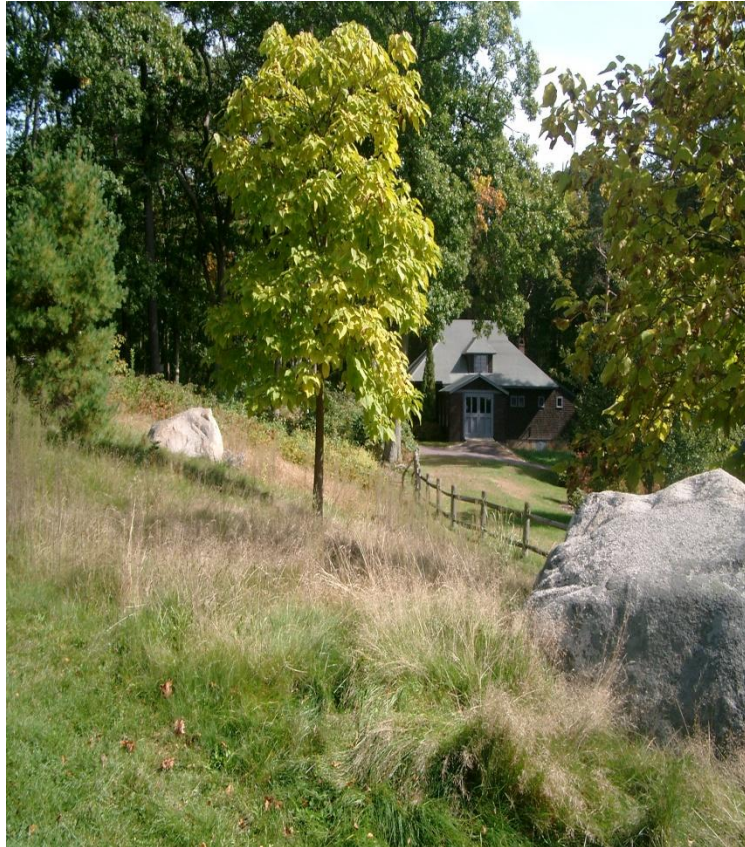


Introduction: Historic Preservation at Historic New England



- Historic New England Generally
 - 36 museums across the region (20 in Mass.)
 - Winslow Crocker House, Yarmouth Port
 - Library and Archives
 - Collections (Haverhill, Mass.)
- Historic Preservation Team
 - Stewardship Program (more below)
 - Historic Homeowner Program
 - Preservation Advocacy and Intervention

Non-Regulatory Preservation – What is it?



- Preservation outside of LHD or Demolition Delay – or our most effective preservation tools
- Absolutely not advocating for this outcome – but need to find alternative tools and mechanisms to reach currently vulnerable areas

Non-Regulatory Preservation: Local Historic Districts



- Historic Commission
- Local Historic District Ordinance
- Design Review over alterations and demolitions
- Focused on visible aspects – and binding upon homeowners within the regulated district

LHDs in Massachusetts



- 100 cities and towns
- 220 districts in place
- Almost 50 years of LHCs (2013)
- Purposes:
 - Protect significant characteristics of historic structures
 - Maintain and improve settings
 - Encourage compatible designs

Benefits of LHDs?



- Save character of historic areas
- Provide protection from demolitions and insensitive alterations
- Visual link to past
- Community Pride
- Neighborhood stabilization

Demolition Delay:

- Requirement that homeowners of designated properties obtain approval from local historical commission
- If deemed worth preservation, delay kicks in
- Allows time for discussion of alternatives
- Delay periods vary widely
- Criteria for designating governed properties
 - Age (over x years)
 - Categorical (on x list)
 - List (x address)

Demolition Delay in Massachusetts

- Approximately 100 communities
- Range from 14 days to 12 months
- Difficulty in passing –
 - Falmouth – 3 attempts
 - Belmont – ongoing



Benefits of Demolition Delay

- Gives time to come up with alternative uses or proposals for property
- Removes some of the re-development incentive for properties
- Potentially can broker sale or other arrangement



Why Non-Regulatory Preservation?



- Not all areas are covered by existing LHD structure
- Not all buildings or building elements are covered by LHD
- Need tools tailored toward protecting these resources

Why Non-Regulatory Preservation?



- Example: Community without LHDs or regulatory control looking for other options
- Example: Community with LHDs but with significant properties outside of the districts
- Example: Community with LHDS but only protecting exterior or visual elements

Alternatives:

- Preservation Easements
- Voluntary Historic Districts
- Revolving Funds



Preservation Easements: Overview

- Legal agreement between homeowner and preservation organization/entity to perpetually protect a historic property through a binding legal agreement
- Homeowner gives up certain rights to Preservation Organization/Commission
- Bundle of Sticks Example/Metaphor
- Can protect exterior, interior, and landscape elements
- Essentially creating an LHD for a single resource – at least as traditionally utilized
- Flexible – and can be tailored to protect specific resources (from farms to urban row houses to mill complexes)
- Can provide focused protection outside of regulatory process

Preservation Easements: Overview

- Negotiating a Preservation Easement
 - Agreeing on Terms
 - Baseline Documentation
 - Recording the Document
- Elements of a Preservation Easement
 - Scope of Protection
 - Approval Process
 - Monitoring Process
 - Insurance and other requirements
- Annual Site Visit
- Review of Proposed Work
- Endowment contribution (to cover expenses)

Preservation Easements in Massachusetts

- Historic New England
- Preservation Massachusetts
- Massachusetts Historical Commission
- Local Historic District Commissions
- Sources?
 - Voluntary Donations
 - Tax Credit Applications
 - Grant Conditions
 - Community Preservation Act

Preservation Easements – Historic New England

- 83 easements – 145 buildings, 750 acres of open space
- Almost entirely donated easements
- Caribou, Maine to New Canaan, Conn.
- 60 easements in Mass., including 98 buildings and 300 acres
- Protect interior, exterior, and landscape
- Construction dates range from 1660 to 1960
- 4 full-time staff administering this program
- Projects reviewed by Stewardship Committee – consisting of architects, preservationists, etc...

Preservation Easements: Expanded Use?

- Drawbacks?
 - Cost
 - Individual property focused
- Are there expanded opportunities?
- Focused efforts
 - Collective Protection
 - Group Campaign
- Use of other regulatory tools?



Group Easement: Phelps Farm, North Colebrook, CT



- Single easement protects 3 historic properties
- A late 18th c. inn (Captain Arah Phelps)
- A Greek Revival House (General Edward Phelps)
- A Gothic Revival Cottage (same)

Group Easement:



- Donor: Nancy Phelps Blum – long-time association with property
- Worried about developmental pressure and avoiding insensitive change to the area
- Interested in preserving this unique assemblage of properties together

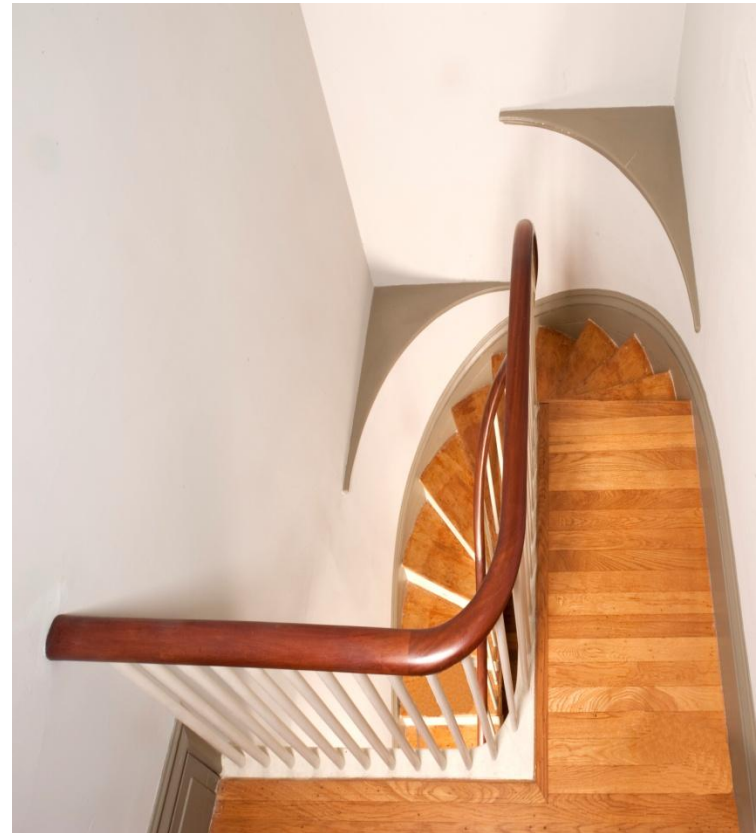
Group Easement: Phelps Farm, North Colebrook, CT



- Protects exterior, interior, and landscape elements
- Protected since 1982 and have been protected and maintained
- No longer in common ownership – but maintained collectively

Group Easement: Options

- Expansion of tool
- Group of neighbors or aligned property owners working together?
- Lower costs of easement donations owing to efficiencies of scale?
- Collective protection to groups of properties – in some instances may be a viable alternative



Easement Campaign: Ipswich, Mass.



- Goal: creating a program to provide interior and exterior protection to collection of First Period resources
- LHD determined not viable option – or comprehensive enough – alternatives?

Easement Campaign: Ipswich, Mass.

- Idea: Easement Campaign
- Targeted Resource: First Period Homes
- Concept: set-aside fund to compensate owners for these donations (approximately \$1,000 per owner; approximately \$4,500 today)
- Comprehensive protection to linked properties – interior, exterior, and landscape elements covered

Easement Campaign: Ipswich, Mass. – Result?

- 16 owners accepted
- 3 owners declined
- Resulted in comprehensive protection of a significant concentration of very early properties



Easement Campaign: Potential for Expanded Use

- New campaign possible for LHC or Historical Society?
- Thematic or grouped properties?
- Possible use of CPA funds to secure involvement?



Preservation Easements: Alternative Mechanisms for Obtaining Control Over Historic Properties

- Exacted Easements – non-regulatory to the extent that obtained through the regulatory process – not the LHD framework
- Essentially, this involves utilizing leverage and trading approval of a project for obtaining easement control over a historic resource
- Examples:
 - Subdivision: allowing subdivision of historic farm – but gaining easement on historic farm buildings
 - Addition – allowing addition – but gaining easement on historic facade

Preservation Easements: Alternative Mechanisms for Obtaining Control Over Historic Properties

- Easements obtained as conditions of grant
- Can either be perpetual or term
- A strong way to insure or ensure the value of your community or organization's investment in the property
- CPA opportunities – utilizing CPA funds to purchase an easement is a permissible use of funds

Voluntary Historic Districts

- What are they?
 - Essentially an area designated as historic – and nothing more unless acted upon
- Why an Opportunity?
 - More easily established – may not require vote
 - Transitional opportunity?
 - Targeting incentives to work within “district”

Voluntary Historic District – Warren, RI

- Created in 1999 after mandatory LHD blocked
- Added a local tax credit for qualified work on historic properties within district
- Again, voluntary so limited impact, but...



Voluntary Historic District – Warren, RI – The Thrill of Victory . . .

- In the first five years, 36 houses participated (1999 – 2004) – involving \$355,000 in restoration work and \$61,000 of local tax credits issued



Voluntary Historic District – Warren, RI – The Agony of Defeat . . .

- Unsympathetic addition of second floor to a single floor Cape
- Other similar design issues
- Demolition of at least one historic property



Voluntary Historic Districts: Warren, RI – The Takeaway

- Not a perfect solution
- Not even a good solution
- But maybe the only solution politically possible...and maybe an opening for future gains.



Demolition Delay – Alternatives?

- Demolition delay – delay on issuing demo permit on historic property



Demolition Delay – Issues?

- Also proving controversial
- In some cases, being blocked
- In others, listing narrowed or time winnowed down



Demolition Delay – Alternatives?

- Revolving Fund – Variation on traditional model
- Revolving Fund – Traditionally
 - \$\$\$
 - Rehabilitate Threatened House
 - Sell and use the proceeds to rehab the next project
- Revolving Fund – Demolition Delay Alternative
 - \$\$\$
 - Purchase option on the house – providing time to find preservation buyer
 - Option will cover carrying costs and provide a window to potentially come up with alternatives

Example: Preservation Trust of Vermont



- Molloy-Delano House, Essex, VT
- Purchased option on property – allowing time to find preservation buyer
- Property listed at \$29,500
- If buyer found, option will be exercised and property will be purchased, and conveyed to new owner with a preservation easement on the facade

Revolving Fund: Drawbacks

- Voluntary on the part of seller
- Requires preservationists to put capital at risk



Conclusions



- Non-Regulatory options exist – but not ideal
- In the end, however, provide tools where other mechanisms do not currently work.