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TOWN OF WEST TISBURY  
COMMONWEALTH OF MASSACHUSETTS

WARRANT FOR SPECIAL TOWN MEETING

County of Dukes County, SS  
To either of the Constables of the Town of West Tisbury,

GREETINGS:

In the name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of West Tisbury qualified to vote in elections and in Town affairs, to meet in the West Tisbury Elementary School, Old County Road in said Town, on Tuesday, the thirtieth of November, nineteen hundred and eighty-two, at seven-thirty in the evening, then and there to act on the articles of this Warrant.

ARTICLE 1: To see if the Town will vote to adopt the following by-law establishing an Historic District and an Historic District Commission, under the provisions of Chapter 40C of the Massachusetts General Laws as amended by Chapter 359 of the Acts of 1971, or take other suitable action.

WEST TISBURY HISTORIC DISTRICT BY-LAW

SECTION I.

The Historic District established by this by-law is to be known as the West Tisbury Historic District of the Town of West Tisbury and is bounded as follows:

beginning at the northwesterly corner of the property of the Town of West Tisbury (Howes House) on the easterly sideline of South Road (State Highway) and running northerly 190 feet, more or less, along the easterly sideline of South Road, then turning and running easterly 535 feet by land of Thomas and Eleanor Waldron and through land of the Martha's Vineyard Garden Club 370 feet, more or less, to the southwest corner of land of C. Athearn, then turning and running northerly 200 feet, more or less, by said land of Athearn and across Edgartown Road to the northerly sideline of Edgartown Road at land of the Town of West Tisbury, meaning and intending to include the land of Edwin Newhall Woods and part of the land of the Martha's Vineyard Garden Club,

thence turning and running easterly along the northerly line of Edgartown Road 50 feet, more or less, to land of R. Kirchner, then turning and running northerly by said land of Kirchner 130 feet, more or less, then turning and running westerly and northerly again by land of (see Town records) 140 feet and 1700 feet, more or less, then turning and running westerly 350 feet, more or less, and southerly and westerly 680 feet, more or less, by land of Henry E. Russell to the easterly sideline of Vineyard Haven Road (State Highway) then crossing Vineyard Haven Road to the westerly sideline thereof, thence turning and running southerly on the westerly sideline of said road 705 feet, more or less, to the northeasterly corner of the property occupied by Alley's General Store, meaning and intending to include property now owned by the Town of West Tisbury, land of Sheriff's Meadow Foundation, Inc. and the intersection triangle belonging to the Commonwealth of Massachusetts,

then turning and running westerly 260 feet, more or less, to land of P. Cook, then turning and running southerly by said land of Cook 240 feet, more or less, to land of Whiting, then turning and running easterly, southerly and easterly again by said land of Whiting in three courses measuring 75, 35 and 55 feet respectively, more or less, then turning and running by the boundary



line dividing said land of Whiting, from land of the Congregational Church 90 feet and crossing Music Street to the southerly sideline of Music Street, meaning and intending to include land of Alley, land of Paul A. Garcia, and land of the Congregaional Church,

then turning and running westerly along the south side of Music Street 180 feet, more or less, to land of G. Athearn, then turning and running southerly, easterly and southerly again in three courses measuring 81, 53 and 128 feet, respectively, then turning and running westerly 266 feet by land of Athearn and land of Wasserman, then turning and running southerly 315 feet to land of N. Casem, then turning and running easterly 260 feet by said land of Casem, then turning and running northerly 167 feet by land of I. Taylor, then turning and running easterly by said land of Taylor 328 feet to the westerly sideline of South Road, then turning and running southerly by the westerly sideline of South Road 173 feet to the southeasterly corner of said land of Taylor, then turning and crossing South Road to the southwesterly corner of land of Stoneham Publishing Co., then continuing and running easterly, northerly and westerly in three courses measuring 120, 110 and 125 feet, more or less, by land of said Stoneham to the easterly sideline of South Road, then turning and running northerly by the easterly sideline of South Road 755 feet, more or less, to the southwesterly corner of land of the Town of West Tisbury (Howes House), meaning and intending to include land owned by the Town of West Tisbury (Library and Town Offices), land of the Dukes County Agricultural Society, land of Stoneham Publishing Co. and part of South Road,

then turning and running easterly 477 feet, more or less, by land of Thomas Maley, then turning and running by said Maley land northerly 125 feet, more or less, then turning and running westerly 600 feet, more or less, by land of Waldron to the point of beginning, meaning and intending to include land of the Town of West Tisbury (Howes House).

## SECTION II.

The West Tisbury Historic District Commission established by this by-law is to consist of seven members, appointed by the Board of Selectmen, including one member from two nominees submitted by the Historical Society or, in the absence thereof, by the Society for the Preservation of New England Antiquities, one member from two nominees submitted by the Chapter of the American Institute of Architects covering West Tisbury, and one member from two nominees of the Board of Realtors, if any, covering West Tisbury. The members of the Commission shall include one or more residents of or owners of property in the West Tisbury Historical District. One member shall be an attorney. If, within thirty days after submission of a written request for nominees to an organization entitled to submit nominations for membership on the Commission, no such nominations have been made, the appointing body may proceed to make the appointment to the Commission without nomination by such organization.

The appointments to membership in the Commission shall be so arranged that the term of at least one member will expire each year, and their successors shall be appointed in the same manner as the original appointment for terms of three years. Vacancies shall be filled in the same manner as the original appointment for the unexpired term.



Two alternate members shall be appointed who need not be from nominees of organizations entitled to nominate members. In case of the absence, inability to act or unwillingness to act because of self-interest on the part of a member of the Commission, his place shall be taken by an alternate member designated by the chairman. Each member and alternate shall continue in office after expiration of his term until his successor is duly appointed and qualified. All members shall serve without compensation. The Commission shall elect annually a chairman and vice-chairman from its own number and a secretary from within or without its number.

#### SECTION III.

As used in this by-law, the word "altered" includes the words "rebuilt", "reconstructed", "restored", "removed", and "demolished" and the phrase "changed in exterior color"; the word "building" means a combination of materials forming a shelter for persons, animals or property; the word "Commission" means the commission acting as the Historic District Commission; the word "constructed" includes the words "build", "erected", "installed", "enlarged" and "moved"; the words "exterior architectural feature" mean such portion of the exterior of a building or structure as is open to view from a public street, public way, public park or public body of water, including but not limited to the architectural style and general arrangement and setting thereof, the kind, color and texture of exterior building materials, the color of paint or other materials applied to exterior surfaces and the type and style of windows, doors, lights, signs and other appurtenant exterior fixtures; and the word "structure" means a combination of materials other than a building, including a sign, fence, wall, terrace, parking lot, walk or driveway.

#### SECTION IV.

Except as this by-law may otherwise provide in accordance with Section six or said Section six or seven, no building or structure within the West Tisbury Historic District shall be constructed or altered in any way that affects exterior architectural features unless the Commission shall first have issued (1) a certificate of appropriateness, (2) a certificate of nonapplicability or (3) a certificate of hardship with respect to such construction or alteration.

Any person who desires to obtain a certificate from the Commission shall file with the Commission an application for a certificate of appropriateness, a certificate of nonapplicability or a certificate of hardship, as the case may be, in such form as the Commission may reasonably determine, together with such plans, elevations, specifications, material and other information, including, in the case of demolition or removal, a statement of the proposed condition and appearance of the property thereafter, as may be reasonably deemed necessary by the Commission to enable it to make a determination on the application.

No building permit for construction of a building or structure or for alteration of an exterior architectural feature within the Historic District and no demolition permit for demolition or removal of a building or structure within the Historic District shall be issued by the Town or any department thereof until the certificate required by this section has been issued by the Commission.

#### SECTION V.

In passing upon matters before it, the Commission shall consider, among other things, the historic and architectural value and significance of the site, building or structure, the general design, arrangement, texture, material and color of the features involved, and the relation of such features to similar features of buildings and structures in the surrounding area. The authority of the Commission shall extend to the review of the following categories of buildings or structures or exterior architectural features:

1. Terraces, walks, driveways, parking lots, sidewalks, and similar structures.
2. Walls and fences;
3. The color of paint other than white;
4. The color and materials used on roofs other than black or approved natural shingles;
5. The color and material used on walls other than white clapboard siding or natural shingles;
6. Exterior appurtenances and appliances such as lighting fixtures and window air conditioners, except for storm doors and windows, screens and antennae;
7. New construction or additions to existing buildings or structures, in which case the Commission shall consider the appropriateness of the size, shape and placement of the building or structure both in relation to the land area upon which the building or structure is situated and to buildings and structures in the vicinity; except for the reconstruction, substantially similar to the original design, of a building, structure or architectural feature damaged or destroyed by fire, storm or other disaster, provided that such reconstruction is begun within one year thereafter and is carried forward with due diligence;
8. Temporary structures or signs, except those meeting such conditions as to duration of use, location, lighting, removal and similar matters as the Commission may reasonably specify;
9. Removal of trees 30 feet or more in height.

#### SECTION VI.

- A. The authority of the Commission shall not extend to the review of any of the following categories of buildings or structures or exterior architectural features in the Historic District:



1. Temporary structures or signs which meet conditons established by the Commission permitting their exclusion from review under Section V. 8 - ;
  2. Storm doors and windows, screens and antennae;
  3. Not more than two signs, each of no more than six square feet, in connection with the non-residential use of each building or structure, consisting of letters painted on wood without symbol or trademark, and if illuminated is illuminated only indirectly with a steady light.
- B. The Commission shall not consider interior arrangements or architectural features not subject to public view.
- C. The Commission may determine from time to time after public hearing that certain categories of exterior architectural features, colors, structures or signs including, without limitation, any of those enumerated under Section V. and Section VI.A., may be constructed or altered without review by the Commission.

#### SECTION VII.

Nothing in this by-law shall be construed to prevent

1. the ordinary maintenance, repair or replacement of any land, building or structure within the Historic District which does not involve a change in design, material, color or the outward appearance thereof;
2. landscaping with plants, trees or shrubs;
3. the meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition;
4. any construction or alteration under a permit duly issued prior to the effective date of the West Tisbury Historic District By-Law.

#### SECTION VIII.

The Commission shall have the following additional powers, functions and duties:

- A. If the Commission determines that the construction or alteration for which an application for a Certificate of Appropriateness has been filed will be appropriate for or compatible with the preservation or protection of the Historic District, the Commission shall cause a Certificate of Appropriateness to be issued to the applicant. In the case of a disapproval of an application for a Certificate of Appropriateness, the Commission shall place upon its records the reasons for such determination and shall forthwith cause a notice of its determination, accompanied by a copy of the reasons therefor as set forth in the records of the Commisison, to be issued to the applicant, and the Commission may make recommendations to the applicant with respect to appropriateness of design, arrangement, texture, material and similar features. Prior to the issuance of any dis-

approval, the Commission may notify the applicant of its proposed action accompanied by recommendations of changed in the applicant's proposal which, if made, would make the application acceptable to the Commission. If within fourteen days of the receipt of such notice the applicant files a written modification of his application in conformity with the recommended changes of the Commission, the Commission shall cause a Certificate of Appropriateness to be issued to the applicant.

- B. In the case of a determination by the Commission that an application for a Certificate of Appropriateness or for a Certificate of Nonapplicability does not involve any exterior architectural feature, or involves an exterior architectural feature which is not then subject to review by the Commission in accordance with the provisions of Section VI., the Commission shall cause a Certificate of Nonapplicability to be issued to the applicant.
- C. If the construction or alteration for which an application for a Certificate of Appropriateness has been filed shall be determined to be inappropriate, or in the event of an application for a Certificate of Hardship, the Commission shall determine whether, owing to conditions especially affecting the building or structure involved, but not affecting the Historic District generally, failure to approve an application will involve a substantial hardship, financial or otherwise, to the applicant and whether such application may be approved without substantial detriment to the public welfare and without substantial derogation from the intent and purposes of this By-Law. If the Commission determines that owing to such conditions failure to approve an application will involve substantial hardship to the applicant and approval thereof may be made without such substantial detriment or derogations or, in the event of failure to make a determination of an application within the time specified in Section IX., the Commission shall cause a Certificate of Hardship to be issued to the applicant.
- D. Each certificate issued by the Commission shall be dated and signed by its chairman, vice-chairman, secretary or such other person designated by the Commission to sign such certificates on its behalf.
- E. The Commission shall keep a permanent record of its resolutions, transactions and determinations and of the vote of each member participating therein, and may adopt and amend such rules and regulations not inconsistent with the provisions of this By-Law and prescribe such forms as it shall deem desirable and necessary for the regulation of its affairs and the conduct of its business. The Commission shall file a copy of any such rules and regulations with the Town Clerk.



- F. The Commission shall file with the Town Clerk and with any department of the Town having authority to issue building permits a copy of notice of all certificates and determinations of disapproval issued by it.
- G. The Commission may after public hearing set forth in such manner as it may determine the various designs for certain appurtenances, such as light fixtures, which will meet the requirements of the Historic District and a roster of certain colors of paint and roofing materials which will meet the requirements of the Historic District but no such determination shall limit the right of an applicant to present other designs or colors to the Commission for its approval.
- H. The Commission may, subject to appropriation, employ clerical and technical assistants or consultants and incur other expenses appropriate to the carrying on of its work, and may accept money gifts and expend the same for such purposes. The Commission may administer on behalf of the Town any properties or easements, restrictions or other interests in real property which the Town may have or may accept as gifts or otherwise and which the Town may designate the Commission as the administrator thereof.
- I. The Commission shall have, in addition to the powers, authority and duties granted to it by this By-Law, such other powers, authority and duties as may be delegated or assigned to it from time to time by vote of the Town Meeting.

#### SECTION IX.

Meetings of the Commission shall be held at the call of the chairman or may be called at the request of two members of the Commission or in such other manner as the Commission shall determine in its rules. A majority of the members of the Commission shall constitute a quorum. The concurring vote of a majority of the members of the Commission shall be necessary to issue a Certificate of Appropriateness, a Certificate of Nonapplicability or a Certificate of Hardship.

The Commission shall determine promptly, and in all events within fourteen days after the filing of an application for a Certificate of Appropriateness, a Certificate of Nonapplicability or a Certificate of Hardship, as the case may be, whether the application involves any exterior architectural features which are subject to approval by the Commission. If the Commission determines that such application involves any such features which are subject to approval by the Commission, the Commission shall hold a public hearing on such application unless such hearing is dispensed with as hereinafter provided.

The Commission shall fix a reasonable time for the hearing on any application and shall give public notice of the time, place and purposes thereof at least fourteen days before said hearing in such manner as it may determine and by mailing, postage prepaid, a copy of said notice to the applicant, to the owners of all adjoining property and other property deemed by the Commission to be materially affected thereby as they appear on the most recent real estate tax list of the Board of Assessors, to the Planning Board of the Town, to any person filing written request for notice of hearings, such request to be renewed yearly in December, and to such other persons as the Commission shall deem entitled to notice.

As soon as convenient after such public hearing but in any event within sixty days after the filing of the application, or within such further time as the applicant may allow in writing, the Commission shall make a determination on the application. If the Commission shall fail to make a determination within such period of time, the Commission shall thereupon issue a Certificate of Hardship.

A public hearing on an application need not be held if such hearing is waived in writing by all persons entitled to notice thereof. In addition, a public hearing on an application may be waived by the Commission if the Commission determines that the exterior architectural feature involved or its category or color, as the case may be, is so insubstantial in its effect on the Historic District that it may be reviewed by the Commission without public hearing on the application, provided, however, that if the Commission dispenses with a public hearing on an application, notice of the application shall be given to the owners of all adjoining property and other property deemed by the Commission to be materially affected thereby as above provided and ten days shall elapse after the mailing of such notice before the Commission may act upon such application.

#### SECTION X.

In the event that any provision of the By-Law, or application thereof, shall be held to be invalid by the proper authority, this shall not be construed to affect the validity of any other provision or application of this By-Law. (Recommended)

ARTICLE 2: To see if the Town will vote to appropriate from Available Funds the sum of \$2,688.61 to pay an overdue bill to Goodwin, Procter & Hoar for legal expenses incurred during Fiscal Year 1982. (Recommended)

ARTICLE 3: To see if the Town will vote to appropriate from Available Funds the sum of \$380.00 to pay an overdue bill to Dean R. Swift for surveying expenses incurred during Fiscal Year 1982. (Recommended)