

**MINUTES OF THE HISTORIC PRESERVATION COMMISSION MEETING  
TOWNSHIP OF MILLBURN  
COUNTY OF ESSEX  
January 7, 2016**

A regular meeting of the Historic Preservation Commission was held on January 7, 2016 at 7:30 P.M. in Town Hall.

Attorney Falcon opened the meeting by reading Section 5 of The Open Public Meeting Act, Chapter 231, Public Law 1975.

PRESENT: Mrs. Canfield, Mr. Frenkel, Chair Gadsden, Mrs. Gaylord, Mr. Kirshenbaum, Mrs. McNett

ABSENT: Mr. Metsky, Mrs. Wanga

ALSO PRESENT: Attorney Christopher H. Falcon, Historic Preservation Consultant Barton Ross and Secretary Nicole Verducci

Attorney Falcon stated that this was the Reorganization Meeting of the Commission to elect officers for the 2016 year. Attorney Falcon administered the Oath of Office to Alison Canfield, Robert Frenkel and Andrew Kirshenbaum. Attorney Falcon announced Elizabeth Wanga was appointed at the Reorganization meeting. Due to her absence, she will be sworn in at the next meeting.

Attorney Falcon called for a motion placing a name in nomination for Chairman. Upon a motion made by Mary McNett naming William Gadsden, seconded by Alison Canfield, and with a roll call vote, William Gadsden was elected Chairman.

Mrs. Canfield-Yes  
Mrs. McNett-Yes  
Mr. Frenkel-Yes  
Mrs. Gaylord-Yes  
Mr. Kirshenbaum-Yes

said motion was carried

Chair Gadsden called for a motion placing a name in nomination for Vice Chair. Upon a motion made by Alison Canfield naming Karen Gaylord, seconded by Robert Frenkel, and with a roll call vote, Karen Gaylord was elected Vice Chairman.

Mrs. Canfield-Yes  
Chair Gadsden-Yes  
Mrs. McNett-Yes  
Mr. Frenkel-Yes  
Mr. Kirshenbaum-Yes

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said motion was carried

Chair Gadsden called for a motion placing a name in nomination for Secretary. Upon a motion made by Karen Gaylord naming Nicole Verducci, seconded by Robert Frenkel, and with a roll call vote, Nicole Verducci was elected Secretary.

Mrs. Canfield-Yes  
Chair Gadsden-Yes  
Mrs. McNett-Yes  
Mr. Frenkel-Yes  
Mrs. Gaylord-Yes  
Mr. Kirshenbaum-Yes

said motion was carried

Upon a motion by Karen Gaylord to approve the minutes of the December 3, 2015 meeting as submitted, seconded by Mary McNett and with unanimous voice vote, the minutes were approved.

Upon a motion by Karen Gaylord to approve a Resolution to establish the Township of Millburn Historic Preservation Commission public hearing dates and time for the year 2016, seconded by Mr. Frenkel and with unanimous voice vote, the Resolution was approved.

**MEMORIALIZATIONS**

**Approval of Advisory Opinion #359**, Boffaro, 460 Wyoming Avenue, Millburn

A motion by Karen Gaylord to Memorialize Application #359; seconded by Mary McNett and with a roll call vote as follows:

Mrs. Canfield-Yes  
Chair Gadsden-Yes  
Mrs. McNett-Yes  
Mr. Frenkel-Yes  
Mrs. Gaylord-Yes

said motion was carried

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**REGULATORY HEARING APPLICATION # 362**

Application # 362  
Blk. #2201, Lot #6

Applicant: Mr. and Mrs. Michael Gelband  
30 Stewart Road, Short Hills

The applicant seeks to replace front columns and railings. Adding a stone table above grade at the foundation line. Adding a covered front porch to the front left side of the house. Replace windows and siding as original. Replace kitchen solarium in back.

Debra Gelband, Homeowner, Frank DelleDonne of DelleDonne Interiors, and John Grecco, Builder was sworn in.

Mrs. Gelband stated that due to leaks in the home, there was significant water damage to the house including mold as well as ice accumulation by the front door.

Mr. DelleDonne presented pictures of the portico and explained the changes in detail. Samples of stone were shown. The railings will be replaced with a simplified column and a colonial designed railing.

Mr. Grecco stated Permits were pulled and after speaking to the Building Department, approval for permits was not given due to the home being historical.

Chair Gadsden requested feedback from the Commissioners. Attorney Falcon requested copies of the exhibits presented for inclusion in the file.

Mrs. McNett asked if the architect was aware the home was in a historic district. Mr. Grecco stated he was not.

Mr. Frenkel asked if the portico would be smaller. Mr. DelleDonne confirmed the railings and columns will be smaller. Chair Gadsden asked if the portico is original. DelleDonne believes it was built in 1980's.

Mrs. Canfield questioned the details on the back covered porch. Mr. DelleDonne explained the columns are decorative and feels it blends together.

Mrs. Gaylord questioned if the roof is copper. DelleDonne stated everything except for the covered porch will be copper. Asphalt will cover the porch.

Mr. Ross stated after a meeting at the site, he feels their request is in keeping with the home. Mr. Ross recommended to Attorney Falcon that memorializing resolution is acceptable.

McNett requested the stone is stated in the Resolution as a specific such as black and grey two stone veneer granite type material.

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Attorney Falcon presented the Resolution.

A motion by Mrs. McNett to Memorialize Application #362; seconded by Mrs. Gaylord and with a roll call vote as follows:

Mrs. Canfield-Yes  
Mrs. McNett-Yes  
Mr. Frenkel-Yes  
Chair Gadsden-Yes  
Mrs. Gaylord-Yes  
Mr. Kirshenbaum-Yes

**CONSTRUCTION REVIEW:**

**CONSTRUCTION REVIEW APPLICATION #324**

Application # 324  
Blk. #3103, Lot #6

Applicant: 89 Stewart Road, LLC  
89 Stewart Road, Short Hills

Continuation of a review of construction status for the previously approved application.

Attorney Falcon recused himself turning over the hearing to Attorney Andrew Brewer.

Andrew Brewer stated the objectives of the 89 Stewart hearing in detail. Following the receipt of information, a Resolution reflecting its findings and authorizing a report will be presented to the Construction Official.

Each item that was found to be non-conforming was discussed and individual votes were taken.

Mr. Desiderio of Bendit Weinstock, the applicant's attorney, circulated copies of Exhibit A-1, A-2 and Exhibit E. Attorney Desiderio stated the applicant questions the authority of the board. His clients believe they built a house that conforms.

Attorney Desiderio asked for clarification from Mr. Ross, referring to Items D and E if they have been approved.

Mr. Ross, HPC Consultant, was sworn in and testified that he has not spoken to Mr. Doty since December 5<sup>th</sup>.

Attorney Desiderio stated that December 3<sup>rd</sup> meeting notice was not received until that day, nor was a letter sent from Mr. Jones, Building Official. For this reason, he did not appear to the December meeting.

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**CONDITION D**

Condition D, referring to the planting of a Pin Oak tree has been approved.

Attorney Brewer stated Condition E was not addressed and not in conformance with the Tom Doty.

Attorney Desiderio asked for clarification of the rules for the hearing. Attorney Brewer explained the process.

**CONDITION E**

Mr. Robert Singer, the applicant was sworn in. In regards to item E, Mr. Singer testified that he spoke to Mr. Doty early in the process and after walking the site with him, approvals were done by Mr. Doty on site. Mr. Singer stated the driveway was moved to the opposite side of the house due to a neighbor's dissatisfaction of the location. Mr. Singer stated the original design of the driveway was submitted to the town accordingly.

Attorney Desiderio summarized the nonconformity received by Mr. Jones from Mr. Doty in detail. The original plans had a tree outside the driveway. It was suggested the position of the tree should be discussed with Mr. Doty if the tree's root system will be compromised.

Mr. Singer testified the driveway was redesigned to go where the tree is. Mr. Doty approved the removal of the tree. It was verbally agreed putting the driveway around the tree would have compromised the root system.

Chair Gadsden, opened the discussion to the Commissioners, limited to the subject at hand.

Mr. Frenkel questioned if the client has met with Mr. Doty recently. Mr. Singer stated he met with Mr. Doty at the end of November or early December. Mr. Doty was involved in the process and signed off on the plans. Mr. Frenkel questioned if the driveway was changed to go over the tree. Mr. Frenkel questioned why the plans show a driveway accommodating the house and a tree.

Mrs. Canfield asked for clarification referring to the second plan if the moving of the driveway and circular was approved by the Commission containing a tree outside the footprint. Attorney Brewer added that Mr. Doty's memo stated that he was not informed of a tree.

Mr. Singer again stated the driveway was redesigned to go where the tree is. Mr. Doty approved the removal of the tree. Putting the driveway around the tree would have compromised the root system.

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Attorney Brewer stated the plans approved by the commission had a driveway with a tree outside the footprint. The condition states if the tree is not able to be retained, the Township Forester shall be notified. The plans submitted to Mr. Doty had a tree in the footprint.

Attorney Desiderio explained his disapproval of the process in detail.

Questions were open to the audience.

Jenifer Amorosa, Resident of 86 Stewart Road was sworn in. It is her understanding that the Commission issued a comprehensive report by Mr. Ross to Mr. Jones. By statute Mr. Jones can't sign the CO without the permission of the HPC. She would like the developer and owner to submit plans of deviations found in Mr. Ross's report. JA-1 Application for CO was submitted. A document dated October 23<sup>rd</sup> from Michelle Donato concerning the NJ Statute was submitted and marked JA-2.

Mrs. McNett asked for clarification that the plan that the Forrester received was not the same plan the board received. Attorney Brewer confirmed that is what Mr. Doty's memo states.

Chair Gadsden called for a motion on the non-conformity of Application E. Upon a motion made by Mary McNett, seconded by Robert Frenkel, and with a roll call vote as follows:

Mrs. Canfield-Yes  
Chair Gadsden-Yes  
Mrs. McNett-Yes  
Mr. Frenkel-Yes  
Mrs. Gaylord-Yes

said motion was carried

**CONDITION I**

Attorney Brewer read Condition I referring to cedar shakes on the roof of the Gardner's Cottage.

Attorney Desiderio read emails marked Exhibit D.

Chair Gadsden asked for comments from Mr. Ross asking for clarification of his learning of the inability of the use of shingles. Mr. Ross stated it is his job as Consultant to expedite the processes and stated that he was consulted. He responded that it was left to the Commissioners and Mr. McGraw did not feel this was an issue.

Chair Gadsden, upon hearing no questions and discussion from the Commissioners or the audience called for a vote.

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Chair Gadsden called for a motion on conformity with Condition I. Upon a motion made by Mrs. Canfield, seconded by Robert Frenkel, and with a roll call vote as follows:

Mrs. Canfield-Yes  
Chair Gadsden-Yes  
Mrs. McNett-Yes  
Mr. Frenkel-Yes  
Mrs. Gaylord-Yes

said motion was carried

**CONDITION J**

Condition J refers to paint vs. stain.

Attorney Desiderio read emails marked Exhibit E referring to Condition J, stating the authorization of the use of stain instead of paint from Mr. Ross.

Mr. Ross stated he does not have power to approve anything. To expedite the process, a subcommittee was formed. The subcommittee would determine if approval could be made or brought back to the Commission. Mr. Ross was contacted about staining the Gardeners Cottage instead of paint. Color swatches were requested and sent on 6/24. This was forwarded to the subcommittee and advising his disapproval. After receiving no reply from the subcommittee, Mr. Ross advised to go ahead.

Chair Gadsden asked for clarification as to what the Commission's authority ordinarily is on a non-designated site. Mr. Ross stated in terms of painting, the Commission has no power.

Mrs. McNett commented that painting was an unwise decision since it fails to separate the Gardeners Cottage from the house since it is visible from the street. It was their intention along with the architect and attorney that the cottage should be kept separate.

Chair Gadsden, upon hearing no further questions and discussion from the Commissioners opened it up to the audience.

Evan Lamp of 85 Stewart Road was sworn in. Mr. Lamp believes Mr. Ross over extended his authority. A single person should not overrule a board decision. The paint is an important item designated as a separate line item. During an email exchange between Mr. Lamp and Mr. Baio, he suggested paint is a preference. Mr. Lamp explained the history of stains. The compromised plan was to preserve the structure. The roof shingles will change the look of the house but it is agreed it is not a major issue.

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Mrs. Canfield questioned Mr. Ross if he approved the stain in writing. Mr. Ross confirmed it was in writing.

Mrs. Amorosa commented in regards to the paint. Referring to June 2014 minutes, Mr. Baio explained the applicant was willing to meet the recommendations. It is stated the Gardeners Cottage will be cleaned and repainted in a similar color. She also referred to the April 3, 2014 minutes stating that Attorney Desiderio agreed it lost its individuality and paint is part of the historic value. Mrs. Amorosa stated Mr. Baio agreed that the stain was too dark and not pleasing to the eye.

Attorney Desiderio objects referring to what Mr. Baio may have said.

Chair Gadsden called for a motion of the non conformity of Application J. Upon a motion made by Alison Canfield, seconded by Mary McNett, and with a roll call vote as follows:

Mrs. Canfield-Yes

Chair Gadsden-Yes

Mrs. McNett-Yes

Mr. Frenkel-Yes

Mrs. Gaylord-Yes

said motion was carried

Attorney Desiderio stated he feels the applicants were victims.

**CONDITION K**

Condition K refers to replacement shingles.

Referring to Exhibit H, Emails from Mr. Ross, Attorney Desiderio stated that Mr. Ross agreed the wood shingles could not be salvaged on the rear portion of the home. The front, left and right was reused. Reading a December 8 email from Mr. Ross, Attorney Desiderio stated Mr. Ross approved the use of additional shingles.

Mr. Ross stated everything Mr. Desiderio said is correct. Shingles were wet, rotted, broken and cracked. Mr. Ross confirmed the other three sides have the original shingles.

Mrs. Gaylord questioned if you can paint over stain. Attorney Desiderio did not have the answer.

Questions were opened to the audience.

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Mr. Lamp commented the paint was removed and the entire structure is stained. He has no objections to paint.

Chair Gadsden called for a motion of compliance of Application K. Upon a motion made by Mary McNett, seconded by Alison Canfield, and with a roll call vote as follows:

Mrs. Canfield-Yes  
Chair Gadsden-Yes  
Mrs. McNett-Yes  
Mr. Frenkel-Yes  
Mrs. Gaylord-Yes

said motion was carried

**CONDITION N**

Condition N refers to the stone wall.

Attorney Desiderio read a memo from Mr. Ross stating the stone wall was hit by construction trucks and repaired. He concluded the wall was rebuilt and not restored and is safe. Mr. Desiderio referring to the code stated no standards were specified.

Mr. Ross stated it was not specified in the resolution means or methods of restoration. Applicants were asked to use real stone. Samples were given. The Chairman was advised to see if it was acceptable and Mr. Ross stated that no instruction was given by Mr. Ross in writing.

Mrs. McNett asked if there is a standard for building a wall. Mr. Ross stated yes. No specific instructions were given. Mr. Ross requested that they match the mortar and color of the stone. Mr. Ross feels it was rebuilt in kind as advised.

Mrs. Canfield asked Mr. Ross if the commission would consider that wall if it did not have to be repaired due to a construction accident. Mr. Ross stated it is a significant historic wall with context to the district. Because it is non designated it wouldn't go before the Commission. Because it was part of the application it was included.

Mrs. Amorosa stated that before the wall was repaired and restored, a letter was sent to Mr. Jones dated October 8<sup>th</sup> stating there was destruction to the wall and had been damaged. The pillar base cracked before the winter freeze. She feels it is strongly advised lime stone should be added to the cement in order to expand and contract. Mrs. Amorosa feels this should have been done by hand. Because it was done by machinery, damage was done to the stone. Mrs. Amorosa feels the wall should have gone below the grass/dirt line. Historic stones from the wall were removed by the machinery and left on the ground.

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Mrs. Amorosa referred to pictures of the north pillar. Marked as JA-3. Cracks in the pillars were shown. The cement work was discussed.

Mrs. McNett stated there is a difference if the wall was restored or repaired and feels the stone is appropriate.

Mrs. Canfield asked for clarification if the wall is on a designated historic property but the house is a non designated structure. Attorney Desiderio confirmed the wall is not a designated historic site but is in a historic area.

Chair Gadsden called for a motion of noncompliance of Application N. Upon a motion made by Alison Canfield, seconded by Karen Gaylord, and with a roll call vote as follows:

Mrs. Canfield-Yes  
Chair Gadsden-Yes  
Mrs. McNett-Yes  
Mr. Frenkel-Yes  
Mrs. Gaylord-Yes

said motion was carried

**PARAGRAPH 6**

Paragraph 6 refers to windows and doors in conflict with the architect submitted drawing approved by the commission.

Attorney Desiderio read Mr. Ross, November memorandum.

With no questions or comments from the Commission, discussion was open to the audience. Window sizes were changed on the second floor. Comparing his 1800 windows, the new windows change the light.

Mrs. Amorosa added that the molding around the windows changed significantly when the windows were replaced. Referring to photos before and after construction, she stated the moldings are greater size of the original and extend wider. Additional molding was put under the eve losing vision of the shakes. A specific issue, referring to page 9, shows a shutter on each side. Referring to page 15, after the alterations, the new window does not allow room to remount the shutters as stated in Mr. Baio's drawing.

Referring to a photograph Mrs. McNett stated that the windows were thrown onto a heap of construction debris. This makes her question if the use of the windows were taken seriously.

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Mrs. Canfield , referring to the new structure, asked if windows were not replaced per the approved drawings of the commission. Mr. Ross stated the windows were approved for the new house not the existing.

Chair Gadsden called for a motion of noncompliance of Paragraph 6. Upon a motion made by Mary McNett, seconded by Karen Gaylord, and with a roll call vote as follows:

Mrs. Canfield-Yes  
Chair Gadsden-Yes  
Mrs. McNett-Yes  
Mr. Frenkel-Yes  
Mrs. Gaylord-Yes

said motion was carried

**PARAGRAPH 7**

Paragraph 7 referred to cultured stone at the bottom of the Gardeners Cottage.

Attorney Desiderio read a memo from Mr. Ross. Attorney Desiderio acknowledged the stone is not in compliance but done with good motives and is more aesthetically pleasing.

Mr. Ross stated the concrete is not aesthetically pleasing. The foundation was to be covered with concrete. Mr. Baio's approved drawing of June showed concrete with no note. Cultured stone was added later to match the house.

With no comments from commission, it was opened to the audience.

Mrs. Amorosa stated the appearance is pleasing but makes it appear as one house. The objective as noted in the comments in minutes, it is important to allow the cottage to stand out.

Mrs. McNett stated it does not matter if the builder feels the material is prettier, you can't change a structure without approval of the Commission.

Chair Gadsden called for a motion of noncompliance of Paragraph 7. Upon a motion made by Mary McNett, seconded by Karen Gaylord, and with a roll call vote as follows:

Mrs. Canfield-Yes  
Chair Gadsden-Yes  
Mrs. McNett-Yes  
Mr. Frenkel-Yes  
Mrs. Gaylord-Yes

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said motion was carried

**PARAGRAPH 8**

Paragraph 8 referred to the Second Entrance Driveway and Pillar.

Attorney Desiderio read Mr. Ross's memo referring to A-3 which was circulated, the alternate entrance on the right hand side of the property allowing access to the garages. A pillar was added to delineate the neighbor from using the driveway cutting across the property line. This was approved by the Building and Engineering departments.

Mr. Frenkel referring to the added pillar, questioned if they considered getting HPC comments first. Attorney Desiderio stated the clients acted on good faith since they were given permits to do so.

Chair Gadsden asked if 91 Stewart was consulted. Attorney Desiderio stated they were not. It is said there is no objection since it has been installed. The neighbor still has access to the driveway.

Mr. Frenkel asked for confirmation that at the last meeting the resident had a strong objection. It was confirmed.

Mr. Ross commented that when he learned about the driveway, it was already installed.

Mrs. McNett commented that the Commission spent months on this application to preserve this Gardeners Cottage which is important to the community and historic district. The Commission went to the site to work with the issues and it makes no sense the applicant will bypass the HPC and go directly to Building Department to add a driveway. The applicant should have understood it needs to go back to the HPC. Mrs. McNett stated Mr. Baio is aware he needs to come back to HPC for approvals.

Attorney Desiderio stated a Commission needs to make it clear to the applicant what they can and cannot do.

Mrs. Gaylord referring to Mr. Ross's comments stated it shows the lines of the existing house and the driveway is significantly different and was not approved by the HPC. This is misrepresentation.

Attorney Desiderio stated getting permits allowed them to believe they complied.

Mrs. Canfield asked if Mr. Baio was the architect to completion. Attorney Desiderio confirmed.

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Mr. Frenkel asked if the pillar was approved. Attorney Desiderio said to the best of his knowledge, yes. Mr. Frenkel asked if the pillar is part of the existing wall. Attorney Desiderio said no.

With no further questions from the Commission, it was opened to the audience.

Maryann Wyshner of 93 Stewart Road stated that the driveway is not in compliance with the plans. It is a significant deviation. She hopes the HPC will require that the driveway is conformed to its original condition. Getting approval of Building does not give approval and must be done by several entities.

Chair Gadsden referring to attachment H stated the construction permit does not mention the pillar

Mrs. Amorosa stated appropriate setbacks were not followed and they were fully aware where the driveway should be. A driveway of 30 years was encroached upon. Mrs. Amorosa stated Phyllis Robinson of the building department stated Building approved the driveway.

Mr. Lamp commented that the plans are a part of the resolution and the plans and resolution should be looked at as a whole.

Mrs. McNett questioned if the windows and shutters can be packaged. Mr. Ross stated they should be included with the windows.

Mrs. Canfield confirmed that Mr. Ross referred to the windows and shutters on page 16 as part of the resolution. It is believed the old shutters have been retained but not hung. Attorney Desiderio confirmed they are available.

Mrs. McNett asked for assurance that the shutters will be addressed. They will be added to Mr. Jones' recommendation.

Mrs. Canfield asked if the door was replaced. Mr. Ross confirmed it was replaced and not restored. The existing shutters will be maintained and hung.

Attorney Desiderio would like to put on record that this board is advisory and the applicant can offer other explanations. Attorney Brewer stated the HPC will render an opinion to Mr. Jones.

Referring to the roll of the construction official, Attorney Desiderio stated there is no evidence of past meetings that state who oversees construction projects and landscaping. No stop work order was ever issued. Construction is complete and the home is for sale closing the end of January. Irregularities are peculiar and correspondences were not received. The applicant built a home adding to the character of the historic area. The HPC decisions undermine Mr. Ross.

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Mrs. Amorosa stated the historic gate was removed and should be between two pillars in the front of the house. Mr. Ross confirmed he did not inspect the gate and is not aware if it as part of the drawings.

Mr. Lamp stated items are missing. The driveway was changed from gravel to asphalt against the plans. This should be mentioned as non compliant with the plans.

Chair Gadsden called for a motion of noncompliance of Paragraph 8. Upon a motion made by Mary McNett, seconded by Alison Canfield, and with a roll call vote as follows:

Mrs. Canfield-Yes  
Chair Gadsden-Yes  
Mrs. McNett-Yes  
Mr. Frenkel-Yes  
Mrs. Gaylord-Yes

said motion was carried

Attorney Brewer summarized the votes and a drafted resolution.

A motion by Mary McNett to adopt the Resolution; seconded by Karen Gaylord and with a roll call vote as follows:

Mrs. Canfield-Yes  
Chair Gadsden-Yes  
Mrs. McNett-Yes  
Mr. Frenkel-Yes  
Mrs. Gaylord-Yes

said motion was carried

The meeting was adjourned at 10:45 PM.

Respectfully submitted,

Nicole Verducci, HPC Secretary