

**From:** John Bensché <[john.bensché@verizon.net](mailto:john.bensché@verizon.net)>  
**Sent:** Friday, December 8, 2017 6:51 PM  
**To:** Mayor  
**Subject:** Fwd: Comments on Historic Preservation Law

Dear Mayor Hochvert and Trustees,

I am writing about the recent news of the resignation of the entire CHP and a few thoughts on next steps.

I just read in the Inquirer you are seeking out new people to staff the committee. Don't do that. The flaws run too deep.

Not that long ago, the Scarsdale Forum Neighborhood Character Committee recommended the Board adopt a new, better HP law. (Dan, I think you and I were both on that committee.) An ad-hoc committee was empaneled by the VB and did much work toward that goal.

The key change in the law is to move from a reactive demolition permitting process to a proactive pre-designation process. Create a vetted list, and protect the heck out of those. Tweaking "and" or "or" is pointless.

The report by Andrew Dolkart was commissioned by that AD Hoc committee to survey how big the universe of potentially historic houses was. Its is an awesome report if you have not read it. The report highlighted 69 (?) individual structures and 15 (?) potential Historic District areas for possible Landmarking. Sadly, several houses from this survey are already gone. Dolma in its entirety was pegged to be a district.

The idea would be the VB adopts a new pre-designation law (using the model laws analyzed by the ad-hoc committee) and then the committee begins reviewing suggested properties. Passing the law shouldn't be too difficult. The contentious part comes when a particular building is up for Landmarking before the Committee.

The major issue that you much face in drafting the law is whether OWNER CONSENT was required to designate a property. This is the crux of the matter, or as Shakespeare would say, "Aye, there's the rub."

A strong law does not require owner consent. The committee of experts makes the

call after hearings, etc.

If owner consent IS required by the law, then its a bust. Very very few people are going to voluntarily offer their house for designation. Its tantamount to having no law at all.

I am attaching an email and letter I sent to the the Village Board in 2013 outlining my thoughts on Historic Preservation and the crucial issue of owner consent. There is plenty of precedent going back the the Penn Central case over GCT that making such designation is NOT A TAKING. Owner may feel their property value is less, but that is not reason enough to stop a pre-designation. There are plenty of places where historic designation ADDS to value, and is a sought after status.

My letter point out that Local Government's impose lots of restrictions on private property owners, like zoning, planning and architectural review. Historic Designation is no different.

Please read my letter, and perhaps pick up that draft law from the ad hoc committee, chop out the Owner Consent provisions that I think had survived early drafts, and enact it. Then, you can try to restaff the Committee once it actually has some power worth meeting over.

Sincerely,

jb

PS: The Historical Society recently had an overflow crowd in attendance at a talk and slide show on old houses in Scarsdale. It really is a shame Village government is doing nothing to save these distinctive structure. Bowing down at the alter of private property rights should be the end of the conversation. If it is, strike the law completely and declare open season for developers who's short term interests do not match the community's long term interests.