

Christine Joyce

Extra Information
 3/9/09 #10

From: Maxwell, Bradford P. [Bradford.Maxwell@ropesgray.com]
Sent: Saturday, March 07, 2009 12:43 AM
To: Board of Selectmen
Cc: pgrover@theclassicgroup.com
Subject: RE: Demolition Delay changes

EXTRA INFORMATION

As requested, I have attached two redline comparisons: the first shows the cumulative proposed changes to the existing bylaw, as reflected in the draft warrant article submitted earlier today; the second document shows only those changes that were approved at our Historical Commission meeting/public hearing on Thursday, March 5th (compared against the version that was submitted to the Selectmen in preparation for the Feb. 23rd meeting).

These most recent changes (1) respond to a suggestion raised by the Selectmen that the permit applicant should receive the same 14-day notice that the general public receives; (2) reflect a number of specific comments and cleanup changes from Town Counsel and Town officials, as well as a general observation from Town Counsel that the pre-determination period in the bylaw is on the longer side, compared with other towns, and the Commission's administrative time could be shortened, for the benefit of the permit applicant, while still providing ample time to consider the demolition application; and (3) incorporate suggestions from participating Acton citizens as to additional reasons for which the Commission can release the automatic permit delay for demolitions in violation of the bylaw.

Please let me know if there are any specific questions you would like addressed, or if there is any additional information I can provide.

Many thanks,
 Brad Maxwell

Bradford P. Maxwell
ROPES & GRAY LLP
 T 617-951-7394 | F 617-235-0860
 One International Place
 Boston, MA 02110-2624
 Bradford.Maxwell@ropesgray.com
www.ropesgray.com

From: Lauren Rosenzweig [mailto:lsr57@comcast.net]
Sent: Friday, March 06, 2009 8:01 PM
To: Maxwell, Bradford P.; pgrover@theclassicgroup.com
Cc: BOS@acton-ma.gov
Subject: RE: Demolition Delay changes

Hi Brad,

Just copy it to the entire Board of Selectmen at the above address, and we'll add it to the Selectmen's packet. Thanks so much!

Lauren

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Sent: Friday, March 06, 2009 7:53 PM

3/9/2009

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Subject: Re: Demolition Delay changes

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From: Lauren Rosenzweig <lsr57@comcast.net>
To: 'Peter R. Grover' <pgrover@theclassicgroup.com>
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3/9/2009

CHAPTER N

EXTRA INFORMATION

**PROCEDURE FOR THE DEMOLITION OF
HISTORICALLY OR ARCHITECTURALLY
SIGNIFICANT BUILDINGS**

N1. Intent and Purpose

This bylaw is adopted for the purpose of preserving and protecting significant buildings within the Town which constitute or reflect distinctive features of the architectural, cultural, political, economic or social history of the town; to encourage owners of such buildings to seek out persons who might be willing to purchase, preserve, rehabilitate or restore such buildings rather than demolish them. To achieve these purposes the Acton Historical Commission (hereinafter the Commission) is empowered to advise the Building Commissioner with respect to the issuance of permits for demolition of significant buildings. The issuance of demolition permits for significant buildings is regulated as provided by this bylaw.

N2. Definitions

- 2.1 "Building"** - any combination of materials forming a shelter for persons, animals, or property.
- 2.2 "Demolition"** - any act of pulling down, destroying, removing, or razing a building or any portion thereof, or commencing the work of total or substantial destruction with the intent of completing the same.
- 2.3 "Significant Building"** - any building or portion thereof not within an Historic District but which:
- a. is listed on, or is within an area listed on, the National Register of Historic Places, or is the subject of a pending application for listing on said National Register; or
 - b. is included in the Cultural Resources Inventory prepared by the Commission including those buildings listed for which complete surveys may be pending; or
 - c. has been determined by vote of the Commission to be historically or architecturally significant in terms of period, style, method of building construction, or association with a famous architect or builder provided that the owner of such a building and the Building Commissioner have been notified, in hand or by certified mail, within ten (10) days of such vote.
- 2.4 "Commission"** - the Acton Historical Commission.

N3. Procedure

3.1 ~~Upon~~Within seven (7) days of receipt of an application for a demolition permit for a significant building the Building Commissioner shall forward a copy thereof to the Commission. The Building Commissioner shall also notify the Commission (by e-mail or similarly expedient means) when such a permit has been sent to the Commission for consideration. No demolition permit shall be issued at that time.

3.2 Within sixty-five (65) days upon receipt of the application from the Building Commissioner the Commission shall conduct a public hearing and shall give public notice thereof by publishing notice of the time, place and purpose of the hearing in a local newspaper at least fourteen (14) days before said hearing and also, within ~~seven~~fourteen (~~7~~14) days of said hearing, mail a copy of said notice to the applicant.

3.3 If, after such hearing, the Commission determines that the demolition of the significant building would not be detrimental to the historical or architectural heritage or resources of the Town, the Commission shall so notify the Building Commissioner within ten (10) days of such determination. Upon receipt of such notification, or after the expiration of ~~fifteen~~twenty ten (~~15~~10) days from the date of the conduct of the hearing if he has not received notification from the Commission, the Building Commissioner may, subject to the requirements of the State Building Code and any other applicable laws, bylaws, rules and regulations, issue the demolition permit.

3.4 If the Commission determines that the demolition of the significant building would be detrimental to the historical or architectural heritage or resources of the Town, such building shall be considered a preferably-preserved significant building.

3.5 Upon determination by the Commission that the significant building which is the subject of the application for a demolition permit is a preferably-preserved significant building, the Commission shall so advise the applicant and the Building Commissioner, within ~~twenty one~~ten (~~21~~10) days of said hearing, and no demolition permit may be issued until at least six (~~six~~eighteen) (~~6~~18) months after the date of such determination by the Commission for any significant building that falls into one of the categories identified in Section 2.3.a. of this bylaw, or until twelve (12) months after the date of such determination by the Commission for any significant building that falls into one of the categories identified in Sections 2.3.b. or 2.3.c. of this bylaw.

3.6 Notwithstanding the preceding sentence, the Building Commissioner may issue a demolition permit for a preferably-preserved significant building at any time after receipt of written advice from the Commission to the effect that either:

(i) the Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate or restore such building, or

(ii) the Commission is satisfied that for at least six (6) months the owner has made continuing, bona fide and reasonable efforts to locate a purchaser to preserve, rehabilitate and restore the subject building, and that such efforts have been unsuccessful.

N4. Enforcement and Remedies

4.1 *The Commission and the Building Commissioner are each authorized to institute any and all proceedings in law or equity as they deem necessary and appropriate to obtain compliance with the requirements of this bylaw, or to prevent a violation thereof.*

4.2 *No building permit shall be issued with respect to any premises upon which a significant building has been voluntarily demolished in violation of this bylaw for a period of ~~two~~ three (23) years after the date of the completion of such demolition- unless authorized by the Commission pursuant to Section 4.4. As used herein "premises" includes the parcel of land upon which the demolished significant building was located.*

4.3 *Upon a determination by the Commission that a building is a preferably-preserved significant building, the owner shall be responsible for properly securing the building, if vacant, to the satisfaction of the Building Commissioner. Should the owner fail to secure the building, the loss of such building through fire or other cause shall be considered voluntary demolition for the purposes of Section 4.2.*

4.4 *At any time, the owner of property on which a significant building has been voluntarily demolished in violation of Sections 4.2 or 4.3 of this bylaw can apply in writing to the Commission for an exemption to the provisions of Sections 4.2 or 4.3, such application to state with particularity the facts and circumstances to prove to the Commission that an exemption is warranted due to (i) exigent circumstances or disasters beyond the owner's (and, if different than the owner, the permit applicant's) control, or (ii) documentation evidencing the owner's intent to complete a faithful restoration of the demolished building. The Commission may in its discretion determine that the written request states sufficient grounds for exemption from the provisions Sections 4.2 or 4.3 and authorize an exemption from this bylaw. Any exemption granted pursuant to this Section 4.4 shall apply only to the voluntary demolition for which the owner submitted a written exemption request, and not for any subsequent voluntary demolition to which this bylaw would otherwise apply.*

N5. Municipal Buildings

No provision of this bylaw shall apply to buildings owned or operated by the Town of Acton or the Acton Water District.

(This section was inserted at the Special Town Meeting of 11/28/90)

N6. Local Historic Districts

This Bylaw shall not apply to any proposed demolition of a building which is located within a Local Historic District established under the Local Historic District Bylaw, Chapter P of the Town of Acton Bylaws. The Historic District Commission established under the Local Historic District Bylaw shall have sole jurisdiction over any demolition proposals within a Local Historic District pursuant to all procedures, standards and the COMMISSION shall limit its review powers established under this Bylaw to the public way from which the review of the BUILDING or STRUCTURE is, in the opinion of the COMMISSION, most relevant to the integrity of the DISTRICT.

N7. Severability

The sections, paragraphs, sentences, clauses and phrases of this bylaw are severable, and if any phrase, clause, sentence, paragraph or section of this bylaw shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrase, clauses, sentences, paragraphs and sections of this bylaw.

Document comparison by Workshare Professional on Saturday, March 07, 2009 12:19:13 AM

Input:	
Document 1 ID	file://H:/My Documents/AHC/Orig. Ch. N.doc
Description	Orig. Ch. N
Document 2 ID	file://H:/My Documents/AHC/FINAL DRAFT Amended Demolition Delay Bylaw.doc
Description	FINAL DRAFT Amended Demolition Delay Bylaw
Rendering set	standard

Legend:	
<u>Insertion</u>	
Deletion	
Moved from	
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Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	16
Deletions	13
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	29

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Final Changes Approved 3/5/09

3/9/09

6

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 - is included in the Cultural Resources Inventory prepared by the Commission including those buildings listed for which complete surveys may be pending; or
 - has been determined by vote of the Commission to be historically or architecturally significant in terms of period, style, method of building construction, or association with a famous architect or builder provided that the owner of such a building and the Building Commissioner have been notified, in hand or by certified mail, within ten (10) days of such vote.
- 2.4 "Commission"** - the Acton Historical Commission.

N3. Procedure

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3.3 If, after such hearing, the Commission determines that the demolition of the significant building would not be detrimental to the historical or architectural heritage or resources of the Town, the Commission shall so notify the Building Commissioner within ~~twenty-one~~ten (~~21~~10) days of such determination. Upon receipt of such notification, or after the expiration of ~~twenty-one~~ten (~~21~~10) days from the date of the conduct of the hearing if he has not received notification from the Commission, the Building Commissioner may, subject to the requirements of the State Building Code and any other applicable laws, bylaws, rules and regulations, issue the demolition permit.

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Document comparison by Workshare Professional on Saturday, March 07, 2009 12:22:31 AM

Input:	
Document 1 ID	file://H:/My Documents/AHC/REVISED DRAFT Amended Demolition Delay Bylaw.doc
Description	REVISED DRAFT Amended Demolition Delay Bylaw
Document 2 ID	file://H:/My Documents/AHC/FINAL DRAFT Amended Demolition Delay Bylaw.doc
Description	FINAL DRAFT Amended Demolition Delay Bylaw
Rendering set	standard

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