

TOWN OF DURHAM
LOCAL LAW NO. 1 OF THE YEAR 1989

A LOCAL LAW FOR HISTORIC PRESERVATION

Be it enacted by the TOWN BOARD of the Town of DURHAM, GREENE COUNTY, NY as follows:

A Local Law relating to the establishment of landmarks and historic districts in the Town of Durham, Greene County, New York.

SECTION 1. PURPOSE;

It is hereby declared as a matter of public policy that the protection, enhancement, and perpetuation of landmarks and historic districts is necessary to promote economic, cultural, educational, and general welfare of the public. Inasmuch as the identity of a people is founded on its past, and inasmuch as DURHAM has many significant historic, architectural, and cultural resources which constitute its heritage, this act is intended to:

- (a) protect and enhance the landmarks and historic districts which represent distinctive elements of DURHAM'S historic, architectural, and cultural heritage;
- (b) foster civic pride in the accomplishments of the past;
- (c) protect and enhance DURHAM'S attractiveness to visitors and the support and stimulus to the economy thereby provided, and
- (d) insure the harmonious, orderly, and efficient growth and development of the Town.

SECTION 2. HISTORIC PRESERVATION COMMISSION;

There is hereby created a commission to be known as the Durham Historic Preservation Commission.

(a) The Commission shall consist of five (5) members to be appointed by the Town Supervisor, of whom:

- at least one shall be an architect, or have known and demonstrated interest and knowledge of local architecture;
- at least one shall be a historian, or have a known and demonstrated interest and knowledge of local history;
- at least one shall be an attorney;
- at least one shall be a resident of a historic district or a proposed district;
- at least one shall have demonstrated significant interest in and commitment to the field of historic preservation evidenced either by involvement in a local historic preservation group, employment or volunteer activity in the field of historic preservation, or
- other serious interest in the field;
- and all members shall have a known interest in historic preservation and architectural development within the Town of Durham.

- (b) Commission members shall serve for a term of four (4) years, with the exception of the initial term of one of the five (5) members which shall be one year, one which shall be two years, and one which shall be three years.
- (c) The Chairman and Vice Chairman of the Commission shall be elected by and from among the members of the Commission.
- (d) The powers of the Commission shall include:
 - (i) Promulgation of rules and regulations as necessary for the conduct of its business.
 - (ii) Adoption of criteria for the identification of significant historic and architectural resources and for the delineation of historic districts.
 - (iii) Conduct of surveys of significant historic, architectural, and cultural landmarks and historic districts within the Town.
 - (iv) Designation of identified structures or resources as landmarks and historic districts.
 - (v) Acceptance on behalf of the Town of the donation of facade conservation or other easements and development rights;
 - (vi) Increasing public awareness of the value of historic, cultural, architectural preservation by developing and participating in public education programs.
 - (vii) Making recommendations to Town government concerning the utilization of state, federal, or private funds to promote the preservation of landmarks and historic districts within the Town.
 - (viii) Recommending acquisition of a landmark structure by the Town government where its preservation is essential to the purposes of this act and where private preservation is not feasible.
 - (ix) Approval or disapproval of applications for certificates of appropriateness pursuant to this act.
- (e) The Commission shall meet at least monthly, but meetings may be held at any time on the written request of any two of the Commission members or on the call of the Chairman or the Town Supervisor.
- (f) A quorum for the transaction of business shall consist of three (3) of the Commission's members.

SECTION 3. DESIGNATION OF LANDMARKS OR HISTORIC DISTRICTS;

- (a) The Commission may designate an individual property as a landmark if it:

- (i) Possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic, or social history of the locality, region, state or nation; or
 - (ii) Is identified with historic personages; or
 - (iii) Embodies the distinguishing characteristics of an architectural style; or
 - (iv) Is the work of a designer whose work has significantly influenced an age; or
 - (v) Because of a unique location or singular physical characteristic, represents an established and familiar visual feature of the neighbor
- (b) The Commission may designate a group of properties as an historic district if it:
- (i) contains properties which meet one or more of the criteria for designation of a landmark; and
 - (ii) by reason of possessing such qualities, it constitutes a distinct section of the Town.

The boundaries of each historic district designated henceforth shall be specified in detail and shall be filed, in writing, in the Town Clerk's Office for public inspection.

(c) Notice of a proposed designation shall be sent by certified mail to the owner of the property proposed for designation, describing the property proposed and announcing a public hearing by the Commission to consider the designation. Where the proposed designation involved so many owners that individual notice is unfeasible, notice may instead be published at least once in a newspaper of general circulation at least ten (10) days prior to the date of the public hearing. Once the Commission has issued notice of a proposed designation, no building permits shall be issued by the building inspector until the Commission has made its decision.

(d) The Commission shall hold a public hearing prior to designation of any landmark or historic district. The Commission, owners, and any interested parties may present testimony or documentary evidence at the hearing which will become part of a record regarding the historic, architectural, or cultural importance of the proposed landmark or historic district. The record may also contain staff reports, public comments, or other evidence offered outside of the hearing.

(e) The Commission shall forward notice of each property designated as a landmark and of the boundaries of each designated historic district to the office of the Greene County Clerk for recordation.

SECTION 4. CERTIFICATE OF APPROPRIATENESS FOR ALTERATION, DEMOLITION, OR NEW CONSTRUCTION AFFECTING LANDMARKS OR HISTORIC DISTRICTS:

No person shall carry out any restoration, reconstruction, demolition, new construction, or moving of a landmark or property within a historic district, nor shall any person make any material change in the appearance of such a property which affect the appearance and cohesiveness of the historic district, without first obtaining a certificate of appropriateness from the Historic Preservation Commission.

SECTION 5. CRITERIA FOR APPROVAL OF A CERTIFICATE OF APPROPRIATENESS:

(a) In passing upon an application for a certificate of appropriateness, the Historic Preservation Commission shall not consider changes to interior spaces, unless they are open to the public, or to architectural features that are not visible from a public street.

The Commission's decision shall be based upon the following principles:

- (i) properties which contribute to the character of the historic district shall be retained, with their historic features altered as little as possible;
- (ii) any alteration of existing properties shall be compatible with its historic character, as well as with the surrounding district; and
- (iii) new construction shall be compatible with the district in which it is located.

(b) In applying the principle of compatibility the Commission shall consider the following factors:

- (i) the general design, character, and appropriateness to the property of the proposed alteration or new construction.
- (ii) the scale of proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood.
- (iii) texture, materials, and color and their relation to similar features of other properties in the neighborhood.
- (iv) visual compatibility with surrounding properties, including proportion of the property's front facade, proportion and

arrangement of windows and other openings within the facade, roof shape, and the of spacing of properties on streets, including setback.

- (v) the importance of historic, architectural, or other features to the significance of the property.

SECTION 6. CERTIFICATE OF APPROPRIATENESS APPLICATION PROCEDURE:

- (a) Prior to the commencement of any work requiring a certificate of appropriateness the owner shall file an application for such a certificate with the Historic Preservation Commission.

The application shall contain:

- (i) name, address, and telephone number of applicant
- (ii) location and photographs of property
- (iii) sketches or drawings of proposed changes if available
- (iv) samples of color or materials to be used
- (v) where the proposal includes signs or lettering, a scale drawing showing the type of lettering, a scale showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination and a plan showing the sign's location on the property
- (vi) any other information which the Commission may deem necessary in order to visualize the proposed work.

- (b) No building permit shall be issued for such proposed work until a certificate of appropriateness has first been issued by the Historic Preservation Commission. The certificate of appropriateness required by this act shall be in addition to and not in lieu of any building permit that may be required by any other ordinance of the Town of Durham.

- (c) The Commission shall approve, deny, or approve the permit with modifications within thirty (30) days from receipt of the completed application. The Commission may hold a public hearing on the application at which an opportunity will be provided for proponents and opponents of the application to present their views.

- (d) All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by certified mail and a copy filed with the Town Clerk's Office

for public inspection. The Commission's decision shall state the reasons for denying or modifying any application.

SECTION 7. HARDSHIP CRITERIA:

- (a) An applicant whose certificate of appropriateness for a proposed demolition has been denied may apply for relief on the ground of hardship. In order to prove the existence of hardship, the applicant shall establish that:
 - (i) the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
 - (ii) the property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
 - (iii) efforts to find a purchaser interested in acquiring the property and preserving it have failed.
- (b) An applicant whose certificate of appropriateness for a proposed alteration has been denied may apply for relief on the ground of hardship. In order to prove the existence of hardship, the applicant shall establish that:
 - (i) the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible.

SECTION 8. HARDSHIP APPLICATION PROCEDURE:

- (a) After receiving written notification from the Commission of the denial of a certificate of appropriateness, an applicant may commence the hardship process. No building permit or demolition permit shall be issued unless the Commission makes a finding that a hardship exists.
- (b) The Commission may hold a public hearing on the hardship application at which an opportunity will be provided for proponents and opponents of the application to present their views.
- (c) The applicant shall consult in good faith with the Commission, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property.
- (d) All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by certified mail and a copy filed with the Town Clerk's Office for public inspection. The Commission's decision shall state the reasons for granting or denying the hardship application.

SECTION 9. ENFORCEMENT:

All work performed pursuant to a certificate of appropriateness issued under this ordinance shall conform to any requirements included therein. It shall be the duty of the Town Building Inspector to inspect periodically any such work to assure compliance. In the event work is found that is not being performed in accordance with the certificate of appropriateness, or upon notification of such fact by the Historic Preservation Commission, the Building Inspector shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect.

SECTION 10. MAINTENANCE AND REPAIR REQUIRED;

Nothing in this ordinance shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within a historic district which does not involve a change in design, material, color or outward appearance.

No owner or person with an interest in real property designated as a landmark or included within a historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Historic Preservation Commission, produce a detrimental effect upon the character of the historic district as a whole or the life and character of the property itself.

Examples of such deterioration include:

- (a) Deterioration of exterior walls or other vertical supports.
- (b) Deterioration of roofs or other horizontal members.
- (c) Deterioration of exterior chimneys.
- (d) Deterioration of crumbling of exterior stucco or mortar.
- (e) Ineffective waterproofing of exterior walls, roofs, or foundations, including broken windows or doors.
- (f) Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.

SECTION 11. VIOLATIONS:

- (a) Failure to comply with any of the provisions of this ordinance shall be deemed a violation and the violator shall be liable to a fine of not less than \$10 nor more than \$100 for each day the violation continues.
- (b) Any person who demolishes, alters, constructs, or permits a designated property to fall into a serious state of disrepair in violation of this ordinance shall be required to restore the property and its site to its appearance prior to

the violation. Any action to enforce this subsection shall be brought by the Town Attorney. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.

SECTION 12. APPEALS:

Any person aggrieved by a decision of the Historic Preservation Commission relating to hardship or a certificate of appropriateness may, within 15 days of the decision, file a written application with the Town Board for review of the decision.

Be it enacted this 26th day of October 1989 by the TOWN BOARD of THE TOWN OF DURHAM of GREENE COUNTY, New York, to be effective as specified by local law.

Motion to approve by Mr. Warwick. Seconded by Mrs. Cooke.

Ayes	3	Armstrong, Cooke, Warwick
Noes	0	
Absent	1	Cole
Vacancy	1	