

Town of Lynnfield



TOWN CLERK'S OFFICE
55 Summer Street, Lynnfield, Mass. 01940
781-334-9400

The following is a true copy attest of the "doings" of Article 10 of the October 20, 2008 Special Town Meeting.

ARTICLE 10. To see if the Town will vote to amend the General Bylaws by adopting, as Section 29 of Chapter 5 thereof, the following:

SECTION 29: PRESERVATION OF HISTORICALLY OR ARCHITECTURALLY SIGNIFICANT STRUCTURES

Section 1. Intent and Purpose

This bylaw is enacted for the purpose of preserving and protecting significant structures within the Town which constitute or reflect distinctive features of architectural, cultural, economic, political or social history of the town and to limit the detrimental effect of demolition on the character of the town. Through this bylaw, owners of preferably preserved structures are encouraged to seek out alternative options that will preserve, rehabilitate or restore such structures and residents of the town are alerted to impending demolitions of significant structures. By preserving and protecting significant structures, streetscapes and neighborhoods, this bylaw promotes the public welfare by making the town a more attractive and desirable place in which to live and work. To achieve these purposes the Lynnfield Historical Commission is empowered to advise the Building Inspector with respect to the issuance of permits for demolition of significant structures. The issuance of demolition permits for significant structures is regulated as provided in this bylaw.

Section 2. Definitions

2.1 Applicant – Any person who, or entity which, files an application for a demolition permit. If the applicant is not the owner of the premises upon which the structure is situated, the owner must indicate on or with the application his/her assent to the filing of the application.

2.2 **Application** – An application for the demolition of a structure

2.3 **Building Inspector** - The person occupying the office of Building Inspector or otherwise authorized to issue demolition permits.

2.4 **Business Day** – A day which is not a legal municipal holiday, Saturday or Sunday.

2.5 **Commission** – The Lynnfield Historical Commission.

2.6 **Demolition** – The act of pulling down, destroying, removing, dismantling or razing a structure or commencing the work of total or substantial destruction with the intent of completing the same.

2.7 **Demolition By Neglect** – A process of ongoing damage to the fabric, viability and/or functionality of an unoccupied structure leading towards and/or causing its eventual demolition due to decay and/or structural failure and/or severe degradation over a period of time as a result of a general lack of maintenance, and/or failure to secure the structure from pests or vandals, and/or failure to take reasonable measures to prevent the ingress of water, snow, ice, and wind through the roof, walls, or apertures.

2.8 **Demolition Permit** – The building permit issued by the Building Inspector for the demolition of a structure, excluding a building permit issued solely for the demolition of the interior of a structure.

2.9 **Significant Structure** – Any building or other structure, or portion thereof, 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 on said National Register;
- B. is included in any historical or architectural inventory maintained by the Commission; 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 building or structure and the Building Inspector have been notified, in hand or by certified mail, within ten (10) days following such vote.

2.10 **Structure** – Materials assembled at a fixed location to give support or shelter, such as a building, framework, wall, reviewing stand, platform or the like

Section 3. Procedures

3.1 The Commission shall create, and from time to time shall revise, a list of Significant Structures within the Town, and shall supply an up-to-date copy to the Building Inspector.

3.2 Within three business days after the receipt of a completed application for a Demolition Permit for a structure that is on the list of Significant Structures, the Building Inspector shall forward a copy of such application to the Commission for review. No Demolition Permit shall be issued at that time, except in the event of an emergency as set forth below.

3.3 The Commission shall fix a reasonable time and date for a hearing on any application for a Demolition Permit with respect to a structure that is on the list of Significant Structures within the Town and shall give public notice of the time, place and purpose of the hearing in a newspaper of general circulation within the Town at least fourteen (14) days before said hearing. At least seven (7) days before said hearing, the Commission shall mail a copy of said notice to the applicant, to all owners(s) of abutting property as they appear on the most recent local tax list and to such other persons as the Commission shall deem entitled to notice.

3.4. The applicant shall be responsible for all costs associated with the mailing, posting or publishing of the required notices. The Commission may require the applicant to maintain on the property, which is the subject of a Demolition Permit application, a notice in a form designated by the Commission, visible from the nearest public way, of any hearing on the subject matter of such application.

3.5 No less than five (5) business days before the public hearing, the applicant shall submit to the Commission three (3) copies of a demolition plan which shall include the following:

- a. An assessors' map or plot plan showing the location of the structure to be demolished and the lot on which it is located with reference to the neighboring properties;
- b. Photographs of all façade elevations;
- c. A description of the structure to be demolished;
- d. The reasons for the proposed demolition and any data supporting said reasons; and
- e. A brief description of the proposed reuse of the property on which the structure to be demolished is located.

3.6 If, after such hearing, the Commission determines that the demolition of a structure appearing on the list of Significant Structures within the Town would not be detrimental to the historical or architectural heritage or resources of the Town, the Commission shall so notify the Building Inspector and the applicant within ten (10) business days after making such determination. Upon receipt of such notification, or after the expiration of fifteen (15) days from the date on

which the hearing closed if he has not received notification from the Commission, the Building Inspector may, subject to the requirements of the State Building Code, the Zoning Bylaws and any other applicable laws, bylaws, rules and regulations, issue the requested Demolition Permit.

3.7 If the Commission determines that the demolition of the Significant Structure would be detrimental to the historical or architectural heritage of the Town, such structure shall be deemed a preferably-preserved Significant Structure. The Commission shall so advise the applicant and the Building Inspector, and no Demolition Permit may be issued until one of the conditions set forth in § 3.8, below, is met. The Commission shall offer the applicant (and the owner, if different) information about alternatives to demolition, and shall direct him to resources in the preservation field, including the Massachusetts Historical Commission and other interested parties that might provide assistance in preservation, funding and/or adaptive reuse.

3.8 The Building Inspector may issue a Demolition Permit for a preferably-preserved Significant Structure at any time after:

- a. he receives written notice from the Commission that it is satisfied that there is no reasonable likelihood that either the owner some other person or entity is willing to purchase, preserve, rehabilitate or restore such Significant Structure; or
- b. he receives written notice from the Commission that it is satisfied that the owner has made continuing, bona fide and reasonable efforts to locate a purchaser to preserve, rehabilitate and/or restore the Significant Structure, and that such efforts have been unsuccessful; or
- c. a period of twelve (12) months shall have elapsed since the date of the Commission's determination that the Significant Structure which is the subject of an application for a Demolition Permit is a preferably-preserved Significant Structure.

As a condition of releasing the delay enforcement, the Commission may require the applicant to submit measured drawings or other documentation for the Town's historic records.

3.9 The owner of record shall be primarily responsible for participating in the investigation of options to demolition by actively seeking alternatives with the Commission and any interested parties, by providing any necessary information, by allowing the Commission reasonable access to the property, and by securing the premises.

Section 4. Demolition by Neglect

4.1 If the Commission has reason to believe, through visual inspection or other means, that a preferably preserved Significant Structure may be undergoing demolition by neglect, then the Commission shall notify the Building Inspector and the owner, and the Commission and the Building Inspector shall jointly hold a public hearing to determine whether or not the Significant Structure is undergoing demolition by neglect, which determination shall require the concurrence of the Commission and the Building Inspector. In furtherance of determining its condition, the Commission may, at any time, request an inspection of the structure by the Building Inspector.

4.2 If the Commission and the Building Inspector both determine that the Significant Structure is undergoing demolition by neglect, the Commission and the Building Inspector shall attempt to negotiate a voluntary agreement with the owner for appropriate and timely repairs sufficient to structurally stabilize the Significant Structure and/or prevent further deterioration.

4.3 In the event that the Commission and the Building Inspector both determine that they are not able to negotiate such an agreement with the owner, for any reason, or that the owner has agreed to undertake but has failed satisfactorily to complete such repairs in a timely manner, then the Commission and the Building Inspector may take such action as is permitted under this bylaw, including seeking a court order that specific repairs be undertaken to secure the Significant Structure against the elements, vandals or vermin, to halt further deterioration, and/or to stabilize it structurally. The Commission may forbear from commencing an action in court for any reason.

4.4 Upon completion of all repairs that have been agreed upon between the owner and the Commission and the Building Inspector or that have been ordered by the Commission and the Building Inspector or that have been ordered by the court, and upon certification by the Building Inspector that said repairs have been completed, the Commission shall certify that the structure is no longer undergoing demolition by neglect.

Section 5. Emergency Demolition

Nothing in this bylaw shall be construed to prevent the demolition of any structure or portion thereof which the Building Inspector shall certify is required by public safety because of an unsafe or dangerous condition. However, the Building Inspector shall endeavor to notify the Commission of his intention to cause or permit such demolition as early as possible.

Section 6. Enforcement and remedies:

6.1 The Commission and the Building Inspector are each specifically authorized to institute any and all actions and proceedings, in law or equity, as they may deem necessary or appropriate to obtain compliance with the requirements of this bylaw and/or to prevent a threatened violation thereof.

6.2 Any owner of a Significant Structure who demolished such structure without first obtaining a Demolition Permit in accordance with the provisions hereof shall be subject to a fine of not more than Three Hundred Dollars. Each day the violation exists shall constitute a separate offense until a faithful restoration of the demolished Significant Structure is completed or unless otherwise agreed by the Commission.

6.3 If a Significant Structure is demolished without first obtaining a Demolition Permit in accordance with the provisions hereof, no building permit shall be issued for a period of two years from the date of the demolition on the subject parcel of land or any adjoining parcels of land under common ownership or control unless the permit is for the faithful restoration referred to in Section 6.2, above, or unless otherwise agreed by the Commission.

Section 7. Severability:

In case any section, paragraph or part of this by-law should be for any reason declared invalid or unconstitutional by any court of competent jurisdiction, every other section, paragraph, and part shall continue in full force and effect.

or to take any other action in relation thereto.

Submitted by Board of Selectmen

MOTION 10: I move that the Town amend the General Bylaws by adopting, as Section 29 of Chapter 5 thereof, the following:

SECTION 29: PRESERVATION OF HISTORICALLY OR ARCHITECTURALLY SIGNIFICANT STRUCTURES

as shown on the Motion Sheet distributed to this Town Meeting.

Moved By: Arthur Bourque

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3.2 Within three (3) business days after the receipt of a completed application for a Demolition Permit for a structure that is on the list of Significant Structures, the Building Inspector shall forward a copy of such application to the Commission for review. No Demolition Permit shall be issued at that time, except in the event of an emergency as set forth below. Within fourteen (14) days after receipt of such application by the Commission, the Commission shall determine whether the structure in question is potentially worthy of preservation. If the Commission determines that it is not, then the Commission shall give prompt written notice of such determination to the Building Inspector and the applicant, and the Demolition Permit may thereafter be issued. If the Commission determines that the structure in question is potentially worthy of preservation, then the Commission shall proceed as set forth in Section 3.3, below.

3.3 The Commission shall fix a reasonable time and date for a hearing on any application for a Demolition Permit with respect to a structure that is on the list of Significant Structures within the Town and shall give public notice of the time, place and purpose of the hearing in a newspaper of general circulation within the Town at least fourteen (14) days before said hearing. At least seven (7) days before said hearing, the Commission shall mail a copy of said notice to the applicant, to all owner(s) of abutting property as they appear on the most recent local tax list and to such other persons as the Commission shall deem entitled to notice.

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Section 7. Severability:

In case any section, paragraph or part of this by-law should be for any reason declared invalid or unconstitutional by any court of competent jurisdiction, every other section, paragraph, and part shall continue in full force and effect.

A motion to move the question passes.

**ACTION: The motion passes by the necessary majority. Standing vote Yes votes:
135 No votes: 89**

A True Copy Attest



Amy K. Summers, CMC
Town Clerk