

ARTICLE 11. HISTORIC DISTRICT COMMISSION

Section 11.0 -- Establishment and Duties

11.0.1 The Town of Milton shall establish a Historic District Commission. The Historic District Commission shall consist of not less than five (5), nor more than seven (7) members who shall be residents of the Town and who shall have knowledge of the problems of urban and rural development and who, at the time of appointment and throughout the term of office, shall not be members of the legislative body nor employees of the town. If the Commission consists of five (5) or six (6) members, then a minimum of four (4) members shall reside in the area of the Town of Milton designated as the Historic District. If the Commission consists of seven (7) members, then a minimum of five (5) members shall reside in the area of the Town of Milton designated as the Historic District. The appointment of an architect, draftsman, builder, engineer, or other person experienced in the design, architecture and/or construction of buildings to the Commission is encouraged. The Mayor of the town shall appoint such members of the Historic District Commission, and all such appointments shall be confirmed by a majority vote of the members of the Town Council.

1. All appointments shall be for a period of 3 years, except for those terms of the original members shall be established in such a manner that appointments will be at least one member will be for the term of one year, two will be for the term of 2 years and the remaining number of 3 years. The Historic District Commission so selected shall elect from among their own number a chairperson, vice chairperson and a secretary.
2. The Chairperson or the Chairperson's designee shall preside over all meetings of the Commission; call special meetings; call the Commission into executive sessions; interpret Roberts Rules of Order as they apply to the conduct of this Commission upon the advice of the Town Solicitor to the Commission, when requested; and in general preside over the proper conduct and decorum of the Commission while the Commission is in session.
3. The Vice Chairperson shall have all of the powers and responsibilities of the Chairperson, in his or her absence. The Secretary shall have all of the powers and responsibilities of the Chairperson, in the absence of the Chairperson and Vice Chairperson.
4. The Town Clerk shall notify all Commissioners of meetings, both regular and specially called, including executive sessions; prepare the agenda for meetings, insert the necessary advertisements in the appropriate newspapers; maintain a complete record of all public meetings of the Commission, where an action is being considered on an application before the Commission; give written notice by mail or personal service to each applicant of any public meeting at which his or her application will be heard.
5. Any member of the Historic District Commission may be removed from office by the Town Council for cause after a hearing by a majority vote of all the elected members of the Council of the town. A vacancy occurring otherwise than by the expiration of term shall be filled for the remainder of the unexpired term in the same manner as an original appointment.
6. No member of the Commission with a personal or financial interest in the outcome of a decision on an application shall speak or vote upon the matter during the Commission's deliberations.

7. On-site inspections by Commission members are permitted. The Commission member shall visit the property before the public meeting. If the Commission member makes any observation or obtains any information while at the site that may be material to the Commission's decision, the Commissioner must state the information on the record during the meeting. This may be done at the time the Commission members are polled to state if they have visited the subject site, or it may be done during the questioning of the petitioner.

8. Unless excused by resolution of the Commission, whenever a member of the Commission has accumulated three consecutive absences from regular public meetings, the Chairperson must notify the Town Mayor that the position is deemed vacant and that procedures for filling the vacancy be instituted with all due haste.

9. The Town Solicitor shall be the Legal Advisor as designated by the Mayor and Town Council, and will attend and participate in the meetings of the Commission. The Town Solicitor shall assist the Commission in drafting opinions and shall provide advice and assistance to the Commission and at the request by any member of the Commission.

10. Except as may otherwise be provided by law or these rules, outside of a public meeting a member of the commission shall not communicate with any party on any matter relevant to an application for approval or advice.

11.0.2 Powers and Duties. The Historic District Commission shall have all the powers and duties prescribed by this Ordinance, which are more particularly specified as follows:

1. Interpretation.

It shall be the responsibility of the Historic District Commission to hear and decide appeals from, and review, any order, requirement, decision, or interpretation made by the Code Enforcement Officer.

2. Area variances.

a. The Historic District Commission shall refer all variances, to the Board of Adjustments.

XXXX Scheduling and Advertising of Meetings

1. Regular meeting of the Commission shall be held on the ? of each month, at 7:00 p.m. unless otherwise directed by the Commission. The meeting shall be in a place designated by the Commission and noted in the advertisement of the meeting. The Commission may vote to limit the length of any regular monthly meeting. If an application cannot be heard due to such a time limit, the meeting shall be continued to a time mutually agreed upon by the Commission and applicant, and such time shall be announced at the advertised meeting.

2. Special meetings of the Commission shall be called by the Chairperson when, in his or her opinion, it is necessary to prevent undue delay in the issuance of building permits or to consider any matter that requires attention prior to the next regular meeting. Upon request of any three (3) members of the Commission, a special meeting shall be called by the Chairperson within fourteen (14) days of receipt by the Chairperson of said request.

3. Emergency meetings of the Commission shall be called by the Chairperson to hear applications for Certificates of Approval and/or pre-approval of Certificates of Eligibility which require immediate action to allow emergency repairs to a structure or to remedy immediate safety or health hazards.
4. Unless otherwise provided by law, a quorum of the Commission shall be present to conduct a regular or special meeting. Three Commission members shall constitute a quorum, and the vote of the majority present shall be necessary for a decision.
5. Notice of any regular or special meetings shall be posted in one public place in the Town of Milton at least seven (7) days preceding the meeting. The posting shall include notice of the date, time, and place of the meeting, and the address, applicant's name and a brief description of each application to be heard.
6. For emergency meetings, newspaper advertising shall not be required provided that the property which is the subject of an application to be heard at an emergency meeting shall be posted with the date, time and place of the meeting and the subject matter of the application for at least 24 hours immediately prior to the meeting.
7. At least four (4) days prior to any regular or special public meeting, and as soon as possible prior to any emergency meeting, a copy of the agenda for such meeting shall be sent to each Commissioner. No application may be heard that has not been properly advertised, no other issue not on the agenda may be decided by the Commission unless four (4) Commissioners vote to consider said issue.

11.0.3 Procedure.

1. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this Ordinance, the Historic District Commission shall have the power to vary or modify the application of any of the regulations or provisions of this Ordinance relating to the use, construction, structural changes in, equipment or alteration of buildings or structures, or the use of land, so that the spirit of the Ordinance shall be observed, public safety and welfare secured and substantial justice done.
2. All appeals and applications made to the Historic District Commission shall be in writing, on forms prescribed by said Commission and accompanied by a fee as determined by local law or ordinance of the Town Council. Every appeal or application shall refer to the specific provision of the Ordinance involved, and shall exactly set forth the interpretation that is claimed, or the details of the variance that is applied for, and the grounds on which it is claimed that the variance should be granted, as the case may be.
3. The Historic District Commission shall hold a public hearing on appeals within 60 days after receipt and give due notice of such public hearing by advertising in the official newspaper at least 10 days prior to the date scheduled for the public hearing.
4. The applicant shall mail notices of such public hearings to the owners or occupants of all lands within a radius of two hundred (200) feet from all boundary lines of the property for which the appeal is being requested. The Town will provide the applicant with the required information to be included in the notification letter. Such notices shall be mailed certified and postmarked at least ten (10) days prior to the date scheduled for the public hearing. A list of properties mailed to, copies of proof of mailings and return receipts

shall be provided to the Code Enforcement Officer five (5) days prior to the public hearing.

5. Copies of the appeal or application document shall be delivered to the members of the Historic District Commission. The Historic District Commission shall meet within sixty (60) days of the date of filing the appeal or application to conduct the required hearing and review the matter.
6. The Historic District Commission shall decide on appeals and on other matters referred to it within 60 days after final public hearing.
7. Every decision of the Historic District Commission shall be by resolution, each of which shall contain a full record of said Commission in the particular case.
8. The Historic District Commission shall have no power to vary or modify the application of the provisions and requirements of the Delaware State Fire Prevention Regulations or Building Code adopted by Sussex County.
9. Appeals from Historic District Commission findings shall be in writing to the Town Council within 15 days of the written decision. The Town Council shall make the final decision.

101. Scheduling and Advertising of Meetings

A. A regular meeting of the Commission shall be held on the first Thursday of each month, at 7:00 p.m. unless otherwise directed by the Commission. The meeting shall be in a place designated by the Commission and noted in the advertisement of the meeting. The Commission may vote to limit the length of any regular monthly meeting. If an application cannot be heard due to such a time limit, the meeting shall be continued to a time mutually agreed upon by the Commission and applicant, and such time shall be announced at the advertised meeting.

B. Special meetings of the Commission shall be called by the Chairperson when, in his or her opinion, it is necessary to prevent undue delay in the issuance of building permits or to consider any matter that requires attention prior to the next regular meeting. Upon request of any three (4) members of the Commission, a special meeting shall be called by the Chairperson within fourteen (14) days of receipt by the Chairperson of said request.

C. Emergency meetings of the Commission shall be called by the Chairperson to hear applications for Certificates of Approval and/or pre-approval of Certificates of Eligibility which require immediate action to allow emergency repairs to a structure or to remedy immediate safety or health hazards.

D. Unless otherwise provided by law, a quorum of the Commission shall be present to conduct a regular or special meeting. Three Commission members shall constitute a quorum, and the vote of the majority present shall be necessary for a decision.

E. Notice of any regular or special meetings shall be advertised in one newspaper of general circulation in the Town of Milton at least seven (7) days preceding the meeting. The advertisement shall include notice of the date, time, and place of the meeting, 3 and the address, applicant's name and a brief description of each application to be heard.

F. For emergency meetings, public posting will be required and the emergency meeting shall be posted with the date, time and place of the meeting and the subject matter of the application for at least 24 hours immediately prior to the meeting.

G. At least four (4) days prior to any regular or special public meeting, and as soon as possible prior to any emergency meeting, a copy of the agenda for such meeting shall be sent to each Commissioner. No application may be heard that has not been properly advertised, no other issue not on the agenda may be decided by the Commission unless four (4) Commissioners vote to consider said issue.

102. Conduct of Meetings On Certificates of Approval

A. Any applicant for a Certificate of Approval within the Historic District shall have the opportunity to fully present his or her case through the presentation of witnesses, exhibits and other evidence. All persons testifying shall be required to take the following oath which shall be given by the Chairperson: *“Do you solemnly promise to speak truthfully in the testimony you are about to give?”*

B. All individuals desiring to testify or who have been subpoenaed to testify at a meeting shall sign their own name to the roster in favor of or opposed to the petition before the Commission, as the case may be. If a meeting is continued, only the individuals who have signed a roster prior to the end of the petitioner's case or are called by the petitioner in rebuttal or the protestants in rebuttal shall be permitted to testify.

C. The Chairperson shall establish the order of presentation dependent upon the nature of the application. The general procedure for hearing an application for a Certificate of Approval shall be as follows:

1. Introduction of reports and official documents pertaining to the application and recommendations of Planning and Zoning by the Town Solicitor, the Secretary. For each case, the application, the Milton Town Charter, the Milton Town Code, the Town of Milton Zoning Regulations, the Town of Milton Comprehensive Plan, and all other relevant laws and regulations are deemed to be part of the record without necessity of formal introduction.
2. Presentation by the applicant of matters relevant to the application, relevant testimony of witnesses in support of the application, and

introduction of any other pertinent information to support the applicant's request for a Certificate of Approval.

3. Presentation by any persons in opposition to the application of matters relevant thereto, relevant testimony of witnesses in opposition to the application, and introduction of any other pertinent information in opposition to the applicant's request for a Certificate of Approval.
4. The applicant and all witnesses shall be subject to cross-examination by the applicant or the applicant's attorney and by opponents or the opponents' attorney, as the case may be, and by the Commission, the Town Solicitor, and other persons in attendance, in accordance with procedures which shall be designated by the Chairperson at the time of the meeting, to insure the orderly conduct of the meeting and the full and adequate consideration of the application and any opposition thereto.
5. The Commission may exclude incompetent, unreliable, irrelevant, or unduly repetitious evidence. The Chairperson, upon advice of the Legal Advisor, if requested, shall rule on all matters of admissibility of evidence and matters of law raised by any party during the meeting and any objections thereto shall be entered in the transcript and shall be made a part of the Record of Proceedings.
6. The Chairperson shall permit the presentation of rebuttal evidence or testimony prior to the conclusion of the meeting and shall permit summation by the applicant or the applicant's attorney and by a person speaking for the opposition.
7. Upon a formal vote, the Commission may make its final decision and order at the conclusion of the meeting or may take the matter under advisement for further deliberation and later decision at a future public meeting. The Commission may recess the meeting to receive additional evidence at a later public meeting if it determines that such additional evidence is essential in making a proper decision. At the later public meeting, the Commission may only consider new evidence in support of or in opposition to the application in question.

103. Decisions of the Historic District Commission

A. If an application is approved, the Commission shall issue a Certificate of Approval containing findings of fact and conclusions of law.

B. If an application for a Certificate of Approval is denied, the reasons for the denial shall be set forth in writing in a Decision and Order and accompanied by findings of fact and conclusions of law.

C. A Certificate of Approval or a Decision and Order shall be issued within 60 days

from the date a complete application is filed, unless an extension of the 60-day period is agreed on mutually by the commission and the applicant.

D. The decisions shall be made a part of the Record of Proceedings, filed with the Department of Planning and Zoning and maintained as a part of the official records of the County. It shall be proper and permissible for any member who does not subscribe to the majority opinion to prepare a minority opinion.

E. A tie vote of the Commission shall constitute a denial of the application for the Certificate of Approval.

F. The Commission may approve an application subject to staff review of certain specified items, such as materials or other details. In this instance, a Certificate of Approval will not be issued until the applicant complies with the request for additional information. It is incumbent upon the applicant to supply the information, and the commencement of any work not completely approved constitutes a violation of the zoning regulations.

G. If an application is denied, in the absence of a change to the structure arising from casualty, no new application for the same or similar work shall be filed within one (1) year after the last denial of the application.

104. Pre-Application Advice

A. Advice on subdivision and site development plans:

1. Prior to the initial submittal of an application for subdivision or site development plan approval for a site listed in the historic sites inventory or for a site within a historic district, the applicant shall submit a request to the Commission to identify all historic resources on the site and obtain advice regarding the design of development requiring a Certificate of Approval.

2. A request for advice shall be submitted on a form provided by the Town Clerk.

3. The request for advice shall be accompanied by a concept plan showing the proposed development of the subdivision, including the proposed lot locations, proposed siting of structures on the lots, and proposed architecture.

4. The request for advice must be submitted by the close of business 15 days prior to the next scheduled meeting in order to be advertised and placed on the agenda for that meeting.

5. The order of presentation at the public meeting on a request for advice shall first be the presentation by the applicant. The Commission may, in its discretion, permit public testimony subject to subsections (6) and (7) below.

6. The Commission may limit the duration of the public meeting on a request

for advice.

7. The Commission may limit the duration of individual testimony at a public meeting on a request for advice.

8. The Town Clerk shall mail a copy of the minutes of the meeting on a request for advice to the applicant and shall forward a copy to Planning and Zoning.

B. Advice on applications not requiring subdivision or site development plan approval:

1. For development or work not requiring subdivision or site development plan approval, an applicant may submit a request for advice from the Commission.

2. A request for advice shall be submitted on a form provided by the Town Clerk.

3. The request for advice must be submitted by the close of business 15 days prior to the next scheduled meeting in order to be advertised and placed on the agenda for that meeting.

4. The meeting procedures for a request for advice not requiring subdivision or site development plan approval are those set forth in subsection A.5 through A.7 of this section.

5. The Town Clerk shall mail a copy of the minutes of the advisory meeting to the applicant and shall forward a copy to Planning and Zoning.

105. Applications for Certificate of Approval

A. The Secretary may endeavor to assist prospective applicants and property owners contemplating changes to the exterior of structures in historic districts through means of: explaining the purposes of regulations and review; explaining the Commission's Rules of Procedure, the design manual, and other guidelines and regulations of the Commission and of other government agencies; and provision or reference to additional sources of information and professional assistance useful in historic district structure activities.

B. The form and contents of the application for the Certificate of Approval shall be prescribed by the Commission. All applications must be signed or authorized by the owner of the structure, even if the owner is not the applicant. Applicants shall obtain forms and submission requirements from Planning and Zoning.

C. All applications shall include such plans, descriptions, elevations and other materials as are listed in the submission requirements prescribed by the Commission. The applicant for a Certificate of Approval shall have the responsibility of providing information

sufficient to support the application and the burden of persuasion in all questions of fact which are to be determined by the Commission.

D. The Code Enforcer shall determine if the application is complete or sufficiently complete to permit the Commission to properly consider the application and have a full understanding of the proposed work. Failure to provide any item listed on the application checklist may be cause for a determination that the application is incomplete.

E. For applications determined to be incomplete, then Code Enforcer shall provide the applicant with a detailed list of all matters necessary to complete the application. Upon receipt of such notice, the applicant may complete the application in accordance with the detailed list. If the application has not been completed by seven days prior to the issuance of the agenda, it will be forwarded to the Commission with a recommendation by the Code Enforcer of incomplete. The application shall then be scheduled and advertised in the same manner as a complete application.

F. At the scheduled public meeting on an application deemed incomplete by the Code Enforcer, the Commission shall first consider the completeness of the application. If the Commission determines that the application is complete, it shall hear the application.

G. All applications must be received by Historic District Commission by the close of business 15 days prior to the regularly scheduled meeting in order to be advertised and placed on the agenda for the next regularly scheduled meeting of the Commission.

H. The Commission may permit withdrawal of applications for good cause shown.

I. The Code Enforcer shall prepare an agenda for regularly scheduled meetings to include the order of presentation of cases, and staff comments on applications for a Certificate of Approval received by the deadline date. The Chair may alter the order of presentation of cases. Revised applications received after the deadline date will be noted as such and presented at the regularly scheduled meeting. The Commission may consider the revised application at the meeting; may deem it incomplete and dismiss the application; or may consider it to be significantly changed and return it to P & Z staff for comments and inclusion in the agenda of the next regularly scheduled meeting.

106. Amendments to Rules of Procedure

A. The Commission or any person may petition for amendments to the Rules of Procedure or design guidelines adopted by the Commission.

B. Meeting and Notice

1. The amendments shall be considered at a public meeting. The petitioner shall advertise the date, time and place of the initial meeting at least 30 days before

the meeting in at least two newspapers of general circulation of the Town of Milton The amendments shall be available for public review at the Town Hall for at least 30 days prior to the meeting.

C. Time Limits for Meeting

1. The petitioner, and those interested in being heard, shall be given a reasonable opportunity to present information to the Commission for its consideration.
2. The Commission may impose a reasonable time limit for speaking on those who wish to make an oral presentation to the Commission.
3. The Commission may impose a reasonable time limit on the duration of the meeting. Any individual not heard orally at such a meeting shall be given the opportunity to present written information to the Commission.

D. Order of Presentation

1. Introduction of reports and official documents pertaining to the meeting.
2. Petitioner's presentation
3. Presentation by interested persons
4. The Commission may ask questions or request additional information from anyone making a presentation.

E. Action

The Code Enforcer shall notify the petitioner and, upon request, other interested persons of the decision by sending them a copy of the decision.

107. Guidelines

A. The Commission adopts the following as general design guidelines:

1. The Secretary of the Interior's Standards for the Treatment of Historic Properties, 1992.
2. The Secretary of the Interior's Standards and Illustrated Guidelines for Rehabilitating Historic Buildings, 1992.
3. "Preservation Briefs" published by the Preservation Assistance Division of the National Park Service, U.S. Department of the Interior.

105. Applications for Certificate of Approval

1. The Code Enforcer may endeavor to assist prospective applicants and property owners contemplating changes to the exterior of structures in historic districts through means of: explaining the purposes of regulations and review; explaining the Commission's Rules of Procedure, the design manual, and other guidelines and regulations of the Commission and of other government agencies; and provision or reference to additional sources of information and professional assistance useful in historic district structure activities.

2. The form and contents of the application shall be prescribed by the Commission. All applications must be signed or authorized by the owner of the structure, even if the owner is not the applicant. Applicants shall obtain forms and submission requirements from the Historic District Commission.

3. All applications shall include such plans, descriptions, elevations and other materials as are listed in the submission requirements prescribed by the Commission. The applicant for a Certificate of Approval shall have the responsibility of providing information sufficient to support the application and the burden of persuasion in all questions of fact which are to be determined by the Commission.

4. The Code Enforcer shall determine if the application is complete or sufficiently complete to permit the Commission to properly consider the application and have a full understanding of the proposed work. Failure to provide any item listed on the application checklist may be cause for a determination that the application is incomplete.

5. For applications determined to be incomplete, the Code Enforcer shall provide the applicant with a detailed list of all matters necessary to complete the application. Upon receipt of such notice, the applicant may complete the application in accordance with the detailed list. If the application has not been completed by seven days prior to the issuance of the agenda, it will be forwarded to the Commission with a recommendation by the Code Enforcer of incomplete. The application shall then be scheduled and advertised in the same manner as a complete application.

6. At the scheduled public meeting on an application deemed incomplete by the Secretary, the Commission shall first consider the completeness of the application. If the Commission determines that the application is complete, it shall hear the application.

7. All applications must be received by the Historic District Commission by the close of business 15 days prior to the regularly scheduled meeting in order to be advertised and placed on the agenda for the next regularly scheduled meeting of the

Commission.

8. The Commission may permit withdrawal of applications for good cause shown.

9. The Code Enforcer shall prepare an agenda for regularly scheduled meetings to include the order of presentation of cases, and staff comments on applications for approval received by the deadline date. The Chair may alter the order of presentation of cases. Revised applications received after the deadline date will be noted as such and presented at the regularly scheduled meeting. The Commission may consider the revised application at the meeting; may deem it incomplete and dismiss the application; or may consider it to be significantly changed and return it to the Code Enforcer for comments and inclusion in the agenda of the next regularly scheduled meeting.

11.0.4 Rules of Procedure, By-Ordinances, Forms.

1. Meetings Open To The Public. All meetings of the Historic District Commission shall be open to the public.
2. Minutes of Meetings. Such Commission shall keep minutes of each of its meetings which it shall at its next meeting certify as accurate and which describe the factors considered by the Commission in reaching its decision and which show the vote of each member on every application to the Commission. Each member present at any meeting of the Commission shall have a vote on every question brought before the Commission for its consideration. If a member is absent or abstains from voting the minutes shall indicate such fact.
3. Quorum and Majority Vote. A majority vote of the Commission shall constitute a quorum and a majority vote on any matter upon which said Commission is required to pass under the provisions of this Ordinance. A split vote shall constitute a denial of the application.
4. Additional Procedures and By-Laws. The Historic District Commission shall have the power to make, adopt, and promulgate such additional written rules of procedure, by-laws, and forms as it may deem necessary for the proper execution of its duties and to secure the intent of this Ordinance.

DEMOLITION AND RELOCATION OF STRUCTURES IN HISTORIC DISTRICTS

General

These rules are adopted to guide the Historic District Commission in review of proposals to demolish or relocate structures in historic districts. Demolition or relocation of any structure in an historic district requires a Certificate of Approval. The Certificate of Approval must include a plan for treatment of the site after the structure is removed. The Certificate of Approval must also include the new location for a relocated building if the location is within an historic district in the Town of Milton.

Contents of Application

An application for demolition or relocation shall include the following in addition to the information required for all applications for Certificates of Approval:

- A. Specific reasons for the demolition or relocation.
- B. Documentary evidence that supports the demolition or relocation request. Evidence may include reports on the condition of the structure; cost estimates for demolishing, relocating, repairing or stabilizing the structure; documentation showing that the structure does not contribute to the historic character of the district; or other information as needed for the particular application.
- C. Clear photographs of the structure.
- D. Site plans drawn to scale showing the structure proposed to be removed, other nearby site improvements, and proposed treatment after removal.
- E. For relocation of an historic structure, a detailed description of the methods of relocating the structure and the site to which the structure will be relocated must be provided.

Classification of Structure

Before acting on an application for demolition or relocation, the Commission shall determine whether the structure is a Structure of Unusual Importance.

A. Structures of Unusual Importance are structures deemed by the Commission to be of unusual importance to the Nation, State or County, whose loss would cause great damage to the character and integrity of the historic district.

B. Determination that a structure is a Structure of Unusual Importance shall be based on criteria in its adopted guidelines, the testimony of expert witnesses or other documentary evidence presented to the Commission.

Demolition of Structures of Unusual Importance

A. At a meeting on a request for demolition within the Historic District, the Commission must determine whether the structure is a Structure of Unusual Importance based on the testimony presented at the meeting and the information provided to the Commission by town's staff.

B. If the Commission determines the structure is a Structure of Unusual Importance, the following applies:

1. The Commission may deny the application unless:
 - a. The structure is a deterrent to a major improvement program which will be of substantial benefit to the County; or
 - b. Retention of the structure would cause undue financial hardship to the owner; or
 - c. Retention of the structure would not be in the interest of a majority of the persons in the community.
2. The burden of proof is on the applicant to establish that one of the conditions applies.
3. In order to meet the burden of establishing the need for demolition, the applicant must present documentary evidence of the cost of maintaining or relocating the structure, the estimated cost of the demolition, the estimated cost of restoring or stabilizing the building, all other financial information on which the applicant relies to establish financial hardship, and, if the applicant relies on evidence of the lack of structural integrity of the structure, a report on the structural integrity prepared by an engineer licensed in the State of Delaware, based on the engineer's in person observations of the interior and exterior of the structure.
 - a. Costs that are estimated must be supported by written estimates by persons qualified to provide such estimates and in sufficient detail to permit the Commission to verify the reasonableness of the estimate.
 - b. The Commission may find that retention of the structure would cause the applicant financial hardship if it determines that the building has been demolished by neglect or natural disaster and there is no feasible way to restore the building short of rebuilding.

4. Based on the evidence presented the Commission may continue the meeting in order to obtain access to the property to view the structure, with the property owner's permission, and to allow the applicant or other persons testifying to submit additional evidence.

5. After all interested persons have had an opportunity to speak at the meeting, Commission may endeavor to work out with the applicant an economically feasible plan to preserve the structure. The Commission may pursue this by asking questions of the applicant or others present, and may continue the meeting to allow the applicant and the Commission to pursue possible alternatives to the demolition. The Commission may request assistance from Planning and Zoning and other parties, public or private, in creating such a plan.

6. If, within 45 days of the initial meeting, no economically feasible plan can be agreed upon, the Commission may act on the application or may, at a public meeting, may grant itself a 90 day period to negotiate with the applicant or other parties in any effort to find a means of preserving the structure.

7. The Commission shall act on the application before the expiration of the 90 day period. Failure to act within this 90 day period shall constitute approval, unless an additional extension of up to 90 days of the negotiating period is agreed to by the Commission and the applicant at a public meeting or the application is withdrawn.

Demolition of Other Structures

A. If the Commission determines that the structure is not a Structure of Unusual Importance, it shall vote to approve or deny the application based on the standards set forth in its adopted Guidelines.

B. Before taking action on an application, the Commission may ask whether the applicant is willing to have the Commission assist the applicant in trying to develop an economically feasible plan to retain the structure. If the applicant is willing to work with the Commission to try to develop such a plan, the Commission may continue the meeting to allow the applicant and the Commission time to pursue possible alternatives to demolition. The Commission may request assistance from Planning and Zoning, Board of Adjustments and other parties, public or private, in creating a plan to retain the structure.

305. Relocation of Structures

Applications to relocate structures shall be evaluated by the same standards used for demolition. Relocation may be considered as an alternative to preserve a structure that would otherwise be demolished. The Commission shall consider whether the proposed method of moving a historic structure will avoid damage to the structure. An application to relocate a structure shall include a plan showing

the location on the receiving property of the relocated structure and its relationship to other on site structures.

Documentation of Structure

If demolition or relocation of a historic structure is approved by the Commission, the Commission may require that the owner provide opportunity for the Code Enforcer to document the condition of the structure and its site prior to removal.

New Construction

The Commission will review all proposed alterations of, and additions to, existing structures and all new construction. Alterations and additions should be compatible with the character of the building and replicate the building in terms of architecture, style, size, scale, massing, material, location and detail. The original portion of the building and earlier additions should continue to be recognizable apart from the addition or reconstruction by means of massing, articulation of setbacks, trim and ornamental detail. Additions and reconstruction should be designed so that the primary elevations of the original building remain clearly delineated. New construction should respect the existing historic streetscape. The historic relationship of buildings to the street, including setbacks and open spaces, should be maintained. The Commission will consider the appropriateness of the size and shape of the building or structure both in relation to the land area upon which the building or structure is situated and to buildings and structures in the vicinity. The Commission may impose dimensional and setback requirements in addition to those required by the Zoning By-laws.