



Town of Winchester

Town Manager's Office
71 Mt. Vernon Street
Winchester, MA 01890
Phone: 781-721-7133
Fax: 781-756-0505
townmanager@winchester.us

Board of Selectmen Meeting
Monday, September 26, 2016

BUSINESS

Docket Item **G - 4:**

Updated: Preservation of Historically Significant
Buildings Bylaw – Historical Commission

Supporting Documents:

G - 4:

Copy of DRAFT bylaw w/ attached FAQ's

Action Required:

G - 4:

Hear presentation for consideration in making
Fall 2016 Town Meeting action recommendation.

Proposed Amendment to the Winchester Code of By-Laws
Chapter 14: "Preservation of Historically Significant Buildings"

Frequently Asked Questions

How does this proposal differ from Winchester's current By-Law?

Consistent with the Winchester Historical Commission's charge to preserve, protect, and develop the town's historical assets for future generations, these modifications to Chapter 14 of the Town's Code of By-Laws would enhance the town's ability to accurately identify and effectively protect truly historic properties, while expediting the permitting process for owners of buildings that do not warrant such protection. They also address some of the concerns raised by the Massachusetts Historical Commission (MHC) about elements of the current By-Law.

Specifically, these amendments would:

- Replace a list-based approach for identifying historically significant buildings with a process that employs the criteria for historical significance established by the U.S. Department of Interior's National Standards to aid the Commission in determining which properties the town should endeavor to preserve;
- Increase the transparency of the demolition permitting process by providing abutters and other appropriate stakeholders with notice of demolition permit applications and opportunities to provide the Commission with information that may have an impact on its deliberations;
- Create a mechanism for property owners to obtain a preliminary determination of historical significance without having to apply for a demolition permit, and a revenue stream to perform the survey work needed to make that determination;
- Codify the status of owners of historically significant properties who previously "opted out" of the By-Law's protections upon property transfer; and
- Give the By-Law a title that more accurately reflects its intent, and make its language more readable and clear. Since its initial adoption by 1995 Spring Town Meeting, Chapter 14 has been amended four times, incorporating numerous changes. As a result, the interpretation and application of the By-Law can be confusing.

Why change the By-Law now?

The existing By-Law has successfully encouraged many owners to restore and adaptively re-use historic properties rather than demolish them. However, using a list-based approach to identify historical assets without the resources to compile an accurate inventory has inevitably resulted in the loss of some irreplaceable historically significant properties.

The loss of an individual property can significantly impact Winchester's quality of life, property values, and neighborhoods. In recent years, demolitions have increased as developers began targeting the town due to our relatively lax protection of historical properties. The Commission has heard widespread concern about the loss of historic buildings and the fact that developers are replacing them with houses that are out of scale and/or disharmonious with the surrounding neighborhood. Besides making our neighborhoods less desirable by diminishing their historic character, replacing a modest house with one or more larger ones strains the town's infrastructure (public safety, sanitation, transportation, and education) and reduces the affordability and variety of our housing stock.

If my house was built on or before 1940, does that mean I can't demolish it?

No. These revisions only impact houses that meet rigorous criteria for historical significance established by the U.S. Department of the Interior's National Park Service. The demolition of historically significant properties may only

be delayed – not prevented. Nothing can save an important historical asset if the owner has waited out the 12-month delay and is determined to demolish it.

It's my property. Why can't I do whatever I want to with it?

You can, but a landmark 1978 Supreme Court decision began:

*"Over the past 50 years, all 50 states and over 500 hundred municipalities have enacted laws to encourage or require the preservation of buildings and areas with historic or aesthetic importance. These nationwide legislative efforts have been precipitated by two concerns. The first is recognition that, in recent years, large numbers of historic structures, landmarks, and areas have been destroyed without adequate consideration of either the values represented therein or the possibility of preserving the destroyed properties for use in economically productive ways. The second is a widely shared belief that structures with special historic, cultural, or architectural significance enhance the quality of life for all. Not only do these buildings and their workmanship represent the lessons of the past and embody precious features of our heritage, they serve as examples of quality for today."*¹

As members of a community, we have a responsibility to one another to: provide students with quality educations, promote public safety, maintain our infrastructure, and protect and preserve aspects of the town that define and shape it. As a community of property owners we must be individually and collectively committed to preserving the value and heritage that our properties lend one another and the town as a whole.

What makes a property "Historically Significant?"

An Eligible Building may be designated Historically Significant if: 1) there is evidence that it played an important role in American history, architecture, archeology, engineering and culture; and 2) it possesses integrity of location, design, setting, materials, workmanship, feeling, and association.²

What is the principal change under this proposal?

Owners of properties built during or before 1940 would not be able to demolish them without prior evaluation of their historical significance. Within the timeframes required by the By-Law's procedures, the Commission would conduct the necessary research about the property to determine whether it should be deemed historically significant. Using the National standards as its strict guide, the Commission will make its determination in an open public hearing where both the applicants and affected abutters are heard.

If a property is deemed historically significant, the Commission may delay issuance of a demolition permit for **up to 12 months**. As is currently the case, during that period the owner will be encouraged to work with the Commission to develop a plan with fewer adverse consequences for the town (e.g., preservation and renovation, sale to a buyer willing to undertake preservation and renovation, or replacement with a structure in character with its surroundings). As always, if an owner develops a plan that the Commission considers satisfactory, it may remove the delay at any time.

Will being subject to the By-Law reduce the value of my property?

No. A recent, comprehensive literature review concluded that the economic evidence "points to a neutral or value-enhancing effect from historic designation."³ In fact, The National Association of Realtors' website includes a "how to" section on getting your house and/or neighborhood designated as historical. They note that, "Even if your home's price doesn't rise, it's less likely to fall... because historic designations help ensure that the aspects that make the area attractive to home buyers will be protected over time by explicit design limits on such things as demolitions..."^{4,5}

¹Penn Central Transportation Company v. City of New York. 438 U.S. 104, 98 S. Ct 2646 (1978), 107-108.

²The criteria for determination of Historical Significance set forth herein are the Criteria for Evaluation found in the Code of Federal Regulations, Title 36, Part 60 (<https://www.nps.gov/nr/publications/bulletins/pdfs/nrb15.pdf>)

³Retrieved from <https://www.arkansaspreservation.com/LiteratureRetrieve.aspx?ID=129493>

⁴ Retrieved from <https://www.houselogic.com>

Why did you select 1940?

The criteria for determining eligibility for listing on the National Register of Historic places use an initial threshold of at least 50 years, meaning that in 2016, any property built prior to 1966 could be historically significant. When the Commission reviewed the Town's history of development and its architectural contributions at the State and National level, an earlier date seemed more appropriate.

1940 marks an historic break in terms of Winchester's architectural design, building practices and residential development planning. Many of the buildings that predate World War II exemplify distinctive architecture and craftsmanship that has become an irreplaceable expression of the Town's character and heritage. During and after the war, people increasingly found jobs that required greater mobility and subdivisions sprung up, repeating a small number of house plans. Many homes in a neighborhood were virtually identical with little in the way of architectural features to distinguish one from another.

Winchester neighborhoods constructed prior to the war exhibit a cohesive and harmonious character that can no longer be reproduced through new construction. The scale and aesthetic of later periods, with some important exceptions, has generally not acquired historical significance through a longer presence in the built landscape and the development of the cultural patina that older neighborhoods possess.

What if my house is in a dangerous condition and restoration is not feasible?

Nothing in the proposed By-Law restricts the Building Commissioner's authority to demolish a building at any time if the condition of the building or part thereof presents an imminent and substantial danger to the public health and safety. The revised By-Law also contains penalties for so-called "demolition by neglect" (where the property is allowed to deteriorate over time and become uninhabitable) and for intentional demolition in violation of the By-Law.

If I chose not to protect my historically significant property in the past, will that change because of these amendments?

No. The one-time "opt-out" created by 2001 By-Law amendments still stands, because the designation runs with the land. However, at any time you can choose to protect your home going forward by submitting a written request to that effect to the Historical Commission (c/o Town Hall, 71 Mt. Vernon St.)

Isn't my home automatically protected if it is listed on the National Register of Historical Places?

No. Unfortunately, inclusion on the National Register is only a formal recognition of the historical merits of your property. Many of the benefits of inclusion on the National Register are tax incentives for *income-producing* historical properties (including those which generate rental income) and grants for non-profit organizations.⁶

If my application for a permit to demolish my historically significant property is delayed for 12 months but I do not demolish it, will the next owner have to go through the permit process all over again if they wish to demolish it?

Yes. Under the terms of this By-Law, rights conveyed to an owner when the Building Department issues a demolition permit run with the owner, not with the land. There is no requirement that an owner conducts the demolition within a timeframe certain, but a new owner would have to reapply.

⁵ Retrieved from <https://www.tempe.gov/home/showdocument?id=5367>

⁶ Retrieved from <https://www.nps.gov/nr/regulations.htm%20>

CHAPTER 14

PRESERVATION OF HISTORICALLY SIGNIFICANT BUILDINGS

Section 1. PURPOSE

This by-law is adopted to promote the preservation and protection of Historically Significant Buildings within the Town that reflect distinctive features of historical, architectural, archeological and culture significance to the Town and to limit the detrimental effect of Demolition on such features of the Town. Through this by-law, owners of Historically Significant Buildings are encouraged to consider alternatives to demolition that will preserve, rehabilitate and restore such buildings while residents of the Town are alerted to proposed and impending Demolitions.

Section 2. DEFINITIONS

As used in this chapter:

- 2.1. "Abutters" shall mean any owner of a Lot touching a Lot on which an Eligible Building is located and shall include owners of Lots directly opposite such Lot on any public or private street or way.
- 2.2. "Applicant" shall mean any person(s) or entity(ies) who files an application for a Permit to Demolish a Building. If the Applicant is not the owner of the Building, the owner must indicate on or with the application for a Permit its assent to the filing of the application.
- 2.3. "Building" shall mean a combination of any materials, having a roof, to form a structure for the shelter of person or property. For purposes of determination by the Commission of whether an Eligible Building is Historically Significant, a garage, out-building or carriage house located on a Lot of an Eligible Building shall be considered a separate "Building," and indicated as such in the application for a Permit submitted to the Building Department.
- 2.4. "Business Day" shall mean any day other than a Saturday, Sunday or other day on which the government of The Commonwealth of Massachusetts is authorized or required by law to be closed for business.
- 2.5. "Commission" shall mean the Winchester Historical Commission, created by vote of Winchester Town Meeting pursuant to Massachusetts General Laws, Chapter 40, section 8D.
- 2.6. "Demolition" shall mean any act of (a) pulling down, tearing down, destroying, or razing a Building or substantially all of a Building, (b) moving a Building from its site or foundation from its current location, or (c) commencing the work of any of the foregoing.
- 2.7. "Eligible Building" shall mean any Building or portion thereof located in the Town

- (a) which is listed individually on, or is a contributing Building within a district listed on, the National Register of Historic Places or State Registers of Historic Places,
- (b) which is included in the Massachusetts Historical Commission's "Inventory of Historic and Archeological Assets of the Commonwealth", or
- (c) which was constructed during or before 1940.

For the purposes of clause (c) above, evidence that a Building was constructed during or before 1940 shall be determined from sources including Town building or tax assessment records, other historical records, or other reliable independent sources including information provided by the Applicant as is reasonably acceptable to the Commission.

2.8. "Hearing" shall mean a public hearing of the Commission held for the purposes of determining if an Eligible Building is a Historically Significant Building in accordance with Section 3.5 and the Demolition thereof should be delayed in accordance with Section 3.6.

2.9. "Historically Significant Building" shall mean an Eligible Building that the Commission determines meets the criteria set forth in Section 3.5.

2.10. "Lot" shall mean a parcel of land with definite boundaries ascertainable by recorded deed or plan.

2.11. "Permit" shall mean a permit issued by the Building Department authorizing the Demolition of a Building.

Section 3. PROCEDURES

3.1. Application for Permit. An Applicant seeking a Permit from the Building Department to Demolish a Building shall, in addition to or as part of such application form and information required by the Building Department, submit to the Building Department the following:

- (a) The address of the Building to be demolished;
- (b) The Applicant's name, address, telephone number and email address (if any), and if the application is not submitted by the Owner of the Building, the owner's information and consent to the application;
- (c) A brief description of the Building(s) to be demolished, together with information, if available to the Applicant, as to the date of construction of the Building (such as a copy of the original building permit application, tax assessment records or other historical records), the condition of the Building(s) and other information as the Applicant would like to submit to describe the reason for the Demolition; and
- (d) A photograph or photograph(s) of the Building.

At the time of the application, each Applicant will be provided with a copy of or reference to this bylaw describing the procedures for the Commission's review of the Permit application. Within three (3) Business Days after receipt of an application for a Permit, the Building Department shall transmit a copy of the application to the chairperson and vice-chairperson of the Commission and to the Town Planner for review in accordance with this bylaw.

3.2. Required Notification to Issue Permit. The Building Commissioner shall not issue a Permit for the Demolition of a Building unless the Building Commissioner has received a notification from the Commission, its Chairperson, Vice-Chairperson or the Town Planner under any one of items (a) through (d) in this Section 3.2, or the Building Commissioner has not received any notification from the Commission, its Chairperson, Vice-Chairperson or the Town Planner on or before thirty (30) Business Days after the date of the Permit application is transmitted by the Building Department under Section 3.1. Notifications to the Building Commissioner shall be that:

- (a) the Building is not an Eligible Building pursuant to Section 3.3(a), or
- (b) the Building is an Eligible Building and the Commission (or an Authorized Person) has determined it is not a Historically Significant Building pursuant to Section 3.3(b), or
- (c) the Building is an Eligible Building and the Commission has determined it is a Historically Significant Building but has not imposed a demolition delay pursuant to Sections 3.6(b), 3.8 or 3.9; or
- (d) the Building is an Eligible Building and the Commission has determined it is a Historically Significant Building and imposed a demolition delay pursuant to Section 4.6(b); and no Permit shall issue until a further notification is issued to the Building Commissioner the period of demolition delay imposed by the Commission for a Historically Significant Building has ended, whether at the end of the time imposed by the Commission or at such earlier date pursuant to Sections 3.8 or 3.9; or
- (e) the Applicant and the Commission have agreed to extend the time for the Commission's determination that an Eligible Building is a Historically Significant Building and/or whether to impose a demolition delay, and the period of such extension.

Nothing in this Section is intended to prevent the Building Commissioner from issuing a Permit to Demolish a Building for the reasons in Section 3.13.

3.3. Determinations of Eligible Buildings and those of No Historical Significance.

- (a) Eligible Buildings. The Commission chairperson, vice-chairperson, Town Planner or other Town employee designated by the Commission (such person being an "Authorized Person") within ten (10) Business Days after the date the Permit application is transmitted by the Building Department pursuant to Section 3.1 shall (i) determine if the Building described in the application is an Eligible Building based on information submitted with the Permit application, any additional information submitted by the Applicant, review of building department

and tax assessor's office records, other public records or historical data and the results of any prior review of the Building to determine if it was an Eligible Building, and (ii) notify the Applicant and the Building Department of such determination. If the Authorized Person, within such ten (10) Business Day period is unable to make a determination that a Building is an Eligible Building based on available records, the Permit application shall be referred to the Commission for a determination at a Hearing as to whether the Building is an Eligible Building. The Applicant is encouraged to present any information with the Permit application that the Applicant believes will assist the Authorized Person or Commission in making its determination. The Hearing will be held not later than twenty (20) Business Days after the date the Permit application is transmitted by the Building Department pursuant to Section 3.1.

- (b) Preliminary Determination of No Historical Significance. Upon a determination that the Building is an Eligible Building, the Authorized Person may further determine based on the information submitted with the Permit application, any additional information submitted by the Applicant, review of building department and assessor's office records and other public records or historical data, visual inspection, familiarity with the history or neighborhood, or prior review of the Eligible Building by the Commission and determination of no Historical Significance, that an Eligible Building is presumptively not a Historically Significant Building and not subject to the delay provisions off this bylaw and shall notify the Applicant and the Building Department of its determination, such notice to be provided within ten (10) Business Days after the date the Permit application is transmitted by the Building Department pursuant to Section 3.1.

3.4. Determination of Historical Significance by Commission; Public Hearing. Subject to any preliminary determination under Section 3.3(b), the Commission shall determine at a Hearing and based on the Criteria set forth in Section 3.5 whether an Eligible Building proposed for Demolition is a Historically Significant Building. The Hearing shall be held within twenty (20) Business Days after the date the Permit Application is transmitted by the Building Department pursuant to Section 3.1, unless the Commission and the Applicant jointly agree to extend the time for the Hearing. The Commission shall give public notice of the Hearing not less than 5 days prior to the date of the Hearing by posting notice at Town Hall and by mailing notice of the date, time, location and subject matter of the Hearing to the Applicant, Abutters and to other persons deemed by the Commission to be affected thereby.

3.5. Criteria for Determination of an Eligible Building being a Historically Significant Building. If at such Hearing the Commission determines that the Demolition of the Eligible Building would be detrimental to the American history, architecture, archeology, engineering and culture of the Town, such building shall be considered a "Historically Significant Building". An Eligible Building's Historical Significance shall be evidenced by demonstrating that such Eligible Building has a quality of significance in American history, architecture, archeology, engineering and/or culture and which possesses integrity of location, design, setting, materials, workmanship, feeling and/or association; and:

- (a) is associated with events that have made a significant contribution to the broad patterns of our history,
- (b) is associated with the lives of significant persons in our past,
- (c) embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction, or
- (d) has yielded or may be likely to yield, information important to history or prehistory.¹

3.6. Commission's Determinations at Hearing; Demolition Delay.

(a) Not a Historically Significant Building. If at a Hearing (i) the Commission determines by a majority vote (of those members present and voting) that an Eligible Building is not a Historically Significant Building pursuant to Section 3.5 hereof or (ii) there is a tie vote (in which case the Commission shall be deemed to have determined that such Eligible Building is not a Historically Significant Building). The Commission shall notify the Building Commissioner, with a copy to the Applicant, of its determination at the Hearing within ten (10) Business Days of the closing of the Hearing.

(b) Historically Significant Building. If at a Hearing the Commission determines by a majority vote (of those members present and voting) that an Eligible Building is a Historically Significant Building pursuant to Section 3.5 hereof, the Commission shall further determine if it will require a twelve (12) month delay in the Demolition of the Historically Significant Building. The Commission shall notify the Building Commissioner, with a copy to the Applicant, of its determination at the Hearing within ten (10) Business Days of the closing of the Hearing.

3.7. Alternatives to Demolition. At any time during the Hearing, prior to the issuance of the Commission's determinations, or during the period of Demolition delay, the Commission may invite the Applicant, and any other persons deemed affected by the proposed Demolition, to participate in a discussion of alternatives to Demolition including but not limited to: incorporation of the Building into the future development of the site; adaptive re-use of the Building; utilization of financial incentives to rehabilitate the Building; rezoning, or seeking a new owner willing to purchase and preserve, restore or rehabilitate the Historically Significant Building.

3.8. Unconditional Early Issuance of Permit. The Commission, after its determinations of Historical Significance and imposition of Demolition delay, may reduce or eliminate the period

¹ The criteria for determination of Historical Significance set forth herein are the Criteria for Evaluation found in the Code of Fed. Regs., Title 36, Part 60 (<https://www.nps.gov/nr/publications/bulletins/pdfs/nrb15.pdf>)

of delay and/or may impose conditions on the Demolition and shall notify the Building Commissioner of its revised determination, if:

- (a) The Commission is satisfied that there is no reasonable likelihood that either the Applicant or some other person or group is willing to purchase, preserve, rehabilitate or restore such building,
- (b) The Commission is satisfied that for at least twelve (12) months (which time period may precede the date of the Permit application) the Applicant or owner of the Historically Significant Building has made continuing bona fide and reasonable efforts to locate a purchaser to preserve, rehabilitate and restore such Building, and that such efforts have been unsuccessful, or
- (c) The Commission is satisfied that it is in the best interest of the community, as assessed by the Commission to allow the Demolition of the Historically Significant Building.

3.9. Conditional Early Issuance of Permit. Notwithstanding the provisions of Section 3.6, the Building Commissioner may issue a Permit subject to conditions agreed to by the Commission and the Applicant and the owner (if the Applicant is not the owner) of a Historically Significant Building at any time after receipt of written agreement from the Commission and the Applicant and the owner to the effect that the Commission is satisfied that Demolition of the Historically Significant Building, subject to the conditions specified in such agreement, is the outcome most likely to secure the intent of this by-law and that the Applicant and owner (if the Applicant is not the owner) agrees to abide by the conditions specified.

3.10. Appeals. An appeal may be taken by the Applicant to the board of appeals within twenty (20) Business Days after a determination by the Commission that the subject of a Permit application is a Historically Significant Building.

3.11. Communications. Unless another form of communication is expressly specified herein, all written notifications under this Chapter 14 shall be made by and delivery, the U.S. Postal Service, electronic mail, facsimile transmission (with confirmation of receipt in writing by other means) or overnight delivery service.

3.12. Historically Significant Buildings Subject to Prior Permit Applications.

- (a) No Change in Ownership. In the event that (i) an application for a Permit has previously been submitted with respect to an Eligible Building, (ii) such Eligible Building was determined by the Commission to be a Historically Significant Building, (iii) such Building was not Demolished following any imposed period of delay, and (iv) subsequently a new application for a Permit is submitted for the Building by the same Applicant (or owner if the initial Application was not submitted by the owner), then such Building shall not be subject to a Hearing nor any further period of delay so long as (1) the ownership of the Building has not changed since the date of the Commission's initial determination, and (2) there is

no new information about the Building's significance in history, architecture, archeology, engineering or culture in accordance with the Criteria set forth in Section 3.5 that was not known to the Commission at the time of the initial determination.

- (b) Effect of Conveyances. In the event that (i) an application for a Permit has previously been submitted with respect to an Eligible Building, (ii) such Eligible Building is determined by the Commission to be a Historically Significant Building, (iii) such Building was not Demolished following any imposed period of delay, and (iv) subsequently a new application for a Permit is submitted for the Building by a different Applicant or owner, the Permit application shall be subject to review by the Commission in accordance with this bylaw in the same fashion as any other Permit application.

3.13. Overriding Safety Issue or Emergency Conditions. Nothing in this by-law shall restrict the authority of Building Commissioner to order the Building owner, or the Town, to demolish a building at any time if the Building Commissioner determines that the condition of the Building or part thereof presents an imminent and substantial danger to the public health or safety. The Building Commissioner shall endeavor to provide the Chairperson and Vice-Chairperson of the Commission and the Town Planner with prior written notice of its issuance of a Permit in connection with the foregoing.

Section 4. ENFORCEMENT AND REMEDIES

4.1. Enforcement by Building Commissioner. The Building Commissioner is authorized to institute any and all proceedings in law or equity as the Building Commissioner deems necessary and appropriate to obtain compliance with the requirement of this by-law, or to prevent a violation thereof.

4.2. Demolitions In Violation of By-Laws. No building permit shall be issued with respect to any Lot upon which an Eligible Building has been intentionally demolished in violation of this by-law for a period of two (2) years after the date of the completion of such Demolition. The Demolition of an Eligible Building pursuant to a Permit issued on the basis of incorrect information shall be considered to be an intentional Demolition in violation of this by-law.

4.3. Vacant Historically Significant Buildings. The owner of a Building that the Commission has found to be a Historically Significant Building, shall be responsible for properly securing such Building, if vacant (excluding temporary vacancies), to the satisfaction of the Building Commissioner. Should the owner fail to so secure such Building, the loss of such Building (e.g. fire) may be considered an intentional Demolition for the purposes of Section 4.2.

4.4. Regulations, Fees. The Commission may adopt such rules and regulations as are necessary to administer the terms of this by-law. The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this by-law.

Section 5. Application for Pre-emptive Determination of Historical Significance

An owner of a Building may at any time request a review by the Commission as to the Historical Significance of such Building. Within ninety (90) days following receipt of such request, the Commission shall conduct such review at a regularly scheduled meeting of the Commission and notify Abutters thereof. At such meeting and based upon information available to the Commission including information provided by such owner, the Commission shall make a determination that (i) such Building is a Historically Significant Building, (ii) such Building is not a Historically Significant Building, or (iii) there does not exist sufficient information to make a determination as to the Historical Significance of such Building.

If the Commission determines such Building is not a Historically Significant Building, such determination will be in perpetuity, unless, following such determination and upon the later submission of an application for a Permit, it is found that such Building is associated with previously unknown significance in American history, architecture, archeology, engineering and culture as set forth in Section 3.5. If the Commission determines there is insufficient information available in the reasonable opinion of the Commission to make such a determination or the Commission determines that such Building is a Historically Significant Building and such owner disagrees, such owner may, in either case and at its sole cost and expense, hire or request the Commission to hire a consultant, which consultant is mutually acceptable to the Commission and the Applicant, to complete a Massachusetts Historical Commission Survey Form if no up to date Form exists and provide such additional relevant information to the Commission as such owner may elect. Upon receipt of such Form and additional information, as applicable, at a regularly scheduled meeting of the Commission, with notice to Abutters, the Commission shall reassess its prior determination and advise such owner of any change to its prior determination. A fee for an initial determination and any reassessment may be assessed by the Commission, which shall be payable by such owner, to cover the costs to the Commission or Town therewith.

Section 6. EXISTING EXCLUSIONS

Notwithstanding anything contained herein to the contrary, property owners of Eligible Buildings who elected to be excluded from the application of this by law in accordance with a 2001 amendment hereto,² shall continue to be excluded and the exclusion shall apply to their respective successors and assigns provided, however, the current property owners of such Eligible Buildings may rescind such election at any time by notification thereof in writing to the Commission.

Section 7. SEVERABILITY

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

² Section 6 of the 2001 amendment to this by law permitted property owners of Eligible Buildings a one-time "opt out" from the protections afforded by these by laws.

Mawn, Patti

From: Lance Grenzeback <lance.grenzeback@gmail.com>
Sent: Wednesday, September 14, 2016 8:33 PM
To: Mawn, Patti
Subject: Fwd: Updated Preservation of Historically Significant Buildings By-Law

Patti:

Business item for Sept 26 BOS meeting. I asked her to have the draft to you o/b Thursday.

x. Preservation of Historically Significant Buildings By-Law -- Proposed update to bylaw -- Heather von Mehring/Winchester Historical Commission

Thanks.

Begin forwarded message:

From: Lance Grenzeback <lance.grenzeback@gmail.com>
Date: September 8, 2016 at 5:02:02 PM EDT
To: Heather von Mering <hvonmering@yahoo.com>
Subject: Re: Updated Preservation of Historically Significant Buildings By-Law

Aim for Thurs, Sept 22. Patti copies materials and assembles the packets on Thursdays and has the WPD deliver them on Friday. Last minute items can go in on Friday morning, but she will think better of you if you get the materials to her by Thurs or earlier.

On Sep 8, 2016, at 4:17 PM, Heather von Mering <hvonmering@yahoo.com> wrote:

Thank you Lance. We do have a current draft but legal is scheduled to meet with us on Monday to review. Since they have noted they do have comments, it is probably best that we submit upon the minor modifications to the BOS.
What is the date that you need the draft for your packets?
Thank you for such a timely response.
Heather

On Sep 8, 2016, at 4:01 PM, Lance Grenzeback <lance.grenzeback@gmail.com> wrote:

Heather:

Thanks for the note. The Chairman sets the agenda (after Patti reminds me what needs to be scheduled...☺).
Pencil in Sept 26, and I will confirm early next week. I assume you will have a reasonably complete draft that can be included in the Selectmen's read-ahead packet for the 26th?

Regards.

On Sep 8, 2016, at 12:15 PM, Heather von Mering
<hvonmering@yahoo.com> wrote:

Dear Lance,
The Commission has been hard at work overhauling the by-law. We currently are working with Wade to gather legal review as it is a complete overhaul and have sent the draft to MA Historical Commission for their review. However, it is at a rather decent spot and the general ideas are in place. Do you think it is a good idea to get on the agenda and if so, when would be the best time. Also, I am unclear on who I should contact to get on the agenda. Is it Patti with your approval, you, or Town Manager.

All the best,
Heather von Mering