

## **ARTICLE XIII**

### **DEMOLITION DELAY BYLAW**

**Section 1.** Purpose. The purpose of this ordinance is to protect from demolition historically significant buildings which reflect the historical, cultural or architectural heritage of the Town of Wellfleet, and to encourage the owners of such buildings to explore and develop acceptable alternatives to demolition such as preservation, renovation, restoration or relocation.

To achieve these purposes, a Historical Review board shall be appointed by the Selectmen in consultation with the Planning Board. The Historical Review Board, hereinafter referred to as “the Board”, shall consist of three people chosen for their interest in and knowledge of historical structures. The Board shall be empowered to advise the Wellfleet Building Inspector with respect to the issuance of permits for demolition and to hold hearings to explore alternative to demolition.

The term of office of the members of the Historical Review Board shall be for a period of three, four, and five years respectively, and for a term of five years thereafter.

#### **Section 2.** Definitions.

2.1 Historically Significant Building: Any building which is either:

- a. Listed in the National Register of Historic Places,
- b. More than seventy-five (75) years old.
- c. Designated by the Board after public hearing(s) as being historically or architecturally significant in terms of period, style, and method of construction or association with historic persons or events.

2.2 Preferably Preserved. Any “historically significant” building, the preservation of which is in the public interest as determined by the Board.

2.3 Demolition. The act of pulling down, destroying, removing, or razing a building, in whole or in part, (including the demolition of exterior walls or roof), or commencing such work with the intent of completing the same, all as determined by the Building Inspector; provided, however, that the term “demolition” shall not include the ordinary maintenance or repair of any building. In addition, the term “Demolition” defined under this bylaw section shall include the act of enclosing or encapsulating an existing building within new exterior walls or roofed areas.

#### **Section 3.** Procedure

3.1 The Board shall furnish the Building Inspector with a list of all “historically significant buildings”.

3.2 The Building Inspector shall, within five (5) days of receipt of an application for

a demolition permit for a “historically significant building”, forward a copy of the application to the Board.

3.3 The Board shall determine if the building is “preferably preserved”. If the Board makes an initial determination that the building is “preferably preserved”, then within forty-five (45) days of the receipt of the demolition permit application, the Board shall hold a public hearing to explore alternatives to demolition.

3.4 Notice of the time, place and subject matter of hearings hereunder shall be given by publication in a newspaper of general circulation in the Town once a week for two (2) successive weeks, the first notice to appear at least fourteen (14) days before the day of the hearing (including the day of publication and excluding the day of the hearing) and by mailing a notice of hearing to the owner or applicant, all abutters to the subject property, the Planning Board of the town, the Historical District Commission, the Wellfleet Historical Society the Conservation Commission, the Selectmen and such other persons as the Board may determine.

3.5 If after hearing, the Board determines that the proposed work would destroy or substantially diminish an historic value, it is empowered to impose a demolition delay of up to twelve (12) months from the date of said hearing to afford an opportunity to develop alternatives to demolition.

3.6 The Board shall with seven (7) days of said hearing notify the owner or applicant and the Building Inspector of its decision.

3.7 If at the end of a Board mandated delay, no alternatives have been agreed to by the owner or applicant, the Board shall within seven (7) days notify the Building Inspector who may then issue the permit.

3.8 In addition to the provisions of Section 3.7, the Building Inspector may issue a demolition permit upon written notice from the Board that the building is not “preferably preserved” or that there is no likelihood that either the owner or some other person or group is willing to purchase, preserve, restore or rehabilitate the building or that the applicant has agreed to accept a demolition permit on specified conditions.

3.9 Nothing in this Bylaw shall restrict the building Inspector from issuing a demolition permit if in his opinion the condition of the building poses an imminent and substantial threat to public health or safety.

#### **Section 4.** Enforcement

4.1 The Building Inspector shall be authorized to enforce the provisions of this Bylaw.

**Section 5.** Non-compliance

5.1 Anyone who undertakes demolition of any “historically significant” building without a demolition permit shall be subject to a fine of \$1,000.00. Each day such demolition continues shall constitute a separate offense.

5.2 No building permit shall be issued or be valid for a period of up to two (2) years after demolition of any “historically significant” building in violation of this Bylaw.

**Section 6.** Severability

6.1 If any provision of this Bylaw is determined to be invalid or unconstitutional by any court of competent jurisdiction, said determination shall not affect the validity of any other section hereof.

**Section 7.** Historic District Act

1.1 If any provisions of this Bylaw conflict with Massachusetts General Laws, Chapter 40C, the Historic District Act, that Act shall prevail.