

# Southborough's Demolition Delay By-Law

## *A Walk Through the Process*

**Step 1:** When a property owner decides to demolish a structure in Southborough, the property owner files an application for demolition with the Building Inspector. The person who files the application is known as the "Applicant."

**Step 2:** Within 7 business days of receiving the Application for Demolition, the Building Inspector forwards the application to the Historical Commission. The application must contain, in addition to the paperwork required by the Building Inspector, photos showing all sides of the building to be demolished, and a plot plan showing its location.

**Step 3:** Within 10 business days of receiving the Application, the Historical Commission must make an initial determination if the structure to be demolished is "significant."\* This will require members of the Commission to visit the property at a mutually agreed time with the building inspector to assess the property's condition. The Commission members then inform the chairman whether or not they feel the property is significant. If the majority decide:

### *NO, it is not significant*

The Commission then notifies the Building Inspector that a demolition permit may be issued.

The building may be demolished.

### *YES, it is significant*

The Historical Commission then notifies the building inspector that no demolition permit shall be issued.

The Commission will next hold a public hearing within 15 business days, and will post, at the applicant's expense, notice of such hearing in the local newspaper and at the Town Hall. If after a public hearing the Commission determines that significant building should not be "preferentially preserved" the Commission shall notify the Building Inspector, and the Building Inspector may issue a demolition permit upon receipt of the written decision.

If however the Commission determines the structure to be "Preferably Preserved" the Historical Commission notifies the Applicant and Building Inspector. No demolition permit may be issued for a period of 9 months. Within 10 business days, the Commission will issue to the applicant an action plan, which will outline the efforts the Commission expects the applicant to take.

During the 9-month delay period the Applicant must make continuing, *bona fide* and reasonable efforts to locate a purchaser to preserve, rehabilitate or restore the subject building, and show that such efforts have been unsuccessful. If no alternative solution can be found, the Historical Commission will notify the Applicant and the Building Inspector, who then may issue a demolition permit.

\* A "significant structure" may meet one or more of the following criteria: built in or before 1925; on, or eligible for the National Register; important to the history of the town; of significant architectural importance

## ***Frequently Asked Questions***

### ***What properties does this by-law affect?***

This by-law only affects properties that possess buildings or structures that were constructed prior to 1925 that are included in the Southborough Massachusetts Historical Properties Survey prepared by the Commission in 2000 (with revisions and updates in 2015). A copy of this report is on file at the Town Clerk's office and at the Southborough Public Library.

### ***What is the difference between demolition and demolition by neglect?***

Demolition is defined as “any act of pulling down, destroying, removing or razing a building or commencing the work of total or substantial exterior destruction with the intent of completing the same.” Demolition by neglect is defined as “a process of ongoing damage to the fabric, viability and/or functionality of an unoccupied building 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 building 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.” Demolition by neglect of potentially significant structures is signaled to the Commission by the Building Inspector, who will have first contacted the owner in an attempt to rectify the situation through mutually agreeable means. Should that fail, the Commission will hold a public meeting to determine whether the building is in fact both “significant” and “preferentially preferred.” If that is determined to be the case, the Commission will then work with the Building Inspector to secure the structure.

### ***The by-law mandates access to the property by the Historical Commission. How is that arranged?***

Typically, the building inspector will contact the owner to set up a mutually agreeable time to visit the property. The owner does not need to be present; members of the Commission simply need full access to the property, inside and out. It is in the interest of the owner to make expeditious arrangements for this inspection, as no demolition permit will be granted until access to the structure is achieved.

### ***What happens if the structure is determined to be “preferentially preserved?” How do you define “continuing, bona fide, reasonable efforts” on the part of the applicant?***

When the Commission makes the judgment that a property is preferentially preserved, the Commission shall, within 10 business days, provide the applicant with an action plan, which shall vary from property to property but may include placing notices in local and regional publications, meeting with various interested parties engaged in restoration and/or exploring alternatives to demolition as well as allowing access to the property by various experts and consultants recommended by the Historical Commission to assess rehabilitation options.

### ***Who pays for the costs of these efforts?***

Like other permitting charges and fees, these costs are borne by the applicant.

### ***Does this process always take 9 months?***

Not necessarily. If at any time the Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate or restore such building, and/or the Commission is satisfied that the owner has made continuing, *bona fide* and reasonable efforts to locate a purchaser to preserve, rehabilitate or restore the subject building, and that such efforts have been unsuccessful, the Commission can recommend that the Building Inspector grant the demolition permit.

### ***What happens if the applicant doesn't make these bona fide efforts?***

If the Commission determines that the applicant has not made continuing, *bona fide*, and reasonable efforts as outlined in the property action plan supplied to the applicant by the Commission, the Commission may recommend that the Building Inspector not grant a demolition permit, in which case the applicant may re-apply. The applicant should also be aware that demolishing a structure without the proper authorization may result in a substantial fine, legal action or the refusal of building permits on adjacent parcels, as outlined in section 63.7 of Southborough's demolition delay by-law.

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