

Planning Commission Staff Report

From: Tom Bonadeo
Date: October 4, 2011
Item: 6A – New Business – Section 8.22 Demolition of Structures
Attachments: None

Item Specifics

After a recent authorization to demolish a house on Jefferson Avenue in accordance with the Ordinance, Town Council requested that Planning Commission revisit a section of the ordinance and review the procedure. The ordinance section in question is 8.22 allowing the demolition of a house on the report that the structure is unsafe as required in this section.

Discussion

The process for demolition follows two tracks, one for contributing structures and one for non-contributing structures. Contributing Structures are regulated by the Historic District Review Board and the Building Code and Non-contributing Structures are regulated by the Building Code only.

The Historic District Overlay (Section VIII) regulates demolition of contributing structures in section 8.21 and 8.22.

Section 8.21 Demolition; Alternate Procedure: Offer to sell

This section requires an application to the Historic District Review Board to demolish a contributing structure. The Board, Zoning Administrator or the Town Council, as applicable, shall review the application following the four guidelines in the ordinance. If the demolition is denied by the above authorities the owner still retains the right to demolish the structure if an alternate procedure is followed. The alternate procedure is to offer the structure for sale for 12 months at a fair market value if no bona-fide offer is received from anyone giving the assurance that they will restore the structure then the structure can be demolished.

Section 8.22 Hazardous Buildings or Structures

This section allows demolition of any building or structure without the consideration of Historic Review Board if the building is in such an unsafe condition that it would endanger life or property provided the building code is followed. It required written approval of the "Town Administrator".

This is the section that could allow destruction of contributing structures and the Council would like to have reviewed. The very first issue is the name in quotes "Town Administrator". We have a Town Manager and a Zoning Administrator and the name should be changed.

Staff has added some additional requirements to assure that abuse does not allow the demolition of structure that are really not a hazard to life and property. Staff requires the following additional items:

1. If the request comes from the owner, the Code Official and Zoning Administrator require a letter from a structural engineer, licensed in Virginia, stating the structural problems that render the building a hazard and not practicably rebuildable.

2. The Zoning Administrator and the Code Official review the documentation and the survey of the property to be sure that the demolition creates a better situation after the demo than prior to the demo.
3. The Zoning Administrator reviews the plan to rebuild as required in the regular procedure for demolition.
4. There are times when no engineering report is required by staff. In the case of eminent danger to life and property the Code Official and Zoning Administrator may require the demolition of a structure for the protection of the citizens.

It may be of value to incorporate some of these procedures into the ordinance.

Recommendation

Staff recommends that the Planning Commission review the above ordinance and report any recommendations to Council.

"substantial alteration," the Zoning Administrator shall be contacted for an interpretation prior to commencement of work.

Section 8.19. Certificate of Appropriateness

Evidence of the approval required under the terms of the Historic District shall be a certificate of appropriateness issued by the Historic District Review Board, or the Zoning Administrator as the case may require, stating that the demolition, moving, or changes in the exterior architectural appearance of the proposed construction, reconstruction, alteration, or restoration for which application has been made are approved by the Historic District Review Board or the Administrator as the case may require. The Historic District Review Board, or the Administrator in a case within his authority, may permit modifications of original proposals if such modifications are formally acknowledged, clearly described, and recorded in the records of the case. A certificate of appropriateness shall be in addition to any other permits required. Any action by applicants following issuance of a permit-requiring certificate of appropriateness shall be in accord with the application and material approved and any conditions appended thereto.

Section 8.20 Design Guidelines; Standards for Review

- A. In order to achieve the purposes of the Historic District, the Historic District Review Board shall be guided in its decisions by the design guidelines as authorized in subsection B of this section
- B. It shall be the duty of the Historic District Review Board to prepare, and adopt, and amend specific design guidelines, illustrated as necessary, for buildings, structures, and sites in the historic district
- C. The Historic District Review Board may adopt and amend a set of design guidelines after conducting at least one public hearing pursuant to Section 15.2204 Code of Virginia.

Section 8.21 Demolition; Alternate Procedure: Offer to Sell

- A. Prior to approval of any application for demolition of a contributing structure within the Historic District; the zoning administrator, the Historic District Review Board, or the Town Council, as applicable, shall review the application for its compatibility with each of the following guidelines.
 - 1. Whether or not the building or structure is of such architectural or historic interest that its removal would be to the detriment of the public interest.
 - 2. Whether or not the building or structure is of such interest or significance that it would qualify as a National, State, or local historic landmark.

3. Whether or not retention of the building or structure would help to preserve and protect a historic place or area of historic interest in the Town.
 4. Whether or not plans for future use of the site after demolition are appropriate at this location in the district.
- B. In addition to the right of appeal herein elsewhere set forth, the owner of a designated landmark, building, or structure in the Cape Charles Historic District shall as a matter of right be entitled to raze or demolish such landmark, building, or structure provided that:
1. He has applied to the Town Council for such right;
 2. The owner has for the period of twelve (12) months and at a price reasonably related to its fair market value made a bona fide offer to sell such landmark, building, or structure, and the land pertaining thereto, to the Town or to any person, firm, corporation, government, or agency thereof, or political subdivision or agency thereof, which gives reasonable assurance that he is willing to preserve and restore the landmark, building, or structure and the land pertaining thereof; and, *TOO LONG?*
 3. That no bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such landmark, building, or structure, and the land pertaining thereto, prior to the expiration of twelve (12) months. Any appeal which may be taken to the court from the decision of the Town Council, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from, shall not affect the right of the owner to make the bona fide offer to sell referred to above. No offer to demolish shall be made more than one year after a final decision by the Town Council, but thereafter the owner may renew his request to the Town Council to approve the razing or demolition of the designated landmark, building, or structure.

Section 8.22 Hazardous Buildings or Structures

Nothing in this Article shall prevent the razing or demolition of any building or structure without consideration of the Historic District Review Board which is in such an unsafe condition that it would endanger life or property, and protection from such condition is provided for in the Building Code and/or other applicable Town ordinances. However, such razing or demolition shall not be commenced without written approval of the Town Administrator verifying the conditions necessitating such action.

Section 8.23 Maintenance and Repair Required

- A. The purpose of this section is solely to stop demolition by neglect, whereby owners of property in the Historic District jeopardize the future prosperity and