

Chapter 113

HISTORIC DISTRICTS AND COMMISSION

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| § 113-1. Creation of districts; administration. | § 113-7. Expansion of districts. |
| § 113-2. Membership of Commission. | § 113-8. Criteria for determinations. |
| § 113-3. Organization of Commission. | § 113-9. Exemptions. |
| § 113-4. Certificates of appropriateness, nonapplicability or hardship. | § 113-10. Filings and records. |
| § 113-5. Fees; rules and regulations. | § 113-11. Employment of assistants and consultants. |
| § 113-6. Approval or disapproval of applications. | § 113-12. Additional powers and duties. |
| | § 113-13. Meetings; quorum. |
| | § 113-14. Determinations on applications. |

[HISTORY: Adopted 5-1-1989 Annual Town Meeting, Art. 13. Amendments noted where applicable.]

GENERAL REFERENCES

Historical Commission — See Ch. 4, Art. IV.

Zoning — See Ch. 171.

§ 113-1. Creation of districts; administration.

The Town of Great Barrington hereby creates an historic district, to be administered by an Historic District Commission as provided for under MGL c. 40C and subsequent amendments.

A. Historic District A.

- (1) Historic District A includes the properties, as indicated on the 1988 Great Barrington Assessor's Map, as follows:

- (a) Town Hall (Lot 91, Map 19);
- (b) Fire Station (Lots 85, 86 and 87, Map 19);
- (c) Mahaiwe Theater (Lot 88, Map 19);
- (d) Mahaiwe Block (Lot 90, Map 19).
- (e) 1901 Train Station on Castle Street. [Added 5-24-1994 ATM, Art. 19]

- [1] Boundary description. Beginning at an iron pipe found in the easterly side of said Castle Street, said point being the southwest corner of the parcel herein described and a corner of land of the Town of Great Barrington; running thence S-88-02-40-E a distance of 84.13 feet along land of said Town of Great Barrington to an iron pipe found; running thence S-30-09-43-W a distance of 90.06 feet along land of said Town

of Great Barrington to an iron pipe found; running thence S-59-50-17-E a distance of 11.21 feet to an iron pipe found, said point being the southeast corner of the parcel herein described and a corner of land of Housatonic Track Company, Inc.; running thence N-30-09-43-E a distance of 351.17 feet along land of said Housatonic Track Company, Inc. to an iron pipe found; running thence by a curve to the left along land of said Housatonic Track Company, Inc. having a radius of 3,536.88 feet and a length of 54.24 feet to a point computed, said point being the northeast corner of the parcel herein described and a corner of land of one Hampden House Inc.; running thence N-64-54-45-W a distance of 38.64 feet along land of said Hampden House, Inc. to a point computed; running thence S-25-05-15-W a distance of 15.00 feet along land of said Hampden House, Inc. to a point computed, said point being a corner of the parcel herein described and a corner of other land of said Worthington Realty Trust; running thence the following six courses along land of said Worthington Realty Trust; S-32-43-44-W a distance of 98.24 feet to an iron pipe to be set; N-60-00-00-W a distance of 34.00 feet to an iron pipe to be set; S-30-00-00-W a distance of 46.00 feet to an iron pipe to be set; N-60-00-00-W a distance of 15.00 feet to an iron pipe to be set; S-30-00-00-W a distance of 82.06 feet to an iron pipe to be set; N-74-52-40-W a distance of 23.57 feet to an iron pipe to be set in the easterly side of said Castle Street; running thence S-15-07-20-W a distance of 108.00 feet along the easterly side of said Castle Street to the point of beginning containing 0.586 acres of land.

- [2] The Train Station property shall be subject to review for any exterior alterations. The following specific standards and criteria apply to the roof and eaves:
 - [a] The existing slate roof on the station and metal roof on the platform shelter are original to the building and should be maintained. If the slate roof must be replaced and use of new slate material is unfeasible or prohibitively expensive, an acceptable substitute shall be considered, such as standing seam metal or other material in keeping with the building's historic appearance.
 - [b] The existing internal eaves drainage system is original to the building and should be maintained. If the eaves system deteriorates to the extent that it must be replaced, the Commission shall consider a plan to use contemporary materials, so long as they are concealed and the external architectural features are not altered.
- (f) Children's Health Program building, also known as "Russell House," street address 54 Castle Street, being the same property as is indicated on the Great Barrington Assessor's Map of record at the time of this meeting, Lot 169, Map 13, including the dwelling and natural features of the land. **[Added 5-24-1994 ATM, Art. 20]**

- B. Historic District A shall also include the following properties, as indicated on the Great Barrington Assessors' Map of record at the time of this meeting, as follows: **[Added 5-22-1995 ATM, Art. 16]**
- (1) Parks Block, 312 Main Street (Map 19, Lot 89).
 - (2) Sumner Block, 306 Main Street (Map 19, Lot 83).
 - (3) City Block, 304 Main Street (Map 19, Lot 82).
 - (4) City Block Annex, 7 Railroad Street (Map 19, Lot 84).
- C. Historic District B includes the properties, as indicated on the 1988 Great Barrington Assessor's Map, as follows: Searles Castle (Lots 152 and 152A, Map 19; Lot 22, Map 22).
- D. Historic District C. **[Added 5-24-1994 ATM, Art. 18]**
- (1) Historic District C includes the properties, as indicated on the Great Barrington Assessor's Map of record at the time of this meeting, as follows:
 - (a) First Congregational Church (Lots 101 and 107, Map 19).
 - (b) Mason Library (Lot 237, Map 14).
 - (c) United States Post Office (Lot 204, Map 14).
 - (2) Historic District C shall also include the following properties, as indicated on the Great Barrington Assessor's map of record at the time of this meeting as follows:
 - (a) First National/Aldos property, 271 Main Street (Map 19, Lots 113, 114, 115, 116, 117).

§ 113-2. Membership of Commission.

- A. The Historic Districts shall be overseen by an Historic District Commission, to be appointed by the Selectmen and made up of five members; two initially to be appointed for one year, two for two years and one for three years, and each successive appointment to be for three years.
- B. Such Commission shall include one member of the local historical society, one architect and one licensed real estate agent. The Selectmen shall solicit two nominees, each from the local historical society or, in the absence thereof, from the Society for the Preservation of New England Antiquities; the area chapter of the American Institute of Architects; and the local board of realtors. The Selectmen shall not be obliged to make appointments from these nominees. The Selectmen shall also appoint to the Commission one property owner from within the district(s) and one member at large. If within 30 days after submission of a written request for nominees to any of the organizations herein named no such nominations have been made, the appointing body may proceed to make appointments as it desires.

- C. The Selectmen shall also appoint two alternate, at-large members who would have voting rights should a regular member be absent from a meeting or be unwilling or unable to vote. Said alternate members shall initially be appointed for two- and three-year terms, thereafter for three-year terms.

§ 113-3. Organization of Commission.

The Commission shall, at the beginning of each fiscal year, hold an organizational meeting and elect a Chairman, Vice Chairman and Secretary, engage any clerical or technical help as appropriate and file notice of such election with the Town Clerk.

§ 113-4. Certificates of appropriateness, nonapplicability or hardship.

- A. Except as this chapter provides, no building or structure or part thereof within an historic district shall be constructed or altered or razed in any way that affects the exterior architectural features as visible from a public way unless a certificate of appropriateness, a certificate of nonapplicability or a certificate of hardship, with respect to such construction or alteration, is obtained.
- B. Any person who desires to obtain a certificate of appropriateness, a certificate of nonapplicability or a certificate of hardship, as the case may be, shall submit an application in such form as the Commission may reasonably determine, together with such plans, elevations, specifications, material and other information, including in the case of demolition or removal a statement of the proposed condition and appearance of the property thereafter, as may be reasonably deemed necessary by the Commission to enable it to make a determination on the application.
- C. No building permit for construction of a building or structure or for alteration of an exterior architectural feature within an historic district and no demolition permit for demolition or removal of a building or structure within an historic district shall be issued by the Town or any department thereof until the certificate required by this section has been issued by the Commission.

§ 113-5. Fees; rules and regulations.

The Commission may set fees and shall draft rules and regulations, including but not limited to the content of application forms, fees and the method by which a determination of applicability shall be made in case of a certificate of inappropriateness. The Commission shall also undertake educational efforts to explain to the public and property owners the merits and functions of an historic district.

§ 113-6. Approval or disapproval of applications.

- A. The Commission shall, following a duly advertised public hearing, issue a certificate of appropriateness to an applicant or, in the case of a disapproval of an application, the Commission shall set forth in its record the reasons for such determination and shall cause a notice of its determination, along with a copy of the reasons, to be issued to the

applicant forthwith, and the Commission may make recommendations to the applicant with respect to appropriateness of design, arrangement, texture, material and similar features.

- B. Prior to the issuance of any disapproval, the Commission may notify the applicant, in writing, of its proposed action accompanied by recommendations of changes in the applicant's proposal which, if made, would make the application acceptable to the Commission.
- C. If within 14 days of the receipt of such notice the applicant files a written modification of his application in conformity with the recommended changes of the Commission, the Commission shall cause a certificate of appropriateness to be issued to the applicant.

§ 113-7. Expansion of districts.

The Commission shall also, from time to time, consider the expansion of existing historic district(s) or adoption of new districts within the Town.

§ 113-8. Criteria for determinations.

- A. In deliberating on applications, the Commission shall consider, among other things, the historic and architectural value and significance of the site, building or structure; the general design, proportions, detailing, mass, arrangement, texture, material and color of the features involved; and the relation of such features to similar features of buildings and structures in the surrounding area.
- B. In the case of new construction or additions to existing buildings or structures, the Commission shall consider the appropriateness of the 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, and the Commission may in appropriate cases impose dimensional and setback requirements in addition to those required by applicable ordinance or bylaw. The Commission shall not consider interior arrangements or architectural features not subject to public view.
- C. The Commission shall not make any recommendation or requirement except for the purpose of preventing developments incongruous to the historic aspects or the architectural characteristics of the surroundings and of the historic district.
- D. Should the Commission determine that an application for a certificate of appropriateness or for a certificate of nonapplicability does not involve any exterior architectural feature or involves an exterior architectural feature which is not then subject to review by the Commission, the Commission shall cause a certificate of nonapplicability to be issued to the applicant.
- E. If the construction or alteration for which an application for a certificate of appropriateness has been filed shall be determined to be inappropriate or in the event of an application for a certificate of hardship, the Commission shall determine whether, owing to conditions especially affecting the building or structure involved, but not affecting the historic district generally, failure to approve an application will involve a

substantial detriment to the public welfare and without substantial derogation from the intent and purposes of this chapter. If the Commission determines that, owing to such conditions, failure to approve an application will involve substantial hardship to the applicant and approval thereof may be made without such substantial detriment or derogation or, in the event of failure to make a determination on an application within the time specified, the Commission shall cause a certificate of hardship to be issued to the applicant.

§ 113-9. Exemptions.

- A. The Great Barrington Historic District Commission shall exempt from its purview the following:
 - (1) Temporary signs as allowed by Town bylaw.
 - (2) Terraces, walks, driveways, sidewalks, streets and similar structures.
 - (3) Storm doors and storm windows, screens and window air conditioners.
 - (4) The color of paint (though it may recommend a range of suitable colors).
 - (5) The color of materials used on roofs (though it may recommend a range of suitable colors).
- B. The Commission may determine from time to time after public hearing that certain categories of exterior architectural features, colors, structures or signs may be constructed or altered without review by the Commission without causing substantial derogation from the intent and purpose of this chapter.
- C. Upon request, the Commission shall issue a certification of nonapplicability with respect to construction or alteration in any category then not subject to review by the Commission in accordance with the above provisions.
- D. Nothing in this chapter shall be constructed to prevent the ordinary maintenance, repair or replacement of any exterior architectural feature within an historic district which does not involve a change in design, material, color or the outward appearance thereof, nor to prevent landscaping with plants, trees or shrubs, nor construed to prevent the meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition, nor construed to prevent any construction or alteration under a permit duly issued prior to the effective date of this chapter.

§ 113-10. Filings and records.

- A. Each certificate issued by the Commission shall be dated and signed by its Chairman, Vice Chairman, Secretary or other such person designated by the Commission to sign such certificates on its behalf.
- B. The Commission shall keep a permanent record of its resolutions, transactions and determinations and of the vote of each member participating therein, and may adopt and

amend such rules and regulations not inconsistent with the provisions of this chapter and prescribe such forms as it shall deem desirable and necessary for the regulation of its affairs and the conduct of its business. The Commission shall file a copy of any such rules and regulations, including fees, with the Town Clerk.

- C. The Commission shall also file with the Town Clerk and the Building Inspector copies of all certificates and determinations of disapproval or inapplicability.

§ 113-11. Employment of assistants and consultants.

The Commission may, subject to appropriation, employ clerical and technical assistants or consultants and incur other expenses appropriate to the carrying on of its work, and may accept money gifts and expend the same for such purpose. The Commission may administer on behalf of the Town any properties or easements, restrictions or other interests in real property which the Town may have or accept as gifts or otherwise and which the Town may designate the Commission as the administrator thereof.

§ 113-12. Additional powers and duties.

The Commission shall have, in addition to the powers, authority and duties granted to it by this chapter, such other powers, authority and duties as may be delegated or assigned to it from time to time by vote of the Board of Selectmen or Town Meeting.

§ 113-13. Meetings; quorum.

- A. Meetings of the Commission shall be at the call of the Chairman and shall be called on a regular schedule; at the request of two members of the Commission; or in such other manner as the Commission shall determine in its rules.
- B. A majority of the members of the Commission shall constitute a quorum. The concurring vote of a majority of the members of the Commission shall be necessary to issue a certificate of appropriateness, a certificate of nonapplicability or a certificate of hardship.

§ 113-14. Determinations on applications.

- A. The Commission shall determine within 14 days of submission of an application whether said application involves any exterior architectural features which are within the Commission's jurisdiction. If a positive determination is made, a public hearing shall be held within 30 days and a decision rendered within 60 days.
- B. The Commission shall fix a reasonable time for the hearing and give appropriate public notice of the time, place and purpose at least 14 days before said hearing, and shall notify by mail, postage prepaid, all abutters to applicant's property, as determined from Assessor's records, to the Planning Board, Board of Selectmen and other parties as determined by the Commission.

- C. If the Commission shall fail to make a determination and notify the applicant in writing, within 60 days, or within such further time as the applicant may allow in writing, the Commission shall thereupon issue a certificate of hardship.
- D. A person aggrieved by a determination may, within 20 days of the filing of the notice of such determination with the Town Clerk, file a written request with the Commission for a review by a person or persons of competence and experience in such matters, designated by the regional planning agency of which the Town is a member. The finding of the person or persons shall be filed with the Town Clerk within 45 days after the request, and shall be binding on the applicant and the Commission, unless a further appeal is sought in the Superior Court.