

TOWNSHIP OF MILLBURN

ORDINANCE 2680-24

**ORDINANCE AMENDING AND SUPPLEMENTING THE TOWNSHIP OF MILLBURN
DEVELOPMENT REGULATIONS AND ZONING ORDINANCE**

WHEREAS, the 2018 Master Plan Reexamination and Update provides goals and objectives for future land use policy in the Township; and

WHEREAS, Objective 1.01 of the Master Plan Reexamination and Update recommends the Township, “Protect the character of established residential neighborhoods and encourage land use and development at an appropriate scale and density;” and

WHEREAS, the Master Plan Reexamination and Update recommends the Township, “Monitor recent tear downs and new construction in single-family districts to determine whether additional zoning modifications are necessary to protect neighborhood character;” and

WHEREAS, the Master Plan Reexamination and Update recommends the Township “promote clear, user friendly, and transparent application, review and public hearing processes for development proposals and applications;” and

WHEREAS, the Millburn Township Planning Board adopted a new Historic Preservation Element of the Master Plan on August 16, 2023; and

WHEREAS, the Township seeks to provide for enhanced protection of the Township’s historic resources and districts, as well as such structures or districts identified as potentially historic; and

WHEREAS, the Historic Preservation Element of the Master Plan recommends designation of new historic districts in the Township; and

WHEREAS, the Township seeks to conduct a transparent public process for consideration of historic district designations that provides property owners with means to protest a historic designation in a manner consistent with the requirements of the Municipal Land Use Law.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MILLBURN, IN THE COUNTY OF ESSEX AND STATE OF NEW JERSEY, AS FOLLOWS (additions are underlined and deletions appear as strikethroughs):

Section 1: DRZ 804.3 – Procedures for Designation.

804.3. Procedures for Designation. Proposals to designate a property as historic pursuant to this Article may be made by the Township Committee, the Commission, or the Planning Board, in accordance with the following procedures:

- a. Nomination Report for Historic Landmark. A nomination to propose an historic landmark shall include the following information which addresses the criteria for designation as set forth herein:
 1. A photograph of the proposed landmark; and
 2. A copy of the municipal tax map showing the property on which the proposed landmark is located; and
 3. A physical description of the proposed landmark; and
 4. A statement of significance.

- b. Nomination Report for Historic District. A nomination to propose an historic district shall include the following information which addresses the criteria for designation as set forth herein:
1. A building-by-building inventory of all properties within the district identifying key, contributing, harmonizing, non-contributing, or intrusions; and
 2. A photograph of each property and building within the district; and
 3. A copy of the municipal tax map of the district showing boundaries; and
 4. A physical description of the proposed district; and
 5. A statement of significance.
- c. Review Nomination Report. Following receipt of a nomination to propose an historic landmark or historic district, the Commission shall determine whether the nomination report contains all the required items identified in Section 804.3.a and Section 804.3.b, as applicable, and, if so, a public hearing shall be scheduled for a regular or special meeting of the Commission.
- ~~Schedule a Hearing. Following receipt of a nomination to propose an historic landmark or historic district, the Commission shall schedule a public hearing on the proposed designation.~~
- d. Notification Requirements. At least 20 days prior to the public hearing, the Commission shall, by personal service or certified mail, perform the following:
1. Notify the owner(s) of record of a property that has been proposed for historic landmark designation, or the owner(s) of record all properties located within a district that has been proposed for historic district designation, that the property or district, as applicable, is being considered for such designation and the reasons therefor;
 2. Advise the owner(s) of record of the significance and consequences of such designation, and of the rights of the owner(s) of record to ~~contest such~~ protest the designation under the provisions of this Article;
 3. Notify the owner(s) of record of the date, time and location of the hearing concerning the proposed designation of the property or district; and
 4. Serve any further notices as may be required under the provisions of the Municipal Land Use Law.
- e. Public Notice of Hearing. At least 20 days prior to the public hearing, the Commission shall also cause public notice of the hearing to be published in the official newspaper of the Township.
- f. Public Report. At least 20 days prior to the public hearing, a copy of the nomination report shall also be made available for public inspection in the municipal offices of the Township.
- g. Public Hearing. At the public hearing scheduled in accordance with this Article, the Commission shall provide the opportunity to take testimony from property owners and public comment and review the nomination report and accompanying documents. Interested persons shall be given the opportunity to be heard and to comment on the proposed nomination for designation.
- h. Commission Report. If ~~the proposed nomination is approved by~~ the Commission recommends

to the Township Committee that the Township Committee adopts the proposed designation, then the Commission shall forward a the report to the Township Committee, which shall contain a statement of the Commission's recommendations and the with a statement of reasons therefor with regard to proposed designations considered at the hearing, including a list and map of properties approved recommended by the Commission for designation and any revisions thereto. Pursuant to N.J.S.A. 40:55D-63, a protest against any proposed amendment or revision of a zoning ordinance may be filed with the municipal clerk, signed by the owners of 20% or more of the area either (1) of the lots or land included in such proposed change, or (2) of the lots or land extending 200 feet in all directions therefrom inclusive of street space, whether within or without the municipality. Such amendment or revision shall not become effective following the filing of such protest except by the favorable vote of two-thirds of all the members of the governing body of the municipality. Any protest received by the Commission that meets the requirements of N.J.S.A 40:55D-63, shall also accompany the report to the Township Clerk and to the Township Committee.

- i. Referral to Planning Board. The Township Committee shall refer the ~~report~~ proposed designation of the historic landmark and/or historic district along with the nomination report, including any revisions to it, to the Planning Board, which in turn shall report to the Township Committee as soon as possible, but within ~~60~~ 35 days from the referral to the Planning Board. Failure of the Planning Board to transmit its report within the ~~sixty day~~ 35-day period provided herein shall relieve the Township Committee of its obligations relating to the referral of such a report to the Planning Board. The Township Committee action on historic landmark or historic district designations shall be otherwise subject to those procedures and statutes which apply to a change of a zoning classification and/or boundary designation and the adoption, revision, or amendment of any development regulation.
- j. Final Designation. ~~As soon as possible after its~~ Following receipt of the report of the Planning Board or the expiration of the period allowed for Planning Board comment on designations pursuant to Section 804.3i of this section, the Township Committee ~~shall~~ may act upon the proposed designation ~~list of the historic landmark or historic district and~~ amendment of the zoning map and may approve, ~~disapprove~~ reject, or modify by ordinance the designation recommendations made by the Planning Board or Historic Preservation Commission. In the event that the Township Committee votes to ~~reject~~ disapprove or modify any Planning Board or Historic Preservation Commission recommendations for a the proposed designation of the landmark of district, the Township Committee shall record in its minutes the reasons for not following such recommendation. All action taken by the Township Committee on proposed designations shall become effective upon a favorable vote of a majority of its full authorized membership, except, in cases in which a protest has been filed with the Township Clerk in accordance with Section 804.3.h of this section. In such cases, a proposed designation shall then

 ~~require a favorable majority vote of a majority of the full authorized membership of the Township Committee~~ be subject to the requirements of N.J.S.A 40:55D-63.
- k. Public Notice of Designation. Notice of designation shall be made ~~public~~ by publication in

the official newspaper of the Township and by distribution to all municipal agencies reviewing development applications and permits. A certificate or letter of designation shall be sent to the owner(s) of record.

- I. Incorporation of Designated Landmarks into Township Records. Upon adoption of an article by the Township Committee designating an historic landmark or an historic district, the said designation shall supplement, rather than supersede, the existing zoning district in which the affected historic landmark or historic district is located. At that time, the designation list and map shall be incorporated into the Master Plan and Zoning Ordinance of the Township as required by the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., and the zoning map shall be revised to reflect the designation of the historic landmark and historic district. Designated properties shall also be noted as such on the records for those properties as maintained by the engineering and zoning offices, as well as the offices of the Construction Official, the Township Tax Assessor and the Township Clerk for purposes of permit applications, use certifications, and other land use matters. In addition to the requirement for notation in the foregoing Township records upon the designation of a landmark or historic district by the Township Committee as above in this paragraph I set forth, within 90 days of the adoption of this ordinance, there shall be entered upon the property records in the offices of the Tax Assessor, the Construction Code Official, the Township Engineer, the Zoning Officer and the Township Clerk a notation which identifies each such property located on a historic landmark and within ~~or~~ an historic district as constituted on the date of adoption hereof.
- m. Municipal Records. Each tax/assessment search requested for a property located on an historic site and within an historic district shall note thereon the subject property is so located. Similarly, all forms maintained and issued by the Construction Code Official, Township Engineer, Zoning Officer, and Township Clerk responsive to requests for information, permits, and like documents, shall contain a notation which identifies, as applicable, the presence of a property within an historic district as constituted on the date of the adoption hereof and as new landmarks as historic district designations occur hereafter.
- n. ~~m.~~ Amendments. Amendments to historic landmark or historic district designations may be made in the same manner as they were adopted in accordance with the provisions of this Article.
- o. The word "landmark" may substitute in any ordinance, resolution, determination, or official action pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-112, for "historic" or "historic site".

Ordinance 2680-24

ATTEST:

MILLBURN TOWNSHIP

Christine A. Gatti, RMC
Township Clerk

By: _____
Annette Romano, Mayor

1st Reading and Introduction: 6/4/2024
1st Publication: 6/13/2024
Referral to Planning Board: 6/5/2024
Notice to County Planning Board Prior to Adoption: 6/5/2024
Notice to Clerks of Adjoining Municipalities: 6/5/2024
Notice to Affected Property Owners: N/A
2nd Reading: 7/16/2024
Adoption: 7/16/2024 as revised (not substantive)
2nd Publication: 7/25/2024
Filing with County Planning Board: 7/19/2024

CERTIFICATION

I, Christine A. Gatti, Clerk of the Township of Millburn, in the County of Essex, State of New Jersey, do hereby certify that the foregoing is a true and correct copy of an Ordinance duly adopted by the Township Committee at a regular meeting held on the 16th day of July, 2024.

Christine A. Gatti, RMC
Township Clerk