



# Town of Nantucket



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June 25, 2020

TO WHOM IT MAY CONCERN:

I, Nancy L. Holmes, duly elected Clerk of the Town and County of Nantucket, hereby certify that the June 25, 2020 ANNUAL TOWN MEETING adopted **Article : 51** at the June 25, 2020 adjourned session when "...the adoption of all articles not heretofore acted upon as recommended by the Finance Committee, or as recommended by the Planning Board, was duly motioned, seconded, and voted in accordance with the motions recommended by the Finance Committee or, in the absence of a Finance Committee motion, then in accordance with the motions as recommended by the Planning Board, as printed in the Finance Committee Report, with technical amendments brought forward during the course of the meeting..."

### ARTICLE 51

#### (Zoning Bylaw Amendment: Demolition Delay)

To see if the Town will vote to amend Chapter 139 (Zoning) of the Code of the Town of Nantucket, Section 26, as follows (*NOTE: new language is shown as highlighted text, language to be deleted is shown by ~~strikeout~~; these methods to denote changes are not meant to become part of the final text and, further, that non-sustentative changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of the Town of Nantucket*):

#### Issuance of building and use permits.

A. No building or structure shall be used, erected, constructed, relocated, added to or otherwise subjected to alteration, or demolished without a building or use permit having been issued by the Building Commissioner or **Local Inspector** for any use or structure. No lot shall be changed from its use preexisting the July 27, 1972, effective date of this chapter, except to its natural condition allowed by § 139-7A(5) above, without a use permit or a building permit permitting such use. No such permit shall be issued until such construction, erection, relocation, addition, alteration, demolition or use, as proposed, shall comply in all respects with the provisions of this chapter as determined by **thea** Zoning Enforcement Officer or with a decision rendered by the Board of Appeals, the Planning Board, or the courts in the case of appeals. **[Amended 4-10-2000 ATM by Art. 46, AG approval 8-2-2000]**

(1) Demolition delay. **[Added 4-14-1997 ATM by Art. 40, AG approval 8-5-1997]**

- (a) Statement of purpose. The purpose of this section is to establish a predictable process for reviewing requests to demolish residential structures in order to:
  - [1] Establish an appropriate waiting period during which the Town and the applicant can propose and consider alternatives to the demolition of a building of residential value;
  - [2] Minimize the quantity of demolition debris ending up in the landfill;
  - [3] Create an incentive for reuse of residential structures;
  - [4] Give interested parties an opportunity to acquire reusable residential structures.
- (b) Buildings subject to demolition delay. All residential structures are subject to review by the Building Commissioner ~~or a registered design professional~~ for the purpose of determining whether such buildings have any residential reuse potential.
- (c) Issuance of demolition permit. The requirements set forth in this section are in addition to, and not in lieu of, the requirements of any other codes, ordinances, statutes, or regulations applicable to the demolition of buildings. No demolition permit shall be issued for a building that is subject to review, pursuant to Subsection **A(1)(b)** above, unless:
  - [1] It is determined that demolition is necessary, pursuant to Subsection **A(1)(d)** below.
  - [2] It is determined that said building has no residential reuse potential due to the existing condition of the structure or physical barriers to moving the structure such as significant trees, bridges, etc.
  - [3] The demolition delay period set forth in Subsection **A(1)(f)** below has expired.
- (d) Required demolition or repair.
  - [1] Demolition. Nothing in this section shall restrict any authority in the general laws for the Building Commissioner or Building Inspector to order the building owner, or Town, to demolish a building at any time if it is determined that the condition of a building or part thereof presents an imminent and substantial danger to the public health or safety.
  - [2] Repair. Nothing in this section shall restrict any authority in the general laws for the Building Commissioner or Building Inspector to require the applicant to take reasonable action to prevent the need for required demolition ~~of a significant building~~, which may include securing the building and making it safe so that it does not present an imminent and substantial danger to the public.
- (e) Issuance of building, use, or occupancy permit.
  - [1] If it has been determined that a building ~~is subject to review~~ **has re-use potential** pursuant to Subsection **A(1)(b)** above, no building permits shall be issued for the erection of a new building on the site of such building subject to review before issuing a demolition permit for such building subject to review in compliance with this section.
  - [2] If it has been determined that a building ~~subject to review~~ has been voluntarily demolished in violation of this section, no building permits shall be issued for new construction, or any

use or occupancy permit for any use other than a park or recreational open space, with respect to the premises of such building for a period of two years after the date of the determination. As used herein, "premises" includes the parcel of land upon which the demolished building was located and all abutting parcels under common ownership or control.

~~[3] The applicant (or the owner of record, if different from the applicant) shall be responsible for properly securing the building during the time that it is subject to review under this section. If a building is subject to demolition delay, pursuant to Subsection A(1)(b) above, and the applicant fails to secure the building, the loss of the building to fire or other causes shall be considered voluntary demolition for the purposes of this section.~~

(f) Procedure.

[1] ~~An application for~~ A request for review of reuse potential pursuant to this section shall be made to the Building Commissioner or Local Inspector. The request shall be made by letter, email or any other method acceptable to the building official. ~~manner provided in this Subsection A(1)(f). If the applicant is not the owner of record of the building, the owner or owners of record shall co-sign the application.~~

~~[2] The applicant (or building owner) is encouraged to apply for review under this section as early as possible, so that any necessary review, and any delay period required by this section, may be completed prior to, or during, any other review to which the building or its site may be subject.~~

~~[3] Application for review under this section shall be made in connection with an application for a demolition permit.~~

[4] After its receipt of an application, pursuant to this Subsection A(1)(f), the following determinations shall be made:

[a] Whether immediate demolition is required pursuant to Subsection A(1)(d); and

[b] Whether said structure has any residential reuse potential pursuant to Subsection A(1)(c)[2].

[5] A notice of determination shall be made issued within 20 days after the request. the application filing date. If it is determined that the structure does not require immediate demolition and that it does have reuse potential the applicant shall place a public notice in a local newspaper.

[a] Contents of public notice.

~~INVITATION FOR LETTERS OF INTEREST REGARDING AVAILABILITY OF HOUSE WHICH MUST BE MOVED FROM CURRENT LOCATION A house at (street address), scheduled for demolition, is being made available to any interested parties subject to the owner's conditions. The Building Commissioner is accepting Letters of Interest for 30 days from the date of this publication. All interested parties should submit a letter of interest to the Building Commissioner. The house must be moved within 60 days of this publication.~~

Subject to the Chapter 139 Section 26A(1) of the Code of the Town of Nantucket (the so-called

“demolition delay bylaw”), a house located at INSERT ADDRESS is being made available to any interested party subject to the ability to move the structure within 60 days from the date of this publication, in addition to meeting any conditions imposed by the current owner. A letter of interest must be submitted to INSERT OWNER/CONTACT ADDRESS AND EMAIL with a copy provided to the Town of Nantucket Building Commissioner at 2 Fairgrounds Road or by e-mail at INSERT BUILDING COMMISSIONER E-MAIL within 30 days from the date of this publication. Letters of interest received after 30 days may be considered at the discretion of the property owner.

[6] A published copy of said notice shall be presented to the Building Department. From the date of publication of said notice, any interested parties shall have 30 days to respond in writing to the Building Commissioner. If any bona fide letters of interest, as determined by the Building Commissioner or Building Local Inspector, are received within the thirty-day period no demolition permit shall be issued for a period of 30 days thereafter.

[7] If no bona fide letters of interest are received within the thirty-day period, a demolition permit may be issued.

Or to take any other action related thereto.

*(Select Board for Planning Board)*

**PLANNING BOARD MOTION:** Moved that Chapter 139 (Zoning) of the Code of the Town of Nantucket, Section 26, is hereby amended as follows *(NOTE: new language is shown as highlighted text, language to be deleted is shown by strikeout; these methods to denote changes are not meant to become part of the final text and, further, that non-sustentative changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of the Town of Nantucket):*

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(1) Demolition delay. [Added 4-14-1997 ATM by Art. 40, AG approval 8-5-1997]

(a) Statement of purpose. The purpose of this section is to establish a predictable process for reviewing requests to demolish residential structures in order to:

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[2] Minimize the quantity of demolition debris ending up in the landfill;

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- (b) Buildings subject to demolition delay. All residential structures are subject to review by the Building Commissioner, Local Inspector, or a registered design professional for the purpose of determining whether such buildings have any residential reuse potential.
- (c) Issuance of demolition permit. The requirements set forth in this section are in addition to, and not in lieu of, the requirements of any other codes, ordinances, statutes, or regulations applicable to the demolition of buildings. No demolition permit shall be issued for a building that is subject to review, pursuant to Subsection A(1)(b) above, unless:
- [1] It is determined that demolition is necessary, pursuant to Subsection A(1)(d) below.
  - [2] It is determined that said building has no residential reuse potential due to the existing condition of the structure or physical barriers to moving the structure such as significant trees, bridges, etc.
  - [3] The demolition delay period set forth in Subsection A(1)(f) below has expired.
- (d) Required demolition or repair.
- [1] Demolition. Nothing in this section shall restrict any authority in the general laws for the Building Commissioner or Building Inspector to order the building owner, or Town, to demolish a building at any time if it is determined that the condition of a building or part thereof presents an imminent and substantial danger to the public health or safety.
  - [2] Repair. Nothing in this section shall restrict any authority in the general laws for the Building Commissioner or Building Inspector to require the applicant to take reasonable action to prevent the need for required demolition of a significant building, which may include securing the building and making it safe so that it does not present an imminent and substantial danger to the public.
- (e) Issuance of building, use, or occupancy permit.
- [1] If it has been determined that a building ~~is subject to review~~ has re-use potential pursuant to Subsection A(1)(b) above, no building permits shall be issued for the erection of a new building on the site of such building subject to review before issuing a demolition permit for such building subject to review in compliance with this section.
  - [2] If it has been determined that a building ~~subject to review~~ has been voluntarily demolished in violation of this section, no building permits shall be issued for new construction, or any use or occupancy permit for any use other than a park or recreational open space, with respect to the premises of such building for a period of two years after the date of the determination. As used herein, "premises" includes the parcel of land upon which the demolished building was located and all abutting parcels under common ownership or control.
  - ~~[3] The applicant (or the owner of record, if different from the applicant) shall be responsible for properly securing the building during the time that it is subject to review under this section. If~~

~~a building is subject to demolition delay, pursuant to Subsection A(1)(b) above, and the applicant fails to secure the building, the loss of the building to fire or other causes shall be considered voluntary demolition for the purposes of this section.~~

(f) Procedure.

[1] ~~An application for~~ A request for review of reuse potential pursuant to this section shall be made to the Building Commissioner or Local Inspector. The request shall be made by letter, email or any other method acceptable to the building official. ~~manner provided in this Subsection A(1)(f). If the applicant is not the owner of record of the building, the owner or owners of record shall co-sign the application.~~

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[3] ~~Application for review under this section shall be made in connection with an application for a demolition permit.~~

[4] After its receipt of an application, pursuant to this Subsection A(1)(f), the following determinations shall be made:

[a] Whether immediate demolition is required pursuant to Subsection A(1)(d); and

[b] Whether said structure has any residential reuse potential pursuant to Subsection A(1)(c)[2].

[5] A notice of determination shall be made issued within 20 days after the request. ~~the application filing date.~~ If it is determined that the structure does not require immediate demolition and that it does have reuse potential the applicant shall place a public notice in a local newspaper.

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PLANNING BOARD COMMENT: The changes proposed in this Article provide non-substantive updates to the existing bylaw, including changes to reflect the appropriate building code officials and current practices.

FINANCE COMMITTEE COMMENT: The Committee supports the Planning Board Motion.

*Quantum of vote required for passage of the motion is 2/3*

**VOTE: The vote on the motion pursuant to Article 51 as moved by the Planning Board, was by 4/5<sup>ths</sup> Vote, Yes: 139, No: 9 The motion was adopted.**

Nancy L. Holmes, CMC  
Town & County Clerk