

**O: 2017-12**  
**HISTORIC PRESERVATION ORDINANCE**

**CHAPTER 625. ZONING**

**ARTICLE XXI. Historic Preservation**

**§ 625-100. Short title.**

This article shall be known and may be referred to as the "Historic Preservation Ordinance of the Town of Phillipsburg."

**§ 625-101. Scope.**

- A. It is the intention of the Town Council of the Town of Phillipsburg to designate and regulate historic sites within the Town consistent with and pursuant to the Municipal Land Use Law of the State of New Jersey (N.J.S.A. 40:55D-1 et seq.).
- B. A Commission is hereby created to review the potential effect of development and permit applications on designated historic sites and to work with and advise the planning board and individual property owners on the effect of applications coming before either Board on designated historic properties or improvements within a historic district.
- C. This article is intended to regulate only those activities on designated sites which require a permit from a municipal officer or employee or which require an application for development to the planning board. Nothing herein shall prevent review of other activities by the Commission, but such review is not required by the adoption of this article.
- D. This article does not require or prohibit any particular architectural style. New construction upon or near a historic site should not necessarily duplicate the exact style of the site; rather, it should be compatible with and not detract from the historic site.

**§ 625-102. Findings and purpose.**

The Town Council of the Town of Phillipsburg finds and determines that the Town has many historic and architecturally significant properties, together with groupings of properties of generally vernacular structures. These properties contribute visually to the character and integrity of the Town and are important in assessing the historic patterns of development and the Town's history. Maintaining, preserving, and rehabilitating these visual links to the past is an important function of government, not only to provide a sense of stability and continuity for future generations, but to provide impetus for the revitalization of the Town's economic base and for the resulting increase in property values. Moreover, the Town's planning board adopted a historic preservation master plan element in April 2017 that contains a list of historically significant properties and districts in Phillipsburg and made certain recommendations regarding their preservation.

**§ 625-103. Establishment of Historic Preservation Commission; membership; terms; vacancies.**

- A. Establishment. Pursuant to the provisions of N.J.S.A. 40:55D-107 et seq., the Town of Phillipsburg Historic Preservation Advisory Commission (hereafter "Commission") is hereby established and created.
- B. Membership. The Commission shall consist of seven regular members, one of which shall be Class A and two of which shall be Class B, and who shall serve without compensation, except that Commission members shall be reimbursed for reasonable and necessary expenses incurred in the performance of official business within the guidelines of the budget established by the Town Council. Commission members shall be appointed solely by the Mayor. The Commission shall include members from each of the following classes:
- (1) Class A: a person knowledgeable in building design and construction or architectural history and who may reside outside the municipality; and
  - (2) Class B: a person who is knowledgeable of or with a demonstrated interest in local history and who may reside outside the municipality; and
  - (3) Class C: regular members who are not designated Class A or B shall be designated as Class C. Class C members shall be citizens of the municipality who shall hold no other municipal office, position or employment, except for membership on the planning board.
  - (4) No member of the Commission shall be permitted to act on any matter in which he or she has, either directly or indirectly, any personal or financial interest, and all members shall disclose to the Commission any such personal or financial interest.
- C. Term; vacancies; removal. The terms of members shall be for four years. The terms of the initial members appointed under this article shall be staggered, to the extent possible, evenly over the first four years after their appointment. The term of any member common to the Commission and the planning board shall be for the term of membership on the planning board. All members, at the expiration of their terms, may be eligible for appointment to an additional four-year term. Appointments to fill vacancies shall be only to complete the unexpired terms. Vacancies shall be filled within 60 days. A member of the Commission may, after public hearing if requested, be removed by the Town Council for cause.

#### **§ 625-104. Organization of Historic Preservation Commission.**

- A. Officers. Each year in the month of January, the Commission shall elect a Chairman and Vice Chairman from its members and select a secretary who may or may not be a member of the Commission or a municipal employee.
- B. Staff, experts, counsel, expenses and costs.
- (1) The Town Council shall make provision in its annual budget and appropriate funds for the expenses of the Commission.
  - (2) The Commission may employ, contract for, and fix the compensation of experts and other staff and services as it shall deem necessary. The Commission shall obtain its legal counsel from the Municipal Attorney or other authorized attorney approved by the Town

Council at the rate of compensation determined by the governing body. Expenditures pursuant to this subsection shall not exceed, exclusive of gifts, grants or other sources of self-generated revenue, the amount appropriated by the governing body for the Commission's use and shall be in accordance with the Local Public Contracts Law.

- (3) Escrow and application fee schedules, which are necessary to reimburse the Commission for costs incurred pursuant to § 625-104B(2), shall be established and adopted via ordinance by the Town Council.

C. Meetings; procedures; decisions. The Commission shall reorganize annually, each January. The Commission may adopt such administrative rules, regulations, procedures and forms for applications by formal resolution, as shall provide for the orderly conduct of its business and processing of applications, provided that such rules, regulations and procedures shall not be inconsistent with any provision of this article. A quorum shall consist of four members. All Commission meetings shall be subject to the Open Public Meetings Act. To the extent practical, the procedures followed by the Commission as to public hearings, voting, etc., shall be patterned after those of a planning board pursuant to the Municipal Land Use Law. Decisions by the Commission shall be in writing by resolution setting forth findings of fact and conclusions of law. The Commission may follow the procedure for memorializing decisions as is permitted for planning boards.

#### **§ 625-105. Responsibilities of the Historic Preservation Commission.**

A. Powers and duties. The powers and duties of the Commission shall be as follows:

- (1) Prepare and regularly update a survey of historic sites in the Town and recommend the establishment and boundaries of historic sites and districts where appropriate to the planning board and Town Council;
- (2) Prepare the necessary supporting documentation for nominating eligible properties for designation to the State and/or National Registers.
- (3) Prepare and maintain guidelines for appropriate architectural designs applicable to the exterior appearance of new construction and for the renovation, alteration, enlargement or other change to the exterior of structures that are located on a historic property which have been designated a historic landmark.
- (4) Make recommendations to the planning board on the historic preservation plan element of the master plan and on the implications for preservation of historic sites of any other master plan elements.
- (5) Advise the planning board and Town Council on the inclusion of historic sites in any recommended capital improvement program.
- (6) Advise the planning board on applications for development pursuant to §625-108.
- (7) Carry out such other advisory, educational and informational functions that promote historic preservation in the Town such as providing public education regarding the

benefits of historic preservation to individual property owners and the community at-large.

B. Compatibility with other agencies.

- (1) The responsibilities, powers and duties of the Commission shall not conflict with or supersede the powers and duties of any other board or agency within the Town of Phillipsburg.
- (2) The planning board shall refer to the Commission every application for development submitted the board for development in historic zoning districts or on historic sites designated on the zoning map or identified in any component element of the master plan. This referral shall be made when the application for development is deemed complete or is scheduled for a hearing, whichever occurs sooner. Failure to refer the application as required shall not invalidate any hearing or proceeding. The Commission may provide its advice, which shall be conveyed through delegation of one of its members or staff to testify orally at the hearing on the application for development and to explain any written report which may have been submitted.

**§ 625-106. Definitions.**

A. Definitions. As used in this article, the following terms shall have the meanings indicated:

*ADDITION* – An extension or increase in building size, floor area or height.

*ADMINISTRATIVE OFFICER* – The Zoning Officer.

*ALTERATION* – Any change in the exterior architectural features of any improvement or addition.

*APPLICATION* – A request to the Commission made pursuant to this article for the purposes of obtaining a certificate of appropriateness or other action by the commission hereunder specified.

*APPLICATION FOR DEVELOPMENT* – The application form and all accompanying documents required by ordinance to the Planning board or the Zoning Board of Adjustment of the Town for approval of a major or minor subdivision, plat, site plan, planned development, conditional use, zoning variance or the direction of the issuance of a permit pursuant to Section 25 or 27 of P.L. 1975, c.291 (N.J.S.A. 40:55D-34 or 40:55D-36).

*BUILDING* – Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any person or property.

*CERTIFICATE OF APPROPRIATENESS* - The certificate issued by the planning board or administrative officer after review of the certificate of appropriateness application by the Commission. This certificate is required prior to undertaking rehabilitation, restoration, renovation, alteration, ordinary and non-ordinary repair work or demolition work undertaken

within a historic district or on an individually designated historic structure pursuant to this article.

*COMMISSION* – The Historic Preservation Commission established pursuant to the provisions of this article.

*DEMOLITION* - The partial or total razing, dismantling or destruction, whether entirely or in significant part, of any building, structure, object or site. "Demolition" includes the removal of a building, structure or object from its site or the removal or destruction of the facade or surface.

*DESIGNATED PROPERTY OR DISTRICT* - An individual building, structure, site, object or district which has been designated as having historical, architectural, cultural, aesthetic or other significance pursuant to the provisions of this article.

*DEVELOPMENT* - The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure or of any mining excavation or landfill; and any use or change in the use of any building or other structure or land or extension of use of land for which permission may be required pursuant to the Municipal Land Use Law.

*HISTORIC DISTRICT* - A geographically definable area possessing a significant linkage, or continuity of sites, buildings, structures, and/or objects meeting the criteria established for designation in §625-107.

*HISTORIC PROPERTIES* - Any buildings, structures, sites, objects, or districts which possess integrity of location, design, setting, materials, workmanship, or association, and which have been determined historically significant pursuant to §625-107.

*HISTORIC SITE* - The word "historic site" may substitute for historic property.

*HISTORIC STRUCTURE* - Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior; or

(b) Directly by the Secretary of the Interior in states without approved programs.

*IMPROVEMENT* – A building or other structure or any work constituting a man-made alteration of or addition to any site.

*INTEGRITY* - The authenticity of the historic identity of a building, structure, site, object or district evidenced by the survival of the physical characteristics that existed during its historic or prehistoric period.

*INTERESTED PARTY* - Any person whose right to use, acquire or enjoy property is affected by any action taken under this article or whose rights to use, acquire or enjoy property under this article or under any other law of this state or of the United States have been denied, violated or infringed by an action or a failure to act under this article.

*INVENTORY* - A list of historic properties determined to meet specified criteria of significance.

*LANDMARK* - The word “landmark” may substitute for historic property, site or district.

*MASTER PLAN* - The Master Plan of the Town of Phillipsburg, as amended from time to time, compiled pursuant to the Municipal Land Use Law.

*MINOR APPLICATION* - Any application for a certificate of appropriateness which:

A. Does not involve demolition, relocation or removal of an historic landmark or a key or contributing resource in an historic district;

B. Does not involve an addition to an historic landmark or a property in an historic district or new construction in an historic district;

C. Is a request for approval of fences, signs, awnings, lighting, paving or streetscape work which, in the opinion of the Minor Application Subcommittee, will not substantially affect the characteristics of the historic landmark or the historic district; or

D. Is a request for a field change for a certificate of appropriateness which has already been issued and which meets the criteria of Subsection C, above.

*MUNICIPAL LAND USE LAW* - The Municipal Land Use Law of the State of New Jersey, P.L. 1975, c. 291 (N.J.S.A. 40:55D-1 et seq.), as amended from time to time.

*OBJECT* - A material thing of functional, aesthetic, cultural, historic, scenic or scientific value that may be, by nature or design, movable, yet related to a specific setting or environment.

*ORDINANCE* - A legislative act of the governing body of a municipality adopted in accordance with statutory requirements as to notice, publicity and public hearing as required by law.

*OWNER* - Any person having a right, title or interest in any property so as to be legally entitled, upon obtaining such permits and other authorizations as may be required pursuant to law, to perform construction, alteration, removal, demolition or other work with respect to such property.

*PERMIT* - Any Township approval for exterior work to be performed on any landmark or on any building, structure, object or site located within a landmark district, which exterior work will be subject to public view. Said permit shall include but not be limited to a building permit, a demolition permit or a permit to move, convert, relocate or remodel or to change the use or occupancy of any landmark or any building, structure, object or site located within a landmark district. "Permit" shall also include all exterior work to be performed on fences, signs, porches, railings, steps, lighting and sidewalks and any other work subject to public view which would alter the exterior appearance of landmarks or properties located within a landmark district or their sites.

*REHABILITATION* - Any repair or alteration that preserves significant historical or architectural features.

*RESTORATION* - The historically accurate repair or replacement of architectural features.

*SITE* - The place where a significant event or pattern of events occurred. It may be the location of prehistoric or historic occupations or activities that may be marked by physical remains; or it may be the symbolic focus of a significant event or pattern of events that may both have been actively occupied. A site may also be the location of a ruined building, structure or object if the location itself possesses historic, cultural or archaeological significance.

*SITES OF HISTORIC INTEREST* - Any buildings, structures, sites, objects or districts which, although not given historic landmark designation under this article, are an important historical asset to the community which it is felt would benefit from the advice and input of the Commission.

*STRUCTURE* - A combination of materials to form a construction for occupancy, use or ornamentation, whether installed on, above or below the surface of a parcel of land.

*SURVEY* - The survey of buildings, structures, objects, sites and districts located within the Township of Montclair which is conducted by the Commission for the ascertainment of their historical, architectural, aesthetic, cultural or other significance pursuant to the provisions of this article.

*VIEW OR PUBLIC VIEW* - The view by the public of a building, structure, object or site from any point on a street or walkway which is used as a public thoroughfare, either vehicular and/or pedestrian.

*ZONING OFFICER* - The officer of the Town who shall be authorized to and shall administer and enforce the provisions of this chapter.

**§ 625-107. Designation of historic sites and districts.**

A. Historic Districts. For the purposes of this chapter, the boundaries of the historic districts are hereby established as shown on the map entitled, "Historic Downtown Business District and Historic Main Street District, Town of Phillipsburg, New Jersey," dated April 2017, and the list of properties within the district ("Attachment 1") as may be amended from time to time, which is filed at the office of the town clerk. In addition to meeting the abovementioned criteria, historic districts shall represent a geographically definable area possessing a significant linkage, or continuity of sites, buildings, structures, and/or objects which when viewed collectively:

- (1) Represent a significant period in the development of the Town; or
- (2) Have a distinctive character resulting from their architectural style; or
- (3) Because of their distinctive character, can readily be viewed as an area or neighborhood distinct from surrounding portions of the Town.

B. General Standards. The criteria for evaluating and designating historic districts and sites shall be guided by the National Register criteria. Consideration shall be given to buildings, structures, objects, sites and districts that merit designation and protection by reason of possessing integrity of location, design, setting, materials, workmanship, and association and meet one or more of the following criteria:

- (1) Of particular historic significance to the Town of Phillipsburg by reflecting or exemplifying the broad cultural, political, economic or social history of the nation, state, or community.
- (2) Associated with historic personages important in national, state, county or local history.
- (3) The site of a historic event which had a significant effect on the development of the nation, state, county, or Town.
- (4) An embodiment of the distinctive characteristics of a type, period, or method of construction, architecture or engineering.
- (5) Representative of the work of an important builder, designer, artist, engineer, architect or landscape architect whose work has influenced the development of the Town, state or nation.
- (6) Significant for containing elements of design, detail, materials, or craftsmanship which represent a significant innovation.
- (7) Able or likely to yield information important in prehistory or history.

C. Exceptions. Ordinarily, cemeteries, birthplaces or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past 50 years should not be

considered eligible for designation. However, such properties might qualify if they are integral parts of historic sites or districts or if they fall within one of the following categories:

- (1) A religious property deriving primary significance from architectural or artistic distinction or historical importance.
- (2) A building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving structure that most importantly associates with a historic person or event.
- (3) A birthplace or grave of a historical figure of outstanding importance if there is no other appropriate site or building associated with their productive life.
- (4) A cemetery that derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events.
- (5) A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived.
- (6) Property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own historical significance.
- (7) A property achieving significance within the past 50 years if it is of exceptional importance.

D. Historic District Resources. Resources within a historic district shall be classified as key, contributing, or non-contributing which are defined as:

- (1) Key – Any buildings, structures, sites or objects which due to their significance would individually qualify for landmark status.
- (2) Contributing – Any buildings, structures, sites or objects which are integral components of the historic district either because they date from a time period for which the district is significant or because they represent an architectural type, period or method for which the district is significant.
- (3) Non-contributing – Any buildings, structures, sites or objects which are not integral components of the historic district because they neither date from a time period for which the district is significant nor represent an architectural type, period, or method for which the district is significant.

E. Designation list. In addition to the properties and structures already identified in the Historic Preservation Plan Element of the Town's master plan, the Commission shall make a list of historic sites and districts recommended for designation. For each such proposed designation, there shall be a brief description of the site, of the site's significance pursuant to the criteria set forth above,

a description of the site's location and boundaries, a digital photograph of each property, and a location map.

- F. Hearing on proposed designation. A hearing shall be conducted on the proposed designations at which interested persons shall be entitled to present their opinions, suggestions, and objections on the proposed recommendations. To the extent that a property owner appears at the hearing to object to the designation of their property; or provides written confirmation to the Commission at or prior to the hearing that such property owner does not agree or consent to having such property designated as a historic site, then such property shall not be so designated under any circumstances pursuant to this Historic Preservation Ordinance.
- G. Notice of proposed designation. At least 10 days prior to the hearing provided for in Subsection F above, the Commission shall provide notice of the hearing in the following manner:
- (1) By certified mail, return receipt requested, to each owner, that their property being considered for historic designation and the reasons therefor. The notice shall advise the owner of the significance and consequences of such designation, that if so designated, his or her property would be subject to the provisions of this article; shall advise him of their opportunities and rights to challenge or contest such designation; and shall set forth the time, date and location of the public hearing to be held.
  - (2) By publishing in an official newspaper of the municipality, a notice of the time, date and location of the hearing, a preliminary list of potential designations including a lot and block designation for same as it appears on the official Town Tax Map.
- H. Historic Preservation Commission report to Planning Board. After the hearing, the Commission shall prepare a report for the planning board that includes a list and map of the recommended sites and districts. Copies of the report shall be delivered to the Mayor, Town Council, planning board and the Municipal Clerk and a notice of action published by the Commission secretary in an official newspaper of the Town. The published notice shall state the Commission's recommendations and also that final designation shall be made by the planning board at a public meeting specified on a date not less than 15 nor more than 45 days from the date of publication. The planning board shall communicate its action with respect to the Commission's recommendation to the Town Council.
- I. Town Council's adoption of designations. The Commission shall submit the list of designated landmarks/sites of historic interest and a map to the Municipal Clerk for filing. The Town Council shall then consider the designation list and map, and may approve, reject or modify same by ordinance. Once adopted, the designation list and map may be amended in the same manner in which it was adopted. Upon adoption, the designation list and map shall also be incorporated by reference into the municipal master plan and the zoning provisions of this article.
- J. Filing of certificate of designation. Copies of the adopted list of designated sites and districts and location maps shall be made public and distributed to all municipal agencies reviewing development applications and building permits. A certificate of designation shall be served by certified and regular mail upon each owner included on the list, a true copy thereof shall be filed with the Tax Collector and Tax Assessor who shall maintain a record of all historic designations on the tax rolls.

- K. Reconsideration of designation. Nothing herein shall be construed as requiring the Commission to recommend designation of a structure, building, object or site as a historic site even if all criteria to so designate have been satisfied. Thereafter, the Commission shall not be prohibited from reconsidering such recommendation and, after following the procedures of §625-107F, recommend a given site or district for designation.
- L. Designated structures not within a historic district. For the purposes of this chapter, a list of structures of historic or architectural value not located within the boundaries of an established historic district is hereby established as a list in Attachment #2 to the map of historic districts mentioned in subsection (a) of this section and further identified as "Historic Sites and Districts, Town of Phillipsburg, Warren County, New Jersey", and dated November 2014, as may be amended from time to time.
- M. Map of historic districts and attachments incorporated by reference. The "Historic Downtown Business District and Historic Main Street District" Map, dated April 2017 and the "Map of Historic Districts, Town of Phillipsburg, New Jersey" and its attachments described in this section are hereby made part of this chapter by reference and are included as Attachments #1 and #2.
- N. Public property. It is the intent of this chapter that property owned by any governmental entity and, not previously designated nor within the historic district, may be placed on either Attachment 1 or 2. The town council shall approve any such designation with respect to town owned property.
- O. Maintenance of historic properties list. The criteria for adding or deleting a structure from the list of historic structures and for the review of historic district boundaries shall be the National Register Criteria for Evaluation or similar criteria which may be adopted by the National Park Service and/or Secretary of the Interior under federal law. The commission shall establish and maintain procedures by which property owners and/or the commission may nominate properties for addition to or deletion from the list of structures. The town council upon the recommendation of the commission shall determine whether or not to grant a petition.

#### **§ 625-108. Actions requiring review by Historic Preservation Commission.**

##### A. Applications subject to Commission review.

- (1) All building permit, demolition and development applications affecting a historic property or an exterior improvement within a historic district designated in the historic preservation plan element of the Town's master plan and pursuant to §625-107 shall be reviewed by the Commission. Such review shall be required for, but not limited to, the following:
  - a. Demolition, in whole or in part, of a historic property or of any key or contributing property within a historic district.
  - b. Relocation of a historic property or of any key or contributing property within a historic district.
  - c. Significant, non-historic changes in exterior appearance to a historic property by means of repainting (not in the same color or a historically certified color).

- d. Changes in exterior appearance by means of non-ordinary repairs, replacement, rehabilitation, alteration or addition to any historic property or any key or contributing property within a historic district.
- e. New construction taking place within a historic district.
- f. Changes in or additions of new signage or exterior lighting on a historic property.
- g. Zoning variances affecting a historic property or any improvement within a historic district.
- h. Site plans or subdivisions affecting a historic property or an improvement within a historic district.
- i. Roadway-widening projects.

*In making a recommendation on an application, the Commission shall be aware of the importance of finding a way to meet the current needs of the applicant. The Commission shall also recognize the importance of making recommendations that will be both consistent with the purposes of this article and reasonable for the applicant to carry out. Before an applicant prepares plans, he or she may bring a tentative proposal to the Commission for informal review and comment.*

- (2) Any proposal for renovation, modification, addition or expansion requiring a building permit shall have plans drawn by a New Jersey licensed architect. An escrow fee shall be assessed to cover costs of review by Town professionals and any portion of the procedural requirements may be waived depending on the simplicity or complexity of the proposal.

- (3) The following activities are not subject to this article:

- a. Changes to the interior of structures.
- b. Ordinary repairs and maintenance or the exact replacement of any existing architectural details that are otherwise permitted by law, provided that this work on a historic landmark does not alter the exterior appearance of the building.

- B. Emergencies. Emergency repairs may be performed in accordance with Town building and construction codes, without the necessity of first obtaining the Commission's review, as determined by the Administrative Officer. Under such circumstances, the repairs performed shall be only those necessary to protect the health and safety of the occupants of the historic property, or others, and/or to maintain the habitability of the structure. A request for Commission review shall be made as soon as possible thereafter and no further work shall be performed upon the structure until an appropriate request for review is made. All work done under this subsection shall conform to the criteria set forth in this article and the guidelines for review of applications as adopted by the planning board in accordance with this article.

C. Referrals to Historic Preservation Commission. The planning board shall refer all development applications to the Commission; and the administrative officer shall refer all building permit applications, including permit applications for new construction, demolition, alterations, additions, or replacements which affect a historic property or key and contributing sites in a historic district, to the Commission.

(1) Procedures for the review of development applications.

- a. For all applications presented to the planning board the property owner shall also submit to the Board an application for review and request for issuance of a certificate of appropriateness. Such an application shall pertain solely to the proposed development application. If building permits are required, those actions will be reviewed separately by the Commission in accordance with the procedures outlined in § 625-108C(2).
- b. The planning board shall forward to the Commission a complete set of all application materials as well as the application for issuance of a certificate of appropriateness. Such referral shall be made when the application is deemed complete or is scheduled for a hearing, whichever is sooner. The Commission shall be allowed at least 14 calendar days from the day it receives a complete application to prepare its recommendations to the planning board regarding whether the certificate of appropriateness should be approved or denied. Said recommendations shall be in the form of a written report, which may be orally conveyed to the planning board through the Commission's delegate at a hearing on the application.
- c. The Commission's recommendation shall focus on how the proposed undertaking would affect a historic property's historical or architectural significance as outlined in § 625-107. In considering the Commission's recommendations, the planning board shall be guided by the review criteria established in § 625-108E. The recommendation of this Commission shall not be binding upon the planning board.

(2) Procedures for review of building permits and alterations.

- a. Prior to undertaking any action affecting the exterior architectural appearance of a historic property or a key and contributing site in a historic district as outlined in § 625-108A, the property owner shall complete and submit to the administrative officer an application for review and request for issuance of a certificate of appropriateness.
- b. An application for a certificate of appropriateness shall be submitted on forms provided by the administrative officer. Each application submission shall include, at a minimum, the following information:
  - i. Any drawings, plans, photographs, manufacturer specifications and sample materials that are required by the administrative officer and/or as may be noted in the application checklist.

- ii. A detailed plot plan delineating the relationship of the renderings of the proposal in relation to adjacent improvements, buildings and/or structures or surrounding lands may be required as determined by the administrative officer.
  - iii. Drawings shall be prepared and sealed by either a New Jersey licensed registered architect or other New Jersey licensed design professional or by the residing property owner of a single-family dwelling under his/her ownership with an accompanying affidavit of ownership, as required by P.L. 1989, Chapter 277 (commonly known as the "Building Design Services Act") or other applicable laws of the State of New Jersey.
- c. The Administrative Officer shall refer the application to the Commission for its recommendation. The Commission or its designee shall review the application for technical completeness. Any application found to be incomplete shall be returned to the applicant within 10 calendar days of the receipt of the application.
  - d. When an application is found to be technically complete, the Commission shall schedule a review of the application at its next regularly scheduled meeting. The applicant shall be notified of the meeting date and shall be allowed an opportunity to speak at the meeting. The Commission may recommend the denial of any application that is not properly represented at the hearing.
  - e. The Commission shall report to the planning board within 25 calendar days after the application is deemed complete. The report shall set forth the Commission's recommendation regarding whether the certificate of appropriateness should be approved, denied or conditionally approved; and it shall explain, in writing, the reasons for its recommendation. In accordance with Subsection (3) of this section, if the application involves demolition or removal, the Commission may also recommend postponement. The Commission's recommendation shall focus on how the proposed undertaking would affect a property's historic or architectural significance pursuant to the review criteria set forth in § 625-108E. The Commission's recommendation shall not be binding upon the planning board.
  - f. When making its determination on the application for a certificate of appropriateness, the planning board should be guided by the review criteria set forth in § 625-108E. The planning board should consider the Commission's recommendations with the same care it affords all expert information. The planning board may accept, reject or modify the Commission's recommendations. The planning board shall provide its report to the administrative officer for the appropriate action within 45 days of his or her referral of the application to the Commission. Failure to report within the forty-five-day period shall be deemed to constitute a report in favor of the application for a certificate of appropriateness, without conditions. The administrative officer is bound by the planning board's decision.

(3) Demolitions and Relocations.

- a. The planning board, upon affirmative vote of a majority of the membership, may postpone the demolition or relocation of a historic property ancillary to a development application for up to one year. The planning board and the Commission may utilize this time period to consult with the New Jersey State Historic Preservation Office or other similarly qualified organizations to ascertain how the Town may preserve the structure when demolition or relocation thereof would be a great loss to the Town. The planning board may request that the Town Council initiate such actions as may lead to the preservation of the premises within the one-year hiatus. In its review of an application to demolish a site pursuant to this section, the Commission may require the applicant to prepare a financial analysis which may include any or all of the following:
  - i. Amount paid for the property, date of purchase and party from who purchased, including a description of the relationship, if any, between the owner and the person from whom the property was purchased.
  - ii. Assessed value of the land and improvements thereon according to the most recent assessment.
  - iii. For depreciable properties, a pro forma financial statement prepared by an accountant or broker of record.
  - iv. All appraisals obtained by the owner in connection with his purchase or financing of the property, or during his ownership of the property.
  - v. Bona fide offers of the property for sale or rent, price asked and offers received, if any.
  - vi. Any consideration by the owner as to profitable, adaptive uses for the property.
- b. The Commission shall study the question of economic hardship for the applicant and shall determine whether the property can be put to beneficial use without the approval of the demolition application. In the case of an income-producing building, the Commission shall also determine whether the applicant can obtain a reasonable return from his existing building. The Commission may ask applicants for additional information to be used in making these determinations.

D. Supplemental Documentation. At the discretion of the Commission, applications for a certificate of appropriateness shall also include detailed information on the construction material, color, design and any of the following or other elements of the proposal to provide clear and comprehensive information for the Commission in its determination of the complexity of the proposal:

- (1) Roof design and surfacing;

- (2) Walls/siding/pattern of shingles/and exterior painting or stain;
- (3) Windows: style, relationship to each other/awnings;
- (4) Doors;
- (5) Ornaments or trim;
- (6) Colors/materials;
- (7) Railings/porches;
- (8) Chimneys;
- (9) Fences;
- (10) Garages/carports;
- (11) Signs;
- (12) TV antennas/satellite dishes;
- (13) Solar energy installation;
- (14) Outdoor furniture for accessory use of a principal (nonresidential) use such as restaurant's outdoor eating section;
- (15) Street furniture generally relative to a public or a semipublic use; or recreation equipment;
- (16) Landscaping, grading and topography;
- (17) For new construction, utilities shall be placed underground and site plans shall show the placement of same; statements from the relevant public utility company may be requested by the Commission.

E. Review standards. The following criteria shall be used by the Commission and the planning board when reviewing an application for a certificate of appropriateness:

- (1) The historical or architectural value and significance of the building and/or structure, its relationship to the historic value of the surrounding area, and the impact of the proposed change or use on the historic and architectural significance of the subject property or district.
- (2) Its importance to the municipality and the extent to which the historic or architectural interest would be adversely affected to the detriment of the public interest.
- (3) The extent to which the proposed action would adversely affect the public's view of a landmark from a public street.
- (4) If the application deals with a structure within a historic district, the impact the proposed change would have on its character and ambience and the structure's visual compatibility with the buildings, places and structures to which it would be visually related.
- (5) The effectiveness of the proposal in adhering to the building and/or structure's original style or destroying or otherwise affecting the exterior texture, materials and architectural features; but in no instance shall interior improvements be considered.
- (6) The practicality of performing the work with materials or workmanship of a type equivalent or similar to the historical or architectural era during which the structure, building or place was constructed; and the extent to which they could be reproduced but only with great difficulty and expense.

- (7) The general compatibility of exterior design, arrangement and materials proposed to be used and any other factor, including aesthetic, which is found to be pertinent.
  - (8) The overall effect that proposed work would have upon the protection, enhancement, perpetuation and the use of the property, adjoining properties and the historic district in which it is located.
  - (9) The impact of the proposed change upon archaeological resources.
  - (10) The U.S. Department of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings shall be utilized to assess the effect of any proposed application on any historic property or district. Such standards and guidelines are hereby adopted by reference and copies shall be made available for inspection and/or purchase in the office of the Municipal Clerk.
- F. Demolitions not in conjunction with a development application. An application for a permit to demolish a historic landmark or site of historic interest shall be forwarded by the Construction Official to the Commission.
- (1) Demolitions involving historic landmarks.
    - a. The Commission shall conduct a public hearing on the proposed demolition. At least 10 days before such hearing, the applicant shall give notice of the time, date, location and purpose of the hearing to the Warren County Cultural and Heritage Commission and the NJ Historic Preservation Office by certified mail, return receipt requested, and by published notice in an official newspaper of the municipality; and shall present an affidavit attesting to such notification prior to commencement of the hearing
    - b. In addition to any other criteria contained in this Section regarding demolitions, the following matters shall be considered by the Commission:
      - i. The ownership, use and applicant's reason(s) for requesting demolition;
      - ii. Its potential for use for those purposes currently permitted by the zoning provisions of this article;
      - iii. Its structural condition and the economic feasibility of alternatives to the proposal;
      - iv. The extent to which it is of such old, unusual or uncommon design, craftsmanship, texture or material that it would not be reproduced or could be reproduced only with great difficulty and expense;
      - v. Such other matters as may appropriately affect the decision considering the specific characteristics of the property in question;

- c. Following the public hearing, the Commission shall make a decision and act on the request for the demolition permit.
- (2) Demolitions involving a site of historic interest. The Commission shall conduct the procedures as outlined in Subsection F(1) above, except that the Commission shall have a period not exceeding six months in order to have an opportunity to seek a viable alternative to demolition.
  - (3) Demolitions in conjunction with a development application. In those circumstances where the planned demolition is part of a development application pending before the planning board, the hearing provided for in this section shall be combined as part of the development application hearing held before the reviewing board. The Commission shall be given notice of the hearing and its members or representatives shall be allowed to ask questions, request information and present evidence to the reviewing board relating to the demolition. The Commission shall further be afforded the opportunity of making a recommendation to the reviewing board as to whether or not the demolition should be allowed.
- G. Relocations. In regard to an application to move any historic landmark, or to move any improvement within a historic district, the application shall be forwarded by the responsible municipal official to the Commission.
- (1) The Commission shall conduct a public hearing on the proposed move or relocation. At least 10 days before such hearing, the applicant shall give notice of the time, date, location and purpose of the hearing to the Warren County Cultural and Heritage Commission and the NJ Historic Preservation Office by certified mail, return receipt requested, and by published notice in an official newspaper of the municipality and shall present an affidavit attesting to such notification prior to the hearing.
  - (2) The following matters shall be considered by the Commission:
    - a. The historic loss to the site of original location and the historic district as a whole;
    - b. The compelling reasons for not retaining the landmark or structure as its present site;
    - c. The compatibility, nature and character of the current and the proposed surrounding areas as they relate to the protection of interest and values referred to in this section;
    - d. The probability of significant damage to the landmark or structure itself;
    - e. If it is to be moved from the Town, the proximity of the proposed new location to the Town, including the accessibility to the residents of the municipality and other citizens;
    - f. Visual compatibility factors as set forth in this section.

- (3) Following the public hearing, the Commission shall make a decision and act on the request for relocation.
- (4) In those circumstances where the planned relocation is part of a development application pending before the planning board, the hearing provided for in this section shall be combined as part of the development application hearing held before the reviewing board. The Commission shall be given notice of the hearing and its members or representatives shall be allowed to ask questions, request information and present evidence to the reviewing board relating to the relocation. The Commission shall further be afforded the opportunity of making a recommendation to the reviewing board as to whether or not the relocation should be allowed.

**§ 625-109. Violations and penalties.**

- A. Any person who undertakes any activity affecting a historic landmark or any improvement within a historic district which is regulated by this article, without obtaining review by the Commission, shall be in violation of this article.
- B. On any violation, the Zoning Officer shall personally serve a notice on the owner describing the violation and demanding abatement within 10 days, and notify the owner or person(s) present that they must immediately stop and cease any further activity whatsoever. Such owner or other person(s) shall immediately stop any activity.
- C. The Zoning Officer may also file a complaint in the Town municipal court and/or seek injunction relief or restraints in any court of competent jurisdiction.
- D. Each separate day a violation exists shall be deemed to be a new and separate violation.
- E. Any person violating the provisions of this article shall be subject to the fine and penalty set forth in §1-15 (General penalty provision) of the Code of the Town of Phillipsburg.