



Braintree Town Council

ORDER NO: 18 025

DATE FILED: APRIL 24, 2018

REQUEST OF: THE MAYOR

UPON THE REQUEST OF HIS HONOR, THE MAYOR, THE TOWN OF BRAINTREE, THROUGH THE BRAINTREE TOWN COUNCIL, IT IS SO ORDERED:

That the Town Council vote to amend Title 5 of the Town's General Ordinances, by adding "Chapter 5.700: Demolition Delay", to read as follows:

CHAPTER 5.700. Demolition Delay

5.700.010. Intent and Purpose

A. The Demolition Delay Ordinance is enacted for the purpose of encouraging and facilitating the preservation and protection of significant buildings within the Town of Braintree which are located outside designated Historic Districts. Such buildings reflect distinctive features of the architectural, cultural, economic, political, or social history of the Town, and their preservation promotes the public welfare by making the Town a more attractive and desirable place to live and work.

B. The intent of the Ordinance is not to permanently prevent demolition, but rather to provide an opportunity to document and photograph the building and in those situations determined by the Historical Commission to be historically significant, develop preservation solutions for significant buildings threatened with demolition. The Ordinance is intended to encourage owners and townspeople to seek out persons who might be willing to purchase, preserve, rehabilitate or restore such buildings rather than demolish them, and to limit the detrimental effect of demolition on the historical architectural resources of the Town. To achieve these purposes, the Braintree Historical Commission (the "Commission") is empowered to advise the Inspector of Buildings with respect to the issuance of permits for demolition of significant buildings, and, where appropriate and consistent with the intent and purpose of this ordinance, to allow demolition under conditions designed to minimize the loss of distinctive features of significant buildings.



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5.700.020. Definitions

For the purposes of this Ordinance only, the following words and phrases shall have the following meanings, whether or not capitalized:

APPLICANT - the person or persons filing an application for review under this Ordinance.

APPLICATION - An application for review under this Ordinance filed pursuant to this Ordinance.

BUILDING - A structure designed, built, or occupied as a shelter for persons, animals, or property.

COMMISSION - The Braintree Historical Commission.

DEMOLITION - Any act of pulling down, destroying, removing, razing or moving a building, or commencing such work with the intent of completing the same.

PREFERABLY PRESERVED– A Significant Building which, after a public hearing, the Commission determines that demolition of such building would be detrimental to the historical or architectural heritage or resources of the Town.

SIGNIFICANT BUILDING - Any building which in whole or in part is more than 75 years old, or is of unknown age, and which meets one or more of the following two criteria:

- (1) the building is listed on, or is within an area listed on, the National Register of Historic Places, or is the subject of a pending application for listing on said National Register; or
- (2) the building is determined by the Commission Chairperson to be of historical or architectural significance by reason of period, style, method or building construction, or by reason of its association with a particular architect, or a builder, or with a person or event of importance to the Town's history.



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5.700.030. Procedure

A No demolition of a building which is at least 75 years old, or which is of an indeterminate age, shall be permitted except in conformity with the provisions of this ordinance. This Ordinance shall not apply to any building located in a designated Historic District created pursuant to General Laws c. 40C or any special act of the legislature, or to any property certified as a landmark pursuant to G.L. c. 40, s. 8D.

B. Upon receipt of an application for a demolition permit for any building which is at least 75 years old, or which is of indeterminate age, the Inspector of Buildings shall forward a copy thereof to the Planning and Community Development Department, which in turn shall notify the Historical Commission Chairperson. No demolition permit shall be issued at that time.

C Within five days of his/her receipt of a copy of an application for a demolition permit, the Commission Chairperson shall make an Initial Determination as to the significance of the subject building. If the Initial Determination shall be positive for the building, the Planning and Community Development Department shall notify the Building Inspector and Applicant of said determination in writing within five days of the Chairperson's determination of the need to conduct a public hearing.

D. If the Initial Determination is in the negative, or if the Planning and Community Development Department fails to notify the Building Inspector of the positive Initial Determination within five days of the Initial Determination, the Building Inspector may, subject to the requirements of the State Building Code and any other applicable law, ordinances, rules and regulations, issue a demolition permit.

E. If the Initial Determination is positive, the Commission shall, within 35 days of the Initial Determination, conduct a public hearing to determine whether the Significant Building is Preferably Preserved. The Commission shall give public notice by publication in a newspaper of general circulation once in each of two successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing, and by posting such notice in a conspicuous place in Town Hall for a period of not less than fourteen (14) days before the day of such hearing. The Commission shall also mail a copy of said notice to the applicant, to the owner of the premises on which the Significant Building is located (if other than the applicant), to the owners of all property within 300 feet of the lot on which the Significant Building is located as



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appearing on the most recent tax list, and to such other persons as the Commission shall deem entitled to notice. The Applicant is encouraged to provide any information to the Commission that he or she believes will assist the Commission in reaching its decision. The conduct of the public hearing shall be in accordance with duly adopted ordinances or regulations adopted by the Commission.

F. If, after a public hearing, the Commission determines based on the applicant's presentation and submission of materials that demolition of the Significant Building would not be detrimental to the historical or architectural heritage or resources of the Town, the Commission shall so notify the applicant, the owner (if other than the applicant), and the Inspector of Buildings, in writing within 10 days of such public hearing. Upon receipt of such notice, or upon the expiration of 10 days from the date of the close of the Commission's public hearing without having received any notification from the Commission, the Building Inspector shall, subject to the requirements of the State Building Code and any other applicable laws, ordinances, rules and regulations, issue a demolition permit for the subject building.

G. If, after the public hearing, the Commission determines that demolition of the Significant Building would be detrimental to the historical or architectural heritage or resources of the Town, such building shall be considered to be Preferably Preserved and the Commission shall so advise the applicant, the owner (if other than the applicant), and the Inspector of Buildings of its determination, in writing, within 10 days, and no demolition permit shall be issued until four months after the date of such determination by the Commission. In making its determination, the Commission shall consider, among other relevant factors: (a) the building's condition; (b) whether the building is one of the last remaining examples of its kind in the neighborhood, the town, or the region; and (c) the building's historic, architectural, and urban design significance.

H. In the event the Commission imposes a demolition delay pursuant to this Ordinance, the Commission shall invite the Applicant (or owner of record, if different) to participate in an investigation of alternatives to demolition of the building. The Commission may also invite any other party to participate in such investigation, on an advisory basis, that it believes can be helpful. The investigation shall consider possibilities such as: the incorporation of the building into future development on the site; adaptive re-use of the building; financial incentives for rehabilitation; removal of the building to another site; and, with the owner's consent, a search for a party willing to purchase and preserve, restore, or rehabilitate the building. During the four-month delay period, the Commission shall notify the Massachusetts Historical Commission, the



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Mayor, the Director of Planning and Community Development, the Community Preservation Committee and any other interested party in an effort to obtain assistance in obtaining preservation funding or in finding an adaptive use of the building which will result in its preservation.

I. Upon expiration of the four month demolition delay period required by this Ordinance, the Inspector of Buildings may issue a demolition permit to the Applicant, subject to the requirements of the State Building Code and any other laws, ordinances, and regulations.

J. Notwithstanding the preceding paragraphs, the Inspector of Buildings may issue a demolition permit for a Preferably Preserved building prior to the expiration of the four-month demolition delay period upon receipt of written advice from the Commission to the effect that:

(1) notwithstanding the fact that a significant building is Preferably Preserved, the Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate or restore such building; or

(2) the Commission has determined that the proposed moving or demolition may be conducted in a specified manner so as not to be detrimental to the historical or architectural heritage or resources of the Town.

K. The requirements of this Ordinance are in addition to, and not in lieu of, the requirements of any other codes, ordinances, statutes, or regulations related to the demolition of buildings.

L. Any determination issued pursuant to this Ordinance shall be in writing and shall specify the reasons for such determination. In the event a demolition delay is imposed, the written determination shall specify the date on which such delay period shall terminate.



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5.700.040. Responsibilities of the Owner

Once a Significant Building is determined to be Preferably Preserved, the owner shall be responsible for properly securing the building, if vacant, to the satisfaction of the Inspector of Buildings. Should the owner fail to so secure the building, a subsequent destruction of the building at any time during the four month demolition delay period, which destruction could have been prevented by the required security measures, shall be considered a voluntary demolition in violation of this Ordinance.

5.700.050. Emergency Demolitions

- A. Notwithstanding the foregoing provisions, the Inspector of Buildings may issue a demolition permit at any time in the event of imminent and substantial danger to the health or safety of the public due to deteriorating conditions. Prior to doing so, the Inspector of Buildings shall inspect the building and document, in writing, the findings and reasons requiring an emergency demolition, a copy of which shall be forwarded immediately to the Commission. Before allowing emergency demolition, the Inspector of Buildings shall make every effort to inform the Chairperson of the Commission of his intention to allow demolition before he issues a permit for emergency demolition.
- B. Nothing in this Ordinance shall restrict the authority of the Inspector of Buildings 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.
- C. No provision of this ordinance is intended to conflict with or abridge any obligations or rights conferred by G.L.c.143 regarding removal or demolition of dangerous or abandoned structures. In the event of a conflict, the applicable provisions of Chapter 143 shall control.
- D. Nothing in this ordinance shall be deemed to conflict with the provisions of the Historic Districts Act, Massachusetts General Laws, Chapter 40C, with respect to requirements of notice, hearing and issuance by the Commission of a Certificate of Appropriateness, a Certificate of Non- applicability or a Certificate of Hardship prior to demolition of any building in an historic district.



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5.700.060. Enforcement and Remedies

A. If the Commission determines that a significant building has been voluntarily demolished in violation of this Ordinance, the Building Commissioner shall not issue any building permit for new construction, or any use or occupancy permit for any use other than a park or recreational space, with respect to the premises for a period of eight months after the date of the demolition.. 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.

B. Notwithstanding the foregoing, whenever the Commission shall, on its own initiative, or on application of the landowner; determine that earlier reconstruction, restoration or other remediation of any demolition in violation of this Ordinance better serves the intent and purpose of this Ordinance, it may, prior to the expiration of said period of eight months, authorize the Inspector of Buildings to issue a building permit upon such conditions as the Commission deems necessary or appropriate to effectuate the purposes of this Ordinance.

5.700.070. Regulations and Fees

A. The Commission may promulgate regulations to administer the provisions of this Ordinance

B. The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this Ordinance (including the costs of publishing)

5.700.080. Severability

If any section, paragraph or part of this Ordinance for any reason declared invalid or unconstitutional by any court, every other section, paragraph and part shall continue in full force and effect.



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YEAS: Bowes, Carey, Kokoros, O'Brien, Powers, Ringius, Ryan, Whalen

NAYS: NONE

ABSENT: Hume

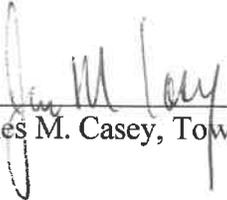
PASSED IN COUNCIL: APRIL 2, 2019

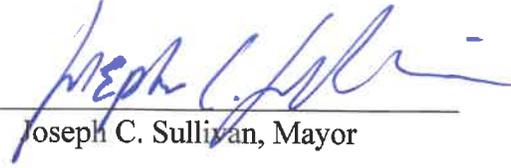
PRESENTED TO MAYOR: APRIL 3, 2019

A True Record, Attest:

4/5/19

Date Approved


James M. Casey, Town Clerk


Joseph C. Sullivan, Mayor