

TOWN OF NEWTON

ORDINANCE # 89-13

AN ORDINANCE TO AMEND CHAPTER XX-A OF THE REVISED
GENERAL ORDINANCES OF THE TOWN OF NEWTON, BEING
THE HISTORIC PRESERVATION ORDINANCE

BE IT ORDAINED by the Town Council of the Town of Newton that Chapter XX-A of the Revised General Ordinances of the Town of Newton shall be and is hereby amended to provide as follows:

Section 1. Paragraph A of Section 20A-15, Penalties, shall be and is hereby amended to provide as follows:

A. Any person who shall undertake an activity which would cause a change in the exterior architectural appearance of any improvement within an historic district or of any historic landmark by addition, alteration, or replacement without first obtaining the approval of the Historic Preservation Advisory Commission shall be deemed to be in violation of this Ordinance.

Section 2. Paragraph E of Section 20A-15, Penalties, shall be and is hereby amended to provide as follows:

E. If any person shall undertake an activity which would cause a change in the exterior architectural appearance of any improvement within an historic district or of any historic landmark by addition, alteration, or replacement without first obtaining the approval of the Historic Preservation Advisory Commission, he shall be required to immediately stop the activity, apply for approval, and take any necessary measures to preserve the landmarks affected, pending a decision. If the project is denied, he shall immediately restore the landmark to its pre-activity status. The zoning officer is hereby authorized to seek injunctive relief regarding a stop action on restoration in the Superior Court, Chancery Division, not less than ten (10) days after the delivery of notice pursuant to Section 20A-15B hereof. Such injunctive relief shall be in addition to the penalties authorized under 20A-15D hereof.

Section 3. Paragraph G of Section 20A-15, Penalties, shall be and is hereby added to provide as follows:

G. The Historic Preservation Advisory Commission secretary, in the absence of the zoning officer or at such other times as may be permitted by law or as directed by the Town Manager, shall perform all of the duties of the zoning officer that were granted to said officer by this chapter.

Section 4. This Ordinance shall take effect after publication and passage according to law.

Section 5. The Town Clerk is hereby directed to give notice at least ten (10) days prior to the hearing on the adoption of this Ordinance to the Sussex County Planning Board and to all others entitled thereto, pursuant the provisions of NJSA 40:55D-15. Upon the adoption of this Ordinance after public hearing thereon, the Town Clerk is further directed to publish notice of the passage thereof and to file a copy of this Ordinance as finally adopted with the Sussex County Board as required by NJSA 40:55D-16.

TAKE NOTICE that the above entitled Ordinance, introduced at a regular meeting of the Town Council of the Town of Newton on August 14, 1989, was passed on final reading at a regular meeting of the Town Council of the Town of Newton held in the Council Chambers, 39 Trinity Street, Newton, New Jersey on Monday, August 28, 1989, and shall take effect according to law.

Douglas L. Cummins, RMC
Municipal Clerk

TOWN OF NEWTON

ORDINANCE # 23-87

HISTORIC PRESERVATION ORDINANCE

20A-1 Short Title.

This chapter shall be known and may be referred to by the short title of the Historic Preservation Ordinance of the Town of Newton.

20A-2 Establishment of a System of Historic Preservation Regulations.

A. There is hereby created in and for the Town of Newton a commission to be known as "The Historic Preservation Advisory Commission", referred to in this ordinance as "The Commission".

B. In adopting this ordinance, it is the intention of the Newton Town Council to create an agency which will work with and advise the Planning Board and the Zoning Board on the effect of development applications on designated historic landmarks or improvements within a historic district. In addition, the Commission shall review all major development activities involving the exterior of an historic landmark or an improvement within a historic district. The Commission's reviews shall be based on objective criteria and will complement existing land use and construction codes. The controls established, while compatible with both the Municipal Land Use Law NJSA 40:55D-1, et seq., and the Uniform Construction Code Act NJSA 54:27D-119, et seq., shall be viewed as having an independent basis under NJSA 40:48-2.

C. This ordinance does not require or prohibit any particular architectural style; rather its purpose is to preserve the past by making the past compatible with and relevant to the present. To that end, new construction upon or near a landmark should not necessarily duplicate the style of the landmark; it must be compatible with and not detract from the landmark.

D. The boundaries of the Old Newton Core Historic District including those landmarks located therein are hereby established as an overlay zoning district to the Town of Newton Zoning Map as shown on the attached map. Other historic districts or landmarks may be established from time to time according to the criteria enacted by this ordinance.

20A-3 Intended Purposes.

These historic preservation regulations are intended to effect and accomplish the protection, enhancement and perpetua-

tion of especially noteworthy examples or elements of the town's environment in order:

a. to safeguard the heritage of Newton by preserving resources within the town which reflect elements of its cultural, social, economic and architectural history;

b. to encourage the continued use of historic landmarks and to facilitate their appropriate reuse;

c. to maintain and develop an appropriate and harmonious setting for the historic and architecturally significant buildings, structures, site objects, or districts within the Town of Newton;

d. to stabilize and improve property values within the district and foster civic pride in the built environment;

e. to promote appreciation of historic landmarks for education, pleasure and the welfare of the local population;

f. to spur beautification and private reinvestment;

g. to manage change by preventing alteration or new construction not in keeping with the district;

h. to discourage the unnecessary demolition of historic resources;

i. to recognize the importance of individual historic landmarks located outside of a district by urging property owners and tenants to maintain their properties in keeping with the requirements and standards of this ordinance;

j. to encourage the proper maintenance and preservation of historic settings and landscapes;

k. to encourage appropriate alterations of historic landmarks;

l. to enhance the visual and aesthetic character, diversity, continuity and interest in the town;

m. to promote the conservation of historic sites and districts and to invite voluntary compliance.

20A-4 Definitions.

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

ADDITION shall mean the construction of a new improvement as part of an existing improvement when such new improvement changes the exterior architectural appearance of any landmark.

ADMINISTRATIVE OFFICER shall mean the person designated by the Town Council to handle the administration of historic project review applications as well as the coordination of building permit applications as referenced in this ordinance.

AFFECTING A LANDMARK OR HISTORIC DISTRICT shall mean any major development activity which alters the exterior architectural appearance of a historic landmark or any improvement within a historic district.

ALTERATION shall mean any work done on any improvement which (1) is not an addition to the improvement, and (2) constitutes a major change by addition or replacement in the exterior architectural appearance of an improvement.

BUILDING shall mean a structure created to shelter human activity.

DEMOLITION shall mean partial or total razing or destruction of any landmark or of any improvement within a historic district.

DISREPAIR shall mean the condition of being in need of repairs; a structure or building in disrepair.

HISTORIC DISTRICT shall mean a geographically definable area, urban or rural, small or large, possessing a significant concentration, linkage, or continuity of sites, buildings, structures and/or objects which, viewed collectively:

a. represent a significant period(s) in the development of the town; or

b. have a distinctive character resulting from their architectural style; or

c. because of their distinctive character can readily be viewed as an area or neighborhood distinct from surrounding portions of the town.

Resources within a historic district shall be classified as either key, contributing, or non-contributing, which are defined as:

KEY shall mean any buildings, structures, sites or objects which, due to their significance, would individually qualify for landmark status.

CONTRIBUTING shall mean 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.

NON-CONTRIBUTING shall mean 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.

HISTORIC LANDMARK(S) shall mean any buildings, structures, sites, objects or districts which possess integrity of location, design, setting, materials, workmanship, and association and which have been determined, pursuant to the terms of this ordinance, to be:

a. of particular historic significance to the Town of Newton be reflecting or exemplifying the broad cultural, political, economic or social history of the nation, state or community; or

b. associated with the historic personages important in national, state or local history; or

c. the site of a historic event which had a significant effect on the development of the nation, state or community; or

d. an embodiment of the distinctive characteristics of a type, period, or method of architecture or engineering; or

e. representative of the work of an important builder, designer, artist or architect; or

f. significant for containing elements of design, detail, materials or craftsmanship which represent a significant innovation; or

g. able or likely to yield information important in prehistory or history.

HISTORIC PRESERVATION ADVISORY COMMISSION shall mean the body which, for the purposes of this ordinance, acts as the historic preservation commission as cited in the Municipal Land Use Law NJSA 40:55D-1, et seq.

IMPROVEMENT shall mean any structure or any part thereof installed upon real property by human endeavor and intended to be kept at the location of such construction or installation for a period of not less than one hundred twenty (120) continuous days.

ORDINARY MAINTENANCE shall mean repairing any deterioration, wear or damage to a structure, or any part thereof, in order to return the same as nearly as practicable to its condition prior to the occurrence of such deterioration, wear or damage. Ordinary maintenance shall further include replacement of exterior elements or accessory hardware, including signs,

using the same materials having the same appearance.

OVERLAY ZONE DISTRICT shall mean a zoning district made up of underlying zone districts or parts of zone districts as shown on the Town Zoning Map. An overlay zone district controls certain standards with the exception of bulk and use requirements, which are controlled by the underlying zone district(s).

OBJECT shall mean a thing of functional, aesthetic, cultural, historic, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

REPAIR shall mean any work done on any improvement which:

a. is not an addition to the improvement; and

b. does not substantially change the exterior architectural appearance of any improvement.

REPLACEMENT shall mean major repairs affecting the exterior architectural appearance of a structure when a building permit is required for the same.

REMOVAL shall mean to partially or completely remove a structure substantially intact.

SITE shall mean 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 not 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 archeological significance.

STRUCTURE shall mean any manmade work arranged in a definite pattern of organization.

UNDERLYING ZONE DISTRICT shall mean a zoning district which forms a constituent part of an overlay zone district. Underlying zone districts control bulk and use requirements.

20A-5 Application of Provisions.

The following regulations shall apply to all landmarks in a district and to any other historic resources which are designated in accordance with the procedures outlined in section 20A-9.

20A-6 Permitted Uses.

All uses permitted for a historic landmark or for structures within a historic district shall be those designated

by the official Zoning Map. Such uses shall not be altered by further designation as a historic district.

20A-7 Area and Height Regulations.

The maximum building height, minimum lot size, maximum coverage, etc., shall be as provided in the zoning ordinance for the respective zones, except that the Planning Board or Zoning Board may grant variances and waivers from such regulations where necessary to preserve historic characteristics.

20A-8 Historic Preservation Advisory Commission

A. The Historic Preservation Advisory Commission shall consist of five (5) members and two (2) alternates who shall serve without compensation, except that the Commission members shall be reimbursed for reasonable and necessary expenses incurred in the performance of official business, including attendance at annual training sessions and/or programs that relate to historic preservation, within the guidelines of the budget established by the Town Council for the Commission.

B. The Commission positions shall be filled by people who are interested in and qualified to contribute to the preservation of historic buildings, structures, sites, objects, and districts. The Commission shall represent the following categories:

Class A - persons who are knowledgeable in building design and construction or in architectural history;

Class B - persons who are knowledgeable or have a demonstrated interest in local history;

Class C - persons who are residents of the town and who hold no other municipal office, position or employment except for membership on the Planning Board or Zoning Board.

There shall be at least one member from each Class A and Class B; these members may reside outside of the municipality.

C. Commission members shall be appointed by the Mayor and shall serve for four year terms, except that of the first members appointed, one member shall serve for one year, two members shall serve for two years, and two other members shall serve for three years. The alternate members shall initially serve for two year terms. All members may, at the expiration of their terms, be eligible for appointment to four year terms. If a Commission member is also a Planning Board or Zoning Board member, the term of office as a Commission member is the same length as the other board position. Vacancies shall be filled in the same manner in which the previous incumbent was appointed and

such vacancy appointment shall be only for the balance of the unexpired term.

D. The Commission shall adopt internal rules and procedures for the transaction of its business, subject to the following:

(1) The Commission shall elect from its members a chairman and a vice chairman.

(2) A quorum for the transaction of all business shall be three (3) members.

(3) All Commission minutes and records are public records and all Commission meetings shall comply with the Open Public Meetings Act NJSA 10:4-7, et seq.

(4) The Commission shall employ, designate or elect a secretary who need not be a member of the Commission. The secretary shall keep minutes and records of all meetings and proceedings, including voting records, attendance, resolutions, findings, determinations and decisions. All such material shall be made public record.

(5) Commission meetings shall be scheduled at least once every month, or as often as required to fulfill its obligations to advise the Planning Board, Zoning Board or Town Council.

(6) No Commission member shall be permitted to act on any matter in which he or she has either directly or indirectly any personal or financial interest.

A member of the Newton Town Council shall be designated as liaison between the Historic Preservation Advisory Commission and the Council.

The Historic Preservation Advisory Commission shall be responsible:

a. To review historical survey material and, if necessary, to update said material at least every other year to incorporate any newly acquired historical documentation and to reflect changes to a resource's integrity or condition.

b. To recommend to the Planning Board and the Town Council any additional sites to be designated as historic landmarks in accordance with the procedures established in section 20A-9.

c. To conduct research on and, if necessary, to nominate any additional significant resources to the State and National Register of Historic Places. If the town is certified under the state's Certified Local Government (CLG) Program, the Commission shall, in accordance with the state's CLG guidelines,

review and comment on all State and National Register nominations for historic resources within the Town of Newton.

d. To recommend to the Planning Board guidelines for review to be utilized in determinations of historic landmark status and for review of projects affecting historic landmarks or improvements within historic districts. The Planning Board may recommend modifications to the guidelines and shall make the final decision as to their adoption.

e. To advise the Planning Board and Zoning Board on how development and zoning applications affect historic landmarks in accordance with the procedure established in section 20A-11.

f. To review all major actions, including those involving building permit applications, which affect the exterior architectural appearance of historic landmarks or improvements within a historic district. To advise the Planning Board on the approval of said requests in accordance with the procedure established in section 20A-12.

g. To review all major actions and applications for actions affecting the exterior architectural appearance of a historic landmark or an improvement within a historic district and to make recommendations to the Planning Board in accordance with the criteria outlined in section 20A-13.

h. To assist other public bodies in aiding the public in understanding historic resources' significance and methods of preservation.

i. To advise the Town Council on the relative merits of proposals involving public lands to restore, preserve and protect historical buildings, places and structures, including the preparation of a long range plan; therefor securing state, federal and other grants in aid to assist therein and monitoring such projects once underway.

j. To secure the voluntary assistance of the public and (within the limits of the budget established by the Town Council for the Historic Preservation Advisory Commission's operation) to retain consultants and experts and incur expenses to assist the Historic Preservation Advisory Commission in its work.

k. To cooperate with local, county, state or national historic societies, governmental bodies and organizations to maximize their contributions to the intent and purposes of this ordinance.

l. To request the Town Council to seek, on its own motion or otherwise, injunctive relief for violations of this ordinance or other actions contrary to the intent and purposes of this ordinance.

m. To advise and assist the Planning Board during the preparation and/or update of an historic preservation plan element of the Master Plan and six year capital improvement program.

n. To prepare and distribute a historic district guideline handbook to be utilized for application reviews and foster appropriate rehabilitation within the historic districts.

o. To consult with the Newton Historic and Preservation Society on all matters pertaining to the protection of the town's historic resources.

p. To advise and assist property owners and other persons and groups including neighborhood organizations who are interested in historic preservation.

q. To undertake educational programs, including (1) the preparation of publications aimed at stimulating interest in and sensitivity to historic preservation and (2) the placing of historic markers on structures.

r. To report at least annually to the Town Council on the state of historic preservation in the town and recommend measures to improve same.

s. To collect and disseminate material on the importance of historic preservation and techniques for achieving same.

t. To advise all municipal agencies regarding goals and techniques of historic preservation.

u. To adopt and promulgate such regulations and procedures not inconsistent with this ordinance as are necessary and proper for the effective and efficient performance of the duties herein assigned.

v. To perform any other lawful activities which shall be deemed necessary to further the purposes of this ordinance.

20A-9 Designation of Historic Landmarks, Historic Districts.

A. In addition to the structures already identified as within the Old Newton Core Historic District, the Commission shall consider for landmark designation any additional buildings, structures, objects, sites, and districts within the town which merit landmark designation and protection, possessing integrity of location, design, setting, materials, workmanship or association and being:

(1) of particular historic significance to the Town of Newton by reflecting or exemplifying the broad cultural, political, economic, or social history of the nation, state, or community; or

(2) associated with historic personages important in national, state, or local history; or

(3) the site of a historic event which had a significant effect on the development of the nation, state, or community; or

(4) an embodiment of the distinctive characteristics of a type, period, or method of architecture or engineering; or

(5) representative of the work of an important builder, designer, artist or architect; or

(6) significant for containing elements of design, detail, materials, or craftsmanship which represent a significant innovation; or

(7) able or likely to yield information important in prehistory or history.

B. Based on its review or upon the recommendation of other municipal bodies or of concerned citizens, the Commission may make a list of additional landmarks recommended for designation. For each landmark, there shall be a brief description of the landmark, of the landmark's significance pursuant to the criteria in section 20A-9A, a description of the landmark's location and boundaries, and a map siting. The Commission shall, by certified mail:

(1) notify each owner that his property is being considered for historic landmark designation and the reasons therefor;

(2) advise each owner of the significance and consequences of such designation, and advise him of his opportunities and rights to challenge or contest such designation;

(3) notify each owner of the public meeting to be held in accordance with section 20A-9C.

C. The list of potential additional landmarks as well as the description, significance, location, boundaries, and map siting of each shall be subject to review at a Commission public hearing. At least ten (10) days before such a hearing, a preliminary list and a map showing proposed additional landmarks shall be published, together with notice of the hearing, in an official newspaper of the municipality. At the hearing, interested persons shall be entitled to present their opinions, suggestions and objections on the proposed recommendations for landmark designation. The Commission shall then submit its recommendations to the Planning Board which shall determine resources to be designated as local landmarks.

D. The Commission shall prepare a concise report of its recommendations for sites to be designated as local

landmarks. Copies of the report shall be delivered to the Planning Board and the town clerk and a notice of the action published by the Commission secretary in an official newspaper of the town. The published notice shall state the Commission's recommendations and also state that final designation shall be made by the Planning Board at a public meeting specified on a date not less than fifteen (15) nor more than forty-five (45) days from the date of publication.

E. Final determination that landmark status exists shall be made by the Planning Board in accordance with section 20A-9B. Such a final determination by the Planning Board shall create landmark status. A certificate of designation shall be issued by the Planning Board. Within seven (7) days of the creation of landmark status, the Planning Board shall, by certified mail, notify the owner of the property involved of the determination and advise him of his rights with respect to an appeal of said determination to the Town Council. The Commission or a member of the public may seek to appeal the status directly to the Town Council upon giving notice of objecting thereto to the owners and persons of record and the Planning Board. Such appeal shall be made within forty-five (45) days of the Planning Board's determination and the Town Council shall have the power to either affirm, modify or vacate the decision of the Planning Board as it deems proper.

F. After Planning Board review and approval, the Commission shall submit the list of designated landmarks and a map to the town 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 zoning ordinance as required by state enabling legislation.

G. Copies of the designation list and official map as adopted 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, and a true copy thereof shall be filed with the county clerk for recording in the same manner as a certificate of lien upon real property.

20A-10 Actions Requiring Review by the Historic Preservation Advisory Commission.

A. All building permits and development applications involving major development activities that affect a historic landmark or an improvement within a historic district shall be reviewed by the Commission. Such review shall be required for, but not limited to, the following actions:

- (1) Demolition of a historic landmark or of an im-

provement within a historic district.

(2) Relocation of any improvement within a historic district or of any historic landmark.

(3) Major change in the exterior architectural appearance of any improvement within a historic district or of any historic landmark by addition, alteration or replacement.

(4) Any new construction of an improvement in a historic district.

(5) Site plans or subdivisions affecting a historic landmark or an improvement within a historic district.

(6) Zoning variances affecting a historic landmark or an improvement within a historic district.

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 reasonable for this applicant to carry out. Before an applicant prepares his plans, he may bring a tentative proposal to the Commission for informal review and comment.

B. Review by the Commission is not required:

(1) When a historic landmark requires major immediate emergency repair to preserve the continued habitability of the landmark and/or the health and safety of its occupants or others. Emergency repairs may be performed in accordance with town codes, without the necessity of first obtaining the Commission's review. Under such circumstances, the repairs performed shall not constitute a major replacement provided they are only such as are necessary to maintain the habitability of the structure. A request for the Commission's review shall be made as soon as possible and no major additional work shall be performed upon the structure until an appropriate request for approval is made and obtained in accordance with the procedures set forth in this ordinance. All work done under this section shall conform to the criteria set forth in section 20A-13 and the guidelines for review of applications as adopted by the Planning Board in accordance with section 20A-8 of this ordinance.

(2) For changes to the interior of structures.

(3) For ordinary repairs and maintenance which do not constitute a major change to the appearance of the structure. The following are some of the activities which may be permitted according to this criteria:

a. Complete replacement of existing windows and doors that replicate the architectural period of the structure.

b. Repair of existing windows and doors. Installation of storm windows and doors that are compatible with the architectural period of the structure.

c. Maintenance and repair of existing roofing material involving no major change in the design, scale or appearance of the structure.

d. Structural repairs which do not substantially alter the exterior architectural appearance of the building.

e. Replacement of existing roof structures such as cupolas, dormers and chimneys, or the repair of same, which does not substantially alter the exterior architectural appearance of the structure.

f. Complete replacement of existing shingles, clapboards, or other siding that replicates the architectural period of the structure.

g. Maintenance and repair of existing shingles, clapboards or other siding.

h. Exterior painting of existing structures.

i. Repairs, such as changes in, or additions to existing signs, shutters, outdoor displays, fences, hedges, street furniture, awnings, off-street driveway and parking materials, installation or replacement of sidewalks, or exterior lighting for a historic district.

20A-11 Procedures for the Commission's Review of Development and Zoning Applications.

A. For all applications presented to the Planning Board or Zoning Board which affect a historic landmark or an improvement within a historic district, the property owner shall submit a Historic Landmark Project Review Application to either the Planning Board or Zoning Board, as appropriate, along with the request for either Board's approval. Such an application shall pertain solely to the proposed site review or zoning request. If building permits are required, these actions will be reviewed separately by the Commission in accordance with the procedures outlined in section 20A-12 of this ordinance.

B. The Planning Board or Zoning Board will forward to the Commission a complete set of all application materials as well as the Historic Landmark Project Review Application. The Commission shall be allowed at least fourteen (14) days from the day it receives a complete application to prepare its recommendations to either the Planning Board or Zoning Board. Said recommendations shall be in the form of a written report which is orally conveyed to the appropriate Board through the Commission's administrative officer at a hearing on the application.

C. The Commission's recommendation shall focus on how the proposed undertaking would affect a landmark's historic or architectural significance as outlined in section 20A-4 of this ordinance. In considering the Commission's recommendations, the Planning Board and Zoning Board shall be guided by the review criteria established in section 20A-13 of this ordinance.

20A-12 Procedures for the Commission's Review of Building Permits and Alterations.

A. Prior to undertaking any major action affecting the exterior architectural appearance of a historic landmark or an improvement within a historic district, the property owner shall complete and submit to the Commission's administrative officer a Historic Landmark Project Review Application.

B. If the proposed undertaking requires a building permit, the administrative officer shall notify the applicant that he or she must submit a Historic Landmark Project Review Application to the Historic Preservation Advisory Commission. This includes, but is not limited to, permits for new construction, demolition, alterations, additions, or replacements affecting the exterior architectural appearance of a historic landmark or an improvement within a historic district.

C. The Commission's administrative officer shall review the application for technical completeness. Any application found to be incomplete shall be returned to the applicant within ten (10) days of receipt of the application.

D. When an application is found to be technically complete, the administrative officer shall schedule the application to be reviewed at the Commission's next regularly scheduled meeting. The applicant shall be notified of the meeting date and shall be allowed an opportunity to speak at the meeting.

E. The Commission, through its administrative officer, shall recommend to the construction official either the approval or denial of the application and shall explain in writing the reasons for their recommendation. The Commission's recommendation shall focus on how the proposed undertaking would affect a landmark's historic or architectural significance as outlined in section 20A-4 of this ordinance.

F. An application involving demolition or removal shall be referred by the administrative officer to the Planning Board. The Commission's recommendation to the Planning Board shall specifically include whether postponement should be considered by the Planning Board in accordance with section 20A-14. If the Planning Board votes to postpone, the Commission shall undertake such investigation and take such actions as the Planning Board requests.

G. If the proposed undertaking involves a request for a building permit, the administrative officer shall, upon receipt of the Commission's recommendation, but no later than forty-five (45) days from the date that a complete application is received by the Commission, issue the appropriate directive to the construction official. If within the 45 day period the Commission recommends to the administrative officer against the issuance of a permit or recommends conditions to the permit to be issued, the administrative officer shall notify the construction official to deny issuance of the permit or include the conditions in the permit, as the case may be. Failure to report within the 45 day period shall be deemed to constitute a report in favor of issuance of the permit and without the recommendation of conditions to the permit. In considering the Commission's recommendations, the construction official shall be guided by the review criteria established in section 20A-13 of this ordinance and shall follow the recommendation of the Commission unless for good cause his opinion shall differ. In such a case, the construction official shall state his reasons in writing.

20A-13 Criteria for Review of Applications

In reviewing an application for its effect on a historic landmark or an improvement within a historic district, the following criteria shall be used by the Historic Preservation Advisory Commission, the Planning Board and the Zoning Board. The criteria set forth in section 20A-13A relate to all projects affecting a historic landmark or an improvement within a historic district. The criteria set forth in sections 20A-13B through 20A-13E relate to specific types of undertakings and shall be used in addition to the general criteria set forth in section 20A-13A.

A. In regard to all applications affecting a historic landmark or an improvement within a historic district, the following factors shall be considered:

(1) The impact of the proposed change on the historic and architectural significance of the landmark or the historic district;

(2) The landmark's importance to the municipality and the extent to which its historic or architectural interest would be adversely affected to the detriment of the public interest.

(3) The use of any structure involved.

(4) The extent to which the proposed action would adversely affect the public's view of a landmark or structure within a historic district from a public street.

(5) If the application deals with a structure within a historic district, the impact the proposed change would have on the district's architectural or historic significance and the

structure's visual compatibility with the buildings, places and structures to which it would be visually related in terms of the visual compatibility factors set forth herein.

B. In regard to an application for new construction, alterations, additions, or replacements affecting a historic landmark or an improvement within a historic district, the following factors shall be considered:

(1) Height. The height of the proposed building shall be visually compatible with adjacent buildings.

(2) Proportion of the Building's Front Facade. The relationship of the width of the building to the height of the front elevations shall be visually compatible with buildings and places to which it is visually related.

(3) Proportion of Openings Within the Facility. The relationship of the width of windows to the height of windows in a building shall be visually compatible with buildings and places to which it is visually related.

(4) Rhythm of Spacing of Buildings on Streets. The relationship of the building to the open space between it and adjoining buildings shall be visually compatible with buildings and places to which it is visually related.

(5) Rhythm of Solids to Voids on Facades Fronting on Public Places. The relationship of solids to voids in such facades of a building shall be visually compatible with buildings and places to which it is visually related.

(6) Rhythm of Entrance and/or Porch Projections. The relationship of entrance and porch projections to the street shall be visually compatible with buildings and places to which it is visually related.

(7) Roof Shape. The roof shape of a building shall be visually compatible with buildings and places to which it is visually related.

(8) Scale of Building. The size of a building, the mass of a building in relationship to open spaces, the windows, door openings, porches and balconies shall be visually compatible with buildings and places to which it is visually related.

(9) Directional Expression of Front Elevation. A building shall be visually compatible with buildings and places to which it is visually related in its directional character, whether this be vertical character, horizontal character, or non-directional character.

C. Supplemental design guidelines which should be considered in evaluating the appropriateness of changes to a historic landmark or within a historic district are as follows:

(1) Relationship of Materials, Texture and Color. The relationship of materials, texture and color of the facade and roof of a building shall be visually compatible with the predominant materials used in the building to which it is visually related.

(2) Walls of Continuity. Appurtenances of a building such as walls, open type fencing, evergreens, landscape masses, shall form cohesive walls of enclosure along a street to the extent necessary to maintain visual compatibility of the main building with the buildings and places to which it is visually related.

(3) Exterior Features. A structure's related exterior features such as lighting, fences, signs, sidewalks, driveways, and parking areas shall be compatible with the features of those structures to which it is visually related and shall be appropriate for the historic period for which the structure is significant. New signage shall also abide by any supplemental historic design graphic standards that may be developed by the Commission for the district.

It is not the intent of this ordinance to discourage contemporary architectural expression or to encourage new construction which emulates existing buildings of historic or architectural interest or of a certain period or architectural style; but rather to preserve the integrity and authenticity of the historic preservation districts and to insure the compatibility of new structures therein.

D. In regard to an application to demolish a historic landmark or any improvement within a historic district, the following matters shall be considered:

(1) Its historic, architectural, cultural or scenic significance in relation to the criteria established in section 20A-4.

(2) If it is within a historic district, the significance of the structure in relation to the historic character of the district and the probable impact of its removal on the district.

(3) Its potential for use for those purposes currently permitted by the zoning ordinance.

(4) Its structural condition and the economic feasibility of alternatives to the proposal.

(5) Its importance to the municipality and the extent to which its historical or architectural value is such that its removal would be detrimental to the public interest.

(6) The extent to which it is of such old, unusual or uncommon design, craftsmanship, texture or material that it could

be reproduced only with great difficulty and expense.

(7) The extent to which its retention would promote the general welfare by maintaining and increasing the real estate values, generating business, attracting tourists, attracting new residents, stimulating interest and study in architecture and design, or making the municipality an attractive and desirable place in which to live.

(8) If it is within a historic district, the probable impact of its removal upon the ambience of the historic district.

E. In regard to an application to move any historic landmark, or to move any structure within an historic district, the following matters shall be considered:

(1) The historic loss to the site of original location and the historic district as a whole.

(2) The reasons for not retaining the landmark or structure at its present site.

(3) The compatibility, nature and character of the current and of the proposed surrounding areas as they relate to the protection of interest and values referred to in this ordinance.

(4) If the proposed new location is within a district, visual compatibility factors as set forth in section 20A-13B.

(5) The probability of significant damage to the landmark or structure itself.

(6) If it is to be removed from the Town of Newton, the proximity of the proposed new location to the town, including the accessibility to the residents of the town and other citizens.

20A-14 Effect of Project Approval, Denial, Appeal.

A. Approval by either the construction official, Planning Board or Zoning Board in accordance with the procedures in sections 20A-11 and 20A-12 shall be deemed to be final approval pursuant to this ordinance. Such approval shall neither cause nor prevent the filing of any collateral application or other proceeding required by any other municipal ordinance to be made prior to undertaking the action requested concerning the landmark or improvement in a historic district.

B. Denial of approval for a development application or of a building permit shall be deemed to bar the applicant from undertaking the activity which would affect the landmark or improvement in a historic district which was the subject of the denied application.

C. The Planning Board, upon affirmative vote of a majority of its full membership, may postpone demolition of a landmark for up to one year. The Commission and Planning Board may utilize this time period to consult with the Sussex County Historical Society, the New Jersey Department of Environmental Protection, or other similarly qualified organizations to ascertain how the town may preserve the building and/or the premises. The Commission shall be empowered to assist the owner in developing plans to preserve the structure when moving or demolition thereof would be a great loss to the town. When an applicant wishes to demolish a landmark, a building or structure on a landmark site, or a building or structure in a historic district, the Commission shall negotiate with the applicant to see if an alternative to demolition can be found. No municipal official shall issue a demolition permit for a landmark without review from the Commission and Planning Board approval. If it determines to postpone demolition, 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, the Commission may require the applicant to prepare a financial analysis which may include any or all of the following:

(1) Amount paid for the property, date of purchase, and party from whom purchased, including a description of the relationship, whether business or familial, if any, between the owner and the person from whom the property was purchased;

(2) Assessed value of the land and improvements thereon according to the most recent assessment;

(3) For depreciable properties, a pro forma financial statement prepared by an accountant or broker of record;

(4) All appraisals obtained by the owner in connection with his purchase or financing of the property, or during his ownership of the property;

(5) Bona fide offer of the property for sale or rent, price asked and offers received, if any;

(6) Any consideration by the owner as to profitable, adaptive uses for the property.

The Commission shall study the question of economic hardship for the applicant and shall determine whether the site or the property in the historic district can be put to reasonable 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.

Prior to the issuance of a demolition permit, the Planning Board may require the applicant to provide documentation of the resource proposed for demolition. Such documentation may include photographs, floor plans, measured drawings, archeological survey, and any other comparable form of documentation stipulated by the Commission.

During the demolition, either members of the Commission or the Sussex County Historical Society shall be present to save, protect, and/or receive valuable parts of the building. There shall be an ability on the part of the Commission to conduct a dig at the site, if necessary. The site shall be properly restored after demolition, to include grading and landscaping.

D. The Town Council shall not hear any appeals from the decision of a municipal agency regarding a development application for a project located within a designated historic district. Any interested party desiring to appeal such decision shall file for review directly to any court of competent jurisdiction according to law and pursuant to the rules of the court.

E. The granting or denial of approval for a building permit by the construction official may be appealed to the Zoning Board in the same manner as if the appeal were taken pursuant to NJSA 40:55D-72 from any action by the administrative officer.

20A-15 Penalties.

A. Any person who shall undertake an activity which has a major impact on the exterior architectural appearance of a historic landmark or an improvement within a historic district, and which requires a building permit, without obtaining the review of the Historic Preservation Advisory Commission, shall be deemed to be in violation of this ordinance.

B. Upon learning of the violation, the zoning officer shall personally serve upon the owner of the lot whereon the violation is occurring a notice describing the violation in detail and giving the owner ten (10) days to abate the violation by restoring the landmark or improvement to the condition it was in prior to the violation occurring. If the owner cannot be personally served within the municipality with the said notice, a copy shall be posted on the site and a copy sent to the owner at his last known address as it appears on the municipal tax rolls.

C. In the event that the violation is not abated within ten (10) days of service or posting on site, whichever is earlier, the zoning officer shall cause to be issued a summons and complaint, returnable in the municipal court, charging violation of this ordinance and specifying the wrongful conduct of the violator. Each separate day the violation exists shall be deemed to be a new and separate violation of this ordinance.

D. The penalty for violation shall be as follows:

- (1) For each day up to ten (10) days - not more than \$100.00 per day;
- (2) For each day eleven (11) days to twenty-five (25) days - not more than \$150.00 per day;
- (3) For each day beyond twenty-five (25) days - not more than \$200.00 per day.

E. If any person shall undertake any major activity affecting the exterior architectural appearance of a structure and requiring a building permit and affecting a historic landmark or any improvement within a historic district without first having obtained approval, he shall be required to immediately stop the activity, apply for approval, and take any necessary measures to preserve the landmarks affected pending a decision. If the project is denied, he shall immediately restore the landmark to its pre-activity status. The zoning officer is hereby authorized to seek injunctive relief regarding a stop action on restoration in the Superior Court, Chancery Division, not less than ten (10) days after the delivery of notice pursuant to section 20A-15B hereof. Such injunctive relief shall be in addition to the penalties authorized under 20A-15D hereof.

F. In the event that any action which would permanently affect a historic landmark or historic district, or a demolition to remove the landmark is about to occur without approval having been issued, the zoning officer is empowered to apply to the Superior Court of New Jersey for injunctive relief as is necessary to prevent such actions.

20A-16 General.

A. No duties or powers of the Commission shall supersede or infringe on the powers of other town boards and committees.

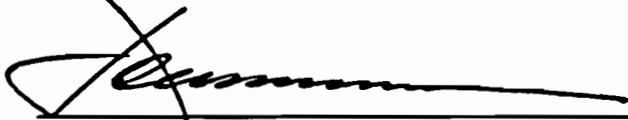
B. If any section or provision hereof shall be adjudged invalid, such determination shall not affect the other provisions hereof which shall remain in full force and effect to the extent of such conflict or inconsistency provided not otherwise required by law.

C. All ordinances and provisions thereof inconsistent or conflicting with the provisions of this ordinance are hereby repealed to the extent of such conflict or inconsistency provided not otherwise required by law.

D. This ordinance shall take effect upon final adoption after publication thereof in accordance with law.

NOTICE

TAKE NOTICE that the above entitled Ordinance, introduced at a regular meeting of the Town Council of the Town of Newton on October 26, 1987, was passed on Final Reading at a regular meeting of the Town Council of the Town of Newton held in the Council Chambers, 39 Trinity Street, Newton, New Jersey, on November 9, 1987, and shall take effect according to law.



Douglas L. Cummins, R.M.C.
Municipal Clerk





**OLD NEWTON CORE HISTORIC DISTRICT
OVERLAY ZONE TO TOWN OF NEWTON
ZONING MAP**

Designated Historic Landmarks

- A-1 - Sussex County Court House (National Register)
- A-2 - Presbyterian Church of Newton (State Register)
- A-3 - Merriam House (National Register)

11-4-87

TOWN OF NEWTON

ORDINANCE # 25-87

"AN ORDINANCE TO AMEND ORDINANCE #23-87, THE HISTORIC PRESERVATION ORDINANCE"

WHEREAS, a Historic Ordinance, being Chapter XX-A of the Revised General Ordinances of the Town of Newton, was enacted on November 9, 1987, and

WHEREAS, the intention of the Town Council of the Town of Newton is to include additional properties located on the southeast side of High Street to West End Avenue, and the south side of Liberty Street to Main Street;

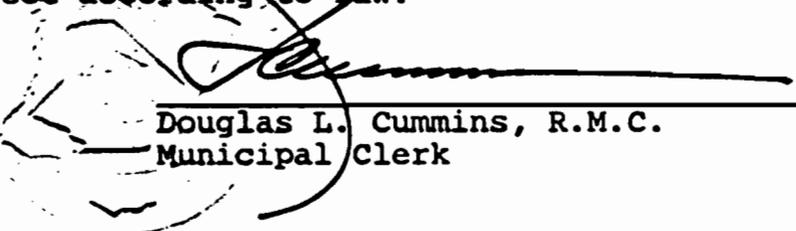
NOW THEREFORE BE IT ORDAINED by the Town Council of the Town of Newton that Chapter XX-A be amended to include the following properties as listed on the official Tax Map of the Town of Newton:

| <u>Block</u> | <u>Lot</u> | <u>Address</u> |
|--------------|------------|--------------------|
| 701 | 21 | 102 High Street |
| 701 | 20 | 98-100 High Street |
| 701 | 19 | 96 High Street |
| 701 | 18 | 94 High Street |
| 701 | 17 | 38 Liberty Street |
| 701 | 15 | 32 Liberty Street |
| 701 | 14 | 26 Liberty Street |
| 701 | 13 | 22 Liberty Street |
| 702 | 16 | 14 Liberty Street |
| 702 | 15 | 8 Liberty Street |
| 702 | 14 | 6 Liberty Street |
| 702 | 13.01 | 4 Liberty Street |

BE IT FURTHER ORDAINED that the official Map of the Newton Historic District be amended to reflect the newly included properties.

NOTICE

TAKE NOTICE that the above entitled Ordinance, introduced at a regular meeting of the Town Council of the Town of Newton on November 9, 1987 was passed on Final Reading at a regular meeting of the Town Council of the Town of Newton, held in the Council Chambers, 39 Trinity Street, Newton, New Jersey on November 23, 1987, and shall take effect according to law.



Douglas L. Cummins, R.M.C.
Municipal Clerk