

ARTICLE __ (Zoning Bylaw Amendment: Issuance of building and use permits)

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

Or to take any other action related thereto.

§ 139-26 Issuance of building and use permits.

A.

No building or structure shall be used, erected, constructed, relocated, added to or otherwise subjected to alteration, or demolished without a building or use permit having been issued by the Building Commissioner or Local Inspector for any use or structure. ~~No building or structure shall be used, erected, constructed, relocated, added to or otherwise subjected to alteration, or demolished without obtaining a Certificate of Appropriateness issued by the Nantucket Historic Districts Commission pursuant to Chapter 395, Acts of 1970, as amended.~~ No lot shall be changed from its use preexisting the July 27, 1972, effective date of this chapter, except to its natural condition allowed by § 139-7A(5) above, without a use permit or a building permit permitting such use. No such permit shall be issued until such construction, erection, relocation, addition, alteration, demolition or use, as proposed, shall comply in all respects with the provisions of this chapter as determined by a Zoning Enforcement Officer or with a decision rendered by the Board of Appeals, the Planning Board, or the courts in the case of appeals.

[Amended 4-14-1997 ATM by Art. 40, AG approval 8-5-1997-10-2000 ATM by Art. 46, AG approval 8-2-2000; 6-25-2020 ATM by Art. 51, AG approval 10-27-2020]

Demolition delay.

(a)

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

[1]

Establish an appropriate waiting period during which the Town and the applicant can propose and consider alternatives to the demolition of a building of residential value;

[2]

Minimize the quantity of demolition debris ending up in the landfill;

[3]

Create an incentive for reuse of residential structures;

[4]

Give interested parties an opportunity to acquire reusable residential structures.

(b)

Buildings subject to demolition delay. All residential structures are subject to review by the Building Commissioner, Local Inspector, or a registered design professional for the purpose of determining whether such buildings have any residential reuse potential.

(c)

Issuance of demolition permit. The requirements set forth in this section are in addition to, and not in lieu of, the requirements of any other codes, ordinances, statutes, or regulations applicable to the demolition of buildings. No demolition permit shall be issued for a building that is subject to review, pursuant to Subsection A(1)(b) above, unless:

[1]

It is determined that demolition is necessary, pursuant to Subsection A(1)(d) below.

[2]

It is determined that said building has no residential reuse potential due to the existing condition of the structure or physical barriers to moving the structure such as significant trees, bridges, etc.

[3]

The demolition delay period set forth in Subsection A(1)(f) below has expired.

(d)

Required demolition or repair.

[1]

Demolition. Nothing in this section shall restrict any authority in the general laws for the Building Commissioner or Building Inspector to order the building owner, or Town, to demolish a building at any time if it is determined that the condition of a building or part thereof presents an imminent and substantial danger to the public health or safety.

[2]

Repair. Nothing in this section shall restrict any authority in the general laws for the Building Commissioner or Building Inspector to require the applicant to take reasonable action to prevent the need for required demolition, which may include securing the building and making it safe so that it does not present an imminent and substantial danger to the public.

(e)

Issuance of building, use, or occupancy permit.

[1]

If it has been determined that a building has re-use potential pursuant to Subsection A(1)(b) above, no building permits shall be issued for the erection of a new building on the site of such building subject to review before issuing a demolition permit for such building subject to review in compliance with this section.

[2]

If it has been determined that a building has been voluntarily demolished in violation of this section, no building permits shall be issued for new construction, or any use or occupancy permit for any use other than a park or recreational open space, with respect to the premises of such building for a period of two years after the date of the determination. As used herein, "premises" includes the parcel of land upon which the demolished building was located and all abutting parcels under common ownership or control.

(f)

Procedure.

[1]

A request for review of reuse potential pursuant to this section shall be made to the Building Commissioner or Local Inspector. The request shall be made by letter, email or any other method acceptable to the building official.

[2]

(Reserved)

[3]

(Reserved)

[4]

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

[a]

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

[b]

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

[5]

A determination shall be made within 20 days after the request. If it is determined that the structure does not require immediate demolition and that it does have reuse potential the applicant shall place a public notice in a local newspaper. The public notice shall take place only after the building commissioner's review and the issuance of a Certificate of Appropriateness for a Move-Off / Demolition has been issued from the Nantucket Historic Districts Commission pursuant to C. 395, Acts of 1970, as amended.

[a]

Contents of public notice.

[6]

Subject to the Chapter 139 Section 26A(1) of the Code of the Town of Nantucket (the so-called "demolition delay bylaw"), a house located at INSERT ADDRESS is being made available to any interested party subject to the ability to move the structure within ~~60 days~~180 days from the date of this publication, in addition to meeting any conditions imposed by the current owner. A letter of interest must be submitted to INSERT OWNER/CONTACT ADDRESS AND EMAIL with a copy provided to the Town of Nantucket Building Commissioner at 2 Fairgrounds Road or by e-mail at INSERT BUILDING COMMISSIONER E-MAIL within 30 days from the date of this publication. Letters of interest received after 30 days may be considered at the discretion of the property owner.

A published copy of said notice shall be presented to the Building Department. From the date of publication of said notice, any interested parties shall have 30 days to respond in writing. If any bona fide letters of interest, as determined by the Building Commissioner or Local Inspector, are received within the thirty-day period no demolition permit shall be issued for a period of ~~30~~ 180 days thereafter.

[7]

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

B.

Form of application. The application for a building or use permit shall be submitted in such form as shall be described by the Building Inspector and shall be accompanied by the required fee as hereinafter prescribed. Application for a permit shall be made by the owner or lessee of any building or structure or the agent of either. The application for the permit shall be accompanied by a plot plan of the proposed building, structure or use drawn to scale with sufficient clarity to show the nature and character of the work to be performed, including off-street parking and loading space, if required, the location of new and existing lot lines.

C.

Accompanying documents. The application for a building or use permit shall be accompanied by the following documents, if applicable:

(1)

A Certified Copy of the Certificate of appropriateness issued by the Nantucket Historic Districts Commission pursuant to Ch. 395, Acts of 1970, as amended.

(2)

Sewer permit.

(a)

For on-site septic systems issued by the Nantucket Board of Health pursuant to Title V, § 3.7, of the State Environmental Code.

(b)

For hook-ups to the public sewage system issued by the Superintendent of the Nantucket Department of Public Works pursuant to the Wastewater Systems Regulations Governing the Use of Common Sewers, of the Town and County of Nantucket, as amended.

(3)

Order of conditions issued by the Nantucket Conservation Commission, pursuant to the State Wetland Protection Act (MGL c. 131, § 40), when a determination has been made that all or a portion of the property included in the building permit application is subject to the Wetland Protection Act. It is the responsibility of the applicant to file a request to determine applicability of the Wetland Protection Act if the applicant suspects that all or a portion of his property may be subject to the Act.

(4)

Water well completion report establishing availability of water on property, if public water supply is unavailable.

(5)

Certified copy of each Board of Appeals and Planning Board decision, including minor and major site plan review approvals, and of the plan approved by the Planning Board if the building permit is for a secondary dwelling, whichever may be relevant to the proposed project.

[Amended 4-14-1997 ATM by Art. 49, AG approval 8-5-1997]

D.

Issuance of permits. Upon receiving the application, the Building Inspector shall examine the same within a reasonable time after filing. The Zoning Enforcement Officer shall provide the Building Commissioner with a certificate of compliance with this chapter. If the application does not conform to the provisions of all pertinent local laws, the Building Commissioner shall reject such application in writing, stating the reasons therefor, within 30 days of the submission of a complete application.

[Amended 4-10-2000 ATM by Art. 46, AG approval 8-2-2000]

(1)

He shall inform the applicant of his right of appeal to the Board of Appeals in the event such application is rejected.

(2)

If satisfied that the proposed work and/or use conforms to the provisions of this chapter and all laws and ordinances applicable thereto, he shall issue a building or use permit thereto, within 30 days of the submission of a complete application.

E.

Any permit issued shall be deemed abandoned and invalid unless the work authorized by it shall have been commenced within six months after its issuance; however, for cause, one or more extensions of time, for periods not exceeding six months each, may be granted in writing by the Inspector of Buildings. Work under such permit, in the opinion of the Inspector of Buildings, must proceed in good faith continuously to completion so far as is reasonably practicable under the circumstances.

F.

Revocation of permits. The Building Inspector may revoke any permit issued under the provisions of this chapter in case of any false statement or misrepresentation of fact in the application on which the permit was based or for any other cause set forth in this chapter.

G.

Posting of permit. A true copy of a permit placard issued to the applicant with the permit shall be kept on the site of operations open to public inspection during the entire time of prosecution of the work or use and until the completion of the same as defined on the application.

H.

Temporary permit. A temporary permit may, upon written request of an applicant, be authorized by a favorable vote of at least four members of the Board of Appeals for a nonconforming structure or use which the Board of Appeals finds necessary to promote the proper development of the community, provided that such nonconforming structure or use shall be completely removed upon expiration of the permit (unless previously made conforming or validated) without cost to the Town (unless the Town is the applicant). Such permit may be renewed annually for an aggregate period not exceeding three years.

I.

Payment of fees. No building or use permit shall be issued until the fees prescribed by the Select Board shall be paid to the Building Inspector.

[Amended 6-25-2020 ATM by Art. 70, approved 10-27-2020]

J.

Compliance with permit. All work or uses shall conform to the approved application for which the permit has been issued as well as the approved plot plan.