

Article 14C - Demolition

Section 1. Purpose and Authority.

This ordinance governs the process for the Town's review and action upon requests to demolish or relocate a Historic Resource, as defined under Section 14B of the Zoning Ordinance. This ordinance implements authority granted under Va. Code §15.2-2306.

Section 2. Application and Consideration by the Board of Architectural Review.

It shall be unlawful to demolish or relocate a Historic Resource without first obtaining a certificate of design approval from the Board of Architectural Review (BAR). Application for a certificate of design approval shall be submitted on the proper form to the Town's zoning administrator, together with the application fee as adopted by the Town Council. Complete applications must be received by the zoning administrator at least 14 calendar days prior to the BAR meeting at which consideration is desired.

Upon receipt of a complete application, the zoning administrator shall schedule the same for hearing and shall cause notice of such hearing to be sent to the BAR. The BAR shall confer with the applicant at the hearing and shall approve or disapprove such application and, if approved, shall issue a certificate of design approval, with or without conditions together with such modifications as deemed necessary to ensure compliance with this Article. Failure of the BAR to approve or disapprove such application within 60 calendar days from the date on which a complete application was submitted shall be deemed to constitute approval of the application.

Section 3. Demolition criteria.

3.1 In reviewing applications for the demolition or relocation of a Historic Resource, the BAR shall consider the following:

- a) How the demolition or relocation will impact the historic integrity of the site and any remaining on-site historic resources on the same property based on the integrity considerations in National Register Bulletin 15.
- b) How the loss of the historic resource will impact the historic integrity of any adjacent historic property based on the integrity considerations contained in National Register Bulletin 15;
- c) The impact the loss of the historic resource will have on the overall integrity to any historic district or zone that the historic resource is located in, based on the historic integrity considerations contained in National Register Bulletin 15;
- d) The ability of the historic resource to be adaptively re-used as part of a new on-site development which would not adversely impact the historic resource's ability to convey

- its historic significance through its integrity of location, setting, feeling, association, design, materials and workmanship, as described in National Register Bulletin 15;
- e) Whether any monies or assistance to facilitate the on-site preservation of the historic resource could be made available to the property owner within 180 days of the owner's request to demolish or relocate the historic resource; and
 - f) The structural soundness of the historic resource.

Section 4. Appeals.

The Town Council reserves unto itself the right to review all decisions of the BAR made in the administration of this Article.

Any person aggrieved by any decision of the BAR in the administration of this Article has the right to appeal the decision to the Town Council. Such appeal shall be made by submitting a written application to the zoning administrator clearly stating how the BAR erred in assessing the demolition criteria set forth in Section 3.1. For the appeal to be considered, such application must be submitted, with the appropriate fee, no later than ten calendar days after the date of the BAR's decision. The Town Council may affirm, reverse, or modify, in whole or in part, the decision of the BAR. In considering an appeal, the Town Council shall give due consideration to the recommendations of the BAR together with such other evidence as it deems necessary for a proper review of the application.

Any person aggrieved by a decision of the Town Council under this Article may appeal such decision to the Loudoun County Circuit Court by filing a petition at law, setting forth the alleged illegality of the action of the Town Council, provided such petition is filed within 30 calendar days after the final decision is rendered by the Town Council. The filing of said petition shall stay the decision of the Town Council pending the outcome of the appeal to the court.

Section 5. Deviations from approved plans.

5.1 Any person who once having obtained the approval required by this Article deviates substantially from the approved plan shall be subject to the violations and penalties specified in Article 11, section 17 of this ordinance.

Section 6. Right to Demolish After Denial of Application

The owner of a historic landmark, building, or structure shall, as a matter of right, be entitled to raze, demolish, or move their Historic Resource provided that: (i) the owner has appealed to the Town Council for such right and been denied, (ii) the owner has, for the applicable time period set forth in the schedule below, at a price reasonably related to its fair market value, made a bona fide offer to sell the landmark, building or structure, and the land pertaining thereto, to the

locality or to any person, firm, corporation, government, or agency thereof, which gives reasonable assurance that it is willing to preserve and restore the landmark, building or structure and the land pertaining thereto, and (iii) no bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such landmark, building or structure, and the land pertaining thereto, prior to the expiration of the applicable time period set forth in the time schedule hereinafter contained. The time schedule, with such time periods to be calculated from the date on which the Town Council rendered its final denial is as follows:

- (a) three months when the offering price is less than \$25,000;
- (b) four months when the offering price is \$25,000 or more but less than \$40,000;
- (c) five months when the offering price is \$40,000 or more but less than \$55,000;
- (d) six months when the offering price is \$55,000 or more.

No appeal which may be taken to the court from the decision of the Town Council, whether instituted by the owner or by any other proper party, shall affect the rights of the owner to enter into the bona fide offer to sell, referred to above.

If all steps above have been satisfied and no bona fide contract is fully executed within the applicable time frame as set forth above, then the owner shall be entitled to obtain from the Town a permit to demolish the historic building, structure or object. If the owner has acquired the right to demolish the historic building, structure or object, subject to the process set forth above, and has not obtained a demolition permit within twenty-four (24) months from the date on which the Town Council issued its final denial, then, prior to demolishing the historic building, structure or object the owner will be required to re-commence and re-complete the demolition application process, as described above.

