

TOWN OF NEWTON

39 Trinity Street
Newton, New Jersey 07860

Phone: 973-383-3521
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HISTORIC PRESERVATION ADVISORY COMMISSION Instructions for filing an application For a Certificate of Appropriateness

1. According to the Town of Newton Ordinances, any work to a locally designated historic landmark located in the municipality, or any work affecting a building and/or structure located in the Historic District, which involves new construction, demolition, relocation changes in the exterior appearance; including alterations, renovations, new signage, exterior lighting, excavation or ground disturbance, must be reviewed by the Historic Preservation Advisory Commission for recommendation prior to the Administrative Officer's issuance of a Certificate of Appropriateness.
2. Issuance of a Certificate of Appropriateness does not automatically mean a final approval to a specific proposal. Other municipal, county, or state approvals may be required. It is recommended that the applicant consult with the Town Zoning Officer, Construction Official and Planning Board Administrative Officer to determine what, if any, other approvals, permits and/or inspections may be required by the Town.
3. If your application for a Certificate of Appropriateness should be denied, the applicant may appeal the decision to the Town of Newton Planning Board within 30 days of the Administrative Officer's written decision.
4. All application forms must be completed in full, signed and submitted to the Town of Newton Community Development Office by the cut-off date indicated for each of the Commission's regularly scheduled monthly meetings.
5. All drawings, photographs and sample materials as required by the ordinance and/or checklist must be completed and submitted with the application. Incomplete applications will not be accepted and will not be scheduled for a hearing.
6. Applications for Demolition and Relocations must comply with the appropriate sections of the municipal historic preservation ordinance. A public hearing for demolition or relocation will be held by the Planning Board unless otherwise directed by said board. It shall be the applicant's responsibility for completing the public notice.
7. The applicant or a duly authorized agent with power of attorney for the applicant must be present at the scheduled hearing. All corporations must be represented by an attorney. Written confirmation of the date, time and place of the hearing will be provided. Any application which is not properly represented may be denied without prejudice by the Commission. A continuance of the application to the next months

agenda may be permitted upon the applicant's written request and/or consent and grant of an extension of time for the review period.

8. A Certificate of Appropriateness is valid for one year from the date of issuance. Work must commence or be in the ongoing process within said time frame in order for the Certificate of Appropriateness to remain valid. If no activity has transpired within the one year time frame, the Certificate of Appropriateness shall become null and void. Extensions may be granted by the Commission on a case by case basis. The applicant must petition the Commission prior to the expiration date.

Certification: I have read the above information and understand the administrative procedures as they relate to my application.

Applicant's Signature

Date

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HISTORIC PRESERVATION ADVISORY COMMISSION Application for Certificate of Appropriateness (Please print or type)

Block: _____ Lot: _____ HPC Application No.: _____

Property Address: _____

Common Name of Property: _____

Applicant's Name: _____

Applicant's Address: _____

Applicant's Phone: _____ Fax: _____

Form of Ownership: Individual Partnership Corporate
 Government Nonprofit Utility

If applicant is not the owner, state the applicant's authority to bring this application and specific interest in application (i.e. agent for owner, equitable interest, agreement of sale):

Present Use: _____ Proposed Use: _____

Number of Stories: _____ Size of Property: _____

Type of Building Construction: Brick Frame Other _____

Surrounding Property Usage (your neighbors):

North: _____ East: _____

South: _____ West: _____

Has any previous application been filed in conjunction with this property? Yes No
If Yes, please list name and application number under which it was filed:

Identify Nature of Proposed Work:

- Addition Alteration Demolition
 Excavation Relocation Repair
 Replacement Rehabilitation New Construction
 Paint Sign Other: _____

Current Condition of Affected Areas (existing materials and finishes): _____

PROPOSED WORK PROGRAM (attach additional sheets if necessary; provide samples if possible):

A. Describe Proposed Work: _____

B. Materials and Construction Methods and/or Landscaping to be used: _____

C. Will the Proposed Work Match the Existing Architectural Details? Explain:

Please check the appropriate letter as it pertains to your legal representation:

a. ____ I am not represented by an attorney in connection with this application.

b. ____ I am represented by _____

Address: _____

Phone: _____ in connection with this application.

CERTIFICATION: I hereby certify that the above statements made and contained in this application including any attachments are true and correct to the best of my knowledge and belief. I further understand that any falsification of information may be considered reason to deny this application. NOTE: If the applicant is other than the owner, then the owner must countersign this application indicating is/her concurrence.

Applicant's Signature

Date

Owner's Signature
(Required if applicant is not owner)

Date

Contact Person in Charge of Work, Title

Phone No.

Fax No.

Date Received by
Administrative Officer

HPC Administrative Officer

The following checklist is for your use in completing your application for a Certificate of Appropriateness. Those items marked with an asterisk (*) are required for all applications. Other items listed are required if they are relevant to the application. The Commission also has the right to request additional information if it is determined that it will materially supplement or help to clarify a specific issue regarding the application.

	Property Owner Check Here	Town Official Check Here
1. Completed copy of application form. *	_____	_____
2. Photographs of building(s) taken of the street side(s), also photographs of specific area(s) to be affected by the proposed work (minimum 3 photos). *	_____	_____
3. Copy of the tax map. *	_____	_____
4. Copy of survey for the subject property. *	_____	_____
5. Brochure(s) showing the types of doors, windows, fencing, light fixtures, etc. for such items contained in the application. *	_____	_____
6. Sketch of proposed modifications showing the proposed improvements in relation to the face of the building the work is to be done on. In the event the modification is substantial, then architectural drawings shall be required.	_____	_____
7. Samples of the siding or roofing materials proposed.	_____	_____
8. Other materials that will help explain your proposal.	_____	_____
9. Specifications for specific improvements.	_____	_____
10. All signs require a scale drawing of the sign in place showing the sizes and type faces, along with any graphic devices, proposed to be used.	_____	_____

Chapter 139 Historic Preservation

[HISTORY: Adopted by the Town Council of the Town of Newton 4-9-2012 by Ord. No. 2012-12.14] Amendments noted where applicable.]

GENERAL REFERENCES

Flood damage prevention — See Ch. **120**.

Land use procedures — See Ch. **166**.

Land subdivision and site plan review — See Ch. **240**.

Zoning: form-based code — See Ch. **320**.

ATTACHMENTS

Attachment 1 - Appendix A, Approved Alternate Materials  Attachment 2 - Appendix B, Historic District Map  Attachment 3 - Appendix C, Designated Historic Landmarks 

[1] Editor's Note: This ordinance also repealed former Ch. 139, Historic Preservation, adopted 6-8-1970 as Ch. 20A of the Revised General Ordinances, as amended.

§ 139-1 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."

§ 139-2 Establishment 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 chapter as "the Commission."
- B.** In adopting this chapter, it is the intention of the Town Council to create an agency which will work with and advise the Planning Board on the effect of development applications on designated historic landmarks or improvements within the historic district. In addition, the Commission shall review all development activities involving the exterior of a historic landmark or an improvement within the historic district.
- C.** This chapter 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 exact 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,^[1] as set forth in Appendix B, Historic District Map, and Appendix C, Designated Historic Landmarks, both appendices which are attached at the end of this chapter.

[Amended 11-23-2015 by Ord. No. 2015-33]

[1] Editor's Note: The Transect Zone Map is included at the end of Ch. 320.

§ 139-3 **Intended purposes.**

These historic preservation regulations are intended to effect and accomplish the protection, enhancement and perpetuation 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 based on the current socioeconomic conditions.
- C.** To maintain and develop an appropriate and harmonious setting for the historic and architecturally significant buildings, structures, site objects, or district within the Town of Newton.
- D.** To stabilize and improve property values within the district.
- E.** To promote appreciation of historic landmarks for education, pleasure and the welfare of the local population.
- F.** To encourage beautification and private reinvestment.
- G.** To manage change by encouraging any alteration or new construction within the district to be in keeping with the historic nature of the structure.

- H.** To discourage the unnecessary demolition of historic resources, which remain viable structures contributing value to the district.
- I.** To recognize the importance of individual historic landmarks located outside of a district by urging property owners and tenants to maintain their properties.
- 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 within the district.

§ 139-4 **Definitions.**

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

ADDITION

The construction of a new improvement as part of an existing structure when such new improvement changes the exterior architectural appearance of any landmark.

ADMINISTRATIVE OFFICER

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 chapter.

AFFECTING A LANDMARK OR HISTORIC DISTRICT

Any development activity which alters the exterior architectural appearance of a historic landmark or any improvement within the historic district.

ALTERATION

Any physical changes to the exterior of a building in the historic district that do not physically expand property; but which are permanent, not just decorative.

APPROVED ALTERNATE MATERIALS

A list of materials approved for use in the historic district to repair or replace existing materials within the district. The list can be found at the end of this chapter as Appendix A and may be revised from time to time to incorporate newly available materials on the market. Materials are intended to be similar to existing materials such that appearance is similar yet cost savings can be achieved as well as improved energy efficiency.

BUILDING

A structure created to shelter human activity.

DEMOLITION

A partial or total razing or destruction of any building or of any improvement within the historic district.

DISREPAIR

The condition of being in need of repairs; a structure or building in disrepair.

HISTORIC DISTRICT

- A.** 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:
- (1)** Represent a significant period(s) 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 district from surrounding portions of the Town.
- B.** Resources within the historic district shall be classified as "key," "contributing" or "noncontributing," 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) NONCONTRIBUTING

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)

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 chapter to be:

- A.** Of particular historic significance to the Town of Newton at the time it was built by reflecting or exemplifying the broad cultural, political, economic or social history of the nation, state or community;
- B.** Associated with the historic personages important in national, state or local history;
- C.** The site of a historic event which had a significant effect on the development of the nation, state or community;
- D.** An embodiment of the distinctive characteristics of a type, period, or method of architecture or engineering; or
- E.** Representative of the work or works of a locally, regionally or nationally important builder, designer, artist or architect.

HISTORIC PRESERVATION ADVISORY COMMISSION

The body which, for the purposes of this chapter, acts as the Historic Preservation Commission as cited in the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

IMPROVEMENT

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 120 continuous days.

OBJECT

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.

ORDINARY MAINTENANCE

Repairing any deterioration, wear or damage to a structure or any part thereof, in order to return to a similar state 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 or similar approved materials having the same appearance. (See Appendix A^[1]).

OVERLAY ZONE DISTRICT

A zoning district made up of underlying zone districts or parts of zone districts as shown on the Town Zoning Map.^[2] An overlay zone district controls certain standards with the exception of bulk and use requirements which are controlled by the underlying zone district(s).

REMOVAL

To partially or completely cause a structure or a portion of a structure to change to another location, position, station or residence.

REPAIR

Any work done on any improvement which:

- A.** Is not an addition to the improvement; and

- B. Does not change the exterior architectural appearance of any improvement.

REPLACEMENT

Repairs affecting the exterior architectural appearance of a structure.

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 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

Any man-made work arranged in a definite pattern of organization.

UNDERLYING ZONE DISTRICT

A zoning district which forms a constituent part of an overlay zone district.

Underlying zone districts control bulk and use requirements.

[1] *Editor's Note: Appendix A is included at the end of this chapter.*

[2] *Editor's Note: The Transect Zone Map is included at the end of Ch. 320.*

§ 139-5 Application of provisions.

This chapter shall apply to all landmarks in a district and to any other historic resources which are designated in accordance with the procedures outlined in § 139-9.

§ 139-6 Permitted uses.

All uses permitted for a historic landmark or for structures within the historic district shall be those designated by the Zoning Ordinance.^[1]

[1] *Editor's Note: See Ch. 320, Zoning: Form-Based Code.*

§ 139-7 **Area and height regulations.**

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

§ 139-8 **Historic Preservation Advisory Commission.**

- A.** The Historic Preservation Advisory Commission shall consist of five members and two 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.** Categories; composition.
- (1)** 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:
- (a)** Class A: a person who is knowledgeable in building design and construction or in architectural history and who may reside outside the municipality; however preference should be given to residents of the Town.
- (b)** Class B: a person who is knowledgeable or has a demonstrated interest in local history and who may reside outside the municipality; however preference should be given to residents of the Town.
- (c)** 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.

- (2) The Commission shall include five regular members and a maximum of two alternates, who shall be designated Alternate No. 1 and Alternate No. 2. There shall be at least one member appointed to the Commission from each Class A and B. Alternate members shall only be Class C members.
- 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 serve for two-year terms. All members may, at the expiration of their terms, be eligible for appointment to four-year terms, except for alternate members who are eligible for two-year terms. If a Commission member is also a Planning 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 members.
 - (3) All Commission minutes and records are public records and all Commission meetings shall comply with the Open Public Meetings Act, N.J.S.A. 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, 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 or Town Council.

- (6) No Commission member shall be permitted to act on any matter in which he has either directly or indirectly any personal or financial interest.
- E.** A member of the Newton Town Council shall be designated as liaison between the Historic Preservation Advisory Commission and the Town Council.
- F.** The Historic Preservation Advisory Commission shall be responsible:
- (1) To review historic 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;
 - (2) 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 § 139-9;
 - (3) 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;
 - (4) To advise the Planning Board on how development and zoning applications affect historic landmarks in accordance with the procedure established in § 139-11;
 - (5) To review all proposed actions, including those involving building permit applications, which affect the exterior architectural appearance of historic landmarks or improvements within the historic district; to advise the Planning Board on the approval of said requests in accordance with the procedures established in § 139-12;
 - (6) To review all proposed actions and applications for actions affecting the exterior architectural appearance of a historic landmark or an improvement within the historic district and to make recommendations to the Planning Board in accordance with the criteria outlined in § 139-13;

- (7)** 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; therefore securing state, federal and other grants in aid to assist therein and monitoring such projects once underway;
- (8)** To seek voluntary assistance from the public where helpful and practical and to secure professional assistance to assist the Commission in its work when within the Commission's budget as set forth by the Town Council;
- (9)** 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 chapter;
- (10)** To request the Town Council or its designated agent to seek, on its own motion or otherwise, injunctive relief for violations of this chapter or other actions contrary to the intent and purposes of this chapter;
- (11)** To advise and assist the Planning Board during the preparation and/or update of the municipal Master Plan, the Historic Preservation Plan Element of the Master Plan;
- (12)** To prepare and distribute the Historic District Guideline Handbook to be utilized for application reviews and foster appropriate rehabilitation within the historic district;
- (13)** To undertake educational programs, including:

 - (a)** The preparation of publications aimed at stimulating interest in and sensitivity to historic preservation; and
 - (b)** The placing of historic markers on structures;
- (14)** To report at least annually to the Town Council on the state of historic preservation in the Town and recommend measures to improve same;

- (15) To collect and disseminate material on the importance of historic preservation and techniques for achieving same; and
- 16) To advise all municipal agencies regarding goals and techniques of historic preservation.

§ 139-9 **Designation of historic landmarks and 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 at the time of its construction;
 - (2) Associated with historic personages important in national, state, or local history;
 - (3) The site of a historic event which had a significant effect on the development of the nation, state, or community;
 - (4) An embodiment of the distinctive characteristics of a type, period, or method of architecture or engineering;
 - (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.
- 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 § **139-9A**, 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 § **139-9C**.

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 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 prepare a concise report, including a list and a map of its recommendations for sites to be designated as local landmarks. Copies of the report shall be delivered to the Town Manager, the Town Council, 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 that final designation shall be made by the Town Council at a public meeting specified on a date not less than 15 days nor more than 45 days from the date of publication. 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 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.

D. 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.

§ 139-10 **Actions requiring review by Historic Preservation Advisory Commission.**

A. Review.

- (1)** All permits and development applications involving all development activities that affect a historic landmark or an improvement within the historic district shall be reviewed by the Commission, except as set forth in § **139-10B** of this chapter. Such review shall be required for the following actions:
 - (a)** Demolition of a historic landmark or of an improvement within the historic district;
 - (b)** Relocation of any improvement within the historic district or of any historic landmark;
 - (c)** All changes in the exterior architectural appearance of any improvement within the historic district or of any historic landmark by addition, alteration or replacement;
 - (d)** Any new construction on the exterior of an improvement in the historic district;
 - (e)** Site plans or subdivisions affecting a historic landmark or an improvement within the historic district;
 - (f)** Zoning variances affecting a historic landmark or an improvement within the historic district.
- (2)** 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 the 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 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 only be such that 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 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 chapter. All work done under this section shall conform to the criteria set forth in § **139-13** and the guidelines for review of applications as adopted by the Planning Board in accordance with § **139-8** of this chapter.
- (2)** For changes to the interior of structures.
- (3)** For ordinary repairs and maintenance which do not constitute a change to the appearance of the structure. The following are the only activities which do not require Commission review according to these criteria:

 - (a)** Repair of existing windows and doors using the same or approved alternate material (See Appendix A^[1]); installation of storm windows that are compatible with the architectural period or design of the subject structure;
 - [1] Editor's Note: Appendix A is included at the end of this chapter.*
 - (b)** Maintenance and repair of existing roof material, involving no change in the design, scale, material or appearance of the structure;
 - (c)** Repair of existing roof structures, such as cupolas, dormers and chimneys, using the same or approved alternate materials (see Appendix A) which will not alter the exterior architectural appearance of the structure;

- (d) Replacement in kind or utilizing approved alternates (see Appendix A) of existing shingles, clapboards, or other siding maintaining the architectural integrity of the structure;
- (e) Maintenance and repair of existing shingles, clapboards or other siding, using the same or approved alternate materials (see Appendix A) as that being repaired or maintained;
- (f) Exterior painting of existing structures;
- (g) Repairs to existing signs, shutters, garage doors, doors, outdoor displays, fences, hedges, street furniture, awnings, off-street driveway and parking materials, and sidewalks using the same or approved alternate materials (see appendix A^[2]) for those items noted above being repaired.

[2] *Editor's Note: Appendix A is included at the end of this chapter.*

- (h) For new or replacement signs refer to Chapter **320**.

§ 139-11 **Procedures for Commission's review of development and zoning applications.**

- A.** For all applications presented to the Planning Board which affect a historic landmark or an improvement within the historic district, the property owner shall submit a historic landmark project review application to the Historic Preservation Advisory Commission for review. 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 § **139-12** of this chapter.
- B.** The Planning Board Secretary will forward to the Commission a complete set of all application materials.
- C.** The Commission's recommendation shall focus on how the proposed undertaking would affect a landmark's historic or architectural significance in considering the Commission's recommendations, the Planning Board shall be guided by the review criteria established in § **139-13** of this chapter:

§ 139-12 **Procedures for Commission's review of building permits and alterations.**

Prior to undertaking any action affecting the exterior architectural appearance of a historic landmark or any building within the historic district, the property owner shall receive approval or signoff from the Zoning Officer or Construction Official.

§ 139-13 **Criteria for review of applications.**

In reviewing an application for its effect on a historic landmark or an improvement within the historic district, the following criteria shall be used by the Historic Preservation Advisory Commission and the Planning Board. The criteria set forth in § **139-13A** relate to all projects affecting a historic landmark or an improvement within the historic district. The criteria set forth in § **139-13B** through **E** relate to specific types of undertakings and shall be used in addition to the general criteria set forth in § **139-13A**.

- A.** In regard to all applications affecting a historic landmark or an improvement within the 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 the historic district from a public street.
 - (5)** If the application deals with a structure within the 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.

- (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 nondirectional character.

B. In regard to an application for new construction, alterations, additions, or replacement affecting a historic landmark or an improvement within the 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 nondirectional character.

C. Rehabilitation. Supplemental design guidelines which should be considered in evaluating the appropriateness of changes to a historic landmark or within the 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, and 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)** A structure's related exterior features such as lighting, fences, signs, sidewalks, driveways, and parking areas shall be

compatible with 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.

- (b) It is the intent of this chapter to preserve the integrity and authenticity of the historic preservation districts and to ensure the compatibility of new structures therein.

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

- (1) Its historic, architectural, cultural or scenic significance in relation to the criteria established in § **139-9A**.

- (2) If it is within the 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.^[1]

[1] *Editor's Note: See Ch. 320, Zoning: Form-Based Code.*

- (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 the historic district, the probable impact of its removal upon the ambiance of the historic district.

E. In regard to an application to move any historic landmark or to move any structure within the 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 chapter.

(4) If the proposed new location is within a district, visual compatibility factors as set forth in § 139-13B.

(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.

§ 139-14 **Effect of project approval, denial, appeal.**

A. Approval by the Construction Official and Planning Board in accordance with the procedures in §§ 139-11 and 139-12 shall be deemed to be final approval pursuant to this chapter. 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 the 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 the historic district which was the subject of the denied application.

C. Demolition of landmarks.

- (1)** 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 the 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 the 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.
- (2)** 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:

 - (a)** 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.
 - (b)** Assessed value of the land and improvements thereon according to the most recent assessment.
 - (c)** For depreciable properties, a pro forma financial statement prepared by an accountant or broker of record.
 - (d)** All appraisals obtained by the owner in connection with his purchase or financing of the property, or during his ownership of the property.

Planning Board of the Town of Newton. As a result of the subsequent decision by the Planning Board, should the applicant wish to seek further redress, then such appeal shall be filed 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 Planning Board in the same manner as if the appeal were taken pursuant to N.J.S.A. 40:55D-72 from any action by the administrative officer.

§ 139-15 **Violations and penalties.**

- A.** Any person who shall undertake an activity which would cause a change in the exterior architectural appearance of any historic landmark by addition, alteration, or replacement without first obtaining the approval of the Historic Preservation Advisory Commission or a zoning permit pursuant to § **139-12** shall be deemed to be in violation of this chapter.
- 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 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 10 days of service or posting on site, whichever is earlier, the Zoning Officer shall cause to be issued a summons and complaint, returnable to the municipal court, charging violation of this chapter 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 chapter.
- D.** The penalty for violation shall be as follows:
 - (1)** For each day up to 10 days, not more than \$100 per day.

(2) For each day from 11 days to 25 days, not more than \$150 per day.

(3) For each day beyond 25 days, not more than \$200 per day.

E. If any person shall undertake an activity which would cause a change in the exterior architectural appearance of any improvement within the 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 preactivity 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 10 days after the delivery of notice pursuant to § **139-15B** hereof. Such injunctive relief shall be in addition to the penalties authorized under § **139-15D** 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.

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.

§ 139-16 **Powers of Commission with respect to other boards and committees; severability.**

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 chapter are hereby repealed to the extent of such conflict or inconsistency, provided not otherwise required by law.

HISTORIC PRESERVATION

139 Attachment 1

Town of Newton

Appendix A Approved Alternative Material

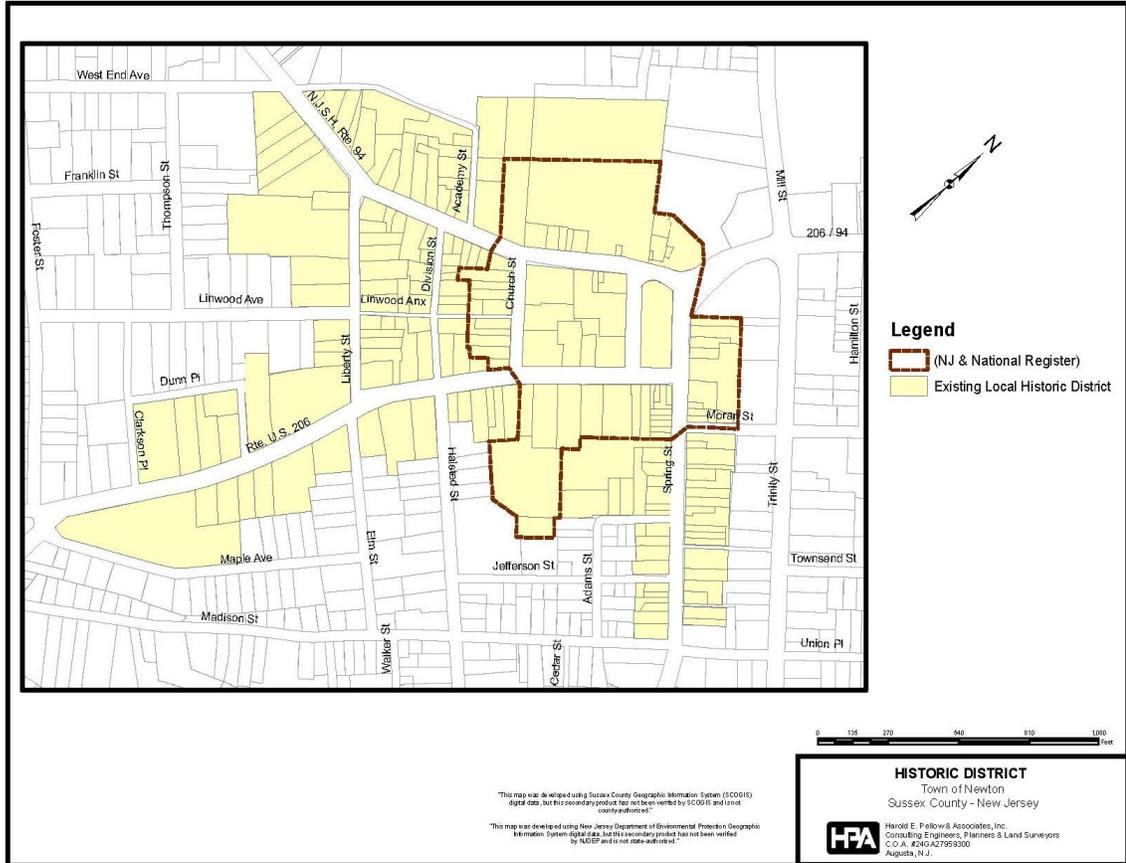
1. Windows:
 - a. Welded vinyl or PVC windows provided they have a five star energy efficiency rating and are of similar appearance.
 - b. Fiberglass windows provided they have a five star energy efficiency rating and are of similar appearance.
 - c. Wood windows provided they have an energy efficiency rating and are of similar appearance.
 - d. Steel or aluminum windows for commercial structures provided that they have an energy efficiency rating and are of similar appearance.
2. Siding:
 - a. Vinyl siding or shingles provided that it has a five star energy efficiency rating and is of similar appearance.
 - b. Fiber cement siding or shingles, i.e., Hardiplank or recognized equal provided it is of similar appearance.
 - c. Engineered wood siding provided it is of similar appearance.
 - d. Brick veneer provided it is of similar appearance.
 - e. Stone veneer provided that it is of similar appearance.
 - f. Fabricated stone paneling provided that it is of similar appearance.
 - g. Simulated stucco products provided they have insulating value.
3. Roofing:
 - a. Simulated slate shingles provided that they are forty-year wear.
 - b. Composite slate shingles.
4. Architectural Elements:
 - a. Glass fiber reinforced polymers provided that they are of similar appearance.
 - b. Cast stone provided that they are of similar appearance.
 - c. Glass fiber reinforced stone provided that they are of similar appearance.
 - d. Glass fiber reinforced concrete provided that they are of similar appearance.
5. Residential Doors:
 - a. Decorative fiberglass, vinyl, FRP, or steel provided that they are of similar appearance.
6. Commercial Doors:
 - a. Fiberglass, glass, FRP or steel provided that they are insulated and of similar appearance to door being replaced.
7. Signs and awnings may be added to a commercial structure or building as permitted in Chapter 320, Zoning: Form-Based Code, of the Town of Newton Ordinances.

HISTORIC PRESERVATION

139 Attachment 2

Town of Newton

Appendix B Historic District Map



**TOWN OF NEWTON
PLANNING BOARD**

SITE INSPECTION AUTHORIZATION FORM

I hereby give permission for the Town of Newton Planning Board and their agents to come upon and inspect the premises with respect to this application for a ___ _ on Block _____, Lot _____, Newton, Sussex County, New Jersey.

Owner's Signature: _____

Date: _____