

Town of Southampton, NY
Friday, September 28, 2012

Article XXVIII. Landmarks and Historic Districts and Heritage Resource Areas

[Added 10-27-1998 by L.L. No. 38-1998; amended 6-8-1999 by L.L. No. 7-1999 *Editor's Note: This local law renumbered the provisions of the Landmarks and Historic Districts from Art. XXVII to Art. XXVIII and from §§ 330-248 through 330-258 to §§ 330-320 through 330-330.]*

§ 330-320. Landmarks and Historic Districts Board.

[Amended 8-12-2003 by L.L. No. 63-2003 *Editor's Note: This local law also changed the title of Art. XXVIII to add "and Heritage Resource Areas."* ; 4-12-2005 by L.L. No. 13-2005; 8-9-2005 by L.L. No. 40-2005]

- A. The Town Landmarks and Historic Districts Board is hereby established. The Board shall consist of nine Town residents to be appointed by the Town Board and, to the extent available in the community, shall be representative of the entire Southampton Town community and drawn from the following disciplines: architecture, architectural history, archaeology, local history, law, historic preservation and real estate. All members shall have demonstrated significant interest in and commitment to the field of historic preservation or related fields and shall have a known interest in historic, cultural, and architectural development within the Town of Southampton. The Southampton Town Historian shall serve as an ex-officio member of the Landmarks and Historic Districts Board.

[Amended 10-11-2011 by L.L. No. 33-2011]

- B. Landmarks and Historic Districts Board members shall serve for a term of three years, with the exception of the initial term of one of the members which shall be one year, two for two years and two for three years. Members may serve for more than one term.

[Amended 10-11-2011 by L.L. No. 33-2011]

- C. The Chairman shall be annually selected by the Town Board. The Town Board may elect to designate a Vice Chairman and Secretary.
- D. Administrative support for the Landmarks and Historic Districts Board shall be provided by the Department of Land Management, which shall also perform records management, prepare minutes and agendas, and receive and distribute correspondence on behalf of the Board.
- E. The Landmarks and Historic Districts Board shall adopt rules of procedure as it may deem necessary to the proper exercise of its responsibilities.

[Amended 10-11-2011 by L.L. No. 33-2011]

- F. The Landmarks and Historic Districts Board shall be empowered to:

[Amended 10-11-2011 by L.L. No. 33-2011]

- (1) Conduct surveys of significant historic, architectural and cultural landmarks and historic districts within the Town.
- (2) Recommend the designation of significant historic, architectural and cultural landmarks and the establishment of historic districts to the Town Board.

- (3) Increase public awareness of the value of historic, architectural and cultural preservation by developing, implementing and participating in public education programs.
 - (4) Make recommendations to the Town Board concerning the donation or acquisition of facade easements, development rights or other interests in real property as necessary.
 - (5) Make recommendations to the Town Board concerning the utilization of state or private funds to promote the preservation of landmarks and historic districts within the Town of Southampton.
 - (6) Recommend acquisition of a landmark structure by the Town Board where its preservation is essential to the purposes of this act and where private preservation is not feasible.
 - (7) Make recommendations to the Town Board regarding staff and professional consultants necessary to carry out the duties of the Board.
 - (8) Engage in opportunities for professional development.
 - (9) Approve or disapprove applications for certificates of appropriateness.
 - (10) Recommend site selection as Hamlet Heritage Resource Areas.
- G. The Town Landmarks and Historic Districts Board Cultural Resources Subcommittee is hereby established. The Cultural Resources Subcommittee shall consist of at least three Town residents and may include ex-officio members duly recognized by the Landmarks and Historic Districts Board. All members shall have demonstrated significant interest in and commitment to the field of historic preservation or related fields and shall have a known interest in archaeology. The terms of office of the members of the Cultural Resources Subcommittee shall run concurrent with the terms of the Landmarks and Historic Districts Board appointments, unless otherwise designated by the Landmarks and Historic Districts Board.

[Added 8-12-2008 by L.L. No. 53-2008]

- (1) The Cultural Resources Subcommittee shall be empowered to:
 - (a) Research and identify possible historic or archaeologically sensitive lands in the Town of Southampton.
 - (b) Recommend a structured archaeological process for the Town.
 - (c) Make recommendations to the Town Board regarding professional consultants necessary to carry out archaeological services.
 - (d) Review and comment on archaeological reports of sensitive lands in the Town.
 - (e) Work closely with the Landmarks and Historic Districts Board, the Planning Board, and the Town Board to make recommendations regarding archaeologically sensitive lands in the Town, including but not limited to potential burial grounds, sacred sites, and places that may hold subsurface cultural resources.

§ 330-321. Procedure and criteria for designation of landmarks or historic districts.

[Amended 7-24-2001 by L.L. No. 26-2001; 10-11-2011 by L.L. No. 33-2011]

- A. All applications for the designation of a landmark or historic district shall be available from and submitted to the Department of Land Management and forwarded to the Landmarks and Historic Districts Board for review. Upon a determination of completeness by the Landmarks

and Historic Districts Board, the Landmarks and Historic Districts Board shall submit an advisory report to the Town Board and file same with the Town Clerk.

B. Upon the submission of an advisory report by the Landmarks and Historic Districts Board, the Town Board may designate landmarks based on the following criteria, after a public hearing in accordance with this article and with the written consent of the property owner.

(1) The Town Board may designate an individual property as a landmark if it meets one or more of the following criteria:

- (a) Possesses special character or historic or aesthetic interest of value as part of the cultural, political, economic or social history of the locality, region, state or nation;
- (b) Is identified with historic personages or is the site of an historic event in the Town, state, or nation;
- (c) Embodies the distinguishing characteristics of an architectural type, period, or style or contains elements of design, details, materials or craftsmanship which represent a significant innovation;
- (d) Is the work of a designer, engineer, builder, artist, or architect whose work has significantly influenced an age;
- (e) Because of a unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood;
- (f) Qualifies for inclusion on the State or National Registers of Historic Places.

(2) The Town Board may designate a group of properties as an historic district after a public hearing in accordance with this article if it:

- (a) Contains properties which meet one or more of the criteria for designation of a landmark; and
- (b) By reason of possessing such qualities, it constitutes a distinct section of the Town of Southampton; and
- (c) Receives a petition indicating the consent of a minimum of 20% of the property owners within the area to be designated.

[1] Religious institutions: Upon application to the Town Board, said Board may exclude a religious institution from an historic district. For purposes of this subsection, a "religious institution" shall be defined as such organization, association or corporation as complies with the requirements set forth in §§ 420-a, 420-b (nonprofit organizations), 460 and 462 of the New York Real Property Tax Law and shall have tax-exempt status as determined by the Assessor of the Town of Southampton.

[2] School district properties: School district properties shall be excluded from the formation of an historic district. For the purposes of this subsection, said property shall be those properties that are exempt from taxation pursuant to § 408 of the Real Property Tax Law, and any amendments thereto, and that such property has tax-exempt status as determined by the Assessor of the Town of Southampton.

C. The boundaries of each historic district designated henceforth shall be specified by a survey or map filed by the Landmarks and Historic Districts Board in the Town Clerk's office.

D. The Town Board shall refer all proposed designations to the Town Planning Board for an advisory report prior to any action.

E. Hearing; notice; actions during designation process.

- (1) The Town Board shall hold a public hearing prior to designation of any landmark or historic district. As directed in the resolution setting the hearing, notice of a proposed designation of property as either an historic landmark or of its inclusion in an historic district shall be sent by certified mail to the owner(s) of record thereof by the Town Clerk, describing the property proposed and announcing a public hearing by the Town Board to consider the designation. The Town Board shall hold such a public hearing within 45 days of receipt of an advisory report from the Landmarks Board regarding the proposed designation. Notice shall be published in the official newspaper at least 10 days prior to the date of the public hearing.
- (2) Once the Town Board has authorized the publication of a proposed designation, no building permits for demolition may be issued for a proposed landmark or a structure which constitutes a contributing element of a proposed historic district and no building permits shall be issued for substantial alterations or addition for a proposed landmark or a structure which constitutes a contributing element of a proposed district.
- (3) Nothing contained in § 330-321E(2) shall prohibit an owner of a property proposed for landmark designation or for inclusion in an historic district from applying for a certificate of appropriateness pursuant to this chapter although the designation process has not been completed.
- (4) The Town Board shall render a determination within 45 days of the close of the public hearing and written record on the proposed designation.

F. At the public hearing, the Town Landmarks and Historic Districts Board, owners and any interested parties may present testimony or documentary evidence which will become part of a record regarding the historic, architectural or cultural importance of the proposed landmark or historic district. The Town Board may request any other information it deems reasonable and necessary to make its determination. The record may also contain staff reports, public comments or other evidence offered outside of the hearing.

G. The Town Board may adopt specific and unique criteria for the review of certificates of appropriateness in a newly designated historic district.

H. The Town Clerk shall forward notice of each property designated as a landmark and of the boundaries of each designated historic district to the office of the Suffolk County Clerk for recording.

§ 330-322. Certificate of appropriateness for alteration, demolition or new construction affecting landmarks or historic districts.

- A. Nothing in this article shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within an historic district which does not involve a change in design, material, color or outward appearance.
- B. No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction or moving of a landmark on property within an historic district, nor shall any person make any material change in the appearance of such a property, its light fixtures, signs, sidewalks, fences, steps, paving or other exterior elements visible from a public street or alley, without first obtaining a certificate of appropriateness from the Landmarks and Historic Districts Board.

[Amended 10-11-2011 by L.L. No. 33-2011]

§ 330-323. Criteria for approval of certificate of appropriateness.

[Amended 10-11-2011 by L.L. No. 33-2011]

- A. In passing upon an application for a certificate of appropriateness, the Landmarks and Historic Districts Board shall not consider changes to interior spaces or consider changes to architectural features that are not visible from a public right-of-way or alley.
- B. When reviewing plans relating to landmarks or properties within an historic district, the Landmarks and Historic Districts Board shall utilize and be guided by the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, a copy of which shall be available in the office of the Town Clerk, as well as the following principles:
- (1) Properties which contribute to the character of the historic district shall be retained, with their historic features altered as little as possible.
 - (2) Any alteration of existing property shall be compatible with its historic character, as well as with the surrounding district.
 - (3) New construction shall be compatible with the district in which it is located.
- C. In applying the principle of compatibility, the Landmarks and Historic Districts Board shall consider the following factors:
- (1) The general design, character and appropriateness to the property of the proposed alteration or new construction.
 - (2) The scale of proposed alteration or new construction in relation to the property itself, surrounding properties and the neighborhood.
 - (3) Texture, materials and color and their relation to similar features of other properties in the neighborhood.
 - (4) Visual compatibility with surrounding properties, including proportion of the property's front facade, proportion and arrangement of windows and other openings within the facade, roof shape and the rhythm of spacing of properties on streets, including setbacks.
 - (5) The importance of historic, architectural or other features to the significance of the property.
- D. The Landmarks and Historic Districts Board may establish reasonable conditions for approval, including the following:
- (1) In an application for demolition, the documentation of the building and site by photographs, drawings or other appropriate means.
 - (2) Prior to new construction, where warranted, the investigation for cultural remains on site. Access to any resulting information may be limited to protect archaeological sites.

§ 330-324. Certificate of appropriateness application procedure.

- A. Prior to the commencement of any work requiring a certificate of appropriateness, the owner (s) or authorized representative shall file an application for such a certificate with the Department of Land Management. The application shall contain:
- (1) Name, address and telephone number of applicant.
 - (2) Authorization for owner's agent or representative.

- (3) Location, Tax Map designation and photographs of the property clearly indicating all public views.
 - (4) Elevation drawings showing existing conditions and proposed changes, if warranted.
 - (5) Perspective drawings, including relationship to adjacent properties, if warranted.
 - (6) Sample of color or materials to be used, if warranted.
 - (7) Where the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination and a plan showing the sign's location on the property.
 - (8) Any other information which the Board may deem necessary in order to visualize the proposed work.
- B. Preliminary plans, elevations, sketches and/or proposals may be submitted to the Landmarks and Historic Districts Board by the applicant for a preapplication conference prior to filing an application for a certificate of appropriateness.

[Amended 10-11-2011 by L.L. No. 33-2011]

- C. No building permit shall be issued for such proposed work until a certificate of appropriateness has first been issued by the Landmarks and Historic Districts Board. The certificate of appropriateness required by this chapter shall be in addition to and not in lieu of any building permit or other approval required by the Town Code of the Town of Southampton.
- D. The Landmarks and Historic Districts Board shall approve or deny, or approve with modifications, the application within 90 days from receipt of the completed application. The Landmarks and Historic Districts Board may hold a public hearing on the application. If the public hearing is held, public notice shall appear in the official newspaper at least 10 days prior to the hearing, and information relative to the public hearing shall be posted on the subject property by the applicant.

[Amended 10-11-2011 by L.L. No. 33-2011]

- E. All decisions of the Landmarks and Historic Districts Board shall be in writing and filed with the Town Clerk.

[Amended 10-11-2011 by L.L. No. 33-2011]

§ 330-325. Hardship application procedure.

[Amended 10-11-2011 by L.L. No. 33-2011]

- A. After receiving written notification of a proposed designation of property as either an historic landmark or of its inclusion in an historic district or of the denial of a certificate of appropriateness, an applicant may request hardship relief from the Zoning Board of Appeals (the "Zoning Board"). No building permit or demolition permit shall be issued unless the Zoning Board makes a finding that a hardship exists.
- B. The Zoning Board shall hold a public hearing on the hardship application, upon at least 10 days' notice in the official Town newspaper.
- C. The applicant shall consult in good faith with the Landmarks and Historic Districts Board, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property.

D. All decisions of the Zoning Board shall be in writing and filed in the office of the Town Clerk.

§ 330-326. Hardship criteria.

[Amended 10-11-2011 by L.L. No. 33-2011]

- A. A property owner seeking relief from landmark designation or inclusion in an historic district or an applicant whose certificate of appropriateness for a proposed demolition has been denied may apply for relief on the ground of hardship. In order to prove the existence of hardship, the applicant shall establish that:
- (1) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence; and
 - (2) The property cannot be adapted for any other use, whether by the current owner or by a prospective purchaser, which would result in a reasonable return; and
 - (3) Efforts to find a purchaser interested in acquiring the property and preserving it have failed; and
 - (4) There is an absence of responsibility on behalf of the applicant for any neglect of maintenance that may have contributed to the hardship; and
 - (5) Any difficulty asserted by the applicant is in no manner self-created.
- B. An applicant whose certificate of appropriateness for a proposed alteration has been denied may appeal for relief on the ground of hardship. In order to prove the existence of hardship, the applicant shall establish that he cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.

§ 330-327. Maintenance and repair required.

[Amended 10-11-2011 by L.L. No. 33-2011] No owner or person with an interest in real property designated as a landmark or included within an historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Landmarks and Historic Districts Board, produce a quantifiable detrimental effect upon the character of the historic district as a whole or the life and character of the property itself.

§ 330-328. Enforcement.

It shall be the duty of the Building Inspector to administer and enforce the provisions of this article.

§ 330-329. Penalties for offenses.

Violations of this article shall be subject to the penalties and procedures set forth in § 330-186 of this chapter.

§ 330-330. Appeals.

- A. Any person aggrieved by a decision of the Zoning Board of Appeals relating to hardship may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules.
- B. Any person aggrieved by any other decision of the Landmarks and Historic Districts Board may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules.

330 331. Hamlet Heritage Resource Area .

[Added 8-12-2003 by L.L. No. 63-2003]

- A. Heritage resources are man-made objects at least 50 years old that are connected to human activity. These resources could be any buildings used to house human or animal activities, i.e., homes, sheds, garages, mills, barns, agricultural buildings, offices, schools, churches, commercial and public-use buildings. It could be structures such as bridges, canals, roads, docks, fences, monuments and sculptures. It could also be burying grounds, trails, archaeological and commemorative or historic sites. These resources, when grouped together, help convey the special heritage of an area.
- B. Hamlet Heritage Resource Area is an honorary title bestowed in recognition of the special character of a neighborhood, hamlet or area. It honors the properties and the community that has cherished its historic heritage. Properties selected as hamlet heritage resources retain the same current Town rights, uses or regulations. Properties selected as part of Hamlet Heritage Resource Areas are not designated as Town landmarks or Town historic districts. The Hamlet Heritage Resource selection is for honorary purposes only.

330 332. Procedure and criteria for selection a heritage resource area .

[Added 8-12-2003 by L.L. No. 63-2003]

- A. Any person, organization or board of the Town of Southampton may submit an application to the Town Clerk to nominate a man-made object or group of Historic Resources for selection as a Hamlet Heritage Resource Area.
- B. Copies of the application shall be forwarded by the Town Clerk to the Department of Land Management, and the Landmarks and Historic Districts Board for review. Upon a determination of completeness by the Landmarks Board, the Department of Land Management and the Landmarks and Historic Districts Board shall submit an advisory report to the Town Board.
- C. In its advisory report to the Town Board, the following criteria will be considered for selection of a Hamlet Heritage Resource Area by the Landmarks and Historic Districts Board:
 - (1) Date of the heritage resource.
 - (2) The building style of the structure.
 - (3) Compatibility of additions and alterations to the original structure.
 - (4) Association of the heritage resource with a significant architect or builder.
 - (5) Association of the heritage resource with a prominent person.
- D. The Town Board may schedule a public hearing on the proposed nomination of a Hamlet Heritage Resource Area or publish a notice of complete application and written comment period. A public hearing is not required.
- E. Upon receipt of the Landmarks and Historic Districts Board's advisory report, the Town Board may consider a resolution approving the site selection as a Hamlet Heritage Resource Area.
- F. Upon selection as a Hamlet Heritage Resource Area, the description and the location of the man-made object or group of historic resources so selected as a Hamlet Heritage Resource Area shall be listed in a directory entitled "Heritage Resource Areas" to be maintained by the Landmarks and Historic Districts Board. Said directory shall be maintained on file in the Department of Land Management and the office of the Town Clerk.