

Chapter 220. Zoning

Article IV. Zoning Use and Overlay Districts

§ 220-21. Historic Preservation Overlay District (HP-OD).

The Town of Milton's HP-OD includes a large National Register Historic District placed on the National Register of Historic Places in 1982. The Town of Milton is a Delaware Certified Local Government. The following code enforces a zoning ordinance for the designation and protection of historic properties located within the HP-OD.

A. Intent

These regulations are applicable to real property and improvements within the Residential (Historic) Commercial (Historic) and Town Center (Historic) Zoning Districts, hereafter referred to as the "Historic Preservation Overlay District (HP-OD)" Because structures in the Historic District are individual in their location, size, style, and history, the Town of Milton HPC will consider each property as a unique entity and make decisions according to Chapter 220-21 of the Town Code with consideration of the Secretary of the Interior's Standards for Rehabilitation:

<http://www.nps.gov/tps/standards/rehabilitation/rehab/stand.htm>

B. Purpose

The purpose of this Section shall be to accomplish the following:

- (1) To assist in preserving the historic character and the cultural significance of the Town of Milton.
- (2) To safeguard the heritage of the Town by preserving the elements which reflect the cultural, social, economic, political or architectural history of the Town.
- (3) To promote the use and preservation of the values as established by the Town of Milton Comprehensive Plan.
- (4) To recommend alteration or new construction in keeping with the National Register Historic District Standards.
- (5) To recommend rehabilitation rather than demolition of contributing structures or historic properties.
- (6) To encourage the proper maintenance, preservation and, when necessary, alteration of structures in the Historic District.
- (7) To promote the use of the district for the education, pleasure and welfare of Milton's citizens and visitors.

C. Definitions

In this Section, the following definitions shall be applicable unless the context clearly indicates to the contrary:

ADDITION(S) - Any enlargement of a structure whether by extension on any side, front or rear portion of the structure or by an increase in height of the structure.

ALTERATION(S) - Any activity requiring a building permit, the approval of the Town of Milton Code Department, and/or any change in the exterior appearance (other than maintenance) or structural change, including but not limited to construction, reconstruction, renovation, modification, alteration, moving or demolition of a noncommercial structure within the Town of Milton HP-OD.

ARCHITECTURAL VALUE OR SIGNIFICANCE - Exists when a property embodies the distinctive characteristics of a type, period or method of construction and/or represents an established or familiar visual feature of the neighborhood, community or Town due to its singular physical characteristic or landscape.

BUILDING - A combination of materials to form a construction for use as shelter for any form of human activity.

BUILDING HEIGHT, ESTABLISHED - Subject to approval by the Historic Preservation Commission pursuant to this Section, the height of any single-family dwelling located in the Historic District and in public view may be increased to the same height as any other existing single-family dwelling within 100 feet of the front property line, on the same side of the street and within the same block Upon confirmation by the Building Official that all applicable requirements are met. An addition to an existing single-family structure that is located within the Historic District, but will not be in public view, may be built to the height of the existing structure to maintain existing rooflines and architectural features. No structure shall exceed the height as stated in the Density Control Table for the underlying district.

CODE ENFORCEMENT OFFICER - The Town official charged with enforcement of the Zoning Ordinance. The Code Enforcement Officer is the person hired for this purpose as an employee by the Town Council or its designee.

COMMERCIAL STRUCTURE/SITE - Any structure or site which is currently used primarily for commercial activities and not primarily for residential uses.

CONTRIBUTING BUILDINGS - Buildings that are judged to add to the Historic District's sense of time, place, and historic development under criteria established by the HPC, ¹¹ including historical significance, integrity and context. Such structures are so designated because they meet an architectural test (i.e., compatible with surrounding buildings, or represent an architectural style identified with Milton's history).

DEMOLITION - Destruction, razing, commencement of the work or steps of total or partial destruction with the purpose of completing the same; includes any willful neglect

in the maintenance and repair of a structure that threatens to result in substantial deterioration of the exterior features or the structural integrity of the building.

HISTORIC DISTRICT -An overlay zone within Town of Milton identified and designated as having historic importance. The Historic District is shown on the Town of Milton Zoning Maps as a series of zoning districts characterized as "historic."

HISTORIC PRESERVATION COMMISSION - A Commission consisting of five to nine members recommended by the Mayor and confirmed by the Town Council to serve a term of three years each. A majority of the members of the HPC shall reside within the Historic Preservation Overlay District of the Town of Milton.

HISTORIC PROPERTIES - Commercial and non-commercial structures and sites, public rights-of-way or areas designated by Town Council as having importance in the history of the Town of Milton as listed in Appendix A. [NOTE: Appendix A (List of Structures within the Historic Preservation Overlay District) is on file in the Town Offices.]

HISTORIC VALUE OR SIGNIFICANCE - Exists when a property embodies the distinctive characteristics of a type, period or method of construction and/or represents an established or familiar visual feature of the neighborhood, community or Town due to its singular physical characteristic or environmental setting.

IN PUBLIC VIEW - That portion of a structure that is visible, or could be visible in the absence of a fence or landscaping, from the section of a public right-of-way or public street. If the dwelling is located on more than one street, then that portion of a structure that is visible, or could be visible in the absence of a fence or landscaping, from any section of a public right-of-way or public street abutting a property line of the property on which the structure exists.

MAINTENANCE/REPAIR - Ordinary repairs and maintenance, including design, materials, features or finishes of a structure which do not alter the exterior appearance of the structure and have no material effect on the historical, archaeological or architectural significance of the structure. Paint color is not subject to review.

MAYOR AND TOWN COUNCIL - The elected, or duly appointed, Mayor and members of the Town Council of the Town of Milton, Delaware. Hereinafter known as "Town Council."

MIXED-USE BUILDING/ STRUCTURE/ SITE - Any building, structure, site or unimproved land that is currently used for both commercial and residential uses, including structures, sites or unimproved land that may fall under the zoning definition of "Town Center."

NONCONTRIBUTING BUILDING/ STRUCTURES - Structures that do not add to the Historic District's sense of time, place and historic development. (i.e., compatible with surrounding buildings or represent an architectural style identified with Milton's history) or those buildings/structures which may have been moved from their original locations within the Historic District to another location within the Historic District.

OUTBUILDING - A term used to refer to all non-residential structures on a site, including any accessory structure.

PROJECT COORDINATOR - The Town official responsible for assisting members of the public with the application process before the Historic Preservation Commission, as well as assisting the HPC with the performance of its obligations and responsibilities as set forth in this Section. The Project Coordinator is the person hired for this purpose as an employee by the Town Council or its designee.

RHYTHM - The rhythm of a structure and its components is the spacing or repetition of architectural elements or details. The regularity, frequency and placement of doors, windows, porches and ramps and their placement within a facade is a type of rhythm. Rhythm between adjoining structures can exist when building types are repeated along a streetscape.

SCALE - Scale is the relationship of the architectural mass of the structure in the context of the streetscape.

STREETSCAPE - The visual appearance of a street formed by the location and size of buildings, walkways, and other facilities.

STRUCTURE - A combination of materials to form a construction for use, , or ornamentation other than human shelter, including but not limited to buildings, sheds, outbuildings listed in Appendix A. fences, mechanical equipment, storage tanks, signs, bulkheads, jetties, groins, whether installed on, above, or below the surface of land or water. [NOTE: Appendix A (List of Historic Structures) is on file in the Town Offices.]

VERNACULAR - Being of an indigenous building style using local materials and traditional methods of construction and ornament, especially as distinguished from academic or historical architectural styles.

D. Historic Preservation Commission composition; qualifications; appointment

There is hereby established a commission to be called the "Historic Preservation Commission" (hereafter "HPC").

(1) The HPC shall consist of five to nine members to be appointed by the Mayor of the Town of Milton, subject to confirmation by a majority of the elected members of the Town Council for a term of three years. To the extent possible appointments shall be made with consideration of the diverse talents and communities represented in Milton; consideration for appointments shall be given to residents who possess knowledge or experience in architectural design and historic preservation. At least a majority of members shall be residents of and have legal or equitable title to property in the Historic District, and all members shall be residents of and have legal or equitable title to property in or be leaseholders of public lands within the Town of Milton.

(2) Vacancies on the HPC must be filled within ninety (90) calendar days of an expired term or receipt of a letter of resignation. The appointed member shall

reflect the geographic residency and expertise of the member who vacated the position. The appointment shall be for the remainder of the term of the vacating member or for the full three year term if the vacancy results from an expired term. The appointment is subject to confirmation by a majority of the elected members of the Town Council.

- (3) A member of Town Council may and the Town Project Coordinator shall be ex officio members of the HPC. An ex officio member may exercise all the powers of the regular members of the HPC except that he/she shall not have a vote. No ex officio member shall hold an office on the HPC.
- (4) The HPC shall adopt and consistently adhere to by-laws or rules of procedures that are publicly-available and include a section prohibiting conflicts of interest.
- (5) The HPC shall establish its own rules and procedures describe them in the Town of Milton Historic Preservation Commission Bylaws and describe them in the Town of Milton Historic Preservation Bylaws and determine the times of its meetings. All meetings and actions of the HPC shall be open to the public except appropriate executive sessions. All records of the HPC shall be public except those otherwise required to be confidential.
- (6) The HPC shall schedule monthly meetings. If no agenda items are available or requested 15 working days prior to the time of the scheduled meeting, such meeting may be cancelled. An agenda item may be withdrawn at any time up to and including the opening of a scheduled meeting; however, if such matter has been withdrawn prior to the meeting and it is the only matter for that agenda, the meeting may be cancelled. HPC meetings must occur at least four (4) times per year.
- (7) At least once annually, all members of the HPC must make a reasonable effort to participate in historic preservation training which may include conferences, presentations, or workshops by preservation professionals or the SHPO. Ideally, such sessions will be identified and scheduled by the Commission's Education Chair.
- (8) Chair/staff review. In certain circumstances, the HPC Chairman or a HPC commissioner appointed by the Chairman, Project Coordinator and Code Enforcement Officer may decide to approve an HPC application without a formal hearing. A Chair/staff review shall be used for routine and minor Historic District construction applications whose costs are estimated at less than \$3,000. The requests may include such items as the addition or replacement of fences, window replacements, and other projects where the HPC has a history of approving similar projects using the same materials. All Chair/Staff decisions are subject to periodic review by the HPC.

E. Procedures

- (1) Before the construction, alteration, reconstruction, moving or demolition of any dwelling, residence or related structures on property within the Historic District or on historic properties not within the Historic District that would affect the exterior appearance of a structure visible or intended to be visible from an adjacent public way, the owner, agent or representative proposing to construct or change shall file with the Project Coordinator of the Town of Milton an application for permission from the HPC to construct, build, alter, reconstruct, move, demolish or make the addition.
- (2) Actions not requiring review by the HPC. Ordinary repairs, maintenance, and replacements that do not constitute a change to the appearance of the structure and using identical material include:
 - (a) Repair and/or replacement of existing windows or doors, using the identical material and configuration, including storm windows
 - (b) Maintenance, repair, and/or replacement of existing roof material, involving no change in the design, scale, or material.
 - (c) Repair and/or replacement of existing roof structures, such as cupolas, dormers and chimneys.
 - (d) Repair and/or replacement of existing shingles, clapboards, or other siding.
 - (e) Replacement or repairs to existing shutters, fences, or retaining walls.
 - (f) Change of paint color.
- (3) Application and approval procedures for matters other than demolition.
 - (a) The applicant shall apply for a building permit; if the proposed site is in the Historic District, the Project Coordinator or designee shall notify the applicant that the project must be approved by the HPC (unless the project falls under § 220-21 E. (2.)), and shall give the applicant an HPC application.
 - (b) For the initial application, the applicant shall fill out the application form, and attach eleven copies that include:
 - (1) A site plan, survey sealed by a professional engineer or surveyor, if required by the Project Coordinator, identifying all existing and new structures, required setbacks and easements.
 - (2) Plan and elevation drawings of the proposed change, construction, alteration, or modification.
 - (3) A description and/or providing of samples illustrating the type and texture of the materials to be used for the exterior,

- (4) Current photographs of the property to include front, side, and/or rear street views if applicable,
- (5) Current photographs of adjacent and neighborhood properties, including the streetscape of both sides of the street on which the subject property is located.
- (6) An architectural rendering for new house construction, proposed additions or a significant alteration of an existing structure.

An application is deemed complete when the items required by the Project Coordinator have been submitted. After the review process is completed and approved, the Project Coordinator will return two sets of plans to the applicant and retain the remainder for Town records.

- (c) The HPC will meet at regular intervals to ensure timely consideration of all applications pending before the HPC. Completed applications submitted to the Project Coordinator no less than two weeks (14 calendar days) prior to a regularly scheduled meeting will be heard at that next scheduled meeting. Applicants or their designee must attend the HPC meeting at the time their application(s) is heard.
- (d) The HPC shall endeavor to arrive at a decision at the first meeting at which the application is presented; however, if the HPC decides that it needs more information or time in which to make a decision, it shall either place the application on the agenda for the next meeting or schedule a special meeting. The HPC shall grant or deny the application as expeditiously as possible, but in no event later than the second meeting at which the application is on the agenda and the applicant appears, except when the application is for demolition (see **§ 220-21 G. 4.**); failure to act within said time frame shall be deemed to be approval of the application as submitted; however, an extension may be granted if agreed to by both the applicant and the HPC.
 - (1). If an applicant or a member of the public has information, evidence or testimony that contradicts the current designation of contributing or noncontributing, or has information about the history or other information that could materially affect the decision making process of Commission members, the HPC shall consider that information, evidence or testimony before addressing the application. Such information shall be presented to the HPC as a notarized statement, or a copy of official document(s), and shall be made available to the Project Coordinator, The HPC, and applicant at least five working days before the scheduled meeting.
 - (2). If the members of the HPC, by simple majority vote of the Commissioners present, determine that additional time is needed to digest the new information, the decision will be postponed for one meeting and the requirement for a decision at the end of the

second meeting at which the application is considered shall be suspended.

- (e) If, after review of the application by the Project Coordinator, he/she determines that the proposed activity will require a variance, the Project Coordinator shall notify the applicant and provide information on the process for application to the Board of Adjustment. If no application to the Board of Adjustment is made by the applicant within 30 days after notice has been given by the Project Coordinator, the application shall be deemed to have been withdrawn. However, if the applicant desires to have the HPC review an application prior to applying to the Board of Adjustment, the applicant shall request the Project Coordinator to forward the application to the HPC.
- (f) The HPC may either grant approval, grant approval with conditions, or deny the application. A denial shall include the reasons that the proposal does not meet the criteria § 220-21 H., Criteria; standards. The applicant shall have the opportunity to resubmit his/her application with modifications; such resubmissions shall meet the same requirements as the original. If the second submission of the application is denied, the applicant may either modify the application for another submission or appeal the denial to the Board of Adjustment. In no event may the HPC make recommendations for changes that will require violation of other requirements of this chapter.
- (g) Written notice of the decision of the HPC will be forwarded promptly by the Project Coordinator to the applicant. The notice will inform the applicant to meet with the Project Coordinator to complete the application for a building permit. Approval shall be valid for one year for the approved project; if the project is commenced but not completed before the end of that period, the owner shall apply to the Project Coordinator for an extension that may not exceed an additional period of one year, unless there are special circumstances, in which case, the owner may apply to the HPC for an extension.
- (h) Substantive changes to the HPC-approved project prior to or during construction shall require review and approval by the HPC. For such changes, the applicant shall submit one copy of the original application and a description of the proposed changes, as well as any supporting documentation to illustrate the effect or non-effect of such proposed changes. Consideration of such changes shall be placed at the top of the HPC's agenda at the next regularly scheduled meeting.
- (i) No reapplication for essentially the same purpose shall be reviewed by the HPC within one year of denial of any application hereunder, except in cases where the applicant purports to be in compliance with the conditions of approval set forth by the HPC in an earlier application denial.

- (4) Demolition or removal. When the application is for demolition of all or part of a structure, a report from a licensed structural engineer shall be required. No demolition or removal of any structure from the premises may take place until after an initial meeting with the HPC and a subsequent public hearing. Presentation of a conceptual plan for reuse of the property shall be required prior to the approval to move and/or demolish the structure. Efforts may be taken to either mitigate or eliminate the demolition or removal through informal discussions among the applicant, a HPC Commissioner and the Town Project Coordinator. In addition, the HPC may delay its final decision for up to an additional 60 days over and above the usual two-meeting requirement for a decision, in order to obtain an independent opinion from a licensed professional engineer regarding the structural integrity of the property. A final decision on demolition or removal must be rendered no later than 120 days after the initial application unless delayed by federal, state or local holidays, severe weather or other natural disasters, emergencies, or unless an extension is agreed to by the applicant and the HPC.
- (a) Approved demolition must be done within 45 days of when the party is granted the final required permit for the demolition. The party would have a one-time option to renew this permit with the Town for another 45 days if the demolition could not be done within the first forty-five-day period.
- (5) Interior features. The HPC shall consider only exterior features and shall not consider interior arrangements except to the extent that an interior alteration affecting the exterior is required by law or disability of owner or tenant.
- (6) Signage. Signage for businesses located in the Historic District is permissible pursuant to the regulations of Article **VIII** of Chapter **220** of the Municipal Code of the Town of Milton and in historic character with the property as approved by the HPC under this article.
- (7) Antennas, towers, microwave dishes and satellite dishes. Any antenna, tower, microwave dish or satellite dish for residences within this district, or included on or eligible for inclusion on the National Register of Historic Places, shall only be located in rear yards or, if not visible from the street level along the entirety of the front lot line, in side yards. All reasonable efforts shall be made to limit or eliminate the visual impact on the adjoining properties, such as screening by landscaping. Notwithstanding Article **IX** of this chapter, all properties subject to this subsection shall come into compliance within 18 months of the date of this subsection's passage.

(8) Designation of historic sites. Owner(s) of properties outside of the boundaries of the Historic Preservation Overlay District (HP-OD) may request that his/her/their property be designated as a Town of Milton historic property. Before any designation may be assigned, specific procedures, in compliance with Local Certified Government guidelines, information required and recordation procedures and requirements shall have been determined. Such procedures shall include reference to the guidelines of the United States Department of the Interior (*National Register Bulletin 15 "How to Apply the National Register Criteria for Evaluation"*) also see HPC by-laws and procedures. When considering a site for inclusion the HPC will take into consideration the following seven aspects:

(a) **Location.** Location is the place where the historic property was constructed or the place where the historic event occurred. The relationship between the property and its location is often important to understanding why the property was created or why something happened. The actual location of a historic property, complemented by its setting, is particularly important in capturing the sense of historic events and persons. The relationship between a property and its historic associations is usually destroyed if the property is moved. However, there are certain circumstances under which moved buildings can retain their significance even if moved.

(b) **Design.** Design is the combination of elements that create the form, plan, space, structure and style of a property. It results from conscious decisions made during the original conception planning of a property (or its significant alteration) and applies to activities as diverse as community planning, engineering, architecture and landscape architecture. Design include such elements as organization of space, proportion, scale, technology, ornamentation, and materials. A property's design reflects historic functions and technologies as well as aesthetics. It includes such considerations as the structural system; massing; arrangement of spaces; pattern of fenestration; textures and color of surface materials; type, amount, and style of ornamental detailing; and arrangement and type of plantings in the design and landscape.

Design can apply to districts, whether they are important primarily for historic association, architectural value, information potential, or a combination thereof. For districts significant primarily for historic association or architectural value, design concerns more than just the individual buildings or structures located within the boundaries. It also applies to the way in which buildings, sites, or structures are related: for example, spatial relationships between major features; visual rhythms in a streetscape or landscape plantings; the layout and materials of walkways and roads; and the relationship of other features, such as statues, water fountains, and archaeological sites.

(c) **Setting.** Setting is the physical environment of historic property. Whereas location refers to the specific setting where property was built or an event occurred, setting refers to the *character* of the place in which the property played its historical role. It involves *how*, not just where, the property is situated and its relationship to surrounding features and open space. Setting often reflects the basic physical conditions under which a property was built and the functions it was intended to serve. In addition, the way in which a property is positioned in its

environment can reflect the designer's concept of nature and aesthetic preferences.

The physical features that constitute the setting of historic property can either be natural or man-made, including such elements as:

- Topographic features (a gorge or the crest of a hill)
- Vegetation;
- Simple manmade features (paths or fences); and
- Relationships between buildings and other features or open space.

These features and their relationships should be examined not only within the exact boundaries of the property but also between the property and its surroundings. This is particularly important for districts.

(d) **Materials.** Materials are the physical elements that were combined or deposited during a particular period of time in a particular pattern configuration to form a historic property. The choice in combination materials reveal the preferences of those who created the property and indicate the availability of particular types of materials and technologies. Indigenous materials are often the focus of regional building traditions and thereby help define an area's sense of time and place. A property must retain the key exterior materials dating from the period of its historic significance. If the property has been rehabilitated, the historic materials and significant features must have been preserved. The property must also be an actual historic read source, not a re-creation. Likewise, a property use historic features materials have been lost and then reconstructed has lost its integrity.

(e) **Workmanship.** Workmanship is the physical evidence of the crest of a particular culture or people during any given period in history. It is the evidence of artisan's labor and skill in constructing or altering a building, structure, object, or site. Workmanship can apply to the property as a whole, or to its individual components. It can be expressed in vernacular methods of construction and plain finishes or highly sophisticated configurations and ornamental detailing. It can be based on common traditions or innovative period techniques. Workmanship is important because it can furnish evidence of the technology of a craft, illustrate the aesthetic principles of historic period, and reveal individual, local, regional, or national applications of both active technological practices and aesthetic principal. Examples of workmanship and historic buildings include tooling, carving, painting, graining, turning, and joinery.

(f) **Feeling.** Feeling is a property's expression of the aesthetic or historic sense of a particular period of time. It results from the presence of physical features that, taken together, convey the property's historic character. For example, a rural historic district retaining original design, materials, workmanship, and setting will relate the feeling of agricultural life in the 19th century.

(g) **Association.** Association is the direct link between an important historic event or person and historic property. A property retains Association if it is the place where the event or activity occurred and sufficiently intact convey that

relationship to an observer. Like feeling, Association requires the presence of physical features that convey a property's historic character.

Because feeling an association depend on individual perceptions, their retention alone is never sufficient to support the historic significance of a property.

Final approval must be approved by the Mayor and Town Council. Once approved the HPC shall begin the process of recommending the property or properties to the National Register for Historic Places.

- (9) Appeals. Any person aggrieved by a decision rendered by the HPC shall have the right to appeal to the Board of Adjustment of the Town of Milton.

F. **Criteria: Standards**

- (1) In reviewing the plans for any construction, change, or demolition, the HPC shall base its decision on the Secretary of the Interior's Standards for Rehabilitation.

<http://www.nps.gov/tps/standards/rehabilitation/rehab/stand.htm>

And give consideration to the following:

- (a) Historic or architectural value and significance of the structure and/or its relationship to the historic value of the surrounding area.
- (b) Relationship of the exterior architectural features of the structure to the remainder of the structure and/or to the surrounding neighborhood. Distinctive stylistic features and/or examples of skilled craftsmanship shall be preserved, if possible.
- (c) General compatibility of exterior design, arrangement, texture and materials proposed to be used with other structures contributing to the established character of the Historic District of Milton.
- (d) When application is made to demolish a structure or any part thereof, the impact of its removal from the area in which it is located, and its structural condition and the economic feasibility of alternatives to the proposed demolition.
- (e) When application is made to move an historic structure, the potential loss of history to its original site and to the Historic District as a whole, and the reasons for not keeping the structure at its present location.

- (f) When application is made for new construction in the Historic District, or for relocating an existing structure from outside the Historic District into that district, the general compatibility in style, scale, composition, usage and construction of other structures in the neighborhood.
- (g) A proposed new structure, or any alterations to an existing structure in the Historic District, or to a designated historic site, shall be permitted to expand to the height and yard setbacks permitted in the zoning district for that particular property.
- (h) The effect of the proposed structure on the health, safety and general welfare of the Town of Milton, its residents and visitors.
- (i) Other factors that the HPC deems to be pertinent, consistent with the Town Code, the laws of the State of Delaware and the laws of the United States of America

G. Standards

A proposed new structure or any alterations to an existing structure located in the Historic District or designated as an historic site shall conform to the Municipal Code of the Town of Milton and/or any other prevailing law or code in place at the time of application. The following standards shall be used by the HPC in preserving the architectural integrity and ensuring the compatibility of new construction and alterations with the existing body of architectural styles in the Historic District:

- (1) **Facade treatment.** The exterior features of all buildings should be visually and physically compatible with those facades surrounding them.
- (2) **Height.** New and renovated structures should be in harmony with the streetscape.
- (3) **Proportion.** The relationship between the width and height of the front elevation of a structure should be compatible to adjacent structures. Proportion is also the relationship of the different elements of the building itself, including but not limited to additions, porches, windows, and doors.
- (4) **Rhythm.** The rhythm of the streetscape and building with its components should be considered as one of the criteria.
- (5) **Scale.** Since the scale of the Town of Milton is intimate in nature, any building contrary to that of the streetscape will be deemed to be out of place.
- (6) **Roofs, pitch, dormers and types.** The roof and pitch of the roof shall be in keeping with the tradition of roof types and styles in Milton, within the Historic District and on designated historic sites. Any of the traditional roof

types found within the Historic District are acceptable without the need to duplicate existing roof types of a specified home or area. The type of roof selected should be in keeping with the general type of structure it is to be used on and in keeping with the general scale and style of the neighborhood. Modern variations of roofing styles which clearly bear no resemblance to traditional or historic styles will not be permitted within the Historic District or on a designated historic site.

- (7) **Roofing materials.** Acceptable materials include wood, slate, metal, asphalt shingles, as well as roofing materials which bear resemblance to these materials. Repair materials shall be consistent with the existing roofing material. When a flat roof is otherwise consistent with the design criteria established in this Section, the rubber membrane or similar material may be used.
- (8) **Siding material.** All materials shall be consistent with and appropriate in design, texture, and other visual qualities to the style and period of the structure and in keeping with the general appearance of other structures in the neighborhood. Siding, including brick, stucco, wood, cement and vinyl, can all be considered but, if used, must not interfere with the historical architectural details and must have a traditional appearance and profile that fits both the style of the structure and the neighborhood.
- (9) **Foundation material.** Traditional foundations, including brick and brick veneer, are encouraged. Concrete block is permitted; however, the foundation is to be covered in stucco so as to disguise the block joints.
- (10) **Chimney styles and materials.** Chimneys in public view should be of brick or stucco. Metal chimneys are acceptable for use in nonpublic view.
- (11) **Porches.** If a porch is to be installed in new construction or alteration, it shall adhere to the height line and average depth of other porches in the surrounding neighborhood. When existing structures with traditional porches are renovated, owners shall preserve both the porch and its architectural detailing.
- (12) **Windows.** New structures or alterations to existing designated historic sites and construction or alterations to structures in the Historic District shall have windows that are compatible in appearance to those in the existing structure and surrounding structures.
- (13) **Architectural details.** This term applies to such building features as window and door trim styles, cornices, ornamental brackets, porch and entrance balustrades, porch pillars, corner pilasters, gable peak ornamentation, lattice work, traditional paneled and louvered shutters, and similar details. The applicant shall extend the design motif of the existing structure to any addition; and, in the case of alteration to an existing structure, the architectural details on the exterior shall be preserved.

- (14) **Walls, fences and gates.** Materials shall be of a type compatible with the architecture of the Historic District and designated historic properties to which the walls, fences or gates would be included or affixed. Natural materials are encouraged, but man-made materials similar in appearance will be considered.
- (15) The color of a structure shall not be reviewed by the HPC.
- (16) The HPC shall not automatically deny the addition of items such as solar panels, cisterns or other inventions designed to produce energy or assist in conservation efforts but shall designate reasonable alternative design and/or placement.
- (17) The HPC shall not deny any reasonable accommodations for a disability, compatible with this Section; however, the HPC may suggest alternative design(s) or placement.
- (18) When owners of structures in the Historic District that have been or are designated as "noncontributing" make application to the HPC for approval for alteration or demolition, the HPC evaluation shall be based on the potential impact on the streetscape setting of the property, rather than the potential impact on the property itself. When owners of structures in the Historic District designated as "contributing structures" make application to the HPC for alteration or demolition, preserving the property will be the HPC's primary criterion in evaluating the application. The HPC may require the applicant to submit both financial and construction details in support of any proposed demolition.
- (19) A proposed new structure or any alteration to an existing structure or historic property shall conform to the Town Code. However, it is the intent of the HPC, consistent with its purpose [§ 220-21 B. 1-7] to assist in preserving the historic character and the historic fabric of the Town of Milton, to work in conjunction with applicants to arrive at the most desirable and appropriate outcome of their application to maintain harmony within the streetscape. To this end, the HPC may focus on height, rhythm, scale and proportion as issues that the applicant will be asked to consider and, when appropriate, to alter their plan and/or design.
- (20) Other factors that the HPC deems pertinent, consistent with the Municipal Code of the Town of Milton, the laws of the State of Delaware and the laws of the United States of America.

H. Enforcement

- (1) The Code Enforcement Officer shall, at least once a month, view the sites within the Historic District, and properties designated as historic sites:

- (a) To ensure that building permits have been issued and that work is being done in accordance with the permit issued for that site.
- (b) To ensure that routine maintenance is performed to preserve structures within the Milton Historic District.
- (c) To maintain records of all site visits and notifications.
- (2) The Code Enforcement Officer shall keep the HPC advised, in writing, monthly, of all matters pertaining to the enforcement of this article relating to properties in the Historic District and properties designated as historic sites.
- (3) Where sufficient cause exists to believe that the terms of this Section have been violated, the Code Enforcement Officer or Project Coordinator shall immediately issue an order to the property owner of record and the individual(s) or entity performing any construction and/or demolition to cease and desist immediately.
- (4) The property owner shall appear before the HPC at its next scheduled meeting for that matter to be addressed.
- (5) The HPC shall make the final determination of whether a violation has occurred. If the HPC deems that a violation has occurred, the property owner shall be subject to penalties as outlined in **§ 220-21 I**.

I. Penalty

- (1) Where a property owner has not obtained a building permit prior to commencing construction on a property:
 - (a) The property owner shall immediately make such application and pay any fees required with that application. In making the application, the property owner shall provide the required information as specified in **§ 220-21 G**.
 - (b) The property owner shall appear before the HPC at its next scheduled meeting for the application to be addressed.
- (2) Where a property owner has obtained a building permit and the construction being done does not comply with what was previously approved by the HPC:
 - (a) The property owner may choose to alter the construction so as to be in compliance with what was previously approved by the HPC and with the issuance of the building permit;

- (b) If the property owner does not alter the construction so as to be in compliance with what was previously approved by the HPC, the property owner shall immediately make application for a building permit listing such changes in construction;
- (c) The property owner shall appear before the HPC at its next scheduled meeting to seek approval for these changes to the previously approved construction.

(3) Where a property owner allows his/her property to become a safety hazard through neglect:

- (a) The property owner shall appear before the Historic Preservation Commission at its next scheduled for that matter to be addressed.
- (b) A licensed structural engineering report shall be required from the owner to determine if the property can be salvaged.
- (c) If the property can be salvaged, the owner will be encouraged to sell the property.
- (d) Refer to Chapter 220. Zoning, Article XIII. Remedies for penalties

(4) Where a property owner demolishes a building/structure without first obtaining a permit for such a demolition, or if the property has become a safety hazard:

- (a) The property owner shall appear before the HPC at its next scheduled meeting for that matter to be addressed;
- (b) No building permit shall be issued for this property for a period from one year from the date of the demolition; and
- (c) The property owner shall cause the site to be cleaned up and secured to the satisfaction of the Town.
- (d) Refer to Chapter 220. Zoning, Article XIII. Remedies for penalties