

ORDINANCE NO. 08 of 2007

AN ORDINANCE OF EAST BRANDYWINE TOWNSHIP, CHESTER COUNTY, PENNSYLVANIA, AMENDING CHAPTER 399, ZONING, ARTICLE XII, HISTORIC RESOURCE PROTECTION STANDARDS; ARTICLE II, TERMINOLOGY; ARTICLE XVI, SIGNS; AND ARTICLE XVIII, ADMINISTRATION, OF THE LAND USE CODE OF THE TOWNSHIP OF EAST BRANDYWINE.

IT IS HEREBY ENACTED AND ORDAINED by the Board of Supervisors of East Brandywine Township, Chester County, Pennsylvania, that Article XII, Historic Resource Protection Standards; Article II, Terminology; Article XVI, Signs; and Article XVIII, Administration, of Chapter 399, Zoning, of the Land Use Code of the Township of East Brandywine, shall be amended as follows:

SECTION 1. Article XII, Historic Resource Protection Standards, shall be revised in its entirety as follows:

**ARTICLE XII
Historic Resource Protection Standards**

§399-60. Statement of Intent.

It is the intent of this article to:

- A. Create a comprehensive framework for the application of zoning ordinance provisions for the preservation of historic sites, buildings, structures, objects, and districts in East Brandywine Township;
- B. Implement the goals of the National Historic Preservation Act of 1966, as amended, as they relate to historic resources in East Brandywine Township;
- C. Implement the goals of Article I, Section 27, of the Pennsylvania Constitution which establishes the Commonwealth's policy of encouraging the preservation of historic and aesthetic resources;
- D. Implement the goals of the Pennsylvania Municipalities Planning Code, which authorizes the regulation, restriction, and prohibition of uses and structures at, along, or near places having unique historical, architectural, or patriotic interest or value, and which recognizes that zoning ordinances "shall provide for the protection of natural and historic features and resources"; and
- E. Preserve the exterior appearance of historic resources and their settings by creating a process by which the expertise of the Historical Commission is made available for the review of proposed alterations to historic resources or other proposed actions that pose potential impacts on historic resources.

This article establishes specific roles and functions for the East Brandywine Historical Commission to serve as an advisory body to the Board of Supervisors, Zoning Hearing Board, and Zoning Officer; it authorizes the creation of an Historic Resources Map which delineates the jurisdiction of the Historical Commission under this ordinance. The protections and incentives of this article are targeted toward the Township's most important historic resources and, therefore, include procedures for proposed demolitions, standards for demolition by neglect, area and bulk waivers, additional use opportunities for historic properties, and a Historic Resource Impact Study requirement.

§399-61. General Provisions.

- A. **Compliance.** Any change to an historic resource shown on the Historic Resources Map shall occur only in full compliance with the terms of this chapter and other applicable regulations.
- B. **Historic Overlay Concept.** The Historic Resources Map shall be deemed an overlay on any zoning district now or hereafter enacted to regulate the use of land in East Brandywine.
1. For any property shown on the Historic Resources Map, the requirements and opportunities contained in this article shall:
 - a. Apply in addition to the applicable requirements of the underlying zoning district; and
 - b. Supersede the otherwise applicable requirements of the underlying zoning district only where those requirements are inconsistent with the requirements and opportunities contained in this article.
 2. Should the Historic Resources Map be altered or reduced in scope as a result of legislative or administrative action or judicial decision, the zoning requirements and other regulatory measures applicable to the property in question shall be those of the underlying zoning district without consideration of this article.
- C. **Preservation of other Restrictions.** It is not intended by this article to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article imposes more stringent restrictions, the provisions of this article shall prevail.

§399-62. Historic Resources Map.

- A. **Classifications.** The Historic Resources Map delineates two classifications of historic resources in East Brandywine Township, which are defined as follows:
1. **Class I.**
 - a. Certified historic resources, as defined by this chapter.

- b. Buildings, sites, structures, and objects located within a certified historic district, as defined by this chapter, that are designated as contributing resources to that district.
 - c. Buildings, sites, structures, and objects that have received a determination of eligibility (DOE), as defined by this chapter, or are located within a district that has received a determination of eligibility (DOE) and are designated as contributing resources to that district.
 - d. Resources that are deemed by the Chester County Historic Preservation Office to meet substantially the National Register criteria under the Chester County Certification Program.
2. Class II. Buildings, sites, structures, and objects of significance to East Brandywine Township, as determined and documented by the East Brandywine Historical Commission. Such resources:
- a. Do not qualify under the criteria for designation as Class I;
 - b. Are included within the Historic Resources Atlas; and
 - c. Represent sufficient historic significance as to warrant, in the judgment of the Historical Commission, the protections and incentives offered by this article.
3. Buildings, sites, structures, and objects of significance to East Brandywine Township, as determined and documented by the East Brandywine Historical Commission, and not included in Class I above.
4. Districts. The Historic Resources Map shall contain the boundary of any certified historic district, National Register historic district, or district that has received a determination of eligibility (DOE). The individual resources located within any such district shall be classified and regulated in accordance with criteria for Class I resources, as stipulated above.
5. The Historic Resources Map and its index of listed resources are contained in Appendix 1 of this chapter.
- B. Revisions. The Historic Resources Map may be revised from time to time by legislative action of the Board of Supervisors, which shall follow the procedures established by this chapter for amendments to this chapter, and the requirements of Section 609 of the Municipalities Planning Code (MPC).
- 1. In considering any revision, including additions, deletions, or changes of classification to the Historic Resources Map, the Board shall receive a written recommendation from the East Brandywine Historical Commission.
 - 2. The owner(s) of any property(ies) which is/are the subject of any such proposed action shall be given written notice of the Historical Commission's recommendation to the Board of Supervisors at least thirty (30) days prior to the public hearing at which the Board will consider such action.

3. The owner(s) of a property subject to the provisions of this article, or potentially affected by its provisions, may submit a petition to the Township requesting that such property be added to or deleted from the Historic Resources Map, or that its classification within the Historic Resources Map be changed. The Township shall respond to such petition in accordance with the provisions of Article XX of this chapter. Prior to acting on any such petition, the Board of Supervisors shall receive a written recommendation from the East Brandywine Historical Commission.

C. **Historic Resources Atlas.** The Historical Commission shall maintain the East Brandywine Township Historic Resources Atlas as an updated inventory of resources, including but not limited to those shown on the Historic Resources Map. The description and supporting information for any historic resource may be added to or deleted from the inventory upon action of the Historical Commission.

D. **Jurisdiction.**

1. Within the boundaries of any certified historic district, as shown on the Historic Resources Map, the Board of Historical Architectural Review shall exercise those powers and duties authorized under the terms of the ordinance establishing the District.
2. All Class I and Class II sites shown on the Historic Resources Map shall be subject to the applicable terms of this article.

§399-63. East Brandywine Historical Commission.

- A. The membership, powers, and duties of the East Brandywine Historical Commission shall be as set forth in Board of Supervisors Resolution No. 02-14.
- B. The roles and functions of the Historical Commission with respect to historic resource protection under the provisions of this ordinance shall be as stated in this article.

§399-64. Demolition Permits/Applications

- A. Any application for a building permit for demolition received by the Zoning Officer for a Class I or Class II historic resource must comply with the procedures and requirements of this section, as applicable.
- B. **Building Permit for Demolition.** No Class I or Class II historic resource shall be demolished unless a building permit for demolition has been issued by the Zoning Officer in accordance with the following procedures of East Brandywine Township.

1. In addition to any other applicable requirements of this chapter and other ordinances of the Township, an applicant seeking a permit to demolish an historic resource shall provide a written report containing, but not restricted to, the following:
 - a. Owner of record;
 - b. Classification of resource on the Historic Resources Map; if more than one structure is located on the property, the specific structure for which the permit is being sought;
 - c. Site plan showing all buildings and structures on the property;
 - d. Recent interior and exterior photographs of the structure proposed for demolition;
 - e. Reasons for the demolition;
 - f. A report from a structural engineer describing the structural condition of the structure proposed to be demolished;
 - g. Proposed disposition of materials;
 - h. Time line for implementation of proposed use of the property following demolition;
 - i. Date of purchase and ownership history of the historic resource;
 - j. Assessed value of the land and improvements thereon; and
 - k. Form of ownership or operation of the property, whether sole proprietorship, for-profit or nonprofit corporation, limited partnership, joint venture, or other.

2. In addition to the information required in Subsection B-1, the applicant is encouraged to submit the following information:
 - a. Documentation of all efforts to sell the historic property in the preceding three years;
 - b. Purchase price;
 - c. Certified property appraisal;

3. The applicant shall provide a written report which documents an analysis of the following factors and shows, by a preponderance of the evidence, that:
 - a. The demolition of the historic resource in question will not adversely affect the historic significance or architectural integrity of neighboring historic properties or the historic character of the neighborhood or community;
 - b. If the demolition will not result in the complete removal of the historic resource, it will minimize adverse effects on the architectural and structural integrity and the overall historic appearance of the resulting structure.
 - c. It is not feasible to continue the current use;

- d. Other uses permitted within the underlying zoning district, whether permitted as of right, by special exception, or by conditional use, have been denied or are not feasible due to constraints on the historic resource proposed to be demolished;
 - e. Adaptive use opportunities do not exist due to constraints related to the historic resource proposed to be demolished or the property on which it is located;
 - f. The proposed new use of the property, including any new building or structure, will not adversely affect the historic character or architectural integrity of the neighboring historic properties, the neighborhood, or the community;
 - g. The permitted uses and adaptive use potential of the historic resource proposed to be demolished do not provide a reasonable rate of return based on a reasonable initial investment; and
 - h. The applicant has not contributed to the existing conditions, either through neglect or prior renovation, conversion, alteration, or similar physical action.
4. A building permit for demolition for any proposed demolition of any Class I or Class II historic resource shall not be issued prior to, and where applicable:
- a. The recording of an approved subdivision or land development plan for the property where the demolition is proposed; and
 - b. Issuance of any necessary zoning approvals.
- C. **Application Review Procedure.** Upon receipt of an application for a building permit for demolition, the Zoning Officer shall review said application pursuant to the requirements of this section to determine whether it is complete. Within five days of receipt of the application, the Zoning Officer shall forward a completed application for a building permit for demolition, together with documents and specifications filed by the applicant, to the Historical Commission for its review and comment.
- 1. The Zoning Officer shall not issue a building permit for demolition for any Class I or Class II historic resource until all steps in the submission and review process are completed, including the review and recommendation by the Historical Commission.
 - 2. The Zoning Officer shall require applicants to submit a sufficient number of additional copies of materials required to be attached to a completed application for a building permit for demolition.
 - 3. The Zoning Officer shall maintain in his or her office a record of all such applications and final dispositions of the same.
- D. **Historical Commission Review of Applications.** Upon receipt of a completed application for a building permit for demolition under the terms of this chapter, the Historical Commission shall consider such at its next regularly scheduled meeting or a special meeting.

- E. **Notification to Applicant of Historical Commission Review.** Upon forwarding the completed application to the Historical Commission for its review and recommendation, the Zoning Officer shall mail a written notice to the applicant, stating the time and place of the Historical Commission's meeting at which the application for a building permit for demolition will be considered.
- F. **Criteria for Deliberation.** In determining the recommendations to be presented to the Zoning Officer concerning the issuance of a building permit for demolition for any Class I or Class II historic resource, the Historical Commission shall refer to the Secretary of the Interior's *Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings*, as contained in Section 399-70 of this article; shall consider the historical, architectural, or archaeological significance of the historic resource to the Township, county, state, or nation; and shall weigh all relevant factors in favor of or against the demolition pursuant to and congruent with the objectives of this article.

In reviewing the application and determining its recommendations, the Historical Commission shall take into account:

1. The effect of demolition on the historical and architectural significance and architectural integrity of neighboring historic resources.
2. Economic feasibility of adaptively reusing the resource proposed for demolition.
3. Alternatives to demolition of the resource.
4. Potential public safety issues posed by the current condition of the resource..

- G. **Time Frame for Historical Commission Recommendation.** The Historical Commission shall render its recommendations, in a written report to the Zoning Officer, to approve or deny any application for demolition of a historic resource under its review within 20 days of the filing of the completed application or prior to the expiration of any extended review period as established under the terms of Section 399-132-C of this chapter.
- H. **Recommended Disapproval of Application by the Historical Commission.** If the Historical Commission decides to advise against the granting of a building permit for demolition, it may, as it deems appropriate, indicate to the Zoning Officer and the applicant an alternative(s) to the proposed demolition which would protect: (1) the distinctive historical character of the historic resource, and (2) the architectural or archaeological integrity of the historic resource.
- I. **Contents of Written Report.** The written report to the Zoning Officer concerning the Historical Commission's recommendations on the issuance of a building permit for demolition shall set out findings of fact, which shall include but need not be limited to the following matters:
1. The exact location of the historic resource that is proposed for demolition.

2. A list of other historic resources on the property and within 300 feet of any boundary of the subject property.
3. The anticipated effect of the proposed demolition upon the general historic, archaeological, and architectural character, including the cultural landscape, of East Brandywine Township.
4. Recommendations by the Historical Commission as to the issuance of the building permit for demolition.

A copy of the written report from the Historical Commission shall be provided to the Board of Supervisors.

- J. **Notification to Applicant.** The Zoning Officer shall provide the applicant a copy of the written report from the Historical Commission, as provided for in this section.
- K. **Action by the Zoning Officer.** The Zoning Officer shall act on the application for a building permit for demolition in accordance with the following:
1. Upon receiving a recommendation to approve the application from the Historical Commission, and providing the plans satisfy all other requirements of the Township, the Zoning Officer shall consider the report and recommendations of the Historical Commission and shall issue the permit.
 2. If the Historical Commission's report recommends against issuing the permit and/or suggests alternative actions to protect the historic resource, the Zoning Officer shall consider the report and recommendations of the Historical Commission in acting on the permit application. The Zoning Officer shall then either issue or deny the permit.
- L. **Required Restoration of Unauthorized Demolition.** In the event the Board of Supervisors authorizes the commencement of an action pursuant to Section 399-71b-B of this article, the Zoning Officer shall not issue any building permit for the construction of any building or structure proposed to be located in any location on the property which would preclude reconstruction or restoration of the historic resource altered or demolished in violation of this article or intended to replace such historic resource, unless issued for the purpose of restoring the historic resource to its condition and appearance as existed immediately prior to the violation.

§399-65. Demolition by Neglect

- A. The owner or any other person or persons who may have legal custody and control of any building or structure designated as a Class I or Class II historic resource shall not permit such building or structure to fall into a state of disrepair which may result in the deterioration of any façade or exterior appurtenance or architectural feature so as to produce or tend to produce, in the judgment of the Zoning Officer or his designate, a detrimental effect on the historic character of the resource.

- B. Any building or structure designated as a Class I or Class II historic resource shall be preserved against decay and deterioration by being kept free from the following structural defects by the owner and any other person or persons who may have legal custody and control of such building or structure.
1. Deteriorated or inadequate foundation which jeopardizes its structural integrity.
 2. Defective or deteriorated floor supports or any structural members of insufficient size to carry imposed loads with safety, thereby jeopardizing its structural integrity.
 3. Members of walls, partitions, or other vertical supports that split, lean, list, or buckle due to defective material or deterioration which jeopardizes its structural integrity.
 4. Structural members of ceilings and roofs, or other horizontal structural members that sag, split, or buckle due to defective materials or deterioration or are of insufficient size to carry imposed loads with safety, thereby jeopardizing its structural integrity.
 5. Exterior chimneys that list, bulge, or settle due to defective material or deterioration or are of insufficient size or strength to carry imposed loads with safety, thereby jeopardizing its structural integrity.
 6. Lack of weather protection, including in particular a lack of effective waterproofing, that jeopardizes the structural integrity of the walls, roofs, or foundation.
 7. Deterioration of any feature so as to create a hazardous condition which could lead to the claim that a demolition is necessary for the public safety.
- C. Demolition by neglect shall constitute a violation of this chapter. The Zoning Officer shall have the power to institute any proceedings at law or in equity, as provided under the terms of this chapter, necessary for the enforcement of this section.

§399-66. Historic Resource Impact Study

- A. A Historic Resource Impact Study shall be required as part of an application for certain activities or procedures, as specified herein, authorized under the terms of this chapter that have the potential to adversely affect any Class I or Class II historic resource. Such activities shall include the following:
1. Where the subject property contains a Class I historic resource, any application, the approval of which would result in the construction of a new principal or accessory structure, and where such approval is required in the form of a:
 - a. Special exception
 - b. Conditional use
 - c. Building permit

2. Where [i] a property containing a Class II historic resource is the subject of a proposal for construction of a new principal structure, or [ii] a Class I or Class II historic resource is located within 300 feet of the proposed location of a new principal structure, and approval of the proposed new structure is required in the form of a:
 - a. Special exception
 - b. Conditional use
 - c. Building permit

This requirement shall not apply where a Historic Resource Impact Study has been prepared for the property that is proposed to contain the new construction, and has addressed all historic resources potentially affected by this proposal, within the preceding five years.

- B. Upon receiving an application for a procedure or permit described in Subsection [A], above, and prior to the preparation and submission of a Historic Resources Impact Study, the Zoning Officer shall notify the Historical Commission of the application. The Historical Commission may then conduct a site visit with the applicant to identify the location of the prospective new construction in relation to the Class I or Class II historic resource, the extent of potential negative impacts, possible alterations or modifications to the proposal, and any modification to the requirements of this section that may be appropriate.
- C. Where required, the Historic Resource Impact Study shall be prepared and submitted by the applicant in accordance with the terms of this section and shall be reviewed by the Historical Commission. Where the Historical Commission requires consultation from a professional with expertise in historic preservation, the cost of the consultant shall be paid by the applicant.
- D. The Historic Resource Impact Study shall contain the following information unless the Historical Commission determines that the study, or certain elements thereof, are not pertinent to the application under review, in which case the applicant shall not be required to submit the study or those specific sections. This determination, however, shall not preclude the Zoning Hearing Board, Board of Supervisors, or Zoning Officer, as applicable, from requiring additional information as deemed necessary during a special exception or conditional use proceeding or as part of a building permit application, respectively.
 1. Contextual Information
 - a. If not otherwise provided by the applicant, a plan showing existing site conditions, including structures, topography, watercourses, vegetation, landscaping, existing drives, and known or potential archaeological sites.

- b. General description, classification, and significance (in terms of the criteria used for listing a resource in the National Register of Historic Places) of all historic resources located on the subject property as shown on the site plan, or historic resources located within 300 feet of any portion of the subject property.
- c. Black and white or color 5" x 7" photographs to show every historic resource identified in (b) above.
- d. Narrative description of the historical development of the subject tract.

2. Proposed Change

- a. General description and site plan of the project, including a timetable or phases.
- b. Description of the impact on each Class I or Class II historic resource identified in Subsection C-1-b, above, with regard to architectural integrity, historic setting, and future use.
- c. General description of the anticipated effect of noise, vehicular and pedestrian traffic, and other impacts, including light pollution, generated by the proposed change on any Class I or Class II historic resource identified in Subsection C-1-b, above.

3. Mitigation Measures. Recommendations shall be made for mitigating the project's impact on identified Class I or Class II historic resources, including design alternatives; moving the historic resource; reconstruction of the historic resource; Historic American Buildings Survey (HABS), Historic American Engineering Record (HAER), or Pennsylvania State Recordation requirements; buffering, landscaping, or conservation of existing vegetation; and any other appropriate measures permitted under the terms of this chapter.

- E. The Historical Commission shall review the Historic Resource Impact Study and shall provide a written report, including findings, conclusions, and any recommended modification to the proposed activity that it deems appropriate, to the Zoning Hearing Board, Board of Supervisors, or Zoning Officer, as applicable.

§399-67. Additional Use Opportunities [Reserved.]

§399-68. Modification to Area and Bulk Regulations.

- A. **Zoning Hearing Board.** The Zoning Hearing Board, through the grant of a special exception, may approve requested modifications to the otherwise applicable lot size, lot dimension, or yard requirements for plans affecting Class I historic resources, in accordance with the criteria set forth in §399-145 and provided the following additional criteria are met:
1. The granting of the special exception is deemed by the Zoning Hearing Board to be necessary to the preservation of a Class I historic resource.
 2. The granting of the special exception will be deemed by the Zoning Hearing Board to have minimal detrimental effect on neighboring properties.
 3. Any plans for the rehabilitation or alteration of the exterior of a Class I historic resource shown on the application for special exception must be in substantial compliance with the standards contained in §399-70.
- B. **East Brandywine Historical Commission.** The Commission shall review the request for special exception and evaluate whether the proposed modifications are necessary to the preservation of the Class I resource. Where applicable, the Commission also shall review any construction plans under the terms of:
- [1] Section 399-66 regarding an Historic Resource Impact Study;
 - [2] Section 399-69 regarding a rehabilitation or alteration; or
 - [3] Section 399-71a regarding signs;
- for their compliance with the standards in §399-70. Recommendations shall be transmitted in the form of a written report to the Zoning Hearing Board and shall indicate what specific changes in the plans would bring them into substantial compliance with the standards. The written report of the Historical Commission shall be admissible before the Zoning Hearing Board without further testimony or authentication.

§399-69. Review of Proposed Rehabilitations or Alterations.

- A. **Building Permit.** No building permit for the rehabilitation or alteration of the exterior of a Class I historic resource shall be issued by the Zoning Officer prior to review and comment on the application by the East Brandywine Historical Commission, in accordance with the terms of this section. Building permits for Class I historic resources in certified historic districts shall be issued in accordance with the terms of the ordinance establishing such district.
- B. **Zoning Officer.** The Zoning Officer shall provide the Historical Commission with a copy of the application, together with any plans or diagrams required by this chapter, within five days of receipt of a complete application.

- C. **East Brandywine Historical Commission.** The Historical Commission or a subcommittee thereof shall, within 20 days of receipt of a complete application from the Zoning Officer, review the plans for substantial compliance with the standards contained in §399-70 below and prepare a written report to the Zoning Officer, with a copy to be sent to the applicant. The report shall make suggestions as to what specific changes in the plans would bring them into substantial compliance.
- D. **Issuance of Building Permit.** Upon receipt of a written report from the Historical Commission indicating that the plans are in substantial compliance with Section 399-70, and provided that the plans satisfy all other requirements of the Township, the Zoning Officer shall issue the building permit.
- E. **Report of Detrimental Effect.** If the Historical Commission's report indicates that the plans are not in substantial compliance with the standards in Section 399-70, the Zoning Officer shall consider the report and recommendations of the Historical Commission in acting on the building permit application. The Zoning Officer shall, at his discretion, approve or deny the application for the building permit or not issue the building permit until the plans have been revised by the applicant in accordance with the Commission's recommendations.

§399-70. Standards for Rehabilitation.

- A. **Standards for Rehabilitation.** Any proposed rehabilitation or alteration of the exterior of a Class I historic resource under §§399-68 and 399-69 should be in substantial compliance with the Secretary of the Interior's currently adopted Standards for Rehabilitation, as revised. At the time of enactment of this article, those standards were as follows:
1. Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose.
 2. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided whenever possible.
 3. All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier or later appearance shall be discouraged.
 4. Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
 5. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.

6. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historical, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
7. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
8. Every reasonable effort shall be made to protect and preserve archaeological resources affected by, or adjacent to, any project.
9. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.
10. Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

B. **Plan Consistency.** Determination of the consistency of the plan with these standards shall be made by written report of the East Brandywine Historical Commission, using the Secretary's Guidelines for Rehabilitating Historic Buildings, as revised, to apply the standards to each project.

§399-71. Landscaping and Buffering.

A. **Landscaping.**

1. When a Class I or Class II historic resource is located within a tract proposed for subdivision or land development, a landscape plan for the grounds surrounding the historic resource may be required by the Board of Supervisors as a means of mitigation, when the need for such is identified as part of an Historic Resource Impact Study required by the East Brandywine Township Subdivision and Land Development Ordinance.
2. The plan shall be prepared by a registered landscape architect, or by a nurseryman or other individual deemed qualified by the Board of Supervisors. The plan shall show all pertinent information, including the location, size, and species of all individual trees and shrubs to be removed, planted, or preserved.

3. Through screening, buffering, and selection of plant material, the plan should strive to minimize the impact of the proposed development on the Class I or Class II historic resource and protect its integrity of setting and any significant vegetation. The landscape plan shall be reviewed by the East Brandywine Historical Commission as part of its review of the Historic Resource Impact Study.

B. Buffering.

1. When any subdivision or any land development is proposed on a property, any boundary of which is within 300 feet of an exterior wall of a Class I or Class II historic resource, a plan depicting how the historic resource will be buffered against the deleterious impacts of the proposed development may be required by the Board of Supervisors as a means of mitigation, when the need for such is identified as part of an Historic Resource Impact Study required by the East Brandywine Township Subdivision and Land Development Ordinance.
2. Buffering may include, but need not be limited to, vegetative screening and fencing, the appropriateness and effectiveness of which shall be evaluated by the East Brandywine Historical Commission as part of its review of the Historic Resource Impact Study.

§399-71a. Signs.

- A. **Permits.** No permit for a sign to be located on or within 100 feet of the exterior walls of a Class I historic resource shall be issued by the Zoning Officer prior to the review of and comment on the application by the East Brandywine Historical Commission, in accordance with the terms of this section.
- B. **Zoning Officer.** The Zoning Officer shall provide the Historical Commission with a copy of the application, together with any plans or diagrams required by Section 399-121 of this chapter, within 5 days of receipt of a complete application.
- C. **East Brandywine Historical Commission.** The Historical Commission or a subcommittee thereof shall, within 20 days of receipt of a complete application, review the plans and prepare a written report to the Zoning Officer, with a copy to be sent to the applicant, indicating whether the plans will have any detrimental effect on the architectural integrity or public enjoyment of a Class I historic resource. The report shall indicate what specific changes in the plans can be made to mitigate detrimental effects.
- D. **Issuance of Permit.** Upon receiving a report of no detrimental effect from the Historical Commission, and providing the plans satisfy all other requirements of the Township, the Zoning Officer shall issue the permit.

- E. **Report of Detrimental Effect.** If the Historical Commission's report indicates that the proposed sign will have a detrimental effect on a Class I historic resource, the Zoning Officer shall consider the report and recommendations of the Historical Commission in acting on the permit application. The Zoning Officer shall, at his discretion, approve or deny the application for the sign permit or not issue the permit until the plans have been revised by the applicant in accordance with the Commission's recommendations.

§ 399-71b. Violations; Enforcement and Penalties

- A. The unlawful demolition, rehabilitation, or alteration of a historic resource, or any new construction on or within the regulated proximity to a property containing a historic resource, in violation of the provisions of this article or other applicable provisions of this chapter or the order or direction made pursuant thereto, shall constitute a violation of this chapter. In any such instance, the enforcement and penalty provisions of this chapter shall be instituted.
- B. In the event any person demolishes a Class I or Class II historic resource or rehabilitates or alters a Class I historic resource in violation of the provisions of this article or in violation of any conditions or requirements specified in a permit issued under the terms of this article, the Board of Supervisors may institute any proceeding, at law or in equity, necessary to enforce the provisions of this article, which may include, but need not be limited to, requesting that the Court compel the reconstruction and/or restoration of the historic resource to its condition and appearance as existed immediately prior to the violation. Such restoration shall be in addition to, and not in lieu of, any penalty or remedy available under this chapter or any other applicable law or regulation.
- C. The Zoning Hearing Board may, as a condition of approval of any special exception, and the Board of Supervisors may, as a condition of approval of any conditional use application or subdivision or land development application involving any property which, at the date of enactment of this article, was occupied by a Class I or Class II historic resource(s) that subsequently was demolished, rehabilitated, or altered in violation of this article, impose a condition requiring the satisfactory reconstruction or restoration of any such historic resource(s).

SECTION 2. Article II, Terminology, Section 399-9, Definitions, shall be amended by adding the following terms and definitions:

Alteration – A modification to the exterior of a building or structure, including rearrangement, renovation, or enlargement, that results in changes to the façade and/or to structural or supporting parts

Demolition by Neglect – A change to a Class I or Class II historic resource that results from the absence of routine maintenance and repair leading to structural weakness, decay and deterioration, resulting or potentially resulting in the effective demolition of the historic resource.

Historic Resources Atlas – An official inventory, appropriately documented, of historic resources in East Brandywine Township, including but not limited to those classified as Class I and Class II historic resources.

Certified Historic Resource – A building, site, structure, or object listed in the National Register of Historic Places or located within a National Register historic district and certified by the Secretary of the Interior as being of historical significance to the district.

SECTION 3. Article II, Terminology, Section 399-9, Definitions, shall be amended by modifying the following definition, to read as follows:

Demolition – The razing or destruction, whether entirely or in significant part, of a building, structure, site, or object. Demolition includes the removal of any building, structure, or object from its site, or the removal or destruction of the façade or surface. As applied to a Class I or Class II historic resource under the terms of this chapter, "significant part" shall mean 50% or more of the gross area of that part of the structure's façade, including the area delineated by porches, that is deemed by the East Brandywine Historical Commission to be historically significant and contributing to the basis upon which the structure is classified as a historic resource.

SECTION 4. Article II, Terminology, Section 399-9, Definitions, shall be amended by deleting the term "Historic Structure" and amending the definition of "Historic Resource" to read as follows:

Historic Resource – Within the context of this chapter, any building, site, structure, or object included within the Historic Resources Atlas. More particularly, a historic resource shall be:

- A. A certified historic resource, as defined by this chapter;
- B. A building, site, structure, or object located within a certified historic district, as defined by this chapter, that is designated as a contributing resource to that district;
- C. A building, site, structure, or object that has received a determination of eligibility (DOE), as defined by this chapter, or is located within a district that has received a determination of eligibility (DOE) and is designated as a contributing resource to that district.; or
- D. A resource that is deemed by the Chester County Historic Preservation Office to meet substantially the National Register criteria under the Chester County Certification Program.

SECTION 5. Article II, Terminology, Section 399-9, Definitions, shall be amended by deleting the terms "Contributing Resource(s);" "Historic Resources Inventory;" and "Certified Historic Structure."

SECTION 6. Article XVI, Signs, Section 399-121, Permits and Inspections, shall be amended to read as follows:

E. Permits shall be granted or refused within thirty (30) days from the date a completed application is submitted, as determined by the Zoning Officer.

SECTION 7. Article XVIII, Administration, Section 399-129, Duties and Functions of Zoning Officer, Subsection A, shall be amended to read as follows:

A. Receive and examine all applications for permits, referring applications to the Planning Commission for review and recommendation when deemed advisable and to the Historical Commission when required by the terms of this chapter; record and file all applications for permits with any accompanying plans and documents.

SECTION 8. If any sentence, clause, section or part of this ordinance is, for any reason, found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts hereof. It is hereby declared as the intent of the Board of Supervisors that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 9. All ordinances or parts of ordinances conflicting with any provisions of this ordinance are hereby repealed insofar as the same affects this ordinance.

SECTION 10. This amendment shall be effective 5 days following adoption, as by law provided.

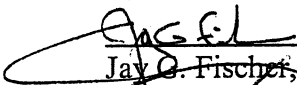
ENACTED this 17th day of October, 2007.

BOARD OF SUPERVISORS
EAST BRANDYWINE TOWNSHIP

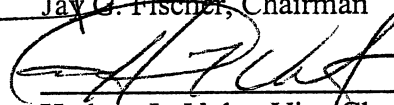
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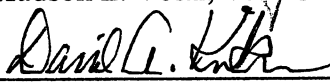
Mary Beth Smedley, Secretary/Treasurer



Jay G. Fischer, Chairman



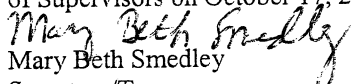
Hudson L. Voltz, Vice Chairman



David A. Kirkner, Supervisor

TOWNSHIP SEAL

This is a true and accurate copy of Ordinance 08 of 2007 adopted by the East Brandywine Township Board of Supervisors on October 17, 2007.


Mary Beth Smedley
Secretary/Treasurer
East Brandywine Township

Seal