

## **COPELAND AREA REGULATIONS AND MAPS**

**(for public hearing January 21, 2010)**

Copeland Plan District Guidelines for Development as voted in DCPC designation (MVC)

Copeland Plan DCPC regulations (Copeland Plan District Review Board)

Cottage City Historic District regulations (Cottage City Historic District Commission)

Cottage City Historic District application (Cottage City Historic District Commission)

Cottage City Historic District guidelines (Cottage City Historic District Commission)

Demolition Delay by-law regulations (Oak Bluffs Historical Commission)

Demolition Delay by-law application (Oak Bluffs Historical Commission)

Maps

**FULL TEXT OF THE GUIDELINES FOR DEVELOPMENT  
AS SPECIFIED IN THE COMMISSION'S DESIGNATION DECISION  
DESIGNATING THE COPELAND PLAN DISTRICT (originally designated as the Ocean  
Park District in 1991)**

- 5.21 That appropriate exterior design, height and/or siting regulations be developed for any potential structure proposed for construction within the District, to ensure that any and all new construction shall be consistent with and adhere to the Victorian style prevalent in the District.
- 5.21.1 That appropriate exterior design regulations be developed to ensure that public and private new construction, renovation, alteration or addition shall enhance, rather than detract from, the prevalent Victorian architecture of the District.
- 5.21.2 That appropriate exterior design and siting regulations be developed to ensure that public and private new construction, renovation, alteration or addition shall not introduce visual impediments to the long park views or to the traditional interaction between resident and park user.
- 5.22 That appropriate regulations be developed that new construction shall not radically alter or interrupt the existing viewscape and shall enhance rather than detract from the architectural integrity of the District.
- 5.23 That regulations be developed to indicate that the height shall be in keeping with the Victorian architecture prevalent in the District and shall allow sufficient passage of air and light.
- 5.24 That appropriate exterior design regulations be developed for any maintenance or restoration work requiring a local permit or permits, to ensure that such work shall be limited to retaining the prevalent Victorian style in the District.
- 5.25 That appropriate regulations be developed which address proposed demolition within the District and that such proposals be reviewed to consider the potential impact on the surrounding viewscape.
- 5.25.1 That appropriate regulations be developed regarding elective demolition, to ensure that the impact on the surrounding "parkscape" of such demolition shall be considered, together with the impact of proposed replacement development, prior to issuance of the demolition permit.
- 5.26 That the Town establish an advisory board to review applications and to advise relevant permit granting authorities. (The Commission urges the Town to consider the use of the existing Architectural Assistance Committee with the inclusion of one or two Copeland Plan District residents to fulfill this requirement).
- 5.27 That appropriate regulations be developed which take into account the physical character of the landscape, including fencing, plantings and pavement treatment. Such regulations should recognize these features as enhancements rather than detractions to the Victorian architecture

and should enhance the inviting open "village green" space of the parks and enhance the long views seaward.

- 5.28 That the appropriate regulations be developed which take into account the exterior lighting of the area.
- 5.29 That the appropriate regulations be developed that ensure that no building or structure be built seaward of Sea View Avenue which would be of such a height so as to break the view of Ocean Park, Waban Park or any other park from Nantucket Sound and visa versa.
- 5.30 That the appropriate administration of design, height and/or siting regulations, through a special permit procedures, be developed.
- 5.31 That the special permit procedures thus established shall include hardship considerations as allowed by local and/or state regulations and codes.
- 5.32 That appropriate regulations be developed regarding exterior lighting on public and private property, to ensure that such lighting shall enhance, rather than detract from, the prevalent Victorian architecture of the District.
- 5.33 That appropriate regulations be developed to ensure that no public or private development shall adversely impact the physical and/or visual accessibility of the landmark "Lover's Rock".

The regulations to be developed by the Town in accordance with these Guidelines shall not prohibit a certain amount of individualism in choice of design features and that variety is to be maintained as a key element in the fabric of the overall park presentation.

## REGULATIONS FOR COPELAND PLAN DISTRICT

In addition to the following text of the regulations and heard and approved for conformance in 1992, the following amendments have been approved in 1994 and 2009:

Amendments approved in 2009

Section 4. Copeland Plan District C. Uses 1. Appropriateness - f. Administration (2)

- remove the Building Official as a voting member
- delete *one member of the Cottage City Historic District Commission*
- clarify that *one member of the Board of Selectmen or their designee* refers to a single individual for the entire Copeland Plan District
- amend *two (2) owners of property* with *one (1) owner of property*
- amend *Five (5) members shall constitute a quorum* to read *Three (3) members shall constitute a quorum*

Also, in 2009, the MVC found **NOT** in conformance the following amendments previously voted by Town Meeting:

Section 4. Copeland Plan District, C. Uses 1., Appropriateness - a. General – add *Views from abutting properties shall be preserved.*

Section 4. Copeland Plan District C. Uses 1. Appropriateness - f. Administration (2) – delete *Changes to landscaping, other than maintenance of existing plantings and garden area shall be reviewed by the ...District Review Board for appropriateness.*

Amendments approved in 2004

to amend Section XVIII subsection 1. D.(6.)(d.)of the **Oak Bluffs** Zoning By-laws to remove ... "one member of the Oak Bluffs Architectural Assistance Committee," and replace it with "one member of the Cottage City Historic District Commission".



Town of Oak Bluffs, Massachusetts  
Planning Board

April 23, 1992

Charles Clifford, Executive Director  
Martha's Vineyard Commission  
PO Box 1447  
Oak Bluffs, MA 02557

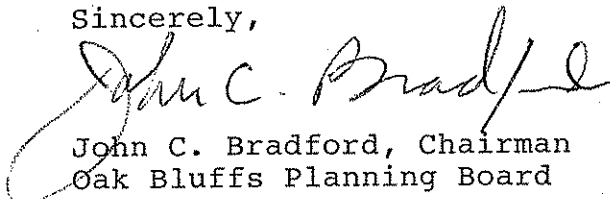
RE: OCEAN PARK DISTRICT

Dear Mr. Clifford,

Attached is a copy of the final revision of the zoning regulations for the Ocean Park District as recommended by the Oak Bluffs Planning Board. The Planning Board has voted unanimously in favor of placing the word "building" in the appropriate areas, as well as including the review of any demolition under Section 22.6 (b) per your recommendations.

We have also unanimously voted not to support any changes that would include town-owned property within the Ocean Park District. It is hoped that the Martha's Vineyard Commission will adopt the OPD regulations as attached, and if anything further is required, that you will feel free to contact us.

Sincerely,

  
John C. Bradford, Chairman  
Oak Bluffs Planning Board

JB:drk



Town of Oak Bluffs, Massachusetts  
Planning Board

Section 22: OCEAN PARK DISTRICT - Regulations within the Ocean Park District shall apply to all privately owned property

DEFINITIONS exclusive to this Section:

BUILDING: a combination of materials forming shelter for persons, animals or property

EXTERIOR ARCHITECTURAL FEATURE: such portion of the exterior of a building or structure as is open to view from a public street, public way, public park or public body of water

STRUCTURE: a combination of materials other than a building, including any fence, wall, light, sign, terrace, walk or driveway

22-1 PURPOSE: To protect and preserve the architectural integrity and visual impact of the District, the distinctive Victorian character of individual buildings and structures, the cultural availability and potential and the viewscape of the park and its immediate environs

22-2 BOUNDARIES: Beginning at the intersection of the centerline of Lake Avenue and the B-1 zoning district boundary as of August 8, 1991 southerly along said zoning district boundary to the intersection of the centerline of Samoset Avenue and said zoning district boundary and hence easterly along the centerline of Samoset Avenue to a point where the extended centerline of said Avenue meets the mean low waterline and hence northerly along mean low waterline to a point where the mean low waterline meets the extended centerline of Lake Avenue and hence westerly along the centerline of Lake Avenue to the point of origin

22-3 USES: Any use permitted in Section 3-1 and 3-2 of this By-Law is also permitted in the Ocean Park District

22-4: APPROPRIATENESS:

a. General: Any change to the exterior of an existing building or structure, addition to an existing building or structure, or new construction of a building or structure shall be limited to the Victorian style architecture prevalent within the district at the turn of the century. No change to an exterior architectural feature shall radically alter the exterior appearance of the building or structure in such a way as to damage the visual integrity of the surrounding viewscape. The asymmetrical skyline of the District is to be preserved and enhanced. The physical character of the landscape shall enhance rather than detract from the prevalent Victorian architecture and shall enhance the inviting and open "village green" space of the park. Variety is to be maintained as a key element in the fabric of the overall park presentation.

b. Height: The maximum height of building and structure elements shall be 50 feet. The roofline shall be asymmetrical in keeping with the Victorian architecture prevalent in Oak Bluffs at the turn of the century and shall allow sufficient passage of air and light.

c. Demolition: This sub-section shall apply only to elective demolition, not to demolition ordered by appropriate authority for health or safety reasons.

a. Demolition shall be allowed only when the existing building or structure is determined to have no relationship to the District, or when its retention would result in significant economic hardship, and when all of the requirements below have been satisfied.

2. If an applicant's request for permission to demolish a building or structure or part of a building or structure is based upon structural instability or advanced deterioration, a technical report prepared by an architect or engineer registered in Massachusetts shall be submitted, detailing the nature and extent of the specific problems, and providing reasonably accurate cost estimates for their correction.

3. Applications for permission to demolish an existing building or structure shall be accompanied by complete plans for the new development proposed on the site. There shall also be submitted a timetable and a budget for both the demolition and the reconstruction, as well as satisfactory evidence that adequate financing is available. The Town may require the posting of a performance bond or the establishment of an escrow account to guarantee the completion of any such project.

d. Window and door coverings: No building or structure in the Ocean Park District shall use unfinished or unpainted plywood or other material to cover window or door areas except in case of emergency, and in an emergency, the covering shall be removed within 14 days. Permanent off-season window or door coverings shall not extend beyond the existing window or door areas.

22-5 No building or structure shall be constructed seaward of Sea View Avenue which would be of such a height as to break the view of Ocean Park from Nantucket Sound and vice versa.

#### 22-6 ADMINISTRATION:

a. This Section shall be administered by the Building Official in accordance with Section 8.

b. Proposed demolition of a building or structure, new construction of a building or structure, additions to existing buildings or structures or changes to exterior architectural features shall be reviewed by the Ocean Park District Review Board for appropriateness.

Changes to landscaping, other than maintenance of existing plantings and garden areas shall be reviewed by the Ocean Park District Review Board for appropriateness. Said Board shall determine that a proposed change is appropriate before any other town permits may be issued, or before work not requiring other permits may commence. Said Board may alternatively determine that a proposed change is inapplicable to the by-law or that adherence to the by-law would cause significant economic hardship. Failure of such Board to make written response to the applicant and the Building Official within 30 (thirty) days to a request for review shall constitute approval. The Building Official may alternatively determine that a proposed change is inapplicable to the by-law or that adherence to the by-law would cause significant economic hardship.

c. The applicant shall provide sketches, diagrams, narrative description and/or plans sufficient for review under Section 22.

d. The Ocean Park District Review Board shall consist of membership as follows: one member of the Park Commission or their designee, one member of the Planning Board or their designee, the Building Official, one member of the Oak Bluffs Architectural Assistance Committee, one member of the Board of Selectmen or their designee and 2 (two) owners of property in the District to be appointed by the Board of Selectmen. Vote of the Board shall be by majority vote. Five (5) members shall constitute a quorum.



Suggested changes in addition to those on the attached pages:

Page 2 Paragraph 7, as follows:

- 22-5 No building or structure shall be constructed seaward of Sea View Avenue which would be of such a height as to break the view of Ocean Park from Nantucket Sound and vice-versa. Any lighting fixtures that may be proposed to be installed along Sea View Avenue and/or Ocean Avenue shall be reviewed by the Building Official and/or the Ocean Park District Review Board for appropriateness to the area.

Underlined sentence is addition and has been approved by the Oak Bluffs Planning Board as per John Bradford 05/07/92



# Town of Oak Bluffs, Massachusetts

Office of Town Clerk

P.O. Box 2490

Oak Bluffs, Massachusetts 02557-2490

**Deborah deB. Ratcliff**

*Town Clerk*

**Laura B. Johnston**

*Assistant Town Clerk*

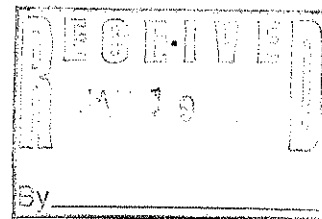
Telephone: 508-693-5515

Fax: 508-693-5124

Town of Oak Bluffs  
Annual Town Meeting  
April 8, 2003

## Article 18.

Voted unanimously to approve the 'Oak Bluffs Cottage City Historic District' By-law.  
(Historical Commission)



A TRUE COPY ATTEST:

*Deborah deB Ratcliff*  
TOWN CLERK OF  
OAK BLUFFS, MA.

# **APRIL 2003 TOWN MEETING**

## **SECTION XXIII COTTAGE CITY HISTORIC DISTRICT BY-LAW**

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#### **SECTION D - DEFINITIONS**

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#### **SECTION I – COMMISSION POWERS, FUNCTIONS AND DUTIES**

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#### **SECTION J – COMMISSION MEETINGS AND RULES**

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#### **SECTION N – AUTHORITY FOR ENLARGEMENT, REDUCTION OR ADDITION**

#### **SECTION O - AMENDMENT PROCEDURE**

#### **SECTION P – SEVERABILITY PROVISIONS**

## SECTION XXIII COTTAGE CITY HISTORIC DISTRICT BY-LAW

### SECTION A – PURPOSE

The purpose of this by-law is to promote the educational, cultural, economic and general welfare of the inhabitants and property owners of the Town of Oak Bluffs through the preservation and protection of the distinctive characteristics of buildings and places of historical significance to the Town or the architecture of such buildings and places, and through the maintenance and improvement of settings for such buildings and places and the encouragement of design compatible therewith.

### SECTION B – BOUNDARIES

The CCHD shall be located and bounded as shown on the map entitled, "Cottage City Historic District, Town of Oak Bluffs, Dukes County, Massachusetts," dated April 8, 2003 and further described as follows:

Beginning at the intersection of the centerlines of Oak Bluffs Avenue and Lake Avenue and running along the centerline of Lake Avenue to the B-1 zoning district boundary as of August 8, 1991; then along said zoning district boundary to the intersection of the centerline of Samoset Avenue and said zoning district boundary; then along the centerline of Samoset Avenue to the intersection of the centerlines of Circuit Avenue and Samoset Avenue; then along the centerline of Circuit Avenue to the intersection of the centerlines of Circuit Avenue and South Circuit Avenue; then along the centerline of South Circuit Avenue to a point adjacent to the northwesterly boundary of Lot 23, Map 18 as shown in the *FY 2002 Oak Bluffs Map and Ownership Volume*; then southerly and then easterly along Farm Pond's shoreline to a point at the southwesterly boundary of Lot 31, said Map 11; then along the southeasterly boundary of said Lot 31 to the centerline of Sea View Avenue; then along the centerline of Sea View Avenue to the intersection of the centerlines of Sea View Avenue and Oak Bluffs Avenue; and then to the point of origin.

### SECTION C – MAKE-UP OF THE COMMISSION

**Members** There is hereby established the CCHD Commission, consisting of seven (7) members appointed by the Board of Selectmen. Prior to making any appointments to the original membership of the CCHD Commission, the Board of Selectmen shall submit a written request for two nominees from each of the following organizations: the Oak Bluffs Historical Commission, the Park Commission and the Planning Board. The Board of Selectmen shall appoint one of the two nominees submitted by each organization. The additional members as advertised in the local newspaper, covering the town of Oak Bluffs, shall include, one member who is a real estate broker or salesman licensed in the state of Massachusetts, one member who is an architect and two (2) members who are residents or owners of property in the District to be administered by the commission. If within 30 days after submission of a written request as required by MGL Chapter 40C, for nominations by an organization entitled to submit nominations for membership on the Commission or in addition to the written request to the nominating organizations, the appearance of an ad in the local newspapers requesting membership interest, no such nominations or letters of interest have been made, the appointing body may proceed to make the appointment to the commission without nomination by such organizations or letters of interest by residents or property owners in the District. Thereafter, the Board of Selectmen, to the extent possible, shall appoint successors to the commission in the same manner as was used for the original appointment of the position that the new appointee will fill.

**Alternate Members** Alternate members, who need not be from nominees of organizations entitled to nominate members or respondents to newspaper advertisements, may be appointed, by virtue of their training, occupation or experience to further the intent and purposes of this bylaw, not to exceed in number the principal or regular members. Their term shall be 3 years. In the case of absence, inability to act, or unwillingness to act because of self-interest on the part of a member of the Commission, that member's place shall be taken by an alternate member designated by the Chairman of the Commission. Each member and alternate member shall continue in office after the expiration of his or her term until his or her successor is duly appointed and qualified. All members shall serve without compensation. The Commission shall elect annually a Chairman and a Vice-Chairman from its own number and a Secretary

from within or without its own number. All members of the commission shall be residents of the Town of Oak Bluffs. Vote by the Commission shall be by majority vote. Five members shall constitute a quorum.

**Terms** Each member of the CCHD Commission shall be appointed for a term of three (3) years, except that when the Commission is first established, two of its members shall be appointed for a term of one year, two of its members shall be appointed for a term of two years and three of its members shall be appointed for a term of three years.

#### **SECTION D - DEFINITIONS**

As used in this chapter the word "altered" includes the words "rebuilt," "reconstructed," "restored," "removed," and "demolished"; the word "building" means a combination of materials forming a shelter for persons, animals or property; the word "commission" means the commission acting as the historic district commission; the word "constructed" includes the words "built," "erected," "installed," "enlarged," and "moved"; the words "exterior architectural feature" mean such portion of the exterior of a building or structure as is open to view from a public street, public way, public park or public body of water, including but not limited to the architectural style and general arrangement and setting thereof, the kind, and texture of exterior building materials applied to exterior surfaces and the type and style of windows, doors, lights, signs and other appurtenant exterior fixtures; the words "person aggrieved" mean the applicant, an owner of adjoining property, an owner of property within the same historic district as property within one hundred feet of said property lines and any charitable corporation in which one of its purposes is the preservation of historic structures or districts; and the word "structure" means a combination of materials other than a building, including a sign, fence, wall, terrace, walk or driveway.

#### **SECTION E - CERTIFICATES OF APPROPRIATENESS, NON-APPLICABILITY OR HARDSHIP**

Except as this by-law may otherwise provide in accordance with Section G (exclusions) or Section H (ordinary maintenance), no building or structure within the CCHD shall be constructed or altered in any way that affects exterior architectural features unless the Commission shall first have issued a Certificate of Appropriateness, a Certificate of Non-applicability, or a Certificate of Hardship with respect to such construction or alteration.

Any person who desires to obtain a certificate from the Commission shall file with the Commission an application for a Certificate of Appropriateness, a Certificate of Non-applicability or a Certificate of Hardship, as the case may be, in such form as the Commission may reasonably determine together with such plans, elevations, specifications, material and other information, including in the case of demolition or removal, a statement of the proposed condition and appearance of the property thereafter, as may be reasonably deemed necessary by the commission to enable it to make a determination on the application. No building permit for construction of a building or structure or for alteration of an exterior architectural feature within the CCHD and no demolition permit for demolition or removal of a building or structure with the CCHD shall be issued by the Town or any department or official thereof until the certificate required by this Section has been issued by the Commission.

#### **SECTION F - STANDARDS OF REVIEW**

In passing upon matters before it, the Commission shall strive to advance the purpose of this by-law, and shall consider, among other things, the historical and architectural value and significance of the site, building or structure, the general design, arrangement, proportions, texture and materials involved, the relation of such features to similar features of buildings and structures in the surrounding area, and the position of such buildings or structures in relation to the public streets, public ways, public parks or public bodies of water in the surrounding area. The physical character of the landscape shall enhance rather than detract from the prevalent Victorian architecture and shall enhance the inviting and open vistas of the parks. The Commission shall not consider interior arrangements or architectural features not subject to public view. Variety is to be maintained as a key element in the fabric of the overall district presentation. The authority of the Commission shall extend to, but not be limited to, the review of the following categories:

1. Terraces, walks, driveways, sidewalks, and similar structures above grade level
2. Decks, porches and other accessory structures

3. Walls and fences
4. Outdoor lighting fixtures, such as post and driveway/walkway lights visible from the street
5. Signs (consisting of letters painted on wood without symbol or trademark and if illuminated, illuminated only indirectly) if permitted by a certificate of appropriateness shall conform to the following:
  - a. Non-residential buildings or structures in the District may include one sign of not more than 10 square feet in total area, plans for which must be presented to and approved by the Commission.
  - b. Residential use of any building or structure within the District may include one sign advertising ownership, occupancy, or services offered, of not more than one square foot in total area, plans for which must be presented to and approved by the Commission
  - c. Notwithstanding sub-sections a. and b. above, signs containing brief historical information, and of a design approved by the Commission, may be attached to any building or structure within the District upon the approval of the Commission.

The commission shall not make any recommendation or requirements except for the purpose of preventing developments incongruous to the historic aspects or the architectural characteristics of the surroundings and of the CCHD.

#### **SECTION G – EXCLUSIONS**

1. The authority of the commission shall not extend to the review of any of the following categories of buildings or structures or exterior architectural features in the CCHD, and the buildings or structures or exterior architectural features so excluded may be constructed or altered within the CCHD without review by the commission:
  - a. Temporary structures or signs, subject, however, to such conditions as to duration of use, location, lighting, removal and similar matters as the commission may reasonably specify
  - b. Terraces, walks, driveways and sidewalks, provided that any such structure is substantially at grade level.
  - c. Storm doors and storm windows, screens, lighting fixtures, and antenna (except satellite dishes over 18 inches in diameter)
  - d. The reconstruction, substantially similar in exterior design and materials, of a building, structure or exterior architectural feature damaged or destroyed by fire, storm or other disaster, provided such reconstruction is begun within one year thereafter unless otherwise agreed to by the Commission and is carried forward with due diligence.
2. The Commission may determine from time to time after public hearing, that certain categories of exterior architectural features, structures or signs, may be constructed or altered without review by the Commission without causing substantial derogation from the intent and purposes of this by-law and of the Historic Districts Act, Massachusetts General Laws Chapter 40C, as amended.
3. The Commission may further determine from time to time after public hearing that the authority of the Commission shall be limited only to those exterior architectural features within the CCHD subject to view from one or more specifically designated public streets, public ways, public parks or public bodies of water, as opposed to all exterior architectural features within the CCHD subject to view from a public street, public way, public park or public body of water, without substantial derogation from the intent and purposes of this by-law and of the Historic Districts Act, Massachusetts General Laws Chapter 40C, as amended.
4. Upon request, the Commission shall issue a Certificate of Non-applicability with respect to construction or alteration in any category then not subject to review by the Commission.

#### **SECTION H – ORDINARY MAINTENANCE**

Nothing in this by-law shall be construed to prevent the ordinary maintenance, repair or replacement of any exterior architectural feature within the CCHD which does not involve a change in design, material or the outward appearance thereof, nor to prevent landscaping with plants, trees or shrubs, nor construed to prevent the meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition, nor construed to prevent any construction or alteration

under a permit duly issued prior to the effective date of this by-law.

**SECTION I - COMMISSION POWERS, FUNCTIONS AND DUTIES**

The Commission shall have the following additional powers, functions and duties:

1. If the Commission determines that the construction or alteration for which an application for a Certificate of Appropriateness has been filed will be appropriate for and compatible with the preservation or protection of the CCHD, the Commission shall cause a Certificate of Appropriateness to be issued to the applicant. In the case of a disapproval of an application for a Certificate of Appropriateness, the Commission shall place upon its records the reasons for such determination, and shall forthwith cause a notice of its determination, accompanied by a copy of the reasons therefor as set forth in its records, to be issued to the applicant, and the Commission may make recommendations to the applicant with respect to appropriateness of design, arrangement, texture, material and similar features. Prior to the issuance of any disapproval, the Commission may notify the applicant of its proposed action accompanied by recommendations of changes in the applicant's proposal, which, if made, would make the application acceptable to the Commission. If within fourteen (14) days of the receipt of such notice, the applicant files a written modification of the application in conformity with the recommended changes of the Commission, the Commission shall cause a Certificate of Appropriateness to be issued to the applicant.
2. In the case of a determination by the Commission that an application for a Certificate of Appropriateness or for a Certificate of Non-applicability does not involve any exterior architectural feature which is not then subject to review by the Commission in accordance with the provisions of Section K, the Commission shall cause a Certificate of Non-applicability to be issued to the applicant.
3. If the construction or alteration for which an application for a Certificate of Appropriateness has been filed shall be determined to be inappropriate, or in the event of an application for a Certificate of Hardship, the Commission shall determine whether, owing to conditions especially affecting the building or structure involved, but not affecting the CCHD generally, failure to approve an application will involve a substantial hardship, financial or otherwise, to the applicant, and whether such application may be approved without substantial detriment to the public welfare and without substantial derogation from the intent and purposes of this by-law and of the Historic Districts Act, Massachusetts General Laws Chapter 40C, as amended. If the Commission determines that owing to such conditions failure to approve an application will involve substantial hardship to the applicant and approval thereof may be made with such determination on an application within the time specified in Section 12 hereof, the Commission shall cause a Certificate of Hardship to be issued to the applicant.
4. Each certificate issued by the Commission shall be dated and signed by its Chairman, Vice-chairman, Secretary, or such other person designated by the Commission to sign such certificates on its behalf.
5. The Commission shall keep a permanent record of its resolutions, transactions and determinations and of the vote of each member participating therein, and shall adopt and amend such rules and regulations not inconsistent with the provisions of this by-law and the provisions of the Historic Districts Act, Massachusetts General Laws Chapter 40C, as amended, and prescribe such forms as it shall deem desirable and necessary for the regulation of its affairs and the conduct of its business. The Commission shall file such rules and regulation with the Town Clerk.
6. The Commission shall file with the Town Clerk, and with any department or official of the Town having authority to issue building permits, a copy or notice of all certificates and determinations of disapproval issued by it.
7. The Commission may, after public hearing, set forth in such manner as it may offer for consideration the various designs of certain appurtenances and materials which will meet the requirements of the CCHD, but no such determination shall limit the right of an applicant to present other designs or materials to the Commission for its approval.
8. The Commission may, subject to appropriation employ clerical and technical assistance or consultants and incur other expenses appropriate to the carrying on of its work, and may accept money gifts and expend the same for such purposes.
9. The Commission shall have, in addition to the powers, authority and duties granted to it by this by-law,

such powers, authority and duties as may be delegated or assigned to it from time to time by vote of the Town Meeting.

#### **SECTION J – COMMISSION MEETINGS & RULES**

Meetings of the Commission shall be held monthly or shall be called at the request of two members of the Commission and in such other manner as the Commission shall determine in its rules. A majority of the members of the Commission shall constitute a quorum. The concurring vote of the majority of the members of the Commission in attendance shall be necessary to issue a Certificate of Appropriateness, a Certificate of Non-applicability or a Certificate of Hardship.

#### **SECTION K – PROCEDURE IN DECISION MAKING**

The Commission shall determine promptly, and in all events within fourteen (14) days after the filing of an application for a Certificate of Appropriateness, a Certificate of Non-applicability or a Certificate of Hardship, as the case may be, whether the application involves any exterior architectural features which are subject to approval by the Commission. If the Commission determines that such application involves any such features which are subject to approval by the Commission, the Commission shall hold a public hearing on such application unless such hearing is dispensed with as hereinafter provided.

The Commission shall fix a reasonable time for the hearing on any application subject to approval and shall give public notice of the time, place and purposes thereof at least fourteen (14) days before said hearing in the local newspaper, and by mailing, postage prepaid, a copy of said notice to the applicant; to the Planning Board; to any person filing a written request for notice of hearing (such request to be renewed yearly in December); to other property deemed by the Commission to be materially affected thereby as they appear on the most recent real estate tax list of the Board of Assessors; to such other persons as the Commission shall deem entitled to notice; and, at the applicant's expense, to the owners of all adjoining property.

As soon as convenient after such public hearing, but in any event, within thirty (60) days after the filing of the application, or within such further time as the applicant may allow in writing, the Commission shall make a determination on the application. If the commission shall fail to make a determination within such period of time, the Commission shall thereupon issue a Certificate of Hardship.

A public hearing on an application need not be held if such hearing is waived in writing by all persons entitled to notice thereof. In addition, a public hearing on an application may be waived by the Commission if the Commission determines that the exterior architectural feature involved or its category, as the case may be, is so insubstantial in its effect on the CCHD that it may be reviewed by the Commission without public hearing on the application, provided, however, that if the Commission dispenses with a public hearing on an application, notice of the application shall be given to the owners of all adjoining property and other property deemed by the Commission to be materially affected thereby, as provided above, and ten (10) days shall elapse after the mailing of such notice before the Commission may act upon such application.

#### **SECTION L – APPEAL PROCEDURE**

Any applicant aggrieved by a determination of the Commission may, within twenty (20) days after the filing of the notice of such determination with the Town Clerk, file an appeal in the Superior Court sitting in equity for the County of Dukes County pursuant to the provisions of Massachusetts General Laws Chapter 40C, Section 12A, as amended.

#### **SECTION M – ENFORCEMENT**

The superior court sitting in equity for the County of Dukes County shall have jurisdiction to enforce the provisions of this by-law and the determinations, rulings, and regulations issued pursuant thereto and may, upon the petition of the Board of Selectmen or of the Commission, restrain by injunction violations thereof; and, without limitation, such court may order the removal of any building, structure or exterior architectural feature constructed in violation thereof, and may issue such other orders for relief as may be equitable.



Page 7.

Whoever violates any of the provisions of this by-law shall be punished by a fine of not less than ten (10) dollars nor more than five hundred (500) dollars. Each day during any portion of which a violation continues to exist shall constitute a separate offense.

**S3CTION N – AUTHORITY FOR ENLARGEMENT, REDUCTION OR ADDITION**

An historic district may be enlarged or reduced or an additional historic district in the Town may be created in accordance with the provisions of Massachusetts General Laws Chapter 40C, Section 3.

**SECTION O – AMENDMENT PROCEDURE**

This by-law may, from time to time, be amended in any manner not inconsistent with the provisions of Massachusetts General Laws Chapter 40C, by a two-thirds vote of a Town meeting, provided that the substance of such amendment has first been submitted to the historic district commission having jurisdiction over such district for its recommendation and its recommendation has been received or sixty (60) days have elapsed without such recommendation.

**SECTION P – SEVERABILITY PROVISIONS**

In the event that any provision of this by-law shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the remaining provisions shall continue in full force and effect.



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

WESTERN MASSACHUSETTS DIVISION  
1350 MAIN STREET  
SPRINGFIELD, MASSACHUSETTS 01103-1629

(413) 784-1240  
www.ago.state.ma.us

THOMAS F. REILLY  
ATTORNEY GENERAL

August 21, 2003

Deborah deB. Ratcliff, Town Clerk  
56 School Street - P.O. Box 2490  
Oak Bluffs, MA 02557

**RE: Oak Bluffs Annual Town Meeting of April 8, 2003 — Case # 2480  
Warrant Article # 18 (Historical District)**

Dear Ms. Ratcliff:

**Article 18** - I return with the approval of this Office the amendments to the town by-laws adopted under this Article on the warrant for the Oak Bluffs annual town meeting that convened on April 8, 2003, and the map pertaining to it, except as provided below.

The amendments adopted under Article 18 add a new "Oak Bluffs Cottage City Historic District" by-law to the town's by-laws. The proposed by-law creates a new Cottage City Historic District Commission, and specifically, Section J establishes the commission's meetings and rules, and would provide as follows:

Meetings of the Commission shall be held monthly or shall be called at the request of two members of the Commission and in such other manner as the Commission shall determine in its rules. A majority of the members of the Commission shall constitute a quorum. The concurring vote of the majority of the members of the Commission in attendance shall be necessary to issue a Certificate of Appropriateness, a Certificate of Non-applicability or a Certificate of Hardship.

(Emphasis added.)

We disapprove and delete the above-underlined text because it is inconsistent with G.L. c. 40C, § 11. General Laws Chapter 40C, Section 11, pertains to meetings of local historic district commissions and provides in pertinent part as follows:

Meetings of a commission shall be held at the call of the chairman and shall be called at the request of two members of the commission and in such other manner as the commission shall determine in its rules. A majority of the members of a commission shall constitute a quorum. The concurring vote of a majority of the members of the commission shall be necessary to issue a certificate of appropriateness, a certificate of non-applicability or a certificate of hardship.

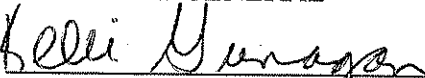
General Laws Chapter 40C, Section 11, expressly states that a vote of the majority of the members of the commission is needed to issue a certificate of appropriateness, a certificate of non-applicability, or a certificate of hardship. Section J of the proposed by-law would require only a concurring vote of a majority of members in attendance, which is a more relaxed voting requirement. Since there is an explicit statutory voting requirement, the general rule that a majority of a board is a quorum and the majority of the quorum can act is not applicable. See Welderry v. Planning Board of Nantucket, 431 Mass. 722, 725 (2000) (finding that a majority of a planning board and not merely a majority of the quorum was required under G.L. c. 41, § 81L, to approve a definitive subdivision plan), citing Clark v. City Council of Waltham, 328 Mass. 40, 41 (1951). Thus, the above-underlined text is inconsistent with G.L. c. 40C, § 11, and must be disapproved and deleted. We understand that this text was supposed to be deleted from the version of the by-law presented to town meeting; however, it was inadvertently included in the text voted on by town meeting.

**Note:** General Laws Chapter 40, Section 32, requires that both general and zoning by-laws and by-law amendments, once approved by the Attorney General, must be posted and published by the Town Clerk before they may be deemed to take effect. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date that these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were voted by Town Meeting, unless a later effective date is prescribed in the by-law.

If the Attorney General has disapproved and deleted one or more portions of any by-law or by-law amendment submitted for approval, only those portions approved are to be posted and published pursuant to G.L. c. 40, § 32. We ask that you forward to us a copy of the final text of the by-law or by-law amendments reflecting any such deletion. It will be sufficient to send us a copy of the text posted and published by the Town Clerk pursuant to this statute.

Very truly yours,

THOMAS F. REILLY  
ATTORNEY GENERAL



by: Kelli E. Gunagan, Assistant Attorney General  
By-law Coordinator, Municipal Law Unit  
1350 Main Street, 4<sup>th</sup> Floor  
Springfield, MA 01103-1629  
(413) 784-1240, x 117

enc.  
pc:

Town Counsel

Town of Oak Bluffs  
Annual Town Meeting  
April 12, 2005

**Article 12.** Voted in excess of the required 2/3rds to amend the Oak Bluffs By-laws  
**Chapter XXIII** Cottage City Historic District Section B Boundaries by adding the following:

And, beginning at the intersection of the centerlines of Oak Bluffs Avenue and Seaview Avenue Extension, thence northwesterly along the centerline of Seaview Avenue Extension to its intersection with Circuit Avenue Extension and thence southwesterly, southerly and southeasterly along the centerline of Circuit Avenue Extension to its intersection with Oak Bluffs Avenue and thence northeasterly along the centerline of Oak Bluffs Avenue to the point of origin.

**Cottage City Historic District Commission**

CCHD  
Amendment  
to include the  
North Bluff.

A TRUE COPY ATTEST:

*Daniel deB. Ketchum*

TOWN CLERK OF  
OAK BLUFFS, MA.



## PROPOSED BYLAW TO EXPAND THE COTTAGE CITY HISTORIC DISTRICT TO INCLUDE THE NORTH BLUFF, OAK BLUFFS, MASS

The Cottage City Historic District Study Committee has conducted a study to determine the need to expand the district to include the adjoining area known as the North Bluff. This study has been extensive, including a survey to all property owners in the proposed district, a preliminary report that has been accepted as complete by the Massachusetts Historical Commission and a public hearing to receive public testimony from all interested parties.

The results of the study has proved conclusively that the North Bluff is an excellent candidate for historic district designation and the committee recommends that the voters of Oak Bluffs affirm this finding by voting in favor of the proposed bylaw change that will expand the Cottage City Historic District to include the North Bluff at the next available Town Meeting.

Respectfully submitted,  
David Wilson, Chairman, members; Renee Balter, Jim Brown, Barbara Baskin, Kathy Burton,  
David Wessling and Phil Regan

THE PROPOSED EXPANSION  
THE NORTH BLUFF

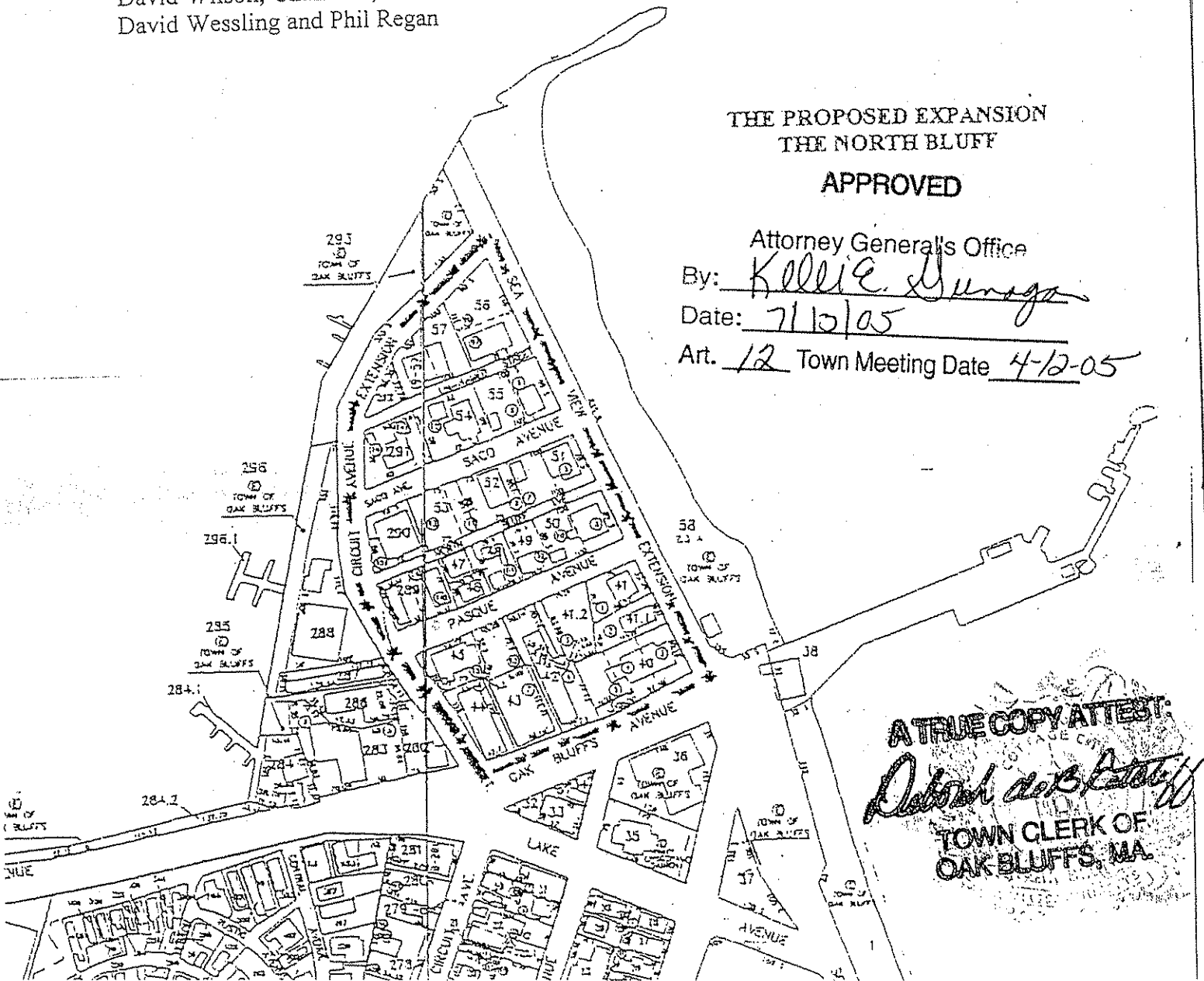
APPROVED

Attorney General's Office

By: Kellie E. Dunagan

Date: 7/10/05

Art. 12 Town Meeting Date 4-12-05



A TRUE COPY ATTEST:

Robert A. B. Baskin  
TOWN CLERK OF  
OAK BLUFFS, MA

## **COTTAGE CITY HISTORIC DISTRICT COMMISSION**

### **APPLICATION INSTRUCTIONS**

- ☐ Review the attached Cottage City Historic District Architectural Guidelines and Cottage City Historic District By-Law.
- ☐ Complete the Cottage City Historic District application form.
- ☐ A notification mailing to abutters within a 100' radius of subject property is required. A sticker-style label mailing list may be obtained from the Oak Bluffs Tax Assessors office. Stamped, addressed legal envelopes, utilizing these labels and including a return address of: Board of Selectman, P.O. Box 1327, Oak Bluffs, MA 02557 should be included with your application. All fees for mailings, advertising, lists and labels are the responsibility of the applicant and must be paid prior to the final decision by the CCHDC.
- ☐ If applicable, include a plot plan of subject property showing current and proposed setbacks with your application.
- ☐ Include schematic or architectural drawings of building elevations showing details of proposed work affecting all sides of the building.
- ☐ Include photographs of the existing building as it can be seen from a public way. Include any other historic photos or information, if available, that may be pertinent to your project. The more information included, the easier it will be for the CCHDC to promptly and accurately review your project.
- ☐ Attach a complete and thorough description of all exterior construction materials and decorative features proposed.

*The Cottage City Historic District Commission encourages discussions with applicants before proceeding with the application process. We welcome the opportunity to answer your questions at our regularly scheduled meetings.*

# TOWN OF OAK BLUFFS

## COTTAGE CITY HISTORIC DISTRICT APPLICATION

(This is an application only and not an authorization to begin work until a building permit is issued by the Oak Bluffs Building Commissioner)

-----  
APPLICATION IS HEREBY MADE FOR THE ISSUANCE OF A CERTIFICATE OF (please circle one):

APPROPRIATENESS

NON-APPLICABILITY

HARDSHIP

-----  
CATEGORIES THAT APPLY TO YOUR PROJECT (please circle):

NEW BUILDING

ADDITION

ALTERATION

RECONSTRUCTION

DEMOLITION

OTHER \_\_\_\_\_

-----  
TYPE OF BUILDING (please circle):

DWELLING

GARAGE

ACCESSORY

OTHER \_\_\_\_\_

### SIGN

Please attach a full description of proposed sign including a schematic drawing and dimensions.

-----  
OTHER STRUCTURE (please circle):

FENCE

WALL

OTHER \_\_\_\_\_

-----  
*Please type or print legibly:*

Address of proposed work: \_\_\_\_\_

Assessors Map Number: \_\_\_\_\_

Assessors Lot Number: \_\_\_\_\_

Owner/Applicant: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Owner's Address: \_\_\_\_\_

E-Mail: \_\_\_\_\_

Agent/Contractor: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Agent/Contractor's Address: \_\_\_\_\_

E-Mail: \_\_\_\_\_

-----  
PLEASE PROVIDE A DETAILED DESCRIPTION OF THE PROPOSED WORK AND ATTACH DOCUMENTS/MATERIALS REQUESTED IN THE APPLICATION INSTRUCTIONS:

-----  
IF YOU ARE MAKING APPLICATION FOR A CERTIFICATE OF HARDSHIP, PLEASE PROVIDE AN EXPLANATION ON A SEPARATE SHEET.

Signature of owner: \_\_\_\_\_ Date: \_\_\_\_\_

-----  
Date received by CCHDC: \_\_\_\_\_ by \_\_\_\_\_, \_\_\_\_\_ (Office)

This certificate is hereby: **APPROVED** **APPROVED/AMENDED** **DENIED**

Amended conditions: \_\_\_\_\_

-----  
Extension of Application: \_\_\_\_\_ (Signature) \_\_\_\_\_ (Date)

If denied, reason and/or recommendations: \_\_\_\_\_

-----  
Date of Commission action: \_\_\_\_\_ (Signature) \_\_\_\_\_ (Office)

Public Hearing Notification Fee: \_\_\_\_\_

Date received: \_\_\_\_\_

Rev. 06/15/04

## Cottage City Historic District

### Architectural Guidelines

The Cottage City Historic District guidelines have been established in accordance with Section 7, Chapter 40C of the Massachusetts General Law, in order to help preserve the architectural as well as visual character of one of the most historically significant and eclectic residential compositions in the United States.

The Victorian Architecture of the Historic District is characterized by examples of the Queen Anne, Italianate, Stick, Shingle, Gothic Revival and Carpenter Gothic styles. Most of these "cottages" were constructed based on the principles laid out in Robert Morris Copeland's Community Master Plan designed in 1866. Copeland's plan was developed as an extension to the adjacent Campgrounds and promoted simple wood cottages with open porches fronted on meandering paths, which in turn defined common park areas. This concept was intended to promote friendly social interaction. The architectural intent included intentional charm that was to be personalized through the choice of architectural style, building coloration and level of detailed woodwork on the cottage facades.

Each of the architectural styles have imposed a certain precedent for very different detailing on, sometimes, adjacent buildings. However, the underlying architectural theme remains consistent throughout the Historic District in terms of **scale** (perceived size and shape in relative terms), **mass** (three dimensional composition), **proportions** (design ratios between building elements), **materiality** (textural detailing of the building's façade), and **intent** (purposeful design).

It is the responsibility of the Historic District commission, as a representative body of the Community as a whole, to promote sympathetic and appropriate design in terms of exterior alterations, additions, new construction, rehabilitation and/ or renovations within the limits of the Historic District. It is also the intent of the Historic District Commission to promote the repair and restoration of original building elements, when possible, rather than the replacement of such elements. Purposefully, the District and its history shall be respected rather than ignored. It is this purpose along with a sense of stewardship that will help assure future generations the benefit of community history.

Chapter 40C states the following:

In passing upon matters before it, the Commission shall consider among other things the historic and architectural value and significance of the site, building or structure, the general design arrangement, texture, material and color of the features involved and the relationship of such features to similar features of buildings and structures in the surrounding area. In the case of new construction or additions to existing buildings or structures the Commission shall consider the appropriateness of the size and shape of the building or structure both in relation to the land area upon which the building or structure is situated and to buildings or



structures within the vicinity and the Commission may in appropriate cases recommend or support dimensional and set back requirements.

The Commission shall not impose requirements except for the purpose of preventing development incongruous to the historic aspects of the architectural characteristics of the Historic District.

I. The Commissions purview shall include but not be limited to the following **Construction Types**:

- A. **Alterations** shall include the repair and/or replacement of fatigued or inappropriate building elements. It is also important to recognize the potential significance of certain building details or elements which, may not be original to the structure or its time of origin, however have since become historically prevalent.
- B. **Additions** shall be secondary in scale and mass to the original building while incorporating compatible proportions, materiality, and intent with its design.
- C. **New Construction** shall be architecturally compatible with the character of the Historic District through the means of scale, mass, proportions, materiality and intent while avoiding artificial imitation.
- D. **Renovation / Rehabilitation** shall include an attempt to return the building or structure to its original detailing and/or use by authentically recreating or uncovering building elements, which may have been removed or obscured over time. This may also include the restoration or replacement of deteriorated building elements through historically correct means. It is imperative to retain and restore original components and detailing when possible.
- E. **Demolition** of entire buildings within the Historic District shall be prohibited unless the Commission deems the building architecturally insignificant to the District or has fallen into gross disrepair through extended negligence or catastrophic mishap. Financial hardship shall be considered and if demolition is permitted, it may be required, by the commission, that certain salvageable building elements be retained and incorporated as part of the new construction.
- F. **Ordinary Maintenance** inclusive of exterior paint maintenance and minor carpentry repairs shall be expected of all property owners within the Historic District. General upkeep shall not require commission review.

II. The Commissions purview shall include but not be limited to the following **Building Elements**:

- A. **Siding and Trim** shall be painted wood with contrasting textures and decorative detailing including but not limited to shingles, lap siding, butt siding, board and batten siding, shouldered casework, tracery, three dimensional friezes, cornices

and brackets that are consistent with the original buildings architectural style. Aluminum, synthetic and vinyl siding and trim material along with artificial veneers shall be discouraged.

- B. Doors and Windows shall be painted wood with authentic type glass panels and true or simulated divisions. Adjacent details shall include but not be limited to double doors, pointed arch doors and windows, screen panels, bay and oriel windows, stained or decorative glass, double hung and casement windows, operational hardware, working shutters, lintels, architraves and ornamented encasings consistent with the original buildings architectural style. No vinyl or aluminum sash or doors, removable muntin grills, false shutters or tinted glass shall be discouraged.
- C. Roofs shall be limited to certain color and texture patterns achieved with either asphalt shingles, wood shingles, slate tiles or copper installations. Roofs shall maintain historic shapes, pitches and details including but not limited to cupolas, towers, turrets, chimneys, projecting eaves, decorative barge boards and soffits, dormers, gutters and downspouts consistent with the original buildings architectural style. Historically incorrect roof pitches and types, certain asphalt and synthetic roofing, aluminum gutters, aluminum or plastic awnings and visible skylights shall be discouraged.
- D. Porches inclusive of frontal porches, wrap around porches and covered balconies shall be of painted wood while maintaining historic shapes and details including but not limited to decking, ornate railings, balustrades and columns, scrollwork, decorative skirts exposed ceilings and steps consistent with the original buildings architectural style. Pressure treated or synthetic decking, lattice or scrollwork shall be discouraged.
- E. Appurtenances such as mechanical equipment and exhaust devices, antennae, and electrical power sources shall be concealed or located out of public view so as not to detract from the buildings historic character. Exterior lighting fixtures, house identification numbers and name plates shall be harmonious and complimentary to the historic nature of the building and its materials. Imitation brass hardware, artificial stone and brick veneers and metal flue pipes shall be discouraged.

**NOTE:** If a buildings original style is unknown, the homeowner shall seek a determination by the Historic District Commission prior to proposing new work on the existing building.



# Town of Oak Bluffs, Massachusetts

Office of Town Clerk

P.O. Box 2490

Oak Bluffs, Massachusetts 02557-

Deborah deB. Ratcliff

Town Clerk

Laura B. Johnston

Assistant Town Clerk

508-693-5515

508-693-5124

Special Town Meeting Report  
December 2, 2003

## Article 12

Voted to add the following **General By-law Chapter XXIV**, as amended.

### **The Preservation of Historically Significant Buildings**

#### Intent and Purpose

This by-law is enacted for the purpose of preserving and protecting significant buildings within the Town which constitute or reflect distinctive features of the architectural, cultural, economic, political or social history of the town and to limit the detrimental effect of demolition on the character of the town. Through this by-law, owners of preferably preserved buildings are encouraged to seek out alternative options that will preserve, rehabilitate or restore such buildings and residents of the town are alerted to impending demolitions of significant buildings. By preserving and protecting significant buildings, streetscapes and neighborhoods, this by-law promotes the public welfare by making the town a more attractive and desirable place in which to live and work. To achieve these purposes the Historical Commission is authorized to advise the Building Inspector with respect to demolition permit applications. The issuance of demolition permits is regulated as provided by this by-law.

#### Definitions

**APPLICANT** – Any person or entity who files an application for a demolition permit. If the applicant is not the owner of the premises upon which the building is situated, the owner must indicate on or with the application his/her assent to the filing of the application.

**APPLICATION** – An application for the demolition of a building.

**BUILDING** – Any combination of materials forming a shelter for persons, animals, or property.

**BUILDING COMMISSIONER** – The person occupying the office of Building Commissioner or otherwise authorized to issue demolition permits.

**COMMISSION** – The **Oak Bluffs** Historical Commission or its designee.

**DEMOLITION** – Any act of pulling down, destroying, removing, dismantling or razing a building or commencing the work of total or substantial destruction with the intent of completing the same.

**DEMOLITION PERMIT** – The building permit issued by the Building Inspector for a demolition of a building, excluding a building permit issued solely for the demolition of the interior of a building.

**PREFERABLY PRESERVED** – Any significant building which the Commission, following a public hearing, that it is in the public interest to be preserved rather than demolished. A preferably preserved building is subject to the six month demolition delay period of this by-law.

**SIGNIFICANT BUILDING** – Any building within the town (city) which is in whole or in part one hundred years or more old and which has been determined by the Commission or its designee to be significant based on any of the following criteria:

- The Building is listed on, or is within an area listed on, the National Register of Historic Places; or
- The Building has been found eligible for the National Register of Historic Places; or
- The Building is importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the Town or the Commonwealth; or
- The Building is historically or architecturally important (in terms of period, style, method of building construction or association with a recognized architect or builder) either by itself or in the context of a group of buildings.

#### Procedure

No demolition permit for a building which is in whole or in part one hundred years or more old shall be issued without following the provisions of this by-law. If a building is of unknown age, it shall be assumed that the building is over one hundred years old for the purposes of this by-law.

An applicant proposing to demolish a building subject to this by-law shall file with the Building Commissioner an application containing the following information:

- The address of the building to be demolished.
- The owner's name, address and telephone number.
- A description of the building.
- The reason for requesting a demolition permit.
- A brief description of the proposed reuse, reconstruction or replacement.
- A photograph or photograph(s) of the building.

The Building Commissioner shall within seven days forward a copy of the application to the Commission. The Commission shall within fifteen days after receipt of the application, make a written determination of whether the building is significant.

Upon determination by the Commission that the building is not significant, the Commission shall so notify the Building Commissioner and applicant in writing. The Building Commissioner may then issue the demolition permit.

Upon determination by the Commission that the building is significant, the Commission shall so notify the Building Commissioner and the applicant in writing. No demolition permit may be issued at this time. If the Commission does not notify the Building Commissioner within fifteen days of receipt of the application, the Building Commissioner may proceed to issue the demolition permit.

If the Commission finds that the building is significant, it shall hold a public hearing within thirty days of the written notification to the Building Commissioner. Public notice of the time, place and purpose of the hearing shall be posted in a conspicuous place in town hall for a period of not less than seven days prior to the date of said hearing and the applicant and the building inspector shall be notified in writing of the meeting time and place.

The Commission shall decide at the public hearing or within fourteen days after the public hearing whether the building should be preferably preserved. If agreed to in writing by the applicant, the determination of the Commission may be postponed.

If the Commission determines that the building is not preferably preserved, the Commission shall so notify the Building Commissioner and applicant in writing. The Building Commissioner may then issue the demolition permit.

If the Commission determines that the building is preferably preserved, the Commission shall notify the Building Commissioner and applicant in writing. No demolition permit may then be issued for a period of six months from the date of the determination unless otherwise agreed to by the Commission. If the Commission does not so notify the Building Commissioner in writing within twenty-one days of the public hearing, the Building Commissioner may issue the demolition permit.

Upon a determination by the Commission that any building which is the subject of an application is a preferably preserved building, no building permit for new construction or alterations on the premises shall be issued for a period of six months from the date of the determination unless otherwise agreed to by the Commission.

No permit for demolition of a building determined to be a preferably preserved building shall be granted until all plans for future use and development of the site have been filed with the Building Commissioner and have been found to comply with all laws pertaining to the issuance of a building permit or if for a parking lot, a certificate of occupancy for that site. All approvals necessary for the issuance of such building permit or certificate of occupancy, including without limitation any necessary zoning variances or special permits, must be granted and all appeals from the granting of such approvals must be concluded, prior to the issuance of a demolition permit under this section.

The Building Commissioner may issue a demolition permit or a building permit for a preferably preserved building within the six months if the Commission notifies the Building Commissioner in writing that the Commission finds that the intent and purpose of this by-law is served even with the issuance of the demolition permit or building permit.

Following the six month delay period, the Building Commissioner may issue the demolition permit.

#### Administration

The Commission may adopt such rules and regulations as are necessary to administer the terms of this by-law.

The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this by-law.

The Commission may delegate authority to make initial determinations of significance to one or more members of the Commission or to a municipal employee.

The Commission may pro-actively develop a list of significant buildings that will subject to this by-law.

Buildings proposed for the significant building list shall be added following a public hearing.

#### Emergency Demolition

If after an inspection, the Building Commissioner finds that a building subject to this by-law is found to pose an immediate threat to public health or safety due to its deteriorated condition and that there is no reasonable alternative to the immediate demolition of the building or structure, then the Building Commissioner may issue an emergency demolition permit to the owner of the building or structure. The Building Commissioner shall then prepare a report explaining the condition of the building and the basis for his decision which shall be forwarded to the Commission.

#### Enforcement and Remedies

The Commission and/or the Building Commissioner are each specifically authorized to institute any and all actions and proceedings, in law or equity, as

they may deem necessary and appropriate to obtain compliance with the requirements of this by-law or to prevent a threatened violation thereof. Any owner of a building subject to this by-law that demolished the building without first obtaining a demolition permit in accordance with the provisions of this by-law shall be subject to a fine of not more than Three Hundred Dollars. Each day the violation exists shall constitute a separate offense until a faithful restoration of the demolished building is completed or unless otherwise agreed to by the Commission.

If a building subject to this by-law is demolished without first obtaining a demolition permit, no building permit shall be issued for a period of two years from the date of the demolition on the subject parcel of land or any adjoining parcels of land under common ownership and control unless the building permit is for the faithful restoration referred to above or unless otherwise agreed to by the Commission.

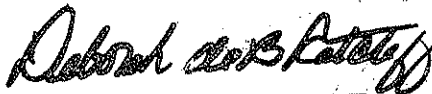
#### Historic District Act

Following a determination that the building is significant and preferably preserved, the Commission may recommend to town meeting that the building be protected through the provisions of Massachusetts General Law, Chapter 40C, and the Historic Districts Act. The steps required under M.G.L. Chapter 40C shall be followed prior to the establishment of a local historic district. Nothing in this by-law shall be deemed to conflict with the provisions of the Historic District Act, Massachusetts General Laws Chapter 40C. If any of the provisions of this by-law do so conflict, that act shall prevail.

#### Severability

In case any section, paragraph or part of this by-law be for any reason declared invalid or unconstitutional by any court, every other section, paragraph, and part shall continue in full force and effect.

A TRUE COPY ATTEST:



TOWN CLERK OF  
OAK BLUFFS, MA.

**OAK BLUFFS DEMOLITION DELAY BY-LAW**  
**APPLICATION**

**This application MUST be filled out by the owner OR the owner's representative before a permit can be issued. This application, along with the check list to be completed by the building official, must be submitted to the Oak Bluffs Historical Commission (OBHC). The OBHC will review the project and decide if a public hearing is needed. The owner will be notified in writing of the OBHC ruling. The OBHC meets on the third Wednesday of every month at 4:30PM at Town Hall.**

DATE \_\_\_\_\_

OWNER's NAME \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_

PHONE \_\_\_\_\_ FAX \_\_\_\_\_ EMAIL \_\_\_\_\_

Applicant (if different than owner) \_\_\_\_\_

**IMPORTANT** If the applicant is not the owner of the premises upon which the building is situated, the owner **MUST** indicate on or with this application his/her assent to the filing of the application with their signature

\_\_\_\_\_  
Owner's Signature

Applicant's (if other than owner) mailing address: \_\_\_\_\_

Phone \_\_\_\_\_ FAX \_\_\_\_\_ Email \_\_\_\_\_

**STREET ADDRESS OF PROPERTY TO BE DEMOLISHED:**

\_\_\_\_\_  
MAP \_\_\_\_\_ PARCEL \_\_\_\_\_

**DESCRIPTION OF BUILDING TO BE DEMOLISHED, INCLUDING PHOTOS OF EXTERIOR AND INTERIOR**

\_\_\_\_\_  
Date originally constructed (as stated in assessor's records) \_\_\_\_\_

Reason for demolition \_\_\_\_\_

\_\_\_\_\_  
**Brief description of the proposed reuse, reconstruction or replacement, including any other materials that the applicant feels is relevant.**



# CHECK LIST

## TO BE COMPLETED BY BUILDING/ZONING OFFICIAL (1-5)

*This application must be completed & date received by the Building and Zoning Office stamped to be valid*

### **OAK BLUFFS HISTORICAL COMMISSION (OBHC) RECORD OF DEMOLITION DELAY APPLICATION**

1. Application received from \_\_\_\_\_  
Name of applicant
2. Date received \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
Applicant's Phone #      FAX #      email address
3. Application completed \_\_\_\_\_ (please check if completed)
4. Forwarded to the OBHC on (date) \_\_\_\_\_
5. \_\_\_\_\_ Called OBHC Secretary, Priscilla Sylvia: 508-693-0563 to notify of application and placed the application in the box of the OBHC in the Building & Zoning office

**\*ATTACH THIS CHECK LIST TO THE APPLICATION & PLACE IN OBHC DRAWER**

### **TO BE COMPLETED BY THE OAK BLUFFS HISTORICAL COMMISSION**

Date of Historical Commission determination \_\_\_\_\_

Determination of the OBHC: (circle one)      Significant      Not Significant

Date of Public Hearing \_\_\_\_\_ (within 30 days of notification to the Building Official)

Date of applicant notification \_\_\_\_\_

Date of Building/Zoning Office notification \_\_\_\_\_

### **PUBLIC HEARING RESULTS**

\_\_\_\_\_ Preferably Preserved (no building permit/demolition permit issued)

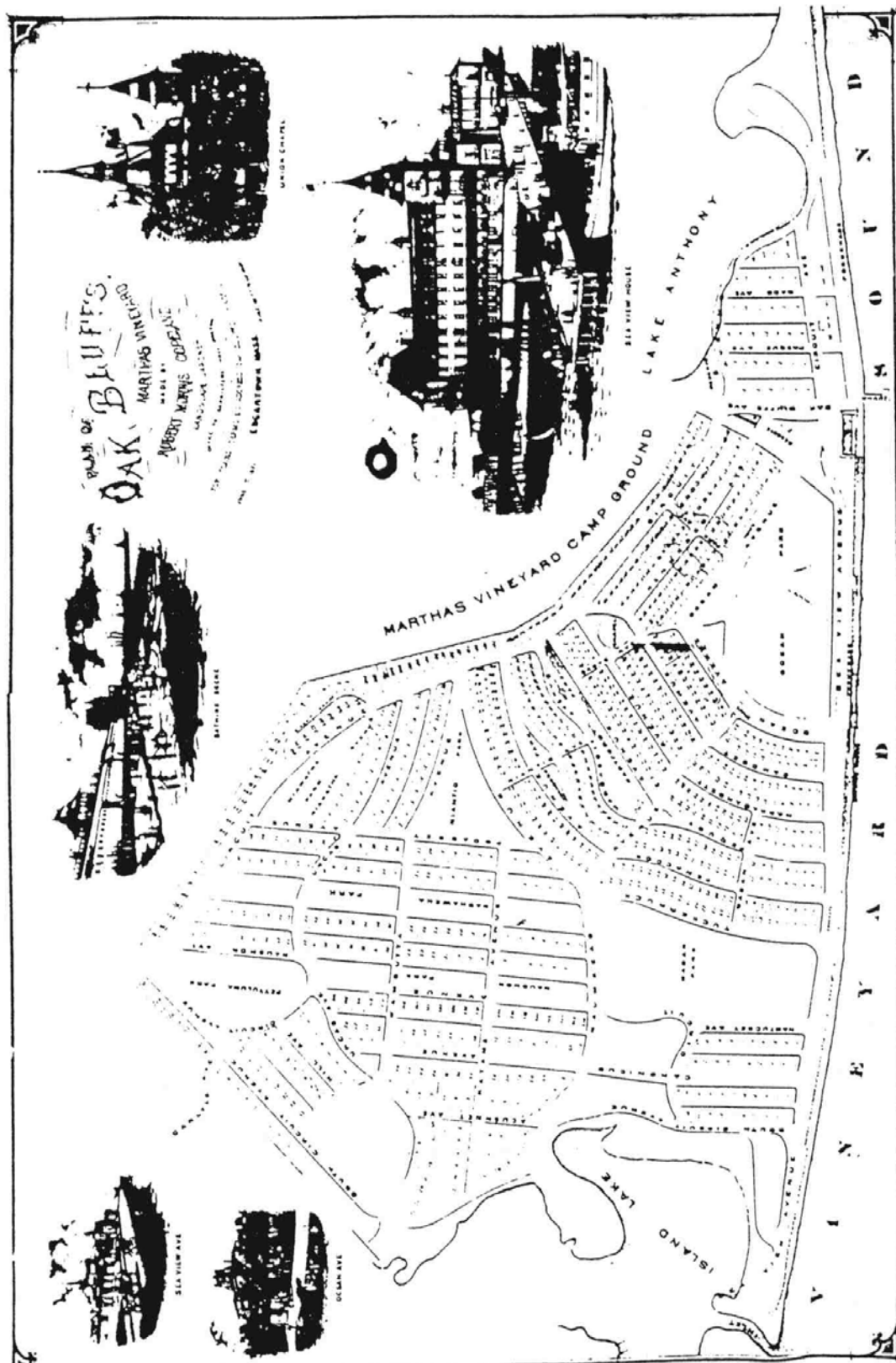
\_\_\_\_\_ Not Preferably Preserved

\_\_\_\_\_ Demolition permit issued      Date issued \_\_\_\_\_

\_\_\_\_\_ Building/Zoning Office notification      Date of notification \_\_\_\_\_

\_\_\_\_\_ Applicant notification      Date of notification \_\_\_\_\_

46 A Great American Watering Place



Robert Morris Copeland's plan of Oak Bluffs was probably the first layout of a residential community ever actualized in the U.S. Frederick Law Olmstead is usually given that credit in the history books for his design of Riverside in Chicago, but Copeland's earliest plan, done in 1866, preceded Olmstead's by three years.<sup>3</sup>