

ORDINANCE NO. 2012-07A

AN ORDINANCE OF THE TOWNSHIP OF MAXATAWNY TO AMEND THE MAXATAWNY TOWNSHIP ZONING ORDINANCE OF 2012, TO CREATE A HISTORIC OVERLAY DISTRICT AND AN ACADEMIC OVERLAY DISTRICT; TO CREATE REGULATIONS GOVERNING EACH OVERLAY DISTRICT

NOW THEREFORE, it is hereby enacted and ordained by the Township of Maxatawny the following Ordinance:

Section 1. The Zoning Map of Maxatawny Township ("Township") shall be revised to create a Historic Overlay District and an Academic Overlay District and Map in the areas depicted on the official Historic Overlay Map of the Township which shall be incorporated into the Township's Official Map. All other provisions of the Township Zoning Ordinance of 2012 and the Township Zoning Map of 2012 shall be reaffirmed in their entirety unless set forth herein.

Section 2. Historic Overlay District.

- A. Purposes. In addition to serving the overall purposes of this Ordinance, this Historic Overlay District is intended:
- (1) To promote the retention of community character through preservation of the local heritage by recognition and protection of historic, cultural and architectural resources;
  - (2) To establish a clear process by which proposed changes affecting properties of architectural significance and/or historic structures are reviewed;
  - (3) To mitigate the negative effects of proposed changes affecting historic properties, buildings and structures;
  - (4) To encourage the continued use of historic properties and facilitate their appropriate rehabilitation and adaptive reuse;
  - (5) To discourage the demolition of historic resources.

- (6) To utilize historic preservation as a tool for economic revitalization, to promote the general welfare, education, and culture of the Township; and
- (7) To implement the following sections of the Pennsylvania Municipalities Planning Code: Section 603(g)(2), which states that "zoning ordinances shall provide for protection of natural and historic features and resources;" Section 604 (1), which states that "the provisions of zoning ordinances shall be designed to promote, protect and facilitate any or all of the following: . . . preservation of the natural, scenic and historic values . . .;" and Section 605(2)(vi), whereby uses and structures at or near places having unique historical, architectural or patriotic interest or value may be regulated.

B. Applicability.

- (1) Boundaries. The Historic Overlay District shall be an overlay district that overlaps and supplements underlying zoning districts. The Historic Overlay District shall include each lot containing a historic structure or building as shown on the Historic Overlay District Map and as listed in the Inventory. To aid in interpretation, a Historic Resource Inventory shall be adopted from time to time by Resolution as an inventory of historic building or structures identified and approved by the Board of Supervisors, which is available for review at the Township Offices.
  - (a) All of the provisions of the applicable underlying zoning districts shall continue to apply in addition to the provisions of this section. In the event of a conflict between the provisions of the Historic Overlay District and the underlying zoning district, the provision that is most restrictive shall apply.
  - (b) Should the boundaries of the Historic Overlay District be revised as a result of legislative or administrative actions or judicial decision, the underlying zoning requirements shall continue to be applicable.
- (2) Covenants and easements. It is not intended by this section to repeal, abrogate or impair any existing easements, covenants or deed restrictions.

C. Historic Commission. The establishment, organization, functions and duties, and operating procedures of the Historic Commission are set forth by

separate ordinance. The Historic Commission review process is set forth herein.

D. Historic Overlay Inventory

(1) Identification.

- (a) The Maxatawny Township Historic Overlay Inventory be incorporated by reference to this Ordinance and shall be maintained at the Township Office as described in Section 2(B)(1) above. Such Inventory shall be adopted by Board Resolution and shall be amended from time to time by the Board and incorporated herein.
- (b) Buildings and structures (which may include significant structures, cemeteries or other permanent fixture designated with historic significance) shall be identified within said Inventory and shall be classified as follows:

[1] Those properties that have structures or buildings that denote historic and/or architecturally significant resources listed in the National Register of Historic Places, or determined eligible by the Pennsylvania Historic and Museum Commission to be listed individually in the National Register of Historic Places, or is classified as a "certified historic structure" by the Secretary of the Interior.

[2] Those properties that have structures or buildings that contribute to a Class I structure or has character, interest or value as part of a development, heritage or cultural characteristics of the Township, County, Region, Commonwealth or Nation or is associated with the life of a person significant in the past, or is associated with an event of importance to the history of the Township, County, Region, Commonwealth or Nation, or embodies an icon associated with an era characterized by a distinctive architectural style, or is the noteworthy work of a designer, architect whose work has influenced the historical architectural, economic, social, or cultural development of the Township, County, Region, Commonwealth or Nation, or owing to its unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood, community or Township, or has yielded, or may be likely to yield, information

important in prehistory or history, or exemplifies the cultural, political, economic, social or historical heritage of the community.

- [3] Additional buildings and structures may be included in the Township's Inventory of History Structures and Buildings, if requested by the property owner and presented, with appropriate information for consideration, before the Historic Commission and, upon the Historic Commission's recommendation for acceptance, is presented to the Board of Supervisors for final approval.

E. Demolition of historic structures or buildings.

- (1) General requirements. Buildings or structures listed on the Township's Historic Overlay Inventory, shall not be demolished, removed or otherwise relocated unless a special exception approval has been granted pursuant to the provisions of the Township Zoning Ordinance Article VIII, the requirements of this Ordinance and the standards established by Pennsylvania Law.
- (2) Application procedures. An applicant for a special exception to demolish a building or structure in the Historic Overlay Inventory shall submit the required application fee and the required number of copies of the special exception to the Zoning Officer who shall forward a copy of the application to the Historic Commission for review and comment at a duly advertised special public meeting and Zoning Hearing Board in Order to schedule their hearing pursuant to the MPC. In addition to the requirements in Zoning Ordinance, the application shall include the following, if applicable:
  - (a) Classification of the building or structure as noted in Section 2(D)(1)(b) of this Ordinance for which the permit is being sought on the Historic Overlay District Inventory.
  - (b) A report from a licensed Engineer or Architect licensed in Pennsylvania describing the structural condition of the building or structure to be demolished, removed or relocated.
  - (c) A report from the Code Enforcement Officer indicating the building's compliance or non-compliance with the Property Maintenance Code.
  - (d) Documentation of any effort to sell the property, when applicable.

- (e) Recent interior and exterior color photographs of the building or structure proposed for demolition, removal or relocation.
  - (f) Proposed disposition of salvageable material.
  - (g) Time line for implementation of the proposed use for the property.
  - (h) Ownership history of the property.
  - (i) Assessed value of the land and improvements thereon.
  - (j) Certified property appraisal.
- (3) In addition to general special exception criteria, the applicant shall provide evidence that:
- (a) There is no economic feasibility to continue the current use in its present condition or that rehabilitation of the building or structure would not be economically feasible.
  - (b) Other uses permitted within the underlying zoning district, either as permitted uses, special exception uses, or conditional uses are not feasible due to constraints on the building or structure proposed to be demolished, removed or relocated from the property.
  - (c) Adaptive use opportunities are infeasible due to constraints related to the building proposed to be demolished, removed or relocated or the lot on which it is located.
- (4) Fees for the zoning hearing, application and Historic Commission review process shall be established by Township resolution and shall be payable pursuant to the terms established herein.

F. Historic Commission review.

- (1) Completed applications for demolition of buildings or structures of buildings or structures in the Township's Historic Overlay Inventory shall be forwarded to the Historic Commission in order for the Commission to schedule a meeting to review said application within twenty (20) days or receipt of said Application. Incomplete applications shall be rejected by the Zoning Officer.

- (b) Applicant notification. The applicant shall be notified of the date, time and place at which the Historic Commission will review the application within three (3) days after said meeting is scheduled. The applicant or his or her representative is encouraged to attend to explain the application and satisfy any questions asked by the Historic Commission. The meeting shall be advertised in a newspaper of general circulation with at least 48 hours notification of said meeting. The advertisement for said hearing shall be paid for by the applicant.
- (c) Criteria for deliberation. The Historic Commission shall use the Secretary of the Interior's Standards for Historic Properties with Guidelines for Preserving, Rehabilitation, Restoring and Reconstruction of Historic Buildings, hereinafter referred to as "Standards," which are set forth herein. Any proposed work requiring a permit shall be in substantial compliance with the Standards.
- (d) Criteria for demolition of buildings or structures within the Township Historic Overlay deliberation. The Historic Commission shall use the application requirements that appear in Section 2(D)2. These requirements must be addressed by the applicant in a written report submitted to the Historic Commission.
- (e) Within five (5) business days of the meeting, the Historic Commission shall submit its written recommendation to the Zoning Officer to:
  - [1] Approve the permit;
  - [2] Deny the permit; or
  - [3] Approve the permit subject to specified changes and/or conditions to bring the proposed activity into compliance.
- (f) The Historic Commission's recommendations shall be in writing and shall include findings of fact related to the specific proposal and shall set forth the reasons for the recommendation for approval, with or without conditions, or for denial.
- (g) The Zoning Officer shall review the recommendations of the Historic Commission and shall take action upon the permit application in accordance with the provisions of this chapter and the Municipalities Planning Code and within the time limits of

this chapter and applicable statutes.

- G. Permits. A permit for the proposed demolition, removal or relocation of any building or structure listed in the Township Historic Overlay Inventory 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, removal or relocation is proposed; and
  - (b) Issuance of any necessary zoning approvals.
  - (c) Any special exception requirements.
- H. Demolition. For purposes of this Historic Overlay Ordinance "Demolition" shall mean the complete removal of a structure or building, the relocation of a structure or building the destruction of the outside of the building or structure or roofing; or the removal of those features of a building's or structure's exterior which denotes a period of time, a cultural identity, or an architectural style.

**Section 3.** Academic Overlay District.

- A. Purpose. The Academic Overlay District is intended to acknowledge the unique institutional and residential needs of Kutztown University in order for it to thrive. The Academic Overlay District also acknowledges Kutztown University's on-going effort to self regulate the preservation of its historic and cultural structures and buildings.
- B. Within the Academic Overlay District "multi-family dwelling - apartments" developments shall be permitted in the manner permitted (i.e., by right or conditional use) within the applicable underlying zoning district, as follows:
- [1] Up to four (4) unrelated persons may reside in a dwelling unit, in the event that parking requirements set forth herein regarding the number of spaces and requirements of Section 528 (d) are satisfied. However, the number of persons residing in one unit shall be limited to two (2) persons per bedroom and shall not exceed four (4) persons total for an entire unit.
  - [2] In the case of circumstances where leases are provided for

“bedroom” leases, including even the potential for a single bedroom lease, as opposed to unit leases 2.75 parking spaces shall be required per dwelling unit.

- [3] The Board of Supervisors shall review and approve a security plan prior to land development approval. Said security plan shall be on file at the Township and at the offices of the development. Any changes shall be approved by the Board of Supervisors. Failure to comply with said approved security plan shall be cause for violation of this ordinance, including but not limited to the issuance of a preliminary injunction relative to occupancy.
- [4] The height of buildings shall not exceed 55 feet and the density of units shall not exceed 16 dwelling units per acre.
- [5] One on-site office and manager shall be available 24 hours a day, 7 days per week and accessible by Township personnel and emergency personnel. The schedule and contact information for such persons shall be on file at the Township and shall at all times be updated and current.
- [6] Support buildings in the form of community centers shall be available on Site. Access shall be limited to tenants and guests on that Site and shall be accessible by keys utilized by the tenants. Such community center shall be manned by staff during all hours of operation. Separate charges shall not be permitted for community center uses. The Community Center may contain support uses, including convenience stores shall not exceed 500 square feet which shall not sell gasoline, which shall not be separately marketed for the community and which shall sell products exclusively to meet the immediate needs of the development’s residents. Alcohol is not permitted within the community center.
- [7] Restaurants which prepare food for individual sale and/or cafeterias shall not be permitted to serve multi-family dwelling units that are not otherwise owned by the University.
- [8] The provisions in this section are not intended to alter the term dormitory which is specifically defined and limited to university and/or institutional affiliation. In the event that private owners operate a multifamily dwelling unit, all



units must include kitchens and bathrooms that service a single dwelling unit. Community kitchens and showers shall not be permitted.

- [9] Multifamily dwelling apartment units within the overlay area may be exclusively utilized by or marketed to Students.
- [10] All other requirements, including but not limited to, parking, lighting, buffering and landscaping, open space, stormwater and all other performance standards within the underlying zoning district shall apply to the uses permitted in this Ordinance, including those in Section 501.10 related to performance standards.
- [11] All other provisions of the Multifamily Dwelling sections of the Ordinance including environmental performance and parking requirements, Section 504 or any other requirement of the underlying zoning district shall apply unless it conflicts with the provisions herein.
- [12] On properties owned and under the exclusive control of the Kutztown University, the Kutztown University Foundation or the Commonwealth of Pennsylvania, the Board may permit up to ten (10%) of new or replacement parking spaces to measure 9' x 18' upon demonstration of the safe access to such parking spaces to the Township Zoning Officer. The Zoning Officer shall coordinate the calculation and placement of such spaces with the University, the Foundation and/or the Commonwealth. Additional spaces may measure 9' x 18' upon the approval of a conditional use application before the Board of Supervisors that satisfies the Township Zoning Ordinance's conditional use requirements and which can demonstrate specific need for such smaller parking spaces and can demonstrate such parking spaces will be utilized for long term parking.

**Section 4.** All other uses and regulations of the underlying zoning district shall otherwise control all development within said all Township Overlay District Areas and uses therein unless said requirements conflict with the provisions of this Ordinance.

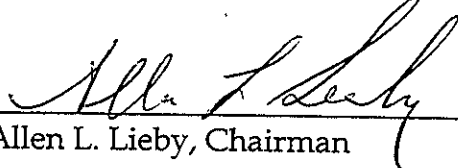
**Section 5.** All other sections, parts and provisions of the ordinances of the Township of Maxatawny shall remain in full force and effect as previously enacted and amended.

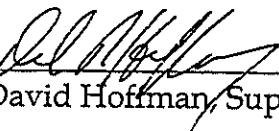
Section 6. In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such invalidity, illegality or unconstitutionality shall not affect or impair the remaining provisions, sections, sentences, clauses or parts of this Ordinance, it being the intent of Board of Supervisors that the remainder of the Ordinance shall be and shall remain in full force and effect.

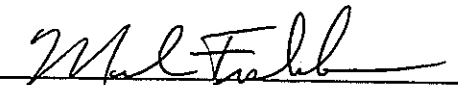
Section 7. This Ordinance shall take effect and be in force from and after its enactment as provided by law.

DULY ORDAINED AND ENACTED this 12 day of December 2012, by the Board of Supervisors of Maxatawny Township, Berks County, Pennsylvania, in lawful session duly assembled.

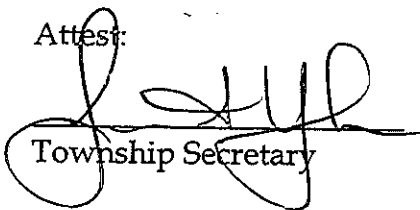
BOARD OF SUPERVISORS OF  
MAXATAWNY TOWNSHIP, BERKS  
COUNTY PENNSYLVANIA

  
Allen L. Lieby, Chairman

  
David Hoffman, Supervisor

  
Melvin Fishburn, Supervisor

Attest:

  
Township Secretary

MAXATAWNY TOWNSHIP, BERKS COUNTY, PENNSYLVANIA

ORDINANCE NO 2023- 02

AN ORDINANCE OF THE TOWNSHIP OF MAXATAWNY, BERKS COUNTY, PENNSYLVANIA, AMENDING ORDINANCE 2012-07H, ENTITLED "AN ORDINANCE OF THE TOWNSHIP OF MAXATAWNY TO AMEND THE MAXATAWNY TOWNSHIP ZONING ORDINANCE OF 2012, TO CREATE A HISTORIC OVERLAY DISTRICT AND AN ACADEMIC OVERLAY DISTRICT; TO CREATE REGULATIONS GOVERNING EACH OVERLAY DISTRICT", TO AMEND SECTION 2 ENTITLED "HISTORIC OVERLAY DISTRICT" SUBSECTION D. ENTITLED "HISTORIC OVERLAY INVENTORY, NUMBER (1) ENTITLED "IDENTIFICATION", LETTER (b) IN ITS ENTIRETY AND TO AMEND SECTION 2 TO ADD A NEW SUBSECTION I. TO CREATE REGULATIONS FOR THE DEMOLITION OF STRUCTURES OR BUILDINGS WITHIN THE TOWNSHIP WHICH ARE ONE HUNDRED (100) YEARS OR OLDER.

WHEREAS, on December 12, 2012 the Board of Supervisors of Maxatawny Township enacted Ordinance 2012-07H, to amend the Maxatawny Township Zoning Ordinance to create a Historic Overlay District, an Academic Overlay District, and regulations governing each overlay district; and

WHEREAS, Ordinance 2012-07H created a Historic Overlay District; and

WHEREAS, Ordinance 2012-07H provides that historic buildings or structures shall not be demolished except pursuant to the requirements of Ordinance 2012-07H; and

WHEREAS, the Board of Supervisors of Maxatawny Township desires to amend Ordinance 2012-07H to amend the identification of structures within the Maxatawny Township Historic Overlay Inventory; and

WHEREAS, the Board of Supervisors of Maxatawny Township further desires to amend Ordinance 2012-07H to create regulations for the demolition of structures or buildings within the Township which are one hundred (100) years or older.

NOW THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Maxatawny, Berks County, Pennsylvania as follows:

SECTION 1.

Ordinance No. 2012-07H, Section 2 entitled "Historic Overlay District", subsection D., entitled "Historic Overlay Inventory, number (1) entitled "Identification", letter (b) is amended in its entirety to read as follows:

- (b) Buildings and structures (which may include significant structures, cemeteries or other permanent fixture designated with historic significance) shall be identified within said Inventory and shall be classified as follows:

- [1] Those properties listed in the Maxatawny Township Comprehensive Plan of July 2009 as landmark buildings with the most significance in Maxatawny Township.
- [2] Those properties added to the Inventory by Resolution of the Board of Supervisors.

SECTION 2.

Ordinance No. 2012-07H, Section 2 entitled "Historic Overlay District" is amended to add a new letter I., which shall read in its entirety as follows:

I. Demolition of structures or buildings one hundred years or older.

The following shall be required in order to demolish any structure or building within the Township that is one hundred years or older and is not included in the Historic Overlay Inventory:

- (1) An application for a demolition permit must be submitted by the property owner to the Township's Zoning Officer.
- (2) In addition to the application for a demolition permit, the property owner shall submit to the Zoning Officer photographs of the structure or building that is to be demolished. If the property owner does not have the ability to take photographs of the structure or building, the property owner shall grant the Chairperson of the Historic Commission or their designee and/or the Zoning Officer permission to enter onto the property and take photographs of the structure or building.
- (3) The application for a demolition permit shall be reviewed by the Zoning Officer and by the Township Historic Commission at a public meeting within thirty (30) days after the application is filed and accepted by the Zoning Officer.
  - a) If the thirtieth (30<sup>th</sup>) day is in the month of July or September, the application for a demolition permit shall be reviewed by the Zoning Officer and the Township Historic Commission at a public meeting within sixty (60) days after the application is filed and accepted by the Zoning Officer
- (4) Prior to the issuance of the demolition permit, the Historic Commission shall be allowed to access the property by giving the property owner forty-eight (48) hours advance notice to take any additional photographs and record any historical data needed ~~in order~~ to compile a record of the historical significance of the structure.
- (5) The property owner shall notify the Zoning Officer and the Chairman of the Historic Commission the date the demolition of the structure or building will take place. On the day of demolition, the Historic

Commission shall be allowed to access the property to again take photographs and record any and all historical data needed to record the historical significance of the structure or building for the Township's records.

SECTION 3. REPEALER

All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 4. SEVERABILITY

The provisions of this Ordinance are severable, and if any section, sentence, clause or provision hereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses or provisions of this Ordinance. It is hereby declared to be the intent of the Board that this Ordinance would have been adopted if such illegal, invalid or unconstitutional section, sentence, clause or provision had not been included herein.

SECTION 5.

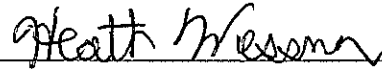
Ordinance Number 2012-07H shall be and remain unchanged and in full force and effect except as amended, supplemented, and modified by this Ordinance.

SECTION 6. EFFECTIVE DATE


This Ordinance shall become effective five (5) days after enactment, as provided by law.

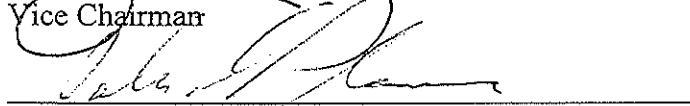
ENACTED AND ORDAINED as an Ordinance of Maxatawny Township, Berks County, Pennsylvania, this 14<sup>th</sup> day of June, 2023.

**BOARD OF SUPERVISORS OF  
MAXATAWNY TOWNSHIP,  
BERKS COUNTY, PENNSYLVANIA**



Chairman

  
Vice Chairman

  
Member

ATTEST:

  
Secretary

CERTIFICATE OF ENACTMENT

I hereby certify that the foregoing is a true and accurate copy of Ordinance No. 2023-02 adopted by the Board of Supervisors of Maxatawny Township, Berks County, Pennsylvania at a public meeting held on June 14, 2023, pursuant to notice as required by law.

Dated: 6/14/2023

Jonathan R. Wehr  
Township Secretary