

## **ARTICLE 46B. DENTON ROAD NEIGHBORHOOD CONSERVATION DISTRICT**

*(Section added ATM 2008.)*

### **46B.1 Purpose of the Denton Road Neighborhood Conservation District.**

- a. This bylaw enables the establishment of the Denton Road Neighborhood Conservation District (NCD) in the Town for the following purposes:
  - i. To recognize that the Denton Road Neighborhood, which dates back to the 1800s and which contains a variety of homes clustered along a tree-shaded, U-shaped street, is a distinctive neighborhood that contributes significantly to the diversity and character of Wellesley.
  - ii. To promote conservation and preservation of its existing Buildings and Structures; to encourage compatible new construction that will complement existing Buildings, Structures, Settings and overall neighborhood character; and to foster appropriate reuse of and upgrades to Buildings and Structures.
  - iii. To provide residents and property owners with the opportunity to participate in planning the future of their neighborhood.
- b. This bylaw will enable changing the Buildings, Structures, and Settings of Denton Road to meet the needs of current and future owners, without sacrificing the neighborhood's attractive qualities.
- c. The NCD designation acknowledges Denton Road's distinctive architectural, aesthetic, historical, cultural, and social role in the development of the Town of Wellesley's character.

### **46B.2 Boundaries of the Denton Road NCD. (Amended ATM 2009 Art. 40.)**

The Denton Road NCD shall comprise 23 properties bounded by 10 Denton Road on the East and 72 Denton Road on the West.

The owners of the following 19 properties fronting Denton Road have elected to participate in the NCD: 9, 10, 14, 15, 16, 19, 24, 28, 29, 31, 32, 44, 55, 56, 60, 61, 71, 72, and 75.

The owners of the following four properties fronting Denton Road have elected not to participate in the NCD at this time: 11, 39, 40, and 65 Denton Road.

### **46B.3 Review Authority of the Denton Road NCD Commission.**

- a. Membership of the Commission shall be in accordance with Section 46A.4, Neighborhood Conservation District Commissions.
- b. The authority of the Denton Road NCD Commission shall extend to the review of all Construction, Demolition, or Alteration of exterior features on a property within the District visible from a public way, unless otherwise specified in this bylaw, and review will follow the procedures described in Section 46A.5, Review of Construction and/or Alterations.
- c. As described in Section 46A.5.d.vii, the NCD Commission shall meet periodically with the Property Owners in the NCD for the purpose of determining whether or not the District's Guidelines are still appropriate, and shall send a report to the Historical Commission containing their findings. The first of these meetings shall occur two years from the date of the District's designation as an NCD, and shall occur at no less than five year intervals thereafter, unless this interval is changed by a majority vote of the Property Owners after the first two years.
- d. Recommendations for amendments to the District, including Guidelines, governance, procedural changes and geographical boundaries, must be approved by a majority of the District's Property Owners and the amendment procedures described in Section 46A.3.i must be followed. Proposed changes approved by the Historical Commission and Planning Board must be approved by a majority vote of Town Meeting.

**46B.4 Determinations by the Denton Road NCD Commission.** Except as otherwise provided in Article 46A or this bylaw and its Guidelines, no Building, Structure, or Setting within the District shall be Constructed, Demolished, or Altered in any way unless the NCD Commission has first issued a Certificate of Compatibility, a Certificate of Hardship, or a Certificate of Non-Applicability.

- a. Exempt from Review

- i. Temporary Structures;
  - ii. Interior Alterations;
  - iii. Storm windows, storm doors and screens;
  - iv. Colors;
  - v. Accessory Structures of less than 120 square feet of floor area and less than 15 feet in height;
  - vi. Skylights and solar panels;
  - vii. Exterior features of a Building or Structure and its Setting not visible from a public way or other area open to public access;
  - viii. The ordinary maintenance, repair or replacement in kind of Exterior Architectural Features and/or changes made to meet the requirements deemed necessary by the Inspector of Buildings for public safety because of an unsafe or dangerous condition;
  - ix. Fences four feet high or less and their equal height entry gates measuring from the lowest grade on either side of the structure;
  - x. Handicapped-accessible ramps;
  - xi. Replacement of window(s) similar in size and style;
  - xii. Similar or in kind replacement of plant material; and
  - xiii. Siding materials and trim.
- b. Subject to Review\_ All Construction, Alteration, or Demolition not exempted from review in Section 46B.5.a are subject to review by the NCD Commission, and the Commission's determinations are binding. These determinations may contain conditions necessary to fulfill the terms of Section 46B.7 of this bylaw. Included are the following:
- i. Construction of a new Building or Structure;
  - ii. Demolition of an existing Building or Structure;
  - iii. Alteration or Construction of an Addition to an existing Building or Structure which requires a building permit;
  - iv. Alteration of the existing landscape by removal of significant shrubbery over 5 feet in height or trees over 8" in diameter;
  - v. Construction of a retaining or landscape wall or fence of four feet or more;
  - vi. Cut and fill of 3 feet or more;
  - vii. Addition of paving or creation of a new driveway;
  - viii. Exterior lighting that shines on adjacent properties.

#### 46B.5 The Review Process.

- a. Per description in Section 46A.5.d any person wishing to perform Construction, Alterations, or Demolition that require review shall first file an application with the NCD Commission for a Certificate of Compatibility, Certificate of Hardship, or Certificate of Non-Applicability in such form as the NCD Commission may reasonably determine. Materials required for a building permit and other information as may be reasonably deemed necessary by the NCD Commission to enable it to make a determination on the application may be requested of the applicant. The Commission, at its discretion, may waive certain required submission documents or steps in the review process. The date of the filing of an application shall be the date of the receipt of the application by the NCD Commission

- b. The Commission shall hold a Public Hearing within 45 days of the filing of a complete application for a Certificate of Compatibility, a Certificate of Hardship, or a Certificate of Non-Applicability, following the steps outlined in Section 46A.5.d.
- c. If the NCD Commission fails to make a determination within 60 days after the close of the public hearing, or after any further time the applicant, in writing, may allow the NCD Commission, a Certificate of Compatibility shall be deemed granted, and the NCD Commission shall issue a Certificate of Compatibility.
- d. The NCD Commission shall file with the Inspector of Buildings, Zoning Board of Appeals, Planning Board, and Historical Commission a copy of all Certificates of Compatibility, Certificates of Non-Applicability, Certificates of Hardship, and determinations of disapproval.

**46B.6 Criteria for NCD Commission Determinations.**

- a. Specific Criteria for the Denton Road NCD. The following objectives are to be sought in considering applications for Certificates of Compatibility or Certificates of Hardship:
  - i. Conserving the diversity of styles and historic architectural character of the neighborhood, including the existing size and massing of abutting Buildings and Structures, as well as others elsewhere in the District;
  - ii. Conserving the diversity of styles and historic architectural character of the neighborhood, including the existing size and massing of abutting Buildings and Structures, as well as elsewhere in the District;
  - iii. Conserving the District's pattern of wood frame architecture;
  - iv. Allowing for architectural diversity and individualized alterations while reserving the traditional scale of the Buildings and Structures;
  - v. Encouraging the retention of mature landscape materials and the planting of trees and greenery to enhance the landscape amenities of the neighborhood;
  - vi. Preserving the existing grade, location and setback of Buildings and Structures to maintain the sightlines of the street; and
  - vii. Encouraging the separation of properties by means of landscape planting rather than fencing.
- b. General Conservation Standards. All applications shall be considered with regard to the potential adverse effects of the Construction, Alteration or Demolition of an existing Building, Structure, or Setting on the abutters, the immediate streetscape, and the District as a whole. Consideration will also be given to:
  - i. The architectural or historical significance of the Building, Structure, or Setting, if any;
  - ii. The physical characteristics of the site, including, but not limited to, existing topography and vegetation; and
  - iii. The use, if possible, of energy-conserving materials and techniques.
- c. Design Guidelines. In addition to (a) and (b) above, the Commission shall base its decisions on the following specific factors when considering Applications for Compatibility or Hardship:
  - i. Construction of a new Building or Structure. Review of the design of a new Building or Structure or addition to an existing Building or Structure shall be made with regard to the general compatibility of the building with its surroundings, and the following elements of the proposal shall be among those considered:
    - 1. Site layout;
    - 2. Volume and dimensions of the Building or Structure;
    - 3. Provision for open space and landscaping;
    - 4. The scale and massing of the Building or Structure in relation to its surroundings;

5. Provisions for driveways and parking; and
  6. The effect on the water table or subsoil conditions of adjacent properties.
- ii. Alterations to an existing Building, Structure or Setting. Review of proposed Alterations or additions to an existing Building, Structure or Setting and of all features not exempted from review in Section 46B.5.a shall be made with regard to the following factors:
    1. The architectural or historical significance of the Building or Structure to be altered. The extent to which the integrity of the original design or style has been retained or previously diminished.
    2. The potential adverse effect of the Alteration of, or proposed addition to the existing Building or Structure on the neighboring properties, the immediate streetscape and on the District as a whole.
- d. Demolition Guidelines. In evaluating an application to demolish a Building or Structure, the Commission shall review and consider the following factors:
    - i. The architectural or historical significance of the Building or Structure of which any portion is to be demolished, giving consideration to its possible eligibility for listing on the National Register of Historic Places;
    - ii. The physical condition of the Building or Structure and its subsoil conditions, if applicable;
    - iii. A claim of substantial hardship, financial or otherwise; and
    - iv. The design of any replacement Building(s) or Structure(s).

46B.7 Judicial Review, Enforcement and Lapse.

- a. The Inspector of Buildings shall be charged with the enforcement of this bylaw. Anyone found in violation may be fined not more than \$300 dollars for each day such violation continues, each day constituting a separate offense.
- b. Any party dissatisfied with a determination may, within 45 days after the filing of the notice of such determination with the Inspector of Buildings, Zoning Board of Appeals, Historical Commission and Planning Board, file a written request with the NCD Commission for a review by a joint meeting with at least three members each of the Historical Commission and Planning Board. The findings of this joint committee, which may sustain or overrule the prior decision of the NCD Commission, shall be filed with the Inspector of Buildings, Zoning Board of Appeals, Historical Commission and Planning Board within 45 days after the close of the public hearing, and shall be binding on the applicant and the joint committee, unless a further appeal is sought in the Superior Court of Norfolk County.
- c. Certificates of Compatibility and Certificates of Hardship shall expire eighteen (18) months, plus such time as may be required to pursue or await the determination of a judicial review as provided above, from their date of issuance, if construction has not begun by such date. Notwithstanding the above, the NCD Commission may grant one or more extensions, of up to six (6) months each, if there are unavoidable delays.

46B.8 Existing Bylaws not Repealed. Nothing contained in this bylaw shall be construed as repealing or modifying any existing bylaw or regulation of the Town, but it shall be in addition thereto. If this bylaw imposes greater restrictions upon the Construction and/or Alteration, of Buildings, Structures or Settings than other bylaws or provisions of law, such greater restrictions shall prevail.