

Minutes of the **By-Law Review Committee** meeting held
November 28, 2011
7:30 PM

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Board of Registrars Conference Room, Town Hall, 455 Concord Avenue

Attendees: Charles Hamann, Chair, Mark Thurber, Raymond Miyares,
Robert Gallant, Ellen O'Brien Cushman

Agenda:

Review, discussion and vote on any amendments to the General By-Laws
on the warrant for the Special Town Meeting scheduled to begin January
18, 2012

Article VI By-Law Article 34 - Demolition Delay

Unanimous vote to approve as to form and placement, including
all modifications adopted by the Committee and recommended by
Town Counsel, included in the attached document.

Article VII By-Law, amendment to 2.2

Unanimous vote to approve as to form and placement, including all
modifications adopted by the Committee, included in the attached
document

Discussion of the General Code project to codify Belmont's By-Laws:

The Committee reviewed the proposed organization of the General
By-Laws made by Ray and Ellen.

Unanimous endorsement of the organization with modifications as
noted in the attached.

The Committee has included in the organization some questions for
General Code regarding the organization. Ellen will communicate this
structure and questions to General Code.

Minutes of November 15, 2011 were approved unanimously

Meeting adjourned at 10: 25 PM.

Respectfully submitted,

Ellen O'Brien Cushman

BLRC
voted changes
11/28/11

ARTICLE VI: _____ By-Law Change: Demolition By-Law
_____ Submitted by: Historic District
Commission

~~Moved:~~ To see if the Town will vote to amend the General By-Laws by adding a new Article 34 as follows:

“ARTICLE 34

Demolition Delay

34.1- Intent and Purpose

This Article is enacted for the purpose of preserving and protecting Significant Buildings within the Town of Belmont that 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 Article, owners of Preferably Preserved Buildings are encouraged to seek out and consider 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, this Article 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 Belmont Historic District Commission is authorized to advise the Inspector of Buildings with respect to demolition permit applications. The issuance of demolition permits is regulated as provided by this Article.

-34.2 Definitions

For the purposes of this Article, the following terms shall have the following definitions:

- (a) **APPLICANT** - Any person or entity that 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.
- (b) **APPLICATION** - An application for a Demolition Permit, including the information required in Section 34.3.2.
- (c) **BUILDING** - Any structure used or intended for supporting or sheltering any use or occupancy. ~~Any combination of materials forming a shelter for persons, animals, or property.~~
- (d) **COMMISSION** - The Belmont Historic District Commission ~~or its designee.~~

- (e) 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.
- (f) DEMOLITION PERMIT - The permit ~~issued~~required by the Inspector of Buildings for a ~~d~~Demolition, or substantial ~~d~~Demolition or removal of a Building, excluding a ~~demolition permit issued~~required solely for the ~~d~~Demolition of the interior of a Building.
- (g) DESIGNEE – A member of the Commission who is assigned thereby to exercise authority pursuant to this Article, on such terms and conditions as the Commission may set.
- (h) INSPECTOR OF BUILDINGS - The person authorized by law to issue demolition permits within the Town of Belmont.
- (ih) PREFERABLY PRESERVED BUILDING – Any Significant Building with respect to which the Commission determines, following a public hearing, that it is in the public interest for such Building to be preserved rather than demolished.
- (ji) SIGNIFICANT BUILDING - A Building within Belmont that is, in whole or in part, fifty (50) or more years old and that has been determined by the Commission or its dDesignee to be significant based on any of the following criteria:
- The Building is 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 of Belmont or the Commonwealth of Massachusetts or the nation; 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.-

~~34.3.~~ Procedure

34.3.1 No ~~d~~Demolition ~~p~~Permit for a Building that is, in whole or in part, fifty (50) or more years old shall be issued without following the provisions of this Article. If a Building is of unknown age, it shall be assumed that the Building is fifty (50) or more ~~over 50~~ years old for the purposes of this Article.

34.3.2 An Applicant proposing to demolish a Building that is fifty (50) or more years old shall file with the Inspector of Buildings 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 and photographs of neighboring Buildings.

~~34.3.3 The~~ 34.3.3 The Inspector of Buildings shall, within seven (7) calendar days of receipt of such Application, forward a copy thereof to the Commission. The Commission ~~or its dDesignee shall thereafter, within thirty (30) calendar days after its receipt of the Application,~~ make a determination of whether or not the Building is a Significant Building. If notice of such determination is not provided to the Commission ~~does not notify the Inspector of Buildings of its determination within thirty (30) calendar days after the Commission's receipt of the Application,~~ the Inspector of Buildings may proceed to issue the Demolition Permit.

34.3.4 Upon determination by the Commission or its dDesignee that the Building is not a Significant Building, the Commission shall so notify the Inspector of Buildings and Applicant in writing. The Inspector of Buildings may then issue the Demolition Permit.

34.3.5 Upon determination by the Commission or its dDesignee that the Building is a Significant Building, the Commission shall so notify the Inspector of Buildings and the Applicant in writing, and the Inspector of Buildings shall thereafter defer issuance of the Demolition Permit until after further review by the Commission under pursuant to Section 34.3.6.

34.3.6 If the Commission or its dDesignee finds that the Building is a Significant Building, it shall hold a public hearing within thirty (30) calendar days of its written notification to the Inspector of Buildings, or such later date to which as the Applicant consents, ~~to, of its written notification to the Inspector of Buildings.~~ Public notice of the time, place and purpose of the hearing shall be posted in a conspicuous place in the same manner as meeting notices posted in Belmont under the Open Meeting Law, Chapter 30A, Section 20, of the General Laws, for a period of not less than seven (7) calendar days prior to the date of said hearing, and the Inspector of Buildings and the Applicant shall be notified in writing of the meeting time and place no less than fourteen (14) days in advance.

34.3.7 The Commission shall determine, within fourteen (14) calendar days after the close of the public hearing, or such later date as the Applicant consents to, whether the

Building is a Preferably Preserved Building. If agreed to in writing by the Applicant, the determination of the Commission may be postponed. If the Commission does not notify the Inspector of Buildings of its determination in writing within twenty-one (21) days of the close of the public hearing, the Inspector of Buildings may issue the demolition permit.

34.3.8 If the Commission determines that the Building is not a Preferably Preserved Building, the Commission shall so notify the Inspector of Buildings and Applicant in writing. The Inspector of Buildings may then issue the Demolition Permit.

34.3.9 If the Commission determines that the Building is a Preferably Preserved Building, the Commission shall notify the Inspector of Buildings and Applicant in writing. A Demolition Permit may thereafter be issued no sooner than twelve (12) months after the date of the notification that the Building is a Preferably Preserved Building, unless a shorter time is otherwise authorized by the Commission, based on its finding that the intent and purpose of this Article, as provided in Section 1 hereof, will be adequately served.

~~34.3.10 Notwithstanding Section 34.3.9, no Demolition Permit for a Preferably Preserved Building shall be granted until all required plans for future development of the site have been filed with the Inspector of Buildings and have been found to comply with all laws pertaining to the issuance of a building permit. All approvals necessary for the issuance of such building permit including without limitation any necessary zoning variances or special permits must be granted, prior to the issuance of a Demolition Permit under this section.~~

34.4- Administration

34.4.1 The Commission may adopt such rules and regulations as are necessary to administer the provisions of this Article ~~bylaw~~.

34.4.2 Subject to the specific approval of the Board of Selectmen, the Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this Article.

34.4.3 The Commission may develop a list of Significant Buildings that will be subject to this Article. Buildings proposed for the Significant Building list shall be added ~~following only at a public meeting of the Commission hearing~~. Owners of record of Buildings proposed for such listing shall receive written notice of the time and place of such public ~~meeting hearing~~ no less than fourteen (14) days in advance thereof. Upon receipt of an Application forwarded from the Inspector of Buildings for such a listed Significant Building, the Commission shall proceed with procedures for determination whether such Significant Building is a Preferably Preserved Building and, notwithstanding the provisions of section 34.3.3, the Inspector of Buildings shall defer

issuance of the Demolition Permit until after further review by the Commission pursuant to Section 34.3.6.

34.5. Responsibility of Owners

34.5.1 ~~It shall be the responsibility of the owner of record or his designee~~ Significant Building who has applied for a Demolition Permit shall:

- ~~assist in the facilitation of the above process by provide such~~ ing information as is reasonably requested by the Commission in connection with its consideration of whether the Building is a Preferably Preserved Building;
 - ~~allowing access to the property as reasonably requested by the Commission;~~
 - ~~and securing the premises, if vacant, to the satisfaction of the Inspector of Buildings until a Demolition Permit is issued;~~
 - ~~to participate in the investigation of preservation options for a Preferably Preserved Building; and~~
- ~~to actively~~ _____ cooperate in seeking alternatives with the Commission and any interested parties in seeking alternatives to the demolition of a Preferably Preserved Building.

34.5.2 ~~Upon determination by the Commission that a Building is a Preferably Preserved Building, the owner shall be responsible for properly securing the Building, if vacant, to the satisfaction of the Inspector of Buildings. Should~~ If the owner of a Preferably Preserved Building fails to secure the Building to the satisfaction of the Inspector of Buildings, the subsequent destruction of such Building through any cause, which destruction could have been prevented by the required security measures, shall be considered a Demolition in violation of this Article.

34.6. Emergency Demolition

34.6.1 Nothing in this Article shall restrict the Inspector of Buildings from ordering the immediate Demolition in accordance with applicable law of any Building in the event of imminent danger to the safety of the public. In the event that the Inspector of Buildings is informed that a Building that is fifty (50) or more years old is dangerous to life or limb, or otherwise may be subject to a removal order, the Commission shall be notified and, where practicable, the Commission or its Designee shall be ~~allowed to accompany the Inspector of Buildings during the inspection of such Building. The Inspector of Buildings shall pursue all reasonable courses of action to prevent emergency demolition of such a Building which the Commission determines is or may be a Significant Building, including but not limited to requiring the owner to secure it against further danger to the public.~~

~~34.6.2 Whenever~~ As soon as practicable after the Inspector of Buildings has issued an emergency demolition order for a Building that is fifty (50) or more years old, he/she shall provide a copy of such order shall be provided to the Commission, together with copies of all documentation required by applicable law to support such order relevant thereto.

34.7. Enforcement and Remedies

34.7.1 The Commission and/or the Inspector of Buildings 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 Article or to prevent a threatened violation thereof.

34.7.2 Any owner of a Building that is fifty (50) or more years old, which is demolished without first obtaining a Demolition Permit in accordance with the provisions of this Article, shall be subject to a ~~fine~~penalty of ~~not more than~~ Three Hundred Dollars (\$300.00). Each day that such violation exists shall constitute a separate offense until a faithful restoration of the demolished Building or other remediation or remediation plan has been approved by the Commission. This subsection may be enforced by the Inspector of Buildings by non-criminal disposition as provided in Ch. 40, Section 21D of the General Laws.

34.7.3 If a Building that is fifty (50) or more years old is demolished without first obtaining a Demolition Permit in accordance with the provisions of this Article, no building permit authorizing construction on the lot on which the Building was located or on any adjoining lot under common ownership therewith shall be issued for a period of two (2) years from the date of the demolition, unless agreed to by the Commission.

34.8. Historic District Act

34.8.1 Following a determination that a Building is a Preferably Preserved Building, the Commission may recommend to Town Meeting that the Building be protected pursuant to the provisions of Chapter 40C of the Massachusetts General Laws for Town Meeting approval of the inclusion of Buildings or Sites within an Historic District. -

~~34.9. Severability~~

34.9.1 If any provision of this Article shall be found invalid for any reason in a court of competent jurisdiction, such invalidity shall be construed as narrowly as possible, and the balance of the Article shall be deemed to be amended to the minimum extent necessary, so as to secure the intent and purpose of this Article, as provided in Section 1 hereof.”

, or in any way act thereon.

Ad Hoc Recommended Amendment as revised by the By-Law Review Committee for form and placement:

BLRC
voted
changes
11/28/11

2.2 The annual town election shall be held on the first Monday of April in each year and the annual town meeting shall be held on the fifth Monday in April, if any, or otherwise the first Monday in May each year. Except upon approval by a majority vote of Town Meeting, no annual town meeting vote on the annual budget shall occur sooner than two weeks after the date on which that budget is distributed to Town Meeting Members. The annual town election and the annual town meeting may be called pursuant to a single warrant or separate warrants may be used, at the discretion of the Selectmen.

Existing By-Law:

2.2 The annual town election shall be held on the first Monday of April in each year and the annual town meeting shall be held on the fourth Monday of April in each year. The annual town election and the annual town meeting may be called pursuant to a single warrant or separate warrants may be used, at the discretion of the Selectmen.

As Originally Proposed:

**ARTICLE VII: Bylaw Change: Date of Town Meeting
Submitted by: Ad Hoc Communications Committee**

This article seeks to modify the date of the Annual Town Meeting so that it will be on the second Monday after Patriot's Day each year thus ensuring that it does not fall on the first Monday after school vacation week. The article also ensures that Town Meeting Members will have the budget delivered to them at least two weeks prior to being asked to vote on it.

To see if the Town will vote to amend the Town of Belmont General By-laws by modifying Section 2.2 as follows:

2.2 The annual town election shall be held on the first Monday of April in each year and the annual town meeting shall be held on the ~~fourth~~ second Monday ~~of April~~ after the Patriot's Day holiday in each year. Except upon approval by a majority vote of Town Meeting, no annual town meeting vote on the annual budget shall occur prior to two weeks elapsing from the day on which that budget is delivered to Town Meeting Members. The annual town election and the annual town meeting may be called pursuant to a single warrant or separate warrants may be used, at the discretion of the Selectmen.

, or in any way act thereon.

12/1/2011

Belmont General By-Laws (showing existing By-Laws) comments in blue, new sections are in yellow highlight

General Provisions (Article 1)

Elected Officials

Moderator this is a new article that would be required
Town Clerk (Article 5)
Town Treasurer (Article 6)

Town Meetings (Article 2)

Boards, Commissions and Committees

Elected Boards and Committees

Board of Selectmen (Article 4) - this should be first
School Committee – this is a new article that would be required, should be second
Board of Health (Article 8) – could General Code suggest an order for these remaining items?
Trustees of the Public Library (Article 9)
Board of Cemetery Commissioners (Article 10)
Board of Assessors – this is a new article that would be required

Boards and Commissions Appointed By the Board of Selectmen – Could General Code suggest an order for these items?

Planning Board (Article 17)
Historic District Commission (Article 15)
Conservation Commission (Article 29)
Recreation Commission (Article 18)
Council on Aging (Article 14)
Disability Access Commission (Article 31)
Water Advisory Board (Article 7)

Other Appointed Committees

Warrant Committee (Article 19) – should be first
Capital Budget Committee (Article 13) - Could General Code suggest an appropriate order for these remaining committees?
Community Preservation Committee (Article 33)
Permanent Audit Committee (Article 16)
Permanent Building Advisory Committee (Article 12)
By-Law Review Committee (Article 25)

Position Classification and Compensation Plan (Article 11)

Public Health, Safety, Welfare and Environmental Protection

Alcohol, Tobacco and Firearms

Alcoholic Beverages (§§ 20.9 – 20.10)

Tobacco Products (§20.14)

Discharge of Firearms (§20.8)

Animals

Pets and Other Animals (§20.11 – 20.11.16)

Kennels (Article 28)

Buildings and Construction

Emergency Personnel Communication Facilitation (§20.13)

Alarms (§§24.1 – 24.16, 24.19 – 24.20)

Stretch Energy Code (Article 32)

Trench Safety (§§20.7 – 20.7.2)

Please include a reference to the Noise By-Law

Door-to-Door Solicitation and Canvassing (§30.1 – 30.8, 30.10 – 30.11)

Flammable Fluids, Solids and Gases (Article 22)

Noise (§§23.1 – 23.8, 23.11)

Recycling Program (Article 26)

Streets and Sidewalks

Public Ways, Sidewalks and Rights of Way (§§20.1 – 20.6, 20.12 - 20.12.6)

Vehicles and Parking (§§21.1 - §21.6.2)

Newsracks (§§27.1 – 27.5.6, 27.7)

Enforcement (§§20.15, 21.7, 23.9 – 23.10, 24.17 – 24.18, 27.6.1 -27.6.4, 30.9)

Zoning Bylaw

How do you deal with the Special Acts, Accepted Acts and Enabling Acts of 1926? Could/should they be first before the General By-Laws?

At a later date, we will be gathering and submitting our Rules and Regulations.

original
organization as
suggested by Ray/Ellen
(concentrated on
government structure
first)

General Provisions (Article 1)

Elected Officials

Moderator
Town Clerk (Article 5)
Town Treasurer (Article 6)

Town Meetings (Article 2)

Boards, Committees and Commissions - should these be alphabetical?
Should this list be inclusive of ALL elected boards & commissions?

Elected Boards

Board of Selectmen (Article 4)
School Committee
Board of Health (Article 8)
Trustees of the Public Library (Article 9)
Board of Cemetery Commissioners (Article 10)
Board of Assessors?

Permanent Boards, and Commissions and Committees Appointed by the
Board of Selectmen – should these be alphabetical?

Planning Board (Article 17)
Historic District Commission (Article 15)
Conservation Commission (Article 29)
Recreation Commission (Article 18)
Council on Aging (Article 14)
Disability Access Commission (Article 31)
Water Advisory Board (Article 7)_____

Other Town Committees Appointed by the Board of Selectmen and other
Elected Officials or Appointed Boards or Commissions?

~~Warrant Committee (Article 19)~~
~~Capital Budget Committee (Article 13)~~
~~Community Preservation Committee (Article 33)~~
Education Scholarship Committee?
Permanent Audit Committee (Article 16)
Permanent Building Advisory Committee (Article 12)
~~By-Law Review Committee (Article 25)~~

Permanent Committees Appointed by the Moderator, Advisory to Town
Meeting

By-Law Review Committee (Article 25)
Capital Budget Committee (Article 13)
Warrant Committee (Article 19)

Position Classification and Compensation Plan (Article 11)

Public Health, Safety, Welfare and Environmental Protection

Public Ways, Sidewalks and Rights of Way (§§20.1 – 20.6, 20.12 - 20.12.6)

Vehicles and Parking (§§21.1 - §21.6.2)

Stretch Energy Code (Article 32)

Recycling Program (Article 26)

Alarms (§§24.1 – 24.16, 24.19 – 24.20)

Noise (§§23.1 – 23.8, 23.11)

Pets and Other Animals (§20.11 – 20.11.16)

Kennels (Article 28)

Door-to-Door Solicitation and Canvassing (§30.1 – 30.8, 30.10 – 30.11)

Newsracks (§§27.1 – 27.5.6, 27.7)

Trench Safety (§§20.7 – 20.7.2)

Flammable Fluids, Solids and Gases (Article 22)

Recycling Program (Article 26)

Emergency Personnel Communication Facilitation (§20.13)

Discharge of Firearms (§20.8)

Stretch Energy Code (Article 32)

Alarms (§§24.1 – 24.16, 24.19 – 24.20)

Emergency Personnel Communication Facilitation (§20.13)

Alcoholic Beverages (§§ 20.9 – 20.10)

Tobacco Products (§20.14)

Door-to-Door Solicitation and Canvassing (§30.1 – 30.8, 30.10 – 30.11)

Animals (§20.11 – 20.11.16)

Kennels (Article 28)

Noise (§§23.1 – 23.8, 23.11)

Enforcement (§§20.15, 21.7, 23.9 – 23.10, 24.17 – 24.18, 27.6.1 -27.6.4, 30.9)

Zoning Bylaw