

Ordinance No. 1-8-14-2008

TOWNSHIP OF CONOY
LANCASTER COUNTY, PA

AN ORDINANCE TO AMEND THE CONOY TOWNSHIP
ZONING ORDINANCE AS ADOPTED AND ENACTED ON
AUGUST 27, 1992 AS AMENDED, TO ESTABLISH
REGULATIONS FOR THE REVIEW OF THE DEMOLITION,
RELOCATION OR REMOVAL OF BUILDINGS OR
STRUCTURES

BE IT ORDAINED AND ENACTED BY Board of Supervisors of Conoy Township,
Lancaster County, Pennsylvania, as follows:

Section 1. Legal Authorization

The Pennsylvania Municipalities Planning Code (MPC), Act 247, as amended and reenacted, and, in particular, Section 603(a) that states that zoning ordinances should reflect the policy goals of the statement of community development objectives and give consideration to the character of the municipality, the needs of the citizens, and the suitability and special nature of particular parts of the municipality; Section 603(g)(2) that states that zoning ordinances shall provide for the protection of natural and historic features and resources; and Section 603(b)(2) that states that zoning ordinances may permit, prohibit, regulate, restrict and determine size, height, bulk, location, erection, construction, repair, maintenance, alteration, razing, removal and use of structures.

Section 2. Purpose and Objectives

The Comprehensive Plan for Conoy Township adopted August 1990 expresses through its many Community Planning Goals the desire of Township to discourage demolition and encourage the maintenance and adaptive re-use of historic and other buildings; provide housing opportunities to all age and income levels; protect the character of established neighborhoods through appropriate land use controls and codes enforcement.

It is the intent of this ordinance to establish a procedure for review of applications for demolition, razing or removal so that the structural integrity of a building can be determined; opportunities for continued use or adaptive reuse can be explored; the impact of the proposed demolition, razing or removal upon the

neighborhood streetscape can be determined; and proposed plans for the site can be reviewed.

Section 3. General Provision

1. Short Title: This ordinance shall be known and may be cited as the "Demolition Review Ordinance".
2. Compliance: No building or structure within the Township shall hereafter be demolished, removed or relocated in whole or in part, without full compliance with the terms of this Ordinance.
3. Covenants and Easements: It is not intended by this Section to repeal, abrogate or impair any existing easements, covenants or deed restrictions.
4. Historical Review Commission: The establishment, organization, functions and duties, and operating procedures of the *Historical Review Commission* are as may be established from time to time by resolution of the Board of Supervisors.

Section 4. Boundaries

The boundaries are co-terminus with the boundaries of the Township. The provisions of this ordinance shall apply in all underlying zones of the Township.

1. Boundaries. The Historic Overlay District shall be each lot or parcel identified as containing an historic resource. Identified resources shall be shown on a map that is available for review at the municipal office.
 - 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.

Section 5. Definitions

The definitions contained in Section 112 of the Zoning Ordinance are incorporated herein as if fully set forth. The following definitions are in addition to those found in that document.

Unless otherwise stated, the following words and phrases shall be construed throughout to have these meanings. The present tense includes the future, the singular number includes the plural and the plural the singular, the masculine gender includes the feminine and neuter genders.

Accessory Structure – a structure constructed as a secondary, subordinate building on a parcel containing a principal structure

Appurtenance – A subordinate component or structural feature attached or affixed to a principal structure or erected on the parcel.

Building – a resource created principally to shelter any form of human activity including principal and accessory buildings, including but not limited to a house, barn, privy, shed, outbuilding, carriage house, or summer kitchen.

Character Defining – Architectural design, materials, details, forms, workmanship or components that are important elements reflecting a distinctive design.

Demolition – The dismantling or tearing down of a building or structure, in whole or in part.

Historical Integrity - The authenticity of a property's historic identity and significance evidenced by the survival of physical characteristics that existed during the property's historic period with reference to some or all of the following qualities: location, design, setting, materials, workmanship, feeling, and association.

Maintenance – Work that does not alter the exterior fabric or features of a Building or Structure.

Principal Structure – Building that has been, is, or will be where the principal use or uses of the parcel are conducted.

Removal - To destroy to the ground, raze or demolish.

Repair – The process of rehabilitation that warrants additional work beyond maintenance.

Streetscape - The overall view of a public street, including front and side yards, its component elements and the relationships of buildings

setbacks, rhythms, height, shapes, spacing, and textures that give the street or neighborhood its distinctive visual character or appearance.

Structure – Any man-made object, including, but not limited to, buildings and appurtenances, which has a stationary location, whether or not affixed to the land or to an existing building or structure, excluding paved areas.

Structural Integrity – The State of Being whole and undivided, the condition of being unified or sound in construction.

Section 6. General Provisions

1. **Identification.** The historic resource inventory shall contain a listing of parcels within the overlay zone that contain one or more historic resources for use by the Zoning Officer in determining applicability of this ordinance. If the inventory has not been completed when this ordinance is adopted, the historic determination shall be made on an application by application basis by the Zoning Officer with recommendations from the Historical Review Commission and then reviewed in accordance with the terms of this ordinance.

A historic resource is a building, structure, site, or object that is 50 years old or older and is: 1) A building that is a good example of a type or style and/or is associated with an person or event that has local, state or national significance; 2) A building that contributes to the character and constitutes the fabric of the community and/ or that has local historical significance; 3) As otherwise defined in the zoning ordinance.

A building that is old but has lost its historical or structural integrity or is less than 50 years old is not a historic resource.

The Historic Resources Inventory data shall identify every historic resource by tax parcel number. The street address, owner's name, type of resource and category of each resource shall also be included in the list. The data to be gathered in the inventory process represents the requirements of the Pennsylvania Historic Resource Survey Form which has been incorporated into a standardized database format used county-wide and supplied by the Lancaster County Planning Commission (LCPC)

All parcels identified as containing one or more historic resource(s) shall be shown on a Historic Resource Map that shall be maintained, with the corresponding Historic Resource List, at the municipal office.

2. Historic Resources shall be categorized as follows:

a. **Class 1**

A building that is a good example of a type or style and/or is associated with a person or event that has local, state or national significance;

b. **Class 2**

A building that contributes to the character and constitutes the fabric of the community and/ or that has local historical significance;

c. **Class 3**

A building that is old but has lost its historical or structural integrity or is less than 50 years old.

3. Compliance. Demolition, removal or relocation of resources in Class 1 or 2 shall occur only when in compliance with the terms of this Ordinance and other applicable regulations. Class 3 is not regulated by the terms of this Ordinance; however, the Class 3 designation must be confirmed by the Zoning Officer and is not to be assumed by the property owner.

4. Revisions. The Historic Resource Inventory List and Map may be revised from time to time by legislative action of the Board of Supervisors following a public meeting at which time the proposed changes shall be presented. Recommendations from the *Historical Review Commission* will be considered.

a. Revisions are defined as additions, deletions, or changes of classification. Revisions do not include routine list maintenance to update ownership information or to add information about a change that occurred to the building through the normal permitting process unless that change affects the classification.

b. The Historic Resources List and Map shall be reviewed, no less than annually, and recommendations for revisions, if any, shall be compiled by the Historical Review Commission and submitted to the Board of Supervisors for their review and action.

Section 7. Demolition, Removal or Relocation of Historic Buildings

1. **General Requirements:**

- a. No Class 1 or Class 2 building shall be demolished, removed or otherwise relocated without a permit obtained under the provisions of this section except for emergency demolitions.
- b. Emergency demolitions to protect the health, safety and welfare of the citizens of the Township are regulated under the provisions of the Uniform Construction Code as may be in effect in the Township or its successors and the provisions of that code shall take precedence over the provisions contained herein.
- c. These provisions will be administered by the Zoning Officer with input, as required by the provisions of this ordinance, from the *Historical Review Commission*.

2. **Application Procedures:** Applications for demolition review may be obtained at the municipal building.

3. **Criteria for Review:** Applicants for a permit to demolish must provide, as part of their application, a written statement as to whether the following statements are correct and detailed substantiation for each statement which is believed to be correct. In each instance the burden of proof is on the property owner to demonstrate that the property owner has been deprived any profitable use of the relevant parcel as a whole. The recommendation of the Historical Review Commission and the decision of the Zoning Officer shall be based upon a review of the information submitted by the applicant against all criteria and not any one criterion. The goals and development objectives of the Township shall also be considered.

- a. It is not feasible to continue the current use.
- b. Other uses permitted within the underlying zoning district, either as permitted uses, special exception uses, or conditional uses, have been denied or are not feasible due to constraints on the building or structure.
- c. Adaptive use opportunities do not exist due to constraints related to the building, structure or property.
- d. The building, it's permitted uses, and adaptive use potential does not provide a reasonable rate of return, based on a reasonable

initial investment. Such reasonable rate of return shall be calculated with respect to the property taken as a whole.

- e. The applicant has not contributed to the existing conditions, either through neglect or prior renovation, conversion, alteration or similar physical action.
 - f. The demolition will not adversely affect the character of the property, streetscape, neighborhood or community.
 - g. A proposed new building, structure or use (if applicable) on or of the property will not adversely affect the character of the streetscape, neighborhood or community.
 - h. The building is structurally unsound.
 - i. The denial of demolition would result in unreasonable economic hardship to the owner. The Procedure and requirements for proving unreasonable economic hardships are contained in Appendix A to this Ordinance or as may subsequently be established or modified by Resolution of the Board of Supervisors.
 - j. Sale of the building or structure is impossible or impractical.
 - k. Denial of demolition will deprive the property as a whole of all beneficial use.
4. As a part of the review process the *Historical Review Commission* and/or the Zoning Officer may request additional information to be provided. Such materials may include *but are not limited to*:
- a. site plan;
 - b. detailed floor plans of the building proposed for demolition;
 - c. exterior elevations of the building proposed for demolition;
 - d. report from a professional civil engineer registered in the Commonwealth of Pennsylvania on the structural soundness of the building proposed for demolition;
 - e. photographs;
 - f. historic overview of the building and/or property; and
 - g. written description of the proposed use of the property.

5. **Review Procedure:**

- a. The Zoning Officer shall forward completed applications for demolition, removal or relocation of Class 1 and Class 2 historic resources to the *Historical Review Commission*. All information submitted in compliance with the review criteria, above, shall be taken into consideration during the deliberation process as shall the community goals and development objectives of the municipality.
 - b. The applicant shall be provided an opportunity to present their proposal to the *Historical Review Commission* at a regularly scheduled monthly meeting.
 - c. The written recommendations of the *Historical Review Commission* shall be forwarded to the Zoning Officer for consideration. The Zoning Officer shall consider the review criteria, the written recommendations of the Historical Review Commission and the community goals and development objectives set forth in the comprehensive plan, and make his or her determination to issue or deny the permit. Challenges to the Zoning Officer's decision go to the Zoning Hearing Board.

6. **Associated Land Development Plan**: If the application for a permit for demolition, relocation or removal is being requested to facilitate future development, the said permit shall not be issued by the Zoning Officer until the following additional requirements have been satisfied.
 - a. approval of the land development plan by the Lancaster County Planning Commission.
 - b. the recording of an approved subdivision or land development plan for the lot where the Demolition, Removal or Relocation is proposed;
 - c. issuance of any necessary zoning approvals

7. **Enforcement**: In addition to the enforcement provisions found in the Zoning Ordinance and incorporated herein by reference, the Board of Supervisors *may* authorize action to withhold issuance of any and all zoning and building permits for a period of up to two (2) years for any property that at the time of the enactment of these provisions, was occupied by a Building or Structure that was subsequently demolished, removed or relocated without obtaining a permit as provided for herein.

In addition, the Board of Supervisors may take other appropriate legal action, which may include equitable and injunctive relief, to enforce the provisions of this Article.

Section 8. Validity

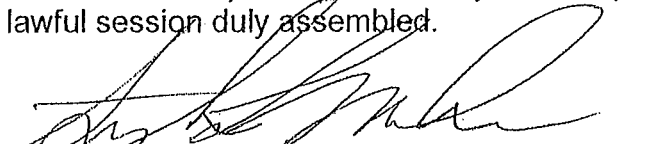
All other sections, parts and provisions of the Zoning Ordinance shall remain in full force and effect as previously enacted and amended.

Section 9. Severability

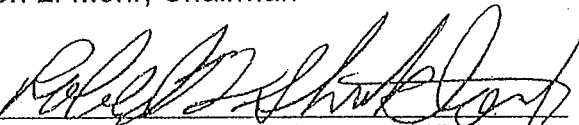
In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such invalidity, illegality or unconstitutionality shall not affect or impair the remaining provisions, sections, sentences, clauses,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

Section 10.

DULY ORDAINED AND ENACTED this 1st day of August, 2008, by the Board of Supervisors of Conoy Township, Lancaster County, Pennsylvania in lawful session duly assembled.



Stephen L. Mohr, Chairman

Attest 

Robert F. Strickland, Secretary-Treasurer

This Ordinance shall take effect and be in force five (5) days after its enactment by the Board of Supervisors of Conoy Township as provided by law.

property for alternative use, or a statement that none were obtained.

- (l) Form of ownership or operation of the property, whether sole proprietorship, for-profit or nonprofit corporation, limited partnership, joint venture or other.
2. The Township may require that an Applicant furnish additional information relevant to its determination of unreasonable economic hardship.
3. The Township may receive and consider studies and economic analyses from other township agencies and from private organizations relating to the property in question.
4. Should the Township determine that the owner's present return is not reasonable, it must consider whether there are other uses currently allowed that would provide a reasonable return and whether such a return could be obtained through investment in the property for rehabilitation purposes.
5. The Township may seek the assistance of appropriate local, statewide or national preservation organizations in developing solutions which would relieve the owner's economic hardship. If the Township chooses to explore such options, the Township may delay issuing a permit for demolition on the basis of economic hardship for a period of ninety (90) days in addition to time periods otherwise applicable.
6. Should the Applicant satisfy the Township that he will suffer an unreasonable economic hardship if a permit is not approved, and should the Township be unable to develop with the appropriate local, statewide and national preservation organization a solution which can relieve the owner's economic hardship, the Township must approve the issuance of a permit for demolition.