

Bill T 2024A

A local law to amend the Code of the Village of Thomaston, in relation to landmark preservation.

Section one. The purpose of this law is to clarify and improve the procedures for landmark preservation in the Village of Thomaston.

Section two. Chapter 120 of the Code of the Village of Thomason is hereby amended, to read as follows:

“Chapter 120. Landmark Preservation.

§ 120-1. Declaration of policy; purpose.

A. The Board of Trustees of the Village of Thomaston hereby finds that:

(1) There exist in the Village of Thomaston places, sites, structures and buildings of special historic significance or places, sites, structures and buildings which, by reason of famous events, their antiquity or uniqueness of architectural construction and design, are of particular significance to the heritage of our village, town, county, state and country.

(2) The conservation, protection and preservation of such places, sites, structures and buildings is a public necessity in harmony with the village plan and will promote the public health, safety and general welfare.

B. Now, therefore, the Board of Trustees of the Village of Thomaston hereby declares that the purpose of this chapter is to accomplish the conservation, protection and preservation of such places, sites, structures and buildings.

§ 120-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ALTERATION

Any act or process which changes one (1) or more of the exterior architectural features of a building designated as a landmark, or any building or structure in an historic district.

BUILDING

Any structure or combination of materials forming a construction, whether for the purpose of providing shelter to persons, animals or property, or otherwise.

DESIGNATION

Village approval of a landmark or historic district for protection or preservation as provided in this Chapter.

EXTERIOR ARCHITECTURAL FEATURES

The architectural style, design, general arrangement and components of all of the outer surfaces of any building, including but not limited to the kind, color and texture of the building material and the type and style of all windows, doors, lights, signs and other fixtures appurtenant to such building.

HISTORIC DISTRICT

Any area which contains sites, places or buildings which have a special character and ambiance, or historic value, or aesthetic interest, or which represent one (1) or more periods or styles of architecture of an historical era, and which cause such area to constitute a distinct section of the village.

LANDMARK

Any site (including significant trees or other plant life located thereon) or building of particular historic or aesthetic significance to the village, the Town of North Hempstead, the County of Nassau, the State of New York or the United States. The term "landmark" includes sites, buildings or structures where cultural, political, spiritual, economic, social or artistic history of the community, state or nation is reflected or exemplified, or which are identified with historic personages or with important events in local, state or national history, or which embody the distinguishing characteristics of an architectural specimen, inherently valuable for a representation of a period, style or method of construction, or a notable work of construction, or a notable work of a master designer or architect whose individual genius influenced an age. The term "landmark" also includes any site within the village and included in

the National Register of Historic Places, the Historic American Buildings Survey or on any similar list maintained by the State of New York.

§ 120-3. Landmarks Preservation Commission.

A. Creation; composition; officers; terms; compensation.

(1) There is hereby created a Landmarks Preservation Commission ("Commission") which shall consist of five members appointed by the Mayor, with the approval of the Board of Trustees. The Mayor shall designate one member of the Commission as Chair and one member of the Commission as the Vice Chair, and such persons shall serve in such capacity during their term of office unless removed or replaced pursuant to law.

(2) Members are to be appointed for terms of one (1) official year. Members may serve more than one (1) consecutive term and shall remain in office until the appointment of a successor. A vacancy in any position shall be filled for the balance of the remaining term in the same manner as provided for an original appointment.

(3) The members of the Commission shall serve without compensation but shall be reimbursed for expenses necessarily incurred in the performance of their duties in consequence of the Board of Trustees' appropriation for such purpose.

B. Powers and duties.

(1) The Landmarks Preservation Commission shall have the powers and duties granted by the sections of this chapter and shall have the power to designate a place, site, structure or building as a landmark or as part of an historic district, subject to the approval or disapproval of the Board of Trustees.

(2) In addition, the Landmarks Preservation Commission shall have the power to retain consultants, including but not limited to technical experts, engineers, architects and historians, to advise in the preparation of any plans or projects or to render assistance and advice in connection with any project to fulfill the duties of the Landmarks Preservation Commission. Any contract to retain such consultants which involves the expenditure of village funds shall be subject to the approval of the Board of Trustees.

§ 120-4. Procedure for Designation of landmarks, landmarks sites or historic district.

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- A. Any person may request Designation of a landmark or historic district by submitting a written request to the Commission supported by sufficient data and historical or other support as is deemed by the Chair of the Commission to demonstrate (i) a sufficient basis for further consideration of the request, and (ii) a likelihood that there will be significant support for the request. The Commission may initiate a request for Designation of a landmark or historic district.
 - B. In the event that the Commission receives a request for Designation of a landmark or historic district which meets the requirements of subsection A of this section, such request shall be distributed to each member of the Commission, and in the event within fifteen days after such distribution at least two members of the Commission advise the Chair of their support for further consideration of such request, or in the event the Commission initiates a request for Designation of a landmark or historic district, the Commission shall give notice of such receipt to the Building Inspector. The Commission shall consider said request at one or more meetings thereof. Notice of the first such meeting shall be given to the applicant and to the owner of any real property which is the subject of such request and to the owners of all real property located within two hundred fifty (250) feet of the exterior boundary lines of the subject parcel or area at least fifteen (15) days prior to the date of the first such meeting. Notice of such meeting shall also be published in the official newspaper of the village at least five (5) days before the meeting. Notice of subsequent meetings to consider the application shall be given in the same manner, unless the date and time of any such subsequent meeting has been announced publicly at, and included in the minutes of, the prior meeting.
 - C. The Commission shall approve or disapprove a request for Designation within ninety (90) days after the conclusion of the meeting(s) at which such request is considered. Such time period may be extended for no more than an additional ninety (90) days by affirmative vote of at least four members of the Commission.
 - D. Disapproval.
 - (1) If the Commission disapproves a request for Designation of a landmark or historic district, the proceedings for Designation of the

landmark or historic district shall terminate, and notice thereof shall be given by the Commission to the Board of Trustees.

(2) The Board of Trustees may overrule a determination by the Commission to disapprove a request for Designation, provided that such action by the Board of Trustees is considered at a public hearing of the Board, notice of which has been given in the same manner as provided in subsection B hereof, and further provided that such action is taken by affirmative vote of at least four (4) members of the Board of Trustees.

E. Approval.

(1) If the Commission approves a request for Designation of a landmark or historic district, such approval may be limited to the proposed historic district or landmark as described in the request or may include fewer properties or sites than included in the request. No such approval shall include additional property or sites other than those identified in the request, unless notice of a meeting to consider the inclusion of such property has been given as provided in Subsection B of this section. In issuing any approval, the Commission shall issue a written determination stating its findings and conclusions. Such written determination promptly shall be transmitted to the Board of Trustees and to the owners of any property included in such approval.

(2) The Board of Trustees may affirm, modify, or reject a determination by the Commission to approve a request, provided that such action by the Board of Trustees is considered at a public hearing of the Board, notice of which has been given in the same manner as provided in Subsection B hereof, and further provided that such action is taken by affirmative vote of at least a majority of the Board of Trustees.

F. If the Board of Trustees affirms, modifies or rejects a request for Designation of a landmark or historic district, written notice of such determination shall be given by the Village Clerk to the owners of all properties so designated, or within such district, by certified mail to such owners at the address shown for such owners on the then-current village tax roll. The Village Clerk shall also notify the Building Inspector and the Commission of any such determination.

§ 120-5. Restrictions on issuance of building permits; designation of property on map.

A. Upon receipt of notice that the Commission is considering a request for Designation of a place, site or building as a landmark or historic district, and until ninety (90) days have elapsed after disapproval of such request by the Commission, or until disapproval of such request by the Board of Trustees, whichever first occurs, the Building Inspector shall not issue any permit for the demolition, alteration or improvement of said place, site or building without the express authorization of the Board of Trustees.

B. Upon receipt of notice that the Board of Trustees has approved a request for Designation of a place, site or building as a landmark or historic district, no demolition or building permit shall issue with respect to such place, site or building except pursuant to § 120-6 of this chapter.

§ 120-6. Construction, alteration or demolition of landmarks or sites within an historic district.

A. No building, site or place designated pursuant to this chapter as a landmark or within an historic district shall be constructed, altered, repaired, moved or demolished except in compliance with this section.

B. Prior to issuance of any building permit therefor, the Commission shall review all applications for permits for moving, alteration, exterior construction, landscaping or demolition of any place, site or building designated pursuant to this chapter as a landmark or within the boundaries of an historic district.

(1) In conducting such review, the Commission shall be limited to any activities which relate to or affect the exterior features of a building visible from a public way or place, and the Commission shall have no jurisdiction to review any activities which relate only to interior walls, arrangements or structures.

(2) The Commission shall consider:

(a) The historical and architectural value and significance of the building or site and its relationship to the historic and architectural value of the surrounding area.

(b) The general appropriateness of proposed exterior design, colors, arrangements, textures and materials.

(c) Any other factors which the Commission deems pertinent to the benefit of the village and to the historic or architectural significance of the building and the surrounding area.

C. All alterations, repairs and additions to buildings or sites designated as a landmark or located wholly or partially within an historic district shall be made consistent with the materials and style of the particular architectural period of which the building is characteristic.

D. New construction shall be consistent with the architectural styles of historic value in an historic district. However, the Commission may approve the construction of buildings which have a dissimilar architectural style to that of the historic district if the Commission determines that the new construction would be in the best interests of the district.

E. Moving of any building designated as a landmark or located wholly or partially within an historic district is prohibited, except where the Commission shall determine that moving such building is the only feasible alternative to demolition thereof.

§ 120-7. Review of plans.

Any application for a building permit to construct, alter, repair, move or demolish any place, site or building designated pursuant to this chapter as a landmark or located wholly or partially within an historic district shall be made to the Building Inspector pursuant to the requirements of this Code, except as hereinafter provided.

A. Such application shall state that the property has been designated as a landmark and/or is located within the boundaries of an historic district. The plans submitted to the Building Inspector shall show the building in question and shall show its relation to adjacent buildings and the construction, alteration, repair, moving or demolition sought to be accomplished.

B. The Building Inspector shall transmit any such complete application to the Commission for its review. In making such review, the Commission may confer with the applicant, an authorized representative of the applicant or any other interested person.

C. The Commission shall approve, disapprove or modify and approve said application within sixty (60) days after receiving said application and plans. Such determination of the Commission shall be submitted promptly, in writing, to the Building Inspector.

D. The Building Inspector shall not issue any permit for such alteration, construction, improvement, repair, moving or demolition except in accordance with the approval of the Commission.

E. A determination of the Commission or the Building Inspector made pursuant to this section may be appealed to the Board of Appeals by any person aggrieved thereby.

§ 120-8. Exceptions and exclusions.

A. The provisions of this chapter shall not apply to any construction, removal, alteration, addition or demolition to an existing building which is directed by the village or its authorized representative to be performed for the purpose of remedying conditions deemed to be unsafe or dangerous to the life, health or safety of any person or property.

B. This chapter shall not be construed to prevent ordinary maintenance or repair, with materials of a like quality, color and kind, of any place, site or building designated as a landmark or within an historic district.

C. Notwithstanding any other provision of this chapter, where an owner of any place, site or building which has been designated pursuant to this chapter as a landmark or which is within an historic district, or for which a request for Designation as a landmark is pending, or which is within an area which is the subject of a pending request for Designation as an historic district, establishes to the satisfaction of the Commission that there is unnecessary financial hardship in the strict application of the provisions of this chapter, the Commission, with or without conditions, may authorize the issuance of a permit for construction, reconstruction, alteration, improvement, repair, demolition or moving of such place, site or building upon a determination that:

- (1) The land or improvement in question cannot yield a reasonable return if the proposed activity is not permitted;
- (2) The hardship of the applicant is due to unique circumstances;
- (3) The proposed activity will not alter the essential character of the area;
- (4) The hardship is the result of the operation of the provisions of this chapter and is not the result of any act or omission of the applicant or any person acting for or on behalf of the applicant;
- (5) The activity thus permitted shall be conducted in a manner as consistent with the objectives of this chapter as is feasible; and
- (6) The activity is in conformity with the provisions of the Village Code other than the provisions of this chapter.

§ 120-9. Identification of landmarks and historic districts.

A. The Building Inspector shall be responsible for appropriate public identification of any place, site or area designated pursuant to this chapter as a landmark or historic district.

B. The owner of any site, place or building designated pursuant to this chapter as a landmark or within an historic district shall place in a location

selected by the Commission an appropriate sign or marker, or other identifying device, to identify such place, site or building as a landmark or historic district. Each such sign, marker or device shall be approved by the Commission and the Board of Trustees as to size, style, color, typography, material of construction and any wording or pictorial material to be displayed thereon. The costs of such sign, marker or device shall be borne by the village.

C. Each place, site or building designated pursuant to this chapter as a landmark and the boundaries of each historic district shall be shown and identified on the village Official Map.

§ 120-10. Penalties for offenses; enforcement.

A. Any person who violates any provision of this chapter shall be subject to the penalties provided for violations of the Village Code in Chapter 1, General Provisions, Article II, of this Code.

B. The imposition of any penalty for violation of any provision of this chapter, or the pendency of any proceeding to punish a person for any such violation, shall not preclude the Village of Thomaston from instituting any appropriate action or proceeding in law or equity to prevent the unlawful erection, construction, reconstruction, repair, addition, alteration, demolition, conversion or use of property or a building or moving of any building or any other activity in violation of any provision of this chapter. In any such action or proceeding, the village shall be entitled to injunctive relief to prevent or restrain any such unlawful act or activity.”

Section three. Severability. If any provision of this law or the application thereof to any person or circumstance is adjudged invalid by a court of competent jurisdiction, that judgment shall not affect or impair the validity of the other provisions of this law or the application thereof to other persons and circumstances.

Section four. Effective date. This local law shall take effect immediately upon adoption and filing pursuant to the Municipal Home Rule Law, and shall apply to all applications pending or filed on or after the effective date.