

**Historical Commission of Birmingham Township  
Minutes of the meeting of March 22, 2022**

The regular meeting of the Birmingham Township Historical Committee was called to order by Chairperson, Mike Forbes at **7:06pm** in the township building.

PRESENT: HC Members: Matt Bedwell, Kelly Fleming, Mike Forbes, Patricia Kelly, John Ponticello

ABSENT:

Others present:

Mr. Forbes made a motion to approve the minutes from the February 22, 2022 meeting. Mr. Ponticello seconded the motion and it passed unanimously

**Review draft of Changes to Zoning Ordinance Chapter 122-6 for Historic Preservation, Historic Resources, Historic Classification, and Historical Significance and Agree on Historical Commission Response Recommendations**

Mr. Forbes stated that the plan tonight is to go through the proposed draft changes to the Zoning Ordinance 122-6 and agree on the HC's response to the recommendations to the Board of Supervisors. He noted to the members of the public that the HC is working off a draft of what was attached to the agenda on the website for this meeting. He is planning to read those changes, section by section for discussion among the HC members and also allow for public input throughout the meeting. Mr. Forbes is planning to note the HC's comments and changes directly in the comments section of the draft ordinance and will send that document to be an attachment to these meeting minutes for the Board.

Ms. Holly Stoviak, 1175 Birmingham Road, stated that they moved into the township two years ago and she is interested in what prompted these changes. Mr. Forbes responded that in 2016/2017 there was a special committee formed (members of the HC and also outside experts) to look at these ordinances with the intent of strengthening the protection for the historic resources within the township. They also tried to address some loopholes in the existing ordinances. At the end of 2017 that committee made a presentation of their recommendations to the Board of Supervisors. They also provided a draft of proposed ordinance changes at that time. Shortly after that, there was a change of personnel on the Board of Supervisors and some other issues within the township that caused the township to table those proposed changes until the issues were resolved. Then Covid happened. Toward the end of 2021, the Board resurfaced the proposal and made changes to that draft. Some of the special committee's recommendations made it into this draft, but many did not. Unfortunately, the HC's designated Board liaison is not in attendance this evening to provide any additional insight. The draft ordinance is also going to be discussed at the April 12, 2022 Planning Commission meeting and they will make a recommendation to the Board for the May BOS meeting.

Mr. Steve Hoffman, 1001 Country Club Lane, asked if the Board has the unilateral approval to issue new ordinances? He wanted to know what the process is. Mr. Forbes noted that any changes are published to the public prior to the voting. The notice is published in the Daily Local Newspaper and also posted directly on the Birmingham Township website.

Mr. Forbes stated that this draft did not adopt the recommendation of the HC to make the definition of an Historic Resource meet an age requirement of at least 50 years. It now references an Historical Resource as one of an Era that provides important historical value, typical of the historical significance of the character of Birmingham township. He stated that the word character seems very broad. He believes it needs to be further defined.

Ms. Fleming agreed. She asked if when the special committee sent their recommendations to the Board, they referenced specific architectural styles but did not define them. Perhaps the HC needs to provide definitions of the character of each architectural.

Article VIIIA: (e4) they have inserted “the Historic Commission” again to review any proposed changes or alterations to the Historic Resources within the township – not just the BOS.

Ms. Kate Marshall, 1001 Meetinghouse Road, stated that the original proposal back in 2017 were proposals that were run by members of the county, the state and a qualified historical architect. Those changes were also reviewed by a member of the Pennsylvania Historic and Museum Commission (PHMC).

Article VIIIA (e5) the HC is asking that this statement be redacted as there are no guidelines for interior changes to Historic Resources to be reviewed either by the state or PHMC. Ms. Kelly asked for clarification that there are no guidelines for how much a homeowner can modify the interior of an historic house? Mr. Forbes confirmed that all of the historic preservation guidelines are geared toward the exterior portion of historic resources and the disturbance of land that could unearth archeological artifacts. What a homeowner does to the walls and interior of the historic resource would fall under the building code guidelines.

Mr. John Stoviak, 1175 Birmingham Road, asked what is driving the BOS to want to change this and take on the responsibility that seems like it should be with the HC? Mr. Forbes indicated that he cannot answer that question since he is not a member of the BOS. He noted that last month that question was asked of the BOS liaison and the answer was that they were looking to make it easier for people who own Historic Resources to modify them. From the February meeting minutes, Mr. Hill had noted that the BOS had received input of owners of HRs who commented that the process was arduous and thus the BOS wants to streamline the process. Mr. Stoviak then asked if the HC members are appointed by the BOS? Mr. Forbes confirmed this.

Mr. Stoviak then asked if there have been challenges in the past where homeowners thought the HC was being too rigorous in its refusal to approve changes? Mr. Forbes responded that the issue is not the HC’s refusal to approve but simply the fact that they are required to come before the HC. Mr. Forbes used an example where the owner of an Historic Resource was required to come to the HC in order to put a run-in shed on their property. In this proposed ordinance that element has been removed. However, there are an entire list of other elements that are in here that do not smooth the process for an applicant. Why does an applicant not have to come to the HC if they are putting a full addition onto the Historic Resource?

Mr. Bedwell stated that in the past, some applicants have been sent to the HC for work that is not necessarily in the HC's purview and vice-versa. The entire time that he has been on the HC, they have wanted to improve the process.

Mr. Stoviak stated that what prompted them to attend the meeting tonight, is that they received a letter from someone stating that the ordinance was being updated to remove the powers from the HC and moving it to the Board of Supervisors. Mr. Forbes responded that the way the township works, is that the various commissions make recommendations to the Board of Supervisors as the various committee members are not elected officials. So, the Board of Supervisors has always been involved. But the HC would review the application in more detail and then make the recommendation. These changes are sidelining the HC and making them only involved in the demolition of Historic Resources. The other aspect that has been extracted from the ordinance is the historic preservation piece and that makes an Historic Resource more vulnerable to development right up to 60 feet away from them. In the existing ordinance that distance is 200 feet; the 2017 recommendation was to increase that to 500 feet.

Mr. Forbes stated that these are some of the reasons he felt that owners of Historic Resources within the township should be aware of the proposed changes to the ordinance. Mr. Stoviak agreed as an owner of an Historic Resource. He stated that he believes that it would be a mistake to take the powers away from the people who are appointed to the position to protect historic resources and apply the ordinances appropriately and move that power to elected officials who may be more vulnerable to pressure from developers. He thinks that is a risk and danger for the township.

Ms. Holly Stoviak, Chairperson of the Board of Chester County Historical Society, she noted that they have a new exhibit and half of that exhibit is on Birmingham township because of the history of the Battle of the Brandywine. She would hate to see that history ruined by developers. She then stated that her house is on the National Registry and asked if she is governed by that or by the township HC? Mr. Bedwell noted that if they wanted to make changes to their house, within the township they would be governed by the HC and HARB.

Mr. John Stoviak, previously lived in Willistown township with great open space. He was a member of the Conservation Trust Board. He noted that once a resource or open space is gone, you can't ever get it back.

Mr. Bedwell stated over the past couple of years, they have lost some Historic Resources do to neglect or also some that we located within the flood plain and were then condemned from flood damage. Some of this is unpreventable. He thinks that some of the burden that falls on applicants is when their Historic Resource is located within the HARB corridor also. They then have to attend two meetings to get recommendations for changes. He wants to make sure that the township addresses these issues.

Mr. Hoffman, noted that he has personally experienced the HARB and HC requirements and he doesn't see that any of the changes in this ordinance address that burden.

Mr. Doug Marshall, stated that over the years in Birmingham township, it's the property owners are the ones who are preserving and protecting the resources in the township. They are stakeholders who have made a commitment to preserve the land. What is the township doing to help that process?

Ms. Dawn Clark, 1045 Birmingham Road, she is deeply concerned about the suggestion of reviewing interior changes. They went through the process about 10 years ago of internal modifications and they probably would not have done it if they had to have someone come in to review them. Applicants need to have the ability to make the home their own, yet still keep the historical nature of the house. If the

township wants to review all interior changes, she thinks people will not be willing to preserve the historic houses. Mr. Hoffman agreed with Ms. Clark.

Ms. Holly Stoviak, stated that the interior changes are part of what give an old house its character. Mr. Bedwell stated that the interior changes should be encouraged to attempt to maintain the character, but otherwise homeowners should be able to make changes to make it their home.

Article VIIIA (e7) change wording to landscapes and their viewsheds – not just Sandy Hollow and Birmingham Hill. Mr. Bedwell stated that the character of Birmingham Township and its HRs are defined by the viewsheds surrounding them.

The next section (Classification of HR and the adoption of HR inventory/changes to the inventory) remains relatively unchanged from the existing and the 2017 recommendations. The only comments is in 122.36.2 (C4) change National Register to US Department of the Interior.

122.36.3 – definition of what is the HC – recommend change to section e3- inserted wording to do more than just demolition. Insert or certain building permits for HRs as well as subdivision and land development that occurs within 500 feet of an HR.

122.36.4(e) notification has been changed to notice shall be placed in a conspicuous location on the property where the HR is located at least 7 days in advance of the HC meeting and shall remain on the property until the BOS acts on the application. The existing ordinance requires certified mail to neighbors within 500 feet of the HR, sent 14 days in advance of the meeting. This requirement has been removed completely. One recommended change by an HC member was having the notice in place for 30 days. Another option was adding back a mechanism of notification by mail to neighbors. Mr. Ponticello thinks that a notice posted on your property is not really notification. Ms. Fleming (having gone through this process) believes that maybe the requirement for certified mail notification should be immediate neighbors who directly touch your property lines. What is the definition of a conspicuous location? The HC decided to recommend maintaining the 500 feet notification via certified mail for demolition of an HR and increase the time to at least 21 days prior to the HC meeting.

122.36.4(f) add language to help preserve an HR such as the Seal House.

122.36.4(h) added a 60-day stipulation for the BOS to review it. Mr. John Stoviak asked if the BOS should document in writing back to the HC why – if they choose to make a different decision than what the HC recommended. Ms. Fleming noted that when she went to the BOS they gave reasoning verbally – that was then included in the minutes. Mr. Stoviak noted that if it's included in the meeting minutes than that is basically written notification as minutes are approved each month.

There was also discussion about moving the HC meeting to help streamline the process for applicants who would be subject to HARB and HC meetings.

122.36.5(a) Landscaping and Screening: removed the word "itself"; added wording to include wording to protect the viewshed sites back in. Also, add wording that the landscape plan should be reviewed by the HC before an applicant goes to the BOS meeting. Mr. Hoffman asked for clarification on this section. Mr. Forbes stated that this is related to future nearby development, either on a HR site, within 500 feet of an HR or within the battlefield sites.

122.36.6 Minimum building setback: the setbacks are simply double the normal setbacks. The HC is recommending a minimum setback of 200 feet for any building or structures on an adjacent lot; unless

the building or structure replaces a previous structure that was within 200 feet of the HR in which case the setup shall be equal to two times the normal setback. Mr. Forbes stated that this would only pertain to the Dilworthtown village area within the township. His concern is making the requirement 200 feet across the board for the entire township.

122.36.7 Alterations to Historic Resources (b-ii) change wording to: any exterior alteration that does not involve a change in or addition to exterior structure of a building or means of egress. This change keeps the ordinance consistent with the removal of interior changes from earlier on.

122.36.7 (c) also extracted the reference to “or interior alteration”

122.36.7(d) change the first sentence to notice requirements prior to the BOS or HC public meeting.

Now we get to the notification requirements again – discussion ensued about requirements for alterations to an HR requiring only notification to the immediate property owners. Only a demolition would require notification of neighbors within 500 feet. Ms. Fleming clarified still requiring certified mail notification, however only properties that directly adjoin the HR property including across a roadway and they should still be sent via certified mail 21 days prior to the meeting.

Mr. Hoffman asked for clarification on section (b) it states that the provisions shall not apply to ordinary maintenance or repair to a HR such that work does not require a building permit. Mr. Hoffman stated that ordinary maintenance with or without a building permit should not need to come to the HC or BOS. Why does any maintenance need to come to the HC or BOS? He questions if this wording is correct. Mr. Forbes does think that the wording “where such work does not require a building permit, and” should be removed.

Ms. Marshall noted that any type of work or maintenance on an HR should be done using in kind materials.

122.36.7(e). Mr. Forbes has paragraphs to be inserted to add back in the recommendation from 2017 that includes guidelines for historic preservation that have been designed by the National Park Services and the PHMC guidelines for historic preservation. The wording that Mr. Forbes wants to include are three elements and these specific guidelines make decisions more defensible.

Mr. Forbes stated that this would be a place to insert wording about streamlining the process if an applicant must attend both a meeting of HARB and HC.

122.36.8 is a new insertion: Historic Resource Impact Study. Mr. Forbes is recommending adding the language back in that was in the original ordinance. This section is what protects the Historic Resources and the battlefield sites thus he believes it should remain in the ordinance.

122.36.9 needs to be relabeled due to the insertion of the above section.

Ms. Clark asked what happens if these recommendations and feedback don’t get accepted by the BOS? She stated It seems so arbitrary that three officials can make these changes. Mr. Forbes is hopeful that the BOS will listen to the feedback they receive from the HC, the PC and also the public. He suggested that for those who feel this is a worthwhile cause, that they should make sure their voices are heard.

Mr. Hoffman asked for clarification on a section in the ordinance that states that the BOS can hire any consultants, engineers or specialists that they like to help review proposals and then send the bill to the applicant. This results in the applicant having to pay double the fees – since the wording in the

ordinance refers to reasonable expenses. However, the applicant has already paid their engineers and specialists to come up with the proposal. Mr. Forbes stated that this would be a question better asked of the Board of Supervisors.

**New Business**

Ms. Fleming has spoken with Chief Nelling and she is meeting with him on Saturday to agree on the location of the new sign.

Ms. Kelly made a motion to adjourn the meeting at 9:09pm. Seconded by Mr. Ponticello and voted unanimously. The next meeting will be April 26, 2022 at 7:00pm.

Respectfully submitted,  
Jennifer Boorse  
HC Secretary