

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

The regular meeting of the Birmingham Township Historical Committee was called to order by Chairperson, Mike Forbes at **7:02pm** in the township building.

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

ABSENT:

Others present: Dan Hill

Mr. Forbes made a motion to approve the minutes from the January 25, 2022 meeting. Ms. Fleming seconded the motion and it passed unanimously

**Review updated modifications to the Township Historic Resource List**

Mr. Forbes stated that the Board of Supervisors has distributed a draft of changes to Ordinance 122-6 for review. Before this draft can be distributed to the Birmingham Township Planning Commission and the Chester County Planning Commission for review, the Historical Commission must review and update the current list of Historic Resources in the township. He notes that he has already made changes – he removed some HRs that he knows have already been demolished – Bunny's Diner, the Tenant house on Creek Road and a couple others. He stated the best way to update the list is to go through each one, line by line.

Currently HR#1 is condemned from the flood last fall, but it is still standing.

The Lye house HR#6 is a stabilized ruin according to Mr. Bedwell.

There was some discussion about the Dilworth Farm Barn HR#40 as the house was already demolished – and that was the HR. However, the Civil War Battlefield Trust owns the property and this may need to be reconstituted as a site under the new terminology in the proposed ordinance.

The committee went through line by line – removed #28, #37, #53 and #75; and only had issue with #1 and #40 per the notations above.

There was a question about the four additional resources that the HC had recommended be added to the list and Mr. Forbes stated that once the ordinance is adopted, the HC will have to take those four through the process outlined in the new ordinance and have them added.

Mr. Forbes is going to finalize these changes on the list and sent to the Township Solicitor, Kristin Camp so that she can add the list to the ordinance recommendation which will then be sent to the Township Planning Commission and the Chester County Planning Commission.

**Review Draft of Changes to Zoning Ordinance Chapter 122-6 for Historic Preservation, Historic Resources, Historic Classification and Historical Significance**

Mr. Forbes has gone through the proposed ordinance and has noted his thoughts and comments from what was originally proposed by the HC to the BOS.

His comparison of the current BOS proposal vs the HC original recommendations are noted below:

The first change is that the proposed ordinance has removed the 50-year trip wire that would trigger a review of an HR – he noted that the remaining criteria of A through E leaves much up to interpretation without needing to meet an age requirement first. Maybe the age requirement should be 75 or 100 years.

Mr. William Worth, Trustee for 1075 Meetinghouse Road, asked why Brandywine Picnic Park is not on the list even though it was Indian ground many years ago. Mr. Forbes indicated that under the new ordinance there is a new category for Historic Resources that are considered a “site” and thus may not have actual buildings on that property. This location could possibly be added through a process outlined in the proposed ordinance.

Mr. Bedwell noted that bridges may be added as sites under the proposed ordinance too.

Ms. Mary Denadi stated that bridges would be considered structures. She also noted that the National Park Service Department of Interior is eliminating the 50-year rule. The National Historic Landmark committee, which she served on, eliminated that rule already as it was limiting some important places that were occupied by important people. There was discussion about the pros and cons of using an age to determine if something is an HR. Mr. Bedwell noted that this needs to be considered in terms of just our township – and whether the rule is looking at the structure or the occurrence of someone famous living there.

Mr. Doug Marshall stated that perhaps a fixed date of say 1925 would be better than a moving target such as 50 or 100 years. He also stated that if a structure is added to the National Historic Register, then perhaps the township should just accept that as an Historic Resource for their own purposes too.

Mr. Bedwell also stated that it is necessary to know what the township’s goal is in this ordinance – if it is just to protect against demolition, then it needs to be prevented prior to a structure getting to the point of demolition in order to protect it. (Mr. Bedwell had to leave the meeting at this point for personal reasons)

Mr. Forbes asked Mr. Hill (BOS liaison to the HC) to speak to the deliberate process changes that are in this new ordinance around the role of the Historic Commission. For instance, why the HC has been removed from the process of reviewing proposed changes and additions to Historic Resources.

Mr. Hill indicated that the change was due to resident feedback about making the process simpler.

Mr. Forbes then asked about the removal for subdivision and land development. Mr. Hill stated that in the future, if the BOS needs HC input on these, they have the ability to refer an application to be reviewed by the HC but it will be on a case-by-case basis. Ms. Fleming feels that is very subjective and that is concerning to her.

Mr. Doug Marshall asked who will be involved in determining lighting issues relative to new construction or subdivisions if the HC is not involved.

Mr. Worth asked why the entire Birmingham Township can’t be considered historic and not allow any new construction.

Ms. Kate Marshall stated that if the ordinances that were proposed a couple of years ago were adopted and in place then they would have been able to limit the type of homes that have recently been built on Meetinghouse Road. Ms. DeNadai indicated that those are zoning ordinances that Ms. Marshall is referring to. Mr. Forbes noted that he is not a legal representative, but he recalls through that process a couple of years ago, that the entire township could not be designated as historic – only the HARB corridor that is a defined area. He also stated that roughly 50 of the 70 or so Historic Resources in the township are not located in that corridor and thus need to still be protected.

Ms. DeNadai stated that there should be some sort of interaction between HARB and the HC especially if there is any proposed new construction in that district

Mr. Forbes noted that a change in the ordinance that he has a big issue with is the lowering of the setback to protect Historic Resources from encroaching development from 500 feet to 60 feet (this is double the normal setback of 30 feet). Mr. Forbes would like to get feedback from the BOS as to what their thinking was on this change.

Mr. Doug Marshall asked why people have to nestle a new house right next to an already existing Historic Resource? He believes this shows that the township has no visualization of spacing.

Ms. DeNadai stated that in the Zoning Ordinance any development within 500 feet of a property line allows for feedback from those neighbors – so why would the township make the setback for HRs less than that?

Mr. Doug Marshall asked what the Pennsylvania charter requirements are for township Historic Commissions? Ms. DeNadai agrees that the CLG Act 167 does have guidelines for this. She stated that CLG is really overseen by the PA Historical Museum Commission in Harrisburg and she thinks that they should see this document. Cory Kegaris, although not with that organization any longer, should review this document and note whether it is in compliance. She also thinks that viewsheds should be included.

Mr. Doug Marshall offered to compare the original HC proposed document and this current one in Adobe to see what the real differences are. Mr. Forbes stated that the HC is to simply provide their comments back to the BOS regarding this proposed ordinance and that it will also be reviewed by the township Planning Commission and the Chester County Planning Commission.

Mr. Forbes thanked Mr. Marshall for his offer. However, he said that he had already basically compared the documents. In fact, one area that he saw completely changed was that in the new document, there are no guidelines for the BOS to determine whether future changes to an Historic property are appropriate or not. He feels this needs to be incorporated into the ordinance.

Ms. Paige Worth, 1075 Meetinghouse Road, she noted that the lands by the Laurels in Unionville have been wonderfully preserved and she believes it is because they paid lawyers to help them protect the land. She asked if there is money for the Historic Commission to have a lawyer help them write this. Mr. Forbes stated that everyone on this Commission is a volunteer. He reiterated that the Board of Supervisors is proposing changes to the ordinance and has asked for the HC to provide comment and feedback to those changes. He noted that the ordinance that the HC had originally proposed a couple years ago was designed to strengthen the ordinance; this new one still has some of those components but has also removed some others. That is what the HC is attempting to reconcile and provide feedback on.

Mr. Hill noted that the BOS is planning to review any comments or feedback they receive from the HC and the township Planning Commission. Once the BOS receives feedback from both internal commissions they will discuss and decide about incorporating any of those changes. Then that document will be forwarded to the Chester County Planning Commission for their review. This is the normal process for any ordinance changes. The Chester County Planning Commission reviews ordinance updates to verify compliance with the Birmingham Township Comprehensive Plan and the County Plan. If they have comments, it will come back to the BOS for review and change. If they have no comments, it will come back to the BOS to determine whether or move forward with adoption of the ordinance.

Ms. Fleming asked if it is typical practice for any ordinance change that those reviewing the proposed ordinance do not get a red-lined version to easily be able to track the changes? Mr. Hill responded that he is actually surprised that a red-lined version was not provided to the HC. He explained that they do have it de facto because they have the existing ordinance and the proposed one. However, he admits that a red-lined version would be easier to review. During this discussion, members of the audience asked to have the red-lined version shared with them to review also. Mr. Forbes is planning to ask Ms. Camp for a red-lined version as well as if he can share it with members of the public for comment.

Mr. Forbes stated to the HC members that he will forward the red-lined version to each person and would like to consolidate the review of the ordinance and propose any changes back to the BOS at the March HC meeting.

Mark Landon, 1270 Birmingham Road, he asked that the redlined version be shared with the public prior to the HC making recommendations to the BOS – so that the public can comment at that time. Mr. Forbes asked if we have emails for the public members in attendance tonight. Ms. Fleming indicated that she has the emails for everyone the people in attendance tonight.

Mr. Ponticello noted that there is nothing in this proposed ordinance about neighbor notification other than posting something on the actual property. He is concerned about this as neighbor notification has often been an issue in the past.

Mr. Forbes indicated that he believes that all of the owners of this Historic Resources should be notified of the proposed changes to this ordinance as they are the ones being impacted by it.

Ms. DeNadai had a couple of additional comments she'd like the HC to consider: (1) the wording in the ordinance about oversight of interior renovations could be very problematic and it is not even allowed in the National Register reviews; (2) the landscaping buffers for within 200 feet of Historic Resources – she is aware of a new homeowner who clearcut all the trees on their property to open up their view – they gave no thought to the impact it could have on the Historic Resource next door. Who oversees this? (3) lastly, there is now reference to hedgerows in the landscaping language and she thinks it should be.

To summarize, these are the issues Mr. Forbes sees in comparison of the current BOS proposal vs. the HC original recommendations:

- 1) Fixed year removed from the criteria for qualifying a historic resource;
- 2) HC removed from reviewing all changes to any historic resource regardless of the significance of the change to the resource;
- 3) HC removed from any comment or involvement with any subdivision or development that impacts a historic resource;
- 4) Landscaping is only considered for adjoining properties not for facing properties;

- 5) The goal to protect the historic resources from encroaching development by increasing notice of development within 500 feet became no notice with lowered setbacks to as little as 60 feet;
- 6) The special committee proposed using national recognized standards for evaluating and guiding changes to historic resources that have proven to be highly defensible in court but the Board chose to create their own highly subjective criteria that will be open to interpretation;
- 7) The requirement for an HRIS for subdivisions or land development that impacts a historic resource which was designed to facilitate protection of the battlefield sites has been removed so there is no language to trigger a review, thus view sheds from the battlefield sites are no longer protected.

#### **New Business**

Ms. Fleming has no update on the new sign. She has not reached out to Chief Nelling about the sign yet.

Ms. Kelly made a motion to adjourn the meeting at 8:3pm. Seconded by Mr. Ponticello and voted unanimously. The next meeting will be March 22, 2022 at 7:00pm.

Respectfully submitted,  
Jennifer Boorse  
HC Secretary