

Appendix B

Sections from Phase II Report

The A-B-Cs of Demolition Review: The Experience of Neighboring Communities

Preservation staff and activists in three neighboring communities were interviewed to understand better how the process of demolition delay can protect a community's historic buildings. Arlington, Brookline and Cambridge were selected for study by the consultant with input from Chris Skelly of the Massachusetts Historical Commission and Newton's Preservation Planner, Lara Kritzer. Summaries of the information obtained during the interviews follows.

Arlington

Bob Botterio, Chair of the Arlington Historical Commission, and Alan McClennen, Jr., Director of the Arlington Planning Department, were interviewed for this report.

The Arlington experience with demolition review is unique in a number of ways. For one, it is entirely administered by the voluntary 7-member Arlington Historical Commission without staffing by the town government. Second, the definition of "demolition" in the Arlington bylaw includes any modification involving more than 25% of an elevation (front or side), thus granting an implied design review function. Third, it has private non-profit corporation that was created by the town to supply financial incentives needed to induce property owners to fix-up rather than tear down historic properties.

Lack of staffing has meant that no formal written reports are prepared in advance of the public hearing on a demolition. The Commission has been able to administer the bylaw to date because there have been very few demolition requests—8 in 1999 and 8 in 2000. Of the 8 reviews conducted in 2000, 3 requests to demolish were unanimously delayed. Several other requests that year were actually restoration projects for which the AHC waived the demolition delay. However, the commission's work load is growing, due to the 25% demolition provision. It is estimated that 30% of the residential stock in Arlington was built between 1945 and 1960, yet, not many of these structures are on the Multiple Resource Inventory List (consisting of approximately 1000 properties), which is what triggers the required review. Historically, Arlington was densely developed, with 5,000-square-foot lots being typical. Today, limits on both the height and footprint of a building reduce the incentive to demolish and rebuild, since scarcely any increase in size is allowed to occur.

One of the most impressive aspects of Arlington's preservation program is its "Preservation Fund." The fund was capitalized with \$150,000 in CDBG funds. Its purpose is to grant \$10,000 - \$15,000 loans for residential facade preservation and improvements at an interest rate half of the prime. Through the demolition review process, homeowners who might not otherwise be aware of the program and therefore considering changes that would impair the historic character of a house, can be identified and informed about this help. Further, the commission can guide

owners in the restoration process, that helps stabilize the value of the property and neighborhood. Coordination between the AHC and the Preservation Fund Board, is accomplished with interlocking memberships. And this is the area where the Town Arlington, through representation of its Planning and Development Department on the Preservation Fund Board, interfaces with the preservation activities of the various commissions.

One example of how the fund was used was as a construction loan for a property whose owner had become incompetent to maintain the place and the property was slated for demolition. With the involvement of the Arlington Planning Department, a guardian for the owner was appointed, the property sold to a contractor who restored the house, resold it and repaid the Preservation Fund loan out of the profits. A win-win solution all the way around, which the demolition review bylaw precipitated. On the other hand, a 1946 Contemporary House, which was found to be architecturally significant, was located on a large lot and in spite of the one-year delay imposed, was demolished to proceed with a five-lot-subdivision of the property.

The AHC members have a range of attendance records. At least two of the seven are reported to attend every meeting, with three missing only two meetings in the past year, while one member had very poor attendance. While not perfect, such performance of this public service is seen as lending an overall consistency to the decisions by the AHC. In addition, there is a strong enough interest in preservation in Arlington that several “Associates”—non-voting members of the Commission—attend, entering into discussions and participating in a variety of the Commission’s special projects, which are extensive. Arlington has separate historic district commissions for each historic district, which reduces the review workload of the AHC.

In the opinion of Arlington Planning and Development Director McClennen, “The demolition bylaw, in combination with historic districts, provides one of the most powerful land use tools available to communities.”

Brookline

Greer Hardwicke, Preservation Planner for Town of Brookline was interviewed for this report.

Brookline’s demolition bylaw has been in effect since April of 1988. It provides for a one-year delay for a broadly defined range of buildings, overseen by a seven-member Brookline Preservation Commission (BPC). First, there is a list which includes those structures that are located within a local historic district, listed on the National Register of Historic Places or eligible for such listing, listed on the State Register of Historic Places or preliminarily determined eligible for such listing by the MHC. Second, the bylaw also allows the BPC to consider buildings that are associated with significant persons or events, or the broad architectural, cultural, political, economic or social history of the Town or Commonwealth. Buildings that the commission finds historically or architecturally significant in terms of period, style, method of building construction, or association with a significant architect or builder, either by itself or as part of a group of buildings can also be added to the list. Thus structures are evaluated without reference to their age. When the BPC reviews a building to determine whether it is a “Significant Building” it specifically does not consider its condition.

Language in Brookline's demolition bylaw directs the Chair and Staff of the BPC to invite the owner of record, the Building Commissioner and Planning Director to participate in an investigation of alternatives to demolition. Such alternatives include:

- Incorporation of the building into the future development of the site
- Adaptive reuse of the building
- Utilization of financial incentives to rehabilitate the building
- Seeking a new owner willing to purchase and preserve the structure
- Restoration and rehabilitation of the building
- Moving the building

There are other unique provisions in Brookline's demolition bylaw: The town charges a fee for a "Certificate of Significance": \$20 in the case of a non-significant building and \$100 for a significant building. Also, the bylaw allows the BPC staff to require posting a notice on the property, visible from the nearest public way, of the demolition being sought and the public hearing concerning such demolition.

Brookline's demolition bylaw does not explicitly state that the BPC may undertake design review and waive the delay period upon finding that the proposed change is acceptable, yet in practice this does occur. Such practice is an interpretation of a provision in the law which states that, "...the Building Commissioner may issue a demolition permit for a significant building at any time after receipt of written advice from the Commission to the effect that the Commission is satisfied that there is no reasonable likelihood that the building can be preserved, restored, rehabilitated or moved."

It is estimated that 90% of the town's structures have been surveyed, which provides a good basis for the initial determination of significance. A data base with information on buildings built between 1889 and 1922 has been developed, based on a 1987 Multiple Resource Inventory and information provided on building permits, which were required since 1889. Garages, carriage houses and barns are currently being surveyed and mid-20th century structures are just now beginning to be studied. Notable examples of these buildings include a 1930's subdivision of "All Gas Houses" that were developed by Boston Gas, a number of International style homes, and a subdivision laid out by the Olmstead firm after WWII are among the notable. (Frederick Law Olmstead established a home office in Brookline at age 60.) Post-WWII housing is concentrated in a few pockets and constitutes a relatively small proportion of all residences.

The BPC has not had nearly the great number of demolition permits to review that Newton has experienced, due to the town having been developed earlier and the number of buildings that have been surveyed and determined significant. However, it was observed that the number of reviews has grown in recent years. (No figures were supplied.) The BPC also reviews proposed changes within established historic districts. Until recently, a separate department was responsible for the town's preservation activities, which included staffing the BPC. Currently, "Preservation" is one of four divisions in the Department of Planning and Community Development with two part-time preservation planners (one works half time and one works 2/3 time).

Written staff reports to the BPC vary with the significance of the structure and the time available. Substantial amounts of time are spent on documenting very significant structures while reports on other, less significant structures, may be more cursory. Follow-up on demolition delays falls to staff and can be quite time-consuming. This may at times include placing ads in the newspaper to solicit other parties interested in preserving a particular structure. Training for members of the BPC is mainly “on-the-job” but does involve reviewing background materials from the Massachusetts Historical Commission. Attendance by the seven regular and four alternates is reported to be good, with alternates actively engaged in the discussions and committee work. A majority of four members in attendance is required before official action can be taken.

Ms Hardwicke maintains that Brookline’s demolition bylaw has proven to be a very good tool to further the purposes of historic preservation in that town. She affirms that it provides adequate time and incentives to give all parties a chance to come up with alternatives to demolition, including revisions of plans to save the historic character of an affected building. Where a building cannot be saved from demolition, the time also provides the opportunity to thoroughly document the building. Indeed, documentation of a building, including provision of photographs and measured drawings has been viewed as mitigation for a demolition and allowed the delay to be waived. She observed that there appears to be a good deal of understanding on the part of the general public about the Demolition Bylaw and its purpose, evidenced by a general lack of controversy despite high development pressures and the density of development.

Cambridge

Charles Sullivan, Executive Director of the Cambridge Historical Commission was interviewed for this report.

Cambridge has the Cadillac of historic preservation programs. Its Demolition Delay Ordinance, adopted in 1979, is one of several tools, used by Cambridge for the purpose of “...preserving and protecting significant buildings within the City which constitute or reflect distinctive features of the architectural, cultural, political and economic or social history of the city...” and “...to resist and restrain environmental influences adverse to this purpose...” The community is committed to maintaining its historic character as evidenced by the number of city employees (6) that staff its Historical Commission and the fact that the Cambridge Historical Commission (CHC) warrants its own city department. The Planning Board and Board of Zoning Appeals are cognizant of preservation issues and regularly refer matters to the CHC for its input before making decisions about specific properties. Even the City’s zoning ordinance provides for higher standards applicable to Significant properties.

Cambridge’s demolition ordinance provides for a six-month delay, and is applicable to all buildings 50 years of age and older. Criteria as to what makes a building “Significant” mirrors the National Park Service’s standards for nomination of a building to the National Register of Historic Places. Buildings need not be unaltered to be found significant. If the CHC feels that alterations are reversible and that the original architectural character of the building can be recovered, it does not hesitate to impose the delay. It is estimated that approximately 50% of the

buildings having gone through a demolition review are still extant after five years. In 2000 there were 59 demolition applications of which 35 were determined by staff to be not significant (most of which were concrete garages) and 24 received a public hearing. Once a building has been found to be “Significant” the property retains that status even after the 6-month delay expires.

The Cambridge Historical Commission enjoys having a 1960 historic survey of virtually all the community’s 13,000 buildings upon which to base its findings. Information from Sanborn Maps, City Directories and title searches supplement the background provided by the survey. This provides the basis to find nearly all of the buildings, with the notable exception of concrete garages, “Significant.” Staff plays an active role in negotiating with applicants and preparing a detailed staff report (2-plus pages for even the simplest request) with recommendations. A site visit is conducted, slides taken and a formal presentation made to the Commission for every demolition request involving a significant property. When a building is found to be “Preferably Preserved” and the demolition delay period instituted, the Commission may ask staff to prepare landmark designation or take other steps to effect its preservation.

The Cambridge Historical Commission is comprised of seven members with three alternates, all of which regularly attend the monthly meetings. The Executive Director reported that there are no consistent “no-shows” and that the City has no trouble finding residents willing to serve on the Commission despite the workload required of its members. Staff provides training for Commission members; two workshops have been held in the past couple of years. For interim appointments, staff meets individually with the new members to provide needed background information and training.

The actual Public Hearing process was characterized as being “fairly informal” with opportunity to engage in a dialog with the property owners as to alternatives to wholesale demolition and design directives for partial demolitions that would allow the commission to waive the delay period.

In summation, Mr. Sullivan observed that, without its demolition delay ordinance, the city would be “defenseless” against the negative impacts of the forces of development. He stated that this is the one tool that allows residents to have some review and input to changes proposed for their neighborhood. He asserted that it is an effective tool for furthering the City’s preservation goals as that it allowed them a means of keeping up with the ever- changing status of the city’s historic properties.

The following table compares key aspects of the demolition review laws from these three communities to Newton’s.

Observations drawn from interviews and other research

The above interviews seem to indicate that communities that review on the basis of an established list of significant buildings have a less demanding workload than those that dealt with buildings reaching a certain age. Inclusion on such a list may also deter owners from seeking demolition as well. However, relying on a list is only effective in protecting a community's historic resources if survey work is ongoing and the list is scrupulously kept up to date. Another area that receives varying treatment between different communities is notification of interested parties. Notification in newspapers allows for knowledgeable and interested persons other than immediate neighbors to have input into the process; letters only to abutting property owners may not adequately address issues that concern an entire neighborhood. Posting of a sign on the property is one technique that may allow others with ties to a particular neighborhood or knowledge of local history to have input into the review process.

Demolition Review in Other Communities

Demolition ordinances in five other Massachusetts communities (Danvers, Framingham, Lexington, Williamstown and Worcester) were also reviewed in an effort to understand better the range of approaches that may be taken to demolition review and its administration. A review of a Connecticut study of demolition delay ordinances also provided insight into the effectiveness of these regulations. One of the major ideas it stressed was the importance of working with applicants to find alternatives to demolition, which is in line with the approaches taken by Arlington, Brookline and Cambridge. Please see Appendix E for a summary of that study.

It is safe to say that much of the general language that establishes the purpose for a demolition ordinance is quite similar. Typical language in the purpose section calls for "Preserving and protecting significant buildings" in the community that "...reflect its architectural, historical and cultural heritage" to "...encourage owners of such buildings to seek alternatives to demolition." Also fairly standard are the criteria by which buildings are said to be significant, whether or not an age provision is mentioned. These criteria mostly repeat the language of the Secretary of Interior Standards for historic significance. For example, almost all ordinances/bylaws define a significant building as being "...historically or architecturally significant (in terms of period, style, method of building construction or association with a famous architect or builder) either by itself or in the context of a group of buildings."

The following table allows comparison of some key bylaw/ordinance provisions that illustrate the range of requirements communities have to ensure that the review procedures for historic properties cover pertinent materials and that affected parties are involved. Next time Newton considers amending its demolition review ordinance, a review of these other ordinances may be worthwhile, to see what additional provisions and clarifications could be made.

TABLE 2: Comparison of Demolition Delay Provisions in 5 Massachusetts Communities

Town	Danvers	Framingham	Lexington	Williamstown	Worcester
delay period	6 months	6 months	6 months	90 days	6 months
bldgs reviewed	75 years old	50 years old	on list	on list	on list
Enforcement Provisions	\$300 + 2-yr building permit delay	2-yr building permit delay	2-yr building permit delay	\$300 fine	\$300 fine
Notification Requirements	newspaper + abutters	newspaper (applicant pays)	newspaper	newspaper + property owner w/in 300'	newspaper
Other Unique Provisions	submittal requirements (3 sets of photos of all affected elevations &, plot plan) + other	section on Responsibility of owners	significance does not include “in group of buildings”	determinations by WHC lapse after one year	directs WHC to assist owner in finding a buyer who will preserve, restore or rehab

**Analysis of Demolition Delay In Newton
– Its Effectiveness & Impacts**

The consensus of the community leaders interviewed for this report is that demolition review and delay is an important tool for preservation of historic resources. It appears to be most effective when applied in concert with historic district regulations. A second benefit of demolition delay is having the opportunity to assemble photographic and historic documentation for a property that is unable to be saved, so that a record of the historic resource is preserved. This will thereby ease preservation of other similar structures in the future.

Design review of new construction or additions to existing buildings that involve partial demolition, is an inevitable part of the demolition review process. There will always be instances where a property’s condition is such that its continued preservation is infeasible, and in those cases, design review of a proposed infill building is appropriate, especially if the structure is one of a group that would be compromised by the introduction of out-of-scale or insensitive new construction. Also, where partial demolitions involve destroying parts of a building that

define its architectural importance, such as removing a wrap-around porch on a Queen Anne-style house, design review is imperative. However, where concern about the design of a proposed new building overrides the careful consideration of the significance and possible loss of a threatened structure and demolition delays are not upheld simply to attain the chance to have some say over a replacement structure, the underlying purpose of the demolition delay—finding alternatives to demolition—is undermined. It is in this area that companion legislation, allowing for design review once a property is found to be significant, would be most helpful.

Because most of the Massachusetts demolition review ordinances and bylaws have very similar in wording, especially in their purposes and criteria section, with individual nuances here and there, the effectiveness of the tool really comes down to how it is used by a particular historical commission and what other support the community provides for its preservation activities. Whether in the form of adequate staff support, financial incentives for preservation of private properties, ongoing survey or coordination between all the land-use functions of a town or city, demolition delay must be backed up the political will of a community to preserve its historic resources. Once that commitment is made, the commission becomes responsible for ensuring that a thorough and thoughtful analysis of any given property coming under review is conducted.

Newton has experienced, and will continue to experience, a high number of demolition requests simply based on the age of its housing stock and a vigorous real estate market—presuming there is no national recession with consequent damping effects on building projects. Record numbers of dwelling units were built in Newton during the post-WWII Era, increasing numbers of eligible buildings come under the jurisdiction of the demolition review each year. Indeed, the permit review done under the first phase of this study, documented the dramatic rise in demolition reviews during the past few years. However, the increase in demolition requests is not due to just the buildings from that era, as the following table illustrates. Note the number of undated garages that have been reviewed in the past several years—most of these were determined not to be historic by staff and their reviews never seen by the Commission.

Table 3 – Dates of Properties Receiving Demolition Review by Year*

<u># of reviews / year</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>
1920 or earlier	12	25	26	22	10	45
1920-1929	4	8	4	8	4	22
1930-1944	3	4	3	4	6	12
1945 or later	0	3	2	2	3	14
garages (not dated)	11	0	12	18	22	16

*Data is incomplete due to lack of building dates noted, missing files and other record-keeping problems. Years 1987 – 1984 were not included in the analysis since post-WWII Era housing did not trigger the 50-year building age requirement until 1995.

There are other factors, though, that have a bearing on these numbers. Communities that have taken a hard line with protecting their historic resources and clearly indicate to the public that demolition permits for these properties are difficult to obtain seem to have fewer reviews, as was the case in all three of the communities interviewed. This suggests that the more demolition delay waivers that are granted, the greater number of review requests can be expected.

Another aspect that enters into the number of demolition requests is that Newton has larger lots than many of the other Boston suburbs. Small houses on large lots are an invitation for people looking to build new and larger homes in this highly desirable area. This may be exacerbated by the fact that other nearby communities with smaller lots (as in the case of Arlington) are not accommodating this type of growth. Finally, the tax base of the city has only so many ways it can grow, thus the City's own financial incentives tend to favor newer larger buildings.