

# ***Historic Demolition Permit Review***

February 14, 2017

## Background

- 3205 Silverside Road Barn demolition review process questioned.
- Strict application of the building code states any demolition application for structures are referred to the Historic Review Board (HRB)(6.03.020, B,1).
- The Unified Development Code section 40.15.010,A and 40.31.280, A require additional review for any building, structure, site, or object within a “**historical overlay zoning district**” and later in 40.31.280, B indicates the permits not issued until the HRB “first reviews and approves the application for permit.”
- Current practice includes New Castle County Land Use Department staff reviewing demolition permits for buildings **not in a historical overlay zoning district** but over 50 years of age. Review consists of using the fourteen (14) historic overlay zoning criteria in 40.15.110, A-N.
- County information sheets available on the web site <http://www.nccde.org/DocumentCenter/Home/View/488> under historic review requirements depict a 20 day review period by Department staff and **if found to be historically significant**, the application is forwarded to the HRB.

# From Land Use's Web Page

 NEW CASTLE COUNTY DEPARTMENT OF LAND USE 87 FRANKS WAY, NEW CASTLE, DE 19720 PHONE: 302-355-5400 • WWW.NCCDELU.ORG	<b>Building Permit Requirements</b> <b>Demolition of Structure</b> REV. 07/01/2015
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All New Castle County forms are available via the County website or Land Use customer service.

- Demolition Permit Application** Requires a drawing or attached plan of the property showing approximate location of structure(s) to be demolished along with roads, other buildings, etc. – current plot plan or site plan is preferred.
- Historic Review Requirements**
  - All structures are subject to review for historic significance. Within 20 working days of application, the Department will make a determination on the age and significance of the structure. An applicant can assist the Department to conduct a timely review by submitting photographs, an accurate site plan, and any documentation that may indicate the age of the structure. Dated construction drawings, building permits, and any other record that verifies the date of the structure or when the property was still vacant, are helpful and will be reviewed during the initial 20 day period. Deeds usually do not indicate the age of structures.
  - If found to be 50 years old and historically significant, the application will be scheduled for further review by the Historic Review Board. This Board may delay the issuance of a permit for up to 9 months from the date of application, during which time alternatives to demolition shall be sought. If brought to this level of review the applicant will be advised to provide to the Board complete information about the project.
- Contractor License** The licensed contractor performing the work, or an authorized representative thereof, must secure the appropriate permits. Demolition permits may be obtained by building, utility, and/or non-permit endorsed contractors. A homeowner may secure a permit without a license if the homeowner is performing all demolition work and the home is not for sale or any part for rent.
- Written Permission from the Property Owner must be produced.** This may consist of the owner's signature on the permit application or a dated letter from the owner authorizing the proposed demolition.
- State of Delaware Asbestos Inspection Form.** Required for all Commercial Demolition Permits. (Contact DNREC at 302-323-4542).
- Demolition Disconnection Verification Form**
- Copies of Letters to Adjacent Property Owners Notifying of the Proposed Demolition** (defined as any neighboring parcel that touches the project parcel). Property owner information available from the Department of Land Use.
- Plumbing Permit for sewer line.** Sewer lines must be terminated at the property line and capped by a licensed and NCC registered plumber. The plumbing permit is required prior to permit issuance. The applicant may apply for the permit and have work performed during the historic review stage of the permit application.
- Site Requirements**
  - Any buried LP gas or fuel oil storage tanks must be removed. Septic tanks must be removed, filled in or collapsed per DNREC Regulations.
  - Any foundations must be removed to 18" below grade and site shall be leveled with topsoil and seeded unless another structure is to be built on that location within three months. (In-ground pools also follow this guideline.)
  - Any land disturbance greater than 5,000 sq. ft. – except where exempt through Section 3 of the Delaware Sediment and

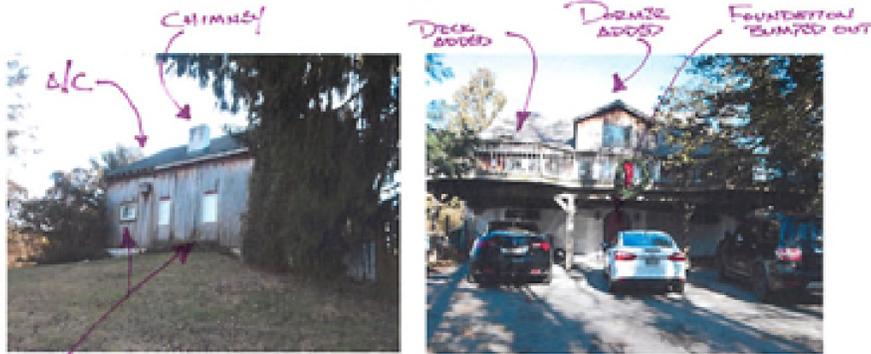
## 3205 Silverside Road Barn App. 2017-00996 Demolition Permit

- In early January the applicant contacted the Department and met with staff to discuss plans to demolish the dwelling and procedures for obtaining a permit.
- A private party purchased both lots in 1969 and converted the building, which was originally a barn, into a dwelling.
- The barn is associated with the stone farmhouse located on the adjoining lot and under separate ownership. Nineteenth century atlases show the farm was owned by G. Dougherty.
- A **site visit was conducted 1/25/2017** to evaluate the physical characteristics of the former barn in relation to its history.
- The exterior appeared to have originally been a frame bank barn on a stone foundation - a style of barn found throughout the piedmont region of the county during the nineteenth century. It had obvious alterations indicating it was now a dwelling, such as modern windows and doors punched into the walls and the addition of a large dormer, deck, and chimney.
- Inspection of the interior revealed a completely modern interior. The characteristic framing system of this type of barn typically includes floor joints of roughly hewn logs and a post and beam support structure with mortise and tenon joinery. The original framing system had been gutted and replaced with modern materials during the 1960s conversion.
- **Conclusion-** The majority of the building's historic material was gone. What survived was a stone foundation and frame shell in the shape of the original barn. It was concluded that the building lacked historic significance due to the low level of preservation. The building was in poor condition, having been vacant for several months and the utilities had been disconnected.
- The exterior was photographed and those images will be transmitted to the State Historic Preservation Office to include in the Delaware Cultural Resource Survey database.



# 3205 Silverside Road Barn

(App. 2017-00996 Demolition Permit)



Windows

ORIGINAL  
INTERIOR  
STRUCTURE  
GUTTED.



## Current Practice Review (cont.)

### (Applicable Code History)

- **New Castle County Comprehensive Plans**
  - 1997- Page 11-3 cites BOCA Code section 105.4 as the procedure for demolition applications
  - 2002- Page 38 sites the building code a requiring a review process for demolition permits affecting historic properties.
  - 2007- Page 76 indicates, “... development plans and demolition permits are reviewed by historic preservation planners to determine whether any structures, sites, or objects on the property may be significant, as defined by the UDC. If a potentially significant resource may be affected by a plan or permit, or if the applicant wished to make changes to a Historic Zoning Overlay District, the application is referred to the Historic Review Board....”
  - 2012- Page 7-2 says the same thing as in the 2007 Comprehensive Plan.
- **Building Code-** (section on Demolition of Historic Structures)
  - 1990 BOCO Building Code Amendments with new section 105.4 requiring a delay of ten working days regarding demolition permits for building or structure thought to be over seventy-five years of age and refer the application to the HRB within two working days.
  - 1998 BOCO section 6-28, (b), (1) changed the 75 year criteria to 50 years in age. Everything else appears to read the same as the 1990 building code.
  - 2000 International Building Code was adopted in 2002 and the new section dealing with demolition of historic structures was section 6.03.019, B, 1. Wording appears to be the same as previous building codes.
  - 2007 Update provides the current section notation at 6.03.020, B,1 and the language appears to be the same as in previous building codes (i.e. demolition permits for buildings thought to be 50 years of age are delayed for 20 working days and referred to the HRB within 2 working days of receipt).
- **UDC-** (Historic Preservation sections)
  - Adopted in 1998
  - Article 15 section 40.15.010 is applicable to any building, structure, site, or object with a historic zone.
  - Section 40.31.280 states among other things, “ No person shall undertake exterior alterations, demolitions, relocation, construction or reconstruction on any building, structure, site, or object within a historic overlay zoning district unless a permit is first obtained from the Department”.

## Current Practice Review

(Law and Land Use Department Review of Building Code and Unified Development Code)

- The current practice is clear and the HRB has embraced the practice.
- The HRB has allowed the Department to utilize the current practice and they should be included in the conversation with the Law Department regarding any future changes.
- While the Building Code seems to point to the HRB as being the decision makers, the HRB has relied on staff professionals to assess. The Building Code also relies on (1) criteria, 50 years old. That specific requirement seems to be outdated.
- What is not in dispute is that a thorough and competent review does occur.
- After staff and the Law Department reviewed the 3205 Silverside Road Barn Demolition application, it was determined that the **staff DID conduct a review for historical significance** prior to the demolition permit being formally applied for and issued. However, that review was not annotated on the permit nor on the web site and thus, a concerned citizen assumed no review occurred. It was agreed that some written clarification would be required to avoid confusion regarding specific language in the building code and practice regarding demolition of buildings older than 50 years and assumed to met the criteria of being **“historically significant”**.

## Going Forward

- After staff and the Law Department reviewed the 3205 Silverside Road Barn Demolition application, it was determined that the **staff DID conduct a review for historical** significance prior to the demolition permit being formally applied for and issued per review per verbal guidance from the HRB. However, it was agreed that some written clarification would be required to avoid confusion regarding specific language in the building code and practice regarding demolition of buildings older than 50 years and assumed to met the criteria of being “**historically significant**”.
- Any future demolition application for structures over 50 years of age will be forwarded to the HRB **until a written policy and/or code change is approved.**
- Staff will develop written policy for review and approval by the HRB and Executive Office regarding applications reviewed for historical significance ( i.e. if determinations are made that structure is **not to be historically significant, etc...**).
- Staff will seek clarification from the Historic Review Board (HRB) regarding how to better clarify the building code section 6.03.020, B,1 regarding demolition permits. If a code change is requested by the HRB, a text amendment will be drafted and submitted to the Planning Board and County Council per the UDC section 40.31.120.