

Ordinance No. 2003-06
Franklin Township
Chester County, Pennsylvania

An Ordinance of Franklin Township creating a historic district, defining its limits, providing for the appointment of a Historical Architectural Review Board (HARB) to give recommendations to the Franklin Township Board of Supervisors regarding the issuance of Certificates of Appropriateness in connection with the granting or refusal of permits for the construction, alteration, restoration, reconstruction, demolition or razing of any building within the district and for appeals from such refusals and providing for the notification to the Pennsylvania Historical and Museum Commission (PHMC) of the adoption of this Ordinance and obtaining from the Commission a certificate as to the historical significance of the district(s).

ARTICLE I
Legal Authorization and Purpose

§100 – Legal Authorization

Pursuant to authority contained in the Act of June 13, 1961, Public Law 282, No. 167, as amended there is hereby created a historic district within Franklin Township, Chester County, Pennsylvania.

This Ordinance shall be known and may be cited as the Franklin Township Historic District Ordinance.

§101 – Purposes

This District is created for the following purposes:

1. Pursuant to Article I, § 27 of the Pennsylvania Constitution, which states that:

The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and aesthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustees of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.

2. Now therefore it is the purpose and intent of Franklin Township to:

- A. Promote, protect, enhance, perpetuate, and preserve historic districts for the educational, cultural, economic and general welfare of the public through the preservation, protection and regulation of buildings, structures, and areas of historic and/or architectural significance within the township;
- B. Safeguard the heritage of the township by preserving and regulating historic districts which reflect elements of its cultural, social, economic, political, and architectural history;
- C. Preserve and enhance the environmental quality of neighborhoods;
- D. Strengthen the township's economic base;
- E. Establish and improve property values;
- F. Foster economic development; and
- G. Foster civic pride in the beauty and accomplishments of the township's past.

ARTICLE II
Definitions

§ 200 – Definitions

- A. Alteration – Any act or process requiring a building permit and any other act or process not requiring a building permit but specifically listed in this article as a reviewable action, including without limitation the repair, replacement, reconstruction, demolition or relocation of any structure or object, or any part of a structure which is visible from the public way.

These provisions shall not be construed to prevent the ordinary maintenance or repair of any building, structure, site, or object where such work does not require a permit and where the purpose and effect of such work is to correct any deterioration or decay of, or damage to, a building, structure, site, or object and to restore the same to its condition prior to the occurrence of such deterioration, decay, or damage. Alterations do not include paint color selection; interior changes; or changes to the appearance that cannot be seen from a public way.

- B. Building – Any enclosed or open structure that is a combination of materials to form a construction for occupancy and/or use for human or animal habitation and is permanently affixed to the land, including manufactured homes.
- C. Building Inspector - A municipal employee of or individual retained by the Township to enforce compliance of building and/or fire codes and issues the permit for the construction, alteration, reconstruction, repair, restoration, or demolition of all or a part of any building or structure within a certified historic district.

- D. Building Permit – An approval statement signed by the zoning or code administrator authorizing the construction, alteration, reconstruction, repair, restoration, or demolition of all or a part of any building located in the historic district.
- E. Building Permit Application – The request filed by any person with the Building Inspector or Codes Administrator that seeks authorization to construct, alter, reconstruct, repair, restore, or demolish all or a part of any building or structure located in the historic district that requires a certificate of appropriateness.
- F. Certificate of Appropriateness – The approval statement signed by the Board of Supervisors which certifies to the historical appropriateness of a particular request for the construction, alteration, reconstruction, repair, restoration, or demolition of all or a part of any building or structure within a certified historic district and authorizes the issuance of a building permit for said request.
- G. Construction – The erection of a new building, structure, or sign within the Historic District.
- H. Demolition – The dismantling or tearing down of all or part of any building and all operations incidental thereto, including demolition by neglect.
- I. Demolition by Neglect – The absence of routine maintenance and repair which can lead to a building's or structure's structural weakness, decay and deterioration resulting in its demolition.
- J. Franklin Township Historical Architectural Review Board – (HARB) – The agency that reviews and advises the Board of Supervisors on any requests for authorization (a.k.a. certificate of appropriateness) to construct, alter, reconstruct, repair, restore or demolish all or part of any building, structure, object or site within a historic district.
- K. Historic District – A Historic District within Franklin Township that has been certified by the Pennsylvania Historical and Museum Commission (PHMC) to be in compliance with the terms of this ordinance. For the purposes of this ordinance, the Kemblesville Historic District is a Historic District. Note: Historic districts not certified by the PHMC to be in compliance with this ordinance are not regulated by this ordinance.
- L. Reconstruction – The act or process of reproducing by new construction the exact form and detail of a vanished building, structure, or object, or a part thereof, as it appeared at a specific period of time but not necessarily of original material.
- M. Secretary of the Interior's Standards for Rehabilitation. -- Standards and guidelines promulgated by the National Park Service and used by Franklin Township to review proposed changes to historic resources. (Exhibit A).

- N. Structure - Anything constructed, having a permanent or semi-permanent location on another structure or in the ground, including without limitation, buildings, sheds, manufactured homes, garages, fences, gazebos, freestanding signs, billboards, antennas, satellite sending or receiving dishes, vending machines, decks, and swimming pools.

ARTICLE III
Delineation and Interpretation of Districts

§ 300 – Delineation of Historic Districts

- A. Applicability: The provisions of this ordinance apply to delineated historic districts only as certified by the Pennsylvania Historical and Museum Commission.
- B. The Kemblesville Historic District shall be described in writing in this section and delineated on a map designated as the Historic District. The Historic District Map of the Franklin Township shall be located in the office of the Building Inspector and made available for public inspection.
- C. The Kemblesville Historic District is described as follows, with a listing of tax parcels in Section 300 C. 4.:
 - 1. Beginning at the intersection of Peacedale Road and Franklin Road in Franklin Township at the northwest corner of tax parcel 72-5-39.13 and proceeding the following approximate directions and distances: 646 feet ESE along the north boundary of tax parcel 72-5-39.13 to the northwest corner of tax parcel 72-5-43, thence 588 feet ENE along the north boundary of tax parcel 72-5-43 to its northernmost point, thence 448 feet ENE along the entire north boundary of tax parcel 72-5-41 (also known as 72-5-0.60T) ending at a point on the west side of Newark Road (SR 896), thence 265 feet SSE along the east boundary of the said parcel, being the west boundary of Newark Road (SR 896) to the southeastern point of tax parcel 72-5-41 (also known as 72-5-0.60T), thence proceeding NE across Newark Road and continuing 213 feet NE along the entire north boundary of tax parcel 72-5-69 to its northeastern corner where it meets tax parcel 72-5-56, thence along the border of tax parcel 72-5-56 the following distances: 28 feet NE, 183 feet NNW, 331 feet ESE, 249 feet NNE, 552 feet NW, 800 feet NNW to its northernmost point, 417 feet ENE, 388 feet SSE, 650 feet ENE to its easternmost point, 1690 feet SSW to the southeastern point of the tax parcel, located on the north side of New London Road.

2. Crossing New London Road in a southwesterly direction to a point on the north boundary of tax parcel 72-5-76.1, thence 17 feet along the north boundary of tax parcel 72-5-76.1 to its northeastern corner where it meets tax parcel 72-5-77; thence 253 feet along the entire northern boundary of tax parcel 72-5-77 to its northeastern corner where it meets tax parcel 72-5-78, thence along the entire northern boundary of tax parcel 72-5-78 117 feet to its northeastern corner, thence along the entire eastern boundary of tax parcel 72-5-78 116 feet to its southeastern corner, where it meets tax parcel 72-5-70E, thence along said tax parcel the following distances: 37 feet SSW, 182 feet SW, 95 feet SSW, 212 feet SW, 223 feet SE to its southernmost point, 182 feet W, 240 feet NW, 205 feet W to its westernmost point, located on the eastern side of Appleton Road.
3. Crossing Appleton Road in a westerly direction to its intersection with Walker Road, being the northeastern point of tax parcel 72-5-55, thence proceeding 247 feet SSE along the entire eastern boundary of said parcel to its southeastern point, thence 159 feet WSW along the entire south boundary of tax parcel 72-5-55 to its southwestern point, where it meets tax parcel 72-5-54, thence along the boundary of said parcel the following distances: 162 feet WSW to its southwestern point, 147 feet NW, and 93 feet WSW to its westernmost point on the south side of Walker Road; thence crossing Walker Road 79 feet NNE to a point on its north side, being the southwestern point of tax parcel 72-5-53, thence 352 feet NNW along the entire west boundary of tax parcel 72-5-53 to its northwestern corner, thence 87 feet E along the entire north boundary of the same tax parcel to its northeastern corner where it meets tax parcel 72-5-52, thence along the entire north boundary of tax parcel 72-5-52 93 feet E to its northeastern corner, thence 97 feet E along the entire N boundary of tax parcel 72-5-49 to its northeastern corner, thence 91 feet NNW along the entire west boundary of tax parcel 72-5-46.2 to its northwestern corner, thence 47 feet N along the entire W boundary of tax parcel 72-5-46.1 to its northwestern corner, thence 98 feet N along the W boundary of tax parcel 72-5-46 to a point of intersection with tax parcel 72-5-39.13, thence along the boundary of tax parcel 72-5-39.13 the following distances: 322 feet W, 1025 feet WNW to its southwesternmost point, 453 feet NW, 239 feet WNW to a point on the south boundary of Franklin Road, being the westernmost point of the tax parcel.
4. Thence 52 feet NE along the south boundary of Franklin Road to the place of beginning, encompassing the following tax parcels according to their boundaries as of 1/1/2003: 72-5-41 (also known as 72-5-0.60T), 72-5-39.13, 72-5-42, 72-5-43, 72-5-43.1, 72-5-44, 72-5-45, 72-5-46, 72-5-46.1, 72-5-46.2, 72-5-47, 72-5-48, 72-5-49, 72-5-51, 72-5-52, 72-5-53, 72-5-54, 72-5-55, 72-5-56, 72-5-65, 72-5-66, 72-5-67U, 72-5-69, 72-5-70E, 72-5-70.4, 72-5-71, 72-5-72, 72-5-73, 72-5-74, 72-5-75, 72-5-76.1, 72-5-77, 72-5-78.

ARTICLE IV

Historical Architectural Review Board (HARB): Creation, Membership, and Duties

§ 400 – The Creation and Membership of the Historical Architectural Review Board

A. Membership. A Historical Architectural Review Board, hereafter referred to as HARB, is hereby established to be composed of 7 members appointed by the Board of Supervisors. Membership shall include Township residents only, unless professions described in Section 400A.1-3. (below) cannot be filled with township residents. The membership of HARB shall be as follows:

1. One (1) member shall be a registered architect;
2. One (1) member shall be a licensed real estate broker;
3. One (1) member shall be the Building Inspector; and
4. Four (4) members shall be persons with demonstrated interest, knowledge, ability, experience or expertise in restoration, historic rehabilitation, neighborhood conservation or history and who have interest in the preservation of Franklin Township. Special consideration should also be given to residents of the historic district(s).

B. Terms. The initial terms of the first member shall be so fixed that no more than two (2) members shall be replaced or reappointed during any one calendar year. However, every member shall continue in office after expiration of the term until the Board of Supervisors has appointed a successor. Their successors shall serve for a term of five (5) years. The position of any member of HARB who ceases to be so engaged shall be automatically considered vacant. Vacancies on the HARB shall be filled within one hundred and twenty days (120). An appointment to fill a vacancy shall be only for the un-expired portion of the term.

C. Conflict of Interest. It shall be the duty of each HARB member to remain conscious of and sensitive to any possible conflict of interest (including but not limited to financial considerations) that may arise by virtue of his or her membership on the board. A member, promptly upon his determining he has a conflict himself relative to any matter brought, shall disqualify himself from participating, in any manner, publicly or privately, in the presentation, discussion or deliberation of and the voting on any such manner, including temporarily absenting himself from the room in which the discussion is being held.

§ 401 – Powers and Duties of HARB

A. Advisory Role – HARB shall give recommendations to Board of Supervisors regarding the advisability of issuing any Certificate of Appropriateness required in accordance with the said Act of June 13, 1961, as amended and this ordinance.

- B. HARB Rule Making Power – HARB may make and alter rules and regulations for its own organization and procedure, provided that they are consistent with the laws of the Commonwealth and all provisions of this ordinance.
- C. Removal of Members – Any board member may be removed for misconduct or wrongdoing, unlawful execution of this Act, or failure to perform his or her responsibilities pursuant to this Act, or for other just cause by a majority vote of the Board of Supervisors, but not before he or she has been given the opportunity of a hearing to defend to any alleged infractions of said Act.
- D. Annual Reports – The members of HARB shall make an annual report to the Franklin Township Board of Supervisors, which shall include:
 - 1. Any recommendations for changes in the ordinance;
 - 2. The number and types of cases reviewed;
 - 3. The number of cases for which a certificate of appropriateness was either approved or denied;
 - 4. Number of HARB meetings and attendance;
 - 5. Historic preservation related training which each member attended;
 - 6. A narrative summary describing the state of preservation in the Historic District(s) with recommendations in policy, goals, and objectives for the Board of Supervisors consideration.
- E. Compensation – HARB may employ secretarial and professional assistance, and incur other necessary expenses with the approval of Board of Supervisors. HARB members will not be compensated for regular HARB duties; they shall be compensated for expenses incurred for training or other member development activities.
- F. Meetings – HARB shall meet publicly at least once each quarter at regularly scheduled intervals. Further, HARB may hold any additional meetings it considers necessary to carry out its powers and duties indicated in this ordinance. Such meetings shall be advertised and open to the public. A majority of HARB shall constitute a quorum and action taken at any meeting shall require the affirmative vote of a majority of the members present.
- G. Training – The majority of HARB members and/or HARB support staff shall be required to attend a minimum of eight (8) hours annually of seminars, conferences or workshops related to historic preservation and HARB administration.

§ 402 – Additional Powers and Duties of HARB

In addition to the above, HARB shall have the following powers and duties:

- A. To conduct a survey of buildings, structures, objects and monuments within the Historic District(s) for the purpose of determining those of historic and/or architectural significance and pertinent facts about them; action in coordination with the Franklin Township Historical Commission, Planning Commission, Zoning Hearing Board, and other appropriate groups and to maintain and periodically revise the detailed listings (resource inventories) of historic resources and data about them, appropriately classified with respect to national, state and local significance.
- B. To propose, from time to time as deemed appropriate, the establishment of additional historic districts and revisions to existing historic districts.
- C. To cooperate with and enlist assistance from the National Park Service, the National Trust for Historic Preservation, Preservation Pennsylvania, the Pennsylvania Historical and Museum Commission and other agencies, public and private, from time to time, concerned with the preservation of historic sites and buildings.
- D. To advise owners of historic buildings regarding rehabilitation, repairs, maintenance methods and technologies, adaptive use, economic and tax incentives and other historic preservation strategies within historic districts.
- E. To cooperate with and advise the township in matters involving historically and/or architecturally significant sites and buildings (such as appropriate land usage, parking facilities and signs, as well as adherence to lot dimensional regulations and minimum structural standards).
- F. To promote public interest in the purpose of this Ordinance by carrying on educational and public relations programs.
- G. To work with and assist the Historical Commission and other government entities for the purposes of promoting historic preservation in the Kemblesville Historic District, other historic districts, and throughout the township.

ARTICLE V
Design Guidelines

§ 500 – Design Guidelines

- A. In determining the recommendations to be made to the Board of Supervisor concerning the issuance of a Certificate of Appropriateness, HARB shall consider only those matters that are pertinent to the preservation of the historical and/or architectural aspect and nature of the building, site, area, or district, certified to have historical significance. HARB shall refer to the **Secretary of the Interior's Standards for Rehabilitation** (Exhibit A) and, when needed, cooperate with and enlist assistance from the National Park Service, the National Trust for Historic

Preservation, Preservation Pennsylvania, the Pennsylvania Historical and Museum Commission and other agencies, both public and private.

B. HARB shall consider the following broader issues:

1. The broad historical values representing the cultural, political, economic, or social history of Franklin Township, Chester County, Pennsylvania, and the United States.
2. The relationship of the building or structure to historic persons or events.
3. Significant architectural types representative of a certain historical period and a style of method of construction.
4. The effect of the proposed change upon the general historical and architectural nature of the District.
5. The appropriateness of the exterior architectural features that can be seen from a public street or way; and
6. The general design, arrangement, texture, and material of a building or structure and the relation of such factors to similar features of buildings or structures in the District.

C. Specific consideration shall be given but not limited to the following:

1. Proportion of Buildings Front Facades – Preserving the relationship between the width of the front of the building and the height of the front of the building.
2. Proportion of Openings within the Building – Preserving the relationship of width to height of windows and doors.
3. Rhythms of Solids to Voids in the Front Façade – Preserving the relationship between a recurrent alteration of strong and weak architectural elements thereby maintaining a rhythm of solids to voids.
4. Rhythm of Spacing of Buildings on Streets – Preserving the existing rhythm of recurrent or repeated building masses to spaces between each building.
5. Rhythm of Entrance and/or Porch Projections – Preserving the existing rhythm of entrances or porch projections to maintain a pedestrian scale.
6. Relationships of Building Heights – Preserving the existing relationship of building heights such that new construction or results of alterations are consistent with those of buildings throughout the district.
7. Relationship of Materials – Preserving the predominant materials of the district such as brick, stone, stucco, wood siding, or other material.
8. Relationship of Textures – Preserving the predominant textures of the district that may be smooth, such as stucco, or rough, such as brick with tooled joints or horizontal wood siding or other textures. No substitute material shall be approved which is inappropriate, incompatible, or is destructive or has the potential to be destructive to

the original fabric of the building or structure or with historic buildings and structures elsewhere in the district. No vinyl or aluminum siding or other material shall be allowed on the exterior of any masonry (e.g. brick, stucco, stone) wall of a building or structure unless the existing masonry cladding is determined to be not historic. No capping with aluminum or vinyl or other material shall be allowed on the exterior of character defining features of a building or structure.

9. Relationship of Architectural Details – Preserving character defining features of buildings, such as architectural details including but not limited to cornices, lintels, arches, quoins, balustrades and iron work, chimneys, etc.
10. Relationship of Roof Shapes – Preserving compatible roof shapes such as gable, mansard, hip, flat, gambrel, and/or kinds of roof shapes.
11. Walls of Continuity – Preserving physical elements that comprise streetscapes such as brick walls, wrought iron fences, building facades or combinations of these that form visual continuity and cohesiveness along the street.
12. Directional Expression of Front Elevation – Preserving the orientation of structural shapes, plan of openings and architectural detail that reflect a predominantly vertical, or horizontal character to the building's façade.
13. Scale – Preserving the scale of the built environment created by the size of units of construction and architectural detail that relate to the size of persons. In addition, preserving building relation of building mass to open space.
14. Variations – The HARB shall respect variations in a manner that will be in harmony with the character of other buildings or structures on the street and/or districts.

§ 501 – Other Design Considerations

A. Financial Feasibility – HARB shall consider the financial feasibility of its recommendations in response to a request for a Certificate of Appropriateness. Financial feasibility shall be determined by the HARB on the basis of an unreasonable cost for repair or replacement in-kind of whole or part of a building or structure. The applicant shall submit a minimum of three (3) estimates from bona fide contractors and or vendors substantiating his or her claim that the financial feasibility of repair in-kind is unreasonable. HARB shall determine as to the condition of said architectural feature based on its inspection, photographs or report from the Building Inspector or preservation staff or consultant.

§ 502 – Signs

- A. No sign or permanent external advertising display of any kind shall be erected, altered or used in the historic district except for advertising or informing the public about the service, business, occupation or profession taking place in or about the property on which such sign or permanent external advertising display appears. No such sign or advertising display shall be constructed or altered notwithstanding zoning sign approval, until an application for permit to construct or alter has been reviewed by HARB for its compatibility in exterior material composition, design, and appearance with the district’s historic resources and a permit granted thereon.
- B. Historical markers may be authorized by HARB subject to the provisions to be developed by HARB and such markers shall not be considered as signs but are to be erected in accordance with the requirements to be established for historic markers by HARB.

ARTICLE VI
Application Review Procedure

§ 600 – Application Review Procedure

- A. Building Inspector Review - Upon receipt of a completed application for a building permit for work to be done in the district, the Building Inspector shall act in accordance with the procedures being followed in that office, except those procedures that are modified by the following requirements. The Building Inspector shall not issue a building permit for any construction, alteration, reconstruction, repair, restoration or demolition of all or part of any building in the Historic District (excluding minor repairs and maintenance, painting, interior projects, or projects that cannot be seen from the public way) until the Board of Supervisors has issued a Certificate of Appropriateness. If the Building Inspector or his or her representative issues a building permit without a Certificate of Appropriateness due to an administrative or clerical error said building permit shall be voided.
 - 1. The Building Inspector shall determine whether the work proposed constitutes a minor repair or maintenance (see definition of alteration in § 200), in which case the Building Inspector will grant the permit, or if the application constitutes an alteration requiring HARB review and a Certificate of Appropriateness from the Board of Supervisors. Should the application require a Certificate of Appropriateness, the Building Inspector shall forward copies of the application together with copies of any plot plan and building plans and specifications filed by the applicant to HARB. The Building Inspector shall maintain in his office a record of all such applications and final dispositions of the same.

2. The Building Inspector shall require the applicant to submit a sufficient number of additional copies of material required to be attached to a completed application so that the information needed to make the determination set for in Section 600.G will be available.
 3. The Building Inspector shall coordinate application review in a timely manner with other Township commissions and boards, where applicable, and particularly where applicants are undergoing the subdivision and land development review process.
- B. HARB Review of Applications – Upon receipt of a completed building permit application from the Building Inspector, HARB shall consider such at its next regularly scheduled meeting or special meeting called by the HARB Chairman.
 - C. Notification of Application of HARB Meeting – The owner of record or his or her representative(s) applying for a Certificate of Appropriateness shall be advised of the time and place of said meeting at least ten (10) days before the HARB meeting and be invited to appear to explain his or her application.
 - D. Design Guidelines – In determining recommendations to be presented to the Board of Supervisors concerning the issuance of a Certificate of Appropriateness, HARB shall consider the Design Guidelines set forth in §§ 500 and 501, and such guidelines developed by HARB pursuant to the objectives of this ordinance.
 - E. Time Frame for HARB Decision – HARB shall render a decision and recommendation on any application for a building permit under its review no later than 45 working days after the hearing/meeting provided for in § 401 of the Ordinance and shall submit, in writing to the Board of Supervisors, recommendations concerning the issuance of a Certificate of Appropriateness. This time frame can be extended by either party by mutual consent and if agreed upon in writing. Should a recommendation not be issued by HARB within 45 working days or within a mutually agreed extended timeframe, the Building Inspector will forward the application to the Board of Supervisors, the latter of which will assume HARB has recommended a Certificate of Appropriateness. Should the application be for a demolition, HARB may request the Board of Supervisors for a delay of demolition, not to exceed 90 working days, to work with the applicant to explore all alternatives to demolition.
 - F. Should the application be for a demolition, HARB may request the Board of Supervisors for a delay of demolition, not to exceed 90 days, to work with the applicant to explore all alternatives to demolition.
 - G. Recommendation of Disapproval – If HARB decides to advise against the granting of a Certificate of Appropriateness, it shall so indicate either orally or in writing to the applicant. The disapproval shall indicate to the applicant the changes in plans and specifications, if any, which would protect (1) the distinctive

historical character of the historic district and (2) the architectural integrity of the building or structure. HARB shall withhold its report for five (5) days (which may be in addition to the 45 days described in Section 600 E. or the 90 day delay of demolition described in Section 600 F. above) to allow the applicant to decide whether or not to make the suggested changes in his plans and specifications. If the applicant determines that he or she will make the necessary changes, he or she shall so advise HARB, which shall in turn advise the Board of Supervisors accordingly in a written report.

- H. Contents of Written Report – The written report to Board of Supervisors concerning HARB’s recommendations on the issuance of a Certificate of Appropriateness shall set out the findings of fact that shall include but not be limited to the following matters:
- a. The exact location of the area in which the work is to be done.
 - b. The exterior changes to be made or the exterior character of the structure to be constructed.
 - c. A list of the surrounding structures with their general exterior characteristics.
 - d. The effect of the proposed change upon the general historic and architectural nature of the district.
 - e. The appropriateness of exterior architectural features of the building that can be seen from a public street or way.
 - f. The general design, arrangement, texture, and material of the building and the structure and the relation of such factors to similar features of building or structures in the district.
 - g. The opinion of HARB (including any dissent) as to the appropriateness of the work or project proposed as it will preserve or destroy the historic character and nature of the district.
 - h. The specific recommendations of HARB based on findings of fact as to the issuance by the Board of Supervisors or its refusal to issue a Certificate of Appropriateness.
- I. Board of Supervisors Review. Upon receipt of the written report from HARB as provided in G of this §, the Board of Supervisors shall consider at the next regularly scheduled meeting (assuming the information from HARB can be submitted to the Board of Supervisors in a timely manner or in its regular pre-meeting packet), the question of issuing to the Building Inspector a Certificate of Appropriateness authorizing a permit for work covered by the application. The Township shall advise the applicant of the time and place of the meeting. The applicant shall have the right to attend this meeting and be heard as to the reasons for filing this said application.
1. Design Guidelines and HARB Recommendations – In determining whether or not to certify to the appropriateness of the proposed

construction, alteration, reconstruction, repair, restoration or demolition, of all or a part of any building within the historic district, the Board of Supervisors shall consider the same factors as HARB set forth in §§ 500 and 501 of this Ordinance and HARB's written recommendations.

- J. Approval by the Board of Supervisors – If the Board of Supervisors approves the application, it shall issue a Certificate of Appropriateness authorizing the Building Inspector to issue a (building) permit for the work covered.
- K. Disapproval by the Board of Supervisors – If the Board of Supervisors disapproves, a written reason(s) shall be given to the Building Inspector, the applicant, and to the Pennsylvania Historical and Museum Commission. The disapproval shall indicate what changes in the plans and specifications would meet the conditions for protecting (1) the distinctive historical character of the district and (2) the architectural integrity of the building or structure. Upon receipt of a written disapproval of the Board of Supervisors, the Building Inspector shall disapprove the application for a building permit and so advise the applicant.
- L. Appeal - The applicant may appeal this disapproval to the County Court of Common Pleas within the time specified by law.
- M. Final Notification by the Board of Supervisors – In either case of approval or disapproval the Franklin Township shall notify the applicant of its decision within five (5) days of its meeting at which the application was considered.
- N. Documentation of Historic Building or Structure to be Demolished - In such rare cases where the Board of Supervisors approves demolition of a historic building or structure, the Board of Supervisors may require the applicant to provide a professionally prepared historic structures report to the township that provides photographs (interior and exterior), description of resource (interior and exterior), site plans, measured drawings, and a history of the resource.
- O. Moving a Historic Building or Structure. - In such rare cases where the Board of Supervisors approves demolition of a historic building or structure a good faith effort shall be made by the township and the owner(s) to move said building or structure to a proximate site. If moving a building or structure slated to be demolished is economically or practically infeasible, efforts shall be made to salvage architectural features of said building or structure for use within the township.

ARTICLE VII
Unreasonable Economic Hardship

§ 700 – Unreasonable Economic Hardship

- A. When a claim of unreasonable economic hardship is made due to the effect of this ordinance, the owner of record must present evidence sufficient to prove that as a result of HARB's action, he is unable to obtain a reasonable return or a reasonable beneficial use from a resource. The Board of Supervisors may ask the owner of record to submit by affidavit to the Board of Supervisors some or all of the information below at the discretion of the Board of Supervisors (or other relevant information deemed necessary to make a decision), which shall include but not be limited to the following:
1. Date the property was acquired by its current owner.
 2. Price paid for the property and a description of the relationship, if any, between the buyer and the seller of the property.
 3. Mortgage history of the property, including current mortgage and the annual debt service, if any, for the previous two (2) years.
 4. Current market value of the property.
 5. Equity in the property.
 6. For depreciable properties, a pro forma showing income and expense statements for the past two (2) years.
 7. Past capital expenditures during ownership of current owner.
 8. Income and property tax factors affecting the property.
 9. All appraisals obtained within the previous two (2) years by the owner or applicant in connection with purchase, offerings for sale, financing or ownership of the property, or state that none was obtained.
 10. Form of ownership of the property.
 11. Proof of inability of owner to pay for corrective action.
- B. All studies commissioned or any consideration given by the owner as to profitable renovation, rehabilitation or utilization of any buildings, structures or objects on the property for alternative use, or a statement that none were obtained.
- C. Estimate(s) of the cost of the proposed construction, reconstruction, alteration, restoration, demolition or razing and an estimate(s) of any additional cost(s) that would be incurred to comply with the recommendations of HARB for changes necessary for it to approve a certificate of appropriateness.
- D. Should the Board of Supervisors determine that the owner's present return is not reasonable, it may consider whether there are other uses currently allowed that would provide a reasonable return and whether such a return could be obtained through investment in the property for rehabilitation purposes.

- E. The Board of Supervisors, through the assistance of HARB, may seek the assistance of appropriate local, statewide or national preservation organizations in developing solutions that would relieve the owner's economic hardship. If the Board of Supervisors chooses to explore such options, it may delay issuing a Certificate of Appropriateness for demolition on the basis of economic hardship for a period of ninety (90) days in addition to time periods otherwise applicable. This period could be extended by written and signed mutual consent.
- F. Should the applicant satisfy the Board of Supervisors that he will suffer an unreasonable economic hardship if a Certificate of Appropriateness is not approved, and should the Board of Supervisors and/or HARB be unable to find a solution which can relieve the owner's economic hardship, HARB shall recommend and/or the Board of Supervisors shall approve a Certificate of Appropriateness.

**ARTICLE VIII
Demolition by Neglect**

§ 800 – Demolition by Neglect

All buildings and structures within a Certified Historic District shall be maintained in good repair, structurally sound, and reasonably protected against decay and deterioration. Examples of such deterioration include:

- A. Deterioration of exterior walls or other vertical supports.
- B. Deterioration of roofs or other horizontal members.
- C. Deterioration of exterior chimneys.
- D. Deterioration of crumbling of exterior stucco or mortar.
- E. Ineffective waterproofing of exterior walls, roofs, or foundations, including broken window or doors.
- F. Deterioration of any feature so as to create a hazardous condition that could lead to the claim that a demolition is necessary for the public safety.

**ARTICLE IX
Administration: Enforcement, Violations, Amendment, Severability, Etc**

§ 900 – Notice of Violation

The Building Inspector shall serve a notice of violation on the person in violation of this ordinance which would result in but not be limited to (1) failure to apply for a Certificate of Appropriateness or a building permit required for the construction, reconstruction, alteration, restoration, demolition, or demolition by neglect, of any building or structure which can be seen from a public way, and (2) failure to comply with HARB approved work. Such notice shall direct the abatement of said violation.

§ 901 – Enforcement

The Building Inspector or his designated representative shall have the power to institute any proceedings at law or in equity necessary for the enforcement of this Ordinance.

§ 902 – Penalty

Any person, property owner, occupant, firm or contractor failing to obtain a building permit or Certificate of Appropriateness pursuant to this Ordinance shall be fined the sum of \$300.00 for each day the violation is unabated.

§ 903 – Repealer

All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

§ 904 – Severability Clause

If any §, paragraph, sub§, clause or provision of this Ordinance shall be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as whole, or any other part thereof.

§ 905 – The Franklin Township Zoning Ordinance.

The Franklin Township Zoning Ordinance shall be so amended as to be compatible with the purpose of and objectives of the historic district ordinance. All other Franklin Township laws and ordinances shall be complied with, including the zoning and subdivision ordinances.

§ 906 – Amendments

The provisions of the Ordinance may be amended in the future by the Board of Supervisors after notice and hearing as provided by law.

§ 907 – Effective Date/Certification by Pennsylvania Historical and Museum Commission

Immediately upon the adoption of this Ordinance, the Township Secretary shall forward a copy thereof to the Pennsylvania Historical and Museum Commission. This Ordinance shall not take effect until: (1) the said Commission has certified, by resolution, to the historical significance of the Kemblesville Historic District and, (2) it has been duly advertised once in the newspaper of general circulation in Franklin Township as required by law.

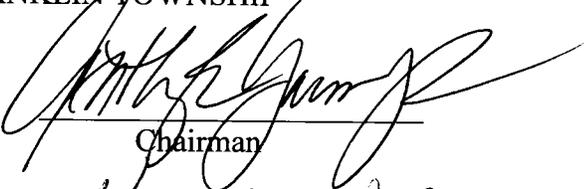
§ 908- Enactment

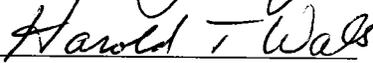
This Ordinance shall become effective (5) days from the enactment hereof.

ENACTED and ORDAINED this 21st day of August, 2003
by the Board of Supervisors of Franklin Township.

BOARD OF SUPERVISORS
FRANKLIN TOWNSHIP

BY:


Chairman


Member


Member

Member

Member

ATTEST:

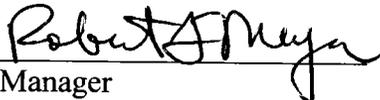

Manager

Exhibit A

**SECRETARY OF THE INTERIOR'S
STANDARDS FOR REHABILITATION (1990)**

(a) A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

(b) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

(c) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

(d) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

(e) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.

(f) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

(g) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

(h) Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

(i) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.