Chapter 126

HISTORIC PRESERVATION

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[HISTORY: Adopted by the Board of Trustees of the Village of Owego at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 92.
Flood damage prevention — See Ch. 117.
Property maintenance — See Ch. 159.
Subdivision of land — See Ch. 175.
Zoning — See Ch. 195.

§ 126-1. Purpose.

It is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of the landmarks and historic districts is necessary to promote the economic, cultural, educational and general welfare of the public. Inasmuch as the identity of a people is founded on its past and inasmuch as Owego has many significant historic, architectural and cultural resources which constitute its heritage, this chapter is intended to:

A. Protect and enhance the landmarks and historic districts which represent distinctive elements of Owego's historic, architectural and cultural heritage.

B. Foster civic pride in the accomplishments of the past.

C. Protect and enhance Owego's attractiveness to visitors and support and stimulate the economy thereby provided.

D. Ensure the harmonious, orderly and efficient growth and development of the village.

§ 126-2. Historic Preservation Commission.

A. There is hereby created a commission to be known as the "Owego Historic Preservation Commission."

B. The Commission shall consist of seven members to be appointed, to the extent available in the community, by the Mayor as follows: at least one shall be an architect; at least one

shall be an historian or a member of the Tioga County Historical Society; at least one shall be a licensed real estate broker; at least one shall be a member of the Village Planning Board or the Village Zoning Board of Appeals; at least one shall be a resident of an historic district; at least one shall have demonstrated significant interest in and commitment to the field of historic preservation, evidenced either by involvement in a local historic preservation group, employment or volunteer activity in the field of historic preservation or other serious interest in the field. All members shall have a known interest in historic preservation and architectural development within the Village of Owego.

C. Commission members shall serve for terms of five years, with the exception of the initial term of one of the seven members which shall be one year, one which shall be two years and one which shall be three years.

D. The Chairman and Chairman/Secretary of the Commission shall be elected by and from among the members of the Commission.

E. The powers of the Commission shall include:

(1) Employment of staff and professional consultants as necessary to carry out the duties of the Commission.

(2) Promulgation of rules and regulations as necessary for the conduct of its business.

(3) Adoption of criteria for the identification of significant historic, architectural and cultural landmarks and for the delineation of historic districts.

(4) Conduct of surveys of significant historic, architectural and cultural landmarks and historic districts within the village.

(5) Recommending designation of identified structures or resources as landmarks and historic districts.

(6) Acceptance on behalf of the village government of the donation of facade easements and development rights and the making of recommendations to the village government concerning the acquisition of facade easements or other interests in real property as necessary to carry out the purposes of this chapter.

(7) Increasing public awareness of the value of historic, cultural and architectural preservation by developing and participating in public education programs.

(8) Making recommendations to the village government concerning the utilization of state, federal or private funds to promote the preservation of landmarks and historic districts within the village.

(9) Recommending acquisition of a landmark structure by the village government where its preservation is essential to the purposes of this chapter and where private preservation is not feasible.

(10) Approval or disapproval of applications for certificates of appropriateness pursuant to this chapter.

F. The Commission shall meet at least monthly, but meetings may be held at any time on the request of any two of the Commission members or on the call of the Chairman or the Mayor.

G. A quorum for the transaction of business shall consist of four of the Commission's members, but not less than a majority of the full authorized membership may grant or deny a certificate of appropriateness.

§ 126-3. Designation of landmarks or historic districts.

A. The Commission may recommend designation of an individual property as a landmark if it:

(1) Possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic or social history of the locality, region, state or nation;

(2) Is identified with historic personages;

(3) Embodies the distinguishing characteristics of an architectural style;

(4) Is the work of a designer whose work has significantly influenced an age; or

(5) Because of a unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood.

B. Historic districts.

(1) The Commission may recommend designation of a group of properties as an historic district if it:

(a) Contains properties which meet one or more of the criteria for designation of a landmark.

(b) By reason of possessing such qualities, constitutes a distinct section of the village.

(2) The boundaries of each historic district recommended henceforth shall be specified in detail and shall be filed, in writing, in the Village Clerk-Treasurer's office for public inspection.

C. Districts and designated structures. The districts and structures over which the Owego Historic Preservation Commission shall exercise interpretation as regards historic preservation are as follows: The Central Historic Business District as defined on the National Register of Historic Places; all the properties on Front Street east from number 218 to and including number 442; all the properties on the south side of Front Street west of the Court Street Bridge; all the properties on the north side of Front Street west of number 145; all the properties on the north side of Main Street commencing with number 207 and east to and including number 405; all the properties on the south side of Main Street commencing with the southeast corner of Church Street and Main Street east to and including number 408; the structures on the properties on Church Street numbered 20 and 30; the structures on the properties on Temple Street numbered 138 and 142; the structures on the properties on Paige Street between Front Street and East Temple Street; all the properties on John Street between Front Street and Main Street; all the properties on Spencer Avenue between Main Street and Temple Street; and the properties on Ross Street between Front Street and Main Streets numbered 15, 16, 18, 19, 25, 27, 29, 30 and 34.

§ 126-4. Certificate of appropriateness required; application.

A. No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction or moving of a landmark or property within an historic district, nor shall any person make any material change in the appearance of such property, its light fixtures, signs, sidewalks, fences, steps, paving or other exterior elements visible from a public street or alley which affect the appearance and cohesiveness of the historic district without first obtaining a certificate of appropriateness from the Historic Preservation Commission.

B. In passing upon an application for a certificate of appropriateness, the Historic Preservation Commission shall not consider changes to interior spaces, unless they are open to the public, or to architectural features that are not visible from a public street or alley. The Commission's decision shall be based upon the following principles:

(1) Properties which contribute to the character of the historic district shall be retained with their historic features altered as little as possible.

(2) Any alteration of existing properties shall be compatible with its historic character, as well as with the surrounding district.

(3) New construction shall be compatible with the district in which it is located.

C. In applying the principle of compatibility, the Commission shall consider the following factors:

(1) The general design, character and appropriateness to the property of the proposed alteration or new construction.

(2) The scale of proposed alteration or new construction in relation to the property itself, surrounding properties and the neighborhood.

(3) Texture, materials and color and their relation to similar features of other properties in the neighborhood.

(4) Visual compatibility with surrounding properties, including proportion of the property's front facade, proportion and arrangement of windows and other openings within the facade, roof shape and the rhythm of spacing of properties on streets, including setback.

(5) The importance of historic, architectural or other features to the significance of the property.

D. Prior to the commencement of any work requiring a certificate of appropriateness, the owner shall file an application for such a certificate with the Historic Preservation Commission. The application shall contain:

(1) The name, address and telephone number of the applicant.

(2) The location and photographs of the property.

(3) Elevation drawings of the proposed changes, if available.

(4) Perspective drawings, including the relationship to adjacent properties, if available.

(5) Samples of materials to be used, if applicable.

(6) Where the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, the method of illumination and a plan showing the sign's location on the property.

(7) Any other information which the Commission may deem necessary in order to visualize the proposed work.

E. No building permit shall be issued for such proposed work until a certificate of appropriateness has first been issued by the Historic Preservation Commission. The certificate of appropriateness required by this chapter shall be in addition to and not in lieu of any building permit that may be required by any other law of the Village of Owego.

F. The Commission shall approve, deny or approve the permit with modifications within 30 days from receipt of the completed application. The Commission may hold a public hearing on the application at which an opportunity will be provided for proponents and opponents of the application to present their views.

G. All decisions of the Commission shall be in writing. The Village Clerk-Treasurer's office shall send a copy to the applicant and file a copy for public inspection. The Commission's decision shall state the reasons for denying or modifying any application.

§ 126-5. Hardship criteria.

A. An applicant whose certificate of appropriateness for a proposed demolition has been denied may apply for relief on the ground of hardship. In order to prove the existence of hardship, the applicant shall establish that:

(1) The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible.

(2) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return.

(3) Efforts to find a purchaser interested in acquiring the property and preserving it have failed.

B. An applicant whose certificate of appropriateness for a proposed alteration has been denied may apply for relief on the ground of hardship. In order to prove the existence of hardship, the applicant shall establish that the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible.

§ 126-6. Hardship application procedure.

A. After receiving written notification from the Commission of denial of a certificate of appropriateness, an applicant may commence the hardship process. No building permit or demolition permit shall be issued unless the Commission makes a finding that a hardship exists.

B. The Commission may hold a public hearing on the hardship application at which an opportunity will be provided for proponents and opponents of the application to present their views.

C. The applicant shall consult in good faith with the Commission, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in the preservation of the property.

D. All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the Village Clerk-Treasurer's office for public inspection. The Commission's decision shall state the reasons for granting or denying the hardship application.

§ 126-7. Inspection; stop-work order.

All work performed pursuant to a certificate of appropriateness issued under this chapter shall conform to any requirements included therein. It shall be the duty of the Code Enforcement Officer to inspect periodically any such work to assure compliance. In the event that work is found that is not being performed in accordance with the certificate of appropriateness or upon notification of such fact by the Historic Preservation Commission, the Code Enforcement Officer shall issue a stop-work order, and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop-work order is in effect.

§ 126-8. Penalties for offenses.

A. Failure to comply with any of the provisions of this chapter shall be deemed a violation, and the violator shall be liable to a fine of not more than $250 or to imprisonment for not more than 15 days, or to both such fine and imprisonment for each week the violation continues.

B. Any person who demolishes, alters, constructs or permits a designated property to fall into a serious state of disrepair in violation of this chapter shall be required to restore the property and its site to its appearance prior to the violation. Any action to enforce this subsection shall be brought by the Village Attorney. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.

§ 126-9. Maintenance and repair.

A. Nothing in this chapter shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within an historic district which does not involve a change in design, material, color or outward appearance.

B. No owner or person with an interest in real property designated as a landmark or included within an historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Historic Preservation Commission, produce a detrimental effect upon the character of the historic district as a whole or the life and character of the property itself. Examples of such deterioration include:

(1) Deterioration of exterior walls or other vertical supports.

(2) Deterioration of roofs or other horizontal members.

(3) Deterioration of exterior chimneys.

(4) Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.

§ 126-10. Appeals.

Any person aggrieved by a decision of the Historic Preservation Commission relating to hardship or a certificate of appropriateness may, within 30 days of the decision, file a written application with the Village Board of Trustees for review of the decision.