

§ 190-5.9. Demolition review. [Added 2009; amended 3-12-2013]

- A. Purpose. The purpose of this section is to encourage the preservation of buildings and places of historic, architectural and community value.
- B. Demolition. For the purposes of this section, the word "demolition" means the act of pulling down, destroying, dismantling, removing or razing a building or part of a building. This shall include a monument, statue, memorial, or accessory building. It does not include interior demolition which does not alter the appearance of the exterior of the building. **[Amended 3-10-2020 by Art. 3]**
- C. Demolition subject to review. Any demolition within the Town of Rye, excluding the Historic District, shall be subject to the requirements of this section where: **[Amended 3-10-2020 by Art. 3; 7-13-2021 by Art. 3]**
 - (1) The demolition is:
 - (a) A building or part of a building greater than 500 square feet of gross floor area; or
 - (b) A monument, statue, or memorial; or
 - (c) An accessory building less than 500 square feet of historical or architectural interest; and
 - (2) The building or part of a building, monument, statue, memorial, or accessory building was constructed more than 50 years before the date of application for a demolition permit.
- D. Demolition Review Committee. A Demolition Review Committee is hereby established consisting of three persons and three alternates. **[Amended 3-10-2020 by Art. 3]**
 - (1) The Demolition Review Committee members shall be appointed by the Board of Selectmen to three-year terms, with the initial terms staggered as one-, two- and three-year terms, respectively. The initial terms of alternates shall be staggered as two- and three-year terms, respectively.
 - (2) One member of the Demolition Review Committee shall be a member of the Historic District Commission, one member shall be a member of the Planning Board, and one member shall be a representative of the Rye Historical Society.
 - (3) If the Town establishes a Heritage Commission pursuant to RSA 673:1 and RSA 673:4-a, the Demolition Review Committee shall be comprised of three members of the Heritage Commission and two alternates appointed by the Chair of the Heritage Commission. If the Demolition Review Committee already exists pursuant to Subsection D(2) above, such appointments shall be made as replacements for the existing Demolition Review Committee members as the terms of the existing members expire.
- E. Demolition review procedure.

- (1) When an application for a demolition permit, or a building permit involving demolition, or a site plan review involving demolition, is made, or a formal written application is submitted to the Building Inspector for a determination under this section, the Building Inspector will determine if the building, or section of the building, meets the criteria of § 190-5.9C. If it does, the Building Inspector shall:
 - (a) Notify the applicant in writing within five business days of the filing that the demolition must be reviewed before proceeding and that the delay will not exceed 49 days.
 - (b) Within five business days forward the application to each member of the Demolition Review Committee.
- (2) The Demolition Review Committee shall meet within 10 business days after receipt of the application and make one of the following two determinations: **[Amended 3-10-2020 by Art. 3]**
 - (a) If the Demolition Review Committee determines that the building is not potentially significant, it shall, within three business days of making that determination, notify the Building Inspector of the determination. In such case, a demolition permit may be issued by the Building Inspector provided all other requirements applicable to the demolition have been met.
 - (b) If the Demolition Review Committee determines that the building is potentially significant, it shall schedule a public hearing within 12 business days of making that determination, and within three days of making that determination notify the Building Inspector of it. Notice of the public hearing shall be posted in two public places and published at least five days prior to the hearing, not including the day of the hearing or the day of posting. Notice to abutters shall be made by certificate of mailing to all abutters not less than five calendar days before the date of the hearing. **[Amended 7-13-2021 by Art. 3]**
- (3) Within five business days of the Demolition Review Committee's decision to hold a public hearing, the Building Inspector shall notify the applicant that a sign identifying the building as proposed for demolition and the date, time, and place of the public hearing on the proposed demolition is ready for posting in a visible location on the building or site. Posting of the sign within five business days of receiving notification from the Building Inspector shall be the responsibility of the applicant.
- (4) The Demolition Review Committee shall hear all public testimony regarding demolition of the building. The owner or his representative shall be invited to attend the hearing.
- (5) At the conclusion of the hearing, the Demolition Review Committee shall either:

- (a) Notify the Building Inspector in writing within three business days of the decision if the building is found to be not significant, in which case demolition may proceed, provided all other requirements applicable to the demolition have been met.
 - (b) Hold a meeting between the Demolition Review Committee and the owner (or owner's representative) within 10 business days of the public hearing to discuss alternatives to demolition if the Demolition Review Committee determines the building is significant and its loss potentially detrimental to the community.
- (6) The demolition review process shall not delay the issuance of a demolition permit by more than the 49 days provided by § 190-5.9E(1)(a), except in the following circumstances:
- (a) An owner's (or his/her representative's) unwillingness or inability to meet with the Demolition Review Committee shall extend the period until such a meeting is held and for 20 days following the date of the meeting.
 - (b) An owner's delay in posting the sign required by § 190-5.9E(3) shall extend the period by the number of days of delay in posting the sign.

F. Demolition.

- (1) If no alternatives to demolition have been identified and agreed to by the applicant, after the meeting provided for in § 190-5.9E(5)(b), the applicant is free to proceed with demolition, provided all other requirements for demolition are met. Prior to demolition, and if the applicant is in agreement, the Demolition Review Committee shall photographically document the building. The Demolition Review Committee shall also encourage the applicant to salvage significant architectural features.
- (2) Nothing in this section shall be construed to prevent immediate demolition where public safety is at stake and the building has been determined by the Building Inspector to be a public hazard and demolition is the only viable recourse.
- (3) A demolition permit shall be conditioned upon receipt of all local, state, and federal permits required for the demolition activity. **[Added 3-10-2020 by Art. 3]**

G. Criteria. In determining if a building is "potentially significant" or "significant" the Demolition Review Committee shall consider whether:

- (1) The building is of such interest or quality that it would meet national, state or local criteria for designation as a historic, cultural or architectural landmark.
- (2) The building is of such unusual or uncommon design, texture or materials that it could not be reproduced or could be reproduced only with great difficulty and expense.

- (3) The building is of such historic, architectural or community value that its removal would be to the detriment of the public interest.
- (4) Retention of the building would help preserve and protect a historic place or area of historic interest.