

MARION VILLAGE HISTORIC DISTRICT BYLAW

The Town of Marion hereby establishes the Marion Village Historic District, to be administered by an Historic District Commission as provided for under Massachusetts General Laws Chapter 40C, as amended.

1. PURPOSE

The purpose of this bylaw is to aid in the preservation and protection of the distinctive characteristics and architecture of buildings and places significant in the history of Marion Village, and the encouragement of Additions and new Buildings compatible with the existing architecture.

2. DEFINITIONS

The terms defined in this section shall be capitalized throughout this Bylaw. Where a defined term has not been capitalized, it is intended that the meaning of the term be the same as the meaning ascribed to it in this section unless another meaning is clearly intended by its context. As used in this Bylaw the following terms shall have the following meaning:

Addition. Construction that increases the square footage of a Building, including covered porches and porticos.

Alteration, to Alter. Any construction, reconstruction or other action resulting in a change of the structural parts or height, number of stories, size, or location of a building or other structure that does not constitute an Addition, New Construction or Demolition.

Building. A structure, or portion thereof, either temporary or permanent, having a roof or other covering forming a structure for the shelter of persons, animals and property of any kind.

Certificate. A Certificate of Appropriateness or Disapproval, a Certificate of Non-Applicability, or a Certificate of Hardship, as set forth in this Bylaw.

Commission. The Marion Historic District Commission as established in this Bylaw.

Construction, to construct. The act of building, erecting, installing, enlarging, moving and other similar activities.

Demolition. The act of pulling down, destroying, razing or removing a Building, in whole or in part, that results in a reduction of square footage or volume of a Building.

District. The Marion Village Local Historic District as established in this Bylaw.

Exterior Architectural Feature. Such portions of the exterior of a Building as are open to view from a public way or ways, including but not limited to the kind and texture of exterior siding and trim materials, the type, style and general arrangement of doors and windows (including muntin patterns), chimneys, and ornamental trim, including window and door surrounds, cornerboards and roof cornice trim.

New Construction. The act or fact of building, erecting, and/or moving a new Building and other similar activities.

Person Aggrieved. The applicant, an owner of adjoining property, an owner of property within the same District as property within one hundred feet of said property lines and any charitable corporation in which one of its purposes is the preservation of historic structures or districts.

Public Way. This term shall include public ways, public streets, public parks, and public bodies of water. The term shall not include a foot path, cart path or any easement right of way that does not constitute a public way or public street.

Structure. A combination of materials other than a Building, including but not limited to a sign, fence, wall, terrace, walk or driveway.

3. DISTRICT

The District shall be the area shown on the map entitled Marion Village Local Historic District, dated December 18, 2024, attached as Appendix A.

4. COMMISSION

4.1 Number of Commissioners, Terms of Appointments. The District shall be overseen by a Commission consisting of five members, to be appointed by the Select Board, two members initially to be appointed for one year, two for two years, and one for three years, and each successive appointment to be made for three years.

4.2 Appointment Process. The Commission shall include, if possible, one member from two nominees solicited from the Sippican Historical Society, one member from two nominees solicited from the chapter of the American Institute of Architects covering Marion; one member from two nominees of the Board of Realtors covering Marion; and two members from Marion residents who own property and/or live in the District. If within thirty days after submission of a written request for nominees to any of the organizations herein named insufficient nominations have been made, the Select Board may proceed to make appointments of any individual(s) it deems qualified, in which case every effort shall be made by the Select Board to appoint additional Marion residents who own property and/or live in the District

In addition to the five members appointed by the Commission, the Select Board shall also appoint two alternate members to the Commission. Each alternate member shall have the right to act and vote in the place of one regular member should such regular member be absent from a meeting or be unwilling or unable to act or vote. Said alternate members shall initially be appointed for terms of two or three years, and for three-year terms thereafter. Every effort shall be made by the Select Board to appoint as alternate members Marion residents who own property and/or live in the District.

4.3 Term Expiration. Each member and alternate member shall continue to serve in office after the expiration date of his or her term until a successor is duly appointed.

4.4 Meeting Schedule. Meetings of the Commission shall be held at the call of the Chairman, at the request of two members and in such other manner as the Commission shall determine in its Rules and Regulations.

4.5 Quorum. Three members of the Commission shall constitute a quorum.

4.6 Background Recommendations. It is recommended, but not required, that Commission members and alternates selected by the nominating entities and the Select Board have educational and/or professional experience in one or more of the following fields: historic preservation, architecture, land use planning, architectural history, history, law, construction, or engineering.

5. COMMISSION POWERS AND DUTIES

5.1 Powers of Commission. The Commission shall exercise its powers in administering and regulating Additions or Demolition to any Building, or Construction of a new Building within the District as set forth under the procedures and criteria established in this Bylaw. Commission review is limited to Additions or Demolition to any Building, or Construction of a new Building visible from a Public Way.

5.2 Rules and Regulations. The Commission, after a public hearing duly posted and advertised at least fourteen (14) days in advance in a conspicuous place in Town Hall and in a newspaper of general circulation, may adopt, and from time to time amend, reasonable Rules and Regulations not inconsistent with the provisions of this Bylaw or M.G.L. Chapter 40C, setting forth such forms and procedures as it deems desirable and necessary for the regulation of its affairs and the conduct of its business, including requirements for the contents and form of applications for Certificates, fees, hearing procedures and other matters. The Commission shall file a copy of any such Rules and Regulations with the office of the Town Clerk.

5.3 Guidelines. Guidelines for Additions, New Construction and Demolition are included as Appendix B. The Commission, after a public hearing duly posted and advertised at least fourteen (14) days in advance in a conspicuous place in Town Hall and in a newspaper of general circulation, may expand upon and/or refine the Guidelines in Appendix B to provide further clarity as necessary. These Guidelines shall not limit the right of an applicant for a Certificate to present other designs to the Commission for approval.

5.4 Annual Meeting. The Commission shall at the beginning of each fiscal year hold an organizational meeting and elect a Chairman, a Vice Chairman and Secretary, and file notice of such election with the office of the Town Clerk.

5.5 Records. The Commission shall keep a permanent record of its resolutions, transactions, decisions and determinations and of the vote of each member participating therein.

5.6 Public Education. The Commission shall undertake educational efforts to explain to the public and property owners the merits and functions of a District.

6. ADDITIONS, DEMOLITION AND NEW CONSTRUCTION PROHIBITED WITHOUT A CERTIFICATE

6.1 Certificates. Except as this Bylaw provides, no Additions, Construction of a new Building, or Demolition of a Building within the District, in whole or in part, shall be permitted unless the Commission shall first have issued a Certificate with respect thereto.

6.2 Building Permits. No building permit for Construction of an Addition, Construction of a new Building, or Demolition of a Building, in whole or in part, shall be issued by the Town or any department thereof until a Certificate as required under this Bylaw has been issued by the Commission.

7. PROCEDURES FOR REVIEW OF APPLICATIONS

7.1 Pre-Application Review. At the request of an Applicant, the Commission may convene an informal review of a proposed Addition, New Construction or Demolition during a public meeting, before a full application for a Certificate of Appropriateness is filed. The Applicant should provide information sufficient to describe the proposed work but need not include measured elevation drawings and plans.

7.2 Applications. Any person who desires to obtain a Certificate from the Commission shall file with the Commission an application for a Certificate of Appropriateness, of Non-Applicability or of Hardship, as the case may be. The application shall be accompanied by such plans, elevations, specifications, material and other information, including in the case of demolition or removal a statement of the proposed condition and appearance of the property thereafter, as may be reasonably deemed necessary by the Commission to enable it to make a determination on the application.

7.3 Determination of Jurisdiction. The Commission, or its designee, shall determine within fourteen (14) days of the filing of an application for a Certificate whether said application involves any Addition, Demolition, or new Construction within the District that is visible from a Public Way.

7.4 Certificates of Non-Applicability. If the Commission, or its designee, determines that a building permit application does not involve an Addition, Construction of a new Building, or Demolition of a Building within the District, in whole or in part, but does involve an Alteration to an Exterior Architectural Feature, the Commission, or its designee, shall forthwith issue a Certificate of Non-Applicability. No hearing is required prior to the issuance of a Certificate of Non-Applicability.

7.5 Hearings. If the Commission, or its designee, determines that an application involves an Addition, Construction, or Demolition of a Building subject to review under this Bylaw, it shall hold a public hearing on the application, except as may otherwise be provided in this Bylaw. The Commission shall hold such a public hearing within forty-five (45) days from the date of the filing of the application. At least fourteen (14) days before said public hearing, public notice shall be given by posting in a conspicuous place in Town Hall and in a newspaper of general circulation in Marion. Such notice shall identify the time, place and purpose of the public hearing. Concurrently, a copy of said public notice shall be mailed to the applicant, to the owners of all adjoining properties and of other properties deemed by the Commission to be materially affected thereby, all as they appear on the most recent applicable tax list, to the Planning Board, to any person filing a written request for notice of hearings, such request to be renewed yearly in December, and to such other persons as the Commission shall deem entitled to notice. The concurring vote of a majority of the members of the Commission shall be required to issue a Certificate. Any of the deadlines herein may be extended by written agreement of the applicant.

7.6 Issuance of Certificate of Appropriateness or Disapproval. Within sixty (60) days after the filing of an application for a Certificate of Appropriateness, or within such further time as the applicant may allow in writing, the Commission shall issue a Certificate of Appropriateness or a Disapproval.

In the case of a Certificate of Appropriateness, the Commission may, as it deems appropriate, impose certain conditions and limitations, and may require architectural or plan modifications consistent with the intent and purpose of this Bylaw.

In the case of a Disapproval of an application for a Certificate of Appropriateness, the Commission shall set forth in its Disapproval the reasons for such disapproval. The Commission may include in its Disapproval specific recommendations for changes in the applicant's proposal with respect to the

appropriateness of siting, scale, materials and design which, if made and filed with the Commission in a subsequent application, would make the application acceptable to the Commission.

7.7 Majority Vote. The concurring vote of a majority of the members shall be required to issue a Certificate.

7.8 Certificate of Hardship. If the Addition, Construction of a new Building, or Demolition for which an application for a Certificate of Appropriateness has been filed shall be determined to be inappropriate and therefore disapproved, or in the event of an application for a Certificate of Hardship, the Commission shall determine whether, owing to conditions especially affecting the Building involved, but not affecting the District generally, failure to approve an application will involve a substantial hardship, financial or otherwise, to the applicant and whether such application may be approved without substantial detriment to the public welfare and without substantial derogation from the intent and purposes of this Bylaw. If the Commission determines that owing to such conditions failure to approve an application will involve substantial hardship to the applicant and approval thereof may be made without such substantial detriment or derogation, the Commission shall issue a Certificate of Hardship.

7.9 Certificate Recipients. The Commission shall send a copy of its Certificates of Appropriateness, Disapprovals and Certificates of Hardship to the applicant, and the owner of record if different from the applicant and shall file a copy of such Certificates and/or Disapprovals with the office of the Town Clerk and the Building Commissioner. The date of issuance of a Certificate or Disapproval shall be the date of the filing of a copy of such Certificate or Disapproval with the office of the Town Clerk.

The Commission shall send a copy of its Certificates of Non-Applicability to the applicant, and owner of record if different from the applicant.

7.10 Failure to Act. If the Commission should fail to issue a Certificate or a disapproval within sixty (60) days of the filing of the application for a Certificate, or within such further time as the applicant may allow in writing, the Commission shall thereupon issue a Certificate of Hardship Due to Failure to Act.

7.11 Signatures. Each Certificate issued by the Commission shall be dated and signed by its chairman or such other person designated by the Commission to sign such Certificates on its behalf.

7.12 Appeals. Any person aggrieved by a determination of the Commission may, within twenty (20) days after the filing of the notice of such determination with the Town Clerk, appeal to the Superior Court as provided in Chapter 40C, Section 12A. Notice of an appeal must also be filed with the Office of the Town Clerk within twenty (20) days of the determination.

8. CRITERIA FOR DETERMINATIONS

8.1 Review Standards. In reviewing Additions to existing Buildings and New Construction, the Commission shall consider the appropriateness of the siting, scale, design and materials of the Building both in relation to the land area upon which the Building is situated and in relation to Buildings in their immediate surroundings, including their streetscape and neighboring Buildings. In reviewing applications for Additions, New Construction and Demolition, the Commission shall refer to the Guidelines in Appendix B.

8.2 Flood Hazard District. For properties located within a Flood Hazard District, if it is determined that a Building must be raised, and exemptions from Massachusetts Building Code (780 C.M.R.) are not available, the elevation of a Building will be considered an Addition and must conform to the Guidelines in Appendix B. Reference may also be made to the Secretary of Interior's Standards for Rehabilitation and Guidelines for Flood Adaptation for guidance.

8.3 Interiors and Use. The Commission shall not consider interior arrangements or architectural features not subject to public view from a public way.

9. EXCLUSIONS

9.1 Ordinary Maintenance and Repair. Nothing in this Bylaw shall be construed to prevent the ordinary maintenance, repair or replacement of any Exterior Architectural Feature within a District.

9.2 Exemptions.

The following projects, including installation, replacement or removal, are excluded from Commission review:

- (1) Alterations to Exterior Architectural Features that do not constitute an Addition, New Construction or Demolition.
- (2) Additions, New Construction and Demolition of a Building not visible from a Public Way.
- (3) The color of paint or other materials.
- (4) Signs, including both private and public signs.
- (5) Solar energy systems.
- (6) Walls and fences up to 4' in height that are located between a Building and a public street.
- (7) Terraces, walks, driveways, sidewalks and similar structures, or any one or more of them.
- (8) Public Improvements, including sidewalks, lights, and street furniture.
- (9) Temporary structures or signs, subject, however, to such conditions as to duration of use, location, lighting, removal and similar matters as the Commission may reasonably specify.
- (10) The reconstruction, substantially similar in exterior design, of a Building or Exterior Architectural Feature damaged or destroyed by fire, storm or other disaster, provided such reconstruction is begun within one year thereafter and carried forward with due diligence.

9.3 Upon request the Commission shall issue a Certificate of Non-Applicability with respect to Construction or Alteration in any category not subject to review by the Commission in accordance with the above provisions.

10. CATEGORICAL APPROVAL

The Commission may determine from time to time after a public hearing, duly advertised and posted at least fourteen (14) days in advance in a conspicuous place in Town Hall and in a newspaper of general circulation in Marion, that certain categories of Buildings or Structures under certain conditions may be Constructed or Altered without review by the Commission without causing substantial derogation from the intent and purpose of this Bylaw.

11. ENFORCEMENT AND PENALTIES

11.1 The Commission shall determine whether a particular activity is in violation of this Bylaw or not, and the Commission shall be charged with the enforcement of this Bylaw.

11.2 The Commission, upon a written complaint of any resident of Marion, or owner of property within Marion, or upon its own initiative, may institute any appropriate action or proceedings in the name of the Town of Marion to prevent, correct, restrain or abate violation of this Bylaw. In the case where the Commission is requested in writing to enforce this Bylaw against any person allegedly in violation of same and the Commission declines to act, the Commission shall notify, in writing, the party requesting such enforcement of any action or refusal to act and the reasons therefore, within twenty-one (21) days of receipt of such request.

11.3 Whoever violates any of the provisions of this Bylaw shall be punishable by a fine of up to \$300.00 for each offense. Each day during any portion of which such violation continues to exist shall constitute a separate offense.

11.4 The Commission may designate the Building Commissioner of the Town of Marion to act on its behalf and to enforce this Bylaw under the direction of the Commission.

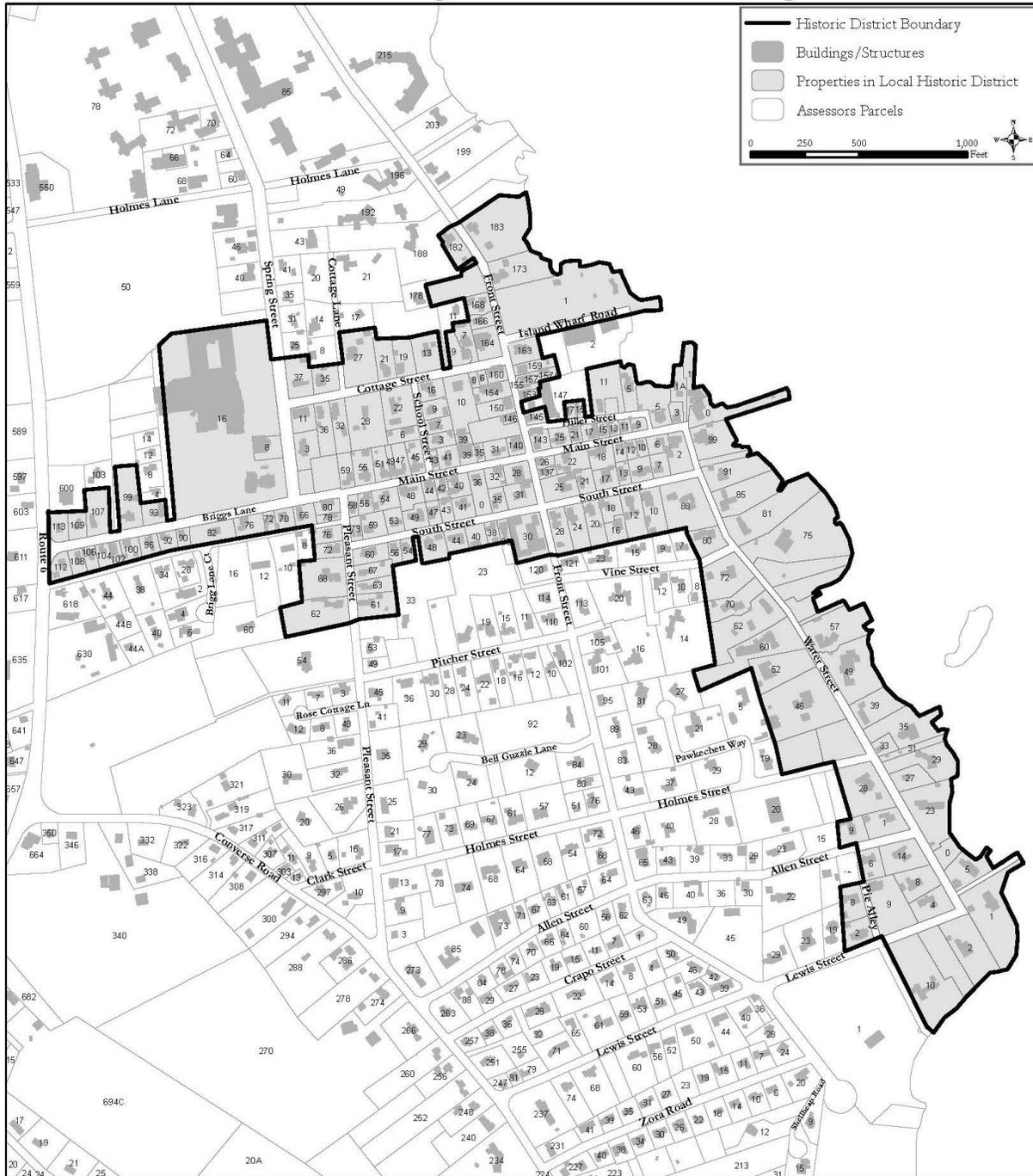
12. VALIDITY AND SEPARABILITY

The provisions of this Bylaw shall be deemed to be separable. If any of its provisions, sections, subsections, sentences or clauses shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Bylaw shall continue to be in full force and effect.

APPENDIX

A. MARION VILLAGE DISTRICT MAP

The Marion Village District shall be a District area under this Bylaw. The location and boundaries of the Marion Village District are defined and shown on the Local Historic District Map of the Town of Marion, which is a part of this Bylaw. The delineation of the District area boundaries is based on the parcel boundaries then in existence and shown therein.



Map prepared by Buzzards Bay National Estuary Program, 81-B County Road, Suite E, Mattapoisett, MA 02739 www.buzzardsbay.org December 18, 2024

B. GUIDELINES FOR ADDITIONS, NEW CONSTRUCTION, AND DEMOLITION

1 ADDITIONS.

These guidelines are intended to ensure that new Additions in the District are compatible with the existing Building, and with their immediate surroundings, including their streetscape and neighboring Buildings. The Commission will determine compatibility by reviewing the application for an Addition based on the following guidelines for siting, scale, materials, and design.

1.1 Siting.

Additions should remain subordinate to the existing Building. In order to achieve this, Additions should extend from the side or rear elevation of the Building. Additions should be stepped back from the elevations of the existing Building, and not continue the wall plane of an existing elevation.

Additions should be located so that the character-defining features of the Building are not destroyed, damaged, or obscured. Reference should be made to the Massachusetts Historical Commission Building Form for that property to determine the character-defining features.

The Commission may in appropriate cases impose dimensional and setback requirements in addition to those required by applicable statute or bylaw.

1.2 Scale.

Similar to siting, the scale of an Addition, including size, height, form, and roof shapes should be compatible with but subordinate to the existing Building. Additions should be stepped down from the roof height of the building component from which the addition extends.

1.3 Materials.

The choice of appropriate materials is an important consideration in reviewing applications for Additions to an existing Building. Materials should be compatible with the existing Building. In reviewing materials, all elements must be considered, including foundations, walls, trim, windows and doors, and roofing materials.

The use of synthetic materials may be permitted provided they adequately simulate the appearance of historic building materials that would otherwise have been used.

1.4 Design.

In reviewing a proposal for an Addition in terms of design, the goal is not to require that the Addition duplicate the style of the existing Building. New Additions should reflect the period when they are built. Regardless of the style or design, all proposals for new Additions should contribute to the character of the District.

In addition to the Guidelines for Siting, Scale and Materials, the Commission shall take into account the following considerations, with the goal of incorporating these details in a manner that is complementary to the existing Building, without duplicating it:

- the size and location of windows and doors; and
- the use and scale of trim and ornamental details, including window and door surrounds, roof cornice details, and cornerboards.

2 NEW CONSTRUCTION.

These New Construction guidelines are intended to ensure that new Buildings in the District will be compatible with their immediate surroundings, including their streetscape and neighboring Buildings, and the District as a whole. The Commission will determine compatibility by reviewing the application for New Construction based on the following guidelines for siting, scale, materials, and design.

2.1 Siting.

The siting of a new Building, its setback from the street and side and rear yards, should be appropriate to and consistent with prevailing setbacks of other Buildings of similar uses in the immediate surroundings, including their streetscape and neighboring Buildings.

Siting of outbuildings, such as garages, should be consistent with historic siting of Buildings of similar use in the immediate surroundings, including their streetscape and neighboring Buildings.

The Commission may in appropriate cases impose dimensional and setback requirements in addition to those required by applicable statute or bylaw.

2.2 Scale.

Similar to siting, the scale of a new Building, including size, height, form, and roof shapes, should be appropriate to Buildings of similar use in the immediate surroundings, including their streetscape and neighboring Buildings.

If the immediate surroundings upon which the new Building will be located have an historic pattern of Buildings with similar scale, including height and composition of parts, proposed new construction should reflect that historic pattern. Conversely, if the immediate surroundings have a pattern of Buildings with different scales, proposed new construction may also be varied in scale, provided such new construction does not exceed the scale of Buildings in the immediate surroundings.

2.3 Materials.

The choice of materials is an important consideration in reviewing applications for New Construction. Materials should be compatible with Buildings of similar use, including in their immediate surroundings. In reviewing materials, all elements must be considered, including foundations, walls, trim, windows and doors, and roofing materials.

The use of synthetic materials may be permitted provided they adequately simulate the appearance of historic building materials that would otherwise have been used.

2.4 Design.

2.4.1 Elements of Consideration.

The proposed new Building should have a design that contributes to the character of the district. In addition to the Guidelines for Siting, Scale and Materials, the Commission shall take into account the following details in relation to Buildings in its immediate surroundings and of similar use, with the goal of incorporating these details in a manner that is complementary to the surrounding Buildings:

- The number, size and rhythm of windows and doors (so-called “solid-to-void” ratio) should be consistent with surrounding Buildings of similar use. For example, primary elevations with few or no windows or doors would not be considered compatible.
- Trim and ornamental details, including window and door surrounds, cornice details, and trim

should be scaled and used in a manner that reflects the building traditions of surrounding Buildings of similar use.

2.4.2 Historic vs. Modern Design.

New buildings may be contemporary and reflect the period when they are built, or be an adaptation of a prior architectural style appropriate to its immediate surroundings and the District as a whole.

3 DEMOLITION.

The Commission shall issue a Certificate for Appropriateness for a Demolition only if the Building (or portion thereof) to be demolished has insufficient historic or architectural significance to warrant preservation, as determined by the Commission. Reference shall be made to the appropriate Massachusetts Historical Commission Building Form for determination of historical and/or architectural significance of the Building.

If an application for a demolition permit is based upon structural instability or deterioration, the applicant will be required to provide a technical report prepared by a structural engineer registered in Massachusetts detailing the nature and extent of the problems and a reasonably adequate estimate of the cost to correct them. The Commission may request that the Marion Historical Commission or Sippican Historical Society be allowed access to document the Building prior to demolition.

Nothing in this bylaw shall restrict the Building Inspector from immediately ordering demolition of unsafe Buildings in accordance with the provision of M.G.L. Ch. 143.