



Article 85 Demolition Delay Review

This information packet contains the following:

- Article 85 Information and Application Instructions
- Article 85 Additional Documentation Requirements
- Article 85 Community Meeting Policy

To print the application, visit the website at: www.cityofboston.gov/environment/downloads.asp

Contact Boston Landmarks Commission staff at (617-635-3850)

Environment Department, Boston City Hall, Room 805, Boston, MA 02201

Article 85 Demolition Delay

On February 6, 1995, the Boston Zoning Code was amended to include a demolition delay policy (Article 85, Chapter 665 of the Acts of 1956 as amended). Demolition Delay provides a predictable process for reviewing requests to demolish buildings by: 1) establishing an appropriate waiting period during which the City and the Applicant can propose and consider alternatives to the demolition of a building of historical, architectural, cultural or urban design value to the City; 2) providing an opportunity for the public to comment on the issues regarding the demolition of a particular building; and by 3) minimizing the number and extent of building demolition where no immediate re-use of the site is planned.

Article 85 Demolition Delay Review pertains to applications involving the demolition of buildings located within the city's limits, as defined below and is administered by the Boston Landmarks Commission (BLC). Proposed demolition of individually designated Boston Landmarks or buildings within a local historic district shall be reviewed by the BLC or appropriate District Commission.

Location and Age Criteria for Article 85 Demolition Delay Review

- All buildings located in either the Downtown or Harborpark.
- All neighborhood buildings at least fifty years of age.
- All buildings located in a Neighborhood Design Overlay District.

Application

It is the responsibility of the applicant to submit a complete, signed application with required documentation and to factor the review and potential delay period into the project schedule. City of Boston Inspectional Services Department (ISD) will not issue a demolition permit without a BLC Article 85 Determination or Exemption. Review carefully the application and required documentation before submitting. **Incomplete applications will not be accepted.**

Applications may be filed in person, by messenger, or by mail addressed to:

The Boston Landmarks Commission
Boston City Hall/Room 805
Boston, Massachusetts 02201

Faxed or emailed applications will not be accepted.

Article 85 Required Documentation

The following is a list of documents that **MUST** be submitted with this application. **Failure to provide accurate documentation will cause a delay in the review process and may result in a rejected application.** All documents should be no larger than 11x17 or foldable to fit an 8-1/2 x11 folder. Do not submit full-size plans unless requested to do so by staff.

- PHOTOGRAPHS – 3x5 or larger photographs of the property, properties affected by the proposed demolition and surrounding areas must be labeled with addresses and dates and included with this application. Photographs of the subject property seen from a distance in context with neighboring properties are required. Major elevations of the building(s) and any deterioration or reason for demolition should be documented. All photographs must be keyed to a map (see below) to provide a thorough location description. Good quality, clear, digital photographs may be printed on regular paper.
- MAP – A locus map containing the location of the property affected by the proposed demolition must be submitted with this application. Locus maps are available at the BRA, 9th floor, Boston City Hall and should highlight the

property and area location. An 8 ½”x11” portion of a street map showing the property may be substituted for a BRA map, such as from an internet mapping site or aerial photograph.

- **PLOT PLAN** – A plot plan showing the existing building footprint and those of buildings in the immediate vicinity must be submitted with this application. Assessing parcel maps will be accepted, if the footprint of the relevant structure(s) is illustrated.
- **PLANS and ELEVATIONS** –If a new structure is being planned, a site plan, building plans and elevations of the new structure(s) must be submitted. If no new building is planned, submit plans for site improvements and/or describe the proposed use and treatment of parcel. (Parking, landscaping, clear debris, fill excavations, etc.)
- **DULY AUTHORIZED SIGNATURES (BOTH REQUIRED)** - Both the applicant’s and the legal property owner’s signatures must be notarized. Failure to supply notarized signature(s) will result in a rejected application. In cases of multiple ownership, the chair of the condominium or cooperative association or authorized representative (such as a property manager) shall sign as owner; in cases of institutional ownership, an authorized representative of the organization shall sign as owner. Environment Department personnel cannot be responsible for verifying the authority of the individuals to sign the application. Misrepresentation of signatory authority may result in the invalidation of the application or determination.
- **PROOF OF OWNERSHIP** – Proof of ownership must be submitted with the application. A copy of a property deed, property tax assessment bill, or other official documentation of property ownership is required.

NOTE: Copies of all documentation submitted with this application (photographs, maps, plot plans, etc.) should be retained by the applicant should additional copies be necessary for the commission hearing. **Additional materials** will be requested if a hearing is required; see “Article 85 Demolition Delay Review Hearing Preparation” in this information packet.

Determination of Significance

The staff of the Boston Landmarks Commission shall have ten (10) days from the date of the submission of a complete application to apply the criteria below and determine whether a demolition permit may be issued or whether a public hearing before the Boston Landmarks Commission is required.

Article 85 Criteria for Determination of Significance

- A.** The building is identified in the Landmarks Commission's Comprehensive Preservation Survey as: (i) listed on the National Register of Historic Places; (ii) recommended for such listing; or (iii) the subject of a pending application for such listing.
- B.** The building is the subject of a petition to the Landmarks Commission for designation as a Boston Landmark.
- C.** The building is historically or architecturally significant because of period, style, method of building construction, or important association with a famous architect or builder.
- D.** The building has an important association with one or more historic persons or events, or with the broad architectural, cultural, political, economic, or social history of the City.
- E.** The building is one whose loss would have a significant negative impact on the historical or architectural integrity or urban design character of the neighborhood.

Please note that a determination of significance as described above does not necessarily mean the structure meets the criteria for local designation as a Boston Landmark.

Determination of “Not Significant”

If staff of the Boston Landmarks Commission finds the structure proposed for demolition does not meet any of the above criteria, a “Not Significant” determination letter will be issued; you must present this letter when applying for a demolition permit at the Inspectional Services Department. No further process under Article 85 is required.

Determination of Significance: Public Hearing for Significant Structures

If staff of the Boston Landmarks Commission (BLC) finds the structure meets any of the criteria above, a determination of significance will be issued and a hearing date set. An Article 85 Demolition Delay Review public hearing before the BLC is scheduled within forty (40) days of receiving a complete application.

An applicant may request, in writing, a later hearing date if there is not sufficient time to prepare or hold a community meeting prior to the scheduled public hearing. When requesting a later hearing date, the applicant shall notify BLC staff as soon as possible and submit an extension form two weeks prior to the scheduled hearing. At the public hearing, the Commission will determine whether a significant building will be subject to Demolition Delay. The delay is invoked if the Boston Landmarks Commission finds that it is in the public interest for the building to be preserved or rehabilitated rather than demolished. In making such finding, the Landmarks Commission considers the following criteria:

- the building's historic, architectural, and urban design significance;
- whether the building is one of the last remaining examples of its kind in the neighborhood, the City, state, or the region;
- the building's condition; and
- the outcome of a community meeting (see detailed explanation of community meeting requirements below).

Article 85 Demolition Delay Review Hearing Preparation

If the property proposed for demolition has been determined “significant” under Article 85 and requires a public hearing before the BLC, the applicant is required to hold a community meeting and submit additional documentation prior to the hearing. Please review carefully the instructions below and contact BLC staff if you need assistance in preparing for the hearing.

Article 85 Community Meeting Requirements

The property in question has been determined “significant,” as described by the Article 85 legislation, and has therefore been scheduled for a public hearing before the Boston Landmarks Commission.

Prior to the hearing, the applicant shall conduct a community meeting, open to the public, at which the applicant shall meet the requirements outlined below for notification, content, and documentation of the meeting.

Notification Requirements:

Note: Scheduling of community meeting and procedures for notification shall be coordinated with the Mayor’s Office of Neighborhood Services (MONS).

- Notice of the community meeting must be distributed at least seven (7) days prior to the meeting, not including Sundays and holidays.
- Notice must be distributed in the form of a flyer (template to be provided by MONS) to properties within a 500 foot radius of the property.
 - *Where a flyer notification method and/or a 500 foot radius distribution area is not practical, MONS may determine in consultation with BLC staff that another method or distribution area is acceptable.*
- Notice must be distributed via email (email list to be provided by Commission staff/MONS) to interested community groups, historical societies, preservation groups, elected officials, and other interested parties.
- When feasible, notice should be posted on or directly in front of the property proposed for demolition.

Meeting Content Requirements:

- The applicant shall read aloud the community meeting notice statement (see enclosed) and the BLC letter giving notification that a hearing is required.
- The applicant shall present photographs of the property proposed for demolition, illustrating the property, its condition, and its surroundings.
- The applicant shall present any historical information available on the property, including that provided by BLC staff, and that found by reviewing ISD permits for the property, such as the date of construction, original or later uses, alterations, etc.
- The applicant shall present information on the condition of the property, including how long it has been vacant if applicable, photographs of damage or deterioration, copies of violation notices from ISD, etc. **If the structural condition of the building is cited as the reason for demolition, a structural engineer’s report is recommended.**
- **The applicant shall present alternatives to the demolition of the property, including rehabilitation and/or incorporation of the building into the proposed project.**
 - *The presentation of alternatives may include conceptual design studies, cost studies, programmatic studies and/or other information, as appropriate.*

- The applicant shall provide an opportunity for anyone attending the meeting, including individuals, representatives of neighborhood organizations, historical societies, preservation organizations, and elected officials to share additional information contributing to the history and significance of the property.
- After discussing the condition of the building and alternatives to demolition, the applicant may discuss the proposed development.
- The applicant shall include a question-and-answer session, responding to all interested parties.

Meeting Documentation Requirements:

The following must be submitted to the Commission at least 24 hours in advance of the hearing as documentation that a community meeting was held. If the Commission determines that adequate documentation has not been submitted, no action will be taken on the Demolition Delay.

- Copy of sign-in sheet, with names, addresses, emails.
- List of addresses where flyers were distributed, or a map illustrating the area of distribution.
- If an alternative method of notification or distribution area is used, documentation of the alternative and confirmation of authorization to use such a method or distribution area must be submitted.
- Copy of flyer or other notification materials.
- Copy of email and email list.
- Copy of all materials presented or distributed at the community meeting.
- Letter from MONS and/or community groups summarizing the meeting, if available.

Information for Combining Community Meeting with other Meetings:

Another meeting, such as a neighborhood or civic association meeting or an Article 80 meeting, or a meeting held prior to the submittal of an Article 85 application, may substitute for the Article 85 community meeting. However, **all requirements** for the community meeting as listed above **must be met**, including notification, materials presented, and submittal of documentation. Note that the notification requirements may be modified by MONS, in consultation with BLC staff, as noted above.

Community Meeting Notice Statement (to be read at Community Meeting and printed on flyer):

This community meeting is being held as part of an Article 85 Demolition Delay application to demolish the building at (address). The purpose of this meeting is to inform the community about the proposed demolition and to present alternatives to the demolition. All interested parties are welcome to attend, and will have the opportunity to comment and ask questions.

This community meeting DOES NOT take the place of the Boston Landmarks Commission public hearing. All interested parties are encouraged to attend the BLC public hearing to express their views on the proposed demolition, or to submit written comments to the BLC if they are unable to attend. Please submit written comments by the hearing date to: Boston Landmarks Commission, Boston City Hall, Room 805, 1 City Hall Square, Boston, MA 02201, or fax to 617-635-3435, or email a PDF with signature to: gary.russell@cityofboston.gov

Additional Materials Required for the Article 85 Demolition Delay Review Hearing

If the property proposed for demolition has been determined “significant” under Article 85 and requires a public hearing before the BLC, the applicant is also required to submit additional documentation prior to the hearing. These may include:

- Documentation of studies of alternatives to demolition, such as:
 - Adaptive reuse feasibility studies.
 - Alternatives incorporating the existing building(s) into plans for the site.
 - Availability of alternative sites for the proposed post-demolition construction.
- Structural analysis report of the existing building. (If the structural condition of the building is cited as the reason for demolition, a structural engineer’s report is required.)
- Documentation of community meeting(s) regarding the proposed project and meeting outcome
- Alternatives incorporating the existing building(s) into plans for the site.
- Availability of alternative sites for the proposed post-demolition construction.

- Effects of post-demolition plans on the community.
- A letter stating whether the proposed project requires zoning relief and if so, documentation of the status of the Zoning Board of appeals process.
- Other materials that may help the Commission evaluate whether the property is subject to delay.

Applicants should contact BLC staff with questions regarding requirements for the hearing. Any additional materials to be presented at the hearing should be submitted to BLC staff two weeks prior to the hearing date. An applicant may request, in writing, a later hearing date if there is not sufficient time to prepare additional materials or hold a community meeting prior to the scheduled public hearing.

Article 85 Demolition Delay Review Public Hearing Process

The Article 85 Demolition Delay Review hearing includes opportunity for public comment. Written testimony must include name, address and signature and must be submitted to BLC staff in advance of the hearing. The BLC shall also invite the participation, on an advisory basis, of the Commissioner of Inspectional Services, the Director of the Boston Redevelopment Authority, and the Chairperson of the Boston Civic Design Commission (or designated representatives), as well as any individual or representative of any group whose participation the Applicant requests, or approves, in writing.

The hearing is organized into two parts: During Part One of the hearing the Commission will determine if the structure is preferably preserved and subject to demolition delay. In Part Two, the Commission reviews additional information regarding alternatives to demolition and proposed plans for the site; the Commission may consider waiving the demolition delay period.

Part One: Demolition Delay Determination

In order for the Commission to determine if the structure is preferably preserved and subject to demolition delay, the applicant shall present any information that will assist the Commission in determining whether the building is subject to Demolition Delay, including:

- Any additional information regarding the history of the property and its significance, as defined under Article 85.
- A copy of materials presented at the community meeting; refer to “Community meeting Requirements” in this information package.
- The outcome of the community meeting held prior to the hearing.
- Information regarding the condition of the structure. If condition is cited as reason for demolition a structural engineer’s report is required.

The presentation during part one should focus on whether the structure is a significant, preferably preserved structure subject to demolition delay. The applicant should not present the proposed plans for the site or alternatives to demolition during part one.

After the applicant’s presentation, commissioner will ask questions and invite public comment. **If at this time, the Commission determines that sufficient documentation has not been submitted, the Commission may choose to take no action in response to an incomplete application and the hearing must be rescheduled.** The applicant shall submit a hearing extension form providing a new date, understanding that the missing documentation will be required in advance of the new hearing date.

If satisfied the Community Meeting Requirements have been met and sufficient additional documentation submitted, the Commission will determine whether the building is subject to Demolition Delay. When making this determination, the Commission considers the following criteria as defined by Article 85:

1. The building’s historic, architectural, and urban design significance, including whether the building is among the last remaining example of its kind in the area
2. Any information about the condition of the building
3. Documentation of the community meeting

If, based on its evaluation of the information, the Commission does not make a motion to invoke demolition delay, or does not pass a motion to invoke demolition delay, BLC staff will issue a letter authorizing the Commissioner of Inspectional Services to issue a demolition permit.

If the Landmarks Commission issues a determination that a significant building is subject to demolition delay, the Commissioner of Inspectional Services is notified not to issue a demolition permit until ninety (90) days have elapsed following the close of the public hearing. If the Commission invokes the 90 day demolition delay, the Commission will then move forward with Part Two of the hearing to review additional documentation regarding alternatives to demolition and may consider making a finding of "No Feasible Alternative.

Part Two: Determination of "No Feasible Alternative to Demolition"

Although a building may be evaluated as meeting the demolition delay criteria, the Commission may consider information presented at the hearing as grounds for issuing a determination of "no feasible alternative to demolition."

Applicants are encouraged to present information concerning alternatives to demolition at the public hearing. This information should include/address:

- The cost of stabilizing, repairing, rehabilitating, or re-using the building
- Alternatives to demolition, incorporating the existing building(s) into plans for the site
- Any definite plans for the re-use of the property if the proposed demolition is carried out,

Additional information may include:

- the effects such plans would have on the architectural, social, aesthetic, historic, and urban design character of the surrounding area, as well as on the economy of the area or the City as a whole;
- any conditions the Applicant proposes to accept for the redevelopment of the site that would mitigate the loss of the building;
- the availability of other sites for the Applicant's intended purpose or use.

Evaluation of Alternatives to Demolition and Determination of "No Feasible Alternative to Demolition"

In evaluating alternatives to demolition, the Landmarks Commission may consider such possibilities as: the incorporation of the building into the future development of the site; the adaptive re-use of the building; the use of financial incentives for the rehabilitation of the building; the removal of the building to another site; and, with the owner's consent, the search for a new owner willing to purchase the building and preserve, restore, or rehabilitate it.

If, based on its evaluation of alternatives, the Landmarks Commission is satisfied that there is no feasible alternative to demolition, the Commission may issue a determination prior to the expiration of the delay period authorizing the Commissioner of Inspectional Services to issue a demolition permit.

If the Commission does not make a finding of No Feasible Alternative, the applicant may be invited to return to a future BLC hearing to present additional information for the Commission to consider a finding of No Feasible Alternative.

Demolition Delay Expiration and Notification

Upon expiration of the delay period, the Landmarks Commission will issue a notice in writing stating that such delay period has expired, and the date of such expiration. This notice will be mailed to the Applicant, with copies to the Commissioner of Inspectional Services, the Boston Redevelopment Authority, the Boston Civic Design Commission and, where applicable, to any individual or group that the Landmarks Commission has invited to participate in an exploration of alternatives to demolition.