WEST VIRGINIA CODE: §8-26A-7

§8-26A-7. Certificate of appropriateness; scope of review; standards of review; review procedures; variances, appeals.

In the event that any commission shall exercise authority to issue a certificate of appropriateness to regulate new construction, alteration, removal or demolition of buildings, sites or structures within an historic district or individually designated as an historic landmark, the commission shall have plenary power and authority to regulate such properties, according to the following provisions:

No private building, site or structure shall be erected, altered, restored, moved or demolished until after an application for a certificate of appropriateness as to exterior architectural features has been submitted to and approved by the commission, except as otherwise provided by the governing body in the ordinance or order establishing such commission or as provided by rules, regulations, policies, procedures and standards adopted and published by said commission. For the purposes of this article, "exterior architectural features" shall include such portion of the exterior of a structure as is open to view from a public street, way or place. Similarly, if earthworks of historical or archaeological importance exist in the historic district there shall be no excavating or moving of earth, rock or subsoil or any development upon or around earthworks without a certificate of appropriateness. The style, material, size and location of outdoor advertising signs and bill posters shall be under the control of such commission.

(1) The commission may request such plans, elevations, specifications, drawings, photographs and other information as may be reasonably deemed necessary by the commission to enable it to make a determination on the application for a certificate of appropriateness.

(2) The commission shall hold a public hearing upon each application for a certificate of appropriateness. Notice of the time and place of said hearing shall be given by publication in a newspaper having general circulation in the area served by the governmental unit, provided it has one, at least seven days before such hearing, and by posting such notice on or near the main entrance of any hall or room where the commission usually meets. The commission shall take such action as required to inform the owners of any property likely to be affected by the application and shall give the applicant and such owners an opportunity to be heard.

(3) The commission shall approve or reject an application for a certificate of appropriateness within forty-five days after the filing thereof by the owner or occupant of an historic property or a building, site or structure located within an historic district. Evidence of approval shall be by a certificate of appropriateness issued by the commission.

(4) In passing upon the appropriateness of proposed action, the commission shall consider,

WV Legislature

in addition to any other pertinent factors, the historical and architectural integrity and significance; architectural style; design, arrangement, texture and materials of exterior architectural features; and the relationship and general compatibility thereof to the historical value and exterior architectural style and pertinent features of other structures in the surrounding area.

(5) The commission shall approve the application and issue a certificate of appropriateness if it finds that the proposed action would be appropriate. In the event the commission rejects an application, such commission shall place upon its records and shall transmit a record of such action and reasons therefor, in writing, to the applicant. In such written record, the commission may make recommendations relative to design, arrangement, texture, material and similar features. The applicant, if he so desires, may make modifications to the plans and may resubmit the application at any time after doing so.

(6) In cases where the application covers a material change in the appearance of a structure which would require the issuance of a building permit, the rejection of an application for a certificate of appropriateness by the commission shall be binding upon the building inspector or other administrative office charged with issuing building permits.

(7) Where such action is authorized by the local governing body and is reasonably necessary or appropriate for the preservation of a unique historic property, the commission may enter into negotiations with the owner for the acquisition by gift, purchase, exchange or otherwise of the property or any interest therein.

(8) If the strict application of any provision of this article would result in exceptional practical difficulty or undue economic hardship upon any owner of any specific property, the commission, in passing upon applications, shall have the power to vary or modify strict adherence to the provisions or to interpret the meaning of the provision so as to relieve such difficulty or hardship: Provided, That such variance, modification or interpretation shall remain in harmony with the general purpose and intent of the provisions so that architectural or historical integrity or character of the property shall be conserved and substantial justice done. In granting variations, the commission may impose such reasonable and additional stipulations and conditions as will in its judgment best fulfill the purpose of this article.

(9) The commission shall keep a record of all applications for certificates of appropriateness and of all its proceedings.

(10) Any person adversely affected by any determinations made by the commission relative to the issuance or denial of a certificate of appropriateness may appeal such determination to the circuit court in the county in which said commission is located.

(11) Nothing in this article shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on an historic property, which maintenance or repair does not involve a material change in design, material or outer appearance thereof,

WV Legislature

nor to prevent any property owner from making any use of his property not prohibited by other laws, ordinances or regulations.

(12) Undertakings permitted, funded, licensed or otherwise assisted by the state shall be reviewed in accordance with subsection (e), section five, article one, chapter twenty-nine of this code and shall be considered exempt from review for certification of appropriateness as described in this section.

WV Legislature