



HISTORIC PRESERVATION COMMISSION
March 23, 2020 – 6:00pm
Pewaukee Village Hall
235 Hickory Street, Pewaukee, WI 53072

1. Call to Order, Pledge of Allegiance, Moment of Silence and Roll Call
 - a. Election of Chair
2. New Business.
 - a. Review and Discussion of Historic Preservation Ordinance and Role of Historic Preservation Commission
3. Public Hearing.
 - a. Public Hearing on Application for Listing of St. Mary's Church as a Local Landmark
4. Citizen Comments. – *This is an opportunity for citizens to share their opinions with Commission Members on any topic they choose. However, due to Wisconsin Open Meeting laws, the Commission is not able to answer questions or respond to your comments. All comments should be directed to the Commission. Comments are limited to 3 minutes per speaker. Speakers are asked to use the podium and state their name and address.*
5. New Business (continued).
 - b. Discussion and Possible Action on Application for Listing St. Mary's Church as a Local Landmark
 - c. Possible Action on Scheduling Future Meeting(s), if Needed
6. Adjournment.

Note: It is possible that members and/or possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above-stated meeting to gather information; action will not be taken by any governmental body at the above-stated meeting other than the governmental body specifically referred to above in the notice. Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. To request such assistance, contact the Village Clerk at 262-691-5660.

Dated: March 11, 2020



To: Historic Preservation Commission

From: Scott A. Gosse
Village Administrator

Date: March 16, 2020

Re: Agenda Items 2A, Review and Discussion of Historic Preservation Ordinance and Role of Historic Preservation Commission; Discussion and Possible Action on Application for Listing St. Mary's Church as a Local Landmark; and Possible Action to Schedule Next Meeting

BACKGROUND

Thank you for accepting your appointment to the Village's Historic Preservation Commission. Attached for your review, please find a copy of the ordinance adopted by the Village Board which sets forth the purpose and intent of the ordinance as well as the role of the Commission and the criteria to be used when evaluating applications for landmark designations. Village Attorney Mark Blum will be in attendance at the meeting to review the attached ordinance with the Commission and answer any questions the Commission members may have.

The second new business item relates to an application (copy attached) submitted by Ms. Jeannette O'Toole requesting the designation of the St. Mary's Church located at 449 W. Wisconsin Avenue, as a local landmark. A public hearing has been scheduled on this application which will occur after Attorney Blum's review of the historic preservation ordinance.

ACTION REQUESTED

The action requested of the Historic Preservation Commission is to review the information to be shared by Attorney Blum at the meeting relating to the Historic Preservation Commission and its role in administering the Historic Preservation Ordinance.

Secondly, the action requested of the Historic Preservation Commission is to review the application submitted by Ms. Jeannette O'Toole requesting the designation of the St. Mary's Church located at 449 W. Wisconsin Avenue, as a local landmark.

The third item relates to scheduling a future meeting in the event the Commission desires to receive information from Mr. Joe DeRose regarding the certified local government program.

Attachments

ORDINANCE NO. 2019-13

ORDINANCE TO CREATE A NEW ARTICLE UNDER CHAPTER 40 OF THE
MUNICIPAL CODE OF THE VILLAGE OF PEWAUKEE
REGARDING HISTORIC PRESERVATION

The Village Board of the Village of Pewaukee, Waukesha County, Wisconsin do ordain as follows:

SECTION I

Article XIV of Chapter 40 of the Municipal Code of the Village of Pewaukee is hereby created as follows:

ARTICLE XIV. – HISTORIC PRESERVATION

Sec. 40.480 – Purpose and Intent

(a) It is hereby declared a matter of public policy that the protection, enhancement, perpetuation and use of Improvements or sites of special character or special historic, archaeological, or aesthetic interest or other significant value is a public necessity and is required in the interest of the health, prosperity, safety, and welfare of the people. The purpose of this article is to:

(1) Effect and accomplish the protection, enhancement, and perpetuation of such Improvements and of districts which represent or reflect elements of the Village's cultural, social, economic, political, and architectural history.

(2) Safeguard the Village's historic and cultural heritage, as embodied and reflected in such Landmarks, Landmark Sites, and historic districts.

(3) Foster civic pride in the notable accomplishments of the past.

(4) Stabilize and improve property values.

(5) Protect and enhance the Village's attraction to residents, tourists, and visitors and service as a support and stimulus to business and industry.

(6) Improve and enhance the visual and aesthetic character of the Village.

(7) Educate the public regarding the need and desirability of a Village historic preservation program and its enhancement of the quality of life.

Sec. 40.481 – Definitions. The following words, terms and phrases, when used in this

article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Certificate of Appropriateness means the certificate issued by the Commission approving alteration, rehabilitation, construction, or reconstruction of a Landmark, Landmark Site, or any Improvement in a Historic District.

Commission means the Historic Preservation Commission created under this article.

Historic District means an area designated by the Commission which contains two or more Landmarks or Landmark Sites, as well as those abutting parcels which the Commission determines shall fall under the provisions of this section to assure that their appearance and development is harmonious with such historic structures or historic sites.

Improvement means any building, structure, place, work of art, or other object constituting a physical betterment of real property or any part of such betterment, including streets, alleys, sidewalks, curbs, lighting fixtures, signs, and the like.

Improvement Parcel is the unit of property which includes a physical betterment constituting an Improvement and the land embracing the site thereof and is treated as a single entity for the purpose of levying real estate taxes. Provided, however, that the term "improvement parcel" shall also include any unimproved area of land which is treated as a single entity for such tax purposes.

Landmark means any Improvement that is

- (1) Individually listed in the National Register of Historic Places;
- (2) Individually listed on the Wisconsin State Register of Historic Places; or
- (3) Designated by the Commission as a Landmark under this article.

Landmark Site means any parcel of land of historic interest or value in tracing the history of aboriginal man or upon which an historic event has occurred and which has been designated a Landmark under this article, or an Improvement Parcel or part thereof on which is situated a Landmark and any abutting Improvement parcel or part thereof used as an constituting part of the premises on which the Landmark is situated.

Sec. 40.482 – Historic Preservation Commission

(a) *Composition.* A historic preservation commission is hereby created, consisting of seven members. Of the initial members so appointed, one shall serve a term of one year, three shall serve a term of two years, and three shall serve a term of three years. Thereafter, the term for each member shall be three years. The village

president shall appoint the commissioners subject to confirmation of the village board. In considering appointments to the Commission the village president and the Board shall endeavor to include individuals with backgrounds and experience in the history of the community, construction contracting, historic preservation or architecture. Notwithstanding the forgoing, at least one member of the Village Board shall be a member of the Commission. In addition, the membership of the Commission shall include a citizen representative from the plan commission.

(b) Landmark, Landmark Site, and Historic District designation criteria. For purposes of this article, a Landmark or Landmark Site designation may be placed on any site, natural or improved, including any building, Improvement, or structure located thereon, or any area of particular historic, architectural, or cultural significant to the village, such as structures or sites which:

- (1) Exemplify or reflect the broad cultural, political, economic, or social history of the nation, state, or community; or
- (2) Are identified with historic personages or with important events in national, state, or local history; or
- (3) Embody the distinguishing characteristics of an architectural type of specimen inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship; or
- (4) Are representative of the notable work of a master builder, designer, or architect who influenced his or her age; or
- (5) Have yielded, or may be likely to yield, information important to prehistory or history.
- (6) Are consistent with the US Department of the Interior, National Park Service National Historic Landmark Criteria as set forth in 36 CFR Vol 1 (7-1-11 edition) Sec 65.4.

(c) Additional operating guidelines. The Commission may adopt specific operating guidelines for Landmarks, Landmark Sites, and Historic District designation, provided such operating guidelines are in conformance with the provisions of this article.

(d) Powers and Duties of the Commission

(1) *Designation.* The Commission shall have the power, subject to Sec. 40.482(b) and 40.482(e), to designate historic Landmarks, Landmark Sites, and Historic Districts within the Village limits. Such designation shall be made based upon the criteria established under Sec. 40.482(b). Once designated by the Commission, such Landmark, Landmark Site, and historical district shall be subject to the provisions of this article.

(2) *Regulation of construction, reconstruction, and alteration*

- a. Any application for a permit from the building inspector involving a designated Landmark, Landmark Site, or Improvement in an Historic

District shall contemporaneously be filed with an application to the Commission for a Certificate of Appropriateness.

b. No owner or person in charge of a Landmark, Landmark Site, or Improvement in an Historic District shall alter or reconstruct all or any part of the exterior of such property, construct any Improvement upon such designated property or cause or permit any such work to be granted upon such property, unless a Certificate of Appropriateness has been granted by the Commission. Unless such approval has been granted by the Commission or the village board, the building inspector shall not issue any permit for any such work.

c. Upon the filing of an application with the Commission, the Commission shall determine:

1. Whether, in the case of a Landmark or Landmark Site, the proposed work would detrimentally change, destroy or adversely affect any exterior architectural feature of the Improvement or site upon which such work is to be done.

2. Whether, in the case of the construction of a new Improvement upon a Landmark Site or within a Historic District, the exterior of such Improvement would adversely affect or not harmonize with the external appearance of the other neighboring Improvements on such site or within the district.

3. Whether, in the case of any property located in a Historic District, the proposed construction, reconstruction, or exterior alteration does not conform to the purpose and intent of this article.

4. Whether the denial of a Certificate of Appropriateness will deprive the owner of all reasonable use of, or economic return on, the property.

d. If, based on the determinations outlined in Sec. 40.482(d)(2) c., the Commission determines that the application for a Certificate of Appropriateness and the proposed changes are consistent with the character and features of the property or district, it shall issue the Certificate of Appropriateness. Upon the issuance of such Certificate, the building permit shall then be issued by the building inspector. The Commission shall make this decision within 90 days after the filing of a complete application with the Commission. If, at the end of the ninety-day period, the Commission has not made its decision, the application shall be deemed approved by the Commission. Nothing contained herein shall be deemed to prevent the appeal of any denial hereunder to the village board after the Commission has denied an application.

e. Should the Commission fail to issue a Certificate of Appropriateness due to the failure of the proposal to conform to the guidelines in this article, the applicant may appeal such decision to the village board within 45 days of the Commission's final decision. In addition, if the Commission so fails

to issue a Certificate of Appropriateness, the Commission shall work with the applicant for a period of 45 days following the date of denial in an attempt to obtain a Certificate of Appropriateness within the guidelines of this article. Nothing contained in this subsection shall be deemed to prevent the appeal of an earlier denial by the Commission, whether such appeal might occur during or after the forty-five-day period where the parties are required to cooperate as described immediately above.

f. Ordinary maintenance and repairs may be undertaken without a Certificate of Appropriateness, provided that the work involves repairs to existing features of a Landmark, Landmark Site, or Improvement within an Historic District, does not change the exterior of the Landmark, Landmark Site, or Improvement within an Historic District and does not require the issuance of a building permit.

g. Agencies of the village and all public utility and transportation companies, undertaking projects affecting Landmarks, Landmark Sites, or Historic Districts, shall be required to obtain a Certificate of Appropriateness prior to initiating any changes in the character of street paving, sidewalks, utility installations, lighting, walls, fences, structures and buildings on property, easements, or streets owned or franchised by the village.

(3) Regulation of demolition.

a. No person in charge of a Landmark, Landmark Site, or Improvement within a Historic District shall be granted a permit to demolish such property without the written approval of the village board.

b. Any application to the building inspector for a permit to demolish a Landmark, Improvement on a Landmark Site, or Improvement within a Historic District shall contemporaneously be filed with the Commission. The Commission shall review the application and shall, within 90 days of the filing of that application, make a recommendation to the village board with respect to that demolition.

c. Upon receipt of the recommendation of the Commission or, if no recommendation is made, 90 days after the filing of the original application, the request for demolition shall be submitted for review and consideration by the village board. The board shall make its decision respecting demolition within 120 days of the board's receipt of the recommendation from the board's receipt of the recommendation from the Commission or the expiration of the time period allowed for the Commission's review.

d. In evaluating the petition for demolition, the village board shall consider the following:

1. The age and physical condition of the Landmark, Improvement on a Landmark Site, or Improvement within a Historic District.

2. The cost of repairs of the Landmark, Improvement on

Landmark Site, or Improvement within a Historic District as compared to the fair market value of that Improvement.

3. Whether the denial of a demolition permit would result in the loss of all reasonable and beneficial use of or return from the property

4. Whether any hardship or difficulty claimed by the owner is self-created or is the result of any failure to maintain the property in good repair.

6. The historic significance of the Landmark, Improvement on a Landmark Site, or Improvement within a Historic District.

e. Upon approval of the petition for demolition by the village board, the building inspector shall issue the permit to demolish the property provided all other codes and village ordinances are complied with.

f. Should the Commission fail to recommend issuing a demolition permit due to the failure of the proposal to conform to the guidelines in this article, the applicant may appeal such decision to the village board within 45 days of the Commission's final decision. In addition, if the Commission fails to recommend issuing a demolition permit, the Commission shall work with the applicant for a period of 45 days following the date of denial in an attempt to obtain a Certificate of Appropriateness within the guidelines of this article. Nothing contained in this subsection shall be deemed to prevent the appeal of an earlier denial by the Commission, whether such appeal might occur during or after the forty-five-day period where the parties are required to cooperate as described immediately above.

(4) *Other permits required.* The issuance of a Certificate of Appropriateness or demolition permit under this article shall not relieve the applicant from obtaining the other permits and approvals required by law. Building permits or other municipal permits shall be invalid if they are obtained without the presentation of the Certificate of Appropriateness required for the proposed work. Insofar as they are applicable to a Landmark, Landmark Site, or Improvement in a Historic District designated under this article, any provision of the plumbing code, electrical code, or building or housing code of the village shall apply, unless waived by the appropriate state or village appeals body.

(5) *Time to commence work.* Any work authorized under a Certificate of Appropriateness or demolition permit issued under this article shall be commenced within 12 months after the issuance of the Certificate or permit. The village may inspect the work during and after construction or demolition in order to ensure compliance with this article. Failure to comply with a Certificate of Appropriateness or demolition permit or failure to obtain a Certificate of Appropriateness or demolition permit shall be a violation of this article. In addition to the other penalties and remedies, the village shall issue a stop work order, and all work shall cease at the designated property. No additional work shall be undertaken as long as such stop work order shall continue in effect.

(6) *Recognition of landmarks, landmark sites, and historic districts.* At such time as a Landmark, Landmark Site, or Historic District has been properly designated, the Commission may cause to be prepared and erected on such property at village expense a suitable plaque declaring that such property is a Landmark, Landmark Site, or Historic District. Such plaque shall be so placed as to be easily visible to passing pedestrians. The plaque shall state the accepted name of the property, the date of its construction of significant, and other information deemed proper by the Commission.

(7) *Other duties.* In addition to those duties already specified in this article, the Commission shall:

a. Work closely with the State of Wisconsin historic preservation officer and the state historic preservation review board in attempting to include such properties hereunder designated as Landmarks or landmarks sites or Historic Districts in the National Register of Historic Places and the State Register of Historic Places.

b. Work for the continuing education of the citizens of the village about the historic heritage of this village and the Landmarks and Landmark Sites designated under the provisions of this article.

Sec. 40.483 – Designation Procedures

(a) Designation of Landmarks, Landmark sites, and Historic Districts

(1) *Notice.* The Commission may, after notice and public hearing, designate Landmarks, Landmark Sites, and Historic Districts, or rescind such designation, after application of the criteria in Sec. 40.482(b) above, At least ten (10) days prior to such public hearing, the Commission shall notify, by 1st class mail, the owners of record, as listed in the office of the village assessor, who are owners of the property in whole or in part as well as the owner of all lands located within 200 feet of the boundaries of the property affected. Such notice shall include the time and place of the public hearing as well as the place, structure, or object to be designated a Landmark or Landmark Site or the defined geographical area to be designated an Historic District. Notice of the hearing shall be published as a Class 1 legal notice pursuant to Chapter 985 of the Wisconsin Statutes. The Commission shall also notify the following: the village administrator, the department of public works, the department of parks and recreation, building inspector, village planner, fire and police departments, and plan commission. Each such department shall respond to the Historic Preservation Commission by filing its own comments on the proposed designation.

(2) *Public hearing.* The Commission shall then conduct such public hearing and, in addition to the notified persons, may hear expert witnesses and shall have the power to subpoena such witnesses and records as it deems necessary. The Commission may conduct an independent investigation into the proposed designation or rescission. Within ten (10) days after the close of the public hearing, the Commission may designate the property as either a Landmark or Landmark Site or the geographically defined area as an Historic District, or rescind such designation. After the designation or rescission has been made, notification shall be sent to the property owners as well as the owner of all lands located within 200 feet of the boundaries of property affected. Notification shall also be given to the

village clerk, building inspector, plan commission, and the village assessor. The Commission shall cause the designation or rescission to be recorded, at village expense, in the county register of deeds office.

(b) Appeal. Any owner of property that is affected by the designation of a Landmark, Landmark Site, or Historic District may appeal said decision to the village board. The village board may overturn a decision of the Historic Preservation Commission by a simple majority vote of the village board.

(c) Amendment. Any owner of property that is affected by the designation of a Landmark, Landmark Site, or historic district or the village may seek an amendment of the designation of a property as a Landmark, Landmark Site, or its inclusion in an historic district. Consideration of an amendment shall be commenced by written request filed with the Commission stating the specific amendment sought, the basis for the amendment and specifically, whether the amendment meets the criteria for the designation of a Landmark, Landmark Site, or Improvement within a historical district. The notice and public hearing requirements for the establishment of a Landmark, Landmark Site, or historic district shall be followed with respect to consideration of the amendment. Following any public hearing, the Commission shall make a determination on the application for amendment. If any person is aggrieved by decision of the Commission with respect to the amendment, they may appeal that decision to the village board.

(d) Documentation of the Landmark. Whenever a landmark, landmark site or historic district are designated pursuant to this chapter a notification of said designation shall be recorded with the Waukesha County Register of Deeds acknowledging that the property shall be henceforth subject to the requirements of this chapter.

Sec. 40.484 – Conformance with regulations

(a) Every person in charge of a Landmark, Landmark Site, or Improvement in a historic district shall maintain the same or cause or permit it to be maintained in a condition consistent with the provisions of this article. The village board may appoint the building inspector to enforce this article. Notwithstanding the foregoing, limited and sensitive upgrading of mechanical, electrical and plumbing systems, and other work required by applicable building codes, to make the property functional is permitted. Nothing in this subsection relieves an owner from having to obtain any other building permits or municipal permits as required by village ordinance. Insofar as they are applicable to a Landmark, Landmark Site, or Improvement in a historic district designated under this article, any provision of the plumbing code, electrical code, or building or housing code of the village shall apply, unless waived by the appropriate state of village appeals body.

(b) In accordance with Wisconsin Statute Section 62.23(7)(em) 2m., any owner of property designated under this article as a Landmark, Landmark Site, or Improvement within a historic district may, when undertaking repairs or replacement of such property, use materials that are similar in design, color, scale, architectural appearance, and other visual qualities to the original materials.

Sec. 40.485 – Maintenance of Landmarks, Landmark Sites, and historic districts.

(a) Maintenance. Every person in charge of a Landmark, Improvement on a Landmark Site, or an Improvement in an historic district shall keep in good repair all of the exterior portions of such Improvement and all interior portions thereof which, if not so maintained, may cause or tend to cause the exterior portions of such Improvements to deteriorate, decay, or become damaged or otherwise fall into a state of disrepair. This provision shall be in addition to all other provisions of law requiring such Improvement to be kept in good repair.

(b) Conditions dangerous to life, health or property. Nothing contained in this article shall prohibit the making of necessary construction, reconstruction, alteration, or demolition of any Landmark, Improvement on a Landmark Site, or Improvement within a historic district pursuant to an order of any government agency or pursuant to any court judgment for the purpose of remedying conditions determined to be dangerous to life, health, or property. In such case, no approval from the Commission shall be required.

Sec. 40.486 – Restoring Landmarks

Any damaged structure which has been designated as a Landmark pursuant hereto may be restored in its present location upon recommendation by the Commission and approval of the village board.

Sec. 40.487 – Penalties for violations

Except as otherwise provided, any person who shall violate any provisions of this article, or any rule, regulation, or order made hereunder, upon conviction of the same, shall be subject to a penalty as provided in Sec. 1.102 of this Municipal Code.

SECTION II

Section 40.436(d) of the Municipal Code of the Village of Pewaukee is hereby repealed.

SECTION III

All Ordinances or parts of Ordinances contravening the terms and conditions of this ordinance are hereby to that extent repealed.

SECTION IV

The several sections of this Ordinance shall be considered severable. If any section shall be considered by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the other portions of the ordinance.

SECTION V

This Ordinance shall take effect upon passage and publication as approved by law, and the Village Clerk shall so amend the Code of Ordinances of the Village of Pewaukee, and shall indicate the date and number of this amending Ordinance therein.

PASSED AND ADOPTED by the Village Board of the Village of Pewaukee, this 17 day of September, 2019.

APPROVED

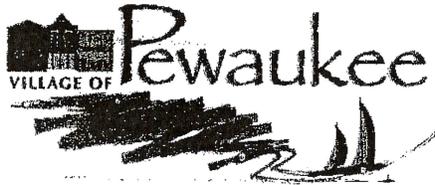


Jeff Knutson, Village President

Countersigned:



Cassie Smith, Village Clerk



HISTORIC LANDMARK NOMINATION FORM

Property Address:

449 W. Wisconsin Ave., Village of Pewaukee

Historic and/or Common Name of Property:

St. Mary's Church

Owner of Property:

Queen of Apostles Catholic Church

Type of Property: (Circle) Home Structure Private or Public Site District

Condition: (Circle) Excellent Good Fair Deteriorated Unaltered

Original Site or Moved - Date of Move: _____

Significance - Period: (Circle)

Prehistoric 1800-1899 or after 1900 Historic Architectural Agricultural

Statement of Historical Significance:

St. Mary's Church exemplifies the cultural, social and religious history of the foundation of Pewaukee. It also has significant architectural value, as it is the only remaining Gothic Revival structure in the Village. St. Mary's is a major visual landmark in the area and we have a responsibility to preserve the church for future generations. The church should also be preserved out of respect for the founders of our community and as an important example of architecture during that period of time.

The State of Wisconsin Historical Society has stated that St. Mary's is most likely eligible for Historic status on the State and Federal registries allowing for generous tax credits as well as Federal grants to be used towards the rehabilitation of the facility.

Contact Name: Jeannette O'Toole

Telephone: (262) 719-3377

Email Address: jsotoole@gmail.com

Date of Submission: 02/10/2020

Return form to address below, **Attn: Historic Landmarks Commission:**

235 Hickory Street
Pewaukee, WI 53072

