

BOARD OF ARCHITECTURAL REVIEW MINUTES

The Board of Architectural Review held its regularly scheduled meeting on, November 6, 2008 at 15 N. Cameron Street, at 4:00 p.m. in Council Chambers, Rouss City Hall.

PRESENT: L Belkin, T Bandyke, M Lore, T Rockwood and C Shore.
ABSENT: P Farris and L Saunders.
STAFF: Diem and Walsh.
VISITORS: Don Crigler, Frank Wright (PHW), Mike Cardinale, and Vivienne Jackson

MINUTES

It was moved by M Lore, seconded by T Bandyke, to the minutes as presented.

Motion passed unanimously 5-0.

CONSENT AGENDA

None

NEW BUSINESS – Public Hearing

BAR 08-89 Request of D.F. Crigler Architects, PC for approval of demolition of a nonconforming, mixed-use building at 319-321 South Kent Street.

Mr. Diem explained that the applicant has filed two separate applications for consideration by the Board of Architectural Review (BAR). The first application identifies a request to demolish the existing two-story structure located at 319-321 South Kent Street. The second application was submitted to introduce the proposed structure that will be built on the subject property, following the demolition of the existing structure.

The applicant made a previous request to demolish an existing structure at 126-128 East Cecil Street, which is immediately adjacent to the subject structure and was located on the same parcel. At the time of request, the BAR considered the proposed new construction of a single-family dwelling. It was later discovered; however, that the size of the parcel could not support the creation of a new single-family dwelling in addition to the existing mixed-use building without obtaining a variance from the Board of Zoning Appeals.

The applicant states within their letter, dated October 2, 2008, that the demolition of 126-128 East Cecil Street revealed evidence of a significant shift in the exterior wall. According to the applicant, the effort and resources necessary to stabilize or repair the faulty foundation at 319-321 South Kent Street would be impractical and cost-prohibitive.

If approved, the applicant will be required to submit an application to the Board of Zoning Appeals regarding certain lot dimensional discrepancies, as well as, a Conditional Use Permit application and Site Plan to the Planning Commission for the proposed two-family dwelling use and occupancy.

Mr. Belkin opened the public hearing.

Mr. Crigler explained that most of the damage was caused by water from lack of guttering among other things. The repair would involve substantial expense before the remodeling could begin.

Mr. Rockwood asked what would be involved and how much it would cost to repair.

Mr. Crigler explained that Kee construction would have to take down 40 -45 linear feet of the two story mason wall, excavate the foundation wall and hand dig the footers all the while using scaffolding and supporting the first floor to the roof. They had planned to renovate the building but can't with the amount of structural damage. The cost would be between \$75,000 and \$150,000 before the renovations were done.

Mr. Bandyke asked if the engineers determined if this is a stone foundation.

Mr. Crigler stated that it is, which was common in the 1920's.

Mr. Bandyke felt that the tree in the back was a major culprit in the foundation damage. It looked like it had gotten worse since the last time it was in front of the Board.

Mr. Crigler explained that the wood frame additions were supporting it. When they were removed, the wall shifted. He is looking for a recommendation from the Board to get the variances from the Board of Zoning Appeals (BZA). He felt the new structure would be more fitting into the historic district than what is there. The duplex is smaller; a 42 x 32 building slid back 5 ft to open up the green space between the property lines, which will provide some landscaping around the building. Architecturally, he tried to emulate what has been there without copying it. They plan to use clapboard siding, keep the porch on the front and side, scale down the dormers, and raise the roof pitch.

Mr. Belkin asked if the Board would see this as a formal presentation at a later date.

Mr. Crigler stated that he would be back with actual materials and a color scheme.

Mr. Lore asked if one of the variances was for the porches.

Mr. Crigler stated that the zoning doesn't match what is in the historic district. Therefore, trying to build something to fit, is very difficult. He ran down the list of variances he is requesting; lot size, lot width, front set back, side yard setback, corner setback, off-street parking and the porch encroachments.

Mr. Belkin asked if there was anyone that wanted to speak.

Frank Wright of Preservation of Historic Winchester (PHW) stated that this structure is important visually and historically. Their preference would be that it be restored but the current state of the structure makes it economically infeasible to repair the foundation and proceed with the renovation. Given the condition of the foundation he reluctantly does not oppose the demolition;

however, he questions what will be done. There is no guarantee that something, if anything will go back there. He understood that the Board cannot require that something be replaced. He urged the Board to impose conditions that what will go back is something that is appropriate to the historic district. He had asked the City Attorney to impose a fine when plans aren't carried out because he believes it is important, however there has been nothing done at this point. Mr. Wright explained that the same owner promised that she would replace the property over a year ago but that hasn't happened and he understands that the foundation was an issue. He felt that there should be some sort of guarantee that what goes back there is what is being proposed. He once again urged the Board to seek whatever is necessary to ensure that promises will be carried out.

Mr. Belkin closed the public hearing.

Mr. Belkin felt it is impossible to discuss the demolition without considering the replacement structure. It benefits the applicant to address the replacement structure with the demolition so the Board doesn't have to look at it as a possible empty lot. It is important to look at it as compensation with losing something and gaining another. He asked if there were any thoughts.

Mr. Bandyke stated that he looked at it on the outside and although 40 ft sounds like a lot its only 5% of the building. Unfortunately it is in a bad position, on a corner. It will be a major inconvenience to fuss with to get back the structural integrity. Inside, it would take a substantial sum of money to restore in addition to the foundation work. He asked if the Board could look at monetary hardships.

Mr. Lore stated that looking for other alternatives is one of the criteria. He felt that in order to address that, the numbers have to be looked at.

Mrs. Shore felt that after seeing the inside and considering the outside damage that safety needed to be addressed. As it stands, it's a hazard.

Mr. Belkin read the guidelines aloud.

Mr. Lore added that the City would condemn it eventually anyway if something isn't done.

The Board systematically examined the criteria that are in the ordinance and the guidelines. He asked that the Board look at the draft motion provided by staff and suggested that a recommendation to the BZA and City Council be added that requests a performance bond be attached to this to enforce the construction of the building.

Mr. Lore felt that since this Board has no authority to impose a bond that he was uncomfortable recommending the others to do it. He stated that idea would be suggested by staff during the public hearing.

Mr. Belkin suggested that a letter be sent urging the condition be imposed.

Mr. Bandyke pointed out that the guidelines for demolition do not stipulate how much time they have to rebuild. He agreed something should be done to hold the builder accountable.

Mr. Diem stated that the Council could impose conditions as part of the CUP, but what those are remains to be seen. He explained that there is no precedent that he is aware of for anything like what is being asked.

Mr. Bandyke stated that he doesn't oppose highlighting the aspect. He thought it would be nice for the City Council to have the caveat from the BAR.

The Board discussed the draft motion provided by staff. It was determined a statement be added recommending their findings.

Mr. Diem explained that within Section 14-12 of the Ordinance it does call out the link between the BZA and the BAR as to giving a recommendation.

Mr. Wright felt that the point of the discussion had been lost. He asked to go on record as to how important it is that something be done to force the applicant to re-build the structure.

Mr. Belkin reiterated that the Board has no authority to impose any conditions requiring a re-build.

It was moved by T Rockwood, seconded by M Lore, to grant a Certificate of Appropriateness for BAR-08-89, the demolition of the existing structure at 319-321 South Kent Street pursuant to Section 14-6-2 of the Ordinance, with the following conditions and amplifications:

1. Demolition shall commence only after a Conditional Use Permit has been granted by the City Council for the construction of a two-family dwelling and requisite lot and off-street parking variances have been granted by the Board of Zoning Appeals; and,
2. The Certificate of Appropriateness shall become null and void immediately upon the disapproval of either the Conditional Use Permit or variance request(s); and,
3. The Certificate of Appropriateness is valid for a period of no longer than one (1) year from this date; and,
4. A demolition permit shall first be obtained from the Building Official, prior to any demolition occurring, the BAR having determined that:
 - a. The existing structure has been determined to create a blighting influence on the surrounding neighborhood in its current deteriorated state; and,
 - b. The scale and character of the proposed structure is more consistent with the streetscape than the existing structure; and,
 - c. That the guidelines for consideration by this Board have been reviewed and it is determined to be in the best interests of the City, the Historic Winchester District, and the surrounding neighborhood to approve this request.
5. The BAR recommends to the City Council and to the BZA that the applicant be granted variances and the conditional use permit sufficient to allow construction of the replacement structure proposed by the applicant. The BAR wishes to emphasis the importance of ensuring the construction of a suitable

replacement structure because of its importance to the streetscape of the neighborhood.

Motion passed unanimously 5-0.

NEW BUSINESS

BAR-08-92 Request of the Winchester Rescue Mission to repair and remodel the building at 414 N. Loudoun St. -

Mike Cardinale, a rescue mission board member explained that he was notified by the City that the building had fallen into a state of disrepair. He had met with Danny Mowery, Code Enforcement Officer, at the building to go over options which are tearing it down or restore it. The mission has been asking for donations in order to restore the building so that it can be used by the mission for training and educational purposes. They plan to stabilize 40 ft of the foundation which will allow them to repair the roof and the brick. At this time there are no utilities in the building. They do plan to add it later along with repairing the windows and doors once more money can be raised. They plan to remove the brick gables and use the bricks to repair the east end doorway. Finally, they want to add a metal roof with an overhang.

Mr. Lore asked why he wanted to remove the brick on the gables.

Mr. Cardinale explained that there are no trusses in this building, it's just stick built. They plan to take off the brick gables and install a wooden top plate to allow for the overhang and to secure the building making it more structurally sound.

Mr. Bandyke stated that it sounds like they are taking the brick gable ends down for construction purposes.

Mr. Belkin asked if the gable ends are stable.

Mr. Cardinale explained that the north end is crumbling. Most of the corners will have to be taken off and repaired.

Mr. Bandyke asked how thick the wall is.

Mr. Cardinale stated that it is two bricks thick and that's all that's in the framing.

Mr. Bandyke explained that it would be more secure with trusses. He stated that he has no problem with it as long as the siding is painted.

Mr. Cardinale stated that 412 N. Loudoun has siding that runs clear to the peak. There is no historical significance in this building.

Mr. Belkin asked how far the roof would project on the gable ends.

Mr. Cardinale stated it would be a one foot overhang with a wood soffit. They want a structurally sound building before the snow starts to fall.

Mr. Bandyke asked if the rafters are in bad shape.

Mr. Cardinale stated that they were damaged by fire. The wood top plate is anchored in by a row of bricks. They plan on removing the row of bricks and taking the roof off as a whole because it's too unstable to take apart. They will use a standing seam gray metal roof.

Mr. Rockwood asked if they planned to change pitch.

Mr. Cardinale stated that there was discussion of taken the upper story down but decided not to.

Mr. Rockwood asked if the brick gable can stay.

Mr. Cardinale stated that he thought the top plate would tie the building together better.

Mr. Belkin stated that the plate can be run on the inside.

Mr. Lore is concerned that the building once restored is going to take on a different appearance than its neighbors.

Mr. Belkin stated that he has no objection to the proposal however he suggested keeping the gables and not having that projection on the ends. He asked if this meeting can be looked at as a session in which suggestions were given and then come back with the final product.

Mr. Cardinale didn't have a problem with that.

Mr. Rockwood asked if there was a cost advantage to removing the gable ends.

Mr. Cardinale stated that the builder recommended taking them off but he isn't opposed to leaving them.

It was moved by M Lore, seconded by C Shore, to table BAR -08-92.

Motion passed unanimously 5-0.

OLD BUSINESS

None

OTHER DISCUSSION

TA-08-08 AN ORDINANCE AMENDING ARTICLE 14 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO EXCLUSIONS IN THE HISTORIC WINCHESTER (HW) DISTRICT

Mr. Lore stated that he remains uneasy seeing the Boards opinion overstepped because they look at the issues differently than Richmond. He felt that there isn't a huge amount of work involved when coming in front of this Board. A lot of the projects are important locally, the Board should have a say.

Mr. Belkin stated that the applicant is only exempt from the Board for elements that are proposed for change. He explained that it's his understanding that if a house applied for tax credits and wanted to change these certain things then those would only need to be reviewed in Richmond. But, if you changed anything other than those elements or dropped from the tax credit program altogether you would be creating a zoning violation and would have to come to the BAR.

Mr. Diem stated that is accurate.

Mr. Belkin stated that he was afraid this would provide a back door by allowing someone to apply for tax credits and then change the design or use of materials during construction. He suggested adding, that in any case these applications be submitted to the BAR for review - without comment. In his opinion, this text amendments is solving a problem that doesn't need solving.

Mr. Rockwood asked what would happen to a building that was under construction when the tax credit was abandoned. He asked what would be the triggering mechanism to alert the Board.

Mr. Belkin stated that it would be up to the building official to determine that the changes are allowed however he will be basing it on the building code which would allow much more than would be admissible.

Mr. Rockwood is concerned about the possibility that a case comes before the BAR after the tax credit has been abandoned that is completely wrong by BAR guidelines, which would have never been approved. It puts the Board in a terrible position because there was no trigger giving the applicant advance notice that they may not be able to have whatever it is. There is nothing that will trigger the City to the fact that the tax credit had been abandoned. It wouldn't be until an inspector labeled it as a non-conforming structure that it would make its way back to the BAR with possible great expense to the applicant.

Mr. Belkin stated that in the process an applicant is automatically given part 1 approval if they live in the historic district, part 2 is given after the plans are reviewed carefully, but the actual tax credit isn't approved until after the work is done.

Mr. Rockwood stated that at that point all the state can do is deny the tax credit, that they aren't interested in enforcing the historic guidelines.

Mr. Belkin stated that it isn't so different from owners just doing what they want now but this does provide an alternate road to get a building permit. The building official doesn't enforce historic guidelines.

Mr. Lore stated that this is going to cause public relations problems from an amount of uncertainty. He felt the BAR should at least be alerted to these projects to be informed in case it does come to the BAR. He agrees that it is a problem that doesn't need fixing.

ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 6:05 pm.