

City Staff's response to the applicant's February 5, 2025 letter [Attachment 2] appealing to City Council the Board of Architectural Review's ("BAR") January 22, 2025 denial of a certificate of appropriateness ("CoA") for demolition of the single-story, wood framed structure at 144 Chancellor Street (BAR #HST25-0055).

Throughout this Response, references to "Staff" represent the collective positions of the BAR, the City's Preservation and Design Planner, and the City Attorney's Office.

Referenced material from the July 16 2013 and the January 22, 2025 CoA requests are at:

[144 Chancellor Street Demo CoA - BAR July 2013](#)

[144 Chancellor Street Demo CoA - Appeal to City Council October 2013](#)

[144 Chancellor Street Demo CoA - BAR review January 22 2025](#)

Referenced City Code sections are included in the Appendix to this Response.

## **EXECUTIVE SUMMARY OF STAFF'S RESPONSE**

This appeal has been taken by the owner of 144 Chancellor Street, the property that is the subject of this appeal. For the reasons stated below (within specific responses to each of the Appellants' separate contentions), Staff's position is that the concerns expressed by the Appellant do not provide a basis for the BAR to approve a CoA for demolition the standards set forth within Chapter 34 (Zoning) Section 5.2.7. D.1.b.

Per City Code Chapter 34, Section 5.2.7.E.1.d.: "City Council must consider the appeal, consider the BAR's position communicated in this Response as the "Staff Response"), and City Council may consider any other information, factors or opinions it deems relevant to the application. City Council should make a final decision on the application and should not refer the matter back to the BAR.

### **Staff Response to Appellant's Contentions**

Appellant item 1: *The following is an analysis of the standards concluding demolition of the structure satisfies the BAR's criteria and guidelines:*

Item 1a: *A professional economic and structural feasibility study for rehabilitating the structure was previously performed, and its findings support the proposed demolition.*

Staff Response: On this item, staff does not suggest the BAR questioned or challenged the information provided by the applicant, only that while the expert analyses support demolition, it also presented repair options to mitigate the deteriorated condition of the structure.\* That is, the analyses do not conclude demolition as the only viable option. The BAR did not refute the recommendation of demolition as an option, but responded with a preference for the recommended repairs as a remedy. (\* Reference to the analyses presented for the 2013 request and for the 2025 request.)

The demolition request reviewed by the BAR in 2013 included a report of Dalglish Gilpin Paxton Architects (DGP) stating “a professional economic and structural feasibility study for rehabilitating or reusing the structure has been performed, and supports the proposed demolition.” This information was included in the January 22, 2025 staff report via links to 2013 review. (See DGP letter to BAR staff, dated June 25, 2013.)

However, when this request for a demolition CoA was presented to the BAR on July 16, 2013, to City Council, on appeal, on October 21, 2013, and again to the BAR on January 22, 2025, each time the decision was to deny the requested CoA.

It is worth noting that the two reports attached to the DGP letter of June 15, 2013, while acknowledging the deteriorated conditions, both identified repair options that would mitigate those conditions. Additionally, the engineer’s report submitted to the BAR in January 2025 (by the same firm who examined the structure in 2010) reiterates the ongoing deterioration of the structure, yet also refers to repairs in lieu of demolition.

Additionally, the 2013 DGP letter concluded demolition was supported due to the “absence of significant historic materials” and the “absence of distinguishing characteristics and materials, and absence of historic significance.” These conclusions were not supported by the BAR.

Item 1b: The building is in a state of structural failure, unsound for any form of occupancy, with structural rehabilitation determined to be infeasible.

Staff Response: Expert analyses demonstrated that without extensive improvements, the structure will continue to deteriorate and subsequently recommended against use or occupancy, noting the costs for the needed repairs would “likely [be] a significant fraction of a complete replacement of the building.” (See Dunbar report, dated January 31, 2025.)

The appellant determined rehabilitation is not feasible. From the CoA applicant’s comments to the BAR, January 22, 2025: “The previously projected cost estimate in 2013 to bring the building systems into compliance with current technology, efficiency, and structural soundness was estimated at \$625,000, which would be considerably more factoring in today’s costs. These costs far exceed our value of the building in its current form and functionality. [...] the building has been deemed unsafe and is currently uninhabitable. We no longer have an intended use for the structure and are respectfully asking for your understanding and consideration to allow its safe demolition and removal.”

The BAR did not refute this statement; it concluded demolition was not the only viable option available.

Item 1c: *The building is not associated with a historic person, architect or master craftsman or with a historic event.*

Staff Response: Staff concurs, in that the information reviewed did not indicate any associations. In brief, it is not known who attended this school and/or if any prominent individuals or events are associated with the school.

Item 1d: *The architectural character of the building is quite common and utilitarian, a vernacular frame cottage and does not represent an infrequent or first or last remaining example within the city of a particular architectural style or feature.*

Staff Response: Architecturally, the vernacular style and framed-construction are not unique; however, staff is not aware of any other extant, single-story (or multi-story), framed, one-room schoolhouses in the City.

Item 1e: *Distinguishing characteristics, qualities, features and materials have been destroyed or heavily obscured by past removals and renovations.*

Staff Response: Wood siding is evident beneath the current aluminum siding and no evidence suggests the original or historic siding and exterior trim were removed. The windows appear original.

From the January 22, 2025 BAR staff report: “The simple design of the schoolhouse has been retained. The footprint and openings appear original. The building has been remodeled, including the addition of siding, and reconstruction of the entrance porch, in the same size as the original, which appears to have been added between 1913 and 1920.”

Appellant item 2: *The BAR ruling that the proposed demolition does not satisfy the BAR's criteria and guidelines focused on contrary aspects as evidenced by BAR members' discussion during the January 22 hearing:*

Item 2a: *The current structural failure resulted from the owner failing to maintain the structure over time. Permitting demolition at this time would represent "demolition through neglect."*

Staff Response: This is correct. The BAR concluded the owner bears responsibility for the deteriorated condition of the structure. This was consistent with the conclusions reached by the BAR and City Council in 2013.

BAR, July 16, 2013, review of CoA request:

- Mr. Hogg: “... the owner was able to use the property for 24 years, then allowed it to sit vacant for ten--intentional or no--is an essay in demolition by neglect.”

- Mr. Mohr: “The foundation has been failing for a while, and could be addressed. It is a specious argument that the building is now ready to be torn down.”
- Mr. Adams: “[the structural report] indicates a demolition by neglect situation.”
- Mr. Sarafin: “... the length of ownership and the delayed maintenance – termite damage for example, is absolutely part of a normal maintenance schedule for a building – were problematic.”

City Council, October 21, 2013, review of appeal:

- Mr. Adams (BAR chair presenting to City Council): “... allowing this property to be demolished sets a dangerous precedent of demolition by neglect and [incentivizes] owners not to maintain property. The structural state of the building points to lack of maintenance on the part of the owner, who has owned the building for 34 years.”
- Ms. Smith: “... demolition by neglect is disturbing.”
- From the approved motion to deny the CoA: “... and the owner’s lack of building maintenance given the length of time of ownership.”

BAR, January 22, 2025, review of CoA request:

- Ms. Lewis: “There is no doubt that there is degradation. Are you trying to demolish this by neglect? That report is 15 years old. If you are telling me that you have done no work on that bowing brick foundation wall and done nothing in this earthen foundation and other structural issues that you are citing, that works against your application for demolition. You cannot just let a building fall. We have a duty, especially with a historic building, to maintain things. You are saying that the roof is the only thing you have done in 15 years.”
- Mr. Zehmer: “The applicant is pursuing demolition by neglect.”

Item 2b: *The original brief use of the building as a non-public school represents a historically significant period during the early 20th Century.*

Staff Response: This is correct. From the January 22, 2025 BAR meeting minutes:

- Ms. Lewis: “[This] might be the last remaining example of that type of building.”
- Mr. Schwarz: “Ideally what would happen is that some student group or someone sees it as a community space, sees the value in it as a historic school building...”

Additionally, both the NRHP nomination and the City’s historical survey of this property identify the structure was originally built for and used as a schoolhouse. [The property’s history is summarized in the January 22, 2025 BAR staff report.]

Appellant item 3: *This appeal contests the BAR positions as follows. The structural failure of the Delta Zeta Annes resulted from the following factors:*

- *Insufficient engineering at the time of initial construction.*
- *Lateral earth forces in excess of the structure's design applied for long periods of time.*
- *Compound failures of multiple structural systems, resulting in building displacement, triggering further and prolonged failures.*
- *Lateral earthquake forces (2012) compounding the instability of an already unsound structure.*
- *120 years of locomotive and railway traffic vibrations further contributing to the degradation of the underlying inferior foundational elements of the building.*

Staff Response: The BAR did refute these as factors contributing to the deterioration of the structure. The BAR's position is that these factors do not preclude the necessary maintenance and repairs.

Appellant item 4: *The structural failure of the Delta Zeta Annex did not result from neglect or lack of maintenance on behalf of the owner.*

Staff Response: In its evaluation, the BAR concluded otherwise. (This same conclusion was reached by the BAR in July 2013 and City Council in October 2013, when both denied the requested demolition CoA.)

Appellant item 5: *The owner of the historic building should perform reasonable routine maintenance and service to sustain the building in a state of utility. DZ-NHC demonstrated good stewardship of the Annex by replacing the asphalt shingle roof in January of 2011 following storm damage. However, the structural failure issues have been present in the building for years, dating to before DZ-NHC ownership of the Annex in 1979. After a comparative analysis of recent and previous engineering reports, the exact extent of the structural failure, continued degradation of the foundation and movement of the building down the slope is clear. The scope and cost of structural failure of this nature exceeds any reasonable expectation of building maintenance and service.*

Staff Response: Staff does not refute the applicant's conclusion that it would be costly to complete the necessary repairs.

Appellant item 6: *The BAR ruling asserted the apparent use of the Annex as a school may provide some historical or cultural value. Although the building is located within a designated historic district, there is no association of the Annex with a particular historic person, architect or master craftsman or with a historic event. With vague and tenuous connections to historical references, this appeal assigns a minimal historical and cultural value to the Annex. The lack of extant significant architectural details and design does not support meritorious status.*

Staff Response: The BAR did not assert, or even assign, the historical or cultural values of the structure, these were already established by the VLR/NRHP designations and by the City designating a *contributing structure* within an ADC District. The BAR is charged by City Council to "administer the provisions of the Architectural Design Control (ADC) Districts." The provisions for reviewing a request to raze a contributing structure within an ADC District are established by the City Code. On January 22, 2025,

in applying those review criteria, the BAR determined “the proposed demolition of 144 Chancellor Street does not satisfy the BAR’s criteria and its guidelines and [the proposed demolition] is not compatible with this property and other properties in The Corner ADC District.”

*Appellant item 7: In conclusion, the case for rehabilitation of any historic structure must find a balance between historical and cultural value, potential utility of the structure in the future and the feasibility of rehabilitation including structural and economic requirements. There is minimal historical and cultural value in the Annex, and the building itself has exceeded the original intended lifespan of its simple, vernacular frame construction. The extant structural failures, through no fault or neglect of the owner, have overwhelmed the feasibility of rehabilitation. Therefore, this appeal finds the proposed demolition of the structure at 144 Chancellor Street satisfies the BAR's criteria and guidelines and is eligible for the Certificate of Appropriateness for Demolition.*

**Staff Response:** The BAR’s purview for demolitions is specifically limited to the City Code provisions under Chapter 34, Section 5.2.7. D.1.b. Those criteria were applied in the BAR’s vote to deny the requested demolition CoA. However, on an appeal City Council may consider “any other information, factors, or opinions it deems relevant to the application.”

The BAR’s evaluation does not require a determination whether the historical or cultural value of a structure is of minimal or maximal. The historical and cultural value of this c1905, single-story, framed, former schoolhouse has been established by the City (2003), state (1983), and federal (1984) designations. In short, like a hand-made quilt, a historic district is the sum of its parts. While some elements are more prominent than others, the value of a historic district derived from the collective contributions of all its elements.

## Appendix: Referenced City Code Sections

### **2.9.2. Architectural Design Control District (-ADC)**

#### **A. Intent**

The City of Charlottesville seeks, through the establishment of historic districts and through the designation of individually significant properties, to protect community health and safety, to promote the education, prosperity and general welfare of the public through the identification, preservation and enhancement of buildings, structures, landscapes, settings, neighborhoods, places and features with special historical, cultural and architectural significance. To achieve these general purposes, the City seeks to pursue the following specific purposes:

1. To preserve and protect buildings, structures and properties which serve as important visible reminders of the historic, cultural, and architectural or archaeological heritage of the City, the Commonwealth of Virginia, or this nation;
2. To ensure that, within the City's historic districts, new structures, additions, landscaping and related elements will be in harmony with their setting and environs;
3. To promote local historic preservation efforts through the identification and protection of historic resources throughout the City;
4. To document and promote an understanding of the social history of City neighborhoods, and to protect their cultural institutions;
5. To maintain and improve property values by providing incentives for the upkeep, rehabilitation and restoration of older structures in a safe and healthful manner, and by encouraging desirable uses and forms of development that will lead to the continuance, conservation and improvement of the City's historic, cultural and architectural resources and institutions within their settings; and
6. To promote tourism and enhance business and industry, and to promote an enhanced quality of life within the City, through protection of historic, cultural and archaeological resources.

#### **B. Established Architectural Design Control Districts**

The following areas have been determined by City Council to be of unique architectural or historic value, and are hereby designated as Architectural Design Control (ADC) Districts, the limits of which are shown on the City's zoning map. City Council has designated only certain buildings within these districts as "contributing structures." Those contributing structures are identified on a map included within the design guidelines for each district.

[...]

#### **6. Corner Architectural Design Control District**

#### **C. Additions to and Deletions from Architectural Design Control Districts**

1. City Council may, by ordinance, from time to time, designate additional properties and areas for inclusion within an ADC District or remove properties from a ADC District. Any such action will be undertaken following the rules and procedures applicable to the adoption of amendments to the City's Development Code and official zoning map.

2. Prior to the adoption of any such ordinance, the City Council will consider the recommendations of the Planning Commission and the Board of Architectural Review (BAR) as to the proposed addition, removal or designation. The Planning Commission and BAR will address the following criteria in making their recommendations:
  - a. The historic, architectural or cultural significance, if any, of a building, structure or site and whether it has been listed on the National Register of Historic Places or the Virginia Landmarks Register, or are eligible to be listed on such registers;
  - b. The association of the building, structure or site with an historic person or event or with a renowned architect or master craftsman;
  - c. The overall aesthetic quality of the building, structure or site and whether it is or would be an integral part of an existing ADC district;
  - d. The age and condition of a building or structure;
  - e. Whether a building or structure is of old or distinctive design, texture and material;
  - f. The degree to which the distinguishing character, qualities or materials of a building, structure or site have been retained;
  - g. Whether a building or structure, or any of its features, represents an infrequent or the first or last remaining example of a particular detail or type of architecture in the City;
  - h. Whether a building or structure is part of a geographically definable area within which there exists a significant concentration or continuity of buildings or structures that are linked by past events or, aesthetically, by plan or physical development, or within which there exist a number of buildings or structures separated geographically but linked by association or history.
3. Before an area is designated as an ADC District, each structure will be determined to be either “contributing” or “non-contributing.” This determination will be reconfirmed at least once every 15 years.

#### D. Certificate of Appropriateness

A Certificate of Appropriateness is required for certain projects in ADC Districts in accordance with 5.2.6. Minor Historic Review and 5.2.7. Major Historic Review.

### **5.1.5. Board of Architectural Review**

#### C. Authority

##### 1. General

- a. In order to administer the provisions of the Architectural Design Control Districts and Individually Protected Properties the Board of Architecture Review (BAR) must:  
[...]
- v. Develop and recommend to the City Council for its approval design guidelines for the City’s ADC Districts, consistent with the purposes and standards set forth in Div. 2.9. Overlay Districts. The BAR must develop the design guidelines after seeking input from business and property owners in the various districts. Guidelines developed by the BAR will become effective upon approval by City Council and thereafter will have the status of interpretive regulations. The BAR must undertake a comprehensive review and update the design guidelines at least once every 5 years.

## 2. Approval Authority

The Board of Architectural Review is responsible for final action regarding:

- a. Certificates of Appropriateness under Major Historic Review; [...]

### **5.2.7. Major Historic Review**

#### A. Applicability

Major Historic Review is required to receive a Certificate of Appropriateness for the following project activities on any property located in an Architectural Design Control (ADC) District [...]:

- 1. Architectural Design Control District and Individually Protected Property In an ADC District and for an IPP, Major Historic Review for a Certificate of Appropriateness is required for the following exterior activities:
  - [...]
  - c) Relocation, removal, encapsulation, or demolition in whole or in part of a contributing structure in an ADC District or an IPP.

#### C. Review and Decision Process

[...]

#### 2. Board of Architectural Review Decision

- a. In considering a particular application the BAR will approve the application unless it finds:
  - i. That the proposal does not meet specific standards set forth within this Section or applicable provisions of the City's design guidelines; and
  - ii. The proposal is incompatible with the historic, cultural or architectural character of the district in which the property is located or the IPP that is the subject of the application.
- b. The BAR will approve, approve with conditions, or deny applications for Certificates of Appropriateness in accordance with the provisions of this Section.
- c. The BAR, or City Council on appeal, may require conditions of approval as are necessary or desirable to ensure that any new construction or addition is compatible with the scale and character of the Architecture Design Control District, Individually Protected Property, or Historic Conservation District. Prior to attaching conditions to an approval, due consideration will be given to the cost of compliance with the proposed conditions as well as the goals of the Comprehensive Plan. Conditions may require a reduction in height or massing, consistent with the City's design guidelines and subject to the following limitations: [not germane]
- d. Demolition: The BAR, or City Council on appeal, may make such requirements for, and conditions of approval as are necessary or desirable to protect the safety of adjacent buildings, structures, or properties, and of any persons thereon; and, in case of a partial removal, encapsulation or demolition:
  - i. To protect the structural integrity of the portions of a building or structure which are to remain following the activity that is the subject of a building permit; or
  - ii. To protect historic or architecturally significant features on the portions of a building or structure which are to remain following the activity that is the subject of a building permit.

#### D. Criteria for Review and Decision

##### 1. Architectural Design Control District and Individually Protected Property

[...]

b. Review is limited to following factors in determining whether or not to permit the moving, removing, encapsulation or demolition, in whole or in part, of a contributing structure or IPP:

- i. The historic, architectural, or cultural significance, if any, of the specific structure or property, including, without limitation:
  - a) The age of the structure or property;
  - b) Whether it has been designated a National Historic Landmark, listed on the National Register of Historic Places, or listed on the Virginia Landmarks Register;
  - c) Whether, and to what extent, the building or structure is associated with an historic person, architect or master craftsman, or with an historic event;
  - d) Whether the building or structure, or any of its features, represent an infrequent or the first or last remaining example within the City of a particular architectural style or feature;
  - e) Whether the building or structure is of such old or distinctive design, texture, or material that it could not be reproduced, or could be reproduced only with great difficulty; and
  - f) The degree to which distinguishing characteristics, qualities, features, or materials remain;
- ii. Whether, and to what extent, a contributing structure is linked, historically or aesthetically, to other buildings or structures within an existing applicable District, or is one of a group of properties within such a district whose concentration or continuity possesses greater significance than many of its component buildings and structures.
- iii. The overall condition and structural integrity of the building or structure, as indicated by studies prepared by a qualified professional engineer and provided by the applicant, or other information provided to the BAR;
- iv. Whether, and to what extent, the applicant proposes means, methods or plans for moving, removing, or demolishing the structure or property that preserves portions, features, or materials that are significant to the property's historic, architectural, or cultural value; and
- v. Any applicable provisions of the City's design guidelines.