

ARCHITECTURAL REVIEW BOARD MINUTES
November 18, 2009 – 3:00 P.M.
Pre-Council Chambers, Mobile Government Plaza, 205 Government Street

A. CALL TO ORDER

1. The Chair, Jim Wagoner, called the meeting to order at 3:02.
2. Keri Coumanis, MHDC Staff, called the roll as follows:
 - Members Present:** Gertrude Baker, David Barr, Bill James, Tom Karwinski, Bradford Ladd, Harris Oswalt, Craig Roberts, and Jim Wagoner.
 - Members Absent:** Carlos Gant, Kim Harden, Janetta Whitt-Mitchell, and Barja Wilson.
 - Staff Members Present:** Devereaux Bemis, Cart Blackwell, and Keri Coumanis.
3. Mr. Oswalt moved to approve the minutes of the 2009 meeting. The motion received a second and passed unanimously.
4. Mr. Oswalt moved to approve the midmonth COAs granted by Staff. Mr. Karwinski voted in opposition.

B. MID MONTH APPROVALS: APPROVED

1. **Applicant: Melissa Rankin**
 - a. Property Address: 312 Joachim Street
 - b. Date of Approval: 10/29/09
 - c. Project: Repair and Replace windows to match the originals. Repair and replace fascia, siding, and spindles to match the existing. Power wash and paint the house (color scheme to be submitted at a later date).
2. **Applicant: Stephen Carter**
 - a. Property Address: 453 Conti Street
 - b. Date of Approval: 10/26/09
 - c. Project: Remove two sections of wooden fencing. Install a metal framework to be configured so that it will be no taller than the eaves of the house or the top of the rear brick wall. The metal framework will be covered in a material awning to be submitted. Install a new porch ceiling. Applicant may replace the porch ceiling with either a flush paneled or tongue-and-groove ceiling. No work is to be visible off the property.
3. **Applicant: Jimmy Sauter for the owner**
 - a. Property Address: 16 Hannon Avenue
 - b. Date of Approval: 10/28/09
 - c. Project: Install handrails on the front porch between the columns, per submitted drawing. Install a third column equidistant between the two other columns. The column is to match the existing in material, size, dimension, and profile.
4. **Applicant: Margaret Rushing**
 - a. Property Address: 1106 Selma Street
 - b. Date of Approval: 10/28/09
 - c. Project: Repair woodwork and repaint house. The body will be Sycamore Tan. The trim will be white. The porch and shutters will be dark green. The door will be dark red. Replace the door with wooden Victorian door with glass salvage.
5. **Applicant: Barry Wiseman**
 - a. Property Address: 106 Bush Avenue
 - b. Date of Approval: 10/27/09
 - c. Project: Reroof house with 3-tab asphalt shingles. Repair and replace the tongue-and-groove decking on the front porch. All work is to match the existing in profile, dimension, and material. Paint work to match the existing color scheme.

- 6. Applicant: Steve Connor**
 - a. Property Address: 329 McDonald Avenue
 - b. Date of Approval: 11/02/09
 - c. Project: Reroof house with rustic black architectural shingles. Repair and replace siding. The work is to match the existing in profile, dimension, and material. Paint work to match existing.
- 7. Applicant: Jonathan Dewitt**
 - a. Property Address: 1008 Savannah Street
 - b. Date of Approval: 0//09
 - c. Project: Construct a deck measuring 8' by 16' square enclosed by the plain MHDC stock balustrade. Paint body of house sage green. Paint trim cream. Paint window casing dark red (all from Devoe Paints). Install a three foot picket fence which continues neighbor's fence. The fencing is to follow the submitted plan. A single wooden gate matching the design of the fencing will extend across the front walk. A double gate will terminate the driveway.
- 8. Applicant: Joseph Lohfink, III**
 - a. Property Address: 304 Breamwood Avenue
 - b. Date of Approval: 11/03/09
 - c. Project: Install a four foot aluminum fence. The fence will extend 38' along the southern and northern sides of the lot and across the front of the lot. An arched gate will extend over the entrance walk. Install a four foot wooden picket fence between the existing south lot line fence and the aluminum fence.
- 9. Applicant: Coleman Mills**
 - a. Property Address: 351 George Street
 - b. Date of Approval: 11/03/09
 - c. Project: Reinstall the entry awning per submitted plan.
- 10. Applicant: David Koen**
 - a. Property Address: 151 South Dearborn Street
 - b. Date of Approval: 11/05/09
 - c. Project: Repair and replace rotten woodwork to match the existing in profile, dimension, and material. Repoint brickwork. Paint house to match the existing color scheme.
- 11. Applicant: David Koen**
 - a. Property Address: 962 Palmetto Street
 - b. Date of Approval: 11/05/09
 - c. Project: Reissue of a Certificate of Appropriateness from December 12, 2007 – Undertake repair work on the main house and garage apartment The work will include the following “Repair rotten wood as necessary with new wood to match the existing in profile and dimension. Repair windows to match the existing. Paint the exterior to match the existing color scheme.”
- 12. Applicant: Susan Gardener**
 - a. Property Address: 1665 Lamar Street
 - b. Date of Approval: 11/05/09
 - c. Project: Paint the windows and door Sherwin Williams Thunder Gray, 7645.

C. APPLICATIONS

1. 123-09: 2313 Spring Hill Avenue (216 Levert Avenue)
 - a. Applicant: Lucy Barr for Raymond and Maureen Clark
 - b. Project: Addition.
APPROVED; CERTIFIED RECORD ATTACHED.
2. 124-09: 1711 Hunter Avenue
 - a. Applicant: Ioannis & Cheryl Zafiris
 - b. Project: Addition; Porch Extension.
APPROVED IN PART; DENIED IN PART; CERTIFIED RECORD ATTACHED.
3. 125-09: 701 Dauphin Street
 - a. Applicant: Nicholas H. Holmes, III for Todd Drummond
 - b. Project: Post Construction Approval.
APPROVED AS AMENDED. CERTIFIED RECORD ATTACHED.
4. 126-09: 1255 Dauphin Street
 - a. Applicant: Bebe Lindsey for the Alabama School of Math and Science
 - b. Project: Fencing Approval.
APPROVED. CERTIFIED RECORD ATTACHED.

D. OTHER BUSINESS

1. Guidelines
2. Midmonth Approvals
3. Discussion

APPLICATION FOR A CERTIFICATE OF APPROPRIATENESS
CERTIFIED RECORD

123-09-CA: 2313 Spring Hill Avenue (216 Levert Avenue)
Applicant: Lucy Barr for Raymond and Maureen Clark
Received: 11/02/09
Meeting: 11/18/09

INTRODUCTION TO THE APPLICATION

Historic District: Ashland Place
Classification: Contributing
Zoning: R-1
Project: Addition.

BUILDING HISTORY

Situated on a large landscaped parcel of land, this two-story Spanish Colonial Revival house was constructed in 1925. The house features stuccoed eaves and wooden rafter tails.

STANDARD OF REVIEW

Section 9 of the Preservation Ordinance states “the Board shall not approve any application proposing a Material Change in Appearance unless it finds the change...will not materially impair the architectural or historic value of the building, the buildings on adjacent sites or in the immediate vicinity, or the general visual character of the district...”

STAFF REPORT

- A. The applicant first submitted a proposal for this property on February 4, 2009. That application was tabled in order to convene a Design Review Committee and to allow for clarifications of the then-current proposal. A Design Review Committee was not convened at that time. The applicant returned with an alternate proposal for the addition, which provides for a master suite and laundry room. The main entrance to the house is on Spring Hill Avenue; thus, the facade faces Spring Hill Avenue. However, the home is situated on a corner lot in the Ashland Place subdivision and accordingly the owner (as well as the prior owner) accesses the home through a circular drive and side entrance on Levert Avenue. The proposal called for a northeast addition that would alter the original, historic façade of the home; albeit the change would only be minimally visible from the Levert Avenue elevation. The body of the addition cannot be further setback from the main façade because of an existing swimming pool. On June 22, 2009, a Design Review Committee convened on site. The applicant submitted an altered proposal that incorporated suggestions made in the course of the meeting, including a regularized fenestration pattern on the north elevation and an overall reduction in height for the main block of the addition. The application appeared before the Board at the July 15, 2009 meeting. The application was denied. The applicants meet with Staff. Subsequently, they presented a preliminary proposal to the Board. A second Design Review Committee was held on September 23, 2009. The applicants altered resubmission reflects recommendations voiced during the meeting. The connecting hyphen has been further recessed from the main façade. Design details, finishes, and materials are based on those of the house.
- B. The Design Guidelines for Mobile’s downtown commercial buildings, state, in pertinent part:
 - 1. “The goal of new construction should be to blend into the historic district, but to avoid creating a false sense of history.”

2. “New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.”
3. “New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.”

C. Scope of Work:

1. Construct an addition from the east side of the house (per submitted plans).
2. A 13’ x 16’ hyphen and a 33’ 6” x 23’ 4” block comprise the addition.
3. The hyphen is situated 11’ 8” back from the façade of the house (Spring Hill/North Elevation).
4. The stucco walls of the addition will match those of the main body of the house.
5. The clay roofing tiles will match those on the main body of the house.
6. The windows and sills will match those on the main body of the house.
7. A truncated hipped surmounts the body of the addition block.
8. North Elevation
 - A. The North Elevation features a recessed and windowless hyphen.
 - B. The body of the addition block features a centrally placed advanced bay with a horizontal window band and a hipped roof.
 - C. Blind windows flank the advanced bay
9. East Elevation
 - A. The East elevation features two sixteen light casement windows and one eight light casement window.
10. South Elevation
 - A. The hyphen features a bank of four 18 light French doors which access a landing (The innermost doors are fixed.).
 - B. Two pairs of double French doors occupy the western bays of the addition’s main block.
 - C. A projecting bay featuring casement window units and a hipped roof occupies the northern bay of the addition’s main block.

STAFF ANALYSIS

According to the Secretary of the Interior’s Standards for Historic Rehabilitation, additions to historic structures should be differentiated from yet compatible to the existing building. The addition to 2313 Spring Hill Avenue has appeared before the Board several times. Previously, the Board voiced concerns regarding the addition’s size, massing, height, and placement. As currently proposed, a recessed and blind hyphen would provide transition from the house’s Spring Hill Avenue façade to the main body of the addition. The design borrows architectural features, forms, and finishes from the main building. Staff does not believe this application impairs the architectural or historical character of the building or the district. Staff recommends approval of this proposed addition.

PUBLIC TESTIMONY

Lucy Barr was present to discuss the application.

BOARD DISCUSSION

The board discussion took place concurrently with the public testimony. Mr. Wagoner asked Ms. Barr if she had any comments to add or clarifications to make to the Staff Report. Ms. Barr answered no. Mr. Karwinski said he had one comment. He told Ms. Barr that the proposed addition's north elevation is essentially a blank surface without true fenestration. Mr. Karwinski said he did not think the proposed wall treatment was appropriate for Spring Hill Avenue. Ms. Barr responded saying the north elevation's fenestration was a result of previous conversations and meetings with Staff and the Board. She said the treatment of the north elevation was intentionally played down so as not to compete with façade of the main house. Ms. Barr said she wanted the proposed addition to read as such. Mr. Wagoner asked if there was anyone in the audience to speak to this application. A gentleman from the audience raised his hand saying he just realized he was a neighbor to the proposed addition. The gentleman said he had no problem with addition or its design. .

FINDING OF FACT

Mr. Roberts moved that, based upon the evidence presented in the application and during the public testimony, the Board finds the facts in the Staff report as written.

The motion received a second and was approved. Mr. Karwinski voted in opposition.

DECISION ON THE APPLICATION

Mr. Roberts moved that, based upon the facts adopted by the Board, the application does not impair the historic integrity of the district or the building and that a Certificate of Appropriateness be issued. Mr. Karwinski voted in opposition

Certificate of Appropriateness Expiration Date: 11/18/10

APPLICATION FOR A CERTIFICATE OF APPROPRIATENESS
CERTIFIED RECORD

0124-09-CA: 1711 Hunter Avenue
Applicant: Ioannis & Cheryl Zafiris
Received: 11/02/09
Meeting: 11/18/09

INTRODUCTION TO THE APPLICATION

Historic District: Old Dauphin Way
Classification: Contributing
Zoning: R-1
Project: Addition and Porch Construction.

BUILDING HISTORY

This Colonial Revival house dates from circa 1930. Georgian notions of symmetry and Federal design features distinguish the design.

STANDARD OF REVIEW

Section 9 of the Preservation Ordinance states “the Board shall not approve any application proposing a Material Change in Appearance unless it finds the change...will not materially impair the architectural or historic value of the building, the buildings on adjacent sites or in the immediate vicinity, or the general visual character of the district...”

STAFF REPORT

- A. This property has never appeared before the Architectural Review Board. The applicants propose the construction of a rear side addition which would not be visible from the street as well as a six foot expansion of the original front porch.
- B. The Secretary of the Interior’s Standards for Historic Rehabilitation and the Design Review Guidelines for Mobile’s Historic Districts state, in pertinent part:
 - 1. “The goal of new construction should be to blend into the historic district, but to avoid creating a false sense of history.”
 - 2. “New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.”
 - 3. “New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.”
 - 4. “The porch is an important regional characteristic of Mobile architecture. Historic porches should be maintained and repaired to reflect their period. Particular attention should be paid to handrails, lower rails, balusters, decking, posts/columns, proportions and decorative details.”
 - 5. “The form and shape of the porch and its roof should maintain their historic appearance. The materials should blend with the style of the house.
- C. Scope of Work:
 - 1. **Project I** - Construct a one-story addition off the southeast corner of the rear elevation.

- A. The proposed addition measures 20' x 8."
 - B. Brick foundation piers, interspersed with framed and suspended lattice skirting, will support the addition.
 - C. The walls will be clad with siding to match the existing siding in profile, dimension, and material.
 - D. The rafter tails will match the existing.
 - E. A flat roof (slightly raked to the south) will cover the addition.
2. Project II – Extend the front porch.
- A. Extend the front the front porch 3' or 4' to either side of the existing columns.

Clarifications

- 1. Project II
 - A. What are of the materials and the design of the proposed porch expansion?

STAFF ANALYSIS

Project I

The proposed addition to 1711 Hunter Avenue will be utilized as a closet. The windowless addition would be located at the southeast corner of the rear elevation. Landscaping features and an enclosed porch shield the addition from the vehicular and the pedestrian view. The foundation treatment, wooden siding, and eave detailing will match the existing. Staff does not believe this application impairs the architectural or historical integrity of the house or the district. Staff recommends approval of this application.

Project II

This facade of this Colonial Revival house remains intact. The façade features a small entry porch. An enclosed side porch (east elevation) once served as the house’s outdoor living space. In accordance with B4 and B5, alteration of the historic facade would impair the architectural character of the house and the district. Staff does not recommend approval of the porch.

PUBLIC TESTIMONY

No one was present to discuss the application.

BOARD DISCUSSION

Mr. Wagoner asked Staff if this was a two part application and if so could there be a two part ruling. Mr. Blackwell answered yes. Ms. Baker addressed the Staff Clarifications. Mr. Wagoner said that based on the requirements set by the Guidelines and the absence of plans, he agrees with Staff’s recommendations.

FINDING OF FACT

Mr. Oswalt moved that, based upon the evidence presented in the application and during the public testimony, the Board finds the facts in the Staff Report, amending the Staff Report to allow the construction of Project I, but not Project II.

The motion received a second and was unanimously approved.

DECISION ON THE APPLICATION

Mr. Roberts moved that, based upon the facts as amended by the Board, that Project I of the application does not impair the integrity of the district or building and that a Certificate of Appropriateness be issued; but that Project II does impair the historic integrity of the district or the building and that a Certificate of Appropriateness not be issued for it. The motion received a second and passed unanimously.

Certificate of Appropriateness Expiration Date: 11/18/09

APPLICATION FOR A CERTIFICATE OF APPROPRIATENESS
CERTIFIED RECORD

125-09-CA: 701 Dauphin Street
Applicant: Nicholas H. Holmes, III for Todd Drummond and the contractor
Received: 10/30/09
Meeting: 11/18/09

INTRODUCTION TO THE APPLICATION

Historic District: Lower Dauphin Commercial
Classification: Non-Contributing
Zoning: B-4
Project: Post Construction Approval.

BUILDING HISTORY

The four townhouses comprising this three story building were built in 2008. The units are part of the larger Carriage Works residential complex.

STANDARD OF REVIEW

Section 9 of the Preservation Ordinance states “the Board shall not approve any application proposing a Material Change in Appearance unless it finds the change...will not materially impair the architectural or historic value of the building, the buildings on adjacent sites or in the immediate vicinity, or the general visual character of the district...”

STAFF REPORT

- A. The Carriage Works property last appeared before the Architectural Review Board on May 21, 2008. The Board approved the installation of a sign. The construction of the townhouse portion of the complex was approved during the August 13, 2007 meeting of the Board. Shortly after the issuance of the Certificate of Appropriateness, Staff approved minor changes to the approved plans. Subsequent changes were made during the construction process. Staff issued a temporary Certificate of Occupancy in October of 2009. The applicants return to the Board for post construction approval of the altered plans.
- B. The Lower Dauphin Street Historic District Guidelines, The Guidelines for New Residential and Commercial Construction, and the ARB rules of procedure are pertinent to this application:
 - A. The Lower Dauphin Street Historic District Guidelines state, in pertinent part
 - 1. “These design guidelines seek to encourage restoration/rehabilitation within the downtown area in a manner that will encourage visual harmony and enhance historic integrity.
 - 2. These design guidelines seek to encourage restoration/rehabilitation within the downtown area in a manner that will encourage visual harmony and enhance historic integrity.
 - 3. Patterns and rhythms create a visual harmony in commercial districts. New construction and alterations should respect the already established streetscape.
 - 4. Many upper story windows are placed at the same height above street level, and their sills and lintels frequently align.
 - 5. Ornament and Detail are important in defining building facades. A range of decorative motifs is present in the LDSCD and creates visual interest. This variety of ornament is bound together by the consistency of basic building materials.

6. Maintain the traditional distinctions between street level and upper stories.
 7. Fences, walls, and gates “should complement the building and not detract from it. Design scale, placement, and materials should be considered along with their relationship to the Historic District.”
- B. In addition, under the ARB rules of procedure applicants must return to the Board with a new application when changes from previously-approved plans are anticipated. Similarly, under the ARB rules of procedure, Staff reviews all substantially complete projects prior to the issuing of a Certificate of Occupancy to determine if the approved plans have been following. Failure to follow the approved plans may result in a Notice of Violation and the withholding of a Certificate of Occupancy.
- C. Scope of Work:
1. Project I – Changes in the Treatment of Masonry Elements and Iron Detailing
 - A. The lower portion of the corbelled cornice was not executed.
 - B. The brick watertable was not executed.
 - C. The beltcourses were not executed.
 - D. East Elevation
 1. The East Elevation’s first floor door lintels were not executed according to the approved plans.
 2. The rectangular wall panels flanking the East Elevation’s two innermost entrances were not executed.
 3. The lintel heights of the East Elevation’s second story doors and windows are not aligned per the plan.
 - E. North Elevation
 1. The lintel of the first floor’s central bay was not executed according to the approved plans.
 2. The height of the central bay’s iron grille was reduced.
 2. Project II – Changes in the Treatment of the Gate and Fencing
 - A. The easternmost brick gate post was not executed.
 - B. The entry gate slides across the north elevation.
 3. Project III – Addition of Utility Unit
 - A. Install a gas meter on the sidewalk at the northeast corner of the building.

STAFF ANALYSIS

This three-story four unit residential building occupies the site of an empty lot. The building is part of a larger residential complex which includes two historic buildings. The construction of successful infill within the historic districts is a goal of the Historic Development Commission. This building contributes to both the built and population density of the Lower Dauphin Commercial District.

Project I

As executed, the building utilizes design features and materials that are historically appropriate to the district. Staff recommends approval of the Project I, the changes in masonry elements and iron detailing. These alterations to the approved plans do not impair the architectural or historical character of the historic district.

Projects II & III

When opened, the Dauphin Street gate extends into the sidewalk and across the north elevation. The gas meter situated at the townhouse building’s northeast corner is located on the sidewalk. In occupying the right of way, the gate and the gas meter may pose health and safety concerns. The entrance gate and gas

meter impair the architectural and historical character of the district. Staff does not recommend their approval. Additionally, the applicant will have to address these two issues with the Right of Way division of the City's Department of Engineering.

PUBLIC TESTIMONY

Mr. Nicholas H. Holmes, III and Mr. Todd Drummond were present to discuss the application.

BOARD DISCUSSION

The board discussion took place concurrently with the public testimony. Mr. Wagoner asked Mr. Holmes and Mr. Drummond if they had any comments to add or clarifications to make to the Staff Report. Mr. Holmes informed the Board that the Right of Way division approved the gate and the gas meter saying both stand on the Carriage Works property. Ms. Baker asked Mr. Holmes if the gate and gas meter still posed safety and health hazards.

Mr. Holmes told the Board that he had seen and photographed numerous examples across the historic districts. Mr. Drummond explained that Mobile Gas installed the meter. He added that the location off the sidewalk was the only possible position which to locate gas meters. Mr. Holmes addressed the gate. He said the gate was initially to swing to the west, but Urban Forestry redirected the swing to the east because of a tree. He reiterated that he had photographs of gates located in comparable locations.

Mr. Ladd asked Staff what the concern of the Board, the aesthetic effect or the possible safety and health risk. Ms. Coumanis told the Board that the issue was a design problem. She elaborated saying that the City does not have an ordinance regulating the location of gas meters. Ms Coumanis stated that if the gas meter appeared in the original submission it would have encountered opposition.

Mr. Roberts asked Mr. Drummond why there was only one gas meter. Mr. Drummond said there would eventually be four, one for each unit. Mr. Roberts asked Mr. Drummond if he would be willing to paint the gas meters the same color as the wall. Mr. Holmes said that based on his observation of other properties, painting meters is the common design solution and the applicants were willing to amend their application accordingly. Mr. James asked Mr. Holmes if he was happy with location of the gas meters. Mr. Holmes said he was not, but painting would help to alleviate the visual effect of the meters.

FINDING OF FACT

Mr. Ladd moved that, based upon the evidence presented in the application and during the public testimony, the Board finds the facts in the Staff Report, amending the Report by adding C (3) B allowing the painting of the gas meter.

The motion received a second and was unanimously approved.

DECISION ON THE APPLICATION

Mr. Oswalt moved that, based upon the facts as amended by the Board, the application does not impair the historic integrity of the district or the building and that a Certificate of Appropriateness be issued.

The motion received a second and was unanimously approved.

Certificate of Appropriateness Expiration Date: 11/18/10

APPLICATION FOR A CERTIFICATE OF APPROPRIATENESS
CERTIFIED RECORD

126-09-CA: 1255 Dauphin Street
Applicant: Bebe Lindsey for the Alabama School of Math and Science
Received: 10/06/09
Meeting: 11/04/09

INTRODUCTION TO THE APPLICATION

Historic District: Old Dauphin Way
Classification: Contributing
Zoning: B-4
Project: Fencing Approval.

BUILDING HISTORY

This complex of masonry buildings once housed the Dauphin Way Baptist Church. The 1942 sanctuary, an eclectic interpretation of the Romanesque and Byzantine Revivals, faces Dauphin Street. Flanking Style Moderne educational buildings were constructed in 1949. A Christian Life Center was constructed in 1970 to the rear of the sanctuary.

The congregation relocated in the 1980s. The buildings remained vacant for a number of years. Several proposed redevelopment plans did not materialize. In the 1990s, the Alabama School of Math and Science purchased and renovated the property. Subsequent construction has taken place.

STANDARD OF REVIEW

Section 9 of the Preservation Ordinance states “the Board shall not approve any application proposing a Material Change in Appearance unless it finds the change...will not materially impair the architectural or historic value of the building, the buildings on adjacent sites or in the immediate vicinity, or the general visual character of the district...”

STAFF REPORT

A. The School of Math and Science plans to gradually install uniform fencing around its campus. The long term plan calls for the use of the enclosure of all the property’s fenced areas with the fencing of the same design and materials as that along Dauphin Street. On November 5, 2008, the Board allowed the School of Math and Science to install a temporary chain link fence along the west side of the campus’s Ann Street parking lot. The Board’s approval was provisional. The applicants were required to return to the Board within a year with final plans for fencing and landscaping the parking lot. On January 14, 2009, ASMS came to the Board with a second fence proposal. The School had erected an 8’ fence along the south property line. The Board denied the request to retain the 8’ chain link fence, eventually giving the School until November 5 to remove the fencing. The School’s representative appeared before the Board at the August 5, 2009 with a further request to retain and repaint the fence in expectation of keeping the fence. The applicant was allowed to retain the fence until November 5, but the Board did not require the painting of the fence. The School’s representative returns to the Board with a request for an Application of Economic Hardship which would allow the institution to retain the fencing. Outstanding financial obligations and fiscal year appropriations cuts form the foundation of the School’s request for the proposed hardship request.

- B. The Design Review Guidelines for Mobile’s Historic Districts state in pertinent part:
1. Fencing “should complement the building and not detract from it. Design, scale, placement, and materials should be considered along with their relationship to the historic district.”
- C. In regards to Applications for Economic Hardship, Section 44-80 of the Mobile City Code reads as follows:
1. **Substantial Economic Hardship** – If the Board denies an application for a Certificate of Appropriateness, a property owner may apply for a certificate of economic hardship. The purpose of the Certificate of Economic Hardship is to provide relief where the application of this chapter would otherwise impose a substantial economic hardship.
 2. **Burden of Proof.** The Burden of Proof rests on the applicant to show that the denial of the Certificate of Appropriateness will result in substantial economic hardship (See Submitted Material relating to State appropriations, outstanding financial obligations, and Building Repair Priorities).
 3. **Applications.** The applicant shall provide such information as may reasonably be required by the Board to establish the owner’s claim of economic hardship. The data provide by the applicant must be substantiated by either professionals in an applicable field or thorough documentation of how the information was obtained. The Board may request additional information from the applicant as necessary to make informed decisions. Certificates of Economic Hardship are granted only to the applicant and are not transferable.
 4. **Standards for Consideration.** In making its determination, the Board may consider, but is not limited to, the following described factors, evidence, and testimony:
 - a. Date property was acquired and status of the property under the article at the time of acquisition, e.g., whether property was protected by this chapter, its condition, etc.
 - The Alabama School of Math and Science Foundation acquired the old Dauphin Way Baptist Church property in 1990 at which time the complex fell under review board purview
 - b. The structural soundness of the building, or any structures on the property and their suitability for rehabilitation.
 - The applicant has submitted a list of recent and projected repairs to the campus’s historic and infill buildings as evidence of its financial liabilities, as well as its commitment to maintaining the historic character of the campus and the district
 - c. The current level of economic return on the property.
 - The Alabama School of Math and Science Foundation rents the campus, land and buildings, to the State. The School is responsible for their upkeep. The School’s operating budget has been considerably reduced in the past two year. Budget cuts for the 2008-2009 fiscal year amounted to \$957,314. Budget cuts for the 2009-2010 fiscal year amount to an additional \$348,449 decrease. In the course of the past two years, the Alabama School of Math and Science experienced \$1,305,763 in fiscal reductions.
 - d. The economic feasibility of rehabilitation or reuse of the existing property.
 - NA
 - e. The marketability of the property for sale or lease, and the price asked and offers received, if any, within the previous two (2) years. The determination can include testimony relevant documents regarding:
 - i. Any real estate broker or firm engaged to sell or lease the property;
 - NA.
 - ii. Reasonableness of the price or rent sought by the applicant; and
 - NA.
 - iii. Any advertisement placed for the sale or rent of the property by the owner or the applicant.

- NA
- f. Comments and/or reports from any community organizations, preservation groups, other associations and private citizens that wish to comment on a submission made under the Financial Hardship Provision.
- See letters and petitions submitted by residents of the District, the area, and the community.
- g. The extent to which the owner is responsible for his or her own economic hardship, if any, such as the owner's failure to:
- i. Perform normal maintenance and repairs.
 - See attached schedule of executed and projected repairs.
 - ii. The failure to diligently solicit an retain tenants
 - NA
 - iii. The failure to prescribe a rental amount which is reasonable.
 - NA
 - iv. The failure to provide normal tenant improvements; and,
 - v. The owner's purchase of the subject property after the enactment of the relevant provisions of this chapter without making said purchase contingent upon the owner's first obtaining approvals required by this chapter.
 - NA
5. **Hearing.** The Board shall hold a public hearing as soon as practicable but not longer than forty-five (45) days of receipt of a completed application for a Certificate of Economic Hardship. Notice shall be provided in the same manner the Board uses for hearings on Certificates of Appropriateness. At the hearing, the Board shall take testimony presented by the owner and any other interested parties on the standards set forth above. The Board shall issue its decision within forty-five (45) days of the hearing. If the Board fails to timely hold a public hearing, or having a hearing fails to render a decision within forty-five days, the application for the Certificate of Economic Hardship shall be deemed granted.
6. **Denial.** If the Board denies the application for a Certificate of Economic Hardship, the applicant shall be notified in writing and shall be provided a copy of the Board's final order.
7. **Initial Determination.** If the Board makes an initial determination that the applicant has presented a case which may establish substantial economic hardship, but finds that reasonable alternatives may exist which should be addressed by the applicant, the Board may delay its final order for a period of no more than six (6) months. The applicant shall be notified of the initial determination and shall be provided a copy of the Board's findings and reasons for the postponement.
8. **Postponement.** Within any period of postponement, the Board, in cooperation with the City, the Commission, and the owner, may explore alternatives that will assure the reasonable use of the property including, but not limited t, loans or grants from public or private sources, acquisition by purchase or eminent domain, building or safety code modifications to reduce cost of maintenance, restoration, rehabilitation or renovation, changes in applicable zoning regulations, or relaxation of the provisions of this chapter sufficient to allow reasonable use of the property.
9. **Issuance of Certificate.** Upon expiration of the period of postponement, the Board shall issue the Certificate of Economic Hardship. The Certificate may be subject to conditions including design guidelines for subsequent construction not inconsistent with the standards set forth in this chapter and the Board's guidelines. The Certificate of Economic Hardship shall be valid for a period of one hundred twenty (120) days from approval by the Board."
- D. Scope of Work (per submitted plan):
1. Retain the 8' foot sections of chain link fencing bounding the south, west, and north sides of the Student Parking Lot.

2. Retain the green vinyl fence in the same parking lot.

Staff Analysis

The Alabama School of Math and Science has appeared before the Board at four previous meetings with applications regarding the Student Parking Lot. Due to drastic cuts in state appropriations, outstanding financial obligations, and concerns for student safety, the School requests a Certificate of Economic Hardship to retain the fencing on the south, west, and north sides of the parking lot. In addition to cuts in State appropriations and outstanding financial obligations, the School has made a second request for grants from its Foundation. The grants restrict the amount of money for repair and maintenance. The School has undertaken numerous efforts to reduce its operating expenses. Maintenance of the campus's buildings consumes a significant portion of the School's budget. While the fencing does not meet the material standards set by the Guidelines for Mobile's Historic Districts, Staff recommends approval of the School's request for a Certificate of Economic Hardship for reason of its current financial status. The School will have to work with the Board and the Staff to determine a long term plan to replace the nonconforming fence. If the fence is not replaced within 120 days, the School will have to return to the Board to request an extension of the Certificate.

PUBLIC TESTIMONY

Bebe Lindsey and Mike Windom were present to discuss the application.

BOARD DISCUSSION

The board discussion took place concurrently with the public testimony. Mr. Wagoner asked Ms. Lindsey if she had anything to add or corrections to make to the Staff Report. Ms. Lindsey answered no, but she said wanted the record to show that there are two separate sets of finances, the School's and the Foundation's. Mr. Bemis and Ms. Lindsey then discussed the ownership and maintenance roles of the entities associated with the School. Mr. Bemis informed the Board that the School is responsible for the upkeep of the building and the grounds. Ms. Lindsey elaborated saying that the Foundation pays for the maintenance and upkeep. The School is responsible for operating expenses. The maintenance funding comes to the School as a supplement from the Foundation.

Ms Lindsey then enumerated to the Board recent fiscally related cutbacks affecting the School. She said that all of the School's staff have been made subject to a 10% pay cut and a week of vacation without compensation. Additionally, the School has been forced to layoff staff. Ms Lindsey informed the Board that while there may appear to substantial sums in the Foundation's budget, the majority of the money is restricted. She related that the bulk of the Foundations assets are held as collateral for debts. Remaining funds are gifts or earmarks for specific projects.

Mr. Roberts asked Mr. Bemis if the Economic Hardship clause was part of the Mobile Historic Development Commission Ordinance. Mr. Bemis answered yes. Mr. Roberts addressed the applicants saying that this was the first instance the Board has reviewed an application for a Certificate of Economic Hardship. Ordinarily, he said the Board reviews applications with regard to standards set by the Design Review Guidelines for Mobile's Historic Districts. Mr. Roberts said this application was to some extent an extension of violations of the Guideline's standards.

Mr. Bemis clarified the request. He told the Board, the applicants, and the audience that the MHDC Ordinance allowed the application, saying the School was asking for relief or time to come into compliance with the Guidelines. Mr. Roberts asked Mr. Bemis why the applicants should not go directly

to City Council. Mr. Bemis responded saying that the School wants to work with the Board. He added that if the School went to the City Council and the Council overruled the Board's previous rulings the fence would remain indefinitely. The proposal for Economic Hardship will allow the School to work with the Board, the Staff, and the Old Dauphin Way Neighborhood Association to find a suitable solution to the current fencing. Ms. Baker asked if by granting a Certificate of Economic Hardship the Board was allowing for a long term solution. Staff answered yes.

Mr. Ladd addressed the applicants by saying he knew times were tight economically for the School. He asked Ms. Lindsey and Mr. Windom to what extent had the School investigated a multi-phased long term approach for the Student Parking Lot. Mr. Windom said they had looked into and were further investigating means to come into compliance with the Guidelines. He said the School and the Foundation will take care of the matter. The Certificate of Economic Hardship will give the time to do so. Mr. Windom then spoke of several options that had been examined, including the use of private donations, the use of a grant from the Governor, the use of convict labor, or the possibility of a student activity project. Mr. Windom said that all of the School's entities wanted to work with the neighbors. He said he felt the School was a benefit to the neighborhood and good neighbor.

Mr. Wagoner thanked Mr. Windom and Ms. Lindsey. He said a plan was needed. Mr. Bemis agreed telling the applicants the School would need to work with the Board, Staff, the neighbors and the neighborhood association. He said a site plan with landscaping would be a requirement. Mr. Bemis said the project could be phased. Mr. Wagoner reiterated Mr. Bemis' earlier remarks to the audience saying the School was only asking for time.

Fran Hoffman, a nearby property owner, addressed the Board. Ms. Hoffman opened by saying she did not want her comments to be taken as negative, but she has doubts regarding an economic hardship. She said she understood that the Foundation was responsible for the repair and maintenance of the campus. Ms Hoffman informed the Board that after examining the Foundation's financial statements she, as a layman, could see no need for the current application for a Certificate of Economic Hardship. She said the Foundation has available funds. Ms. Hoffman said she would not go into the details, but she thought income figures of the Foundation seemed high.

Ms. Hoffman then recited to the Board the history of the application. She said what upsets her most is that they have appeared before the Board again and again, but they have neither followed up on their intentions nor have they been judged to the same standards as private home owners. Ms. Hoffman informed the Board that she wanted a concrete action by the School. She asked why a \$1,500 amount already raised to replace the fence had not been used to start the process. Ms. Hoffman then addressed the landscaping the parking lot. She suggested that planting extend along the sidewalk as well as placed at the lot's four corners.

Mr. Wagoner thanked Ms. Hoffman for her comments, but reminded her that the Board still needed to discuss the application. Ms. Hoffman told the Board that the current fence was a waste of money. Mr. Windom replied by saying the fence was not purchased by, but donated to the School. Ms. Hoffman reiterated that she felt like private property owners were being held to the Guidelines while this larger public entity was not. She asked the Board to abide by their previous rulings and hold the School to the standards.

Councilman William Carroll addressed the Board. Mr. Carroll said he was aware of the Foundation's concerns and structure. He informed the Board that the School had received funds from the City. The Councilman said the School is facing a tremendous hardship. He elaborated by noting that no one can predict the future of the economy. A predetermined timeline agreed to without the consultation of people

and reality would not suffice. Mr. Carroll asked the Board to give the School time to come into compliance.

Mr. Wagoner asked the applicants if they were willing to work with the neighbors, the Old Dauphin Way Neighborhood Association, and Staff to develop a phased plan. The applicants answered yes. Mr. Wagoner said they would have to report to Staff regarding their progress. Ms. Hoffman said they should start by using the \$1,500 sum.

Mr. Roberts asked if there was anyone from the audience representing the Old Dauphin Way Neighborhood Association. Mr. Bemis said would definitely like to see the organization be involved the process. Tom Andrews, a long time resident of the district, spoke favorably of the School. He said he understands the School's situation and supports their efforts.

Mr. Ladd informed his fellow Board members and the audience that the Board, School, Foundation, Staff, and neighbors should work together to reach a solution. He thanked Councilman Carroll for taking an initiative.

Mr. Karwinski asked Ms. Lindsey if the fence was erected to protect students or their cars. He then asked Ms. Lindsey if the School had considered using one of the existing enclosed parking lots for student parking or paving a portion of the recreation field for parking. Ms. Lindsey responded saying she had considered the former option, but there were not enough spaces. As to paving a portion of the recreational fields, Ms. Lindsey said those spaces were utilized for student activities.

Ms. Debbie Isbell addressed the Board. Ms. Isbell informed the Board that she was a long time resident of the historic districts. In addition to living in the districts, Ms. Isbell told the Board that she had sent her children to the Alabama School of Math and Science. Ms. Isbell spoke of what a wonderful asset the School is for Mobile. She said that entities in the central part of the state would like to see the institution move closer to the state's geographical center. While historic standards are important, she said safety is paramount for any school. Given that many of the students come to the School from rural areas, they and their parents are not accustomed to urban conditions. Ms. Isbell said the fence provides peace of mind and safety of person.

Ms. Baker and Mr. Ladd discussed the finding of facts. Mr. Bemis explained that Certificate of Economic Hardship would last for one hundred twenty days. The application would have to reviewed and renewed if the fence was not removed. Mr. James asked Ms. Lindsey about the School's budget.

FINDING OF FACT

Ms. Baker moved that, based upon the evidence presented in the application and during the public testimony, the Board finds the facts in the Staff report, amending facts to require the School present a progress report to the Board in sixty days.

The motion received a second and was approved. Mr. Karwinski voted in opposition.

DECISION ON THE APPLICATION

Ms. Baker moved that, based upon the facts as amended by the Board, the application and testimony were sufficient evidence and that a Certificate of Economic Hardship be issued.

The motion received a second and was approved. Mr. Karwinski voted in opposition.

Certificate of Economic Hardship Expiration Date: 3/18/10