

MEMORANDUM

TO: Timothy J. Baroody, City Manager
FROM: Kate Schwartz, Historic Resources Planner
DATE: November 5, 2019 (for the November 12, 2019 meeting)
SUBJECT: Appeal of ARB inaction on COA 2019-42, Relocation of the Slave Auction Block

ISSUE

Should the City Council approve a certificate of appropriateness for relocation of the Slave Auction Block on appeal, as the Architectural Review Board took no action on the application?

RECOMMENDATION

Approve the certificate of appropriateness for relocation of the Slave Auction Block to the Fredericksburg Area Museum.

BACKGROUND

The City Council voted on June 11, 2019 to relocate the block from its original location at the northwest corner of Charles and William Streets to the FAM. As the block is an historic object located within the City's local historic district overlay, a certificate of appropriateness (COA) must be granted for removal from the original site. The Architectural Review Board received an application for a certificate of appropriateness to relocate the Slave Auction Block from its original site to the FAM on July 22, 2019. The Architectural Review Board initially considered the application in a public hearing on August 12, 2019. At that time, the Board did not take action due to concerns over the procedure for an application predicated on a vote of action by the City Council.

At the September 9, 2019 meeting of the ARB, the City Attorney requested a work session with the ARB to continue discussion and seek consultation on the proposed action. The work session was held on September 23 and, at that time, the City Attorney gave a brief presentation providing background on the City Council's process since 2017, including the extensive community outreach conducted in partnership with the International Coalition of Sites of Conscience, and a number of considerations for the ARB. A thorough discussion was held regarding Board members' individual views on the matter, the relevant criteria contained in the City Code, and possible courses of action.

ITEM #11C

At the October 14, 2019 ARB meeting, a motion to deny the relocation was made, but failed with a vote of two in favor, one opposed, three abstentions and one disqualification under COIA. No other motion or vote took place, so the ARB took no action on the application. Public comment was received at all four meetings of the ARB that included this topic. City Code §72-23.1(C)(5) states that the ARB shall act within 90 days of the official submission of the application. As no action was taken, the application is transmitted to the City Council for a decision on appeal.

In consideration of the supplementary information, including the City Manager's letter requesting an appeal, the letter to the ARB dated October 4, 2019, the staff memorandum to the ARB dated August 7, 2019, and the minutes of all four meetings of the ARB during which the application was discussed, it is recommended that the City Council approve the certificate of appropriateness for the relocation.

ATTACHMENTS

1. Letter of Appeal dated November 7, 2019
2. Draft resolution granting the certificate of appropriateness
3. Letter to the ARB dated October 4, 2019
4. Staff Memorandum to the ARB dated August 7, 2019
5. August 12, 2019 ARB Public Hearing Minutes
6. September 9, 2019 ARB Public Hearing Minutes
7. September 23, 2019 Draft ARB Public Hearing Minutes
8. October 14, 2019 Draft ARB Public Hearing Minutes

Timothy J. Baroody
City Manager

D. Mark Whitley
Assistant City Manager

Doug Fawcett
Assistant City Manager



City of Fredericksburg
P.O. Box 7447
Fredericksburg, VA 22404-7447
Telephone: 540 372-1010
Fax: 540 372-1201

November 7, 2019

Dear Mayor and Members of Council:

The Fredericksburg Architectural Review Board voted on the City Council's application for a certificate of appropriateness for the relocation of the slave auction block (COA2019-42) at its meeting on Monday, October 14, 2019. A motion to deny the certificate of appropriateness failed by a vote of 2 in favor, 1 opposed, and 3 abstentions. The seventh member of the ARB, Kerri Barile, was in attendance but disqualified from voting due to Dovetail's archaeological work for the City on the stone auction block. A vote of four members of the ARB in favor of the motion was required. The ARB's 90 day review period expired on October 20.

City Council voted to relocate the block at its meeting of June 11, 2019; on July 9, 2019 City Council adopted the relocation plan as proposed by City staff, which included applying for the certificate of appropriateness. Executing on this plan, the certificate of appropriateness was filed on July 22, 2019.

City Code §72-23.1 requires that a written appeal of a decision of the ARB clearly set forth the grounds of the appeal, including the procedure or standard alleged to have been violated or misapplied by the ARB. The procedural error in this case was the failure of the ARB to act to approve, approve with modification, or deny the City's application within the 90 day time period provided in City Code §72-23.1(C)(5). The three members of the ARB who abstained did so on the grounds that City Council had already decided the question through its vote on June 11, 2019, as stated by the ARB Chair on August 12, 2019. The City Attorney had provided her view that the ARB did have jurisdiction over the application in a memo dated September 4, 2019.

With regard to the substantive grounds of this appeal, the City Attorney's letter of October 4, 2019 sets forth the grounds on which the application should be approved. The letter is attached for your reference. Likewise the staff report dated August 7, 2019 supported the application.

The City Council is required to consult with the ARB in relation to this appeal; City Council may consider additional submissions. The Council may affirm, reverse, or modify the ARB's decision and shall transmit a record of its decision to the ARB. The City Council is required to decide the appeal within 45 days of the date of this letter. I propose to schedule the appeal for City Council's consideration at its regular meeting on November 12, 2019. Historic Resources Planner

Letter to Council on Certificate of Appropriateness of Auction Block
November 7, 2019
Page 2 of 2

Kate Schwartz will notify the ARB Chair of this meeting date and request his attendance at the meeting.

Sincerely,

A handwritten signature in black ink that reads "Timothy J. Baroody". The signature is written in a cursive style with a large, looping initial "T".

Timothy J. Baroody
City Manager



November 12, 2019
Regular Meeting
Resolution 19-

MOTION:

SECOND:

RE: Granting a Certificate of Appropriateness for the Relocation of the Slave Auction Block to the Fredericksburg Area Museum

ACTION: APPROVED: Ayes: 0; Nays: 0

In August 2017, Councilmember Frye proposed that the City Council consider the removal of the slave auction block from the corner of Charles and William Streets. In response, the Council created a public input process that included an online survey and special session of the Council to hear public comment on the matter, which was held on September 23, 2017. At the conclusion of this process, on September 26, 2017, the City Council voted to leave the slave auction block in place.

In January 2018, City Council hired the International Coalition of Sites of Conscience (ICSC) to conduct a year-long community collaboration process, facilitating community conversations in small group settings, in which hundreds of people participated. The ICSC submitted three written reports to City Council, one at the conclusion of each phase of its work. The reports summarized the views of the community expressed through the community collaboration process. The Phase 3 Final Report was released on March 13, 2019 at a special meeting of the City Council, and contained the ICSC's recommendations for immediate, short term, and long-term actions, including with respect to the future treatment of the slave auction block.

In January 2019, Dovetail Cultural Resources completed an archaeological study of the slave auction block, the former Planter's Hotel, and the corner of Charles and William Street, and submitted its report to the City.

On June 11, 2019, the City Council voted to remove the slave auction block from the corner of Charles and William Streets and to relocate it to the Fredericksburg Area Museum. On July 9, 2019, the City Council approved the City Manager's proposed course of action to effect the relocation, including the filing of an application for a certificate of appropriateness from the Architectural Review Board (ARB). The City Manager filed the application, dated July 22, 2019.

The ARB considered the application at a public hearing on August 12, 2019, and then at its regular meeting on September 9, 2019; a work session on September 23, 2019; and its regular session on October 14, 2019. The ARB received public comment on the application at each of these meetings. At the October 14, 2019 meeting, a motion to deny the application failed on a vote of two in favor, one against, and three abstaining. One member of the ARB was disqualified from voting under the Conflicts of Interest Act. The ARB's 90 day review period expired October 20, 2019.

The City Manager appealed the ARB's non-action to City Council under City Code §72-23.1(F), and City Council heard the appeal on November 12, 2019.

In view of the foregoing, and upon consideration of applicable criteria in City Code §72-23.1(D)(3), the remarks of the ARB members and consultation with the chair of the ARB, the public comment, the staff report dated August 7, 2019, and the letter of the City Attorney dated October 4, 2019, the City Council hereby grants a certificate of appropriateness for the relocation of the slave auction block to the Fredericksburg Area Museum.

The Clerk of Council shall transmit a copy of this resolution to the chair of the ARB.

This resolution shall become effective immediately.

Votes:

Ayes:

Nays:

Absent from Vote:

Absent from Meeting:

Clerk's Certificate

I certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Resolution No. 19-__, adopted at a meeting of the City Council held November 12, 2019, at which a quorum was present and voted.

Tonya B. Lacey, MMC
Clerk of Council

Kathleen Dooley
City Attorney

Robert T. Eckstrom
Assistant City Attorney



615 Princess Anne Street
P.O. Box 7447
Fredericksburg, VA 22404
540-372-1020

October 4, 2019

Jon Gerlach, Chair
Fredericksburg Architectural Review Board
c/o Community Planning & Building Department
715 Princess Anne Street
Fredericksburg, Virginia 22401

Re: COA #2019-42
City of Fredericksburg

Dear Chair Gerlach:

I would like to thank you and the members of the Architectural Review Board for the work session on the City's application for a certificate of appropriateness, September 23, 2019. I appreciate the extra time and attention ARB members dedicated to this application, the opportunity to make a presentation, and the members' participation in the discussion of the application. The members' remarks raised important issues of history, memory, context, the role of the ARB, and the scope of its review authority. Several members expressed opinions that the decision of the application under the guidelines and historic district criteria was clear-cut for denial. After giving these remarks a great deal of thought, I believe them to be in error and hope to address them below.

- ***Status of application:***

This application will return to the ARB on its October 14 meeting agenda as a "continued case." The affirmative vote of four members of the ARB is required to approve the certificate of appropriateness, under City Code §72-23.1(C)(5). Assuming six or seven members attend the October 14 meeting, then a vote of four would likewise be required to take any other action with respect to the application (denial or referral), under ARB bylaws §V(F).

- ***Preservation or conservation of the stone block:***

I would like to make a few remarks in favor of the application, beginning with the preservation of this historic artifact. The condition of the stone block is relevant to the Board's decision under City Code §72-23.1(D)(3)(a)[5]. The January 2019 Dovetail Report mentioned that one corner of the block appears to have broken off decades ago, possibly due to imperfections in the grains in the stone. In addition, the stone block was vandalized in May 2005, when two "large chunks" were broken off, apparently with a hammer.¹ The block was repaired by a stone mason hired by HFFI shortly thereafter, according to the Dovetail Report.²

The International Coalition of Sites of Conscience³ spent twelve months facilitating community conversations in small group settings, in which hundreds of people participated. At the conclusion of that year, the ICSC submitted its "Phase Three Report," with immediate, short-term, and long-term recommendations. Among the "Immediate Recommendations," was this statement:

"While participants may see the slave auction block from many different viewpoints, they all generally have concerns about the preservation, protection, and interpretation connected to the slave auction block.

- This concern is not only about the physical protection of the auction block. It speaks to the value/importance being placed on the auction block; we take measures to protect what we value. Based on current data, the Coalition recommends that a clear plexi case be temporarily placed over the auction block (in its present location) until further decisions are made."

Thus, this group perceived a potential for vandalism or future deterioration of the block, such that protection was recommended as an immediate step. But the use of a plexi case to protect the stone block is not a recommended conservation practice, since it could encourage the growth of biological material. Another approach to conservation would be to remove the stone block from the corner and place it in a museum, an alternative which merits

¹ Free Lance-Star article, "Slave auction block vandalized," May 6, 2005.

² Dovetail reports the vandalism as occurring in 2007, but the Free Lance-Star reported the vandalism in May 2005, and the Fredericksburg Police Department report is from May 2005. There was only one incident of vandalism in this time frame.

³ Abbreviated as "ICSC."

serious consideration. Reasonable people may assess the risk of future damage or deterioration differently, but the condition and preservation or conservation of this historic artifact in its present location is a serious consideration that is relevant to any discussion of COA #2019-42, and which provides one basis for approval of the City's application.

- ***Location and association:***

This topic is related to City Code §72-23.1(D)(3)(a)[1] through [3]. City Council assigns great importance to the integrity of the location of the block, just as members of the ARB do, as reflected in the City's Council's initial vote on the question in September 2017, and the remarks of its members in 2017 and 2019. No one takes the relocation of this historic artifact lightly. The site itself, of course – the corner of William and Charles Streets at the former Planter's Hotel – is the historic location of public auctions, including the auction of enslaved people. The exact role of the stone block in these auctions, if any, is unclear; evidence suggests that it was not built as a platform to showcase objects or enslaved individuals during an auction as it is too narrow, was much taller historically, and would not have been an easy place for standing.⁴ The current location of the stone block on this street corner makes communication of this type of nuance or detail problematic and may create a false sense of history.

Whether the stone block itself, as an historic object, as opposed to the corner on which it sits, is linked historically to other sites in the City (e.g. City Dock, the Emancipation Sculpture, and Old Mill Park) is a matter for debate. As set forth in the application and staff report, City Council proposes to replace the stone block with an appropriate marker, and to relocate the stone block to the Fredericksburg Area Museum (the site of the Emancipation Sculpture) for continued exhibition and interpretation. Council has also asked the Memorials Advisory Commission to continue work on telling the story of African American history in the City. Thus the historic site will be marked and will continue to be linked with related sites throughout the City.

- ***Historic objects:***

The fact that the stone block is an historic object – as opposed to a building or structure – is another factor that removes this application from a straightforward, black-and-white, open-and-shut, or by-the-book application of (denial under) Historic District guidelines.

The City's Historic District Handbook relates more to architectural features or character of buildings and structures, and at present lacks any specific guidance as to the

⁴ January 2019 Dovetail Report Abstract, page i, Summary and Recommendations page 73.

relocation of an historic object. Standard 2 in the Historic District Handbook,⁵ for example, relates specifically to applications for rehabilitation of historic buildings, not the relocation of an historic object. This is not to diminish the importance of location, context, or association, but simply to distinguish this application from one in which the ARB may feel it has no choice but denial.

One of the quotations from the ICSC Phase I Report touched on this aspect of significance: “You wouldn’t see a ‘whites only’ sign but Auschwitz still stands. Where does the slave block fall on that spectrum?” One thing that distinguishes this historic object from a place like Auschwitz or “sites of conscience” is that the stone block sits on a street corner in a busy downtown where encounters may be casual, unintended, unnoticed, unknowing, or unwanted. These every-day encounters are not a factor with the other sites; encounters with these historic sites or places are intentional, requiring a special trip, a visit, a ticket, and possibly a docent or guide.

The ICSC concluded that the current location the stone block makes appropriate interpretation problematic. The National Museum of African American History & Culture, on the other hand, describes the presentation of objects in its “Slavery and Freedom exhibition,” as follows:

“Priceless objects provide the visitor with a personal experience with the past. One cannot view Harriet Tubman’s shawl, Nat Turner’s Bible, the small shackles made for the fragile ankles of a child, or a slave cabin without contemplating the individuals who owned or encountered such objects. Such powerful artifacts bring to life the stories of inhumanity and terror, and of resistance, resilience and survival. Objects open up conversations and dialogue and provide a space for Americans to reach out beyond themselves to recognize a shared past.”⁶

In short, it matters that it is an historic object that is proposed to be moved – not the rehabilitation or relocation of an architecturally- or historically-significant building; and that the object is proposed to be moved to the local museum for exhibition and interpretation. The Historic District Handbook does not contain specific guidelines for application to the relocation of historic objects at this time. It does provide general principles for the ARB to apply, but the application of these principles to this specific application is not an open-and-

⁵ Fredericksburg Historic District Handbook page 46.

⁶ Smithsonian National Museum of African American History & Culture, “Slavery and Freedom,” <https://nmaahc.si.edu/slavery-and-freedom> , accessed October 1, 2019.

shut matter.

- ***Comprehensive Plan:***

The question whether to relocate the auction block resists simple “absolutes,” and instead has been the topic of earnest and engaged community dialogue and collaboration since August 2017. This element is related to City Code §72-23.1(D)(3)(a)[4], the significance of the building or structure or its proposed replacement in furthering the Comprehensive Plan’s goals. City Council’s consideration of the elements of “community,” “race relations,” “the promise of the Declaration of Independence,” “living in a democracy,” and “finding a critical balance,” are supported by the Comprehensive Plan. The 2015 Comprehensive Plan, beginning with Chapter 8, “Historic Preservation,” includes as Goal #1:

“Protect and enhance the character of Fredericksburg’s historic area and city center as a means to preserve the community’s sense of place, to promote economic strength, and to ensure the City’s continued appeal to residents, businesses, and visitors.”

And Goal #3:

“Continue to recognize, protect, and interpret significant architectural, historical, and archaeological resources that constitute the community’s heritage.”

These goals are supported by this discussion under the heading, “Historic Character,” also in Chapter 8 of the Comprehensive Plan:

“The significance and value of historic buildings and sites is found in people’s response to them. History is not contained in just places, in and of themselves, but rather in their power to evoke reactions such as an appreciation of traditional craftsmanship, a delight in architectural innovation, or an interest in historic persons and events. Yet what a community finds important is always changing.”

With respect to Chapter 8 of the Comprehensive Plan, the goals to protect historic resources (e.g. from future deterioration or damage), and to ensure the City’s continued appeal to residents, businesses and visitors, weigh in favor of relocating the stone block to the Fredericksburg Area Museum and replacing it with appropriate historic interpretive materials, as proposed by City Council. For a significant segment of the community,

encounters with the stone block do not evoke “appreciation,” “delight,” or an “interest in historic events,” but just the opposite. For some, the encounters displace a sense of community and create a sense of not-belonging. Whether or not an encounter with this artifact “should be a jolting experience when you come upon it,”⁷ is a matter on which reasonable people may disagree.

The Historic District Handbook also supports this consideration:

“Such cultural resources are a community’s touchstones – vital links to its past where earlier residents fought for an ideal, struggled for equality, or otherwise defined their community. Images of the past are constantly changing, though, because they are viewed through contemporary experiences. As a consequence, historic preservation which seeks to encapsulate an image will eventually and inevitably become irrelevant. Instead, preservation should be a maintenance of those physical features of the past that reflect citizen values. Historic preservation should thus maintain a community rather than displace it.”⁸

ARB members may assess the interests of the community differently from City Council, but I hope that they will at least acknowledge that Council members have been engaged with in the community collaboration process around the topic of the stone block since August 2017, reaching their June 11, 2019 decision only after careful consideration of the matter.

- ***Scope of ARB purview:***

Finally, with respect to those matters that the ARB may consider when it reviews this application, all of the above are within the Board’s purview. They are the factors set out in the historic district ordinance itself for consideration for the moving of an historic landmark. The power to consider these factors has been expressly conferred upon the ARB by City Council through the adoption of City Code §72-23.1. The Board should not define its purview in such a restricted way as to make approval of the application impossible. This is unfair to the applicant.

The fact that the City Council, as the owner of this artifact, has adopted a motion to relocate it, does not divest the ARB of its authority. Applications for certificates of

⁷ Remarks of Councilor Kelly, June 11, 2019 City Council meeting.

⁸ Fredericksburg Historic District Handbook, page 40.

appropriateness always begin with the owner's decision to initiate a development – to expand a house, build a new accessory structure, install a new fence, or rehabilitate a building, for example. The owner makes the initial decision, subject to review by the ARB under the historic district criteria.

The City Council deserves the same consideration of its application, under the criteria set out in the ordinance. A vote in favor of this application does not mean that any individual ARB member would have made the proposal in the first place, simply that the proposal meets the criteria in the ordinance. For the reasons stated above, I believe that it does.

- ***Referral:***

As stated in my September 4, 2019 memo to the ARB, I believe that the ARB does have the authority to review this application for a certificate of appropriateness under the criteria in the ordinance, with the additional context and guidance provided in the Historic District Handbook and the Comprehensive Plan. This position has not been persuasive to all members of the ARB, in light of which the September 9 meeting packet included an alternative motion for the ARB to consider, referring decision on the application to the City Council. At the September 23, 2019 work session, the Chair asked for the ARB's authority to consider this referral motion. ARB Bylaws paragraph VI(A)(6) provide:

“The procedure to be used for an individual application may be modified upon the concurrence of all of the parties before the Board and a majority of the members of the ARB.”

If it is not possible to obtain a majority vote on the merits of the application, then the ARB may consider the use of this provision to refer the application to City Council for final decision. If no option is able to garner a majority vote of the ARB, then its time period for review of the application expires, and the City Manager will file an appeal to the City Council so that it may make a decision on this application.

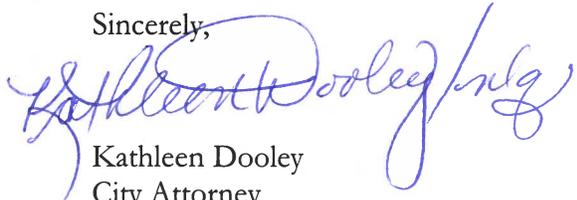
October 4, 2019

Page 8

Conclusion:

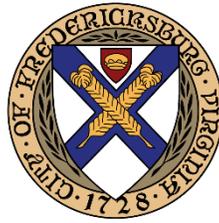
Thank you again for the time and attention that you have devoted to this application and to the administration of the Fredericksburg Historic District every day. The dedication of the volunteer members of the Architectural Review Board, like other boards and commissions in the City, is what makes Fredericksburg a great place to live. The City would be greatly diminished without the involvement of the members of the ARB.

Sincerely,



Kathleen Dooley
City Attorney

cc: Mary Katherine Greenlaw, Mayor
Members of Fredericksburg City Council
Timothy J. Baroody, City Manager



MEMORANDUM

TO: ARCHITECTURAL REVIEW BOARD
FROM: Kate Schwartz, Historic Resources Planner
DATE: August 7, 2019 (for the August 12, 2019 meeting)
SUBJECT: Certificate of Appropriateness for relocation of the Slave Auction Block

ISSUE

The City of Fredericksburg proposes to relocate the Slave Auction Block from the corner of William and Charles Streets to the Fredericksburg Area Museum, to install a temporary marker at the site of the block, and to develop and install permanent interpretive materials in the near future.

RECOMMENDATION

A sandstone block, known colloquially as the Slave Auction Block, projects from the sidewalk at the corner of William and Charles Streets in downtown Fredericksburg. While the block, and its potential removal, have been debated several times over the last 150 years, attention was refocused in August 2017. Now, after nearly two years of community dialogue, the City Council has voted to relocate the block from the public street corner to the Fredericksburg Area Museum in order to better protect the block, fully interpret the history of the site, and create an inclusive public space.

Approval of the request for a Certificate of Appropriateness for this proposal is recommended with the following conditions:

1. The City engages in consultation with the Virginia Department of Historic Resources on the relocation process, including best practices for conservation of the stone and the design of interpretive materials.
2. A member of the ARB is designated as a liaison to the Memorials Advisory Commission, the group responsible for the ultimate design of permanent interpretive materials.

3. Interpretation both at the original site and at the FAM should maintain the association between the block and the larger Planter's Hotel site at 401-405 William Street.
4. A second public hearing will be required for review of the detailed design of permanent interpretive materials at the corner of Charles and William Streets.

APPLICABLE HISTORIC DISTRICT DESIGN STANDARDS & GUIDELINES

City Code § 72-23.1 D(3) Demolition, Removal or Relocation

- a. No historic landmark, building or structure within the HFD shall be razed, demolished, or moved until the razing, demolition or moving thereof is approved by the ARB. In determining the appropriateness of any application for the razing, demolition, or moving of a building or structure, the ARB shall consider the following criteria:
 - (1) The architectural significance of the building or structure.
 - (2) The historical significance of the building or structure.
 - (3) Whether a building or structure is linked, historically or architecturally, to other buildings or structures, so that their concentration or continuity possesses greater significance than the particular building or structure individually.
 - (4) The significance of the building or structure or its proposed replacement in furthering the Comprehensive Plan's goals.
 - (5) The condition and structural integrity of the building or structure, as indicated by documentation prepared by a qualified professional or licensed contractor, or other information, provided to the board for examination. The City Manager may obtain an assessment from a qualified professional or licensed contractor to assist the ARB or City Council in rendering a decision.
 - (6) Effect on surrounding properties.
 - (7) Inordinate hardship. This inquiry is concerned primarily with the relationship between the cost of repairing a building or structure and its reasonable value after repair. An inordinate hardship is an instance when preservation will deprive the owner of reasonable economic use of the property.

BACKGROUND

This property, located at the northwest corner of William and Charles Streets, is known as the Knoxana Building or the former Planter's Hotel, and was constructed by Joseph Sanford between 1843 and 1844. The sizeable three-story, five-bay, brick building and rear ell were originally constructed in the Federal style, displaying brick walls, large brick chimneys, and rows of multi-light double-hung sash windows. The building was operated by Sanford as the United States Hotel until

1851, when he sold it to James Chartters, who renamed it the Planter's Hotel. The property was purchased by local builder E.G. "Peck" Heflin in 1913. Heflin redesigned the facade and renamed the property as the Knoxana Apartments.

The hotel was the site of many public auctions in the mid-nineteenth century where enslaved people were sold or hired out annually. The block itself, located at the northwest corner of the intersection near the verge of street and sidewalk, is composed of a coarse local sandstone. Overall, the block is approximately 3.6 feet in height, with 2.3 feet exposed above the current sidewalk surface. The block is generally ovoid in shape, approximately two feet in diameter, and has a purposefully-cut square hole in the center that likely once held an iron rod, potentially functioning as a sign post. The research, in particular a recent archaeological study, indicates that the block was installed at the time of the hotel's construction for this purpose—as a sign post—rather than as an auction block or carriage step. However, this object holds a distinct place in the public memory. The block has been included in many oral histories and historical narratives, and its association with auctions at this street corner is inseparable from the greater context of the atrocity of slavery and the trade of enslaved people in Fredericksburg.

The site has been the catalyst for a larger conversation about race, history, and remembrance, as well as the interpretation of African-American history in Fredericksburg, that began in August 2017. The initial community engagement and public forum process led the City Council to vote in September 2017 to preserve the block in its current location, and to undertake an energized effort to tell a more complete story of the City's history. After some discussion, the City Council engaged the International Coalition of Sites of Conscience (ICSC), an organization that worked with participants from the City Council and community in an extensive year-long series of community collaboration sessions. More information about the ICSC, the community collaboration sessions, and reports may be found on the City's website.

City Council accepted the Phase 3 Final Report from the ICSC at a special meeting on March 13, 2019, and requested the Memorials Advisory Commission to work on telling a more complete history on May 14, 2019. Then on June 11th, the City Council voted 6-1 to relocate the block from its current location to inside the Fredericksburg Area Museum (FAM).

City staff members are working with Dovetail Cultural Resource Group and the FAM on the logistics of relocation. Building on the archaeological study that was completed in January 2019, additional archaeology is proposed at the time the stone is moved. Professional archaeologists would perform the majority of the excavation work needed to remove the stone from the sidewalk, and

would additionally clean the stone with water and mild detergents before it is moved. Public Works staff would stabilize the stone during this work and lift it from the ground once prepared. Using a custom pallet and moving services, the stone will then be transported to a temporary facility for environmental conditioning before it is moved into the FAM. Temporary markers would be placed at the original site of the block until the detailed design of permanent interpretive materials can be developed. The temporary markers will include a bronze medallion in the sidewalk at the exact location of the block and an informational panel detailing the process and where additional information can be found. The Memorials Advisory Commission will address permanent interpretation through its process, but the final design will be considered by the ARB at a future hearing.

As the block is an historic object in the Historic District, the proposed relocation should be evaluated using the criteria in City Code §72-23.1 D(3):

(1) *The architectural significance of the building or structure.*

This sandstone block is representative of material usage and construction techniques of the mid-nineteenth century. The recent archaeological study of the site recommends the block be considered a contributing element of the overall Planter's Hotel site, but the block itself is not considered individually significant.

(2) *The historical significance of the building or structure.*

Though the current research indicates that the block was not intentionally installed as an auction block, it is an historic object that has come to represent the overall use of this street corner and building for the sale of enslaved people. It is distinctive and significant for its association with antebellum life and the practice of slavery, and is a singular symbol of these in Fredericksburg.

(3) *Whether a building or structure is linked, historically or architecturally, to other buildings or structures, so that their concentration or continuity possesses greater significance than the particular building or structure individually.*

As described, the block contributes to the historic significance of the Historic District as a secondary resource associated with the adjacent Planter's Hotel building. The former hotel building is considered a contributing structure in the district. This historic object is one component of a much larger site and story and, in general, is considered historically and architecturally significant because of its contextual location.

(4) *The significance of the building or structure or its proposed replacement in furthering the Comprehensive Plan's goals.*

Several components in the Comprehensive Plan are applicable to this site and the particular challenges and sensitivities inherent in this proposal to relocate the auction block. Chapter 8 of the Plan addresses historic preservation and makes clear the City's goal to protect and enhance Fredericksburg's historic resources (Historic Preservation Goal 1: City Character). Maintaining historic sites and objects in their original context is typically paramount in the field of preservation. The goal of historic preservation is to seek balance among past, present, and future, and often to make a determination of what places and memories will continue to be recognized for future generations.

However, responsible stewardship of controversial sites invites the consideration of alternative treatments. The Advisory Council on Historic Preservation (ACHP), in its Policy Statement on Controversial Commemorative Works, recognizes the fluidity of societal values and encourages balancing stewardship with sensitivity to the strong emotions related to the "remembrance of difficult chapters in the nation's history." The ACHP identifies the relocation of objects from prominent public spaces as one of a series of stewardship alternatives. In its final report to the City Council, the ICSC noted that a deep divide still exists in Fredericksburg over the "best" location for the block, with varying opinions on the scope of interpretation and control of the narrative, among other factors. The block elicits strong emotional responses and is a singular symbol of injustice for many in Fredericksburg. Chapter 7 of the Plan speaks to the City's desire for Fredericksburg to be a compassionate and inclusive place when it states that, "It is the interaction of neighbors that constitutes a well-functioning and successful community...Neighbors must be comfortable with their surroundings." The City Council's decision to relocate the block developed out of the ICSC-led collaborative sessions and a desire for the ultimate experience of the site to be respectful to all members of the community.

The physical constraints of the site are an additional factor in this decision. The ICSC final report notes "concerns that the present location, as currently constructed, would be extraordinarily difficult to provide the 'whole story' and context that the community wants." Once relocated, the street corner and general site can still contribute to telling the story of slavery and the stories of enslaved individuals, with expanded interpretation through the display at the FAM. Though preservation in original context is generally the ideal condition for historic objects, the alternative treatment of relocation will still meet the City's goal of continuing to "recognize, protect, and interpret" this significant historic site (Historic Preservation Goal 3: Heritage Resources).

- (5) *The condition and structural integrity of the building or structure, as indicated by documentation prepared by a qualified professional or licensed contractor, or other information, provided to the board for examination. The City Manager may obtain an assessment from a qualified professional or licensed contractor to assist the ARB or City Council in rendering a decision.*

The block is stable, though it has been vandalized and repaired in the past. The block is composed of a coarse variety of Aquia sandstone with a number of large inclusions. The missing portion of the block that gives it a stepped appearance was not a component of the original design, but more likely a section that broke off (during the nineteenth century) and has since weathered smooth. Physical protection of the block is a concern, as it has been vandalized in the past, and could easily be damaged. The ICSC report recommended covering the block with a plexi glass box as a temporary measure, but this has not been implemented because it is not a recommended conservation practice. Such a covering could easily encourage the growth of biological material and potentially destabilize the block.

- (6) *Effect on surrounding properties.*

As noted already, the block is one piece of the greater historic context of both the site and the district. Its removal will not have any immediate physical impact on surrounding properties, but it will alter the context of the site.

- (7) *Inordinate hardship. This inquiry is concerned primarily with the relationship between the cost of repairing a building or structure and its reasonable value after repair. An inordinate hardship is an instance when preservation will deprive the owner of reasonable economic use of the property.*

An evaluation of inordinate hardship is not applicable.

Removing the Slave Auction Block from its original historic context will certainly result in an adverse impact on its historic significance. As one component of the larger Planter's Hotel site, relocation will break the clear association this object has with its setting. However, the site itself will remain and the end result will be more clear and comprehensive interpretation than exists today. The City is seeking to create a respectful and inclusive public space at this site and, in order to do so, proposes relocation as a stewardship treatment. History is not always comfortable, nor should it be, but the tight confines of the block's current location create a public experience that is not purposefully or thoughtfully confrontational, but is instead perceived as cruel to members of the community. Relocation is one component of the continuing community dialogue on race and remembrance, and it allows for physical protection of an historic object and multi-faceted interpretation of the site. Approval of the proposal is recommended with a number of conditions in place to ensure best preservation practices and coordinated processes moving forward:

1. The City engages in consultation with the Virginia Department of Historic Resources on the relocation process, including best practices for conservation of the stone and the design of interpretive materials.
2. A member of the ARB is designated as a liaison to the Memorials Advisory Commission, the group responsible for the ultimate design of permanent interpretive materials.
3. Interpretation both at the original site and at the FAM should maintain the association between the block and the larger Planter's Hotel site at 401-405 William Street.
4. A second public hearing will be required for review of the detailed design of permanent interpretive materials at the corner of Charles and William Streets.

Attachments:

1. Aerial and street views
2. Historic images
3. Documentation of current conditions
4. Application including relocation plan



AERIAL



VIEW LOOKING NORTH FROM WILLIAM STREET



Image, c.1926



Image, c.1954



Current Conditions



View Looking East



Minutes
Architectural Review Board
August 12, 2019
Council Chambers, City Hall
Fredericksburg, Virginia

Members Present

Jonathan Gerlach, Chair
Carthon Davis, III, Vice Chair
Kerri S. Barile
Karen Irvin
Susan Pates
James Whitman

Members Absent

Sabina Weitzman

Staff

Kate Schwartz
Allison Martin

Mr. Gerlach called the Architectural Review Board meeting to order at 7:00 p.m.

OPENING REMARKS

Mr. Gerlach determined that a quorum was present, and asked if public notice requirements had been met. Ms. Schwartz confirmed that all requirements had been met.

APPROVAL OF AGENDA

Mr. Davis motioned to approve the agenda as written. Ms. Irvin seconded. The motion carried 6-0.

APPROVAL OF MINUTES

Mr. Gerlach asked if there were any changes or additions to the minutes of the regular meeting dated June 10, 2019. Dr. Barile motioned to approve the minutes as written. Mr. Whitman seconded. Motion carried 6-0.

Mr. Gerlach asked if there were any changes or additions to the minutes of the regular meeting dated July 8, 2019. Mr. Davis motioned to approve the minutes as written. Dr. Barile seconded. Motion carried 6-0.

DISCLOSURE OF EX PARTE COMMUNICATIONS

Mr. Gerlach asked if any Board member had engaged in any *ex parte* communication on any item before the Board. No Board members had any *ex parte* communication to report.

DISCLOSURE OF CONFLICTS OF INTEREST

Mr. Gerlach asked if any Board member had a conflict of interest for any item before the Board. Dr. Barile noted that she had a conflict with COA 2019-42, 401-405 William Street, as she had provided archaeological services for the property owner and project. She said she would not participate in the discussion or vote.

Mr. Gerlach noted that he no longer has a conflict of interest with COA 2019-38, 401 Princess Anne Street. He once provided legal representation for the owner, but that service has concluded and he can participate fairly. There were no further conflicts of interest reported.

CONSENT AGENDA

- i. **COA 2019-39** – 223 Princess Anne Street - Fence
- ii. **COA 2019-41** – 900 Caroline Street – Signs
- iii. **COA 2019-43** – 1300 Charles Street – Chimney Cap

Mr. Gerlach asked the members of the Board if there were any items on the Consent Agenda that they wished to have removed. Hearing none, Mr. Gerlach asked if there were any members of the public who wished to speak to any item on the Consent Agenda. There were none.

Dr. Barile made a motion to approve the consent agenda as presented. Mr. Whitman seconded. The motion carried 6-0.

PUBLIC HEARING

- i. **COA 2019-38** – 401 Princess Anne Street – John Janney requests to make alterations to the former Janney-Marshall Co. Warehouse including removing the metal awnings and reopening previously bricked-in windows and doors.

Representative for the applicant, Ms. Melissa Colombo of 418 Bunker Hill Street, was present and spoke. Ms. Colombo responded to Dr. Barile stating the materials used to keep the elements out would be plywood until the windows are replaced.

There were no public comments.

Mr. Davis motioned to approve the application as submitted. Ms. Irvin seconded. Motion carried 6-0.

- ii. **COA 2019-40** – 211 Caroline Street – Frank C. Hill and Camille Rouget request to remove the existing rear addition and construct a new two-story addition at the rear of this single-family residence.

The project architect, Mr. Charles Aquino of 417 North Arthur Ashe Boulevard in Richmond, was present and spoke. Mr. Aquino added the attempt was to isolate the original house through the design, including reopening one window on the rear elevation. He further identified the placement of all fencing for the property.

There were no public comments.

Dr. Barile thanked the applicant for the completeness of the application, stating the architectural details were very helpful. There was some discussion clarifying details of the plans, including clarification of new versus old elements, the location of basement egress, and the details of the metal roof. Mr. Gerlach stated the importance of notifying Ms. Schwartz of any archaeological finds once the renovations begin.

Ms. Irvin motioned to approve the application as submitted. Ms. Pates seconded. Motion carried 6-0.

- iii. **COA 2019-42** – 401-405 William Street – The City of Fredericksburg proposes to relocate the Slave Auction Block at the corner of William and Charles Streets to the Fredericksburg Area Museum.

Mr. Dave King, Public Works Director, read a memorandum into the record outlining the proposed relocation plan based on City Council's June 11, 2019 decision.

The following comments were presented:

Mr. Ed Sandtner, 132 Caroline Street, spoke requesting the Board do the job they were elected to do and uphold historic preservation standards and vote to leave the auction block where it is, relics of our past are best left in their original form.

Ms. Barbara Anderson, 1811 Washington Avenue, spoke requesting the Board to vote to keep the slave block in place. As a local history teacher she loves giving students tours of the City, always bringing them to this corner. They can actually physically touch a piece of history, people want to see tangible history and experience it.

Mr. Mark Kramer, 2 Cobham Court in Stafford, suggested to not call it the Slave Auction Block stating the name creates a bias. There is more to the block's story than slavery.

Mr. Leonard Craig, 811 Bourne Street in Stafford, shared with the Board a picture depicting a similar block as a street sign and asked why it is called a slave block. He stated his belief that it was not a slave block, it is just a piece of sandstone in front of a building that he requests be removed.

Mr. Robert Lamb, Spotsylvania County, stated that once a historic marker is removed it is rendered useless, opposing moving it away from public context into a museum that charges an entrance fee. Mr. Lamb disagrees with the title, stating it should be identified as a property auction block. The details of history can be selectively mentioned while others are easily omitted.

Mr. Forrest Dickinson, 300 Caroline Street, stated that if you take a bit of history and put it aside, out of sight, out of mind you diminish what the whole town of Fredericksburg stands for. It's our history, we should not be afraid of our heritage.

Mr. James McGhee, 526 Caroline Street, expressing that he does not believe the block should be moved. It should be preserved and allow the public to interact with this piece of history instead of a plaque in the sidewalk.

Mr. Lee Lewis, originally from Fredericksburg, stated the block does not make him feel proud and recommends continuing on with Council recommendation.

Ms. Donna Craig, 811 Bourne Street in Stafford, requested removal of the auction block.

Ms. Judy Love, 2216 Caroline Street, requested the auction block be moved. The block stands for something hurtful, it matters to the heart. Ms. Love stated hearts mean more than a historic block.

Ms. Danae Peckler, 1410 Prince Edward Street, would like to take a moment and say this decision is a knee jerk reaction. One of largest problems was a lack of a plan and not enough information was gathered.

Mr. David James, 213 Princess Anne Street, stated he is the President of the Board of Historic Fredericksburg Foundation and requested the Board make a decision based on their responsibility to this board and do what is right. The historic items of Fredericksburg should be maintained and left in place, the context of location is important.

Mr. Leonard Craig, 811 Bourne Street in Stafford, believes the block was used to direct traffic, not for auctioning slaves.

Mr. Forrest Dickinson revisited the podium to say that the block needed to remain to avoid repeating the mistakes of history.

Mr. Robert Lamb requested the Board follow the criteria of the ARB, and its decisions should not be based on emotion.

Mr. Gerlach called for a two minute recess at 8:28 p.m.

The meeting reconvened at 8:30 p.m.

Mr. Gerlach read into the record a written statement, requesting the clerk to include it in the minutes (attached). Mr. Gerlach reopened the public hearing for response to the statement.

Mr. Ed Sandtner, 132 Caroline Street, was under the impression the Board was able to voice their opinions. Now knowing they cannot he wonders why it was on the agenda, and said he would have appreciated a more fair approach.

There was no further comment.

Mr. Gerlach stated this item will come before the ARB at a later date as a public hearing to review the interpretive materials that the City will be proposing for the corner of Charles and William Streets. He asked the Board to consider the recommendations in the staff report.

Ms. Irvin motioned for the ARB to nominate a member to be a liaison to the Memorials Advisory Commission. Mr. Davis seconded. The motion carried 4-1-1, with Ms Pates against and Dr. Barile abstaining.

Board members discussed the other recommendations:

1. The City engages in consultation with the Virginia Department of Historic Resources on the relocation process.
3. Interpretation both at the original site and at the FAM should maintain the association between the block and the larger Planter's Hotel site at 401-405 William Street.

4. A second public hearing will be required for review of the detailed design of permanent interpretive materials at the corner of Charles and William Streets.

Board members discussed whether or not it was appropriate or necessary to vote on these recommendations. Ms. Schwartz stated that the City Council was seeking the opinion of the ARB on these matters. Mr. Davis said he did not believe these items needed to be recommended by the ARB and should occur anyway. Ms. Pates and Mr. Whitman stated that they did not support the relocation and would not support any motion. The Board took no further action and the public hearing was closed.

Mr. Gerlach called for a five-minute recess. The meeting reconvened at 8:53 p.m.

GENERAL PUBLIC COMMENT

None.

OTHER BUSINESS

- A. Transmittal of Planning Commission Agenda for August 14, 2019.
Ms. Schwartz noted the applications for the Janney-Marshall Warehouse Rehabilitation Project, including a rezoning out at the Railroad Station Overlay District, and a Special Use Permit and Special Exception Permit related to the density of the project.
- B. Comments on National Register Nomination of Sligo, 1100 Dixon Street.
Ms. Schwartz noted that Board members can send any comments to her by email. The property owners were present and noted that they would be happy to invite the Board to view the house.

STAFF UPDATE

- A. Update on Mary Washington Caretaker's Lodge
City Council has moved forward to endorse a process for sale or lease of the property with measures for its protection in place. Additionally, the property will need to be rezoned and the lot subdivided.
- B. Archaeology Ordinance Briefing
Ms. Schwartz provided an update on the project, noting that public hearings would be scheduled with the Planning Commission and City Council in October and November.
- C. Historic District Handbook
The City has been awarded a grant of \$15,000 from DHR for a project to update the historic district design guidelines. The project will be completed over the next year.

COMMITTEE REPORT

None.

CHAIRMAN'S REPORT

None.

ADJOURNMENT

The meeting adjourned at 9:08 p.m.



Jonathan Gerlach, ARB Chair

Chair's Written Statement re Moving the Slave Auction Block, August 12, 2019

We want to thank everyone who spoke here tonight. Our bylaws allow us to have a second public comment session tonight in special circumstances. Because the statement I am reading now contains new issues about this application that the public may not be aware of, when I'm finished reading it we will invite the public to comment again, if they wish to say anything else.

I ask the clerk to enter this written statement into the official records of this application.

Whether or not to move the artifact is a contentious issue. Reasonable people often disagree, and there's nothing wrong with that. Someone once said that the best results come from working out differences (actually, I think it might have been my wife who said that!). There are a lot of strong opinions about what should be done with this artifact, and how best to tell the story of the African American experience in our city. The ARB is in the middle of that discussion now, *for the very first time*. Unfortunately the ARB was not consulted before City Council voted to move the artifact.

Before I joined this board, it had been a rough few years for the ARB. Everyone on the ARB, along with Staff (thank you, Kate), has worked hard to restore public trust in the ARB. We've been turning the ship around, and the only way we know to do that is to be true to what the ARB's job actually is. Our job is to faithfully follow guidelines in the law to maintain, as best we can, the character of the Historic District. We can only do that by acting within the confines of the law.

The public deserves an ARB that faithfully does its job, and leaves political decisions to your elected officials (City Council). We are not elected officials – *we are not a political body* – and as long as I'm chair, we will never be. That is a very important tenet of the ARB, and we do everything possible to keep the ARB from being political.

While this may be disappointing to a lot of people in this room, the reality is that there is no role for the ARB in the decision about whether or not to move the artifact AFTER City Council has already decided that it WILL be moved. I emphasize the words *will be moved*. There were two ways the ARB could have ruled on moving this artifact: (1) the City could have gone through the application process with the ARB before the City Council vote; or (2) City Council could have voted to move the artifact contingent on ARB's approval. In either case: *seeking ARB approval first*.

But that's not what happened. The decision to move the artifact has already been made, and it was made by a higher authority than the ARB. *The issue is moot now*.

VA law makes it very clear that once City Council has made a final decision, it is beyond our reach. We can't affirm, reverse, or modify their decision to move the artifact.¹ That is only something the Circuit Court can do, but we cannot. We don't have that power. The law says we can't do it. And so, we are NOT going to do it.²

A decision by the ARB can be appealed to City Council, and they can affirm, reverse or modify it, but it doesn't work the other way around. The ARB has no expressed or implied powers to reconsider City Council's final decision.³ There's no wiggle room in that. And so, we can't decide the issue of moving the artifact. *The issue is moot.* The decision to move the artifact has already been made by a higher authority, and *it carries the force of law.*

The public needs to know that the ARB takes its job very seriously, and that the ARB will not stray into areas over which it has no authority.⁴

Again, thanks to everyone who spoke tonight. Many of you will disagree about what happens to this artifact, but we trust you will understand that the ARB simply doesn't have the power to do what the City is asking us to do. The issue is moot.

¹ "The governing body shall provide by ordinance for appeals to the circuit court for such locality from any final decision of the governing body pursuant to subdivisions 1 and 2 of this subsection and shall specify therein the parties entitled to appeal the decisions, which parties shall have the right to appeal to the circuit court for review by filing a petition at law, setting forth the alleged illegality of the action of the governing body, provided the petition is filed within thirty days after the final decision is rendered by the governing body." VA Code § 15.2-2306.

² "The Dillon Rule applies to a locality and its governing body. Because BZAs and ARBs are creatures of statute, they are subject to a rule that is stricter than the Dillon Rule. These bodies possess only those powers expressly conferred; they do not have the power to exercise powers that must be implied from expressly granted powers, or those that are perceived as essential and indispensable." *Albemarle County Land Use Law Handbook*, Sec. 5-600.

³ "The ARB is a creature of statute (Va Code § 15.2-2306) and it possesses only those powers expressly conferred by statute. [citing the VA Supreme Court 20014 decision in *Norton v. City of Danville*, 602 S.E.2d 126, 268 Va. 402]. An ARB has no implied powers." *Albemarle County Land Use Law Handbook*, Sec. 1-420.

⁴ Under principles of supremacy, the ARB cannot act in a way that would be inconsistent with VA law. "Any ordinance, resolution, bylaw, rule, regulation, or order of any governing body or any corporation, board, or number of persons shall not be inconsistent with the Constitution and laws of the United States or of the Commonwealth." VA Code § 1-248.



Minutes
Architectural Review Board
September 9, 2019
Council Chambers, City Hall
Fredericksburg, Virginia

Members Present

Jonathan Gerlach, Chair
Kerri S. Barile
Susan Pates
James Whitman
Sabina Weitzman

Members Absent

Carthon Davis, III, Vice Chair
Karen Irvin

Staff

Kate Schwartz
Allison Martin
Kathleen Dooley

Mr. Gerlach called the Architectural Review Board meeting to order at 7:00 p.m.

OPENING REMARKS

Mr. Gerlach determined that a quorum was present, and asked if public notice requirements had been met. Ms. Schwartz confirmed that all requirements had been met.

APPROVAL OF AGENDA

Ms. Weitzman motioned to move COA 2019-42, 401-405 William Street, to Other Business to allow the public comment period to occur first. Ms. Pates seconded. The motion carried 5-0. Ms. Weitzman motioned to approve the agenda as amended. Mr. Whitman seconded. The motion carried 5-0.

APPROVAL OF MINUTES

Mr. Gerlach asked if there were any changes or additions to the minutes of the regular meeting dated August 12, 2019. Dr. Barile motioned to approve the minutes as written. Ms. Weitzman seconded. The motion carried 5-0.

DISCLOSURE OF EX PARTE COMMUNICATIONS

Mr. Gerlach asked if any Board member had engaged in any *ex parte* communication on any item before the Board. Ms. Weitzman stated that she had spoken earlier this evening with the applicant for items COA 2019-46 and COA 2019-47 regarding ownership of those two properties, determining there would be no conflict of interests for these items.

DISCLOSURE OF CONFLICTS OF INTEREST

Mr. Gerlach asked if any Board member had a conflict of interest for any item before the Board. Dr. Barile noted that she had a conflict with COA 2019-42, 401-405 William Street, as she had provided archaeological services for the property owner and project. She said she would not participate in the discussion or vote. There were no further conflicts of interest reported.

CONSENT AGENDA

- i. COA 2019-44 – 1111-1113 Caroline Street – Shutter Installation
- ii. COA 2019-45 – 401 William Street – Signs

Ms. Weitzman made a motion to approve the consent agenda as presented. Dr. Barile seconded. The motion carried 5-0.

PUBLIC HEARING

- i. **COA 2019-46** – 612 Prince Edward Street – William Dickinson requests to remove the asphalt shingle siding on the dormers at this single-family residence and replace it with fiber cement lapped siding.

The applicant, William Dickinson, 1507 Winchester Street, was present. There were no public comments.

Ms. Weitzman questioned if there was another product available other than vinyl that had the channel profile to match the structure's existing siding. She suggested Boral siding. Mr. Dickinson said he was not willing to use Boral siding because of the placement height and expense. He requested to use asphalt shingles as the replacement material in the event the Board did not approve the proposed fiber cement lapped siding.

Dr. Barile said she understood the applicant's concern, but said if there is a product that meets the applicant's need as well as the preservation standards, the Board should support the staff recommendations.

Mr. Whitman motioned to approve the application as submitted. Ms. Weitzman seconded the motion and the Board discussed the appearance of channel siding versus traditional lap siding. The motion failed 2-3, with Ms. Weitzman, Ms. Pates, and Dr. Barile against.

Ms. Weitzman motioned to approve the application on condition that the new siding matches the profile of the channel siding on the body of the structure. Dr. Barile seconded. The motion carried 5-0.

- ii. **COA 2019-47** – 401-405 William Street – William Dickinson requests to remove the slate shingles from the sides of the dormers on the Knoxana Building and replace them with metal siding panels.

The applicant, William Dickinson, 1507 Winchester Street, was present. Mr. Dickinson stated that the dormers were clad in a mix of slate and asphalt on the sides. He wants to provide a more stable product due to the deteriorated conditions. There were no public comments.

Mr. Whitman asked if the applicant would consider using synthetic slate for the repairs. Mr. Dickinson responded that this would be a considerable expense, stating he would repair what is existing if the Board is unwilling to approve the metal panels. There was some discussion of the visibility of the dormers.

Ms. Weitzman briefly detailed from the staff report that a previous Certificate of Appropriateness was granted with the understanding that the dormers would remain clad in slate. Ms. Schwartz added that due to the limited visibility, this building is a good candidate for the use of synthetic materials.

Mr. Whitman motioned to approve the application as submitted. Ms. Weitzman seconded. Ms. Weitzman noted that this is a vulnerable spot, but the guidelines on materials are clear and synthetic seems a good choice in this circumstance. Discussion was held about the applicant proposing a 30-year product when the existing slate has been there for almost 200 years. Board members noted that the metal panels proposed are a modern material, which has no precedent on this building. The motion failed 1-4, with Ms. Weitzman, Ms. Pates, Dr. Barile, and Mr. Gerlach against.

Dr. Barile motioned to deny the replacement of siding on the dormers with metal panels in accordance with the staff recommendation. Ms. Weitzman seconded. The motion carried 4-1, with Mr. Whitman against.

- iii. **COA 2019-48** – 312 William Street – Janet Edson requests to replace the 2nd floor and dormer vinyl windows of this residential building with solid wood windows.

Jacob Walters, 115 Sycamore Ridge Road, was present to represent the application. There were no public comments.

Dr. Barile motioned to approve the application as presented. Ms. Pates Seconded. The motion carried 5-0.

GENERAL PUBLIC COMMENT

Mr. David James, 213 Princess Anne Street, President of the Board of Directors of the Historic Fredericksburg Foundation, Inc. requested that the Board deny the application to relocate the Slave Auction Block. He said historical items should be left in place and that the ARB should not remain silent on this issue.

Mr. Robert Lamb, Spotsylvania County, requested that the Board act to deny the application and leave the block in its current location, adding that moving the auction block destroys its context and value.

Matthew Kelly, 1309 Hanover Street, City Councilman, spoke about his concerns with the process for the Slave Auction Block application. He said the City Council put the ARB in a unique position, but that this process is the beginning of a conversation that goes beyond this one issue. He said the process is important, that everyone should be able to participate, and that it was important for the ARB to make a decision and state its reasons.

Rupert Farley, 1305 Caroline Street, said he was conflicted on the issue of the auction block as there is nothing like having an object in its proper context. However, he said he was also concerned about vandalism.

William Dickinson, 1507 Winchester Street, said he was concerned that it seemed like the City Council had intervened in the ARB's process. He said if his applications can be denied, the ARB should be able to deny the City Council's as well.

OTHER BUSINESS

- i. The public hearing advertisement for the Planning Commission's September meeting was transmitted to the ARB.
- ii. **COA 2019-42** – 401-405 William Street – The City of Fredericksburg proposes to relocate the Slave Auction Block at the corner of William and Charles Streets to the Fredericksburg Area Museum.

City Attorney Kathleen Dooley provided a brief review of the City's process regarding the auction block since August 2017, including the City Council's votes and the sessions held by the International Coalition of Sites of Conscience. Ms. Dooley stated that the City Council was committed to building community and asked that the ARB remain engaged in the process, as its perspective is important and provides value in this conversation. She requested that the ARB hold a work session on the matter on September 23.

Mr. Gerlach directed staff to schedule the work session as requested. Ms. Pates said she was concerned about the lack of public attendance at work sessions in the conference room and wants to discuss the matter publicly. Ms. Schwartz noted that the meeting would be advertised and could be scheduled to take place in the larger room at Executive Plaza.

Ms. Weitzman made a motion to continue the application to a work session on September 23. The motion failed for lack of a second. Ms. Schwartz noted that work sessions may be scheduled at the applicant's request, and the meeting would be set for the date requested.

STAFF UPDATE

Ms. Schwartz stated that the City was currently seeking consultants for an update to the Historic District Handbook. The RFP will be advertised until the end of September.

Ms. Schwartz also provided an update on the proposed archaeological ordinance and noted that a public meeting would be scheduled later in the month.

COMMITTEE REPORT

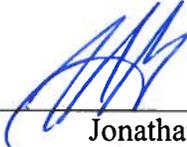
None.

CHAIRMAN'S REPORT

None.

ADJOURNMENT

Ms. Weitzman motioned to adjourn. Mr. Whitman seconded. The meeting adjourned at 8:08 p.m.



Jonathan Gerlach, ARB Chair



Minutes
Architectural Review Board
September 23, 2019
3rd Floor Conference Room, Executive Plaza
Fredericksburg, Virginia

Members Present

Jonathan Gerlach, Chair
Carthon Davis, III, Vice Chair
Kerri S. Barile
Karen Irvin
Susan Pates
Sabina Weitzman
James Whitman

Members Absent

Staff

Kate Schwartz
Kathleen Dooley

Mr. Gerlach called the Architectural Review Board meeting to order at 7:01 p.m.

OPENING REMARKS

Mr. Gerlach determined that a quorum was present, and asked if public notice requirements had been met. Ms. Schwartz noted that they had.

APPROVAL OF AGENDA

The agenda was approved as written.

CONTINUED ITEMS

- A. COA 2019-42** – 401-405 William Street – The City of Fredericksburg proposes to relocate the Slave Auction Block at the corner of William and Charles Streets to the Fredericksburg Area Museum.

Ms. Schwartz provided a brief summary of the plan for relocation of the auction block. Ms. Dooley provided a presentation that included an overview of the community process conducted with the International Coalition of Sites of Conscience (ICSC) and a discussion of historic significance and the ARB's criteria. She said her goal was to set the ARB's decision in context, engage the ARB, and hear its thoughts.

Mr. Gerlach noted that a vote of the ARB could occur at its next regular meeting and said he would like to see the ARB give its views to the City Council, whether as a group or individual members. He said he was in support of the recommendations initially provided by staff, including consulting with DHR, appointing a liaison to the Memorials Advisory Commission, and maintaining the context of the block with the Planter's Hotel through interpretation. He shared the example of a crosswalk redrawn by an artist in Charlottesville with interlocked black and white fingers as an example of future interpretation or improvement at the site.

Ms. Pates said that she felt the decision was a reaction to what had occurred in Charlottesville and that it would be viewed as a mistake in the future. Moving the block interrupts the ability to interpret the "walk to freedom." She described sites in Africa and the concentration camps that are preserved and feels this decision to relocate contradicts the global perspective.

Mr. Gerlach asked Dr. Barile for clarification about the National Register eligibility of the block. Dr. Barile said that the block was a contributing element of the eligible Planter's Hotel site.

Ms. Weitzman said she appreciated the presentation. Though the guidelines make the ARB's position for maintaining an object in context straightforward, she agreed there was a bigger picture to consider and that the City Council is the right body to make the decision. She described learning how hurtful the block is to many people, and that relocation becomes a piece of its history that can promote healing in the community.

Mr. Gerlach asked the group who might serve as liaison to the Memorials Advisory Commission. Ms. Weitzman volunteered.

Mr. Davis said he believes the ARB can't contradict the decision made by the City Council. He said he was willing to comment on a relocation plan, but that not enough detail had been provided. Ms. Schwartz provided a brief overview of the plans for relocation and Ms. Dooley noted that a comment had been received regarding thorough documentation of the block and its location. This has been incorporated into the plan. Dr. Barile also noted that Dovetail had consulted with the Maryland Archaeological Conservation Laboratory and the Virginia Department of Historic Resources on cleaning detergents.

Mr. Whitman said he did not believe this had been a good process and that the ARB's guidelines did not allow for removal of the block. He said that it is a great teaching tool and should stay in its place. Vandalism or damage is a low risk and should not be used as the reason to relocate.

Ms. Irvin said she has a personal opinion on the block, but believes as a member of the ARB that the Board cannot act.

There was some discussion regarding the Board's ability to consider the COA. Ms. Dooley noted that there was no impetus to file an ARB application until the Council voted in favor of relocation. The COA application was filed because City projects are not exempt from the review process. If the ARB does not act within the 90 days specified by the City Code, the non-action is appealed to the City Council. Ms. Dooley discussed the option of referring the application to the City Council with any comments the ARB wishes to make.

Mr. Gerlach and Mr. Davis would consider the referral with a better understanding of the Board's authority and process for this. Mr. Whitman and Ms. Pates said they were in favor of denial. Ms. Irvin said she was not in favor of a vote on the application.

Ms. Pates left the meeting at 8 p.m.

Some additional discussion about the Board's authority to act on the application took place.

GENERAL PUBLIC COMMENT

Matt Kelly, City Councilman, 1309 Hanover Street, stated his concerns and disagreement regarding the process taken for relocation of the block. He said this process has implications for many other sites throughout the city and he felt strongly that the ARB members should state their opinions and vote on the application.

Robert Lamb, Spotsylvania County resident, discussed the ARB's responsibility to act. He said the Council had made a political decision, but that the ARB has a duty to vote based on their standards. He said mitigation for the removal would be insufficient. He also said that removing the word "slavery" from the plaque on the block would assuage those offended by it.

David James, 213 Princess Anne Street, said the ARB has a responsibility to review this application within their narrow guidelines. He compared the block to World War II sites and expressed concerns over this relocation setting a precedent for other sites in Fredericksburg. He asked the ARB to deny the application.

Sara Poore, CEO of the Fredericksburg Area Museum, said she appreciated every member of the ARB and asked that they take a stand, whatever that might be. She said it may not affect the outcome, but that the Board members should say what they believe.

OTHER BUSINESS

Ms. Schwartz announced the archaeology ordinance public meeting would take place on Monday, September 30 at 6 p.m. at the Dorothy Hart Community Center.

ADJOURNMENT

The meeting adjourned at 8:21 p.m.

Jonathan Gerlach, ARB Chair

DRAFT



Minutes
Architectural Review Board
October 14, 2019
Council Chambers, City Hall
Fredericksburg, Virginia

Members Present

Jonathan Gerlach, Chair
Carthon Davis, III, Vice Chair
Kerri S. Barile
Karen Irvin
Susan Pates
Sabina Weitzman (arrived 7:13 p.m.)
James Whitman

Members Absent

Staff

Kate Schwartz
Cathy Eckles
Tammy Guseman

Chairman Gerlach called the Architectural Review Board meeting to order at 7:01 p.m.

OPENING REMARKS

Chairman Gerlach determined that a quorum was present, and asked if public notice requirements had been met. Ms. Schwartz confirmed that they had.

APPROVAL OF AGENDA

Chairman Gerlach suggested that Item No. 9, Continued Cases, COA 2019-42, be moved until after Item No. 11, General Public Comment. Dr. Barile motioned to approve the agenda as amended. Ms. Pates seconded. The motion carried 6-0.

APPROVAL OF MINUTES

Chairman Gerlach asked if there were any changes or additions to the minutes of the regular meeting dated September 9, 2019. Dr. Barile motioned to approve the minutes as written. Ms. Irvin seconded. The motion carried 6-0.

DISCLOSURE OF EX PARTE COMMUNICATIONS

Chairman Gerlach asked if any Board member had engaged in any *ex parte* communication on any item before the Board. Chairman Gerlach noted he had conversations with the City Attorney limited to the procedures of the ARB regarding the slave auction block. No other Board members had any *ex parte* communication to report.

DISCLOSURE OF CONFLICTS OF INTEREST

Chairman Gerlach asked if any Board member had a conflict of interest for any item before the Board. Dr. Barile noted that she had a continuing conflict with COA 2019-42, 401-405 William Street.

Chairman Gerlach noted that on COA 2019-53, 601 Caroline Street, he is a member of the baseball Founder's Club but he has no financial interest and there is no conflict. Additionally, for COA 2019-54, 600 Caroline Street, he had provided legal representation for the owners, but that representation is finished and there is no conflict. Dr. Barile further noted that on COA 2019-53, 601 Caroline Street, Dovetail Cultural Resource Group is helping the baseball team with a portion of their stadium but there is no conflict with the application. There were no further conflicts of interest reported.

CONSENT AGENDA

- i. **COA 2019-53** – 601 Caroline Street – Signs
- ii. **COA 2019-54** – 600 Caroline Street – Signs
- iii. **COA 2019-56** – 215 William Street – Signs
- iv. **COA 2019-57** – 817 Caroline Street – Signs

Mr. Davis made a motion to approve the Consent Agenda as presented. Ms. Irvin seconded. The motion carried 6-0.

Ms. Weitzman arrived at 7:13 p.m.

PUBLIC HEARING

- i. **COA 2019-49** – 623 Caroline Street – Greg Shalawylo requests approval for the construction of a wood stage platform in the rear yard of the Chimneys property for the Billikens restaurant.

Ashlie Shalawylo was present to represent the application.

Ed Sandtner, 132 Caroline Street, said he had no issue with the stage, but is concerned about after-the-fact applications and enforcement in the Historic District. There were no further public comments.

Dr. Barile noted that the deck is currently not anchored to the ground, but should the applicant decide to anchor it and digging occurs, she is requesting that the site be monitored for archaeological deposits as the potential for this site is extremely high.

Mr. Davis motioned for approval of the application with staff recommendations and Dr. Barile's friendly recommendation. Ms. Weitzman seconded. The motion carried 7-0.

- ii. **COA 2019-50** – 513 Dunmore Street – Benjamin McDavid requests to install two roof vents on the front roof slope at this single-family attached residence.

The applicant, Benjamin McDavid, 513 Dunmore Street, was present. There were no public comments.

Mr. Davis asked if the existing soffit vents would be abandoned. Mr. McDavid noted that the HOA plans to replace the roofs within a few years and the vents will be abandoned at that time.

Ms. Weitzman stated she had no problem approving but cautioned applicant regarding new roof penetrations due to maintenance concerns. Mr. McDavid said he was planning for annual cleaning and maintenance.

Ms. Weitzman motioned for approval of the application with staff recommendations. Ms. Irvin seconded. The motion carried 7-0.

- iii. **COA 2019-51** – 1310 Caroline Street – Chris Bradford requests to replace shingle roofing over the porch and bay window with copper roofing at this single-family residence.

The applicant, Chris Bradford, 1310 Caroline Street, was present. There were no public comments.

Mr. Davis motioned for approval of the application as submitted. Mr. Whitman seconded. The motion carried 7-0.

- iv. **COA 2019-52** – 1312 Caroline Street – Gregory Upperman requests to replace the front entry door at this single-family residence with a new solid wood door.

The applicant, Gregory Upperman, 1312 Caroline Street, was present. There were no public comments.

Ms. Weitzman asked if the glazing would match the existing obscure glazing on the door. Mr. Upperman said the existing appearance was due to an applied film, but that they were planning to use obscure glass. Ms. Weitzman asked what was planned regarding the hardware. Mr. Upperman said they plan to use similar hardware.

Ms. Weitzman motioned for approval of the application as submitted. Dr. Barile seconded. The motion carried 7-0.

- v. **COA 2019-55** – 1015 Prince Edward Street – Mark Steele requests to replace wood siding on the rear elevations with new fiber cement siding at this commercial property.

The applicant requested to postpone this application until the November 18, 2019 hearing.

GENERAL PUBLIC COMMENT

David James, 213 Princess Anne Street, President of the Board of Directors of the Historic Fredericksburg Foundation, Inc. (HFFI), stated that HFFI's request is that this historic object be maintained and left in place due to the context of the location with the addition of explanatory materials. Mr. James spoke further about the City Attorney's memo to the Board dated September 4, 2019, outlining the Board's options regarding the slave block relocation, and about the Board's responsibilities regarding this matter. He asked the Board to deny the application.

Ed Sandtner, 132 Caroline Street, stated he has spoken at previous meetings and won't repeat that. He believes the first approval was a political move due to pressure on the Council, which came from citizens disturbed by having the auction block on the street. However, he disagrees with those citizens and believes that is their problem, not the City's. Quoting Jody Hill, a graduate student documenting slave dwellings across the country, Mr. Sandtner summarized the importance of preserving these artifacts and not hiding them away due to some people's uncomfortableness. He requested denial of the application.

Robert Lamb, resident of Spotsylvania County, stated that he believes the process was turned around and the criteria not applied correctly. He criticized the City Attorney's letter and said he does not agree that vandalism or deterioration is a risk, or that these should factor into the decision. He also said he does not agree that the block meets the definition of an historic object, and is a structure.

Danae Peckler, 1410 Prince Edward Street, stated that the block had not been evaluated as an object and that there had been a failure to evaluate the block in association with the historic hotel. She said that the lack of specific guidelines in this case doesn't matter, and that the National Register guidelines make it clear that relocation will remove the historic significance.

CONTINUED CASES

- i. **COA 2019-42** – 401-405 William Street – The City of Fredericksburg proposes to relocate the Slave Auction Block at the corner of William and Charles Streets to the Fredericksburg Area Museum.

Chairman Gerlach stated that the public hearing for the application had been closed, but that the Board had provided an opportunity to respond during the General Public Comment period. He thanked all members of the Board and staff for their work and noted that many minds, including members of City Council, had been changed during the robust International Coalition of Sites of Conscience process. He noted his appreciation for the community in spite of disagreements.

Mr. Whitman made a motion to deny the application for relocation. Ms. Pates seconded.

Ms. Weitzman stated that she was not in favor of the motion and said it was important for the Board members to state their reasons why. Mr. Whitman said he thinks the Board's responsibility and guidelines are clearly against relocation.

Ms. Pates said that removing the block is a way to have history hidden and is opposed to this. She said the city would lose the opportunity for interpretation of many stories and that much black history had already been lost.

Ms. Weitzman said that she believed the decision was best made by the City Council, whose purview is wider than the ARB's. She agreed that the guidelines are clear about keeping historic objects, but that these are not ordinary circumstances. She noted disappointment that the preservation community seemed to have no room for compassion. The block is a visceral, grotesque reminder that is different than choosing to visit slave dwellings or concentration camps. She noted the difficult position for members of the ARB who want to follow the guidelines and recognized that not all groups share the same idea of what is considered historic or valued in the community. She said she could not support the motion for denial.

Mr. Davis said he would abstain from the vote because he did not believe the Board had the authority to vote.

Ms. Irvin said she also would abstain because she did not believe that the ARB could vote on an action already approved by the City Council.

Chairman Gerlach said he appreciated the City Attorney's work, but felt the ARB could not second-guess the City Council's decision. He said he also would abstain and that he hoped this would never happen again.

The Chairman called for a vote and the motion failed on a 2-1-4 vote with Mr. Whitman and Ms. Pates in favor of denial, Ms. Weitzman against, and Dr. Barile, Mr. Davis, Ms. Irvin, and Chairman Gerlach abstaining.

OTHER BUSINESS

A. Transmittal of Planning Commission Agenda for October 9, 2019.

STAFF UPDATE

Ms. Schwartz announced that a public forum on the Renwick complex would be scheduled at the end of October or in early November.

COMMITTEE REPORT

Chairman Gerlach said that Ms. Weitzman had volunteered to serve as the liaison to the Memorials Advisory Commission for their work on long-term interpretation of the Slave Auction Block site.

CHAIRMAN'S REPORT

None.

ADJOURNMENT

Mr. Davis motioned to adjourn and Ms. Irvin seconded. The meeting adjourned at 8:00 p.m.

Jonathan Gerlach, ARB Chair