

Attachment 2

City Staff Report in Response to the Appeal from the BAR’s December 20, 2022
Decision Denying a “CoA” for proposed demolition of a cottage/shed at 507 Ridge Street
(BAR #21-11-03)

(Throughout this Response, references to “Staff” represent the collective positions of the BAR, the City’s Preservation and Design Planner, and the City Attorney’s Office.)

EXECUTIVE SUMMARY OF STAFF’S RESPONSE

This appeal has been taken by Clayt Lauter (Appellant), who owns and resides at 507 Ridge Street, the property that is the subject of this appeal. For the reasons stated below (within specific responses to each of the Appellants’ separate contentions), Staff’s position is that the concerns expressed by the Appellant do not provide a basis for approving a Certificate of Appropriateness [for demolition], under the standards set forth within Chapter 34 (Zoning) Article II (Overlay Districts), Division 2 (Historical Preservation and Architectural Design Control Overlay Districts).

Council’s Role on Appeal: Reference Sec. 34-286(b) and (c) of the City Code (Chapter 34 of the City Code is referred to as the “Zoning Ordinance”). Council’s role on appeal is to serve as the final decision-maker. Council must consider the appeal, consider the BAR’s position communicated in this Response as the “Staff Response”, and Council may consider any other information, factors or opinions it deems relevant to the application. Council should make a final decision on the application and should not refer the matter back to the BAR.

Staff Response to Appellant’s Contentions

Note: Omissions or edits below to the appellants comments are intended for clarity, brevity, and to omit comments not germane to the BAR’s purview. The omissions are not intended to be disrespect of the appellant or the circumstances cited in their appeal letter.

Paragraph 1

Appellant: “[We] filed an application with the Charlottesville BAR for permission to demolish the existing outbuilding / shed behind our historic home at 507 Ridge Street to build / construct an appropriate Accessory Dwelling Unit (ADU)[.] The existing structure although “historic” is 1) not in its original location with regard to the home (it has been moved at least two times and currently located above our sanitary line), 2) is in poor condition, not suited for renovation to accommodate current building codes and occupancy requirements for an ADU[,] and 3) is not visible to any other, save my family, immediate neighbors, as foliage allows, and any guests we may have at our home (it is not truly viewable / appreciable from the either Ridge Street or Oak Street; simply another shed).”

Staff comment:

- *Historic*: By legislative action, City Council established the Ridge Street ADC District and designated as *contributing* the house and cottage/shed at 507 Ridge Street. (Ref. Code Section 34-272(3).) The BAR does not and cannot determine

historic designation, nor can the BAR choose to disregard such a designation established by the zoning ordinance.

- *Condition:* Refer to the staff report. Staff visited the site on November 3, 2022 and found the cottage to be in poor condition, but not at immediate risk of collapse.
- *Historic location:* Staff concurs. As expressed in the staff report, evidence suggests the cottage/shed is in its original location on the property.
- *Construction of an ADU:* Per Sec. 34-275. - *Certificates of appropriateness; construction and alterations*, new construction within an ADC District requires BAR review and approval of a CoA. The request presented to the BAR was only for the demolition of the cottage/shed. There has been no CoA request submitted for constructing an ADU on this property. [It is worth noting that nothing precluded—or precludes--the owner from presenting to the BAR a proposed ADU.
- *Visibility:* The cottage/shed is designated a *contributing structure* to the Ridge Street ADC District. Per Sec. 34-277 the BAR has purview to review and approve demolition of a contributing structure, applying the criteria under Sec. 34-278. - *Standards for considering demolitions*. That criteria makes no reference to evaluating the visibility of a contributing structure, not from the public right of way, a neighboring property, or otherwise.

Paragraph 2

Appellant: “During conversations with the BAR, several members assumed the intractable position that our “historic” shed must be preserved for preservation’s sake, though it clearly is in rough shape, and does not meet any of the needs outlined above. Simply put, the majority of the [BAR’s December 20, 2022 denial] was that demolition of the existing shed is not in line with the mission of the BAR.[...] Those in favor of allowing us to demolish the shed (those voting Nay on the motion to deny our request) rightly supported these key points:

- 1) the shed behind our home is NOT uniquely represented on the National Historic Register and its demolition would not adversely or any other way detract from the historic designation of the Ridge Street Historic District
- 2) the shed is NOT viewable to the public,
- 3) is not associated to ancillary citizenry and/or historical figure (NO NAME OR PERSONAGE OF ANTIQUITY CAN BE DIRECTLY LINKED TO THIS STRUCTURE) and
- 4) its (the shed’s) demolition is not without precedent; larger and much more historic structures have been raised in recent years, thus substantiating such actions[.]”

Staff comment:

- *Historic:* See comments above.
- *Preservation/CoA denial:* In evaluating a demolition request, the BAR can consider only the criteria under Sec. 34-278. - *Standards for considering demolitions*. In applying those criteria, the BAR determined that preservation of the cottage/shed was valid and therefore denied the demolition request. (Refer to the approved motion for denial.) However, per Sec. 34-286. - *City council appeals*, in addition to an appeal presenting the procedures and/or standards violated or misapplied by the BAR, an appellant may submit for Council’s consideration “additional information, factors or opinions he or she deems relevant [to the appeal].”

- *Virginia and federal designations:* (Refer to pages 3 and 4 of the December 20, 2022 BAR staff report.) The house and cottage at 507 Ridge Street are listed on the Virginia Landmarks Register and the National Register of Historic Places as contributing structures to the Ridge Street Historic District (VDHR #104-0025). The VCRIS record indicates the property was found ineligible for individual listing. [It is important to note that while the BAR’s review, per Sec. 34-278, includes consideration of state and/or national designation, it is only a result of local [City] designation that the BAR has purview.]
- *Association with historic individual(s):* Staff concurs. There is no indication the property, house or cottage/shed are associated with a *historic person, architect or master craftsman, or with an historic event.* (Refer to page 4 of the December 20, 2022 BAR staff report.)
- *Prior approvals of demolitions:* The BAR reviews each request individually, applying the design guidelines and, following discussion, voting on that specific request. In evaluating this request, the BAR voted 4-2 to deny the CoA for the demolition.

Paragraph 3

Appellant: “[We] seek to demolish the existing structure [and] construct an ADU, within city guidelines / approval and BAR approval (if necessary) to retain the historical look of our home / property. The location for placement of ADU must be handicapped accessible and directly adjacent to our home[.]”

Staff comment:

- *Construction of an ADU:* (See comments above.)

Paragraph 4

Appellant: “[The cottage/shed] cannot meet the needs of renovation to serve as an ADU, and its demolition in no way detracts from the Ridge Street National Historic Designation nor the Local Historic Designation.”

Staff comment:

- *Construction of an ADU:* (See comments above.)
- *Impact on National Register Historic District:* Refer to the page 7 of the December, 2022 staff report: Per discussions with VDHR staff, November 4, 2022, removal of the cottage/shed would not cause the primary structure (house) to become non-contributing, nor the historic district to be de-listed. Note: This was not a statement to support for the demolition, nor a dismissal of its important, only that, the historic district taken as a whole, this demolition would not likely result in delisting of the district or for the house to no longer be a contributing resource to the district.
- *Impact on the City ADC District:* In its motion to deny the CoA, the BAR determined that demolition of the cottage/shed would be incompatible with the historic, cultural or architectural character of the Ridge Street ADC District.

Paragraph 5

Appellant: “The arguments put forward by BAR members and Staff are those of “retaining the structure in order to maintain a window to the past”. Some historical structures should and are retained and maintained due to and for their historical value. This is not one of them, nor should it be. Conservatorships and foundations have been and are created to seek donations and resources to ensure the continued existence of structures such as Monticello or Mount Vernon. This is a ~12’ by ~14’ shed, in poor repair (the roof is leaking, the windows are damaged, animals are living in it, etc.) on our private property, with no access to the community, which’s value is diminishing daily. The BAR’s wish that it be maintained in perpetuity for its own sake is capricious and unreasonable. In its decision, the BAR’s motive to deny our demolition of the shed appears a matter of precedent rather than sound judgement.”

Staff comment:

- *Historical value*: See comments above re: *Historic*. Accessibility to the public is not a requirement for or result of historic designation. Except for public buildings and sites that have been designated, staff is not aware of any state, City, or federally designated properties in the City that are under conservancy and/or available for public access.
- *Condition*: Staff concurs the cottage/shed is in disrepair; however, the applicant did not submit a professional assessment of its condition. (See page 5 of the December 20, 2022 BAR staff report.)
- *CoA denial*: See comments above.

Paragraph 6

Appellant: “I have approached the BAR in good faith several times, following the process in accordance with Charlottesville City Code(s) regarding our historic district [requesting BAR approval of] 1) Solar Panel placement and 2) rain gutter replacement). Allegations from the BAR chair during the 12/20/2022 meeting that were flaunting the BAR’s oversight are unfounded and inflammatory.”

Staff comment:

- *Prior BAR submittals*: Staff concurs with the appellant.
- *Allegations*: At no point did the BAR flaunt its purview, nor misrepresent the review process. In brief, during the discussion (see pages 2 and 4 of the December 20, 2022 staff minutes), the applicant stated: “[The cottage/shed] is going to go away, whether it is tomorrow, next week, or in three years due to upkeep.” And “I said that it will come down eventually.” Ms. Lewis, presiding over the meeting as vice-chair, responded she had “never heard an applicant say that; that they will get their way.”

Paragraph 7

Appellant: “The BAR’s [denial] was decided wrongly. Our desire to remove [the cottage/shed], retain appropriate elements for the construction of a ADU [is] fiscally, morally, and socially the correct one, adding human value to our community. Sometimes it is appropriate to retain /

maintain structures for their own sake, adding context and value to the community. This structure is not one of them.”

Staff comment:

- *CoA denial*: (See comments above.)
- *Construction of an ADU*: (See comments above.)