

HISTORIC DISTRICT BOARD OF REVIEW

Meeting

December 28, 2009

The City of Madison Historic District Board of Review held a regular meeting on Monday, December 28, 2009 at 6:30 p.m. in City Hall. Virginia Jorgensen, vice-chairman, presided over the meeting with the following board members present: Robert Saueressig, Paul Davis, and Mindy McGee. Also present were: Mike Hoffman, Building Inspector; Mary Jean Stotts, attorney; and Louann Waller, secretary. Absent were: Linda Wenning and Dirk Cheatham. (Note: Tony Hertz, chairman, resigned effective December 14, 2009.)

There were no additions or corrections to the minutes from the previous meeting. P. Davis made the motion to approve the minutes – seconded by M. McGee – roll call – all ayes. *Minutes stand approved as recorded and distributed.*

New Applications:

1. **Ratio Architects, Inc. on behalf of property owner: Madison Consolidated School Corporation – C. of A.** for demolition of the former Madison Clinic Building. Applicant plans for the construction of a playground. Proposed brick walls with limestone caps and picket fences to be cohesive with existing detail of the Lydia Middleton School.
Location: **722 W. Main St.**

Zoned: Specialty District (SD)

Utilizing drawings, Ratio representative, Joe Briggs stated this is a continuation of the Lydia Middleton Elementary project that was successfully completed about three years ago – bringing back the historic value that the building needs to have – developing the playground area a little bit in keeping with the historic nature of the building. And, Mr. Briggs said it was always the intent of the school corporation to move forward with the parking area to the Third Street side in order to maintain and get some of the parking off the streets and bring teachers onto the site. Mr. Briggs stated the plan was for the clinic to remain but recently about a year ago there was a very bad winter storm and there was a good amount of damage done internally to the building itself and the Clinic had to go non-operational at that point – the Clinic moved; the building itself, as reported, had approximately \$355,000.00 damage to the interior to repair it from what it was originally.

Mr. Briggs told that Historic Landmarks of Indiana reports that the Clinic building was constructed in 1960 and is of no style and is a noncontributing element to the historic side of Madison. He explained that is taking this into consideration and the cost involved to repair the building the school corporation came to Ratio and said what other opportunities can they do with this property – knew they wanted to expand the parking lot. After brainstorming with the staff one of the things they found lacking in their design for the school corporation the first time around was an adequate size playground for the children – one with actual green space to it and not just concrete and a soft play surface area like is currently in front of the school.

Mr. Brigg said if the board would remember way back when, the original school had an asphalt playground on the other side of the school back where they put the gymnasium and administration space, so when they were coming back to this location they said, ok – well what opportunities did they have – they started looking basically at how the site was going to circulate first off and how to deal with some of the circulation around the building itself and in developing the parking lot, one of the two things they were trying to do was to relieve some of the pressure on the neighborhood and basically get it to where the teachers are parking “here” – plus, bring all of the pick up and drop off onto the site itself. He further explained as they developed the site one of the key aspects

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of what they were trying to do is on Main Street “here” will maintain the alley way that is along one side of their project site and tie that into their parking area – basically trying to pull all the traffic off either Main Street or Third Street and keep in on the school site proper – that was one of their objectives and that is one of the things they are achieving.

Mr. Briggs explained in the kick ball area they are creating an area along the side with benches and trees for the children to be able to get in the shade; creating a swing set; developing a miniature basketball area for outdoor activities; climb structure on “this” portion of the site; basically bring in some new tree growth on the parameter of the property area; and going to deal with the swale on the south end and along the west side in order to deal with some of the water gain that will come off the site – basically let nature do its thing without having to dump it off the property; on the front of the playground area will basically build the two tiers identical to what is seen at Lydia Elementary School right now; going to be basically a short tier and a taller tier made of basically brick and limestone and will have limestone caps; one of the differences, instead of having a center gate area (this is a little bit different than what they presented about a month ago at the ZBA meeting) the school and staff said it would be very nice to have a gate entry “down here” on the Main Street side – had one on the parking lot side – staff thought it was necessary to have an extra gate “here” for activities – once in a while will come across the front of the property “here” and come into the gate “this” way so they ended up putting a gate which will be identical with the standard steps and railings and the stone caps on those piers at the entry ways – so, will be identical to what is over at Lydia next door. Further description – across the front will have the same tree type systems and everything the same as Lydia – will basically transpose both “those” aesthetics right to the face “here” which they have tried to show with this perspective looking from across the street back across the site with the same black metal fencing and the two tiers of brick exposed with stone caps and with the railing system and gate right “here” on the corner and then Lydia Middleton Elementary School is “right over there” – so, the planting will be very similar to what they did over there.

G. Jorgensen stated she likes the continuity. She asked Mr. Briggs if they are applying for anymore driveways in the back? No, per Mr. Briggs - there will only be the parking area in the back – actually reduce the number of drives in the back – right now there are three (3) but basically there are currently three exits – one is for the school and two are basically the exits for the Clinic parking lot – actually going to reduce the slope of the Clinic parking lot significantly about 30-in. all total; actually going to pull this site out a little bit, but also maintaining the existing driveway access for the neighbor so they will not interfere with his access – he will be able to use “this” alley way or use the parking lot to go in and out. Also, he said that the right-of-way they have provided for the Greves is not effected by any of the modifications they have done; will end up just having one entrance on the far left side which goes to the way they originally set up the drainage system for the entire site project when they did the original design – have basically the site drainage going towards the river past Third Street – everything was going here anyway, already had that subsurface built in the design already.

R. Saueressig asked what is the vehicle capacity of the parking lot. Mr. Briggs answered there will be 27 parking spaces for the teachers and he believed there are seven more ... thinks there is a total of 34 parking spaces – had to lose two parking spaces “here” at the corner when they joined the two together as part of the design. R. Saueressig then said just out of curiosity what is the one space in the lower left hand corner of the parking lot. Mr. Briggs answered this is the right-of-way that was provided to the Greves. R. Saueressig asked if there is a building in there. Mr. Briggs answered, no, that little box there is a small building that is part of the design – this is a transformer – this is the

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power to the school; another structure he pointed to – he explained this little building is approximately 400 sq. ft. that is going to be a storage shed that will be in the context of the same brick and systems that are in “this” building here – a little gabled roof on it.

G. Jorgensen said she was concerned what was going to happen to the value of the house in between but it looks at though it is going to be better than what the Clinic was. School board attorney, Darrell Auxier, said he would like to comment that they went before the ZBA and they acquired a Conditional Use permit for this use at the site and that board specifically looked at whether that was one of the factors - considered when making their decision – did receive approval from the ZBA last month. Mr. Auxier said the ZBA considered neighboring properties.

M. McGee said that she liked the green space. She asked if there will be any changes to the current playground in front of the school or will it remain as it is. Mr. Briggs answered that they will have that as an alternate to their scope that they might get some more green and shade for the students. He said they are anticipating that a lot of the younger grades are going to be “here”, the kindergarten and first grade will probably be utilizing this playground and the rest of the grades will probably be utilizing “this” playground – that was one of the reasons why the staff kind of felt it was important to have this other entrance off of “here” because some of the students could come right from the cafeteria directly off the _____ here and come out and go in this way as a way to actually get some students in there instead of going through the stairways and going out “this” direction and coming in “this” direction – staff thought it was another way of utilizing the site better.

Mr. Briggs said that one of the things when they did this, they were trying to accommodate five grades on the one little playground and that was pretty tough but they accomplished it, he guessed. Further, he stated that one of the biggest complaints since they built the playground was lack of shade up at the front part of the site, so since they are going to be building “this” basketball court “here” this basketball court becomes less significant as a large area, plus it was designed as for a kickball area which is a very, very, very small kickball area and from what Ratio understands, they really never used it for kickball because it was just too small, so they are going to try and get in some extra trees if they can get it in under the budget.

G. Jorgensen had a question about noise level that will be coming from the playground on the east side nearest the house. Mr. Briggs said there won't be any increase in noise from what they already have on “this” side noise wise – there will not be kids on both sides at the same time – expect there will be a little bit less noise because the kids will be more spread out. He further thought the trees would help to diminish the noise.

Audience member, Elizabeth Vandebogart, told Mr. Briggs that all his pictures always look nice but she really feels badly for the property owners of this beautiful home – it will look like it is sitting in the middle of a compound having mirrored the same thing from the school on each side of it – it's like it is cut out in the middle of ... Ms. VanDebogart asked Mr. Briggs if he knows what it sounds like to hear a basketball hitting on the concrete – wouldn't it be better to put the soft area up by the house and put the nosier in the back? She said another thing is that the entrance at the front is going to mean the Greves will have trails of children going back and forth between and thought it was a disadvantage for that beautiful piece of property. Mr. Briggs explained to Ms. VanDebogart their reasoning for the playground design. Also, Mr. Briggs told that the children will only be on the playground for approximately 1 ½ hrs. each day – after lunchtime. M. McGee said she understood Ms. VanDebogart's concern about the noise

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level as she and her husband own the structure on the alley just east of the school – agreed the children are only on the playground for a short time each day.

Audience member, Ron Greves, said the noise level is not a problem as his house was built in 1837 – architect was Costigan – they don't hardly hear street traffic so from that standpoint ... and what they do hear from the kids to him and his wife is a joy, not something that is offensive. He told that they have enjoyed living next to the school, but the only thing they have thought about – since this is a historic area – they thought if the school system would consider, not demanding this – won't be upset if they don't do it, just suggesting if the school system would offset 20-ft. from the sidewalk on the west side and put just a little grassy area in there along with the fence to match the other side, but put a little grassy area on the front and tie it in with historic Madison such as with some benches, some plants or whatever, and also maybe a plaque of some type designating that this is where the Madison Clinic was and maybe listing some of the original doctors – there's a lot of history there in the Madison Clinic. Mr. Greves again said the noise level is really not a problem and could say in the 25 years they have lived there that they never, ever had any problems with the kids – no paper in their yard – no problems with the children. He further stated that the school has treated them very well and with respect. Mr. Greves said the other thing that has been brought up that he didn't think he could know at this time is what will this do to the value of his property – he doesn't know – concerned about that. Mr. Greves said he is suggesting that for people walking – we have a lot of walkers on Main Street – they need a place to sit and rest – parents pick up their children that right now stand on the sidewalk. Mr. Greves said they will not be upset if the school system does not take their suggestion – just would like for the school system to consider.

Mr. Briggs said he would respond to the one item – they had talked about that during the ZBA meeting and one of the concerns is basically what happened on “this” part of the property which they didn't think would be issue – that being that the front door of the school (where the students come in and where the buses drop off) it became a congregating space for the young kids in the neighborhood – ended up with multiple damages even before the project was actually complete because they were doing skateboard activities and they were hanging out and doing things they shouldn't be doing there. So, he added when you create a bigger space like this, his concern is that to create a large public space that is open like that, there might be other activities that go on there that no one is going to like because it's not protected by any special surveillance, not protected by fencing, it is open, anybody can go into, the kids might congregate there just like they congregated “here” where we didn't want them also. Mr. Briggs noted that he didn't think that has been solved – have added some things to deter skateboarding but other activities the kids are still doing. Mr. Briggs suggested that might be a little bit of a concern as to what that might create as a congregating space for the younger kids which may be more detrimental to the Greves property.

G. Jorgensen asked for a vote. L. Waller said just to clarify for the record this vote is for the demolition and for the playground.

G. Jorgensen asked if anyone had anything to say about the demolition. D. Auxier stated that most of us have been in that building at one time or another and when the school bought the property they struggled with what they would use the building for – they really needed the back space for the parking lot as it was a real inconvenience for the neighborhood – there are 14 teachers and those teachers were parking on the street and with the gymnasium they knew there would be night events from time to time and they just did not feel it was fair to the neighborhood to make those improvements without

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incorporating the parking lot. But, D. Auxier noted the school corporation could not buy the parking lot without buying the building, so they ended up buying the building and frankly the building has not been well maintained over the years and once the damage occurred to it, they were asking the question that here they have a building that they don't really have a use for, it's a very odd building inside, it is cut up in a series of very small rooms and do they put money back into that building or take the money that they've received from the insurance company and use it instead with money they had already reserved for the parking lot to go for the extra playground space and this is what they determined would be the best use of the funds. D. Auxier said if they were to put the money into the Clinic, again, they are left with a building that they have no use and was not sure if they were even going to rent it out that they would have much luck at renting that building because it is so designed for a specific use. D. Auxier noted that if there were members of the community that felt it is a historic structure that needed to be saved, they would be here.

No further questions or comments from the board members or audience.

Roll call – all ayes. ***Application approved as applied.***

2. **Carolyn Barr – C. of A.** to replace roof that was destroyed by fire in 2006.
 Proposed roofing material is metal. Other material to include galvanized half round gutters.
 Location: **420 West St.**
 Zoned: Central Business District (CBD)

Application tabled per request of Ms. Barr.

3. **Cinergy MetroNet (Property owner: Susan Frede) – C. of A.** for 38.75" x 73" two-way perforated static cling signage in front windows.
 Location: **327 W. Main St.**
 Zoned: Central Business District (CBD)

Application presented by Steve Biggerstaff and Mary Ann Cox with Cinergy MetroNet. Mr. Biggerstaff passed out material to the board members. Mr. Biggerstaff said they are glad to be in Madison – have been working on this for years – investing about \$10,000,000.00 in the City of Madison – will employ about ten people. Mr. Biggerstaff explained the reasoning for locating their office downtown.

Mr. Biggerstaff said that Ms. Cox spent several months working on the interior design and window signage.

According to Mr. Biggerstaff currently they have about 100 people a week in their store and they are not half built in Madison so they think that number will likely double and probably get closer to 200 per week and some of those have made the comment that the store is a little bit hard to find.

Mr. Biggerstaff said they have looked at how best they can fit in with this community so it's not that they went ahead and put in the windows thinking nobody would catch it or were arrogant because they are investing \$10,000,00.00 so they'd just go ahead and just railroad their way in – they don't work that way – have not worked that way – have always wanted to be a fit and want to be a part of the community. But, he added that part of that is that visibility to them is really important, is important to the type of business that they are in and to do that he feels like the customer has to be able to see them; they

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have tried to balance that without knowing actually what the requirement was, but they are here in retrospect to say that they think they really have added value to the community and downtown in a lot of different ways so they are here to seek approval for what they currently have.

Ms. Cox told the board members that they can see on page 6 before and after photos of the store and they have received approval (from the Plan Commission office) for a shingle and an A-frame sign that will be outside the front door, so they will have this signage but it's approximately 40-in wide and perpendicular to the street so they will certainly get walking traffic. She noted the window signage does not do damage to the façade. G. Jorgensen asked Ms. Cox if she happened to look at the guidelines to decide on what type of signage they were going to use for the shingle and ... "Absolutely, per Ms. Cox. Ms. Cox provided to the board members a sample of the actual film that is on the windows and explained it is perforated so you can see from the inside out – can see the street – no blocking of vision. Mr. Biggerstaff said he has noticed there are a lot of drapes and curtains along the street that pretty much fill up the windows, but what this (the film) does is that they don't have to have blinds, don't have to have drapes or anything because of the two-way type of film that is on the window so they can leave a clean look on the front of the building and it's neat, clean looking. He noted they love that cleanness on the front of the building and want to keep that same, clean, professional, yet historic look. G. Jorgensen commented this isn't anything that is permanent, can be easily removed. Mr. Biggerstaff said at some time they probably will change – can see that changing because what they represent today will be different in five years – it will change. G. Jorgensen told Mr. Biggerstaff and Ms. Cox that she welcomed them downtown and thanked them so much for locating there – glad to have them.

R. Saueressig said one of his questions was how often will the clings be changed. Mr. Biggerstaff answered that they don't know yet because they started to use the clings about 1 ½ yrs. ago in Seymour and they have the same kind of clings in every one of their offices and that's another reason – they didn't think about it because they haven't run into this issue anywhere else and they are also in some other historic places in North Vernon right across from the train station – really a nice spot – and they are right across from the Chamber in Seymour on Chestnut – just haven't run into this before. R. Saueressig asked if the clings are designed as a whole and used for all their stores. This is correct per Mr. Biggerstaff except for size because basically in terms of positioning on the windows and how much of the window they fill up, they are the same – want to keep that look in their communities. Ms. Cox noted that the branding message may be updated whenever their marketing department decides they need to update that, but she feels very strongly that this represents a very clean professional look and explains from the residential perspective and the business perspective what they provide very simply with word and very simply with a visual notation as well. R. Saueressig said he likes the graphics but he questioned if it is fitting for the downtown. Mr. Biggerstaff said they have worked hard with the graphics; you only have sometimes a few moments when driving by to get that visual and also size makes a difference when you do that so you can see it and focus in on it. He said their preference would not be to make that adjustment, it would be to go the way they are and it's not the expense, but the most important part to them is trying to create a visual where people can find where they are and see what they do – that is what they're really trying to create and yet with that balance served with the historic nature of the community – that is the balance they are trying to achieve and quite frankly feel if they shorten the clings down and go very, very small they would probably have to then look at what type of shading, blinds, or curtains they might have to have – but, more importantly than that to him is trying to be able to capture the people that is looking as

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they drive by as they don't have much time to do it. G. Jorgensen told Mr. Biggerstaff that she understands the marketing aspect and again commented this is not permanent.

Mayor Armstrong stated that Cinergy MetroNet has been very easy to work with – anytime there has been an issue about downtown they have been Johnny-On-The-Spot to correct the issue. The Mayor said he didn't care where MetroNet located, wanted them in Madison, but one of the reason why downtown was pushed a little bit more was because there are a lot of second and third floor buildings down here that technology wise would like to have downtown, and since working with Cinergy MetroNet City Hall has signed up and one reason for that was because 1 ½ yrs. ago he was looking at a phone system and the current phone system (who the city is with) trying to consolidated some of the city buildings – offices are in one building but getting bills for each department. The mayor advised that since signing up with MetroNet the city will save about \$1,2000.00 on phone service alone.

Also, the Mayor said that Cinergy MetroNet along with Microdome are going to partner to work on having wifi downtown – at least have some hot spots – so we can start attracting some of the younger, some of the entrepreneurs that may be able to locate in some of the second and third floor buildings because remembering, a year or so ago lost a game company to Texas because we didn't have a lot of the things that they look for – that's one of the reasons for being very excited to have them here. The Mayor told the board members if there is anything they can do to help out ... want to keep everything attractive and want to keep everything consistent downtown, but again with the message on the cling-ons they can always be removed and upgraded.

No further questions or comments from the board members or audience.

Roll call – all ayes. **Application approved as applied.**

4. **Jeffery Burleson – C. of A.** to remove street level windows and doors; replace with original wood ten-ft. doors; windows with poplar wood construction to as near as practicable as the 19th century original.

Location: **206 & 208 E. Main St.**

Zoned: Central Business District (CBD)

Mr. Burleson said he doesn't have one of those high dollar speech makers but would hate to disagree with the guy that was just here but he has "the" building downtown – it will be a destination place – thinks it is one of the better looking buildings in town, it just needs a little work.

Mr. Burleson told the board members that what they read on his application is what he intends to do. He said he had just received information from Link Luddington that he didn't know about native poplar – will have to do some research – may have to change that because Link says its no good today as opposed to 100 years ago, but will see.

G. Jorgensen told Mr. Burleson that it looks like he has a great project and personally excited that he is trying to return the building to the original as close as possible.

Mr. Burleson told that the original doors were there – the glass isn't there.

M. McGee asked Mr. Burleson if he has the doors for both sides. Yes, per Mr. Burleson.

Mr. Burleson said he is improving downtown Madison. G. Jorgensen commented this is the kind of work she likes to see downtown.

R. Saueressig asked Mr. Burleson if he has a tenant yet. No, per Mr. Burleson.

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R. Saueressig also asked Mr. Burleson if he plans to utilize both the first and second floors. Per Mr. Burleson, on the 208 side right now he plans on refurbishing the second floor of 208 – 206, he is not sure – eventually planning on doing that, but no specific plans for 206 second and third floors at this time. However, Mr. Burleson said he does plan on finishing 208. R. Saueressig then asked if they will be residential. Mr. Burleson answered that he doesn't know – has some residential in the other building which works out okay but just not sure yet what his plans for 208 is going to be – may just move in there. R. Saueressig told Mr. Burleson it would be nice to have it tie into the mayor's plan of having business on second and third floors.

No further questions or comments from the board members or audience.

Roll call – all ayes. **Application approved as applied.**

- 5. Paul Robinson – C. of A.** to enclose upper side porch on the rear of the house.
 Location: **618 W. Main St.**

Zoned: Specialty District (SD)

Application presented by Matt Hicks by explaining the Robinson's are going to enclose their upper porch and there is a portion of the house that has aluminum siding so they would be removing the aluminum siding, framing in between the existing columns, and then using Hardi siding and trim for the upstairs.

G. Jorgensen asked Mr. Hicks if the Robinson's will be maintaining the structure so that it can be removed so if in the future someone wants to remove it, this can be done. Yes, per Mr. Hicks. He explained that currently the upper porch from the north side allows wind and rain to blow in and has caused water damage that comes through on the lower framed in portion of their first story porch, so this is kind of a way to eliminate problems and create a larger living space for the family. Mr. Hicks told that if basically looking around any of the historic properties it is quite common to see framed in upper level areas – kind of deals with the parameters of historic Madison – or similar to some of the others.

Further explaining, Mr. Hicks said the material being used is very resilient to water. He said he doesn't foresee anyone wanting to remove the addition but if they wanted to, they could. G. Jorgensen told Mr. Hicks it is one of the defining elements in Madison – the side porches, but like Mr. Hicks said, by maintaining the existing structure so that if someone new wanted to bring back that characteristic and that character to the home ... Mr. Hicks advised there will be nothing removed from the existing structure.

G. Jorgensen said to Mr. Hicks that she noticed the house is for sale right now. Mr. Hicks said that he believes after the renovation, the sign will come down – pretty sure about this. G. Jorgensen said she just wondered about this with them taking on this project. Mr. Hicks told G. Jorgensen that she would have to check with the Robinson's but feels quite certain the house will be taken off the market.

R. Saueressig asked about the windows – will they be the same size and shape as the existing. Mr. Hicks answered there is an existing window that he mentioned in the aluminum siding – going to match the side of those which pretty much matches the current original windows on the main structure. G. Jorgensen commented that they look like 6/6 on the structure and others look like 1/1. Mr. Hicks said size wise they are the same and the windows in the sketch are shown as 1/1 but he is not so sure if they will

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be in a 6/6 – will have to give it a rough feel and will take any recommendations. He noted there are currently two styles going on.

M. McGee asked if the plan is to leave the bottom porch open. Yes, per Mr. Hicks – and, the columns will show through – they will remain in the framing.

No further questions or comments from the board members. No questions or comments from the audience.

Roll call – all ayes. **Application approved as applied.**

- 6. Tint Systems, Inc. – C. of A.** for three awnings with business signage across the front of the building.

Location: **716 Jefferson St.**

Zoned: General Business (GB)

Application presented by Jenna Wilson who stated they are relocating the businesses to **714 Jefferson St.** Ms. Wilson explained there is a car lot in front of them so thought about moving and this building became available and they decided to jump on it. Ms. Wilson explained that they need to draw attention to their business as much as possible so they are looking at signage that is aesthetically pleasing.

End of Tape 1 – Side A

M. McGee asking Ms. Wilson if they will do the awning themselves. Per Ms. Wilson, they will have the awning made but her husband will install it.

Audience member and Cornerstone member, Rich Murray, asked what type of material will be used for the awning. Per Ms. Wilson, it will be vinyl. M. Hoffman advised they will be using the same type of material as the awnings on City Hall.

No further questions or comments from the board members or audience.

Roll call – all ayes. **Application approved as applied.**

- 7. Brian Peak – C. of A.** to remove existing siding and replace with HardiPlank.

Location: **513 Mulberry St.**

Zoned: Historic District Residential (HDR)

Mr. Paul Key, III told the board members that the house is currently owned by Brian Peak but that he is planning on purchasing the house to remodel and ultimately will resell.

G. Jorgensen asked Mr. Key if the HardiPlank will run horizontally. Yes, per Mr. Key. She also asked about the plans for the windows. Mr. Key answered that he will redo the wood windows.

Audience member, Jack Patchin, commented that the last time the board approved an application for HardiPlank that the job was not done right – used “Jake” channel. Mr. Key assured that the job will be done right.

M. McGee thanked Mr. Key stating she thinks the house will look great.

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No further questions from the board members or audience.

Roll call – all ayes. *Application approved as applied.*

Business – Old or New:

There was discussion for the consideration of the possibility of the imposition of a fine levied against contractors for failure to confirm a Certificate of Appropriateness, when required by the Historic District Ordinance – confirmation that a C. of A. has been issued prior to working on properties within the Historic District. G. Jorgensen said this is something that is not in the ordinance – did not know how many times it has been an issue before, but there is work being done in the historic district that is not approved, it does not have a C. of A. that it should have, we have contractors coming in who are here or who may not be here who are doing this type of work ... She asked for comments on the practicality of imposing a fine or penalty. M. Hoffman stated that he did not have a problem with a fine, did not think it should be outlandish, first time – second time – whatever is decided. He thought the board should make up a rough draft and present it to the Council because they will have to put their seal of approval on it. M. Hoffman noted there are contractors that he has warned more than once and he thinks it should be in place but didn't think there should be a \$10,000.00 fine. He added there are a few in town that once in a while you get a new contractor in town that is not familiar, not saying the contractor should use that as an excuse, but a slap on the hand and small fine he believes would be appropriate.

J. Stotts told the board if they want to be able to impose any type of penalty on a contractor who is not a building owner, she thought the board would have to modify their ordinance to do that. She explained to the board that they would obviously have to proceed through the regular channels unless they are going to try to add something different to the ordinance which would have to be checked with Indiana statute to see if the board can do it, but usually what happens is if there is a violation the building inspector will tell them and if they choose not to follow that and come before the board and if they continue, then at that point the board needs to make a decision as to whether or not they are going to file suit. J. Stotts said they would have to look at the provisions to see what is allowable for the board for a fine that is outside of filing a lawsuit because generally you have to initiate a suit in order to penalize somebody financially.

G. Jorgensen asked J. Stotts if she was saying the board could not impose a fine or establish a fine. J. Stotts said what she is saying is that we would have to look at the Indiana statute to see if that is allowable – she knows as far as penalties with property owners if they are violating the ordinance then there are judicial avenues to go through that is not unilaterally and imposed by the board. So, she said she would have to look to see if that is even an option for this board to do a fine for a contractor verses a penalty for a property owner who is violating the ordinance. G. Jorgensen asked J. Stotts if she would be the one to look into this. J. Stotts answered that the board attorney would be the one who would proceed with that if the board should choose to do that.

R. Saueressig how do they get the process started. J. Stotts told him if that is something the board wants to see if it would be an option for this board, then can see if the statute allows unilateral and position of fine by the board. She noted she is under the general assumption that the board probably is not and would have to go through the court system in order to impose that. She also said that the statute actually has a range of penalties in which the board can use for violation of the ordinance – she is assuming it will be the same for a contractor. G. Jorgensen asked even if the board requested that the City Council adopt a fine to be placed in the ordinance, then the board would still have to go

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through the court with the request. J. Stotts answered that is what has to be done with a violation of the ordinance now, so what she is saying is that “we” can see if the Indiana statute will allow the board to impose a fine of their own choosing and value but she is thinking the fact that a violation of the ordinance by a property owner requires the board to initiate a lawsuit and the court to determine within the range in which they can fine someone for that violation, that penalty – she assuming that is going to be the same case with a building contractor as well. J. Stotts said she can find out and give the board that answer. G. Jorgensen said that when some people move into the area they do not know and don’t understand there are certain regulations that go along with living in a historic district, but still the contractor should know what the procedures are when they are working on a project. J. Stotts said in the ordinance at this point is pretty broad as far as “variances shall conform with the procedure” and it also says that “any person or corporation who violations or fails to comply with the provisions of the City of Madison Historic District Ordinance shall be guilty of a Class A infraction.” She advised that the ordinance at this point doesn’t narrow it down to just property owners, it says any person or corporation so the board may be able to fit it within the parameters of the ordinance as it exists already – it doesn’t indicate an applicant or property owner – it says any person or corporation – so it’s worded so broadly that the board may place under it that umbrella and not just the applicant.

G. Jorgensen said at this point the board has to decide if this is an avenue they want to pursue. J. Stotts told her that she thought the board needs to make a decision as to whether or not they want to make it more narrower than the way that it already exists, if they do, then can look and see if the board can impose fines on their own or if that’s even a statutory option for the board – may not be, but if the board decides they want this looked into that, she can.

Mayor Armstrong said this is something that was talked about last year during the Historic Guidelines process – there are a lot of things that can be clarified in the ordinance because it is an old ordinance – not saying a lot of things need to be changed, but cleaned up may be the wording and that is one of the suggestions that he would like for the board in the next short period of time - to look at that with legal counsel and maybe some of the others – possibly Cornerstone – and some other people – clean this up a little bit so we don’t have some of the questions, don’t have some of the inconsistencies and so on from here on out, so that is one of the things he would like to suggest to have done within the next few months. He said he thinks there is a lot of wording that could be straightened out, there are some things in the ordinance that states all buildings are supposed to be numbered and evaluated and you don’t see a lot of that – and, the maps as far as primary and secondary, we don’t know – thinks this is some of the things that needs to be cleaned up – would help quite a bit. G. Jorgensen then asked if this is something that the HDBR would take on or the City Council would take on. J. Stotts answered that she thought it would be very similar to what was done with the Zoning Board is that the Zoning Board members actually went through the Zoning Ordinance - and, when you’re on the board you see spots where you have problems and where you don’t have problems in the areas that are vague or not vague – ZBA went through in sections and then made recommendations as to areas they thought needed help and the ultimate decision is the city, but went through ... Again, she said this board is who utilizes the ordinance so they are the ones that will be best equipped to at least show whether there are problems with certain applications in certain areas and where maybe the board needs some help. J. Stotts suggested to the board if they want to do that and follow the mayor’s recommendation that they go through, find the areas they think needs improvement or where the board may need more guidance, or less guidance, less restriction and then the board can make that recommendation in a written form.

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M. McGee said she didn't know the rules or in terms of, but it seemed to her that it would be nice if this board could get together as a group and talk about things like that so the board is not trying to figure out what is important to them – need to find resources that would be helpful. J. Stotts advised that is allowable but it has to be advertised and the board does not necessarily need to invite comments from people who attend, but it has to be open and they can hear the board's discussions. And, she advised that the board does not necessarily have to have a specific agenda such as saying they are going to talk about page 2 or page 3, can just make it general that the board wants to discuss modification of the ordinance, but it has to be advertised so the community can have an opportunity to witness that. R. Saueressig asked how many days prior to the meeting does the notice need to be advertised. J. Stotts said she thought it was at least ten days that it has to be advertised in advance. L. Waller is to verify this and take care of the Legal Notice. The board requested to meet on Tuesday, January 19, 2010 at 5:30 p.m. in the City Hall conference room. Audience member, Link Luddington, suggested that all HDBR members have a copy of the Enabling Legislation – read it so the members do not have to rely solely on attorney interpretation of the legislation. G. Jorgensen advised this is available on line IC 36-7-11.

Audience member, Jack Patchin, said he is a contractor here in town and more than favored the last legislation about the contractors being licensed in the city – thinks that was an excellent move – Mike (Hoffman) has been doing a fantastic job with this and he backs this project with some reservation as the homeowner is the ultimate one that is responsible, but he agrees that contractors just throw up their hands and say “nobody told me” and walk away and they are the ones leading the homeowner, and a lot times they hear “my contractor told me.” Mr. Patchin said the contractors need to know what the rules are before they get involved. Mr. Patchin thanked the board for doing this.

Audience member and Cornerstone Society member, Rich Murray said at last months meeting he had asked that this board be given the opportunity to take a vote on adopting the newly established Guidelines that were approved by City Council – the board attorney that was present at that meeting had some reservations about that action and had promised to back with “us”, the board, and himself with an answer to that. Mr. Murray stated they have not yet received an answer. He asked if this is something the board can do. J. Stotts said she didn't know about him, but she believed the board was given an answer at the last meeting when Ms. Joas indicated that she did not feel as though that was required or necessary. Further, J. Stotts said she feels the same and when this board made a recommendation to City Council and asked that those guidelines be approved and City Council approved those guidelines, then at that point even if the board voted that they don't want to use them, they have to, so a vote is a moot point because the board made the recommendation to City Council – Council approved them and said Historic Board, these are guidelines that you can use, so at this point they are guidelines that the board is supposed to use. She further explained that if the board does not want to use them, they should not have made the recommendation to City Council. G. Jorgensen asked J. Stotts if this is like an ordinance – they are required to use and have been approved by the City Council and so the board now is required to use them. J. Stotts answered that is her impression and also Ms. Joas' impression, and she believed that Ms. Joas also spoke to Mr. Pattison about that and he was under that impression as well. J. Stotts announced the Mr. Pattison, City attorney, is here tonight if the board would like to address him. R. Murray commented it has taken 30 days to get that answer. J. Stotts said she was under the impression from the last meeting that Ms. Joas stated that in several different ways. G. Jorgensen noted that J. Joas did say that was her opinion but that she would get back with the board. R. Murray commented that it was also made very clear that he did not proceed with having copies of the Guideline made until the question

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was responded to, so he has now wasted 30 days – the public has gone without the guidelines. J. Stotts told Mr. Murray that he could make his guidelines now.

Jason Pattison, advised that the City Council amended the Historic Board Ordinance to adopt the Guidelines for the board to use in their decision making process – that’s been done as part of the ordinance – did not think there was anything further that needs to be done in his opinion.

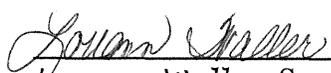
G. Jorgensen said there was an issue from last month – the situation with Frankie Long replacing her windows. G. Jorgensen asked if anyone has heard anything more about that – has she made contact with the Planning office. M. Hoffman responded by saying he has not heard anything from her attorney. He advised that the position is if Ms. Long does pursue, there is no money in the budget to pay for an attorney – didn’t how far Ms. Long wants to pursue this and what she wants done. He again said he has heard nothing from her attorney. G. Jorgensen said at this point the board wants to know what her intentions are and what she plans to do – whether or not she plans on actually putting the windows back, if she has another alternative or resolution – maybe wants to get the old windows and restore them and keep them. M. Hoffman asked G. Jorgensen if Ms. Long had found them. G. Jorgensen answered that she has not heard from Ms. Long. G. Jorgensen asked audience member, Jack Patchin, if he knew if Ms. Long was willing to get them back or ... Mr. Patchin advised that Aaron Fry told him that he saw the windows being taken out – he asked the home owner if he could have the windows – she said take them away, I don’t need them – Mr. Fry told Mr. Patchin the windows are in the basement of his store (across the street). Mr. Patchin said he hasn’t actually seen the windows, but he has no reason to assume that Mr. Fry doesn’t have them, so he is assuming that since all this has come up, she gotten them back.

In further business, board member, P. Davis asked Mr. Murray if he had the Guidelines with him tonight. Mr. Murray presented to the desk and per request of P. Davis opened the Guidelines to page 60 wherein P. Davis pointed out a picture of the windows in the house at 523 Walnut St. and the following statement under the picture: “Preserve and maintain original historic windows such as the multi-light wood sash window at 523 Jefferson Street and the six-over-six wood sash window at 523 Walnut Street.” P. Davis pointed out that the windows at 523 Walnut are not wood – they are vinyl – might want to get that picture out of there.

No further business to be brought before the board.

R. Saueressig made the motion to adjourn – seconded by M. McGee.

BY ORDER OF THE HISTORIC DISTRICT BOARD OF REVIEW



 Louann Waller, Secretary

 Virginia Jorgensen, Vice-Chairman