

CITY OF CEDARBURG
PLAN COMMISSION

PLN20200706-1
UNAPPROVED MINUTES

July 6, 2020

A regular meeting of the Plan Commission of the City of Cedarburg was held on Monday, July 6, 2020 via the [zoom](#) app. The meeting was called to order at 7:00 p.m. by Vice Chairperson Mark Burgoyne.

Roll Call: Present - Vice Chairperson Mark Burgoyne, Council Member Patricia Thome, Kip Kinzel, Sig Strautmanis, Adam Voltz, Heather Cain

Excused - Mayor Michael J. O'Keefe

Also Present - City Planner Jon Censky, Administrative Secretary Victoria Guthrie, news media

STATEMENT OF PUBLIC NOTICE

Administrative Secretary Guthrie confirmed that the agenda for the meeting had been posted and distributed in compliance with the Wisconsin Open Meetings Law.

APPROVAL OF MINUTES

A motion was made by Council Member Thome, seconded by Commissioner Strautmanis, to approve the minutes of June 1, 2020. The motion carried without a negative vote with Mayor O'Keefe excused.

COMMENTS AND SUGGESTIONS FROM CITIZENS

Vice Chairperson Burgoyne offered the opportunity for the public to speak on any issue unrelated to the agenda items. He advised that the Plan Commissioners would not be able to respond to any comments since they were not noticed on the agenda. No comments from the audience were offered.

REQUEST OUTDOOR ALCOHOL BEVERAGE LICENSE RECOMMENDATION FOR BOZEMAN'S BAR LOCATED AT N50W5586 PORTLAND ROAD – ERIK AND REBECCA KNUTH

The Petitioners are requesting an outdoor alcohol beverage license to use within the existing fenced-in outdoor smoking area along the east side of their building. This area is accessed from the bar through the existing door on the east side of the building and is completely fenced in with an attractive wood and iron fence wherein the Petitioner has placed several old barrels for patrons to stand around.

Section 7-2-17 Outdoor Alcohol Beverage License states, *the applicant for an Outdoor Alcohol Beverage License shall accurately describe the outdoor seating area and shall indicate the nature of fencing or other measures intended to provide control over the operation of the outdoor seating area. The Plan Commission shall review all proposed Outdoor Alcohol Beverage Licenses to determine if they are harmful, offensive or otherwise adverse to the surrounding neighborhood and shall recommend that the license be granted as requested, modified or denied.*

Planner Censky noted that the Police Chief has also reviewed this request and has no objections; therefore, recommending approval. If Commissioners also recommend to approve, the application will go on to the Common Council for a final decision.

No issues with the request was noted by the Commissioners.

Action:

A motion was made by Vice Chairperson Burgoyne to recommend approval to the Common Council for the outdoor alcohol beverage license for Bozeman's Bar as proposed. This motion was seconded by Council Member Thome and carried without a negative vote with Mayor O'Keefe excused.

REQUEST REZONING RECOMMENDATION FROM THE BASE ZONING OF B-2 COMMUNITY BUSINESS DISTRICT TO B-1/PUD NEIGHBORHOOD BUSINESS DISTRICT/PLANNED UNIT DEVELOPMENT OVERLAY FOR THE PARCEL LOCATED AT W61N397 WASHINGTON AVENUE – BIRD HOUSE RENTALS LLC/DANNY AND JEANIE CRAWFORD

In 2018, Petitioners Danny and Jeanie Crawford purchased the former Cedarburg Lumber Company building at the southwest corner of Washington Avenue and Jackson Street. Almost immediately, they received approval from this Commission to commence work on improving the outward appearance of the building, which included the replacement of old windows and doors and the introduction of dark grey board and batten siding.

The Petitioners have completed their exterior renovation and are now requesting to add an ADA ramp on the east side of the building. This ADA ramp would wrap around the north side of the building and slope to provide better access to their building. The area on the north is currently a driveway, which will be removed to accommodate the ramp and the remaining space will be replaced with landscaping. Petitioner Jeanie Crawford runs her physical therapy clinic in the building, and stated this ramp is a benefit that she would like to provide for her patients and believes that Cedarburg needs more ADA accessible areas overall.

At 7 feet 8 inches in width, Planner Censky noted that the proposed ramp will be located within the required setback area along Washington Avenue. In fact, City records indicate that the existing building is located within the 40-foot setback area required in the B-2 Community Business District, making the building legal non-conforming.

Due to the parcel being viewed as more of a classic commercial site surrounded by several of Cedarburg's original historic homes, Planner Censky suggested that the current zoning district is not appropriate for this site. Conditional uses for the B-2 district include businesses such as hotels/motels, gas stations and limited manufacturing, which are not compatible with this neighborhood. The proposed B-1 district does not allow the operation of these types of businesses and is designed to support this pedestrian-oriented development where buildings are set close to the street and blend into the surrounding neighborhood.

Since the setback requirement in the B-1 district is 5 feet, the principal building would automatically be deemed as conforming if rezoned, thus the nonconforming status could be removed.

In addition, the Petitioners are requesting the PUD Overlay Zoning District for the flexibility it offers in modifying the underlying base district requirements in order to accommodate the ADA ramp. The proposed setback is 0 feet from the Washington Avenue right-of-way, which places the deck 2 feet from the public sidewalk. Also, the warehouse building is located 3 feet from the south property line, where the Code requires 10 feet. As such, Commissioners are also being asked to recommend the PUD Overlay Zoning District in order to establish the existing side yard setback as Code compliant for this building.

In summary, the Petitioners are looking for approval from Commissioners to recommend this zoning change in order to establish the following departures from the base district requirements for this site. If they are approved, the issue will go before the Common Council in a public hearing.

Nonconformity to Standards:

1. Code Requirement – **Sec. 13-1-53, B-1 Neighborhood Business District, Setback and Yards** states ***there shall be a minimum building setback of five (5) feet from the right-of-way of all existing or planned streets.***
Nonconformity – The proposed ADA ramp setback from Washington Avenue is 0 feet.
2. Code Requirement – **Sec. 13-1-53, B-1 Neighborhood Business District, Side Yard Setback** states ***there shall be a minimum side yard setback of ten (10) feet.***
Nonconformity – The existing side yard setback from the south property line is 3 feet.

Commissioner Cain questioned why the ramp was located on the north side of the building as opposed to the south side that is adjacent to the parking lot. She observed that this placement seems incongruent, since it forces people to travel a longer distance to get to the ramp, which could be an issue, particularly in the winter. Petitioner Danny Crawford stated that the architect did look into this option; however, that placement would require them to build out too far into the parking lot due to the rise and run required for the ramp slope. Petitioner Jeanie Crawford added that if they were to create a designated parking spot on the northwest side of the building along the existing driveway, this spot would block their tenant's space. She further established that the distance from the parking lot to the ramp as proposed would be what is defined as "community distance" and is comparable to parking distances in other commercial locations such as shopping centers, a point on which Planner Censky agreed.

Commissioner Strautmanis questioned Planner Censky on whether the City has ever designated street parking for handicapped use. Planner Censky answered that he is unaware of any of these designations, although he has seen requests from business owners to block out certain parking spots for their exclusive use. He offered to check to see if the City has a policy for designating handicapped parking on a City street.

Vice Chairperson Burgoyne observed that the upgrades made to the building have really made a big difference, and he approves of the addition of the ADA ramp. Commissioner Strautmanis added that he believes this rezoning would be a positive change and voiced his support for the request. Council Member Thome agreed, adding that all of the upgrades have been fabulous and would like to thank the Petitioners for all of the effort they have put into this project.

Action:

A motion was made by Council Member Thome to recommend approval to the Common Council of the rezoning from B-2 Community Business District to B-1/PUD Neighborhood Business District/Planned Unit Development Overlay as proposed, as well as acceptance of the aforementioned departures of the base district. This motion was seconded by Commissioner Voltz and carried without a negative vote with Mayor O'Keefe excused.

CONSULTATION REGARDING THE ANNEXATION AND USE OF THE PARCEL LOCATED AT 6908 PIONEER ROAD, TOWN OF CEDARBURG – JEFFREY SCHOEN

Petitioner Jeffrey Schoen owns a single-family subdivision lot located at the northeast corner of Pioneer Road and Highview Drive in the Town of Cedarburg. Since this site is contiguous with the westernmost limits of the City, he is seeking consultation and support from the Plan Commission for the possibility of annexing his lot to the City. Late last year, Petitioner Schoen razed the home on the parcel, leaving the land vacant. If annexation to the City is approved, he then proposes to rezone the parcel for future office development.

Planner Censky explained that while the City has no objection to his annexation request, the proposed change in the land use of this property violates good planning principals. Although it is located on a major arterial road, this lot is part of the Pioneer Acres platted single-family subdivision and may result in increased business traffic through the residential neighborhood. Moreover, while the site is contiguous to the City limits, it is not adjacent to existing office zoning/development; in fact, there are existing single-family homes located to the east, north and west of the parcel and a rezoning of this nature qualifies as spot zoning.

Petitioner Schoen admitted that he had not contacted his neighbors in the Town of Cedarburg for feedback, but he did approach and receive support from the owner of the adjacent parcel to the east, which is located in the City. Petitioner Schoen questioned the Commission on whether it would make a difference if that parcel owner were to seek commercial zoning on their property as well, but Planner Censky reiterated his concerns about rezoning single family lots to business use. Petitioner Schoen mentioned the existing dentist and orthodontist offices located on the corner of nearby Pioneer Road and Evergreen Boulevard. Planner Cesky pointed out that this intersection lies within a business district, with both Pioneer Road and Evergreen Boulevard having been designed to accommodate commercial traffic. He remarked that the Petitioner's parcel is a block away from any of these businesses.

Notice of tonight's consultation was provided by the City to the Town of Cedarburg. Several Town residents joined the online meeting to voice their apprehensions about this proposal.

Kalika Brissman, 6809 Fairfield Avenue, reported that the residents of the subdivision are not fans of this idea and do not want business access and traffic on their residential street. Ms. Brissman assumed that the Petitioner initially bought the house to flip it, but unfortunately found it to be a bad investment. Now he is trying to get his money back, which she understands, but she emphasized that this is a residential lot. She added that none of the neighbors were notified, and they just found out about this meeting two hours ago.

Planner Censky stepped in to clarify for the neighbors that the City notifies adjacent neighbors as a courtesy, but it is not a requirement. The City does not, however, send notices to homeowners residing in the Town of Cedarburg as they fall under a different municipality. Instead, notification is sent directly to the Town of Cedarburg, which then passes this information on to their residents.

Everette and Rechelle Chaffee, 171 Highview Drive, Ms. Chaffee thanked the Commission for listening to their concerns. She stated that she wanted to bring up two issues; in particular, if this plan goes forward it appears to have the potential for spot zoning, which she stressed is a concern that the residents have as well. She also wanted to stress that she appreciates the existing zoned businesses located off of Evergreen Boulevard. She has observed what she feels is a significant number of buildings that are empty and are waiting to be leased right now. Taking that into consideration, she, along with many of her other neighbors, does not feel that this area needs more commercial space. She also pointed out that there are some wonderful properties just across the street off of Pioneer Road that are waiting to be utilized for business purposes. Ms. Chaffee is worried about safety because about five or six new families moved into the area with little ones that use the path that the City has provided for bike riding and other activities. She reiterated her appreciation to the Commission for listening to their thoughts and concerns and for giving them the opportunity to "crash" this meeting, as they are from the Town, just like the property being discussed.

Paul Waller, 7002 Pioneer Road, owns the property across the road from the Petitioner, meaning his property would be the most affected visually. He does not care to see an office building, let alone one with access coming in on Highview Drive which runs along the east side of his property. This proposal is not something that he would support.

Jim and Barb Janke, 130 Highview Drive, own the parcel two properties north of this lot. Mr. Janke agreed that just like the rest of their neighbors they have a number of concerns, one being that they do not want to have a business as the gateway to their subdivision. He fears that people will park along Highview Drive if the office parking lot is full, pointing out that Highview Drive is a narrow street. He is worried about the safety issues this may create with other vehicles trying to get through, along with small children playing outside. Mr. Janke expressed concern that this change may negatively affect his property value.

Adam and Carrie Thomas, 225 Highview Drive. Ms. Thomas explained that the reason the neighbors are in attendance tonight en masse stems from their additional concern that Highview Drive is a dead-end road. She described the area as an older subdivision that is tucked back into the corner between the Town and the City. She has observed cars turning in to the subdivision by mistake, zipping around and getting lost and she wondered how many more will be added with proposed commercial space.

The following Town residents introduced themselves, stating that they were attending this meeting to voice their opposition to this proposed rezoning:

Ron and Mari Frank, 150 Highview Drive
Dan and Michele Nowicki, 131 Highview Drive
Guy and Tracey Gutsche, 205 Sunset Lane
Crystal Branstiter, 128 Highview Drive
Bob Repnik, 212 Highview Drive
Jeffrey and Cindy Brey, 170 Sunset Lane

Petitioner Schoen responded with appreciation to those in attendance for taking the time to provide input. He remarked that the entrance would not have to be off of Highview Drive, there could be a negotiation to stipulate that access will be via Pioneer Road, the same as his neighboring parcel to the east. He acknowledged that this is just a consultation tonight and understands that people have a concern about road access.

Planner Censky observed that, other than the Petitioner, he has not received any support for this request. Since the proposed reclassification to office use zoning is incompatible with the surrounding residential zoning, Planner Censky has concluded that this request could be considered spot zoning, which the City discourages. Therefore, he does not recommend support or approval of the proposed commercial use of this site.

Vice Chairperson Burgoyne assured the neighbors that the Commission finds their input helpful. He added that sometimes the Commissioners cannot see all of the angles of a proposal, but the community members that are facing it directly have a more focused insight. He and Council Member Thome both emphasized that this meeting is strictly just a consultation, and nothing has been officially requested or will be voted on at this time.

Commissioner Strautmanis remarked that after hearing the neighbors describe their neighborhood, he was struck by the nature of Highview Drive, which appears to be designed as a narrow, winding, country-type street and does not appear to come even close to accommodating commercial traffic. He referenced the City of Cedarburg's Master Plan, which does not reflect this type of zoning in that area. He stated that if the Commission begins to reconsider proposals that effect commercial corridors and land use decisions that have broader policy implications, he believes that they would need to remain consistent with the City's long-range plans. Vice Chairperson Burgoyne concurred, stating that he would recommend denial of rezoning the parcel because this request goes against basic planning principles in regard to spot zoning.

REQUEST PLAN APPROVAL FOR EXTERIOR MODIFICATIONS TO THE DRIVE-THRU BUILDING FOR BANK FIRST LOCATED AT W61N529 WASHINGTON AVENUE – TKWA/MIKE MOLEPSKE

Commissioner Voltz recused himself from this discussion.

During their meeting held on September 10, 2019, Commission Members approved exterior changes to the downtown Bank First building. Upon this approval, construction began immediately and is now nearing completion.

The Petitioner is seeking approval for modifications to their original plan in order to update the look of the existing drive-thru building to match the new exterior siding and paint colors of the main building. The only significant change to the drive-thru will be the addition of an overhead pneumatic tube bridge, which will extend from the drive-thru building to the main bank building. This bridge will be covered with foraged aluminum or metal shingles to match the metal on the north elevation of the main building. Upon review, City Staff recommends approval as proposed.

Architect Rich Hepner of TKWA was in attendance and explained that the current underground pneumatic tubes collect moisture and calcification due to their constant proximity to limestone, which results in malfunctions of the cannisters traveling to and from the bank. In order to avoid this problem, he is proposing to run the tubes through an overhead bridge, which would not change the footprint of the building.

Sandy Wirth, W61N517 Washington Avenue, owns the commercial building that runs along the southwest wall of Bank First. Mr. Wirth stated that in the past he received the blessing of the Fire Department to use the northwest corner of his building as a fire exit, which empties into the parking lot of the bank. Due to the proximity of that area with the drive thru building, Mr. Wirth questioned whether these changes would affect his emergency egress route. Planner Censky stated that he did not believe this will have an impact, but he assured Mr. Wirth that he would send a copy of the plans to the Fire Department on Tuesday to verify this.

Vice Chairperson Burgoyne commended Architect Hepner and his firm on the work being performed on the building, stating that he believes they are doing a great job. He expressed his approval of the exterior design and described it as unique and attractive.

Planner Censky complimented the plans, stating that this modification ties the site together and is appealing. Commissioner Kinzel agreed, stating the changes make for a great addition and buttons the whole lot together.

Action:

A motion was made by Commissioner Kinzel to recommend plan approval of the exterior changes to Bank First as proposed. This motion was seconded by Council Member Thome and carried without a negative vote with Mayor O’Keefe excused and Commissioner Voltz recused.

REQUEST WAIVER TO SECTION 93-1-101(g) OF THE ZONING CODE TO ALLOW AN ACCESSORY STRUCTURE TO EXCEED THE SIZE LIMIT FOR A NEW GARAGE TO BE LOCATED AT W62N793 SHEBOYGAN ROAD – CHRISTOPHER DUECKER

Petitioner Christopher Duecker is requesting a waiver to the size limit placed on accessory structures for residentially zoned lots. He is proposing to replace his existing garage with a new garage and screened-in porch, which will exceed the standard for accessory structures by 216 square feet. Commissioners are reminded that the size of accessory structures was modified last December by Ordinance No. 2019-23, passed to establish the maximum total size limit of 720 square feet as opposed to the previous limit, which was based on a Floor Area Ratio (FAR) calculation. While the Common Council supported that change, they decided that future waivers be made to the Plan Commission rather than the Board of Appeals, as the Commission has more experience in making these judgement calls.

Petitioner Duecker proposes to build a standard garage where he plans to reuse the existing overhead door on the front elevation. A pedestrian door will be added on the north elevation and the screened-in porch on the west side, which faces the rear of the lot. The front of the new garage will match the house and will be sided in pre-finished fiber cement lap siding. Since the look of the proposed garage is much like the existing garage, the appearance from Sheboygan Road will basically remain unchanged.

Planner Censky advised the Commission that his review of this request indicates compliance with Rd-1 restrictions for everything but the size limit. City Staff has no objection to the request, subject to the Petitioner securing a building permit prior to construction commencement.

Commissioner Voltz found the proposed set back from Sheboygan Road to be desirable and observed that the new garage has similar frontage to the original structure. He estimates the structure to be typical in scale which does not appear to be out of character with the adjacent properties, or negatively impact the neighbors. He concluded that he sees no issues with allowing this new structure to be slightly larger than what the ordinance states.

Action

A motion was made by Commissioner Voltz to approve the request for a waiver to Section 93-1-101(g) of the Zoning Code as proposed. This motion was seconded by Commissioner Strautmanis and carried without a negative vote with Mayor O'Keefe excused.

ELECTION OF VICE CHAIRPERSON; AND ACTION THEREON

Council Member Thome nominated Mark Burgoyne to continue serving the Commission as the Vice Chairperson. Commissioner Strautmanis seconded the nomination. No other nominations were offered. Mark Burgoyne was re-elected Vice Chairperson without a negative vote with Mayor O'Keefe excused.

COMMENTS AND ANNOUNCEMENTS BY PLAN COMMISSIONERS

Commissioner Strautmanis noted that he will not be in attendance for the next Plan Commission meeting scheduled for August 3, 2020.

Commissioner Cain stated that she recently noticed that repairs to the façade of PJ Piper's Restaurant have not been made, and the tiles are crumbling off the building. She recalled that when the owner of the restaurant appeared in front of the Plan Commission back in 2017 to seek approval for her awning, she advised them that she was planning to make repairs to the building. Commissioner Cain inquired as to whether there had been any updates on this. Planner Censky stated that he has had a few discussions with the owner of PJ Pipers, and that she had been working with an architect to put together a plan; however, this was before the Covid-19 pandemic hit, which closed down the City's restaurants. He stated that he would get in touch with her and see if she has made any progress on her repair plans.

MAYOR'S ANNOUNCEMENTS

Mayor O'Keefe was not present; therefore, no announcements were made.

ADJOURNMENT

A motion was made by Commissioner Kinzel, seconded by Vice Chairperson Burgoyne, to adjourn the meeting at 8:06 p.m. The motion carried without a negative vote with Mayor O'Keefe excused.

Victoria Guthrie
Administrative Assistant