

Minutes of a Meeting
of the
City of Bay Village Planning Commission
Held February 1, 2012

Present: Bruckman, Dzienny, Krause, Majewski, Miller, Persanyi

(New Member Jennifer Lesny Fleming will be welcomed at the March 7, 2012 meeting)

Also Present: Clinton Keener, Superintendent, Bay Village City Schools
Daryl Stumph, Bay Village City Schools
Law Director Ebert
Councilman Mike Young

Audience: Nancy and John Black, Alex Dade, Eric Hansen, Pat Mayer, Carole Roske, Tom Phillips, Bruce Geiselman

Mr. Dzienny called the meeting to order at 7:30 p.m. The following members responded to roll call: Bruckman, Dzienny, Krause, Majewski, Miller, Persanyi.

MOTION by Krause, second by Persanyi, to approve the minutes of the public hearing and special meeting held January 18, 2012. **Motion carried 6-0.**

**Bay Village Board of Education
Installation of Modular Classrooms – Normandy School
26920 Normandy Road**

Superintendent of Schools Clint Keener addressed the commission, noting that the recommendations from the Architectural Board of Review (ABR) regarding this project have been submitted. Mr. Keener gratefully acknowledged the guidance received from the Architectural Board of Review.

Mr. Keener stated that colors will be matched on the modular units to the existing school. All of the doors and window frames are dark brown and the same color will be used on the trim portions of the modular units. The ABR was interested in the mansard on the top which the schools' architect added to mimic the existing building. The architect has required purchasing the closest color from stock, and if it looks different when installed, it will be painted over to match the edge of the building. The ABR recommended to use the cement board Hardi panel on the entire side, and did also recommend a few rows of brick down at the block foundation. They also wanted to make sure that the top line matched the existing school.

Mr. Keener further advised that the ABR was also concerned with the drainage process on the roof. Gutters will be run down the side, like any typical roof, and they will probably still tie into

Minutes of Planning Commission meeting
February 1, 2012

the storm sewer. The ABR wants to make sure the addition is below the level of the existing building. It is lower, as indicated on the drawing. The ABR made suggestions regarding drawing detail that will be submitted to the Building Department. The ABR suggested that on the cement board a tone color be used as close to the basic brick color as possible. The color will be chosen to match the primary color of the brick on the existing building. If the Planning Commission or the Architectural Board of Review is not happy with the final color, the school will have the ability to paint over.

The issue of screening was reviewed by the Tree Commission but the drawing did not include the screening on the north end. It was agreed to screen the residential home on the west, even though the property is zoned commercial use. There is a set of playground equipment that will be immediately adjacent to the building. The entire north side of the playground equipment will be screened. The buffer area is to be 25 feet wide. On the south side of the building there will be a row of arborvitae and pine trees. The sidewalk that comes through that area will be on the 25 feet strip.

Mr. Dzienny acknowledged receipt of comments from Mr. John O'Neill of the City of Bay Village Tree Commission, stating that the buffering does not conform to regulations. Mr. O'Neill was in the audience and explained that Chapter 1165 talks about the 25 feet width, 85 percent opacity, and the types of trees, including more than one species. Mr. Keener advised that the required density and height will be met.

Mr. Persanyi addressed the subject of drainage, and Mr. Keener stated that the water will drain underground into the storm sewer on the west end of the property. Mr. Persanyi asked Mr. Keener the size of the inlet. He noted that at the last meeting residents discussed the water problems and he wants to make sure that they have someplace where water can drain into an inlet that has the capacity to accommodate the 3000 square feet of additional pavement. Mr. Keener assured Mr. Persanyi that the drains will accommodate the water from the space of the current pavement and the smaller, new pavement. The existing storm sewer has never backed up or had any problems with capacity. Mr. Keener and Mr. Stumph have been working on addressing the issues with the neighbors. The elevations on the drawings indicate that the modular unit area is at 637 feet at the lowest and the highest point just north of the playground is 640 feet. The water from the area could not even run out to the north to the neighbors. The 640 feet elevation, and the 641 feet of the building does cause the water to run down toward the woods. There is a storm sewer in the woods which has been cleared from blockage that was caused by a fallen tree. The worst area is a low area toward the northeast. A civil engineer will investigate within the next two weeks to see if there is a way for mitigation. Nothing will ever be able to be done about the fact that a couple of those backyards will really need to be graded differently because they have low spots. There is one storm sewer in that residential area. In

Minutes of Planning Commission meeting

February 1, 2012

1986 resident John Balch allowed an easement to run a six inch drainage line, but people dumping leaves and other things in the back clog the trenches.

Mr. Majewski acknowledged receipt of an email from resident Michelle Kraft on Thursday, January 26, 2012. Ms. Kraft is under the impression that these are temporary buildings. The Architectural Board of Review minutes indicate that Mr. Keener was asked directly how long the addition will be in place. Mr. Majewski asked Mr. Keener if he has further clarification of the issue.

Mr. Keener stated that the modular unit at Westerly School has been there eight years. These units for Normandy School are much more substantial with the fire wall added to the building and the full features. Visits were made to elementary schools in the area completely using these structures to determine the quality and function. Mr. Keener stated that they have made an investment in these units and they will be used as long as they can be kept in good repair. The area in which they will be installed is an isolated area. It is recognized that anything done on the east end or in the front on Normandy would need to be more of a permanent structure.

Mr. Majewski asked Mr. Keener to comment on the height recommended by the Architectural Board of Review for brick coverage of the unit. Mr. Keener stated that the ABR suggested that the coverage of brick be over the block at the bottom with the cement board overlapping slightly.

Mr. Majewski asked if the playground apparatus to the north, approximately 11 feet from the blacktop, will remain in place. Mr. Keener stated that it will remain in its current location.

Mr. Persanyi asked about the sidewalk on the south side of the building. He asked if there will be a sidewalk going south from the landing and then east toward the existing sidewalk. Mr. Keener stated that Mr. Persanyi is correct, and this is the sidewalk that he mentioned earlier that will cut into the 25 feet buffer zone. Mr. Persanyi asked if the sidewalk will be up against the building. Mr. Keener stated that there will be a line directly with the existing sidewalk, which has a space of about three or four feet from the building to plant shrubs.

Mr. Majewski asked if there will be access to the area underneath the classrooms, as noted in the minutes of the Architectural Board of Review. Mr. Stumph stated that he does not have that information from the architect as yet. Mr. Keener stated that other similar structures visited did not have access. The plumbing will be put in and stubbed in the location it needs to be and if something goes wrong it may be necessary to cut out part of the floor for repairs, and then replace the floor. The plans state that the crawl space shall have humidistat control exhaust fan ducted through the roof. The fan will be located on the roof.

Minutes of Planning Commission meeting

February 1, 2012

Mr. Dzienny asked how the pipes will be kept from freezing. Mr. Keener stated that most of the work of the architect is modular buildings and he will be asked about the insulation of the pipes.

Mr. Persanyi asked the type of insulation in the walls and ceilings. Mr. Miller noted that one of the critical chemicals we are trying to avoid is formaldehyde. The construction materials, especially for this use, should be absent of those chemicals.

Mr. Keener stated that R11 Fiberglas Unfaced will be used for the interior wall insulation. There is a special, commissioned, framed modular construction that this must go through which is very extensive. That must be approved based on the specifications. The roof insulation is R38 Fiberglas Craft Faced. Mr. Persanyi stated that there are thousands of trailers that have been built with insulation that tends to be toxic and he wanted to make sure that we don't get a situation where it has to be torn out because children are getting sick. Mr. Miller noted that the formaldehyde is sometimes used as a longevity chemical for material that is stored outside. It is very possible that the material may have been stored outside and we would want to indicate that the construction materials do not contain formaldehyde. Mr. Keener agreed to comply with Mr. Miller's request.

Mr. Dzienny asked if the Planning Commission could see a marked up plan showing buffering for the next meeting of the Planning Commission on March 7, 2012. This will not interfere with approval this evening, but the commission would like to be able to review the buffering and make some commentary on how it is done. Mr. Dzienny noted that the buffering along the playground area may make that area more isolated. Mr. Keener noted that the buffering was suggested to be planted closer to the building because of the line of sight. There is 11 feet between the asphalt and the existing playground but that is not within the 25 feet buffer zone required which is why they originally did not plan on planting there. Chapter 1165 allows the Planning Commission the right to decide if the buffering that is provided meets the intent of what is trying to be accomplished.

Mr. Dzienny stated that the condition that exists currently with the neighbors is not being changed. He would actually prefer the neighbors to have their eyes on the school. Mr. Stumph stated that they have heard both opinions. Mr. Keener will provide a marked up plan for the Planning Commission to review, as requested by Mr. Dzienny. Mr. Majewski noted that the neighboring residential use is required by code to be buffered.

Mr. Miller asked if the Planning Commission will accept the details recommended by the Architectural Board of Review.

Mr. Dzienny stated that his concern was to have some break in the Hardi-Board paneling rather than it being all Hardi-Board from top to bottom. The recommendation of the ABR

Minutes of Planning Commission meeting
February 1, 2012

accommodates that break and includes the detail across the top for a further break. Mr. Majewski stated that the Architectural Board of Review suggestion is a good compromise between what the Planning Commission was suggesting and the original proposal to have Hardi-Board from top to bottom.

Motion by Bruckman, second by Persanyi, to approve the proposal of the Bay Village Board of Education for the installation of four modular units at Normandy School, as it has been discussed during this session, including those recommendations as made by the Architectural Board of Review, with the qualifier that additional information will be presented to the Planning Commission pertaining to the modifications of the buffering, and the comments of the Fire Department in their memorandum of December 27, 2011, as follows:

1. Send for plans review
2. Need outline for tie-in the alarm/defection system
3. Need more detailed prints with fire separations and life safety system details

be addressed in the final drawings to be presented to the Building Department.

Roll Call Vote: Yeas – Bruckman, Dzienny, Krause, Majewski, Miller, Persanyi. Nays – None. Motion carried 6-0.

Mr. Keener thanked the Planning Commission for their assistance and approval.

Mr. Majewski asked Mr. Keener if he would provide a copy of the schools' next facilities study for review. Mr. Keener stated that he would provide that to the Planning Commission, as well as a copy of their Master Plan.

**Bradley Bay Health Center
605 Bradley Road**

Addition to Bradley Bay Health Center for an Alzheimer's Unit Licensed as a Residential Care Facility by the State of Ohio

Mr. John O'Neill addressed the commission, stating that this is a renewal of their previous project that they went through several years ago. After the prior approval process, the economy was not conducive to proceed with the plan. A considerably smaller project is now resubmitted. The Alzheimer's Unit that is being presented this evening was on the first plan, as the building on the westerly section of the original plan, which moved the one story building back to the easterly section of the lot in the back. The two story structure that was previously proposed has been removed from the plans. The square footage and the lot coverage have been reduced considerably.

Mr. O'Neill reviewed the drawings attached to the application of Bradley Bay Health Center, including as follows:

- Sheet 1 shows the overall area with the building outlined
- Sheet 2 shows the geographical location in the city
- Sheet 3 illustrates the main components of the proposal and the addition to the front of the building (1) and (2) enlargement of the rehab area, and (3) proposed Memory Care addition, and (4) the area that shows how it ties into the existing building with entry way features, (5) existing driveway, (6) new pavement and (7) the retention basin that was proposed in the first plan
- Sheet 4 is a highlight of the buffering that conforms to Chapter 1165 along the entire property lines
- Sheet 5 is more detail on the buffering as well as the species of trees, fencing, and site lighting
- Sheet 6 is sample elevations and floor plans of the area in front of the nursing home as well as the rehab area
- Sheet 7 is a floor plan of the Memory Unit that basically describes a 36 single bedroom unit with a 20 ft. corridor and a common area for the Alzheimer's residents as well as a connecting neck between the existing home and the Memory Care unit
- Sheet 8 is a sample floor plan of a resident's room. Some of the features of the Alzheimer's Unit are a main gate, bathroom, a bathroom with no door in front and a night light that comes on automatically
- Sheet 9 and Sheet 10 are elevations of the Alzheimer's Unit
- Sheet 11 contains square foot calculations and parking count
- Sheet 12 is the site coverage showing conformance to the ordinances
- Sheet 13 is the fire access which shows extending the existing fire line on the north end of the property, and creating a new fire lane on the southern end of the property to conform to the state fire code which has a maximum distance from the end of any fire lane of 450 feet. Placements of wall hydrants are also shown
- Sheet 14 is a rendering of the front of the building

Doug Milburn, Commercial Projects Coordinator, stated that in 2004 Mr. John O'Neill made application to the Planning Commission of the City of Bay Village for a proposed addition and it was identified at that time that two approvals would be needed, one under Chapter 1141.02 (b). There are four issues listed under that Chapter that this Board had to determine would not be a detriment to the neighborhood. That approval was granted June 26, 2006. The project was then reviewed under Chapter 1129, and that review was approved March 27, 2007. It is Mr. Milburn's contention that the expansion onto contiguous property was dealt with on the June 26,

Minutes of Planning Commission meeting
February 1, 2012

2006 vote which was the criteria in Chapter 1141.02 (b). Variances do expire 12 months after they are granted, but the Charter that established the Planning Commission and the Zoning Code does not have any stipulations for Planning Commission's approvals expiring. Mr. Milburn stated that the only reason that this is being presented this evening is because of the changes that Mr. O'Neill has made to the building, which is found in Chapter 1141.02 (b), which states that if changes are made once an approval is given it has to come back to this board to be reviewed.

Mr. Persanyi stated that he has a problem with the legality of the application. Everything we do that requires permits all have limitations as to when the permits run out and licenses run out. Everything runs out except the statute of limitations on serious crimes. This type of expansion has been eliminated by an ordinance that was passed in 2005. What we have here is a totally new project with expired permits, and we are now being asked to put something in that will put an addition on the facility, which is contrary to our codified ordinances that were amended in 2005. When the process first came to the Planning Commission, it was before the change was made in the codified ordinance. Approvals were given and the applicant made no attempt to do the work he had proposed. It sat there from 2007 when approval was granted until, 2012, four and one-half years. It would be totally contrary to the current codified ordinances to do anything that is proposed in this application. Mr. Persanyi called upon Law Director Ebert for his comments.

Law Director Ebert stated that Ordinance No. 05-50 was the change to Chapter 1141.01 that was adopted actually repealing the entire Section 1141.01 (c). Mr. Milburn has distributed a memorandum dated January 27, 2012 to the Planning Commission concerning his position in regard to this application. Mr. Ebert informed the Chairman of the Planning Commission before the meeting began this evening that he will issue an opinion in regard to review of this application. There is no question that the variances granted by the Board of Zoning Appeals did expire specifically by code. If this project needs any variances they must reapply to the Board of Zoning Appeals.

Mr. Majewski stated that he does not see a way forward without a way of classifying of this in zoning terms. The use is no longer part of our code. It is not a conditional use. Mr. Ebert responded that there is always the rezoning issue. The issue that Mr. Persanyi brought forward is concerning the elimination of Chapter 1141.01 (c) which was done five and a half years ago, which will require research and a legal opinion.

Mr. Persanyi noted that any project that has come to the Planning Commission and approval was given, and subsequently nothing happens with the project, the building regulations and everything can change and we can't say five years ago we gave them approval so now approval should be granted even though the zoning code doesn't permit it and the building codes have changed. This is a totally new project, totally different than what was proposed before. Mr.

Minutes of Planning Commission meeting

February 1, 2012

Persanyi stated that he does not see it as a continuation of a project that was proposed five years ago.

Mr. Dzienny stated that the Planning Commission needs to receive further information before proceeding forward with this application. He noted that the project does look like a scaled down version of what was seen before but Mr. O'Neill made no effort to move forward with that project. It no longer exists. We are on a new project now and an opinion from the Law Director is required. Without that opinion we cannot move forward.

Mr. Bruckman asked if it is being considered a new project because of the passage of time or because it is significantly different in terms of its overall scale. Mr. Persanyi stated that the problem is that the current code as modified in 2005 would not permit this at all. It is something that the code doesn't permit.

Mr. Dzienny asked Mr. Persanyi what he would say if Bradley Bay wanted to move forward with the original project. Mr. Persanyi stated that the time has expired on that project. Mr. Milburn stated that a building permit can be valid for up to two years. Mr. Persanyi stated that they never pulled a permit and five years has passed. Mr. Persanyi stated that the project is now against the code. Mr. Dzienny asked Mr. Ebert to research whether the project is against the code.

Council Update

Councilman Miller stated that the Planning, Zoning, Public Buildings and Grounds Committee has been meeting and discussing some items that are listed on the Matters Pending before Council Committee list for some time now. Due to the amount of information to go through, there hasn't been any action. The committee has begun to try to understand the intent for a few items, one of which is the Architectural Board of Review guidelines which appear to be incomplete and will need to come back to the ABR for further recommendations.

Chapter 1179 is the sign ordinance and currently the draft that is being circulated on committee does not include park signs. There has been discussion as to how to address political signs which would take into consideration that the Board of Elections has altered the period of time in which the absentee ballots can be issued and returned. In the future, if that time frame continues to change, would we address political signs in that period of time, so that all candidates have an equal amount of time?

Service Director Galli is working on addressing the Clague Business Park sign to obtain cost quotes to see how replacement can be addressed to the falling apart sign.

Generator Permits

There was a suggestion that we look at drafting an ordinance for reviewing generator permits that frequently cross the Board of Zoning Appeals agenda. Most of those are natural gas generators, but consideration might want to be given to sound decibels, proximity to adjacent properties, and buffering from view. Those conversations have frequently occurred during the reviews of generators and the Board of Zoning Appeals tries to equally address the applications as fairly as they can. Without limitations and parameters for them to follow it is hard for them to treat applications the same. Their recommendations for an ordinance would be reviewed by the committee.

Mr. Persanyi asked if the City of Bay Village has legislation pertaining to wind generators. Law Director Ebert stated that there is not currently legislation but it is also an issue that should be addressed.

Mr. Ebert noted that the generators for homes should be able to be accomplished through the permit process without having to go to the Board of Zoning Appeals for a special permit. Legislation would allow them to be approved by the Building Department if they meet established criteria. Mr. Persanyi suggested that industry standards be researched in establishing the criteria.

Mr. Persanyi asked about permits for the drilling of gas wells. Mr. Milburn stated that the city has an ordinance prohibiting the drilling of a gas well. The state has overruled that ordinance. Gas well drilling permits now go through the State of Ohio.

Baldwin Wallace College – Sustainable Initiatives

Mr. Miller advised that the city has been approached by Baldwin Wallace College to develop ordinances, in conjunction with the Cuyahoga County Planning Commission, that promote the ability to use sustainable energy, whether it is solar, geothermal, and wind. The class attended the committee meeting held last week, formulated an agenda, and passed that on to the committee. The committee would like to digest that, get a little more feedback, and get input from the Mayor. This could be something that the Planning Commission might want to discuss at length because there is a propensity for people to look for alternative energy sources. Mr. Miller stated that the committee will continue to speak to the representatives of Baldwin Wallace College about sustainable initiatives.

Expiration of Building Permits

Discussion followed concerning the expiration of building permits. Current code allows an extension of a one year permit three times at periods of four months each, extending the actual life of the permit for two years. Mr. Persanyi questioned whether building code regulations that change before construction is finished are applicable to unfinished projects that have gone beyond the expiration date of the permit. Mr. Bruckman stated that this is probably an unusual circumstance in this community. At the time the original Bradley Bay project was discussed, undoubtedly there was extensive discussion and there haven't been many projects like this that have come across for deliberation by this body that have had that level of discussion. In that respect it would be interesting to have some sort of summary or recap of what transpired at that time. Mr. Bruckman stated that he is curious to see if there have been any changes in the surrounding context which will certainly be part of any discussion that is going to be held.

Mr. Persanyi stated that he has been on the Planning Commission for thirty years and in that thirty years he has been approached for three or four different extensions for that facility. It came into existence because it was called a hospital. As time went by it no longer qualified as a hospital and there was nothing in the ordinance to address it. In 1970 the ordinance was changed so that they could continue to expand on their existing land or contiguous land. They would come in for a 20 unit expansion in a residential area and citizens surrounding would complain. It could not be stopped because of the ordinance that was enacted in 1970 which permitted it to continue. This went on time after time until City Council finally acted in 2005 realizing that they had a serious problem. We did not have any zoning that permitted nursing homes; we don't permit hospitals anymore, so it was like a festering wound. Council addressed it in 2005 and now we are back to it again. It is like that ordinance in 2005 was never passed and we are just changing our plans now.

Mr. Ebert stated that the nursing home was never classified as a hospital. The city had Bayview Hospital and hospital was mentioned in the ordinance itself. In court it was determined that a nursing home would fall under the term "hospital" due to having a similar nature. That was the case that prompted the whole issue because at that point in time when they came for an expansion there was no zoning classification. They went to court and the court determined a hospital was similar in nature to a nursing home.

Mr. Krause stated that consideration might be given to amend the code to make it clear that the Planning Commission's approval having an expiration unless an extension is requested. Mr. Persanyi expressed agreement.

Mr. Miller noted that the Planning Commission is given 60 days to review an application. The counter would go back to the applicant to say that they have so much time to do what was

Minutes of Planning Commission meeting
February 1, 2012

requested to agree or deny. Mr. Dzienny cautioned that proof must be shown that construction is moving forward. Mr. Miller noted that there needs to be a safeguard to show intent by the applicant that they are going to follow through.

Mr. Majewski stated that one of the conversations in the past was what constitutes a new submission. In the past it was discussed that if the original set of plans were changed then the time clock would go back as a new submission and the sixty day time clock would be started. Mr. Majewski noted that the Bradley Bay project seems to be a completely new project.

Mr. Majewski also noted that according to Mr. Milburn's memorandum this is a preliminary application and would not be subject to the 60 day time limit. A formal application has not yet been submitted.

Mr. Dzienny reviewed Chapter 1129 which outlines that a preliminary plan is to be submitted for a pre-submission conference prior to the submission of a formal development plan.

Cahoon Memorial Park Property

The home at the corner of Cahoon Road and Wolf Road, 459 Cahoon Road, has been discussed at length by Council and there has been a motion for it to be demolished. Mr. Miller requested, on January 23, 2012, that this be tabled once again to look into alternative uses for the home, possibly relocated off the site by private individuals who would buy it from the city for \$1.00. There was also interest voiced by residents in trying to raise funds to restore the home to a habitable condition for possible use by the Historical Society as an alternative area for their historic items. Pending any evidence that a private group can secure the longevity of the home and keep it in place, the city will draw an ad and put it out to the public that the home is available for \$1.00 to be removed from the property. If Council moves forward on February 6 for full demolition there would be a stay of thirty days. In that period of time if someone would approach the city and offer to remove it from the property that would be given consideration.

Mr. Miller asked, if in the absence of the home, is there a use that the Planning Commission believes that the park is lacking or could use improvement on for that portion of the land. Is there a special feature that part of the park is in need of? It is relatively close to the skate park, relatively close to the intersection, bridge, and commercial corridor. It is also within walking distance of the rest of the park and the historical areas. Mr. Miller stated he would be interested if the commission would consider things that might be a value that might be used or provided in that space in the absence of the home. The Commission members will give this more thought and consideration.

Minutes of Planning Commission meeting
February 1, 2012

Mr. Miller asked Historical Society President Carole Roske if she would be willing to engage in conversation with the commission about an opportunity that may have been lost in the past and now there is a piece of ground that could have something there. Mrs. Roske agreed.

Mr. Majewski stated that the Master Plan indicated those areas on either side of the bridge as the gateway into the downtown area of the city. That might be a context that we could look at in that area. That was before the bridge was redone. When the bridge was considered to be redone, this is why the lights and the stonework were included in the project.

Mr. Bruckman stated that we may as well expand the line of thinking and think about this corridor from the Dover/Wolf intersection to the Cahoon/Wolf intersection and think about a holistic treatment that looks at streetscape in terms of trees, street lights, connectivity, etc. In having that dialogue the significance of the historic district, the significance of this commercial district, and the significance of the connectivity between the Cahoon/Wolf intersection and city hall should be included. This might give us a richer set of opportunities.

Mr. Young noted that the Mayor is in the process of accepting applications for the design of a new Master Plan, which could incorporate suggestions for the area.

Chapter 1158

Mr. Miller stated that the Planning and Zoning Committee will need to begin discussing Chapter 1158. This is a matter that has been discussed through the Master Plan and through the Kent State Urban Study. Discussions have been held regarding density and acreage sizes. The committee is going to focus on seeing how that can be remedied to institute some economic development in locations that are smart locations and make a lot of sense to the city. Mr. Persanyi commented that the five acre zoning requirement deters the promotion of attached housing development.

ADJOURNMENT

Meeting adjourned at 8:30 p.m. The next meeting of the Planning Commission will be held Wednesday, March 7, 2012 at 7:30 p.m.

Andy Dzienny, Chairman

Joan Kemper, Secretary