

CITY OF WHITEWATER
PLAN AND ARCHITECTURAL REVIEW COMMISSION
VIRTUAL MEETING

August 9, 2021

ABSTRACTS/SYNOPSIS OF THE ESSENTIAL ELEMENTS OF THE OFFICIAL ACTIONS OF THE PLAN AND ARCHITECTURAL REVIEW COMMISSION

1. Call to Order and Roll Call

The meeting was called to order by Sherry Stanek – Acting Chair for Andrew Crone

PRESENT: Binnie, Miller, Stone, Stanek, Hicks, Kurt Speich, Alt, City Attorney McDonell, Neighborhood Services Director Chris Bennett.

ABSENT: Andrew Crone

OTHERS: None

2. Hearing of Citizens Comments

Greg Meyer, 256 Woodland Drive. He comes before the board for a future agenda item regarding the CUP for Casual Joes, located at 319 James St.

Pam Kraus, 535 E Milwaukee St. Her concern is that a blacktop/resurfacing company is running their business from the Mickelson building-directly east of the Brain Freeze restaurant, which includes parking of equipment and wants clarification of zoning for that property but more importantly if its legal to hold that type of business.

3. Review and Approval of Minutes: From the Joint Meeting between the Common Council, Plan and Architectural Review Commission and the Community Development Authority from May 5, 2021 AND May 20, 2021. Motion to approve by Member Binnie, and seconded by Member Stanek. Approved by verbal vote.

4. Briefing by Jackie Mich of Vandewalle & Associates on the roles and duties of the Plan and Architectural Review Board.

Jackie Mich introduced herself as a Planner with Vandewalle with association for the City of Whitewater for nearly a decade. She has stepped in over the last 5 or 6 years during the interim of the Zoning Administrator for the City. She stated it's fairly common to give presentations to municipalities on the roles of the Plan and Review Board Commission. She explained Chapter 62 of the Wisconsin State Statutes is where the requirements are for cities to establish a Plan and Review Board and she further explained the governing powers the statutes allow those Boards to follow. She further explained what appears in the City of Whitewater's Municipal Code – Chapter 19 which established the Plan and Review Board Commission and outlined the "architectural" requirements and governing allowances that the Plan Board has. Planner Mich stated that zoning reviews generally are handled by the Zoning Administrator and that they have the ability to take it to the Plan Board if necessary. Ms. Mich also stated that zoning amendments are generally sent to the Common Council for review and approval. She stated

that in addition and amendments to the Comprehensive Plan are referred to the Common Council as well. According to Ms. Mich the City Ordinance and Codes also outline specific issues that are addressed by the Plan Board. She noted what applicants are required to do along with review guidelines for those applications. Ms. Mich stated the City Code allows for professional services if necessary. Ms. Mich went over the City of Whitewater's Code/Ordinance with the specific guidelines for the Plan and Review Board. Ms. Mich reiterated that the Plan Board is ruled by State Statute and Municipal Code. Chair Member Stanek asked if there were any questions. Member Stone asked in the event of a proposed building façade on the Main St, is that something that comes before the board. Ms. Mich stated it was part of the ordinance and Atty McDonell confirmed however he stated it was dependent on the proposal. Member Stone asked about site plan reviews, and Ms. Mich stated that would typically go before the Zoning Administrator and not necessarily the Board, unless for specific issues. Atty McDonell stated that because generally those are of permitted use, he reiterated it would be upon the discretion of the Zoning Administrator. Ms. Mich stated zoning areas allow permitted and conditional uses and when a conditional use needs to be altered or changed, that is when those proposals come before the Plan Board.

5. Consider Approval of an Amended Conditional Use Permit to allow for an Impound Lot behind the auto sales/rental located at 515 E Milwaukee St (Parcel #/A432 00001) for Lee Loveall.

Neighborhood Services Director Chris Bennett explained why the consideration has come back to the Plan Board due to requests for more information from the applicant. It was stated this is in fact is a continuation of the public hearing from the original consideration from the July Plan Board Meeting. He stated some of the changes that were made to the application were additional security screening to the west of the property; a limit of three non-operable vehicles on the site at any given time; the applicant will need to apply for City non-operable storage permit; limit of 30 days of storage according to the B-1 Ordinance pertaining to any vehicle at the site. Director Bennett stated Representative Mich and himself are prepared to recommend approval to allow for the tow lot. Acting Chair Member Stanek opened the discussion up to the public.

Dick Kraus, owner of the Brain Freeze restaurant. He stated his concern was when people sitting outside at his restaurant would be subjected to the view of the tow lot unless a higher fence is installed. He also stated his concern over the water which settles in the low lying area behind the lot. Due to the nature of the run-off his business is typically flooded. His question is if the parking lot is raised how is the water going to be dealt with. The applicant Mr. Loveall stated the tow lot will not be in the grassy area, it will be on the paved lot only. The vehicles in the paved lot will be behind a high fence out of view.

Pam Kraus, Brain Freeze, asked what type of fence was the applicant going to install. Mr. Loveall explained it was proposed to be a solid metal fence. Ms. Krause stated she would prefer perhaps a wood fence which would be more attractive. Mr. Loveall stated he would not be opposed to that. Attorney McDonell explained the City ordinance rules for fencing and the allowances for differences depending on the circumstances. Pam Kraus also asked what the applicants intentions were for the property behind the fenced area. Mr. Loveall stated nothing at the present time or maybe in the future primarily due to volume.

Greg Meyer, 256 Woodland Drive. Mr. Meyer stated he believes limiting the area to three vehicles will be difficult, and would prefer approval to just make sure the vehicles are gone by the 30 day limit.

Chuck Mills, (Mills Auto) 707 E Milwaukee St. He questioned the Conditional Use side of the application. He stated that there is normally a lot of hazardous material in this line of business and wondered how that would be handled. He also stated that when impounding vehicles there normally is a 30 day minimum hold due to several things that need to happen as far as title, investigation work and things of that nature. He stated there are several steps that are required to be taken when impounding vehicles. His concern is the timeline limit of 30 days and how that would be handled since his experience is sometimes at least a 60 day minimum to get all the work done. Acting chair Stanek explained that the municipal code is very clear on limiting the vehicle storage to 30 days. Attorney McDonnell stated that Mr. Mills business is in a different zone.

It was brought to the attention of the Board that the applicant currently has the property up for sale. Mr. Loveall was asked to explain as they felt it is was a pertinent issue to the amended Conditional Use Permit approval. Mr. Loveall explained the reason the property was put on the market, but has had no offers and stated he could pull the property off the market at any time. Since there was no other public comment, it was closed and Chair Stanek opened the discussion to the Plan Board members.

Acting Chair Stanek asked the applicant about the possibility of hazardous waste materials. Mr. Loveall stated since this lot is blacktopped they would mitigate any spills by using containers and rapid clean up to prevent any leakage. Member Stanek also asked about the way vehicles would be moved about within the impound lot area. Mr. Loveall stated they have special equipment to do that and don't consider this to be an issue. He stated he would be parking vehicles side by side and not width wide. Chair Stanek stated her concerns over the type of fencing, and Mr. Loveall stated he would be willing to make the fence wood for aesthetic purposes. Acting Chair asked about the site plan which stated the grassy area to be storage and wanted confirmation of what is going to be placed there. Mr. Loveall stated nothing would be there and that those plans were done prior to the first Plan Board meeting.

Alternate Member Speich stated he felt that a business of this sort is not right for this area and he would not be supportive of this consideration.

Member Miller stated his disappointment in the site plan drawings and it was discernable for review, and also stated his concern over the business with everything that is wanting to be done for this area most notably because of its size.

Acting Chair Stanek asked Mr. Loveall about his other location and why the need to request a site in Whitewater. According to Mr. Loveall in order to impound vehicles with the Walworth County Sheriff's office there is a necessity for a brick and mortar building in Walworth County. Mr. Loveall stated that this is the reason and why vehicles can be moved if necessary due to time limits to his other facility. Other Board members voiced their concerns. Member Binnie stated he believed that the Board would need to get to the heart of the matter and stated he believed the Board's decision would need to be based on if there was a cedar fence and if the other concerns were sufficiently addressed. Member Binnie requested input from the Neighborhood Services Director along with the consultant Planner -Jacki Mich of Vandewalle and Associates as to their findings for approval of the amended Conditional Use Permit. Ms. Mich stated upon discussion with the Neighborhood Services Director in review of the application they found the zoning district allows for the storage of inoperable as an accessory use. She and Director Bennett felt the scale and scope of the operation needed to remain small so it can stay as an accessory use. Neighborhood Services Director Bennett stated since this business is already doing auto related work and that there are similar types of businesses in the area, that this business fits the spirit of the B-1 zoning district that it is in. They addressed the concerns of the residential area west of the property with proper fencing requirements.

Director Bennett stated he also concurred with Ms. Mich as to the number of inoperable vehicles for the business along with the total number of vehicles allowed at one time. Director Bennett stated the Board could approve the amended Conditional Use Permit but as Director he could handle the fencing application and approval. A member asked if this Conditional Use permit is limited to one year. Attorney McDonell stated that was the Director and Planner's recommendation. Attorney McDonell stated this is not typical, and the applicant would have to apply for a renewal of the CUP in order to continue the use past one year. Attorney McDonell stated it could convey to a new owner as well. Member Miller asked the other tow business operators how typically long can a car be in the lot. Mr. Mills responded depending on the circumstances it could be several months. Mr. Mills questioned the maneuverability of 12 vehicles in such a small area. Member Binnie stressed the importance of moving forward, therefore he motioned to approve the amendment to the Conditional Use Permit with updated changes to the recommendations.

Neighborhood Services Director reviewed the recommendations for the amendment to the Conditional Use Permit. Member Hicks asked about the possibility of towing electric vehicles due to the hazardous waste potential. Based on discussion it was added to the recommendations for the amendment to the Conditional Use Permit. The conditions are:

1. This amendment to the Conditional Use Permit shall expire one year after the date of issuance. The property owner may apply to renew the Amended Conditional Use Permit at that time.
2. No more than a total of 12 vehicles shall be stored in the impoundment area of the property at any given time, not to include more than three junk vehicles.
3. With exception of Condition #3 in the original Conditional Use Permit, all conditions of approval applied to this property on March 9, 2020 shall remain in effect.
4. No vehicle in inoperable or junk condition shall be stored for greater than 30 days. No inoperable or junk vehicle shall be deliberately removed and returned to the site in an attempt to circumvent this requirement.
5. An eight foot solid wood fence around all four sides of the impoundment area to be approved by the Neighborhood Services Director.
6. This amendment to the Conditional Use Permit is provided to the current owner and does not transfer to a new owner of the property.
7. Property owner is required to comply with all federal, state and local environmental laws.

Chair Member Stanek seconded the motion. The motion was brought to a vote. AYES: Binnie, Stanek, Hicks, Miller. NOES: Stone, Speich. By a 4 to 2 margin, the motion passed.

5b: Taken off/tabled from the agenda per Chris Bennett, Neighborhood Services Director.

6. Possible Future Agenda Items:

Discussion of the Conditional Use Permit for 391 James Street.

Discussion of Zoning Violations and Fire Inspections.

Neighborhood Services Director Bennett stated he knows of two Conditional Use Applications at the present time for September's meeting.

7. Next Regular Plan Commission Meeting is scheduled for September 13, 2021.

8. Adjournment: Motion for adjournment by Member Miller, Seconded by Miller. AYES: All via Voice Count NOES: None Meeting adjourned at 8:18 pm.

Respectfully submitted,

Chris Bennett Neighborhood Services Director