

**PLANNING COMMISSION
CITY OF WILLOUGHBY
MAY 13, 2021
REGULAR MEETING
MINUTES**

PRESENT: K. Kary; J. McCue; M. Wildermuth; M. Merhar; S. Norris, Chairman
ABSENT: None
OTHERS: Mike Lucas, Law Director; Tim Lannon, City Engineer;
Darryl Keller, Chief Bldg. & Zoning Official; Vicki Grinstead, Secretary

Chairman Norris called the regular virtual Zoom meeting to order at 7:02 p.m.

Chairman Norris rearranged the agenda for time and fairness to all participants. Item #1 Regular meeting minutes, Item #2 New Business, Item #3 Public Hearing and Item #4 Resume Regular meeting, Old Business. There were no objections from the other Board members.

MINUTES

Public Hearing Meeting Minutes

April 8, 2021

Mr. Wildermuth moved to approve the Public Hearing Meeting Minutes for April 8, 2021 as submitted and Mrs. McCue seconded.

ROLL CALL: Yeas: J. McCue; K. Kary; M. Wildermuth; M. Merhar; S. Norris, Chairman
 Absent: None
 Nays: None

Motion Carried: APPROVED

Regular Meeting Minutes

April 8, 2021

Mr. Kary moved to approve the Regular Meeting Minutes for April 8, 2021 as submitted and Mr. Wildermuth seconded.

ROLL CALL: Yeas: K. Kary; M. Wildermuth; M. Merhar; J. McCue; S. Norris, Chairman
 Absent: None
 Nays: None

Motion Carried: APPROVED

NEW BUSINESS

Immaculate Conception Church
37924 Euclid Ave.
(Rep.-Brian Heskamp, Esq. for Immaculate
Conception Church)

**Lot split and Consolidation,
PPN#27A0240000130**

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Mr. Heskamp, Esq., 3131 Evans Way, Twinsburg, OH 44087 Counsel for Immaculate Conception, 37924 Euclid Ave., Willoughby, OH 44094 is representing this application for a lot split and consolidation of PPN#27A0240000130.

Mr. Heskamp said they have submitted for a lot split and consolidation. They are splitting off the back parcel of 37924 Euclid Ave. There is a single-family residence on this lot and the back part is a vacant lot. They would like to split off the back piece and consolidate it with the rectory parcel. Their intent is to sell the remaining parcel because it is currently vacant, and they have no use for it.

Mr. Heskamp said his application was initially denied because it resulted in a non-conforming lot. He said it was appealed though the Board of Zoning Appeals who granted them the variance to proceed with the lot split, so they are before the Planning Commission this evening to request the lot split and consolidation.

Mr. Kary asked if they were splitting the lot and consolidating the parcel with 37935 Wright St. and Mr. Heskamp said that was correct. Mr. Kary stated so this property will adjoin Immaculate Conception directly from the rectory and Mr. Heskamp said this was also correct. Mr. Heskamp said the back lot lines of all the parcels between Wright St. and Immaculate Conception Parish would be even, so all the lots would share the same back lot line.

Mr. Wildermuth said this plan makes sense for what they are proposing, and Chairman Norris agreed.

Mr. Kary moved to approve the lot split and consolidation of PPN#27A0240000130 for Immaculate Conception, 37924 Euclid Ave., Willoughby, OH 44094 as submitted and Mr. Wildermuth seconded.

ROLL CALL: Yeas: M. Wildermuth; M. Merhar; J. McCue; K. Kary; S. Norris, Chairman
 Absent: None
 Nays: None

Motion Carried: APPROVED

At 7:09 p.m. Chairman Norris opened the Public Hearing. At 9:17 p.m. Chairman Norris resumed the regular meeting. Chairman Norris asked for a motion to recess the meeting for 5:00 minutes to give the members a break.

Mr. Wildermuth moved to recess the Planning Commission meeting for 5:00 minutes and Mr. Kary seconded.

ROLL CALL: Yeas: M. Merhar; J. McCue; K. Kary; M. Wildermuth; S. Norris, Chairman
 Absent: None
 Nays: None

Motion Carried: Approved

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Chairman Norris called the regular meeting back to order at 9:22 p.m.

OLD BUSINESS

Mr. Merhar moved to untable Old Business for Browning Place Apartments, 38032 Brown Ave., Willoughby, OH 44094 for a Conditional Use Permit and Mrs. McCue seconded.

ROLL CALL: Yeas: J. McCue; K. Kary; M. Wildermuth; M. Merhar; S. Norris, Chairman
 Absent: None
 Nays: None

Motion Carried: Untabled

Browning Place Apartments

38032 Brown Ave.

(Rep.- Dal Jaffray & Greg Patt, Browning Willoughby LLC)

Conditional Use Permit

Mr. Patt, 38005 Brown Ave., Willoughby, OH 44094 agent for Browning Willoughby LLC, for Browning Place Apartments, 38032 Brown Ave., Willoughby, OH 44094 is representing this application for a Conditional Use Permit.

Mr. Patt said he has been volunteering on many city boards and commissions etc. over the years. He is not under contract or being paid by Browning Willoughby LLC. It has been a dream he has had for Browning for many years and possibly for other Ohio buildings.

Mr. Patt said they are not asking to change the law in any way but to apply code as it exists today and apply it as an adaptive reuse. The master plan was mentioned several times during the meeting and would like to read three sentences from the latest master plan; 1) maintain the economic viability in neighborhoods by assuring that regulations and other city policies are not creating unrealistic impediments to investment and reinvestment 2) recognize shifting demographics of population and their related housing needs 3) to modify residential zoning regulations to increase design flexibility in range of housing types. He believes what they are proposing fits the bill of the master plan. Mr. Patt introduced the developers Mr. Dal Jaffray, Mr. Dave Knott, Mr. Brad Kowit and Mr. Dan Jaffray and gave a brief history on each member.

Mr. Patt said on the exterior of the building they are restoring the existing transoms, columns, and tablatures. The school was built in the 1920s. There are three parts to what they are asking the Board to consider this evening. The first item is the historical qualification (C.O. 1155.04). The building is designated as a local or national landmark. It has been designated by the Lake County Historical Society and is in their register of historical

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buildings. He said as far as the application, and questions in terms of his name, it said building owner and he put Browning Place LLC and was that organization that was applying. He said it was approved and they qualified for a historic marker, and qualified under their conditions. He said once that is received there are nine other specific items that qualify under that part of the code and are detailed in the booklet submitted (Exhibit “Browning 5-10-21”). He believes they have met all these conditions. He said there is a third part of the Conditional Use Permit, also detailed in the booklet.

Mr. Patt said there were a number of comments from the residents that he summarized in the submitted booklet. One item specifically brought up in the previous Ward meeting was that rental people are transients. He said almost 38% of the residences in Willoughby are rented and said almost anyone who finished school rented at one point or another. There are many apartment buildings within many neighborhoods in Willoughby and they are our neighbors and contribute to the factor of the neighborhood. He said insufficient parking and overnight parking is a concern. Overnight parking is illegal in any part of the city. He said another item is Willoughby does not need any more apartments. These gentlemen are willing to commit three million dollars of their money to prove that fact is not true.

Mr. Patt said one of their alternate plans is to tear down the building and build ten homes. The homes will not look similar to the homes currently in the neighborhood as Mr. Jaffray stated earlier. He read a quote in the booklet on Page 9; Finally, again to quote Law Director Michael Lucas, “At the same time, a conditional use permit cannot be denied on the basis of community preference that the land not be used as zoned unless there are facts supporting that opinion.” He said they are proposing to use this land as it is zoned. He said if this is not what the law intended to address, what is; what situation would apply under this law if this is not it.

Chairman Norris said they received a packet from the development group on May 10, 2021. Between May 11-13, 2021 they received several other correspondences, including a packet from the Mayor from the Lake County Historical Society and asked the Board if they had sufficient time to review these items. All the members were prepared to proceed.

Mr. Merhar, who lives blocks from this proposed project, asked how the developer thinks they will get above market rent for an apartment building that has no amenities. Mr. Patt said the biggest reason is the neighborhood itself and the beauty of the neighborhood. He said they do have some amenities, they have a workout room, a bike room where you can lock up your bike, and what all the neighborhoods are going to which is walkability.

Mr. Kowit, a partner of Browning Willoughby LLC, said when you build a small complex of 20-30 units the amenity is just that, a small community development. There is a bike room, offices, a place to walk your dog. You cannot compare a small cozy upscale apartment to a 200–300-unit apartment that may have a patio, business center, a dog park etc. What sells it is what surrounds it and the walkability. He said the difference between .10-.20 cents a square foot equates to \$10-40 per month and is nominal. The rents proposed and have been studied by

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Howard Hanna are in the \$1,200-\$1,400 a month range. You would be hard pressed to find a single-family home or high rise under \$1,500 per month.

Mr. Merhar appreciates the explanation but as Mr. Palmer stated earlier you are essentially trading on the fact you are building this in an R-60 neighborhood and bringing no benefit to the neighborhood, but trading on the value of it being in a quaint neighborhood as your amenity, which the Supreme Court said you cannot do. Mr. Kowitz said they are providing stainless steel and granite which is quality living. People want to be in the right location or neighborhood and their building in Lakewood proves people want to live in that community or in this case Willoughby. Mr. Jaffray said at the Ward meeting Mr. Knott threw out a figure of \$1,400, which was a guess. The rent may be in the range of \$1,200-\$1,300 and this is not etched in stone. He said there are washers and dryers in each unit as well as pantries which are added amenities.

Mr. Kary agrees with Mr. Merhar's point. He also does not like the fact they are taking an established neighborhood and using this building to turn a profit. He asked Mr. Lucas, in his opinion, if this building has historical designation. Mr. Lucas said the ordinance indicates (1155.04)(b)(2) Eligible Buildings: A. The building is designated as a local or national historic landmark or is eligible for such listing based on the criteria of each respective listing process... Mr. Lucas said what was presented, subject to the creditability issue and comments made by Mayor Fiala, they obviously met a local historic landmark listing under their own criteria because they obtained a document indicating that, so whether he agrees or disagrees, it meets the language as written in the ordinance and assuming you believe and accept at full value what was presented as partially flushed out a bit more by Mayor Fiala's comments.

Mr. Kowitz said business owners in downtown Willoughby understand these people paying these rents have disposable income to spend money in their establishments and that is adding value to the community.

Chairman Norris said the first question that needs to be asked is should or can the building be saved. This should be asked and answered before they move forward. If the building has been approved for a heritage plaque, but it may be rescinded does not help answer this question of whether it has historical value or is eligible for it. Mr. Lucas said there is a second component to that provision of 1155.04 (b)(2) A. Eligible Buildings: ...or the Planning Commission finds that the building has architectural, community or cultural value.. He said this provides some additional discretion independent of whether a certification or plaque was received, recognizing a third-party entity as a historically significant building. It also gives some discretion under that second tier to the Planning Commission itself.

Mr. Kary would like to know what the criteria is to obtain the plaque from the Lake County Historical Society. He said based on what the Mayor and Mr. Patt said he feels some things need to be clarified. Mr. Lucas said under C.O. 1109.05 it states, the Commission may require such additional information as deemed necessary. He said this can be put back on the table to follow-up with the source of this issue. Mr. Kary and Mr. Merhar both said they do not feel comfortable judging whether the building has architectural, community or cultural value.

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Mr. Jaffray said there are also two other letters they presented that deemed this building historical. Chairman Norris said they should judge this based on the evidence that is presented to the Commission.

Mr. Kary asked Mr. Keller regarding density for C.O. 1135.04, do they meet the conditions as far as the units per acre and is this a concern. Mr. Keller stated it did meet the requirements of density and parking.

Mayor Fiala said he believes the density is somewhere between our residential multi-family mid-rise and multi-family high rise and both of these require 5 to 10 acres of property. This building is a 1.5-acre site. He is not confident this meets the code in terms of density nor lot size and believes this should be reviewed further.

Mr. Kary and Mr. Wildermuth would like this point clarified on the zoning code and density. Mr. Wildermuth said there have been several issues brought forth that need clarity and does not feel comfortable moving forward and Mr. Kary agreed.

There was discussion on the letter from Berardi presented by the city administration that raised some questions regarding Browning being historical.

Mr. Lucas said under C.O. 1109.05(f)(5) The Commission may require such additional information as deemed necessary, including the carrying out of special studies and the provisions of expert advice. The standard would be what provides the more credible weight of the conclusion this is a historical building. He said there are questions on both sides regarding the credibility of one conclusion or the other and based on what the Commission members stated previously may require assistance outside of what is in front of them this evening.

Dr. Norris asked the Commission members what evidence they would like to see. Mr. Kary said he would like to see the Lake County Historical Society's application and what is required to obtain a plaque.

Mr. Merhar said he was not sure this would apply, but insurance review of historic properties is very difficult. In his previous dealings with many companies a designation by the Lake County Historic Society is not considered a historic register.

Mr. Kary also would like to know the insurance criteria for the acceptance of local historical designation. Mr. Merhar said the insurance industry considers how a property is viewed by either a State Register, the City Register or the National Parks System.

Mr. Lucas clarified that in the ordinance it states a historical landmark; a landmark is different from a simple building. The meaning of landmark, and since it is not defined in the ordinances, then you would give it a plain and ordinary meaning; for example, per a dictionary.

Dr. Norris said the Commission would like to see the following information before moving forward: 1) The application and what the Lake County Historical Society's criteria is for historic landmark designation. ~~2) The insurance company criteria for the acceptance of local historical designation~~ 3) 2) What determines a "historic landmark" dictionary definition 4) 3) C.O. 1135.04 clarify with 1155.04's adaptive use, floor area verses land density. 5) 4) What is considered when assigning architectural, community or cultural value and of what would

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those designations consist. He said how this information would be presented to the Commission could take various forms, one of which could be a debate amongst architects or community and/or cultural experts, but not the only way this can be deferred.

Mr. Keller wanted to clarify some issues regarding density. He said 1155.04 Adaptive Reuse of buildings, has two criteria and are similar to density; Multi-family dwelling units, provided the units comply with the minimum dwelling unit floor area for multi-family dwellings.. He said they meet these criteria, and they also comply with parking regulations. He said it does not specifically address density in that ordinance.

Dr. Norris asked for Mr. Keller to draft a memo to the Commission on item #4 C.O. 1135.04 clarify with 1155.04's adaptive use floor area verses land density.

Mr. Merhar said as far as 2) The insurance company criteria for the acceptance of local historical designation, the insurance companies' rulings will vary between companies. He said they may not get a general answer from these companies. This was just from his personal experience. The Commission agreed to remove item #2 from the list of required items (stricken above).

Mr. Lucas said this can be tabled for the specific purpose of providing additional time to obtain information regarding the items identified in the course of the meeting discussion. In the interest of progressively moving forward, in fairness to the developers, they would like to have this information by the next meeting if possible.

Mr. Kary moved to table the Conditional Use Permit for Browning Place Apartments, 38032 Brown Ave., Willoughby, OH 44094 to provide the Planning Commission additional time to research the items listed in a timely manner to be prepared to return for discussion at the next Planning Commission meeting and Mr. Merhar seconded.

ROLL CALL: Yeas: K. Kary; M. Wildermuth; M. Merhar; J. McCue; S. Norris, Chairman
 Absent: None
 Nays: None

Motion Carried: TABLED

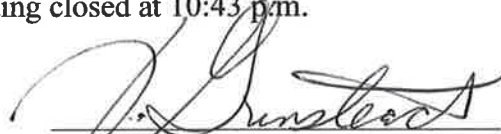
This item will remain tabled

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38032 Brown Ave.
(Rep.- Dal Jaffray, Browning Willoughby LLC)

Development Plan/EAS

There being no further business the regular meeting closed at 10:43 p.m.


Steve Norris, Chairman


Vicki Grinstead, Secretary