

CITY OF ELKHORN
ARCHITECTURAL REVIEW BOARD/CITY PLAN COMMISSION MEETING
Council Chambers, 9 S. Broad St., Elkhorn, WI
November 1, 2018

The Architectural Review Board/City Plan Commission Meeting was called to order at 6:00 p.m. by Chairman Reynolds followed by the Pledge of Allegiance and Roll Call.

ROLL CALL

Present: Wuttke, Hunter, Neumann, Meinel, Frazer, Myrin, Reynolds

Also Present: City Adm. Tapson, Zoning Adm. Schaeffer, Eng. Calhoun, Attorney Scott Christian

Visitors: John Donovan, Attorney Ward Phillips, Heidi Lloyd, Attorney Christine Green, Bob Miller, Karen Mrozinski, Aldermen Frank Boggs, Tim Shiroda and Karel Young and other visitors (see list)

APPROVAL OF MINUTES

Motion (Wuttke/Neumann) to approve the minutes of the Architectural Review Board/City Plan Commission Meeting of September 13, 2018. Motion carried unanimously.

WISCONSIN ACT 67 INFORMATION

Attorney Christian explained that Wisconsin Act 67, a new state law became effective on November 29, 2017, regarding Conditional Use Permits. Municipalities making decisions granting or denying CUP's need to be based on "substantial evidence" defined as facts and information rather than personal opinion directly relating to requirements and conditions that an applicant must meet to obtain a CUP and accepted in support of a conclusion. Also any requirements or conditions established by the governing body must be related to the purpose of the ordinance and must be "measurable". Conditions may include the permit's duration, transfer, or renewal. If applicant agrees to meet requirements and conditions then the permit must be granted but if denied, the applicant may now appeal the denial directly to circuit court.

PUBLIC HEARING-REZONE/N. WIS. ST (MARKET & HARVEST WAY)/BIELINSKI

Public hearing convened at 6:05 p.m., purpose of hearing all interested parties, their attorneys or agents with respect to the proposed amendment to the zoning map to rezone approximately 14.1 acres located on the east side of Wisconsin Street between Market Street and Harvest Way (Tax Key No. YA405200002) from B-2 Community Business District to R-4 Residential Mixed Use District with a Planned Unit Development Overlay District (PUD) and to amend the General Development Plan (GDP) site layout. Chairman Reynolds asked if anyone wished to be heard regarding this matter.

Diane Liberski, 870 Sweetbriar Drive, did not know the details of the project to ask question or comment. Sandra Nass, 846 Sweetbriar Dr., agreed and had questions on private vs. public streets in development.

Chairman Reynolds asked if anyone else wished to be heard. No one else wished to be heard. Chairman Reynolds asked three times if anyone wished to be heard. Public hearing was closed at 6:10 p.m.

PUBLIC HEARING-CUP/N. WIS. ST.(MARKET & HARVEST WAY)/BIELINSKI

Public hearing convened at 6:10 p.m., purpose of hearing all interested parties, their attorneys or agents with respect to application submitted by Bielinski Investments, LLC for a proposed amendment to Conditional Use Permit (CUP) to allow a Planned Unit Development (PUD) located on the east side of Wisconsin Street between Market Street and Harvest Way (Tax Key No. YA405200002). Chairman Reynolds asked if anyone wished to be heard. No one else wished to be heard. Chairman Reynolds asked three times if anyone else wished to be heard. Public hearing was closed at 6:11 p.m.

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PUBLIC HEARING-CUP/20 NORTH CHURCH ST./NEW BEGINNINGS (APFV)

Public hearing convened at 6:11 p.m. the purpose of hearing all interested parties, their attorneys or agents with respect the application submitted by New Beginnings APFV for a proposed Conditional Use Permit to allow New Beginnings APFV Support Center to include Social Services and Temporary Overnight Stays located at 20 North Church Street (Tax Key Nos. YCTS00001, YCTS00002, and YCTS00003). Chairman Reynolds asked if anyone wished to be heard regarding the Conditional Use Permit application submitted by New Beginnings APFV.

Attorney Christina Green, Sweet & Maier Law Offices, representing Charles W. Coleman Trust, 24 North Church Street and Julie Taylor, 12 & 16 North Church Street, with respect to the application for a Conditional Use Permit (CUP) filed by New Beginnings APFV for property located at 20 North Church Street, presented a letter addressed to the Mayor urging the Plan Commission to recommend denial of the application to the City Council for following four reasons: 1) New Beginnings APFV's proposed use is not an authorized conditional use under the City's Zoning Code; 2) New Beginnings APFV's proposed use would be hazardous, harmful, and adverse to the value, and overall environment, of the neighborhood and surrounding community; 3) New Beginnings APFV's proposed use does not comport with the City's Future Land Use Plan; and 4) The application is otherwise so deficient that granting it would violate her clients' procedural due process rights. She briefly expanded on the four reasons for denial.

Jacob Skibba, 429 West Walworth Street, lives two blocks from the property at 20 North Church Street, said neighbor approached him about the location of this shelter. He said he is a law enforcement officer and felt the purpose of the shelter is more important than its effect on property values. Could relocate shelter victims to another site on C.T.H. NN by the Walworth County Judicial Center but there would be no transportation to schools, stores, etc. As far as security, it is not common for perpetrators to seek out victims located across the street from City/County police departments.

Sara Nichols, representing Open Arms Free Clinic at 205 East Commerce Court, past President Elkhorn Rotary Club said their patients need shelters. Rotary and churches support domestic violence shelters. Aurora Health Care is offering to donate their vacant building at 20 North Church Street to be used as a shelter. She supports the project and agrees that transportation would be an issue if victims were located at the suggested County site on C.T.H. NN.

Attorney Ward Phillips, Agent, representing New Beginnings APFV, an agency formerly known as Association for the Prevention of Family Violence, currently located at 735 North Wisconsin Street has been active for 40 years within Walworth County. This agency offers supportive services and advocacy for adult and child victims of domestic and/or sexual abuse, who need to relocate for their safety. It also educates the community about these critical issues. The property at 20 North Church Street is being offered for offices and a shelter facility. The property is zoned T-1 Transitional District and consistent with the neighborhood. It offers a buffer between the residences and the businesses. He explained the proposed project plan for the remodeling of the vacant building located at 20 North Church Street and briefly described how it would accommodate the shelter offices and temporary housing.

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Attorney Phillips reported that the front unit of the existing building would provide for offices, the middle unit would provide programming and a portion of the middle and rear units would provide housing for victims. The shelter staff would be approximately 9-11 people, there would be 25 parking spaces but there is also parking in the TDS parking lot and the nearby municipal parking lot. There is zero evidence against negative property values. The Walworth County Housing Authority is currently located in a residential/business neighborhood on North Lincoln Street and there has been no reduction of property values. He said there are no safety issues, no statistics or background to prove where violence occurs. It can happen anywhere like churches, synagogues, schools, homes, etc. All these facilities are no longer safe. Safety of children is critical and issues can occur with children just crossing the street. No men would be housed at the proposed facility, only women and children. He reported that when the doctor clinic offices were open, there were up to 45 visitors per day. The proposed shelter would have less than that number of visitors per day. The shelter victims would be located at this facility on a temporary basis and then placed into housing all over Walworth County.

Heidi Lloyd, 641 Alex Drive, employed by New Beginnings APFV, which has expanded programming that gives people a safe place to stay at night when needed. Currently they do have to call around to other shelters like Twin Oaks, homeless shelter for all homeless and if full then they have to another 15 shelters that could be full as well. If New Beginnings have to place families more than an hour away it makes it difficult to get the kids to school. The agency has looked at many sites for over two years and then this site at 20 North Church Street came up for sale by Aurora Lakeland who did not ask full price then most recently was generously donated by Aurora Lakeland. She explained that there will be five suites for 12 people and the amount of time spent at the shelter will vary, two days to a week. Because of the location next to the Elkhorn Police Department it will be a safe environment. It has taken 40 years for New Beginnings APFV to get a shelter in Walworth County. She reported that there has been only two events in 1997 and 2015 where domestic violence occurrences have taken place at domestic violence shelters. There is the issue of whether shelter locations should be anonymous vs public. Sites use to be anonymous and were hard for victims to find shelter but it is better when the locations are publicized. To locate this shelter facility out of town on C.T.H. NN would create transportation issues for the adults to purchase food, supplies, etc.as well as children needing transportation to school. It would be a hardship for the temporary residents. Shelter facilities offer intervention for women as well as kids and she supports it.

Rhonda Schmall, 408 North Broad Street, felt a shelter facility is needed but not in this location.

A MacLean Road resident said the proposed shelter is within a neighborhood of historical homes which is not a good location. The shelter facility operated by a non-profit agency would mean the City would be losing tax base and neighborhood property values are affected. There are no other shelters nearby so there has not been any problems. He is not sure about safety, being across the street from the Elkhorn Police Department, closed at night and calls dispatched to Walworth County Sheriff. The shelter should be located out by the Walworth County jail. The shelter would not contribute to the historical downtown.

Bob Miller, President Aurora Lakeland Center, speaking on behalf of the applicant, New Beginnings APFV, a non-profit agency. He briefly outlined the services offered by Aurora and announced that they would be donating the facility at 20 North Church Street to New Beginnings APFV, allowing the agency better capacity to offer services to victims of violence within the communities of Walworth County.

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Connie Goetz, 215 West Walworth Street, felt there is a real need for the services of a shelter facility w/office and sees both sides of the location issue. She felt the Plan Commission needs to find a creative answer to accommodate both the applicant's request for the proposed shelter location as well as the safety of the victims and the neighborhood residents while protecting property values.

At this time Chairman Reynolds reported that a letter has been submitted from Chuck Coleman Trust, 24 North Church Street, opposing the location of a shelter at 20 North Church Street, application submitted by New Beginnings APFV. A petition signed by local residents requesting to reject New Beginnings APFV's application for a Conditional Use Permit for the property at 20 North Church Street, was submitted by Julie Taylor, 12 and 16 North Church Street. Bill Leith, owner/broker at Coldwell Banker, 102 North Wisconsin Street, located downtown in historic courthouse square, also submitted a letter stating he is not in favor of a conditional use permit being granted at this location.

Jim Gerlach, 12 North Church Street, reported that he and Julie Taylor, met with Heidi Lloyd and Ward Phillips to discuss the proposed shelter facility location at 20 North Church Street. At their meeting, he mentioned the shared driveway and Ward did not seem to know about a shared driveway. He felt they had not been fully informed about this project at the meeting or the fact sheet that had been submitted by New Beginnings APFV which offered more information. Mr. Gerlach said the plan request submitted by the applicant was not complete. He understands that the proposal is for only five units but did not feel that would be enough room for five families seeking shelter. He felt there would most likely be double that number of families housed in the proposed shelter. Mr. Gerlach also felt this project would be best located on a site near the Walworth County Tree House Child and Family Center on C.T.H. NN where there would be enough room for kids to play outside and for garages to house vehicles. There would not be enough green space at the 20 North Church Street location. He suggested that New Beginnings APFV sell the downtown building at 20 North Church Street, donated by Aurora/Lakeland, and build a new facility by the other Walworth County facilities on C.T.H. NN. At the meeting it was mentioned that the nonprofit group had explored six options and felt 20 North Church Street was their best option but did not mention the other locations. He said he would not want 20 new neighbors and all their vehicles plus eight to ten employees using a shared driveway. Why not examine the other five option locations. He was not sure why the nonprofit group would want to advertise the location of the shelter, because violence happens everywhere and there would be more potential for violence to occur.

Greg Ingersoll, 11 Spencer Street, said the office building at 20 North Church Street has been for sale for 5 years. He felt that the issue should not be about property values, and there should have no effect on neighborhood values. It is a facility to help women and children and is in full support of the project.

Taume Kohl, 218 East Court St., Apartment No. 1, employed as a social worker and supports the project.

John Seuse, 312 West Walworth Street, expressed concern whether 20 North Church Street is the right location for the shelter facility. He understands the need but thought it could be located at another site. The donated property at 20 North Church Street could be sold and the money could be used to build a new facility. He was also concerned that the request is for only five units but they may need five more.

Robert Mudra, 307 ½ South Church Street, felt the proposed shelter will not affect the neighborhood.

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Dan Alder, 418 Devendorf Street, veteran and an eight year volunteer at Twin Oaks Shelter located outside of Darien. He worked the midnight shift and witnessed many issues at the shelter. He also received many calls in the past from Heidi Lloyd about placing victims at this shelter location and on three occasions they were able to accept the victims. He understands the Elkhorn Police Department is located across the street from 20 North Church Street, but it is not staffed at night and does not consider this proposed location to be safe for victims, especially if an abuser is searching for them. Not safe for the neighbors as well if there is mistaken identity. He felt this property location would not be the place to have a shelter in Elkhorn's historical downtown. The issue is the use of the property not about people. He pointed out that the building at 20 North Church Street would be owned by a nonprofit agency which means no tax base for the City. He pointed out that the application submitted for a Conditional Use Permit is not correct and lacks information as Attorney Green previously mentioned. He suggested that New Beginnings APFV sell the property which was donated by Aurora/Lakeland and use those funds to construct a new facility on C.T.H. NN near the Tree House since this shelter facility would serve all of Walworth County. He felt that the Walworth County site on C.T.H. NN would be a safer location.

Abigail Baker, 311 West Walworth Street, has seen abused women and children removed from shelters by abusers in Milwaukee. She said violence can occur anywhere and everywhere.

Julie Taylor, 12 and 16 North Church Street (including a portion of TDS parking lot), owns properties which are adjacent to the proposed shelter at 20 North Church Street. Her concern regarding this location is that transients could stay one night or up to 30 days within this residential neighborhood. She understands that the proposed shelter would house women and children. She felt the children could be transported by bus to school from any location, even if the shelter were located on C.T.H. NN. She and her neighbors have had their family homes on this block of North Church Street in historical downtown Elkhorn for many years. She has purchased the adjacent property next door to her family home at 16 North Church Street, a year ago and has been restoring the old home into a Bed and Breakfast. Ms. Taylor said she supports New Beginnings APFV and has no issue with the location of an office at 20 North Church Street, however, it is not an ideal location for a shelter for transients. She noted with a park directly across the street, abusers could be there waiting there for opportunity. They could potentially mistake her properties or neighbor's property for the shelter. She fears for herself and her neighbor's safety. She has a background in banking/appraisal service and is fully aware of how property values can be affected by the location of a shelter within this historical neighborhood. She is not opposed to the offices but it is not the right location for a shelter and would only support a shelter in another location.

Chairman Reynolds asked if anyone wished to be heard. No one else wished to be heard. Chairman Reynolds asked three times if anyone else wished to be heard. Public hearing was closed at 7:45 p.m.

REZONE/CUP/AMENDMENT TO GDP/CSM/NORTH WISCONSIN ST./BIELINSKI

John Donovan, Bielinski Investments, LLC, presented the proposed rezone approximately 14.1 acres of land from B-2 Community Business District to R-4 Residential Mixed Use District with a Planned Unit Development (PUD) Overlay District, amending the General Development Plan (GDP) site layout, and approval of the Certified Survey Map (CSM) to be located on the east side of Wisconsin Street between Market Street and Harvest Way, on Lot No. 1 (Tax Key No. YA405200002).

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Mr. Donovan explained that the 1,400 square foot condominiums with 2 car garages and the duplexes will be sold for single family ownership. These new condominiums would be located on the other side of the 50 foot berm that currently exists between this property and the existing Harvest Pointe Condos. There would be another 25 feet between these condos and Harvest Pointe Condos so it would not be a part of the existing condominiums. City sewer and water is available to the Condos and Bielinski will provide extra attention to the drainage, there will be a private street, owned and maintained by Bielinski.

Chairman Reynolds noted the current plan is for single family duplexes, not apartments as previously presented by Bielinski Investments. A memorandum recommending approval of the Certified Survey Map contingent upon comments, was submitted by City Engineer Greg Calhoun, Kapur & Associates. Lee Brown, Teska Associates, City Planner, submitted a memorandum addressing the site plan submittal noting the reduction from commercial use to residential use on the east part of the site is generally in keeping with the intent of the City's comprehensive plan and the overall commercial layout is logical and consistent with common site design practices. Discussion. Plan Commission members agreed that they would be in favor of this project but with conditions and requested applicant to return. No action taken.

CONDITIONAL USE PERMIT (CUP)/20 NORTH CHURCH ST./NEW BEGINNINGS (APFV)

Attorney Ward Phillips, Agent, representing New Beginnings APFV, explained current offices are located at 735 North Wisconsin Street, however, the agency wishes to relocate to a facility that can also offer shelter for women and children within Walworth County. New Beginnings APFV's mission is to provide supportive services and advocacy for adult and child victims of domestic and/or sexual abuse, who need to relocate for their safety and to educate the community about these critical issues. The property at 20 North Church Street is being donated by Aurora Lakeland Medical Center, for proposed offices as well as a shelter facility. He referred to the proposed project plan for the remodeling of the vacant building located at 20 North Church Street. The front unit of the building would be used for offices, the middle unit would be used for programming and part of the middle and rear units would be used to provide housing of victims. The shelter would have 9-11 staff members. There would be about 25 parking spaces with additional parking in the TDS parking lot and municipal parking lot. Attorney Phillips said there is zero evidence against negative property values. The Walworth County Housing Authority is currently located in a residential/business neighborhood on North Lincoln Street and there has been no reduction of property values. He said there would not be any safety issues because of the security of the facility. There are no statistics or background to prove where violence occurs. It can happen anywhere. Safety of children is critical and New Beginnings would only house women and children. No men would be housed at the proposed facility. The shelter victims would be located at this facility on a temporary basis and then placed into housing all over Walworth County.

Plan Commission members asked if it would be feasible to just have office space at 20 North Church Street and could the agency relocate next to the Walworth County Tree House on C.T.H. NN. Attorney Phillips responded no and that land on C.T.H. NN was never offered to New Beginnings by Walworth County. He reminded the commission that the front area of the building at 20 North Church Street will not be used for housing only part of the middle and back of the building. When asked about the number of adults and children to be housed at this location and length of time, Heidi Lloyd responded 12-20 women and children for five days to two weeks.

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Discussion regarding available statistics from other Police Departments regarding responses to calls at office and/or shelters by law enforcement. Further discussion regarding security measures, number of shelter units, placement of units, number of families to be housed and length of time, parking, entrance, egress, shared driveway, and green space.

Attorney Phillips responded that many of items mentioned in discussion could be addressed as conditions of the Conditional Use Permit and to prevent issues in the future. The facility will be staffed 24-7 and there should be no problem with security with the Elkhorn Police Department located across the street.

After further discussion, Plan Commission consensus was to request the applicant to submit additional information, such as statistics regarding shelter locations and threats of violence to victims within similar shelters locations, prior to taking action on the Conditional Use Permit (CUP) submitted by New Beginnings APFV for the proposed location of office/shelter facility at 20 North Church Street submitted by New Beginnings APFV. Chairman Reynolds requested the applicant to return to a future meeting with the additional information. No action taken.

EEDA BUILDING IMPROVEMENT GRANT/41 N. WISCONSIN ST./ODLING

Chairman Reynolds reported that Friends on the Square, 41 North Wisconsin Street (Tax Key No. YOP00143) has applied for a building improvement grant application for interior lighting and to restore the hardwood floors. Brief discussion.

Motion (Meinel/Neumann) to recommend to Council to approve EEDA grant application submitted by Friends on the Square, 41 North Wisconsin Street (Tax Key No. YOP00143) for building improvement grant for interior lighting and restore hardwood floors. Motion carried unanimously.

ETP CSM/W334 BRAY RD., TOWN OF LAFAYETTE/HUBBARD

The Zoning Administrator provided the staff report regarding the planning request by Jeffrey Hubbard, W3324 Bray Road, Town of LaFayette (Tax Key No. KLF3400001A), to approve the Certified Survey Map for a land division to split the existing 5.9 acre parcel into 3 parcels to include 42,409 square feet (existing house) , 2.07 acres (existing house), and 2.86 acres (vacant) all of which is located within the City's Extraterritorial Platting jurisdiction. Staff recommends approval of the Certified Survey Map (CSM).

Motion (Reynolds/Frazer) to recommend to Council to approve the Certified Survey Map for a land division to split the existing 5.9 acre parcel into 3 parcels to include 42,409 square feet (existing house), 2.07 acres (existing house), and 2.86 acres (vacant) all of which is located at W3324 Bray Road, Town of LaFayette (Tax Key No. KLF3400001A), within the City's Extraterritorial Platting jurisdiction as submitted by Jeffrey Hubbard, property owner. Motion carried unanimously.

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MONUMENT SIGN EXCEPTION/200 W. O'CONNOR DR./E & M ELKHORN LLC

The Zoning Administrator presented the staff report for a monument sign exception requested by E & M Elkhorn LLC (E & M Strategic Development) for the Holiday Inn Express, to be located at 200 West O'Connor Drive (Tax Key No. YE&M00005). The applicant is requesting approval of an exception to the sign ordinance requirement that the base of a monument sign shall be a minimum of 75% of the sign cabinet width. The applicant is requesting 70% as the sign is a patented design. This is part of a previously approved Planned Unit Development (PUD). Staff recommends approval of the exception to the sign standards as permitted under a PUD. Brief discussion.

Motion (Frazer/Meinel) to approve the request for an exception to the sign ordinance requirement allowing the base of the monument sign for Holiday Inn Express, 200 West O'Connor Drive (Tax Key No. YE&M00005) to be a minimum of 70% of the sign cabinet width as requested by E & M Elkhorn LLC. Motion carried unanimously.

AMENDMENT TO CUP/1560 N. COUNTY CLUB PKWY/LAKELAND BLDRS/MROZINSKI

Karen Mrozinski, Stillwater Coffee Company, submitted a letter as follow up to her original request dated February 2018, requesting the existing Conditional Use Permit issued January 18, 2017, be amended to omit Item No. 2 in the permit which reads; there shall be no beer, wine or alcohol sales or consumption on the premises. Also she is requesting that Item No. 3 be amended relating to hours of operation which currently allows her to be open until 9 p.m. four times. In accordance with her business plan, she has implemented hosting events at her coffee shop, sometimes using her café space after hours she has had requests to bring in wine and/or beer for their event. These events are 80th Birthday parties, small wedding receptions, bridal showers, ladies clubs and book clubs. Since the Conditional Use laws have changed, she would like to be able to allow individuals to bring in wine and beer to their events hosted at her venue, as long as it is not sold and the event remains a private party by invitation only. She would like to extend the hours of operation for events from four times per month to be changed to six times per month for special events to run until 10 p.m. instead of 9 p.m. Discussion regarding Wisconsin Act 67 (passed November 29, 2017) relating to Conditional Use Permits and whether or not this business would require a liquor license. Members agreed that additional information is required and this matter should be brought back to a future meeting prior to making a decision. No action taken.

MEETING DATES

Meeting dates: Next meeting is scheduled for next Thursday, November 15, 2018.

ADJOURNMENT

Motion (Frazer/Wuttke) to adjourn. Motion carried. Meeting adjourned at 8:50 p.m.

Shari McKinney
Plan Commission Secretary