

City Of Birmingham
Regular Meeting Of The Planning Board
Wednesday, August 11, 2021
City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on August 11, 2021. Chair Clein convened the meeting at 7:33 p.m.

A. Roll Call

Present: Chair Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Bert Koseck, Daniel Share, Janelle Whipple-Boyce, Bryan Williams; Alternate Board Members Jason Emerine, Nasseem Ramin; Student Representative Daniel Murphy

Absent: Student Representative Jane Wineman

Administration: Jana Ecker, Assistant City Manager ("ACM")
Brooks Cowan, City Planner ("CP")
Laura Eichenhorn, City Transcriptionist

08-109-21

B. Approval Of The Minutes Of The Regular Planning Board Meeting of July 28, 2021

Mr. Boyle recommended a change to the third paragraph under Special Land Use Permit Review and Final Site Plan and Design Review - 1. 325 S. Old Woodward (Adachi Restaurant).

Motion by Mr. Williams

Seconded by Ms. Whipple-Boyce to approve the minutes of the Regular Planning Board Meeting of July 28, 2021 as amended.

Motion carried, 6-0.

VOICE VOTE

Yeas: Williams, Boyle, Koseck, Jeffares, Clein, Whipple-Boyce

Nays: None

Abstain: Share

08-110-21

C. Chair's Comments

Chair Clein welcomed everyone to the meeting and reviewed the meeting's procedures.

08-111-21

D. Review Of The Agenda

08-112-21

E. Public Hearings

1. An Ordinance To Amend Chapter 126, Zoning, Of The Code Of The City Of Birmingham:

To Amend Article 7, Section 7.01, General, To Add General Public Notice Requirements.

And

To Amend Article 7, Section 7.29, Site Plan Review: Hearing On Review; Notice, To Remove Public Notice Requirements.

ACM Ecker presented the item.

Mr. Jeffares re-raised his previous concerns about the signs having enough detail to adequately inform the public.

Chair Clein noted that the content of the signs was an administrative policy separate from the focus of the present ordinance amendment discussion. He recommended Mr. Jeffares reach out to the City Manager to offer input on the content. He agreed that detail was useful as long the signage requirements did not also end up being excessively onerous to applicants.

Motion by Mr. Share

Seconded by Mr. Williams to recommend to the Commission ordinance amendments to Article 7, Sections 7.01 and 7.29 of the Zoning Ordinance as presented.

Motion carried, 6-0.

VOICE VOTE

Yeas: Share, Williams, Boyle, Koseck, Jeffares, Clein, Whipple-Boyce

Nays: None

08-113-21

F. Special Land Use Permit and Final Site Plan and Design Review

1. 260 N. Old Woodward – Outdoor Dining (The Morrie), Request for a Special Land Use Permit Amendment and Final Site Plan and Design Review to consider approval of a new outdoor dining plan for an existing restaurant.

ACM Ecker presented the item.

Kevin Biddison, architect, was present on behalf of the applicant.

In reply to Board comment, Mr. Biddison said the deck could likely be shortened to fit into four parking spaces. He stated that the applicant would work with the City to comply with departmental requirements. He said the applicant would likely be amenable to installing planters or something else per the Engineering Department's comments. He confirmed that he would submit revised plans to the City prior to the Commission's review.

While noting their general support of multi-modal transportation, both Mr. Jeffares and Chair Clein said bicycle racks should not be installed in the parking spaces abutting the deck. Both also commented that the deck should likely be reduced to fit into four parking spaces.

On the proposed patio street view plan Chair Clein noted that 'Willits' should be changed to 'Hamilton'.

Given the Board's ongoing study of the outdoor dining standards, the Board discussed the utility of including a sunset clause in the approval.

ACM Ecker said doing so was within the Board's right, though it had not been frequently done.

Mr. Boyle expressed consternation that the City was not giving applicants better guidance on outdoor dining at this time.

Chair Clein and Mr. Williams noted that short of a moratorium on outdoor dining requests enacted by the Commission, the Board is obligated to evaluate requests under the present ordinances until there is a change.

Chair Clein said it was worth considering whether allowing outdoor dining both against the building and on the street was too much.

In reply to Ms. Whipple-Boyce, ACM Ecker stated that there is nothing in the ordinance preventing a restaurant from having outdoor dining both against the restaurant and on the street.

Motion by Mr. Share

Seconded by Mr. Williams to recommend approval based on a review of the site plans submitted of the Special Land Use Permit Amendment to the City Commission with the following conditions: 1. The applicant must obtain an Outdoor Dining Permit and enter into a contract with the City for the SLUP Amendment; 2. All outdoor activity must cease at the close of business; 3. Comply with the requirements of all departments; and, 4. The Commission consider a sunset date with the possibility of amendment based on a change in ordinance, if it occurs, and on the advice of the City Attorney.

Mr. Koseck and Mr. Jeffares said they were supportive of the motion with the potential for the sunset date.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Share, Williams, Boyle, Koseck, Jeffares, Clein, Whipple-Boyce

Nays: None

Motion by Mr. Share

Seconded by Mr. Williams to recommend approval based on a review of the site plans submitted of the Final Site Plan and Design Review to the City Commission with the following conditions: 1. The applicant will be required to reduce the length of the platform to be less than the storefront width to retain two unobstructed on street parking spaces between the platform and the corner to the south; 2. Obtain a favorable recommendation from the Advisory Parking Committee prior to City Commission review; 3. The Commission consider a sunset date with the possibility of amendment based on a change in ordinance, if it occurs, and on the advice of the City Attorney; 4. The applicant complies with the requirements of all departments; and, 5. The applicant submits an updated final site plan showing the reduced deck and clear relation to parking spaces on the site for administrative approval and submission to the Advisory Parking Committee.

Motion carried, 7-0.

VOICE VOTE

Yeas: Share, Williams, Boyle, Koseck, Jeffares, Clein, Whipple-Boyce

Nays: None

08-114-21

G. Study Session

1. Outdoor Dining

CP Cowan presented the item.

Discussion by the Board members noted:

- Keeping diners safe from traffic should be addressed;
- The reasons for seeking a change in the ordinances should be clarified;
- The difference between Class C and bistros should be preserved;
- The difference between wind breaks and walls should be clarified;
- The Board should review tickets issued under the Covid-19 expanded dining and photos of the outdoor dining during the same period;
- It would be most appropriate to design guidelines for a trial period since achieving a permanent solution during a shifting pandemic would be unlikely;
- Definitions should be provided for concepts such as enclosure, structure, roof and wall;
- Given the National Restaurant Association's focus on carryout more than outdoor dining, perhaps the APC or other City body should consider temporary parking zones on certain blocks to better facilitate carryout;
- DPS concerns would be included in the contracts on outdoor dining for restaurants but need not be part of the ordinance considerations;

- The desired relationship between the restrooms available and the number of exterior seats should be considered;
- The current ordinance should be evaluated for what should be changed or updated, and should be considered in terms of whether it should apply for eight months or year-round;
- Input from the restaurateurs and the BSD should be provided to the Board;
- The travel way, impacts on road, and pedestrian way are likely to be more code than ordinance issues;
- The permissions granted for outdoor dining might appropriately vary from zone to zone in the City.

2. Wall Art

CP Cowan presented the item.

It was clarified that:

- Maintenance issues with wall art would be a code issue;
- 'Content' is not something that can be regulated, but 'non-commercial', 'aesthetically appropriate' or 'compatible with the area' could work;
- It would be useful to have a brief statement in Article 7, Section 7.41 about the benefit and value of wall art;
- The intent of the word 'facing' should be made more clear in the proposed amendment to Article 9 - Definitions To Define Wall Art And Determine Permitted Locations For Wall Art;
- Wall art approval would be a standalone process and not subject to site plan approval, though site plan approval would be granted at the Planning Board contingent on the wall art's approval by the appropriate boards; and,
- This ordinance amendment does not intend to allow a new building to create a blank wall in excess of 20 feet with the intent of installing wall art; it intends to allow already-existing blank walls that qualify according to the ordinance amendments to consider installing wall art.

Mr. Share noted that often wall art in other cities is not painted directly on buildings, but on canvas-type features.

Staff said they would make the recommended revisions and return with the item.

08-115-21

H. Miscellaneous Business and Communications

a. Communications

ACM Ecker introduced a pre-application discussion request from the owner for 220 Park.

Chris Longe, architect, and Jeff Hutchinson, owner, were present on behalf of the potential application and walked through the proposal to convert an existing office building into a residential building.

A number of Board members offered supportive comments but also cautioned that the proposal would have to proceed according to the City's current ordinances and not according to presumed future changes to the ordinance.

- b. Administrative Approval Correspondence**
- c. Draft Agenda for next meeting**
- d. Other Business**

Motion by Mr. Williams

Seconded by Ms. Whipple-Boyce to hold a special meeting with a combined study session and land permit hearing on September 9, 2021 at 7:30 p.m in the City Commission Room.

Motion carried, 7-0.

VOICE VOTE

Yeas: Williams, Whipple-Boyce, Share, Boyle, Koseck, Jeffares, Clein

Nays: None

08-116-21

I. Planning Division Action Items

- a. Staff Report on Previous Requests**
- b. Additional Items from tonight's meeting**

08-117-21

J. Adjournment

No further business being evident, the Chair adjourned the meeting at 9:53 p.m.

Jana L. Ecker

Assistant City Manager