

VILLAGE OF BALDWINSVILLE
PLANNING BOARD MEETING MINUTES
TUESDAY, MARCH 24, 2009 AT 7:30 P.M.
Approved 4/28/09

PRESENT: Chris Savacool, Chairman
Dave Arthur
Don Cronk
Carl Pelcher
Larry Barnett

ABSENT: John McFall
Ed Rock

ALSO PRESENT: Tim Baker, Village Engineer
Ron Carr, Village Attorney
Mayor Joseph Saraceni
Marie Giannone, Secretary

The meeting was called to order by Chairman Savacool and said that member John McFall has been ill and would not be present at the meeting.

Motion to approve the minutes of February 24, 2009 were made and approved. Correction noted and changed in the minutes.

ITEM No. 1 – Continued Discussion of Temporary Storage

Chairman Savacool said some issues remained and needed to be discussed on parking issues and in particular, Ace Hardware. Mr. Rolf Beckhausen, Code Enforcement Officer (CEO), told Mr. Tim Baker that Ace Hardware is starting to move things out again. Mr. Baker said Mr. Beckhausen is looking for some guidance on what determination has been made regarding these issues. Mr. Baker also asked if the B'ville Sports Bowl (Mr. Sidon) is a moot issue because of that parking situation as it related to his outside sales.

Points of discussion:

- According to the village code, can Ace Hardware sell merchandise outside.
- Because it changes the number of parking spaces available and contrary to the site plan approved, it would be nonconforming.
- Mr. Baker said businesses should come in and get a site plan approval for outside sales as this would be an easy way to administer it.
- Planning Board could approve or not approve site plan as it may change character of the neighborhood.
- Administratively to write a code that the village can follow would be difficult.

Discussion followed regarding this points:

Mr. Barnett asked if Ace Hardware is in violation of their site plan. Mr. Baker said yes and they could prepare a site plan to meet the requirements.

Ace Hardware, according to code, would need 150 parking spaces for the square footage of their building. Even if Ace took all the parking spaces that are shared by other businesses, it would still not be enough to meet code.

Mr. Cronk said he hated to see the board restrict any business , whether it is Agway or Village Hardware, because of parking spaces. Mr. Cronk said the board should look at changing the code as it relates to parking requirements. Mr. Carr said if we let a business have an accessory sale, the parking spaces are still being used for this which is in violation of the parking requirements.

Mr. Baker said in referring back to the bowling alley, if the board truly felt that there would be a problem with the parking requirements such as ten per lane as specified in the code, couldn't Mr. Sidon come in and get a site plan approval if the board allowed as an example, four parking spaces per lane. Mr. Baker said the plan could show four parking spaces per lane and on the site plan where he would use part of parking spaces for outdoor accessory sales to the business. Mr. Baker said if the board approves this site plan, that is the plan that would be followed by the code enforcement officer. Mr. Baker said the hardware store parking could be recalculated for the type of business and even though there may be an existing site plan approved, the CEO would follow the approved site plan until an amended site plan is approved by the board. The requirements are not relaxed administratively until a different site plan is approved. Mr. Baker said the solution to the problem would be that our parking requirements do not reflect what the community norm is or needs are. Mr. Baker said this would be one way to address the issue.

Mr. Carr asked if some of these buildings under our codes have an outstanding requirement for site plan approval. Mr. Carr wondered if some of these businesses have a site plan if they never needed one when they opened their business. Mr. Baker said if we don't have an existing site plan, those businesses are frozen, whether they were conforming or nonconforming, and we would not go back to tell a business that they need to increase their parking spaces to conform to code. But, Mr. Baker said, if we lessen it, whether it is conforming or nonconforming, if they can show how they can have outdoor sales and meet the parking requirements, they would get approval.

Mr. Carr said if site plan approval is either by modification of an existing site plan or through some new requirement to get a site plan, that would be fine. Mr. Carr said the bigger and more challenging issue would be the alteration and creation of a more flexible onsite parking scheme to set up standards for these properties. Mr. Carr said he felt this was a challenge for every municipality because uses change.

Mr. Carr said he did not know why square footage of the building equals the amount of necessary parking. He said on the other hand it probably is the use of type of business conducted would be a better indicator of what the amount of parking would be required. The problem with that is once buildings go up, usage change and then how is that factored in. Mr. Carr said that something based on square footage would set your requirements for parking, but would only require that the lots have the

availability to service that number of spaces, but the exact number of spaces put into operation might be tailored to that use of the operation. The board agreed and understood what Mr. Carr was trying to explain.

Chairman Savacool asked if there was a mechanism that this board or a government body would be able to allow temporary change to parking requirements, such as a seasonal change so that a change is not being made to the code, but only temporary. Mr. Baker said now temporary changes are made to parking because of the winter season. The rationale behind this is because there is a loss of available parking in winter. Mr. Carr said the parking would be a reduction in the parking requirement on a seasonal basis as permitted by application to the planning board. This could be tied into the calendar, for example April 1 to September 1.

Mr. Barnett said it sounds like there are two problems: ongoing, long range problem of what the requirements should be for parking spaces for each building and the fact that right now we have a business knocking on our door asking what they should do. Mr. Barnett said his suggestion would be from April 1 to October 31 to allow anyone to reduce 10% of their existing parking spaces for outside sales. The board said if they did not have enough parking spaces already, reducing it by 10% would compound the problem. Mr. Arthur said if the business has a grassy area which is not parking and if they want to put an equal amount of square footage for outdoor sales, they would not have to come before the board. But to build into code that they have to come before the planning board to utilize parking where they cannot exceed some number of percentages of square footage to tie the two together.

The board looked at a drawing of Ace Hardware. Discussion followed. The board said Ace Hardware should come in with their site plan for review. The question was asked how does the CEO handle this. Mr. Baker said first of all, are outside sales allowed. Then where does it go. The CEO's concern was the side of the building was a fire lane and the material was placed by the fire lane. Mr. Baker said Ace Hardware should come in with a drawing showing how he does not infringe on the fire lane and get approval of the planning board.

Mr. Carr said you could allow outside sales under our code as an accessory use to this use. It is not impacting parking but impacting a fire lane. Mr. Arthur said all he has to do is come in with his site plan and show the planning board what he wants to do. Discussion on when parking was in the front of the building and then changed.

Mr. Carr said the bowling alley issue was that it was not an accessory to the business. Mr. Carr said there are two things: outdoor sales that are not related to any business and accessory to the business. He said these are two separate and distinct things.

Mr. Baker said if someone wants to do an accessory outdoor sales, but never had one, they do not have site plan approval showing where they are going to sell it, they should come before the board telling where they are going to do it and the board can approve or disapprove it. Mr. Baker said then the CEO can just follow the site plan. Chairman Savacool said then it affects the parking requirement and they would then have to get a variance for parking spaces.

Mr. Carr said he thought there must be a way of tweaking the legislation instead of going for variances. Mr. Carr said because of the way the code is set up determines that variances are needed.

Mr. Barnett asked if the overlay district will be less restrictive. Chairman Savacool said yes.

Chairman Savacool said ultimately this comes down to what we are trying to accomplish. Chairman Savacool said from the comments he has heard, we should be more accommodating to businesses. He said that everyone wants these businesses to survive, but at the same time there has to be places for people to park. He asked how do we provide for that.

Mr. Barnett said he thought this was a dead issue two months ago and he was surprised that we are going through it again. Mr. Barnett said he shops at Ace Hardware fairly often and he has yet to go over there and not find a place to park.

Chairman Savacool said how bad is the problem and what is the best way to deal with it. Do we create a requirement that would have allowable amounts of parking requirements. Do we limit the amount of outdoor sales to the percentage of retail building square footage.

Mr. Carr said the one exception because of the way the code is written is that for certain non descriptive types of business not in the code, it is up to the discretion of the planning board for parking requirements. Mr. Carr said there is a "catch all" that if they are not otherwise set forth the parking requirements are at the discretion of the planning board. Mr. Carr said the real dilemma is the issue of parking.

Mr. Baker said this is a moving target as parking requirements change, from what was fifty years ago to what is required today and will be different tomorrow as businesses change ownership.

Mr. Arthur asked if they could work on a motion to allow outdoor sales to about 5% of size retail building. Mr. Baker thought maybe reducing the parking requirements by 5% would be a solution.

Chairman Savacool asked if there is a need to do anything. He said he still has a problem with the bowling alley not being able to maximize its property a little bit better. Chairman Savacool said he did not know the answer to that question but he felt that something should be done even though his was not an accessory to his retail business. Mr. Carr said part of that problem was a general restriction of the code in B-2 district. Chairman Savacool asked if there was anything detrimental to Mr. Sidon putting out gazebos etc. in that area. Mr. Barnett said his problem was that he could not use the space in his building so he goes to the outside. Mr. Barnett asked if Mr. Sidon owned the space in the back of the building. Mr. Baker said there is parking back there. Mr. Baker said Mr. Sidon is 10 or 20 spaces short for his bowling alley, but Mr. Barnett said he thought this was seasonal and no bowling took place during the off season. Mr. Baker said Mr. Sidon does not want to shut down during off season.

Mr. Cronk said Mr. Sidon's lot is restricting him not the planning board. The board agreed that they did not want to hold Mr. Sidon up for keeping his business. Mr. Arthur said the conversation has been that this is not an accessory sale. Mr. Arthur said if Mr. Sidon had a lot twice its size and had grass, he still could not sell his items because it is not an accessory sale. Mr. Arthur said he finds that hard to swallow and has stated before that we have to help these people survive in our community. Mr. Arthur said it is

an asset to have this type of business in our community and to have such a business person wanting to conduct business here. Mr. Arthur said he does not know why personally this board can legislate what he can do with the business he has. Mr. Carr said to change the use requirements for B-1 districts to get some definition.

Mr. Baker said if the bowling alley had a separate entrance for Mr. Sidon's outdoor sales, then the building could be used for this type of sale because customers would be entering that entrance and not the bowling alley entrance. Chairman Savacool said if that were to happen would Mr. Sidon have to come before the board for a site plan approval. Chairman Savacool also said at the same time this site plan would show a reduction in parking spaces, so this becomes the same situation as before. Mr. Carr said it could be tweaked. Mr. Carr said that you could say to any business that you can conduct as many businesses out of one operation as are otherwise permitted in that zoning district. Mr. Carr said we are presently set up that way but we usually allow one primary building, etc. In concept we could say to someone as long as the underlining business is a permitted use within the zoning district you can run as many businesses as you want from the same building. And Mr. Carr said that could be a policing nightmare. Mr. Carr said if you took that concept then the only issue Mr. Sidon would have is the sale of these gazebos a permitted use in B-1 districts. If it is, then he can conduct the bowling, gazebos, whatever the permitted uses are out of that building. Mr. Arthur said we are going "round robin". He said we are back to where we started with temporary sales.

Chairman Savacool asked if there was any more discussion or comments. He asked if we should leave it or tweak it. Chairman Savacool said he thought more discussion on the parking was necessary to allow for fewer parking spaces during off season. He said there could be something in the code that gives the flexibility to adjust parking requirements and may just require site plan approval. Mr. Carr said maybe we just want to go round robin and call it an event sale. Mr. Carr said he knew there were some problems with the language he had drafted but maybe there is something as a base in that language that could be used by which we could work off of to come up with different language.

Mr. Barnett said the only way we are going to "stop chasing our tail" is to have the businesses come in with a site plan with changes before the planning board. Mr. Barnett said that refers to any business including Ace Hardware, Mr. Sidon, etc. Mr. Barnett said we cannot legislate every little thing. Mr. Barnett said he comes back to where we were a month ago, where we had one or two situations and now we are trying to get our arms around it and we will go through this for the next year. Chairman Savacool said the only thing that makes this different is having them come in will not work in some cases because they would have to get a variance and that is not going to happen. And Chairman Savacool said with the parking requirements, there is no flexibility. We have to develop some part of it so that it what we have to talk about to give us the flexibility to work with these situations.

Mr. Baker said everyone thought perhaps ten parking spaces for each bowling lane was too much. He said that could be changed. And Mr. Baker said if you change it and can meet requirements for outside sales, that should be fine. But Mr. Baker said, at least it is now a reasonable number. Mr. Carr said maybe the actions of the board isn't a waiver for a variance of the underlying parking requirements but merely a certain non permanent stop gap measure that allows for this specific thing of flexibility of use of the parking spaces. The parking requirements for that building (Ace Hardware) will be whatever it is, but the actual encumbrances t can be basically or flexibly used by the planning board pursuant to this

process. Mr. Carr said he is not changing the underlying requirement of the parking spaces , but that you can have this non permanent , non structural encumbering thing , namely sales, within this space.

Chairman Savacool said other boards have dealt with these issues much quicker perhaps and came up with black and white. Mr. Arthur agreed and said the role of government is to provide for guidelines.

Chairman Savacool said he was going to meet with Mr. Carr and Mr. Baker before the next planning board meeting to discuss this parking situation further to come up with some flexibility that will work. This will be reported on at the next planning board meeting.

The board said Ace Hardware could bring before the board their site plan for approval. Mr. Baker was going to advise Mr. Beckhausen that he could let Beck's know they also can bring in their site plan before the planning board.

Item No. 2 EDR Project

Chairman Savacool said he would like to meet with Mr. Carr and Mr. Baker and take all the items on the EDR project that has been discussed and condense it into an overlay district law and incorporate it. Chairman Savacool said it is still a couple of months ago before rolling this out. Chairman Savacool said one of the items that still needs to be addressed is the ARB portion of it. Chairman Savacool asked Don Cronk, also a member of the Architectural Review Board (ARB), if ARB discussed the EDR project. Mr. Cronk said yes that Mr. Dave Mott at the last ARB meeting told his members about the EDR project. Mr. Cronk said Mr. Mott was going to do a write up and give it to his board members for review. Chairman Savacool said he would like to come to the next ARB meeting (April 6, 2009) for discussion on the EDR project. An email will be sent to Mr. Mott to put this on their agenda.

Chairman Savacool said the Jardine property is looking for a zone change for their property instead of a PDD.

Chairman Savacool said possibly the owners of the Burger King building may be coming in regarding the parking requirements. Chairman Savacool said possibly a meeting could be set up with all the businesses in that area (smoke shop, dry cleaners, etc.) to come up with some kind of shared parking.

Mr. Baker brought up about property on Curtis and Getman streets. Discussion followed.

The next Planning board meeting is scheduled for April 21, 2009. Meeting adjourned at 9:15 p.m.

Respectfully submitted,

Marie Giannone
Secretary