

**Planning Commission  
Regular Meeting**

**Virtual Meeting @ 7:00pm**

**Tuesday, July 13, 2021**

**CALL TO ORDER**

The meeting was called to order at 7:00 P.M.

**ROLL CALL**

Planning Commission members present were Frank Doden, Chair, Council Liaison Laura Curliss, Sarah Amend, Susan Stiles and Stephen Green. Also present were Denise Swinger, Zoning Administrator, Johnnie Burns, Public Works Director, Village Manager Josue Salmeron and Village Solicitor Breanne Parcels.

**REVIEW OF AGENDA**

There were no changes made.

**REVIEW OF MINUTES**

Minutes of June 15, 2021 Regular Meeting. Curliss MOVED and Stiles SECONDED a MOTION TO APPROVE the Minutes as written. The MOTION PASSED 4-0 ON A ROLL CALL VOTE, with Doden abstaining due to absence from that meeting.

**COMMUNICATIONS**

Beth and Andy Holyoke re: Support/Suggestions for 108 Cliff Street Project  
Andy Holyoke re: Objection to Prior PC Decision on 213 Winter St.  
Denise Swinger re: Response to Holyoke Objection  
Bob Swaney re: Support for 314 Dayton St. Project

All communications were noted and will be filed by the Clerk of Council.

**COUNCIL REPORT**

Curliss noted Ordinances passed by Council regarding Managed Natural Landscapes and establishment of a Building Department for both residential and municipal structures.

Curliss noted the first reading of the Ordinance to annex 33.816 acres into the Village for purposes of development, and encouraged those interested to attend the public hearing set for July 19<sup>th</sup>.

Curliss noted the first reading on three ordinances recommended to Council by Planning Commission as follows:

Ordinance 2021-21 Amending Chapter 1262 re: Expiration and Specific Requirements – Transient Guest Lodging.

1262.05 – Changing the expiration for a conditional use approval to 24 months, and allowing the Zoning Administrator to extend it for an additional 12 months if no changes to the original plan have changed.

1262.08 (e) (7) B. – Planning Commission wanted clear guidelines regarding the location of TGL’s in neighborhoods. The Planning Commission recommends the following language to Council:

*In no case, can a transient guest lodging be located closer than 500 feet from another transient guest lodging, as measured from closest property line to closest property line.*

1262.08 (e) (7) C. Correcting an error as the building official is currently Greene County Building Regulations and not the health department.

1262.08 (e) (7) N. – Creates a designated smoking area on the property if the operator allows smoking.

1262.08 (e) (7) O. –Commercial insurance required for non-operator occupied transient guest lodgings.

Another ordinance brings another area of the code into alignment with the increase in allotted time, and the third ordinance seeks to define a proscribed amount of space between TGL establishments for the zoning code.

**CITIZEN COMMENTS**

Mitzie Miller commented on parking pads and asked for clarification due to issues she has encountered with her neighbor, and noted a plethora of safety concerns related to the lack of parking pads.

Gary Zaremsky asked PC to consider more specific requirements for bicycle parking,

## PUBLIC HEARINGS

- 1) Conditional Use Application - Continuance — R-B, Moderate Density Residential District - Alex Melamed of Axis Architecture, on behalf of Tracy and Johnny Cooley, has submitted a conditional use application for a garage with an accessory dwelling unit (ADU) at 213 N. Winter St - Chapter 1248 Residential Districts, Chapter 1262.08 (e)(1) Conditional Use – Specific Requirements - Accessory Dwelling Units Greene County Parcel ID# F19000100110017000.

Curliss MOVED and Doden SECONDED a MOTION TO UNTABLE. Green SECONDED, and the MOTION PASSED 5-0 on a ROLL CALL VOTE.

Swinger stated that at Planning Commission's June meeting, members tabled the conditional use application for an accessory dwelling unit above a garage and requested more information because of concern over the disputed location of the property line. Location of the balcony was also discussed due to the neighbor's concern for privacy. The applicants indicated they did not wish to move or eliminate the balcony. The Village's solicitor advised that privacy, standing alone, is not one of the reasons for denial of an application, unlike factors expressly set forth in the code such as noise, traffic, hours of operation, etc. The solicitor advised that the Planning Commission should reference the language in Sections 1262.03 and 1262.04 of the Codified Ordinances with respect to uses "compatible with the character of the general vicinity" and "social and economic well-being of those who will use the land use or activity under consideration; residents, business owners and landowners immediately adjacent to the proposed use or activity; and the community as a whole."

Planning Commission had requested a survey of the property in order to determine the location of the proposed structure with respect to the property line. Staff visited the site to check the property lines. The property line is approximately 1'8" from the neighbor's fence. The furthest edge of the structure is located six feet from the property line. A recent mortgage location survey was provided.

The current garage and its access on Winter Street will be removed and the new garage/ADU and its access will be provided off Cliff Street. On the north side (Cliff Street), an updated site plan has been provided. The structure is approximately 10 feet from the lot line and 29'4" from the edge of the road.

Curliss asked whether the magnolia tree could be saved despite the storm water project.

Burns stated that it looks like the sewer project can be moved to the other side of the road and that the tree can be saved.

Curliss questioned the decreased setback, commenting that if the Village plans to put in a sidewalk, the setback will be insufficient.

Burns responded that the sidewalk would go on the other side of the road, over the storm system.

Green asked about the economic impact on the neighbor, wondering if a smaller degree of privacy decreases the value of their home.

Parcels clarified that privacy can be a factor assessed in determining outcome for a conditional use, but cannot stand alone as the basis for denial, and must be quantified.

Amend questioned this further, asking whether the neighbor could supply evidence of decreased value.

Parcels responded that there is no precedent that privacy is an economic impact that can be quantified.

The exchange continued in this vein, with Parcels asserting that Planning Commission must weigh the evidence before them, and no evidence of economic or social impact has been presented.

Amend asked that social impact be specified in the code, since it is not defined.

Curliss commented on the orientation of the home.

Swinger stated that there is nothing in the code that dictates the orientation of the home. She explained how front and rear yard are determined for a corner lot, noting that the ADU as rendered meets setback requirements.

Stiles asked whether the property owner had engaged in mediation with the neighbor, and was informed that this was not presented as an option, since the PC process was still underway.

Curliss asked whether the balcony had been redesigned to face the rear.

Alex Melamed responded that the balcony has been eliminated from the plan.

Melamed asserted that PC “has a mandate from the Village to encourage construction of ADUs” as a means of increasing housing options in town, per the Comprehensive Land Use Plan.

Doden OPENED THE PUBLIC HEARING.

Jonathan Rickets, the neighbor, indicated appreciation for the removal for the balcony.

Kelsey Cooley, the daughter of the property owners read through all of the standards as she had at the prior PC meeting, indicating the manner in which each was met.

Doden CLOSED THE PUBLIC HEARING.

Curliss MOVED TO APPROVE THE APPLICATION AS PRESENTED THIS DAY (without a balcony) with the conditions outlined in Section 1262.04 and 1262.08 (e) (1) for an ADU, and that the applicant/homeowners receive a variance to the setback requirements from the Board of Zoning Appeals. Amend SECONDED, and the MOTION PASSED 5-0 on a ROLL CALL VOTE.

- 2) Conditional Use and Site Plan Review - I-1, Mixed Industrial – Patrick Lake of Massie’s Creek Ventures has submitted a conditional use and site plan review application for a market and eatery at 108 Cliff Street – Chapter 1252 Industrial Districts, Chapter 1262 Conditional Use Requirements, Chapter 1268 Site Plan Review. Greene County Parcel ID# F19000100110025600.

Curliss recused herself for potential conflict of interest.

Swinger introduced the hearing, stating that Patrick Lake and Brian Drew of Massie’s Creek Ventures, LLC submitted a conditional use application and are in the process of purchasing the property. Staff received agent authorization from the property owner Leslie Gilford for Massie’s Creek Ventures, LLC to pursue the conditional use application with Planning Commission for the development of the Lumber Co. Market & Eatery.

The project will involve the repurposing of the existing building at 108 Cliff Street into tenant-leased spaces for food/drinks and market/retail stalls. The removal of the existing lumber storage area structure along the western property line as well as the accessory structure that faces Cliff Street will accommodate a one-way access driveway to Millworks.

The mezzanine area on the upper floor will be the location of the indoor seating area and measures 2,400 sq. ft. Outdoor seating will be located on the east by the bike path and also along the west side of the building at an estimated 3,000 sq. ft. A majority of the businesses that will occupy space in the market/eatery are existing businesses that have either operated in Yellow Springs or are locally based startups (and in one case an existing Yellow Springs business) that will set up operations. The total retail presence proposed is less than 18% of the available square footage for rent and they do not plan to increase above the 30% retail threshold.

The Zoning Code requires the Planning Commission approve all conditional uses and consider the operational characteristics of the proposed use. A site plan review is also required as part of the conditional use, but the Zoning Administrator waived certain sections as this is not new construction and there will be no change to the footprint of the existing building, except for the addition of an outdoor patio on the east side.

Swinger stated that the setback on the bike path side has been okayed by the Public Works Director in order to allow improvement to that access point, but a zero lot line variance will need to be obtained from the BZA. She noted that public restrooms will be provided.

There will be an expected increase in traffic along Cliff and Railroad Street, however many visitors will park in the existing facilities located at Dayton and Railroad Street and the John Bryan Center. The Railroad Street lot is the furthest distance at 260-feet from 108 Cliff Street. There will be 15 new parking spaces created on the Lumber Co. property. The new owner of Millworks is open to the shared use of properties for parking (Exhibit D).

A revision to the design to add a sound wall was in direct response to neighbor concerns.

Swinger noted that nearly the entirety of the property was covered with impervious surface, and the plan is to replace some of that with pervious pavers. She noted as well that the Fire Chief has given approval to the fire lane being on Cliff Street.

Swinger stated that the only objection she has heard regarding the property have been regarding parking in front of their homes in the public ROW.

Patrick Lake introduced his partner Brian Drew, and presented a power point description of the project. Lake stressed that the project will provide complimentary services to those provided downtown, noting that there is a “market gap” that causes visitors to leave town to obtain food when they depart as they seek quick food. He stated that “quick-service” food will be available, as well as retail of local goods.

Lake described the area as a public space with wifi and restroom amenities.

Lake stated that they have engaged with neighbors regarding the project and have made efforts to address their concerns. He commented that the parking on site will be sufficient, and that the neighborhood parking issue will need to be a “community effort” involving the Village.

Stiles conveyed parking concerns.

Lake stated that he has an agreement with Millworks for some shared parking, and is confident that will accommodate any parking needs.

Amend asked about parking in general.

Salmeron responded that Council action to remove parking plans from the Comprehensive Land Use Plan has hampered Village efforts to respond holistically to parking issues, but that several Village sites have expanded their parking.

Swinger stated that she will ask for funds in the 2022 budget for a parking inventory to comprehensively address parking.

Stiles noted that the parking in front of residences is public ROW.

Salmeron commented that the downtown businesses generally are in favor of increased parking options.

Amend asked if trees would be removed and was told there are none on the property.

Doden OPENED THE PUBLIC HEARING.

Neighbor Joel Smith commented upon the amount of and speed of traffic on Cliff Street, suggesting perhaps a speed bump. He commented on parking as a periodic issue. He referenced the times the businesses would be open, stating that if it is as requested in the application he is fine with that.

Marion Miller commented on parking and asked for residential parking only.

Dino spoke in support of the project as a good opportunity for his business which has an agreement to open a kiosk in the facility.

Kyle Truitt, owner of Posterior Chain which is located in the building, spoke in favor of the project.

Lindey Keaton, a neighbor, asked that a professional look at the traffic and parking situation and assess a best practice for reducing speed and flow.

Lisa Wolters of Yellow Springs Brewery spoke in favor.

Gary Zaremsky asked that the issue of no sidewalks or bike lanes be addressed. Doden suggested that he write up a proposal, and Zaremsky expressed willingness.

Salmeron stated that the Village is considering some options in that area.

Amend made several suggestions regarding parking.

Doden CLOSED THE PUBLIC HEARING.

Stiles asked whether the petitioners could accommodate more parking on the property.

Lake asserted that parking is a Village-wide issue, and that his plan balances parking against available amenities.

Amend asked Lake to designate parking spots only for residents.

The Clerk received confirmation from Swinger that the plan as submitted meets parking requirements.

Parking in general was again discussed.

Lake stated that seeking a parking compromise through the development project is not the appropriate route, and that the solution should be sought through the community and the Village.

Amend disagreed, stating that the development will increase the traffic/parking load.

Swinger asserted that many of the people patronizing the business will go other places and vice versa.

Stiles MOVED TO APPROVE the conditional use and site plan review for the Lumber Co. Market & Eatery, including the outdoor patio seating with the following conditions:

- Variance from BZA to the side yard setback for the outdoor patio area
- Copy of the final Reciprocal Easement Agreement with Millworks for vehicular and pedestrian traffic across the property lines
- Stormwater mitigation plan
- Final building plans with exterior mechanical equipment and a 20-foot wide driveway to Millworks
- A designated fire lane on Cliff Street
- Coordinate with the Village of Yellow Springs on the infrastructure improvements in the ROW

Doden SECONDED, and the MOTION PASSED 4-0 ON A ROLL CALL VOTE.

Curliss returned to the table.

- 3) Conditional Use and Site Plan Review – R-C, High Density Residential – Max Crome of Crome Architecture, on behalf of Iron Table Holdings, has submitted a conditional use and site plan review application for the WYSO radio station and professional offices for Iron Table Holdings at 314 Dayton Street – Chapter 1248 Residential Districts, Chapter 1262 Conditional Use Requirements, Chapter 1268 Site Plan Review. Greene County Parcel ID# F19000100110000400.

Swinger noted that the Village is exercising the right to consider the “other” category regarding the use of the building as “radio station and retail” which are not listed in R-C. She stated that the primary use will be professional offices for Iron Table Holdings as well as for WYSO radio, and that to deny the use for the radio station would be a detriment to the community. The accessory use as retail will entail sale of merchandise that supports the radio station and promotes the Iron Table Holdings business enterprises.

Swinger introduced the hearing, stating that 314 Dayton Street previously consisted of four lots combined by a replat in 2020. Under the ownership of Iron Table Holdings, the property consists of one parcel with a building commonly known as the Union Schoolhouse. According to the Greene County Auditor, the parcel measures 1.3850 acres or 60,331 sq. ft. This parcel has 200 feet of frontage on both Dayton and Union Streets. Following the 2020 replat, Iron Table Holdings purchased a second lot abutting the property to the west with frontage on Union Street. This second lot will expand the parking area for 314 Dayton Street. It will require a replat to combine the two lots because the parking facility cannot be the primary use as it is a conforming lot in a residential district. The owner will also need to come back to Planning Commission and Council for a rezoning to R-C as this second lot is currently zoned R-B.

The 314 Dayton Street building originally served as a single schoolhouse for the Village. It has had a number of uses since, becoming the offices for Village government before being sold to a private owner and used over the years as office space for various businesses. The Village of Yellow Springs placed restrictions on the deed prior to the sale in 1996.

Staff, as well as the former and the current Village solicitors agree that the proposed expansion of the building complies with the restrictions as the front and rear facades of the original building will not be affected by this improvement. Max Crome of Crome Architecture, representing Iron Table Holdings, has designed the addition so that it will not interfere with the historical or architectural character of the original building. He indicated his strategy is to preserve its integrity by clearly differentiating between the old and new. The brick exterior of the building on the western side of the building will be a feature in the addition’s interior design.

Crome submitted a conditional use/site plan review application for the remodel of the existing building and the addition on its west side. The addition will have two floors, scaling down to one floor near the western side yard property line. WYSO will occupy the existing basement and the first floor of the original building and the addition. The second floor will serve as professional office space for Iron Table Holdings. The scope of the proposed work includes:

- Renovation of the existing building and a new addition
- Upgrade of the front and rear entrance with new stairs, patios and a ramp
- Structural modification of the interior existing building and roof

- Existing sanitary and water lines to be reused and modified/upgraded as needed for the new addition
- Mechanical equipment to be shielded from view and noise to comply with local sound ordinance
- Install a new and modified mechanical system
- Existing electrical service to be modified as needed
- Parking will be modified, repaved and restriped

The height of the proposed roof skylight is 47-feet. The addition's stair tower measures 41-feet and drops to a height of 22-feet along the western side yard lot line. A variance to the height from the Board of Zoning Appeals will be required.

The radio station will require a transmission tower. The current one in use on Antioch's campus is 150-feet tall. The new tower will be the same or taller depending on the topography of the land. A variance from the BZA will be required because radio towers are limited to 100-feet.

314 Dayton Street is the proposed location for the professional offices of WYSO and Iron Table Holdings. It will also contain WYSO's production facilities, a conference/classroom area and an auditorium/stage for WYSO to host live audiences for their productions and other events.

With respect to neighboring properties, another sound studio is located at 845 Dayton Street, in the I-1 Mixed Use Industrial District, which abuts and is adjacent to the R-C, High Density Residential District. Staff does not foresee any issues with the radio station in the 314 Dayton Street location, nor the retail as it is an accessory use related to the business enterprises within the building.

Swinger stated that a ground sign which had previously been conditionally permitted on that site will be permitted for the new use.

A stormwater drainage system will need to be designed for the property and the Public Works Director indicated it can be mitigated either to Union Street or Dayton Street. A stormwater mitigation plan will be required.

Luke Dennis, WYSO Station Manager, stated that the station's lease comes up in 2023, and they have been seeking a new home. He stated that Dave Chappelle had offered to renovate the building to their requirements and lease it to WYSO, and that WYSO leadership had agreed wholeheartedly.

Max Crome presented a history of the building and walked PC through the plan for renovation and expansion, which he hopes achieves completion in 2023. Crome affirmed that property owner Dave Chappelle had asked Crome if he could renovate the building to be the new home for WYSO, and Crome led viewers through the process he used to assess the space and configure the addition to meet the request.

Amend asked whether trees would be removed and whether they would be replaced.

Crome pointed out the trees to the west and north that will need to be removed and replaced with smaller trees.

Crome noted that there is a population of chimney swifts in the building, and expressed his confidence that the project can "save the birds and save the building too."

A number of questions regarding the interior were addressed.

Stiles asked about the HVAC and dumpster units, and whether they would be shielded.

Crome noted that the dumpster will be shielded, and the HVAC unit/mechanicals will be located on a roof between two walls and behind the satellite dishes. The radio tower is also shielded by two walls.

Curliss asked about safety related to the radio tower.

Crome expressed confidence in the engineering available to secure the tower against all but the possibility of a severe natural disaster. He asked PC members to think about the current WYSO tower location, asserting that most people have likely integrated it into their visual field and don't really notice it as an intrusion.

Curliss suggested colocation with regard to the tower.

Crome responded that that would be a matter for WYSO's engineers to consider, and might become a feasible option.

Crome responded to a question regarding signage, stating that he would need to return for the sign permit, and that only the address was planned for placement on the original building façade.

Doden OPENED THE PUBLIC HEARING.

Jim Weiner, who stated that he works for Channel 16 and lives on Union Street, stated that radio towers are not normally situated in residential areas or where there is not a lot of space. He cautioned against potential danger in the event of the tower toppling.

Joe Cook, a neighbor, noted that there is a tower on the current building which is “way more in danger of falling” than one properly attached.

Leslie Lippert, a neighbor, spoke in favor of the project as a great improvement.

Marion Stewart, a neighbor, expressed support.

David Diamond spoke in favor of the proposal.

Megan Bachman spoke in support of the project, but asked PC to “acknowledge that this is a very residential neighborhood.” She characterized the radio station as a “24/7 business” not in keeping with the neighborhood, noted the potential visual impact of the addition, and asked that screening be provided along the western side of the property. Bachman also asked PC to inquire about use of a generator and about lighting.

Ellen Hoover, a Dayton Street resident, spoke in favor of the project.

Lisa Abel, a Union Street resident asked about potential traffic affecting Union Street and asked about the lighting plan for the parking area.

Riley Dixon held forth at length regarding the importance of chimney swifts.

Crome responded that he is confident the project can successfully arrive at a solution to the problem, and committed to studying the issue.

Luke Dennis pointed out that the existing radio tower is 150 feet tall and is properly secured and reasonable unobtrusive. In response to Bachman’s concerns, Dennis stated that there is only one radio host on from 8-11pm and from about 11pm-6am the radio is on auto-play with no one in the building.

Gabby Loomis-Amrhein suggested that the chimney swifts might be used promotionally and viewed as an asset.

Crome expressed his appreciation for Dave Chappelle in choosing him as the architect for the project, stating that “he could have chosen anyone, and he chose a Yellow Springs guy,” which indicates his commitment to the Village.

Curliss MOVED to APPROVE the Conditional Use as requested with the site plan as submitted with the following conditions:

- Variance from BZA for the building height and the radio tower setback
- Replat (lot combination) and a rezoning of the lot F19000100110001100tt
- Exterior lighting plan to be approved by staff and which includes 90 degree cutoff and minimal lighting in the evening, with options that are generally less intrusive
- Stormwater mitigation plan/surface drainage plan
- Building plans showing exterior mechanical equipment and screening
- Parking area landscaping

Stiles SECONDED, and the MOTION PASSED 5-0 on a ROLL CALL VOTE.

#### **OLD BUSINESS**

There was no Old Business.

#### **NEW BUSINESS**

Amend asked whether the Solicitor could look into defining social impact and find a way to quantify economic impact.

Parcels stated that this would need to be approved by Council.

Amend asked that this be presented to Council.

Regarding Zaremsky's request that bike parking be more clearly delineated in the code, Swinger stated that bike parking comes up for nearly every development and is negotiated as a part of the parking requirement.

Doden asked Zaremsky to bring a proposal, and Zaremsky indicated his willingness.

**AGENDA PLANNING**

Swinger asked PC if the August meeting could be cancelled, due to only one hearing having been submitted for, and that petitioner being willing to delay until September. This was approved.

Amend asked about the issue of parking in the front yard.

Swinger noted that the situation is unique in that the ROW there is unusually large.

The Clerk cautioned against amending the zoning code to address a single issue.

Parking concerns were discussed generally.

Burns noted that on Cliff Street many residents have built into their parking areas and now park in the ROW, which has led to the current problem.

Swinger reiterated how useful a comprehensive parking study will be.

Burns advocated for building parking on Cemetery Street as a better option than building two additional homes.

Amend advocated for color-coded parking spots as a visual aid to locating available parking.

**ADJOURNMENT**

At 9:24pm, Doden MOVED and Stiles SECONDED a MOTION TO ADJOURN. The MOTION PASSED 5-0 ON A VOICE VOTE.

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Frank Doden, Chair

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Attest: Judy Kintner, Clerk

*Please note: These minutes are not verbatim. A DVD copy of the meeting is available at the Yellow Springs Library during regular Library hours, and in the Clerk of Council's office between 9 and 3 Monday through Friday.*