

City of Lewisburg
Planning Commission Meeting
Meeting Minutes ~ January 5, 2023, 7 p.m.
942 Washington Street West, Lewisburg, WV
Paul R. Cooley Council Chambers

PRESENT: Chair John Little, Margaret Gossard, Davis Lewis, Dan Stevenson, Matthew Campbell, Helen Harless, Valerie Pritt, City Manager Misty Hill (on phone via ZOOM), Planning and Zoning Officer Marsha Cunningham, and Recorder Sarah Richardson

ABSENT: Tia Bouman

VISITORS: Rachel Toothman and Monica Moore (with the B&B conditional use permit), Stephen Van Buren (with Shuck Memorial Baptist Church), Jim Morgan Jr., Angus MacIver, Emil Stalis, Gloria Martin, Lewisburg Mayor Beverly White, Lewisburg Police Officer Jonathan Hughes, and Lewisburg Police Chief Chris Teubert.

CALL TO ORDER: The meeting was called to order at 7 p.m. by Chair John Little.

APPROVAL OF MINUTES: The minutes of the *November 3, 2022* Planning Commission Working Session were approved with a motion by Valerie Pritt and seconded by Margaret Gossard. With all in favor and one (1) absent, the motion carried.

PUBLIC COMMENT: Mayor Beverly White thanked the commission members for their service sitting on the board, and for their dedication to the city.

Election of Officers

Chair Little said that the commission needs to hold a vote to appoint a chair and a vice-chair for the Planning Commission. Davis Lewis motioned for Valerie Pritt to serve at vice-chair, with a second from Matthew Campbell. With all in favor and one (1) absent, the motion was approved. Dan Stevenson motioned for John Little to serve as chair, with a second from Valerie Pritt. With all in favor and one (1) absent, the motion was approved. Little said that he was honored for the vote, and values the variety of opinions and viewpoints within the current commission members.

Public Hearing for Conditional Use Permit, Monica Moore, 150 Scott Street. Proposal of two plus bedrooms for an Air BnB.

Chair John Little opened the public hearing at 7:03 p.m.

Cunningham reported that the petitioner is asking for a conditional use permit for a 3 bedroom Air B&B

in an R1 zone. She reports all the neighbors received a certified letter, a placard was posted on the property, and the petitioner made the proper newspaper notifications. Cunningham said with a conditional use permit there are four items that the petitioner must prove: 1) it will not endanger public health and safety, 2) it will not cause injury to any property value, 3) it is not out of conformity within the area, and 4) it matches all the houses in the area. Cunningham said that the petitioner does have the required parking of two parking spots per bedroom, meaning six parking spots overall.

Dan Stevenson asked if there are other B&Bs on that street. Monica Moore said she owns three of the houses on that street, with two being long-term rentals and this one being an Air B&B. As far as she knows, there is not another Air B&B-style rental on that street. She said there are about five or six houses on that street in total. She said it has been operating as a 3-bedroom B&B rental up until now, and she wasn't aware that anything over two bedrooms needed a conditional use permit. She said her sister, Rachel Toothman, who lives locally, operates as the property manager since she is not always in the area.

With no further comments or questions, Chair Little motioned to close the public hearing at 7:09 p.m.

Margaret Gossard motioned to approve the conditional use permit, with a second from Dan Stevenson. With all in favor and one (1) absent, the motion carried.

Public Hearing for Conditional Use Permit, Shuck Memorial Baptist Church, 841 Washington St.
Request to build outdoor stage for Outdoor Activities in an OR zone

Chair John Little opened the public hearing at 7:11 p.m.

Cunningham reported that Shuck Memorial Baptist Church is requesting to construct an outdoor stage behind the church on their vacant lot for outdoor services and events. It is zoned OR. She said the setbacks are compliant. She explained that some ideas the petitioner has wanted to use the stage for includes movie nights, sunrise services, and "bluegrass concerts or revivals." She said they will have to check the numbers of attendees in relation to parking concerns. She said there have been concerns raised by some of the neighbors. One of whom asked if there will be enough parking, if there will be time limits on the starting and stopping time of the events, how many of the events will be held each month, if they will be noise-controlled, if it will devalue any of the surrounding property, how big can the events be, and if the conditional use permit is approved will Shuck have to get special permits for these events.

Cunningham said if this conditional use permit was approved, the petitioner would have to come to City Hall before each event to obtain a “special event application” which can be reviewed administratively. Stephen Van Buren asked if they would have to get a special event approval for each outdoor worship service, with Cunningham saying yes, any outdoor event needs requires a notice to City Hall.

Van Buren said that they already hold sunrise services outdoors and have had movies outdoors, “And have never created any issues with any neighbors to my knowledge.” He said that all events will be held in compliance with any and all city ordinances and regulations that are required. He said they hope to allow area service groups to also use the stage, but they would have to get the proper permits. He said the church mainly wants to use the stage for their once-monthly worship services on the first Sunday on the month, where they have one 10 a.m. to 11 a.m. service rather than their usual two morning worship services. He notes that their neighbor, Carnegie Hall, is permitted to have outdoor music. Cunningham said that Carnegie is zoned differently than Shuck is. Van Buren said they would get the lot surveyed to ensure all boundaries are accurate.

Matthew Campbell asked if they plan to use amplification on the stage, with Van Buren saying yes, but that it would all “come down” when not in use. They plan to have amps for music and speakers, as well as lights. Van Buren said all of that will be removed when not in use. He said there will be permanent power to the whole stage, but it will be locked and secured when not in use.

Valerie Pritt asked if the stage will be taking up parking spots. Van Buren said that will be not, as it will be 16 ft. x 20 ft. and they will be removing an old cherry tree. He said it will be in compliance with the Historic Landmarks Commission regulations.

Cunningham reiterated the concerns sent in from the neighbors regarding parking, noise control, property values, etc. Van Buren said their worship service is usually around 90 people, and they already attend church each Sunday and park with no issues, although he isn’t sure where they all park exactly at this time.

Davis Lewis asked if there would be a capacity set for special events, and asked if tickets would be sold for concerts. “Not to my knowledge,” answered Van Buren, “The church wouldn’t,” but he said if a different organization wanted to hold a fundraiser or other event, he wasn’t sure. Van Buren noted that TOOT visitors took up all their parking this last year, leaving no parking for their visiting missionaries from Mexico. He said they would block it off to be used for church and event parking.

Valerie Pritt asked Lewisburg Police Chief Teubert what the quiet hours are that are listed in the new noise ordinance passed by Lewisburg Council a few months ago. He thinks it is 9 p.m., but isn't totally sure. Cunningham said that an end time is required on a special events application. Van Buren said they would abide by whatever end time is required by the City regulations.

City Manager Misty Hill said that the Commission should also consider the lighting due to being adjacent to a residential area. "It could be very disruptive," she said, if there is no time limit for the lights to be off. Van Buren said if its 9 or 10 p.m. for the noise ordinance, they would turn the lights off at 9 or 10 p.m. due to it being a requirement.

Chair Little reviewed the four items that each application must prove for a conditional use permit: 1) it will not endanger the public health and safety, 2) must not injure the value of adjoining or abutting property), 3) it is not out of conformity/ out of harmony with the area, and 4) it matches all the houses in the area and cannot be out of conformity with the city plan).

Chair Little said that he does not believe this conditional use permit would violate public health and safety, but explained that he believes it could cause injury to surrounding property value, will be out of harmony with the area, and is out of conformity with the city plan.

Chair Little said there is nothing in the zoning regulations that clearly defines an outdoor stage. He said in the new draft of the zoning ordinances, the closest item to an outdoor stage would be the amphitheatre category, which is neither conditional or permitted in the CC (downtown) district. Chair Little said, "the situation of that space, the way that space is, surrounded by nothing more than residences, to me, I don't see how the planning commission can allow it." He added, "I don't see how you could build a structure where its purpose is to do that. To have an outdoor worship service, and to have a special permit for that, and abide by the guidelines, I can understand that with having some pretty strict guidelines. But the thought of having amplified music out there, to me, doesn't seem like it conforms." Van Buren said that they could discuss that, and eliminate that aspect. Chair Little said he still doesn't see how the commission could allow for a permanent structure to be built there. Harless said she agreed, and said OR is office/residential, which she believes in an "indoor facility," and then residences. Van Buren said that the main purpose is once a month outdoor services, and then sunrise services. He said that if there is an issue with service groups using the stage then that could be revisited. He said that anyone could use the stage, and they "aren't trying to limit anybody," from using the stage, as long as they all abide by city ordinances.

Matthew Campbell said that even if an outside group is using the stage, it would still be the church's responsibility to make sure the rules are being followed. Van Buren said a trustee or deacon of the church could be present at each event to make sure they are complying with city ordinances.

Davis Lewis said that this is the reason why the city has ordinances and different zoning, is for concerns like these. "I think that, again, out of those four criteria, you are not meeting three of the four." He noted that what the petitioner is asking is against what the area is currently zoned for. Van Buren mentioned wanting to add a playground in the future. Chair Little said that he would argue that children playing outside is different than amplified music and lighting. Van Buren asked what the decibels need to be. Pritt said she isn't sure but that it is stated in the new noise zoning ordinances online.

One of the neighbors in attendance said that he is under the impression that for OR there is no conditional use for any entertainment. He said that "once that dam is broken" he is concerned as to what will be allowed. He stated that he believes if you want to go outside of what your zoning allows, you should instead petition to be rezoned. Cunningham said that "spot zoning" is not allowed in the city. She said the main focus is meeting the four conditions of the conditional use permit. She said "there is no proof that it will not cause any of this to happen." Van Buren argued that there is no proof that it will cause these things. Chair Little explained that the burden of proof is on the applicant.

Van Buren asked what part of this petition would decrease the value of someone's property. Campbell said that it's the concern of theatrical lighting, noise, and an amplified system. Van Buren said that what if the stage had "no other function" rather than holding worship services outside from 10 to 11 a.m. Lewis asked what the neighbors have said about this proposal. Van Buren said that he received nothing back from the letters he sent out. Lewis said that it would be important to hear from the neighbors, as it would have an effect on them. Lewis said that overall, outdoor music is not within the criteria that this area is zoned for.

Neighbor Emil Stalis said that he is "slightly confused" as to what the project actually is. He said that if there is a stage the possibility that it could be loaned out, he considers that makes it commercial in nature rather than OR. He said lending it out to service organizations for a small fee would make it commercial. Van Buren said that if they could choose to not loan it out, and it could only be used by the church for morning worship service, and that it's not about revenue. He said if they were to set a bucket out to charge people for parking downtown for city events that it wouldn't make it commercial. He said that they wouldn't even need to have lighting if they choose to do a morning worship service.

Chair Little said that the application states use for worship services and other. He said that if the petitioner would like to resubmit an updated application they could review it then. Little said, "I don't know how you'd build a permanent stage out there that will meet all of the requirements as we have listed so far to get the conditional use permit." Van Buren noted that the stage is not elevated or "built up" and there will only be posts to put "windsails on when it's sunny," with "approved" HLC materials.

Chair Little reiterated that what is requested in the permit "is not the same thing we are hearing." Van Buren said he will rewrite the permit application to eliminate the permission of outside groups to use the stage, and will state it will be used for only worship services.

Chair John Little closed the public hearing at 7:45 p.m.

Pritt said that the commission appears to be in consensus that the application submitted to them as it is does not meet the requirements for a conditional use permit that have already been established by the city.

Dan Stevenson motioned to reject the conditional use permit application, with a second from Valerie Pritt. With all in favor and one (1) absent, the motion carried. Cunningham reiterated the deadlines for a new permit application to Van Buren, and said he would need to resend the certified letters to his neighbors and publish a new notice.

COMMENTS from the COMMISSION: None.

COMMENTS from the ZONING OFFICER: Cunningham said there will be a working session next month at 5:30 p.m., with a 7 p.m. regular meeting to follow.

ADJOURNMENT: The meeting was adjourned at 7:48 p.m. with a motion by Margaret Gossard and a second from Davis Lewis.

Respectfully submitted,
Sarah Richardson
Recording Officer