

# BRVA LAND USE AND DEVELOPMENT COMMITTEE MEETING MINUTES

(corrected)

Tuesday, August 24, 2021 6:00 P.M.

Northminster Presbyterian Church

**Present:** Karen Valiquett, Mark Demerly, Kathy Andry, Lynn Levy, John Jackson, Tim Oprisu, Adam Hill, Garrett, Lawton, Bo Boroski, Daisy Winkler, Andrew Baldwin, Summer Keown and Janine Lawton

**Guests:** Josh Mazur, Walter Freihofer, Brian Tuohy, Alan Hague, Sasha Milosavljevich, Tom Healy, Brad Horn, Paul Murzyn, Rod Collier, Scott Budlong and Mitch Ostrowski

Committee chairperson, Karen Valiquett, called the meeting to order at 6:01 p.m. and committee introductions were made.

A motion to approve the minutes of the previous meeting was made by Mark Demerly and John Jackson seconded it. Motion passed.

**Meeting Notes: 6320 Ferguson St., Lou Malnati's Pizzeria – Mark Demerly, Brian Tuohy, Sasha Milosavljevich and Walter Freihofer with an updated presentation and a request for a vote on their petition for a Variance of Development Standards and Variance for Use. Case # 2021-UV2-016**

Brian gave some background on the Malnati's restaurant, opening in October. They've entered into a contract to buy a small site right across the street from the restaurant and they want to turn it into a small parking area and pocket park.

Mark Demerly presented the design which includes an additional 17 parking spaces. He added that the overall idea of the pocket park really works well with the BRVA Beautification Committee's search for a space for public gardens. They reached out to Keith Potts and he indicated there are a lot of requests for pocket parks in the area. The pocket park would be approximately 67' long. He discussed the changes to the plan since the previous presentation, including a move to within 7' of the north boundary line, the landscaping that would be added to the four corners of the lot and the gardens developed along 63<sup>rd</sup> Place.

Brian explained the variances they are asking for will allow for the parking area setback of 7 or 8 feet and will allow for the parking area in an MU-2 zone. The MU-2 allows for a parking lot in that area with a special exception. In order to have the special exception, they have to meet all of the parking standards and the standard they currently don't meet is in the set-back.

Mark said they want to create a safe park that is interactive so families will want to will come. The Beautification Committee spoke about the possibility of a splash park or a fountain to interact with.

Karen asked for verification that they already have enough parking for the restaurant size with the variance they have. Brian confirmed the additional parking is not required. She also confirmed that if the area was within the set-back they wouldn't have to ask for anything. She asked if they've spoken with city staff and if they support it. Brian said they like the idea of the park and the landscaping. He hasn't received anything official from them but the indications are that they thought this was a benefit. Karen asked what the timeline would be. Mark said they don't have all of the engineering yet but they would like to finish by next summer.

Karen asked for questions and comments from the committee.

Lynn: Have you gotten the new curb cut along 63<sup>rd</sup> Place approved? A: No. All of that will be done during the engineering process, after the zoning is done. Lynn: It will add a lot of congestion to an already busy spot. Are you concerned there might be some resistance on a traffic flow standpoint? A: They don't believe so.

Karen asked for questions and comments from the public.

Scott Budlong: There's a large electric service on the southwest corner. Are there any concerns about having a park right next to an electrical service? A: That's a control panel that was put in on behalf of the BRVA and it controls the lights along the canal. They will work around that. It's an oversized panel for what is there.

Tom Healy: With the buffering, it's better than what they presented last time, but it still doesn't fit with the vision that the community had for this particular, unique amenity. It feels a little premature since the parking isn't exactly necessary because they already have the variance they need for the site they have. Maybe they should wait to see what needs they actually have after they've been open for a year or more. With the new improvements in this area, the old infrastructure is already overstretched. They are going to need at least a 4 way stop there. It's not well marked and it's going to be a traffic cluster. He doesn't think the committee should support this. It doesn't fit the Envision Broad Ripple Plan and it doesn't fit the true mixed use they want to see from MU-2 type developments. Lynn added that since they aren't able to develop this parking lot right away, what would be the harm in waiting to see if they really need it? A: They don't have sufficient parking; they have what is required. This very small site has been vacant for a while. This seems like a way to have an amenity along the canal and this will also take some of the traffic off of the streets. Mark went through the projected traffic flow. There are three ways in and out of the area. Brian said they could wait, but it's for sale now and vacant and the reception of Malnati's in the area has been terrific. They feel this will be a very successful restaurant.

Adam: Have you talked to the owners of The Coil? A: Someone reached out but they don't believe The Coil has responded. Adam: You are going to move forward with Malnati's regardless of this parcel across the street, correct? A: Yes, it's opening in October. Adam: If we make a decision on this today, it's permanent. If we make a decision to put a parking lot on this end of the canal, what stops someone in the future from doing the same thing with another parcel? This is a decision that has long lasting effects on the streetscape of the canal itself.

Andrew: Have you considered something like stamped concrete that would allow you to activate that space for outdoor seating, if you don't need it for parking, or flex in and out for community events. A: They've already had some conversations about using that space for the BRVA Duck Race. They are very open to that.

Adam: If you need the parking spaces, it seems you might not have exhausted all of your other options since there are spaces available in The Coil parking garage that could be leased. A: The problem with negotiating spots that they don't control is that they can go away and it becomes a problem with their customers and neighbors. They will explore that option.

Bo: He thinks it's important to be thoughtful of the power box around kids and the water feature. After reading the Broad Ripple plan, he strongly disagrees that this would not be a positive addition. To have this sort of vacant lot available to a well-established family restaurant like Lou Malnati's will compliment their existing space and is a more efficient use of that vacant space.

John asked about a clarification of the property line and The Coil's development over the line. Brian explained how that happened and discussed Adam's comments about setting a precedent for this type of development along the canal. He indicated there isn't another site like this in BR and they will make it a very attractive amenity along the small section along the canal. He thinks it could set a tone to additional amenities along the canal.

Josh commented that they probably need more input on what the pocket park will include.

Kathy: Are you telling us that this pocket park will so disguise the fact that there's parking behind it? A: Maybe they should show a streetscape from the esplanade and a streetscape from 63<sup>rd</sup> and include what amenities it might have in it.

Daisy: We talked about this being a gateway earlier and also a way to disguise the parking which are almost two different things. Encouraging people to walk down the canal through this gateway to Malnati's would be a nice afternoon in Broad Ripple. A: So, what we're looking at is a way to make it inviting but hide the cars.

Scott Budlow: He thinks the pocket park idea is wonderful. He is the neighbor to this property. His property would be a nice compliment to this pocket park and could make this nice spot, much bigger.

Karen indicated the committee will put aside the vote for tonight and Malnati's will come back to present again at the next meeting.

**Meeting Notes: 831 Broad Ripple Avenue, Kilroy's – Rod Collier and Paul Murzyn with updated plans for the project at this location.**

Rod explained they do not need any variances for this project but due to a prior agreement, they are asking for approval to move forward.

They are proposing to eliminate the 9 parking spaces between Kilroy's and Jimmy Johns. They would like to expand the patio space in this area. They will recreate 4 new spaces. After a zoning analysis, they have 3 more spaces than they are required to have. The city said they don't need a variance for doing this work. They considered the committee's prior comments regarding the fence line along Broad Ripple Ave. This design shows a 36" height fence and planting beds. A second phase would include a smart pergola that is open air but with covering. There is a seating element in the fire pit area.

The committee discussed the Good Neighbor Agreement that required Kilroy's to get approval from the committee for these changes.

Paul talked about the desire that people have to sit outside. The outdoor area will also have a 14' high pedestal style stage that comes apart. They assembled it piece by piece and they run music from 7p to 10p and the people love it. He would like to offer some music from time to time. He rents this building and he's trying to buy it. He thinks he's worked hard to improve it over the 10 years and he wants to make an investment in Broad Ripple.

Karen asked for questions or comments from the committee:

Mark: He appreciates them coming back. What they are proposing addresses the concerns the committee has. Are they serving outside? A: They don't have an outdoor bar. They just have canned beer out there. They want to start this out as a family space. It goes to 21 and over after 9pm. Mark: He knows they are aligning their wall with the Jimmy Johns wall. If it could be pulled back a little bit more to allow for more public space, it would be helpful.

John: He just wants to see two more feet along the sidewalk. Mark: Hopefully it would be corrected next year. Paul said he would like to have the two feet in the meantime. Mark suggested they could get heavyweight planters that could be moved back.

Karen asked for questions or comments from the public:

Tom: Yesterday he, Summer and others looked at the 60% plans for the Broad Ripple Avenue project. Currently, as it stands, the city is going to remove parking from the south side and the sidewalks are going to come out 9 ½ feet from the existing curb.

What is the capacity increasing by and when you did the calculation for the parking, did you allow for the extra seating? A: The parking is based on the square footage of the building. They don't have the figures for the new capacity with the outdoor seating.

Andrew: What would the timing be? A: The goal would be to have it open when warm weather hits.

John: You said the pergola is phase two? A: They would like to do it as one but he wants to get the patio space enclosed and then build the pergola at the end of that phase.

Adam moved to approve the design and to revisit and renew the Good Neighbor Agreement. Mark seconded. The motion passed unanimously.

**Meeting Notes: 925 E. Westfield Blvd., BR East End LLC – John Pantzer regarding a new alcohol permit application.**

John Pantzer said they are applying for a permit for a location that has had a permit for over 25 years. It was formally The Monkey's Tale. He owns the property and they are bringing in partners Michael Cranfill, Bob Kort and Greg Howe for this business. They are purchasing a liquor license from a former caterer. They are good with everything in the Good Neighbor Agreement with the exception of the decibel limit of 70db because it's ambiguous. It doesn't specify at what distance it is measured. They would like some clarity around that. Everything else they are good with. They will adhere to the city's sound ordinance. They will have live music outside and will be done by 10:30pm.

Mark: It's been hard to quantify that. How do you establish what that nuisance level is? You have a lot more residents nearby now. Should we rely on the city ordinance?

Karen: She would be in favor of referring to the city ordinance as opposed to stating a specific decibel level.

Mark: Is it a bar or a restaurant? A: It will be about 35% food and be a New Orleans themed bar/restaurant. They would like to have a crab boil on the deck, once or twice a month in the summer. Mark: What is the age group? Is it family based or adult? A: The deck would be family friendly up to a certain time and then they would restrict it. John went through the improvements to the property.

Karen explained the Good Neighbor Agreement to the new committee members. The committee discussed the steps required to change the noise language for Good Neighbor Agreements going forward. Adam recommended this issue be pushed up to the BRVA board to make a decision. Karen said it will be dealt with outside of this meeting and the BRVA will get this back to John.

Karen adjourned the meeting at 7:37pm.