

BRVA LAND USE AND DEVELOPMENT COMMITTEE MEETING MINUTES
September 24, 2024, 6:00 P.M.
Northminster Presbyterian Church
1660 Kessler Blvd. E. Drive

Present: Bo Boroski, Garrett Lawton, Chad Fallis, Karen Valiquett, Daisy Winkler, Tim Oprisu, Josh Mazur, John Jackson, Brian Gamache, Sam Rogers, Rich Michal, Rebecca Dodge, Jordan Dillon and Kristen Kraus

Guests: Alan Hague, Aaron Moody, Rachel Hickey

Bo Boroski, LUD Chairman, called the meeting to order at 6:00pm. He explained the objectives of the Land Use & Development Committee, the rules of presenting to the committee and the committee members were introduced.

Bo asked if there is a motion to approve the minutes from the prior meeting. Sam made a motion to approve, Chad seconded. The minutes were approved.

6511 Ferguson Street (Create Art Studio) – Aaron Moody is representing Lone Wolf Properties LLC, operating as Create Art Studio, and will be presenting on their behalf. The petitioner is requesting (1) to rezone the property to the C-3 district, and (2) a variance to allow a second-floor residential space of 650 square feet. Petitioner has appeared before the Land Use & Development Committee once before. Hearing Date: 10/24/24; Permit # - n/a

Aaron Moody, owner of Create Art Studio, introduced himself. He said they appeared before the committee in late Spring/early Summer, seeking a Beer & Wine License. It was approved, however, once they began going through the process they got a lot of pink stickers for being zoned residential. Somehow in the process of negotiating the purchase of the building, the attorney that put together the commercial renovation of the building, nobody caught that the building was zoned residential, despite being a commercial art studio for the past 15 years. He was referred to Misha Rabinowich. Mr. Rabinowich guided him through the due diligence process. They have talked to the city a number of times and have a number of commercial buildings around them. He said the way he understands it is that the city is hesitant to turn a residential building into a C-3 building because then it gives the owner a lot of leeway to do stuff with the building that may be unwanted. They came up with a plan of use. They wanted to do an art studio for mainly youth during the day and a few art classes in the evening throughout the week for those who would like to learn how to paint, draw, all kinds of mediums. They still want to stick with exactly what they've created in their plan but need the approval to continue doing that and they need to change their zoning from residential to commercial. They looked back through past variances that were put on the building over the years. They could run a hair salon out of there and in 1983 there was an office out of there. There were seven total variances. At one time there was somebody living full-time there, that's not what they want; they don't want a full-time apartment upstairs, they would like to have it as an Airbnb. It's also being used as his office when it's not rented out.

Aaron stated that they are seeking the Committee's blessing to move from D-4 zoning to C-3 and use it as they originally planned to use it, as Create Art Studio. Their hearing is October 24th. They met with city planners a number of times and they're confident that what they have as their plan is good for them. He asked the committee if they have any questions.

Bo opened it up to the Committee.

Brian mentioned a list of excluded uses.

Aaron said he started coming up with a list and realized it was a list of more things he doesn't want to have happen. He thinks they would have the same list, but would need help trying to put it together.

Brian asked if we have a standard list that we can send to Aaron.

Jordan said yes we do.

Brian asked Aaron if they would be ok with that list.

Aaron replied, yes.

Daisy said she's very excited and thinks retail during the daytime and classes offered in the evening is exactly what is needed in the Village.

Bo asked if Aaron owns the building.

Aaron said he owns the property himself and his wife and business partner runs the business.

Bo said he is shocked the building was purchased without knowing it wasn't zoned commercial.

Aaron said he hired an attorney to look through it, he won't say who.

Bo said he would ask the board if C3 is a good designation for this.

Aaron said he asked Misha what's cheaper and Misha said it's not about the cost, it's about if you want to add another variance to it. Aaron said he doesn't see them doing anything different with the property. They looked into what other commercial businesses are doing around them.

Bo said they dealt with this earlier this year with another business owner, where we're not concerned with what you say you're doing, we're concerned with what's next. Bo asked for confirmation from the Committee that the list of excluded uses would be filed with the city as part of the variance.

Members of the Committee answered that it's a zoning variance.

Josh said that they are not going to meet the C3 requirements - he's not doing a renovation so he's going to meet the visibility requirements - he doesn't know that it makes him any more opposed.

Bo said the variance gives him the second floor residential.

Josh said, correct.

Bo said the rezoning to C3 is what they need to get the beverage permit.

Aaron said the issue is they already renovated the space to commercial specs, and that is why he was so upset because he paid a commercial contractor to come in and make sure everything was up to commercial grade.

Bo asked if he filed with the city for that.

Aaron said his contractor did. He said he won't be using that attorney or construction company again.

Bo opened it back up to the Committee.

Chad said he did bring up some valid points and questions. He said he has no concern about what they're doing but they won't own it forever and they don't know what's next. He said Garrett is looking up the zoning laws on what rezoning it to C3 means. That's his only concern. Chad then asked if they're still not able to serve beer and wine.

Aaron said no. He said they immediately rejected the license as soon as they found out it was residential. He said they were told they cannot serve beer and wine and they also aren't zoned to have an art studio - a double whammy. He stated their first hearing on October 24th will be for the rezone.

Karen said she pulled up the C3 design standards. She read that for C3 the maximum height is 35 or 38 feet.

Chad said he would be more concerned most about the use.

Karen said C3 is called the neighborhood commercial district, so they are light uses and with the Committee's list of exclusions, that should be good.

Bo said he thinks they need to go through the list of exclusions.

Garrett read the list.

Aaron said he asked Misha if any building or address say you can't change once you're commercial. He asked if someone came and tried to redo it, they would have to go in front of the board. He asked if that is correct.

Jordan said no, not unless they needed a new rezone or a variance. She said and that's why whenever we give this to him, we're going to include a list of exclusions that will then be tied to the rezone so that when/if you were to sell it, that goes with it.

Aaron said the whole process has been really funny for them.

Bo said you shouldn't be in this position, but you are. He said that he's hearing this list of exclusions is transit center, wireless communication facility, nursing home, check cashing, outdoor advertising, grocery store, pawn shop, club or lodge, laundry mat, mortuary, sub city utility distribution.

Jordan said that we have a full list of exclusions that we give to everybody that includes a lot of this on here.

Bo opened it back up the Committee.

Karen said she's sorry they have to go through this, she thinks C3 is appropriate, she's good with the variance as well as the rezone.

Sam asked if C3 came from city or from Misha.

Aaron said it came from both. He said they had a good long hour talk about it with the city planner.

Jordan asked who their city planner was.

Aaron said he doesn't remember her name - it was a gentleman that couldn't show up and she jumped in for him.

Sam asked if was Kathleen.

Aaron said possibly.

Sam asked if the city was supportive.

Aaron said yes.

Jordan asked if the variance is for the Airbnb.

Aaron said yes, right now it's residential.

Karen said it's not a mixed use zone, it's a commercial, so when you add that element to it you need a variance of use for that request.

Jordan said that the concern she gets from the community a lot is regarding Airbnbs and the use and the rental. There are a couple of Airbnb's in the area that rent to just anyone under the sun that involves teenage parties, disruption of property around the neighborhood - I don't know how you work in a caveat if there are more than X amount of police runs what our recourse is.

Karen said the Good Neighbor Agreement, maybe put something in there.

Jordan asked and what are they going to petition against, once it's zoned, she doesn't know how you tie that in there.

Aaron stated that Misha said they've also requested a variance of use to permit the upstairs to be used as a rental apartment because C3 zoning does not permit residential use. He said the place was residential use for years and years.

Bo asked where he read that.

Karen said it's on the petition that Kristen sent out.

Aaron said the recourse on stuff like that is contacting the platforms.

Bo said on the petition it says a variance of use to permit a second floor residential space and then asked what Misha said.

Aaron said that Misha stated they also have requested a variance of use to permit the upstairs to be used as a rental apartment because C3 zoning does not permit residential use.

Daisy asked if that would travel with a future owner.

The Committee said the variance would travel.

Karen said it's kind of like saying we won't allow any bars because some bars are rowdy. She said she understands the complaint, but it's also blanket.

Richard asked how big is the residence upstairs.

Aaron said it's like a studio, about 650 square feet.

Richard asked if they put a limit on the number.

Aaron said they've had 60 stays and of those 60 stays about 80% are 2 people.

Bo asked what their limit is.

Aaron said 4 people max.

Bo said unfortunately we don't have any action to take on that, but as the business owner it could be something that ends up in the GNA, when it comes to Airbnb's. He asked if they are putting a max of 4.

Aaron said they 4 guest max, that's it. He said there's less Airbnb's in Broad Ripple than there were 6 months ago because they're having a hard time, which is good for them because it's booked all the time. He mentioned Shaker Heights in Cleveland only having a certain amount of Airbnb's.

Josh asked why they didn't go for an MU-3.

Aaron said he knows it was talked about but he cannot tell him why they didn't go for it. He asked if that's the mixed use.

Josh said it's the mixed use, and that it permits his art studio and also permits lodging bed and breakfast under 5 guest rooms. He said it seems like they wouldn't need a variance at all if they had the zoning changed to mixed use.

Aaron said he doesn't know if they want to do the Airbnb for the long-term.

Josh said they wouldn't have to.

Aaron said they may want to turn it into a small office space that he can use.

Josh said they should do that.

Aaron said unfortunately he can't answer that because he doesn't know.

Jordan said the only reason she brings it up is for the Committee to make sure we're considering whenever we are going to say things like we are going to allow you to have this knowing that it's going to be an Airbnb rental, because once it's turned on, we know it cannot be turned off. So while yes, they own it right now, we don't know who will go in there next, and we don't know if they're going to rent that out for other uses. So something to consider. Jordan said the other thing she wanted to bring up was that they have a decent parking lot there and asked what they are doing to restrict parking there when they're not there.

Aaron said they have cameras in the back and that nobody ever parks back there, with the exception of once or twice that ended up being friends of friends that parked there overnight.

Jordan asked if they would you be opposed to putting a gate at their drive. She said she brings this up because we do have issues especially in that area of people going in, parking, drinking, having a little party and causing issues for areas around it. She said they aren't necessarily right around them, but they are on the fringes of it. She said even the idea that there's something there will help prevent that and it allows officers in the area to also be able to say hey you just entered an area that you shouldn't.

Aaron responded that they've talked about this a little bit and said they would give it a year to see if they have any issues. He said from a security standpoint they've had absolutely zero issues on anything like that and have had the security cameras up full time. He said if it's simple and doesn't cost him a billion dollars, they're up for whatever and he won't say no to anything.

Bo asked what the signage is that he sees.

Aaron said it says "Create Parking Only".

Jordan said she's not necessarily worried about the on-street parking, it's the going around the back. She asked if they have lights on back there 24/7.

Aaron said yes and he hasn't had an issue. He said he talked to Charlie with Bike Line, they are caddy corner and they cleaned up a bunch of brush back there. He said that Bike Line has cameras on full time. They have been able to monitor the area and have had no issues.

Bo asked if Misha brought up the potential going to C3 about the requirement for a handicap spot.

Aaron said that's part of the striping that's already going to be set and he has a plan for it already and that will be included in that.

Bo said that Jordan is coming from a place of if something does happen that he doesn't necessarily need to be on site or they can act on their own volition based on whether there's a gate there. Bo asked about putting signage at the rear of the building, something suggesting private will tow.

Aaron said that's totally fine. He asked if this issue is cars parked in different places.

Jordan said yes, cars parking and then parking.

Bo said these are isolated incidents. He said if it hasn't happened to them yet, they haven't been there long enough. He said this is like a prepare and prevent. He said he understands that there could be a major financial investment with gates and if they're planning to say long term, he encourages them to look into it. He said but the signage seems to be a common sense, mitigated cost approach - just cover their back side to help the police help them.

Aaron said he's all for whatever would help.

Chad asked for help to understand the partnership that local businesses have with the police, because he said he had cameras that are connected to B-link.

Jordan said B-link allows them to access if there's an issue. She said they don't monitor B-link cameras, just if something happens they're able to quickly pull from those if you've registered for that program. She said some businesses coordinate with it, some do not. She said from her meetings with IMPD, the biggest thing that they can do with an open lot is put a gate there so that you cannot drive a car in because that's typically what happens.

Bo said the the BRVA is working on a revised Good Neighbor Agreement and asked if they would be willing to sign it once updated.

Aaron said yes, absolutely.

Bo opened it up to the public. No comments.

Garrett made a motion to approve the rezone and variance requests with a commitment of our excluded uses. Sam seconded. All were in favor.

Jordan asked Bo to speak about reaching out to some of the businesses from past meetings.

Bo said he went back through past minutes and have reached out to some of the businesses that have had approvals in the past that have provided updates and have requested that they come back in for a second update. He said some have committed to the October or November meetings for further updates.

The meeting was adjourned at 6:41 PM.