

A regular meeting of the Troy Planning Commission was held Wednesday, May 13, 2020, at 3:30 p.m. Attendance was remote by Zoom. Members participating: Kappers, Titterington, Westmeyer, Wolke, Oda, McGarry, and Ehrlich; Staff attending: Zoning Inspector Watson, Development Director Davis, Assistant Development Director Harris. Commission Chairman Alan Kappers chaired the meeting.

The Minutes of the April 22 meeting were approved upon motion of Mr. Wolke, seconded by Mr. Titterington.

HISTORIC DISTRICT APPLICATION FOR 107 AND 109 E. MAIN STREET FOR REPAINTING; OWNER APPLICANT DOUGLAS BOYLE & IORM 222. Staff reported: zoning is B-3, Central Business District; both buildings are considered significant contributing structures and are listed on the national register; properties occupied by Mojo's Bar & Grill to be painted to match the existing storefront of the restaurant at 109 E. Main St. -- the second and third floor windows, window hoods, sills, and the cornice trim in Sherwin Williams Tricorn Black (SW6258), the rosette detail in the frieze painted in the Sherwin Williams Real Red (SW6868); the 107 E. Main Street portion occupied by the restaurant will be painted in the Sherwin Williams Tricorn Black (SW6258) and the trim details that are currently red are to remain and painted in Sherwin Williams Real Red (SW6868) to match the existing restaurant's design; and staff recommends approval based on the findings of:

- The proposed alterations are in keeping with the historic nature of the district.
- The proposed paint scheme is appropriate for the style of the building and will maintain the visual relationship of the streetscape.
- The modification does not alter any of the historical or architectural features of the property.

A motion was made by Mr. Titterington, seconded by Mrs. Ehrlich, to approve the application as submitted for 107 and 109 E. Main Street painting, in the specific colors and areas stated in the application and as noted above, and based on the findings of staff that:

- The proposed alterations are in keeping with the historic nature of the district.
- The proposed paint scheme is appropriate for the style of the building and will maintain the visual relationship of the streetscape.
- The modification does not alter any of the historical or architectural features of the property. MOTION PASSED, UNANIMOUS VOTE

HISTORIC DISTRICT APPLICATION, 214 W. MAIN STREET (MOELLER BREW BARN) FOR MODIFIATIONS TO THE FENCE, INSTALLATION OF SHADE CANOPIES, AND ADDITION OF A SILO ON THE PROPERTY; OWNER – ROOSTER LAND COMPANY LLC; APPLICANT – MOELLER BREW BARN. Staff reported: the building had been a two-story brick church for many years; the property is zoned B-2, General Business District, and is not listed on the National Historic Register; application elements are:

- Addition of a fifteen-foot-tall silo, 24' x 24' x 24' shade canopies and modification to the fence along the side of the building that creates the outdoor seating area.
- Installation of an additional silo that's fifteen feet tall and fifteen feet in diameter, with a plain steel color. This will be in the side and rear portion of the property to provide storage for seasonal items like umbrellas, grills/ smokers and other items for the outdoor seating area.
- Modification of the fence layout to enclose the seating area and the proposed silo. This will allow the outdoor seating to conform to the requirements for having the outdoor beer garden along with providing some screening.
- Installation of triangular shade canopies to the outdoor seating area one in black and one in white using heavy duty outdoor shelter cloth that provides a 95% UV protection, that are 24 feet by 24 feet by 24 feet in dimension.

Staff recommended approving the proposed plan, based on the following:

- The proposed alteration does not detract from the historic integrity of the building;
- The proposed modifications do not detract or harm the historical front portion of the building
- The modifications are temporary, do not attach to the historical portion of this site and can be removed or altered in the future.
- The proposed materials and colors are in keeping with the existing colors of the building and meet the City fence regulations.

In response to Mr. McGarry, it was verified that the silo will be constructed of galvanized steel.

Mr. Kappers asked about the sufficiency of off street parking space, noting that with the outdoor use of the parking area, there would only be three of the initial eight spaces. He was advised that staff believes there is sufficient on street parking and patrons can use adjacent parking to the west.

In response to Mrs. Ehrlich, it was stated that residential properties are behind the location, but have garages that block direct site vision.

A motion was made by Mr. Westmeyer, seconded by Mayor Oda, to approve the historic district application for 214 W. Main Street as submitted, based on the findings of staff that:

- The proposed alteration does not detract from the historic integrity of the building;
- The proposed modifications do not detract or harm the historical front portion of the building
- The modifications are temporary, do not attach to the historical portion of this site and can be removed or altered in the future.
- The proposed materials and colors are in keeping with the existing colors of the building and meet the City fence regulations.

MOTION PASSED, UNANIMOUS VOTE

REZONING APPLICATION FOR 6 N. MADISON STREET, PARCEL NO. D08-026290 AND THE VACANT LOT WITH PARCEL NO. D08-026300, FOR A TOTAL AREA 0.21 ACRES, FROM R-6, TWO FAMILY RESIDENTIAL DISTRICT TO OC-1, OFFICE COMMERCIAL DISTRICT; OWNER/ APPLICANT: KELLY MOLER LARGER. Staff reported: the land, consisting of a combined 0.21 acres and 8,453 sq. ft. is currently developed with 1,250 square feet, building that was previously used as a commercial beauty salon; the other surrounding zoning districts are B-2 General Commercial District to the east and south, R-5 Single Family Residential to the west and southwest, and R-6 Two Family Residential to the north; applicant cited the reasons for the proposed rezoning is to be able to use the property for a continued use of a beauty salon and other allowable uses as permitted in the OC-1 zoning district; the current building was constructed as a commercial building and has continued to be used in a commercial use since the nineteen seventies; the Zoning Code describes the current R-6 zoning district as "designed to accommodate two-family dwellings on lots with areas of at least six thousand (6,000) square feet and not less than three thousand (3,000) square feet of lot area per dwelling unit; this district will be mapped to protect areas that now meet these minimum lot sizes and for comparable areas which will develop in the future; the Comprehensive Plan describes the R-6 District as high density; the Zoning Code describes the proposed OC-1 zoning district as

"designed to accommodate a mixture of office and commercial uses consisting of groupings of professional, research, executive, administrative, accounting, clerical, stenographic and similar uses. Residential development is not permitted in the district. This district is designed and intended to act as a buffer. This district is mapped along major thoroughfares, near hospitals, and as a transitional area

between nonresidential and nonresidential uses.”; the property has always been used as a commercial property, the previous tenant was a beauty salon and the new tenant is continuing that service, this rezoning will allow the property to be used in a conforming manner for the uses that have continued to operate on the property; the rezoning request would allow the owner to allow proper signage than what’s permitted in the residential zoning. The OC-1 zoning allows similar low intense uses than the adjacent commercial area; the rezoning will act as a buffer from the general commercial activity along W. Main Street; regarding Section 1139.07, the criteria on which to base decisions:

(A) Whether the change in classification would be consistent with the intent and purpose of this Zoning Code.

The proposed rezoning is consistent with the Zoning Code. Section 1131.02(o) & (r) state the purposes of the Zoning Code are to preserve and enhance property value, and direct particular land uses to the parcel of land best suited for them. The proposed rezoning request achieves these purposes.

(B) Whether the proposed amendment is made necessary because of changed or changing conditions in the area affected, and, if so, the nature of such changed or changing conditions.

The proposed rezoning is not made necessary because of changing conditions in the affected area. The proposed use should not have any adverse effects in the area and is similar to the previous use and the existing commercial uses that currently exist in the surrounding area.

(C) Whether the uses that would be permitted on the property if it were reclassified would be compatible with the uses permitted on other property in the immediate vicinity.

The proposed use is compatible and similar to the uses that currently exist in the surrounding area.

(D) Whether adequate utility, sewer, and water facilities, and all other needed public services exist or can be provided to serve the uses that would be permitted on a property if it were reclassified.

All utilities can be provided.

(E) The amount of vacant land that currently has the same zoning classification as is proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances, in any, that make a substantial part of such vacant land unavailable for development.

In the vicinity of the subject property, there is no available vacant land with the OC-1 zoning classification.

(F) Whether the proposed amendment would correct an error in the application of this Zoning Code as applied to the subject property.

This would not correct any errors in the application of the Zoning Code.

Staff did not recommend a public hearing by Planning Commission, and staff found that the proposed rezoning is consistent with the existing design of the property and surrounding properties; the proposed rezoning provides a buffer between the general commercial district and the neighborhood; and the building was built as a commercial structure, and having it continued to be occupied as a low intense commercial use is appropriate. Staff recommended approval based of the rezoning based on the findings of:

- o The proposed rezoning is consistent with the intent and purposes of the City of Troy Zoning Code; and
- o The proposed rezoning creates the desired effect of a buffer district with the surrounding residential zoning districts; and
- o The proposed use is consistent with permitted uses in the OC-1 district;

PUBLIC HEARING: A motion was made by Mr. Wolke, seconded by Mr. Titterington that the Commission not hold a public hearing on the proposed rezoning of 6 N. Madison Street. MOTION PASSED, UNANIMOUS VOTE

RECOMMENDATION: A motion was made by Mr. Wolke, seconded by Mrs. Ehrlich, that the Planning Commission recommends to Troy City Council that the application to rezone 6 N. Madison Street, parcel no. D08-026290 and the vacant lot with parcel no. D08-026300, from R-6, Two Family Residential District to OC-1, Office Commercial District, be approved.

MOTION PASSED, UNANIMOUS VOTE

HISTORIC DISTRICT APPLICATION FOR DEMLOLITION OF HOUSE AND GARAGE AT 126 S. CHERRY STREET, OWNER/ APPLICANT – FIRST UNITED METHODIST CHURCH BY LINDA BOZICK, TRUSTEE. Staff provided a report (copy attached to original minutes)

“BACKGROUND:

The applicant requests a certificate of appropriateness from the Troy Planning Commission regarding the demolition of the residential and garage structure located at 126 South Cherry Street. The property is zoned OR-1, Office-Residential District and is located near the south end of the block on the west side of South Cherry Street (near the S. Cherry Street/W. Canal Street intersection).

DISCUSSION:

The OHI describes the building as a two-story High Victorian Italianate design built in 1878. Important features listed on the OHI include the double moulded door crowned by a shaped moulded and bracketed cap. A polygonal bay in the left bay was box cornice with brackets on a paneled frieze. The OHI references the ugly porch on the front and states the structure is “a fine house but for the bad porch.” This building is not eligible nor listed on the National Register for Historic Places. The OHI form has been attached to this report and labeled as Appendix A.

The property was purchased by the First United Methodist Church on October 1, 2013. It was the intent to rent the property as a single-family residential unit to offset the mortgage and maintenance costs until a final use was decided for the property. The property was in use as a residence until the Ohio Department of Health (ODH) found that there was lead paint in the residence and garage structure. The church was informed by ODH that the property could not be occupied as residential use until the lead paint was abated. The church considered renting the property with a commercial use but advertisement of the property has been unsuccessful. The report from ODH has been attached to this report and labeled as Appendix B.

The church has received estimates for the removal of the lead-based paint, provided by Allied Environmental Services, INC, at a cost of a minimum of \$150,000. This report has been attached to this report and labeled as Appendix C.

A Structural Evaluation has been provided by Tracy S. Mitchell of Consulting Engineers, Corp., which states “The structural reinforcements and repairs to this property are extensive. This is in addition to the cosmetic repairs typically required and the possibly of lead paint and asbestos with the house to be removed professionally. A financial review of the repairs required should be weighed against the possibility of demolition of the property.” This report has been attached to this report and labeled as Appendix D. The church obtained a repair estimate from Westfield Construction Co., LLP, for the electrical, mechanical, interior and exterior repairs. The cost provided by the estimate is listed as \$223,504.80. This report has been attached to this report and labeled as Appendix E.

Lastly, an estimate was provided by Foundation Services LLC, for repairs to the back porch, portions of the foundation and support beams. The cost provided for the services is listed as \$33,500. This report has been attached to this report, labeled as Appendix F.

STANDARDS FOR DEMOLITION OR REMOVAL:

Section 1143.22(f)(10) requires that demolition permits shall not be issued unless accompanied by an approved certificate of appropriateness and a certificate of appropriateness may only be approved if clear evidence that two or more of the following conditions exist:

- I) The structure has incurred extensive damage to its basic structural elements such as the roof, walls, and foundation requiring substantial reconstruction and presenting an immediate danger to the public safety as declared by the Chief Building Official.
- II) The structure is listed as non-qualifying or is not consistent with other structures in the historic district in terms of historic character, architectural style, construction material, height, setback or mass.
- III) The square foot cost of meeting the minimum building code would exceed the square foot market value of similarly used and improved structures in the historic district.
- IV) The structure is contributing and has been declared a public nuisance and its removal will not adversely affect the architectural or historic integrity of the streetscape.

When reviewing these standards:

- I) In absence of the Chief Building Officials declaration, the structure is not an immediate danger to the public, therefore not meeting the standard for a certificate of appropriateness for demolition.
- II) The second standard has been met as the property is listed as non-qualifying (see Appendix A). However, it is worthy to note the property is consistent with other structures in the historic district in terms of historic character, architectural style, construction material, height, setback and mass. There are numerous homes in the historic district that have similar construction material, character, and architectural style. Appendix F shows addresses of similar character and of the same architectural style of High Victorian Italianate. Staff feels this standard for a certificate of appropriateness for demolition has been met.
- III) The third standard requires the square foot cost of meeting the minimum building code would exceed the square foot market value of similar structures in the historic district. The information provided by Allied Environmental Services Inc., shows a cost of a minimum \$150,000 to eliminate the lead-based paint that currently exist. Additionally, an estimate to repair the foundation provided by Foundation Services, LLC, estimated at \$33,500. In addition, the cost for electrical, mechanical, interior and exterior repairs has been quoted as \$223,504.80. The combined \$407,004 estimated cost is more than double the Miami County Auditors value of \$179,800 for this property. Staff has compared the cost of similar buildings to determine an average cost per square foot (Appendix H). The costs of the seven comparable nearby properties was determined at \$67.5 per square foot. The cost to bring the property into compliance with the minimum building code would exceed the square market value of similar structures. Staff feels this standard for a certificate of appropriateness for demolition has been met.
- IV) The fourth standard requires the structure to be declared a public nuisance with no adverse impact on the historic integrity of the streetscape. The property has been posted with an Order to Vacate by the ODH. The posting states "This property contains lead hazards and has been declared unsafe for children under six years of age and pregnant women as ordered by the Director of the Ohio Department of Health." According to Chapter 3767.41 of the Ohio Revised Code, Buildings found to be "public nuisance" means "a building that is a menace to the public health, welfare, or safety; that is structurally unsafe, unsanitary, or not provided with adequate safe egress; that constitutes a fire hazard, is otherwise dangerous to human life, or is otherwise no longer fit and habitable; or that, in relation to its existing use, constitutes a hazard to the public health, welfare, or safety by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment."

As stated above, the property has been declared a public nuisance by ODH. The second criteria is whether demolition will result with an adverse effect in the architectural or historic integrity of the streetscape. The property is located in the middle of the block which already has been broken up by the removal of a house at 118 South Cherry Street many years ago. Therefore, the streetscape will not be negatively impacted as a "missing tooth" already exists. Staff feels this standard for a certificate of appropriateness for demolition has been met.

For reference, Section 1143.22(11) provides criteria to determine substantial economic hardship. The applicant believes they meet these criteria due to:

- 1) That the square foot cost of meeting the minimum building code and requirements of the Ohio Department of Health exceeds the market value of the property.
- 2) No reasonable alternative exists consistent with the architectural standards and guidelines due to the costs of remediation and repairs for reuse of the building.

Ordinance section 1143.22(12) gives criteria for unusual and compelling circumstances which the applicant believes they meet based on:

- 1) The property has little or no significant historic and architectural significance and is listed as non-qualifying for the National Register.
- 2) No reasonable means of saving the home due to the extravagant cost associated with the remediation and repair needed to reuse the home.

REUSE PLAN:

The applicant has submitted a reuse plan that results in creating a green space with the lot being leveled off with dirt and returned to grass by planting seed after demolition. Please know that any future plans for development will be required to come before the Planning Commission for a Historic Review. The applicant feels the reuse plan mitigates any negative effects to the streetscape and the historic district as other neighboring parcels have had buildings removed and replaced as green space.

This application has been reviewed for compliance with all requirements of the zoning code except for the additional design standards imposed by the historic district regulations and has been found to comply with same.

RECOMMENDATION:

Staff recommends approval for the demolition of the existing residential and garage structure, with the condition that a performance bond is posted with sufficient funds to insure completion of the demolition and reuse plan. This finding is based upon the following:

- o The property meets the criteria listed in the Historic Preservation Overlay District, Section 1143.22(f)(10) demolition standards;
- o The property is not listed on the National Register;
- o The proposed demolition will not negatively impact the historic or architectural significance or integrity of the surrounding area or streetscape;
- o The property has little or no significant historical or architectural value;
- o The property is not eligible for inclusion on the National Register;
- o A minimal reuse plan has been submitted."

DISCUSSION:

Mr. Kappers confirmed that all members had been able to review all the documents provided. It was also noted that a number of emails had been received, both in support of and opposing the demolition. (copies attached to original minutes.) It was commented that with the remote meetings, there would not be public comments as part of the meeting, based on the Council legislation establishing remote meetings during the COVID-19 Pandemic, but email and written comments could be received prior to the meeting, based on the deadline set.

Mr. Kappers commented that he does not believe the code defines if two of the four conditions being met is sufficient basis to approve a demolition or if that number is only the minimum requirement and other justification can be requested. Mr. Davis commented that staff understands that meeting two of the four conditions is the requirement for consideration of a demolition. Mr. Titterington commented that each of four criteria are high bars to be met, and that he understands only meeting two is the requirement. Mr. Kappers asked if staff had concerns that any of the costs to rehab the structure could have been caused by neglect by the owner and asked about the history of property maintenance notices regarding the property. Mr. Davis stated that the City responds to only what can be seen during a "walk by" and if any obvious dangers are noted, there have been a few letters sent to the owner over several years, there is no way to determine if there was neglect of the property and what repairs costs may be related if there was neglect, and the County does interior inspections with the City being able to be included in the County inspection if invited. Mr. Kappers suggested the property could be inhabited if remediated, and asked about the cost of that. Staff indicated estimates were in the information provided.

Mrs. Ehrlich stated her concern of considering this application without the opportunity for direct citizen input/comments or the ability of the Commission to ask questions of the applicant or other interested parties. She stated she understands the impracticality of receiving the comments with the restrictions of social distancing and the number of persons that may gather due to the COVID-19 Pandemic, but is not comfortable not having public comments.

In response to Mr. Wolke, Mr. Davis stated the Code does not indicate a time frame for the Commission to act. Mr. Wolke stated he would prefer to see the Commission act after hearing public comments.

Mr. Titterington stated the lead paint found inside may prevent anyone from living in the house.

Mr. Westmeyer commented that some deficiencies seem to have existed prior to the applicant purchasing the property, so it cannot be assumed there was neglect. He noted that a prior tenant had to vacate due to some condition issues. He stated that the Methodist Church is a vested property owner in the Historic District and brings a greater value to society and to the neighborhood by the church located where it is, and if the church put \$400,000 into the property it would not bring that value back to the church.

Mr. McGarry commented that with the age of this property and nearly all others in the district, and based on building standards at the time of construction, he would expect that nearly every property has or had similar deficiencies (wiring, lead paint, etc.) at some point, some may have been addressed during upgrades or renovations and some may still exist, such as at this property, as renovations requiring upgrades to Code improvements have not been needed or attempted yet. As an example, he noted he did not see a quote for just the cost to "encapsulate" the lead paint. Mr. Davis commented that the Ohio Department of Health now advises that the only lead paint remedy is removal and not painting or coating the paint to encapsulate it.

Regarding improvement costs, it was noted that there are estimates within the information provided.

Mr. Wolke asked about efforts to sell the property, and noted that the mission of Commission is to foster saving a property if possible. He suggested selling the property and having it saved may have more value to the owner than demolition. Mr. Titterington commented that with an estimate of over \$400,000 to improve the property does not provide a break even.

Bobby Phillips, on behalf of the applicant, was permitted to speak. Mr. Phillips advised that it was never the intent of the applicant to buy and then sell the property, rather with the church being landlocked, the purchase of this property was to protect the church property and the intent was to tear down the 126 S. Cherry St. property at some point.

Regarding possible motions that may allow the Commission to consider this when meetings could be held that permitted public attendance/ comments, it was stated that "table" is not appropriate that would mean the matter had to be tabled due to an emergency that needed addressing and then the body would come back together as soon as possible and make a determination.

Mr. Titterington commented that he does not believe a delay serves the greater good as that could lead to further deterioration, inside and out.

Mr. McGarry commented that he does not see a short delay creating a bigger burden on the church, and he assumes any major issue such as if there is a hole in the roof would be addressed by the owner immediately. It was stated that there is not a hole in the roof, just missing shingles at this time.

Mr. Kappers stated this is a tough call, weighing the church request versus the Southwest Historic District, that the applicant is a good steward, but there have also been delays on the part of the applicant.

A motion was made by Mr. Wolke, seconded by Mrs. Ehrlich, to postpone indefinitely consideration of the application to demolish the property at 126 S. Cherry Street. VOTING: YES – Wolke, Oda, Ehrlich, and McGarry NO – Kappers, Titterington, Westmeyer.

MOTION ADOPTED.

There being no further business, the meeting adjourned at 4:56 p.m.

Respectfully submitted,

_____Chairman

_____Secretary