



Village of South Russell

5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700

SPECIAL PLANNING COMMISSION MEETING MINUTES

MAY 31, 2022-7:30pm

Members Present: James Flaiz, Acting Chairman, Mark Porter, Mayor William Koons, Ph.D.,
Elisa Budoff

Member Absent: Steve Latkovic

Other Officials: Bridey Matheney, Solicitor; Ruth Griswold, Board Secretary

Visitors: Kristen Scanlon

Meeting called to order by Mr. Flaiz at 7:30pm.

Ruth Griswold conducted roll call.

Mayor Koons made a motion to appoint James Flaiz as Acting Chairman of the Planning Commission. Mr. Porter seconded. On roll call vote, motion carried unanimously.

Agenda Item 1: PC Case #21-10-B: Ms. Kristen Scanlon of Ponyboys LLC, applicant for the property owned by Morning Star Holdings LLC, is requesting two modifications to the Conditional Use Permit approved at the Planning Commission Meeting on December 9, 2021. She is seeking approval for a proposed outdoor patio, and an increase to the seating limit imposed for Ponyboys Restaurant, located at 506 East Washington Street. Developmental review will also take place.

Mr. Flaiz asked the applicant to begin her presentation. Ms. Scanlon said she and her husband Ryan, who was unable to attend the meeting, would like to have patio seating approved. She referred to the most current rendering of the patio, dated May 31, 2022. She said after the on-site inspections by the Fire Prevention Officer Sean Davis, and the Building Official, Dave Hocesvar, they revised the initial drawing to attain compliance. She said the Fire Inspector preferred the planters as opposed to a fence, since they are not permanent, and would also eliminate the need for a gate. She referred to the red Xs on the drawing, indicating the elimination of the previously proposed seating, which provides the 3' unobstructed pathway required per Sean Davis. They have also eliminated some seating at the end of the outside bar to achieve the required egress.

Ms. Scanlon said she could provide a revised plan showing the required maximum seating capacity of 18, since her rendering shows seating for 20.

Ms. Budoff asked what the dimension of the proposed patio would be. Ms. Scanlon said it would be 23'x 21'. She said they are looking at a multi-phased project and pointed out an area on the plan that presently is a fenced-in area around a walk-in freezer. She said they hope to remove the freezer next year, which would free up more egress options. Ms. Budoff said she is concerned as to how they can stop patrons from standing in the egress area. Ms. Scanlon said there will be markings on the ground as well as on the bar itself, per the Fire Prevention Officer's requirement. She said she is not sure what those markings or signs will look like yet, but they are actually fine with having them there, since it will make the patrons aware that it is a requirement of the fire code. Mr. Flaiz said Sean did suggest having that area as an order station, so he is okay with people walking up to it for a short time, but not having seating, which would be an obstruction. Ms. Budoff said some bars have the rails added to discourage any patrons from standing in certain areas. Ms. Scanlon said that was one of the Fire Prevention Officer's suggestions as well.

Ms. Scanlon said regarding obtaining additional parking spaces, Peter Cary called them earlier today and said the owner of the building will be in town tomorrow and that he would sit down with him and Ed Gottschalk to discuss the issue. She said they are getting caught up in the issues they are having with Chalk It Up, and both Ed and Peter said they have to address those issues prior to helping them. The intent is to make the spaces around the Tame Rabbit available for Ponyboys after 5:00pm, which would work very well for their valet. She said Ryan wanted her to suggest pulling seats from the permitted inside occupancy to allow for the patio seating, until such a time when the required extra parking is obtained.

Mr. Flaiz said if the board approves the outdoor dining, they could make it contingent on obtaining the necessary parking spaces. He said if the patio has 18 seats, they will need 9 additional parking spaces. While viewing a satellite photo of the area, discussion followed among the applicant and board members regarding current parking and potential parking spaces.

Ms. Budoff said since the current capacity inside is 48 after 5pm, they could change the inside number to 30 and allow 18 on the patio, until the parking is set up. Ms. Scanlon said during the week they haven't been super busy, so they would not fill both inside and outside anyway. Ms. Budoff said it sounds like the parking will be resolved soon, and there have been no complaints thus far. Ms. Scanlon agreed and said they have established great relationships with their neighbors.

Mayor Koons asked Ms. Matheney if they would be running into any problems changing the occupancy. Ms. Matheney said this is a request for a modification to the Conditional Use Permit, and the board could modify the conditions upon their discretion.

Mr. Porter asked if they would achieve the 18 patio seats by having only two seats at the bar instead of four. Ms. Scanlon said she would have to talk to Ryan, as they may pull chairs from some tables instead. Ms. Budoff said having four at the bar and changing a table to a two-top would make sense, since a couple sitting at a table would needlessly take up a table for four. Mr. Porter asked if the bar was staffed. Ms. Scanlon said there is a garage door that opens up into the bar on the inside, which has a bartender. Mr. Flaiz asked if the outside bar extends out past the garage door opening. Ms. Scanlon said the drawing is not to scale, and the garage door is only 8' wide, and the bar extends a bit past that. Discussion followed regarding the best reconfiguration of seats, and Ms. Scanlon said she could provide another drawing once they have it figured out.

Mr. Flaiz asked board members if they felt inclined to approve the concept of the patio contingent on parking issues being resolved. All board members said yes.

Discussion followed and the nine original conditions were amended as outlined in red.

- 1. Prior to any issuance of the Certificate of Occupancy, applicant must file written agreements with the building department from Ed Gottschalk and Washington Street Properties for the 12 off-site parking spaces and keep them updated on a yearly basis. Until a total of 21 off-site parking spaces are secured, the maximum total seating limit will remain at 48. Once a total of 21 off-site parking spaces are available, the maximum indoor seating capacity will be 48 and the maximum outdoor seating capacity will be 18.**

Board members agreed to modify condition #1.

- 2. The indoor seating limit before 5:00pm will be 32 seats, the indoor seating limit after 5:00pm will be 48 seats.**

Board members agreed to modify condition #2.

Mr. Flaiz said he feels although the restaurant is busier when they have the valet, it is also more efficient. He asked the applicant if they would consider having valet service at noon, because if so, he feels it would be fine to have the seating limit be 48 for that time as well. Ms. Scanlon said that would be great, but they may have difficulty staffing the valet. After further discussion, it was determined that the demand wasn't there, and it was decided to leave the seating limits in Condition #2 as they are.

Mr. Flaiz asked Mayor Koons if he thought this would be too much for the area. Mayor Koons said he has not heard of any issues, and that there were many conversations with David Cameron before Ponyboys opened, but nothing since. He said he thinks people have come to accept that it is a tough situation down there, and while there is plenty of parking in the area, businesses just have to find ways to get control of it. Ms. Budoff said every time she drives by, the parking lot is full. Ms. Scanlon said they often have the employees park there, because they want patrons to use the valet, which makes things run more efficiently overall. She said she doesn't think the full parking lot deters patrons, and they have been busy, but they also recognize that most people do not want to eat Mexican food every day, and they never expected to get the same draw as Burntwood initially did.

- 3. Prior to any issuance of the Certificate of Occupancy, applicant must file a written agreement with the building department from KEI for the pedestrian access, and keep it updated on a yearly basis.**

Board members agreed to keep condition #3 as is.

- ~~**4. There will be no outdoor seating.**~~

Board members agreed to eliminate condition #4.

Mr. Porter asked if patrons have to back up onto East Washington Street from the parking lot. Ms. Scanlon said no, she doesn't think that is happening. Since Mr. Porter was not a board member at the December meeting, Mr. Flaiz referred to the parking plan that was approved, and explained the configuration that the board required in order to eliminate the need for cars to back out onto Washington.

- 5. The total building occupancy limit will be 60 people.**

Board members agreed to keep condition #5 as is.

Mr. Flaiz said the applicant should return to the Planning Commission in the fall to review how things are working out, only in relation to the patio. Ms. Budoff asked if they would have any umbrellas on the patio. Ms. Scanlon said not at this time, but they plan to add umbrellas or awnings later. Ms. Budoff said her concern is if they are at capacity on the inside and also on the patio, and it begins to rain, people tend to just run inside for cover. Mr. Flaiz said he's guessing they will have four tables with umbrellas. Ms. Scanlon said the tables they have can accommodate umbrellas, and she will have a better idea as to how it would all work in that small area once she can physically visualize it.

- 6. The Conditional Use permit will be reviewed by the Planning Commission on or before ~~July~~ **October 30, 2022, regarding the patio.****

Board members agreed to modify condition #6.

- ~~**7. The business will be subject to random site visits by Village personnel to confirm compliance with the conditions.**~~

Board members agreed to eliminate condition #7.

- 8. The Planning Commission will approve parking layout #3, which includes the valet staging area near the building and parallel parking along the eastern side of the parking lot.**

Board members agreed to keep condition #8 as is.

Ms. Scanlon asked if they began valet service at 11:00am on Saturdays for brunch, would the occupancy be allowed to be increased. Discussion followed and it was deemed to be a reasonable request.

- 9. The restaurant must have valet service after 5:00pm, during business hours, and with a minimum of two valets. ~~On Saturdays, the restaurant may opt to have valet service begin earlier than 5:00pm, which will allow for the after 5:00pm seating limit set forth in condition #2.~~**

Board members agreed to modify condition #9.

- ~~**10. The patio layout submission dated May 31, 2022, is approved except there will be a maximum of 18 seats on the patio.**~~

- ~~**11. The patio must meet all requirements set forth by the Fire Prevention Officer in his email dated May 26, 2022.**~~

Mr. Flaiz made a motion to modify the Conditional Use Permit approved by the Planning Commission on December 9, 2021, as follows: Condition #1: If the applicant acquires an additional nine (9) off-site parking spaces, then they will be permitted to have the maximum indoor seating at 48 and maximum outdoor patio seating at 18, for a total of 66 seats. If the applicant does not obtain the additional nine (9) off-site parking spaces, then they are limited to a maximum total seating of 48, inclusive of the patio. Condition #2 will be modified to add the word "indoor" to the seating limits. Condition #3 will remain the same. Condition #4 will be eliminated. Condition #5 will remain the same. Condition #6 will be modified to read "The Conditional Use permit will be reviewed by the Planning Commission on or before October 30, 2022, regarding the patio". Condition #7 will be eliminated. Condition #8 will remain the same. Condition #9 will be modified to add "On Saturdays, the restaurant may opt to have valet service begin earlier than 5:00pm, which will allow for the after 5:00pm seating limit set forth in Condition #2. Additional conditions: #10: The Planning Commission approves the patio layout in the submission dated 5-31-2022, except, there will be a maximum of 18 seats on the patio. Condition #11: The patio must meet

all requirements set forth by the Fire Prevention Officer in his email dated 5-26-2022. Mayor Koons seconded. On roll call vote, motion passed unanimously.

For the developmental review, Mr. Flaiz made a motion to approve the outdoor patio subject to the conditions set forth in the Conditional Use Permit. Ms. Budoff seconded. On roll call vote, motion passed unanimously.*

Ms. Scanlon thanked the board for their considerations.

Agenda item 2: Consider initiation of amendment to Schedule 1 of the Zoning Code, namely, amending the fees for zoning.

Mr. Flaiz said at the last meeting, the board reviewed the Council-initiated change to Schedule 1 to eliminate deposits, and the Planning Commission recommended approval. He said at that time, it was also suggested that it would be easier and more proper if the Planning Commission would initiate changes, after the Building Committee forwards their suggestions and ideas regarding proposed changes to the fee amounts. He said that since Council has to hold a Public Hearing on these two changes, both items may end up passing together. Ms. Matheney said the Public Hearing for the other amendment, which is changing deposits to fees, is set for July 11th, and if the Planning Commission initiated tonight, it would go on the next Council meeting agenda for scheduling the Public Hearing, which may also end up being on July 11th.

Mayor Koons said the Building Committee has been discussing this for the past year. He said the goal was two-fold; eliminating the deposit aspect and also bringing the fees up to what they should be. He said they would like to have a motion to recommend approval.

Mr. Flaiz said he thought the “no fee” items provided a nice service to the residents, but the reality is, even with a nominal fee, administrative and inspection services are still rendered in a timely manner. He confirmed that a new business locating in the Village would pay \$250 for Planning Commission and \$75 for the Zoning Permit, but if they didn’t require Developmental Review, the cost would be only \$75, which includes inspections by Dave and Sean.

Mr. Flaiz said some townships pay their board members per meeting, and this is not the case in South Russell. Ms. Matheney said the Village incurs costs for Conditional Use Permits, which require notification of contiguous property owners as well as publishing legal ads in the newspapers. She said the same applies for the Board of Zoning Appeals because variances are requested.

Regarding the Board of Zoning Appeals fee, Mr. Flaiz thought in some instances, \$500 makes sense, but for other minor requests it seems excessive. Ms. Budoff asked what the justification of the fee was. Ms. Matheney said originally, it had to do with the costs associated with sending and publishing legal notices, and often there were engineering and legal fees with expert witnesses. She said of late there have not been many instances that went to those extremes, and often the costs to the Village are very minimal.

Ms. Budoff asked if they could charge a much smaller fee, but then have any extra costs incurred be the responsibility of the applicant. Ms. Matheney said that was what the deposit was for, and it would have to be replenished if the costs exceeded what was on deposit, but deposits are being eliminated completely. Ms. Budoff said she felt the \$500 was excessive for an applicant who had a minor request, such as the example given by Mr. Flaiz, of the homeowner who wanted to install a basketball hoop 3’ from her lot line. Mr. Flaiz said the cost of a variance to allow a simple shed too close to the property line, which is granted in almost every case, would amount to a third of the cost of the shed.

Mr. Porter said something should be in place that would work for both minor projects and more complex projects.

Mr. Flaiz said the \$100 fee for a Minor Subdivision is too low. Discussion followed as to what a Minor Subdivision entailed. Mayor Koons suggested increasing the Minor Subdivision fee to \$1,000.

Discussion then began regarding the differences between an Area Variance and a Use Variance. Ms. Matheney said a Use Variance can be a more difficult standard to prove and may be more costly because of the need for experts. Mr. Flaiz said he thinks it's a good idea to differentiate between an Area Variance and a Use Variance. The board agreed to revise the fees and require a \$250 fee for a Use Variance and a \$500 fee for all other appeals, and increase the Minor Subdivision fee to \$1,000. All other fees would remain as recommended by the Building Committee.

Mr. Flaiz made a motion to approve and recommend to Council the adoption of Schedule 1, Required Fees and Deposits, as shown in the rough draft of the proposed fee changes, except: Minor Subdivision will be \$1,000.00 and Appeals will be \$250.00 for an Area Variance Appeal, and \$500.00 for all other appeals. Mr. Porter seconded. On roll call vote, motion passed unanimously.

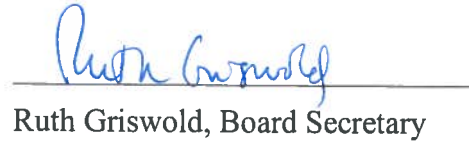
Mr. Flaiz adjourned the Special Planning Commission meeting at 8:29pm.



James Flaiz, Acting Chairman

Date

9/8/2022



Ruth Griswold, Board Secretary

Date

9-8-2022

*See following page for list of the modified conditions to Ponyboys Conditional Use Permit

Special Planning Commission Meeting

May 31, 2022

Modification to Conditional Use Permit for Ponyboys

- 1. Prior to any issuance of the Certificate of Occupancy, applicant must file written agreements with the building department from Ed Gottschalk and Washington Street Properties for the 12 off-site parking spaces and keep them updated on a yearly basis. Until a total of 21 off-site parking spaces are secured, the maximum total seating limit will remain at 48. Once a total of 21 off-site parking spaces are available, the maximum indoor seating capacity will be 48 and the maximum outdoor seating capacity will be 18.**
- 2. The indoor seating limit before 5:00pm will be 32 seats, the indoor seating limit after 5:00pm will be 48 seats.**
- 3. Prior to any issuance of the Certificate of Occupancy, applicant must file a written agreement with the building department from KEI for the pedestrian access, and keep it updated on a yearly basis.**
- 4. The total building occupancy limit will be 60 people.**
- 5. The Conditional Use permit will be reviewed by the Planning Commission on or before October 30, 2022, regarding the patio.**
- 6. The Planning Commission will approve parking layout #3, which includes the valet staging area near the building and parallel parking along the eastern side of the parking lot.**
- 7. The restaurant must have valet service after 5:00pm, during business hours, and with a minimum of two valets. On Saturdays, the restaurant may opt to have valet service begin earlier than 5:00pm, which will allow for the after 5:00pm seating limit set forth in condition #2.**
- 8. The patio layout submission dated May 31, 2022, is approved except there will be a maximum of 18 seats on the patio.**
- 9. The patio must meet all requirements set forth by the Fire Prevention Officer in his email dated May 26, 2022.**