

Minutes of the  
City of Bay Village Planning Commission Meeting  
Held July 6, 2022  
7:30 p.m.

Present: Jeff Foster, Rick Kirk, Dave Maddux, Warren Remein, Kendra Davitt, Pete Winzig, Jennifer Lesny-Fleming

Also Present: Lauren Oley (Board Secretary), Mark Barbour (Law Director), Eric Tuck-Macalla (Building Director), Councilwoman Lydia DeGeorge, Mayor Koomar

Excused: Jennifer Lesny-Fleming

Audience: Nick & Nancy Dadas, Tom Dieterle

*\*Full recording of the meeting is permanently available on the City of Bay Village website under Government/Planning Commission/View Most Recent Agendas and Minutes/Media*

Chairman Foster called the meeting of the Planning Commission to order at 7:35 p.m. with a roll call.

Following roll call Mr. Foster called for approval of the minutes of the Planning Commission meeting held July 6, 2022

**Motion** by Mr. Remein, Second by Mr. Kirk, to approve the minutes of the Planning Commission meeting held June 15, 2022.

**Nick & Nancy Dadas**  
**502 Cahoon Rd.**  
**Conditional use of a school: Acton Lakeside**

Mr. Foster introduced the main item on the agenda as Nick & Nancy Dadas at 502 Cahoon Rd.

Ms. Dadas stated that over the past 3 weeks they've been refining their request per the board's guidance. She added that they've been meeting with families and there was one family that was praying for a solution for school as they wanted something different for their family. They were going to go to move to Idaho for a school they loved and now, because of Acton, they've decided to stay in Bay Village. She advised that following last meeting there were areas that they've been trying to refine – the first was the definition of school and what Acton Academy is. They've decided they're going to be a 08 school which is a non-tax supported non chartered private school.

All of the definitions were provided in the reading materials provided to the board. The Ohio Department of Education and the OAC and ORC has very specific pieces that they would need to be a non-chartered non-tax supported school. Some of the key things required are: it has to be over 1,001 hours of instruction - they easily meet that. It's for the highest grade, but because the whole school is on the same schedule the whole school will have those hours. They will report attendance for compulsory age students. Under the 08 school ruling parents or schools can track attendance, but Acton intends to do it on the parent's behalf. The teachers have to have a bachelor's degree or equivalent - they will check that box. There has to be certain courses of studies, which are listed in the paperwork, they easily have those. There has to be a method for typical people promotion through the grade system. Because of Acton's badges, which correlate to grades, they can track that. They also have to comply with local and state fire health and safety codes – which they obviously intend to do. They believe that Acton meets those requirements clearly and it gives the city a very clear definition of what type of school Acton Academy will be.

The second piece that was talked about, which Mr. Foster brought to their attention, was 1124.03 and 1124.04. The highest-level takeaway being that the existing property, plus the improvements that they are going to make, really bring it closer to the things that need to be met to get the special use. Because it's an existing structure it seems like, under that rule, they would be able to meet the special use requirements according to 1124.03 and 1124.04. All the information is in the paperwork provided.

Lastly, she would like to comment on was a traffic study. They had one conducted and the highest-level executive summary is that there will be no impact to traffic on Cahoon or Oakland. The key factors that led them to that conclusion is that there will be no more than 100 students. Acton is a micro school, it's not the middle school, 100 is the maximum they'd want in that property. Right now, the average family has 4.8 students enrolled the national average for kids in a household is 1.98 so it's not feasible to assume there will be 4.8 students per family so they went with 2.5 students per family. That would leave 40 cars to come pick up students. There will be 4 cars where people will be loading into at one time and 27 cars that can be staged in the parking lot. There is a diagram provided in the paperwork. They will be able to stagger the drop off and pick up times which allow them to not have any cars parked on the streets. The other thing that is important to note is that coming out of the one way, onto Cahoon, they will only allow right turns. People will come in off Oakland and then exit through Cahoon. There will be a lot of parent education to ensure this process is clear. This is not going to be a problem for quite a while – the first year there is going to be 5 cars. This is looking at the long term.

Mr. Barbour stated that in his review of 1124.04 it talks about the grandfathering in sites and buildings and a use of a property as a conditional use. The ordinance which passed in 2005 states, if a property is being used for a use that becomes a conditional use, then that property by right continues to be a conditional use when that ordinance was passed. So, with the library it

automatically became a conditional use as a library and continued without having to do anything. The second part of his memo had to do with the building and the site. 1124.03 has certain requirements for the building from setbacks and size of lots, etc. 1124.04 says that if a building and site are conditional use, when the ordinance was passed in 2005, they continue on as a conditional use without having to do anything else even though it might not meet the exact letter of the law. He believes if you look at .04 and the timeline of the site and building, and it doesn't meet the exact letter of the law as that was enacted because it's a pre-existing situation. What that the applicant is here to get their type of conditional use changed from one permitted use, a library, to another conditional use of a school.

Mr. Foster stated that he feels the documentation provided is pretty complete. To some of these deficiencies he believes the fact that it's consistent with the middle school next door and the boundary is more a paper boundary than anything else its' not detrimental. If there were houses all around maybe it would be a different story, but the fact that it's not makes it consistent.

Mr. Kirk remarked that one section of the traffic study talked about entering the parking lot from the west so you can't come down Cahoon and turn onto W Oakland from the east and then turn right into the parking lot.

Mr. Dadas stated that they were sensitive to the fact that they didn't want cars backing up onto Cahoon and turning left. They don't think it would be an issue because there is a lot of land on the south side of the school along Oakland. He advised that if the board has thoughts or preferences they'd be open, but they thought there was more room to turn in off Oakland as shown on the study.

Mr. Kirk replied that he thinks it's a good idea. The staggered time is what is going to create the benefit to avert unintentional issues. Especially if there is a parked cars and school buses. He just wanted to clarify the thought process.

Mr. Foster stated that as the study mentioned staff to be out there to que the lines. He feels comfortable with the study. He added that the site plan appears to have changed. It looks like they took out a driveway?

Mr. Dadas replied that the idea was to create some natural area and remove some of the existing parking lot and make more of a natural place to be outside. They will also create more of a buffer along Oakland for the school and the neighbors. They'll be looking more at landscaping and natural areas. The existing parking lot has 95 spots, which is way more than they'd need at capacity, so they felt this was a better use of this space. It also directs cars to the appropriate entrance.

Mr. Foster inquired what the timing is on the patios, parking lot, etc.

Mr. Dadas replied that the first day of school is September 7. He's not sure they'll get that far by then, but he sees phase I as getting closer to the building, the immediate rectangle, where there is a current courtyard and the ADA spots. Once they're settled in they will address phase II.

Mr. Foster inquired if ARB needs to see this with the changes to the site with the garage doors being put in?

Mr. Tuck-Macalla replied in the affirmative. Stating that we will need a formal submission to ABR to capture the doors and all the exterior stuff.

Mr. Foster clarified that they're not really reviewing the site plan approval, but rather the nonconforming conditional use.

Mr. Kirk stated that he believes they've gone through it pretty well, but he appreciates how they've responded to how to define the school. Allowing this conditional use with some definitions tied to it makes a lot of sense subject to the Ohio Administrative code and the Ohio department education of a non-charter non-tax supported school. The only additional requirement, that he thinks they should discuss, is should they cap it at 100 students? They've said they don't want to go above 100, but perhaps it should be part of the conditional use as well.

Mr. Foster inquired that since number is part of their submission wouldn't that be part of the approval?

Mr. Barbour replied that they can set conditions that they feel are reasonable - that is well within their power. Another thing they could consider is some sort of age range. For reference, under Ohio law, compulsory school ages children are ages 6-18, however you can be 5 and be considered enrolled. They may find that is a condition that should be placed following discussion.

Mr. Kirk remarked that the only reason he thought it was important was because the traffic study was based on that number. If the number grew dramatically it would change the amount of traffic and other data points that they're using to make the decision.

Ms. Dadas clarified that their age range would be 4-18.

The board continued to discuss the possibility/necessity of including age or size parameters in the motion/approval if it listed in the submission.

Mr. Kirk inquired if the ownership changed and the school was going to be used differently – is this conditional use for current ownership only. Is that something that can be in their purview as well?

Mr. Barbour replied in the affirmative.

Mr. Kirk stated that the new owner would need to run it essentially the same way as a non-chartered non-tax funded school. If, for example, there is a dramatic change 10 years from now the intent of the approval, today, remains intact.

Mr. Foster replied that if there was a drastic change to what was submitted by the Dadas the approval would come into question.

Mr. Barbour stated that if they set conditions for the conditional use and the owner changes they're still subject to those same requirements. If their requirements are clear then the fact that it's owned by the Dadas or someone else at a later date is not going to have any effect because they are still bound by the conditional use permit.

The board, and law director, proceeded to discuss the implications of ownership or use changing and how to best capture those hypotheticals best in their potential conditional use approval. Debating whether or not they should refer back to the applicant's submission or Ohio Code specifics.

Mr. Barbour stating that if they don't define 'school' it may open them up for disputes down the road. Adding that it may be best add conditions to their motion/approval in the event that the Acton submission was not readily available. He provided an example motion, 'motion to approve the conditional use of 502 Cahoon Rd. as a school, as defined in Ohio Administrative code rule 33.01-35-08'. He stated that it's specific to 502 Cahoon because it's in the 3<sup>rd</sup> residential district. They don't want to have a situation where, as a school, it crosses over into a commercial property. By setting conditions that define that they may hopefully eliminate a problem down the road. Not necessarily with this applicant, but with future use of this property or if someone has a large lot or large home and they want to turn it into a school.

Mr. Koomar inquired, of Mr. Tuck-Macalla, if the square footage in the regulations dictate the number of students?

Mr. Tuck-Macalla replied that he is working with the architect to make it more of a mixed use. There will be one portion that is an 'E' use group because to bring the whole structure into compliance would require a whole lot of bathrooms and fixtures. The way that he is looking at it, from the building code, is that this is going to be an 'E' use group from the point that they get a certificate of compliance. It has to be compliant regardless of the operators. Starting out a portion of the building will be 'S1', a portion will be 'business use group', and then the educational use

group. They can build out their restrooms accordingly. As they grow, to 100 students, they would build out more restrooms and then get another certificate of occupancy each time.

Ms. Dadas stated that the building occupancy is much higher than the number of students they're proposing.

Mr. Foster stated that the building director sets the occupancy load by posting it. It's an 'E' use group for 100 students max.

Mr. Tuck-Macalla replied that is now how he does it. The occupant load is the size of the building and that is the maximum occupant load and then they build it out from that point. He can't give them a certificate of occupancy for 20 people because they could get many more people in that building.

Mr. Remein stated that the occupancy determines bathrooms and egress, but it doesn't seem to relate to what they're talking about.

The board proceeded to discuss the occupancy load of the building and how that number is determined as it relates to traffic. The Law director advised they have the power to set whatever requirements they feel would address traffic congestion by way of example.

Mr. Remein commented that they have three age groups: 4-7, 7-11, and 11-18. He inquired if they were operating all at the same time all day?

Ms. Dadas replied in the affirmative. She advised they will have people arrive at different times so the families come at the right times. The school day for those three studios is technically 9-3:15.

Mr. Kirk reiterated that he thinks the traffic study is great, but that they should spell it out in the approval. He doesn't think they should tie it back to the letter, 'specific to the Ohio Administrative Code 33.01-35-08 as well as maximum number of students at 100' for example.

Mr. Maddux stated that he was thankful that they defined what they were going to be. If in a year or two there is a change to that definition would that have to come back into revision?

Mr. Barbour replied that if their motion is so specific, '08 schooling' and the Ohio legislature changes the rule and the rules about what changes in the 08 then they might have to come back – it just depends on what the changes. If you say, 'consistent with 08' and they make a change and the legislature makes a change to 08 then they don't have to come back, but if in the motion you say 'and they must teach 9 subjects' as it states in 08 and that changes then they would have to

come back. The thing to consider is if they want to go from a non-charter to a charter. They'd need to come back for that.

Ms. Davitt inquired if another school, Beta School for example, could open if they had the same requirements? They wouldn't need to come back if they follow all the rules outlined?

Mr. Barbour stated that if it's the exact same and in the same location they would not have to come back to the planning commission to get a conditional use.

Ms. Davitt concluded that the more specific they are the more control they have over what happens. They could say, 'for the purposes of operating an Acton Academy'.

Mr. Barbour replied that in their conditional use permit they probably wouldn't want to refer to a specific school. What if someone wants to do the exact same thing and it's not an Acton Academy anymore? It could be problematic down the road.

Ms. Davitt replied that it doesn't seem more problematic than referring to a statute.

The board, law director, and Mayor continued to discuss the pros and cons of referencing a code in a potential motion.

Mr. Foster advised that they need to refer it to a public hearing tonight anyway so they have more time to work out the specifics/wording of the motion. He contends that everything they've given them is part of the motion, but if anything changes if they start doing something completely different it would come back.

Mr. Barbour stated that in the future it's possible if someone else wants to do something similar and all they have is the minutes which say 'as submitted' and they have trouble locating the application, or there is a dispute, it could be problematic. That is his concern and why he's suggesting they put specifics in the motion.

Mr. Winzig stated that he really likes the idea of tying it into the 08 schools and non-charter definition. If they want to put a requirement on total students he's fine.

Ms. DeGeorge stated that she had a resident, that lives on Cahoon Rd, that would like her to ask if they have any intention of putting lights or electronic lighting through the school. Whether it's digital lights that are shining on the building at night.

Ms. Dadas, speaking directly to Ms. DeGeorge, stated that they are still debating the lighting/signage.

Mr. Foster clarified that any signage/lighting would go through ABR. He inquired if they've applied for permits. Permits shouldn't be issued until they're fully approved. If it happens inside the building that's one thing, but if it happens on the outside it needs ABR approval. It still needs site plan approval for tearing up the parking lot.

Motion by Ms. Davitt, Second by Mr. Maddux, to refer this item to public hearing.

**Motion carried 6 yeas, 0 nays**

**Excused: Lesny-Fleming**

Mr. Winzig provided a council update. Advising that the Wolf and Lake are currently under construction and the projects are moving along.

Mr. Koomar advised that the state started marking some stuff on Lake Rd. and they expect they'll start work soon.

Mr. Winzig stated that the final building in Bay Creek is framed. There is some conversation regarding the dispatch units for police and fire which currently operate under Westcon. There is a group on the Eastside that is providing an enhanced service that many of the communities are looking at and they're starting to look into that as well to determine what is best for the city.

Mr. Koomar stated that there are 5 communities included which includes Fire and EMS. Police was never consolidated. Under the Ohio Administrative code Bay Village is grandfathered in and that is going to go away so they've been looking at options. They only have one dispatcher on duty and they have another station where someone can jump on, but a consolidated center can answer 10 calls with 10 people. There is state of the art equipment. The big play is improving technology. There is advance GPS Technology which can aid in locating an individual and determining who is the closest responding. With the new state law coming down they've been in discussion. For us to staff it would be over \$800,000, and it may be well above that, and they can consolidate it in the \$450,000 range. So, you'd have a really enhanced service and a lower cost. They're looking at Westcom and Chagrin Valley. He went on to explain that both maps and GPS coordinates would aid dispatchers in understanding locations in Bay Village. It would be a change, but it is tough to find dispatchers and the consolidated model provides them with more career options. They're still in the early stages.

Mr. Foster inquired who runs Chagrin Valley?

Mr. Koomar replied that it's a council of government. The cities would have liked to see the county provide a product, but the just cities started doing it together. Every city has one vote. There

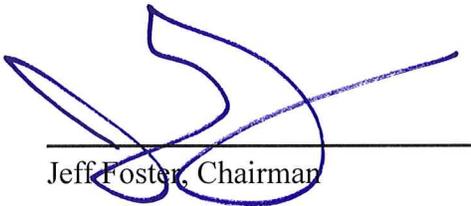
are working groups that come back with ideas to suggest changes components of dispatch, the chiefs will vote and if they voted yes then Chagrin Valley will implement that change. There is some feedback from operators on the operations, but from the financial side the mayors still have control over some of the components.

Mr. Winzig added that they extended a contract to HBM Architects to begin to put together a plan for the Village Green. They're working with Chagrin Valley Engineering to put that together. They've got a landscape architect on staff to provide insight. He advised they have money from some grants, local organizations, local companies, state capitol, Bay Village foundation.

The Mayor outlined some of the specifics of the proposed Village Green project and the proposed sidewalks.

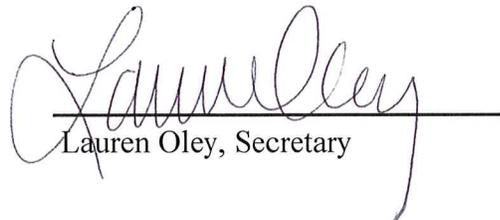
In regards to the 'Bay Village' sign, they are waiting for the donor's contractor to come back with final plans. They have a general consensus of what the trustees want to see, but they want to have a final submission to give to the planning commission just like any other submission. They'd like to finalize the base, landscaping, ADA accessibility, pathways, location, and lighting.

There being no further business to discuss the meeting adjourned at 8:33 p.m.



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Jeff Foster, Chairman



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Lauren Oley, Secretary