

**MINUTES**  
**July 21, 2021**  
**Plan Commission**  
**City of Batavia**  
**REMOTE MEETING**

PLEASE NOTE: These minutes are not a word-for-word transcription of the statements made at the meeting, nor intended to be a comprehensive review of all discussions. They are intended to make an official record of the actions taken by the Commission/Committee/City Council, and to include some description of discussion points as understood by the minute-taker. They may not reference some of the individual attendee's comments, nor the complete comments if referenced.

**1. Meeting Called to Order for the Plan Commission Meeting**

Chair Gosselin called the meeting to order at 7:00pm.

**2. Roll Call:**

**Members Present:** Chair Gosselin; Vice-Chair LaLonde; Commissioners Joseph, Peterson and Moore

**Members Absent:** Commissioner Harms

**Also Present:** Drew Rackow, Planner; Joel Strassman, Planning and Zoning Officer; Jeff Albertson, Building Commissioner; and Jennifer Austin-Smith, Recording Secretary

**3. Items to be Removed, Added or Changed**

There were no items to be removed, added or changed.

**4. Approval of Minutes: April 7, 2021**

**Motion:** To approve the minutes from April 7, 2021

**Maker:** Moore

**Second:** Joseph

**Roll Call Vote:** **Aye:** Moore, Peterson, LaLonde, Joseph, Gosselin

**Nay:** None

5-0 Vote, 1 Absent, Motion carried.

**5. PUBLIC HEARING: Conditional Use Permit for a Hotel**

**12 North River Street, 2<sup>nd</sup> Floor**

**Laura O'Brien, applicant**

**Motion:** To open the Public Hearing

**Maker:** LaLonde

**Second:** Joseph

**Roll Call Vote:** **Aye:** LaLonde, Joseph, Gosselin, Moore, Peterson

**Nay:** None

5-0 Vote, 1 Absent, Motion carried.

The Public Hearing was opened at 7:03pm

Strassman discussed the how the proposed two units used for short-term rentals through Conditional Use approval as a hotel would be compatible with downtown Batavia. The City's Fire Marshal is working with Ms. O'Brien to ensure compliance with the safety requirements of a hotel or hotel units.

Strassman discussed the findings and the Conditional Use with the Plan Commission (PC). The Conditional Use has three conditions:

- 1) The Conditional Use is granted to Laura O'Brien and is not transferrable
- 2) The Conditional Use is limited to the two existing living units on the building's second floor
- 3) The hotel unit shall be approved for occupancy as hotel units by the City's Building Commissioner and/or Fire Marshal

The PC reviewed the floor plans for the two hotel units. Chair Gosselin asked if there were anyone from the public who wanted to comment. There were no comments from the public.

Laura O'Brien, applicant, addressed the Commission. She stated she has owned this building since 2005 and 1/3 of it has been empty. Finally the project was able to move forward and they built out two units, originally intended for apartments. It took a couple years for this project to be completed and by the time it was COVID-19 happened and there was a need for B&Bs because people did not want to stay in hotels. O'Brien stated that they are going to try being a B&B for now to see if there is longevity, profitable, and pay for its own space. In the future she may add more B&B units but not until she works with her accountant and test out the return of investment for the two units. There is a need for other options outside of hotels. She is booking November and December right now. These units will bring people from out of state into our downtown to enjoy our downtown businesses and local activities. These two units are contributing to tourism. O'Brien offered to give the Commissioners a tour of the two units.

The general consensus of the Commission was this is a great plan and brings people into the downtown.

**Motion:** To close the Public Hearing  
**Maker:** Joseph  
**Second:** Moore  
**Roll Call Vote:** **Aye:** Joseph, Gosselin, Moore, Peterson, LaLonde  
**Nay:** None  
5-0 Vote, 1 Absent, Motion carried.

The Public Hearing was closed at 7:17pm

**Motion:** To adopt the findings of fact as drafted by staff  
**Maker:** Joseph  
**Second:** Moore  
**Roll Call Vote:** **Aye:** Joseph, Gosselin, Moore, Peterson, LaLonde

**Nay:** None  
5-0 Vote, 1 Absent, Motion carried.

**Motion:** To approve a Conditional Use permit for a hotel at 1012 North River Street subject to the three conditions provided by staff.

**Maker:** Peterson

**Second:** Joseph

**Roll Call Vote:** **Aye:** Peterson, LaLonde, Joseph, Gosselin, Moore

**Nay:** None

5-0 Vote, 1 Absent, Motion carried.

#### **6. PUBLIC HEARING: Variances for a Pool (Hot Tub)**

1) **A pool located in an Interior Side yard**

2) **Interior Side Setback of 8' instead of the required 10'**

**RIH – Single Family Residence District**

**600 Lathem Street – Tyler and Rebecca Berggren, applicants**

**Motion:** To open the Public Hearing

**Maker:** Joseph

**Second:** Moore

**Roll Call Vote:** **Aye:** Joseph, Gosselin, Moore, Peterson, LaLonde

**Nay:** None

5-0 Vote, 1 Absent, Motion carried.

The Public Hearing was opened at 7:20pm

Rackow overviewed the staff report with the PC. The Zoning Code regulates hot tubs the same way we regulate pools. Rackow noted that the Zoning Code uses the word 'pool' but this is an approval for a hot tub so he will be using the two terms interchangeably. This pool would be located on the interior side yard rather than the rear yard. The second is to allow for a side setback of 8' instead of the required 10' from the property line. The PC viewed the site plan and a picture of the layout of the backyard via the shared screen feature of Zoom.

Tyler Berggren, applicant, addressed the Commission. He discussed the site plan and shared that his neighbor does not object to the side yard setback variance of 8' rather than 10'.

LaLonde stated that considering the layout of the property, this variance makes a lot of sense. They have the neighbor's support so that seems acceptable. Peterson agreed. Chair Gosselin stated based on the layout it doesn't make sense to put it anywhere else. He does not see any problems with it. Moore stated sometimes lots are a weird shape and layout and that is what variances are for, to accommodate those particular lots. Chair Gosselin asked if there was any public comment. There were no comments. Rackow shared that staff received one email that was in support of the variance from a neighboring property owner. (attached to these minutes)

**Motion:** To close the Public Hearing  
**Maker:** LaLonde  
**Second:** Joseph  
**Roll Call Vote:** **Aye:** LaLonde, Joseph, Gosselin, Moore, Peterson  
**Nay:** None  
5-0 Vote, 1 Absent, Motion carried.

The Public Hearing was closed at 7:31pm

**Motion:** To approve the Findings 1-4 as written by staff  
**Maker:** Peterson  
**Second:** Joseph  
**Roll Call Vote:** **Aye:** Peterson, LaLonde, Joseph, Gosselin, Moore  
**Nay:** None  
5-0 Vote, 1 Absent, Motion carried.

**Motion:** To recommend to City Council approval of the variance from Zoning Code section 4.107.A.1.a to allow a hot tub at 600 Lathem Street to be located in the interior side yard rather than the rear yard and from 4.107.A.1.b to have an interior side setback of approximately 8' rather than the required 10' in general conformity with the site plan and other information submitted in support of the variance  
**Maker:** LaLonde  
**Second:** Peterson  
**Roll Call Vote:** **Aye:** LaLonde, Joseph, Gosselin, Moore, Peterson  
**Nay:** None  
5-0 Vote, 1 Absent, Motion carried.

**7. PUBLIC HEARING: Amendments to the Text of the Zoning Code (Parking Standards)  
Chapter 4.2: Off-Street Parking and Loading  
City of Batavia, Applicant**

**Motion:** To open the Public Hearing  
**Maker:** Joseph  
**Second:** Moore  
**Roll Call Vote:** **Aye:** Joseph, Gosselin, Moore, Peterson, LaLonde  
**Nay:** None  
5-0 Vote, 1 Absent, Motion carried.

The Public Hearing was opened at 7:35pm

Rackow overviewed the memo with the Committee. The proposed revisions address three sections of the parking regulations and would do the following:

- 1) Revise the off-street parking requirements for 2 and 3 bedroom units in multi-family buildings.

- 2) Add an option to pay a fee-in-lieu of required parking for new buildings and building additions (including buildings and additions containing four or fewer residential units) in the DMU Downtown Mixed Use District.
- 3) Adding Parking Maximums for several zoning districts

Buening noted that there was some concerns raised at the Committee level with enforcing the maximum parking requirements for industrial districts. The Commission discussed parking requirements by district, industrial parking, parking maximums and the fee-in-lieu. Buening explained that the fee-in-lieu could be used to help fund additional parking lots and public parking improvements. Chair Gosselin stated that the fee-in-lieu is a good solution so that we don't have a hodgepodge of parking spaces and lots that really don't work. The City could design a parking garage or multiple parking lots that just work better for the City as a whole.

Chair Gosselin asked if there were any comments from the public. There were none.

**Motion:** To close the Public Hearing  
**Maker:** Peterson  
**Second:** Joseph  
**Roll Call Vote:** **Aye:** Peterson, LaLonde, Joseph, Gosselin, Moore  
**Nay:** None  
5-0 Vote, 1 Absent, Motion carried.

The Public Hearing was closed at 8:14pm

**Motion:** To recommend to the Committee of the Whole the draft amendments to the Zoning Code as drafted by staff adding to that the industrial zoning as one of the exemptions under the parking maximums.  
**Maker:** Joseph  
**Second:** Moore  
**Roll Call Vote:** **Aye:** Joseph, Gosselin, Moore, Peterson, LaLonde  
**Nay:** None  
5-0 Vote, 1 Absent, Motion carried.

#### **8. Matters from the Public (for items NOT on the agenda)**

There were no matters from the public.

#### **9. Other Business**

Strassman reported that the 8-4-21 Plan Commission meeting will hold discussion on the former Avenue Chevrolet property called Avenue Marketplace and it would be dividing the property for two restaurants: Starbucks and Chipotle. There will be Conditional Use Permits and Design Review discussed. At that same meeting there will be a Design Review for a speculative industrial building.

Upcoming Staff is working with Pulte Homes for the Winding Creek development. A meeting date for the Plan Commission date has not yet been scheduled. It also includes a new annexation

agreement that would only go to City Council. The Winding Creek property is west of the former Sam's Club.

Bar One and the 1252 Pierson Building are under construction.

There is redevelopment of the former Mobile station on Main and Casey's General Store to has submitted a Design Review application to remove the fuel canopy and building and build a new fuel facility with a retail store.

Dr. Wazio is proposing a new office building project at 950 West Wilson. Staff is working with him on preparing revisions to the plan.

#### **10. Adjournment**

There being no other business to discuss, Chair Gosselin asked for a motion to adjourn the Plan Commission. LaLonde moved to adjourn the meeting, Peterson seconded. All were in favor. The meeting was adjourned at 8:27pm.

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Dear Council Members,

I would like, as a neighbor to the Berggren's living at 600 Lathem St. to offer our support for the variance. Their house is on the corner and they have nicely fenced it in the area to be added to. We see no reason to hinder their desire to put in a hot tub.

Most sincerely,  
Maribeth & Dan van Loon  
517 Church St. (corner of Church and College, one block from 600 Lathem)