



MINUTES OF THE ZONING & PLANNING BOARD OF APPEALS

MONDAY, OCTOBER 19, 2020, 5:30 PM
Virtual Meeting. Public may join via Zoom.

A. ZOOM MEETING INFORMATION.

I. This item contains documents which provide call in information and instructions for the Zoom Meeting.

B. ROLL CALL.

I. Members: Don Carlson - Chair, Gregory Babcock - Vice Chair, Tommy Everman, Noel Halvorsen and Jim Hutchison

Alternate: Tom Hoy

Does anyone need to abstain from voting? Was anyone out to any of the properties? Did you speak to anyone regarding this variance request?

Present: Tommy Everman, Don Carlson, Gregory Babcock, Noel Halvorsen (arrived at 5:40 p.m.), Jim Hutchison, Excused: Thomas Hoy

Chair Don Carlson asked if anyone needed abstain from voting, if anyone was out to any of the properties and if anyone spoke to anyone regarding the variances on tonight's agenda. All stated no, with the exception of Don Carlson. He stated he was out to the property for Agenda Item #1, 901 Main Street, under Regular Business.

Others Present: Ald. Mark Steuer, Ald. Randy Scannell, Ald. Veronica Corpus-Dax

C. APPROVAL OF THE AGENDA.

I. Approval of the agenda for the October 19, 2020, meeting of the Zoning & Planning Board of Appeals.

Moved by Gregory Babcock, seconded by Jim Hutchison to approve the agenda. Motion carried.
Yes- Don Carlson, Gregory Babcock, Jim Hutchison, No- None, Abstain- None

D. APPROVAL OF MINUTES.

I. Approval of the minutes from the September 21, 2020, meeting of the Zoning & Planning Board of Appeals.

Moved by Jim Hutchison, seconded by Gregory Babcock to approve the minutes. Motion carried.
Yes- Don Carlson, Gregory Babcock, Tommy Everman, Jim Hutchison, No- None, Abstain- None

E. REGULAR BUSINESS.

Moved by Gregory Babcock, seconded by Jim Hutchison to open the floor for discussion for the duration of the meeting. Motion carried.

Yes- Don Carlson, Gregory Babcock, Tommy Everman, Noel Halvorsen, Jim Hutchison, No- None, Abstain- None

I. (Appeal 20-031) Garritt Bader, GB 901 Main, LLC, property owner, proposes to permit the installation of a drive-thru for a potential restaurant use in a Downtown One (D1) District at 901 Main Street. The applicant requests to deviate from the following requirement in Chapter 13, Green Bay Zoning Code, Section 13-1606(1)(6) emergency pass lane for the drive-thru (Ald. R. Scannell, District 7).

Board Members Gregory Babcock and Noel Halvorsen recused themselves from this discussion and vote.

Moved by Tommy Everman, seconded by Jim Hutchison to table the variance request until the next scheduled meeting to allow the applicant to gather additional information. Motion carried.

Yes- Don Carlson, Tommy Everman, Jim Hutchison, No- None, Abstain- Gregory Babcock, Noel Halvorsen

2. (Appeal 20-032) Katherine Fettig, property owner, proposes to expand an existing driveway in a Low Density Residential (R1) District at 310 Northern Avenue. The applicant requests to deviate from the following requirement in Chapter 13, Green Bay Zoning Code, Section 13-609, impervious coverage (Ald. M. Steuer, District 10).

Moved by Noel Halvorsen, seconded by Tommy Everman to grant the variance as requested with the condition that there is confirmation regarding property lines. Motion carried.

Yes- Don Carlson, Gregory Babcock, Tommy Everman, Noel Halvorsen, Jim Hutchison, No- None,

Abstain- None

F. INFORMATIONAL.

Moved by Noel Halvorsen, seconded by Tommy Everman to close the floor for discussion. Motion carried.

Yes- Don Carlson, Gregory Babcock, Tommy Everman, Noel Halvorsen, Jim Hutchison, No- None, Abstain- None

1. Discussion on procedural items related to the Board of Appeals.

Discussion regarding procedural items for the Board of Appeals.

2. Date of next meeting: November 16, 2020.

G. ADJOURNMENT.

Moved by Noel Halvorsen, seconded by Jim Hutchison to adjourn. Motion carried.

Yes- Don Carlson, Gregory Babcock, Tommy Everman, Noel Halvorsen, Jim Hutchison, No- None, Abstain- None

VERBATIM MINUTES

- This is a meeting of the Green Bay Zoning and Planning Board. Better known as the Board of Appeals. We'll have a roll call to see if we're missing anybody. I see we have Greg, we have Mr. Hutchison, we have me, we're still waiting for Noel, we're still waiting for Tommy, and I expected that Tom Hoy would be on as well. None of them are on yet, right?

- [Members] Right.

- All right, rather than wait we can proceed. We do need to, I guess maybe before we go, I wanted to explain how we're gonna deal with Tom Hoy. If obviously, if we don't have enough people, if we have less than five of the regular five members, Tom will be a voting member. If we have all five people and Tom is here, I think we treat Tom as if he is a member of the public, welcome to make comments, but he would not be voting. I think that's consistent with how we've done it in the past. I looked at our rules and procedures, I don't think we seem to have anything on it. So, I think that makes sense. Make sense to you, Paul?

- It does, yes.

- Let's see how that proceeds. All right, we should I do need a motion to approve the agenda I believe everybody's taken a look at it. So if Jim or Greg ever have an opinion on that, let's proceed.

- I'll make a motion to approve the agenda.

- I'll second.

- All in favor?
- [Members] Aye.
- Aye. Tommy has appeared. Tommy, we just voted to approve the agenda.
- [Tom] Copy that, can you hear me?
- Yep. Now, we do.
- [Tom] Great, Sorry for being late.
- Is that four zero Tommy? Good. Next we should have a, we should have a motion to approve the minutes before us tonight. We have two items and a few miscellaneous things.
- [Tom] Motion to approve the agenda.
- We have a motion made by Mr. Everman.
- I'll second.
- Seconded by Mr. Hutchison. All in favor.
- [Members] Aye.
- All right, we have the agenda approved, we have the minutes approved, we have our roll call. I'd like to talk about the housekeeping questions we have. Does anyone need to abstain from voting tonight?
- No.
- [Member] No. Were any of you out to see the properties? The two of them?
- [Members] No. Okay. I was over to see the 901 property on Main.
- [Member] Yeah, I've seen that in the past, but I didn't go specifically for this.
- Okay, I actually walked all the way around the building. Did any of you speak with anyone regarding the variances before us tonight?
- [Members] No.
- And no, for me. All right. We should now have a motion to open the floor.
- [Tom] To make a motion to open the floor.
- I'll second, beat you Tommy.
- [Tom] You did. I was late on the draw.
- All in favor.
- [Members] Aye.

- Okay, we have the floor open.

- [Fettig] Hey guys.

- Hi.

- Hello, Ms. Fettig.

- [Fettig] Okay, now I'm here.

- [Carlson] All right, our first item on the agenda is 901 Main is, do you want to tee this up for us, Paul?

- Sure, I can do that. The summit property is located at 901 Main Street. It's a new build. It's a three story structure on the North side of Main Street, just West of Webster Avenue. Not far from Whitney Park. There's two stories of residential. And then the first floor contains proposed commercial uses and there was a commercial use to the North at 900 Cedar Street. And the old Greyhound bus terminal is a vacant structure here to the West. The requested variance is, has to do with the emergency through land. There is on one other occasion. I think the board is kind of reviewed a similar request because the property is zone D1 and they're proposing a drive through, they need a conditional use permit to do that. So there's two different committees that have to kind of review this request. And last Monday, the plan commission reviewed the so-called use of the property for a drive through. Our staff did not support that request. However, the plan commission did recommend approval of the request. That they had two conditions of approval and that heads to the common council tomorrow night for their consideration. The variants before you has to do with the emergency lane or the lack of. And ideally there really is not a ton of room here. So the variants really have to kind of go to zero almost because there's not really sufficient room to have an emergency lane. This is an image that we used on the plan commission last week. This shows obviously the building under construction here, an existing structure here and the alley or the proposed drive in the middle here. This is from the application from the applicant. This shows again, 901 Main here 900 Cedar. And there was access both from Main and Cedar where there would be a drive through. So this is being considered a drive through in the sense that there's a menu board that's proposed for this use. If there was not a menu board, we might consider it a pickup window and they would not have needed the conditional use permit review. And they probably would not have needed the potential maybe would not have needed the brilliance consideration. In reviewing this request, we did as part of the plan commission's review, there were comments received from Green Bay Fire and our city traffic engineer. Those are included within the packet on civic clerk. If you want to take a look at those, one of the conditions from the plan commission, that there would be some concurrence from the fire department about if they were in favor or not in favor of this request. That's also attached within the agenda for consideration. Between 901 Main and 900 Cedar Street. There's about 13 feet. And this image kind of represents that, that distance and that view, or it's currently a graveled area. Here's another image. This is looking West. We received this today, a plat of survey from the adjoining owner at 900 Cedar Street. And it shows that actually the property line is about two and a half feet off there or two or two and a half feet off the existing building along with a four foot walkway easement. This is information that was not available for the plan commission last week. The council should learn of this tomorrow at their meeting. However, this is new information for us tonight. This takes that 13 feet down to maybe something less than that, maybe 10 feet or less. Which really becomes a challenge for any sort of vehicle to pass through that area. So with that said, you know in some cases like this, the plan commission or the staff might offer a recommendation, I think with this new information, you'll have to consider what the applicant says, what the adjoining property owner says. But I think the lot line at this point is a concern to staff and something for the board to take a look at.

- Okay, I was looking at chapter 13 Paul and I couldn't find this business about whether there's a menu board or not. Do I just have an old chapter 13 or is there a hidden place?

- Sometimes with the zoning code there's some interpretation. So this is a case where the interpretation is that, a board really is a true drive-thru like you might think with the McDonald's or Burger King or a Starbucks where there is you're prompted there. And that kind of constitutes the need for the drive through. Other situations, maybe a pharmacy where they have a pickup where you you've already made your order and you just simply pick it up at the window. that's how we make that distinction. So it's not really written in the code. It's more or less an interpretation of our staff.

- Okay. All right, I'll note for the record that Mr. Halvorsen has joined us. I believe that puts us at four. We still are missing. No, there should be all five, right?

- Right.

- Correct.

- Five fingers I'll get this straight yet. Good, thank you. I noticed that there were some folks here, some other folks on the participation list. Could I have an idea of who is speaking for or against this item?

- Evening everyone Garritt Bader the applicant, so I'll obviously be speaking for it.

- All right.

- David Bartikofsky I'm speaking against it. I'm the owner of 900 Cedar Street.

- All right.

- And this is Executive Director, Jeff Marcus of Olde Main Street, Inc. I'm speaking in favor of the development.

- All right.

- I'm Steuer I'm a listener of testimony on both sides and will speak accordingly if need be.

- All right. Very good. Thank you.

- This elder . I'm a part of the planning commission. I'm voting in favor of the item last Monday.

- Okay, thank you. All right. I guess at this point, we'll let the applicant make his case as he understands it.

- Good evening folks? Thanks for taking the time. I appreciate it. And I believe Paul is gracious enough to run PowerPoint for me again and share a screen. So given that Paul's great control you'll hear me say next, please. but I'll try to go through the presentation as briefly as I can.

- Sure, you can go ahead.

- All right.

- Sure I'm just waiting for the shared screen, just a moment. There we go, thanks Paul. So starting out here you see the aerial excuse me the aerial depiction of 901 Main building there on the center part of your screen 900 Cedar Street there to my north and then our parking area for our development there to the right of that. So the drive-through lane is next please Paul, just looking at this stylistically, on the site plan you'll see the drive-through lane there in green would be designed along the north and the west side of the property where the traffic would exit. Next please. Looking at it again from the east right now, that's roughly one foot in fact. It varies from 11 to 13 feet based on where the building is there parking area. But as proposed that is the space in which, for the area which the drive-through would be designed. Next please. So just a quick update on,

most times you see drive-throughs in suburban areas of course, this is an example of a blow up from one in west of here. You see that the drive-through with itself is 10 feet. Here they have a bypass as many suburban areas do, that go around it. Next please. And zooming this out what you'll see is that McDonald's is on the left center part of your image. That's where that was blown up. To the right of it where I notate that 11 foot wide. That's actually the Starbucks drive-through lane west of here. You can actually see the cars shooting out the driveway there. More on that in a moment. But that's just an example of one that has a single lane drive-through as many do. I know that it's been there for 15 plus years, no incidents, according to the fire and rescue. And it shouldn't be noted that I think the spirit of the code is really tailored to you can have that sort of bonus if you will, of a bypass lane. Code really doesn't envision the urban bypass in my opinion, and maybe something that needs to be addressed down the road next please. This is Lineville Road in Suamico. So there you see a new 12 foot wide drive-through lane for what happens to be a Starbucks there that recently opened this summer. Of course, it's a new opening, but no incidents that were reported there either. Again, a little bit wider, but still a single drive to lane without a bypass next please. This is the Burger King at East Town. So for those familiar right off Main Street, just to the south of the old Kmart, which is now U-Haul again a single drive-through lane butted up against another user to the south of the BMO Harris Bank 40 years in operation here, no known incidents according to Green Bay Metro Fire. Next please. What I wanna to do is put this one in, because a comment had come up at planning commission about, well sure, those were all suburban ones. This is an urban environment. This is downtown East for those who've driven in this area right off the roundabout off the bridge the city was proposed the Walgreens there. They really wanted it to be urban feel. And so the developer moved it up there with the agreement from the city that they would do what they call a crossover drive-through lane. So while you have the in and the out there on the left, you have where my little stick is pointing. The drive-through lane right up against the building where you then cross over. The point being here, we can have suburban conveniences in an urban setting. We may need to be a little bit creative, but they can happen and have happened. In fact, for those that are familiar in , about the new beer brewery next to that is a credit union being built it's so new I can't get it on any ariel, but that will be also a single lane drive-through that pulls around the side in between the building. Next please. So takeaway number one, I think for today is the code limitation aspect, which of course is why we're here. And I think what we don't want is, our downtown to reflect suburban design, which the code again, I believe is geared to. Regardless customers like suburban conveniences. And you see with the drive-throughs that we just looked at when I built, town homes, my tagline was suburban convenience, urban lifestyle that you would have those that loved to be in and lived in the city. But they still want some of those creature comfort from the burbs. So to make our downtown attractive to all users combining those really has benefits. And that's part of the beauty of what I'm proposing here at 901. It tucks the suburban element away in the backside. And in my opinion does not harm adjacent properties or public rights of way. And showing that single lane drive-throughs can work in the areas. And again, maybe the code needs to catch up to make the urban aspect of it maybe a little more palatable for those unique situations next please. So here again is our drive-through with and Paul advances one more slide. This is roughly what it would look like with that drive-through lane going in. So you'll know they're up against my neighbor's building. You'll see you it's proposed as a mulch area and a curbing area that would protect the building the red that you see there is the menu board, the black is the drive-through window. So there is space for that in my opinion. And again, I'll come back to the survey and the in there which is brought up in just a moment, next please. So looking at this from a top down again, the red is the menu board. The black is the window. We need the queue requirements as required by code that's three in front of and three after the menu board. And although there's no room for the bypass lane, we have plenty of asphalt around us for emergency access. And again, I believe the spirit of the code is that you need emergency access to be able to pull up next to a car. Again, Green Bay Metro Fire has seen this and they said not a problem as has traffic. Next slide, please Paul. Just to bring up, cause it's come up at plan commission also, but it's a very low risk of public harm. We just have over 14 cars in the drive-through lane, to have any kind of the backup or really a clogging in the situation there. And if one more please Paul, well, I note here is that this is not a Starbucks. And I showed a lot of examples of four suburban Starbucks's and those locations 40 to 50 peak cars at peak hour. My operators, a local crew, this is a local operation. Their data from all other existing source stores shows their peak is up pointed 25 cars, meaning that would be half or less than half of Starbucks. So really the pink what you see and not the green. So I think all of that shows that the risk of what the bypass assumingly would be needed for is very, very remote next please. Here, this just shows up against the building. It's really only 57

feet that's directly inaccessible in case of emergency. And I've just given all the asphalt around it did not see a problem with that, next please. So takeaway number two, because I appreciate that you folks have unique situation more so than even client commissioner, where you really have set requirements that you need to adhere to. I think the biggest hardship here is the reality of what we're all now facing as a nation and as a world is how this pandemic's affecting business and how something is viable. So there's a real risk of weathering. Say that fast three times is a perfect renewal. If that customer preference shifts and stays in the suburbs and we need to be able to offer those conveniences with an acceptance of reasonable urban design limitations, like not having that bypass lane, did some similar talking I've done with some folks. It's very possible that a number of the local downtown coffee shops go out of business, given this reality they're facing where their insights are not open and or not patronized as they were and drive through windows have become known needed in many cases for survival. When you look at our downtown and others, I called her the neonization of the swinging doors of patrons. You want those customer service restaurant, retail businesses to drive that, that environment that people gravitate to, and that may go away. If we can't adapt to how businesses need to survive these days. And I call it the great depression mattress scenario, because we all heard of people who never trusted banks after a bank collapses in that time and put money under their mattress for the rest of their lives. I'm convinced today you'll see some people, even when the smoke clears and this pandemic is over God-willing soon. They'll never feel comfortable in certain environments again. And it's very plausible that a lot of these, especially local retail restaurant folks will die. If we don't adjust with a reasonable limitation to what they need. If Paul flips through the next couple of slides here, you'll see the Wall Street Journal did some articles last weekend on this. And you'll see this one here. It says how McDonald's, Chipotle and Domino's are booming while your neighborhood restaurant's frosty the image there on the right and drive through has become king for a lot of these folks. Next please Paul, I hear you say they interviewed one chef who opened up a number of downtown restaurants. The highlighted part there says that the operators fear that the recent revival of downtowns will slip into reverse. If 100,000 restaurants closed this year, which is anticipated. Next please. This individual was the franchisee of that KFC or that Taco Bell you saw that image. And he said that he's stayed afloat and actually is doing real well by shutting his employees to cleaning and staffing drive-throughs, which he said became the core of his business. Next please. So I put in my application and I just want to take a moment emphasizing that I say this respectfully, of course, to your committee that I do not believe this is an applicant caused hardship. The world has changed drastically since mid 2018. When we permitted 901 Main improved it and began constructing it. What would have been a bonus or as it was asked before, and Paul talked a little bit about the menu board situation within the code that is warranting this need here tonight, for any operator before the drive-through or pickup would probably have been a bonus. Hopefully it's just shown it's really anything, but it's really a matter of survival for a lot of these folks. So I asked the board, respectfully to approve that this issue is really driving a change that we need to address and approve this tonight. Next please. Obviously we talked about code limitations, of course, in a perfect world. I would take a bypass lane, but suburban areas offer more room for that than downtown and I don't want to exchange urban character for those suburban design elements. My operator has far less than a Starbucks, low risk of that emergency need that the bypass addresses there simply isn't the crush of patrons of the national chain. And again, both fire traffic have no issues with it. And there have been no report issues with those suburban counterparts. Number two, the code we just talked about, but again, I think we need to do everything to help these local small businesses survive. And it's hard to develop projects like 901 Main if we can't accommodate the needs of the likely users of those spaces. Again, I don't believe this is an applicant caused hardship. I think it's a once in a lifetime, hopefully knock on wood pandemic. One quick note on what was brought up regarding the foot easement. So that foot easement exists. It is four feet, but keep in mind as two feet on each side of the property line. So in areas where even 11.2 feet is the engineered minimum limitation there. Two feet on my side still allows nine feet for a drive-through lane and your average parking stall is, nine feet wide a car is roughly eight feet wide. It can fit. And I'm not saying it'll be the coziest or something that I would ordinarily again design if I had more room. But that is possible number one. Number two, the easement in question is from 1923 and based on research I did with my title examiner, most easements footpath easements of that nature have 40 years in duration as they're good if they don't appear in the public record within that amount of time after that, obviously 40 years would have been 1963, let alone now 2020, where we are so roughly a 100 years. I would argue that the legal funding could prove that that's no longer valid. Thirdly, the way that the language is written in the document. And this was an old land contract, again from 1923, it reserves the area. It

does not prohibit paving on it. Right now it's not paved anyway, it does not prohibit that paving. Even if my neighbor wanted to argue that it should not happen because of that account, then I'll just stop the drive-through lane, have a nine foot mark and it won't for path easement. It's not preferred. I'd much rather work with him and find a solution that includes a curb drainage that can really guarantee that it works for everyone. But, I don't believe that that easement, as it's written, physically prohibits what is being proposed tonight. So thank you much. I'm happy to answer any questions that anybody may have,

- All right, thank you, Mr. Bader. I think what we want to do next is hear. I'll tell you what I want to hear. I want to hear from Mr. Bartikofsky and I want to hear from Mr. Mirkes from Downtown Green Bay. And then I want to ask some questions of Paul and then maybe perhaps Mr. Steuer may have some words at the end. And then we'll deliberate. So first of all, Mr. Bartikofsky you have the floor. You're on mute, sir.

- Can you hear me now?

- Yap

- Yes.

- All right. Thank you very much for allowing me to present this to you. I'm at 900 Cedar street as Paul if you could put up the, that plat I've found today. Of my property lines. That one there, I was lucky to have found that today I was consistently told by Mr. Bader, that his property went right up against my building. And as you can see here this was, this survey was done in 87 by a very reputable company and gentlemen and you can see, I have two point four three feet from my building and I marked it. Paul, if you could show those markers where I marked it there. I came to the building that's two point four three feet. I came off the building there and measured that from Mr. 901 and it was nine feet or ten nine on that. I think it was. Yeah, it was ten nine from his building to my property line. As you can see, I have a bunch of rocks there that were placed there without my permission. They were displaced there. And, if you calculate for a bump out a curb or putting structures up it will prohibit me from restoring my building, number one. It's extremely too close, but that reduces it down to 10 feet, putting a bumper out there and such, I gave him the nine foot wide curb, and then you add the easement four foot easement there. So I went and measured my truck and my truck. with it's mirror sticking out is eight foot wide. And that is a Ford pickup truck. That would make it extremely tight space to navigate through that space there with all that put in place. I think it's a safety hazard. It's extremely close to my building and the building was built in 1892. It is fragile. I have windows, Paul if you'd show that a slide I do have windows along the base of the building. I have a set of three or four of those glass windows that go along the bottom of the building there it's extremely too close. It is dangerous coming off of that turn too on the front going towards main street is gonna be very difficult to negotiate. You have a bank of, I don't know how many gas meters, right along the front of his building right there. When you make that turn, it's detrimental to my building, the vibration, the noise. I do have a residential place on the second floor, along with retail tenants and stuff does vibrate there when it's that close. And I think it's just, I would ask you guys to deny this it does not fit it's extreme. I don't know how you're going to get a walkway through there and cars on that easement. It doesn't make sense to me, and I don't know how that's to be or how it should be approved. I was never notified of this by the way, I did not have proper notification that, that the planning commission was going through with this. It was an hour before that actually happened. I just happened to be working in my shop. I have a shop on the first floor in this building. I'm a clockmaker watchmaker. And I heard some people talking outside cause I have, well, I have some ladders that are leaning against my building outside and I heard voices and I thought somebody was going to take my ladders. So that's why I went outside. And there was Mr. Bader, Jeff Mirkes and Mr. alderman there, and I was informed by Mr. that there was going to be a meeting taking place an hour from the time he told me I had no prior knowledge, that's why I was unprepared to express my concerns. And, just by chance, I've heard that this was going to you guys, the board there for approval. And otherwise I'd not have known any of this was going on. And, I take exception to the fact that I was always told that the property line went up against my building. And I was happy to have come across that plat the 1987 one showing I actually have two and a half feet off the building and the easement. I don't think we're comparing when it comes to Mr. Bader's, examples of single lanes we're not those examples

that you saw today. There was not a building standing 10 feet away from them or inches away. It just doesn't exist in any of those single lane drive-throughs and that's for a reason, cause it's dangerous. You can have fires, you can have stuff that you can't get to, stalled cars. It's a bad design. And I think, I don't think that the economy is going to fail. If this is not approved, this economy will go on. I've been in this town for over 20 years now through the 2007 and eight depression, I would call that a depression. So this is, aside from all of that you have to look at what is really what we're talking about here. And this is the space that's between the building. And that space is not large enough to accommodate drive-through, call it suburban business or whatever. It's, a dangerous decision here to allow it. And I stand by my decision here to voice my opinion against it. I think it's going to, it'll be detrimental to my building, putting structures next to my building will keep me and prohibit me from doing maintenance, tuckpointing and such. I just think it's better usage would be a green space through there, a walkway maybe for people to go around to the restaurant in the front, or stand in the front. But a drive-through that's not the answer.

- All right. Thank you, sir.

- Yes, you're welcome. Thank you.

- Mr. Mirkes.

- Good evening, everyone. I just wanted to add a number of comments. I really wanted mainly to speak on a positive vibe. That's taking place in the Main Street district and some of the flexibility that requires to welcome businesses to our districts. Over the past five years, about 70 residential units have gone up or soon to including 20 on this site and 23 just down the street at the historic Whitney School. And in addition townhomes, so about 70 residential units, businesses of this nature are the type that we would like to welcome. And there's strong, straight visibility. We believe that this would be an attraction to business development and residential development. Upon hearing that EMS and the public works department did not have issues as of last week's meeting. Those things contributed to our hopes that we would be able to work with a new entrepreneur coming to this site and taking what is now a vacant property, vacant commercial space and bringing in an active business in strong demand. It's our hope that a way would be identified to proceed with the project.

- All right. Thank you. Paul, did you have any explanations or clarification you wanted to make before I toss this over to the rest of the board?

- Just want to the distinction that this also came before the planning commission, it was really kind of a use issue for the planning commission to consider. They also had to come to obviously to the board for the dimensional issue, but they're operating concurrently, I guess. And I think one's almost kind of dependent they're dependent on each other. So just wanted to let you know that we went to the planning commission first. So the planning commission could consider the use so to speak by possibly considering approval of the CUP, but one of those conditions was if it comes to the board. So again, that final approval would be considered tomorrow.

- One of the issues Paul, that according to the ordinance was supposed to have been addressed in the conditional use permit was site design shall accommodate a logical and safe vehicle and pedestrian circulation pattern. So my question is to what extent did that occur at the planning commission level?

- Right, there's been quite a bit of discussion about the traffic circulation on site, just to remind the board, the staff did not recommend approval of this request. We recommended denial based on two of the outstanding issues that were part of the conditional use permit review. It was the planning commission's choice, to approve it with two conditions.

- Okay. Did, the planning commission have somebody from fire, the fire department there? I thought that I heard you had mentioned that that had been included.

- Right, so initially our staff person reached out to the, our city traffic engineer and to the fire Marshall and we got initial comments from them. One of the conditions of the planning commission's approval was that we get concurrence from the Green Bay Metro Fire department. They did not object to the request and that they do not object to that. And that is attached within your packet.

- Okay. Did they have an affirmative approval? I have not read the packet. I read the packet that I got in email but I have not read the county clerk thing yet.

- I think it was more or less a non objection, I don't want to read into their comments, but I mean, that's how I viewed the response.

- Okay did you say that you were on the planning commission? Did you have any comments to make?

- Can you hear me?

- Yes.

- Okay, sorry about that. I'm in my car. Yes, I'm on the planning commission. Paul, I know one of the conditions was pawn approval from the fire department, basically wanted to make sure that they didn't have issue with that. I think it was specifically with that section where there was very limited space in between the two buildings as far as like if there were an issue, if there were an emergency issue, the fire department didn't have any concerns about their EMS vehicles attending to that area. Did the fire department say anything about that specifically?

- Yeah. Let me just go back and clarify. So there were two conditions that the planning commission considered before approval. The first one was no objection from the Green Bay Fire Chief regarding EMS and fire service. The second was approval from the zoning and planning board of appeals for the variants requesting, eliminating the need for an emergency exit lane. So today we received just before noon from Captain Joe Gabe. These are his words. I had our EMS operations, Chief Ryan Gibbons look at the proposed drive-through plan. And he does not have any issues with the lane being used as a drive-through lane. So that is their statement or their response to the condition that the planning commission was looking at.

- There's also the upload. I don't know if the board has seen it, but it's different than the packet, but if you go to the civic clerk website, there's an attached letter from the fire chief. I'm not sure if everybody can see that. It wasn't in our original packet. It was attached to it.

- And that was my problem too. I did have not checked the civic clerk site. I just looked at what I originally got.

- Do you want me to read it real quick?

- Yeah, I will. I will while I listen to some other discussion, but I do have did all their person have anything.

- No, I cut her off. It's my fault.

- That's fine. So when we were discussing this, definitely one of the conditions was it needed to pass zoning board of appeals, but also one of the main issues was had to do EMS services. Because I think when the initial information came through from the fire department, they had spoken specifically about, there wouldn't be an issue with getting firetrucks in there, but the commissioners were also concerned with specifically EMS services and being able and seeing whether or not there was an issue there. So that was the second condition. It doesn't sound like they've object to it. So, yeah. So I completely understand where, 900 Cedar Street is coming from, and that is definitely, it's a smaller area than what we're normally used to for drive-throughs. But here we're trying to make something work with what you know, with what we have.

- Great.
- still support it.
- Okay, thank you.
- Can I interject? Can I say something?
- Not quite yet. I'll get to you.
- All right, okay.
- I'm trying to get everybody's opinions out here first. alderman Scannell did you have any comments to make?
- Yes, thank you. Sorry, I'm a little late.
- That's all right.
- Started at 6:30 I support the project. I understand David's concerns, but I think, we have an urban setting and so we're going to have to make some adjustments to make things work in an urban setting. And I think it's a good plan. I think it takes into account a lot of the issues that people were concerned about and address them successfully. And I think anytime we can, especially during these COVID-19 times encourage businesses and especially local businesses, I'm really supporting that very strongly these days. I think there's a lot of businesses that are struggling. There's a lot of businesses that aren't gonna make it and to have one startup and during these times is just really fantastic and a local business. I think if you look at it and if you look at our downtown and if you look at a lot of the apartment complexes, they have retail on their bottom, but a lot of that has gone unfilled for a long, long time. It's not easy to fill those spaces. And so now we have an opportunity to do that. And I just think if we can address all the concerns that were raised and we have, then I think I'm all for making an exception, which in an urban setting, it doesn't surprise me. We're going to be needing to make exceptions for businesses because it's different from the further out, we're all packed tight together and we're going to just have to make things work so--
- Great.
- I support you.
- Okay, thank you sir.
- Mr. Bartikofsky did you have a reply?
- You're muted right now David.
- Mr. Bartikofsky you're muted.
- All right, there you go.
- There you go.
- All right. The EMS, the fire department and such, and the traffic department, I don't think is work privilege to the new information I brought. That my property line goes from up to my building now two and a half feet out to the walkway easement to almost nine feet of space now. And I don't think that was, was shared with anybody that couldn't have possibly been because I submitted that to Paul this afternoon.

- Okay. So that needs to be taken in consideration here. It's not the plan they're looking at.
- Yeah, well. We, will take that into consideration. it's up to the planning commission if they have further chances to kick the cat on this.
- Okay.
- Paul, one question before I turn it over to the rest of the board for comments. If we have a property line two and a half feet out from 900's building, is there then a setback that has to be observed by 901?
- No, not in this case, it's a downtown one district, much like the commercial districts, there really is no setback when you're adjacent to other downtown zoning or commercial districts. So, there is really no setback in this particular district.
- Okay. Okay, I have some strong feelings on this, but I want to turn it over to the board to ask questions of the applicant or Paul or anybody else.
- Real quick, Don sorry. I think Garritt was raising his hand and then did alderman Steuer have anything that you wanted to add about this? Or was he here for the other--
- I'm here for the other, but I'm also here for this as well.
- Okay.
- Garritt had his hand raised.
- Go ahead, Mr. Bader.
- There are gonna be memes rammed about how much time was lost for people finding the unmute button before they talk on Zoom meetings. I'll tell you what I can reserve a wait I was hearing that there maybe some questions of me. I'll wait as it's all incorporated in some of those answers.
- All right.
- Thank you.
- All right. And I do not want to forget Mr. Steuer but I was going to leave him towards the end after we've had some further discussion. So Jim, Greg, Noel, Tommy, go ahead and ask questions, Noel.
- Mr. Chairman, I just want to disclose that I work for a company that owns a coffee shop about a block away from this location. And as such, I think I probably am conflicted in terms of deliberating on this matter.
- Right
- And would ask to excused from discussion.
- Very good. You are recused. we don't have Tom on. So we will be voting with four tonight.
- Mr. Chairman, I've discovered I also have a conflict based on the people in volunteer. So, I need to recuse myself as well.

- Okay, very good. We are down to three. That is sufficient. So, it's Greg and Noel not participating in the discussion. Tommy and Jim and I, I guess are the ones that, have the roles here. So, let me turn it over to Tommy and Jim, while I go try to find that civic clerk stuff.

- Jim, do you want to go first?

- Sure I've got a simple question of what is the distance between the two buildings? I'm a little bit confused with the new data with the property line, but what's the physical distance between the two buildings?

- I believe it to be 13 feet.

- 13 Feet. And apparently I'm at 900 Cedar Street. That property line was found to be how far away from that building?

- It's difficult to read, but I believe it's about two and a half feet maximum.

- Okay. So, we got 11 and a half feet, I'm just doing this to get it clear in my head. 11 and a half feet then from the property line to the other building.

- Probably 10 and a half feet.

- Yeah 10 and a half.

- 10 and a half. See, that's why I like to talk out loud. So, my math gets checked 10 and a half feet. Now there is a question of the pathway that was established long ago. And there's a, I guess in my mind the question of does it still exist? If the laws is, this stays for 40 years or whatever. So, that pathway then would cut two feet into that 10 and a half feet theoretically? Is that right? Or where is this four foot wide pathway? On the property line?

- I believe it's either side of the property line, yes.

- Okay. So, is it centered on the property line or is it somewhere in between?

- I think it's very close to being centered.

- Okay.

- It's a shared responsibility between those joining property owners.

- Okay. And this is an old, old access way, and is it in question if it still exists or does it exist?

- I guess the staff, we can't speak to that directly. Our concern would be this is new information, we can't verify it, it would really take a land surveyor assistance to help us understand those circumstances or having the property owners reach out to their professionals to provide guidance.

- Okay. Well, that's good to know. And so in my mind, I'm thinking we have kind of a gray area here. We're gonna be asked to make, and we have numbers that are gray. Okay. So it's making it harder for me to see what's actually being asked for by this applicant. I don't know exactly. I know the basic concept of what's being asked for, but with all the different angles that people are coming at this with was safety and physical-ness and vibration and all that. There's a lot of things that just are still gray. And I'm just throwing that out as a thought. So, hey Tommy what do you have?

- No, I concur. I know it seems like Garritt wants to speak to what you're saying. And so I'd be happy to hear comments because to me obviously the access, I appreciate the presentation, everything, a lot of the measurements of single lane use driveways as were pointed out, had space on either side for access and such. Does the building being there have an issue and to see that fire doesn't have an issue with it. And if you read their comments, not the one that, sorry Paul, but there's a different version of that letter. That's up on civic clerk that gives more specifics as to why fire is okay with it. Like it starts to alleviate the safety concern for me, but then I go, "Okay, is there more of a, "Did they know that there was two and a half less feet "When they were writing that email?" And is that relevant? And I don't know the answer to that question. Garritt seems like he wants to speak to Jim and I his kind of thoughts.

- Go ahead.

- Thank you. If I can write just a little bit of color in both of those. So keep in mind again. That footpath easement cause it's part of my title work that was done with this property. So I have it in front of me right now and I'll quote from it. If the committee will humor me, it was agreed that easement of rights of foot passageway, only be grant over a strip of land four feet wide between the buildings that assumed of course. So there we had a building that was only four feet away from it, Which will two feet of the north 65 feet. And the north two feet of the south 90 feet. Now, not going too much in the weeds of legal ease, but that is two feet north of the property line two feet south of property line. I'm happy to provide that to folks too, if they want to see it. Keep in mind also that whether or not the foot passageway is still in existence. And I would argue that it's not, though we could get a legal opinion on that. I'm fine with that it does not preclude someone from paving up to the property line. So from my site civil plans, it's 11.2 feet to the property line. And I'll just one clarification. And speaking with Mr. Bartikofsky in the past the property line is not right on his building. I mean it is, he's not wrong. It's two unchanged feet or so away from it. I have those civil engineering plans that there was no dispute about that. But again, there's 11.2 feet from my building to the property line. So even if you want to argue that the foot path is in effect again, I would say it's not even if it is. That means I only had to reserve two feet from that property line south towards my building and not be obstructed. It can be paid, there can be a vehicle, two feet away from that. It does not fly in the face of what the easement is. So I would argue again, when you look at 11.2 feet that I can hypothetically pay from building edge to property line, the fact that parking stalls nine feet in width and the orange cars is eight feet in width and that drive-through lane we looked at was 10 feet in width, however you wanna look at those different dimensions. There is room for a page single drive lane.

- Okay.

- Cause there's like, I'm trying to compartmentalize. There's a lot of things going back. Oh, does David want to speak to what he just said? Are we allowed to do that Mr. Chair?

- You can go Tommy and then I'll get to Mr. Bartikofsky.

- Okay. You know, I'm trying to break apart. There's a lot of knots here. One safety is probably the biggest concern for this variance in terms of why it was written fire. I think very specifically addresses their concern and I'm not sure yet, but they were basically saying if they, you know, if it was parked cars, that's different than people in their cars, they can clear the area, get to the buildings, different sizes, exit people out with their cars. So they seem to think that that being in between two buildings with the access on either side seems to not be an issue. So to me, safety seems to not be an issue if they're, you know, I have to defer to them versus me trying to think, I know what safety is, you know, the dimensions of an actual drive-through lane. I don't know Paul, is there an actual ordinance that says a drive-through lane needs to be a certain width? And anywhere regardless of the side lane thing, the actual width of a drive-through lane.

- I, don't believe the code specifies one, but nine feet is probably bare minimum. You might see them between 10 and 12 or wider plus an emergency lane just for sheer convenience. Again, with the narrowness having a

larger vehicle, trying to enter and leave that space could be challenging, but there's not a dimension in the code that I'm aware of.

- And I was looking online while people were doing the thing and 10 to 12 feet is in all these different states, it says 10 to 12 feet, 10 to 12 feet. So we're in that. And to Garritt's point, the two feet of walking still fits within his property lines. What makes me the most uncomfortable and I think we've been in these situations before and now as a one of three votes is I like to see, a more amicable solution between property owners, because ultimately they're the ones stuck dealing with this, you know, and some sort of solution or compromise or some conversation happening between you know, "Hey, how is this going to work between the two people?" And it seems like there's still brand new information coming out that is relevance or certain discussions. I can appreciate the pressing need of development and getting something in there. I'm being a small business owner myself in downtown. You want to see those buildings filled, but what you don't also want to see is have building owners, in conflict with each other right out of the gate for me. And so, there's this potential feeling for me is their willingness to have maybe a deferment for a month to get more conversation going about potential longterm solutions or is it never going to be compromised? And ultimately, we're never going to agree. And so whether we decide today or a month from now, we're in the same spot and we're delaying just making a tough decision so that I'd like to hear a little bit on the board's thoughts on some of that.

- Okay, and Mr. Bartikofsky had the floor for a bit there.

- I just want to say that, if Mr. Bader is so concerned about the economy, he's literally putting a coffee shop that's about 300 feet away. The Attic, which is diagonally across the street. It's hard for me to believe that they're not here in against this as a business, a thriving business. They've been in business for quite a while. So not apples to apples here, with these single lanes. These single lanes drive-throughs have have no structures, 12 feet away. They just don't. I can't think of one in town that does.

- Yeah, we understand that. I do want to ask Mr. alderman's Scannell. If he's got a comment here.

- Yes, thank you. I'd like to comment about the Attic. Actually, I don't see this as a conflict at all. What you want to do is you want to drive business to an area and this will drive business to an area and their model is different from the Attic. What their menu is different, their whole model of how they're operating is different. And if you will see in areas where several restaurants will be clustered together, it's because it generates people to that area. And that those restaurants aren't really competing with each other, they're dragging business to an area and they all share in that sort of arising, you know, water lifts every boat. So, I don't really see this as being competitive against the Attic. I don't think it's going to hurt it at all. I think they'll compliment each other and help each other. The more people we can start bringing downtown for every reason possible. I think the more business all these everyone will have.

- Okay.

- Just wanted to throw that in.

- I've just got one more comment.

- Yes.

- I one more comment. I have been instrumental in bringing business to the Green Bay area for over 20 years now. I own the building over at 159 North Broadway, which is Prohibition Spirits. I have this building here, which has the photography studio on the second floor, residential apartment, and on the first floor Sage a nonprofit art organization. So, I'm very aware of business. I've been, self-employed almost all my life. But let's not, I don't want to throw this out there. I want to stay with the facts here that we've now we've reduced this space even smaller than it was. And I want to make sure we all understand that.

- We understand. I have some questions. Paul it was asserted somewhere here. I believe even by that this bypass lane is an emergency bypass lane. Is that the way it's understood? And is that considered part of the intent of the ordinance?

- That's the way it's termed in the zoning code, emergency bypass lane.

- Okay. Now I would like to offer to Jim and Tommy, the question that has not satisfied in my mind as to whether we have a threshold here for meeting a hardship that is not simply an economic hardship, I guess that's where I'm struggling right now. I don't see how the the applicant has argued in any other fashion than that the board is supposed to recognize the emergency situation and essentially bail out the economics of his building. And I'm troubled by the fact that it seems to me that this is ends up being based totally on economy. And that seems to be something that we've tried to avoid in the past.

- Yeah my thought on that, and I concur on that. It's difficult, we deal with this on personal properties all the time is that we take the individual use out of the equation. We focus on the actual property for the next 100 years. Cause that exception lives with that not the property owner, but the property itself. And to me, that's where you have to have, we've been directed to kind of focus on the hardship. And so yes, COVID is devastating many businesses including mine. And so I hear that, I applaud that. Am I taking that into consideration right now? Not a lot of weight going in there. What I see the ordinance. And I think there's, I do think there's a, an interesting point to be made that I think we've dealt with in the past meetings and going into last meeting is sometimes ordinances are written with certain intent and they need to be looked at or adapted or adjusted based on different landscapes. And I do think the applicant has made a good case in terms of urban development versus suburban development. And I do think a lot of times those things are in conflict and we deal with a lot of that stuff with individual personal properties, with houses that were built in 1922, that just don't make any sense nowadays. And we take those concepts into consideration when people are trying to develop and use their land in modern day situations. And so I do think there's an element to a conversation about, is there an ordinance adjustment that needs to be had ultimately for me, I go, you know, safety, is there a safety concern? And I, to be genuinely honest in looking at it before I had the comments from the fire chief, I was like, "Oh no, no way." There is no way this is going to be signed off on in terms of approval only to then log in to civic clerk tonight. Cause I was reading the agenda earlier to see that the fire chief and his battalion, they all sat down and they looked at it and they said, "We have no issue from a safety perspective." That kind of took that away for me and made me more willing to look at this as a hardship. I don't know if that makes sense, not the economic hardship, but the hardship of being able to develop the property to be used for modern day businesses.

- Jim, do you have any thoughts on this?

- Well, looking at the geometry and that's why I was asking specific questions. It looks like there's only a difference of from 10.5 to 11.2 feet. So that puts a kind of generally in the same realm of what the pavement was maybe from the building and the edge of the pavement. And the hardship I see on this is the geometry hardship of someone wanting to have a drive-through and only having that space. And it seems like the discussion to this point has been concerned about the safety issues and the other issues, the closeness of the building and that type of thing, which address the fact that can this work as a single lane and then with Tommy's discussion about this day and age, I think, whereas drive up is probably more appropriate for this year that we're living. Is it going to continue on? I think there is probably a possibility yeah. The need for be prolonged after this year. So, in my mind, I see a physical hardship for this type of a, and we're kind of form fitting this use for this property

- Sorry, I apologize I thought you were done.

- Well, the thing that kind of rifles me a little bit is the neighbor didn't know about this ahead of time. I think if there would have been ample time ahead, there could have been maybe things worked out. But I think the fact

that the neighbor was not notified of the public meetings did not play well into this whole situation. So I just want to make note of that.

- One of the other things that we sometimes require like especially on our newer application that we should be launching soon is list alternative options that have been explored and why those don't work. And so I wanted to ask Garritt, knowing that there's a lot of roadblocks for this singular use that you've been proposing, that you are currently proposing. Have you looked at, I mean, you're a commercial developer, you understand kind of how things work. Are there alternative options that you've looked at that say, "Well, maybe not the most desirable, "But we could make this business work in this way."

- I mean, there are many in a case like this many folks that you look at and have heard from and have approached me, you look at the dynamics of what those folks need what they're asking for what we can provide. And it's marginally different today. That's for sure.

- Are there any other designs in terms of location of drive-through, for example, it seems to me that if we eliminate the menu board and maybe the developer works on alternative innovative solutions where people are using apps, to order instead using a menu board. Anything like that, that have eliminated certain things that have made a lot of this just kind of go away in terms of where we're at, Have not been explored or thought about.

- Yes, it's actually something that I talked to Seth about and talked about the feasibility of doing that in the, I hate to put this away, but trying to skirt code or so, or trying to get through something without having to do a process like this. But I also think it's just realistic to be understanding and aware of how the world operates and could something like that, conceivably operate? It's possible. I mean, I would hold a menu board would not be end all be all that makes something good or bad. But it's realistic on the type of operation that customers have that or have come to expect that part of the experience of people.

- Are there any other drive-through locations without going through the alley, that would make sense from a traffic and flow perspective? So that then the alley is completely avoided altogether, or just no, you need that. Do you need that level of .

- There's no way. On this building there's simply not. The way that it wouldn't be possible. And I would also argue, Randy had brought up a little bit ago about some of the other buildings where they've had issues filling the ground floor also. I think it's just a reality of, where if you have a place to do it, it makes sense to be able to offer that to make it, as achievable or cast as wide in that as possible. Further that other property, an alleyway under construction across to you, and they're right up against our building and they're making it work. It's simply something I think that it's be more expected going forward. That people would need and want this in this day and age.

- Okay, thanks. Don what are your thoughts?

- I'm opposed. And I am opposed because of the economic threshold. I'm just very troubled by us using an economic hardship as a basis for us granting a variance in this situation, we have a clear ordinance in front of us. I have not seen sufficient hardship presented in a non economic way that enables me to satisfy that threshold.

- Yeah, even with the fire chief, I mean in theory applying the concept of that ordinance is there, I don't know if you agree with that. It's for safety emergency and emergency people are looking at it saying, "We have no problem with this."

- Well, they have no problem with it, with the terms under which they've had it presented to them. We don't know what kind of drive-through usage this could have in the future. It may be a different type of tenant altogether. And in that case, it's a different ball game to have that much activity, that much driving going on

through an area that I don't believe was ever considered as a possible use of that alleyway between those two buildings. Clearly there was an intention to have a walkway through there and to the extent that that's still valid or not, it doesn't matter to me, but that was the intended use. Granted that was probably a 100 years ago, but that building next to it is also a 100 years old. And I'm, I guess there's a number of things that bother me here. There's also the whole notion that we have a health issue before us that is affecting the way the board of appeals should consider granting of variances. We don't have a situation where the applicant believes that his health or the health of his tenants needs to be affected by some sort of ordinance. It's his economic benefit that is being affected here. And he's using the situation of an epidemic to be the catalyst for the concern. I guess, for a number of reasons, Tommy, that's my justification. But if the two of you are generally of different thought then I think we should call a vote and be done.

- Yeah.

- But before we do, I had promised Mr. Steuer a chance to talk towards the end. So I'll let him weigh in at this point now that you've heard all of the discussion.

- Well, thank you Chair. I did have a chance to sit through the planning commission meeting as well. It was quite a lengthy and you're aware that the planning staff did not want it, but the up planning commission passed it. Now it goes to city council. And I guess that's one of the questions I had. I was going to ask Paul, I mean, depending on what happens with the vote here, how will that affect our vote tomorrow night? There any many thought on that?

- I suppose if the board grant approval tonight. That would be in their favor, I guess. I don't know that would impact the council's decision necessarily.

- Well, many times when you have decisions to make like this you know, you normally have a little more time, so I just want to bring that forward. I was gonna ask Garritt during the planning commission meeting, excuse me. During planning commission we were talking about the business that will be coming in, but the name of the owner was not brought forward. And I presume because if it's not approved, I bring the name of who would be, what businesses would be would come into play. And I guess that I just wanted you to mention your thought on that.

- Right, it's local ownership. They prefer to remain confidential until they know that these can be improved.

- Right, I understand that I just needed to hear it. And I guess what guarantee is there? I mean, you talked about this, this for Garritt you were talking about. There shouldn't be a crush of customers coming through, depending on who the business is. If it's a local business, maybe they won't do as much business as a Hardee's or a McDonald's, but what kind of guarantee is there with something like that? You can speculate that, well, from 9:00 to 11:00, it will be busy, it won't be busy this time. And I think you need to take, I think you need to take into account Mr. Bartikofsky business as far as the three or four businesses that are there. I think it's important, at least how that might affect his business as well. So I guess that I'm just throwing it out to you as well.

- There's no you know, many things Mark you can't guarantee the life of course maybe we would want a business to be successful. Of course, there's kind of a sweet spot like many things where you almost want them to be too successful. I think data shows that it will be respectful. It's not a destination per se. It's a quick service and people are out. In terms of proposed hours, it's 6:00 or 7:00 a.m. not sure yet until 2:00 p.m. It's not an all day thing. It's not a 24 hour thing, very limited hours.

- Okay, I do want to mention too that, I have voted over the nine years. I've been on council on several projects that Garritt has had, and also that David has had. And I've supported them on a number of other business ventures. So this is kind of difficult. I wanted to ask David the offices and the windows and all that, that are close to that alley or right on the alley. What kind of effect do you feel that that would specifically

have on those businesses? You mentioned vibration this, that, and the other thing, but what, what else, your worst case scenario.

- I think they're not considering the air quality with cars that are in line. Emitting exhaust between two buildings, windows that are open smelling all of this, the vibration. The building was built in 1892. It's been restored inside, but has not. I'm just starting to start tuckpointing on the outside. The whole building. Each face of the building is \$10,000 to tuckpoint. So it's a \$40,000 project. It's just the area's much too small for this. I have a, on the second floor, like I said, I have a tenant on the second floor. You're going to start traveling through there at six o'clock in the morning. This is an old building, so it's not that it's not built like newer buildings today with all the soundproofing and things of that nature. I mean, all of this has to, there's gotta be consideration in all of this. You really have to think about the impact this has on my building and my tenants.

- Well, I probably speak to a few more things, but, I was looking at the width of a car or the width of a truck, fire truck that had to come through. I don't think it would, you know, hopefully it would go on either end of that alley. I mean, there's just a lot of, kind of what if questions. I think the plan that Garritt brought forward with him is very innovative, very interesting, but I also as well, so I'm on the fence on this as well. I'm doing a lot of research on this. I will have my say at a council tomorrow night, but I can't fully support it at this time and I can't fully deny it, but I will say that I will look at this very, very carefully and I'm not totally in favor of it at this moment. Something may change accordingly but right now that's where I'm at.

- I'd like to check with Paul again, kind of the same question, alderman Steuer had, but let me put it a different way. It seems like the question is being called before the board one step too soon. If we deny it, there's no point in the council considering it, unless they ask. And yet the concerns that at least I have would be addressed specifically by the council, if they were to approve this. Then essentially we have these little qualifications in the ordinance regarding parking on packer day. I can see where there could be some sort of exception or sense of the council that would put us in a much better place than having us make a decision essentially tonight. Also, I don't think it's right. I, hate to say that I want to punt Paul, but I'm looking at you to wonder if the order is wrong here, or if there's reason to put the question before the more appropriate people before us.

- You can certainly punt. And I did not do a very good job of answering alderman Steuer's question initially. So the condition from the planning commission was approval of this from the zoning and planning board of appeals for the variance request, eliminating the need for an emergency lane. If you deny the request, I think the request the council fails because they did not obtain the approval. If you do recommend approval, then some of the council can move ahead and consider the request because one of those conditions was met. These two requests are kind of tethered together between a couple of different committees. Again, I would have some concern that there's new evidence that has come forward, and I'm not sure how the council will react to that. And I'm not sure how the planning commission would have reacted to that if that would have influenced their decision or not. So you can do any number of different things, I guess. And punting is certainly one of them, I guess it depends on your comfort level. And again, what you've seen from a hardship perspective.

- Tommy and Jim, how do you feel on that?

- What I was angling a little bit earlier on that, I mean, it seems to me like notification of public hearings, new information being proposed after the planning commission vote. There's obviously a lot of engagement from many stakeholders in the community. I think all of us can agree whether it was David or Garritt. We want economic development, we want businesses to move, but we just want it to do it in the right way. And would a month of us waiting, would there be more information, more conversations, more council involvement, more really looking at the information, getting less grey numbers is as Jim was alluding to earlier and getting some more detailed. This is specifically what we're talking about. That puts us in a much more objective position. Here are the facts. This is what we're approving. And right now it seems to me we're in the middle of, three or four knots. And it to me is it's happening very quickly. And I feel that I would be in a better

position to think about this. Knowing there's been more conversation between the developers, the council is onboard with understanding what's involved with the actual pieces, everything that's going on and now it's, "Okay, cool. We're ready to go. "We just need approval for a variance." And to me, that puts me in a much better position than I feel that I'm in currently.

- Jim, did you have a comment on that?

- I agree with Tommy and you regarding the question in front of us. So it makes sense to me that we would hold this until next meeting to make a decision.

- Okay, alderman Steuer you had a

- Well things are changing by the second here. Thanks Chair. I was going to ask Garritt is there like any other project, what kind of time sensitivity you have on this? I mean, it's like anything else, when you get a plan going and blah, blah, all the different developers and different things that have come into play, site plans, all that stuff. What are you, what kind of time sensitivity do we have here?

- There's not a matter of rush here Mark. The work would likely be next spring.

- Okay.

- So it's not like we're, many cases is try to pour concrete here in the fall, before it gets too chilly. But I would remind the committee and Paul and and Dave Buck on this too. We talked about, it's a little bit of a chicken or egg situation. Planning commission had to do their part board needs to do their part and this similar discussion, came up actually during planning commission where it was, you know, which way should go first. And it's my commission to here was the more logical step. So while I have no problem, if there's a desire to pause or have more conversations, I guess, believe me wondering what and from whom or from what committees is the conversation desired?

- Let me introduce a mea culpa for our board, for the benefit of the older people that are on. We try to do our job. When we, you know, we're here to make sure that the commerce flows smoothly, ordinarily, I would not want to punt this back in a situation like this and say, "Sorry, council, we can't figure it out. "We need some sort of sense from you." However, the council is already going to have to do some consideration on this. So we're not exactly saving you from the discussion that you're probably going to have to have anyway. So in this situation, I would rather have us not be the point people and potentially act for the board. I would rather have, for the council. I'd rather have the council make this decision first, or at least to have this discussion first and then have us put this off for another 30 days. In 30 days when we meet again, we would have an idea of what the council heard and what the sense perhaps of the various alderman's comments were. At this point, we only have an ordinance in front of us and our own thoughts on how well the arguments have been presented.

- Go ahead, Mr. Steuer

- Thank you Chair. Well, maybe I'm missing something here, but you know, if you do not vote on this tonight and then it goes to tomorrow and it's approved then it would seem like a moot point for you folks, unless I'm missing something here.

- No.

- I think there's a conditional approval. So the condition, one of the con--

- You would still need us.

- Right.

- Okay.

- You would still need an approval. Here's what I'm worried about alderman Steuer I haven't done a head count yet. I'm worried that we might end up two to one against, in which case everything is settled for better or for worse. And it's for the worst part that I don't want our board in a position of having to judge economics, health and safety with COVID, potential dangers of fire department or EMS, or all of these types of things are kind of out of our purview. And yet they're throwing in our lap at this point. If we make a decision tonight.

- I can't disagree with you, but the other alders that are here might agree that we have had many, many decisions or things that we've had to deal with locally that we normally might not have had to lately. I mean, there's been a lot thrown at us locally, so I'm not saying that as an excuse, but I'm just saying that, we've had a lot of hard decisions as well, so we're just looking for direction a little bit and that's it.

- Alderman's Scannell.

- Yes, thank you. I think what we would like to see from the council end is we're going to kind of actually lean on you. And, as, I mean, you're in the nuts and bolts and we expect actually kind of lean into your expertise. And so if there's something you need specifically from us and you need more time to get something specifically from us, something specifically from the developers, I don't think that's a problem. Fortunately, we got the time to do that and it'd be good if there'd be something specific you would need from us. Because what we really would be doing is if you deny this, I don't know that we'd be pulling it and going against your, what I'm going to say, expertise. I think for me, the issue here is we have an ordinance and you're the ones who deal with the ordinances. Where the rubber meets the road. You're really dealing with it. We don't have so much at the council. We'd be looking to you if you said this ordinance has problems. These are the problems we see. These are some possible solutions and then toss it up to us as we will then work out the policy issues. But other than that, I don't know that we would pull this in sort of, kind of do, take the place of your commission, where we would say, this is what we what am I saying here? I guess we would be willing to, I think we can help you with anything you need, but we need you to help us come to a final conclusion. Does that make sense?

- Yeah.

- Okay.

- Tommy, you had your hand up.

- Well, I just wanted to say we do have a lot of aldermen on the phone or on the call. And I think this is a perfect example of sometimes, what we deal with as a board is that we have ordinances and we were talking about this aboard separate for all of this. We have ordinance that come through that maybe need to be looked at, and that may be need to be evaluated, suburban ordinances, urban development, all these different things. And I think Garritt brings up great points. And I think David would agree to that with even prohibition, certain developments that he's had, you kinda have to look at them and go, "Okay, does this parking, all these different things "Do they work in the downtown structure?" And so sometimes we're putting decisions to make decisions for property owners, and we're not elected officials. We're not elected by the community to say, "Oh, this is what you can or can't do." Based on an ordinance that we go, "Ooh, does that even work anymore?" And so I think it's, while you're on here, I think it's a great reminder that that rent, that idea that you just said is exactly the to be having is like, "Hey, we're in a spot where we have an ordinance." It doesn't necessarily make a lot of sense here. What is the counsel's opinion on this ordinance since you along with the planning commission, all the different people involved, write the ordinances. And so I just, that's a good call out while we've got people engaged to say, "We're in this situation a lot." Whether it's a driveway expansion in an older home, or it's all over the city, there's all these different places. And we don't want to be the one that is

creating these cookie cutter solutions through the whole, the little, whole city. So it's a great line of communication between the alderman and us to have, "Hey, here's a problem spot. "We should look at this." And we should maybe see if we can advance the city of Green Bay to look at ordinances and say, "Okay, cool. "Maybe they should be developed in a more modern age." And that's all, it's just a comment on the broader relationship between the two.

- Tommy and Jim, excuse me

- I'm just thinking, and that dialogue would be great. I think if you give us the problem and your input on the problem, I mean, you know, the details, I think then the council's got something to work with

- Right.

- And you can get that back and forth. Yeah.

- Cool. Sorry .

- Tommy and Jim, do you believe you have, you're ready to take a vote tonight?

- Well, between the, I guess for a month, I can vote on that one. But, again. I see, like you said there's almost a cart before the horse here, because if we vote two against it, it fails and then buy with a conditional approval that fails. And so that's failed. If we vote two positive and then new information comes out tomorrow or whatever, during the discussion publicly that may have swayed one of those two positive votes another way, then I think we're put in a hard position here and I don't see an issue with us waiting a month that overrides my concern of that issue.

- I would motion to table for one month for more discussion and more information also to hear from counsel and then take it back up a month from now.

- I second.

- We have a motion before us made and seconded to delay our consideration on this for 30 days. All in favor.

- Aye.

- Aye.

- Done.

- Okay, thank you.

- All right, we'll move on to the next item.

- Thank you all, we'll keep working.

- Thank you.

- Noel and Greg, you can come back now. The next one is we'll consider the item two, which is the property that Mrs Fettig has on Northern Avenue for us Paul.

- Yes thank you Mr. Chair. This is a request for a variance at 310 Northern Avenue, the property is highlighted here. It's a single family neighborhood, low density residential. The property under here has kind of horse traded some property with the adjoining owner. So, somebody's lot lines have changed. They're both kind of

substandard lots. So it's really just kind of a lot line adjustment to benefit both property owners. Maybe the owner or applicant can speak better to that change of lot lines. But the request simply is an additional driveway expansion here to the North, through the existing driveway and garage. The only issue here believe it or not is simply the impervious coverage in the RI District. There was a 50/50 mix, 50% maximum impervious coverage. And they're proposed to be over that level. Or they may currently be over that level at this point.

- So that's the only concern, right? Is the impervious coverage, which may or may not be already violated.

- Correct, right.

- No setback problems as it's been presented to you. And as you understand the lot lines.

- Right, I believe there was a survey that was pending. That was recently filed. Again, the property owner would have to address that, but I believe it's been the lot lines had been adjusted to accommodate the expanded driveway.

- I traded nine feet off my lead. If you can look at that picture, I have nine feet of property between the neighbor on the corner and the neighbor diagonal to me. Nine feet of useless land to me. And I've had this since I bought the property, okay. Where's the Go back one more picture, please.

- Open the floor.

- Okay, right here. That's 9.125 feet that I have owned out to Division Street since I bought the place. one old lady Pat lived there, but she never wanted to trade, but the new guy did. So we traded this land for nine feet here. So I could put an extended driveway in because right now it's hard. I can't get in my garage. If I have a second car in the driveway, I have to constantly be moving cars around. And if I could just put up nine foot addition here of a driveway, then we could just pull in and get out of the way.

- Mr. Chairman I move to open the floor to comments unless we did that at the top of the meeting.

- We did at the top of the meeting, yes. So the floor remains open.

- Okay, sorry.

- So Ms. Fettig fence that we see here is not on the new property line.

- No, no. The new property line is nine feet over here.

- Okay, all right. So that explains why there's not a concern about setbacks. And that explains why you saw an opportunity to improve the situation that you're dealing with.

- Right.

- Okay. I guess at this point, we don't know if that's all copacetic and approved and gone through the county and whatever. Official readjustments have to be made.

- Oh, they are. At least I've paid for it all to be done. They filed it a couple of weeks ago. Well, they filed it three weeks ago. As far as I know, I've got the new deed. I mean, they sent me a new deed.

- We will condition any variants that we put on this. Than on the assumption that that has been done, alderman Steuer did you have any comment on this? Well, first I'd like to apologize to Katie for sitting in that long agenda item one. We could've switched that around. So, I owe you one Katie, I apologize.

- Okay.

- I did stop by your house today, I stopped by and looked at the property. So I now wanna let you know that. I talked to Paul Neumeyer as well today and there didn't seem to be a whole lot of issue with it. I think the conditional use would be a good point, just to make sure that the correct paperwork is in play. Looking at the property it seemed like it was an okay use to extend that. I mean, I'm fine with this. I think the swap was fine. I just want to make sure the paperwork is in line, but I support it.

- Okay, how do I make sure the paperwork is in line?

- Well, I'll let the committee--

- exactly what you mean by that.

- Well, no, it's, I think I'm going Carlson said.

- We'll just--

- The map doesn't reflect the changes that you've done. And we need to make sure that the maps get updated to match what you've done in terms of land.

- There you go. Thanks, Noel.

- So when you come in for a permit, we're gonna make sure to validate it at that time. Verify it at that time.

- When I do what?

- You'll need a building permit to do the expansion and we'll have to verify the dimensions--

- I got a conditional approval building permit. So, okay what do I have to do to get a regular building permit, then?

- Well, if the board approves it tonight then you'll have to correspond with our building inspector about getting a permit on that and we'll have to verify the lot lines at that time.

- Oh, okay. Wow. Okay, I can do that.

- I have no problem with this guys. But I'll let Noel and Greg and Jimmy--

- I think both the land swap and the work is making the best of a very small parcel and it's kind of outside the norm and I think that's the characteristic that's trying to be addressed here.

- Right.

- Okay.

- One of my questions that I had when I read this in the packet preview prior to the meeting where some of the dimensions weren't exact. So I was concerned about lot lines and setbacks, and sometimes we're talking about curved, driveways, this one kind of juts out, but it seems like Paul, all those are acceptable based on everything you're looking at. And the proposed it's literally just the impervious surface. Do we know? Cause normally there's like a sheet attached that tells us, Oh, it's 65 to 35. We don't have that

- I would have a 42% green space. And what is this 58%

- Impervious
- 58%, yeah whatever that word is.
- Okay.
- Impervious. So for me, it's a vote in favor, especially cause the person I was concerned about was the neighbor and they're the ones swapping.
- Right
- Right.
- Thing, so the conditional use would be definitely conditional on the approval of the actual swaps.
- Is that emotion, Tommy?
- I don't know if we wanted to hear from Jim or, but yes. I mean I can motion and we got two votes.
- I would vote in favor too.
- All right, motion to approve. Sorry, Jim.
- I think what Noel was angling for was a nice succinct summary and a precise diction on the, on the motion regarding conditions .
- Oh, sorry. I'll let Noel motion. Cause he's really good at those stipulations. So Noel you've got it.
- I was sick with COVID for a month guys. My brain's still kind of fuzzy. No, I guess I'm moved to approve subject to confirmation that the exchange of land has been finalized.
- I second.
- Very good. We have a motion made and seconded, that the variance be granted as it's been explained to us with the stipulation that all the property line exchanges have been ratified all in favor.
- Aye.
- Aye.
- Aye.
- Aye.
- Opposed? I think it's five zero You've got your variance. Thank you very much.
- Okay, thank you.
- Thank you for your patience
- Now, what do I actually have to do to get a permit?

- contact our office. If you've been working with an inspector, I'd reach out to that inspector and--
- Chad. Is Chad an inspector?
- Well, unfortunately Chad is no longer with the city. I'd have you talk to Pete O'Connor in our office. He can help you.
- He quit over this?
- He had another opportunity
- Okay, Pete O'Connor. Okay.
- Pete O'Connor will be your contact. Yep.
- Okay. Thank you.
- Sure.
- Are you an entertainer Katie? Cause I'm ready.
- I could be if that's what it takes I'll tell you..
- All right folks--
- Thank you.
- It's been a long night. I think we have to do two things. We have to close the floor.
- So moved.
- Say that again.
- All in favor to close the floor.
- Aye.
- Aye.
- Okay. Now we need to talk about whether there's any informational items that Paul wants to bring up with us.
- I can leave.
- You can leave.
- You can leave.
- Thank you ma'am.
- Yeah, just real quickly I want to bring up one thing here. I think there was a request. The last meeting that we kind of put together a spreadsheet of item activity throughout the year, so to speak. So I'd like to take a lot of credit for this, but I can't just basically had this already done. I added two columns to the right, which were the

historic district and the flood plain. So, we've already been tracking these, but we should make these available to the board members. So I've kinda got them broken up by quarters here and we can do that every three months. If you want to see them every month, we can certainly do that. But this should be in a PDF document within the civic clerk as an attachment. So you're welcome to come take a look at that and we can certainly add to this. We can modify it as necessary, but I thought this was a good start. So, Jesse's already been on this tracking these already.

- Okay, excellent.

- Can I ask a quick question, Paul? Is that for this year only? I mean, can you go back in time or are we just starting fresh with this?

- I think we can go back in time. I'm not sure how far. I think Jesse May have been doing this for some time, but I'm not sure how long.

- I don't know if there something that a board would, any type of information or spreadsheets or that the board can have as well council I think is very important.

- Yeah, that was the attention intention here alderman Steuer was that for our benefit and for you to try to highlight and explain issues that repeatedly come up, that we have to deal with that type of thing. So I think what you've got here, Paul and Jesse is great. I want to look at it further and if we can go back further, maybe Jesse can tell us how much work that's going to be. Tommy, you have a comment.

- No, no, no, yeah, no. I was looking at my pen, but yes. Thank you. Cause it's something I've been talking about for awhile. I think this is great. And I'm glad we have an alderman on the phone because you're exactly right. This is data that we can provide back to them. They can look at their district, I would even see, is it possible to be an attachment as a spreadsheet? I know it goes in the packet as a PDF, but some sort of way. So they could data store so they could see, their own individual district and they can see, "Oh, this is what's going on in my district "For the last year." And then the other idea would be, is there a way to broadly categorize what the item is in a column to say, driveway or parking or it needs 16 pages of explanation or whatever. You know what I mean? But to be able to categorize them so quickly, I could sort District 5 and I can see, Oh in the last year I had five driveways and I had 10 parking issues. Oh, I've got some issues in my district and I need to be thinking. And that to me is where it starts to be really powerful.

- Yeah, I agree.

- One of the problems I think that's a great point, Tommy. But I think one of the problems we've had in the past is certain committees don't report out to council. So we don't always get the information. I think that we need from your committee or from the sustainability or maybe we do from them. There's a couple of different groups that are committees that we don't get information from. So any transparency I think is very important here. So I agree with Paul.

- Thank you. Great job. Jessica.

- Maybe Paul, we should what the committee, what the board should do is look at what Jesse's put together. But then in the meantime, Jesse can comment on how much extra work is involved with going back two years and also then to Tommy's other suggestion that it stay in, excuse me, XL form. So it can be sorted different ways.

- Sure, we can look into that.

- Great job though. It's good progress.

- I think we need a motion to adjourn.
- So moved.
- Second
- Great, we have a motion made and seconded before my voice goes all in favor.
- Aye.
- Aye.
- Aye.
- Aye. We're done gentlemen. Thank you very much.
- Good to see you all.
- Thank you, have a good night.
- Noel, I meant Noel. No, he left.
- [Woman] That was fun.