

A regular meeting of the Landmarks Commission, City of Cedarburg, Wisconsin, was held Thursday, July 11, 2024 at Cedarburg City Hall, W63 N645 Washington Avenue, Council Chambers.

The meeting was called to order by Vice-Chairperson James Pape at 8:30 a.m.

Roll Call: Present –Vice Chairperson James Pape, Tomi Fay Forbes, Elizabeth Krimmel, Doug Yip

Excused – Chairman Tom Kubala, Council Member Kristin Burkart

Also Present – City Planner Mary Censky, Building Inspector Jeff Thoma, Ann & Greg Denk, Theresa Hanaman, Sarah Bares, Gordon Goggin, Jason Tish from the Wisconsin Historical Society

STATEMENT OF PUBLIC NOTICE

Vice-Chairperson Pape acknowledged that the agenda for this meeting was posted and distributed in compliance with the Wisconsin Open Meetings Law.

APPROVAL OF MINUTES

Motion made by Commissioner Yip and seconded by Commissioner Krimmel to approve the minutes of the June 27, 2024 meeting. Motion carried without a negative vote. Tom Kubala and Kristin Burkart excused.

COMMENTS AND SUGGESTIONS FROM CITIZENS

Gordon Goggin stated that he recently heard a presentation in West Bend by Elizabeth Hilton, the National Coordinator for the State Historical Society. When she was asked if an individual is required to restore their property, she stated the answer is “no.” Mr. Goggin cited an example where Mr. Cudahy had purchased a historic property. On that property only a 4’ by 4’ section of the original building remained, but it was still a listed building. He was citing the strain on some property owners to rebuild a building back to its original condition.

REGULAR BUSINESS

**PRESENTATION FROM THE WISCONSIN HISTORICAL SOCIETY TO DISCUSS
WHAT CAN AND CANNOT BE DONE TO A PROPERTY WITHOUT JEOPARDIZING
ITS STATUS.**

Cedarburg is a destination for an historic downtown.

The local preservation code is different from the national register.

Mr. Tish went through Cedarburg's code. He stated that Cedarburg has an unusual situation in that our code that relates to the Landmarks Commission is embedded in our zoning code. He noted some inconsistencies in our code.

The three components of an effective local historic preservation ordinance are:

- 1) a criteria for designation
- 2) standards are stated for alterations and new construction
- 3) the establishment of a Landmarks Commission which reviews the properties and applies the standards

Section 2-4-10 – Landmarks Commission

This section of the code establishes the Landmarks Commission and gives it powers and duties. This standard meets the requirement needed to be designated a **CLG** - certified local government.

Section 13-1-55-B-3 Business District

This section established the downtown business area, adopting it to preserve the historical character of the business district. A major portion of the district is designated a Historic Preservation District. Work within that district requires the approval and a certificate of appropriateness by both the Landmarks Commission and the Plan Commission.

Section 13-1-70 – HPD Historic Preservation Overlay District

This section speaks to the constitutionality of the local codes. This was challenged in front of the Supreme Court in the 1960s and SCOTUS allowed local codes to protect properties as long as it is to the benefit of the local community.

Mr. Tish assumes there is a process for a property to be nominated. A property is presented to the Landmarks Commission, then a recommendation is made to the Plan Commission, which has the authority to designate the property. He stated this is typical and a good way to handle nominations. The Landmarks Commission ensures that the property meets the criteria for nomination.

The criteria listed on 13-1-70 section (2), a., b., c., d., are typical criteria and good criteria. Mr. Tish did state that Cedarburg does not have a criterion that would allow us to designate an archeological site. That is particularly common near a body of water. Cedarburg may want to consider that addition.

Section (o) Limitation on structural or appearance changes: Statements a., b., c., d. give the Landmarks Commission the authority to review and approve proposed alterations once a building is designated.

Mr. Tish stated that our ordinance does not give the Landmarks Commission the authority to review proposed alterations and grant certificates of appropriateness independent of the Plan Commission. He stated we should be able to do that. We are required to have quasi-judicial power. Here we are in violation of the code for a CLG. Landmarks Commission should not issue a certificate of appropriateness that would allow alterations that would destroy or impair the character of the HPD district – (o) (b.)

Section 15-1-14 Requirements for restoration and/or rehabilitation....

This section gives far more detailed standards as to the kinds of alterations permitted. They are very detailed, with good standards. An issue that is not addressed in the ordinance is a system for appeals and penalties. Mr. Tish does not see an appeal process to the Landmarks Commission. The process should be defined. The decision of the Landmarks Commission can be appealed to the City Council. It is up to the local government to define how that works. He also did not see any penalties for not complying. Without penalties, the code is voluntary. If the appeal to the Council is not satisfying to the petitioner, he can take it to court.

DISCUSSION

Commissioner Krimmel: Would decertification of a building by our Commission affect the status of the building? *Response:* It would only affect the owners' ability to apply for COG grant funding and partnership with the state office.

Commissioner Pape: How is the façade easement program implemented? What are the steps and benefits for our community? *Response:* That is not a program run by the state office. It is a voluntary program the property owner can enter. The façade easement stays with the property when it is transferred from one party to another, it is not attached to an individual. There are tax benefits for façade easements.

Planer Censky: How do our regulations relate to a state-level review? We go through a process of evaluation – the state still evaluates based on their own criteria, as will the Department of the

Interior. What is the distinction – if the state is not as restrictive as we are – does our Commission still have authority? *Response:* The state office reviews the alterations to make sure they meet the standards. That is a separate program from the local code, which operates separately from the national standards.

When Cedarburg's standards are stricter, we can enforce those standards. A grant can meet state standards, but the building does not meet Cedarburg's standards. Cedarburg does not need to grant a Certificate of Appropriateness even if the state agrees to a grant on the same project.

Commissioner Pape: We tend to rely on historical photographs when we are doing rehabilitation. Is that a leg to stand on for us? *Response:* Yes, if that is in our ordinance, which he saw, then we have a leg to stand on. The City Council approved the ordinance.

Commissioner Krimmel: If the Landmarks Commission denies a Certificate of Appropriateness to plans, would the applicant also have been denied a tax credit? *Response:* The tax credit denial hinges only on the decision of the state division, not the local.

Gordon Goggin: Can a building owner opt out of being a designated building in the historical district? *Response by Planner Censky:* This would be seen as spot zoning. The city does not allow properties to opt out of the zoning code. Every property in the city has an assigned zoning code, and some have two if they are in the historical property overlay.

Mr. Tish recommends we not regulate paint colors; it sounds petty and can reinforce the reputation of the Landmarks Commission that they are petty. However, the roof, windows and siding are aspects that define the character of a building.

Gordon Goggin: Can I be forced, as a building owner, to spend money on something I don't want to spend money on? *Response by Planner Censky:* Yes, we can enforce at the local level, even with respect to paint color.

Ann Denk: Please define maintenance versus restoration. *Response:* There is a lot of overlap. For instance, repairing siding versus replacing siding. Maintenance is work intended to repair or replace any part of any improvement, to correct any deterioration or decay of or any damage to such improvement or any part thereof and to restore same, as nearly as practicable, to its condition prior to the occurrence of such deterioration, decay or damage. Restoration is the process of bringing a property back to its original or unimpaired state. Authenticity of a restoration would require the removal of incompatible exterior elements and the repair or replacement of damaged or deteriorated elements with exact replicas of the same design, dimensions, and materials.

Jeff Thoma: For a tax credit project, the state office looks at the plans to see if they meet the standards, but then what is the follow-up after the project is completed? *Response:* Sometimes conditions are put on the project. After the work is completed, the petitioner submits paperwork and photos so the office can check to see if the work was completed according to the standards. If it is a large project an inspector might visit the site in person.

Planner Censky stated that after 12 months, any Certificates of Appropriateness issued but not executed are void and the petitioner must come before the Landmarks Commission again.

In conclusion we may want to create a handbook that explains the standards clearly to the community, pulling together all the items in the various areas of Cedarburg's code that relate to the work of the Landmarks Commission. This would offer consistency to the community. Design guidelines that are visually enhanced are helpful. Mr. Tish stated that there are 80 CLGs, and many of them have used CLG grant funding to develop such guidelines.

ADJOURNMENT

A motion was made by Commissioner Yip, seconded by Commissioner Krimmel, to adjourn the meeting at 9:50 a.m. Motion carried without a negative vote. Tom Kubala and Kristin Burkart excused.

Tomi Fay Forbes
Secretary