

**Official Minutes
City of Niagara Falls Planning Board
12-29-21**

A regular meeting of the City of Niagara Falls Planning Board was held on Wednesday, December 29th at 6:00PM in Council Chambers, City Hall, 745 Main Street, Niagara Falls, NY.

CALL TO ORDER & ROLL CALL

BOARD MEMBERS PRESENT:

Chairperson Tony Palmer
Schurron Cowart
Ryan Dallavia
Joseph Giaquinto
Charles MacDougall
Timothy Polka
Joyce Williams

STAFF PRESENT:

Eric Cooper, Director of Planning
Grace Celik, Planner 2/HPS
Chris Mazur, Corporation Counsel
Sarina Deacon, Planning Clerk

BOARD MEMBERS EXCUSED:

Joseph Sarkees
Michael Murphy

ATTENDEES PRESENT:

Councilperson Spanbauer
Andrew Warne
Todd Salansky
Eric Winstanley

CHAIRPERSON PALMER called the meeting to order at 6:03PM.
Roll was called and a quorum was present.

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA – FOR THIS MEETING

A motion to approve the agenda was made by MR. POLKA and seconded by MR. MACDOUGALL

Motion: UNANIMOUSLY APPROVED

PUBLIC PARTICIPATION

APPROVAL OF MINUTES FROM 12-08-2021

A motion to approve the meeting minutes from 12-08-2021 was made by MS. COWART and seconded by MR. POLKA

Motion: UNANIMOUSLY APPROVED

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ACTION ITEMS

1. Recommendation to City Council - Encroachment Request: Ulrich Sign Co. for Yorio Joshua, owner of property at 8735 Buffalo Avenue, is requesting an encroachment agreement to place a building mounted sign within the Right of Way.

Andrew Warne, the owner of Ulrich Sign Co., spoke on behalf of the property owner Mr. Yorio Joshua. MR. WARNE requested permission to install a double sided projecting wall sign on the front elevation of the property. MR. WARNE passed around a blown up photo of the sign with details for the board members to look at. MR. WARNE stated that the sign itself would be consistent with other signs in the neighborhood. MR. WARNE stated that there were signs across the street of the property that were projecting off the buildings even more so then the 8735 property sign would be. MR. WARNE stated that there is an awning underneath the sign that would be projecting out onto the sidewalk further than the sign. MR. WARNE stated that the sign would be professionally created and installed and would enhance the look of the property and look good in the neighborhood.

MR. GIAQUINTO asked if the sign would be illuminated. MR. WARNE stated the sign would be illuminated with white LED lights.

CHAIRPERSON PALMER asked if MR. WARNE had read over the conditions. MR. WARNE stated he had not read the conditions. MS. DEACON confirmed the conditions were emailed to MR. WARNE. CHAIRPERSON PALMER asked if MR. WARNE agreed to the conditions.

MS. WILLIAMS asked if MR. WARNE could accept the conditions on behalf of MR. JOSHUA. CHAIRPERSON PALMER stated that since MR. WARNE was representing the owner, he could accept the conditions on his behalf.

MR. WARNE asked for clarification on Condition Six...

“6. Revoke: The City can revoke the permission for the encroachment on three (3) months’ notice.”

MR. COOPER stated that the sixth condition was mandatory for all encroachment requests.

MR. MAZUR confirmed that MR. COOPER was correct. MR. MAZUR confirmed that since the sign was encroaching on city property, the city had the right to revoke the permission for encroachment if not all conditions were met.

MR. WARNE asked if the sixth condition would be prior to obtaining the building permit for the sign.

MR. MAZUR stated again that MR. COOPER clarified that the sixth condition was standard for all encroachment requests. MR. MAZUR stated that the city has the right to remove the sign but wouldn't as long as there were no issues. MR. COOPER stated the city would obtain its right to the Right of Way.

MR. POLKA stated that technically, the awning was way past the sign.

MR. WARNE stated that he approved all of the conditions.

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A motion to recommend an approval for the encroachment request was made, with the conditions, with the conditions, by MR. POLKA and seconded by MS. WILLIAMS.

POLLED VOTE:

MS. COWART	Yes
MR. DALLAVIA	Yes
MR. GIAQUINTO	Yes
MR. MACDOUGALL	Yes
MR. POLKA	Yes
MS. WILLIAMS	Yes
CHAIRPERSON PALMER	Yes

2. Recommendation to City Council – Zoning Amendment: Pursuant to Zoning Ordinance Chapter 1302.4.2.C, Planning Board shall consider a recommendation regarding Niagara Falls City Council Resolution 2021-50, Relative to Amending City of Niagara Falls Zoning Ordinance and Schedule 8 Zoning Map in furtherance of regulation of Solar Energy Systems

MR. GIAQUINTO asked if the ordinance had been approved by the County Planning Board.

MR. COOPER stated it was.

MR. COOPER stated that the Planning Board members could refer to the packet that was created and sent out to them. MR. COOPER stated the packet included the minutes from the Public Hearing, comments received from outside of the Public Hearing, how the ordinance conforms to the comprehensive plan. MR. COOPER stated that the packet could be changed based on the Planning Board's decision.

A motion to recommend an approval was made by MR. GIAQUINTO and seconded by MS. COWART.

POLLED VOTE:

MS. COWART	Yes
MR. DALLAVIA	Yes
MR. GIAQUINTO	Yes
MR. MACDOUGALL	Yes
MR. POLKA	Yes
MS. WILLIAMS	Yes
CHAIRPERSON PALMER	Yes

3. Recommendation to City Council – Zoning Amendment: Pursuant to Zoning Ordinance Chapter 1302.4.2.C, Planning Board shall consider a recommendation regarding Niagara Falls City Council Resolution 2021-34, Relative to amendment of City of Niagara Falls Zoning Ordinance Chapter 1328.13 Short Term Rental Units

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MS. WILLIAMS asked if was to add the Short Term Rental to the designated areas. CHAIRPERSON PALMER stated that was correct.

MR. GIAQUINTO asked if the ordinance had been approved by the County Planning Board. CHAIRPERSON PALMER stated it was.

MR. GIAQUINTO stated that he had read the minutes from the 12-08-21 meeting.

MR. POLKA stated that the ordinance was well written.

MR. DALLAVIA asked to clarify that a lot of the complaints from AirBnB owners was that the ordinance was going to wreck their businesses. MR. DALLAVIA wanted to clarify that all the Air BnB owners that had a license were grandfathered into the ordinance? MS. WILLIAMS asked if the owners were grandfathered in for a year?

MR. MAZUR replied that the owners were grandfathered in for as long as they owned the property. MR. POLKA stated as long as the owners have an operating permit. MR. MAZUR confirmed yes. MR. MAZUR stated if the owner transfers the property ownership then it is no longer grandfathered in. MR. POLKA stated if someone had followed the instructions correctly to receive their permit, they would be grandfathered in.

MR. GIAQUINTO stated that the ordinance was more than fair.

CHAIRPERSON PALMER then opened the floor to the audience members and asked them to keep their comments under three minutes.

Todd Salansky, on behalf of his wife Marina Salansky, spoke. He stated that her property is owned by AMARINKA, LLC and is located at 2758 LaSalle Avenue. He confirmed that the Niagara County Planning Board recommended the approval of the ordinance. He stated that notice was not given to any of the AirBnB hosts. He stated that the ordinance was approved with no input from the AirBnB owners. He stated a very similar ordinance was not passed in 2020. He stated the Niagara Falls Planning Board had the power to make recommendations, make adjustments and to help. MR. SALANSKY stated his wife's property was purchased in March 2021. He stated he received his Zoning Board Approval on April 20th, 2021. He stated he had received his Architect Letter and paid his fees. He stated the city had said he was okay to operate. He said that "technically" operators were okay if they had their license.

MR. SALANSKY stated the transferability of property was an issue. He stated he received his permit September 16th, 2021. He stated that the ordinance that the Planning Board was voting on, stated that Short Term Rental Units that are not located within the geographical area described in this section shall not be permitted to operate in less they are in possession of the current Special Permit issued prior to July 28th, 2021.

MR. COOPER wanted to confirm that MR. SALANSKY received his Zoning Board Approval on April 20th, 2021. MR. SALANSKY stated he did but he did not receive his Special Permit until September 16th, 2021. He stated he had made this clear to the City Council.

He motioned to COUNCILMEMBER SPANBAUER, who was in the audience, and stated that he had made it clear to COUNCILMEMBER SPANBAUER in September that he had his permit and that the

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ordinance did not allow him to have the permit. He stated COUNCILMEMBER SPANBAUER told him to not worry about it. He stated that COUNCILMEMBER SPANBAUER had told him to not worry about it 10 minutes before the 12-29 Planning Board Meeting.

COUNCILMEMBER SPANBAUER spoke from the audience and stated that MR. SALANSKY was mixing his words up. COUNCILMEMBER SPANBAUER stated he had told MR. SALANSKY that he was unsure of the situation, he did not know what he needed and MR. SALANSKY needed to speak to the Planning Board about it.

MR. SALANSKY stated that section D2 of the ordinance specifically states... *"Unless they are in possession of a current Special Permit, issued prior to July 28th, 2021..."*

MR. SALANSKY stated he was not in possession of a Special Permit.

He again stated the issue of transferability. He stated that the property was owned by his wife and his wife's corporation. He stated that if his wife were to pass, they would no longer own the property. He stated that they purchased the property as an investment and that it was their full-time career. He was very concerned about the issue of transferability.

He stated that one million dollars was required in liability insurance. He asked where in any other ordinance that the city has ever issued, states that the city must be provided proof of liability insurance.

He stated that if a property can sleep up to more than 8 people, the property owner needed to own a city issued garbage can. He stated that the city issued garbage can was another fee.

MR. SALANSKY stated that his wife was a partial property owner at a house near Memorial in the zone. He stated it was a 5 bedroom property and they were able to get by with one garbage can during their busy season.

MR. SALANSKY asked why the city issued garbage can fee was in the ordinance.

MR. SALANSKY asked the board members to listen to the concerns of the citizens at the 12-08 meeting and the ones present with him today.

MR. SALANSKY stated he did not feel the ordinance was good.

MR. SALANSKY then stated he had tried to locate the owner of the property next to his wife's property on Memorial one thousand times. He stated it would be difficult to provide proof of notice to the property owner to Code Enforcement. He stated he had real estate agents reach out to the property owner. He stated he looked up the property owner on OARS. He stated he had spoken to the former property manager. MR. SALANSKY asked why there was a rule about contacting neighboring properties in the ordinance. MR. SALANSKY stated that when a person received a STR permit in the City of Buffalo, the city adds that person to their agenda meeting and the agenda is mailed out to every person 500 feet within the STR. MR. SALANSKY asked why it was his responsibility to reach out to the neighboring property owners.

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MR. SALANSKY stated he had helped create policies for different industries in New York State. He stated he had worked on a STR ordinance in Buffalo with their city council. MR. SALANSKY stated the ordinance was anti-business and it was directly written to hurt the little guy.

MR. SALANSKY stated he was trying to invest in the Niagara Falls community. He stated that the Planning Board has the power to address some things in the ordinance and those changes should be made before sending the ordinance to Niagara Falls City Council for adjustments. MR. SALANSKY stated he believes the rules are written to harm the people.

CHAIRPERSON PALMER asked if anyone else in the audience wanted to speak regarding STR.

CHAIRPERSON PALMER asked MR. MAZUR if the July date could be changed in the ordinance. MR. MAZUR replied the ordinance was drafted in conjunction with the moratorium language and that was why the July date was chosen. MR. MAZUR stated if anyone did not have a Special Permit until that point, they would need to adhere to the new criteria.

CHAIRPERSON PALMER asked where that left MR. SALANSKY. MR. MAZUR asked if MR. SALANSKY had purchased the property last year. MR. SALANSKY replied the property had been purchased in March 2021. MR. SALANSKY stated he had received his permit on April 20th, 2021. He stated he had filled out all the paperwork and spoke with Code Enforcement. He stated he received his Architect Letter. He stated the moratorium went into effect. He stated that City Council changed the moratorium to allow those in process of receiving their permit to complete it. He stated he spoke up in June 2021 and that he was having struggles with completing the process with Code Enforcement. He stated the City Council told him he did not pay his fees. MR. SALANSKY stated he then sent canceled checks to every member in City Council so say there was some sort of “run around” that he had been given. MR. SALANSKY stated the run around continued until he spoke up about the issue. MR. SALANSKY stated he had to call the Active Electric Inspector directly to inspect the property that was purchased. He stated it seemed that the city was creating obstacles so he could not receive his Special Use Permit.

MR. COOPER asked if he could see MR. SALANSKY’s two permit documents. MR. COOPER examined the documents.

MR. COOPER stated the Special Permit was issued in April 2021. MR. COOPER stated the other document was a Certificate of Compliance for a Building Permit. MR. COOPER confirmed that MR. SALANSKY had a Special Permit. MR. SALANSKY asked if the Zoning Board Special Permit, dated April 20th 2021, qualified.

CHAIRPERSON PALMER said yes.

CHAIRPERSON PALMER stated that the Inspections granted occupancy in September but the Special Permit for MR. SALANSKY went into effect in April 2021. CHAIRPERSON PALMER asked MR. MAZUR and MR. COOPER if he was correct. MR. COOPER and MR. MAZUR replied yes.

CHAIRPERSON PALMER stated that MR. SALANSKY was in the July parameters.

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MR. SALANSKY stated that he had another issue with the insurance, transferability and refuse. MR. POLKA asked if MR. SALANSKY could use a Death Certificate to show for transferability.

MR. MAZUR stated that the current ordinance reads that the permits are not transferable. He stated that the only difference was that MR. SALANSKY's property was outside the proposed zone. He said if the property was transferred to someone else, it wouldn't be eligible. MR. MAZUR stated the City Council would have the ability to re-investigate the zone every year.

CHAIRPERSON PALMER stated that wouldn't change the issue of transferability. He stated that City Council could change boundaries but that did not fix the issue of transferability.

MR. MAZUR said the property could be transferred if it was a long-term rental under the current ordinance. MR. POLKA again brought up using the Death Certificate of a spouse. MR. MAZUR stated an attorney would have to be spoken to about that.

MR. POLKA stated as for the garbage can issue, he owned two household units and he paid the city the fee for the second garbage can. MR. SALANSKY asked why he was being forced to have two garbage cans at his property. MR. SALANSKY stated again that he believed there was a lot that needed to be fixed in the ordinance.

MR. MAZUR stated that the ordinance was drafted with comments from the public and any issues that were brought up, City Council made sure to look into them. He stated one of the issues that was brought up was the accumulation of trash at some of the STRs and that was why an additional garbage can was added in.

MR. DALLAVIA stated that MR. SALANSKY's property was not a single family home since it could sleep upwards of 5 people. He stated that having the extra garbage can was a safeguard. MR. SALANSKY stated that as long as the refuse is being maintained, there shouldn't be an additional garbage can needed as a requirement.

MR. MAZUR stated that concerning MR. SALANSKY's issue with insurance, he reminded MR. SALANSKY that he was operating a business out of the property and that was why additional insurance was needed. He stated that insurance was required in most ordinances around the country.

MR. GIAQUINTO stated the insurance was there to protect MR. SALANSKY and his neighbors near the property. MR. SALANSKY asked if the city was going to have a file with his property with his certificate of insurance. MR. MAZUR stated the city would have a file on everybody who has to license and do anything with the ordinance.

MR. COOPER stated that once a person starts an application, a file is created. MR. SALANSKY stated that the Federal government can enforce insurance but local government cannot. MR. DALLAVIA stated that nearly every business is required to have insurance to work in the city. MR. MAZUR agreed with MR. DALLAVIA.

CHAIRPERSON PALMER asked if anyone else wished to speak.

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MR. COOPER noted on page six of the Short Term Rental packet, one thing needed to be added to the Findings Section. He stated the City Council held a public input session earlier in the year.

A motion to recommend an approval was made by MS. WILLIAMS and seconded by MR. GIAQUINTO.

POLLED VOTE:

MS. COWART	Yes
MR. DALLAVIA	Yes
MR. GIAQUINTO	Yes
MR. MACDOUGALL	Yes
MR. POLKA	Yes
MS. WILLIAMS	Yes
CHAIRPERSON PALMER	No

OLD BUSINESS:

1. Clarification of Action taken at September 22, 2021 meeting regarding Disposal of City Owned Property. Typographical error in decision sheet.

MR. COOPER stated the addresses listed on the action sheet, 456 4th Street and 460 4th Street, should have been 456 6th Street and 460 6th Street. He stated the addresses were correct on the owner's application but they were listed incorrectly on the Planning Board Agenda for 09-22-2021 and on the decision sheet.

MR. COOPER asked if an action had to be made. CHAIRPERSON PALMER stated the decision sheet would have to be re-done and would need his signature. He stated a re-vote was not needed. CHAIRPERSON PALMER stated the new decision sheet had to show the corrected addresses for City Council.

MR. COOPER stated he would get those materials to CHAIRPERSON PALMER.

2. Planning Board 2022 Meeting Schedule: Reschedule due to conflict on 4/6/2022

MR. COOPER stated City Council would be having a meeting on 4/6/2022 and that was cause for a reschedule. MR. COOPER suggested changing the date to 4/5/2022.

CHAIRPERSON PALMER stated they could address that date as it came closer.

CHAIRPERSON PALMER stated to leave the date as 4/6/2022 and the board could address the date later in the year.

MRS. CELIK stated that the City Clerk's office denied the Planning Board 2022 Schedule because of the conflict with City Council.

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MR. MAZUR stated if the Planning Board approved the schedule at the last meeting, the board would have to make a motion to approve the amended schedule.

MR. POLKA stated the board should vote on the date and switch it.

CHAIRPERSON PALMER stated they could change it as the date came closer.

MR. COOPER stated they would have to correct the date to either 4/5 or 4/7 and then have the schedule approved by the Clerk's office.

CHAIRPERSON PALMER stated to remove the date of 4/6/2022 from the schedule.

MR. MAZUR suggested to strike the date from the schedule.

MR. COOPER suggested putting TBD for the meeting date in April.

MS. WILLIAMS stated the date should be struck from the meeting schedule.

CHAIRPERSON PALMER stated technically City Council had first choice of dates.

CHAIRPERSON PALMER regulated to leave the date as TBD and a decision would be made in March on whether or not there would be a meeting.

MS. CELIK stated she made the schedule. She stated the Planning Board approved the schedule. She stated the City Clerk's office denied the schedule based on the one date. She stated the schedule had to be sent back to the Planning Board to decide what they wanted to do about the date.

MR. COOPER asked for a motion for that change.

A motion was made to amend the 2022 Planning Board Meeting Schedule was made by MR. GIAQUINTO and seconded by MR. DALLAVIA.

POLLED VOTE:

MS. COWART	Yes
MR. DALLAVIA	Yes
MR. GIAQUINTO	Yes
MR. MACDOUGALL	Yes
MR. POLKA	Yes
MS. WILLIAMS	Yes
CHAIRPERSON PALMER	Yes

NEW BUSINESS:

PLANNING REPORT:

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MS. CELIK prepared the following statement to update the Planning Board members on current projects...

1. Bird Electric Scooters

Bird micro-mobility is currently working with the Planning Department and Community Development to bring their GPS enabled electric scooters to Niagara Falls. They operate in over 100 cities worldwide and have just this past summer added an electric scooter fleet in Syracuse. In Niagara Falls, there will be one person locally running the program, which is expected to expand to about two or three local operators. The fleet will begin with 50-75 scooters, which will increase based on demand until an equilibrium is reached. The scooters will operate anywhere from 10-20 miles per hour, they are not allowed on the City's sidewalks, there will be designated parking locations in high density areas, scooters are not allowed in the NYS parks and other "no-ride zones" may be implemented. Any user on State Assistance Electronic Benefit Transfer will receive a discount of 50% off their ride. The scooters are rented via the Bird mobile app, which users will also be able to rent available Ready Bikes. You must be 18 years old to ride and users must scan their photo id into the app for proof of age. Expected start date is first week of April, however, this is weather dependent.

2. GObike

GObike has identified the Main Street intersection at Chasm Ave and Monteaegle Street as their next project location for GObike's Healthy Streets Initiative. They plan on engaging community members through surveying, canvassing and reaching out to community leaders for support. Community members will have the opportunity to give input on design preference. Their next steps for this project are: (1) scheduling data collection and necessary fieldwork for the intersection; discussing outreach approach and timeline for the project and; finalize locations for spring bicycle/pedestrian counts and speed studies locations. In addition to the intersection project, GObike will also be identifying locations for 35 new bike racks throughout the City. Expected installation date for the project is June through July.

3. Asphalt Art

Niagara Fall has been one of 26 US cities that have been awarded a \$25,000 Asphalt Art Grant from Bloomberg Philanthropies. The Niagara Falls National Heritage Area are the primary grant administrators for this project, and I am currently operating on their team as the City representative. Their team has identified three locations to implement a project that uses art and design to improve street safety, revitalize public spaces and engage residents of the community. The three locations are: (1) intersection of Main Street, Portage Rd, Pierce Ave, and the Niagara Falls Public Library; (2) intersection of 11th St, Lockport Ave, and Michigan St.; (3) 11th St and Portage. The team is currently working with Bloomberg to develop a community engagement strategy which will determine the design of the project. The project will last 3-5 years and the team plans to seek for additional funding to re-paint after lifespan has been reached. Expected installation is May through June.

4. Old Stone Chimney

The Planning Department and the Administration are currently working to finalize the proposal for the Old Stone Chimney Bid Documents. Fisher, the Architecture Studio, has requested additional funds to finish the project. This will most likely have go before City Council for approval before Administration can sign the proposal. Once the proposal is signed, Fisher will provide the bid documents in 1-2 weeks, and the City can release an RFP for the project.

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MR. COOPER clarified that the proposal will definitely need to go before City Council for approval.

MR. GIAQUINTO asked if Bird Electric Scooters were an expansion by a company on Third Street. Both MS. CELIK and MR. COOPER confirmed that Bird Electric Scooters was an entirely different company.

MS. WILLIAMS wanted clarification that the scooters were not allowed in Niagara Falls State Park. MS. CELIK confirmed and stated the scooters were also not allowed in high traffic zones.

MR. COOPER stated there could be a speed limit on the scooters and they could be geo-fenced to not operate in no ride zones. He stated the scooters were only allowed to be ridden on roads and not sidewalks.

MR. COOPER stated there was no update with the DRI project since 12-08-21. MR COOPER stated that the department was waiting for the finalization of the RFP for the Waterfront Project. MR. COOPER stated that various documents needed to be finalized for the Harriet Tubman Statue near the Niagara Falls Train Station.

MR. COOPER stated the DOT was working on designs for the LaSalle Recreational Trail. He stated a public information meeting had been tentatively scheduled for January 2022.

MR. COOPER stated there was a grant for Niagara County for Brownfield development. He stated the funding would help Phase One and Phase Two investigations of sites within the county.

MR. COOPER stated the LaSalle Business Streetscape Project bit documents needed to be finalized.

ADJOURNMENT

A motion to adjourn was made by MR. POLKA and seconded by MR. MACDOUGALL.
The meeting adjourned at 6:54PM.