

City of Colville

ZONING BOARD OF ADJUSTMENT

August 8, 2011

9:00 a.m. – City Hall

MINUTES

The Colville Zoning Board of Adjustment held a meeting on Wednesday, August 8, 2011, in the Council Room at City Hall. Chairperson Chris Montgomery called the meeting to order at 9:00 a.m. with a quorum present.

MEMBERS PRESENT: Ned Swanson, Sandra Wilma, Daron Tate, and Chris Montgomery. MEMBERS ABSENT: One vacancy exists. STAFF PRESENT: Director of Building & Planning Jim Lapinski and Assistant Planner Melinda Lee. Building Official Bob Cleaver arrived at about 9:50 a.m. OTHERS PRESENT: Gabriele VonTrapp, Bob Chipps, and Pastor Don Swanson. RECORDING SECRETARY: Susan Davis.

MINUTES FROM PREVIOUS MEETING

The minutes from the previous meeting of July 13, 2011 had been distributed to each member prior to the meeting. Sandra Wilma moved and Daron Tate seconded the motion to accept the minutes as written. Roll Call Vote: Ned Swanson – yes; Sandra Wilma – yes; Chris Montgomery – yes; Daron Tate- yes. Motion passed.

PUBLIC HEARING

Subject: Conditional Use Permit Application #3-11
Applicant: Riverwood Community School by Jenna Collins
Location: 930 S. Elm Street
Request: To allow a private, non-profit school to operate within an existing facility at the Colville Community Church, in the R-2 (Multi-Family Residential) District, pursuant to Table 17.12.070 and Chapters 17.24 and 17.84 of the Colville Zoning Ordinance

Chairman Chris Montgomery convened the scheduled public hearing to consider a request for a conditional use permit by Jenna Collins representing Riverwood Community School. The Chairman reviewed the subject and outlined the hearing procedure. The Chairman asked if any Board members had an interest in the matter being heard which would be in conflict with the appearance of fairness requirements. Ned Swanson advised that he is a member of the church and is familiar with the physical layout of the building. As a leader of Boy Scout Troop 904, sponsored by the Colville United Methodist Men, Chris Montgomery advised that the group shares the same facilities on Thursday evenings as well as other dates. He indicated they have no direct conflict or involvement with the issue to be heard. The Chairman asked if any Board members had engaged in communications with either proponents or opponents outside the hearing on the issue to be heard. Ned Swanson disclosed that he and Bob Chipps had discussed the water system that serves the kitchen and a restroom in the area sought to be used. Ned had been concerned about the hot water temperature and the potential for someone to be scalded. They felt that the hot water could be turned off to that restroom. Ned indicated he talked with Building Official Bob Cleaver about occupancy of the building and the shared uses of the facility as it relates to fire walls.

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Mr. Montgomery advised that the pastor of the church had indicated to him some level of excitement about the possibility of the school coming but no details were discussed. There were no objections from the public to any of the Board members participating in the hearing process. At this time, Chairman Montgomery opened the public hearing and requested a staff report.

Assistant Planner Melinda Lee presented the staff report, which had been distributed to each Board member and the applicant prior to the meeting (attached hereto and made a part of these minutes). Copies of the staff report were available to the public. Ms. Lee explained that Jenna Collins, representing Riverwood Community School, proposes to operate a private, non-profit school in an existing church facility, Colville Community Church, located at 930 S. Elm Street. Representative Gabriele VonTrapp was present to answer questions regarding the proposal.

As provided by Chapter 17.84, Ms. Lee explained that conditional use permits are a Type III application, which is a quasi-judicial review. They are reviewed by city departments and other applicable public agencies, which forward their comments and recommendations to the Zoning Board of Adjustment for evaluation and a determination at a public hearing. The Board may approve a conditional use permit in whole or in part, with or without conditions, based on findings of fact.

As outlined in the staff report, Ms. Lee presented the project and site review. The site contains an existing church facility, which is approximately 11,000 square feet in area. The two rooms that will be used contain 372 and 448.5 square feet. The room which will house the preschool age children (2-1/2 years and younger) has an exit door leading directly to the outside as required by code. Access to separate restroom facilities is available to both classrooms. The proposed school will initially provide classes for preschool, kindergarten, and 1st grades having a student age range from 2 to 7 years. School activities will be provided from 8:30 a.m. to 2:30 p.m., Monday through Thursday. In addition, special enrichment classes are planned for two afternoons a week and parent-child classes are planned for Friday mornings. Future plans include the addition of one grade per year up to 5th grade. Each grade will support up to 15 students with the 8:30 a.m. to 2:30 p.m. class times to include Fridays.

Based on off-street parking regulations, a total of 23 parking spaces would be required for maximum use. The proposed site has 88 available off-street parking spaces. Staff determined that the church activities are generally not conducted during the hours of the preschool. It was felt that the situation will allow the parking spaces to be used for the proposed private school and will meet all parking requirements on-site. Minimal food service including snacks will be provided. Preparation of these food items will require the use of a hot plate and portable infrared convection oven. If approved, it will be the responsibility of the applicant to meet any requirements of the NE Tri-County Health Department for food handling.

Ms. Lee advised that the City Building Official reviewed the proposal and submitted his comments related to fire safety and building codes issues. The Building Official has indicated that if and when the proposed use reaches a specific occupancy level a fire sprinkler system would become necessary. Staff feels the existing facility complies with the Americans with Disabilities Act (ADA) but the applicant would need to make sure that they provide proper ventilation for any cooking appliances.

It was noted that the subject site is currently served with City water and sewer. There is existing storm water drainage at the site. Access is provided from Oak Street and Elm Street. The site is adequately served by other utilities, solid waste disposal, fire hydrants, and emergency services.

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An environmental checklist was completed and submitted as required, pursuant to WAC 197-11. Following the review and comment period, a Determination of Nonsignificance (DNS) was issued on August 4, 2011. The SEPA checklist was distributed to applicable agencies for review and comment and no comments were received.

Public notification was provided as required by Chapter 17.112 of the Colville Zoning Ordinance. The Notice of Application/SEPA Review and Public Hearing was mailed to property owners within 300 feet of the subject property, published in the Statesman-Examiner, and posted at the site, City Hall, Courthouse, and the Library. No public comments were received.

Based on the review criteria outlined in Chapter 17.84 of the Zoning Ordinance, Ms. Lee presented the following findings for Board consideration:

PROJECT REVIEW FINDINGS:

Criteria 1: The project is consistent with the City of Colville Comprehensive Plan and meets the requirements and intent of the Colville Zoning Ordinance, including the type of land use, and the density/intensity of the development, and the protection of critical areas, if applicable.

Staff finding: The Goals and Policies in the Land Use Element of the Comprehensive Plan (Section II.G) state that we should “Manage growth to conserve and enhance environmental quality, to utilize community facilities and services in an efficient and sound manner, to coincide with modernization and provision of infrastructure, and to promote a productive economy” and “Continue Colville’s role as a service, retail, governmental, medical, and educational center”.

The proposed school will be sharing existing facilities and utilizing existing infrastructure. The establishment of a private school will benefit the local economy through the employment of staff and general operational expenses. The private school also adds support to the role Colville has as an educational center. The project will be located next to similar uses such as the college and junior high school. There were no critical environmental areas identified in the proximity of this proposal. Staff finds that the proposed project meets the described criteria.

Criteria 2: The project will not be unduly detrimental to the use of properties in the project vicinity.

Staff finding: The proposed hours of operation for the private school will vary from grade to grade; however, the general time frame will be Monday through Thursday from 8:30 a.m. to 2:30 p.m. They also propose to hold special, after-school enrichment classes and parent-child classes a few times per week. The site is located next to existing educational facilities, other churches, a city park, motel, and government offices. There is sufficient off-street parking available to be shared between the church and the private school. Staff finds that the proposed project will not be unduly detrimental to the adjacent properties therefore meeting the described criteria.

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Criteria 3: The project makes adequate provision for access and circulation, water supply, storm drainage, sanitary sewage disposal, emergency services, and environmental protection.

Staff finding: The project will be utilizing existing church facilities which have adequate access and circulation, water supply, storm drainage, sanitary sewage disposal, and emergency services. There were no environmental issues noted that required protective measures. Staff finds that the proposed project meets the described criteria.

Criteria 4: The project adequately mitigates impact identified through the SEPA review process, if applicable.

Staff finding: Upon the completion of the SEPA environmental review, a Determination of Non-Significance was issued on August 4, 2011. Staff finds that the proposed project will not require mitigation of environmental impacts.

Criteria 5: The project is beneficial to the public health, safety and welfare and is in the public interest.

Staff finding: The City building official has described actions that may become necessary as the project advances from its initial phase of development. The applicant has indicated the willingness and ability to comply with future code requirements should they become necessary. Utilizing existing infrastructure and services is an efficient use of existing facilities and is consistent with the public interest. Providing additional educational options for the community is in the public interest. Staff finds that the proposed project meets the described criteria.

RECOMMENDED DECISION AND CONDITIONS

Staff concludes that the applicant has satisfied the conditional use criteria as previously described and is recommending approval of the proposed project subject to the following conditions:

1. The applicant shall comply with the requirements of the building codes throughout all phases of the project as it develops. Failure to do so may result in the loss of the conditional use permit.
2. If the use exceeds the number of classrooms and students as is originally proposed the use may require a new or modified conditional use permit. It is the responsibility of the applicant to ensure that any such future permits are applied for.
3. This conditional use permit applies to the stated facility only and any new locations are subject a new conditional use permit.
4. If the conditional use is approved but not implemented by August 8, 2012, the permit shall expire unless the City building and planning department finds substantial reason to grant an extension.

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If sufficient reason is submitted, a written request for up to a one (1) year extension may be approved by the building and planning department following review and consideration of the request.

5. If the use authorized under an approved conditional use permit ceases or is interrupted for six (6) consecutive months or more, then a new conditional use permit will be required.

At this time, Ned Swanson questioned whether the staff had considered the fact that there are other activities going on at the church as well. For example, he pointed out there is a soup kitchen on Mondays from 11 am – 1 pm attended by 50-70 people, seniors citizens meal every other Wednesday attended by approximately 45 people, an AA meeting every Monday morning with 7-9 participants, and the blood bank on a periodic basis. Melinda Lee advised that other uses occurring at the church were not specifically evaluated by staff in its review.

Chris Montgomery questioned whether the parking calculations would need to be altered in any way in view of the other shared uses. Jim Lapinski stated that there appears to be more parking available than the school activity would require at maximum capacity. He stated that some assumptions were made that there is sufficient parking available for shared use between the church and the private school. He felt that it would be the responsibility of the property owner to coordinate the other shared uses so that they are not conflicting with one another. Ms. Lee did not feel that the parking calculations would need to be altered at this time. She stated that the parking calculations for a church are based on the primary use, which would typically be for Sunday services and possibly one day a week for large groups of people. She felt generally that takes into consideration more than 80 people.

Chairman Montgomery summarized that it appears that the Board has already resolved with the staff that other people using the facility doesn't trigger a re-evaluation of the parking standards. He stated that for the purposes of this hearing, the Board needs to look at whether or not this specific proposal meets the requirements for conditional use permit approval.

Sandra Wilma requested clarification regarding condition #2 on Page 5 of the staff report. It appeared to her that the recommendation was based on maximum capacity even though the proposal is for two classrooms at this time. She felt that the language should be more specific as it relates to the number of classrooms being approved. Staff confirmed that the recommendation is based on the applicant's future plans to expand by adding one grade per year up to 5th grade. It was pointed out any future expansion beyond what is approved would require a new conditional use permit. Ms. Wilma expressed the desire to change condition #2 at the appropriate time to say "If the use exceeds the *"maximum"* number of classrooms and students as is originally proposed the use *"will"* require a new or modified conditional use permit..."

Chris Montgomery expressed some confusion regarding the life safety code review comments outlined in a memorandum from Building Official Bob Cleaver. His questions were deferred until Mr. Cleaver could be present to answer them.

Daron Tate felt there may be a solution to resolve the water temperature concern expressed earlier by Ned Swanson. As a state licensed journeyman plumber, it was his opinion that it is possible to install a "tempering valve" in the bathroom, which would allow the hot water temperature to be cooled at that point.

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The Chairman asked if any petitions or communications had been presented on the issue being heard and there were none.

At this time Chairman Montgomery asked if the applicant would like to speak to the proposal.

Gabriele VonTrapp, Secretary of the Board of the Riverwood Community School, indicated that it is very hard to make determinations regarding enrollment because it is unknown at this time what the interest in this type of use will be. She stated they would ultimately like to reach the maximum numbers suggested in the application. She noted they are very flexible in working with the church to accommodate the activities that are there. One of the ideas that they had with the soup kitchen is to have children participate in setting up and helping set the tables as part of a community effort. Ms. VonTrapp expressed the feeling that this facility and its activities will very much be in line with the education being offered to the students.

Melinda Lee questioned whether the applicant has had any discussions with the church relative to the other activities that are occurring there and any kind of special co-ordination or considerations. Ms. VonTrapp indicated she had not had any discussions but indicated it was possible that others might have.

Pastor Don Swanson advised that they are quite flexible and are concerned that they don't encroach on the school's space requirements. He indicated the only question is whether people participating in other activities on the premises should be required to come into the building through the front doors so they wouldn't be going down the hall where the children would be.

At this point, Chairman Montgomery asked to hear from anyone wishing to speak either for or against the proposal.

Bob Chipps, Chairperson of Board of Trustees, Colville Community Church, confirmed that they are in the process of ordering the tempering valve and plan to have it installed. He expressed support for the proposed school coming to the church and felt it would be a positive direction for the church to go. He said the school has been working with other Board members and they have indicated a desire to be involved with some of the activities at the church, i.e., helping with the soup kitchen, decorating for senior meals, getting the kids involved in this process. He added that the school seems more than willing at any given time to make adjustments if necessary for funerals or weddings or anything that would encroach on the use of the church.

Pastor Don Swanson, Colville Community Church, stated he would be very pleased to have the school operate in their facility.

Due to the arrival of Building Official Bob Cleaver, Chris Montgomery asked Mr. Cleaver for clarification on comments in his memorandum regarding the requirements for a fire sprinkler system. Mr. Cleaver confirmed that if the school exceeds 5 children aged 2-1/2 years or younger, it will automatically require the fire sprinkler system. He pointed out there is an exception to the fire sprinkler system if they have an approved exit to the exterior from the room that houses the children that are 2-1/2 years of age or less. An approved exit is a 32" clear opening. Currently the door leading to the playground from the preschool classroom is only a 30" door.

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Bob Cleaver also explained that one option would be to develop a 2-hr. fire wall separation between the school use and the multi-purpose uses (blood bank, soup kitchen, etc.) and then there would be no need for the fire sprinkler system. Once the 2-hr. fire wall went in then the areas would be viewed as two distinct buildings with all openings to be 90-minute fire rated. Bob pointed out as soon the school reaches 50 occupants, the fire sprinkler system requirement would again apply.

Mr. Montgomery indicated that the Board had talked earlier about the number of people associated with other activities at the facility and asked if that would change the school's requirements at all. Bob explained that if the occupant load of the building exceeds 50 people a fire sprinkler system is required throughout unless a 2-hr. fire wall is constructed to separate the school use from the other uses. Based on the attached floor plan, Bob identified where the 2-hr. fire wall could be constructed and the 90-minute doors could be installed to achieve code compliance. He explained that a 2-hr. fire wall is a 2x4 or 2x6 wall with two (2) layers of Type "X" gypsum board on each side. The required 90-minute doors and frames are labeled doors that are UL tested assemblies.

Gabriele VonTrapp asked if the fire wall and fire sprinkler system are required because of the occupancy of the building regardless of the school or because of the school. Bob Cleaver explained that the fire wall and fire sprinkler system requirements are a result of the school use. The State of Washington has identified educational occupancies and I-4 occupancies, which would include children 2-1/2 years old or less, for special protection.

Saundra Wilma asked if there is a requirement that children under a certain age need to have access to a restroom adjoining the classroom. It was Mr. Cleaver's opinion that the children do not need direct access.

Daron Tate asked if the 2-hr. separation wall is constructed would there be a problem with using the restrooms that are on the other side of the fire wall. Bob felt that would not be a problem.

Chris Montgomery asked if the life safety requirements would change at all if the school changed its class schedule from Monday – Thursday to Tuesday – Friday to reduce the occupant load of the building on Mondays. Bob advised that it would be difficult to regulate that scenario noting that at any time an emergency meeting or some other function could cause the occupant load to exceed 50.

In response to a question from Melinda Lee, Bob Chipps advised that both groups are willing to adjust schedules to make the arrangement work. In discussions with the school class schedule changes appear to be something that could be considered if necessary because of a special event such as a funeral. He reiterated that the church is willing to work with the school to try to mitigate some of these problems.

In response to questions Bob Cleaver provided further clarification regarding the life safety code requirements. He advised under the current building code if a new church was built there would be a fire sprinkler system required. For a new church, if the building exceeds 12,000 sq. ft. in area, or if the occupant load is more than 300, a fire sprinkler system is required. A fire sprinkler system is also required for a church in a basement or on a second level. Mr. Cleaver pointed out the main difference between that scenario and the proposed school is the occupant load for a church would be 300 vs. 50 occupants for educational use.

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Chris Montgomery felt that based on the information provided it appears that the school could potentially exceed the maximum number of classrooms and students as originally proposed. Bob Cleaver commented that at the Technical Review Committee meeting the applicant explained that this was an interim setup and when they start hitting that expansion capability they would likely be looking for new facilities.

At this time, the Chairman closed the public portion of the hearing and opened it to Board discussion and voting.

The Board reviewed the suggested change to condition #2 as discussed earlier. The change would read "If the use exceeds the maximum number of classrooms and students as is originally proposed the use will require a new or modified conditional use permit. It is the responsibility of the applicant to ensure that any such future permits are applied for." There were no objections to the change.

Chris Montgomery moved that the Board approve Conditional Use Permit #3-11 and adopt the Project Review Findings #1 through #5 as written and adopt the Recommended Decision and Conditions #1 through #5, as amended above. Saundra Wilma seconded. Roll Call Vote: Saundra Wilma – yes; Chris Montgomery – yes; Daron Tate – yes. Ned Swanson – abstained. Motion passed.

COMMUNICATIONS & PUBLIC PRESENTATIONS: There were none.

OLD BUSINESS: There was no Old Business to be presented.

NEW BUSINESS: There was no New Business to be presented.

REPORTS: There were none.

ADJOURNMENT

Saundra Wilma moved and Daron Tate seconded the motion to adjourn. There were no objections and the meeting was adjourned at 10:15 a.m.