

To: Village Council
From: John Thornborough
Subject: Appeal of the Planning Commission decision regarding Denison University's application for approval of exterior site lighting of Burke Hall – Application 08-41
Date: June 18, 2008

Summary

This is an appeal of the Planning Commission's approval of brightly lighting the white exterior of Burke Hall, a modernist building within Granville's historic District. This appeal of that decision is based on the premise that 21 floodlights, including 6 aimed at the exterior walls, 4 others aimed at the entrances, and 4 aimed skyward into trees is not in keeping with the letter of the spirit of Chapter 1161.05(g) of the Planning and Zoning Code. That section of the code calls for lighting of buildings within the historic district to be either low level or screened. I request that you reverse or remand the Planning Commission's decision.

Introduction

Burke Hall is within the Architectural Review Overlay District (AROD) of the Village Institutional District. It is the regulations within the AROD that are being abused by the proposed lighting plan.

Dennis Cauchon, in his history of Granville's zoning code, wrote:

The history of Granville's architectural controls and zoning laws can be divided into four periods. Before 1950, building and land use issues were handled on an ad hoc basis. The Council was active on these issues, especially when it related to Granville's obsession with trees, but no systematic approach was taken.

In 1950, the Village introduced its first law that sought to control the look and feel of Granville. The law required merely that new structures be in harmony with what already existed. Land use issues created little conflict in the post-War period, partly because the community experienced little growth and partly because the aesthetic values of the time remained traditional.

The third period was spurred by the construction of the Columbus-to-Newark bypass. The community took a hard look at itself and where it wanted to go. Granville took the road less traveled. Community planning flourished in the 1960s, spurred by federal grants. Granville's federally subsidized Comprehensive Plan of 1964 encouraged an approach to community planning that was outside the mainstream of the time. Instead of reshaping itself around "economic development" and the conveniences of the automobile – ideas considered "progressive" at the time – community leaders decided to create a pedestrian-oriented community, focused on a village center and surrounded by agriculture.

The preservation of historic architecture was a subset of the broader conversation the community had about its future. In 1966, Granville adopted the architectural review ordinance outlined in the 1964 Comprehensive Plan. The review ordinance worked with a light hand. Compliance was voluntary. The law showed deference to individual property rights and depended on consensus and courtesy. It reflects the values of the 1950s. The 1966 law can also be seen as an experiment. The village had only recently articulated its preservation goal and had little experience about how to achieve it. The village understandably took an approach that used a minimum of control to achieve its goal.

The fourth planning period began in 1971 and continues to this day. It relies on wide-ranging, systematic, detailed rules and regulations. The zoning law is partly an outgrowth of the tumultuous 1960s that saw dramatic expansions in state regulatory power. The late 1960s and 1970s also saw a more politically active population, nationwide and in Granville. A review of Council minutes and old newspapers shows a sharp increase in Granville residents asserting themselves publicly to achieve political goals. In Granville, historic preservation was (and is) a popular political activity that enjoys broad support among old-timers and newcomers.

The construction of Burke Hall can be seen as a symbolic dividing line between two eras in historic preservation in Granville. It marked the decline in “Midwestern dissent,” an era when Horace King would criticize Burke Hall in a long Sentinel article without ever uttering its name. After Burke Hall, preservationists became more vocal – indeed, militant in many cases. The 1977 law codifies the beliefs and attitudes of this new era. It provides a well-defined legalistic system that sets boundaries for what is acceptable in the historic district and, to a lesser extent, throughout the village and township. The 1977 law has been refined over the last 30 years, all in one direction: tighter controls. The zoning code has grown from one page in 1950 to two pages in 1962 to 79 pages in 1977 to 222 pages today.

It is clear from the history and from a common-sense, plain-language reading of the code that the intent of the AROD is to preserve the look and feel of the central village – the late 19th Century, early 20th Century New England village. Indeed, in the **Purpose and Intent** section of Chapter 1159 describing the Village District this preservation stricture is clearly stated:

The old village section of Granville is a unique area comprised of residences, neighborhood businesses serving the personal, family and household needs of residents, and public and semipublic land uses. These uses are contained in structures representing a variety of architectural styles which reflect the era in which most of the village section was built. Many of these buildings are now included on the National Register of Historic Buildings. The goal of regulation in the Village District is to insure that any land use changes which occur within the District are harmonious and compatible with the appearance and the character of adjacent land uses and that such changes enhance the Village District.

Uses in the Village District are oriented toward the pedestrian rather than the automobile. Amenities such as small park areas, benches and special sidewalk treatments are encouraged. Requirements for parking and setback may be eased when it advances the overall purpose of the Village District. The preservation of existing structures which have historical and architectural significance as well as the integration of new and renovated structures with the character and appearance of existing structures in the Village District is emphasized.

To that end, Granville's Planning and Zoning Code, in Chapter 1161, requires that applications for alterations to buildings in the historic district (AROD), such as the application for lighting changes to Burke Hall, be evaluated according to four guidelines:

The purpose of the Architectural Review Overlay District is to preserve and encourage good architectural styles within the Village, reflecting the distinct phases of the Village's history. Therefore, in addition to the other requirements of this Zoning Ordinance, all applications for Zoning and Architectural Permits in the Architectural Review Overlay District which propose new construction, exterior modification and/or structural alteration shall be subject to review by the Planning Commission to determine that the proposed new construction, exterior modification or structural alteration:

- (a) Is stylistically compatible with other new, renovated and old structures in the Village District.*
- (b) Contributes to the improvement and upgrading of the historical character of the Village District.*
- (c) Contributes to the continuing vitality of the District.*
- (d) Protects and enhances examples of the physical surroundings in which past generations lived.*

Arguments

In making its decisions, the Planning Commission (and on appeal, the Village Council) must evaluate each application according to the four guidelines. The Planning and Zoning Code provides guidance for evaluation by listing **Standards and Criteria** in Chapter 1161.05. The standards in section 1161.05(g) and 1161.05(i) are applicable in this case:

*(g) **Use of Landscape Design.** Other elements of exterior design, such as walls, become a part of the building and tie it to adjoining structures or give it additional character. Lighting is particularly important, both from the standpoint of providing light to the pedestrian as well as affecting the view of the building in the evening hours. Where possible, lighting should be either low level or screened from any potential of shining directly into pedestrians' or auto drivers' eyes. When appropriate, the applicant should provide a lighting plan as seen at night. [Emphasis added]*

(i) Signage. As regulated by the sign regulations, signage will be most significant in communicating the character of the building. Signage should be discreet and minimal. Signs oriented to the pedestrian should be small in scale; those oriented toward automobile traffic may be larger. Color should be subdued, and where appropriate, the architectural character of the sign should be consistent with that of the building. Signs flush on the building face are in many cases preferable to projecting signs. [Emphasis added]

In its application, Denison proposes surrounding the building with 21 floodlights, including 6 aimed at the exterior walls and 4 others aimed at the entrances. Others would light up the landscaping with 4 aimed skyward into trees.

In its Findings of Fact, the Commission addressed the four guidelines as follows:

(a) Is stylistically compatible with other new, renovated and old structures in the Village District.

The Planning Commission found, “Stylistically compatible with itself; consistent with other site lighting the GPC has approved; new acorn fixtures are an improvement.”

(b) Contributes to the improvement and upgrading of the historical character of the Village District.

The Planning Commission found, “Removal of pole lights & installation of acorn light fixtures is an improvement.”

(c) Contributes to the continuing vitality of the District.

The Planning Commission found, “Yes, is a cultural building that has a lot of community use.”

(d) Protects and enhances examples of the physical surroundings in which past generations lived.

The Planning Commission found, “lighting will enhance the building.”

The law requires the Planning Commission to determine if the change is stylistically compatible with other structures in the historic district. The Commission wryly states that Burke Hall and its new lighting plan is "stylistically compatible with itself." That is, I guess, tautologically true, but this fails the code's test that the change be stylistically compatible with **other** structures.

The Commission states the lighting plan is "consistent with other site lighting the GPC has approved." The Commission cites no previous cases. I suspect this is because there are none. No other building in the historic district lights its exterior walls with flood lights – not the Granville Inn or the Buxton Inn. A few buildings (Theta House, Monomoy) light their trees with modest lights. The wall at Denison's entrance is lit with two small flood lights. And wooden signs around town are lit by small lights.

So while many towns are moving toward Dark Sky ordinances and sensible lighting, our Planning Commission has approved the lighting of the only building that doesn't fit into Granville's historic architecture. And the lighting is bright – 70 and 100 watt halide flood lights put out a lot of light – over 6600 lumens. Burke Hall will be brightly lit and with its white walls, will stand out in the historic district. Our code states as a standard, “*Where possible, lighting should be either low level or screened from any potential of shining directly into pedestrians' or auto drivers' eyes.*”

While the replacement of the modernist pole lights with more traditional pole lights is laudable, the addition of the flood lights can hardly be considered an *upgrading of the historical character of the Village District*. The proposed flood lights will cause the modernist building to stand out in stark contrast to the historic structures within the district. This will certainly affect “**the view of the building in the evening hours**” in a manner that negatively impacts the historic district.

Somehow the Planning Commission found that the addition of the flood lights to light up the white walls of Burke Hall meets the guideline, *Contributes to the continuing vitality of the District*. Their statement that Burke Hall is “...a cultural building that has a lot of community use” is surely true, but hardly to the point.

The AROD code was written contemporaneously with the construction of Burke Hall. As a consequence, Burke Hall is not a building the law was referring to when attempting to “protect and enhance examples of the physical surroundings in which past generations lived.” The Planning Commission finding that “lighting will enhance the building” does not address the damage a brightly lit, white-walled building will do to the “surroundings” within the historic district. “**Lighting is particularly important...**” and how it affects the “...**view of the building in the evening hours**” must be considered.

It should be noted that Denison expects to hang banners on the sides of the building. Art Chonko, during the Planning Commission hearing, said Denison plans to “...ask for the ability to hang some banners over the entrances so that people know what’s going on at the museum or if there are concerts or that sorts of things.” Our code offers, “*Signage should be discreet and minimal.*” The hanging of banners is clearly not within the spirit or letter of the law governing the historic district. To approve lighting for banners yet to be approved seems inappropriate and likely to prejudice the future application for the banners.

Conclusions

My appeal is based, not on errors in law, but on errors in interpretation of the intent of the law. The AROD code provides you with the leeway to apply your judgment. The decision before you is basically a judgment call.

You must decide if it makes good sense to light up Burke Hall in a manner unlike any other building in the historic district.

You must decide if it is possible for the lighting to be “low level” according to the spirit of our law.

You must decide if after forty years, the building suddenly requires more light so people can find it for events.

You must decide if, of all the buildings to light up in the historic district, this is the one.

Requested Relief

I urge you to decide to reverse the decision of the Planning Commission.

Alternatively, you might decide to remand the application back to the Commission with instructions to effect a compromise. Your instructions might include:

- a strict regulation of when any flood lights to the walls can be on
- the Commission to view an engineer's representation of what the building will look like when lighted as Denison proposes compared to the present
- a reduction in the number and brightness of the flood lights
- a process and consequences for evaluating the lighting over the course of the year – not just stating there will be a review as in the current decision.
- establishing a mechanism for soliciting input from neighbors and others during the year-long review.

Comments On The Law

Finally, it appears the Law Director was incorrect when Council was advised on June 4, 2008 that it could not “review” the decisions of the Planning Commission. In the Planning and Zoning Code's **Chapter 1137 Administration and Enforcement**, this very issue is addressed. Where Council's powers and duties are described in 1137.01 (a)(2) the following appears:

Shall hear and decide appeals from decisions of the Planning Commission and Board of Zoning and Building Appeals and conduct reviews of administrative decisions and orders, as hereinafter provided. [Emphasis added]

Further on in 1137.01 (g)(3), the code states:

In review hearings initiated by Council, any person designated by Council to present the case for review and revision or revocation of the decision or order under review; [Emphasis added]

A plain reading of the code seems to clearly indicate that Council can, in fact, initiate a review hearing of any decision of the Planning Commission or the BZBA and can ask any person to present arguments for or against revision or revocation of the decision.

Furthermore, the Village Manager, Law Director and zoning inspector also appear to have the right to initiate appeals. See Chapter 1137.01(g)(2):

In review hearings initiated by written request of the Village Manager, Law Director, or Zoning Inspector, the officer who made the request;

Had Council initiated a review hearing as I requested on June 4, it would have saved me the \$150 fee to file an appeal and could have permitted a more far-reaching review of the issues. Perhaps Council should reconsider that original question, thereby giving Council the right to consider the Burke Hall lighting issue on Council's own terms with its own speakers – and save me \$150, which was unnecessarily spent. Should Council decide to do that, I willingly withdraw my appeal.

Thank you for your consideration of my appeal.

I wish to call Dennis Cauchon as a witness. He will testify to the history and intent of the AROD code and how the Denison proposal fails to adhere to the law's spirit and intent.

I wish to call Jim Jung as a witness. He will testify to the current brightness of the building at night within the neighborhood and to the negative impact of increasing that brightness.

John Thornborough
13 Donald Ross Drive
Granville, OH 43023

Note: I was granted standing because of my ownership of 233 South Mulberry Street, a house within the historic district and nearby to Burke Hall.