

MINUTES
March 16, 2022
Plan Commission & Zoning Board of Appeals
City of Batavia
REMOTE MEETING

PLEASE NOTE: These minutes are not a word-for-word transcription of the statements made at the meeting, nor intended to be a comprehensive review of all discussions. They are intended to make an official record of the actions taken by the Commission/Committee/City Council, and to include some description of discussion points as understood by the minute-taker. They may not reference some of the individual attendee's comments, nor the complete comments if referenced.

1. Meeting Called to Order for the Plan Commission & Zoning Board of Appeals Meeting

Chair Gosselin called the meeting to order at 7:00pm.

2. Roll Call:

Members Present: Chair Gosselin; Vice-Chair LaLonde; Commissioners Peterson, Joseph, and Harms

Members Absent: Commissioner Moore

Also Present: Drew Rackow, Planner; Joel Strassman, Planning and Zoning Officer; Jeff Albertson, Building Commissioner; and Jennifer Austin-Smith, Recording Secretary

3. Items to be Removed, Added or Changed

There were no items to be removed, added or changed.

**4. PUBLIC HEARING: Variance for an Interior Side Setback for a Deck in the R1-L Single-Family Low-Density Zoning District
416 North Batavia Avenue, Susan Wohld, applicant**

Motion: To open the Public Hearing

Maker: Joseph

Second: LaLonde

Roll Call Vote: Aye: Joseph, Gosselin, Peterson, LaLonde, Harms

Nay: None

5-0 Vote, 1 Absent, Motion carried.

The Public Hearing was opened at 7:01pm.

Strassman gave the staff report to the Zoning Board of Appeals (ZBA). He reported that staff became aware of the deck extension after the extension was completed. No building permit was applied for or issued before completion. The existing deck has a grandfathered side setback of three feet and the extension was built to match the existing side setback. The property does have conditions that may limit location and size. The property is substantially sloped and has a large tree. Those two factors do effect how and where improvements can be added along the south side

of the house. The applicant notes that a deck position close to the house would limit natural light to the lower level of the house by obscuring a window. Staff notes these factors can be overcome by a deck extension design that meets the setback or can provide a setback greater than the requested three feet. Several property owners submitted statements of no objection to the variance including the neighbor to the south, who would be most effected by the deck extension.

Staff does not support the requested setback. The amount of deck extension at 3 feet to the property line where 12 feet is required is excessive. Strassman continued if the ZBA feels some setback relief is warranted, a minimum setback of six or ten feet should be considered. A setback of six feet is the minimum for an accessory structure that is not attached to the house. The ZBA reviewed the site plan utilizing the shared screen feature of Zoom.

Sue Wohld, applicant, addressed the Committee. Wohld shared that she submitted a narrative to the ZBA and reviewed the narrative with the Board. Ms. Wohld stated that the deck cannot be built as suggested by staff in its memo to the ZBA. The ZBA discussed deck access, size of current deck, how the permit was not applied for, preserving the healthy 200-year-old white oak tree, and setback compromise, including a cantilever design. Chair Gosselin stated that the ZBA must consider the variance as if the deck extension had not been built, but did note that any setback greater than requested would result in the extension having to be rebuilt. Ms. Wohld stated that she could work with a 6 foot setback.

Chair Gosselin asked if there were any members of the audience who wanted to address the ZBA. Rackow stated that there are people in the audience but there are no raised hands to speak for this item. He noted that he did not receive any further emails regarding this topic.

Motion: To close the Public Hearing
Maker: LaLonde
Second: Peterson
Roll Call Vote: **Aye:** LaLonde, Harms, Joseph, Gosselin, Peterson
Nay: None
5-0 Vote, 1 Absent, Motion carried.

The Public Hearing closed at 7:40pm.

Harms stated that she feels Finding A has been met because there are unique circumstances. LaLonde agreed that there are unique circumstances here, but he understands where staff is coming from. LaLonde continued this is a very unique circumstance with the grade change, tree, maintaining the views, access to the yard and the upper deck. He is not necessarily in favor of allowing the three foot variance but he understands the circumstances and therefore does not agree with staff on Finding A. Chair Gosselin asked if the Board were in agreement with staff's recommendations for the other findings and the Board answered yes.

Chair Gosselin commented that the deck looks great, and it all makes perfect sense to him, he just wishes the deck were in compliance with the Zoning Code. He stated that there certainly are unique circumstances but he does not know if there is any unnecessary hardship on this.

The Board discussed the possibility of going as built, three-foot or six-foot setback. Joseph stated that the three-foot setback is way too close. She can understand the six-foot setback. The consensus of the Board was in favor of a six-foot setback. Strassman recommended the motion be amended to add 'by other property owners in the same zoning district with the deck being setback six feet' to the end of the finding.

Motion: Finding A has been met adding an amendment with a six-foot setback

Maker: Harms

Second: Joseph

Roll Call Vote: **Aye:** Harms, Joseph, Gosselin, Peterson, LaLonde

Nay: None

5-0 Vote, 1 Absent, Motion carried.

Motion: Finding B has been met

Maker: Harms

Second: Joseph

Roll Call Vote: **Aye:** Harms, Joseph, Gosselin, Peterson, LaLonde

Nay: None

5-0 Vote, 1 Absent, Motion carried.

Motion: Finding C has been met

Maker: Harms

Second: LaLonde

Roll Call Vote: **Aye:** Harms, Joseph, Gosselin, Peterson, LaLonde

Nay: None

5-0 Vote, 1 Absent, Motion carried.

Motion: Finding D has been met

Maker: LaLonde

Second: Harms

Roll Call Vote: **Aye:** LaLonde, Harms, Joseph, Gosselin, Peterson

Nay: None

5-0 Vote, 1 Absent, Motion carried.

Motion: To recommend approval of a variance for the side setback, variance approval is solely for a deck extension approximately as shown in the submitted material, extending no further east than shown, and in no instance closer than 6 feet to the south property line. Any other changes to the shown deck extension should comply with the Zoning Code.

Maker: Joseph

Second: LaLonde

Roll Call Vote: **Aye:** Joseph, Gosselin, Peterson, LaLonde, Harms

Nay: None

5-0 Vote, 1 Absent, Motion carried.

**5. PUBLIC HEARING: Amendments to the Text of the Zoning Code, Chapter 4.4: Sign Regulations Regarding Electronic Changeable Message Signs
Michelle Forys, Aurora Sign Co., applicant**

Motion: To open the Public Hearing
Maker: Peterson
Second: Joseph
Roll Call Vote: **Aye:** Peterson, LaLonde, Harms, Joseph, Gosselin
Nay: None
5-0 Vote, 1 Absent, Motion carried.

The Public Hearing was opened at 8:09pm.

Strassman presented the staff report to the Commission. The applicant is requesting Electronic Changeable Message Signs (ECMs) be allowed on industrially zoned properties. Use of ECMs is increasing and therefore Zoning Code rights and restrictions for such signs should be strengthened. With this request to amend the Zoning Code regarding ECMs, staff reviewed the Code's current ECM rights and restrictions. Currently where allowed, changeable messages are limited to 50% of the proposed sign area. Staff feels this is a generous percentage for commercial properties but could be reduced to 40% for industrial properties given industrial properties generally are not selling products to the public. For both types of businesses, staff feels the business' name and primary functions should be more prominent on the sign therefore staff is proposing ECM portions of a monument sign to be lower than the current height limit for the overall monument sign. Commercial properties allow monument signs up to 6 feet; ECM portions would be limited to 4 feet in height. Industrial properties allow monument signs up to 10 feet; ECM portions would be limited to 6 feet in height.

Staff is proposing operational requirements to both the commercial and industrial ECM Code sections. While the Commission has limited the frequency of message change with Design Review approvals, staff is proposing requirements for ECM message time, maintenance and light intensity, and specific times when the ECM portion must be turned off.

Staff feels the proposed Zoning Code text amendments would allow for increased sign opportunities for industrially zoned businesses while minimizing impacts of ECMs and providing reasonable ECM operation standards for all businesses. Staff recommends the Commission recommend approval of amendments to the Zoning Code as drafted in the staff memo to the Commission. The Commission alternatively may continue the hearing to a date certain and give direction to staff to revise the amendments if needed.

Michelle Forys, Aurora Sign Company, addressed the Commission. Their company is representing a particular client, which is why they are bringing forward this particular text amendment. The client is in a light industrial district and they do not sell to the general public but they do sell business to business. They would still request the 50% split that is afforded to commercial properties.

Forys asked for the length of hold time for a static message displayed on the electric message portion of the sign to be shortened. Municipalities that surround Batavia have far shorter duration times for the hold of the message. St. Charles has a 15 second hold, Elgin has a 10 second hold, South Elgin is 10 seconds, Warrenville is 10 seconds, Wheaton is 4 seconds and the City of Chicago (inclusive of the billboards on 294 and 290) has a 10 second hold. We ask in addition to the review of the code, since we are looking to make some changes, it may be time to consider an adjustment for ECM as a whole in the City of Batavia.

Chair Gosselin asked if there were any comments from the public. There were none. Rackow added that he did not receive any emails prior to the Public Hearing or any emails during the course of the hearing.

Forys stated there was a possibility of changing the height of the sign as it is used in the industrial areas versus the commercial areas. In the commercial areas the overall height was six feet, and the electronic portion of the sign is not to occupy more than 50% of the total sign area. We would ask that would similarly be considered for the industrial properties as well. The ECMs as they are built require a negative space between that and the static portion of the cabinet because they need to have a certain amount of clearance inside the entirety of the structure to allow the heat from the ECM portion of it. If we do reduce the ECM portion to less than the 50% that sometimes creates a difficulty with the size of the ECM panels, the individual modules, and it may reduce it even further. Even with the commercial properties, it is a bit of a struggle to maintain both the requested overall height allowance and keeping the 50% to happen based on the amount of area we have to make static versus what can be the EMC. She asked for consideration to maintain the 50% rule that seems to be able to work functionally with the sizes that are available for the modules of the ECMs.

Motion: To close the Public Hearing

Maker: Joseph

Second: Harms

Roll Call Vote: **Aye:** Joseph, Gosselin, Peterson, LaLonde, Harms

Nay: None

5-0 Vote, 1 Absent, Motion carried.

The Public Hearing closed at 8:24pm.

LaLonde stated the Commission should consider what the applicant has requested and get staff's input on changing some of these parameters to match what is in the commercial district. LaLonde suggested discussing reducing the time limit from 30 seconds. Harms asked what Geneva has. Forys answered that Geneva does not allow a lot of ECMs so they are at five minutes. For the time and temperature signs, they allow for 5 seconds. Harms stated that 30 seconds is too long, and she has thought that from the beginning. The consensus of the Commission was in favor of 15 seconds.

Chair Gosselin stated that the Commission is okay with the amendments drafted by staff with two modifications:

- The time interval changed from 30 seconds to 15 seconds for both industrial and commercial districts
- Under section 4.407.C number 2.A.5 the percentage be changed from 40% to 50% or one half

Motion: Motion to approve the amendments to the Zoning Code as written in the attached draft amendments to the Zoning Code with the two aforementioned modifications

Maker: LaLonde

Second: Peterson

Roll Call Vote: **Aye:** LaLonde, Harms, Joseph, Gosselin, Peterson

Nay: None

5-0 Vote, 1 Absent, Motion carried.

**6. PUBLIC HEARING: Amendments to the Text of the Zoning Code
Chapters 2.1, 2.6 4.1, 4.2, 4.4, 6
City of Batavia, applicant**

Motion: To open the Public Hearing

Maker: Joseph

Second: Harms

Roll Call Vote: **Aye:** Joseph, Gosselin, Peterson, LaLonde, Harms

Nay: None

5-0 Vote, 1 Absent, Motion carried.

The Public Hearing was opened at 8:33pm.

Strassman presented the staff report to the Commission. Strassman stated that these are proposed to adjust regulations or to better address land uses and site improvements in response to recent commission or Council action or through staff application of the Zoning Code.

Strassman reviewed the following proposed zoning text amendments with the Commission:

- Attached garage setback and rooming houses (Chapter 2.1 Single Family Districts)
- Towing Establishments (Chapter 2.6 Employment Districts)
- Outdoor storage (Chapter 2.6 Employment Districts)
- Merchandise display (Chapter 4.1 Site Regulations)
- Sight Distance Triangle and Easements (Chapter 4.1 Site Regulations)
- Parking supply for Convenience Retail Use (Chapter 4.2 Off-Street Parking)
- Menu signage (Chapter 4.4 Sign Regulations)
- Definitions (Chapter 6 Glossary)

The Commission discussed the garage setback and rooming houses. LaLonde asked for a restriction in some manner as to how far out from the front of the house a garage can be built. LaLonde stated 12ft is pretty restrictive, he would be in favor of bringing it up to be flush with the front of the house and not necessarily beyond the front of house.

LaLonde asked for more time to consider these amendments. Peterson agreed that this could be continued to a later date. Strassman answered that we could do a continuation. However, there have been a lot of development inquiries so having some of these amendments adopted would be beneficial.

Chair Gosselin opened the floor for public comment. Andrew O'Brien addressed the Commission. He stated his concern is regarding the front garage setback. He would support removal of the garage setback and urged the Board members to support that as well. He stated that he is working with a local architect, and we are coming up on building season. A lot of people are putting together their plans. A lot of the houses where he is located already have front facing garages and many are flush with the house if not in front of the house a little bit. To have a sideways facing garage would be the outlier in the neighborhood, not all of them have the annexation agreements either. We would just lend our support for the removal of it as property owners. They are on a time constraint and that is their urgency, as one resident. He stated that he does find forward facing garages more appealing in general.

The Commission continued review of the other staff proposed amendments. The towing establishment amendment was discussed. Strassman stated that staff is proposing mandating a building as well as conditional use approval. Rackow added that currently the towing service is a permitted use with the requirement of having a building on the site. LaLonde stated that he is not in agreement with requiring a building and would keep it as it currently is. Outdoor storage was discussed including the need for solid fencing. LaLonde stated that the merchandise display change is for one property and he would have to think about this further. He explained that it is adding a lot of language to the code with a concept that is ambiguous and unnecessary. LaLonde commented that there is some confusion with the language for outdoor storage and merchandise display.

The Commission discussed the sight distance triangle with staff. LaLonde asked that the language be modified to be more specific to vehicular intersections and maybe a twenty-foot setback from the curb. Strassman noted that bicyclists use sidewalks and can come up upon pedestrians very quickly. Staff wanted to have visibility for all users maintained.

The consensus of the Commission was in favor of postponing discussion on the following amendments:

- Rooming houses (Chapter 2.1 Single Family Districts)
- Towing Establishments (Chapter 2.6 Employment Districts)
- Outdoor storage (Chapter 2.6 Employment Districts)
- Merchandise display (Chapter 4.1 Site Regulations)
- Sight Distance Triangle and Easements (Chapter 4.1 Site Regulations)
- Parking supply for Convenience Retail Use (Chapter 4.2 Off-Street Parking)
- Menu signage (Chapter 4.4 Sign Regulations)
- Definitions (Chapter 6 Glossary)

Rackow announced that there is a comment from the public written into the chat feature of Zoom. Rackow read the comment made by Jennifer Corso to the Commission and it read 'I am building a home and have been having issues with the garage setback also'. Strassman added that he has been working with Ms. Corso for four years. The issue has been the garage setback and a couple weeks ago he notified her that we are holding this Public Hearing tonight and that she may participate. Corso then addressed the Commission via Zoom audio and shared that architects she has worked with have informed her that Batavia is one of the only ones that has this setback. She feels excluded because a lot of homes have been grandfathered in. Her main issue has always been the garage. Her property is on a cul-de-sac and it is a pie shape so she has been having major issues with having a garage setback. She shared that they considered selling the lot and finding another lot somewhere else because of this issue. They have not been able to build because it has been so difficult.

Motion: To close the Public Hearing for attached garage setback
Maker: Harms
Second: Peterson
Roll Call Vote: **Aye:** Harms, Joseph, Gosselin, Peterson
Nay: LaLonde
4-1 Vote, 1 Absent, Motion carried.

The Public Hearing closed at 9:38pm.

Motion: To recommend approval of an amendment to the Zoning Code removing the attached garage setback as proposed by staff in the memo
Maker: Peterson
Second: Joseph
Roll Call Vote: **Aye:** Peterson, Harms, Joseph, Gosselin
Nay: LaLonde
4-1 Vote, 1 Absent, Motion carried.

Motion: To continue the Public Hearing to April 6th for the remaining issues open on the Public Hearing
Maker: Peterson
Second: Joseph
Roll Call Vote: **Aye:** Peterson, LaLonde, Harms, Joseph, Gosselin
Nay:
5-0 Vote, 1 Absent, Motion carried.

7. Matters from the Public (for items not on the agenda)

There were no matters from the public for items not on the agenda.

8. Other Business

There were no other business at this time.

9. Adjournment

There being no other business to discuss, Chair Gosselin asked for a motion to adjourn the Plan Commission. Joseph moved to adjourn the meeting, Harms seconded. All were in favor. The meeting was adjourned at 9:44pm.

Minutes respectfully submitted by Jennifer Austin-Smith, Recording Secretary