

**VILLAGE OF LAKE BLUFF
JOINT PLAN COMMISSION & ZONING BOARD OF APPEALS
MEETING**

August 15, 2018

APPROVED MINUTES

1. Call to Order & Roll Call

Chair Peters called to order the regular meeting of the Joint Plan Commission and Zoning Board of Appeals (PCZBA) of the Village of Lake Bluff on Wednesday, August 15, 2018, at 7:00 p.m. in the Village Hall Board Room (40 E. Center Avenue).

The following members were present:

Members: Sam Badger
David Burns
Jill Danly
Elliot Miller
George Russell
Gary Peters, Chair

Absent: James Murray

Also Present: Ben Schuster, Village Attorney
Glen Cole, Assistant to the Village Administrator (AVA)

2. Non-Agenda Items and Visitors (Public Comment Time)

Chair Peters stated the PCZBA allocates 15 minutes during this item for those individuals who would like the opportunity to address the PCZBA on any matter not listed on the agenda. Each person addressing the PCZBA is asked to limit their comments to a maximum of three minutes.

There were no requests to address the PCZBA.

3. Approval of the June 20, 2018 PCZBA Regular Meeting Minutes (Comprehensive Plan)

AVA Cole noted the corrections received were incorporated in the redline versions of the draft minutes placed at the dais. There was a brief intermission to allow the commissioner an opportunity to review the revised minutes.

Member Russell moved to approve the June 20, 2018 PCZBA Regular Meeting Minutes as amended. Member Burns seconded the motion. The motion passed on a unanimous voice vote.

4. Approval of the July 18, 2018 PCZBA Regular Meeting Minutes

Member Burns moved to approve the July 18, 2018 PCZBA Regular Meeting Minutes as amended. Member Miller seconded the motion. The motion passed on a unanimous voice vote.

5. Chair Peters Administered the Oath to Those in the Audience

6. A Public Hearing for Text Amendments Concerning Solar Energy Systems

Chair Peters introduced the agenda item then requested an update from Staff.

AVA Cole said later the PCZBA will hear a special use permit (SUP) application for 600 Arbor Drive concerning this use. Prior to commencing that hearing Staff recommends that the PCZBA review the Village's solar energy regulations, as there are indications that this section of the Zoning Regulations may not be functioning as intended. The PCZBA initially passed solar energy regulations in 2013. It created a multi-tiered setup of solar energy systems focusing mainly on residential areas. He said the most common type of solar energy system is the roof-mounted panels which requires a SUP from the PCZBA and Architectural Board of Review (ABR) site plan review. The Village have received applications for commercial districts but this will be the first application received for solar energy systems in a residential area since the regulations were approved. AVA Cole said included in the packet is a survey for comparison of other North Shore community regulations. He emphasize this issue is of interest to the Sustainability and Communities Enhance Ad Hoc Committee and commented on its draft goals and intent to pursue a certification program.

Chair Peters opened the floor for comments from the commissioners.

Member Badger said he is in favor of making some changes and streamlining the process. He recalled when this previously went through that members of the board wanted to make sure that these requests came through and they had an opportunity to review them at the time. But with the ABR and enlightenment as to what some of the other committees are doing, he believes the Village should make it easier to install solar panels.

Member Burns agreed and said he is sure there are ways to make solar panels look awful but he does not think anyone would intentionally do that. He stated that there are plenty of other ways to make things look unattractive and that the Village does not do architectural review for homes anyway, so he does not know why there is need for an abundance of oversight. He said from a zoning perspective we should try to make it as easy as for people to install solar panels or solar energy systems. He thinks it would only enhance the character of the Village.

Member Danly agreed with both commissioners and said she thinks the cost associated might make it difficult for people to consider this option. She said the process should be easier and she does encourage certification. In comparison to the other communities she does not like to see that the Village is among the most restrictive. When you really look at the rest of the North Shore, the Village does not even compare due to how restrictive it is, so she is in great favor of making that change.

AVA Cole said Village regulations are based on a Lake County model ordinance and the Village have given the issue extensive discussion in comparison to the other communities.

In response to a comment from Member Miller, Member Badger said solar energy systems were made a SUP because the PCZBA wanted another set of eyes on the regulations.

Member Miller asked if the ABR will be involved with the new ordinance. AVA Cole said the ordinance structure can be discussed and noted there is a rarely used provision of the Code called similar/dissimilar review which allows the Building Commissioner to direct radically different or similar project to a binding ABR review. However, as written not every solar panel installation would go through the ABR review process.

Member Miller asked if the neighbor of the person desiring to install the solar panel would have any say in the matter. Also, if there were any kind of check or balance besides the Building Commissioner recommendation and asked if there needs to be extra reassurance. AVA Cole said there is no neighbor consultation or other check as written, which is true of most residential construction.

Member Russell said he is in favor of relaxing the current regulations and would actually be in favor of relaxing them further than what has been drafted. As mentioned, with ground mounted systems you could have an array in someone's backyard that is less obtrusive than an array on a roof which is what is proposed in the draft ordinance. He would favor structuring the ordinance to allow ground-mounted systems pursuant to the same other stipulations for the building mounted systems, with the exception the systems will not be allowed in the front yard. The only exception might be the Country Estate District where nothing can be within 100 ft. of the front property line of accessory structures. Member Russell said he does not see the reason to have a more rigorous review for the ground mounted systems.

Member Russell commented on Section 4d in the draft ordinance which addresses the Building Commissioner referring it to the ABR under the provisions of the similar/dissimilar ordinance. He asked what is the thinking as to how often you would refer or what would be the criteria for referring a proposed roof array for a home to the ABR for similar/dissimilar review versus allowing some other system to go through on someone else's roof. AVA Cole said it was a shallow discussion and noted that almost all residential construction could be subject to this type of review, but the Village does not receive permits that would justify the review. He said most people are responsible homeowners and provided a few examples of what types of request could be referred to the ABR.

Member Russell said if someone comes in with a proposed array that is pretty much flat on the roof that it would not be sent to the ABR for review. In response, AVA Cole said these generally should be facing south or close to it. However, if you have a south facing house there are not many options except to have the panels constructed facing the street.

Member Russell said he does not know much about these type of systems but he is concerned about the glare. In Section 10-4-4-4c the Building Commission determines that the proposed solar energy system does not direct concentrated solar radiation or glare onto nearby property or roadways. He does not think the typical municipal Building Commissioner has the expertise to make that kind of determination and he thinks that particular provision should be placed in the submittal requirements for all the systems. Member Russell said the technical experts designing the systems for homeowners need to design the systems so they are not going to cause a glare problem for neighbors. Also, they should be required to make some sort of written statement as part of their application when applying for a building permit.

Chair Peters said he takes a somewhat minority position on this matter. His concern does not focus on building integrated solar energy systems but on the aesthetics and glare associated with building and ground mounted solar systems. Chair Peters said he remain opposed to any modifications in the ordinance because of the combination of adverse visual impact on neighbors and potential glare. He thinks the current ordinance has worked fine and if the regulations are lessen it could potentially open the flood gates.

Member Russell said he favors relaxing the rules in the draft ordinance to allow roof mounted systems, provided they are done in a tasteful manner. He does not think these would be an outlandish or too obtrusive installation of solar panels. He does not think this will open floodgates because he suspects the weather and intermittent sunshine will make most systems uneconomical. Member Russell said he has not noticed these systems in the Village or other North Shore communities.

Chair Peters said there is a mechanism in place which allows for solar energy systems and building integrated systems which benefits the homeowners desiring to install these systems and has no adverse impact on their neighbors.

Member Burns said he thinks it is difficult to say one way or another about aesthetics because it is totally a judgment call. He believes green technology will increase the property values in Lake Bluff as well as surrounding communities as these will be sought after communities. He thinks it could have a positive general effect beyond the homeowner and is a trend that will increase. Member Burns said he does not think it will open a can of worms nor feel this will be an obtrusive or unaesthetic endeavor, but he recognizes it is a judgment call.

Member Miller said he prefers more muscle in the draft ordinance specifically regarding the Building Commissioner responsibilities because he thinks the person installing the systems should be responsible for the design/glare. He would like it written into the draft ordinance a guarantee that the glare it is not going to interfere with the neighbors.

Chair Peters expressed concern that once a system is installed on a two story house, surrounded by single family homes, there will not be a nuisance or legal argument to address detrimental to personal well-being or property.

Member Danly said the Village has a global responsibility and should be more proactive. The technology is rapidly growing and she has witnessed what the systems have done on a positive level in California.

Following a request from Member Badger, AVA Cole said the ordinance identifies four types of solar energy systems:

- Self-Contained Solar Energy Systems – Incorporated into small devices, such as portable lights, heaters, and attic fans.
- Building Integrated Solar Energy Systems – Replace architectural or structural features of a building; example solar panels that also function as a roof.
- Building Mounted Solar Energy Systems – Professionally mounted on the roof of a structure, and are the most commonly installed type of solar energy system.
- Ground Mounted Solar Energy Systems – Permanently installed, free standing solar collectors.

AVA Cole said the proposed changes would get rid of the zone based distinction so any property that would have been subject to architectural review goes through the ABR review process. One notable change is that, if adopted, the Central Business District does not require a SUP but goes to ABR review as well as the O&R District (Terlato Estate District and Tangley Oaks). He said Section 4 of the draft ordinance addresses the installation of solar energy systems in residential

districts or on residential property. As written there is no discretionary review before an advisory board, no hearing, an applicant just needs to satisfy the listed basic standards (building code, height, glare, etc.) with the Building Commissioner. The Village does not want to be in a position of evaluating this ourselves or just being a check on the representations being made by an owner's agent. So we are making them prove to our satisfaction that this is the case or we have the ability to decline it as is true for other building permits. Lastly, Section 4 states if this is out of line the Village has the similar/dissimilar ordinance and the Building Commissioner can choose to refer it to ABR review, but that the Commissioner is expected to typically issue a permit without an ABR review.

Member Badger asked how the effects on neighbors would be determined should an SUP come before the PCZBA. AVA Cole said the PCZBA can review the materials submitted by the applicant. Also, public notices are sent to neighbors regarding the plans, and if desired, the neighbors can provide testimony during the public hearing process.

In response to a question from Chair Peters, AVA Cole said pursuant to the draft ordinance there is no testimony involved. Chair Peters said he is concerned because there is very limited oversight regarding the manufacturer/distributor or installers. He is concern that once the system is installed it is not coming down so he thinks at a minimum the ABR should review each one of systems prior to installation. There are still a lot of those California-type solar panels available and we are not seeing the integrated building mounted technology. Chair Peters said he thinks there are risks and it is conceivable that the house across the street from you all of a sudden in six months might have California solar panels and this is something that must be considered.

Member Miller asked if it would be unreasonable as a safety precaution to have an outside engineering firm, rather than coming to the PCZBA, confirm that this is going to work when they apply for a permit. Chair Peters said that is reasonable and he thinks there has to be some sort of checks and balances.

Village Attorney Ben Schuster commented on the two options available to address the glare issue. A presentation of information as part of the application permit process, as well as a prohibition on anything that causes glare. If someone builds a system that is non-compliance the Village has enforcement mechanisms. If we find out that somebody made a mistake the Village would have a mechanism by which we can say you need to either shift the way those panels are angled, remove them, or do something to rectify the glare situation. A discussion followed.

Member Miller asked if ground mounted systems should be added to the text or remain under the PCZBA purview. AVA Cole said that ground mounted systems are much more commonly treated as a special use in other communities and could be less disruptive on a large lot.

Chair Peters asked if any residents have a ground mounted solar energy systems. AVA Cole said there are none in the Village. A pool related systems would fall into the self-contained category and would remain a permitted use with no review under the proposed ordinance. A discussion followed.

Village Attorney Schuster said he would proposed amending subsection Section 10-4-4 C, adding a subsection C1F which would state “as part of the application the applicant much include a certification that the solar energy system shall not direct concentrated solar radiation or a glare

onto nearby properties or roadways.” The Village would still keep in place the first reference, that the Building Commissioner makes finding. In addition, he would recommend the PCZBA add a new Section C5 entitled “No Glare” and state “no solar energy system shall direct concentrated solar radiation or glare on to nearby properties or roadways.” A discussion followed.

Member Russell asked if any anecdotal evidence was received regarding any problems in consulting with other communities. AVA Cole noted they are not very common and electrical prices are a limiting factor as well as the Village tree canopy. He said the Village of Winnetka did ask for the results of the Village’s survey because they might conduct a similar discussion in the future.

As there were no further comments, Member Miller made a motion to adopt the proposed ordinance as presented, with the addition of that language in Section 10-4-4, subsection C1F and addition of Section 10-4-4 C 5. Member Burns seconded the motion. The motion passed on the following roll call vote:

Ayes: (6) Danly, Burns, Russell, Badger, Miller and Chair Peters
Nays: (0)
Absent: (1) Murray

7. A Public Hearing for 600 Arbor Drive

Chair Peters introduced the agenda item and requested an update from Staff.

AVA Cole said the property owner for 600 Arbor Drive located in the Country Estate District is proposing to install a building mounted solar energy system on top of a garage. He said because of how properties are situated in this area as well as the regulations applicable to the Estate District, the solar panels are about 400 ft. off the curb line. AVA Cole said he did receive a phone call from a realtor inquiring of the request but did not express any concerns.

Following a request from Chair Peters, Ronald Cowgill of Winsol Power Company said the request is to install a solar array on the garage and integrated into the existing system. He explained why the required approval from ComEd. He said before any building permits are issued/accepted the Village should request the approval letter from ComEd. He said this is a small non-mechanical array which does not require any batteries.

Following a request from Chair Peters, Mr. Cowgill responded to the standards for Special Use Permits:

- 1) General Standard: The property dimension has been discussed and the setback is approximately 400 ft. from the street. Also, he does believe because of the amount of trees on the property the system will not be visible from the street or to the neighboring properties.
- 2) No Interference With Surrounding Development: The property is too large to impact any future developments and this is a small array which will not be much of an issue.
- 3) Adequate Public Facilities: He does not think this would be an issue. The system was designed to be 3 ft. from the top and sides, so if there ever is a garage fire, the Fire Department can adequately ventilate the attic from the outside.
- 4) No Traffic Congestion: The proposed use will not cause undue traffic or traffic congestion.
- 5) No Destruction of Significant Features: The array will be mounted parallel to the roofline, not projected upward at a 45 degree angle beyond what the roof is. A low shallow roof with the

array pointed upward might be an aesthetic issue but because this matches the pitch of the roof and is approximately 3 inches off the roof and will not have any visual adverse effect.

Chair Peters opened the floor for questions from the commissioners.

Member Badger expressed his curiosity regarding the function of the array and asked how much power the arrays will generate. Mr. Cowgill said each array is different but this size array is probably going to cover 25% of the residence's power use. There are potentials for back feeding the grid, even with a smaller array, depending on how much the house is using at the time.

Member Burns said we have not seen many solar panels or solar energy systems go up in Lake Bluff and inquired of his impression of other community's interest in this and process. Mr. Cowgill said in comparison most communities are indifferent and they generally educate the building departments on the requirements. He said more Villages have put things in place to get a better handle on solar systems. The City of Chicago has really been proactive; they use to have a really stringent process and now they have a process specific for green installations with extremely fast turnaround. Mr. Cowgill said the Village should not be too concerned because more than 80% of the homes in Lake Bluff cannot benefit from solar systems because of the trees.

Member Danly inquired of an estimated cost savings. Mr. Cowgill said in 2010 it was \$12 per watt and currently it is under \$5 per watt. The cost has decreased significantly and the installation cost is a lot smoother. He commented on electric cost saving associated with his property which has 15 solar panels. The systems are designed and guaranteed to work and produce their rated capacity for 20 to 25 years but could easily last beyond the rating. He commented on new programs that will be offered by the State and he believes more systems will be installed when the incentives are offered.

Member Danly commented on the New York Times article titled "California will require solar power for new homes." Mr. Cowgill said most of the panels he has installed have never had a glare issue because it is all matte glass. He asked if the Village would require the same stringent requirements if someone desires to install five skylights.

Member Miller had no questions.

Member Russell had additional questions regarding the concentrated glare and matted glass and asked if there were different types of panels available that might be more problematic. Mr. Cowgill said he thinks the matter has been addressed within the industry but there may be some cheaper panels available which does not address those issues. Mr. Cowgill provided information on how UV coated windows could impact vinyl siding. Mr. Cowgill commented that the industry is sort of self-correcting itself to address the issue of concentrated glare complaints.

Chair Peters said zoning does not appear to be an issue because this is a large lot and the systems will not impact the neighbors. In response to a question from Chair Peters, Mr. Cowgill said the pitch will not change because this is a fixed mounted system.

Chair Peters said if dealing with a building integrated solar energy system no special use is required and asked how significant is the price differential. Mr. Cowgill said the Tesla systems, solar shingles, are not available. Also, he is leery of integrated systems because they do not

provide a square foot rating for production and power. In addition, there are connection issues because each panel must interconnect or the system will lose power.

In response to a comment from Chair Peters, Mr. Cowgill said the system will have matte glass with a dark panel so there will not be any reflections.

Chair Peters inquired of the dimension of the panels installed on the applicants property. Mr. Cowgill said the panels are 39 inches x 68 inches (3 x 5) and homeowners can find information regarding solar panels requirements for their home on the website *Google Project Sunroof*.

Member Miller asked if solar panels were appropriate for this type of climate. Mr. Cowgill said this climate should be sufficient enough to produce enough power to make a difference.

Member Russell made a motion to recommend Village Board approval as presented. Member Danly seconded the motion. The motion passed on the following roll call vote:

Ayes: (6) Miller, Burns, Russell, Badger, Danly and Chair Peters
Nays: (0)
Absent: (1) Murray

8. A Public Hearing for Text Amendments Concerning Swimming Pools

Chair Peters introduced the agenda item and requested an update from Staff.

AVA Cole said this section of the Code has been around since 1995 and there has been some friction regarding applications. This matter is being brought to the attention of the PCZBA to determine if any changes are needed. He continued saying that, if you are building a swimming pool in the Village, a few things that apply:

- The pool must be in the rear yard behind the furthest back part of the building.
- The pool area counts as impervious surface in many of the neighboring communities, but in Lake Bluff it also applies toward floor area coverage (FAR) and lot coverage which is usually reserved for buildings. He noted that, in every other context, floor area means that you have above ground bulk that can be seen from the streets but swimming pools are the one exception to that. He said FAR is usually one of the most restrictive metrics to work with on some of the smaller lots on the east side of town.
- This is the only instance in the Zoning Code we can identify if there are any non-conformities at all you are not allowed to build it. Usually you do not have to prove with compliance with all these non-conforming situations to get a building permit, just with what you are changing.

AVA Cole commented on the materials provided and noted there are no areas on the North Shore that create a tradeoff between “how much house can be built” and “can I have a pool.” He described other miscellaneous changes included in the draft ordinance.

Chair Peters opened the floor for comments from the commissioners.

Member Russell said he was present with the swimming pool regulations were developed in the 1990s. The sentiment of the Zoning Board of Appeals was they wanted a slightly bigger lot for swimming pools and that is why they decided to include swimming pools in the FAR regulations.

Member Russell said he did not understand in Section 3, in the draft, location point I. He agreed with this shall not be located in the front yard of a lot, except in the County Estate District, but disagreed with the proposed minimum front yard. He understand there is a difference but there is a conflict between the two because item #3 is less restrictive. AVA Cole said it is dependent on where the house is located and commented on the Zoning Code definition for front yards.

Member Russell said he still does not understand why we would say it cannot be in the front yard and then said it cannot be in the minimum yard. He said that this seems to be two different rules which could lead to confusion. He said he would prefer that at least in all the high density districts that swimming pools not be allowed in the front yard. A discussion followed and it was the consensus of the PCZBA to remove the reference to minimum required front yard.

Member Russell said the only other thing from historical perspective in 2006 or 2007 there was a big proposal on Arden Shore Drive on the Larry Booth and Mike Barrett estate. The property was going to be subdivided and Mr. Barrett was going to build a home on the easterly five acres and part of that project had a swimming pool technically in the front yard but 300 ft. off the street because of the lot size. He provided background information of a resident desiring to place a pool in the front yard in the Country Estate District.

Member Burns said he is in favor of this and questioned in regards to the impervious surface. He said although the pool is not going into the soil it is retaining water and questioned if a retention pond is considered part of impervious surface. Member Russell said no because they are buried and there is vegetation on top and noted it is connected to the storm sewer system and explained how it drains into the storm sewer system. Member Burns said this should not be part of the impervious surface because he would hate to penalize someone for trying to manage flood situations. A discussion regarding impervious surface followed.

Member Badger said if we move to relax some these standards do we have any idea what previously properties in the Village that do not have the proper size to add a pool if we relax these standards. He asked if the change would open up 10% of the properties that are in the Village to add pools. Or do we have any effect of how relaxing these standards might roll. AVA Cole said that this information was not easily accessible. He thinks many of the rules combined together are restrictive enough.

Member Badger said what was the genesis of this was it something Staff noticed in the Code. AVA Cole said the matter has been discussed a few times and currently there is a situation at 600 Lansdowne which might be coming to the PCZBA for a variation absent the text amendment.

Member Badger asked if the U-Shaped property located on Briar Lane, which requested a variation for a pool in the side yard, with these proposed changes would they have needed to come before the PCZBA. Member Russell said the pool would be allowed without coming to the PCZBA. A discussion followed.

Chair Peters said we inquired earlier about how many pools there are in residential lots in Lake Bluff and he believe it is probably under 15 or 20. He is not sure whether or not a change will trigger a whole lot of pool construction either but it seems to be relatively innocuous as far as the proposed changes. Chair Peters said he thinks the critical issue is FAR whether or not we want

that excluded and if there is any downside to having it fall outside of the FAR but he is not sure if there is a down side.

Member Russell made a motion to recommend Village Board approval of the proposed ordinance as amended by Member Russell. Member Badger seconded the motion. The motion passed on the following roll call vote:

Ayes: (6) Russell, Danly, Badger, Burns, Miller and Chair Peters
Nays: (0)
Absent: (1) Murray

9. Staff Report

AVA Cole reported that Administrative Intern John Scopelliti will be rejoining the PCZBA’s staff team this fall.

AVA Cole extended an invite to the PCZBA to attend the State Planning Conference to be held in Springfield Illinois at the end of September.

AVA Cole provided a list of comments regarding RIO Institutional Zoning and asked that the PCZBA provide any comments to him. A discussion regarding a special meeting date followed, and it was the consensus of the PCZBA to hold the special meeting on September 13th at 6:00 p.m. (*Note: The meeting was ultimately held on September 19th.*)

10. Commissioner’s Report

There was no report.

A discussion regarding the September 19th Regular PCZBA Meeting followed.

11. Adjournment

As there was no further business to come before the PCZBA, Member Burns moved to adjourn the meeting. Member Badger seconded the motion. The meeting adjourned at 8:45 p.m.

Respectfully submitted,

Glen Cole
Assistant to the Village Administrator