

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

JUNE 19, 2019

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, June 19, 2019, at 7:00 p.m. in the Village Hall Board Room (40 E. Center Avenue).

The following members were present:

Members: Jill Danly
Elliot Miller
James Murray
Gary Peters, Chair

Absent: David Burns
George Russell

Also Present: Ben Schuster, Village Attorney (VA)
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. Consideration of the May 15, 2019 PCZBA Regular Meeting Minutes

Chair Peters said the changes to the draft minutes submitted in the email from Member Russell will be incorporated in the minutes.

Member Miller moved to approve the May 15, 2019 PCZBA Regular Meeting Minutes as amended. Member Murray seconded the motion. The motion passed on a unanimous voice vote.

4. Chair Peters Administers, the Oath to Those Participating in Public Hearings

5. A Public Hearing for 101 Waukegan Road

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

AVA Cole said the request is for a variation to expand the parking lot of 101 Waukegan Road, a multi-tenant building, into the property's Waukegan Road frontage. The proposed expansion required two forms of relief: (i) the construction of parking stalls within a setback, and (ii) the relocation of an existing smoking shelter within a setback along a public highway. He said in 2015 the Village Board approved an ordinance granting a front yard variation to the subject property to permit the construction of the existing parking stalls along the Carriage Park Lane (north) frontage of the property.

Chair Peters invited the Petitioner to the podium.

Cliff Plencner of J Emil Anderson & Son, Inc, manager of the multi-tenant building, said the request is for an additional seven parking spaces on the northwest corner of the building and relocation of a smoking shelter. The existing parking significantly decreased by approximately 90 spaces, as a result of the stormwater requirements, landscaping and setbacks along Waukegan Road.

Chair Peters said for the record the PCZBA will adopt and incorporate by reference the standards for variations and SUP provided by the applicant. There were no objections from the PCZBA.

In response to a question from Member Danly, Mr. Plencner said all parking options away from Waukegan Road were exhausted. The building was built out prior to them purchasing the property and since that time the north lot has been expanded; therefore, the west side is the only option available for additional parking.

Member Danly asked if seven parking spaces would be sufficient. Mr. Plencner said the additional parking spaces, heading west, will be sufficient and will align with the contour of the existing parking configuration. At the Architectural Board of Review (ABR) public hearing it was recommended that several parking spaces be removed at the northwest corner of the building. Member Danly said it appears the parking configuration has gone through the ABR process and asked how the PCZBA could objectively consider the request. She feels the PCZBA needs to stand firm on the Waukegan Road Corridor and she is not in favor of the request. A discussion followed.

Chair Peters said he thinks that as a matter of right the applicant can create parking along Waukegan Road in the 50 ft. setback.

In response to a question from Member Miller, Mr. Plencner said they are seeking approximately 90 parking spaces. AVA Cole showed a picture and explained the proposed parking configuration noting that the parking along the southern, eastern, and northern edge is pre-existing. The parking along the western edge will take up an existing detention basin as well as a sculpture that will be removed and the newly constructed area can be built as of right. The proposed seven parking spaces along the curve would require a variation but will not encroach into the Waukegan Road setback.

In response to a question from Member Murray, Mr. Plencner confirmed there are approximately 80 parking spaces along Waukegan Road and they are seeking an additional 9% variation for incremental slots.

Member Murray said he believes the landscaping along Waukegan Road was permitted as of right. He asked the applicant if a green roof option was considered. The impermeable surface could significantly increase and he is concerned that approximately $\frac{3}{4}$ of an acre of permeable surface could be lost. The applicant's engineer, Steven Freedlund of Tomberman and Associates, explained why a green roof option was not pursued.

Member Murray expressed his concern regarding stormwater abatement as it is outside the scope of the petition. He said he would be interested in understanding how the PCZBA could encourage, not require, options such as green roofs. AVA Cole showed a landscape rendering prepared by the Applicant's Landscape Architect dated April 30, 2019 and a discussion followed.

VA Schuster said if the PCZBA is inclined to recommend approval, the motion should be explicitly conditioned to require the applicant to comply with the landscape plan. A discussion regarding landscape maintenance followed.

As only four commissioners were present, AVA Cole stated that the affirmative vote of all four members would be required to either recommend or deny the request; otherwise, the public hearing has to be continued.

In response to a question from Member Miller, Chair Peters said there will be a separate vote regarding the smoking shelters.

In response to a question from Chair Peters, Mr. Plencner said the retention basin fills up during a heavy rain storm but drains quickly. Mr. Freedlund explained the stormwater flow for the existing and new drainage system. He noted that a proposed underground detention facility will be located under the new parking area along the southwest corner of the building.

In response to a question from Member Miller, AVA Cole said the stormwater on the south side of the building connects to the Village stormwater system and drains west of Greenbay Road. The Village Engineer is working with the Village consultant and expressed no concerns regarding this matter.

In response to a question from Chair Peters, Mr. Plencner said the parking contemplated will be mainly for employees.

Following a brief discussion regarding the proceedings, Member Murray made a motion to recommend to the Village Board to approve a variation to allow the construction of seven additional parking stalls closer than permitted to the Carriage Way lot line, subject to the Petitioner conforming to the specified landscape plan. Member Miller seconded the motion. The motion passed on the following roll call vote:

Ayes: (4) Danly, Miller, Murray, Peters
Nays: (0)
Absent: (2) Burns, Russell

A discussion regarding the proposed smoking shelters ensued.

Mr. Plencner said currently there are two smoking shelters located on the north and south side of the building. The medical tenant and non-smokers have expressed concern with the smoking shelters located in close proximity of the building. He said the proposed options are either to relocate or have one smoking shelter on the site. A discussion followed.

In response to a comment from Member Miller, Mr. Plencner said the smoking shelter is currently located in front of a window and blocks the view of the parking area. A discussion followed.

In response to a question from Chair Peters, Mr. Plencner said he is uncertain of how many individuals use the smoking shelters on a daily basis.

In response to a comment from Member Danly, Mr. Plencner said there are several hundred individuals in the building, the smoking shelters accommodates six people at a time, but are rarely used during the summer months. A discussion followed.

Member Danly said she feels the PCZBA needs to hold strong to its visual beautification of our town from every angle. Mr. Plencner said the smoking shelters are amenities for the building, good quality and maintained by a cleaning service.

In response to a question from Member Miller, AVA Cole said that, from Waukegan Road, parking spaces have a 50 ft. setback and principal accessory structures have a 100 ft. setback.

Member Miller said he is appalled that smoking is allowed near a medical building and he intends to vote against the smoking shelters. Mr. Plencner said he does not know if they can legally prohibit smoking on the site.

Following a brief discussion, VA Schuster said the decision of the PCZBA should be based on the standards of variation.

Member Murray stated that he is opposed to the request because the applicant is seeking a variation that will impact public safety and health pursuant to Section 5 of the Standards for Variations.

AVA Cole said that, if the PCZBA desires to recommend denial, all four members present must concur in their vote.

Member Murray made a motion to recommend the Village Board deny a variation to allow the relocation of a smoking shelter within the setback provided for structures from Waukegan Road. Member Danly seconded the motion. The motion passed on the following roll call vote:

Ayes: (4) Miller, Danly, Murray, Peters
Nays: (0)
Absent: (2) Burns, Russell

6. A Public Hearing for 617 East Prospect Avenue and 454 East Simpson Avenue

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

AVA Cole said the request is for a proposed land transaction between Susan McMurray (owner of 454 East Simpson Avenue) and the Pezza family (owners of 617 East Prospect Avenue). Due to existing non-conforming conditions on the properties, a number of variations would be required to approve the subdivision. The variations only effect the subdivision and do not authorize any new construction on either property.

AVA Cole said a public comment was received from Stephanie Bjork regarding the 20 ft. strip of land on the east side of Lake Bluff which was discussed at a previous PCZBA meeting. AVA Cole said Staff is not sure this particular issue applies, as it appears the subject property was not part of the vacation Ms. Bjork refers to. The Village’s position is, even if part of the land at hand was formerly vacated by the Village, the vacation does not in any way pose an encumbrance to the land or create some restriction upon what can be done with the land. Finally, he noted that if Staff is incorrect, a subdivision does not alter any encumbrances upon the land and a private party with standing to do so could still seek to enforce any valid restrictions.

Paul Pezza introduced his spouse, Annie Pezza and said they have lived in their home for approximately 10 years. He shared background information on the subject parcel and said the simple land transaction will allow for a natural extension to the rear yard and makes sense for both parties. AVA Cole reviewed the proposed subdivision pursuant to the Plat of Survey.

In response to a question from Member Miller, Mr. Pezza confirmed that his garage is located on their property.

Member Danly said she favors simplifying lot lines especially when it is an amicable relationship. She expressed concern regarding water issues on the property and asked if improvements could be made in regards to drainage. Mr. Pezza said Ms. McMurray have invested in drainage improvements in respect to the drainage from the Union Church property and the Village have repaved the alley, installed additional drains and curbs to help with stormwater. A discussion followed.

In response to a question from Chair Peters, Mr. Pezza provided information regarding his surrounding neighbors, specifically, the neighbors to the east.

Chair Peters opened the floor for questions from the commissioners.

Members Miller and Murray had no objections or additional comments.

Member Miller made a motion to recommend to the Village Board to the subdivision and requested variations as presented. Member Murray seconded the motion. The motion passed on the following roll call vote:

Ayes: (4) Murray, Danly, Miller, Peters
Nays: (0)
Absent: (2) Burns, Russell

A discussion regarding the garage ensued, AVA Cole said Mr. Pezza advised staff of their intent to seek a variation to enlarge the existing garage. He informed him that the existing shed could be rebuilt without coming back to the PCZBA but he would have to come back if he desires to enlarge the garage because a variation is required.

7. Discussion Regarding L-1 District Use Regulations

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

AVA Cole said the PCZBA has expressed concern with the current system of permitted, special, and prohibited uses in the L-1 District. Since that time, staff has researched legislative history as well as proposed strategies that may address the problems and reviewed the following documents presented for discussion:

- List of possible strategies to address L-1 use concerns;
- Legislative history of zoning use table amendments since 2011;
- Legislative history of commercial special use permits since 2011;
- Comparative list of permitted and special uses in the L-1 District; and
- Excerpts from the Waukegan Road Corridor Study (2011).

AVA Cole elaborated on the possible strategy options which included: Extend CBD Permitted Uses to L-1, Convert Certain L-1 Uses from Special to Permitted, Make SIC Codes Advisory in Use Table, Establish Authority for Administrative Use Interpretations, Establish Authority for Administrative Special Use Permits, Comprehensively Revise Use Table (Relatively Broad Categories), and Comprehensively Revise Use Table (Highly Specific Categories).

Member Miller asked if there were a lot of retail options in the CBD that require a special use in the L-1 District. If these businesses are allowed in the CBD why it would be difficult to allow them in the L-1 District. A discussion followed.

Member Murray commented on the guiding principle applicable to the L-1 District then he responded to the proposed strategy options:

- If permitted in the CBD it should be allowed in the L-1 District;
- It seems the CBD is the most restrictive place in respect to regulating business activity;
- The first strategy makes sense because we want the L-1 District to be fair;
- He would prefer to further consider converting certain L-1 uses from special permitted uses;
- The SIC Codes are outdated and in the L-1 District he thinks there should be fewer restrictions, if the intent is to promote more business activity;
- It is a good idea to allow administrative grants in the L-1 District for narrow type of businesses such as Fitness Centers, if there are no other variations needed;
- There should be a simpler, quicker, more transparent, less costly process for individuals desiring to open a business which is already permitted in the L-1 District;
- He questioned if the use table is reason enough for an individual to come before the PCZBA; and
- Withhold on the last two possible policy planks because it appears to him as part of a broader conversation such as whether we are revisiting the entire plan for the L-1 District.

Member Miller said that the PCZBA preliminary workshops could be a part of the administrative process. He said he does not like the idea of it being purely administrative because he thinks there has to be a little more oversight from the PCZBA for certain projects. He does not understand why a petitioner needs to come before the PCZBA as a formal process if consideration is similar to a previously approved project.

Member Danly said she agrees with Option #1 - anything the CBD has should definitely be allowed in the L-1 District. She is intrigued with administrative use interpretations that we can go through an inexpensive process and tailor this in a way that could be very beneficial for all. She is not in favor of the one ahead of it, the SIC Code system just seems to be outdated. Member Danly said she needs to further review the last three options.

Member Miller said he would definitely not approve of creating a process for administrative special use permits because he does not feel it would be appropriate. This action would take authority away from the PCZBA and it is important to have “multiple eyes” review certain requests. A discussion followed.

VA Schuster said pursuant to the code a text amendment is needed, if the use is not in the zoning table, then consideration is given to the type of use (special or permitted). A discussion followed.

Member Murray asked if there is an intermediate step in the process. A discussion followed.

In response to comments from Member Miller, VA Schuster said the Village Board will consider a red flag resolution regarding the zoning, regulation, and licensing of recreational cannabis businesses at its next meeting. The PCZBA will be directed to hold a public hearing and submit its recommendations regarding the use of these types of businesses. VA Schuster said the current Village Code does not permit gambling expansion.

Chair Peters said it seems there is a consensus in respect to permitted uses in CBD being adopted as permitted uses in L-1 District, and not to pursue an administrative special use process.

In response to a question from Chair Peters, AVA Cole said that mirroring the CBD's use restrictions is well recommended in the Village's planning studies and makes a lot of sense conceptually; that he generally favors the idea of broader use categories and shifting away from the SIC Code system, although to do so reduces fine-grain control; and that he is unsure about a process for administrative special uses given the commissioner's comments. A discussion regarding use interpretations followed.

VA Schuster said timing could affect certain options and then he explained how the administrative use process could apply. VA Schuster said there could be some legal risk if the PCZBA gave neighbors the authority to trigger a hearing, as case law does not support providing neighbors a "veto right" to obstruct or deny land uses. A discussion followed.

AVA Cole explained how strategies and use interpretation could apply to the historical examples provided in the memorandum.

Chair Peters said he is concerned about unintended consequences if the PCZBA is too aggressive or too liberal.

AVA Cole summarized what Staff would bring to the July PCZBA meeting:

- Extend the permitted uses from the CBD to L-1 District;
- Revised SIC Code language;
- Use Interpretation for Administrative Use Process with a notice provision to the PCZBA; and
- Research special use/permitted use break point for physical fitness facilities.

8. Staff Report

AVA Cole reported that the PCZBA was provided a draft copy of the Sustainability Plan that will be presented to the Village Board for consideration.

9. Commissioner's Report

Chair Peters inquired of the Village's position regarding smoking in public areas. AVA Cole said the Village smoking provisions are more restrictive than the State Smoking Ban and e-cigarettes and vaping products have recently been included in the ban. A discussion followed.

Chair Peters commented on the current manner that the PCZBA deliberates items and recommended that commissioners freely comment once the petition has been heard as he believes it would be more effective than going around the dais. There were no objections from the commissioners.

10. Adjournment

As there was no further business to come before the PCZBA, Member Miller moved to adjourn the meeting. Member Murray seconded the motion. The meeting adjourned at 8:33 p.m.

Respectfully submitted,

Glen Cole
Assistant to the Village Administrator