

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

AUGUST 17, 2016

APPROVED MINUTES

1. Call to Order & Roll Call

In the absence of Chair Kraus, A to VA Stanick 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 17, 2016, at 7:00 p.m. in the Village Hall Board Room (40 E. Center Avenue).

The following members were present:

Members: Sam Badger
Leslie Bishop
David Burns
Mary Collins
Elliot Miller
Gary Peters
Steven Kraus, Chair (electronic attendance)

Also Present: Peter Friedman, Village Attorney
Drew Irvin, Village Administrator
Brandon Stanick, Assistant to the Village Administrator (A to VA)

Member Badger moved to nominate Member Bishop as Chair Pro Tem for the meeting. Member Burns seconded the motion. The motion passed on a unanimous voice vote.

Chair Pro Tem Bishop reported that a notice was received from Chair Kraus in accordance with the Village's Electronic Attendance at Meetings Policy. Chair Kraus will be deemed authorized to attend the meeting electronically unless a motion objecting to his electronic attendance is made. There were no objections and Chair Kraus was deemed present.

2. Non-Agenda Items and Visitors

Chair Pro Tem Bishop stated the PCZBA allocates 15 minutes for those individuals who would like the opportunity to address the PCZBA on any matter not listed on the agenda.

Ms. Nancy White (resident) stated her purpose tonight is to present an alternative condominium proposal for Block Three. Ms. White stated she currently does not have a contract to purchase the property but if positive feedback is received she is prepared to move forward with the proposal. Ms. White stated the fundamental proposal meets the desire expressed for a two story condominium project while preserving the green space at Evanston/Scranton intersection. Ms. White showed a sketch of a site plan of her proposal for two buildings, both two stories in height with four condominium units each; parking would be underground.

3. Consideration of the July 20, 2016 PCZBA Regular Meeting Minutes

Following several suggestions to change the minutes, Village Attorney Peter Friedman recommended the PCZBA review the revisions to the July 20th Minutes at its next meeting. There were no objections from the PCZBA.

Chair Pro Tem Bishop administered the oath to those in attendance.

4. Continuation of a Public Hearing to Consider: i) a Variation From the Maximum Gross Floor Area Regulations of Section 10-5-6 of the Zoning Code; and ii) a Variation From the Minimum Accessory Structure Side Yard and Rear Yard Setback Requirements of Section 10-5-9 of the Zoning Code; and iii) Any Other Zoning Relief as Required to Construct a Detached Garage in the Rear Yard of the Property at 311 E. Center Avenue

Chair Pro Tem Bishop introduced the agenda item and requested an update from Staff.

A to VA Stanick stated it is requested the PCZBA continue the public hearing to its meeting on September 21st because of an error with the notice requirement.

Member Miller moved to continue the public hearing to the September 21, 2016 PCZBA Meeting. Member Collins seconded the motion. The motion passed on a unanimous voice vote.

5. Continuation of a Public Hearing to Consider the Following Zoning Relief From the Following D Residence District (R-6) Regulations; i) Maximum Floor Area Regulations of Section 10-5I-6 of the Zoning Code; ii) Maximum Impervious Surface Coverage Regulations of Section 10-5I-7 of the Zoning Code; iii) Maximum Building Coverage Regulations of Section 10-5I-8 of the Zoning Code; and iv) any Other Zoning Relief as Required to Build a One-Story Addition on the Rear of the House at 29721 N. Environ Circle

Chair Pro Tem Bishop introduced the agenda item and requested an update from Staff.

A to VA Stanick stated at its meeting on July 20th the PCZBA conducted a public hearing, and following a presentation by the Petitioner's architect, discussed the request for zoning relief. The PCZBA continued the public hearing to allow time for the Petitioner to explore other options to construct the Project. Also provided is a letter dated August 8, 2016 from the Petitioner's architect asking the PCZBA to approve the requested zoning relief as presented last month.

Chair Pro Tem Bishop opened the public hearing and invited the Petitioner to the podium.

Mr. Rich Santos (Petitioner), property owner, stated no changes have been made to the project and his request for zoning relief is still for an additional 174 sq. ft., one-story addition to the rear of the house that will not encroach into the existing forested area. The addition will serve as a first-floor bedroom.

Chair Pro Tem Bishop opened the floor for public comment. There were no comments from the public.

Chair Pro Tem Bishop opened the floor for comments from the Commissioners.

Member Badger noted the Homeowners Association approved the project and had no further comments.

Member Burns stated the current plans reflect an extension to the dining room and not a new bedroom. He stated he does not believe the Petitioner meets the standards for hardship.

Member Collins stated the request for the addition is more of a personal hardship than a zoning hardship. The zoning standards for variation state there has to be a practical difficulty or hardship that would result from the strict application of the zoning ordinance and the desire to construct a bedroom on the first floor is not a reason to grant a zoning variation. Granting one property owner the right to expand is a special privilege unless the intent is to allow all the property owners this type of expansion. Member Collins expressed her opinion the request does not meet the existing zoning standards.

Member Miller stated after reviewing the materials for this project the zoning regulations may need changed to address requests of this nature. He stated given the approval from the HOA he supports the Petitioner’s request for zoning relief.

Member Peters expressed his agreement with Members Badger and Miller and stated this is a close call, and if approved, would not necessarily be precedential. He stated in light of the HOA position he is in favor of the proposal.

Chair Kraus expressed his preference to review the actual plans illustrating how the bed and bathrooms fit into the new addition. He expressed interest in having a condition the plans reflect the actual use of the new space.

Chair Pro Tem Bishop expressed her preference to see the actual plans for the new addition. She stated this is a bad precedent for the Village to approve something that may or may not happen in the future.

Chair Pro Tem Bishop stated the PCZBA is authorized to approve or deny the variation because the requested zoning relief is within 25%.

Member Badger moved to approve the request for zoning relief from the: (i) maximum gross floor area regulations; and (ii) maximum building coverage regulations required to build a one-story addition on the rear of the house. Member Miller seconded the motion. The motion failed on the following roll call vote:

Ayes: (3) Peters, Badger and Miller
Nays: (4) Burns, Collins, Chair Kraus and Chair Pro Tem Bishop
Absent: (0)

Member Collins moved to deny the request for zoning relief from the: (i) maximum gross floor area regulations; and (ii) maximum building coverage regulations required to build a one-story addition on the rear of the house. Member Burns seconded the motion. The motion passed on the following roll call vote:

Ayes: (4) Burns, Collins, Chair Kraus and Chair Pro Tem Bishop
Nays: (3) Badger, Miller and Peters
Absent: (0)

6. Continuation of a Public Hearing to Consider a Text Amendment to the Village’s Zoning Regulations Establishing Regulations for Planned Mixed-Use, Developments as a Special Use in the B Residence District (R-4), C Residence District (R-5) and Central Business District (CBD) (Text Amendment)

Chair Pro Tem Bishop introduced the agenda item and requested an update from Staff.

A to VA Stanick reported at its meetings on June 15 and July 20, 2016 the PCZBA held public hearings to consider the proposed draft PMD Ordinance and the proposed Conceptual Development Plan. As of today, the public hearing process has included: presentations from the Developer, comments from the public and discussions among the Members of the PCZBA regarding the Text Amendment and the proposed Development. At tonight’s meeting the PCZBA will continue its discussion regarding the proposed Text Amendment and anticipates voting on a recommendation to

the Village Board. Further, the Petitioner has requested the PCZBA continue the public hearing regarding the Development to its September 21, 2016 meeting.

A to VA Stanick reported the PCZBA was provided with an updated draft ordinance amending the Village's Zoning Code establishing a process and related regulations for the approval of PMDs prepared by Village Legal Counsel that reflects the discussion of the PCZBA on July 20th. Also provided for the PCZBA's information is a memorandum dated August 11, 2016 from Village Attorney Peter Friedman regarding the proposed PMD Text Amendment.

Chair Pro Tem Bishop opened the public hearing and administered the oath to those in attendance.

Chair Pro Tem Bishop reported the Petitioner, The Roanoke Group, did not have any comments at this time.

Chair Pro Tem Bishop opened the floor for public comment.

Mr. Kyle Petersen (resident) expressed concern for the developer's lack of a track record as there are no multi-family zoning projects associated with the developer. He asked that the developer's track record be considered.

Ms. Holli Volkert (resident) asked if the draft PMD Ordinance would circumvent the current zoning regulations because there is no specific zoning for a PMD. Village Attorney Friedman stated the draft PMD Ordinance establishes a process by which a developer can propose a development within that specific area and the development would have to be reviewed by the PCZBA and Village Board for approval. A discussion ensued regarding the draft PMD Ordinance's effect on current zoning.

Mr. Mark Stolzenburg (resident) commented on the various documents he received as a result of a Freedom of Information Act he filed with the Village. He showed an email from the developer to the Village Administrator referring to a meeting that occurred between the Developer, the Village President and the Village Administrator and asked to what extent were the discussions regarding any potential text amendment during the April 25th meeting. Village Administrator Drew Irvin stated at that particular meeting there were discussions concerning a PMD tool. This is a tool that was suggested by Teska Associates in the Village's 1998 CBD Planning Study. The 1998 CBD Planning Study was a result of a recommendation from the Village's 1997 Comprehensive Plan concerning redevelopment tools for the downtown. That development process was suggested to the developer as a tool to redevelop in the CBD as opposed to using straight zoning. The process and regulations for planned developments, such as planned residential, planned commercial and planned mixed-use developments, are standards used by numerous municipalities. Village Administrator Irvin stated there were drafts of the development presented at this meeting but expressed his uncertainty regarding all the information discussed. Village Administrator Irvin stated when developers approach the community it is not uncommon for them to submit plans before the public hearing process to find out what process they should proceed with to get the project considered by the Village.

Mr. Stolzenburg asked if the draft PMD Ordinance was restricted to Block Three. Village Administrator Irvin stated the draft PMD Ordinance applies to Block Three and other zoning districts adjacent to the Central Business District.

Mr. Peter Kyte (of the Roanoke Group) explained how they became involved in the project and advised of the process the owner used to select the Roanoke Group as the current developer of the property.

Mr. Stolzenburg asked Chair Kraus about the discussion held on April 27th. Chair Kraus stated the discussion involved density, height and building material to be used should the development move forward. Chair Kraus stated a hand written sketch of the proposed project was reviewed, as well as optional methods on how the development could happen.

Mr. Stolzenburg asked about the discussion that occurred at an April 30th meeting that included Peter Kyte, Village Administrator Irvin, Matt Kerouac (ABR), Ed Deegan (ABR), Mickey Collins (PCZBA) and Sam Badger (PCZBA). Member Collins stated she anticipated the meeting would be about goal setting, but drawings were presented and it appeared much further along in the process. Member Badger stated a hand drawn conceptual drawing of a proposed development was reviewed. Peter Kyte also commented on this meeting and noted seeking input is common practice before moving forward with a project.

Mr. Stolzenburg commented on the draft PMD Ordinance and expressed his opinion the process was backwards by reviewing a proposed development and then reviewing an ordinance that will allow the development to be built. He expressed his opinion the draft PMD Ordinance does not provide appropriate safeguards against high density developments. He asked the PCZBA to take a step back and continue reviewing the draft PMD Ordinance to determine what the Village wants in its downtown.

Mr. Nels Leutwiler (resident) stated he owns an investment property at 33 E. North Avenue and is opposed to the increased height and bulk envisioned by the proposed text amendment. He expressed his appreciation for the small town feel of Lake Bluff and asked the Village to avoid overdeveloping the downtown.

Mr. Michael Goldsberry (resident) expressed his understanding planned development tools are used for larger properties and he is concerned with using a PMD for smaller residential areas because it could set a bad precedent. He expressed his concern the proposed text amendment may allow multi-family developments to occur too quickly in the downtown.

Ms. Kathryn Briand (resident) commented on the provisions regarding decreased property size requirements from the planned commercial development regulations. She stated precedence does matter and not following the established guidelines could create a slippery slope the Village will not be able to control. Ms. Briand read a *New York Times* article regarding zoning and expressed her opinion the Village is not planning properly because there are no zoning specifications in the draft PMD Ordinance. She asked the Village to slow down the process and make the PMD Ordinance stricter.

Ms. Terri Bleck (resident) stated the Village Green was visible when she purchased her townhome but now it is obstructed by the Block One Development. She stated Lake Bluff is a small Village and expressed her concern with having three story development in the downtown.

As there were no further public comments, Chair Pro Tem Bishop closed the public hearing.

In response to the public comment shared during the meeting, Village Administrator Irvin reviewed certain portions of the PMD Ordinance regarding the review process, the theory behind having mixed-use buildings near the CBD and the size of the property to qualify to use the PMD approach.

Chair Pro Tem Bishop asked for comments from the Commissioners.

Member Badger asked if the draft PMD Ordinance is adopted can a potential developer continue to use the underlying zoning to develop property. Village Attorney Friedman stated the current zoning is zoned under the district so a developer and/or property owner will still be able to build under the current zoning as of right.

In response to a question from Member Miller, Village Attorney Friedman stated the draft PMD Ordinance applies to the CBD, immediate adjacent properties and property adjacent to or directly across the right of way from a lot in the CBD.

Member Collins stated she is in favor of a planned development tool. Plans that comply with Village Code do not have to go through the public hearing process and it is important that we have this option for complex proposals. She expressed her opinion the draft PMD process would be much better than what can occur today on this particular parcel.

Member Burns stated he prefers any proposal for this area of town be considered by the PCZBA. He expressed his belief there are potentially creative solutions that should be considered. Member Burns expressed his support for the standards and planning principles the Village has to review different kinds of solutions for this area.

Member Badger questioned the underlying zoning and expressed his concern the draft PMD Ordinance does not prevent developers from going back to using the existing zoning.

Member Peters stated he was troubled by the manner of Mr. Stolzenburg's inquisition and implications of unethical behavior by Village Officials. Member Peters stated the proposed draft PMD Ordinance does provide for a number of checks and balances. He stated under current zoning the owner is entitled to construct a 30 ft. high wall and inquired if the residents to the north of the property would want to take that risk.

Village Attorney Friedman reviewed the as of right zoning and zoning standards of variations in relation to the property. The planned development is a zoning tool used to fill the gap between a variation and a text amendment. The two-phase review process of the PMD Ordinance includes optional preliminary public meeting with the PCZBA to obtain feedback on a potential proposal; Development Concept Plan review public hearing with the PCZBA; Optional Development Concept Plan review workshop meeting and review by the ABR; Development Concept Plan consideration by the Village Board; Final Development Plan review public hearings & public meetings with PCZBA and ABR; and Final Development Plan consideration by the Village Board.

Chair Kraus stated the planned development is a planning framework tool for the Village, neighbors and developers establishing specific standards for development in the CBD. Should an actual preliminary development plan be received the PCZBA will apply the standards very strictly to ensure it meets the needs of the Village and residents.

Chair Pro Tem Bishop expressed her agreement with Chair Kraus and her opinion the PMD Ordinance should not be specific to Block Three in the event a developer desires to redevelop other blocks. She stated the Village needs a tool that works for the CBD overall.

Following a brief discussion, it was the consensus of the PCZBA to move forward with finalizing its recommendation regarding the PMD Ordinance.

A discussion followed regarding those properties that would qualify for a PMD. Member Collins expressed her concern with the following phrase concerning those properties that are eligible to use a PMD: “or directly across a right-of-way from a lot in the CBD”. She asked that it be removed.

Member Badger asked if a developer could purchase Block Three and property on North Avenue to build a larger development and expressed his concern with the potential expansion of using the PMD. He also expressed concern with the PMD option as an alternative to the underlying zoning regulations because the PMD draft language did not require the redevelopment of qualifying properties to use a PMD approval process.

Village Attorney Peter Friedman reviewed the changes to the ordinance from the previous PCZBA meeting.

A discussion ensued regarding super majority votes for the Village Board to overturn a recommendation from the PCZBA. Village Attorney Friedman stated currently the standard for variation is the only requirement which triggers a super majority vote. It was a consensus of the PCZBA to convey to the Village Board a requirement that two-thirds of the Village Trustees must vote in favor of a proposed PMD if the PCZBA has recommended that the proposed PMD be denied.

Member Miller moved to recommend the Village Board adopt the draft PMD Ordinance dated August 11, 2016 as amended and also convey the PCZBA’s recommendation that two-thirds of the Village Board must vote in favor of a proposed PMD if the PCZBA has recommended that the proposed PMD be denied. Member Peters seconded the motion. The motion passed on the following roll call vote:

Ayes: (6) Burns, Collins, Chair Kraus, Miller, Peters and Chair Pro Tem Bishop
Nays: (1) Badger
Absent: (0)

7. Continuation of a Public Hearing to Consider the Following: i) a Special Use Permit for a Planned Mixed-Use Development to Permit the Construction and Maintenance of a 16 Unit Multi-Family Structure and Related Improvements (Development) at 120 E. Scranton Avenue (former PNC Bank Property); and ii) Any Other Zoning Relief as Required to Construct and Maintain the Development at the Property

Chair Pro Tem Bishop introduced the agenda item and stated the Petitioner, The Roanoke Group, LLC, has requested the public hearing be continued to the September 21, 2016 PCZBA Meeting.

Member Burns moved to continue the public hearing to the September 21, 2016 PCZBA Meeting. Member Miller seconded the motion. The motion passed on a unanimous voice vote.

Member Collins asked if the PCZBA should consider a Petitioner’s track record. She asked if The Roanoke Group could transfer the project to another developer should the PMD Ordinance get approved. Village Attorney Friedman stated zoning relief for special use permits and developments are granted to the applicant and a transfer is not allowed except with the Village Board’s approval.

Member Collins asked if the Petitioner’s financial qualification should be considered by the PCZBA. Village Attorney Friedman stated if there was objective concern about the ability of the developer to comply with zoning it would be relevant. Should the Village Board approve a PMD there are things imposed to protect the Village if the developer cannot complete the project, such as a letter of credit.

In response to a comment from Member Burns, Village Attorney Friedman stated it is with the Village Board authority to consider the overall qualification of a Petitioner.

Village Administrator Irvin stated the Village Board will consider the draft PMD Ordinance at its August 22nd meeting.

8. Commissioner's Report

Chair Pro Tem Bishop stated the next regular PCZBA meeting is scheduled for September 21, 2016. Member Collins stated she would not be in attendance at the September 21st meeting.

9. Staff's Report

A to VA Stanick reported the Comprehensive Plan Amendments were adopted by the Village Board and will be incorporated into the official document.

10. Adjournment

As there was no further business to come before the PCZBA, Member Burns moved to adjourn the meeting. Member Miller seconded the motion. The meeting adjourned at 9:37 p.m.

Respectfully submitted,

Brandon Stanick
Asst. to the Village Administrator