

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

**MARCH 15, 2017**

**APPROVED MINUTES**

**1. Call to Order & Roll Call**

Chair Kraus 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, March 15, 2017, at 7:00 p.m. in the Village Hall Board Room (40 E. Center Avenue).

The following members were present:

Members:     Leslie Bishop  
                  David Burns  
                  Mary Collins  
                  Elliot Miller  
                  Gary Peters  
                  Steven Kraus, Chair

Absent:        Sam Badger

Also Present: Benjamin Schuster, Village Attorney  
                  Drew Irvin, Village Administrator  
                  Glen Cole, Assistant to the Village Administrator

**2. Non-Agenda Items and Visitors**

Chair Kraus 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.

There were no requests to address the PCZBA.

**3. Approval of the February 15, 2017 PCZBA Regular Meeting Minutes**

Member Miller moved to approve the February 15, 2017 PCZBA Regular Meeting Minutes with the requested changes. Member Collins seconded the motion. The motion passed on a voice vote.

**4. The Continuation of a Public Hearing to Consider Amending the Text of Chapters 5 and 6 of the Zoning Code Regulations to Clarify Setback Requirements for Property in the Central Business District (CBD) located (i) Along Scranton Avenue between Oak Avenue and Evanston Avenue or (ii) Adjacent to or Abutting Property in a Residence District.**

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

Mr. Cole stated the commission may: (i) amend the Zoning Ordinance to apply a 15 ft. setback along Scranton Avenue within Block 3 of the CBD and (ii) move the yard requirements from the Zoning Regulations governing residential districts to the chapter governing the CBD. He provided background information discussed by the former Advisory Boards responsible for zoning (Plan Commission and Zoning Board of Appeals) and reviewed a setback map that was adopted as an exhibit (Ordinance 99-6) enacting the CBD regulations.

Chair Kraus stated there are some ambiguous sections in the current Zoning Code specifically Sections 10-6A-5 and 10-5-3.

Chair Kraus stated that the former Zoning Board of Appeals identified setbacks block by block and street by street for each of the four Blocks in the CBD. This document appeared to define the setback on Scranton Avenue for any building on any lot in CBD Block 3 as requiring no building setback along Scranton Avenue as set forth in 10-6A-5 (Setbacks CBD Block 3).

Chair Kraus stated Section 10-5-3 (Adjoining Business District) (i) any lot in any business district that fronts on the same street and has the same front line as an adjacent lot in the same block that is in a residence district shall conform to the setback requirements of the adjoining residence district; provided, however, that no building on such a lot in a business district shall be required by this subsection to setback more than fifteen feet from the street line. This particular provision conflicts with the prior setbacks established for Block 3, creating ambiguity in the zoning code which is being discussed this evening. Chair Kraus stated it is proper for the PCZBA to make a recommendation to the Village Board as to what the appropriate setbacks should be from Scranton Avenue the CBD portion of Block 3.

Member Collins stated it appears there are two eras of thought represented in the Zoning Code. Section 10-5-3 was enacted in 1987 and the conflict began in 1998 when the CBD Section 10-6A-5 was adopted as part of creating the CBD zoning regulations.

Chair Kraus stated the discussion is not where the best place in the code for this to be but what is the recommended setback for the CBD portion of Block 3 that fronts on Scranton Avenue. Previous discussion addressed the redevelopment of Block 3 in its entirety as a planned development, and not developed as separate residential and commercial properties. The petition to develop this site via a PUD was withdrawn, and now the Village is faced with the possibility that, because of the underlying zoning, there will be separate uses on Block 3.

Village Attorney Ben Schuster stated the PCZBA should consider what the appropriate setbacks should be in the best interest of the Village. The existing language is vague and moving forward it is important for everyone to know what the expectations are on that Block.

Chair Kraus stated buffer zones are addressed in the Comprehensive Plan, there are specific setback requirements for the eastern most portion of the three CBD lots and he asked if a buffer zone should be considered for the Scranton Avenue side.

In response to a question from Member Burns, Chair Kraus stated the existing structure for the PNC Bank was built prior to 1975. Member Burns questioned if it was built according to right of use or if there was an approved variation.

Member Miller questioned if the building was built with a zoning variation and noted a precedence has been established. The building was constructed on the lot line, and he asked if that should be taken into consideration. He expressed his concern that, if someone came in and reutilized the building, it would be treated as a non-conforming structure and they would be required to come before the PCZBA to get approval to establish a business in the building.

Chair Kraus stated that a complete re-development of the property would have to come through the zoning process to maintain the existing setback.

Member Bishop asked if the CBD setbacks on Scranton Avenue would affect the eastern portion of Block 2. Chair Kraus stated the discussion would only affect the CBD portion of Block 3 and noted that Section 10-6A-5 established a separate set of requirements for each of the streets which the lots front.

Member Miller asked what regulations would apply if the building is sold and a residential project is built. Village Attorney Schuster stated it would still be zoned as CBD Block 3 for commercial use.

Member Peters asked if, under the applicable zoning law, it would be possible to have an ordinance or amendment that would phase in transitional setbacks over a period of time. Village Attorney Schuster stated that a zoning requirement can be phased in, but that it is a complicated matter. He stated that if the zoning was changed to a 15 ft. setback, the property becomes a legal non-confirming and it can remain as is. The challenge is if they put enough money into the building improvements that it triggers a requirement that the property owner bring the building into compliance. Activity such as constructing an addition or knocking down the building and starting new would have to comply with the setbacks unless they sought a variation. He stated that he does not recommend putting in a provision saying that the current building has one year to come into compliance with the code, because that timeframe would be considered a regulatory taking, and the Village would have to compensate the property owner. Village Attorney Schuster stated that the building can remain as is. The existing building would remain as is until the property owner decides what they want to do with the building. The issue before the PCZBA is what the setback should be.

Member Collins stated it seems to her that it is helpful to think about the goals of the Village. Two residential lots have been sold, houses will be built on those lots, and they will have the required 20 ft. setback. She is curious about the Library, because the way the Library transitions to residential is well done. Scranton Avenue is not centered in the right-of-way, which is why the existing PNC Bank building on Block 3 is only a few feet back from the property line and right at the edge of the sidewalk. But across the street, there are 13 feet between the sidewalk and the property line, plus another 7.5 feet to the building, so it feels like a 20 foot setback. She stated there should be some setback to give some sort of transition there. As for the existing PNC Bank building she would want to help with any variation needed to make it viable for perspective buyers because it is a very nice scale. It is a single story building, and that compensates for the fact that it is right up against the sidewalk and far out in front of an adjacent house. If there was additional bulk, then maybe it could be setback a little and that would help the transition to a residential district.

Member Miller proposed changing the residential setback of that block to 10 ft. or 15 ft. so that there is a transition from commercial to residential.

Member Collins stated she does not like the idea of bringing the houses on Scranton Avenue closer to the street because they will not relate to the other homes in the area. But we want to be fair to whoever owns the property and make sure that it is viable commercially because we want

this to be an investment in the community. We do not want to harm potential developers with rigorous setback requirements.

Member Burns stated when this came up a few months again, one of the reasons that he was okay with the proposed action was that it seems like we were clarifying a mistake, but now he considers that Section 10-6A-5 was adopted later after a lot of thought that went into classifying the requirements. To him, it is not so much a mistake, but this section reflects what their intent was. If you consider the westerly portion of the lot as really being utilized as one lot, then it would front on Oak Avenue and would not be subject to 10-5-3, so there really is no conflict.

Member Burns stated that, after he read it, he believes there was no conflict or mistake and that the ordinance was laid out the way the drafters wanted. He thinks back to previously proposed development on this site, and in thinking about that, the setback on Scranton Avenue did not create a lot of heartburn for him. He believes the height and setback on the easterly side was the problematic part; he was mostly concerned with the easterly transition and not the frontage on Scranton Avenue. If it is part of the CBD he is okay with it as is, including the setback, height requirements, and bulk requirements.

Member Bishop stated that this lot is a part of the CBD and Block 2 is going to have 0 ft. setback on Scranton Avenue. Visually, going down the street, if the western portion of Block 3 is redeveloped as commercial it feels like your eye would want to carry that same line across Blocks One, Two and Three. She suggested that the parking lot or open land be placed between the building and houses to visually get a space there. She stated that there is already a height restriction and we know that a towering building cannot be built with a 0 ft. setback, and she expressed her agreement with Member Burns that she is okay with it.

Chair Kraus asked for clarification on the residential portion of Block 3, the two lots on the east side which is now a single buildable lot. He asked how would that structure be configured and where would the front and side yard be located. Mr. Cole stated that the frontage would be on Scranton Avenue and the side yard setback (R-4) would be 5 ft. on the residential lot or whatever is specified for the lot size.

Member Miller stated we should not give the new or current owner any hardship to redevelop the property because it would be beneficial to the Village to have the property sold and redeveloped and using the requirements of Section 10-6A-5 would be in the best interest of the Village.

Member Peters stated he has been struggling with the issue from the equity standpoint of the current owner. It seems somewhat unfair to him if the setbacks were altered on the property as it currently exist. He is more inclined to agree with Members Bishop and Burns.

In response to a question from Member Miller, Village Attorney Schuster stated that, regardless of what setback is enacted, we would make Section 10-5-3 not apply to Block 3.

Member Collins asked if any other blocks that will be affected if Section 10-5-3 is eliminated. Village Attorney Schuster stated yes, that is another issue that needs to be addressed. A discussion ensued.

Village Attorney Schuster stated that there were two draft ordinance provided. Draft One sets a 15 ft. setback for Block 3 along Scranton Avenue and relocates the provisions of Section 10-5-3C1 to the CBD section of the Zoning Code but exempted Block 3. Draft Two clarifies the setback of Block 3 and deletes the provisions of 10-5-3C1 entirely. He reviewed possible modifications to the provisions in the ordinance and the actions that the PCZBA could consider.

Member Burns asked if Section 10-5-3 provides any additional value beyond what is portrayed or described in Section 10-6A-5. Village Attorney Schuster stated that Section 10-5-3 could provide some protection against other issues that could affect the Village. Chair Kraus discussed the possibilities of combining the two provisions.

Member Burns was unsure what takes precedence if someone wanted to use the lots as configured, tear down the back, and put in individual businesses along Scranton Avenue. He believes that, as written today, any business along Scranton Avenue have a 0 ft. setback and if both provisions are included they would conflict and possibly create problems.

Chair Kraus polled the commissioner regarding setbacks on CBD Block 3 with the following results: Members Bishop, Miller and Burns (0 ft.), Member Peters (7.5 ft) and Member Collins (something).

Member Burns, Village Administrator Irvin, and Village Attorney Schuster discussed how the setbacks are calculated and applied in practice.

In response to a comment from the Board, Village Administrator Irvin advised that during the design guidelines discussions it was suggested that a setback requirements of 6 to 8 ft. to match the setback of the adjacent street.

In response to a comment from Member Bishop, Member Collins stated there are no regulations that encourage developers to put the parking lot to the east to act as a buffer to the residential district. Currently there is a 10 ft. side yard setback for the building.

Chair Kraus stated regardless of which provision is adopted each setback could be modified based on an agreement between the developer and the Village as part of a PUD. Village Attorney Schuster stated the developer could always do more as-of-right through a requested variation or the developer could go through the planned development process.

Member Bishop believes it looks fine with one story now compared with the Library across the street, but she has a hard time visualizing what it would mean if it went to the full height. She asked if there was any information available that would help visualize what that would look like from a across the street without a setback. Village Administrator Irvin suggested that a consultant could be hired to do some models to help visualize the area if it will help the conversation.

Chair Kraus stated if we are uncomfortable with the prospect of 0 ft. setback and want to have a mandated conversation with a developer that wants to proposal something other than what the PCZBA would approve, then a specified setback would be the approach. If we are comfortable with 0 ft. setback a developer could build with a 0 ft. setback as-of-right.

Chair Kraus opened the floor for public comments.

Mr. Gerald Callaghan of Freeborn & Peters, LLP thanked Staff for the background information on the setback requirements on Oak and Scranton Avenues. Mr. Callaghan believes the use of the term remnant to describe Section 10-5-3 is appropriate because he does not think anyone focused on that provision in the residential section. He stated that the CBD regulations were clearly intended to apply to the CBD for each one of the lots. He believes it is interesting to look at some of the other comments because they wanted to make sure there were setbacks against the residential lots, the rear and side yard setback against the two easterly lots were taken into consideration, and they determined that is where the focus should be. He expressed his understanding that the building should be pushed up to Scranton and Oak Avenue and away from the residential buildings. The former Committee was also looking at this as a CBD parcel that could be redeveloped; therefore, the height increased to 30 ft. and the building coverage increased. The former Committee saw this as part of the downtown commercial district that could serve the community and this was not an afterthought as you look at the minutes from the meetings.

Mr. Callaghan stated that one of the questions was how it would look if a 30 ft. building was erected next to the existing homes. The homes can be 36 ft. tall, so the CBD building would be a lower height than the homes. The protection you have been thinking about it seems to him is for the two residential lots on Block 3. As a practical matter they are non-conforming so that is one residential lot not two. If you look at the Comprehensive Plan it does not contemplate that there will be single family residential structure there so in terms of the Village's vision it was never contemplated. It maybe recently because it is zoned that way but as a practical matter you can have one house. The vision of the Village outlined in the Comprehensive Plan, and these are the recent amendments that were recently approved, was four lots for non-single family residential use. Again the protection was to be for the rear yard of the residential lots behind the building to the east. Mr. Callaghan mentioned there are some problems with the proposed draft ordinance, if these three CBD commercial lots were developed individually you could end up with zig-zag frontage. The one next to the residential lot would have to be setback and the ones next to it would have no setback. As written it is confusing because you also have the corner lot that would have to have a side yard setback equivalent to the residential district. He stated you could also end up with zig-zag frontage on Block 2 corner lot.

Mr. Callaghan stated the proposed approaches do not work and the setback should not be changed and it is obvious Section 10-5-C does not apply to Blocks One and Two.

Mr. Callaghan stated singling out these three lots does not make any sense. This change is only applied to a small area and we are talking about three lots out of probably thousands of lots in this Village. He does not know if this could be applied to a smaller area than what is being discussed here. Mr. Callaghan stated the proposed amendment is not necessary because the existing regulations have been functioning fine. He thinks that everyone would want any development on these lot to be oriented toward Oak and Scranton Avenue and away from the east and north, and this is what the current ordinance does. He suggested the setbacks remain the same because it works well and it preserve the investment that the property owner made in this building.

In response to a question from a resident, Mr. Callaghan stated that he represents the owner of property within Block 3.

Member Miller stated the December 16, 1998 minutes, pg 4, item 10, did say a 15 ft. setback but property abutting the residential 10 ft. setback. 18 ft. in the back and 15 ft. on the side. He asked

would it be better if a 30 ft. tall building, which increase the space in the residential by another 5 ft. with this recommendation.

Member Burns stated on pg. 2 of the memo, there is some narrative, and he asked which setback requirements preceded the other. Mr. Cole responded that the proposed 15 ft. side yard setback was a part of the minutes, but the map is the adopted illustration of the ordinance.

Member Miller asked if it would make more sense for the commercial and residential buildings to be separated by a side yard setback. This seems reasonable if the 0 ft. front yard setback is kept.

A discussion ensued regarding the various PCZBA minutes regarding the matter.

Member Peters stated that, under current zoning, the maximum height is 30 ft. Theoretically we could have a 30 ft. high building right off the lot line on Scranton Avenue. Chair Kraus stated that the Village Board, in approving the Planned Commercial Development language, did not specify feet but the number of stories. Village Attorney Schuster stated that the ordinance specifies 30 ft. or two stories.

Member Peters stated that the ZBA of the past was contemplating more commercial as opposed to residential developments. When you are contemplating commercial development, then you would have the extension along Scranton Avenue similar to Block 2, but if you were contemplating more residential development than you are looking more at the transition toward the eastern part of Block 3.

Mr. Cole stated that, in a residential district, the maximum height varies with the width of the lot. It starts at 30 ft. and it can go as high as 44 ft. The biggest restriction is the daylight plane which does not apply in the CBD.

Chair Kraus reviewed the issue before the PCZBA again. The PCZBA should choose to impose a 0 ft. setback or some setback yet to be developed on Scranton Ave. If there is some setback, a property owner that wishes to redevelop or the existing property owner desiring an addition would need to request a variation. If there is 0 ft. setback there could a building similar to much of the downtown that could be built to the maximum potential allowed by the Code.

Village Attorney Schuster confirmed that in the event of a tie vote the matter would fail and stated a poll should be done prior to voting.

Village Attorney Schuster stated a straw poll was needed because there are two draft ordinance before the PCZBA. Chair Kraus conducted the straw poll the commissioner's response are as follows: Member Miller 0 ft. or 7 ft. setback; Members Bishop, Burns, Miller 0 ft. setback; and Members Collins and Peters 7 ft. or 7.5 ft. setback.

Chair Kraus stated that he thinks a 0 ft. setback is fine if it is a well-designed commercial building that fit into the downtown, because this was the intent of the Comprehensive Plan. This Block is part of the CBD and we want to maximize use per square footage in the CBD. He was fine with 0 ft. setback when the Village was contemplating all of Block 3 as a Planned Commercial Development, but we have a difference and that is a residence that can be legally built elsewhere in the Block. He stated that they are engaged in an effort to continue at having more eyes on

things that happen in the Village, and the way to do that is have a more restrictive provision in the Code that would require someone that desires to build closer to the lot line than 7.5 ft. to seek a variation.

Member Collins stated that is a good point and it kind of gives a little bit of an incentive to protect and reuse the existing building because it is grandfathered.

Village Attorney Schuster stated now we need to determine what we want to do with the remnant provision Section 10-5-3. There are two option. One is to delete the provision in its entirety from the code. The other option would be to simply keep it and move it to the CBD section and it would apply when applicable to other CBD Blocks except Block 3.

Chair Kraus stated he prefer the second option because this would allow for more sets of eyes and possibly allow the Boards to comment on and look at a proposed development.

Mr. Cole stated this section triggers, as he read it, for every setback on the lot; we limit it only to 15 ft. for the front setback, so there are other considerations and as written today we can change it.

Member Miler asked if Oak Avenue would be 0 ft. setback.

Member Collins expressed her agreement with Chair Kraus to leave the provision is because it is sort of a fail-safe but transferred into the CBD section. She stated the verbiage needs to be fixed so that the words “fronts and front lines” does not occur in there and leave it at 15 ft. setback.

Chair Kraus stated that, if the PCZBA agrees, we could recommend to the Village Board the first proposed draft ordinance and not the second.

Village Attorney Schuster stated the PCZBA would be recommending an amendment of Section 10-6A-5, setbacks Section C1, instead of 15 ft. setback a 7.5 ft. setback. In section E1 there are two uses of the word “front”, change to “to any block in the CBD that has a boundary along the same street and the same boundary line as an adjacent lot in the same block that would be available” to avoid the use of the word front but otherwise to recommend it as it was written.

In response to a question from Mr. Callaghan, Village Attorney Schuster stated Section E1 would not apply to Block 3 but it would apply to the other Blocks in the CBD.

Village Attorney Schuster stated the motion would be to recommend approval of the amendment as originally drafted with the modification of 7.5 ft., in 10-6A-5, Section C1 and in 10-6A-5, Section E1 changing “fronts” to “boundary line.” Member Collins made the motion. Member Miller seconded the motion. The motion passed on the following roll call vote:

Ayes:	(5)	Collins, Miller, Peters, Bishop and Chair Kraus
Nays:	(1)	Burns
Absent:	(1)	Badger

**5. A Workshop Regarding an Update of the Village’s Comprehensive Land Use Plan**  
Chair Kraus introduced the agenda item and requested an update from Staff.

Mr. Cole provided background information regarding the matter and draft Comprehensive Land Use Concept Plan presented for discussion. He stated it is recommended the PCZBA provide feedback regarding the Table of Contents, Statement of Purpose and Vision, and General Objectives of the Comprehensive Land Use Plan and discuss a preferred schedule to complete the update of the Plan.

Chair Kraus stated that, if you take the time to go back through the 1997 Comprehensive Plan, the recently adopted Strategic Plan, and former Plan Commission minutes, you will find that most of the verbiage in the draft document is contained in one or more of those documents. This is a structure with verbiage that needs to be modified based on the reality of the Village now.

Village Administrator Irvin stated at the January 18<sup>th</sup> workshop meeting there were graphic demonstrating plan inputs, planning elements and analysis and outputs then explained the outline was incorporated in the draft plan.

A discussion regarding an update of the Village's Comprehensive Land Use Plan followed.

The discussion centered upon the table of contents, redundant information, information missing (current/future land use map, land use definitions, enforcement tools, educational goals) future technology, statement of purpose and vision, introduction,

Chair Kraus stated that the Board must determine the appropriate process to complete the Comprehensive Plan.

Chair Kraus read his suggested modification to the vision statement "To recognize the unique character of the Village by maintaining a balance between one: stewardship of the built environment, two: responsible development and three, enhancement of public assets and the Village's natural resources. To achieve this vision it is the Village's intention to optimize land uses to ensure financial stability and diversity, while minimizing the negative impacts on the Village and its growth and development on the environment. With the fulfillment of this Plan, the Village of Lake Bluff will be welcoming, attractive and flourishing – an authentic atmosphere of neighbors, traditions, safety and invigorating community life. The modification talks about stewardship of the built environment, responsible growth and enhancement of public assets, and sustainability around the Village's environmental resources."

Following the discussion, it was the consensus of the PCZBA to begin the process with the transportation section and to further review the table of contents and vision statement. Member Collins suggested induced demand be reviewed as part of the transportation review.

## **6. Staff Report**

Mr. Cole reported on the possible upcoming petitions for the April 2017 meeting. Provided at the dais was an example of an approval order for consideration, which will assist with memorializing a final decision of the PCZBA and would produce a recordable document for the land owner. Beginning next month these will be generated with the packet, so as part of a motion to approve a variation will be to issue the approval order.

Village Attorney Schuster stated that coming to you in future packets will be a draft form of the approval order which will allow an amendment on the spot should the PCZBA approve the

petition with conditions. He stated most of the PCZBA's actions are to recommend action to the Village Board, but in a situation where the PCZBA has final approval, it is prudent to have something in writing that will reflect the PCZBA final action.

Village Attorney Schuster provided information regarding the April 24<sup>th</sup> Biennial Seminar hosted by Holland and Knight in Glencoe at the Writers Theater.

**7. Commissioner's Report**

Chair Kraus reported the next regular PCZBA meeting is scheduled for April 19, 2017.

**8. Adjournment**

As there was no further business to come before the PCZBA, Member Peters moved to adjourn the meeting. Member Collins seconded the motion. The meeting adjourned at 10:15 p.m.

Respectfully submitted,

Glen Cole  
Assistant to the Village Administrator