

**BIRMINGHAM CITY COMMISSION /  
PLANNING BOARD JOINT MEETING  
OCTOBER 15, 2018  
DPS FACILITY, 851 SOUTH ETON, BIRMINGHAM MI 48009  
7:30 P.M.**

**I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Andrew M. Harris, Mayor

**II. ROLL CALL**

Cheryl Arft, Deputy City Clerk

**III. JOINT WORKSHOP SESSION - CITY COMMISSION AND PLANNING BOARD**

This section of the agenda will be considered a workshop session. No formal decisions will be made. The purpose of this workshop format is to focus on problem definition and desired outcomes. Each commissioner will have an opportunity to share their perspective and thoughts on problems and possible solutions and engage the Planning Board for input. Citizens will have an opportunity to make public comment at the end of the workshop session.

A. Current Issues:

1. Aging in Place
2. Rooftop Usage in MX District
3. Process for Minor Changes to the Planning Board's Action List
4. Use of Astro Turf in Residential Rear Yards
5. Walls, Structures & Grade Changes in Front Yards

**IV. PUBLIC COMMENT**

**V. CITY COMMISSION BUSINESS**

- A. Resolution of the City Commission to meet in closed session, as requested pursuant to Section 8(A) of the Open Meetings Act, MCL 15.261 – 15.275.

**(A 2/3 roll call vote of the City Commission is not required to call a closed session permitted under Section 8(a). The Commission will adjourn to closed session after all other business has been addressed in open session and reconvene to open session, after the closed session, for purposes of taking formal action resulting from the closed session and for purposes of adjourning the meeting.)**

**VI. ADJOURN**

*NOTICE: Individuals requiring accommodations, such as mobility, visual, hearing, interpreter or other assistance, for effective participation in this meeting should contact the City Clerk's Office at (248) 530-1880 (voice), or (248) 644-5115 (TDD) at least one day in advance to request mobility, visual, hearing or other assistance.*

*Las personas que requieren alojamiento, tales como servicios de interpretación, la participación efectiva en esta reunión deben ponerse en contacto con la Oficina del Secretario Municipal al [\(248\) 530-1880](tel:248-530-1880) por lo menos el día antes de la reunión pública. (Title VI of the Civil Rights Act of 1964).*



# MEMORANDUM

Planning & Building Divisions

**DATE:** October 10, 2018

**TO:** Joseph A. Valentine, City Manager

**FROM:** Jana L. Ecker, Planning Director  
Bruce R. Johnson, Building Official

**SUBJECT:** Current Planning Issues for Discussion

---

## Topic 1: Aging in Place

### Background:

Birmingham has an aging population. US Census Data indicates that in 2015, Birmingham had a population of 2,151 for seniors aged 65+. SEMCOG projects this number to grow to 3,998 by 2045; an 86% increase. SEMCOG also projects the number of seniors aged 65+ that are living alone to increase from 980 to 1,831 between 2015 and 2045; an 86% increase as well.

In relation to an aging population in single family home neighborhoods, Birmingham's Zoning Ordinance permits a number of senior living options. Adult foster care group homes are permitted in zones R1 through R8, while assisted living, continued care retirement communities, independent hospice facilities, and independent senior living are permitted in R1 through R8 with a Special Land Use Permit. Often, many seniors prefer to modify their existing single family homes to accommodate changing mobility and other issues of aging.

### Issue:

Current zoning regulations permit senior care uses in residential neighborhoods, but regulations on size and setbacks for single family homes are restrictive. Senior residents who wish to remain in their home may want to make renovations to accommodate their mobility limitations. Examples for necessary additions may include wheel chair ramps for the front entrance. Wheel chair ramps are currently under the same purview as porches which may extend up to but not beyond 10 feet from the front setback line. Other examples of concerns for seniors aging in place include the addition of a first floor bedroom to reduce the use of stairs, and expanding the first floor bathroom(s) for walker and wheelchair space. Senior residents may be prohibited from making necessary accommodations and/or expansions due to zoning regulations such as set back and lot coverage requirements.

Other issues related to aging in place include pedestrian friendly developments and well-maintained sidewalks with adequate lighting, rest areas, crosswalks, and access to public transit. Senior residents may wish to rely less on automobiles and age in place with walkable amenities nearby such as parks, restaurants, and shopping. Birmingham currently has sidewalk

maintenance requirements as well as provisions of benches, light poles, and bike racks for commercial developments, but similar street furnishings are not required in residential areas.

**Discussion:**

Does the City Commission wish to pursue amendments to the Zoning Ordinance to address aging in place issues?

**Topic 2: Rooftop Usage in MX District**

**Background:**

Article 4.19 of the Zoning Ordinance contains height standards for the Mixed Use (MX) District; it states, "Any other use or occupancy above 40 feet shall be prohibited." An excerpt is below. If a developer constructs a building to the maximum height of four stories or 45 feet for flat roofs, then no rooftop amenities can be provided.

**Height Standards (HT)**

**Article  
04**

**4.19 HT-04**

This Height Standards section applies to the following district:



The following height standards apply:

**A. Roofs:**

1. Flat roofs shall be no more than 45 feet.
2. Eave line for sloped roofs shall be no more than 40 feet.
3. Peak or ridge of any sloped roof shall be no more than 50 feet as measured to the average grade at the sidewalk at the frontage line.
4. Maximum overall height including the mechanical and other equipment shall be no more than 50 feet.
5. Sloped roofs no greater than 45 degrees measured to the horizontal shall be permitted for the screening of mechanical and other equipment.
6. Any other use or occupancy above 40 feet shall be prohibited.
7. Maximum of 4 stories.

- B. Structures Along Eton Road:** The minimum eave height for a 1 story building along Eton Road shall be 18 feet.

Many new buildings, especially multi-family developments, have rooftop amenities such as recreation spaces, terraces, or outdoor dining. Providing rooftop amenities allows building owners to maximize space. The view that rooftop amenities provide is often cited as one of the biggest benefits for patrons of such spaces. Rooftop amenities are currently permitted on buildings in all zone districts that are built to the allowable number of stories, except in the MX District. The District Lofts at the northwest corner of Villa and Eton and the Sheridan senior living center are two presently built properties that are currently prohibited from having uses or occupancy on the roof based on section 4.19 of the Zoning Ordinance.

**Issue:**

The Mixed Use (MX) District is the only zoning district that prohibits use or occupancy above a certain height (in this case it is 40 feet). The prohibition may discourage development and limits building amenities within the MX District.

**Discussion:**

Should the prohibition on use and/or occupancy above 40 feet in the MX district be increased or eliminated entirely?

**Topic 3: Process for Minor Changes to the Planning Board's Action List****Background:**

By the end of March each year, the Planning Board compiles an Action List and submits it to the City Commission as a part of the Community Development Department's Annual Report. This Action List in the past was used to identify the larger issues the Planning Board intended to study in the upcoming year, with the understanding that other issues may come to light during the course of the year that may also require action by the Planning Board. The Planning Board's Action List was not formally adopted by the City Commission, and no formal amendments were required to the annual Action List if new issues arose during the course of the year.

Over the past several years, the City Commission has requested that the Planning Board's Action List be considered as a separate agenda item at either a joint City Commission / Planning Board meeting, or at a City Commission meeting to allow the Commission to review and modify the list, and formally adopt it as a priority list for the upcoming year. With this change, the City Commission provides specific direction to the Planning Board as to which items to study in the coming year and in which specific order of priority.

**Issue:**

As the Planning Board's Action List is now formally adopted by the City Commission, the Planning Board would like to clarify the process for addressing minor items not anticipated for study on the Action List that may arise during the course of the year.

**Discussion:**

Is there interest by the City Commission to allow the Planning Board to study minor issues that may come to light during the course of the year that are not on the adopted Action List? If so, would the City Commission like to adopt a formal policy for doing so?

**Topic 4: Use of Astro Turf in Residential Rear Yards****Background:**

The increasing desire of residents to use of artificial grass for portions of their open space was discussed at the June 18, 2018 joint meeting. It was explained that the Building Department's position has been that areas covered in artificial turf would not count in open space calculations because they required drainage systems under them connected to the City's storm sewer. However, many artificial grass systems have improved over the years and can be designed to allow storm water to soak into the ground without connection to the sewer. The consensus at that meeting was artificial turf should be allowed in the rear open space if the drainage system underneath is designed to allow all storm water to drain into the ground without connection to a storm sewer. However, a review of these systems should be conducted prior to making an interpretation. That review has been completed.

There are several manufacturers of artificial turf systems. The three types of turf are made from nylon, polyethylene or polypropylene. Nylon is the strongest and most expensive, but it is not used often for residential yards because it is not very soft. Polyethylene is most often used by homeowners and is manufactured in different grades. It costs more but will hold up longer than the less expensive grade. Polypropylene is the least expensive, least durable and will not last long. A variety of colors are available for each type of turf. The most realistic artificial turf will have a mixture of greens and brown to resemble a natural lawn. However, bright colors such as pink, turquoise, purple, orange and yellow are available.

The types of drainage systems installed under artificial turf appears to be left up to the person or company installing the turf. Manufacturers recommend a proper drainage system be installed to maximize the life of the turf, but not a specific type. Gravel is typically used for both the base for the turf and for collecting and draining rainwater. A shallow gravel base can be used if the water collected is discharged to a storm drain or sewer. A deeper gravel base can be provided to collect and hold all rainwater allowing it to naturally seep back into the ground.

**Issue:**

The Building Department's position has been that areas covered in artificial turf systems are not included when calculating minimum open space requirements based on definitions in the Zoning Ordinance and the fact that prior systems needed to discharge rainwater, rather than allowing it to seep into the ground. There is a good argument that the areas covered in newer artificial turf systems providing 100% containment and utilization of rainwater could count as open space. The Building Official could make an interpretation allowing the use of artificial turf in a rear open space with conditions for type, color and drainage. Further review of artificial turf could be conducted by the Planning Board for its potential use in front and side open spaces.

**Discussion:**

Should an interpretation be made allowing the use of artificial turf in a rear open space under specific conditions? Further, should a review of the open space definition in the Zoning Ordinance be conducted in response to improved artificial turf technologies?

**Topic 5: Walls, Structures & Grade Changes in Front Yards**

**Background:**

The Building and Engineering Departments over the past few years have experienced an increase in the desire of builders and residents to install structures and/or raise grades in required front and side open spaces on residential properties. These requests include unusually wide front walks elevated from grade and extending from the porch to the sidewalk, retaining walls surrounding the front open space to elevate the front yard, concrete walls and various other structures.

The Zoning Ordinance has the following regulations and definitions for accessory structures located in a side or rear open space.

#### 4.03 AS-02

This Accessory Structure Standards section applies to the following districts:

R1A R1 R2 R3 R4 R5 R6 R7 R8 TZ1

The following accessory structure standards apply:

- A. Front and Side Open Space Limitations: No accessory buildings or structures shall be erected in the required front open space or side open space, except as may otherwise be provided in this section.

**Structure**: Anything constructed or erected which requires location on the ground or attachment to something having location on the ground, including swimming pools. The term “structure” shall not include walls, fences, ornamental landscape features, driveways and sidewalks.

**Ornamental Landscape Feature**: Ornamental features include but are not limited to benches, birdbaths, fountains, rocks, walls, fences, and gates.

#### **Issue:**

Accessory structures are not permitted in the required front or side open space. Structures are anything constructed or erected which requires location on the ground or attached to something located on the ground, including swimming pools. However, the term “structure” shall not include walls, fences, ornamental landscape features, driveways and sidewalks. Ornamental landscape features per its definition in the Zoning Ordinance includes things like benches, birdbaths, fountains, rocks, walls, fences, and gates. Accordingly, per the definitions, walls, fences, driveways, sidewalks, benches, birdbaths, fountains, rocks, and gates are not considered structures and can be located in the front and side open spaces. The Zoning Ordinance does have provisions regulating fences, but not for the other items not considered structures like retaining walls.

The Building Department has received requests to install retaining walls along the side and front property lines for the purpose of raising the finished grade in these areas up to three feet higher than the properties on either side. In addition, proposals have been received to install concrete walls in front open spaces taller than the maximum tree feet permitted for fences. Staff has successfully steered the majority of these requests away, but a good argument can be made that that these walls are exempt from the term structure and therefore not prohibited.

#### **Discussion:**

The definition of structure has not been reviewed for at least 20 years and the definition for ornamental landscape features has probably not been looked at since the 1960's. Should a review of these definitions as they apply to accessory structures be conducted? Should regulations be established for exempt structures such as walls and other ornamental features permitted in the front or side open space?



# MEMORANDUM

Office of City Manager

**DATE:** October 11, 2018  
**TO:** City Commission  
**FROM:** Joseph A. Valentine, City Manager  
**SUBJECT:** Request for Closed Session – Manager Evaluation

---

Annually, reviews are done for city staff and objectives are set for the year. This process is started following a personnel evaluation of the City Manager to align objectives throughout the organization. Given our busy regular agendas I am proposing conducting the evaluation immediately following the October 15<sup>th</sup> joint workshop with the Planning Board. In alignment with this process I request the City Commission meet in closed session to consider my personnel evaluation pursuant to Section 8(a) of the Open Meetings Act (Act 267 of 1976). A 2/3 roll call vote of the City Commission is not required to call a closed session permitted under Section 8(a).

**SUGGESTED RESOLUTION:**

To meet in closed session pursuant to Section 8(A) of the Open Meetings Act, MCL 15.261 - 15.275.