

**CITY OF BIRMINGHAM
 PLANNING BOARD ACTION ITEMS
 OF WEDNESDAY, SEPTEMBER 14, 2016**

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REQUEST FOR SITE PLAN EXTENSION 1. 2000-2070 Villa (currently vacant) Request for extension of Final Site Plan (expiring September 9, 2016) Motion by Mr. Williams Seconded by Ms. Whipple-Boyce that the Final Site Plan for 2000-2070 Villa be extended to December 31, 2016. Motion carried, 7-0.	2 2 2

APPROVED

**CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, SEPTEMBER 14, 2016
City Commission Room
151 Martin Street, Birmingham, Michigan**

Minutes of the regular meeting of the City of Birmingham Planning Board held on September 14, 2016. Chairman Scott Clein convened the meeting at 7:30 p.m.

Present: Chairman Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Bert Koseck, Gillian Lazar, Janelle Whipple-Boyce, Bryan Williams; Student Representative Colin Cousimano (left at 9:15 p.m.)

Absent: Alternate Board Members Lisa Prasad, Daniel Share

Administration: Jana Ecker, Planning Director
Bruce Johnson, Building Official
Carole Salutes, Recording Secretary
Scott Worthington, Asst. Building Official
Mike Morad, Building Inspector
Jeff Zielke, Building Inspector

09-156-16

APPROVAL OF THE MINUTES OF THE REGULAR PLANNING BOARD MEETING OF AUGUST 24, 2016

**Motion by Mr. Williams
Seconded by Ms. Whipple-Boyce to approve the Minutes of August 24, 2016 as presented.**

Motion carried, 7-0.

VOICE VOTE

Yeas: Williams, Whipple-Boyce, Clein, Boyle, Jeffares, Koseck, Lazar

Nays: None

Absent: None

09-157-16

CHAIRPERSON'S COMMENTS (none)

09-158-16

APPROVAL OF THE AGENDA (no changes)

09-159-16

REQUEST FOR SITE PLAN EXTENSION

1. 2000-2070 Villa (currently vacant)

Request for extension of Final Site Plan (expiring September 9, 2016)

Mr. David Steuer, 30180 Orchard Lake Rd., indicated they expected to gain financing approval before their June expiration. However there were some glitches. Now he is starting to talk to other lenders. Ms. Ecker recalled this plan was originally approved on December 10, 2014, which means it was valid until December 10, 2015. Then they came back and asked for an extension which was granted to June 9, 2016. They requested another extension in June and the Planning Board granted them 90 days.

Ms. Whipple-Boyce said she is inclined to grant some sort of extension as she would like to see the project happen. It will really complete that part of town. Other board members agreed.

Mr. Williams noted there are existing properties within a quarter mile that are not leasing. He thinks the market has slowed down within the last six months.

Motion by Mr. Williams

Seconded by Ms. Whipple-Boyce that the Final Site Plan for 2000-2070 Villa be extended to December 31, 2016.

No one from the public wished to comment on the motion at 7:42 p.m.

Motion carried, 7-0.

VOICE VOTE

Yeas: Williams, Whipple-Boyce, Clein, Boyle, Jeffares, Koseck, Lazar

Nays: None

Absent: None

09-160-16

STUDY SESSION ITEMS

1. Dormer Regulations

Ms. Ecker noted that as a result of the discussion at the joint meeting of the City Commission and the Planning Board on June 20, 2016, the City Commission directed the Planning Board to review the dormer and habitable attic regulations in the Zoning Ordinance in residential zoned districts. Specifically, to conduct a detailed public input and review process.

Mr. Johnson gave a PowerPoint presentation that covered some of the issues. Concern has been raised that some of the homes appear to be three stories in height, as well as how habitable attics are being designed. The three areas the City Commission has asked to be addressed are:

- (1) Clarify the types of dormers permissible that project from second-story roofs enclosing habitable attics;
- (2) Provide recommended width limitations for dormers projecting from second-story roofs; and
- (3) Refine the maximum area regulations for habitable attics that would not count as a story.

In accordance with the direction of the City Commission, staff offered the following information and recommendations.

➤ Types of dormers permitted to project from second-story roofs

Article 9, section 9.02 of the Zoning Ordinance clearly lists the types of dormers permitted to project from second-story windows. Planning and Building staff recommend that the current dormer definition be maintained as it is clear and specific. However, the Planning Board may also wish to add illustrations to provide clarity on the types of dormers permissible on single-family homes.

➤ Dormer width limitations

The Building Dept. has been applying the regulations for dormers on accessory structures (50% of the roof width per elevation) to regulate dormer size over the past several years, but there is no language in the Zoning Ordinance to specifically limit dormers on single-family homes. Typical dormer widths are 33% for elevations facing interior property lines and 50% width for elevations facing a street, including side streets. A dormer doesn't exceed the maximum width permitted and does not project out past the exterior surface of the wall. When it comes out past that, it stops being a dormer and is a reverse gable.

It has been the Building Official's determination that a secondary roof line is not a dormer. As soon it comes out past the surface of the main wall, then it is considered a secondary roof line. Secondary roof lines typically enclose living space projecting at least 24 in. from the main building.

Accordingly, the Planning Board may wish to consider regulating dormer construction on single-family homes by adding a Subsection "B" to Article 04 Structure Standards, section 4.74 to control the width of dormers on second-story single-family homes, and to add language to clarify when a type of roof structure is not considered a dormer.

➤ Maximum area regulations for habitable attics

The Planning Board may wish to consider amending the definition in the Zoning Ordinance for habitable attic to be consistent with the current 2015 Building Code. This would clarify the definition and make it consistent with the Building Code definition. In addition, the Planning Board may wish to add a definition for attic as well, based on the definition of attic in the 2015 Building Code to make it abundantly clear which portions of an attic may be occupied without becoming a new story in their own right.

- Attic: The unfinished space between the ceiling assembly and the roof assembly.
- Habitable Attic: A finished or unfinished area complying with all of the following requirements:
 - . The occupiable floor area is not less than the minimum room dimensions required by the current Michigan Residential Code;
 - . The occupiable floor area has a minimum ceiling height in accordance with the current Michigan Residential Code; and

- . The occupiable space is enclosed by the roof assembly above, knee walls (if applicable) on the sides and the floor-ceiling assembly below.

The Building and Planning Departments have drafted ordinance language amendments aimed at addressing the issues outlined above as enumerated by the City Commission. The proposed language would limit the width of dormers to 50% of the roof line on elevations facing a street and 33% of the roof line facing an interior lot line. In addition, the draft language proposes amendments to the definitions section of the Zoning Ordinance that would clarify the portions of habitable attics that may be occupied without being considered as stories.

- Story: That portion of a building included between the upper surface of any floor and the upper surface of any floor above, or any portion of a building between the ceiling and the roof. A mezzanine or habitable attic shall not be counted as a story for purposes of determining number of stories.

The intent of these modifications is to allow the exterior regulations to control the massing and shape of the home while allowing for more flexibility on the inside.

In response to Ms. Whipple-Boyce, Mr. Johnson said there is no reason why dormers could not be 50% of the roof line all the way around. The Building Dept. has received very few complaints over the years about the size of dormers, except for several cases where the design appears to be three stories.

Mr. Koseck was not sure that the Building Code definition should be used as the definition in the Zoning Ordinance as these documents have very different purposes. Mr. Koseck and Mr. Jeffares expressed the desire for more time to formulate their opinions. Ms. Whipple-Boyce was comfortable with the attic definition but not dormer limitations.

The consensus of the board was to continue this study session item to October 12.

2. Non-Conforming Building Regulations

Ms. Ecker provided background. This is also at the top of the board's revised Priority List. She recalled that last year, the owners of the 555 S. Old Woodward building applied to the Planning Board to amend the Zoning Ordinance to allow the renovation of the existing building, the addition of new residential units along S. Old Woodward, as well as an addition to the south of the existing residential tower for new retail space and residential units. The Building Official had previously ruled that some changes to the existing legal non-conforming building may be permitted. However, the scale and scope of the changes that the property owner sought to implement would exceed what would be permitted as maintenance and thus were not permitted in accordance with the legal non-conforming regulations contained in the Zoning Ordinance.

In order to renovate and expand the existing building, the owners of the 555 S. Old Woodward building requested a Zoning Ordinance amendment to create a new D-5 Downtown Gateway Over Five Stories zoning classification.

At subsequent Planning Board and City Commission meetings, the ways that the building could be modified and improved as a conforming structure and not through the use of variance requests was discussed.

On July 25, 2016 the City Commission directed the Planning Board to review the non-conformance provisions pertaining to commercial buildings to provide specific requirements,

considering a new zoning category or categories that allow for changes to non-conforming buildings for the maintenance and renovation of existing buildings consistent with those permitted for residential buildings and structures.

Ms. Ecker advised the 555 Bldg., Birmingham Place, and Mountain King are the only properties in the City that are zoned B-3 in the underlying zone. She suggested an option that would amend the regulations for height and setback similar to what they were when the buildings were approved. Mr. Williams wanted to limit the focus on just the 555 Woodward Bldg. as he thinks it needs to be approved.

Ms. Ecker noted this option would allow the applicant to have a conforming status and apply for financing to do an expansion and improvement on the building. It would allow them to do an addition to the south and come to zero setback, and to go up to match the height of the building that is there. What it would not do is force them to address the issue of the garden level or the dead zone along Woodward Ave. However, it would permit them to address that.

Mr. Koseck was in favor of allowing the building to continue to be updated but that doesn't mean it should be permitted to grow. Any add-on to the south would have to meet the current Ordinance.

Mr. Rick Rattner, Attorney for the property owner, gave a PowerPoint presentation requesting to amend the Downtown Birmingham Overlay District to provide that the property be permitted to accommodate a building at the existing height of the 555 structures as they exist today. The building was completed in 1972 and after construction the Ordinance was amended and the building was de-zoned, which prevents any room for renovation. The solution is easy. Just amend the B-3 Ordinance to what it was to say that the maximum building height is 168 ft. and 14 stories. Secondly, allow them to have the same type of setbacks that are allowed in the Overlay District.

They want to make the east side of the building that faces the Triangle District presentable. They also want to do that to the west side, which is not so much of a problem. It is a tragedy that this building is not conforming and doesn't have the advantage of modern setbacks. Ms. Ecker explained modern setbacks. In the Overlay, front building facades at the first story shall be located at the frontage line except that the Planning Board may adjust the required front yard to the average front yard setback of any abutting building. The frontage line has been determined to be on or within 3 ft. Side setbacks shall not be required. A minimum of 10 ft. rear setback shall be provided from the mid-point of an alley except that the Planning Board may allow this setback to be reduced or eliminated. In the absence of an alley the rear setback shall be equal to that of an adjacent pre-existing building.

Discussion concerned whether B-3 zoning that allows Birmingham Place and Mountain King to reach 168 ft. in height would be a hard sell to the public. The conclusion was they could not sell it on more than one piece of property. Mr. Williams proposed they go back to a previous zoning for the 555 Building that existed 45 years ago. He didn't think it should include any other property. Because of that they would not be making a special case for this building in the form of spot zoning. The legal argument is that it would be remedying a wrong.

Mr. Jerry Reinhart, the developer, said that for financing purposes and for preservation of value they want the entire property to be conforming. De-zoning has impacted the value of their asset and they are asking for proper zoning. Ultimately they want to expand the property to do some really cool things that would make it the gateway building to Birmingham. His suggestion

was to allow any building in B-3 now and into the future to have building height at the height that was permitted at the time the building was constructed. So they have an existing conforming use; if they expand the building then they have to conform to D-4 setback requirements. That brings them to the lot line.

The board's dilemma was they want buildings to be at zero lot line, but not at 144 ft. which is the tallest building. The applicant wants the building to be entirely conforming. The board's consensus was to ask staff to meet with the applicant to craft steps to make these buildings conforming in the Overlay for both height and setbacks. That means future construction would comply with the existing Overlay which allows five stories.

09-161-16

MEETING OPEN TO THE PUBLIC FOR ITEMS NOT ON THE AGENDA (none)

09-162-16

MISCELLANEOUS BUSINESS AND COMMUNICATIONS

a. Communications

- A joint City Commission/Planning Board meeting will be held on September 19. The RFP for the Master Plan will be on the agenda;
- The property at 412 and 420 E. Frank has been purchased and the owners would like to submit for a re-zoning to TZ-1 on the October 12 Study Session. All were in agreement.

b. Administrative Approval Correspondence

- 2296 Cole - Rooftop screening for air conditioning units.
- 1964 Southfield Rd., Market Square -
 - Proposed landscaped island near Southfield Rd. to be eliminated. Proposed street tree will be planted nearby. The interior landscape requirements are not impacted by this administrative approval.
 - Barrier free parking space will be moved closer to building entry, along with reducing the entry ramp width to that of a 9 ft. parking space. Parking spaces along the storefront will be re-stripped accordingly.
 - Existing walk near SE building corner to be converted to landscape bed.
 - Added a proposed ramp and landing at new door to alley due to grade differential.
- 34602 Woodward Ave., Automobile dealership - Design changes providing screening for rooftop HVAC equipment.
- 850 Adams #6, Birmingham North - Residential A/C installation.
- 161 Pleasant - Install 83 ft. x 4 ft. galvanized chain link on north side of property. Install 110 ft. of 6 ft. cedar structure on south side of property.
- 460 N. Old Woodward Ave. - Install handicap rail.

- 885 Redding - Minor design changes.

c. Draft Agenda for the Regular Planning Board Meeting on September 28, 2016

- Final Site Plan - Woodland Villa gate;
- Final Site Plan - Crosswinds decks in the back over the driveway;
- Pre-Application Discussion - Social Kitchen to consider improvements to the alley;
- Draft Ordinance Amendment - 555 Woodward Bldg.

d. Other Business (none)

09-163-16

PLANNING DIVISION ACTION ITEMS

- a. Staff report on previous requests (none)
- b. Additional items from tonight's meeting (none)

09-164-16

ADJOURNMENT

No further business being evident, the chairman adjourned the meeting at 10:20 p.m.

Jana Ecker
Planning Director