

**CITY OF BIRMINGHAM
 PLANNING BOARD ACTION ITEMS
 OF WEDNESDAY, FEBRUARY 13, 2019**

Item	Page
<p>E. 1. Renovation of Commercial Properties</p> <p>Motion by Mr. Share Seconded by Mr. Koseck to set a public hearing date of March 13, 2019 to consider amendments to Chapter 126; Zoning, of the Code of the City of Birmingham to Article 7, Section 7.08, Requirements and; Article 7, Section 7.25; Review in order to clarify the board review process for renovation and new construction, as presented, with the inclusion of the editorial and clarifying comments introduced this evening.</p> <p>Motion carried, 5-0.</p>	4
<p>E. 2. Projections in the Right of Way</p> <p>Motion by Mr. Share Seconded by Ms. Whipple-Boyce to set a public hearing date of March 13, 2019 to consider amendments to Article 4, section 4.74 SS-01, Structure Standards to add intent and standards regulating encroachments into the right of way, as presented, with editorial commentary included.</p> <p>Motion carried, 5-0.</p>	5

**CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, FEBRUARY 13, 2019**

City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on February 13, 2019. Chairman Scott Clein convened the meeting at 7:31 p.m.

A. ROLL CALL

Present: Chairman Scott Clein; Board Members Stuart Jeffares, Bert Koseck, Daniel Share, Janelle Whipple-Boyce

Absent: Board Members Robin Boyle, Bryan Williams; Alternate Board Members Jason Emerine, Nasseen Ramin; Student Representatives Madison Dominato, Sam Fogel, Ellie McElroy

Administration: Jana Ecker, Planning Director
Brooks Cowan, City Planner
Laura Eichenhorn, Transcriptionist

01-18-19

B. APPROVAL OF THE MINUTES OF THE REGULAR PLANNING BOARD MEETING OF JANUARY 23, 2019

Chairman Clein asked that a line in the first paragraph on page four of the minutes be amended to read "the Board's decisions are based on adherence to the Zoning Ordinance."

Mr. Jeffares asked that on page four the -e be added to the last name of Chris Longe to reflect the correct spelling.

Ms. Whipple-Boyce said the minutes of January 23, 2019 were fantastic and requested that her comment be reflected in the current minutes.

Motion by Mr. Share

Seconded by Mr. Jeffares to approve the minutes of the Regular Planning Board Meeting of January 23, 2019 as amended.

Motion carried, 5-0.

VOICE VOTE

Yeas: Clein, Jeffares, Koseck, Share, Whipple-Boyce

Nays: None

Absent: Boyle, Emerine, Ramin, Williams

01-19-19

C. CHAIRPERSON'S COMMENTS (none)

01-20-19

D. APPROVAL OF THE AGENDA

Agenda approved with no changes.

01-21-19

E. STUDY SESSION

1. Renovation of Commercial Properties

Planning Director Ecker reviewed her February 4, 2019 memorandum to the Planning Board regarding the item, noting that Building Official Johnson had also reviewed the proposed updates and made some minor changes.

She added she would:

- Include a space between 'of' and 'and' in the proposed update to 7.25(1);
- Include a semicolon at the end of 7.25(3)(a) followed by 'and/or';
- Update 7.25(3) and 7.25(3)(a) to read "Site Plan Reviews by the Planning Board are also required for all expansions and/or alterations of buildings as follows: a. Where reconstruction of exterior walls of existing buildings exceeds 33.3% of the total exterior wall area; and/or", while leaving the wording of 7.25(3)(b) as presented.
- Update the final row of the included chart to read "Exterior modification without expansion/alteration of site per 7.25(3)", removing 'b' from the description.

Chairman Clein asked the Board for comment on the proposed ordinance updates, and asked how these changes would be implemented.

Planning Director Ecker confirmed:

- If a commercial property renovation did not have a site plan review, and began to make substantial changes to the building as defined in the proposed ordinance updates, the City would issue a stop work and require the owner to undergo a site plan review.
- Since commercial properties are required to submit a demolition plan to the Building Department, inspectors would be keeping an eye on the project. Should the inspectors find that more changes are made than originally detailed in the submitted demolition plan, the owner of the commercial property in question would be called in for a site plan review.
- The Planning Department could notify commercial owners renovating their properties from the outset, per Mr. Jeffares' suggestion, so that no owner could claim they were not aware of the site plan review requirements should the issue arise.
- City staff can also work to mitigate the potential issues caused by a temporary stop work by negotiating with the property owner to continue on any work that would not be related to the site plan review.

- The Planning Department does not mandate meetings with an owner prior to a site plan review, but most applicants do come in for a meeting in an attempt to resolve any issues that may arise ahead of the review.

Mr. Share stated that if a historic building were doing a substantial change, the Planning Department would send the building owner through for a site plan review at the Historic District Commission.

Mr. Koseck clarified that most often owners are trying to save money by doing a limited renovation, and then discover that more work is required for the renovation than expected.

Planning Director Ecker concurred.

Motion by Mr. Share

Seconded by Mr. Koseck to set a public hearing date of March 13, 2019 to consider amendments to Chapter 126; Zoning, of the Code of the City of Birmingham to Article 7, Section 7.08, Requirements and; Article 7, Section 7.25; Review in order to clarify the board review process for renovation and new construction, as presented, with the inclusion of the editorial and clarifying comments introduced this evening.

Motion carried, 5-0.

VOICE VOTE

Yeas: Clein, Jeffares, Koseck, Share, Whipple-Boyce

Nays: None

Absent: Boyle, Emerine, Ramin, Williams

2. Projections in the Right of Way

Planning Director Ecker reviewed her February 7, 2019 memorandum to the Planning Board regarding the item. She added the Planning Board could consider adding to section 4.74(D)(4)(c)(i) cannot exceed two thirds of the sidewalk width "...or five feet, whichever is less", though it may not be necessary since a projection cannot interfere with "any existing or planned streetscape elements or infrastructure".

Mr. Share said determining the right parameters for awnings in the City could be somewhat of a work in progress, and that he liked the proposed changes while noting they could be amended again should the Board see need in the future. He suggested that the end of 4.74 SS-01 (D)(4)(d)(ii) be updated to read "...public pedestrian path is provided at all times and that the temporary encroachments are subject to a rental fee as indicated by the Birmingham Fee Schedule."

Planning Director Ecker concurred. Drawing the Board's attention to 4.74 SS-01 (D)(4)(c)(ii), she added that the last sentence would be updated to reflect the two feet requirement, rather than the previous eighteen inch requirement.

In reply to Mr. Share, Planning Director Ecker stated she was not sure whether a dormer could create space that encroaches. She said she did not think so, but the proposed wording would

cover any expanded interpretation of dormers that the Building Department may apply to gable ends or other such features.

In reply to Chairman Clein, Planning Director Ecker said that Building Official Johnson had reviewed a previous draft, and would review this draft before a public hearing.

Motion by Mr. Share

Seconded by Ms. Whipple-Boyce to set a public hearing date of March 13, 2019 to consider amendments to Article 4, section 4.74 SS-01, Structure Standards to add intent and standards regulating encroachments into the right of way, as presented, with editorial commentary included.

Chairman Clein commended the Board and staff for the good work on this item.

Planning Director Ecker asked if illustrations are necessary for this section. The Board said the descriptions are sufficiently clear without illustration.

Motion carried, 5-0.

VOICE VOTE

Yeas: Clein, Jeffares, Koseck, Share, Whipple-Boyce

Nays: None

Absent: Boyle, Emerine, Ramin, Williams

3. Rooftop Uses

City Planner Cowan presented his February 13, 2019 memorandum to the Planning Board regarding rooftop uses.

Mr. Share stated that the "condition that surrounding properties are not impacted in a negative manner" gave him pause. Allowing for the fact that City ordinances prevent nuisance, Mr. Share noted that being 'impacted in a negative manner' is a broad and subjective standard. He suggested the Board attempt to narrow the standard a bit more.

Chairman Clein said the same language gave him pause. He said he had brought up the possibility of using a SLUP in the past, but the Board had thought a SLUP might be too involved just to regulate rooftop use.

Mr. Share suggested the standard could be narrowed by including hours of permitted rooftop use or an injunction to adhere to the nuisance ordinances during rooftop use.

Ms. Whipple-Boyce suggested that #4 under Rooftop Use could be excised entirely since the City has sufficient nuisance ordinances to deter or penalize inappropriate behavior.

Mr. Share said the one reason to leave it in might be to provide the City with another tool to deter inappropriate behavior, if repeated violations of the ordinance could allow the City to take away the right to rooftop use. If the City could not take away rooftop use based on multiple violations, however, Mr. Share said he agreed with Ms. Whipple-Boyce.

Planning Director Ecker said she would not recommend pursuing that option, but that it could be done and would have to be worded carefully. She noted a noise or light violation would be given to both the individual(s) violating the ordinance and the owner of the property where the violation occurred, which usually results in property owners monitoring the issue more proactively.

Mr. Koseck suggested the City consider restricting the number of rooftop users allowed at one time, or restricting who was entitled to rooftop access.

Planning Director Ecker noted the difficulty for City enforcement of those rules.

Mr. Share agreed with Planning Director Ecker, but said that having those rules could just provide the City with a little more moral suasion.

Chairman Clein said the ordinance should include some tenets to deter inappropriate behavior, with the warning that repeated violations could lead to the City Commission revoking a building's site plan.

Planning Director Ecker said noise is the biggest concern and the police enforce noise violations. She said restricting hours of use might be the other way to approach the issue, suggesting 4.18(A)(4) could be changed to "Rooftop uses are permitted between the hours of 7 a.m. and midnight."

Replying to Mr. Jeffares, Planning Director Ecker explained that in 4.18(A)(1) Structures Excluded, 'penthouse' means a mechanical penthouse, not an apartment.

Ms. Whipple-Boyce suggested adding 'mechanical' before penthouse to make the restriction more clear. The Board agreed.

Planning Director Ecker recommended saving the public hearing for this item until April so the City Attorney and the Building Official have time to review the proposed changes. In reply to Mr. Koseck's question about permitted materials, Planning Director Ecker said minor changes would be subject to administrative approval and substantial changes would require approval of the Design Review Board.

Mr. Jeffares expressed concern that lightweight furniture or decor could be carried off a rooftop by wind.

Chairman Clein suggested the City Attorney and Building Official look at the proposed ordinance changes, and that perhaps they may have some ideas to address Mr. Jeffares' concern.

Discussing the issue of the percentage of a rooftop allowed to have coverings in 4.18(A)(2) Rooftop Uses, the Board agreed to remove umbrellas from the list while leaving canopies and pergolas, since only the latter two items create sufficient enough shelter so as to possibly give the impression of an additional floor.

4. Parking Study Update

City Planner Cowan presented his February 13, 2019 memorandum to the Planning Board regarding the parking study.

Chairman Clein said that during the roundtable meeting he attended, the conversation was narrowly focused on the parking requirements of the ordinance. He asked Planning Director Ecker whether that focus was the directive given to Nelson/Nygaard and MKSK.

She confirmed that Nelson/Nygaard and MKSK were asked to look into the parking requirements of the ordinance, general parking trends and best practices.

Chairman Clein said he was respectfully unsure how the Board would know what recommendations to make, based on the report from the consultants, if the Board does not have a larger discussion regarding parking supply/demand in the City, current capacity, and what the City is attempting to achieve with the changes. He asked for more specificity regarding the City's intent.

Planning Director Ecker explained:

- The intent was to encourage smaller, more affordable units throughout the City, and the hope was that reducing the City's residential parking requirements might be a way to achieve that.
- The developers that attended the roundtable meetings largely said that even if the City removed its residential parking requirements, developers would not stop building residences with parking in the current market. That said, the developers also expressed enthusiasm for private lots for spillover parking, getting credits for park or rideshare spaces, or other potential options the consultants may recommend.

Chairman Clein said:

- The record should clearly reflect that he was not complaining, and that a parking study is an important step in gathering data.
- The creation of less expensive housing stock in the City, however, will necessitate more than a parking study.
- The City Commission would need to create an ordinance requiring that a certain number of residential units be smaller, and acknowledged that is not in the Planning Board's purview right now.
- He was somewhat concerned that the roundtable discussion he attended with the consultants focused heavily on eliminating the parking requirement for residential properties without discussion of the Parking Assessment District, its implications, and what the City is trying to accomplish. Given this, he stated concern that the report is going to come to the Planning Board and they are not going to know what to do.

Planning Director Ecker told Mr. Share that the Bates St. extension development project does not include, nor is it required to provide smaller residential units.

City Planner Cowan said the Board should expect the report Spring 2019.

Mr. Jeffares noted that it is difficult to find a community like Birmingham, since every other community offered for comparison had a transit system.

Chairman Clein requested a clear description of what the Board is being expected to do with the information from the study and what the ultimate objective is for the City.

City Planner Cowan said one of the developers so far as seemed amenable to some of the more creative parking solutions.

5. 2018 Administrative Approval Report

Planning Director Ecker presented the item. The annual report will be brought to the Board soon, which covers all the reviews of the past year done by this Board and others.

Chairman Clein asked Planning Director Ecker and City Planner Cowan whether there was anything in the administrative approval report that merited a further look by the Board.

Planning Director Ecker said there did not seem to be any recurrent problems with any ordinances beyond what the Board is already addressing at this time.

01-22-19

F. MISCELLANEOUS BUSINESS AND COMMUNICATIONS

a. Communications (none)

Planning Director Ecker reported that at its February 11, 2019 meeting the City Commission approved the Board's recommended Downtown Overlay signage changes and set the public hearing for the rezoning of 469-479 S. Old Woodward for March 11, 2019.

b. Administrative Approval Requests (none)

c. Draft Agenda for the next Regular Planning Board Meeting of February 27, 2019

- > 35001 Woodward (Hunter House/Hilton Hotel);
- > 695 Brown (formerly 525 Southfield Road);
- > 361 East Maple;

01-23-19

G. PLANNING DIVISION ACTION ITEMS

a. Staff report on previous requests (none)

b. Additional items from tonight's meeting (none)

01-24-19

H. ADJOURNMENT

No further business being evident, the Chairman adjourned the meeting at 8:46 p.m.

Jana L. Ecker

Planning Director

APPROVED