

Village of Bellaire

PLANNING COMMISSION

Commissioners: Dan Bennett, Bill Drollinger Fred Harris, Robert Shumaker and Don Seman

PLANNING COMMISSION MEETING MINUTES

November 3, 2015

5:00 p.m.

1. **Call to Order:** Chairman Drollinger called the meeting to order at 5:05 p.m.
2. **Roll Call Attendance:**
 - Present:** Chairman Drollinger, Dan Bennett, Fred Harris, Robert Shumaker (5:07)
 - Absent:** Don Seman
 - Staff Present:** Lori Luckett, Zoning Administrator
 - Also Present:** Mary Campbell, Planner; Donna Gundle-Krieg and Judy White
3. **Public Comments:** Donna Gundle-Krieg from bluNorth Realty was present representing Judy White, the owner of property on E. Cayuga Street, the last parcel in the Village Commons District. Ms. Gundle-Krieg explained that the property has been on the market for two years. It is a site that Mrs. White owned with her husband and which had their business and an apartment; now two apartments, that gave them rental income. Mrs. White's husband passed away and she has been trying to sell the property. Ms. Gundle-Krieg noted that there are a lot of competing properties in the area and that the business climate has changed because people are working from home. She informed that commissioners that there have been three potential buyers through the property interested in retiring up here and using the job for some sort of small business and, at the same time, getting rental income from the property. She has learned that there is a conflict with the history and zoning ordinances. She and Mrs. White were present because they are interested in working something out so that the property may be sold. Ms. Gundle-Krieg stated that she has been marketing the property as a 30 x 40 well-built pole barn with high doors, concrete floors and all kinds of things that are conducive to a builder tinkering with projects. There are two very nice apartments and there is a shortage of rentals in the area. Ms. Gundle-Krieg stated that they wanted to sell the property as Mrs. White has been using it. Ms. Gundle-Krieg was not aware of the process to use.

Chairman Drollinger asked if he could provide a brief history of the property. He stated that originally the property was used by a garbage hauling business; trucks were stored inside and an apartment was upstairs. Over the course of years the business was sold and a secondary apartment added with storage in back. The issue of correct square footage has been worked out. The "catch 22" is that the person who owns the building has to live in the building to be able to use the back portion as shop. This is making the sale of the property difficult. The property is located across the street from industrial/manufacturing. To sell the building with the current uses would require an amendment to the zoning ordinance. The use would be by special use. Chairman Drollinger noted that there would not be any action taken tonight, but since the zoning ordinance was currently undergoing revision he wanted it brought to the Planning Commission's attention. He noted that there are 8 multiple family

rentals up and down Cayuga that are not owner-occupied. Mrs. White's property is located in Village Commons which allows for multiple uses. Commissioner Harris asked Chairman Drollinger if his point was that there were other conflicts? Chairman Drollinger said yes; there are 8 buildings with three or more apartments that are not being occupied by the owners of those buildings.

Mary Campbell stated that currently multiple family dwellings are permitted by special use in the Village Commons district. There is not a problem with those. The issue with Mrs. White's property as she understood, was that there was a two family dwelling plus a business that would need to be addressed. Ms. Gundle-Krieg asked if it was a matter of choosing a primary use for the property. Ms. Campbell noted that two family dwellings are not currently permitted and that this could be corrected in the updated ordinance. The question of whether an amendment would be considered prior to the completion of the update and whether the use of the rest of the building would be accessory to one of the units, or whether we would look at a mixed use. Ms. Campbell cautioned that if the commission was looking to update the zoning ordinance now it would have to consider all of the ramifications because there is no existing language in the current ordinance to amend.

Commissioner Harris asked, aside from the land use, whether there was any problem granting two apartments there? Chairman Drollinger stated that in his personal opinion, no; but that the commission cannot go by his personal opinion. The commission must follow zoning. Chairman Drollinger thought the site was not desirable for residences because of the neighboring noises and lights. Mrs. White informed the commission that the property is actually quieter and darker than her residence on M-88. Chairman Drollinger indicated that his point was that one would not experience the quietness and serenity.

Commissioner Bennett asked what could be done this evening? Chairman Drollinger indicated that nothing could be done this evening other than to be working with Ms. Campbell to incorporate something into the zoning ordinance. Commissioner Bennett expressed concern about the missed sales. Chairman Drollinger asked about the timing of the new ordinance. Ms. Campbell indicated that the new ordinance would not be ready until July.

Zoning Administrator Luckett stated that the current ordinance could be amended to allow two family dwellings in the Village Commons district but that would not address the remaining issue of the work space. The original use was owner-occupied. The present use is not permitted under the current zoning ordinance. Ms. Campbell said that adding the use of mixed use planned unit development, could be considered in the new ordinance. According to Ms. Campbell, the current PUD provisions would not fit what is happening on the property, so it is not a matter of simply amending the current zoning ordinance to allow for mixed-use planned unit developments in the Village Commons.

Ms. Gundle-Krieg stated that the people who have money to buy the building probably will not want to live there. She stated that there is a shortage of rentals in town. Commissioner Harris stated that the commission would like to find a way to permit the owner to continue the current use but that it must grapple with the technical issue in the zoning.

Chairman Drollinger asked Ms. Campbell if she had any suggestions. Ms. Campbell indicated that in the new ordinance there is a way to address it. The question is whether the

commission wants to amend the current zoning ordinance which would be beyond the current scope of what she is working on right now.

Commissioner Shumaker asked whether the use could be permitted pending amendment. Ms. Campbell indicated that it could not. Chairman Drollinger asked the members present whether there was any problem pursuing this. All agreed to pursue this in the new ordinance. Ms. Campbell stated that she will work on provisions for the new ordinance. She is not certain whether it may be incorporated into the current ordinance. Chairman Drollinger informed Mrs. White and Ms. Gundle-Krieg that this matter is on the burner now and added that Zoning Administrator Lockett will keep them informed of the progress.

4. **Approval of Minutes:** Commissioner Harris noted an error in the date reported for the Public Hearing. The minutes of the August 4, 2015 Public Hearing were approved with the correction of the date.

Motion by Commissioner Harris, seconded by Commissioner Shumaker, to approve the Public Hearing minutes of the August 4, 2015 as amended. Motion carried by unanimous voice vote.

The minutes of the August 4, 2015 meeting were approved.

Motion by Commissioner Shumaker, seconded by Commissioner Harris, to approve the minutes of the August 4, 2015 meeting was written. Motion carried by unanimous voice vote.

5. **New Business:** None presented.

6. **Unfinished Business:**

- a) **Continued Review of Zoning Ordinance:**

Ms. Campbell reminded the Planning Commission that they had previously reviewed Articles 1, 3 and 4. She then identified the proposed zoning ordinance articles in the packet that the Planning Commission would be reviewing - Articles 5, 6, 7, 9, 10 and 11.

Article 5 – Non Conformities – There was discussion of the two classifications of nonconformities, A and B. Ms. Campbell stated that the current zoning ordinance uses A and B. Chairman Drollinger stated that he thought that it was confusing. Ms. Campbell explained that there are some nonconformities that come into existence when an ordinance is adopted or amended. While they are technically non-conforming, they are not as objectionable as others. A nonconformities allow for changes. B nonconformities you would rather be phased out over time. Ms. Campbell stated that this is one way of dealing with non-conformities and asked whether the commission wanted to stick with the A or B distinction. Chairman Drollinger stated that he found it confusing and asked Ms. Lockett what she thought. Ms. Lockett stated that at first it was confusing but the more she worked with it, the section’s application made sense. Using A and B applies only to lawful non-conforming uses or structures. Ms. Campbell thought the section was technical but equitable. Ms. Lockett pointed out that some ordinances allow for structures destroyed by fire, Act of God, or natural disaster to be rebuilt on the same footprint. She thought that requiring an certified appraisal in those circumstances would be like rubbing salt in a wound. Chairman Drollinger agreed and thought rebuilding in those circumstances should be allowed. After further discussion, Ms. Campbell suggested that rebuilding be

permitted in the same building footprint and spatial envelope to the extent possible while complying with the building code. This would eliminate the need for a certified appraisal. Discussion occurred about use non-conformities rather than dimensional and whether the proposed revision would apply to uses. Different use variance scenarios were discussed. It was decided that the proposed change would only apply to non-conforming structures, not uses.

Commissioner Harris about the verbiage “qualified appraiser” and what was considered. In his opinion, if replacing a storage shed or outbuilding, a builder providing the cost of replacement would be a valid appraisal; while a larger structure might need to be done by a certified appraiser. Ms. Campbell asked if relying on builder’s estimate the commission would require more than one? Ms. Lockett suggested that ”qualified appraiser” could be defined. Commissioner Harris suggested that the term be enforceable but also customer friendly.

Article 6 – Site Plan Review – Discussion moved to Site Plan Review and the usage of “modifications” in the proposed language. Ms. Campbell stated that it applied to new uses, excluding single family dwellings. Site plans or plot plans will be required for most zoning applications. Under the proposed ordinance the zoning administrator will conduct plot plan review; the Planning Commission will do site plan review. There was discussion about whether the building department would view a notice of exemption from zoning acceptable instead of each property owner being required to obtain an exemption. After further discussion it was decided that the language “including modifications” be removed and that additions/modifications over 25% would require site plan review.

Article 7 – Special Use Permits – Uses requiring special use permit are set forth for each district. A pre-application conference is required in the proposed section to discuss the proposed use and considerations under the zoning ordinance. Ms. Campbell stated that a pre-application conference can get all on the same page and allows for Village input before a property owner pays engineers to drop up any plans.

Article 9 – Zoning Board of Appeals – The proposed section contains similar language to the current ordinance and specifies that the board will consist of five members.

Article 10 – Administration & Enforcement of Ordinance – Discussion moved to administration of the ordinance and permit exemptions for minor accessory buildings. Ms. Lockett explained an issue with the recent amendment of requiring 10 feet between the principal and accessory buildings. She informed the commission that it has resulted in unintended non-conformities. There was discussion about eliminating the 10 foot setback for minor detached accessory buildings. Planning Commission members agreed. Ms. Lockett asked about providing forms or samples of requirements in a plot plan. Ms. Campbell indicated that graphics will be provided in the definitions.

Commissioner Harris asked how often an ordinance may be amended. Ms. Campbell indicated that it may be amended as often as necessary so long as the appropriate process is followed.

Article 11 – Adoption & Amendments – There were no changes suggested to the article as proposed.

Ms. Campbell asked about planned unit developments in the Village Commons. She stated that she will put together provisions for consideration. Ms. Campbell indicated that she would look at property size requirements for each district. The current minimum size is 4 acres. If the proposed PUD is a mixture of non residential and residential, the minimum size requirement is 10 acres. She suggested that the commission may decide that mixed use PUDs of a smaller size be allowed in certain districts, such as Village Commons and Central Business District.

b) Continued Review of Planning Commission By-Laws:

Chairman Drollinger asked if there were any proposed changes to the Conflict of Interest provision noting that Ms. Lockett had confirmed through legal counsel the need for the provision as written. Ms. Lockett noted that the only proposed revision to the by-laws was the removal of language that prohibited the Village Council *ex-officio* member from serving as Vice Chairperson of the Planning Commission. She noted that the Planning Commission By-Laws were more restrictive than the Village Code. Commissioner Shumaker made a motion to amend the by-laws to allow the *ex-officio* member of the Planning Commission to serve as Vice-Chair.

Motion by Commissioner Shumaker, seconded by Commissioner Harris, to amend the by-laws to allow the *ex-officio* member of the Planning Commission to serve as Vice-Chair. Motion passed by unanimous voice vote.

8. Correspondence/Reports

- a) **Zoning Administrator's Report:** The Planning Commission reviewed the written report of permitting activity submitted by Zoning Administrator Lockett.
- b) Chairman Drollinger thanked Commissioner Shumaker for his many years of service to the Village and on the Planning Commission.

9. Adjournment: Meeting adjourned at 6:16 p.m.

Minutes compiled by:
Lori Lockett, Zoning Administrator & Recording Secretary
Minutes are subject to approval.

Approved: _____
William Drollinger, Chair

Date: _____