

# Village of Bellaire

## PLANNING COMMISSION

**Commissioners: Dan Bennett, Butch Dewey, Bill Drollinger, Fred Harris, and Don Seman**

### PLANNING COMMISSION PUBLIC HEARING MINUTES

**June 12, 2018**

**5:25 p.m.**

1. **Call to Order:** Chairman Drollinger called the meeting to order at 5:25 p.m.
2. **Roll Call Attendance:**
  - Present:** Dan Bennett, Fred Harris, Don Seman and Bill Drollinger
  - Absent:** Butch Dewey
  - Staff Present:** Lori Luckett, Zoning Administrator
  - Also Present:** Zach Piscopo, Marcia Varble, Judy White, Mr. and Mrs. Ramsey
3. **Welcome:** Chairman Drollinger welcomed the members of the public in attendance.
4. **Opening of the Public Hearing:** Chairman Drollinger opened the public hearing at 5:27 p.m.
5. **Determination of Time Limit for Addressing the Planning Commission:** No time limit was set however; Chairman Drollinger reserved the right if comments went on.
6. **Staff Report:** Zoning Administrator Luckett explained that Applicant wants to make an alteration to the structure. Because the structure is lawfully nonconforming, it has to be reclassified. Under the zoning ordinance, nonconforming structures are classified B nonconformities unless reclassified. In order to make the proposed modifications, it has to be classified an A nonconforming structure. If the request is approved Applicant may move to the next meeting for site plan review. Chairman Drollinger asked what made the structure nonconforming. Luckett explained that the structure was within the front setback. Under the ordinance, Applicant will be able to make alterations that do not affect the degree or extent of the nonconformity. Zoning Administrator Luckett noted that the public hearing notice was published in the May 24 edition of The Antrim Review and that she had not received any correspondence for or against the request. Applicant noted that those with questions were in attendance at the meeting.
7. **Presentation by the Applicant, Applicant's Attorney or Other Agents:** Applicant explained that he was making the request because of the proximity to the sidewalk. The only exterior change he will make is a staircase on the side of the building. The only exterior alteration made is 60' from the neighboring property, well outside the setback. There was discussion about the measurements for the porch on the front. Zoning Administrator Luckett explained that the front lot line runs adjacent to the right-of-way. The setback is 25' from the front lot line. Google Earth maps and County GIS maps were used to determine an approximate location of the right-of-way. It shows that the front line of the parcel is along the sidewalk. Chairman Drollinger stated that if that's true, houses along there are all nonconforming. Commissioner Bennett had a question about the location of the right-of-way and a question when the porch was added. He also asked whether the porch was on the building before zoning went into effect. Judy White stated that the porch has been on the house for at least 50 years. Commissioner Bennett asked why the Planning Commission was dealing with this matter. Luckett explained that the building was lawfully nonconforming. Until the structure is reclassified an A, it is considered a B. This is the process set forth in the ordinance. The reclassification will allow the Applicant to make the exterior alterations. Chairman Drollinger wondered what number of homes on N. Bridge were affected by this, were nonconforming because of the front setback being 25'. He expressed concern that anyone living on N. Bridge wanting to make changes to their home would have to go through this process. He does not believe that it is the intent. Applicant thought the front setback was generous and deterred homeowners from making improvements to their homes. He cited an example for the commission. Commissioner Harris noted that Applicant was not proposing to make the nonconformity worse. Chairman Drollinger expressed his concern that

the required setback was affecting the homeowners down there; setbacks are too great. Do they have to be that aggressive? The commission will look at this issue. Commissioner Bennett disagrees with the interpretation.

Mrs. Ramsey stated that she and her husband did not have an issue with the request; they were trying to understand what nonconforming was. Zoning Administrator encouraged them to contact the office with questions.

- 8. Deliberations:** Chairman Drollinger began the review of standards for the nonconforming ‘Class A’ designation request. The parcel was identified as 05-46-225-004-00. The Village Commons dimensional regulations were incorporated into the record: Minimum Lot Area 6000 sq ft; Minimum Lot Width 50’; Maximum Height of Structure (stories) 3; Maximum Height of Structure (feet) 35’; Front Setback 25’; Side Setback 5’ increased to 25’ on corner lots; Rear Setback 25’; Minimum dwelling width 20’ may be reduced as part of a PUD.

Chairman Drollinger continued by reading the report in to the record.

*Applicant purchased the subject property April 19, 2018 with the intention of changing its use to a two-family dwelling. The assessment records do not indicate an age for the principal structure. The first ordinance enacted in the village regarding land use was in 1954. The principal building encroaches into the minimum front setback at least 10’. According to Section 5.03 A. of the zoning ordinance, “(a)ll nonconforming uses, buildings, and structures shall be designated either a Class A nonconformity or a Class B nonconformity. A nonconforming use, building, or structure shall be automatically deemed a Class B nonconformity, unless specifically designated a Class A nonconformity under subsection B.” In order to make exterior modifications to the building required for the proposed change of use, Applicant must first apply for and be granted a Class A nonconformity designation. If the Class A designation is granted, Applicant is then allowed to enlarge or alter the nonconforming building in any way so long as “the enlargement or alteration does not increase the extent or degree of any nonconformity for both the horizontal and vertical planes”. Section 5.04 D. According to Section 5.03 B., “. . . (t)he Planning Commission’s decision whether to grant the Class A designation shall be based on written findings of fact made pursuant to the standards contained in subsection C. The Planning Commission may attach reasonable conditions to the Class A designation to assure compatibility of the nonconforming use, building, or structure with surrounding property uses. The property owner shall receive no vested interest or rights in the Class A designation, since that designation may be revoked by the Planning Commission under subsection D.”*

The exhibits were identified as follows: Exhibit 1 Nonconforming Class A Designation Request; Exhibit 2 Aerial Map with property line overlay; and Exhibit 3 Village of Bellaire Zoning Ordinance.

The standards for classification were considered by the Planning Commission.

## **SECTION 5.03 CLASSIFICATION OF NONCONFORMITIES**

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C. The Planning Commission shall grant a Class A designation for a nonconforming use, building, or structure if it finds that all of the following standards are met:

1. The nonconforming use, building, or structure was lawful at the time of its inception.

**The Planning Commission finds:**

- a. The Village of Bellaire has been a zoned community since 1954.
- b. The zoning administrator has confirmed with the assessor that the principal dwelling is 80 to 90 years old; the detached garage was built in 1974.

**Motion by Commissioner Seman, seconded by Commissioner Harris, that this standard has been met. Motion passed by unanimous voice vote.**

2. The continuation of the nonconforming use, building, or structure will not significantly and adversely affect surrounding properties and will not significantly depress property values in the immediate area.

**The Planning Commission finds:**

- a. Other properties along North Bridge are either within or very close to the front setback. (Exhibit 1)
- b. Reclassification will allow certain improvements to the principal building.
- c. Alterations to the property for continued use will not adversely affect property values.
- d. Proposed alterations will not increase the degree or extent of the nonconformity. (Exhibit 1)

**Motion by Chairman Drollinger, seconded by Commissioner Harris, that this standard has been met. Motion passed by unanimous voice vote.**

- 3. If the nonconforming structure is a sign, the nonconformity is due to dimensional regulations other than the limitation on the area of the sign surface or the limitation on the height of the sign.

**The Planning Commission finds:**

- a. The nonconforming structure is not a sign. (Exhibit 1)

**Motion by Commissioner Harris, seconded by Chairman Drollinger that this standard has been met. Motion passed by unanimous voice vote.**

- 4. The nonconforming use, building, or structure does not significantly and adversely impact on steep slopes as regulated in **Section 3.19** of this Ordinance, is not located within the waterfront greenbelt required by **Section 3.18** of this Ordinance, and is not located within a wetland regulated by the State of Michigan or as regulated in this Ordinance.

**The Planning Commission finds:**

- a. This building does not impact steep slopes as regulated by Section 3.19. (Exhibit 2)
- b. This building is not located within the waterfront greenbelt required by Section 3.18. (Exhibit 2)
- c. This building is not located within a wetland regulated by the State of Michigan or as regulated in this Ordinance. (Exhibit 2)

**Motion by Commissioner Seman, seconded by Commissioner Harris, that this standard has been met. Motion passed by unanimous voice vote.**

- 5. The nonconforming use, building, or structure is of economic benefit to the Village.

**The Planning Commission finds:**

- a. The principal building is currently a single-family dwelling.
- b. Reclassification will allow alterations to the building that will increase value and add to the tax base. (Exhibit 1)
- c. Housing is a need in the community. If reclassification is approved, Applicant is seeking a change of use to a two-family dwelling, which will further benefit the community by adding a dwelling unit. (Exhibit 1)

**Motion by Chairman Drollinger, seconded by Commissioner Bennett, that this standard has been met. Motion passed by unanimous voice vote.**

- 9. **Motion for a Decision:** Chairman Drollinger made the motion to approve the reclassification of the principal structure from a Class B nonconformity to a Class A nonconformity based on the findings of fact that all five standards have been met.

**Motion by Chairman Drollinger, seconded by Commissioner Bennett, to approve the reclassification of the principal structure from a Class B nonconformity to a Class A nonconformity based on the findings of fact that all five standards have been met.**

**10. Closing of Member and/or Public Comment:** None presented.

**11. Adjournment:** Public hearing was adjourned at 5:56 p.m.

Minutes compiled by:

Lori Lockett, Zoning Administrator & Recording Secretary

Approved: \_\_\_\_\_  
William Drollinger, Chairman

Date: \_\_\_\_\_