

**CITY OF BATAVIA**  
100 N. Island Ave., Batavia, IL 60510  
(630) 454-2000  
www.cityofbatavia.net

**PLAN COMMISSION & ZONING BOARD OF APPEALS  
AGENDA**

**Wednesday, November 20, 2019  
7:00 PM  
City Council Chambers - First Floor**

1. Call To Order
2. Roll Call
3. Items Removed/Added/Changed
4. Approval Of Minutes
  - October 2, 2019
  - November 6, 2019

Documents:

[PLANNING COMMISSION MINUTES 11.6.19.PDF](#)  
[PC 10-02-19.PDF](#)

5. Public Hearing: Amendments To The Text Of The Zoning Code  
PUBLIC HEARING – Amendments to the Text of the Zoning Code
  - Chapter: 2.1 Single Family Residential Districts
  - Chapter: 4.2 Off-Street Parking and Loading Regulations
  - Chapter 5.5: Variances

City of Batavia, Applicant

Documents:

[PC ZC TEXT AMEND-VAR-BEEKEEP-PARKING-11-15-19.PDF](#)

6. Matters From The Public (For Items Not On The Agenda)
7. Other Business
8. Adjournment

Plan Commission

Tom Gosselin  
Sara Harms  
Joan Joseph  
Tom LaLonde, Chair  
Sue Peterson

Gene Schneider, Vice-Chair  
Susan Stark

**CITY OF BATAVIA**  
**MINUTES OF THE PLAN COMMISSION**  
**NOVEMBER 6, 2019 at 7:00 p.m.**  
**City Council Chambers- 100 N. Island Ave. Batavia, Illinois**

PLEASE NOTE: These minutes are not a word-for-word transcription of the statements made at the meeting, nor intended to be a comprehensive review of all discussions. They are intended to make an official record of the actions taken by the Committee/City Council, and to include some description of discussion points as understood by the minute-taker. They may not reference some of the individual attendee's comments, not the complete comments if referenced.

**MEETING CALLED TO ORDER FOR THE PLAN COMMISSION MEETING-** by Chair LaLonde at 7:00 p.m.

**ROLL CALL-** Members present were: Chair LaLonde, Vice Chair Schneider, Commissioners Gosselin, Harm and Stark. Members absent were Peterson and Joseph.

Also Present: Planning and Zoning Officer Joel Strassman; Planner Drew Rackow; Community Development Director, Scott Buening; Building Commissioner, Jeff Albertson; Mayor Jeff Schielke; and minute taker, Deanna Kellum.

**ITEMS REMOVED/ADDED/CHANGED-** None.

**PUBLIC HEARING: Conditional Use for a U-Haul Commercial Vehicle/Equipment Sales and Rental in the GC General Commercial District at 1921 A West Wilson Street- Shawn Viland, Batavia Parcel, Applicant- Chair LaLonde called to open the Public Hearing at 7:01 p.m. motion was made by Schneider, seconded by Stark. A voice vote was taken. Ayes: 5, Absent: 2, Nays 0. Motion Passed.** The applicant was not present. LaLonde asked to postpone the public hearing until the applicant arrived.

**PUBLIC HEARING: Amendments to the Official Zoning Map 1119 North Washington Street- CC Community Commercial District City of Batavia, Applicant- Chair LaLonde called to open the Public Hearing at 7:02 pm motion was made by Schneider and seconded by Stark. A voice vote was taken. 5 Ayes, 2 Absent, 0 Nays. Motion passed.** Strassman recapped the petition to annex. With no further comments or questions from the Commission, the floor was open to the public. Hearing no questions or comments from the public, **motion was made by Schneider, seconded by Gosselin to close the Public Hearing at 7:07 pm. A voice vote was taken, 5 Ayes, 2 Absent, 0 Nays. Motion passed.** The findings were read aloud. The Commission had no recommended changes. LaLonde suggested approval of the three findings for the Zoning Map Amendment. **Motion was made by Schneider, seconded by Gosselin. A voice vote was taken, 5 Ayes, 2 Absent, 0 Nays. Motion passed. Motion was made by Schneider, seconded by Harms to accept the seven review of conditions found in State law in deliberating a proposed Zoning Map Amendment, per the staff memorandum to the Commission. A voice vote was taken, 5 Ayes, 2 Absent, 0 Nays. Motion passed. Motion was made by Schneider, seconded by Harms to recommend the approval of the proposed**

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**Amendment to the Official Zoning Map to City Council. A voice vote was taken, 5 Ayes, 2 Absent, 0 Nays. Motion passed.**

**PUBLIC HEARING: Conditional Use for a U-Haul Commercial Vehicle/Equipment Sales and Rental in the GC General Commercial District at 1921 A West Wilson Street- Shawn Viland, Batavia Parcel, Applicant-** With the arrival of the applicant, the Public Hearing resumed. Strassman gave a review of staff findings. The floor was open to the Commission for discussion. Schneider opened discussion regarding the 250 ft. limitation and number of vehicles. The applicant explained the number of vehicles and parking as well as answered some questions from the Commission. There have been no complaints made by the residents or by any of the other tenants surrounding this business. The floor was open to public comments. Two residents came forward to speak on behalf of the applicant. **Motion was made by Stark, seconded by Schneider to close the public hearing at 7:31 pm. A voice vote was taken, 5 Ayes, 2 Absent, 0 Nays. Motion passed.** Discussion ensued regarding signage needing to be 250 from the right of way and whether or not the trucks were considered signage and whether they should consider changing the footage of the set back. LaLonde recommended setting the number of vehicles to 15 since that was the number of vehicles the applicant stated could be present on site, allowing six to be located in the front parking lot and changing the set back to 25ft, effectively prohibiting parking in the first row off of Wilson Street. **Motion was made by Stark, seconded by Harm to adopt the four findings per the staff memorandum to the Commission. A voice vote was taken. Ayes: 5, Absent: 2, Nays 0. Motion Passed. Motion was made by Gosselin, seconded by Harm to approve staff's recommendations with modifications to item #3b The number of vehicles (including trailers) on the premises at any time shall be limited to fifteen (15) at which only 6 can be located in the front parking lot at any time. #3c U-Haul rental vehicles/trailers shall be legally parked as close as practical to the pedestrian entrance door of 1921 A West Wilson or east of the building, however in no event shall any U-Haul vehicle be parked closer than 25 feet to the property lines along Randall Road or Wilson Street to limit visibility of such vehicles from the adjacent streets. A voice vote was taken. Ayes: 5, Absent: 2, Nays 0. Motion Passed.**

**PUBLIC HEARING: MENDARDS- Proposed Store and Outdoor Merchandise Area Expansion- 300 North Randall Road, 1899 and 1990 McKee Street. Menards Inc., Applicant- Chair LaLonde called to open the Public Hearing at 7:56 p.m. Motion was made by Harm, seconded by Stark. A voice vote was taken. Ayes: 5, Absent: 2, Nays 0. Motion Passed.** Planner Rackow gave an overview of the information supplied by the applicant, staff's analysis and the design review. Menards is proposing to add 13,531 square feet on to the existing store, a new 20,056 square foot storage building on an existing detention area at the southeast corner of the subject property and 24 parking spaces are to be removed. The City Engineering Division will work with Menards to finalize the design of the stormwater conveyance to the proposed detention area on the south side of McKee Street. LaLonde opened the floor to questions from the Commission. Applicant, Tyler Edwards, Menard Inc. was at

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tonight's meeting to answer questions. LaLonde opened the floor to the public. A resident came forward to voice his concerns over the expansion. He stated his concerns with the noise level. Hearing no further public comments, the floor was opened to further discussion amongst the Commission. Discussion ensued over the structure being built on the detention area and the distance it will be from McKee Street. Commissioners discussed distance of the proposed building from adjacent residences. It was noted that the residential area's pond would continue to provide significant separation. LaLonde expressed concern about the distance of the proposed building and expansion areas from adjacent properties. Hearing no further discussion, **Motion was made to close the Public Hearing at 8:44 p.m. Motion was made by Stark, seconded by Gosselin. A voice vote was taken. Ayes: 5, Absent: 2, Nays 0. Motion Passed. Motion was made by Schneider, seconded by Gosselin to approve the 10 findings per the staff memorandum to the Commission for Zoning Map Amendment for the planned development. A voice vote was taken. Ayes: 5, Absent: 2, Nays 0. Motion Passed. Motion was made by Stark, seconded by Schneider to approved the Design Review 5 findings. A voice vote was taken. Ayes: 5, Absent: 2, Nays 0. Motion Passed. Motion was made by Stark, seconded by Schneider to approve the 14 conditions with no modifications to the Zoning Map Amendment to the City Council's Committee of the Whole. A voice vote was taken. Ayes: 4, Absent: 2, Nays 1 (LaLonde). Motion Passed. Motion was made by Harms, seconded by Stark to approve the Design Review with City Council approval of the proposed Planned Development with staff's recommended conditions of approval. A voice vote was taken. Ayes: 4, Absent: 2, Nays 1. Motion Passed. Motion was made by Schneider, seconded by Stark to approve the Menard Subdivision as a Preliminary/Final Plat, subject to staff approval consistent with engineering plans. A voice vote was taken. Ayes: 5, Absent: 2, Nays 0. Motion Passed.**

**Matters From The Public (For Items Not on the Agenda)- None**

**Other Business-** Buening updated the Commission on what legal counsel had to say regarding swearing in and variance standards. Bee keeping and parking by Island will be on the agenda soon.

**Adjournment-** With no further business to discuss, Chair LaLonde asked for a motion to adjourn. **Motion was made by Schneider, seconded by Gosselin to adjourn at 8:55 pm. A voice vote was taken, 5 Ayes, 2 Absent, 0 Nays. Motion passed.**

Minutes prepared by:  
Deanna Kellum  
Recording Clerk  
11/13/19

**MINUTES**  
**October 2, 2019**  
**Plan Commission and Zoning Board of Appeals**  
**City of Batavia**

PLEASE NOTE: These minutes are not a word-for-word transcription of the statements made at the meeting, nor intended to be a comprehensive review of all discussions. They are intended to make an official record of the actions taken by the Committee/City Council, and to include some description of discussion points as understood by the minute-taker. They may not reference some of the individual attendee's comments, nor the complete comments if referenced.

**1. Meeting Called to Order for the Plan Commission Meeting**

Chair LaLonde called the meeting to order at 7:00pm.

**2. Roll Call:**

**Members Present:** Chair LaLonde; Vice-Chair Schneider; Commissioners Stark, Harms, Joseph, Peterson, Gosselin

**Members Absent:**

**Also Present:** Scott Buening, Director of Community Development; Joel Strassman, Planning and Zoning Officer; Drew Rackow, Planner; Jeff Albertson, Building Commissioner; and Jennifer Austin-Smith, Recording Secretary

**3. Items to be Removed, Added or Changed**

There were no items to be removed, added or changed.

**4. Approval of Minutes: July 17, 2019 – Plan Commission**

**Motion:** To approve the minutes from July 17, 2019

**Maker:** Peterson

**Second:** Schneider

**Voice Vote:** 7 Ayes, 0 Nays, 0 Absent

Motion carried.

**5. Conditional Use for a U-Haul Commercial Vehicle/Equipment Sales and Rental in the GC General Commercial District at 1921 A West Wilson Street**

**Shawn Viland, Batavia Parcel, Applicant (Hearing previously advertised in the Daily Herald will be rescheduled with new notice provided)**

Strassman reported that this Public Hearing would be rescheduled. The legal notice will have to be republished and the Public Hearing will be rescheduled for a later date.

**6. PUBLIC HEARING: Variances for Front Setbacks for Division of 804 North Van Burn Street**

**Judd Lofchie, TK Green Enterprises, LLC, Applicant**

Strassman gave the staff report on the variances. He explained how the variances would facilitate a future division of the property into a north lot that would be suitable to building a new

residence. The south lot would be reserved for the existing residence. Staff is supportive of the proposed lot division. Both the north and the south lots comply with the R1-M minimum lot width and requirements. The house and garage on the south lot would have compliant setbacks except for the house and its porch, which are the subject of the variances this evening.

Strassman stated staff feels that the first three of the five findings are not met in this proposal. Staff feels two findings would be met. If all five findings cannot be met by the Zoning Board of Appeals (ZBA), the ZBA must recommend that City Council not approve the variance. The ZBA can, however, note any positives of this proposal if they choose to do so.

**Motion:** To open the Public Hearing  
**Maker:** Schneider  
**Second:** Stark  
**Voice Vote:** 7 Ayes, 0 Nays, 0 Absent  
Motion carried.

The Public Hearing was opened at 7:08pm.

Judd Lofchie, applicant, addressed the ZBA. He explained that a roughly 3,300 square foot two-level house could be built on the north parcel. Alternatively, one could tear down and build a 6,700 square foot house and be in compliance but he does not want to do that. He would rather build another small house. The big front tree is about three feet from the sidewalk and he stated the tree in the front would not have to be taken out and they could build around it. He explained, addressing the financial hardship finding, how the buyer overpaid for the property to help the previous owner financially with the hope to divide the lot in the future.

John Dryden, 311 Main Street, stated that he owns the adjacent property. He submitted letters from neighbors for the record. Dryden shared he has been living there since 1992. He was told that the proposed north lot could not be developed and that is why he bought his property. The lot has been utilized with the blessing of the last three owners including an associate from TK enterprises as a community garden. Three of the five findings have not been met with this application. He asked the ZBA to review Finding E. If this application goes through, we will have a 3,300 square foot house, which means we will lose the community garden and he will not be able to plant in his backyard due to loss of sunlight. This is a concern of the fifteen families that garden with him. Another concern is the preservation of the Maple tree that sits in the front of the lot abutting Van Buren Street. The ZBA viewed an aerial picture of the lot. Dryden stated that if this lot is divided and a house is built it would completely change our lifestyle and change how we live our lives in the neighborhood.

**Motion:** To close the Public Hearing  
**Maker:** Harms  
**Second:** Stark  
**Voice Vote:** 7 Ayes, 0 Nays, 0 Absent  
Motion carried.

The Public Hearing closed at 7:36pm.

The ZBA discussed the variances, stated financial issues, setbacks and the lot options. The applicant distributed handouts illustrating the lot subdivided with existing house and the full lot with a 6,000 square foot house, which would be allowed under the current code. The ZBA discussed the setbacks.

Gosselin stated that he does not have an issue with subdividing the lot with the proposed two homes. He agrees with staff that the first three findings cannot be found in the affirmative. Peterson concurred. She does not have an issue with the subdivision of the lots. Schneider stated that he would not have an issue with subdividing the lots either. Joseph agreed with the proposed two houses as well, but could not find in favor of all findings. Harms concurred. Stark stated that the applicant should have made sure they could subdivide the property prior to purchasing the property. She does not like the underlying threat that the existing house could be torn down and an oversized house could be built on the lot. She stated that is not the way to deal with the ZBA. Chair LaLonde stated that he viewed it more as this is an example of what the lot would support. Stark stated that the Findings of Fact does not support it. Stark stated that she does not support putting another house on the lot.

**Motion:** To recommend City Council to adopt the five findings based on staff's recommendations: Findings A, B and C cannot be met, and D and E can be met.  
**Maker:** Schneider  
**Second:** Gosselin  
**Roll Call Vote:** **Aye:** Schneider, Peterson, Gosselin, Stark, Harms, Joseph, LaLonde  
**Nay:**  
7-0 Vote, 0 Absent, Motion carried.

**Motion:** To recommend City Council approval of the variance  
**Maker:** Schneider  
**Second:** Gosselin  
**Roll Call Vote:** **Aye:**  
**Nay:** Schneider, Peterson, Gosselin, Stark Harms, Joseph, LaLonde  
0-7 Vote, 0 Absent, Motion failed.

Chair LaLonde stated for the record that the consensus is in favor of what is proposed but we are held by these findings and therefore cannot make the recommendation to approve the variances.

**7. PUBLIC HEARING: Conditional Use for a Tattoo Parlor/Piercing Studio in the DMU  
Downtown Mixed Use District at 127 State Street  
Richard Nelson, Classic Tattoo, Applicant**

**Motion:** To open the Public Hearing  
**Maker:** Joseph  
**Second:** Stark  
**Voice Vote:** 7 Ayes, 0 Nays, 0 Absent  
Motion carried.



The Public Hearing was opened at 7:49pm.

Strassman reported that this Public Hearing is to consider a Conditional Use Permit in the Downtown Mixed Use (DMU) Zoning District for a tattoo parlor and piercing studio. The City Code currently allows up to two tattoo businesses in the DMU District. There are two in the district, one microblading and the other a tattoo parlor. The applicant is requesting that the City Council amend the City Code to allow one more tattoo parlor in the DMU District. The City Council briefly discussed this topic and conveyed their willingness to amend the City Code to allow for at least one more tattoo business in the DMU.

The Commission discussed how one of the businesses in the DMU is a permanent makeup business and not necessarily a tattoo business that is included as a tattoo business under the City code.

Richard Nelson, applicant, shared he has been a tattoo artist for twenty-seven years. He has been a tattoo artist in Batavia for seven years and has been a resident for six and a half years. Nelson stated that he is hoping to continue business with Batavia. He discussed his support of the semi-colon project with suicide prevention. Stark stated that Batavia is known as an arts community and body art is a part of that. It is a natural fit for our town. It is self-regulating like any other type of business, in terms of the market supporting it. If no one goes to it, the business will eventually go out of business.

**Motion:** To close the Public Hearing  
**Maker:** Joseph  
**Second:** Gosselin  
**Voice Vote:** 7 Ayes, 0 Nays, 0 Absent  
Motion carried.

The Public Hearing was closed at 8:00pm.

**Motion:** To recommend City Council to adopt the findings of approval for the Conditional Use Permit  
**Maker:** Stark  
**Second:** Schneider  
**Roll Call Vote:** **Aye:** Stark, Harms, Joseph, LaLonde, Schneider, Peterson, Gosselin  
**Nay:**  
7-0 Vote, 0 Absent, Motion carried.

**Motion:** To recommend City Council approval of a Conditional Use Permit for a tattoo parlor/piercing studio at 127 State Street, subject to the five conditions provided in the staff memo to the Commission  
**Maker:** Schneider  
**Second:** Stark  
**Roll Call Vote:** **Aye:** Schneider, Peterson, Gosselin, Stark Harms, Joseph, LaLonde  
**Nay:**  
7-0 Vote, 0 Absent, Motion carried.

**8. PUBLIC HEARING: Amendment to the Text of the Zoning Code – Chapter 6:  
Glossary City of Batavia, Applicant**

**Motion:** To open the Public Hearing  
**Maker:** Harms  
**Second:** Schneider  
**Voice Vote:** 7 Ayes, 0 Nays, 0 Absent  
Motion carried.

The Public Hearing was opened at 8:03pm.

Rackow informed the Plan Commission and Zoning Board of Appeals that the State of Illinois approved the use and regulations for recreational cannabis effective January 1, 2020. This Public Hearing is for a text amendment to allow for a number of new definitions related to recreational cannabis into the Zoning Code. Rackow overviewed the glossary terms with the Plan Commission and Zoning Board of Appeals.

**Motion:** To recommend City Council to move forward with the amendments to the text of the Zoning Code  
**Maker:** Schneider  
**Second:** Peterson  
**Roll Call Vote:** **Aye:** Schneider, Peterson, Gosselin, Stark Harms, Joseph, LaLonde  
**Nay:**  
7-0 Vote, 0 Absent, Motion carried.

**9. Matters from the Public (for items NOT on the agenda)**

There were no matters from the public.

**10. Other Business**

Buening announced that Raising Cane is still building.

Chair LaLonde stated that the Commission continues to struggle with the findings. Vice-Chair Schneider did research and asked that the City look into how binding the findings are in our decision-making. Schneider found information from the Ansel Glink law firm that you do not necessarily have to find in favor of all the findings all the time. Chair LaLonde stated that he would like to get the City Attorney's opinion on this and perhaps have him attend a meeting for more dialogue related to the findings. Chair LaLonde would like further discussion on how we approach approving or not approving variances based on the findings. Stark asked for clarification also on whether or not is necessary to swear-in those addressing the Plan Commission during Public Hearings. She stated that City Council does not, and she spoke to the City's legal counsel and he stated it was not necessary. Buening stated that he would inquire about this when he contacts legal counsel regarding the findings question.

**11. Adjournment**

There being no other business to discuss, Chair LaLonde asked for a motion to adjourn the Plan Commission. Peterson moved to adjourn the meeting; Schneider seconded. The motion carried. The meeting was adjourned at 8:33pm.

**DATE:** November 15, 2019  
**TO:** Plan Commission  
**FROM:** Drew Rackow AICP, Planner  
**SUBJECT: PUBLIC HEARING** – Amendment to the Text of the Zoning Code  
Chapter: 2.1 Single Family Residential Districts  
Chapter: 4.2 Off-Street Parking and Loading Regulations  
Chapter 5.5: Variances  
City of Batavia, Applicant

## Background and Summary of Proposed Amendments

A public hearing is scheduled for three non-related amendments to the Zoning Code. Each topic has recently been discussed by either the Plan Commission or City Council in the past few months. The proposed amendments would permit beekeeping in residential districts, modify parking lot landscape island requirements for industrial properties and the procedures for variances.

*Beekeeping:* At the June 3<sup>rd</sup> City Council meeting, the City Council requested staff provide a review of the City's regulations for beekeeping. On August 13<sup>th</sup> the COW discussed the existing regulations, which do not specifically address beekeeping as a use. Staff has previously interpreted the use as being most similar to, and thus would be regulated as, Animal Raising – Non-Commercial. This classification allows beekeeping only on R0 Single Family District lots, 2 acres or larger in size. At the meeting, the COW took public comment from several local beekeepers who advocated for the City Code to permit the use on residential properties, with minimal regulation. Staff presented the Committee with a survey of regulations from area municipalities. The COW directed staff to schedule a public hearing, proposing the use be permitted without regulation. Amendments to the City Code would also be needed concurrent with this change.

*Industrial Parking Lot Island Requirements:* Earlier this year, the Plan Commission reviewed a Design Review for a building at 1850 East Fabyan Parkway. Concurrent with that Design Review was a Text Amendment allowing a lesser effective parking lot island ratio of 1 island per 15 spaces for industrial properties; instead of 1 per 10. During the COW review of the amendment, the committee felt the reduced ratio worked for this particular property but discussed the potential of keeping the 1 per 10 ratio, with a mechanism to allow 1 per 15 when certain conditions related to environmental quality were met. Staff requested and received input from the Environmental Commission, which supported the change, when permeable paving is provided in the alternative.

*Variance Procedures and Findings:* The Zoning Board of Appeals has long sought an alternative to the current variance findings and has questioned a previous legal opinion that a variance must meet all five Findings for Approval for a positive ZBA recommendation. In many instances, the ZBA has given a negative recommendation, because all five findings were not met, with a statement on the record that they were supportive of the variance request. At the October 2<sup>nd</sup> Plan Commission meeting, Commissioner Schneider discussed articles he found where legal counsel in other communities suggested that not all findings had to be met to for ZBA approval recommendation. Staff provided this information to the City Attorney, who then conducted a review of case law. The City Attorney did find that the Batavia ZBA, as a home rule community and not being a final decision-making body, has greater flexibility in its decision making. The amendment that is subject of the hearing would amend the Variance procedures and findings consistent with the result of that review.

## Staff Analysis

*Beekeeping:* With the direction of the City Council, staff has prepared a simple revision to the Zoning Code. The revision to Table 2.104 adds a limitation specification to indicate that beekeeping is separate from animal-raising and is permitted. Section 2.106.F would be amended to indicate that there are animal raising allowances separate from Non-Commercial Animal Raising regulations found in the City Code. The City Code would be modified to state that honeybees may be located anywhere on a residentially zoned lot.

*Employment District Parking:* After discussion with the Environmental Commission and the Committee of the Whole, staff has drafted revisions to Section 4.211 to specify that a ratio of up to 1 per 15 parking spaces is allowed - 1 island may be removed for every two parking spaces that are composed of permeable pavers. The trees otherwise required in this island would have to be planted elsewhere within or adjacent to the parking area. Staff included proposed code language specifying permeable pavers must be used consistent with an approved stormwater management plan, or City Engineer approval to assure that the permeable pavers will have the intended effect of improving stormwater quality. Excerpts showing changes for Chapter 4.2 are attached to this report.

*Variations:* The City Attorney has drafted recommended revisions to Chapter 5.5 based on current case law. It is his opinion that because Batavia is a Home Rule Community and the ZBA is not the final decision authority, the ZBA has greater latitude in making recommendations. The proposed changes to Chapter 5.5 would amend the procedures to include a more relevant set of Findings. The Findings would be revised to delete Finding C, which is specific for Use Variations, which are prohibited under the Zoning Code. Finding E would be revised to use language more specific to state statute. It is recommended that Criteria B only applies to the actions of the current owner. The City Attorney does recommend that the Code impose a standard that 3 of the 4 findings be met in the affirmative, in order to assure that variations determinations are made, based in part on meeting the findings. The application procedures would be updated to reflect these revised findings.

### Staff Recommendation

Staff recommends the Plan Commission open and conduct the public hearing. The Commission should discuss the amendments proposed by staff. If the Commission wants additional time to consider the proposed amendments, it should continue the hearing to a date specific after hearing testimony from the meeting attendees. If the Commission feels it can make a recommendation to the City Council on the proposed amendments, the Commission can close the hearing and make a recommendation to the Committee of the Whole.

Attachment: Draft Code Section Excerpts

- c Mayor and City Council
- Department Heads
- City Council
- Media

<b>Table 2.103: Land Use Regulations – Single Family Residential Districts</b>					
<b>Use Classification</b>	<b>R0</b>	<b>RI-L</b>	<b>RI-M</b>	<b>RI-H</b>	<b>Additional Regulations</b>
Amateur Radio Facilities	P, L1	P, L1	P, L1	P, L1	
Animal Raising, Non-Commercial	P, <a href="#">L4</a>	--, <a href="#">L4</a>	--, <a href="#">L4</a>	--, <a href="#">L4</a>	Minimum 2 acre lot size
Bed and Breakfast Homes	C	C	C	C	
Carnival	T	T	T	T	See Title 3-4
Child Day Care, Home Occupation	P	P	P	P	See Section 4.503
Clubs and Lodges	C, L3	C, L3	C, L3	C, L3	
Congregate Living Facility	C	--	--	--	
Crop Raising, Non-Commercial	P	P	P	P	
Day Care Home	P, L2	P, L2	--	--	See Section 4.503
Garage Sales	T	T	T	T	See Section 4.509
Group Home	P	P	P	P	See Section 4:504
Guest Quarters	P, L1	P, L1	P, L1	P, L1	
Haunted House	T	T	T	T	Non-Commercial
Home Occupation	P	P	P	P	See Section 4.502
Homeowner Association Facilities	P	P	P	P	
Model Home	T	T	T	T	See Section 4.511
Over-The-Air Reception Device	P	P	P	P	See Chapter 4.8
Religious Assembly	C, L3	C, L3	C, L3	C, L3	
Residential, Permanent					
<i>Single Family, Detached</i>	P	P	P	P	
<i>Secondary Dwelling Unit</i>	--	--	A, L1	A, L1	
<i>Two-Family Residential</i>	--	C	--	--	
Satellite Dish Antenna, Large	P, L1	P, L1	P, L1	P, L1	
Schools, Public or Private	C, L3	C, L3	C, L3	C, L3	
Senior Housing	P	P	P	P	
Shelter Care Facilities	C	C	--	--	
Stable, Non-Commercial	P	--	--	--	2 acre minimum lot size
Utilities					
<i>Facilities</i>	A	A	A	A	
<i>Well Site</i>	A	A	A	A	
L1: Only as a use incidental to the principal use of the property L2: Facilities shall be licensed as required by the State of Illinois L3: Conditional Use; Clubs and Lodges, Community Service Facilities, Public and Private Schools and Religious Assembly Uses are not permitted in single-family residential structures <a href="#">L4: Honeybees and Chickens shall be regulated by City Code 5-4B and permitted regardless of lot size.</a>					

## 2.104 Lot Development Regulations

Table 2.104: Lot Development Regulations – Single Family Residential Districts sets forth the development regulations for single family uses in single family residential districts, and are in addition to the development regulations set forth in Section 2.106: Additional Use and Development Regulations and Chapter 4.1: Site Regulations. Letter designations in the *Additional Regulations* column refer to regulations that follow Table 2.104: Lot Development Regulations – Single Family Residential Districts.

#### **5-4B-1: KEEPING OF ANIMALS RESTRICTED**

It shall be unlawful to keep or maintain animals, including but not limited to: horses, ponies, mules, cattle, sheep, goats, fowl and poultry other than eight (8) domestic hens, or swine within the City limits at a distance less than two hundred feet (200') from any residence, or any building used in part for a residence, except the residence of the owner or keeper thereof; or at a distance of less than two hundred feet (200') from a lot zoned for residence purposes, or from any street or alley of the City, except honeybees which may be located anywhere on residentially zoned lots. Any person violating or neglecting or refusing to comply with this section shall, upon conviction thereof, be fined not more than five hundred dollars (\$500.00) for each offense; and a separate offense shall be deemed to be committed on each day during or on which a violation occurs or continues. Any person who shall violate this section shall be held as maintaining a nuisance. (1972 Code § 91.999; amd. 1986 Code; Ord. 91-46, 7-1-1991; Ord. 11-04, 5-16-2011)

[http://www.sterlingcodifiers.com/codebook/index.php?book\\_id=596&chapter\\_id=38939#s1189804](http://www.sterlingcodifiers.com/codebook/index.php?book_id=596&chapter_id=38939#s1189804)

- c. Alignment. Walls shall be horizontally staggered a minimum of 1 foot for every 50 linear feet.
- d. Clearance. Walls shall be set back a minimum of 2 feet and a maximum of 6 feet from the perimeter of any parking space, driveway, or any access aisle, as measured from the back of curb.
- e. Materials and Finish. Walls shall be constructed of decorative block, brick, stone, or similar materials and finished on both the interior and the exterior elevations.

4. *Exceptions*

- a. A new wall shall not be required where an existing wall complies with the requirements of this section.
- b. A new wall shall not be required to screen outdoor display of new or used motor vehicles for sale or lease when such display area is identified on an approved Design Review site plan. Required customer, employee and visitor parking for these uses shall comply with the screening requirements of this section.

B. ***Parking Lot Landscaping and Lighting.***

1. *Shade Trees*

- a. ~~Shade trees shall be planted in parking lot landscape planters at a ratio of 1 tree for every 10 parking spaces except in LI Light Industrial and GI General Industrial districts where the ratio shall be 1 for every 15 parking spaces.~~ Trees shall be located throughout the parking lot to maximize the shading effect on parking spaces and to reduce summer solar heat gain. These trees are exclusive of trees planted around the perimeter of the parking lot.

~~a.~~

- b. The landscape planter, other than a landscape diamond planter, for any shade tree, shall have a minimum area of 160 square feet, and a minimum interior width of 5 feet.
- c. Landscape diamond planters shall have a minimum area of 36 square feet, and shall not contain required shade trees.
- d. The minimum size of parking lot trees shall be a height of 6 feet and a minimum of a 2-1/2 inch single trunk caliper measurement, measured 4 feet above grade.

2. *Interior Landscaping*

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- a. A minimum of 10 percent of the interior of all parking lots shall be landscaped, except in LI Light Industrial and GI General Industrial districts where the rate shall be 6.5 percent.
  - b. Required interior landscape planters shall be distributed throughout the parking lot at a rate of 1 for every 10 parking spaces, ~~except in LI Light Industrial and GI General Industrial districts where the rate shall be 1 for every 15 parking spaces. In LI Light Industrial and GI General Industrial districts the rate may be decreased up to a rate of 1 for every 15 parking spaces, provided the omitted planters are replaced by parking spaces designed as part of the property's stormwater best management practice design, this permeable paver area covers a minimum of two (2) parking spaces, and displaced trees required by Section 4.211.B.1.a are planted elsewhere on the property.~~
  - c. The end spaces in a row of parking spaces shall be separated from drive aisles by landscape islands or peninsulas that are a minimum width of 6 feet.
3. *Light Poles.* Parking lot light poles shall be located in a landscape planter or incorporated into a walkway or other pedestrian area. Concrete bases for light poles shall not exceed a height of 18 inches from finished grade.

#### 4.212 Parking Space and Aisle Setbacks at Driveway Entrances

- A. *Parking Setbacks.* Parking spaces directly served by a driveway accessed from a street shall be set back a minimum of 60 feet from the right-of-way. In the DMU District, an appropriate separation will be determined with Design Review.
- B. *Drive Aisle Setbacks.* Parking drive aisles intersecting and crossing a major driveway accessed from a street shall be set back a minimum of 40 feet from the arterial right-of-way. In the DMU District, said aisles shall be set back a minimum of 20 feet from an arterial right of way.

#### 4.213 Parking for Persons with Disabilities

Parking for persons with disabilities shall comply with City, State and Federal regulations.

#### 4.214 Off-Street Loading

- A. *Deliveries and Distribution.*
  1. *Applicability.* This Section applies to any use having a gross floor area of 10,000 square feet or more having the delivery or distribution of material or merchandise by trucks measuring 36 feet or more, including cab and trailer.
  2. *Requirement.* At least 1 off-street loading space shall be provided. One additional loading space shall be provided for each additional 40,000

## Chapter 5.5: Variances

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### Sections:

Purpose and Applicability  
Procedures  
Required Findings  
Use Variances Prohibited  
Conditions of Approval  
Effective Date  
Expiration

### Purpose and Applicability

Variances provide a mechanism for relief from the strict application of the Zoning Code where the strict application will deprive the property owner of privileges enjoyed by similar properties and imposes practical difficulty or unnecessary hardship on the property owner. Variances may be granted with respect to dimensional and performance standards including, but not limited to site dimensions, yards, height of structures, distances between structures, open space requirements, signage dimensions, fences, and walls. No variances from the use regulations of the Zoning Code shall be granted.

### Procedures

- A. **Application.** An application for a variance shall be filed with the Community Development Department in accordance with the application procedures set forth in Chapter 5.2: Common Procedures. In addition to any other requirements specified, applications shall at a minimum include the following:
1. Evidence showing why, due to unique circumstances applicable to the property, including its size, shape, topography, location or surroundings, strict application of the Zoning Code would create an unnecessary hardship or other-practical difficulty, as distinguished from a mere inconvenience, and deprive the property owner of property rights enjoyed by other property owners in the same zoning district.
  2. Evidence that the unique circumstances applicable to the property were or are not self-imposed by the applicant~~Evidence showing that the requested variance will not constitute a grant of special privileges inconsistent with limitations upon other properties in the vicinity and district in which the property is located.~~
  3. Evidence showing that the requested variance will not constitute a grant of special privileges inconsistent with limitations upon other properties in the vicinity and district in which the property is located~~Evidence that the unique circumstances applicable to the property were or are not self-imposed by the current or previous property owners.~~
  4. Evidence showing why granting the variance:
    - a. Substantially meets the intent and purpose of the zoning district in which the property is located.

- b. Will not be detrimental to the health, safety, and general welfare of persons living or working in the neighborhood.
  - ~~c. Will not be detrimental to the general welfare of the City alter the essential character of the locality; and~~
  - ~~d. Is the least amount of relief necessary to permit use of the property similar to other properties in the district.~~
- B. **Public Notice.** Public notice shall be provided in accordance with the public notification procedures set forth in Section 5.205: Notice of Public Hearings.
  - C. **Staff Report.** The Director shall prepare and transmit to the Zoning Board of Appeals (ZBA) a staff report, including an analysis and recommendation, setting forth any proposed findings and conditions upon which the ZBA may base its decision. A copy of the staff report shall be made available to the public and the applicant prior to the public hearing.
  - D. **Public Hearing.** The ZBA shall conduct a public hearing in accordance with the procedures set forth in Section 5.206: Public Hearing Procedures. In addition, variance applicants and property owners shall have all rights under 65 ILCS 5/11-13-7a.
  - E. **ZBA Recommendation.** The ZBA shall make a recommendation to the Community Development Committee within 30 days after the hearing is closed. The ZBA may recommend approval, approval with modifications and/or conditions, or denial.
  - F. **Community Development Committee Recommendation.** The Community Development Committee shall consider a draft variance ordinance and the recommendations of the ZBA and City staff, and may recommend approval, approval with modifications and/or conditions, or denial of the ordinance.
  - G. **City Council Action.** The City Council may approve, approve with modifications and/or conditions, or deny the variance ordinance. City Council approval of variance applications recommended for denial by the ZBA shall require a two thirds vote.
  - H. **Appeal.** Decisions of the City Council regarding variances are final.

### Required Findings

The Zoning Board of Appeals shall make a recommendation on a variance only after finding, prior to making the recommendation, that:

- A. There are unique circumstances applicable to the property, including its size, shape, topography, location or surroundings, strict application of the Zoning Code would create an unnecessary hardship or other practical difficulty, as distinguished from a mere inconvenience, and deprive the property owner of property rights enjoyed by other property owners in the same zoning district; and

- B. Such unique circumstances were not created by the ~~current or previous owners or applicant~~; and
- ~~C. The property cannot yield a reasonable return or be reasonably used for the purpose intended by the Zoning Code under the regulations in the district in which it is located; and~~
- ~~D.C.~~ The variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located; and
- ~~E.D.~~ The variance will ~~not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or the public welfare in general.~~ alter the essential character of the locality.

### Use Variances Prohibited

The City Council by granting a variance shall not approve any changes in the uses permitted in any zoning district or approve any modification of the requirements of the Zoning Code that would have the effect of allowing the establishment of a use not otherwise permitted.

### Conditions of Approval

In approving a variance, the City Council may impose reasonable conditions to:

- A. Achieve the general purposes of the Zoning Code or the specific purposes of the zoning district in which the site is located, or to make it consistent with the Comprehensive Plan or a redevelopment plan;
- B. Protect the public health, safety, and general welfare;
- C. Require that the property that is the subject of the variance be developed in a manner consistent with the proposal approved by the Board; or
- D. Insure operation and maintenance of the use in a manner compatible with existing and potential uses on adjoining properties or in the surrounding area.

### Effective Date

The variance ordinance shall be in full force and effect upon its presentation, passage and publication according to the law. No building, grading, or construction permit shall be issued until the variance is effective.

### Expiration

A variance shall expire:

- 1. Six months from the effective date of the ordinance unless the use is commenced; or
- 1.2. Six months from the effective date of the ordinance unless a building permit is

obtained issued for the improvements approved by the ordinance and work  
commenced within 180 days of permit issuance and work is completed pursuant  
to the issued building permit.