

City Of Birmingham
Regular Meeting Of The Planning Board
Wednesday, August 10, 2022
City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on August 10, 2022. Chair Scott Clein convened the meeting at 7:30 p.m.

A. Roll Call

Present: Chair Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Daniel Share, Janelle Whipple-Boyce, Bryan Williams; Alternate Board Members Jason Emerine, Nasseem Ramin (arrived 7:33 p.m.); Student Representatives MacKinzie Clein, Andrew Fuller

Absent: Board Member Bert Koseck

Administration:

Nick Dupuis, Planning Director
Leah Blizinski, City Planner
Brooks Cowan, Senior Planner
Laura Eichenhorn, City Transcriptionist
Bruce Johnson, Building Official

B. Approval Of The Minutes Of The Regular Planning Board Meeting of July 27, 2022

08-144-22

Motion by Mr. Jeffares

Seconded by Mr. Boyle to approve the minutes of the Regular Planning Board meeting of July 27, 2022 as amended.

Motion carried, 7-0

VOICE VOTE

Yeas: Emerine, Clein, Jeffares, Boyle, Whipple-Boyce, Williams, Share

Nays: None

C. Chair's Comments

Chair Scott Clein welcomed everyone to the meeting and reviewed the meeting's procedures.

D. Review Of The Agenda

E. Rezoning Applications

F. Special Land Use Permits (SLUPs) and Site Plan and Design Reviews

G. Site Plan & Design Reviews

H. Study Session

1. Side Yard A/C – Public Hearing

The Chair opened the public hearing.

CP Blizinski presented the item. She noted that the City Attorney approved the proposed language.

The Chair closed the public hearing.

08-145-22

Motion by Mr. Williams

Seconded by Mr. Share to recommend approval to the City Commission the amendments to Article 4, Section 4.03, of the Zoning Ordinance to add language to permit air conditioning units in the required side yard setbacks under certain conditions.

Ms. Whipple-Boyce said she would vote no on the motion, stating that while she did not care where air conditioner units (A/Cs) are located, she felt that replacement and new A/Cs should be permitted in the same locations. She disagreed with the report that this is a health and safety issue because the City permits replacement A/Cs; the City just requires that they be placed in an ordinance-compliant location. She said she also agreed with the report that locating A/Cs closer to the blowers increases efficiency, and said that was an argument for allowing all homes the option of locating their A/Cs in the side yard setbacks.

Motion carried, 6-1

ROLL CALL VOTE

Yeas: Emerine, Clein, Jeffares, Boyle, Williams, Share

Nays: Whipple-Boyce

2. Window Standards – Public Hearing

The Chair opened the public hearing.

PD Dupuis presented the item.

Mr. Share noted an apostrophe should be added to change 'buildings' to 'building's' in Article 4, Section 4.90(A).

The Chair closed the public hearing.

08-146-22

Motion by Mr. Share

Seconded by Mr. Williams to recommend approval to the City Commission the amendments to Article 3, Section 3.04, Article 3, Section 3.09, Article 4, Section 4.90 and Article 9, Section 9.02 of the Zoning Ordinance to revise the window standards to adjust the definition of clear glazing and to eliminate lightly tinted glazing.

Motion carried, 7-0

VOICE VOTE

Yeas: Whipple-Boyce, Emerine, Clein, Jeffares, Boyle, Williams, Share

Nays: None

3. Outdoor Dining

PD Dupuis presented the item.

The Board recommended:

- The second sentence of Article 4, Section 4.44(C)(5) be amended to read 'Limited exceptions to the placement of outdoor dining patios as set forth in the immediately preceding sentence may be made by the Planning Board where the streetscape conditions demonstrate sufficient space to permit convenient pedestrian passage' or something similar;
- Article 4, Section 4.44(C)(8)(iv) should be specified to only apply to decks in the street;
- Article 4, Section 4.44(C)(10) should change '60' to '42';
- The City Attorney draft language for Article 4, Section 4.44(D), taking into account the following comments:
 - 'Grandfathering' in Article 4, Section 4.44(D) should be changed to something like 'Limited Continuation'. Exact verbiage to be determined in consultation with the City Attorney;
 - The date proposed in Article 4, Section 4.44(D)(3) should be reviewed in terms of concerns about all the nonconforming outdoor dining facility allowances expiring at once;
 - Article 4, Section 4.44(D)(2) would need to be amended to clarify that it did not include the seasonal removal of platforms; and,
 - Adding SLUP amendments as one of the events listed in Article 4, Section 4.44(D)(2) should be considered.

Public Comment

Sami Eid, owner of Phoenicia and Forest, said allowing 42-inch barriers would be sufficient and windbreaks in addition would be superfluous, at least for his establishments. He spoke in favor of allowing outdoor dining in the furnishing zone.

Kelly Allen, attorney for a number of City dining establishments, raised concerns about requiring that decks be flush with the curb and about not allowing permanent non-conforming uses. She

endorsed keeping barriers and windbreaks at 42 inches and clarifying that Article 4, Section 4.44(D)(2) does not pertain to the seasonal removal of platforms.

It was recommended that Ms. Allen directly express her concerns to the City Attorney as well.

4. The Birmingham Plan 2040 – Draft #3 Process Update

PD Dupuis provided the update.

The Board concurred that:

- Any major Board concerns with the third draft should be raised at the September 14, 2022 meeting and also conveyed to the Commission at that time;
- At the December 14, 2022 meeting the Board should review comments from adjoining municipalities and the public and then hold a public hearing at the first Board meeting in January; and,
- The Commission should be notified of the proposed schedule and asked for feedback at their August 29, 2022 meeting.

J. Miscellaneous Business and Communications

- 1. Pre-Application Discussions**
- 2. Communications**
- 3. Administrative Approval Correspondence**
- 4. Draft Agenda**
- 5. Action List - 2022**
- 6. Other Business**

K. Planning Division Action Items

- a. Staff Report on Previous Requests**
- b. Additional Items from tonight's meeting**

L. Adjournment

No further business being evident, the Chair adjourned the meeting at 8:51 p.m.



Nick Dupuis
Planning Director



Laura Eichenhorn
City Transcriptionist