



# City of Highland Building and Zoning

## Combined Planning & Zoning Board Meeting Minutes

City Hall – 1115 Broadway

March 6, 2019 7:00 PM

1. Call to Order – **7PM**
2. Roll Call  
**CPZB Members – Present – Brad Korte, Deanna Harlan, William Koehnemann and Anthony Walker**  
**CPZB Members – Absent – Shirley Lodes, Bob Vance and Jim Gallatin**  
**Staff – Present – Breann Speraneo, Mike McGinley, Scott Hanson and Kim Kilcauski**
3. General Business:  
Approval of the February 6, 2019 Minutes  
**Motion made to approve the minutes without changes made by Deanna Harlan, seconded by Anthony Walker – 4 Ayes, 0 Nays. Motion carried.**  
Approval of the February 20, 2019 Special Meeting Minutes  
**Motion made to approve the minutes without changes made by Anthony Walker, seconded by Bill Koehnemann – 4 Ayes, 0 Nays. Motion carried.**
4. Public Comment Section  
Persons who wish to address the Combined Planning and Zoning Board regarding items not on the agenda may do so at this time. Speakers shall be limited to five (5) minutes or a reasonable amount of time as determined by the City Attorney. Any presentation is for informational purposes only. No action will be taken.  
**Chairperson Korte opened the Public Comment Section. There were no comments from those in attendance.**
5. Public Hearings and Items Listed on the Agenda  
Persons wishing to address the Combined Planning and Zoning Board regarding items on the agenda may do so after the Chairperson opens the agenda item for public hearing or for public comment. Speakers shall be limited to five (5) minutes or a reasonable amount of time as determined by the City Attorney.  
**Chairperson Korte reviewed the process. There was not an audience, so the oath was not administered prior to the opening of hearings.**
6. New Business  
The City of Highland (1115 Broadway, Highland, IL 62249) is requesting the following text amendments:
  - a) General Administration: A text amendment to Article III “Districts and Zoning Map,” Division 3, Section 90-129 to clarify lot and building requirements; a text amendment to



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Article III “Districts and Zoning Map,” Division 3, Section 90-131 to remove an expired section relating to condominium to villa conversions; a text amendment to Article VIII “Signs,” Division 2, Section 90-254 to clarify commercial sign orientation.

Breann Speraneo presented the proposed text amendments regarding signage. Section 90-129 – Lot & Building Requirements - asterisks added and additional clarification provided. Section 90-131 – Lot and building requirements, single family attached dwelling (villa) - delete text that became obsolete on December 31, 2016. Section 90-254 – Prohibition – clarification that commercial signage will either face a street frontage OR comply with the “Special Circumstances” found in Section 90-257(b), which allows for signage to face immediately adjacent off-street parking lots. Deanna Harlan had a question regarding the wording of Section 90-254 – Prohibition, b “must directly face or project from the wall(s)”. After discussion, the wording shall be changed to read “must either directly face public street frontage(s) or project from the wall(s) which are oriented toward public street frontage(s)”. Chairperson Korte closed the public hearing. Chairperson Korte asked the board if there were any further questions or comments. Hearing no further comments, Chairperson Korte closed the discussion.

***A motion was made to amend to include clarification language to of “must either directly face public street frontage(s) or project from the wall(s) which are oriented toward public street frontage(s)” by Deanna Harlan, seconded by Anthony Walker– 4 Ayes, 0 Nays. Motion carried.***

***A motion was made to pass the motion as amended by Anthony Walker, seconded by Deanna Harlan – 4 Ayes, 0 Nays. Motion carried.***

- b) Travel Trailers: A text amendment to Chapter 90, Article I “In General,” Section 90-15 of the Zoning Code to add the definition of “travel trailer”; a text amendment to Article II “Administration and Enforcement,” Division 4, Section 90-73 of the Zoning Code to include recreational vehicles and travel trailers as accessory uses which are disallowed as dwellings; a text amendment to Article V “Off-Street Parking and Loading” Section 90-228 to disallow recreational vehicles and travel trailers as dwellings.

Breann Speraneo presented the proposed text amendments regarding travel trailers. Section 90- 15 – Definitions – clarify the meaning of recreational vehicles including travel trailers. Section 90-73 -- Accessory Uses – Development Criteria - clarify that recreational vehicles/travel trailers are not permitted to be used as dwellings. Section 90-228 – Parking and storage of vehicles – clarify that recreational vehicles/travel trailers are not permitted to be used as dwellings. Deanna Harlan asked how tiny homes fit in. Breann responded that she had researched the topic. Tiny homes are not classified as recreational vehicles. They are categorized as modular homes and not allowed. Some tiny homes can be permanent and would then be required to meet minimum square footage requirements. Deanna Harlan asked if large passenger vans would be allowed at properties. Breann responded that passenger vans are allowed as long as someone is not residing in it. Chairperson Korte closed the public hearing. Chairperson Korte asked the board if there were any further questions or comments. Hearing no further comments, Chairperson Korte closed the discussion.



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***A motion was made to approve text amendment as stated in Item B on the agenda made by Anthony Walker and seconded by Bill Koehnemann – 4 Ayes, 0 Nays. Motion carried.***

- c) Hardship: A text amendment to Chapter 90, Article I “In General,” Section 90-15. – Definitions of the Zoning Code to add the definition of “hardship.”

Breann Speraneo presented the proposed text amendment regarding hardship. Section 90-15 – Definitions – to make clear what circumstances are considered hardships. The proposed text is as follows: Hardship: As used in connection with the granting of a variance relating to the restrictions governing dimensional standards, a circumstance that, by reason of exceptional shape of a lot, topographic conditions, or other physical conditions of a parcel of land, strict conformity to the dimensional standards is unnecessarily burdensome or unreasonable in light of the purpose of this code. Hardship shall not include economic hardship or any other hardship that is self-imposed.

Scott Hanson stated that it is a matter of determining if an applicant has a hardship or an inconvenience. Chairperson Korte stated that some cities defer all variances to an outside third party. Scott Hanson provided the example of O’Fallon, IL using a mediator for such decisions.

The following considerations and examples of hardship and non-hardship cases were provided in the presentation:

What is “enough” hardship?

Whenever there is regulation, there is some level of necessary hardship and inconvenience shared by all of the community.

Therefore, an applicant for a variance must show unnecessary hardship.

As hardships are determined on a case-by-case basis, the CPZB role is “quasi-judicial” in that it considers the evidence presented by the applicant and weighs the individual circumstances against the community’s standards found in the Zoning Code.

The hardship must be more than mere inconvenience or a preference for a more lenient standard.

Cost of compliance may be a factor, but cost is not determinative. It is not enough for an applicant to say that development will cost more in order to comply. The applicant must show the substantial and undue nature of that additional cost as compared to others subject to the same restriction.

The unnecessary hardship must be peculiar to the property, not general to the neighborhood or community. Such peculiar characteristics might arise, for example, from location of the property, size or shape of the lot, or topography or water features on the site.



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### Example

- A lot narrows dramatically toward the front yard. The narrowing results in side yard setbacks which prohibit the property owner from building an addition.
- The hardship (not being allowed to build an addition) flows from the strict application of the ordinance (the setback) and is peculiar to the property (because of the shape of the lot).
- A variance may be appropriate if the owner presents evidence to show she meets all of the standards.
- By contrast, a variance is not the appropriate remedy for a condition or hardship that is shared by the neighborhood or the community as a whole. Consider that same narrowing lot. If all of the houses on the street shared that hardship, a variance would not be appropriate. Such conditions should be addressed through an ordinance amendment or a PUD process.

Deanna Harlan stated people should enjoy property; however, when they bought the property the property was shaped that way. So, this is a self imposed hardship. Breann Speraneo said the questions included whether or not it was self imposed, whether it is necessary or an inconvenience? If it is unique, then it does meet criteria. Deanna Harlan asked if the hardship list is distributed to applicants. Breann Speraneo responded that it is not at this time and is still being defined. Anthony Walker stated that the existing language may need to be updated to align with the hardship list. Scott Hanson stated the importance of understanding the applicant's request and get a site plan. Variance criteria is provided to applicants and a warning what they will face before they apply and pay the fee. Staff also advises applicants of their recommendation to CPZB.

Hardships that result from personal circumstances may not be the basis for granting a variance. The board looks at the nature of the property and the land use ordinances, not the nature of the applicant and their circumstances. Bringing an elderly parent to live with the family, for example, is a change in personal circumstance, not a condition peculiar to the property.

You can't do something self-inflicted and then ask for a variance. The hardship must not result from actions taken by the applicant or property owner.

So what is self-created? Suppose a property owner sells part of a conforming lot and makes the remainder of the lot nonconforming. The hardship (limitations on the non-conforming lot) was self-created (by the owner selling the sliver off the parcel. The owner may not seek a variance for building on the substandard lot. Similarly, where an owner failed to seek zoning and building permits and then incorrectly placed foundation footings in the setback, the hardship is self-created. No variance is allowed. Ignorance of the law is no excuse.

Deanna Harlan confirmed that getting a dog after purchasing a house and then wanting to put up a fence would be considered self imposed.



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Scott Hanson stated the text updates would help in determining hardship versus an inconvenience. If adopted, the board will have new challenges.

Scott Hanson provided an example of a person buying a house with only one bathroom and it is upstairs. The homeowners would like to add on a bathroom to the main floor but are unable to meet the setback requirements. The example is not a hardship. If a person in the home becomes disabled, then a hardship may apply.

### Example

- The owner of a convenience store at a major intersection would like to construct an addition to accommodate more merchandise. The business has been operating at this location for 19 years and the building sits 20 feet from the side property line.
- The adjacent land use is a single-family home. The subject property is currently zoned C-2 and the convenience store is an acceptable use in this zoning district, subject to a rear setback of 15 feet from the property line.
- The owner is requesting a building addition that would encroach into the 15 foot setback and the newly constructed portion of the building would be 5 feet from the rear property line. The owner has approached the City and is requesting a variance to allow for the addition.
- Although the building will be close to the property line, the owner stated he would construct a privacy fence and add trees along the rear property line to screen the building from view of the residential property.

Scott Hanson led the discussion with regards the convenience store example that happened in Edwardsville. The owners expanded the freezer section without a permit and got caught. They did not meet the set back and needed a variance; however, the money had already been spent. They didn't get the variance and went to the Edwardsville Board of Appeals.

The CPZB members discussed the situation. Deanna Harlan said that no variance should be granted because of the single family home is next door, but acknowledged the screening would help as long as the homeowner was not present and not against it. Anthony Walker said that a hardship did not exist and the store owners were in compliance chose to make it non-compliant. Anthony Walker also stated that even if the homeowner did not care by granting the variance a precedence would be created. A new homeowner then may not be okay with the situation. Anthony Walker also believed no variance should be granted. Chairperson Korte read, "Decisions must not be based solely on most vocal group on participants. Interests must be based on interests on entire community." Scott Hanson stated the outcome was actually that the cooler had to be reduced in size and the variance was not granted. Scott Hanson also said that board members wear many hats.

Chairperson Korte pointed out that when a decision is made regarding a variance if the applicant does not agree and appeals the next stop is court. Everything else goes to council. Anthony Walker asked if the definition of hardship aligned with other local entities. Scott Hanson responded that it did.



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Discussed tabling until entire board can be present.

Chairperson Korte closed the public hearing. Chairperson Korte asked the board if there were any further questions or comments. Hearing no further comments, Chairperson Korte closed the discussion.

***Motion to table Item C until next CPZB meeting made by Anthony Walker, seconded by Bill Koehnemann – 4 Ayes, 0 Nays. Motioned carried.***

- d) Feather Flags: A text amendment to Chapter 90, Article I “In General,” Section 90-15. – Definitions of the Zoning Code to add the definition of “feather flags”; a text amendment to Chapter 90, Article VIII “Signs,” Division 4, Section 90-274 of the Zoning Code to establish requirements for special promotional signs, including feather flags.

Breann Speraneo presented the proposed text amendments regarding feather flags. Section 90-15 – Definitions - clarify what qualifies as a “feather flag” in order to properly regulate the use of them. Section 90-274 – Special promotions – impose regulations on the use of feather flags.

Any business enterprise consisting of retail sales and/or rendering of services directly to the public, shall be able to use signs, banners, inflatable items, and feather flags for promotional activities. These promotional activities may occur not more than three times in any calendar year. Each promotional activity shall not exceed 10 days in length. Days allotted for special promotion signs shall reset annually on January 1.

Signs and banners used in accordance with this section shall be limited to one sign or banner not to exceed 24 square feet per lot, shall be confined to property on which the business enterprise is located, and not placed in right-of-way. Feather flags shall be limited to a maximum height of 12 feet as measured from the adjacent finished grade to the top of the sign. Permits for special promotions must be issued by the administrator and kept on site for the duration of the promotion.

Deanna Harlan asked how feather flags are currently enforced. Breann Speraneo responded that there are currently not provisions for feather flags. A manual tracking system will be implemented. Chairperson Korte clarified that the amendment will include all promotional signage. Breann Speraneo confirmed that it would and research as to how other municipalities handled similar situations was done prior to recommendation to the CPZB.

Discussion of current feather flag usage within the city, the \$100 fee (which covers administrative costs), and the community’s response to enforcement of feather flags. Scott Hanson stated that a sign’s height is not defined then it is prohibited. Deanna Harlan asked if enforcement could begin January 1, 2020. Breann Speraneo stated a letter would be sent if passed by council giving thirty days to comply.

Chairperson Korte closed the public hearing. Chairperson Korte asked the board if there were any further questions or comments. Hearing no further comments, Chairperson Korte closed the discussion.



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***Motion to approve text amendments as stated in Item D made by Deanna Harlan, seconded by Bill Koehnemann – 4 Ayes, 0 Nays. Motioned carried.***

***Motion to reconsider Item C of New Business made by Anthony Walker, seconded by Bill Koehnemann – 4 Ayes, 0 Nays. Motioned carried.***

***Motion to continue Item C at the May 1<sup>st</sup> meeting rather than tabling until next meeting made by Deanna Harlan, seconded by Anthony Walker – 4 Ayes, 0 Nays. Motioned carried.***

7. Calendar

- a) April 3, 2019– Combined Planning and Zoning Board Meeting – ***Meeting cancelled due to no submittals***
- b) Adjournment – ***8:10PM***

*Anyone requiring ADA accommodations to attend this public meeting, please contact Dylan Stock, ADA Coordinator, at 618-654-7115.*