



## CITY OF KANKAKEE PLANNING BOARD AGENDA

February 12, 2019, 7:00PM  
385 East Oak Street, Kankakee, IL

- I. **Call to Order**
- II. **Declaration of Quorum**
- III. **Approval of Minutes** – January 15<sup>th</sup>, 2019 Meeting
- IV. **Communications**
- V. **City Council Actions**
- VI. **Unfinished Business**
  - a. Public Hearing for a Zoning Text amendment for Fortitude Community Outreach Emergency Shelter (PADS) – continue to March 19<sup>th</sup>
- VII. **New Business**
  - a. **PB 2019-1-3** – A Public Hearing on an application by River Valley Recycling, LLC. for a Major Variance for to the number of required parking stalls and the pavement material to accommodate an expansion of their Recycling operation at 288 West South Tec Drive (PIN 16-17-18-400-039 and 16-17-18-400-038
  - b. **PB 2019-1-2** – A Public Hearing on a request to rezone the property at 355 Wall Street (PIN #16-17-06-200-004) from C-1 to R-1. Applicant is Robert F. de Oliveira.
  - c. **PB 2019-2-1** – A Public Hearing to amend Chapter 12, Administration, of the Kankakee Zoning Code
  - d. **PB 2019-2-2** – A Public Hearing to zone an 18-acre property upon annexation to Light Industrial (I-1). The property is owned by the City of Kankakee and is located at southwest corner of East Court Street and N 2750E Road, PIN #12-17-03-111-002.
- VIII. **Other**
- IX. **Adjournment**



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CITY OF KANKAKEE  
PLANNING BOARD

January 15, 2019  
7:00 p.m.

CASE: PB 19-12-2

REPORT OF PROCEEDINGS had at the hearing of  
the City of Kankakee Planning Board, located at 385  
East Oak Street, Second Floor Council Chambers,  
Kankakee, Illinois, on the 15th day of January,  
A.D., 2019, at 7:00 o'clock p.m.

Reported for  
EUNICE SACHS AND ASSOCIATES, by  
Beth M. Phelps, C.S.R.

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Page 2	<p>1</p> <p>2 BOARD MEMBERS:</p> <p>3 Loretto Cowhig, Chairman,</p> <p>4 Willie Ames,</p> <p>5 Beverly Hood,</p> <p>6 Chip Rorem,</p> <p>7 Edwin Eckhardt,</p> <p>8 Victor Nevarez,</p> <p>9 Terrance Hooper.</p> <p>10</p> <p>11 ALSO PRESENT:</p> <p>12 Mr. Mike Hoffman,</p> <p>13 City Planner.</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	Page 3	<p>1</p> <p>2 I N D E X</p> <p>3 PB 19-12-2 Page 7</p> <p>4 W I T N E S S E S</p> <p>5 Norman Leuhr Page 8</p> <p>6 P U B L I C C O M M E N T</p> <p>7 Carole Duffield Page 16</p> <p>8 David Crawford Page 29</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
Page 4	<p>1 WHEREUPON:</p> <p>2 * * * * *</p> <p>3 MS. COWHIG: I'll call this meeting to order.</p> <p>4 Mr. Hoffman, would you call the roll, please?</p> <p>5 MR. HOFFMAN: Yes. Chair Cowhig.</p> <p>6 MS. COWHIG: Here.</p> <p>7 MR. HOFFMAN: Willie Ames.</p> <p>8 MR. AMES: Here.</p> <p>9 MR. HOFFMAN: Edwin Eckhardt.</p> <p>10 MR. ECKHARDT: Here.</p> <p>11 MR. HOFFMAN: Terrance Hooper.</p> <p>12 (NO RESPONSE.)</p> <p>13 MR. HOFFMAN: Debra Terrill.</p> <p>14 (NO RESPONSE.)</p> <p>15 MR. HOFFMAN: Chip Rorem.</p> <p>16 MR. ROREM: Here.</p> <p>17 MR. HOFFMAN: Barry McCracken.</p> <p>18 (NO RESPONSE.)</p> <p>19 MR. HOFFMAN: Arthur Lax.</p> <p>20 (NO RESPONSE.)</p> <p>21 MR. HOFFMAN: Victor Nevarez.</p> <p>22 MR. NEVAREZ: Here.</p>	Page 5	<p>1 MR. HOFFMAN: And Dave Robinson emailed me and</p> <p>2 said he was out of town tonight so he will not be</p> <p>3 here.</p> <p>4 MS. COWHIG: Did you call Beverly Hood's name?</p> <p>5 MR. HOFFMAN: Oh, Beverly Hood. I'm sorry. I</p> <p>6 marked you off already on my sheet, but I didn't</p> <p>7 say the name.</p> <p>8 MS. HOOD: Here.</p> <p>9 MR. HOFFMAN: Sorry about that. Thank you.</p> <p>10 MS. COWHIG: So we have a quorum.</p> <p>11 You have the minutes of our meeting</p> <p>12 on December 18th. Unless there are any</p> <p>13 corrections, we can just add those to the record</p> <p>14 with thanks to our reporter.</p> <p>15 Are there any communications?</p> <p>16 MR. HOFFMAN: No.</p> <p>17 MS. COWHIG: Then will you tell us about</p> <p>18 council action?</p> <p>19 MR. HOFFMAN: Sure. So we had two items that</p> <p>20 were here last month that went before the City</p> <p>21 Council. Love's Travel Stop that had the ground</p> <p>22 mounted solar panels. Those were approved by the</p>

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1 City Council unanimously. And Immanuel Baptist  
 2 Church had the Conditional Use for a temporary  
 3 emergency shelter. That one had a lot of resident  
 4 comments and a lot of resident discussion and some  
 5 concerns, and some supportive comments, too, from  
 6 residents that came out.

7 The Council -- and I knew this  
 8 already -- there are members of the ordinance  
 9 committee that would like to make some additional  
 10 modifications regarding temporary emergency  
 11 shelters. Those haven't been worked out in terms  
 12 of the text, so some folks wanted to continue it.

13 The conclusion and bottom line was  
 14 they approved the Conditional Use for six months.  
 15 And at that point we can go back and look at it,  
 16 see how well it's working. By then we'll certainly  
 17 have the new text changes through committee and  
 18 passed by the City Council and will be in a better  
 19 place to address this long term, but -- so it was  
 20 approved for six months.

21 MR. ROREM: Who is working on the language?  
 22 MR. HOFFMAN: So I just finished drafting

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1 MS. COWHIG: Would you come forward and be  
 2 sworn in?  
 3 MR. LUEHR: I'm Norman Luehr.  
 4 (Witness sworn.)  
 5 MS. COWHIG: Tell us the story, Mr. Luehr.  
 6 MR. LUEHR: I'm sorry?  
 7 MS. COWHIG: Just tell us your story.  
 8 MR. LUEHR: Okay. I assume everyone's familiar  
 9 with the issue.  
 10 MS. COWHIG: Well, we all got the packet that  
 11 the Planner prepared for us, including photos and a  
 12 plat.  
 13 MR. LUEHR: Okay. Mr. Hoffman did complete --  
 14 he gave it to me this evening. He completed a  
 15 report.

16 The issue basically is the height  
 17 of a bay window that -- I built an addition -- not  
 18 an addition. I added a fireplace and a bay window  
 19 to my house. And I was gonna go through a list of  
 20 things.

21 My neighbor's here to offer a  
 22 complaint about this. She's been complaining about

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1 something today, as a matter of fact, sent it to  
 2 the ordinance -- we had a workshop in early  
 3 December with a couple members from the Planning  
 4 Commission, a couple City Council members, people  
 5 from Fortitude, Fire Department, just to kind of  
 6 talk about some of the issues and some of the  
 7 things that still needed to be addressed. I tried  
 8 to integrate some of those into the draft text that  
 9 I came up with.

10 So there's going to be an ordinance  
 11 committee meeting that's probably going to discuss  
 12 that, at least on some level. Eventually it will  
 13 come back here for a public hearing for an  
 14 amendment to the zoning ordinance.

15 MR. ROREM: Okay.  
 16 MS. COWHIG: Thank you. So we have one new  
 17 case tonight. It's Number 2018-12-2. It is a  
 18 request for a major variance for a projection, a  
 19 bay window, which has height requirements. And it  
 20 is for property at 444 South Main Street. Who is  
 21 the applicant?  
 22 MR. LUEHR: I am.

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1 this structure since I started it. She's  
 2 complained about -- to mostly the property line.  
 3 There's been several inspections. Everything has  
 4 been approved. She complained about my chimney, my  
 5 fireplace. The fire department came out.  
 6 Everything is approved there. Today we're dealing  
 7 with the issue of -- one sole issue.

8 I have a fireplace and I have a bay  
 9 window next to it. The height of the bay window  
 10 doesn't meet the existing code which says it should  
 11 be at least 36 inches from the ground. Mine is 16.  
 12 When I built it, I had the cantilever. I pulled  
 13 out boards to support it, as well as the fireplace.  
 14 I couldn't -- what I'm being asked  
 15 to do by the code is to tear -- to remove 20 inches  
 16 and raise it up 20 inches which means I have to  
 17 redesign the whole structure. The cantilever is  
 18 gonna go. And I found out about this about four or  
 19 five months after I was into the project, so it was  
 20 almost completed at that time.

21 I tried to apply for a minor  
 22 variance and that wasn't -- I guess it didn't fit

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1 the criteria. So I'm here today for this major  
 2 variance for this 20 inch difference.

3                   There's pictures. Mr. Hoffman had  
 4 a couple of pictures here. I do have some that I  
 5 could show you if you want. Oh, this picture  
 6 probably shows it best, but it's hidden back here.  
 7 You can't even see it at this point, how high the  
 8 bay window is.

9                   (Whereupon Mr. Hooper entered and  
 10                   joined the hearing.)

11           MR. LUEHR: Yes, that's the inside of it. It  
 12 made to be here and there was a wood storage for my  
 13 fireplace here. It's behind here. Here it is.  
 14 This is the fireplace and this is the bay window.  
 15 My neighbors put -- you can't see the bay window  
 16 there anymore.

17                   What I'm asking for is a variance  
 18 to allow me to keep this so I don't have to tear it  
 19 apart and raise it up for what I see is no reason.

20           MS. COWHIG: Did you get a building permit for  
 21 this?

22           MR. LUEHR: I'm sorry. I'm hard of hearing.

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1                   Then on October 2nd the fire  
 2 department -- the fire chief came out and talked to  
 3 me, and he was out there because of, again,  
 4 complaints that the chimney was too high, the  
 5 chimney was too low. And he wrote a report to the  
 6 building inspector that stated in part the visit  
 7 was to acquire information about the dispute;  
 8 questions about property lines and height of the  
 9 chimney is best left for the building and code  
 10 division.

11                   Okay. So from October 2nd -- about  
 12 November 11th I was advised I had to file a  
 13 variance. I filed a minor variance and that wasn't  
 14 approved, so then I filed today's major variance.  
 15 That's my first argument for allowing me to keep  
 16 the structure as it is, because it came after all  
 17 other complaints. That was like the last thing  
 18 that somehow screwed up because there was this code  
 19 that nobody could explain to me the purpose of it.  
 20 It was never really enforced apparently.

21                   The building inspector drove around  
 22 and saw numerous buildings that were just like

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1           MS. COWHIG: Did you get a building permit for  
 2 this project?

3           MR. LUEHR: Yes. I can go through very briefly  
 4 what I did. On July 19th I got a building permit  
 5 after talking to the building inspector two times.  
 6                   The truth is, my wife kind of  
 7 wanted a fireplace, and I didn't want to go through  
 8 all this work so I was hoping he would deny it.  
 9 And he didn't. He says, you know, I can approve  
 10 this, just file an application. So, okay, I did.  
 11 I was the architect. I designed it. I built it  
 12 myself.

13                   So the first complaint came in  
 14 August 13th about it was too close to the property  
 15 line. The building inspector came out, measured  
 16 it. It wasn't. He asked me to put up stakes so  
 17 anybody could see that it wasn't on her property.

18                   She complained again on  
 19 September 26th. He came out. He included about 15  
 20 photographs. He measured everything. He checked  
 21 everything. He said everything was totally in  
 22 compliance with the codes.

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1 mine. I took photographs of at least four of them.  
 2 In fact, my neighbor has the exact same bay window  
 3 that it doesn't meet the code requirement. It's  
 4 not 36 inches above.

5                   The fact I cantilevered it, it  
 6 would make it impossible for me to rebuild it and  
 7 keep it a solid structure. And the financial and  
 8 emotional -- you know, I've already spent money  
 9 just for this hearing today. There's hours of time  
 10 I put in that I'll never get back in my life  
 11 dealing with this. I just -- all I'm asking for is  
 12 to get approval so I can just keep it as it is.

13           MS. COWHIG: How close is the southern line of  
 14 your construction to the property line?

15           MR. LUEHR: How close?

16           MS. COWHIG: Yes.

17           MR. LUEHR: I'm not sure exactly because --  
 18 it's close, but it's -- okay. We're getting  
 19 laughter. But it's within code. This is the  
 20 thing.

21                   The building inspector came out  
 22 numerous times. He says I have the right to build

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1 it as close as I have. I mean, everything was up  
 2 front and the City moved on it completely. They  
 3 had no problem with any of it.  
 4 MS. COWHIG: Okay.  
 5 MR. LUEHR: Did you have a question?  
 6 MR. NEVAREZ: When did you start your project?  
 7 Your project, when did you start building this?  
 8 MR. LUEHR: Okay. I didn't do anything on this  
 9 until I got the approval, so I started it  
 10 July 19th.  
 11 MR. NEVAREZ: July 19th. So you got your  
 12 permit on July 14th?  
 13 MR. LUEHR: Nineteenth. The day I got it, I  
 14 started it.  
 15 MR. NEVAREZ: So when you got your permit, did  
 16 they tell you to put the length of the window --  
 17 MR. LUEHR: What I did is, to get the permit I  
 18 drew detailed for -- I draw detailed plans of what  
 19 I was gonna do. They're somewhere in my file. And  
 20 it shows clearly the height of the bay window, the  
 21 design of it, everything. And I did discuss this  
 22 completely with the building inspector more than

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1 Everybody who has seen this has  
 2 said you did such a nice job, it looks fantastic.  
 3 Oh, and the final recommendation by Mr. Hoffman, we  
 4 recommend that the City amend the code in the  
 5 future to do away with the height requirement for  
 6 bay windows when located less than ten feet above  
 7 the ground level.  
 8 MS. COWHIG: Thank you.  
 9 MR. LUEHR: I'll answer any other questions.  
 10 MS. COWHIG: Any questions, anybody?  
 11 (NO RESPONSE.)  
 12 MS. COWHIG: Is there anyone in the audience  
 13 who wanted to ask a question or to speak for or  
 14 against this request?  
 15 MS. DUFFIELD: Yes.  
 16 MS. COWHIG: Yes, ma'am. You need to come  
 17 forward and be sworn in.  
 18 MS. DUFFIELD: Hi. My name is Carole Duffield.  
 19 I live directly to the north. D-u-f-f-i-e-l-d,  
 20 Carole, C-a-r-o-l-e, with an E.  
 21 (Witness sworn.)  
 22 MS. DUFFIELD: Anyway, his address is 444.

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1 once. As I said in the beginning, I was kind of  
 2 disappointed he approved it. I wish he hadn't. I  
 3 wouldn't be here now.  
 4 And I would like to point out, I  
 5 had to go through all the procedures of spending  
 6 100-what, 20, 30-some dollars to have a notice in  
 7 the paper. I had to notify eight neighbors. That  
 8 was like \$56 to do that. I had to go out and pay  
 9 for a sign that was in front of my house notifying  
 10 people of the public hearing. I don't know who's  
 11 here. The complainant, my neighbor.  
 12 MS. COWHIG: Thank you.  
 13 MR. LUEHR: That's my case I guess.  
 14 MS. COWHIG: Okay. Thank you.  
 15 MR. LUEHR: Oh, I would like to point out one  
 16 other thing. I did read Mr. Hoffman's report, and  
 17 he did say the upgrade to the enclosed porch,  
 18 including the new bay window as it has been built,  
 19 provided an update to the appearance both  
 20 internally and externally of the physical structure  
 21 and has added to the use ability of the space  
 22 within the house.

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1 Mine is 450. I've lived in that house 35 years.  
 2 My daughter is 35 years old. We moved in a week  
 3 before she was born which was September 3rd, so I  
 4 I've lived in that house 35 years. I've had  
 5 probably six people who lived in that house  
 6 neighbor wise, you know.  
 7 At the time, I didn't even think  
 8 about it. Basically we don't have an entry, but we  
 9 have like a -- we call it a sun porch in my house.  
 10 I don't know what you call it. Probably -- in  
 11 fact, I was pregnant with my son and he is now 31.  
 12 He will be 32 this month. Okay. My husband and a  
 13 friend of his just took it -- and we put new  
 14 windows in it. We just replaced the windows. We  
 15 put carpeting. They insulated it so we could use  
 16 it year-round. Okay. That's what we did with  
 17 ours.  
 18 Well, theirs is a little different.  
 19 It's step down in theirs I know. Because Ester,  
 20 the original lady of the house -- I've been in  
 21 there many times. Okay. So you step down a little  
 22 bit in that porch. And it was used I think as a

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1 covered entryway basically, I'm thinking what the  
 2 use was. Okay. I couldn't be sure, but I'm  
 3 thinking that's what it is.  
 4                   So anyway, I have a pool in the  
 5 backyard and we were opening the pool and he's  
 6 building, which was in June. It was not in July.  
 7 He was already stripping down stuff and doing  
 8 things. And might have even been the end of May.  
 9 But anyway, so I asked him what was going on, he  
 10 told me, and I said, oh, this is not gonna work.  
 11                   So I went to a code meeting and  
 12 Dave was there, Larry Ozinga was there, Tomora,  
 13 Phil, and there were a couple of other people  
 14 there. And so I actually did start complaining  
 15 back in June about the whole thing, because I have  
 16 pictures dating back to maybe August. He has  
 17 approximately I would say a foot and a half of my  
 18 property line.  
 19                   Now, my question, especially on  
 20 this bay window is, you can see -- I took a picture  
 21 out my window. He is within three feet of my  
 22 window when I look out there. Where my computers

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1 property value of my house.  
 2                   I did put up a six-foot high vinyl  
 3 fence right down my property. Now, my fence is six  
 4 inches in off the property line. And I can show  
 5 you pictures. So if you go six more inches, you're  
 6 on my property line. So he's probably a foot and a  
 7 half on my property line with this bump out.  
 8                   Now, he evened out the floor. He  
 9 cut out a wall or something to put a slide door  
 10 into, and evened out the ceiling. And I can see  
 11 through because my back bedroom even looks into it.  
 12 To me it is more than a bump out. It's a room  
 13 addition. Okay.  
 14                   I, myself, have never seen Code out  
 15 there looking at it. I've seen them drive by. My  
 16 living room is in the front of the house. My  
 17 kitchen is in the front of the house. I'm retired.  
 18 I do work some, you know, I do do some work  
 19 depending on what I'm doing. I do travel a lot,  
 20 too. But to this day, I've never seen anybody go  
 21 inside there, other than the fire marshall or  
 22 whoever it was that went in there. And I did talk

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1 are and everything, it's right in that room. I  
 2 mean, he stuck his tongue out at me and made faces  
 3 at me. I don't know what's going on, but this is  
 4 part of what's been going on with him. So anyway,  
 5 I took -- and I've just been taking pictures along  
 6 the way.  
 7                   I have talked to Mike before quite  
 8 a few times. I've talked to Dave on numerous  
 9 times. I was told by -- in fact, Dave was in  
 10 there. He related to me, but he didn't want me to  
 11 talk to Code anymore, so I quit calling Code.  
 12 There was obviously nothing they were gonna do. I  
 13 went out there. I talked to Phil two to three  
 14 times, you know, in the parking lot and in the  
 15 building.  
 16                   And then I started researching some  
 17 myself. And then I have a friend that also works  
 18 for Sauk Village Code. And what I was told was,  
 19 my -- it's not just the window. It's the whole  
 20 bump out or whatever it's called. I have an  
 21 aversion to the whole thing for the mere reason of  
 22 it's esthetically -- plus, I'm going to lose

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1 to him afterwards.  
 2                   And I know Mike was down there.  
 3 But I didn't see you down there. But I've seen the  
 4 young guy from Code driving by and he'll drive up  
 5 the alley. But I've never seen anybody go in the  
 6 house myself so I don't know for sure that's what  
 7 happened.  
 8                   My problem isn't just with the  
 9 window. I don't like -- I do have a bay window.  
 10 And I did go out and measure it and it is three  
 11 feet off the ground. That house was built in 1952  
 12 though, and that was there when we moved in  
 13 35 years ago. So, I mean, I don't see how -- I  
 14 didn't even do it, so I don't know what that issue  
 15 could be. You know, it's in my kitchen. We've  
 16 always just had it. We just replaced the windows,  
 17 oh, I want to say four years ago because my husband  
 18 was still alive then.  
 19                   I don't think the whole issue -- I  
 20 don't think the whole thing is up to code. My  
 21 understanding when I read the code, because they're  
 22 telling me because it does not go to the ground it

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1 is not a room addition, it is not anything to do  
 2 with the property line. Where I read the various  
 3 codes -- and I still can't figure out which one  
 4 Kankakee is actually using because there are quite  
 5 a few out there. But it says from the roof line --  
 6 and my friend from Sauk Village told me it's from  
 7 building to building.

8                   So, I mean, from him to my fence --  
 9 if you want to see the pictures, I can gladly show  
 10 you these. But from him to my fence is not -- the  
 11 one I took -- I just took it the other day because  
 12 it was snowing. But the one I took -- yeah. Okay.  
 13 This is from the alley. This is from the alley  
 14 looking -- that white fence is mine.

15           MR. NEVAREZ: This is your fence?  
 16           MS. DUFFIELD: Yeah, that is my fence. That's  
 17 the addition. And I had my house surveyed also.  
 18 So my fence is actually six inches in because  
 19 that's how they have to put it up according to  
 20 code. So that is pretty darn close to my property  
 21 line.  
 22                   Here, I'll show you. I got a bad

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1 and see it.

2           MR. AMES: It looks like the fence is cut in  
 3 half of it.

4           MS. DUFFIELD: No, it does not. It covers his,  
 5 but not mine.

6           MR. AMES: It covers his.

7           MS. DUFFIELD: Right. But then what happens  
 8 is, you go another six inches over on that --  
 9 because I'm six inches within my property line. So  
 10 it's pretty darn close.

11                   My question is, is -- my question  
 12 is, is if this is allowed to happen all the time, I  
 13 mean, if everybody in the neighborhood -- what if I  
 14 put a bump out on mine? I mean, we would have a  
 15 heck of a mess. I mean, we really would. And  
 16 everybody can use more space.

17                   My problem is, is I don't  
 18 understand because it goes to the ground, he's  
 19 still infringing upon air space so to speak, you  
 20 know. I just -- it's not eye appealing. It  
 21 doesn't match the rest of the house, unless he's  
 22 going to paint it. I don't know whether he has an

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1 hip. So it's really close. And I see where it --  
 2 oops. Okay. You can see where it does not go to  
 3 the ground. But it's a finished room inside. I  
 4 don't know I would categorize it anything other  
 5 than that.

6           MR. ROREM: Can we see your other photos?  
 7           MS. DUFFIELD: You sure can. I got tons of  
 8 them.

9           MR. ROREM: Thanks.  
 10                   (A brief pause was had.)

11           MS. DUFFIELD: Would you guys like to see them,  
 12 too? Okay. I'll bring it over. Mike, you've been  
 13 there. You've seen it also.

14           MR. AMES: Okay. The fence that you put up,  
 15 was that existing before he started?

16           MS. DUFFIELD: No. I put it up when all this  
 17 started.

18           MR. AMES: So you can't actually see -- if you  
 19 sit in your room and look out your window --  
 20           MS. DUFFIELD: Oh, no. I can look right into  
 21 his house. See, it comes to the end of my sun  
 22 porch. I can even look out the back bedroom window

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1 intention of doing that, you know.

2                   As far as my privacy fence, I've  
 3 got a pool in my backyard, so I'm glad I did it for  
 4 that reason alone. And it cost me \$7500 to do it.  
 5 I'm retired, you know. He's belly aching about  
 6 money. Well, I am, too, sorta, because I wouldn't  
 7 have done it unless he did what he had.

8                   Wait. Give me that one back, that  
 9 one in your hand. That looks like it might have  
 10 been -- I'm not sure. Yeah, this is my window. I  
 11 look right into there. My desk is right here.

12           MR. NEVAREZ: But he can't see in your house.

13           MS. DUFFIELD: Sure he can. My windows are  
 14 clear. I mean, I've got blinds and everything.  
 15 That's not the issue. But it's just -- do you have  
 16 some questions for me? I could give you a point of  
 17 view.

18                   (Talking outside of the record.)

19           MR. HOFFMAN: Carole, we have to -- anything  
 20 you explain needs to be explained to the whole  
 21 Commission.

22           MS. DUFFIELD: Okay. What he did was --

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<p style="text-align: right;">Page 26</p> <p>1 MR. HOFFMAN: And if you could speak into the 2 mike because we're recording, that would be ideal. 3 MS. DUFFIELD: Oh, I'm sorry. Okay. What he 4 did was, he had the fireplace right up here towards 5 the front, and then there's like a V, and then 6 there's three windows. And the one window actually 7 is to his wooden wall. And it's a V there. It's 8 got no -- and now, you know, my fence is there so 9 there's probably even a little less view. 10 I don't quite understand the whole 11 situation how -- if there was a lot of thought put 12 into it, I don't know why he placed it like he did. 13 I just -- I don't know the purpose of it other than 14 extra space. And they say it's not a room 15 addition, so -- 16 And my understanding also is, 17 is two years ago when Chris was in office he 18 tried to get this approved and they would not 19 approve it, so -- because he is -- one of my best 20 friends, it's her brother, so that's how I know 21 some of this stuff, so -- do you have a question? 22 I can see it.</p>	<p style="text-align: right;">Page 27</p> <p>1 MS. COWHIG: If the construction had complied 2 with the requirement that it be at least 30 inches 3 off the ground -- 4 MR. ROREM: Thirty-six. 5 MS. COWHIG: Thirty-six. 6 MS. DUFFIELD: Yeah, I still wouldn't be happy. 7 I don't want that whole bump out there. To me 8 it -- I mean, for instance on -- I talked to a 9 realtor also. It's gonna take away from my 10 property values. When somebody comes in and looks 11 at that -- I mean, you know, I've got blinds there 12 and everything. I could shut them, but I need the 13 light in that room to work, you know. So I -- it's 14 gonna detract. I mean, I'm losing on both ends of 15 this. 16 MS. COWHIG: I understand your point. But if 17 the thing had been done in full compliance, your 18 complaints -- 19 MS. DUFFIELD: I question the compliance on it 20 though, the whole compliance on it. I still do. I 21 question it meets too close to the property line. 22 I question it not going down to the ground. I</p>
<p style="text-align: right;">Page 28</p> <p>1 question the bay window aspect of it. 2 You know, to knock out part of the 3 wall to put a sliding door in so that you can 4 use -- you know, utilize the fireplace, I mean, 5 there would have been other ways to do it. He 6 could have done it right with the room he had 7 there, you know. 8 MS. COWHIG: The sliding door faces the rear? 9 MS. DUFFIELD: The sliding door faces -- it was 10 like where the entryway was in the front of their 11 house there. No. It's like on the side of their 12 house. Originally this was like a porch, a 13 covered -- enclosed porch I guess I would put it. 14 MR. HOFFMAN: The sliding door is actually part 15 of the structure, so it goes between this and that. 16 MS. COWHIG: Okay. 17 MR. AMES: Dave has a comment. 18 MS. DUFFIELD: Yeah, Dave would like to speak 19 also. 20 MS. COWHIG: Is there anyone else who wanted to 21 speak? Mr. Crawford. 22 MR. HOFFMAN: Mr. Luehr, if you want to see her</p>	<p style="text-align: right;">Page 29</p> <p>1 pictures, you have the right to do so. Would you 2 like to see her pictures? 3 MR. LUEHR: Yes, I would like to. Do I also 4 have a chance to respond? 5 MR. HOFFMAN: You will, but after the rest of 6 the testimony is done. 7 MS. COWHIG: Mr. Crawford, did you want to 8 speak? 9 MR. CRAWFORD: I do. 10 (Witness sworn.) 11 MR. CRAWFORD: I'm David Crawford. I'm Third 12 Ward Alderman, and then I also sit in on the Chair 13 of the Code Department. This case actually came to 14 us. It was I think -- 15 MS. DUFFIELD: It was in June. 16 MR. CRAWFORD: I think it was in June, in our 17 June meeting. 18 MS. DUFFIELD: It was May or June. 19 MR. CRAWFORD: We'll say either May or June, 20 but I believe it was a June meeting, and the 21 project already started. When the project started 22 there was -- I don't know if you want to see that.</p>

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1 That was when it first started and that's the  
 2 little build out.  
 3 So anyways, when it started, in our  
 4 meeting in June that we had it was brought up. And  
 5 one of the points that was brought up, that you had  
 6 to have a five or six foot variance from the  
 7 property line. And in that picture it will show  
 8 that -- I don't know where the property line was  
 9 before they built, but that little build out came  
 10 closer to the property line. That went on. They  
 11 were kind of going back and forth.  
 12 We'll fast forward a little bit.  
 13 There was an email that was sent out from Mike that  
 14 was sent to Tomora and to Phil. And they had two  
 15 options in this case; one was to come apply for a  
 16 special variance, the other one was to stop the  
 17 project and wait until you get approval.  
 18 One of the problems was -- and I  
 19 wish somebody or Tomora would have been here from  
 20 Code -- but they admitted in a meeting we had with  
 21 the mayor that they made a mistake and should not  
 22 have given them a permit to start the project until

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1 gave the permit or why they let him keep going on  
 2 with the project. That I don't know why.  
 3 MS. HOOD: So what you're saying is that it was  
 4 a mistake?  
 5 MR. CRAWFORD: It was a mistake to probably --  
 6 they admitted Code made a mistake on giving the  
 7 permit to keep going on with the project when the  
 8 project should have been put at a halt until they  
 9 came to this meeting here.  
 10 MS. HOOD: But it was allowed still.  
 11 MR. CRAWFORD: It was allowed. Now -- now the  
 12 City of Kankakee is in a tough situation with, he's  
 13 got a lot invested into this project, he was  
 14 allowed to do this project.  
 15 And, I mean, you can vaguely see  
 16 it's probably 12 inches from the property line.  
 17 So, I mean, City is in a tough spot. They  
 18 either -- I don't know what they're gonna do.  
 19 Someone is probably gonna get sued, one party or  
 20 the other.  
 21 MS. HOOD: But the property was still surveyed  
 22 as well, correct, in terms of the fence?

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1 there was a special use or a variance on this  
 2 project. And that would have been back in probably  
 3 August.  
 4 From August to now, until he's  
 5 almost done, they let him finish, keep on working,  
 6 working with the project, where the project  
 7 probably should have been put on hold until he came  
 8 to this meeting and either got cleared to keep  
 9 doing the work, or if they would have not okayed  
 10 it, that's where he would have been with not having  
 11 seven or \$8,000 in the project. I don't know if  
 12 you've seen that at all, but that's when they first  
 13 started the project.  
 14 MS. COWHIG: Thank you.  
 15 MR. CRAWFORD: So if they would have come here  
 16 and either got turned down or if he was okay to go  
 17 along with the project, he wouldn't have had as  
 18 much invested into this.  
 19 Like I said, I'm just the Alderman  
 20 and the person who works on Code. Code probably  
 21 should have been here at this so Tomora could have  
 22 probably filled you in a little bit on why they

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1 MS. DUFFIELD: Both properties were.  
 2 MR. CRAWFORD: She had hers surveyed for the  
 3 fence. I don't know if he did or not.  
 4 MR. LUEHR: I have one just exactly like that.  
 5 MS. HOOD: Did you have it surveyed?  
 6 MR. LUEHR: I had it surveyed before I even  
 7 started this. I brought the survey down to the  
 8 building inspector and showed him. The stakes were  
 9 clearly there. He knew where they were. I put  
 10 them up.  
 11 MR. CRAWFORD: And so there's an issue with  
 12 Code on the project.  
 13 MR. HOOPER: For clarification, what is the --  
 14 from the property line to the end of construction,  
 15 what is the --  
 16 MR. CRAWFORD: Mike, what is it? Is it five  
 17 foot or is it six foot?  
 18 MR. HOFFMAN: So there is supposed to be a  
 19 five-foot side yard setback. Okay. The structure  
 20 that was there previously already extended into  
 21 that setback though.  
 22 MR. CRAWFORD: So this extended it what, say

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1 another three feet?

2 MR. HOFFMAN: A bay window is allowed to extend

3 two and a half feet from the principal building.

4 And this probably extends about two and a half feet

5 from the structure.

6 MR. CRAWFORD: So put it within probably a

7 foot.

8 MR. HOFFMAN: That's probably about right.

9 MR. HOOPER: How often have you seen -- you

10 know, to me, obviously when something is

11 approved -- then they have tear it back down?

12 MR. CRAWFORD: I've only been around four

13 years. I haven't seen this situation in four

14 years, so -- you know, Mike's been around in a lot

15 of different communities.

16 MR. HOFFMAN: I can only think of one scenario

17 where it was approved and later required to be

18 taken back out. And it's unusual.

19 MR. CRAWFORD: Right.

20 MR. AMES: I have a statement to make. If the

21 structure is already impeding on the setback, the

22 side line setback, the complete structure, that

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1 MR. CRAWFORD: Correct.

2 MR. HOOPER: I don't know if Dave knows or

3 Mike, is her building impeding on that five-foot

4 side setback as well? Because she says it's three

5 feet from her window.

6 MR. HOFFMAN: From her testimony I would assume

7 so, but I didn't measure it or look at it that

8 close.

9 MR. HOOPER: I heard from her testimony she's a

10 foot and a half off the property line.

11 MS. DUFFIELD: No, no, no. Because my fence

12 goes out past where my house ends.

13 MR. HOOPER: You said it's three feet from

14 window to window, which would indicate you're a

15 foot and a half off as well.

16 MS. DUFFIELD: No. I've got five feet there,

17 because I measured it.

18 MR. HOOPER: Could be.

19 MR. ROREM: Could be on the survey document.

20 MR. AMES: Could be on the survey document.

21 MR. ROREM: On a plat. Could be proof that

22 from where your house is -- because a lot of this

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1 would get grandfathered in, and no construction

2 should have been allowed in any addition whatsoever

3 unless they came and tried to modify. So what

4 they're doing now is modifying the whole structure

5 of that side line.

6 We can't very well make the

7 petitioner absorb a loss for something that our

8 Code Department didn't follow through. They still

9 had a chance to go out and stop it before he

10 completed it.

11 MR. CRAWFORD: Which probably should have

12 done --

13 MR. AMES: That's what I'm saying.

14 MR. CRAWFORD: -- should have been done. And

15 if he would have come here, he might have gotten

16 approved to go ahead on the project. But who knows

17 what would have happened.

18 MR. AMES: And now it's already --

19 MR. CRAWFORD: Right. It's water under the

20 bridge.

21 MR. AMES: But I'm saying the structure is

22 already intruding on the side line setback.

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1 has to do with where the foundations are, you know.

2 And I think we need to unpack this a little bit to

3 be able to understand where to go.

4 I mean, the first thing has to do

5 with the encroachment of that structure on to the

6 side yard setback, you know, assuming five feet, in

7 that neighborhood, just for purposes of

8 conversation. I mean, five feet or six feet, it's

9 not going to be much of a difference. There's an

10 encroachment no matter what in terms of what that

11 is.

12 So the thinking of Code is quite

13 important to me on that. I mean, first of all, as

14 far as zoning is concerned, if this is a

15 pre-existing condition and it encroaches upon that,

16 it's eligible to do so, to my understanding.

17 MR. HOFFMAN: Correct.

18 MR. ROREM: You know, it's eligible to do so.

19 What happens beyond that is another question. So,

20 you know, the fact that your porch, you know, which

21 is part of your house, you know, encroached upon

22 that side yard setback is an acceptable

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1 pre-existing condition. So we can say that close  
 2 is real, you know. It can be a straight wall, it  
 3 can be a chimney, be a bay window, whatever it  
 4 might be. But right there where that wall hits,  
 5 you know, and goes up from the slab that you have  
 6 is an acceptable pre-existing condition. So we  
 7 have that that we've got to deal with.

8           The grey area for me is in what is  
 9 the allowable work that can be done on that  
 10 pre-existing condition. And I would like to hear  
 11 what Code has to say about that. I did talk to  
 12 Phil today, but I think that for the record that  
 13 should probably be something that we hear from Code  
 14 about.

15       MR. CRAWFORD: Well, I'm surprised that one of  
 16 them weren't here tonight.

17       MR. AMES: We didn't hear you.

18       MR. CRAWFORD: I said I'm surprised that one of  
 19 them aren't here tonight to fill you in on it from  
 20 Code.

21       MR. ROREM: You know, if that can be justified,  
 22 you know, the work that was done in modification of

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1 be requested should you modify that bay window  
 2 height. But your encroachment concern would not be  
 3 resolved because the only thing that we're talking  
 4 about as far as the Plan Committee tonight is this  
 5 variance, which is the variance for the bottom of  
 6 the bay window. All of the rest of this stuff is  
 7 really not something we even talked about. We are,  
 8 but --

9       MR. CRAWFORD: But it should have been  
 10 addressed way before this. Okay. Thank you.

11       MR. HOFFMAN: And just for clarification, so  
 12 per the code, both a fireplace and a bay window can  
 13 project two and a half feet into the setback area  
 14 from the primary building structure, so --

15       MR. AMES: So it's legal again.

16       MR. HOFFMAN: Yes.

17       MS. COWHIG: But that implies two and a half  
 18 feet from the five-foot setback, not two and a half  
 19 feet from something less than a five-foot setback.

20       MR. HOFFMAN: Yes. The debate would be what  
 21 you consider the principal building. Right? And  
 22 does that enclosed porch that was there count as

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1 the enclosure, if that can be justified, what  
 2 remains is the encroachment upon -- the  
 3 encroachment of the bay window in terms of falling  
 4 below that three-foot line, you know. And there is  
 5 an unhappy bargain that is presented by that one  
 6 thing that we're hanging on right now, which is  
 7 nobody's going to be happy.

8       MR. CRAWFORD: Well, and once again, it was --  
 9 it's an injustice to him and an injustice to her.  
 10 I mean, this should have been addressed six months  
 11 ago when the project first started, so --

12       MR. ROREM: Well, go on with where you're going  
 13 with this. The unhappy circumstance is having to  
 14 modify that storage area underneath the bay window  
 15 and push it back in so that -- and that could be  
 16 done, you know, to push it back in so that that  
 17 three feet was maintained. But we've also heard,  
 18 you know, that's an insufficient circumstance --  
 19 insufficient resolution, you know.

20                   And so, you know, here we are, you  
 21 know. I look at it as, who's going to be happy?  
 22 And that, you know, the variance would not have to

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1 part of the principal building? And I think we've  
 2 interpreted it as it does, but it's not crystal  
 3 clear, to be honest.

4       MS. COWHIG: Do we have a photo of how the  
 5 house appeared before all of this started?

6       MR. LUEHR: Here.

7       MR. AMES: Dave, do you have a photo before  
 8 this started?

9       MR. LUEHR: Here is the photos if you want to  
 10 see them.

11       MR. ECKHARDT: There's one in there.

12       MR. AMES: There's one in there.

13       MR. ROREM: Mike, how do we determine the  
 14 answer to that question? How do we determine, you  
 15 know, the side line setback, the encroachment of  
 16 the pre-existing condition? You know, what  
 17 constitutes, legally constitutes the existing  
 18 sidewall condition that is, you know, the point of  
 19 this whole thing?

20       MR. HOFFMAN: Well, so the survey that was  
 21 submitted does show that the building sits into the  
 22 setback area already, so -- and it was considered

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<p style="text-align: right;">Page 42</p> <p>1 grandfathered essentially, right, because it was in                  2 the setback.                  3 MR. ROREM: Okay.                  4 MR. HOFFMAN: So that shows it at I believe                  5 only a four-foot setback. Let me double check                  6 that.                  7 MS. COWHIG: Thank you. That is -- but is                  8 there one before this was done?                  9 MR. CRAWFORD: No, I didn't have one before it                  10 started.                  11 MS. COWHIG: Thank you.                  12 MR. CRAWFORD: Yep.                  13 MR. HOFFMAN: I thought there was a plat of                  14 survey in here. I had one.                  15 MS. COWHIG: This?                  16 MR. HOFFMAN: Yes. So what does that show?                  17 3.97 is the separation. 3.8. So that existing                  18 porch that was there encroached into the setback                  19 about a foot and a quarter. There was about --                  20 there was 3.8 feet between the property line and                  21 that existing porch before he did anything.                  22 MR. LUEHR: You wanted to see before we started</p>	<p style="text-align: right;">Page 43</p> <p>1 construction?                  2 MS. COWHIG: Well, that would be interesting.                  3 MR. LUEHR: This was the inside. There was a                  4 bay window. She could look in and see in here                  5 already before I started construction. This was                  6 from the outside. I'm tearing down the -- the                  7 window here, window here, window here.                  8 MS. COWHIG: Okay. Thank you. Whose photos                  9 were these?                  10 MS. DUFFIELD: These are mine.                  11 MS. COWHIG: Thank you. That was very helpful.                  12 MR. AMES: Looking at the plat survey.                  13 MS. DUFFIELD: Do you have a copy of that for                  14 me? I don't have a copy of --                  15 MR. HOFFMAN: Of what?                  16 MS. DUFFIELD: The plat survey? Like this. I                  17 don't have one of these.                  18 MR. HOFFMAN: I have an extra, that you're                  19 welcome to look at that.                  20 MS. DUFFIELD: Could I? I'll give it back to                  21 you.                  22 MR. HOFFMAN: Yes.</p>
<p style="text-align: right;">Page 44</p> <p>1 MS. COWHIG: Mr. Ames.                  2 MR. AMES: On the plat survey, I don't know, is                  3 this Tyson's survey?                  4 MR. HOFFMAN: Who did the survey? I just                  5 handed her my copy.                  6 MS. DUFFIELD: Mine was Piggush.                  7 MR. HOFFMAN: Yeah, but that's not the one I                  8 have in the packet.                  9 Mr. Luehr, do you know who did your                  10 survey, who prepared your survey of the property?                  11 MR. LUEHR: My survey was done by Tyson.                  12 MS. COWHIG: Okay.                  13 MR. AMES: Okay. It shows that the structure                  14 is ten feet from the property line, and then this                  15 porch area is five feet. So that --                  16 MR. HOFFMAN: Well, no.                  17 MR. AMES: So I don't know.                  18 MR. HOFFMAN: Here's 3.79 feet between the                  19 property line and that structure. That's the                  20 extension.                  21 MR. AMES: It says five feet.                  22 MR. HOFFMAN: Well, that's only 3.79 between</p>	<p style="text-align: right;">Page 45</p> <p>1 there.                  2 MR. ROREM: How does that work, you know what I                  3 mean?                  4 MR. AMES: I'm sorry. She can't hear you.                  5 MR. ROREM: That's an irregularity. Wait a                  6 minute. Wait a minute. Is that a six and not a                  7 five?                  8 MS. COWHIG: Is there anyone else in the                  9 audience who wanted to speak?                  10 (NO RESPONSE.)                  11 MR. HOFFMAN: No. Okay.                  12 MS. COWHIG: Is this off the record?                  13 MR. HOFFMAN: Chip, summarize when you're done                  14 discussing it with Norm so we can have it on the                  15 record. Okay?                  16 MR. ROREM: Okay. So what we're reading                  17 here -- it's difficult to understand, but what's                  18 happening is the main house itself is ten feet from                  19 the property line. Okay. It's ten feet north of                  20 the property line. The porch itself, if you look                  21 at the dimension on the drawings, it either could                  22 be five or six feet. I'm tending to think --</p>

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<p style="text-align: right;">Page 46</p> <p>1 MR. LUEHR: It's about six.</p> <p>2 MR. ROREM: I'm tending to think it's six.</p> <p>3 Okay. So that means that there's a four-foot</p> <p>4 difference between --</p> <p>5 MR. LUEHR: 3.97.</p> <p>6 MR. ROREM: We thought that was five feet.</p> <p>7 MR. LUEHR: So it's already beyond.</p> <p>8 MR. ROREM: It's already encroached, yes. So</p> <p>9 we were thinking maybe it didn't, but actually it</p> <p>10 still does. So it's -- you know, so it's slightly</p> <p>11 less than four feet from the property line to the</p> <p>12 existing addition. Okay.</p> <p>13 MS. COWHIG: So before this new project began,</p> <p>14 the house was already encroaching on this required</p> <p>15 setback.</p> <p>16 MR. HOFFMAN: Yes.</p> <p>17 MR. ROREM: The required setback is reportedly</p> <p>18 five feet. It's encroaching a little over a foot.</p> <p>19 MS. COWHIG: Thank you for clarifying that.</p> <p>20 Is there anyone who wanted to speak</p> <p>21 about this further?</p> <p>22 (NO RESPONSE.)</p>	<p style="text-align: right;">Page 47</p> <p>1 MS. COWHIG: If not, we'll close the public</p> <p>2 hearing. And then we'll ask, how does the</p> <p>3 Commission want to proceed?</p> <p>4 MR. HOFFMAN: Madame Chair, if I could real</p> <p>5 quick. So we did provide a memo in here. And I do</p> <p>6 want to emphasize I guess, the issue of the</p> <p>7 variance really isn't even so much the</p> <p>8 encroachment. We haven't interpreted that it</p> <p>9 violates that. But it does clearly violate the</p> <p>10 requirement of the code that a bay window has to be</p> <p>11 three feet off the ground. It clearly isn't.</p> <p>12 Now, why does the code require it</p> <p>13 to be three feet off the ground? To be perfectly</p> <p>14 honest, I'm not entirely sure. And you can drive</p> <p>15 around that neighborhood and see lots of other bay</p> <p>16 windows that do extend farther than three feet.</p> <p>17 The applicant provided some. I did notice some</p> <p>18 others as I was driving around the neighborhood.</p> <p>19 So it's not an uncommon thing to do that.</p> <p>20 So regarding that three-foot issue,</p> <p>21 we were recommending approval of that. But I</p> <p>22 honestly would suggest ultimately you take that out</p>
<p style="text-align: right;">Page 48</p> <p>1 of the code because it clearly hasn't been enforced</p> <p>2 historically in the community and I don't see a</p> <p>3 good reason for it. So ultimately I think we</p> <p>4 should probably change that in the code.</p> <p>5 MS. COWHIG: If we were to make that change, we</p> <p>6 could also say but projections of bay windows and</p> <p>7 chimneys are not allowed if there's less than the</p> <p>8 required setback.</p> <p>9 MR. HOFFMAN: You certainly could make that</p> <p>10 clarification, yes.</p> <p>11 MS. COWHIG: But that's an issue for --</p> <p>12 MR. HOFFMAN: Another day.</p> <p>13 MS. COWHIG: -- future consideration. The</p> <p>14 issue before us tonight is the request of the</p> <p>15 variance.</p> <p>16 MR. HOFFMAN: And just procedurally I guess, we</p> <p>17 should give the petitioner a chance to respond back</p> <p>18 to any other comments that were made, if you so</p> <p>19 would like to.</p> <p>20 MR. LUEHR: I'm sorry. I'm hard of hearing.</p> <p>21 MR. HOFFMAN: No. So if you want to respond to</p> <p>22 anything that any of the other people testified to</p>	<p style="text-align: right;">Page 49</p> <p>1 tonight, you're welcome to now.</p> <p>2 MR. LUEHR: I would like to respond to a couple</p> <p>3 of comments my neighbor said in terms of -- the</p> <p>4 existing structure was all windows. I mean, she</p> <p>5 says now, you know, she can see in. She could see</p> <p>6 everything before.</p> <p>7 MS. DUFFIELD: It wasn't a living space though</p> <p>8 before.</p> <p>9 MR. LUEHR: Excuse me. I'm talking. The fact</p> <p>10 that -- she criticized it because it doesn't match.</p> <p>11 I used cedar wood. I'm letting it dry. I'm going</p> <p>12 to paint it to match the house eventually.</p> <p>13 The issue tonight -- I wasn't</p> <p>14 prepared for any of this other thing. I was</p> <p>15 prepared for the height of this window in terms</p> <p>16 of --</p> <p>17 MR. HOFFMAN: Understand.</p> <p>18 MR. LUEHR: Because I was lead to believe this</p> <p>19 was not an issue all along. I mean, I was</p> <p>20 constantly assured the fireplace was not an issue.</p> <p>21 It's sticking out 30 inches, too. I don't know</p> <p>22 what else to say.</p>

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1 MR. HOFFMAN: That's fine.

2 MR. LUEHR: I just leave it in your hands and  
3 you'll make a decision. Thank you.

4 MR. HOFFMAN: I understand. I was just giving  
5 you the opportunity.

6 MS. COWHIG: Thank you. Mr. Rorem, you  
7 suggested earlier that it would be helpful to hear  
8 from Code Enforcement staff.

9 MR. ROREM: Yes.

10 MS. COWHIG: Did you want to defer a decision?

11 MR. ROREM: Well, again, I'll go back to a  
12 previous thing that I said because I am tending to  
13 lean toward that.

14 The situation that I see right now  
15 is that the only thing that we really can rule upon  
16 this evening is the variance. The only thing that  
17 is involved in this variance is the height of this  
18 window.

19 And that from what I've heard you  
20 all say, if this is granted, neither one of you are  
21 going to be happy, and if it's not granted, neither  
22 one of you are going to be happy. So it's a

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1 get that thing up. And that would be the only  
2 change that even with Code coming here might  
3 happen.

4 MS. COWHIG: But that wouldn't really give any  
5 material relief to the unhappy neighbor.

6 MR. ROREM: No. None. There's no relief for  
7 either one of you. There's the dilemma.

8 MS. COWHIG: Well, if the variance is granted,  
9 then the property owners are satisfied. They've  
10 got their improvement retroactively okayed.

11 MS. HOOD: Correct.

12 MR. ROREM: Yeah. If the variance were  
13 granted, yes.

14 MS. COWHIG: If it is. But if it isn't, the  
15 expense and work would be considerable and the  
16 improvement would be negligible.

17 MR. ROREM: Uh-huh.

18 MR. HOFFMAN: So the code does, you know,  
19 outline the criteria that you need to consider.  
20 And we did outline those in my memo. I don't know,  
21 I don't think I need to go through each one  
22 individually, but they're there so you can take a

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1 lose/lose situation no matter what for both of you.  
2 So, you know, it doesn't really make any difference  
3 which way we go because of that, because neither  
4 one of you are going to really have any  
5 satisfaction in terms of what's going on with this.

6 I'm looking for a way that could  
7 resolve this thing in a way that there was some  
8 relief for the two of you. But at this point, I'm  
9 not seeing relief. My concern in bringing the  
10 building inspector in is that I don't know, given  
11 the circumstances, that anything other than the  
12 raising of that portion of the wall is something  
13 that he's going to be able to say could be  
14 enforced.

15 The encroachment on the side wall,  
16 the encroachment of the setback, all that kind of  
17 stuff seems as though it will stand, that that will  
18 stand up. And so consequently, we have a situation  
19 where if we bring Code in, the one thing that we  
20 might have to do is to say, okay, the wood storage  
21 box below the bay window has to be filled in and it  
22 has to be some way to cantilever that load out and

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1 look at those.

2 MR. AMES: I don't think even if Code came in,  
3 I think it's after the fact. It would clarify some  
4 things, but it still won't -- the bay window -- I  
5 mean the fireplace --

6 MR. HOFFMAN: Yeah.

7 MR. AMES: It's not going to change the  
8 variance that he's asking for.

9 MR. HOFFMAN: Right. What they're asking for  
10 tonight --

11 MR. AMES: Is a variance.

12 MR. HOFFMAN: I identified when I looked at it  
13 and saw that it didn't comply with the height  
14 setback and the variance, so I raised that issue  
15 because there were concerns with the fireplace.  
16 The first question that I was asked was, can the  
17 fireplace project into the side yard setback? And  
18 without seeing any pictures or anything, I looked  
19 at the code and, yes, it can project into the side  
20 yard setback.

21 Then the issue of the bay window  
22 came up and I looked at it. And I actually went

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1 out and looked at the property. The petitioner  
 2 allowed me to come in and look at what he had  
 3 constructed and everything. It was clear that, you  
 4 know, it wasn't three feet off the ground, and so  
 5 that's when we identified that we needed to have  
 6 him apply for a variance.

7 MR. ROREM: I have a question for you. Is your  
 8 primary concern the view?

9 MS. DUFFIELD: My primary concern is it's gonna  
 10 hurt my property values. I've already had that  
 11 looked at. You know, I mean, I'll be honest with  
 12 you. For 35 years I've lived there for -- my son  
 13 is now 31. Okay. Say he was ten years old. For  
 14 ten years while I cut the grass, we cut it back  
 15 along the thing and everything else. We didn't  
 16 care, you know. It was no big deal.

17 But now that he built that up,  
 18 okay, and I knew -- he made a comment at one time  
 19 where the property line was so that's why I had it  
 20 surveyed. When I had my fence put up, I had it  
 21 done with a reputable firm.

22 MR. ROREM: You had the fence surveyed?

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1 room so to speak, always has been.

2 So besides that it was horrible and  
 3 it's so close to my property that I can look in  
 4 there, plus my house values are gonna devalue, plus  
 5 I put up a fence like that because I just wanted it  
 6 done with, I wanted everything on the property  
 7 line. And I had renters on the other side so that  
 8 was another thing I looked at, too, you know.

9 But, yeah, it's -- and plus,  
 10 it's -- no offense, but it's aesthetically not eye  
 11 appealing. I just -- I don't understand this V  
 12 thing there. And then once -- I understand where  
 13 a -- I understand where the fireplace encroached  
 14 upon, you know, the property. Doesn't have a thing  
 15 underneath it. But the bay window situation, I  
 16 question that. That whole jet out of that I  
 17 question.

18 MR. ROREM: Go out on a limb here. If you ask  
 19 for a variance --

20 MS. DUFFIELD: I don't need one.

21 MR. ROREM: Well, give me a minute. If you ask  
 22 for a variance to have the fence tall enough so you

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1 MS. DUFFIELD: Yeah, I did that. Fence Above  
 2 the Rest, Steve Styck did it. And I made sure  
 3 everything was proper because I didn't want  
 4 anything to come back on me. I basically, probably  
 5 would not have put that fence up if I didn't have  
 6 all these other things going on, you know, with the  
 7 property line, et cetera, and what's called the  
 8 infringement or the --

9 MR. ROREM: Encroachment.

10 MS. DUFFIELD: -- the encroachment. Thank you.  
 11 But now, I mean, I literally work out of that room.  
 12 I'm on my computer a lot, et cetera. And it's  
 13 right there.

14 And they say, well, you can't look  
 15 into his thing. I could look into it before but it  
 16 wasn't a living area so to speak. He had a front  
 17 door. They didn't sit out there. They didn't do  
 18 anything out there. If I saw him sit out there,  
 19 it was always in the backyard. I never saw him on  
 20 the porch the whole time. And mine openly -- I  
 21 mean, I've got probably a five-foot opening into  
 22 mine, you know. So, I mean, it's part of my living

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1 wouldn't look into that room and modify the fence,  
 2 that's another way to resolve the situation. It's  
 3 up to you whether or not --

4 MS. DUFFIELD: Well, I've already spent \$7500  
 5 to put my fence in.

6 MR. ROREM: Sure.

7 MS. DUFFIELD: You know what? This was my  
 8 thoughts, right, wrong or indifferent, but I'm  
 9 thinking if the variance isn't granted maybe he  
 10 would just take that part down. I mean, if I had  
 11 to live with the fireplace, ah, I could do that,  
 12 but that other part, I have a problem with it.

13 I mean, he put in a back door to go  
 14 out the back door. Which, I understand. He has a  
 15 dog. I've had pets, too. I understand that. It's  
 16 so handy just to let them out that door rather than  
 17 to have to walk with them, you know. So I  
 18 understand all of that. But that bay window thing,  
 19 it's an eyesore, I'll be honest with you. The  
 20 whole structure to me is an eyesore.

21 MR. ROREM: One of the problems we have, I was  
 22 really sort of stretching outside the boundaries of

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<p style="text-align: right;">Page 58</p> <p>1 what we do. We're really not convened to offer                  2 solutions.                  3 MS. DUFFIELD: Right. I understand that.                  4 MR. ROREM: So, you know, I sort of stretched                  5 at that point.                  6 MS. DUFFIELD: Yeah. Personally, other than                  7 him taking it down, I really don't see it.                  8 MR. ROREM: What we have to do is make a                  9 determination based upon the facts. And I go back                  10 to my earlier statement. I don't think anybody's                  11 going to be happy with the results. But, you know,                  12 if a variance were granted, you would be. You                  13 wouldn't have to do anything. But you would remain                  14 dissatisfied.                  15 MS. DUFFIELD: Well, I would probably take it                  16 further, let's put it that way.                  17 MR. ROREM: Sure. Which is your right.                  18 MS. DUFFIELD: Yeah, I probably will.                  19 MR. ROREM: All right.                  20 MS. DUFFIELD: So he could end up taking it                  21 down anyway. That is my end vote. So the                  22 fireplace, I can live with that. I don't</p>	<p style="text-align: right;">Page 59</p> <p>1 understand that other part. And, I mean, if it                  2 wasn't a part of the house that I was in so much,                  3 who cares, you know. But every time I drive up,                  4 you know -- and anybody who's been over there says,                  5 what is going on there? I mean, I have neighbors                  6 back here. They're the same. Yeah, they were -- I                  7 don't know. I just can't put it into words.                  8 I personally though, I'm gonna -- I                  9 was going to Code back in June. I've been dealing                  10 with Code and trying to get something done. It was                  11 impossible. Basically -- and Dave knows this. He                  12 went and met with the Mayor, and you and Tomora,                  13 too. And basically they told me not to call Code                  14 anymore. They didn't want to deal with me anymore.                  15 Mike, you know how many times I've                  16 called you, you know.                  17 MR. HOFFMAN: A few.                  18 MS. DUFFIELD: I don't let a dead dog lie. I                  19 don't. It's me. I don't know what else to say.                  20 MR. HOFFMAN: Just for the record, so on the                  21 sign it has our office phone number if anybody does                  22 have any questions or anything. We got one phone</p>
<p style="text-align: right;">Page 60</p> <p>1 call from a neighbor just asking a few questions,                  2 but no objections.                  3 MR. ROREM: Is there any other reason that                  4 bringing Code in to discuss this issue would be                  5 beneficial to the resolution?                  6 MR. HOOPER: I don't think so.                  7 MR. AMES: I agree. Me, personally, I don't                  8 think so.                  9 MR. ROREM: All right.                  10 MR. HOOPER: I think we're trying to make                  11 somebody happy and we're not going to be able to                  12 accomplish that through any other measure. Nothing                  13 tonight is going to make that party happy.                  14 MR. HOFFMAN: And just for the benefit of the                  15 audience, so the Planning Board is the final                  16 recommending body on a variance, so whatever their                  17 decision is is the final decision. However, either                  18 of you two parties would have the ability to appeal                  19 to the City Council if you chose to, whichever way                  20 it goes.                  21 MR. ROREM: I'm done.                  22 MR. HOFFMAN: Close the public hearing?</p>	<p style="text-align: right;">Page 61</p> <p>1 MS. COWHIG: I did.                  2 MR. HOFFMAN: Oh, you did. I'm sorry.                  3 MR. ECKHARDT: Go ahead.                  4 MR. AMES: Anybody?                  5 MR. NEVAREZ: Go ahead.                  6 MR. AMES: Well, I would like to make a motion                  7 to the case PB 2018-12-2, request for a major                  8 variance for a bay window height regarding the                  9 property located at 444 South Main Street. I would                  10 like to recommend an approval of this request using                  11 the staff recommendations. You want me to read                  12 those?                  13 MR. HOFFMAN: Not necessary.                  14 MS. COWHIG: You can just refer to them.                  15 MR. AMES: Okay. Reference the staff                  16 recommendation one through five.                  17 And also I would like to amend this                  18 -- not amend, but add to this motion that we                  19 recommend that the City amend the code in the                  20 future to do away from the height requirements for                  21 bay windows when located less than ten feet above                  22 grade or ground level.</p>

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1 MS. COWHIG: Could we keep that as a separate  
2 motion?  
3 MR. HOFFMAN: Yeah, probably.  
4 MS. COWHIG: Keep it simple. Just make another  
5 motion after we've acted on this first one.  
6 MR. AMES: Okay.  
7 MS. COWHIG: Thank you.  
8 MR. AMES: Restrict the last part of the  
9 motion.  
10 MS. COWHIG: Okay. We have Mr. Ames'  
11 recommendation -- or motion to grant the requested  
12 variance. Is there a second?  
13 MR. HOOPER: Second.  
14 MS. COWHIG: Seconded by Mr. Hooper. Any  
15 further discussion?  
16 (NO RESPONSE.)  
17 MS. COWHIG: Would you call the roll, please?  
18 A yes vote is to grant the variance.  
19 MR. HOFFMAN: Correct. Willie Ames.  
20 MR. AMES: Yes.  
21 MR. HOFFMAN: Edwin Eckhardt.  
22 MR. ECKHARDT: Yes.

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1 MR. AMES: I would like to make a motion that  
2 we also recommend that the City amend the code in  
3 the future to do away with the height requirements  
4 for bay windows when located less than ten feet  
5 above grade or ground level. Do away with it, the  
6 height requirement, if it's less than ten feet.  
7 MS. COWHIG: Do we want to say provided that  
8 the standard setback in met?  
9 MR. AMES: The standard, yes. Well, it's ten  
10 feet. Is it five feet?  
11 MR. HOFFMAN: Five feet.  
12 MR. AMES: Five feet.  
13 MS. COWHIG: Okay. Is there a second to Mr.  
14 Ames' motion?  
15 MR. ECKHARDT: I'll second.  
16 MS. COWHIG: Motion by Mr. Ames, seconded by  
17 Mr. Eckhardt, to recommend a text amendment to  
18 revise the minimum height requirements for bay  
19 windows.  
20 MR. HOFFMAN: Okay.  
21 MS. COWHIG: Any further discussions?  
22 (NO RESPONSE.)

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1 MR. HOFFMAN: Beverly Hood.  
2 MS. HOOD: Yes.  
3 MR. HOFFMAN: Chip Rorem.  
4 MR. ROREM: Yes.  
5 MR. HOFFMAN: Terrance Hooper.  
6 MR. HOOPER: Yes.  
7 MR. HOFFMAN: Victor Nevarez.  
8 MR. NEVAREZ: Yes.  
9 MR. HOFFMAN: And Chair Cowhig.  
10 MS. COWHIG: Yes.  
11 MR. HOFFMAN: Okay. Motion is approved six to  
12 zero. So the variance is granted, however --  
13 MS. COWHIG: Seven.  
14 MR. HOFFMAN: Seven. Sorry. As I mentioned,  
15 you have I believe it is seven days to file a  
16 request for an appeal to the City Council if you  
17 would like to.  
18 MS. DUFFIELD: No problem.  
19 MR. HOFFMAN: You can give me a call and talk  
20 through it if you want to tomorrow.  
21 MS. COWHIG: Now, Mr. Ames, would you like to  
22 make a second motion?

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1 MS. COWHIG: We could ask Mr. Hoffman to draft  
2 specific language.  
3 MR. AMES: Okay.  
4 MR. HOFFMAN: Yes.  
5 MS. COWHIG: Would you call the roll, please?  
6 MR. HOFFMAN: Sure. Victor Nevarez.  
7 MR. NEVAREZ: Here.  
8 MR. HOFFMAN: Is that yes?  
9 MR. NEVAREZ: Yes.  
10 MR. HOFFMAN: Okay. Thank you. Chip Rorem.  
11 MR. ROREM: Yes.  
12 MR. HOFFMAN: Terrance Hooper.  
13 MR. HOOPER: Yes.  
14 MR. HOFFMAN: Beverly Hood.  
15 MS. HOOD: Yes.  
16 MR. HOFFMAN: Edwin Eckhardt.  
17 MR. ECKHARDT: Yes.  
18 MR. HOFFMAN: Willie Ames.  
19 MR. AMES: Yes.  
20 MR. HOFFMAN: Loretto Cowhig.  
21 MS. COWHIG: Yes.  
22 MR. HOFFMAN: Okay.

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<p style="text-align: right;">Page 66</p> <p>1 MS. COWHIG: Thank you. Do we have any further                  2 business?                  3 MR. HOFFMAN: So just a quick update on a                  4 couple of things that are going on. I have                  5 actually -- I think I brought copies. Well,                  6 there's two or three ordinance amendment things                  7 that are in the process. It's the amendment of the                  8 temporary emergency shelter that we talked about                  9 earlier. That's in the works.                  10 We are working on an amendment to                  11 the whole administrative section of the zoning code                  12 that I hope to have done in the very near future.                  13 And we're also working on an amendment to address                  14 solar and alternate energy sources to better handle                  15 that. Not only the solar gardens, but allowing                  16 people to have them on their own property, for                  17 business purposes, and how we want to treat them                  18 for residential purposes and those kind of things.                  19 So those are all in the works.                  20 And the other thing that we should                  21 do tonight formally I think, Fortitude Community                  22 Outreach had applied for a text amendment actually</p>	<p style="text-align: right;">Page 67</p> <p>1 back in December. We've still been working on the                  2 text, so we never really actually had a public                  3 hearing, but we should continue that hearing again                  4 until February so they don't have to republish, if                  5 that's okay.                  6 MS. COWHIG: Oh, that was on the agenda.                  7 MR. HOFFMAN: Yeah. We skipped over it.                  8 MS. COWHIG: This was under unfinished                  9 business, A.                  10 MR. HOFFMAN: Yes. So we should continue that                  11 to February 12th, if that's acceptable.                  12 MS. COWHIG: If there's no objection, I propose                  13 that we continue that public hearing officially.                  14 Do we have a motion to that effect?                  15 MR. ROREM: So moved.                  16 MS. COWHIG: Motion by Mr. Rorem. Do we have a                  17 second?                  18 MR. AMES: Second.                  19 MS. COWHIG: Seconded by Mr. Ames. All in                  20 favor?                  21 ALL BOARD MEMBERS: (In unison) Aye.                  22 MS. COWHIG: Unanimously continued.</p>
<p style="text-align: right;">Page 68</p> <p>1 MR. HOFFMAN: Thank you.                  2 MS. COWHIG: Okay. Thank you.                  3 MR. ROREM: I have another question, just has                  4 to do with the easement issue in Cobb Park. It's                  5 my understanding from reading in the newspaper that                  6 there is at this point no officially recorded                  7 easement for that gas line that goes --                  8 MS. COWHIG: The existing line.                  9 MR. ROREM: The existing line, right. My                  10 question is, in the absence of an easement for the                  11 existing line, what are the expectations of the                  12 utility in terms of disturbing public property, or                  13 private property for that matter?                  14 MS. COWHIG: I'm not qualified to answer.                  15 MR. ROREM: I'm not either.                  16 MS. COWHIG: But if they wanted a different                  17 route, they would certainly have to get an easement                  18 for that.                  19 MR. ROREM: Right. Correct.                  20 MS. COWHIG: But it isn't clear to me who has                  21 the authority to grant them that easement. Whom do                  22 they have to convince that it is a public</p>	<p style="text-align: right;">Page 69</p> <p>1 necessity? Is it up to the park board? Is it up                  2 to the court? It's not clear to me. But I don't                  3 think this body has any authority over it.                  4 MR. ROREM: No. It's just that we run into                  5 easements and issues like this. I was just curious                  6 if there was anything that we could shed -- I                  7 didn't understand it. Okay.                  8 MS. COWHIG: I don't know.                  9 MR. HOFFMAN: I mean, obviously the property                  10 owner could grant them an easement. But if they                  11 don't choose to, can somebody force them to? I                  12 don't know the answer to that question.                  13 MR. ROREM: Okay.                  14 MS. COWHIG: If there's no further business, I                  15 just note that next month again we meet on the                  16 second Tuesday rather than the usual third Tuesday                  17 of the month.                  18 MR. HOFFMAN: And we will have a meeting. I've                  19 got one application that I talked to that will be                  20 coming in for a rezoning.                  21 MS. COWHIG: So February 12th, President's Day,                  22 requires that adjustment.</p>



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**TO:** Kankakee Planning Board

**FROM:** Mike Hoffman, AICP, PLA, Vice President  
Emma Swanson, Associate

**DATE:** February 6, 2019

**RE:** **Case #PB 2019-1-3 Two Major Variance Requests by River Valley Recycling for Property Located at 288 W South Tech Drive**

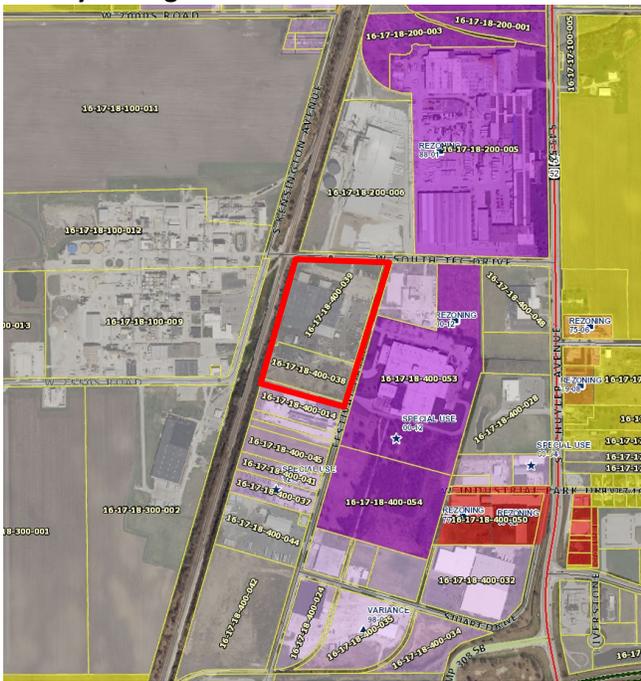
**SUMMARY**

<p><b>Type:</b> Major Variance</p> <p><b>Applicant:</b> River Valley Recycling, LLC</p> <p><b>Property Owner:</b> Triangle Holdings, LLC</p> <p><b>Property Address:</b> 288 W South Tech Drive, Kankakee, IL 60901</p> <p><b>Property ID #:</b> 16-17-18-400-038 16-17-18-400-039</p> <p><b>Current Zone:</b> I-2</p>	<p><b>Variance Requested:</b></p> <ul style="list-style-type: none"> <li>- The variance request under PB2019-1-3 is a request to deviate from <i>Section 10.03; M., (2)</i>; to allow relief from the parking requirements.</li> <li>- The second variance requested under PB2019-1-3 is a request to deviate from <i>Section 10.02; B., (2)</i>; to allow relief from Driveways and Aisles construction material restrictions. The property is zoned Heavy Industrial (I-2) and is located at 288 W South Tech Drive.</li> </ul> <p><b>Variance From:</b></p> <ul style="list-style-type: none"> <li>- <i>Section 10.03; M., (2): "Subject to the other provisions of this Ordinance, off-street parking space shall be provided for principal industrial and manufacturing uses, primarily intended for the fabricating, assembling or processing of products or materials, to the extent specified as follows: ...<b>(2) Uses conducted within or outside fully enclosed building and/or structure ...per 200 sq./ft. of GFA ...One (1)"</b></i></li> <li>- <i>Section 10.02; B., (2): "(2) Driveways and Aisles. ... Driveways and/or aisles that are designated thruways <b>shall be constructed to the minimum standards specified in Table 10-1(B) (Driveways and Aisles), of this Section ..."</b> (See Table 10-1(B) Page 2).</i></li> </ul> <p><b>Reason for Requested Variance:</b></p> <ul style="list-style-type: none"> <li>- The applicant has expressed that the additional parking spaces required by <i>Section 10.03; M., (2)</i> are unnecessary given that the proposed building addition will not create new employment which would require more spaces. Additionally, the parking that is currently on-site is more than enough for the number of employees.</li> <li>- The applicant has stated that the current driveway is made of an aggregate surface of blast furnace slag, which can endure the operation of heavy equipment on-site.</li> </ul> <p><b>Staff Recommendation:</b> Approve River Valley Recycling’s request for a Major Variance that would allow deviation from parking requirements and driveway construction material requirements for the subject property located at 288 W South Tec Drive.</p>
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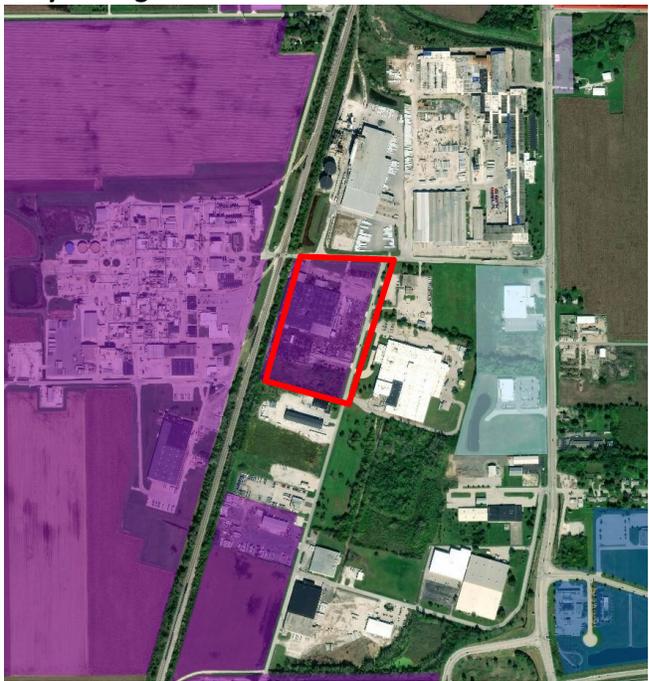
Table 10-1(B) (Driveways and Aisles) from the City of Kankakee 1995 Zoning Ordinance:

Table 10-1(B) Driveways and Aisles	
<b>Surface</b>	<b>Minimum Depth</b>
Class 1 Bituminous Concrete	One (1") Inch
Binder	One and One-Half (1 ½") Inch
<b>Base Course</b>	<b>Minimum Depth</b>
Crushed Stone	Ten (10") Inches
Grade 9 Gravel	Ten (10") Inches
BAM ( minimum marchall stability of 1,900 inches)	Five (5") Inches
Pozzolannic	Six (6") Inches
Equivalents to the Above	Subject to Approval of the City Engineer
Note: The binder and surface shall be laid in two (2) lifts. Five (5") inches of non-reinforced concrete pavement is an acceptable alternative in lieu of the asphalt and base combinations.	

County Zoning:



City Zoning:



Teska has reviewed the application for a Major Variance against the requirements set forth in the City of Kankakee Zoning Ordinance, Section 12.03 Variances. The submitted application is complete, and we offer the following comments and recommendations:

#### **STANDARDS USED TO EVALUATE VARIANCES**

The following standards for evaluating a Variance are provided in Section 12.03.C of the code. Variances shall be granted based upon the judgment of the Planning Board and/or Director of the Planning Department that evidence submitted in support of said variance sustains each of the following standards used to evaluate variances:

**(1) *The variance relates to a specific parcel of land;***

The variance relates to the subject property located at 288 W South Tech Drive (refer to the map above). However, the variance request is based more on the use of the property than the actual configuration of the lot.

**(2) *The variance advances the purposes of the state enabling legislation;***

The Statutory Authority for Variation, in consideration of the standards of practical difficulties or particular hardship, shall require the following evidence be provided:

**(a) *The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone; and***

This criteria is not particularly relevant, as the property has been in use for many years without a variance.

**(b) *The plight of the owner is due to unique circumstances; and***

The proposed building addition will not add any additional employment at the facility, and it will not draw any visitors to the facility, as it is a secure, industrial site. Therefore, the additional parking that would be required for the addition, per the zoning ordinance, is not needed.

Additionally, the business that operates on the subject property frequently uses heavy machinery. The type of driveway construction materials, as required per the zoning ordinance, would be hard to maintain given the daily wear and tear of the heavy machinery on site. The existing aggregate surface of blast furnace slag has proven to work well with the type of machinery used on site. The installment of another type of aggregate surface for the driveway would be a financial hardship for the owner, due to the amount of maintenance it would require.

**(c) *The variation, if granted, will not alter the essential character of the locality.***

If granted, this variation will not alter the essential character of the locality due to the industrial nature of the subject property and the adjacent and surrounding properties in the area.

**(3) *The variance can be granted without substantial detriment to the public good;***

Given the location of the subject property and the industrial use of the property, this variance would not be detrimental to the public good.

**(4) *The benefits of the variance would substantially outweigh any detriment;***

These variance requests would help maintain permeable surfaces on the subject property, as they would allow relief from restrictive parking requirements that are unnecessary for the use and would allow the applicant to maintain the aggregate surface of blast surface slag, which is more permeable by a “C” factor of 0.25 (slag aggregate is 0.70 and hard surface concrete/asphalt is 0.95) causing more surface infiltration of rainwater to recharge the groundwater system with less Detention Volume required. Also, it is easily reshaped with the heavy equipment being utilized on-site as needed and it does not require the addition of water to keep down any dust that is associated with other aggregate surface materials.

**(5) *The variance would not substantially impair the intent and purposes of the zoning ordinance and/or comprehensive plan, as adopted by the corporate authorities.***

The City’s current Comprehensive Plan, adopted in 1997, outlines several economic development goals such as to “attract business and industry to locate within the City” and to “ensure that the City has the resources available to support the location of business and industry within the City.” Based on these goals, it is our opinion that this variance would not impair the purpose of the City’s Comprehensive Plan.

## **RECOMMENDATION**

Subject to any testimony provided at the Public Hearing, the proposed Variances appear appropriate and meet the standards for a Variance as outlined in Section 12.03.C of the Zoning Ordinance. We recommend approval of both proposed Variances.

16-17-18-200-006

W SOUTH TEC DRIVE

16-17-18-400-009

16-17-18-400-053

16-17-18-400-039

FESTIVAL DRIVE

16-17-18-400-038

16-17-18-400-014

16-17-18-400-016

16-17-18-400-017

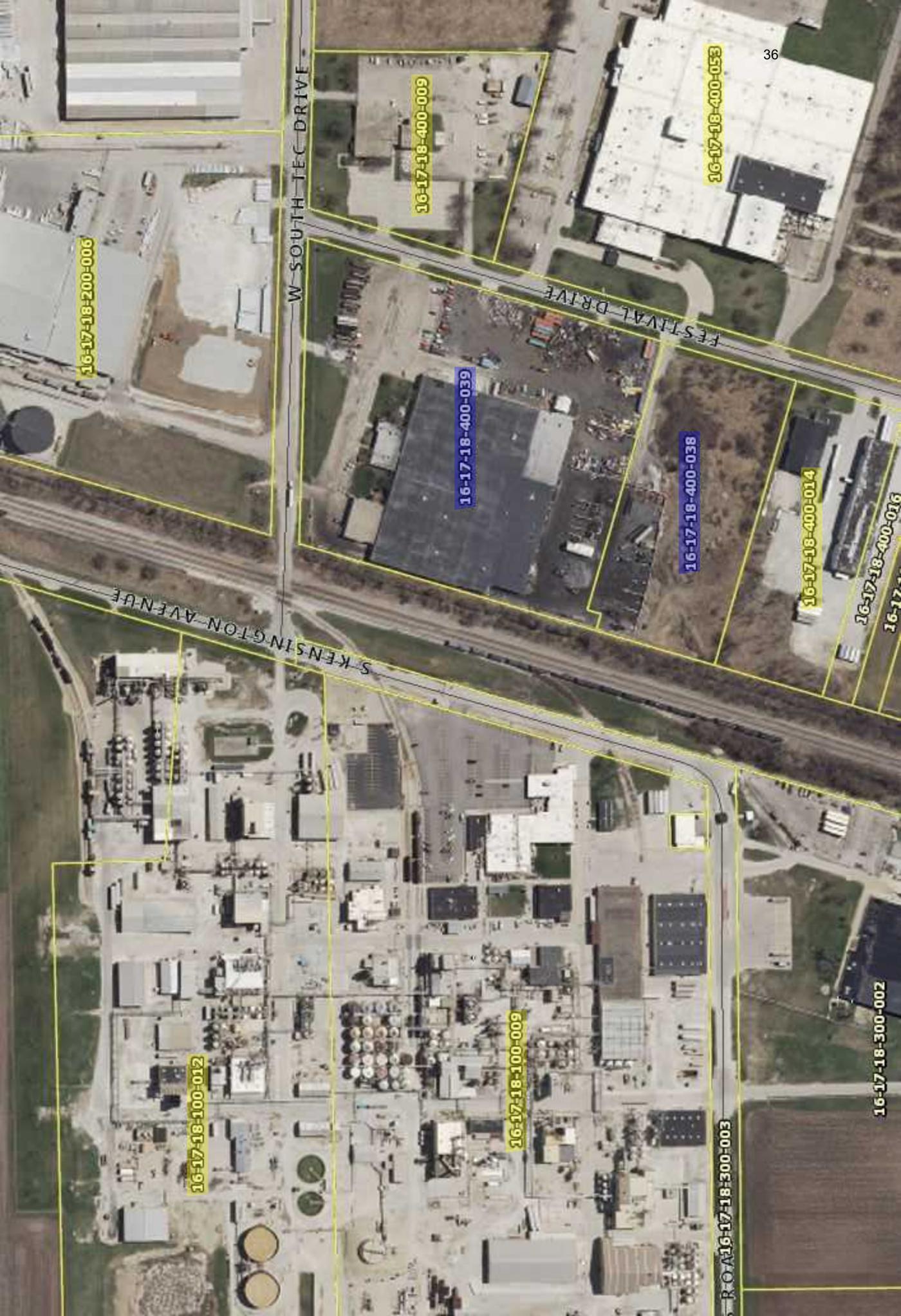
S KENSINGTON AVENUE

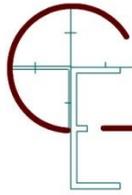
16-17-18-100-012

16-17-18-100-009

R O A 16-17-18-300-003

16-17-18-300-002





# Cornerstone Engineering, Inc.

931 West Broadway Street  
Bradley, Illinois 60915  
815.939.1001 Fax 815.933.9076

## Exhibit “B”

### Variations Requested

**Variance 1** – The Owners are seeking a variance to the number of parking stalls requested to serve a Building Addition to an Existing Plant, Zoning Ordinance Sec 10.03; M., (2), to zero additional parking stalls. The proposed improvements will not create any new employment positions and are designed to improve the efficiency of their operations, so no additional parking spaces would be needed. The existing site has 97+/- existing parking stalls and has 130 employees spread over 3 shifts and currently is experiencing no shortage of parking. As an example, the existing facility has 170,280 SF, which the existing Ordinance would require one parking stall for every 200 SF, giving a required 852 parking stalls to be provided, along the amount required of a Walmart, where the 97 existing are serving well. The proposed addition is 11,200 SF, which would require 56 additional parking stalls, and the Owner will need zero in this case.

**Variance 2** – The Owners are seeking a variance to the Construction Materials Required in the Zoning Ordinance, Sec. 10.02, B. (2); and the Subdivision Regulations 2002, revised Feb. 2003; Sec 8.49, D., 5; whichever supersedes. The back yard area of the plant where these improvements would occur, is a secure area from the public and is only accessible by the current employees to help reduce the incidence of theft. Because of the heavy equipment operating in this outside production area with no weight limit restrictions, an aggregate surface of blast furnace slag is currently being utilized and is working quite well. A hard surface pavement requirement in this area in accordance with the Ordinance and Subdivision Regulations would be a hardship to the owner as the Ordinance minimum cross-section is not sufficient for the loads and turning movements in this area and a heavier pavement would be costly to install and even more costly to maintain due to the operations taking place. Other benefits of continued use of the Aggregate Surface Slag Course is that it is more permeable by a “C” factor of 0.25 (slag aggregate is 0.70 and hard surface concrete/asphalt is 0.95) causing more surface infiltration of rainwater to recharge the ground water system with less Detention Volume required. Also, it is easily reshaped with the heavy equipment being utilized on-site as needed and it does not require the addition of water to keep down any dust that is associated with other aggregate surface materials.



Community Planning + Site Design + Development Economics + Landscape Architecture

**TO:** Kankakee Planning Board

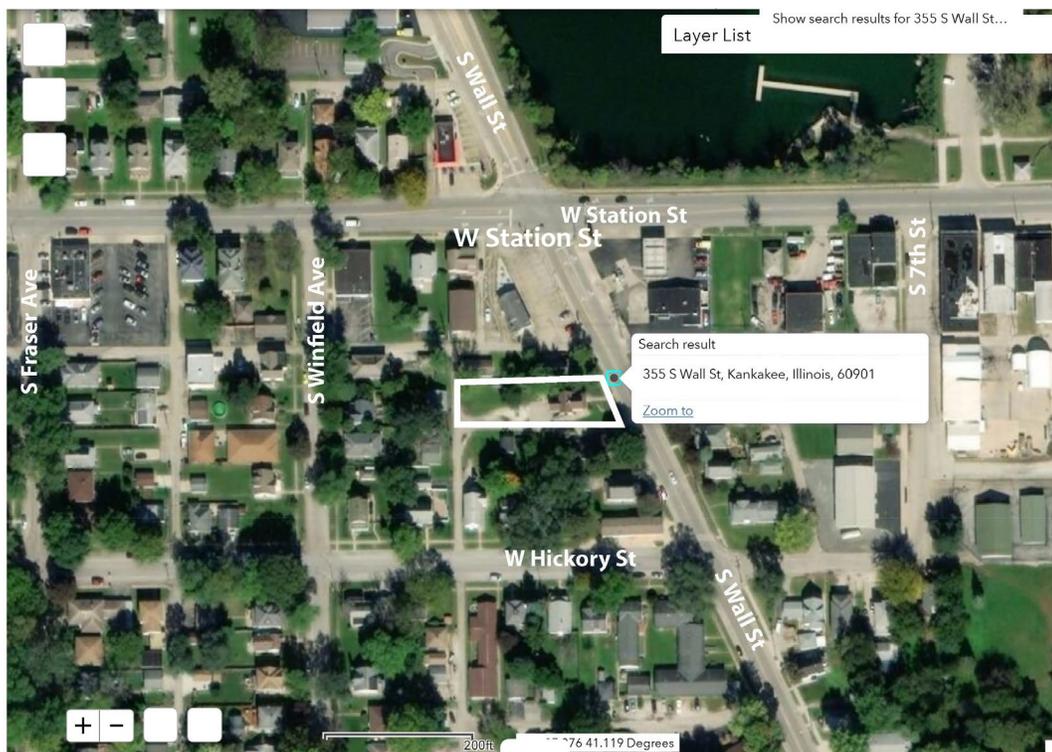
**FROM:** Mike Hoffman, AICP, PLA, Vice President  
Carol Brobeck, Associate

**DATE:** February 6, 2019

**RE:** **Case # 2019-1-2 - Request for Rezoning for 355 South Wall Street from C1 to R1**

The petitioner, Robert de Oliveira has requested to rezone of the property located at 355 South Wall Street, from C1 Neighborhood Commercial to R1 Single-Family Residential. The property is located on PIN 16-17-06-200-004, between West Station Street and West Hickory Street. The property has a residential structure which faces Wall Street, as do neighboring properties.

Originally constructed as a single-family home, the structure has had a small real estate office located on the ground floor and a dwelling unit on top for many years. The owner now wishes to convert it back entirely to a residential use. The property is surrounded primarily by residential uses, and the area does not show signs of pressure or desire to expand commercial uses in this area. The rezoning of the property to R1 is consistent with the predominant use and character of the area. Adjacent properties are zoned either C1, R1 or R2, all compatible uses.



**Teska Associates, Inc.**

Teska has reviewed the application for Rezoning from C1 Neighborhood Commercial to R1 Single-Family Residential against the requirements set in the City of Kankakee Zoning Ordinance. The submitted application is complete, and we offer the following comments and recommendations:

### Map Amendments

Applications to rezone property are evaluated as Map Amendments. The factors for reviewing a Map Amendment are established to ensure that proposed Amendments are consistent with the Goals and Objectives of both the Comprehensive Plan and the Zoning Ordinance. The following factors for evaluating a Map Amendment are provided in Section 12.05.B.6.b of the code. These factors should be considered when reviewing the proposed Map Amendment, along with any other evidence the Planning Board considers relevant.

- (a) The proposed map amendment is consistent with the spirit, purpose and intent of the Ordinance.
- (b) The proposed map amendment is consistent with the goals, objectives and policies of the City's Official Comprehensive plan, and in full conformity with the land use recommendations specified by the Plan, as delineated on the Official Land Use Plan Map.
- (c) All required utilities, community facilities and governmental services have been or will be provided and possess or will possess adequate capacity and/or manpower to accommodate any permitted use allowed within the zoning classification being request, or any condition use therein, which might subsequently be authorized. (e.g. water and sewer lines, storm drainage facilities, access to public rights-of-way, public transportation, parks and recreational facilities, educational facilities, public safety facilities).
- (d) Compatibility with existing uses and the zoning classification of property within the general area of the subject property.
- (e) The suitability of the subject property for the uses permitted under the existing zoning classification, addressing the need for said map amendment.
- (f) The trend of development, if any, in the general area of the subject property, including changes, if any, which have taken place since the day the property in question was placed in its present zoning classification, and the effect said map amendment would have on said trend.

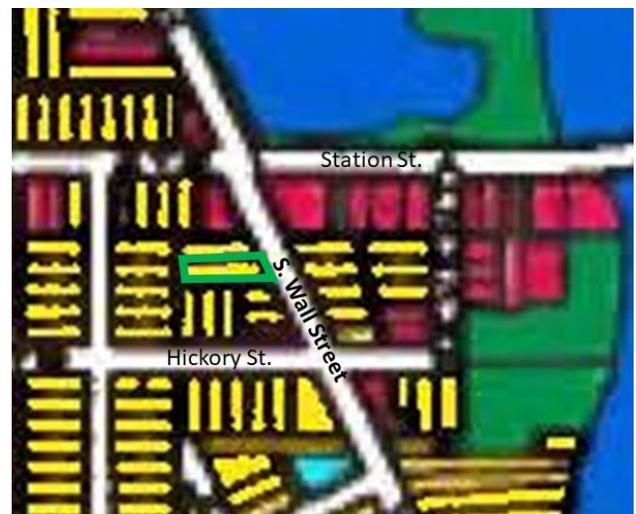
### Consistency with Purpose and Intent

The intended use of the property upon rezoning is single-family residential, consistent with the permitted uses of the R1 Single-Family Residential zoning district, as outlined in Section 7.02 of the Zoning Ordinance.

### Comprehensive Plan

The City's current 1997 Comprehensive Plan, illustrated to the right, indicates the subject site (green rectangle) and surrounding properties on all sides as residential.

The rezoning of this property is consistent with the land use intentions of the City's Comprehensive Plan.



### *Provision of Utilities*

Utility needs, such as water and sewer, public transportation etc., have been adequately provided for. In addition, the primarily residential nature of the area would support the adequate provision of utilities generally. The rezoning of the property to R1 will only act to strengthen the need for such provisions.

### *Compatibility with Existing Land Use/Zoning*

The land use of the properties surrounding the subject property are primarily single-family residential. However, while there are commercial uses in the vicinity, there are none directly adjacent to the subject property. Adjacent properties to the north and south of the subject property along Wall Street are zoned C1 Neighborhood Commercial but include a number of single-family homes that do not appear to be used for commercial uses. Properties abutting the west of the subject property are zoned R1 Single-Family Residential. Properties directly east, across Wall Street, are zoned either C1, R1 or R2 Two-Family Residential, all of which are considered compatible zoning districts with mutually beneficial uses. See Appendix A for a map of the current zoning for the subject property and the surrounding area.

### *Suitability of Property for Current Zoning*

The subject property currently includes a single-family home and is presently used as a residence and office. Previously, the property was used exclusively as a residence. Should the property not continued to be used for both office and residential uses, the property effectively complies with the R1 zoning classification. Rezoning of the property to R1 is a return to the original and traditional use of the subject property. While adjacent properties remain zoned C1, the structures on those properties are single-family homes and remain used as such. Rezoning of this property to R1 will enhance and reinforce the residential character of this area. See Appendix A for a map of the current zoning for the subject property and the surrounding area.

### *Development Trends*

Properties in the area, while zoned C1, are primarily single-family homes. There are no signs of a trend to further convert residential properties to commercial/office uses in the area. Also, there is no evidence of a desire or need to convert residential properties to include or allow for commercial/office uses. There are commercial uses to the north and south of the subject property along Wall Street, but neither encroachment of commercial/office uses, nor the redevelopment of single-family homes zoned C1 adjacent to the subject property into commercial buildings have occurred and are not expected to occur. Thus, development trends in this area do not indicate that rezoning of the subject property from C1 to R1 will be consistent with current or expected future uses and is therefore compatible with the land use plan and vision for this area.

### **Recommendation**

Subject to any testimony provided at the Public Hearing, the rezoning of the subject property appears appropriate and meets the standards for a Map Amendment as outlined in Section 12.05.B.6.b of the Zoning Ordinance. Subject to any testimony at the public hearing, we recommend approval of the proposed Rezoning from C1 to R1. If the Planning Board agrees with this report, we recommend that it be adopted as preliminary findings of fact.

Appendix A: Zoning of the Subject Property and Surrounding Properties





## MEMORANDUM

**TO:** City of Kankakee Planning Board

**FROM:** Mike Hoffman, AICP, PLA, Vice President  
Emma Swanson, Associate

**DATE:** January 24<sup>th</sup>, 2019

**RE:** **Amendments to Chapter 12 of the City of Kankakee Zoning Ordinance**

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The sections within the Zoning Ordinance proposed for amendment are cited in the attached document with the text in **RED** showing the text that has been added and the black text with ~~STRIKEOUT~~ being the text that has been removed.

These amendments have been summarized below:

- The proposed text amendment would ultimately reduce the number of voting members required for the City of Kankakee Planning Board from thirteen (13) to nine (9). This amendment would also change the arrangement of initial term limits, and the number of voting members who must be present to reach a quorum at public meetings.
- The proposed text amendment would require the *applicant* to provide the public notice sign as part of the Major Variance and Conditional Uses application procedures. Additionally, the amendment would create regulations for the type of sign and the size of the sign. These new regulations are illustrated via graphics within the Major Variance and Conditional Uses application procedures sections of this chapter.
- The proposed text amendment would introduce easy-to-read diagrams detailing the review processes for Major Variances, Conditional Uses, and Amendments, and will be placed at the end of the respective sections of the ordinance.
- The proposed text amendment would also reference the new separate Fee Ordinance, which would introduce an updated fee structure.

## CHAPTER 12 ADMINISTRATION

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### 12.01 JURISDICTION

To accomplish the purpose and intent of this Ordinance, ~~The administration of this ordinance the provisions established herein~~ is hereby vested in the corporate authorities; the Planning Board; and/or specified City Departments, including, but not limited to the Planning Department and the Kankakee Fire Department - Code Enforcement Division.

#### A. Corporate Authorities.

~~As defined in Chapter 2 (Definitions) of this Ordinance, the corporate authorities shall consist of the duly elected Mayor and the members of the City Council of the City of Kankakee, Illinois. The corporate authorities shall hear and decide on all decisions made by the Planning Board, where applicable, concerning the provisions of this Ordinance.~~ In those cases where a decision is rendered by the corporate authorities, regarding the implementation of the provisions of this Ordinance, said decision shall be final, subject appeal as prescribed by the Administrative Review Act, of the Illinois Revised Statutes, as amended.

#### B. Planning Board.

Subject to, and in accordance with the laws of the State of Illinois, the Planning Board of the City of Kankakee is hereby established to serve as an advisory and review authority for all planning, zoning, and/or classification changes, conditional use permits and/or variances pertaining to lots of record within the corporate limits and/or extraterritorial jurisdiction of the City of Kankakee.

##### **(1) Powers and Responsibilities.**

The members of the Planning Board shall possess the following powers and/or duties:

- (a) To hear and decide all matters referred to it or upon which it is required to pass under this Ordinance.
- (b) To hear and decide on all ~~substantive~~ **text** amendments to the text of this Ordinance, and on all amendments to the Official Zoning Map.
- (c) To hear and decide on all applications for conditional use permits.
- (d) To hear and decide appeals from a final administrative decision made by the ~~Director of the Planning Department~~ **Planning Director**, concerning the provisions of this Ordinance.
- (e) In accordance with the Illinois Revised Statutes, Chapter 24, 11-13-3 (E), stating, "...In all municipalities it shall also hear and decide all matters referred to it or upon which it is required to pass under such an ordinance...", the Planning Board shall also possess the following powers and/or duties: To prepare and recommend to the Mayor and City Council:
  - (1) An Official Comprehensive Plan, covering past, present and future development, including the preparation of amendments and/or revisions thereto;
  - (2) Assist municipal staff charged with the direction of policy, programs, projects and/or improvements embraced within the Official Comprehensive Plan, to further their implementation, and, generally, to promote the realization of the City's Official Comprehensive Plan;

- ~~(3) Capital Improvement Plans, when related to the City's Official Comprehensive Plan;~~
- (4) Subdivision Regulations with reference to streets, alleys and public grounds in un-subdivided land, within the City's corporate and extraterritorial planning jurisdiction;
- (5) Zoning Regulations, including Performance Standards, Vacation of Public Rights-of-Way, Bulk Regulations, Density and Open Space Controls, Separation of Land Uses, Establish District Classifications, Construction Standards and Codes, and Incompatible Uses; and,
- (6) Dedication/Vacation of Public Right-of-Ways.

**(2) Qualifications.**

The Planning Board shall consist of ~~thirteen (13)~~ **nine (9)** voting members, appointed by the Mayor, with the advice and consent of the City Council. The following elected and/or appointed officials shall serve as ex officio non-voting members of the Board: the Mayor, ~~Director of the Planning Department~~ **Planning Director**, Director of the Kankakee Fire Department - Code Enforcement Division, City Attorney, City Engineer, and/or Departmental staff, as required. All voting members of the Planning Board shall be residents of the City of Kankakee, and shall be appointed ~~on the basis of~~ **based on** professional expertise or demonstrated experience and/or interest in related fields. Said fields shall include, but not be limited to architecture, building construction, conservation, education, engineering, historic preservation, **landscape architecture**, finance, law, urban planning, real estate and/or neighborhood organizations. Any member having a pecuniary or personal interest in any application and/or appeal scheduled to be heard by the Planning Board shall disclose such interest, with said disclosure being made a matter of public record. Without exception, any member having said interest shall not be a party to any of the following actions or activities regarding said application and/or appeal:

- (a) Present, and/or speak in his/her capacity as a member of the Planning Board;
- (b) Exert personal influence on fellow members or elected and/or appointed officials; or,
- (c) Vote on the Board's final decision relating to said application or appeal. Subject to confirmation by the City Council, the Mayor may, at his discretion, remove any member for incompetence, neglect of duty, or malfeasance in office, or upon failing to attend at least two-thirds (b) of all regularly scheduled meetings held in a single calendar year. The Mayor shall, within ten (10) days of said removal, report the cause of said removal, in writing, to the City Council.

**(3) Term of Office.**

The initial members of the Planning Board shall serve staggered terms, as determined by lot, at the first regular meeting of the Planning Board, in accordance with the following schedule:

- (a) ~~Four~~ **Two (4-2)** Members . . . . . One (1) Year Terms.
- (b) ~~Four~~ **Three(4-3)** Members . . . . . Two (2) Year Terms.
- (c) ~~Five~~ **Four(5-4)** Members . . . . . Three (3) Year Terms.
- (d) As each initial term expires, appointments to the Planning Board shall be made for terms of three (3) years. Members shall serve until a successor is appointed for

~~the remainder of any unexpired term~~, and shall serve without compensation, unless otherwise authorized by the Mayor and City Council.

**(4) Organization.**

The Mayor shall appoint a Chairman and Vice-Chairman from among the members of the Planning Board for terms of one (1) year. The Secretary of the Planning Board shall be the ~~Director of the Planning Department~~ **Planning Director**. Said Department shall serve as the repository for all documents and records related to the activities of the Planning Board. The Secretary shall have no vote on any matter under consideration by the Planning Board, and shall not count towards an eligible quorum. The Secretary shall be responsible for:

- (a) Meeting minutes, including the notation and/or preparation of the permanent written record of Board activities, including the vote of each member, upon each question, or, if failing to vote, or absent, indicating such fact;
- (b) Technical assistance to residents and members of the Board;
- (c) Public notification, as specified by the provisions of this Chapter;
- (d) Advising the corporate authorities regarding vacancies and expiring terms;
- (e) Report preparation, including findings and recommendations, ordinances and/or resolutions; and,
- (f) Administrative duties including the maintenance of a permanent, written, public inventory of all Board actions, decisions, documents and/or records, available for public inspection during regular office hours.

**(5) Meetings and Hearings.**

Meetings of the Planning Board shall be scheduled on a monthly basis, shall be open to the public, and shall be held in accordance with the provisions of the State of Illinois' Open Meetings Act. The Planning Board shall hold a minimum of four (4) public meetings per calendar year. To convene a legal meeting, a quorum, consisting of a majority of its duly appointed and serving members, must be present. All decisions and/or recommendations made by the Planning Board shall require a majority vote of those members present and eligible to vote on any such issue, ~~with a minimum of five (5) members voting~~. The Chairman, the Vice-Chairman, and/or the Secretary shall have the power to cancel or postpone a scheduled meeting, or call additional meetings as necessary, for cause, without further public notice. The Chairman shall preside over meetings, following commonly accepted parliamentary procedure, ensuring public discussion of issues before the Planning Board. In the absence of the Chairman, the Vice-Chairman shall perform the duties of the Chairman. In the absence of both the Chairman and Vice-Chairman, the members shall elect a temporary chairman through a simple majority vote of the quorum present. The Chairman shall have the power to administer oaths, and shall retain the right to call for a vote on all matters where a vote is taken. The Chairman and/or members of the Board, by majority vote of those members present and eligible to vote, shall have the ~~power to subpoena and compel the attendance and testimony of witnesses, and to require the submittal of any and all documents deemed necessary and appropriate to the rendering of an informed decision on matters pending before them.~~ "

**C. City Departments and Officials.**

To the extent specified by the provisions of this Ordinance, other applicable laws, codes and/or regulations, and within any and all additional limitations established by the duly elected and authorized corporate authorities, the following elected and/or appointed officials, departments,

and/or their designated representative, shall act on behalf of the corporate authorities to implement the appropriate provisions of this Ordinance.

**(1) Planning Department Director.**

The ~~Director of the Planning Department~~ **Planning Director**, also referred to as the City Planner, or a designated representative thereof, shall:

- (a) Assume the responsibility of enforcing the provisions of this Ordinance and shall serve as the chief enforcement officer of this Ordinance;
- (b) Be responsible for all administrative functions relating to the review, certification, issuance and/or denial of applications, permits and certificates specified by the provisions of this Ordinance. All administrative records shall be made available for inspection by the general public, upon written request. Said records shall include, but not be limited to, text amendments to the Zoning Ordinance, appeals, applications, the Official Zoning Map, amendments to the Official Zoning Map, conditional use permits and variances;
- (c) Periodically review this Ordinance, evaluating its effectiveness in dealing with current trends in area development, and advise the Planning Board regarding the nature and extent of revisions this Ordinance may require, and other related matters affecting the actions of the Planning Board and/or the corporate authorities under this Ordinance;
- (d) Review all applications seeking to establish, alter, construct, demolish, relocate and/or remove, any and all uses, buildings, and/or structures, or portions thereof, for compliance with the provisions of this Ordinance, and all applicable permits, regulations, and/or other requirements specified by City ordinances or the statutes of the State of Illinois;
- (e) Be responsible for the official receipt of all applications and/or related documentation, as prescribed by the provisions of this Ordinance;
- (f) Document the filing of said applications, and maintain copies of all agreements, codes, ordinances, and/or resolutions which are specified herein, or which may become a part of and/or adjunct to any proceeding conducted under the provisions of this Chapter;
- (g) Forward all applications and/or related documentation to the Planning Board, as specified herein, not less than seven (7) days prior to the scheduled hearing date; and,
- (h) Subject to the other provisions of this Ordinance, shall review the applicability of the provisions of this Ordinance, and shall render a final administrative decision, interpreting and/or enforcing said provisions, in a manner consistent with the purpose and intent specified herein.

**(2) City Attorney.**

The City Attorney shall provide legal opinions and expertise to the Planning Department, on those aspects of planning and zoning issues, as they relate to the interpretation and enforcement of the provisions of this Ordinance, the Kankakee Municipal Code, the Municipal Code of the State of Illinois, and/or all other applicable laws, codes, and/or regulations, as amended.

**(3) City Engineer.**

The City Engineer shall perform technical analysis and review of all plans and/or development proposals submitted for consideration under the provisions of this Ordinance, the Kankakee Municipal Code, the Municipal Code of the State of Illinois, and/or all other applicable laws, codes, and/or regulations, as amended.

**(4) City Fire Chief.**

The City Fire Chief, also referred to as the Chief Code Official, shall review all plans and/or development proposals submitted for consideration under the provisions of this Ordinance, the Kankakee Building Code, the Kankakee Municipal Code, the Municipal Code of the State of Illinois, and/or all other applicable laws, codes, and/or regulations, as amended; and, issue building, demolition and/or occupancy permits; and, conduct inspections of buildings and structures to determine compliance with the aforesaid laws, codes and regulations; and, to make and maintain records thereof.

**12.02 RESERVED****12.03 VARIANCES****A. General Provisions.**

Utilizing the procedures established by this Section, the owners of record of a zoning lot may file an application for a variance, as defined in Chapter 2 (Definitions) of this Ordinance, seeking relief from specific provisions herein, which may be perceived as a source of undue physical and/or financial hardship to said owners.

**B. Classification.**

To assure prompt, orderly and efficient consideration of all applications for variances under the provisions of this Ordinance, said applications shall be separated and classified as either a Minor or a Major Variance, as defined in Chapter 2 (Definitions) of this Ordinance, and/or based upon the degree of non-compliance said variance will produce in relation to the amount required for full compliance with the applicable provisions of this Ordinance.

**C. Standards used to evaluate variances.**

Variances shall be granted based upon the judgement of the Planning Board and/or ~~Director of the Planning Department~~ **Planning Director** that evidence submitted in support of said variance sustains each of the following standards used to evaluate variances:

- (1) The variance relates to a specific parcel of **land and is due to some unique circumstance**;
- (2) ~~The variance advances the purposes of the state enabling legislation~~ **The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone**;
- (3) The variance can be granted without substantial detriment to the public good, **and will not alter the essential character of the area**;
- (4) The benefits of the variance would substantially outweigh any detriment; and,
- (5) The variance would not substantially impair the intent and purposes of the zoning ordinance and/or comprehensive plan, as adopted by the corporate authorities.

#### D. Minor Variance.

Applications seeking relief from specific provisions of this Ordinance, which will produce an increase or decrease in the degree of compliance of existing buildings and/or structures, by not more than ten percent (10%) of the amount required for full compliance, shall be classified as a Minor Variance, as defined in Chapter 2 (Definitions) of this Ordinance.

##### (1) Procedure.

Subject to the provisions of this Chapter, the ~~Director of the Planning Department~~ **Planning Director** shall review all applications seeking a minor variance, and shall conduct said review in accordance with the following: review all information and evidence; conduct an administrative review; prepare findings; and, render a final administrative decision. Should the ~~Director of the Planning Department~~ **Planning Director** deem it necessary and appropriate to deny said application, the applicant shall have the right to appeal said decision to the Planning Board, utilizing the provisions specified by this Chapter.

##### (2) Forms and Assistance.

The applicant shall obtain the appropriate forms from the Planning Department, which shall provide the applicant with all possible assistance and information, necessary to assure a thorough and impartial review. The applicant shall be responsible for providing all information specified on the application forms. Said information shall include, but not be limited to, the following:

- (a) **Ownership and/or Operating Interest.** Said application shall provide the name, address and telephone number of the applicant, owners of record, and/or developer.
- (b) **Identification of the Subject Property.** Said application shall provide the following means of accurately identifying the subject property: a common street address; tax parcel identification number; and a base map showing the location of the subject property, with reference to abutting zoning lots, public rights-of-way, designated historic landmarks and/or districts, and the corporate limits of applicable jurisdictions.
- (c) **List of Existing Uses and Improvements.** Said application shall provide a list of all principal and/or accessory uses, currently existing on the subject property.
- (d) **Descriptive Narrative.** Said application shall provide a brief narrative describing the changes in the operation of existing uses and/or the nature of improvements proposed for said zoning lot. A fully completed application with required documentation and/or attachments and the required fee, shall be filed with the Planning Department in accordance with the provisions of this Chapter. Said application and materials shall be a matter of public record, and be made available for public inspection upon written request. Upon receipt of a completed application, the ~~Director of the Planning Department~~ **Planning Director** shall review said application within ten (10) days of the filing date.

##### (3) Decisions.

The ~~Director of the Planning Department~~ **Planning Director** shall render a final administrative decision within ten (10) days of the conclusion of said administrative review, and shall notify the Planning Board of all minor variances on file, including the status thereof. Subject to appeal, the ~~Director of the Planning Department~~ **Planning Director** shall forward a written report to the applicant summarizing the final administrative decision. A final administrative decision granting a minor variance, shall be valid for one (1) year from

the effective date of said decision, until and unless, a building permit, or any other permit required for the action or use for which said minor variance was requested, has been obtained and the actual construction, or alteration of a building and/or structure, or the land improvement, contemplated in connection with said application, has been actively commenced within said time. The Director of the Kankakee Fire Department - Code Enforcement Division shall not issue any permits in conjunction with said decision, for a period of seven (7) days following the effective date of said decision, in order to provide an adequate amount of time for a notice of appeal to be filed by a party aggrieved by said decision. No application for a minor variance which has been denied by the ~~Director of the Planning Department~~ **Planning Director**, shall be reconsidered within a period of one (1) year from the effective date of said decision.

## **E. Major Variance.**

All applications seeking relief from specific provisions of this Ordinance, which are not classified as a Minor Variance, shall be classified as a Major Variance, as defined in Chapter 2 (Definitions) of this Ordinance.

### **(1) Procedure.**

Subject to the provisions of this Chapter, the Planning Board shall review all applications seeking a major variance. The Planning Board shall review said applications in accordance with the following: review all information and evidence; verify public notification; conduct public hearings; prepare findings and recommendations; and, render a final administrative decision. Should the Planning Board deem it necessary and appropriate to deny said application, the applicant shall have the right to appeal said decision to the Corporate Authorities, utilizing the provisions specified by this Chapter.

### **(2) Forms and Assistance.**

The applicant shall obtain the appropriate forms from the Planning Department, which shall provide the applicant with all possible assistance and information, necessary to assure a thorough and impartial review. The applicant shall be responsible for providing all information specified on the application forms. Said information shall include, but not be limited to, the following:

- (a) **Ownership and/or Operating Interest.** Said application shall provide the name, address and telephone number of the applicant, owners of record, and/or developer.
- (b) **Affected Parties.** Said application shall provide the parcel identification (PIN) number, for all abutting zoning lots, along with the names and addresses of the owners of record for said abutting zoning lots.
- (c) **Identification of the Subject Property.** Said application shall provide the following means of accurately identifying the subject property: a common street address; tax parcel identification number; and a base map showing the location of the subject property, with reference to abutting zoning lots, public rights-of-way, designated historic landmarks and/or districts, and the corporate limits of applicable jurisdictions.
- (d) **List of Existing Uses and Improvements.** Said application shall provide a list of all principal and/or accessory uses, currently existing on the subject property.
- (e) **Descriptive Narrative.** Said application shall provide a brief narrative describing the changes in the operation of existing uses and/or the nature of improvements proposed for said zoning lot. A fully completed application with required

documentation and/or attachments and the required fee, shall be filed with the Planning Department in accordance with the provisions of this Chapter. Said application and materials shall be a matter of public record, and be made available for public inspection upon written request. Upon receipt of a completed application, the ~~Director of the Planning Department~~ **Planning Director** shall assign a case number and forward copies of the application and all related materials to the Planning Board not less than seven (7) days prior to the scheduled hearing date. Applications shall be assigned for a public hearing in the order in which they are received.

**(3) Public Hearings.**

Subject to the provisions of this Ordinance, the Planning Board shall convene a public hearing on applications for a major variance at the next regularly scheduled hearing date. All public hearings convened under the provisions of this Ordinance shall be open to the public, and conducted in an impartial and orderly manner, consistent with the applicable provisions of the State of Illinois' Open Meetings Act, as amended. The Planning Board shall regulate the conduct of said hearings, ruling on the validity and accuracy of applications, procedural matters, modifications, and/or objections presented during said hearings. Persons wishing to testify during a public hearing, shall do so as witnesses, under oath, with said oath being administered by the Chairman of the Planning Board. The Planning Board may continue a public hearing, without the additional placement of published and/or posted public notice, should said continuance be deemed necessary and appropriate. The time and place of said continuance shall be determined by the Planning Board, after consultation with the petitioner and all affected parties, and shall be announced for the public record, prior to the adjournment of said public hearing.

**(4) Public Notification.**

The purpose of public notification is to assure the owners of record of affected properties, and/or affected citizens, of having an opportunity to present their perspectives on specific land use issues relating to the granting of a major variance, before a final administrative decision is reached by the Planning Board. The provisions for public notification specified in this Section shall be fully completed not less than ten (10) days, and not more than twenty (20) days prior to the scheduled public hearing. Said provisions shall apply for all applications for a major variance under the provisions of this Chapter.

- (a) **Published Legal Notice.** The applicant shall furnish and publish a legal notice in a newspaper of general circulation within the City. Said legal notice shall adhere to a format specified by the ~~Director of the Planning Department~~ **Planning Director**, and shall include, but not be limited to the date, time & place of the public hearing; the purpose of the public hearing; and, a legal description & common street address of the subject zoning lot.
- (b) **Posted Public Notice.** Upon scheduling a public hearing, ~~the Director of the Planning Department shall furnish the applicant with a public notice (sign) to be completed by the applicant and which shall be posted and/or prominently displayed on the subject zoning lot, and/or on public rights-of-way abutting said lot, excluding alleys.~~ **the applicant shall post and/or prominently display a public notice (sign) on the subject zoning lot, and/or on public rights-of-way abutting said lot, excluding alleys.** Said public notice shall provide the following: the date, time & place of the public hearing; the purpose of the public hearing; and, the common street address of the subject zoning lot. **Said public notice should be a readable sign, with either a red background and white lettering or a yellow background and black lettering. The sign should be constructed of weatherproof material, and shall be no smaller than two (2) feet by three (3) feet in size for subject zoning lots greater than 12,000**

square feet in size, and no smaller than eleven (11) inches by seven (7) inches in size for subject zoning lots less than 12,000 square feet.”



- (c) **Written Notification of Property Owners.** For each zoning lot abutting the subject zoning lot, including public rights-of-way, the applicant shall notify the owners of record, in writing, regarding the date, time, place and purpose of the public hearing. Written notice shall be effected by certified mail, ~~return receipt requested~~ and shall include the complete text of the published legal notice. Failure to send a written notice where no address appears on the tax assessor's rolls, shall not invalidate subsequent proceedings relevant to said application. For the purposes of this Ordinance, should it be deemed necessary and appropriate by the Planning Board, the applicant shall notify additional owners of record of properties which are likely to be affected by the changes and/or improvements proposed for the subject zoning lot.
- (d) **Proof of Compliance.** The applicant shall submit evidence documenting full compliance with all public notification requirements specified by this Chapter, to the ~~Director of the Planning Department~~ **Planning Director**, not less than twenty-four (24) hours prior to the scheduled public hearing. Said evidence shall include, but not be limited to, ~~an affidavit of service~~ **a site photo of the posted sign, newspaper publisher's certificate and certified mail return receipts.**

**(5) Rules of Evidence and Testimony.**

The public hearing shall be open to the public and shall be convened in the Council Chambers at City Hall or at any other such location so specified by the Planning Board. The Planning Board shall conduct the public hearing, and shall require that evidence be presented, in the following order:

- (a) Restatement of Case by the Chairman; only if initial presentation needs clarification, or if certain elements of the case, and/or applicable regulations require explanation;
- (b) Presentation of Supporting Testimony and/or Evidence;
- (c) Cross-Examination - Supporting Witnesses;
- (d) Presentation of Objecting Testimony and/or Evidence;

- (e) Cross-Examination - Objecting Witnesses;
- (f) Applicant's Rebuttal;
- (g) Objectors' Rebuttal; and,
- (h) Determination of Findings and Recommendations.

In carrying out its duties, as prescribed herein, the Planning Board shall not be bound by the strict rules of evidence, and may exclude irrelevant, immaterial, incompetent, and/or unduly repetitious testimony and/or evidence. The Planning Board shall rule on all questions relating to the admissibility of evidence. The applicant may represent himself and/or choose to be represented by counsel and/or a designated agent at the public hearing. The applicant and/or owners of record shall be entitled to no less than one (1) opportunity to speak at the time said public hearing is conducted. Reasonable opportunity shall also be provided for all interested parties to present their views. Should it be deemed necessary and appropriate ~~during the course of~~ said public hearing, the Planning Board shall retain the right to request additional information from the applicant, owners of record, and/or their designated agents, concerning an application for a variance, and to continue said public hearing until such information is presented for review.

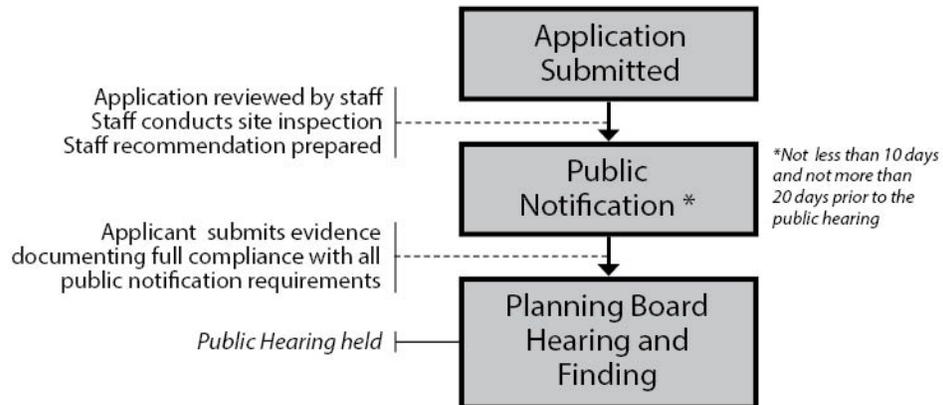
**(6) Findings and Recommendations.**

At the close of the public hearing, the Planning Board shall determine findings, which detail the ~~manner in which~~ way the decision to be rendered by the Planning Board implements the goals and objectives of ~~the~~ this Ordinance, or clarifies the administrative interpretation produced by this review process. Said findings shall be based upon the evidence presented in each specific case, with respect to the criteria to be used in the evaluation of a variance application specified in Section 12.03, C. of this Chapter.

**(7) Decisions.**

Subject to the appeals process specified in Section 12.05 herein, the decision rendered by the Planning Board shall be the final administrative decision. The Planning Board shall render a final administrative decision regarding applications for major variances, within forty-five (45) days of the conclusion of said public hearing. The Planning Board shall recommend or when herein authorized, require and attach such conditions and/or restrictions as may be deemed necessary and appropriate to reduce and/or minimize the negative effects of said variance upon other zoning lots, and to better carry out the purpose and intent of this Ordinance. Decisions made by the Planning Board, granting a major variance, shall be valid for a period of one (1) year from the effective date of said decision, until and unless, a building permit, or any other permit required for the action or use for which said major variance was requested, has been obtained and the actual construction, or alteration of a building and/or structure, or the land improvement, contemplated in connection with said application, has been actively commenced within said time. The Director of the Kankakee Fire Department - Code Enforcement Division shall not issue any permits in conjunction with said decision, for a period of seven (7) days following the effective date of said decision, in order to provide an adequate amount of time for a notice of appeal to be filed by a party aggrieved by said decision. No application for a major variance which has been denied by the Planning Board, shall be reconsidered within a period of one (1) year from the effective date of said decision.

## Review Process Major Variance



### 12.04 CONDITIONAL USES

#### A. General Provisions.

The development and implementation of this Ordinance is based upon the division of the City of Kankakee into zoning districts. Within said districts, the usage, bulk and location of land and/or buildings are substantially uniform. However, certain uses possess unique characteristics, which prevents their being properly classified in any particular district, without considering the impact of a particular use upon nearby zoning lots, and the public's need for said use, at said location, on a case-by-case basis. For the purposes of this Ordinance, specified uses shall be classified as a conditional use, as defined in Chapter 2 (Definitions) of this Ordinance, and shall be subject to the provisions of this Section, and all other applicable provisions of this Ordinance.

#### B. Conditional Use Permit.

Utilizing the provisions established by this Section, an applicant may file an application for a conditional use permit, allowing for the establishment, operation, and/or maintenance of a particular use, which traditionally affects the public interest, but whose unusual nature may give rise to unique problems for neighboring property and/or public facilities. Said conditional use permit shall be granted to the applicant by the City Council, upon recommendation of the Planning Board, and upon demonstrating full compliance with the provisions of this Chapter, and any conditions and/or restrictions imposed on said conditional use, with the approval of the corporate authorities.

#### C. Application.

Any person may file an application to establish, operate, and/or maintain any of the conditional uses specified by the provisions of this Ordinance, as being allowed in the zoning district in which the subject zoning lot is located, provided said person has a documented legal interests in said use and/or zoning lot. Said legal interests shall include, but not be limited to a freehold interest in said lot; a possessory interest in said lot, entitled to exclusive possession; a contractual interest in said lot, which may become a freehold interest; and/or, an exclusive possessory interest in said lot, which is specifically enforceable.

**(1) Procedure.**

Subject to the provisions of this Chapter, the Planning Board shall review all applications seeking a conditional use permit. The Planning Board shall review said applications in accordance with the following processes: review all information and evidence; verify public notification; conduct public hearings; prepare findings and recommendations; and, submit findings and recommendations to the corporate authorities.

**(2) Forms and Assistance.**

The applicant shall obtain the appropriate forms from the Planning Department, which shall provide the applicant with all possible assistance and information, necessary to assure a thorough and impartial review. The applicant shall be responsible for providing all information specified on the application forms. Said information shall include, but not be limited to, the following:

- (a) **Ownership and/or Operating Interest.** Said application shall provide the name, address and telephone number of the applicant; owners of record and/or developer.
- (b) **Affected Parties.** Said application shall provide the parcel identification (PIN) number for all zoning lots located within two hundred (200) feet of the subject zoning lot, along with the names and addresses of the owners of record for said zoning lots.
- (c) **Identification of the Subject Property.** Said application shall provide the following means of accurately identifying the subject property: a common street address, a tax parcel identification number, and a base map showing the location of the subject property, with reference to abutting zoning lots, public rights-of-way, designated historic landmarks and/or districts, and the corporate limits of applicable jurisdictions.
- (d) **List of Existing Uses and Improvements.** Said application shall provide a list of all principal and/or accessory uses, currently existing on the subject property.
- (e) **Descriptive Narrative.** Said application shall provide a brief narrative, describing the changes in the operation of existing uses and/or the nature of improvements proposed for said zoning lot, which support the applicant's contention that a hardship would result from the City's enforcement of the provisions of this Ordinance. A fully completed application with required documentation and/or attachments and the required fee, shall be filed with the Planning Department in accordance with the provisions of this Chapter. Said application and materials shall be a matter of public record, and be made available for public inspection upon written request. Upon receipt of the application, the ~~Director of the Planning Department~~ **Planning Director** shall assign a case number and forward copies of the application and all related materials to the Planning Board within seven (7) days prior to the scheduled hearing date. Applications shall be assigned for a public hearing in the order in which they are received.

**(3) Public Hearing.**

Subject to the provisions of this Ordinance, the Planning Board shall convene a public hearing on applications for a conditional use, at the next regularly scheduled hearing. All public hearings convened under the provisions of this Ordinance shall be open to the public, and conducted in an impartial and orderly manner, consistent with the applicable provisions of the State of Illinois' Open Meetings Act, as amended. The Planning Board shall regulate the conduct of said hearings, ruling on the validity and accuracy of

applications, procedural matters, modifications, and/or objections presented during said hearings. Persons wishing to testify during a public hearing, shall do so as witnesses, under oath, with said oath being administered by the Chairman of the Planning Board. The Planning Board may continue a public hearing, without the additional placement of published and/or posted public notice, should said continuance be deemed necessary and appropriate. The time and place of said continuance shall be determined by the Planning Board, after consultation with the applicant and all affected parties, and shall be announced for the public record, prior to the adjournment of said public hearing.

**(4) Public Notification.**

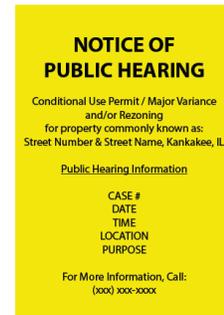
The purpose of public notification is to assure the owners of record of affected properties, and/or affected citizens, of having an opportunity to present their perspectives on specific land use issues relating to the granting of a conditional use permit, before the Planning Board determines its findings and recommendations. The provisions for public notification specified in this Section shall be fully completed not less than ten (10) days, and not more than twenty (20) days prior to the scheduled public hearing. Said provisions shall apply for all applications for a conditional use permit under the provisions of this Chapter.

- (a) **Published Legal Notice.** The applicant shall furnish and publish a legal notice in a newspaper of general circulation within the City. Said legal notice shall adhere to a format specified by the ~~Director of the Planning Department~~ **Planning Director**, and shall include, but not be limited to the date, time & place of the public hearing; the purpose of the public hearing; and, a legal description and common street address of the subject zoning lot.
- (b) **Posted Public Notice.** Upon scheduling a public hearing, ~~the Director of the Planning Department shall furnish the applicant with a public notice (sign) to be completed by the applicant and which shall be posted and/or prominently displayed on the subject zoning lot, and/or on public rights-of-way abutting said lot, excluding alleys.~~ **the applicant shall post and/or prominently display a public notice (sign) on the subject zoning lot, and/or on public rights-of-way abutting said lot, excluding alleys.** Said public notice shall provide the following: the date, time & place of the public hearing; the purpose of the public hearing; and, the common street address of the subject zoning lot. **Said public notice should be a readable sign, with either a red background and white lettering or a yellow background and black lettering. The sign should be constructed of weatherproof material, and shall be no smaller than two (2) feet by three (3) feet in size for subject zoning lots greater than 12,000 square feet in size, and no smaller than eleven (11) inches by seven (7) inches in size for subject zoning lots less than 12,000 square feet."**

2' x 3'



11" x 17"



- (c) **Written Notification of Property Owners.** For each zoning lot located within two hundred (200) feet of the subject zoning lot, the applicant shall notify the owners of record, in writing, regarding the date, time, place and purpose of the public hearing. Written notice shall be effected by certified mail, ~~return receipt requested~~, and shall include the complete text of the published legal notice. Failure to send a written notice where no address appears on the tax assessor's rolls, shall not invalidate subsequent proceedings relevant to said application. For the purposes of this Ordinance, should it be deemed necessary and appropriate by the Planning Board, the applicant shall notify additional owners of record of properties which are likely to be affected by the changes and/or improvements proposed for the subject zoning lot.
- (d) **Proof of Compliance.** The applicant shall submit evidence documenting full compliance with all public notification requirements specified by this Chapter, to the ~~Director of the Planning Department~~ **Planning Director**, at least twenty-four (24) hours prior to the scheduled public hearing. Said evidence shall include, but not be limited to, ~~an affidavit of service~~ **a site photo of the posted sign, newspaper publisher's certificate and certified mail return receipts.**

**(5) Rules of Evidence and Testimony.**

The public hearing shall be open to the public and shall be convened in the Council Chambers at City Hall, or at any other such location so specified by the Planning Board. The Chairman of the Planning Board shall conduct the public hearing, and shall require that evidence be presented, in the following order:

- (a) Restatement of case by the Chairman; only if initial presentation needs clarification, or if certain elements of the case, and/or applicable regulations require explanation;
- (b) Presentation of Supporting Testimony and/or Evidence;
- (c) Cross-Examination - Supporting Witnesses;
- (d) Presentation of Objecting Testimony and/or Evidence;
- (e) Cross-Examination - Objecting Witnesses;

- (f) Applicant's Rebuttal
- (g) Objectors' Rebuttal;
- (h) Determination of Findings of Fact;
- (i) Conclusions; and,
- (j) Submit Findings and Recommendations to the Corporate Authorities.

In carrying out its duties, as prescribed herein, the Planning Board shall not be bound by the strict rules of evidence, and may exclude irrelevant, immaterial, incompetent, and/or unduly repetitious testimony and/or evidence. The Planning Board shall rule on all questions relating to the admissibility of evidence. The applicant may represent himself or choose to be represented by counsel and/or a designated agent at the public hearing. The applicant and/or owners of record shall be entitled to no less than one (1) opportunity to speak at the time said public hearing is conducted. Reasonable opportunity shall also be provided for all interested parties to present their views. Should it be deemed necessary and appropriate during ~~the course of said~~ public hearing, the Planning Board shall retain the right to request additional information from the applicant, owners of record, and/or their designated agents, concerning an application for a conditional use, and to continue said public hearing until such information is presented for review.

**(6) Findings and Recommendations.**

At the close of the public hearing, the Planning Board shall determine findings, which detail the ~~manner in which~~ way the proposed conditional use is consistent with the goals and objectives of ~~the~~ this Ordinance, or clarifies the administrative interpretation and/or conditions or restrictions recommended as a result of this review process. Said findings shall be based upon the evidence presented in each specific case, with respect to, but not limited to, the following factors:

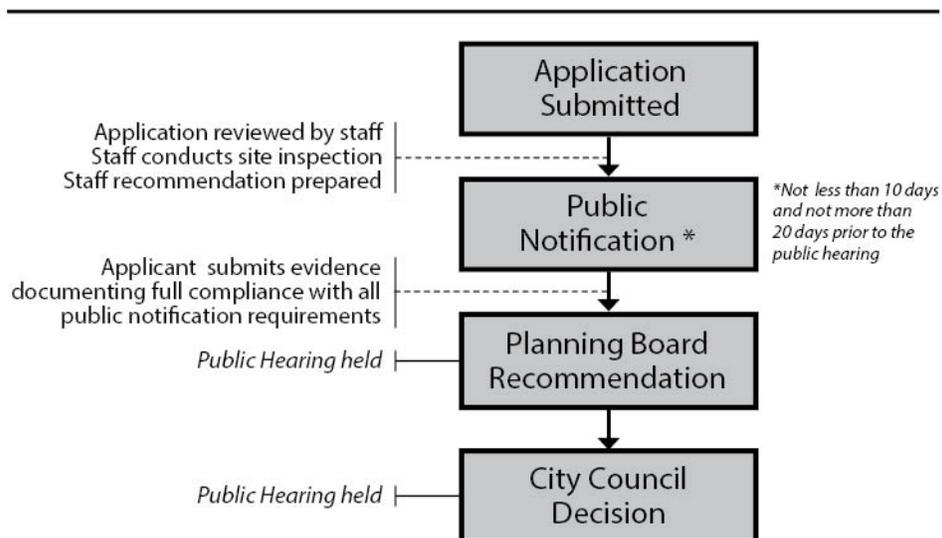
- (a) Existing and/or proposed uses and zoning classification relating to the subject property, abutting zoning lots, the surrounding neighborhood, and the City as a whole;
- (b) Suitability for proposed uses and/or improvements;
- (c) Development trends in the general area including changes to land use or prior amendments to the Zoning Ordinance, thereby altering conditions for use and development;
- (d) Official Comprehensive Plan including compliance with the stated objectives, and the impact on said objectives, of granting said conditional use;
- (e) Maintenance of the public's health, safety and general welfare; and,
- (f) Enjoyment of property by neighbors for its intended use.

**(7) Decisions.**

The Planning Board shall forward their findings and recommendations regarding applications for conditional use permits, to the City Council within thirty (30) days of the conclusion of said public hearing. The Planning Board shall recommend, and the corporate authorities may require and attach, such conditions and/or restrictions to a conditional use permit, as may be deemed necessary and appropriate to reduce and/or minimize the negative effects of said conditional use, and to better carry out the purpose and intent of this Ordinance. The City Council may grant or deny an application for a conditional use

permit, after reviewing the findings and the recommendations of the Planning Board, including stipulations of additional conditions and guarantees deemed necessary for the protection of the public interest as recommended by the Planning Board. Ordinances and/or resolutions granting a conditional use, shall be valid for one (1) year from the effective date of said ordinance, until and unless, a building permit, or any other permit required for the action or use for which said conditional use was requested, has been obtained and the actual construction, or alteration of a building and/or structure, or the land improvement, contemplated in connection with said application, has been actively commenced within said time. The Director of the Kankakee Fire Department - Code Enforcement Division shall not issue any permits in conjunction with said decision, for a period of seven (7) days following the effective date of said decision, in order to provide an adequate amount of time for a notice of appeal to be filed by a party aggrieved by said decision. No application for a conditional use permit which has been denied by the corporate authorities, shall be resubmitted for a period of one (1) year from the effective date of said decision.

### Review Process Conditional Use Permit



## 12.05 AMENDMENTS

In order to assure that the provisions of this Ordinance remain consistent with the promotion and/or protection of the health, safety and welfare of the general public, the regulations imposed, and the zoning districts created by the provisions of this Ordinance may be amended from time to time in a manner specified in this Section.

### A. Classification.

For the purposes of this Ordinance, and to assure the prompt, orderly and efficient consideration of proposed amendments to the provisions specified herein, said amendments shall be separated and classified as either a **substantive text** amendment or an amendment to the Official Zoning Map.

**(1) ~~Substantive~~ Text Amendment.**

All proposals for additions, alterations, deletions, and/or other ~~substantive~~ changes to the specific text, requirements, and/or procedures of this Ordinance, imposed upon the use of a zoning lot, shall be defined as ~~substantive~~ **text** amendments.

**(2) Map Amendment.**

All proposals for additions, alterations, deletions, and/or other ~~substantive~~ changes to the delineation of zoning districts on the City's Official Zoning Map, shall be defined as map amendments.

**B. Application.**

For the purposes of this Ordinance, ~~substantive~~ **text** amendments to ~~the text~~ of this Ordinance and/or amendments to the City's Official Zoning Map, may be proposed by any individual, agency, board, bureau, commission, institution, firm and/or corporation, public or private, having a legal interest in any property located within the corporate limits.

**(1) Procedure.**

Subject to the provisions of this Chapter, the Planning Board shall review all proposed amendments to the provisions of this Ordinance, and to the boundaries of zoning districts designated under said provisions, and represented on the City's Official Zoning Map. The Planning Board shall review said amendments in accordance with the followings processes: review all information and evidence; verify public notification; conduct public hearing; prepare findings; and, submit recommendations to the corporate authorities. The Planning Board shall submit its findings and recommendations to the corporate authorities for review and approval, in accordance with the applicable provisions of the Kankakee Municipal Code and the Illinois Municipal Code, as amended.

**(2) Forms and Assistance.**

All amendments shall be submitted on the appropriate forms which may be obtained from the Planning Department, which shall provide the applicant all possible assistance and information necessary to assure a thorough and impartial review. The applicant shall be responsible for providing all information specified on the application forms. Said information shall include, but not be limited to, the following:

- (a) **Filing Information.** Said application shall provide the name, address and telephone number of the applicant.
- (b) **Descriptive Narrative.** Said application shall provide a brief narrative describing the changes proposed by said amendment; and offering an explanation as to why said changes should be incorporated into this Ordinance. A fully completed application with required documentation and/or attachments and the required fee, shall be filed with the Planning Department in accordance with the provisions of this Chapter. Upon receipt of the application, the ~~Director of the Planning Department~~ **Planning Director** shall assign a case number and forward copies of the application and all related materials to the Planning Board within seven (7) days prior to the scheduled hearing date. Applications shall be assigned for a public hearing in the order in which they are received. Said application and materials shall be a matter of public record and be made available for public inspection upon written request.

**(3) Public Hearing.**

Subject to the provisions of this Ordinance, the Planning Board shall convene a public hearing on all proposed amendments to this Ordinance or the City's Official Zoning Map. All public hearings convened under the provisions of this Ordinance shall be open to the public, and conducted in an impartial and orderly manner, consistent with the applicable provisions of the State of Illinois' Open Meetings Act, as amended. The Planning Board shall regulate the conduct of said hearings, ruling on the validity and accuracy of applications, procedural matters, modifications, and/or objections presented during said hearings. Persons wishing to testify during a public hearing, shall do so as witnesses, under oath, with said oath being administered by the Chairman of the Planning Board. The Planning Board may continue a public hearing, without the additional placement of published and/or posted public notice, should said continuance be deemed necessary and appropriate. The time and place of said continuance shall be determined by the Planning Board, after consultation with the applicant and all affected parties, and shall be announced for the public record, prior to the adjournment of said public hearing.

**(4) Public Notification.**

The purpose of public notification is to assure the general public and/or affected citizens, of having an opportunity to present their perspectives on specific land use issues relating to a proposed amendment, before the Planning Board submits its final findings and recommendations to the corporate authorities.

- (a) **Substantive-Text Amendment.** The applicant shall furnish and publish a legal notice in a newspaper of general circulation within the City. Said legal notice shall adhere to a format specified by the Planning Department, and shall include, but not be limited to the date, time & place of the public hearing; the purpose of the public hearing; and, the complete text of the proposed amendment.
- (b) **Map Amendment.** For all map amendments involving a change in the zoning district classification of specific zoning lots, the public notification requirements shall be identical to those required for a conditional use permit, as specified in Section 12.04 herein. All public notification requirements specified in this Section shall be fully completed not less than ten (10) days, and not more than twenty (20) days prior to the scheduled public hearing. No public hearing on said amendments shall be convened without provisions for adequate public notification. Additional public notification may be required by the Planning Board when deemed necessary and appropriate, and/or when required by state statute.

**(5) Rules of Evidence and Testimony.**

The public hearing shall be open to the public and shall be convened in the Council Chambers at City Hall or at any other location so specified by the Planning Board. The Chairman of the Planning Board shall conduct the public hearing, and shall require that evidence be presented, in the following order:

- (a) Restatement of amendment, by the Chairman; only if initial presentation needs clarification, or if certain portions of the proposed amendment, and/or any applicable rules or regulations require explanation;
- (b) Presentation of supporting testimony and/or evidence;
- (c) Presentation of objecting testimony and/or evidence;
- (d) Rebuttal;

- (e) Determination of findings;
- (f) Conclusions; and,
- (g) Submit final findings and recommendations to the corporate authorities.

In carrying out its duties, the Planning Board shall not be bound by the strict rules of evidence, and may exclude irrelevant, immaterial, incompetent, and/or unduly repetitious testimony and/or evidence. The Planning Board shall rule on all questions relating to the admissibility of evidence. The applicant may represent himself or choose to be represented by counsel and/or a designated agent at the public hearing. The applicant shall be entitled to no less than one (1) opportunity to speak at the time said public hearing is conducted. Reasonable opportunity shall also be provided for all interested parties to present their views. Should it be deemed necessary and appropriate during the course of said public hearing, the Planning Board shall retain the right to request additional information from the applicant and/or city staff concerning said amendment, and to continue said public hearing until such information is presented for review. Said request shall be made of the affected party, in writing, within twenty-four (24) hours of the continuance of said public hearing. The additional information shall be made available to the ~~Director of the Planning Department~~ **Planning Director** within ten (10) days of said written request, or a written request for an extension, not to exceed thirty (30) days shall be submitted. Upon receipt, the Director shall immediately forward said information to the Planning Board for review. For the purposes of this Ordinance, failure by the applicant to produce said information, or request an extension under the provisions of this Section, shall be construed as a withdrawal of the application.

**(6) Findings and Recommendations.**

At the close of the public hearing, the Planning Board shall determine findings, which detail the ~~manner in which~~ **way** the proposed amendment is consistent with the goals and objectives of ~~the~~ this Ordinance.

- (a) **Substantive Text Amendment.** No ~~substantive text~~ **substantive text** amendment shall be recommended for approval by the Planning Board, until and unless, the Board has made findings, based upon the evidence presented at the public hearing, to support or refute each of the following criteria, as applicable:
  - (1) The proposed ~~substantive text~~ **substantive text** amendment will not result in any construction, land use, and/or development related activity which would be detrimental to, or endanger the public health, safety, and/or general welfare of the City as a whole, or any portion thereof.
  - (2) The proposed ~~substantive text~~ **substantive text** amendment is consistent with the spirit, purpose and intent of this Ordinance and the City's ~~Official~~ Comprehensive Plan.
- (b) **Map Amendment.** No map amendment shall be recommended for approval by the Planning Board, until and unless, the Board has made findings of fact, based upon the evidence presented at the public hearing, to support or refute each of the following:
  - (1) The proposed map amendment is consistent with the spirit, purpose and intent of this Ordinance.
  - (2) The proposed map amendment is consistent with the goals, objectives and policies of the City's Official Comprehensive Plan, and in ~~full~~ **general**

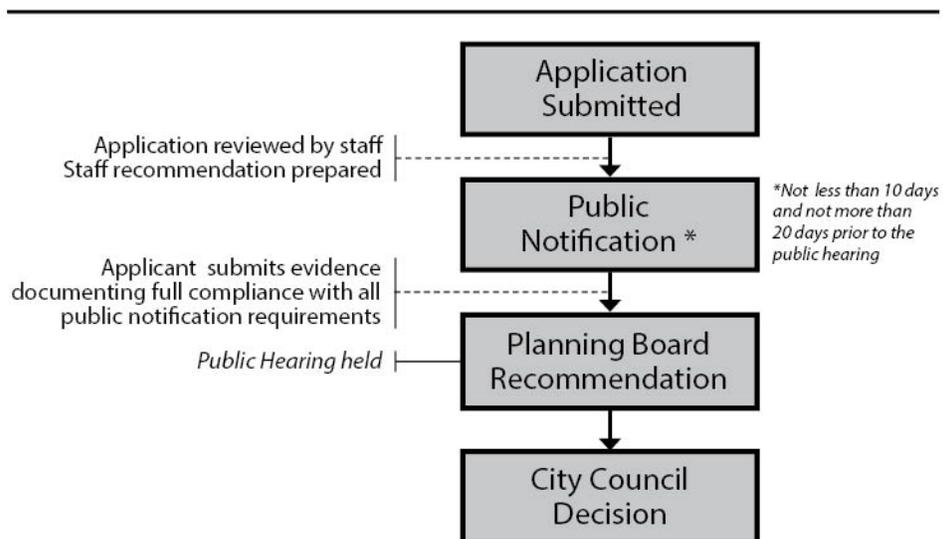
conformity with the land use recommendations specified by said Plan and delineated on the Official Land Use Plan Map.

- (3) ~~All required utilities, community facilities and governmental services have been or will be provided, and possess or will possess adequate capacity and/or manpower to accommodate any permitted use allowed within the zoning classification being requested, or any conditional use therein, which might subsequently be authorized. Such required utilities, community facilities and governmental services shall include, but not be limited to, the following: Water and sewer lines; Storm drainage facilities; Access to public rights of way; Public transportation; Parks and recreational facilities; Educational facilities; and, Public safety facilities.~~
- (4) Compatibility with existing uses and the zoning classification of property within the general area of the subject property.
- (5) The suitability of the subject property for the uses permitted under the ~~existing~~ **proposed** zoning classification, addressing the need for said map amendment.
- (6) The trend of development, if any, in the general area of the subject property, including changes, if any, which have taken place since the day the property in question was placed in its present zoning classification, and the effect said map amendment would have on said trend.

**(7) Decisions.**

The Planning Board shall forward their findings and recommendations regarding a proposed amendment, to the City Council within thirty (30) days of the conclusion of said public hearing. No application for a ~~substantive text~~ amendment and/or a map amendment, which has been denied by the City Council, shall be reconsidered within a period of one (1) year from the date of said denial.

**Review Process  
Amendment**



## 12.06 APPEALS

Any decision regarding the interpretation and/or enforcement of the provisions of this ordinance may be appealed, in accordance with the provisions of this Section.

### A. Appellate Authority.

Appeals filed under the provisions of this Chapter shall be directed to the designated appellate body by the ~~Director of the Planning Department~~ **Planning Director**, in accordance with the nature of the decision and/or interpretation being appealed.

#### (1) *Administrative Review and Interpretation.*

Final administrative decisions made by the ~~Director of the Planning Department~~ **Planning Director**, regarding the interpretation of the provisions of this Ordinance shall be appealed to the Planning Board, who shall convene a hearing on said appeal on the next regularly scheduled hearing date.

#### (2) *Minor Variance.*

Final administrative decisions made by the ~~Director of the Planning Department~~ **Planning Director**, regarding the provisions of this Ordinance in the granting of a minor variance shall be appealed to the Planning Board, who shall convene a hearing on said appeal on the next regularly scheduled hearing date. In deciding the appeal, the Planning Board shall determine ~~whether or not~~ **if** the decision of the ~~Director of the Planning Department~~ **Planning Director** is contrary to the manifest weight of the evidence taken by the Director.

#### (3) *Major Variance.*

Final administrative decisions made by the Planning Board, regarding the provisions of this Ordinance in the granting of a major variance shall be appealed to the Mayor and City Council. In deciding the appeal, the City Council shall determine ~~whether or not~~ **if** the decision of the Planning Board is contrary to the manifest weight of the evidence taken by the Board. Any decision by the city Council to override a final administrative decision made by the Planning Board shall require a majority vote of the city Council.

#### (4) *Conditional Use Permit.*

The decision of the corporate authorities, acting on the recommendations of the Planning Board, regarding the provisions of this Ordinance in the granting of a conditional use permit, shall be made directly to a court of competent jurisdiction in the manner prescribed by the Administrative Review Act, of the Illinois Revised Statutes, as amended.

#### (5) *Amendments.*

The decision of the corporate authorities, acting on the recommendations of the Planning Board, regarding the provisions of this Ordinance in the approval of an amendment to the provisions of this Ordinance, or to the City's Official Zoning Map, shall be made directly to a court of competent jurisdiction in the manner prescribed by the Administrative Review Act, of the Illinois Revised Statutes, as amended.

### B. Application.

Any individual, agency, board, bureau, commission, institution, firm and/or corporation, public or private, aggrieved by any decision made by the Planning Board and/or the ~~Director of the Planning Department~~ **Planning Director**, may appeal to the appropriate appellate authority specified herein, in accordance with the provisions of this Chapter, and the applicable statutes of the State of Illinois, as amended.

**(1) Procedure.**

A notice of appeal shall be filed with the Planning Department within seven (7) days of the effective date of any decision being appealed. The ~~Director of the Planning Department~~ **Planning Director** shall immediately notify the Chairman of the Planning Board, upon receipt of a notice of appeal.

**(2) Stay of Proceedings.**

The filing of a notice of appeal shall immediately stay all proceedings in furtherance of the action being appealed, pending a declaration of imminent peril. Should the ~~Director of the Planning Department~~ **Planning Director** certify, in writing, that by reasons of fact, a stay would, in his/her opinion, cause imminent peril to life or property, the City Council, or a court of competent jurisdiction regarding said decision, on due cause shown, shall stay the proceedings through a declaration of imminent peril and/or a restraining order.

**(3) Forms and Assistance.**

The appellant shall obtain the appropriate forms from the Planning Department, which shall provide the appellant with all possible assistance and information necessary to assure a prompt, thorough and impartial review. The appellant shall be responsible for providing all information specified on the notice of appeal. Said information shall include, but not be limited to, the following:

- (a) **Ownership and/or Operating Interest.** Said application shall provide the name, address and telephone number of the applicant, owners of record and/or developer.
- (b) **Identification of the Decision Being Appealed.** Said application shall provide the following means of accurately identifying the decision being appealed: case number and filing date of original application.
- (c) **Grounds for Appeal.** Said notice of appeal shall provide a narrative and/or list of all facts and/or conditions which serve as the basis for said appeal. The ~~Director of the Planning Department~~ **Planning Director** shall forward copies of the notice of appeal, and all materials submitted in support of said notice, to the Planning Board not less than seven (7) days prior to the next regularly scheduled hearing date. Said notice of appeal and materials shall be a matter of public record, and be made available for public inspection upon written request.

**12.07 APPLICATION FEES AND PENALTIES**

For the purposes of this Ordinance, the City's Department of Collections shall be empowered to collect fees ~~specified herein~~, for which the corporate authorities have deemed necessary and appropriate to implement the provisions of this ordinance. Subject to the provision of this Section, under no condition shall fees collected, or any portions thereof, be refunded upon denial of said application and/or appeal.

- A. **Fees** – ~~The City Council shall establish by Ordinance a schedule of fees, charges, escrows and expenses required for development review, building permits, zoning certificates, certificates of occupancy, variations, conditional use permits, temporary use permits, amendments planned development approvals and other matters pertaining to this Ordinance.~~
- B. **Penalties** – Any individual, institution, agency, firm, and/or corporation, who violates, disobeys, omits, neglects, refuses to comply with, or otherwise resists or obstructs the enforcement of the provisions of this Ordinance, shall, upon conviction, be fined not less than fifty dollars (\$50), or

more than two thousand dollars (\$2,000), for each offense. For the purposes of this Ordinance, each day a violation is permitted to exist, shall constitute a separate offense.

**MEMORANDUM**

**TO:** Kankakee Planning Board

**FROM:** Mike Hoffman, AICP, PLA, Vice President  
Emma Swanson, Associate

**DATE:** January 28, 2019

**RE:** **Zoning Fees**

The attached spreadsheet provides the zoning-related fees for six proximate municipalities, Kankakee County and the current fees for the City of Kankakee. After collecting and comparing this information, we feel that it would be appropriate for the City of Kankakee to increase its zoning-related fees to the following:

Request	Fee
<b>Minor Variance</b>	
- Residential District	\$150
- Commercial/Industrial District	\$500
<b>Major Variance*</b>	
- Residential District	\$250
- Commercial/Industrial District	\$500
<b>Conditional Use Permit (All Districts) *</b>	\$600
<b>Map Amendment (All Districts) *</b>	\$600
<b>Zoning Text Amendment</b>	\$600
<b>Planned Unit Development (All Districts) *</b>	\$600
<b>Zoning Verification Letter</b>	\$250
<b>Zoning Certificate*</b>	\$100

\*Plus reimbursement for engineering, planning, legal, court reporter or other professional consultants

In addition to increasing these fees, we recommend that all applicants requesting conditional use permits, map amendments, text amendments, and/or planned unit developments shall reimburse the city for its reasonable costs for engineering, planning, legal, court reporter or other professional consultants incurred in connection with preparing, studying, inspecting, reviewing, examining, checking and processing applicants' requests. This, along with the increased fees, would lessen the burden of the City for costs incurred for the services, as well as for other zoning related issues that require time, money and resources.

Attached: Zoning-Related Fee Comparison Chart, Policy for Reimbursement of Costs and Professional Fees

**Zoning-Related Fee Comparison Chart (November 2018)**

TYPE	KANKAKEE CITY	KANKAKEE COUNTY	BOURBONNAIS	BRADLEY	BEECHER	CRETE	MANTENO	MONEE
<b>Rezoning or Amendment</b>	Residential - \$100 Commercial - \$150 Industrial - \$200	\$600 (0-50 acres = \$30 per acre 51-100 acres = \$20 per acre 101 + acres = \$10 per acre)	\$250	\$700	\$750	\$175	\$400	
<b>Special or Conditional Use Permit</b>	Residential - \$100 Commercial - \$150 Industrial - \$200	\$600 (0-50 acres = \$30 per acre 51-100 acres = \$20 per acre 101 + acres = \$10 per acre)	\$250	\$700	\$750	\$175	\$400	Residential - \$190 Commercial - \$550
<b>Variance</b>	Residential - \$25 Commercial - \$50 Industrial - \$75	\$280	Single-Family - \$50 All Others - \$250	\$700	\$750	\$125	\$400	Residential - \$500 Commercial - \$600

Case Number: \_\_\_\_\_



City of Kankakee Planning & Zoning Division  
 850 N. Hobbie Avenue  
 Kankakee, IL 60901

**POLICY FOR REIMBURSEMENT OF COSTS AND PROFESSIONAL FEES**

The following firm, representative, agent or individual does hereby state that it has been fully disclosed to said party that in order for the City of Kankakee to properly review and evaluate requests for a planned unit development, conditional use permit, and/or substantive or map amendment it must necessarily utilize and engage the services of engineering, planning, legal, court reporting and other professional consultants. The Undersigned hereby agrees to pay to the City of Kankakee, by reimbursement, the reasonable fees incurred by the City for such services pertaining to the request of the Undersigned for a planned unit development, conditional use permit, and/or substantive or map amendment. It is further understood and agreed that all invoices for such services shall be paid promptly when submitted, but not later than thirty (30) days, and that the obligation to reimburse the City is binding whether or not a planned unit development, conditional use permit, and/or substantive or map amendment is in fact approved.

(PLEASE PRINT)

DATE:

\_\_\_\_\_

APPLICANT NAME: \_\_\_\_\_

FIRM NAME: \_\_\_\_\_

BILLING REFUND ADDRESS: \_\_\_\_\_

\_\_\_\_\_

PHONE: \_\_\_\_\_

PROJECT: \_\_\_\_\_

PROJECT ADDRESS: \_\_\_\_\_

APPLICANT SIGNATURE: \_\_\_\_\_



## MEMORANDUM

**TO:** Kankakee Planning Board

**FROM:** Mike Hoffman, AICP, PLA

**DATE:** Feb. 6<sup>th</sup>, 2019

**SUBJECT: Zoning on Annexation of 18-acre City Owned Property to I-1**

The City of Kankakee owns an 18-acre property at the intersection of East Court Street and N 2750 East Road. This property is currently not annexed into the City but is proposed for annexation as a part of the proposed East Court Street Tax Increment Financing District. The property is immediately contiguous to the City limits and will be annexed into Kankakee after an annexation hearing is held by the City Council. This Public Hearing before the Planning Board is to determine the appropriate zoning of the property once annexed into the City. The proposed zoning is I-1, Light Industrial.

### Existing Conditions

The property (PIN # 12-17-03-111-002) was at one-time a drive-in movie theater. It was acquired by the City of Kankakee and has been used for storage for several years. The site, shown in blue on the location map, is near I-57, and immediately south of a large area (Eastgate Court) zoned and partially developed for industrial use. The property has access via an existing frontage road. The property is relatively flat, and generally drains from north to south. There are some hedgerow trees along the east, west, and southern property lines.



## Review Criteria

The City's zoning ordinance outlines the following criteria for map amendments. The criteria are listed in bold, with our suggested finding in regular type after each item.

- 1) **The proposed map amendment is consistent with the spirit, purpose and intent of this Ordinance.** – One of the intended purposes of the zoning ordinance is to “conserve the taxable value of land” in Kankakee. Given this parcels access to Court Street and nearby I-57, it has significant industrial potential, and is currently surrounded by farm properties.
- 2) **The proposed map amendment is consistent with the goals, objectives and policies of the City's Official Comprehensive Plan, and in full conformity with the land use recommendations specified by said Plan and delineated on the Official Land Use Map.** – Zoning and ultimate development of this site for industrial use would be consistent with the economic development goals contained in the Comprehensive Plan. The 1997 Future Land Use Plan shows this parcel for public use, which was the current use at the time the map was prepared. While the City does still use the site for some storage, this use could be relocated, and the property returned to the tax roles for a productive industrial use.
- 3) **All required utilities, community facilities and governmental services have been or will be provided and possess or will possess adequate capacity and/or manpower to accommodate any permitted use allowed within the zoning classification being requested, or any conditional use therein, which might subsequently be authorized. Such required utilities, community facilities and governmental services shall include, but not be limited to, the following: Water and sewer lines; Storm drainage facilities; Access to public rights-of-way; Public transportation; Parks and recreational facilities; Educational facilities; and, Public safety facilities.** – This site has access to public streets. One of the reasons for including it in the proposed TIF is to provide needed funding for utility extensions.
- 4) **Compatibility with existing uses and the zoning classification of property within the general area of the subject property.** – Most property north of Court Street in this area is zoned industrial (I-2), with agriculture to the east and south in the County. The parcel to the immediate east does not have a zoning shown on the County GIS.
- 5) **The suitability of the subject property for the uses permitted under the existing zoning classification, addressing the need for said map amendment.** – Interestingly, it is not clear what the existing zoning is in the County as it is not illustrated on their GIS. The

1995 City zoning map shows this property as zoned I-2 in the City. However, we have not been able to find any documents showing annexation – so it was determined we should go through the formal process to annex and zone the property.

- 6) **The trend of development, if any, in the general area of the subject property, including changes, if any, which have taken place since the day the property in question was placed in its present zoning classification, and the effect said map amendment would have on said trend.** – The trend of development in this area has been for industrial use.

### **Recommendation**

Based on the above review, we recommend zoning of the property to Light Industry (I-1) upon annexation to the City of Kankakee.