

The JOURNAL

ILLINOIS SCHOOL BOARD

SEPTEMBER/OCTOBER 2018 Vol. 86, No. 5

21ST-CENTURY LEARNING SPACES



MAKERSPACES • ZONING • STUDENT INPUT • LIBRARIES

Navigating uncharted waters

School district facilities and local zoning

By Spencer Craig

It has been three years since the Illinois Supreme Court ruled that school districts are subject to municipal zoning regulations for facility and land use projects. While some districts already navigate municipal processes and will not experience significant operational changes, course corrections may still be necessary. Others districts will be navigating uncharted waters. Therefore, it is important for school district board members and administrators to understand the implications of the court ruling and requirement to comply with municipal zoning regulations.

Why did this happen?

School board members often ask why the court acted. It is not possible for a state to create blanket rules applicable to all public schools and municipalities in relation to land use. The resulting lack of well-defined expectations has been the root cause of contentious situations between school districts and their communities for many years.

The ruling by the Illinois Supreme Court in *Gurba v. Community High School District No. 155* (396 Ill. Dec. 348 (2015)) states that “a school district is subject to, and its school board must comply with,

local governmental zoning and storm water restrictions.” Subsequent to this ruling, Governor Bruce Rauner signed Public Act 99-0890, which amends the Illinois Counties, Township, and Municipal Codes, as well as the Illinois School Code, consistent with the Illinois Supreme Court ruling relative to land use. The Act also states the local zoning authority “shall act in a reasonable manner that neither regulates educational activities, such as school curricula, administration, and staffing, nor frustrates a school district’s statutory duties.”

Together, these legislative actions further define the regulatory framework connecting school districts and local governments. However, in the absence of more rigorous legal definitions and direction from the courts, some municipalities may interpret their authority more broadly than others. School districts, while acting as a neighbor in good faith, may need to seek further clarity from the courts relative to a municipality’s limitations of authority.

School districts historically have navigated a number of regulatory oversight and permitting processes beyond the Illinois School Code and Regional Offices of Education for facility improvement projects.

Connection to water supplies and sanitary sewerage systems are reviewed and permitted by the municipality and sanitary district, private water supply, county, and state agencies. Development within a roadway right-of-way, such as for utility connections or access improvements, is reviewed and permitted by local, county, and state agencies. Storm water management, wetland protection, historic preservation, and threatened/endangered species protection are regulated and permitted by local, state, and federal authorities. School districts must now include local governmental zoning compliance in the already complex process of planning, designing, permitting, and constructing their facility improvement project.

What are zoning regulations?

Zoning is a planning tool used to shape the layout of a community. Local governments create zoning districts or “zones” to organize compatible and non-compatible uses. Through the enactment of zoning ordinances, local governments regulate land development to preserve the character of a community and to promote the health, safety, comfort, morals, and welfare of the public residing within that community.

Spencer Craig is a project manager for Eriksson Engineering Associates, Ltd.

Zoning ordinances set requirements for issues such as building height and size, setbacks to property lines, density of site usage, lighting impacts, parking and traffic management, and landscape screening. The ordinances apply only to properties within their municipal boundaries. Therefore, it is important for school districts spanning multiple municipalities to recognize they will need to comply with the requirements of the zoning ordinances applicable to each facility.

Zoning ordinances should not be confused with building codes. They serve different functions. In general terms, zoning ordinances regulate how a property is used and who can use it. Building codes, on the other hand, regulate the details of the buildings on the property. The Illinois Supreme Court ruling clarified local government authority is limited to zoning compliance whereas the state has authority over building code compliance through the Health/Life Safety Code for Public Schools. In other words, public school buildings are exempt from local building codes. However, some local governments have interpreted the exemption to apply to buildings only, and not ancillary facilities or functions on a school district's property. Additionally, many local zoning ordinances also include the review and approval of building envelopes (the walls, windows, roof, and foundation that form the shell or the barrier between the interior and exterior environments) through an architectural or appearance review process.



What is the zoning process?

Zoning compliance is determined through an administrative process that may expand to include public involvement in the form of planning commission hearings and zoning board review. If a proposed school district project complies with all applicable zoning rules and does not deviate in any way, it is approved "by right." School districts submit project documents for municipal staff to conduct a compliance review, after which the municipality issues an obligatory approval. This is the simplest, fastest, and most effective way to achieve municipal zoning approval.

However, not every project will comply with all zoning ordinance requirements. In these cases, municipalities require developers, including school districts, to engage the municipal processes to seek approval

of special uses or variances to the zoning ordinance. These special processes generally include formal notification of the public, as well as public hearings before zoning boards and planning commissions.

Public hearings for school projects may generate no community interest, and the hearings may be attended by school district and municipal officials only. Approval for non-controversial projects may be achieved in a single public meeting and in a streamlined and efficient manner. But public hearings for controversial projects may generate community opposition, especially from local neighbors. These can lead to contentious, hostile, and emotionally charged meetings that extend far into the night or result in additional hearings. In these instances, a school district may find itself in a vulnerable

position in which the outcome cannot be easily controlled.

How does this affect facility upgrades?

School board members often ask how the court ruling will affect their plans. The Illinois Supreme Court ruling did not technically establish a new regulatory authority, it merely stated that the authority previously existed, and is now affirmed. This means that many existing school sites do not presently comply with the existing zoning and may be in some state of delinquency. Therefore, it is important to understand the regulatory status of each school site, and how to manage it in the future.

Zoning provisions may impact the development of new facilities and sites, the redevelopment of existing sites, building expansions, or changes to the site such as parking lots or athletic facilities. School district officials and board members should anticipate that zoning compliance may result in increases in project timelines, design and permitting costs, and constraints on how they can utilize their school sites. Unanticipated variance and public hearing processes, or delays from redesigning plans, can shift timelines. Additional costs may be incurred due to the need to involve legal counsel and design professionals in the public hearing processes or to prepare and revise multiple design iterations to obtain municipal board approval.

How to help your district

As community leaders and advocates of public education, school districts must take action by developing functional and impactful school facilities, while remaining sensitive to the

governing zoning ordinances, which may reflect a different set of opinions, values, and priorities.

Achieving your goal for a school district facility project is possible despite the challenges presented by the Illinois Supreme Court ruling and associated local government interpretations. Incorporating the following navigational tools can enable a more efficient process and empower school district leaders when obstacles arise.

Plan Ahead: The new zoning process may impact project approvals and extend the duration of the planning and development cycle. The once typical timeline of project planning and design development may no longer allow the time necessary to collect and review zoning-related data. School districts should

communicate with their municipalities to ensure all parties understand the regulatory status of each school site and how they it will be managed in the future. District facilities spanning more than one municipality will need to comply with requirements of the governing municipality specific to each site.

Hire consultants who are experienced in zoning and land development: Seek qualified legal counsel and design consultants familiar with zoning processes to guide and assist your school district with

- Review and identification of issues that may constrain and define the project;
- Developing a project framework with the municipality early in the process;
- Creating a master plan.

STARTING RIGHT:

Board-building for the new governance team

An in-district workshop designed for a board welcoming new board members or a new superintendent.

Benefits include:

Building quality communication and relationships
Creating agreement about board practices and procedures
Developing effective district leadership

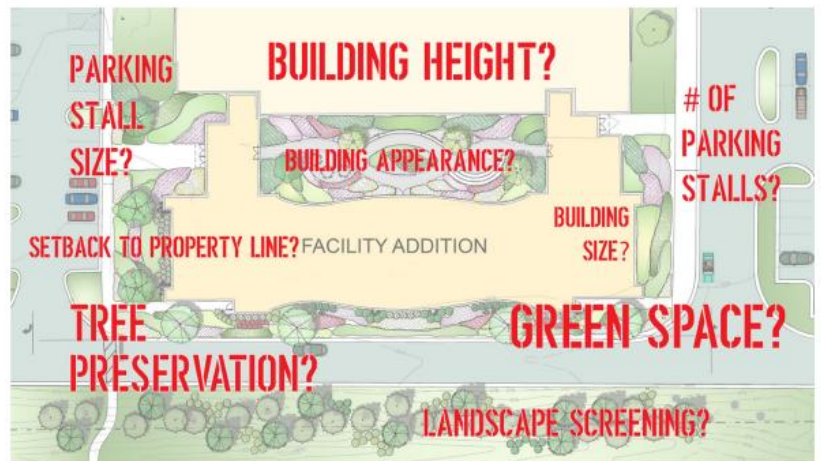


Contact your field services director today!
Springfield: 217/528-9688
Lombard: 630/629-3776

ASB
ILLINOIS ASSOCIATION
OF SCHOOL BOARDS
Field Services

Stay informed of proposed zoning changes: Municipalities can make zoning ordinance changes at any time. Some municipalities are adopting special zoning classifications for school districts with easily achievable standards. Other municipalities may be willing to grant blanket variances to bring existing non-compliant sites into legal standing.

Communicate: School districts need to strengthen communications with municipalities, adjoining property owners, and communities. Community outreach, open dialogue, and collaborative planning with the municipality and public will help a district identify resident concerns. Sometimes neighbors simply want to be heard and to gain a sense that the school district thought of them, too — that




someone cared. Sometimes, neighbors or municipalities have positive ideas that can improve a school district's facilities.

Bridge Relationships: Reach out to the municipality. Some municipalities have longstanding grievances with school districts and collaboration may not come easily. School districts that learn early in the planning

process where they stand relative to zoning compliance have the opportunity to save time and money by avoiding the development of untenable project concepts.

Municipalities and school districts have common ground to draw from and can benefit from working together. From large-scale collaborative visions such as expansive community parks integrated with school facilities, to coordination on small building additions or parking lot expansions with safety implications, both parties need each other.

School districts need municipalities with reliable infrastructure, quality services, long-term planning, and safe and healthy communities. Municipalities need strong school districts as an essential part of healthy, safe, and vibrant communities. We cannot have great communities without great schools, and we will not have great schools without great municipalities. Through carefully executed planning, information gathering, and community engagement, school districts can be leaders in the community and navigate these regulatory waters as advocates for public education. 

DIVISION MEETINGS

Invest one evening, gain benefits throughout the year for yourself, your school board, and your district.



Attend an IASB Division Meeting at a location near you! Division Dinner Meetings provide opportunities for networking, professional development, peer recognition, participation in Association governance, and learning about IASB resources.

Mark your calendars now!

Visit the IASB website for a complete list of events and locations:
www.iasb.com