

MINUTES OF A REGULAR MEETING

URBANA ZONING BOARD OF APPEALS

DATE: January 15, 2020

APPROVED

TIME: 7:00 p.m.

PLACE: City Council Chambers, 400 South Vine Street, Urbana, IL 61801

MEMBERS PRESENT Joanne Chester, Matt Cho, Ashlee McLaughlin, Adam Rusch, Nancy Uchtmann, Charles Warmbrunn, Harvey Welch

STAFF PRESENT Marcus Ricci, Planner II; Lily Wilcock, Planner I

OTHERS PRESENT James Curry, John Dailey, Matt Deering, James Ellison, James Heimburger, Ryan Murphy

1. CALL TO ORDER, ROLL CALL AND DECLARATION OF QUORUM

Chair Welch called the meeting to order at 7:01 p.m. Roll call was taken, and he declared a quorum of the members present.

2. CHANGES TO THE AGENDA

There were none.

3. APPROVAL OF THE MINUTES

The minutes from the September 18, 2019 regular meeting were presented for approval. Mr. Warmbrunn requested a change to the minutes under ADJOURNMENT OF MEETING. “Acting Chair Warmbrunn” should be changed to “Chair Welch”. Ms. Uchtmann moved to approve the minutes as amended. Ms. McLaughlin seconded the motion. The minutes were approved by unanimous voice vote as amended.

The minutes from the December 18, 2020 regular meeting were presented for approval. Ms. McLaughlin moved to approve the minutes as written. Ms. Uchtmann seconded the motion. The minutes were approved by unanimous voice vote as written.

4. COMMUNICATIONS

There were none.

NOTE: Chair Welch swore in members of the audience who indicated that they might give testimony during a public hearing.

5. CONTINUED PUBLIC HEARINGS

ZBA-2019-C-05 – A request for a Conditional Use Permit by the Housing Authority of Champaign County to allow construction and operation of an Assisted Living Facility at 1606 East Colorado Avenue in the B-3, General Business Zoning District.

Chair Welch re-opened the public hearing for this case. Marcus Ricci, Planner II, presented the staff report. He noted a correction to the written staff memo, which is that John Dailey is the Director of Capital Assets and not the Executive Director as the memo states. He gave a brief background of the original Conditional Use Permit that was approved on July 18, 2018, which gave the Housing Authority of Champaign County (HACC) permission to build an assisted living facility on the proposed site. The Conditional Use Permit was valid for one year and expired on July 18, 2019, just before HACC was able to close on the property and begin construction. The proposed application is identical to the original one with the exception of the applicant.

He reviewed the exhibits included in the written staff memo and noted the zoning, existing land uses and future land use designations of the proposed site and of the surrounding adjacent properties. He stated the definition of “permanent supportive housing”. He reviewed the requirements for a Conditional Use Permit according to Section VII-2 of the Urbana Zoning Ordinance and explained staff’s analysis for each criteria. He read the options of the Zoning Board of Appeals in this case and presented staff’s recommendation for approval including the condition that *the proposed development generally conforms with the site plan in Attachment 2, Exhibit D, entitled “Permanent Supportive Housing – 24 Units at 1606 East Colorado Avenue,” dated July 9, 2018.*

NOTE: Adam Rusch arrived at some point during Mr. Ricci’s staff report for the case.

Chair Welch asked if any members of the Zoning Board of Appeals had questions for City staff.

Ms. Uchtmann inquired about the retention/detention pond on the north end. Would there be any fencing around the retention/detention pond for the safety of children living in a nearby apartment complex? Mr. Ricci responded that the retention/detention pond would need to comply with any regulations that the Building Code requires, and believes that a fence is not required.

With no further questions for City staff, Chair Welch opened the hearing for public input. He invited the applicant to speak on behalf of the proposed application.

John Dailey, applicant, approached the Zoning Board of Appeals to speak. Chair Welch swore him in to oath.

Mr. Dailey addressed Ms. Uchtmann’s question by stating that HACC would do what is required in order to get their building permit. He did not remember a fence currently being planned for the site, and they have other developments that have retention/detention ponds without fencing around them.

Ms. Uchtmann asked if HACC planned to install a fence around their property line. Mr. Dailey understood that they might be required to install a fence between the proposed

property and the adjacent properties; a perimeter fence was required at another of their projects. Mr. Ricci noted that a fence is not required around the entire property. The applicant would be required to comply with the Building Code and if a fence is required, then HACC would need to install a fence around the retention/detention pond. If a fence is not required and the Zoning Board of Appeals felt a fence was needed, then the Board members could place a condition of the approval of the proposed Conditional Use Permit. Ms. Chester recalled a detention pond on another development that appeared slushy, not deep.

With no further comments or questions from public audience, Chair Welch closed the public input portion of the hearing and opened the hearing for discussion and/or motions by the Zoning Board of Appeals.

Mr. Warmbrunn moved that the Zoning Board of Appeal approve Case No. ZBA-2019-C-05 with the condition that *the proposed development generally conforms with the site plan in Attachment 2, Exhibit D, entitled “Permanent Supportive Housing – 24 Units at 1606 East Colorado Avenue,” dated July 9, 2018.* Mr. Rusch seconded the motion.

Mr. Warmbrunn asked if he could place a second condition requiring the written staff memo dated July 13, 2018 and the approved minutes from the July 18, 2018 Zoning Board of Appeals meeting to be included in the motion. Ms. McLaughlin summarized the discussion topics from the approved minutes from the July 18, 2018 meeting, including property tax exemptions, whether units were designed for individuals or families, accessible parking requirements, on-site management presence, permanent versus transitional housing facility, number and characteristics of units, and the approved conditions.

Ms. Uchtmann asked if the proposed site plan included handicap parking. Mr. Dailey re-approached the Zoning Board of Appeals. He said that there would be handicap parking spaces provided as required by the Urbana Building Code. Not every unit would need a handicap space because not all handicaps are physical.

Ms. Uchtmann asked if there would be at least one parking space per unit. Mr. Dailey replied that they would provide what the City regulations require for parking spaces. Mr. Ricci noted that the site plan indicates there will be 40 parking spaces in total including 4 handicap accessible spaces.

Mr. Rusch called the question. Roll call on the motion was as follows:

Ms. Chester	-	Yes	Mr. Cho	-	Yes
Ms. McLaughlin	-	Yes	Mr. Rusch	-	Yes
Ms. Uchtmann	-	Yes	Mr. Warmbrunn	-	Yes
Mr. Welch	-	Yes			

The motion passed by unanimous vote.

6. NEW PUBLIC HEARINGS

ZBA-2019-C-06 – A request by St. Nicholas Orthodox Church, represented by Father James Ellison, for a Conditional Use Permit to allow operation of a “church, temple or mosque” at 1807 North Federal Drive in the IN-1, Light Industrial/Office Zoning District.

Chair Welch opened the public hearing for this case. Marcus Ricci, Planner II, presented the staff report for the case. He began by explaining the purpose for the proposed Conditional Use Permit. He noted the zoning, existing land uses and future land use designations of the subject property and of the surrounding adjacent properties. He reviewed the requirements for a Conditional Use Permit according to Section VII-2 of the Urbana Zoning Ordinance and explained staff's analysis for each criteria. He read the options of the Zoning Board of Appeals in this case and presented staff's recommendation for approval including the condition that *the church must use the existing building at 1807 North Federal Drive. Any future expansion of the building will require a new Conditional Use Permit.* The Zoning Board of Appeals may choose to leave off the second sentence in the condition. He noted that the applicant was available to answer any questions.

Chair Welch asked if any members of the Zoning Board of Appeals had questions for City staff.

Ms. Uchtmann wondered if the condition should say that *the church ~~must~~ may use the existing building.....*". Mr. Ricci explained that if the church demolished the existing building and built a different building, then it might change the flavor of the Conditional Use Permit. The Church's contention was that they planned to use the existing building.

Mr. Rusch asked if the Conditional Use Permit would expire if the applicant sold the proposed site to a future buyer. Mr. Ricci explained that the Conditional Use Permit would expire in a year if the Church does not use the proposed site as a church. However, if another church purchased and used the existing building as a church within the year, then the Conditional Use Permit would continue. Lily Wilcock, Planner I, added that a Conditional Use Permit is tied partially to the land but it is for the applicant applying for the use.

With no further questions for City staff, Chair Welch opened the hearing for public input. He invited the applicant to speak on behalf of his request.

Father James Ellison approached the Zoning Board of Appeals to answer any questions from the Board members.

Mr. Rusch asked if the proposed site would be an expansion of their existing ministry. Father Ellison replied that they are hoping to sell their current location after they purchase the proposed site.

Ms. Chester stated that she was looking forward to seeing their existing location be remodeled and acknowledged that it would be expensive. Father Ellison stated that they went through the process to figure out how much it would cost to remodel and found that the cost was beyond their means.

Ms. Uchtmann wondered if the church envisioned a future expansion of the proposed site. Father Ellison replied the church was not looking that far ahead into the future. The existing building will serve the church's needs for quite some time.

James Heimburger approached the Zoning Board of Appeals to speak. He asked if there were any plans for what the applicant plans to do. Mr. Ricci explained that the church plans to use the existing building. They will submit plans to renovate the interior of the building to change it

from a publishing house to a church. The applicant would be required to provide additional parking spaces. These changes would need to comply with the City’s Building Code and any other city regulations.

With no further comments or questions from public audience, Chair Welch closed the public input portion of the hearing and opened the hearing for discussion and/or motions by the Zoning Board of Appeals.

Mr. Rusch moved that the Zoning Board of Appeals approve Case No. ZBA-2019-C-06 with the condition that *the church must use the existing building at 1807 North Federal Drive. Any future expansion of the building must meet City Code.* Ms. Uchtmann seconded the motion.

Roll call on the motion was as follows:

Mr. Cho	-	Yes	Ms. McLaughlin	-	Yes
Mr. Rusch	-	Yes	Ms. Uchtmann	-	Yes
Mr. Warmbrunn	-	Yes	Mr. Welch	-	Yes
Ms. Chester	-	Yes			

The motion passed by unanimous vote.

ZBA-2019-MAJ-12 – A request by Stough Real Estate Holdings, LLC, for a Major Variance to allow a freestanding commercial sign at 907 North Lincoln Avenue in the R-5, Medium-High Density Multiple Family Residential Zoning District.

Chair Welch opened the public hearing for the case. Lily Wilcock, Planner I, presented the staff report for this case. She began by explaining the purpose of the proposed major variance. She discussed signs in the R-5, Medium-High Density Multiple Family Residential Zoning District. She summarized staff findings, read the options of the Zoning Board of Appeals and presented staff’s recommendation for approval with the following conditions:

1. *That the petitioner dedicates right-of-way as illustrated in Exhibit G.*
2. *That the sign generally conforms to the sign plan in Exhibit E, and that it is set back at least eight (8) feet from the property line.*

She noted that the applicant was present at the meeting to answer questions or address any concerns.

Chair Welch asked if any members of the Zoning Board of Appeals had questions for City staff.

Ms. Uchtmann referred to Page 2 of the application. Under 5. REASONS FOR VARIATION, what is substantial? Ms. Wilcock deferred the question to the applicant.

With no further questions for City staff, Chair Welch opened the hearing for public input.

Matt Deering, of Meyer Capel Law Firm, approached the Zoning Board of Appeals representing the applicant, Stough Real Estate Holdings, LLC. He responded to Ms. Uchtmann’s question by

saying that #5 of the application refers to substantial “trees”. His client intends to keep as many of the trees as possible.

He confirmed his client’s appreciation for Planning staff’s hard work and for their comprehensive and reasoned analysis for this case. He confirmed that his client agrees with the staff recommendation including the conditions.

Ms. Uchtmann asked if the proposed sign would be perpendicular to the street. Mr. Deering said that his client would remove any existing sign, and the new sign would be perpendicular to the street.

Ms. Uchtmann commented that, in the past, the Zoning Board of Appeals had asked other builders to provide landscaping for their properties, and they left the plantings to die. How does the applicant plan to keep the trees from dying? Mr. Deering replied that there was significant discussion between the City staff and the applicant. The applicant believes in providing landscaping and wants their buildings and properties to look good and blend into the neighborhood.

With no further comments or questions from public audience, Chair Welch closed the public input portion of the hearing and opened the hearing for discussion and/or motions by the Zoning Board of Appeals.

Ms. McLaughlin moved that the Zoning Board of Appeals forward Case No. ZBA-2019-MAJ-12 to the City Council with a recommendation for approval with the following conditions:

1. *That the petitioner dedicates right-of-way as illustrated in Exhibit G.*
2. *That the sign generally conforms to the sign plan in Exhibit E, and that it is set back at least eight (8) feet from the property line.*

Ms. Uchtmann seconded the motion. Roll call on the motion was as follows:

Ms. Chester	-	Yes	Mr. Cho	-	Yes
Ms. McLaughlin	-	Yes	Mr. Rusch	-	Yes
Ms. Uchtmann	-	Yes	Mr. Warmbrunn	-	Yes
Mr. Welch	-	Yes			

The motion was approved unanimously. Ms. Wilcock stated that this case would be forwarded to City Council on January 27, 2020.

7. OLD BUSINESS

There was none.

8. NEW BUSINESS

There was none.

9. AUDIENCE PARTICIPATION

There was none.

10. STAFF REPORT

There was none.

11. STUDY SESSION

Ms. Uchtmann asked for a study session on whether the Zoning Board of Appeals' decisions set a precedent for future use. Ms. Wilcock mentioned that a recent case brought up the topic of setting a precedent, and the City's Legal staff responded that is why we have criteria in the Urbana Zoning Ordinance for conditional use permits and variances. The criteria is to ensure that the City never sets a precedent and each case is reviewed on a case-by-case basis. However, if the Zoning Board of Appeals wants to have a study session, then Planning staff will accommodate at a future meeting.

Mr. Welch felt having a study session would be helpful to enlighten the Board members on what the result of some of their decisions are. However, he felt precedent was too strong of a word.

Mr. Ricci understood that each case is to be judged based on how it meets the criteria in the Zoning Ordinance. It can appear that a precedent is being set if the same result comes from the same type of requests every time, but that is not because the previous cases set a precedent. It is because all of the cases met the criteria. There is no requirement to follow a result of a preceding case.

Mr. Warmbrunn noted that 10 to 15 years ago, the Zoning Board of Appeals kept reviewing cases concerning corner lots or shared driveways. They came to the same conclusion almost every time so City staff changed the Zoning Ordinance. They haven't seen any of these types of cases since. He believes that the Zoning Board of Appeals should forward major variances on to the City Council, because they are people who were elected by the residents to make the decisions.

12. ADJOURNMENT OF MEETING

Chair Welch adjourned the meeting at 8:14 p.m.

Respectfully submitted,

Kevin Garcia, AICP
Planner II
Secretary, Urbana Zoning Board of Appeals