

**MINUTES OF A REGULAR MEETING
URBANA ZONING BOARD OF APPEALS**

DATE: December 21, 2016

APPROVED

TIME: 7:30 p.m.

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

MEMBERS PRESENT Joanne Chester, Matt Cho, Ashlee McLaughlin, Harvey Welch

MEMBERS EXCUSED Nancy Uchtmann, Charles Warmbrunn, Jonah Weisskopf

STAFF PRESENT Lorrie Pearson, Planning Manager; Christopher Marx, Planner I; Marcus Ricci, Planner II

OTHERS PRESENT Amanda Alleman, Eileen Borgia, Bill Brieher, Rosanne Burack, Jim Button, Jane Domier, Don Fitzgerald, Karen Fitzgerald, Donna Foley, Aaron Freeman, Richard Hedrick, So Young Kim, Patrick Leary, Len Lopez, Linda Lopez, Michael Lyon, David Morris, Donna Raue, Barbara Burch Rogers, Kevin Rogers, Gwendolen Rudy, Nasrin Sarrafi, Christopher Tichenor, Sharon Walker-Watkins (via phone)

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

Chair Welch called the meeting to order at 7:32 p.m. Roll call was taken, and he declared that there was a quorum of the members present.

2. CHANGES TO THE AGENDA

There were none.

3. APPROVAL OF THE MINUTES

The minutes from the November 16, 2016 regular meeting were presented for approval. Ms. McLaughlin moved to approve the minutes as presented. Mr. Cho seconded the motion. The minutes were approved by unanimous voice vote as written.

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

4. COMMUNICATIONS

Regarding Case No. 2016-C-03

- Email from Sharon Walker-Watkins
- Petition in Opposition
- Email from Kim Smith
- Email from Janis Kempel

Regarding Case No. 2016-C-04

- Letter from Michael Lyon

5. CONTINUED PUBLIC HEARINGS

There were none.

6. NEW PUBLIC HEARINGS

ZBA-2016-C-03 – A request by Sharon Walker-Watkins for a Conditional Use Permit to allow an Owner-Occupied Bed and Breakfast at 1607 Golfview Drive in the R-1, Single Family Residential Zoning District.

Chair Welch opened the public hearing for this case. Marcus Ricci, Planner II, presented the staff report to the Zoning Board of Appeals. He began by stating that the applicant was present via telephone. He noted that there was a valid petition of protest submitted by property owners within 250 feet of the subject property and a petition of protest submitted by property owners not within 250 feet of the subject property. Copies of both petitions of protests were handed out prior to the start of the meeting.

He mentioned that this case was a result of complaints that City staff had received about rental activity at 1607 Golfview Drive. He explained the difference between a bed and breakfast, owner occupied and a bed and breakfast inn. He noted the location, current land uses and zoning of the subject property as well as for the surrounding properties. He discussed other owner-occupied bed and breakfast uses in the City of Urbana. He also discussed the covenants of the Golfview Subdivision, particularly Covenant 3 which restricts any business use on any lot in the subdivision. He talked about required parking for an owner-occupied bed and breakfast and how the proposed use related to the 2005 Comprehensive Plan. He reviewed the requirements for a Conditional Use Permit according to Section VII-2 of the Urbana Zoning Ordinance. He read the options of the Urbana Zoning Board of Appeals and presented City staff's recommendation for denial; however, should the Zoning Board of Appeals approve the proposed conditional use, staff recommended that the use shall be subject to the following conditions:

1. The applicant shall submit proof of residence in the home, and maintain residence in the home during the periods that the home is rented.
2. The owner-occupied bed and breakfast use shall be limited to three bedrooms or less.
3. The applicant shall provide five off-street parking spaces, limiting vehicle parking in the private portion of the access drive to three vehicles or fewer, plus up to two vehicles in the garage.

4. The house shall meet all applicable local and state administrative, building, health, and safety codes and/or regulations.
5. The owners shall obtain a Hotel/Motel License from the City of Urbana and pay the applicable Hotel/Motel tax.

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

Mr. Cho inquired as to how many air bnbs were operating in the City of Urbana. Mr. Ricci replied that City staff found roughly 75 listings for private or shared rooms for rent. The vast majority of these were located in the R-3, Single and Two-Family Residential, or Industrial Zoning Districts. Approximately 20 of the rooms were located in homes that were completely rented out.

Mr. Cho wondered if the current Zoning Ordinance was out-of-date and did not reflect air bnbs. Mr. Ricci stated that owner-occupied bed and breakfast use is permitted by right in all business districts. Therefore, any of the 75 listings located in a Business Zoning District would not be required to obtain a conditional use permit. Air bnbs that operate in a Residential Zoning District would either have to get a Conditional Use Permit or register their property as a rental property. City staff's research did not cross check to see if any of the 75 rooms listed for rent had been registered in the City's Rental Registration Program, mainly because air bnbs do not list their addresses in their advertisements.

Chair Welch asked for the definition of "owner-occupied bed and breakfast". Mr. Ricci responded saying that the property owner would have to start occupying the home continuously and would not be allowed to leave renters unsupervised. City staff recommends that the property owner have to provide proof of occupancy while they rent out some of the bedrooms in the house if the Zoning Board of Appeals approved the proposed request.

Mr. Cho understood that anyone who rents out a room in their house, if it is located in a residential zoning district, would be violating the Zoning Ordinance. Mr. Ricci said yes. This case came about because City staff received complaints about the subject property being used as a rental property. City staff investigated and asked the property owner to cease all air bnb activity. The applicant then applied for the proposed Conditional Use Permit.

Mr. Cho questioned if a property owner could register his/her property as a rental property, then they would be allowed to operate an air bnb. Lorrie Pearson, Planning Manager, answered by saying that a property registered with the City's Rental Registration Program must have a lease in place, generally this would be for longer term rentals than you would have for an air bnb. A lease would be presumably for more than 30 days. Mr. Cho commented that there were basically no other options for the current owner to operate the home as an air bnb without getting a Conditional Use Permit. He believed that they were trying to force something into a bed and breakfast conditional use permit.

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

Sharon Walker-Watkins spoke to the Zoning Board of Appeals via telephone. She asked if City staff knew of the City of Champaign's rules and regulations for air bnbs. Ms. Pearson replied

that with regards to the application, Urbana City staff only looked at the Urbana Zoning Ordinance as well as how air bnbs were treated in the past to perform their analysis for this case. They have not conducted an analysis of how other communities address this issue.

Ms. Walker-Watkins stated that the City was binding her hands on what she can do with the property with rules and regulations that were set years ago. We are now in a new economy that air bnbs fit very nicely into. She was never informed of the nature of the complaint. She stated that she would like to know so that she could better monitor the activity. The property was platted in 1959, almost 60 years ago. Do properties ever get rezoned? Ms. Pearson explained that the Zoning Ordinance had changed and properties were sometimes rezoned. She recalled the covenants of the subdivision prohibiting business uses on the lots in the subdivision. The City of Urbana did not have the authority to change the covenants of the subdivision. The Home Owner's Association would be able to assist Ms. Walker-Watkins in the process of changing those covenants.

Ms. Walker-Watkins inquired what proof of residence would be. Ms. Pearson answered that there are a number of things that would need to be met in order to provide proof of occupancy. Ms. Walker-Watkins stated she would like a copy of the list depending on the outcome of the proposed request.

She went on to say that her property has been well maintained. She has found it difficult due to the heavy tax burden and the favorability for new construction (that makes the sale of the home less likely and less profitable). Even renting the property for a term lease would be a losing proposition. The air bnb use was a way for her to keep from losing money on her property. She didn't mind paying the onerous taxes, but she would like the opportunity to be able to gainfully be a meaningful contributor. There was a high demand from a wide spectrum of people looking to rent air bnbs. The City would collect a 7% sales tax, so she thought it would be a win-win solution.

With regards to the neighbors and the signed petition of protest, she said that she was not privy to their concerns. However, she would be open to rectifying those concerns. She has plenty of parking, a good-sized house and a big backyard.

Air bnbs are a multi-billion dollar business. The City of Urbana needed to develop a policy about air bnbs. She would be willing to comply with any regulations if her conditional use permit request was granted for an owner-occupied bed and breakfast.

Ms. McLaughlin asked if Ms. Walker-Watkins currently resided at the subject property. Ms. Walker-Watkins replied no. Ms. McLaughlin questioned if she had plans to reside at the property. Ms. Walker-Watkins answered that if she does not plan to live there, then she would have one of her family members live there. Ms. Pearson stated that one of the owners would have to reside there in order to meet the owner-occupied rules.

Mr. Cho inquired as to how long the owner had been operating an air bnb at the subject property. Ms. Walker-Watkins said that she started the air bnb in August of 2016. She stopped renting it out as an air bnb when she received the letter to cease from City staff.

Ms. McLaughlin wondered when the last time was that Ms. Walker-Watkins occupied the residence. Ms. Walker-Watkins replied that 1607 Golfview Drive, Urbana, Illinois was the address on her driver's license and the address she used to vote for the Presidential election.

There was no further public input in favor of the proposed request. Chair Welch asked if any member of the audience wanted to speak in opposition.

Jim Button approached the Zoning Board of Appeals. He and his wife purchased 1701 Golfview Drive, the property directly to the north of the subject property, and moved there in 2014 with the understanding that there were covenants prohibiting businesses on the lots in the subdivision. He felt that the proposed use would negatively impact the value of his property should he sell it in the future. The street is about 30 feet wide. He had noticed an increase in traffic to the house. With the street being narrower than most streets in the City and with there being no sidewalks, he felt it was a safety concern to allow a business at the subject property.

The ad that he found for the existing air bnb stated that the bed and breakfast was located on a golf course. This could lead the renters to believe that they would have access to the golf course. There were some contractors who stayed at the air bnb who brought golf clubs and played two or three holes at night after they got off work. The golf course is private and owned by the Urbana Country Club. He noted that the first signature on the Petition of Protest was the Urbana Country Club.

Some renters bring their dogs with them and allow their dogs to go on the golf course. He even had one renter's dog come to his back door. This made him uncomfortable. His wife was uncomfortable and was concerned with her safety not knowing who would be staying there from day to day or week to week.

He expressed concern about how the City would enforce that an owner reside in the house if the proposed conditional use permit was approved, especially when they could not enforce the cease order on the air bnb activity after the applicant received the letter in October. There were ten or twelve incidents when the house was rented out afterwards.

Richard Hedrick approached the Zoning Board of Appeals to speak. He mentioned that he had lived at 1605 Golfview Drive, directly south of the subject property, for 20 years. He had witnessed renters coming and going, parking in the middle of the driveway, using the private golf course. He and his wife were opposed to the proposed use. They felt it would have a negative impact on his property.

Patrick Leary approached the Zoning Board of Appeals to speak. He stated that he lived at 1705 Golfview Drive. There was a history with the property. The applicants built an accessory building in the back without meeting the zoning regulations. The property was not well maintained, and the owners were absent for quite a while. Renters hold parties and their dogs run loose in the neighborhood.

So Young Kim approached the Zoning Board of Appeals to speak. She commented that she lived at 1803 Golfview Drive for about 16 years. She felt comfortable living in her neighborhood because the residents were long term and she knows them and their dogs. She was

opposed to the proposed use because it brings unknown people into the neighborhood and she felt concerned for her daughters' safety.

Ms. Walker-Watkins addressed some of the neighbors' concerns. She apologized for the bad experiences caused by her previous renters. No one had made her aware of these events occurring. She did not want to cause anyone distress.

She mentioned that she had tried to sell the house; however, no one expressed interest in purchasing it. She only rented it out to try to keep the property, pay bills in a timely manner and to maintain the home.

Chair Welch asked if she had discussed her intentions with any of the neighbors. Ms. Walker-Watkins said no. She said that she only knew one of the people who spoke. Her job takes her away; however, her husband had previously stayed there. Chair Welch pointed out that their absence was the basis for the neighbors and City staff's qualms about it being owner-occupied.

With there being no further input from the audience, Chair Welch closed the public input portion of the hearing and opened it for discussion and/or motion(s) by the Board.

Mr. Cho stated that he had just done a search on the internet and found 181 air bnbs in the City of Urbana. He felt uncomfortable voting on the proposed case. He felt they were forcing an air bnb into an owner occupied bed and breakfast use when it clearly wasn't and it did not make sense. At the same time, there was no real alternative because the rental registration program did not work for air bnbs. With the fact that there are 181 rentals currently operating as air bnbs, he did not know which way to vote.

Chair Welch commented that he agreed the zoning needed to be revisited with regards to air bnbs. However, they need to deal with the case as it currently presents itself. This appeared to be a unique section or neighborhood in the City. Golfview Road was a T-street and potential for snarled traffic.

Ms. Chester recalled the property owner of 2402 Provine Circle requested a conditional use permit to allow a bed and breakfast use. Nothing had changed since then.

Ms. McLaughlin pointed out that although there were 181 air bnbs advertised in the City of Urbana, the Zoning Board of Appeals had only reviewed two cases based on complaints. Air bnbs were not problematic in every situation. The success or approval of an air bnb depended upon the larger conversation, the neighbors, the neighborhood and the zoning district which it was in. Air bnbs do not require this sort of approval in every zoning district.

Chair Welch recalled a conditional use permit request for an owner occupied bed and breakfast on Michigan Avenue. The neighbors were substantially in opposition; however, the Zoning Board of Appeals granted the conditional use permit because the issues were not the same. The owner resided in the house that they wanted to rent out rooms. With the proposed conditional use permit, the owner does not reside in the house. He felt that they could review and consider these types of cases on a case-by-case basis until the Zoning Ordinance is changed.

Ms. Walker-Watkins summarized the concerns to be that renters’ dogs wander into neighbors’ yards, renters use the private golf course and neighbors feeling unsafe with unfamiliar people in the neighborhood. Chair Welch added that the first speaker as well as City staff also expressed concern that the subdivision covenant prohibits commercial activity in the subdivision. Both an air bnb and an owner-occupied bed and breakfast would be considered commercial activity.

Ms. Chester moved that the Zoning Board of Appeals deny Case No. ZBA-2016-C-03. Ms. McLaughlin seconded the motion. Roll call on the motion was as follows:

Ms. Chester	-	Yes	Mr. Cho	-	Abstain
Ms. McLaughlin	-	Yes	Mr. Welch	-	Yes

The motion was approved by a vote of 3 yeases to 1 abstention. Ms. Walker-Watkins stated that she was departing the meeting.

ZBA-2016-C-04 – A request by Aaron Freeman of U-Haul Company of Illinois for a Conditional Use Permit to allow a Self-Storage Facility at 2010 South Philo Road in the B-3, General Business Zoning District.

Chair Welch opened the public hearing for this case. Christopher Marx, Planner I, presented the staff report to the Zoning Board of Appeals. He began by giving background information on the subject property, particularly the location, zoning, existing land uses and future land use designations of the proposed site and surrounding properties. He mentioned the underground storm sewer that runs through the northwest portion of the subject property. He discussed the proposed use and how it relates to the B-3 Zoning District. He talked about screening, landscaping and noted a correction in the configuration of the exterior self-storage units from the Site Plan that was originally submitted. He reviewed the requirements for a Conditional Use Permit according to Section VII-2 of the Urbana Zoning Ordinance. He mentioned the nature of the communications that he received from residents, read the options of the Zoning Board of Appeals for the proposed case, and presented City staff’s recommendation for approval with the following conditions:

1. The applicant submits a site plan that contains any adjustments deemed necessary for compliance with the City’s municipal codes.
2. The use generally conforms to the site plan submitted in this application that shows the outdoor storage units located outside of the storm sewer line.
3. An easement for the storm sewer line is created between the property owner and the City’s Public Works Department.

Chair Welch asked if the members of the Board had questions for City staff. There were none. Chair Welch, then, opened the hearing for public input.

Aaron Freeman approached the Zoning Board of Appeals to speak on behalf of the applicant. He spoke about the intentions and goals of U-Haul for the subject area. He addressed a concern that was mentioned in one of the communications regarding the preservation of Mumford Drive. He pointed out that U-Haul anticipated preserving the road and had put up barricades to prevent traffic entering and exiting through the access onto Mumford Drive. U-Haul also planned to replace the lighting in the parking lot with modern LED lights. He supported having a fence

along the rear of the property to screen the building from the neighborhood either on U-Haul's property or on the neighboring properties.

Eileen Borgia approached the Zoning Board of Appeals to speak in favor of the proposed request. She mentioned that she lives directly behind the subject property. During the last ten years that she had lived there, the building had been vacant. Several times they called City staff because there was graffiti on the walls or food delivery companies left their trucks running for long periods of time.

She has been impressed by U-Haul's business. Clients come in and pick up their reserved trucks in a prompt manner. U-Haul has kept the property clean, replaced the roof and paved the back area. U-Haul was a reputable, national company. She was glad to have them in this location.

Michael Lyon approached the Zoning Board of Appeals to speak in favor. He pointed out that he had submitted an email communication that was shared with the members of the Board prior to the start of the meeting. While his email expresses some concerns, he supported U-Haul locating in the subject property. While he believed Mr. Freeman to be a good person, U-Haul was a bigger company that may have plans or intentions outside of Mr. Freeman's personal desires, so his concerns were as follows:

1. The preservation of neighborhood traffic on Mumford Drive to remain low by restricting U-Haul's traffic to the Philo Road entrance/exit. This would help to keep the neighborhood safe, especially with a daycare located close to the subject property.
2. Replacement lighting not be too low or dark to prevent crime. He would even prefer extra lighting.
3. Installation of a fence along the rear of the subject property.
4. External storage buildings. How much storage is needed? He suggested allowing the conditional use permit for the U-Haul use and internal storage as Phase I. Once the internal storage is at full capacity, then they could be granted Phase II.

Nasrin Sarrafi approached the Zoning Board of Appeals to speak. She expressed her concerns of noise and the enforcement of the fence being replaced. Other concerns included her property being affected by fire and chemical spills if chemicals would be allowed to be stored in the units, how the lighting would affect her property, people being able to access neighboring properties from the back of the building, what type of other businesses would be attracted to locate next to U-Haul, what affect the U-Haul business has on neighboring property values in other locations, the pavement being damaged from trucks entering and exiting the property, and U-Haul providing more data about details of their intentions.

Amanda Alleman approached the Zoning Board of Appeals to speak. She stated that she and her family live at 1605 East Mumford Drive. The subject property had been vacant for a long time and they had noticed an increase in crime in their neighborhood. So far, U-Haul had been a good neighbor and had addressed many of the concerns that the neighbors had. She was concerned about whether the business would affect the home values in the neighborhood and whether crime would continue to increase or decrease.

Christopher Tichenor, owner of Closet Space, approached the Zoning Board of Appeals to speak. Overall, he felt that U-Haul was a great addition to the neighborhood, and it was great to have

the subject property occupied again. However, he had concerns about the scale of all the storage units and the configuration of the outdoor storage units and their proximity to Philo Road. His major issue was a matter of fairness. The City did not allow him to expand his storage business, but yet was considering allowing U-Haul to provide storage units in the same area.

Chair Welch called for a five-minute break at 9:30 p.m. The Zoning Board of Appeals meeting resumed at 9:35 p.m.

Donna Foley, owner of Urbana Self-Storage, approached the Zoning Board of Appeals to speak. She felt it was great what U-Haul planned to do with the building; however, the outside storage was an overkill. For one business to provide all the storage would put hardship on the other two storage businesses. Therefore, she agreed with the concept of having two phases that was recommended by Mr. Lyon.

Linda Lopez approached the Zoning Board of Appeals to speak. She clarified that there were three Homeowner Associations within the Eagle Ridge Subdivision. All of the residents enter and exit the subdivision the same way and would like to see landscaping along the north side of the street. U-Haul has been a good neighbor. She liked the concept of Phase I and Phase II. Replacement of the fence would be valued as it would be quite costly. It would be great if U-Haul would move the fence when they replace it onto their property, then U-Haul could maintain it. The residents would like to preserve the character of the neighborhood. She assumed the applicant would be required to install a sprinkler system on the inside of the building if one did not already exist. She shared Ms. Sarrafi's concern about a fire starting in the outside storage units.

Len Lopez approached the Zoning Board of Appeals to speak. Although he was not opposed to the proposed request, he would like to see a significant amount of landscaping along Mumford Drive, preferably tall, evergreen trees so that he does not have to see lots of outside storage units as he arrives home. Eagle Ridge Subdivision was a close community where everyone knows each other, and they want to keep it that way. When he turned down Mumford Drive, he felt like he was turning into his drive.

Bill Briehar approached the Zoning Board of Appeals to speak. He agreed with the previous speakers about how strong the neighborhood was and the feeling Mr. Lopez got when he turned down Mumford Drive. He welcomed U-Haul because it provides improvement and economic development to an area of urban blight. His main concerns were about screening and landscaping around it.

Roseanne Burack approached the Zoning Board of Appeals to speak. She lived directly behind the subject property. She had planted some shrubbery to block the view of the back of the building on the subject property. The existing fence was old and getting rickety. She was in favor of U-Haul locating in the proposed site. The outdoor storage should be a second phase. Everyone needed to take a step back and look at the outdoor storage a little bit further. She also agreed that the landscaping along Mumford Drive should be a little more substantial than what U-Haul was proposing.

Mr. Freeman re-approached to address some of the neighbors' concerns. With regards to chemicals, U-Haul had rules about what can be stored in the units and they do monitor and enforce stringently to ensure that materials outlined in their rule book and contracts were not being stored in the units. He assured the neighbors that U-Haul was willing to replace the fence whether it would be located on the neighbors' properties or on U-Haul's property. In terms of taxes, U-Haul only makes improvements to their properties which in turn impacts and increases the property value of their property as well as for the neighboring properties. His office in Springfield was located next to a preschool as well as a middle school and high school located right behind the office. U-Haul's low volume business did not impact these schools. Concerning the lighting and crime, he believed that U-Haul would create a buffer between the two corridors there. As for landscaping, it would be done by local professional companies and would comply with the City of Urbana's zoning requirements. Residents mentioned that they have a cleanup of the neighborhood. U-Haul would like to be a part of and contribute to the cleanup process.

Ms. Chester asked if U-Haul owned the three parcels along Mumford Drive. Mr. Freeman said no. Ms. Chester asked about the access drives and landscaping along Mumford Drive. Mr. Freeman explained that U-Haul has posted signs on their property stating that there was no vehicular access to exit onto Mumford Drive.

As for landscaping along Mumford Drive, they would not have the authority to provide landscaping along Mumford Drive since they do not own the three parcels. Ms. Chester commented that someone could purchase one of the three properties and construct another building. He said that was correct. Discussion ensued about the possibility of planting trees on the south end of subject property. Mr. Freeman said that U-Haul would not be willing to plant trees along the south property line because the south end is paved parking area and trees would block the businesses located on the south end of the building. Mr. Cho recommended that if the residents of Eagle Ridge Subdivision wanted trees planted along Mumford Drive, then they should speak with the City's Public Works Department. The City had an easement and may be able to plant trees.

Mr. Cho asked if U-Haul had plans to develop in phases or if they were open to phasing. Mr. Freeman stated that they would prefer to build it all at once. They want to prevent spending extra costs to phase the development, and they want to provide options for their customers.

Ms. Chester asked if a conditional use permit was required was because of the outdoor storage units. Mr. Marx replied yes.

Ms. Sarrafi asked how close the outdoor storage units would be located from the fence on the north side. Mr. Freeman replied approximately 60-70 feet.

With there being no further comments or testimony from members in the audience, Chair Welch closed the public input portion of the hearing. He, then, opened the hearing for Zoning Board of Appeals discussion and/or motion(s).

Mr. Cho moved that the Zoning Board of Appeals grant Case No. ZBA-2016-C-04 based on the findings outlined in the written staff report and with the conditions recommended by City staff. Ms. Chester seconded the motion. Roll call on the motion was as follows:

Ms. Chester	-	Yes	Mr. Cho	-	Yes
Ms. McLaughlin	-	Yes	Mr. Welch	-	Yes

The motion was passed by unanimous vote.

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

There was none.

12. ADJOURNMENT OF MEETING

Chair Welch adjourned the meeting at 10:08 p.m.

Respectfully submitted,

Lorrie Pearson, AICP
Planning Manager
Secretary, Urbana Zoning Board of Appeals