

MINUTES OF A REGULAR MEETING

URBANA ZONING BOARD OF APPEALS

DATE: August 10, 2000

DRAFT

TIME: 7:30 p.m.

PLACE: Urbana City Building
400 S. Vine Street
Urbana, IL 61801

MEMBERS PRESENT: Anna Merritt, Jim Fitzsimmons, Herb Corten,
Charles Warmbrunn, Darwin Fields, Paul Armstrong,
Harvey Welch

MEMBERS ABSENT There were no absentees

STAFF PRESENT: Elizabeth Tyler, Assistant City Planner
Rob Kowalski, Senior Planner
Pat Tarte, Recording Secretary

OTHERS PRESENT: Jay Sikorski, Paul Tatman, Tom Vilaro, Dorothea Smith,
Katherine Entler, Richard Wolfe, David Kovacic,
Carl Webber

Due to an equipment failure there were no recorded minutes. Transcription was done from handwritten notes.

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

The meeting was called to order at 7:34 p.m. A quorum was declared present.

2. CHANGES TO THE AGENDA

There were none.

3. APPROVAL OF MINUTES

There were several corrections to the minutes, These corrections included:

1. Page 2, paragraph 3, last sentence, Ms. Merritt suggested the addition of the words “or more of the existing trees” after the word “one” in the last sentence.

2. Page 2, paragraph 4, 1st sentence, Ms. Merritt suggested that after the word “children” the words “would need to be watched by the center’s eighteen employees” should be substituted and the words “that they would be watching with 18 employees” be deleted.
3. Page 2, last paragraph, 2nd sentence, corrects the spelling of “Mr. Corsky” to “Mr. Sikorski.”
4. Page 4, 1st. paragraph, top sentence, changes the spelling of “Mr. Schuit” to “Mr. Schuett.”
5. Page 4, paragraph 5, last sentence, Mr. Armstrong suggested that the 4th word in that sentence should be changed from “if” to “is.”
6. Page 4, paragraph 6, 1st sentence, corrects spelling of “Schuit” to “Schuett.”
7. Page 4, paragraph 6, 1st sentence, changes the words “speak on” to “address the location of” the lot line.
8. Page 1 listed under OTHERS PRESENT, corrects the spelling of Betty “Wirth” to “Betty “Wirt” same correction on page 4, paragraph 4. 1st sentence.

Mr. Corten moved that the minutes be approved as corrected. Ms. Merritt seconded the motion.

Ms. Merritt called for a roll call. The vote follows:

Merritt, aye	Warmbrunn, aye	Fitzsimmons, aye	Corten, aye
Armstrong, aye	Welch, aye	Fields, aye	

The motion passed 7-1.

4. COMMUNICATIONS

There were none.

5. CONTINUED PUBLIC HEARINGS

Case # ZBA-00-C-7, Request for a Conditional Use Permit for a proposed daycare facility at 1603 Mumford Avenue.

Chairperson Merritt swore in those members of the public wishing to testify before the board.

Mr. Kowalski presented an overview of the case noting that a new site plan was submitted to staff on August 9th and had been distributed to the board members for their review. Mr. Kowalski concluded his presentation with a staff recommendation that the Zoning Board of Appeals grant the proposed Conditional Use Permit with the following conditions:

- 1.) The three existing trees in the right-of-way along Mumford Avenue shall be preserved.
- 2.) The existing trees along the east property line shall be preserved. Any tree that is removed shall be replaced with a tree of similar size and species.
- 3.) The lighting for the building and parking lot shall be designed to avoid direct illumination onto the neighboring residential properties. This includes automobile headlights from the parking area.
- 4.) A subdivision plat creating the lot as generally shown on the site plan must be recorded within six months of approval of the Conditional Use Permit.
- 5.) The general layout of the site shall match the spirit and intent of the layout submitted on the site plan labeled "Happi House Learning Center."

There was a discussion between Mr. Corten, Mr. Fitzsimmons, and Mr. Kowalski concerning various aspects of the site. Mr. Corten asked about the location of the playground in relation to the building. Mr. Fitzsimmons said that on the previous Site Plan the setbacks had been at 20 feet from the building and were now shown at approximately 40 feet. Mr. Kowalski answered that this was a change from the first Site Plan. Mr. Fitzsimmons also asked about the location of the driveway in relation to the tree at that location and asked for clarification on whether the fenced area shown was for refuse. Mr. Kowalski answered that it was.

Mr. Jay Sikorski, Architect for the project, stated that the fence for the lot is to be located on the west side of the tree line. Mr. Fitzsimmons asked if the dashed line on the Site Plan represented a fence at the southwest side of the building. Mr. Sikorski stated that he did not think the dashed line represented a fence and that the intent of the developer was to fence in the playground area.

Mr. Fitzsimmons asked if refuse would be rolled out to a garbage truck and if that would present a problem for the trees located by the drive. Mr. Sikorski stated that there would not be a problem with the trees.

Mr. Warmbrunn asked if the trees to be left in place would be dense enough to screen lights and noise from the edge of the property. Mr. Fitzsimmons noted that the trees are conifers and should provide adequate screening. Mr. Fitzsimmons asked if the trees to be added to the site would be new purchases or whether the existing trees would be relocated. Mr. Paul Tatman, project developer, answered that they would primarily be new trees.

Mr. Tom Vilardo, adjacent neighbor to the project site, stated that there are trees on the south side of Lot 1 near St. Matthews Church, and shade trees on Lot 2. He asked if these trees would be maintained as he was concerned that these trees are not shown on the Site Plan. Mr. Kowalski answered by reading from the Annexation Agreement: "In addition, owner shall retain those shade trees currently on the south edge of the development adjacent to the Lutheran Church. All lots within the DEVELOPMENT may participate in the Urbana Matching Tree Program under the

terms and conditions of that program as it exists on the date of this agreement.” Mr. Fitzsimmons asked if this program means that you must replace those trees with the same type of tree and in the same location, or can they be replaced anywhere on the lot. Mr. Kowalski answered that he wasn’t sure but he could check with Mike Brunk of the City’s Arbor division for a definitive answer.

Mr. Fitzsimmons asked if the fence would be far enough west of the tree line to allow for future tree growth. He also asked if the City is bound by the Eagle Ridge Covenants. Mr. Sikorski stated that the fence would be far enough west to allow for growth. Mr. Kowalski stated that the covenants are private agreements between the homeowners and that the City is not responsible for enforcing these covenants.

There was a short discussion on the type of wood fencing and the height required in order to serve as adequate screening. Mr. Kowalski stated that it was felt the existing tree line would serve as a better screen than would a fence. It was explained that fencing had been discussed for two purposes; one was to satisfy any state regulations for daycare centers, and the other was the ZBA concern for buffer fencing that might be needed between two different zoning districts.

Mr. Corten moved that ZBA-00-C-7 be approved based on the staff report and with the following conditions:

1. The three existing trees in the right-of-way along Mumford Avenue shall be preserved.
2. The existing trees along the north, south, and east property lines shall be preserved. Any tree that is removed shall be replaced with a similar size and species.
3. The lighting for the building and parking lot shall be designed to avoid direct illumination onto the neighboring residential properties. This includes automobile headlights from the parking area.
4. A subdivision plat creating the lot as generally shown on the Site Plan must be recorded within six months of approval of the Conditional Use Permit.
5. The general layout of the site shall match the spirit and intent of the layout submitted on the site plan labeled “Happy House Learning Center.”

Mr. Carl Webber, subject site property owner, clarified that the condition of approval for tree preservation should only be for the proposed eastern 130 feet of Lot 1 of the Eagle Ridge Subdivision, since that is the extent of the daycare request. He further noted that the preservation of trees on the south property line is covered in the Annexation Agreement and would need City Council approval for any trees to be removed.

Mr. Warmbrunn seconded the motion. The vote follows:

Merritt, aye

Fitzsimmons, aye

Corten, aye

Welch, aye

Armstrong, aye Warmbrunn, aye Fields, aye

The motion passed 7-0.

5. OLD BUSINESS

There was none.

6. NEW PUBLIC HEARINGS

Case # ZBA-00-MAJ-5, Request for a Major Variance to increase the size of an identification sign at 2601 S. Philo Road.

Mr. Kowalski presented an overview of the case concluding with a staff recommendation for approval of the variance as requested.

Ms. Dorothea Smith, a resident in the area, spoke in favor of the sign. Ms. Smith stated that she would like to see more attention given to the Philo Road area.

Ms. Katherine Entler, next-door neighbor to the Church, stated that a new sign would block the view to the south from her living room.

Mr. Fitzsimmons noted that the new sign would be six feet high and that the existing sign is three feet high.

Richard Wolfe, Pastor of the Church, said that the picture of the sign included in the packet was computer generated and looked much larger and closer than it would actually be, and that he did not think that when the new sign was in place it would block as much view as Ms. Entler was concerned that it might.

Mr. Warmbrunn moved that ZBA-00-C-MAJ-5 be forwarded to the City Council with a Zoning Board of Appeals recommendation for approval of the variance based on staff criteria. Mr. Welch seconded the motion.

Ms. Merritt called for a roll call. The vote follows:

Merritt, aye Fitzsimmons, aye Corten, aye Welch, aye

Warmbrunn, aye Fields, aye Armstrong, aye

The motion passed 7-0.

Ms. Merritt forwarded ZBA-00-MAJ-5 to the August 21, 2000 meeting of the City Council with a Zoning Board of Appeals recommendation for approval.

Case # ZBA-00-MIN-1, Request for a Minor Variance for a front yard setback from 15 feet to 13.6 feet at 601 S. Anderson Street.

Case # ZBA-00-MAJ-4, Request for a Major Variance to allow a reduction in the required open space ratio at 601 S. Anderson Street.

Mr. Kowalski stated that these two cases would be heard together but would have to be voted upon separately. He said that ZBA-00-MIN-1 should be voted on first since the need for the Major Variance is dependent on the Minor Variance. Mr. Kowalski then presented an overview of the cases concluding with a staff recommendation that the Zoning Board of Appeals grant the variances requested with the following condition:

- 1.) The petitioner obtain approval from the City Engineer for the closure of the existing curb cut on Anderson Street and the location of a new one.

Mr. Fitzsimmons asked if a garage only 18 inches from the lot line is legal. Mr. Kowalski answered that it was legal for an accessory garage in some residential zones according to the Urbana Zoning Ordinance.

Mr. Corten asked if a 7-foot fence is legal. Mr. Kowalski stated that a 6-foot fence is the maximum height allowed. Mr. Fitzsimmons pointed out that any fence must comply with City requirements. It was explained that the fence must be set back 3 or 4 feet from the sidewalk in order to have a clear view of oncoming traffic. Mr. Kowalski noted that Mr. Kovacic would have to obtain a permit in order to construct a fence. Mr. Warmbrunn asked if there was a sidewalk on the West Side of the site. Mr. Kovacic stated there are sidewalks only on the north and south sides.

Mr. Corten asked about the location of the Jacuzzi. Mr. Kowalski said that it would be located on the porch.

Mr. Corten asked if the building fronted on Anderson Street. Mr. Kowalski answered yes.

Mr. Warmbrunn asked if a fence could be put in a non-conforming front yard. Mr. Kowalski said that it could as long as it met City Ordinance requirements for visibility. Mr. Warmbrunn also wondered if there was a sidewalk on the East Side of Anderson Street. Mr. Kovacic said that there was an old brick sidewalk on the East Side of Anderson Street and an approximately 4-foot long gravel walk on the West Side.

Mr. Armstrong abstained from the vote.

Mr. Kowalski clarified that the variance should be 13.6 feet rather than 13.5 feet.

Mr. Fields moved that ZBA-00-MIN-1 be approved based on the staff recommendation including the listed condition. Mr. Welch seconded the motion.

Mr. Warmbrunn asked how to make sure the fence does not block the view of oncoming traffic. Mr. Kowalski pointed out that it must meet City requirements for sight distance.

Mr. Fitzsimmons asked if the Minor request is denied would Mr. Kovacic still be able to enclose the porch, and if the Major Variance request is denied would Mr. Kovacic be able to build the garage and enclose the porch. Mr. Kowalski replied that if the Minor Variance is denied, the applicant would not be able to enclose the porch and therefore, the Major Variance for the reduction of the open space ratio would not be needed because an open, unenclosed porch can count in the open space ratio. Mr. Kowalski also noted that if the Minor Variance is denied, the porch could still be setback only 13.6 feet because open unenclosed porches are allowed to encroach into the required yard setback.

Mr. Warmbrunn asked if the 18-inch setback for accessory structures is allowed everywhere in the City. Ms. Tyler answered that it was in residential, but in order for this request to be allowed the garage could not be larger than 750 square feet.

Ms. Merritt called for a roll call. The vote follows:

Fitsimmons, no	Corten, aye	Welch, aye	Warmbrunn, aye
Fields, aye	Merritt, aye		

The motion passed 5-1 with 1 abstention.

Mr. Corten moved that ZBA-00-MAJ-4 be forwarded to the City Council with a Zoning Board of Appeals recommendation for approval of the requested variance based on the staff recommendation including the one listed condition.

Mr. Fitzsimmons expressed his concern with the lack of open space and felt that the lot was overfilled.

Ms. Merritt called for a roll call. The vote follows:

Merritt, aye	Fitzsimmons, no	Corten, aye	Welch, aye
Warmbrunn, aye	Fields, aye		

The motion passed 5-1 with 1 abstention.

Ms. Merritt forwarded ZBA-00-MAJ 4 to the August 21, 2000 meeting of the City Council, with a Zoning Board of Appeals recommendation for approval of the requested variance based on the staff recommendation including the listed condition.

August 10, 2000

7. NEW BUSINESS

There was none.

8. AUDIENCE PARTICIPATION

There was none.

9. STAFF REPORT

There was none

10. STUDY SESSION

There was none

11. ADJOURNMENT OF MEETING

The meeting was adjourned at 9:17 p.m.

Respectfully submitted,

April D. Getchius, Secretary
Urbana Plan Commission