

MINUTES OF A REGULAR MEETING
URBANA ZONING BOARD OF APPEALS

DATE: July 26, 2001

APPROVED

TIME: 7:30 p.m.

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

MEMBERS PRESENT: Paul Armstrong, Herb Corten, Anna Merritt, Joe Schoonover

MEMBERS ABSENT Darwin Fields, Charles Warmbrunn, Harvey Welch

STAFF PRESENT: Rob Kowalski, Senior Planner
Tim Ross, Planner
Paul Lindahl, Planning Intern

OTHERS PRESENT: Terry Bilbrey, Jeff Brock, Elmer Cook, April Getchius, Tom Hays, Anthony Hursh, Tom, Mackin, Jeff Marshall, Wayne Newman, Tonya Shaw, Gary Schrock, Pat Veach, John Volle, Ken Welle, Mary Welle

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

Anna Merritt, Chair, called the meeting to order at 7:30 p.m. The roll call was taken, and a quorum was declared present.

2. CHANGES TO THE AGENDA

There were none.

3. APPROVAL OF MINUTES

The minutes as corrected were approved by unanimous vote.

4. COMMUNICATIONS

- Letter from David Krchak
- Letter from Dave Grimley

- Letter from Susan Smith
- Letter from Jack Snyder
- Letter from Walter Gerhardt
- Letter from Charles Nogle

5. CONTINUED PUBLIC HEARINGS

There were none.

6. OLD BUSINESS

There was none.

Ms. Merritt, Chair, swore in members of the audience who were wishing to speak at the meeting.

7. NEW PUBLIC HEARINGS

ZBA-01-C-3; Request for a conditional use permit to allow the establishment of a small animal veterinary hospital in the B-3, General Business Zoning District at 2001 Linview Avenue. (All Creatures Animal Clinic).

Paul Lindahl, Planning Intern, presented the staff report. He gave a brief introduction and background on the description of the site and surrounding properties. Mr. Lindahl commented that a conditional use permit was required in 1997 when construction of the warehouses on this property was first proposed to allow the location of two principal structures on a single lot. He mentioned some of the parking requirements from that conditional use permit. Mr. Lindahl stated the requirements for a conditional use permit. He summarized the staff findings and noted the options of the Zoning Board of Appeals. Mr. Lindahl recommended that the Zoning Board of Appeals grant the proposed conditional use permit with conditions on the basis that the request meets the requirements for the granting of a conditional use permit as outlined in the staff report. Staff recommended conditions were as follows:

1. The clinic shall have no outdoor animal facilities of any kind.
2. Veterinary care at this site shall be restricted to small animals (i.e. no horses, cattle, or swine.)
3. The provisions of the property condominium ownership agreement shall set forth the reservation of a minimum of 15 of the parking spaces within the shared lot for the use of the veterinary clinic.

Mr. Corten inquired as to why staff requested no outdoor animal facilities? Mr. Lindahl replied that there was an inquiry from the hotel management approximately two hundred feet away in regards to dogs barking late at night. Kenneth Welle, the petitioner told Mr. Lindahl that there was no intention of leaving animals outside at night.

Ms. Merritt asked what a designated dog walking area was? Mr. Lindahl commented that it would be an outside area where the dogs could be walked to get exercise. Mr. Welle had indicated to Mr. Lindahl that all the facilities would be indoors, and that the dog runs would be inside as well.

Mr. Schoonover questioned whether this clinic would be just a veterinary and not a boarding place for owners to place their animals when they go on vacation. Mr. Lindahl stated that was correct. The only housing that the All Creatures Animal Clinic would provide would be for animals that were ill and needed medical care while the owners were out-of-town.

Mr. Armstrong inquired as to how the fifteen parking spaces would be identified? Mr. Lindahl stated that was not a subject that had been discussed. That issue would need to be worked out contractually between Mr. Welle and the individuals purchasing the location from him. Mr. Kowalski added that there would be plenty of parking. However, if another business moves in the next building and requires additional spaces beyond those remaining, it would not be feasible for the other business to move in. Mr. Corten commented that fifteen spaces are excessive for a veterinary clinic of this kind at any one time of the day. Mr. Lindahl replied that the veterinary clinic requires one parking space per four hundred square feet of floor area. With 6,000 square feet of floor area, that would be fifteen parking spaces.

John Volle, of 2002 North Lincoln, represented Brock Oil and Development Company. They own the Sleep Inn that is adjacent to and a few feet off the property line. He commented that he has no objections to the variance as long as the restrictions are adhered to. Their concerns are in regards to outside runways, noise and odor.

Mr. Corten moved to grant the conditional use as presented including the three recommended conditions as stated in the staff report. Mr. Schoonover seconded the motion. The roll call was as follows:

Mr. Armstrong	-	Yes	Mr. Corten	-	Yes
Ms. Merritt	-	Yes	Mr. Schoonover	-	Yes

The motion was passed by unanimous vote.

ZBA-01-MAJ-10; Request for a major variance to allow a 10-foot reduction in the required lot width from 60-feet to 50-feet for the construction of a duplex in the R-3, Single and Two-Family Residential Zoning District at 909 South Webber Street.

Rob Kowalski gave the staff report. He began his presentation by giving a brief introduction, a background on the description of the site and the surrounding properties, and discussion on lot size and width for a duplex. Mr. Kowalski reviewed the variance criteria. He commented that there was a subjective question in regards to the fourth variance criteria. Most of the area is zoned single- and two-family residential. In regards to whether or not the duplex will alter the

essential character of the neighborhood, Mr. Kowalski felt it would be important for the Zoning Board of Appeals to listen to the testimony of the public. He continued his presentation by stating the options of the Zoning Board of Appeals. Finally, Mr. Kowalski stated that Staff recommends that the Urbana Zoning Board of Appeals recommend approval of the proposed variance as requested to the Urbana City Council based on staff findings.

Mr. Corten inquired as to whether any trees would have to be removed from the front of the lot. Mr. Kowalski replied that one of the main trees would have to be removed. However, the trees in the back of the lot are along the perimeter and should not have to be removed.

Mr. Schoonover asked what the side offset of the garage next to the proposed lot is. Mr. Kowalski responded that the requirement is for that garage to be a minimum of eighteen inches from the property line. However, the garage may be closer and could be “grandfathered” as legally non-conforming.

Tom Hayes, from Bash & Schrock, approached the Zoning Board and commented that the lot has the total square footage. It is just not configured the way that the Zoning Code requires. The structure would meet all requirements for open space and floor area ratio. A single-family home could be built without asking for a variance. Just because it is a duplex, a variance is required.

By allowing the duplex, more affordable housing would be allowed. The cost, infrastructure construction, and real estate taxes will be divided between two units. Therefore, it makes each unit more affordable to the eventual purchaser. Bach & Schrock intends to build and sell.

Mr. Hayes commented that the one tree would have to be removed to allow for a driveway. However, the other tree will be able to stay.

Mr. Corten questioned that although he keeps hearing the phrase “zero lot line”, Bash & Schrock would not actually be building near the lot line. It just means that two houses will be next to each other, right? Mr. Hayes responded that the zero lot line term means that there will be a lot line that is at zero. The units will share a common wall. However, there will be deeds and titles passed to each unit separately.

Mr. Armstrong asked who the target market was for the duplexes? Mr. Hayes replied that he was not sure where the market would be. The final pricing would be between \$115,000 and \$120,000 per unit for the zero lot line approved structure.

Tom Mackin lives at 912 South Webber, immediately south of the existing duplex. He commented that the existing duplex was a bad example of how to build a duplex. That duplex is a disaster because it was built sideways on the lot. Mr. Mackin supported the design that Bash & Schrock created. He likes the character of the neighborhood, and could support a zero lot line duplex on the vacant lot. However, he does not support the duplex if it would be used as a rental property.

Ms. Merritt commented that the issue of whether it would be used as a rental or sold as owner occupied property was not within the scope of the Zoning Board of Appeals. Mr. Kowalski replied that she was correct. The requirement reads that for lots that are zoned R-3, which were originally platted before December of 1970, each lot shall have a minimum lot area of 3,000 square feet and each shall have minimum street frontage of thirty feet. In this case, Bash & Schrock would only be able to get twenty-five feet for a street frontage for each unit. Ms. Merritt stated that there would still be a problem. Mr. Kowalski stated that they would still be short five feet on each lot.

Pat Veach lives next door to the existing duplex. She wondered about the vegetation in the back lot of 909 Webber. There is nothing really there except mulberry and wild cherry trees. The two trees in the front of the lot are a red maple tree and an oak tree.

Ms. Veach also questioned the location of the duplex on the site. She commented that there are reasons for lot width requirements. There would be too many people in one conglomeration. The neighbors would be able to hear arguments. If Bash & Schrock want to sell the lot, then just build a single-family home that would fit on the lot legally.

Wayne Newman, of 906 South Webber, has lived at his home for fifty-six years. The existing duplex was built about twenty-five years ago. Since then, there has been an increase in noise and traffic. People are already parking on the street, which can be dangerous at night because the street is narrower than most. With another duplex, the parking issue would get worse.

Elmer Cook, of 907 South Webber, lives directly north of the proposed duplex. He has lived there since 1947. He wanted to take a strong stand against the proposed plans. There have been a lot of problems with the existing duplex across the street. It is an eyesore and is too close to the next-door neighbor. It is a rental property with the owner not around. Small children trespass through his yard. If the proposed duplex becomes a rental property as well, then it will make the problems twice as bad.

The zoning was different and was changed when the existing duplex was built. There used to be sixty-foot lots that were intended to be alleys. Mr. Kowalski remarked that there are some sixty-foot wide lots in the neighborhood.

Mr. Cook stated that the vegetation in the back of the lot looks like a jungle. Clearing the vegetation from the back yard would not hurt the character of the neighborhood; however, if they take down the big tree in the front, it would alter the character of the neighborhood. He is reluctant to cut big trees down due to losing so many other trees to disease. Mr. Cook was also concerned with how close the duplex would be to his garage.

Anthony Hursh, of 911 South Webber, mentioned that the other neighbors who testified have voiced many of his issues. He is concerned with the narrowness of the lot. There would be a very small amount of space between the duplex and his property.

Mr. Hursh felt that the proposed duplex would alter the character of the neighborhood. The majority of the houses are owner occupied and single-family dwellings. There will not be enough parking spaces, especially if the duplexes become rental units.

The vegetation in the back yard is just brush and can be cleared away. The trees in front are very nice. He added that he would not object to a single-family dwelling; however, he believes that a duplex would not fit in with the existing neighborhood.

Mr. Corten asked how long the lot had been vacant? Mr. Hursh responded that the lot had been vacant since 1997.

Mr. Kowalski commented that the reason he mentioned the vegetation in the back of the lot was because a neighbor who lives behind the lot on Anderson Street had called him and asked if the vegetation would be removed and expose their property to the duplex.

Ellen Hursh, of 911 South Webber, commented that the garage is eighteen inches from the property line. The proposed duplex is not very attractive. From an aesthetic viewpoint, there are not any windows on the side. The duplex would be the only two-story building in the neighborhood. Ms. Merritt commented that there are other two-story buildings on Anderson. The absence of windows on the sides of the duplex would increase privacy. The Zoning Board of Appeals cannot get into aesthetic issues. Ms. Hursh added that she likes seeing big trees like the ones in the front yard of the proposed lot. Her last issue was in regards to there not being enough parking.

Mr. Schoonover motioned to recommend denial of the variance requested to the Urbana City Council based on the size of the lot in the neighborhood and the size of the duplex. The City of Urbana is not in need of a duplex at this location. Mr. Armstrong commented that the duplex would be marketed in such a way that it probably would not hit the kind of target group that the neighbors are worried about. Zero lot line residents are conducive to these types of residential neighborhoods. On the other hand, Bash & Schrock are doing all the right things in terms of trying to conform to this. Mr. Armstrong showed concern as to whether it will look like a \$120,000 duplex. Mr. Armstrong seconded the motion.

Mr. Corten felt that Bash & Schrock met all the conditions except the width of the lot, which they do not have control over. He felt that Bash & Schrock have the right to build the duplex on this lot with the way it was laid out. He was impressed with the design and felt it would fit in with the neighborhood. Zoning Board of Appeals has no control over who buys the duplex. He stated that he was in favor of it.

Mr. Schoonover commented that he was not saying that the appearance of the duplex would be unattractive. He meant to say that Bash & Schrock could build a single-family home and meet all the requirements. He believed that there would be a bigger parking problem.

Roll call was taken and was as follows:

Mr. Corten	-	No	Ms. Merritt	-	Yes
Mr. Schoonover	-	Yes	Mr. Armstrong	-	Yes

The variance was denied by a vote of 3-1.

ZBA-01-MAJ-11; Request for a major variance to allow the increase in the required area for a freestanding sign from 50 square feet to 78 square feet at 1809 North Cunningham Avenue. (Bigfoot Gas Station).

Mr. Kowalski gave the staff presentation. He began with an introduction of the case and a brief background reviewing the description of the site and of the surrounding zoning and land uses. He discussed the design of the sign and Zoning Ordinance Section IX-3.2. He read the variance criteria from the staff report. Mr. Kowalski explained the options to the Zoning Board of Appeals. Lastly, he stated that staff recommended that the Zoning Board of Appeals recommend that the City Council grant the variance as requested.

Mr. Schoonover asked if nothing would be below the price sign at any time? Mr. Kowalski replied that was correct.

Mr. Corten asked Mr. Kowalski to repeat what he had said about the timing of the gas station being built and when they were annexed into the city. Mr. Kowalski responded that Bigfoot had the plans for their sign sent to city staff during the time of construction of the gas station. Mr. Corten asked when Bigfoot Gas Station was annexed into the city. Mr. Kowalski replied that the annexation took place about eight or nine months ago.

Mr. Corten inquired as to how far the Bigfoot sign would be from the other two gas station signs? Mr. Kowalski answered that the Speedway sign is south of the Bigfoot. There is a used car lot on the property between the Bigfoot Gas Station and the Speedway Gas Station. He also stated that the Freedom Gas Station is approximately two hundred feet to the east across Cunningham Avenue.

Mr. Corten questioned whether Bigfoot thought that had they been zoned in the county, and that the proposed sign would be acceptable as the signs are for the other two gas stations? Mr. Kowalski replied that was correct.

Jeff Marshall, owner of the firm, Design and Planning, approached the Zoning Board of Appeals. He clarified that the site was originally a Shell Gas Station located on two parcels. When the two properties were combined, part of the new property was in the county, and the other part was in the city limits.

Mr. Marshall further explained that Bigfoot has the opportunity to remove the price sign from the goal post sign. They could then put two more goal posts up with another sign with the price on

it. They would just end up with more posts and signs. They have placed the temporary sign in an appropriate place and kept it away from the corners. They have been very careful in regards to Bigfoot’s sight lines, their neighboring sight lines, and to traffic. By combining the two signs and placing them in one location, they make an improvement to the site and an improvement to the requirements of the sign. He did not feel that it would be good aesthetics to have two signs clutter the area. Mr. Corten asked if the public was better served. Mr. Marshall commented that he believed that the public was better served as well with Bigfoot only having one sign.

Mr. Armstrong moved to recommend approval to the Urbana City Council of the proposed variance as requested allowing an increase in the area of the freestanding sign from the required fifty square feet to seventy-eight square feet. Mr. Corten seconded the motion. The roll call was as follows:

Ms. Merritt	-	Yes	Mr. Schoonover	-	Yes
Mr. Armstrong	-	Yes	Mr. Corten	-	Yes

The motion was passed by unanimous vote.

ZBA-01-A-1; Appeal of a Zoning Administrator interpretation concerning off-street parking requirements at 904 West Green Street. (Hendrick’s House).

Tim Ross presented the staff report. He introduced the appeal and reviewed informational background including a description of the site. Mr. Ross presented and discussed relevant portions of Article X of the Zoning Ordinance containing regulations regarding Nonconformities. He summarized the staff findings, and noted the options of the Zoning Board of Appeals. Mr. Ross stated that the staff recommended that the Zoning Board of Appeals uphold the Zoning Administrator’s decision in this case.

Mr. Corten inquired as to who was paying for the reconstruction of the parking lot? Mr. Ross responded that the City of Urbana is paying, because it is a city project.

Mr. Schoonover asked whether this project was a continuation in part of the Boneyard Project in Champaign? Mr. Ross replied that was correct.

Jack Waaler, City Attorney of Urbana, approached the Zoning Board of Appeals. He began by stating his reasons for appealing the decision made by the Zoning Administrator. First of all, there are tremendous economic and financial consequences. This will set a precedent for future cases. Second, there may be unintended consequences to the decision of the Zoning Administrator, which he felt deserves full examination out in the open. Furthermore, he felt that it was likely to lead to a text amendment.

The City of Urbana had assured the Hendrick’s House that the parking lot would not have to be reconstructed to current standards. One reason for his appeal was to try to make sure that all parties concerned are in agreement with the decision.

Mr. Waaler commented that the opposite opinion would be that the text of the Zoning Ordinance does not address the situation, except only in the provision of relocating a sign. If the City takes a piece of property in which a nonconforming sign is located, then the owner of the sign can relocate without conforming to the new standards. The question before this Board is whether the logic of that provision can be stretched to cover situations where other nonconformities are affected by a taking.

Mr. Corten commented that it appears to him as if the level was being raised two or three feet. In re-concreting the parking lot, could the number of parking spaces be increased or does it have to be reconstructed the way it was before? Mr. Ross replied that to his understanding there was no way to allow for any more parking spaces. If the construction were to allow any more, it would be a maximum of a couple of spaces, where today's standards would require an additional eighteen spaces.

Mr. Corten inquired as to whether they were having trouble with too few parking spaces? Mr. Ross responded that he had not heard anything to indicate that. Mr. Corten questioned whether there was any need to consider redoing any planning. Ms. Merritt commented that was not the issue before the Zoning Board of Appeals. Mr. Waaler added that Mr. Corten's question in an indirect way raises unintended consequences. Mr. Corten commented that Mr. Waaler had involved the Zoning Board of Appeals in this case.

Ms. Merritt asked if adding a governmental body to the list in Section X-8 (Reconstruction of Nonconformities) would take care of the problem? Mr. Waaler replied that would indicate a reconstruction of new standards.

Mr. Schoonover motioned to uphold the decision of the Zoning Administrator. Mr. Armstrong seconded the motion. The roll call was as follows:

Mr. Schoonover	-	Yes	Mr. Armstrong	-	Yes
Mr. Corten	-	Yes	Ms. Merritt	-	Yes

The motion was passed by unanimous vote.

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

The meeting was adjourned at 9:30 p.m.

Respectfully submitted,

Rob Kowalski, Senior Planner
Urbana Zoning Board of Appeals