

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

DATE: December 17, 2003
TIME: 7:30 p.m.
PLACE: Urbana City Building
400 S. Vine Street
Urbana, IL 61801

APPROVED

MEMBERS PRESENT: Paul Armstrong, Herb Corten, Anna Merritt, Joe Schoonover, Charles Warmbrunn, Harvey Welch

MEMBERS ABSENT None

STAFF PRESENT: Elizabeth Tyler, Director of Community Development Services; Rob Kowalski, Planning Manager; Michaela Bell, Senior Planner; Paul Lindahl, Planner; Teri Andel, Secretary

OTHERS PRESENT: Matthew & Amy Ando, Sandra Batzli, Kathleen Brinkmann, Jan Bruckner, Gustavo & Gloria Caetano-Anolles, John R. Dickel, Marianne Fineberg, Frank & Barbara Gladney, Eric Hostetter, Charlie & Denni Hubert, Irene Metzger, Debra Lee Newell, Esther Patt, Jonathon Pines, Huseyin Sehitoghe, F. Bruce Shurts, Anne H. Silvis, Lisa Treul, Dianna Visek, Chris Wilcock

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

The meeting was called to order at 7:40 p.m. The roll call was taken, and a quorum was declared present.

2. CHANGES TO THE AGENDA

Rob Kowalski, Planning Manager, mentioned that staff had received case ZBA-03-C-05 for a Conditional Use Permit for 501 – 503 West Park Street. It was a request to allow more than one principal structure on the lot. It was scheduled for this meeting; however, the applicant had more work to do on the site plan before it could be presented to the Zoning Board of Appeals. Therefore, it was continued to the January, 2004 meeting. Staff would send out a new notice to residents within 250 feet of the proposed site.

3. APPROVAL OF MINUTES

With one correction noted by the Zoning Board of Appeals, Chair Merritt declared the minutes from the November 19, 2003 meeting accepted as corrected.

Chair Merritt stated that the City Attorney advised her to recuse herself from Case # ZBA-03-C-06 due to the fact that a corner of her property touched a corner of the property in question. Therefore, to eliminate all possibilities of conflict of interest, she would not participate in either the discussion or the vote.

She suggested that the Zoning Board take a short break to review all of the communications that they had received prior to the meeting regarding Case # ZBA-03-C-06. When they would reconvene, Paul Armstrong would be the Acting Chairperson.

Michaela Bell, Senior Planner, mentioned that staff had received a formal protest. To staff's knowledge the protest was complete. Therefore, it would require that 2/3 of the members of the Zoning Board of Appeals vote in favor of the application in order for the Conditional Use Permit to pass.

After a short recess, Chair Armstrong called the meeting back to order. He swore in members of the public who wanted to speak during the public hearing.

4. WRITTEN COMMUNICATIONS

- Letter from Gustavo & Gloria Caetano-Anolles
- Letter from Irene Metzger
- Letter from James Dalling
- Email from Elizabeth Cardman
- Email from Helene R. Dickel
- Letter from Dan Schiller
- Letter from Paul R. and Linda D. Ballard
- Letter from Craig and Abby Bethke
- Letter from Ararat Balakhanian
- Letter from Michael J. Seelinger
- Petition of Protest

5. CONTINUED PUBLIC HEARINGS

ZBA-03-C-05: A request by Peter Baksa and Ken Miller for a Conditional Use Permit to allow more than one principal structure on a single zoning lot at 501 – 503 West Park Street, located in the R-5, Medium High Density Multiple Family Residential Zoning District.

This case was continued to the next scheduled meeting to be held on Wednesday, January 21, 2004.

6. NEW PUBLIC HEARINGS

ZBA-03-C-06: A request by Gloria Caetano-Anolles for a Conditional Use Permit to allow an owner-occupied bed and breakfast accessory use at 714 West Michigan Avenue, located in the R-2, Single-Family Residential Zoning District.

Ms. Bell introduced this case by describing the purpose for the request. She talked about the petitioner's previous requests for a Conditional Use Permit; one of which had been denied and the other had been withdrawn. She pointed out that this request was an entirely new case. She noted that the petitioner also requested a Special Use Permit to be decided by the Plan Commission to allow off-site parking for their guests. She reviewed the Conditional Use Permit Criteria as it related to this case according to Section VII-2 of the Urbana Zoning Ordinance. She read the options of the Zoning Board of Appeals and presented the staff recommendation, which was as follows:

Based on the findings outlined in the written staff report, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommended that the Urbana Zoning Board of Appeals approve this case with the following conditions:

- 1. The accessory bed and breakfast use shall be limited to three bedrooms at 714 West Michigan Avenue.*
- 2. The house at 714 West Michigan Avenue shall meet the code requirements to conduct an owner-occupied bed and breakfast use by obtaining a Certificate of Occupancy from the City of Urbana Building Safety Division, including inspections to verify compliance.*
- 3. All parking activity associated with the bed and breakfast shall be located off-site. In addition to the Conditional Use Permit, a Special Use Permit must be granted to allow the off-site parking at 715 West Michigan Avenue. The petitioner shall provide one off-site parking space for each bed and breakfast room allowed. Off-site parking spaces in the Lincoln Green parking lot located at 715 West Michigan Avenue shall be provided in accordance with Article VIII, Parking and Access, of the Urbana Zoning Ordinance.*
- 4. The Conditional Use Permit shall expire in the event that the 714 West Michigan Avenue bed and breakfast guests cannot use the off-site parking lot located at 715 West Michigan Avenue. The owners of both 714 West Michigan Avenue and 715 West Michigan Avenue must continue to have an off-site parking contract for parking no less than three vehicles for bed and breakfast guests.*

Mr. Corten inquired as to what the purpose was for limiting the petitioner to three bedrooms on the second floor and attic? Ms. Bell replied that the purpose was to not allow the bed and breakfast use to dominate the single-family use of the home.

Mr. Corten asked what the conditions were under which the Special Use Permit would expire? Ms. Bell stated that the Special Use Permit would expire in the event that the bed and breakfast guests would not be able to use parking spaces at 715 West Michigan Avenue.

Mr. Warmbrunn questioned what the primary reason was for staff's recommendation for allowing an increase in the number of rooms to be used for the bed and breakfast since the previous request for two bedrooms had been denied? Ms. Bell replied that in the previous case, the request was to allow two registered parties. Mr. Warmbrunn understood that it had been mutually agreed upon that the term "client" meant one person, one family, or one couple. Ms. Bell stated that in the previous case, the request was one party to use two rooms. Mr. Corten clarified by saying that staff had eliminated the number of parties and said that only three rooms could be used for the bed and breakfast guests.

Mr. Armstrong asked about the submitted plans for the finished basement. He wanted to know if the bedrooms in the basement would be used by the owners? Ms. Bell replied that it was staff's interpretation that the basement would be used by the homeowners and not rented to any bed and breakfast guests.

Mr. Armstrong noticed that access to at least two of the bedrooms in the basement would be through another room. He wondered if the basement itself would meet the code and egress requirements? Elizabeth Tyler, Director of Community Development Services, stated that the petitioner would probably have to make modifications if they wanted to use any of the rooms in the basement as bedrooms. Ms. Bell added that in a Building Safety inspection, there would be certain egress requirements that the rooms in the basement would need to meet in order for the single-family residents to use the rooms as bedrooms. She believed that there would be additional requirements if the petitioner should ever want to rent those rooms out to bed and breakfast guests. In this case, the proposal did not include renting out any rooms in the basement.

Mr. Warmbrunn questioned if staff considered the basement as four bedrooms when they were trying to consider the percentage of use or whether the bed and breakfast would dominate the single-family use? Mr. Kowalski answered yes, but not in terms of the number of bedrooms that could be used for the bed and breakfast guests. It appeared that the number of bedrooms that the petitioner could rent for the bed and breakfast would still allow them two bedrooms upstairs, not counting the basement, to be used for the single-family residents. Certainly, the basement was livable space. Whether the basement could be used for bedrooms was not known at this time.

Gustavo and Gloria Caetano-Anolles, of 714 West Michigan Avenue, were the petitioners in this case. Mr. Caetano-Anolles stated that he wanted to try to convince the Zoning Board of Appeals that a bed and breakfast would be conducive to the public convenience, and it would not be unreasonably injurious or detrimental. It would preserve the essential character of the neighborhood and of the town. Ultimately, what these three elements imply were that a proposal needed to be beneficial. It would need to provide a service and be well regarded by the community.

He talked about what motivated him and his wife to open a bed and breakfast in their home. They believe very strongly that this would be something beneficial to the neighborhood and to the community. He went on to describe their family and their house. He noted that there was ample room in the house to entertain guests. He gave a brief history of the house and of its owners and renters.

Mr. Caetano-Anolles described the driveway and stated that the driveway had been operational since it was built many years before. He and his wife believed that it offered sufficient functionality. He noted that the neighbors at 712 West Michigan Avenue, who share the driveway with them, had built a new approach with a circular driveway in their front yard that adjoined to the shared driveway. He believed that this benefited the parking arrangement between the two neighbors. Since the parking arrangement in the shared driveway was such a concern for the neighbors at 712 West Michigan Avenue, Mr. Caetano-Anolles and his wife felt that the best possibility would be to seek off-site parking for the bed and breakfast guests. They felt that this would be a good way to show that they were concerned and did not want to put a burden on the neighborhood.

Mr. Caetano-Anolles stated that they were very grateful to the residents at the Lincoln Green Foundation for offering parking spaces for the bed and breakfast guests to use. He believed that this would basically solve the parking problem related to the shared driveway.

He said that in their experience with traveling, they had found that bed and breakfast businesses provide a memorable, unique experience. The unique element was that they had the chance to meet the owners, other guests, and experience the flavor of the town. After buying their home here in Urbana, they thought opening a bed and breakfast would be an ideal possibility.

The trend for bed and breakfast businesses had increased nationally. The reason was because they provide a very interesting venue for lodging. Many people seek that particular experience. Bed and breakfast businesses also provide an opportunity for homeowners. It allows the homeowners to raise kids while having this particular activity. The owners of a bed and breakfast would try their best to maintain the character of their property and of their neighborhood, because that would be part of the offer to the guests. Owners of bed and breakfast businesses are selling the character of the neighborhood. Therefore, someone wanting to operate a bed and breakfast basically wanted to maintain the character of his or her neighborhood and of the town.

Mr. Caetano-Anolles mentioned that a bed and breakfast was an opportunity to fill in a vacuum that generated the urban layout where businesses were pushed to the peripheral edges. It would help to get businesses back into the inner City to foster the initial character of the City. By bringing a healthy business into the city that would maintain the character and provide a good service, the proposed bed and breakfast would provide the possibility of doing that. The City of Urbana would also collect revenues from the motel tax from the bed and breakfast business that would be collected.

He talked about the things that a bed and breakfast was not. A bed and breakfast was not an element that would alter the value of properties surrounding it. This had been a concern raised

by the neighbors, so he and his wife consulted with realtors in the area and found that in no case had a bed and breakfast affected the value of the property or surrounding properties. On the contrary, a bed and breakfast should enhance and improve the neighborhood.

A bed and breakfast would not be injurious to the neighborhood in anyway. They would not have many clients. In some situations, they would have two or three guests at one time. Not all of their guests would have vehicles. In fact, they planned to offer pickup services at the airport to guests who use their bed and breakfast business. The bed and breakfast use would be sporadic. The nature of the guests would be particular as well. The guests would be business people or people visiting the University of Illinois. There would be more public persona with the activities at the University of Illinois being one block away from their property than with the two or three visitors that they may have.

He stated that they would not want to bring a commercial business into the neighborhood. The proposed bed and breakfast would be a home-based business. The Zoning Ordinance allows bed and breakfast businesses as a viable option. The proposed bed and breakfast would not promote new activities in the neighborhood.

Their motto would be "Comfort, Service, and a Memorable Experience". They would do their best to accomplish this. They would be cautious and request reservations in advance, so they would know the kind of people using the bed and breakfast. They would provide extensive information about the neighborhood, about the town, about the attractions in the area, directions to the bed and breakfast and where the guests should park. They planned to have a website offering all this information in detail. When the guests arrive, they planned to help carry the guest's luggage from their parking space across the street to their home.

Mr. Caetano-Anolles mentioned that they planned to provide incentives for people visiting patients in local hospitals, as well as people visiting the residents at Lincoln Green Foundation. Ultimately, they want to provide a memorable experience, so they would go out of their way to make their guests feel comfortable. He mentioned that they would do their best to blend the bed and breakfast into the neighborhood.

After their first proposal was denied, they came up with another proposal to accommodate the parking problems. They thought it could be done by extending their driveway, so they removed the shed on their property to provide additional parking spaces. After submitting the second application, they received comments from neighbors stating that they were not solving the parking problem. As a result, they withdrew the second application. They came up with the off-site parking spaces and believed that this proposal would solve the parking problems at 715 West Michigan Avenue.

In summary, he felt that a bed and breakfast would be beneficial. It would not be unreasonable injurious or detrimental in anyway. It was important to remember that a bed and breakfast business was a valid option and considered as a home-based business in the R-2, Single-Family Residential Zoning District. So, they were not asking for something that was extra-ordinary. Any home-based business was allowed to receive five visitors per day. This proposal would not

even need to have five visitors per day. He was even offering to transfer the luggage from the parking spaces to their home.

He explained that they requested four bedrooms rather than the original two bedrooms, because at first they were not aware of the complexity of the Conditional Use Permit process. They had only wanted to start small.

Mr. Corten inquired what the ages of his children were? Mr. Caetano-Anolles answered by saying that their son was 16 years old, and their daughter was 9 years old. Mr. Corten questioned whether the proposed bed and breakfast would create problems while raising their children? Mr. Caetano-Anolles replied no. He stated that his wife, Gloria, was a fantastic manager.

Mr. Corten inquired about how they planned to advertise? Mr. Caetano-Anolles mentioned that they were planning to list the bed and breakfast in the yellow pages of the telephone book, advertise on the web, and they even considered the possibility of advertising on billboards.

Mr. Corten mentioned that if this were approved, then they would be allowed to have one square foot sign. Mr. Caetano-Anolles did not feel that would be an element of advertising. They would use the sign to orient and indicate that there was a bed and breakfast at the location.

Mr. Corten inquired if the Caetano-Anolles' were prepared for their basement to flood, which is not uncommon in Urbana? Mr. Caetano-Anolles stated that they do not have a sump pump. However, the area that they live in was the highest point in town.

Mr. Schoonover asked if all the floors of the house would be handicap accessible? Mr. Welch answered by saying that the business would be too small. Ms. Bell added that the Building Safety Division said that the Caetano-Anolles' would not have to meet ADA accessibility requirements.

Ms. Caetano-Anolles commented that her and her husband never thought that their request to have a bed and breakfast in their home would create such a panic or hysteria in the neighborhood. They have prepared three different proposals, and all they heard were negative comments each time. She had heard many rumors that were not true, including one about drug suppliers coming down from Chicago to deal drugs and possibly needing a place to stay at their bed and breakfast. Her daughter was even being harassed at school over this request.

Originally they thought that they would only request one room, and if the bed and breakfast was successful, then they would come back in the future after their children had grown and request permission to use a second or third room to be used for the bed and breakfast. However, after experiencing the process to obtain a Conditional Use Permit and all the hysteria that their request had created, they decided to request the maximum number of bedrooms for the bed and breakfast use. It was very likely that they would ever use all four bedrooms at the same time for the bed and breakfast business.

Ms. Caetano-Anolles expressed how important the bed and breakfast was to them. She stated that if the Zoning Board of Appeals did not grant the Conditional Use Permit, then they would be

back with another proposal next month. They really wanted to be able to have a bed and breakfast business in their home.

She stated that they did not think it was fair to place conditions on the proposed bed and breakfast business. The other bed and breakfast did not have conditions placed on the granting of their Conditional Use Permit. They were also concerned with the staff recommendation that the Conditional Use Permit would expire if the contract between Lincoln Green Foundation and themselves no longer existed. They did not want to impose any burden on the Lincoln Green Foundation to feel that they have to provide parking spaces for their bed and breakfast. If in the future, Lincoln Green Foundation wanted to use the parking lot for something else, she did not want the residents to feel guilty about canceling the contract. She would like to have the possibility to rent another lot in the neighborhood. Therefore, she would like it to read that the petitioners would have to provide three off-site parking spaces within 600 feet like the City Ordinance required.

Bruce Shurts, of 507 West Green Street, noted that he used to live at 710 West Oregon. He and his ex-wife pioneered the idea of having a bed and breakfast business in the City of Urbana by opening the first one. He mentioned that they went through much of the same hysteria, as the Caetano-Anolles' were currently experiencing.

He stated that bed and breakfasts were the least intrusive businesses in the City of Urbana. Six months after they had opened and had many guests stay at their bed and breakfast, a neighbor, who had objected to the idea, had approached him and asked him if they had ever had a guest yet. A bed and breakfast business was not any different than friends coming to visit for a weekend or a week. The neighbors would also object and say that a bed and breakfast would run the property values down in the neighborhood. This was not true either.

He commented that he and his ex-wife had hosted the West German Ambassador of the United Nations, the owner of the biggest shoe company in America, and many other people. No one knew that except for him and his wife. When Jumer's overbooked, they would call him up and ask if he could spare some rooms.

Mr. Corten questioned if he and his ex-wife opened and operated a bed and breakfast on a financial need basis? Mr. Shurts replied that it was something that they wanted to do. It started out very slowly, and became fairly good as far as the money. However, that was not what they got into the business for. The beauty of the bed and breakfast business was the people that you meet.

Dianna Visek, of 608 West Pennsylvania Avenue, pointed out that at the hearing related to the first bed and breakfast proposal submitted by the Caetano-Anolles Family, the major objection centered on issues of parking. The next-door neighbors, the Andos, were concerned about difficulties with opening car doors in the shared driveway and about strangers not understanding considerate ways to park in a shared driveway. Other neighbors were concerned about cars parking on the street. With the current proposals and recent events, all these issues have been resolved. The petitioners have negotiated an agreement with the owners of the Lincoln Green Foundation to allow the guests of the bed and breakfast to use four parking spaces in the parking

lot at 715 West Michigan Avenue. The Lincoln Green Foundation had a large parking lot across the street that was underused.

The Foundation was interested in having a bed and breakfast close by to accommodate their guests. In fact, they were hoping that the bed and breakfast would be open in October 2003 to house some important visitors that they were expecting. Ms. Visek believed that many of the residents in the neighborhood would benefit from having pleasant, nearby lodging for overflow guests.

The proposed bed and breakfast would be genteel, upscale and well supervised. She could not imagine any guest causing trouble. The comings and goings of the guests would be much less than those associated with someone giving piano lessons, which were considered to be a perfectly acceptable use in this neighborhood. Such an owner-occupied bed and breakfast would fit the neighborhood well and would enhance the appeal of the neighborhood as well. She urged the Zoning Board of Appeals to grant the Conditional Use Permit without any of the additional conditions.

Mr. Corten asked staff if Condition # 4 was something that was required or did staff propose it? Ms. Bell explained that it was part of the proposal that off-site parking would be provided within 600 feet, which would require a Special Use Permit.

Mr. Corten questioned if the Special Use Permit must be intact or the approval of the Conditional Use Permit would be reversed? Mr. Kowalski replied that the rule in the Zoning Ordinance said that there could be off-site parking within 600 feet from the site. In most cases, City staff typically required some kind of proof to show that the parking had been accommodated. One of the changes that the Zoning Board of Appeals may want to consider could be changing the wording of Condition 4 by adding "or an equivalent site" at the end. This way if the contract between the petitioners and the owners of the Lincoln Green Foundation expired, then the petitioners would be able to negotiate off-site parking at a similar location within 600 feet without losing the Special Use Permit.

Charlie Hubert, owner of the Hubert House Bed and Breakfast at 710 West Oregon Street, noted that he was in favor of the bed and breakfast proposal. The Caetano-Anolles' were fine people. He also had heard rumors of bed and breakfasts harboring drug addicts. He stated that he and his wife do not harbor drug addicts in their bed and breakfast.

Regarding bed and breakfast businesses lowering the value of surrounding properties. He stated that this was not true. They maintain their bed and breakfast as well as anyone else in the neighborhood. That was what attracts people to a bed and breakfast. Guests want to come to a beautiful old home.

As far as there not being a need for another bed and breakfast, he remarked that they turn away people during special occasions such as Mother's Day, Father's Day, Graduation, etc. Guests end up staying in Tuscola and Danville. Most of these guests are the parents of students attending the University of Illinois.

Concerning the parking problems, he believed that there were not any problems with parking for his guests. The 800 Block west of Busey Avenue and the four churches along Lincoln Avenue were the ones that created all the parking problems in the neighborhood. The guests of his bed and breakfast and his family do not add to the parking issues that already exist in the neighborhood.

They had heard that 80 percent of bed and breakfast businesses go out of business. Their bed and breakfast had been in business for several years. Many of their neighbors use the bed and breakfast for friends or relatives who come to visit.

Another rumor was that bed and breakfast businesses pay five percent hotel-motel tax. This was not true. They pay eleven percent. So, the extra tax revenue would help the City of Urbana.

He felt that the proposed bed and breakfast at 714 West Michigan Avenue would be an asset. It would help the West Urbana Neighborhood, the University of Illinois, the petitioners and the wonderful guests that would enjoy staying in the quiet, beautiful neighborhood of West Urbana.

Mayor Satterthwaite resided in a home across the street. The Mayor told them that their guests never bothered him. There were guests on both sides of their home that told them that their guests never bothered them either. The neighbors who were bothersome were the slum landlords that rent out to students that have parties and loud music playing all night long.

Dennie Shurts-Hubert, co-owner of the Hubert House Bed and Breakfast at 710 West Oregon Street, was approached by Gustavo & Gloria Caetano-Anolles to speak on behalf of bed and breakfast businesses. Bed and breakfasts are big buck investment as far as restoration and renovation of the older homes.

She talked about how large her family was. She stated that it was hard to tell whether it was a guest staying at the bed and breakfast or one of her family members. The only difference was that her guests brought in an eleven percent hotel-motel tax, which was the highest tax base of any place in Champaign County. People may think that eleven percent tax of an occasional guest may not add up to very much. However, they keep a list of little menus from local restaurants and refer their guests to dine in Urbana as well.

The Caetano-Anolles' were about to find out that they would be meeting people from all over the world. Even local people use the bed and breakfast to kidnap their spouses from the rest of the world for a weekend.

If it were true that property values would go down when a bed and breakfast opens up in a neighborhood, then why did her taxes go way up on her home? She was sorry that the Caetano-Anolles' had to go through what they went through when pursuing a Conditional Use Permit to open their bed and breakfast. She mentioned some of the harassment that Ms. Caetano-Anolles and her daughter had experienced.

Ms. Shurts-Hubert believed that the revenue from a bed and breakfast could be tremendous. She believed that bed and breakfast businesses were the light at the end of the tunnel for restoration

and renovation of older homes. The bed and breakfast would not be intrusive. The guests were quiet, wonderful people.

Chair Armstrong requested a five-minute break. After the meeting was resumed, Chair Armstrong set some guidelines as they continued the proceedings. He noted that the Zoning Board of Appeals was aware that this case was very controversial and had stirred many opinions both for and against the proposal. However, it was not in the domain of the Zoning Board of Appeals to make any decisions or recommendations based on hearsay testimony or things that occur between or among the neighbors in the neighborhood that really do not bear directly on the issue of the Conditional Use Permit.

Jonathon Pines, of 403 West Michigan Avenue, addressed some specific points of relevance. First of all, Mr. Corten had mentioned the possibility of the basement flooding. Mr. Pines mentioned that he knew the Caetano-Anolles' basement had flooded three times in the last fifteen years to the height of three or four feet. The rooms in the basement are not of legal size for occupancy. Many are smaller than 6 feet by 9 feet or do they have the appropriate egress windows for exiting. When getting into technical matters of meeting code, there are issues with electrical, asbestos, etc.

It seemed to him that the relevant issues for this hearing were whether a bed and breakfast would be a fair use for the property, whether it would be an appropriate use for the property, and the parking issue. The parking issue was fairly muddled right now. Was it an appropriate use for the property? This would not be easy to determine; however, it was fairly easy to determine that perhaps it was not the best house to open a bed and breakfast in. He stated that the house did not meet code. In addition, no one had even made an attempt to address the issue of whether it was handicap accessible.

Mr. Pines mentioned that the Lindley House was occupied about fifty percent of the time, and the Hubert House, perhaps, was occupied less than that. Everyone knows that the only times that guests use the bed and breakfasts are during football games, Mother's Day, etc. There was not a continuing use of the bed and breakfasts. However, there would be difficulties with people not being familiar with the neighborhood, how to park, and where to park. No one would want to have to walk 250 feet from their parking space with their luggage. Guests would want to be able to drop their luggage off. All of these things become issues that would affect the neighbors. This was an issue that the Zoning Board of Appeals should consider strongly.

John Dickel, of 1005 South Busey Avenue, did not feel that any business would be appropriate in a residential neighborhood. This would also include people in a residence renting out parking spaces to people who are not residents. A residential area should stay residential. Several people had mentioned the tax revenue that would be brought to the City of Urbana. Many of the residents of West Urbana live there because they want to stay a residential neighborhood and were willing to pay the taxes to keep it that way.

Mr. Welch questioned if Mr. Dickel was against home daycare? Mr. Dickel replied that he was against it.

Matthew and Amy Ando, of 712 West Michigan Avenue, approached the Zoning Board of Appeals. They mentioned that they were the neighbors who shared a driveway with the petitioners. Mr. Ando stated that the question was whether a bed and breakfast would be appropriate for this location. The Zoning Ordinance specifically stated that a Conditional Use was one which was deemed potentially appropriate, but which requires individual consideration and regulation. It also stated that the Zoning Board of Appeals should determine whether the proposed use would not be injurious or detrimental to the public welfare. In this case, he and his wife believed that the standards set forth in the Zoning Ordinance had not been met.

Mr. Ando pointed out some important facts that were not available in the application submitted by the petitioners or in the City staff report. The first fact was that the distance from the parking lot at 715 West Michigan Avenue to the proposed bed and breakfast at 714 West Michigan Avenue was 240 feet along the sidewalk. Furthermore, there was no parking allowed on the north side of Michigan Avenue, where 714 West Michigan Avenue was located. On-street parking on the south side of the street often fills up quickly.

He mentioned that the concerns that he and his wife raised about the second proposal, which was withdrawn, was not about whether car doors banging against their car or towards their property. It was that the previous proposal involved in an essential way the use of their property for commercial purposes, for which a license had neither been sought nor granted. He showed a picture that represented where the property line was located in a survey. The photo also showed that even the Caetano-Anolles', who were aware of the property line and were supposedly attentive to his family's concerns, naturally park on his property and block his family from existing the driveway. It would be unsafe for them to get out of their driveway and onto the street when a vehicle was parked in the driveway in this manner.

As a result of the Caetano-Anolles' parking in the mouth of the driveway, he and his wife built a new driveway across their front lawn. The new driveway allows him to get past the Caetano-Anolles' vehicle, when they park on their property at the very front of the driveway. However, if anyone parked where it was shown in the picture that the Caetano-Anolles' had parked, it would still be impossible for him or his wife to get back towards their garage.

In addition, it was correct that there was no recorded easement. Under this circumstance, the owners of 714 West Michigan Avenue may have the right to drive over his property to get to their garage, but the right did not extend to commercial use.

He did not believe that guests would be willing to walk from 240 feet away along the sidewalk with their children and carrying their luggage to the proposed bed and breakfast. What would happen would be that the guests would pull into the driveway to unload luggage and passengers and at their convenience move their vehicles over to the parking lot. Guests would drive and park on his property, and they do not have the right to do that. Moreover, the driveway was not safe to be used as a loading and unloading zone. Transient visitors weary from travel would not be in a position to be attentive to the presence of children using the driveway.

The condition in the staff's recommendation that bed and breakfast parking occur at 715 West Michigan Avenue, while the common driveway be reserved for private use, was essential to

preserve the safety of his family and their property rights. Unfortunately, it would not be enforceable. A condition would only be meaningful if violation could be detected and lead to a loss of the permit. Who was going to enforce it? His family did not have the means, and he did not believe that the City had the resources as well. His family could certainly identify that a car had parked in the shared driveway; however, they would have no conceivable way of proving that the car parked in the driveway belonged to a bed and breakfast guest rather than a private visitor. It may be possible that the City meant that the applicant would enforce the condition. He did not see it happening. The petitioners had three months to prove that they would enforce the condition themselves. Instead, for the last three months, the petitioners had been parking at the very mouth of the driveway denying his family safe passage between the street and their driveway. As other neighbors could attest, his family had been parking on the street, which had been hazardous for his two small children and for him and his wife. He and his wife upon occasion had asked the petitioners to move their vehicle, and they refused.

Mr. Ando talked about what he believed to be the reason why the police had been called out to the petitioner's home. While the police were there, they had asked Ms. Caetano-Anolles to move her vehicle, and she told the police that she would comply. Nevertheless, the petitioners still parked their vehicle at the mouth of the driveway. If the police could not get the petitioners to do the obvious, sensible thing, then he did not see any evidence that anyone could enforce the condition that the City proposed to place on parking on this property.

Jan Bruckner, of 302 West Michigan Avenue, did not understand how it would be in the City's interest to allow a commercial establishment to be put on one of its prime residential streets. It had been argued that three additional hotel rooms would greatly benefit the City of Urbana in being able to provide accommodations to outsiders. However, he felt that three rooms would be a drop in the bucket.

Regarding the injurious affect on the neighborhood, there was debate on whether or not it would exist. The many letters and testimony from people in opposition was evidence of injury on the residents in the neighborhood.

Chris Wilcock, of 710 West Michigan Avenue, objected to the proposed bed and breakfast at 714 West Michigan Avenue for the following reasons:

- 1) The application submitted by the petitioners and the City's staff report with conditions were flawed in that the Urbana Zoning Ordinance concerning the accessory use as an owner-occupied conditional bed and breakfast stated that the accessory use must be less than fifty percent of the use of the home. Unfortunately, the Urbana Zoning Ordinance was not very clear on how that fifty percent was measured. However, the American Planning Association's (APA) recommended ordinance excludes the common areas and only counts the bedroom areas. The petitioners had proposed that they have nine bedrooms. It was fairly clear that was not the case, because the basement rooms did not meet the standard to be advertised as bedrooms if the property were to be sold. None of the basement rooms have closets, and they are all below grade. Therefore, the basement could not be considered in the fifty percent. Without the basement rooms and the common areas being considered in the fifty percent, it would only leave two bedrooms for the petitioners' personal use. As a result, the bed and breakfast would take up

more than fifty percent of the use of the home. Therefore, it did not meet the City's standard and should not be approved.

2) The parking issue had already been described. The parking lot was not only across the street when walking to 714 West Michigan Avenue. It was around the corner and halfway down Busey Avenue to Pennsylvania Avenue. The parking lot was on the very southwest edge of the Lincoln Green Foundation property. Most of the sidewalk along Busey Avenue to the north end was 92 years old. There were no curb cuts going north on Busey Avenue, because it would have torn out the historic landmark where it says, "Blair's Addition, Platted 1911". Any guests carrying luggage would have to haul it down a rather bumpy and not in terribly good shape sidewalk, down over a curb, across the brick street, and along Michigan Avenue to two doors down to the bed and breakfast. It would not happen. Guests would not do that. There would be no enforcement of the condition that staff had recommended. The only remedy that the Andos would have would be to go to court to try to preserve their property rights.

3) There was a misconception about what the neighborhood was. In the August 20, 2003 meeting of the Zoning Board of Appeals, which was when the original proposal came before this board, City staff described the neighborhood as being "transitional". There were two possible definitions of "transitional". One was that the neighborhood was a transition from the campus on the west side of Lincoln Avenue to the West Urbana Residential Area. He did not believe that this was the reason. The other possible meaning was because somehow the land uses were changing in the neighborhood. He mentioned that the last time any property in the neighborhood had changed land use was when the Twin City Bible Church was built in 1964. He believed that this was the definition of a very stable neighborhood rather than a transitional neighborhood.

4) He researched property values in the area surrounding 710 West Oregon Street, which was the only other owner-occupied bed and breakfast in the City of Urbana, and the property at 714 West Michigan Avenue. He noted that a bed and breakfast would not reduce property values in the City of Urbana. West Urbana's property values had been increasing at a very good rate for the last ten years. His researched showed that over the last ten years, assessed property values on the properties surrounding 714 West Michigan Avenue have increased at a faster rate than property values around 710 West Oregon Street. He agreed that the Shurts House was the anchor of their block in that they have the very highest property value on the whole block, and the home was possibly the very best kept on the block. This demonstrated that the two blocks were not the same. There were many rental properties on Oregon Street close to the Shurts House, and there was only one rental property on Michigan Avenue near 714 West Michigan Avenue. That one rental property owner has not maintained the property well and allowed the house to become dilapidated. The rest of the property owners in the neighborhood spend a lot of money maintaining and improving their properties. As a result, these same people end up paying more taxes, which generates more tax dollars for the City of Urbana. Patrick Roberge had a potential buyer for his home back out of the purchase when the potential buyers heard about the proposed bed and breakfast. When home owners allow their properties to dilapidate and potential buyers are scared off by a bed and breakfast in the area, it makes it easier for rental property owners to buy more property and build more rentals, which in effect causes lower property values and less tax revenue for the City of Urbana.

Anne Silvis, of 710 West Pennsylvania, noted that her property was within 250 feet of the proposed bed and breakfast. She had three points that she wanted to make.

The first point was that the petitioners' claimed to have an ample driveway. She mentioned that she walked past the proposed property every morning on her way to work. She had seen the petitioners' vehicle parked near the entrance in the middle of the shared driveway every day. As a result, the Andos were unable to get their vehicle in or out of their driveway. She did not know for sure what the definition was for an ample driveway, but it certainly did not seem to be accommodating the uses that the two neighbors have there currently.

The second point was that she did not have any disagreements with the benefits of having a bed and breakfast. She felt that the Hubert House Bed and Breakfast served the community well. She felt this way only when it did not infringe upon the neighbors, especially the immediate neighbors. The appropriate place for a bed and breakfast would be along Green Street in the MOR, Mixed Office-Residential Zoning District.

Finally, she did not dispute the petitioners' claim that the parking lot at 715 West Michigan Avenue was interesting. The notice she received stated that the parking lot was enclosed. She noted that they must mean the fence that she owns. She remarked that she did not have any agreement to maintain the fence.

Mr. Corten inquired what "enclosure" meant to Ms. Silvis? Ms. Silvis stated that she was not sure, but the lot was not enclosed in any way other than her fence that she did not intend to maintain.

Irene Metzger, of 708 West Michigan Avenue, responded to a comment about how the neighbors would always object to changes, and then they settle in and everything would be fine. She mentioned that she carried a petition around, and if the feeling of the neighbors did not mean anything, then why was she given permission to carry a petition around? The feeling of opposition was really high in the neighborhood. Chair Armstrong replied that the issue of the petition compelled the Zoning Board of Appeals to have a super majority of the members in favor of the proposal in order to grant the Conditional Use Permit. He assured her that the wishes of the neighbors were always taken into consideration in each case.

Frank Gladney, of 709 West Michigan Avenue, commented that the City of Urbana had always been very supportive of the West Urbana Neighborhood. Allowing the proposed commercialization in the neighborhood would show that the City would be working at cross-purposes with itself.

He believed that the main issue was not the parking, but the landing and negotiating a stay at the proposed bed and breakfast. We heard the petitioners' claim that they would drive to the airport and pickup guests. They would also make it clear to the guests who drive into town of where to park. He noticed the police had arrived at the Caetano-Anolles'. Now, if the police could not enforce parking in the shared driveway, then who would?

Barbara Gladney, of 709 West Michigan Avenue, remarked that she could not believe that the Andos went around calling the neighbors names.

Lisa Treul, of 714 West Iowa Street, mentioned that all the points had been made both pro and con for the bed and breakfast. She stated that she believed in the democratic process and that the citizen voice did matter and did make a difference. The Zoning Board of Appeals had heard some passionate testimony, and she hoped that the Board would listen to the neighbors, who would be most impacted by the bed and breakfast.

She commented that it was not a matter of income producing means. The petitioners could rent to three unrelated boarders by right without a Conditional Use Permit.

Deb Newell, of 704 West Michigan Avenue, talked about the climate of the neighborhood. She had lived in the area since about 1980. There was a block party every summer. Had the petitioners come to the neighbors from the very beginning, she believed that they would all have been in a different place at that moment. The petitioners never even approached the Andos, with whom they share a driveway. The petitioners reported to have neighborly feelings with the residents in the neighborhood, but they did not seek to meet the neighbors and to get to know the neighborhood before proceeding with the process. She believed that the petitioners came in with this idea and would try to ram it down everyone's throat by continuing to bring the proposal back regardless of how the neighbor's feel. She stated that having lived in the neighborhood, she could not believe any of the slander that was reported to have happened in the neighborhood.

Kathleen Brinkman, of 702 West Michigan Avenue, stated that she talked to Mr. Roberge, of 705 West Michigan Avenue, about his experience of selling his home. As a homeowner, she agreed that this would be a less desirable thing for her. In the future, if she should decide to sell her home, a bed and breakfast nearby might be detrimental to her receiving a strong purchase price.

She mentioned that she worked at the University of Illinois with companies and recruiters. Never once of all the companies and recruiters that she had worked with had anyone requested to stay in a bed and breakfast. Usually, visitors' first choice was to stay at the Illini Union.

She added that she also had noticed the petitioners blocking the shared driveway. The previous residents never had been an issue with sharing access. If the Conditional Use Permit were granted for a bed and breakfast and with the other issues based on the behavior of the petitioners, then she would not be hopeful of the outcome with additional conflicts. This would affect the fabric of the neighborhood.

Marianne Fineberg, of 408 East Oakbrook Circle, mentioned that she used to live at 712 West Michigan Avenue for 19 years. She recently moved to her current address. She talked about the history of sharing the driveway with the Hobson Family, who used to live at 714 West Michigan Avenue. She pointed out that for the majority of the time, both families only had one car. When each family purchased a second vehicle each, it was still doable. However, a third car for either family did not work.

Even though the entire issue was not parking in the shared driveway, there would be people who park there, who are temporary visitors. There were always little inconveniences, but because there was good communication between the two households, they worked it out. The Hobsons had seven children, but they knew where they could park. They knew not to block her family in.

She had driven by a few times in the last few months and had seen the petitioners' vehicle parked at the end of the driveway. She felt it showed a lack of neighborliness.

She stated that both of the houses at 712 and 714 West Michigan Avenue sold to the current owners for a lot of money. It was a very valuable neighborhood. The amount of money that had been spent on this issue just on staff hours alone was more than the City would get from five years worth of hotel-motel tax from the proposed bed and breakfast.

Sandra Batzli, of 711 West Indiana Avenue, pointed out that there were always people walking up and down the street. It was already very dangerous for people to back out of their driveways. She mentioned a couple of incidents that had happened where drivers almost hit and actually hit people crossing driveway accesses on the sidewalks in the neighborhood. She could not imagine travelers parking in the driveway and zipping out without looking.

Mr. Caetano-Anolles re-approached the Zoning Board of Appeals to respond to some of the comments that had been made. Mr. Ando had mentioned the survey that Mr. Caetano-Anolles and his wife had hired to be done. They do not agree with the property line that the Andos presented in their testimony. He stated that the surveyor had not even released the results to him as of yet.

He also clarified the issue with the basement. He mentioned that they had a lot of remodeling done to the inside of the house. The basement was already very nice when they bought the house, and it was very dry or else they would not have considered it to be living space.

Mr. Caetano-Anolles stated that they had called the police. The reason for calling the police did not have anything to do with the driveway and whether a car was parked there. He explained that they have been parking at the end of their driveway because they have had contractors remodeling their home. They were afraid that ladders and other construction material would damage their vehicle.

Mr. Warmbrunn said that the Zoning Board of Appeals had heard testimony about the basement, the rooms, and the number of guests. Did they want the motion to include the number of rooms and/or guests/clients? Did City staff still have the opinion that four bedrooms would be too much and three would be the maximum that would be allowable? Mr. Kowalski replied that it was City staff's recommendation that three rooms would be the maximum allowable. The issue of whether the bed and breakfast would dominate the single-family principal use was a qualitative one. The Zoning Ordinance did not give a quantifiable way to formulate that. The fifty percent rule that was mentioned was based on an accessory building and not a use. City staff typically used the fifty percent rule to determine whether a garage was too big. City staff had a lot of discussion about the issue of what dominates in this case. It was City staff's recommendation that three rooms would be most appropriate and would not dominate the single-

family use based on the activity that the bed and breakfast would generate, the general size of the home, and the general size of the living area available in the home.

Mr. Warmbrunn asked if it would be up to the petitioners to decide which three rooms they would use for the bed and breakfast guests? Mr. Kowalski stated that it was not part of the recommendation to specify which rooms could be used. He said that if the petitioners proposed to use the basement for bedrooms, they would need to get a Certificate of Occupancy with the City. City inspectors have not inspected the basement, so we do not have a written report from the Building Safety Division saying that certain things needed to be done. It was included as one of the conditions in staff's recommendation. The basement could be used as living area; however, if rooms in the basement were proposed to be used as bedrooms, then they would need to meet the building codes including having egress windows of a certain size. Mr. Corten asked if City staff had discussed this with the petitioners, so that they were aware of having to meet building codes? Mr. Kowalski said absolutely.

Mr. Warmbrunn asked for clarification as to whether it mattered or not that the petitioners had drawn up plans for four bedrooms in the basement? Mr. Kowalski remarked that staff looked at it in terms of the overall available living space of the house itself, including the bedrooms, the basement, and the first, second, and third floors. It was a judgment call. It was not something that staff could plug into a formula.

Mr. Warmbrunn wanted to know if the petitioners would have to obtain another Special Use Permit, if their contract with 715 West Michigan Avenue expired, if the Zoning Board of Appeals added language to Condition 4, so that it would read as follows: *The condition use permit shall expire in the event that the 714 West Michigan bed and breakfast guests cannot use the off-site parking lot located at 715 West Michigan or an equivalent site.* Mr. Kowalski replied by saying that although they would not need to apply for a new Conditional Use Permit, the petitioners would need to apply for another Special Use Permit.

Mr. Corten moved that the Zoning Board of Appeals grant the conditional use permit in Case # ZBA-03-C-06 including the four conditions recommended by City staff with the addition of "or an equivalent site" as mentioned above. Mr. Warmbrunn seconded the motion.

Roll call was as follows:

Mr. Armstrong	-	Yes	Mr. Corten	-	Yes
Mr. Schoonover	-	No	Mr. Warmbrunn	-	Yes
Mr. Welch	-	Yes			

The motion was passed with a super majority vote of 4 ayes to 1 nay.

7. OLD BUSINESS

There was none.

8. NEW BUSINESS

There was none.

9. AUDIENCE PARTICIPATION

There was none.

10. STAFF REPORT

Ms. Bell reported on the following:

- ✓ *El Toro Case* requesting a major variance was granted by the City Council.

Mr. Kowalski reported on the following:

- ✓ *Introduction of Paul Lindahl* – He introduced Mr. Lindahl as being the newest Planner of the Planning Division staff.

11. STUDY SESSION

There was none.

12. ADJOURNMENT OF MEETING

The meeting was adjourned at 10:37 p.m.

Respectfully submitted,

Michaela Bell, Senior Planner
Urbana Zoning Board of Appeals