

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

DATE: April 28, 2004

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, Charles Warmbrunn, Harvey Welch

MEMBERS ABSENT None

STAFF PRESENT: Michaela Oktay, Senior Planner; Paul Lindahl, Planner; Teri Andel, Secretary

OTHERS PRESENT: Jim Burch, Mark Dixon, Randy Meyer, Jack and Terri Smart, Kenji Wada

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

The meeting was called 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

Mr. Corten moved to approve the minutes from the February 18, 2004 meeting. Mr. Armstrong seconded the motion. The minutes were approved by unanimous voice vote.

Chair Merritt swore in members of the public who wished to speak during the public hearings.

4. WRITTEN COMMUNICATIONS

- Email Regarding the APA Illinois Section Planning Commissioners' Workshop

5. NEW PUBLIC HEARINGS

ZBA-04-MAJ-01: Request to reduce the rear yard setback from 10' to 5' at 1701 South Philo Road, in Urbana's B-3, General Business Zoning District.

ZBA-04-MAJ-02: Request to reduce the side yard setback from 10' to 5' at 1701 South Philo Road, in Urbana's B-3, General Business Zoning District.

Michaela Oktay, Senior Planner, presented these cases to the Zoning Board of Appeals. She began with an explanation for the proposed variance requests. She gave a brief description and history of the site. She reviewed the variance criteria according to Section XI-3 of the Urbana Zoning Ordinance as it pertained to these cases. She read the options of the Zoning Board of Appeals regarding ZBA-04-MAJ-01 and stated that staff's recommendation 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 recommend approval of the variance to the Urbana City Council for Case #ZBA-04-MAJ-01 with the following condition:

- 1. The development on the site must generally conform to the site plan submitted with the application.*

Ms. Oktay read the options of the Zoning Board of Appeals regarding ZBA-04-MAJ-02 and stated that staff's recommendation 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 recommend approval of the variance to the Urbana City Council for Case #ZBA-04-MAJ-02 with the following condition:

- 1. The development on the site must generally conform to the site plan submitted with the application.*

Mr. Corten inquired if the petitioner would be removing the existing underground gas tanks and replace them? Randy Meyer, of Pride Oil LLC, answered by saying that although there was not anything wrong with the existing tanks, they would be removing them and replacing them with new ones, because the existing tanks were in the wrong location for what they have planned to do on this site.

Mr. Schoonover asked if the petitioner was planning on changing something in construction, so that they would not be generally conforming to the Site Plan? Mr. Meyer commented that the Site Plan was the general configuration of the site that they would end up with. They like a rear lot building and a dive-in type gasoline configuration as shown on the Site Plan.

Ms. Merritt questioned if the Zoning Board of Appeals were to approve both variance requests with the conditions recommended by staff that the development on the site generally conform to the Site Plan submitted with the application, then it would not affect the construction. Mr. Meyer stated that he could not say if the building size would remain the same as proposed or that the distance between the dispensers would be as proposed. However, their final product would look like the Site Plan. Ms. Oktay added that the petitioner would still have to comply with all of the zoning regulations.

Mr. Welch inquired if the gas station would be part of a franchise store? Mr. Meyer replied that they owned about 17 other gas stations, and they are branded BP Gasoline and Marathon Gasoline. They call it Mac 1.

Mr. Welch asked if the petitioner would have to conform to certain corporate standards regarding the size of the store, etc.? Mr. Meyer replied absolutely. This site would likely be branded "Marathon". Marathon had some very rigid rules that they would have to follow.

Mr. Welch questioned if the gas station would be open 24 hours a day? Mr. Meyer responded by saying that most of their gas station stores are open 24 hours a day. The proposed store would start out being opened for 24 hours a day, and he suspected that it would remain open 24 hours a day in the future.

Mr. Welch inquired if there were any landscape plans included in the proposal? Mr. Meyer noted that they were planning to landscape the site. They did not include the landscaping detail on the Site Plan. However, when they submit the final Site Plan to the City for the permitting process, it would include all of the landscaping. Mr. Welch expressed concern for the neighbors to the north with the gas store being opened 24 hours a day. Mr. Meyer pointed out that they were aware of being located in a residential area, and they take their responsibility seriously. Their neighbors are also their customers. They plan to point the lights toward the site and not towards the residences to the north.

Ms. Merritt asked if signage would be discussed at a later point? Mr. Meyer noted that they were not asking for any variance on the signage.

Mr. Armstrong noticed that the petitioner would be allowing 46 feet from the access point to the north to the edge of the parking. There was really only about five feet difference between the existing setback line and the proposed setback. Since the site was adjoining to other commercial sites, he did not see a big impact to the neighbors in regards to the setbacks. How much space was required for the access from the north onto the site? Mr. Meyer mentioned that the extra five-foot setback would give the customers a better opportunity to get off the street and onto their property easier. It would be easier for them to slow their vehicle down and control where they were going.

Mr. Warmbrunn asked if it was safe to assume that the only entrance to the building would be on the east side of the building? Mr. Meyer explained that there would a customer entrance on the east side and an emergency exit only on the west side.

Mr. Warmbrunn inquired if there would be a spot for the garbage dumpster? Mr. Meyer said that although there was not one shown on the Site Plan, they would locate a spot for the garbage/trash dumpster, and it would be concealed.

Mr. Corten inquired if the petitioner would need to come back to the City with a detailed Site Plan? Mr. Meyer commented that they would do whatever they needed to do in order to obtain building permits for the project.

Mr. Corten moved that the Zoning Board of Appeals recommend approval of Case #ZBA-04-MAJ-01 along with the condition recommended by staff to the Urbana City Council. Mr. Armstrong seconded the motion. Roll call was as follows:

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

The motion was passed by unanimous vote.

Mr. Armstrong moved that the Zoning Board of Appeals recommend approval of Case #ZBA-04-MAJ-02 along with the condition recommended by staff to the Urbana City Council. Mr. Welch seconded the motion. Roll call was as follows:

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

The motion was passed by unanimous vote.

ZBA-04-MAJ-03: Request to reduce the side-yard setback from 5' to 2'8" at 705 East Park Street, in Urbana's R-3, Single and Two-Family Residential Zoning District.

Paul Lindahl, Planner, gave the staff report for this case. He introduced the case by giving a brief background and description of the site. He clarified the purpose for the variance request. He reviewed the variance criteria from Section XI-3 of the Urbana Zoning Ordinance and how it pertained to this case. He read the options of the Zoning Board of Appeals and stated that staff's recommendation 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 during the public hearing, staff recommended that the Urbana Zoning Board of Appeals recommend approval of the variance to the Urbana City Council with the following condition:

1. *That the construction must generally conform to the site plan submitted with the application.*

Mr. Welch asked for clarification regarding the reason for the variance request. Was it because the petitioner wanted to connect the new carport/breezeway from the garage to the house? If the carport/breezeway would be freestanding, then the petitioner would not need the variance? Mr. Lindahl replied that was correct. The petitioner wanted to build a larger carport/breezeway and connect it to the house.

Ms. Merritt inquired if the garage was finished? Mr. Lindahl replied that it needed to be sided.

Mr. Warmbrunn moved that the Zoning Board of Appeals forward this case to the City Council with a recommendation of approval including the condition that was recommended by City staff.

Mr. Corten seconded the motion. Roll call was as follows:

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

The motion was passed by unanimous vote.

Mr. Welch asked if staff could look take a look at this part of the Zoning Ordinance. It seemed absurd to him to have a situation where people want to connect their buildings and need a variance request approved in order to do so. Ms. Oktay responded by saying that there was a Zoning Ordinance Working Group that was going through the Zoning Ordinance and flagging areas that could be improved.

ZBA-04-C-02: Request for a Conditional Use Permit filed by the Atkins Group to establish a daycare center at 2501 South Myra Ridge Drive, in Urbana’s B-3, General Business Zoning District.

Mr. Lindahl introduced the case to the Zoning Board of Appeals. He began by talking about the proposal and describing the site and the surrounding properties noting their zoning designations.

He discussed the parking lot configuration and the requirements for a Conditional Use Permit according to Section VII-2 of the Zoning Ordinance. He read the options of the Zoning Board of Appeals and presented staff’s recommendation, which was as follows:

Based on the evidence presented in the written staff report, and without the benefit of considering additional evidence that may be presented during the public hearing, staff recommended that the Zoning Board of Appeals grant the proposed Conditional Use Permit along with the following conditions:

- 1. The development is completed in substantial conformance to layout depicted in the Site Plan labeled as Exhibits “F”, “G”, and “H”.*
- 2. That the development be completed in full conformance with all applicable provisions of the Urbana Zoning Ordinance.*

Mr. Corten was not sure what the definition of “child care facility” was. In the written staff report, it stated that the proposed facility would accommodate infants to five year olds. What would the hours of operation be? Ms. Merritt suggested that they wait for the petitioner to speak to ask this question.

Mr. Warmbrunn inquired if the daycare center use would eliminate any possible businesses from coming into the B-3, such as a bar for example? Mr. Lindahl believed that there could not be any business that served alcohol within a certain number of feet from churches, schools and daycares. Mr. Warmbrunn asked if Meijers had a liquor license to sell alcohol when they decide to build? Mr. Lindahl said yes. The distance would be measured from one building to another, not from the property lines. It was targeted more towards businesses that served alcohol, rather than businesses that sold packaged liquor.

Mr. Warmbrunn asked if the rest of the existing property to the south and to the west were zoned B-3 as well? Mr. Lindahl replied that was correct.

Mr. Corten commented that Amber Lane and Myra Ridge Drive were both two-lane roads that lead up to this site. He asked if most of the children would be dropped off at the same time and result in a traffic jam? Mr. Lindahl pointed out that the City Engineer had looked at the plans and it was his belief that as long as the children were not being dropped off exactly at the same time along with the available parking there should not be any problems with traffic jams. Mr. Welch added that from his experience, children being dropped off occurs at staggered times unlike school. This would be a larger facility than the old Kinder Care. Kinder Care was on a two-lane road, and there were not any problems with traffic jams, mostly due to the staggering drop-off times of the children.

Mr. Corten commented that Windsor Road had become heavily traveled between 7:45 a.m. and 8:30 a.m. He questioned if there would be a stoplight put in on Windsor Road and Myra Ridge Drive? Or Windsor Road would be broadened to four lanes at some time in the future? Ms. Merritt stated that it would probably be a while before that happens.

Mark Dixon, of the Atkins Group, answered an earlier question regarding the hours of operation by saying that the petitioner planned to have the daycare open tentatively from 7:00 a.m. to 5:30 p.m., five days a week. They would have staggered drop-off times. The Atkins Group felt that a daycare center would be a good use for a transition between the residential housing and the B-3 lots. Regarding the impact of future sales of the other lots, the Atkins Group was very conscious about the buyers and would want to make it compatible with the daycare center. The Atkins Group was vested in the proposed area, and they would not do anything that would hurt their business.

Mr. Dixon commented that the petitioners would be going from having a daycare operation in their home to having a center. Someday they may need to expand depending on the success of the daycare center. On the Site Plan, they placed the parking lot in an area so that it could be expanded in the future if needed. The building could be expanded as well.

Mr. Corten inquired if the two-year old vacancies filled up, then would they fill up the three-year old vacancies with two-year olds? Terri Smart, the petitioner, answered by saying that there were state regulations that she would have to abide by. She planned to put the infants and toddlers into two combined-ages classrooms. The two-year olds would be in a classroom by themselves, and the three-year olds, four-year olds, and five year-olds would be integrated as well. Because she would be able to mix the age groups, when a child leaves, there would be another child getting older and moving into the next age group, which would allow there to always be room until at full capacity.

Mr. Corten questioned if the help would be experienced in childcare as well? Ms. Smart replied that the State of Illinois requires helpers in daycare centers to be experienced.

Mr. Welch pointed out that the size of the proposed building must be a testament to Ms. Smart that her home daycare outgrew the size of her home. She must have had to turn away many children already. Ms. Smart mentioned that she had never advertised. She was turning customers away all the time. Quality childcare, especially in Urbana, was very hard to find. Mr. Welch commented that he was glad to see this type of proposal.

Mr. Warmbrunn noticed that there were three entrances/exits to the fenced in area. Why would they need those? Mr. Dixon answered by saying that the entrances/exits were required. Mr. Warmbrunn asked if they would be locked? Mr. Dixon replied no, because the children would need to be able to escape during a fire, etc. Ms. Smart corrected him by saying that they could be locked as long as the teachers go out with the keys.

Mr. Warmbrunn asked if Mr. Dixon knew anything about the liquor license requirements? Mr. Dixon thought that Meijer might have received one or two packaged liquor licenses through the annexation agreement. As far as the impact on the sales of the other lots, the Atkins Group had not discussed that yet. Mr. Warmbrunn noted that it was harder to put a daycare center in prior to selling the other lots, because this way they do not know what other types of businesses would be interested in buying the lots. Mr. Dixon pointed out that Meijer would be on the west side if they decide to build. To the south, there would only be one lot that would be affected by the liquor requirements. The lot to the east was owned by Carle, and the lot to the north is occupied by The Vistas.

Mr. Warmbrunn asked if Meijers sold the lot, could the lot then be subdivided? Ms. Oktay replied yes. If that happened, Mr. Warmbrunn said that the adjacent lot to the proposed daycare site would not be able to purchase a liquor license as well. Ms. Oktay responded by saying that she was not sure of how much distance would be required. Mr. Lindahl talked about the proposed gas station on the corner of Lincoln and Bradley Avenues. It would be across the street from the Vineyard Church, and there were concerns from many people about the gas station being able to sell alcohol. He mentioned that the Meijer Tract appeared to be a good 800 feet in width with most of it away from the proposed daycare center site.

Mr. Corten inquired if the Atkins Group was putting in sewers on Amber Lane? Mr. Dixon replied by saying that the sewers were already there.

Mr. Welch commented that only Meijers possesses a liquor license in the area. Anyone else would have to come to the Mayor and request a license. If Meijers sold the land, the liquor license would dissolve, because a liquor license stays with the business, not the land. The whole issue of the future was irrelevant to this case.

Mr. Corten moved that the Zoning Board of Appeals grant the Conditional Use Permit with the conditions recommended by City staff. Mr. Armstrong seconded the motion. Roll call was as follows:

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

The motion was approved by unanimous vote.

6. CONTINUED PUBLIC HEARINGS

There were none.

7. OLD BUSINESS

There was none.

8. NEW BUSINESS

There was none.

9. AUDIENCE PARTICIPATION

There was none.

10. STAFF REPORT

Ms. Oktay reported on the following:

- ✓ APA Illinois Section Planning Commissioners' Workshop – She invited the members of the Zoning Board of Appeals to attend the workshop. She informed them that the City of Urbana would pay for their registration.

11. STUDY SESSION

There was none.

12. ADJOURNMENT OF MEETING

The meeting was adjourned at 8:39 p.m.

April 28, 2004

Respectfully submitted,

**Michaela Oktay, Senior Planner
Urbana Zoning Board of Appeals**