

**MINUTES OF A REGULAR MEETING**

**URBANA ZONING BOARD OF APPEALS**

**DATE:** March 18, 2009

**APPROVED**

**TIME:** 7:30 p.m.

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

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**MEMBERS PRESENT** Paul Armstrong, Herb Corten, Anna Merritt, Joe Schoonover, Nancy Uchtmann, Charles Warmbrunn, Harvey Welch

**MEMBERS EXCUSED** There were none.

**STAFF PRESENT** Robert Myers, Planning Manager; Teri Andel, Planning Secretary

**OTHERS PRESENT** Jenny Park, Jane Solon

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

The meeting was called to order at 7:31 p.m. Roll call was taken, and a quorum was declared with all members present.

**2. CHANGES TO THE AGENDA**

There were none.

**3. APPROVAL OF MINUTES**

Ms. Uchtmann moved that the Zoning Board of Appeals approve the minutes of the November 19, 2008 meeting as presented. Mr. Corten seconded the motion. The minutes were approved by unanimous voice vote.

**4. WRITTEN COMMUNICATIONS**

- ◆ Updated staff report regarding revisions to the conditions in the staff recommendation
- ◆ 2008 Republished Zoning Ordinance

NOTE: Chair Merritt asked that anyone who might want to testify to please stand and raise their right hands. She then swore in members of the audience who wished to speak.

## 5. CONTINUED PUBLIC HEARINGS

There were none.

## 6. NEW PUBLIC HEARINGS

**Case No. ZBA-2009-MAJ-01: Request by the Atkins Group, Inc. to revise an approved major variance allowing an electronic message board display to change no more than once every ten seconds, at 2710 and 2810 South Philo Road in the B-3, General Business Zoning District.**

**Case No. ZBA-2009-MAJ-02: Request by the Atkins Group, Inc. to revise an approved major variance allowing an electronic message board display to be multi-colored, at 2710 and 2810 South Philo Road in the B-3, General Business Zoning District.**

Robert Myers, Planning Manager, presented these two cases together to the Zoning Board of Appeals. He explained that the proposed two variance requests are actually modifications to two variances approved in 2008. He gave a brief description noting the current zoning, existing land use and future land use designation of the proposed site as well as of the surrounding properties.

Mr. Corten asked for clarification about the area on the southwest corner of Windsor and Philo Roads marked as “mixed residential” in Exhibit D, Future Land Use Map. Is the University of Illinois is moving out of this area? Mr. Myers said no. This property may be owned by the University of Illinois Foundation and may be developed as residential at some point in the future.

Mr. Myers continued with the staff presentation. He pointed out that the shopping center buildings don’t face Windsor Road or Philo Road. They are more interior oriented. Consequently, the businesses don’t have the same visibility as a typical shopping center.

Mr. Corten wondered why the shopping center entrance on Windsor Road did not have a sign. Mr. Myers stated that the petitioners could answer this question. He explained that the Atkins Group designed the shopping center sign to be placed at the intersection. There is actually a sign easement that is on the Busey Bank property where the first shopping center sign will be located.

Mr. Myers talked about the previous variance requests that were approved for one LED display sign. Now that the shopping center has been constructed, the petitioner realizes that it was a mistake to limit themselves to one sign. A second sign is needed to help direct patrons to the businesses in the rear of the property.

He also pointed out that in the previous case from 2008, the wrong exhibit was attached to the staff report. They should have attached an illustration showing the height of the sign to be 113 square feet rather than 78.5 square feet. As a result, the City Council approved the two variances with the condition that the size of the sign conform to the attached wrong exhibit.

Mr. Myers stated that the petitioner is not asking for any changes to the variance standards themselves. They are only asking for relief from the restrictions that were placed as conditions for approval of the variances. Chair Merritt asked for clarification on what the Zoning Board of Appeals should be considering. Mr. Myers explained that the petitioner is asking for a sign measuring 113 square feet in size rather than 78.5 square feet and to be able to have a second shopping center sign on the property.

Mr. Warmbrunn inquired whether the second sign would be 113 square feet as well. Mr. Myers replied that the petitioners would need to meet the sign code as stated in the Zoning Ordinance. So, the sign could be up to 150 square feet in size.

Mr. Warmbrunn pointed out that the amended size of the sign is not in either recommendation by staff. He recommended that the Zoning Board mention the size in the motion and conditions. He also noticed that the revised conditions that were handed out prior to the start of the meeting refer to the two cases in 2008. This needs to be changed to 2009.

He wondered why they needed condition #4 for Case No. ZBA-2009-MAJ-01 if they are only increasing the size of the sign allowed. Mr. Myers stated that it is necessary because the petitioners are asking for two signs instead of one. Mr. Warmbrunn asked if the petitioners needed to ask for two signs in both variance requests. Mr. Myers explained that the reason City provides two recommendations, one for each variance, is to give the Zoning Board of Appeals the opportunity to approve one request and reject the other if so desired. The Board should vote on the two variance requests in separate motions.

Mr. Warmbrunn commented that this is where the Zoning Board of Appeals is confused. Chair Merritt agreed. She pointed out that for Case No. ZBA-2009-MAJ-01 on the handout with the revised conditions, it states "*display frequency*" which is not the essence of what they are considering. They are considering an increase in the size of the sign. Mr. Myers stated that Case No. ZBA-2009-MAJ-01 deals with the display frequency. Mr. Warmbrunn questioned whether they are opening up the previously approved two variance requests from 2008 to amend them. Mr. Myers replied that the petitioners are requesting that the conditions on the previously two variance requests be modified. Mr. Warmbrunn wondered if the Zoning Board of Appeals is against the increase in the size of the sign or the second sign, then would voting for denial erase the approval obtained in 2008. Mr. Myers responded that if the proposed variances are not approved, then the petitioners would still have the approval from the previous variance requests in 2008.

Chair Merritt pointed out that if the essence of what the Zoning Board of Appeals is reviewing and deciding on is to increase the size of the sign and to allow a second sign, then it should say that instead of "*display frequency*" and "*display color*". Mr. Myers noted that both the increase of the size of the sign and allowing a second sign are incorporated into the recommended revised conditions. Mr. Warmbrunn said that the recommended revised conditions are the same for both variance requests. Both requests are mentioned in the proposed conditions, so if he approves the increase in the size of the sign on Lot 201, but disapproves of the second sign being constructed on Lot 208, then he would have to deny both since they are both mentioned in the proposed conditions for each case. Mr. Myers commented that is why they are recommended conditions and that the Zoning Board of Appeals can change the language of the proposed conditions.

Ms. Uchtmann mentioned that Condition #3 should state “*Lot 208*”. The shopping center sign on Lot 201 was already talked about in Condition #1. Mr. Myers said that is not accurate. When reading Condition #3, it states that the sign on Lot 201 should conform to the Zoning Ordinance and that animated, flashing and scrolling signs are prohibited. City staff did not want to open the door to these other types of signs that are prohibited.

Mr. Warmbrunn asked for clarification as to which case refers to the addition of the second sign on Lot 208. Mr. Myers explained that the petitioners applied in their application to have a second sign on Lot 208. Recommended Condition #4 of both variance cases would allow the second sign. Mr. Warmbrunn reiterated that the recommended conditions are the same for both variance cases. The only difference is that Case No. ZBA-2009-MAJ-01 says “*display frequency*” and Case No. ZBA-2009-MAJ-02 says “*display color*”. Mr. Myers said that is correct. Mr. Warmbrunn said he did not see where they were asking for an additional sign, which is the critical part of the discussion. Mr. Myers said that Condition #4 on both votes would allow a second shopping center sign.

Mr. Warmbrunn understood it to be that the Zoning Board of Appeals was reviewing the entire two variance requests again. Case No. ZBA-2009-MAJ-01 deals with the display frequency and Case No. ZBA-2009-MAJ-02 deals with the display color. Chair Merritt added that if the Board votes in favor of the two variance requests, in that process they also approve the 113 square foot sign and the construction of the second sign on Philo Road. Mr. Myers said yes.

Mr. Warmbrunn stated that he thought they had already approved the display color and frequency in the previous two cases in 2008. Chair Merritt pointed out that the proposed two variance requests just correct some things that were overlooked in the previous two related cases. Mr. Myers referred to Exhibit H, Ordinance No. 2008-03-017 and Ordinance No. 2008-03-018. In the Ordinances, Condition #1 states the following, “*That the monument sign with LED Electronic Message Board be constructed in substantial conformity with the submitted site plan illustrating the design and location.*” The submitted plan was the wrong one, so they needed to come back to the Zoning Board of Appeals to get approval of the correct plan.

Ms. Uchtmann questioned whether the petitioners had submitted another site plan to deal with the size issue. Mr. Myers said yes. Ms. Uchtmann suggested that Condition #1 then read as follows, “*That the shopping center sign with LED display on Lot 201 be constructed in substantial conformity with the site plan and dimensioned color rendering submitted with the application dated February 24, 2009.*” Otherwise, it could mean the original application. Chair Merritt agreed that it might add some clarification.

Mr. Warmbrunn stated that he did not understand if the City changes one part of the ordinance how the rest of the ordinance stands. In the explanation of the original staff report, City staff mentioned that there is a 78.7 square foot sign and this would create a 90% reduction in the amount of signage, which is good for public interest. Now, that 90% will be reduced with the increase of the size of the sign on Lot 201, and it will be reduced even more with the construction of the second sign. Mr. Myers stated that this is what the Zoning Board of Appeals is being asked to weigh...whether it’s a reasonable condition for approval of the variance.

Mr. Warmbrunn inquired as to whether the original ordinances would be come voided with the approval of the two proposed variance requests. Mr. Myers replied that they would adopt a new ordinance with modified conditions, and they would attach the site plan labeled "Option A".

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

Jenny Park, of Meyer Capel, and Jane Solon, of the Atkins Group, spoke on behalf of the petitioner, the Atkins Group.

Ms. Solon addressed a question asked by Mr. Corten regarding the possible placement of a sign at the curb-cut along Windsor Road. She noted that the Atkins Group has looked at the visibility of a sign and where most of the traffic transverses to see where the best location would be. They also want to keep the landscape uncluttered from having lots of signs. This is the reason they originally asked for an electronic message board. Mr. Corten remarked that this is a good idea.

Ms. Park elaborated on the confusion of the Zoning Board members regarding the purpose of the proposed two variances. The Atkins Group wants a modification of the variances that were granted in 2008. However, the City of Urbana's Zoning Ordinance does not compensate for modifications being brought before the Zoning Board of Appeals. This is why City staff wanted to bring two new variances that are essentially the same variances that were approved in 2008 only with two conditions being modified. Consequently, the Atkins Group drafted the application to ask for modifications of the two variances rather than asking for two whole new variances.

Mr. Armstrong recalled that when the first variances came before the Zoning Board of Appeals the argument was by placing the one sign at the corner of Windsor and Philo Roads, it would have the maximum visibility. The primary purpose of the sign was to provide motorists with information about what the shopping plaza contains. Now, there is an argument that there is need for a second sign at the entrance of Philo Road presumably so people know where the entrance is. He asked why the second shopping center sign needs to be a similar message board sign.

Ms. Solon responded that the Atkins Group would like to have the flexibility to have the second sign be an electronic message board. They are not saying that they will have a message board for the second sign. It all depends on how the area is developed, how many stores and what types of tenants they get. If they do not have some flexibility, then they will be back asking for a modification of a modification of a variance, and it will be even more confusing. She asked the Zoning Board of Appeals to take into consideration the kind of developments that the Atkins Group builds. They would not construct anything that would be tasteless or would not fit with the concept of the community feel for what they want for that part of town and that development.

Ms. Park added that they are not saying that they will have two identical signs one on Philo Road and one on the corner. The request to construct a second sign came about because patrons have been saying that they did not know where to turn to go to find that business. The second sign will meet all of the codes in the Zoning Ordinance.

Mr. Corten inquired whether the Atkins Group would come back in two or three more years after more businesses are developed asking for more signage for their patrons as well. Mr. Welch said

that this would not necessarily happen. The message board sign on the corner will change messages to advertise different businesses in the development.

Ms. Park said that the Atkins Group wants the flexibility to be able to determine what would best fit with the atmosphere of the shopping center. They are a quality shopping center, so they would not construct something like the one at Lincoln Square. They want the sign to be attractive to the quality of tenants that they are trying to attract.

Mr. Warmbrunn asked if the Atkins Group has done a new study to determine that this is the best location for the second sign. Ms. Solon replied that they need signs in both locations to adequately let people know where The Pines is located and to advertise for the current and future tenants.

Mr. Warmbrunn expressed his concern about giving the petitioner an open-ended ability to construct any kind of sign on Lot 208. Mr. Myers pointed out that the second sign would have to meet all the sign code requirements. It could be up to 150 square feet in area.

Mr. Warmbrunn commented that it could end up being the largest sign on the site if the City does not set any perimeters. Ms. Solon responded that it was safe to say that if the sign was a LED sign, then it would not be 150 square feet in size.

Mr. Corten stated that the proposed second sign would be a freestanding sign. Ms. Solon said that is correct.

Ms. Uchtmann questioned whether the motion needed to state the largest size of the freestanding sign or does it not matter because the Zoning Ordinance allows a sign up to 150 square feet. Ms. Park reassured her that the Atkins Group was not going to go above what the Zoning Ordinance allows, which is 150 square feet.

Mr. Warmbrunn voiced his concern about the Atkins Group having free reign because they cannot commit at this time as to what size the second sign would be. Ms. Park replied that she would not call it free reign because the City has limited through the Zoning Ordinance how large a freestanding sign can be. Given the quality of the shopping center, the Atkins Group is not going to construct a huge sign because it would be an eyesore of the shopping center.

With no further comments from the audience, Chair Merritt closed the public input portion of the hearing. She then opened the hearing up for discussion and/or motion(s) from the Zoning Board of Appeals.

Mr. Warmbrunn recommended the following changes to the proposed conditions:

**ZBA-2009-MAJ-01:**

Condition #1 – Define shopping center sign as being Option A

Condition #2 – Define shopping center sign as being Option A

Condition #3 – Define shopping center sign as being Option A

Condition #4 – State that the shopping center should be limited to a total of two signs (Option A and a second sign should be no larger than Option A) ...

**ZBA-2009-MAJ-02:**

Have all four conditions the same as Case No. ZBA-2009-MAJ-03

Ms. Park commented that by limiting the size of the second sign to 113 square feet, then they are limiting the Atkins Group to having it be an LED sign, because that is the only thing that would allow for that size to get all of the tenants on the sign. Chair Merritt pointed out that they have been discussing LED signs all along with display frequency and color. Ms. Park stated that was for the first sign. The second sign has never been represented as being an LED sign. The Atkins Group would like the flexibility. If the Zoning Board of Appeals reduce and limit the size of the second sign, then it will force the sign to be a LED sign. This could cause the Atkins Group to come back to request another modification in the future.

Mr. Schoonover commented that it sounds like the petitioner wants one LED sign with the flexibility to construct a second sign as they see fit. It seems like the second sign should be considered at a future time because the Zoning Board does not know what the Atkins Group wants and the Atkins Group does not know at this time what they want for the second sign. Ms. Park pointed out that they do know that they need a second sign. They were hoping that as long as they met the codes in the Zoning Ordinance, then they would not need to come back before the Zoning Board of Appeals. Mr. Myers stated that if the second sign is approved through the proposed variance requests, then the petitioner would not need a variance granted for the size of the sign as long as the sign conforms to the Zoning Ordinance requirements.

Ms. Merritt did not see why they needed to add language about the second sign being no larger than Option A in Condition #4. Mr. Myers said that it is something Mr. Warmbrunn wanted to add. Mr. Warmbrunn recalled that Ms. Solon and Ms. Park both stated that they would probably not construct a sign 150 square feet in size. People are telling the Atkins Group that they need a second sign, when they don't even have the first sign constructed yet. So, how do they know they need a second sign? What can the petitioner do by right?

Mr. Myers explained that under the Zoning Ordinance, two shopping center signs are allowed per street frontage of more than 300 feet. So for this development, the Atkins Group could have six-150 square foot shopping center signs. Instead the Atkins Groups is agreeing to place limitations of having two signs, one would be 113 square feet and the second could be up to 150 square feet in size.

Mr. Warmbrunn commented that it is now a question of whether the petitioner needs two signs and should the Zoning Board let the petitioner have free reign on the second sign. They already changed what would be allowed by right in the Zoning Ordinance by approving the previous two variance requests in 2008. He is not against the second sign. He just wants to define what could be built.

Mr. Welch said that the Board would not be giving the petitioner free reign because the second sign is allowed by right. He feels that the Board is treading on slippery ground because the petitioner is allowed to have six – 150 square foot signs, and the Board is trying to tell the petitioner what to do with the second sign.

Ms. Merritt inquired about the petitioner's rights. If the City gives the petitioner permission to construct the one sign, could the Atkins Group change their minds and construct the six – 150 square foot signs that they originally would be allowed by right to construct. Mr. Myers responded that if they constructed six shopping center signs on the property as allowed by the Zoning Ordinance, they would violate the conditions of the two previously-approved variances. That means they couldn't take advantage of the variances.

Mr. Myers said that he senses that the Board will need to modify the wording of the proposed variance conditions in order for them to be clear for everyone. He suggested that the Zoning Board of Appeals take a five minute recess to allow him time to revise the recommended conditions in writing to reflect the changes that were mentioned. This way Board members could vote on the exact wording in writing.

Chair Merritt called a recess at 8:42 p.m.

The Zoning Board of Appeals meeting was reconvened at 8:55 p.m.

Mr. Myers handed out revised recommended conditions which included the following changes sought by the Zoning Board of Appeals.

In ZBA Case No. 2009-MAJ-01 (display frequency), the proposed revised conditions are:

1. That the shopping center sign with LED display on Lot 201 be constructed in substantial conformity with the site plan and dimensioned color rendering ("Option A") submitted with the application dated Feb. 24, 2009.
2. That the variance for display frequency is approved for the proposed shopping center sign with LED display on Lot 201 ("Option A").
3. That the shopping center sign on Lot 201 ("Option A") will conform to the other requirements of Urbana Zoning Ordinance Section IX-4.D.3 which prohibit animation, flashing, or scrolling of electronic message board (LED) displays.
4. The Pines at Stone Creek Commons Shopping Center shall be limited to a total of two freestanding shopping center signs. The locations shall be limited to the areas of Lots 201 and 208 of Pines at Stone Creek Commons Subdivision as depicted on the subdivision plat recorded March 30, 2007.

In ZBA Case No. 2009-MAJ-02 (display color), the proposed revised conditions are:

1. That the shopping center sign with LED display on Lot 201 be constructed in substantial conformity with the site plan and dimensioned color rendering ("Option A") submitted with the application dated Feb. 24, 2009.
2. That the variance for display color is approved for the proposed shopping center sign with LED display on Lot 201 ("Option A").



- 3. That the shopping center sign on Lot 201 (“Option A”) will conform to the other requirements of Urbana Zoning Ordinance Section IX-4.D.3 which prohibit animation, flashing, or scrolling of electronic message board (LED) displays.
- 4. The Pines at Stone Creek Commons Shopping Center shall be limited to a total of two freestanding shopping center signs. The locations shall be limited to the areas of Lots 201 and 208 of Pines at Stone Creek Commons Subdivision as depicted on the subdivision plat recorded March 30, 2007.

Mr. Armstrong moved that the Zoning Board of Appeals forward Case No. ZBA-2009-MAJ-01 (display frequency) to the City Council with a recommendation for approval, including the four conditions provided in the revised handout just received. Mr. Corten seconded the motion. Roll call on the motion was as follows:

Mr. Armstrong	-	Yes	Mr. Corten	-	Yes
Chair Merritt	-	Yes	Mr. Schoonover	-	Yes
Ms. Uchtmann	-	Yes	Mr. Warmbrunn	-	No
Mr. Welch	-	Yes			

The motion passed by a vote of 6 – 1.

Mr. Armstrong moved that the Zoning Board of Appeals forward Case No. ZBA-2009-MAJ-02 (display color) to the City Council with a recommendation for approval, including the four conditions provided in the revised handout just received. Mr. Corten seconded the motion. Roll call on the motion was as follows:

Mr. Armstrong	-	Yes	Mr. Corten	-	Yes
Chair Merritt	-	Yes	Mr. Schoonover	-	Yes
Ms. Uchtmann	-	Yes	Mr. Warmbrunn	-	No
Mr. Welch	-	Yes			

The motion was passed by a vote of 6 – 1.

Mr. Myers noted that these two cases would go before the City Council on April 6, 2009.

**7. OLD BUSINESS**

There was none.

**8. NEW BUSINESS**

**2008 Zoning Board of Appeals Annual Report**

Robert Myers, Planning Manager, presented the report to the Zoning Board of Appeals. He commented that the report includes approved minutes and ordinances. These are helpful to have as a reference because almost everything provided in Board packets are draft and proposed versions.

Mr. Warmbrunn commended City staff for a job well done in getting the garage replacement text amendment and the MOR text amendment presented to and approved by the City Council in a very timely fashion. These two text amendments fix some of the problems that were detected as applications were brought before the Zoning Board of Appeals.

**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 9:02 p.m.

Respectfully submitted,

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Robert Myers, AICP, Secretary  
Urbana Zoning Board of Appeals