

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

DATE: September 19, 2012

APPROVED

TIME: 7:30 p.m.

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

MEMBERS PRESENT Paul Armstrong, Joanne Chester, Stacy Harwood, Harvey Welch

MEMBERS EXCUSED Nancy Uchtmann, Charles Warmbrunn

STAFF PRESENT Robert Myers, Planning Manager; Rebecca Bird, Planner II; Teri Andel, Planning Secretary

OTHERS PRESENT Mike Augustine, Andrew Fell, Chuck Hijab, Patrick Moone

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

Chair Armstrong called the meeting to order at 7:30 p.m. Roll call was taken, and he declared that there was a quorum present.

2. CHANGES TO THE AGENDA

There were none.

3. APPROVAL OF THE MINUTES

The minutes from the May 16, 2012 Zoning Board of Appeals regular meeting were presented for approval. Ms. Harwood asked for a correction to the spelling of her name under “Members Present”. She then moved to approve the minutes as corrected. Mr. Welch seconded the motion. The minutes were approved by unanimous voice vote.

4. WRITTEN COMMUNICATIONS

Newly approved ordinances to add to the Urbana Zoning Ordinance for reference:

- Ordinance No. 2012-05-049 approving the split of the Industrial Zoning District into IN-1, Light Industrial/Office, and IN-2, Heavy Industrial, Zoning Districts.

- Ordinance No. 2012-08-084 establishing standards for “Firearm Store” and “Private Indoor Firing Range”.

5. CONTINUED PUBLIC HEARINGS

There were none.

Chair Armstrong swore in members of the audience who indicated that they may give testimony during the following public hearing.

6. NEW PUBLIC HEARINGS

Case No. ZBA-2012-MAJ-04: A request by Bainbridge Communities Acquisition II, LLC for a Major Variance to encroach up to 10 feet within the minimum required side yard setbacks of 17 and 20 feet at 1008, 1010 and 1012 West University Avenue and 508 North Goodwin Avenue.

Case No. ZBA-2012-MAJ-05: A request by Bainbridge Communities Acquisition II, LLC for a Major Variance to encroach up to 10 feet within the minimum required rear yard setbacks of 22 and 25 feet at 1008, 1010 and 1012 West University Avenue and 508 North Goodwin Avenue.

Rebecca Bird, Planner II, presented these two cases together to the Urbana Zoning Board of Appeals. She explained the purpose for each variance request and briefly described the proposed development. She pointed out that there would be retail and a leasing office on the ground floor with all the amenities such as the club room, study room, exercise/fitness room available on the other levels in the buildings along University Avenue. The residential component of the project would be five stories high, and a parking garage would be accessed off Goodwin Avenue.

She presented the current zoning, existing land use and future land use designations of the proposed site and of the adjacent neighboring properties. She stated that the petitioner has also applied for a Special Use Permit to allow the residential use in a commercial zoning district, which the Plan Commission has already reviewed and forwarded a recommendation for approval to the Urbana City Council.

Using the site plan provided in the written staff report, she explained what City staff has determined to be the front-yard, side-yards and rear-yard under Zoning Ordinance definitions. She discussed how the goals and objectives from the 2005 Urbana Comprehensive Plan relate to the proposed development. She reviewed the variance criteria from Section XI-3 of the Urbana Zoning Ordinance that pertains to the project. She read the options of the Urbana Zoning Board of Appeals and presented City staff’s recommendation.

Chair Armstrong asked for any questions from the Board members for City staff. Questions were as follows:

What impact would the proposed development have on any future redevelopment of adjacent commercial properties? Ms. Bird answered that if the properties develop under B-3 zoning and as commercial, then they would be required to have a minimum five foot side-yard and ten foot rear-yard setbacks. If they provide residential components and the redeveloped properties would exceed 25-feet in height, then the setback requirements would increase.

Ms. Bird noted that the owner of Hot Wok had phoned and expressed some concerns about the proposed development potentially blocking sunlight. The owner of Cocina Real had no concerns and felt that the proposed development would be good for the neighborhood and for his business as well.

Would approving the proposed major variances cause adjacent property owners to lose out on the ability to get variances for setbacks on their properties if they redevelop? Robert Myers, Planning Manager, said no. The City has to review each variance application on a case-by-case basis with each having a unique set of facts.

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

Michael Augustine, of Bainbridge Communities, LLC, provided background on the company and its history in development of student apartment housing. He presented images of Campus Circle, an existing Bainbridge development in Tallahassee, Florida that is similar to what they are proposing in this project.

Patrick Moone, of Farnsworth Group, stated that he would answer any questions concerning engineering and site planning.

Would the proposed development be constructed for the University of Illinois? Mr. Augustine said no. They would construct the building to cater to university students, but there is no affiliation. He noted that anyone could live in the proposed units.

Why are they requesting the variances? Mr. Augustine said that the variances are for the residential component of the development. In order to scale the project to make financial sense given the irregular shaped lot and site constraints, they have to build up. The additional height causes them to need variances for the side-yard and rear-yard setbacks.

Was there any consideration to purchase some of the railroad right-of-way? Mr. Augustine answered yes. They reached out to the railroad early on in the planning process. The railroad company expressed that they would likely not convey any part of the right-of-way. However, they potentially offered an access easement agreement which would not help with the setbacks.

Why is the driveway from University Ave. through the building as opposed to around the building? Mr. Augustine replied that this is part of the design element of the project. This design provides a more symmetrical appearance. The design of the "tunnel" would allow fire truck access to the interior courtyard and back of the property.

With no further input, Chair Armstrong closed the public input portion of the hearing and opened it up for discussion and/or motions by the Urbana Zoning Board of Appeals.

Ms. Chester moved that the Zoning Board of Appeals forward Case No. ZBA-2012-MAJ-04 to the City Council with a recommendation for approval. Mr. Welch added “to allow a major variance to encroach up to 10 feet within the minimum required side-yard setbacks of 17 and 20 feet at 1008, 1010 and 1012 West University Avenue and 508 North Goodwin Avenue”. Ms. Harwood seconded the motion. Roll call on the motion for Case No. ZBA-2012-MAJ-04 was as follows:

Ms. Chester	-	Yes	Ms. Harwood	-	Yes
Mr. Welch	-	Yes	Mr. Armstrong	-	Yes

The motion passed by unanimous vote.

Mr. Welch then moved that the Zoning Board of Appeals forward Case No. ZBA-2012-MAJ-05 to the City Council with a recommendation for approval to allow a major variance to encroach up to 10 feet within the minimum required rear-yard setbacks at 1008, 1010 and 1012 West University Avenue and 508 North Goodwin Avenue. Ms. Harwood seconded the motion. Roll call on the motion for Case No. ZBA-2012-MAJ-05 was as follows:

Ms. Harwood	-	Yes	Mr. Welch	-	Yes
Mr. Armstrong	-	Yes	Ms. Chester	-	Yes

The motion passed by unanimous vote. Mr. Myers noted that these two cases would be reviewed by the Urbana City Council on October 15, 2012.

Case No. 2012-MAJ-06: A request by Andrew Fell for a Major Variance to construct a canopy which encroaches up to three feet, eight inches into the required front yard setback at 604 North Cunningham Avenue in the B-3, General Business Zoning District.

Robert Myers, Planning Manager, presented this case to the Urbana Zoning Board of Appeals. He described the site context and the purpose for the major variance request. He presented the current zoning, existing land use and future land use designation of the site and of the adjacent neighboring properties. Using the site plan, he explained to the Zoning Board of Appeals that the Tin Roof Tavern would like to provide an outdoor seating area on the north side of the building. They would like to install an awning or canopy leading from the exterior door facing Cunningham Ave., wrapping around the northwest corner of the building, and to the new outdoor seating area. Because the northwest corner of the building is located at the minimum front yard setback, a canopy extending from the building would encroach within the minimum required setback. The owner’s representative has indicated they would like to keep part of the existing outdoor patio area for additional seating but remove the existing six-foot fence enclosure now in the front yard setback and replace it with a lower fence. He reviewed the variance criteria from Section XI-3 of the Urbana Zoning Ordinance that pertain to this case. He read the options of the Zoning Board of Appeals and presented City staff’s recommendation.

Chair Armstrong opened the hearing up for questions from the Board members for City staff.

Will Tin Roof Tavern keep the existing fence? Mr. Myers answered that while the business wants to keep part of the front patio area intact, the owner's representative could speak to the design of the replacement fence. It would need to comply with the fence code which is not part of the Zoning Ordinance.

With no further questions, Chair Armstrong opened the hearing up for public input.

Andrew Fell, project architect, clarified that the purpose for the variance request is to relocate the majority of the beer garden to the north side of the building where it is quieter and away from the street. There are two doors that access the building. The door existing on the north side is the main entrance into the building. The door on the west side serves as a controlled access to the beer garden. Tin Roof Tavern intends to keep some of the existing beer garden along Cunningham Avenue. However, the existing fence will come down and be replaced with a low brick wall with a wrought iron fence on top of it.

Has the business owner considered switching the main entrance with the door leading to the beer garden? Mr. Fell stated that with the current interior layout of the building it would not be a feasible option. The bar now extends along the interior north wall of the building and so a new doorway there to the beer garden is not possible.

Would an awning extending from only half of the building front look strange? Mr. Fell replied no, because visually the building appears to be two separate buildings. A future tenant of the south half of the building may decide to continue the awning, but that will be up to that tenant. Also, the business on the south side of the building would likely install a new sign using the existing sign posts.

What will the canopy look like? Mr. Fell explained that the main part of the beer garden on the north side will have brick columns with a low brick wall and a fence across it with a metal roof on top of it. They plan to continue the metal canopy roof around to the front of the building where the controlled access to the beer garden is located. The front canopy will extend from the building, and the beer garden canopy will be supported off the ground. Although the City's Building Code will treat them differently, the canopies will be constructed of the same materials.

With no further questions for the applicant, Chair Armstrong asked for any public input on this case. No one indicated they wished to speak.

Chair Armstrong then entertained a motion from the Board.

Mr. Welch moved that the Zoning Board of Appeals forward Case No. ZBA-2012-MAJ-06 for a major variance to construct a canopy which encroaches up to three feet, eight inches into a required front yard at 604 North Cunningham Avenue to the City Council with a recommendation for approval, consistent with the City staff's recommendation. Ms. Chester seconded the motion.

There was discussion by the Zoning Board of Appeals as to whether the redesign of the fence could or should be made part of the motion. Does the Zoning Board of Appeals have the ability to add such a condition? Mr. Myers explained that if the Zoning Board of Appeals sees a rational relationship between the variance request and the need to condition with the fence design, then the Zoning Board of Appeals could address that as a condition. He stated that the project must meet the fence code when replacing the fence regardless of whether the Zoning Board of Appeals recommends a condition or not.

Does the existing patio encroach into the front yard setback? Mr. Myers responded that the existing patio is within the required setback. The existing fence appears to not comply with the City’s fence code in terms of height.

Mr. Myers asked the applicant’s representative, Andrew Fell, if it would be acceptable to the petitioner to include a condition that the six-foot fence be removed and replaced by some other type of fence? Mr. Fell replied yes, it would be acceptable, because they plan to remove the fence anyway.

Ms. Harwood moved a friendly amendment to the motion to include a condition that the petitioner or owner of the business consult with City staff on the redesign of the fence. Mr. Welch seconded the motion to amend. Chair Armstrong asked for the motion with the friendly amendment be read into the record. Roll call on the motion was as follows:

Mr. Welch	-	Yes	Mr. Armstrong	-	Yes
Ms. Chester	-	Yes	Ms. Harwood	-	Yes

Mr. Myers noted that this case would be forwarded to the Urbana City Council for review at their October 1, 2012 meeting.

7. OLD BUSINESS

There was none.

8. NEW BUSINESS

There was none.

9. AUDIENCE PARTICIPATION

There was none.

10. STAFF REPORT

- Open Meetings Act Training. – Mr. Myers thanked the members of the Urbana Zoning Board of Appeals for completing the online Open Meetings Act training that is required by the State of Illinois.

11. STUDY SESSION

There was none.

12. ADJOURNMENT OF MEETING

Chair Armstrong adjourned the meeting at 9:12 p.m.

Respectfully submitted,

Robert Myers, AICP, Secretary
Urbana Zoning Board of Appeals