

**MINUTES OF A REGULAR MEETING**

**URBANA ZONING BOARD OF APPEALS**

**DATE:** November 16, 2016

**APPROVED**

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

**PLACE:** City Council Chambers, 400 South Vine Street, Urbana, IL 61801

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**MEMBERS PRESENT** Joanne Chester, Ashlee McLaughlin, Charles Warmbrunn, Jonah Weisskopf, Harvey Welch

**MEMBERS EXCUSED** Matt Cho, Nancy Uchtmann

**STAFF PRESENT** Lorrie Pearson, Planning Manager; Kevin Garcia, Planner II; Marcus Ricci, Planner II; Teri Andel, Administrative Assistant II

**OTHERS PRESENT** Sandra Dunn, John Ellis III, Mike Friend, Morris Funkhouser, Rodney Howard, Ivan Richardson

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

Chair Welch called the meeting to order at 7:32 p.m. Roll call was taken, and he declared that there was a quorum of the members present.

**2. CHANGES TO THE AGENDA**

There were none.

**3. APPROVAL OF THE MINUTES**

The minutes from the October 19, 2016 regular meeting were presented for approval. Ms. Chester moved to approve the minutes as presented. Mr. Warmbrunn seconded the motion. The minutes were approved by unanimous voice vote as written.

**NOTE:** Chair Welch swore in members of the audience who indicated that they may give testimony during the public hearing.

**4. COMMUNICATIONS**

- Email from the Property Owner at 807 East Main Street requesting information about what type of business was being proposed in Case No. ZBA-2016-C-02

## 5. CONTINUED PUBLIC HEARINGS

There were none.

## 6. NEW PUBLIC HEARINGS

### **ZBA-2016-C-02 – A request by Rodney Howard for a Conditional Use Permit to allow a Home Occupation for a Variety Store at 706 East Main Street in the B-2, Neighborhood Business – Arterial Zoning District.**

Chair Welch opened the public hearing for this case. Kevin Garcia, Planner II, presented the staff report to the Zoning Board of Appeals. He began by stating the purpose of the proposed conditional use permit and by talking about the City's Home Occupation Ordinance. He described the subject property and the surrounding properties. He discussed the proposed use with regards to what type of goods would be sold, the hours of operation, traffic to and from the site and parking. He talked about the B-2, Neighborhood Business – Arterial Zoning District and reviewed the requirements for a conditional use permit according to Section VII-2 of the Urbana Zoning Ordinance. He mentioned the options of the Zoning Board of Appeals and presented City staff's recommendation for approval with conditions as written in the staff memo.

Chair Welch asked if the members of the Board had questions for City staff.

Ms. McLaughlin questioned whether the owner would count as an employee in Condition #2.

Mr. Garcia replied that he did not assume that the owner would count. Lorrie Pearson, Planning Manager, stated that they could add language to Condition #2 from the Home Occupation Regulations, which states, "...other than members of the household residing in the dwelling unit."

Mr. Warmbrunn wondered about handicap accessibility. Would they need to construct a ramp?

Ms. Pearson stated that the building code would determine if a ramp was required, but it has not been a requirement for any other type of home occupation permit that she was aware of.

Mr. Warmbrunn asked if the applicant was required to provide a certain number of parking spaces. Mr. Garcia replied no. There was no formula for parking in the Home Occupation Ordinance. He mentioned that they could calculate the number of parking spaces required for the use from the Parking Table in the Zoning Ordinance. Ms. Pearson pointed out that the proposed use could be considered like a Type 2 home occupation, which has a parking requirement if deemed necessary, but this use is not likely to generate much traffic. Mr. Garcia stated that one parking space would be required for every 250 square feet of business under normal business and retail uses.

Mr. Warmbrunn stated that under normal circumstances the City does not want clients of a business backing out onto a main artery street. Ms. Pearson replied that if it was a new commercial building only, then they would be required to meet all of the requirements; however, since it is a home occupation, the requirements are different because it is primarily a residential use. The proposed use would be an accessory use to the primary use.

Ms. Chester wondered if the conditional use permit would expire if the applicant moved away.

Ms. Pearson explained that the conditional use permit would expire in this case. If someone else

moved in and wanted to operate a similar store, then they would need to apply for a Conditional Use Permit to do so.

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

Rodney Howard, applicant, approached the Zoning Board of Appeals to answer any questions. He appreciated City staff's assistance and the Zoning Board of Appeals for taking time to review and consider his request.

Mr. Weisskopf asked what type of goods would he be selling in the proposed store. Mr. Howard answered saying that he planned to sell candy, purses, toys, greeting cards, and clothing that is not offered anywhere else.

John Ellis, owner of the property, approached the Zoning Board of Appeals to speak. Chair Welch swore him in. Mr. Ellis mentioned that he owns several other properties in the City of Urbana and was glad to see the City willing to help his tenant. He stated that when he purchased the property, it was zoned B-3, General Business, but the City of Urbana down zoned it to B-2.

He stated that the Floor Area Ratio (FAR) is adequate. There are parking spaces in the alley to the north and across the street. Considering this, he believed that one on-site parking space would be enough.

With there being no further input from the audience, Chair Welch closed the public input portion of the hearing and opened it for discussion and/or motion(s) by the Board.

Ms. McLaughlin moved that the Zoning Board of Appeals approve the conditional use permit in Case No. ZBA-2016-C-02 as proposed for the reasons articulated in the written staff report with the following conditions:

1. The business will not stay open past 7:30 pm;
2. The business will at most one employee other than residents of the property;
3. All sales will be conducted indoors;
4. One parking space for customers will be provided in the driveway;
5. One wall sign up to three square feet is permitted;
6. Electronic signs and LED light strips are prohibited.

Ms. Chester seconded the motion. Roll call was as follows:

Ms. McLaughlin	-	Yes	Mr. Warmbrunn	-	Yes
Mr. Weisskopf	-	Yes	Mr. Welch	-	Yes
Ms. Chester	-	Yes			

The motion was passed by unanimous vote.

**ZBA-2016-MAJ-11 – A request by Ivan Richardson for a Major Variance to allow access drives that are up to 54 percent of the lot widths at 3002 East Rutherford Drive in the R-4, Medium Density Multiple Family Residential Zoning District.**

Chair Welch opened the public hearing for this case. Kevin Garcia, Planner II, presented the staff report to the Zoning Board of Appeals. He began with a brief background on the subject area and mentioned that the property would be divided into 12 lots to accommodate 11 single family common-lot-line townhomes and one model unit. He described the subject property and adjacent properties noting their current zoning and existing land uses. He discussed the reason for the proposed major variance which would be to allow an increase in the width of the access driveways to make the units marketable. He reviewed the variance criteria from Section XI-3 of the Urbana Zoning Ordinance that pertained to the proposed variance request. He read the options of the Zoning Board of Appeals and presented City staff's recommendation for approval with the conditions outlined in the written staff report.

Chair Welch asked if the members of the Board had questions for City staff. There were none. Chair Welch, then, opened the hearing for public input.

Mike Friend, of the Farnsworth Group representing the applicant (Ivan Richardson), approached the Zoning Board of Appeals to speak. He acknowledged that the City staff had been great to work with. He stated that Mr. Richardson has had a long, positive history in terms of developing Urbana. When beginning this project, they wondered about ways to mitigate the plan with requiring the smallest variance from the Zoning Ordinance regulations. The design they came up with only allows what would be needed to access the garage on each lot. The width of the driveways would be fully compliant on the City's right-of-way. They are requesting a variance for the portion of each driveway that lies on private property.

The clientele that would purchase the proposed units would have many guests. So, the property owner found it would be beneficial to provide additional driveway width in front of each garage rather than have on street parking.

Mr. Friend discussed staff's suggestions for options within Condition #3. His response was as follows:

- a. *Tapering the area of added width to the extent possible*

They planned to start the taper of the driveway closer to the face of the building structure. This would allow three vehicles to be able to enter the garage and would also provide parking spaces outside of the garage for three guests to park.

- b. *Using permeable paving materials for the area of added width*

Mr. Friend stated that Mr. Richardson preferred to use concrete for the entire driveway. This material and the small increase in the width of each driveway would not impact the existing stormwater management system of the subdivision. If, however there is a strong disposition that the extra width be constructed of permeable pavers, he suggested that there are more creative ways to incorporate permeable pavement in the driveways that would be more aesthetically pleasing than only requiring it in the extra width of the driveways.

c. *Using a contrasting surface material for the area of added width*

He commented that while they would prefer to have one slab of concrete, they could incorporate a different texture or color of material in the design of the driveways.

d. *Adding enhanced landscaping to the area next to the access drive*

Mr. Friend thought this could potentially be included in the covenants.

Lorrie Pearson, Planning Manager, pointed out that these are options that City staff offered. They would not all be required.

Mr. Friend stated that Mr. Richardson wants to do this development and felt it would be a great thing for the City. They have already worked at reducing the driveway widths in the City right-of-way, so it would be conforming in this aspect. He summarized his statements.

Ms. McLaughlin appreciated the work that had been done, but believed they were proposing the bare minimum to comply with the City's regulations. She understood that the property owner needed to make a profit; however, there is a lack of creativity. The point is not to pour enough concrete to get 3 vehicles in the driveway. Why did the applicant feel the need to provide 3 parking spaces in the driveway? Was there a specific clientele that they are trying to target to purchase these units? Mr. Friend replied that Mr. Richardson would be able to best answer these questions.

Ms. McLaughlin asked if Mr. Friend believed it was a realistic option to use permeable pavers to construct the driveways regardless of whether it would be for only the extended portion or for the entire full driveways. Mr. Friend stated that from an engineering aspect, it would be possible to provide permeable pavers. He referred the question to be answered by the applicant on what he preferred.

Ms. McLaughlin commented that the suggestions for Condition 3 would minimize the impact of the additional pavement. It would be good for the owner to commit to doing one or more of them.

Ivan Richardson, property owner and applicant, approached the Zoning Board of Appeals to speak. He stated that the street is not wide. He preferred to have guests park in the driveways for safety reasons. He develops properties according to what people want, not because of costs. He plans to sell the units as they build them. He presented illustrations of what the units would look like.

Ms. McLaughlin asked if he found any of the suggestions for Condition #3 to be realistic or manageable. Mr. Richardson replied that it is if he felt it was really important. He did not believe any of them would make that much difference. He felt it would be okay to add a brick stamp design along the sides of the driveways.

Morris Funkhouser approached the Zoning Board of Appeals to speak. Chair Welch swore him in. Mr. Funkhouser stated he has had family gatherings at his house and have had family members park on the street, which creates a safety issue that off-street parking would solve.

With there being no further comments or testimony from members in the audience, Chair Welch closed the public input portion of the hearing. He, then, opened the hearing for Zoning Board of Appeals discussion and/or motion(s).

Mr. Warmbrunn questioned the wording in Condition #3. Would they need to change the language to reflect the discussion? Mr. Garcia stated that they were just suggestions of what the applicant could do. The Zoning Board of Appeals could alter them if they wanted to. Ms. Pearson added that staff wanted to help soften the impact of the additional driveway by allowing some flexibility for the owner in his design.

Ms. Chester preferred to eliminate Condition #3 entirely. Tapered driveways don't work as they are planned. People would still back out straight into the mud. Extended driveways to allow additional parking generally never look good. She mentioned that as the Township Assessor she had seen all of Mr. Richardson's work and could verify that he does quality work. Therefore, the City should let him use his best judgement on how to pave the proposed driveways.

Ms. McLaughlin asked staff if they had a concern about people parking on the street. Developers generally do not design driveways for holiday parking, so parking on the street is acceptable. Ms. Pearson replied that this type of subdivision, which has narrow lots and wide driveways, often doesn't offer a lot of opportunity for people to park on the street because there is not a lot of space between the driveways. City staff has not performed a study of the subject area to confirm that this is the case.

Mr. Warmbrunn moved that the Zoning Board of Appeals forward Case No. ZBA-2016-MAJ-11 with a recommendation for approval including the following conditions:

1. *The associated proposed Replat of Lot 452 is approved.*
2. *The site is developed in general conformance with the proposed site plan attached to the written staff report, titled "Replat of Lot 452 Beringer Commons Subdivision No. 4" with the submitted lot, dwelling and access drive configurations and placement.*
3. *The impacts caused by the additional pavement are minimized on each subject lot by doing one of the following:*
  - a) *Tapering the area of added width to the extent possible;*
  - b) *Using permeable paving materials wherever possible.*

Ms. McLaughlin seconded the motion. Roll call on the motion was as follow:

Mr. Warmbrunn	-	Yes	Mr. Weisskopf	-	Yes
Mr. Welch	-	Yes	Ms. Chester	-	Yes
Ms. McLaughlin	-	Yes			

The motion passed unanimously by a vote of 5-0. Mr. Garcia noted that this case would be forwarded to the City Council on Monday, November 21, 2016.

**7. OLD BUSINESS**

There was none.

**8. NEW BUSINESS**

There was none.

**9. AUDIENCE PARTICIPATION**

There was none.

**10. STAFF REPORT**

There was none.

**11. STUDY SESSION**

There was none.

**12. ADJOURNMENT OF MEETING**

Chair Welch adjourned the meeting at 8:53 p.m.

Respectfully submitted,

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Lorrie Pearson, AICP  
Planning Manager  
Secretary, Urbana Zoning Board of Appeals