



**DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES**

*Planning Division*

**m e m o r a n d u m**

**TO:** Laurel Lunt Prussing, Mayor

**FROM:** Elizabeth H. Tyler, FAICP, Ph.D., Community Development Director

**DATE:** March 1, 2012

**SUBJECT:** A request by Bohdan Rudawski for a major variance to rebuild porch stairs which encroach into a required front yard at 401 West Green Street in the MOR, Mixed Office Residential District (ZBA Case No. 2012-MAJ-01)

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**Introduction and Background**

Bohden Rudawski is requesting a major variance to reconstruct a set of porch stairs which encroach into a required front yard setback along the Birch Street frontage at 401 West Green Street. The subject property is a single-family residence in the MOR, Mixed Office Residential Zoning District. The minimum required front yard in the MOR zoning district is 15 feet. However, Section VI-5.B.5 of the Urbana Zoning Ordinance allows porches to encroach up to five feet into the minimum required front yard. Therefore, the minimum required setback in this case is 10 feet from the front yard property line.

The petitioner recently purchased the house and intends to rehabilitate it. The proposed improvements include reconstructing the ‘wrap-around’ porch, which has stairs leading to both Green and Birch Streets. The existing porch stairs encroach into the required front yard setback along both frontages. The stairs facing Birch Street encroach approximately three feet, which is considered a major variance. The stairs facing Green Street encroach approximately one foot. The applicant applied to the Zoning Board of Appeals for a Minor Variance to allow replacement in kind of the Green Street porch stairs. The Zoning Board of Appeals approved that Minor Variance at their February 15, 2012 meeting.

At their February 15, 2012 meeting, the Zoning Board of Appeals voted three ayes and zero nays to forward the Major Variance to the City Council with a recommendation for approval.

**Description of the Site**

The subject property is located on the southwest corner of Green and Birch Streets. The subject lot is 57.75 feet wide and 115.5 feet deep, with a lot area of just over 6,670 square feet. The lot currently contains a single-family house. There is no garage.

**Adjacent Land Uses and Zoning Designations**

The area surrounding the subject property is mainly residential in nature, containing a mix of single-family homes, duplexes, and apartment buildings. There are several churches in the neighborhood and some commercial uses. The subject property is in the Mixed Office Residential (MOR) Zoning District, which encourages a mixture of residential, office, and small-scale business uses. The properties to the north, east, and west of the subject property are also zoned MOR. The property to the south is zoned R-2, Single-Family Residential. To the west and south of the subject property are single-family homes. There is a commercial building to the north and a church to the east.

The following is a summary of surrounding zoning and land uses for the subject site. Exhibits A, B, and C further illustrate this information.

<b>Location</b>	<b>Zoning</b>	<b>Existing Land Use</b>	<b>Comprehensive Plan - Future Land Use</b>
<b>Site</b>	MOR, Mixed Office Residential	Single-Family Residence	Mixed Residential
<b>North</b>	MOR, Mixed Office Residential	Commercial (Timothy John Salon)	Mixed Residential
<b>East</b>	MOR, Mixed Office Residential	Institutional (Unitarian Universalist Church)	Mixed Residential
<b>South</b>	R-2, Single-Family Residential	Single-Family Residence	Residential – Urban Pattern
<b>West</b>	MOR, Mixed Office Residential	Single-Family Residence	Mixed Residential

**Comprehensive Plan**

The 2005 Urbana Comprehensive Plan indicates the future land use for the surrounding area as “Mixed Residential – Urban Pattern”. The plan defines the Mixed Residential Urban Pattern as follows:

*“Mixed-Residential areas contain a variety of residential land uses including single-family residences, duplexes, town homes, and multi-family development. Encourages a gradation of densities between single-family and multi-family uses in order to achieve compatible development. Also encourages design considerations among various land uses to help achieve compatibility. May also include supporting land uses such as civic, institutional, office, neighborhood business uses as well as parks. Mixed Residential areas will have different physical patterns of development depending on their location in the community. These areas should incorporate provisions for transit service and pedestrian access to nearby commercial and employment centers.”*

Future Land Use Map #8 includes the following notation for this area:

*“Green/Elm Street Corridors  
Promote small-scale residential, office, and business development with a residential character. Adaptively re-use existing structures where feasible.”*

## Discussion

The petitioner recently purchased the subject property and is planning to rehabilitate the house. One of the improvements he will be making is to replace the existing porch. According to the City Building Inspector, the porch is deteriorated and needs to be replaced or extensively repaired. The minimum required front yard in the MOR zoning district is 15 feet. However, Section VI-5.B.5 of the Urbana Zoning Ordinance allows porches to encroach up to five feet into the minimum required front yard. Therefore, the minimum required setback in this case is 10 feet from both front yard property lines. The existing porch stairs are approximately nine feet from the Green Street property line and seven feet from the Birch Street property line. The petitioner was granted a minor variance to replace the existing porch stairs along the Green Street frontage in the same location as the existing stairs, which encroach one foot into the required setback. The petitioner is also requesting a major variance to replace the existing porch stairs along the Birch Street frontage in the same location as the existing stairs, which encroach three feet into the required setback.

The subject property is in an older neighborhood where front porches are an important design feature that helps to maintain the character of the neighborhood. There are some alternative ways in which the design of the porch and the porch stairs could be changed to allow the stairs to meet the minimum required 10-foot front yard, such as setting the stairs into the porch as in the simulation at right. Another alternative would be to remove the stairs on the Birch Street frontage and turn the stairs on the Green Street frontage sideways. While both of these alternatives would allow the petitioner to satisfy the required minimum front yard setback, neither of them would be ideal for the character of the neighborhood or for the aesthetic of the subject property. This house was designed, as most houses in this neighborhood were, to have a front porch facing the street with stairs leading to the sidewalk. Corner houses were often designed to have stairs leading to both streets.



*Example of inset porch stairs*  
*Source: www.flickr.com*

## History of Similar Requests

1. In September 2010, the City Council granted a major variance allowing a front porch and stairs to encroach 14.5 feet into a required 15-foot front yard at 902 East Illinois Street (Plan Case No. ZBA-MAJ-04, Ordinance No. 2010-09-081). This house historically had a front porch in the location where the petitioner was proposing to build a new front porch, which was removed prior to his purchase of the house.
2. In June 1998, the Zoning Board of Appeals approved a minor variance to allow construction of a porch that encroached two feet eight inches into a required 17.25-foot front yard setback at 209 West Oregon Street (Plan Case No. ZBA-98-V-1).
3. Also in June 1998, a major variance was granted to allow construction of a front porch that encroached three feet into the required 15-foot front yard at 1403 Adams Street (Ordinance No. 9798-132).

In March 2009, the City Council approved an ordinance amending Section VI-5 of the Urbana Zoning Ordinance regarding replacement of existing garages located in the side-yard setback. The amendment recognized that traditional neighborhood development patterns in certain neighborhoods made it difficult for some homeowners to meet the existing setback regulations when replacing deteriorated garages. In addition, the regulations that were in place prior to the amendment could be seen as a deterrent to homeowners wanting to improve their property. For similar reasons, the Zoning Administrator is considering requesting a future text amendment to allow replacement in kind of existing porches and porch stairs. The Zoning Board of Appeals expressed support for such an amendment.

## **Variance Criteria**

Section XI-3 of the Urbana Zoning Ordinance requires the Zoning Board of Appeals to make findings based on variance criteria. The following is a review of the criteria outlined in the ordinance as they pertain to this case, followed by staff analysis for this case:

1. *Based on evidence presented, determine whether there are special circumstances or special practical difficulties with reference to the parcel concerned, in carrying out the strict application of the ordinance.*
2. *The proposed variance will not serve as a special privilege because the variance requested is necessary due to special circumstances relating to the land or structure involved or to be used for occupancy thereof which is not generally applicable to other lands or structures in the same district.*

The special circumstances requiring the variance are the location of the existing porch stairs within the required front yard along the Birch Street frontage. According to the 1909 Sanborn Fire Insurance Map, this house was built with a front porch in its current location and most likely also included porch stairs in the current location.

3. *The variance requested was not the result of a situation or condition having been knowingly or deliberately created by the Petitioner.*

The applicant did not cause the need for a variance. The porch stairs were built within seven feet of the Birch Street property line many years ago. Subsequent adoption of City zoning imposed a minimum front yard of fifteen feet, with porches allowed to encroach in this yard by up to five feet. The house currently has porch stairs in the required setback. According to the petitioner, the “existing porch is dangerous and needs to be torn down and rebuilt.”

4. *The variance will not alter the essential character of the neighborhood.*

Granting the variance would not alter the essential character of the neighborhood as it would simply allow an existing feature to be replaced in kind.

5. *The variance will not cause a nuisance to the adjacent property.*

The proposed porch stairs will replace existing porch stairs in kind and will not cause a nuisance to adjacent property.

6. *The variance represents generally the minimum deviation from requirements of the Zoning Ordinance necessary to accommodate the request.*

The variance requests represent the minimum amount needed to rebuild the porch stairs where they are currently located.

## **Recommended Findings**

In determining whether a variance should be granted, findings of fact that are specific to the property or variance in question must be made. The findings of fact are based on the evidence presented above.

1. The applicant applied to the Zoning Board of Appeals for a Minor Variance to allow replacement in kind of the Green Street porch stairs. The Zoning Board of Appeals approved that Minor Variance at their February 15, 2012 meeting.
2. The petitioner is requesting a major variance to allow the replacement of existing porch stairs which encroach up to three feet into the required ten-foot building setback along the Birch Street frontage at 401 West Green Street.
3. The porch and porch stairs are deteriorated and need to be replaced or extensively repaired.
4. The subject property is located in the Mixed Office Residential Zoning District. Per Table VI-3 and Section VI-5.B.5 of the Urbana Zoning Ordinance, the minimum required setback in this case is 10 feet from the front yard property line along Birch Street.
5. The variance is necessary due to the location of the existing porch stairs within the required setback.
6. The applicant did not cause the need for a variance. The porch stairs were built within seven feet of the Birch Street property line many years ago.
7. Granting the requested variance would not have a significant impact on the character of the neighborhood and would not cause a nuisance to adjacent properties because the neighborhood was historically developed to have similar front porches with front porch stairs “facing” the street.
8. The requested variance represents the minimum deviation from the Zoning Ordinance needed to rebuild the front porch stairs where the existing porch stairs are located.

9. At their February 15, 2012 meeting, the Zoning Board of Appeals held a public hearing and voted three ayes and zero nays to forward the Major Variance to the City Council with a recommendation for approval.

## Options

The Urbana City Council has the following options in this case:

- a. Approve the application based on the findings outlined in this memo; or
- a. Approve the application along with certain terms and conditions. If conditions or findings differ from those recommended in the attached draft ordinance, these should be articulated accordingly; or
- c. Deny the application. If the City Council elects to do so, the Council should articulate findings supporting its denial.

## Recommendation

At their February 15, 2012 meeting the Zoning Board of Appeals recommended **APPROVAL**. City staff likewise recommends approval.

Prepared by:

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Rebecca Bird, AICP  
Planner II

Attachments:           Draft Ordinance  
                          Exhibit A:    Location and Existing Land Use Map  
                          Exhibit B:    Existing Zoning Map  
                          Exhibit C:    Future Land Use Map  
                          Exhibit D:    Application  
                          Exhibit E:    Photos  
                          Exhibit F:    Correspondence  
                          Minutes

Cc:                       Bohdan Rudawski, petitioner

**ORDINANCE NO. 2012-03-023**

AN ORDINANCE APPROVING A MAJOR VARIANCE

(To rebuild porch stairs which encroach up to three feet into the required ten-foot setback along the Birch Street frontage at 401 West Green Street / Case No. ZBA-2012-MAJ-01)

WHEREAS, the Urbana Zoning Ordinance provides for a major variance procedure to permit the Zoning Board of Appeals and the Corporate Authorities to consider applications for major variances where there are special circumstances or conditions with a parcel of land or a structure; and

WHEREAS, Bohden Rudawski has submitted a petition for a major variance to allow existing porch stairs which encroach into the required ten-foot front yard along the Birch Street frontage to be rebuilt in their existing location at 401 West Green Street in the MOR, Mixed Office Residential Zoning District; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case No. ZBA-2012-MAJ-01; and

WHEREAS, after due publication in accordance with Section XI-10 of the Urbana Zoning Ordinance and with Chapter 65, Section 5/11-13-14 of the Illinois Compiled Statutes (65 ILCS 5/11-13-14), the Urbana Zoning Board of Appeals held a public hearing on the proposed major variance on February 15, 2012 and voted 3 ayes and 0 nays to recommend that the Corporate Authorities approve the requested variances; and

WHEREAS, after due and proper consideration, the Corporate Authorities of the City of Urbana have determined that the major variance referenced herein conforms with the major variance procedures in accordance with Article XI, Section XI-4.B of the Urbana Zoning Ordinance; and

WHEREAS, the Corporate Authorities have considered the variance criteria established in the Urbana Zoning Ordinance and have determined the following findings:

1. The applicant applied to the Zoning Board of Appeals for a Minor Variance to allow replacement in kind of the Green Street porch stairs. The Zoning Board of Appeals approved that Minor Variance at their February 15, 2012 meeting.
2. The petitioner is requesting a major variance to allow the replacement of existing porch stairs which encroach up to three feet into the required ten-foot building setback along the Birch Street frontage at 401 West Green Street.
3. The porch and porch stairs are deteriorated and need to be replaced or extensively repaired.
4. The subject property is located in the Mixed Office Residential Zoning District. Per Table VI-3 and Section VI-5.B.5 of the Urbana Zoning Ordinance, the minimum required setback in this case is 10 feet from the front yard property line along Birch Street.
5. The variance is necessary due to the location of the existing porch stairs within the required setback.
6. The applicant did not cause the need for a variance. The porch stairs were built within seven feet of the Birch Street property line many years ago.
7. Granting the requested variance would not have a significant impact on the character of the neighborhood and would not cause a nuisance to adjacent properties because the neighborhood was historically developed to have similar front porches with front porch stairs "facing" the street.
8. The requested variance represents the minimum deviation from the Zoning Ordinance needed to rebuild the front porch stairs where the existing porch stairs are located.
9. At their February 15, 2012 meeting, the Zoning Board of Appeals held a public hearing and voted three ayes and zero nays to forward the Major Variance to the City Council with a recommendation for approval.



NOW, THEREFORE, BE IT ORDAINED BY THE CORPORATE AUTHORITIES OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. In Plan Case No. 2012-MAJ-01, the major variance requested by Bohden Rudawski to reconstruct existing porch stairs encroaching into the required ten-foot setback along the Birch Street frontage, is hereby approved in the manner proposed in the application.

Section 2. The major variance described above shall only apply to the property located at 401 West Green Street, Urbana, Illinois, more particularly described as follows:

LEGAL DESCRIPTION:

Lot 25 in James T. Roe's 4<sup>th</sup> Addition to Urbana, as per plat recorded in Deed Record "E" at page 461 situated in Champaign County Illinois. Parcel Identification Number: 92-21-17-133-005

Section 3. The Urbana City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities. This Ordinance shall be in full force and effect from and after its passage and publication in accordance with the terms of Chapter 65, Section 1-2-4 of the Illinois Compiled Statutes (65 ILCS 5/1-2-4).

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called of a majority of the members of the City Council of the City of Urbana, Illinois, at a regular meeting of said Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2012

PASSED by the City Council on this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

AYES:

NAYS:

ABSTAINS:

\_\_\_\_\_  
Phyllis D. Clark, City Clerk

APPROVED by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

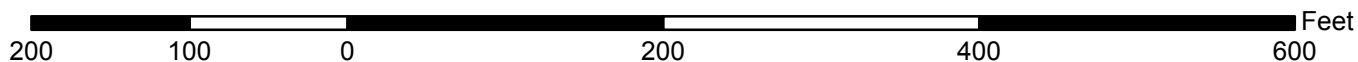
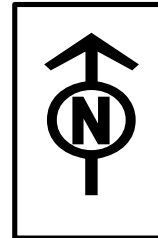
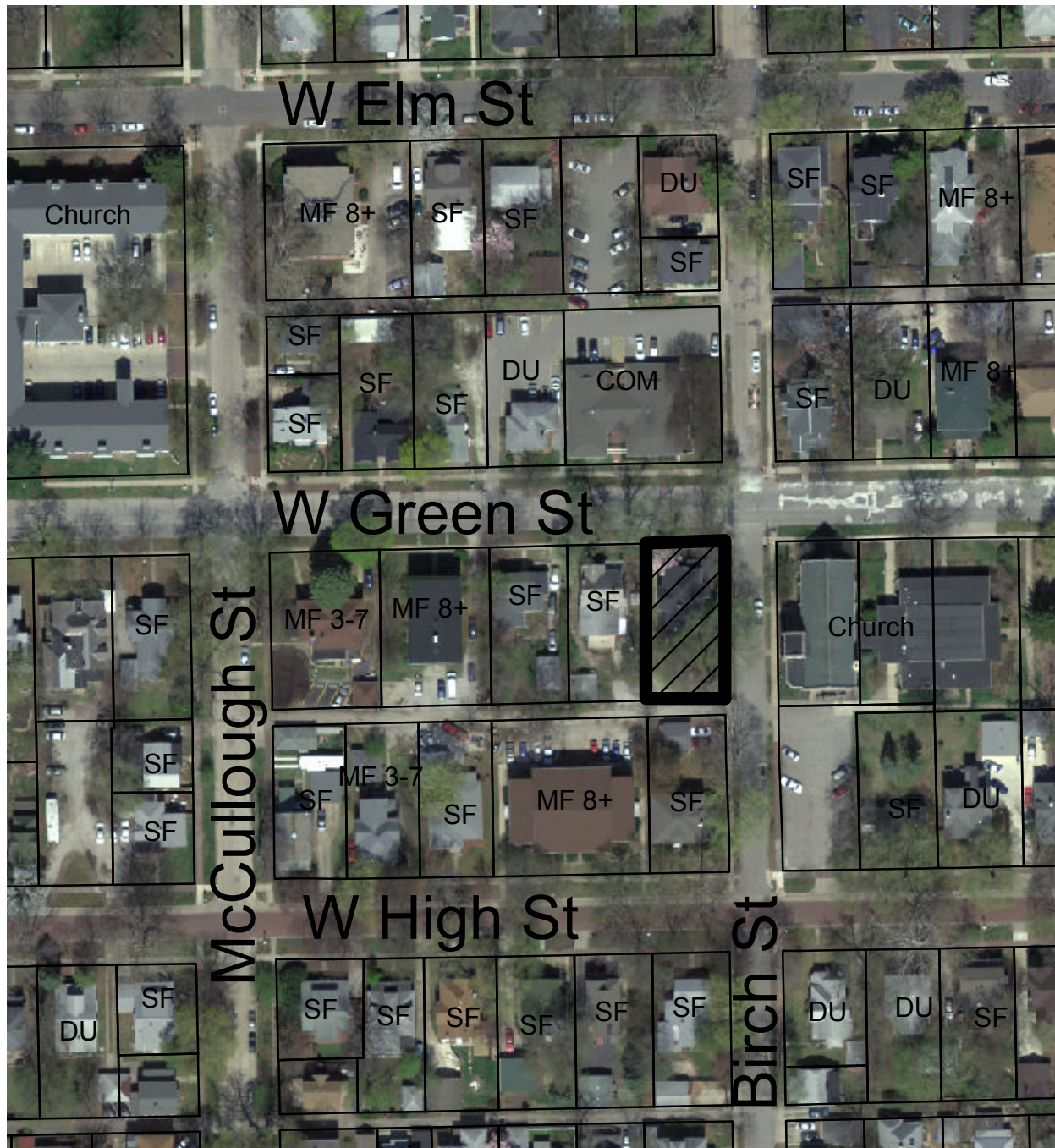
\_\_\_\_\_  
Laurel Lunt Prussing, Mayor

**CERTIFICATE OF PUBLICATION IN PAMPHLET FORM**

I, Phyllis D. Clark, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois. I certify that on the \_\_\_\_ day of \_\_\_\_\_, 2012, the corporate authorities of the City of Urbana passed and approved Ordinance No. \_\_\_\_\_, entitled AN ORDINANCE APPROVING A MAJOR VARIANCE (To rebuild porch stairs which encroach up to three feet into the required ten-foot setback along the Birch Street frontage at 401 West Green Street / Case No. ZBA-2012-MAJ-01) which provided by its terms that it should be published in pamphlet form. The pamphlet form of Ordinance No. \_\_\_\_\_ was prepared, and a copy of such Ordinance was posted in the Urbana City Building commencing on the \_\_\_\_ day of \_\_\_\_\_, 2012, and continuing for at least ten (10) days thereafter. Copies of such Ordinance were also available for public inspection upon request at the Office of the City Clerk.

DATED at Urbana, Illinois, this \_\_\_\_ day of \_\_\_\_\_, 2012.

# Exhibit A: Location & Existing Land Use Map



Case: ZBA-2012-MAJ-01 &  
ZBA-2012-MIN-01

Subject: Major and minor variance to allow porch  
stairs to be rebuilt in existing location

Location: 401 West Green Street, Urbana

Petitioner: Bohdan Rudawski

 Subject Property

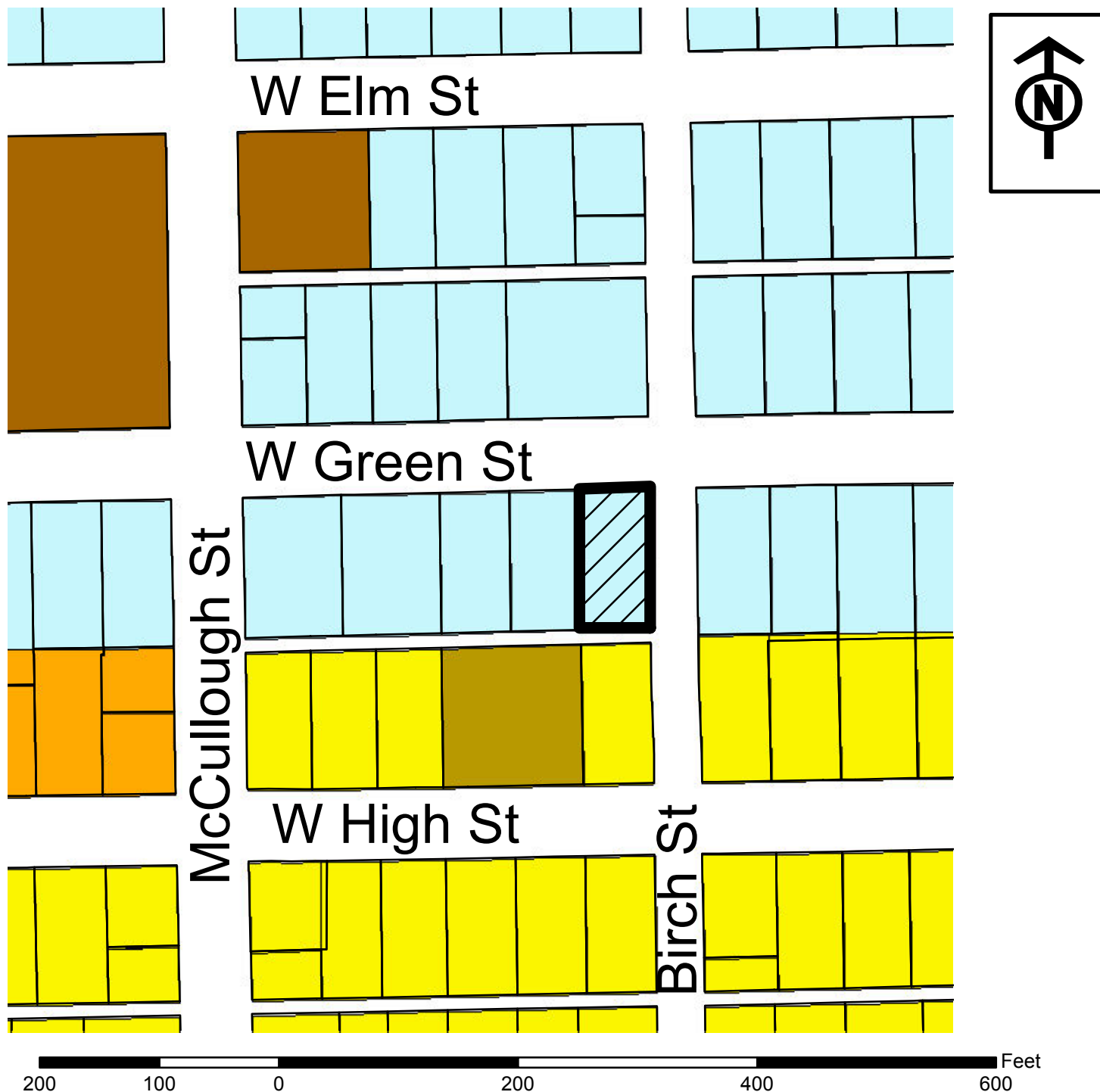
COM Commercial

DU Duplex

SF Single-Family

MF Multi-Family

# Exhibit B: Zoning Map




Case: ZBA-2012-MAJ-01 &  
ZBA-2012-MIN-01

Subject: Major and minor variance to allow porch  
stairs to be rebuilt in existing location

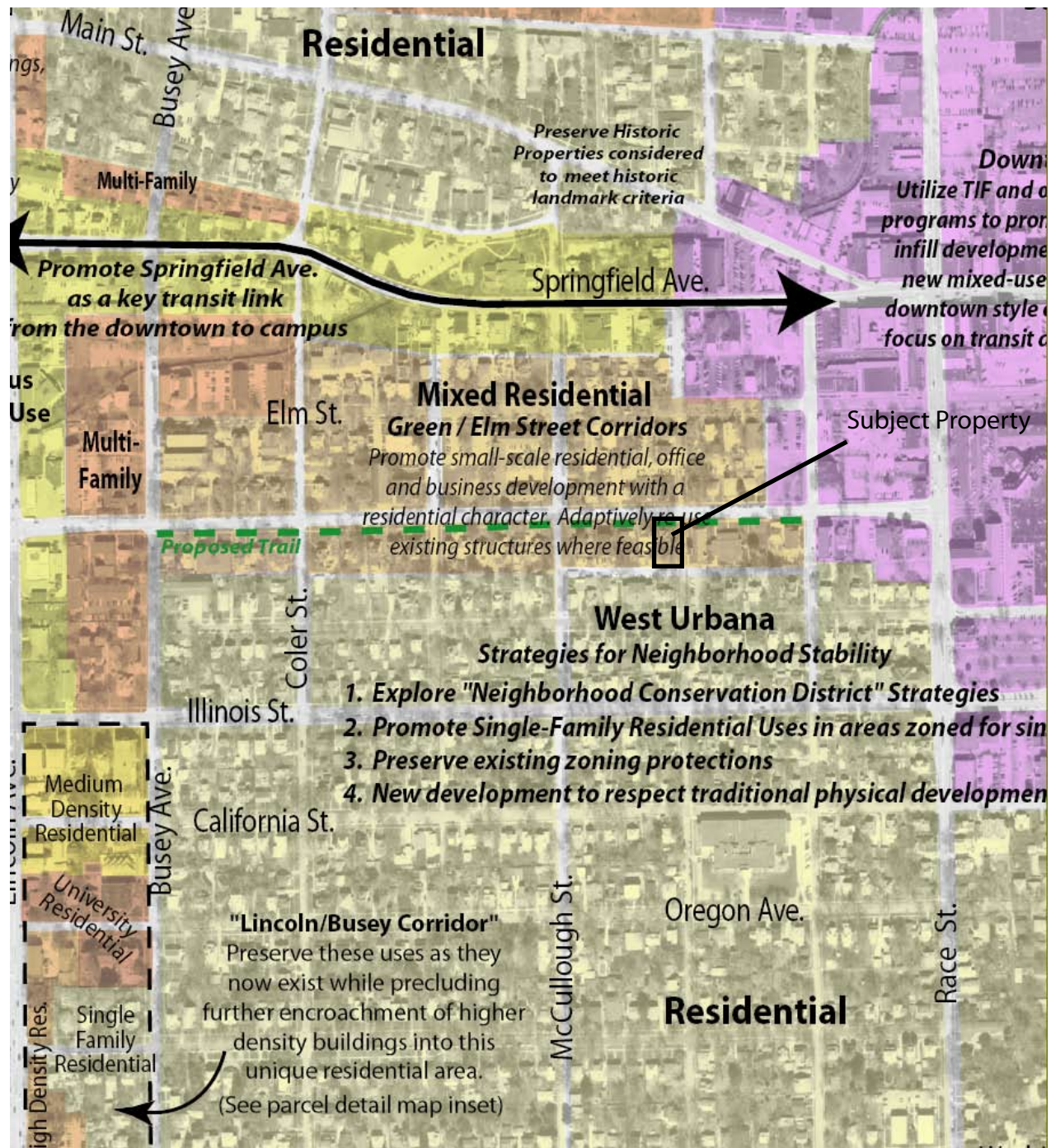
Location: 401 West Green Street, Urbana

Petitioner: Bohdan Rudawski

 Subject Property

 MOR	 R4
 R2	 R5
 R3	

# Exhibit C: Future Land Use Map #8



Case: ZBA-2012-MAJ-01 & ZBA-2012-MIN-01  
 Subject: Major and minor variance to allow porch stairs to be rebuilt in existing location  
 Location: 401 West Green Street, Urbana  
 Petitioner: Bohdan Rudawski



# Application for Variance

# Zoning Board Of Appeals

APPLICATION FEE – \$175.00 (Major) and \$125.00 (Minor)

The Applicants are responsible for paying the cost of legal publication fees as well. The fees usually run from \$75.00 to \$125.00. The applicant is billed separately by the News-Gazette. *If more is needed I'll pay the difference upon request*

### DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY

Date Request Filed \_\_\_\_\_ ZBA Case No. ZBA-2012-MAJ-01 (Birch St.)  
ZBA-2012-MIN-01 (Green St.)  
Fee Paid - Check No. \_\_\_\_\_ Amount \_\_\_\_\_ Date \_\_\_\_\_

### PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION

A VARIATION is requested in conformity with the powers vested in the Zoning Board of Appeals to permit *(Insert Use/Construction Proposed and the Type and Extent of Variation Requested)* REBUILD PORCH/STEPS on the property described below, and in conformity with the plans described on this variance request.

#### 1. APPLICANT CONTACT INFORMATION

Name of Applicant(s): BOHDAN RUDAWSKI Phone: 847-587-4201  
Address (street/city/state/zip code): 161 S US 12 FOX LAKE IL 60020  
Email Address: tatianaflah@sbcglobal.net  
Property interest of Applicant(s) (Owner, Contract Buyer, etc.): OWNER

#### 2. OWNER INFORMATION

Name of Owner(s): BOHDAN RUDAWSKI Phone: 847-587-4201  
Address (street/city/state/zip code): 161 S US 12 FOX LAKE IL 60020  
Email Address: tatianaflah@sbcglobal.net  
Is this property owned by a Land Trust?  Yes  No  
*If yes, please attach a list of all individuals holding an interest in said Trust.*

#### 3. PROPERTY INFORMATION

Location of Subject Site: 401 W GREEN URBANA, IL  
PIN # of Location: 92-21-17-133-005  
Lot Size: LOT 25 of Roe's 4th SUBDIVISION

Current Zoning Designation: MOR

Current Land Use (vacant, residence, grocery, factory, etc): RESIDENCE - PORCH

Proposed Land Use: REBUILD EXISTING PORCH

Legal Description: LOT 25 IN JAMES T ROE'S 4<sup>th</sup> ADDITION TO URBANA  
AS PER PLAT RECORDED IN DEED RECORD "B" AT PAGE 461  
SITUATED IN CHAMPAIGN CTY ILLINOIS

4. CONSULTANT INFORMATION

Name of Architect(s):

Phone:

Address (street/city/state/zip code):

Email Address:

Name of Engineers(s):

Phone:

Address (street/city/state/zip code):

Email Address:

Name of Surveyor(s):

Phone:

Address (street/city/state/zip code):

Email Address:

Name of Professional Site Planner(s):

Phone:

Address (street/city/state/zip code):

Email Address:

Name of Attorney(s):

Phone:

Address (street/city/state/zip code):

Email Address:

5. REASONS FOR VARIATION

Identify and explain any special circumstances or practical difficulties in carrying out the strict application of the Zoning Ordinance with respect to the subject parcel.

EXISTING PORCH IS DANGEROUS & NEEDS TO BE TORN DOWN  
& REBUILT

Explain how the variance is necessary due to special conditions relating to the land or structure involved which are not generally applicable to other property in the same district.

EXISTING PORCH IS DANGEROUS & NEEDS TO BE TORN DOWN  
& REBUILT

Explain how the variance is not the result of a situation or condition that was knowingly or deliberately created by you (the Petitioner).

I PURCHASED THIS HOME KNOWING IT WOULD NEED  
EXTENSIVE REPAIR WORK

Explain why the variance will not alter the essential character of the neighborhood.

THE NEW PORCH WILL BE REBUILT IN A VERY SIMILAR WAY  
TO THE EXISTING ONE - I AM WORKING WITH MS BIRD TO  
MEET WITH HER APPROVAL -

Explain why the variance will not cause a nuisance to adjacent property.

THE REASON FOR THE NEW STEPS PORCH IS STRICTLY FOR  
SAFETY - ADJACENT PROPERTIES ARE LOOKING FORWARD  
TO THIS REPAIR

Does the variance represent the minimum deviation necessary from the requirements of the Zoning Ordinance? Explain.

YES, DRAWINGS WILL BE PROVIDED FOR THE REBUILD OF  
THE PORCH & STEPS TO MAKE SAFE. THE CURRENT CODES  
ARE MET AS WELL AS ANY REQUIREMENTS IN THE  
MOR ZONING DISTRICT

**NOTE:** If additional space is needed to accurately answer any question, please attach extra pages to the application.

**By submitting this application, you are granting permission for City staff to post on the property a temporary yard sign announcing the public hearing to be held for your request.**

#### **CERTIFICATION BY THE APPLICANT**

I certify all the information contained in this application form or any attachment(s), document(s) or plan(s) submitted herewith are true to the best of my knowledge and belief, and that I am either the property owner or authorized to make this application on the owner's behalf.

Golden Rudawski

Applicant's Signature

1/17/12

Date



**EXHIBIT E: PHOTOS**

401 West Green Street, Green Street frontage



Subject property, Green Street frontage on the right, Birch Street frontage on the left



**EXHIBIT F**

**From:** Thomas Bruno [tombruno@tombruno.com]  
**Sent:** Wednesday, February 01, 2012 11:29 AM  
**To:** Bird, Rebecca  
**Subject:** ZBA cases 2012 MIN 01 and 2012 MAJ 01

As a nearby property owner, please show in the record that I have **no objection** to either of these variances, both of which seem appropriate and consistent with the neighborhood.

--

Thomas A. Bruno  
Law Offices of Thomas A. Bruno & Associates  
301 W Green St  
Urbana, IL 61801-3200  
Phone 217-328-6000  
Fax 217-328-6765  
[tombruno@tombruno.com](mailto:tombruno@tombruno.com)  
[www.tombruno.com](http://www.tombruno.com)

**From:** Todd Rusk [todrusk@yahoo.com]  
**Sent:** Wednesday, February 01, 2012 5:15 PM  
**To:** Bird, Rebecca  
**Subject:** ZBA Case #s 2012-MIN-01 and -MAJ-01

Hi Rebecca,

Just got a note about the proposed variances for 401 W Green. Won't be available to attend the public hearing, but sending a word along to you anyway.

I'm glad that somebody is working on that house and rebuilding the porch stairs, and I have no objections to these variances.

Todd Rusk  
412 W. Green St.

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

**DATE:** February 15, 2012

**DRAFT**

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

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

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<b>MEMBERS PRESENT</b>	Paul Armstrong, Stacy Harwood, Harvey Welch
<b>MEMBERS EXCUSED</b>	Nancy Uchtmann, Charles Warmbrunn
<b>STAFF PRESENT</b>	Robert Myers, Planning Manager; Rebecca Bird, Planner II; Teri Andel, Planning Secretary
<b>OTHERS PRESENT</b>	Cherry Boland-Williams, Will Logan, Dale Morrissey, Patty Walters

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**NEW PUBLIC HEARINGS**

**Case No. ZBA-2012-MAJ-01: A request by Bohdan Rudawski for a Major Variance to rebuild porch stairs which encroach up to three feet into the required ten-foot front-yard setback along the Birch Street frontage at 401 West Green Street in the MOR, Mixed Office Residential District.**

**Case No. ZBA-2012-MIN-01: A request by Bohdan Rudawski for a Minor Variance to allow porch stairs to encroach up to one foot into the required ten-foot front-yard setback along the Green Street frontage at 401 West Green Street in the MOR, Mixed Office Residential Zoning District.**

Rebecca Bird, Planner II, presented these two cases together to the Zoning Board of Appeals. She stated that the intention of the proposed two variance requests is to replace two existing front porch staircases at 401 W. Green Street. One set of stairs encroach in the Green Street front yard setback, and the other set of stairs encroaches in the Birth Street front yard setback. She showed photos of the existing wrap-around porch. She noted the zoning, current land uses and Comprehensive Plan future land use designations of the property and of the surrounding properties. She explained that the applicant believes the steps must be replaced rather than repaired given their deteriorated condition and cost considerations.

She mentioned several alternatives considered which would allow replacement and meet the zoning requirements. The first alternative would be for the stairs to be pushed back and inset in the porch floor. The second alternative would be to remove the porch stairs on Birch Street and turn the new stairs sideways along Green Street to keep them out of the front-yard setback. Neither alternative is very practical. This is an older established neighborhood and front porches and stairs facing the streets are an intrinsic part of the character of the neighborhood. City staff feels that it is reasonable for the owner to replace the stairs in their existing locations.

Ms. Bird gave an overview of similar variance requests. In 2009, the Zoning Boards of Appeals heard a variance request to replace an existing garage in its existing location that encroached into the side-yard setback. City staff found this to be common in the older neighborhoods, so they created a text amendment to allow garages to be replaced up to six inches from the property line. The Zoning Administrator considers the replacement of porches and stairs to be a similar situation and is considering a future text amendment to allow property owners to replace porches and stairs in their existing locations.

She briefly reviewed the variance criteria from Section XI-3 of the Urbana Zoning Ordinance that pertains to the proposed variance requests. She read the options of the Zoning Board of Appeals and presented staff's recommendation.

The Zoning Board of Appeals questioned whether any owner would have to request a variance to replace their steps that encroached into the setback. Are the stairs in code violation? Were the plans reviewed by another Board or Commission? If the applicant changes his mind and wants to build the porch and steps differently, then would he need to request another variance?

Ms. Bird answered that under existing zoning requirements, the replacement of the porch and stairs would need approval of variances in order to be rebuilt in their existing locations. This is the reason why the Zoning Administrator is considering creating a text amendment to allow replacement in kind without variances. There are many other homes of the same age in the neighborhood, and those properties could likewise benefit from an ordinance revision.

Concerning any code violations, Ms. Bird said that while they would not be condemned, the porch and stairs are unsafe and need to be replaced. The proposed property is zoned MOR, Mixed Office Residential, which allows projects meeting certain requirements to be reviewed administratively. The plans were not substantial enough to require the MOR Development Review Board approval.

Ms. Bird continued that if the applicant changes his mind and wants to build the porch and stairs differently and the plans encroach less, then he would not need to bring this case back to the Zoning Board of Appeals. However, if he wanted a larger encroachment into the setback, then he would need to return for approval.

Chair Armstrong commented that even if the property owner wanted to encroach into the setback more than requested, it would probably have negligible consequences because the stairs have always been there and it would not be perceived as a significant change from the existing conditions. The other aspect he weighs when reviewing cases such as this is the difference

between a minor and major variance. Because the porch stairs encroach into the setback more on the Birch Street side, which triggers a major variance, and that there are two sets of stairs, he would possibly be inclined to say that they should allow the replacement of the stairs on Green Street and not on Birch Street. However, since the stairs along Birch Street have existed for a long time, it seems to him this would be quibbling.

Mr. Welch moved that the Zoning Board of Appeals approve Case No. ZBA-2012-MIN-01. Ms. Harwood seconded the motion.

Mr. Myers asked for clarification whether the motion included was intended to include approval for handrails to encroach as part of newly constructed stairs. Ms. Bird said yes. The Zoning Board could specifically cite handrails too. The members of the Zoning Board felt it was unnecessary as long as standard building codes for stair construction is met. Even adding a third handrail down the middle of the stairs would have very little impact.

A roll call vote on the motion was taken as follows:

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

The motion was passed by unanimous vote.

Mr. Welch moved that the Zoning Board of Appeals forward Case No. ZBA-2012-MAJ-01 to the Urbana City Council with a recommendation for approval.

Ms. Harwood seconded the motion. Roll call on the motion was as follows:

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

The motion was passed by unanimous vote.

Mr. Welch asked City staff when the Zoning Administrator would plan to create a text amendment regarding the replacement of porches and stairs. Mr. Myers replied that it will require some research to determine the average porch stair encroachment so it will take a few months to create a Zoning Ordinance text amendment.