

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

DATE: April 17, 2002
TIME: 7:30 p.m.
PLACE: Urbana City Building
400 S. Vine Street
Urbana, IL 61801

APPROVED

MEMBERS PRESENT: Paul Armstrong, Herb Corten, Joe Schoonover, Charles Warmbrunn

MEMBERS ABSENT Darwin Fields, Anna Merritt, Harvey Welch

STAFF PRESENT: Tim Ross, Senior Planner; Rob Kowalski, Planning Manager; Teri Hayn, Secretary

OTHERS PRESENT: Edward Filer, Tim Macholl, William Myers, Scott Peters

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

The meeting was called to order at 7:35 p.m. The roll call was taken, and a quorum was declared present.

***Note:** Mr. Schoonover moved that Paul Armstrong be Acting Chair for this meeting in the absence of Chair Merritt. Mr. Warmbrunn seconded the motion. The motion was passed unanimously.

****Note:** Acting Chair Armstrong swore in members of the audience who wished to testify during the public hearing.

2. CHANGES TO THE AGENDA

There were none.

3. APPROVAL OF MINUTES

Mr. Warmbrunn moved to continue the minutes to the next meeting due to the fact that three out of the four members present at this meeting were absent during the March 20, 2002

meeting. Mr. Corten seconded the motion. The motion was agreed upon by all members present.

4. COMMUNICATIONS

There were none.

5. CONTINUED PUBLIC HEARINGS

There were none.

6. OLD BUSINESS

There was none.

7. NEW PUBLIC HEARINGS

ZBA-02-C-01: A request for a Conditional Use Permit filed by Scott Peters to establish an oil change/carwash facility at 212 North Vine Street in the City's B-4E, Central Business Expansion District.

Tim Ross, Senior Planner, presented the staff report for this case. He began with a brief introduction and followed with a presentation on the background of the site including a description of the site itself and a survey of the Comprehensive Plan designations, zoning and land uses of the surrounding properties. Mr. Ross discussed the requirements for a Conditional Use Permit. He read the options of the Zoning Board of Appeals. Mr. Ross stated that staff recommended that the Zoning Board of Appeals GRANT the proposed conditional use (on the basis that the request meets the requirements for the granting of a Conditional Use Permit as outlined in the written staff report) with the following conditions:

1. Layout of the facility shall closely resemble submitted floor plan attached as Exhibit "F-1" in the written staff report, including parking provision and layout that satisfy zoning regulations.
2. Prior to issuance of a building permit, evidence of a cross-access agreement must be presented to the city indicating approval from the neighboring property for perpetual access to the site.

Mr. Corten inquired as to what provisions have been made for the waste disposal such as used oil? Mr. Ross replied that the disposal of such waste would be required to meet all environmental codes. Mr. Kowalski mentioned that waste disposal was not covered by the Urbana Zoning Ordinance. He added that the petitioner, Scott Peters, could give more details regarding this.

Mr. Warmbrunn noted that the City of Urbana developed an agreement with Schnucks and created a B-4E Zoning District. On the site plan, there are four outlots; of which one is

occupied by Advance Auto Parts. Mr. Warmbrunn asked staff to confirm that since the owner did not come before the Zoning Board of Appeals for a Conditional Use Permit, was the Advance Auto Parts use permitted by right in a B-4E Zoning District? Mr. Ross stated that was correct. Mr. Warmbrunn asked why the requested use was not permitted by right? Mr. Kowalski answered that staff recently amended the Zoning Ordinance to exclude an oil change business in the list of uses permitted by right in the B-4 and B-4E Zoning Districts. An oil change business did not have a spot in the Land Use Table. There are classifications for automobile repair major and gas station. When staff did other revisions to the Zoning Ordinance, they added automobile repair minor and made it conditional in the B-4E Zoning District for the reason that such a use like this might need further review because it could be in the heart of downtown.

Mr. Warmbrunn stated that in the agreement with Schnucks it says, "... agrees to a reasonable effort to focus primarily on obtaining retail tenants for the private development not otherwise operating in the City of Urbana, Illinois." He wondered if that was just a recommendation. He asked if the Zoning Board of Appeals should consider that there are two carwashes and two oil bays within half a mile from the proposed spot and that the density of those businesses might be heavy? Mr. Ross responded that was more of an issue with economic development with potential developers. It was really a question of whether the use was acceptable as a conditional use in that zone. Mr. Kowalski added that the agreement does not give the Zoning Board of Appeals the latitude to decide if that condition was met or not. Mr. Warmbrunn commented that it was not a criterion that the Zoning Board of Appeals should be concerned with. Mr. Kowalski responded that was correct. That criterion could be one that the City Manager or Administration as a whole might feel that it may not have been met.

Mr. Corten noticed that the second condition is a perpetual access to the site. He asked what that implied? Mr. Ross answered that it means that Schnucks guarantees that they will provide access for the oil change facility. Access to Vine Street would not be recommended and likely not even possible.

Scott Peters, the petitioner, responded to an earlier concern/question about environmental issues. He stated that waste disposal of liquids such as used oil is generally handled by waste oil recyclers that come around and either take it away for free, charge a premium to take it away, or in some cases, pay to be able to take it away. As far as storage of waste materials, that will probably be covered under any permits required for building.

Mr. Schoonover asked if there were any major plans on changing anything from the materials that the Zoning Board of Appeals received? Mr. Peters answered no. This was the plan that the architect currently has. Although a civil engineer has not seen the plan, the only issues might be turning radiuses and some small reconfiguring. Mr. Schoonover responded that there is not too much one could do regarding turning radiuses when limited on space. Mr. Peters replied that one could reduce the size of the building.

Mr. Corten moved that the Zoning Board of Appeals grant the Conditional Use Permit regarding this case including the two additional requirements requested by staff in the written report. Mr. Warmbrunn seconded the motion. The roll call was as follows:

Mr. Corten	-	Yes	Mr. Schoonover	-	Yes
Mr. Warmbrunn	-	Yes	Mr. Armstrong	-	Yes

The motion was passed by unanimous vote.

8. NEW BUSINESS

Annual Review of By-Laws.

Acting Chair Armstrong noted the copy of the original Rules of Procedure for the Board of Zoning Appeals that was handed out. Mr. Ross requested that the Zoning Board of Appeals table this discussion until the next meeting when the members who are absent could be present.

Mr. Warmbrunn pointed out some of the concerns/issues that he had with the by-laws. Those concerns/issues were as follows:

1. Page 1. Article I. Section 2. He had to use a dictionary to look up the word pecuniary. He felt that the wording should be understandable without having to look up definitions of some of the words.
2. Page 2. Article III. Section 2. He did not see the sense of having the language say two people when four people are required for a quorum to hold a meeting.
3. Page 3. Article IV. Section 1. He asked about the “Audience Participation” that was listed. Staff members explained this is a standard item at Urbana public meetings.
4. Page 3. Article IV. Section 2. He questioned whether there needed to be a majority vote to continue a case? If so, should it be part of the language in the by-laws? Can the staff continue a case due to needing more time to prepare the case for presentation? Mr. Kowalski replied that staff makes a request of the Chairperson to continue a case.
5. Page 3. Article IV. Section 3. Mr. Warmbrunn inquired as to whether the first item, regarding the Chairman entertaining a motion to dismiss a case for want of prosecution, could be worded a little simpler. He understands that it is legal language; however, it is simple enough that if the petitioner does not show, then the Chair could entertain the motion to dismiss the case.
6. Page 4. Article V. Section 3. He felt that “and/or” should replace the or so that it reads like this, “The applicant may appear in his/her own behalf, and/or be represented by counsel or agent.”
7. Page 4. Article V. Section 4. He questioned having the Rebuttal by objector on this list.

Mr. Warmbrunn moved to table this case to the next meeting. Mr. Corten seconded the motion. The motion was passed by unanimous vote.

9. AUDIENCE PARTICIPATION

There was none.

10. STAFF REPORT

Mr. Ross gave the staff report on the following:

- ✓ **ZBA-02-MAJ-02**: *Mr. & Mrs. Leggett's request for a Major Variance was approved by City Council.*
- ✓ **ZBA-02-MAJ-03**: *The request for the Major Variance for the First Presbyterian Church was approved as well.*
- ✓ **The next scheduled meeting** *of the Zoning Board of Appeals is set for May 15, 2001. However, there are no cases pending as of now. Although the Review of the By-Laws was tabled till the next meeting, if there are no cases to present, then the meeting will be cancelled. The Review of the By-Laws will then be discussed at the following meeting in June.*

11. STUDY SESSION

There was none.

12. ADJOURNMENT OF MEETING

Mr. Corten moved to adjourn the meeting. Mr. Warmbrunn seconded the motion. The meeting was adjourned at 8:10 p.m.

Respectfully submitted,

Tim Ross, Senior Planner
Urbana Zoning Board of Appeals