

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

DATE: August 17, 2005

APPROVED

TIME: 7:30 p.m.

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

MEMBERS PRESENT: Paul Armstrong, Herb Corten, Anna Merritt, Charles Warmbrunn, Harvey Welch

MEMBERS ABSENT Joe Schoonover, Nancy Uchtmann

STAFF PRESENT: Elizabeth Tyler, Director of Community Development Services; Paul Lindahl, Planner I; Teri Andel, Secretary

OTHERS PRESENT: Gennaro Marino, Jerry Marino, Kim Marino, Nora Marino

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

The meeting was called to order at 7:34 p.m. The roll call was taken, and a quorum was declared present.

2. CHANGES TO THE AGENDA

There were none.

3. APPROVAL OF MINUTES

Mr. Armstrong moved to approve the minutes from the June 15, 2005 meeting as presented. Mr. Warmbrunn seconded the motion. The minutes were approved as presented by unanimous vote.

NOTE: Chair Merritt swore in members of the audience who wanted to speak during the public hearing.

4. WRITTEN COMMUNICATIONS

There were none.

5. CONTINUED PUBLIC HEARINGS

There were none.

6. NEW PUBLIC HEARINGS

ZBA-05-C-02: A request for a Conditional Use Permit to establish a professional and business office in the R-5, Medium High Density Multiple Family Residential Zoning District at 1101 East Colorado Avenue.

ZBA-05-MIN-02: A request for a Minor Variance to reduce the required off-street parking by 25%, from 18 spaces to 14 spaces, in the R-5, Medium High Density Multiple Family Residential Zoning District at 1101 East Colorado Avenue.

Paul Lindahl, Planner I, presented the two cases together to the Zoning Board of Appeals. He began by describing the subject property and noting its zoning and land uses, as well as that of the surrounding properties. He talked about the proposal for the parking variance to reduce the amount of required off-street parking spaces from 18 to 14 spaces. He reviewed the variance criteria from Section XI-3 of the Urbana Zoning Ordinance that pertained to the proposed minor variance request. He talked about the Professional Office Conditional Use request. He reviewed the requirements for a conditional use permit according to Section VII-2 of the Urbana Zoning Ordinance. He summarized staff findings and read the options of the Zoning Board of Appeals for each case. He presented staff's recommendations along with their conditions to the Zoning Board of Appeals, which were as follows:

ZBA-05-C-02 (Professional Office Use in the R-5 Zoning District)

Based on the evidence presented in the written staff report, and without the benefit of considering additional evidence that may be presented during the public hearing, staff recommended that the Zoning Board of Appeals grant the proposed conditional use permit with the following condition:

- 1. That the Conditional Use Permit shall apply only to the petitioner's business. If the petitioner's business leaves the location, any other office use will need to reapply for its own conditional use permit.*

ZBA-05-MIN-02 (Reduction in required parking)

Based on the findings outlined in the written staff report, and without the benefit of considering additional evidence that may be presented during the public hearing, staff recommended that the Urbana Zoning Board of Appeals approve the minor variance request with the following conditions:

- 1. That the petitioner will not allow any vehicle parking or standing in the Cottage Grove Avenue service drive to ensure that vehicles are not backed onto the road.*
- 2. If the petitioner's business grows to 12 employees, they will inform the City in writing within 30 days, and within 120 days, with all required permits from*

the City, the petitioners will construct a minimum of four additional parking spaces on the subject property.

Mr. Corten inquired if back-in parking would be allowed. He commented that it would be strange to allow residents who live in the neighborhood along the street to back out onto the street, but not the clients or employees of the proposed business. Mr. Lindahl replied that the basic idea of not allowing clients and/or employees to back in was to prevent busier uses, such as businesses, having lots of traffic from pulling in and out more frequently.

Mr. Warmbrunn asked for clarification on the number of parking spaces being proposed. There were fourteen parking spaces, and out of these fourteen spaces, one would be handicap accessible. Would this mean that there would actually be 12 parking spaces and 1 handicap space, since a handicap parking space takes up twice as much room? Mr. Lindahl stated that this was correct. Mr. Warmbrunn wondered if they should change the description of the minor variance from 18 spaces to 13 spaces. Elizabeth Tyler, Director of Community Development Services Department, said that it would probably be more precise to say there would be 13 spaces including 1 handicap space.

Jerry Marino, President of Marino Engineering Associates, Inc., clarified that the handicap parking space would be #14 on the site drawing attached to the written staff report. He also stated that they currently have 9 full-time and 2 part-time employees. In addition, they have an employee overseas in Egypt who will be coming back in about a month.

Mr. Marino went on to talk about his business. He explained that as with any company, business goes up and down continuously. They are currently busier than they had ever been. He came to the City of Urbana in 1978. After getting his PhD, he began consulting in his home. The business grew on its own, eventually outgrowing the space in his home, and more recently outgrowing their current location. His company specializes in a part of civil engineering that deals with the behavior of the earth. He and his employees do some geophysical work and some analysis of underground workings, like for coal mines and such. He pointed out that all of his clientele were spread throughout the country with hardly any in the Champaign-Urbana area. In the kind of work his company does, jobs are generally construction sites that have gone bad, so his employees go to the job sites rather than the clients coming to his office. His business would have a calming influence on the neighborhood, because there would not be a lot of traffic.

Mr. Welch asked why the petitioner did not just go ahead and plan to construct the extra parking spaces since there were already 11 employees. Condition #2 says 12 employees. It does not matter if any of the employees intend to walk, ride bicycles, or drive to work. Ms. Merritt mentioned that this was a condition recommended by staff, and that the Zoning Board of Appeals could change the condition as they saw fit.

Mr. Armstrong inquired if the petitioner planned to use the area designated as a playground pad for future parking spaces. Mr. Marino answered by saying that he had not thought about it. If the business continued to grow, then they could expand into the playground pad area to make more parking spaces. Mr. Warmbrunn asked if the playground pad would be considered proper surface to park on. Mr. Lindahl noted that it would require some stripping and some screening.

Mr. Marino mentioned that the playground pad consisted of a concrete pad with some type of wear-all surface on top.

Mr. Marino stated that three of his employees were currently working in the field. One of them had been in the field for about a month. Another one had been in the field for about 2 or 3 weeks, and the last one just left to go out into the field.

Ms. Merritt thought that the Zoning Board of Appeals should reword Condition #2. Mr. Welch agreed, because it sounded like the petitioner already would have more than enough parking spaces. Mr. Lindahl explained that the reason he included Condition #2 in the staff recommendation was because he felt there was a lot of room in the building and if the business expanded, then parking would be a necessity. Ms. Merritt stated that the question was, "When does the additional parking become a necessity?" Ms. Tyler suggested changing 12 employees to 14 employees in Condition #2. This would give Marino Engineering enough room to grow a little. Mr. Lindahl added that another reason for Condition #2 was because parking in the drop-off drive area was not permitted.

Mr. Welch inquired if the number of required parking spaces was calculated based on the number of employees or by the size of the building. Mr. Lindahl replied that the size of the building determined how many parking spaces would be required. Mr. Marino noted that the building would currently be way too big for his company. However, it was hard to find a building looking the way he wanted it to look and in an appropriate location.

Mr. Welch found it amusing that the City had such requirements for a business whose employees were never at the office at the same time on any given day and rarely had visitors. He believed that basing the number of required parking spaces on the size of a building might be a 20th century concept of how business works and not a 21st century concept with so much internet and other means of modern technological ways of doing business. Ms. Merritt responded by saying that the Zoning Board of Appeals could increase the number of employees a little, but by the same token, the Board did not want to create a problem for themselves down the road. By increasing the number of employees from 12 to 13 or 14, then the Board would not create any future problems and would alleviate the problem for the petitioner.

Mr. Warmbrunn questioned what the reason was for not allowing any parking in the drop-off driveway. Mr. Lindahl answered by saying that the reason was because the drop-off driveway was in the setback, and parking is not permitted in front-yard setbacks. Even when the building was used as a daycare, the drop-off parking spots in the driveway were intended for temporary drop-off spots only, not permanent parking. In addition, the driveway was only 20 feet wide. A parking space would have to be 8-1/2 feet wide, which would not leave enough space for the driveway.

Mr. Armstrong felt that this problem was not insurmountable. There was enough space on the site to expand the parking area. It was now a question of what would bring this issue back before this Board. He agreed with Ms. Merritt's suggestion of increasing the number of full-time employees to forestall the possibility of the petitioner coming back again in 6 months. Therefore, he moved that the Zoning Board of Appeals grant the minor variance, ZBA-05-MIN-

02, along with the two conditions recommended by staff with the following change to Condition #2: "If the petitioner's business grows to 14 full-time employees they will inform the City in writing" Mr. Corten seconded the motion.

Mr. Warmbrunn asked for a definition of a full-time employee. Mr. Welch replied that it would be anyone who works 37½ hours or more. Mr. Marino added that they sometimes employ engineering students from the University of Illinois. Mr. Warmbrunn stated that Mr. Marino could hire part-time employees rather than more full-time employees. In which case, Mr. Marino could have a possible 16 employees in total all show up at the office one day, and there may not be enough parking spaces available. Mr. Lindahl believed that full-time equivalent would include 2 half-time employees equaling 1 full-time employee.

Mr. Warmbrunn commented that the only way the City would know if the petitioner was violating the conditional use permit would be to drive by and see the parking lot continually full. Mr. Welch stated that this whole thing only becomes critical if the parking lot was full on consistent basis. Mr. Armstrong remarked that in the event that all of Mr. Marino's employees including the ones in the field and the part-timers were all at the office simultaneously, and the parking lot was maxed out or over the limit, then they would be in violation of the conditional use permit.

Roll call was as follows:

Mr. Corten	-	Yes	Ms. Merritt	-	Yes
Mr. Warmbrunn	-	Yes	Mr. Welch	-	Yes
Mr. Armstrong	-	Yes			

The motion was passed by unanimous vote.

Mr. Warmbrunn moved that the Zoning Board of Appeals approved the conditional use request, ZBA-05-C-02, along with the condition recommended by staff. Mr. Welch seconded the motion. Roll call was as follows:

Ms. Merritt	-	Yes	Mr. Warmbrunn	-	Yes
Mr. Welch	-	Yes	Mr. Armstrong	-	Yes
Mr. Corten	-	Yes			

The motion was passed by unanimous vote.

7. OLD BUSINESS

There was none.

8. NEW BUSINESS

Review of the By-Laws

Ms. Tyler presented the By-Laws to the Zoning Board of Appeals. She noted that staff would like to have the Board review them on an annual basis to see if any amendments needed to be made.

Ms. Merritt mentioned that she had two editorial things that have nothing to do with substance, which she would give to staff at the end of the meeting. She opened the discussion up to the other members of the Board. She mentioned that it was very helpful to look up the section of the Zoning Ordinance that pertained to the Zoning Board of Appeals as well.

Mr. Warmbrunn inquired about the 2/3 votes. Mr. Armstrong referred to Article III, Section 5 when stating that the By-Laws does not mention what the membership size of the Zoning Board of Appeals. He believed that the language should read something to the effect of 2/3 of the Board. Mr. Warmbrunn agreed that Section 5 talks about a majority not 2/3 of the Board. Ms. Merritt explained that this was a Rules of Procedure, which was a document that told the Zoning Board how to proceed under certain circumstances. The vote was spelled out more in the Urbana Zoning Ordinance.

Mr. Armstrong commented that the By-Laws become too specific in some language and general in others. If the specifics of how votes are cast relative to minor and major variances are already described in the Urbana Zoning Ordinance, the language in the By-Laws should be changed to read majority rather than specifying the number of required votes. Ms. Tyler felt that the By-Laws needed to be consistent with the Urbana Zoning Ordinance. She suggested that City staff confer with the City's Legal Department to make sure that they refer to the Zoning Ordinance in the By-Laws or be completely consistent in the language with the Zoning Ordinance.

Ms. Merritt suggested that they take out the specific references mentioned in Section 5 and make more references to the Urbana Zoning Ordinance. Also, it might help to package the By-Laws and the Zoning Ordinance together.

9. AUDIENCE PARTICIPATION

There was none.

10. STAFF REPORT

Ms. Tyler reported on the following:

- Peoria Coach Conditional Use Permit was approved by City Council.
- Marathon Station at the corner of Florida Avenue and Philo Road is moving forward. They purchased some property to the immediate west, so the variance for the setback on the east side no longer applies. Staff anticipated reviewing the building plans soon.
- Next Scheduled Meeting is set for Wednesday, September 21, 2005. There will be at least one case.

August 17, 2005

- OASS Moratorium Extension was approved by City Council. There will be some changes made to the OASS Regulations and to the Sign Regulations as well. This might change the types of variances that the Zoning Board of Appeals receives in the future.

11. STUDY SESSION

There was none.

12. ADJOURNMENT OF MEETING

Mr. Corten moved that the Zoning Board of Appeals adjourn. Mr. Armstrong seconded the motion. The meeting was adjourned at 8:34 p.m. by unanimous vote.

Respectfully submitted,

Elizabeth Tyler, City Planner
Urbana Zoning Board of Appeals