

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

**DATE:** October 19, 2005  
**TIME:** 7:30 p.m.  
**PLACE:** Urbana City Building  
City Council Chambers  
400 S. Vine Street  
Urbana, IL 61801

**APPROVED**

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

**MEMBERS ABSENT** Joe Schoonover, Nancy Uchtmann, Charles Warmbrunn

**STAFF PRESENT:** Elizabeth Tyler, Director of Community Development Services; Robert Myers, Planning Manager; Paul Lindahl, Planner I; Teri Andel, Secretary

**OTHERS PRESENT:** Dave Barr, Russ Dankert

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

The meeting was called to order at 7:39 p.m. The roll call was taken. There was not a quorum when the meeting was called to order. Mr. Corten arrived later at 8:00 p.m. Upon his arrival, Chair Merritt declared a quorum.

**2. CHANGES TO THE AGENDA**

Since there was not a quorum when the meeting was called to order, Chair Merritt opened up the item on the agenda under Old Business titled "Revisions to the Rules of Procedure".

**3. OLD BUSINESS**

**Revisions to the Rules of Procedure**

Chair Merritt opened this item for discussion. She believed that the Rules of Procedure were beginning to shape up. She was pleased to see that staff had added even more language from the Plan Commission's Rules of Procedure to that of the Zoning Board of Appeals. She felt that the Zoning Board needed to review the Rules of Procedure on an annual basis.

Mr. Armstrong inquired if the new language regarding “Continuances” allowed Zoning Board members to request a continuance. Elizabeth Tyler, Director of Community Development Services Department, replied yes. For example, if Mr. Corten, who is delayed, could not attend the meeting tonight, then there would not be a quorum. In order to keep the case item under New Public Hearings on track with the City Council meeting on November 7, 2005, the Zoning Board members present could request to continue the case to another date. This would enable staff to hold a special meeting prior to November 7, 2005 for the Zoning Board of Appeals to meet without having to re-notice the public hearing in the newspaper and losing a month’s worth of time.

Chair Merritt inquired if the Zoning Board of Appeals could vote on whether or not to approve the Rules of Procedure or would they need to wait until the next scheduled meeting to do so. Ms. Tyler replied by saying that the Board could vote on the Rules of Procedure at this meeting or they could wait until more members were present to ensure a better representation. Mr. Warmbrunn had a lot of comments at the previous meeting regarding “Continuances”. He was out of town and was unable to comment on any of the newly added language.

There was discussion on whether staff should remove Section 2 from Article I, since they had added an entire article on “Conflicts of Interest”. Staff and Chair Merritt came to the conclusion that it would be best to keep Section 2 in the document, because it was important to state up front that “Any member who has any pecuniary or personal interest in a matter before the Board shall remove himself or herself from any consideration of that matter.”

Ms. Tyler wondered if the Zoning Board of Appeals wanted to explicitly include the following language, “at the request of staff, Zoning Board member, or any interested party” to specify who could request a continuance. This would mean that any one member of the Zoning Board of Appeals could delay a case from being voted on. Ms. Merritt did not believe that even the Chair of the Board should have that power. She believed that a Chair should ask for a vote of the Board.

Mr. Armstrong understood that Mr. Warmbrunn’s concern seemed to center around possible scenarios in which a Board member may wish to ask for a continuance in a case. This was not spelled out in the currently proposed language. Ms. Tyler suggested making the following revision, “...at the discretion of staff, Zoning Board member, or any interested party...”.

Robert Myers, Planning Manager, wanted to clarify whether an interested party could include a neighbor who might be affected and/or someone who lives in the community who feels that a proposed type of activity might affect the community in general. Ms. Merritt stated that an interested party could include anyone. However, she reiterated that the Zoning Board of Appeals as a whole would vote on whether they agree with a continuance or not.

Mr. Myers asked if there was a time limit on how long staff and the Zoning Board of Appeals have to act after an application had been submitted. Ms. Tyler stated that staff had tried to include more citations to the Zoning Ordinance in this last revision, because it was not completely consistent. Therefore, it might be good to reference Section XI-3 of the Zoning Ordinance that refers to timelines, so staff and the Board knows that there is a timeline. Mr. Myers explained that he wanted to make sure that they meet the due process requirements for an application and to avoid someone

accusing the City of purposely suffocating an application. Mr. Myers noted that if there was not a time limit mentioned in the Zoning Ordinance already, then staff could consider setting a time limit.

Mr. Myers suggested that they alter the wording under “Failure of Applicant to Appear” to include more explicit language saying that a case may be dismissed if an applicant fails to appear. Ms. Merritt responded by saying that the word “may” was the key, because sometimes a petitioner does not need the applicant to be present. However, there are times when the Zoning Board of Appeals has questions that only the applicants can answer. Mr. Myers explained that he felt the Rules of Procedure should be more direct concerning this issue. They need to point out that “The Zoning Board of Appeals may dismiss a case for failure of the applicant to appear, which would require a motion and vote. As it currently is worded, it puts emphasis on entertaining a motion rather than actually empowering the Zoning board to dismiss a case.

Ms. Tyler stated that staff would work on the Rules of Procedure some more and bring them back to the Zoning Board of Appeals for their approval at the next scheduled meeting.

Mr. Corten arrived to the meeting at 8:00 p.m. Chair Merritt called a quorum.

#### **4. APPROVAL OF MINUTES**

Mr. Armstrong moved to approve the minutes from the September 21, 2005 meeting as presented. Mr. Corten seconded the motion. The Zoning Board of Appeals approved the minutes by unanimous vote.

#### **5. WRITTEN COMMUNICATIONS**

There were none.

#### **6. CONTINUED PUBLIC HEARINGS**

There were none.

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

#### **7. NEW PUBLIC HEARINGS**

**ZBA-05-MAJ-05: A request for a major variance to allow a 100% encroachment for parking into the required 5-foot side-yard setback at 903 West Nevada in Urbana’s B-3U, General Business—University Zoning District.**

Paul Lindahl, Planner I, presented the case to the Zoning Board of Appeals. He showed where the proposed property was located. He explained that the purpose for the variance request was to allow parking to encroach into the side-yard setback on the east side. He gave a brief description of the proposed site and the surrounding properties noting their land uses and current zoning. He talked about the required number of parking spaces and access for the proposed lot. He

reviewed the variance criteria according to Section XI-3 of the Urbana Zoning Ordinance that pertained to this case. He read the options of the Zoning Board of Appeals and presented staff's recommendation, which was as follows:

*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 forward Major Variance Case No. ZBA 05-MAJ-5 to the Urbana City Council with a recommendation of approval with the following conditions:*

- 1. The development on the site must generally conform to the site plan submitted with the application.*

Mr. Corten inquired if the Fire Department was satisfied with the amount of space there would be for them to get in and put out a fire if needed. Mr. Lindahl responded by saying that the fire department access would be from Nevada. In addition, there was a parking lot immediately behind the proposed lot where the fire department could park the engine and run their hoses up to the building. The Building Safety Division had previously reviewed the plans and stated that the fire separation between the two buildings meets the code.

Dave Barr, petitioner, and Russ Dankert, architect for the project, approached the Zoning Board of Appeals to comment and answer any questions that the Board members may have. Mr. Barr stated that they purchased the building at 903 West Nevada from the University of Illinois. They planned to construct an attractive apartment building similar to the one at 611 West Green Street, which they recently finished.

He noted that they planned to install sprinklers from top to bottom in any structure that they build in the future. This plan comes from a fire that they recently had in a different apartment building that they own.

Mr. Barr went on to describe his plans for the proposed new apartment building. He mentioned that although they have spent a lot of money to maintain the existing building, the caliber of tenants have gone the wrong way. He believed that a new apartment building would attract a better clientele. The proposed building would be safer and much more attractive than the existing building. The proposed building would blend into the neighborhood.

Their commercial tenants in the building next door are in favor of the proposed apartment building. They believe it will increase their businesses.

Mr. Corten inquired as to how much the proposed apartment units would rent for. Mr. Barr replied by saying that they would rent for about \$1,000 a month.

Mr. Corten commented that it appeared to support about two people per apartment. Mr. Barr said yes. They hoped to attract either two people per apartment or professionals who plan to use the second bedroom as a den.

Mr. Myers asked if allowing the encroachment for parking would change in any way how headlights affect the neighboring property. Mr. Dankert answered by saying no. He showed a picture of an opaque fence that would set upon the existing retaining wall. The opaque face of the fence would kill any light. They also planned to plant some landscaping.

Ms. Merritt pointed out that the existing rooming house was currently on an incline. She questioned whether the petitioner planned to cut into the incline. Mr. Dankert said yes. The reason is because when you come off the street there was a maximum rise that they could have for handicap accessibility. They planned to drop the first floor, which would bring the second floor closer down to street level.

Chair Merritt commented that although the Zoning Board of Appeals was not allowed to discuss what a proposed building would look like, it was still very important to all of them. Mr. Dankert said that they felt the application for using the side-yard for parking only was a reasonable one. Of course, they would not intend to move the building out there at all. It was just a variegated B-3U Zoning District that you cannot park at. They wanted to keep the setback on the west, so they would not upset the University of Illinois.

Mr. Corten moved that the Zoning Board of Appeals forward the case to the Urbana City Council with a recommendation for approval along with the condition recommended by staff. Mr. Welch seconded the motion. The roll call for the vote on the motion was as follows:

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

The motion was passed by unanimous vote. Ms. Tyler noted that the case would go before the City Council on November 7, 2005.

## 8. NEW BUSINESS

There was none.

## 9. AUDIENCE PARTICIPATION

There was none.

## 10. STAFF REPORT

Ms. Tyler reported on the following:

- **big.small.all.champaign county** has set a schedule for the community dialogue meetings. She noted that the website is [www.bigsmallall.cc](http://www.bigsmallall.cc).

## 11. STUDY SESSION

There was none.

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**12. ADJOURNMENT OF MEETING**

The meeting was adjourned at 8:38 p.m. by unanimous vote.

**Respectfully submitted,**

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**Robert Myers, Secretary of the  
Urbana Zoning Board of Appeals**