

**MINUTES OF A REGULAR MEETING**

**URBANA ZONING BOARD OF APPEALS**

**DATE:** November 15, 2006

**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, Nancy Uchtmann, Charles Warmbrunn

**MEMBERS ABSENT** Joe Schoonover, Harvey Welch

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

**OTHERS PRESENT:** Jo Kibbee, Bruce Krueger, Rita Mennenga, Esther Patt, Charlie Smyth

---

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

Chair Merritt called the meeting to order at 7:34 p.m. Roll call was taken, and a quorum was declared present.

**2. CHANGES TO THE AGENDA**

There were none.

**3. APPROVAL OF MINUTES**

Regarding the minutes of the October 18, 2006 Zoning Board of Appeals meeting, Mr. Corten moved to approve the minutes as written. Mr. Armstrong seconded the motion. The minutes were approved by unanimous vote as presented.

#### 4. WRITTEN COMMUNICATIONS

##### Regarding ZBA Case No. 06-A-01

- Letter from Ed and Sharon DeWan in opposition of the appeal
- Email from Georgia Morgan in opposition of the appeal
- Petition in favor of the appeal
- Email to Rita Mennenga from Derek Brashear in favor of the appeal
- Email to Rita Mennenga from Melissa Hill Brashear in favor of the appeal
- Email to Rita Mennenga from Kelly Sigler in favor of the appeal

NOTE: Chair Merritt swore in members of the audience who might give testimony during the public hearing.

#### 5. CONTINUED PUBLIC HEARINGS

There were none.

#### 6. NEW PUBLIC HEARINGS

**ZBA-06-A-01 – An Appeal of an interpretation of the Urbana Zoning Ordinance made by the Urbana Zoning Administrator disallowing an off-street parking area located within the required 15-foot front-yard setback at 805 West California Avenue in the R-4, Medium Density Multiple Family Residential Zoning District.**

Paul Lindahl, Planner I, presented the staff report for this case to the Zoning Board of Appeals. He began with a brief introduction and background of the case. He noted the zoning and land uses for the subject site and for the surrounding properties. He reviewed the relevant regulations from the Zoning Ordinance that pertain to the proposed appeal. He discussed the petitioner's basis for the appeal, which is that they believe they were given verbal approval by the City's Building Inspector for the paved parking area and that the parking pad was permitted by relevant sections of the Zoning Ordinance. He talked about the Zoning Administrator's determination that the constructed "car pad" is not an allowable parking area, noting the relevant passages in the Zoning Ordinance for making this determination. He summarized staff findings and read the options of the Zoning Board of Appeals. Mr. Lindahl presented staff's recommendation, which is as follows:

*Staff recommended that the Zoning Board of Appeals conduct a public hearing upon this case and make a determination based upon the evidence presented during the hearing, in the case materials presented in the written staff report, and in the appeals application.*

Mr. Warmbrunn asked if a "driveway" as defined simply starts at the street and goes to where the setback is complete with any extension being considered an access drive. Mr. Lindahl stated that there is a difference between a driveway and an access drive. The driveway is the portion of the drive located in the parkway, and the access drive is what everyone thinks to be the driveway. Mr. Warmbrunn asked if the driveway included the first fifteen feet of the setback

area as well. Mr. Lindahl replied no. The first fifteen feet of the setback area of a drive would be considered part of the access drive, because it would be entirely on the lot.

Mr. Lindahl went on to say that the setback from the sidewalk to the front of the house is fifteen feet, which is a required front yard. The location of the parking pad is entirely within the required front yard. As to the Zoning Administrator's interpretation to be an access drive it should function as a drive. One should be able to drive across it and get to somewhere. The petitioner's parking pad does not go anywhere. Therefore, the Zoning Administrator interpreted it as a parking spot and not an access drive.

Mr. Warmbrunn asked who is eligible to get a permit to park on the street. Elizabeth Tyler, Director of Community Development Services Department, answered by saying that anyone who is a resident of the City of Urbana can purchase a parking permit. There are not limitations on numbers per address. She believed the cost to be \$130.00 per year for a parking permit. Mr. Warmbrunn inquired if a parking permit entitled a person to park on any street. Ms. Tyler responded that a person with a parking permit could park their vehicle any place in the permitted area.

Mr. Warmbrunn noticed a difference regarding the depth of the lot between the staff report and the petitioner's application. The staff report states that the lot is 78 feet long, and in the petitioner's application, it states that the lot is 109 feet long. Mr. Lindahl explained that as originally platted there were lots fronting on California Street, lots fronting on Oregon Street, and lots fronting on an alley located between the two streets. He stated that he has not been able to determine whether the lot directly south of the petitioner's property once belonged to the petitioner and was sold or whether the petitioner's lot has always been 78 feet deep.

Mr. Corten questioned how wide the lot is. Mr. Lindahl replied that the lot is 55.7 feet wide. It goes all the way over to the black line on the site diagram, Exhibit F.

Robert Myers, Planning Manager, added that the definition of an "access drive" according to the Zoning Ordinance is "*an access for vehicles from a public right-of-way to a parking space, garage, dwelling, parking lot or other structure*". Essentially, this case is about whether or not the parking pad could be considered an access drive under this definition. The Zoning Administrator's interpretation is that it is not an access drive, and the applicants believe that it is.

Rita Mennenga, petitioner and owner of 805 West California, stated that she was there to ask permission to park cars on the new car pad. She noted that she did not realize that anything was wrong until one of her tenants received a warning ticket for parking on the new car pad. She immediately stopped working on the new car pad, so the landscaping is not finished.

Mr. Corten inquired if she has ever lived in the house. Ms. Mennenga replied that she has not lived in the house. It is a rental duplex with tenants living upstairs and other tenants living downstairs.

Mr. Corten commented that this side of the University of Illinois is changing so rapidly. It is becoming so overrun with vehicles that parking is going to be a continuing problem for this area.

Ms. Mennenga said that she is glad to see the University of Illinois doing wonderful things on Illinois Street and Lincoln Avenue. She, too, wants to keep her property nice for her tenants and for the neighborhood.

Mr. Corten assumed that the Mennengas wanted to continue to use the house as a double rental rather than tear it down and build an apartment complex. Ms. Mennenga said that is correct. She and her husband are trying to keep the house in good shape. She pointed out that her biggest consideration to construct the new car pad was to make it easier for her tenants to park. With a single lane driveway, the tenants have to park behind each other, and if the tenant who pulled into the driveway first wants to leave, then they have to ask the other tenants to move their vehicles. Also, she was concerned about her tenants having to walk after dark from their on-street parking space.

Mr. Armstrong inquired as to the depth of the lot. The petitioner's application states that the lot is 109 feet deep. The diagram provided by City staff shows that the lot is 78 feet deep. Ms. Mennenga stated that she believes her deed for the property states 109 feet. There is a swimming pool belonging to the Europa House which is located behind her property.

Mr. Warmbrunn questioned if the 78 feet was from the right-of-way to the back of the house. Ms. Mennenga said that she would have to check on this.

Ms. Uchtmann commented that if the lot is only 78 feet deep, then the petitioners would not meet the Open Space Ratio (OSR) requirement. Mr. Lindahl explained that OSR is a ratio of the open space on the lot to the floor area of the building. It is almost mathematically impossible to not meet the OSR requirement in a residential area. There are green open areas on the west and south sides of the proposed lot.

Mr. Warmbrunn inquired as to how long the petitioner has owned the property. Ms. Mennenga replied that her husband and she have owned 805 West California for ten years.

Mr. Warmbrunn wondered if it has served as a duplex for ten years. Ms. Mennenga said yes.

Mr. Warmbrunn questioned whether parking has ever been a problem in the past. Ms. Mennenga mentioned that they have been blessed with wonderful tenants. Many of the tenants have been professors for the University of Illinois. They would only have one car or would walk to the University.

Mr. Corten believes that parking is a growing problem. He does not feel that the Zoning Ordinance is written clearly, because when he first read it, he thought that the Ordinance did not restrict parking in the front yard, and that the new car pad should be allowed.

Ms. Mennenga said she talked with the City's Building Inspector prior to constructing the new car pad. She received verbal approval from him to construct the new car pad, and so she built it. She wishes now that she would have gotten the approval in writing. She submitted pictures of her car parked on the new car pad. She also referenced the letters that she had turned in prior to the meeting.

A public hearing was opened at which time anyone in the audience was invited to comment.

Jo Kibbee, resident of 607 West Oregon, said she opposes paving front yards. She expressed her concerns about what is happening in her neighborhood. She is afraid that the safety of the area is being compromised by this very type of act. Paving the front yard shows disregard for the aesthetics of the area and for the residential neighborhood with small children and single-family homes. Therefore, she strongly urged the Zoning Board of Appeals to uphold the Zoning Administrator's decision.

Esther Patt, resident of 706 South Coler Avenue, said she has lived in the neighborhood for 30 years. Throughout this time, she has watched the parking problem getting worse and worse in terms of the volume of cars. The City of Urbana has taken various steps to try to make more parking available to residents.

She feels that parking in front yards is not an appropriate solution. She assured the petitioner that her tenants are not alone in the facing the dilemma of having to park a block from their home. She feels that this is not just a question of what happens at 805 West California. Allowing the petitioner's to park vehicles on the new car pad will only set a precedent for other people in this area to want to construct car pads in front of their homes. This is a fragile neighborhood, and it does not need any more pressure on the quality of appearance of housing. She commented that the new car pad should not be considered an access drive. It is clearly a parking space.

Mr. Corten questioned whether the Plan Commission had any plans to do anything about the number of vehicles and parking in the area. The parking problem is growing bigger and bigger. Ms. Patt answered by saying that the City of Urbana started the permit parking requirement about thirty years ago. It was about twenty years ago when the City made the decision to only allow residents living in the neighborhood to purchase the parking permits. She did not know if the City has any plans to do anything more, because there is no solution to the parking problem. There are enough on-street parking spaces for everyone; however, you will probably have to park a block away and walk. It is not like they have to park a mile away.

Ms. Tyler mentioned that the University of Illinois is planning to build a new parking deck on the west side of Lincoln Avenue. This might help to take a little of the pressure off the on-street parking in the West Urbana neighborhood that is nearby. Mr. Corten inquired as to when the new parking deck is proposed to be constructed. Ms. Tyler said that she thought it would be in 2008. The parking deck would not be for residents, but it would take some pressure off the daily parking.

Ms. Patt explained that thirty years ago, the average family had one car. Nowadays, the average family has two or three cars. So, there are more cars on the street. There are about eleven on-street parking spaces on each block, and sometimes less depending on the number of driveways. She feels that people can walk an extra block rather than pave front yards.

Bruce Krueger, resident of 806 West California, spoke as to whether the car pad is part of the access driveway. He could not see any way that this could be argued as an access drive. It allows cars to park at a 90 degree angle.

He mentioned that construction of the car pad appeared suddenly. The contractor did the job in two to three days, and there was not any time to stop halfway through. He feels that it will set a horrible precedent. He is completely empathetic with the hassle of the parking problem in the driveway. If you only have a single nine- or ten-foot driveway, then the last one to park has to be the first one out.

Another issue is to the depth of the lot. He recalls that the lot used to be 109 feet in depth. The back 30 or so feet was sold to the owners of the Eurpoa House to install a swimming pool. This space could have been used for a parking lot, which would have solved the parking problems for the tenants residing at this property.

Ms. Tyler inquired as to when the swimming pool was built. Mr. Krueger stated that it happened around the time that the add-ons were built to the Europa House along Busey Avenue.

Mr. Myers stated he wanted everyone to understand that the issue at hand was whether or not the petitioner could park their car in the front yard, not whether they can pave over their front yard. Property owners can legally put in paved patio areas in their front yards and take out green space. As long as they do not park on it, it is not considered a violation of the Zoning Ordinance. He pointed out that the Zoning Board of Appeals should only consider whether or not the petitioner should be allowed to park on the paved area. If the Zoning Board upholds the Zoning Administrator's decision, two possible solutions would be to either remove the pad or provide wheel barriers and use it as a patio.

Ms. Mennenga re-approached the Zoning Board of Appeals. She asked how this should have been taken care of properly. She called the Building Inspector prior to constructing the new car pad, and she received verbal approval from him to build it. She then hired a landscaper to construct the pad. When her tenant received a warning ticket, she found out that the car pad is not okay. What is the procedure to get an okay? Doesn't the Zoning Board of Appeals need to take into consideration the fact that she received prior approval to build the car pad? Ms. Merritt replied no. Ms. Tyler responded by saying that City staff receives a lot of telephone inquiries everyday, but City staff really need to see plans and ideas on paper. They set time aside each week in their Plan Group meeting to meet with applicants on zoning requests. Building inspectors also meet with people to discuss construction projects on a daily basis on an appointment basis. In this case, from her understanding, the building inspector referred the Mennengas to speak with a planner, to read the section of the Zoning Ordinance concerning parking and access drives, and to submit a plan. For most projects, a person needs a permit. In order to get a permit, a plan needs to be submitted. City staff catches zoning problems (if any) in reviewing plans that have been submitted. However, just laying concrete, in itself, does not require a permit. So it slipped through. She could not recall when the last time there was an appeal on a miscommunication of this sort. It just does not happen very often.

Ms. Uchtmann felt that it would distract from the neighborhood, and it would set a precedent for other property owners in the neighborhood to put in similar parking pads. This would be a detriment to the neighborhood. Mr. Corten agreed with Ms. Uchtmann, however he did not feel that the Zoning Ordinance is clear enough.

Mr. Armstrong stated that it comes down to the issue of language and the definitions of “accessory parking” and “access drive”. He feels that putting in a car pad is “accessory parking”. Equating accessory parking with an access drive makes this issue cloudier. The Zoning Ordinance clearly defines the difference between “accessory parking” and “access drive”. On the other hand, interpretation of another part of the Zoning Ordinance is that because the front-yard is not mentioned, then it is implicitly excluded. However, this language does not explicitly prohibit front-yard parking.

Mr. Warmbrunn inquired about whether the pad could be used as a patio in the front-yard setback. Mr. Lindahl stated that it would be allowed. A basketball court, a terrace, or a patio are all permitted in the front-yard setback.

Mr. Warmbrunn wondered why City staff had recommended that either the paved parking area either be removed or barricaded if a property owner is allowed to have a paved surface in the front-yard setback. Mr. Lindahl explained that the reason is to keep anyone from parking on it. Mr. Warmbrunn wondered if the Zoning Board of Appeals should be concerned about visibility when pulling out of the driveway. Ms. Merritt commented that the petitioner could put up a fence around the paved area. Ms. Tyler stated that the City would not want to see a barricade that would create a safety or a visibility problem. Ms. Merritt asked if the petitioner could put up a six-foot fence. Mr. Lindahl replied that the petitioner could put up a fence, but they would need to apply for a fence permit and submit a plan. Ms. Merritt stated that this is not an issue for the Zoning Board of Appeals to decide.

Mr. Warmbrunn mentioned that since the language “barricaded” is probably going to be included in the motion, then the Zoning Board of Appeals should lay out what barricaded means to the City. He felt they should let the petitioner know what she could and could not do to prevent another miscommunication from happening again.

Ms. Mennenga inquired as to whether she could plant a tree or landscape in front of the paved surface to camouflage any parked vehicles and make it more aesthetically pleasing. Ms. Merritt stated that the Zoning Board of Appeals would only be considering whether or not the petitioner should be allowed according to the Zoning Ordinance to park on the paved surface.

Mr. Warmbrunn moved that the Zoning Board of Appeals uphold the decision of the Zoning Administrator and that the paved parking area either be removed or barricaded so that it is not accessible for parking. Ms. Uchtmann seconded the motion.

Roll call on the motion was as follows:

Mr. Corten	-	No	Ms. Merritt	-	Yes
Ms. Uchtmann	-	Yes	Mr. Warmbrunn	-	Yes

Mr. Armstrong - Yes

The motion was passed by a 4-1 vote.

**7. OLD BUSINESS**

There was none.

**8. NEW BUSINESS**

There was none.

**9. AUDIENCE PARTICIPATION**

There was none.

**10. STAFF REPORT**

Mr. Myers reported on the following:

- Starbuck's will be moving forward with their project.
- Next Scheduled Meeting: City staff believes there will be a meeting on December 20, 2006. They are anticipating a case regarding Fairlawn Village.

**11. STUDY SESSION**

There was none.

**12. ADJOURNMENT OF MEETING**

The meeting was adjourned at 8:45 p.m. by unanimous vote.

Respectfully submitted,

---

Robert Myers, Secretary  
Urbana Zoning Board of Appeals