

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

DATE: January 31, 2007
TIME: 7:30 p.m.
PLACE: Urbana City Building
City Council Chambers
400 S. Vine Street
Urbana, IL 61801

APPROVED

MEMBERS PRESENT: Paul Armstrong, Herb Corten, Anna Merritt, Joe Schoonover, Nancy Uchtmann, Charles Warmbrunn, Harvey Welch
STAFF PRESENT: Robert Myers, Planning Manager; Matt Wempe, Planner II; Teri Andel, Planning Secretary
OTHERS PRESENT: Carolyn Baxley, Carmen Davis Kirby, Joan Zagorski

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

Chair Merritt called the meeting to order at 7:30 p.m. Roll call was taken, and a quorum was declared with all members present.

2. CHANGES TO THE AGENDA

There were none.

3. APPROVAL OF MINUTES

Regarding the minutes of the December 20, 2006 Zoning Board of Appeals meeting, Mr. Corten moved to approve the minutes as written. Mr. Schoonover seconded the motion. The minutes were approved by unanimous vote as presented.

4. WRITTEN COMMUNICATIONS

There were none.

Chair Merritt swore in members of the audience who might want to speak during the public input portion of the public hearing.

5. CONTINUED PUBLIC HEARINGS

There were none.

6. NEW PUBLIC HEARINGS

ZBA-07-MAJ-01 – Request by Carmen Davis Kirby (Bella Home) for a Major Variance to allow a 460% increase in the display area of a projecting sign and to install the sign on the second level of the building at 110 West Main Street in the B-4, Central Business Zoning District.

Matt Wempe, Planner II, gave the staff presentation for this case to the Zoning Board of Appeals. He introduced the case by stating that the request is for a major variance to allow a 56 square foot projecting sign over the public right-of-way on the second level of 110 West Main Street. He gave a brief background of the proposed project. He noted that development regulations allow a sign up to 32 square feet, or a maximum of 12 square feet if any portion of a sign extends over the public right-of-way. He pointed out that the property is located in the middle of downtown Urbana is surrounded by a mixture of commercial, office, institutional, and residential uses. He reviewed the criteria for granting a variance. He read the options of the Zoning Board of Appeals and stated staff's recommendation, which is as follows:

Based on the findings 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 Urbana Zoning Board of Appeals recommend approval of the proposed major variance to the Urbana City Council.

Mr. Warmbrunn mentioned that the last similar case the Zoning Board of Appeals reviewed in this particular area was in 2001. Since then, the sign ordinance has changed. Who recommended changes to the sign ordinance regarding projecting signs? Was it the Downtown Strategic Plan Group? Mr. Wempe explained that staff initiated the changes to the sign ordinance in response to the Illinois Student Environmental Network (ISEN) case that Mr. Warmbrunn had mentioned from 2001. City staff had brought it to the attention of the Downtown Steering Committee as well as the Plan Commission to gather input.

Mr. Warmbrunn wondered if there had been any discussion by either of the groups about retail on the second floor in any of the downtown buildings. Mr. Wempe said that there was not any specific mention of retail on the second level of the buildings. He pointed out that regarding the ISEN variance case in 2001, there were some specific differences between that case and the current variance request. The largest difference is that the Zoning Board of Appeals reviewed the ISEN case as a policy change, not a variance change. Another difference is that ISEN was an office type business, not a retail business such as Bella Home. How an office use and a retail use would use signage is fundamentally different.

Mr. Warmbrunn is concerned about them wanting to get the attention of vehicular traffic, especially since this particular block is incredibly congested. He did not understand why we are

encouraging people in cars to look up at the second floor. He inquired as to what the speed limit is through downtown. Mr. Wempe replied that the speed limit is 30 mph.

Mr. Warmbrunn asked if there were any other signs like this in the City of Champaign or the City of Urbana that staff knew of. Mr. Wempe stated that there is a Knights of Pythias Twin City Lodge No. 69 sign above Siam Terrace at 212-1/2 West Main Street in Urbana. However, it is smaller and wall mounted, and it lights up in neon. He is not sure about signage in downtown Champaign.

Ms. Uchtmann questioned what would happen as the trees in the right-of-way grow. Mr. Wempe answered by saying that this would even be an issue with any signage on the first floor of any business downtown Urbana, especially since the City of Urbana has streetscape trees installed on regular intervals in the downtown area.

Mr. Corten requested clarification on which way the sign would face. Mr. Wempe explained that the sign would face east and west, and the building faces south. Mr. Corten wondered how thick the sign would be. Mr. Wempe said it would be made of vinyl, so it would be quite thin.

Mr. Warmbrunn asked if the petitioner would be allowed to hang an illuminated wall sign instead and if so what size could it be. Mr. Wempe said that they would be allowed to have a wall sign that is lit either internally or externally. There are requirements on how far a wall sign could extend from a building.

Mr. Warmbrunn wondered what the difference is between internal illumination and external illumination. Mr. Wempe explained that an internally lit sign would have fluorescent lighting inside the sign and it shines out. An externally lit sign would have a light outside of the sign shining on the sign.

With no further questions for City staff from the Zoning Board of Appeals, Chair Merritt opened the hearing up to take testimony from members of the audience.

Carmen Davis Kirby, owner of Bella Home, as well as owner of Bella Mia in the City of Champaign, said that aesthetics and safety are most important to her. To bring class and beauty to the downtown Urbana area is also very important. She has spent a lot of time in trying to design a sign that would be beautiful, and that would also represent downtown Urbana.

Mr. Schoonover asked if it was because the brackets were already in place as to why she decided to go with a 56 square foot sign. Ms. Kirby stated that they looked into several different options. A vertical projecting sign seemed to be the best option, so people could see the sign from the east and the west. Also, a lot of time and money went into installing the existing brackets so they decided to use them.

Mr. Schoonover inquired about the proposed sign having a wind break cut to allow wind to go through so it would not act as a sail. Ms. Kirby said that the sign would have to have a wind break cut in it. Otherwise, the sign would not last very long. They want the sign to be safe and stay in place.

Mr. Corten wondered if Ms. Kirby had looked at open spaces on the first floor of buildings in downtown Urbana prior to leasing their current space on the second floor. Ms. Kirby replied that there were not any open spaces for rent on the first floor of any buildings that compared to the space they have rented from Carolyn Baxley. The space they have is beautiful.

Carolyn Baxley, owner of the building at 110 West Main Street, spoke in favor of the variance request. She was surprised that they had to go through this procedure for the proposed sign. She stated that the hardware was installed when the University of Illinois (U of I) had their art gallery in the building. The U of I sign was exactly the size of the proposed sign, and it was displayed for several years. The U of I removed the sign when they closed the art gallery. The hardware was left behind. She believes that the proposed sign should be grandfathered in, because she went to a considerable amount of expense to have the hardware match the detailing on the building. Although the hardware looks simple, it is not. They had to have a blacksmith create the hardware. She hoped that neither Ms. Kirby nor she would have to incur the expense of replacing the hardware if the proposed variance request is denied.

Ms. Baxley pointed out that a four foot wide sign appears larger at eye level, but on the second floor it would appear much smaller. In order to get the visibility that is needed to succeed on the second floor, Ms. Kirby will need the size of sign as being proposed.

She mentioned that she is extremely pleased to have this business as retail on the second floor. She hopes it starts a trend for more retail in downtown Urbana on second floor spaces.

She stated that her concerns have already been answered in terms of the wind resistance. She also has approval as the landlord over the sign design. They required Ms. Kirby to have wind flaps in the proposed sign, because otherwise it would act like a sail and pull the hardware off and damage the brick wall.

Mr. Warmbrunn asked in what year they put the U of I sign up. Ms. Baxley believed it was either in 1989 or 1990.

Mr. Warmbrunn wondered if Ms. Baxley thought the Zoning Board of Appeals should consider the difference of Bella Home being retail as opposed to an office use. Ms. Baxley replied that it is more problematic for a retail space on a second floor in that they have to build their clientele. Obviously, Bella Home will have some visibility at ground level from their little sign on the door, but not very much. They need something to attract passersby with something that says "We're Here". Therefore, retail should have a little more consideration. Office type uses such as attorneys and accountants tend to have a clientele already.

Bella Home is all about style. Their whole business is about beautiful things for the home and for women to wear. The sign that they have designed will be quite lovely and will liven up this particular area of Main Street. They are working hard at getting retail on the north side of Main Street in the downtown area, and she feels that the proposed sign would enhance this.

Mr. Warmbrunn inquired if the Bella Home name would appear on the awning on the first floor level as well. Ms. Baxley said yes. There is space for the Heartland Gallery and for Bella Home to put their logos on the canopy. She mentioned that it would be far less visible because it would be quite small. One would be able to see the proposed sign for quite some distance. The proposed sign would also be simple, so it is not something that people driving by would have to spend a lot of time studying.

Ms. Kirby re-approached the Zoning Board of Appeals.

Mr. Corten wondered if the merchandise for sell at Bella Home is the same as the merchandise for sell at Bella Mia in the City of Champaign. What gives her the impression that people will want to come to one place or the other? Ms. Kirby responded by saying that Bella Mia sells women's clothing and accessories. Bella Home sells home furnishings and gifts. The two businesses are quite different.

Ms. Uchtmann questioned whether the allowed 12 square foot projecting sign would be adequate if the proposed variance were not approved. Ms. Kirby stated that it would be more expensive to install new hardware. They hope to utilize the hardware that already exists. They would like to have the proposed sign so that they can attract people from out-of-town.

Joan Zagorski, of 1605 South Race Street, stated that the new business needs some kind of signage so people will know that it is on the second floor. She believes it would be a good idea to use the existing hardware. She wants it to look nice, so she wanted to know what colors they planned to use on the sign. Ms. Baxley stated that there would be shades of blue and brown.

Chair Merritt closed the public hearing portion of the case. She opened it up for Zoning Board of Appeals discussion and motions.

Robert Myers, Planning Manager, commented that in working with downtowns and main streets specifically, visibility is a huge issue. If retail is not at street level and if people have to walk up or down to get to the place of business, then many times it is more difficult for the retail business to get the foot traffic needed to be successful. This is often reflected in the rent. Because of this, visibility is crucial for any sort of upstairs business or business tucked behind the building. Typically, in pedestrian areas there is a street level band which is transparent with larger windows to display merchandise being sold. It is not the same with second floor businesses, because the windows are smaller and are not display windows.

He also talked about the proposed variance setting a precedent. How many buildings in the downtown area have separate exterior entrances to go up to the second floors? He believes that only the buildings that have separate second floor entrances on the street are the ones that could realistically have different businesses on the second floors. Although it is possible, it would be unusual to have a business on a second floor that enters the building through a business on the first floor. Therefore, the possibility of separate second floor businesses are limited in downtown Urbana. Mr. Warmbrunn disagreed. He feels that the whole block is this way. The building that Crane Alley is in and the building that Gabe's Place is in have separate entrances. He felt that the main question is whether there is a difference between retail use on the second

floor and office use. He feels that there needs to be a distinction to justify the size of the proposed sign, and he did not know if it could be done with the way the current language reads.

Mr. Welch said that the City already has these types of signs hanging in different parts of Urbana. At Green and Race Street, the City hangs signs advertising the Farmer's Market and the Chili Festival. People are looking up for these signs and don't seem to be too distracted. The City needs to either stop all signs that distract motorists and cause them to look up or recognize that this is a non-issue. To take this logically a step further, we should not have any buildings more than one story, because they cause a motorist to look up as well. If people are respecting the speed limits, then these types of signs should not be an unnecessary or dangerous distraction.

He commented that in terms of precedents, everything we do sets a precedent one way or another. If they would deny the proposed variance it would set a precedent in another direction. We cannot be overly concerned about setting a precedent because the Zoning Board of Appeals has to take these types of requests on a case by case basis.

In terms of appropriate signage for upper story windows, professional businesses etch their information into the windows, and those are fine for their customers. However, the retail factor is distinctly different.

Mr. Myers stated that the distraction issue is a tricky one. City staff previously researched this issue in terms of billboards. In fact the City went to court in the 1980's in part over the issue of whether billboards distract drivers or not. In this court case, the local billboard company brought in experts in the fields of psychology and physiology. The experts went into great detail on the issue of distraction of drivers and signage. The City was not able to prove its case on the point that billboards should be regulated in part to prevent drivers from being distracted. He mentioned that even Scenic America, who is very concerned about billboards, has conducted a number of studies which have shown mixed results on whether or not billboards are distracting to motorists.

Mr. Armstrong stated that there is a difference between a sign and a banner. A banner is more temporary and is made of temporary materials. It is meant for a specific usage and usually has a time duration attached to it. The proposed type of sign falls into this kind of quasi-zone because it would be made of vinyl rather than another material that would be perceived as more of a permanent material.

Mr. Armstrong expressed that it seems to him to be an issue that ultimately hinges on what is the intent of the sign ordinance in the first place. He believed the sign ordinance came to be because there was a period of time when signage was really becoming out of scale and more of just a distraction. It was a detriment to the downtown areas. The City has gone in the other direction to where we have limited signage to such a degree that we have made signage almost non-existent in some cases. The real question is can we live with the situation where signage becomes more visible once again, especially considering the proposed sign is on the second story versus the first story of the building. We are in a tough situation with this case regarding the interpretation of the sign ordinance, the intent of the sign ordinance, and also the negative impact it could potentially have on a business.

Mr. Wempe responded by saying that that the definition of a temporary sign is based on whether or not it is movable or permanently fixed. The City does not regulate material for signage, so a person could have a vinyl sign that is permanent.

The intent of the sign ordinance according to Article IX. Section IX-1 of the Urbana Zoning Ordinance is as follows, *“The purpose of this Article is to establish regulations and controls which promote the goals, objectives, and policies of the City of Urbana Comprehensive Plan and to permit and regulate signs in such a manner as to support and complement the land use policies set forth in Section I-1.”*

Mr. Myers noted that if a sign is designed and constructed to be permanently fixed outdoors, then it should probably be considered a permanent rather than temporary sign. If the materials are only designed to last a few months and it is not permanently affixed, then the sign is obviously a temporary sign.

Mr. Corten asked if the proposed sign would be permanent. Mr. Wempe answered yes.

Mr. Corten moved that the Zoning Board of Appeals recommend approval of the major variance request to the Urbana City Council based on the findings discussed during the public hearing. Mr. Welch seconded the motion. Roll call was as follows:

Mr. Armstrong	-	Yes	Mr. Corten	-	Yes
Ms. Merritt	-	Yes	Mr. Schoonover	-	Yes
Ms. Uchtmann	-	Yes	Mr. Warmbrunn	-	No
Mr. Welch	-	Yes			

The motion was passed by a vote of 6-1. Mr. Wempe noted that the case would be forwarded to City Council on Monday, February 5, 2007.

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:

- Fairlawn Village Major Variance to allow garages along Hollywood Drive was approved by the City Council.

11. STUDY SESSION

There was none.

12. ADJOURNMENT OF MEETING

The meeting was adjourned at 8:27 p.m. by unanimous vote.

Respectfully submitted,

Robert Myers, Secretary
Urbana Zoning Board of Appeals