

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

**DATE:** June 20, 2007

**APPROVED**

**TIME:** 7:30 p.m.

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

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

**MEMBERS EXCUSED:** Joe Schoonover, Nancy Uchtmann

**STAFF PRESENT:** Robert Myers, Planning Manager; Paul Lindahl, Planner I; Teri Andel,  
Planning Secretary

**OTHERS PRESENT:** Tom Berns, Cordelia Coleman, Betsy Hendrick, Jim Holmes, Jenny  
Park, Brett Stillwell

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

The meeting was called to order at 7:40 p.m. Roll call was taken, and a quorum was declared present.

Ms. Merritt being absent at the time of the roll call, Mr. Warmbrunn moved that Paul Armstrong serve as Acting Chair. Mr. Corten seconded the motion. With no opposition, the motion was approved.

**2. CHANGES TO THE AGENDA**

There were none.

**3. APPROVAL OF MINUTES**

Regarding the minutes of the May 16, 2007 Zoning Board of Appeals meeting, Mr. Welch moved to approve the minutes as written. Mr. Armstrong seconded the motion. The minutes were approved by unanimous vote as presented.

#### 4. WRITTEN COMMUNICATIONS

- ✚ Schematic Plan of the Proposed Development in Case No. ZBA-07-MAJ-06
- ✚ Fax from Tri-Star Marketing, owners of the Super Pantry Convenience Store at 810 West Green Street, in support of Case No. ZBA-07-MIN-02

**NOTE:** Acting Chair Armstrong swore in members of the audience who indicated they might want to speak during the public input portion of the hearings.

#### 5. CONTINUED PUBLIC HEARINGS

There were none.

#### 6. NEW PUBLIC HEARINGS

**ZBA-07-MAJ-06 – Request filed by Trammell Crow Higher Education Development, Inc. to allow a mixed retail/apartment building with an interior parking garage to have five-foot side-yard setbacks rather than increasing the side yard setbacks to approximately 17 feet at 1008, 1010, and 1012 West University Avenue in the B-3, General Business Zoning District.**

Robert Myers, Planning Manager, presented the staff report to the Zoning Board of Appeals. He began with a brief introduction noting the reason for the proposed major variance request, which is to allow the project at 1008, 1010, and 1012 W. University Ave. to have five-foot side-yard setbacks rather than increasing the side-yard setbacks to approximately 17 feet. He stated that the petitioner would need to get approval for a Special Use Permit from the Plan Commission for the proposed development to allow multi-family dwellings. He talked about the zoning and land uses of the subject property and of surrounding adjacent properties. He discussed how the proposed development would relate to the 2005 Comprehensive Plan and reviewed the variance criteria from Section XI-3.C.2.c of the Urbana Zoning Ordinance that pertained to the proposed major variance request.

Ms. Merritt arrived at 8:00 p.m.

Mr. Myers showed the schematic drawings of the proposed development. He read the options of the Zoning Board of Appeals and presented staff's recommendation, which is as follows:

*Based on the analysis and findings presented in the written staff report, and without the benefit of considering additional evidence that may be presented during the public hearing, staff recommends that the Zoning Board of Appeals forward Case ZBA-2007-MAJ-06 to the Urbana City Council with a recommendation for approval.*

Mr. Corten inquired about what is next door to the west of the proposed site. Mr. Myers replied that the restaurant, Hot Wok, is located in the adjacent property to the west of the subject property.

Mr. Corten asked what activity occurs on the railroad by the proposed site. Is it a fast moving train or is it slow moving? Will it bother the tenants in the proposed apartment building? Paul Lindahl, Planner I, answered that there are only two users of the railroad, which are Solo Cup and Emulsicoat. He believes there would be one or two slow moving freight cars using the tracks per week. Mr. Myers mentioned that the developers will need to take this into account. If it would be too much of a problem for future tenants then the project would not be successful, and it would be at the developer's own financial risk. The developers must believe that it will not be a nuisance to the future tenants.

Mr. Warmbrunn questioned whether the proposed development would have balconies. Mr. Myers did not know if there would be balconies or not. Balconies can count as open space if there are any. Mr. Warmbrunn wondered if there would be access to the roof. Mr. Myers stated that he did not know. Mr. Warmbrunn asked if the water company had been notified. Mr. Lindahl said yes.

Mr. Warmbrunn inquired if there would be enough parking spaces available for the proposed development. Mr. Lindahl stated that there would be 228 parking spaces. The City of Urbana requires a minimum of one parking space per unit, which equals 161 parking spaces. Therefore, there would be plenty of parking spaces for the tenants. Many of the residential tenants would probably not have vehicles, because it is within walking distance of the University of Illinois campus. The retail component of the proposed development is not that large, and the most he calculated for required parking would be 36 parking spaces. Mr. Myers noted that the developer is proposing to provide 30 to 40 additional parking spaces over what the City is requiring. He feels this is significant in terms of the requested variance. If there are minor adjustments in the building, if the parking is provided at or just above the minimum, then it allows less flexibility for design changes. However, in this case, there are additional parking spaces which allows for possible adjustments.

Ms. Merritt wondered if the parking for the retail spaces would be designated as such. Mr. Myers said that he did not know.

Mr. Warmbrunn inquired as to where the rain would go. The proposed development would be five feet away from their neighbors, so have they thought about the slope of the roof? Mr. Myers stated that the proposed development would have to be designed to meet the standards of the Public Works Department in the City of Urbana in terms of drainage and runoff. The proposed development is still in the preliminary stage, and there are not detailed plans drawn up for that. Public Works has reviewed the proposed plans and has not identified any major stumbling blocks in terms of Public Works approvals. He stated that he would inquire with Public Works about stormwater and make sure that he has answers for the Plan Commission for their meeting tomorrow night. Mr. Lindahl added that since the project is still in the preliminary stages, the developer has not yet created detailed engineering plans. The Zoning Board of Appeals is to look at the side-yard setbacks. The Plan Commission during their meeting will be looking at the appropriateness of multi-family use in the B-3, General Business Zoning District. The stormwater and engineering concerns are ones that are always taken into consideration in building plans and subdivisions, and they are more the purview of the City's Building Safety

Division and the Engineering Division. It is not something that the Zoning Board really needs to take into consideration during their meeting. Mr. Warmbrunn disagreed.

Mr. Corten asked if the proposed development would have a flat roof. Mr. Myers said that from the front façade pictured in the submitted drawing he assumed it would have a flat roof.

With no further questions for City staff from the Zoning Board of Appeals, Acting Chair Armstrong opened the meeting up to hear input from the public.

Jim Holmes, Vice-President of Trammell Crow, spoke. He mentioned that it is a national development company. In 2005, they constructed about \$5 billion dollars in development throughout the country. They have two specific groups within the company that touch on this type of project. There is a group that solely focuses on university type development, and the other group does mixed-use, urban infill development.

He responded to questions that were previously asked by the Zoning Board of Appeals to staff. He said that parking for the retail will be specific to the retail, because to attract a quality tenant, they would require that anyway. It is also just good business to have retail parking so designated that site. Ms. Merritt commented that often retail businesses end up needing more parking than what is available, but it sounds as if Trammell Crow has already thought about this, and it will not be an issue with the proposed development. Mr. Holmes replied that they are sensitive to the fact that parking is always an issue. They tried to maximize the amount of parking by asking for the variance request.

Mr. Corten inquired if the rental cost would be something that students could afford. Mr. Holmes mentioned that they would not be the highest priced rental units, but that they would be between the highest priced rentals and older apartments closer to campus.

Mr. Warmbrunn inquired about balconies and roof access. Mr. Holmes stated at this time, they did not anticipate balconies. This would require a market research to determine if there would be a cost benefit to specific balconies. There also would not be roof access, but there would be shared courtyards.

Mr. Warmbrunn asked about the slope of the roof. Mr. Holmes mentioned that these types of developments typically have a slope to the flat roof to provide internal drainage that tie into the stormwater system. Mr. Warmbrunn questioned if this would be located under the basement level parking floor. Mr. Holmes stated that the company's engineers would figure out how to make this work.

Mr. Corten asked if there would only be one elevator. Mr. Holmes replied correct.

With no further input from the public, Acting Chair Armstrong closed the public input portion of the hearing. He, then, opened the hearing up for discussion by the Zoning Board of Appeals.

Ms. Merritt moved that the Zoning Board of Appeals forward this case to the Urbana City Council with a recommendation for approval. Mr. Corten seconded the motion.

Mr. Warmbrunn commented on the process. He did not see how the Zoning Board of Appeals could vote on the proposed variance request with only assumptions before them. Somehow the process is flawed, whether the Plan Commission should have considered the Special Use Permit prior to the Zoning Board of Appeals review or whether there should be better drawings to know what the developer is planning to do. By approving the proposed major variance request, the City would be allowing them to have a setback of five feet. There is not a drawing concept that the Zoning Board would be approving. Mr. Lindahl pointed out that as preliminary as the plans are, they might change. As Mr. Holmes had previously indicated, there may be balconies depending on the results of the market research. Mr. Warmbrunn exclaimed that he did not approve of balconies along University Avenue. He did not want college students out on balconies throwing snow balls at people driving below or at the people in the restaurant next door which is only going to be five feet away.

Mr. Welch stated that this reminds him of the conditional use permit request to allow a convenience store by the Urbana High School. Everyone was trying to anticipate the behavior of the high school students. He understands the request to be that the petitioner needs approval of the parameters upon which to then fit the proposed development. The concept of the development may change. He did not feel that the Zoning Board of Appeals could start requiring no balconies or certain types of roofs. This is someone else's call.

Mr. Warmbrunn asked if a balcony would count towards the setback. Mr. Lindahl answered that balconies are permitted to encroach into the setbacks to a certain distance. Balconies are also permitted as part of the Open Space Ratio (OSR). However, in the B-3 Zoning District, there is no OSR requirement, so City staff is not concerned with whether the proposed development has balconies or not. When we are confronted with a request for a side-yard variance, and it is approved, then it becomes the new side-yard line.

Mr. Warmbrunn questioned if the Zoning Board of Appeals voted in favor of the proposed variance, then could the petitioner develop a 95-foot tall building and have the same variance, because we are not limiting them to the proposed design? Mr. Lindahl stated that we could not limit the height. Mr. Warmbrunn believed that is why they required a setback variance to begin with. The petitioner is required to provide three feet in width for every ten feet in height of the development. Mr. Lindahl stated that this is true. Otherwise, there is an unlimited height. Mr. Warmbrunn said if it is 95-feet in height and it is still residential, no one is anticipating what is going to be developed next to it and/or no one is saying that the petitioner needs to keep it at five stories. We are just saying that as the first step in the process, the City is going to let the petitioner have five-foot setbacks in the side-yards. Mr. Myers pointed out that the Zoning Board of Appeals could require conditions that relate back specifically to the variance. If the petitioner represents that the building would be five stories tall, and if the Zoning Board of Appeals relied on that representation to form their vote on the variance, then the Zoning Board of Appeals could stipulate that the proposed development could be no more than five stories tall. Then, if the petitioner later wanted a different height, then they would need to reapply to the Board. Mr. Myers further commented that any project that requires approvals from multiple boards, one board or commission will have to make the first decision. In this case, the fact is that the City Council will be making the final decision for both the major variance and the

Special Use Permit requests on the same night so the approvals would be happening at the same time.

Ms. Merritt commented that the Zoning Board of Appeals would only be making a recommendation to the City Council. They also would not be giving general approval for the entire project. They would only be dealing with one small aspect of the project. She felt comfortable doing this, and as the first step.

Mr. Armstrong asked Mr. Warmbrunn if Ms. Merritt, being the motion maker, would want to indicate through the motion that the motion was based on the conceptual sketches presented during the meeting. Ms. Merritt preferred to leave the motion as is.

Roll call on the motion was as follows:

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

The motion was approved by unanimous vote.

**ZBA-07-C-02: A request by SM Properties Urbana, LLC for a site plan amendment to a Conditional Use Permit allowing the establishment of two principal uses on a single parcel of land at 104 North Vine Street in the B-4E, Central Business – Expansion Zoning District.**

**ZBA-07-C-03: A request by SM Properties Urbana, LLC for a site plan amendment to a Conditional Use Permit allowing the establishment of a “Gasoline Station” at 104 North Vine Street in the B-4E, Central Business – Expansion Zoning District.**

Paul Lindahl, Planner I, presented the staff report for both cases together to the Zoning Board of Appeals. He presented background information on the site and stated the original conditional use permit requests and approvals. He explained the reason for the petitioner’s request to revise the conditional use permits, which is to allow the relocation of the two garbage dumpster enclosures. He showed photos of one of the dumpster enclosures that has already been constructed. He read the options of the Zoning Board of Appeals and presented staff’s recommendation, which is as follows:

*Based on the evidence presented in the original case memo dated August 11, 2006, the discussion in the case memo dated June 13, 2007, and without the benefit of considering additional evidence that may be presented during the public hearing, staff recommends that the Zoning Board of Appeals approve the proposed amendments to the conditional uses in ZBA cases 2007-C-02 and 2007-C-03, for the reasons articulated above, and by re-adopting the Conditional Use approval criteria, and Summary of Findings for each case as stated in the 2006 memo, and with the following REVISED condition number one:*

1. *That the development shall generally conform to the submitted Site Plan attached as Exhibit "H" with the changed dumpster location and pedestrian access areas as reflected in new Exhibit "I", as amended, to show a revision to the dumpster enclosures to reflect built conditions and as they may be further amended to meet the codes and regulations of the City of Urbana. Any additional significant deviation from the site plan will require a further amendment to the Conditional Use Permit, including further review and approval by the Zoning Board of Appeals.*

Mr. Warmbrunn mentioned that there were no measurements or distances on the amended Exhibit I (2007 Revised Landscape and Site Plan). The distances on the original Exhibit H linked to Exhibit I (Amended) are incorrect. He wondered how many parking spaces City staff previously decided that the convenience store would need. Mr. Lindahl figured it would require five parking spaces at most. There are three parking spaces plus one handicapped space being proposed on the right side of the convenience store, gas pump spaces under the canopy count towards parking requirements as well.

Mr. Warmbrunn stated that there is an extra parking space that has been added to the amended site plan in the southeast corner. From the original Exhibit H, it appears that extra parking space would encroach into the setback. Mr. Warmbrunn noticed that on the original site plan, it shows the convenience store to be built on the setback line. He drove by the site earlier in the day and believes that the convenience store is further west than originally planned.

Mr. Warmbrunn questioned whether City staff felt it would be a traffic hazard for the person parking in the parking space just west of the dumpster enclosure along Main Street. The person would not be able to see any oncoming traffic when backing out of the parking space. Mr. Lindahl replied that our Building Safety Division and our Building Inspector, in particular, always look at the construction plans. He is well aware of the parking module with requirements. Therefore, he is confident that the construction that has taken place does meet zoning requirements.

Mr. Warmbrunn noted that the underground storage tanks have been moved to the south side of the proposed site. Is this the reason why the fuel trucks would need more space to drive around? Or is the original 23-foot wide entrance not enough room for a fuel truck to make the turn into and out of the proposed site? Mr. Lindahl answered that 23 feet was not enough room for the truck to make the turn into and out of the proposed site.

Mr. Warmbrunn commented that again his problem with this is that the plans came before the Zoning Board of Appeals very early. He remembers the reason for moving the dumpsters to the north side was because that area looked like an empty space that would not impact the visual qualities of the site from the sidewalk or the street.

Mr. Lindahl stated that information on the space needed for fuel trucks to enter the site had to be revised. The Zoning Board of Appeal's has the opportunity to add conditions. He pointed out that they were looking at a general and fairly broad question of whether two uses were

appropriate for this particular lot and whether a gas station was appropriate in the B-4E Zoning District at all. He felt the answer to these questions was yes. While City staff recommends conditions that proposed developments be in general conformance with the Site Plan, he believes that by being too specific, we made the mistake of preventing needed flexibility. He did not think that we are considering something that is not within the contemplated best interest of the City as the Zoning Ordinance sees it. As the Zoning Ordinance sees it, gas stations are uses that can be fine in the B-4E Zoning District, but they might require a closer look. Having two principal use structures on a single lot is generally a good thing and can be permitted under a conditional use permit review with a little closer scrutiny. These are very broad distinctions.

Mr. Warmbrunn questioned why the petitioner did not redo the Site Plan with the approved conditions on it after receiving approval of the original conditional use permit requests. This way they would have known that they could not place the dumpster enclosures in their current locations without violating the conditions placed on the approval of the original conditional use permits. The petitioner should have come back to City staff and asked for insight of where they would be allowed to relocate the dumpster enclosures instead of coming back to the Zoning Board of Appeals for an amendment with one dumpster enclosure already built hoping that the Board would approve it and not ask them to tear it down and relocate it. Mr. Lindahl agreed. In this case, he felt that there were some miscommunications between the architects, the engineers and the City in ensuring that the requirements of the conditional use permit. The engineers decided when doing more detailed plans of the development decided that the fuel trucks would not be able to make the turn, so they decided to move the dumpster to allow for extra turning room for the trucks. They probably did not understand fully the ramifications of the conditional use permit, and that they needed to consult with City staff about relocating a dumpster enclosure.

Mr. Lindahl went on to say that he did feel that the reasons for requiring the additional conditions regarding the location of the dumpster enclosures were unfounded. He noted that there was a change in grade on the proposed site. So, the already constructed dumpster enclosure is at a lower grade and less visible from Main Street than we might have expected it to be.

Acting Chair Armstrong opened the hearing to the public to give input.

Brett Stillwell, of Architectural Spectrum, apologized for having to come back before the Zoning Board of Appeals. He mentioned that their intentions were good, and he feels that they made some good decisions in where they got to with the proposed project at this point. Unfortunately, they should have come to the City staff before building the dumpster enclosure. Dumpster enclosures are details in the final plans that usually do not show up in the preliminary plans. Because of the way fuel trucks will need to enter the site and because of the drive-thru stacking needing more room, it made sense for them to relocate the dumpster enclosure.

He explained that he added the extra parking space to the right of the convenience store to make up for the parking space in Exhibit H that would be replaced with the other dumpster enclosure. They continued to add more landscaping around the dumpster enclosures and build the enclosures with brick. So, he feels that they have done the dumpster enclosures as tastefully as possible.

Mr. Warmbrunn inquired if there is a drawing that has the current dimensions and distance of the different things on it. Mr. Stillwell said yes. He pointed out the drawing in the packet is a landscape drawing. There are grading drawings, dimension drawings, sight lighting and sight utilities drawings of the proposed development.

Mr. Warmbrunn questioned whether the fuel station was moved. Mr. Stillwell stated that the fuel station was shifted slightly to the north, so he could put the additional parking space in on the right side.

Mr. Warmbrunn asked how wide the three lanes would be. Mr. Stillwell replied that they are roughly 34 to 35 feet across. The two main lanes are 12 feet wide each and the drive-thru lane for Starbuck's is 11 feet.

Mr. Warmbrunn wondered if the Starbuck's parking lot dimensions stayed the same. Mr. Stillwell said that it would generally be the same. They did add the sidewalk at the corner that was specifically requested by the City. The fuel station was also moved to the west because there was a gas line that was not in the prerecorded area. The gas line runs north – south along the east side of the fuel station, and so they needed to shift the fuel station six or seven feet to the west to clear the gas line. In addition, there was a sanitary sewer line on the east side that was out of line with the initial survey they had. These are details in refinement that hopefully do not change the overall concept, but refinement is necessary to get the details down.

Mr. Warmbrunn inquired if they would still have enough room for the fuel truck to turn between the southern most pumps and the Starbuck's dumpster enclosure. Mr. Stillwell said yes. They have run the Auto Turn computer program on it several times to test for truck turning.

Ms. Merritt commented that the location and the landscaping and the way they handled the new dumpster location will be okay. However, she wonders about the traffic pattern. It is just something they will have to wait and see. Mr. Stillwell stated that the parking space next to Starbuck's dumpster enclosure will have plenty of room to back out and see. Drivers entering the drive aisle will pull into the right lane rather than directly behind the car parked next to the dumpster.

Tom Berns, of Berns, Clancy & Associates, stated that his office is right across the street from the proposed development. In some respects, this project is an interesting one. He expressed some of his concerns. He disagrees with the petitioner's ability to comply with Conditions #2, #3 and #4, which are part of the approval of the conditional use permit as set forth in the August 11, 2006 staff memo.

His first concern is with Condition #3, which states, "*That the petitioner shall submit a detailed landscape plan for review and approval by the City Arborist and Zoning Administrator, in general conformity to submitted schematic plans, and including provisions for pedestrian and bicycle access and parking.*" If you look at Exhibit I that was attached to the original staff report dated August 11, 2006 and then look at Exhibit I (Amended), you can see a huge difference in the landscaping. There are not as many trees and plants shown on Exhibit I

(Amended). It is important for them to provide more landscaping for nearby properties, especially the apartment complex to the south.

Another concern is conformity with Condition #4, which states *“That the gas station/convenience store building utilize high quality building materials (e.g., brick, masonry, etc.) to complement the existing Schnucks Crossing grocery store and strip center buildings and in recognition of the prominent site locate in downtown Urbana.”* From a distance, the dumpster enclosure appears to be attractively blended into the building rather than stand out as a lower quality enclosure of cinder block, concrete block or chain-linked fence. The problem is that the fuel station/convenience store has not been constructed of the high quality as required in Condition #4. It is constructed of CMU Block (Smooth-Faced Running Bond), and the masonry will be painted “P8”. He doesn’t know what that is.

Everyone is so concerned about what the dumpster enclosure looks like when part of the secondary main building on the site is constructed with painted cinder block. As a neighbor, he is not happy with this at all. From the conditions placed on the approval of the conditional use permits, he expected it to look something similar to the Schnuck’s building.

Mr. Berns also expressed his concern about the petitioner moving the underground storage tanks closer to the residential properties across the street. Is this going to be an issue? Is it possible to present a problem in the future? He would like to know what the Fire Chief thinks about this.

He mentioned that the dimensions should be shown on the amended site plan that the petitioner is expecting to be approved. It is not a good idea to not have the dimensions on the site plan.

He hopes that the site will be successful. He also hopes that the development will be a good aspect and a positive nature for the community. He appreciated being given the opportunity to voice his concerns.

Acting Chair Armstrong noted for the record that he was surprised to see that the fuel station/convenience store was built of masonry block rather than brick like the Starbuck’s building was.

Mr. Stillwell re-approached the Zoning Board of Appeals to respond to Mr. Bern’s comments. He pointed out that Architectural Spectrum is the architects for the Starbuck’s area, and the fuel station is being done by the Schnuck’s architects and engineers out of St. Louis. He pointed that the building is not yet complete. There are brick surrounds. He will talk to the Schnucks architects to see what, if anything, could be done about the materials used on the fuel station.

He noted that they went through a preliminary set of documents and obtained approval for two principal uses on one site and for allowing a gas station use on the site. He stated that they were in error by showing too much detail on the preliminary plans. The underground tank locations should not really be an issue until the final plans with full dimensions, grading, and details of the development are to be considered. The final plans went through the Planning Division, Public Works Department, and the Fire Department for review. The only reason they are back before the Zoning Board of Appeals is because of the dumpster. It was moved from one location to

another location without going through the proper channels. He did not want anyone to think that they are building something totally different than what they presented in the original requests.

As far as the landscaping is concerned, Exhibit I from the memo dated August 11, 2006 shows plant materials much more in their own scale in that it is a more artistic rendering of what landscape looks like as a finished full product done more as a graphic representation. The final landscaping plan is shown as smaller plants and the number of plants. The landscaping around the dumpster location and along the south end of the fuel station are prairie grasses that will be huge. Mr. Lindahl pointed out that Condition #3 states *“That the petitioner will submit a detailed landscape plan for review and approval by the City Arborist and Zoning Administrator ...”* Exhibit I (Amended) serves as two different plans, which are 1) as a landscaping plan that the Zoning Administrator and City Arborist have already approved and 2) as a plan showing the location of the dumpster enclosure and nothing else.

Mr. Warmbrunn asked City staff if they only want the Zoning Board of Appeals to consider the existing dumpster enclosure that Starbuck’s has already built and whether the new location is okay? Is the Board supposed to consider what the other fuel station/convenience store dumpster enclosure is to be constructed of? Mr. Lindahl replied that City staff is mostly concerned with getting approval of the location of the Starbuck’s dumpster enclosure. They are not concerned with the construction materials of the other dumpster because it will not be visible from the street.

Mr. Myers mentioned that City staff can take these comments back to the Zoning Administrator and discuss them at a staff level and confirm that construction plans conform to the Board’s previously approved conditions. It is the role of the Zoning Administrator to decide whether or not plans comply or not with previous requirements. The Zoning Board of Appeals is meeting to decide whether or not moving the Starbuck’s dumpster enclosure is okay or not.

Mr. Warmbrunn asked if they should consider the location of the fuel station dumpster enclosure. Mr. Lindahl stated that he is fairly sure that where it is shown on Exhibit I (Amended) is where it will be built. Mr. Warmbrunn pointed out that the Zoning Board of Appeals was assured before that the petitioner could build the dumpster enclosures on the north side of the property.

Mr. Warmbrunn questioned if the Zoning Board of Appeals recommends approval as suggested by City staff, then would that include the condition from before regarding the quality of materials to be used to construct the fuel station dumpster enclosure and the location where shown on Exhibit I (Amended)? Mr. Lindahl responded that the Zoning Board of Appeals could, if it felt necessary, to place a condition on the approval stating that they want the second dumpster enclosure to be made of brick, for instance.

Mr. Berns re-approached the Zoning Board of Appeals. He stated that he disagrees with City staff. The City Council approved the submitted Site Plan with conditions as recommended by the Zoning Board of Appeals. He does not consider Exhibit I (Amended) to be a detailed

landscape plan. The City required Conditions #1, #2, #3 and #4 to protect the neighbors and other public citizens that visit the site.

Acting Chair Armstrong pointed out that Mr. Berns issues are regarding compliance and enforcement. Mr. Myers again noted that the Zoning Administrator ultimately decides whether or not plans are in conformance with the requirements. He will take comments back to the Zoning Administrator from the Zoning Board of Appeals for her to review and to take into consideration. Ms. Merritt added that the Zoning Board of Appeals could also make a motion that contains some of these stipulations as well.

With no further input from the public audience, Acting Chair Armstrong closed the public input portion of the hearing. He, then, opened the hearing up for discussion by the Zoning Board of Appeals.

Mr. Warmbrunn asked what the request is for the Zoning Board of Appeals to review. Mr. Lindahl said that it is a minor amendment to the conditional use permits to basically approve the changed location of the dumpster enclosure with the condition that *“the development shall generally conform to the submitted Site Plan attached as Exhibit “H” with the changed dumpster location and pedestrian access areas as reflected in the new Exhibit “I”, as amended, to show a revision to the dumpster enclosures to reflect built conditions and as they may be further amended...”*. Therefore, the Board is to consider the amendment to the conditional use permit request including only Condition #1, as amended.

Mr. Lindahl went on to explain that the landscape plan has already been reviewed by City staff. Mr. Warmbrunn added that Conditions #2, #3 and #4 are not fully completed until a Certificate of Occupancy has been issued, correct? Mr. Lindahl said yes.

Ms. Merritt wondered if it is possible to have a second motion that deals with just this other issue or does it have to be contained in the motion relating to the issue before them? Mr. Myers stated that it depends on the second motion and what it pertains to. He explained that in order to get a Certificate of Occupancy, the petitioner has to comply with all the requirements that have currently been approved.

Acting Chair Armstrong stated that it is in the record that the Zoning Board of Appeals approved the original requests for conditional use permits for the proposed development along with four conditions. There is no ambiguity about what they approved. It does not seem necessary to him for the Zoning Board of Appeals to go back through the other criteria to reinforce what they have already approved and stated in the original motion. Ms. Merritt commented that because the drawings look different, it makes the Board wonder what is going to be enforced.

Mr. Myers explained that the reason the amendment came up is because the Zoning Board of Appeals included a specific condition about the dumpster enclosure in its approval of its original conditional use permits. Once City staff found out about the relocation of the Starbuck’s dumpster enclosure, it was felt that administrative approval of the new dumpster location would not be a minor site plan change because the Board specifically referred to the dumpster location in the previous motion for approval.

Mr. Lindahl mentioned that Exhibit I (Amended) was included in the staff report because City staff thought it would help show how the landscaping material would help to screen the dumpster enclosure. It was not intended that the landscape plan specifically be approved or not.

Mr. Warmbrunn understood Condition #1 to include both the relocation of the dumpster enclosure and the pedestrian access area.

Mr. Lindahl explained that the original Exhibit H did not show the pedestrian access area from the corner going into the Starbuck's parking area. It was previously requested by the City, it has already been built, and it does not seem necessary to mention it.

Mr. Warmbrunn wondered since they are amending what currently exists, does that mean we throw out the old section and put in the new Condition #1? Or are we just adding the amended Condition #1 to the old original approval and conditions? He was looking for what City staff wants procedurally to be done.

Mr. Lindahl replied that the other changes to the fuel station/convenience store area have already been approved administratively.

Mr. Warmbrunn inquired as to why, if we are just amending the previous conditional use permits, did we create new file numbers for the cases?

Mr. Lindahl stated that staff decided it would be better to assign new case numbers so it would be easier to keep track of various approvals. This is done with annexation agreements as well. The amendment will be identical to the previous one, with the exception of the one change. Mr. Warmbrunn stated that he then understands that Conditions #2, #3 and #4 will be tacked on to the amendment. Mr. Myers responded by saying that City staff is only asking the Zoning Board of Appeals to approve the relocation of the Starbuck's dumpster enclosure.

Mr. Warmbrunn moved that in Case No. ZBA-07-C-02 the Zoning Board of Appeals approve the proposed amendment to the conditional use permit for the reasons articulated in the written staff report, and by re-adopting the Conditional Use approval criteria, and Summary of Findings as stated in the 2006 memo, and with the following revised condition: That the development shall generally conform to the submitted Site Plan, shown as Exhibit H, with the changed dumpster location and pedestrian access areas as reflected in the new Exhibit I, as amended, to show a revision to the dumpster enclosures to reflect built conditions and as they may be further amended to meet the codes and regulations of the City of Urbana. Any additional significant deviation from the site plan will require a further amendment to the Conditional Use Permit, including further review and approval by the Zoning Board of Appeals. Ms. Merritt seconded the motion.

Roll call was as follows:

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

Mr. Welch - Yes

The motion was approved by unanimous vote.

Mr. Warmbrunn moved that in Case No. ZBA-07-C-03 the Zoning Board of Appeals approve the proposed amendment to the conditional use permit for the reasons articulated in the written staff report, and by re-adopting the Conditional Use approval criteria, and Summary of Findings as stated in the 2006 memo, and with the following revised condition: That the development shall generally conform to the submitted Site Plan, shown as Exhibit H, with the changed dumpster location and pedestrian access areas as reflected in the new Exhibit I, as amended, to show a revision to the dumpster enclosures to reflect built conditions and as they may be further amended to meet the codes and regulations of the City of Urbana. Any additional significant deviation from the site plan will require a further amendment to the Conditional Use Permit, including further review and approval by the Zoning Board of Appeals. Ms. Merritt seconded the motion.

Roll call was as follows:

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

The motion was approved by unanimous vote.

**ZBA-07-MIN-02: Request filed by Betsy Hendricks to allow a legally non-conforming shortage of parking spaces to increase in non-conformity from 14% to 18% less than required at the Hendrick’s House dormitory located at 904 West Green Street in the B-3U, General Business – University Zoning District.**

Paul Lindahl, Planner I, presented this case to the Zoning Board of Appeals. He noted the purpose of the minor variance request is to reduce the number of parking spaces to allow for the expansion of food services to the Hendrick’s House. He talked about the remodeling project, proposed parking, parking demand, neighborhood impacts and special considerations regarding the nature of the site in a high density area, use of cars by the student residents, and the proximity to the University of Illinois. He summarized staff findings and read the options of the Zoning Board of Appeals. He presented staff’s recommendation, which is as follows:

*Based on the analysis and findings presented in the written staff report, and without the benefit of considering additional evidence that may be presented during the public hearing, staff recommends that the Zoning Board of Appeals approve the minor variance request.*

With no questions for City staff, Acting Chair Armstrong opened the hearing up to take public input.

Betsy Hendricks, petitioner, requested approval of the minor variance. The purpose of the proposed addition is to provide an extra dining area. They intend to remodel their current dining area to provide for station service. She noted that when the west tower was originally designed in 1987, the architect had planned for the addition now proposed, except that he had planned for it to cantilever out over the parking lot to allow required parking spaces underneath. When the bids came in too high, they decided to eliminate that extra steel to bring it back within the budget.

Mr. Corten wondered how they only have freshmen in the dormitory. Ms. Hendricks replied that they do not have only freshmen, but the majority of the residents are freshmen as they are certified by the University of Illinois. Freshmen have to live in certified housing. She would say that they have about 55% freshmen, which cuts down on the parking demand. They actually rent out ten of their parking spaces to another business.

Acting Chair Armstrong closed the public input portion of the hearing and opened it up for discussion

Mr. Corten moved that based on City staff’s findings the Zoning Board of Appeals approve ZBA-07-MIN-02 as recommended by City staff. Mr. Welch seconded the motion.

Roll call was as follows:

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

The motion was approved by unanimous vote.

Mr. Myers pointed out that minor variances such as this are approved by the Zoning Board of Appeals. They are not forwarded to the City Council for final determination, so the variance has been approved.

**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:

- Vineyard Church Major Variance for an increase in the display area of a sign was approved by the City Council.

**11. STUDY SESSION**

There was none.

**12. ADJOURNMENT OF MEETING**

The meeting was adjourned at 10:22 p.m.

Respectfully submitted,

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Robert Myers, AICP, Secretary  
Urbana Zoning Board of Appeals