

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

DATE: September 19, 2007

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, Joe Schoonover, Nancy Uchtmann,
Charles Warmbrunn, Harvey Welch

MEMBERS EXCUSED: Anna Merritt

STAFF PRESENT: Robert Myers, Planning Manager; Paul Lindahl, Planner I; Lisa
Karcher, Planner II

OTHERS PRESENT: Mike and Sara Hagemeyer, Carl and Jane Hill, Dan and Jen Orchard,
Margaret Reagan, Gerald Romig, Jean Teems, Cherry-Boland
Williams

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

The meeting was called to order at 7:30 p.m. Roll call was taken, and a quorum was declared present.

In the absence of Chair Merritt, Mr. Corten nominated Paul Armstrong to serve as Acting Chair. Mr. Warmbrunn seconded the nomination. The Zoning Board of Appeals agreed by unanimous voice vote.

2. CHANGES TO THE AGENDA

There were none.

3. APPROVAL OF MINUTES

Mr. Warmbrunn moved that the Zoning Board of Appeals approve the minutes of the June 20, 2007 meeting as written. Mr. Corten seconded the motion. The minutes were approved by unanimous voice vote as presented.

4. WRITTEN COMMUNICATIONS

- ✚ Letter from Richard L. Thies regarding Case No. ZBA-2007-C-04
- ✚ Biography on Cherry Boland-Williams

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

Paul Lindahl, Planner II, requested that there be a change to the order in which the two cases were presented. The applicant for the Conditional Use Permit case had not yet arrived for the meeting. Acting Chair Armstrong agreed.

ZBA Case No. 2007-MIN-03: A request by Adams Signs & Graphics Company, a contractor for Wal-Mart Stores, Inc., for a Minor Variance to allow installation of a 20 square foot wall sign located at 100 South High Cross Road in the B-3, General Business Zoning District.

Mr. Lindahl presented this case to the Zoning Board of Appeals. He began with a brief introduction and showed the location of the Wal-Mart store on a map. He also pointed out the adjacent land uses and major roadways that surround the store noting their zoning designations as well.

He talked about the maximum square footage of signage that would be allowed. Using the photographs of Wal-Mart that are included in the packet, he showed where the sign would be located on the front of the Wal-Mart store.

He stated that the goals of sign regulations for the B-3 Zoning District are to make sure signage is proportional to a building, that signage is not cluttered, and that it does not detract from the zoning district and neighborhood.

Mr. Lindahl reviewed the variance criteria from Section XI-3 of the Urbana Zoning Ordinance that pertains to the proposed minor variance request. He read the options of the Zoning Board of Appeals and presented 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 recommends that the Zoning Board of Appeals approve Case ZBA-2007-MIN-03 with the following condition:

That the sign be constructed in substantial conformity with the submitted plan and photographs illustrating its design and location.

Mr. Warmbrunn inquired as to how big the Subway sign is. Mr. Lindahl responded that the Subway sign measures 22 inches tall and 9 feet, 2 inches wide.

Mr. Warmbrunn questioned whether the Subway sign was included in the initial signage that was originally approved along with the Wal-Mart sign. Mr. Lindahl understood this to be true.

Mr. Warmbrunn noted that the proposed sign is about the same size as the Subway sign. It seems pretty harmless.

Robert Myers, Planning Manager, added that he calculated what percentage of the total facade was covered by signage. Signage covers 4.9% of the total wall area of the front façade of the Wal-Mart Store. The addition of the proposed sign would increase the percentage of coverage 1/10th of 1% of the wall surface. Since Wal-Mart is already at the maximum signage allowed and City staff is not authorized to grant the additional proposed sign, they have brought the case requesting a minor variance to the Zoning Board of Appeals.

Mr. Lindahl stated that the consultant for the application is present. The consultant stated that he did not have anything to add, but he would answer any questions that the Zoning Board of Appeals might have.

Mr. Corten moved that the Zoning Board of Appeals approve ZBA Case No. 2007-MIN-03 as recommended by City staff. Ms. Uchtmann seconded the motion. Roll call on the motion was as follows:

Mr. Armstrong	-	Yes	Mr. Corten	-	Yes
Mr. Schoonover	-	Yes	Ms. Uchtmann	-	Yes
Mr. Warmbrunn	-	Yes	Mr. Welch	-	Yes

The motion was passed by unanimous vote.

ZBA-07-C-04: A request by Cherry Boland-Williams for a Conditional Use Permit to allow the establishment of a “Day Care Facility” located at 1910 Kathryn Street in the R-2, Single-Family Residential Zoning District.

Mr. Lindahl presented this case to the Zoning Board of Appeals. He introduced the case by stating the purpose of the proposed conditional use permit request, which is to allow the establishment of a “day care facility” in the R-2 Zoning District. He talked about the Comprehensive Plan designation, zoning and land use of the proposed site and of the surrounding properties as well.

He discussed the regulations of the Zoning Ordinance as they pertain to a “day care facility”. He pointed out that the Zoning Ordinance only refers to a “day care facility” as being a service offered for the care of children and not adults. Therefore, the Zoning Administrator interpreted that an adult day care facility is most like a day care facility (non-home based). The Zoning

Administrator also determined that there should be a maximum of eight clients allowed in the adult day care at any given time.

Mr. Lindahl stated that the plans for the completed house were reviewed by the City's Building Safety Division. Those plans meet the R-2 Zoning District floor area ratio (FAR) and open space ratio (OSR) requirements. The plans meet the setback requirements and the parking requirements as well. He noted that the written staff report under Parking Requirements should be corrected to say "two car garage" rather than "three car garage."

He reviewed the criteria of Section VII-2 of the Urbana Zoning Ordinance that pertains to the proposed Conditional Use Permit. He read the options of the Zoning Board of Appeals and presented staff's recommendation, which is 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 recommends that the Urbana Zoning Board of Appeals approve ZBA-2007-C-04 with the following conditions:

- 1. The structure must meet all applicable City Building Safety Code regulations.*
- 2. Ms. Boland-Williams or other future owners/operators must have their residence on site at the Home Based Adult Day Care Facility.*
- 3. The maximum number of clients on the premises at any time shall not exceed 8 persons.*
- 4. The facility may have a single sign no larger than one square foot in area attached to the façade of the building. No other exterior or yard signage shall be permitted.*
- 5. The number of overnight client stays shall be limited to a maximum of two individuals per night.*

Mr. Lindahl explained that the purpose of Condition #4. This is the maximum size of a sign that would be permitted under any type of Home Occupation Permit.

Mr. Schoonover inquired as to whether the proposed day care facility would run seven days a week. Mr. Lindahl stated that he did not know. The applicant is in the audience and would be able to answer that question.

Acting Chair Armstrong asked for a facility like this, what other kinds of considerations are there besides whether the usage is compatible with the neighborhood? For instance, is the facility handicapped accessible? Does it meet the special needs of the clients? What are the petitioner's qualifications for operating the proposed facility? Are these all things within the purview of the Zoning Board of Appeal's consideration? Mr. Lindahl responded that the State of Illinois does not regulate adult day care facilities in residential homes. The only time the State of Illinois regulates day care facilities in home type settings is when it is being used as a provider for a particular state program. Only when individuals who are in a state program are eligible for state money are there extensive regulations for qualifications of the providers, for record keeping, etc.

It is his understanding that Ms. Boland-Williams would be applying to be a provider under this state program, and some of her clients would receive funding via the state program; so therefore, the petitioner would have to be certified.

He further noted that one thing the City does address is with the type of construction of a building and the standards to which it is constructed. The City's Building Safety Division will look at whether Ms. Boland-William's home has a particular type of exit door, and whether it is lighted or has an alarm, where fire alarms and smoke alarms are located in the home, etc.

There are different types of building construction standards. The application for the construction of the home was submitted to the Building Safety Division as a single-family home. It meets the standards required for a single-family home. It is only permitted to be used in a manner of intensity to a particular limit. Single-family homes also do not have to meet the American with Disability requirements. So, if the applicant wanted to increase the intensity of the use beyond eight people, then this would trigger institutional use requirements, and this would require that the home be retrofitted with certain other kinds of life safety items such as sprinklers.

Mr. Warmbrunn questioned whether the City has rules and licenses for this particular adult day care business. Mr. Lindahl responded by saying that this is a new type of use for Urbana, and the City does not have any current rules for an adult day care. The Zoning Administrator interpreted the use to be most closely related to another type of use. Daycare is listed in the Zoning Ordinance, but this relates pretty much directly to children. Mr. Warmbrunn disagreed in that there is quite a bit of difference between eight children and eight adults. He mentioned that he would have liked to see the floor plan of the house. He inquired if it has five bedrooms or a recreation area. He believes that this use will come up again in the future, and the City should have some set of guidelines for them to go on. Does the City need to set a minimum number of caregivers that should be working at any one time? Is this something that the City should do prior to the Zoning Board of Appeals deciding where to put this particular type of use? Mr. Lindahl replied that this is a land use decision.

Mr. Welch added that requirements cannot come from the Zoning Board of Appeals. Setting these types of requirements is beyond the Zoning Board of Appeal's power. He recalled a previous case involving a church near Prairie School. He had mentioned then that the Zoning Board cannot discuss how many children can be in a classroom. This is not a zoning decision. In his opinion, if a business is small enough that the State of Illinois does not regulate it, then the City probably cannot regulate it either. He did not believe that the Zoning Board of Appeals could approve the use and then attach conditions or regulations beyond their power.

Mr. Lindahl said that the City staff had thought about adding a condition requiring a specified minimum number of caregivers. However, it occurred to them that if at some time the State chooses to start regulating these types of uses, then it is not necessary for the City to regulate the use by limiting the number of staff. However, by limiting the petitioner to eight individual clients at any time, the City can limit the amount of traffic dropping the clients off and picking them up, and it puts a practical economic limit on the number of staff that they would have.

Mr. Corten asked whether the home would be handicap accessible. Mr. Lindahl stated that the home does not have to be handicap accessible because it is a single-family home. However, they do have a ramp in the garage to make it easier to get people in wheelchairs in and out of the house.

Acting Chair Armstrong clarified that the Building Safety Division has looked at the premises and has that the petitioner's home would be permissible to be used for the proposed adult daycare center. It is not in the purview of the Zoning Board of Appeals to determine whether the feasibility of the building as an adult daycare facility or what the qualifications of the provider should be. It is only their purview to look at how the proposed use would impact the current zoning. Mr. Lindahl felt this to be a fair statement. From a land use standpoint, because this is a conditional use permit request, the City is interested in the impact on the neighborhood.

Ms. Uchtmann wondered if this was a request for a daycare for children, would they still be discussing this case. Mr. Lindahl replied no. There is certainly a difference between adults and children. Small children and infants have less capacity to exit buildings in case of emergency.

Mr. Myers added another difference is that the petitioner is requesting to provide overnight stays. This is different than home daycare for children.

Mr. Lindahl pointed out that the Zoning Administrator looked at the case and determined there is a difference because of the respite care, and it would be beyond her discretion in simply making an administrative decision of whether it should be allowed. In the future, City staff can look at adding a definition for "adult day care" in the Zoning Ordinance to get a bit more clarification for the use.

Ms. Uchtmann commented that it would interfere with the peaceful enjoyment of the neighborhood by the other neighbors just by the traffic that the use would generate with drop off, pickup and deliveries. She would like to hear from the public.

Mr. Corten wondered what the conditions were in approving the alzheimer's home off of Windsor Road. Mr. Lindahl stated that the alzheimer's facility is on Amber Lane. It did not come before the Zoning Board of Appeals, because he believes it was simply reviewed by the Building Safety Division as an institutional structure with a residential component. Mr. Corten asked if that could give the Zoning Board of Appeals any guidance on this case. Mr. Lindahl replied not necessarily. The Alzheimer's home is a much larger facility, and it is still an institution. Therefore, it had to meet all the requirements regarding fire safety and security. In this particular case, Ms. Boland-Williams is trying to provide a certain amount of stimulation and care in a home-like environment.

Mr. Warmbrunn questioned what a "service dependent individual" is defined as in the code. Mr. Lindahl read the definition from the Zoning Ordinance, which is as follows: *Service Dependent Population: Groups who by reason of mental or physical disability require supervision offered in connection with residence in a community living facility as herein defined. Such groups shall reside as members of a single housekeeping unit in a quasi-parental relationship with staff. Said groups shall not include persons for whom such services are a requirement of a sentence upon*

conviction of a criminal offense or whose need for such services arises during or immediately following a sentence of incarceration for a criminal offense. He mentioned that it makes a distinction between people who need a certain amount of care in a quasi-parental relationship, such as autistic adults.

Mr. Warmbrunn inquired if any of Ms. Boland-Williams clients would be service dependent. Mr. Lindahl said that the petitioner would be able to tell the Zoning Board of Appeals more about what types of needs her clientele might have.

Mr. Warmbrunn questioned whether there are any street lights in the area. Mr. Lindahl did not believe so. Mr. Warmbrunn asked if there is suppose to be street lights in the final planning or will it be a dark cul-de-sac? Mr. Lindahl stated that street lights would not be required under the present Ordinance. He stated that the builder was present and could answer this question more accurately.

Acting Chair Armstrong opened the meeting up to hear input from members of the audience. He then swore-in all those who wished to speak who were not sworn in previously and requested that they sign in.

Carl Hill, the builder of the home, and Cherry Boland-Williams, petitioner, approached the Zoning Board of Appeals to speak. They passed out an informational sheet on the biography of Ms. Boland-Williams.

Mr. Hill spoke about the house. He stated that the single-family home is 5,500 square feet, and it has eight bedrooms and six bathrooms. One of the bathrooms has a roll-in shower for wheelchair accessibility. The driveway can hold approximately six cars. Mr. Corten inquired if the house is already built. Mr. Hill replied yes, and it is being lived in by the petitioner.

He explained that he worked with Ms. Boland-Williams to find a suitable location that would accommodate this type of house and this type of facility. They especially want it to be in a residential neighborhood. It is not really conducive to commercial areas with high traffic, etc. So they found a cul-de-sac that has very large lots on it. They talked with Paul Tatman, who is the developer of the subdivision, and the proposed use was fine with him. Before taking on this project he talked at length with Ms. Boland-Williams and her husband and with the architect who designed the home to ensure that what she is trying to do would work.

He mentioned that Ms. Boland-Williams has operated a day care for children for several years. They figured that if she was allowed to have a day care for eight children, then she should be allowed to have a day care for eight adults, which would be the same amount of traffic. Most often, adults would be dropped off at her house for the day. The adult clientele would not necessarily be invalids. They would be adults who want to work in the yard, play cards and socialize with other people. They might include people who have just had some minor surgery and should not be left at home by themselves. He read a note from Jean Teems, a nurse from Georgia. She found out about Ms. Boland-William's plans for a respite cottage. Her letter encouraged the Zoning Board of Appeals to approve and promote the proposed use and to keep it in a residential setting.

Mr. Hill stated that he has received encouragement from people as well. He feels this concept will catch on and that we will be seeing more adult day cares in the future. As a result, he sees the concern of the Zoning Board of Appeals approving this without having zoning regulations in place for adult day care facilities. Although Ms. Boland-Williams could have up to four unrelated adults living in her home, she would rather work with the City in setting up some guidelines or standards that would be workable for them as well as for the neighborhood without upsetting anyone.

He continued to explain that they have put sidewalks all the way around the house. Overnight clients will be able to go outside from their bedrooms onto decks around the sidewalks to a patio on the back of the home. There are also two other exits from the house that are wheelchair accessible, and a third additional exit that has two small steps. However, the basement has been set up for people with the ability to negotiate steps. There will be an exercise room, a care room, four bedrooms, two bathrooms and a laundry facility in the basement. There are six egress windows in the basement level. So it has been very well setup to accommodate people, young or old.

He encouraged the Zoning Board members to read the biography that was handed out. This is the type of person we want doing the type of work that she wants to do. He feels that we need to encourage her in every way we can.

Acting Chair Armstrong inquired about the yard. How is it setup or defined as a yard? Is it an open yard without any barriers? Is it fenced in?

Mr. Hill replied that the yard is all fenced around with a gate at each end and one in the back to allow access to mow. There is a garden area, flower planting area, and a patio in back that connects to the sidewalks and decks around the house.

Acting Chair Armstrong understood this to be not a simple ordinary single-family residential home. This particular house was planned from the very beginning and constructed to be used as an adult day care facility. All these provisions are geared toward this.

Mr. Hill replied that is correct. Urbana is entering a new phase and does not have regulations for adult day care facilities. So they are asking for this to be a start. They are hoping to work with the City to develop regulations that would be conducive to this type of work.

Mr. Corten questioned whether a 20 year old who is disabled could come and stay in the adult day care home. Ms. Boland-Williams said yes, any adult.

She went on to say that she would love to have the proposed conditional use permit approved because she can think of nothing else that she would like to do than to be a part of this population's life. She feels comfortable being able to make them happy, especially people who are confined and their caregivers have been taking care of them for so many years. The caregivers are unable to leave them, because the disabled adults have no where to stay. They

need a place to hang out and to rest from their everyday chores. This type of facility is so greatly needed in this area. In most other cities, this type of development is already available.

Acting Chair Armstrong inquired as to how much traffic the proposed adult day care home would generate. Ms. Boland-Williams said practically none. She does not just want to have clients picked up and dropped off. She also wants them to be able to stay as long as they want. There is a golf course and park nearby that the clients can walk to if they want. She feels lucky to have found this location. It is almost as if Prairie Winds was planned for her idea for an adult day care home.

Mr. Corten wondered if Ms. Boland-Williams would be living in the home. Ms. Boland-Williams said yes and that she lives there now.

Mr. Warmbrunn asked the petitioner to address the concept with the overnight stays. Would this be something that she envisioned would be happening quite often?

Ms. Boland-Williams replied that there is a respite center in southwest Champaign called the Cumberland Association. Many of the people who stay there are state supported or are on welfare. There are not any centers for people who are willing to pay by private insurance or directly from their pockets.

Mr. Warmbrunn inquired as to how long her clients would stay overnight...a week or a month.

Ms. Boland-Williams responded by saying that her clients would only stay overnight 24 to 48 hours.

Mr. Warmbrunn responded if the overnight clients would be part of the group of eight people allowed.

Ms. Boland-Williams said that they would not have more than two or three overnight clients at one time.

Mr. Lindahl explained that the petitioner would not be allowed to have any more than eight clients at one time, and the maximum number of overnight clients would be limited to two people. If the petitioner wanted to allow longer overnight stays, then the City staff would have approached this differently.

Mr. Warmbrunn questioned whether that was mentioned in the staff report that overnight stays would be limited to 48 hours. Mr. Lindahl stated that it does not. Mr. Hill added that this is the reason why they need to develop zoning regulations for adult day cares facilities.

Mr. Corten inquired as to what kind of care she planned to give to her clients. Is she a registered nurse? Would she be able to see that her clients are getting their medications on time? Ms. Boland-Williams said yes, she is a registered nurse and would be able to administer medications prescribed by a physician.

Mike Hagemeyer, 1902 South Kathryn Street, spoke in opposition of the proposed conditional use permit. His first issue is that there will be clients there because they need physical help or assistance. Although there are egress windows in the basement, the clients most likely would need help exiting through the windows in an emergency. So the petitioner will need more staff even to help out with regular functions. Another concern he has is if any of the overnight clients have Alzheimer's, will the doors to the outside be locked? If so, is this not a fire hazard? If the doors are not locked, then how will the petitioner know if a client with Alzheimer's gets out of the house? He mentioned that there are eight bedrooms. He thought there should be nine bedrooms to allow for eight clients and a bedroom for the petitioner.

Mr. Corten pointed out that there would only be a maximum of two clients staying overnight at any one time.

Mr. Hagemeyer stated that this brings up the issue of who will regulate whether there are only two people staying overnight. He mentioned that he is looking at the worse case scenario. What if clients only stay for short periods of time like an hour or two and then leave? More clients could come and stay for short periods. Therefore, he foresees a lot of extra traffic in the neighborhood. He bought his property because it is in a cul-de-sac and does not want the extra traffic. If he had known that the proposed use would be allowed, he would not have bought his property.

Mr. Welch questioned whether Mr. Hagemeyer's concern is with the proposed day care or any day care in general at this location? Mr. Hagemeyer stated that his concern is with any day care in general. He is concerned with any business that would have a sign and would have clients being dropped off and picked up and has a lot of extra activities.

Mr. Welch pointed out that the Zoning Board of Appeals has to be careful because a child daycare would be allowed by right. It would be the same traffic presumably. There may not be the overnight traffic, but there would be a big influx of traffic at 5:00 p.m. and between 6:00 and 8:00 a.m. As a Zoning Board, they cannot say that the proposed daycare should not be allowed without a distinction on the difference between older people and younger people, especially when talking about traffic. Traffic will be there presumably if it is a business.

Mr. Hagemeyer stated that he understood this. He is saying that plans for the proposed daycare should have been brought up in the blueprint stage. It is not fair that he is just finding out about this and his house is already half built.

Mr. Corten asked if Mr. Hagemeyer lived on Kathryn Street.

Mr. Hagemeyer stated that he is currently building his home on the corner of Colorado Avenue and Kathryn Street. He just feels that everyone should have had the opportunity to talk about this a long time ago. This project has evidently been planned for quite some time.

Dan Orchard, 1906 Kathryn Street, spoke in opposition of the proposed conditional use permit. He stated that he has several concerns with the proposed use as well with an increase in traffic being the biggest issue. There may be additional traffic generated for in-house medical

appointments with various practitioners and physical therapists coming to the house to meet the needs of the clients. This additional traffic ties into his next concern of parking. In this court, the width of the frontage for each of these lots is so small that there is not going to be parking space in between there, so traffic will need to park on the main part of the street. It was mentioned earlier that a wheelchair access would be through a ramp in the garage. Therefore, they would need to leave the bay in the garage open for the ramp to be used, in which case this is no longer a viable parking spot for a vehicle. If the petitioner plans to have field trips, then there would be an additional vehicle at her disposal in addition to their personal vehicles. So the vehicle count is going up, and the parking spaces are very limited.

Margaret Reagan, of 2004 East Colorado, spoke in opposition of the proposal. She explained that her family just built a house on the corner of Kathryn Street and Colorado Avenue and moved to the Urbana area last February. They chose this property because their lot backs up to Lohmann Park. She stated that had they known about the proposed day care facility, her family probably would not have bought their lot.

Mr. Welch inquired if she opposed this type of facility or neighborhood businesses that are allowed in these types of areas in general.

Ms. Reagan replied that she opposes neighborhood businesses in general.

Ms. Reagan commented that she is a physical therapist and works with dementia residents every day. Many of them are huge wanderers. She does not want people walking around at night or cutting through their lot to get back to the park.

Mr. Warmbrunn asked the petitioner how they perceived the parking, arriving/drop off to be handled. He has the impression that none of the clients will be driving.

Ms. Boland-Williams stated that her clients will be dropped off and picked up. There would not be any cars other than hers parked there at all.

Mr. Warmbrunn questioned whether she has a separate vehicle to use for field trips. Does it hold 8 people?

Ms. Boland-Williams said yes. She commented that they would keep their personal vehicles in the garage. Their cars are currently parked in the driveway because they just moved in. However, they do not like to see a lot of cars in the driveway or parked on the street. She agrees with the people who spoke in opposition in that she does not want a lot of traffic either.

She mentioned that they would not be having a sign. The proposed adult day care home would not be anything unusual. This is a residence, and no one will know that there are other people in her home.

Mr. Hill noted that the driveway is very wide. There is a separate door so the garage door would not have to be open to the garage where there is a ramp that goes into the main part of the house. No cars will have to be moved and none will have to be left out. The garage is plenty wide for

two, possibly three, cars plus the ramp. This has been very well planned. It is a large house, and the driveway is large enough to park six cars in even without the garage. There is no reason to expect any on-street parking.

Ms. Boland-Williams mentioned that prior to building her home, they discussed it with one of the people who just spoke in opposition. They were very pleased about the proposed use. So, she is surprised to see them object the proposed use at this point.

Mr. Warmbrunn inquired as to what supervision would be provided. Say there are two clients in the back yard, two clients in the basement and two others walk off to the park. He asked if the clients would be pretty much on their own. Ms. Boland-Williams stated that her clients are able-bodied people who may be lonely in their homes and just need to interact with others. Besides, they just had a brand new fence installed in the rear yard.

Mr. Corten remarked that it seems to him that the demand for this type of activity is growing and will continue to grow as people now live longer. We are going to have to provide much more of this kind of service in the future. Ms. Boland-Williams commented that Champaign and Urbana are a little bit behind on this, because this type of service is going on in other cities.

Ms. Uchtmann expressed her puzzlement over why the petitioner did not seek approval from the Zoning Board of Appeals prior to building her home designed with the adult day care in mind.

Mr. Hill pointed out that Ms. Boland-Williams is allowed by right to provide adult day care service out of her home according to the City's regulations.

Ms. Uchtmann understood the issue to be then with the overnight respite care, correct?

Mr. Hill said that is correct. City zoning allows up to four unrelated adults living in a residential single-family home by right.

Mr. Warmbrunn wondered if the petitioner could have more than eight clients just as long as she did not have anymore than eight clients at her home at any given time. Mr. Lindahl said yes, there could be clients that only come on certain days of the week.

Mr. Warmbrunn asked if the Zoning Board should include the condition that the overnight respite care be limited to 48 hours. Mr. Lindahl stated that they could add this as a condition.

Mr. Corten commented that he hoped they would add it as a guideline rather than a requirement.

Mr. Lindahl replied that anything over 48 hours would be considered more of a residency similar to a hotel-motel use.

Mr. Welch inquired as to whether the City has defined "residency" anywhere. Mr. Lindahl replied that he has not found a definition that address residency. The Zoning Ordinance has a definition for "dwelling unit", but it does not deal with about a person having to live or be there for seven days a week, etc. He stated that City staff is comfortable with 48 hours.

Mr. Warmbrunn questioned who would regulate this new condition.

Mr. Welch responded that it would be the same people who regulate occupancy requirements. If adult day care facilities were state regulated, then there could be surprise inspections. Without state regulations, we have to depend on good faith.

Mr. Myers added that in terms of occupancy, the City of Urbana has inspectors assigned to inspect for occupancy requirements and follow up on complaints that too many people are living in a building. If there is an issue with over-occupancy in a building, the inspectors will collect information and notify the property owner of the over-occupancy to get the issue resolved.

Mr. Warmbrunn commented that the City is not going to require a license for the adult day care facility.

Mr. Welch did not feel that the City could regulate a facility like this if the State does not have any regulations for it.

Mr. Corten wondered if Mr. Welch could foresee State regulating this type of use in the future.

Mr. Welch replied probably, especially if there are going to be more and more adult day care facilities in the future as Mr. Corten had suggested earlier.

Ms. Uchtmann referred to the letter written and submitted by Richard Thies. Point # 11 states that *“The requested use would not qualify as a “home occupation” under the ordinance as it will have more than two customers or clients on the premises.”*

Mr. Lindahl responded that home occupations were originally set up for people who, for instance, want to operate a part time real estate business out of an extra bedroom. Another home occupation is a day care home, and it could have up to eight clients at any time. So, the restriction on only two clients at any given time applies essentially to office type business or trade uses, not to day cares.

Mr. Myers reminded the Board that City staff is not technically considering this a home occupation use. Even though it would be located in a home, it is not a subsidiary use. Under home occupation requirements, a home occupation has to be subsidiary to its primary use as a single-family residence. A day care is allowed in the R-2 Zoning District with a conditional use permit.

Mr. Lindahl added that if it were a conditional use permit for a child day care facility, the petitioner would not be required to live on the premises either.

Mr. Warmbrunn moved that the Zoning Board of Appeals approve Case No. ZBA-2007-C-04 for a conditional use permit including the first four conditions as recommended by City staff and including condition #5 with the following change: “The number of overnight client stays shall be limited to a maximum of two individuals per night and limited to 48 hours in duration.” Mr. Corten seconded the motion. Roll call on the motion was as follows:

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

The motion was approved by a vote of 4 – 2.

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:

- Trammel Crow Major Variance to allow a mixed retail/apartment complex building with an interior parking garage to have five-foot side-yard setbacks was approved by City Council.
- Case No. # ZBA-2007-C-04: Ms. Uchtmann inquired as to whether the City would consider any special designation for adult day care. There is a need for this, and it will probably come up again. Mr. Myers stated that it would make sense to do so because the Zoning Ordinance is updated on a periodic basis. As society changes, land uses change and our current ordinance doesn't yet address adult daycare.

Mr. Warmbrunn commented that there is an appeal process of the Zoning Administrator's opinion. How does one know when to appeal it, when they do not know that a decision has been made? Can the people who oppose the adult day care use at Ms. Boland-Williams' home appeal? He believes that with a case like this there should be some kind of notification to the neighboring property owners, especially in an abnormal case like this where the Zoning Administrator has made a decision. Mr. Lindahl stated that this is a point well taken, and it has not come up before that he is aware of.

Mr. Warmbrunn also suggested that City staff follow up with Ms. Uchtmann's request for City staff to create an ordinance regarding adult day care facilities.

Mr. Myers noted that had the business been approved administratively, the business opened, and the neighbors disagreed with the Zoning Administrator's decision, then they could appeal the Zoning Administrator's decision to the Zoning Board of Appeals. If someone does not agree with the decision of the Zoning Board of Appeals in this or any other case, then they can appeal the Board's decision to circuit court.

Mr. Warmbrunn stated that he voted in favor of Case No. ZBA-2007-C-04, because no one challenged the determination of the Zoning Administrator that there could be up to eight adult clients allowed in the day care. Acting Chair Armstrong noted that this is a gray area, because as Mr. Welch had pointed out, if this had been a normal child day care, then the Zoning Board would not have even seen the case.

11. STUDY SESSION

There was none.

12. ADJOURNMENT OF MEETING

The meeting was adjourned at 9:30 p.m.

Respectfully submitted,

Robert Myers, AICP, Secretary
Urbana Zoning Board of Appeals