

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

**DATE:** March 17, 2010  
**TIME:** 7:30 p.m.  
**PLACE:** Urbana City Building  
City Council Chambers  
400 S. Vine Street  
Urbana, IL 61801

**APPROVED**

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**MEMBERS PRESENT** Paul Armstrong, Charles Warmbrunn, Harvey Welch  
**MEMBERS EXCUSED** Nancy Uchtmann  
**STAFF PRESENT** Robert Myers, Planning Manager; Teri Andel, Planning Secretary  
**OTHERS PRESENT** Stuart Martin, Robert Nemeth, Jeff and Sandy Yockey

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

Chair Armstrong called the meeting to order at 7:37 p.m. Roll call was taken, and a quorum was declared present.

**2. CHANGES TO THE AGENDA**

There were none.

**3. APPROVAL OF MINUTES**

Mr. Warmbrunn moved that the Zoning Board of Appeals approve the minutes from the August 19, 2009 regular meeting as drafted. Mr. Welch seconded the motion. The minutes were approved as presented by unanimous voice vote.

**4. WRITTEN COMMUNICATIONS**

**Regarding Case No. ZBA-2010-MAJ-01:**

- ◆ Letter from Stuart Martin
- ◆ Letter from Robert Nemeth
- ◆ Letter from Gale Walden
- ◆ Letter from Tom Faux

**Other Communications:**

- ◆ Approved Text Amendments to the Urbana Zoning Ordinance
- ◆ Who's Who in Government

## 5. CONTINUED PUBLIC HEARINGS

There were none.

Chair Armstrong asked that anyone who might want to testify to please stand and raise their right hand. He then swore in those members of the audience.

## 6. NEW PUBLIC HEARINGS

**Case No. ZBA-2010-MAJ-01 – A request by Jeff and Sandy Yockey to exceed the maximum square footage allowed for accessory buildings at 304 West Washington Street in the R-2, Single Family Residential Zoning District.**

Robert Myers, Planning Manager, presented this case to the Zoning Board of Appeals. He introduced the case by stating the purpose for the proposed major variance, which is to allow the petitioners to keep the existing house and garage as accessory storage buildings after a new house has been constructed on the lot. He described the site by noting the zoning designation and land use of both the site and surrounding properties. He referred to the letters (see Written Communications) handed out prior to the meeting. He reviewed how the proposed variance relates to the variance criteria outlined in Section XI-3 of the Urbana Zoning Ordinance. He read the options of the Urbana Zoning Board of Appeals and presented staff's recommendation, which was 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 No. ZBA-2010-MAJ-01 to the Urbana City Council with a recommendation for approval with the following conditions:*

1. *That the subject lot be developed for single-family use in conformance with all other applicable regulations in the Urbana Zoning Ordinance.*
2. *That the kitchen in the existing single-family dwelling be removed. The removal of the kitchen is to be documented in the Property Maintenance File and a revised Certificate of Occupancy issued.*
3. *That the two structures intended to be used as detached accessory structures be used only for storage or parking. This is to be documented in the Property Maintenance File and on the Certificate of Occupancy.*

Mr. Myers mentioned that the applicants were in the audience to answer any specific questions. He stated that he would be willing to answer any questions from the Board.

Mr. Warmbrunn stated that in one of the written communications the Board received Mr. Nemeth addresses an issue with the carport and the differences between the original floor/site plan dimensions and those shown in the site plan attached to the written staff report.

Mr. Myers explained that the site plan in the packet of information is a revised plan. In the original site plan, City staff pointed out to the applicants that the porte cochere appeared to be too close to the property line. The applicants had their architect change the plans to conform to the setback requirements in the Zoning Ordinance.

He pointed out that in order for City staff to approve any house plans, the plans would have to conform to City regulations. So if the columns of the carport are too close to the side-yard property line then the columns would either need to be moved back or the carport would need to be removed from the plans.

Mr. Warmbrunn recalled a concern that the proposed screened in porches could be turned into rooms of the house. He asked if the applicants would need a variance to do this. Mr. Myers said that the home owners would need to obtain permission from the City in order to do so. From his analysis of the plans, if the proposed screened porches were enclosed and became living area it would then change the floor area of the house, and the house would no longer be in conformity with the Floor Area Ratio (FAR) regulations.

Mr. Warmbrunn wondered if the City has regulations on what is stored in an accessory building, whether it is heated or not, etc. Mr. Myers responded that unless it presents a nuisance or fire hazard, the City of Urbana does not get into the issue of what is being stored.

Chair Armstrong asked hypothetically if another property owner was to build over time a series of out buildings that covered a major portion of their lot, would this be something that City staff would recognize immediately. Or would it occur overtime and be so subtle that it could slip under the radar? Mr. Myers replied that City staff has been talking about this very issue. If a person wants to build an accessory building such as a garage or a shed that is larger than say 10 feet by 10 feet, they would need to submit a sketch or site plan for their property that shows all of the out buildings and the house, so that City staff can insure that the shed wouldn't exceed the floor area ratio requirements.

Mr. Warmbrunn inquired as to if the petitioners demolished the garage if it would then become a minor variance. Mr. Myers used a calculator and then said that is correct.

Chair Armstrong asked if the existing house is on a slab and not on a basement or foundation. Mr. Myers said that his understanding is that it's a slab. He mentioned that City staff also checked the height of the existing house, and it would not exceed the height requirement for accessory structures.

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

Jeff and Sandy Yockey, petitioners, approached the Board. Mr. Yockey commented that they like living in this neighborhood and in this community. They moved into the existing house in August, 2009 and are very excited about the ability to build on the site. They talked with City staff after taking time and having an architect draw up a site plan. There were only about three issues that City staff told them they needed to change.

From his understanding, the floor area ratio includes covered porches. The proposed new house will be just over 2,000 square feet and the porches will be about 300 square feet. The total square footage, including the first floor, second floor and the porches, meets the Zoning Ordinance requirements. So even if a future homeowner wanted to enclose the porches at some point and make them living area, the porches would already meet the requirements of the floor area ratio.

Mr. Warmbrunn inquired as to whether they use the garage to park their vehicles. Mr. Yockey responded by saying not yet. They are currently using it for storage because they have four people living in the existing 700 square foot house.

Mr. Warmbrunn asked if the Yockeys planned to continue to heat the existing house once the new house was constructed. Also did they plan to keep running water to it? Mr. Yockey said that he did not want to heat it or have running water to it.

Chair Armstrong wondered what made them decide to keep the existing house as an accessory structure rather than selling the existing house and having the new owner move it or tearing the house down and reusing some of the materials. Mrs. Yockey explained that they hope to be involved in the building process. They will continue to live in the house while the new house is being built. If they were to remove the house, then they would need to find another place to live until the new house was constructed.

Mr. Welch commented that it seems like a big switch from being used as a house to being used as a storage structure. A house is built differently than a storage structure. He wondered if shutting off the heat and running water might cause maintenance issues in the future. Mr. Yockey said that was a good question. He plans to keep a good roof on the building and keep all the windows intact.

Mr. Welch stated that it would probably be difficult to tear the building down after the new house was constructed because there would not be much room to do so. Mr. Yockey explained that it would have to come down piece by piece.

Mr. Welch noted that there will not be much room for the children to play. Mr. Yockey replied that they only live one block away from Carle Park.

Mr. Welch wondered if keeping the existing house as a storage structure might make it more difficult to sell the property in the future. Mr. Yockey stated that there is no easy solution. He and his family hope to live in the neighborhood for many years. They may eventually decide to tear the existing house down themselves. One of the advantages of using the existing house for storage is that if they had to replace it with a new storage structure, then they would have to meet setback requirements.

Ms. Yockey pointed out that the content of most of the written communications expresses concerns about the new house – its size, the carport, drainage or something else. The proposed new house meets all of the City of Urbana zoning requirements. The focus of the proposed variance is more properly the two accessory buildings.

She also mentioned that they just spent money on putting a new roof on the existing garage and painted it. So, they do not want to tear it down. Mr. Yockey added that their goal is to take care of the structures so they would fit in and blend with the house.

Stuart Martin, of 302 West Washington Street, approached the Zoning Board of Appeals. He mentioned that he lives next door and that one of the written communications is a letter he wrote and submitted expressing his objections of the proposed variance. He stated that Mr. Myers had addressed many of his concerns during his staff presentation.

He understands the Yockey's desire to build a new, larger house having raised two children in an 850 square foot home himself. The plans for the proposed new house look great; however, with the existing and new house on the lot, the amount of roof surface requiring drainage will shed a lot of water which now soaks in the ground. Another concern is about the future use of the existing house if the Yockeys move. The new owners might have other intentions for the use of the existing house. Therefore, he requested that the amenities such as plumbing and gas hookup for a furnace be cut off and permanently disabled. He is talking about either severing the lines outside or filling the drains with concrete. He has no desire to see the property next door turned into a multi-family lot. He prefers to see green space because that is what the neighborhood is about. Of the five letters that City staff received, three of them are from neighbors who live in the immediate area and have adjoining properties.

Robert Nemeth approached the Zoning Board of Appeals. He mentioned that he co-owns a rental house about 40 yards to the east of the proposed site along with Mr. Martin. With regards to removing the kitchen to ensure that the building will only be used for storage once the new house is constructed, it would be very easy for a person to plug in appliances to substitute for a kitchen. He recommended that the City require the Yockeys to sever the outside lines to the existing house. He commented about the size of the yard. He pointed out that there would be very little yard left once the new house is built. It will barely meet the open space ratio requirements. From the street side, this would not make that much difference, but from the two adjoining lots the proposed property will appear to have high density. He mentioned that he deals with mold and moisture problems at the Building Research Council at the University of Illinois. It will probably become a maintenance problem if they remove the heating system. The existing house is built with a slab on grade. Moisture comes up through the slab. The petitioners will have to run de-humidifiers or take some other preventative measures otherwise it will become an issue. If the petitioners wanted to remove the existing structure, he did not feel it would be as much of an issue as people think. First, it is a very small house, and secondly, they could probably work with Mr. Martin to have temporary access across the back of his lot to remove the demolition debris.

Chair Armstrong inquired as to where the existing utility lines run into the property. Would construction of the new house require altering of these lines? Mr. Myers replied that he did not know where the utilities currently come from. This is something the petitioners would need to work out with their architect.

Chair Armstrong questioned if there were any City regulations regarding heating a storage unit. Mr. Myers said that heating of a garage or storage structure is allowed. He explained that just

having heating alone or a kitchen alone or a bathroom alone does not make a house, but when you combine the three then it becomes a house. The petitioners could take out elements to disable it from being used as living quarters or being considered a house. He believes the safest thing to do is to remove the kitchen and the heating. This would allow the petitioners to use the bathroom, which is not unusual to have in a storage structure, especially if they do woodworking, etc.

The Yockeys re-approached the Board to comment on some of the concerns that were mentioned. Mr. Yockey stated that they are willing to take the recommendation of whatever it takes to make the existing house an accessory structure. They had all the utility companies survey the lot. The water, gas and sewer all run within five feet of the east side property line. No lines run across the middle of the property, so the foundation of the proposed new house would not affect the utilities. Water and drainage are issues that they will address because no one wants a wet basement. They have already spoken with Steve Cochran, Building Inspector for the City of Urbana, and have included some solutions into their plans. It is their desire to have a carport and will make sure that it meets City requirements.

Ms. Yockey reiterated that this meeting is not about the carport and whether it fits. That is for the review of their building plans by Mr. Cochran. They took their building plans around and showed their neighbors even though they were not required to do so. She felt like the concerns about the proposed new house were a distraction. She pointed out that they do not want to do anything that is offensive to the neighborhood because they love the neighborhood.

There were no further comments or questions from the audience. Chair Armstrong closed the public input portion of the hearing and opened it up for Zoning Board of Appeals discussion and/or motion(s).

Mr. Warmbrunn inquired about the procedure for zoning violations. How will City staff know if the existing house is used as living quarters after the proposed new house is built? Does the City encourage citizens to report their neighbors if they suspect anything? Mr. Myers explained that there are two systems for insuring compliance. The City has been doing ongoing inspections of rental units for years. Now with the rental registration program, the City has been able to accelerate those inspections so that they occur on a more regular basis. The second system is inspections on a complaint basis. If City staff receives a complaint about a particular problem or possible violation then they will investigate.

Mr. Warmbrunn wondered if removing the kitchen would be a sufficient restriction for approval of the proposed variance as opposed to cutting the water off. He feels cutting the power off should be the owners' decision. Heating and cooling should be at the owners' discretion as well so that the City would not impose a condition that could cause maintenance issues in the future. Mr. Myers agrees that power is customary for storage buildings. If the Zoning Board of Appeals does not feel that simply removing the kitchen would be enough, then they could make additional conditions to place on the variance. Mr. Warmbrunn feels that removing the kitchen would be enough because the neighbors will know if they see people living in it and can complain to the City.

Mr. Welch thought the Board only needed to stipulate that whatever disabling would be done would be enough to have the structure conform as an accessory building. As for the future, no one is concerned about the present owners using the existing structure as living quarters. The Urbana Zoning Ordinance prohibits the existing structure from being used as a rental unit once the proposed new house is built so they do not need to apply any additional conditions other than “the structures and the use of the property will comply with all other applicable zoning provisions.” Like any law, this would depend on the neighbors reporting any nonconforming uses. He does not believe that the Board needs to spell out that the owners cannot violate the Zoning Ordinance. The Board could tell the Yockeys to remove the kitchen or simply to meet the requirements of an accessory building. Rather than specifically telling them what to disable, just tell them to disable it so it cannot be used as a livable unit.

Chair Armstrong agreed with Mr. Welch. Some people might want to have their washer and dryer located in their garage. This would require plumbing and power utilities, but it would not mean that the garage would be livable. He would not know how to phrase it if they got more specific than what Mr. Welch suggested. Mr. Welch added that the Board could just follow staff’s recommendation and forward it to the City Council. Mr. Myers noted that City Council could impose additional limitations if they feel it is necessary.

Mr. Warmbrunn moved that the Zoning Board of Appeals forward Case No. ZBA-2010-MAJ-01 to the Urbana City Council with a recommendation for approval including the conditions as recommended by City staff in the written staff report. Mr. Welch seconded the motion. Roll call was taken and was as follows:

Mr. Warmbrunn	-	Yes	Mr. Welch	-	Yes
Mr. Armstrong	-	Yes			

The motion was approved by unanimous vote.

Mr. Myers clarified that “removal of the kitchen” does not just mean taking out the refrigerator and stove. The kitchen must be disabled. The City’s Building Safety Division has dealt with this many times before and knows what would need to be done to remove a kitchen. He stated that this case would go before the City Council on April 5, 2010.

**7. OLD BUSINESS**

There was none.

**8. NEW BUSINESS**

**2009 Annual Report**

Mr. Myers referenced the table in the front of the annual report showing that the number of cases has diminished over the years. Aside from 2009 when there was less development than normal, the fact that City staff has been methodically reviewing and amending the Zoning Ordinance can probably account for some of the decline in variance cases. Chair Armstrong commented that

the Zoning Board of Appeals had noted in past years there were many cases of similar nature coming before them. He applauds City staff for looking at those issues.

**9. AUDIENCE PARTICIPATION**

There was none.

**10. STAFF REPORT**

There was none.

**11. STUDY SESSION**

There was none.

**12. ADJOURNMENT OF MEETING**

Chair Armstrong adjourned the meeting at 8:58 p.m.

Respectfully submitted,

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Robert Myers, AICP, Secretary  
Urbana Zoning Board of Appeals