

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

DATE: October 15, 2014

APPROVED

TIME: 7:30 p.m.

PLACE: City Council Chambers, 400 South Vine Street, Urbana, IL 61801

MEMBERS PRESENT Paul Armstrong, Ashlee McLaughlin, Charles Warmbrunn, Harvey Welch

MEMBERS EXCUSED Joanne Chester, Nancy Uchtmann

STAFF PRESENT Jeff Engstrom, Interim Planning Manager; Max Mahalek, Planning Intern; Teri Andel, Planning Secretary

OTHERS PRESENT Joyce Bluhm, Andrea Bohn, Daniel Brant, Mark and Ann Fredricksen, Sarah Gerth, Kevin Koontz, Michelle Kozlowski, Susan Kozlowski, Jeff and Amber Nugent, Margaret Otto, Grace and William Schoedel, Lauren Senoff, April Shumard, Marcus and Arnetta Truss, George Urichoechea

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

Chair Armstrong called the meeting to order at 7:32 p.m. Roll call was taken, and he declared that there was a quorum present.

2. CHANGES TO THE AGENDA

There were none.

3. APPROVAL OF THE MINUTES

The minutes from the August 20, 2014 regular meeting were presented for approval. Mr. Warmbrunn moved to approve the minutes as presented. Ms. McLaughlin seconded the motion. The minutes were approved by unanimous voice vote as moved.

4. COMMUNICATIONS

- Packet of email communications received in support of Case No. ZBA-2014-C-04 submitted by Susan Kozlowski

5. CONTINUED PUBLIC HEARINGS

There were none.

NOTE: Chair Armstrong swore in members of the audience who indicated that they may give testimony during the public hearings. He asked that anyone who speaks to sign in and state their name.

6. NEW PUBLIC HEARINGS

Case No. ZBA-2014-C-04: A request by Susan and Michelle Kozlowski for a Conditional Use Permit to establish a Daycare Facility at 211 West High Street in the R-2, Single-Family Residential Zoning District

Chair Armstrong opened the public hearing. Jeff Engstrom, Interim Planning Manager, presented this case to the Zoning Board of Appeals. He began by stating that this is a revised request to allow up to 10 children during the busiest times and the petitioner has requested that if granted, the conditional use permit would not be transferrable to any other operators than the petitioners. He talked about the subject property noting the zoning and future land use designation of the site and of the surrounding properties. He noted the hours of operation, the total square footage of the house that the petitioner use for the daycare use. He mentioned that the petitioners are licensed by the State of Illinois and are regulated by several agencies.

He stated that seven conditional use permits have been issued since 1993 for day care facilities. He discussed the development regulations and parking requirements for the daycare use. He reviewed the requirements for a conditional use permit according to Section VII-2 of the Urbana Zoning Ordinance. He presented the options of the Zoning Board of Appeals and presented City staff's recommendation for approval subject to conditions as stated in the written staff report dated October 10, 2014.

Chair Armstrong asked the Zoning Board of Appeals members if they had any questions for City staff.

Mr. Warmbrunn wondered if City staff changed their minds about allowing the conditional use permit to be tied to the petitioner and not the property. Mr. Engstrom said yes. The Zoning Administrator made that determination.

Mr. Warmbrunn expressed confusion about the number of children allowed. Condition #1 states, "*No more than eight client children shall be allowed on-site during school hours and no more than ten at any time.*" Are the petitioner's children included in these totals? Mr. Engstrom said that this is what the Department of Children and Family Services (DCFS) allows, and it does take into account the petitioner's children; they are separate from the count because they will be in school during the day and participate in after-school programs on most days.

Mr. Warmbrunn asked if the City staff had a change in heart with regards to the number of children allowed because a smaller number was recommended in the original case. Mr. Engstrom replied that City staff is looking mostly at the impact of the number of vehicle trips, which has always been seven.

Mr. Welch stated that there will be some neighbor that will have to enforce the staggered drop off and pick up times. Do we really want to have this as a condition? Having raised children, nothing works on that kind of clockwork. Mr. Engstrom replied that the only way a problem will be brought to City staff's attention is if a neighbor calls and complains about it. If a neighbor calls and complains, then City staff could go out and watch the times. Chair Armstrong said that the City has the option to not set a certain amount of time of drop offs and pickups and wait to see if there is a problem, then do something. Mr. Engstrom said yes it would have the same response. Chair Armstrong said instead of adding a condition that the City cannot regulate, why not wait until a problem arises. Ms. McLaughlin added that her understanding is that the condition is a result of previous concerns about traffic and parking volumes, so the condition is just to make everyone aware that 10-minute drop off and pickup times are going to be general practice. All concerns of the zoning regulation violations are brought to City staff's attention by neighbor complaints. Chair Armstrong replied that given the streets are not very wide and potentially a lot of traffic in the neighborhood, the fundamental concern is does the City impose regulations that become difficult to regulate. At what point does the City say that it is a problem?

There were no more questions for City staff. Chair Armstrong opened the public input portion of the hearing.

Susan and Michelle Kozlowski, petitioners, approached the Zoning Board of Appeals to speak. Ms. Susan Kozlowski handed out a packet of emails in support of her conditional use permit request. She began by stating that she now has five parking spaces off her driveway with the change in the design. They provide a service to the families in the area by doing something they love. She considers their daycare to be a high-rated daycare because they have never had a complaint against them. They have always passed all of their surprise inspections with above average rating and some of their practices have been used to train other people in the daycare field.

They are not babysitters, but instead are child-care providers. They constantly attend continued education and training with a minimum of 30 hours each. Their clients bring business to local shops and stores because it is easier to pick up their child(ren) and shop here in Urbana than to drive home and take the risk of their child(ren) falling asleep in the vehicle on the drive home.

There was a previous daycare in the neighborhood located a few houses away for over 20 years. The woman who ran the daycare recently retired and leaving a needed gap for daycare service in the neighborhood. Many families like having a daycare in the neighborhood so their child(ren) can walk their after school.

There are several families on a waiting list wanting to use their daycare. They have been approached by seven different families who are in the foreign language department at the University of Illinois. They speak their native languages of Italian, Persian, Mandarin and Portuguese languages at home, but want someone to help teach their children the English language and possibly some English customs. Many daycares do not provide this service, but they do.

They have done everything that the City has asked of them for the last five months. However, they feel that they have been getting punished. Decisions are being made for other businesses

either not requiring or being overlooked of special permits because the City of Urbana does not want to lose the possibility of those businesses coming to town. She and her daughter view daycares as important businesses.

There have been seven conditional use permit issued for daycares since 1993. Only three of them were in-home daycares, yet there are over 60 licensed daycares in the City of Urbana. This does not count the licensed exempt daycares or the other daycares that choose not to be in the referral system. DCFS and Child Care Resource were not aware of City zoning and that zoning can stipulate how many children are in daycares.

In the five and a half months in this location, they have received no complaints or disruptions due to traffic. Many people in the audience want the daycare to succeed. Many clients have been with them since they started up a daycare six years ago. They love the community and the neighborhood they moved into. It is close to the Urbana Free Library and to where her father lives, whom she takes care of.

Her grandchildren (Michelle's children) are both in middle school and are very active. Chris is 13 years old and does not count towards the number of children because of his age. Stephanie is 11 years old. If they are home, it is either on days when the school is closed or the last half hour of the daycare's hours of operation. Michelle Kozlowski added that when the kids are at home, they are upstairs in their rooms or in the front room most of the day and both areas are off limits to the daycare use.

Susan Kozlowski stated that they do not want any signage because it is their home as well. The non-transferrable is important to them. She does not want someone else to be able to use her permit to have a daycare and dirty their reputation because of something that the new daycare may do in the future.

She stated that she would answer any questions from the Zoning Board of Appeals. There were none.

Chair Armstrong stated that comments from audience members would be limited to five minutes each due to the number of people wishing to speak. He reminded the audience that it is not in the purview of the Zoning Board of Appeals to be for or against daycares. This case is about whether or not the location meets the requirements for a daycare.

Grace Schoedel approached to testify to the Zoning Board of Appeals. She rides her bicycle down Cedar Street three mornings a week on her way to the Phillips Center, and she has never seen a traffic problem there, especially in the last several months. She knows the Kozlowski family and feels that having the daycare in the neighborhood would be a real asset for the community. She encouraged the Zoning Board of Appeals to support the proposed conditional use permit request.

George Urichoechea approached to testify to the Zoning Board of Appeals. He lives directly next door to the Kozlowski family and has been watching closely. He and his family are thrilled to have the Kozlowski family living next door and feel that they would be losing as well if the Zoning Board denies the proposed request. The Kozlowski family and their home daycare add value to the neighborhood.

He goes to work every morning between 6:30 am and 8:00 am, he has never noticed any traffic congestion. He urged the Zoning Board of Appeals to support the home daycare center. Having the conditional use permit expire if the Kozlowski's move or close their daycare only makes their case stronger. He has heard all of the arguments against and has not heard one yet that persuades him to not support the Kozlowski family.

Lauren Senoff approached to testify to the Zoning Board of Appeals. Originally she was opposed to the home daycare center use being allowed at the subject property based on the Zoning Ordinance. She did not want it to become a property that would change the zoning for the neighborhood. With the condition that if the Kozlowski family vacates the property, then the property goes back to single-family without business, she now has no problem with allowing the home daycare center.

Mark and Ann Fredricksen approached to testify to the Zoning Board of Appeals. Mr. Fredricksen stated that they currently have their daughter in daycare with the Kozlowski's. They are looking to buy a house in the neighborhood so they will be able to walk their daughter to daycare. Ms. Fredricksen added that if the Zoning Board of Appeals does not pass the proposed conditional use permit request, then they are not sure if they want to move to a town that does not support home daycares in residential neighborhoods.

Margaret Otto approached to testify to the Zoning Board of Appeals. She has known the Kozlowski's for six to seven years, and she spoke on behalf of their character. They have the highest ethical standards of anyone she knows. They are strong Christians, loving people and love kids. Anyone would be glad to have the Kozlowski's as neighbors. With regards to traffic, she walks in the immediate area and has never noticed any problems.

Daniel Brant approached to testify to the Zoning Board of Appeals. He mentioned that his daughter has attended the Kozlowski's daycare since January. He talked about how conscientious the Kozlowski's have been about their impact on the neighborhood and proactive in telling the parents where to park on Cedar Street. He always notices that the other parents of children in the daycare are respectful of the parking rules and of the neighborhood as well. He encouraged the Zoning Board of Appeals to approve the proposed conditional use permit.

April Shumard approached to testify to the Zoning Board of Appeals. She stated that she is employed at the daycare by the Kozlowski's. She parks along Cedar Street after 9:00 am. She has noticed that the parents are in and out quite quickly when dropping off and picking up their children. She encouraged the Zoning Board of Appeals to approve the proposed case.

Sarah Gerth approached to testify to the Zoning Board of Appeals. Her daughter is six months old and attends the Kozlowski's daycare. It is convenient for her to have her daughter in a daycare close to where she works. The Kozlowski's are very loving people, and her daughter is learning so much from them. She urged the Zoning Board of Appeals to approve the proposed conditional use permit.

Jeff Nugent approached to testify to the Zoning Board of Appeals. His daughter goes to the Kozlowski's daycare. He commented that he does not even know very many of the other parents

in the audience. Because of the staggered drop off and pick up times, he has not met or seen the other parents before. He has never noticed any traffic congestion.

Kevin Koontz approached to testify to the Zoning Board of Appeals. He mentioned that he works in the city with police training. His five year old son has been attending the Kozlowski's daycare since he was six months old. The Kozlowski's have taught his son so much such as counting, shapes, colors, writing his name, etc. His younger son, who is 16 months old, currently attends the daycare. The things his sons have learned from the Kozlowski's are priceless.

With regards to traffic and parking, the Kozlowski's have been in business in the proposed location for the last five months and there has not been any congestion or detriment to the neighborhood. If the past is any inclination of the future, then he would take into consideration that there have not been any complaints. He strongly urged the Zoning Board of Appeals to approve the proposed request.

Arnetha Truss approached to testify to the Zoning Board of Appeals. She stated that she works for the DCFS, which is located around the corner from the Kozlowski's daycare. It is a blessing to have the daycare so close where she can just drop in to see how everything is going and to check on her child. She has never noticed a problem with traffic or parking. The location of the daycare is a plus for the community and for the people who work in the area. She asked the Zoning Board of Appeals to approve the proposed request.

Marcus Truss approached to testify to the Zoning Board of Appeals. He stated that he also works for DCFS. Many times people will ask him where his children go to daycare and he tells them that he takes his kids to "Miss Sue" and "Miss Michelle". People joke with the Kozlowski's that they always have DCFS in their home, and it is true because the Kozlowski's watch their kids. With regards to traffic congestion, the construction in the neighborhood causes more problems than do the parents dropping off or picking up their children.

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

Mr. Welch questioned whether or not all of the conditions were really necessary. It seems to be micro-managing. If the proposed use is a state licensed daycare, then the number of children is regulated by the State of Illinois. The City of Urbana does not supersede state regulations and restrictions, correct? Mr. Engstrom replied no. The Zoning Board of Appeals could reduce the number of children if they so desired, but City staff is recommending the number allowed by the state. Mr. Welch stated that he does not believe in micro managing.

Mr. Welch moved that the Zoning Board of Appeals strike conditions 1 thru 4. Ms. McLaughlin seconded the motion.

Mr. Warmbrunn asked for clarification on how many children the state allows. Mr. Engstrom stated that the State of Illinois is allowing the daycare to have 8 children during the day and 10 children before and after school hours.

A voice vote was taken, and the motion passed unanimously.

Ms. McLaughlin moved that the Zoning Board of Appeals grant the conditional use permit in Case No. ZBA-2014-C-04 subject to conditions 5 thru 8 as recommended by City staff. Mr. Warmbrunn seconded the motion. Roll call was taken and was as follows:

Ms. McLaughlin	-	Yes	Mr. Warmbrunn	-	Yes
Mr. Welch	-	Yes	Mr. Armstrong	-	Yes

The motion passed by unanimous vote.

Case No. ZBA-2014-C-05: A request by Andrea and Martin Bohn for a Conditional Use Permit to operate an owner-occupied bed and breakfast at 302 West Florida Avenue in the R-1, Single-Family Residential Zoning District.

Chair Armstrong opened this hearing. Maximillian Mahalek, Planning Intern, presented this case to the Zoning Board of Appeals. He began with a brief explanation for the conditional use permit request. He described the subject property noting the zoning, current use and future land use designation as well as for the surrounding adjacent properties. He talked more in detail about the proposed air bed and breakfast with regards to the number of guests at one time, parking arrangements and the expected impact on the neighborhood. He reviewed the requirements for a conditional use permit according to Section VII-2 of the Urbana Zoning Ordinance. He summarized staff findings and read the options of the Zoning Board of Appeals. He presented staff’s recommendation for approval.

Chair Armstrong asked if the Zoning Board of Appeals had any questions for City staff.

Mr. Warmbrunn noticed that both the Summary of Findings and the Staff Recommendation state that only two individual guests will be allowed at one time; however, there is no recommendation restricting only one guest at a time to have a vehicle. Mr. Engstrom replied that City staff did not feel that they needed to impose this restriction because there is enough room for the second guest to have a vehicle as well.

Mr. Warmbrunn asked if it would be the same with regards to serving food. Mr. Engstrom said yes. It would be up to the petitioner to decide whether or not they want to serve food.

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

Andrea Bohn, petitioner, expressed her appreciation for the opportunity to apply and for the hearing to review and decide on her case. She stated that her husband travels quite a bit, and as a result it is one of the reasons she enjoys being an airbnb host. It is fun to have interesting people stay in her house and have nice chats with. They only had one guest in 2013 because they were in the process of checking out airbnb. They have had quite a busy time since the beginning of 2014. They have a high rating on airbnb.com. She wondered if she needed to do anything to meet the City of Urbana’s code requirements, so she called and talked to City staff. She discovered that City staff had just started working on these issues.

One concern that communities have of airbnb's is that very valuable living space is now being taken up by airbnb guests. There are lots of places where people are finding it to be quite lucrative to rent out individual rooms rather than make an apartment or a house available for families that need the space. This does not seem to be an issue in the City of Urbana.

The question here is does the use of her property as an airbnb impact the nature of the neighborhood. It is a big house with five bedrooms and it is just her and her husband living there with one car and one motorbike. Having one or two guests staying with them does not have that much impact. None of the neighbors have complained to them about the airbnb.

Chair Armstrong wondered how long they have guests. Ms. Bohn replied about 70% of the time.

There was no further input from members of the audience. So, Chair Armstrong closed the public input portion of the hearing and opened the case up for discussion and/or motion(s).

Mr. Warmbrunn inquired about how the research was going on airbnbs. Mr. Engstrom stated that City staff sees it as a marketing tool. We are taking it on a case by case basis. Some have longer term rentals that act more like borders than a bed and breakfast, so the City is requiring them to register their properties as rentals. Some of the airbnbs are more intensely used, such as the proposed case, so they requested the Bohn's to apply for a conditional use permit.

Mr. Warmbrunn wondered if the Zoning Board of Appeals would see more conditional use permit requests for airbnbs. Mr. Engstrom replied that the Zoning Board of Appeals would probably not see too many. City staff will keep an eye on them. The proposed airbnb is the only one that seems to be occupied most of the time. Mr. Mahalek added that he does a weekly update on airbnbs in the City of Urbana. It is more of a seasonal thing.

Mr. Welch moved that the Zoning Board of Appeals approve ZBA-2014-C-05 with the conditions as recommended by city staff. Ms. McLaughlin seconded the motion. Roll call on the motion was as follows:

Mr. Warmbrunn	-	Yes	Mr. Welch	-	Yes
Mr. Armstrong	-	Yes	Ms. McLaughlin	-	Yes

The motion passed by unanimous vote.

7. OLD BUSINESS

There was none.

8. NEW BUSINESS

There was none.

9. AUDIENCE PARTICIPATION

There was none.

10. STAFF REPORT

Jeff Engstrom reported on the following:

- **Case No. ZBA-2014-MAJ-05** – A request to allow a new addition on the house at 807 South Cottage Grove to encroach 100% into the rear-yard setback was approved by City Council.

11. STUDY SESSION

There was none.

12. ADJOURNMENT OF MEETING

Chair Armstrong adjourned the meeting at 8:53 p.m.

Respectfully submitted,

Jeff Engstrom, AICP
Interim Planning Manager
Secretary, Urbana Zoning Board of Appeals