

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

DATE: February 19, 2020

APPROVED

TIME: 7:00 p.m.

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

MEMBERS PRESENT Ashlee McLaughlin, Adam Rusch, Charles Warmbrunn, Harvey Welch

MEMBERS EXCUSED Joanne Chester, Matt Cho, Nancy Uchtmann

STAFF PRESENT Kevin Garcia, Planner II; Katherine Trotter, Associate Planner

OTHERS PRESENT Celeste Choate

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

Chair Welch called the meeting to order at 7:03 p.m. Roll call was taken, and he declared a quorum of the members present.

2. CHANGES TO THE AGENDA

There were none.

3. APPROVAL OF THE MINUTES

The minutes from the January 15, 2020 regular meeting were presented for approval. Mr. Rusch moved that the Zoning Board of Appeals approve the minutes as written. Ms. McLaughlin seconded the motion. The motion was approved by unanimous voice vote.

4. COMMUNICATIONS

There were none.

5. CONTINUED PUBLIC HEARINGS

There were none.

NOTE: Chair Welch swore in members of the audience who indicated that they might give testimony during a public hearing.

6. NEW PUBLIC HEARINGS

ZBA-2020-MAJ-01 – A request by Celeste Choate, on behalf of the Urbana Free Library, for a Major Variance to allow parking spaces that are less than the required length at 305 South Race Street in the B-4, Central Business Zoning District.

Chair Welch opened the public hearing for this case. Kevin Garcia, Planner II, introduced Katherine Trotter as an Associate Planner for the City of Urbana. Ms. Trotter gave the staff report for the case. She began by explaining the purpose for the proposed Major Variance and by giving a brief background of the subject property. She noted the location and zoning of the existing employee parking lot. She showed photos of the parking lot. She reviewed the variance criteria from Section XI-3 of the Urbana Zoning Ordinance. She read the options of the Zoning Board of Appeals and presented City staff’s recommendation for approval with the condition that *the proposed parking lot shall generally conform to the site plan and specifications attached to the written staff report.*

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

Mr. Warmbrunn asked if the existing tree would remain. Ms. Trotter said no. It would be removed when the parking lot is repaved and restriped.

With no further questions for City staff, Chair Welch opened the hearing for public input. He invited the applicant to speak on behalf of his request.

Celeste Choate, applicant, approached the Zoning Board of Appeals to answer any questions the board members may have.

Chair Welch asked if the proposed parking lot was for the library staff. Ms. Choate replied yes. Chair Welch asked if the parking lot was marked for staff parking. Ms. Choate said yes.

There was no one in the audience to speak. Chair Welch closed the public input portion of the hearing and opened the hearing for discussion and/or motions by the Zoning Board of Appeals.

Mr. Rusch moved that the Zoning Board of Appeals forward Case No. ZBA-2020-MAJ-01 to the City Council with a recommendation to approve the major variance request with the condition that *the parking lot generally conform to the Site Plan as shown in Exhibit C of the written staff report.* Mr. Warmbrunn seconded the motion.

Chair Welch noted that with only four members in attendance, it would take three affirmative votes to forward the case to the City Council. Roll call on the motion was as follows:

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

The motion passed by unanimous vote.

Mr. Garcia stated that the case would be forwarded to the City Council on March 9, 2020.

7. OLD BUSINESS

There was none.

8. NEW BUSINESS

Review of Annual Bylaws

Chair Welch opened this item on the agenda. Kevin Garcia, Planner II, presented a brief staff report. He stated that City staff proposed the following changes:

1. Add language to allow for remote attendance for Zoning Board of Appeals members.
2. Replace the phrase “at least biannually” with the phrase “at least once every two years” when referring to how often the Zoning Board of Appeals reviews their bylaws.

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

Mr. Rusch asked where the remote language would be included in the bylaws. Mr. Garcia replied that they could add it wherever the Board wants. He suggested adding the language to Article III.

Mr. Rusch stated that he would prefer to modify the language to say that a board member could attend meetings by video conference and leave out the possibility for telephone conference. His reasoning is that the Zoning Board of Appeals deals with many exhibits and many cases that requires board members to visually see what is going on. The City of Urbana has the technology to allow members to remote in via video.

Chair Welch stated that he agreed with Mr. Rusch. He inquired about how long the City Council has allowed its members to remote in. Mr. Garcia stated that the City Council has allowed its members to remote in for 15 years. He experienced City Council members remoting into Council meetings a couple of times [in his six years working for the City] via telephone. However, he did not believe that the City Council dealt with visual documents as often as the Zoning Board of Appeals. Chair Welch added that like Mr. Rusch said, the City has better technology now than when they first allowed City Council members to remote in. He did not believe it would pose an undue burden on the remote attendee to attend by video. Mr. Garcia commented that the only concern he had with this is if the remote attendee had a poor internet connection.

Mr. Warmbrunn asked if the proposed language came from the Illinois State Senate. Mr. Garcia said yes. Mr. Warmbrunn felt that the Board should leave the language as proposed. Ms. McLaughlin agreed.

Mr. Rusch wondered how much they really needed the remote attendance, especially since a quorum of the members is required to attend in person. If a member cannot attend, then he/she cannot attend. Do they really need to add the language about remoting in to a meeting? Mr. Garcia gave an example of why the City would want a member to be able to remote into a meeting. Each board member is an expert in something. If there was a case where your expertise would be especially valuable for the other board members to hear, however, you were away on business, it would be beneficial to the other board members for you to be able to remote into the meeting. Ms. McLaughlin added that given that board members will rarely use this, and they would only be including it to have some flexibility, she felt it would be good to include the ability to telephone in remotely.

Mr. Rusch wondered if there was any language to keep a board member from taking advantage of being allowed to remote into a meeting. For example, his/her job takes them out-of-town for a long period of time, and the board members remotes in to several meetings so they can keep their position on the board. Mr. Garcia stated that there are rules on attendance, but he did not know how remote attendance would factor in. Mr. Rusch stated that he would be willing to support this amendment so long as remote attendance did not count towards in person attendance.

Mr. Warmbrunn believed the proposed language was created for elected members who had an interest in attending every meeting and representing a ward or a zone. The only advantage he could see for remoting in would be to provide input to sway a vote on a controversial issue.

Mr. Warmbrunn inquired about the attendance rules. Mr. Garcia researched this in the bylaws but could not find where they address attendance.

Mr. Rusch said Article II-4 talks about public notices of meetings or hearings. He asked if this was a state law or a City ordinance. Mr. Garcia replied that it is a state law.

Mr. Rusch asked if the public notice was only in the local newspaper or are meetings/hearings noticed in other avenues of disseminating information. Mr. Garcia did not believe that there was anything in the bylaws to prevent further publication in other forms of media. State law requires that notices are published in a generally circulating, local, public paper. Chair Welch commented that was correct. The State law is still behind the 21st Century methods of communication. As more and more newspapers disappear, the State may have to make changes.

Mr. Warmbrunn referred to Article III-4. He felt it to be a waste of time to hold a public hearing without a quorum present. The Board would have to hear a case twice because they would not be able to vote on the case during the first meeting. Ms. McLaughlin stated that this allows someone who has travelled in for a meeting to have their input heard. Mr. Garcia added that this is why they allow a case to be opened and public input heard even though the Board does not have a quorum. Their input is taken and added to the official record, and the public hearing is continued to the next meeting of the Board. It can be difficult for the public to find out if a meeting has been continued, and also they might not be able to attend the second meeting.

Mr. Warmbrunn felt that if this language is kept, then there should be language added requiring members of the Board to read the minutes for the first meeting that a public hearing is held

and/or watch the video of the first meeting in order to be able to vote at the second meeting. Ms. McLaughlin agreed to this. She did feel that in order to support any member of the public who attends a meeting for any reason, it is important to protect the time and place that the public was notified that a public hearing would be held and that they could come and voice their opinion. Mr. Rusch suggested that City staff include a link to video testimony from the first meeting that a public hearing was held for a specific case in the Board member's packet for future meetings for the same case. He, too, did not want to turn away members of the public who come to talk to the Zoning Board of Appeals on a case. Mr. Warmbrunn asked Mr. Garcia to ask the City Attorney about the idea to include language in the bylaws requiring Board members who are absent in the first meeting a public hearing is scheduled to read the record of that public hearing and/or watch the video of it in order to be able to vote on it at the second meeting.

Ms. McLaughlin asked if public comments are part of the minutes. Mr. Warmbrunn said yes. Ms. McLaughlin said that the members of the Board are required to review the minutes already in order to approve them. Mr. Warmbrunn replied that the minutes do not reflect the emotions of the public giving comments. Mr. Garcia said that he would consult with the City's Legal Division to see if it would be okay to add language to Section IV to require the board members to review a video and for City staff to provide a link in the packet.

Mr. Warmbrunn referred to Article IV-4. He asked if Section 1, which limits any person addressing the Zoning Board during "Audience Participation" to five (5) minutes to speak, applies only to Audience Participation and not to case discussions. Mr. Garcia said that is correct. Mr. Warmbrunn says that Section 3 allows the public audience the opportunity to speak again about what the Zoning Board had already discussed and voted on during the public hearing. Or should they be allowed to speak about anything they want to talk about because the Board would have already discussed everything on the agenda by the time they get to Audience Participation? Mr. Garcia replied that the language states that "*All public input may be limited...*" so he felt it was at the discretion of the Chair. It does not state that the public can only speak about topics germane to those described on the agenda. Chair Welch stated that he never had to invoke this. The Board usually allows the public to speak about what they want during Audience Participation.

Chair Welch suggested that Mr. Garcia discuss the concerns mentioned during this meeting with the City's Legal Division and they can address their response at the next Zoning Board of Appeals meeting.

9. AUDIENCE PARTICIPATION

A member of the audience stated that the five minute rule for public input was set at the City Council level for all boards and commissions. The Zoning Board of Appeals allows people to speak longer. Chair Welch stated that they try to give some flexibility.

10. STAFF REPORT

Mr. Garcia reported on the following:

- Stough Group Plaza Center Freestanding Sign Variance was approved by City Council.

11. STUDY SESSION

Discussion on Precedent in ZBA Cases

Chair Welch asked if the Zoning Board should wait to discuss this topic because the Board member that requested this discussion was not in attendance at this meeting. Mr. Garcia felt it to be a good idea to continue this discussion to the next meeting to allow Ms. Uchtmann an opportunity to provide input. Chair Welch continued the item to the next meeting.

12. ADJOURNMENT OF MEETING

Chair Welch adjourned the meeting at 7:40 p.m.

Respectfully submitted,

Kevin Garcia, AICP
Principal Planner
Secretary, Urbana Zoning Board of Appeals