

**MINUTES OF A REGULAR MEETING**

**URBANA ZONING BOARD OF APPEALS**

**DATE:** October 19, 2022

**APPROVED**

**TIME:** 7:00 p.m.

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

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**MEMBERS ATTENDING:** Joanne Chester, Matt Cho, Ashlee McLaughlin, Charles Warmbrunn, Harvey Welch

**MEMBERS EXCUSED:** Adam Rusch, Nancy Uchtmann

**STAFF PRESENT:** Kevin Garcia, Principal Planner; Kat Trotter, Planner II; UPTV Camera Operator

**OTHERS PRESENT:** Louis Bergeron, Aaron Butler, Doug Butler, Madison Butler, Hanafy Fouly, K.S. McKinn, Evan Melhado, Lee Melhado, Elizabeth Plewa, Michael Plewa, Priscilla Snyder, Russ Snyder

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

Chair Welch called the meeting to order at 7:00 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 September 21, 2022 Regular Meeting were presented for approval. Ms. Chester moved that the Zoning Board of Appeals approve the minutes as written. Mr. Warmbrunn seconded the motion. The minutes were approved as written by unanimous voice vote.

NOTE: Chair Welch swore in members of the audience who wished to speak during the public hearing for ZBA-2022-C-02.

#### 4. COMMUNICATIONS

Written communications that were received were combined in a packet, emailed and handed out prior to the start of the meeting. The written communications were from the following people:

- Mark Jaeger (*email in opposition*)
- Gabe Nardie (*email in favor*)
- Carolyn Trimble (*email in opposition*)
- Beverly Fagan (*email in opposition*)
- C. K. Gunsalus (*email in opposition*)
- Michael and Elizabeth Plewa (*letter in opposition*)
- Deborah Allen (*email in opposition*)
- Melief Ingrid and Andrew Orta (*email in opposition*)
- Louis Bergeron (*letter in opposition*)
- Paul Debevec (*email in opposition*)

#### 5. CONTINUED PUBLIC HEARINGS

There were none.

#### 6. NEW PUBLIC HEARINGS

**ZBA-2022-C-02 – A request by Aaron and Madison Butler for a Conditional Use Permit to allow an owner-occupied bed and breakfast at 611 West Iowa Street in the R-2, Single Family Residential Zoning District.**

Note: Mr. Cho arrived at 7:04 p.m.

Chair Welch opened the public hearing for Case No. ZBA-2022-C-02. Kat Trotter, Planner II, presented the staff report to the Zoning Board of Appeals. She began by stating the purpose for the proposed conditional use permit and noted the written communications that were received. She showed a location map and a zoning map of the subject property and gave a brief background of the property. She noted the zoning and current land use of the proposed property and of the adjacent properties. She showed photos of the exterior of the existing home.

Ms. Trotter talked about the proposed bed and breakfast use. She reviewed how the proposed conditional use permit application relates to the criteria from Section VII-2 and VII-3 of the Urbana Zoning Ordinance. She read the options of the Zoning Board of Appeals and presented staff's recommendation for approval with the following conditions:

1. The owner must be present while the property is being rented.
2. The conditional use permit shall expire upon transfer of the property, or after six (6) verifiable nuisance complaints within a twelve-month period, related to the rental of the unit.
3. The property will be subject to regular City inspection.

She noted that the applicants were available to answer questions.

Chair Welch asked if any members of the Board have questions for staff regarding the conditional use permit request.

Mr. Warmbrunn asked if the six (6) verifiable nuisance complaints within a twelve-month period was part of a law. Ms. Trotter explained that City staff came up with this number based on the fact that it would be one nuisance complaint every two months. This could include noise complaints, significant parking issues, etc.

Mr. Warmbrunn wondered how many owner-occupied bed and breakfast businesses existed in this neighborhood that are registered with the City. Ms. Trotter stated that there is one that was issued approval of a conditional use permit on Michigan Avenue around 2016. Overall, there have been four approvals granted for bed and breakfast businesses to operate since the 1990s. Ms. Chester did not believe a bed and breakfast still existed on Michigan Avenue anymore.

Ms. Chester asked where the parking spaces are located on the subject property. Ms. Trotter indicated where the parking spaces were located on a photo on an aerial photo of the property.

Ms. Chester asked how many rooms the applicant planned to rent. Ms. Trotter said that there are three bedrooms on the first floor that they plan to rent while they reside in the bedroom in the basement.

Ms. Chester questioned whether the bedrooms in the basement have escape windows. Ms. Trotter said that the applicants would be required to install egress windows in the basement.

Mr. Cho wondered since there would be separation between the owner's residence and the rental units, would this be considered a duplex. Ms. Trotter explained that there would be two separate living areas; however, in the R-2 Zoning District they would need a conditional use permit to allow a duplex. Instead, the applicants are applying for a conditional use permit to allow a bed and breakfast; not the long-term rental of a duplex. If the applicants choose to change from a bed and breakfast to a duplex, they would need to seek approval of a conditional use permit and also register with the City's Rental Registration program.

Mr. Cho asked if the property was previously a single-family home with a mother living on the first floor and her son living in the basement. Ms. Trotter said she cannot speak about the home being a duplex because the owners are making renovations to the house.

Ms. Chester asked about the rule of no more than 4 unrelated people living in a house. Kevin Garcia, Principal Planner, replied that the rule does not weigh in because it would be a bed and breakfast. The rule has to do with dwelling units and how many people are allowed to live in them.

Ms. Chester commented that a single lane driveway poses a problem for a bed and breakfast use. She felt it was a bad idea.

With there being no further questions for staff, Chair Welch opened the hearing for public input. He invited the applicants to approach the Board to speak.

Aaron and Madison Butler, applicants, approached the Zoning Board of Appeals to give a presentation on the proposed use as a bed and breakfast. Ms. Butler showed photos of their vision for the bed and breakfast after the renovations are completed. She talked about their reasons for wanting a bed and breakfast and how they plan to screen renters. She mentioned that they have other short-term rental properties, so they are not new to the rental process.

Ms. Butler noted that there are over 40 Airbnb rentals, many not owner occupied, that are listed in the City of Urbana, and only four have received approval of conditional use permits to allow the rentals. She asked that they not be penalized for seeking a permit, when several existing bed and breakfast rentals operate without permits.

Mr. Warmbrunn asked where the kitchen would be located. Ms. Butler replied that there would be a kitchen upstairs for the renters to use, and there would be a kitchenette in the owners' suite in the basement.

Mr. Warmbrunn asked if the applicants planned to live at this location 12 months a year. Ms. Butler stated that this will be their permanent residence. She said that when they go on vacation, their home will not be rented out when they are not present.

Mr. Warmbrunn asked if the applicants would be using the same entrance as the renters. Ms. Butler explained that there is a stairwell off the driveway that goes directly to the basement. From the driveway, there is also an entrance into the first floor of the house for the renters to use. There is an interior stairway that they would use to access the first and second floors of the house when needed.

With there being no further questions for the applicants, Chair Welch asked if there were any members of the public who would like to speak in favor of the request.

Russell Snyder approached the Zoning Board of Appeals to speak in favor of the proposed conditional use permit. Mr. Snyder stated that he and his wife have lived at 701 West Iowa, which is immediately across the shared driveway, for 47 years. He stated that he feels that having a bed and breakfast owned by the neighbors would be a blessing and would increase the property values in the neighborhood. Prior to the Butlers purchasing the property, the previous owner(s) had allowed the house to become run down. The previous residents and their visitors caused many nuisances on a daily basis. He stated that he is very much in favor of the work the Butlers have done to renovate the house and the property and supports their intentions for a bed and breakfast.

Priscilla Snyder approached the Zoning Board of Appeals to speak in favor of the proposed conditional use permit. She explained the history of their property and of the subject property. She talked about the previous residents and how they were not good neighbors. Ms. Snyder stated that her and her husband were delighted to see a young couple (the Butlers) purchase the home. She talked about the character of the Butlers giving them praise for being hard working. She stated that she supports whatever the Butlers plan to do with the house.

Chair Welch then asked if there were any members of the public who would like to speak in opposition to the request.

K. S. McKinn approached the Zoning Board of Appeals to speak in opposition. Ms. McKinn disputed what the Snyder's said about the previous owner of 611 West Iowa, Norma, who was 98 years old. She pointed out that Norma lived there with her grandson, who was a teenager. Teenagers have friends that come and go all of the time. Norma preferred an alternative to having boring grass in her yard. This does not mean that her yard was unkempt.

Ms. McKinn stated that she was happy that Mr. Butler's parents bought him a house. She doesn't care what it will look like on the inside. We should not evaluate things based on how they look inside.

Ms. McKinn stated that she submitted a letter in opposition to City staff; however, it was not included in the packet, so she read the letter to the Zoning Board of Appeals. She stated that she believes the City uses their neighborhood for photo opportunities and to woo faculty, but when the residents try to advocate for themselves, the City's Community Development staff is rarely on the neighborhood's side. There was no socialization of the proposed bed and breakfast besides the Snyder's. The Butlers should have made an effort to talk to their neighbors. Ms. McKinn stated that the bed and breakfast use should be addressed by the City.

Lee Melhado approached the Zoning Board of Appeals to speak in opposition. She stated that she has lived directly behind the subject property for 35 years. She was not aware of any nuisance or bad activity happening when the previous owner lived there. Ms. Melhado stated that she was pleased with all of the renovations that are being done as the existing house needed rehabilitation; however, she is disturbed about the proposed bed and breakfast use. It doesn't make sense how the Butlers plan to live in the basement of the house. It seems secret and mysterious. She wondered what the applicants do for a living, where the applicants would be when the subject property is not being rented, and how many properties do they own? She feels uncomfortable and suspicious and worries about how this will play out in the long run.

Michael Plewa approached the Zoning Board of Appeals to speak in opposition of the conditional use permit. Mr. Plewa stated he and his wife have lived in the neighborhood for 44 years. Many people have recently purchased properties in the neighborhood and invested thousands of dollars into their properties, but they did not ask to operate bed and breakfast rentals. Mr. Plewa stated that within one block from Orchard Street to Busey Avenue, West Iowa Street contains a high diversity of residents. It is a densely populated street with many young children, students, parents and elderly people. They do not want to endanger people with increased vehicle traffic imposed by a bed and breakfast. Mr. Plewa went on to say that their neighborhood received an award for having a great quality of life, distinct architecture, sustainability and devotion to maintaining high standards. They do not need someone coming in to "enhance" their neighborhood.

Mr. Plewa stated that the City of Urbana Community Development Services Department does not have a plan to identify and enforce zoning laws, including bed and breakfasts. He felt that all such requests should be tabled until the Urbana City Council provides direction on the unlawful siting of bed and breakfasts in the R-1 and R-2 Zoning Districts. Anyone can research and find 50 Airbnb rentals in the City of Urbana; however, City staff can only find four. This tells him that the City is not doing their job to maintain the zoning laws that we require in this area. He suggested that before we add more bed and breakfasts to the neighborhood, we should identify and enforce the ones that already exist.

Mr. Plewa stated that he felt the applicants' application for a conditional use permit was disingenuous and deceptive. It reads like an advertisement for a short-term, high-volume rental property. He added that Doug and Amy Butler are listed as the owners, not Aaron and Madison Butler. The owners must live on the property while it is being rented; however, the owners list their address as being in Lincoln, Illinois. He pointed out that Amy Butler is a real estate broker in Lincoln. He called this the commercialization of 611 West Iowa Street and requests that the Zoning Board of Appeals reject the proposed request.

Evan Melhado approached the Zoning Board of Appeals to speak in opposition. Mr. Melhado stated that the applicants are running a business. He said that the applicants want to bring in a continuous flow of transients into the single-family neighborhood. The applicants want to increase the traffic in the neighborhood. They want to create a business environment in a residential neighborhood. He believed that the applicants say that they would be content living in a tiny basement with a kitchenette most of the year, especially with one of them having an illness to be inherently implausible. He agreed that the applicants have been disingenuous. He agreed that if the City employees know of illegal Airbnbs and are not doing anything to regulate them, then the employees are not doing their jobs. He stated that the proposed conditional use permit should not be considered until the City establishes a proper policy to regulate short-term rentals.

Ms. Butler approached the Zoning Board of Appeals to address the previous comments. She stated that her husband, Aaron, is on the deed to the house, which makes him an owner. She noted that they have every intention of living in this house. She understands why it sounds complicated to people who have not been at the property. She stated that they do own other rental properties, but they do not live in them. They would like to move into 611 West Iowa as soon as possible; however, they are working with the City on the permitting process to bring the house up to code. Ms. Butler addressed the neighbor's concerns about her health issues and about parking.

Chair Welch asked when the applicants expect to open for bed and breakfast occupants. Ms. Butler stated that they are hoping to open the bed and breakfast in the Spring of 2023.

With there being no more public input, Chair Welch closed the public input portion of the hearing. He opened the hearing for discussion and/or motion(s) by the Zoning Board of Appeals.

Chair Welch asked the Planning staff if creating regulations for the bed and breakfast use was on the horizon. Mr. Garcia replied that Planning staff has six different projects, including creating regulations for short-term rentals, on the list to do. He is going to Committee of the Whole on November 7, 2022 to get some guidance on prioritizing these projects.

Mr. Cho asked about the process to have a bed and breakfast. Mr. Garcia explained that an owner would need to apply and based on the zoning district they are in, they might be required to get approval for a conditional use permit, just as the applicants in this case. City staff has been treating short-term rentals as bed and breakfasts since at least 2014. There have been some that came before the Zoning Board of Appeals for conditional use permits; some of which were denied for good reasons. The fact that a person could find 40 or 50 Airbnbs in the City of

Urbana and staff have not heard any complaints about them tells him that bed and breakfasts are not a huge issue right now.

Mr. Warmbrunn asked if City staff researched who is on the deed. Ms. Trotter replied that Aaron Butler is on the deed and is a taxpayer for the property, which makes him an owner.

Ms. McLaughlin moved that the Zoning Board of Appeals approve Case No. ZBA-2022-C-02 with the following conditions:

- 1. The owner must be present while the property is being rented.
- 2. The conditional use permit shall expire upon transfer of the property, or after six (6) verifiable nuisance complaints within a twelve-month period related to the rental of the unit.
- 3. The property will be subject to regular City inspection.

Mr. Cho seconded the motion. Roll call on the motion was as follows:

Ms. Chester	-	Yes	Mr. Cho	-	Yes
Ms. McLaughlin	-	Yes	Mr. Warmbrunn	-	Yes
Mr. Welch	-	Yes			

The motion was 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**

Mr. Garcia reported on the following:

- ZBA-2022-MAJ-05 – Request for a major variance to allow a garage at 2003 Airport Road is on the consent agenda for the City Council meeting on Monday, October 24, 2022.
- ZBA-2022-MAJ-06 – Request for a major variance to allow a sign at 1010 Cunningham Avenue was approved by City Council on October 10, 2022.

**11. STUDY SESSION**

There was none.

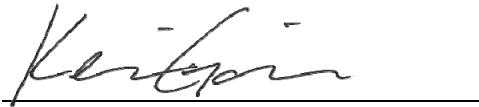
Mr. Warmbrunn asked for a way that City staff could flag public input from properties within 250 feet of an application so that the Zoning Board of Appeals members know who lives nearby. Mr. Garcia said that City staff could provide a system.

Mr. Warmbrunn asked about the new City email addresses for the Board members. Mr. Garcia said that he would look into this and get back to the members.

## **12. ADJOURNMENT OF MEETING**

Chair Welch adjourned the meeting at approximately 8:11 p.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Kevin Garcia", is written above a solid horizontal line.

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