

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

DATE: October 21, 2020

APPROVED

TIME: 7:00 p.m.

PLACE: Zoom Webinar

MEMBERS ATTENDING REMOTELY: Joanne Chester, Ashlee McLaughlin, Adam Rusch, Nancy Uchtmann, Charles Warmbrunn

MEMBER ATTENDING AT CITY BUILDING: Harvey Welch

MEMBERS ABSENT: Matt Cho

STAFF PRESENT: Marcus Ricci, Planner II; Katherine Trotter, Planner I; Lily Wilcock, Planner I; Jason Liggett, UPTV Manager

OTHERS PRESENT: Jane Amundsen, Kaelob Capel, Tracy Chong, Danger Zoning Board of Appeals, Gokhul, Christopher Hansen, Bob Kapolnek, Dave Line, Stephanie McNicholas

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 September 16, 2020 regular meeting were presented for approval. Mr. Rusch moved that the Zoning Board of Appeals approve the minutes as written. Ms. Uchtmann seconded the motion. Roll call on the motion was as follows:

Ms. Chester	-	Yes	Ms. McLaughlin	-	Yes
Mr. Rusch	-	Yes	Ms. Uchtmann	-	Yes
Mr. Warmbrunn	-	Yes	Mr. Warmbrunn	-	Yes

The minutes of the September 16, 2020 regular meeting were approved as written by unanimous vote.

4. COMMUNICATIONS

There were none.

5. CONTINUED PUBLIC HEARINGS

There were none.

6. NEW PUBLIC HEARINGS

ZBA-2020-MAJ-05 – A request by Jane and Steve Amundsen for a Major Variance to allow an air conditioning unit to encroach three feet into the required five-foot side yard at 106 East Pennsylvania Avenue in the R-2, Single-Family Residential Zoning District.

Chair Welch opened the public hearing for this case. Kat Trotter, Planner I, gave the staff report for the case. She began by stating the purpose of the proposed Major Variance, which is to allow an air conditioning unit to encroach three feet into the required five-foot side yard. She noted a correction to the staff report with regards to the dimensions of the air conditioning unit, which measures 29 inches x 29 inches instead of 29 inches x 17-1/2 inches. She stated that City staff received three communications from the public that were included as attachments to the written staff report. She noted the location, zoning and future land use designation of the proposed site and the uses of nearby properties. She talked about the proposed new air conditioning unit and showed photos of the property and of the Site Plan. She reviewed the criteria for a Major Variance from Section XI-3 of the Zoning Ordinance. She read the options of the Zoning Board of Appeals and presented City staff's recommendation for approval with the following condition: *The air conditioning unit generally conform to the Site Plan, Exhibit C.*

Chair Welch asked if any members of the Zoning Board of Appeals had questions for City staff. There were none.

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

Jane Amundsen, applicant, raised her hand to speak to the Zoning Board of Appeals. Chair Welch swore her in.

Ms. Amundsen stated that decided to install whole house air conditioning; however, they have had a difficult time deciding where to place the unit. It is impractical to place the unit on three sides of their property, and the east side does not meet the zoning requirements.

With there being no further input from the audience, 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-05 to the Urbana City Council with a recommendation for approval with the following condition: *The air conditioning unit shall generally conform to the site plan in Exhibit C of the written staff report.* Ms. Uchtmann seconded the motion. Roll call on the motion was as follows:

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

The motion passed by unanimous vote. Ms. Trotter noted that this recommendation would be forwarded to the City Council on Monday, November 9, 2020.

ZBA-2020-MAJ-06 – A request by VitalSkin Physician Management, LLC, represented by David Line, for a Major Variance to allow parking to encroach up to 14 feet into the required 15-foot front yard at 1111 West Kenyon Road in the B-3, General Business Zoning District.

Chair Welch opened the public hearing for this case. Marcus Ricci, Planner II, gave the staff report for the case. He began by stating that there were several representatives of VitalSkin in attendance of the meeting to answer questions. He explained the purpose for the proposed major variance, which is to reduce the minimum required front yard from 15 feet to 1 foot to allow additional parking in front of the building. He noted a previous case for a special use permit to allow a dermatology clinic in the B-3 (General Business) Zoning District that was reviewed by the Urbana Plan Commission on September 24, 2020. The Plan Commission forwarded the case to the City Council with a recommendation for approval. He showed the site plan. He stated the location, zoning and future land use designation of the subject property as well as for the adjacent properties. He showed photos of the property, noting the existing mature landscaping. He talked about the proposed parking and alternative plans to provide the additional parking on the site. He reviewed how the proposed major variance relates to the criteria from Section XI-3 of the Urbana Zoning Ordinance. He read the options of the Zoning Board of Appeals and presented City staff’s recommendation for denial. If, however, the Zoning Board of Appeals recommends approval, City staff recommends the following condition: *Construction must be in general conformance with the attached site plan, entitled “1111 West Kenyon Road,” dated August 25, 2020 (Exhibit D, Sheets C1-C2).*

Chair Welch asked if any members of the Zoning Board of Appeals had questions for City staff. There were none.

Mr. Warmbrunn asked if the major variance was approved, then the edge of the parking lot would be 111 feet from the center line of Kenyon Road. Mr. Ricci said yes.

Mr. Warmbrunn asked if the Illinois Department of Transportation (IDOT) owned that right-of-way. Mr. Ricci said yes. Mr. Warmbrunn inquired what IDOT would do with that much right-of-way. Did they request that much because of the interchange with the interstate? Mr. Ricci

stated that he did not know. He noted that the right-of-way narrows as you go west. The property owner two properties to the east of the proposed site was able to acquire the right-of-way north of their property, so it does not appear that IDOT has any plans to develop the area; however, he could not speak for IDOT.

Mr. Warmbrunn asked if the lot north of the proposed site was buildable. Mr. Ricci replied that there is no lot north of the proposed site. Interstate 74 is located north of the site. Ms. Chester recalled that there was a clover leaf interchange to Interstate 74, which is why the right-of-way is so big.

Ms. Uchtmann asked if the owner of the subject property had considered buying the right-of-way from IDOT. Mr. Ricci stated that this would be a good question for the applicant's representatives.

Mr. Rusch asked if the alternative parking designs would provide the same number of parking spaces that the applicant has requested. Mr. Ricci replied not necessarily. He is not an engineer and not familiar with AutoCAD. The parallel parking option spans further along the front of the building. It is approximate to scale and would provide 12 parking spaces.

Mr. Welch asked how many existing parking spaces are located near the north entrance. Mr. Ricci said that there are 11 standard and 2 accessible parking spaces in the current row in front of the building.

Mr. Welch asked if those 13 parking spaces included parking for staff. Mr. Ricci deferred the question to the applicant's representatives to answer during their input. He mentioned that the proposed 6,000 square foot renovation for the clinic would require 24 parking spaces for a clinic of that size. There are 90 parking spaces in the rear of the property, but the parking lot is over 300 feet away from the front entrance with no connecting sidewalk.

There being no questions for City staff, Chair Welch opened the hearing for public input. He invited the applicant or the applicant's representative to speak.

David Line, representative for the applicant, raised his hand to speak. Chair Welch swore him in.

Mr. Line stated that VitalSkin Physician Management, LLC does not have any need to purchase the right-of-way in front from IDOT. They have no plans for expansion beyond renovating the existing building.

Bob Kapolnek, representative for the applicant, raised his hand to speak. Chair Welch swore him in. He thanked the Board members for considering the proposed variance and complimented Mr. Ricci on his presentation of the case.

Mr. Kapolnek mentioned that their design team had talked about other possibilities for parking. The most overriding factor for having the parking as they have configured it is to have all of the patient parking in front. He felt that parallel parking would put some parking spaces further

away from the front door, and they anticipate having patients with accessibility issues. Also, it would be more of an eyesore to have to have cars lined up along the entire north elevation of the building. Their reservation with having angled parking is that it would create a one way access potentially confusing patients and visitors to the clinic in terms of the ingress and egress from that parking lot. By narrowing the aisle, they would be limiting the amount of space between parked cars, and this would present a hazard. Their desire to have the 90-degree parking is predicated on what they believe is best for the patients. It will be the safest way to navigate into the entrance of the clinic. He stated that he would answer any questions the Board members may have.

Ms. McLaughlin asked if the applicant had an estimate of how many patients they expect to be at the clinic at one time. What capacity does the applicants expect the parking lot to be occupied? Mr. Line replied that they are planning to have 14 exam rooms, and if there are patients waiting to be seen, they could easily fill the 26 parking spaces.

Ms. McLaughlin asked if this would be a typical size for a clinic. Mr. Line said that clinics typically provide 3 exam rooms per provider (physicians and nurse practitioners). They believe that they will need 14 exam rooms.

Mr. Rusch questioned who would maintain the right-of-way in the front yard. It is owned by IDOT, but would the applicant maintain it? Mr. Line stated that in the past it was maintained by the National Council of Teachers of English, and VitalSkin is now maintaining the area.

Mr. Warmbrunn stated that the elevation in front slopes down. Would the applicant need to level that off? If so, would they need to put in a barrier on the north side after they level it off? Mr. Kapolnek said yes, they planned to level it off and would need to put in a small amount of retaining wall. It has to be designed to drain properly and not collapse. There would be bumpers to keep vehicles from falling off the edge.

Ms. Uchtmann stated that she preferred angled parking versus 90 degree parking. She felt that the patients would be able to figure out which driveway to enter and exit the parking lot, especially if the applicant posted signs.

Ms. Chester asked if there would be a build up to the retaining wall. They would only have one foot of area for a buildup. Mr. Kapolnek said no, not if they construct a retaining wall. The wall would probably not be more than 8 inches tall, and it would be within their property line.

Ms. McLaughlin stated that normally they would be required to provide a buffer from the parking area. If the proposed variance is approved, then the applicant would not only be encroaching 14 feet into the required 15-foot setback, but there also would not be a buffer? Mr. Kapolnek responded that they still plan to install some landscaping on the north end of the parking lot if they are legally able to. The landscaping, however, would not be on their property, so they would need to get legal approval from IDOT. Ms. McLaughlin replied that the legal issue would be out of the Zoning Board of Appeals purview, so they would essentially be recommending approval for no buffer.

Kaelob Capel, representative for the applicant, raised his hand to speak. Chair Welch swore him in.

Mr. Capel pointed out that VitalSkin’s proposed parking would be further back from the front property line than the parking lot at Holiday Inn Express to the east is from their front property line. Mr. Ricci showed Exhibit D, Neighborhood Plan to indicate what Mr. Capel was saying. Mr. Ricci also noted that the parking lot for Campus Ink, to the west of the subject property, roughly lines up with the proposed parking for VitalSkin. Mr. Rusch asked if this could be a result of Campus Ink purchasing part of the right-of-way from IDOT. Mr. Ricci said yes.

Mr. Warmbrunn asked staff if the City was concerned about the applicant not having a buffer in front of the parking lot because there was nothing to buffer from. Mr. Ricci said that was correct. There is 110 feet of grassy right-of-way area between the proposed parking lot and Kenyon Road.

With there being no further input from the audience, 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-06 to the City Council with a recommendation for approval as requested based on the findings outlined in the written staff report with the condition that *Construction must be in general conformance with the attached site plan, entitled “1111 West Kenyon Road,” dated August 25, 2020 (Exhibit D, Sheets C1-C2).* Mr. Warmbrunn seconded the motion.

Chair Welch stated that for this motion to pass it would require affirmative votes of four of the six Board members in attendance. Roll call on the motion was as follows:

Ms. Chester	-	Yes	Ms. McLaughlin	-	No
Mr. Rusch	-	Yes	Ms. Uchtmann	-	Yes
Mr. Warmbrunn	-	Yes	Mr. Welch	-	Yes

The motion passed by a vote of 5 ayes to 1 nay. Mr. Ricci noted that Case No. ZBA-2020-MAJ-06 would be forwarded to the Urbana City Council on Monday, November 9, 2020.

7. OLD BUSINESS

Review of Annual Bylaws

Chair Welch opened this item on the agenda. Ms. Wilcock asked that this item be tabled to the next regular meeting so that Mr. Garcia, Principal Planner, could be in attendance of the meeting.

8. NEW BUSINESS

There was none.

9. AUDIENCE PARTICIPATION

Christopher Hansen raised his hand to speak to the Zoning Board of Appeals. He talked about the Public Input Guidelines that the City Council recently passed an Ordinance to be incorporated as part of the procedure for public input for the City Council and all other City boards and commissions. He felt that they are a terrible violation of the Open Meetings Act. He believed that the boards and commissions and City Council could benefit from having a discussion with people when they speak on a topic; however, the Public Input Guidelines prohibit this. The guidelines also restricts the amount of time a person can speak to the City Council/boards/commissions to 4 minutes. He wondered if the Zoning Board of Appeals had any input into the content of the guidelines.

Ms. Uchtmann asked if the guidelines would become part of the bylaws. Can the clock be reset after 4 minutes? Ms. Wilcock stated that the current bylaws for the Zoning Board of Appeals limits the audience participation to 5 minutes; however, the Chair has the ability to extend that time or limit it depending on how many people want to speak. She would look into how the new Public Input Guidelines apply to boards and commissions other than City Council.

Mr. Warmbrunn stated that the Zoning Board of Appeals normally allows a person to talk as long as their comments are relevant to the case being considered during public hearings. There is an Audience Participation portion on the agenda that allows people to talk to the Board members about topics other than cases. The Zoning Board of Appeals is a quasi-judicial body, and he felt that legal advice was needed on this issue.

Mr. Rusch agreed. He asked City staff to find out what the Zoning Board of Appeals' obligations are in regards to the City Council's rules versus their own bylaws as well as how much autonomy they have to be able to allow speaking they want in their meetings.

Chair Welch asked if the 4-minute restriction strictly applied to Audience Participation or did it apply to applicants and public input during hearings. Ms. Wilcock believed it was for general public input. Chair Welch stated that the Zoning Board of Appeals has never really restricted people's input for hearings. They have had meetings go on for hours because of the Board members' willingness to let anyone who wants to speak be heard.

Mr. Rusch believed that the Public Input Guidelines are special rules that are being enacted for online meetings. So, when the Emergency Order is lifted and they return to having in-person meetings, his understanding is that they would revert back to the traditional meeting procedures. It would be nice to have clarification on how the guidelines affect the Zoning Board of Appeals.

Ms. Wilcock stated that she would consult with the City's Legal Division and respond back to the Board members what she finds out.

Ms. Uchtmann inquired about when the next meeting is scheduled for. Ms. Trotter replied that the next regular meeting is scheduled for Wednesday, November 18, 2020.

Mr. Warmbrunn requested a paper copy of the packet information to be mailed to him prior to the meeting. It is easier for him to read.

10. STAFF REPORT

There was none.

11. STUDY SESSION

There was none.

12. ADJOURNMENT OF MEETING

Chair Welch adjourned the meeting at 8:10 p.m.

Respectfully submitted,

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