

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

DATE: February 15, 2012

APPROVED

TIME: 7:30 p.m.

PLACE: Urbana City Building
City Council Chambers
400 S. Vine Street
Urbana, IL 61801

MEMBERS PRESENT	Paul Armstrong, Stacy Harwood, Harvey Welch
MEMBERS EXCUSED	Nancy Uchtmann, Charles Warmbrunn
STAFF PRESENT	Robert Myers, Planning Manager; Rebecca Bird, Planner II; Teri Andel, Planning Secretary
OTHERS PRESENT	Cherry Boland-Williams, Will Logan, Dale Morrissey, Patty Walters

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 a quorum was declared present.

2. CHANGES TO THE AGENDA

There were none.

3. APPROVAL OF MINUTES

The minutes from the December 21, 2011 Zoning Board of Appeals regular meeting were presented for approval. Mr. Welch moved to approve the minutes as presented. Ms. Harwood seconded the motion. The minutes were then approved by unanimous voice vote.

4. WRITTEN COMMUNICATIONS

There were none.

Chair Armstrong swore in members of the audience who indicated that they may give testimony during any of the public hearings this evening.

5. CONTINUED PUBLIC HEARINGS

There were none.

6. NEW PUBLIC HEARINGS

Case No. ZBA-2012-C-01: A request by Disabled Citizens Foundation for a Conditional Use Permit to allow a “Community Living Facility, Category II” at 1910 Kathryn Street in the R-2, Single-Family Residential Zoning District.

Robert Myers, Planning Manager, presented this case to the Zoning Board of Appeals. He began by explaining the purpose for the proposed variance request, which is to use the existing structure at 1910 Kathryn Street as a “community living facility, category II”. He briefly talked about the Disabled Citizens Foundation (DCF) and showed photographs of both the interior and exterior of the home under consideration. He mentioned a court case that resulted in the communities of Champaign, Savoy, Mahomet, Urbana and Champaign County together creating standard categories for group housing. The communities decided that they all needed to find a way to allow group housing in a way that would be compatible with single family neighborhoods, so they adopted the “Community Living Facility” as a type of dwelling. He read the definition of “Community Living Facility” in the Urbana Zoning Ordinance. The definition specifically includes people with developmental disabilities living in a home on a permanent basis. This is different from an emergency shelter, home for adjustment, or residential recovery. Those residential arrangements are not community living facilities.

Mr. Myers noted that the home meets the current standards for open space ratio (OSR), floor area ratio (FAR), setbacks, and other development standards. With a few minor changes to the interior, the existing house could meet the State Fire Marshall’s requirements and qualify as a Community Integrated Living Arrangement (CILA) under state licensing requirements. He discussed the proposed use in relation to the 2005 Urbana Comprehensive Plan, the current zoning and current land uses of the proposed site and of the surrounding properties. He summarized City staff’s analysis of the requirements for a Conditional Use Permit according to Section VII-2 of the Urbana Zoning Ordinance. He pointed out the options of the Zoning Board of Appeals and presented staff’s recommendation along with three conditions.

The Zoning Board of Appeals inquired as to how City staff came up with “eight” residents in Condition No. 1. Were the neighbors notified? Does Urbana have similar facilities elsewhere?

Mr. Myers explained that the Urbana Zoning Ordinance limits “community living facility, category II” to no more than eight residents. Owners of properties within 250 feet of this property were notified of the public hearing. The applicants currently operate a similar group home elsewhere in Urbana, and they should be able to answer any specific questions about that home.

With no further questions for City staff, Chair Armstrong opened the public hearing for input/comments from the audience.

Dale Morrissey, Chief Executive Officer of Developmental Services Center (DSC) and President of the Disable Citizens Foundation (DCF), explained that DCF owns the properties that DSC operates their services in. He introduced Patty Walters, Executive Vice President of Consumer Services for DSC.

Mr. Morrissey related the mission of DSC. They operate seven homes in the City of Champaign, the City of Urbana and the Village of Rantoul that vary in size from five to eight residents. One of the homes in Urbana is located on Scovill Street, and it has been in operation for 20 years. The second home in Urbana is located on Hartle Avenue and has been in operation for 22-1/2 years. They also operate a 24-bed supported apartment facility on Kerr Avenue, which has been in operation for 22 years. They support over 100 people in individual apartments throughout Champaign and Urbana. He stated that there is a waiting list, and they want to continue to serve the community. He pointed out that the existing home now has eight individual bedrooms and already has accessibility. They will have to install additional fire protection between the first floor and the second floor in order to meet the State's requirements for a group living facility. Otherwise the design of the home is extremely well suited to the needs of the proposed group home. In fact they would like to use the design for future group homes, regardless of the outcome here tonight.

Ms. Harwood wondered what was meant by a group home ideally having fewer residents. Mr. Morrissey explained that he meant that normally having four to five residents as opposed to eight means there is less potential conflict between residents. However, the design of this house helps substantially because not only will each resident have their own bedroom, but the existing six bathrooms will easily accommodate everyone.

Ms. Harwood asked who would live in the home and the level of care or supervision that they would receive. Ms. Walters explained that the residents who live in these types of homes are typically higher functioning adults. Several of them have jobs in the community. Mr. Morrissey added that there will be a mix of residents living in the facility. Some will be able to function mostly on their own and others will need more assistance. The object is to teach the residents to be partially independent. Some residents will eventually be able to move into an individual apartment, but other residents will continue to reside in a group facility permanently. Ms. Walters pointed out that there is a two-page fact sheet included in the packet on this case which explains more about this question.

Chair Armstrong asked if staff would live on the premises. Mr. Morrissey said no. They tried that many years ago, but found that staff would bring their own personal issues into the facility, so now they rotate staff 24 hours a day. At least one staff member will be onsite at all times, day and night. Ms. Walters and Mr. Morrissey talked about the staff that DSC provides and the training that they require.

Chair Armstrong inquired as to the ages of the residents. Ms. Walters replied that the youngest can be 18 and can live in the facility indefinitely. The average age of a resident is 40 to 45 years old. Mr. Morrissey stated that many residents have families that are involved, but there are some

residents who have no family and so the home and staff becomes their family. Essentially everyone lives in the home as a family.

Chair Armstrong asked if anyone else in the audience wished to speak concerning this case, either for or against.

Will Logan, of 2004 East Colorado Avenue, commented that although this would be a great service to the community; he is opposed to this use at this location. He expressed his concerns about any business being located in a residential neighborhood causing an increase in traffic and decreasing the property values of the homes in that neighborhood. His home has decreased in value \$30,000 since purchased a few years ago and doesn't want new uses permitted which would contribute to the decline. He and his wife moved from Homer, Illinois, where there were no zoning and development controls, to the house where they live now, because the subdivision covenants in place help protect against uses out of character with single-family residences. He asked how the City could allow up to eight people to reside in the home if the subdivision covenants allow no more than four unrelated individuals.

The Zoning Board of Appeals asked City staff to respond to the question about subdivision covenants. Mr. Myers explained that subdivision covenants are private agreements between two private parties and are not enforced by the City. Thankfully the applicants are aware of the subdivision covenants and have consulted their attorney. From the fact that they then proceeded with the Conditional Use Permit application, that indicates that they feel comfortable with their legal standing regarding the subdivision covenants. But that's a private agreement between two private parties.

With no additional comments or input from the audience, Chair Armstrong closed the public hearing.

Chair Armstrong then opened the hearing up for Zoning Board of Appeals discussion and/or motion(s).

Ms. Harwood moved that the Zoning Board of Appeals approve Case No. ZBA-2012-C-01 with the conditions and findings provided in the memorandum. Mr. Welch seconded the motion. Roll call on the motion was as follows:

Ms. Harwood	-	Yes	Mr. Welch	-	Yes
Mr. Armstrong	-	Yes			

The motion was passed by unanimous vote.

Case No. ZBA-2012-MAJ-01: A request by Bohdan Rudawski for a Major Variance to rebuild porch stairs which encroach up to three feet into the required ten-foot front-yard setback along the Birch Street frontage at 401 West Green Street in the MOR, Mixed Office Residential District.

Case No. ZBA-2012-MIN-01: A request by Bohdan Rudawski for a Minor Variance to allow porch stairs to encroach up to one foot into the required ten-foot front-yard setback along the Green Street frontage at 401 West Green Street in the MOR, Mixed Office Residential Zoning District.

Rebecca Bird, Planner II, presented these two cases together to the Zoning Board of Appeals. She stated that the intention of the proposed two variance requests is to replace two existing front porch staircases at 401 W. Green Street. One set of stairs encroach in the Green Street front yard setback, and the other set of stairs encroaches in the Birch Street front yard setback. She showed photos of the existing wrap-around porch. She noted the zoning, current land uses and Comprehensive Plan future land use designations of the property and of the surrounding properties. She explained that the applicant believes the steps must be replaced rather than repaired given their deteriorated condition and cost considerations.

She mentioned several alternatives considered which would allow replacement and meet the zoning requirements. The first alternative would be for the stairs to be pushed back and inset in the porch floor. The second alternative would be to remove the porch stairs on Birch Street and turn the new stairs sideways along Green Street to keep them out of the front-yard setback. Neither alternative is very practical. This is an older established neighborhood and front porches and stairs facing the streets are an intrinsic part of the character of the neighborhood. City staff feels that it is reasonable for the owner to replace the stairs in their existing locations.

Ms. Bird gave an overview of similar variance requests. In 2009, the Zoning Boards of Appeals heard a variance request to replace an existing garage in its existing location that encroached into the side-yard setback. City staff found this to be common in the older neighborhoods, so they created a text amendment to allow garages to be replaced up to six inches from the property line. The Zoning Administrator considers the replacement of porches and stairs to be a similar situation and is considering a future text amendment to allow property owners to replace porches and stairs in their existing locations.

She briefly reviewed the variance criteria from Section XI-3 of the Urbana Zoning Ordinance that pertains to the proposed variance requests. She read the options of the Zoning Board of Appeals and presented staff's recommendation.

The Zoning Board of Appeals questioned whether any owner would have to request a variance to replace their steps that encroached into the setback. Are the stairs in code violation? Were the plans reviewed by another Board or Commission? If the applicant changes his mind and wants to build the porch and steps differently, then would he need to request another variance?

Ms. Bird answered that under existing zoning requirements, the replacement of the porch and stairs would need approval of variances in order to be rebuilt in their existing locations. This is the reason why the Zoning Administrator is considering creating a text amendment to allow replacement in kind without variances. There are many other homes of the same age in the neighborhood, and those properties could likewise benefit from an ordinance revision.

Concerning any code violations, Ms. Bird said that while they would not be condemned, the porch and stairs are unsafe and need to be replaced. The proposed property is zoned MOR, Mixed Office Residential, which allows projects meeting certain requirements to be reviewed administratively. The plans were not substantial enough to require the MOR Development Review Board approval.

Ms. Bird continued that if the applicant changes his mind and wants to build the porch and stairs differently and the plans encroach less, then he would not need to bring this case back to the Zoning Board of Appeals. However, if he wanted a larger encroachment into the setback, then he would need to return for approval.

Chair Armstrong commented that even if the property owner wanted to encroach into the setback more than requested, it would probably have negligible consequences because the stairs have always been there and it would not be perceived as a significant change from the existing conditions. The other aspect he weighs when reviewing cases such as this is the difference between a minor and major variance. Because the porch stairs encroach into the setback more on the Birch Street side, which triggers a major variance, and that there are two sets of stairs, he would possibly be inclined to say that they should allow the replacement of the stairs on Green Street and not on Birch Street. However, since the stairs along Birch Street have existed for a long time, it seems to him this would be quibbling.

Mr. Welch moved that the Zoning Board of Appeals approve Case No. ZBA-2012-MIN-01. Ms. Harwood seconded the motion.

Mr. Myers asked for clarification whether the motion included was intended to include approval for handrails to encroach as part of newly constructed stairs. Ms. Bird said yes. The Zoning Board could specifically cite handrails too. The members of the Zoning Board felt it was unnecessary as long as standard building codes for stair construction is met. Even adding a third handrail down the middle of the stairs would have very little impact.

A roll call vote on the motion was taken as follows:

Mr. Welch	-	Yes	Mr. Armstrong	-	Yes
Ms. Harwood	-	Yes			

The motion was passed by unanimous vote.

Mr. Welch moved that the Zoning Board of Appeals forward Case No. ZBA-2012-MAJ-01 to the Urbana City Council with a recommendation for approval.

Ms. Harwood seconded the motion. Roll call on the motion was as follows:

Mr. Armstrong	-	Yes	Ms. Harwood	-	Yes
Mr. Welch	-	Yes			

The motion was passed by unanimous vote.

Mr. Welch asked City staff when the Zoning Administrator would plan to create a text amendment regarding the replacement of porches and stairs. Mr. Myers replied that it will require some research to determine the average porch stair encroachment so it will take a few months to create a Zoning Ordinance text amendment.

7. OLD BUSINESS

There was none.

8. NEW BUSINESS

There was none.

9. AUDIENCE PARTICIPATION

There was none.

10. STAFF REPORT

Mr. Myers reported on the following:

- ✓ The State of Illinois passed new amendments to the Illinois Open Meetings Act which requires all elected and appointed officials to complete online training. The training takes about an hour and must be completed by the end of the calendar year. Board and commission members have the option of either taking the training on their own or during a group session which City staff will be setting up. At the end of the training, each board/commission member will be able to print out a certificate of completion, which must be kept on hand at the City Building.
- ✓ The Urbana City Council approved the variances for the Stone Creek Subdivision signs as recommended by the Zoning Board of Appeals.

11. STUDY SESSION

There was none.

12. ADJOURNMENT OF MEETING

Ms. Harwood moved to adjourn the meeting. Mr. Welch seconded the motion. Chair Armstrong adjourned the meeting at 8:53 p.m.

Respectfully submitted,

Robert Myers, AICP, Secretary
Urbana Zoning Board of Appeals