



## DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

*Planning Division*

m e m o r a n d u m

**TO:** Urbana Zoning Board of Appeals  
**FROM:** Kevin Garcia, AICP, Planner II  
**DATE:** February 14, 2020  
**SUBJECT:** Precedent in ZBA Cases

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### **Introduction**

At the January 15, 2020, meeting of the Zoning Board of Appeals, the Board requested that a study session be held on the notion of “precedence” in cases that the Board considers. Planning staff, in consultation with Urbana’s Legal Division, has determined that there is no such thing as “precedence” that is set or that must be followed in Zoning Board of Appeals cases.

### **Discussion**

While it is sometimes useful for the Board to refer to previous cases when discussing a current case, findings must always be based on the facts presented in the case at hand. If the Board were to base its decisions on evidence that is not in the record (e.g. to base a decision on facts from a previous case), the applicant would be deprived of their right to dispute the Board’s findings, which could lead to a legal challenge of the Board’s decision.

Findings, therefore, must never be based on facts from another case or on the notion of “precedence”. The Board has the power to deal freely with each new case, regardless of how it may have addressed a similar case in the past.

Each case is unique, and all findings are unique based on the facts specific to each case.

### **Conclusion**

Decisions in Zoning Board of Appeals cases do not set a precedent that must be followed in subsequent cases. Every case is unique and is considered on its own merits. Decisions must be based on an evaluation of the relevant criteria and the unique facts presented in each case.

Board members should not be concerned that making a decision in one case binds them through some notion of “precedence” to deciding future, similar cases.