



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

APPROVED

DATE: January 15, 2025

TIME: 7:00 P.M.

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

MEMBERS ATTENDING: Joanne Chester, Ashlee McLaughlin, Nancy Uchtmann, Charles Warmbrunn, Harvey Welch

MEMBERS EXCUSED: Matt Cho, Adam Rusch

STAFF PRESENT: Kevin Garcia, Principal Planner and Zoning Administrator; Marcus Ricci, Planner II; Teri Andel, Planning Administrative Assistant II

OTHERS PRESENT: Geoff Bant, Joanne Budde, David Chang, Andrew Fell, Jonathan Thompson

A. CALL TO ORDER and ROLL CALL

Chair Welch called the meeting to order at 7:00 p.m. Roll call was taken, and a quorum was declared present.

B. CHANGES TO THE AGENDA

There were none.

C. APPROVAL OF PREVIOUS MINUTES

Minutes of the September 18, 2024 Regular Meeting

Ms. McLaughlin moved that the Zoning Board of Appeals approve the minutes of the September 18, 2024 regular meeting as written. Ms. Uchtmann seconded the motion. The motion was approved by unanimous voice vote.

D. WRITTEN COMMUNICATIONS

- Email from Bao Bui, applicant for Case No. ZBA-2024-MAJ-03
- Email from Jan Kalmar in opposition of Case No. ZBA-2024-MAJ-03

E. CONTINUED PUBLIC HEARINGS

There were none.

NOTE: Chair Welch reviewed the procedure for a public hearing and swore in members of the audience who wished to speak on a case.

F. NEW PUBLIC HEARINGS

ZBA-2024-MAJ-03 – A request by Andrew Fell, on behalf of Long Bao Bui, for a Major Variance to allow a porch stair to encroach 10 feet into the required 25-foot front yard at 501 West Washington Street in the R-2 (Single-Family Residential) Zoning District.

Chair Welch opened Case No. ZBA-2024-MAJ-03. Marcus Ricci, Planner II, presented the case to the Zoning Board of Appeals. He reviewed the options of the Zoning Board of Appeals and presented City staff's recommendation for denial.

Mr. Ricci explained the purpose for the proposed major variance and gave a brief history of the proposed site. He showed an illustration of the existing porch versus the proposed porch. He noted the land uses and zoning of the subject property and of the surrounding properties. He showed a rendering of the proposed building with the addition, porch landing and stairs. He discussed the proposed variance and reviewed the variance criteria from Section XI-3 of the Urbana Zoning Ordinance. He showed photos of other homes on the same block and noted that all but one of them had steps facing the street. He reviewed the notification process for this case. He reviewed the options of the Zoning Board of Appeals again and restated staff's recommendation. He added that if the Zoning Board of Appeals recommended approval of the variance request that they include the condition that, "Construction generally comply with the submitted construction plans".

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

Ms. Chester asked for clarification on the concrete steps down by the sidewalk. Mr. Ricci explained that if the elevation of the porch is higher than the elevation of the sidewalk, without the three or four concrete steps at the sidewalk, the porch steps would need more space and a longer stairway to compensate for the difference in elevations. This means there would be a higher likelihood that the stairway would encroach even more into the minimum front yard.

Ms. Chester noticed that some of the houses in the photos showed a landing before the stairs coming down to the sidewalk, and other homes just have stairs. Is it allowed to have no landing? Mr. Ricci replied that would be a Building Code question.

Ms. Chester noticed that the house to the west of the proposed site is essentially the same, and it has an open porch. She asked if the fact that it is an open porch change anything. Mr. Ricci stated that he would have to check to be sure, but he believes the stairs would be considered legally non-conforming because the combination of porch and stairs goes past the 5 feet that is allowed.

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

Andrew Fell, applicant on behalf of Long Bao Bui, approached the Zoning Board of Appeals to speak. He apologized for having to continue the case from the November meeting. He thanked Mr. Ricci for doing an excellent and thorough job presenting the case to the Board.

Mr. Fell stated that he believed staff's decision to recommend denial of the case is because staff has to follow the Zoning Ordinance. Staff's job is pretty black and white to follow the Ordinance, and the Zoning Board of Appeals' job is to interpret all of the gray areas. If there were not any gray areas, then we would not need the Zoning Board of Appeals.

Mr. Fell went on to state that the issue is we have a house that was built in 1912 and a Zoning Ordinance overlaid on that decades later. He said that by its very nature a zoning ordinance has to be pretty generic in its rulings and what it does and blanketly apply them in places where they should not be applied. This is why we have non-conforming properties. He said his opinion is that this neighborhood [West Urbana] is where the blanket zoning falls apart the most, because we have houses that were built a very long time ago. Some of the houses were built on larger lots and have shared driveways and are already encroaching too far into the required setbacks.

Mr. Fell stated that as a designer they never want to have to come before the Board and ask for a special condition, but this is a case where he feels the decision for the design is appropriate for the house and for the neighborhood. It is clear when looking at the photos of the houses on the block that the proposed house's façade is pretty abrupt and severe. The proposed design is intended to bring the look of the proposed home more into character with the neighborhood.

He pointed out that the encroachment would only be for the stairs. The proposed addition and landing for the porch would meet the setback requirements. They could turn the stairs to face towards the neighbor rather than towards the street; however, he and the property owner both feel that makes the porch become unwelcoming. This also makes visitors have to approach the front stairs to get to the house via the shared driveway, which is also part of the neighbor's property. He said that this is not an appropriate way to treat a neighbor, especially in this neighborhood. He said that he felt this case is a perfect example of why the Zoning Board of Appeals exists.

Mr. Fell addressed the question about a landing being required or not. He explained that the Building Code requires a level landing for 3 feet on each side of a door. He further explained that a person is allowed to have a step down directly onto the landing from the door. He and the property owner choose to design the landing to be the same level as the floor inside the new addition even though having a step down at the door would reduce the encroachment by 12 inches.

Ms. Uchtmann asked if any of the other homes on the block have an enclosed porch or are they mostly all open porches. Mr. Fell recalled that most of the porches are open. There may be one that is enclosed.

Mr. Warmbrunn mentioned the email they received from Jan Kalmar, which states that the proposed variance would create a safety concern for pedestrians as residents in both homes that share the driveway back out with their vehicles. Mr. Fell stated that he did not know if they exited the driveway face forward or if they are back out.

Ms. McLaughlin asked how far it was between the proposed front addition to the sidewalk. Mr. Fell replied that it is 16 feet from the edge of the proposed encroachment to the sidewalk. The sidewalk

is 5-feet wide, and there is another 5 or 6 feet from the other side of the sidewalk to the parkway. He said that a parking space is 18 ½ feet long.

Mr. Ricci said that he responded to Ms. Kalmar's email stating that although the stairs for the porch would be closer to the sidewalk than the existing stairs, the proposed stairs would still be 15 feet from the property line and front sidewalk and 27 feet from the street.

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

Kevin Garcia, Principal Planner and Zoning Administrator, clarified that if the Zoning Board denied the case, it would not be forwarded to Committee of the Whole. The case would then end at the Zoning Board of Appeals level.

Mr. Warmbrunn interpreted that while staff is recommending denial of the variance request, it does still meet some of the criteria. Mr. Garcia explained that the request does not meet the initial criteria, which is whether there is some sort of practical difficulty or a special circumstance. The City does not grant variances because it is something people want to do or even because it is the most beautiful thing to do. The request needs to meet the minimum criteria first of all.

Ms. Uchtmann commented that it does seem from the rendering that it would be a pleasing addition rather than having the plain face of the house facing Washington Street.

Ms. McLaughlin moved that the Zoning Board of Appeals forward Case No. ZBA-2024-MAJ-03 to the City Council with a recommendation for approval with the condition that construction must be in general conformance with the Site Plan that is attached in the written staff report based on the findings outlined in the written staff memo. Ms. Uchtmann seconded the motion.

Mr. Warmbrunn stated that he planned to vote for this to forward it to City Council so they can decide what to do with the case.

Roll call on the motion was as follows:

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

The motion was approved by unanimous vote of 5-0.

Mr. Garcia stated that Case No. ZBA-2024-MAJ-03 would be forwarded to Committee of the Whole on February 3, 2025.

Case No. ZBA-2024-C-01 – A request by Jonathon Thompson, on behalf of RSCC, LLC, for a Conditional Use Permit to allow a fast-food restaurant at 809 West Green Street in the B-1 (Neighborhood Business) Zoning District.

Chair Welch opened Case No. ZBA-2024-C-01. Kevin Garcia, Principal Planner and Zoning Administrator, presented the staff report to the Zoning Board of Appeals. He began by presenting the definition of fast-food restaurant. He stated that the applicant also needs approval of a special

use permit for a drive-through in the B-1 (Neighborhood Business) Zoning District, which will have a public hearing at the Plan Commission on January 16, 2025.

Mr. Garcia talked about the location and history of the proposed site. He noted the land use of the surrounding properties. He noted a correction to the written staff report, which states that there will be outdoor seating and restrooms in the building. The applicant works for the developer, Rockford Structures, who is working with Dutch Bros. The applicant has discussed the City's desire for outdoor seating and restrooms for customers with Dutch Bros; however, Dutch Bros has not committed to providing these. He reviewed the zoning and showed photos of the subject property and of the surrounding properties.

Mr. Garcia described Dutch Bros business operation and products. He explained that the original site plan was more auto-oriented, and City staff expressed a desire for a more pedestrian-oriented site plan. He showed the site plan that Dutch Bros submitted in response to their discussions with City staff and talked in great detail about the proposed access (both auto and pedestrian), the layout of the drive-through, parking, open space, and potential future landscaping. He reviewed how the proposed development relates to the 2005 Comprehensive Plan. He reviewed the requirements for a conditional use permit according to Section VII-2 of the Urbana Zoning Ordinance. He reviewed the options of the Zoning Board of Appeals and stated City staff's recommendation for approval including the following conditions:

1. The development shall generally conform to the submitted site plans; outdoor seating areas shall be included in the final plans.
2. The number of automobile parking spaces shall be ____ at most.
3. At least six bicycle parking spaces be provided.
4. A landscaping plan is required prior to construction. At a minimum, the plan should include some combination of bushes and shrubbery on the western side of the lot, between the right-of-way and the drive-through lanes.
5. Restrooms shall be made available to customers.

Mr. Garcia noted that the applicant was in the audience and available to answer questions.

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

Ms. Uchtmann asked if you place your order while you are in the drive through and then pick up your order at the window. Mr. Garcia said that is his understanding. Dutch Bros staff will come to your car and take your order.

Ms. McLaughlin asked Mr. Garcia to talk more about the relation of providing restrooms for customers if outdoor seating is required. Mr. Garcia recalled that when talking with the City's Building Safety Division Manager, Nick Hanson, he believes it is a requirement for a business who provides outdoor or indoor seating to also provide public restrooms.

Ms. McLaughlin asked if the Zoning Board of Appeals adds this as a condition, does it become a requirement? Mr. Garcia replied yes.

Mr. Warmbrunn asked if we require the developer to provide restrooms, then it would alter the footprint of the building, right? Mr. Garcia stated that they would still need restrooms for their

employees. However, if it does require a slight increase in the building footprint, he believes that it would still generally conform to the submitted site plans.

Mr. Warmbrunn asked for clarification on the parking spaces. Are the required parking spaces for the employees or for the employees and for customers? Mr. Garcia estimated that about half of the parking spaces would be for employees. There would be some parking spaces dedicated to customers who order ahead to park and walk to the window to pick up their orders. Mr. Warmbrunn said that he did not see customers coming to the site, parking and walking up to the window to place their orders.

Ms. Uchtmann asked where staff envisions the outdoor seating to be located on the site. Mr. Garcia replied that there is open space in the northwest corner of the proposed site that could be dedicated for outdoor seating.

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

Joanthon Thompson, applicant, approached the Zoning Board of Appeals. He gave a brief history of Rockford Structures and his personal history with the City of Urbana. He stated that working with Mr. Garcia has been fantastic. He said that Mr. Garcia presented the case well to the Zoning Board of Appeals. He agrees with many of the conditions recommended by City staff.

He expressed his concern for the number of parking spaces. If Dutch Bros has 8 employees and there are only 10 parking spaces with 2 dedicated to handicap parking, then there will not be any parking spaces available for customers picking up their call-ahead orders. Dutch Bros would like to have 16 parking spaces. He does not see a negative of having additional parking.

Mr. Thompson said that Dutch Bros would like to have the option of whether they need the outdoor seating or restrooms for the customers rather than it being required to get approval of the Conditional Use Permit. He said that other than parking, outdoor seating and the restrooms, he agrees with the other conditions.

Chair Welch asked if the Zoning Board members had any questions for the applicant.

Ms. Uchtmann asked if the City required outdoor seating and restrooms for the customers, would Dutch Bros decide not to build? Mr. Thompson said that he could not answer the question.

Ms. Uchtmann stated that there is a coffee shop on University Avenue [7 Brew]. She asked if they had restrooms for their customers. Mr. Garcia said that he did not know.

With there being no further questions for the applicant and there being no additional input from the public, Chair Welch closed the public input portion of the hearing and opened the hearing for discussion and/or motion(s) of the Zoning Board of Appeals.

Mr. Warmbrunn asked if Dutch Bros does not like the conditions that the City imposes, then they could reapply, correct? Mr. Garcia said yes. Mr. Warmbrunn replied that without knowing what Dutch Bros' intentions are, it is difficult to decide what to do. As long as they can reapply, the Zoning Board of Appeals could approve the case with the conditions recommended by City staff.

Mr. Garcia said that if the Zoning Board of Appeals wanted to make a soft motion on the proposed conditional use permit case, then he could try to get an answer from Dutch Bros about the outdoor seating and public restrooms before the special use permit goes before Committee of the Whole. Mr. Thompson confirmed that he would get an answer from Dutch Bros.

Ms. Chester asked if the Zoning Board of Appeals would need to say anything about the outdoor seating and public restrooms since the special use permit will be going to Plan Commission and decided upon by the City Council. Mr. Garcia said that the Plan Commission case is for a special use permit to allow a drive-through as an accessory use in the B-1 Zoning District. The Zoning Board of Appeals consideration of a conditional use permit includes the drive-through and the fast-food restaurant both. He did not think that the Plan Commission could have conditions requiring public restrooms for an accessory drive-through use.

Mr. Warmbrunn asked if they should say “prefer” rather than “require”. Mr. Garcia said they can use softer language if they want. They could even use “recommend”.

Mr. Warmbrunn asked if Dutch Bros would need to provide public restrooms if they do not have outdoor seating. Mr. Garcia said that he does not see a need for public restrooms if there is not outdoor seating, because without outdoor seating, all customers will be passing through via automobiles, bus, bicycles, walking, etc.

Ms. Chester asked if any other Dutch Bros locations have public restrooms. Mr. Garcia believed that they do because they have s hundreds of other locations. Mr. Thompson said that he does not know, so he cannot speak on behalf of Dutch Bros.

With regards to parking, Ms. Uchtmann stated that they will not only have the employees, but they will also have managers, food inspectors, and code enforcement who will need a place to park.

Mr. Warmbrunn moved that the Zoning Board of Appeals approve Case No. ZBA-2025-C-01 with the following conditions:

1. The development shall generally conform to the submitted site plans.
2. The number of automobile parking spaces shall be 16 at most.
3. At least six bicycle parking spaces be provided.
4. A landscaping plan is required prior to construction. At a minimum, the plan should include some combination of bushes and shrubbery on the western side of the lot, between the right-of-way and the drive-through lanes.
5. Strongly recommend that there be outdoor seating and restroom made available to customers in the final plans.

Ms. McLaughlin seconded the motion. Roll call was as follows:

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

The motion passed by unanimous vote.

Chair Welch called for a brief break at 8:27 pm. He reconvened the meeting at 8:30 pm.

G. OLD BUSINESS

There was none.

H. NEW BUSINESS

There was none.

I. AUDIENCE PARTICIPATION

There was none.

J. STAFF REPORT

Mr. Garcia reported on the following:

- Case No. ZBA-2024-MAJ-01 – Mr. Garcia stated that this case for a major variance to allow an increase in the Floor Area Ratio at 809 West Pennsylvania Avenue was approved by City Council on October 14, 2024.

Mr. Warmbrunn asked about the court case involving the storage units on High Cross Road. Mr. Garcia responded that he believed the judge in the case ruled in favor of the City of Urbana. There was a 15-day period in which the petitioner could submit an appeal. He believes that the petitioner did not appeal, because the conditional use permit had expired due to no work being done to construct the storage units within the past year.

Mr. Warmbrunn asked if the property is now zoned B-1 (Neighborhood Business). Mr. Garcia said yes.

Mr. Warmbrunn asked why the Zoning Board of Appeals was not notified of this decision. Mr. Garcia replied that he technically has not been notified of the final decision. He knew of a preliminary decision on the case.

Mr. Warmbrunn asked if the judge made a ruling or did the parties involved come to an agreement and settled out-of-court. Mr. Garcia said that he believes that the judge made a ruling in the City's favor, so the City prevailed. The applicant had decided not to build before the court case was final.

Mr. Warmbrunn asked about reviewing/updating the bylaws. Mr. Garcia said that staff plans to talk with the new City Attorney when they have more time. Mr. Warmbrunn commented that it seems we are neglecting all of this planning stuff just because of the election coming up. No one wants to hire more staff, so the Planners have time to work on planning things until after the election. He said that Mr. Garcia did not need to comment on this.

Mr. Warmbrunn stated that the City changed the email address format, and he forgot what it is. Is there somewhere that he can find this information? Mr. Garcia said that each member's new email address is their first name, dot, last name, @, urbanail.gov. Ms. Chester said that she waits until the agenda and packet of information is posted on the City's meeting webpage.

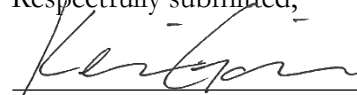
K. STUDY SESSION

There was none.

L. ADJOURNMENT

The meeting was adjourned at 8:37 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Kevin Garcia', is written over a horizontal line.

Kevin Garcia, Secretary
Zoning Board of Appeals