

**MINUTES OF A RESCHEDULED MEETING**

**URBANA ZONING BOARD OF APPEALS**

**DATE:** February 18, 2021

**DRAFT**

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

**PLACE:** Zoom Webinar

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

**MEMBER ATTENDING AT CITY BUILDING:** Harvey Welch

**MEMBERS EXCUSED:** Matt Cho

**MEMBERS ABSENT:** Nancy Uchtmann

**STAFF PRESENT:** Kevin Garcia, Principal Planner; Katherine Trotter, Planner I; Jason Liggett, UPTV Manager

**OTHERS PRESENT:** Gary Apfelstadt, Deborah Berthold

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

Chair Welch called the meeting to order at 7:04 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 January 20, 2021 regular meeting were presented for approval. Mr. Warmbrunn moved that the Zoning Board of Appeals approve the minutes as written. Mr. Rusch seconded the motion. Roll call on the motion was as follows:

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

The minutes of the January 20, 2021 regular meeting were approved as written.

#### 4. COMMUNICATIONS

There were none.

#### 5. CONTINUED PUBLIC HEARINGS

There were none.

#### 6. NEW PUBLIC HEARINGS

##### **ZBA-2020-MAJ-09 – A request by Gary Apfelstadt to allow a garage to encroach four feet into a required 15-foot front yard at 213 West Illinois Street in the R-2, Single-Family Residential Zoning District.**

Chair Welch opened the public hearing for Case No. ZBA-2020-MAJ-09. Kat Trotter, Planner I, gave the staff report for the case. She explained the purpose for the proposed major variance request, which was to allow the applicant to rebuild the existing garage in its current location; 11 feet into the required 15-foot front yard setback. She noted two email communications were received; one from Michael Fuerst and the second from Jonah Weisskopf, both in favor of the proposed request. She described the location of the subject property noting the zoning and future land use designation of the subject property as well as for the adjacent properties. She showed photos of the existing garage on the site. She reviewed the requirements for a variance from Section XI-3 of the Zoning Ordinance. She summarized staff findings, read the options of the Zoning Board of Appeals for each case, and presented City staff's recommendations for approval. She noted that the applicant was available to answer questions.

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

Ms. Chester questioned the safety of allowing a garage to be rebuilt four feet from the sidewalk. The driver would have no visibility of a pedestrian walking down the sidewalk when the driver backs out of the garage. Ms. Trotter explained that the existing garage has been in its current location for over 100 years, and there have not been any issues from the applicant's position or from any nuisance complaints by the neighbors. Ms. Chester commented that regardless of how many years the garage has been there, it was not safe. She would be okay with the variance request if the vehicular entrance to the garage was located along the alley. Mr. Rusch stated that the tenants would not be able to pull out into the alley without backing into the parking area of the house across the alley. Ms. Trotter noted that the applicant had expressed concern about the turn radius of backing out into a narrow alley if the vehicular access was located along the alley.

Mr. Warmbrunn asked for confirmation that the proposed new garage would be bigger than the existing garage. Ms. Trotter said that was correct. The new garage would be 24' x 24', and the existing garage is 20' x 24'.

Mr. Rusch asked if the proposed foot print of the new garage squared off where the jut was. Ms. Trotter referred the question to the applicant.

Mr. Warmbrunn asked if the garage was rebuilt where the garden currently was located, would it meet the City's setback requirements. Ms. Trotter replied that the garage would have to be moved 11 feet to the east in order to meet the front yard setback requirement.

Mr. Warmbrunn asked how big the garden was. Ms. Trotter referred the question to the applicant.

Ms. McLaughlin asked if the Zoning Board of Appeals could approve the request conditional upon the applicant rebuilding the garage further to the east or were they restricted to approving the request as submitted. Kevin Garcia, Principal Planner, stated that the Zoning Board of Appeals could approve a lesser variance; however, they could not consider a greater variance.

Ms. McLaughlin wondered if there were any parameters of how close a garage could be constructed near an alleyway in terms of turn radius. Ms. Trotter stated that this would be a question for the City's Public Works Department. With regards to the Zoning Ordinance, the garage would be required to be constructed at least 18 inches from the rear property line.

Mr. Rusch stated that he knows of other garages that were located close to the street similar to the proposed property. Ms. McLaughlin noted that there were many properties in the City that are non-conforming. The time to correct them is when the owners want to rebuild.

Ms. Chester asked if the owner wanted to rebuild using some of the existing structure, would he be allowed to rebuild in the same location. Ms. Trotter replied that there were some caveats to this. If a non-conforming building burnt down more than 50% of its total value, then the building could not be reconstructed. If there was less than 50% damage, then it could be rebuilt with the non-conformity.

Mr. Garcia pointed out that every variance case is brought to the Public Works Department for their input prior to being presented to the Zoning Board of Appeals. The Public Works staff did not express any concern about the location of the garage in this case.

Mr. Rusch did not have concern about a driver backing out of the garage. However, he did understand wanting the owner to rebuild the garage to be more conforming than the existing garage.

Chair Welch opened the hearing for public input. He invited the applicant or the applicant's representative to speak.

Mr. Apfelstadt, applicant, raised his hand to speak. Chair Welch swore him in. Mr. Apfelstadt addressed the issue of safety. He stated that he has owned the property since 2014. Some tenants have vehicles, and some tenants do not. All of the tenants have been made aware of the proximity of the garage to the sidewalk and street. There have been no complaints or incidents of threatening people's safety.

He talked about the caveat of replacing a non-conforming structure without having to replace the entire structure at once. A person could replace one wall at a time without having to bring the structure into legal conformity with the regulations.

He explained that the purpose for making the structure bigger when they rebuild was to make it easier for the tenants to back their vehicles out of the garage onto Cedar Street with regards to visibility. He intends to move the garage layout to be two feet away from the alley. The alley was too narrow for a person to back out of the garage into the alley.

He stated that the garden is a feature that he wants to maintain for his tenants. When tenants do not use the garden, then he maintains it.

He stated that City staff told him that this seemed to be a reasonable variance that would likely be approved.

Mr. Rusch asked if Mr. Apfelstadt intended to have windows in the new garage. Mr. Apfelstadt replied yes on both the north and south sides of the garage.

Mr. Warmbrunn asked how feet there are between the existing garage and the property line on the east side. How big is the garden? Mr. Apfelstadt replied that there is about ten feet between the shed and the eastern property line. The garden is approximately 14 to 16 feet.

Ms. Chester asked if the applicant had considered moving the garage to the east and encroaching into the garden space a few feet to allow more visibility when a tenant pulls out of the garage. Mr. Apfelstadt replied that the dimension of the proposed new garage would already encroach into the garden space. The old shed would be demolished and the garage would encroach to the edge of where the existing shed is to preserve the garden space. There are perennial raspberry bushes that would be destroyed if they encroached more into the garden space.

Mr. Warmbrunn asked if the new dimension would expand the garage from east to west. Mr. Apfelstadt said it would expand in both east to west and north to south. The existing garage is 20' x 20', and the new garage would be 24' x 24'. They would shift the garage four feet to the east and six feet to the north.

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-09 to the Urbana City Council as requested with the recommendation for approval with the condition that the garage generally conform to the plans shown as exhibits in the packet of information and that the garage be reconstructed with a large window on the north facing wall to allow drivers to see pedestrians. Ms. McLaughlin seconded the motion.

Mr. Rusch moved to add a friendly amendment to add that a large window be installed on the north and south facing walls. Ms. McLaughlin seconded the amendment.

Mr. Warmbrunn stated that he could not visualize a driver trying to look over another vehicle to look through a window. Mr. Rusch said that vehicles have windows too. Mr. Warmbrunn said what if it there was a bicyclist. One could look and not see anyone, and then all of a sudden there is a bicyclist coming by. So he did not feel that the windows would effective.

Ms. McLaughlin stated that considering that there have been no complaints or safety issues in the past, it would be hard adding the condition or to deny the request. She understood the effort to add the condition but felt it would be tricky. She noted that she tried to check the access management guidelines for the region. The guidelines are specific to intersection proximity and are minimal to this type of low traffic street.

Ms. Chester stated that a fence would be required to allow for visibility. She wondered if the rules for requiring visibility for a fence could be applied to a garage structure. Mr. Rusch replied that in an ideal world, they would rather see the garage located in a different location on the lot; however, he felt that the existing garage was probably built in the best place it could be allowed to be built without taking up the rest of the yard. It is a precedent that it is there, and people know it as a characteristic of the neighborhood. By allowing the garage to be rebuilt a little bit bigger, it increases the visibility.

There was discussion amongst the Zoning Board of Appeals members about the issue of safety and lack of visibility for a driver exiting the existing or new garage.

Mr. Rusch withdrew his motion and the amendment.

Ms. McLaughlin moved that the Zoning Board of Appeals forward Case No. ZBA-2020-MAJ-09 to the City Council with a recommendation for approval as requested based on the findings outlined in the written staff memo. Mr. Rusch seconded the motion.

Mr. Warmbrunn asked if there was a site plan included in the packet. Ms. Trotter stated that Exhibit D shows Garage Plan Views.

Roll call on the motion was as follows:

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

The motion passed by a vote of 4 ayes to 1 nay, which is a necessary majority for a major variance. Ms. Trotter stated that Case No. ZBA-2020-MAJ-09 would be forwarded to City Council on March 8, 2021.

**ZBA-2021-MAJ-01 – A request by Deborah Berthold for a major variance to allow a garage roof overhang to extend six inches into the 18-inch required setback from the south property line at 1006 South Wabash Avenue in the R-3, Single and Two Family Residential Zoning District.**

Chair Welch opened the public hearing for Case No. ZBA-2021-MAJ-01. Kat Trotter, Planner I, gave the staff report for the case. She explained the purpose for the proposed major variance request, which was to allow the overhang on a garage roof to extend 6” into the required 18” setback from the south property line. She described the location of the subject property noting the zoning and future land use designation of the subject property as well as for the adjacent properties. She showed photos of the existing garage on the site. She reviewed the requirements for a variance from Section XI-3 of the Zoning Ordinance. She summarized staff findings, read the options of the Zoning Board of Appeals for each case, and presented City staff’s recommendations for approval. She noted that the applicant was available to answer questions.

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

Chair Welch opened the hearing for public input. With there being no input from the applicant or 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.

Ms. Chester moved that the Zoning Board of Appeals forward Case No. ZBA-2021-MAJ-01 to the City Council with a recommendation for approval. Ms. McLaughlin seconded the motion. Roll call on the motion was as follows:

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

The motion was approved by unanimous vote. Ms. Trotter stated that Case No. ZBA-2021-MAJ-01 would be forwarded to the Urbana City Council on March 8, 2021.

**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:

- Lily Wilcock – was recently promoted to Planner II. She has been working on updating the City’s Comprehensive Plan.

**11. STUDY SESSION**

There was none.

**12. ADJOURNMENT OF MEETING**

Chair Welch adjourned the meeting at 8:02 p.m.

Respectfully submitted,

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