

**ZONING BOARD OF APPEALS
REGULAR MEETING
WEDNESDAY, AUGUST 17, 2011, 3:00 P.M.
COUNCIL CHAMBERS, CITY HALL
109 E. OLIVE ST., BLOOMINGTON, IL**

Members present: Mr. Dick Briggs, Mr. Mike Ireland, Mr. Robert Kearney, Mrs. Barbara Meek, Mr. Steve Parker, Mr. Ben Snyder
Members absent: None
Also Present: Mr. Mark Huber, Director, Planning and Code Enforcement
Ms. Kathryn Gruber, Acting Secretary

Ms. Gruber called the meeting to order at 3:03 p.m. and called the roll. A quorum was present.

Mr. Ireland opened the meeting to any comments from the public. A question arose regarding parking restrictions along City streets. The citizen was directed to contact City Hall.

The Board reviewed the minutes from the July 20, 2011 meeting. The minutes were approved as presented.

Chairman Ireland explained to all present the procedures of the meeting. Ms. Gruber stated that the cases had been published.

Z-07-11 Public Hearing on the petition submitted by Karen Hurst, requesting a variance to allow two-family dwellings and to reduce the minimum number of required parking spaces for the property located at 1302 N. Center Street. Zoned R-1C, Single-Family Residence District. (Ward 7).

SP-02-11 Public Hearing and Review on the petition submitted by Karen Hurst, requesting approval of a special use permit for two-family dwellings for the property located at 1302 N. Center Street. Zoned R-1C, Single-Family Residence District. (Ward 7).

Chairman Ireland requested both Cases be discussed simultaneously.

Ms. Karen Hurst, 4724 W. Pendleton Place, Peoria, IL, appeared to speak in favor of her Petitions. She is the executor of her father's estate. This home is part of that estate. The property has been used as a duplex in the past but since it has sat vacant it has lost its existing Special Use permit.

Mr. Ireland clarified the need for a one parking space variance and reason for the Special Use request.

Mr. Parker questioned her intentions as executor. Ms. Hurst stated her plan is to own and personally manage the property. She will also act as general contractor on the renovations. She does have a brother she needs to buy out of the estate.

Chairman Ireland asked for anyone else who would like to speak in favor of the petition. Mark King, 26 Pendelton Way, Bloomington appeared to state he has no objection to the petition. He owns the three unit building at 205 Union.

Chairman Ireland asked for anyone who would like to speak against the petition. Arthur Hosea, 1205 N. Madison St., has numerous concerns regarding the lack of parking available in the area. The street cannot handle another multi-family building. In the past, former tenants have used Union Street for parking instead of the available off street along Center St. He also informed the Board the City Garbage Collection has a hard time maneuvering around the many vehicles stored on the street. Several vehicles have been consistently stickered for not being moved. He also has concerns about the local property values lowering with an influx of more apartments and college students.

Phil Boulds, 1 Palm Court, owns 1303-1307 N. Center. This is his parking lot for Mugsy's Pub. By giving a variance for parking he has concerns Ms. Hurst's tenants will park in his parking lot across the street. Any parking space not used by potential customers is detrimental to both his business and his 35 employees. He also noted to the board, the vacant lot to the north of 1302 N. Center St. is also owned the estate and can be used for the required parking.

Carol Lind, 410 W. Seminary and Judy Glen, 209 W. Seminary urged the Board not to grant the variance. They have concerns about this fragile neighborhood. A large influx of students have been moving into the neighborhood. They are against any more apartments in the area and are concerned there will come a time when there are more apartments and students than owner occupied single family homes.

Ms. Glen informed the Board the building was condemned in 2009 and has been an eyesore ever since. She is concerned that the owner lives out of town. A Single family use would be a better neighbor than the students and it could hurt property values and the neighborhood.

Mr. Huber started his staff report with a historical overview. The property is in need of property maintenance. The previous owner could not take care of them and has since died. The zoning issues here are due to the fact the buildings have been vacant for over a year.

Staff is recommending approval since the building used to be a duplex, the owner is providing more parking than previously, and with a higher financial return the Petitioner may have more of an incentive to work on the project. There are quite a few existing rentals in the area even though the underlying zoning is single family. There has not been an increase in units in the area even though it sounds as though there may a change in the type of tenants in the area. The City is poised to take action concerning the properties.

The department has waited until this meeting. The Staff report looked at the fact there are a large amount of property maintenance and building related items that need to be addressed and it would be more financially viable to rehab the buildings with a multi-unit use.

Mr. Briggs questioned the interior state of disrepair due to a past fire and its effect on the number of units. There was not a lot of damage in the interior. To turn the building back into a single family, both spaces would have to be combined.

Mr. Ireland questioned the number of allowed occupants. As single family there could be 3 unrelated occupants. As a duplex there could be as many as 6 unrelated occupants in the building.

Mr. Parker considered the staff report but has concerns regarding the recommendation. The properties have not been taken care of, there is opposition to the request, and this request could be detrimental to the area.

Mr. Kearney questioned approval with conditions involving the existing violations. At this time, there is no history regarding the ability to honor any commitments. Given the evidence, He would like to see the properties being fixed up before voting on a Special Use. Mr. Briggs disagreed regarding the steps the Petitioner should have taken.

Mr. Kearney clarified his statements indicating he may not vote for a Special Use permit regardless, but since no work has been done to the properties recently, there is no evidence work will commence in a timely fashion after this meeting. He lacks confidence the property may be maintained as it should in the future.

Ms. Hurst reappeared to address the concerns. She did not own the property until Nov. 1, 2010. There are several pieces of property she is working on. One is a duplex on McLean St. There is only so much money to come up with and she is in limbo until it is decided what she can use the building for. The fact she lives out of town should not be an issue. There is someone working over there currently emptying out the garage. She drives by the property every time she is in town. She has not noticed parking problems since she has been there. This building is not in a completely residential neighborhood.

Mr. Kearney questioned the code violations and the amount of time Ms. Hurst has been in control of the properties. Ms. Hurst has known for the last 7-8 months there are numerous code violations and has done nothing but mow the grass and empty the garage. She learned in February/March she may need to apply for a Special Use. She also Mr. Bair died November 1, 2010. When the estate is finished Ms. Hurst is hoping to buy her brother out of his share and own the homes. At this time, there are seven properties she is currently working with.

The property at 1306 N. Center is part of the estate. There are no plans for that lot at this time. She has not thought of using this as parking for the building due to the amount of trees.

Both apartments are only one bedroom units. There is not room for three unrelated people in an apartment. Mr. Briggs suggested a condition to the Special Use by adding a limit of only 2 occupants per apartment.

Mr. Briggs asked Mr. Huber to clarify the impact difference between a single family home and a duplex. If the petition is denied and a single family home is allowed, only one off street parking space is required for a maximum of three unrelated individuals. Depending on the building layout, two one bedroom units could have a lower amount of occupants.

Mr. Ireland asked the Board vote on SP-02-011

Mr. Briggs made a motion to add a stipulation to limit the maximum number of occupants to two tenants per apartment should the Special Use be approved. It was seconded by Mr. Snyder. The motion passed with a vote of 5 to 1.

Discussion ensued regarding stipulations in the staff report. The only stipulation currently to be added is the limit of occupants. Mr. Parker reiterated the need to send a strong opinion to the City Council about the effect on the neighborhood.

A vote was taken to send a positive recommendation to the City Council for a Special Use to allow a two unit building with the stipulation there are to be no more than 2 occupants (tenants) in either apartment at any given time. The vote was split four (4) in favor and two (2) against.

Z-08-11 Public Hearing on the petition submitted by Karen Hurst, requesting a variance to allow two-family dwellings and to reduce the minimum number of required parking spaces for the property located at 203 Union Street. Zoned R-1C, Single-Family Residence District. (Ward 7).

SP-03-11 Public Hearing and Review on the petition submitted by Karen Hurst, requesting approval of a special use permit for two-family dwellings for the property located at 203 Union Street. Zoned R-1C, Single-Family Residence District. (Ward 7).

Chairman Ireland requested both Cases be discussed simultaneously and for only new building specific items to be discussed since this case is very similar to Z-07-11

Chairman Ireland asked the Petitioner if there was anything specific she would like to add with regards to this property. This building was a duplex previously and does have two separate bedrooms in the rear apartment.

Chairman Ireland asked the Board if there were any property specific questions. Mr. Briggs questioned the impact of stipulating the maximum amount of occupants. She would not be opposed to this.

Mr. Kearney questioned her experience as a landlord. She has never been a landlord but has worked with contractors. She is not unfamiliar with building construction. There was a concern regarding her commitment to the property. Mr. Kearney questioned if she had enough money to bring the properties up to current code and maintain them. She stated she needs the money from another rental to use on this property. She does not have the money to work on the buildings simultaneously. She will repair the exterior of the properties first then work on the inside during the winter.

Chairman Ireland asked for anyone else who would like to speak in favor of the petition.

Chairman Ireland asked for anyone else who would like to speak in opposition of the petition.

David Keim has resided at 301 Union St. for the past 23 years. The only multiunit property on the block was 205 Union. Now there are houses with IWU students with 5-6 tenants directly surrounding him. He is not against the students, but the lack of parking on the street. There are times he cannot even pull into his driveway due to the influx of students and vehicles. He questioned the lack of parking at the property. He is also familiar with this specific property as he had a chance to purchase it years ago. At that time, he felt the building was in poor shape and could not be rehabbed. He sees new homes at these locations since the buildings are in such disrepair.

With only four people in a building and three parking spaces as a Special Use there would be less of an impact than a single family and only one required parking space Mr. Briggs questioned.

Phil Boulds appeared again to reiterate the parking problems. He as a bar owner was put in a position to add a Beer Garden due to the smoking ban. This required more parking. He then purchased three homes, tore them down and created more parking. Ms. Hurst admitted she owned the property to the north and could provide the required parking there.

Clarence Falls Jr. has lived at 207 Union for the past 14 years. It has been 2-3 years since the last tenants had lived at 203 Union. He didn't know there was a back apartment since there has not been anyone in the back apartment for 13 years. It looks like it has fallen down. He also has concerns regarding the parking and the speed of vehicles in the alley.

Arthur Hosea spoke again reiterating the problems for City maintenance with so much vehicle congestion on Union St.

Discussion ensued regarding R-1C, R-2 Zoning and requirements for both. It is unknown the percentage single family or duplexes in the area. Mr. Biggs tried to clarify the parking issues related to single family and two family buildings. The Petitioner is trying to create more parking than is already available.

The vote on the parking variance was approved with a vote of 4 to 2.

Mr. Ireland asked the Board vote on SP-03-011

Mr. Briggs made a motion to add a stipulation to limit the maximum number of occupants to two tenants per apartment should the Special Use be approved. It was seconded by Mr. Snyder. The motion passed with a vote of 5 to 1.

A vote was taken to send a positive recommendation to the City Council for a Special Use to allow a two unit building with the stipulation there are to be no more than 2 occupants (tenants) in either apartment at any given time. The vote was split four (4) in favor and two (2) against.

Z-09-11 Public Hearing and Review on the petition submitted by Marchan Adkins, requesting a variance to allow the construction of deck and the reduction of the side yard setback for the property located at 1611 Keybridge Way. Zoned R-1C, Single-Family Residence District. (Ward 8).

Marchan Adkins appeared to speak in favor of his petition. He met with a contractor (Hartke Construction) in the spring to enlarge the deck, install a patio, widen the driveway, and install a fence. The contractor never filed for a permit. A letter was received from the City of Bloomington indicating a permit was needed. Mr. Adkins requested a permit after the work was completed and was told the deck and patio encroached into the required side yard. Photos were shown to the Board.

Mr. Marchan did request a reduction to 5' so he would not have to tear up the entire deck since that is the location of the closest structural point.

Chairman Ireland asked for anyone else who would like to speak in favor of the petition.

Chairman Ireland asked for anyone else who would like to speak in opposition of the petition.

Victor Fink, 1609 Keybridge Way, appeared to speak in opposition of the petition. His home sits directly north of the Petitioner. The patio and deck are in the required side yard to close to his home. He is concerned about the property value of his home, the location of the grill next to his bedroom window, water drainage from the patio, and the precedent this could set in the neighborhood. Photos were submitted with a copy of his objections.

Mr. Parker asked the complainant if there was any way to reach a compromise. Privacy is a large issue for the complainant and he felt the deck should have been built to Code.

Kent Jarrett, 1607 Myra, appeared on behalf of the Hershey Grove Homeowners Association as President. Covenants for the subdivision state plans should have been

submitted to the Board before a permit was requested from City. The Board was never consulted before construction. The plan itself does not violate any covenants.

Mr. Huber gave the staff report recommending denial of the request. The project did not meet any of the five findings of fact.

Mr. Ireland questioned the ramifications if approval is not granted. The deck and patio will have to be removed to the allowed setback. The Petitioner did suggest a compromise to reduce the deck to 5' from the lot line.

Mr. Kearney questioned the size of the lot. It was decided the lot was a typical size for the subdivision.

Mr. Adkins voiced his frustration with his neighbor for not contacting him during construction of the project. He requested the Board be reasonable with their decision.

The vote on the setback variance was denied with a vote of 6 to 0.

Z-10-11 Public Hearing and Review on the petition submitted by Mike and Tiffany Donaldson, requesting a variance to allow the construction of a driveway and the reduction of the side yard setback for the property located at 1305 N. Linden Street. Zoned R-1C, Single-Family Residence District. (Ward 7).

Mike Donaldson appeared to speak in favor of his request. He would like to widen his driveway 2' into the 3' required side yard to the north. A handout was submitted to the Board including a letter signed by the neighbor to the north who does not have an objection to the request.

Mr. Kearney questioned the ability to widen this driveway to the south. It was decided the large tree in the front would be a hindrance.

Chairman Ireland asked for anyone else who would like to speak in favor of the petition.

Chairman Ireland asked for anyone else who would like to speak in opposition of the petition.

Mr. Huber gave the staff report recommending denial due to the fact the Petitioner could comply with the Code by widening the south side of the driveway. Mr. Kearney questioned the location of the tree and the ability to consider that meet the Five Findings of Fact. Mr. Briggs noted that trees had been considered in past requests.

The vote on the setback variance was approved with a vote of 6 to 0.

Case Z-11-11. Public Hearing and review for the petition submitted by Dan Staver requesting a variance to allow the construction of a new fence and increase the fence

height along Ferryman Road for the property located at 1414 Guinness. Zoned R-1B, Single Family Residence District (Ward 8)

Chairman Ireland asked for anyone who would like to speak in favor of the variance petition to come forward and speak.

Mr. Dan Staver spoke in favor of his petition. In the fall of 2010 Mr. Staver solicited fence bids for a 4' fence in his front and rear yard. Over the course of the winter coyotes were seen in the neighborhood. In the spring Mr. Staver requested a fence height of 5' be constructed. Copies of emails concerning coyotes were submitted along with a petition signed by some of the neighbors.

He was informed by the contractor that he would only be allowed a 4' fence in his front yard along Ferryman. He questioned the 6' fences along Oakland Ave. and thought there was a mistake for his situation and had the contractor install the fence at 5'. A letter from the City of Bloomington PACE Department informed him his fence was not built to Code and no permits have been issued. He said the 5' fence would cut off one of the berms and from a symmetrical stand point did not make sense. He also said one option was to make it four feet and go up to five feet further in on the lot and he chose to seek a variance. He said the neighbors did not have a concern with the fence.

Barbara Meeks questioned who was to obtain the permit. Mr. Staver stated it was the builder's job. She noticed this particular builder has had numerous cases of not obtaining permits then having the homeowner apply for the variance after the fact. Ifft Fencing knew they were installing a fence that did not meet Code.

Chairman Ireland asked for anyone else who would like to speak in favor of the petition to come forward and speak. No one appeared.

Chairman Ireland asked for anyone who would like to speak in opposition of the petition to come forward and speak. No one appeared.

Mark Huber gave the staff report. This is a new subdivision that is just getting started and that this would start a precedent; corner lots have been built to accommodate the second front yard. Since the coyotes will soon relocate as more homes were built and this would set an unneeded precedent for the area. Staff is looking at this as there is nothing about the site that is unusual that prevents compliance with the code. The permit was issued for a 4' fence and we went out and found it at 5' and is an after the fact issue and is setting a precedent and staff has recommended denial of the petition.

Mr. Kearney questioned the coyotes as being a special circumstance for a request and asked if the fact you could see through the fence would be an issue. Mr. Huber stated there is no preference for the style of a fence or materials in the City Code.

Mr. Huber stated that there is an ordinance on the books that requires that a contractor make sure a permit is pulled whether he pulls it or the home owner pulls it before he

starts work. Ms. Meeks stated that he knew that he was doing something contrary to his permit and an approval would again be bailing out this contractor.

Mr. Ireland questioned the 6' fences along Ireland Grove Rd. Most backyards abutting a collector street have a *No Access* strip platted so a 6' fence is allowed since there is no other access allowed.

The vote on the request was split. Three voting in favor (Ben Snyder, Robert Kearney, Mike Ireland) and three against (Barbara Meek, Dick Briggs, Steve Parker).

Mr. Ireland explained that this case can be appealed to the City Council.

Z-12-11 Public Hearing and Review on the petition submitted by Castle Built Homes, Inc, Barry Watkins, requesting three variances to allow the construction of an accessory structure as follows:

1. Exceed the ground floor area of the house.
2. Increase the 1,000 square foot maximum floor area allowed.
3. Add a second story.

All three variances are for the property located at 7 White Place. Zoned R-1C, Single-Family Residence District. (Ward 7).

Barry Watkins, Castlebuilt Homes, appeared as the Contractor to request the variances. Photos were submitted of other large garages in the area. This 80x60 separate lot is owned by the clients. They have a current garage that is too small to house their vehicles and since the alley has been paved there are now drainage issues in the back yard.

Chairman Ireland asked for anyone else who would like to speak in favor of the petition to come forward and speak.

Bob Muenghoff, 7 Whites Place appeared to discuss his request. His family has lived at this address since 1955. Due to the current configuration of the rear yard, it is hard to monitor pedestrian traffic. He has had several items stolen from his boat and garage. Since the old garage is coming down it will be easier to monitor the back yard. Security lighting will also be installed. There will be a half bath in the garage along with power. The second story will be for storage only.

Chairman Ireland asked for anyone else who would like to speak in opposition of the petition to come forward and speak.

Carolyn Jarvis, 15 Whites Place, appeared to voice her concerns about the project. Her neighbor has a 4 bay two story garage. It has been a continual struggle to keep illegal renters out of the second story. She is against any items (toilet, heat) that may make this a potential rental space in the future.

Dan Terkla, 18 Whites Place, appeared with similar concerns of the upstairs area becoming an apartment and the lower area becoming a business.

Mr. Huber gave the staff report recommending denial of the request. The denial is based on the extent of the variances requested: doubling the allowable size of a garage, exceeding the floor area of the house. Since there are other large garages in the area that are older and do match the style of the homes, staff is not opposed to a larger garage, just not this big.

Mr. Kearney did agree the bulk of the garage is huge. It is basically the size of a four car garage. It was decided no one could live in the garage as a separate unit regardless of the variances. A business could not be run out of the garage either. Mr. Kearney asked how many times the plans have been revised. It was stated there were none.

Mr. Parker felt the garage would fit into the surrounding area but questioned the size. Ms. Meek pointed out the large size of the commercial buildings behind the lot. A three car garage could be built to current Code.

Mr. Watkins reappeared to inform the Board the garage will be similar to the home. The homeowners are more than willing to drop the second floor ceiling height so that it could not be construed as habitable space. The garage will also block out some of the commercial properties. The dormers will be functional.

Paul Jarvis, 15 Whites Place, mentioned the other large garages along the alley. One garage cannot be used for a residence; another is not used at all due to disrepair. He has not seen the plans so he is not sure of the scope and size of the project.

Mr. Briggs questioned the ability for the owners to come back to the Board after a significant change to the plan if the request is denied.

A vote was taken on the request as a whole. The variance passed with a vote of 5 to 0 with 1 abstention.

Chairman Ireland asked if there was any new business. Seeing there was none, the meeting adjourned at 6:45pm

Respectfully;

Kathryn Gruber
Acting Secretary