

**ZONING BOARD OF APPEALS
REGULAR MEETING
WEDNESDAY, MAY 21, 2014, 3:00 P.M.
COUNCIL CHAMBERS, CITY HALL
109 EAST OLIVE ST., BLOOMINGTON, IL**

Members present: Ms. Barbara Meek, Mr. Robert Kearney, Ms. Amelia Buragas, Mr. Dick Briggs, Mr. Bill Zimmerman, Mr. Mike Ireland, Mr. Jim Simeone

Also present: Mr. Mark Woolard, City Planner
Mr. Kevin Kothe, City Engineer
Mr. Frank Koehler, Interim Director Planning and Code Enforcement

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

The Board reviewed the minutes from March 19, 2014, and accepted the minutes as printed.

Chairman Ireland explained the meeting procedures. Mr. Woolard stated the cases had been published.

REGULAR AGENDA:

SP-03-14 Public Hearing and Review on the petition submitted by Illinois Wesleyan University requesting approval of a special use permit for a parking lot for the property located at southwest corner of Fell Avenue and Titan Drive. Zoned R-1C, Single-Family Residence District.

Mr. Kearney and Mr. Simeone recused themselves as Illinois Wesleyan University is their employer.

Chairman Ireland introduced the case and asked for anyone who would like to speak regarding the petition. Mr. Don Adams, 2709 McGraw Drive, representing Illinois Wesleyan University was sworn in and stated as IWU prepares plans for the expansion to the Shirk Athletic Center, the parking lot expansion is also planned. There will be an East side building bump out from the Shirk Athletic Center which will consume about 55 parking spaces. The proposed parking area will be on IWU owned property located on the South West Corner of Titan Drive and Fell Avenue. This will replace those parking spaces lost by the expansion and add a few more. Mr. Adams stated that the plan does comply with city required setbacks and landscaping. The parking lot doesn't require storm water detention based on an agreement made years ago between IWU and the city. The IWU funded a major storm sewer project for the city to allow disconnection of combined sanitary and storm sewers which has benefited all of the neighbors in the area.

There are a couple of choices when it comes to a project like this. The University owns the land to the South, West and North, and we could request this property be rezoned for institutional use and then there is no need for a special use request for a parking lot. A parking lot may not be the ultimate use for all of this property. It's possible that the future use of this property may require a rezoning eventually. The S-2 zoning uses allow for some residential compatible uses and for some not such residential compatible uses. Until the University has a firm plan for the entire property, the area will remain in the S-2 zoning so that there is a protection for the neighbors.

The S-2 zoning requires the University to come forward in a Special Use, public hearing format giving neighbors an opportunity to comment. This is set up so as not to surprise anyone and to avoid any folks coming to the council stating that they were unaware of the public hearing. The University has done their homework in preparing and protecting the neighborhood as much as possible with items such as limits on direct flows of traffic onto Fell Avenue. The traffic flow is forced to travel within IWU property with the intent to limit the impact on the neighbors.

Ms. Buragas clarified the net gain of eleven parking spaces when completed. Mr. Adams stated there is no anticipation on peak parking space usage of the completed addition to the Center because there is no added seating for basketball. The addition includes locker rooms and meeting rooms space, so the facility does have more use, however not during peak demands.

Chairman Ireland asked for anyone else who would like to speak regarding the petition and no one spoke. Chairman Ireland asked if anyone was present to speak in opposition of this special use petition.

Mr. Gary Stevens, 1601 Iowa Street, was sworn in and asked if the lot was full at peak use. He suggested if it's full then there should be paid parking in that location to motivate less use of the parking lot.

Chairman Ireland asked if anyone was present to speak in opposition of this special use petition.

Ms. Martha Bommarito, 1608 Fell Avenue, was sworn in and explained that she has been a Sugar Creek and Wesleyan watcher for nearly fifty years. She stated her concern is the character of the neighborhood has greatly changed and the location of this parking lot will further deteriorate this appearance. During the last rain she watched thousands of cubic feet of water empty into Sugar Creek because of the storm sewer that was allowed. In a few places, it looked like it was going over the banks. Flood control was done in conjunction with the city and corps of engineers to prevent flooding. Ms. Bommarito spoke of a beautiful hedge of wedding vale spirea that used to be on the edge of sugar creek with brown thrush cover. It was removed and now there is no cover. She stated a concern was the landscaping would be ignored. She stated during peak use, Titan Drive is full of tailgating parties and litter. She wondered the impact on Sugar Creek and clean water. Ms. Bommarito stated that when the pump was installed across the creek from her home, it appears as a penitentiary with barbed wires and a gate. It is unsightly. It doesn't add to the appearance of Illinois Wesleyan.

Chairman Ireland asked if anyone was present to speak in opposition of this special use petition and no one spoke.

Mr. Adams stated that the parking lot is full in peak periods during football and some basketball games. Even though the University is always seeking revenue opportunities, a paid parking lot in this location would place more cars onto the free public streets. He stated IWU doesn't want to see that happen.

Mr. Adams stated the water run off goes into a storm sewer under the intersection of Fell and Titan then into the creek. As IWU adds more impervious areas, there is more water added to Sugar Creek. This added water seems a mixed blessing as higher waters in Sugar Creek isn't the ideal, however before the city and University separated sewers in the neighborhood much of that

water did not flow into Sugar Creek. It flowed into the public sanitary sewer systems which then flowed into basements. The tradeoff was that the city gained assistance in separating the sewers and protecting basements in return IWU doesn't have to provide retention. We still have drainage improvement for the neighborhood, it's just a different kind of drainage improvement. Mr. Adams stated in the past twenty years there have been four versions of flood plain maps for this stretch of Sugar Creek. Over that time, the hundred year flood plain elevation has gone down by a little over a foot. It's nothing due to IWU. He stated this was due to growth on the East side of town and the retention basins located there. Sugar Creek will continue to occasionally flood whether this is build or not, but there are many improvements made up stream that have impacted the capacity of the creek.

Mr. Briggs questioned if the agreement supersedes the engineering needs that may arise. Mr. Adams stated that he is not an attorney and would not be able to advise.

Mr. Woolard stated the staff position to support this change. He stated the issue of detention would likely not be a requirement due to the previous agreement. The landscaping requires change to the lot which will be an aesthetic improvement for the surrounding properties. Since there is no direct outlet of traffic, the impact to the area should be minimal with regard to Fell Street. Staff evaluates compatibility and supports the request.

Mr. Briggs asked if there is a current need for water runoff with this change. Mr. Kothe stated that the city council agreement with IWU allowed for the construction of a city storm sewer on Franklin which helped with area basement flooding and allowed the separation of the storm and sanitary sewers. Detention is great when we can get it, however the storm sewer was a far better early improvement. He stated he could not speak to the question regarding a special use condition superseding the prior agreement which has no expiration date. Mr. Kothe explained that many improvements have taken place over the last 30 years that have resulted in reduced flooding. Along with the previously mentioned separation of storm and sanitary sewers and East side detention developments are the replacements of water flow restrictive bridges. The last arched bridge replaced was on Fell which had a sewer pipe running above the bottom of the creek which would catch debris which further restricted the water flow. As Ms. Bommarito mentioned there is a city pump station which was required this bridge was replaced and the sewer line rerouted in order to flow properly into the trunk sewer. He recalled the 1970's flooding of Main Street near the old Steak and Shake which hasn't happened since due to the changes. With continued improvements anticipated such as IDOT main street bridge replacements, he stated that he couldn't see a need for further retention at this time.

The vote on recommending approval of special use permit SP-03-14 was approved with five (5) voting in favor, two (2) recused and zero (0) against with the following votes being cast on roll call: Mr. Briggs-Yes; Ms. Meek-Yes; Mr. Simeone-Recused; Mr. Kearney-Recused; Mr. Zimmerman-Yes; Ms. Buragas-Yes; Mr. Ireland-Yes

Z-03-14 Public Hearing and Review on the petition submitted by Tim Starkey to allow construction of a room addition and to allow a variance from the Zoning Ordinance to reduce the required 30' rear yard to 21' for the property located at 2110 Skyline Ct. Zoned R-1B, Single-Family Residential District.

Chairman Ireland introduced the case and asked if anyone was present to speak in favor of this petition. Mr. Tim Starkey, 2 Cave Creek Court, was sworn in and explained a brief history. He stated that he purchased the property in 2010 with a rear room that measures 14'X20'. The fireplace has begun to crack and the aluminum ceiling beams attach into the fireplace as well as the wall. Mr. Starkey expressed concern over the possibility of walls falling as well as the fireplace. The replacement room would be energy efficient and rest on the existing footings which reach down at least 40 inches.

Ms. Buragas inquired about the feasibility of changing the addition location to the West area of the lot where there would be adequate space without the need for a variance. Mr. Starkey stated they were attempting to keep costs down. By building on top of the existing footings there would not be the extensive preparation needs such as electric, flooring and walls. He stated that if this room was either built well the first time or not built at all, there would be no request for a variance.

Chairman Ireland asked if Mr. Starkey had spoken to the neighbors especially the neighbor to the North. Mr. Starkey stated that his son had contacted a majority of the neighbors and they don't have a problem with this addition. He stated that the new room would be much more appealing as the siding would match the house, double pane windows would be added and a gable roof will be installed.

Mr. Briggs asked the living traffic flow, as opposed to a vehicle traffic flow, if it were added to the more spacious side of the home without the variance. Mr. Starkey explained that there was a breezeway that originally separated the home from the garage which has since been enclosed. A discussion ensued regarding the possibilities of the room addition within the garage location.

Chairman Ireland asked if anyone else was present to speak in favor of the petition and no one spoke. Chairman Ireland asked if anyone was present to speak in opposition of the petition and no one spoke.

Mr. Woolard explained the staff position is to use other options such as land to the west. The intention of the code is to bring non-conformities back into compliance. Since this is a tear down, this is the time to bring it back into compliance. A review of the area rear yards showed the code is being maintained. Staff is not supporting the request.

Chairman Ireland asked if the original building permit was available for review for the purpose of a granted variance. A discussion ensued regarding the applicable zoning ordinance when the 1970's addition was built.

The variance was approved with seven (7) voting in favor and zero (0) against with the following votes being cast on roll call: Ms. Meek-Yes; Mr. Briggs-Yes; Ms. Buragas-Yes; Mr. Zimmerman-Yes; Mr. Simeone-Yes; Mr. Kearney-Yes; Mr. Ireland-Yes.

Z-04-14 Public Hearing and Review on the petition submitted by Sean T. and Katie M. Collins to allow construction of a new fence and a variance from the Zoning Ordinance to increase the allowed fence height of 4' to 6' in the yard along Taylor Street for the property located at 402 S. State Street. Zoned R-1C, Single-Family Residence District.

Chairman Ireland introduced the case and asked for anyone who would like to speak regarding the petition. Mr. Sean Collins, resident of 402 S. State Street, was sworn in and said he is requesting a six foot fence for family security. Mr. Collins stated the garage was broken into and cars park along Taylor Street to visit The Children's Foundation. There is much traffic and trash that comes into their yard and a fence would prevent this. He stated his family would like to use his entire land. He provided photos of similar fences which exist in the neighborhood. Mr. Collins stated the wood fence will be 10' from Taylor and there is no safety concern for the abandoned alley. Mr. Briggs stated that he had resided in the area and suggested that if an opaque fence was installed that neighbors would not be able to see inside if there was criminal activity and a four foot fence would extend the yard. Mr. Briggs continued to state the new subdivision corner lots include more ground intentionally to avoid this type of situation. Mr. Simeone inquired if the neighbors had been approached. Mr. Collins stated he had been in contact with two of the three neighbors, who were supportive and surprised of the previous rulings of the 21' back. He hasn't been able to reach the other neighbor. Mr. Simeone asked if Mr. Collins had seen other neighbor fences up to the side walk. Mr. Collins stated the type of fence doesn't bother him and prefers a fence over suggested bushes that can bother walkers.

Chairman Ireland asked if anyone else was present to speak in favor of this petition. Ms. Jeannie Riordan, 101 Warner Street, was sworn in and resides about ten blocks away from Mr. Collins, her son-in-law. She said she has lived in this location since 1989 and supports the fence request for safety as well as privacy. She also acknowledged respect for the code for safe traffic vision on a corner lot. Ms. Riordan stated that the neighborhood is much more inviting with a well-kept fence than to have unkempt bushes. Mr. James Riordan, 101 Warner Street, was sworn in and stated he was called on one occasion to answer his daughter's distressed call regarding a possible intruder. Mr. Riordan requested the board approve this request for security purposes.

Chairman Ireland asked if anyone else was present to speak in favor of this petition and no one spoke. Chairman Ireland asked if anyone was present to speak in opposition to the petition and no one spoke.

Mr. Woolard reported two corner lots directly across Taylor Street are within the four foot fence compliance and are located almost to the sidewalk. As with all cases, the finding of fact regarding hardship was determined not applicable. There is not a physical steep slope or other dangerous hardship presented. Staffs concern is that allowing another six foot fence only encourages more six foot fences in the area. More of the corner lot properties are in compliance than out of compliance. Without a hardship warranting the variance, staff is not supporting the request.

Mr. Briggs pointed out other area fences on corner lots, which were in compliance of the four foot height fence, offered much more yard space. He went through area fenced yards and the reduction in yard size if a six foot fence were to replace the compliant four foot fence. Mr. Briggs stated with a six foot fence, one can enclose only a small yard space compared to the four foot fence enlarged yard area.

Mr. Kearney observed within the last ten years, folks want a six foot fence for the value of privacy which allows for controlled neighbor interaction. A discussion ensued regarding side and front yards, a neighborhood with a walled-in affect and the bulk effect on the city. Ms. Simeone stated that if a sidewalk were present on the Taylor side of the property, then this would have

been a different discussion. He views this as a subjective issue not as a safety issue but rather a character change of the neighborhood with more walled fence wars. Mr. Simeone stated aesthetically, it is changing and for those that have this view, the change is harm, subjective as it is.

The vote on the variance was approved with six (6) voting in favor and one (1) against with the following votes being cast on roll call: Mr. Kearney-Yes; Ms. Buragas-Yes; Ms. Meek-Yes; Mr. Briggs-Yes; Mr. Zimmerman-Yes; Mr. Simeone-No; Mr. Ireland-Yes.

Z-05-14 Public Hearing and Review on the petition submitted by Keystone Properties, Inc. to allow the construction of two assisted living facilities and one memory care facility and to allow a variance from the Zoning Ordinance to reduce the required minimum number of parking spaces from 238 to 121 parking spaces for the property located at 1 Stonehouse Ct. Zoned B-1, Highway Business District.

Chairman Ireland asked if anyone else was present to speak in favor of this petition. Mr. Mark Huber, 200 W. College, Normal, The Farnsworth Group, was sworn in. Mr. Huber stated Mr. Koehler has offered a code change to address code issues for the requested variance. Mr. Huber asked for a layover until the next month. He invited public comments and explained the process will be available for other developers who have the same situation with the research already started. A planned outreach is in place to reach developers of this type of property in order to get input regarding parking requirements. It would fix the problems as seen in the codes which deal with parking rather than ask for variances which goes against what the code actually intends for a variance to be.

Mr. Kearney moved to lay case Z-05-14, aside until the petitioner brings it back to this board. Mr. Simeone seconded the motion with six (6) voting in favor and one (1) against with the following votes being cast: Mr. Kearney-Yes; Ms. Buragas-Yes; Ms. Meek-Yes; Mr. Briggs-No; Mr. Zimmerman-Yes; Mr. Simeone-Yes; Mr. Ireland-Yes.

Mr. Koehler approached the board to explain the parking standards within other communities and why a code change is more appropriate. Mr. Zimmerman stated from his experience that the residents in the memory unit would have zero cars and very few assisted living residents would have vehicles, so it would come down to visitors and employee parking needs. Mr. Koehler stated that on average it was 83 parking spaces for the development in total and our required numbers seem off. Mr. Koehler stated that he wants to come to a concurrence on an appropriate level of parking spaces.

PUBLIC COMMENT: Mr. Gary Stevens, 1612 Iowa, said he looks to the builder to address the parking issues as they have the experience. If each resident would pay for their own space, they would have the right amount.

OTHER BUSINESS:

Elections: The board revisited the section of new ordinance regarding term limits and the application of said ordinance. Mr. Kearney read the new language regarding term expiration. Chairman Ireland stated concern over the member continuing to serve when their term has expired and the legal ramification of expired member's votes in a circuit court situation. Ms. Buragas stated as a board, we could make a more restrictive rule verses the code which would

state if a member's term expired, then that member could not sit on cases. A discussion ensued regarding aspects of the new code. Chairman Ireland acknowledged the helpfulness of experience from his predecessors regarding cases and applicable history. Mr. Briggs and Mr. Kearney lend their experience today, however within a year of expired terms, all of the over 100 years of combined experience will be gone.

Mr. Simeone nominated Mr. Kearney for the Chairman position. Mr. Kearney declined the nomination for the Chairman position and nominated Mike Ireland for the Chairman position with support by Mr. Briggs. Mr. Simeone nominated Mr. Zimmerman for the Chairman position who declined the nomination stating support for current Chairman Ireland. Chairman Ireland was elected with a vote of six (6) to one (1) with the following votes being cast on roll call: Mr. Briggs-Yes; Ms. Meek-Yes; Mr. Simeone-No; Mr. Kearney-Yes; Mr. Zimmerman-Yes; Ms. Buragas-Yes; Mr. Ireland-Yes.

Mr. Kearney nominated Mr. Simeone for Vice-Chairman and Mr. Simeone declined. Chairman Ireland nominated Mr. Briggs. Mr. Briggs declined the nomination and stated that he would rather place a lessor experienced member in Vice-Chair position such as Mr. Zimmerman. Mr. Briggs stated this is the time to build the transition with pairing a newer member with an experienced member. Mr. Briggs nominated Mr. Zimmerman which was supported by Ms. Meek. Mr. Kearney nominated Ms. Buragas for Vice-Chair which was supported by Mr. Zimmerman. Mr. Zimmerman was elected as Vice-Chairperson with a closed ballot vote of: four (4) for Mr. Zimmerman and three (3) for Ms. Buragas.

Discussion of Height and Second Story Variances:

A discussion ensued regarding a third floor dormer. Ms. Buragas stated the submitted plans showed dormers when the actual construction has placed a structure that appears to be higher than the previous roof line. The petitioner's testimony specifically stated there will be no height increase of the building. A discussion ensued regarding addressing such possible discrepancies. Mr. Simeone stated this may be an opportunity to recommend best practices with regard to follow-up on cases.

Chairman Ireland asked Mr. Woolard to follow-up with the inspector as to the results of the construction and to communicate said information with the board.

NEW BUSINESS:

Mr. Briggs stated that he is involved with the new comprehensive plan and invited others to be involved. A discussion regarding the ten year plan ensued.

A discussion ensued regarding term limits, chairperson role, member experience and the focus of the board.

ADJOURNMENT: 5:20 p.m.

Respectfully;

Mark Woolard