

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

1776 E. Washington Street
Urbana, IL 61802

DATE:	June 15, 2017	PLACE:	John Dimit Meeting Room
			1776 East Washington Street
TIME:	7:00 p.m.		Urbana, IL 61802

MEMBERS PRESENT: Frank DiNovo, Debra Griest, Marilyn Lee, Brad Passalacqua, Jim Randol

MEMBERS ABSENT: Eric Thorsland, Catherine Capel

STAFF PRESENT: Connie Berry, Susan Burgstrom, John Hall

OTHERS PRESENT: None

1. Call to Order

The meeting was called to order at 7:00 p.m.

Mr. Hall informed the Board that due to the absence of Eric Thorsland, Chairman of the Zoning Board of Appeals, the Board needs to appoint an interim Chair for tonight's meeting.

Mr. Passalacqua moved, seconded by Mr. DiNovo, to appoint Debra Griest as interim Chair for tonight's meeting. The motion carried by voice vote.

2. Roll Call and Declaration of Quorum

The roll was called and a quorum declared present with two members absent.

Ms. Griest informed the audience that anyone wishing to testify for any public hearing tonight must sign the witness register for that public hearing. She reminded the audience that when they sign the witness register they are signing an oath.

3. Correspondence

None

4. Approval of Minutes (April 27, 2017)

Ms. Griest entertained a motion to approve the April 27, 2017, minutes.

Mr. Randol moved, seconded by Ms. Lee, to approve the April 27, 2017, minutes.

1 Ms. Griest asked the Board if there were any additions or corrections to the April 27, 2017, minutes, and
2 there were none.

3 **The motion carried by voice vote.**

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5 **5. Continued Public Hearing**

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7 None

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9 **6. New Public Hearings**

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11 **Case 873-AT-17 Petitioner: Champaign County Zoning Administrator Request to amend the**
12 **Champaign County Zoning Ordinance as follows: Part A: Amend Sections 7.1.1 and 7.1.2 to require**
13 **a Special Use Permit for any Neighborhood Home Occupation or Rural Home Occupation that**
14 **exceeds and/or does not meet the other requirements of Section 7.1.1 or Section 7.1.2 provided that the**
15 **Home Occupation is not a prohibited Home Occupation under paragraph 7.1.1.I or 7.1.2.J. and**
16 **specify that the residential use shall remain the principal use on the property, and the dwelling on the**
17 **subject property shall remain the principal building. Part B: Amend Section 7.1.1 to authorize**
18 **“minor auto repair” as a Neighborhood Home Occupation subject to a Special Use Permit when**
19 **located more than 1.5 miles from a municipality that prohibits “minor auto repair” as a home**
20 **occupation and subject to several standard conditions including but not limited to a condition that the**
21 **minor auto repair shall be conducted inside a building and a condition that the total building area**
22 **occupied by the minor auto repair shall not exceed 1,500 square feet or more than 150% of the**
23 **dwelling unit area, whichever is greater.**

24
25 Ms. Griest informed the audience that anyone wishing to testify for any public hearing tonight must sign the
26 witness register for that public hearing. She reminded the audience that when they sign the witness register
27 they are signing an oath.

28
29 Ms. Griest asked the petitioner if he would like to make a statement regarding the request.

30
31 Mr. John Hall, Zoning Administrator, stated that recently it was brought to his attention that the City of
32 Urbana allows minor auto repair as a home occupation, but the County does not, which is an unusual
33 situation. He said that while there are any number of amendments that could be proposed to the Zoning
34 Ordinance, he thought that this is something that homeowners would like to take advantage of, so he
35 presented the amendment to the Environmental and Land Use Committee (ELUC) at their March meeting.
36 He said that ELUC approved the request to forward the amendment to the Zoning Board of Appeals (ZBA)
37 for recommendation. He said that even though the City of Urbana allows minor auto repair as a home
38 occupation, the City of Champaign is heavily opposed to it. He said that he does not know how other
39 municipalities feel about allowing minor auto repair as a home occupation, which is the reason why this
40 recognizes that it cannot be within one and one-half miles of a municipality that does not allow it. He said
41 that the amendment has been constructed to make sure that not too many bad things will happen, but of
42 course, if this were adopted he is sure that there will be violations just as they are today as there are people
43 doing minor auto repair in their garages, or so staff has been told. He said that staff seldom ever gets actual
44 evidence for enforcement action and in his mind, there should be a better way for this to occur within
45 conformance with the Zoning Ordinance, rather than trying to completely shut it down when and if staff ever
46 encounters it.

1 Ms. Griest asked the Board if there were any questions for Mr. Hall.
2

3 Mr. DiNovo stated that since this case will not be finalized at this meeting, he does not expect any of his
4 questions to be fully answered tonight; therefore, staff should take as much time as they need for a response.
5 He said that there were rationales expressed for Case 794-AT-92, which, as he remembers, took one year to
6 complete and normally a text amendment is proposed with an argument that either there is an error in the
7 Ordinance or new information has changed the conditions. He said that during Case 794-AT-92 there were
8 concerns expressed about minor auto repair and the high probability of stuff accumulating on the property
9 due to the minor auto repair. He said that it would be good for staff to indicate new information regarding
10 changed conditions, apart from the City of Urbana’s ordinance. He said that he would guess most municipal
11 ordinances are silent on this issue and they have minimal provisions regarding home occupations. He asked
12 staff how this would affect the one and one-half mile jurisdiction if there were no explicit prohibition or
13 permission. He said that his big questions are in regards to Paragraph 7.1.1.L and 7.1.2.M. that allows
14 expanded uses by a special use permit. He said that variances have been granted for the limits on home
15 occupations, so what is gained by allowing exceedance of those limits by a special use rather than a variance.
16

17 Mr. Hall stated that there is one thing that will be subject to a variance, and that is the distance for parking
18 from a lot line, and that is a function of lot width and lot area and could be justified by the uniqueness of the
19 property. He said that the rest of these things have to do with the operations, and generally, in the Ordinance
20 you cannot obtain a use variance; therefore, to vary the use characteristics a special use permit would be
21 required.
22

23 Mr. DiNovo stated that given the home occupations will remain accessory uses, they would also have to be
24 customarily incidental and subordinate, and he is not 100% clear on how the ZBA’s discretion in granting a
25 special use permit interacts with that limitation. He asked if the ZBA would have to determine what use is
26 customarily incidental and subordinate on a case-by-case basis. He said that the special use provision
27 interacting with the accessory use requirement creates a situation where the Board is potentially allowing
28 accessory uses that might not be otherwise allowed by utilizing the ZBA’s discretion implied by that
29 provision. He said that there is nothing that would prevent the ZBA from overriding the Zoning
30 Administrator’s opinion on that point, and if there was a case with no objectors, and the applicant appears to
31 be a good person, the ZBA could potentially erode the standards that would otherwise apply to accessory
32 uses. He asked how would it be resolved if the ZBA wanted to allow a special use that the Zoning
33 Administrator does not believe is customarily incidental and subordinate. He asked if the Zoning
34 Administrator could refuse to bring a case to the ZBA if the Zoning Administrator determines that a use is
35 not customarily incidental and subordinate. He asked how much flexibility with the home occupations would
36 really be created.
37

38 Mr. Hall stated that as Zoning Administrator, he would not be hung up on what is customarily incidental and
39 subordinate.
40

41 Mr. Randol requested clarification of Mr. DiNovo’s comments.
42

43 Mr. Hall stated that Mr. DiNovo referred to Case 794-AT-92, which is the text amendment that added the
44 current Neighborhood Home Occupation requirement. He said that Case 794-AT-92 should have been
45 included in the Preliminary Memorandum, and is only referred to as the amendments adopted in 1993, which
46 was Case 794-AT-92. He said that staff reviewed Case 794-AT-92 and the minutes specifically reference
47 minor auto repair, and why it was not being proposed to be allowed. He said that he thought that the minutes

1 had been distributed to the Board for review, but they were not and a copy of those minutes would be
2 included in the next mailing, because it is a relevant consideration. He said that the Board does have the
3 benefit of Mr. DiNovo's great experience in understanding what is an accessory use, it is supposed to be
4 customarily incidental and subordinate. Mr. Hall said that he believes that minor auto repair is in fact
5 something that is customarily incidental to residences, because it happens all of the time, and is currently not
6 allowed in the Ordinance, and that is why it is so important, if possible, to amend the Ordinance to allow it.
7

8 Mr. DiNovo stated that his point is that the customary part of the definition is constraining in that, just
9 because it is otherwise incidental to the residential principal use doesn't mean that it is customarily
10 incidental. He said that it is a real headache when people present novel land uses and the special use
11 conceivably loosens that up a lot or at least flips the question as to what qualifies as customary to the ZBA.
12 He asked Mr. Hall if the ZBA would have to make an explicit finding that the proposed use was customarily
13 incidental.
14

15 Mr. Hall stated that he hopes not. He said that he does hope that the ZBA would find that the use is
16 appropriate for the location given the conditions that may be imposed. He said that he does disagree with
17 requiring accessory uses to be something that are customary and incidental. He said that today we
18 understand that society is changing in many ways; it is better to accommodate those changes in the best way
19 that we can.
20

21 Mr. DiNovo stated that the word customary should be removed from the definition, because if the word
22 customary is taken at face value you cannot have anything novel, because nothing novel is customary.
23

24 Mr. Hall stated that there is a whole class of things like that which are problems with the Ordinance, such as,
25 why does a special use permit have to be found to be necessary at that location, because many ordinances do
26 not require that.
27

28 Mr. DiNovo stated that comes from back in the day with electrical substations, fire stations, telephone
29 exchanges, things that were not compatible and should not be there except for the fact that they are necessary
30 and need to go somewhere.
31

32 Ms. Burgstrom distributed her summary of what the minutes for Case 794-AT-92 indicated in regards to
33 minor automobile repair. She said that the summary is a draft of how the evidence might be included in the
34 current case in terms of what the rationale is in having or not having minor auto repair as a home occupation.
35

36 Mr. DiNovo stated that the summary is good, and the comment from Mr. Parnell at the March 12, 1992,
37 ZBA meeting is good evidence regarding an auto repair shop.
38

39 Ms. Griest asked the Board if there were any questions for Ms. Burgstrom and there were none.
40

41 Ms. Griest asked Mr. Randol if he is satisfied with the clarification.
42

43 Mr. Randol stated yes.
44

45 Ms. Griest stated that she appreciates the summary of the previous minutes for Case 794-AT-92 as they
46 relate to automobile repair. She said that she struggled a bit with what Mr. DiNovo was discussing, even
47 though Mr. DiNovo's knowledge regarding how the Ordinance was established and what was intended far

1 exceeds her knowledge. She said that the Board deals with these kinds of things all of the time and the
2 Board could prevent any of these things from becoming a problem by restricting the use through the special
3 use process. She said that the special use process provides the Board with the ability to define what type of
4 outside storage could occur, what type of screening is required for the outdoor storage, the number of
5 vehicles that could be on the property at any given time. She said that she believes that this is a good text
6 amendment, and the Board had a previous case on Airport Road and all of these issues were dealt with and
7 the approval appears to have worked very well for that petitioner.

8
9 Ms. Griest asked the Board if there were any additional questions or comments for staff.

10
11 Mr. Passalacqua stated that he agrees with the text amendment as written.

12
13 Ms. Griest stated that she too agrees with the text amendment as written which would permit the Board to
14 allow minor auto repair as a home occupation as a special use permit that could be regulated. She asked Mr.
15 Hall if the intent is that if the use is not specifically prohibited then it is allowed.

16
17 Mr. Hall asked Ms. Griest if she is referring to Mr. DiNovo's question as to how this will be applied within
18 the one and one-half mile extra-territorial jurisdiction of a municipality that did not explicitly prohibit minor
19 auto repair as a home occupation.

20
21 Ms. Griest stated that she is referring to a municipality that does not prohibit or authorize it. She said that if
22 the municipality was silent then it is allowable.

23
24 Mr. Hall stated that it might be worth including that text so that the Zoning Administrator knows that he is
25 following the direction of the County Board.

26
27 Mr. Passalacqua asked if a municipality that is within one and one-half miles of the subject property would
28 receive notification of a special use?

29
30 Mr. Hall stated yes.

31
32 Mr. DiNovo stated that the problem with the smaller villages is that they generally have part-time zoning
33 administrators, and one might tell you that minor auto repair as a home occupation is allowed and the next
34 one might indicate that it isn't. He said that in order to have consistency from town to town and year to year,
35 it would be better if this was nailed down in the County's Ordinance and not relying on municipal
36 ordinances.

37
38 Mr. Hall stated that he would make sure that the City of Champaign's ordinance explicitly prohibits this use.

39
40 Mr. DiNovo stated that it bothers him that we are delegating our zoning authority, to some extent, to the
41 municipalities. He said that the municipalities could change the way our home occupation rules work by
42 changing their zoning ordinance and it would be a lot better if the Champaign County Zoning Ordinance was
43 just uniform across all of the incorporated territory of the County.

44
45 Mr. Hall stated that it could if it did less, but recognizing the municipal differences is a way to work with
46 them and allow greater freedom. He said that we have to work with the municipalities.

1 Mr. Randol stated that this could be an issue with any municipality.

2
3 Mr. Hall stated that if the subject property were within one and one-half miles from an incorporated
4 municipality then that municipality's ordinance would need to be reviewed, which is why it would be good
5 for this Board to determine the standard. He asked the Board if they want the standard to be what is
6 explicitly authorized or is not explicitly prohibited.

7
8 Mr. DiNovo stated that advantage of saying that the use is allowed unless explicitly prohibited puts the onus
9 on the municipality, and they can change their ordinance if they do not like it.

10
11 Ms. Griest agreed with Mr. DiNovo. She said that she would like the standard to say explicitly prohibited in
12 their ordinance so that it is not an interpretation, but is a clearly delineated standard. She said that if the
13 municipality does not agree and they amend their ordinance, then the Board would abide by the amended
14 ordinance. She said that the one and one-half mile jurisdiction for municipalities is a sore spot for her,
15 because she does not believe that the municipalities should have the authority that they currently have as they
16 far exceed what they are authorized to do. She asked Mr. Hall to indicate which municipality has
17 jurisdiction when their ETJ's meet.

18
19 Mr. Hall stated that there is an explicit agreement between Champaign and Urbana.

20
21 Ms. Griest stated that north of Urbana there was some swapping that occurred within that area.

22
23 Mr. DiNovo stated that at one point, the negotiated line only went so far and their inter-governmental
24 agreement specified that the line only went so far out.

25
26 Ms. Griest stated that the line goes to Ford Harris.

27
28 Mr. DiNovo stated that he does not remember the specifics but there was a problem with the fine line,
29 because as they both continued to annex property there became a point where there was no line. He said that
30 we are also getting to a point where Savoy and Tolono overlap and he does not believe that they have
31 negotiated an annexation boundary. He said that the provisions of the line is an annexation boundary,
32 Champaign can annex west of the line and Urbana can annex east of the line, or an extra-territorial zoning
33 boundary unless we choose to recognize it as such. He said that this Board would need to indicate in the
34 Ordinance that the County would recognize any adopted municipal annexation boundary as the boundary for
35 this purpose. He said that he is not suggesting inclusion of this statement with the proposed amendment, but
36 it should be placed in the basket of things for the future.

37
38 Mr. Passalacqua stated that there are changes to the boundaries every week.

39
40 Mr. Hall stated that he is trying to remember if this concern arises in different portions of the Ordinance, and
41 he is sure that it does at some varying degrees, but this may be the spot in the Ordinance where it would have
42 the most affect.

43
44 Ms. Lee asked Mr. Hall how the one and one-half mile extra-territorial jurisdiction originated.

45
46 Mr. Hall stated that it is a state law.

47

1 Ms. Griest asked the Board if there were any additional questions for Mr. Hall and there were none.
2
3 Ms. Griest asked Mr. Hall to indicate any homework assignments for the Board.
4
5 Mr. Hall stated that he is getting the sense that the Board is in support of the amendment, but no final action
6 can occur tonight. He said that he hopes that the amendment will not take too much of the Board's time,
7 because it seems to be pretty cut and dried. He said that in any amendment that attempts to closely
8 coordinate with the municipal ordinances there is always a chance that it will be mired in disagreements, but
9 he has not heard any of those yet. He said that staff did not provide the full 15-day notice to the
10 municipalities; therefore, no action can occur tonight and we would not want to rush them on this anyhow.
11 He said that he has no outstanding questions, because he believes that the amendment is solid, but the Board
12 may find holes that staff has not seen.
13
14 Mr. Passalacqua asked if the Board could begin the Finding of Fact, or should they wait until a full Board is
15 present.
16
17 Mr. Hall stated that no action can occur tonight, but the Board could walk through the Finding of Fact
18 tonight.
19
20 Mr. Passalacqua asked the Board how they would like to proceed.
21
22 Ms. Griest stated that the Finding of Fact should be reviewed by the whole Board after responses from the
23 municipalities have been received.
24
25 Mr. Randol and Ms. Lee agreed.
26
27 Ms. Griest stated that she is in support of the amendment.
28
29 Ms. Lee asked Mr. Hall if the amendment would affect the farmers.
30
31 Mr. Hall stated that anything considered as agriculture would not be affected by this amendment.
32
33 Mr. DiNovo stated that we are effectively liberalizing Rural Home Occupations and allowing a wider range
34 of home occupations that could generate more traffic.
35
36 Mr. Hall stated that he does believe that is possible. He said that the Rural Home Occupation standards are
37 very liberal and staff does not receive many complaints.
38
39 Mr. Passalacqua stated that the square footage limitation would not allow eight cars in a garage for
40 employees to work on, and at the most there will probably be one vehicle coming in and one going out every
41 two or three days.
42
43 Mr. Hall stated that the amendment might be too nailed down when you consider how someone will manage
44 vehicles coming in for repairs and going out when the repair is completed. He said that the Board might see
45 a swarm of waivers, which would indicate that the amendment is too nailed down and some liberalization
46 needs to occur on the number of vehicles allowed onsite.
47

1 Mr. Passalacqua stated that he would keep the amendment tight until it is begged differently.

2
3 Ms. Griest agreed and stated that if there does appear to be a need for liberalization the Board could consider
4 it at that time if necessary. She said that she would not start out with the amendment being loose.
5

6 Mr. Randol stated that it could be a case-by-case basis when the permit is requested, depending on the
7 amount of property that is available.
8

9 Ms. Lee stated that the requirement that all vehicles parked outdoors on the property must be at least 5 feet
10 from the side and rear property lines appears to be very close.
11

12 Mr. Hall stated that is the current standard for parking of any vehicle. He said that someone could say, why
13 it should not be greater if the vehicle is part of the business, but there really is no difference in the vehicles
14 and there should not be that many outside anyway.
15

16 Ms. Lee asked if the five feet applies to indoor parking as well.
17

18 Mr. Hall stated that the five feet requirement only applies to outdoor parking. He said that as a practical
19 matter the vehicle would be at least five feet when parked indoors, because accessory buildings generally
20 have a five-foot yard.
21

22 Ms. Griest asked the Board if there were any additional questions for staff and there were none.
23

24 Ms. Griest asked staff if there were any questions for the Board and there were none.
25

26 Ms. Griest requested a continuance date for Case 873-AT-17.
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28 Mr. Hall recommended that Case 873-AT-17 be continued to the August 17, 2017, meeting.
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30 Ms. Griest entertained a motion to continue Case 873-AT-17 the August 17, 2017, meeting.
31

32 **Mr. Passalacqua moved, seconded by Mr. DiNovo, to continue Case 873-AT-17 to the August 17, 2017,**
33 **meeting. The motion carried by voice vote.**
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35 **7. Staff Report**
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37 Mr. Hall informed the Board that a change in County working hours might be possible, which may slow
38 things down across the board. He said that nine hour workdays are being discussed, but the Department of
39 Planning and Zoning recommended that the County consider five, seven hour workdays, because it would
40 have less effect on citizens. He said that the Board should not be concerned but staff did want the Board to
41 be aware of the possibility of a change in the workweek for staff. He said that no change would occur until
42 January 1, 2018.
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44 **8. Other Business**

45 A. Review of Docket
46

47 None

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9. Audience Participation with respect to matters other than cases pending before the Board

None

10. Adjournment

Ms. Griest entertained a motion to adjourn the meeting.

Mr. Randol moved, seconded by Ms. Lee, to adjourn the meeting. The motion carried by voice vote.

The meeting adjourned at 7:44 p.m.

Respectfully submitted

Secretary of Zoning Board of Appeals