

**MINUTES**  
**ZONING BOARD OF APPEALS**  
**REGULAR MEETING**  
**Wednesday, November 16, 2016, 4:00 P.M.**  
**Council Chambers, City Hall**  
**109 East Olive Street, Bloomington, Illinois**

Members present: Chairman Briggs, Mr. Brown, Mr. Bullington, Mr. Butts (arrived 4:08PM), Mr. Kearney (arrived 4:02PM), Ms. Meek, Mr. Simeone

Members absent: None

Also present: Mr. George Boyle, Assistant Corporation Counsel  
Ms. Katie Simpson, City Planner  
Tom Dabareiner, Community Development Director  
Kevin Kothe, City Engineer

At 4:00PM, Mr. Dabareiner called the roll. With five members in attendance, a quorum was present. Two members joined shortly after the meeting started. City staff introduced themselves.

**PUBLIC COMMENT** None

The Board reviewed the minutes from October 19, 2016. A motion to approve the minutes was made by Mr. Simeone, as amended to remove an incomplete sentence on page 3; seconded by Mr. Brown. The minutes were **approved** by a 6-0 voice vote.

Mr. Dabareiner confirmed all items were properly published. Chairman Briggs explained the meeting procedures.

Chairman Briggs introduced **Item E** on the agenda. He stated Item E on the Agenda was moved to the first spot on the regular agenda for discussion, given staff's request to layover the case, in case people were in attendance to comment. Ms. Simpson stated Item E regards the consideration, review and approval of petitions submitted by the City of Bloomington Public Works Department on behalf of 16 property owners and properties located between 1200 and 1500 blocks of N. Hershey Road, and within the 2200 and 2400 blocks of Arrowhead Drive and Clearwater Avenue requesting a variance to allow parking in the front yards in a residential district (44.7-2C). She asked that this case be layed over until the next meeting. Chairman Briggs asked if any member of the public was here for this case and there were none.

Mr. Bullington motioned to layover the case; seconded by Ms. Meek. The motion was **approved** by a 6-0 vote by voice vote.

**Z-41-16 Consideration, review and approval of a variance application submitted by Maria T. Feger requesting:**

1) **to allow an accessory structure that exceeds the fourteen (14) foot height maximum;**

**2) to allow an accessory structure with a gross floor area larger than 1000 sq ft or the principal structure, whichever is less; for the property located at 1422 Butchers Lane.**

Chairman Briggs introduced the case. David Armstrong, attorney for the petitioner, and Maria Feger, 1426 Butchers Lane, the petitioner, were sworn in. Mr. Armstrong acknowledged that he knows several members of the ZBA and that he grew up in the petitioner's neighborhood. He stated this is a unique property because of its size of 6.1 acres, bordered by unincorporated land. He noted that the original request from more than one year earlier was turned down by the ZBA and that the petitioner has since moved the accessory building's proposed location and made it smaller. He stated that several dilapidated pre-existing structures would be removed. He noted that he had met with Mr. Dabareiner who indicated the code allows the structure if it is attached to the existing house, becoming part of the principal structure. Mr. Armstrong stated it would be difficult or impossible to do this given the layout of the house. He added that the new proposed location is farther away from existing neighboring residences than last time and shielded by trees. He believes this is the minimum action required for the petitioner to obtain the accessory building. He stated the petitioner did not create the conditions where the existing principal structure is located. He stated his belief that no special privilege would be granted the petition because there are four properties of this size, zoned residential, in Bloomington, but none are bordered by two unincorporated properties.

Mr. Armstrong stated his belief that granting the variance improves the neighborhood by because the RV and other equipment will move inside. Alternatively, he indicated the petitioner could build the structure attached to the house, which he believes is objectionable because it would be seen by more neighbors. He also stated that the petitioner may sell this and two adjacent properties owned by the petitioner, with potential unspecified negative consequences to the neighborhood.

Mr. Armstrong stated he had two letters of support, with one already in the ZBA packet and the second (marked as Exhibit A) distributed at this hearing. He stated two additional exhibits (a diagram marked as Exhibit B and photos marked as Exhibit C) show the new location would have less impact on the mobile home park to the west, although it would be closer. He added that the petitioner would not be conducting a business from the accessory structure. He explained that the petitioner has race cars and the variance would allow centralization of those activities from several properties on to this one.

Chairman Briggs asked for an explanation of the diagram and the photos. Mr. Armstrong pointed out the location of the railroad tracks and the setbacks from the railroad property. Mr. Bullington asked about the other letter in the packet and asked if the letters came from anyone related to the petitioner; Mr. Armstrong stated in the negative and added that ZBA member Mr. Butts is an employee of Mr. Armstrong. Chairman Briggs asked Mr. Butts to recuse himself. Mr. Butts recused himself and left the room.

Susan Schaefer, 1404 Steeplechase Drive, was sworn in. She stated she has known the petitioner since they were teenagers. She stated that the petitioner asked for her advice on options and relocating the proposed building. She believes the new location with the variance would reduce impacts on the neighbors compared with the prior proposal and with attaching it to the house.

Elizabeth Sue Giger, 1408 Butchers Lane, was sworn in. She stated she can see part of the house and favors the proposed new location away from the house.

Chairman Briggs asked if there were any other persons who wished to speak in favor of the petition. There were none. Chairman Briggs asked for comments from any audience members speaking in opposition to the petition.

Elaine Rinehimer, 1506 Sweetbriar Drive, was sworn in. She stated she spoke in opposition at the last hearing and her objections have not changed. She noted the building itself will look fine. She stated the petitioner already has a business at this address but does not know what it is. She expressed concerns about traffic and stated the petitioner's traffic travels at a high rate of speed along Butchers Lane. She stated a concern over what new uses could be housed in the proposed structure. She stated that even if the petitioner limits the use of the building as indicated that future owners of the property may change the use of the building.

Karen Jones, 9 Stetson Drive, was sworn in. She stated her concern about noise from motorcycles in the past from the petitioner's property. She assumes the petitioner will be working on the race cars in the proposed building and is concerned about possible noise. She expressed concern over the impacts on the mobile home park.

Rick Dinser, 1602 Longden Avenue, was sworn in. Mr. Dinser stated granting the variance would provide a special privilege to the petitioner's property. He stated he also owns a large property and asked if the ZBA grants this variance will that open the door for him to build a large accessory building on his lot.

Deb Polzin, 1306 Anderson Street, was sworn in. She stated her neighbor had a large accessory building erected without going through this process and states it is a serious concern as it may impact the value of her property. She questioned if approval sets a precedent and repeated that it affects the property value.

Ms. Simpson presented the staff report. She stated staff opposes both the height and the floor area variances, and reminded the ZBA that the zoning ordinance restricts the height to 14 feet or less, and the gross floor area to that of the principal structure or 1,000 square feet, whichever is less. Ms. Simpson presented photographs of the properties. She stated the proposed structure is about 2,400 square feet and 22.6 feet tall.

Ms. Simpson provided an overview of the property and the area, noting the residential zoning in the area and identifying where the unincorporated areas exist adjacent to the property. She noted the property was annexed into the City by a previous owner. Chairman Briggs asked to review the typical annexation process. Mr. Dabareiner stated this was a voluntary annexation by a prior owner and Ms. Simpson stated the annexation came about due to the desire for a City water main extension to the property.

Ms. Simpson highlighted the petitioner's desire to store a tall RV and several other vehicles in the building. She pointed out that other larger structures in the area are either in McLean County or were annexed into the City with the large buildings. She added that these structures are nonconforming so if they were destroyed they could not be rebuilt, unless they adhered to the 14 foot maximum height and a smaller footprint.

Ms. Simpson reviewed the standards for granting a variance. She stated no physical property-related issues are forcing the building to be larger and that the size stems only from the petitioner's desired use; she stated a conforming smaller structure can still be built. She stated RVs are typically stored off-site in the community and the petitioner's circumstances are self-created directly related to the desire to store larger vehicles on their property. She stated granting a variance would give this property a special privilege because others are expected to meet the code unless proving a physical hardship or practical difficulty. She stated the building will be visible to the mobile home park residents impacting their view. Ms. Simpson stated granting the variance could establish a precedence and increases the possibility that the structure could be used for a commercial use at this location.

Chairman Briggs asked what the maximum height and floor area could be if the structure was part of the house. Mr. Dabareiner clarified that the structure would need to be made part of the house rather than simply located next to the house. Mr. Dabareiner added if it is part of the house there is no limit to the floor area because it becomes part of the principal structure and the height limit for a principal structure is 35 feet. Ms. Simpson added the principal use would still need to be residential. Ms. Meek clarified that if the accessory structure is made part of the house it would be allowed; Mr. Dabareiner stated that there is a difference between principal structures and accessory structures in the code.

Chairman Briggs asked about the other buildings on the property mentioned earlier. He asked about the height of the barn and whether it could be rebuilt if it burned down; Ms. Simpson stated the barn is nonconforming and could be rebuilt only as a conforming accessory structure.

Mr. Armstrong stated that the business on the property is an allowed home occupation, unrelated to the need for the accessory building. He stated there will be no increased traffic with the building other than to consolidate what is already going on. He noted the noise concerns raised by some relate to the previous owner of the property. He stated that Mr. Dinser's lot is quite different from his client's.

Chairman Briggs asked staff how noise concerns may be addressed; Mr. Dabareiner suggested calling the police when the noise occurs.

Chairman Briggs asked how long the petitioner has owned the property; Ms. Feger reported she purchased the property 2 ½ to 3 years ago and Mr. Armstrong stated his client owned the property next door for about 20 years.

Mr. Bullington asked what the physical characteristics of the property are that make compliance with the code difficult, other than merely having a large building to house what the petitioner wants. Mr. Armstrong stated that Petitioner could strictly adhere to the code, but to account for the desired size it would need to be part of the house. Mr. Armstrong stated that the land does not pose a problem which prevents adherence to the code.

Mr. Kearney noted that Mr. Armstrong is conceding the code standard regarding no obstructive physical characteristics. He asked about the other standards and whether this is a problem of their own making; Mr. Armstrong replied that the property is large and the location of the residence was not their decision. Mr. Armstrong repeated that if the ZBA votes in favor, he believes it is an improvement; if the ZBA votes no, either the structure is built

onto the house which will be more visible or his client will sell the properties to someone who could build a subdivision.

Mr. Bullington stated there is not a finding of fact that would allow him to conclude that since he does not like what else can be built there, a variance should be granted. He asked if there is anything in the code to allow that line of thinking. Mr. Armstrong said no, but he believes granting the variance would preserve the neighborhood.

Mr. Simeone stated he has difficulty with the “neighborhood preservation” claim because four neighbors spoke against the proposal. Mr. Armstrong stated he has two letters in favor and stated that some of the people who spoke in opposition are not impacted.

Chairman Briggs reviewed some of the concerns and believes that many were addressed by the new proposal. Mr. Bullington stated that even if he allows the neighbors want this, he cannot reconcile that with the other standards that fail; he added that there are no physical characteristics which require a larger building and believes this would provide a special privilege which others could use to apply for their own variances.

Chairman Briggs stated he believes the consolidation of race car activities argues in favor. He questioned whether the accessory structure could be attached by a breezeway and considered part of the principal structure; Mr. Bullington stated a breezeway is not a sufficient means for attaching the structure to the house.

Chairman Briggs called for a vote, noting that a yes vote is in favor of the petition and a no vote is opposed to the petition. Mr. Brown—no; Mr. Bullington—no; Mr. Kearney—no; Ms. Meek—yes; Mr. Simeone—no; Chairman Briggs—yes. The **petition fails** by a vote of 2-4.

Chairman Briggs stated an appeal to the City Council is possible when the majority vote is less than five in number. He asked the petitioner to work with staff if they wish to appeal. Mr. Butts rejoined the ZBA.

**Z-42-16 Consideration, review and approval of a variance application submitted by Better Way Siding and Windows requesting:**

- 1) **the expansion of a nonconforming structure;**
- 2) **a five (5) foot decrease in the rear yard setback for the property located at 11 Kenyon Ct. to add a sunroom onto the back of the house.**

Chairman Briggs introduced the case. Ryan Pritcher, Better Way Builders, 1501 N. Main, Peoria, and Karen Anderson, the petitioner, were sworn in. Mr. Pritcher stated that the petitioner wishes to create a room for the 90-year old father. He stated the property was in compliance when it was built in 1963 but the zoning was changes, which makes it nonconforming. The proposal would remain within the projected lines of the existing house. He stated they are asking for a five foot variance.

Mr. Brown asked if a ten foot sun room could work since this would not require a variance; Ms. Anderson stated that her father is blind and uses a walker, along with other maladies, and she wants to provide the space needed so it is comfortable and accessible.

Ms. Simpson provided the staff report and recommend against the variances to expand a nonconforming structure and allow a five foot variance from the setback. She provided a history of the property which includes a code change which amended the setback, making the structure nonconforming. She noted the zoning is R-1B and located the property relative to the David Davis Mansion. She stated the sun room as proposed would result in an expansion of a nonconforming structure, which is not allowed under the zoning code.

Mr. Bullington asked for the lot dimensions; Ms. Simpson did not have those figures. She reviewed the standards for granting a variance. She stated alternative layouts are feasible which would not trigger the variance and added that other properties in the area meet the larger setback.

Mr. Bullington asked whether space existed on the lot to build a conforming house; Ms. Simpson stated in the affirmative. Mr. Kearney asked whether the size of the lot can be a physical hardship; Ms. Simpson stated that it could be but not in this case. Mr. Dabareiner estimated the lot dimensions as about 100 by 100 feet. Ms. Meek asked if there is a code-related lot coverage maximum; Ms. Simpson replied the lot coverage is limited to commercial properties. Mr. Brown asked if the petitioner could build a covered porch; Ms. Simpson stated they can have a deck, but not a porch. Chairman Briggs stated this is similar to building an additional room and clarified what could be built; Mr. Dabareiner stated the nonconformity expansion is due to violating the setback in this case and that a conforming sunroom is possible without a variance if it extends 10 feet instead of the proposed 15 feet. Ms. Meek asked whether the hardship was created by the City by changing the code; Mr. Dabareiner stated amending the code is done intentionally in some cases to limit the continuation of nonconformities and that no code changes could be applied anywhere if they are considered a hardship. Mr. Kearney stated he believes the father's situation is a special circumstance not created by action of the applicant and he added that the ZBA has approved other variances similar in nature. There was general discussion about what makes a building nonconforming and what constitutes its expansion.

The petition is **approved** by a 4-3 vote with the following votes recorded: Mr. Brown—no; Mr. Bullington—no; Mr. Butts—no; Mr. Kearney—yes; Ms. Meek—yes; Mr. Simeone—yes; Chairman Briggs—yes. Both variances are approved.

**Z-43-16 Consideration, review and approval of a variance application submitted by Ethan and Nancy Evans requesting a front yard setback of eighteen (18) feet and five (5) inches from the neighborhood average of twenty (20) feet and four (4) inches for the property located at 505 S Moore Street to construct a front porch.**

Chairman Briggs introduced the case. Mr. Kearney noted that he lives across the street from the property and asked if the board or the parties had objections to his participation in the case. Mr. Boyle asked Mr. Kearney if he could judge the case fairly and if he had no financial or other disqualifying interests in the property. Mr. Kearney indicated in the affirmative. There being no objections from the City, Mr. Evans or others, Mr. Kearney continued to participate.

Ethan and Nancy Evans, 507 S. Moore Street, and Todd Romine, 808 Jersey Avenue, Normal, the contractor, were all sworn in. Mr. Evans stated they wish to build a porch and he referred

to the packet for the design. He noted the design is consistent with this type of house and that a similar one exists across the street. He said staff measured the house-to-setback distances for his house and neighboring houses and believes it was done incorrectly. He referred to the code and the averaging requirements, as well as the definitions for building and structure; consequently he believes the requested variance amounts to inches and not feet.

Mr. Evans stated that the building met setback requirements in the 1920s when the house was first constructed and most houses in the neighborhood have porches. He stated he needed a workable depth of at least eight feet, because a four foot table with chairs will require ten feet to fit on the porch. He stated no special privilege is given because most the neighboring houses have a porch. He believes the porch would fit in with the house and the neighborhood.

Mr. Bullington asked if ten feet is truly the minimum needed, when the building code requires only seven feet. Mr. Evans stated that the seven feet refers to a room, not a porch with table and chairs.

Mr. Simeone noted the petitioner's calculations show a difference of 8 inches between the staff's calculation and the petitioners; Mr. Evans replied in the affirmative.

Chairman Briggs noted that the corner lots on the block created a disadvantage when averaging setbacks because they are setback even more and that if a different system were used from that provided for in the code using only nearby houses the average setback would be much smaller.

Mr. Brown asked if the ten feet depth is providing the usable space desired; Mr. Evans replied in the affirmative.

Ms. Simpson provided the staff report and recommended against the variance. She presented photos of the property and the neighboring properties. She provided a brief history of the house. Staff believes a smaller porch with a seven foot depth could be built and would not require a variance. She concludes there are no physical hardships preventing constructing a compliant front porch. She states other properties have porches in the neighborhood and some are legal nonconforming while others are in compliance with current codes.

There was additional discussion about how to calculate setbacks and the average. Ms. Meek stated the block average is reduced just six inches if the variance is granted so the impact is minimal. Chairman Briggs asked again about the corner lots potentially skewing the calculations against the petitioner; Mr. Dabareiner stated that the averaging is to be based on the full block, not a subset of the block, and reminded everyone that the averaging tool is a way to be more forgiving in older neighborhoods.

Ms. Evans stated she is a designer and measured area porches and determined what size was best for the architecture and the use.

The petition was **approved** by a 6-1 vote with the following votes recorded: Mr. Brown—yes; Mr. Bullington—no; Mr. Butts—yes; Mr. Kearney—yes; Ms. Meek—yes; Mr. Simeone—yes; Chairman Briggs—yes.

**Z-44-16 Consideration, review and approval of a variance application submitted by Public Building Commission of McLean County requesting**

- 1) an increase the maximum floor area from 100% to 121%;**
- 2) a side yard setback of twelve and a half (12.5) feet in lieu of the required setback of one third (1/3) the building height for the property located at 104 W Front Street to as part of the McLean County Law and Justice Center expansion project.**

Chairman Briggs introduced the case. Don Adams, Farnsworth Group, and engineer for the project, and Eric Schmidt, McLean County, were both sworn in. Mr. Adams stated the County has been considering this project for a long time. He said the primary drivers are growth in the area and the nature of inmate mix and how they are treated. He stated the County considered building this outside the corporate limits or atop the existing jail or adjacent to the jail, with the decision resting on the last option for a variety of reasons. He added that the option that worked best is to the east of the existing jail, and there are several challenges faced by the County with this location. The site is zoned S-2, which has more restrictive bulk requirements not found in the adjacent B-3 district, he stated, but the desire is to achieve some of the same feel as a downtown with the building close to the sidewalk. Mr. Adams mentioned that the site is landlocked given constraints posed by utilities and believes this is the actual minimum space needed to meet the required services within the proposed jail.

Ms. Simpson provided the staff report and recommended in favor of both the needed variances. She presented photos of the existing jail and the site. She noted how the zoning code was not able to handle a new jail as efficiently as desired. She showed the dimensions of the affected lot, amounting to 4.23 acres. She explained how the code restricts building height using floor area ratio concepts and affects setbacks. Ms. Simpson stated that this is a highly visible location and the empty parking sends a bad message to people entering our downtown and also that we want to see a building mass compatible with a downtown design. She identified the some of the unusual site characteristics, such as the triangular shape of the lot and its extreme slope to the south. She noted the utility corridors in and around the property. She added that staff looked for other solutions like a rezoning. She concluded that staff does not believe the design and layout, with the variances, as proposed harms the downtown.

The petition was **approved** by a 7-0 vote with the following votes recorded: Mr. Brown—yes; Mr. Bullington—yes; Mr. Butts—yes; Mr. Kearney—yes; Ms. Meek—yes; Mr. Simeone—yes; Chairman Briggs—yes.

**OTHER BUSINESS:**

None

**NEW BUSINESS:**

**Discussion and vote to hold or cancel the December ZBA Meeting scheduled for December 21, 2016**

Ms. Simpson asked if the ZBA wished to meet in December given the proximity to the holidays. Ms. Meek asked if we had any cases; Ms. Simpson replied that other than the case laid over, no. Mr. Dabareiner explained that that case may not return to the ZBA at all as other options were under consideration. Chairman Briggs polled the board and only Mr. Simeone indicated he would not be available.



**Vote to approve Zoning Board of Appeals meeting dates for 2017**

Chairman Briggs mentioned the calendar item. The calendar was **approved** unanimously by voice vote.

**Open Meetings Act**

Chairman Briggs asked if commissioners and board members needed to renew their Open Meetings Act certification every year. Mr. Dabareiner replied he did not think so but would check and report back if members needed to do so.

Adjournment was unanimous by voice vote at the request of the Chairman.

ADJOURNMENT: 6:15PM

Respectfully,

Tom Dabareiner AICP  
Community Development Director