

MINUTES OF ZONING AND PLANNING COMMISSION / ZONING BOARD OF APPEALS MEETING

July 14, 2011

7:30 P.M.

1. Roll Call/Call to Order
2. Approval of minutes of Zoning and Planning Commission / Zoning Board of Appeals for meeting held on April 28, 2011
3. Case Number 11ZBA-06/Mason Fence Variation
Request for Fence Height Variation, from three (3) feet to six (6) feet for property commonly known as 425 S. Arlington Avenue (PIN 06-02-111-001)
Public Hearing – all properties within 500 feet have been notified
4. Case Number 11ZBA-07/Spudeas Variation
Request for Rear Yard Variation of seven (7) feet, from thirty (30) feet to twenty-three (23) feet for the purpose of constructing an addition on property commonly known as 444 E. Madison Court (PIN 06-13-207-020)
Public Hearing – all properties within 500 feet have been notified
5. Other Business

Commission Members Present: Brinkmeier, McCoyd, Mushow, Slone, Whistler

Commissioner Members Absent: Corrado, DeWitt, Frolik, Hill

City Staff Present: Werner

After a roll call establishing a quorum, Chairman Whistler requested a motion to approve the Zoning and Planning Commission meeting minutes for April 28, 2011. Commissioner Brinkmeier moved to approve the minutes of the April 28, 2011 Z&P Commission meeting as written. Commissioner Slone seconded and, with a voice vote being all ayes, the motion passed.

Chairman Whistler opened the public hearing for Case # 11ZBA-06/Mason Variation, which is a request for a fence height variation in the corner-side yard from 3 feet to 6 feet on property commonly known as 425 S. Arlington Avenue. After testimony was received from the Applicant and there being no interested parties in the audience, Chairman Whistler closed the public hearing portion of this case. Commissioner Slone moved to deliberate this case this evening. Commissioner McCoyd seconded and, with a voice vote being all ayes, the motion passed.

Chairman Whistler opened the public hearing for Case # 11ZBA-07/ Spudeas Variation, which is a request for a rear yard variation of seven (7) feet, from 30 feet to 23 feet, for the purpose of constructing an addition on property commonly known as 444 E. Madison Court. After testimony was received from the Applicant and there being no interested parties in the audience, Chairman Whistler closed the public hearing portion of this case. Commissioner Brinkmeier moved to deliberate this case this evening. Commissioner McCoyd seconded and, with a voice vote being all ayes, the motion passed.

The Zoning Board of Appeals then deliberated Case # 11ZBA-06/Mason Variation. The Board reviewed the Standards for Variations and noted that the Applicant has met all of the Standards. The Zoning Board of Appeals, on a motion duly made and seconded, then voted unanimously to approve the request for fence height variation. Note: The Zoning Board of Appeals, pursuant to 3.8-6k of the Elmhurst Zoning Ordinance, has final authority in this case.

The Zoning Board of Appeals then deliberated Case # 11ZBA-07/Spudeas Variation. The Board reviewed the Standards for Variations and noted that the Applicant has met all of the Standards. The Zoning Board of Appeals, on a motion duly made and seconded, then voted unanimously to recommend approval of the request for fence height variation. This Case will be forwarded to the City Council for their review and determination in this case.

Other Business –Based on observing a decision by an attorney from the City’s legal team given at a recent City Hall Adjudication Hearing to not allow signed letters into the record if the one who signed was not in attendance, Than Werner was asked to seek clarification from the City Attorney regarding how the Z&P Commission handles such situations at Public Hearings held by the Commission.

Mr. Werner reported that the City Attorney advises that there are different legal guidelines governing adjudication hearings than those applying to zoning case public hearings. He advised that the current Z&P Commission practice to accept for the record appropriately signed letters/memos/petitions from either the applicant or other interested parties, when the signer (s) is not present at the hearing, is a proper practice to follow. Also, it is appropriate to call comments made by either the applicant or interested parties at public hearings as “hearsay evidence” when those being quoted are not in attendance. In either case, each Commissioner shall base their reliance on such reported remarks accordingly.

Understanding that the City Attorney has explained to Members of the City Council that there are new rules relative to allowing public comments at public meetings, Mr. Werner was asked to seek a City Attorney opinion as to how this new ruling applies to zoning case deliberation meetings conducted by the Zoning and Planning Commission/Zoning Board of Appeals.

Mr. Werner reported that the City Attorney advised that the current practice carried out by the Commission is appropriate under this new ruling. To not allow “new testimony” from attendees at deliberation sessions is appropriate. It is proper for the Commission to seek “clarification” of prior testimony and/or information submitted. Deliberation is considered part of the public hearing process and, as such, the public had their opportunity to address the Commission/Board during the public hearing portion of the process.

Mr. Werner briefed the Commission on the status of Case #10P-12/York High School Field Lights and PA System stating that the DPZ Committee recommended approval of the Zoning & Planning Commission’s recommendations with two (2) changes: that the start of the spring season be changed from March 15 to March 1 to reflect more recent information relative to the start time of spring sports, and that the start of lighting system use may begin at 5:30 AM instead of 7:00 AM on Mondays thru Fridays. The DPZ Committee noted that

the change to the morning start time was a result of the installation of new lighting fixtures by the start of the fall 2011 semester.

Mr. Werner advised that the City Council, as Applicant, has authorized the Zoning and Planning Commission to hold a public hearing on the issue of notification of Zoning Ordinance Text Amendments which will be scheduled for public hearing in September, 2011. Mr. Werner advised that the next meeting of the Commission will be on August 11, 2011 with one public hearing for Visitation Church request for amended conditional use for an electronic sign.

The meeting was adjourned at 9:00 P.M.

Submitted by: Nathaniel J. Werner AICP, Planning and Zoning Administrator