

City of Charleston
BOARD OF ZONING APPEALS AND PLANNING
CITY COUNCIL CHAMBERS

520 Jackson Avenue
Charleston, Illinois
Thursday, May 16, 2019
7:00 p.m.

MINUTES

The **regular meeting** of the Charleston Board of Zoning Appeals and Planning scheduled for 7:00 p.m. was called to order on Thursday, May 16, 2019, at 7:02 p.m. by Ryan Siegel, Chairman.

Chairman Siegel directed the City Clerk to call the roll and the following answered present to the call of his or her name.

Board Members **Present:** Pat Adair, Tim Jacobs, Jill Nilsen, Ryan Siegel, Jason Wavering, and Jim Wood.

Board Member (s) **Absent:** Lexe Volk.
A quorum was present.

Staff members Present: City Planner Steve Pamperin; Building Code Official Alex Winkler; and City Clerk Deborah Muller.

Chairman Siegel welcomed everyone and explained that the meeting was being tape-recorded and explained the Board's procedures.

Chairman Siegel explained the order that would be observed after presentation of the petition:

1. Questions from the Board and Petitioner response.
2. Questions from the audience and Petitioner response.
3. Anyone present wishing to speak in favor of the petition.
4. Anyone present wishing to speak against the petition.
5. Petitioner response.

6. Board Discussion.
7. Call for a vote.

The next order of business was approval of the minutes.

A **motion** was made by Jim Wood and seconded by Pat Adair to approve the **Minutes** from the regular meeting of the Board of Zoning and Appeals & Planning on March 28, 2019.

A Roll Call vote showed Board Members Adair, Jacobs, Nilsen, Wavering, Wood, and Chairman Siegel voting in favor of the motion.

Motion carried with 6-Yeas, 0-Nays.

Chairman Siegel then introduced Item #4 on the agenda:

Item 4. The Petition of Zimmer Real Estate Properties, LLC for a Zoning Map Amendment (change in zoning district boundaries / rezoning) from R1 – Single-Family Residence District to R-3 Limited Multi-Family Residential District.

All on a tract of land described as:

A PART OF THE NORTH 925 FEET OF THE EAST HALF (E ½) OF THE NORTH-WEST QUARTER (NW ¼) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION 15, TOWNSHIP 12 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING IN THE WEST LINE OF DIVISION STREET AT A POINT WHERE THE NORTH LINE OF GRANT STREET IF EXTENDED WEST WOULD INTERSECT SAID WEST LINE OF DIVISION STREET, THENCE NORTH ALONG THE WEST LINE OF DIVISION STREET 120 FEET, THENCE DUE WEST 157 FEET AND 9 INCHES, THENCE SOUTH PARALLEL WITH DIVISION STREET 120 FEET, THENCE EAST 157 FEET AND 9 INCHES TO THE PLACE OF BEGINNING IN THE CITY OF CHARLESTON, COLES COUNTY, ILLINOIS.

The property is more commonly known 1540 Division Street, Charleston, Illinois 61920 / City of Charleston Tract (PIN 02-1-01134-002).

Chairman Siegel asked that those wishing to speak be sworn in at that time and proceeded to swear them in *en masse*. He noted that they would need to approach the podium and state their names and addresses for the record when they spoke.

Jason Williams, 1311 Bell Avenue, Mattoon, speaking on behalf of the Petitioners, said that he worked with and for Zimmer Properties, LLC. What the petitioners were requesting to go through the proper channels of re-zoning of the subject property from R-1 Single Family Residence to R-3 Limited Multi Family Residence. He said that the location was highly sought after due to its proximity to the University. He noted that all of the properties across the street were already zoned correctly.

City Planner Pamperin asked for clarification on what Mr. Williams meant by zoned correctly.

It was determined that the east side of Division Street was zoned R-3, and that was what Mr. Williams meant when he said that it was zoned correctly.

Mr. Pamperin noted that on the application he had made a correction from zoning variance to zoning map amendment and he also asked Mr. Williams if the application could be entered as an exhibit.

Mr. Williams said that he was okay with that.

Mr. Williams had received a letter from the City with regard to over-occupancy. R-1 by definition allows for 3 people unrelated. A brother and sister would be considered family, and then you could have 2 more for a total of 4. But there were more than 3 unrelated occupants living there. And they did make arrangements to relocate the number over 3 to other locations. So, they got back down to 3 occupants.

Mr. Williams said that there had not been as many as 6 occupants there.

Board Member Nilsen asked whether the primary reason for this zoning map amendment was to provide for an increase in occupancy.

Mr. Williams affirmed this.

Chairman Siegel noted that the boundaries needed to stop somewhere. He asked if the Petitioner had a suggestion as to where the appropriate boundary should be.

Mr. Williams said that with the east side of Division already zoned R-3, the west side of Division should be zoned R-3 as well. There was already a duplex on the west side of Division Street. He didn't believe it was habitable, but

Board Members asked How long have the owners had owned the property. It was purchased in 2012.

Were they aware that it was R-1 when they purchased the property?

Mr. Williams did not know.

What are the parking requirements for this location?

Mr. Pamperin said that it was 1.33 spaces per occupant.

Mr. Williams asked how many occupants there were.

Mr. Jacobs said that they would need to have 7 parking spots then.

Mr. Williams said that they would need to add some parking to be in compliance, which they were willing to do.

How much did they pay for the house?

Mr. Williams did not know.

Board Member Jacobs asked how far the R-1 extended.

City Planner Pamperin said that it ended at Johnson Avenue.

There was discussion with regard to the zoning boundaries.

Chair Siegel asked if there were any more questions from the Board. There were not.

Chair Siegel asked if there were any questions from the audience.

Steve Bridges, 5 Orchard Drive, said that the back yard of his home was adjacent to the house. He said that he had lived there since 2006. He said that he had dealt with numerous fraternity parties over the years. He said he appreciated small businesses. But he asked where did it all end? His property was R-1. The number of times that he had had to call local law enforcement. He didn't want to look out at his back yard and see problems. He wanted to know what his company would do to prevent this sort of behavior, so that he could live in his home.

Mr. Williams apologized for the bad behavior of the students. What they had in place was, they did have a security guard on staff. He said that Mr. Bridges could reach out to him personally to make sure the security guard was on top of it. He suggested that he definitely reach out to law enforcement to try to aid him in the situation. They could do a lot of unique things; they were into students. They could call their security guard. More than that, they all had families. He said that he was more than willing to share his personal phone number, so that they could reach out to him, and they could quash the undesirable behavior. He said that it took respect on both ends, and they had to honor their neighbors.

Mr. Wood as a follow-up question asked what would happen with the next owner who was not EI Properties.

Mr. Williams said that he couldn't speak for future owners. He said that he would like to think they would put on the best shoe going forward.

Mr. Jacobs asked if there were any plans to raze the house and build a different building if it went to R-3.

Mr. Williams said there were no such plans.

Mr. Jacobs asked specifically for the footprint of this property, what could be built on this property if it was re-zoned an R-3 property?

Mr. Pamperin said that he would look up the answer while they proceeded with their questions.

Mr. Jacobs said that as a Board Member, he was tasked with looking a hundred years out in order to make a reasonable decision with regard to what could happen on that property.

Mr. Adair added that there could be a house built on stilts with parking underneath.

Chair Siegel asked if there were any other questions from the audience.

Douglas Brandt, 4 Orchard Drive, asked if the Board could answer a question. If it allowed 2 occupants per bedroom—could this allow 5 rooms with 10 occupants? Would this require 13 parking spaces?

Mr. Williams said that they did not rent to multiple tenants in each apartment. They had never done this. But going back to Mr. Wood's original statement—if someone else purchased it—he did not have an answer for it. They did not have any plans to sell off any of their portfolio. He did not have control over subsequent owners. They had a lot invested in Charleston. He wanted to make the experience in Charleston a better experience.

Mr. Pamperin, getting back to the earlier question from Mr. Jacobs, said in that in an apartment setting, a Lot size 150' x 110'—the number of units could be up to 6 units. Another form is multi-person in a single dwelling. But, the apartment building would be up to 6 units possible. They would also have to qualify with parking, etc.

Ms. Nilsen asked if the 6 units could house up to 4 occupants per unit.

Mr. Pamperin said that based on parking and bedrooms—there were limitations. If you met these limits, and if you made these requirements. It was hard to do the math until you saw the site plans.

Chair Siegel asked if there were any other questions.

There were none.

Chair Siegel asked anyone wished to speak in favor of the petition. No one spoke.

Chairman Siegel asked if anyone wished to speak in opposition to the petition.

Sallie Cougill, 935 6th Street, said that she vehemently opposed this change and asked that the Board deny the petition. She asked the Board to take a walk down memory lane as she recalled what the street looked like 30 some years earlier. She had married and left Charleston for 30 years, but returned and purchased the house of her dreams, which needed a lot of restoration by then, but she had been in the house since 1992 now. While there were still houses being lived in

by families, the rest were rentals, and these houses were not maintained on the level that family homes were maintained. She said that she had watched this transition. And while she believed that EI Properties would try to maintain their properties, there was no guarantee that subsequent owners would maintain these homes.

Ms. Cougill maintained that there was plenty of housing available to incoming students. She said it was depressing to those who lived there. And it was economically depressing because their property values were going down. She begged the Board to vote against this because it not only affected those living there, it affected their way of life.

She appreciated that the company was bringing business into town, but she felt that the Board owed it to the existing citizens to protect their homes from certain decline. She noted that she had to carry hedge clippers with her when she took her dog for a walk because the overgrowth from unattended properties spilled onto the sidewalk to the extent that she couldn't walk on the sidewalks.

She noted that the overgrowth was in addition to the continual puking and peeing on the sidewalks.

Chairman Siegel asked if anyone else wished to speak in opposition to the petition.

Donna Wood, 1520 Division Street, said that one of the basic issues was jumping from an R-1 neighborhood to an R-3. By zoning one lot, eventually, the goal would be to turn all of this into R-3. Typically, you would go gradually from R-1 to R-3. More disturbing to her was why an investor would buy a big house that was R-1 when they couldn't rent to more than 3 unrelated occupants. They knew this, and they rented to more than 3 unrelated, and now they wanted to change it to make it work for them. Yes, across the street, it was zoned R-3. They had purchased 3 houses across the street from their own home to try to maintain some control over their neighborhood. The houses they hadn't purchased were out of control. She didn't want that sort of behavior on her side of the street.

She maintained that there was plenty of R-3 zoning in the City, they didn't need more. And while this company did maintain their properties, it concerned her that they had purchased this house knowing the zoning. They had broken the zoning laws, and had purchased this with the intention of changing the zoning.

Pam Atteberry, 20 West Johnson Avenue, said she had lived there since 1988 and her house backed on the Brandt's property. She said that what Sallie Cougill and Donna Wood had said was very accurate. It was a slippery slope if they went from R-1 to R-3 in this neighborhood where there were already a number of apartments that were not filled already. She didn't like the idea of their getting their way by coming in the back door in order to rent to more occupants.

The house was built for a large family. She didn't like the idea of their coming in the back door wanting to rent to more than were allowed by law. And everyone had seen the driveway clutter with the too-many cars. If this home went, the house to the north would go—she just saw bad things happening. She said she wasn't planning to move, but they had to listen to the screams

and the noise. She hoped that the Board would consider them. The police tried to keep things under control. It was their space, too. Not just the students' space.

Doug Brandt said that he wanted to clarify that those of you have a map, the R-1 properties were closer to their properties than the R-3 properties which were across the street.

Steve Bridges said that he was also very passionate about this. He hoped the Board would vote down this proposed change. His home was there. He had had to explain to his children what these men were doing in the back yard naked. He had lived with the retaliation for calling the police for what they were doing. The signs thrown in his yard, the beer cans, the naked men in his yard, the disrespectfulness. The expletives that he had been called. He said that they had bought that house as an R-1. They knew it when they bought it. And since they bought it, the house had been a party house. He had just spent \$14,000 remodeling his driveway and patio so that he could use it. They had a fire going in their back yard. You have to draw a line somewhere. He told the Board that they had the line drawn, they would have to hold it. He asked the Board Members to think how they would feel if it were their homes, and the occupants adjacent to them came and threw their bottles and trash there, because that was what they did.

Chair Siegel asked if anyone else wished to speak in opposition to the petition.

No one came forward.

Seeing none, Chair Siegel asked Mr. Williams if he wished to respond to the opposition.

Mr. Williams said that he was sorry for the experiences of the homeowners. He felt bad for them. He said that he was there on behalf of the company. They were trying to go through the proper channels for change, and it would be beneficial to have the change to R-3, but while they owned it they would try to keep it in line. Most of the occupants were typically athletes. With this proximity to the University.

Chairman Siegel thanked the Petitioner and called for Board Discussion.

Board Member Jacobs asked when they had last re-zoned the map.

Mr. Pamperin said that it had been re-zoned in 2009.

Board Member Wood said that they had discussed this very issue. They had initially looked at zoning the east side of Division as R-2 for a natural stepdown. The discussion at that time was the idea of protecting the entire neighborhood from an abrupt change, but they were threatened with a lawsuit if they pursued the R-2 by a certain landlord.

Board Member Jacobs said that they had looked at every neighborhood in town.

Adair said that protect was the right word.

Board Member Jacobs said that he appreciated that the petitioners were trying to do the right thing. What scared him was that when this group left you could have a 6-unit apartment building down the road.

Board Member Wavering said that this property was nice, and the petitioners did take care of their properties. But spot zoning was a problem.

Mr. Pamperin noted that the term spot zoning had been used twice. He explained that because this property was adjacent to an R-3, it was not a question of spot zoning. By definition it would need to be surrounded completely on all sides by a different zoning to qualify as spot zoning.

Wood said that nonetheless from a practical standpoint it was, but from a legal standpoint it was not.

Board Member Nilsen said that they had heard some heartfelt testimony from residents but did not hear anything from the landlord except financial benefits.

Mr. Williams said that he did not personally live there, so he could not provide the heartfelt testimony that the actual residents could.

Board Member Wood said that the duplex that was there was one of the barracks that the University had on campus and moved to this location in 1954 when he was a small child. At one time it was occupied by Buzzard G. Laboratory School Principal Donald Gill and by Paul Bodine, a professor at EIU.

He noted that it was a legal non-conforming building. He said that he would love to buy it to ensure the zoning, but they were asking too much for it. He had purchased it when he was 20 and his wife 19, but sold it 3 years later.

Chair Siegel noted that if there were no further comments, he would call for a motion on the petition.

A **motion** was made by Tim Jacobs and seconded by Pat Adair to approve the petition for a Zoning Map Amendment from R-1, Single-Family Residence District to R-3, Limited Multi-Family Residential District.

A Roll Call vote showed Board Members Adair, Jacobs, Nilsen, Wavering, Wood, and Chairman Siegel voting in opposition to the motion.

Motion failed to carry with 0-Yeas, 6-Nays.

City Planner Pamperin said that the petition would go before City Council with an unfavorable recommendation at 6:30 p.m. on Tuesday, June 4, 2019.

Mr. Pamperin explained that if the Petitioner decided to proceed, there would be no further testimony at the Council Meeting.

Mr. Pamperin asked that Mr. Williams reach out to the Petitioners to find out whether they wished to proceed or not. And then to contact the City Clerk to let her know whether to place it on the Council agenda or not.

Old Business: None.

New Business: City Planner Pamperin said that there would be a meeting of the Board on May 30, 2019. There was another petition, and that information would be forthcoming soon.

It was noted that Board Members Jacobs and Wavering would not be able to attend.

A Roll Call vote showed Board Members Adair, Jacobs, Nilsen, Volk, Wavering, Wood, and Chairman Siegel voting in favor of the motion.

Chairman Siegel said he would entertain a motion to adjourn.

A **motion** was made by Jill Nilsen and seconded by Jim Wood to adjourn.

A Roll Call vote showed Board Members Adair, Jacobs, Nilsen, Wavering, Wood, and Chairman Siegel voting in favor of the motion.

Motion carried with 6-Yeas, 0-Nays.

Adjournment: 8:10 p.m.

Respectfully submitted,

Secretary Lexe Volk

Deborah Muller
City Clerk/Recording Secretary