

CITY OF OLNEY  
BOARD OF APPEALS  
MAY 1, 2023

AGENDA #1 “CALL TO ORDER” The May 1, 2023, meeting of the Board of Appeals was called to order at 7:00 p.m. in the Council Chambers of the Olney City Hall, 300 S. Whittle Avenue, Olney, Illinois, by City Clerk Kelsie Sterchi.

AGENDA #2 “ROLL CALL” The following Board of Appeals members were present: Kurt Ginder, Scott Jones, Bridgett Jensen, Brad Williams, Samantha Brazil, Pat Everette, and David Abell. Also present were Code Enforcement Officer Dallas Colwell, and City Clerk Kelsie Sterchi.

AGENDA #3 “ESTABLISH A CHAIRPERSON” Mrs. Sterchi advised those present that after the last meeting of the Board of Appeals, a member had resigned. That member had also been the Chairperson of the Board. Brad Williams had been appointed to fill the vacancy, so the Board would need to establish a new Chairperson.

Mr. Everette moved to nominate David Abell as Chairperson, seconded by Mr. Ginder. Mr. Ginder, Mr. Jones, Mrs. Jensen, Mr. Williams, Mrs. Brazil, Mr. Everette, and Mr. Abell voted yes. There were no opposing votes. The motion carried. Mr. Abell then took control of the meeting.

AGENDA #4 “APPROVE MINUTES OF THE BOARD OF APPEALS MEETING ON APRIL 3, 2023” Mr. Abell reminded the Board that even though they had met on April 3, 2023, there were irregularities in the meeting that made the actions of the meeting null and void. However, enough members were present to have constituted an actual meeting of the Board, so minutes would be required.

Mr. Jones moved to approve the minutes from April 3, 2023, seconded by Mr. Everette. Mr. Ginder, Mr. Jones, Mrs. Jensen, Mr. Williams, Mrs. Brazil, Mr. Everette, and Mr. Abell voted yes. There were no opposing votes. The motion carried.

AGENDA #5 “SWEARING IN” Mr. Abell asked that anyone wishing to testify on behalf of the items being discussed to stand and be sworn in. City Clerk Sterchi asked the individuals to stand, raise their right hands, and “swear to tell the truth, the whole truth and nothing but the truth so help me God.” Ryan Blank, Wesley Bell, Belinda Henton, Anthony Troester, Jack Shuster, Greg Eyer, and Kelly Eyer were sworn in.

For the sake of keeping an appropriate flow to this evening’s lengthy meeting, Mr. Abell requested that anyone wishing to speak on any topic limit their presentation to five minutes.

AGENDA #6 “PUBLIC HEARING: VARIANCE REQUEST FOR LOT 21 ON WHITE OAK ROAD” Ryan Blank had submitted a Request for Variation for Lot 21 on White Oak Road, Olney, Illinois, Property Index Number 06-25-401-23. The petitioner was requesting a variance in the front yard setback to allow for a 17-foot front yard setback rather than the 25-foot front

yard setback required in Title 17 (Zoning) of the City of Olney Municipal Code. The granting of the variance would allow the petitioner to build a house with porch and garage.

Mr. Abell asked if any members of the public wished to speak on this request. No one from the public wished to speak.

**AGENDA #7 “VARIANCE: LOT 21 ON WHITE OAK ROAD”** Mr. Abell asked if the Board had any questions. No one from the Board had questions.

Mr. Abell asked the Board if they saw any issue with variance in regard to the size, location, and current use of the property. No one from the Board stated any issue.

Mr. Abell then noted that the zoning of nearby property was no different and was suitable for the area. The need for the proposed variance would be for residential construction.

Mr. Abell asked if the Board had any differing views. No one from the Board stated any issue.

Mr. Abell asked Mr. Blank if the variance requested was due to a creek on the property. Mr. Blank indicated so. There was a creek in the back of the property that would make a steep final grading for the proposed walk-out basement without the variance.

Mr. Abell asked if the variance would keep the residence in line with the other homes in the area. Mr. Blank indicated so and added that the variance would not obstruct traffic, views, water flow, etc.

Mr. Abell asked if the variance would diminish property values. Mr. Blank stated that property values would not be negatively affected.

Mrs. Jensen moved to approve a 17-foot front yard setback for Lot 21 on White Oak Road, seconded by Mr. Everette. Mr. Ginder, Mr. Jones, Mrs. Jensen, Mr. Williams, Mr. Everette, and Mr. Abell voted yes. Mrs. Brazil abstained. The motion carried.

**AGENDA #8 “PUBLIC HEARING: VARIANCE REQUESTS FOR 301 LARCH DRIVE”** Tony & Julie Brooks had submitted Requests for Variation for 301 Larch Drive, Olney, Illinois, with Property Index Number 11-03-405-028. The petitioners requested a variance to allow for a 20-foot setback on Larch Drive rather than the 25-foot front yard setback, and a 5-foot setback on Baird Street rather than the 25-foot front yard setback as required in Title 17 (Zoning) of the City of Olney Municipal Code. The petitioner also requested a variance in the distance an accessory building can be from a main building to allow for a 5-foot distance rather than the 10-foot distance required in Title 17 (Zoning) of the City of Olney Municipal Code. The granting of the variances would allow the petitioners to construct a new porch and a garage.

Mr. Abell stated that a note had been received from John McLaughlin in support of these variance requests for 301 Larch Drive. The note said that Mr. McLaughlin was the only neighbor abutting this property, and that he encouraged the Board to approve the request.

Mr. Abell asked if anyone from the public wished to speak on this variance request. No one from public wished to speak.

AGENDA #9 "VARIANCES: 301 LARCH DRIVE" Mr. and Mrs. Brooks could not be present, but Mr. Abell was aware that Mr. Colwell was familiar with the request.

Mr. Colwell indicated that this property was unique as it technically had three front yard. The area proposed for the garage would typically be viewed as a back yard, but was a front yard because it faced a street. The property was also so narrow that the garage could not be placed any farther than five feet away from the home. Lastly, the Brookses wished to construct a larger porch, but current setback requirements would also prevent that.

As far as Mr. Colwell could tell, the variances would line up with most of the other homes in the neighborhood and be similar to other properties. Mr. Abell agreed that the proposed variances would fit the trend of the neighborhood.

Mr. Everette asked if any of the proposed variances could cause any type of trouble. Mr. Colwell believed that no views would be obstructed.

Mr. Jones moved to approve the variances for 301 Larch Drive which would include a 20-foot setback off of Larch Drive, a 5-foot setback off of Baird Street, and a 5-foot distance from an accessory to a main building, seconded by Mr. Ginder. Mr. Ginder, Mr. Jones, Mrs. Jensen, Mr. Williams, Mrs. Brazil, Mr. Everette, and Mr. Abell voted yes. There were no opposing votes. The motion carried.

AGENDA #10 "PUBLIC HEARING: VARIANCE REQUEST FOR 202 S. POLK STREET" Darin Acord had submitted a Request for Variation for 202 S. Polk Street, Olney, Illinois, Property Index Number 11-02-103-503. The petitioner requested a variance in the requirements in Title 17 (Zoning) of the City of Olney Municipal Code regarding portable buildings as accessory buildings. The granting of the variance would allow the petitioner to place a portable building without a residence on the property.

Mr. Colwell indicated that this was no longer an issue, and the portable building that had been illegally placed had since been removed.

Mr. Abell asked if anyone from the public wished to speak on the request. No one from the public wished to speak.

AGENDA #11 "VARIANCE: 202 S. POLK STREET" Mr. Everette moved to deny the variance request for 202 S. Polk Street, seconded by Mr. Jones. Mr. Ginder, Mr. Jones, Mrs. Jensen, Mr. Williams, Mrs. Brazil, Mr. Everette, and Mr. Abell voted yes. There were no opposing votes. The motion carried.

AGENDA #12 "PUBLIC HEARING: SIGN VARIANCE REQUESTS FOR 733 W. MAIN STREET" Wesley Bell, Robinson Outdoor, LLC., had submitted Requests for Sign Variation for 733 W. Main Street, Olney, Illinois, Property Index Number 11-03-124-007. The petitioner was

requesting a sign variance to allow for a 200-square foot graphic area rather than the 72-square foot graphic area required in Title 15 (Buildings & Construction), and a variance in 2 front yard setbacks to allow for 0-foot setbacks rather than the 15-foot front yard setbacks required in Title 17 (Zoning) of the City of Olney Municipal Code. The granting of the variances would allow the petitioner to place a digital, commercial sign.

Mr. Abell asked if anyone from the public wished to speak on this request.

Jack Shuster, 209 S. Elliott Street, had concerns with such a large sign that would have changing images. He felt certain that such a sign would cause vehicle accidents due to distracted drivers. He wondered if the City would be complicit in a lawsuit for any accidents related to the sign.

Kelly Eyer, 1302 Melissa Lane, believed that Olney's zoning laws were important. While she was not opposed to such a sign in general, she was opposed to the location. She felt that such a sign should be placed in an appropriately zoned area. Additionally, she was concerned with the safety of the community, potential distractions, and the character of the community. Mrs. Eyer depended on the Board to uphold the ordinances that had been in place for years.

Greg Eyer told the Board that he had served on the Board of Appeals for 20 years, so he understood their position. After the February 9, 2023, Board of Appeals meeting, he went back through his old Board minutes and never came across any similar request. He estimated that about 94% of previous variance requests were related to setback requirements.

Mr. Eyer felt that the Board was needing to consider ordinance changes that would also need to consider the promotion of health, safety, and welfare of the community.

Mr. Eyer explained that Mr. Bell's request was for a variance that would be over two and a half times the size of permitted off-premise signs. Mr. Eyer then pulled out a 25-inch toy doll and stood the doll next to himself. He told the Board that he was a 69-inch tall man. The height difference between he and the doll were comparable to the height difference being requested for this variance.

Mr. Eyer then pulled out a box of Rice Krisps cereal and a box of Pasta Roni. The difference in the two boxes was representative in the overall graphic area being proposed.

Mr. Eyer then pointed out that the structure of this proposed billboard would also be different than other surrounding signs. Other signs had about an 80 to 85 square foot graphic area. Additionally, Mr. Eyer asked Mr. Bell if his sign would be in a V-shape. Mr. Bell confirmed.

Mr. Abell advised Mr. Eyer that he had been speaking for seven minutes. Mr. Eyer requested two more minutes.

Mr. Eyer said that the Board should not grant a variance unless it was determined that the provisions of the Code were justified. Mr. Eyer felt that welfare and safety would be compromised and that the circumstances were not peculiar.

Mr. Abell advised Mr. Eyer that his additional two minutes had passed.

Mr. Abell pointed out that a graphic area of 300-feet would be allowed if a business was on-premise. While Mr. Eyer was stating great issue with the size of the graphic area, Mr. Abell was confused as to why a graphic area of 300-feet would not be a problem. Additionally, that provision was placed by the City Council of which Mr. Eyer was a member.

Mr. Eyer agreed, but noted that provision was placed in 2001 which was before his time on the Council.

The provision that only a 72-foot graphic area for off-premise signs was instated in 1995. Mr. Abell recalled that it was very unlikely that there were any digital billboards at that time. As time progressed, so did technology. It was likely that several current Code provisions were antiquated.

Mr. Eyer then said that he had been e-mailing IDOT employee, Clinton Bergbower. Mr. Bergbower had told him that any State approvals would not exempt applicants from any local ordinances.

Mr. Abell thanked Mr. Eyer for his comment, but Mr. Eyer continued to tell the Board that their duties in approving variance requests would include establishing practical difficulties or hardships in relation to the property. Mr. Eyer was aware that the both properties being proposed for sign variances this evening were owned by Tom Fehrenbacher.

Mr. Eyer said that the Board would also need to establish that the property would not yield a reasonable return and that the plight of the owner was of unique circumstance.

Belinda Henton recalled that many months had been spent creating the sign ordinances. While she agreed that some provisions were now antiquated, she stated that she had asked City officials several times of the ordinances should be changed, but the suggestion was never supported. Mrs. Henton also encouraged the Board to consider their Findings of Fact guidance before making rulings on these sign variance requests.

Mr. Shuster re-approached and told the Board that he was a retired advertising executive. He believed that the purpose of advertisement was to grab the attention of viewers. The purpose of these proposed signs with changing images would be no different, and he felt this would be a distraction to drivers.

Mr. Bell reminded those present that the locations being requested for sign variations were zoned for off-premise signs and variance requests were allowed. He felt that his signage could bring benefits to the community. He also agreed with Mr. Shuster that advertisements were meant to catch a viewer's attention, but that was no different than any other sign.

Mr. Bell said that both locations where he was asking for variances were zoned commercially, and his signs would not be out of character with others up and down Route 130. He stated that his signs would also not devalue property values.

Mrs. Henton asked why Mr. Bell's proposed signs had to be so much larger than the allowable 72-square foot graphic area. Mr. Bell replied that a smaller sign would be a traffic hazard. His larger signs would be easy to read without the viewer trying to make out what the sign said.

Mr. Abell did not believe that Mr. Bell's signs would be any more dangerous than other digital signs around town.

Mr. Abell then stated that the variance requests for 733 W. Main Street were located at an intersection where businesses were located. The signage should be suitable for the current use.

A total of 2 e-mails were received in support of the proposed sign variances. About 20 e-mails were received in opposition as well as 7 phone calls and 1 hand-written note.

Mr. Abell had members of the public contact him directly to discuss the requests. It was evident that people were not listening to radios or reading newspapers as much. Social media was a common source of news, but also caused many problems. People who he had spoken with were excited about the option for advertisement of business, not-for-profit causes, events, and weather statements. There were several positive outcomes as well.

Mrs. Brazil was concerned with the variance requests for 733 W. Main Street because this property was located at a very busy intersection. Additionally, a local business was located at this address. She wondered if the addition of this new sign would take away from his ability to advertise his own business.

Mr. Abell asked Mr. Bell what type of entities typically bought ads on his boards. Mr. Bell wanted to make it clear that he would first speak with local businesses to give them the opportunity to advertise.

Mrs. Brazil asked if the advertising rates were at a price that local businesses could afford or if the pricing would only be feasible for large corporations or universities. Mr. Bell believed the rates were affordable and that there would surely be local advertisement. Mrs. Brazil asked Mr. Bell if he could promise that. While Mr. Bell could not predict the future, he emphasized that Robinson Outdoor wanted to build rural communities in order to become a part of those communities. Robinson Outdoor would be investing a lot of money into the community and wanted to share some of those benefits. Some of the main benefits, according to Mr. Bell, were the weather warning statements, notices of AMBER and SILVER alerts, and aiding of resources after natural disasters.

Mr. Bell then explained that he had worked in the Traffic Division of law enforcement for 17 years. In all of that time, he stated that he never worked an accident that was caused by someone saying that they were distracted by a billboard.

For the City of Olney specifically, Mr. Bell also said that the City could have the opportunity to promote tourism, boil orders, etc.

Mrs. Eyer asked if the City would always have availability for use. Mr. Bell replied that if all ad spots were filled, then there would be no availability. Even so, Mr. Bell was aware of only two boards that were ever completely sold out of ad spots.

Mr. Williams asked how many ad spots would be available. Mr. Bell replied that there would be seven available spots on each side of the sign. Those ads would also be regulated by IDOT. This would mean that there could be no image movement. Each ad would be one, instantaneous image. He also pointed out that IDOT would not regulate on-premise signs.

Mr. Troester asked if there would be any control on what type of ads were placed.

Mr. Abell believed that digging into Mr. Bell's business plan was not a topic for the Board to deliberate.

Mrs. Eyer said that she had found 10 studies that concluded that accidents were caused by LED signs. She felt that made such signs an absolute safety issue. Additionally, Mrs. Eyer felt that the comments of opposition should speak for themselves.

From the audience, Dick Wilson wished to be sworn in. Mrs. Sterchi asked him to raise his right hand and to "swear to tell the truth, the whole truth and nothing but the truth so help me God." Mr. Wilson was sworn in.

Mr. Wilson felt that granting of such sign variances would open up a can of worms that the City would have a hard time controlling; much like the ever-growing gambling establishments. Mr. Abell wanted to be clear that approval of gambling establishments was at the hand of the City Council and not the Board of Appeals. He added that the Board of Appeals frequently heard variance requests and it was their duty to do so when a request was made. Regardless, Mr. Wilson warned the Board to be careful.

AGENDA #13 "SIGN VARIANCES: 733 W. MAIN STREET" Mrs. Brazil moved to deny the variance requests for 733 W. Main Street, seconded by Mr. Ginder. Mr. Ginder, Mrs. Jensen, and Mrs. Brazil voted yes. Mr. Jones, Mr. Williams, Mr. Everette, and Mr. Abell voted no. The motion failed.

Mr. Everette moved to approve a 200-square foot sign graphic area and two, 0-foot front yard setbacks at 733 W. Main Street, seconded by Mr. Jones. Mr. Jones, Mr. Williams, Mr. Everette, and Mr. Abell voted yes. Mr. Ginder, Mrs. Jensen, and Mrs. Brazil voted no. The motion carried.

AGENDA #14 "PUBLIC HEARING: SIGN VARIANCE REQUEST FOR 626 W. NORTH AVENUE" Wesley Bell, Robinson Outdoor, LLC., submitted a Request for Sign Variation for 626 W. North Avenue, Olney, Illinois, Property Index Number 11-03-140-043. The petitioner was requesting a sign variance to allow for a 200-square foot graphic area rather than the 72-

square foot graphic area required in Title 15 (Buildings & Construction) of the City of Olney Municipal Code. The granting of the variance would allow the petitioner to place a digital, commercial sign.

Mr. Eyer read that the City of Olney Municipal Code would not allow for certain colors to be used within 200-feet of a traffic sign or device. Mr. Colwell clarified that the provision that Mr. Eyer was referring to was in relation to attached lighting and not a fixture itself. He explained that was why other signs such as the ones at Domino's, Hurn's, and the Library were allowed within 200-feet of traffic signs or devices.

Mr. Abell was aware that the courthouse would be adding a digital sign on their lawn on Main Street. Mr. Eyer asked what size that sign would be. Mr. Abell was unsure, but was giving another example of such a sign that would be close to a traffic signal.

Mr. Eyer then told the Board that while 626 W. North Avenue was zoned commercially, it was surrounded by residential zoning. He wondered if the Board had any consideration regarding the character in the vicinity of the property. Mr. Abell pointed out that the lighted Burger King and Burger King sign was right across the highway. Even so, Mr. Eyer noted that the Burger King sign size was only 81-square feet.

Mr. Abell then stated his feeling that the proposed sign would not be completely out of character because it would be along an Illinois State highway. Mr. Eyer argued that off-premise signage did not have the same character as on-premise signage.

In February, Mr. Bell had originally approached the Board of Appeals with a similar request for the intersection of East and Main Streets. At that time, a majority of the Board agreed that was not an appropriate location and recommended for Mr. Bell to find a location on the highway.

Mr. Eyer asked if Mr. Bell would need a variance on property zoned M-1. Mr. Colwell replied that a variance would not be needed in that zoning district as long as setbacks were met.

Mr. Eyer then focused on audience member Tom Fehrenbacher and asked Mr. Fehrenbacher if he owned any M-1 property where the proposed sign could be placed. Mr. Fehrenbacher refused to answer Mr. Eyer and noted that he had not been sworn in.

Mr. Eyer then approached a zoning map in the Council Chambers and pointed out two pieces of property that he believed were owned by Mr. Fehrenbacher and that would be appropriate for the proposed sign.

Mr. Eyer again told the Board that they needed to consider if the variance request was compatible for the zoning district, if it promoted orderliness of traffic, and if it reduced traffic hazards. He said they should also consider preservation of property values. He was aware that resident Chelsea Rude had written a paper that referenced studies that showed how such signage reduced residential property values.

Mr. Abell told Mr. Eyer that he was well over his five minutes of speaking regarding this request.

Mr. Eyer did not believe that there was any evidence that 626 W. North Avenue would be denied a reasonable return if the variance was not granted. Mrs. Jensen felt that there could be a positive return to the community. Mr. Abell agreed. Mr. Eyer had not considered that aspect of "return."

Mr. Eyer was aware of the Findings of Fact considerations put together by the previous City Attorney. Regardless, he felt that the three considerations in the Code were what mattered. Also, Mr. Eyer reminded the Board that they had all taken an oath to perform to the best of their abilities.

From the audience, Marilyn Troester wished to speak but had also not been sworn in. Mrs. Sterchi asked her to raise her right hand and "swear to tell the truth, the whole truth and nothing but the truth so help me God." Mrs. Troester was sworn in.

If both sign variance requests were approved, Mrs. Troester asked if Mr. Bell would pursue only one location. Mr. Bell stated that he would leave his options open.

Mrs. Troester asked for more information on ad availability. Mr. Bell reminded her that there would be 7 available ad spots on each side of the sign, and each ad would run for 10 seconds each.

Mrs. Troester then asked how the City would be able to utilize its benefits if all ad spots were taken. As this seemed to be an issue, Mr. Bell made a strong promise that he would give the City an ad spot on the boards that they could use at any time. This would be at no charge to the City.

AGENDA #15 "SIGN VARIANCE: 626 W. NORTH AVENUE" Mrs. Henton felt that the Board should be having more discussion amongst themselves regarding these requests. Mrs. Jensen informed Mrs. Henton that this was the third time that the Board had discussed such signs, and the second time for 733 W. Main Street and 626 W. North Avenue. She felt that the Board had its necessary discussions. Mr. Everette agreed.

Mrs. Brazil moved to deny the sign variance request for 626 W. North Avenue, seconded by Mr. Ginder. Mr. Ginder and Mrs. Abell voted yes. Mr. Jones, Mrs. Jensen, Mr. Williams, Mr. Everette, and Mr. Abell voted no. The motion failed.

Mrs. Jensen moved to approve a 200-square foot sign graphic area at 626 W. North Avenue, seconded by Mr. Everette. Mr. Jones, Mrs. Jensen, Mr. Williams, Mr. Everette, and Mr. Abell voted yes. Mr. Ginder and Mrs. Brazil voted no. The motion carried.

AGENDA #16 "PUBLIC COMMENTS/PRESENTATIONS" No one from the public wished to speak.

AGENDA #17 "ADJOURN" Mr. Everette moved to adjourn, seconded by Mr. Ginder. Mr. Ginder, Mr. Jones, Mrs. Jensen, Mr. Williams, Mrs. Brazil, Mr. Everette, and Mr. Abell voted yes. There were no opposing votes. The motion carried.

The meeting of the Board of Appeals adjourned at 7:59 p.m.

Kelsie J. Sterchi  
City Clerk