

# Request for City Council Action

**Date:** February 11, 2014

<b>Agenda Section:</b> Consent Agenda  <b>No.</b> 5	<b>Originating Department:</b>  City Clerk's Office
<b>Item:</b> Acceptance of Minutes of Boards, Commissions and Committees  <b>No.</b> 5.4	<b>Approved:</b>

**Background:**

Attached for Council review and acceptance are minutes from the meetings of City boards, commissions and committees which have recently been sent to the City Clerk's Office.

**Recommended Action:**

The Council is requested to accept the following sets of minutes and place them on file:

Human Relations Commission – January 13, 2014

Zoning Board of Appeals – August 14, 2013

Engineering Approval Obtained	Finance Approval Obtained	Legal Approval Obtained	Approval Obtained	Manager's Approval Obtained
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Council Action: Motion by \_\_\_\_\_ 2nd by \_\_\_\_\_ to \_\_\_\_\_



Carbondale Human Relations Commission  
Minutes – January 13, 2014  
Carbondale Civic Center ~ 6:30 p.m.

**Commissioners Present:** Jeraldine Brown, Joseph Brown, Jerrold Hennrich, Faith Miller, Dora Weaver

**Commissioners Excused:** Peg Falcone, Les O’Dell

**Commissioners Absent:** Blaine Tisdale

**Study Circle Staff Present:** Sarah Heyer

**Guests Present:** Judy Cunningham, Eric McMillan, Shelley A. Faulkner, Karriem Shariati

**Staff Present:** Deborah McCoy, Lieutenant Matthew Dunning

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**Call to Order**

The meeting was called to order by Vice Chair Hennrich at 6:30 p.m. Vice Chair Hennrich called for the introduction of guests who shared about why they were interested in the HRC and/or attending the meeting.

**Minutes**

Motion was made by Commissioner Joseph Brown and seconded by Commissioner Weaver to approve the minutes from the November 4, 2013, meeting with the correction of the word “Peach” in the Announcements to read Peace. Motion carried.

**Announcements**

- January 17: Free Dinner at the Eurma C. Hayes Center, 4:00 pm–6:00pm. Co-sponsored by the African American Museum, Eurma C. Hayes Center, and Attucks Community Service Board.
- January 19: Annual Martin Luther King Community Celebration, “Rise Up for Change,” Carbondale Civic Center, 4:00 pm.
- January 20: MLK Breakfast, SIU-C Student Center. Breakfast served from 7:00am-9:00 am with program beginning shortly thereafter. Sponsored by the Carbondale Branch NAACP.
- May 1: Illinois Municipal Human Relations Association (IMHRA) Conference - Springfield, Illinois.

**Public Comments:** None

## **Study Circles Report**

### *Neighborhood Action Group*

Coordinator Heyer reported the Neighborhood Action Group will host the Neighborhood Alliance Meeting on Saturday, January 25, 2014, 9:30 am at the First United Methodist Church, 214 W. Main Street. Vice Chair Hennrich will be speaking on behalf of the HRC at the event. Coordinator Heyer solicited volunteers to assist with updating the three-fold HRC display board she will be taking to the Neighborhood Alliance Meeting. Commissioner Jeri Brown volunteered to assist with the display.

Coordinator Heyer reported that the City's Planning Department can advise citizens of changes that are scheduled for neighborhoods. Those interested in receiving information should contact the Planning Department.

Mr. McMillan commented that neighborhood associations/groups are a way to get people engaged in the community, and those groups should also include rental property tenants.

*Continuing the Dialogue/Education* - No report

*Race Relations* - No report

## **Non-Violent Carbondale Project**

Progress continues towards making Carbondale a place where every single human being treats, and is treated, "with absolute justice, equity and respect" (Charter for Compassion). Four sets of activities and events to advance peace have been held including 11 Days of Peace, 11 Days of Compassion, and 11 Days of Food.

NVCP will be hosting events in March and/or April where speakers will address environmental concerns. A book titled, *Rights of Community – Community of Rights*, will be the foundation of the discussion. The discussion will address the control people in the community have over what happens in their environment. NVCP will also sponsor a forum where the public will be invited to participate in storytelling, presenting oral histories, and so forth.

## **Old Business**

Law Enforcement Reports: Vice Chair Hennrich reported that to date, no information from the Carbondale Police Department has been received. He suggested a FOIA request be submitted and disseminated a copy of the request. Commissioners agreed that the request should be submitted. Commissioner Bonner indicated that she would be willing to speak with the Mayor about the matter, and the Commissioners authorized her to do so. There was discussion about whether HRC could make the FOIA request or whether it had to be made by an individual. Commissioners agreed to invite the City Clerk to its February meeting to discuss the Open Meetings Act and FOIA. Mr. McMillan commented that people should be encouraged to use the complaint process that is already in place so there is documentation.

HRC Responsibilities, Role, Charges: Commissioner Miller, Chair of the Educational Campaign Committee, reported that Commissioner Joseph Brown, Vice Chair Hennrich, and Mr. McMillan were guests on WSIU with Jennifer Fuller on December 3, 2013. Vice Chair Hennrich will be the guest on radio station 91.1 with Les O'Dell on January 20, 2014, 10:30 a.m. Commissioner O'Dell will write an article for the *Communique*.

Continuing the Dialogue: Focused Community Discussions. Commissioner Miller suggested Environmental Racism as the first topic. Commissioners agreed to contact potential speakers and ascertain their availability for March, April or May. Other topics recommended for future discussions included Poverty and Fair Housing.

Partnering for Social Justice: Because of the weather, meetings have not been held. The group has watch programs on education, court and crime, and the coppers project.

**New Business**

None.

**Next Meeting: March 3, 2014, 6:30 p.m.**

**Adjournment** - There being no further business, the meeting was adjourned.

Recorded by Deborah McCoy \_\_\_\_\_

# MINUTES

## **Carbondale Zoning Board of Appeals**

August 14, 2013  
City Hall / Civic Center, Room 108  
200 South Illinois Avenue  
6:00 p.m.

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MEMBERS PRESENT: Barke, Grant, Kang, Love, McClurg, Anz, Lilly (6:06)

MEMBERS ABSENT: Hunsaker

STAFF PRESENT: Wallace, Price, Taylor

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**Approval of Minutes:** Mr. Barke moved, seconded by Mr. McClurg, to approve the minutes of December 5, 2012; June 5, 2013; and July 17, 2013.

The motion was approved by a unanimous voice vote.

### HEARING:

- A. **ZBA 14-01**, 6:00 p.m. – Lindsey Fisher is appealing an administrative ruling that the auto repair and maintenance facility located on the premises of 413 North Oakland Avenue is in violation of the zoning code and the business is ordered to cease operations.

Roll call was completed and the determination of a quorum was made.

Mr. Grant opened the Public Hearing at 6:00 p.m.

Mr. Wallace reviewed the history of this case, stating that the matter had been taken up on both June 5 and July 17 of this year, to be continued each time.

Mr. Barke stated that he had spoken to attorney Cantrell, who submitted the legal opinion requested by the board, and that his question regarding the creation of a legally non-conforming status for the property has not been readily answered. He said that his opinion is that the ninety days the repair shop was in business with the zoning certificate issued by the City being properly used prevents the City from taking away the non-conforming use once it has been used under proper permission from the City for that period of time.

Mr. Kang stated that he believes that one City employee acted in error by issuing the certificate, and therefore does not make the property a legal non-conforming use.

Mr. Barke stated that it troubles him that a person could not depend on the information given by the issuance of a zoning certificate.

Mr. McClurg stated that his opinion is that the City inappropriately gave the original zoning document to the applicant, but once they did, the expectation was there for the operator to conduct business there. He said that the certificate was good for one year, but the reapplication never occurred, so the City then had the right to tell them to cease operation.

Mr. Barke stated that he has trouble with the idea of having to come back after a year to reapply for the zoning certificate, in that if he had to renew a certificate for building his house in a residential district every year, he doesn't think he'd build his house there.

Mr. Grant asked Mr. Wallace to read the bolded portions of the legal opinion obtained from Mr. Cantrell.

Mr. Wallace did so.

Mr. Barke asked to submit that the legal opinion was gleaned only from talking with the City and no one else.

Mr. Kang moved, seconded by Mr. McClurg, that the appeal be approved.

Roll Call Vote:

Yes – 3 (Barke, Grant, Lilly)

No - 4 (McClurg, Anz, Kang, Love)

Mr. Wallace stated that the appeal is denied.

**B. ZBA 14-02** P. Michael and Mary Alice Kimmel are requesting a variance from the three foot setback requirement for accessory structures, and for a floor area greater than the maximum 800 square feet allowed in the R-1-5, Low Density Residential, district for property located at 505 West Walnut Street.

Mr. Grant asked Mr. Wallace to read the legal notice.

Mr. Wallace read the legal notice.

Mr. Grant asked Mr. Price to read Part A of the staff report.

Mr. Price read Part A of the report.

Mr. Grant asked if there any questions from Commissioners to staff.

Mr. Kang asked when the adjacent building was constructed.

Mr. Price responded that it was prior to 1974 when the code was implemented.

Mr. Grant asked if there was an historic overlay district where the property is located.

Mr. Wallace responded that it is in the West Walnut Street Historic District, although there are no design guidelines attached to that district.

Mr. Grant asked if there were any further questions of staff.

There were none.

Mr. Grant asked if the applicant was present and if he would like to speak.

Mr. Mike Kimmel came forward and stated that the house was built during or prior to 1868. He said the shed was built by his wife's father in law for use as boat storage, and that the property has been in her family since 1912. He said that the shed is on a 30 x 40 foot base with some very large doors and made of corrugated steel, and is having some issues. He stated that, as many other building were at the time, the shed was built on the property line. He said that it was built on the corner of the lot, where it touches three neighbors, one to the west, one to the southwest and one to the south. He stated that they would like to remove the shed and rebuild it, but he would only be allowed to do that, according to City ordinance, if it were destroyed by fire, a tornado, or other such natural act. He said that he is at this hearing to be very safe and very sure that there is no question that he is conforming to City code. He said that the shed does not detract from any other property except for its need of repairs, and that all three adjoining neighbors are strongly in favor of his wish to rebuild a new concrete floored shed, a little shorter, and he wants to improve the property without changing the character or the size. He said that if he were to change the location of the shed, it would involve tearing down the two-car garage which is part of the history and ambience of the house where the only ingress and egress to the land exists. He said that the variance is requested so that he can demolish it in an orderly fashion, rather than have it burn down or blow down, and replace it. He then offered to answer any questions.

Mr. Grant asked if there were any questions from the Board.

Mr. Anz stated that sometimes it's not a question of what you build back, but how you build back. He asked Mr. Kimmel if he was going to build a structure that adds to the value and its curb appeal.

Mr. Kimmel responded that he was the Chair of the Preservation Commission, and his family is very much interested in that. He said that he does want to improve the entire, overall neighborhood.

Mr. Anz asked about the five feet fire protection rating.

Mr. Wallace responded that structures built closer than five feet from each other would have a two hour fire rating.

Mr. Kimmel asked if it would require a one hour fire wall if he builds it back in the same location.

Mr. Wallace responded that it would require a one hour fire rating wall, since it is uninhabited.

Mr. Grant asked about the yellow structure.

Mr. Kimmel responded that is Ms. Adam's study.

Mr. Grant asked how close the two buildings are.

Mr. Kimmel responded that there is a little lean-to that was built for pool maintenance items, and that it is about eight inches of his building, but at the time his father-in-law owned both buildings.

Mr. Grant asked if there were any further questions.

There were none.

Mr. Grant asked if there was anyone who wished to speak in favor of the application.

Mr. D. Gorton of 606 West Elm Street came forward and stated that he and his wife, Councilwoman Jane Adams, live directly behind Mr. Kimmel and that the property is very historic. He said that they have seven-tenths of an acre that was purchased from the Kimmels, and that the Kimmels have almost an acre, so there are nearly two acres of land with their two families on it and the buildings have been there for a very long time. He said his only concern is that, in the historic district, he thought that anything that was built was legal, so he does not want this to be a precedent. He said they want people to be able to fix the buildings on their property lines and leave them there, including Mr. Kimmel's buildings. He said he thought it had been agreed to by City Council that any structure built before the ordinance in 1974 was legal as it stood, and that the owners could knock it down, rebuild it, fix it or whatever you wanted to do. He stated that he is in support of Mr. Kimmel's request.

Ms. Sandy Litecky of 603 West Walnut Street came forward and urged the Board to approve the variance. She said that the Kimmels have been a very integral part of the City and the historic area, and that they should be able to rebuild.

Mr. Wallace stated that he had a letter of support to read that he had received via email. He read the letter into the record.

Mr. Kimmel said that Mr. Gail White also has property in the historic district on Maple Street with a garage that sits on the property line and that he wishes to remodel. He said that Mr. White is very much in favor of his application because he too may find himself in front of the Board with the same request.

Mr. Grant cautioned the Board that, since Mr. White is not in attendance to speak, this should be considered hearsay evidence. He then asked if anyone wished to speak in opposition to the application.

There was no one.

Mr. Grant asked Mr. Price to continue with the staff report.

Mr. Price read Parts B and C of the staff report.

Mr. Grant asked if there were questions from Board members to staff.

Mr. Kang asked what would happen if one wall rotten and fell down and Mr. Kimmel wanted to just repair that one wall.

Mr. Price responded that he could repair that wall.

Mr. Kang asked what if he just did that one wall at a time.

Mr. Wallace responded that he could do that.

Mr. Kang said that he didn't know why we're making this so difficult.

Mr. Anz stated that many times a code is to protect the public from themselves, as the case would be if one of these structures caught on fire and ignited other surrounding buildings.

Mr. Grant stated that, if the structure was destroyed by nature and Mr. Kimmel were to rebuild, he would have to adhere to building codes at that time which would contain fire separation requirements.

Mr. Grant asked if there were any questions from anyone to anyone.

There were none.

Mr. Grant asked Mr. Kimmel if he would like to make a closing statement.

Mr. Kimmel stated that he would like the ability to improve his property and to maintain the same ambiance. He said that he could not build it on the east side of the property because there is no street access and he'd like to keep it that way. He asked the Board to grant the variance and thanked them for their consideration.

Mr. Grant closed the hearing for ZBA 14-02.

Mr. Kang moved, seconded by Ms. Lilly, that special conditions and circumstances exist which are peculiar to the land, structure, and building involved and which are not applicable to other land, structures and buildings in this district.

Mr. Grant stated that this is one of the oldest properties in one of the oldest parts of town and that he believes there should be some overlay districts that would take care of zero lot-line buildings as this process goes through.

Mr. Kang stated that he thinks special conditions do exist because of the large size of the lot.

Mr. Barke stated that he thought it appropriate that he abstain from discussion and voting due to his law firm's relationship with Mr. Kimmel.

Roll Call Vote:

Yes - 5 (Grant, Anz, Kang, Lilly, Love)

No - 1 (McClurg)

Abstain - 1 (Barke)

Mr. Kang moved, seconded by Ms. Lilly, that the literal interpretation and provision of this article would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the article.

Roll Call Vote:

Yes - 0

No - 6 (Grant, McClurg, Anz, Kang, Lilly, Love)

Abstain - 1 (Barke)

Mr. Grant asked for a motion with respect to Item 3.

Mr. Kang moved, seconded by Ms. Lilly, that the special conditions do not result from the actions of the applicant.

Roll Call Vote:

Yes - 6 (Grant, McClurg, Anz, Kang, Lilly, Love)

No - 0

Abstain – 1 (Barke)

Mr. Grant asked for a motion with respect to Item 4a.

Mr. Kang moved, seconded by Ms. Lilly, that granting of the variance request will not confer on the applicant any special privilege that is denied by this Chapter to other lands, structures, or buildings in the same district.

Roll Call Vote:

Yes - 5 (Grant, Anz, Kang, Lilly, Love)

No - 1 (McClurg)

Abstain – 1 (Barke)

Mr. Grant asked for a motion with respect to Item 4b.

Mr. Kang moved, seconded by Ms. Lilly, that the granting of the variance will be in harmony with the general purpose and intent of this Chapter and will not be injurious to the neighborhood or detrimental to the public welfare.

Roll Call Vote:

Yes - 6 (Grant, McClurg, Anz, Kang, Lilly, Love)

No - 0

Abstain – 1 (Barke)

Mr. Grant asked for a motion for the final vote on the application.

Mr. Kang moved, seconded by Ms. Lilly, to approve the request for the variances in ZBA case 14-02.

Mr. McClurg stated that he wished to abstain from voting on the outcome of the case because he could find himself in a very similar situation in the future.

Roll Call Vote:

Yes – 4 (Grant, Anz, Kang, Lilly)

No – 1 (Love)

Abstain – 2 (Barke, McClurg)

Mr. Wallace stated that the City ordinance needs to be reviewed and that the applicant will be notified of the outcome in writing within fifteen days.

After review, it was determined that five affirmative votes of the Board are required to grant a variance, therefore the variance is denied.

**Old Business:**

Mr. Grant stated there was no Old Business to conduct.

**New Business:**

Mr. Grant stated there was no New Business to conduct.

**Adjournment:**

Mr. Grant adjourned the meeting for continuation of the hearing at 7:36 p.m.

