

Request For City Council Action

Date: August 16, 2011

Agenda Section: Consent Agenda No. 4	Originating Department: City Clerk's Office
Item: Acceptance of Minutes of Boards, Commissions and Committees No. 4.4	Approved:

Attached for Council review and acceptance are minutes of meetings from 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:

- Fire Fighter's Pension Board – February 9, 2011, May 11, 2011 and June 1, 2011
- Police Pension Fund Board of Trustees – April 26, 2011
- Planning Commission – June 15, 2011 and July 20, 2011
- Liquor Advisory Board – June 2, 2011
- Human Relations Commission – June 6, 2011 and July 11, 2011
- Sustainability Commission – April 21, 2011 and May 19, 2011
- Zoning Board of Appeals – May 18, 2011
- Preservation Commission – June 20, 2011

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 _____

**CITY OF CARBONDALE
FIRE FIGHTER'S PENSION BOARD**

**MEETING MINUTES
9:00 AM, FEBRUARY 9, 2011
CIVIC CENTER, ROOM #103**

PRESENT: Cliff Manis, Deborah McCoy, Ernie Tessone, Mike Hertz, Ted Lomax. **ABSENT:** None. **GUESTS:** None.

CALL TO ORDER

Ted Lomax called the meeting to order at 9:00 am.

MINUTES OF PREVIOUS MEETING

Motion made by Cliff Manis to approve minutes of the November 22, 2010 meeting. Seconded by Mike Hertz. **VOTE: AYES:** Cliff Manis, Deborah McCoy, Mike Hertz, Ted Lomax. **NAYS:** None. Motion declared carried.

UNFINISHED BUSINESS

Ted Lomax stated that he was contacted by Mr. Johnson from American Legion Post 10 on January 20, 2011 regarding pension widow benefits for Rosalie Burk, widow to Retired Firefighter Lee Burk. Mr. Lomax requested official documents proving the identity, birth and marriage of the widow and deceased as well as the deceased divorce decrees from prior marriages be sent to the pension board for review. No documentation has been received at this time. Additionally, Mr. Lomax contacted Scott Brandt from the Illinois Department of Insurance to inquire if a ruling had been made regarding non-US citizenship widow pension benefits. Mr. Brandt told Mr. Lomax that he would fax and mail a ruling letter regarding this matter. Nothing has been received at this time.

Mike Hertz spoke about the entry level physical examination procedures. The Board discussed what procedures were approved by the Board.

Ernie Tessone entered the meeting at 9:30 a.m.

TREASURER'S REPORT

Ernie Tessone presented the Treasurer's Report and Market Value Comparison for period ending January 31, 2011. Investments showed an increase of \$315,826 since October's statement. Expenses totaled \$270,223, of which \$266,368 was payroll. The monthly payroll expense increased as a result of the annual three percent cost of living increase effective January 1, 2011, in the amount of \$2,861.34. See attached General Ledge Report for details. Mr. Tessone stated

that he had not transferred available cash to JPMorgan for investments as approved at the November, 2010 meeting. Motion made by Mike Hertz to accept Treasurer's Report. Seconded by Cliff Manis. VOTE: AYES: Cliff Manis, Deborah McCoy, Ernie Tessone, Mike Hertz, Ted Lomax. NAYS: None. Motion declared carried.

NEW BUSINESS

Ted Lomax stated that letters had been mailed to all retirees on February 4, 2011 regarding the upcoming election for Retiree Representative. Anyone interested in serving in this position is to send in writing their information to Mike Hertz before March 25, 2011. Elections will be held in April and the board member will be seated at the May, 2011 meeting.

Mike Hertz presented an Application into the Pension Fund for Probationary Firefighter Wesley Clemmons. Mr. Clemmons will start employment on February 14, 2011. The Board discussed the pension legislation regarding benefit changes for anyone hired after January 1, 2011. Motion made by Mike Hertz to accept Wesley Clemmons into the Firefighters Pension Fund. Seconded by Cliff Manis. VOTE: AYES: Cliff Manis, Deborah McCoy, Ernie Tessone, Mike Hertz, Ted Lomax. NAYS: None. Motion declared carried.

Cliff Manis stated that he would not be seeking re-election as the Retiree Representative. Mr. Manis was scheduled for a one-day conference at John A. Logan College to complete eight hours of mandatory fiduciary training that he will not attend.

ANNOUNCEMENTS AND ADJOURNMENT

Motion made by Deborah McCoy to adjourn at 10:00 am. Seconded by Cliff Manis. VOTE: All Ayes. The next meeting is scheduled for May 11, 2011 at 9:00 am.

Mike Hertz, Secretary

**CITY OF CARBONDALE
FIRE FIGHTER'S PENSION BOARD**

**MEETING MINUTES
9:00 AM, MAY 11, 2011
CIVIC CENTER, ROOM #103**

PRESENT: Deborah McCoy; Mike Hertz, Secretary; Ted Lomax, President. **ABSENT:** Cliff Manis, Vice President; Ernie Tessone. **GUESTS:** Harry Threlkeld, Firefighter Retiree; Kyle Jones, JPMorgan Representative.

CALL TO ORDER

Ted Lomax called the meeting to order at 9:00 am.

PRESENTATION

Kyle Jones, JPMorgan Asset Management Vice President, presented the Performance Report as of March 31, 2011. The Board reviewed and discussed this report as well as investment changes to Illinois State Pension Codes.

Mr. Jones exited the meeting.

MINUTES OF PREVIOUS MEETING

Motion made by Mike Hertz to approve minutes of the February 9, 2011 meeting. Seconded by Deborah McCoy. VOTE: AYES: Deborah McCoy, Mike Hertz, Ted Lomax. NAYS: None. Motion declared carried.

TREASURER'S REPORT

Mike Hertz presented the Treasurer's Report and Market Value Comparison for period ending April 30, 2011. Investments showed an increase of \$399,247 since February's statement. Expenses totaled \$292,340, of which \$272,091 was payroll. See attached General Ledge Report for details. Motion made by Ted Lomax to accept Treasurer's Report. Seconded by Mike Hertz. VOTE: AYES: Deborah McCoy, Mike Hertz, Ted Lomax. NAYS: None. Motion declared carried.

UNFINISHED BUSINESS

Ted Lomax stated that he has not received any documentation from Mr. Johnson of American Legion Post 10 or Rosalie Burk, widow to Retired Firefighter Lee Burk, regarding pension widow benefits. Mr. Lomax stated that he did receive a letter from Scott Brandt from the Illinois Department of Insurance. It is their opinion that Ms. Burk is entitled to pension widow benefits. Once documents are received, the Board will discuss and act on this matter.

NEW BUSINESS

Mike Hertz presented the election results for the retiree representative position. There was one nomination received from February 24 through March 25 for Harry Threlkeld. An election was held by mail from March 28 through April 15. Mike Hertz received five votes, with no write-ins. Motion made by Mike Hertz to canvass the election. Seconded by Deborah McCoy. VOTE: AYES: Deborah McCoy, Mike Hertz, Ted Lomax. NAYS: None. Motion declared carried. Motion made by Mike Hertz to destroy the ballots. Seconded by Deborah McCoy. VOTE: AYES: Deborah McCoy, Mike Hertz, Ted Lomax. NAYS: None. Motion declared carried. Harry Threlkeld is elected for a three year term. Mr. Threlkeld attended a one-day conference on February 23, 2011 at John A. Logan College to complete eight hours of mandatory fiduciary training.

Mike Hertz stated that Firefighter Patrick Walls was terminated on January 4, 2011. Mr. Walls has been contacted by Mr. Hertz as well as Becky Applegate, Senior Accountant for the City, regarding his pension contributions in the amount of \$35,549. Mr. Walls has been notified that he must provide a letter to the Board to withdraw his contributions. No letter has been received at this time. Once the document is received, the Board will discuss and act on this matter.

Ted Lomax will send newly elected Mayor Fritzler a letter requesting the names of the two Mayor appointed positions onto the Firefighters Pension Board. Kyle Jones of JPMorgan will return, schedule permitting, to the next meeting.

ANNOUNCEMENTS AND ADJOURNMENT

Motion made by Mike Hertz to adjourn at 9:50 am. Seconded by Harry Threlkeld. VOTE: All Ayes. The next meeting is scheduled for August 10, 2011 at 9:00 am.

Mike Hertz, Secretary

**CITY OF CARBONDALE
FIRE FIGHTER'S PENSION BOARD**

**SPECIAL MEETING MINUTES
9:00 AM, JUNE 1, 2011
CIVIC CENTER, ROOM #103**

PRESENT: Harry Threlkeld, Retiree Representative; Mike Hertz, Secretary; Ted Lomax, President. **ABSENT:** Deborah McCoy; Donald Ursini. **GUESTS:** None.

CALL TO ORDER

Ted Lomax called the meeting to order at 9:00 am.

NEW BUSINESS

Mike Hertz presented an Application for Firefighters Pension Fund Benefit from David Lovell. Mr. Lovell retired May 31, 2011 after 22 years and 10 months of service. Mr. Lovell will receive \$2,486.58 monthly. Motion made by Mike Hertz to approval David Lovell's Application for Firefighters Pension Fund Benefit. Seconded by Harry Threlkeld. VOTE: AYES: Harry Threlkeld, Mike Hertz, Ted Lomax. NAYS: None. Motion declared carried.

Elections were held in April, however board positions were not established. Motion made by Mike Hertz to appoint Ted Lomax as President. Seconded by Harry Threlkeld. VOTE: AYES: Harry Threlkeld, Mike Hertz, Ted Lomax. NAYS: None. Motion declared carried. Motion made by Ted Lomax to appoint Mike Hertz as Secretary. Seconded by Harry Threlkeld. VOTE: AYES: Harry Threlkeld, Mike Hertz, Ted Lomax. NAYS: None. Motion declared carried.

Mike Hertz suggested the purchase of a fireproof file cabinet for pension records. Mr. Hertz submitted several vendor prices, all at around \$1,200. Since this file cabinet will also be used by the Foreign Fire Insurance Board, Mr. Hertz suggested splitting the cost in half. Motion made by Mike Hertz to purchase a fireproof file cabinet, spending up to \$600 of pension funds. Seconded by Ted Lomax. VOTE: AYES: Harry Threlkeld, Mike Hertz, Ted Lomax. NAYS: None. Motion declared carried.

ANNOUNCEMENTS AND ADJOURNMENT

Motion made by Mike Hertz to adjourn at 9:05 am. Seconded by Harry Threlkeld. VOTE: All Ayes. The next meeting is scheduled for August 10, 2011 at 9:00 am.

Mike Hertz, Secretary

**Carbondale Police Pension Fund
Board of Trustees Meeting
Minutes of April 26, 2011
Presented July 26, 2011**

Present

Anthony Williams
Mark Goddard
Marvin Voss
Ernie Tessone
Jeff Rose

Excused Absent:

Also Present:

Scott Hendricks, Board Atty
Mike Kimmel, City Atty
Brad Cole, Mayor
Pat Donnelly
Jody O'Guinn

MINUTES:

The minutes of the March meeting was presented by Goddard. Williams made a motion to accept the minutes, Tessone 2nd. Motion carried, all voted yes

TREASURER'S REPORT:

The Treasurer's report was presented to the Board by Tessone. Rose made a motion to accept the Treasurer's report, Goddard 2nd. Motion carried, all voted yes

PAYMENTS:

Surviving Spouse Beneficiary

Shirley D. Booker	1,425.47
Sarah E. Johnson	1,000.00
Sally A. Murphy	1,569.54
Terry L. Reno	3,088.63

Disability Beneficiary

Donald T. Barrett	2,593.58
Brad A. Boyd	2,799.23
John Elmer Butler	1,892.16
Howard M. Goin	3,018.90
William D. Holmes	2,872.57
Steve J. Michaels	1,326.66
Christine M. Mize	1,433.93
Buddy Murphy	1,470.30

**Carbondale Police Pension Fund
Board of Trustees Meeting
Minutes of April 26, 2011
Presented July 26, 2011**

Julie L. Phillips	2,056.16
Katrina A. Phillips	2,138.72
Christine Snyder	2,682.73
Paul Staffey	3,497.75
Jeffrey D. Sykes	2,551.90
James Temple	2,206.58

Retirement Beneficiary

Hank Banycky	2,767.64
Kent A. Burn	2,805.81
Thomas S. Busch	3,059.90
Robert B. Conway	3,121.18
Randy L. Corey	2,731.72
Mark Diedrick	3,621.80
Charles E. Doan	2,335.66
Paul Echols	4,159.47
Gerald A. Edwards	3,211.39
Peter J. Emmett	3,693.36
Robert W. Goro	3,871.69
Larry D. Hill	2,935.16
Edward J. Hogan	4,140.23
Michael W. Johnson	2,908.69
Jon A. Kluge	3,134.58
Johnnie R. Knapp	3,290.46
Robert E. Ledbetter	5,824.49
Terry L. Mick	1,680.87
James R. Miller	2,424.63
Tim M. Moss	2,667.05
Brent Nausley	2,339.07
Stephen J. Odum	5,503.61
Michael Osifcin	4,080.46
Donnie Robbins	2,745.17
James M. Rossiter	2,707.14
Robert E. Scott	4,785.15

**Carbondale Police Pension Fund
Board of Trustees Meeting
Minutes of April 26, 2011
Presented July 26, 2011**

Daniel Stearns	3,597.65
Dwight C. Stearns	4,544.36
Donald E. Strom	3,125.35
John Sytsma	5,162.71
Lynn M. Trella	2,277.95
Marvin P. Voss	2,107.09
Mark Wilson	2,147.53
Arthur E. Wright	2,210.29

UNFINISHED BUSINESS:

None

NEW BUSINESS:

Chief Jody O’Guinn made application to the pension. Mayor Cole was present and spoke to the Board about the circumstances surrounding O’Guinn’s status with IMRF. Mayor Cole explained that O’Guinn was erroneously enrolled in IMRF and his contract of employment had explicitly forbid belonging to IMRF SLEP. Mayor Cole said he was the one who actually caught the mistake and brought it to their attention. Goddard spoke with someone from IMRF who said O’Guinn was placed in the regular IMRF but he could not belong there since he is the Police Chief, and as such can only belong to SLEP. His initial acceptance into IMRF non SLEP was an error that was not caught on the application. Goddard was told that IMRF should never have accepted his application but the error was not caught. Goddard was also told that IMRF is now automated and these types of errors will be caught automatically now. Chief O’Guinn was asked to come to the meeting and asked about the application to IMRF. Chief O’Guinn explained that he was aware he could not belong to SLEP so it was his belief that the City had entered him into the only other option available, Downstate Pension. Board Attorney, Scott Hendricks, was then asked his opinion on whether O’Guinn could legally be accepted into the fund. Hendricks advised that the law says once he makes a “valid election” into IMRF it is irrevocable, however; it is his opinion that based upon O’Guinn’s belief and the City’s error that Chief O’Guinn never made a “valid election” and thus can be accepted into the fund. Hendricks also believed the Board could make his acceptance retroactive to June 8, 2009, the date of his hire.

City Attorney Kimmel advised the city would abide by the actuarial estimate for the cost to enter Chief O’Guinn into the fund and pay the costs associated with the retroactive entrance into the fund.

**Carbondale Police Pension Fund
Board of Trustees Meeting
Minutes of April 26, 2011
Presented July 26, 2011**

Williams made a motion to accept Chief O'Guinn into the fund retroactive to June 8, 2009. Tessone 2nd. A roll call vote was taken with the following results:

Williams-yes

Tessone-yes

Rose-yes

Voss-yes

Goddard-yes

Motion carried and O'Guinn was accepted into the fund.

City Attorney Kimmel said the City would also provide any physical and mental evaluations that may have been performed as part of Chief O'Guinn's hiring process.

NEXT MEETING:

August 23, 2011

Respectfully submitted,

Mark Goddard

Carbondale Police Pension Board Secretary



MINUTES

**Carbondale Planning Commission
Wednesday, June 15, 2011
Room 108
City Hall/Civic Center**

Mr. Barke called the meeting to order at 7:00 p.m.

Members Present: Barke, Brazley, Grant, Harvey, Hunsaker, Lilly, Love, McClurg

Members Absent: Kang, McDaniel (ex-officio)

Staff Present: Wallace, Jones

Approval of Minutes:

Ms. Lilly moved, seconded by Mr. Brazley, to approve the minutes of April 20, 2011. The motion to approve the minutes passed on a unanimous voice vote.

Report of Officers, Committees, Communications:

Mr. Barke stated there were no reports. He then welcomed the two new members, Mr. Thomas Grant and Mr. Scott McClurg, to the Commission.

Public Hearings:

- A. **A. PC 12-01**, 7:00 p.m. Lindsey Fisher is requesting to rezone property located at 310 & 312 West Monroe Street from PA, Professional Administrative Office, to R-2, Medium Density Residential.

Mr. Barke declared Public Hearing PC 12-01 open and asked Mr. Wallace to read the legal notice.

Mr. Wallace read the legal notice.

Mr. Barke asked Ms. Jones to present the staff report.

Ms. Jones, Planner for the City of Carbondale, was sworn in and read parts A and B of the staff report.

Mr. Barke asked if there were any questions of the staff. Hearing none, he asked if Ms. Fisher owns the subject property, or if there was a contract for her to purchase it.

Ms. Jones responded there is a contract, but she does not currently own it.

Mr. Barke asked if the contract is contingent upon the rezoning request.

Mr. Wallace responded yes, it is.

Mr. Barke asked if there is a definition of "Urban Center" as the Comprehensive Plan designates this property.

Ms. Jones responded that, unfortunately, there is no available definition but on the map it corresponds with the BPR zoning in that it calls for various commercial uses and allows for buildings that have businesses on the first floor with residences above.

Mr. Barke asked if the application is being promoted as a complete apartment building with no commercial use.

Ms. Jones responded that is correct.

Mr. Barke asked for clarification regarding attachment four, Existing Land Use, which shows the property to the east as a multi-unit residential.

Ms. Jones stated that the structure is a rooming house.

Mr. Wallace responded that there is actually only one unit there.

Mr. Barke asked if the apartment next to the vacant lots is not a multi-family unit, but rather a single rental unit that must abide by the ordinance which holds that there may be no more than two unrelated people living there.

Ms. Jones and Mr. Wallace explained that the structure is a rooming house, so it is treated differently regarding occupancy.

Mr. Barke asked if, basically, it could be a frat house then.

Mr. Wallace stated yes, technically, because more than two unrelated people are allowed to occupy a rooming house.

Mr. Grant asked if the structure used to be the parsonage for the church.

Mr. Graves responded that it was never a parsonage.

Mr. Grant asked for clarification on the Urban Center in the Comprehensive Plan.

Mr. Wallace explained that the Plan does not define these different districts, but if you take the area bounded by South University and South Illinois, from Main Street south until reaching the university, and taking into account the property on either side, that is the area defined as the Urban Center. He stated that it is more dense, mixed-use area.

Mr. Grant stated that the Comprehensive Plan talks about this area being pedestrian friendly, and asked if it was intended to be mainly shops and offices on the ground floor with residences possible on upper floors.

Mr. Wallace responded yes, it is intended to be walkable.

Mr. Grant asked if the Commercial Restoration is meant to be a long term effort that includes conversion to professional offices.

Mr. Wallace responded that there are mixed uses, as the library is there along with some structures that used to be commercial that have been converted to residential uses, and it is across from the hospital. He added that it is zoned PA, and that the block may be redeveloped over time and restored into a commercial area.

Mr. Grant asked if there was anything planned for the Historic District or Preservation on the block on Monroe where there are several older structures.

Mr. Wallace stated that portions of Monroe were designated in the Historic Preservation Plan that was adopted in 2002, as a neighborhood preservation district, meaning that there are homes there with historic significance and the Commission could look into the potential for having it designated as a historic area. He added that the north side of Monroe and the property that fronts on Main Street has many homes that are on the inventory of potential historic places, but that it takes the property owners' permission to have the property added, and so far that has not happened.

Mr. Barke asked if there were any other questions for staff.

There were none.

Mr. Barke stated that he did not see the applicant, and asked if there was a representative for the applicant.

Mr. Sunny Frierdich came forward, stated that he is the construction supervisor and head of maintenance for Home Rentals, and that he is representing Ms. Fisher. He said that he has coordinated this project with the City and with the church on the corner, so it was determined that he could probably answer any questions. He stated that the property has been for sale for a long time and no one is able to utilize this small piece of property for a professional office, mostly because the lot is not large enough for adequate parking. He said that someone from the church approached Ms. Fisher as an interest to buy because the church needed the money, so they began to research what could be built there and figured it would be much like the one they built at 310 East College. He stated that there

is a contract to buy the property, contingent on the rezoning, a special use, or however it needs to be done. He said that options for design are open and they welcome suggestions.

Mr. Barke asked what type of building do they plan to put there, and if it would be a four-plex.

Mr. Friedrich responded yes, the plan is a four-plex, two story, with two bedrooms in each unit, and that they could modify the structure in a way that it fits in with the neighborhood.

Mr. Barke stated that, if the rezoning is granted, they can put up anything, as ugly as they want to.

Mr. Friedrich stated yes, they know that, but that the plan is to work with the neighborhood and what is already going on there.

Mr. Barke asked what type of special use they would be seeking if it comes to that.

Mr. Friedrich stated that it would be the same kind of deal they seek now.

Mr. Barke asked if they would be against a special use that would allow the City to control the type and quality of structure that was placed there, saying that is essentially the difference.

Mr. Friedrich responded that anything would be considered, and that being here to discuss it is the first step in the process. He added that the drawing he submitted was only a draft and it can be modified greatly as long as Ms. Fisher has the ability to build the four-plex like she wants to.

Mr. Barke asked if there were any further questions.

Mr. Grant asked if Ms. Fisher owns the parcel immediately east of the subject property.

Mr. Friedrich responded it would be 308 Monroe.

Mr. Grant said that if the alley is still intact, they could build the kind of structure that would be in keeping with the structures already there, and in the same era.

Mr. Friedrich responded yes, in kind of like a townhouse setting where everyone has their own place with nice landscaping, well built and very energy efficient.

Mr. Barke asked if there were any further questions of Mr. Friedrich.

There were none.

Mr. Barke asked if anyone would like to speak in favor of the application.

Mr. Ron Graves came forward, stated that he is one of the three trustees of the First Christian Church that owns the property, and has been authorized by the Board of Directors to try to sell the two lots of land. He said it has been used as a playground for the past two years, but it is no longer feasible because the church needs the money. He stated that they also own the property right behind it, next to the old post office, with the gravel parking lot. He offered to answer any questions.

There was discussion regarding the gravel parking lot having been grandfathered in.

Mr. Barke asked about the alleyway.

Mr. Graves stated that there has been discussion with the former Mayor and the City, who actually owns the alleyway, and that there are two of them. He pointed out on the map both an east-west alleyway and a north-south alleyway, saying that they have done no improvements to them because they believe the City owns them, yet the City has neither confirmed nor denied that. He said that is a whole different issue.

Mr. McClurg asked why it is no longer feasible to use the lot as a playground.

Mr. Graves responded that the church simply doesn't have the funds, and that it has become a liability as far as maintenance goes. He added that the house next to it is a rental that was sold to Mr. Fisher, and is not a parsonage.

Mr. Grant asked staff why the lines designating the parcel go outside the parcel lines, and if there are options for that property.

Mr. Graves went over to the map again, pointed out the two small lots that the church owns and the area owned by the laundrymat.

Mr. Barke asked how the congregation feels about a fourplex of apartments going there.

Mr. Graves responded that they have no problem with it, that there have been meetings and discussions about it and the decision was not made lightly. He stated that the lot has been empty for about two decades and when it was put up for sale it became more evident that it would have to be rezoned.

Mr. Grant asked if the maximum occupancy would be eight persons.

Mr. Wallace responded that the occupancy will be determined by the square footage of the unit, so potentially there could be three or four living in a unit according to the way the City Code is set up right now.

Mr. Grant clarified with staff that occupancy is a key difference from R-1 to R-2.

Mr. Friedrich stated that their lease is very specific in that there can only be two renters in each unit, and no more.

Mr. Barke asked if there were any further questions for Mr. Graves.

There were none.

Mr. Barke asked if anyone else would like to speak in favor.

There was no one.

Mr. Barke asked if anyone would like to speak in opposition of the application.

Mr. Brian Swoboda came forward, stated that he lives at 409 West Monroe Street, swore to tell the truth, and said that his property is within seventy-five feet of the property. He said that he has restored his home to about ninety percent of its original historical character in the eight years since he bought it. He said that he is opposed not so much to the R-2 zoning because much of the street is already R-2, but because of the type of structure being proposed. He said that the entire street is made of single family homes except for two structures that were built in the 1920's and any multi unit building will not be in keeping with the area, especially on that small of a lot. He spoke about the lack of parking that already exists on Monroe Street, that this development would only cause additional problems, and that it would not fit in with the historical character of the neighborhood. He said that he and his neighbors would rather see two single family homes built there. He said that secondly, he is also against the development because of who wants to do it, that Home Rentals is developing a property right next door to him that they "saved" and it looks worse now than it did when they purchased it. He stated that the materials and workmanship are barely enough to pass City Code, that they are using inefficient, sometimes homemade building supplies, and that the merits of the company wanting to develop this is not what is wanted in the neighborhood. He added that there are four or five Home Rentals buildings already on the street, and they are the houses that are the worst kept, the most parties and noise, the most trash, and the most complaints. Therefore, he doesn't see how Home Rentals can add a sixth structure with that many people, and not have the same situation with the trash, the parking issues, and the noise. He said that they tend to rent to students because most people who are not students will not rent from Home Rentals, so the neighborhood is stuck with more loud parties and more bull in an area that is fronted by the Carbondale Public Library, has lots of children, churches and other civic organizations within a block. He stated that he therefore does not feel that this developer is suitable for the project, either.

Mr. Barke asked Mr. Swoboda which house on Monroe is his.

Mr. Swoboda walked up to the map and pointed out his lot.

Mr. Barke stated that his house is contained in the Neighborhood Conservation/Restoration part of the Comprehensive Plan, whereas the vacant lots are

contained in the Urban Center, and Commercial Restoration is across the street. He stated that clearly, when the City developed the Comprehensive Plan it was decided that section was the cutoff for the Neighborhood Conservation with the rest of it going to Urban Center, so the development not following the character of his area makes sense when going by that. He said he knows it is more difficult to understand that on the same street there are split uses, but it is that way on Monroe.

Mr. Grant asked if the structure being worked on right now is east or west of Mr. Swoboda.

Mr. Swoboda responded that it is east of him, at 407 West Monroe.

Mr. Grant asked if the one on the corner just east of that if still a rental.

Mr. Swoboda responded yes, that it is being converted into two apartments.

Mr. Barke asked if there were any further questions for Mr. Swoboda.

There were none.

Mr. Barke asked if anyone else wished to speak in opposition.

Ms. Diana Brawley Sussman came forward and stated that she is the director of the Carbondale Public Library and is speaking at the request of the Library Board, whose members had discussed and then voted in opposition to the rezoning and wanted that to be on record. She said the Board does not feel that the development would be good for the neighborhood.

Mr. Barke asked if there were any questions of Ms. Sussman.

There were none.

Mr. Barke asked if anyone else wished to speak in opposition.

Ms. Sandy Litecky came forward, stated that she is president of the Arbor District Neighborhood Association, and that this area is in their boundaries. She stated that this is spot zoning and the association is against that, but a unit could be built there with a Special Use Permit within the PA zoning and that would be more acceptable than changing the zoning. She asked if there were any questions.

There were none.

Mr. Barke asked if there was anyone else who wished to speak in opposition.

There was no one.

Mr. Barke asked Ms. Jones to continue with the report.

Ms. Jones read parts C and D of the staff report with a recommendation to deny PC 12-01.

Mr. Barke asked if there were any questions of staff from Commissioners.

Mr. McClurg asked for clarification for the rezoning as opposed to the Special Use, and what is permitted in the involved zoning districts.

Ms. Jones and Mr. Wallace, explained the district's differences and how a Special Use is determined, as opposed to a rezoning.

Mr. Barke spoke about a previous case that involved a text amendment that caused a need for a Special Use for residential uses in the PA District, and said that a judge had ruled that the permit cannot be required for that.

Mr. Wallace went over the case and the amendment, stating that in the end, the Appellate Court ruled that the City should have notified the builders that the text amendment was up for a public hearing, giving them a chance to contest the amendment. However, he said that the ruling is specific to this case alone because part of the development had already been constructed using the previous regulations.

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

There were none.

Mr. Barke asked if there were questions from anyone to anyone.

Ms. Litecky asked what is required for parking under R-2 and under PA with a special use, if the structure was four units with two bedrooms each.

Mr. Wallace responded that it is one for bedroom, so a two bedroom unit would require two parking spaces.

Ms. Litecky clarified that then, the described development would need eight parking spaces, and asked where guests would park since there's no available parking nearby.

Mr. Wallace responded that the City's code does not require that any additional parking spaces be available.

Mr. Hunsaker asked if a Special Use Permit could have a condition on it to require extra parking.

Mr. Wallace responded that any conditions that the City Council wants to attach to a Special Use Permit, they can do.

Mr. Grant asked Mr. Frierdich if there is any cooperative effort among nearby businesses to provide additional parking in the area, if he plans on adding additional parking, or only providing the required eight spaces.

Mr. Frierdich responded that they do not plan any extra parking spaces, that the lot is only so big and there's only so many square feet you can build on with such a small lot. He stated that there is no plan currently in place for cooperative parking, but that it certainly can be discussed. He added that this is a small lot, and they found a use for it.

Mr. Barke asked Mr. Frierdich if he thinks Ms. Fisher will seek a special use if the rezoning to R-2 is denied, or if that makes the project dead in the water.

Mr. Frierdich stated that when he initially asked about it, he was told by staff to apply for a rezoning, but that nothing is out of the question or dead in the water.

Mr. Barke asked if they allow for or plan on any visitor parking, or is it all limited to what the City requires at each unit.

Mr. Frierdich stated that the lots in the City are not great big lots, and you have to use what you have and comply with the area you can build upon. He said that parking is generally limited to meeting City code.

Mr. Grant asked staff if single family homes were built on these lots, is there a limit on how many people can occupy those homes.

Mr. Wallace responded that, even to build a single family home, a special use would still be required as it is zoned now, or a rezoning would be required. He said that if a single family home was built, it could still be occupied as a rooming house where occupancy is based on square footage, even if it was rezoned to R-2.

There was brief discussion regarding the many situations where there are more cars than parking spaces.

Mr. Barke asked if there were any further questions from anyone to anyone.

Ms. Catherine Graves came forward and stated she is the pastor of the church, apologized for being late, and stated that this land was purchased by the church with the vision of making it a parking lot if they could procure the house that is between the lot and the church building. She said they have never been able to do that so the lot has been used as a possible playground, but that did not work because of several large dogs in the area, so they need to figure out a way to market it because it is only a liability now. She said perhaps she needs guidance as to how they should sell it in a way that is good for Carbondale and good for the church, and that she wishes to cooperate with the City in any way they can to get it sold if the rezoning is not allowed.

Mr. Hunsaker asked how long the property has been for sale.

Ms. Graves responded about five months, and this is the second offer but both had contingencies on rezoning.

Mr. Barke explained the difference in what can happen with a rezoning, as opposed as the very specific regulations and conditions that can be attached to a special use.

Mr. Wallace asked Mr. Frierdich if anything smaller than a four plex would be viable on this lot.

Mr. Frierdich responded that the option of it being developed in a different way is out there, but the square footage requirements and land use indexes have gone down so it is difficult to answer that question without having input from Ms. Fisher.

Mr. Hunsaker stated that the way he sees it, the rezoning is out but there could be a chance at a special use because more control could be applied and perhaps more parking spaces required.

Mr. Barke asked if there were any further questions.

There were none.

Mr. Barke asked Mr. Frierdich if he wished to make a closing statement.

Mr. Frierdich responded that he began working for Home Rentals about six years ago, and when he started both he and the City had several issues. He stated that things have changed since then as they have tried to get past the prior bad publicity, do things differently, and work with the City. He said that he use to come to Tom Grant for advice when he was the manager of Building and Neighborhood Services and still comes to staff before he does anything else. He stated that when he came to work there, tenants were responsible for mowing their own grass and yards looked terrible, so they are doing full-time mowing now and trying to improve their reputation in the City.

Mr. Barke closed the public hearing on PC 12-01 and asked for a motion on the findings of fact, that two people spoke in favor and three people spoke in opposition of the application.

Ms. Harvey moved, seconded by Mr. Hunsaker, that the Commission accept as findings of fact Parts A and B of the staff report for PC 12-01, that the applicant's representative was present and spoke, that one person spoke in favor and three people spoke in opposition of the application.

The motion passed on a unanimous voice vote.

Mr. Barke asked for a vote on the recommendation to the City Council.

Ms. Harvey moved, seconded by Ms.Lilly, that the Commission recommend approval of PC 12-01.

Roll Call Vote:

Yes - 0

No – 8 (Barke, Brazley, Grant, Harvey, Hunsaker, McClurg, Lilly, Love)

Mr. Barke stated that the motion fails, and that this matter will be on the City Council agenda at their meeting on July 19, 2011.

Mr. Barke explained that the process now goes to the Council for a final decision, and the Planning Commission is an advisory body. He stated that he would like to see a special use application come forward for the project so that parking and aesthetics can be monitored and determined with others involved in the decision making. He stated that this is not to diminish Home Rentals, but people have burned them before with a rezoning that they used differently than they stated prior, so he would gladly entertain that aspect.

5. Old Business

None.

6. New Business

A. City Council Agendas of May 17th and June 7th, 2011.

Mr. Barke asked Mr. Wallace to review this item.

Mr. Wallace reviewed two approved rezonings on the May 17th agenda.

Adjournment

Mr. Barke adjourned the meeting at 8:17 p.m.



MINUTES

**Carbondale Planning Commission
Wednesday, July 20, 2011
Room 108
City Hall/Civic Center**

Ms. Harvey called the meeting to order at 7:04 p.m.

Members Present: Grant, Harvey, Hunsaker, Lilly, Love, McClurg
McDaniel (ex-officio)

Members Absent: Barke, Brazley, Kang

Staff Present: Wallace, Jones

Approval of Minutes:

Mr. McClurg moved, seconded by Ms. Lilly, to approve the minutes of June 15, 2011.
The motion to approve the minutes passed on a unanimous voice vote.

Report of Officers, Committees, Communications:

Ms. Harvey stated there were no reports.

Public Hearings:

- A. **A. PC 12-02**, 7:00 p.m. Dona Reese has requested a Special Use Permit to allow dwelling units as permitted in the R-3 District in an SB, Secondary Business, District, for property located at 2331 South Illinois Avenue.

Ms. Harvey declared Public Hearing PC 12-02 open and asked Mr. Wallace to read the legal notice.

Mr. Wallace read the legal notice.

Ms. Harvey asked Ms. Jones to present the staff report.

Ms. Jones, Planner for the City of Carbondale, was sworn in and read parts A and B of the staff report.

Ms. Harvey asked if there were any questions of the staff.

Mr. Grant stated that the current Special Use had conditions placed on it that it stay with the applicant and that it only be one building. He asked if the Commission has the ability to override that Special Use.

Mr. Wallace responded that the Special Use that would be granted tonight would override those conditions and allow the existing building already approved for a Special Use, plus the use of the current, vacant building to provide the combination for the existing building plus the proposed one. He added that it would also override the condition that it apply only to Ms. Reese, so any future owner would be able to utilize both units.

Ms. Harvey asked if there were any further questions.

There were none.

Ms. Harvey asked if the applicant was present and wished to speak.

Ms. Dona Reese came forward, was sworn in, and stated that the used furniture store that she ran in the building for about two years was not profitable, that she lost around \$200.00 per month, and that she hopes a one bedroom apartment would more likely make a profit. She said that she has the property for sale, but only one person has come to look at it, adding that whether it is sold or not it would be better for both a buyer and herself if the unit was allowed to be rented out. She added that if the rental works out to be profitable, she would like to keep the property, and asked if there were any questions.

Ms. Harvey asked if the property was sold, would the new owner have to request a special use.

Mr. Wallace responded no, that the special use would run with the property.

Mr. Grant asked how long the property has been for sale.

Ms. Reese responded that it has been on the market for several months, and that her insurance company said that they may have to cancel her insurance since the property is vacant.

Ms. Harvey stated that there were no others in attendance, so no one was there to speak in opposition to the application, and asked Ms. Jones to continue with the staff report.

Ms. Jones read parts C and D of the staff report with a recommendation to approve PC 12-02, with conditions.

Ms. Harvey asked if there were any questions of staff from Commissioners.

Mr. Grant asked if it was typical for the special use to run with the property rather than with the individual.

Mr. Wallace stated they can be allowed both ways, and that it depends on what the special use accomplishes. He said that most of the times, the use is what is being approved so more times than not, the use runs with the property.

Ms. Harvey asked if there were questions from anyone to anyone.

There were none.

Ms. Harvey closed the public hearing on PC 12-02 and asked for a motion on the findings of fact.

Mr. Grant moved, seconded by Mr. Love, that the Commission accept as findings of fact Parts A and B of the staff report for PC 12-02, that the applicant was present and spoke, and that no one else spoke in favor or in opposition.

The motion passed on a unanimous voice vote.

Ms. Harvey asked if the Commission wanted to vote on the seven criteria individually, or as one vote.

Mr. Hunsaker moved, seconded by Mr. Love, to vote on the criteria as one.

Roll Call Vote:

Yes – 6 (Grant, Harvey, Hunsaker, McClurg, Lilly, Love)

No -- 0

Mr. Grant asked for clarification that Ms. Reese will be required to obtain a permit from Building and Neighborhood Services and meet all applicable local and state laws regarding energy efficiency, and other things that went into effect in 2009.

Ms. Jones responded that is correct.

Mr. Wallace added that there were a number of upgrades when the building was converted to a commercial structure, and that Ms. Reese will now have to register it through the rental inspection program and meet any residential requirements.

Ms. Harvey asked for a vote on the recommendation to the City Council.

Mr. Grant moved, seconded by Ms. Lilly, that the Commission recommend approval of PC 12-02 as presented by staff.

Roll Call Vote:

Yes - 6 (Grant, Harvey, Hunsaker, McClurg, Lilly, Love)

No - 0

Ms. Harvey stated that the motion passed and that this matter will be on the City Council agenda at their meeting on, August 16th, 2011.

5. Old Business

None.

6. New Business

A. City Council Agendas of June 21 and July 19, 2011

Ms. Harvey asked Ms. McDaniel to review this item.

Ms. McDaniel asked what had happened to the case on Monroe Street.

Mr. Wallace responded that it was withdrawn, then resubmitted as a Special Use request to be heard at the next meeting. He added that City staff worked extensively with the applicant after the meeting, in light of concerns that were expressed.

Ms. McDaniel stated that there was no other business to discuss pertaining to the Planning Commission.

Adjournment

Ms. Harvey adjourned the meeting at 7:26 p.m.



**Liquor Advisory Board
June 2, 2011**

The City of Carbondale's Liquor Advisory Board held a meeting on Thursday, June 2, 2011, in Room 103 of the Civic Center, 200 South Illinois Avenue. Vice-Chairman John Benschhoff called the meeting to order at 5:31 p.m. with the following-named members of the Board present/absent:

1. Roll Call

Present: John Benschhoff, Nick Ferraro, Dave Lotfus, John Mills, Steve Payne, Rob Taylor and Mark Robinson (arrived at 6:00)

Absent: None

A quorum was present. Also present were City Attorney P. Michael Kimmel, Deputy City Clerk Jennifer Sorrell, Police Chief Jody O'Guinn, Fire Chief John Michalesko and Fire Safety Inspector Tom Manis.

2. Approval of Minutes

J. Mills requested that the minutes for May 5, 2011 be amended to reflect the action on the consideration for Ice Box Bar and Grill's application for a liquor license. A motion to approve the minutes as amended was requested by J. Benschhoff. D. Loftus moved, R. Taylor seconded, that the minutes of May 5, 2011, as amended, be approved. VOTE: All voted aye; motion declared carried.

3. General Business

1. Review of Third Quarter Reports from the Police Department, Fire Department and Building and Neighborhood Services

N. Ferraro commented that the current quarterly reports appear to be the same as past reports. There being no other comments or questions, S. Payne moved, R. Taylor seconded to accept the third quarter reports. VOTE: All voted aye, motion declared carried.

2. Consideration of Transfer of Existing Liquor License for Blue Fish Liquors & Cigars

The applicant was present at the beginning of the meeting, but left before the consideration of this item. As applicants are required to be present before the Board to respond to questions, the item was set aside to the end of the meeting to allow time for the applicant's return to the meeting.

3. Consideration of Liquor License Renewal Applications

J. Mills expressed concern about Fat Patties' renewal. When the application was made during the last license year, there was a level of concern about Mr. Jack being a City Councilman, and the potential for creating a problem for the Council. Mr. Kimmel explained that when Mr. Jack's license was last considered by the Liquor Control Commission, Mr. Jack resigned his position as a Councilman. Upon being re-elected for a Councilperson, Mr. Jack is not eligible to serve on the Liquor Control Commission as a liquor license holder. J. Mills questioned whether or not there was any type of understanding in place with the Council that Mr. Jack, upon resigning his Council position last year, would be running again during the recent election. Mr. Kimmel indicated that he

was unaware of any such understanding. J. Mills stated that he has no problem with Mr. Jack holding a license, but that he had reservations about a Councilperson holding a liquor license. J. Benshoff asked if Mr. Jack was unable to sit on the Liquor Control Commission at all and Mr. Kimmel affirmed that he could not as a liquor license holder. R. Taylor stated that the voters were aware that he is a liquor license holder when they voted for him and that he felt he should still be able to continue to hold his license.

J. Benshoff asked if there were other questions or comments about the applications. Mr. Kimmel suggested that they consider how to handle Blue Fish Liquor's license, with the transfer of their liquor license being considered. J. Mills motioned to approve all licenses except Blue Fish Cigar and Liquors and Nick Ferraro seconded. VOTE: All voted aye, motion declared carried.

4. Discussion of alcohol in grocery stores and other businesses

J. Benshoff opened the discussion first to the Liquor Advisory Board with respect to the sale of alcohol in grocery stores and other businesses. S. Payne requested information on how the Board voted in March of 2010, as the last time this topic was considered. Several votes were considered, including lifting the cap on Class C licenses, which passed unanimously, amending the Code to rescind the requirement for grocery or drugstores to have a separate entrance and checkouts, which passed unanimously, subclassifications for Class C licenses, which passed unanimously, and finally conducting research on population density to be used as a determination for a new Class C cap which passed with only one dissenting vote. S. Payne stated that he brought up the last vote only to request that any new discussion be considered and not rehashing old. R. Taylor asked how long the liquor code, as it currently stands in relation to this discussion been in place and John Hoffman, liquor store owner sitting in the audience, indicated since 1967 or 1968. R. Taylor asked if there was an ordinance prohibiting sale of alcohol south of Pleasant Hill Road on South 51, which was acknowledged as being accurate. Mr. Kimmel stated there are two issues, about who can change that status and how it can be done. He stated that topic gets into whether certain areas in Illinois which have had referendums to vote to be "wet" or "dry" and if they can be changed and how. D. Loftus asked when that area became "dry" and Mr. Kimmel indicated that Makanda Township had a referendum, but he was unsure as to when. J. Benshoff indicated that this topic has been covered a number of times and has always been contentious. R. Taylor expressed his disapproval of changing the Class C licensing due to the fact that the current Class C licensees started their businesses in Carbondale many years ago, under the current licensing standards, that they have supported Carbondale with tax dollars, time, donations, etc., and it would be unfair to change the standards and have their businesses suffer as a result of such changes. He also stated his support and his desire to see the City support these small, local businesses. J. Mills indicated that he understood R. Taylor's point of view, but felt that denying grocery stores and protecting the local liquor stores was a fine line to tread. He remarked that there are an awful lot of people shopping at the Murphysboro Wal-Mart for the convenience of being able to purchase their liquor at the same time they are purchasing other items. J. Benshoff agreed that small business is vital to the City of Carbondale, but that looking at consumers and choices available to the public, as well as tax dollars staying in Carbondale, all these issues need to be considered. At this point, J. Benshoff turned over the Chair position to the M. Robinson. M. Robinson asked if in other cities that allow sales of alcohol in grocery stores, if the liquor stores go out of business. John Hoffman offered the status of several other cities and their liquor sales status. R. Taylor stated that as the current licensing has been in place since 1967, and in response to the current licensing requirements, the families of the liquor store owners came into town to establish their business, and if the status quo had been changed they would not have established this particular type of business in this town. J. Mills asked if we should be in the business of protecting the one group in one particular area over another. M. Robinson commented that some years ago, Wal-Mart requested that the City change the licensing for them, and he was very opposed to it. He did not want to change the law to allow one large business to absorb all the sales, but when discussing opening the market up so that an entire class of business has the ability to sell alcohol, then there is no favoritism shown to one particular business. R. Taylor commented that he feels that

the other stores do not need the ability to sell alcohol; that they are not only continuing business, but even expanding. J. Mills does not feel that it is the Board's determination whether or not the grocery stores need to sell alcohol in order to sustain their business. R. Taylor questioned whether or not the City wishes to set the precedent of harming small businesses for the sake of improving its bottom line and for the convenience of the consumer. M. Robinson stated that precedent had already been set in paying large businesses such as Dick's Sporting Goods to come into town and allowing them to close down small businesses. At least in this situation, the City wouldn't be paying grocery stores to put liquor stores out of business. M. Robinson also said allowing the sale of alcohol in grocery stores wouldn't be a gift to the stores themselves, but rather an opening up of the market. J. Mills asked if there were any Class C licenses available, and Mr. Kimmel replied no and one of the issues to be discussed is whether or not Carbondale should continue to have caps. J. Mills suggested that the lack of available licenses and the cap in place give the current liquor store owners a monopoly, to which R. Taylor disagreed and replied that the courts could address that issue, if that were the case. Don Monty stated that before 1968, there were a very limited number of liquor licenses, and that the council members who ran for that year's election, did so with the intent to open up the number of available licenses. He stated that the liquor store owners who held licenses before the number of licenses increased were complaining about having increased competition. J. Mills asked Mr. Monty to give the top three reasons for the decline of the downtown area. The first he offered was the change in the layout of the City which allowed retail development to the east and west and the competitive marketplace brought in several new merchants to those areas. Another factor that he suggested was the civil disorder in the downtown area and the City Council of the time made a decision to squeeze on liquor licenses to eliminate those disturbances, which contributed to the impact downtown. The main impact is the change in the economy, and it has been common for the downtown areas in cities to decline, starting around the late 60s. J. Mills recalled many different liquor license holders in the former downtown area, which existed alongside dry goods stores, and managed to thrive for a time until the expansion of Carbondale east and west. M. Robinson questioned Mr. Monty as to whether or not there was a law against grocery stores selling alcohol through a separate entrance. Mr. Monty and he talked about Walgreens, as it existed at the mall, which did have a liquor license and sold alcohol with a separate entrance and had a wall that divided the two areas of the store. M. Robinson suggested that the main discussion is probably relative to the number of licenses rather than changing the licensing to allow grocery stores to sell alcohol, as they are already allowed to so. Francis Murphy, General Manager of the Neighborhood Co-op grocery, remarked that in the event the cap on licenses were lifted, but the requirement of having a separate, walled off entrance for liquor were not also changed, then he didn't feel there would be many stores who would take that opportunity. He does not feel that the customers would respond well to that added inconvenience, nor would businesses want to make that much investment into the infrastructure. J. Benschoff commented that the reasoning behind the separate entrances was to limit the possibility of an underage person purchasing alcohol, and now if a person purchases alcohol in a grocery store, the cash register reminds the checker to request an I.D. Wendy Hoffman McClanahan of Illinois Liquor Marts asked if the Board was aware that Wal-Mart and Kroger in Murphysboro were just busted for selling to an underage person. Thomas Hoffman from Warehouse Liquor Mart stated one of the reasons for the separate entrance for selling alcohol was in response to a store being cited multiple times for underage selling, and in the event that multiple infractions occur, the whole store is required to be closed for a time. The separate entrance protected the grocery store from having to close down the entire store and limited it to just the store selling alcohol. Thomas Hoffman Jr. of Illinois Liquor Marts distributed density reports to the Board members. He commented that they were not fully prepared for the meeting, because they had only found out about the meeting through the media that afternoon. He stated that he did not want to leave the Board with the impression that he did not want any other business in town to have liquor licenses, but disputed that since 1968, the current holders built their businesses to conform to the established laws of the City and now suddenly grocery stores want to change the policies, and he feels that should have to abide by the same policies as the current license holders have had to over the years. M. Robinson stated that this was only a discussion, no action was to be taken at this time, and that the discussion would continue. Trace Brown on behalf of Marketplace, a new convenience store opening at Sweets

Corner, stated that he, too is a small business owner, as he and his father bought a franchise for the Holiday Inn and Houlihans, and he feels that this is another profit generator that he needs to make his business work. M. Robinson stated that with respect to grocery stores, there does not currently exist a bar to them selling alcohol, but that a law does exist that prevents alcohol from being sold at the same location where you purchase fuel. Mr. Kimmel commented that issue is one to be considered in modifying the current Code. Trace Brown stated that not allowing Chili's or Comfort Inn to come into town to start their businesses would have benefited his business, and that he is asking for the same opportunity to sell liquor as other people have for all these years. He commented that he is across the street from Blue Fish, who is actually from Anna, and felt that their license issuance was a slap in the face. M. Robinson stated that he is not selling fuel and so no laws had to be changed for him. Thomas Hoffman Jr. stated that Blue Fish is already trying to sell his business and that it gives some perspective as to the number of liquor licenses already in existence, that the current owner is trying to leave his business. He commented that there would be another 27 or 28 convenience stores selling and he guaranteed that it would ruin a lot of people. J. Mills once again brought up the issue about either supporting the concept of free enterprise or we don't, and where do we draw the line? He doesn't feel there is a simple answer to this question. Wendy Hoffman McClanahan stated that a driving force behind putting small mom and pop stores out of business is the big box stores coming to town. M. Robinson explained that years ago when Wal-Mart wanted to change the licensing, he voted no, but that this set of circumstances is different, because it isn't just for one business, but creating an open policy for many to benefit. He feels that the liquor stores who have experience in selling alcohol successfully will be the best at it and that those who have not had that experience will struggle to make any profit from it. Thomas Corley from Warehouse Liquor Mart remarked on the loss of sales tax revenue to outlying cities and asked if it was due in part to the decline in population and enrollment at SIU. M. Robinson stated he was unsure how much the decline in enrollment and/or the draw from sales that the Murphysboro Wal-Mart takes versus the general slump in the economy. He then commented that box stores may draw away business from some stores, but that they also bring shoppers to our city. Ray Bailey of ABC Liquor in response to Tom Corley's comment about loss of revenue to Wal-Mart, stated that Carbondale has lost two grocery stores on the west side of town which may make it a shorter drive for some people to drive to that Wal-Mart. Mr. Hoffman stated that four package liquor stores have closed since 1967. Mr. Monty stated that he is not hearing the level of detail he would like to have before having to consider it at the City Council level, including the issue of changing the area south of Pleasant Hill Road from "dry" to "wet." He believes that area is "wet", but that the Council did something in an ordinance that says they would not issue a license down there. He feels more research needs to be conducted. Mr. Monty felt that the term "grocery store" needed some clarification and that whether grocery stores would be able to sell all types of alcohol, or should they be limited to beer and wine only? Many issues need to be considered and a reasonable amount of time needs to be allowed to sort through the many issues. M. Robinson stated that tonight was a discussion and that no action would be taken, to which Mr. Monty stated he believed that this was the beginning of a conversation that may go on for awhile. Wendy Hoffman McClanahan stated that regardless of whether or not Wal-Mart and Kroger receive licenses, they will remain in business. J. Mills said that the Board may need to have direction from the Mayor as to what specifically he wants to be considered. M. Robinson asked if any category of business excluded from selling liquor, assuming that they had a separate entrance and license. Mr. Kimmel stated that drug stores are equal with grocery stores with respect to licensing. M. Robinson asked if there were any other stores, such as a shoe store, which would be prohibited and Mr. Kimmel stated that there were not. M. Robinson suggested that there are numerous businesses which could potentially become liquor stores if the cap were to be lifted. Frances Murphy of the Neighborhood Co-op reminded the Board that fourteen months ago the discussion included the possibility of modifying the Class C licenses into subclassifications, one being for beer and wine sales only and the other for all types of liquor. He informed the Board that the only items they wished to stock and sell were beer and wine, not hard liquors. M. Robinson commented that the argument he was hearing was that grocery customers in selecting items for a dinner want to select a wine or beer to complement that meal, not a fifth of Jack. Thomas Hoffman stated that he did not dispute that, but to maintain a separate entrance. Thomas Hoffman discussed

the stings set up by the State Liquor Commission and the resulting penalties that follow offenses. He suggested separate entrances protect the grocery stores from having to close the entire store. Charles Fanning of West Cherry Street expressed confusion about separate entrances and drive-through liquor. M. Robinson explained that the drive-through liquor is still part of the liquor store and if a 21 year old is driving, but a group of minors is in the car, there may be a problem. Mr. Fanning then commented that the separate entrance seems to be a false argument. Trace Brown of Houlihan's/Holiday Inn stated that his store had been tested through the sting and had not failed once and that he didn't believe there would be any difference in his convenience store. M. Robinson remarked that Houlihan's is not the typical place where minors would go to try to obtain liquor, which probably attributes to why he has never been busted. Mr. Brown stated that most of his anticipated customers would be coming from Williamson/Franklin Counties on their way to or from University Mall. Frank Karayiannis expressed frustration with the Board creating the current licensing as they felt it to be necessary and now changing the playing field. He believes the grocery stores came to Carbondale because they saw the potential for profit in spite of being barred from selling liquor. The national corporations would receive rebates from the liquor companies at the end of the year, where local companies would not, and in order to compete might have to cut positions. Additionally, the City may not collect as much in sales tax from these larger businesses, because they can sell the products for less and collect those rebates after the fact. Thomas Hoffman brought up the State requirement for training for the employees. M. Robinson stated that previous conversations regarding this topic had included the need for heavy training requirements for grocery stores. If grocery stores want to sell liquor, they will have to pay the price for violation, potentially including closing the whole store if the current code is changed. Wendy Hoffman McClanahan remarked that alcohol is a controlled substance and as the Code is currently written, the issue is under control, but if the sale is opened up, control will be lost. M. Robinson brought up that minors still are finding ways to access alcohol even as the Code is currently written. Barry Spohne, a member of the public, stated he did not believe it was possible to really control the access to alcohol. Also, he was well aware of what he signed when the petition was presented to him and he believes a person of legal age has the right to purchase alcohol where they choose. M. Robinson remarked that he felt it was going to be a very difficult decision to make and that both sides would have to come up with their best most realistic arguments, not playing towards emotions or unrealistic facts. Rob Taylor commended the Mayor on bringing forth the topic for discussion and recognizing that the matter is complex and would take time to resolve. J. Mills: It might be beneficial to have specific requests that the Mayor wishes to be discussed. M. Robinson was glad that everyone kept a civil tongue. Dave Loftus would like more community input aside from that which he receives from the students. He shares R. Taylor's concern for the impact on local business. He views the current requirements for grocery stores as a protection for the stores.

The request for the transfer from Blue Fish to Sunrise Hospitality, who already holds a liquor license, which was tabled, could not be considered as the applicant left. The real estate agent involved with the sale of the business explained that Mr. Patel had to leave due to a family emergency. M. Robinson asked if the Board wished to hold a special meeting, but the Board agreed to send it to the Commission without a vote for consideration. J. Benshoff moved to send the transfer to the Commission, seconded by R. Taylor. VOTE: All approved, motion carried.

Janet Vaught reminded the Board that the renewal of Blue Fish Cigar and Liquors still had to be considered as it was temporarily tabled. Mr. Kimmel asked if both Blue Fish had submitted an application for renewal, which the Deputy Clerk acknowledged they had. Janet Vaught brought up that if the transfer is approved that Sunrise Hospitality license should be renewed, not Blue Fish Liquors, to which Mr. Kimmel disagreed. The real estate agent stated that the sale should be complete within fifteen days. M. Robinson asked if everything was O.K., and the attorney affirmed. J. Benshaw moved to approve the renewal, R. Taylor seconded the motion. VOTE: All approved, motion carried.

4. Scheduling of Next Meeting

M. Robinson noted that the next scheduled meeting is July 7, 2011.

5. Adjournment

There being no further business to come before the Board at this meeting, the meeting was declared adjourned at 7:14 p.m.

Rachael E. Keehn, City Clerk

Approved by the Board on:



Carbondale Human Relations Commission
Meeting - Monday, June 6, 2011
Carbondale Civic Center ~ 6:30 p.m.

Commissioners Present: Jeraldine Brown, Daphne Grigsby, Erin Dickson, Hugh Muldoon, Sidney Logwood

Commissioners Excused: None

Commissioners Absent:

Study Circle Staff Present: Sarah Heyer

Guests Present: Katherine Benziger, Deane Cole, Nance Drone, Kate Fakhaivy, Christina Flores, Jeff Franklin, Sana Haque, Betsy Herman, Joan Juul, Pat Keenan, Sorrell Kunath, Shannon Lindsay, Sarah Miranzi, Rose Moroz, Dawn Morningstar, Carbondale Police Chief Jody O'Guinn, Kathy O'Laughli, Bill Sasso, Elena Sasso, Danielle Schultz, Ron Sumner, Susie Toliver, Candle Wester-Mittan

Staff Present: Deborah McCoy

Call to Order

The meeting was called to order by the Chair, Commissioner Muldoon and guests were introduced.

Minutes

Motion was made by Commissioner Logwood and seconded by Commissioner Brown to approve the minutes of the May 2, 2011 meeting. Motion carried.

Announcements

Chair Muldoon announced that Candle Wester-Mittan's appointment to the Human Relations Commission would be confirmed at the May 17, 2011 City Council Meeting. Attendees were encouraged to write a letter to Mayor Fritzler if interested in serving on the Commission. Chair Muldoon also announced that Jenn Freitag of The Women's Center would be the guest speaker at the July meeting.

It was also announced that a fund raiser would be held on June 17 for and by the Rainbow Café.

June 6, 2011

Public Comments

None

Study Circles Report

Coordinator Heyer reported that the Housing & Neighborhood Group met on June 1, 2011 and continued discussion regarding MAPP Your Neighborhood. The group also discussed the COMP Plan and the rewriting of zoning ordinances.

Non-Violent Communication Progress Report

Chair Muldoon commented that the NVCP continues to meet between HRC meetings to discuss issues, concerns and strategies. The NVCP is working on the draft of the next brochure. The book study group is scheduled to meet on Monday, June 13, 2011.

Other Reports

Carbondale Police Chief Jody O'Guinn distributed the report from the Police Department with discussion to take place at the July meeting.

Presentations

The film titled "Bullied" was shown with discussion led by Jeff Franklin. Comments made included that there needed to be a community effort to address the many forms and faces of bullying. Bullying is seen in schools and is done by students and teachers but oftentimes, it begins at home. There is hope in future generations and education is the key. Parents, as well as children, need to be educated on bullying and made aware of the many programs and services that are available. It must be communicated that there is never a reason to mistreat someone. Bullying is about control and power and children need to be taught at an early age how to have a friend, how to be a friend and how to resolve conflict.

Next Meeting - Monday, July 11, 2011, Civic Center, 6:30 p.m.

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



Commissioners Present: Daphne Grigsby, Hugh Muldoon, Candle Wester-Mittan

Commissioners Excused: Jeraldine Brown

Commissioners Absent: Erin Dickson, Sidney Logwood

Study Circle Staff Present: Sarah Heyer

Guests Present: Jessica Bradshaw, Jenn Freitag, Nancy Keenan, Sarah Miranti, Carbondale Police Chief Jody' OGuinn, Director of SIUC Department of Public Safety, Shannon Toth,

Staff Present: None

Call to Order

The meeting was called to order by the Chair, Hugh Muldoon, at 6:35 p.m. A quorum was not present.

Minutes

Without a quorum, minutes from the June 6, 2011 meeting could not be accepted.

Announcements

- Women's Center Community Forum on August 3, Carbondale Civic Center, 6:30 p.m.
- Death of Richard Hayes
- Sherry Ratcliffe, Chamber of Commerce Executive Director will join the Commission

Public Comments

None

Study Circles Report

Coordinator Heyer

Non-Violent Communication Progress Report

Chair Muldoon reported that up to 13 people have participated in the Nonviolent Communication Book/Practice Group that meets at the Newman Center on Mondays when the HRC is not meeting.

Other Reports

Chief Jody O'Guinn presented the 2010 City of Carbondale Police Department Professional Standards Report which included information on commendations, informal complaints, formal complaints and bias-based enforcement complaints. Complaints were categorized by rudeness/standard of conduct, improper investigation, improper use of force, harassment, negligence and criminal. The report will be formally received at the next Human Relations Commission meeting.

Presentation

The guest speaker was Jenn Freitag, Women's Center prevention Educator and SIUC doctoral student. The presentation focused on gender issues and gender violence, creating a dialogue, prevalence, services and prevention. Information packets were distributed. Interesting information was presented including: 1 out of 3 women raped, abused or beaten in their lifetime – a worldwide statistic – not usually discussed by victims; 1 of 4 experience domestic violence, 1 of 6 are sexually assaulted and on campus 1 of 4. Local services are usually directed at sexual assault, partner violence, stalking and child sexual abuse. Those acts of violence become normalized in culture. People rarely intervene when it happens in public. Some reasons for not reporting include: 1) knowing the perpetrator, 2) culture of shame – especially for men or transgender individuals, 3) fear of not being believed by the police, family or friends, 4) not realizing the incident was an assault, 4) fear of group discrimination – based on race, gender, etc., 5) fear that the perpetrator may not be prosecuted.

The Women's Center provides counseling, legal and medical advocacy, on-call sexual assault workers, prevention, shelter, kids program, sexual assault and domestic violence assistance. Reports are low in some ways due to the lack of accessibility and access to resources. Non-violent communication is helpful in prevention. Starting a dialogue is important. The August 3 meeting will focus on media literacy – how can we stop the negative media messages from hurting children, communication and the importance of sexual understanding and consent, and the loss of acknowledgment of issues. Society does not believe it is as big of a problem anymore.

Next Meeting - Monday, August 1, 2011, Civic Center, 6:30 p.m.

Adjournment - There being no further business, the meeting ended.

MINUTES
City of Carbondale Sustainability Commission
Thursday, April 21, 2011
City Hall/Civic Center – 6:00 p.m.

1. **Roll Call:** Mr. Wodika called the meeting to order at 6:15 p.m.

Members Present: Mr. Wodika, , Mr. Bracewell, , Mr. Stewardson, Mr. Thorne, and Ms. Pimentel.

Members Absent: Mr. Miller, Ms. Elsenbroek, Ms. Houghton, Mr. Ryan and Mr. Fritzler (ex-officio)

Staff Present: Kevin Baity

Others Present: Mrs. Bracewell and eight (8) CCHS Government Class visitors

2. **Minutes:**
Motion by Bracewell, second by Pimentel to approve the March 24, 2011 minutes. Approved

3. **Communications:** None

4. **Old Business:**

Chairman Wodika gave a brief overview of the role of the Sustainability Commission to the CCHS class, followed by a brief Q&A session.

Bike Path Subcommittee –
Committee will be meeting Friday, April 22 at 5:00 pm

5. **New Business:**

Recycling Subcommittee –
A subcommittee was created to:
 - investigate ways to reduce the use of plastic bags (grocery, general merchandise) and to increase
 - implement recycling at apartment complexesThe committee will be comprised of Ms. Pimentel, Mr. Thorne and another person to be determined.

6. **Adjournment:**

With no further business to be conducted the Chairman Wodika adjourned the meeting at 7:05 PM.

MINUTES
City of Carbondale Sustainability Commission
Thursday, May 19, 2011
City Hall/Civic Center – 6:00 p.m.

1. **Roll Call:** Mr. Wodika called the meeting to order at 6:05 p.m.

Members Present: Mr. Wodika, Mr. Bracewell, , Mr. Stewardson, Mr. Thorne, Mr. Miller and Mr Monty (ex-officio).

Members Absent: Ms. Elsenbroek, Ms. Houghton, Mr. Ryan and Ms. Pimentel

Staff Present: Kevin Baity

Others Present: None

2. **Minutes:**
Due to a technical issue, the April 21, 2011 minutes will be approved at the June 16 meeting.

3. **Communications:** Review of the April 2011 Status Report of the Former Koppers Wood-Treating Site

4. **Old Business:**

Bike Path Committee – The Committee did not meet. No report.
Recycling Committee Report – The Committee did not meet. No report.

5. **New Business:**

Members of the commission expressed interest in the availability of recycling facilities for compact fluorescent light bulbs (CFL). Others members and staff will research existing recycling opportunities and make a report to the Commission.

6. **Adjournment:**

With no further business to be conducted Chairman Wodika adjourned the meeting at 6:40 PM.

MINUTES

Carbondale Zoning Board of Appeals

May 18, 2011
City Hall / Civic Center
200 South Illinois Avenue
7:00 p.m.

MEMBERS PRESENT: Barke, Brazley, Fronabarger, Harvey, Hunsaker, Kang, Lilly

MEMBERS ABSENT: Love

STAFF PRESENT: Wallace, Jones

APPROVAL OF MINUTES:

Mr. Kang made a motion, seconded by Mr. Hunsaker, to approve the minutes of the February 17, 2010 meeting. The minutes were unanimously approved by a voice vote, noting that page six, which showed the denial of the variance vote, was inadvertently omitted from the copy.

PUBLIC HEARINGS:

- A. ZBA 12-01, 7:00 p.m.** – Gene Houle is requesting a 25’ variance from the front yard setback for the property at 232 Wood Road.

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

Mr. Barke opened the Public Hearing at 7:00 p.m. and asked Mr. Wallace to read the legal notice.

Mr. Wallace read the legal notice.

Mr. Barke asked Ms. Jones to present the staff report.

Ms. Jones read Part A of the staff report.

Mr. Barke asked if the applicant was present and wished to speak.

Mr. John Rendleman came forward, and stated that he is an attorney representing Mr. and Mrs. Houle, who are the applicants in this case. He said the description of the property is important to understand because staff has indicated there is plenty of alternative space on the parcel that could have been used to build on, when in fact there is not, because of the way the land slopes. He stated that Mr. and Mrs. Houle are disabled veterans who wanted to build a garage with room for a workshop, so they hired contractor Mark Fager, who will address the Board later, to build the structure. Mr. Fager asked Mr. Houle if he had secured the permits. Mr. Houle stated no, and then went to the Carbondale Township office, told them that he lives at 232 Wood Road, and that he needed a permit. He went to the township office because he lives in the township, not in the corporate limits of the city. He was advised by Mr. Lemming at the township office that he did not need a permit, so he told Mr. Fager, who asked Mr. Houle if he was certain that a permit was not necessary. Mr. Houle then went back to the township office and told them he was told he needs a permit. Mr. Houle was told that the township office does not issue permits, that he did not need a permit, and they only wanted to know when the building was complete so it could be assessed for taxation. Mr. Houle told Mr. Fager what he was told, and then Mr. Fager hired out the concrete work to Dan Pullis of E & D Concrete, who is also present at this meeting and will speak later. Mr. Pullis contacted Jackson County Highway Department to inquire about proper setbacks, and they were told twenty feet from the center of the road is the minimum setback. The structure was then built twenty-eight feet from the center of the road. Mr. Rendleman went on to say that the structure is a very nice, two-car garage with a workshop and storage area, no living space, and that it cost \$50,000 to construct. He said that Mr. Fager will testify that there is no way the building could have been constructed on Mr. Houle's lot within the setback area, and that it would cost at least \$50,000 to reconstruct it, plus the cost of demolition, as very few things could be salvaged for reuse. This would be an extreme financial hardship to ask of Mr. Houle, and the building was mostly finished by last Fall when Mr. Houle received the citation from Mr. Wallace that said he was violating the mile and a half zoning district, and therefore must cease and desist, which he did. Mr. Houle then went to the township office with the citation, and was told to ignore it, but instead he went to see Mr. Wallace who advised him the only thing he could do at this point was to seek a variance. Mr. Rendleman said that Mr. Wallace indicated to him during a telephone conversation on January 26, 2011, that there was no neighborhood complaint about the structure, but rather a staff member who saw the construction and realized it was too close to the road. He said that there are three letters of support from neighbors who support Mr. and Mrs. Houle's request for a variance in the packets, and that he had an additional one from Professor Dan Wiley, another neighbor. He said that the staff report has conclusions contained in it that he objects to, as they seem result driven, and that in the past, culpability was the issue. In a case where someone went off on their own and built something without any concern for proper procedures, the Zoning Board of Appeals has not looked very favorably on granting a variance. However, he said, Mr. Houle is not culpable in this case, because he did try to do the right thing and follow proper

procedures. He stated that the other issue would be whether granting the variance would affect public safety, and in this case he asserted it will not. He distributed a photograph of the structure and explained that the garage is further back than the utility poles and the tree line that go west on Wood Road, which encroach much more than Mr. Houle's garage. He asked that this fact be kept in mind when making deliberations, and asked the Chair if he should call his witnesses at this time.

Mr. Barke responded that he would ask if anyone had questions for him first, then ask for those who wish to speak in support of the application. He opened the floor to questions for Mr. Rendleman.

Mr. Brazley asked how the decision was made to build the garage in the front, when there is so much additional space available on Mr. Houle's property.

Mr. Rendleman responded that he had indicated earlier that the property drops off severely as you go back, and the very back of the property is like swampland, serving as the leech field for his sewage system.

Mr. Barke explained that he had visited the property this morning, seeing two sheds to the right, and a drive-down section that looks as though it may have originally been intended for a garage underneath the house. He asked if it was Mr. Rendleman's contention that the sheds could not have been moved so the garage could have been placed to the right side of the house.

Mr. Gene Houle came forward and stated that there is a driveway to the right side, but the property line is right there with a creek on it, and when it rains heavily it completely washes out.

Mr. Barke stated that there are two sheds on that part of the property, however.

Mr. Houle responded that the sheds are on stilts so that the water can go underneath.

Mr. Hunsaker asked if it was really a question of money, because the area could always be backfilled which would allow you to build on the ground.

Mr. Houle stated that the garage wouldn't have fit there, fifteen feet from the property line would have made it closer to the house or all in a swamp.

Mr. Hunsaker asked Mr. Houle if he couldn't have backfilled to make it work.

Mr. Houle responded no, he was told he couldn't.

Mr. Barke asked if the garage wouldn't have to be only three feet from the side of the property line.

Mr. Houle responded that he has always been told fifteen feet.

Mr. Barke stated that he does not know where Mr. Houle is getting his information, but the requirement is three feet for a detached garage.

Mr. Houle responded that he is not from Illinois so he is not familiar with the rules.

Mr. Barke asked Mr. Houle if he had an architect look at the land and the proposed structure to see what the best placement might have been.

Mr. Houle responded no, he did not.

Mr. Brazley asked how long he has lived on the property.

Mr. Houle responded that he had been in the military, then worked for two years in Korea before he and his wife both retired from the military and moved into the house. He said he was not present when the property was purchased, a friend bought the property for them.

Mr. Brazley asked how long he has lived there.

Mr. Houle responded since 2005.

Mr. Kang asked how much space is between the back of the house to the rear property line.

Mr. Houle responded that he couldn't tell him.

Mr. Kang stated that, according to the scale, it's close to two-hundred feet. He asked why he didn't put some fill in and build the garage there.

Mr. Houle responded that the sewer goes right through the middle of that, and he has a two tank system.

Mr. Rendleman stated that the elevation change is very severe.

Mr. Kang stated that he was just informed the distance is actually two hundred and ninety five feet, and asked if it could not have been cut and filled and built on a lower level than the house.

Mr. Houle responded that the builder should answer that question.

Mr. Kang stated that he had other questions for the builder as well.

Mr. Barke noted that Mr. Rendleman had indicated earlier, according to the picture, there are trees and utility poles that breach the setback, and asked if that isn't the case all over the City. He stated that the tree line and utility poles are much different than a structure. Mr. Rendleman responded yes, it is that way all over the City, but it particularly important on a rural road like this because there is no curb or gutter, only a ditch which does not warn someone when they are veering off the road. He said that there are other structures on Wood Road that are certainly encroaching onto the setbacks, but they are out of Carbondale's jurisdiction.

Mr. Brazley asked Mr. Rendleman if his client had lead him to believe that there was nothing abnormal about putting the garage in front of the house, and that close to the road.

Mr. Rendleman responded that he suspects it is not the typical arrangement, but with the configuration of his lot with the severe slope that's where he had to build it.

Mr. Barke stated that he was able to build the house in that line.

Mr. Rendleman stated that Mr. Houle did not build the house.

Mr. Barke stated that somebody was able to build the house in that line, and as he could see when at the property this morning, there is clearly room between the end of the house and three feet from the property line to have built the garage. He noted that there are two sheds there now, and a rock driveway. He added that if the driveway rock is constantly washing away, it would have to be repeatedly replaced and he is not sure that is the case.

Mr. Rendleman responded that if the point is that Mr. Houle could have built it within the legal setback lines by putting it on the side of the house, and why didn't he, then you have to remember that he did not know that the setback lines existed and were told they weren't there, and as he has testified water spills down the right side of the house, and the two sheds are on stilts because it is a waterway. He stated that there is no evidence that he could have built a structure there or back filled, and the builder can be cross examined about that. He said that he has been to the property also, and certainly a two-car garage with workspace was not going to fit in that area.

Mr. Barke asked if Mr. Houle had received a copy of his warranty deed with the covenants, since he stated he did not know about the setbacks.

Mr. Rendleman stated that he received a copy of the deed, but not the covenants.

Mr. Barke asked if the warranty deed didn't refer to the covenants.

Mr. Rendleman stated sure, and that the friend that bought the house for Mr. Houle could testify about that, but the covenants were put in place in 1965 and staff was not aware of

them until they were found at the courthouse during this investigation. He said that the covenants expire in 1990 and are automatically renewed every ten years unless someone votes not to extend them, however the covenants are not observed anymore.

Mr. Barke stated that we are not here to enforce the covenants, but they do indicate a setback of thirty five feet, being another route that Mr. Houle could have discovered the setback rather than just from the City.

Mr. Rendleman stated that the covenants have been hidden until this whole thing began, and that he is the one who discovered them. He added that he put a copy of them in the packet because it was requested that he do so.

Mr. Barke stated that the structure is a two car garage with a sizable work area, and asked if it has a second story.

Mr. Rendleman stated that it has a loft area for storage.

Mr. Barke asked if it does, or will have, a floor in it.

Mr. Rendleman responded yes.

Mr. Barke asked if it also has telephone to it.

Mr. Rendleman responded no.

Mr. Barke asked what are the wires then, hanging out of the north side of the building.

Mr. Rendleman responded that they would be telephone, but they're not hooked up.

Mr. Barke stated that he understands they're not hooked up now, but it is scheduled for telephone, and it has a 2-ton air conditioning unit.

Mr. Houle came forward and stated that his wife requested the air conditioning because she is a shopaholic. He said that his son was in the Army at the time they bought the house and has been discharged with fifty percent disability, so they have been acquiring a lot of his stuff. He stated that his 87 year old mother in law has moved in with them, so now they have all her stuff. He said that some of their mementoes from around the world that were obtained while in the military and being in thirty one countries will be stored in there as well, and that he has a lot of tools. He said that is why they built the garage, they have no room in the house.

Mr. Barke asked if there were any further questions of the applicant or Mr. Rendleman.

Mr. Fronabarger asked how far down the sloped left side yard belonged to the applicant, specifically if his property contained the pond.

Mr. Houle responded no, he does not own the pond, but that he does mow that area in order to reduce the number of snakes.

Mr. Barke asked if this area was mowable, even though it slopes and has significant water on it.

Mr. Houle responded yes, that he mows it on the tractor.

Mr. Barke asked if there were any further questions for the applicant.

There were none.

Mr. Barke asked if there was anyone who wished to make a statement in favor of the application for the variance.

Mr. William Jones came forward, stated that he goes by "Dan" and swore to tell the truth. He said that he has two houses in Carbondale, one at 601 West Main, which is the Hundley House, and one at 3100 Chautauqua on the very edge of the City limits. He stated that he is the guy who bought the house for his friend whom he met while they were stationed in Okinawa, Japan, as he had agreed to move here after his service to the government in Korea was over and he would retire here. He said that his friend called him and told him to find him a nice house, and he did. He said that of the two hundred and feet or so behind the house, about two hundred and twenty five are swampy to the extent that they are difficult to cut with a lawn mower and that many times they've had to get a truck to pull the lawn mower from that area. He said that the garage in the front is unorthodox and as a statement toward his friend, he has spent a lifetime following rules. He is not flagrantly trying to throw up the fact that he's outside Carbondale and didn't think the City had jurisdiction, but rather someone who went to an office and was basically given wrong information. He added that he was not given covenants when he bought the house even though he had asked his real estate agent, who told him that they were no longer enforced. He offered to answer any questions.

Mr. Barke asked if there were any questions for Mr. Jones.

There were none.

Mr. Barke asked if anyone else wished to make a statement in favor of the application.

Mr. Mark Fager, of Fager Builders out of Murphysboro, Illinois, came forward and swore to tell the truth. He stated that he and Mr. Houle had spoken about trying to build behind his home at one time, but between all the fill needed to raise it up and divert the water was going to be a lot more costly than building the garage where they did. He said that he told Mr. Houle to check on necessary permits, and Mr. Houle did so twice, and was

told he didn't need one. He said that he assumed that he didn't need one at that point, and it was one of those things that just happened, that they were not trying to hide anything from anybody, especially right out in the open on Wood Road. He said you'd think you'd get caught before you got too far, but they had the garage constructed and completely finished on the outside when somebody finally saw it. He stated that it is a well built garage, not an eyesore, that he takes pride in his work, and hopes that the variance is approved.

Mr. Barke recognized Mr. Hunsaker for a question to Mr. Fager.

Mr. Hunsaker stated that he knows Mr. Fager's work, that he does very good work, and that he himself has been a builder for thirty three years. He asked Mr. Fager if it doesn't really come down to money, whereas the garage could have been built on the side or in the back, but that was not the cheapest avenue.

Mr. Fager responded that it is not a cheap garage to begin with, that a fifty-thousand dollar garage is not a cheap garage.

Mr. Hunsaker stated that he meant that to backfill the land, plus the work required for the drainage issues, it would have cost more to put the garage to the side or in the back of the house.

Mr. Fager responded yes.

Mr. Brazley asked Mr. Fager how long he has been in business.

Mr. Fager responded that Fager Builders has been in business since 1980, and that his father and his two brothers started the business, which was called Fager Brothers, in 1957. He said that he has been working in construction since he was in high school.

Mr. Brazley stated that he is a licensed architect in Illinois, and knows the building industry much more than the owners and that's why he as an architect represents the owner. He asked Mr. Fager why he did not go and see about all the permits, that it's normally the contractor who pays for the permits anyway.

Mr. Fager responded that he normally has the homeowners acquire their permits.

Mr. Brazley said then the mistake appears to be Mr. Fager's.

Mr. Fager responded that he doesn't know if it was a mistake or a misunderstanding, but that he was told there were no permits needed.

Mr. Brazley stated that there was error there.

Mr. Fager responded yes, he agrees that there was error.

Mr. Kang asked Mr. Fager how long he has been in the Carbondale / Murphysboro area doing construction work.

Mr. Fager responded all his life.

Mr. Kang asked Mr. Fager if he was aware that there is a zoning ordinance that exists for a mile and a half past the City limits of Carbondale.

Mr. Fager responded, yes sir, he is aware of that.

Mr. Kang asked Mr. Fager if he knew that, why didn't he instruct his client to go to the City of Carbondale in the first place to obtain a building permit.

Mr. Fager responded that he didn't know that Mr. Houle's property was in the mile and a half radius and he didn't instruct him to go to the City because he said he wasn't in the City limits.

Mr. Kang asked Mr. Fager if he knew the far the jurisdiction was prior to building this house.

Mr. Fager answered no sir, he didn't.

Mr. Kang asked Mr. Fager if he had inquired about it.

Mr. Fager answered no sir, he didn't.

Mr. Barke asked if there were any further questions for Mr. Fager.

Mr. Fronabarger asked Mr. Fager if, as a builder, he knew if it is at all feasible to move this building without dismantling it.

Mr. Fager responded, no sir, there is no way, not that he knows of.

Mr. Barke asked if there were any further questions for Mr. Fager.

There were none.

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

Mr. Barke explained to Mr. Rendleman that he would have an opportunity later to ask questions, but that he did not have the floor at this time and therefore should not be speaking. He then repeated the question.

Mr. Dan Pullis came forward, swore to tell the truth, and said that prior to starting this project he and Mark discussed it and that he had gone to the Jackson County Highway Department and asked for the setback at the physical address. He said he was told the setback is twenty feet from the center of the road, which he wrote down and took to Mark, they laid it out and went to building. He stated that it does come down to economics when it comes to building anything, and usually the highest spot is the best spot rather than building things up in the air three or four feet because it's all about fill. Mr. Barke asked if there were any questions for Mr. Pullis.

Hearing none, Mr. Barke asked Mr. Pullis if the normal setback is ten feet from the center line, or twenty feet from the center line, and if that's how he usually measures it or if that's a little odd.

Mr. Pullis responded that usually they build basements, and it's plop right here in the middle of maybe five acres.

Mr. Barke asked Mr. Pullis if he had ever built a house where he had to get the setback from someone prior to laying the foundation.

Mr. Pullis responded yes.

Mr. Barke asked Mr. Pullis if he measured from the center of the road when he laid the foundation, or from the right of way, and what is standard.

Mr. Pullis responded it might be the edge of the road, it might be the center of the road, but more from the center of the road than anything else.

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

There was no one.

Mr. Barke then read the letter from Dr. Dan Wiley in support of the application, which will be added to the public record.

Mr. Barke asked if there was anyone who wished to speak in opposition to the application.

There was no one.

Mr. Barke asked Ms. Jones to present the remainder of the staff report.

Ms. Jones finished the staff report, with a recommendation to deny the application.

Mr. Barke asked if there were any questions of staff from the board.

Mr. Brazley asked if the variance is approved, how would it affect the property still not being in compliance, or would the variance make them in compliance with the neighborhood covenant also, or is it two separate issues.

Mr. Barke asked Mr. Jamie Snyder, the Assistant City Attorney, to address this issue since it was of a legal nature.

Mr. Snyder responded that his understanding is that it would not eliminate the covenants for anyone else, and would not bar the other members of the subdivision from going against Mr. Houle to seek damages or tear the building down since it violates the covenants of the land. He added that the covenants and the zoning are two separate issues, and if the variance is granted it does not absolve the property owner of the violation of the covenants.

Mr. Barke clarified that it would leave open the possibility of a civil suit if one of the other property owners who are under the covenants decided to try to enforce them.

Mr. Fronabarger asked if City staff, as policy, provide maps to agencies such as the Jackson County Highway Department and Carbondale Township.

Mr. Wallace responded that staff works on a fairly regular basis with the township, that Karen Twitty-Hartlieb is the Township Supervisor, and the relationship is a good one. He added that staff works with the County Assessor's office and the Recorder's office, but that they don't work directly with the highway department.

Mr. Fronabarger asked if they have copies of the City maps to refer to if anyone comes in, or if they refer them to the City.

Mr. Wallace stated that the County does, and that the township office has not been given an updated map, but they are well aware of the mile and a half zoning jurisdiction.

Mr. Fronabarger asked if there are any signs along the roads that tell people how far this mile and a half zoning goes.

Mr. Wallace responded that we do have approximately fifteen signs located in various locations, and that he is not sure where the closest one is to this property.

Mr. Fronabarger asked if all the properties that have been built along the road between this property and Old Route 13 are at the proper setback on both sides of the road.

Mr. Wallace responded that as far as he could tell, in the Greenbriar Subdivision, he did not observe any other ones that were in violation of the setback.

Mr. Fronabarger stated that he had seen one that looked like it was a little bit close to the roadway.

Mr. Barke asked Ms. Jones if the City pulls their setbacks from the center of the road, as Mr. Pullis stated is most common for him in his measurements.

Ms. Jones responded no, that the City measures from the property line and the line may or may not correspond with the edge of the road, it could be farther back to the edge of the sidewalk if there's one there, or it could be right along the side of the road. She explained that it depends on where you are and what's there.

Mr. Barke asked if it was determined on the Wood Road location as to where the proper distance being marked from, since there was a supplemental note submitted by the applicant that there was confusion about whether it should be the edge of the roadway, whether it should be the center, or whether it should be from the right of way. He asked if it is known how far encroaching this garage actually is.

Mr. Wallace responded that he and a member of the City's Engineering Department visited the site with the subdivision plat in hand, and that Angela Provolish, representing the applicant, was there with them as well. He stated that the plat indicates a limestone corner marker set at the northwest corner of the property.

Mr. Barke asked if this was toward Striegel.

Mr. Wallace responded yes, and that they located what they believe to be the limestone marker that was indicated on the plat and used it for their measurements to show seven feet from the property line and the five feet was from the limestone corner and measuring in a straight line from that point. He said that, within reasonable certainty, that is correct.

Mr. Barke asked if this means the garage is five feet off the property line.

Mr. Wallace responded yes, at its nearest point.

Mr. Barke clarified that would mean it needs to be moved twenty five feet to the east.

Mr. Wallace responded yes, and that was the reason for the amendment to the application.

Ms. Lilly asked if there is some alliance with the township and the City of Carbondale, that if someone approached township, should they not approach the City of Carbondale for the variance. She said that her position is that the property owner followed the procedure, and that she understands that he is not in alliance with, but there was a misunderstanding in that if the township would have gotten the information to the City of Carbondale there should not have been any difficulty with the building. She asked if staff doesn't have an alliance with them so that when someone approached them, they come directly to you or notify you in some way.

Mr. Wallace responded that staff does work with the township on a regular basis, that they refer people to the City when questions come in, sometimes they are in the zoning jurisdiction and sometimes they are not. He said, not knowing who the applicant spoke with, it sounds like he spoke with the wrong person at the township.

Ms. Lilly stated that if there was an alliance, they would have automatically called you and said that “John Doe has contacted us for a variance” and then staff could give the person the right information. She said that she hates to see the applicant punished for somebody else’s neglect.

Mr. Wallace responded that Ms. Twitty-Hartlieb is very good about directing people to the City, and that staff has met with her on several occasions to discuss different issues in the township, so usually those calls make their way to the City.

Mr. Barke asked if there were any further questions of staff from the Board.

Mr. Brazley asked if the variance is not granted, what is the owner’s recourse.

Mr. Barke responded that, if he believes the decision is in error, then he would have the ability to appeal that decision with the courts. He explained that the Board’s ruling has to be submitted within fifteen days on whether the variance was or was not granted, then thirty days after his receipt of that, the applicant has the opportunity to address the issue with the court. If he doesn’t do that, it becomes an enforcement issue for the City at which point the City will either issue a citation for non-compliance, and potentially make him remove the building.

Mr. Fronabarger asked how much time the applicant is given to move the structure.

Mr. Barke stated that, the way he understands it, is that if there is progress being made towards compliance, the City will generally leave it alone as long as that progress continues but if it ceases, the City will go after things in a stronger fashion. He asked Mr. Snyder if that was correct.

Mr. Snyder responded that would be correct, that it’s not the City’s position to go and make people do things that are outside their budget, explaining that they have worked with one gentleman for over two years to get him in compliance but he has to come and report his progress to the court every two weeks. He added that the City would work with Mr. Houle in this situation to get the property into compliance as long as he is making good faith effort to move forward. He said that unless a citation is issued, which would involve the City’s legal department, it would stay in Mr. Wallace’s department and he would handle it the same way.

Mr. Barke asked if there were any further questions for staff from the Board.

There were none.

Mr. Barke asked if there were any questions from the audience to staff.

Mr. Rendleman asked Mr. Wallace if he wrote the staff analysis.

Mr. Wallace responded that Ms. Jones wrote the staff analysis, but that he had reviewed it.

Mr. Rendleman asked, in coming to the conclusion that the garage is in violation of the subdivision covenants, if staff had inquired whether those covenants are enforced as to set backs and other matters in the Greenbriar subdivision.

Ms. Jones responded that she did not look to see if they were currently enforced, but that she did read within them that they do expire but are automatically extended for a period of ten years.

Mr. Rendleman asked Ms. Jones if she knows that covenants can lapse, simply by non-enforcement.

Ms. Jones stated that in some cases, she has seen that.

Mr. Rendleman asked Ms. Jones if she had noticed, while inquiring about the covenants, that on the lot to the south of Mr. Houle's there is a shed that is constructed right on the property line in violation of those covenants.

Ms. Jones stated that she had not seen a shed constructed on the property line.

Mr. Rendleman stated that it is the property line to the south, which violates the portion of the covenants about internal setbacks.

Ms. Jones stated that if it violates the subdivision's covenants, it would not be the City's responsibility to enforce that.

Mr. Rendleman stated ok, then spoke about the criteria that says there are no special conditions peculiar to the land, but that people have talked about the steep slope of the land in the back and that it is marshy. He asked Ms. Jones if she disagreed with those comments.

Ms. Jones responded that she understands that there are definitely some difficulties that would take place in building a structure in that area, but there are other locations within the City limits and outside of the City limits that have structures that have been built within the floodplain or floodfringe that have gotten flood plain development permits, backfilled the land and raised it up to a level where it is above the floodplain elevation,

so it is possible. She said it is difficult, but it is not something that is peculiar to that particular property.

Mr. Rendleman asked if it is peculiar to the property within that subdivision.

Ms. Jones responded that she has not done extensive research as to how much marsh land or flooding happens within the rest of the land in that subdivision.

Mr. Rendleman stated those were all of the questions he has.

Mr. Barke asked Ms. Jones if any portion of lot fourteen is in a floodplain.

Ms. Jones responded no, but that a portion of the parcel behind lot fourteen is.

Mr. Barke asked if staff contacted the county highway department of the township office to find out whether or not these conversations that Mr. Houle claimed occurred ever occurred.

Mr. Wallace responded that he contacted the township office and spoke to Ms. Twitty-Hartlieb to ask her about Chuck Lemming, was told that he works on Thursday mornings and is a retired school teacher. He added that she apologized.

Mr. Barke asked if Ms. Twitty-Hartlieb indicated whether those conversations occurred or if that advice was given.

Mr. Wallace responded that Mr. Lemming was not there when he called the office, and that Ms. Twitty-Hartlieb was not aware of the conversation.

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

There were none.

Mr. Barke stated that he was opening the floor for questions from anyone to anyone, adding that this was the time for Mr. Rendleman to ask the questions that he began to pose earlier in the hearing.

Mr. Rendleman asked Mr. Fager if it has ever been the case that he has built facilities within Carbondale Township that a building permit was not required at all.

Mr. Fager responded yes.

Mr. Barke asked Mr. Fager if he has ever built a structure within the mile and a half zoning jurisdiction of the City of Carbondale that did not require a permit.

Mr. Fager responded no.

Mr. Barke stated that he had a question for either Mr. Rendleman or the applicant. He asked if it was Mr. Lemming that was actually contacted with regards to the township.

Mr. Rendleman responded yes.

Mr. Barke asked if there was anything showing that Mr. Lemming acknowledges the conversation occurred.

Mr. Rendleman responded that he spoke to Mr. Lemming today and told him that his client, Mr. Houle, said that he had spoken to him on two occasions and then a third time when he brought the letter and citation. He stated that Mr. Lemming has no specific recall of any conversation, that he frankly can't remember.

Mr. Barke asked if there were any further questions from anyone to anyone.

There were none.

Mr. Barke asked if the applicant would like to make a closing statement, explaining that it is not mandatory, but is an option.

Mr. Rendleman stated that he would like to suggest to the Board that as they make their analysis to recognize that there are in fact special circumstances that are peculiar to this land which required Mr. Houle to put his garage in the front in a kind of way that is not typical. He said yes, if someone had unlimited money Mr. Hunsaker, they could build whatever they wanted in the back and that Mr. Hunsaker's comments made him think of the movie *Ferris Bueller's Day Off* where a beautiful garage in the woods holding the Ferraris and stuff that went through the glass window back into the revine. He stated that the structure would have cost much more than fifty thousand dollars, probably several hundred thousand dollars, and that is simply beyond Mr. Houle's means. He asked that the Board accept the fact that the configuration of this lot does present that peculiarity which staff really doesn't deny. He said yes, there are other places in the floodplain but that the garage was placed on the highest ground within what was believed to be the setback. He quoted the criteria which reads "the literal interpretations of this article would deprive the applicant of rights commonly enjoyed ..." saying that frankly, they don't win that one, not everyone is building their garage within the setback line so he was not going to try to argue that there is some clever way that they prevail on that one. He cited criteria three, saying "the special conditions and circumstances do not result from the actions of the applicant," asking the Board to just use their common sense in that his client tried, he tried twice, and there was a mistake made even though he did the best he could and was not thumbing his nose at the zoning authorities. He noted that Ms. Lilly indicated that Mr. Houle should not have to suffer the consequence of having been given bad information. He added that with the issue of the covenants, as Mr. Snyder also said earlier, the Board's action tonight won't fix that if someone believes Mr. Houle's

construction violates the covenants they can seek to enforce that, but they were written first in 1965, and have been uniformly not enforced. He noted that one of the covenants says you can't have livestock, yet right across the street from Mr. Houle are Black Angus Cows on the farm.

Mr. Barke stated the he did not believe that is part of the subdivision.

Mr. Rendleman responded yes, but it is part of the neighborhood.

Mr. Barke responded that it would not be part of the covenants.

Mr. Rendleman continued, saying the neighborhood is very diverse and that people in the neighborhood have all expressed their support of the applicant. He then cited criteria four, "that granting the variance requested will not confer on the applicant any special privilege that is denied by this Article to other lands," saying he didn't know how to say anything on this as everyone is entitled to seek a variance so he does not know how that applies in this case as Mr. Houle is not asking for a special privilege, just a variance. He then quoted the final criteria, saying "That the granting of the variance will be in harmony with the general purpose and intent of this Article and not be injurious to the neighborhood," and that the only testimony in front of you is that it is not injurious to the neighborhood, the neighbors have said they support it and no one has spoken in opposition to it. He said that he knows the Board has heard cases where there has been considerable opposition, and that he was sure that the Board has been advised that the financial hardship to his client is something that can be considered. He told Mr. Hunsaker that it is more than fifty thousand dollars to build a garage behind the house with the fill that would be necessary. He asked the members of the Board to consider these matters and grant Mr. Houle the variance.

Mr. Barke thanked Mr. Rendleman, and said that since no one was in attendance to oppose the application, there would be no rebuttal and he would therefore officially declare the public hearing closed. He then asked for a motion with regards to the finding of facts in Parts A and B, that there were three individuals that spoke in favor as well as the applicant and his attorney, Mr. Rendleman, and there were four letters that were submitted to the City.

Mr. Kang moved, seconded by Ms. Lilly, that the Board accept the motion as stated by Mr. Barke.

The motion was approved by a unanimous voice vote.

Mr. Barke asked the Board if they wished to take the criteria as individuals, or to take them as a group. He said if there was no motion to take them as a group, they would be taken individually.

Ms. Harvey motioned to take the criteria individually.

Mr. Barke stated that will be the default, and since no one has moved to take them as a group, they will be taken individually. He asked for a motion on A(1).

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

Mr. Barke stated that he would like to point out that, in his view, there are two separate issues in regard to this. One is that there may in fact be some special circumstances with regards to the back portion of the property, but that is not taking the property as a whole, and he feels as though there are not special circumstances with regards to the side of the property. Secondly, it is not whether or not this property is peculiar to the surrounding property alone, but whether it's peculiar to other property in the same district.

Mr. Brazley asked how the vote was to proceed, Mr. Barke responded to him.

Ms. Harvey asked if any item receives a no vote, it means an automatic denial.

Mr. Barke responded yes, and explained that the motions still must be made. He added that the motion is worded in the affirmative, and to vote accordingly.

Roll Call Vote:

Yes - 3 (Brazley, Fronabarger, Lilly)

No – 4 (Barke, Harvey, Hunsaker, Kang)

Mr. Barke asked for a motion with respect to Item 2.

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 - 1 (Brazley)

No – 6 (Barke, Fronabarger, Harvey, Hunsaker, Kang, Lilly)

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

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

Roll Call Vote:

Yes - 1 (Harvey,)

No - 6 (Barke, Brazley, Fronabarger, Hunsaker, Kang, Lilly)

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

Ms. Harvey moved, seconded by Mr. Kang, 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 - 2 (Harvey, Lilly)

No - 5 (Barke, Brazley, Fronabarger, Hunsaker, Kang)

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

Mr. Kang moved, seconded by Mr. Hunsaker, 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 - 3 (Brazley, Fronabarger, Lilly)

No - 4 (Barke, Harvey, Hunsaker, Kang)

Mr. Barke asked for a motion for the final vote on the application. He explained that not all of the criteria passed, and that means the motion in the affirmative to grant the variance must be voted on in the negative.

Ms. Harvey moved, seconded by Mr. Brazley, to approve the request for the variance in ZBA case 12-01.

Roll Call Vote:

Yes - 0

No - 7 (Barke, Brazley, Fronabarger, Harvey, Hunsaker, Kang, Lilly)

Mr. Barke addressed Mr. Houle and Mr. Rendleman, stating that the Board has denied the variance request, and that within ten days it is their obligation to furnish a written statement specifically indicating the decision of the Board. Mr. Barke was reminded that

the Board has fifteen days, rather than ten, to furnish the written statement, and said that he would still try to get it to them in ten days.

Old Business:

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

New Business:

Mr. Barke stated that the Spring 2011 issue of *The Commissioner* has some timely and good articles, encouraging everyone to read them.

Adjournment:

Mr. Hunsaker moved, seconded by Mr. Fronabarger to adjourn.

Mr. Barke adjourned the meeting at 8:24 p.m.

MINUTES
City of Carbondale Preservation Commission
Monday, June 20, 2011
City Hall/Civic Center – 7:00 p.m.

1. **Roll Call:** Chairperson Koine called the meeting to order at 7:00 p.m.

Members Present: Clark, Deniston, Ittner, Koine, Parkinson, VanAwken, Moore , Sigler (7:05)

Members Absent: Booker

Staff Present: Jones

Guests: None

2. **Approval of Minutes:** Ms. Parkinson moved, seconded by Ms. Ittner, to approve the minutes of May 16, 2011.

3. **Communications and Reports:**

A. Educational and Technical Committee

Ms. Deniston reported that she had given an impromptu tour after the Memorial Day event, and that she had presented the wreath. She stated that she took a group of people, who were born and raised here but knew very little about the City's history, on an historical tour around Carbondale. She said that she also presented the history of Carbondale in about ten minutes to another group, and that she has been asked to help put together the history of the Elk's Club as they are about to celebrate their 100th anniversary.

Ms. Moore spoke about a few tours that the Carbondale Bureau of Tourism had recently done.

Ms. Ittner stated that she and Mr. Parkinson had a wonderful time at the Old Main event, and that he had given a great presentation.

Mr. Parkinson spoke about his research, how Carbondale College came to be, and how the coal industry influenced the town.

Mr. VanAwken spoke about the beginnings of Carbondale and how Mr. Brush decided this would be a good place for a town.

B. Preservation Ordinance Committee

Ms. Jones stated that the new layout of the Zoning Ordinance will be much easier to use and get through, and that the preliminary changes are good ones. She stated that she would keep the Commission informed of any other news regarding the update.

Ms. Ittner asked if all the Commissioners could share their email addresses so they could contact each other about their ideas. It was decided that everyone should email Ms. Jones so all the email addresses would be correct.

Mr. Sigler spoke about the prospective changes in the Preservation Ordinance, saying that one of the things they are looking for is duplications that can be omitted.

4. Old Business:

Ms. Ittner spoke about the history of the Carbondale planters around the City, saying that she has the phone number for the company that made them.

5. New Business:

A. CLG Annual Report

Ms. Ittner asked Ms. Jones to add the paper cutting done by local artist Polly Winkler Mitchell to the report.

Ms. Jones stated that she would do that.

Ms. Ittner stated that Polly created nine pictures just for the Preservation Commission's event, and that she is receiving positive local recognition.

Ms. Ittner moved, seconded by Ms. Deniston, to approve the CLG Report, with the addition of the mention of Polly Winkler Mitchell.

6. Comments by the Public, Commission Members and Staff:

Mr. VanAwken spoke about Civil War history, particularly how it relates to Daniel Brush.

Ms. Koine asked him if he would provide copies of the information he gave so she and others could share it.

Mr. Parkinson gave an overview of the conference that he and Ms. Jones recently attended, with an emphasis on some of the highlights and legal situations that were presented and of particular importance to share with the other Commissioners. He suggested that there be a meeting, perhaps in the Fall, to review and discuss exactly what the Commission is supposed to be doing, be sure that is being done, and the regulations are being followed properly. He talked about the importance of the Commission's responsibility to send information through the City staff, currently Ms. Jones, and not to anyone else for action.

There was discussion regarding the difference between speaking as a Commissioner and speaking as a private citizen. The issue of the lack of an attorney and a real estate agent on the Commission, as it was designed, was also discussed.

Ms. Jones spoke about a Council member sending her, and a couple of other Commissioners, an email regarding her stance on a case that was going before the Planning Commission then on to the City Council.

Ms. Koine stated that she had received some training about what is and is not acceptable topics of discussion and with whom, from her experience on other Boards and Commissions. She added that everyone needs to recognize where their specific perimeters are. She stated that, as Commissioners, one of our objectives is to preserve the history of Carbondale, its architectural stock, and landmarks. She said that one of the things the City is supposed to do for the Commission is to give them the tools and the financial support necessary to do what they expect them to do as a Certified Local Government.

Mr. Parkinson suggested a meeting in September or October for a workshop to determine the best focus of the Commission, how to give it more teeth, and how to become more effective. He added that he would like the City Attorney to attend this meeting to be their guide for legal matters and questions.

Ms. Koine stated that it would be a good time to thoroughly review the forms the Commission uses, and see if any have become antiquated so they can be updated.

Ms. Jones shared some information from the conference and stated that she would make a file to keep in the Planning office if anyone wanted to see it again.

Mr. Clark spoke about the new SIH signage at Memorial Hospital, and stated that he thinks we should send them a complimentary card.

7. **Adjournment:**

Ms. Koine adjourned the meeting at 8:20 p.m.