

ORDINANCE NO.2004-05-050

AN ORDINANCE APPROVING A MAJOR VARIANCE

(Reduction of the Required side Yard Setback in the City's B-3, General Business Zoning District, From 10 ft. to 5 ft. / 1701 S. Philo Road, Case No. ZBA-04-MAJ-2)

WHEREAS, the Zoning Ordinance provides for a major variance procedure to permit the Zoning Board of Appeals and the City Council to consider criteria for major variances where there are special circumstances or conditions related to the parcel of land or the structure; and

WHEREAS, the petitioners, Pride Oil L.L.C., have submitted a petition requesting a major variance to allow a five-foot reduction of the side-yard setback at 1701 S. Philo Road, in Urbana's B-3, General Business Zoning District; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case #ZBA 04-MAJ-2; and

WHEREAS, after due publication in accordance with Section XI-10 of the Urbana Zoning Ordinance and with Chapter 65, Section 5/11-13-14 of the Illinois Compiled Statutes (65 ILCS 5/11-13-14), the Urbana Zoning Board of Appeals (ZBA) held a public hearing on the proposed major variance on April 28, 2004 and the ZBA by a unanimous vote (6-0) of its members recommended approval of the requested variance with a condition that the petitioners conform to the general site plan submitted, to the City Council; and

WHEREAS, after due and proper consideration, the City Council of the City of Urbana has determined that the major variance referenced herein conforms with the major variance procedures in accordance with Article XI, Section XI-3, C.3.d of the Urbana Zoning Ordinance; and

WHEREAS, the City Council agrees with the following findings of fact adopted by the ZBA in support of its recommendation to approve the application for a major variance as requested:

1. The variance may be considered a special privilege.
2. The need for the variance has not yet been created. The petitioners are aware of the requirements of the Zoning Ordinance and have applied for a variance prior to construction.
3. The requested decrease of setback should not detract from the essential character of the neighborhood. The subject property is a corner lot appropriate for the proposed convenience store use. The proposal to build a new building with decreased setbacks should not significantly disrupt the neighborhood, as the area is a significant commercial corridor in Urbana.
4. The variance should not cause a nuisance to adjacent properties. The location of the new building, with the requested setback reduction, may offer a benefit to the residential uses to the north of the property as it will be facing Philo and would be a greater distance from those residents. The subject property is a corner property that lies directly adjacent to other businesses.

5. The petitioners are only requesting the minimum deviation from the requirements so that they can redevelop the site as a new convenience store/gas station as the owner desires. The variance should not cause a nuisance to adjacent properties.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

The major variance request by Pride Oil L.L.C., in Case #ZBA 04-MAJ-2 is hereby approved to allow a reduction of the side-yard setback from 10' to 5' at 1701 S. Philo Road in Urbana's B-3, General Business Zoning District, with the condition that the improvements conform to the submitted general site plan submitted as Exhibit A, as approved by the Zoning Board of Appeals.

The major variance described above shall only apply to the property located at 1701 S. Philo Road, Urbana, Illinois, more particularly described as follows:

LEGAL DESCRIPTION: The north 190 feet of the east 190 of the northeast quarter of the northwest quarter of section 21, Township 19 north, Range 9 east of the third principal meridian, except that portion of said tract described as follows: Beginning at the north quarter corner of Section 21, Township 19 north Range 9 east of the third principal meridian, thence westerly along the north line of said section 21, 190 feet; thence southerly parallel with the east line of the northwest quarter of said section 21, 40 feet to a point on the existing south right-of-way line of Florida Avenue; thence easterly along the said south right-of-way line and parallel with the north line of said Section 21, 110 feet; thence southeasterly to a point

which is 65 feet south and 40 feet west of the north quarter corner of said section 21; thence southerly along the existing west right-of-way line of Philo Road and parallel with the east line of the northwest quarter of said section 21, 125 feet; thence easterly 40 feet to the point of beginning, all situated in the City of Urbana, in Champaign, County Illinois, and being more particularly described as follows:

A tract of land located in the NE quarter of the NW Quarter of Sect. 21, Township 19 N, Range 9 East of the third Principal meridian, in Urbana, Commencing at the NE corner of said NE quarter; thence N 85 31'42" W, on the north line of said Quarter section a distance of 189.85 feet, thence S 03 Degree 55' 25" W, a distance of 40.08 feet to a point on the south right-of-way line of Philo Road; thence S03 degree 54' 58" W, on said west right-of-way line a distance of 125 feet; thence N 85degree 33' 44" W, a distance of 150.02 feet; thence N 03 degree 55' 25" E, a distance of 150.09 feet to the point of beginning. Contains 22,007 Square feet of .51 acres, more or less. Subject to easements, restrictions and reservation now of record.

PERMANENT PARCEL #: 93-21-21-126-004

The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities. This Ordinance shall be in full force and effect from and after its passage and publication in accordance with the terms of Chapter 65, Section 1-2-4 of the Illinois Compiled Statutes (65 ILCS 5/1-2-4).

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called of a majority of the members of the City Council of the

City of Urbana, Illinois, at a regular meeting of said Council on the \_\_\_\_\_  
day of \_\_\_\_\_, 2004.

PASSED by the City Council this \_\_\_\_\_ day of \_\_\_\_\_,  
2004.

AYES:

NAYS:

ABSTAINS:

\_\_\_\_\_  
Phyllis D. Clark, City Clerk

APPROVED by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_,  
2004.

\_\_\_\_\_  
Tod Satterthwaite, Mayor

**CERTIFICATE OF PUBLICATION IN PAMPHLET FORM**

I, Phyllis D. Clark, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois.

I certify that on the \_\_\_\_ day of \_\_\_\_\_, 2004, the corporate authorities of the City of Urbana passed and approved Ordinance No.

\_\_\_\_\_, entitled "AN ORDINANCE APPROVING A MAJOR VARIANCE (Reduction of the Required Side Yard Setback in the City's B-3, General Business Zoning District, From 10 ft. to 5 ft. / 1701 S. Philo Road, Case No. ZBA-04-MAJ-2) which provided by its terms that it should be published in pamphlet form. The pamphlet form of Ordinance No. \_\_\_\_\_ was prepared, and a copy of such Ordinance was posted in the Urbana City Building commencing on the \_\_\_\_ day of \_\_\_\_\_, 2004, and continuing for at least ten (10) days thereafter. Copies of such Ordinance were also available for public inspection upon request at the Office of the City Clerk.