



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Laurel Lunt Prussing, Mayor

FROM: Elizabeth H. Tyler, AICP, Director

DATE: May 3, 2007

SUBJECT: **ZBA 2007-MAJ-03**, Request for a Major Variance to allow vehicles to back out onto Springfield Avenue at 311 W. Springfield Ave in the B-2, Neighborhood Business – Arterial District

Introduction

Brigitte Pieke has submitted a request for a Major Variance to allow parking for a business use to be permitted where the exiting vehicle must be backed out onto a public street in the B-2, Neighborhood Business - Arterial Zoning District. The petitioner wishes to establish a retail knitting and yarn store in an existing house at 311 W. Springfield Avenue where parking would be located in the existing driveway. Because there is no room for vehicles to turn around on the lot, backing out onto the street on Springfield Avenue would be necessary.

The Urbana Zoning Ordinance Section VIII-4.E states: "Except for driveways serving a single-family or two-family residence, no parking space shall be permitted where the exiting vehicle must be backed into or out of a public street." Pursuant to the Urbana Zoning Ordinance, in order for a major variance to be granted, the Zoning Board of Appeals must recommend approval by a two-thirds majority vote of members present and forward the case to City Council for a final determination. The Zoning Board of Appeals heard the case on April 18, 2007, and voted unanimously to forward the case to City Council with a recommendation of approval. Council must now determine whether or not to approve the major variance.

Discussion

The existing structure at 311 W. Springfield Avenue is a one-story house on the southeast corner of Springfield Avenue and Birch Street. The lot the house is on is only 3,700 square feet in area. It has existing driveway access on Springfield Avenue, as shown in Exhibit "E". The petitioner would use the driveway for customer parking while she would park her own car in a leased space off-site. Only one off-street parking space is required by the Zoning Ordinance, since the floor space of the store will be 480 square feet and this use (Arts and Crafts Store and/or Studio) requires one space per every 500 square feet of floor space. The petitioner believes the number of customers at any one time would be small and the one parking space provided by the driveway would suffice for most times. At other times there is parking available on Birch Street and on Springfield Avenue. It is also expected that many customers would walk to the store and/or combine trips with other nearby downtown destinations.

Surrounding Properties

The following chart, along with the attached exhibits, offers a more detailed summary of the surrounding zoning and land uses.

<i>Direction</i>	<i>Zoning</i>	<i>Existing Land Use</i>	<i>Comprehensive Plan - Future Land Use</i>
Site	B-2, Neighborhood Business - Arterial	Residential	Central Business
North	B-4, Central Business	Mixed Office / Residential	Central Business
East	B-2, Neighborhood Business - Arterial	Residential	Central Business
South	MOR, Mixed Office Residential	Residential	Central Business
West	B-2, Neighborhood Business - Arterial	Vacant (proposed apartment construction)	Campus Mixed Use

Urbana’s 2005 Comprehensive Plan Future Land Use Map #8, designates the subject property as “Central Business”. A retail shop at this location is consistent with the Comprehensive Plan future land use designation for the site. The site is zoned B-2, Neighborhood Business – Arterial. This zoning district is intended to provide areas of limited size along arterial streets in proximity to low-density residential areas for a limited range of commercial trade and personal services. The proposed use is in conformance with that designation. The site is close to Urbana’s downtown Central Business District; in 2006 the Plan Commission and City Council rezoned the Opera House mixed office and apartment property to the north across Springfield Avenue from B-2 to B-4 Central Business District.

Zoning Board of Appeals Discussion

At their April 18, 2007 meeting, the Zoning Board of Appeals reviewed the case and voted 4 ayes to 0 nays to recommend approval of the request to the City Council. The Board discussed the availability of parking on nearby streets and the composition of the existing driveway. Staff indicated that the driveway conforms to the Zoning Ordinance. The Board added one condition to the approval of the variance; that the variance shall only be valid for as long as the property is used as a yarn and knitting shop. A decision sheet outlining the Board’s findings is attached in Exhibit “H”.

Variance Criteria

Section XI-3.C.2 of the Urbana Zoning Ordinance requires the Zoning Board of Appeals to make findings based on variance criteria. The following is a review of the criteria (*in italics*), followed by staff analysis for this case:

1. *The proposed variance will not serve as a special privilege because the variance requested is necessary due to special conditions and circumstances relating to the land or structure involved or to be used for occupancy thereof which is not generally applicable to other lands or structures in the same district.*

At 3,700 square feet, the lot is half the size of the neighboring properties. With the existing building on the property, there is no feasible way to create a parking lot that conforms to the Zoning Ordinance.

2. *The variance requested was not the result of a situation or condition having been knowingly or deliberately created by the Petitioner.*

The Petitioner is in the process of purchasing the property and has not yet affected the property to create any situation which resulted in the need for the variance. The lot is an existing nonconforming condition.

3. *The variance will not alter the essential character of the neighborhood.*

The variance will not alter the character of the neighborhood. The property was most recently used as a residence, which has had parking backing onto Springfield Avenue for many years. There are existing driveways on the adjacent residential block which currently allow vehicles to back out onto Springfield Avenue. The City Engineer has reviewed the proposed variance and does not see a problem with allowing vehicles to continue to back out onto Springfield at this location given the low volumes of traffic involved. The variance will also allow for the adaptive reuse of the existing building, instead of it being torn down and replaced with something that may not fit the character of the neighborhood.

4. *The variance will not cause a nuisance to adjacent property.*

The variance will allow for one car at a time to park on the property and back out onto Springfield Avenue. Without the variance, customers to the property would have to park on the street. A small yarn shop here is not expected to generate traffic volumes sufficient to create a nuisance or safety hazard.

5. *The variance represents generally the minimum deviation from requirements of the Zoning Ordinance necessary to accommodate the request.*

City staff believes that granting this variance is the most practical and minimally problematic way to allow use of this B-2 zoned property for a neighborhood-serving business, as envisioned by the Zoning Ordinance and Comprehensive Plan.

6. *The variance requested is the result of practical difficulties or particular hardship in the way of carrying out the strict letter of the Zoning Ordinance relating to the use, construction, or alteration of buildings or structures or the use of land.*

The practical difficulty and hardship in this case is that the Zoning Ordinance requires parking lots with two-way access drives and space to turn around for commercial uses. With a parking requirement of only one space, this is not practical, nor feasible on such a small lot.

Following the strict letter of the law, a property of this size that is zoned B-2, Neighborhood Business-Arterial, could not be used for any business purposes based on the parking requirements of the Zoning Ordinance.

Findings

1. The petitioner proposes to open a business on a non-conforming lot in the B-2, Neighborhood Business-Arterial District.
2. The Zoning Ordinance parking requirement which disallows backing onto a public street for non-residential uses cannot be met on the property, due to the size and placement of the existing structure.
3. The petitioner is requesting a variance to allow parking to back out onto Springfield Avenue.
4. The City Engineer has reviewed the request to allow parking to continue to back out onto Springfield Avenue and has determined that it will not cause a safety hazard.
5. The requested variance meets all of the criteria required in Section XI-3.C.2 of the Urbana Zoning Ordinance.
6. The property is well suited for the proposed use as designated in the Comprehensive Plan.
7. The variance allows for the adaptive reuse of an existing structure.
8. The proposed use meets the purpose of the B-2, Neighborhood Business – Arterial.

Options

The City Council has the following options in case no. ZBA-07-MAJ-03:

- a. The City Council may approve of the variance as requested based on the findings outlined in this memo; or
- b. The City Council may approve of the variance along with certain terms and conditions. If the City Council elects to impose conditions or approve the variance on findings other than those articulated herein, they should articulate findings accordingly; or
- c. The City Council may deny the variance request. If the City Council elects to do so, the Council should articulate findings supporting its denial.

Recommendation

Based on the findings outlined herein, the Urbana Zoning Board of Appeals recommends that the City Council **APPROVE** the proposed Major Variance in case ZBA 07-MAJ-03 with the following conditions. Staff concurs with this recommendation.

1. That the development shall closely resemble the submitted site plan attached as Exhibit E.

2. The Zoning Administrator shall be authorized to approve minor changes to the plan if necessary in order for the project to comply with other applicable City codes and regulations, including Building, Fire, and Subdivision and Land Development Codes, to meet City of Urbana requirements.
3. That the development shall meet all other applicable standards and regulations of the Urbana Zoning Ordinance and the Urbana Subdivision and Land Development Code.
4. That the variance shall be valid for as long as the property is used as a retail knitting and yarn store.

Prepared by:

Jeff Engstrom
Planner I

Attachments:

Exhibit A: Location Map	Exhibit E: Site Plan
Exhibit B: Zoning Map	Exhibit F: Application
Exhibit C: Aerial Photo w/ Existing Land Use	Exhibit G: Site Photos
Exhibit D: Future Land Use Map	Exhibit H: Decision Sheet
	Exhibit I: Minutes from April 18, 2007 ZBA Meeting

Cc:

Brigitte Pieke
412 W. Iowa Street
Urbana, IL 61801

ORDINANCE NO. 2007-05-037

AN ORDINANCE APPROVING A MAJOR VARIANCE

(To Allow Vehicular Egress from 311 W. Springfield Ave, Located in the B-2, Neighborhood Business - Arterial Zoning District / Case No. ZBA-2007-MAJ-03)

WHEREAS, the Zoning Ordinance provides for a major variance procedure to permit the Zoning Board of Appeals and the Corporate Authorities to consider applications for major variances where there are special circumstances or conditions with the parcel of land or the structure; and

WHEREAS, the owner of the subject property, Brigitte Pieke, has submitted a petition requesting a major variance to allow vehicles to back out onto Springfield Avenue at 311 W. Springfield Avenue in the B-2, Neighborhood Business - Arterial District; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case #ZBA-2007-MAJ-03; 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 18, 2007 and voted 4 ayes and 0 nay to recommend to the Corporate Authorities approval of the requested variance; and

WHEREAS, after due and proper consideration, the Corporate Authorities of the City of Urbana have 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 Corporate Authorities have considered the variance criteria established in the Urbana Zoning Ordinance and has determined the following findings:

1. The petitioner proposes to open a business on a non-conforming lot in the B-2, Neighborhood Business-Arterial District.

2. The Zoning Ordinance parking requirement which disallows backing onto a public street for residential uses cannot be met on the property, due to its size and the placement of the existing structure.
3. The petitioner is requesting a variance to allow parking to back out onto Springfield Avenue.
4. The City Engineer has reviewed the request to allow parking to continue to back out onto Springfield Avenue and has determined that it will not cause a safety hazard.
5. The requested variance meets all of the criteria required in Section XI-3.C.2 of the Urbana Zoning Ordinance.
6. The property is well suited for the proposed use as designated in the Comprehensive Plan.
7. The variance allows for the adaptive reuse of an existing structure.
8. The proposed use meets the purpose of the B-2, Neighborhood Business - Arterial.
9. The variance will not serve as a special privilege because at 3,700 square feet, the lot is half the size of the neighboring properties. With the existing building on the property, there is no feasible way to create a parking lot that conforms to the Zoning Ordinance.
10. The variance will not alter the character of the neighborhood. The property was most recently used as a residence, which has had parking backing onto Springfield Avenue for many years. There are existing driveways on the adjacent residential block which currently allow vehicles to back out onto Springfield Avenue.
11. City staff believes that granting this variance is the most practical and minimally problematic way to allow use of this B-2 zoned property for a neighborhood-serving business, as envisioned by the Zoning Ordinance and Comprehensive Plan.

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

The major variance request by Brigitte Pieke, in Case #ZBA-2007-MAJ-03, is hereby approved to allow vehicles to back out onto Springfield Avenue at 311 W. Springfield Ave in the B-2, Neighborhood Business - Arterial District, in the manner proposed in the application, with the following conditions:

1. That the development shall closely resemble the submitted site plan attached as Exhibit A; and
2. The Zoning Administrator shall be authorized to approve minor changes to the plan if necessary in order for the project to comply with other applicable City codes and regulations, including Building, Fire, and Subdivision and Land Development Codes, to meet City of Urbana requirements.
3. That the development shall meet all other applicable standards and regulations of the Urbana Zoning Ordinance and the Urbana Subdivision and Land Development Code.
4. That the variance shall be valid for as long as the property is used for the stated use of retail knitting and yarn store.

The major variance described above shall only apply to the property located at 311 W. Springfield Ave, Urbana, Illinois, more particularly described as follows:

LEGAL DESCRIPTION:

The north 65 feet of Lot 8 of James T. Roe's Second Addendum to the City of Urbana as per plat recorded in platbook (D) page 189, situated in Champaign County, Illinois.

PERMANENT PARCEL NO: 92-21-171-135-001

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 Corporate Authorities of the City of Urbana, Illinois, at a regular meeting of said Authorities on the ____ day of _____, 2007.

PASSED by the Corporate Authorities this ____ day of _____, 2007.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

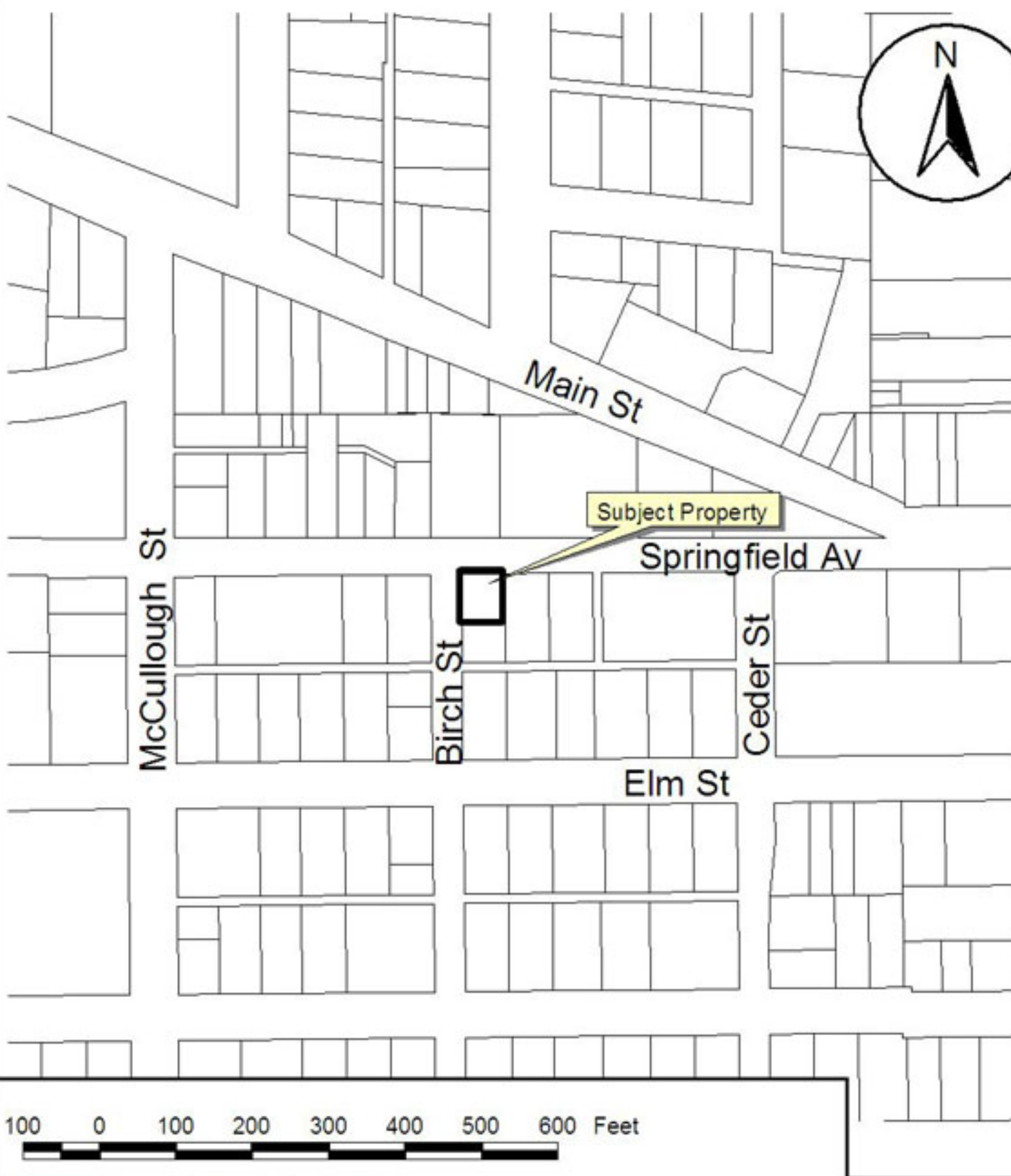
APPROVED by the Mayor this _____ day of _____, 2007.

Laurel Lunt Prussing, Mayor

CERTIFICATE OF PUBLICATION IN PAMPHLET FORM

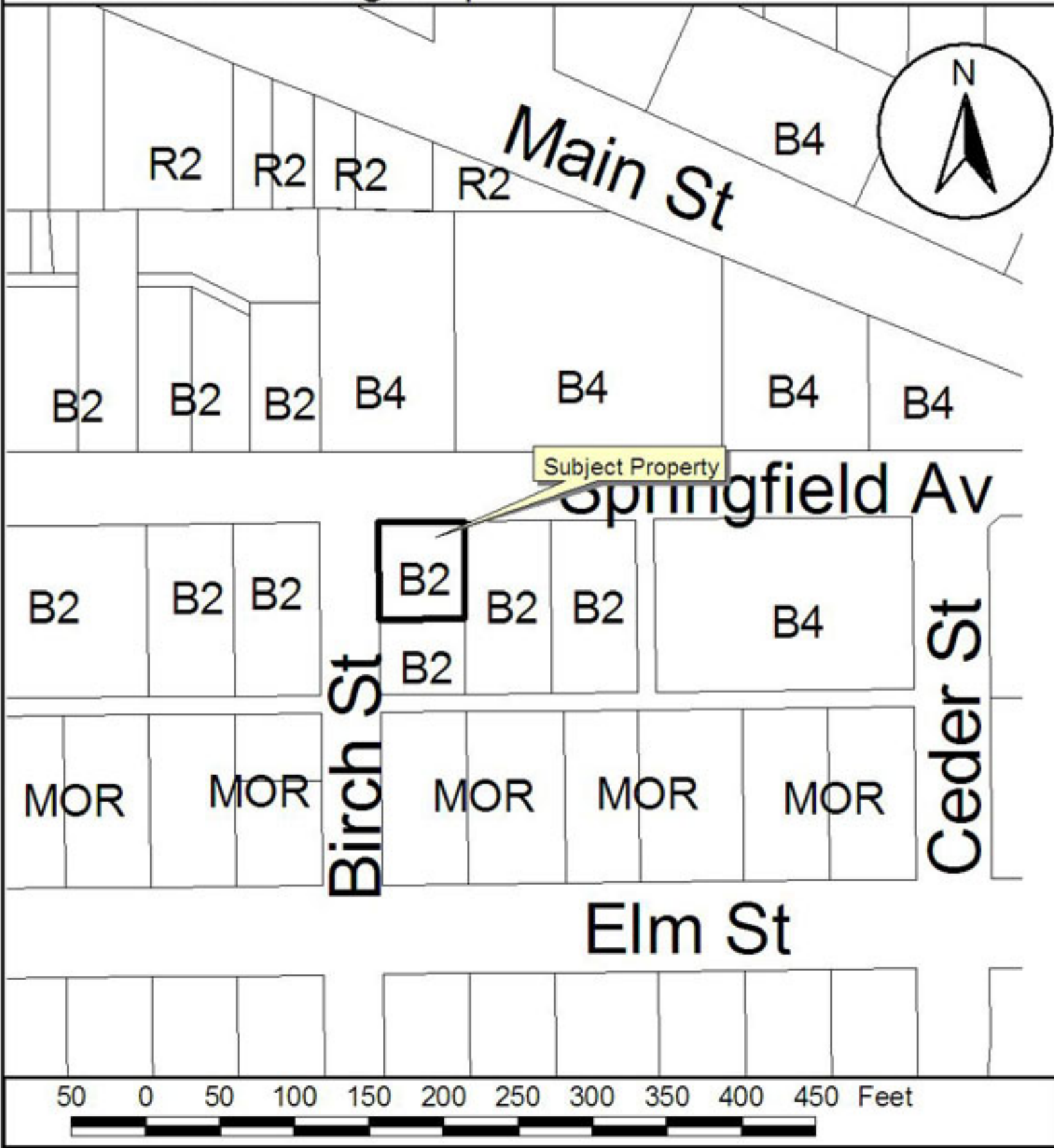
I, Phyllis D. Clark, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois. I certify that on the ____ day of _____, 2007, the corporate authorities of the City of Urbana passed and approved Ordinance No. _____, entitled "AN ORDINANCE APPROVING A MAJOR VARIANCE (A request to allow vehicles to back out onto Springfield Avenue at 311 W. Springfield Ave in the B-2, Neighborhood Business - Arterial District. 311 W. Springfield Avenue / Case No. ZBA-2007-MAJ-03)" 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 _____, 2007, 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.

Exhibit A: Location Map



ZBA Case: ZBA-07-MAJ-03
Petitioner: Brigitte Pieke
Location: 311 W. Springfield Ave
Description: A Major Variance request to allow parked cars at a commercial use to back out onto the street

Exhibit B: Zoning Map

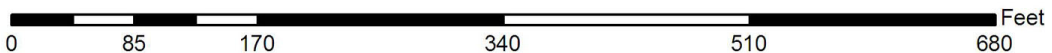


ZBA Case: ZBA-07-MAJ-03
Petitioner: Brigitte Pieke
Location: 311 W. Springfield Ave
Description: A Major Variance request to allow parked cars at a commercial use to back out onto the street

MOR - Mixed Office Residential
B2 - Neighborhood Business - Arterial
B4 - Central Business
R2 - Single Family

Existing Land Use w Aerial Photo

EXHIBIT "C"



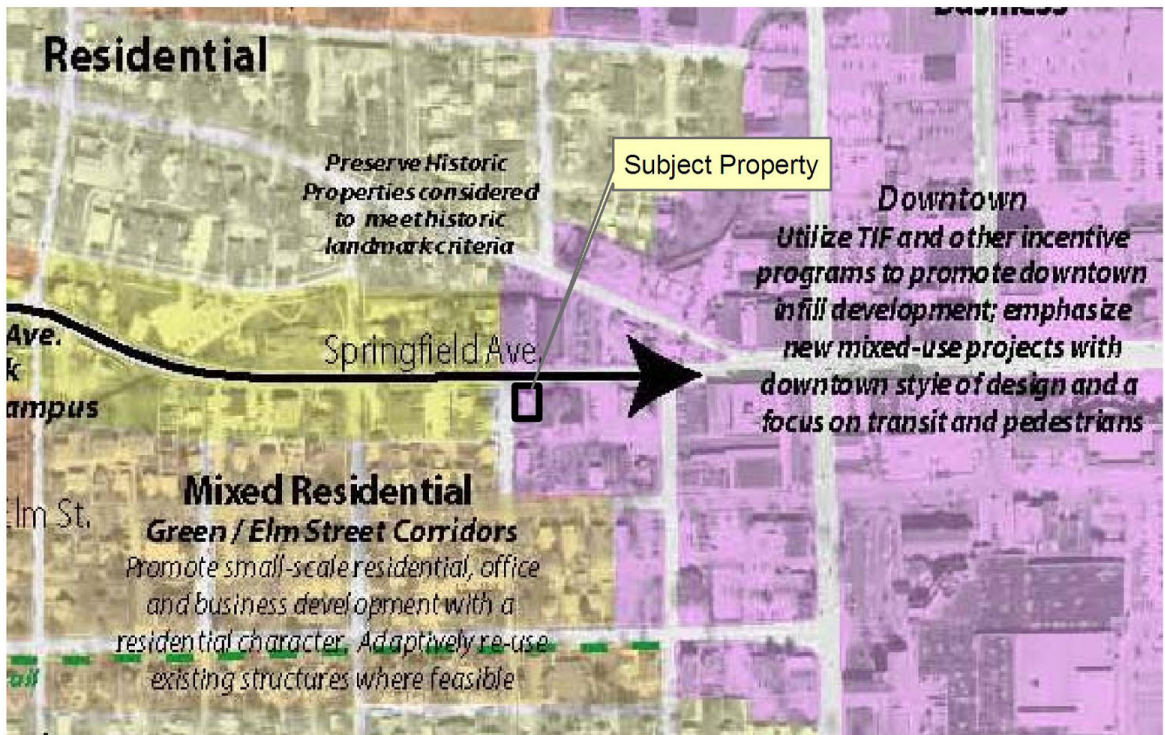
ZBA Case: ZBA-07-MAJ-03
 Petitioner: Brigitte Pieke
 Location: 311 W. Springfield Ave
 Description: A Major Variance request to allow parked cars at a commercial use to back out onto the street

CH - Church
 Com - Comercial
 Mxd - Mixed Use
 MF - Multi - Family
 SF - Single Family
 DU - Duplex
 Vac - Vacant

Future Land Use Map

EXHIBIT "D"

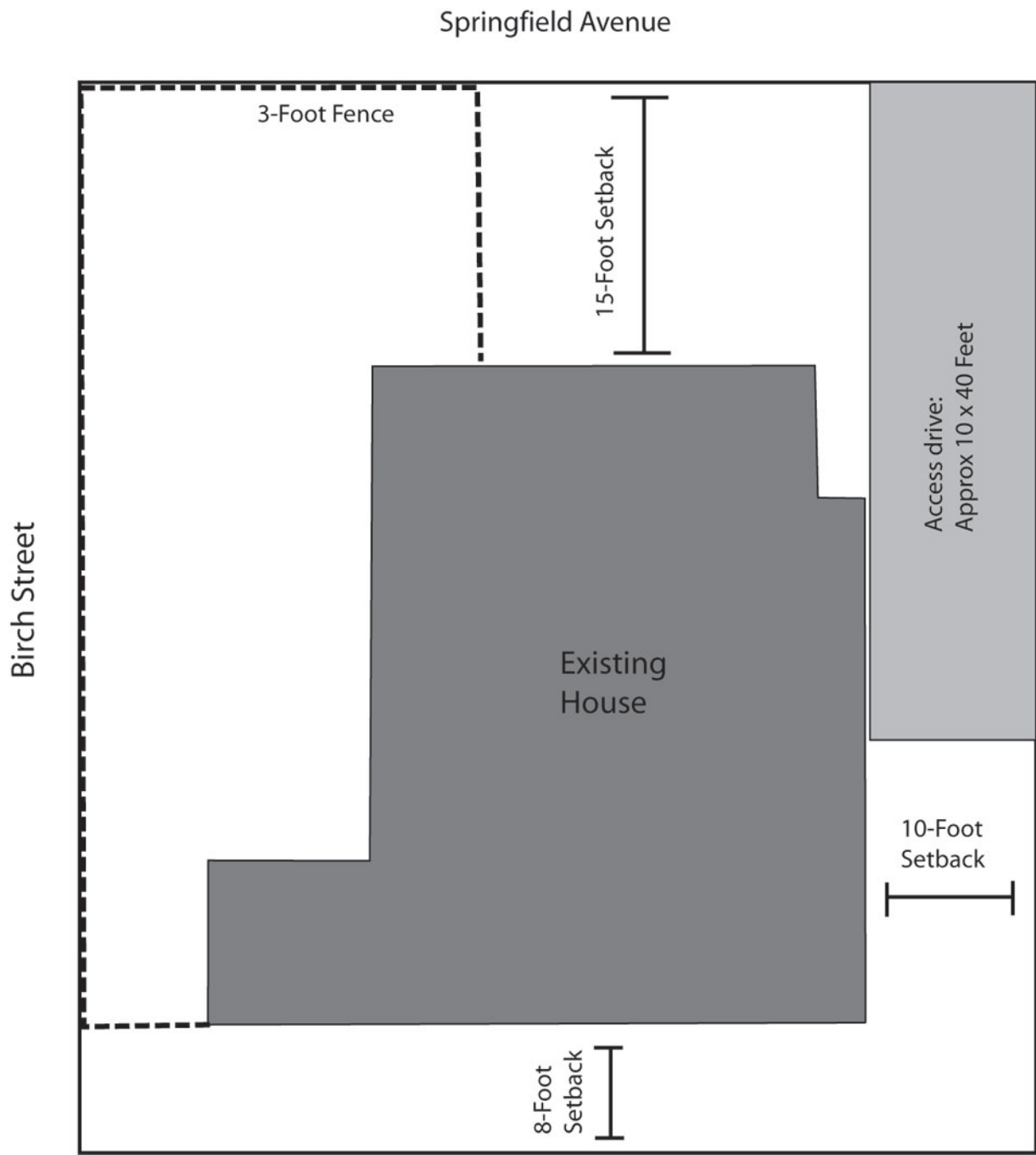
Source: Comprehensive Plan Future Land Use
Map # 8 , p. 79 - Detailed Section



ZBA Case: ZBA-07-MAJ-03
Petitioner: Brigitte Pieke
Location: 311 W. Springfield Ave
Description: A Major Variance request to allow parked cars at a commercial use to back out onto the street

Prepared 03/30/07 by Community Development Services - pal

Exhibit E: Site Plan



CITY OF URBANA
ZONING BOARD OF APPEALS

DECISION SHEET

REQUEST FOR MAJOR VARIANCE
IN CASE #ZBA-2007-MAJ-03

At a called meeting of the Urbana Zoning Board of Appeals, a public hearing was held on Wednesday, April 18, 2007 at the City of Urbana Council Chambers, 400 S. Vine Street, Urbana, Illinois, at which time and place the Board considered Case #ZBA-2007-MAJ-03 a request for a Minor Variance pursuant to Section XI-3 of the Urbana Zoning Ordinance.

A request filed by Brigitte Pieke to allow vehicles to back out onto Springfield Avenue at 311 W. Springfield in Urbana's B-2, Neighborhood Business—Arterial District.

For informational purposes only. Major Variance decision sheets not recorded.

The subject property affected by this case is described more particularly as follows:

Common Street Address: 311 W. Springfield Avenue

Owner of Record: Brigitte Pieke

Permanent Parcel No: 92-21-171-135-001

Legal Description: The north 65 feet of Lot 8 of James T. Roe's Second Addendum to the City of Urbana as per plat recorded in platbook (D) page 189, situated in Champaign County, Illinois.

After careful review of staff's findings in this case, and upon considering all the evidence and testimony presented at the public hearing, the following decision was made by the Urbana Zoning Board of Appeals: By a roll call vote of **four ayes, zero nays, and zero abstentions**, the Urbana Zoning Board of Appeals voted to **APPROVE** the requested minor variance based on the following findings:

1. The petitioner proposes to open a business on a non-conforming lot in the B-2, Neighborhood Business-Arterial District.
2. The Zoning Ordinance parking requirement which disallows backing onto a public street for residential uses cannot be met on the property, due to its size and the placement of the existing structure.
3. The petitioner is requesting a variance to allow parking to back out onto Springfield Avenue.
4. The City Engineer has reviewed the request to allow parking to continue to back out onto Springfield Avenue and has determined that it will not cause a safety hazard.

5. The requested variance meets all of the criteria required in Section XI-3.C.2 of the Urbana Zoning Ordinance.
6. The property is well suited for the proposed use as designated in the Comprehensive Plan.
7. The variance allows for the adaptive reuse of an existing structure.
8. The proposed use meets the purpose of the B-2, Neighborhood Business – Arterial.
9. The variance will not serve as a special privilege because at 3,700 square feet, the lot is half the size of the neighboring properties. With the existing building on the property, there is no feasible way to create a parking lot that conforms to the Zoning Ordinance.
10. The variance will not alter the character of the neighborhood. The property was most recently used as a residence, which has had parking backing onto Springfield Avenue for many years. There are existing driveways on the adjacent residential block which currently allow vehicles to back out onto Springfield Avenue.
11. City staff believes that granting this variance is the most practical and minimally problematic way to allow use of this B-2 zoned property for a neighborhood-serving business, as envisioned by the Zoning Ordinance and Comprehensive Plan.

The following **CONDITIONS** were placed on approval of the variance:

1. That the development shall closely resemble the submitted site plan attached as Exhibit E; and
2. The Zoning Administrator shall be authorized to approve minor changes to the plan if necessary in order for the project to comply with other applicable City codes and regulations, including Building, Fire, and Subdivision and Land Development Codes, to meet City of Urbana requirements.
3. That the development shall meet all other applicable standards and regulations of the Urbana Zoning Ordinance and the Urbana Subdivision and Land Development Code.
4. That the variance shall be valid for as long as the property is used for the stated use of retail knitting and yarn store.

I do hereby affirm, that to the best of my knowledge, the forgoing is a true and accurate record of Case No. ZBA-2007-MAJ-03

Anna Merritt, Chairperson

Date

The complete and official record of this case is on file at the City of Urbana Department of Community Development Services located at 400 S. Vine Street, Urbana, Illinois.

CITY OF URBANA - ZONING BOARD OF APPEALS - DECISION SHEET

CASE# ZBA-2007-MAJ-03 - REQUEST FOR CONDITIONAL USE PERMIT

Prepared by:

Jeff Engstrom, Planner I
Community Development Services Planning Division
400 S. Vine Street Urbana, IL 61801

Site Photos

Exhibit "G"



#1 Birch frontage



#2 Springfield and Birch corner



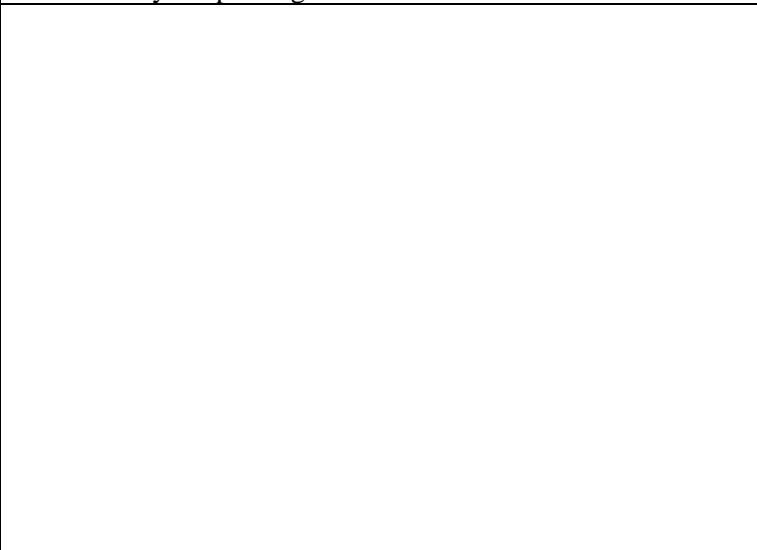
#3 Springfield frontage



#4 Driveway for parking



#5 Southwest along Springfield



**MINUTES OF A REGULAR MEETING
URBANA ZONING BOARD OF APPEALS**

DATE: April 18, 2007

DRAFT

TIME: 7:30 p.m.

PLACE: Urbana City Building
City Council Chambers
400 S. Vine Street
Urbana, IL 61801

MEMBERS PRESENT: Paul Armstrong, Herb Corten, Charles Warmbrunn, Harvey Welch

MEMBERS EXCUSED: Anna Merritt, Joe Schoonover, Nancy Uchtmann

STAFF PRESENT: Robert Myers, Planning Manager; Paul Lindahl, Planner I; Teri Andel, Planning Secretary

OTHERS PRESENT: Eileen Gebbie, Brigitte Pieke, Danielle Quivey, Clifford Singer, Paul Zindars

ZBA-07-MAJ-03 – Request for a Major Variance by Brigitte Pieke to allow vehicles to back out onto Springfield Avenue at 311 West Springfield Avenue in the B-2, Neighborhood Business – Arterial Zoning District.

Jeff Engstrom, Planner I, presented the staff report to the Zoning Board of Appeals. He noted the land uses and zoning of the proposed site and of the surrounding properties. He talked about on-site and on-street parking for the proposed business. He pointed out how the City's Comprehensive Plan relates to the proposed variance request. He reviewed the variance criteria from Section XI-3.C.2 of the Urbana Zoning Ordinance that pertains to the case. He read the options of the Zoning Board of Appeals and presented staff's recommendation, which is as follows:

Based on the evidence presented in the written staff report, and without the benefit of considering additional evidence that may be presented during the public hearing, staff recommends that the Zoning Board of Appeals recommend approval of the proposed major variance in case ZBA-07-MAJ-03 for the reasons articulated in the written staff report and along with the following conditions:

- 1. That the development shall closely resemble the submitted site plan shown as Exhibit E in the written staff report;*

2. *The Zoning Administrator shall be authorized to approve minor changes to the plan if necessary in order for the project to comply with other applicable City codes and regulations, including Building, Fire, and Subdivision and Land Development Codes, to meet City of Urbana requirements.*
3. *That the development shall meet all other applicable standards and regulations of the Urbana Zoning Ordinance and the Urbana Subdivision and Land Development Code.*

Mr. Corten inquired if parking is allowed on Birch Street. Mr. Engstrom replied yes. Mr. Corten wondered if the petitioner could have her customers park along Birch Street rather than having them park in her driveway. Mr. Engstrom said that customers would be allowed to park on Birch Street, but the Zoning Ordinance requires that the petitioner provide at least one on-site parking space, which is why she needs the approval of the proposed variance request.

Mr. Corten thought the petitioner might be able to put a driveway parallel with Springfield Ave. through her front yard and exit onto Birch Street. Mr. Engstrom replied that parking is not allowed in a required front yard setback.

Acting Chair Armstrong mentioned that it appears that the existing driveway is about 40 feet long. Would this allow cars to park in the driveway in a stacked fashion? Mr. Engstrom said that the length of the driveway is approximate so he is not sure if two cars could park in a stacked fashion in the driveway.

Mr. Warmbrunn questioned what the composition is of the driveway surface. Is it made up of gravel and grass or are there actually two concrete pads? Paul Lindahl, Planner I, explained that he took the site photos for the staff memo. His understanding is that the driveway consists of deteriorated asphalt and gravel. City staff has discussed whether or not they should require the driveway to be resurfaced. Mr. Warmbrunn did not feel that it would follow policy to allow a business use and let them keep the gravel driveway. Mr. Lindahl explained that if a person improves their parking area, then he/she would be required to improve the parking area to a standard that would meet City codes. However, this is not possible, because there is not enough room to provide for the requirements of a business driveway. It also does not make sense to require the land owner to improve the driveway, when the business might not be located there very long. In order to allow the property, which has been zoned B-2, Neighborhood Business-Arterial Zoning District, for a long time, to be reused in an adaptive way, City staff is looking for a low impact solution.

Mr. Warmbrunn wondered if we have a set definition in the Building Code of what a driveway needed to be made of. Mr. Lindahl responded that if the land owner tore down the existing structure and redeveloped the proposed site, then she would be required to provide a parking area according to the standards of the Building Code. Mr. Warmbrunn stated that he thought it might be a safety issue, but if the City staff does not have a problem with the composition of the driveway, then he did not either.

Acting Chair Armstrong inquired as to whether the variance, if approved by the Zoning Board of Appeals and the City Council, would transfer to a new owner or a different use of the property in the future. Mr. Lindahl stated that the Zoning Board of Appeals could make it a condition that approval of the proposed variance is for the proposed use only. Mr. Myers added that it would be reasonable to add that condition because a higher intensity use occupying this property given the parking would be a very different situation.

Acting Chair Armstrong opened the public hearing up to receive comment from audience members.

Brigitte Pieke, the petitioner, stated that her retirement dream is to have a yarn store here. She is willing to answer any questions that the Zoning Board of Appeals may have for her.

Mr. Corten asked if she planned to use the house as it currently is. Ms. Pieke said yes.

Acting Chair Armstrong inquired as to what her intent would be for the driveway. Ms. Pieke pointed out that the driveway is very compact. There is not a lot of loose gravel and it has no pot holes. With regards to stack parking in the driveway, she felt this would not be a problem because she plans to park in a leased parking space elsewhere. It is just one parking space. She also did not feel that the traffic impact of her business would be any different than for the residential use which has been there for years.

With no further comments or questions from members of the audience, Acting Chair Armstrong closed the public input portion of the hearing and opened it up for discussion of the members of the Zoning Board of Appeals.

Mr. Corten moved that the Zoning Board of Appeals forward case ZBA-07-MAJ-03 to the City Council with a recommendation for approval including the three conditions recommended by City staff and with the added condition that if the petitioner sells the proposed property then the variance would require reconsideration. Mr. Welch seconded the motion.

Mr. Welch moved to amend the motion to say "... and that the variance would be pursuant to the stated use of the petition for case ZBA-07-MAJ-03". Mr. Warmbrunn seconded the motion to amend. A voice vote was taken on the amendment, and it passed by unanimous vote (4 ayes to 0 nays).

The motion now reads as such: The Zoning Board of Appeals forward case ZBA-07-MAJ-03 to the City Council with a recommendation for approval including the three conditions recommended by City staff and with the added condition that the variance would be pursuant to the stated use of the petition for case ZBA-07-MAJ-03. Roll call on the motion was as follows:

Mr. Armstrong	-	Yes	Mr. Corten	-	Yes
Mr. Warmbrunn	-	Yes	Mr. Welch	-	Yes

The motion was approved by unanimous vote.