



**DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES**

*Planning and Economic Development Division*

**m e m o r a n d u m**

**TO:** Bruce Walden, Chief Administrative Officer

**FROM:** Elizabeth H. Tyler, AICP, Director/City Planner

**DATE:** March 27, 2002

**SUBJECT:** ZBA-02-MAJ-3: A request for a major variance by the First Presbyterian Church for a 33% reduction in the western front yard setbacks at 510 West Green Street and 511 West Elm Street in the MOR, Mixed Office Residential Zoning District, for an expansion of the existing parking lot.

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**Introduction**

The First Presbyterian Church at 602 West Green Street has submitted a request for a major variance for a reduction in the western front yard setbacks for 510 West Green Street and 511 West Elm Street in the MOR, Mixed Office Residential Zoning District. The requested variance would allow for a southerly expansion of the existing parking lot located at 507-511 West Elm Street with a 10-foot setback from the western property line. The required setback in the MOR District on this block is 15 feet; the request is for a 33% reduction in front yard setback. The requested variance would also bring the parking lot at 507-511 West Elm Street into full compliance with setback requirements. The lots along Green Street are currently vacant, and the petitioners are waiting for approval of the variance before construction work on the parking lot begins.

**Background**

**Description of the Site**

The site is located across Orchard Street from the church, between Green and Elm Streets. The subject zoning lot is approximately 38,750 square-feet in area, consisting of the existing parking lot at 507-511 West Elm Street and the recently cleared land at 508-510 West Green Street properties. Single-family dwellings are located to the south of the proposed lot, and apartments are located to the east.

## **Discussion**

A variance was granted in 1988 for a 25% reduction in the front yard setback along Orchard Street and Elm Street (ZBA-88-V-3). Unfortunately, during construction the western edge of the parking lot was placed 10 feet from the property line, rather than the required 11.25 feet. In addition, the variance only applied to 711 West Elm Street. The parking lot was subsequently expanded to 707 West Elm Street following the rezoning of the property to MOR. A minor variance was granted on March 20, 2002 for a 22% reduction in front yard setback along Elm Street, from 16.75 feet to 13 feet, to bring this portion of the property into compliance.

In the MOR Zoning District, parking is allowed to encroach into the required rear yard of 10 feet if it is properly screened from adjacent properties. A privacy fence currently exists along the eastern edge of the property, and therefore parking proposed to encroach 4 feet into the 10-foot rear yard setback is allowed. The parking lot would be screened to the south with landscaping in accordance with zoning requirements.

On March 20, 2002, the Zoning Board of Appeals voted 4-0 to forward the major variance request to the City Council with a recommendation for approval. One of the concerns discussed at the hearing was stormwater drainage. Engineers for the petitioners indicate that they are preparing a drainage plan, and continue to work with City Engineering staff to develop acceptable provisions for drainage. For more information regarding the proposed variance, please refer to the March 14, 2002 staff memorandum and minutes from the March 20, 2002 ZBA meeting.

The church contains pew space for approximately 300 people. The Zoning Ordinance requires 1 parking space for every 5 seats in the principal assembly area. The church presently provides 78 standard parking spaces and 3 accessible spaces, which is above the current parking requirement of 60 spaces and 3 accessible spaces. However, many churches find that the current demand for parking exceeds zoning requirements, and in this case the church finds that a substantial number of churchgoers must utilize on-street parking during times of assembly. The parking lot expansion would contain 128 regular parking spaces with 5 accessible spaces according to the site plan.

## **Variance Criteria**

In order to review a potential variance, Section XI-3 of the Urbana Zoning Ordinance requires the Zoning Board of Appeals and City Council to make findings based on variance criteria. At the March 20, 2002 meeting, the ZBA cited the following findings for their recommendation for approval of the requested variance:

- 1. Are there special circumstances or special practical difficulties with reference to the parcel concerned, in carrying out the strict application of the ordinance?*

2. *The proposed variance will not serve as a special privilege because the variance requested is necessary due to special 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.*

In this case, there is a special practical difficulty due to the configuration of the existing parking lot at 707-711 West Elm Street. The existing parking lot was created mostly in compliance with the variance granted in 1988 except that the lot was inadvertently built to a 10-foot front yard setback rather than to the permitted 11.25 feet. If the expansion to the south is created with normal setback requirements, there will be a misalignment between the two parking lots. This would create an inconvenience and potentially a safety problem for users of the parking lot. Furthermore, shifting the existing parking lot east 1.25 feet to fully comply with the varied setback would likely cause damage to existing trees in the center aisle between the eastern and western parking bays. The variance would likely be considered a special privilege, however, as the variance is not necessary due to any special circumstances relating to the underlying land involved.

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

The need for the variance has not yet been created at 510 West Green Street. The petitioners were aware of the requirements of the Zoning Ordinance and have applied for a variance. However, as indicated on the petitioner's application, the variance for front yard setback at 507-511 West Elm Street granted in 1988 was never fully brought into compliance. The requested variance would correct this error.

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

The variance should not alter the essential character of the neighborhood. A church with its accessory parking is a permitted use in the MOR District, and several churches are located in the general area. Existing shade trees are intended to be maintained. Screening to the west, south, and east will help to soften the intensity of the parking lot, and should help to preserve the office/residential character of the neighborhood.

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

The variance should not cause a nuisance to adjacent properties. As mentioned above, the parking lot expansion is proposed to be screened with landscaping along the Green Street and portions of the Orchard Street frontages. The church owns the property to the west of the parking lot. A 6-foot privacy fence exists along the east edge of the property and will continue to be maintained.

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

The petitioner is only requesting the amount of variance needed to accommodate the proposed new parking lot expansion and to rectify the nonconformance in the existing lots.

## **Options**

The City Council has the following options this case:

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

## **Recommendation**

Based on the findings outlined herein, the Zoning Board of Appeals voted 4-0 to forward the variance request to the City Council with a recommendation for approval. Staff concurs with the Zoning Board of Appeals and recommends that City Council **GRANT** the variance as requested.

Prepared by:

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Tim Ross, Senior Planner

Attachments: Draft Ordinance Approving the Major Variance  
Location Map  
Site Plan  
Draft Minutes from the March 20, 2002 Zoning Board of Appeals Meeting

c: First Presbyterian Church  
Eric Sorensen, BCA

**ORDINANCE NO. 2002-04-033**

**AN ORDINANCE APPROVING A MAJOR VARIANCE**

(Request by the First Presbyterian Church for a 33% reduction the in the western front yard setbacks at 510 West Green Street and 511 West Elm Street in the MOR, Mixed Office Residential Zoning District, for an expansion of the existing parking lot - ZBA-02-MAJ-3)

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 with the parcel of land or the structure; and

WHEREAS, the petitioner, First Presbyterian Church, has submitted a petition requesting a major variance to allow a 5-foot encroachment into the required 15-foot front yard setback along the east side of Orchard Street in the MOR, Mixed Office Residential Zoning District at 510 West Green Street and 511 West Elm Street; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case #ZBA-02-MAJ-3; 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 March 20, 2002 and the ZBA by a unanimous vote of its members (4y0n) recommend to the City Council approval of the requested variance; 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:

1. There is a special practical difficulty in carrying out the strict application of the ordinance due to the configuration of the existing parking lot to the north. The existing parking lot was created mostly in compliance with the variance granted in 1988 except that the lot was inadvertently built to a 10-foot front yard setback rather than to the permitted 11.25 feet. If the proposed expansion to the south is created with normal setback requirements, there will be a misalignment between the two parking lots. This would create an inconvenience and potentially a safety problem for users of the parking lot. Furthermore, shifting the existing north parking lot 1.25 feet to fully comply with the varied setback of 11.25 feet would likely cause damage to existing trees in the center aisle between the parking bays. The variance would likely be considered a special privilege, however, as the variance is not necessary due to any special circumstances relating to the land involved.

2. The need for the variance has not yet been created on 510 West Green Street. The petitioners were aware of the requirements of the Zoning Ordinance and have applied for a variance. However, the variance for front yard setback at 511 West Elm Street granted in 1988 was never fully brought into compliance. The requested variance would correct this error.

3. The variance should not alter the essential character of the neighborhood nor cause a nuisance to adjacent properties. A church with its accessory parking is a permitted use in the MOR District, and several churches are located in the general area. Existing shade trees on the zoning lot are intended to be maintained. The church owns the properties immediately west of the parking lot for which the variance in front yard setback is being requested. Screening to the east, south, and west will help to soften the intensity of the parking lot, and should help to preserve the office/residential character of the neighborhood.

4. The petitioner is only requesting the amount of variance needed to accommodate the proposed new parking lot expansion and to rectify the nonconformance in the existing lots.

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

The major variance request by the First Presbyterian Church, in Case #ZBA-02-MAJ-3 is hereby approved to allow a 5-foot encroachment into the required 15-foot front yard setback along the east side of Orchard Street in the MOR, Mixed Office Residential Zoning District at 510 West Green Street and 511 West Elm Street, in the manner proposed in the application and the attached site plan.

The major variance described above shall only apply to the subject property, more particularly described as follows:

LEGAL DESCRIPTION:

The East 23 feet 10 inches of Lots 24 and 25 of J.F. Snyder's Addition to Urbana, as per Plat recorded in Deed Record "O" at Pages 195-196.

And the South one-half of that part of the vacated alley in said J.F. Snyder's Addition adjoining said part of Lot 24 on the North.

Also, the South one-half of vacated Snyder Avenue in said J.F. Snyder's Addition lying between Elm street and Green Street and which said avenue adjoins on the East of said Lots 24 and 25, and on the East of aforesaid part of the South one-half of said vacated alley, more particularly described as follows:

Commencing at the Southeast corner of said Lot 25; thence East, along the North line of Green Street, to the Southwest corner of Lot 17 in said J.F. Snyder's Addition; thence North, along the West line of said Lot 17 and said West line extended North, to the North line of the South half of said vacated alley; thence West, along said North line of the South half of said vacated alley, to a point on the East line, extended North, of said Lot 24; thence South to the Northeast corner of said Lot 24, thence continuing South, along the East lines of Lots 24 and 25, to the point of beginning; all situated in Champaign County, Illinois.

And also as set forth in Document 2001R26134 in the office of the Recorder of Champaign County, Illinois.

Tract 1:

The West 95 feet of Lots 24 and 25, except the West 20 feet thereof, now a part of Orchard Street of J.F. Snyder's Addition to Urbana, as per plat recorded in Deed Record "O" at page 195, in Champaign County, Illinois.



Tract 2:

The South Half of that part of vacated alley adjoining said Tract 1 on the North, except the West 20 feet thereof, now a part of Orchard Street, as created by Ordinance of Vacation of alley recorded August 29, 1864 in Book "Y" at Page 603.

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 \_\_\_\_\_, 2002.

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

AYES:

NAYS:

ABSTAINS:

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

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

\_\_\_\_\_  
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 \_\_\_\_\_, 2002, the corporate authorities of the City of Urbana passed and approved Ordinance No. \_\_\_\_\_, entitled "AN ORDINANCE APPROVING A MAJOR VARIANCE (Request by the First Presbyterian Church for a 33% reduction the in the western front yard setbacks at 510 West Green Street and 511 West Elm Street in the MOR, Mixed Office Residential Zoning District, for an expansion of the existing parking lot - ZBA-02-MAJ-3") 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 \_\_\_\_\_, 2002, 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.