



**DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES**

*Planning 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:** April 25, 2003

**SUBJECT:** ZBA 03-MAJ-03: Request to Allow a Three-Foot Increase of the Allowable Encroachment into the Front Yard Setback in the R-3, Single and Two-Family Zoning District at 605 East Green Street in Urbana.

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**Introduction**

Kerry Helms and Nohra Mateus-Pinella request a variance for a three-foot increase of the allowable encroachment into the front yard setback at 605 East Green Street. The petitioners' request is to encroach eight feet into the 15-foot setback to allow for the construction of an unenclosed front porch, they are allowed a five-foot encroachment by right. This request is classified as a major variance by the Urbana Zoning Ordinance and requires City Council approval.

**Background**

**Description of the Site**

The site is located near the corner of East Green Street and Anderson Street (see attached maps). The lot is 6,360 square-feet in area and contains a one-story bungalow-style house of 1,365 square-feet. The residence faces north onto East Green Street and has a detached garage located in the southwest corner of the lot. The back yard currently consists of about 4,460 square feet of open space and the front yard has 837 square feet of open space. Single and two-family homes surround the subject property. The subject house is currently set back approximately 15.6 feet. The adjacent house to the west has a front yard setback of approximately 16.5 feet, and the adjacent house to the north has a front yard setback of 15 feet along Green Street.

## Discussion

The requested variance comes as a result of the desire by the petitioners to construct a Bungalow-Style unenclosed front porch.

According to the petitioners, the house on the lot was built in 1913. The subject residence is a good example of existing homes throughout the neighborhood, it is a modest size home built with a small front yard setback. The character of the East Green Street corridor is of an older established neighborhood. Front yard setbacks of less than 10 feet and front porches are common in this area.

## 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 April 16, 2003 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?*

The practical difficulty relates to the location of the house on the lot. Surrounding homes in the neighborhood have been built with more shallow front-yard setbacks than found in modern subdivisions. The existing shallow setback is a special circumstance as the petitioners may not be able to build a porch as they desire, with the indicated stylistic features, without having to request a variance.

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, the variance would serve as a special privilege as the petitioners could build a porch or entryway to their home that complied with existing zoning provisions.

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. The petitioners are aware of the requirements of the Zoning Ordinance and have applied for a variance prior to construction.

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

The variance should not detract the essential character of the neighborhood. The requested increase of front yard encroachment should not significantly disrupt the setback line along the block as most of the homes on the street have shallow setbacks.

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

The variance should not cause a nuisance to adjacent properties.

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 construct a porch that it is proportionate to the openings of a Bungalow-Style residence.

## **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 presented herein, they should articulate these additional 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 this denial.

## **Recommendation**

Based on the findings outlined herein, the **Zoning Board of Appeals voted 7-0 to forward the variance request to the Urbana City Council with a recommendation for approval to allow the petitioners a three-foot increase of the allowable encroachment into the front yard setback.** Staff concurs with the ZBA and recommends that City Council **GRANT** the variance as requested.

Attachments: Proposed Ordinance  
Draft Minutes of April 16, 2003 ZBA Public Hearing  
Exhibit A: Location Map  
Photo of Bungalow Style Porch Design (not available in digital format)  
Petitioners' Site Plan (not available in digital format)

Prepared by:

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Michaela Bell, Planner

c: Kerry Helms & Nohra Mateus-Pinilla, 605 East Green Street, Urbana

ORDINANCE NO. 2003-05-047

AN ORDINANCE APPROVING A MAJOR VARIANCE

(Request to Allow a Three foot Increase of the Allowable Encroachment into the Front Yard Setback in the R-3, Single and Two-Family Zoning District -- 605 East Green Street, Case No. ZBA-03-MAJ-03)

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, Kerry Helms and Nohra Mateus-Pinilla, have submitted a petition requesting a major variance to allow a three foot increase in the allowable encroachment into the front yard setback at 605 East Green Street, in Urbana's R-3, Single and Two-Family Zoning District; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case #ZBA 03-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 16, 2003 and the ZBA by a unanimous vote (7-0) of its members recommended approval of the requested variance, to allow a three foot increase in the allowable front yard encroachment; to encroach eight feet into the 15-foot setback to allow for the construction of an unenclosed front porch, 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. There is a practical difficulty which relates to the location of the house on the lot. The subject residence as well as surrounding homes in the neighborhood, have been built with more shallow front-yard setbacks than found in modern subdivisions. The existing shallow setback is a special circumstance as the petitioners may not be able to build a porch as they desire, with the indicated stylistic features, without having to request a variance.
2. The variance would serve as a special privilege as the petitioners could build a porch or entryway to their home which complied with existing zoning provisions. The proposed construction will improve the property by replacing the dilapidating stairs with a functional porch of an appropriate scale and proportion to the residence.
3. The petitioners have not altered their residence and are currently in compliance with the Urbana Zoning Ordinance. The variance should not be unreasonably injurious or detrimental to the general public, would not alter the essential character of the neighborhood, and should not cause a nuisance

to the adjacent properties. The request should not significantly disrupt the setback line along the block, most of the homes on the street have shallow setbacks.

4. The petitioner is requesting only the minimum amount of variance needed to construct a porch that it is proportionate to the openings of a Bungalow-Style residence.

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

The major variance request by Kerry Helms and Nohra Mateus-Pinella, in Case #ZBA 03-MAJ-03 is hereby approved to allow a three foot increase in the allowable front yard encroachment for the construction of an unenclosed porch; to encroach eight feet into the 15-foot setback at 605 East Green Street, R-3, Single and Two-Family Zoning District, as approved by the Zoning Board of Appeals.

The major variance described above shall only apply to the property located at 605 East Green Street, Urbana, Illinois, more particularly described as follows:

LEGAL DESCRIPTION: Lot 2 of Webbers Fourth Addition, situated in the City of Urbana, in Champaign County, Illinois.

PERMANENT PARCEL #: 92-21-17-241-004

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 \_\_\_\_\_, 2003.

PASSED by the City Council this \_\_\_\_ day of \_\_\_\_\_, 2003.

AYES:

NAYS:

ABSTAINS:

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

APPROVED by the Mayor this \_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
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 \_\_\_\_\_, 2003, the corporate authorities of the City of Urbana passed and approved Ordinance No.

\_\_\_\_\_, entitled "AN ORDINANCE APPROVING A MAJOR VARIANCE

(Request to Allow a Three foot Increase of the Allowable Encroachment into the Front Yard Setback in the R-3, Single and Two-Family Zoning District --

605 East Green Street, Case No. ZBA-03-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

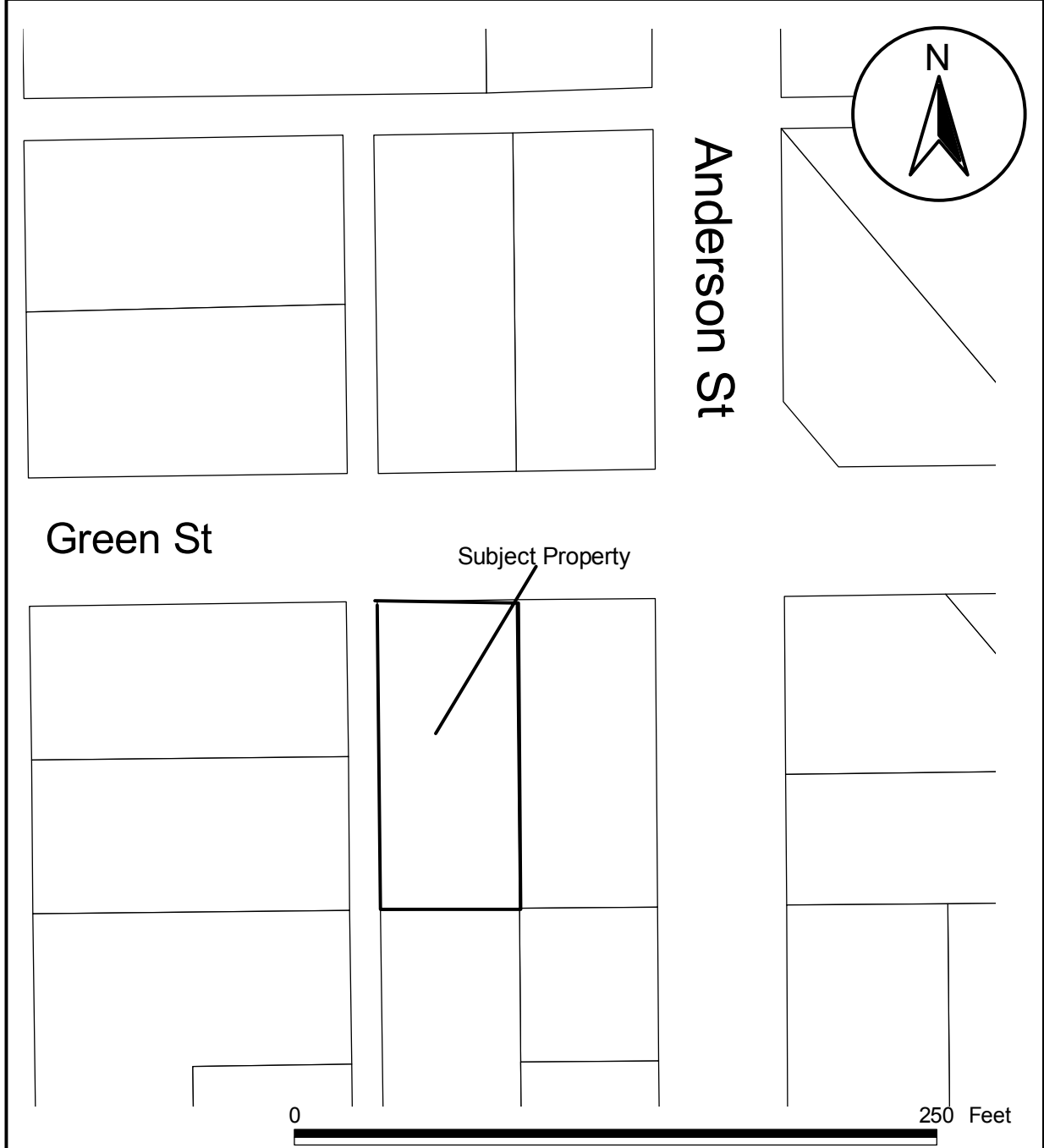
Urbana City Building commencing on the \_\_\_\_ day of \_\_\_\_\_,

2003, 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-03-MAJ-03 Major Variance  
Petitioner: Kerry Helms & Nohra Mateus-Pinilla  
605 E. Green Street  
3-ft. Increase in the Front Yard Encroachment

Prepared March 29, 2003 by Community Development Services - mrb

**MINUTES OF A REGULAR MEETING**

**URBANA ZONING BOARD OF APPEALS**

**DATE:** April 16, 2003

**DRAFT**

**TIME:** 7:30 p.m.

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

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**MEMBERS PRESENT:** Paul Armstrong, Herb Corten, Darwin Fields, Anna Merritt, Joe Schoonover, Charles Warmbrunn, Harvey Welch

**MEMBERS ABSENT** None

**STAFF PRESENT:** Elizabeth Tyler, Director of Community Development Services Department; Rob Kowalski, Planning Manager; Tim Ross, Senior Planner; Michaela Bell, Planner; Teri Andel, Secretary

**OTHERS PRESENT:** Peter Baksa, Dave Barr, Doris Barr, Rich Cahill, Liz Cardman, Betsy Cronan, Russ Dankert, Paul Debeuec, Tina Gunsalus, Kerry Helms, Kate Hunter, Nohra Mateus-Pinella, Richard Mohr, Esther Patt, Steve Ross, Matt & Adriana Taylor, Michael Walker, Joan Zagorski, Art Zangerl

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**ZBA-03-MAJ-03: Request by Kerry Helms and Nohra Mateus-Pinilla to allow a three-foot increase of the allowable encroachment into the front-yard setback at 605 East Green Street in Urbana's R-3, Single and Two-Family Residential Zoning District.**

Michaela Bell, Planner, presented the staff report regarding this case to the Zoning Board of Appeals. She began her presentation by describing the requested variance and the purpose for the variance, which was so the petitioner could encroach eight feet into the 15-foot setback to allow for the construction of an unenclosed front porch. She gave a brief description of the subject site and noted the front-yard setbacks of the houses adjacent to the proposed lot on the north and south. She addressed the variance criteria that pertained to this case according to Section XI-3 of the Urbana Zoning Ordinance and read the options of the Zoning Board of Appeals. Staff recommendation was as follows:

*Based on the findings outlined in the written staff report, and without the benefit of considering additional evidence that may be presented during the public hearing, staff recommended that the Urbana Zoning Board of Appeals grant the variance as requested.*

Kerry Helms, petitioner, mentioned that they currently have steps going up to the front of the house. When they bought the house about six years ago, the steps were sinking. Since then, there has been some brickwork on the side that had collapsed. It would be a matter of replacing what was there. The petitioners were hoping to create a porch in front where they could sit outside and enjoy Green Street. They talked to a builder and researched some styles at the library to find a style that fits the style of the house and of the neighborhood.

Mr. Corten inquired if the petitioners planned to enclose the porch? Mr. Helms replied no. They have sort of an enclosed area already and want an open porch in front.

Mr. Warmbrunn moved to forward the case to the Urbana City Council with the recommendation for approval. Mr. Fields seconded the motion. The roll call was as follows:

Mr. Fields	-	Yes	Ms. Merritt	-	Yes
Mr. Schoonover	-	Yes	Mr. Warmbrunn	-	Yes
Mr. Welch	-	Yes	Mr. Armstrong	-	Yes
Mr. Corten	-	Yes			

The motion was passed by unanimous vote.