



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Bruce K. Walden, CAO

FROM: Elizabeth H. Tyler, AICP, Director

DATE: May 15, 2003

SUBJECT: Variance for 401 West Park Street

At the May 5, 2003 Urbana City Council meeting the Council considered a variance request by Peter Baksa for 401 West Park Street. The Council had considerable discussion regarding the first variance criteria relating to a “special circumstance” with the parcel being located on a corner and thus having two front yards. It was agreed at the meeting that staff would revise the draft ordinance based on Council direction and present the changes for further consideration.

Many Council members identified the fact that the variance will not negatively affect adjacent uses. The following language is now proposed:

To provide the required eight parking spaces, a variance is needed for the encroachment into the eastern front yard. There is a special circumstance considering the location of the parcel. The parcel is not located immediately adjacent to a single-family or duplex residence but rather is located next to a business use, an apartment complex, and a street right-of-way.

The attached ordinance identifies the exact proposed changes in a “~~strikethrough and underlined~~” format.

ORDINANCE NO. 2003-05-048

AN ORDINANCE APPROVING A MAJOR VARIANCE

(to allow a nine-foot reduction in the required 15-foot front yard setback along Central Avenue in the R-5, Medium High Density Residential Zoning District - 401 West Park Street Case No. ZBA-03-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 with the parcel of land or the structure; and

WHEREAS, the owner of the subject property, Peter Baksa, has submitted a petition requesting a major variance to allow a nine-foot encroachment into the required 15-foot front yard setback along Central Avenue at 401 West Park Street in the R-5, Medium High Density Residential Zoning District; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case #ZBA-03-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 16, 2003 and the ZBA voted 5 ayes and 2 nays to recommend to the City Council approval of the requested variance with the condition listed below; 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~~ has considered the variance criteria established in the Urbana Zoning Ordinance and has determined the following findings: with the following findings of fact adopted by the ZBA in support of its recommendation to approve the application for a major variance:

1. ~~In this case, there is a special circumstance due to the fact that the property is located on a corner lot. To provide the required eight parking spaces, a variance is needed for the encroachment into the eastern front yard. An apartment building with this layout and design could be established on a similarly sized lot that did not have two front yards without requiring a variance. In fact, two apartment buildings to the west have a similar layout, but did not require variances for setback since parking is allowed in the rear yards.~~ To provide the required eight parking spaces, a variance is needed for the encroachment into the eastern front yard. There is a special circumstance considering the location of the parcel. The parcel is not located immediately adjacent to a single-family or duplex residence but rather is located next to a business use, an apartment complex, and a street right-of-way.

2. The requested variance could be considered a special privilege because other structures could be established on the property that would not require as many parking spaces. The second story of the building effectively doubles the parking requirement, and therefore does not allow parking to be contained outside of the required setbacks on this corner lot.

3. The need for the variance has not yet been created. The petitioner is aware of the requirements of the Zoning Ordinance and has applied for a variance prior to beginning construction.

4. The variance should not significantly alter the essential character of the neighborhood. Although the reduction in front yard will reduce the open space on the property and will partially impede the view of Crystal Lake Park from ~~certain locations to~~ the south of the property, the variance will not obstruct the view from any residences and the petitioner has proposed a six-foot landscaping buffer that should soften the impact of parking in the required front yard. In addition, the existing trees in the parkway, which

is public right-of-way, will be preserved. This should provide an additional buffering effect of the parking area.

5. The variance should not cause a nuisance to adjacent properties. The properties to the east are separated by Central Avenue and should be further protected by the proposed landscaping buffer and the trees in the parkway. Staff does not foresee any potential nuisances to the commercial property across the alley to the south, the residential property to the west, or the park to the north.

6. The petitioner is only requesting the amount of variance needed to construct the eight-unit multifamily dwelling on the subject property with the proposed site plan

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

The major variance request by Peter Baksa, in Case #ZBA-03-MAJ-2, is hereby approved to allow a nine-foot encroachment into the required 15-foot front yard setback along Central Avenue at 401 West Park Street in the R-5, Medium High Density Residential Zoning District, in the manner proposed in the application, with the condition that the landscaping buffer shown on Exhibit A, Site Plan, be established and maintained as part of the development of the site in accordance with Section VI-5.G. of the Urbana Zoning Ordinance.

The major variance described above shall only apply to the property located at 401 West Park Street, Urbana, Illinois, more particularly described as follows:

LEGAL DESCRIPTION:

Lots 1, 2, 3, and 4 in Block One and Lots 1, 2, and 3 in Block 2 of Simeon H. Busey's 2nd Addition, Champaign County, Illinois

PERMANENT PARCEL #: 92-21-17-263-012

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 _____, ____.

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

_____, entitled AN ORDINANCE APPROVING A MAJOR VARIANCE (to allow a nine-foot reduction in the required 15-foot front yard setback along Central Avenue in the R-5, Medium High Density Residential Zoning District - 401 West Park Street Case No. ZBA-03-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 _____, 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.