



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: September 30, 2004

SUBJECT: ZBA 04-MAJ-12: A request to allow a 10 foot (66%) encroachment into the required 15 foot front-yard at 703 N. Cunningham Avenue

Introduction.

Zoning Board of Appeals case ZBA 04-MAJ-12 is a request for a major variance filed by Isaacs & Seten Properties. The petitioners are requesting a major variance to allow a reduction in the required front-yard set back on their property located at 703 N. Cunningham Avenue in Urbana's B-3 General Business Zoning District.

The lot is located on the northwest corner of the intersection of Cunningham Avenue and Crystal Lake Drive. The corner location results in two street frontages and so front yard requirements one facing east to Cunningham Avenue and one south to Crystal Lake Drive. The petitioner wishes to erect a sign with a 10' foot (66%) encroachment into the required 15' foot front-yard on the south-facing street frontage toward Crystal Lake Drive.

On September 15, 2004 the Zoning Board of Appeals conducted a public hearing to consider the request and voted unanimously to recommend approval to City Council.

Background

Description of the Site / Area

The site is located along the Cunningham Avenue arterial corridor in Urbana. The corridor contains a mix of uses including auto repair shops and fast food restaurants and other business developments. Directly east across Cunningham are the maintenance offices of a cemetery. Single-family homes are to the west of the site along Crystal Lake Drive. Across Crystal Lake Drive to the south is a grocery store and auto repair business.

Discussion

Section VI-5.C states that lots with frontage on more than one street shall have a required front yard on each street frontage. Section VI-5.B of the Urbana Zoning Ordinance says required yards must remain

unobstructed from any structure including freestanding signs. Table VI-1 requires lots zoned B-3 General Business to have front yards of 15 feet in depth.

An unusual feature of the subject lot is a truncated corner at the intersection of Crystal Lake Drive and Cunningham Avenue (See Exhibit "E"). That triangular corner of the lot was deeded to Illinois Department of Transportation in 1984 during an improvement project for Cunningham Avenue. The corner is now part of the State owned right-of-way that in the future could become a part of improvements to the Crystal Lake/Cunningham intersection.

As a result of the loss of this corner it is not possible to erect a sign in a location that is along a parallel line 15' feet in distance from the Cunningham Avenue lot line and a similar line along the Crystal Lake Avenue frontage (See Exhibit "E").

The size of the lot in question is generally small and provides a limited amount of space for access lanes and parking. Accommodating the 15-foot requirement for both front yards would result in a location for the sign within the existing parking and vehicle display area. This would further exacerbate problems of limited space on the lot. Allowing the sign to encroach 10' feet into the 15' foot yard along the Crystal Lake Drive frontage should result in a sign location that is visible to north and south bound traffic on Cunningham Avenue as well as Crystal Lake Drive traffic, without compromising the access and parking plan developed by the petitioners for the site.

Variance Criteria

Section XI-3 of the Urbana Zoning Ordinance requires the Zoning Board of Appeals to make findings based on variance criteria. On September 15, 2004 the ZBA voted their recommendation of approval based upon the following findings:

- 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 on the lot is the truncated corner at the intersection that was deeded to IDOT in 1984. Further, the parcel is quite small for standard commercial uses and cannot be expanded due to surrounding development and the presence of Boneyard Creek to the north.

- 2) *The proposed variances 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.*

The proposed variance will not serve as a special privilege because as a result of the loss of the corner it is not possible to erect a sign in a location that will not compromise the limited area of the lot.

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

The petitioners are aware of the Zoning Ordinance and have requested the variance prior to any construction.

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

The design of the new sign will be in keeping with the commercial character of the area. The specific location of the sign will not alter that character. The height and area of the sign will meet the requirements of the Zoning Ordinance.

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

The sign will be similar to other commercial signs along the Cunningham Avenue corridor. Its specific location should not create any impact on the neighbors

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

The petitioner is requesting only the amount of variance needed to accommodate the proposal as designed.

Options for #ZBA-04-MAJ-12

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.

Staff Recommendation

Based on the findings outlined herein, the Zoning Board of Appeals voted 5-0 to forward the variance request to the Urbana City Council with **a recommendation for approval to allow a sign with a 10' foot (66%) encroachment into the required 15' foot front-yard at 703 N. Cunningham Avenue on the south-facing street frontage toward Crystal Lake Drive.** Staff concurs with the ZBA and recommends that City Council **GRANT** the variance in **ZBA Case # 04-MAJ-12.**

Attachments: Proposed Ordinance
 Draft September 15, 2004 ZBA Minutes
 Exhibit A: Location Map
 Exhibit E: Aerial Photo with diagram
 Exhibit F: Petition for Variance w/ sign design

Prepared by:

Paul Lindahl, Planner

Cc:

Isaacs & Seten Properties
Attn: Larry Isaacs
1300 Hagen Street
Champaign, IL 61820

American Dowell Signcrafters
P.O. Box 3788
Champaign, IL 61826

ORDINANCE NO. 2004-10-135

AN ORDINANCE APPROVING A MAJOR VARIANCE

(To Allow a 10-foot (66%) Encroachment into the Required 15-foot Front-yard at 703 N. Cunningham Avenue in Urbana's B-3, General Business Zoning District / Case No. ZBA-04-MAJ-12)

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, Isaacs & Seten Properties, has submitted a petition requesting a major variance to allow a 10 foot (66%) encroachment into the required 15 foot front-yard of the Crystal Lake Drive frontage at 703 N. Cunningham Avenue 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-12; 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 met on September 15, 2004 and voted 5 ayes and 0 nays to 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 has considered the variance criteria established in the Urbana Zoning Ordinance and has determined the following findings:

1. There are practical difficulties on the property in that the lot has a truncated corner at the intersection that was deeded to the Illinois Department of Transportation (IDOT) in 1984. Further, the parcel is quite small for standard commercial uses and cannot be expanded due to surrounding development and the Boneyard Creek to the north.
2. The proposed variance will not serve as a special privilege because as a result of the loss of the corner it is not possible to erect a sign in a location that will not compromise the limited area of the lot.
3. The variance requested was not the result of a situation or condition having been knowingly or deliberately created by the Petitioner because the petitioners are aware of the Zoning Ordinance and have requested the variance prior to any construction.
4. The design of the new sign will be in keeping with the commercial character of the neighborhood. The specific location of the sign will not alter that character. The height and area of the sign will meet the requirements of the Zoning Ordinance.
5. The sign will be similar to other commercial signs along the Cunningham Avenue corridor and its specific location should not create any impact on the neighbors. 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 accommodate the proposal as designed.

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

The major variance request by Isaacs and Seten Properties, in Case #ZBA-04-MAJ-12, is hereby approved to allow a 10 foot (66%) encroachment into the required 15 foot front-yard of the Crystal Lake Drive frontage of the subject property while maintaining other required front yard setbacks, at 703 N. Cunningham Avenue in Urbana's B-3, General Business Zoning District, in the manner proposed in the application.

The major variance described above shall only apply to the property located at 703 N. Cunningham Avenue, Urbana, Illinois, more particularly described as follows:

LEGAL DESCRIPTION: Lot 1 in Robert F. Cox First Addition to the City of Urbana, as per Plat recorded in Plat Book "H" at Page 118, situated in Champaign County, Illinois.

PERMANENT PARCEL #: 91-21-08-404-029

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 _____,
_____.

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 _____, 2004, the corporate authorities of the City of Urbana passed and approved Ordinance No.

_____, entitled:

AN ORDINANCE APPROVING A MAJOR VARIANCE

(To allow a 10 foot (66%) encroachment into the required 15 foot front-yard at 703 N. Cunningham Avenue in Urbana's B-3, General Business Zoning District / Case No. ZBA-04-MAJ-12)

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.

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

DATE: September 15, 2004
TIME: 7:30 p.m.
PLACE: Urbana City Building
400 S. Vine Street
Urbana, IL 61801

DRAFT

MEMBERS PRESENT: Paul Armstrong, Herb Corten, Anna Merritt, Joe Schoonover, Charles Warmbrunn

MEMBERS ABSENT Harvey Welch

STAFF PRESENT: Elizabeth Tyler, Director of Community Development Services; Paul Lindahl, Planner; Teri Anel, Secretary

OTHERS PRESENT: Larry Isaacs

1. CALL TO ORDER, ROLL CALL AND DECLARATION OF QUORUM

The meeting was called to order at 7:29 p.m. The roll call was taken, and a quorum was declared present.

2. CHANGES TO THE AGENDA

There were none.

3. APPROVAL OF MINUTES

Mr. Corten moved to approve the minutes from the August 18, 2004 meeting as presented. Mr. Schoonover seconded the motion. The minutes were approved as presented by unanimous voice vote.

4. WRITTEN COMMUNICATIONS

- Letter from George Carlisle

5. CONTINUED PUBLIC HEARINGS

There were none.

Note: Chair Merritt swore in members of the audience who wanted to speak during the public hearings.

6. NEW PUBLIC HEARINGS

ZBA-04-MAJ-12: A request to allow a 10-foot (66%) encroachment into the required 15-foot front yard at 703 North Cunningham Avenue.

Paul Lindahl, Planner, presented this case to the Zoning Board of Appeals. He gave a brief description and background of the site and the surrounding properties. He reviewed the variance criteria that pertained to this case. He read the options of the Zoning Board of Appeals and stated staff’s recommendation, which was as follows:

Based on the findings of the variance criteria outlined in the written staff report, staff recommended that the Urbana Zoning Board of Appeals recommend approval of the proposed variance as requested to the Urbana City Council.

Mr. Corten asked if staff expected the Illinois Department of Transportation (IDOT) to request more of the proposed site to become area for the right-of-way in the future? Ms. Tyler answered by saying that staff did not expect that to happen in this location. She mentioned that there would be a signal light placed at the intersection in the future.

Ms. Merritt questioned if the sign would pose a problem for the future signal light? Ms. Tyler stated that she believed that IDOT had taken what land they needed for the signal light.

Mr. Corten moved that the Zoning Board of Appeals forward the case to the City Council with a recommendation for approval. Mr. Armstrong seconded the motion. Roll call was as follows:

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

The motion was passed by unanimous vote. The variance request would be reviewed by the City Council on October 4, 2004.

ZBA-04-MIN-02: A request by Frederick Enterprises, Inc. for a minor variance to establish a duplex dwelling on a lot of less than 60 feet in width. The property is located at 505 South Urbana Avenue in Urbana’s R-3, Single and Two-Family Residential Zoning District.

Mr. Lindahl introduced the case by describing the proposed site noting the size and zoning of the lot. He reviewed the variance criteria in Section XI-3 of the Urbana Zoning Ordinance that pertained to the proposed minor variance request. He read the options of the Zoning Board of Appeals and noted staff's recommendation, which 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 at the public hearing, staff recommended that the Urbana Zoning Board of Appeals approve the minor variance.

There was discussion about whether the Zoning Board of Appeals should continue the case due to the absence of the petitioner or a representative for the petitioner. Libby Tyler, Director of Community Development Services, phoned the petitioner, Chet Frederick, and was told that Mr. Frederick had the understanding from his lawyer that his presence was not required at the public hearing.

Mr. Corten wondered where the four parking spaces would be located on the proposed site and where the access would be located to the lot. He suggested that the petitioner submit a layout of the proposed duplex. Mr. Lindahl stated that staff had not received a site plan or layout as of yet. However, the petitioner would have to comply with all of the requirements of the Urbana Zoning Ordinance.

Mr. Corten inquired if there was an alley behind the property. Mr. Lindahl explained that there was an alley behind the property, but that the alley had been vacated and no longer had public access. The existing garage on the property would be demolished. The driveway would access directly in front onto Urbana Avenue.

Ms. Merritt asked if the petitioner had planned to use the driveway of the apartment building to the north? Mr. Lindahl replied that if the petitioner wanted to construct a garage on the rear of the property, then he would have to put in a driveway.

Mr. Corten remarked that he was amazed that this request really came up for consideration by the Zoning Board of Review for a 3-1/4" variance. Ms. Tyler commented that staff had debated whether it was within the staff's power to round that amount. When looking at the percentage, it made sense to bring the minor variance request to the Zoning Board of Appeals. Ms. Merritt noticed that there was a lot of space on the side of the existing house. Mr. Lindahl agreed. He pointed out that the petitioner did not have to supply a garage. The City only required the petitioner to supply off-street parking.

Mr. Corten questioned if the duplex would be one story or two? Mr. Lindahl replied that staff had not seen any plans; therefore, they did not know. The maximum height for a development was 35 feet.

Mr. Warmbrunn inquired as to how an apartment building was allowed next to the proposed site. Ms. Tyler stated that this was a real patchwork of zoning in the area. There were all different zoning designations. At some point, the City would want to address some of those. She

mentioned that there had been a previous request to rezone the proposed property to multi-family zoning, which was denied. The existing house was not in good shape and was not fixable. It needed to be torn down. She pointed out that further east in the Historic East Urbana Neighborhood Area (HEUNA), there were areas that were zoned for apartment use, but were built as single-family use. Therefore, there were many properties in the area that the zoning needed to be corrected.

Mr. Corten questioned if the Zoning Board of Appeals had any input as to start the task of changing the some of the zoning in the area? Ms. Tyler mentioned that the Neighborhood Association for HEUNA had requested some zoning changes, but it was a little further to the east of the proposed site. Staff would like to perform a study.

There was further discussion of whether the Zoning Board of Appeals should continue the case or vote on it. Ms. Tyler pointed out that the Zoning Board of Appeals was not approving the duplex use. By approving the variance request, the Zoning Board of Appeals would be making it permissible for the petitioner to ask the Building Inspector for a permit for a duplex. Mr. Warmbrunn noted that talking with the petitioner would not be able to help the board members answer that question, so there was no need to continue the case.

Mr. Armstrong moved that the Zoning Board of Appeals approve the request for a minor variance with the condition that it meets all the building code requirements in the City of Urbana. Mr. Warmbrunn seconded the motion. Roll call was as follows:

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

The motion was approved by unanimous vote.

7. OLD BUSINESS

There was none.

8. NEW BUSINESS

There was none.

9. AUDIENCE PARTICIPATION

There was none.

10. STAFF REPORT

Mr. Lindahl reported on the following:

- ZBA-04-MAJ-09 & ZBA-04-MAJ-10 were approved by the City Council on September 7, 2004
- ZBA-04-MAJ-11 was approved by the City Council as well
- The next scheduled meeting was set for October 20, 2004. Ms. Merritt mentioned that she would not be in attendance.

11. STUDY SESSION

There was none.

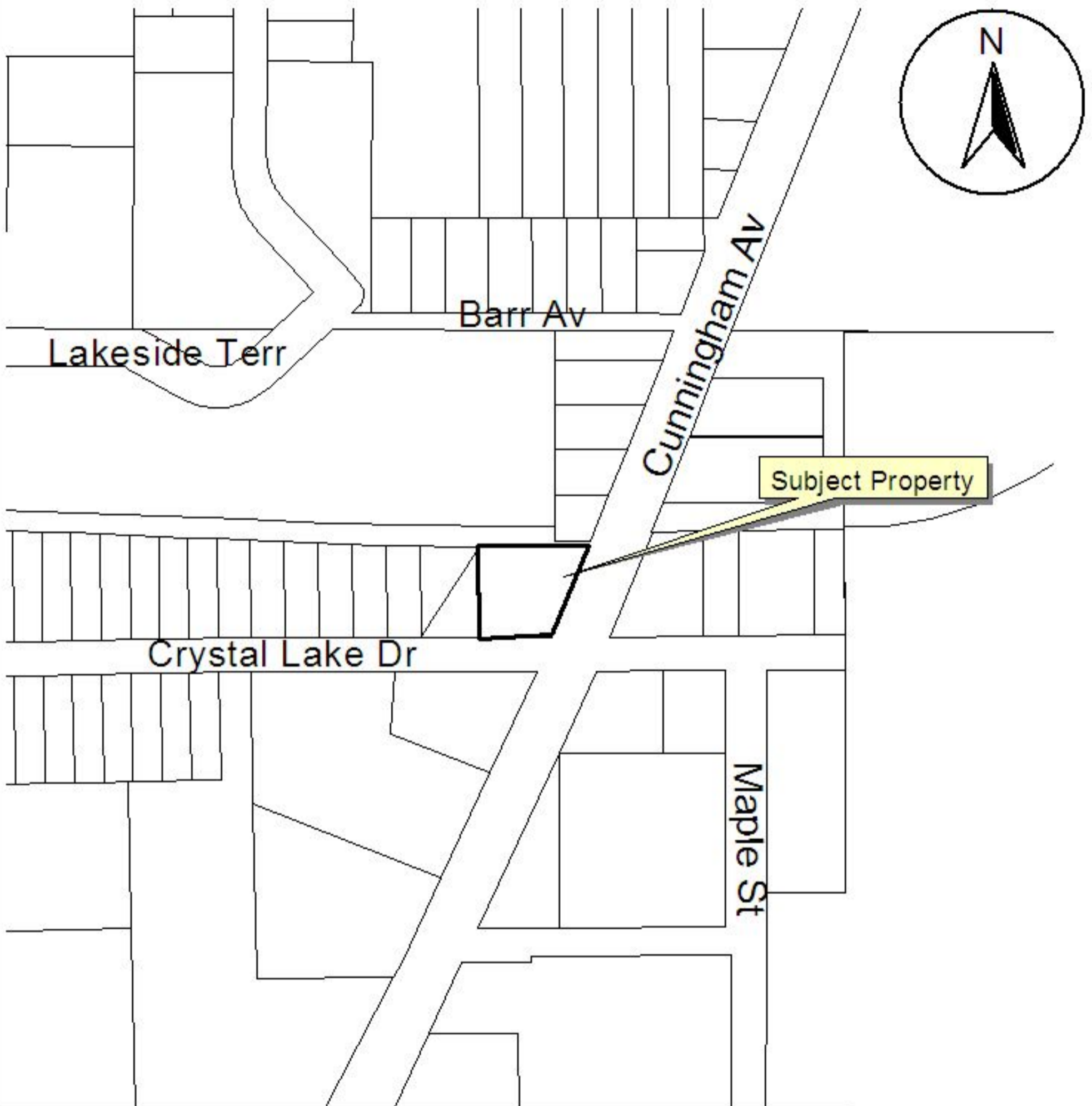
12. ADJOURNMENT OF MEETING

The meeting was adjourned at 7:57 p.m.

Respectfully submitted,

Rob Kowalski, Planning Manager
Urbana Zoning Board of Appeals

Exhibit "A": Location Map



0 200 400 600 800 Feet



ZBA Case: 04-MAJ-12,
Front Yard Setback Reduction from 15' to 5' feet
Petitioner: Isaacs & Seten Properties
703 N. Cunningham Avenue
B-3, General Business

Prepared 8/31/04 by Community Development Services - pal

