

**ORDINANCE NO. 2005-12-175**

**AN ORDINANCE APPROVING A MAJOR VARIANCE**

(To Allow a 10 foot (66%) Encroachment into the Required 15 Foot Front Yard Setback, in the B-3U, General Business - University Zoning District - 304 N. Harvey Street and 1016 W. Main Street / Case No. ZBA-05-MAJ-7)

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, Howard Wakeland, has submitted a petition requesting a major variance to allow a 10 foot (66%) encroachment into the required 15' foot front yard setback at 304 N. Harvey Street and 1016 W. Main Street in the B-3U, General Business - University Zoning District; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case #ZBA-05-MAJ-7; 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 November 16, 2005 and voted 3 ayes and 1 nays to recommend to the City Council approval of the requested variance with the conditions 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 has considered the variance criteria established in the Urbana Zoning Ordinance and has determined the following findings:

1. The special circumstances in carrying out the strict application of the ordinance is that this project will include one building constructed in two phases fronting on two public streets. The City of Urbana comprehensive plan strives to allow this area to increase in density, in part to help protect multi-family encroachment on other single-family residential neighborhoods. The comprehensive plan also calls for buildings in this area to be set back close to the street. The applicant states that the project cannot work while meeting the setback requirements on two street frontages, and what he is requesting conforms to our comprehensive plan goals for this area.

2. The proposed variance will not serve as a special privilege because the special circumstances relating to the land in this instance is that the corner lot has the usable land reduced by the requirement for two 15 foot front yard setbacks.

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 variances has not yet been created. The petitioner is aware of the requirements of the Zoning Ordinance and has applied for variances prior to construction.

4. The requested decrease of the front yard setbacks should not detract from the essential character of the neighborhood. The neighborhood is one of urban high density development with large buildings constructed on multiple lots.

5. The variances should not cause a nuisance to adjacent properties. The property faces a parking lot across Harvey Street to the west and apartment buildings across Main Street to the south. The building would back onto a public alley to the north with apartments on the other side.

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 variance necessary to achieve the goal of high density in the area as called for in the Comprehensive Plan.

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

The major variance request by Howard Wakeland, in Case #ZBA-05-MAJ-7, is hereby approved to allow a 10 foot (66%) encroachment into the required 15' foot front yard setback at 304 N. Harvey Street and 1016 W. Main Street in the B-3U, General Business - University Zoning District, in the manner proposed in the application, with the following conditions:

1. That with respect to front yard setback the development on the site must generally conform to the site plan submitted with the application.
2. The project shall conform to all other applicable Zoning and Building Code regulations including Open Space Ratios and parking module dimensions.

The major variance described above shall only apply to the property located at 304 N. Harvey Street and 1016 W. Main Street, Urbana, Illinois, more particularly described as follows:

LEGAL DESCRIPTION:

Lot 7 and the western 30 feet of Lot 8 of Houser's Heirs Subdivision Addition to the City of Urbana in Champaign County, Illinois.

PERMANENT PARCEL #s: 91-21-07-481-007, -008, -009

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 \_\_\_\_\_, 2005.

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

AYES:

NAYS:

ABSTAINS:

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

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

\_\_\_\_\_  
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 \_\_\_\_\_, 2005, the corporate authorities of the City of Urbana passed and approved Ordinance No. \_\_\_\_\_, entitled:

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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 \_\_\_\_\_, 2005, 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.