



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES
Planning and Economic Development Division

m e m o r a n d u m

TO: **Bruce K. Walden, CAO**

FROM: April D. Getchius, AICP, Director

DATE: August 17, 2000

SUBJECT: Case ZBA 00-MAJ-4, Request for a major variance filed by David Kovacic. The petitioner proposes a major variance to allow the reduction of the required open space ratio from 0.40 to 0.17 located at 601 South Anderson Street.

Introduction

David Kovacic has submitted a request for a major variance for the open space ratio on his lot at 601 S. Anderson Street in Urbana. The petitioner is currently constructing an open, unenclosed porch on the north side of the main structure and wishes to enclose it to create an interior room addition. The petitioner is also in the process of building a two-car detached garage on the lot. The construction of the garage, along with the room addition would decrease the open space ratio on the lot below the required 0.40. On August 10, 2000 the Urbana Zoning Board of Appeals voted 5-1 with one abstention to recommend approval of the major variance to the Urbana City Council. The Zoning Board of Appeals also approved a related request for a minor variance to allow the reduction of the front yard setback for the room addition from 15-feet to 13.6-feet.

Background

Description of the Site

The site is located on the southwest corner of Anderson Street and California Street. The lot is approximately 5,652 square-feet in area and contains a structure of approximately 1,600 square-feet plus a 250 square-foot attached garage. The house is a one-story ranch and the one-car attached garage accesses Anderson Street. There is virtually no rear yard to the lot since the structure sits 5-feet from the neighboring property on California Street. The lot currently contains approximately 1,425 square-feet of open space on the south side of the lot where the garage is proposed and 1,121 square-feet of open space

on the north end of the lot where the room addition is proposed. The lot also contains approximately 900 square-feet of space on the east side of the lot which is considered the front yard.

Since the lot is bordered by Anderson Street to the east and California Street to the north, it is considered to have two front yards. The front yard on Anderson Street currently contains a 13.7-foot setback while the front yard on California Street has a 23.6-foot setback.

Proposal

The applicant is currently constructing a two-car detached garage on the south end of the lot and the foundation of a porch / room addition on the north end of the lot. The garage does not require approval from either the Zoning Board of Appeals or City Council since it is an accessory structure and meets the setback and size requirements of the Urbana Zoning Ordinance. The applicant is currently constructing the foundation of a porch on the north end of the lot and wishes to enclose it into a room addition. If this porch is enclosed, it can no longer be used in the calculation of the open space ratio like an open, unenclosed porch can. For this reason, the major variance is requested. Further, the Urbana Zoning Board of Appeals granted a setback variance for this addition. Once again, if the addition is left as an open, unenclosed porch, it would not need the setback since porches are allowed to encroach into the required yard.

The Urbana Zoning Ordinance requires an open space ratio of 0.40. The open space ratio is figured by dividing the open space square footage of the lot by the floor area of the lot. The Zoning Ordinance places other restrictions on the calculation of the open space ratio. Of most importance to this case, the code requires an open space area to have a minimum width dimension of 15-feet in order to be used in the calculation. Also, driveways cannot be used in the calculation but open, unenclosed porches can be used.

Without any of the proposed improvements to the lot, the current open space ratio is 1.37. This calculation includes the southern portion of the lot where the garage is currently being built and the northern portion of the lot where the room addition is proposed. It does not include the front yard of the lot because it is only 13.7 feet in width. The front yard of the lot should have a 15-foot setback and if the original house been built to meet the current regulations, this front yard area would be able to be used in the ratio. The addition of the garage would eliminate the south end of the lot to be used in the calculation. Since the Zoning Board of Appeals approved a minor variance for the setback of the proposed room addition, the north end of the lot would no longer have the required 15-width needed to count the northern portion of the lot into the open space ratio calculation. The only space left that can be used in the calculation of open space is the northeast corner of the lot which totals 354 square feet.

This number may be a little misleading because while there is still quite a bit of open space on the lot, it simply cannot be used in the calculation of the ratio because it does not have a minimum required width

of 15-feet. In total, if the improvements were added as proposed, the lot would still have 1,812 square feet of “open space” although only 354 square feet of it can be used in the calculation.

Findings
Variance Criteria

In reviewing a requested variance, Section XI-3 of the Urbana Zoning Ordinance requires the Zoning Board of Appeals and Urbana City Council to make findings based on specific variance criteria. On August 10, 2000 the Zoning Board of Appeals made the following findings as they pertain to this case and the criteria outlined in the ordinance:

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

In this case, there are special practical difficulties due to the fact the actual front yard of the lot cannot be used in the calculation of the required open space ratio because it is less than 15-feet in width. The structure was built only 13.7 feet from the right-of-way of Anderson Street. The current regulations require a 15-foot setback. If the structure was not legally non-conforming and been built 15-feet from the right-of-way line on Anderson Street, the area could be used in the calculation and the open space ratio variance would not be needed.

- 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.*

The requested variance does not serve as a special privilege because the lot contains less area than required in the R-3 district and the existing front yard setback is less than 15-feet which is required in order for the front yard to be calculated as open space.

- 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 petitioner was aware of the requirements of the Zoning Ordinance and consulted with the Urbana Building Safety Team. He was informed that he could begin construction on the foundation of the room addition and if it the open space ratio variance is not approved, it would have to remain an open, unenclosed porch and could not be an enclosed room addition. An open, unenclosed porch can be counted in the open space ratio calculations.

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

The variance would be generally consistent with other lots in the immediate vicinity. Many of the homes in the area were built on small lots without much open space. With the proposed improvements this lot will still have 1,812 square feet of “open space” although only 354 square feet of it can be used in the calculation because of the requirement that open space areas must contain a minimum width of 15-feet.

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

The variance would not cause a nuisance to the adjacent property. The petitioner is building the porch now and the only provision that the open space ratio variance would allow is for the porch to be enclosed. The garage can be built with or without the variance. Whether the porch is open or enclosed, it should not be detrimental to the neighbors or the district in general.

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 180-square foot room addition.

Options

The Urbana City Council has the following options in this case:

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

Staff Recommendation

Based on the findings outlined herein, staff recommends that the Urbana City Council **APPROVE** of the variance as recommended by the Urbana Zoning Board of Appeals with the following condition:

1. The petitioner obtain approval from the City Engineer for the closure of the existing curb cut on Anderson Street and the location on a new one.

Attachments: Proposed Ordinance
 Site Plan

c: David Kovacic, Petitioner

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ORDINANCE NO. _____

AN ORDINANCE APPROVING A MAJOR VARIANCE

(Reduction of the required open space ratio in the City's R-3, Single And Two Family Residential Zoning District, from 0.40 to 0.17 at 601 South Anderson Street -- Case No. ZBA-00-MAJ-4)

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, David Kovacic, has submitted a petition requesting a major variance to allow the reduction of the required open space ratio from 0.40 to 0.17 at 601 South Anderson Street; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case #ZBA-00-MAJ-4; 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 general variance on August 10, 2000, and the ZBA, by a vote of its members, recommended 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 are special practical difficulties due to the fact the actual front yard of the lot cannot be used in the calculation of the required open space ratio because it is less than 15-feet in width. The structure was built only 13.7 feet from the right-of-way of Anderson Street. The current regulations require a 15-foot setback. If the structure was not legally non-conforming and had been built 15-feet from the right-of-way line on Anderson Street, the area could be used in the calculation and the open space ratio variance would not be needed.
2. The requested variance does not serve as a special privilege because the lot contains less area than required in the R-3 district and the existing front yard setback is less than 15-feet which is required in order for the front yard to be calculated as open space.

3. The variance requested was not the result of a situation or condition having been knowingly or deliberately created by the Petitioner. The petitioner was aware of the requirements of the Zoning Ordinance and consulted with the Urbana Building Safety Team.
4. The request will not alter the essential character of the neighborhood because the variance would be generally consistent with other lots in the immediate vicinity.
5. The variance would not cause a nuisance to the adjacent property. The petitioner is building the porch now and the only provision that the open space ratio variance would allow is for the porch to be enclosed. The garage can be built with or without the variance. Whether the porch is open or enclosed, it should not be detrimental to the neighbors or the district in general.
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

180-square foot room addition.

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

The major variance request by David Kovacic, in Case #ZBA-00-MAJ-4 is hereby approved to allow the reduction of the required open space ratio in the City's R-3, Single And Two Family Residential Zoning District, from 0.40 to 0.17 at 601 South Anderson Street, in the manner proposed in the application for the major variance in that case, and that the following is a condition of that approval:

1. The petitioner obtain approval from the City Engineer for the closure of the existing curb cut on Anderson Street and the location of a new one.

The major variance described above shall only apply to the property located at 601 South Anderson Street, Urbana, Illinois, more particularly described as follows:

LEGAL DESCRIPTION:

Lot 500 Sub of Lot 3 Webber's Addition as per plat recorded in Book "C" Page 41-42 in the Champaign County Recorder's Office, Champaign, Illinois.

PERMANENT PARCEL #: 92-21-17-283-005

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 _____, 2000.

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 _____, 2000, the corporate authorities of the City of Urbana passed and approved Ordinance No. _____, entitled "AN ORDINANCE APPROVING A MAJOR VARIANCE (Reduction of the required open space ratio in the City's R-3, Single And Two Family Residential Zoning District, from 0.40 to 0.17 at 601 South Anderson Street -- Case No. ZBA-00-MAJ-4)" 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 _____, 2000, 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.

DATED at Urbana, Illinois, this _____ day of _____, 2000.

