



**DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES**

*Planning and Economic Development Division*

**m e m o r a n d u m**

**TO:** Bruce Walden, CAO

**FROM:** Elizabeth Tyler, Planning Manager

**DATE:** September 13, 2001

**SUBJECT:** ZBA-01-MAJ-12; Request for a major variance to allow the creation of two lots with less than the minimum lot area (43% and 16% reduction) in the R-3, Single and Two-Family Residential Zoning District at 605 South Anderson Street and 608 East Oregon Street.

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**Introduction**

Mary and Richard Crawford have submitted a request for a major variance to allow an existing lot at the northwest corner of the intersection of Oregon and Anderson Streets to be split into two lots. There are currently two houses on the lot, and the proposed split would locate each house on a separate lot. The proposed variance would allow two lots to be created with areas less than the required minimum of 6,000 square feet (43% and 16% reduction, respectively). In order to subdivide the lot, the Zoning Board of Appeals must approve the major variance.



## Background

### Description of the Site

The site is located at the northwest corner of the intersection of Oregon and Anderson Streets. The lot is 8,497 square feet in area and contains structures on the north and south ends of the lot. The current lot was created out of one-and-one-half of the original lots and now exceeds the minimum required lot area of 6,000 square feet by 1,497 square feet. The lot currently complies with the floor area ratio of 0.40 and open space requirement of 0.40, and under the proposed split both lots would continue to comply. The lot has legally



nonconforming setbacks along the east and north sides, which would not be affected by the proposed subdivision. The accessory garage on the proposed south lot would encroach approximately 2 feet into the required 10-foot rear yard setback. However, according to the Zoning Ordinance, accessory garages are allowed to encroach into the required side and rear yard, so long as a minimum yard of 18 inches is maintained. The general area is a mix of single-family and two-family residences. For more information regarding this case, please refer to the August 24, 2001 staff memorandum and minutes from the August 30, 2001 ZBA meeting.

### Findings

In order to review a potential variance, Section XI-3 of the Urbana Zoning Ordinance requires the ZBA and City Council to make findings based on variance criteria. At the August 30, 2001 meeting, the ZBA cited the following findings for their recommendation for approval of the requested variance:

### Variance Criteria

Section XI-3 of the Urbana Zoning Ordinance requires the Zoning Board of Appeals to make findings based on variance criteria. The following is a review of the criteria 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 is a special practical difficulty due to the parcel containing two principal uses on the same lot, and the fact that the lot cannot be divided in a manner that would create two

conforming lot sizes. The houses were constructed prior to current zoning ordinance and subdivision requirements. The lot is currently in excess of the required minimum size and is of typical rectangular configuration for the R-3 District. No additional construction is proposed on the property.

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, there are special circumstances due to the lot containing two principal uses on one lot. This nonconforming status creates a hardship on the petitioner, as each of the two residential uses is constrained by the existence of the other use. The variance would improve the legal disposition of the ownership of the two homes and the parcel of land, and would allow the creation of two bona-fide subdivision lots, rather than joint use of a parcel of land. The variance would remove an existing nonconformity of two principal uses on a single lot and could also allow for improved conformity to the Urbana Subdivision and Land Development Code.

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

The condition existed prior to the petitioner's ownership of the parcel. The houses were constructed prior to current Zoning Ordinance and Subdivision Regulations. The proposed variance will allow for one principal use to be located on each of two lots.

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

The general area currently contains a mix of single-family homes and duplexes. The property is currently used for single-family residential uses and would continue to be so. The proposed variance would not be unreasonably injurious or detrimental to the general public, and would not alter the essential character of the neighborhood. The proposed variance would allow the lots to be used according to the permitted uses and requirements for the R-3, Single and Two-Family District. A duplex would not be permitted on either of the proposed lots, as the Zoning Ordinance requires a minimum lot size of 6,000 square feet for a duplex to be allowed in R-3.

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

The petitioner indicates no construction is planned for the lot. The proposed variance should not create a nuisance for the adjacent properties, as all setback requirements will be maintained under the proposed subdivision, and the houses are compatible uses in the R-3 zoning district.

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 needed to subdivide one lot into two lots.

## 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 articulated herein, they should articulate its 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 its denial.

## Recommendation

Based on the findings outlined herein, the Zoning Board of Appeals voted 6-0 to forward the variance request to the City Council with a recommendation for approval. Therefore, staff concurs with the ZBA and recommends that City Council **GRANT** the variance as requested.

Attachments:      Proposed Ordinance  
                         Site Plan  
                         August 30, 2001 Zoning Board of Appeals Minutes

Prepared by:

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Tim Ross, Planner

c:      Mary and Richard Crawford  
         Rev. and Mrs. Thomas Guback  
         Adam Schmitt

ORDINANCE 2001-09-107

AN ORDINANCE APPROVING A MAJOR VARIANCE

(Request for a major variance to allow the creation of two lots with less than the minimum lot area (43% and 16% reduction) in the R-3, Single and Two-Family Residential Zoning District / 605 South Anderson Street and 608 East Oregon Street - Case No. ZBA-01-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 owners of the subject property, Mary and Richard Crawford, have submitted a petition requesting a major variance to allow the creation of two lots with less than the minimum lot area on the subject property; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case #ZBA-01-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 (ZBA) held a public hearing on

the proposed major variance on August 30, 2001, and the ZBA by a unanimous vote of its members 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 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 is a special practical difficulty on the parcel due to the existence of two principal uses on the same lot, and the fact that the lot cannot be divided in a manner that would create two conforming lot sizes. The houses were constructed prior to current zoning ordinance and subdivision requirements. The lot is currently in excess of the required minimum size and is of typical rectangular configuration for the R-3 District. No additional construction is proposed on the property.

2. The nonconforming status of two principal uses on one lot creates a hardship on the petitioner, as the viability of each of the two residential uses is constrained by the existence of the other. The variance would improve the legal disposition of the ownership of the two homes and the parcel of land, and would allow the creation of two bona-fide subdivision lots, rather than joint use of a parcel of land. The requested variance would remove an existing nonconformity of two principal uses on a single lot and could also allow for improved conformity to the Urbana Subdivision and Land Development Code.

3. The need for the requested variance was not the result of a situation or condition having been knowingly or deliberately created by the petitioner. The condition existed prior to the petitioner's ownership of the parcel. The houses were constructed prior to current Zoning Ordinance and Subdivision Regulations. The petitioners were aware of the requirements of the Zoning Ordinance and have applied for a variance in order to create a minor subdivision of one lot into two lots.

4. The requested variance will not alter the essential character of the neighborhood. The general area currently contains a mix of single-family homes and duplexes. The property currently contains two single-family homes and the

petitioner indicates no proposed construction on the lots. The requested variance would allow the lots to be used according to the permitted uses and requirements for the R-3, Single and Two-Family District. A duplex would not be permitted on either of the proposed lots, as the Zoning Ordinance requires a minimum lot size of 6,000 square feet be maintained for a duplex to be allowed in R-3.

5. The requested variance will not cause a nuisance to the adjacent property. The petitioner indicates no construction is planned for the lot. The requested variance will not create a nuisance for the adjacent properties, as all setback requirements will be maintained under the proposed subdivision, and the existing houses are compatible uses in the R-3 zoning district.

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

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

The major variance request by Mary and Richard Crawford, in Case #ZBA-01-MAJ-12 is hereby approved to allow the creation of

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two lots with less than the minimum lot area (43% and 16% reduction) in the R-3, Single and Two-Family Residential Zoning District, in the manner proposed in the application.

The major variance described above shall only apply to the property located at 605 South Anderson Street and 608 East Oregon Street, Urbana, Illinois, more particularly described as follows:

LEGAL DESCRIPTION:

Lot 6 and the East Half of Lot 7 of George G. Webber's Addition to Out Lots, Urbana, Illinois

PERMANENT PARCEL #: 92-21-17-283-008

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 \_\_\_\_\_,  
2001.

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 \_\_\_\_\_, 2001, the corporate authorities of the City of Urbana passed and approved Ordinance No. \_\_\_\_\_, entitled "AN ORDINANCE APPROVING A MAJOR VARIANCE

"(Request for a major variance to allow the creation of two lots with less than the minimum lot area (43% and 16% reduction) in the R-3, Single and Two-Family Residential Zoning District / 605 South Anderson Street and 608 East Oregon Street - Case No. ZBA-01-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 \_\_\_\_\_, 2001, 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.