



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-13 Request for a major variance to allow a 10-foot encroachment into the required 15-foot front yard setback in the R-2, Single Family Residential Zoning District at 805 South Race Street.

Introduction

Douglas Kistler has submitted a request for a major variance on behalf of Maiko Covington to allow a 10-foot encroachment into the required 15-foot front yard setback at 805 South Race Street in Urbana. The petitioner wishes to construct an unenclosed addition to the existing porch (see Site Plan). The porch is proposed to extend 7 feet 8 inches from the house, which currently has a legally nonconforming setback. The Zoning Ordinance allows unenclosed porches to encroach 5 feet into the required setback, so long as they are 5 feet from the property line. In order for the porch to be constructed, a major variance is required for the additional 5-foot encroachment into the required setback. The subject property and surrounding area are zoned R-2, Single Residential. The petitioners are waiting for approval of the variance before any construction work begins.

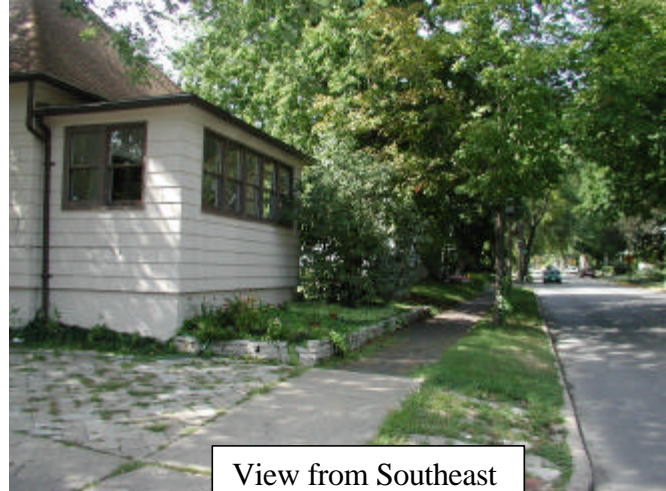


Background

Description of the Site

The site is located on the west side of Race Street between Nevada and Washington Streets. The lot is located immediately north of an alley that extends west from Race Street. The lot is 2,480 square feet in area and contains a structure of approximately 1,600 square-feet. The house contains one-story with an enclosed porch facing to the east. The lot would technically fall below the open space requirement based on the width of the side yard, but it does contain open space to the north, and the open space ratio would not be affected by the proposed porch addition. Single-family homes surround the site to the east, north, and west. An apartment lies to the south of the lot.

For more information regarding the proposed variance, please refer to the August 24, 2001 staff memorandum and minutes from the August 30, 2001 ZBA meeting.



View from Southeast



View from East

Findings

Variance Criteria

Section XI-3 of the Urbana Zoning Ordinance requires the Zoning Board of Appeals 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:

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 parcel being much smaller than the required minimum lot size of 6,000 square feet in the R-2 District. This lot size does not allow for desired additions that would be possible on a standard sized lot.

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 house being built with less than the required setback line, which increases the requested encroachment. As the house is currently situated on the lot, only a 2 foot 4 inch encroachment would be allowed under the Ordinance. If the house had a conforming setback, a 5-foot addition could be added without requiring a variance. As an expansion of a legal nonconformity, the currently proposed 7 foot 8 inch encroachment would still require a variance in this situation, however. The petitioner wishes to construct the addition to blend the porch with the house and create a more uniform roofline.

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 petitioners were aware of the requirements of the Zoning Ordinance and have applied for a variance.

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

The block currently contains a mix of apartments and single-family homes. The 75-square foot proposed porch addition will not disrupt visual continuity along Race Street, would not be unreasonably injurious or detrimental to the general public, and would not alter the essential character of the neighborhood.

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

There are no other homes which immediately abut the proposed addition. The proposed addition would be approximately 60 feet from the house to the north, and 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 proposed 75-square foot porch addition.

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:

Tim Ross, Planner

c: Douglas Kistler, Maiko Covington

AN ORDINANCE APPROVING A MAJOR VARIANCE

(Request for a major variance to allow a 10-foot encroachment into the required 15-foot front yard setback in the R-2, Single Family Residential Zoning District at 805 South Race Street. - Case No. ZBA-01-MAJ-13)

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, Maiko Covington, has 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-13; 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 are special practical difficulties due to the parcel being much smaller than the required minimum lot size of 6,000 square feet in the R-2 District. This lot size does not allow for desired additions that would be possible on a standard sized lot.

2. There are special circumstances due to the house being built with less than the required setback line, which increases the requested encroachment. As the house is currently situated on the lot, only a 2 foot 4 inch encroachment would be allowed under

the Ordinance. As an expansion of a legal nonconformity, the currently proposed 7 foot 8 inch encroachment requires a variance. If the house had a conforming setback, a 5-foot addition could be added without requiring a variance. The petitioner wishes to construct the addition to blend the porch with the house and create a more uniform roofline.

3. The need for the requested variance has not yet been created. The petitioners were aware of the requirements of the Zoning Ordinance and have applied for a variance.

4. The 75-square foot proposed porch addition will not disrupt visual continuity along Race Street, would not be unreasonably injurious or detrimental to the general public, and would not alter the essential character of the neighborhood.

5. The requested variance will not cause a nuisance to the adjacent property. There are no other homes that immediately abut the proposed addition. The proposed addition would be approximately 60 feet from the house to the north, and should not cause a nuisance to adjacent properties.

6. The petitioner is only requesting the amount of variance

needed to accommodate the proposed 75-square foot porch addition.

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

The major variance request by Maiko Covington, in Case #ZBA-01-MAJ-13 is hereby approved 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, in the manner proposed in the application.

The major variance described above shall only apply to the property located at 805 South Race Street, Urbana, Illinois, more particularly described as follows:

LEGAL DESCRIPTION:

The South 43 feet 9 inches of Lot 13 of a Subdivision of Lot 10 of James S. Busey's Addition of Out Lots to the Town (now city) of Urbana, as per plat recorded in Book 10 of Deeds at page 100, in Champaign County, Illinois.

PERMANENT PARCEL #: 92-21-17-260-005

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 _____, 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 a 10-foot encroachment into the required 15-foot front yard setback in the R-2, Single Family Residential Zoning District / 805 South Race Street. - Case No. ZBA-01-MAJ-13)" 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.