



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, AICP, Planning Manager

DATE: October 31, 2001

SUBJECT: ZBA-01-MAJ-14: A request by Randy Baker of Morton Buildings, Inc. for a Major Variance to allow a 94% reduction in rear yard setback for the construction of a new office/maintenance building for the East Lawn Burial Park Association cemetery at 714 N Cunningham Avenue.

Introduction

Randy Baker of Morton Buildings, Inc. has requested a major variance on behalf of the East Lawn Burial Park Association to construct a 1,350 square foot Morton Building at 714 North Cunningham Avenue, which will serve as an accessory office/maintenance building to the adjacent cemetery. The proposed building would replace an existing brick office building currently on the site.

The variance is requested to allow placement of the building near the eastern property line, which would require a 94% reduction in rear yard setback. The subject property is currently zoned B-3, General Business, and is proposed to be rezoned to AG, Agriculture.

Background

Description of the Site

The site is located at 714 North Cunningham Avenue to the immediate south of the East Lawn Cemetery. The parcel surrounds Meineke's Muffler Shop and Speed Lube to the west and is bordered by the Armory property to the east. The south portion of the lot slopes down considerably as it approaches the Saline Drainage Ditch. The Morton building is proposed to be located on the northeast corner of the lot, at the approximate location of the existing brick building (see Site Plan), which is in an

extreme state of disrepair. The proposed building would have an area of 1,350 square feet. In order to allow vehicular access to the south, the building would have an east-west orientation.

The required rear yard for both the AG and B-3 Districts is 25-feet. The petitioners are proposing a 1,350-square foot building, which would encroach 23 and one-half feet into the rear yard setback. The existing building currently encroaches to within four and one-half feet of the east property line. The proposed building would require a major variance for the 94% percent reduction in rear yard setback. The maximum height, floor area, and open space ratios would remain in compliance. Access and parking would not be affected by the proposed addition.

Adjacent Land Uses and Zoning Designations

The subject property is located in a transitional area between low-intensity uses and auto-oriented commercial uses. Surrounding the site are cemetery uses to the north, Armory property and the Saline Drainage Ditch to the south and east, and commercial uses to the west. The property is adjacent to AG zoning to the north and B-3 zoning to the east, west, and south. The 1982 Urbana Comprehensive Plan designates the future land use of this area as Institutional – Cemetery. Please refer to the table below and to the attached maps for information on surrounding comprehensive plan and zoning designations and existing land uses.

On October 25, 2001 the Zoning Board of Appeals voted 5-0 to forward the variance request to the City Council with a recommendation for approval. At the same ZBA meeting, the Zoning Board approved a requested Conditional Use Permit for the cemetery by a 5-0 vote. The Conditional Use Permit is contingent on the rezoning request. For more information regarding the proposed variance, please refer to the October 18, 2001 staff memorandum and minutes from the October 25, 2001 ZBA meeting.

Findings

**Variance Criteria
Case #ZBA-01-MAJ-14**

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 are special practical difficulties due to the U-shaped configuration and relatively narrow width of the parcel. The Saline Drainage Ditch traverses the southern “leg” of the parcel, and

the remaining area does not allow the petitioner adequate flexibility to locate the desired building in conformance with setback requirements.

- 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, as the severe topography near the Saline Drainage Ditch is a significant limitation on the use on the property. The parcel will continue to serve as an entrance and accessory use to the cemetery. Locations for the proposed building elsewhere in the cemetery are limited due to the location of the burial plots. The existing building is deteriorated, and the proposed Morton building is designed to maximize the use of the lot. The location of the proposed building near the east property line creates the need for additional setback encroachment.

- 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 are aware of the requirements of the Zoning Ordinance and have applied for a conditional use permit and a variance, both of which are contingent on the requested rezoning.

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

The proposed Morton building will be located approximately where the existing brick building is currently located. The proposed Morton building will be partially hidden by and compatible with the auto-oriented businesses to the southwest. The building will not alter the essential character of the neighborhood, and would not be unreasonably injurious or detrimental to the general public.

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

The Armory property to the east of the site is vacant and the burial park is currently using portions of the land with permission from the National Guard. There are no structures near the proposed building, and the commercial buildings to the east are buffered from any cemetery maintenance use by the topography. Vehicular entrance to the proposed building will be to the south, but there are no plans to alter the remainder of the access drive from Cunningham Avenue.

- 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 setback variance needed to accommodate the proposed building at the desired location on the lot.

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 5-0 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.

Prepared by:

Tim Ross, Planner

c: Randy Baker

Attachments: Draft Minutes from the October 25, 2001 Zoning Board of Appeals Meeting
Draft Ordinance Approving the Major Variance

ORDINANCE NO. 2001-11-139

AN ORDINANCE APPROVING A MAJOR VARIANCE

(Request for a major variance to allow a 94% reduction in rear yard setback for a cemetery office/maintenance building at 714 North Cunningham Avenue - Case No. ZBA-01-MAJ-14)

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 petitioner, Randy Baker, on behalf of East Lawn Burial Park Association, the owner of the subject property, has submitted a petition requesting a major variance to allow a 23-and-one-half-foot encroachment into the required 25-foot front yard setback in the AG, Agricultural Zoning District at 714 North Cunningham Avenue; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case #ZBA-01-MAJ-14; 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 October 25, 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 due to the U-shaped configuration of the lot, which allows few options for locating the desired building in a location that conforms with setback requirements.
2. The requested variance does not serve as a special privilege, as the severe topography near the Saline Drainage Ditch limits the available uses on the property. The existing building is in a state of disrepair, and the proposed Morton building is designed to maximize the use of the lot. The proposed size of the building creates the need for additional setback encroachment.
3. The building will not alter the essential character of the neighborhood, and would not be unreasonably injurious or detrimental to the general public, as the proposed Morton building will be partially hidden by and compatible with the auto-oriented businesses to the southwest.
4. The proposal should not cause a nuisance to adjacent properties because the new building will replace the existing building and will allow equipment currently stored outside to be moved indoors. The subject property is surrounded by open space on most sides.

5. The proposal meets all other requirements established by the Urbana Zoning Ordinance, pending approval of the rezoning and conditional use permit requests to allow the cemetery use to be established on the lot.

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

The major variance request by East Lawn Burial Park Association, in Case #ZBA-01-MAJ-14 is hereby approved to allow a 23-and-one-half foot encroachment into the required 25-foot front yard setback in the AG, Agricultural Zoning District at 714 North Cunningham Avenue, in the manner proposed in the application.

The major variance described above shall only apply to the property located at 714 North Cunningham Avenue, Urbana, Illinois, more particularly described as follows:

LEGAL DESCRIPTION:

A Part of the East Half of Section 8, Township 19 North, Range 9 East of the Third Principal Meridian in Urbana, Champaign County, Illinois.

PERMANENT PARCEL #: 91-21-08-281-001

LOCATED AT: 714 North Cunningham Avenue, Urbana, Illinois

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 94% reduction in rear yard setback for a cemetery office/maintenance building at 714 North Cunningham Avenue - Case No. ZBA-01-MAJ-14)" 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.