



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning and Economic Development Division

m e m o r a n d u m

TO: Bruce Walden, Chief Administrative Officer

FROM: Elizabeth H. Tyler, AICP, Director/City Planner

DATE: May 30, 2002

SUBJECT: ZBA-02-MAJ-4: A request for a major variance filed by Jan Kalmar to establish a single-family residence on 724 S Broadway Avenue with a 6.3-foot reduction in the required fifteen-foot required front yard along Washington Street in Urbana's R-3, Single-and-Two-Family Residential Zoning District.

Introduction

Jan Kalmar has requested a major variance for a 42% reduction in front-yard setback along the Washington Street frontage at 724 South Broadway Avenue. The property is zoned R-3, Single-and Two-Family Residential. The requested variance would allow the petitioner to move the house at 201 East Washington Street to the subject property after demolishing the existing house on 724 South Broadway. The house at 201 East Washington Street is owned by Urbana School District 116. The required setback in the R-3 District on this block is 15 feet. The petitioner is waiting for approval of the variance before purchasing the house.

Background

Description of the Site

The site is located at the northeast corner of the intersection of Broadway Avenue and Washington Street, across from the Urbana High School ballfield to the south. The subject property is 6,175 square-feet in area, and contains a one-story dwelling unit. Single-family dwellings are located to the east and west of the subject property, and an apartment building is located to the north.

Discussion

The requested variance comes as a result of a desire by the petitioner to purchase the house owned by Urbana School District 116 at 201 East Washington and move it to the subject property following demolition of the house currently on the lot. The house at 201 East Washington contains approximately 2,300 square feet of living area. The School District wishes to vacate two parcels along Washington Street to utilize the area for additional athletic fields, and they are completing the process of accepting bids for the house so it will not need to be demolished. The petitioner is working with City staff and the School District to obtain all the necessary permits for demolition of structures and foundations and for relocation of the house at 201 East Washington to the subject property, should the petitioner purchase the house. Considerable work still remains in these processes, however.

The requested variance is necessary based on the size of the house and the inability to place the house on the subject property in accordance with zoning regulations. The petitioner has discussed the proposal with Building Safety staff, and no other variances would be necessary for setback, floor area ratio, or open space ratio. The existing garage and fencing on the lot would be maintained.

On May 15, 2002, the Zoning Board of Appeals voted 4-0 to forward the major variance request to the City Council with a recommendation for approval. At the public hearing, Ms. Kalmar explained that she lives across the street from the proposed location for the house, and wishes to purchase the house in order to save it. Two neighbors spoke in support of the requested variance, and one neighbor objected to the size of the house. The removal of trees was discussed, but as noted above, plans for the routing and relocation of the house have not been presented, so it is not clear how many of the trees would need to be removed. However, given the short distance of the move, major effects on trees is unlikely. For more information regarding the proposed variance, please refer to the May 9, 2002 staff memorandum and draft minutes from the May 15, 2002 ZBA meeting.

Variance Criteria

In order to review a potential variance, Section XI-3 of the Urbana Zoning Ordinance requires the Zoning Board of Appeals and City Council to make findings based on variance criteria. At the May 15, 2002 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?*
- 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.

As this is a rectangular parcel with a garage fronting Washington Street, there are no special circumstances or special practical difficulties with reference to the parcel concerned, in carrying out the strict application of the ordinance. However, in this case, the variance will not likely serve as a special privilege due to the 50-foot width of the lot. Most blocks in this general area have an average width of 55-60 feet per lot, with the exception of the 50-foot wide lots between Broadway Avenue and Walnut Street. The width of the house at 201 East Washington Street is 36.3 feet. When considering the required 5-foot side yard to the north, the available lot width is 8.7 feet, which is below the required 15-foot setback requirement. There is adequate area on the lot to meet floor area and open space requirements.

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 is aware of the requirements of the Zoning Ordinance and has applied for a variance prior to purchasing and moving the house at 201 East Washington Street for relocation.

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

The variance should not significantly alter the essential character of the neighborhood. The dimensions of the house require that an encroachment into the setback along Washington Street would be necessary to fit the house on the lot. The existing front yard setback along Washington Street for this property is approximately 15 feet. The requested variance would encroach 6.3 feet into the front yard setback from what it is currently. Impact of the variance on the property to the east should be relatively minor in terms of visibility, as the house proposed for the lot would be approximately 140 feet from the neighboring house. The house on the west side of Broadway has a legally nonconforming front yard setback of less than 10 feet along Washington Street.

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

The variance should not cause a nuisance to adjacent properties. As mentioned above, the house to the east of the subject property is located approximately 140 feet from the house proposed for the property, so visibility should not be a major problem. The petitioner intends to maintain the existing fencing on the lot.

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 placement of the house 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 presented herein, they should articulate these additional 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 this denial.

Recommendation

Based on the findings outlined herein, the Zoning Board of Appeals voted 4-0 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
Draft Minutes of May 15, 2002 ZBA Public Hearing

Prepared by:

Tim Ross, Senior Planner

c: Jan Kalmar
Vicki Ansermet
Carol Baker

ORDINANCE NO.2002-06-058

AN ORDINANCE APPROVING A MAJOR VARIANCE

(Request to allow a 6.3-foot reduction in the required 15-foot required front yard along Washington Street in Urbana's R-3, Single-and-Two-Family Residential Zoning District - Case No. ZBA-02-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 related to the parcel of land or the structure; and

WHEREAS, the petitioner, Jan Kalmar, has submitted a petition requesting a major variance to allow a 6.3-foot encroachment into the required 15-foot front yard setback in the R-3, Single-and-Two-Family Residential Zoning District at 724 South Broadway Avenue; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case #ZBA-02-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 major variance on May 15, 2002 and the ZBA by a unanimous 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 no special practical difficulties due to the parcel being a rectangular parcel with a garage fronting Washington Street at the rear of the parcel. However, in this case, the variance will not likely serve as a special privilege due to the 50-foot width of the lot. Most blocks in this general area have an average width of 55-60 feet per lot, with the exception of the 50-foot wide lots between Broadway Avenue and Walnut Street. It is not possible to comply with setback requirements on the subject property given the width of the house is 36.3 feet. There is adequate area on the lot to meet Floor Area and Open Space Requirements.

2. The need for the requested variance has not yet been created. The petitioner was aware of the requirements of the Zoning Ordinance and has applied for a variance prior to purchasing and moving the house at 201 East Washington Street.

3. The variance should not be unreasonably injurious or detrimental to the general public, would not alter the essential character of the neighborhood, and should not cause a nuisance to the adjacent properties. The dimensions of the house require that a 6.3-foot encroachment into the setback along Washington Street would be necessary to fit the house on the lot. Impact of the variance on the property to the east should be relatively minor in terms of visibility, as the house proposed for the lot would be approximately 140 feet from the neighboring house. The house on the west side of Broadway has

a legally nonconforming front yard setback of less than 10 feet along Washington Street.

4. The petitioner is only requesting the amount of variance needed to accommodate the proposed encroachment of the house into the required yard.

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

The major variance request by Jan Kalmar, in Case #ZBA-02-MAJ-4 is hereby approved to allow a 6.3-foot encroachment into the required 15-foot front yard setback in the R-3, Single-and-Two-Family Residential Zoning District at 724 South Broadway Avenue, in the manner proposed in the application.

The major variance described above shall only apply to the property located at 724 South Broadway Avenue, Urbana, Illinois, more particularly described as follows:

LEGAL DESCRIPTION: Weeds Addition, Block 263, Lot 19, Urbana, Illinois

PERMANENT PARCEL #: 92-21-17-263-012

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 _____, 2002.

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 _____, 2002, the corporate authorities of the City of Urbana passed and approved Ordinance No.

_____, entitled "AN ORDINANCE APPROVING A MAJOR VARIANCE

(Request to allow a 6.3-foot reduction in the required 15-foot required front yard along Washington Street in Urbana's R-3, Single-and-Two-Family

Residential Zoning District - Case No. ZBA-02-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

_____, 2002, 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.