



**DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES**

*Planning Division*

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

**TO:** The Urbana Zoning Board of Appeals

**FROM:** Rebecca Bird, Planner II

**DATE:** February 10, 2012

**SUBJECT:** **ZBA Case No. 2012-MIN-01:** A request by Bohdan Rudawski for a minor variance to allow porch stairs to encroach up to one foot into the required ten-foot front yard along the Green Street frontage at 401 West Green Street in the MOR, Mixed Office Residential District.

**ZBA Case No. 2012-MAJ-01:** Request by Bohdan Rudawski for a Major Variance to rebuild porch stairs which encroach up to three feet into the required ten-foot front yard along the Birch Street frontage at 401 West Green Street in the MOR, Mixed Office Residential District.

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**Introduction and Background**

Bohden Rudawski is requesting a major and a minor variance to reconstruct two sets of porch stairs which encroach into the required ten-foot front yard setback along the Birch and Green Street frontages at 401 West Green Street. The subject property is a single-family residence in the MOR, Mixed Office Residential Zoning District. Per Table VI-3 and Section VI-5.B.5 of the Urbana Zoning Ordinance, the minimum required setback would be 10 feet from both front yard property lines.

The petitioner recently purchased the house and intends to rehabilitate it. The proposed improvements include reconstructing the ‘wrap-around’ porch, which has stairs leading to both Green and Birch Streets. The existing porch stairs encroach into the required ten-foot front yard setback along both frontages. The stairs facing Green Street encroach approximately three feet, which requires a major variance. The stairs facing Birch Street encroach approximately one foot, which is considered a minor variance. The petitioner is requesting variances to allow the porch stairs to be rebuilt in their current locations.

Section XI-3.C.2.b.1 of the Zoning Ordinance permits the Zoning Board of Appeals to approve a front yard reduction variance of up to 25% as a minor variance by a majority vote of its members. Reductions of over 25% are considered major variances, for which the Zoning Board of Appeals must recommend approval by a two-thirds majority for the variance to be forwarded to City Council for a final decision.

### Description of the Site

The subject property is located on the southwest corner of Green and Birch Streets. The subject lot is 57.75 feet wide and 115.5 feet deep, with a lot area of just over 6,670 square feet. The lot currently contains a single-family house. There is no garage.

### Adjacent Land Uses and Zoning Designations

The area surrounding the subject property is mainly residential in nature, with single-family homes, duplexes, and apartment buildings. There are several churches in the neighborhood and some commercial uses. The subject property is in the Mixed Office Residential (MOR) Zoning District, which encourages a mixture of residential, office, and small-scale business uses. The properties to the north, east, and west are also zoned MOR. The property to the south is zoned R-2, Single-Family Residential. To the west and south of the subject property are single-family homes. There is a commercial building to the north and a church to the east.

The following is a summary of surrounding zoning and land uses for the subject site. Exhibits A, B, and C further illustrate this information.

Location	Zoning	Existing Land Use	Comprehensive Plan - Future Land Use
Site	MOR, Mixed Office Residential	Single Family Residence	Mixed Residential
North	MOR, Mixed Office Residential	Commercial	Mixed Residential
East	MOR, Mixed Office Residential	Church	Mixed Residential
South	R-2, Single-Family Residential	Single Family Residence	Residential – Urban Pattern
West	MOR, Mixed Office Residential	Single Family Residence	Mixed Residential

### Comprehensive Plan

The 2005 Urbana Comprehensive Plan indicates the future land use for the surrounding area as “Mixed Residential – Urban Pattern”. The plan defines the Mixed Residential Urban Pattern as follows:

*“Mixed-Residential areas contain a variety of residential land uses including single-family residences, duplexes, town homes, and multi-family development. Encourages a gradation of densities between single-family and multi-family uses in order to achieve compatible development. Also encourages design considerations among various land uses to help achieve compatibility. May also include supporting land uses such as civic, institutional, office, neighborhood business uses as well as parks. Mixed Residential areas will have different physical patterns of development depending on their location in the community. These areas should incorporate provisions for transit service and pedestrian access to nearby commercial and employment centers.”*

Future Land Use Map #8 includes the following notation for this area:

*“Green/Elm Street Corridors*

*Promote small-scale residential, office, and business development with a residential character. Adaptively re-use existing structures where feasible.”*

## Discussion

The petitioner recently purchased the subject property and is planning to rehabilitate the house. One of the improvements he will be making is to replace the existing porch. According to the City Building Inspector, the porch is deteriorated and needs to be replaced or extensively repaired. The minimum required front yard in the MOR zoning district is 15 feet. However, Section VI-5.B.5 of the Urbana Zoning Ordinance allows porches to encroach up to five feet into the minimum required front yard. Therefore, the minimum required setback in this case is 10 feet from both front yard property lines. The existing porch stairs are approximately nine feet from the Green Street property line and seven feet from the Birch Street property line. The petitioner is requesting a minor variance to replace the existing porch stairs along the Green Street frontage in the same location as the existing stairs, which encroach one foot into the required front yard and a major variance to replace the existing porch stairs along the Birch Street frontage in the same location as the existing stairs, which encroach three feet into the required front yard.

The subject property is in an older neighborhood where front porches are an important design feature that helps to maintain the character of the neighborhood. There are some alternative ways in which the design of the porch and the porch stairs could be changed to allow the stairs to meet the minimum required 10-foot front yard, such as setting the stairs into the porch as in the simulation at right. Another alternative would be to remove the stairs on the Birch Street frontage and turn the stairs on the Green Street frontage sideways. While both of these alternatives would allow the petitioner to satisfy the required minimum front yard setback, neither of them would be ideal for the character of the neighborhood or for the aesthetic of the subject property. This house was designed, as most houses in this neighborhood were, to have a front porch facing the street with stairs leading to the sidewalk. Corner houses were often designed to have stairs leading to both streets.



*Example of inset porch stairs  
Source: www.flickr.com*

## History of Similar Requests

1. In September 2010, the City Council granted a major variance allowing a front porch and stairs to encroach 14.5 feet into a required 15-foot front yard at 902 East Illinois Street (Plan Case No. ZBA-MAJ-04, Ordinance No. 2010-09-081). This house historically had a front porch in the location where the petitioner was proposing to build a new front porch, which was removed prior to his purchase of the house.

2. In June 1998, the Zoning Board of Appeals approved a minor variance to allow construction of a porch that encroached two feet eight inches into a required 17.25-foot front yard setback at 209 West Oregon Street (Plan Case No. ZBA-98-V-1).
3. Also in June 1998, a major variance was granted to allow construction of a front porch that encroached three feet into the required 15-foot front yard at 1403 Adams Street (Ordinance No. 9798-132).

In March 2009, the City Council approved an ordinance amending Section VI-5 of the Urbana Zoning Ordinance regarding replacement of existing garages located in the side-yard setback. The ordinance allowed replacement garages to be located six inches from a side lot line instead of the previous minimum of 18 inches when they were replacing an existing garage. The amendment recognized that traditional neighborhood development patterns in certain neighborhoods made it difficult for some homeowners to meet the existing setback regulations when replacing deteriorated garages. In addition, the regulations, prior to the amendment, could be seen as a deterrent to homeowners wanting to improve their property. For similar reasons, the Zoning Administrator is considering requesting a future text amendment regarding replacement of porches and porch stairs.

## 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 outlined in the ordinance as they pertain to this case, followed by staff analysis for this case:

1. *Based on evidence presented, determine whether there are 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.*

The special circumstances requiring the variance are the location of the existing porch stairs within the required front yard along both the Green Street and the Birch Street frontages. According to the 1909 Sanborn Fire Insurance Map, this house was built with a front porch in its current location and most likely included porch stairs in both the current locations.

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

The applicant did not cause the need for a variance. The porch stairs were built within nine feet of the Green Street property line and within seven feet of the Birch Street property line many years ago. Since then a required minimum yard of fifteen feet was established. The house currently has porch stairs in

both required yards. According to the petitioner, the “existing porch is dangerous and needs to be torn down and rebuilt.”

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

Granting the variances would not alter the essential character of the neighborhood as they would simply allow an existing feature to be replaced in kind.

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

The proposed porch stairs will replace existing porch stairs in kind and will not cause a nuisance to adjacent property.

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

The variance requests represent the minimum amount needed to rebuild the porch stairs where they are currently located.

## **Summary of Findings**

In determining whether a variance should be granted, findings of fact that are specific to the property or variance in question must be made. The findings of fact are based on the evidence presented above.

1. The petitioner is requesting a minor variance to allow the replacement of existing porch stairs which encroach up to one foot into the required ten-foot front yard along the Green Street frontage at 401 West Green Street.
2. The petitioner is requesting a major variance to allow the replacement of existing porch stairs which encroach up to three feet into the required ten-foot front yard along the Birch Street frontage at 401 West Green Street.
3. The porch and porch stairs are deteriorated and need to be replaced or extensively repaired.
4. The subject property is located in the Mixed Office Residential Zoning District.
5. Per Table VI-3 and Section VI-5.B.5 of the Urbana Zoning Ordinance, the minimum required setback in this case is 10 feet from both front yard property lines.
6. The variance is necessary due to the location of the existing porch stairs within the required front yard.
7. Granting the requested variances would not have a significant impact on the character of the neighborhood and would not cause a nuisance to adjacent properties because the neighborhood was historically developed to have similar front porches with front porch stairs “facing” the street.

8. The requested variances represent the minimum deviation from the Zoning Ordinance needed to rebuild the front porch stairs where the existing porch stairs are located.

## Options

The Zoning Board of Appeals has the following options in variance case ZBA-2012-MIN-01:

- a. Approve the variance as requested based on the findings outlined in this memo;
- b. Approve the variance as requested along with certain terms and conditions. If the Urbana Zoning Board of Appeals elects to add conditions they should articulate findings accordingly; or
- c. Deny the variance request based on the findings outlined in this memo. If the Zoning Board of Appeals elects to do so, the Board should articulate findings supporting its denial.

The Zoning Board of Appeals has the following options for recommendation to the City Council in Major Variance Case No. ZBA-2012-MAJ-01:

- a. Recommend approval, by two-thirds majority, of the variance as requested based on applicable findings outlined in this memo;
- d. Recommend approval, by two-thirds majority, of the variance as requested along with certain terms and conditions. If the Urbana Zoning Board of Appeals elects to add conditions they should articulate findings accordingly; or
- c. Deny the variance as requested. If the Zoning Board of Appeals elects to do so, the Board should articulate findings supporting their denial.

## Staff Recommendation

### Case ZBA-2012-MIN-01

Based on the analysis and findings presented in the discussion above, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommends that the Zoning Board of Appeals **APPROVE** the request.

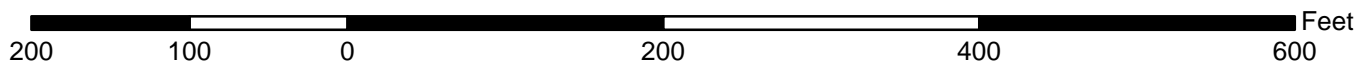
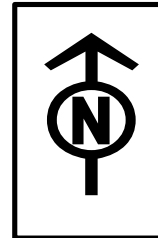
### Case ZBA-2012-MAJ-01

Based on the analysis and findings presented in the discussion above, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommends that the Zoning Board of Appeals forward with a recommendation for **APPROVAL**.

Attachments:           Exhibit A:       Location and Existing Land Use Map  
                              Exhibit B:       Existing Zoning Map  
                              Exhibit C:       Future Land Use Map  
                              Exhibit D:       Application  
                              Exhibit E:       Photos  
                              Exhibit F:       Correspondence

Cc:                       Bohden Rudawski, petitioner

# Exhibit A: Location & Existing Land Use Map



Case: ZBA-2012-MAJ-01 &  
ZBA-2012-MIN-01

Subject: Major and minor variance to allow porch  
stairs to be rebuilt in existing location

Location: 401 West Green Street, Urbana

Petitioner: Bohdan Rudawski

 Subject Property

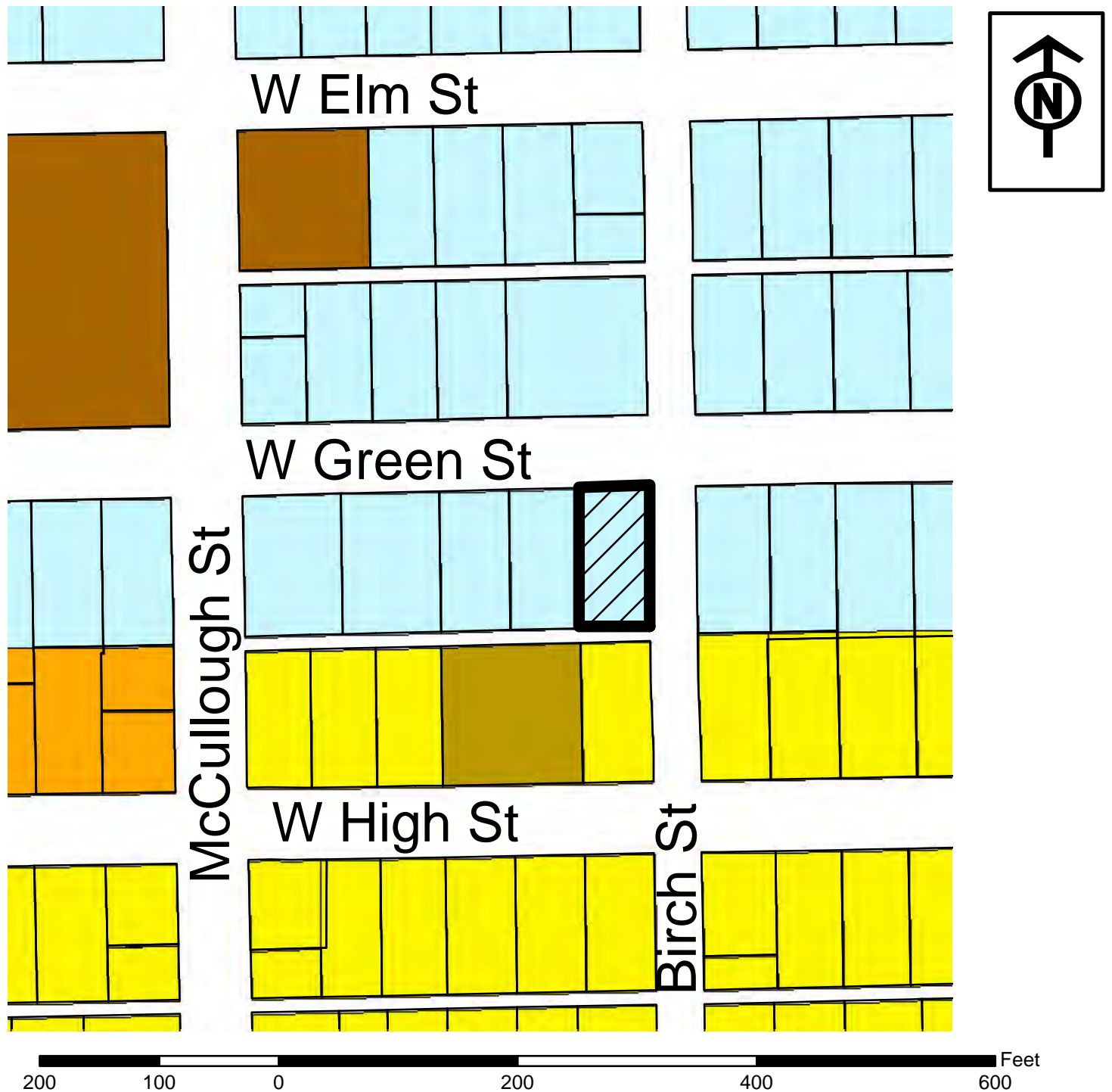
COM Commercial

DU Duplex

SF Single-Family

MF Multi-Family

# Exhibit B: Zoning Map








Case: ZBA-2012-MAJ-01 &  
ZBA-2012-MIN-01

Subject: Major and minor variance to allow porch  
stairs to be rebuilt in existing location

Location: 401 West Green Street, Urbana

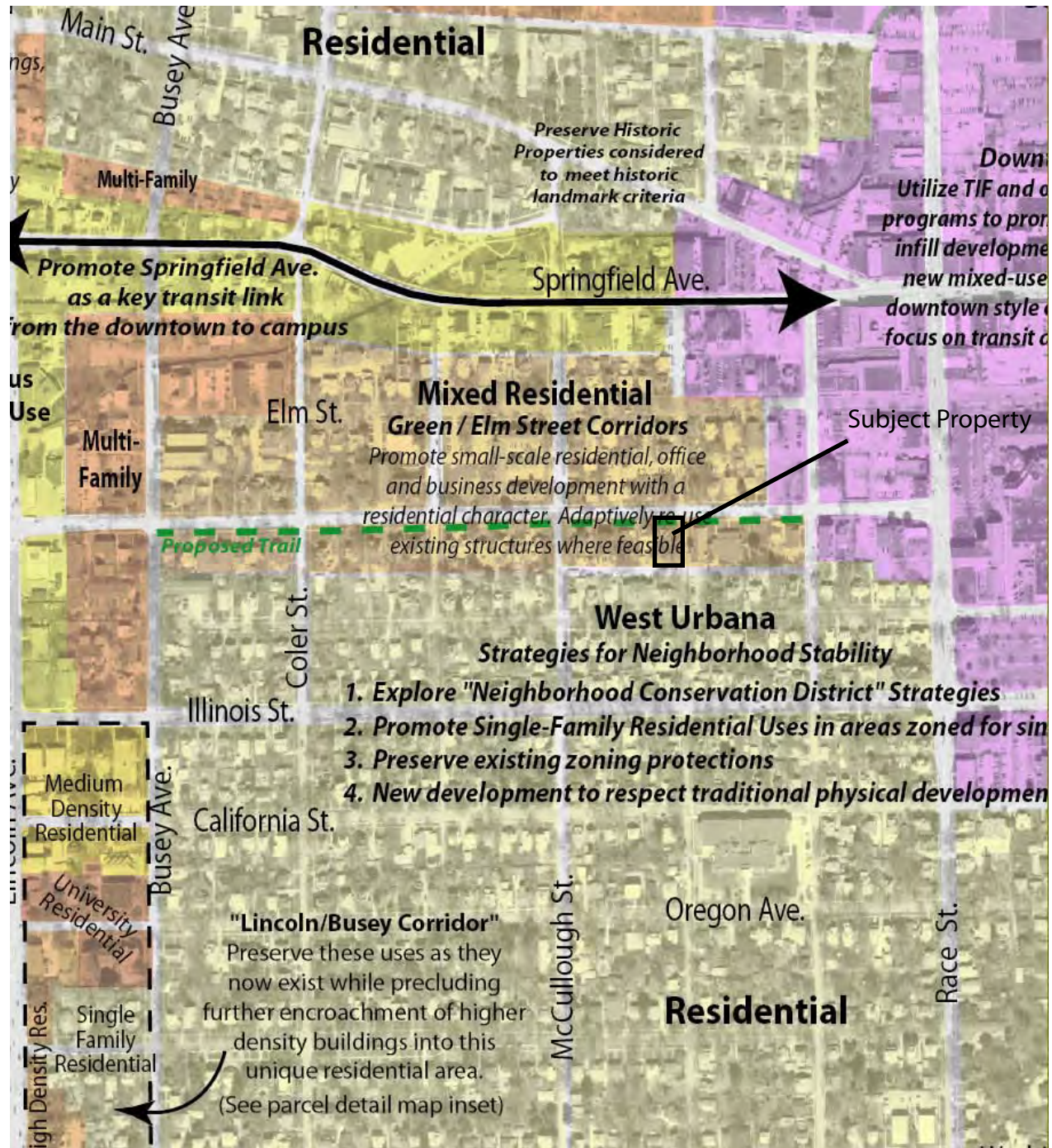
Petitioner: Bohdan Rudawski

 Subject Property

 MOR	 R4
 R2	 R5
 R3	



# Exhibit C: Future Land Use Map #8



Case: ZBA-2012-MAJ-01 & ZBA-2012-MIN-01  
 Subject: Major and minor variance to allow porch stairs to be rebuilt in existing location  
 Location: 401 West Green Street, Urbana  
 Petitioner: Bohdan Rudawski



# Application for Variance

# Zoning Board Of Appeals

APPLICATION FEE – \$175.00 (Major) and \$125.00 (Minor)

The Applicants are responsible for paying the cost of legal publication fees as well. The fees usually run from \$75.00 to \$125.00. The applicant is billed separately by the News-Gazette. *If more is needed I'll pay the difference upon request*

### DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY

Date Request Filed \_\_\_\_\_ ZBA Case No. ZBA-2012-MAJ-01 (Birch St.)  
ZBA-2012-MIN-01 (Green St.)  
Fee Paid - Check No. \_\_\_\_\_ Amount \_\_\_\_\_ Date \_\_\_\_\_

### PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION

A VARIATION is requested in conformity with the powers vested in the Zoning Board of Appeals to permit *(Insert Use/Construction Proposed and the Type and Extent of Variation Requested)* REBUILD PORCH/STEPS on the property described below, and in conformity with the plans described on this variance request.

#### 1. APPLICANT CONTACT INFORMATION

Name of Applicant(s): BOHDAN RUDAWSKI Phone: 847-587-4201  
Address (street/city/state/zip code): 161 S US 12 FOX LAKE IL 60020  
Email Address: tatianaflah@sbcglobal.net  
Property interest of Applicant(s) (Owner, Contract Buyer, etc.): OWNER

#### 2. OWNER INFORMATION

Name of Owner(s): BOHDAN RUDAWSKI Phone: 847-587-4201  
Address (street/city/state/zip code): 161 S US 12 FOX LAKE IL 60020  
Email Address: tatianaflah@sbcglobal.net  
Is this property owned by a Land Trust?  Yes  No  
*If yes, please attach a list of all individuals holding an interest in said Trust.*

#### 3. PROPERTY INFORMATION

Location of Subject Site: 401 W GREEN URBANA, IL  
PIN # of Location: 92-21-17-133-005  
Lot Size: LOT 25 of Roe's 4th SUBDIVISION

Current Zoning Designation: MOR

Current Land Use (vacant, residence, grocery, factory, etc): RESIDENCE - PORCH

Proposed Land Use: REBUILD EXISTING PORCH

Legal Description: LOT 25 IN JAMES T ROE'S 4<sup>th</sup> ADDITION TO URBANA  
AS PER PLAT RECORDED IN DEED RECORD "B" AT PAGE 461  
SITUATED IN CHAMPAIGN CTY ILLINOIS

4. CONSULTANT INFORMATION

Name of Architect(s):

Phone:

Address (street/city/state/zip code):

Email Address:

Name of Engineers(s):

Phone:

Address (street/city/state/zip code):

Email Address:

Name of Surveyor(s):

Phone:

Address (street/city/state/zip code):

Email Address:

Name of Professional Site Planner(s):

Phone:

Address (street/city/state/zip code):

Email Address:

Name of Attorney(s):

Phone:

Address (street/city/state/zip code):

Email Address:

5. REASONS FOR VARIATION

Identify and explain any special circumstances or practical difficulties in carrying out the strict application of the Zoning Ordinance with respect to the subject parcel.

EXISTING PORCH IS DANGEROUS & NEEDS TO BE TORN DOWN  
& REBUILT

Explain how the variance is necessary due to special conditions relating to the land or structure involved which are not generally applicable to other property in the same district.

EXISTING PORCH IS DANGEROUS & NEEDS TO BE TORN DOWN  
& REBUILT

Explain how the variance is not the result of a situation or condition that was knowingly or deliberately created by you (the Petitioner).

I PURCHASED THIS HOME KNOWING IT WOULD NEED  
EXTENSIVE REPAIR WORK

Explain why the variance will not alter the essential character of the neighborhood.

THE NEW PORCH WILL BE REBUILT IN A VERY SIMILAR WAY  
TO THE EXISTING ONE - I AM WORKING WITH MS BIRD TO  
MEET WITH HER APPROVAL -

Explain why the variance will not cause a nuisance to adjacent property.

THE REASON FOR THE NEW STEPS PORCH IS STRICTLY FOR  
SAFETY - ADJACENT PROPERTIES ARE LOOKING FORWARD  
TO THIS REPAIR

Does the variance represent the minimum deviation necessary from the requirements of the Zoning Ordinance? Explain.

YES, DRAWINGS WILL BE PROVIDED FOR THE REBUILD OF  
THE PORCH & STEPS TO MAKE SAFE. THE CURRENT CODES  
ARE MET AS WELL AS ANY REQUIREMENTS IN THE  
MOR ZONING DISTRICT

**NOTE:** If additional space is needed to accurately answer any question, please attach extra pages to the application.

**By submitting this application, you are granting permission for City staff to post on the property a temporary yard sign announcing the public hearing to be held for your request.**

#### **CERTIFICATION BY THE APPLICANT**

I certify all the information contained in this application form or any attachment(s), document(s) or plan(s) submitted herewith are true to the best of my knowledge and belief, and that I am either the property owner or authorized to make this application on the owner's behalf.

Golden Rudawski

Applicant's Signature

1/17/12

Date

**EXHIBIT E: PHOTOS**

401 West Green Street, Green Street frontage



Subject property, Green Street frontage on the right, Birch Street frontage on the left



## EXHIBIT F

**From:** Thomas Bruno [tombruno@tombruno.com]  
**Sent:** Wednesday, February 01, 2012 11:29 AM  
**To:** Bird, Rebecca  
**Subject:** ZBA cases 2012 MIN 01 and 2012 MAJ 01

As a nearby property owner, please show in the record that I have **no objection** to either of these variances, both of which seem appropriate and consistent with the neighborhood.

--

Thomas A. Bruno  
Law Offices of Thomas A. Bruno & Associates  
301 W Green St  
Urbana, IL 61801-3200  
Phone 217-328-6000  
Fax 217-328-6765  
[tombruno@tombruno.com](mailto:tombruno@tombruno.com)  
[www.tombruno.com](http://www.tombruno.com)

**From:** Todd Rusk [todrusk@yahoo.com]  
**Sent:** Wednesday, February 01, 2012 5:15 PM  
**To:** Bird, Rebecca  
**Subject:** ZBA Case #s 2012-MIN-01 and -MAJ-01

Hi Rebecca,

Just got a note about the proposed variances for 401 W Green. Won't be available to attend the public hearing, but sending a word along to you anyway.

I'm glad that somebody is working on that house and rebuilding the porch stairs, and I have no objections to these variances.

Todd Rusk  
412 W. Green St.