



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: Kevin Garcia, AICP, Planner II

DATE: April 10, 2015

SUBJECT: ZBA-2015-C-01: A request by Tod Satterthwaite for a Conditional Use Permit to allow a duplex at 703 West High Street in the R-2, Single-Family Zoning District.

ZBA-2015-MAJ-01: A request by Tod Satterthwaite to grant a Major Variance to allow a duplex on a lot 50 feet wide and 4,737 square feet in area at 703 West High Street in the R-2, Single-Family Zoning District

Introduction

The petitioner, Tod Satterthwaite, has submitted a request to allow the continued use of a duplex at 703 West High Street, in the R-2, Single-Family Zoning District. According to the Urbana Zoning Ordinance, duplexes are allowed in the R-2 district if a Conditional Use Permit is granted. In addition, Section VI-3.B of the Urbana Zoning Ordinance requires a minimum lot width of 60 feet and a minimum lot area of 6,000 square feet for duplexes on parcels in the R-2 district that were platted before December 21, 1970. The lot at 703 West High Street is 50 feet wide and has an area of 4,737 square feet. The applicant therefore requests a variance to allow a duplex on a lot that is 16.7 percent narrower and has 21.1 percent less area than required by the Zoning Ordinance.

The property contains a single-family home which was converted into a duplex in 1959, according to the previous owner. The applicant has owned the property since 1986. At the time of the purchase, the house had a temporary Certificate of Occupancy (C of O) to allow its use as a duplex for a limited period of time. The C of O required that the house be converted back into a single-family home on or before March 1, 1988.¹ According to the applicant, he was unaware of the temporary C of O or any other restrictions on the continued use of the property as a duplex when he purchased the property, and has thus used the property as a duplex since he took ownership. According to the applicant and City records, the City has treated the property as a duplex when issuing building permits, collecting recycling fees, and registering the property through the rental registration program.

The applicant is now in the process of selling the property and has a buyer ready to purchase it. If they are granted, the Conditional Use Permit and Major Variance would facilitate the sale process and allow the new owners to continue to use the house as a duplex. Granting the requests would not require

¹ This was part of a larger zoning enforcement effort that the City initiated in 1983 in the West Urbana Neighborhood.

expanding the structure, creating new parking, or making any other exterior changes to the building or property.

Following a public hearing and full consideration of the facts, Conditional Use Permits are either approved or denied by the Zoning Board of Appeals by majority vote. Should nearby property owners file a valid written protest in accordance with Section XI-11 of the Zoning Ordinance, a Conditional Use Permit can only be authorized by a favorable vote of two-thirds of the members of the Zoning Board of Appeals. In order to approve the Major Variance request, according to Section XI-3.C.2(d)(1) of the Urbana Zoning Ordinance, the Zoning Board of Appeals requires a two-thirds favorable vote to recommend approval and forward the case to the Urbana City Council for final review and approval.

Background

The property is located in the northwestern portion of the West Urbana Neighborhood, two blocks from the University of Illinois campus, in an area that contains a mix of rental properties used for student housing and owner-occupied single-family houses (see Exhibit A). The applicant has owned the house since 1986, when he purchased it as a rental duplex property. It has been used as a duplex the entire time the applicant has owned the house, and has been generally rented to graduate students and upper classmen at the University during that time. The previous owner of the property claimed the house was first converted into a duplex in 1959, and had been used as a duplex the entire time she owned the property.

In 1983, the City of Urbana conducted the West Urbana Land Use Survey, which was an attempt to identify and correct any illegal land use and/or zoning violations in the West Urbana Neighborhood, focusing on properties that were suspected to have been converted improperly into dwellings with more units than the underlying zoning allowed. For properties that were suspected of being in violation of the Zoning Ordinance, the City required that the property owner prove that the use in question had been established before 1950.² If the owner could not provide such proof, their property was found to be non-conforming and the City required that the property be converted to an allowable use by August, 1984. Property owners could appeal for an extension of up to four years to lessen any hardship that could result from being forced to, in most cases, remove one or more income-producing units from their property.

In the case of 703 W High Street, the property did not meet minimum lot width or area requirements for use as a duplex. The previous owner claimed that the house had been converted to a duplex by a prior owner in 1959, and that the City issued building permits to her in 1961 to allow her to “properly convert” the house into a duplex. However, the City required owners to provide sworn affidavits attesting to the property’s use prior to 1950. The owner did not furnish such affidavits, and the City found that the property was an illegal, or non-conforming, use. The owner then filed for an extension with the Zoning Board of Appeals, and was granted a temporary Certificate of Occupancy (C of O) to allow the use as a duplex until March 1, 1988 at the latest.

² In the 1950 Urbana Zoning Ordinance, the City first established minimum lot width and area requirements. These requirements were used as the basis to determine whether properties were suspected of being illegal uses in the 1983 West Urbana Residential Land Use Survey.

In April, 1986, the applicant purchased the property as a duplex, intending to use it as a rental property. He has used the property as a rental duplex since that time. According to the applicant, he was unaware of the temporary C of O when he purchased the property and was not made aware of the non-conforming status of the property.

Existing Land Uses

The subject property is located within the West Urbana neighborhood, and is surrounded by other residential uses. To the west is a legally non-conforming, five-unit apartment building. To the north are a legally non-conforming, X-unit apartment building and a single-family home that is a rental unit. To the east are two legally non-conforming duplexes, which contain three rental units and one owner-occupied unit.

The following chart, along with the attached exhibits, offers a more detailed summary of the surrounding zoning and land uses.

Direction	Zoning	Existing Land Use	Future Land Use
Site	R-2, Single-Family Residential	Duplex (Rental)	Residential
North	R-3, Single- and Two-Family Residential	Single Family Residential (Rental); Apartment*	Residential
East	R-2, Single-Family Residential	Duplex* (One Unit Rental; One Unit Owner-Occupied); Duplex*(Rental)	Residential
South	R-2, Single-Family Residential	Duplex (Rental)	Residential
West	R-2, Single-Family Residential	Apartment*	Residential

**Legally Non-Conforming Use*

Comprehensive Plan

In Urbana’s 2005 Comprehensive Plan, Future Land Use Map #8 identifies the 700 block of W High Street as an area appropriate for an urban pattern of residential use. The Plan defines “Residential (Urban Pattern)”, as areas containing...

...primarily single-family residential housing but may also include a variety of compatible land uses such as duplexes, town homes, civic uses, institutional uses, and parks where zoning is appropriate. Residential areas can have different physical patterns of development.

The continued use of the property as a duplex is therefore an appropriate use as identified by the future land use designations in the Comprehensive Plan.

Discussion

The property at 703 W High Street has been in use as a duplex for at least 30 years, and possibly for more than 50 years. The requested Conditional Use Permit and Major Variance would allow its continued use as a duplex.

The property is located in an area where the prevailing use is rental housing for students. Its continued use as a duplex with two rental units would be compatible with the surrounding area in both use and character. Each building along the 700 W High Street block contains rental units. Ten out of 12 of these buildings are converted single-family homes and are used as rental properties. To allow the continued use of 703 W High Street as a duplex would not alter the character or otherwise be detrimental to the block or to the neighborhood.

The property has three off-street parking spaces located behind the house. The 700 block of West High Street also has on-street permit parking. There are two permit parking spaces in front of the house. According to Table VIII-7 of the Urbana Zoning Ordinance, two-family uses (i.e. duplexes) require two off-street parking spaces per dwelling unit. The property contains two dwelling units – a three-bedroom apartment and a one-bedroom apartment – and would therefore require four off-street parking spaces. However, the configuration of the building is not typical of duplexes, which normally contain two units of equal size and shape. The layout is more akin to a two-unit apartment building than a traditional duplex. In multi-family residential buildings, each three-bedroom unit requires 1.5 parking spaces, and each one-bedroom unit requires one parking space. If the building were treated in this manner, three off-street parking spaces would be sufficient. Since this property has been traditionally rented to students and is within walking distance of campus, it is worth noting that student car ownership rates are less than the general population, and students tend to walk and bike to destinations.

Requirements for a Conditional Use Permit

According to Section VII-2 of the Urbana Zoning Ordinance, an application for a Conditional Use Permit shall demonstrate the following:

- 1. That the proposed use is conducive to the public convenience at that location.*

The proposed use is a duplex, which the property has been used as for at least 30 years. The property is used as rental housing for students, which is conducive to the public convenience due to its proximity to the University of Illinois and to its compatibility with the surrounding uses on the block.

- 2. That the proposed use is designed, located, and proposed to be operated so that it will not be unreasonably injurious or detrimental to the district in which it shall be located, or otherwise injurious to the public welfare.*

The proposed duplex use is the same as its current use, which for at least 30 years has not been found to be injurious or detrimental to the district, nor has it been injurious to the public welfare.

- 3. That the proposed use conforms to the applicable regulations and standards of, and preserves the essential character of, the district in which it shall be located, except where such regulations and standards are modified by Section VII-3*

In terms of the overall development pattern, the proposed use would help preserve the essential character of the district, as it would continue to provide two rental housing units for students in a converted single-family dwelling. This development pattern is common in the immediately surrounding area. Adjacent blocks contain other duplexes, as well as apartment buildings and single-family homes. Duplexes are elsewhere in the neighborhood and in most areas of the city with R-2 zoning. The continued use of a duplex on this property would conform to the character of the surrounding area and to the R-2 district in general.

Additional Conditions for Conditional Use Permit

According to the Zoning Ordinance, the Zoning Board of Appeals shall authorize or deny the requested conditional use, and may also impose additional conditions as are deemed appropriate or necessary for the public health, safety, and welfare, including but not limited to the following:

- 1. Regulation of the location, extent, and intensity of such uses;*
- 2. Requirement of the screening of such uses by means of fences, walls, or vegetation;*
- 3. Stipulation of required minimum lot sizes;*
- 4. Regulation of vehicular access and volume;*
- 5. Conformance to health, safety, and sanitation requirements, as necessary;*
- 6. Increases to the required yards; and*
- 7. Any other conditions deemed necessary to effect the purposes of this Ordinance (see Section VII-6).*

Variance Criteria

Section XI-3 of the Urbana Zoning Ordinance requires the Zoning Board of Appeals to make findings based on variance criteria. The Zoning Board of Appeals must first determine, based on the evidence presented, whether there are special circumstances or special practical difficulties with reference to the parcel concerned, in carrying out the strict application of the ordinance. This criterion is intended to serve as a minimum threshold that must be met before a variance request may be evaluated.

The following is a review of the criteria outlined in the ordinance, followed by staff analysis for this case:

- 1. 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.*

While there may be a small number of other duplex properties in the West Urbana Neighborhood that are similar to 703 W High Street in lot area and width, this is the first case of its kind that the City has processed. The granting of a variance is unlikely to serve as a special privilege due to the unusual – and possibly unique – circumstances of the property in question. Furthermore, the 700 block of W High Street and surrounding blocks contain a number of other duplexes on lots that do not conform to current standards. For example, of the four

duplexes on lots adjacent to 703 W High Street, the lots range from 40 to 50 feet wide and the areas range from 2,857 to 4,710 square feet. Allowing this property to continue to be used as a duplex would not be a special privilege in the area.

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

The petitioner purchased the house as a duplex in 1986, unaware that its use as a duplex was set to expire in 1988. Neither the petitioner nor the City recognized that the duplex use had expired at that time; the variance request is an attempt to remedy a situation that was not knowingly created by the petitioner.

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

The immediate neighborhood is predominantly characterized by older single family homes that have been converted into student rental housing. Allowing 703 W High Street to continue being used as a duplex will not alter the essential character of the immediate neighborhood.

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

According to the applicant, and City records, there have been no nuisance complaints at 703 W High Street since he purchased it in 1986. Its continued use as a duplex is unlikely to create a nuisance at this time or in the future. The house is adequately set back from neighboring structures by at least ten feet on each side (see Exhibit D), to the east by a side yard and to the west by a shared driveway on the neighboring property. To the back of the house is a parking area and small yard.

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

The requested variance will not alter the size of the structure or the property in any way. The request was made to allow the pre-existing duplex use to continue and to bring the property into conformity with the Zoning Ordinance. The lot width of 50 feet and area of 4,737 square feet will not change if the variance request is granted.

Summary of Findings

1. 703 W High Street is zoned R-2, Single-Family Residential. Table V-1 of the Zoning Ordinance classifies duplex dwellings as a Conditional Use in R-2 zoning districts. For duplex use, Section VI-3.B of the Urbana Zoning Ordinance requires a minimum width of 60 feet and a minimum area of 6,000 square feet for lots platted before December 21, 1970. 703 W High Street is 50 feet wide and 4,737 square feet in area.
2. The property has been occupied as a duplex use since at least 1984, and likely since 1959.

For case # ZBA-2015-C-01:

3. The petitioner has applied for a Conditional Use Permit to allow 703 W High Street to continue to be used as a duplex dwelling.
4. The proposal would be conducive to the public convenience at this location based upon its proximity

to the University of Illinois campus and to its compatibility with its immediate surroundings.

5. The proposal would not be injurious or detrimental to the surrounding district or the public welfare.
6. The proposal will not alter the essential character of the neighborhood, and may help to preserve and enhance the neighborhood's character.

For case # ZBA-2015-MAJ-01:

7. The petitioner has applied for a Major Variance to allow a duplex on a lot that is 16.7 percent narrower and has 21.1 percent less area than is required by the Zoning Ordinance.
8. The variance request will not serve as a special privilege to the property owner.
9. The variance request was not the result of a situation knowingly created by the petitioner.
10. The variance request will not alter the essential character of the neighborhood, and may help to preserve and enhance the neighborhood's character.
11. The variance request will not cause a nuisance to adjacent property owners.
12. The variance request represents the minimum deviation necessary from the requirements of the Zoning Ordinance.

For both cases:

13. The proposal is generally consistent with the 2005 Urbana Comprehensive Plan.

Options

The Zoning Board of Appeals has the following options in Case No. ZBA-2015-C-01:

1. Grant the requested conditional use without any special conditions; or
2. Grant the requested conditional use along with any additional conditions and requirements as are appropriate or necessary for the public health, safety, and welfare, and to carry out the purposes of the Zoning Ordinance; or
3. Deny the requested conditional use.

The Zoning Board of Appeals has the following options in Case No. ZBA-2015-MAJ-01:

1. Forward the case to City Council with a recommendation to approve the variance as requested based on the findings outlined in this memo; or

2. Forward the case to City Council with a recommendation to approve the variance with certain terms and conditions. If the Urbana Zoning Board of Appeals elects to recommend conditions or recommend approval of the variances on findings other than those articulated herein, they should articulate findings accordingly; or
3. Deny the variance request.

Staff Recommendation

Based on the evidence 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 for a Conditional Use Permit in case ZBA-2015-C-01. Staff likewise recommends that the Zoning Board of Appeals recommend **APPROVAL** of the request for a Major Variance in case ZBA-2015-MAJ-01 to the Urbana City Council.

Attachments: Exhibit A: Location and Existing Land Use Map
Exhibit B: Zoning Map
Exhibit C: Future Land Use Map
Exhibit D: Site Photos

Cc: Tod Satterthwaite

Exhibit A: Location & Existing Land Use Map



Case: ZBA-2015-C-01 & ZBA-2015-MAJ-01
 Subject: CUP and Major Variance
 Location: 703 W High St
 Petitioners: Tod Satterthwaite

- Subject Property
- Rental Property
- Owner-Occupied
- Legal Non-Conforming Uses

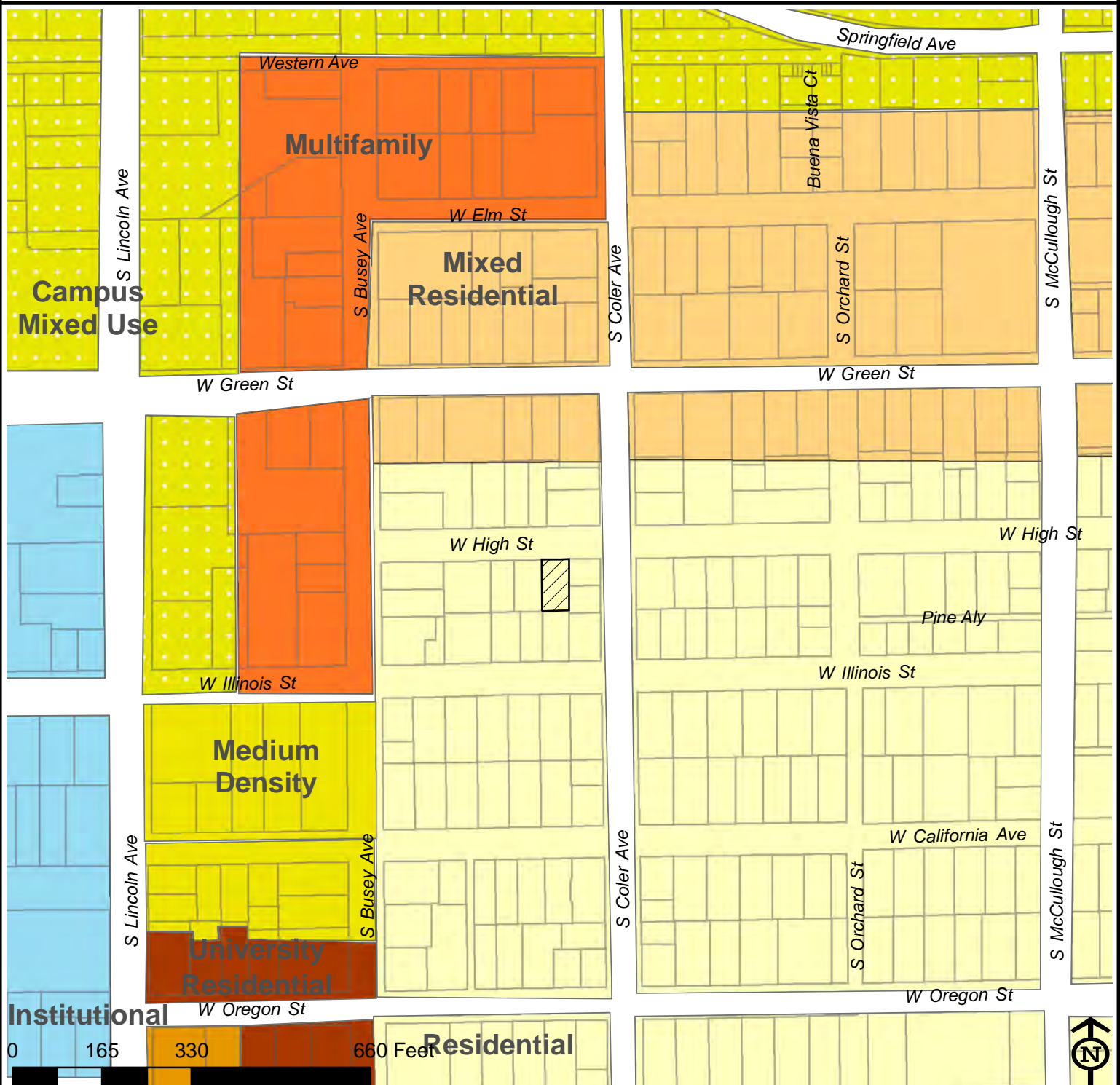
Exhibit B: Zoning Map












Case: ZBA-2015-C-01 & ZBA-2015-MAJ-01
 Subject: CUP and Major Variance
 Location: 703 W High St
 Petitioners: Tod Satterthwaite

B1	CCD	R3	R7
B2	CRE	R4	
B3U	MOR	R5	
B4	R2	R6	
Subject Property			

Exhibit C: Future Land Use Map



Case: ZBA-2015-C-01 & ZBA-2015-MAJ-01
 Subject: CUP and Major Variance
 Location: 703 W High St
 Petitioners: Tod Satterthwaite

-  Subject Property
-  Residential
-  High Density
-  University Residential
-  Medium Density
-  Mixed Residential
-  Multi-Family Residential
-  Campus Mixed Use
-  Institutional

