

ORDINANCE NO. 8990-65

AN AMENDMENT TO THE ZONING ORDINANCE

OF THE CITY OF URBANA, ILLINOIS

(General Variance)

WHEREAS, the City of Urbana Zoning Administrator submitted a petition to amend Article XI entitled "Administration, Enforcement, Amendments and Fees", Section XI-3 entitled "Board of Zoning Appeals" and other relevant sections of the Zoning Ordinance of the City of Urbana, Illinois; and

WHEREAS, said petition was presented to the Urbana Plan Commission as Plan Case #1311-T-89; and

WHEREAS, after due publication in accordance with Section XI-7, entitled "Amendments" of the Zoning Ordinance and Chapter 24, Section 11-13-14 of the Illinois Revised Statutes, the Urbana Plan Commission held a public hearing on the proposed amendment on June 22, 1989, which hearing was continued to July 6, 1989, July 20, 1989 and August 10, 1989; and

WHEREAS, the Urbana Plan Commission voted to forward the amendment described herein, and as Plan Case #1311-T-89, to the Urbana City Council with a recommendation for approval; and

WHEREAS, after due and proper consideration, the City Council of the City of Urbana has determined that the amendment referenced herein conforms with the goals, objectives and policies of the Comprehensive Plan in that the plan requires the review of Codes and Ordinances and revisions as necessary; and

WHEREAS, the City Council of the City of Urbana recognizes that the Zoning Ordinance and its regulations are valid and appropriate, said Council also recognizes that the Ordinance cannot be applied in all situations due to unique circumstances and hardships; and

WHEREAS, after due and proper consideration, the City Council of the City of Urbana has deemed it to be in the best interests of the City of Urbana to amend the text of the Zoning Ordinance of the City of Urbana, Illinois as described herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS that the Zoning Ordinance of the City of Urbana, Illinois is amended as follows:

Section 1. That the following definition is hereby deleted from Article II, Section II-3 entitled "Definitions":

Variance: A variation of or deviation from the regulations or standards adopted by this Ordinance, which the Board of Zoning Appeals is permitted to grant.

Section 2. That the following definitions are hereby added to Article II, Section II-3 entitled "Definitions":

Variance, Specific: A deviation from the regulations or standards of the Urbana Zoning Ordinance for specific and selected purposes which the Board of Zoning Appeals is permitted to grant.

Variance, General: A deviation from the regulations or standards of the Urbana Zoning Ordinance but which does not vary the use regulations and which the City Council, after a public hearing before the Board of Zoning Appeals and upon favorable recommendation of the Board of Zoning Appeals, is permitted to grant.

Section 3. That Section XI-3 entitled "Board of Zoning Appeals", subsection C entitled "Powers and Duties of the Board", is hereby amended to read as follows:

2. On requests for variances Variations from the terms of this Ordinance.

a. Authorization. The Board is authorized to grant a specific variance and recommend approval of a general variance to the City Council. The City Council shall authorize or deny general variances as outlined herein. Under no circumstances shall the Board grant a variance to allow a use not permitted either by right or by special use permit or by conditional use permit under the terms of this Ordinance in the district involved, or any use expressly or implicitly prohibited by the terms of this Ordinance in the district involved, except in the case of an appeal regarding the decision of the Zoning Administrator, pursuant to section XI-1 B.

b. Finding of Fact. The Board and/or City Council shall not grant a variance from the terms of this Ordinance unless the Board and/or City Council, based on the evidence presented, find that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be unreasonably injurious or detrimental to the neighborhood, or otherwise injurious or detrimental to the public welfare; and

(1) The variance requested is necessary due to special conditions and circumstances relating to the land or structure involved, or to the use or occupancy thereof, which are not generally applicable to other lands or structures in the same district so that the proposed variance will not serve as a special privilege but will alleviate some demonstrable and unusual hardship; or

(2) Literal interpretation of the provisions of this Ordinance would impose a hardship by depriving the applicant of rights commonly enjoyed by other lands or structures in the same district under the terms of this Ordinance; and

(3) The special conditions, circumstances or hardships are not the result of the actions of the applicant.

c. Specific Variances. After the Board considers the finding of fact, the Board shall have the authority to grant variations for the following purposes only and no other:

(1) To permit a variance of the depth of a required front or rear yard or the width of a required side yard except that the variance shall not operate to reduce the required yards by greater than twenty-five (25) percent of the requirements.

(2) To permit the creation of a new lot with less lot area than required except that the variance shall not operate to reduce the required lot area by greater than ten (10) percent.

(3) To permit the creation of a new lot with less lot width than required except that the variance shall not operate to reduce the required lot width by greater than fifteen (15) percent.

(4) To permit a five (5) percent increase in the required floor area ratio (FAR) and a five (5) percent decrease in the required open space ratio (OSR).

(5) To permit up to a twenty-five (25) percent decrease in the number of parking spaces required.

(6) To permit the Zoning Administrator to approve a building permit or certificate of occupancy allowing the substitution of one non-conforming use for another in accordance with section X-3.

(7) To permit accessory off-street parking in a location other than the zoning lot of the principal use, as provided in sections VIII-3 B and V-3 E.

(8) To permit the postponement of the termination of a nonconforming use of land, as required by section X-6, for a period not to exceed five (5) years.

(9) To allow a sign to exceed the maximum height or area, as provided in sections IX-4, IX-5 and IX-6 by no more than fifteen (15) percent of the specified requirement, in keeping with the legislative intent specified in section IX-1.

(10) To grant a variance from the provisions of paragraph B of section X-9, entitled "Nonconforming Signs", so as to permit change, alteration, re-establishment or more than routine maintenance of a nonconforming outdoor advertising structure where such change, alteration, re-establishment or maintenance shall not increase the size of the outdoor advertising sign structure, make it radiate or reflect more light, or otherwise make it visually more objectionable. No such variance granted by the Board of Zoning Appeals shall in any way postpone the time for removal of the nonconforming outdoor advertising sign structure as provided in section X-9 C, beyond the time when the original outdoor advertising sign structure which was permitted to be changed, altered, re-established or maintained hereunder would have been required to be removed.

d. General Variances.

(1) Apart from and in addition to the variances specified in Section XI-3.C.2c above, the Board shall consider other variances which are consistent with the intent of this Ordinance. Said variance will be forwarded to the City Council only if the Board recommends approval of the variance. If the Board does not reach a favorable recommendation, the variance is denied and the Board's finding will be the final administrative decision on said variance. The City Council shall have the authority to grant or deny general variance requests which the Board forwards.

(2) The City Council shall approve the general variance request by Ordinance. General variance shall be subject to section XI-11 entitled "Protest procedures".

(3) The Urbana City Clerk shall notify the petitioner in writing of the City Council's decision regarding a general variance request.

e. Conditions. In granting a variance, the Board or City Council may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under the provisions of this Ordinance.

f. Procedure on Request for Variation.

(1) A written application for a variance shall be submitted to the Secretary of the Board, presenting evidence regarding the variance request and relative to the findings of fact outlined in Section XI-3.C.2.b.

(2) Each application for a variance shall be accompanied by a fee to be paid by the applicant, as provided in section XI-8 of this Article.

(3) Applicants for any proposed variance shall include the necessary information specified in section XI-10 so that notification requirements for a public hearing as specified in section XI-10 of the Urbana Zoning Ordinance can be satisfied.

(4) The Board shall hold a public hearing to consider a variance.

(5) The Board may, by majority vote, postpone, continue, or adjourn from time to time any public hearing. In the event of such postponement or adjournment, another public notice regarding the variance need not be published.

Section 4. That Section XI-11 entitled "Protest procedures" is hereby amended to read as follows:

In the case of a valid written protest against any mobile home park, planned unit development, special use permit, change in the classification of land, or general variance filed with the City Clerk of Urbana prior to the commencement of the City Council meeting in which a vote on the proposed action is taken, the action shall not be authorized except by a favorable vote of two-thirds (2/3) of the members of the City Council.

Section 5. That Section VI-3 entitled "Lot area and width" is hereby amended to read as follows:

A. In the case of a lot in the AG or CRE District which was of public record before December 17, 1979, or in the case of a lot in the R-1 District which was of public record on December 21, 1970, or in the case of a lot in any other district which was of public record before November 6, 1950, if such lot has less area or width than herein required, that lot may be used for any of the uses permitted in that district, provided that all other requirements of this Ordinance, including yard, height, floor area ratio, open space ratio, and off-street parking for the respective districts and uses are complied with. The uses, buildings, or structures on such a lot shall not be considered nonconforming due solely to the nonconformity of the lot.

B. In the case of a lot which is not entirely in a single zoning district, the portion in each zoning district may be used only for uses and structures permitted by right in that district, or for uses and structures authorized by a conditional or special use permit. No structure shall be erected on the portion of a lot in one (1) zoning district unless that portion and the structure on it comply with all development standards, including the minimum lot size, applicable to such portion of the lot.

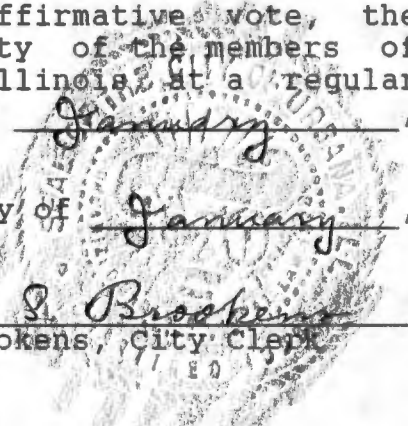
C. In the R-2 and R-3 Districts, any lot platted after December 21, 1970, on which there is proposed to be erected or established a duplex, shall contain an area of not less than nine thousand (9,000) square feet, and have an average width of not less than eighty (80) feet. A lot platted before December 21, 1970, on which there is proposed to be erected or established a duplex, shall contain an area of not less than six thousand (6,000) square feet, and have an average width of not less than sixty (60) feet.

D. Except as noted above, a lot in the R-2 or R-3 District whose area or width is less than herein required, and which was of public record at the time of the passage of the Urbana Zoning Ordinance, shall be used only for single-family dwelling purposes, or for any of the nondwelling uses permitted in that district.

E. A fee simple transfer of ownership of a portion of a lot improved with a side by side rowhouse or townhouse or duplex where each dwelling unit is solely allocated to a portion of the single zoning lot, is permitted, and shall not constitute subdivision of the lot provided the conditions of this subsection are met.

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 16th day of January, 1990.

PASSED by the City Council on this 16th day of January, 1990.


Ruth S. Brookens
Ruth S. Brookens, City Clerk

APPROVED by the MAYOR this 23rd day of January, 1990.

Jeffrey T. Markland
Jeffrey T. Markland, Mayor

Certificate of Publication

I, Ruth S. Brookens, City Clerk, City of Urbana, Illinois, do herewith certify that I caused the above Ordinance to be duly published in the News-Gazette on the 27th day of January, 1990, and a Certificate of Publication is attached hereto.

Ruth S. Brookens
Ruth S. Brookens, City Clerk



(genvar.ord)

CERTIFICATE OF PUBLICATION IN The News-Gazette

sub-section C entitled "Powers & Duties of the Board" in Section 11-1-1.1.

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WHEREAS, after due and proper consideration, the City Council of the City of Urbana has determined that the amendment referenced herein conforms with the goals, objectives and policies of the Comprehensive Plan in that the plan requires the review of Codes and Ordinances and revisions as necessary; and

WHEREAS, the City Council of the City of Urbana recognizes that

The undersigned, THE CHAMPAIGN NEWS-GAZETTE, INCORPORATED, by Ms Over, its secretary, does hereby certify that said Corporation is the publisher of The News-Gazette and that the same is a daily secular newspaper of general circulation published in Champaign, Champaign County, Illinois, and which said newspaper had been regularly published for more than six months prior to the first publication of the annexed notice; said publisher further certifies that the annexed notice was published once each week for _____ consecutive weeks in said newspaper, namely on the following dates: _____

January 27, A. D. 19 90
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_____, A. D. 19 _____
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CITY OF URBANA, ILL. RECEIVED FEB 1 1990 CITY CLERK'S OFFICE

Said publisher further certifies that the date of the first paper containing the said notice was on the first date hereinabove set forth, and that the date of the last paper containing the said notice was on the last date hereinabove set forth.

The Champaign News-Gazette, Incorporated

by [Signature] Secretary
PUBLISHER OF THE NEWS-GAZETTE

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Attorneys