

ORDINANCE NO. 9596-11

**AN ORDINANCE APPROVING A GENERAL VARIANCE TO REDUCE THE MINIMUM
REQUIRED FRONT YARD SETBACK AT 110 W. WHITEHALL COURT, URBANA,
ILLINOIS**

WHEREAS, the Zoning Ordinance provides for a general variance procedure to permit the Zoning Board of Appeals and the City Council to consider special situations where strict application of the Zoning Ordinance may cause hardships in situations where other permitted variances are not adequate; and

WHEREAS, the owners of the subject property, Jon and Judith Liebman, submitted a petition requesting a general variance to allow the construction of a solid brick privacy wall within the fifteen foot required front yard setback for the R-5, Medium High Density Multiple Family Residential District at the property commonly known as 110 W. Whitehall Court in Urbana, Illinois; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case #ZBA-95-GV-1; and

WHEREAS, after due publication in accordance with Section XI-7 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, hereinafter referred to as the ZBA, held a public hearing on the proposed general variance on July 13, 1995; and

WHEREAS, after due and proper consideration of the petitioner's application, staff's report, and based on testimony and evidence presented at the public hearing, the ZBA determined findings of fact which are set forth in the ZBA's Decision Sheet, attached hereto as exhibit A; and

WHEREAS, more than two-thirds of the members of the Urbana Zoning Board of Appeals present at the public hearing voted to forward the general variance request described herein to the Urbana City Council with a recommendation of approval; and

WHEREAS, after due and proper consideration, the City Council of the City of Urbana has determined that the general variance referenced herein conforms with the general variance procedures in accordance with Article XI, Section XI-3.C.2.d of the Urbana Zoning Ordinance; and

WHEREAS, the City Council finds that the evidence and findings of fact as determined by the ZBA support the granting of the variance, and that said variance will be in harmony with the general purposes and intent of the Urbana Zoning Ordinance and will

not be unreasonably injurious or detrimental to the neighborhood, or otherwise be injurious or detrimental to the public welfare.

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

Section 1

The general variance requested by Jon and Judith Liebman in Case #ZBA-95-GV-1 is hereby approved to reduce the required front yard setback for the property commonly known as 110 W. Whitehall Court from fifteen (15) feet to two (2) feet for the express and sole purpose of permitting the construction of a five and a half foot tall solid brick privacy wall on the perimeter of the lot at that address, in the location represented in site plans submitted as evidence before the ZBA at the public hearing on July 13, 1995.

Section 2

The Council's's decision is based upon the following findings of fact, as determined by the Urbana Zoning Board of Appeals:

1. The variance requested is necessary to alleviate a demonstrable and unusual hardship that is the result of the following special conditions or circumstances relating to the Petitioners' property which are not generally applicable to other properties in the R-5 zoning district:
 - a. The property is located in a subdivision where each of the other five original lots have been developed with residences surrounded by solid brick privacy walls on the perimeter of the sites.
 - b. The privacy walls around the other lots all have a very similar design and color, and all were built in conformance with City ordinances in effect at the time of their construction.
 - c. The uniformity of the design of the privacy walls and of other external design features of all of the other properties in the Subdivision is the result of private covenants which apply to development on all of these sites.
 - d. The objective of the private covenants related to external design elements of the subdivision's properties is to enhance the value and enjoyment of those properties by providing a distinctive architectural identity to the subdivision, and that objective has been realized so far with the development of the other five properties.
 - e. The Petitioners are now prevented from building such a privacy wall around their property by provisions of the City's Fence Ordinance

which were adopted after the construction of the privacy walls for the other five lots was started and/or completed.

2. The granting of the requested variance will be in harmony with the general purpose and intent of the Zoning Ordinance, and will not be unreasonably injurious to the neighborhood or the public welfare generally in that it will permit the Petitioners to develop their property in a manner that is consistent with the design of neighboring properties on Whitehall Court.
3. These special conditions or circumstances were not created by the Petitioners but rather predate Petitioners initiation of the current development on the subject property.

Section 3

The general variance described above shall only apply to the property located at 110 W. Whitehall Court, Urbana, Illinois, the legal description of which is set forth as follows:

All of Lot 2 of the Whitehall First Subdivision, per plat recorded in Plat Book Y at page 265 in the Office of the Champaign County Recorder of Deeds, all of said lot being situated in the City of Urbana, Champaign County, Illinois.

Section 4

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).

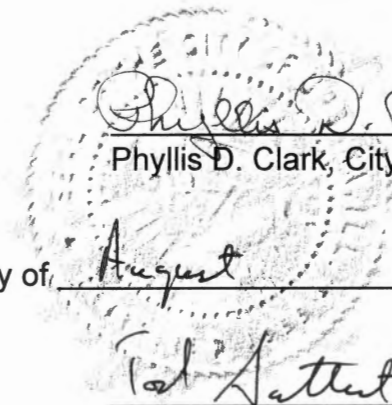
This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called of a majority of the members of the City Council of the City of Urbana, Illinois, at a regular meeting of said Council on the 7th day of August, 1995.

PASSED by the City Council on this 7th day of August, 1995.

AYES: Hayes, Patt, Pollock, Ryan, Taylor, Whelan

NAYS:

ABSTAINED:



Phyllis D. Clark
Phyllis D. Clark, City Clerk

APPROVED by the Mayor this 7th day of August, 1995.

Tod Satterthwaite
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 _____, 1995, the corporate authorities of the City of Urbana passed and approved Ordinance No. _____, entitled "AN ORDINANCE APPROVING A GENERAL VARIANCE TO REDUCE THE MINIMUM REQUIRED FRONT YARD SETBACK AT 110 W. WHITEHALL COURT, URBANA, ILLINOIS " 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 _____, 1995, 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.

DATED at Urbana, Illinois, this ____ day of _____, 1995.

(SEAL)

Phyllis D. Clark, City Clerk

(95gv1.ORD)



CERTIFICATE OF PUBLICATION
IN PAMPHLET FORM



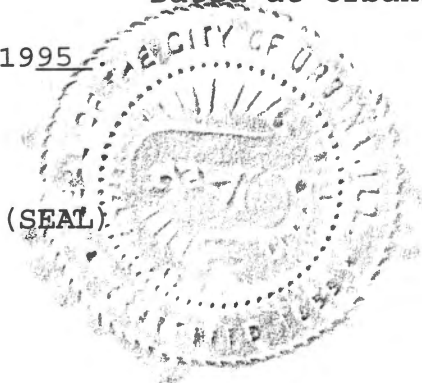
I, PHYLLIS D. CLARK, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois.

I certify that on the 7th day of August, 1995, the corporate authorities of the City of Urbana passed and approved Ordinance No. 9596-11, entitled "AN ORDINANCE APPROVING A GENERAL VARIANCE TO REDUCE THE MINIMUM REQUIRED FRONT YARD SETBACK AT 110 W. WHITEHALL COURT, URBANA, ILLINOIS"

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 9596-11 was prepared, and a copy of such Ordinance was posted in the Urbana City Building commencing on the 8th day of August, 1995, 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.

Dated at Urbana, Illinois, this 8th, day of August, 1995



Phyllis D. Clark
Phyllis D. Clark, City Clerk

by Deborah J. Roberts, Deputy Clerk