

ORDINANCE NO. 9899-45

AN ORDINANCE APPROVING A GENERAL VARIANCE

(Reduction Of The Required Side Yard Setback In The City's B-3, General Business Zoning District, From Ten Feet To Zero Feet / 2010-2024 S. Philo -- Case No. ZBA-98-GV-8)

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 situations where other permitted variances are not adequate; and

WHEREAS, the owners of the subject property, MLP Associates, L.P., have submitted a petition requesting a general variance to allow the reduction of the required side yard setback on the south side of the subject property; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case #ZBA 98-GV-8; and

WHEREAS, after due publication in accordance with Section IX-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 (ZBA) held a public hearing on the proposed general variance on October 29, 1998, and the ZBA by vote of two thirds 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 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 agrees with the following findings of fact adopted by the ZBA in support of its recommendation to approve the application for a general variance:

1. The granting of the variance will be in harmony with the general purpose and intent of the Ordinance, and will not be unreasonably injurious or detrimental to the neighborhood, or otherwise injurious or detrimental to the public welfare of the following reasons:

The granting of a general variance to the reduce the required side yard setback will not be unreasonably injurious or detrimental to surrounding property owners or the public generally because it will not require any physical changes to the improvements on the subject site.

2. The variance requested will not serve as a special privilege, and will alleviate some demonstrable and unusual hardship that is the result of the special conditions and circumstances relating to that 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. The

granting of the variance request will enable an Urbana business location to remain a viable site.

3. The proposed variance will be in harmony with the neighborhood because no new construction is proposed in conjunction with the variance request.

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

The general variance request by MLP Associates, L.P., in Case #ZBA-98-GV-8 is hereby approved to allow the reduction of the required side yard setback in the B-3, General Business Zoning District from ten feet to zero feet, in the manner proposed in the application for the general variance in that case.

The general variance described above shall only apply to the property located at 2010-2024 S. Philo Road, Urbana, Illinois, more particularly described as follows:

#### LEGAL DESCRIPTION:

##### Parcel 1:

A tract of land in the East One-Half of Section 21, Township 19 North, Range 9 East, Third Principal Meridian, Champaign County, Illinois, and a part of Lot 1 of Southgate Shopping Center according to the recorded plat thereof, being more particularly described as follows: Beginning at an iron pipe marking the intersection point of the South line of Brooks First Subdivision with the East right-of-way line of Illinois Route 130 (Philo Road), said line being parallel with and 40:00 feet Easterly of the West line of the East One-Half of said Section 21; thence North 89 degrees 39 minutes 00 seconds East along the South line of Brooks First Subdivision and the Easterly extension thereof a distance of 559.00 feet to an iron pipe, thence South 00 degrees 49 minutes 03 seconds East a distance of 283.38 feet to a point; thence South 89 degrees 10 minutes 57 seconds West along the Easterly extension of the exterior wall face of the proposed Kroger Store, the exterior wall face, and the Westerly extension thereof a distance of 558.98 feet to a point on the East right-of-way line of said Illinois Route 130; thence North 00 degrees 49 minutes 03 seconds West along said line a distance of 287.94 feet to the point of beginning .

##### Parcel 2:

A tract of land in the East One-Half of Section 21, Township 19 North, Range 9 East, Third Principal Meridian, Champaign County, Illinois, and a part of Lot 1 of Southgate Shopping Center, according to the recorded plat thereof, being more particularly described as follows: Commencing at an iron pipe marking the intersection point of the South line of Brooks First Subdivision with the East right-of-way line of Illinois Route 130 (Philo Road), said line being parallel with and 40.00 feet Easterly of the West line of the East One-Half of said Section 21; thence South 00 degrees 49 minutes 03 seconds East along said East line a distance of 287.94 feet to the point of beginning of the hereinafter described tract of land; thence North 89 degrees 10

minutes 57 seconds East along the Westerly extension of the exterior wall face of the proposed Kroger Store, the exterior wall face, and the Easterly extension thereof, a distance of 558.98 feet to a point; thence South 00 degrees 49 minutes 03 seconds East a distance of 132.62 feet to an iron pipe; thence South 00 degrees 39 minutes 00 seconds West a distance of 75.00 feet to an iron pipe; thence South 00 degrees 49 minutes 03 seconds East a distance of 17.99 feet to a point; thence South 89 degrees 10 minutes 57 seconds West along the Easterly extension of the exterior wall face of a proposed 10,500 square foot retail store, the exterior wall face, and the Westerly Extension thereof, a distance of 350.99 feet to a point; thence South 00 degrees 49 minutes 03 seconds East a distance of 12.76 feet to an iron pipe; thence South 89 degrees 39 minutes 00 seconds West a distance of 133.00 feet to an iron pipe on the aforesaid East right-of-way line; thence North 00 degrees 49 minutes 03 seconds West along said line a distance of 161.68 feet to the point of beginning.

PERMANENT PARCEL #: 93-21-21-200-037

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).

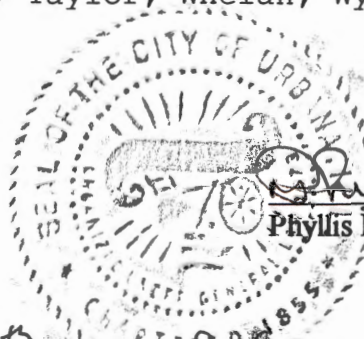
This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called of a majority of the members of the City Council of the City of Urbana, Illinois, at a regular meeting of said Council on the 15th day of February, 1999.

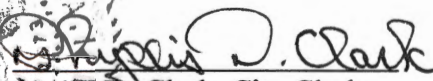
PASSED by the City Council this 15th day of February, <sup>1999</sup>~~1998~~ ET

AYES Hayes, Kearns, Patt, Taylor, Whelan, Wyman


NAYES Huth

ABSTAIN \_\_\_\_\_



  
Phyllis D. Clark, City Clerk

APPROVED by the Mayor this 19th day of February, <sup>1999</sup>~~1998~~ ET

  
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 15th day of February, 1999,  
the Corporate Authorities of the City of Urbana passed and approved Ordinance No.  
9899-45, entitled:

AN ORDINANCE APPROVING A GENERAL VARIANCE (REDUCTION  
OF THE REQUIRED SIDE YARD SETBACK IN THE CITY'S B-3,  
GENERAL BUSINESS ZONING DISTRICT, FROM TEN FEET TO  
ZERO FEET / 2010-2024 S. PHILO -- CASE NO. ZBA-98-GV-8)

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

The pamphlet form of Ordinance No. 9899-45 was prepared, and a  
copy of such Ordinance was posted in the Urbana City Building commencing on the  
22nd day of February, 1999, 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 22nd day of February,

19 99



*Phyllis D. Clark*  
Phyllis D. Clark, City Clerk  
*by Robert Robert, Deputy Clerk*

**DEFEATED**

ORDINANCE NO. 9899-45

DATE: 12-7-98

AN ORDINANCE APPROVING A GENERAL VARIANCE

(Reduction Of The Required Side Yard Setback In The City's B-3, General Business Zoning District, From Ten Feet To Zero Feet / 2010-2024 S. Philo -- Case No. ZBA-98-GV-8)

*Resubmitted 2/15/99  
See new original  
in file. Probet  
2/16/99*

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 situations where other permitted variances are not adequate; and

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WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case #ZBA 98-GV-8; and

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Kroger Store, the exterior wall face, and the Easterly extension thereof, a distance of 558.98 feet to a point; thence South 00 degrees 49 minutes 03 seconds East a distance of 132.62 feet to an iron pipe; thence South 00 degrees 39 minutes 00 seconds West a distance of 75.00 feet to an iron pipe; thence South 00 degrees 49 minutes 03 seconds East a distance of 17.99 feet to a point; thence South 89 degrees 10 minutes 57 seconds West along the Easterly extension of the exterior wall face of a proposed 10,500 square foot retail store, the exterior wall face, and the Westerly Extension thereof, a distance of 350.99 feet to a point; thence South 00 degrees 49 minutes 03 seconds East a distance of 12.76 feet to an iron pipe; thence South 89 degrees 39 minutes 00 seconds West a distance of 133.00 feet to an iron pipe on the aforesaid East right-of-way line; thence North 00 degrees 49 minutes 03 seconds West along said line a distance of 161.68 feet to the point of beginning.

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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 \_\_\_\_\_, 1998.

PASSED by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 1998.

**\*\*\* DEFEATED BY COUNCIL DECEMBER 7, 1998 \*\*\***

AYES Kearns, Taylor, Whelan

NAYES Hayes, Huth, Patt, Wyman

ABSTAIN \_\_\_\_\_

\_\_\_\_\_  
Phyllis D. Clark, City Clerk

APPROVED by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 1998.

\_\_\_\_\_  
Tod Satterthwaite, Mayor

*Thank you!*



Ape Productions



12/8/98

Dear Mr. Van Epps,

I appreciated the opportunity to work with you to obtain a variance to allow a reduction of the required side yard setback at Southgate Shopping Center. Although the council did not achieve a favorable vote, I am happy to continue to work with you to help resolve the nonconforming condition.

Sincerely, Kimberly Gerstein  
City of Urbana



**FILE COPY**

City of Urbana  
400 South Vine Street  
Urbana, IL 61801  
(217)384-2362  
FAX (217)384-2301

**Certified Mailing**

OFFICE OF THE CITY CLERK

Phyllis D. Clark  
City Clerk/Town Clerk

Deborah J. Roberts  
Deputy City Clerk

Elaine Taylor  
Secretary

February 22, 1999

Mr. Robert Van Epps, Attorney  
192 N. York Road  
Elmhurst, IL 60126

**Re: General Variance Request/MLP Associates  
2010-2024 Philo Road, Urbana, IL**

Dear Mr. Van Epps:

At its meeting on February 15, 1999, the Urbana City Council rescinded its actions taken on December 7, 1998 regarding the referenced general variance case. Ordinance No. 9899-45, "An Ordinance Approving A General Variance (Reduction Of The Required Side Yard Setback In The City's B-3, General Business Zoning District, From Ten Feet To Zero Feet / 2010-2024 S. Philo - Case No. ZBA-98-GV-8)", was then approved by Council. I have enclosed a certified copy of said ordinance for your records.

If you have any questions, or if this office can be of further assistance to you, please do not hesitate to call. Questions concerning general variance procedures should be directed to our Community Development Services Department at 217/384-2440.

Sincerely,

Deborah J. Roberts  
Deputy City Clerk

c: MLP Associates  
Ward McDonald  
April Getchius  
Jack Waaler





**FILE COPY**

**City of Urbana**  
400 South Vine Street  
Post Office Box 219  
Urbana, Illinois 61801-0219  
(217) 384-2362  
FAX (217) 384-2301

**OFFICE OF THE CITY CLERK**

Phyllis D. Clark  
City Clerk/Town Clerk

Deborah J. Roberts  
Deputy City Clerk

Elaine Taylor  
Staff Assistant

**Certified Mailing**

January 26, 1999

Mr. Robert Van Epps, Attorney  
192 N. York Road  
Elmhurst, IL 60126

**Re: General Variance Request / Ordinance No. 9899-45  
2010-2024 Philo Road, Urbana, IL (MLS Associates)**


Dear Mr. Van Epps:

At a regular meeting of the Urbana City Council held December 7, 1998, the Council denied approval of Ordinance No. 9899-45, "An Ordinance Approving A General Variance (Reduction Of The Required Side Yard Setback In The City's B-3, General Business Zoning District, From Ten Feet To Zero Feet / 2010-2024 S. Philo - Case No. ZBA-98-GV-8)." A copy of the minutes from this meeting are enclosed for your reference.

Questions concerning general variance procedures should be directed to the City of Urbana Community Development Services Department at 217/384-2440.

Sincerely,

**URBANA CITY CLERK'S OFFICE  
PHYLLIS D. CLARK, CITY CLERK**

By:   
Deborah J. Roberts  
Deputy City Clerk

c: MLP Associates  
Jack Waaler, City Attorney

Re: General Variance Request  
Ordinance No. 9899-45  
2010-2024 Philo Road (MLP Associates)

Copies of this letter and minutes sent to the following:

MLP Associates  
230 S. Broad Street, Mezzanine  
Philadelphia, PA 19102

Mr. Ward McDonald, Attorney  
1701 Broadmoor Dr.  
Champaign, IL 61821

The original correspondence and copy of minutes sent to:

Robert Van Epps, Attorney  
192 N. York Road  
Elmhurst, IL 60126