

ORDINANCE NO. 2002-09-102

AN ORDINANCE APPROVING A MAJOR VARIANCE

(Request for a major variance to reduce the required front yard setback along Hill Street from 15 feet to 8 feet at 801 North Lincoln Avenue in the B-1, Neighborhood Business Zoning District - Case No. ZBA-02-MAJ-5)

WHEREAS, the Zoning Ordinance provides for a major variance procedure to permit the Zoning Board of Appeals and the City Council to consider criteria for major variances where there are special circumstances or conditions related to the parcel of land or the structure; and

WHEREAS, the petitioner, Family Video Movie Club, Inc., has submitted a petition requesting a major variance to allow a 7-foot encroachment into the required 15-foot front yard setback in the B-1, Neighborhood Business Zoning District at 801 North Lincoln Avenue; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case #ZBA-02-MAJ-5; and

WHEREAS, after due publication in accordance with Section XI-10 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 major variance on August 21, 2002 and the ZBA by a unanimous vote of its members (6-0) 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 major variance referenced herein conforms with the major variance procedures in accordance with Article XI, Section XI-3.C.3.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 major variance:

**DEFEATED**

1. In this case, there is a special circumstance related to the parcels concerned due to the fact that the site contains three front yards. In the B-1 Zoning District, the required front yard is 15 feet. In the B-2, B-3, B-3U, and IN Zoning Districts, parking is permitted to encroach ten feet into the required front yard setback provided that a five-foot landscaping buffer is maintained, however, in the B-1 Zoning District there is no provision for parking in the setback. While this is an appropriate regulation for many parcels in the B-1 District, in this case the encroachment should be adequately mitigated since the properties west of the subject property along Hill Street are required to be screened from the parking area.

2. In this case, there is a special practical difficulty due to the existence of two easement encumbrances that run with 907 West Fairview to the west. The easements include an 18-foot easement along the West property line and an 11-foot easement along the South. The easements do not allow the building to be located on the northern portion of the property. Location of the building or parking lot is prohibited on these easements, although they may be used for access. The fact that the property has three frontages and two constricting easements makes redevelopment of the property difficult without a variance for setback.

3. The need for the requested variance has not yet been created. The petitioner was aware of the requirements of the Zoning Ordinance and has applied for a variance.

4. The variance should not be unreasonably injurious or detrimental to the general public, should not alter the essential character of the neighborhood, and should not cause a nuisance to the adjacent properties. Several properties contained within the site have remained vacant for many years. Required screening with a fence to the west will help to soften the intensity of the parking lot, and should help to preserve the residential character of the neighborhood to the west along Hill Street. Properties along Hill Street

should not be affected by the reduction in setback, as it will only be used for employee parking and should not see excessive in-and-out traffic. The building will be set back 34 feet from the property line fronting Hill Street.

5. The petitioner is only requesting the amount of variance needed to accommodate the proposed encroachment into the required yard.

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

The major variance request by Family Video Movie Club, Inc. in Case #ZBA-02-MAJ-5 is hereby approved to allow a 7-foot encroachment into the required 15-foot front yard setback in the B-1, Neighborhood Business at 801 North Lincoln Avenue, in the manner proposed in the application.

The major variance described above shall only apply to the southern portion of the site located at 801-811 North Lincoln Avenue, Urbana, Illinois, more particularly described as follows:

LEGAL DESCRIPTION: Lots 1, 2, and 3 of Sarah A. Sims Addition and the North 3.4 feet of Lots 39 and 40 of Sarah A. Sims addition. Lots 39 and 40 of Sarah A. Sims Addition except the North 3.4 feet.

PERMANENT PARCEL #: 91-21-07-428-021, 91-21-07-428-020, 91-21-07-428-019, 91-21-07-428-022

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 \_\_\_\_\_ day of \_\_\_\_\_, 2002.

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

AYES: Otto, Whelan

NAYS: Hayes, Huth, Patt, Wyman

ABSTAINS:

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

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

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

**DEFEATED**

**DATE:** September 3, 2002