

**AN ORDINANCE APPROVING A MAJOR VARIANCE**

**(Request to decrease the required five-foot side yard setback to one-and-one-half feet and to decrease the required 10-foot rear yard setback to one-and-one-half feet at 705 West Michigan Avenue, in Urbana's R-1, Single Family Residential Zoning District - Case No. ZBA-02-MAJ-8)**

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 petitioners, Patrick Roberge and Ellen Deason, have submitted a petition requesting a major variance to allow a decrease the required five-foot side yard setback to one-and-one-half feet and to decrease the required 10-foot rear yard setback to one-and-one-half feet at 705 West Michigan Street, in Urbana's R-1, Single Family Residential Zoning District; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case #ZBA-02-MAJ-8; 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 September 18, 2002 and the ZBA by a unanimous vote of its members recommended approval of the requested variance with modifications, to allow the petitioners to decrease the required five foot side yard setback to one-and one-half feet and to decrease the required 10-foot rear yard setback to five feet, to the City Council; and

WHEREAS, the Zoning Board of Appeals agreed that the request with the modification from a one-and-one-half rear yard setback to that of a five foot rear yard setback was more appropriate to allow for adequate space for both overhead and buried utility line maintenance and to protect those lines should the petitioners deviate from their plans; 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 along with modifications:

1. The request does not serve as a special privilege because the proposed variances would be needed due to practical difficulties relating to the buried utility lines. Buried utility lines lie approximately 37 feet from the western property line, running straight from the dwelling to the rear property line. Given the location of the buried utility lines, the five-foot side-yard setback requirement would not allow for the current garage design at this location. For this reason, the petitioners would have the need to reduce the side-yard setback to construct the garage according to the dimensions drafted by their architect.

2. In addition, the rear-yard setback requirement of ten feet would result in a 320 square foot patch of green space behind the proposed garage between the rear of the garage and the rear property line. Although a rear yard variance may be justified, a one-and-one-half foot setback may be problematic due to rear yard utility easements and the location of the garage to the south. For these reasons, staff recommends a variance of no less than 5 feet for the rear-yard setback.

The need for the requested variances has not yet been created.

3. The variances should not be unreasonably injurious or detrimental to the general public, would not alter the essential character of the neighborhood, and should not cause a nuisance to the adjacent properties. The variances would be generally consistent with other lots in the immediate vicinity; other homes in the area have garages. The design of the proposed garage is residential in character and would mirror the architectural qualities of the single-family dwelling.

4. The petitioners are requesting only the minimum amount of variance needed to accommodate their plans to replace their demolished garage with a garage that suits the owners needs without having to relocate recently buried utility lines.

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

The major variance request by Patrick Roberge and Ellen Deason, in Case #ZBA-02-MAJ-8 is hereby approved with modifications to allow a decrease in the required five-foot side yard setback to one-and-one-half feet and to decrease the required 10-foot rear yard setback to five feet at 705 West Michigan Street, in Urbana's R-1, Single Family Residential Zoning District, in the manner approved by the Zoning Board of Appeals.

The major variance described above shall only apply to the property located at 705 West Michigan Avenue, Urbana, Illinois, more particularly described as follows:

LEGAL DESCRIPTION: University Heights Addition, Lot

8, Urbana, Illinois

PERMANENT PARCEL #: 93-21-17-355-003

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 7<sup>th</sup> day of October, 2002.

PASSED by the City Council this 7<sup>th</sup> day of October, 2002.

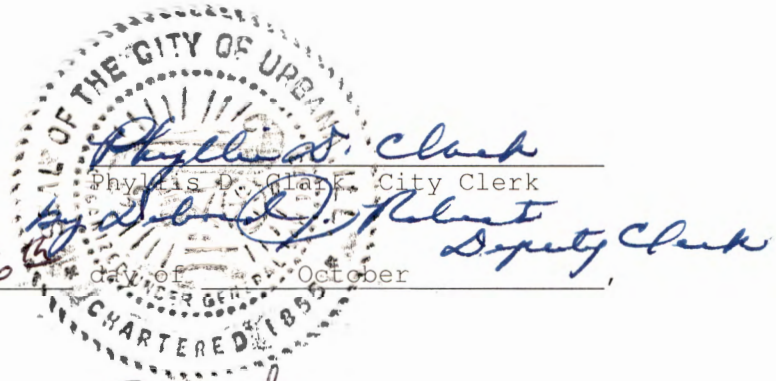
AYES: Chynoweth, Hayes, Otto, Patt

NAYS:

ABSTAINS: Wyman\*

APPROVED by the Mayor this 16<sup>th</sup> day of October,

2002.



Tod Satterthwaite  
Tod Satterthwaite, Mayor

\*Alderwoman Wyman abstained due to conflict of interest.