

**AN ORDINANCE APPROVING A MAJOR VARIANCE**

**(To Allow a Two-Foot Reduction in the Required Five-Foot Side Yard Setback in the R-2, Single-Family Residential Zoning District / 2922 East Rutherford Drive - Case No. ZBA-02-MAJ-9)**

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 with the parcel of land or the structure; and

WHEREAS, the owner of the subject property, Keith Harris, has submitted a petition requesting a major variance to allow a two-foot encroachment into the required five-foot front yard setback at 2922 East Rutherford Drive in the R-2, Single Family Residential Zoning District; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case #ZBA-02-MAJ-9; 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 November 20, 2002 and the ZBA by a unanimous vote of its members recommend 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:

1. In this case, there is a special circumstance due to the fact that the petitioner has constructed the house in a manner that would require a reduction of the side yard to three feet in order to avoid removing and rebuilding a portion of the garage. However, as this is a rectangular parcel of adequate size to contain the existing house, there are no special practical difficulties with reference to the parcel concerned in carrying out the strict application of the ordinance.

2. The requested variance would serve as a special privilege since it is only necessary because the structure was built in violation of setback requirements, even though that was done inadvertently. There is adequate space on the lot to accommodate the footprint of the house where it was originally intended to be located.

3. The variance requested was not the result of a situation or condition having been knowingly or deliberately created by the Petitioner. Although the house was constructed without an approved variance, the petitioner indicates that the placement of the garage over the required side yard setback was unintentional and did not constitute a deliberate circumvention of the regulations. The petitioner indicates that there was an error in the location of the property line during excavation, which caused the house to be constructed with a nonconforming setback. Following construction, the error was discovered and the petitioner contacted the City to request a variance to bring the property into compliance.

4. The variance should not alter the essential character of the neighborhood. Since the property to the west was constructed with a side yard setback greater than ten feet, a significant visibility corridor remains between the two properties. The house complies with all other development regulations of the zoning ordinance, and would fully comply if it had been built two feet to the east.

5. The variance should not cause a nuisance to adjacent properties. Although there is an entrance to the subject garage along the west wall, the house to the west of the subject property is located greater than 10 feet from the east property line, and the driveway does not extend into the required side yard. The reduced side yard does not significantly impede the view between the two properties.

6. The petitioner is only requesting the amount of variance needed to bring the existing house into compliance with all development regulations.

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

The major variance request by Keith Harris, in Case #ZBA-02-MAJ-9, is hereby approved to allow a two-foot reduction into the required five-foot front yard setback 2922 East Rutherford Drive in the R-2, Single Family Residential Zoning District, in the manner proposed in the application, with the condition that the setback reduction only apply to the existing house footprint, as indicated on Exhibit 1, Site/Roof Plan.

The major variance described above shall only apply to the property located at 2922 East Rutherford, Urbana, Illinois, more particularly described as follows:

LEGAL DESCRIPTION:

Beringer Commons Subdivision No. 3, Lot 306,  
Urbana, Illinois

PERMANENT PARCEL #: 30-21-10-306-011

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 2nd day of December, 2002.

PASSED by the City Council this 2nd day of December, 2002.

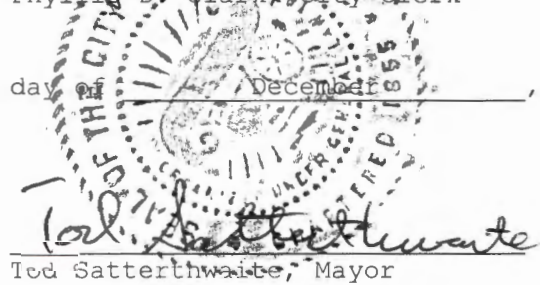
AYES: Chynoweth, Hayes, Huth, Otto, Patt, Whelan, Wyman

NAYS:

ABSTAINS:

APPROVED by the Mayor this 13th day of December, 2002.

  
Phyllis D. Clark, City Clerk

  
Ted 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.

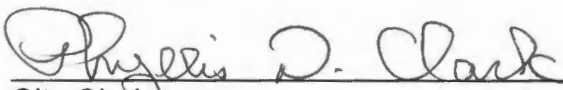
I certify that on the 2nd day of December, 2002, the Corporate Authorities of the City of Urbana passed and approved Ordinance No. 2002-11-132, entitled:

**"AN ORDINANCE APPROVING A MAJOR VARIANCE (To allow a Two-Foot Reduction in the Required Five-Foot Side Yard Setback in the R-2, Single-Family Residential Zoning District / 2922 East Rutherford Drive – Case No. ZBA-02-MAJ-9)**

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

The pamphlet form of Ordinance No. 2002-11-132 was prepared, and a copy of such Ordinance was posted in the Urbana City Building commencing on the 13<sup>th</sup> day of December, 2002, and continuing for at least ten (10) days thereafter. Copies of said Ordinance were also available for public inspection upon request at the Office of the City Clerk.

Dated at Urbana, Illinois, this 13th day of December, 2002.

  
City Clerk

