

ORDINANCE NO. 2003-12-137

AN ORDINANCE APPROVING A MAJOR VARIANCE

(Reduction of the side yard setback from 10-feet to zero feet in Urbana's B-3, General Business Zoning District / 1104 N. Cunningham Avenue, Case No. ZBA-03-MAJ-09)

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, Martin Fuentes, has submitted a petition requesting a major variance to allow reduction of the side yard setback from 10-feet to zero feet. The request is to allow the enclosure of 400-square foot patio area at El Toro Restaurante in Urbana's B-3, General Business Zoning District; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case #ZBA 03-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 about the proposed major variance on November 19, 2003 and the ZBA by a unanimous vote (5-0) of its members recommended approval of the requested variance, to the City Council; 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 as requested:

1. There practical difficulty relates to the current location of the restaurant building on the lot line and the older narrow lot. The restaurant building was built prior to the current ordinance. The petitioners would not be able to enclose the patio with their current design without the variance.
2. The requested variance would not serve as a special privilege. Other variances have been granted in the City for minor additions to older properties that required setback reductions due to legally non-conforming situations.
3. The petitioners are aware of the requirements of the Zoning Ordinance and have applied for a variance prior to construction.
4. The design is compatible with the existing building. The request for a zero lot line setback should not negatively affect the character of the commercial corridor or the general neighborhood.
5. The variance should not cause a nuisance to adjacent properties.
6. The petitioner is requesting the variance to construct the patio enclosure to provide much needed seating in a manner that is visually pleasing from Cunningham Avenue. Because of the narrow lot, the petitioners would be forced to remove required parking spaces in order to build an addition within the confines of the current side yard regulations.

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

The major variance request by Martin Fuentes, in Case #ZBA 03-MAJ-9 is hereby approved to allow reduction of the side yard setback from 10-feet to zero feet at 1104 North Cunningham Avenue in Urbana's B-3, General Business Zoning District as approved by the Zoning Board of Appeals.

The major variance described above shall only apply to the property located at 1104 North Cunningham Avenue, Urbana, Illinois, more particularly described as follows:

LEGAL DESCRIPTION: Lot 1 of Gorski's Subdivision, Urbana, Illinois
PERMANENT PARCEL #: 91-21-09-151-010

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 1st day of December, 2003.

PASSED by the City Council this 1st day of December, 2003.

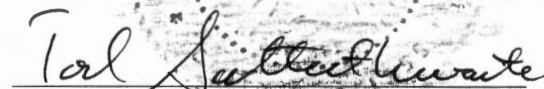
AYES: Chynoweth, Hayes, Huth, Otto, Patt, Whelan, and Wyman

NAYS:

ABSTAINS:

APPROVED by the Mayor this 8th day of December, 2003.


Phyllis D. Clark, City Clerk


Tod Satterthwaite, Mayor