

AN ORDINANCE APPROVING A MAJOR VARIANCE

(To Allow a Reduction in Front Yard Setback From 20-Feet to 10-Feet in Urbana's R-2, Single-Family Residential Zoning District / 809 N. Busey Avenue - Case No. ZBA-05-MAJ-04)

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 petitioner, Homestead Corporation of Champaign-Urbana, is a contract buyer for the subject property, and has submitted a petition requesting a major variance to allow a 10-foot encroachment into the required 20-foot front yard setback at 809 N. Busey Avenue in Urbana's R-2, Single-Family Residential Zoning District; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case #ZBA-05-MAJ-04; 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 June 15, 2005 and the Board voted 6 ayes and 0 nays to forward the case to City Council with a recommendation of approval of the requested variance with the condition listed below; 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 has considered the variance criteria established in the Urbana Zoning Ordinance and has determined the following findings:

1. There are special practical difficulties with reference to the parcel concerned, in carrying out the strict application of the ordinance. The practical difficulty is that the lot in question is a corner lot in an older part of the city that was originally platted with a narrow width and that was not intended to treat the Fairview Avenue frontage as a front yard with a deep setback. Further, the excessive setbacks of the neighboring structures on Fairview Avenue increase the required front yard setback on Fairview Avenue which makes the lot that is already deficient in size even more difficult to develop. The combination of the small lot size located on a corner along with the excessive front yard setback requirement represents a special circumstance that is not found in most other areas of the city.

2. The variance is not a special privilege because the lot in question is the only corner lot in the neighborhood that does not have an older existing structure built on it that is closer to the frontage than the current regulations would permit.

3. The variance requested was not the result of a situation or condition having been knowingly or deliberately created by the Petitioner. The need for the variance has not yet been created. The petitioner is aware of the requirements of the Zoning Ordinance and has applied for the variance prior to construction

4. The requested decrease of the front yard setback should not detract from the essential character of the neighborhood. The variance will facilitate the construction of the house with an orientation toward Busey Avenue that will reinforce the original character of the neighborhood. The setback of the side of the house to Fairview Avenue will be similar to other structures located on corner lots in this older residential neighborhood.

5. The variance should not cause a nuisance to adjacent properties. The reduction in the front yard on the Fairview frontage will be similar to the existing corner lot houses in the neighborhood and should not significantly impact the neighbors.

6. The variance represents generally the minimum deviation from requirements of the Zoning Ordinance necessary to accommodate the request. The petitioner is only requesting the minimum deviation from the requirements so that they can accommodate the house as designed.

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

The major variance request by Homestead Corporation of Champaign-Urbana, in Case #ZBA-05-MAJ-4, is hereby approved to allow a 10-foot encroachment into the required 20-foot front yard setback at 809 N. Busey Avenue in Urbana's R-2, Single-Family Residential Zoning District, in the manner proposed in the application, with the condition that the construction must generally conform to the revised site plan submitted at the June 15, 2005 public hearing and attached hereto.

The major variance described above shall only apply to the property located at 809 N. Busey Avenue, Urbana, Illinois, more particularly described as follows:

LEGAL DESCRIPTION: Lot 14 of Mary Fitzgerald's
Addition to the City of Urbana as per Plat Recorded
in Book "E" Page 217 in Champaign County, Illinois

PERMANENT PARCEL #: 91-21-08-301-020

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 20th day of June, 2005.

PASSED by the City Council this 20th day of June, 2005.

AYES: Barnes, Bowersox, Chynoweth, Lewis, Smyth, Stevenson

NAYS:

ABSTAINS:

Phyllis D. Clark
Phyllis D. Clark, City Clerk
by Robert J. Ross Deputy Clerk

APPROVED by the Mayor this 28th day of June, 2005.

