

ORDINANCE NO. 2009-06-068

**AN ORDINANCE APPROVING A MAJOR VARIANCE**

**(Decrease in Minimum Allowable Open Space Requirement (OSR) from 0.30 to 0.19 in the R-5, Medium High Density Multiple-Family Residential, Zoning District / 805 West Green Street and 303 South Busey Avenue - Case No. ZBA-2009-MAJ-05)**

WHEREAS, the Urbana Zoning Ordinance provides for a major variance procedure to permit the Zoning Board of Appeals and the Corporate Authorities to consider applications for major variances where there are special circumstances or conditions with a parcel of land or a structure; and

WHEREAS, Scott Kunkel on behalf of Stephen R. Hartman, property owner, has submitted a petition for a major variance to decrease the minimum allowable OSR from 0.30 to 0.19 in the R-5, Medium High Density Multiple-Family Residential Zoning District to allow for the enclosure of 84 existing balconies of the Busey Court Apartment Complex located at 805 West Green Street and 303 South Busey Avenue; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case No. ZBA-2009-MAJ-05; 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 held a public hearing on the proposed major variance on June 10, 2009 and voted 7 ayes and 0 nays to recommend to the Corporate Authorities approval of the requested variance; and

WHEREAS, after due and proper consideration, the Corporate Authorities of the City of Urbana have determined that the major variance referenced herein conforms with the major variance procedures in accordance with Article XI, Section XI-3.C.2.d of the Urbana Zoning Ordinance; and

WHEREAS, the Corporate Authorities have considered the variance criteria established in the Urbana Zoning Ordinance and have determined the following findings:

1. The petitioner is proposing to enclose 84 existing balconies at the Busey Court Apartment Complex located at 805 West Green Street and 303 South Busey Avenue.
2. The subject property is located in a developed area and is zoned R-5, Medium High Density Multiple-Family Residential.
3. To allow for the enclosure of the balconies, two major variances have been requested. Major Variance Case ZBA-2009-MAJ-04 will allow for a 19% increase in the maximum allowable Floor Area Ratio from 0.90 to 1.07. Major Variance Case ZBA-2009-MAJ-05 will allow for a 37% decrease in minimum allowable Open Space Requirement from 0.30 to 0.19.
4. The enclosure of the balconies is proposed to better meet current tenant demands and thereby increase the marketability of the apartment units by providing usable closet space and providing for increased natural light and ventilation.
5. Granting the requested variance would not have a significant impact on the character of the neighborhood and would not cause a nuisance to adjacent properties because they would not allow for the extension of the buildings beyond the existing building envelope.
6. The requested variance represents the minimum deviation from the Zoning Ordinance to allow for all 84 of the balconies to be enclosed.

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

Section 1. The major variance request by Scott Kunkel, in Case No. ZBA-2009-MAJ-05, is hereby approved to decrease the minimum allowable OSR from 0.30 to 0.19 in the R-5, Medium High Density Multiple-Family Residential Zoning District to allow for the enclosure of 84 existing balconies of the Busey Court Apartment Complex located at 805 West Green Street and 303 South Busey Avenue, in the manner proposed in the application.

The major variance described above shall only apply to the property located at 805 West Green Street and 303 South Busey Avenue, Urbana, Illinois, more particularly described as follows:

LEGAL DESCRIPTION:

The south 114.67 feet and the west 40 feet of the north 130 feet of Lot 2 in Sims Addition of Outlots and the east 39 feet of Lot 3 in Sims Addition of Outlots; all in the City of Urbana, Champaign County, Illinois.

Parcel Index Number: 92-21-17-103-019

Section 2. 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 Corporate Authorities of the City of Urbana, Illinois, at a regular meeting of said Authorities on the 15th day of June, 2009.

PASSED by the City Council this 15th day of June, 2009.

AYES: Bowersox, Gehrig, Lewis, Marlin, Smyth

NAYS:

ABSTAINS:



*Charles A. Smyth*  
Charles A. Smyth, City Clerk

APPROVED by the Mayor this 24th day of June, 2009.

*Laurel Lunt Pussing*  
Laurel Lunt Pussing, Mayor

By: Charles A. Smyth, Mayor Pro-tem