

**ORDINANCE NO. 2019-10-057**

**AN ORDINANCE APPROVING A MAJOR VARIANCE FOR THE REAR YARD**

**(308 West California Avenue / ZBA Case No. ZBA-2019-MAJ-06)**

**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 a major variance where there is a special circumstance or condition with a parcel of land or a structure; and

**WHEREAS**, Daniel Gordon has submitted a petition for a major variance to allow a reduction in the required rear yard setback from ten feet to five feet on his property at 308 West California Avenue in the R-2, Single-Family Residential zoning district.

**WHEREAS**, the Zoning Board of Appeals held a public hearing on such petition at 7:00 p.m. on September 18, 2019, in ZBA Case No. 2019-MAJ-06; and

**WHEREAS**, in accordance with Urbana Zoning Ordinance Section XI-10, due and proper notice of such public hearing was given by publication in *The News-Gazette*, a newspaper having a general circulation within the City, on a date at least 15 days but no more than 30 days before the time of the public hearing, and by posting a sign containing such notice on the real property identified herein; and

**WHEREAS**, the Zoning Board of Appeals voted five (5) ayes and two (2) nays to forward the case to the Urbana City Council with a recommendation to approve the requested variance; and

**WHEREAS**, the City Council finds that the requested variance conforms with the major variance procedures in Article XI, Section XI-3(C)(2)(d) of the Urbana Zoning Ordinance; and

**WHEREAS**, the City Council has considered the variance criteria established in the Urbana Zoning Ordinance and has made the following findings of fact:

Daniel Gordon was granted a Condition Use Permit by the Zoning Board of Appeals to allow the existing garage to be used as a dwelling unit on his property at 308 West California Avenue, in the R-2, Single-Family Residential zoning district;

Mr. Gordon has also requested a major variance to allow a principal building to encroach seven feet into the required ten foot rear yard. The Zoning Board of Appeals recommended that City Council approve the major variance request;

The variance request would not serve as a special privilege to the property owner if granted, as there are special circumstances relating to the land such as location of the existing building;

The property owner did not deliberately create this situation, the previous owner had illegally converted the garage into a dwelling and illegally subdivided the lot;

The variance will not alter the essential character of the neighborhood, as the second principal structure already exists as a garage and will match homes and garages facing California Avenue;

The variance will not create a nuisance, as second principal structure garage already exists and is like other structures along the block, and there have been no complaints about the garage apartments or its tenants; and

The variance represents a minimum deviation from the zoning ordinance as the variances would allow the garage to remain in place, with no exterior changes.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Urbana, Illinois, as follows:

**Section 1.**

In ZBA Case No. 2019-MAJ-06, the major variance requested by Daniel Gordon to allow for a principal building to encroach seven feet into the required ten foot rear yard in a residential zoning district is hereby approved in the manner proposed in the application.

The major variance described above shall only apply to the property more particularly described as follows:

Lot 21, except the West 6 feet thereof, of James S. Busey's Addition to the town, now city, of Urbana, as per Plat recorded in Deed Record "D" at Page 282 situated in Champaign County, Illinois.

Commonly known as 308 West California Avenue, Urbana, Illinois  
P.I.N.: 92-21-17-182-014

**Section 2.**

The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities, and this Ordinance shall be in full force and effect from and after its passage and publication in accordance with Section 1-2-4 of the Illinois Municipal Code. Upon approval of this Ordinance, the City Clerk is directed to record a certified copy with the Champaign County Office of the Recorder of Deeds and transmit one copy of the recorded Ordinance to the petitioner.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

**PASSED BY THE CITY COUNCIL** this \_\_\_\_ day of \_\_\_\_\_, 2019.

AYES:

NAYS:

ABSTENTIONS:

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Charles A. Smyth, City Clerk

**APPROVED BY THE MAYOR** this \_\_\_\_ day of \_\_\_\_\_, 2019.

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Diane Wolfe Marlin, Mayor