

AN ORDINANCE APPROVING A MAJOR VARIANCE

(A Major Variance to Allow 100% Encroachment into the 5-foot Side Yard Setback for Construction of Multi-Car Garages in the R-5, Medium High Density Multiple-Family Zoning District - South Side of Hollywood Drive (an alley) / Case No. ZBA-2006-MAJ-05)

WHEREAS, the Zoning Ordinance provides for a major variance procedure to permit the Zoning Board of Appeals and the City Council to consider applications 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, Villas at Fairlawn, LLC, has submitted a petition requesting a Major Variance to allow construction of multi-car garages with up to a 100% encroachment into the required 5-foot setback on the south border of the Fairlawn Village condominium development property, in the R-5, Medium High Density Multiple Family Zoning District; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case #ZBA-2006-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 (ZBA) held a public hearing on the proposed major variance on December 20, 2006 and voted 6 ayes and 0 nays to recommend to the City Council approval of the requested variance with the conditions 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. The variance requested is necessary due to special conditions and circumstances relating to the land because the area proposed for garage construction is an unusually shaped area parcel remnant which varies in depth from approximately 35-feet at the west end to 25-feet at the east end, with a length of approximately 380-feet. The strip of land is constrained between the alley on the north side and the property line to the south. The proposed variance would not serve as a special privilege because the special circumstances relating to the parcel of land is that it is irregular in shape and size and it will not accommodate a building or even a garage without encroaching into the setback. The area is well suited to off-street parking or garages, but a variance would be needed to allow construction as proposed.

2. The parcel was created before the petitioner's ownership of the Fairlawn complex and the situation or conditions were not created by the petitioners. It is an unusually shaped area that would be non-conforming if it were a parcel itself. Locating detached garages off alleys is common in Urbana where alleys exist.

3. The variance will not alter the character of the neighborhood. There are existing garages at the east end of the area in question and a shed at the west end. Cars and trucks are also parked along the area from time to time. The new garages will be in keeping with the multi-family residential character of the surrounding area. Locating detached garages off alleys is common in Urbana where alleys exist.

4. The variance will not cause a nuisance to adjacent property. Although the garages would be built with a minimal (approximately 6-inch) setback to prevent gutters from overhanging onto the neighboring property, the garages will still be approximately 20 feet from the Michigan Avenue apartment buildings to the south. The proposed garages will be constructed in a manner similar to the existing garages along Hollywood Drive. The garages can also be seen as an improvement to the alley because they will occupy the remnant area which has been used in the past for illegal parking and trash dumping.

5. The required setback is 5-feet. The proposed garages would be 22 feet deep. Because the strip of land is only 25-feet deep at its shallowest point the requested variance is the minimum necessary for the land to be utilized for construction of garages.

6. The practical difficulty and hardship in this case is that the Zoning Ordinance requirement for a 5-foot setback cannot be met given the unique combination of the shallow depth of the land remnant and its location between the alley and south property line. Strict application of the Zoning Ordinance makes it impossible to make full use of this unusually shaped piece of land. The location is well suited for use for parking spaces or garages off the alley. Location of parking in this area will help to maintain trees and open space in other locations on the Fairlawn property that could otherwise be used to meet parking requirements.

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

The major variance request by Fairlawn Villas, LLC, in Case #ZBA-2006-MAJ-05, is hereby approved to allow a Major Variance with up to a 100% encroachment into the required 5-foot setback on the south border of the

Fairlawn Village condominium development property along Hollywood Drive (an alley), in the R-5, Medium High Density Multiple Family Zoning District, in the manner proposed in the application, and with the following three conditions:

1. That the development shall closely resemble the revised site plan attached hereto; and
2. The Zoning Administrator shall have the power to approve minor changes to the plan if necessary in order for the project to comply with other applicable City codes and regulations including Building, Fire, and Subdivision and Land Development Codes amended to meet the codes and regulations of the City of Urbana; and
3. That the development shall meet all other applicable standards and regulations of the Urbana Zoning Ordinance and the Urbana Subdivision and Land Development Code.

The major variance described above shall apply only to the area of Fairlawn Villas condominium complex on the south side of the Hollywood Drive (an alley) between Anderson and Vine Streets as depicted on the revised site plan attached hereto, and more particularly described as:

LEGAL DESCRIPTION: a part of:

A tract of land being a part of the Northeast Quarter of the Southeast Quarter of Section 17, Township 19 North, Range 9 East of the Third Principal Meridian, being more particularly described as follows:

Beginning at a point on the East line of said Section 17, being 389.3 feet South of the North line of the Southeast quarter of said Section 17; thence South 00 03' 42" East 603.03 feet along said east line of Section 17 of the South line of the North One-Half of the South One-Half of the Northeast Quarter of the Southeast quarter of Section 17 also being the South line extended of said tract; thence North 89 56' 01" West along said South line 1056.61 feet; thence North 00 09' 13" East 42.00 feet to the South line of a public alley being 20.00 feet in width; thence North 89 51' 37" West along said South line 229.10 feet to the East right-of-way line of Vine Street being 66.00 feet in width; thence North 00 04' 37" East along

said East right-of-way line 20.00 feet to the North line of a public alley; thence South 89 51' 37" East along said North line 274.00 feet to the East right-of-way line of Vine Street; thence North 00 04' 37" East along said East line 264.79 feet to the North line of a public alley now vacated; thence South 89 39' 53" East along said North line of vacated alley 144.00 feet to the West line extended of the East 33.00 feet of the West 210.00 feet of the North 111.00 feet of the South 988.50 feet of the Northeast quarter of the Southeast Quarter of Section 17; thence North 00 06' 41" East along said West line 113.53 feet to the South right-of-way line of Iowa Street extended being 30.00 feet in width; thence South 89 56' 13" East along said South right-of-way line and right-of-way line extended 537.86 feet to the centerline of Maple Street being a 30-foot right-of-way, also being the West line of a tract conveyed by Warranty Deed recorded as Document 738654 at the Champaign County Recorder's Office; thence South 00 12' 43" West along said centerline of Maple Street extended and said West line 56.21 feet; thence South 89 48' 27" East 602.33 feet to the True Point of Beginning.

Excepting therefrom the East 6.46 feet now being a part of Anderson Street.

Also, excepting, commencing at the Northeast corner of Lot 6 of Fairlawn Park Second Subdivision in the City of Urbana, Champaign County, Illinois; thence North 25 feet to the South line of a public alley; thence East 400 feet along the South line of said public alley to the West line of Anderson Street; thence South along the West line of Anderson Street 25 feet to the Point of Beginning.

Also, excepting, Fairlawn Drive and public alley South of Fairlawn Drive as shown on Plat Dedication recorded April 21, 1953 in Book "K" of Plats on Page 50 as Document 507905 at the Champaign County Recorder's Office.

Said tract of land encompassing a net of 14.00 acres, more or less.

PERMANENT PARCEL #: A part of 93-21-17-428-002

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 special meeting of said Council on the 8th day of January, 2007.

PASSED by the City Council this 8th day of January, 2007.

AYES: Barnes, Bowen, Chynoweth, Lewis, Roberts, Smyth

NAYS:

ABSTAINS:



Phyllis D. Clark
Phyllis D. Clark, City Clerk
Deputy Clerk

APPROVED by the Mayor this 8th day of January,

2007.

Laurel Lunt Prussing
Laurel Lunt Prussing, Mayor

[Special Council Meeting]