

7/27/2005
7/20/2005
7/7/2005

90-O-05

AN ORDINANCE

**Granting Major Variations to
Allow a Single-Family Dwelling at
1044 Elmwood Avenue in an
R1 Single-Family Residential District**

WHEREAS, the Zoning Board of Appeals ("ZBA") conducted a public hearing on June 7, 2005 in case no. ZBA 05-26V(R), pursuant to proper notice, on the application of Kristin Henikoff and Leo Henikoff ("Applicants") for variations to Section 6-8-2-7, Section 6-8-2-8, Section 6-8-2-10, and Section 6-16-2-7 of the Zoning Ordinance to allow conversion of an existing religious institution use to a single-family dwelling in an R1 Single-Family Residential Zoning District; and

WHEREAS, the ZBA, after hearing testimony and receiving other evidence, made a *verbatim* record that the application did not meet the standards for variations set forth in Section 6-3-8-12 of the Zoning Ordinance, and recommended City Council denial thereof; and

WHEREAS, at its June 27, 2005 meeting, the Planning and Development Committee of the City Council considered the ZBA's record and recommendation, adopted the record, and voted to reject the ZBA's recommendation; and

WHEREAS, the Planning and Development Committee made findings at its July 11, 2005 meeting that the application met the standards for

variations set forth in Section 6-3-8-12 and recommended City Council approval thereof with conditions; and

WHEREAS, the City Council considered the respective records and recommendations of the ZBA and the Planning and Development Committee at its June 27, 2005, July 11, 2005, and July 25, 2005 meetings, and adopted the respective records of the ZBA and Planning and Development Committee, and the latter's recommendation to approve the application in case no. ZBA 05-26V(R),

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:

SECTION 1: That the foregoing recitals are found as fact and made a part hereof.

SECTION 2: The City Council hereby finds that the aforescribed application for major variations meets the standards for variations set forth in Section 6-3-8-12(E) of the Zoning Ordinance:

1. The variations will not have an adverse impact on the use, enjoyment, or property values of adjoining properties in that they will allow an adaptive reuse of a building, which, while not a landmarked property, has been a part of Evanston history for over one hundred years. The conversion of the church to a single-family residence will create a conforming use of the building, help maintain the character of the neighborhood by preserving an existing structure, and, enhance the taxable value of the property. The provision of off-street parking will lessen congestion on the street.

2. In accordance with Section 6-3-8-12(E), the variations are in keeping with the intent of the Zoning Ordinance in that the property is located within the R1, Single-Family Residential District. A religious institution, the current use of the property, is a special use within this district. The variations will allow conversions of the use to a single-family detached residence, a permitted use in the district,

and will be consistent with the uses of all the other properties on the block. The change in use will increase the taxable value of the property, preserve a historic resource, and result in the adaptive reuse of a structure more than one hundred (100) years old.

3. The alleged hardship or practical difficulty is peculiar to the property in that the property is a corner lot that is approximately five thousand (5,000) square feet in size, significantly less than the seven thousand two hundred (7,200) square feet required for single-family detached lots in the R1 District. The property is the only one on the block that has no alley access and no existing off-street parking spaces. The existing building covers approximately thirty-eight percent (38%) of the lot, which is in excess of the maximum allowed for the district. The property is legally non-conforming with regard to all of its existing yard requirements. The proposal improves this condition for the street side and south side yard setbacks. The property is also located directly across the street from an R3 and an R5 Zoning District, both of which allow for a lot coverage and impervious surface area that is comparable to the variation request. The size of the lot and its existing improvements all contribute to the hardship involved in converting the building to a more residential use within the regulations of the R1 district.

4. The property owner would suffer a particular hardship or practical difficulty as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out in that conversion of the church to a single-family residence requires the provision of two (2) off-street parking spaces. The size of the lot and its existing improvements would preclude a grant of zoning relief. Testimony was provided that the existing church building cannot accommodate a congregation of a size that could financially sustain its upkeep. The dimensions of the lot and its position on a corner would also make it difficult for the owners to build a new single family structure as-of-right under the requirements of the R1 District.

5. The purpose of the variation is not based exclusively upon a desire to extract additional income from the property. The variations are granted to allow for conversion of a religious institution to a single-family structure. The variations are being requested to allow for the development of a home for the applicants and their family.

6. The alleged difficulty or hardship has not been created by any person having an interest in the property in that the existing structure is more than one hundred (100) years old, and the lot was subdivided prior to the adoption of the current Zoning Ordinance and the purchase of the property by the applicants. The hardship posed by the size of the lot and the location of the building on the property was a pre-existing condition and was not created by the applicants.

7. The requested variation is limited to the minimum change necessary to alleviate the particular hardship or practical difficulty which affects the property in that the variations will allow preservation of an existing historic structure in the neighborhood, and will allow for restoration of the existing front façade. The addition has been designed to minimize its impact on the appearance of the building, and to blend in with the building and its surroundings. The improvements will increase lot coverage, but for the purpose of allowing the provision of off-street parking in an area that is lacking in this regard. The increase in lot coverage will be at a level consistent with the similarly-sized property to the west. The addition approved hereby will have a greater street side yard and south interior side yard setback than that which currently exists for the building. The variations granted will allow for a development that provides the best solution to convert the use to one that is consistent with intent of the district, increases the taxable value of the property, preserves the existing building, provides two (2) required off-street parking spaces, and allows for the applicants to make the space more functional.

SECTION 3: That the application in case no. ZBA 05-26V(R) for the following major variations to the indicated Sections of the Zoning Ordinance is hereby granted on the property commonly known as 1044 Elmwood Avenue and legally described as follows:

THE EAST 100 FEET OF LOT 1 IN BLOCK 4 IN UNION ADDITION TO EVANSTON, IN SECTION 19, TOWNSHIP 41 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

a) A variation to Section 6-8-2-7 to allow a building lot coverage of fifty point six percent (50.6%) instead of the thirty percent (30%) maximum otherwise allowed;

b) A variation to Section 6-8-2-8 to allow a five-foot (5') setback from the rear property line and a eight-foot nine-inch (8'9") setback from the north property line instead of the thirty-foot (30') and fifteen-foot (15') setbacks otherwise respectively required;

c) A variation to Section 6-8-2-10 to allow an impervious surface area of fifty-three percent (53%) instead of the forty-five percent (45%) maximum otherwise allowed;

d) A variation to Section 6-16-2-7 to allow one off-street parking space at a width of approximately seven feet (7') wide, instead of the eight-foot six-inch (8'6") space otherwise required.

SECTION 4: That pursuant to Section 6-3-8-14 of the Zoning Ordinance which provides that the City Council may impose conditions on the grant of variations, these conditions are hereby imposed:

a) Development and use of the subject property shall be in substantial compliance with all applicable legislation, with the testimony and representations of the Applicants before the Zoning Board of Appeals, Planning and Development Committee, and the City Council.

b) Any exterior air conditioner unit shall be a unit which operates at or below fifty-five (55) decibels at all property lines.

c) Applicants shall conduct their excavation and construction in the vicinity of the oak tree located on the abutting property as represented to the ZBA, including root pruning and erection of barriers to prevent soil compaction in the root zone.

SECTION 5: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 6: That this ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: July 11, 2005

Adopted: July 25, 2005

Approved: August 1, 2005

Lorraine H. Morton
Lorraine H. Morton, Mayor

Attest:

Mary P. Morris
City Clerk

Approved as to form:
[Signature]
Corporation Counsel