

2/8/2013

**22-O-13**

**AN ORDINANCE**

**Granting a Major Variation Related to Parking at 1615 Oak Avenue  
in the D2 Downtown Retail Core Zoning District**

**WHEREAS**, Michael Smylie (the "Applicant"), manager of the property commonly known as 1615 Oak Avenue (the "Subject Property"), located within the D2 Downtown Retail Core zoning district and legally described in Exhibit A, attached hereto and incorporated herein by reference, submitted an application seeking approval of a Major Variation to parking requirements imposed by Subsection 6-16-3-5 of Title 6 of the Evanston City Code of 2012, as amended ("the Zoning Ordinance"); and

**WHEREAS**, the Applicant requests a Major Variation to convert seven (7) off-street parking spaces into an outdoor seating area and bicycle parking for a Type 1 Restaurant to be called "Smylie Brothers Restaurant & Brewery," yielding zero (0) off-street parking spaces on the Subject Property; and

**WHEREAS**, on January 22, 2013, the Zoning Board of Appeals ("ZBA"), pursuant to proper notice, held a public hearing in case no. 12ZMJV-0087 to consider the application, received testimony, and made written records and findings that the application met the standards for Major Variations set forth in Subsection 6-3-8-12-(E) of the Zoning Ordinance and recommended City Council approval thereof; and

**WHEREAS**, at its meeting of February 25, 2013, the Planning and Development Committee of the City Council (the "P&D Committee") considered and adopted the ZBA's findings and recommendations, and recommended City Council approve the Major Variation as requested; and

**WHEREAS**, at its meetings of February 25 and March 11, 2013, the City Council considered and ultimately adopted the recommendation of the P&D Committee,

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

**SECTION 1:** The foregoing recitals are hereby found as fact and incorporated herein by reference.

**SECTION 2:** The City Council hereby adopts the ZBA and P&D Committee's records, findings, and recommendations, and hereby approves, pursuant to Subsection 6-3-8-10-(D) of the Zoning Ordinance, the Major Variation on the Subject Property applied for in case no. 12ZMJV-0087 and described hereinabove.

**SECTION 3:** Pursuant to Subsection 6-3-8-14 of the Zoning Ordinance, the City Council hereby imposes the following conditions on the Major Variation granted hereby, violation of any of which shall constitute grounds for penalties or revocation thereof pursuant to Subsections 6-3-10-5 and 6-3-10-6 of the Zoning Ordinance:

- (A) **Compliance with Requirements:** The Applicant shall develop and use the Subject Property in substantial compliance with all applicable legislation, with the testimony and representations of the Applicant to the ZBA, the P&D Committee, and the City Council, and the approved plans and documents on file in this case.
- (B) **Recordation:** The Applicant shall, at his cost, record a certified copy of this ordinance, including all Exhibits attached hereto, with the Cook County Recorder of Deeds, and provide proof of such recordation to the City, before the City may issue any construction permits pursuant to the Major Variation authorized hereby.
- (C) **Valet Parking:** The Applicant shall provide valet parking service for patrons on any Friday or Saturday night after 5:00 p.m. until the restaurant closes.
- (D) **Employee Parking:** When driving to work at the Subject Property, the Applicant and his employees shall not park in any metered spaces located in front of the building or in the lot immediately north of the Subject Property. The Applicant shall maintain at least one (1) parking permit for a space in the City's Maple Avenue and/or Sherman Plaza garage for his or his employees' use.

(E) **Landscaping Plan:** The Applicant, at his sole cost and expense, shall construct bicycle parking and all-season landscaping along the Oak Avenue frontage in substantial compliance with plans subject to approval by City staff.

**SECTION 4:** When necessary to effectuate the terms, conditions, and purposes of this ordinance, "Applicant" shall be read as "Applicant's agents, assigns, and successors in interest."

**SECTION 5:** Except as otherwise provided for in this ordinance, all applicable regulations of the Zoning Ordinance and the entire City Code shall apply to the Subject Property and remain in full force and effect with respect to the use and development of the same.

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

**SECTION 7:** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 8:** If any provision of this ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

**SECTION 9:** The findings and recitals herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

Introduced: February 25, 2013

Approved:

Adopted: March 11, 2013

March 14, 2013

Elizabeth B. Tisdahl  
Elizabeth B. Tisdahl, Mayor

Attest:

Approved as to form:

Rodney Greene  
Rodney Greene, City Clerk

W. Grant Farrar  
W. Grant Farrar, Corporation Counsel

**EXHIBIT A**

**Legal Description**

LOTS 7 AND 8 (EXCEPT THE SOUTH 134 FEET OF SAID LOTS) IN BLOCK 67 IN EVANSTON, IN SECTION 18, TOWNSHIP 41 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

**PIN:** 11-18-302-016-0000

**Commonly Known As:** 1615 Oak Avenue, Evanston, Illinois.