

VILLAGE OF ANTIOCH

ORDINANCE NO. 16-11-30

***AN ORDINANCE GRANTING A VARIANCE FOR A REAR YARD SETBACK as
OUTLINED IN THE MAIN STREET TRANSITIONAL DISTRICT AT THE PROPERTY
COMMONLY KNOWN AS 775 MAIN STREET
(PZB-16-13)***

ADOPTED BY THE PRESIDENT AND BOARD OF TRUSTEES

OF THE

VILLAGE OF ANTIOCH, ILLINOIS

ON

November 21, 2016

**Published in pamphlet form by authority of the Village Board
of the Village of Antioch, Lake County, Illinois,
this 23rd day of November, 2016**

LAWRENCE M. HANSON

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Trustee

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Clerk

MARY DOMINIAK

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ORDINANCE NO. 16-11-30

***AN ORDINANCE GRANTING A VARIANCE FOR RELIEF FOR THE REQUIRED REAR
YARD IN THE MAIN STREET TRANSITIONAL DISTRICT FOR THE PROPERTY
COMMONLY KNOWN AS 775 MAIN STREET.
(PZB-16-13)***

WHEREAS, pursuant to Chapter 15 of Title 10 of the Antioch Village Code, a public hearing was commenced by the Combined Planning Commission and Zoning Board on November 10, 2016 following notification as required by State Law and Village Ordinance to consider a petition for a Variance allowing relief on the required rear yard setback

WHEREAS, the Combined Planning Commission and Zoning Board recommended approval to the Village Board to allow the relief from the required rear setback as outlined within the Main Street Transitional District from the required 20 feet to 1 foot for the property commonly known as 775 Main Street.

WHEREAS, the Corporate Authorities have concluded and found that the Variance, subject to and in conformance with the terms and conditions of this Ordinance, will conform to a majority of the required standards as required by ordinance, including;

- a) There will be no negative impact on the adjacent parcels;
 - b) The requested variation does not permit a use otherwise excluded from the zoning district in which the property is located;
 - c) The conditions or circumstances upon which the request is based apply to land for which the variation is sought, and are generally not applicable in the zoning district;
 - d) The conditions or circumstances are not a result of any action on part of the applicant;
 - e) The strict application of the zoning requirement would deprive the applicant of reasonable use of their land;
 - f) The variation requested is the minimum adjustment needed for the reasonable use of the land;
 - g) The granting of the requested variation is in harmony with the general purposes and intent of the zoning ordinance, and will not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the Village's comprehensive plan;
- and

WHEREAS, the Corporate Authorities have concluded and found that the Variance will further secure the subject property and minimize unsafe conditions, and will otherwise enhance and promote the general welfare of the Village and the health, safety and welfare of the residents of the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND THE BOARD OF TRUSTEES OF THE VILLAGE OF ANTIOCH, LAKE COUNTY, ILLINOIS, AS FOLLOWS:

SECTION I: The representations, recitations and findings set forth in the foregoing recitals are material to this Ordinance and such recitals are hereby incorporated into and made a part of this Ordinance as though they were fully set forth herein. This Ordinance shall be liberally construed so that the purpose and intent represented by the recitals shall be accomplished to the greatest extent permitted by law.

SECTION II: That the real estate which is the subject of this ordinance (Subject Property) is legally described as follows:

(See attached legal description)

SECTION III: The Variance shall be and is hereby approved and shall be binding upon the Village, Petitioner and Owner, and their respective owners successors, and assigns when a true execution copy of this Ordinance is tendered to the Village fully executed by the Petitioner and Owner, and when the Mayor has affixed his signature upon the Ordinance.

SECTION IV: The following exhibits shall be attached to and made a part of this Variance Ordinance and, except as expressly modified by this Ordinance, compliance with all standards, requirements, designs or specifications in such exhibits shall be a condition of the grant of this Special Use Ordinance:

- A. Staff Reports, attached as Exhibit A;
- B. RFBA

SECTION V: Any person violating the terms and conditions of this Ordinance shall be subject to a penalty not exceeding Five Hundred Dollars (\$500.00) with each and every day that the violation of the Ordinance is allowed to remain in effect being deemed a complete and separate offense. In addition, the appropriate authorities of the Village may take such other action as they deem proper to enforce the terms and conditions of this Ordinance, including, without limitation, an action in equity to compel compliance with its terms. Any person violating the terms of this Ordinance shall be subject, in addition to the foregoing penalties, to the payment of court costs and reasonable attorneys' fees. This section shall not apply to the Village of Antioch, its officials, agents or employees.

SECTION VI: If any provision, clause, sentence, paragraph, section, or part of this ordinance or application thereof to any person, firm, corporation, public agency or circumstance, shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this ordinance and the application of such provision to other persons, firms, corporation, or circumstances, but shall

be confined in its operation to the provision, clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person, firm, corporation, or circumstances involved. It is hereby declared to be the legislative intent of the corporate authorities that this ordinance would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, section, or part thereof not be included.

SECTION VII: That the Village Clerk is hereby directed and ordered to publish this Ordinance in pamphlet form as provided by law.

SECTION VIII: That this Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Passed this 21st day of November, 2016.

	Ayes:	Nays:	Absent/Abstain:
Scott A. Pierce	x		
Jay Jozwiak	x		
Ted Poulos	x		
Ed Macek	x		
Mary Dominiak	x		
Jerry Johnson	x		

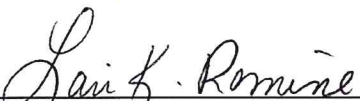
APPROVED:

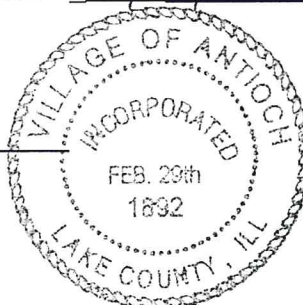
By:  _____

Lawrence M. Hanson, Mayor

Date: 11/22/16 _____

ATTEST:

By:  _____
Lori K. Romine, Village Clerk



Presented and read, or reading having been waived, at a duly convened meeting of the Corporate Authorities on November 21, 2016

)

SS

COUNTY OF LAKE)

CERTIFICATE

I, Lori K. Romine, certify that I am the duly appointed Municipal Clerk of the Village of Antioch, Lake County, Illinois.

I certify that on November 21, 2016, the Corporate Authorities of such municipality passed and approved Ordinance 16-11-30 entitled the applicant a variance for relief from the required rear yard setback of 20 feet as outlined in the Main Street Transitional District to 1 foot for the property commonly known as 775 Main Street.

The pamphlet form of Ordinance No. 16-11-30 including the Ordinance and cover sheet thereof, was prepared and a copy of such Ordinance was posted in the municipal building, commencing on November 23, 2016 and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the Municipal Clerk.

DATED at Antioch, Illinois, this 23rd day of November 2016

Paul K. Romine

Lori K. Romine, Village Clerk





REPORT TO: VILLAGE PRESIDENT and BOARD OF TRUSTEES
FROM: MICHAEL S. GARRIGAN, AICP, CNU-A, Community Development Director
DATE: November 17, 2016
SUBJECT: REPORT TO VILLAGE BOARD

CASE: Cimaglio Variance
16-13

REQUEST: Variance

APPLICANT: Robert Cimaglio

LOCATION: 775 Main Street

ZONING: Main Street Transitional

BACKGROUND

The applicant is seeking a variance for the rear yard of his property in order to subdivide his parcel and sell his building that is located on Main Street. Currently, the applicant's craftsman house (converted into commercial) is connected with an existing two story commercial building with an apartment on the second floor. The applicant is seeking a subdivision of this parcel, which would allow him to divide the buildings and sell the building on Main Street. The subdivision of this parcel will require the applicant to remove a portion of the existing structures which connects both buildings together.

The Main Street Transitional Zone requires a rear yard setback of 20 feet and the applicant is proposing a setback of approximately 2 feet from the buildings after the structures are separated.

Variance Analysis

The applicant is seeking relief from the Village ordinance to requiring a 20 foot rear setback in the Main Street Transitional District.

In accordance with Section 10-15-6 of the Zoning Ordinance, any applicant must demonstrate that the proposed variance will meet the following standard:

1) *The proposed variation will not:*

- a) *Impair adequate supply of light and air to adjacent property.*
- b) *Unreasonably increase the congestion in public streets.*
- c) *Increase the danger of fire or endanger public safety.*
- d) *Unreasonably diminish or impair established property values within the surrounded area; and*
- e) *Merely serve as a convenience to the applicant; there is a demonstrated practical design difficulty involved in this project.*
- f) *The requested variation does not permit a use otherwise excluded from the zoning district in which the property is located.*

There is nothing to indicate that the requested relief to allow a substantially smaller rear yard on the subject property would have any negative impact on the adjacent properties. Furthermore, there is no evidence that the requested setback relief would have any negative impact on congestion or endanger public safety in anyway. The applicant, as highlighted above, would like to create two parcels which would allow him to sell the existing building on Main Street.

The surrounding uses are all within the Main Street Transitional District and the creation of two lots will have no negative impact on the existing character of the area.

2) *The conditions or circumstances upon which the request is based apply to land for which the variation is sought and is not generally applicable in the zoning district.*

The applicant's conditions are not unique. The fact that you have two buildings of different character, which were constructed at different times, and are connected by a breezeway would make it impossible to subdivide this parcel into two lots. The applicant is proposing to remove the breezeway between these buildings which would allow him to sell the building on Main Street. However, for him to accomplish this, he will need relief from the rear yard setback.

3) *The condition or circumstance is not the result of any action on the part of the applicant.*

The applicant did connect the buildings into one unified development. The building on Main Street was previously a residence and was subsequently converted into a commercial business with an apartment on the second floor. The adjacent building incorporates the applicant's business, Digital Direct, along with an apartment on the second floor.

4) *The strict application of the zoning requirement would deprive the applicant of reasonable use of his land.*

The denial of this proposed variance will have no direct impact on the applicant's ability to use this subject site for commercial purposes. However, the applicant is in the financial position that he needs to subdivide the property due to financial hardship. Subdividing the parcel and selling the property on Main Street will reduce the applicant's property taxes which will allow him to continue his business in Antioch.

5) *The variation requested is the minimum adjustment needed for the reasonableness use of the land.*

The only way the applicant can subdivide this lot into two lots is to separate the existing structures and seek relief from the rear yard setback requirement outlined in the Village's Form Based Code. Based on this fact, this one request for relief is the minimum adjustment available to allow the applicant to subdivide their property.

- 6) *The granting of the requested variation is in harmony with the general purposes and intent of the zoning ordinance, and will not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the village's comprehensive plan.*

The proposed request for relief from the Village's rear setback requirement in the Main Street Transition District will have no negative impact on any of the adjacent properties. There is no evidence that the subdivision of this property would have any impact on adjacent parcels with respect to property values. In fact, the essential character of this property will not be changing. The applicant is simply proposing to remove the existing structure that connects these two separate buildings and then subdivide the property.

RECOMMENDATION

Based on the foregoing analysis, the PZB and Staff would make the following motion:

We move that the Village Board approve the herewith attached ordinance approving a Variance for relief from the required rear yard setback in the Main Street Transitional District for the property commonly known as 775 Main Street.



Illustration A) The above illustration shows an aerial view of the property which shows how both buildings are connected. The building on Main Street was originally was a single family home.

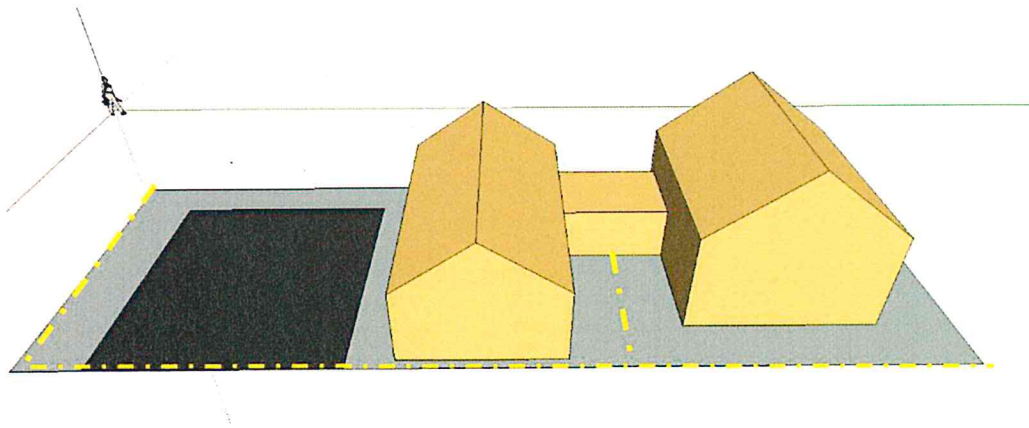


Illustration B) The following illustration shows the concept of the application. The applicant is seeking to subdivide the existing parcel by seeking a variance for their rear yard. The existing building that connects these two structures would be removed and the applicant is proposing to sell the building on Main Street.

Request For Board Action

REFERRED TO BOARD: November 18, 2016

AGENDA ITEM NO: 8

ORIGINATING DEPARTMENT: Community Development

SUBJECT: Consideration of a proposed Variance for a rear yard setback in the Main Street Transitional District for the property commonly known as 775 Main Street.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The Combined Planning Commission and Zoning Board conducted a public meeting on November 10th, 2016 for a request for a Variance to allow a rear yard setback of a total of 2 feet. Currently, the Main Street Transitional District requires a rear setback of 20 feet. The applicant is proposing to subdivide their property into two lots and is proposing to separate the two existing buildings that are located on the property by removing an existing breezeway. A public hearing was held before the Plan Commission on this proposed Variance request.

As part of the meeting, staff advised the PZB that the proposed Variance would not have any negative impact on the adjacent properties and was consistent with the general character of the surrounding area. Staff reviewed the required findings of fact that are required for a Variance and made a favorable recommendation of approval of the Variance.

The Planning Commission recommended approval of the proposed Variance for the rear yard setback by a vote of 6-0.

FINANCIAL IMPACT: None

DOCUMENTS ATTACHED:

1. Staff Report
2. Variance Ordinance

RECOMMENDED MOTION:

We move that the Village Board approved the attached Variance Ordinance for relief on the required rear setback in the Main Street Transitional District for the property commonly known as 775 Main Street.