



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Bruce Walden, Chief Administrative Officer

FROM: Elizabeth H. Tyler, AICP, Director/City Planner

DATE: October 1, 2002

SUBJECT: ZBA-02-MAJ-8: A request for a major variance filed by Patrick Roberge and Ellen Deason to decrease the required five-foot side yard setback to one-and-one-half feet and to decrease the required 10-foot rear yard setback to one-and-one-half feet at 705 W. Michigan Avenue, in Urbana's R-1, Single Family Residential Zoning District.

Introduction

Patrick Roberge and Ellen Deason request a major variance for the construction of a detached accessory garage at 705 West Michigan Avenue. They propose to construct the garage with side and rear yard setbacks less than those required in the Zoning Ordinance. The 912 square-foot garage is proposed to have one-and-one-half foot side-yard and rear-yard setbacks. The Urbana Zoning Ordinance requires a rear yard setback of ten feet and a side yard setback of five feet. The request to decrease the side and rear-yard setbacks is classified as a major variance by the Urbana Zoning Ordinance, and requires City Council approval upon recommendation from the Zoning Board of Appeals.

Background

Description of the Site

The site is located on the south side of West Michigan Avenue just east of Busey Avenue. The lot is approximately 17,280 square feet in area and contains a two-story residential structure of approximately 2,200 square feet. Currently there is no detached garage on the property. The rear yard contains approximately 8,100 square feet of open space primarily consisting of lawn including a large tree and a small garden. The proposed garage will occupy the southwest corner of the lot. To the south, east, and west are neighboring houses and backyards. The neighboring house to the south has a large accessory garage that lies approximately two feet from the rear lot line near the southwest corner of the property.

Discussion

Setbacks

Section VI-5.B.9 of the Zoning Ordinance permits accessory garages with a building area no greater than 750 square feet to encroach into the required yard setbacks provided that 18 inches is maintained from the property line. Since the proposed garage would be larger than 750 square feet, the normal setback requirements for the zoning district are required. The side-yard setback requirement for the R-1, Single-Family Residential Zoning District is five feet and the rear-yard setback requirement is ten feet.

Floor Area / Open Space Ratio

The size of the house and its relation to the lot size contribute to a favorable floor area ratio (FAR) and open space ratio (OSR). No variances are necessary for these requirements.

Underground Utility Lines

This past spring the petitioners' utility lines were buried underground. A sizeable portion of the cost for burying the utility lines was covered through a city-sponsored grant program. They run perpendicular from the residential dwelling to the rear lot line of the subject property. The utility lines lie approximately 37 feet from the western lot line.

On September 18, 2002, the Zoning Board of Appeals voted 5-0 to forward the major variance request with modifications to the City Council with a recommendation for approval. At the public hearing Patrick Roberge and his attorney, Thorpe Facer, explained that the conduit running along the rear of the subject property was buried approximately 1.75 feet from the rear property line. Mr. Roberge explained that the engineers he consulted informed him that the footings of the garage could be buried as close as one foot from the conduit. Two neighbors also spoke in support of the proposed variance. John Katzellenbogen, 704 West Pennsylvania, spoke in support of the requested variance and summarized a previous letter of support. Frank Gladney, 709 West Michigan, spoke in support of the proposed variance and added that the proposed garage would add to the visual contours of the neighborhood. He also added that his garage abuts the same rear lot line as the subject property and he had recently buried his utility lines and did not hear any concerns from the power company.

The Zoning Board of Appeals recommended approval of the variance along with modifications to allow the petitioners to decrease the required five foot side yard setback to one-and-one-half feet and to decrease the required 10-foot rear yard setback to five feet, they agreed it was more appropriate to allow adequate room for utility maintenance should the petitioners deviate from their plans. For more information regarding the proposed variance, please refer to the September 11, 2002 staff memorandum and draft minutes from the September 18, 2002 ZBA meeting.

Variance Criteria

In order to review a potential variance, Section XI-3 of the Urbana Zoning Ordinance requires the Zoning Board of Appeals and City Council to make findings based on variance criteria. At the September 18, 2002 meeting, the ZBA cited the following findings for their recommendation for approval of the requested variance along with modifications:

1. *Are there special circumstances or special practical difficulties with reference to the parcel concerned, in carrying out the strict application of the ordinance?*

The special circumstance relates to the location of buried utility lines that lie approximately 37 feet from the western property line, running straight from the dwelling to the rear property line. Given the location of the buried utility lines, the five foot side-yard setback requirement would not allow for the current garage design at this location. For this reason, the petitioners would have the need to reduce the side-yard setback to construct the garage according to the dimensions drafted by their architect.

In addition, the rear-yard setback requirement of ten feet would result in a 320 square foot patch of green space behind the proposed garage between the rear of the garage and the rear property line. Although a rear yard variance may be justified, a one-and-one-half foot setback may be problematic due to rear yard utility easements and the location of the garage to the south. For these reasons, staff recommends a variance of no less than 5 feet for the rear-yard setback.

2. *The proposed variance will not serve as a special privilege because the variance requested is necessary due to special circumstances relating to the land or structure involved or to be used for occupancy thereof which is not generally applicable to other lands or structures in the same district.*

The request does not serve as a special privilege because the proposed variances would be needed due to practical difficulties relating to the buried utility lines.

3. *The variance requested was not the result of a situation or condition having been knowingly or deliberately created by the Petitioner.*

The need for the variance has not yet been created.

4. *The variance will not alter the essential character of the neighborhood.*

The variances would be generally consistent with other lots in the immediate vicinity; other homes in the area have garages. The design of the proposed garage is residential in character and would mirror the architectural qualities of the single-family dwelling. With the proposed improvements this lot would still have approximately 15,000 square feet of open space.

5. *The variance will not cause a nuisance to the adjacent property.*

The variances would allow a garage to be placed in the southwest corner of the property. Construction of the garage would involve the replacement of the non-conforming gravel

driveway to that of a dustless concrete surface that meets the requirements of the Urbana Zoning Ordinance. Due to the sheer size of the subject property (as well as other lots in the neighborhood) the impact to the neighbors would be minimized with a five-foot rear yard setback and a one-and-one-half foot side yard setback as per the staff recommendation.

6. *The variance represents generally the minimum deviation from requirements of the Zoning Ordinance necessary to accommodate the request.*

The petitioners are requesting only the minimum amount of variance needed to accommodate their plans to replace their demolished garage with a garage that suits the owners needs without having to relocate recently buried utility lines.

Options

The City Council has the following options this case:

- a. The Council may grant the variance as requested based on the findings outlined in this memo; or
- b. The Council may grant the variance subject to certain terms and conditions. If the Council elects to impose conditions or grant the variance on findings other than those presented herein, they should articulate these additional findings in support of the approval and any conditions imposed; or
- c. The Council may deny the variance request. If the Council elects to do so, they should articulate findings supporting this denial.

Recommendation

Based on the findings outlined herein, the **Zoning Board of Appeals voted 5-0 to forward the variance request along with modifications, to allow the petitioners to decrease the required five foot side yard setback to one-and-one-half feet and to decrease the required 10-foot rear yard setback to five feet, to the Urbana City Council with a recommendation for approval.** Staff concurs with the ZBA and recommends that City Council **GRANT** the variance as modified.

Attachments: Proposed Ordinance
Draft Minutes of September 18, 2002 ZBA Public Hearing

Prepared by:

Michaela Bell, Planner

c: Patrick Roberge, 705 W. Michigan, Urbana
Thorpe Facer, 210 N. Broadway, Urbana

ORDINANCE NO. 2002-10-121

AN ORDINANCE APPROVING A MAJOR VARIANCE

(Request to decrease the required five-foot side yard setback to one-and-one-half feet and to decrease the required 10-foot rear yard setback to one-and-one-half feet at 705 West Michigan Street, in Urbana's R-1, Single Family Residential Zoning District - Case No. ZBA-02-MAJ-8)

WHEREAS, the Zoning Ordinance provides for a major variance procedure to permit the Zoning Board of Appeals and the City Council to consider criteria for major variances where there are special circumstances or conditions related to the parcel of land or the structure; and

WHEREAS, the petitioners, Patrick Roberge and Ellen Deason, have submitted a petition requesting a major variance to allow a decrease the required five-foot side yard setback to one-and-one-half feet and to decrease the required 10-foot rear yard setback to one-and-one-half feet at 705 West Michigan Street, in Urbana's R-1, Single Family Residential Zoning District; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case #ZBA-02-MAJ-8; 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 September 18, 2002 and the ZBA by a unanimous vote of its members recommended approval of the requested variance with modifications, to allow the petitioners to decrease the required five foot side yard setback to one-and

one-half feet and to decrease the required 10-foot rear yard setback to five feet, to the City Council; and

WHEREAS, the Zoning Board of Appeals agreed that the request with the modification from a one-and-one-half rear yard setback to that of a five foot rear yard setback was more appropriate to allow for adequate space for both overhead and buried utility line maintenance and to protect those lines should the petitioners deviate from their plans; 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 agrees with the following findings of fact adopted by the ZBA in support of its recommendation to approve the application for a major variance along with modifications:

1. The request does not serve as a special privilege because the proposed variances would be needed due to practical difficulties relating to the buried utility lines. Buried utility lines lie approximately 37 feet from the western property line, running straight from the dwelling to the rear property line. Given the location of the buried utility lines, the five foot side-yard setback requirement would not allow for the current garage design at this location. For this reason, the petitioners would have the need to reduce the side-yard setback to construct the garage according to the dimensions drafted by their architect.

2. In addition, the rear-yard setback requirement of ten feet would result in a 320 square foot patch of green space behind the proposed garage between the rear of the garage and the rear property line. Although a rear yard variance may be justified, a one-and-one-half foot setback may be problematic due to rear yard utility easements and the location of the garage to the south. For these reasons, staff recommends a variance of no less than 5 feet for the rear-yard setback.

3. The need for the requested variances has not yet been created.

4. The variances should not be unreasonably injurious or detrimental to the general public, would not alter the essential character of the neighborhood, and should not cause a nuisance to the adjacent properties. The variances would be generally consistent with other lots in the immediate vicinity; other homes in the area have garages. The design of the proposed garage is residential in character and would mirror the architectural qualities of the single-family dwelling.

4. The petitioners are requesting only the minimum amount of variance needed to accommodate their plans to replace their demolished garage with a garage that suits the owners needs without having to relocate recently buried utility lines.

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

The major variance request by Patrick Roberge and Ellen Deason, in Case #ZBA-02-MAJ-8 is hereby approved with modifications to allow a decrease in

the required five-foot side yard setback to one-and-one-half feet and to decrease the required 10-foot rear yard setback to five feet at 705 West Michigan Street, in Urbana's R-1, Single Family Residential Zoning District, in the manner approved by the Zoning Board of Appeals.

The major variance described above shall only apply to the property located at 705 West Michigan Avenue, Urbana, Illinois, more particularly described as follows:

LEGAL DESCRIPTION: University Heights Addition, Lot 8, Urbana, Illinois

PERMANENT PARCEL #: 93-21-17-355-003

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 regular meeting of said Council on the ____ day of _____, 2002.

PASSED by the City Council this ____ day of _____,
_____.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____, _____.

Tod Satterthwaite, Mayor

CERTIFICATE OF PUBLICATION IN PAMPHLET FORM

I, Phyllis D. Clark, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois.

I certify that on the _____ day of _____, 2002, the corporate authorities of the City of Urbana passed and approved Ordinance No.

_____, entitled "AN ORDINANCE APPROVING A MAJOR VARIANCE (Request to decrease the required five-foot side yard setback to one-and-one-half feet and to decrease the required 10-foot rear yard setback to five feet at 705 West Michigan Street, in Urbana's R-1, Single Family Residential Zoning District - Case No. ZBA-02-MAJ-8)" which provided by its terms that it should be published in pamphlet form. The pamphlet form of Ordinance No.

_____ was prepared, and a copy of such Ordinance was posted in the Urbana City Building commencing on the _____ day of _____, 2002, and continuing for at least ten (10) days thereafter. Copies of such Ordinance were also available for public inspection upon request at the Office of the City Clerk.