



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: September 28, 2003

SUBJECT: ZBA 03-MAJ-5, Request to reduce the front-yard setback from 25' to 5' along Maple Street at 501 E. Oregon Street, in Urbana's R-3, Single and Two-Family Residential Zoning District.

ZBA 03-MAJ-6, Request to reduce the rear-yard setback from 10' to 3' at 501 E. Oregon Street, in Urbana's R-3, Single and Two-Family Residential Zoning District.

Introduction

The requested variances are to allow front and rear yard setback reductions to allow for a legally non-conforming garage to be connected the home and for an additional garage area be added to the existing garage. The requests are to reduce the required 25 foot front-yard setback to five feet along Maple Street, and to reduce the rear-yard setback from 10 feet to 3 feet.

The petitioner has plans to do some improvements to her home. The proposal is to add additional rooms within the home and to add a breezeway that will connect the residence to the existing garage. This breezeway construction will mean that the garage would be considered an attached garage, i.e. part of the main structure. The proposal also includes plans to add a 264 sq. ft. garage addition to the south portion of the existing garage, the new garage addition would be accessed from Maple Street. The request requires an 85% decrease of the required front yard setback along Maple Street for both the breezeway construction and for the garage addition. The rear yard variance request is to allow a 70% decrease of the required yard. The requests are classified as major variances by the Urbana Zoning Ordinance.

Description of the Site

The site is located on the southeast corner of the intersection of East Oregon Street and Maple Street (see attached maps). The lot is 13,123 square feet in area and contains a two-story house of approximately 2,000 square feet. The residence faces north onto East Oregon Street and has a

detached garage located on the west side of the lot. The back yard currently consists of lawn, trees and a garden which extends onto the lot south of the property. The petitioners own the lot to the south, 704 Maple Street, which is vacant except for a dilapidated old garage on the east of the lot. The backyard area of the subject property and the adjacent lot (704) to the south have a fence which surrounds almost the entire area. Construction of the proposed additions and connection of structures on the lot, would still allow the floor area ratio (FAR) and Open Space Ratio (OSR) requirements to be easily met.

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 17, 2003 meeting, the ZBA cited the following findings for their recommendation for approval of the requested variances:

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 practical difficulty relates to the location of the existing legally-nonconforming garage. The garage is currently detached, in order to have a breezeway from the house to the garage a front-yard variance would be needed along Maple Street. The garage would now be part of the structure and would be expanding the nonconformity.

There is no special circumstance or practical difficulty with reference to the rear-yard variance request. The two lots are considered one “zoning lot,” and could be built upon as one lot in accordance with current zoning regulations. The petitioners could build according to the current developmental regulations but they request the rear-yard variance in the event that the two lots are ever sold separately. The parcel at 501 E. Oregon would not be nonconforming.

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.*

Considering the subject property and the current configuration of its existing structures, the front-yard variance would not serve as a special privilege. The petitioners could not attach their home to the existing garage without being granted the variance to reduce the required front yard along Maple Street.

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 variances has not yet been created. The petitioners are aware of the requirements of the Zoning Ordinance and have applied for a variance prior to construction.

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

The requested decrease of both the front and rear-yard setbacks should not detract from the essential character of the neighborhood. The proposal to add an additional garage area with the same setback as the existing garage structure should not significantly disrupt the existing setback line along the Maple Street.

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

The variance should not cause a nuisance to adjacent properties. The additional garage in the proposed plan with a driveway only five feet from the public right of way could cause potential conflicts between sidewalk users and vehicles that may be exiting or be parked over the sidewalk. However, the City Engineer has reviewed the proposal and has determined that that it would not present any traffic conflicts due to low traffic volumes on Maple Street. Similar driveway configurations are found elsewhere in the City. The subject property is a large lot of over 13,000 square feet, and has been used for years as one lot with that of 704 Maple Street. In this case there should not be any nuisance to adjacent properties.

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

Given the size of their lot and the configuration of the home and the garage, it is the desire of the petitioners to make improvements to their home which would include a breezeway connection and an additional garage space as depicted in the application. The petitioners are only requesting the minimum deviation from the requirements so that they can expand their home to connect to their garage and to add an additional garage space. The plans are to add to the lot while preserving the architectural integrity of the residence and also preserving the existing setback line along Maple Street.

Options

The City Council has the following options this case **ZBA 03-MAJ-05**:

- 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 4-0 to forward the variance request to the Urbana City Council with a **recommendation for approval to allow the petitioners to reduce the front yard setback along Maple Street from 25 feet to five feet, with the condition that the improvements conform to the general site plan as submitted.** Staff concurs with the ZBA and recommends that City Council **GRANT** the variance with the condition set forth by the ZBA.

Options

The City Council has the following options this case **ZBA 03-MAJ-06**:

- 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 4-0 to forward the variance request to the Urbana City Council with a **recommendation for approval to allow the petitioners to reduce the rear yard setback along Maple Street from 10 feet to three feet, with the condition that the improvements conform to the general site plan as submitted.** Staff concurs with the ZBA and recommends that City Council **GRANT** the variance with the condition set forth by the ZBA.

Attachments: Proposed Ordinances
 Letter from Neighbor in support of proposals (not in digital format)
 Draft Minutes of September 17, 2003 ZBA Public Hearing
 Exhibit A: Location Map (not in digital format)
 Photo Exhibit (not in digital format)
 Petitioners' application and site plan (not in digital format)

Prepared by:

Michaela Bell, Planner

c: William and Eleanor Blackmon, 501 E. Oregon Street, Urbana, IL 61801

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ORDINANCE NO. 2003-10-111

AN ORDINANCE APPROVING A MAJOR VARIANCE

(Reduction of the Required Rear Yard Setback in the City's R-3, Single- and Two-Family Residential Zoning District, From 10 ft. to 3 ft. / 501 E. Oregon Street, Case No. ZBA-03-MAJ-06)

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, Eleanor and William Blackmon, have submitted a petition requesting a major variance to allow a seven-foot reduction of the rear-yard setback at 501 East Oregon Street, in Urbana's R-3, Single and Two-Family Zoning District; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case #ZBA 03-MAJ-6; 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 17, 2003 and the ZBA by a unanimous vote (4-0) of its members recommended approval of the requested variance with a condition that the petitioners conform to the general site plan, to the City Council; 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 as requested:

1. The petitioners own the lot to the south (704 Maple) and they request the variance so that in the future, if the lots are ever sold separately, 501 E Oregon would not be nonconforming. The two lots are considered one "zoning lot," and could be built upon as one lot in accordance with current zoning regulations.
2. The need for the variances has not yet been created. The petitioners are aware of the requirements of the Zoning Ordinance and have applied for a variance prior to construction.
3. The requested decrease the rear-yard setback should not detract from the essential character of the neighborhood. The proposal to add an additional garage area with the same setback as the existing garage structure should not significantly disrupt the existing setback line along the Maple Street.
4. The variance should not cause a nuisance to adjacent properties. The subject has been used for years as one lot with that of 704 Maple Street. In this case there should not be any nuisance to adjacent properties.

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

The major variance request by Eleanor and William Blackmon, in Case #ZBA 03-MAJ-06 is hereby approved to allow a reduction of the rear-yard setback from 10' to 3' in Urbana's R-3, Single and Two-Family Zoning District, with the condition that the improvements conform to the submitted general site plan, as approved by the Zoning Board of Appeals.

The major variance described above shall only apply to the property located at 501 East Oregon Street, Urbana, Illinois, more particularly described as follows:

LEGAL DESCRIPTION: Lot 18 in Ealey Place Subdivision of Lots 4 and 5 of Geo. G. Webbers Addition of Outlots to the City of Urbana as per plat recorded in Plat Book "D" at page 275 situated in Champaign County.

PERMANENT PARCEL #: 92-21-17-286-001

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 _____, 2003.

PASSED by the City Council this _____ day of _____,
2003.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____,
2003.

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 _____, 2003, the corporate authorities of the City of Urbana passed and approved Ordinance No.

_____, entitled "AN ORDINANCE APPROVING A MAJOR VARIANCE

(Reduction of the Required Rear Yard Setback in the City's R-3, Single- and Two-Family Residential Zoning District, From 10 ft. to 3 ft. / 501 E. Oregon Street, Case No. ZBA-03-MAJ-06) 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 _____, 2003, 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.

**MINUTES OF A REGULAR MEETING
URBANA ZONING BOARD OF APPEALS**

DATE: September 17, 2003
TIME: 7:30 p.m.
PLACE: Urbana City Building
400 S. Vine Street
Urbana, IL 61801

DRAFT

MEMBERS PRESENT: Herb Corten, Anna Merritt, Joe Schoonover, Charles Warmbrunn

MEMBERS ABSENT Paul Armstrong, Darwin Fields, Harvey Welch

STAFF PRESENT: Michaela Bell, Planner; Rob Kowalski, Planning Manager; Teri Andel, Secretary

OTHERS PRESENT: Matthew Ando, Bear & Eleanor Blackmon, Kenny Buhr, Bruce Shurts, Mildred Williams

1. CALL TO ORDER, ROLL CALL AND DECLARATION OF QUORUM

The meeting was called to order at 7:37 p.m. The roll call was taken, and a quorum was declared present.

2. WRITTEN COMMUNICATIONS

- ✓ Quit Claim Deed submitted by Eleanor Blackmon regarding ZBA-03-MAJ-05 and ZBA-03-MAJ-06
- ✓ Letter from Debbie Nelson regarding ZBA-03-MAJ-05 and ZBA-03-MAJ-06
- ✓ Letter from James and Tania Stori regarding ZBA-03-MAJ-05 and ZBA-03-MAJ-06
- ✓ Fax from John and Benita Katzenellenbogen regarding ZBA-03-C-04
- ✓ Letter from Barbara Gladney regarding ZBA-03-C-04

5. NEW PUBLIC HEARINGS

ZBA-03-MAJ-05: Request to reduce the front-yard setback from 25' to 5' along Maple Street at 501 East Oregon Street, in Urbana's R-3, Single and Two-Family Residential Zoning District.

ZBA-03-MAJ-06: Request to reduce the rear-yard setback from 10' to 3' at 501 East Oregon Street, in Urbana's R-3, Single and Two-Family Residential Zoning District.

Ms. Bell introduced these two cases together, since they were regarding the same property. She began introducing these cases by describing the variance requests. She noted that the proposed variances were to allow front and rear-yard setback reductions, so that the petitioners could add additional rooms within the home and to add a breezeway that will connect the residence to the existing garage and to expand the garage area. She gave a brief description of the site and summarized the surrounding zoning and land uses for the subject site. Ms. Bell reviewed the Variance Criteria according to Section XI-3 of the Urbana Zoning Ordinance. She read the options of the Zoning Board of Appeals and presented staff's recommendation, which was as follows:

ZBA-03-MAJ-05: Staff recommended that the Urbana Zoning Board of Appeals recommend approval of the variance to the Urbana City Council with the condition that the improvements be in conformance with the Site Plan, found in Exhibit H.

ZBA-03-MAJ-06: Staff recommended that the Urbana Zoning Board of Appeals recommend approval of the variance to the Urbana City Council with the condition that the improvements be in conformance with the Site Plan, found in Exhibit H.

Mr. Schoonover asked if staff called it a front-yard setback along Maple Street because the garage would be facing that way. Ms. Bell stated that the house faces Oregon, but to connect the existing garage to the residence with a breezeway, it would be considered one structure, thus needing the Maple Street front-yard variance.

Mr. Schoonover inquired if it was an adjoining lot? Ms. Bell replied that there was an adjoining lot to the south. Mr. Schoonover questioned if it would always remain adjoining or could the property owner divide it up in the future? Ms. Bell answered by saying that the property owners could in the future decide to sell 704 Maple Street.

Mr. Schoonover asked if the expansion of the garage was constructed, then how far would it be from the lot line itself? Ms. Bell said it would be three feet from the rear lot line. The lot to the south was approximately 7,261 square feet.

Mr. Schoonover inquired if there was any reason why they could not be joined together as a single lot? Ms. Bell remarked that the two lots were considered one zoning lot from a zoning perspective. Mr. Kowalski added that the property owners could replat the two lots into one. However, it was not necessary for them to do that in order to build. It would be an expense, and he did not know what benefit they would get from replatting the properties into one lot.

Eleanor Blackmon, petitioner, noted that they started planning their house addition with three goals in mind, which were as follows: 1) a first-floor bedroom suite, 2) a kitchen close to the

driveway, and 3) an enclosed access to the garage for loading and unloading. These amenities would be common in a new subdivision, but the petitioners prefer to retain their location in the older part of town. Their current location has the advantages of being centrally located in town with most services within walking distance. They have a large lot with mature landscaping, and they live in a diverse, stable and traditional neighborhood. They would lose these advantages by building a home in a new subdivision.

Ms. Blackmon stated that corner lots in the older part of town were basically constructed originally with a front-yard and a side-yard setback rather than the two front-yard setbacks required by the current zoning regulations. Therefore, they cannot connect their existing house to their existing garage without a zoning variance. She asked that the Zoning Board of Appeals consider their variance requests carefully and fairly. She hoped to enjoy new home amenities in their traditional neighborhood.

Mr. Corten moved that the Urbana Zoning Board of Appeals forward Case ZBA-03-MAJ-05 to the Urbana City Council with the recommendation for approval on the basis that the changes conform to the Site Plan in Exhibit H. Mr. Schoonover seconded the motion. The roll call was as follows:

| | | | | | |
|----------------|---|-----|---------------|---|-----|
| Mr. Corten | - | Yes | Ms. Merritt | - | Yes |
| Mr. Schoonover | - | Yes | Mr. Warmbrunn | - | Yes |

The motion was passed by unanimous vote.

Mr. Warmbrunn moved that the Zoning Board of Appeals recommend approval of Case ZBA-03-MAJ-06 to the Urbana City Council as recommended by staff including the condition that the changes conform to the Site Plan in Exhibit H. Mr. Corten seconded the motion. The roll call was as follows:

| | | | | | |
|---------------|---|-----|----------------|---|-----|
| Ms. Merritt | - | Yes | Mr. Schoonover | - | Yes |
| Mr. Warmbrunn | - | Yes | Mr. Corten | - | Yes |

The motion was passed by unanimous vote. Ms. Bell mentioned that these two cases should go to the Urbana City Council on October 1, 2003.

6. ADJOURNMENT OF MEETING

The meeting was adjourned at 8:10 p.m.

Respectfully submitted,

**Rob Kowalski, Planning Manager
Urbana Zoning Board of Appeals**