



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Laurel Lunt Prussing, Mayor

FROM: Elizabeth H. Tyler, FAICP, Director, Community Development Services

DATE: May 29, 2008

SUBJECT: ZBA-2008-MAJ-07: Major Variance Request to reduce the required front yard setback to allow for the construction of a garage at 102 W. Pennsylvania Ave.

Introduction

Marc and Fran Ansel are requesting a major variance to reduce the required front yard setback to allow for the construction of a garage at 102 West Pennsylvania Avenue. The proposed location would allow the petitioners to replace a deteriorating garage and yet protect a large bald cypress tree located just three feet from the existing garage. The subject property is located on the northwest corner of Broadway and Pennsylvania Avenues, while the proposed garage will be located along Broadway Avenue. The proposed garage is 24 feet by 24 feet and will replace a deteriorating existing garage that is 20.4 feet by 22.3 feet. The subject property is zoned R-2, Single-Family Residential and is occupied by a single-family residence.

According to Section VI-5.E.1 of the Urbana Zoning Ordinance, lots fronting on two streets shall have a required front yard on each street frontage. Table VI-3 of the Urbana Zoning Ordinance requires the front yard to be the average depth of the existing buildings on the same block face, or fifteen feet, whichever is greater, in the R-2 Zoning District. The existing garage is six feet from the property line, thereby encroaching nine feet into the required front yard. The petitioners are requesting to encroach 15 feet or 100% of the required setback on Broadway Avenue.

At their May 21, 2008 meeting, the Urbana Zoning Board of Appeals voted five ayes and zero nays to recommend that the City Council approve the proposed Variance in ZBA Case No. ZBA-2008-MAJ-07 with three conditions as provided in the Recommendation section of this memo.

Background

Description of the Site

The subject property is located on the northwest corner of Broadway and Pennsylvania Avenues.

The property is commonly known as 102 W. Pennsylvania Avenue. There is currently a single family house and a garage on the property. The lot measures 62.84 feet by 193.02 feet, which is 12,129.4 square feet. The house fronts onto Pennsylvania Avenue.

There are only two properties on the west side of Broadway Avenue between Pennsylvania and Michigan Avenues: the subject property and a duplex directly north. The Broadway Avenue frontage is considered a front yard and the Zoning Ordinance does not allow an accessory structure to be located in the setback. The average setback on the Broadway Avenue block face that applies to the subject property is 12.75 feet and so the minimum setback for the property is 15 feet. The right-of-way along Broadway Avenue is particularly wide as it was platted 82.5 feet wide for its entire length as opposed to 60 feet wide per the current Subdivision and Land Development Ordinance. The City has no plans to widen the street. There is no sidewalk on the west side of this block although there is room for one. The requested variance will not prevent a sidewalk from being installed in the future.

Adjacent Land Uses and Zoning Designations

The area surrounding the subject property is residential in nature and is zoned R-2, Single-Family Residential, with the exception of Blair Park to the southeast, which is zoned CRE, Conservation, Recreation, and Education.

The following is a summary of surrounding zoning and land uses for the subject site:

Location	Zoning	Existing Land Use	Comprehensive Plan - Future Land Use
Site	R-2, Single-Family Residential	Single Family Residence	Residential – Urban Pattern
North	R-2, Single-Family Residential	Duplex	Residential – Urban Pattern
East	R-2, Single-Family Residential	Duplex	Residential – Urban Pattern
South	R-2, Single-Family Residential	Single Family Residence	Residential – Urban Pattern
West	R-2, Single-Family Residential	Single Family Residence	Residential – Urban Pattern

Comprehensive Plan

The 2005 Urbana Comprehensive Plan indicates the future land use for the surrounding area as “Residential – Urban Pattern”. The plan defines the Residential Urban Pattern of Development as:

“A pattern of development that is typically found in older, established neighborhoods. Includes a grid network of streets with, in some cases, vehicular access from rear alleys. Streets may be narrow in order to slow down traffic and favor the pedestrian. The urban pattern also contains a well-connected sidewalk system that encourages walking and provides convenient pedestrian access to nearby business centers. May include smaller lots where homes face the street and the presence of garages along the street is minimized.”

Discussion

The requested variance comes as a result of a desire by the petitioner to enlarge a substandard garage and protect a bald cypress tree in the process. The existing garage is deteriorating and the petitioners feel it is necessary to replace it. The existing garage is 20.4 feet by 22.3 feet, while the proposed garage would be 24 feet by 24 feet. The petitioners explained that this is the standard garage footprint today and to deviate from it would require having a custom garage built at a greater expense.

The tree is located three feet from the northwest corner of the existing garage. The bald cypress, a species of conifer, is a large tree, reaching heights of 100 to 150 feet. It generally grows in wetland areas from Delaware Bay to Florida, Texas, and Oklahoma. The trees are also found further north and west, but they are not as common. According to the petition, this particular tree is nearly seven feet in diameter and 16 feet in circumference. It is one of the oldest and tallest bald cypress trees in Champaign County.

According to the petitioner, the bald cypress has a very shallow root system and is already hindered by the existing garage. According to the Arbor Day Foundation, the framework of major roots for most trees lies less than eight to twelve inches below the surface of the soil as tree roots actually need oxygen. Additionally, roots often grow outward to a diameter one to two times the height of the tree. The petitioners have made a significant financial investment in the tree over the years to care for, preserve and protect the tree. The City Arborist has looked at the tree and determined that it is a very significant tree: "It is perhaps one of the most significant trees in the neighborhood, if not in the community." Additionally, the City Arborist believes the City is justified in facilitating the protection of this tree.

The petitioners' arborist is recommending the new garage be located as far as possible from the tree to minimize damage to the tree. The proposed location is about three feet further from the tree than the existing garage and is the only reasonable location for a new garage of that size. Moving the garage to the north would not move it any further away from the roots, even if it were to encroach 100% in the required rear yard setback. The garage could not be located any further south due to the location of the house. Additionally, the proposed location would allow the petitioners to re-use the existing driveway and curb cut, saving considerable expense.

The subject property is located on a corner lot. The Urbana Zoning Ordinance, in Section VI-5.E, requires lots having frontage on two streets to have a required front yard on each frontage. This lot, platted many years ago, was not platted to accommodate a required front yard along Broadway Avenue. It may be useful to note that if the Broadway frontage had a required side yard instead of a required front yard, the petitioners would be able to locate their garage 18 inches from the property line by right.

Moreover, moving the location of the garage six feet six inches closer to the street will not appear out of place in this particular location. As the right-of-way along Broadway Avenue is 82.5 feet, the property line is 25.75 feet from the curb. The proposed garage therefore would still be 25.75 feet from the street. The house directly south of the subject property, at 102 W. Pennsylvania Avenue,

has a setback of 30.5 feet from the curb, 4.75 feet from the property line. This encroaches 10.25 feet into the required front yard setback along Broadway Avenue.

The following chart is a summary of surrounding setbacks for the subject site: (See Exhibit E for illustration.)

Location	Address	Setback
Site	102 W Pennsylvania	Proposed garage set back 25.75' from curb, encroaching 15' into required front yard (100%) Existing garage set back 33.75' from curb, encroaching 9' into required front yard (60%)
North	101 W. Michigan	House with attached garage set back 39.5' from curb, encroaching 1.25' into the required front yard (8.3%)
East	1312 S. Broadway	Attached garage set back 25' from inside of sidewalk, encroaching 7' into the required front yard (47%)
Northeast	101 E. Michigan	House set back 23' from inside of sidewalk, encroaching 6.5' into the required front yard (57%)
South	102 W. Pennsylvania	House set back 30.5' from curb, encroaching 10.25' into the required front yard (68%) Detached garage set back 31' from curb
Further South	102 W. Vermont	House set back 34.5' from curb, encroaching 6.25' into the required front yard (42%)

Requirements for a Variance

According to Section XI-3 of the Urbana Zoning Ordinance, an application for a Variance shall demonstrate the following:

1. *Based on evidence presented, determine whether there are special circumstances or special practical difficulties with reference to the parcel concerned, in carrying out the strict application of the ordinance.*

The special circumstances are the location of a champion bald cypress tree in relation to the garage and driveway and the inordinately wide street right-of-way for a local street. The existing garage is deteriorating and the petitioners want to replace it. In order to minimize damage to this significant tree, they are requesting a variance to allow the new garage to encroach in the required front yard setback. The City Arborist has confirmed that this tree is significant to the community and that the City is justified in facilitating its protection. If the tree were not in its present location, the petitioners would not be requesting this variance. Additionally, the right-of-way along Broadway Avenue is 82.5 feet wide as opposed to 60 feet wide per the current Subdivision and Land Development Ordinance.

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 proposed variance will not serve as a special privilege as this particular tree, a bald cypress, is significant to the community and not just to the petitioners. The trunk is nearly seven feet in diameter and 16 feet in circumference. It is one of the oldest and tallest bald cypress trees in the county. The house directly south of the subject property encroaches 68% into the required front yard setback, the house to the east encroaches 47%, the house to the northeast encroaches 57%, and the house to the north encroaches 8.3%. This variance would not provide a privilege beyond that already applied to other properties in the surrounding area.

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

The special circumstance is the location of the tree in relation to the garage and driveway. The petitioners did not plant the tree. They have, however, made a considerable investment in the tree over the years and do not want to endanger the life of the tree.

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

Although the proposal is to reduce the required front yard setback to zero feet, the house to the south of the subject property has a setback of only 4.75 feet, the house to the east has a setback of 8 feet, the house to the northeast has a setback of 6.5 feet, and the house to the north has a setback of 13.75 feet. The required front yard setback applicable for all the above-listed properties is 15 feet. As the right-of-way on Broadway Avenue is so wide, the reduction of the front yard setback will not be visually apparent and will not alter the essential character of the neighborhood.

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

The proposed variance will not cause a nuisance to the adjacent property owners. The existing garage, which the petitioners did not build, encroaches 9 feet (60%) into the required front yard setback. The proposal is to reduce the required front yard setback by an additional 6 feet on the east property line, which would be a 100% encroachment of the required front yard setback. Due to the wide right-of-way along Broadway Avenue and the existing setbacks in the surrounding area, this will not cause a nuisance to the adjacent properties.

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

The variance is requesting the minimum deviation from the requirements of the Zoning Ordinance while allowing protection for the tree and the use of the current driveway, garage pad, and standard garage size. Due to the location of the tree and the house, there is no alternative location for a garage of this size.

Summary of Findings

1. The petitioners are proposing to build a standard 24-foot by 24-foot detached garage to replace a deteriorating existing garage.

2. A bald cypress tree nearly seven feet in diameter and 16 feet in circumference is located just three feet from the existing garage. The proposed location would minimize damage to the tree.
3. The City of Urbana Arborist has determined the tree is significant to the neighborhood and the community.
4. The location of the tree and the current driveway are practical difficulties in locating a new garage.
5. The reduced front yard setback will not cause a nuisance to adjacent properties. The reduction of the required front yard by an additional six feet will not impact adjacent properties due to the often reduced setbacks in the area, the fact that Broadway Avenue has an inordinately wide right-of-way of 82.5 feet, and that the garage will have an actual setback of 25.75 feet from the curb.
6. The requested variance represents the minimum deviation from the Zoning Ordinance to protect the tree and allow the petitioners to build a new garage.
7. At their May 21, 2008 meeting the Urbana Zoning Board of Appeals, in a vote of 5 ayes and 0 nays, recommended that the Urbana City Council approve the proposed Major Variance in Zoning Board of Appeals Case No. ZBA-2008-MAJ-07 with certain conditions as specified below in the Recommendation section.

Options

City Council has the following options in major variance case ZBA-2008-MAJ-07:

- (1) Approve the Variance, as presented herein; or
- (2) Approve the Variance, with any conditions deemed appropriate or necessary for the public health, safety, and welfare, and to carry out the purposes of the Urbana Zoning Ordinance; or
- (3) Deny the Variance.

Recommendation

Based on the analysis and findings presented herein, the Urbana Zoning Board of Appeals and staff recommend that City Council **APPROVE** the proposed Variance in Zoning Board of Appeals Case No. ZBA-2008-MAJ-07 with the following conditions:

1. The garage shall be constructed in general conformance to the site plan layout submitted as part of the application and attached hereto.

2. The existing garage foundation shall be re-used and incorporated into the new foundation. The Building Safety Division will work with the petitioners to accomplish this.
3. The petitioners shall work with their professional arborist or with the City Arborist to ensure damage to the tree is minimized.

Prepared by:

Rebecca Bird, Planning Associate

Attachments: Draft Ordinance Approving a Major Variance
Exhibit A: Location and Existing Land Use Map
Exhibit B: Existing Zoning Map
Exhibit C: Future Land Use Map
Exhibit D: Site Photos
Exhibit E: Setbacks
Exhibit F: Application
Draft Minutes of May 21, 2008 Zoning Board of Appeals Hearing

Cc: Marc and Fran Ansel, petitioners
102 W Pennsylvania Avenue
Urbana, IL 61801

Mike Brunk, City Arborist

ORDINANCE NO. 2008-06-049

AN ORDINANCE APPROVING A MAJOR VARIANCE

(To Allow the Construction of a Garage, Reducing the Required Front Yard Setback in the R-2, Single-Family Residential, Zoning District.
-- 102 W. Pennsylvania Avenue / ZBA Case No. 2008-MAJ-07)

WHEREAS, the Urbana Zoning Ordinance provides for a major variance procedure to permit the Zoning Board of Appeals and the Corporate Authorities to consider applications for major variances where there are special circumstances or conditions with a parcel of land or the structure; and

WHEREAS, Marc and Fran Ansel have submitted a petition to reduce the required front yard setback to allow for the construction of a garage while minimizing damage to a significant tree at the northwest corner of Pennsylvania and Broadway Avenues in the R-2, Single-Family Residential Zoning District at 102 W. Pennsylvania Avenue; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case #ZBA-2008-MAJ-07; and

WHEREAS, after due publication in accordance with Section XI-10 of the Urbana Zoning Ordinance and Chapter 65, Section 5/11-13-14 of the Illinois Compiled Statutes (65 ILCS 5/11-13-14), the Urbana Zoning Board of Appeals held a public hearing on the proposed major variance on May 21, 2008 and voted 5 ayes and 0 nays to recommend to the Corporate Authorities approval of the requested variance; and

WHEREAS, after due and proper consideration, the Corporate Authorities of the City of Urbana have determined that the major variance referenced herein conforms with the major variance procedures in accordance with Article XI, Section XI-3.C.2.d of the Urbana Zoning Ordinance; and

WHEREAS, the Corporate Authorities have considered the variance criteria established in the Urbana Zoning Ordinance and have determined the following findings:

1. The petitioners are proposing to build a 24-foot by 24-foot detached garage to replace a deteriorating existing garage.
2. A bald cypress tree nearly seven feet in diameter and 16 feet in circumference is located just three feet from the existing garage. The proposed location would minimize damage to the tree.
3. The City of Urbana Arborist has determined the tree is significant to the neighborhood and the community.
4. The location of the tree and the current driveway are practical difficulties in locating a new garage.
5. The reduced front yard setback will not cause a nuisance to adjacent properties. The reduction of the required front yard by an additional six feet will not impact adjacent properties due to the often reduced setbacks in the area, the fact that Broadway Avenue has an inordinately wide right-of-way of 82.5 feet, and that the garage will have an actual setback of 25.75 feet from the curb.
6. The requested variance represents the minimum deviation from the Zoning Ordinance to protect the tree and allow the petitioners to build a new garage.
7. At their May 21, 2008 meeting the Urbana Zoning Board of Appeals, in a vote of 5 ayes and 0 nays, recommended that the Urbana City Council approve the proposed Major Variance in Zoning Board of Appeals Case No. ZBA-2008-MAJ-07 with certain conditions.

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

Section 1:

The major variance request shall hereby be approved, subject to the following conditions:

1. The garage shall be constructed in general conformance to the site plan layout submitted as part of the application and attached hereto as Exhibit A.
2. The existing garage foundation shall be re-used and incorporated into the new foundation.
3. The petitioners shall work with their professional arborist or with the City Arborist to ensure damage to the tree is minimized.

The major variance granted above shall only apply to the property particularly described as follows:

LEGAL DESCRIPTION: Lot 22 and the east one-half of lot 23 in DeYoung's Second Subdivision to the City of Urbana, situated in Champaign County, Illinois. Commonly known as 102 W. Pennsylvania Avenue, in Urbana, Illinois.

Parcel Index Number: 93-21-17-451-021

Section 2:

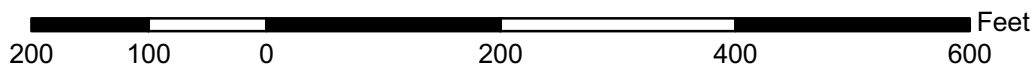
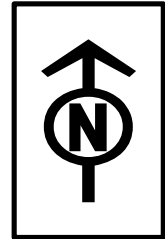
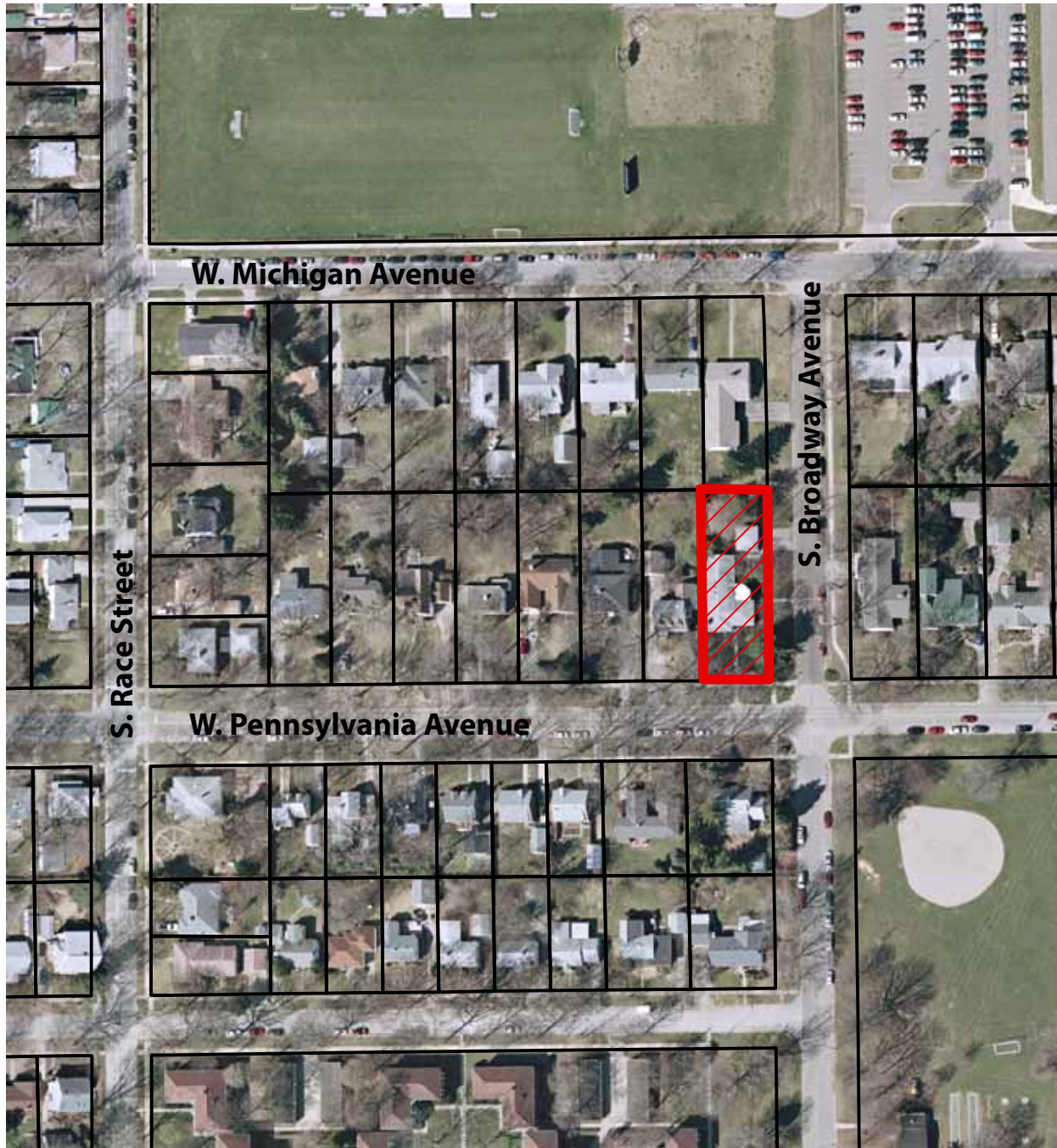
The City Clerk is hereby directed to publish this Ordinance in pamphlet form by authority of the corporate authorities of the City of Urbana, Illinois. This Ordinance shall be in full force and effect from and after its passage and publication in accordance with the terms of Chapter 65, Section 1-2-4 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 Corporate Authorities of the City of Urbana, Illinois, at a regular meeting of said Authorities on the ____ day of _____, 2008.

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 _____, 2008, the corporate authorities of the City of Urbana passed and approved Ordinance No. _____, entitled "AN ORDINANCE APPROVING A MAJOR VARIANCE (To Allow the Construction of a Garage, Reducing the Required Front Yard Setback in the R-2, Single-Family Residential, Zoning District. -- 102 W. Pennsylvania Avenue / ZBA Case No. 2008-MAJ-07)" 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 _____, 2008, 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.

EXHIBIT A: Location Map



ZBA Case: ZBA-2008-MAJ-07

Subject: Major Variance to allow a new detached garage to encroach in the required front yard setback

Petitioner: Marc and Fran Ansel

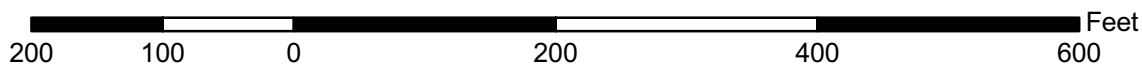
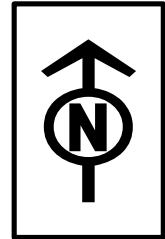
Location: 102 W. Pennsylvania Ave.

Zoning District: R-2: Single-Family Residential

 Subject Property

Prepared 4/29/2008 by Community Development Services - rlb

Exhibit B: Existing Zoning Map



ZBA Case: ZBA-2008- MAJ-07

Subject: Major Variance to allow a new detached garage to encroach in the required front yard setback

Petitioner: Marc and Fran Ansel

Location: 102 W. Pennsylvania Ave.

Zoning District: R-2: Single-Family Residential

Prepared 4/29/2008 by Community Development Services - rlb

Legend





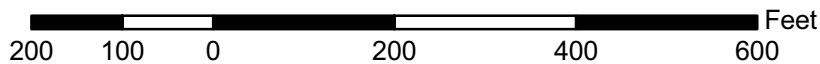
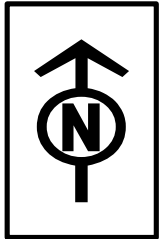
-  Subject Property
-  CRE
-  R2
-  R5

Exhibit C: Future Land Use Map



ZBA Case: ZBA-2008- MAJ-07

Subject: Major Variance to allow a new detached garage to encroach in the required front yard setback

Petitioner: Marc and Fran Ansel

Location: 102 W. Pennsylvania Ave.

Zoning District: R-2: Single-Family Residential

Prepared 4/29/2008 by Community Development Services - rlb

Legend






-  Subject Property
-  Residential
-  Multi-Family Res.
-  Institutional
-  Park

Exhibit D: Site Photos



Looking west at Bald Cypress from Broadway Avenue

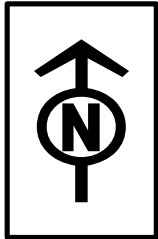


Looking west at existing garage from Broadway. The Bald Cypress is to the right of the garage.



Looking west from Broadway at existing garage and house.

Exhibit E: Setbacks



ZBA Case: ZBA-2008-MAJ-07
Subject: Major Variance to allow a new detached garage to encroach in the required front yard setback
Petitioner: Marc and Fran Ansel
Location: 102 W. Pennsylvania Ave.
Zoning District: R-2: Single-Family Residential

Prepared 4/29/2008 by Community Development Services - rlb

Legend

 Subject Property



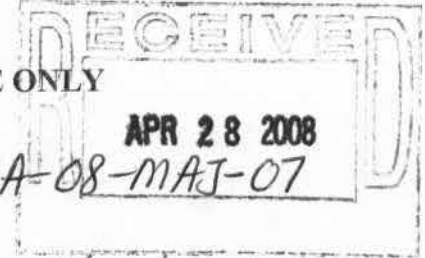
Request for Variance

Zoning Board Of Appeals

APPLICATION FEE – \$150.00 (Major) and \$125.00 (Minor)

The Applicants are responsible for paying the cost of legal publication fees as well. The fees usually run from \$75.00 to \$125.00. The applicant is billed separately by the News-Gazette.

DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY



Date Request Filed 04/28/2008 ZBA Case No. MBA-08-MAJ-07
Type of Variance (Circle One) Major Minor
Fee Paid - Check No. 7644 Amount \$150.00 Date 04/28/2008

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION:

A VARIATION is requested in conformity with the powers vested in the Zoning Board of Appeals to permit (insert use or construction proposed and the type and extent of variation requested) a new detached garage with reduced setback.

on the property described below, and in conformity with the plans described on this variance request.

1. Location of Subject Site 102 West Pennsylvania Avenue, Urbana, IL 61801-5033

2. PIN # of Location 93-21-17-451-021

3. Name of Applicant/Petitioner(s) Marc and Fran Ansel

Phone 217-384-7654
359 0200W 369-7654CEU

Address 102 West Pennsylvania Avenue, Urbana, IL 61801-5033
(street/city) (state) (zip)

Property interest of Applicant(s) Fee simple owners
(owner, contract buyer, etc)

4. Name of Owner(s) Marc and Fran Ansel Phone 217-384-7654

Address 102 West Pennsylvania Avenue, Urbana IL 61801-5033
(street/city) (state) (zip)

If there are additional owners, please attach extra pages to the application.

setback requirements (fifteen feet minimum) because it sits adjacent to Broadway Avenue. Our existing garage is a detached garage that faces Broadway Avenue. It is 22 ft wide (N/S) and 20.5 Ft. deep (E/W). It sits within six feet of the east property line. We would like to replace it with a standard 24' x 24' two-car garage.

Our backyard is home to one of the oldest and tallest Bald Cypress trees in the county. The trunk of this Bald Cypress has grown to almost seven feet in diameter and sixteen feet in circumference. It now sits about three feet from the northwest corner of the existing garage. We have paid our arborist (Greg Smith of Arborsmith) significant money over the years to care for, preserve and protect this tree, including annual pruning care, installing and maintaining a lightening rod (which must be raised every two years), and removing all smaller, lesser trees in the vicinity of this tree. This tree's root system is very shallow, and is already hindered by the existing garage. The tree's root system could be damaged by construction of the new garage in several ways, including (1) excavating and pouring the required new, deeper eight-inch slab (current slab is 3-4 inches deep) will damage the shallow roots in the entire southeast quadrant of the root system, (2) excavating around the perimeter of the garage during construction of the new structure will damage and primary roots near the trunk, and (3) locating the new garage closer to the tree than the existing garage will also damage primary roots near the trunk. Depending on the type and extent of damage to the root system during and after construction, the life of the tree will be threatened.

In order to minimize the threat and damage to the tree, our arborist recommends placing the new new garage as far as possible from the tree (and certainly not closer than the existing garage now sits). We will use his specialized excavation equipment to protect the tree's roots during excavation and construction for the new garage. (This equipment will minimize damage to the primary roots near the trunk of the tree.) There is no way to eliminate damage from excavation and construction of the new, deeper slab. We do not have enough room to move the new garage southward because our house sits less than ten feet from the southwest corder of the existing garage. The only direction we can look to place the new garage is to the east toward Broadway Avenue, i.e., within the setback.

2. Explain how the variance is necessary due to special conditions relating to the land or structure involved which are not generally applicable to other property in the same district.

See answer to previous question.

-
-
3. Explain how the variance is not the result of a situation or condition that was knowingly or deliberately created by you (the Petitioner).

We did not plant the tree (some 60-70 years ago). We did not build the existing garage.

4. Explain why the variance will not alter the essential character of the neighborhood.

Granting the variance will permit the new garage to be placed within a few feet of the location of the existing garage. It will also protect the Bald Cypress tree, which is a benefit to the neighborhood. The house to the east (across Broadway) has a fence that sits less than three feet from the property line. The house to our south (across Pennsylvania Avenue) has a fence that sits less than six feet from Broadway Avenue (much closer to Broadway than the reduced setback we seek with this variance.) The house to our northeast (across Braodway) has a fence that sits just about on the propery line.

5. Explain why the variance will not cause a nuisance to adjacent property.

See previous answer. None of our neighbors objects to the proposed placement of the new garage. There is only one other house on our block, which sits to our north on Michigan Ave. There are several trees toward the front of our garage which hinder the view of the garage from Broadway Avenue and from the across-the-street neighbor to the east. There is no sidewalk in front of our garage on Broadway Avenue. The sidewalk is located on the east side of Broadway across the street from our property. Our house blocks the view of the garage from most of the property of our neighbor to the south (across the street on Pennsylvania Avenue).

6. Does the variance represent the minimum deviation necessary from the requirements of the Zoning Ordinance? Explain.

Yes – the variance is the minimum necessary to protect the life of our tree.

PLEASE NOTE: The Urbana Zoning Ordinance provides that, by submitting this request for variation for this property, you are granting permission to Staff of the Department of Community Development Services to place a temporary yard sign in the front yard of the property to provide notice of the time and place of the public hearing to consider this request. The sign will be placed in the front yard at least fifteen (15) but not more than thirty (30) days prior to the date of the hearing, and will be removed no later than ten (10) days after the completion of the public hearing. Please call 384-2440 if you have any questions about this requirement.

WHEREFORE, petitioner prays that this petition be heard by the Zoning Board of Appeals and the variations to the regulations of the Zoning Ordinance be changed as herein requested.

Respectfully submitted this 25th day of April, 2008, A.D.

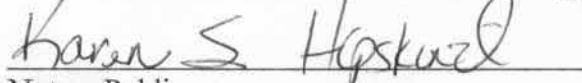


Signature of Applicants

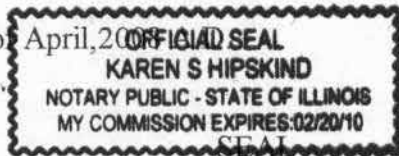
STATE OF ILLINOIS)
)
) SS
CHAMPAIGN COUNTY)

Marc J. Ansel and Frances V. Ansel, being first duly sworn on their oath, depose and say, that they are the same persons named in and who subscribed the above and foregoing petition, that they have read the same and knows the contents thereof, and that the matters and things therein set forth are true in substance and in fact as therein set forth.

Subscribed and sworn to before me on this 28th day of April, 2008



Notary Public



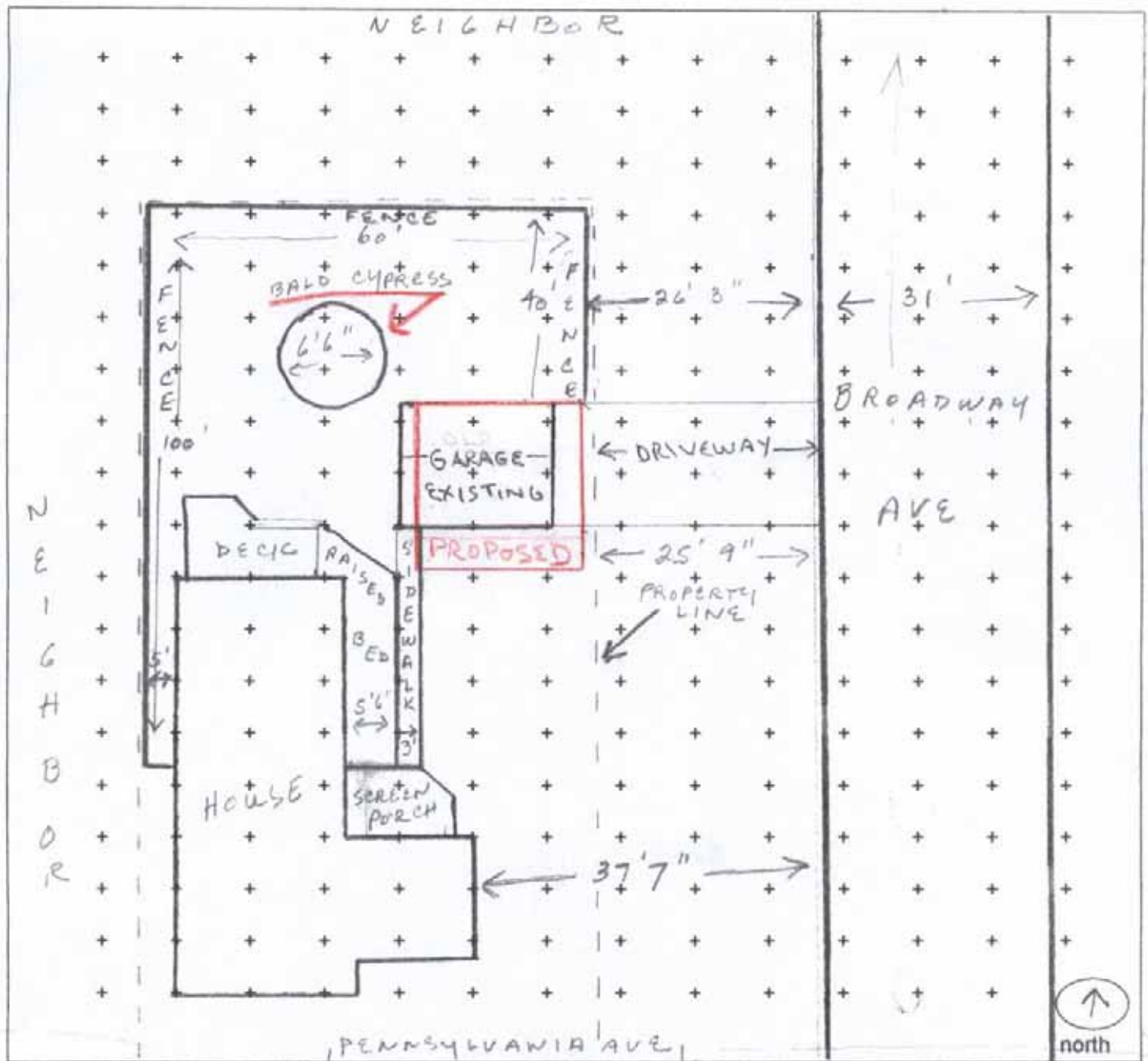
Petitioner's Attorney: _____
(if applicable)

(address)

(telephone number)

PLEASE RETURN THIS FORM ONCE COMPLETED TO:

City of Urbana
Community Development Department Services
Planning Division
400 South Vine Street
Urbana, IL 61801
Or Fax to (217) 384-2367
Please call (217) 384-2440 if you have any questions.



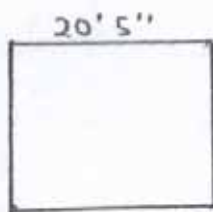
SCALE: + → + = 10'

SITE OR PLOT PLAN

--- --- --- --- --- = PROPERTY LINE

PROJECT ADDRESS: 102 W PENNSYLVANIA AVE

- NOTE:
1. PLOT PLAN MUST SHOW: PROPERTY LINES, ANY EXISTING OR PROPOSED CONSTRUCTION ON THE LOT, AND DISTANCES (SETBACKS) FROM PROPERTY LINES TO BUILDING. ALSO SHOW APPLICABLE STREETS AND DRIVES, EXISTING OR PROPOSED.
 2. IF THERE ARE ANY PARCELS OF PROPERTIES WHICH ADJOIN THE AFOREMENTIONED PROPERTY AND ARE NOT NOTED ABOVE, THIS APPLICATION IS NULL AND VOID.



EXISTING GARAGE

PROPOSED GARAGE



24'

4/20/2008





4/20/2008



4/20/2008



4/20/2008

PROPERTY LINE



ZBA-2008-MAJ-07: A request by Marc and Fran Ansel for a major variance to reduce the required front-yard setback to allow for the construction of a garage at 102 West Pennsylvania Avenue in the R-2, Single-Family Residential Zoning District.

Rebecca Bird presented this case to the Zoning Board of Appeals. The petitioners are requesting the variance so that in replacing a deteriorating garage, a large Bald Cypress tree located close to the existing garage will be protected. Ms. Bird presented site photographs to the Commission.

Ms. Bird explained that Bald Cypress trees are uncommon this far north. The City Arborist has examined the tree and reported that it is one of the most significant trees in the neighborhood, if not in the community. The petitioners' own arborist states that it is one of the oldest and tallest Bald Cypress trees in Champaign County.

She reviewed the location of the existing garage as well as the location of the proposed replacement garage. The petitioners would like to move the garage three feet to help protect the tree. They are also planning to pour the concrete pad for the new garage over the existing concrete pad in order to minimize digging and root damage.

To both avoid the tree and construct a standard-sized garage, petitioners plan to extend the new garage closer to Broadway Avenue than the existing garage. At 82 feet, the right-of-way for Broadway Avenue is unusually wide. Sixty feet is the standard right-of-way width for new streets. This additional right-of-way provides additional setback distance between the street and the homes not found on other streets.

Ms. Bird reviewed the variance criteria from Section XI-3 of the Urbana Zoning Ordinance. She then read the options of the Zoning Board of Appeals and presented staff's recommendation, which is as follows:

Based on the analysis and findings presented in the written staff report, and without the benefit of considering additional evidence that may be presented during the public hearing, staff recommends that the Zoning Board of Appeals forward major variance Case No. ZBA-2008-MAJ-07 to the Urbana City Council with a recommendation for approval with the following conditions:

- 4. The garage shall be constructed in general conformance to the site plan layout submitted as part of the application.*
- 5. The existing garage foundation shall be re-used and incorporated into the new foundation. The Building Safety Division will work with the petitioners to accomplish this.*
- 6. The petitioners shall work with their professional arborist or with the City Arborist to ensure damage to the tree is minimized.*

Mr. Corten asked for clarification on Condition #2. Ms. Bird replied that the petitioners have agreed to reuse the existing garage foundation, which shows their commitment to preserve the

tree. The Building Safety Division told the petitioners that they could use the existing pad, pour concrete above it to get the 8 inches required for the footing, and then slope the driveway up to the garage.

The Chairman provided an opportunity for the petitioners to present any information. Marc Ansel, petitioner, stated that he and his wife had taken their time in filling out the application to ensure that it contained everything they wanted. They have worked closely with City staff. He felt that what City staff had presented to the Zoning Board of Appeals represents pretty much how he and his wife feel. They would love to preserve the tree, but they are cornered in with the space available to them. Given the large setback that Broadway Avenue has and the fact that their lot is a corner lot, they have to deal with two front-yard setbacks. If they are going to save the tree they have no choice but to build the new garage a few feet closer Broadway Avenue.

Mr. Corten noticed that the front property line is right by the edge of the proposed new garage. The driveway will be in the right-of-way, which is owned by the City. Will this cause any problems with City codes? Mr. Ansel stated that they plan to use the same driveway that already exists and that driveways typically cross City property.

Ms. Bird pointed out that from the street, it appears as if there is a deep setback. However, both the existing and new garages are very close to the property lines.

The Chairman asked if anyone else in the audience wished to speak on this case, either for or against. No one did so.

Mr. Warmbrunn moved that the Zoning Board of Appeals forward Case No. ZBA-2008-MAJ-07 to the Urbana City Council with a recommendation for approval along with the three conditions outlined in the written staff report. Ms. Uchtmann seconded the motion. Roll call on the motion was as follows:

Mr. Armstrong	-	Yes	Mr. Corten	-	Yes
Ms. Uchtmann	-	Yes	Mr. Warmbrunn	-	Yes
Mr. Welch	-	Yes			

The motion was approved by unanimous vote.