



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: August 23, 2002

SUBJECT: ZBA-02-MAJ-7: A request by William DeJarnette to increase the allowed area for an accessory garage from 750 square-feet to 960 square-feet and to decrease the required five-foot side yard setback to two feet to decrease the required 10-foot rear yard setback to five feet. The subject property is located in Urbana's R-3, Single and Two-Family Residential District.

Introduction

William DeJarnette requests a major variance for the construction of a detached accessory garage at 710 East Pennsylvania Avenue. He proposes to construct the garage with a building area greater than the maximum permitted for an accessory structure with side and rear yard setbacks less than those required in the Zoning Ordinance. The proposed garage of 960 square feet would be a 22% increase over the required building area of 750 square feet. The garage is proposed to have two-foot side yard setback and a five-foot rear yard setback. The Urbana Zoning Ordinance requires a rear yard setback of ten feet and a side yard setback of five feet.

Background

Description of the Site

The site is located on the north side of East Pennsylvania Avenue just east of Anderson Street. The lot is approximately 9,100 square feet in area and contains a one-story residential structure of approximately 800 square feet. The house faces south onto East Pennsylvania Avenue. On the east side of the house there is an existing gravel driveway that extends approximately half way to the rear of the property and ends approximately 10 feet from the rear-side of the house. There currently is no detached garage on the property.

Discussion

Square Footage

The Urbana Zoning Ordinance permits the construction of accessory structures when they are customarily incidental to the principal use or structure and when they are compatible in character and extent with the principal use and district where they are located. The controlling regulation in this case, Section V-2.C.7, requires that an accessory building such as a garage cannot exceed 750 square feet in area when the single-family dwelling is less than 1,500 square feet. In this case the single-family home is approximately 800 square feet thus restricting the size of the accessory building to 750 square feet. The variance is requested to exceed this requirement. The proposed garage would contain space for three vehicles and an 80-square foot tornado safe room. The garage would also contain a loft area for additional storage.

Setbacks

Section VI-5.B.9 of the Zoning Ordinance permits accessory garages with a building area less 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-3, Single and Two-Family Residential Zoning District is five feet and the rear yard setback requirement is ten feet. The proposal is to reduce the side yard setback to two feet and the rear yard setback to five feet. There is an existing five-foot utility easement along the rear property line to the north. This easement was provided on the original subdivision plat and currently contains power lines and other service utilities.

Floor Area / Open Space Ratio

At this time the property does not have a garage. In addition, the small size of the house (800 sq. ft.) and its relation to the lot size (9,100 sq. ft) contribute to a favorable floor area ratio and open space ratio. Staff calculations have determined the existing floor area ratio of 0.087 and the open space ratio of 10.37 is well in excess of the minimum of 0.50. The construction of the garage as proposed will change these ratios to 0.19 for the floor area ratio and 4.17 for the open space ratio. No variances are necessary for these requirements.

On August 21, 2002, the Zoning Board of Appeals voted 4-2 to forward the major variance request to the City Council with a recommendation for approval. At the public hearing, Mr. DeJarnette explained that he wished to build the garage eight and one-half feet longer than regulation primarily because his house does not have a safe refuge from tornados. He mentioned that the height of the garage and the pitch of the roof would match that of the single-family structure for the aesthetic purposes; the height of the garage would be 19-feet at its highest point. There was no public comment at the hearing. Four neighbors have objected to the variance request primarily because of the size of the house in relation to the proposed garage. One neighbor wrote a letter and the others communicated by telephone to staff. For more information regarding the proposed variance, please refer to the August 13, 2002 staff memorandum and draft minutes from the August 21, 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 August 21, 2002 meeting, the ZBA cited the following findings for their recommendation for approval of the requested variance:

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 more to the size of the existing single-family home in relation to the lot. The home is only 800 square feet and does not contain a basement. For this reason, the petitioner has the need to construct a garage with adequate space for additional storage that cannot be accommodated within the home. The petitioner also wishes to construct an 80 square-foot tornado room since the existing home does not offer safe refuge from tornados. As noted above, the size of the lot relative to the size of the house will allow the floor area ratio and open space ratio of the property to be well within regulations even with the garage construction.

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 variance is needed due to special circumstances related to the existing single-family structure on the lot which does not provide adequate storage opportunities.

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 variance would be generally consistent with other lots in the immediate vicinity. Other homes in the area already have garages. With the proposed improvements this lot will still have about 7,340 square feet of open space.

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

The variance will allow a garage to be placed in the northeast corner of the property. Construction of the garage will involve removal of a small-dilapidated shed and replacement of the non-conforming gravel driveway to that of a dustless concrete surface that meets Urbana

Zoning Ordinance. The impact to the neighbor to the north will be minimized with a five-foot setback due to the existing utility easement.

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

The petitioner is requesting only the minimum amount of variance needed for the space he needs to accommodate his plans for a tornado/storm room while still providing adequate vehicular and household storage area.

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 4-2 to forward the variance request to the City Council with a recommendation for approval. Therefore, staff concurs with the ZBA and recommends that City Council **GRANT** the variance as requested.

Attachments: Proposed Ordinance
Draft Minutes of August 21, 2002 ZBA Public Hearing
Letter from Donald and Cheryl McClain, 711 E. Michigan Avenue, Urbana

Prepared by:

Michaela Bell, Planner

c: William DeJarnette

ORDINANCE NO. 2002-09-104

AN ORDINANCE APPROVING A MAJOR VARIANCE

(Request to increase the allowed area for an accessory garage from 750 square feet to 960 square feet and to decrease the required five-foot side yard setback to two feet and the required 10-foot rear yard setback to five feet in Urbana's R-3, Single-and-Two-Family Residential Zoning District - Case No. ZBA-02-MAJ-7)

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 petitioner, Bill DeJarnette, has submitted a petition requesting a major variance to build a 960 square-foot accessory garage with a side yard setback of two feet and rear-yard setback of five feet, located in the R-3, Single-and-Two-Family Residential Zoning District at 710 East Pennsylvania Avenue; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case #ZBA-02-MAJ-7; 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 August 21, 2002 and the ZBA by a (4-2) vote of its members recommended to the City Council approval of the requested variance; 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:

1. The special circumstance relates more to the size of the existing single-family home in relation to the lot. The home is only 800 square feet and does not contain a basement. For this reason, the petitioner has the need to construct a garage with adequate space for additional storage that cannot be accommodated within the home. The petitioner also wishes to construct a 80 square-foot tornado room since the existing home does not offer safe refuge from tornados. As noted above, the size of the lot relative to the size of the house will allow the floor area ratio and open space ratio of the property to be well within regulations even with the garage construction.

2. The request does not serve as a special privilege because the proposed variance is needed due to special circumstances related to the existing single-family structure on the lot which does not provide adequate storage opportunities.

3. The need for the variance has not yet been created.

4. The variance would be generally consistent with other lots in the immediate vicinity. Other homes in the area already have garages. With the proposed improvements this lot will still have about 7,340 square feet of open space.

5. The variance will allow a garage to be placed in the northeast corner of the property. Construction of the garage will involve removal of a small-dilapidated shed and replacement of the non-conforming gravel driveway to that of a dustless concrete surface that meets Urbana Zoning Ordinance. The impact to the neighbor to the north will be minimized with a five-foot setback due to the existing utility easement.

6. The petitioner is requesting only the minimum amount of variance needed for the space he needs to accommodate his plans for a tornado/storm room while providing adequate vehicular and household storage.

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

The major variance request by Bill DeJarnette, in Case #ZBA-02-MAJ-7 is hereby approved to allow an 960 square-foot accessory garage with a rear-yard setback of five feet and a side-yard setback of two feet, in the R-3, Single-and-Two-Family Residential Zoning District at 710 East Pennsylvania Avenue, in the manner proposed in the application.

The major variance described above shall only apply to the property located at 710 East Pennsylvania Avenue, Urbana, Illinois, more particularly described as follows:

LEGAL DESCRIPTION: Fairlawn Park Third Addition, Lot 18, Urbana, Illinois

PERMANENT PARCEL #: 92-21-16-351-031

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 increase the allowed area for an accessory garage from 750 square feet to 960 square feet and to decrease the required five-foot side yard setback to two feet and the required 10-foot rear yard setback to five feet in Urbana's R-3, Single-and-Two-Family Residential Zoning District - Case No. ZBA-02-MAJ-7)" 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.