



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 Tyler, Ph.D, AICP, Director/City Planner

DATE: April 29, 2004

SUBJECT: ZBA 04-MAJ-3, Request to reduce the side yard setback from 5' to 2' 8" at 705 E. Park Street, in Urbana's R-3, Single and Two Family Residential Zoning District.

Introduction and Background

The petitioner Michael Valentine is requesting a major variance to allow a reduction in the width of the required side yard on his property to facilitate the replacement of an existing carport with a new one that would serve as a large breezeway to connect the house and garage. This carport / breezeway will physically connect the house to the garage. Attached garages are considered part of the main structure and are subject to its setback regulations.

Unlike detached garages a residential structure is not permitted to encroach into the required side yard. Therefore a variance is necessary if the garage addition and connection to the house are to be constructed.

Mr. Valentine's property at 705 E. Park Street is in a residential neighborhood consisting mostly of single-family homes. The lot is 8,040 square feet in area and contains a one-story house of approximately 1,600 square feet. The residence faces north onto East Park Street and has a one-lane gravel driveway on the east side of the lot that ends at a detached garage located to the rear of the house. The driveway is adjacent to the neighboring driveway at 707 E. Park Street that also ends in a garage.

The existing carport is deteriorated and will be removed. The proposed 428 square foot addition would be 13' 8" wide and match the width of the garage in front to the driveway and so would permit unfettered access.

Discussion

In the R-3, Single and Two-Family Residential District the side yard requirements are 5-feet. The request is to reduce the setback to two feet eight inches. That reduction of 45% in side yard width

constitutes a major variance and requires Zoning Board of Appeals approval before moving on to City Council.

Construction of the proposed garage addition and connection of structures on the lot, would still allow the floor area ratio (FAR) and Open Space Ratio (OSR) requirements to be 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 April 28, 2004 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 practical difficulty relates to the location of the house on the lot. The neighborhood design is of an older traditional neighborhood. Surrounding homes in the neighborhood are typically smaller and are built on smaller lots than the size of a modern standard lot. The house in question is placed near the middle of the lot. The result is that the available area on either side of the house to accommodate a garage or carport is too narrow unless it encroaches into the side yard.

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 small size of the lot and its current configuration of existing structures, the variance would not serve as a special privilege; the petitioner could not connect the garage to the house and also comply with current regulations.

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. The petitioner is aware of the requirements of the Zoning Ordinance and has applied for a variance prior to construction.

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

The requested decrease of the side setback should not detract from the essential character of the neighborhood. The proposal attach the garage to the house with an addition with decreased setbacks should not significantly impact the neighborhood.

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

The variance should not cause a nuisance to the adjacent property and will permit covered and visually screened storage of gardening equipment and children's toys

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

The petitioner is only requesting the minimum deviation from the requirements to facilitate the carport and free access to the garage.

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 articulated herein, they should articulate its 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 its denial.

Recommendation

Based on the findings outlined herein, the Zoning Board of Appeals voted 6-0 to forward the variance request to the City Council with a recommendation for approval, with the **CONDITION** that the construction must generally conform to the submitted site plan Exhibit G: Proposed Site Plan. Staff concurs with the ZBA and recommends that City Council **GRANT** the variance as requested.

Attachments: Proposed Ordinance
 Proposed Site Plan
 Draft Minutes of April 28, 2004 ZBA Public Hearing

Prepared by:

Paul Lindahl, Planner

cc: Michael Valentine, 705 E. Park Street, Urbana, IL 61801

ORDINANCE NO.2004-05-051

AN ORDINANCE APPROVING A MAJOR VARIANCE

(Allow a side yard setback reduction, from 5' to 2' 8" in the R-3, Single and Two-Family Residential Zoning District- 705 E. Park Street/ Case No. ZBA-04-MAJ-3)

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 with the parcel of land or the structure; and

WHEREAS, the owner of the subject property, Michael Valentine, has submitted a petition requesting a major variance to allow a two-foot four inch encroachment into the required 5-foot side yard setback at 705 E. Park Street in Urbana's R-3, Single and Two-Family Residential Zoning District; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case #ZBA-04-MAJ-3; 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 April 28, 2004 and the ZBA voted 6 ayes and 0 nays to recommend to the City Council approval of the requested variance with the condition listed below; 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 has considered the variance criteria established in the Urbana Zoning Ordinance and has determined the following findings:

1. There are 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 house on the lot. The neighborhood design is of an older traditional neighborhood. Surrounding homes in the neighborhood are typically smaller and are built on smaller lots than the size of a modern standard lot. The house in question is placed near the middle of the lot. The result is that the available area on either side of the house to accommodate a garage or carport is too narrow unless it encroaches into the side yard.

2. The variance would not serve as a special privilege because considering the small size of the lot and its current configuration of existing structures, the petitioner could not connect the garage to the house and also comply with current regulations.

3. The variance requested was not the result of a situation or condition having been knowingly or deliberately created by the Petitioner because the need for the variance has not yet been created. The petitioner is aware of the requirements of the Zoning Ordinance and has applied for a variance prior to construction.

4. The requested decrease of the side setback should not detract from the essential character of the neighborhood. The proposal attach the garage to the house with an addition with decreased setbacks should not significantly impact the neighborhood.

5. The variance should not cause a nuisance to the adjacent property and will permit covered and visually screened storage of gardening equipment and children's toys.

6. The variance represents generally the minimum deviation from requirements of the Zoning Ordinance necessary to accommodate the request. The petitioner is only requesting the minimum deviation from the requirements to facilitate the carport and free access to the garage.

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

The major variance request by Michael Valentine, in Case #ZBA-04-MAJ-3, is hereby approved to allow a two-foot four inch encroachment into the required 5-foot side yard setback at 705 E. Park Street in Urbana's R-3, Single and Two-Family Residential Zoning District, in the manner proposed in the application, with the condition that the construction must generally conform to the site plan submitted with the application.

The major variance described above shall only apply to the property located at 705 East Park Street, Urbana, Illinois, more particularly described as follows:

LEGAL DESCRIPTION:

Lot 12 in block 1 of Mrs. E. Barr's subdivision of the South 10 acres of Lots 4 and 5 of a subdivision of the west half of the Southwest quarter of Section 9, Township 19 North, Range 9 East of the third principal meridian, as per plat recorded in plat book "B" at page 195, situated in Champaign County, Illinois.

PERMANENT PARCEL #: 91-21-09-303-002

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 _____, 2004.

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 _____, 2004, the corporate authorities of the City of Urbana passed and approved Ordinance No.

_____, entitled:

AN ORDINANCE APPROVING A MAJOR VARIANCE

(Allow a side yard setback reduction, from 5' to 2' 8" in the R-3, Single and Two-Family Residential Zoning District- 705 E. Park Street/ Case No. ZBA-04-MAJ-3)

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 _____, 2004, 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: April 28, 2004
TIME: 7:30 p.m.
PLACE: Urbana City Building
400 S. Vine Street
Urbana, IL 61801

DRAFT

MEMBERS PRESENT: Paul Armstrong, Herb Corten, Anna Merritt, Joe Schoonover, Charles Warmbrunn, Harvey Welch

MEMBERS ABSENT None

STAFF PRESENT: Michaela Oktay, Senior Planner; Paul Lindahl, Planner; Teri Andel, Secretary

OTHERS PRESENT: Jim Burch, Mark Dixon, Randy Meyer, Jack and Terri Smart, Kenji Wada

5. NEW PUBLIC HEARINGS

ZBA-04-MAJ-03: Request to reduce the side-yard setback from 5' to 2'8" at 705 East Park Street, in Urbana's R-3, Single and Two-Family Residential Zoning District.

Paul Lindahl, Planner, gave the staff report for this case. He introduced the case by giving a brief background and description of the site. He clarified the purpose for the variance request. He reviewed the variance criteria from Section XI-3 of the Urbana Zoning Ordinance and how it pertained to this case. He read the options of the Zoning Board of Appeals and stated that staff's recommendation was as follows:

Based on the findings outlined in the written staff report, and without the benefit of considering additional evidence that may be presented during the public hearing, staff recommended that the Urbana Zoning Board of Appeals recommend approval of the variance to the Urbana City Council with the following condition:

1. *That the construction must generally conform to the site plan submitted with the application.*

Mr. Welch asked for clarification regarding the reason for the variance request. Was it because the petitioner wanted to connect the new carport/breezeway from the garage to the house? If the carport/breezeway would be freestanding, then the petitioner would not need the variance? Mr. Lindahl replied that was correct. The petitioner wanted to build a larger carport/breezeway and connect it to the house.

Ms. Merritt inquired if the garage was finished? Mr. Lindahl replied that it needed to be sided.

Mr. Warmbrunn moved that the Zoning Board of Appeals forward this case to the City Council with a recommendation of approval including the condition that was recommended by City staff. Mr. Corten seconded the motion. Roll call was as follows:

Mr. Schoonover	-	Yes	Mr. Warmbrunn	-	Yes
Mr. Welch	-	Yes	Mr. Armstrong	-	Yes
Mr. Corten	-	Yes	Ms. Merritt	-	Yes

The motion was passed by unanimous vote.

Mr. Welch asked if staff could look take a look at this part of the Zoning Ordinance. It seemed absurd to him to have a situation where people want to connect their buildings and need a variance request approved in order to do so. Ms. Oktay responded by saying that there was a Zoning Ordinance Working Group that was going through the Zoning Ordinance and flagging areas that could be improved.