



## 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, Ph.D., Community Development Director

**DATE:** September 29, 2016

**SUBJECT:** **ZBA Case ZBA-2016-MAJ-10:** A request by Paul and Jennifer Hixson for a Major Variance to construct a pergola with solar panels that encroaches 12 inches into the 18-inch required east side yard setback at 209 West Indiana Avenue in the R-2, Single Family Residential zoning district.

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### Introduction

Paul and Jennifer Hixson are requesting a Major Variance to allow the installation of a pergola that encroaches 12 inches into the required 18-inch side yard at 209 West Indiana Street. The pergola would be located behind the existing garage and would have solar panels mounted on the top. The location was selected for its proximity to the controls for an existing solar panel system and to maximize solar exposure. The adjacent neighbors have indicated support for the project.

### Background

The property at 209 West Indiana Avenue is a narrow lot with a single-family home that is zoned R-2, Single Family Residential. The house has an attached garage on the eastern edge of the property. The garage location is legally nonconforming with a setback of nine inches from the eave of the structure to the property line. The applicants propose to place the pergola behind the existing garage and to mount solar panels on the top to expand their current photovoltaic electricity generation capabilities. Solar panels are currently located on the roof of the south side of their home.

The pergola would be 11 feet, 4 inches in height, as measured to the roof's midpoint and 272 square feet in area. The top would contain 12 solar panels that will generate photovoltaic energy. The applicants want to install the pergola behind the garage because of its distance from tree shade cover that could block the panels at certain times of the day. The electrical controls for the existing photovoltaic system are also located behind the garage and the proposed location would allow for an easier and more affordable connection to the system.

Section VI-9 of the Zoning Ordinance states that accessory structures less than 750 square feet in area cannot extend closer than 18 inches from a side property line. The applicants are requesting a variance that would allow the proposed pergola to encroach one foot into the required 18-inch

east side yard with a set back of six inches from the property line. Section XI-3.C.2.b(1) states that any request for a side yard deviation greater than 25% shall be considered a Major Variance.

At their September 21, 2016, meeting, the Urbana Zoning Board of Appeals held a public hearing for case ZBA-MAJ-10. One board member asked for clarification about the dimensions of the pergola and why the pergola could not be constructed several inches further from the property line so that it would not require a variance. The applicants stated that the proposed design would meet the location requirements for solar access while preserving symmetrical aesthetics for the property and surrounding neighborhood. The Board voted unanimously with four ayes and zero nays to forward the case to Council with a recommendation of approval.

It should be noted that during the course of the public process, the request may be amended to require, or the Council may decide to consider, a lesser variance. That change may result in the variance being classified as a Minor Variance.

### **Description of the Site**

The subject property is a single-family home on a 0.19-acre lot located on the eastern edge of the West Urbana neighborhood. It is zoned R-2, Single Family Residential, and is surrounded by other single-family homes that are also zoned R-2. Most of the houses in the neighborhood were constructed in the early-to-mid-twentieth century. The subject property is in close proximity to Carle Park and Urbana High School.

### **Zoning and Land Use Table**

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

<b>Location</b>	<b>Zoning</b>	<b>Existing Land Use</b>	<b>Comprehensive Plan Future Land Use</b>
<b>Subject Property</b>	R-2, Single Family Residential	Single Family Home	Residential
<b>North</b>	R-2, Single Family Residential	Single Family Home	Residential
<b>South</b>	R-2, Single Family Residential	Single Family Home	Residential
<b>East</b>	R-2, Single Family Residential	Single Family Home	Residential
<b>West</b>	R-2, Single Family Residential	Single Family Home	Residential

## Discussion

The applicant would like to construct a pergola with roof-mounted solar panels behind their garage on the east side of the property and in the required side yard. The Zoning Ordinance requires an 18-inch separation between the accessory structure and the side property line. The variance request is for an allowed encroachment of 12 inches. The existing house and attached garage of the property extend four feet and three inches into the required east side yard setback of five feet and is legally nonconforming. The proposed pergola would encroach three inches further towards the property line than do the house and garage.

The applicants state that the proposed location of the pergola is necessary because it would allow for maximum sunlight exposure and the easiest connection to their existing photovoltaic system controls. The applicant has provided pictures (Exhibit E) that document the back yard showing extensive tree shade cover at certain times of the day. The panels are also meant to complement an existing system of solar panels located on the house. The control system for those existing panels is also located near the rear of the garage. Adding solar panels closest to the existing control system would be the most affordable option for the homeowners to expand their existing solar power capabilities.

The proposed pergola would be similarly sized to other typical backyard pergolas or canopies. It would be located close to the house and would not significantly increase the physical footprint of structures on the subject property. The open space of the property would be minimally impacted. The homeowners of the neighboring properties around the subject property have written letters of support for the application.

The proposed pergola would be located in an area necessitated by the available sunlight and the existing photovoltaic system infrastructure. It would be designed in a manner that is aesthetically compatible and congruent with the property and surrounding neighborhood. The pergola would encroach into the required side yard by three more inches than the existing encroachment by the house and attached garage.

## Variance Criteria

Section XI-3 of the Urbana Zoning Ordinance requires the City Council to make findings based on variance criteria. The following is a review of the criteria as they pertain to this case and the criteria outlined in the ordinance:

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 extensive tree shade cover that would block the solar panels if a variance is not granted is a practical difficulty for locating the pergola. The location of the photovoltaic control system also favors the proposed location. Placing the unit in other parts of the yard would not allow the solar panels to receive maximum sunlight exposure and would require a more expensive and less convenient connection due to increased distance from the photovoltaic control system.

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.*

Some of the trees that extend cover over the backyard are located on other properties. Therefore, the applicants are unable to reduce the shadows being cast over their yard. The proposed pergola would be placed to optimize exposure to sunlight. The location of the system controls inside the rear of the garage would benefit by the panels being located closer for a proper and economical connection.

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

The lot was platted and the house and garage were constructed many years prior to the current Zoning Ordinance being enacted and before the applicants owned the property. The applicants also do not have control of the conditions for sun exposure that would give their solar system its most effectiveness. The request was not the result of a situation created by the applicant.

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

The variance will not alter the character of the neighborhood. The proposed pergola would be minimally visible from the public right-of-way and located directly next to the attached garage. The existing house and attached garage are already legally nonconforming with respect to the east side yard setback of five feet.

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

The variance would not cause a nuisance to the adjacent property owners. The neighboring property owners to the subject property have written letters of support for the application. The proposed pergola would minimally expand an existing encroachment.

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

The proposed location is requested to maximize sun exposure to the solar panels and provide convenient connection to the existing solar control panel. It would minimally expand the existing encroachment of the garage.

## **Summary**

1. Paul and Jennifer Hixson have requested a Major Variance to allow a solar panel pergola that would encroach 12 inches into the 18-inch required side yard setback at 209 West Indiana Avenue.
2. The site is located in West Urbana and is zoned R-2, Single Family Residential.

3. The variance is requested due to special circumstances and practical difficulties with the parcel related to the property's tree shade cover and location of an existing photovoltaic control system necessitate the location of the proposed pergola.
4. The variance would not serve as a special privilege to the applicants.
5. The variance request is not the result of a situation or condition that was created by the applicants. Many of the trees responsible for the shade cover are located on other properties or were planted before the applicants purchased their home.
6. The variance would not alter the essential character of the neighborhood. The pergola which would encroach into the required setback would be minimally visible from neighboring properties or from the front of the property. It would be located behind the existing house that is legally nonconforming with respect to side yard setbacks.
7. The variance would not cause a nuisance to the adjacent property. The neighboring homeowners have communicated their support for the application.
8. The variance represents the minimum deviation from the requirements of the Zoning Ordinance necessary to accommodate the request.
9. At their September 21, 2016, meeting, the Urbana Zoning Board of appeals voted with four ayes and zero nays to forward ZBA Case 2016-MAJ-10 to the Urbana City Council with a recommendation of approval.

## Options

The Urbana City Council has the following options in ZBA Case 2016-MAJ-10:

- a) **Approve** the variance based on the findings outlined in this memo; or
- b) **Approve the variance along with certain terms and conditions.** If conditions or findings differ from those recommended in the attached draft ordinance, these should be articulated accordingly; or
- c) **Approve a Minor Variance of a lesser degree.** If conditions or findings differ from those recommended in the attached draft ordinance, these should be articulated accordingly; or
- d) **Approve a Minor Variance of a lesser degree with certain terms and conditions.** If conditions or findings differ from those recommended in the attached draft ordinance, these should be articulated accordingly; or
- e) **Deny** the variance. If the City Council elects to do so, the Council should articulate findings supporting its denial.

## Recommendation

At their September 21, 2016, meeting, the Urbana Zoning Board of Appeals voted with four ayes and zero nays to forward ZBA Case 2016-MAJ-10 to the Urbana City Council with a recommendation of **APPROVAL WITH ONE CONDITION**. Staff concurs with this opinion. The condition for approval was:

1. The site be developed in general compliance with the site plan and rendering attached as Attachment A.

Prepared by Christopher Marx, Planner I

### Attachments:

- Exhibit A: Site Plan & Renderings
- Exhibit B: Location Map
- Exhibit C: Zoning Map
- Exhibit D: Future Land Use Map
- Exhibit E: Site Photos
- Exhibit F: Communications from Neighbors
- Exhibit G: Application for Variance

cc: Paul and Jennifer Hixson  
New Prairie Construction

**ORDINANCE NO. 2016-10-095**

**AN ORDINANCE APPROVING A MAJOR VARIANCE**

(To allow the construction of a pergola with solar panels that encroaches 12 inches into the 18-inch required east side yard setback in the R-2, Single Family Residential Zoning District, at 209 West Indiana Avenue / ZBA Case No. 2016-MAJ-10)

**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 a Major Variance where there is a special circumstance or condition with a parcel of land or a structure; and

**WHEREAS**, Paul and Jennifer Hixson have submitted a petition for a Major Variance to allow a pergola covered with solar panels that will encroach 12 inches into the 18-inch required side yard setback for accessory structures in the City's R-2, Single Family Residential Zoning District; and

**WHEREAS**, said petition was presented to the Urbana Zoning Board of Appeals in ZBA Case No. 2016-MAJ-10; 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 held a public hearing on the proposed Major Variance on September 21, 2016 and voted four ayes to zero nays in Case No. ZBA-2016-MAJ-10 to recommend that the Corporate Authorities approve the requested variance with a condition; 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. Paul and Jennifer Hixson have requested a Major Variance to allow a solar panel pergola that would encroach 12 inches into the 18-inch required side yard setback at 209 West Indiana Avenue.
2. The site is located in West Urbana and is zoned R-2, Single Family Residential.
3. The variance is requested due to special circumstances and practical difficulties with the parcel related to the property's tree shade cover and location of an existing photovoltaic control system necessitate the location of the proposed pergola.
4. The variance would not serve as a special privilege to the applicants.
5. The variance request is not the result of a situation or condition that was created by the applicants. Many of the trees responsible for the shade cover are located on other properties or were planted before the applicants purchased their home.
6. The variance would not alter the essential character of the neighborhood. The pergola which would encroach into the required setback would be minimally visible from neighboring properties or from the front of the property. It would be located behind the existing house that is legally nonconforming with respect to side yard setbacks.
7. The variance would not cause a nuisance to the adjacent property. The neighboring homeowners have communicated their support for the application.
8. The variance represents the minimum deviation from the requirements of the Zoning Ordinance necessary to accommodate the request.
9. At their September 21, 2016, meeting, the Urbana Zoning Board of appeals voted with four ayes and zero naves to forward ZBA Case 2016-MAJ-10 to the Urbana City Council with a recommendation of approval.



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

Section 1. In ZBA Case No. 2016-MAJ-10, the variance requested by Paul and Jennifer Hixson the construction of a pergola with solar panels that encroaches 12 inches into the 18-inch required east side yard setback at 209 West Indiana Avenue in the R-2, Single Family Residential zoning district is hereby approved in the manner proposed in the application and subject to the following condition:

- The site be developed in general compliance with the site plan and rendering attached as Attachment A.

The Major Variance described above shall only apply to the property located at 209 West Indiana Avenue, more particularly described as follows:

LEGAL DESCRIPTION:

Lot 8 in Block 5 of Van Doran's Addition to Urbana, Situated in Champaign County, Illinois.

P.I.N.: 93-21-17-332-006

Section 2. The Urbana 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 \_\_\_\_\_, 2016

**PASSED by the City Council** this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

AYES:

NAYS:

ABSTAINS:

\_\_\_\_\_  
Phyllis D. Clark, City Clerk

**APPROVED by the Mayor** this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

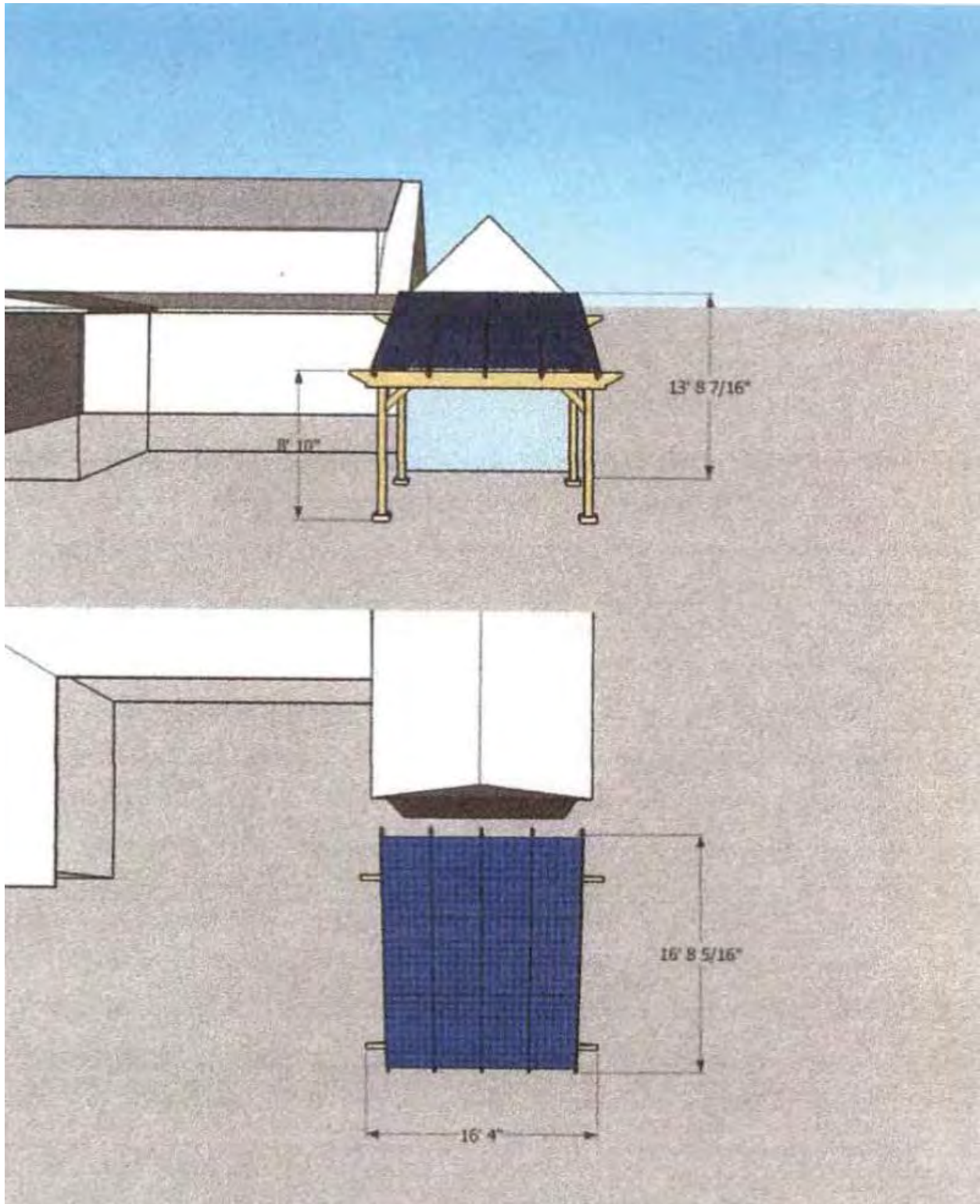
\_\_\_\_\_  
Laurel Lunt Prussing, Mayor

**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 \_\_\_\_\_, 2016, 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 pergola with solar panels that encroaches 12 inches into the 18-inch required east side yard setback in the R-2, Single Family Residential Zoning District, at 209 West Indiana Avenue / ZBA Case No. 2016-MAJ-10) 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 \_\_\_\_\_, 2016, 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.

DATED at Urbana, Illinois, this \_\_\_\_ day of \_\_\_\_\_, 2016.

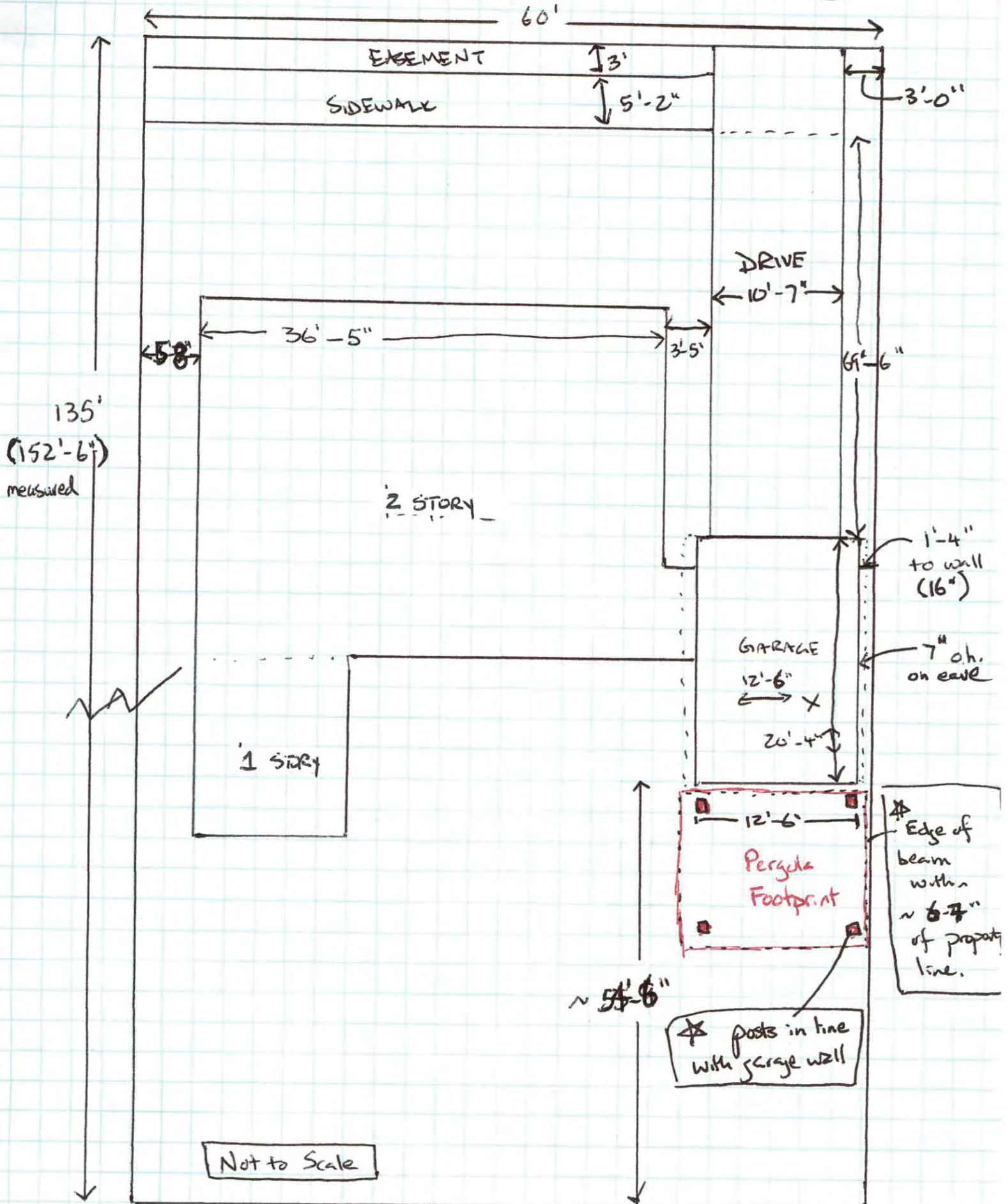
Exhibit A





# Exhibit A - Site Plan and Renderings

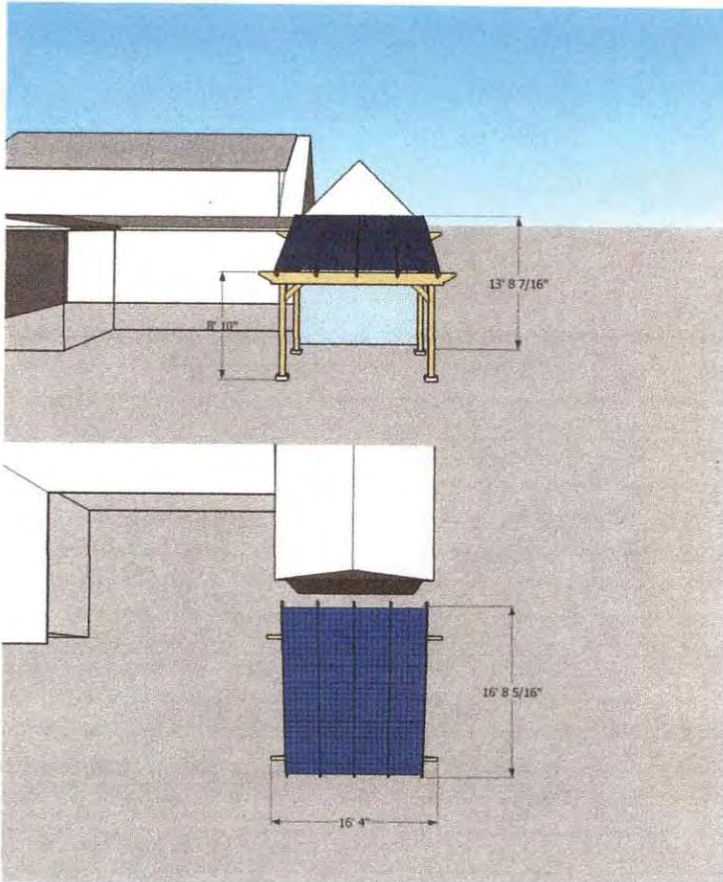
WEST INDIANA AVENUE



## Jill Mulder

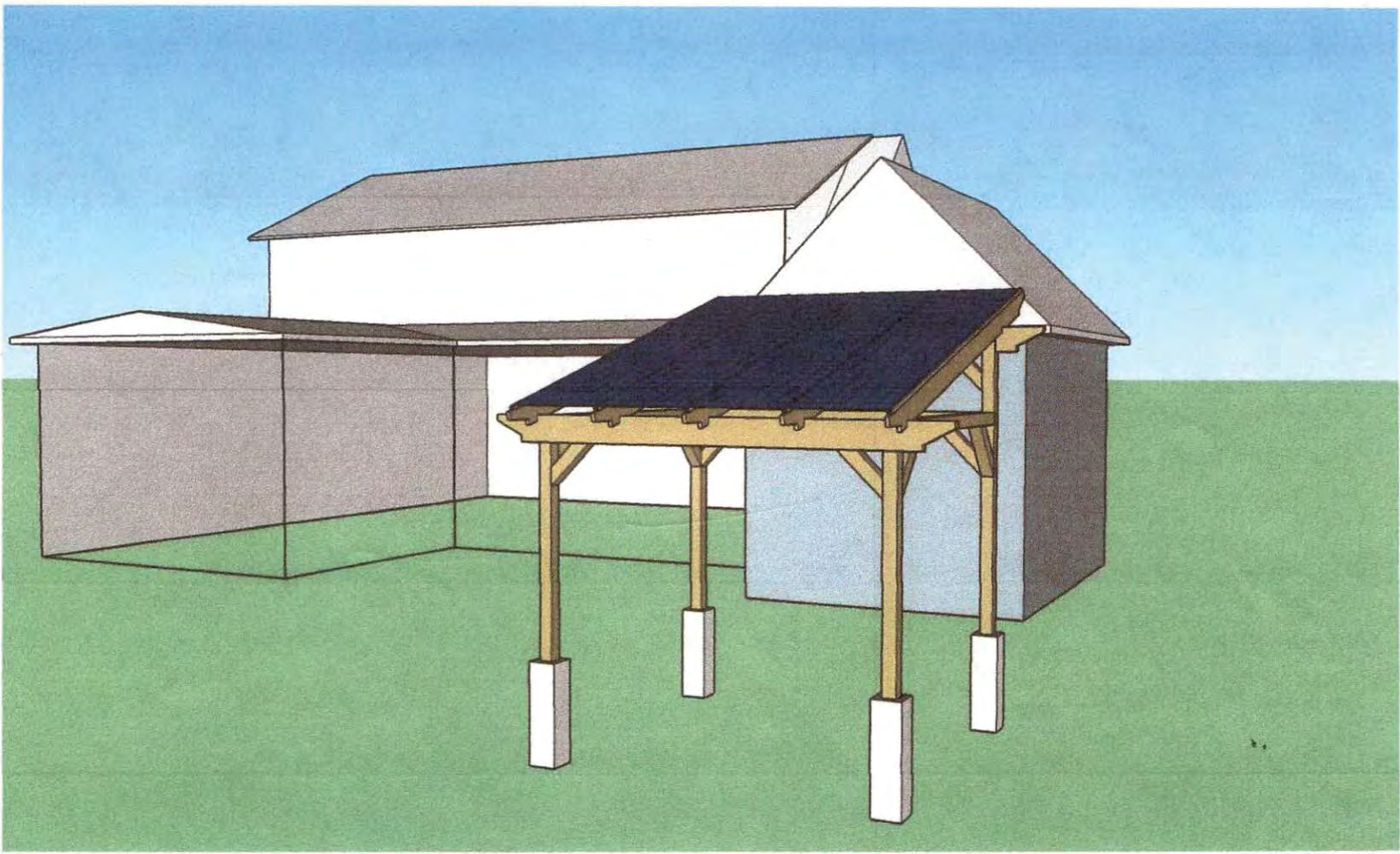
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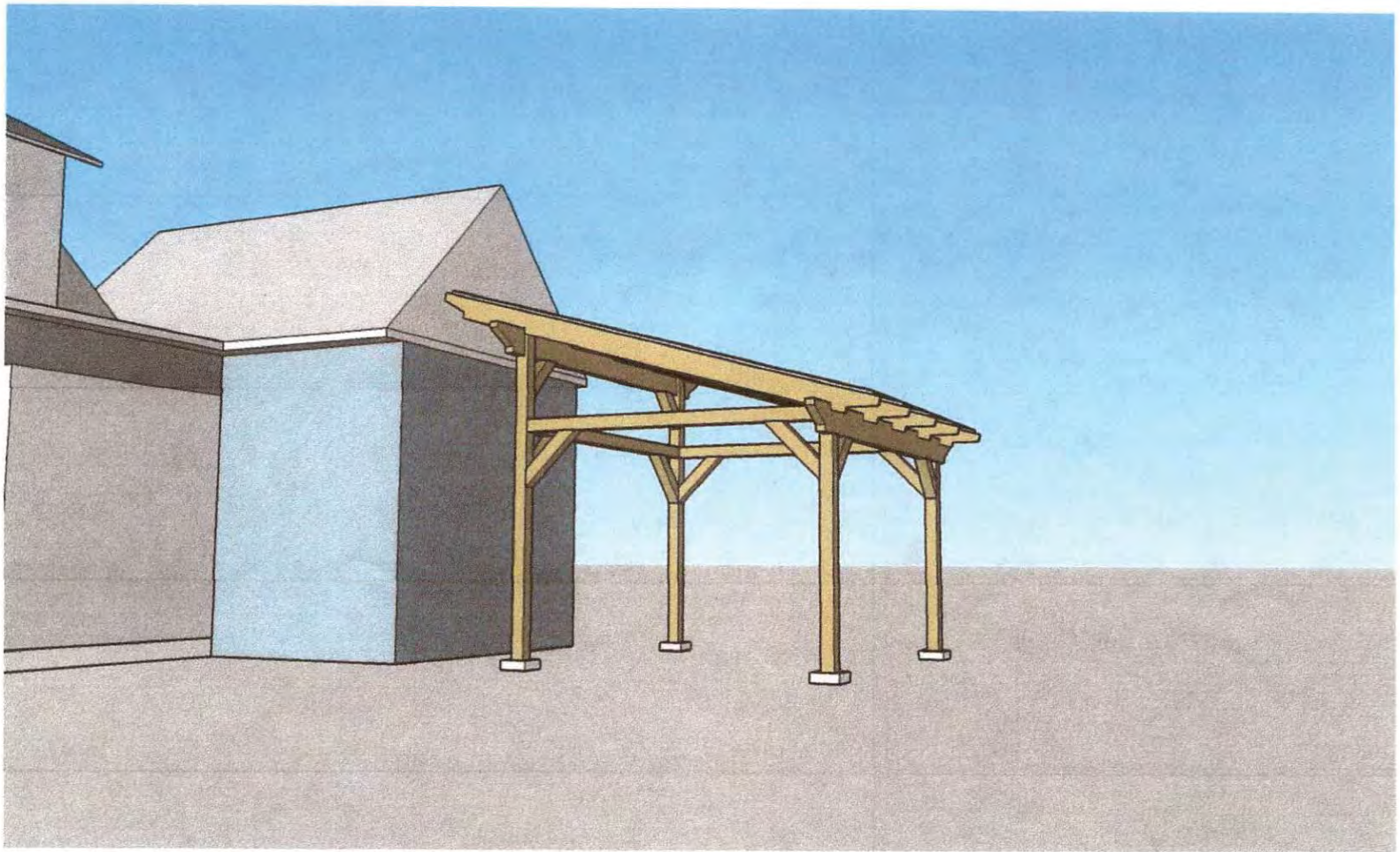
**From:** Matthew Carter <matthew@newprairieconstruction.com>  
**Sent:** Tuesday, August 16, 2016 11:45 PM  
**To:** Jill Mulder; Tonya Randall  
**Subject:** Pergola Dimensions



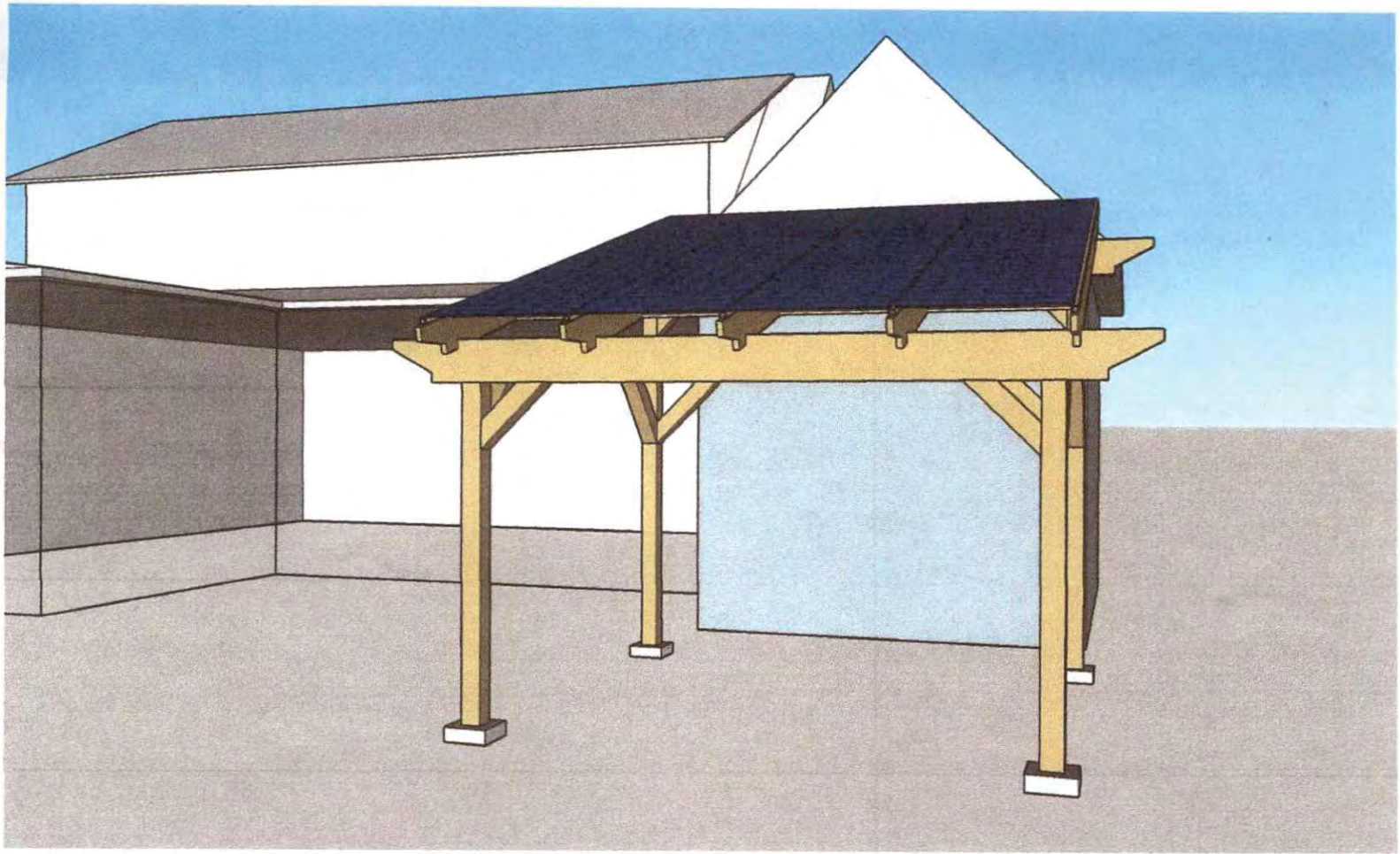
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Matthew Carter  
Carpenter & Solar Energy Specialist  
[New Prairie Construction Company](http://www.newprairieconstruction.com)  
217.418.5721





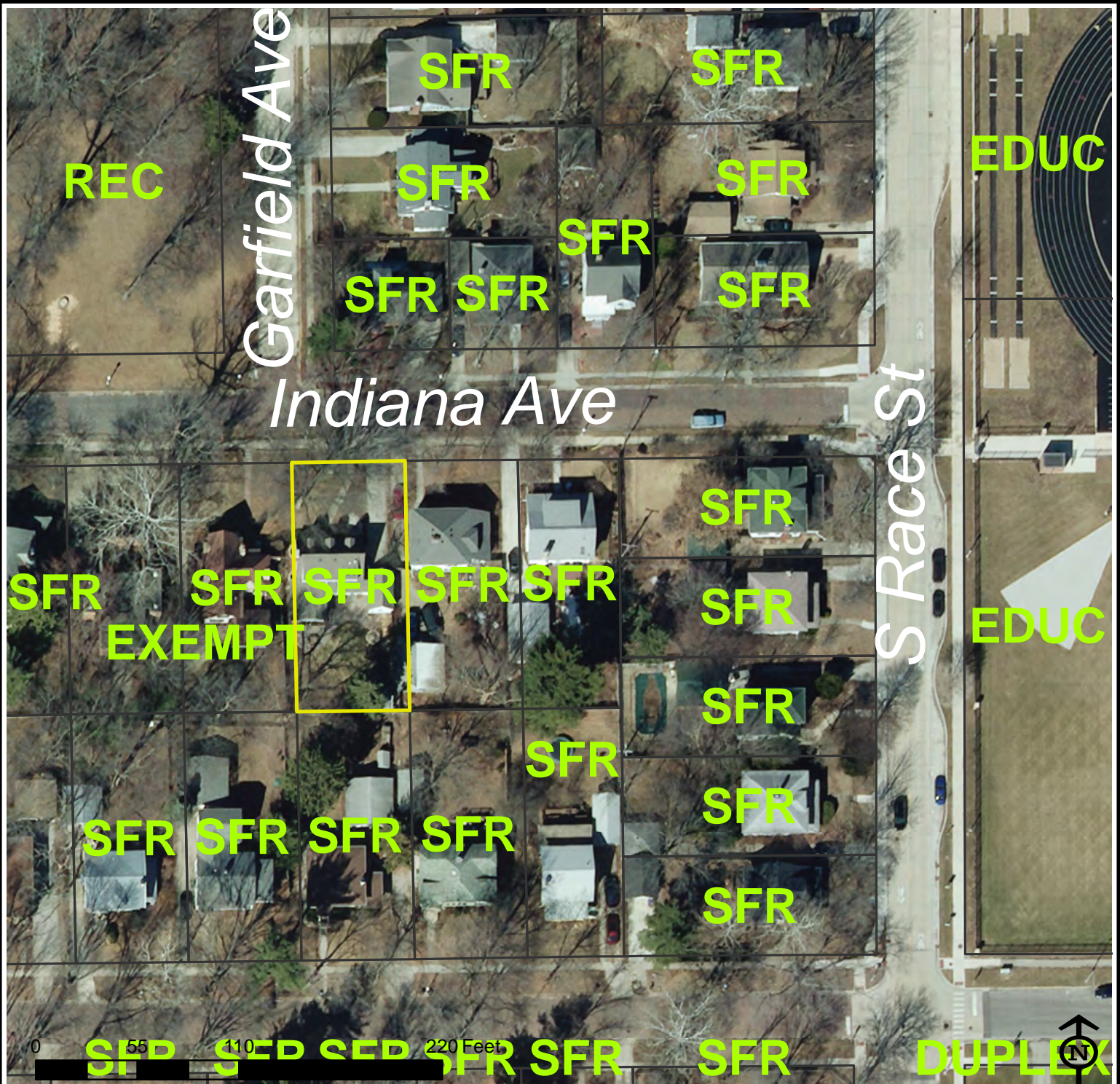








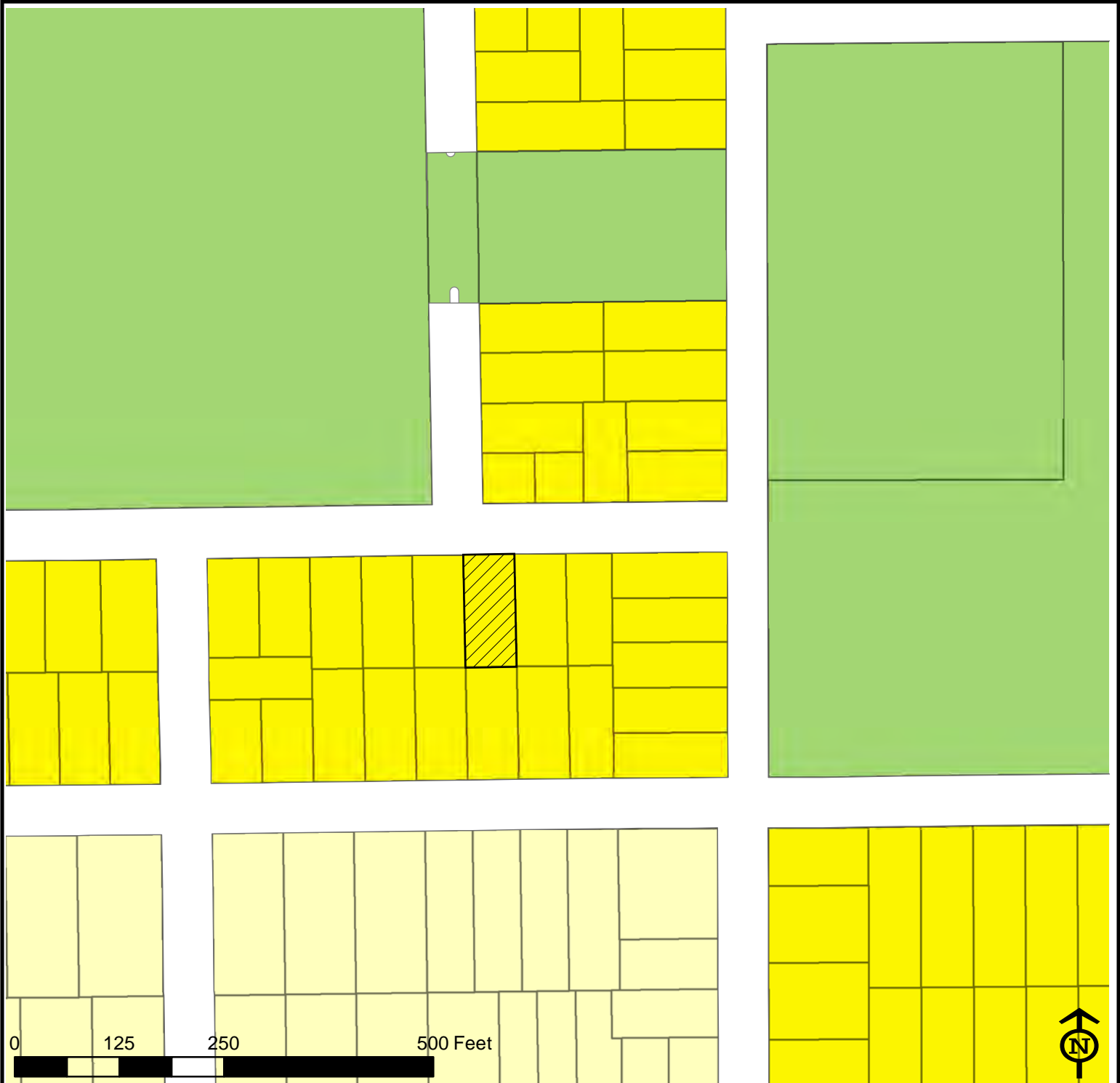
# Exhibit B: Location & Existing Land Use Map







Case: ZBA-2016-MAJ-10  
 Subject: Side Yard Variance  
 Location: 209 West Indiana Avenue  
 Petitioner: Paul and Jennifer Hixson

 Subject Property

# Exhibit C: Zoning Map






Case: ZBA-2016-MAJ-10  
Subject: Side Yard Variance  
Location: 209 West Indiana Avenue  
Petitioner: Paul and Jennifer Hixson

-  CRE
-  R1
-  R2
-  Subject Property

# Exhibit D: Future Land Use Map



Case: ZBA-2016-MAJ-10  
Subject: Side Yard Variance  
Location: 209 West Indiana Avenue  
Petitioner: Paul and Jennifer Hixson

-  Residential
-  Institutional
-  Park

 Subject Property



# Exhibit E: Site Pictures











September 4, 2016

Mr. Christopher Marx  
Dept of Community Development Services,  
Planning Division  
City of Urbana

Dear Mr. Marx:

This letter is to let you know that I have discussed with my neighbors, Paul and Jennifer Hixson, their desire to build a solar pergola in the area immediately behind their garage. I understand that they are required to obtain a major zoning variance to build the pergola in that location because it will be near the property line and not set back five feet from the line as current zoning standards require.

I support their application for this zoning variance and have no problems with them building the solar pergola in that location.

Thank you for taking my views into consideration when the city evaluates Mr. and Mrs. Hixson's request.

Sincerely,

 (signature)

Mark Enslin (printed name)

207 W Indiana Ave (address)  
Urbana IL 61801



September 4, 2016

Mr. Christopher Marx  
Dept of Community Development Services,  
Planning Division  
City of Urbana

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I support their application for this zoning variance and have no problems with them building the solar pergola in that location.

Thank you for taking my views into consideration when the city evaluates Mr. and Mrs. Hixson's request.

Sincerely,

  
\_\_\_\_\_  
(signature)

Joseph A. Clougherty  
\_\_\_\_\_  
(printed name)

208 W. Michigan Ave.  
\_\_\_\_\_  
(address)

September 4, 2016

Mr. Christopher Marx  
Dept of Community Development Services,  
Planning Division  
City of Urbana

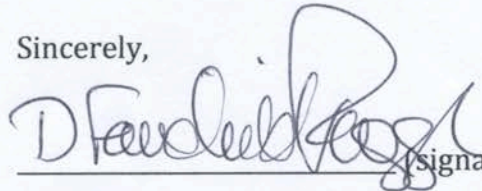
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I support their application for this zoning variance and have no problems with them building the solar pergola in that location.

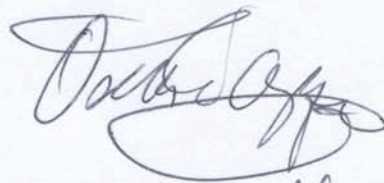
Thank you for taking my views into consideration when the city evaluates Mr. and Mrs. Hixson's request.

Sincerely,

  
(signature)

D. FAIRCHILD RUGGLES  
(printed name)

9/4/2016  
(address)



Oscar E. Vazquez 9/4/2016

301 W. INDIANA AVE  
URBANA, IL



# Application for Variance

# ZONING BOARD OF APPEALS

## APPLICATION FEE – \$175.00 (Major) and \$150.00 (Minor)

The Applicants are responsible for paying the cost of legal publication fees as well. Estimated costs for these fees usually run between \$75.00 to \$225.00. The applicant is billed separately by the News-Gazette.

### DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY

Date Request Filed \_\_\_\_\_ ZBA Case No. \_\_\_\_\_  
Fee Paid - Check No. \_\_\_\_\_ Amount \_\_\_\_\_ Date \_\_\_\_\_

### 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 the following variation (*Describe the extent of the Variation Requested*) **Variation to build a solar pergola immediately behind, and in line with, existing garage** on the property described below, and in conformity with the plans described on this variance request.

#### 1. APPLICANT CONTACT INFORMATION

Name of Applicant(s): **Paul and Jennifer Hixson** Phone: **217 367-9852**  
Address (*street/city/state/zip code*): **209 W. Indiana Ave., Urbana, IL 61801**  
Email Address: **paulhixson@me.com jennifer.hixson@me.com**  
Property interest of Applicant(s) (*Owner, Contract Buyer, etc.*): **Owner**

#### 2. OWNER INFORMATION

Name of Owner(s): **Paul and Jennifer Hixson** Phone: **217 367-9852**  
Address (*street/city/state/zip code*): **209 W. Indiana Ave., Urbana, IL 61801**  
Email Address: **paulhixson@me.com jennifer.hixson@me.com**  
Is this property owned by a Land Trust?  Yes  No  
*If yes, please attach a list of all individuals holding an interest in said Trust.*

#### 3. PROPERTY INFORMATION

Location of Subject Site: **209 W. Indiana Ave., Urbana, IL 61801**  
PIN # of Location:  
Lot Size: **60 X 135**

Current Zoning Designation: **R-2**

Current Land Use (*vacant, residence, grocery, factory, etc*): **residence**

Proposed Land Use: **residence**

Legal Description (*If additional space is needed, please submit on separate sheet of paper*):

#### 4. CONSULTANT INFORMATION

Name of Architect(s): **New Prairie Construction** Phone: **217 344-5131**

Address (*street/city/state/zip code*): **605 E. Main St., Urbana, IL 61802-2817**

Email Address: **office@newprairieconstruction.com**

Name of Engineers(s): Phone:

Address (*street/city/state/zip code*):

Email Address:

Name of Surveyor(s): Phone:

Address (*street/city/state/zip code*):

Email Address:

Name of Professional Site Planner(s): Phone:

Address (*street/city/state/zip code*):

Email Address:

Name of Attorney(s): Phone:

Address (*street/city/state/zip code*):

Email Address:

#### 5. REASONS FOR VARIATION

Identify and explain any special circumstances or practical difficulties in carrying out the strict application of the Zoning Ordinance with respect to the subject parcel.

**We would like to build a solar pergola to increase the photo voltaic generation capacity on our property beyond what was recently installed on our roof. Our second goal in this project is to provide increased shade over a backyard fountain to reduce algae growth. The only location which can be used to achieve these goals is immediately behind the existing garage (the garage eave is 9" inside the property line). The width of the pergola must equal the width of the existing garage to support the desired number of panels.**



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. **Due to the shading pattern of adjacent trees (many of which are in neighbor's yards) the only location where this solar pergola can be located is immediately behind the garage (which is also where the inverter and other electronics for the rooftop solar installation are housed).**

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

**The garage is an existing structure. Our new pergola posts will line up with the exterior of the garage, resulting in 2 beams (one at 7'-10" to 8'-9" and one at 11'-2" to 12'-1" iheight) extending past the plane of the garage about 10" putting the farthest part of the structure within 6" of the property line. This is the only location that (a) accomodates solar shading patterns, (b) is near needed electronics, (c) retains the symmetry of our yard.**

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

**The solar pergola will be located entirely inside an existing 6' cedar privacy fence that runs along the east property line. The panels on the roof of the pergola will match the panels that were recently installed on the roof of our house and the east roof of our garage. From the east and the south, the pergola will blend in with the rooftop solar. Very little of the pergola will be visible from the front of our house (north - Indiana Ave).**

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

**Because this neighborhood was mainly built in the 1920'-30's, all of the nearby garages (including the neighbor to the east and both houses behind on Michigan were built very near the property line (see enclosed aerial image from Google maps). Since both the garages and existing fences define current property boundaries, this solar pergola will not interrupt or conflict with existing usage or appearance.**

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

**As explained, the location and size were our only option for building this solar pergola. As designed, the beams of the pergola will only extend 3" further to the east than the eaves of our existing garage, and that difference will be barely noticable since they will be far above head height. Both side neighbors are in support of our request, and we see no disadvantage to any neighbor (or the neighborhood) in granting this variance.**

***NOTE: If additional space is needed to accurately answer any question, please attach extra pages to the application.***

***By submitting this application, you are granting permission for City staff to post on the property a temporary yard sign announcing the public hearing to be held for your request.***

**CERTIFICATION BY THE APPLICANT**

I certify all the information contained in this application form or any attachment(s), document(s) or plan(s) submitted herewith are true to the best of my knowledge and belief, and that I am either the property owner or authorized to make this application on the owner's behalf.

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

**PLEASE RETURN THIS FORM ONCE COMPLETED TO:**

City of Urbana  
Community Development Department Services  
Planning Division  
400 South Vine Street, Urbana, IL 61801  
Phone: (217) 384-2440  
Fax: (217) 384-2367

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

**DATE:** September 21, 2016

**DRAFT**

**TIME:** 7:30 p.m.

**PLACE:** City Council Chambers, 400 South Vine Street, Urbana, IL 61801

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**MEMBERS PRESENT** Ashlee McLaughlin, Charles Warmbrunn, Jonah Weisskopf, Harvey Welch

**MEMBERS EXCUSED** Joanne Chester, Matt Cho, Nancy Uchtmann

**STAFF PRESENT** Lorrie Pearson, Planning Manager; Christopher Marx, Planner I; Teri Anel, Administrative Assistant II

**OTHERS PRESENT** Teresa Anderson, Theodore Demin, Jennifer Hixson, Paul Hixson, Yuhana Khan, Jill Mulder

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**NEW PUBLIC HEARINGS**

**ZBA-2016-MAJ-10: A request by Paul and Jennifer Hixson for a Major Variance to construct a pergola with solar panels that encroaches 12 inches into the 18-inch required east side yard setback at 209 West Indiana Avenue in the R-2, Single Family Residential Zoning District.**

Chair Welch opened the public hearing for this case. Christopher Marx, Planner I, presented the staff report to the Zoning Board of Appeals. He began by stating the purpose of the Major Variance request. He described the subject property by noting the zoning and existing land uses of the proposed site and of the surrounding adjacent properties. He showed photos of the existing backyard and an illustration indicating where the proposed pergola would be located in relation to the house and garage. He reviewed how the criteria from Section XI-3 of the Urbana Zoning Ordinance pertained to the proposed request. He presented City staff's recommendation for approval with one condition. He mentioned that the applicants and their contractor were in the audience and available to answer any questions.

Chair Welch asked if the members of the Board had questions for City staff.

Mr. Weisskopf asked if a permit was required for an accessory structure. Mr. Marx answered that the variance was to allow the proposed pergola to encroach into the east side yard setback. While there may be permits required for building the pergola, no permits are required from a zoning aspect.

Mr. Warmbrunn questioned why the location of the proposed pergola could not be moved one foot to the west. Mr. Marx explained that it may require the applicants to install two solar panels in one row as opposed to three. They requested three panels across to maximize the amount of sunlight they receive. In addition, they need to be cautious of locating the panels due to the location of the controls. Lastly, they would like to keep the backyard aesthetically pleasing.

Mr. Warmbrunn stated that he could not read the dimension of the poles on the diagram. The dimensions listed state the tallest and lowest points of the poles. Lorrie Pearson, Planning Manager, added that the length and width would be about 16'8" x 16'4".

Mr. Warmbrunn inquired how far away from the garage would the highest point of the pergola be located. Ms. Pearson referred the question to the applicants.

There were no further questions for City staff. Chair Welch opened the hearing for public input.

Jill Mulder, representative of New Prairie Construction, stated that they would not normally need a permit to build a pergola; however, since they are putting a load (solar panels) on top of the pergola, then the City requires a building permit. She already met with the City's Building Inspector, John Patrick Bolger, and he had no problems with the construction plans for the pergola and solar panels.

Paul Hixson, property owner and applicant, explained that the panels at the top would be closer to the garage than the upright pillars that would provide the support. He could not recall the exact measurements. He stated that there is a small flowerbed behind the garage. The first pillar would be approximately one foot away from the flowerbed. The furthest north of the top would be about three feet from the garage to allow room for a person to get in between the garage and the pergola.

Their yard has a certain symmetry to it that they would like to maintain. There is an addition on the west side and with the garage, they form a U-shape. They have a bricked patio that reinforces the shape. They just want to bring the line visually out from the garage. If they shift the pergola over to the west one foot, then it would appear dog-legged and would not get as much sun. So, for both aesthetic and practical reasons they designed the pergola to encroach into the east side yard setback.

He mentioned that he was appreciative to the City of Urbana for having created the initiative that allowed the C-U Solar Program to come forward. The solar panels on the roof of their house have been active for 27 days and have already generated a significant amount of energy. They would like to increase this by installing the proposed pergola and solar panels.

He noted there was a correction to the staff report in that there would be 12 panels instead of 3 panels. He viewed a pergola with solar panels at a house in Champaign and found it attractive. They spoke with 26 of their neighbors and each one supported their proposal.

Mr. Weisskopf wondered how much energy the proposed pergola with 12 panels would generate. Mr. Hixson said that they currently have 18 panels on the roof and along the east side of their house. Adding 12 more panels would give them a total of 30 panels. The existing 18 panels are generating approximately 22 kilowatts of electricity. They believe the total generating capacity of all 30 panels would be in the high 30s.



With there being no further comments or testimony from members in the audience, Chair Welch closed the public input portion of the hearing. He, then, opened the hearing for Zoning Board of Appeals discussion and/or motion(s).

Ms. McLaughlin moved that the Zoning Board of Appeals forward Case No. ZBA-2016-MAJ-10 to the City Council with a recommendation for approval including the following condition:

- 1. The site be developed in general compliance with the site plan and rendering attached in the staff report.*

Mr. Warmbrunn seconded the motion. Roll call on the motion was as follow:

Ms. McLaughlin	-	Yes	Mr. Warmbrunn	-	Yes
Mr. Weisskopf	-	Yes	Mr. Welch	-	Yes

The motion passed unanimously by a vote of 4-0. Ms. Pearson noted that this case would be forwarded to City Council on October 3, 2016.