



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Mayor Diane Wolfe Marlin and City Council

FROM: John A. Schneider, MPA, Community Development Director

DATE: July 5, 2018

SUBJECT: An Ordinance Approving Major Variances (603 East Oregon Street / ZBA Case No. 2018-MAJ-08, ZBA Case No. 2018-MAJ-09)

Introduction

Carol Osgood requests two Major Variances to permit a second principal structure that encroaches into the side and rear yard setbacks on her property at 603 East Oregon Street. The variances would allow her to add an apartment to the upper level of her existing detached garage.

At its June 20, 2018, meeting, the Zoning Board of Appeals (ZBA) unanimously recommended that the City Council approve the two Major Variances by a vote of four ayes and zero nays. The applicant spoke at the meeting. No other members of the public spoke, and there was no discussion. The ZBA voted by the same count to approve a Conditional Use Permit to allow a second principal structure on the property.¹

Background

There is an existing, detached, two-car garage on the property. The garage is 672 square feet, and is located on the southeastern corner of the property. It contains parking spaces for two vehicles, with some space for storage. The applicant is renovating the upper level of the garage and would like to add a 450 square-foot, one-bedroom apartment (See Exhibit C). The property would still be able to accommodate the four off-street parking spaces required by the Zoning Ordinance, with two spaces in the garage and room for three vehicles on the driveway. The size and height of the garage would be unchanged.

The Conditional Use Permit that was granted by the ZBA allows a second principal structure on the property; however, adding an apartment would reclassify the garage as a nonconforming structure. As an accessory structure, garages are allowed to encroach into the required side and rear yards up to 18 inches from the property line². If the garage is converted to a second principal structure, it would be

¹ While the garage already exists, adding an apartment would reclassify the building as a second principal use, which requires a Conditional Use Permit.

² Zoning Ordinance Section VI-5.B.9

required to be set back five feet from the side yard property line and ten feet from the rear yard property line. The applicant therefore requests two Major Variances to permit the existing garage to encroach into the required yards as a principal structure. Because the deviation from the yard requirements of the Zoning Ordinance is more than 25%, the requests are classified as Major Variances per section XI-3.C.2.b.1 of the Zoning Ordinance.

Description of the Site and Surrounding Properties

The property contains a single family home and is zoned R-3, Single- and Two-Family Residential. It is a 13,934 square foot corner lot. All of the neighboring properties also contain single-family homes and are zoned R-3.

The following chart identifies the current zoning, existing land uses, and Comprehensive Plan future land use designations of the site and surrounding properties (see Exhibits A, B, and C).

Direction	Zoning	Existing Land Use	Future Land Use
Site	R-3, Single- and Two-Family Residential	Single-Family Home	Residential
N/E/S/W	R-3, Single- and Two-Family Residential	Single-Family Home	Residential

Discussion

The applicant needed a Conditional Use Permit to put an apartment on the second story of her existing garage, which was granted by the Zoning Board of Appeals. She also needs two Major Variances to allow the garage to continue to encroach into the required side and rear yards if she adds an apartment to the garage.

The Major Variances would allow the existing garage to serve as a principal structure to house vehicles and an apartment. The apartment would provide an affordable unit for a potential tenant or for an individual related to the homeowner. The property owner could add living space to the garage without the variances, but to make it a full apartment with a kitchen, bathroom, and separate entrance, the variances are needed.

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?

There are special circumstances and difficulties with the concerned parcel in carrying out the strict

application of the law. The ZBA granted a Conditional Use Permit for a second principal structure, but the structure would be deemed nonconforming if the apartment is added because it already encroaches into the required side and rear yards. The garage exists as a conforming accessory structure, and its location and size will remain the same whether the variances are granted or not.

2. The proposed variances 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 would not serve as a special privilege. The garage already exists and its structural footprint would not be altered.

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

The variance requested was not the result of a situation or condition having been knowingly created by the Petitioner. The garage was constructed before the applicant purchased the property.

4. The variances will not alter the essential character of the neighborhood.

The variance will not alter the essential character of the neighborhood. The garage already exists and its footprint would not change. The proposed improvements would be entirely inside the garage.

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

The variances will not cause a nuisance to the adjacent property. The building footprints would remain the same and the property can accommodate the four off-street parking spaces required by the Zoning Ordinance. The additional dwelling unit would not drastically change the density of the property.

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

The variances represent the minimum deviation from the requirements of the Zoning Ordinance. The requests would allow the existing building to remain in place.

Summary of Findings

1. Carol Osgood was granted a Conditional Use Permit by the Zoning Board of Appeals to allow a second principal structure on her property at 603 East Oregon Street in the R-3, Single-and-Two Family Residential zoning district. She has also applied for two Major Variances to permit a setback of zero feet in the required side and rear yards.
2. If granted, the Major Variances would allow Ms. Osgood to add an apartment to the upper level of her existing two-car garage, with 450 square feet of living space.

3. The property is currently compliant with the Zoning Ordinance requirements for floor area ratio, open space, and off-street parking. The property would remain compliant with the Zoning Ordinance if the Major Variances are granted.
4. The proposed variances are due to special circumstances and difficulties in carrying out the strict application of the ordinance. The Conditional Use Permit allows a second principal structure, but the structure would be deemed nonconforming if the apartment is added because it already encroaches into the required side and rear yards. The garage exists as a conforming accessory structure, and its location and size will remain the same whether the variances are granted or not.
5. The proposed variances would not serve as a special privilege. The garage already exists and its structural footprint would not be altered.
6. The variances requested were not the result of a situation or condition having been knowingly created by the Petitioner. The garage was constructed before the applicant purchased the property.
7. The variances will not alter the essential character of the neighborhood. The garage already exists and its footprint would not change. The improvements would be entirely inside the garage.
8. The variances will not cause a nuisance to the adjacent property. The building footprints would remain the same and the property can accommodate the four off-street parking spaces required by the Zoning Ordinance. The additional dwelling unit would not drastically change the density of the property.
9. The variances represent the minimum deviation from requirements of the Zoning Ordinance. The requests would allow the existing building to remain in place.

Options

The City Council has the following options in Case Nos. ZBA-2018-MAJ-08 and ZBA-2018-MAJ-09:

1. **Approve** the variances as requested, based on the findings outlined in this memo; or
2. **Approve the variances with certain terms and conditions**, and if so, articulate all terms, conditions, and findings; or
3. **Deny** the variance requests, and if so, articulate findings supporting the denial.

Recommendation

At its June 20, 2018, meeting, the Zoning Board of Appeals voted four ayes and zero nays to recommend that the City Council **APPROVE** the proposed Major Variances to City Council in Case Nos. ZBA-2018-MAJ-08 and ZBA-2018-MAJ-09 for the reasons articulated above and with the following conditions:

1. The encroachments are only permitted for the existing garage.

Prepared by:

 Kevin Garcia, AICP, Planner II

Attachments: Exhibit A: Location and Existing Land Use Map
Exhibit B: Zoning Map
Exhibit C: Site Plan
Exhibit D: Site Photos
Exhibit E: Major Variance Application
Exhibit F: Draft ZBA Minutes 6/20/2018

CC: Carol Osgood

ORDINANCE NO. 2018-07-048

AN ORDINANCE APPROVING MAJOR VARIANCES

(603 East Oregon Street / ZBA Case No. 2018-MAJ-08, ZBA Case No. 2018-MAJ-09)

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, Carol Osgood has submitted a petition for two major variances to decrease the required side yard setback from five feet to zero feet, and to decrease the required rear yard setback from ten feet to zero feet; and

WHEREAS, the Zoning Board of Appeals held a public hearing on such petition at 7:00 p.m. on June 20, 2018, in ZBA Case Nos. 2018-MAJ-08 and 2018-MAJ-09; and

WHEREAS, in accordance with Urbana Zoning Ordinance Section XI-10, due and proper notice of such public hearing was given by publication in *The News-Gazette*, a newspaper having a general circulation within the City, on a date at least 15 days but no more than 30 days before the time of the public hearing, and by posting a sign containing such notice on the real property identified herein; and

WHEREAS, the Zoning Board of Appeals voted four (4) ayes and zero (0) nays to forward the case to the Urbana City Council with a recommendation to approve the requested variances; and

WHEREAS, the City Council finds that the requested variances conform with the major variance procedures in Article XI, Section XI-3(C)(2)(d) of the Urbana Zoning Ordinance; and

WHEREAS, the City Council has considered the variance criteria established in the Urbana Zoning Ordinance and has made the following findings of fact:

1. Carol Osgood was granted a Conditional Use Permit by the Zoning Board of Appeals to allow a second principal structure on her property at 603 East Oregon Street in the R-3, Single-and-Two Family Residential zoning district. She has also applied for two major variances to permit a setback of zero feet in the required side and rear yards.
2. If granted, the major variances would allow Ms. Osgood to add an apartment to the upper level of her existing two-car garage, with 450 square feet of living space.
3. The property is currently compliant with the Zoning Ordinance requirements for floor area ratio, open space, and off-street parking. The property would remain compliant with the Zoning Ordinance if the major variances are granted.
4. The proposed variances are due to special circumstances and difficulties in carrying out the strict application of the ordinance. The Conditional Use Permit allows a second principal structure, but the structure would be deemed nonconforming if the apartment is added because it already encroaches into the required side and rear yards. The garage exists as a conforming accessory structure, and its location and size will remain the same whether the variances are granted or not.
5. The proposed variances would not serve as a special privilege. The garage already exists and its structural footprint would not be altered.
6. The variances requested were not the result of a situation or condition having been knowingly created by the Petitioner. The garage was constructed before the applicant purchased the property.
7. The variances will not alter the essential character of the neighborhood. The garage already exists and its footprint would not change. The improvements would be entirely inside the garage.

8. The variances will not cause a nuisance to the adjacent property. The building footprints would remain the same and the property can accommodate the four off-street parking spaces required by the Zoning Ordinance. The additional dwelling unit would not drastically change the density of the property.
9. The variances represent the minimum deviation from requirements of the Zoning Ordinance. The requests would allow the existing building to remain in place.

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

Section 1.

In ZBA Case Nos. 2018-MAJ-08 and 2018-MAJ-09, the two major variances requested by the Carol Osgood to decrease the required side yard setback from five feet to zero feet, and to decrease the required rear yard setback from ten feet to zero feet are hereby approved in the manner proposed in the application.

The major variances described above shall only apply to the property located at 603 East Oregon Street, more particularly described as follows:

Lots 3 and 4 in Ealey Place, a Subdivision of Lots 4 and 5 of George G. Webber's Addition of Outlots to the City of Urbana, as per Plat recorded in Plat Book "D" at Page 275, situated in Champaign County, Illinois.

PIN: 92-21-17-287-001

Section 2.

The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities, and this Ordinance shall be in full force and effect from and after its passage and publication in accordance with Section 1-2-4 of the Illinois Municipal Code.

This Ordinance is hereby passed by the affirmative vote, the “ayes” and “nays” being called of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

PASSED BY THE CITY COUNCIL this ___ day of _____, _____.

AYES:

NAYS:

ABSTENTIONS:

Charles A. Smyth, City Clerk

APPROVED BY THE MAYOR this ___ day of _____, _____.

Diane Wolfe Marlin, Mayor

CERTIFICATE OF PUBLICATION IN PAMPHLET FORM

I, Charles A. Smyth, 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 _____, 2018, the corporate authorities of the City of Urbana passed and approved Ordinance No. _____, entitled “An Ordinance Approving Major Variances (603 East Oregon Street / ZBA Case No. 2018-MAJ-08, ZBA Case No. 2018-MAJ-09)” 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 _____, 2018, 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 _____, 2018.

Exhibit A: Location & Existing Land Use Map



Case: ZBA-2018-C-03, ZBA-2018-MAJ-08, ZBA-2018-MAJ-09
Subject: Conditional Use Permit, Major Variances - Required Yard
Setback Reduction
Location: 603 East Oregon Street
Petitioner: Carol Osgood




 Subject Property

Exhibit B: Zoning Map



Case: ZBA-2018-C-03, ZBA-2018-MAJ-08, ZBA-2018-MAJ-09
Subject: Conditional Use Permit, Major Variances - Required Yard
Setback Reduction
Location: 603 East Oregon Street
Petitioner: Carol Osgood

 Subject Property
 R3

Carol Osgood
 603 E. OREGON
 URBANA 61801

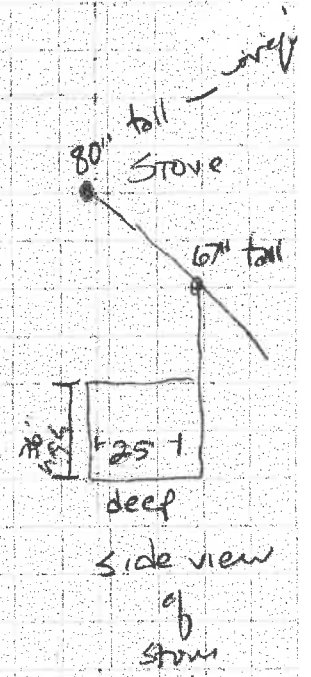
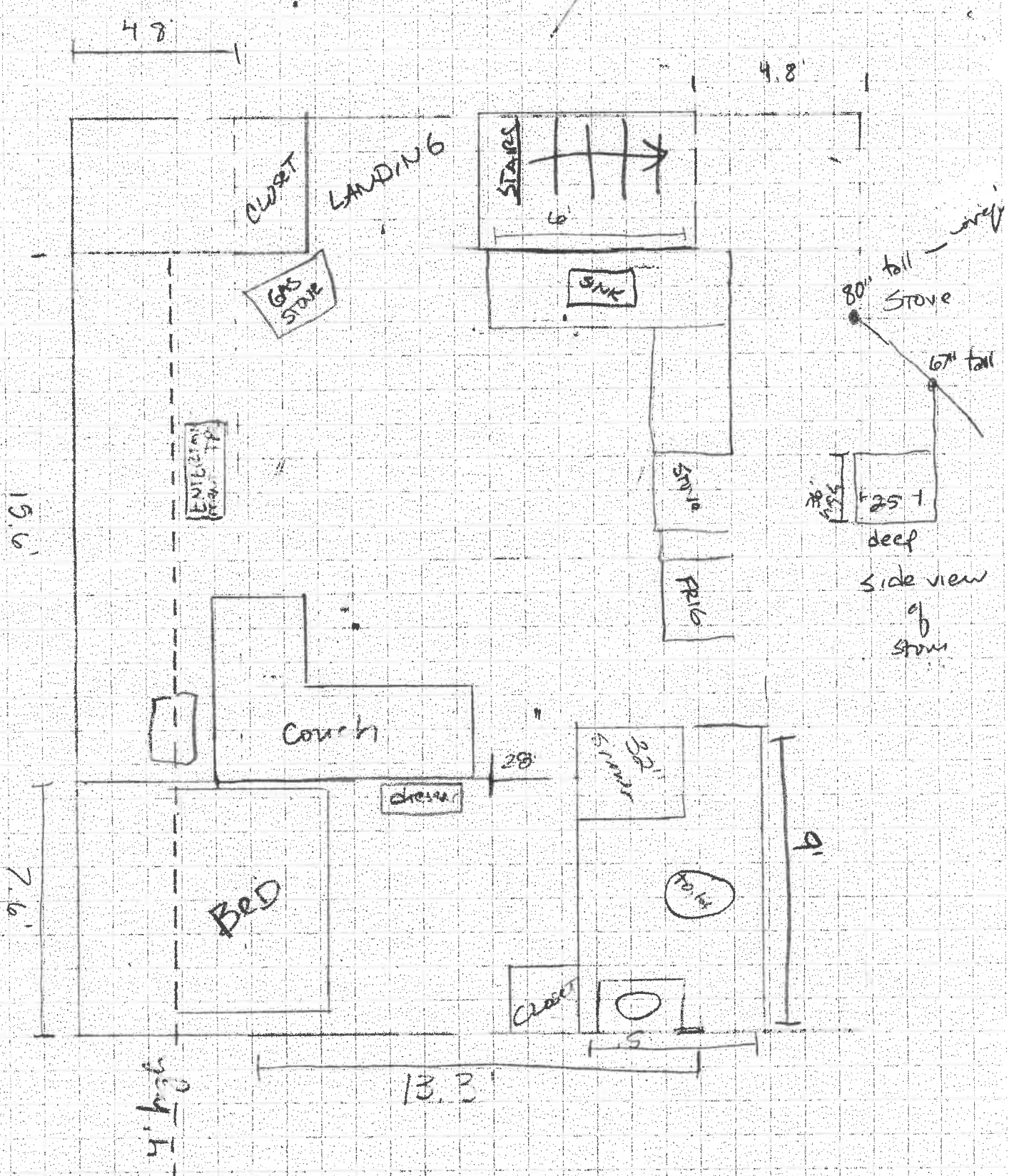
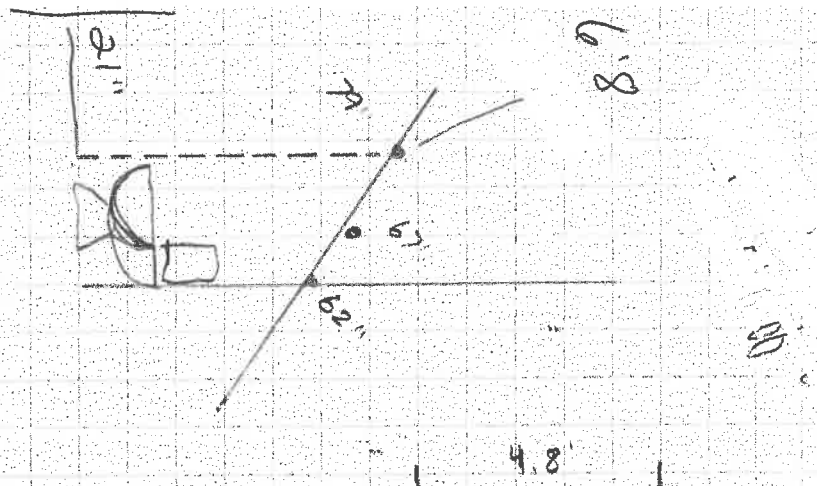


Exhibit D – Site Pictures



Exhibit E - Major Variance Application



Application for Variance

ZONING BOARD OF APPEALS

The application fee must accompany the application when submitted for processing. Please refer to the City's website at <http://www.urbanaininois.us/fees> for the current fee associated with this application. The Applicant is also responsible for paying the cost of legal publication fees. Estimated costs for these fees usually run between \$75.00 and \$225.00. The applicant will be billed separately by the News-Gazette.

DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY

Date Request Filed 05-18-2018 ZBA Case No. ZBA-2018-MAJ-08
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*)

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

1. APPLICANT CONTACT INFORMATION

Name of Applicant(s): Carol Osgood Phone: 217 480-6612
Address (street/city/state/zip code): 603 E. Oregon St Urbana
Email Address: carolosgood@yahoo.com
Property interest of Applicant(s) (Owner, Contract Buyer, etc.):

2. OWNER INFORMATION

Name of Owner(s): Same Phone:
Address (street/city/state/zip code):
Email Address:

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: 603 E. Oregon Street (at Grove)
PIN # of Location: 92-21-17-287-001
Lot Size: 0.3198 0.32 acres 13934 sq feet

Current Zoning Designation: **R3**

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

Proposed Land Use:

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

4. CONSULTANT INFORMATION

Name of Architect(s): Phone:

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

Email Address:

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 an apartment above the existing garage. Current structure meets current code for accessory structure. The existing structure was in place when we bought the property.

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.

The garage was built over 25 years ago - before we bought the property. It meets current code for an accessory structure. We will not alter the exterior or the footprint of the existing structure.

Explain how the variance is not the result of a situation or condition that was knowingly or deliberately created by you (the Petitioner). I had no idea that there were set-back issues related to this project. I had had 2 city employees here to look over the alterations I had in mind. Neither mentioned code issues.

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

Nothing will change for the exterior structure or the lot around it. The apartment would only add 1 person to the house and lot. There is plenty of parking in the driveway and plenty of open space on the lot.

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

It will not change existing structure or landscaping. 2 people currently live in home and the apartment will add 1 more person. The adjacent properties will hardly notice the change.

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

Yes - garage already exists.

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.

Carol S. Osgood
Applicant's Signature

May 18, 2018
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

Exhibit F - Draft ZBA Minutes 6/20/2018

MINUTES OF A REGULAR MEETING

URBANA ZONING BOARD OF APPEALS

DATE: June 20, 2018

DRAFT

TIME: 7:00 p.m.

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

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 Andel, Planning Administrative Assistant II

OTHERS PRESENT Andrew Fell, Sam Giglio

NOTE: Chair Welch swore in members of the audience who indicated that they might give testimony during the public hearing.

NEW PUBLIC HEARINGS

ZBA-2018-C-03: A Conditional Use Permit request by Carol Osgood to allow a second principal structure on her property at 603 East Oregon Street in the R-3, Single and Two-Family Residential Zoning District.

ZBA-2018-MAJ-08: A Major Variance request by Carol Osgood for a reduction in the required eastern side yard setback from five feet to zero feet at 603 East Oregon Street in the R-3, Single and Two-Family Residential Zoning District.

ZBA-2018-MAJ-09: A Major Variance request by Carol Osgood for a reduction in the required southern rear yard setback from ten feet to zero feet at 603 East Oregon Street in the R-3, Single and Two-Family Residential Zoning District.

Chair Welch opened the public hearing for these cases.

Christopher Marx, Planner I, presented the staff report to the Zoning Board of Appeals. He began by stating the purpose for the proposed conditional use permit and major variance requests, which is to allow a separate living unit to the upper level of her garage. He described what classifies a structure to be considered a dwelling unit. He noted the location and existing land use of the subject property as well as that for the surrounding adjacent properties. He

explained the difference between an accessory structure and a principal structure. He reviewed the requirements in Section VII-2 of the Urbana Zoning Ordinance for a conditional use permit and the variance criteria according to Section XI-3 of the Urbana Zoning Ordinance. He read the options of the Zoning Board of Appeals for each type of case and presented City staff's recommendation of approval of the Conditional Use Permit with the following conditions:

1. The apartment is confined to the existing garage.
2. The existing garage is granted major variances to permit its encroachment as a principal structure into the required side and rear yards.
3. The garage improvements generally conform with the site plan in Exhibits C and D, dated June 1, 2018, in the memorandum of Case No. ZBA-2018-C-03, submitted in the application.
4. The structure conforms with all applicable zoning and building safety codes in the City.

He suggested a change to Condition #3 from the staff memo to add Exhibit C as well.

Mr. Marx presented City staff's recommendation to the City Council of approval of the two Major Variances with the following condition:

1. The encroachments are only permitted for the existing garage.

He noted that the applicant was in the audience and available to answer questions from the Zoning Board of Appeals members.

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

Mr. Welch asked for confirmation that there would not be any major difference in the appearance of the site after the changes were made to turn the upper level of the garage into a separate living unit from its existing footprint. Mr. Marx explained that the requests were a result of a change to the status of the existing garage from an accessory use to a principal use.

With their being no further questions for City staff, Chair Welch opened the hearing for public input. He invited the applicant to speak.

Carol Osgood, applicant, approached the Zoning Board of Appeals to speak. She stated that her requests came about from thinking about her future and wanting to stay in her home as she grows older. In the future, the separate living unit would be used for a caregiver to live. In the meantime, she would rent out the space to bring in extra income if needed.

Mr. Warmbrunn asked if the stairs would be located inside the garage. Ms. Osgood said yes. The only difference to the structure would be to add a door to the outside.

With no further input from the audience, Chair Welch closed the public input portion of the hearing and opened the hearing for discussion and/or motion(s) by the Zoning Board of Appeals.

Ms. McLaughlin moved that the Zoning Board of Appeals grant approval of the Conditional Use Permit in Case No. ZBA-2018-C-03 as requested based on the findings outlined in the written staff memo with the following conditions:

1. The apartment is confined to the existing garage.
2. The existing garage is granted major variances to permit its encroachment as a principal structure into the required side and rear yards.
3. The garage improvements generally conform with the site plan in Exhibits C and D, dated June 1, 2018, in the memorandum of Case No. ZBA-2018-C-03, submitted in the application.
4. The structure conforms with all applicable zoning and building safety codes in the City.

Mr. Weisskopf seconded the motion.

Roll call on the motion was as follows:

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

The motion passed by unanimous vote.

Mr. Warmbrunn moved that the Zoning Board of Appeals forward a recommendation of approval to the City Council for the two Major Variances in Case No. ZBA-2018-MAJ-08 and Case No. ZBA-2018-MAJ-09 with the following condition:

1. The encroachments are only permitted for the existing garage.

Ms. McLaughlin seconded the motion. Roll call on the motion was as follows:

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

The motion was passed by unanimous vote.

Mr. Marx noted that this recommendation would be forwarded to the City Council at their meeting on July 9, 2018. Ms. Pearson added that this meeting would be a special City Council meeting.