



## DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

*Planning Division*

### **m e m o r a n d u m**

**TO:** The Urbana Plan Commission

**FROM:** Rebecca Bird, Planner

**DATE:** February 13, 2009

**SUBJECT:** Plan Case No. 2097-T-09: Request by the Zoning Administrator to amend Section VI-5 of the Urbana Zoning Ordinance regarding replacing existing garages located in the side-yard setback

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### **Introduction**

Plan Case No. 2097-T-09 is a request to amend the Development Regulations in the Urbana Zoning Ordinance (Article VI) to allow replacement garages in certain situations to be located six inches from a side lot line instead of the current minimum of 18 inches.

On October 15, 2008, the Urbana Zoning Board of Appeals reviewed a request for a major variance in Case No. ZBA 2008-MAJ-10 to allow the construction of a replacement garage to be less than 18 inches from the side-yard property line. The petitioner in this case was requesting permission to replace a deteriorating garage in the same location. Although the Zoning Board of Appeals denied the variance, the Board requested staff review the development regulations pertaining to replacement garage location. The issues raised by this case are as follows:

1. Pre-existing development patterns in certain neighborhoods;
2. Narrowness of lots;
3. Driveways aligned to existing garages; and
4. Loss of usable yard space.

### **Background**

Section VI-5.B requires garages in the R-1, R-2, and R-3 zoning districts be set back a minimum of 18 inches from the side property line:

- B. Except as otherwise provided, required yards shall be kept unobstructed and open to the sky for their entire depth and area. No building, structure, or portion thereof, or mechanical equipment shall be erected in, occupy, or obstruct a required yard, except as follows (see Section VIII-4 for regulations regarding parking in required yards):

9. Accessory structures in the R-1, R-2, R-3, R-4, R-5, R-6, R-6B or R-7 Districts that do not have a building area greater than 750 square feet are permitted in required side and rear yards, and can not extend nearer than 18 inches as measured from the closest part of the structure, including the roof, to the property line.

## Previous Cases

Between 1985 and 2008, the City received three requests for variations from the development regulations to construct a replacement garage in the required side-yard on the same location as an existing garage:

1. *Case No. ZBA 2008-MAJ-10* The petitioners in this case requested a major variance to encroach into the required side-yard setback to allow for the construction of a detached garage at 706 W Iowa Street. The property is in the R-2, Single-Family Residential zoning district and is occupied by a single-family residence and a detached one-car garage with an attached shed. The existing garage is located close to or on the side property line. The petitioners requested an encroachment of up to 100% of the required side-yard setback. On October 15, 2008, the Zoning Board of Appeals denied the variance request by failing to achieve the required two-thirds majority vote, with a vote of four ayes and three nays.
2. *Case No. ZBA 2006-MAJ-02* The petitioners in this case requested a major variance to encroach into the required side-yard setback to allow for the construction of a detached garage at 510 W. Oregon Street. The property is in the R-2 zoning district and is occupied by a single-family residence and a detached one-car garage. The existing garage is located on the side property line. The petitioners requested a 100% encroachment of the required side-yard setback. On June 6, 2006, the City Council granted the petitioners a major variance for a 100% encroachment by a vote of seven ayes and no nays.
3. *Case No. ZBA 2002-MAJ-02* The petitioners in this case requested a major variance to encroach into the required side yard setback to allow for the construction of a detached garage at 607 W. Pennsylvania Avenue. The property is in the R-1, Single-Family Residential zoning district and is occupied by a single-family residence and a two-car garage. The existing garage was located on the side and rear property lines. The petitioners requested permission to construct a new garage six inches from the side property line and just over eight feet from the rear property line. The petitioners requested a 66% encroachment of the required side yard setback, from 18 to six inches. On April 15, 2002, the City Council granted the petitioners a major variance to allow the reduction of a side yard setback from 18 inches to six inches by a vote of seven ayes and no nays.

Table VI-3 and Section VI-5.9 of the Urbana Zoning Ordinance allow accessory garages in residential zoning districts which are less than 750 square feet to be built with a minimum side-yard setback of 18 inches, as measured from the closest part of the structure (including the roof), to the property line. This setback is required for reasons such as fire safety, allowing space for painting and other maintenance activities, keeping the roof drip line on the property, and ensuring the foundation footing does not encroach on the neighboring property. Where a

structure has no setback, it becomes impossible to maintain the side of the building without working from the neighbor's property. A negative result of requiring an 18-inch setback is that it creates a narrow space where weeds can grow and/or debris may accumulate.

## **Comprehensive Plan**

The 2005 Comprehensive Plan provides the following goals and objectives relevant to this case.

### *Comprehensive Plan Goals and Objectives*

#### **Goal 1.0      Preserve and enhance the character of Urbana's established residential neighborhoods.**

##### *Objective*

- 1.2      Encourage investment in older properties to help maintain their appearance and long-term potential.
- 1.3      Promote the improvement of existing structures through the enforcement of property maintenance codes.
- 1.4      Promote established neighborhoods close to campus and the downtown as attractive places for people to live.

#### **Goal 2.0      New development in an established neighborhood will be compatible with the overall urban design and fabric of that neighborhood.**

##### *Objective*

- 2.1      Ensure that the site design for new development in established neighborhoods is compatible with the built fabric of that neighborhood.
- 2.4      Promote development that residents and visitors recognize as being of high quality and aesthetically pleasing.

#### **Goal 12.0      Preserve the characteristics that make Urbana unique.**

##### *Objective*

- 12.1      Identify and protect neighborhoods and areas that contain significant historical and cultural resources.
- 12.3      Encourage public/private partnerships to preserve and restore historic structures/sites.

The intent of the proposed amendment is to further the above-listed goals by preserving the traditional development patterns in some of Urbana's older neighborhoods and preserving one of the characteristics that make Urbana unique. An additional intent of the proposed amendment is to encourage investment in older properties by allowing the replacement of deteriorating garages with new garages in the same location, thereby not requiring the realignment of the driveway and the loss of usable yard space. Allowing replacement garages to respect the traditional neighborhood layout is intended to ensure that new garages in established neighborhoods would be compatible with the urban design and fabric of the neighborhood.

## Text Amendment

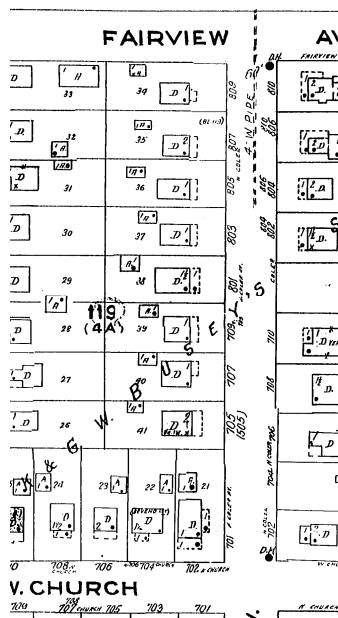
The proposed Zoning Ordinance text amendment (Exhibit A) would revise Section VI-5 by adding Section VI-5.B.10. to allow the following in required side yards:

VI-5.B.10. When replacing existing private garages in R-1, R-2, and R-3 zoning districts, replacement garages may be constructed no closer than six inches from a side lot line, measured from the closest part of the structure, if all of the following conditions apply:

- a. The subject lot is 60 feet wide or less; and
- b. No building exists on the adjacent property which is within three feet of the existing garage on the subject property; and
- c. No gutters or other appurtenances will extend across the property line; and
- d. In the case of existing single-car garages, the replacement garage shall be a maximum of 352 square feet, or no larger than the existing garage, whichever is greater. In the case of existing two-car garages the replacement garage shall be a maximum of 576 square feet, or no larger than the existing garage, whichever is greater.

## Issues and Discussion

The intent of the proposed text amendment is to respect traditional neighborhood development patterns by allowing property owners to replace deteriorating garages without having to conform to modern development regulations. The older parts of Urbana were platted before the current minimum required lot width of 60 feet. Neighborhoods such as much of West Urbana, Historic East Urbana and the area north of Carle Hospital, have a development pattern of relatively narrow lots with garages placed on or very near a side property line. The two images below illustrate such patterns.



**700 & 800 Block of N. Coler Ave**

Note the regular pattern of the garages on or near the property line. 1923-1945 Sanborn Map



**800 Block of Urbana St**

Note the regular placement pattern of the garages on or near the side property line.

The image on the left is of the west side of the 700-800 block of N. Coler Avenue, north of Carle Hospital. The lots on this block are 57 feet wide and have a regular pattern of the garages being on or near the north property line. The image on the right is of the west side of the 800 block of Urbana Street, in Historic East Urbana. The lots here are between 45 and 48 feet wide, far short of the required width of 60 feet for a lot platted today. Here three of the garages are located on or very near the north property line, and six on or near the south property line.

Many of the older parts of Urbana have development patterns with narrow lots and garages on or very close to a side lot line such as those in the images above. Many of these garages are deteriorated or obsolete due to their size. The current Zoning Ordinance regulations require new garages to be built at least 18 inches from the property line. For many of these lots, moving the replacement garage 18 inches from the property line instead of the proposed six inches requires sacrificing approximately 24 square feet (based on a standard single-car garage) from the usable part of the back yard. As these lots are already smaller than typical lots, the loss of usable yard space can be significant. In addition, there is the potential to create an angle that is difficult to maneuver between the existing driveway and the new garage. Re-aligning the existing driveway to a new garage would add an additional financial burden to the cost of replacing the garage.

As the intent is to respect traditional single-family neighborhood development in the older parts of Urbana, the proposed text amendment would be limited to narrow lots in the R-1, R-2, and R-3 zoning districts. The replacement garage would need to be no closer than six inches from the property line to prevent an encroachment on the neighboring property and to ensure a minimum distance of two feet between the replacement garage on the subject property and any new accessory building on the adjacent property. This two-foot minimum distance is required for fire safety reasons and to allow maintenance of both structures. The square footage for the single-car garage is based on the modern standard for a single-car garage, 12 foot by 24 foot. The square footage for the two-car garage is based on the modern standard for a two-car garage, 24 foot by 24 foot.

## **Summary of Staff Findings**

1. Urbana's Zoning Ordinance has been enacted by the corporate authorities of the City of Urbana pursuant to its home rule powers as provided for in the Constitution of the State of Illinois, 1970, and in conformance with the Illinois Municipal Code.
2. Section VI-5.B.10 of the Urbana Zoning Ordinance requires garages in the R-1, R-2, and R-3 zoning districts be set back a minimum of 18 inches from the side property line.
3. On October 15, 2008, the Urbana Zoning Board of Appeals requested City staff review Section VI-5 of the Urbana Zoning Ordinance as it pertains to the location of private garages.
4. The proposed amendment would revise Section VI-5 by adding Section VI-5.B.10. which would allow replacement garages in the R-1, R-2, and R-3 zoning districts to be built six inches from the side lot line if (a) the lot is 60 feet wide or less, (b) no building on the adjacent property exists within three feet of the garage, (c) no part of the new garage will

extend across the property line, and (d) the garage will be no larger certain specified sizes.

5. The proposed amendment would allow garages in some of the older parts of Urbana to be replaced in kind.
6. The proposed amendment is consistent with the goals and objectives of the Urbana Comprehensive Plan.

## Options

The Plan Commission has the following options for recommendations to the City Council. In Plan Case 2097-T-09, the Plan Commission may:

- a) Forward this case to the City Council with a recommendation for approval;
- b) Forward this case to the City Council with a recommendation for approval, as modified by specific changes; or
- c) Forward this case to the City Council with a recommendation for denial.

## Staff Recommendation

Based on the evidence presented in the discussion above, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommends that the Urbana Plan Commission recommend **approval** of the proposed text amendment to the Zoning Ordinance, as presented herein.

Attachments: Exhibit A: draft of Article VI-5.

cc: Phillip and Sonia Newmark 706 W Iowa Street  
Esther Patt 706 S Coler, Apt #3  
Zoning Board of Appeals

**Section VI-5. Yards**

- A. *Definition.* See Article II for the definition of the various types of yards.
- B. Except as otherwise provided, required yards shall be kept unobstructed and open to the sky for their entire depth and area. No building, structure, or portion thereof, or mechanical equipment shall be erected in, occupy, or obstruct a required yard, except as follows (see Section VIII-4 for regulations regarding parking in required yards):
1. Cornices, sills, belt courses, eaves, and other ornamental features to a distance of not more than two feet, six inches.
  2. Fire escapes to a distance of not more than five feet, or enclosed fire escapes and enclosed balconies leading from fire towers in required rear yards, when such projection is not more than ten feet and when the main structure was built prior to the November 6, 1950. The encroachment or projection shall not be permitted on new construction.
  3. Uncovered stairways and necessary landings, to a distance of not more than four feet, six inches, provided that each stair and landing shall not extend above the entrance floor of the building, except for the railing, not to exceed three feet in height, when the main structure was built prior to November 6, 1950. This encroachment or projection shall not be permitted on new construction.
  4. Bay windows and chimneys to a distance of not more than three feet, provided that such features do not occupy, in the aggregate, more than one-third of the length of the building wall on which they are located, and provided further, that in no case shall a bay window or chimney project into a required yard more than one-third of said side yard.
  5. Terraces and open unenclosed porches, that is, porches which may have roofs and mesh screening but which are not glassed in or otherwise walled or enclosed above a height of two and one-half feet above the porch floor, to an encroachment of five feet into a minimum required yard outlined in Table VI-3, regardless of the average setback, but not within five feet of the lot line. Open guardrails, when required by the Building Code, shall not be construed as a violation of this requirement. In addition, ramps or other structures for handicapped accessibility may encroach into required yards.
  6. Porte-cocheres or canopies to a distance of no more than two feet, six inches.
  7. Driveways, walks, fences, walls, and underground structures, provided that any fences or other landscape improvements comply with "An Ordinance to Provide for a Visibility Triangle," as adopted by the Urbana City Council on November 15, 1976, and as may be subsequently amended, and with all provisions of the Urbana City Code regarding fencing, and also provided that all parking and access thereto comply with Section VIII-4 of this Ordinance.
  8. Concrete, asphaltic concrete, or other all-weather surfaces; however parking is allowed only in accordance with provisions of Article VIII of this Ordinance.
  9. Accessory structures in the R-1, R-2, R-3, R-4, R-5, R-6, R-6B or R-7 Districts that do not have a building area greater than 750 square feet are permitted in required side and rear yards, and can not extend nearer than 18 inches as measured from the closest part of the structure, including the roof, to the property line.

10. When replacing existing private garages in R-1, R-2, and R-3 zoning districts, replacement garages may be constructed no closer than six inches from a side lot line, measured from the closest part of the structure, if all of the following conditions apply:
    - a. The subject lot is 60 feet wide or less; and
    - b. No building exists on the adjacent property which is within three feet of the existing garage on the subject property; and
    - c. No gutters or other appurtenances will extend across the property line; and
    - d. In the case of existing single-car garages, the replacement garage shall be a maximum of 352 square feet, or no larger than the existing garage, whichever is greater. In the case of existing two-car garages the replacement garage shall be a maximum of 576 square feet, or no larger than the existing garage, whichever is greater.
  11. Flagpoles, decorative lights, lattices, bird baths, bird houses, and other landscape features.
  12. Balcony which is open, as defined in Article II of this Ordinance, provided that they do not occupy in the aggregate more than one-third of the length of the building wall per floor on which they are located. In no case shall any private open balcony be located within five feet of the property line.
  13. See Section VIII-4 for allowable parking uses in required yards.
  14. Ground-mounted solar panels up to a height of six feet in the R-1, R-2, R-3, R-4, R-5, R-6, R-6B or R-7 Districts are permitted in required side and rear yards, but shall not extend nearer than 18 inches as measured from the closest part of the structure to the property line.
- C. In the B-1, B-2, B-3, B-4, B-4E, OP or IN District, any yard which adjoins, abuts, or is situated across a dedicated right-of-way of 100 feet or less in width from the R-1, R-2, R-3, R-4, R-5, R-6, R-6B or R-7 District shall be the same as that required in the latter District. In the B-4E District, this provision shall apply only to yards on lots that are directly adjoining and not to any yards on lots that are separated by a public right-of-way of any kind.
- D. *Multiple Frontage Lots*
1. Lots having frontage on two or more streets shall have a required front yard on each street frontage, as provided in Table VI-3 and in Section VI-5, except that neither the buildable width nor depth of the lot shall be reduced to less than 30 feet, except for common-lot-line dwelling units where the buildable width may be reduced to 20 feet as provided in Section V-9 of this Ordinance. On lots having frontage on two or more streets in the R-6 and R-6B Districts, the front yard on each street frontage shall not be less than the minimum required in relation to the height of the building, as provided in Table VI-3. (Ord. No. 9596-58, 11-20-95)
  2. Except for common-lot-line dwelling units, which may have a buildable width of 20 feet as provided in Section V-9 of this Ordinance, the provision of required side yards shall not reduce the buildable width of a lot to less than 30 feet, except that a required relation to the height of the building, as provided in Table VI-3 and in Section VI-5, the buildable width of the lot may be reduced to less than 30 feet, as may be necessary in order to provide the yards as required in relation to the building height.
  3. The rear line of the rectangular or generally rectangular lot with frontage on two intersecting streets shall be the line parallel or approximately parallel to the narrower of the two street frontages.



4. In addition to all requirements of this Ordinance, all provisions of "An Ordinance to Provide for a Visibility Triangle," as adopted by the Urbana City Council on November 15, 1976, and as may be subsequently amended, shall apply. In the case of any inconsistency between said Ordinance and this Ordinance, the more restrictive provision shall apply.

E. *Front Yards*

1. In the R-1, R-2, R-3, R-4, R-5, R-7, and MOR Districts, where lots comprising more than 40% of the frontage in a block are improved with buildings, not less than the average depth of the front yards of all lots in the block shall be maintained by all new buildings and by all alterations of existing buildings in the block, except that this provision shall not require a front yard of more than 60 feet, in the R-1 zone and 25 feet in the R-2, R-3, R-4, R-5, R-7, and MOR Districts nor less than the minimum required in the district in which they are located, nor shall it reduce the buildable dimension of the lot to less than 30 feet. For the purpose of computing such an average depth, vacant lots within such frontage shall be considered as having the minimum front yard required in that district.
2. No display of merchandise shall be placed in any required front yard except for vehicles at an automobile sales lot, when screened in compliance with Section VI-6.B.2.

F. *Side Yards*

1. For the purpose of side yard regulations, a duplex dwelling or a multiple-family dwelling shall be deemed one building occupying one lot.
2. Common-lot-line dwelling units shall conform to the side yard regulations as provided in Section V-9 of this Ordinance.
3. In the AG, CRE, Residential, B-1, B-2, OP, and MOR Districts, and for residential uses in the B-3 and B-4 Districts, each required side yard shall be increased by three feet for each ten feet or fraction thereof over 25 feet in building height, whichever is greater.
4. The side yard of a lot which immediately adjoins or is directly opposite property in another district which requires a greater side yard shall not be less than that required in the adjoining or opposite district. In the B-4E District, this provision shall apply only to yards on lots that are directly adjoining and not to any yards on lots that are separated by a public right-of-way of any kind.
5. When two or more principal structures are located on a single zoning lot in the MOR District, the buildings shall be separated by a minimum of 14 feet.

G. *Rear Yards*

1. In the AG, CRE, R, B-1, B-2, OP, and MOR Districts, and for residential uses in the B-3 and B-4 Districts, the required rear yard shall be increased by three feet for each ten feet or fraction thereof over 25 feet in height.
2. Unenclosed and uncovered off-street parking spaces are permitted in a required rear yard.
3. In the AG and CRE Districts, the required rear yard shall be reduced to 20% of the lot depth if the lot is less than 125 feet deep, provided that the rear yard shall be at least 15 feet deep.