

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

DATE: September 17, 2008

APPROVED

TIME: 7:30 p.m.

PLACE: Urbana City Building
City Council Chambers
400 S. Vine Street
Urbana, IL 61801

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

MEMBERS EXCUSED: Nancy Uchtmann, Joe Schoonover

STAFF PRESENT: Robert Myers, Planning Manager; Rebecca Bird, Planning Associate;
Teri Andel, Planning Secretary

OTHERS PRESENT: Everett Dade, Randy Donoho, Kevin Gaddis, Alice Novak

1. CALL TO ORDER, ROLL CALL AND DECLARATION OF QUORUM

The meeting was called to order at 7:30 p.m. Roll call was taken, and a quorum was declared present.

2. CHANGES TO THE AGENDA

There were none.

3. APPROVAL OF MINUTES

May 21, 2008 Meeting Minutes:

Mr. Armstrong moved that the Zoning Board of Appeals approve the minutes as presented. Mr. Corten seconded the motion. The minutes were approved by unanimous voice vote.

June 11, 2008 Special Meeting Minutes:

Mr. Corten moved that the Zoning Board of Appeals approve the minutes as presented. Mr. Warmbrunn seconded the motion. The minutes were approved by unanimous voice vote.

4. WRITTEN COMMUNICATIONS

- ◆ Updated Staff Reports for both Case No. ZBA-2008-MAJ-09 and Case No. ZBA-2008-MIN-02
- ◆ E-mail from Jenelle Weaver
- ◆ E-mail from Evan H. DeLucia
- ◆ E-mail from Leslie DeLucia
- ◆ E-mail from Becky Mead
- ◆ Revised Site Plan submitted by Randy Donoho
- ◆ Corner Lot Property Survey submitted by Alice Novak
- ◆ Garage Survey submitted by Alice Novak

Chair Merritt asked that anyone who might want to testify to please stand and raise their right hands. She then swore in members of the audience who wished to speak.

5. CONTINUED PUBLIC HEARINGS

There were none.

6. NEW PUBLIC HEARINGS

ZBA-2008-MAJ-09: A request by Robert Wyer for a major variance to build a 3-foot addition onto an existing garage that will encroach approximately 15 feet into a 25-foot required front yard at 401 West Delaware Avenue in the R-1, Single-Family Residential Zoning District.

ZBA-2008-MIN-02: A request by Robert Wyer for a minor variance to build a garage encroaching 25% into the required 29.5-foot front yard at 401 West Delaware Avenue in the R-1, Single-Family Residential Zoning District.

Rebecca Bird, Associate Planner, presented the two cases together to the Zoning Board of Appeals. She referred to the updated staff report that was handed out prior to the start of the meeting. She began with a brief introduction by explaining the purpose of each of the proposed variance requests. She described the site noting the location of the house in relation to Carle and Delaware Avenues. She pointed out the zoning and future land use designation of the proposed site as well as that of the surrounding area.

Regarding the major variance case Ms. Bird talked about the front-yard setback of the other properties along Carle Avenue. She showed photos of the proposed property along Carle Avenue. She reviewed the variance criteria according to Section XI-3 of the Urbana Zoning Ordinance. She read the options of the Zoning Board of Appeals for this case and presented staff's recommendation, which was as follows:

Based on the analysis and findings presented in the written staff report, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommends that the Zoning Board of Appeals forward Case No. ZBA-2008-MAJ-09 to the Urbana City Council with a recommendation for approval and with the following conditions:

1. *The addition shall be constructed in general conformance to the site plan layout submitted as part of the application and attached to the written staff report.*
2. *The petitioner shall close the curb cut along Carle Avenue.*
3. *The property owner shall provide two on-site parking spaces as required by the Urbana Zoning Ordinance.*

Regarding the minor variance case, Ms. Bird talked about the front-yard setback of the properties along Delaware Avenue. She showed photos of the proposed property along Delaware Avenue. She reviewed the variance criteria according to Section IX-3 of the Urbana Zoning Ordinance. She read the options of the Zoning Board of Appeals for this case and presented staff's recommendation, which was as follows:

Based on the analysis and findings presented in the written staff report, and without the benefit of considering additional evidence that may be presented during the public hearing, staff recommends that the Zoning Board of Appeals approve Case No. ZBA-2008-MIN-02 with the following conditions:

1. *The garage shall be constructed in general conformance to a revised site plan layout submitted to and approved by the Zoning Administrator as discussed in the public hearing on this case.*
2. *The garage shall have a setback from the Delaware Avenue property line of a minimum of 25.25 feet, putting it in line with the front of the house along Delaware Avenue.*
3. *The garage shall be positioned so that it is not in line with the streetlight and the location shall be approved by the Director of Public Works.*
4. *The curb cut on Carle Avenue will be removed and landscaping installed.*

Robert Myers, Planning Manager, clarified that although the applicant has applied for the front-yard setback for the garage to be 22.1 feet from the Delaware Avenue right-of-way, City staff is recommending a 25.25 setback instead which would be in line with the house. The large-format site plan submitted by the petitioner's representative prior to the start of the meeting shows what the petitioner has applied for. Mr. Warmbrunn asked if the City staff was recommending against the Site Plan submitted. Ms. Bird said that is correct.

Mr. Warmbrunn wondered what the percentage would be for the 22.1 foot setback that the petitioner is requesting. Ms. Bird stated that 22.1 feet would be a 25% encroachment into the front-yard setback.

Mr. Warmbrunn questioned if staff was recommending that the petitioner move the garage closer to the west property line to avoid the street light along Delaware Avenue as opposed to giving the petitioner the option to move the streetlight. Ms. Bird answered that City staff would be okay with the petitioner moving the streetlight as well. A complication is that the petitioner is currently out of the country, and so the contractor and the petitioner's representative are in attendance of this meeting. They are unsure whether Mr. Wyer would rather move the streetlight

or move the garage over further west. Either way, staff's analysis is the same in that the case is about the setback from the front rather than side property line.

Mr. Warmbrunn asked if the petitioner built the garage within the required setback, then he would be able to build by right and would not need approval of a variance, correct? Ms. Bird said that this is correct.

With no further questions for City staff from the Zoning Board of Appeals, Chair Merritt opened the hearing for public testimony.

Randy Donoho, 714 South Urbana Avenue, said that he is the general contractor for this project. He mentioned that the property owners are currently on sabbatical in Hong Kong. Mr. Wyer's concern is to have the maximum allowable variance for the garage setback along Delaware Avenue. There are a lot of windows on the west side of the house, and he wants to keep as much of the view as possible. He has not heard from Mr. Wyer about whether they should move the garage to the west or to make arrangements with the City to move the streetlight. Mr. Donoho explained that Mrs. Wyer has spinal fusion, and stairs are a big problem for her. There currently is no bedroom or full bath on the first floor. They are planning to turn the existing garage into a bedroom and full bath. Some of the landscape trees will need to be removed regardless of where the garage is built. However, there are plenty of trees on the property so it will not be that noticeable.

Mr. Corten wondered if there will be a walkway out to the existing garage. Mr. Donoho pointed out that the property is a lot and a half in size, and they did not know if it would be possible to keep the concrete pad where the existing garage is located in order to be able to drop Mrs. Wyer off closer to the house.

Concerning the minor variance request, Mr. Donoho agrees that it would be more aesthetically appealing to have the garage in line with the house, but Mr. Wyer wants to pursue the full 25% encroachment for a minor variance.

Mr. Warmbrunn noticed in the staff report for the minor variance, a recommended condition for approval is that the petitioner will landscape where the existing driveway is. For the major variance, staff's recommended condition is that the petitioner close the curb cut. Ms. Bird agreed. Mr. Warmbrunn inquired as to whether the petitioner would be able to leave the concrete pad or will he have to remove it. Mr. Myers clarified the when a curb cut is closed, some landscaping would need to be done to create a level ground surface behind the curb. As part of this, at least part of the driveway (the apron) would need to be taken up because it would extend into the right-of-way. The concrete pad on the private property technically could remain. There would be no access to it, because the curb cut would be removed. However, aesthetically it would be most desirable to remove the entire concrete pad. Mr. Donoho commented that he is positive that the Wyer family would want to remove the concrete pad because they have spent a lot of money on landscaping.

Mr. Warmbrunn questioned if Mr. Donoho would have any problem with a 25.25-foot setback along Delaware Avenue. Mr. Donoho answered that he did not see a problem with it if they also

moved the garage further west. By doing so, it would not block as much of the view which is the reason for requesting a 22.1-foot setback. However, he's unsure what Mr. Wyer will decide regarding the streetlight. He may decide to incur the cost of moving the streetlight.

Mr. Corten inquired as to whether the proposed garage would satisfy the recommended requirement by City staff for the petitioner to provide two onsite parking spaces. Mr. Myers replied yes.

Mr. Myers asked Mr. Donoho the width of the proposed driveway off Delaware Ave. Mr. Donoho explained that the driveway will be 18 feet wide, and the garage door is 16 feet wide, which would allow about a foot on either side of the garage door. Mr. Myers said he asked this question because the proposed garage would just barely be wide enough to open car doors. There won't be any room for storage on the sides of the garage. Mr. Donoho responded that if the City wants them to build a wide driveway and garage, then they will. However, they are already planning to provide a driveway that will be a foot wider than the City's minimum requirement. Mr. Myers replied that he was not suggesting that they need to widen the garage. He simply wants the property owners to understand what this will mean in terms of storing their cars.

Mr. Corten wondered if they had discussed constructing a sidewalk in the right-of-way along Carle Avenue. Mr. Donoho responded that they probably did not consider this. There is not a lot of room in front of the house along Carle. Much of their landscaping would have to be removed to construct a sidewalk there, which he is sure the property owner would not like. Mr. Welch commented that a sidewalk would need to be constructed all the way down Carle Avenue to Florida Avenue and not just be constructed in front of the proposed site. Mr. Donoho said that there are only two houses on this block. Mr. Myers responded that he is aware of no City plans to construct a sidewalk along Care Ave., and if it were to happen it would be constructed in the right-of-way and not on private property.

Mr. Armstrong pointed out that the Zoning Board of Appeals has two options. The first is to allow the garage to encroach 25% into the required front yard setback along Delaware Ave. The second option is to require the petitioner to build the garage in line with the house. He asked if the garage is built in line with the house, would they still need a variance to do so. Ms. Bird said yes, because the house encroaches into the required 29.25 foot setback. Mr. Myers added that City staff spoke at length with the petitioner to find alternate solutions, and he felt strongly that this was the only viable solution. Obviously the easiest solution would be for the petitioner to build within the required setbacks, but Mr. Wyer feels very strongly about light, the landscaping, etc.

Mr. Welch inquired about the trees. If they move the garage further west, wouldn't they need to remove more trees than originally planned? He stated that it appears to him that moving the garage back to the fence in line with the house would do the least amount of damage to the trees. Some of the correspondence from neighboring property owners asks the Zoning Board of Appeals to deny the variance request to construct the new garage because they feel that a reduction in the setback might be detrimental to the character of the neighborhood. In fact, it appears that if they built the garage within the setback lines, it would just be detrimental to the neighborhood, because they would need to remove many of the trees. Chair Merritt agreed that

by denying the request, the property owner could then build a garage by right in a location that would affect the neighborhood just as much.

Mr. Corten inquired about the roof. Mr. Donoho responded that the garage would have a truss roof system. Although it would not match the pitch on the house, because the house has an extreme pitch – 16/12 – but the new garage would have a 10/12 pitch which is steep.

Mr. Corten commented that it does not appear to him that the new garage would affect the light coming into the back yard. Mr. Donoho stated that the whole back side of the house facing the west is flush with windows. By moving the garage as close to Delaware Avenue and as far west as possible, they are trying to comply with the property owner's wishes.

Mr. Warmbrunn said that the neighboring property at 405 West Delaware is set back 23 feet from the property line. The difference between this property and the proposed garage would be less than one foot. The property owner who lives at 407 West Delaware wrote a communication objecting to the proposed garage, but she will not be able to see past the house at 405 West Delaware. So to him the question is should they move the streetlight or should they move the garage further to the west. He personally likes keeping the garage close to the house and moving the streetlight. Mr. Donoho replied that the petitioner may very well agree that this is the better option and that they are willing to incur the cost of moving the streetlight.

Mr. Corten pointed out the Zoning Board of Appeals is not required to consider aesthetics. They are to decide whether the proposed variance requests meet the requirements.

Mr. Warmbrunn asked for clarification on how to declare what the setback should be. Chair Merritt said that the Zoning Board of Appeals could make other conditions.

Mr. Welch commented that he would be in favor of following staff's recommendation, which would line the garage up with the fence and the existing house. It would look better and be more pleasing to the eye. Ms. Bird pointed out that the fence is not quite accurate on the site plan. The fence actually starts at the house and extends somewhat diagonal about three or four feet towards Delaware Avenue, then it extends parallel with Delaware Avenue. Mr. Donoho added that at this point, they are not sure if they will be building a new fence or what will happen with it. Mr. Welch stated that in that case, he feels the garage should align with the house. It would look better. Mr. Donoho agreed and mentioned that this was their original recommendation to the property owner.

Kevin Gaddis, of 2246 East County Road, 200 North in Longview, Illinois, approached the Zoning Board of Appeals to speak in favor of the proposed two variance requests. Chair Merritt swore him in.

Mr. Gaddis mentioned that he has been the caretaker and handy man for the Wyers since 1995. He takes care of their finances and their property while they are in Hong Kong. Mrs. Wyer has problems with stairways due to a degenerative condition. Her condition will only get worse as she gets older. They have a young child. Sometimes it is difficult for her to walk a distance, which is why they wondered if it would be possible to leave part of the existing driveway in to

make it easier for her to enter the house. The conversion of the existing garage into a bedroom and full bath is a necessity. It is not a luxury for them. They have discussed building a new home onsite or moving. However, they really like the neighborhood and do not want to move.

Mr. Corten inquired as to whether anyone has spoken with any of the neighbors about this process. Mr. Gaddis does not know if the Wyer family has talked with any of the neighbors. He mentioned that he has spoken with Everett Dade, the property owner of 405 West Delaware Avenue. Mr. Dade did not seem to have any problems with the proposed plans.

Everett Dade, of 405 West Delaware Avenue, spoke with the Wyer family over the backyard fence about this particular issue. He feels this is a good thing to do for Mrs. Wyer. He does not object to the building of the proposed garage and does not care about the setback from their common property line. However, it would be more aesthetically pleasing to have the garage in line with the house.

Alice Novak, of 601 West Delaware Avenue, asked the Zoning Board of Appeals to deny the minor variance request. She carried out a survey of garages on Delaware Avenue between Lincoln Avenue and Race Street and shared the results with the Board. One of her major findings is that detached garages along Delaware Avenue are never aligned with the house. They are set back to the rear corner or substantially setback from the front. There is no case where a detached garage is anywhere close to the front setback of a property. This is what she urges the Zoning Board of Appeals to consider with regard to the property owners' request for the minor variance of the erection of a garage. She would think that given the medical condition of Mrs. Wyer, the placement of the proposed garage seems quite awkward to her. She would think that leaving part of the existing driveway in place would be a necessity for Mrs. Wyer to enter the house. She talked about the landscaping and removal of trees. She stated that the closer the garage is moved towards the west property line, the more trees they will need to remove. The closer the garage is placed to the house, the fewer mature trees will be affected. She urged the Zoning Board of Appeals to consider the overall impact of the proposed new garage on the entirety of the street and not just for this particular property.

Mr. Corten stated that it appears she is asking the Zoning Board of Appeals to base their decision on aesthetics as opposed to the criteria in the Zoning Ordinance. Ms. Novak responded that Criteria 4 in the staff report states, "*The variance will not alter the essential character of the neighborhood.*" The variance will in fact alter the essential character because there is a very consistent garage pattern in how detached garages are created. The vast majority of the properties are older properties and have detached garages. As she mentioned earlier, detached garages in this neighborhood are never placed even aligned with the house, much less as being proposed by the petitioner.

Mr. Myers commented about the idea of leaving the existing driveway along Carle Avenue as a drop off place for the Wyers. Not closing the curb cut would present two problems. The first problem would be that the concrete pad would only be 16.2 feet deep once the converted garage would be extended three feet, so it would not be quite deep enough for a vehicle to park, even temporarily, without the car extending into the right-of-way. The second issue is that there is no way to enforce this as a "temporary" drop off area. This could turn into another permanent

parking situation. Some year there will be different property owners who might try to use it for parking. So at a minimum the Wyer family needs to close the curb cut and regrade and plant grass in the right-of-way. The petitioner could technically leave the concrete pad in place on private property, but aesthetically it would be better if the concrete pad would be removed.

Mr. Corten wondered if it makes any difference that they are using it to store garbage cans as well. Mr. Myers said that would be up to the petitioners. Mr. Corten asked if there was an alleyway between Delaware and Lincoln Avenues. Mr. Myers said no.

With no further questions or comments from the audience, Chair Merritt closed the public input portion of the hearing and opened it up for discussion and/or motions by the Zoning Board of Appeals.

Mr. Warmbrunn wondered if the Zoning Board of Appeals should leave the language as it is or should they add something about the concrete pad. Mr. Myers explained that as currently stated, the petitioner would have the choice of what to do with the existing concrete pad. Chair Merritt reiterated that there are regulations for closing up a curb cut, and those regulations include some minimal landscaping in the right-of-way area.

Mr. Warmbrunn moved that the Zoning Board of Appeals forward Case No. ZBA-2008-MAJ-09 with a recommendation for approval, including the conditions as recommended by City staff in the updated written staff report. Mr. Corten seconded the motion. Roll call on the motion was as follows:

Mr. Armstrong	-	Yes	Mr. Corten	-	Yes
Chair Merritt	-	Yes	Mr. Warmbrunn	-	Yes
Mr. Welch	-	Yes			

The motion passed by unanimous vote. Mr. Myers noted that this case would go before City Council on October 6, 2008.

Mr. Corten moved that the Zoning Board of Appeals approve Case No. ZBA-2008-MIN-02 with the conditions as recommended by City staff in the updated written staff report. Mr. Welch seconded the motion. Roll call on the motion was as follows:

Mr. Armstrong	-	Yes	Mr. Corten	-	Yes
Chair Merritt	-	Yes	Mr. Warmbrunn	-	Yes
Mr. Welch	-	Yes			

The motion passed by unanimous vote.

7. OLD BUSINESS

There was none.

8. NEW BUSINESS

There was none.

9. AUDIENCE PARTICIPATION

There was none.

10. STAFF REPORT

Mr. Myers reported on the following topics:

- ◆ Case No. ZBA-2008-MAJ-06 regarding cars backing out at 202 North Coler Avenue was approved by City Council. At this point, Mr. Bantz has secured off-site parking.

11. STUDY SESSION

There was none.

12. ADJOURNMENT OF MEETING

The meeting was adjourned at 8:56 p.m.

Respectfully submitted,

Robert Myers, AICP, Secretary
Urbana Zoning Board of Appeals