



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning and Economic Development Division

m e m o r a n d u m

TO: Bruce Walden, Chief Administrative Officer

FROM: Elizabeth H. Tyler, AICP, Director/City Planner

DATE: March 27, 2002

SUBJECT: ZBA-02-MAJ-2: A request by Haruko Kinase-Leggett and Anthony Leggett for a Major Variance to allow the reduction of a side yard setback from 18 inches to 6 inches to allow for the construction of a new garage at 607 West Pennsylvania Avenue in the R-1, Single Family Residential Zoning District. (*petitioners have requested this case be heard at a later date*)

Introduction

David Scheitlin has submitted a request for a major variance on behalf of Haruko Kinase-Leggett and Anthony Leggett for a reduction in the side yard setback for the property located at 607 West Pennsylvania Avenue in the R-1, Single Family Residential Zoning District. The requested variance would allow the petitioners to construct a new 396-square foot garage with a 6-inch setback from the eastern property line. The required side yard setback for an accessory garage in Residential zoning districts is 18 inches. The petitioners are waiting for approval of the variance before any construction work begins. On March 20, 2002 the Zoning Board of Appeals held a public hearing on the proposed major variance. Please refer to the March 14, 2002 memorandum and draft excerpt minutes for more information regarding this case.

Background

Description of the Site

The site is located on the south side of the Pennsylvania Avenue, between Orchard Street and Busey Avenue. The lot is approximately 6,900 square-feet in area and contains a two story brick house plus a detached garage. Other single-family homes surround the site in all directions. The petitioners wish to utilize the southern portion of the property for a small garden, and desire the

variance to avoid an undesirable angle for vehicular access to the garage. The proposed construction would not effect compliance with open space and floor area ratios of 0.40.

Discussion

As mentioned above, the required setback for accessory garages in Residential zoning districts is 18 inches. The primary purpose of the requirement is to avoid the need to access neighboring properties for maintenance, and to minimize potential water runoff onto neighboring properties. The existing garage is located at the south and east property lines. The proposed new garage would increase the setback on the south from zero to over eight feet and would increase the current setback along the east from zero to six inches. The proposed sixty-six percent reduction in side yard setback would require a major variance.

The Zoning Board of Appeals considered the case at their meeting on March 20. Staff reported that the neighbor to the east was in support of the variance. There was one letter of opposition to the case presented with the memorandum. Staff pointed out that the existing garage will be demolished.

Variance Criteria

Section XI-3 of the Urbana Zoning Ordinance requires the Zoning Board of Appeals and the City Council to make findings based on variance criteria. The following is a summary of the Board's findings 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?*
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.*

In this case, there is a special practical difficulty due to the house being built with a greater western side yard setback than is required. The house was constructed with a western side yard of 8.1 feet, which is greater than the required 5 feet. This may result in an unmanageable angle for vehicle access if the garage is built at the proposed location with the full 18-inch setback. However, the proposed garage could be built in another location on the lot in compliance with all setback requirements.

The requested variance does serve as a special privilege because the circumstances related to the land are created out of a desire to maximize open space on the lot by moving the garage to the north.

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

The need for the variance has not yet been created. The petitioners were aware of the requirements of the Zoning Ordinance and have applied for a variance.

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

The variance will not alter the essential character of the neighborhood. The existing garage is in a state of disrepair, and the proposed brick garage will be designed to match the historic details of the existing house. There are other garages in the neighborhood built within the current setback requirements.

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

The variance should not cause a nuisance to the adjacent property. The six-inch setback will reduce the need to access the neighboring property for maintenance of the garage.

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

The petitioner is only requesting the amount of variance needed to accommodate the proposed new garage.

Options

The City Council has the following options this case:

- a. The Council may grant the variance as requested based on the findings outlined in this memo; or
- b. The Council may grant the variance subject to certain terms and conditions. If the Council elects to impose conditions or grant the variance on findings other than those articulated herein, they should articulate its findings in support of the approval and any conditions imposed; or
- c. The Council may deny the variance request. If the Council elects to do so, they should articulate findings supporting its denial.

Recommendation

Based on the findings outlined herein, the Zoning Board of Appeals voted 4-0 to forward the variance request to the City Council with a recommendation for approval. Staff concurs with the ZBA and recommends that City Council **GRANT** the variance as requested.

Prepared by:

Tim Ross, Senior Planner

Attachments: Draft Ordinance Approving the Major Variance
Draft Minutes from the March 20, 2002 Zoning Board of Appeals Meeting

c: Haruko Kinase-Leggett and Anthony Leggett, David Scheitlin

ORDINANCE NO.2002-04-032

AN ORDINANCE APPROVING A MAJOR VARIANCE

(to allow the reduction of a side yard setback from 18 inches to 6 inches to allow for the construction of a new garage at 607 W. Pennsylvania Avenue in the R-1, Single-Family Residential Zoning District - ZBA-02-MAJ-2)

WHEREAS, the Zoning Ordinance provides for a major variance procedure to permit the Zoning Board of Appeals and the City Council to consider criteria for major variances where there are special circumstances or conditions with the parcel of land or the structure; and

WHEREAS, the petitioners, Haruko Kinase-Leggett and Anthony Leggett, has submitted a petition requesting a major variance to allow a one-foot reduction in the required 18-inch side yard setback in the R-1, Single-Family Residential Zoning District at 607 West Pennsylvania Avenue; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case #ZBA-02-MAJ-2; and

WHEREAS, after due publication in accordance with Section XI-10 of the Urbana Zoning Ordinance and with Chapter 65, Section 5/11-13-14 of the Illinois Compiled Statutes (65 ILCS 5/11-13-14), the Urbana Zoning Board of Appeals (ZBA) held a public hearing on the proposed major variance on March 20, 2002 and the ZBA by a unanimous vote of its members (4y0n) recommend to the City Council approval of the requested variance; and

WHEREAS, after due and proper consideration, the City Council of the City of Urbana has determined that the major variance referenced herein conforms with the major variance procedures in accordance with Article XI, Section XI-3.C.3.d of the Urbana Zoning Ordinance; and

WHEREAS, the City Council agrees with the following findings of fact adopted by the ZBA in support of its recommendation to approve the application for a major variance:

1. In this case, there is a special practical difficulty due to the house being built with a greater western side yard setback than is required. The house was constructed with a western side yard of 8.1 feet, which is greater than the required 5 feet. This may result in an unmanageable angle for vehicle access if the garage is built at the proposed location with the full 18-inch setback. However, the proposed garage could be built in another location on the lot in compliance with all setback requirements. The requested variance does serve as a special privilege because the circumstances related to the land are created out of a desire to maximize open space on the lot by moving the garage to the north.
2. The need for the variance has not yet been created. The petitioners were aware of the requirements of the Zoning Ordinance and have applied for a variance.
3. The variance will not alter the essential character of the neighborhood. The existing garage is in a state of disrepair, and the proposed brick garage will be designed to match the historic details of the existing house. There are other garages in the neighborhood built within the current setback requirements.

4. The variance should not cause a nuisance to the adjacent property. The six-inch setback will reduce the need to access the neighboring property for maintenance of the garage.

5. The petitioner is only requesting the amount of variance needed to accommodate the proposed new garage.

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

The major variance request by the Haruko Kinase-Leggett and Anthony Leggett, in Case #ZBA-02-MAJ-2 is hereby approved to allow the reduction of a side yard setback from 18 inches to 6 inches to allow for the construction of a new garage at 607 W. Pennsylvania Avenue in the R-1, Single-Family Residential Zoning District, in the manner proposed in the application.

The major variance described above shall only apply to the subject property, more particularly described as follows:

LEGAL DESCRIPTION: Lot 43, University Heights Addition to Urbana, Illinois, being part of the southwest quarter of section seventeen (17), township nineteen (19) north, range nine (9) east of the third principal meridian.

The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities. This Ordinance shall be in full force and effect from and after its passage and publication in accordance with the terms of Chapter 65, Section 1-2-4 of the Illinois Compiled Statutes (65 ILCS 5/1-2-4).

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called of a majority of the members of the City Council of the City of Urbana, Illinois, at a regular meeting of said Council on the ____ day of _____, 2002.

PASSED by the City Council this _____ day of _____, _____.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____, _____.

Tod Satterthwaite, Mayor

CERTIFICATE OF PUBLICATION IN PAMPHLET FORM

I, Phyllis D. Clark, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois.

I certify that on the ____ day of _____, 2002, the corporate authorities of the City of Urbana passed and approved Ordinance No. _____, entitled "AN ORDINANCE APPROVING A MAJOR VARIANCE (to allow the reduction of a side yard setback from 18 inches to 6 inches to allow for the construction of a new garage at 607 W. Pennsylvania Avenue in the R-1, Single-Family Residential Zoning District - ZBA-02-MAJ-2) 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 _____, 2002, 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.