



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, Director, Community Development Services

DATE: October 1, 2008

SUBJECT: ZBA-2008-MAJ-09: A request by Robert Wyer for a major variance to build a three-foot addition onto an existing garage that will encroach approximately 12 feet into a required 25-foot front yard setback at 401 West Delaware Avenue

Introduction

Randall Donoho is requesting a major variance on behalf of Robert Wyer to build a three-foot addition onto an existing garage that will encroach into the required front yard of a residence on the corner of Delaware and Carle Avenues. Section VI-5.F.1 of the Urbana Zoning Ordinance states that the required front yard in the R-1 District shall not be less than the average depth of the front yards of all the lots on the block face, and shall be no less than 25 feet and no more than 60 feet. The existing garage is located along Carle Avenue. The average depth of front yards on the block face is less than the required minimum, which gives the subject property a required front yard of 25 feet.

The applicant is proposing to convert the existing garage, with the three-foot addition, into habitable space and construct a new garage to be accessed from Delaware Avenue. In addition to this major variance, the applicant requested a minor variance (ZBA-2008-MIN-02) for the new garage to encroach 25% into the required 29.5-foot front yard setback on Delaware Avenue.

At their September 17, 2008 meeting, the Urbana Zoning Board of Appeals voted five ayes and zero nays to recommend that the City Council approve the proposed Variance in ZBA Case No. ZBA-2008-MAJ-09 with three conditions as provided in the Recommendation section of this memo. Additionally, the Zoning Board of Appeals approved the proposed minor variance with four conditions, including a slight reduction of the requested encroachment to bring the front of the new garage in line with the front of the house along Delaware Avenue.

Background

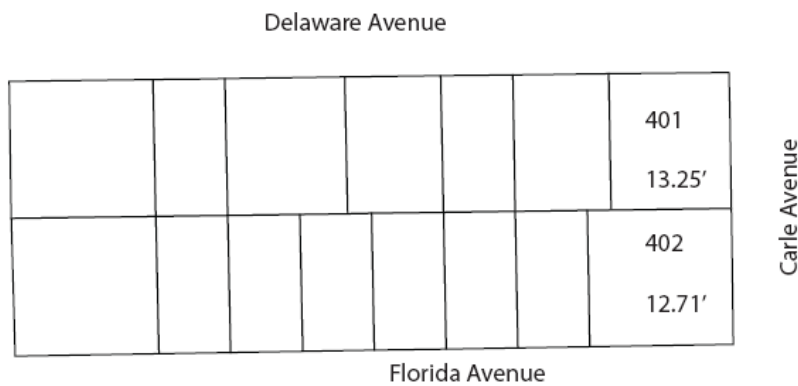
Description of the Site

The subject property—401 W. Delaware Avenue—is located on the southwest corner of Delaware and

Carle Avenues. A single-family house, fronting on Delaware Avenue, and a garage, fronting on Carle Avenue, currently exist on the property. The lot measures 127 feet by 115 feet (14,605 square feet).

There are two properties on the west side of Carle Avenue between Florida Avenue and Delaware Avenue. Neither property fronts on Carle Avenue, although the property directly east of the subject property does front on Carle (1602 S Carle Avenue). The average setback on this block of Carle Avenue is 12.98 feet, considerably less than the required 25 feet, making the required setback for the subject property along Carle Avenue 25 feet. The right-of-way along Carle Avenue is 60 feet. There is no sidewalk on the west side of this block.

Setbacks on Carle Avenue



Average Setback = 12.98' (12' 11.76")

Adjacent Land Uses and Zoning Designations

The area surrounding the subject property is residential in nature and is zoned R-1, Single-Family Residential. Located one block south of the subject property is the Orchard Downs Apartment complex, a family and graduate housing complex for the University, zoned CRE, Conservation, Recreation, and Education.

Comprehensive Plan

The 2005 Urbana Comprehensive Plan indicates the future land use for the surrounding area as "Residential – Urban Pattern". The plan defines the Residential Urban Pattern of Development as:

"A pattern of development that is typically found in older, established neighborhoods. Includes a grid network of streets with, in some cases, vehicular access from rear alleys. Streets may be narrow in order to slow down traffic and favor the pedestrian. The urban pattern also contains a well-connected sidewalk system that encourages walking and provides convenient pedestrian access to nearby business centers. May include smaller lots where homes face the street and the presence of garages along the street is minimized."

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

Location	Zoning	Existing Land Use	Comprehensive Plan - Future Land Use
Site	R-1, Single-Family Residential	Single Family Residence	Residential – Urban Pattern
North	R-1, Single-Family Residential	Single Family Residence	Residential – Urban Pattern
East	R-1, Single-Family Residential	Single Family Residence	Residential – Urban Pattern
South	R-1, Single-Family Residential	Single Family Residence	Residential – Urban Pattern
West	R-1, Single-Family Residential	Single Family Residence	Residential – Urban Pattern

Discussion

The petitioner wants to connect the existing garage at 401 W. Delaware Avenue to the house and convert it into a bedroom, full bathroom, and mechanical room. In order to accommodate this conversion, the petitioner is requesting a major variance to construct an addition to enlarge the existing garage. The petitioner is requesting to “bump out” the existing garage three feet, towards Carle Avenue. The petitioner has explained that the house currently does not have a bedroom with full bath on the ground floor and that the limited mobility of his wife requires these facilities. This addition would add 54 square feet of space to accommodate the conversion and would bring the garage in line with the existing wall plane of the house.

The petitioner also requested and was granted a minor variance to construct a new garage along the Delaware Avenue side of the property.

The subject property is located on a corner lot. The Urbana Zoning Ordinance (Section VI-5.E) defines both street frontages as a front yard. The lot, platted many years ago, was not platted to accommodate a required front yard along Carle Avenue.

The average actual setback along the Carle Avenue block face is 13 feet, but the required zoning setback is 25 feet. The house sits 13.2 feet from the property line and the garage is currently 16.2 feet from the property line. The proposed addition will bring the garage in line with the house.

Currently a covered walkway connects the existing garage and the house. The petitioner plans to enclose the walkway to connect the converted garage with the house. The walkway is not located in the required setback.

Converting the existing garage to habitable space would require removing the curb cut on Carle Avenue and providing a minimum of two on-site parking spaces elsewhere. The property owner plans to build a garage to be accessed from Delaware Avenue in order to provide the minimum required on-site parking.

Requirements for a Variance

Section XI-3 of the Urbana Zoning Ordinance requires the Zoning Board of Appeals to make findings based on variance criteria. The following is a review of the criteria outlined in the ordinance, followed by staff analysis for this case:

1. *Based on evidence presented, determine whether there are special circumstances or special practical difficulties with reference to the parcel concerned, in carrying out the strict application of the ordinance.*

According to the applicant, building into the existing rear yard would be problematic because it would “block off the daylight into the living room and family room windows and interfere with visibility from those windows. It would also decrease the aesthetic appeal of the property and yard – both of which add to the value of the property and make it a desirable part of Urbana.” Additionally, if the Carle Avenue yard were considered a side yard instead of a front yard, as it would have been when it was platted, the required setback would be five feet, rather than 25 feet.

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.*

The applicants state that they need to create more living space on the first floor of the home for medical reasons and that extending to the rear of the property would unacceptably encroach into their well-landscaped side/rear yard and block sunlight from living room and family room windows.

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

Again, the applicants state that they need to create more living space on the first floor of the home for medical reasons and that extending to the rear of the property would unacceptably encroach into their well-landscaped side/rear yard and block sunlight from living room and family room windows. If the Carle Avenue yard were considered a side yard instead of a front yard as it was years ago, the applicants would not require a variance for this addition.

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

According to the applicant, “We simply would like to add the 54 sq. ft. to gain a bit more room in our finished out area as well as bringing it out even with the plane of the house.”

City staff finds that this variance would not alter the essential character of the neighborhood because the building addition, although extending the front of the existing garage, will only extend the wall by three feet, adding just 54 square feet in floor area. Additionally, the new setback line would place this portion of the house no closer to the front property line than the existing home. The new setback would still be slightly greater than the average setback along the street.

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

The building would be enlarged by 54 square feet into a front-yard setback. The enlargement would be in line with the rest of the house and would be setback slightly more than the average setback along the street. City staff does not find that doing so would cause a nuisance to the adjacent properties.

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

City staff finds that enlargement of the building by 54 square feet into a front-yard setback, when the enlargement would be in line with the rest of the house, would represent the minimum deviation from the Zoning Ordinance requirements to accommodate the request.

Summary of Findings

1. The petitioner is proposing to build a three-foot addition onto the east side of the existing garage along Carle Avenue in order to convert the garage into habitable space;
2. The average existing setback along Carle Avenue is approximately 13 feet, while the required zoning setback is 25 feet;
3. The house is set back 13.2 feet, and the existing garage is set back 16.2 feet;
4. The proposed addition will bring the garage in line with the front of the house;
5. Allowing the proposed addition would not serve as a special privilege;
6. The proposed addition would not alter the essential character of the neighborhood;
7. The proposed addition would not cause a nuisance to the adjacent property; and
8. At their September 17, 2008 meeting, the Urbana Zoning Board of Appeals, in a vote of 5 ayes and 0 nays, recommended that the Urbana City Council approve the proposed Major Variance Case No. ZBA-2008-MAJ-09 with certain conditions as specified below in the Recommendation section.

Options

City Council has the following options in major variance case ZBA-2008-MAJ-09:

- (1) Approve the Variance, as presented herein; or
- (2) Approve the Variance, with any conditions deemed appropriate or necessary for the public health, safety, and welfare, and to carry out the purposes of the Urbana Zoning Ordinance; or
- (3) Deny the Variance.

Recommendation

Based on the analysis and findings presented herein, the Urbana Zoning Board of Appeals and staff recommend that City Council **APPROVE** the proposed Variance in Zoning Board of Appeals Case No. ZBA-2008-MAJ-09 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 hereto.
2. The petitioner shall close the curb cut along Carle Avenue.
3. The property owner shall provide two off-street parking spaces as required by the Urbana Zoning Ordinance.

Prepared by:

Rebecca Bird, Planning Associate

Attachments: Draft Ordinance Approving a Major Variance with Site Plan Application
Exhibit A: Location and Existing Land Use Map
Exhibit B: Existing Zoning Map
Exhibit C: Future Land Use Map
Exhibit D: Site Photos

cc: Robert Wyer, property owner 401 W. Delaware Ave., Urbana, IL
Randy Donoho, contractor 714 S Urbana Ave, Urbana, IL 61801

ORDINANCE NO. 2008-10-120

AN ORDINANCE APPROVING A MAJOR VARIANCE

(To Allow the Construction of a Three-foot Addition onto an Existing Garage, Reducing the Required Front Yard Setback in the R-1, Single-Family Residential, Zoning District. - 401 W. Delaware Avenue / ZBA Case No. 2008-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 major variances where there are special circumstances or conditions with a parcel of land or the structure; and

WHEREAS, Randall Donoho has submitted a petition on behalf of Robert Wyer to reduce the required front yard setback to allow for the construction of a three-foot addition onto an existing garage in order to attach the existing garage to the house and convert it into habitable space at the southwest corner of Delaware and Carle Avenues in the R-1, Single-Family Residential Zoning District at 401 W. Delaware Avenue; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case #ZBA-2008-MAJ-09; and

WHEREAS, after due publication in accordance with Section XI-10 of the Urbana Zoning Ordinance and 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 17, 2008 and voted 5 ayes and 0 nays to recommend that the Corporate Authorities approve the requested variance; 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. The petitioner is proposing to build a three-foot addition onto the east side of the existing garage along Carle Avenue in order to convert the garage into habitable space;
2. The average setback along Carle Avenue is approximately 13 feet, while the required setback is 25 feet;
3. The house is set back 13.2 feet, and the existing garage is set back 16.2 feet;
4. The proposed addition will bring the garage in line with the front of the house;
5. Allowing the proposed addition would not serve as a special privilege;
6. The proposed addition would not alter the essential character of the neighborhood;
7. The proposed addition would not cause a nuisance to the adjacent property; and

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

Section 1:

The major variance request shall hereby be approved, subject to 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 hereto as Exhibit A.
2. The petitioner shall close the curb cut along Carle Avenue.

3. The property owner shall provide two off-street parking spaces as required by the Urbana Zoning Ordinance.

The major variance granted above shall only apply to the property particularly described as follows:

LEGAL DESCRIPTION: Lot 1 and the East 40 feet of Lot 2 in Block 6 in Hubbard Terrace, being an addition to the City of Urbana, as per plat recorded in Plat Book "D" at Page 3, situated in Champaign County, Illinois.

Parcel Index Number: 93-21-17-379-007

Section 2:

The City Clerk is hereby directed to publish this Ordinance in pamphlet form by authority of the corporate authorities of the City of Urbana, Illinois. 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 Corporate Authorities of the City of Urbana, Illinois, at a regular meeting of said Authorities on the ____ day of _____, 2008.

PASSED by the Corporate Authorities this ____ day of _____, 2008.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____, 2008.

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 _____, 2008, 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 Three-foot Addition onto an Existing Garage, Reducing the Required Front Yard Setback in the R-1, Single-Family Residential, Zoning District. - 401 W. Delaware Avenue / ZBA Case No. 2008-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 _____, 2008, 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.

EXHIBIT A: Location Map



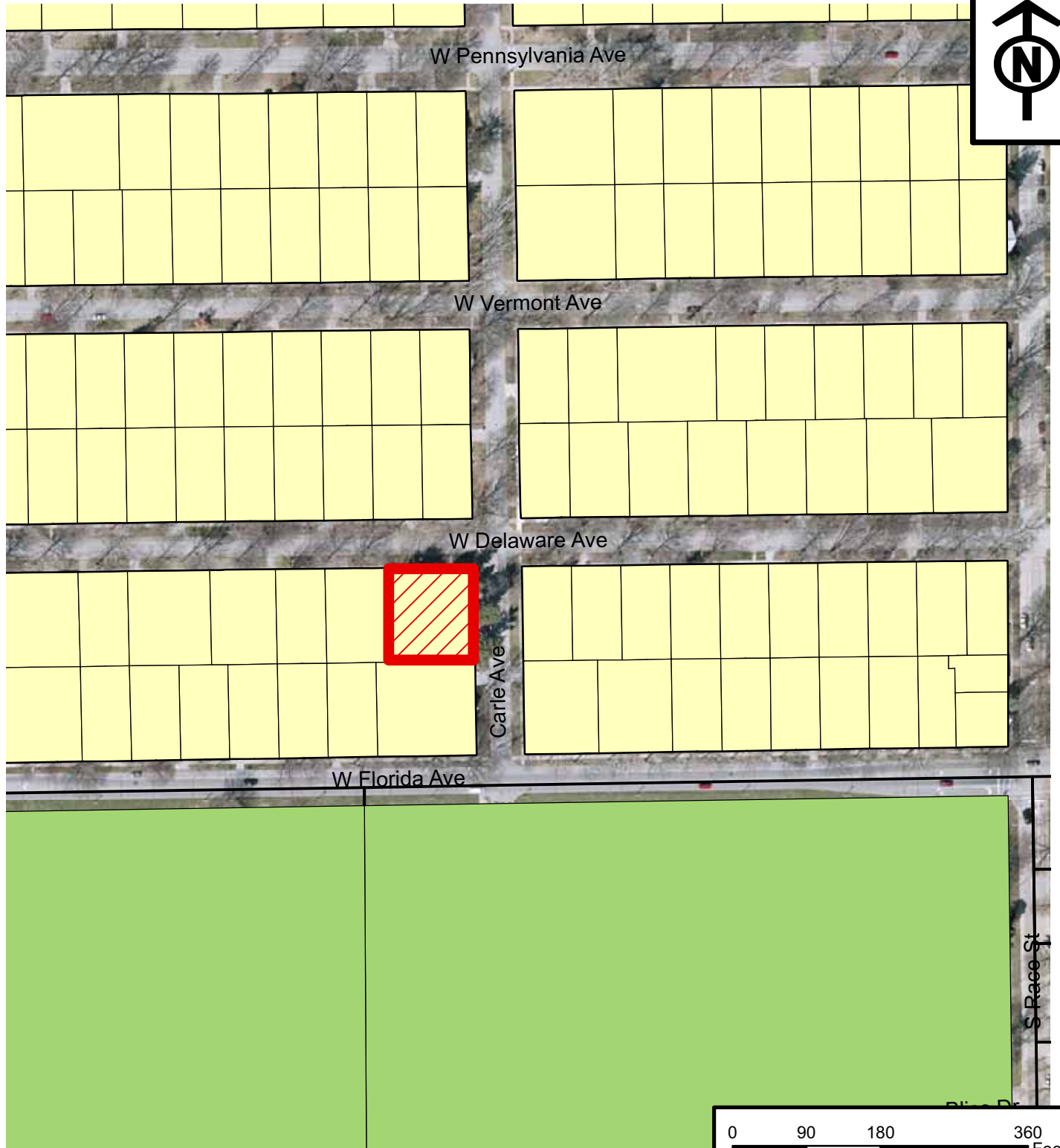
Plan Case: 2008-MIN-02
Petitioner: Robert Wyer
Location: 401 West Delaware Avenue
Description: Request for a Minor Variance to encroach up to 25% in to the Required Front Yard

Prepared 08/08 by Community Development Services - rlb

Legend

 Subject Property

EXHIBIT B: Zoning Map



Plan Case: 2008-MIN-02
Petitioner: Robert Wyr
Location: 401 West Delaware Avenue
Description: Request for a Minor Variance to encroach up to 25% in to the Required Front Yard

Prepared 08/08 by Community Development Services - rlb

Legend




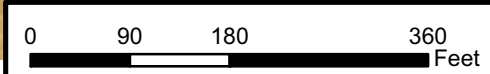
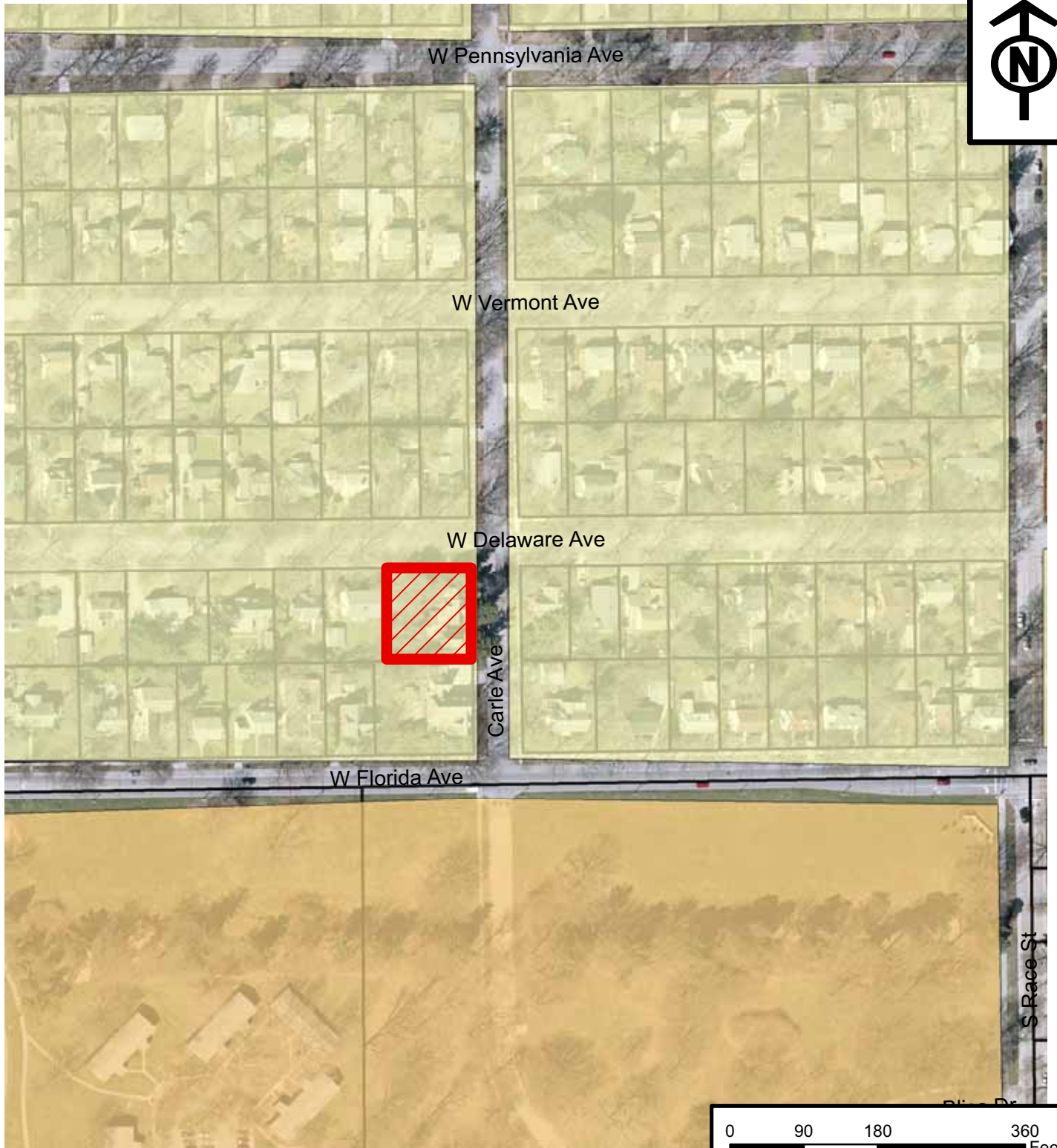
-  Subject Property
-  R1
-  CRE

EXHIBIT C: Future Land Use Map



Plan Case: 2008-MIN-02
Petitioner: Robert Wyer
Location: 401 West Delaware Avenue
Description: Request for a Minor Variance to encroach up to 25% in to the Required Front Yard

Prepared 08/08 by Community Development Services - rlb

Legend




-  Subject Property
-  Residential
-  Mixed Residential

EXHIBIT D: Site Photos

Photos for ZBA-2008-MIN-02

3-foot garage addition



Subject property, looking southwest



Existing garage along Carle Avenue. Proposed 3-foot addition would bring garage in line with house



Close-up of garage

Photos for ZBA-2008-MAJ-08

proposed new garage



Delaware Avenue frontage, from corner of Carle and Delaware