



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, PhD, FAICP, Director

DATE: March 26, 2010

SUBJECT: Request by Jeff and Sandy Yockey to exceed the maximum square footage allowed for accessory buildings at 304 W Washington Street, in the R-2, Single-Family Residential Zoning District (ZBA-2010-MAJ-01).

Introduction and Background

Jeff and Sandy Yockey request a major variance to exceed the maximum square footage allowed for accessory buildings at 304 West Washington Street. The Urbana Zoning Ordinance (Section V-2.D.7(a)) states that single-family dwellings having a “building area” smaller than 1,500 square feet can have a maximum “aggregate area of all accessory structures” of 750 square feet. This lot currently has two structures: an existing small house (765 sq. ft.) and an existing garage (234 sq. ft.). The applicants now own and live in the house, but they would like to build a larger house on the same lot. Instead of demolishing the existing house, they would like it to remain for use as storage. But in doing so, the combined area of the existing house and garage (999 sq. ft.) would exceed the maximum allowed for accessory structures by 249 square feet.

The existing house now occupies the far back corner of the lot, three feet from the rear and side yard lot lines, where one might expect an accessory building such as a garage. A new house could be built in front of the existing house and still comply with necessary setbacks, floor area ratio, open space ratio, and other zoning requirements. The applicants plan to remove the kitchen and/or bathroom from the existing house to prevent a second dwelling unit from being established on the property, which is zoned for single-family residential purposes.

At its March 17, 2010 meeting, the Urbana Zoning Board of Appeals recommended 3-yes and 0-no to forward this application to the City Council with a recommendation for approval. At that meeting, two owners of neighboring properties spoke against granting the variance. (See attached minutes.) One letter was submitted in favor of the variance and four letters submitted against. (See attached letters.) Generally speaking, the concerns raised against granting the variance include having to monitor and enforce against the storage building reverting to a dwelling unit, the higher density of buildings on the site compared with other properties on the block, and additional stormwater runoff due to increased impervious surfaces on the lot.

Description of the Site

The subject property, 304 West Washington Street, is located in the West Urbana Neighborhood on the north side of Washington Street, between Birch and Cedar Streets. A single-family house and a single car garage currently exist on the property. The lot is 58.05 feet wide and 104.0 feet deep for a total area of 6,037 square feet.

The existing house is quite small by current standards (765 sq. ft.), as is the existing one-car garage (234 sq. ft.). Unlike other properties on the street, the existing house is set back nearly 80 feet from the front property line in a rear corner of the lot, approximately three feet from both the rear and side yard lot lines, as might be expected for a traditional garage accessed from an alley.

The subject lot, as well as the lot to the east, was originally platted with the same size and configuration as the lot to the west, which extends the full length from West Washington Street north to the east-west alley. The two lots were replatted into three lots in January of 1924 to create the configuration in existence today. The Sanborn Fire Insurance Rate Map dated 1923 to 1945 illustrates a structure on the subject lot that is consistent with the footprint of the existing single-family dwelling.

Adjacent Land Uses and Zoning Designations

The area surrounding the subject property is residential in nature and is zoned R-2, Single-Family Residential. Following is a summary of zoning and land uses for the subject site and surrounding property:

Location	Existing Zoning	Existing Land Use	Comprehensive Plan - Future Land Use
Site	R-2, Single-Family Residential	Single-Family Dwelling	Residential – Urban Pattern
North	R-2, Single-Family Residential	Single-Family Dwelling	Residential – Urban Pattern
East	R-2, Single-Family Residential	Single-Family Dwelling	Residential – Urban Pattern
South	R-2, Single-Family Residential	Single-Family Dwelling	Residential – Urban Pattern
West	R-2, Single-Family Residential	Single-Family Dwelling	Residential – Urban Pattern

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.”

Discussion

The applicant is proposing to construct a new single-family dwelling on the subject property and convert the existing single-family dwelling (765 sq. ft.) into an accessory structure for storage use. An existing garage (234 sq. ft.) will also remain. By converting the existing dwelling into an accessory structure for

storage use, the total square footage for both accessory buildings will exceed the maximum permitted “aggregate area” of 750 sq. ft. allowed per Section V-2.D.7(a) of the Urbana Zoning Ordinance. The total aggregate area for both accessory structures will be 999 sq. ft., which is 249 sq. ft. (33%) more than permitted. In order to accommodate this proposal, the applicant is requesting a major variance to exceed the maximum square footage allowed for accessory buildings. Without the variance, some or all of the existing structures would need to be removed to comply with the 750 sq. ft. maximum building area for accessory structures. In the application, the applicant notes that the existing garage “is usable as is” and that “there is no easy and obvious way or desirable reason to tear down a portion” of the existing house to meet the requirement. Reuse of the existing buildings as accessory structures would reduce waste that would need to be disposed of as well as reduce materials needed to construct an accessory structure that would not exceed the 750 square foot maximum.

The depth of the subject lot is shallower than what is typical for the area. In addition, the existing dwelling has been placed on the lot as a traditional accessory building would have been with minimal setbacks from the rear and side yard property lines. This has resulted in a larger than average front yard with the principal dwelling being located nearly 80 feet from the front property line. The subject property is located in the R-2 Zoning District. A front yard of 15 feet, or an average depth of the buildings in the same block face, is required. The placement of the existing dwelling results in the ability to construct another dwelling in front of the existing dwelling that can meet the front yard requirement for the R-2 Zoning District, consistent with the setback of other dwellings in the block face.

In addition to review of the required front yard for compliance with the Zoning Ordinance, staff has completed a zoning analysis of the proposal and found that the proposed new house could be built in front of the existing house and still comply with floor area ratio, open space ratio and other zoning requirements. Compliance with the Zoning Ordinance for use and floor area ratio requirements is contingent upon converting the existing dwelling into an accessory building. A single-family dwelling is permitted by right in the R-2 Zoning District. Once the new house is built, the existing house would need to be altered such that it would not be considered a dwelling unit. To achieve this, the kitchen and/or bathroom would need to be removed. This is proposed as a condition for granting the variance to avoid allowing two dwelling units on a single lot. Since the structure was built as a residence, a concern is that the storage building could revert to a dwelling. The City would need to monitor the property to ensure future compliance.

Compliance with the maximum allowed floor area ratio (FAR) of 0.40 in the R-2 Zoning District requires that the existing house, once converted to an accessory structure, be used only for storage or parking. Per the Zoning Ordinance (Section VI-4.A.2(f)), gross floor area excludes areas used for “detached accessory structures to single and two-family dwellings and which are used for storage or parking.” FAR is the ratio of gross floor area to lot area. If the accessory structure (existing house) is used other than for storage or parking, its area would need to be included in the gross floor area, thereby increasing the FAR. If the accessory structure (existing house) is not used for storage or parking and is included in the gross floor area, the calculated FAR is 0.47, which exceeds the maximum allowed FAR by 17.5%.

From a planning perspective, there are both pros and cons to granting the requested variance. On the positive side, the proposed single-family home will be more consistent with the size and setback of surrounding residential homes in the area. In addition, reuse of the existing house as an accessory structure, as opposed to tearing the structure down, would limit waste and reduce use of additional materials. On the other hand, granting the variance may cause future enforcement issues related to use

of the accessory structure (existing house) as a dwelling unit. Retaining the existing house will also increase the lot coverage with buildings beyond what is typically found in the area.

Variance Criteria

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.*

To be in strict compliance with the Zoning Ordinance, either one or both of the existing structures on the subject property would need to be removed. The applicant has stated that they want to keep the two existing structures for storage. Furthermore the applicant notes that “the garage is usable as is, and there is no easy and obvious way or desirable reason to tear down a portion of the larger structure to meet the 750SF limit.”

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 existing development of the lot is not typical. The existing dwelling is located at the rear corner of the lot, similar to the typical placement of an accessory building with minimal setbacks from the rear and side yard property lines. In addition, the size and depth of the lot is not typical for the area. The continued use of the existing structures as accessory structures would still allow for the construction of another dwelling that is otherwise in compliance with the Zoning Ordinance.

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

The applicants state that the “two nonconforming structures were already present on the property when we purchased it last July. They are not at the end of their useful lives, so it seems good to continue to use them.” Although the location of the structures and how the subject property has been developed is not the result of or a situation created by the applicant, the variance requested is a result of the applicant’s desire to construct a larger home on the property and to convert the existing house to an accessory building.

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

The proposed variance would not alter the essential character of the neighborhood. The single-family dwelling proposed to be added to the subject property is permitted by right and would be built in conformance with the development regulations of the Urbana Zoning Ordinance. The new structure would be more similar in size and setback to the existing residences along Washington Street. However,

the addition of the new structure would result in a higher lot coverage than is typical for the neighborhood.

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

The proposed variance would not cause a nuisance to the adjacent properties. The variance pertains to buildings that have existed for many years. In addition as stated above, the single-family dwelling proposed to be added to the subject property is a permitted use and would be built in conformance with the development regulations of the Urbana Zoning Ordinance.

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

The request to exceed the maximum square footage allowed for accessory buildings by 249 sq. ft. is the minimum deviation from the requirements of the Zoning Ordinance necessary to permit the construction of the proposed single-family home and the conversion of the existing home to an accessory building. The variance request is based on the area of the existing garage and existing home on the property. The square footage could not be reduced without the removal of part or all of the structures.

Summary of Findings

1. The subject property is located at 304 West Washington Street and is located in the R-2, Single Family Zoning District.
2. There is an existing single-family home and garage on the property.
3. The applicant desires to construct a new single-family home and to convert the existing home to an accessory structure for storage use.
4. The kitchen and/or bathroom must be removed from the existing house in order to be considered an accessory structure.
5. Conversion of the existing house to an accessory structure for storage results in a total square footage (999 sq. ft.) for accessory structures that exceeds the maximum square footage (750 sq. ft.) allowed by 33%.
6. The applicant has applied for a major variance to exceed the maximum square footage allowed for accessory buildings so that a new single-family dwelling can be constructed and the existing home converted to an accessory building.
7. The proposed single-family home will be more consistent with the size and setback of surrounding residential homes in the area than is the existing house.
8. Reuse of the existing house as an accessory structure, as opposed to tearing the structure down to comply with the Zoning Ordinance, would limit waste and reduce use of additional materials.

9. Granting the variance could cause future enforcement needs related to the potential use of the accessory structure (existing house) as a dwelling unit.
10. Granting the requested variance will result in a higher building coverage of the lot than typically found in the area.
11. The requested variance will not alter the essential character of the neighborhood and will not cause a nuisance to adjacent property.

Options

The Urbana City Council has the following options in major variance case ZBA-2010-MAJ-01:

- a. Approve the application as requested based on the findings outlined in this memo;
- b. Approve the application with certain terms and conditions. If the Urbana City Council elects to add conditions they should articulate findings accordingly; or
- c. Deny the application. If the Urbana City Council elects to do so, the Council should articulate findings supporting its denial.

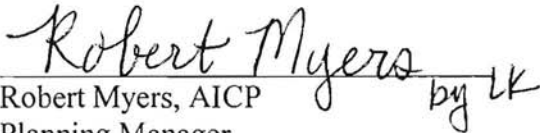
Recommendation

At its March 17, 2010 meeting the Zoning Board of Appeals recommended that the Urbana City Council APPROVE the application with the following conditions:

1. That the subject lot be developed for single-family use in conformance with all other applicable regulations in the Urbana Zoning Ordinance.
2. That the kitchen in the existing single-family dwelling be removed. The removal of the kitchen is to be documented in the Property Maintenance File and a revised Certificate of Occupancy issued.
3. That the two structures intended to be used as detached accessory structures be used only for storage or parking. This is to be documented in the Property Maintenance File and on the Certificate of Occupancy.

City staff likewise recommends approval with these conditions.

Prepared by:


Robert Myers, AICP
Planning Manager

Attachments: Draft Ordinance Approving a Major Variance

Exhibit A: Location and Existing Land Use Map
Exhibit B: Site Photo
Exhibit C: Application
Exhibit D: Letter of support from Howard Schein
Letter of opposition from Robert Nemeth
Letter of opposition from Stuart Martin
Letter of opposition from Tom Faux
Letter of opposition from Gale Walden
Exhibit E: Minutes of the March 17, 2010 ZBA meeting

cc: Jeff and Sandy Yockey
304 West Washington Street
Urbana, IL 61801

Howard Schein
401 W Nevada
Urbana, IL 61801

Robert Nemeth
Architecture & Construction
P.O. Box 227
Sadorus, IL 61872

Stuart Martin
302 W Washington
Urbana, IL 61801

Tom Faux
203 S Birch St
Urbana, IL 61801

Gale Walden
306 W Washington
Urbana, IL 61801

ORDINANCE NO. 2010-04-021

AN ORDINANCE APPROVING A MAJOR VARIANCE

(To exceed the maximum square footage allowed for accessory buildings in the R-2, Single-Family Residential Zoning District / 304 W Washington Street - Case No. ZBA-2010-MAJ-01)

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 a structure; and

WHEREAS, Jeff and Sandy Yockey have submitted a petition for a major variance to exceed the maximum allowed 750 square feet of accessory buildings for a single-family residence located at 304 W Washington Street; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case No. ZBA-2010-MAJ-01; 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 held a public hearing on the proposed major variance on March 17, 2010 and voted 3 ayes and 0 nays to recommend approval of the requested variance to the Corporate Authorities; 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 subject property is located at 304 West Washington Street and is located in the R-2, Single Family Zoning District.

2. There is an existing single-family home and garage on the property.
3. The applicant desires to construct a new single-family home and to convert the existing home to an accessory structure for storage use.
4. The kitchen and/or bathroom must be removed from the existing house in order to be considered an accessory structure.
5. Conversion of the existing house to an accessory structure for storage results in a total square footage (999 sq. ft.) for accessory structures that exceeds the maximum square footage (750 sq. ft.) allowed by 33%.
6. The applicant has applied for a major variance to exceed the maximum square footage allowed for accessory buildings so that a new single-family dwelling can be constructed and the existing home converted to an accessory building.
7. The proposed single-family home will be more consistent with the size and setback of surrounding residential homes in the area than is the existing house.
8. Reuse of the existing house as an accessory structure, as opposed to tearing the structure down to comply with the Zoning Ordinance, would limit waste and reduce use of additional materials.
9. Granting the variance could cause future enforcement needs related to the potential use of the accessory structure (existing house) as a dwelling unit.
10. Granting the requested variance will result in a higher building coverage of the lot than typically found on the block.
11. The requested variance will not alter the essential character of the neighborhood and will not cause a nuisance to adjacent property.

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

Section 1. The major variance request by Jeff and Sandy Yockey, in Case No. ZBA-2010-MAJ-01, is hereby approved to increase the maximum allowed square footage of accessory buildings from 750 square feet to 999 square feet, in the manner proposed in the application, and contingent upon complying with the following conditions:

1. That the subject lot be developed for single-family use in conformance with all other applicable regulations in the Urbana Zoning Ordinance.
2. That the kitchen in the existing single-family dwelling be removed. The removal of the kitchen is to be documented in the Property Maintenance File and a revised Certificate of Occupancy issued.
3. That the two structures intended to be used as detached accessory structures be used only for storage or parking. This is to be documented in the Property Maintenance File and on the Certificate of Occupancy.

Section 2. The major variance described above shall only apply to the property located at 304 W Washington Street, Urbana, Illinois, more particularly described as follows:

LEGAL DESCRIPTION:

Lot 2 of Linstrum's Replat of Lots 20 and 21 of a Subdivision of Outlot 9 of James S. Busey's Addition of Outlots to the Town of Urbana, now City of Urbana, as per plat recorded in Book "D" at page 277, in Champaign County, Illinois.

PIN: 92-21-17-185-015

Section 3. 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 Corporate Authorities of the City of Urbana, Illinois, at a regular meeting of said Authorities on the ____ day of _____, 2010.

PASSED by the Corporate Authorities this ____ day of _____, 2010.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____, 2010.

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 _____, 2010, the corporate authorities of the City of Urbana passed and approved Ordinance No. _____, entitled "AN ORDINANCE APPROVING A MAJOR VARIANCE (To exceed the maximum square footage allowed for accessory buildings in the R-2, Single-Family Residential Zoning District / 304 W Washington Street - Case No. ZBA-2010-MAJ-01)" 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 _____, 2010, 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 _____, 2010.

Exhibit A: Location and Existing Land Use Map



ZBA Case: ZBA-2010-MAJ-01

Description: Request for a major variance to exceed the maximum square footage allowed for accessory buildings.

Petitioner: Jeff and Sandy Yockey

Location: 304 West Washington Street

Zoning: R-2, Single-Family Residential

Land Use
 MF - Multi-Family
 SF - Single-Family





Application for Variance

Zoning Board Of Appeals

APPLICATION FEE – \$150.00 (Major) and \$125.00 (Minor)

The Applicants are responsible for paying the cost of legal publication fees as well. The fees usually run from \$75.00 to \$125.00. The applicant is billed separately by the News-Gazette.

DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY

Date Request Filed 02-26-2010 ZBA Case No. 2010-MAJ-01
 Fee Paid - Check No. 1010 Amount \$150.00 Date 02-26-2010

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 *(Insert Use/Construction Proposed and the Type and Extent of Variation Requested)* exceeding max SF of accessory buildings* on the property described below, and in conformity with the plans described on this variance request. *see U-2.0.7.a

1. APPLICANT CONTACT INFORMATION

Name of Applicant(s): Jeff + Sandy Yockey Phone: 217.344.8835
 Address (street/city/state/zip code): 304 W. Washington ; Urbana IL 61801
 Email Address: Jeff Yockey@mac.com
 Property interest of Applicant(s) (Owner, Contract Buyer, etc.): Owners

2. OWNER INFORMATION

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

FEB 26 2010

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: 304 W. Washington Urbana IL
 PIN # of Location: 92 - 21 - 17 - 185 - 015
 Lot Size: 58.05' x 104' = 6,037.2 sq ft.

Current Zoning Designation: R-2

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

Proposed Land Use: Residence

Legal Description: Lot 2 of Linstrum's Replat of Lots 20 and 21 of a Subdivision of Outlot 9 of James S. Busey's Addition of Outlots to the Town of Urbana, now City of Urbana, as per plat recorded in Book "D" at pg. 277 in Champaign County, Illinois

4. CONSULTANT INFORMATION

Name of Architect(s): Daniel McCully

Phone: 719.440.3345

Address (street/city/state/zip code): 1004 Hans Brinker Street, Colorado Springs CO 80907

Email Address: dmccully@abidesignarch.com

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 - See attached documents.

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.

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.

Explain how the variance is not the result of a situation or condition that was knowingly or deliberately created by you (the Petitioner).

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

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

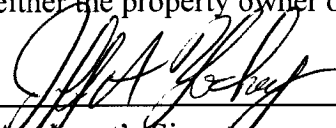
Does the variance represent the minimum deviation necessary from the requirements of the Zoning Ordinance? Explain.

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.


Applicant's Signature

Sandra Yockey

2/26/10
Date

Application for Variance

Jeff and Sandy Yockey
304 W. Washington, Urbana, IL

Background and Answers to Questions

In July of 2009 we purchased a small lot on W. Washington Street with a small house and garage located on the back corners of the property. We desire to build a new home on the front of this property and convert the existing small house to an accessory building. (See attached proposed site plan and front elevation.)

We have preliminary architectural drawings of our new home that take into consideration all R-2 zoning regulations; Max FAR, Min OSR, yard sizes, etc.. (There are still several design decisions yet to make that give us some flexibility in our 2ND FLR and PORCH SF totals, but we will stay within the Max FAR.) As we move ahead in our planning and the building permit process, we now recognize a need to request a variance.

Our variance request is to be permitted to exceed the SF limits of our accessory structures.

Urbana Zoning Ordinance V-2.D.7.a states:

7. If such accessory structures or buildings are to be located on a lot containing a single- or two- family dwelling, the maximum permitted building area of the accessory building, regardless of the zoning district, shall be determined as follows:
 - a) If the building area of the single- or two-family dwelling on the lot does not exceed 1500 square feet, the aggregate area of all accessory structures shall not exceed 750 square feet.

Our proposed building area is 1,447 SF.

1ST FLR + COVERED PORCHES (using the largest design option we are considering):
1,125 SF + 322 SF = 1,447 SF

The total SF of our two accessory structures would total 999 SF.

234 SF + 765 SF (the existing garage and small house) = 999 SF

Variance Application Questions and Answers

Q. 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.

Ans. *We desire to keep intact the two preexisting structures. The garage is usable as is, and there is no easy and obvious way or desirable reason to tear down a portion of the larger structure to meet the 750 SF limit.*

Q. 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.

Ans. *This is a small, shallow lot: 58' x 104'. These two existing buildings are now nonconforming structures given their location relative to the lot lines. Yet for this small lot, their present location provides some advantage in developing a site plan.*

Q. Explain how the variance is not the result of a situation or condition that was knowingly or deliberately created by you (the Petitioner).

Ans. *These two nonconforming structures were already present on the property when we purchased it last July. They are not at the end of their useful lives, so it seems good to continue to use them.*

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

Ans. *First, no net change in the the "Single Family Dwelling" status of the property will occur. The larger existing structure will cease to be a Single Family Dwelling and will be converted to a Miscellaneous Accessory Building (removal of kitchen, etc.) thus excluding its use as a potential rental property.*

Second, these small buildings are in the back of the property. The new home to be built in front of the property is being designed in an Arts and Craft style to fit into and enhance the character of the West Urbana neighborhood where it is to be built. Our desire is to update the exteriors of these two accessory structures so they will match and compliment the style, color, and exterior of the new home.

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

Ans. *The two structures are already a long-standing part of the neighborhood landscape, especially for our three adjacent neighbors.*

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

Ans. *Yes, given that the two nonconforming structures already exist. No increase in SF is planned or requested.*

25 FEB 2010

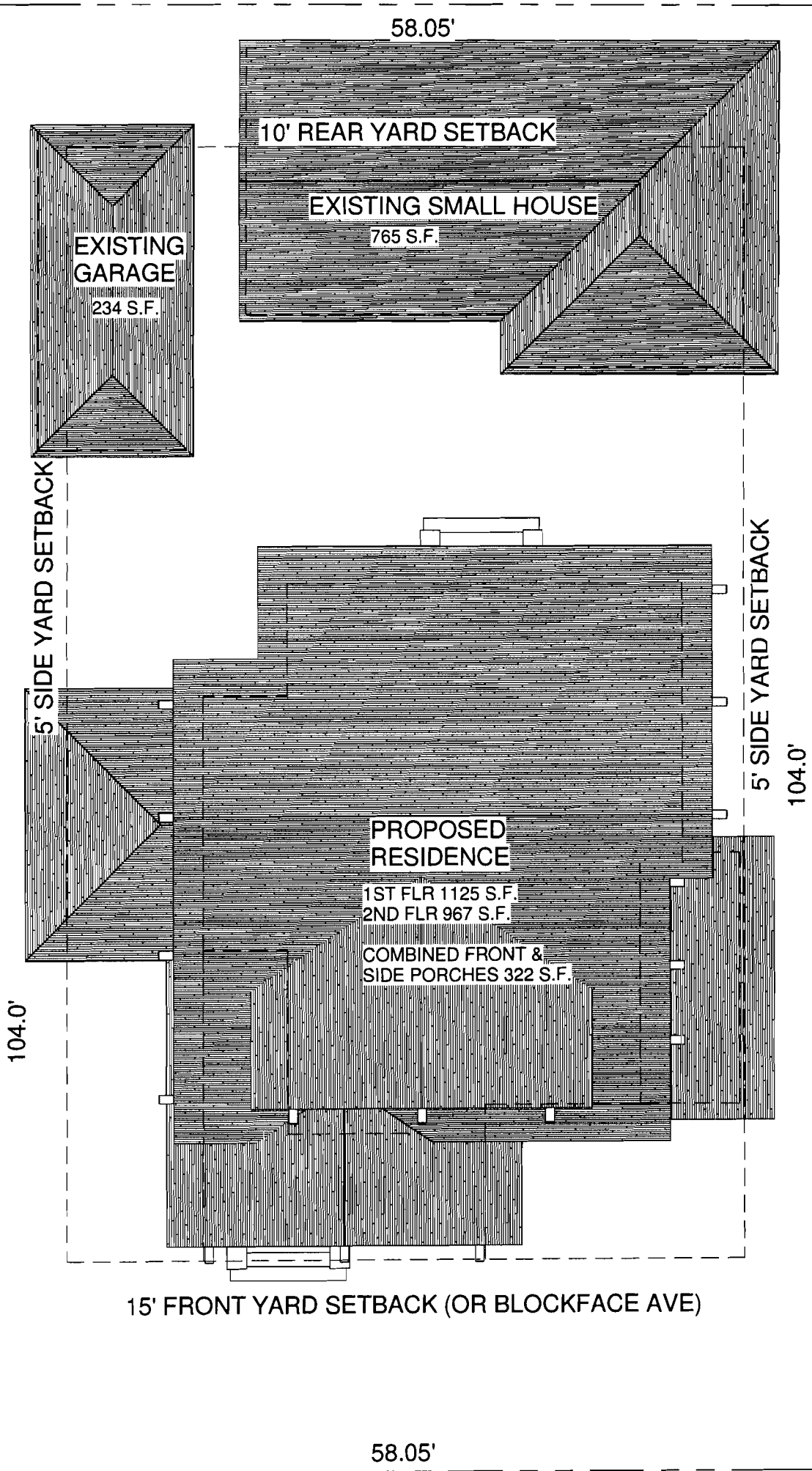
JEFF & SANDY YOCKEY
304 W WASHINGTON
URBANA, IL 61801

PARCEL# 922117185015

LOT SIZE 6037.2 S.F.
(58.05' x 104')

ZONING: R-2

CONSTRUCTION: ICF





Howard Schein
401 W. Nevada
Urbana, IL 61801

Department of Community Development Services
Planning Division
400 S. Vine
Urbana, IL 61801

In Regard to request for variance

ZBA Case # 2010-MAJ-01

I fully support Jeff and Sandy Yockey's request for a major variance in order to exceed the maximum square footage allowed for accessory buildings at 304 W. Washington.

I fully understand the nature of their request to build a new structure on their lot at this address while let standing the current structure. I have discussed at length with them their plans for their proposed new construction and their plans (with approval) to keep the current structure, and it makes complete sense to me.

As a member of the immediate neighborhood, I do not see an issue with this variance, especially from an aesthetic and functional viewpoint. I do not see this variance as coming into conflict with the nature of the neighborhood, at all.

In addition, from knowing the Yockey's since they have moved into the neighborhood, I have complete confidence in their ability to manage their property within the demeanor of the neighborhood and to add to the neighborhood's flavor.

Sincerely,


Howard Schein



Robert Nemeth
Architecture & Construction
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March 16, 2010

Department of Community Development Services
Planning Division
400 S. Vine St.
Urbana, IL 61801

Re: ZBA Case # 2010-MAJ-01

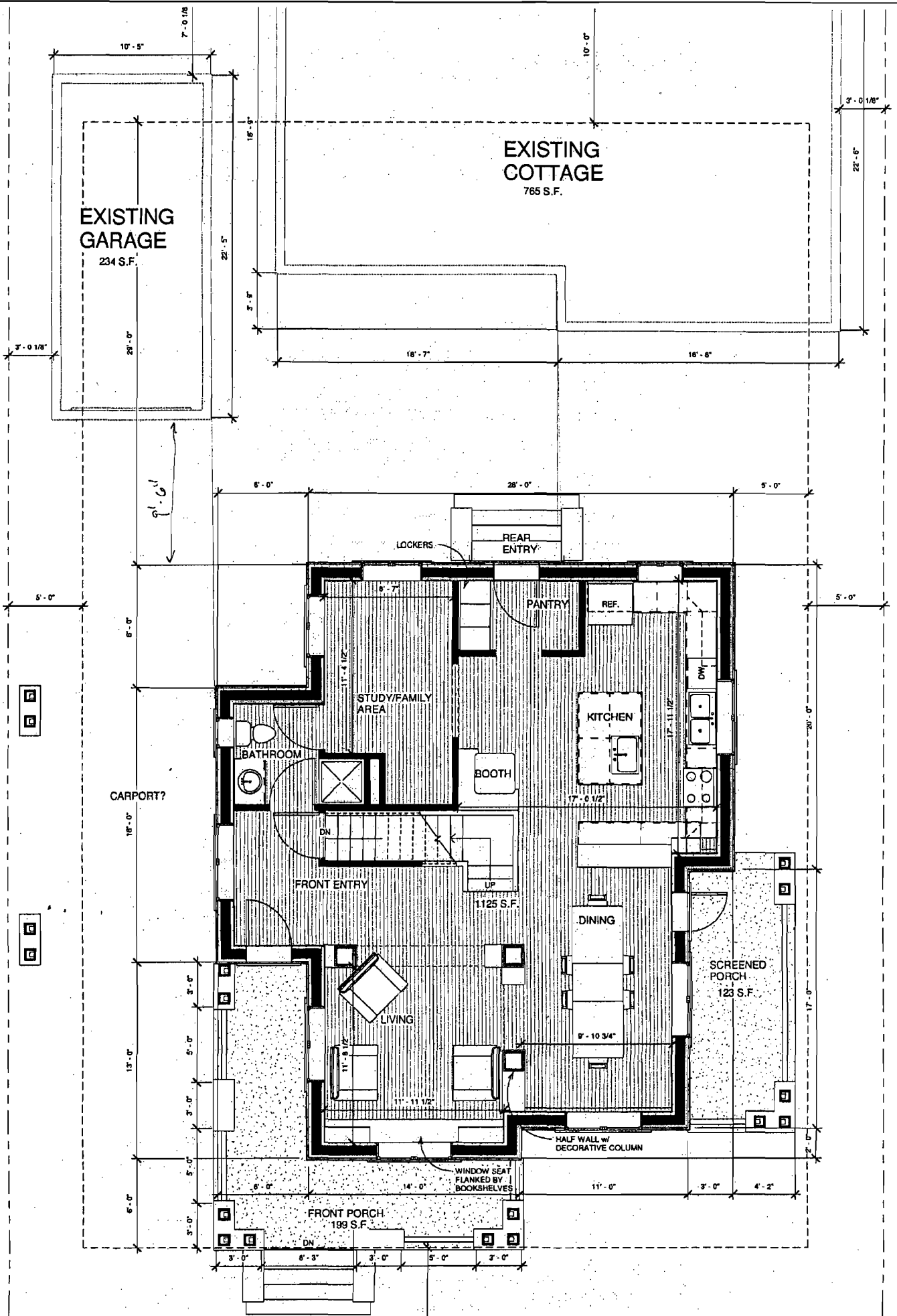
I and Mr. Stuart Martin own a house located at 808 Cedar, Urbana, Illinois. We were notified of a *Notice of Public Hearing in Regard to a Proposed Major Variance*, Dated March 2, 2010, for a proposed construction at 304 West Washington, Urbana, Illinois. The petition is for a major variance to exceed the maximum square footage allowed for accessory buildings.

The City of Urbana Department of Community Development Services Planning division memorandum, dated March 11, 2010, provides site plan, and an isometric perspective from the front of the house. In addition, the following comments are based on a dimensioned floor and site plan that was provided to Mr. Stuart Martin by Mr. Yockey, but is not in the aforementioned memorandum. I have included this drawing as an attachment. After reviewing the drawings and memorandum, my concerns are as follows:

1. On the attached dimensioned floor/site plan, the proposed carport on the west side of the house is supported by two columns that appear to be approximately 9" from the west lot line. This would place the roof overhang approximately on the lot line. This differs from the site plan included in the memorandum. Section VI-5 B.6 (p.55) of The City of Urbana Zoning Ordinance States that a Porte-Coche may not encroach more than 2' - 6" into a required yard. If the drawing provided in the memorandum is correct, this would comply with the zoning ordinance. However, if the drawing on the memorandum is correct, and the supporting columns were placed within the setback lines, this would not allow for the minimum width of an access drive of 9'-0", per Table VIII-3 Widths for Access Drives (p.82). My concern stems from the difference between these two drawings.
2. Staff recommendations are for approval of the variance with one of the following recommendations: That the kitchen in the existing single family dwelling be removed. The intent of this recommendation is to deter use of the structure as a habitable residence. Basic kitchen needs can be easily met with plug-in appliances. A far more effective deterrent for future use as a residence would be to require the removal of bathroom facilities.
3. My primary concern revolves around the 33% increase in accessory building square footage from 750 SF to 999 SF. Although the proposed design for the new residence does meet FAR and OSR requirements, as discussed in the memorandum under Variance Criteria #4, and as written by City of Urbana staff: the addition of the new structure would result in larger lot coverage than is typical for the neighborhood. As long as the lack of open space and proximity to adjacent structures is acceptable to the Yockey's and their immediate neighbors, maybe this is acceptable. My feelings would probably be different if I lived next door.

Thank you for this opportunity to address the ZBA.

Robert Nemeth



March 10th, 2010

Department of Community Development Services
Planning Division
400 S. Vine St.
Urbana, IL 61801

MAR 15 2010

My name is Stuart Martin. For the past 32 years I have owned, and lived in my home at 302 W. Washington. I am writing in regard to the request by Jeff and Sandy Yockey for a major variance. They make their request in anticipation of constructing a new house on their property at 304 W. Washington St., Urbana, IL.

My wife, Sally Duncan, and I wish to thank the Planning Division of the Dept. of Community Development Services for the notification of the major variance request. We also appreciate the opportunity to respond to this matter to the Zoning Board of Appeals, **ZBA Case # 2010-MAJ-01**.

The petitioner, Jeff Yockey, has generously shared with us, and with the immediate neighbors, his plans for the construction of a new house at 304 W. Washington St. Toward that end, we have been shown the proposed site plan, house plan view, and isometric perspective front elevation view. Included in the site plan are the dimensioned outlines of the existing house and garage.

Jeff clearly stated the reasons behind his wanting certain features and design elements in the new house. Though relatively quite large in scale, there seemed no compromise in quality and energy efficiency of the new building as planned. That is not my main concern.

I am concerned with the present reason for request of variance, and possible future ramifications of the allowance of that variance as it is now proposed. The variance is required to enable the Yockey family to build the new house, while allowing the present house and garage to remain. My main concern is that this greatly increases the visual and actual density of structures on the property. The proposed house alone has a greater footprint than each of the three houses adjacent to its property...NOT including the existing structures. The Yockey's lot is foreshortened relative to the full depth lot to the west of it, making that scaling even more dramatic.

Another concern of mine is the future disposition of the proposed porches to the front and the east side. Being masonry, these would each necessarily require foundations adequate to later allow the building of enclosed living spaces, thus further enlarging the new house. Whether or not this is the present intent is not the point. My concern comes from the experience that things change. In spite of plans or promises, owners move leaving new owners to apply their own visions to an existing plan. Were it enclosed, the Yockey's proposed east porch, with its proximity to my own house, would significantly detract from an already reduced feeling of openness, thereby lowering my property's appeal and subsequent value. As drawn, the Yockey's proposed front porch, being currently exempted from the front setback rules, would, if/when enclosed, alter the average and well defined setback among the other houses on the same block.

The same sense of future possibilities drives me to wonder about the end-use of the currently existing house. Were it allowed the variance, I am told that removing the kitchen facilities would prevent it from violating the codes limiting numbers of habitable structures on any given property. Things do change. "Single-Family Residential" zoning status may change in the mind of potential new occupants.

Drainage issues were addressed in conversation between Jeff and me. It was agreed that no one wants a basement that floods, but no specific preventive design was offered. The existing house and garage are presently at elevations low enough to create major challenges to future effective drainage design. I can only imagine that the existing house and garage will need to be elevated, if they are not removed.

In closing, I want to say that I very much respect and admire the Yockey family for having the dream, enthusiasm, and determination to build their new house. I am also aware that meeting the interface of dreams and reality is possibly the least enjoyable part of the process. They are likeable, good-hearted people, and I look forward to a continued warm relationship as neighbors.

As stated, thank you for this opportunity to respond. Sincerely,

A handwritten signature in black ink that reads "Stuart Martin". The signature is written in a cursive, flowing style.

Stuart Martin

203 S. Birch St.
Urbana, IL 61801
217-384-2946

Department of Community Development Services
Planning Division
400 S. Vine St.
Urbana, IL 61801

MAR 17 2010

March 16, 2010

To Whom It May Concern:

I am writing with some concern regarding a variance request at 304 Washington Ave., Urbana. Since 2002 I have owned a house at 807 South Cedar St., in Urbana, presently occupied by my ex-wife, Miriam Faux. We share a property line with the Yockey family. I have recently been made aware of the proposed construction project by two other abutting property owners.

I understand that there is plan to construct a 2000 square foot residence at 304 W. Washington, an addition to the two buildings that already occupy the lot. My main concern is that the scale of the proposed structure seems out of keeping with the particular neighborhood. The intersection of Cedar and Washington is a particularly well-balanced area—a cluster of moderately-sized houses with an adequate amount of space and tree growth. The ratio of building density to greenspace gives the neighborhood a unique and comfortable character: the reason we bought our house nine years ago. The current proposal will significantly increase the building density, and diminish the sense of space in the area, and will, I believe, undermine its character and attractiveness.

A second concern regards the diversion of water around the buildings. My property sits above both the proposed project and the Martin house at 302 Washington, our next door neighbors. Nonetheless, in wet seasons there is water in our basement, and the back yard, particularly where our property intersects that of 304 W. Washington, gets extremely damp. I am concerned that drainage will become an issue for all concerned.

I understand that Mr. Yockey has communicated thoughtfully with the neighbors in residence around the proposed project, and I understand that there is considerable good will in the neighborhood toward his family, and general support for his desire to upgrade the property. I am in full agreement, and am reluctant to discourage a neighbor. However, I am concerned with the scale of the proposal, and feel that it will have significant negative impact on the character of the neighborhood.

Many thanks.



Tom Faux

Department of Community Development Services
Planning Division
400 S. Vine St.
Urbana, IL 61801

03/13/09

MAR 17 2010

To Whom It May Concern:

I am writing to give my thoughts on a requested variance for 304 W. Washington. I have lived at 306 W. Washington for almost a decade in a house my parents own. They have given me permission to add their voices to mine. Since I have lived in my house, 304 W. Washington has contained a small house and a small garage, which sit far back on the lot. Even though the small house sits behind mine, because of very close driveways the houses have always seemed in extremely close proximity.

My thoughts about the variance are two-fold. First, the one building requesting to be used as an external building has always been used as a house and even though it could be modified to meet the city's definition of an external building rather than dwelling, it could still at some point, having heating and plumbing, serve as a house should the Yockeys (the petitioners for this variance) ever move. This is not a primary concern of mine. I trust that the Yockeys do not intend to use this as a rental house, and Urbana seems unduly strict about guest houses compared to other cities I have lived in. Still, given existing policies, I'm not sure how Urbana polices things like that after the fact.

Where my main concern comes in is that by keeping that house and renaming and reconfiguring it to be considered an external structure rather than tearing it down or building on to a portion of it, the lot becomes crowded with buildings. According to the plans I've been shown (and the Yockeys have been very good about showing the plans around) the main house will be 2,000 square feet. This will make it one of the largest house on the block on one of the smallest lots, so the ratio of land to house is already different than that of others on the block. In addition to that, you have another 765 square foot external building and a garage and a possible planned carport that will be closer to the city sidewalk.

We have had much more green space and light with the lot next door than most people would have, so whatever structure went up would affect us and we've understood that. No one looks forward to construction next door, but we've understood it might happen some day and we are glad it is the Yockeys who are building. We feel fortunate to have them as neighbors and the house they have designed fits right in with the architecture of the neighborhood.

However, the ratio of green space on the lot, given the current plans, seems to me much smaller than the rest of the block. It is also true that if the small house were taken out and

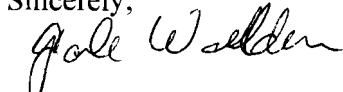
the area where it is left as a green space, it would not make a great difference to me since I don't see that portion of the yard from my vantage (although that might make a difference to some other neighbors on the other side and to the back). What I think might make a difference to my sense of space is if the new house were built further back, something that could only happen if the older house were removed or a portion of it incorporated into the design of the new house. (And I'm aware that there is no requirement to move the new house back on the lot even if the old house were removed). Still, I am hoping the removal would free up some extra room for a slightly different way of thinking about the plans, so that the lot would seem less crowded. As the plans stand now, the side setback between both the houses to the east and the west will be narrow leading to what I envision as a profound sense of encroachment.

My own house has a footprint with porch of 700 square feet and the house the Yockeys are building has footprint of approximately 1500 square feet; it is hard for me to visualize this more-than-doubling on that lot. One thing I would request is that someone from the zoning committee comes out to stake out the lot in accordance to the plans before a final decision is made. There is a carport in the plans that, on paper, looks like I would try to avoid hitting it every day. If it were a smaller new building going up on the lot, it would be easier for me to accept the external structure.

As I understand it this is the only time I have to say anything about this and I am filtering my concern about total square footage and placement through this variance issue. I want very much for the Yockeys to be able to build the house they want, but I also feel an obligation to point out how close these houses are together and how dramatic a change this will be for those who live next door. It seems to me there are measures that might be taken to mitigate this just a bit that are not embedded in the current plans. I'm hoping for some type of win/win where we also feel an architectural addition to the neighborhood without a sense of a crowded portion of the block. I'd like to see the house not only abide by the letter of the law in terms of zoning, but the spirit of the neighborhood, which has long had a reputation for being a green zone.

Thank you for your consideration of the matter.

Sincerely,



Gale Walden

Cc: Urbana City Council
Jeff and Sandy Yokey
Don and Patty Jo Walden

P.S. I will not be able to be at the meeting
but my neighbor Stuart Martin will be there.
He also has a copy of this letter and
I've given permission to speak up about
the points raised in it.

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

DATE: March 17, 2010

DRAFT

TIME: 7:30 p.m.

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

MEMBERS PRESENT	Paul Armstrong, Charles Warmbrunn, Harvey Welch
MEMBERS EXCUSED	Nancy Uchtmann
STAFF PRESENT	Robert Myers, Planning Manager; Teri Andel, Planning Secretary
OTHERS PRESENT	Stuart Martin, Robert Nemeth, Jeff and Sandy Yockey

WRITTEN COMMUNICATIONS

Regarding Case No. ZBA-2010-MAJ-01:

- ◆ Letter from Martin Stuart
- ◆ Letter from Robert Nemeth
- ◆ Letter from Gale Walden
- ◆ Letter from Tom Faux

Chair Armstrong asked that anyone who might want to testify to please stand and raise their right hand. He then swore in those members of the audience.

NEW PUBLIC HEARINGS

Case No. ZBA-2010-MAJ-01 – A request by Jeff and Sandy Yockey to exceed the maximum square footage allowed for accessory buildings at 304 West Washington Street in the R-2, Single Family Residential Zoning District.

Robert Myers, Planning Manager, presented this case to the Zoning Board of Appeals. He introduced the case by stating the purpose for the proposed major variance, which is to allow the petitioners to keep the existing house and garage as accessory storage buildings after a new house has been constructed on the lot. He described the site by noting the zoning designation and land use of both the site and surrounding properties. He referred to the letters (see Written Communications) handed out prior to the meeting. He reviewed how the proposed variance

relates to the variance criteria outlined in Section XI-3 of the Urbana Zoning Ordinance. He read the options of the Urbana Zoning Board of Appeals 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 forward Case No. ZBA-2010-MAJ-01 to the Urbana City Council with a recommendation for approval with the following conditions:

- 1. That the subject lot be developed for single-family use in conformance with all other applicable regulations in the Urbana Zoning Ordinance.*
- 2. That the kitchen in the existing single-family dwelling be removed. The removal of the kitchen is to be documented in the Property Maintenance File and a revised Certificate of Occupancy issued.*
- 3. That the two structures intended to be used as detached accessory structures be used only for storage or parking. This is to be documented in the Property Maintenance File and on the Certificate of Occupancy.*

Mr. Myers mentioned that the applicants were in the audience to answer any specific questions. He stated that he would be willing to answer any questions from the Board.

Mr. Warmbrunn stated that in one of the written communications the Board received Mr. Nemeth addresses an issue with the carport and the differences between the original floor/site plan dimensions and those shown in the site plan attached to the written staff report.

Mr. Myers explained that the site plan in the packet of information is a revised plan. In the original site plan, City staff pointed out to the applicants that the porte cochere appeared to be too close to the property line. The applicants had their architect change the plans to conform to the setback requirements in the Zoning Ordinance.

He pointed out that in order for City staff to approve any house plans, the plans would have to conform to City regulations. So if the columns of the carport are too close to the side-yard property line then the columns would either need to be moved back or the carport would need to be removed from the plans.

Mr. Warmbrunn recalled a concern that the proposed screened in porches could be turned into rooms of the house. He asked if the applicants would need a variance to do this. Mr. Myers said that the home owners would need to obtain permission from the City in order to do so. From his analysis of the plans, if the proposed screened porches were enclosed and became living area it would then change the floor area of the house, and the house would no longer be in conformity with the Floor Area Ratio (FAR) regulations.

Mr. Warmbrunn wondered if the City has regulations on what is stored in an accessory building, whether it is heated or not, etc. Mr. Myers responded that unless it presents a nuisance or fire hazard, the City of Urbana does not get into the issue of what is being stored.

Chair Armstrong asked hypothetically if another property owner was to build over time a series of out buildings that covered a major portion of their lot, would this be something that City staff would recognize immediately. Or would it occur overtime and be so subtle that it could slip under the radar? Mr. Myers replied that City staff has been talking about this very issue. If a person wants to build an accessory building such as a garage or a shed that is larger than say 10 feet by 10 feet, they would need to submit a sketch or site plan for their property that shows all of the out buildings and the house, so that City staff can insure that the shed wouldn't exceed the floor area ratio requirements.

Mr. Warmbrunn inquired as to if the petitioners demolished the garage if it would then become a minor variance. Mr. Myers used a calculator and then said that is correct.

Chair Armstrong asked if the existing house is on a slab and not on a basement or foundation. Mr. Myers said that his understanding is that it's a slab. He mentioned that City staff also checked the height of the existing house, and it would not exceed the height requirement for accessory structures.

With no further questions for City staff from the Zoning Board of Appeals, Chair Armstrong opened the hearing up for public input.

Jeff and Sandy Yockey, petitioners, approached the Board. Mr. Yockey commented that they like living in this neighborhood and in this community. They moved into the existing house in August, 2009 and are very excited about the ability to build on the site. They talked with City staff after taking time and having an architect draw up a site plan. There were only about three issues that City staff told them they needed to change.

From his understanding, the floor area ratio includes covered porches. The proposed new house will be just over 2,000 square feet and the porches will be about 300 square feet. The total square footage, including the first floor, second floor and the porches, meets the Zoning Ordinance requirements. So even if a future homeowner wanted to enclose the porches at some point and make them living area, the porches would already meet the requirements of the floor area ratio.

Mr. Warmbrunn inquired as to whether they use the garage to park their vehicles. Mr. Yockey responded by saying not yet. They are currently using it for storage because they have four people living in the existing 700 square foot house.

Mr. Warmbrunn asked if the Yockeys planned to continue to heat the existing house once the new house was constructed. Also did they plan to keep running water to it? Mr. Yockey said that he did not want to heat it or have running water to it.

Chair Armstrong wondered what made them decide to keep the existing house as an accessory structure rather than selling the existing house and having the new owner move it or tearing the house down and reusing some of the materials. Mrs. Yockey explained that they hope to be involved in the building process. They will continue to live in the house while the new house is being built. If they were to remove the house, then they would need to find another place to live until the new house was constructed.

Mr. Welch commented that it seems like a big switch from being used as a house to being used as a storage structure. A house is built differently than a storage structure. He wondered if shutting off the heat and running water might cause maintenance issues in the future. Mr. Yockey said that was a good question. He plans to keep a good roof on the building and keep all the windows intact.

Mr. Welch stated that it would probably be difficult to tear the building down after the new house was constructed because there would not be much room to do so. Mr. Yockey explained that it would have to come down piece by piece.

Mr. Welch noted that there will not be much room for the children to play. Mr. Yockey replied that they only live one block away from Carle Park.

Mr. Welch wondered if keeping the existing house as a storage structure might make it more difficult to sell the property in the future. Mr. Yockey stated that there is no easy solution. He and his family hope to live in the neighborhood for many years. They may eventually decide to tear the existing house down themselves. One of the advantages of using the existing house for storage is that if they had to replace it with a new storage structure, then they would have to meet setback requirements.

Ms. Yockey pointed out that the content of most of the written communications expresses concerns about the new house – its size, the carport, drainage or something else. The proposed new house meets all of the City of Urbana zoning requirements. The focus of the proposed variance is more properly the two accessory buildings.

She also mentioned that they just spent money on putting a new roof on the existing garage and painted it. So, they do not want to tear it down. Mr. Yockey added that their goal is to take care of the structures so they would fit in and blend with the house.

Stuart Martin, of 302 West Washington Street, approached the Zoning Board of Appeals. He mentioned that he lives next door and that one of the written communications is a letter he wrote and submitted expressing his objections of the proposed variance. He stated that Mr. Myers had addressed many of his concerns during his staff presentation.

He understands the Yockey's desire to build a new, larger house having raised two children in an 850 square foot home himself. The plans for the proposed new house look great; however, with the existing and new house on the lot, the amount of roof surface requiring drainage will shed a lot of water which now soaks in the ground. Another concern is about the future use of the existing house if the Yockeys move. The new owners might have other intentions for the use of the existing house. Therefore, he requested that the amenities such as plumbing and gas hookup for a furnace be cut off and permanently disabled. He is talking about either severing the lines outside or filling the drains with concrete. He has no desire to see the property next door turned into a multi-family lot. He prefers to see green space because that is what the neighborhood is about. Of the five letters that City staff received, three of them are from neighbors who live in the immediate area and have adjoining properties.

Robert Nemeth approached the Zoning Board of Appeals. He mentioned that he co-owns a rental house about 40 yards to the east of the proposed site along with Mr. Martin. With regards to removing the kitchen to ensure that the building will only be used for storage once the new house is constructed, it would be very easy for a person to plug in appliances to substitute for a kitchen. He recommended that the City require the Yockeys to sever the outside lines to the existing house. He commented about the size of the yard. He pointed out that there would be very little yard left once the new house is built. It will barely meet the open space ratio requirements. From the street side, this would not make that much difference, but from the two adjoining lots the proposed property will appear to have high density. He mentioned that he deals with mold and moisture problems at the Building Research Council at the University of Illinois. It will probably become a maintenance problem if they remove the heating system. The existing house is built with a slab on grade. Moisture comes up through the slab. The petitioners will have to run de-humidifiers or take some other preventative measures otherwise it will become an issue. If the petitioners wanted to remove the existing structure, he did not feel it would be as much of an issue as people think. First, it is a very small house, and secondly, they could probably work with Mr. Martin to have temporary access across the back of his lot to remove the demolition debris.

Chair Armstrong inquired as to where the existing utility lines run into the property. Would construction of the new house require altering of these lines? Mr. Myers replied that he did not know where the utilities currently come from. This is something the petitioners would need to work out with their architect.

Chair Armstrong questioned if there were any City regulations regarding heating a storage unit. Mr. Myers said that heating of a garage or storage structure is allowed. He explained that just having heating alone or a kitchen alone or a bathroom alone does not make a house, but when you combine the three then it becomes a house. The petitioners could take out elements to disable it from being used as living quarters or being considered a house. He believes the safest thing to do is to remove the kitchen and the heating. This would allow the petitioners to use the bathroom, which is not unusual to have in a storage structure, especially if they do woodworking, etc.

The Yockeys re-approached the Board to comment on some of the concerns that were mentioned. Mr. Yockey stated that they are willing to take the recommendation of whatever it takes to make the existing house an accessory structure. They had all the utility companies survey the lot. The water, gas and sewer all run within five feet of the east side property line. No lines run across the middle of the property, so the foundation of the proposed new house would not affect the utilities. Water and drainage are issues that they will address because no one wants a wet basement. They have already spoken with Steve Cochran, Building Inspector for the City of Urbana, and have included some solutions into their plans. It is their desire to have a carport and will make sure that it meets City requirements.

Ms. Yockey reiterated that this meeting is not about the carport and whether it fits. That is for the review of their building plans by Mr. Cochran. They took their building plans around and showed their neighbors even though they were not required to do so. She felt like the concerns about the proposed new house were a distraction. She pointed out that they do not want to do anything that is offensive to the neighborhood because they love the neighborhood.

There were no further comments or questions from the audience. Chair Armstrong closed the public input portion of the hearing and opened it up for Zoning Board of Appeals discussion and/or motion(s).

Mr. Warmbrunn inquired about the procedure for zoning violations. How will City staff know if the existing house is used as living quarters after the proposed new house is built? Does the City encourage citizens to report their neighbors if they suspect anything? Mr. Myers explained that there are two systems for insuring compliance. The City has been doing ongoing inspections of rental units for years. Now with the rental registration program, the City has been able to accelerate those inspections so that they occur on a more regular basis. The second system is inspections on a complaint basis. If City staff receives a complaint about a particular problem or possible violation then they will investigate.

Mr. Warmbrunn wondered if removing the kitchen would be a sufficient restriction for approval of the proposed variance as opposed to cutting the water off. He feels cutting the power off should be the owners' decision. Heating and cooling should be at the owners' discretion as well so that the City would not impose a condition that could cause maintenance issues in the future. Mr. Myers agrees that power is customary for storage buildings. If the Zoning Board of Appeals does not feel that simply removing the kitchen would be enough, then they could make additional conditions to place on the variance. Mr. Warmbrunn feels that removing the kitchen would be enough because the neighbors will know if they see people living in it and can complain to the City.

Mr. Welch thought the Board only needed to stipulate that whatever disabling would be done would be enough to have the structure conform as an accessory building. As for the future, no one is concerned about the present owners using the existing structure as living quarters. The Urbana Zoning Ordinance prohibits the existing structure from being used as a rental unit once the proposed new house is built so they do not need to apply any additional conditions other than "the structures and the use of the property will comply with all other applicable zoning provisions." Like any law, this would depend on the neighbors reporting any nonconforming uses. He does not believe that the Board needs to spell out that the owners cannot violate the Zoning Ordinance. The Board could tell the Yockeys to remove the kitchen or simply to meet the requirements of an accessory building. Rather than specifically telling them what to disable, just tell them to disable it so it cannot be used as a livable unit.

Chair Armstrong agreed with Mr. Welch. Some people might want to have their washer and dryer located in their garage. This would require plumbing and power utilities, but it would not mean that the garage would be livable. He would not know how to phrase it if they got more specific than what Mr. Welch suggested. Mr. Welch added that the Board could just follow staff's recommendation and forward it to the City Council. Mr. Myers noted that City Council could impose additional limitations if they feel it is necessary.

Mr. Warmbrunn moved that the Zoning Board of Appeals forward Case No. ZBA-2010-MAJ-01 to the Urbana City Council with a recommendation for approval including the conditions as recommended by City staff in the written staff report. Mr. Welch seconded the motion. Roll call was taken and was as follows:

Mr. Warmbrunn	-	Yes	Mr. Welch	-	Yes
Mr. Armstrong	-	Yes			

The motion was approved by unanimous vote.

Mr. Myers clarified that “removal of the kitchen” does not just mean taking out the refrigerator and stove. The kitchen must be disabled. The City’s Building Safety Division has dealt with this many times before and knows what would need to be done to remove a kitchen. He stated that this case would go before the City Council on April 5, 2010.