



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Urbana Zoning Board of Appeals

FROM: Rebecca Bird, Planning Associate

DATE: May 15, 2008

SUBJECT: ZBA-2008-MAJ-07: Major Variance Request to reduce the required front yard setback to allow for the construction of a garage at 102 W. Pennsylvania Ave.

Introduction and Background

Marc and Fran Ansel are requesting a major variance to reduce the required front yard setback to allow for the construction of a garage at 102 West Pennsylvania Avenue. The subject property is located on the northwest corner of Broadway and Pennsylvania Avenues. The proposed garage is located along Broadway Avenue. The proposed garage is 24 square feet and will replace a deteriorating existing garage that is 20.4 feet by 22.3 feet. The subject property is zoned R-2, Single-Family Residential and is occupied by a single-family residence.

According to Section VI-5.E.1 of the Urbana Zoning Ordinance, lots having frontage on two streets shall have a required front yard on each street frontage. Table VI-3 of the Urbana Zoning Ordinance requires the front yard to be the average depth of the existing buildings on the same block face, or fifteen feet, whichever is greater, in the R-2 Zoning District. The existing garage is six feet from the property line, thereby encroaching nine feet into the required front yard. The petitioners are requesting to encroach 15 feet or 100% of the required setback on Broadway Avenue.

Pursuant to the Urbana Zoning Ordinance, in order for a major variance to be approved, the Zoning Board of Appeals must recommend approval by a two-thirds majority and forward to City Council for final review and approval.

Description of the Site

The subject property is located on the northwest corner of Broadway and Pennsylvania Avenues. The property is commonly known as 102 W. Pennsylvania Avenue. There is currently a single family house and a garage on the property. The lot measures 62.84 feet by 193.02 feet, which is 12,129.4 square feet. The house fronts onto Pennsylvania Avenue.

There are only two properties on the west side of Broadway Avenue between Pennsylvania and Michigan Avenues: the subject property and a duplex directly north. The Broadway Avenue frontage is considered a front yard and the Zoning Ordinance does not allow an accessory structure to be located in the setback. The average setback on the Broadway Avenue block face that applies to the subject property is 12.75 feet and so the minimum setback for the property is 15 feet. The right-of-way along Broadway Avenue is particularly wide as it was platted 82.5 feet wide for its entire length as opposed to 60 feet wide per the current Subdivision and Land Development Ordinance. The City has no plans to widen the street. There is no sidewalk on the west side of this block although there is room for one. The requested variance will not prevent a sidewalk being installed in the future.

Adjacent Land Uses and Zoning Designations

The area surrounding the subject property is residential in nature and is zoned R-2, Single-Family Residential, with the exception of Blair Park to the southeast, which is zoned CRE, Conservation, Recreation, and Education. Located one block north of the subject property is the campus of Urbana Middle School, Urbana High School and Urbana Indoor Aquatic Center, zoned CRE. Located one block to the south is Delmont Court, a multi-family development, zoned R-6, High Density Multiple Family Residential.

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-2, Single-Family Residential	Single Family Residence	Residential – Urban Pattern
North	R-2, Single-Family Residential	Duplex	Residential – Urban Pattern
East	R-2, Single-Family Residential	Duplex	Residential – Urban Pattern
South	R-2, Single-Family Residential	Single Family Residence	Residential – Urban Pattern
West	R-2, Single-Family Residential	Single Family Residence	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 requested variance comes as a result of a desire by the petitioner to enlarge a substandard garage and protect a bald cypress tree in the process. The existing garage is deteriorating and the petitioners feel it is necessary to replace it. The existing garage is 20.4 feet by 22.3 feet, while the proposed garage would be 24 feet by 24 feet. The petitioners explained that this is the standard garage footprint today and to deviate from it would require having a custom garage built at a greater expense.

The tree is located three feet from the northwest corner of the existing garage. The bald cypress, a species of conifer, is a large tree, reaching heights of 100 to 150 feet. It generally grows in wetland areas from Delaware Bay to Florida, Texas, and Oklahoma. The trees are also found further north and west, but they are not as common. According to the petition, this particular tree is nearly seven feet in diameter and 16 feet in circumference. It is one of the oldest and tallest bald cypress trees in Champaign County.

According to the petitioner, the bald cypress has a very shallow root system and is already hindered by the existing garage. According to the Arbor Day Foundation, the framework of major roots for most trees lies less than eight to twelve inches below the surface of the soil as tree roots actually need oxygen. Additionally, roots often grow outward to a diameter one to two times the height of the tree. The petitioners have made a significant financial investment in the tree over the years to care for, preserve and protect the tree. The City Arborist has looked at the tree and determined that it is a very significant tree: "It is perhaps one of the most significant trees in the neighborhood, if not in the community." Additionally, the City Arborist believes the City is justified in facilitating the protection of this tree.

The petitioners' arborist is recommending the new garage be located as far as possible from the tree to minimize damage to the tree. The proposed location is about three feet further from the tree than the existing garage and is the only reasonable location for a new garage of that size. Moving the garage to the north would not move it any further away from the roots, even if it were to encroach 100% in the required rear yard setback. The garage could not be located any further south due to the location of the house. Additionally, the proposed location would allow the petitioners to re-use the existing driveway and curb cut, saving considerable expense.

The subject property is located on a corner lot. The Urbana Zoning Ordinance, in Section VI-5.E, requires lots having frontage on two streets to have a required front yard on each frontage. This lot, platted many years ago, was not platted to accommodate a required front yard along Broadway Avenue. It may be useful to note that if the Broadway frontage had a required side yard instead of a required front yard, the petitioners would be able to locate their garage 18 inches from the property line by right.

Moreover, moving the location of the garage six feet six inches closer to the street will not appear out of place in this particular location. As the right-of-way along Broadway Avenue is 82.5 feet, the property line is 25.75 feet from the curb. The proposed garage therefore would still be 25.75 feet from the street. The house directly south of the subject property, at 102 W. Pennsylvania Avenue,

has a setback of 30.5 feet from the curb, 4.75 feet from the property line. This encroaches 10.25 feet into the required front yard setback along Broadway Avenue.

The following chart is a summary of surrounding setbacks for the subject site: (See Exhibit E for illustration.)

Location	Address	Setback
Site	102 W Pennsylvania	Proposed garage set back 25.75' from curb, encroaching 15' into required front yard (100%) Existing garage set back 33.75' from curb, encroaching 9' into required front yard (60%)
North	101 W. Michigan	House with attached garage set back 39.5' from curb, encroaching 1.25' into the required front yard (8.3%)
East	1312 S. Broadway	Attached garage set back 25' from inside of sidewalk, encroaching 7' into the required front yard (47%)
Northeast	101 E. Michigan	House set back 23' from inside of sidewalk, encroaching 6.5' into the required front yard (57%)
South	102 W. Pennsylvania	House set back 30.5' from curb, encroaching 10.25' into the required front yard (68%) Detached garage set back 31' from curb
Further South	102 W. Vermont	House set back 34.5' from curb, encroaching 6.25' into the required front yard (42%)

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.*

The special circumstances are the location of a champion bald cypress tree in relation to the garage and driveway and the inordinately wide street right-of-way for a local street. The existing garage is deteriorating and the petitioners want to replace it. In order to minimize damage to this significant tree, they are requesting a variance to allow the new garage to encroach in the required front yard setback. The City Arborist has confirmed that this tree is significant to the community and that the City is justified in facilitating its protection. If the tree were not in its present location, the petitioners would not be requesting this variance. Additionally, the right-of-way along Broadway Avenue is 82.5 feet wide as opposed to 60 feet wide per the current Subdivision and Land Development 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.*

The proposed variance will not serve as a special privilege as this particular tree, a bald cypress, is significant to the community and not just to the petitioners. The trunk is nearly seven feet in diameter and 16 feet in circumference. It is one of the oldest and tallest bald cypress trees in the county. The house directly south of the subject property encroaches 68% into the required front yard setback, the house to the east encroaches 47%, the house to the northeast encroaches 57%, and the house to the north encroaches 8.3%. This variance would not provide a privilege beyond that already applied to other properties in the surrounding area.

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

The special circumstance is the location of the tree in relation to the garage and driveway. The petitioners did not plant the tree. They have, however, made a considerable investment in the tree over the years and do not want to endanger the life of the tree.

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

Although the proposal is to reduce the required front yard setback to zero, the house to the south of the subject property has a setback of only 4.75 feet, the house to the east has a setback of 8 feet, the house to the northeast has a setback of 6.5 feet, and the house to the north has a setback of 13.75 feet. The required front yard setback applicable for all the above-listed properties is 15 feet. As the right-of-way on Broadway Avenue is so wide, the reduction of the front yard setback will not be visually apparent and will not alter the essential character of the neighborhood.

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

The proposed variance will not cause a nuisance to the adjacent property owners. The existing garage, which the petitioners did not build, encroaches 9 feet (60%) into the required front yard setback. The proposal is to reduce the required front yard setback by an additional 6 feet on the east property line, which would be a 100% encroachment of the required front yard setback. Due to the wide right-of-way along Broadway Avenue and the existing setbacks in the surrounding area, this will not 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.*

The variance is requesting the minimum deviation from the requirements of the Zoning Ordinance while allowing protection for the tree and the use of the current driveway, garage pad, and standard garage size. Due to the location of the tree and the house, there is no alternative location for a garage of this size.

Summary of Findings

1. The petitioners are proposing to build a standard 24-foot by 24-foot detached garage to replace a deteriorating existing garage.
2. A bald cypress tree nearly seven feet in diameter and 16 feet in circumference is located just three feet from the existing garage. The proposed location would minimize damage to the tree.
3. The City of Urbana Arborist has determined the tree is significant to the neighborhood and the community.
4. The location of the tree and the current driveway are practical difficulties in locating a new garage.
5. The reduced front yard setback will not cause a nuisance to adjacent properties. The reduction of the required front yard by an additional nine feet will not impact adjacent properties due to the often reduced setbacks in the area, the fact that Broadway Avenue has an inordinately wide right-of-way, of 82.5 feet, and that the garage will have an actual setback of 25.75 feet from the curb.
6. The requested variance represents the minimum deviation from the Zoning Ordinance to protect the tree and allow the petitioners to build a new garage.

Options

The Zoning Board of Appeals has the following options in major variance case ZBA-2008-MAJ-07:

- a. Recommend approval of the variance as requested based on the findings outlined in this memo;
- b. Recommend approval of the variance as requested along with certain terms and conditions. If the Urbana Zoning Board of Appeals elects to add conditions they should articulate findings accordingly; or
- c. Recommend denial of the variance request. If the Zoning Board of Appeals elects to do so, the Board should articulate findings supporting its recommendation of denial.

Staff Recommendation

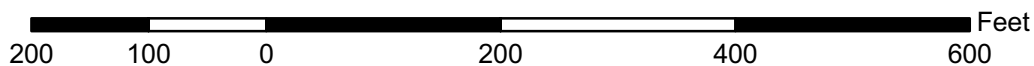
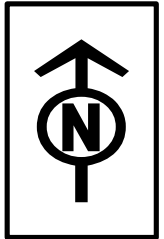
Based on the analysis and findings presented in the discussion above, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommends that the Zoning Board of Appeals forward major variance Case ZBA-2008-MAJ-07 to the Urbana City Council with a recommendation for **APPROVAL** with the following conditions:

1. The garage shall be constructed in general conformance to the site plan layout submitted as part of the application and attached hereto.
2. The existing garage foundation shall be re-used and incorporated into the new foundation. The Building Safety Division will work with the petitioners to accomplish this.
3. The petitioners shall work with their professional arborist or with the City Arborist to ensure damage to the tree is minimized.

Attachments: Exhibit A: Location and Existing Land Use Map
 Exhibit B: Existing Zoning Map
 Exhibit C: Future Land Use Map
 Exhibit D: Site Photos
 Exhibit E: Setbacks
 Exhibit F: Application

Cc: Marc and Fran Ansel, petitioners
 Mike Brunk, City Arborist

EXHIBIT A: Location Map



ZBA Case: ZBA-2008-MAJ-07

Subject: Major Variance to allow a new detached garage to encroach in the required front yard setback

Petitioner: Marc and Fran Ansel

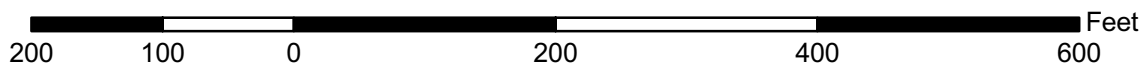
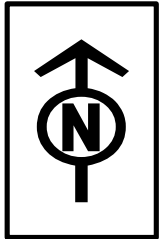
Location: 102 W. Pennsylvania Ave.

Zoning District: R-2: Single-Family Residential

 Subject Property

Prepared 4/29/2008 by Community Development Services - rlb

Exhibit B: Existing Zoning Map



ZBA Case: ZBA-2008- MAJ-07
Subject: Major Variance to allow a new detached garage to encroach in the required front yard setback
Petitioner: Marc and Fran Ansel
Location: 102 W. Pennsylvania Ave.
Zoning District: R-2: Single-Family Residential

Prepared 4/29/2008 by Community Development Services - rlb

Legend





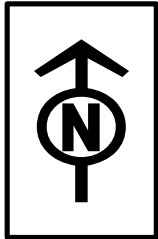
-  Subject Property
-  CRE
-  R2
-  R5

Exhibit C: Future Land Use Map



200 100 0 200 400 600 Feet



ZBA Case: ZBA-2008- MAJ-07

Subject: Major Variance to allow a new detached garage to encroach in the required front yard setback

Petitioner: Marc and Fran Ansel

Location: 102 W. Pennsylvania Ave.

Zoning District: R-2: Single-Family Residential

Prepared 4/29/2008 by Community Development Services - rlb

Legend






-  Subject Property
-  Residential
-  Multi-Family Res.
-  Institutional
-  Park

Exhibit D: Site Photos



Looking west at Bald Cypress from Broadway Avenue

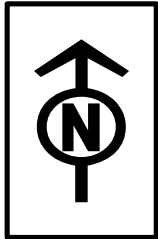


Looking west at existing garage from Broadway. The Bald Cypress is to the right of the garage.



Looking west from Broadway at existing garage and house.

Exhibit E: Setbacks



ZBA Case: ZBA-2008-MAJ-07
Subject: Major Variance to allow a new detached garage to encroach in the required front yard setback
Petitioner: Marc and Fran Ansel
Location: 102 W. Pennsylvania Ave.
Zoning District: R-2: Single-Family Residential

Prepared 4/29/2008 by Community Development Services - rlb

Legend

 Subject Property



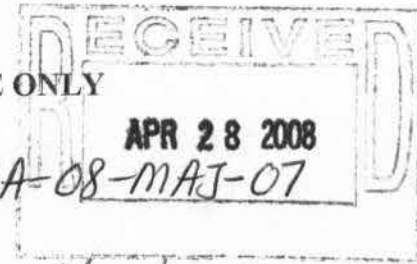
Request for Variance

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 04/28/2008 ZBA Case No. MBA-08-MAJ-07
Type of Variance (Circle One) Major Minor
Fee Paid - Check No. 7644 Amount \$150.00 Date 04/28/2008

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 or construction proposed and the type and extent of variation requested) a new detached garage with reduced setback.

on the property described below, and in conformity with the plans described on this variance request.

1. Location of Subject Site 102 West Pennsylvania Avenue, Urbana, IL 61801-5033

2. PIN # of Location 93-21-17-451-021

3. Name of Applicant/Petitioner(s) Marc and Fran Ansel

Phone 217-384-7654
359 0200W 369-7654CEU

Address 102 West Pennsylvania Avenue, Urbana, IL 61801-5033
(street/city) (state) (zip)

Property interest of Applicant(s) Fee simple owners
(owner, contract buyer, etc)

4. Name of Owner(s) Marc and Fran Ansel Phone 217-384-7654

Address 102 West Pennsylvania Avenue, Urbana IL 61801-5033
(street/city) (state) (zip)

If there are additional owners, please attach extra pages to the application.

5. Name of Professional Site Planner(s) _____ Phone _____

Address _____
(street/city) (state) (zip)

6. Name of Architect(s) Coachhouse Garages Phone _____

Address S. Neil Street, Champaign IL 61820
(street/city) (state) (zip)

7. Name of Engineers(s) _____ Phone _____

Address _____
(street/city) (state) (zip)

8. Name of Surveyor(s) _____ Phone _____

Address _____
(street/city) (state) (zip)

If there are additional consultants, please attach extra pages to application.

DESCRIPTION, USE, AND ZONING OF PROPERTY: Attach an additional sheet if necessary

Legal Description: Lot 22 and the east one-half of lot 23 in DeYoung's second subdivision to the City of Urbana, situated in Champaign County Illinois. _____

Lot Size: 62.84 feet x 193.02 feet = 12,129 square feet

Present Use residential
(vacant, residence, grocery, factory, etc)

Zoning Designation R-2

REASONS FOR REQUEST FOR VARIATION:

Note: The following questions must be answered completely. If additional space is needed, please attach additional sheets.

1. 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.

Our house sits on the southeast corner of Pennsylvania and Broadway Avenues, fronting to the south toward Pennsylvania. However, our side yard must also meet front yard

setback requirements (fifteen feet minimum) because it sits adjacent to Broadway Avenue. Our existing garage is a detached garage that faces Broadway Avenue. It is 22 ft wide (N/S) and 20.5 Ft. deep (E/W). It sits within six feet of the east property line. We would like to replace it with a standard 24' x 24' two-car garage.

Our backyard is home to one of the oldest and tallest Bald Cypress trees in the county. The trunk of this Bald Cypress has grown to almost seven feet in diameter and sixteen feet in circumference. It now sits about three feet from the northwest corner of the existing garage. We have paid our arborist (Greg Smith of Arborsmith) significant money over the years to care for, preserve and protect this tree, including annual pruning care, installing and maintaining a lightening rod (which must be raised every two years), and removing all smaller, lesser trees in the vicinity of this tree. This tree's root system is very shallow, and is already hindered by the existing garage. The tree's root system could be damaged by construction of the new garage in several ways, including (1) excavating and pouring the required new, deeper eight-inch slab (current slab is 3-4 inches deep) will damage the shallow roots in the entire southeast quadrant of the root system, (2) excavating around the perimeter of the garage during construction of the new structure will damage and primary roots near the trunk, and (3) locating the new garage closer to the tree than the existing garage will also damage primary roots near the trunk. Depending on the type and extent of damage to the root system during and after construction, the life of the tree will be threatened.

In order to minimize the threat and damage to the tree, our arborist recommends placing the new new garage as far as possible from the tree (and certainly not closer than the existing garage now sits). We will use his specialized excavation equipment to protect the tree's roots during excavation and construction for the new garage. (This equipment will minimize damage to the primary roots near the trunk of the tree.) There is no way to eliminate damage from excavation and construction of the new, deeper slab. We do not have enough room to move the new garage southward because our house sits less than ten feet from the southwest corder of the existing garage. The only direction we can look to place the new garage is to the east toward Broadway Avenue, i.e., within the setback.

2. 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.

See answer to previous question.

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

We did not plant the tree (some 60-70 years ago). We did not build the existing garage.

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

Granting the variance will permit the new garage to be placed within a few feet of the location of the existing garage. It will also protect the Bald Cypress tree, which is a benefit to the neighborhood. The house to the east (across Broadway) has a fence that sits less than three feet from the property line. The house to our south (across Pennsylvania Avenue) has a fence that sits less than six feet from Broadway Avenue (much closer to Broadway than the reduced setback we seek with this variance.) The house to our northeast (across Broadway) has a fence that sits just about on the property line.

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

See previous answer. None of our neighbors objects to the proposed placement of the new garage. There is only one other house on our block, which sits to our north on Michigan Ave. There are several trees toward the front of our garage which hinder the view of the garage from Broadway Avenue and from the across-the-street neighbor to the east. There is no sidewalk in front of our garage on Broadway Avenue. The sidewalk is located on the east side of Broadway across the street from our property. Our house blocks the view of the garage from most of the property of our neighbor to the south (across the street on Pennsylvania Avenue).

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

Yes – the variance is the minimum necessary to protect the life of our tree.

PLEASE NOTE: The Urbana Zoning Ordinance provides that, by submitting this request for variation for this property, you are granting permission to Staff of the Department of Community Development Services to place a temporary yard sign in the front yard of the property to provide notice of the time and place of the public hearing to consider this request. The sign will be placed in the front yard at least fifteen (15) but not more than thirty (30) days prior to the date of the hearing, and will be removed no later than ten (10) days after the completion of the public hearing. Please call 384-2440 if you have any questions about this requirement.

WHEREFORE, petitioner prays that this petition be heard by the Zoning Board of Appeals and the variations to the regulations of the Zoning Ordinance be changed as herein requested.

Respectfully submitted this 25th day of April, 2008, A.D.

Marc J. Ansel Frances V. Ansel
Signature of Applicants

STATE OF ILLINOIS)
)
) SS
CHAMPAIGN COUNTY)

Marc J. Ansel and Frances V. Ansel, being first duly sworn on their oath, depose and say, that they are the same persons named in and who subscribed the above and foregoing petition, that they have read the same and knows the contents thereof, and that the matters and things therein set forth are true in substance and in fact as therein set forth.

Subscribed and sworn to before me on this 28th day of April, 2008

Karen S. Hipskind
Notary Public



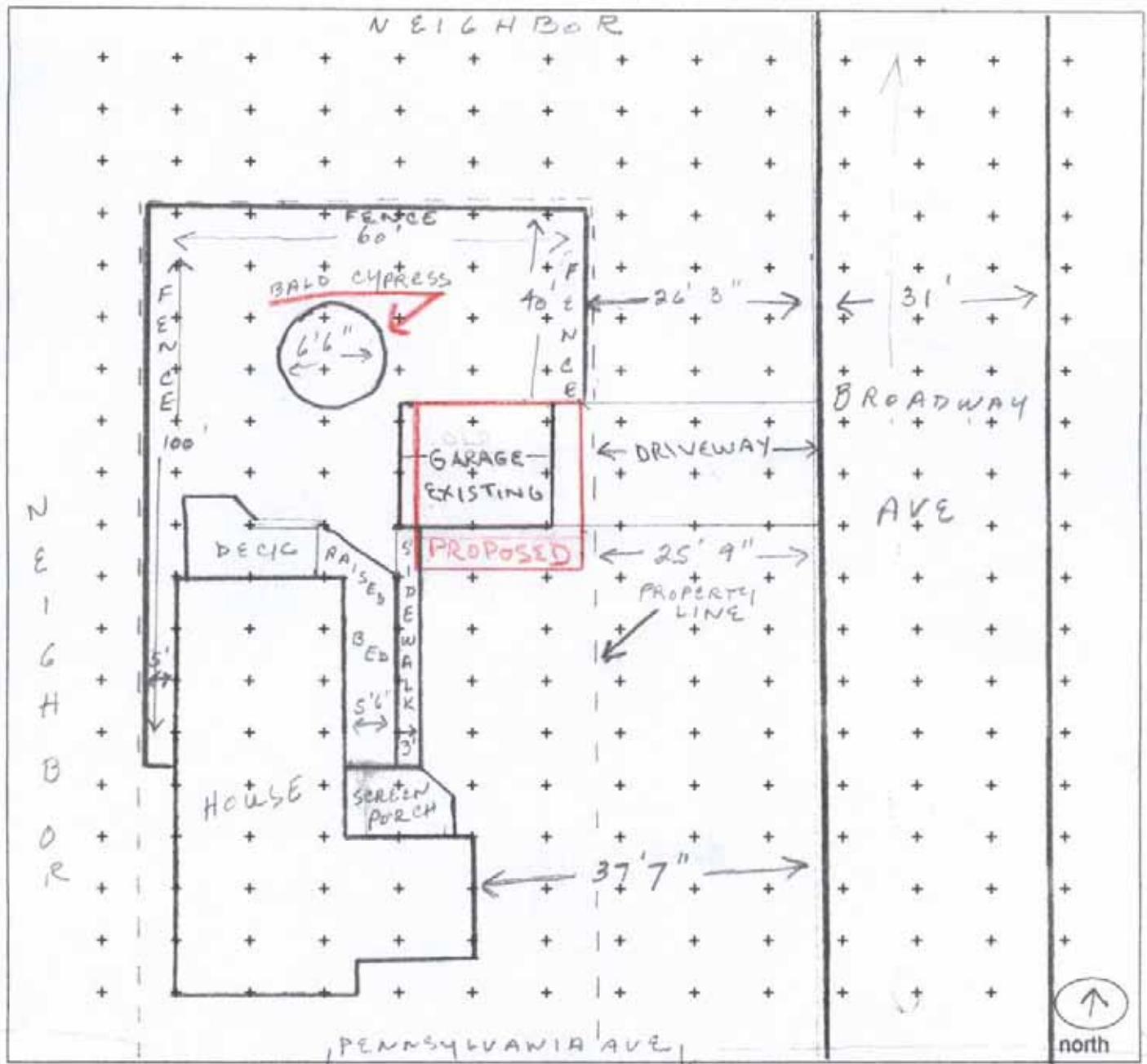
Petitioner's Attorney: _____
(if applicable)

(address)

(telephone number)

PLEASE RETURN THIS FORM ONCE COMPLETED TO:

City of Urbana
Community Development Department Services
Planning Division
400 South Vine Street
Urbana, IL 61801
Or Fax to (217) 384-2367
Please call (217) 384-2440 if you have any questions.



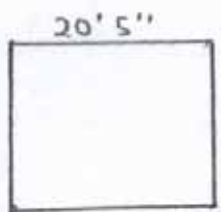
SCALE: + → + = 10'

SITE OR PLOT PLAN

--- --- --- --- --- = PROPERTY LINE

PROJECT ADDRESS: 102 W PENNSYLVANIA AVE

- NOTE:
1. PLOT PLAN MUST SHOW: PROPERTY LINES, ANY EXISTING OR PROPOSED CONSTRUCTION ON THE LOT, AND DISTANCES (SETBACKS) FROM PROPERTY LINES TO BUILDING. ALSO SHOW APPLICABLE STREETS AND DRIVES, EXISTING OR PROPOSED.
 2. IF THERE ARE ANY PARCELS OF PROPERTIES WHICH ADJOIN THE AFOREMENTIONED PROPERTY AND ARE NOT NOTED ABOVE, THIS APPLICATION IS NULL AND VOID.



EXISTING GARAGE

PROPOSED GARAGE



24'

4/20/2008





4/20/2008



4/20/2008



4/20/2008

PROPERTY LINE

