



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: The Urbana Zoning Board of Appeals

FROM: Rebecca Bird, Planning Associate

DATE: November 14, 2008

SUBJECT: Amend the conditions of approved variances ZBA-2008-MIN-02 and ZBA-2008-MAJ-09 to allow a driveway on Carle Avenue to remain at 401 W Delaware Avenue, in the R-1, Single-Family Residential District

Introduction and Background

On August 28, 2008, Robert Wyer applied for two variances for 401 W. Delaware Avenue:

- ZBA-2008-MIN-02, a request for a minor variance to build a garage encroaching 25% into the required 29.5-foot front yard; and
- ZBA-2008-MAJ-09, a request for a major variance to build a 3-foot addition onto an existing garage that will encroach approximately 12 feet into a required 25-foot front yard setback.

The applicant is proposing to convert the existing garage facing Carle Avenue, with the three-foot addition, into habitable space and construct a new garage to be accessed from Delaware Avenue.

At their September 17, 2008 meeting, the Zoning Board of Appeals approved the proposed minor variance with the following four conditions:

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

At the same meeting, the Urbana Zoning Board of Appeals voted five ayes and zero nays to recommend that the City Council approve the proposed Variance in ZBA Case No. ZBA-2008-MAJ-09 with the following three conditions:

1. The addition shall be constructed in general conformance to the site plan layout submitted as part of the application and attached hereto.
2. The petitioner shall close the curb cut along Carle Avenue.

3. The property owner shall provide 2 on-site parking spaces as required by the Urbana Zoning Ordinance.

The City Council, at their October 6, 2008 meeting, approved the major variance by adopting Ordinance No. 2008-10-120, with the same three conditions recommended by the ZBA.

The petitioner is now requesting that the conditions for both the minor and the major variances be amended to allow the curb cut on Carle Avenue to remain. (See staff memorandums to the ZBA dated September 11, 2008 regarding both the minor and the major variances for further information.)

Discussion

The petitioner contacted City staff on October 16, 2008 to discuss the driveway on Carle Avenue. The petitioner states, "The inability to have a drop-off close to the house is very distressing, as it would seem to negate the main purpose of the renovation (to provide easy access to the new living area in the likely event we will need wheelchair access within the next few years)." The petitioner further states that keeping the driveway on Carle Avenue is a necessary condition for constructing the detached garage on Delaware Avenue due to the health needs of the petitioner and his wife.

The garage is 16.2 feet from the property line along Carle Avenue. The major variance gave the petitioner permission to construct a three foot addition on the front of the garage. With this new addition, the garage would then be 13.2 feet from the property line. The average car is 16.25 feet long. The reason the removal of the curb cut was included as a condition for both the major and the minor variances is that with the addition on the existing garage, a car parked in the driveway along Carle Avenue will be partially in the public right-of-way.

There is no sidewalk on the west side of Carle Avenue between Florida and Delaware Avenues and the City has no plans to install a sidewalk there. As there is no sidewalk, a car parking partially in the public right-of-way will not be a nuisance to adjacent property owners or to passers-by. The City, however, prefers not to create situations such as this if they can be avoided, which is why the conditions were placed on the approved variances.

The Director of Public Works has agreed to allow the curb cut (and therefore driveway) to remain on Carle Avenue.

Options

The Zoning Board of Appeals has the following options in variance case **ZBA-2008-MIN-02**:

- a. Amend the conditions of the variance as requested; or
- b. Deny the request to amend the conditions of the approved variance. If the Zoning Board of Appeals elects to do so, the Board should articulate reasons supporting its denial.

The Zoning Board of Appeals has the following options in major variance case **ZBA-2008-MAJ-09**:

- a. Recommend amending the conditions of the approved variance as requested; or
- b. Recommend denial of the variance request. If the Zoning Board of Appeals elects to do so, the Board should articulate reasons supporting its denial.

Staff Recommendation

Based on the analysis 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 **APPROVE** minor variance Case ZBA-2008-MIN-02 with the following conditions:

1. The garage shall be constructed in general conformance to a revised site plan layout submitted to and approved by the Zoning Administrator as discussed in the public hearing on this case.
2. The garage shall have a setback from the Delaware Avenue property line of a minimum of 25.25 feet, putting it in line with the front of the house along Delaware Avenue.
3. The garage shall be positioned so that it is not in line with the streetlight and the location shall be approved by the Director of Public Works.
4. The curb cut on Carle Avenue may remain until such time as the City of Urbana and/or the property owner decides to install a public sidewalk along the west side of Carle Avenue between Delaware and Florida Avenues. At such time the property owner shall remove the curb cut at his/her expense and install landscaping.

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-09 to the Urbana City Council with a recommendation for **APPROVAL** and with the following conditions:

1. The addition shall be constructed in general conformance to the site plan layout submitted as part of the application and attached hereto as Exhibit A.
2. The curb cut on Carle Avenue may remain until such time as the City of Urbana and/or the property owner decides to install a public sidewalk along the west side of Carle Avenue between Delaware and Florida Avenues. At such time the property owner shall remove the curb cut at his/her expense and install landscaping.
3. The property owner shall provide two off-street parking spaces as required by the Urbana Zoning Ordinance.

Attachments:

- Exhibit A: Staff Memorandum Regarding ZBA-2008-MAJ-09 to ZBA dated September 11, 2008
Exhibit B: Staff Memorandum Regarding ZBA-2008-MIN-02 to ZBA dated September 11, 2008
Exhibit C: Minutes from September 17, 2008 Zoning Board of Appeals meeting
Exhibit D: Site Plan

cc: Robert Wyer, property owner
Randy Donoho, contractor
Alice Novak

714 S Urbana Ave, Urbana, IL 61801
601 W Delaware Ave, Urbana, IL 61801



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: The Urbana Zoning Board of Appeals

FROM: Rebecca Bird, Planning Associate

DATE: September 11, 2008

SUBJECT: ZBA-2008-MAJ-09: A request by Robert Wyer for a major variance to build a 3-foot addition onto an existing garage that will encroach approximately 12 feet into a required 25-foot front yard setback at 401 West Delaware Avenue in the R-1, Single-Family Residential District

Introduction and Background

Robert Wyer is requesting a major variance to build a 3-foot addition onto an existing garage that will encroach into the required front yard of a residence on the corner of Delaware and Carle Avenues. Section VI-5.F.1 of the Urbana Zoning Ordinance states that the required front yard in the R-1 District shall not be less than the average depth of the front yards of all the lots on the block face, and shall be no less than 25 feet and no more than 60 feet. The existing garage is located along Carle Avenue. The average depth of front yards on the block face is less than the required minimum, which gives the subject property a required front yard of 25 feet.

Pursuant to Section XI-3.C.2.d.1 of the 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.

The applicant is proposing to convert the existing garage, with the 3-foot addition, into habitable space and construct a new garage to be accessed from Delaware Avenue. In addition to ZBA-2008-MAJ-09, the applicant is also requesting a minor variance, ZBA-2008-MIN-02, for the new garage to encroach 25% into the required 29.5-foot front yard setback.

Description of the Site

The subject property – 401 W. Delaware Avenue -- is located on the southwest corner of Delaware and Carle Avenues. A single-family house with a garage, both fronting on Delaware Avenue, current exist on the property. The lot measures 127 feet by 115 feet (14,605 square feet).

There are seven properties on the south side of Delaware Avenue between Carle Avenue and Orchard Street including the subject property. The average actual building setback is 29.5 feet. (See following illustration.) The right-of-way along Delaware Avenue is 60 feet wide.

Setbacks on Delaware Avenue

Delaware Avenue						
511	507	505	409	407	405	401
28'	31'	33.83'	34.92'	30.17'	23'	25.25'

Carle Avenue

Average Setback = 29.45' (29' 5")

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

Setbacks on Carle Avenue

Delaware Avenue						
						401
						13.25'
						402
						12.71'
Florida Avenue						

Carle Avenue

Average Setback = 12.98' (12' 11.76")

Adjacent Land Uses and Zoning Designations

The area surrounding the subject property is residential in nature and is zoned R-1, Single-Family Residential. Located one block south of the subject property is the Orchard Downs Apartment complex,

a family and graduate housing complex for the University, zoned CRE, Conservation, Recreation, and Education.

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

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

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 petitioner wants to connect the existing garage at 401 W. Delaware Avenue to the house and convert it into a bedroom, full bathroom, and mechanical room. In order to accommodate this conversion, the petitioner is requesting a major variance to construct an addition to enlarge the existing garage. The petitioner is requesting to “bump out” the existing garage 3 feet, towards Carle Avenue. The petitioner has explained that the house currently does not have a bedroom with full bath on the ground floor and that the limited mobility of his wife requires these facilities on the ground floor. This addition would add 54 square feet of space to accommodate the conversion and would bring the garage in line with the existing wall plane of the house.

The petitioner is also requesting a minor variance to construct a new garage along the Delaware Avenue side of the property. (See ZBA Case No. 08-MIN-02 for further discussion.)

The subject property is located on a corner lot. The Urbana Zoning Ordinance (Section VI-5.E) requires lots having frontage on two streets to have a required front yard on each frontage. The lot, platted many years ago, was not platted to accommodate a required front yard along Carle Avenue.

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

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

Converting the existing garage to habitable space would require removing the curb cut on Carle Avenue and providing a minimum of two on-site parking spaces elsewhere. The property owner has applied for an additional variance in ZBA Case No. 08-MIN-02 to build a garage to be accessed from Delaware Avenue to order to provide the minimum required on-site parking.

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.*

According to the applicant, building into the existing rear yard would be problematic because it would “block off the daylight into the living room and family room windows and interfere with visibility from those windows. It would also decrease the aesthetic appeal of the property and yard – both of which add to the value of the property and make it a desirable part of Urbana.”

2. *The proposed variance will not serve as a special privilege because the variance requested is necessary due to special circumstances relating to the land or structure involved or to be used for occupancy thereof which is not generally applicable to other lands or structures in the same district.*

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

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

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

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

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

City staff finds that this variance would not alter the essential character of the neighborhood because the building addition, although to the front of the existing structure, will only extend the wall three feet,

adding just 54 square feet in floor area, and that the new setback line would place this portion of the house no closer to the front property line than the existing home. The new setback would be approximately 2-3 inches in front of the average setback along the street.

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

The building would be enlarged by 54 square feet into a front-yard setback. The enlargement would be in line with the rest of the house and would extend approximately 2-3 inches in front of the average setback along the street. City staff does not find that doing so would cause a nuisance to the adjacent properties.

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

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

Summary of Findings

City staff recommends the following findings in this case:

1. The petitioner is proposing to build a 3-foot addition onto the east side of the existing garage along Carle Avenue in order to convert the garage into habitable space;
2. The average setback along Carle Avenue is approximately 13 feet. The required setback is 25 feet;
3. The house is set back 13.2 feet. The existing garage is set back 16.2 feet;
4. The proposed addition will bring the garage in line with the house;
5. Allowing the proposed addition would not serve as a special privilege;
6. The proposed addition would not alter the essential character of the neighborhood; and
7. The proposed addition would not cause a nuisance to the adjacent property.

Options

The Zoning Board of Appeals has the following options in major variance case ZBA-2008-MAJ-09:

- 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 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-09 to the Urbana City Council with a recommendation for **APPROVAL** and with the following conditions:

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

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: Application

cc: Robert Wyer, property owner 714 S Urbana Ave, Urbana, IL 61801
 Randy Donoho, contractor 601 W Delaware Ave, Urbana, IL 61801
 Alice Novak



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: The Urbana Zoning Board of Appeals

FROM: Rebecca Bird, Planning Associate

DATE: September 11, 2008

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

Introduction and Background

Robert Wyer is requesting a minor variance to build a garage encroaching into the required front yard of a residence on the corner of Delaware and Carle Avenues. Section VI-5.F.1 of the Urbana Zoning Ordinance states that the required front yard in the R-1 District shall not be less than the average depth of the front yards of all the lots on the block face, and shall be no less than 25 feet and no more than 60 feet. The average depth of front yards on the block face is 29.5 feet. Section XI-3.C.2.b.1 of the Zoning Ordinance permits the Zoning Board of Appeals to approve a front yard reduction variance of up to 25% as a minor variance by a majority vote of its members.

The subject property currently has a garage facing Carle Avenue which would be converted to living area and attached to the house. Then a new detached garage would be constructed to be accessed from Delaware Avenue.

In addition to ZBA-2008-MIN-02, the applicant is also requesting a major variance, ZBA-2008-MAJ-09, to build a 3-foot addition onto the existing garage on Carle Avenue that will encroach approximately 12 feet into a required 25-foot yard.

Description of the Site

The subject property -- 401 W. Delaware Avenue -- is located on the southwest corner of Delaware and Carle Avenues. There is currently a single family house and a garage on the property. The lot measures 127 feet by 115 feet (14,605 square feet in area). The house fronts on Delaware Avenue.

There are seven properties on the south side of Delaware Avenue between Carle Avenue and Orchard Street including the subject property. The average setback is 29.5 feet. (See map below.) The right-of-way along Delaware Avenue is 60 feet.

Setbacks on Delaware Avenue

Delaware Avenue

511	507	505	409	407	405	401
28'	31'	33.83'	34.92'	30.17'	23'	25.25'

Carle Avenue

Average Setback = 29.45' (29' 5")

There are two properties on the west side of Carle Avenue between Florida Avenue and Delaware Avenue. Neither property fronts on Carle Avenue, although the property directly east of the subject property does front on Carle (1602 S Carle Avenue). The average setback on this block of Carle Avenue is 12.95 feet, considerably less than the required 25 feet, so the required setback for the subject property along Carle Avenue is 25 feet. The right-of-way along Carle Avenue is 60 feet. There is no sidewalk on the west side of this block.

Setbacks on Carle Avenue

Delaware Avenue

						401
						13.2'
						402
						12.7'

Florida Avenue

Carle Avenue

Average Setback = 12.95' (12' 11")

Adjacent Land Uses and Zoning Designations

The area surrounding the subject property is residential in nature and is zoned R-1, Single-Family Residential. Located one block south of the subject property is the Orchard Downs Apartments complex,

a family and graduate housing complex for the University, zoned CRE, Conservation, Recreation, and Education.

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

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

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 petitioner wants to convert the existing garage on Carle Avenue into habitable space and therefore construct a new garage along Delaware Avenue. This variance is a request to construct the new garage, with a 25% encroachment (7.4 feet) into the required 29.5-foot front yard setback.

The site plan submitted with this application was not drawn to scale. City staff has requested a revised site plan drawn to scale and with the addition of property lines on Delaware and Carle Avenues. The applicant will bring the revised site plan to the public hearing. In order to assist the Zoning Board of Appeals in understanding this variance before the public hearing, City staff have made notations in red on the initially-submitted site plan.

The petitioner is proposing this work, both the construction of the new garage and the addition onto the existing garage, in order to have a bedroom with full bath on the ground floor of the residence. The petitioner has explained that this is due to the particular needs of his wife, specifically a difficulty with stairs. The petitioner cites blocking off daylight from the living and family rooms and interfering with the view of those rooms as the reasons for the proposed location for the new garage.

The petitioner has requested a 25% encroachment (7.4 feet) into the required front-yard setback area along Delaware Avenue. The front-yard setback is 29.5 feet. The house sits 25.25 feet from the property line on Delaware. If the proposed garage were to have a 25% encroachment into the required front yard, it would sit 22.1 feet from the property line. This would mean that the new garage would be located 3.15 feet closer to the property line than the existing house. The house directly to the west of this

property, adjacent to the proposed new garage location, sits 23 feet from the property line.

The submitted site plan does not show a streetlight in the City right-of-way in-line with the proposed garage. The Urbana Public Works Department has reviewed this site plan and determined that the streetlight would need to be moved if the current site plan were approved as is. Moving the street light would cost approximately \$2,800 which would be billed back to the property owner.

An alternative location for the proposed garage, which would avoid the need to relocate the streetlight, would be to move the proposed location of the garage further west. The required side yard setback in the R-1 Zoning District is 5 feet. However, accessory structures in the R-1 District that are less than 750 square feet are permitted in required side yards as long as they are setback no less than 18 inches from the property line. The proposed garage, at 400 square feet, could be positioned far enough west to avoid being in line with the streetlight. Although the garage can be located 18 inches from the property line, as the driveway would require a flare as it approached the street, the garage would need to be located at least 5 feet from the property line. According to the Department of Public Works, the driveway flare is a maximum of 4.5 feet on both sides of the driveway.

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.*

According to the application, the special circumstances are the retaining the aesthetic appeal of the property and not harming the basic character of the house. The subject property is located on a corner lot. The Urbana Zoning Ordinance requires lots having frontage on two streets to have a required front yard on each frontage. The house is setback 25.25 feet from the property line along Delaware Avenue.

- 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 petitioner states that the proposed location of the garage is due to the desire not to block sunlight from the living and family room windows. When the house was built, the required setback along Delaware Avenue was not the average on the blockface or 25 feet, whichever is greater. Allowing the proposed detached garage to be in line with the house along Delaware Avenue would not serve as a special privilege.

- 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 they need to create more living space on the first floor of the home for medical reasons and that extending to the rear of the property would unacceptably encroach into their well-

landscaped side/rear yard and block sunlight from living room and family room windows.

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

The proposal is to reduce the required front yard setback by 25%, allowing a garage to be built 22.1 feet from the front property line. The average, and therefore required, setback for the subject property is 29.5 feet. As the existing house is setback 25.25 feet from the property line, allowing a garage in line with the house would not alter the essential character of the neighborhood. Additionally, the petition states that the materials used on the exterior of the proposed garage would match those of the house.

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

The adjacent property, 405 W. Delaware Avenue, is located 23 feet from the Delaware Avenue property line. If the proposed garage is located 22.1 feet from the property line, it will be slightly closer to the street than the house at 405 W. Delaware and 3 feet closer than the house at the subject property. Locating the proposed garage in line with the house on the subject property would not cause a nuisance to the adjacent property. City staff received a letter from a resident at 405 W. Delaware stating that he did not object to the proposed garage.

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

According to the application, this proposal represents the minimum deviation necessary. When this house was built, the required setback along Delaware Avenue was not the average setback on the block face or 25 feet, whichever is greater.

Summary of Findings

1. The petitioner is proposing to build a detached garage to replace an existing garage which the petitioner is converting into habitable space;
2. The setback of the house along Delaware Avenue is 25.25 feet. The average setback on the block face is 29.5 feet;
3. The proposed location for the garage is 22.1 feet from the property line and is in line with a streetlight in the City right-of-way;
4. Allowing the proposed detached garage to be in line with the house along Delaware Avenue would not serve as a special privilege;
5. As the existing house is setback 25.25 feet from the property line, allowing a garage in line with the house would not alter the essential character of the neighborhood; and
6. A reduced front yard setback locating the proposed garage in line with the house would not cause a nuisance to the adjacent property.

Options

The Zoning Board of Appeals has the following options in variance case ZBA-2008-MIN-02:

- a. Approve the variance as requested based on the findings outlined in this memo;
- b. Approve 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. Deny the variance request. If the Zoning Board of Appeals elects to do so, the Board should articulate findings supporting its 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 **APPROVE** minor variance Case ZBA-2008-MIN-02 with the following conditions:

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

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: Application

Cc: Robert Wyer, property owner
 Randy Donoho, contractor 714 S Urbana Ave, Urbana, IL 61801
 Alice Novak 601 W Delaware Ave, Urbana, IL 61801

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

DATE: September 17, 2008

APPROVED

TIME: 7:30 p.m.

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

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

MEMBERS EXCUSED: Nancy Uchtmann, Joe Schoonover

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

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

NEW PUBLIC HEARINGS

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

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

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

Regarding the major variance case Ms. Bird talked about the front-yard setback of the other properties along Carle Avenue. She showed photos of the proposed property along Carle Avenue. She reviewed the variance criteria according to Section XI-3 of the Urbana Zoning

Ordinance. She read the options of the Zoning Board of Appeals for this case and presented staff's recommendation, which was as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. Warmbrunn noticed in the staff report for the minor variance, a recommended condition for approval is that the petitioner will landscape where the existing driveway is. For the major variance, staff's recommended condition is that the petitioner close the curb cut. Ms. Bird agreed. Mr. Warmbrunn inquired as to whether the petitioner would be able to leave the concrete pad or will he have to remove it. Mr. Myers clarified the when a curb cut is closed, some landscaping would need to be done to create a level ground surface behind the curb. As part of this, at least part of the driveway (the apron) would need to be taken up because it would extend into the right-of-way. The concrete pad on the private property technically could remain.

There would be no access to it, because the curb cut would be removed. However, aesthetically it would be most desirable to remove the entire concrete pad. Mr. Donoho commented that he is positive that the Wyer family would want to remove the concrete pad because they have spent a lot of money on landscaping.

Mr. Warmbrunn questioned if Mr. Donoho would have any problem with a 25.25-foot setback along Delaware Avenue. Mr. Donoho answered that he did not see a problem with it if they also moved the garage further west. By doing so, it would not block as much of the view which is the reason for requesting a 22.1-foot setback. However, he's unsure what Mr. Wyer will decide regarding the streetlight. He may decide to incur the cost of moving the streetlight.

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

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

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

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

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

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

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

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

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

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

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

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

Mr. Gaddis mentioned that he has been the caretaker and handy man for the Wyers since 1995. He takes care of their finances and their property while they are in Hong Kong. Mrs. Wyer has problems with stairways due to a degenerative condition. Her condition will only get worse as she gets older. They have a young child. Sometimes it is difficult for her to walk a distance, which is why they wondered if it would be possible to leave part of the existing driveway in to make it easier for her to enter the house. The conversion of the existing garage into a bedroom and full bath is a necessity. It is not a luxury for them. They have discussed building a new home onsite or moving. However, they really like the neighborhood and do not want to move.

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

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

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

Mr. Corten stated that it appears she is asking the Zoning Board of Appeals to base their decision on aesthetics as opposed to the criteria in the Zoning Ordinance. Ms. Novak responded that Criteria 4 in the staff report states, "*The variance will not alter the essential character of the neighborhood.*" The variance will in fact alter the essential character because there is a very consistent garage pattern in how detached garages are created. The vast majority of the properties are older properties and have detached garages. As she mentioned earlier, detached

garages in this neighborhood are never placed even aligned with the house, much less as being proposed by the petitioner.

Mr. Myers commented about the idea of leaving the existing driveway along Carle Avenue as a drop off place for the Wyers. Not closing the curb cut would present two problems. The first problem would be that the concrete pad would only be 16.2 feet deep once the converted garage would be extended three feet, so it would not be quite deep enough for a vehicle to park, even temporarily, without the car extending into the right-of-way. The second issue is that there is no way to enforce this as a “temporary” drop off area. This could turn into another permanent parking situation. Some year there will be different property owners who might try to use it for parking. So at a minimum the Wyer family needs to close the curb cut and regrade and plant grass in the right-of-way. The petitioner could technically leave the concrete pad in place on private property, but aesthetically it would be better if the concrete pad would be removed.

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

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

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

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

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

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

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

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

September 17, 2008

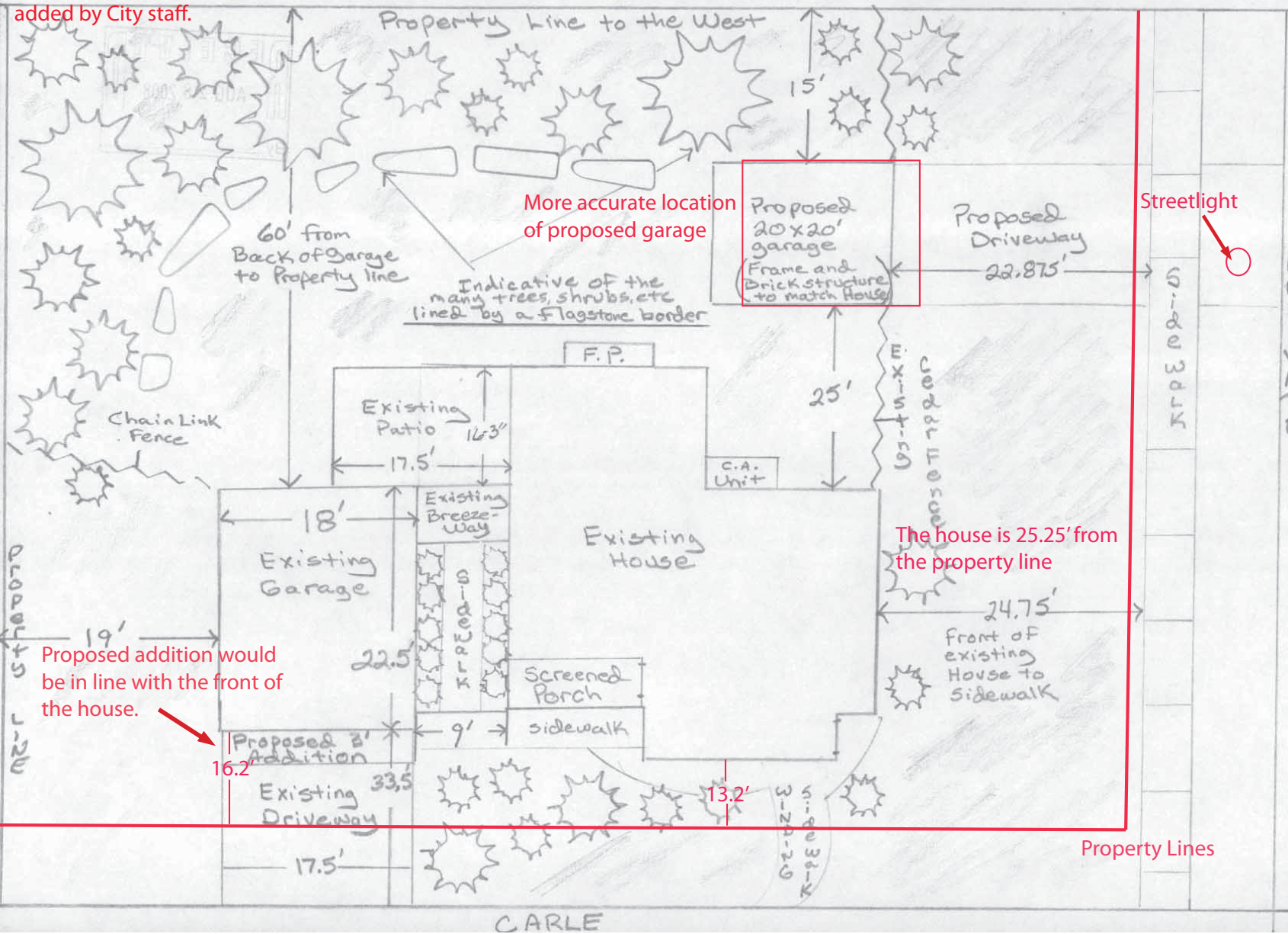
Mr. Welch - Yes

The motion passed by unanimous vote.

SITE PLAN FOR 401 W. DELAWARE AVE
 Notations in red were added by City staff.

WYER JOB - 401 W. Delaware

NOT TO SCALE - N →



1. WYER lot is a lot and a half, measuring 127x115', 14,605 sq. ft.
2. from the front of existing garage is presently 33.5' to the curb on Carle side
3. after proposed addition to the front of existing garage, distance from it to the curb would be 30.5' approximately.
4. the 22.875' from proposed garage to sidewalk represents the maximum 25% Variance allowable
5. the neighbors house to the west is another 21' to the house from the property line, resulting in a distance of 36' from proposed garage to neighbors house
6. Proposed garage would only result in the removal of 2 or 3 small trees
7. Wyer house sits on South/West corner of Carle & Delaware