



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: Marcus Ricci, Planner II

DATE: May 12, 2017

SUBJECT: **ZBA-2017-MAJ-03:** A request by Clifford Singer and Brigitte Pieke for a Major Variance to construct an addition which would encroach four (4) feet into the required five-foot west side yard setback at 613 West Washington Street in the R-2 Single-Family Residential District.

Introduction

The applicants are requesting permission to construct an addition aligned with an existing, legally nonconforming, single-family house, which encroaches four feet into the required five-foot west side yard setback at 613 West Washington Street. Section VI-5, Table VI-3 of the Urbana Zoning Ordinance requires side yard setbacks of five feet in the R-2 district.

Pursuant to the Urbana Zoning Ordinance, a super-majority vote of approval by the Zoning Board of Appeals is required to recommend approval of this Major Variance request and forward it to City Council for final approval.

Background

The applicants would like to construct an addition to the 1,646 square-foot, one-story, single-family house at 613 West Washington Street. The addition would have the same west wall line and roof eave line as the existing house, and extend the residence approximately 11 feet south towards the rear of the property. The subject property is located on the south side of West Washington Street between Busey Avenue and Orchard Street (Exhibit A).

The underlying Nuckoll's Subdivision was platted in 1927 into six equally-sized lots; subsequent land transfers in 1941 created new property boundaries approximately four feet east of the original lot boundaries. The house was built in 1953 approximately one foot east of the west property line, encroaching four feet into the required west side yard setback. There is no evidence a side yard setback variance was issued prior to house construction.

The applicants would like to increase the livable space in the residence by converting a portion of an existing rear deck to an extension of the home. This would entail extending the existing crawlspace southward, reconstructing the western portion of the roof with a shallower pitch to

utilize and maintain the existing roof ridge, and building the 11 foot-long by 17 foot-wide addition with the west wall in line with the existing house .

Section VI-5 of the Zoning Ordinance requires side yard setbacks of five feet for structures in R-2 zoning districts (Table VI-3). The scope of the requested encroachment– up to 80% of the side yard setback – would require a Major Variance. Pursuant to Section XI-3.C.2(d)(1) of 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 the case to City Council for final review and approval. During the course of the public process, the request may be amended to require, or the Zoning Board of Appeals may decide to consider, a lesser variance. That change may result in the variance being classified as a Minor Variance. In that instance, the Zoning Board of Appeals may grant a Minor Variance with a majority vote.

Land Use and Zoning

The subject property is located in the R-2 Single-Family Residential District which permits single-family dwellings by right, and is surrounded on all sides by the R-2 Single-Family Residential zoning district (Exhibit B). Adjacent properties are used for single- and two-family dwellings and a fraternity/sorority group home; nearby properties include an 8+-unit apartment building. The Urbana Comprehensive Plan’s future land use designation for the subject property and surrounding area is shown as “Residential” (Exhibit C).

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
Subject Property	R-2, Single-Family Residential	Single-family residential	Residential, Urban Pattern
North	R-2, Single-Family Residential	Single- and multi-family residential	Residential, Urban Pattern
South	R-2, Single-Family Residential	Single-family residential	Residential, Urban Pattern
East	R-2, Single-Family Residential	Single-family residential	Residential, Urban Pattern
West	R-2, Single-Family Residential	Two-family residential	Residential, Urban Pattern

Discussion

The applicants plan to reconstruct a portion of an existing outdoor deck into an extension of the existing single-family house which currently encroaches four feet into the five-foot west side yard setback. The 187 square-foot addition would contain a full bathroom with a walk-in shower designed for residents modifying the house for aging-in-place, and a small closet that would also house the bathroom’s plumbing. The proposed addition would have the same west wall and roof eave lines as the existing house, extend it approximately 11 feet south towards the rear of the property and be approximately 17 feet wide. The west edge of the roof currently encroaches an additional foot into the side yard setback; the proposed addition would maintain the same roof edge and would not expand the encroachment. This roof has gutters at the south end of the house

that collect the roof runoff and direct it to the backyard. Siding materials would be selected to match the existing construction. Attached site plans and elevations show the proposed changes to floor plan, roof lines, and elevations (Exhibit D: Application, page 9).

An existing landscape buffer with trees and large shrubs extends along the front of the house and along the west property line (Exhibit E: Site Photos). There is also a fence which starts eight feet north of the rear of the residence and extends toward the rear of the property, screening the majority of the area of the proposed addition: this fence would remain unmodified. An existing air conditioning condensing unit which is currently encroaching in the west side yard setback would be removed and replaced by smaller units located outside the required setbacks.

The applicant has been advised of the additional code requirements for construction of residential structures located closer than five feet to a property line, including fire-resistant wall construction, prohibition of property-line wall openings, and stricter standards for property-line wall penetrations.

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 as they pertain to this case:

1. *Are there 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, construction of the proposed addition in conformance with the current yard setback requirements by shifting the proposed addition to the east would be more expensive and create undesirable effects, both aesthetic and practical:

- require a costly relocation of an existing sliding glass door;
- create an offset on the west wall elevation that would be more expensive and would complicate the construction of the addition and the roof, possibly creating water infiltration issues from inclement weather; and
- block a portion of the existing view of the rear yard from the house.

Staff observed that the area of the proposed addition is currently used for an outdoor deck, a portion of which would be reconstructed into enclosed living space, and that relocation of the proposed addition would create an inefficient use of space without providing any additional benefit as a buffer to the westerly adjacent neighbor due to an existing intervening fence and landscape buffer.

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 requested variance is necessary to allow for a reasonable and cost-effective extension of the

existing residence in light of the existing encroachment created by the initial construction of the house into the required west side yard setback.

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

The encroachment was created by a combination of the shifting of property lines four feet to the east sometime after the original platting in 1927, and the subsequent construction of the house in 1953. The encroachment has been in existence since 1953 and was not created by the applicants. Granting the variance will not be an instance of resolving a self-created hardship.

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

The proposed addition will be located at the rear of the existing residence and would be mostly screened from the West Washington Street right-of-way by landscaping and a fence. The roof edge line and wall line will not be shifted, and the exterior siding materials will be selected to blend with the existing materials. The proposed addition will not encroach into any other yard setbacks. As a result, the character of the neighborhood will not be significantly impacted and granting the variance for the proposed location of the addition would therefore not alter the essential character of the neighborhood.

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

The proposed addition will be approximately forty (40) feet from both the easterly- and westerly-adjacent residences and would be largely outside of their line-of-sight due to either landscape and fence buffers or site geometry. The applicants have contacted their neighbors, informed them of their construction plans, and obtained several signatures indicating their approval of the proposed construction (Exhibit D: Application, page 11). This combination of existing buffers and neighbor approval indicate the proposed location of the addition should not create any nuisance to the neighborhood.

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

The requested variance – allowing for the walls and eaves of the proposed addition to be aligned with the existing house – is the minimum deviation possible for the applicants to construct the proposed addition without the unnecessary expense of additional construction, and the undesirable impacts resulting from having to conform to the current side yard setback: allowing potential water infiltration; fragmenting the rear yard’s open space; and reducing the quality of the view of the back yard from the house. This *extension* of the encroachment southward without *expanding* it westward would maintain but not expand the current level of encroachment into the west side yard setback.

Summary of Findings

1. The applicants, Clifford Singer and Brigitte Pieke, have proposed to construct a 187

square-foot addition aligned with a legally nonconforming existing single-family house located at 613 West Washington Street.

2. The subject property is zoned R-2 Single-Family Residential and has a future land use designation of “Residential” in the Urbana Comprehensive Plan.
3. The Major Variance request will create additional living space by allowing construction of an addition to the residence which encroaches four feet into the required five-foot west side yard setback.
4. The variance request will not serve as a special privilege to the property owner.
5. The variance request was not the result of a situation knowingly created by the petitioner.
6. The variance request will not alter the essential character of the neighborhood.
7. The variance request will not cause a nuisance to adjacent property owners.
8. The variance request represents generally the minimum deviation from the requirements of the Zoning Ordinance.

Options

A Major Variance requires a two-thirds vote by the Board to forward a recommendation for approval to the City Council. The Zoning Board of Appeals has the following options in this case:

- a) The Urbana Zoning Board of Appeals may forward the case to City Council with a recommendation to **approve** the variance based on the findings in this memo; or
- b) The Urbana Zoning Board of Appeals may forward the case to City Council with a recommendation to **approve the variance along with certain terms and conditions**. If the Urbana Zoning Board of Appeals elects to recommend conditions or recommend approval of the variance on findings other than those articulated herein, they should articulate findings accordingly; or
- c) The Urbana Zoning Board of Appeals may **approve a lesser Minor Variance** with a majority vote; or
- d) The Zoning Board of Appeals may **deny** the variance requested. If the Zoning Board of Appeals elects to do so, the Board should articulate findings supporting its denial.

Recommendation

Based on the evidence presented to date and without the benefit of considering additional evidence that may be presented prior to or at the public hearing, staff recommend that the Zoning

Board of Appeals forward ZBA Case No. 2017-MAJ-03 to the City Council with a recommendation to **APPROVE** the variance with the following condition:

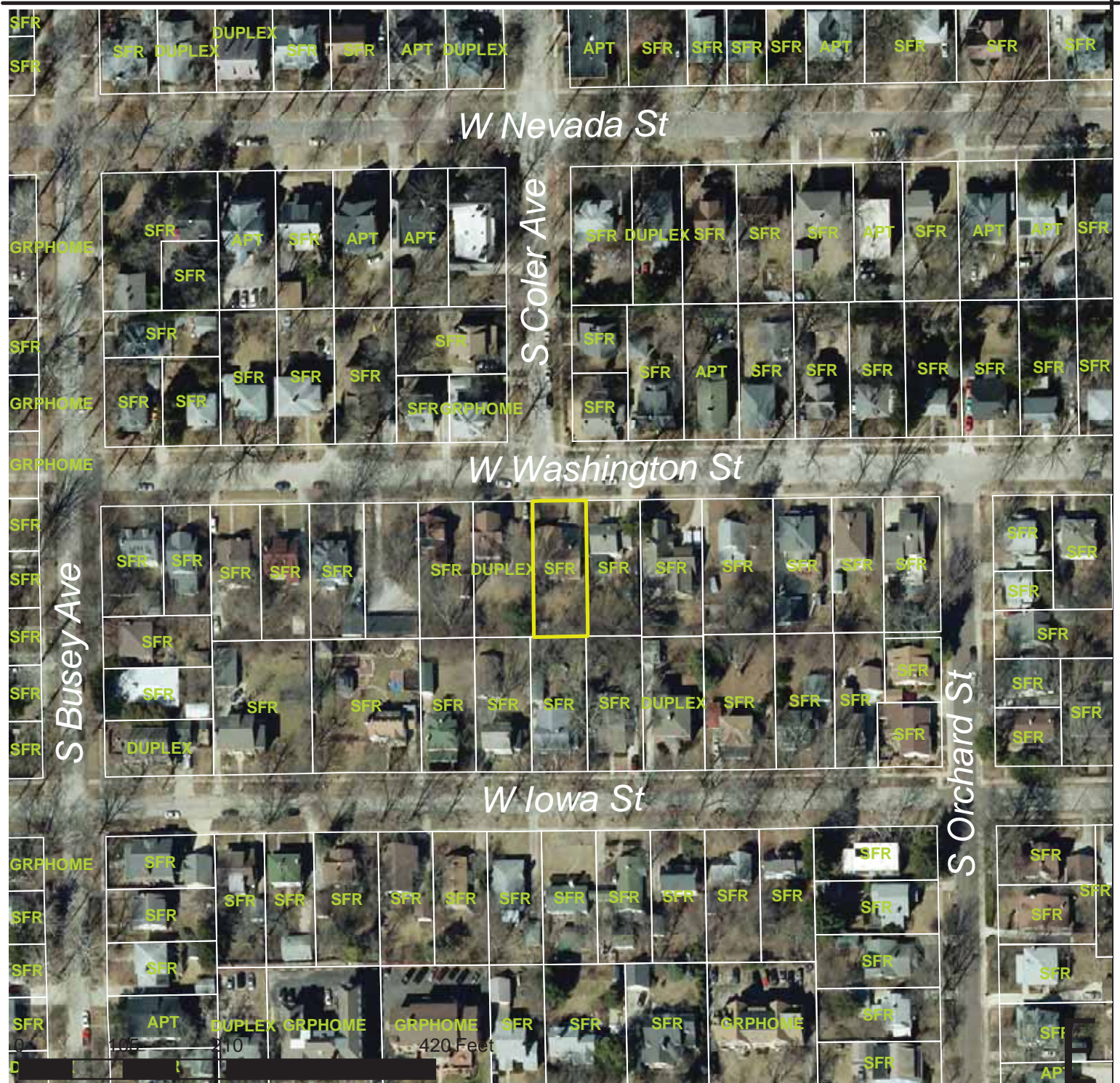
1. The site is developed in general compliance with the attached site plan and elevations.

The specifics of this recommendation may change during the course of formal review of ZBA Case No. 2017-MAJ-03.

Attachments: Exhibit A: Location & Existing Land Use Map
 Exhibit B: Zoning Map
 Exhibit C: Future Land Use Map
 Exhibit D: Application for Variance
 Exhibit E: Site Photos

cc: Clifford Singer & Brigitte Pieke, Applicants

Exhibit A: Location & Existing Land Use Map





Case: ZBA-2017-MAJ-03
 Subject: Major Variance: Side Yard Setback
 Location: 613 West Washington Street
 Petitioner: Cliffor Singer & Brigitte Pietke

 Subject Property

Exhibit B: Zoning Map



Case: ZBA-2017-MAJ-03
 Subject: Major Variance: Side Yard Setback
 Location: 613 West Washington Street
 Petitioner: Cliffor Singer & Brigitte Pietke

 R2
 R7

 Subject Property

Exhibit C: Future Land Use Map



Case: ZBA-2017-MAJ-03
Subject: Major Variance: Side Yard Setback
Location: 613 West Washington Street
Petitioner: Cliffor Singer & Brigitte Pietke

 Residential

 Subject Property

Exhibit D: Application for Variance



Application for Variance

ZONING BOARD OF APPEALS

APPLICATION FEE – \$175.00 (Major) and \$150.00 (Minor)

The Applicants are responsible for paying the cost of legal publication fees as well. Estimated costs for these fees usually run between \$75.00 to \$225.00. The applicant is billed separately by the News-Gazette.

DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY

Date Request Filed 04-17-2017 ZBA Case No. ZBA-2017-MAJ-03
Fee Paid - Check No. 7901 Amount \$175.00 Date 04-17-2017

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 the following variation (*Describe the extent of the Variation Requested*)

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

1. APPLICANT CONTACT INFORMATION

Name of Applicant(s): Clifford Singer; Brigitte Pieke

Phone: 377-8974; 377-8425

Address (street/city/state/zip code): 412 W. Iowa, Urbana IL 61801

Email Address: csinger@illinois.edu

Property interest of Applicant(s) (*Owner, Contract Buyer, etc.*): Owner

2. OWNER INFORMATION

Name of Owner(s): Same as applicant

Phone:

Address (street/city/state/zip code):

Email Address:

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

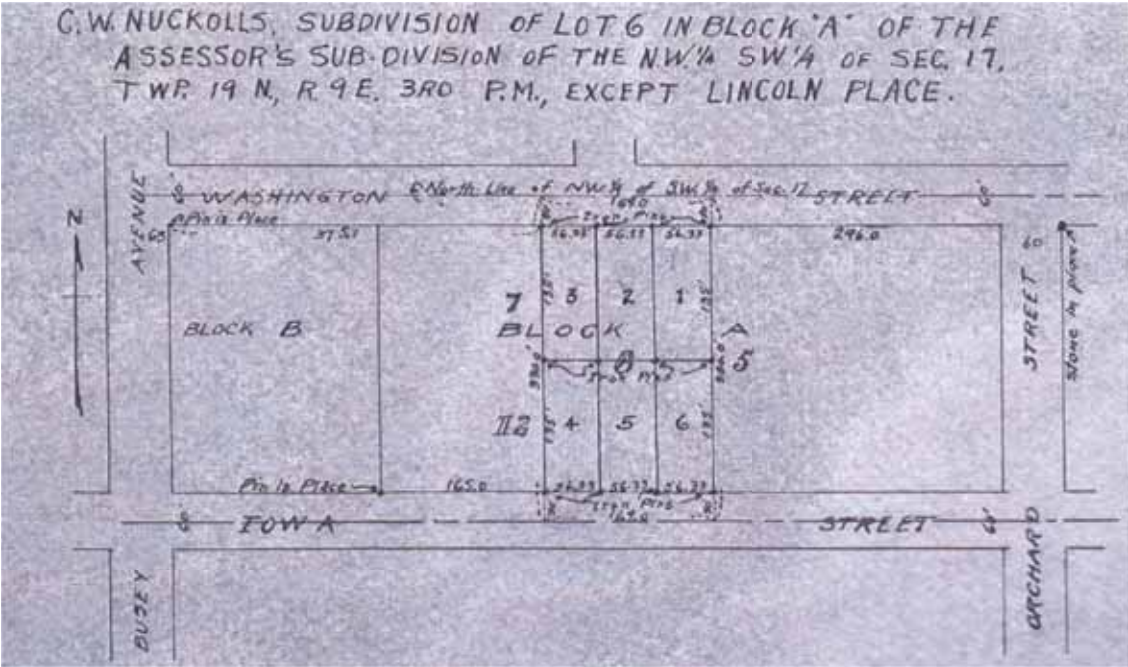
Location of Subject Site: 613 W. Washington

PIN # of Location: 93-21-17-305-009

Lot Size: See legal description and subdivision diagram below

Exhibit D: Application for Variance

Current Zoning Designation: R2
Current Land Use (*vacant, residence, grocery, factory etc.*): Residence
Proposed Land Use: Residence
Legal Description: What we own is 54.67 feet wide and 135 feet deep, and stops 3.86 feet east of the west edge of Lot 2, per the legal description from our deed:
Lot 1, except the East 54 feet 4 inches thereof, and the East 52.47 feet of Lot 2, all in C. W. Nuckolls' Subdivision of Lot 6 in Block "A" of the Assessor's Sub-Division of the Northwest Quarter of the Southwest Quarter of Section 17, Township 19 North, Range 9 East of the Third Principal meridian, except Lincoln Place, as per plat recorded in Book "E" at page 186A, situated in the City of Urbana, in Champaign County, Illinois:



4. CONSULTANT INFORMATION

We own the property and hope not to need an attorney. The property ownership line is well defined by the above information, and the extension is along the line of the existing west wall as built when the current side yard setback ordinance was in force, so we have not had a survey done prior to submitting this application. An architect, and if and as necessary an engineer, will be consulted by our contractor:

Perry Biddle
2368 N. 1450 East Rd.
White Heath IL 61884
perrybiddle@hotmail.com, 217-714-0928

5. REASONS FOR VARIATION

Identify and explain any special circumstances of practical difficulties in carrying out the strict application of the Zoning Ordinance with respect to the subject parcel.

Exhibit D: Application for Variance

Unlike most of the other nearby properties on Washington Street in this R2 zoned neighborhood in Urbana, this is a single story house, making it appropriate for extended occupation by the owners who will have an average age 70 upon occupation in late 2017. This makes extension for small a bathroom adjacent to a bedroom particularly suitable for a couple of that age. We considered replacing the existing bathtub with a walk-in shower, but that would have required a complete rework of the existing bathroom at considerable cost with no appreciable improvement for likely future occupants. There is an existing sliding south door within six inches of the west wall. Shifting the addition eastward would:

- require reconstruction of the door at additional expense
- require a jog in the west wall that would also be more expensive
- block much of the view of the back yard from the over sink kitchen windows
- unnecessarily isolate about fifty square feet of open space from the backyard grass
- require an additional joint between the extension wall on the southwest side of the house and the roof, facing the direction of most frequent storm-driven driving rain, and complicating sealing and future maintenance of the roof
- disturb the aesthetic of an otherwise seamless looking extension of the west wall
- make the house less of an asset to the neighborhood than with the planned addition.

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.

The special condition relating to the land and structure results from how the property in the Nuckoll's Subdivision that it sits in was subdivided and sold, and the house then constructed in its present configuration. Understanding this is thus important. Per our deed reproduced above and according previous property transactions available in the Recorder's office, the house is on a Lot platted as the Nuckoll's Subdivision in 1927 and on property originally sold to Charles Hopson by Charles Nuckoll's in 1941. Our mortgage records indicated that the house was built in 1953, at which time the City allowed it to be built in its present location. That was with its west side 5 feet east of the Lot line defined in our deed (which refers to Recorder's office Book "E" at page 186A, for which the associated plat diagram is attached as in figure 1). The special condition of this case is that our property ownership boundary is 3.86 feet east of the Lot line of the subdivision, which is an unusual condition because by far most property ownership boundaries in the neighborhood are coincident with the lot lines established upon subdivision. Per records in the Urbana Free Library, the Urbana Zoning Ordinance requirement of a side yard setback of 5 feet from the lot line has been consistent since 1940. The Recorder's office property records on the property transfers have been consistent since 1941. While we have no reason to believe that the house cannot be extended southward with its western edge in the location as originally built in any case, we are applying for a variance so as to leave no doubt in the future that the extension was proper. Figure 1 shows schematic of the house with the addition, superimposed on the plat diagram with the same dimensions as shown above, with a dashed outline of the eaves. With associated northeast carport shown in the upper right of figure 1, the footprint of the current house is rectangular. The interior walls of the addition will extend less than 11 feet to the south, and will be less than 17 feet wide. The added eave will extend no more than 12 inches west of the west wall. The south edge of the added eave will be less than 11 feet south of the existing south eave.

Exhibit D: Application for Variance

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

As noted above, the relationship between the existing house structure and plat predate acquisition by the present owners.

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

The planned addition is in the rear of the house. Constructed according to plan, it will extend the west side of the existing house along the same line, not be noticeably different when viewed from in front, and is expected not to be seen at all except by along a narrow strip of sidewalk and street near the front of the house. The siding on the west and south sides of the addition will be chosen to match the existing siding. There is one window planned on the west side of the addition, to complement the west side window on the adjacent master bedroom. There are two adjacent windows tucked under the eaves and one more with as southern view of the garden, similar to the current mix on the south side of the house adjacent to the addition. As evident from figure 1, the floor area ratio open space ratios will be well within bounds for the neighborhood, which has a mix of housing styles.

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

The adjacent property at 701 W. Washington has been divided into rental apartments and sits at two feet higher elevation and over 31 feet west of our house at its closest proximity. It has a back yard that sits over 14 feet toward the street compared to back of the existing house at 613 W. Washington. The addition will be well separated from the house at 701 W. Washington and will not appreciably alter the aesthetics of that house's back yard.

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

The extension needs to be along the line of the existing west wall of the house, for the reasons noted above in answer to the first question in this section, so if a variance were required, what is described above would be the minimum variance needed.

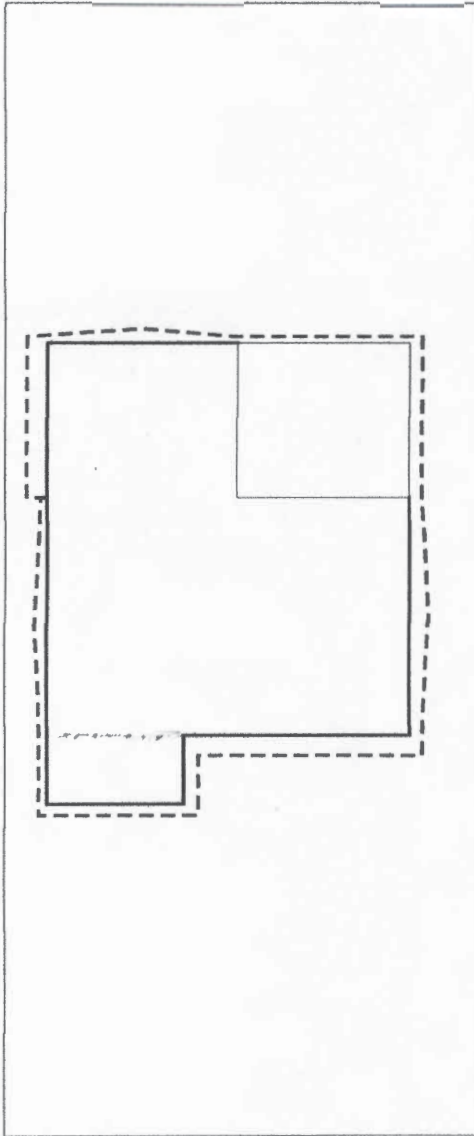
Exhibit D: Application for Variance

Addendum concerning adjacent property owners:

Through the management company looking after the 701 W. Washington property for an absentee landlord in Virginia, we have previously agreed to equally split the cost of removing a tree that had dropped a limb that penetrated our kitchen wall. This has left an approximately six foot wide stump that we have notified the management company that are prepared to pay for the removal of, which will keep it from becoming a termite infestation hazard. There are three owner-occupier neighbors from whose houses the addition will be readily visible, and they have in agreement with our extension being built.

Exhibit D: Application for Variance

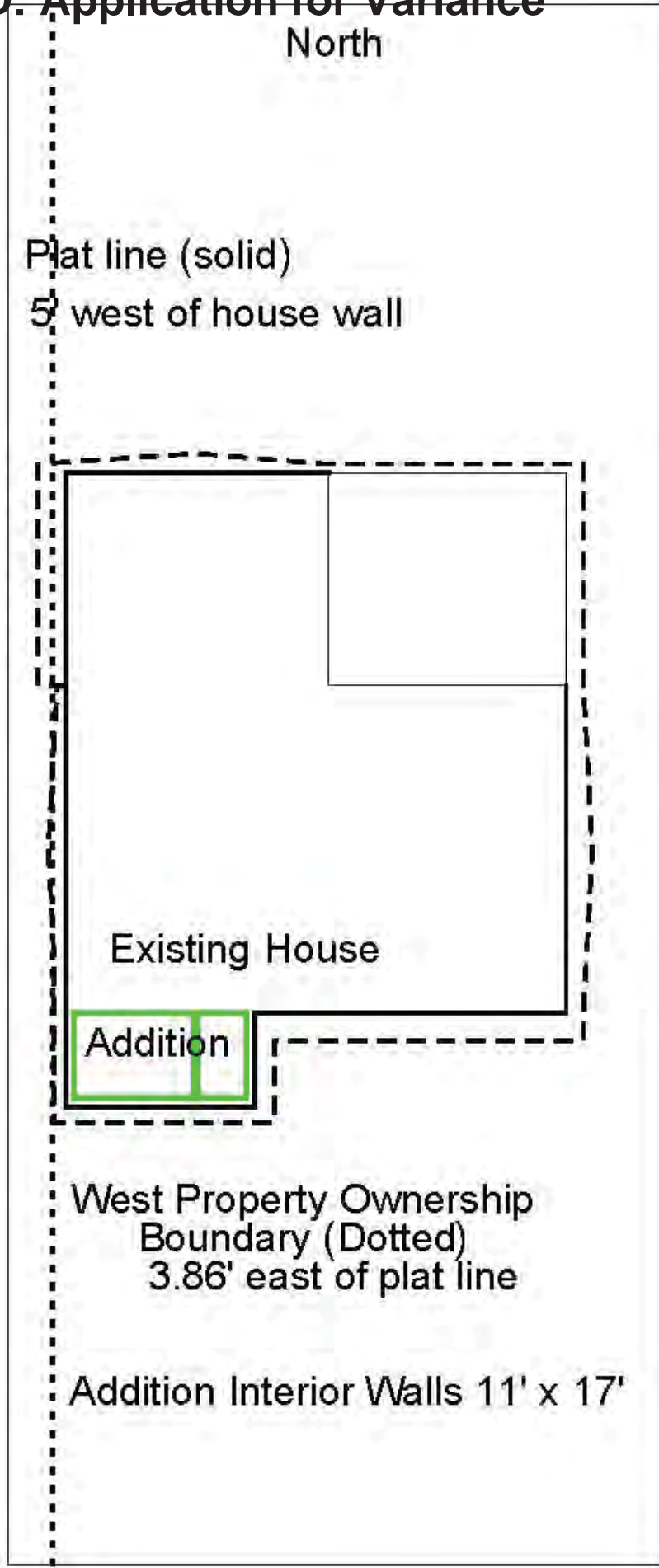
Lot Description - Narrative



South

Fig. 1. 613 W. Washington St. house walls (solid line) and eaves overhang (dashed line) with addition to be built south of the original outline that is currently rectangular (including carport on northeast). The western property ownership boundary is 3.86 feet east of the Lot 2 lines (shown on the diagram) described in the property deed. The addition to the walls of the house is expected, as shown here, to be less than 11' (to the south) x 17' (east/west).

Exhibit D: Application for Variance



Lot Description -
Graphic

Exhibit D: Application for Variance

Renovation Plan Drawings for 613 W. Washington, Urbana: Plan View

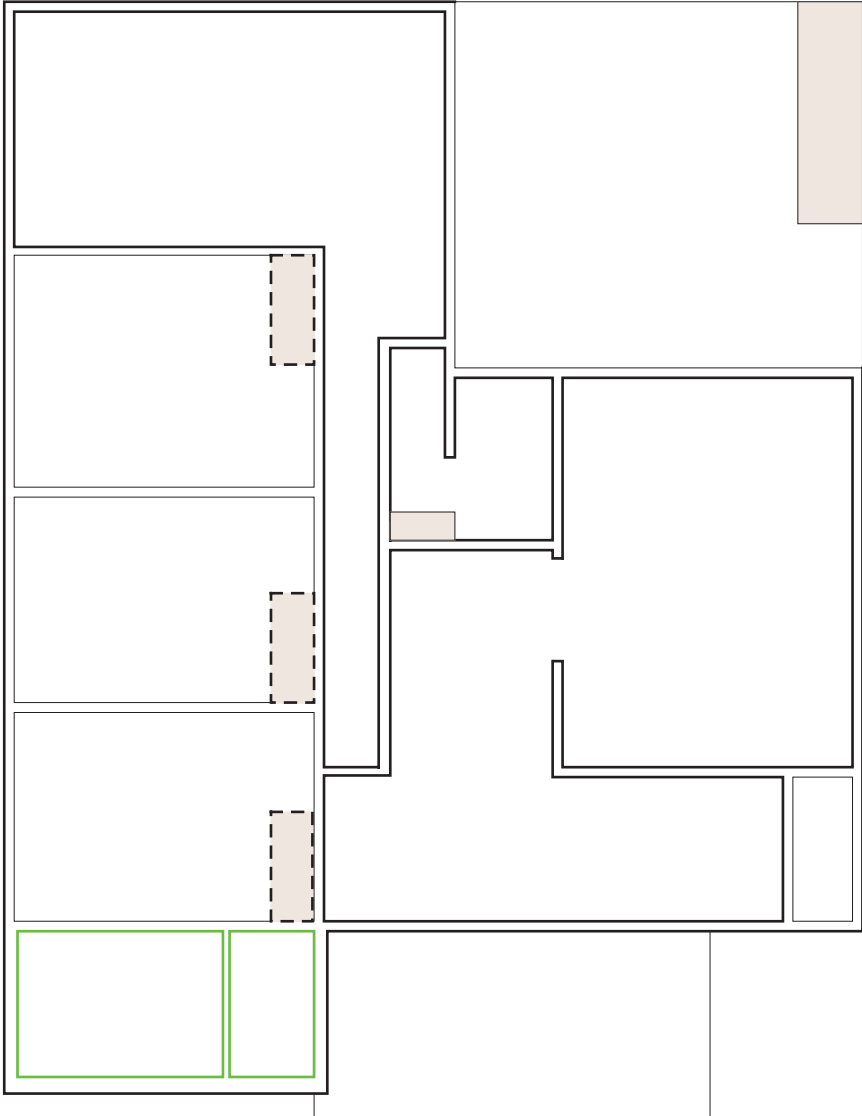


Fig. 1. Plan view of existing house (black, with closets in darker shade), including part of wooden deck that will remain and carport (light gray outlined exterior parts) and addition to south (bottom of drawing). See variance application for maximum dimensions of the addition.

Exhibit D: Application for Variance

Renovation Plan Drawings for 613 W. Washington, Urbana: Elevation Views

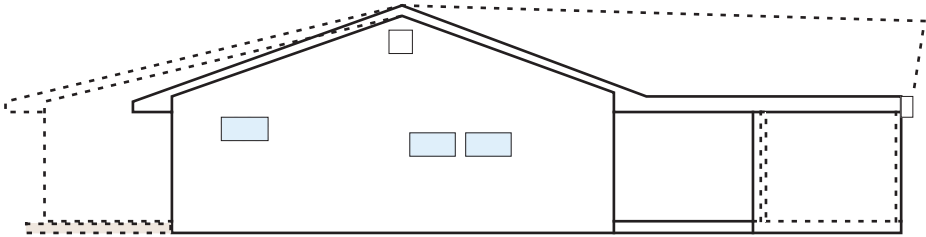


Fig. 2. Elevation view existing house viewed from outside from east looking west. Solid lines and dotted lines to the north of the roof peak, (to the right in the diagram, towards the street) are the existing house. The dotted roof line to the north is in the middle of the occupied (i.e. non-carport) part of the north part. Dotted lines to the south give an elevation view of the addition. The small rectangle is the location of possible heat

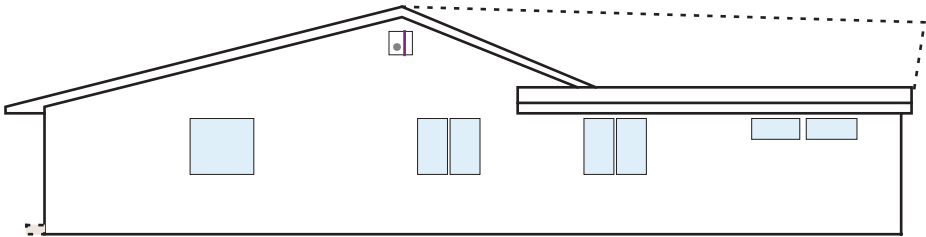


Fig. 3. Elevation view existing house viewed from **inside** from east looking west. Southern most window (to the left in the diagram) is in the addition. New roof line (solid line) runs from the roof peak to the south. Old north roof line (dotted) is in the middle of the occupied (non-carport) north part of existing house.

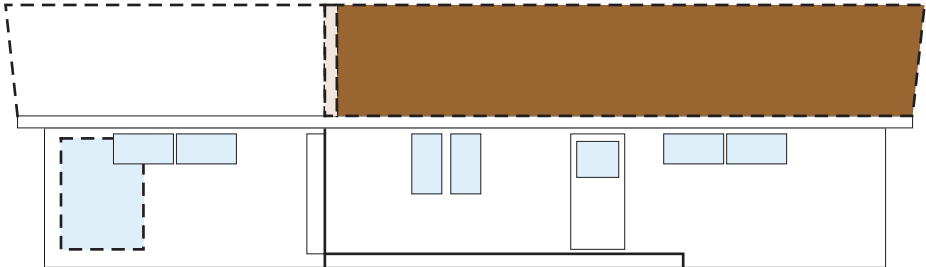


Fig. 4 . Elevation view existing of the house with addition, viewed from the south. New roof is outlined with dotted lines surrounding white space. Three new addition windows are shown. The existing double door that will open into the addition is shown with dotted outline, showing only the part not directly in back of the new windows. Locations of windows on the addition may change based on information obtained in the building permit application process.

Exhibit D: Application for Variance



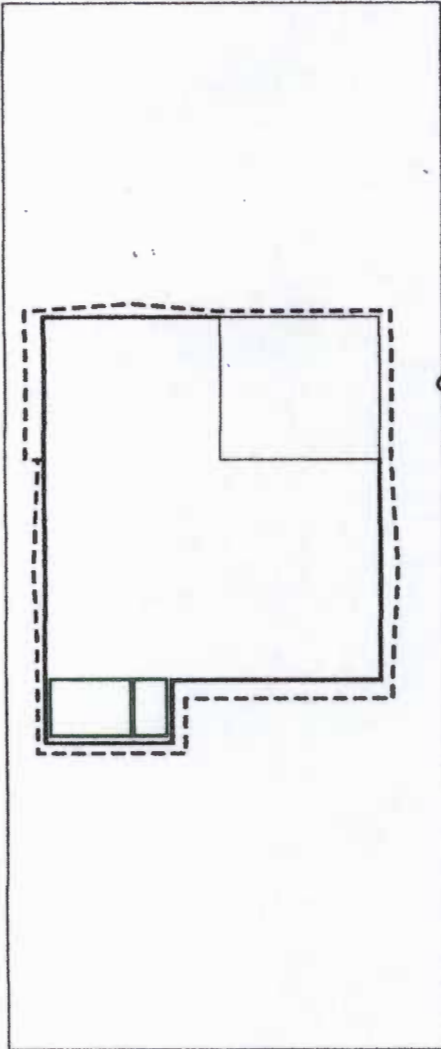
613 W. Washington (to the left), and 701 W. Washington (to the right), as seen from Washington Street.

Exhibit D: Application for Variance

Dear Neighbors,

We are planning to move into our one story house at 613 W. Iowa and add a new addition to include a walk-in shower and an adjacent closet, as shown below in green within an outline of the lot lines as subdivided in 1927. (The addition will be within our property ownership boundary, which is 3.86 feet east of the western line shown below.) The walls of the addition will extend the house to the south by less than 11 feet and will be less than 17 feet wide. Our renovation will also include a significant increase in the overall energy efficiency of the house. We will be applying to the City for permission and would appreciate an indication from you that you do not see this plan as a detriment to the neighborhood.

Brigitte Pieke and Cliff Singer



OK, Kevin Waspi 4-14-17
'704 W. IOWA' URBANA

OK Calleen Be 4/14/17

OK G. Adams 4/14/17

611 W. Washington, URBANA

OK William Childers 4/15/17

702 W Iowa

OK Paul Thieling Kapp

OK Phil Ky 4/15/17
612 W. Iowa

Exhibit D: Application for Variance

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.

Clifford Singer Brigitte Piebe
Applicant's Signature

17 April 2017
Date

PLEASE RETURN THIS FORM ONCE COMPLETED TO:

City of Urbana
Community Development Department Services
Planning Division
400 South Vine Street, Urbana, IL 61801
Phone: (217) 384-2440
Fax: (217) 384-2367

Exhibit E: Site Photos



Figure 1. 613 W. Washington facing south



Figure 2. Facing backyard of 613 W. Washington



Figure 3. Back porch with proposed addition.



Figure 4. Side yard encroachment of condensing unit.



Figure 5. Measurement of side yard encroachment.



Figure 6. Location of addition in relation to 701 W. Washington.