



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: Kat Trotter, Planner I
DATE: May 14, 2021
SUBJECT: ZBA-2021-MAJ-02: A request by Gary Apfelstadt to allow a garage to encroach 11 feet into a required 15-foot front yard at 213 West Illinois Street in the R-2, Single-Family Residential Zoning District.

Introduction

Gary Apfelstadt requests a variance to allow a garage to encroach 11 feet into a required 15-foot front yard at 213 West Illinois Street in the R-2, Single-Family Residential Zoning District. The applicant would like to rebuild the existing garage in its current location: four feet from the west property line. This would require a major variance, since the new garage would encroach 11 feet into the required 15-foot front yard.

The Zoning Board of Appeals must review the variance application and hold a public hearing. The Board may make a recommendation to City Council for approval, approval with conditions, or denial. Staff recommends the Zoning Board of Appeals make a recommendation to City Council to approve the variance request.

Background

213 West Illinois Street is in the northeastern portion of the West Urbana Neighborhood. The applicant has owned the property since 2014. According to the applicant, the garage has been on the property for over 100 years. It is deteriorating and needs to be replaced. The lot is a corner lot, with 15-foot required front yards on both Illinois Street and Cedar Street, which the garage faces. The applicant has requested a variance to allow his garage to be rebuilt in the required front yard, four feet from the west property line.

The same variance was applied for last December and was considered by the Zoning Board of Appeals at the February 18, 2021 meeting (ZBA-2020-MAJ-09). The Zoning Board of Appeals voted, with four ayes and one nay, to forward the case to City Council with a recommendation to approve the requested variance.

At the March 8, 2021 meeting, the City Council considered the requested variance. The City Council voted, with three ayes and four nays, to defeat the Ordinance for the variance. However, the applicant was not given an opportunity to make a statement. He asked that the case be reconsidered by the City Council. According to the Illinois Municipal League, the case cannot be reconsidered at City Council once the meeting has been adjourned, so the variance request must be resubmitted and heard again by the Zoning Board of Appeals before going back to City Council.

Description of Site and Area

The property is 5,775 square feet (50 feet by 115.5 feet) and is located at the southeast corner of West Illinois Street and Cedar Street. Nearby are single-family residences, duplexes, small apartment buildings, and Leal Elementary School to the southwest. All adjacent properties are also zoned R-2, Single-Family Residential.

The following table identifies the current zoning and the existing and future land uses of the subject property and surrounding properties (see Exhibits A and B).

Table 1. Zoning and Land Use

Location	Zoning	Existing Land Use	Future Land Use
Site	R-2, Single-Family Residential	Duplex Rental	Residential
North	R-2, Single-Family Residential	Single-Family and Duplex Rentals	Residential
South	R-2, Single-Family Residential	Single-Family Houses and Duplex Rentals	Residential
East	R-2, Single-Family Residential and MOR, Mixed Office Residential	Apartment Buildings and Single-Family Houses	Residential and Central Business
West	R-2, Single-Family Residential	Apartment Buildings and Single-Family Houses	Residential

Discussion

Table VI-3 of the Urbana Zoning Ordinance requires a 15-foot front yard in the R-2 district. The lot is a corner lot and is required to have 15-foot front yards on both Illinois Street and Cedar Street. The proposed garage would be rebuilt four feet from the west property line on Cedar Street. The narrow lot width creates a practical difficulty in rebuilding the garage the required 15 feet from the property line. The home currently encroaches seven feet into the required front yard on Cedar Street, and there is a garden in the rear yard that would need to be removed if the garage was built further east.

Staff discussed with the applicant the possibility of reorienting the garage, which would remove the access drive from Cedar Street and add a new entrance off of the public alley on the south side of the property. However, the applicant was concerned that the turning radius from the public alley into the garage would be too tight.

Engineering has also reviewed the requested variance. Simply installing mirrors or windows on the proposed garage would not achieve the desired range of vision. Reorienting the garage off of the alley would not increase safety, and would make it more difficult for residents pulling into or out of the garage. While moving the garage further east would improve the range of vision for drivers, it would result in the removal of the garden and significant paving of the rear yard. The Engineering division has no significant concerns about the placement of the garage that should prevent it from being rebuilt in its existing location.

Variance Criteria

Section XI-3 of the Urbana Zoning Ordinance requires the Zoning Board of Appeals to make findings based on variance criteria. The Zoning Board of Appeals must first determine, based on the evidence presented, whether there are special circumstances or special practical difficulties with reference to the parcel concerned, in carrying out the strict application of the ordinance. This criterion is intended to serve as a minimum threshold that must be met before a variance request may be evaluated.

The following is a review of the criteria outlined in the ordinance, followed by staff analysis for this case:

1. *The proposed variances 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 lot was platted smaller and narrower than what is now required by the Zoning Ordinance. The lot size and configuration creates a practical difficulty in rebuilding the garage 15 feet from the west property line. The requested variance will not serve as a special privilege because it would allow the garage to be rebuilt in its same location.

2. *The variances requested were not the result of a situation or condition having been knowingly or deliberately created by the Petitioner.*

The situation was not knowingly or deliberately created by the applicant, as the existing garage has been on the property since before the applicant purchased it. The narrow lot width creates a practical difficulty in rebuilding the garage 15 feet from the west property line, and the new garage would be rebuilt in generally the same location.

3. *The variances will not alter the essential character of the neighborhood.*

The existing garage has been in place for over 100 years and is consistent with the essential character of the neighborhood. The garage will be rebuilt in generally the same location, and it will be rebuilt in a style that matches the home.

4. *The variances will not cause a nuisance to the adjacent property.*

According to the applicant, and City records, there have been no nuisance complaints at 213 West Illinois Street since he purchased it in 2014. The garage has been on the property, in the required front yard, for over 100 years and has not caused issues for the property owner or the adjacent properties. The variance request would allow the garage to be rebuilt further off of the public alley, which may reduce any potential nuisance to the public using the alley.

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

The requested variance would allow for a garage to be built in generally the same location, four feet from the property line. The variance does not represent the minimum deviation from the Zoning Ordinance requirements, as the garage would not be rebuilt as far from the west property line as possible, because the property owner would like to retain the existing garden.

Summary of Findings

1. Gary Apfelstadt requests a major variance to allow a garage to be reconstructed and encroach 11 feet into the 15-foot required front yard at 213 West Illinois Street in the R-2, Single-Family Residential zoning district.
2. The variance will not serve as a special privilege to the property owner, as the property is a corner lot, and the narrow lot configuration creates a practical difficulty in rebuilding the garage the required 15 feet from the front property line.
3. The variance was not the result of a situation knowingly created by the applicant, as the lot was platted in 1900 to be more narrow than required today, and the garage has been on the property since before the applicant purchased it.
4. The variance will not alter the essential character of the neighborhood, as the garage will be rebuilt in generally the same location, in a style that matches the home.
5. The variance will not cause a nuisance to adjacent property owners, as the garage has not been a nuisance to them while it has been in the same general location, and the garage will be rebuilt in generally the same location, as far from Cedar Street as practicable.
6. The variance does not represent the minimum deviation necessary from the requirements of the Zoning Ordinance, as the garage would not be rebuilt as far from the property line as possible, because the property owner would like to retain the garden.

Options

The Zoning Board of Appeals has the following options in Case No. ZBA-2021-MAJ-02:

1. Forward the case to City Council with a recommendation to **approve** the variance as requested based on the findings outlined in this memo; or
2. Forward the case to City Council with a recommendation to **approve the variance with certain terms and conditions**. If the Urbana Zoning Board of Appeals elects to recommend conditions or recommend approval of the variances on findings other than those articulated herein, they should articulate findings accordingly; or
3. **Deny** the variance request; or

Recommendation

Based on the evidence 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 recommend **APPROVAL** of the proposed Major Variance in case ZBA-2021-MAJ-02 to the Urbana City Council, as presented in the staff report.

Attachments: Exhibit A: Location Map
 Exhibit B: Zoning Map
 Exhibit C: Future Land Use Map
 Exhibit D: Garage Site Plan
 Exhibit E: Site Photos
 Exhibit F: Public Input Received
 Exhibit G: Variance Application

cc: Gary Apfelstadt, Property Owner/Applicant

Exhibit A - Location and Land Use Map



Case No. ZBA-2021-MAJ-02
 Subject Address Apfelstadt Garage Variance
 Address 213 W. Illinois St.
 Petitioner Gary Apfelstadt

Legend

 Subject Property

0 50 100 150 ft

Exhibit B - Zoning Map



Case No. ZBA-2021-MAJ-02
 Subject Address Apfelstadt Duplex
 213 W. Illinois St.
 Petitioner Gary Apfelstadt

Legend

Subject Property

Current_Zoning

- B-3
- B-4
- CRE
- MOR
- R-2
- R-3
- R-5

0 50 100 150 ft

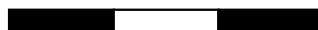
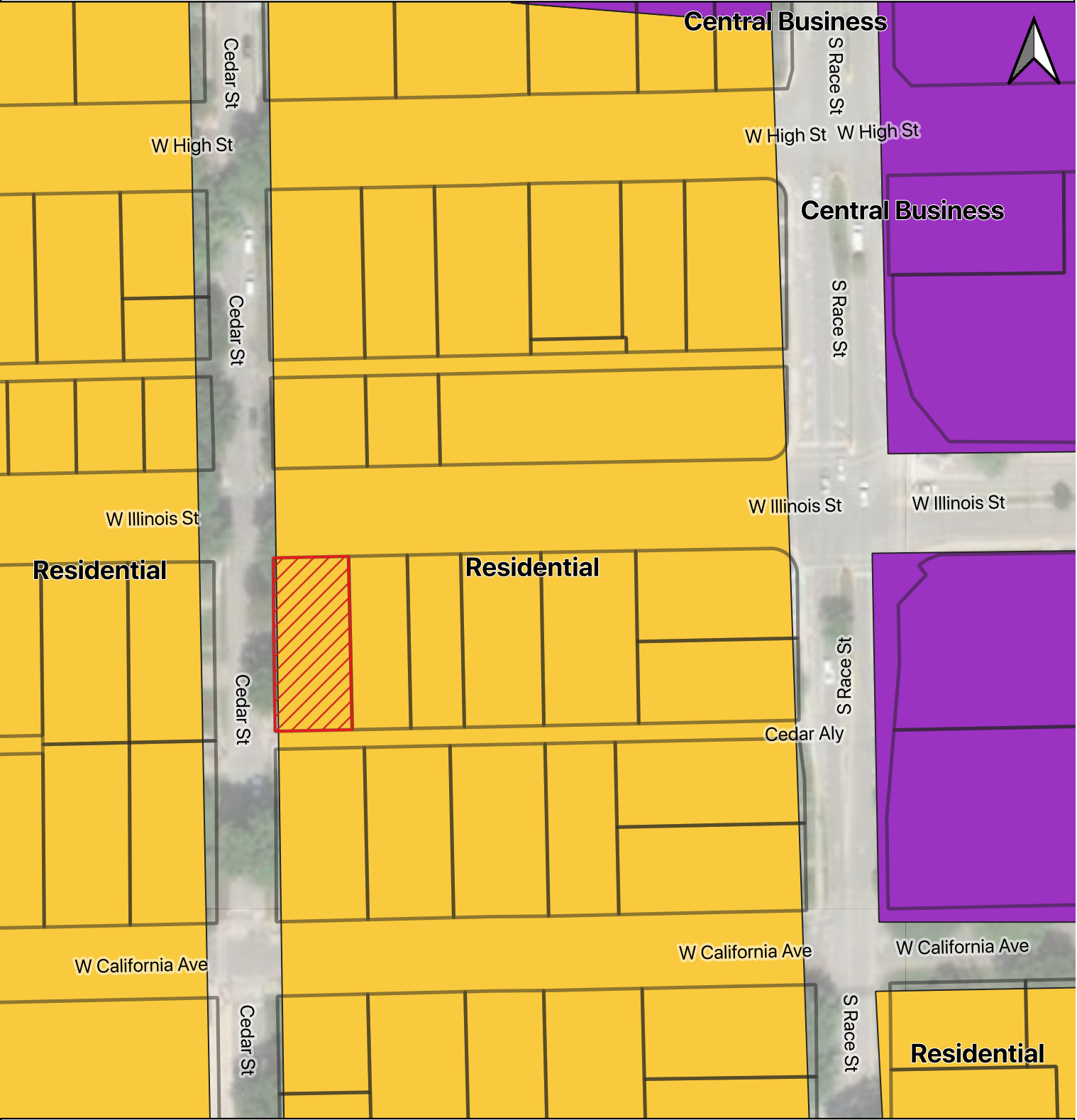


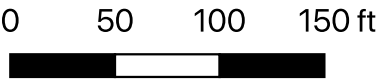
Exhibit C - Future Land Use Map



Case No. ZBA-2021-MAJ-02
Subject Address Apfelstadt Duplex
213 W. Illinois St.
Petitioner Gary Apfelstadt

Legend

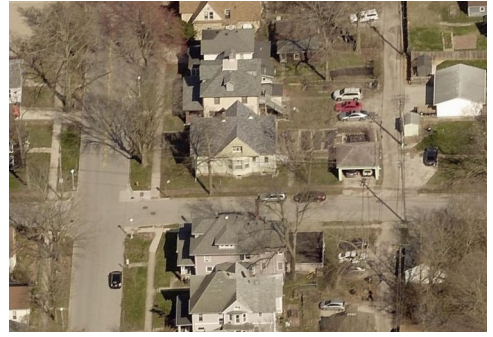
- Subject Property
- Central Business
- Residential



213 West Illinois St
Garage plan views



Viewing North from alley to Illinois St



Viewing East across Cedar St



Current foot print of 20' x 20' garage



Foot print of proposed 24' x 24' garage







Application for Variance

ZONING BOARD OF APPEALS

The application fee must accompany the application when submitted for processing. Please refer to the City's website at <http://www.urbanaininois.us/fees> for the current fee associated with this application. **The Applicant is also responsible for paying the cost of legal publication fees.** Estimated costs for these fees usually run between \$75.00 and \$225.00. The applicant will be billed separately by the News-Gazette.

ZBA-2020-MAJ-07

DO NOT WRITE IN THIS SPACE - FOR OFFICE USE **ZBA-2020-MAJ-08**

Date Request Filed 12-03-2020 ZBA Case No. **ZBA-2020-MAJ-09**

Fee Paid - Check No. 7370 Amount \$200.00 Date 12-03-2020

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*)

Minimum lot size for duplex, minimum parking space requirement for duplex, & position of garage on lot relative to setback requirements on the property described below, and in conformity with the plans described on this variance request.

1. APPLICANT CONTACT INFORMATION

Name of Applicant(s): Gary Apfelstadt, Claudine Hanson

Phone: 217 552 9105, 217 552 9103

Address (street/city/state/zip code): 3039 N CR 900 E, Dewey IL 61840

Email Address: gapfelstadt54@gmail.com chanson2354@gmail.com

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

2. OWNER INFORMATION

Name of Owner(s): Gary Apfelstadt, Claudine Hanson

Phone: 217 552 9105, 217 552 9103

Address (street/city/state/zip code): 3039 N CR 900 E, Dewey IL 61840

Email Address: gapfelstadt54@gmail.com chanson2354@gmail.com

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: 213 West Illinois Street, Urbana IL 61801

PIN # of Location: 92-21-17-186-001

Lot Size: 50 feet x 115.5 feet

Current Zoning Designation: **R-2 / Application for Conditional Use Permit submitted to list property as Duplex**

Current Land Use (*vacant, residence, grocery, factory, etc.*): **Duplex**

Proposed Land Use: **Duplex**

Legal Description (*If additional space is needed, please submit on separate sheet of paper*):

The West 50 feet of Lot 12 in James S. Busey's Addition to Urbana, Illinois as per Plat recorded in Deed Record "D" at Page 282, situated in Champaign County, Illinois

4. CONSULTANT INFORMATION

Name of Architect(s):

Phone:

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

Email Address:

Name of Engineers(s):

Phone:

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

Email Address:

Name of Surveyor(s):

Phone:

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

Email Address:

Name of Professional Site Planner(s):

Phone:

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

Email Address:

Name of Attorney(s):

Phone:

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

Email Address:

5. REASONS FOR VARIATION

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.

- a) The existing lot size is smaller than the current lot size requirement for lot in the R-2 zoning district,**
- b) The existing lot has fewer parking spaces than the current requirement for duplex, &**
- c) The existing position of garage on lot relative to setback requirements is closer than set back requirements for corner lot and we plan to replace the old structure with a new garage.**

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 variances are necessary to adjust the current zoning requirements to the existing use and structure of this property and permit replacement of the garage structure. The lot was platted to be smaller than the minimum lot size required by the Zoning Ordinance. The existing duplex has two parking spaces, which is less than the required 4 parking spaces for a duplex (2 per dwelling unit), and a variance is required to provide less than the required amount of parking. The existing garage was built in a (now) required front yard on Cedar Street. A variance is required to allow a new garage to be built in a required front yard, 3 feet from the west property line.

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

The home and garage have existed on the property since before we purchased it in 2014. This proposal, combined with the conditional use permit, is for correction of the existing use. When purchased in 2014 from the Darius E Phebus Trust by the current owners, the property was a duplex rental with Unit 1 on first floor, and Unit 2 on second floor. The property was registered as a duplex by Darius Phebus with the Urbana Rental Registration program when it began in 2007. The duplex rental has existed on the property since before we owned it, and it has provided rental housing to the neighborhood. The garage has existed on the property since before 1902.

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

This proposal is for correction of the existing use. The current use as a duplex will continue, as it has since before we purchased the property. The duplex use is consistent with the surrounding neighborhood, and many of the structures in the neighborhood have property codes as duplex or multi unit structures. The garage will be built in the style of the 1902 garage structure, and it will generally be in the same location as the existing garage.

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

This proposal is for correction of the existing use. The current use as a duplex will continue, as it has since before we purchased the property, where it has not been a nuisance to the neighborhood. The duplex use is consistent with the surrounding neighborhood, and many of the structures in the neighborhood have property codes as duplex or multi unit structures. The garage will be built in the style of the 1902 garage structure.

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

- a) existing lot size is 5,775 sq ft; current requirement for lot in R-2 is 6,000 sq. ft.
- b) existing parking spaces provided are 2; current requirement for duplex is 4, two per dwelling unit.
- c) existing location of garage is 1 foot from rear ally line and 3 feet from Cedar Street line; current requirement is 18 inches from rear line and 15 feet from Cedar Street line

NOTE: If additional space is needed to accurately answer any question, please attach extra pages to the application.

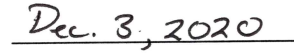
By submitting this application, you are granting permission for City staff to post on the property a temporary yard sign announcing the public hearing to be held for your request.

CERTIFICATION BY THE APPLICANT

I certify all the information contained in this application form or any attachment(s), document(s) or plan(s) submitted herewith are true to the best of my knowledge and belief, and that I am either the property owner or authorized to make this application on the owner's behalf.



Applicant's Signature



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