



## DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

*Planning Division*

### m e m o r a n d u m

**TO:** Urbana Zoning Board of Appeals

**FROM:** Kat Trotter, Planner I

**DATE:** February 12, 2021

**SUBJECT:** ZBA-2021-MAJ-01: A request by Deborah Berthold for a major variance to allow a garage roof overhang to extend six inches into the 18-inch required setback from the south property line at 1006 South Wabash Avenue in the R-3, Single and Two-Family Residential Zoning District.

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### Introduction

Deborah Berthold requests a variance to allow a garage to encroach six inches into a required 18-inch setback at 1006 South Wabash Avenue in the R-3, Single and Two-Family Residential Zoning District. The applicant would like to rebuild her existing garage in its current location, in the side yard 12 inches from the south property line. Section VI-5 of the Urbana Zoning Ordinance requires accessory structures in the R-3 District to be located 18 inches from side and rear property lines, as measured from the closest part of the structure. The roof of the existing garage encroaches six inches into the required 18-inch side yard setback. The roof of the new garage would also encroach six inches into the setback, or 12 inches from the south property line. The wall of the garage will be 22 inches from the property line.

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

### Background

The applicant has owned the property since 2005, and the garage has been on the property for over 50 years. The applicant has requested a variance to allow her garage to be rebuilt in a required 18-inch side yard setback, 12 inches from the property line. The new garage will be built larger to include a workshop. The workshop space will be used to make stained glass and mosaics. The existing garage is 12.33 feet wide and 20.5 feet long. The new garage would be the same width and 35.5 feet long. The existing garage wall is 22 inches from the property line, and the roof overhang extends 10 inches off of the garage wall.

### Description of Site and Area

1006 South Wabash Avenue is 5,225 square feet in area, and is located in the Fairlawn Park neighborhood, south of Washington Street and west of Philo Road. Nearby are other single-family residences, and Wiley School to the south. All adjacent properties are also zoned R-3, Single and Two-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
Site	R-3, Single and Two-Family Residential	Single-Family Home
North	R-3, Single and Two-Family Residential	Single-Family Home
South	R-3, Single and Two-Family Residential	Single-Family Home
East	R-3, Single and Two-Family Residential	Single-Family Home
West	R-3, Single and Two-Family Residential	Single-Family Home

## Discussion

The applicant requested the variance to allow the existing garage to be rebuilt 12 inches from the side property line, in generally the same location. The property is smaller and more narrow than what is required by the Zoning Ordinance. 1006 South Wabash Avenue is 50 feet wide and 107.5 feet deep, with an area of 5,225 square feet. The narrow lot configuration creates a practical difficulty in rebuilding the garage 18 inches from the property line, and there is a tree in the rear yard that prohibits the garage from being built further north and east.

The garage would be rebuilt larger to include a workspace. The new garage would be the same width as the existing garage, but would be longer to make room for the workspace. The dimensions of the new garage would be 12 feet 4 inches by 35 feet 6 inches, with a total area of 437 square feet.

The neighboring garage also encroaches into the required 18-inch setback and is 17 inches from the property line. There will be 39 inches of separation between the two garage walls. Per Building Code, the exterior wall of the new garage will be required to be 1-hour fire-resistance rated, as it would be within five feet of the neighboring garage.

## 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 is smaller and narrower than what is now required by the Zoning Ordinance. The lot size and location of the house and the tree in the backyard configuration creates a practical difficulty in rebuilding the garage 18 inches from the south property line. The requested variance will not serve as a special privilege because these circumstances are not generally applicable to other lots in the neighborhood; the variance would allow the garage to be rebuilt in the same location as the existing garage, which is the most practical place for a garage on this lot.

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

The existing garage has been on the property for 50 years, well before the applicant purchased it. The new garage would be rebuilt in generally the same location. The narrow lot width creates a practical difficulty in rebuilding the garage 18 inches from the side property line, and there is a tree in the back yard that prohibits the garage from being built further north or east. The situation was not knowingly or deliberately created by the applicant.

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

The garage will not alter the essential character of the neighborhood, as it has existed since before the applicant purchased the property would be rebuilt in the same location. Detached garages in side yards are common in this neighborhood, and the neighboring property also has a garage that encroaches into the required 18-inch setback. From the street, the garage will look essentially the same as the current garage, and will not alter the character of the property or the neighborhood.

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

According to City records, there have been no nuisance complaints at 1006 South Wabash Avenue since the applicant purchased it in 2005. The added workshop space would be used for making stained glass and mosaics, which should not generate noise or cause a nuisance to the adjacent property. The new garage would be rebuilt with exterior walls that are 1-hour fire-resistance rated, which would help reduce danger from fire to the adjacent garage.

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

The variance represents generally the minimum deviation from the Zoning Ordinance requirements, as the garage would be rebuilt as far from the south property line as possible.

## **Summary of Findings**

1. Deborah Berthold requests a major variance to allow a garage to be rebuilt 12 inches from the south property line at 1006 South Wabash Avenue in the R-3, Single and Two-Family Residential zoning district.
2. The variance will not serve as a special privilege to the property owner, as the narrow lot configuration and location of the house and the tree in the backyard create a practical difficulty in rebuilding the garage 18 inches from the side property line.

3. The variance was not the result of a situation knowingly created by the applicant, as the garage has been on the property since before the applicant purchased it, and the lot was platted to be more narrow than required today.
4. The variance will not alter the essential character of the neighborhood, as the garage will be rebuilt in generally the same location, and from the street, the garage would look essentially the same.
5. The variance will not cause a nuisance to adjacent property owners, as the garage will be rebuilt in its same location where it has not been a nuisance, with exterior walls that are 1-hour fire-resistance rated. The workshop space will be used for making stained glass and mosaics, which should not generate noise or cause a nuisance to the adjacent property.
6. The variance represents the minimum deviation necessary from the requirements of the Zoning Ordinance, as the garage will be rebuilt as far from the south property line as possible.

## Options

The Zoning Board of Appeals has the following options in Case No. ZBA-2021-MAJ-01:

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 variance 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-01 to the Urbana City Council.

Attachments: Exhibit A: Location Map  
Exhibit B: Zoning Map  
Exhibit C: Garage Site Plan  
Exhibit D: Site Photos  
Exhibit E: Variance Application

cc: Deborah Berthold, Property Owner/Applicant




# Exhibit A - Location Map



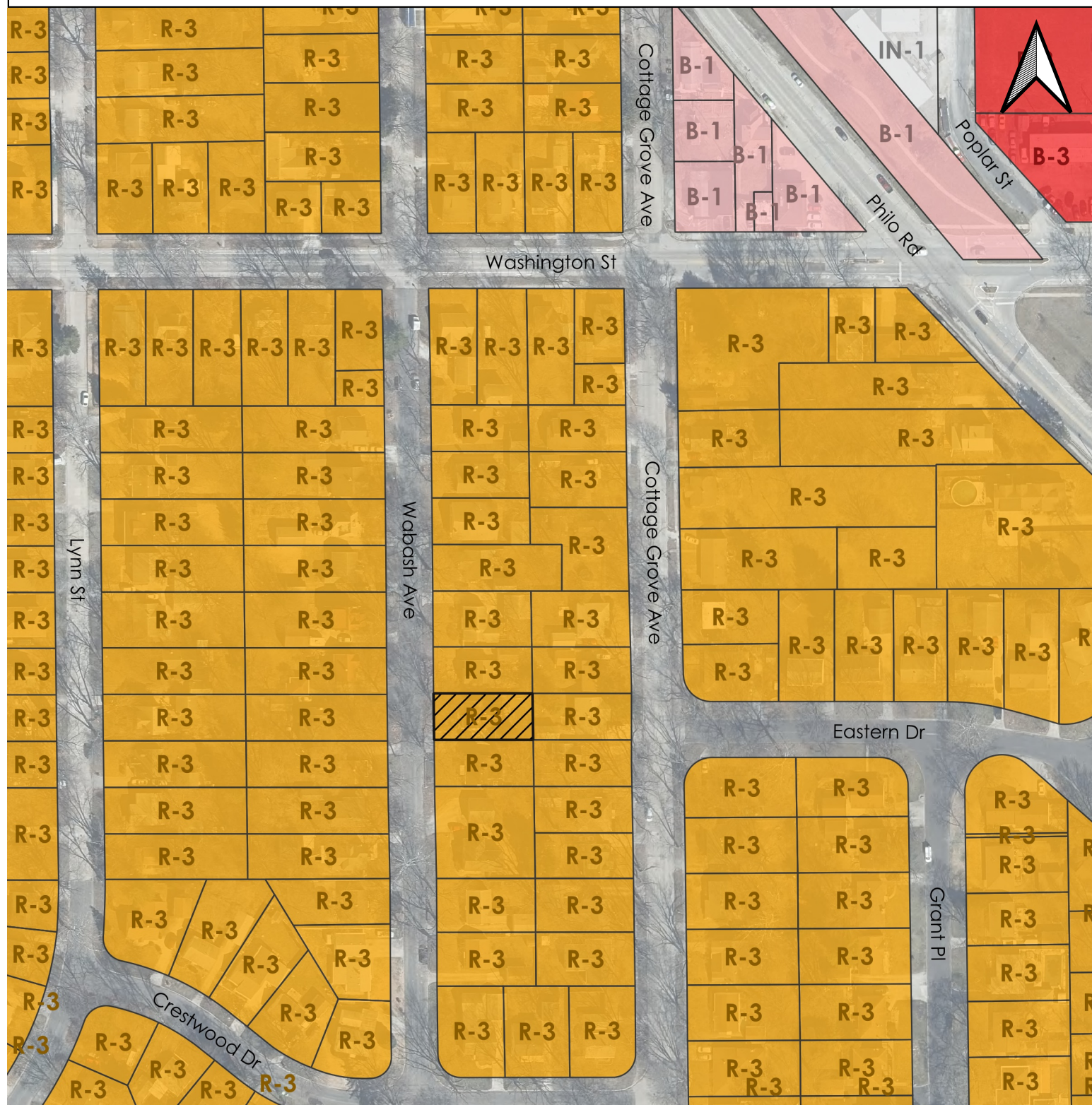
Case No.  
Subject  
Address  
Petitioner

ZBA-2021-MAJ-01  
Berthold Garage  
1006 S. Wabash Ave.  
Deborah Berthold

 Subject Property  
2020 Aerial



# Exhibit B - Zoning Map



Case No.  
Subject  
Address  
Petitioner

ZBA-2021-MAJ-01  
Berthold Garage  
1006 S. Wabash Ave.  
Deborah Berthold

Parcels

Subject Property

Zoning

B-1

B-3

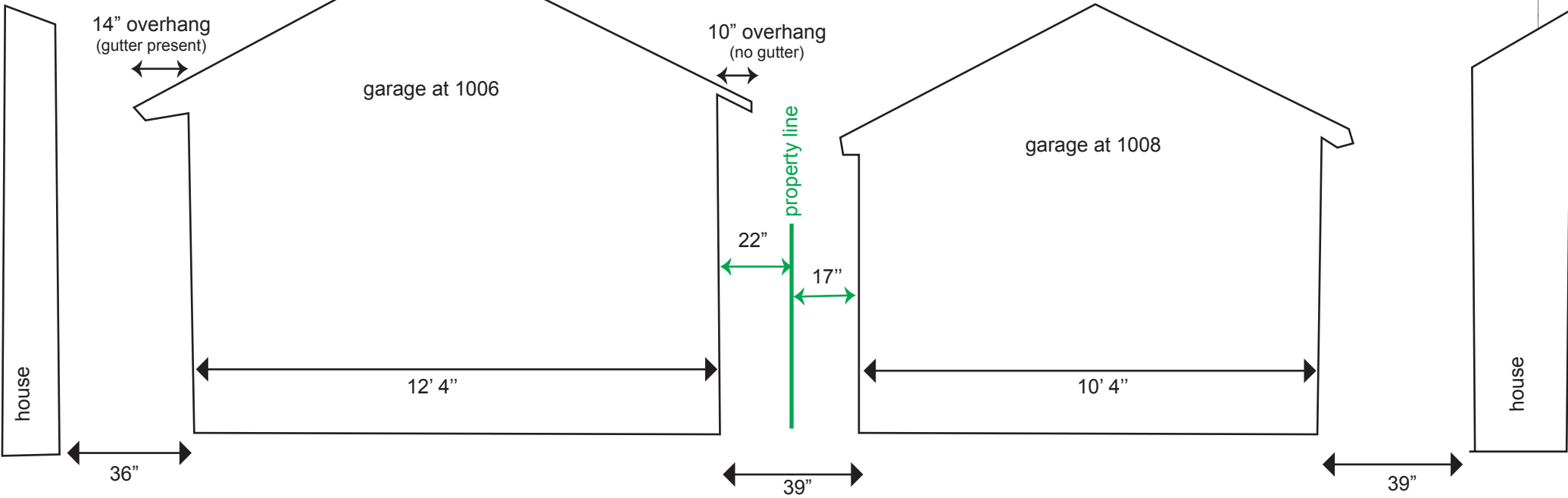
IN-1

R-3

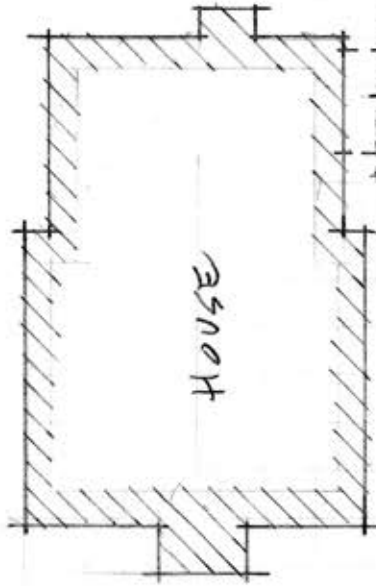
0 150 300 ft







PERORAH BERTHOLD RESIDENCE  
1006 S. WABASH AVE.  
URBANA, ILLINOIS



FOOTPRINT OF  
PROPOSED NEW  
GARAGE/STUDIO  
(12'-4" x 35'-6")

EXISTING  
GARAGE

GRAVEL DRIVEWAY

EDGE OF CONC. DRIVEWAY

GARAGE

30 FEET

10

20

0

PROPOSED NEW GARAGE/WORKSHOP

JANUARY 12, 2021

WABASH AVE.









## 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.urbanainlinois.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.

### DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY

Date Request Filed \_\_\_\_\_ ZBA Case No. \_\_\_\_\_  
Fee Paid - Check No. \_\_\_\_\_ Amount \_\_\_\_\_ Date \_\_\_\_\_

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### 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*)

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

#### 1. APPLICANT CONTACT INFORMATION

Name of Applicant(s):

Phone:

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

Email Address:

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

#### 2. OWNER INFORMATION

Name of Owner(s):

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:

PIN # of Location:

Lot Size:

Current Zoning Designation:

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

Proposed Land Use:

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

#### **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.



Explain how the variance is necessary due to special conditions relating to the land or structure involved which are not generally applicable to other property in the same district.

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

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

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

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

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

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

**CERTIFICATION BY THE APPLICANT**

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



1-14-2021

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Applicant's Signature

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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

PERORAH BERTHOLD RESIDENCE  
1006 S. WABASH AVE.  
URBANA, ILLINOIS

NORTH



HOUSE

EXISTING  
GARAGE

FOOTPRINT OF  
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EDGE OF CONC. DRIVEWAY

GARAGE

FEET

PROPOSED NEW GARAGE/WORKSHOP

JANUARY 12, 2021

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