



## DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

*Planning Division*

m e m o r a n d u m

**TO:** Urbana Zoning Board of Appeals  
**FROM:** Katherine Trotter, Planner I  
**DATE:** August 13, 2020  
**SUBJECT:** **ZBA-2020-MAJ-03:** A request by Fran and Marc Ansel for a Major Variance to allow a garage to encroach 14.5 feet into the required 15-foot front yard at 102 West Pennsylvania Avenue in the R-2, Single-Family Residential Zoning District.

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### **Introduction**

Fran and Marc Ansel request a Major Variance to allow a garage to encroach 14.5 feet into the required 15-foot front yard at 102 West Pennsylvania Avenue in the R-2, Single-Family Residential Zoning District. 102 West Pennsylvania Avenue is a corner lot. Per Section VI-5.D.1 of the Zoning Ordinance, lots with multiple frontages shall have a required front yard on each street frontage. Per Section VI-5.B.9 of the Zoning Ordinance, accessory structures, such as garages, are not allowed in a required front yard. The applicants would like to replace their existing garage with a new garage that will encroach 14.5 feet into the required front yard along Broadway Avenue for their property at 102 West Pennsylvania Avenue. The existing garage already encroaches 9.5 feet into the front yard.

The requested Major Variance is necessary because there is a Bald Cypress tree on the property that is three feet from the existing garage. The Bald Cypress tree is over 50 years old, with a diameter of eight feet and a circumference of 24 feet. The tree has been deemed healthy and significant to the neighborhood by the applicants' personal arborist, and by Kevin Sanderson, the City Arborist. The applicants could build a new garage without a variance, but to keep it out of the front yard would require the Bald Cypress tree to be removed. The applicants would like to preserve the tree and would like to build the proposed garage closer to the property line.

The applicants therefore request a Major Variance to allow a 24-foot by 30-foot garage to encroach 14.5 feet into the required 15-foot front yard, to preserve the significant Bald Cypress tree in their rear yard.

### **Background**

In 2008, the applicants received a Major Variance to allow them to build a 24-foot by 24-foot garage that would encroach 14.5 feet into their required 15-foot front yard along Broadway Avenue. The applicants were unable to build the approved garage in 2008, due to personal reasons. They now seek a variance to allow a slightly larger 24-foot by 30-foot garage to encroach into the required front yard, with the same 6-inch setback from the property line. The 2008 variance was also approved on the condition that the existing concrete slab from the original garage would be re-used. Since the proposed garage is larger than the garage approved in the 2008 variance, and the applicants would like to construct a new concrete slab to increase the longevity of the new garage, the current request is different enough from what was approved in 2008 to require a new variance.

The Bald Cypress tree’s location makes it difficult to build a garage in the rear yard of the property. The variance to allow the garage to encroach into the required front yard would allow the garage to be built as far from the tree as possible. The tree’s health is hindered by the existing garage. According to the applicants, the tree has a very shallow root system. Constructing the proposed garage in the same location as the existing garage would be detrimental to the tree. The applicants have invested time and money into caring for the tree, and would like to preserve and protect it however possible. The proposed garage will be located three feet further east from where the existing garage is now. The existing concrete slab will be removed during construction. An “air spade” technique will be used to excavate the slab without harming the tree’s roots. The applicants’ arborist and contractor believe that the slab can be safely removed without harming the tree.

The existing garage and tree have been on the property since the applicants purchased the home in January, 1980. The existing garage is in poor condition and needs to be replaced. The applicants did not build the existing, nonconforming garage or plant the Bald Cypress in the rear yard, but they have invested in the health and preservation of the tree. A new garage could be built without a variance, but the Bald Cypress tree would need to be removed. The variance would allow them to build a new garage as far away from the tree as possible, to minimize any damage to the tree’s root system.

**Description of Site and Area**

The property at 102 West Pennsylvania Avenue is approximately 0.28 acres, and is located on the north side of Pennsylvania Avenue between Broadway Street and Race Street. Nearby are the Urbana Middle School, Urbana High School, Blair Park, and mostly single-family residences. All adjacent and neighboring properties are also zoned R-2, Single-Family Residential, with the exception of Blair Park to the southeast, which is zoned CRE, Conservation-Recreation-Education.

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

Table 1. Zoning and Land Use

| <b>Location</b>  | <b>Zoning</b>                  | <b>Existing Land Use</b> |
|------------------|--------------------------------|--------------------------|
| Subject Property | R-2, Single-Family Residential | Single-Family Home       |
| North            | R-2, Single-Family Residential | Single-Family Home       |
| South            | R-2, Single-Family Residential | Single-Family Home       |
| East             | R-2, Single-Family Residential | Single-Family Home       |
| West             | R-2, Single-Family Residential | Single-Family Home       |

**Discussion**

**Site History**

The configuration of the lot at 102 West Pennsylvania Avenue hinders the possible locations for a new garage. The right-of-way along Broadway Avenue is particularly wide for a right-of-way in the City of Urbana,

at 82.5 feet-wide<sup>1</sup>. The right-of-way extends 25 feet 9 inches west of the curb to the applicants' front property line. While the variance would allow the garage to be built 6 inches from the property line, it would still be set back from Broadway Avenue by 26 feet 3 inches<sup>2</sup>.

The property has two street frontages, and therefore two front yards. If this were an interior lot with the same dimensions, the Broadway Avenue frontage would be considered a side yard rather than a front yard, and the applicants would be able to build their garage 18 inches from the property line by-right. The garage cannot be built further south due to the location of the house. It could not be built further west or north without causing damage to the tree. To best protect the tree and to allow the applicants to reuse their existing driveway and curb-cut, the only logical place to build the garage is in the required front yard.

Approval of the variance would allow the applicants to build a 30-foot by 24-garage in the required front yard along Broadway Avenue, six inches from the eastern property line. Approval of the variance would also allow the applicants to extend the life of a Bald Cypress tree that is not only significant to the property, but to the neighborhood and City. The tree is one of the oldest and tallest Bald Cypress trees in Champaign County. Kevin Sanderson, the City Arborist, has acknowledged the significance of this tree and importance of its preservation.

### **Major Variance Criteria**

Section XI-3 of the Urbana Zoning Ordinance requires the Zoning Board of Appeals to make findings based on variance criteria.

1. Are there special circumstances or practical difficulties with reference to the parcel concerned, in carrying out the strict application of the ordinance?

The 82.5-foot right-of-way along Broadway Avenue creates a practical difficulty on the lot. The existing garage encroaches into the required front yard off of Broadway Avenue. There are 25 feet, 9 inches of right-of-way west of Broadway Avenue, that limits the applicants' front yard. The Bald Cypress tree on the property also creates practical difficulty. The proposed garage will be located three feet further east of the existing garage. The tree is currently hindered by the existing garage, and the proposed location for the new garage will better preserve the life of the tree. If the tree were not on the property, the applicants could build the proposed garage by-right in the rear yard.

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

The proposed variance will not serve as a special privilege because the Bald Cypress tree and the wide right-of-way along Broadway Avenue create special circumstances that necessitate the variance. The tree is significant not just to the property, but to the neighborhood and the City. The existing garage and Bald Cypress tree were on the property before the applicants purchased the home. The applicants have made a significant investment in caring for the tree, and the variance would allow for its continued preservation.

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<sup>1</sup> New street right-of-ways in Urbana must be at least 60 feet-wide; however, in the West Urbana neighborhood, street right-of-ways are often as small as 40 feet-wide.

<sup>2</sup> While sidewalks are often perceived to be the dividing line between public right-of-way and private property, there is no sidewalk along this section of Broadway Avenue.

The right-of-way on Broadway Avenue also creates a practical difficulty that is not generally applicable to other parcels in the R-2 zoning district. The right-of-way extends 25 feet 9 inches west of the street, which limits the depth of the front yard.

The existing garage is a legal nonconformity, as it encroaches 9.5 feet into the required front yard. There are similar encroachments throughout the neighborhood. Neighboring homes and garages, built prior to current regulations, encroach into now-required front, rear and side yards as legal nonconformities. Approving a variance to reduce the required front yard setback at 102 West Pennsylvania Avenue will not be a special privilege, as the garage will be consistent with the surrounding neighborhood.

3. The variance request is not the result of a situation or condition having been knowingly or deliberately created by the Petitioner.

The applicants did not deliberately create this situation. The Bald Cypress tree in the rear yard of the property has been there for over 50 years. The applicants did not build the existing garage on the property, which also encroaches into the required front yard. The existing garage is deteriorating and needs to be replaced. Granting the variance would allow for the new garage to be built in a location that will not interfere with the Bald Cypress tree. The proposed garage will also not interfere with the neighboring properties, as it will be the same distance from the northern property, and set back from Broadway Avenue by 26 feet, 3 inches.

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

The existing garage encroaches into the required front yard. The proposed garage will be built as close to the existing garage footprint as possible without harming the Bald Cypress tree. Granting the variance will allow for the preservation of the Bald Cypress tree, which is significant to the essential character of the neighborhood.

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

The variance would allow the proposed garage to be built six inches from the east property line (26 feet, 3 inches from the street), which is 5 feet closer to the property line than the existing garage; the difference between the existing and proposed garage is minimal and will likely be imperceptible. The proposed garage will not be located any closer to the neighboring property to the north than the existing garage is now. The proposed garage will not significantly alter the appearance of the property from Broadway Avenue.

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

The proposed garage will encroach 14.5 feet in to the front yard, but it will still be set back off of Broadway Avenue by 26 feet, 3 inches. The proposed garage could not be built in the rear yard without damaging the Bald Cypress tree. The proposed variance therefore represents the minimum deviation that will allow for the preservation of the Bald Cypress tree on the property, while allowing a new garage to be constructed.

## Case Summary

1. The property is zoned R-2, Single-Family Residential Zoning District.
2. Marc and Fran Ansel request a Major Variance to allow a 30-foot by 24-foot garage to encroach 14.5 feet into the required 15-foot front yard at 102 West Pennsylvania Avenue; and

3. The variance does not serve as a special privilege to the property owner, as garages are allowed in the R-2 zoning district, but the proposed location for this garage is a variation from the requirements of the Zoning Ordinance; and
4. The property owner did not deliberately create this situation, as the legal, non-conforming garage and Bald Cypress tree were on the property when it was purchased; and
5. The variance will not alter the essential character of the neighborhood, as the proposed garage will not interfere with any neighboring properties, and will preserve a significant tree; and
6. The variance will not create a nuisance, as it will allow the proposed garage to be built six inches from the east property line, and 26 feet 3 inches from Broadway Avenue; and
7. The variance represents the minimum deviation necessary from the Zoning Ordinance, as the variance would allow a garage to be built in the required front yard setback.

## Options

The Zoning Board of Appeals has the following options in case ZBA-2020-MAJ-03:

1. Forward the Major Variance request to City Council with a recommendation to **approve** the variance as requested, based on the findings outlined in this memorandum; or
2. Forward the Major Variance to City Council with a recommendation **to approve the variance with certain terms and conditions**, and if so, articulate all terms, conditions, and findings; or
3. **Deny** the Major Variance request, and if so, articulate findings supporting the denial.

## Staff Recommendation

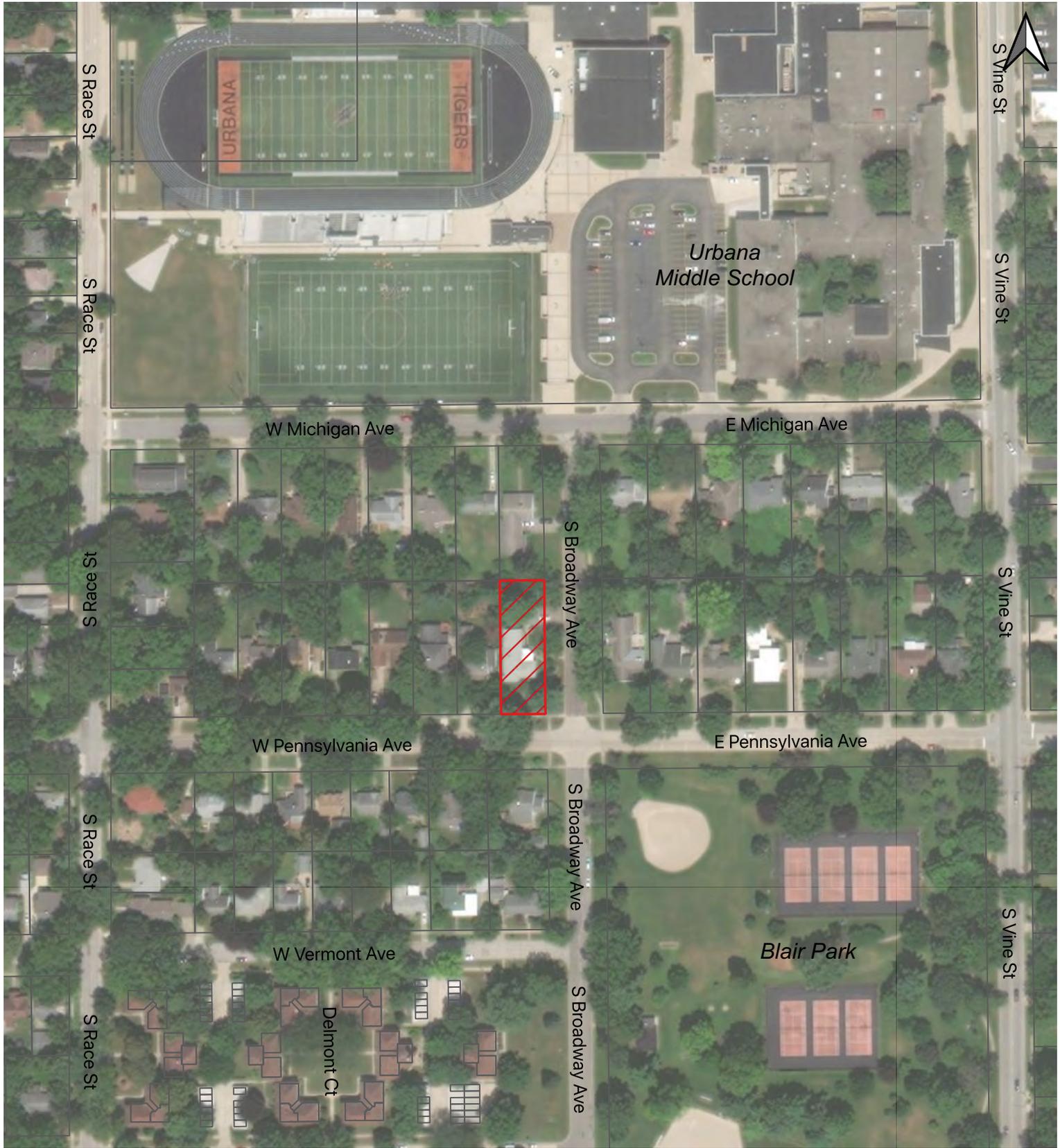
Staff recommends that the Zoning Board of Appeals recommend **APPROVAL** of a Major Variance to City Council with the following conditions:

1. That the garage generally conforms to the site plan in Exhibit C.

Exhibits:       A: Location Map  
                  B: Zoning Map  
                  C: Site Plan for Garage  
                  D: Site Photos  
                  E: Application for a Major Variance

cc:               Marc and Fran Ansel, Owner/Applicant

# Exhibit A - Location Map



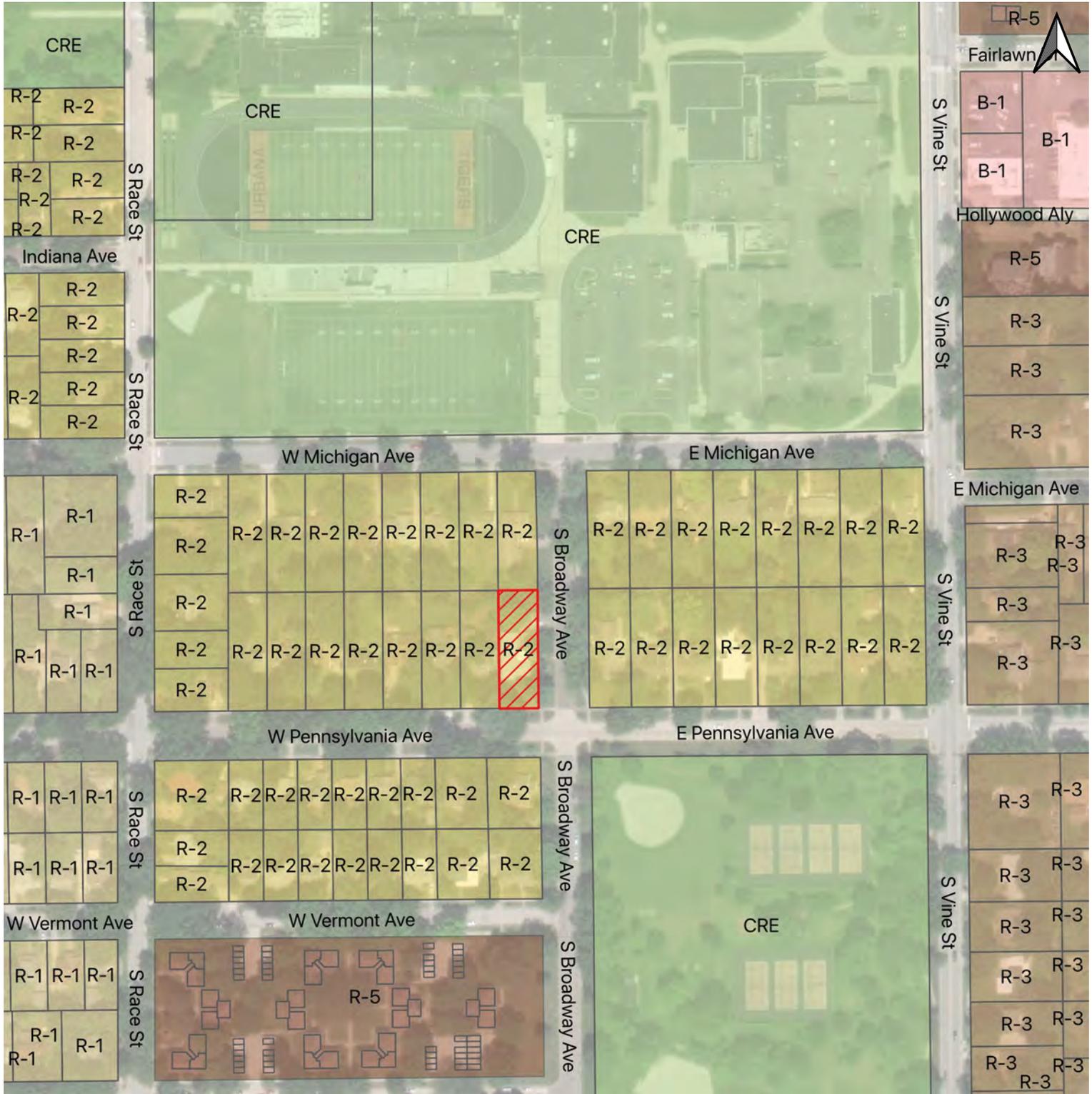
Case No. ZBA-2020-MAJ-03  
 Subject Major Variance  
 Location 102 W. Pennsylvania Ave.  
 Petitioner Fran and Marc Ansel

### Legend

-  Subject Property
-  Parcels



# Exhibit B - Zoning Map



**Case No.** ZBA-2020-MAJ-03  
**Subject** Major Variance  
**Location** 102 W. Pennsylvania Ave.  
**Petitioner** Fran and Marc Ansel

## Legend

-  Subject Property
-  Parcels
- Current Zoning**
-  B-1
-  CRE
-  R-1
-  R-2
-  R-3
-  R-5

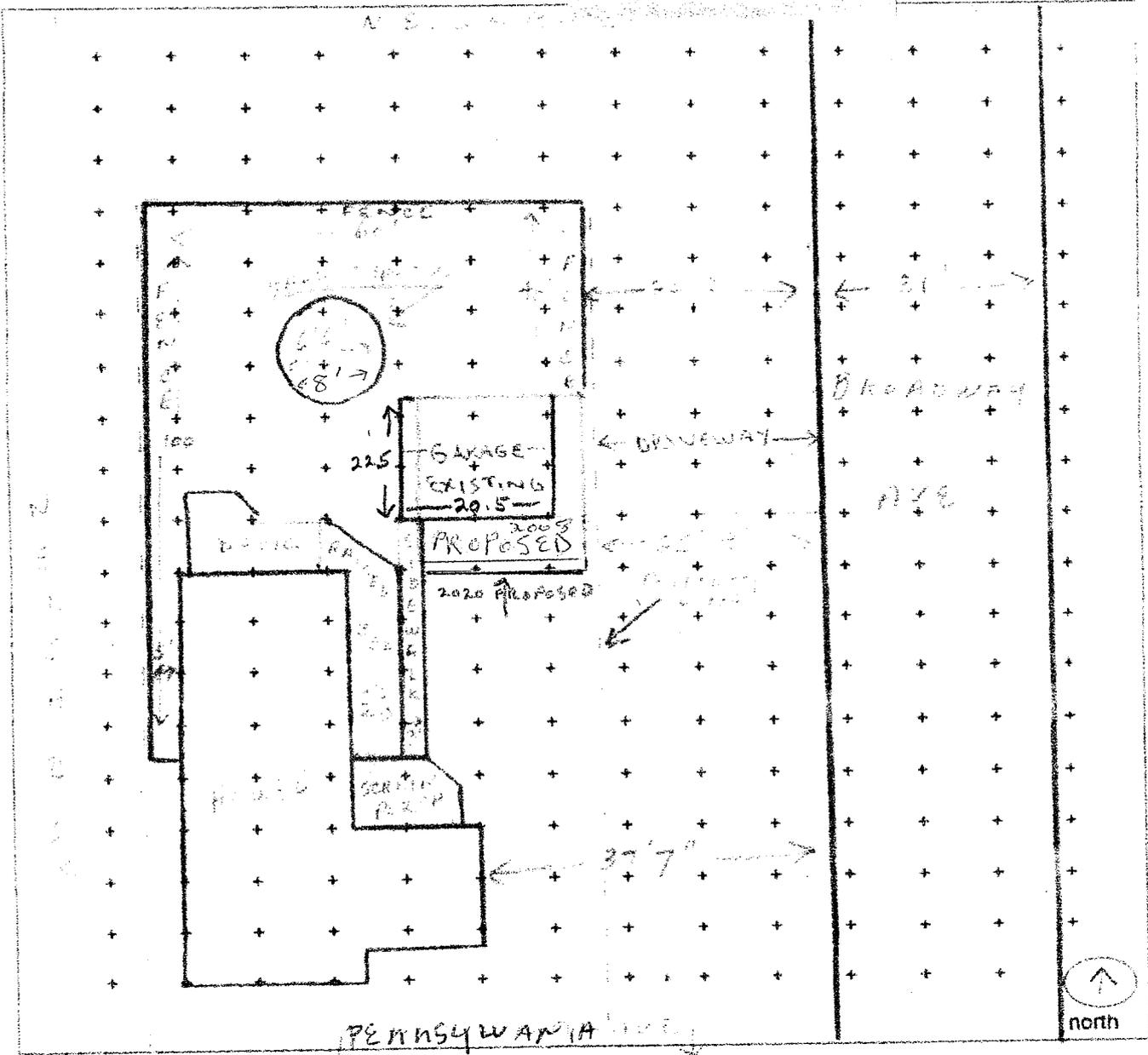
0 250 500 ft



ANSEL  
 102 W PENNSYLVANIA  
 URBANA 61801

07-24-2020

MICHIGAN AVE



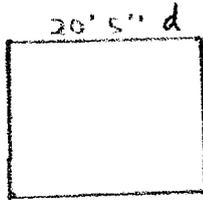
SCALE: 1" = 10'

**SITE OR PLOT PLAN**

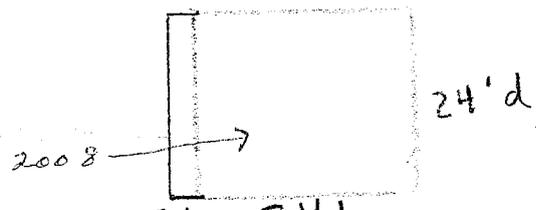
PROJECT ADDRESS: 102 W PENNSYLVANIA AVE

NOTE: 1. PLOT PLAN MUST SHOW: PROPERTY LINES, ANY EXISTING OR PROPOSED CONSTRUCTION ON THE LOT, AND DISTANCES (SETBACKS) FROM PROPERTY LINES TO BUILDING. ALSO SHOW APPLICABLE STREETS AND DRIVES. EXISTING OR PROPOSED.

2. IF THERE ARE ANY PARCELS OF PROPERTIES WHICH ADJOIN THE AFOREMENTIONED PROPERTY AND ARE NOT NOTED ABOVE, THIS APPLICATION IS NULL AND VOID.



EXISTING GARAGE

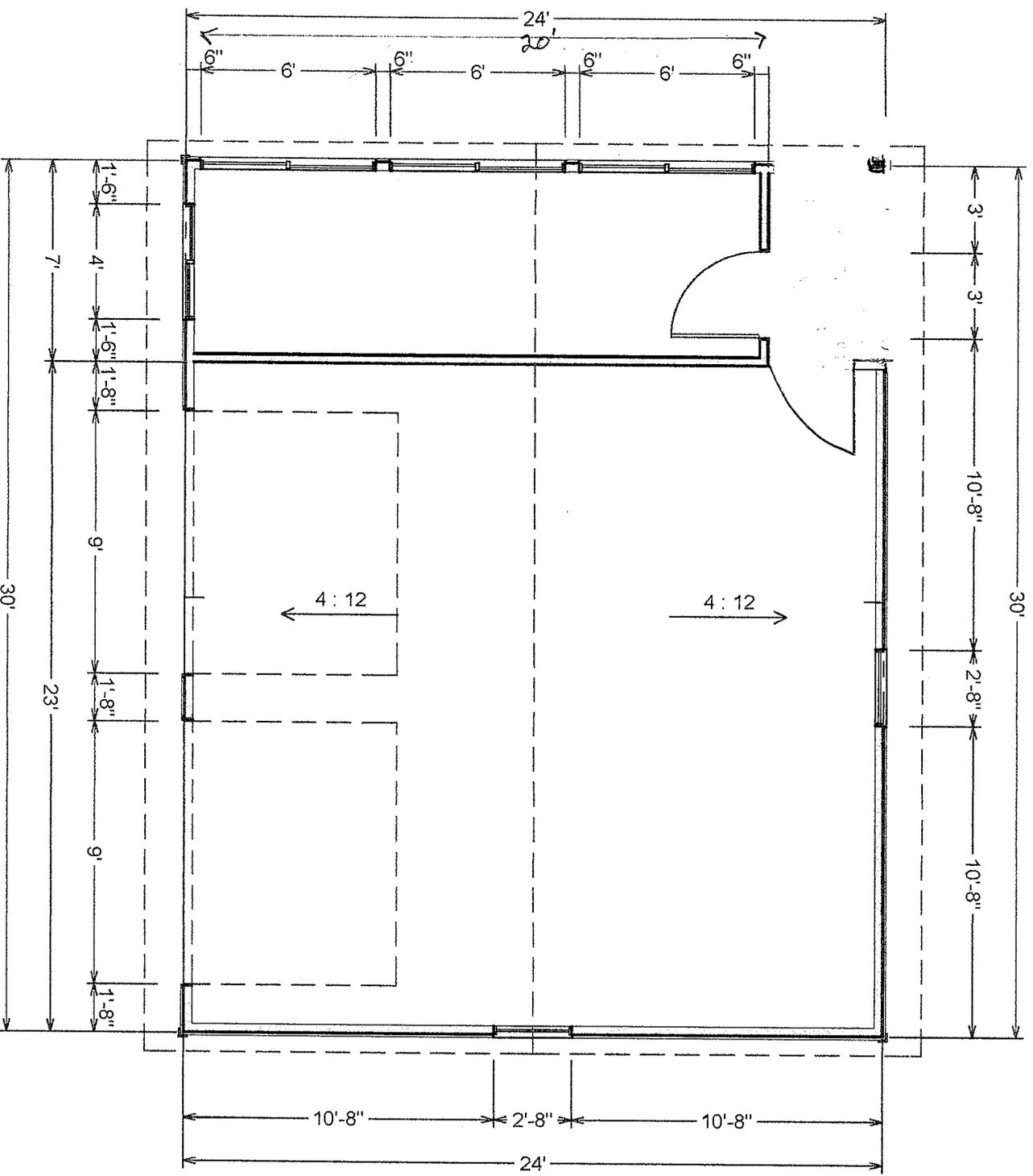


PROPOSED 2020 → 30' 24' w

PRELIMINARY

DRAWING

07-24-2020



Fram Ansel

Sheet #

1

Scale: 3/16"=1'

Date: 10/4/2019

Drawing By:

Coach House Garages



**Coach House Garages**

MORE THAN JUST A GARAGE... IT'S A COACH HOUSE

700 Mill St.

Arthur IL 61911

Phone-217-543-3761

FAX-217-543-3350







# 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.

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

Date Request Filed \_\_\_\_\_ ZBA Case No. \_\_\_\_\_

Fee Paid - Check No. \_\_\_\_\_ Amount \_\_\_\_\_ Date \_\_\_\_\_

### 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*)

replace existing garage with reduced setback \_\_\_\_\_ on the property described below, and in conformity with the plans described on this variance request.

#### 1. APPLICANT CONTACT INFORMATION

Name of Applicant(s): fran & marc ansel

Phone: 217-649-2138

Address (street/city/state/zip code): 102 w. pennsylvania ave., urbana, il 61801

Email Address: fansel@shout.net

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

#### 2. OWNER INFORMATION

Name of Owner(s): marc j. ansel

Phone: 217-384-7654

Address (street/city/state/zip code): 102 w. pennsylvania ave., urbana, il 61801

Email Address: mjansel@shout.net

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: 102 w. pennsylvania ave., urbana, il 61801

PIN # of Location: 93-21-17-451-021

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

Current Zoning Designation: **r-2**

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

Proposed Land Use: **residence**

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

**lot 22 and the east one-half of lot 23 in the de young's second subdivision to the city of urbana, situated in champaign county, il**

#### **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.

**This is explained in the attached 2008-05-15 Urbana DCDS memorandum & discussion packet which includes our application for variance that was applied for and approved in 2008 (ZBA Case No. 2008-MAJ-07), which answer these questions.**

**a current update to the explanation in 2008 is that our arborist and a contractor believe the existing slab could be removed safely.**

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.

**This is explained in the attached 2008-05-15 Urbana DCDS memorandum & discussion packet which includes our application for variance that was applied for and approved in 2008 (ZBA Case No. 2008-MAJ-07), which answer this question.**

**an update to the answer- in 2008 the bald cypress was 7' in diameter with 16' circumference - today it is 8' in diameter with 24' circumference**

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

**This is explained in the attached 2008-05-15 Urbana DCDS memorandum & discussion packet which includes our application for variance that was applied for and approved in 2008 (ZBA Case No. 2008-MAJ-07), which answers this question.**

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

**This is explained in the attached 2008-05-15 Urbana DCDS memorandum & discussion packet which includes our application for variance that was applied for and approved in 2008 (ZBA Case No. 2008-MAJ-07), which answers this question.**

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

**This is explained in the attached 2008-05-15 Urbana DCDS memorandum & discussion packet which includes our application for variance that was applied for and approved in 2008 (ZBA Case No. 2008-MAJ-07), which answers this question.**

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

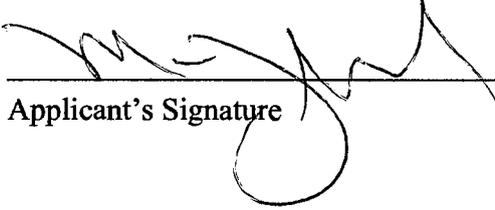
**This is explained in the attached 2008-05-15 Urbana DCDS memorandum & discussion packet which includes our application for variance that was applied for and approved in 2008 (ZBA Case No. 2008-MAJ-07), which answers this question.**

***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

7-24-2020  
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



**DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES**

*Planning Division*

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

**TO:** Urbana Zoning Board of Appeals

**FROM:** Rebecca Bird, Planning Associate *RB.*

**DATE:** May 15, 2008

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

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### **Introduction and Background**

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

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

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

### **Description of the Site**

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

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

### Adjacent Land Uses and Zoning Designations

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

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

| Location | Zoning                         | Existing Land Use       | Comprehensive Plan - Future Land Use |
|----------|--------------------------------|-------------------------|--------------------------------------|
| Site     | R-2, Single-Family Residential | Single Family Residence | Residential – Urban Pattern          |
| North    | R-2, Single-Family Residential | Duplex                  | Residential – Urban Pattern          |
| East     | R-2, Single-Family Residential | Duplex                  | Residential – Urban Pattern          |
| South    | R-2, Single-Family Residential | Single Family Residence | Residential – Urban Pattern          |
| West     | R-2, Single-Family Residential | Single Family Residence | Residential – Urban Pattern          |

### Comprehensive Plan

The 2005 Urbana Comprehensive Plan indicates the future land use for the surrounding area as “Residential – Urban Pattern”. The plan defines the Residential Urban Pattern of Development as:

*“A pattern of development that is typically found in older, established neighborhoods. Includes a grid network of streets with, in some cases, vehicular access from rear alleys. Streets may be narrow in order to slow down traffic and favor the pedestrian. The urban pattern also contains a well-connected sidewalk system that encourages walking and provides convenient pedestrian access to nearby business centers. May include smaller lots where homes face the street and the presence of garages along the street is minimized.”*

## Discussion

The requested variance comes as a result of a desire by the petitioner to enlarge a substandard garage and protect a bald cypress tree in the process. The existing garage is deteriorating and the petitioners feel it is necessary to replace it. The existing garage is 20.4 feet by 22.3 feet, while the proposed garage would be 24 feet by 24 feet. The petitioners explained that this is the standard garage footprint today and to deviate from it would require having a custom garage built at a greater expense.

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

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

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

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

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

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

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

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

## Variance Criteria

Section XI-3 of the Urbana Zoning Ordinance requires the Zoning Board of Appeals to make findings based on variance criteria. The following is a review of the criteria outlined in the ordinance, followed by staff analysis for this case:

1. *Based on evidence presented, determine whether there are special circumstances or special practical difficulties with reference to the parcel concerned, in carrying out the strict application of the ordinance.*

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

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

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

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

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

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

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

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

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

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

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

## Summary of Findings

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

## Options

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

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

## Staff Recommendation

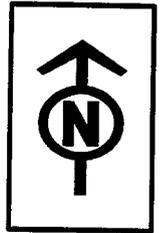
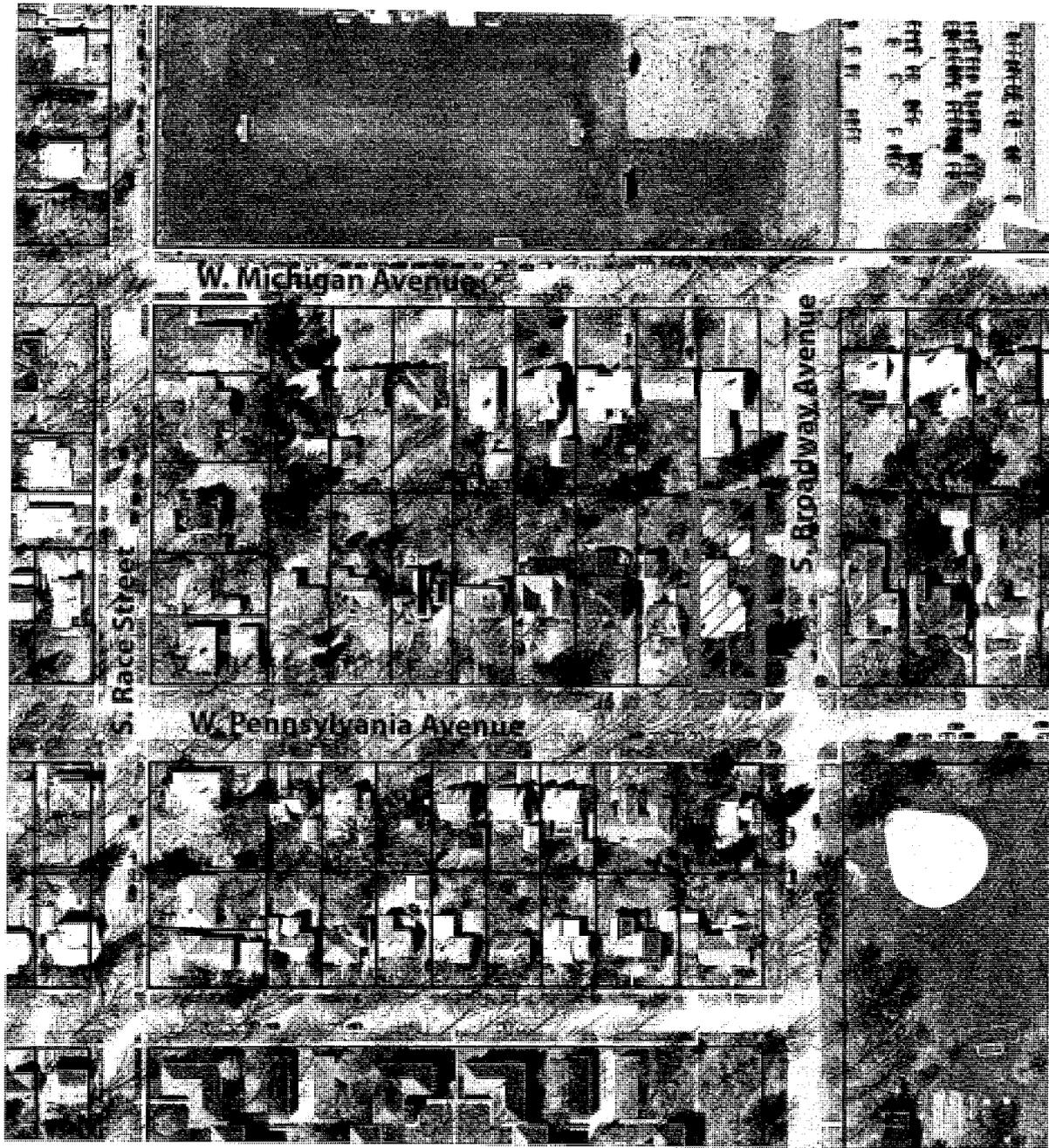
Based on the analysis and findings presented in the discussion above, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommends that the Zoning Board of Appeals forward major variance Case ZBA-2008-MAJ-07 to the Urbana City Council with a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

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

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

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

# EXHIBIT A: Location Map



**ZBA Case:** ZBA-2008-MAJ-07

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

**Petitioner:** Marc and Fran Ansel

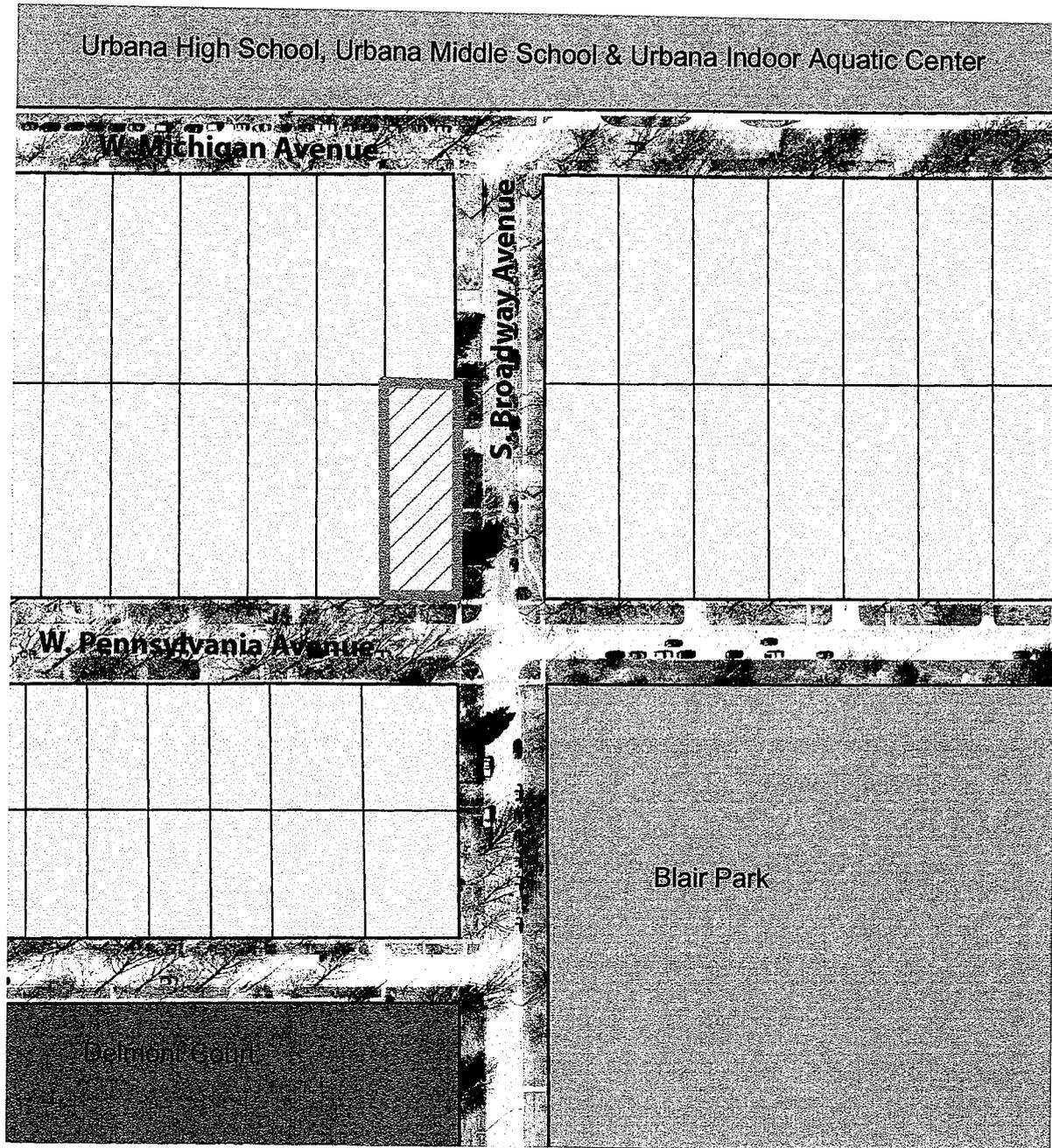
**Location:** 102 W. Pennsylvania Ave.

**Zoning District:** R-2: Single-Family Residential

 Subject Property

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

# Exhibit B: Existing Zoning Map



**ZBA Case:** ZBA-2008-MAJ-07

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

**Petitioner:** Marc and Fran Ansel

**Location:** 102 W. Pennsylvania Ave.

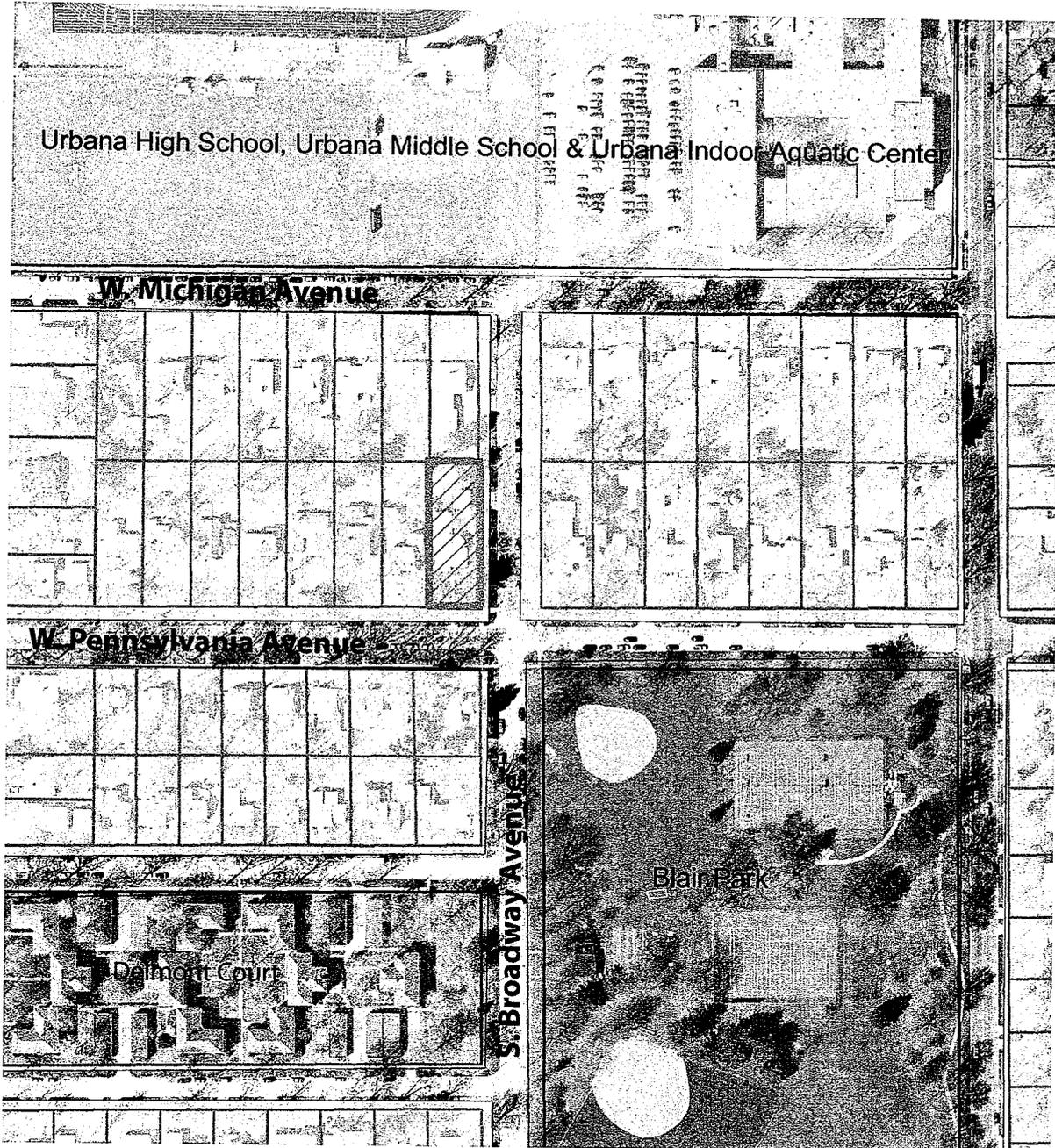
**Zoning District:** R-2: Single-Family Residential

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

## Legend

-  Subject Property
-  CRE
-  R2
-  R5

# Exhibit C: Future Land Use Map



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

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

## Legend

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

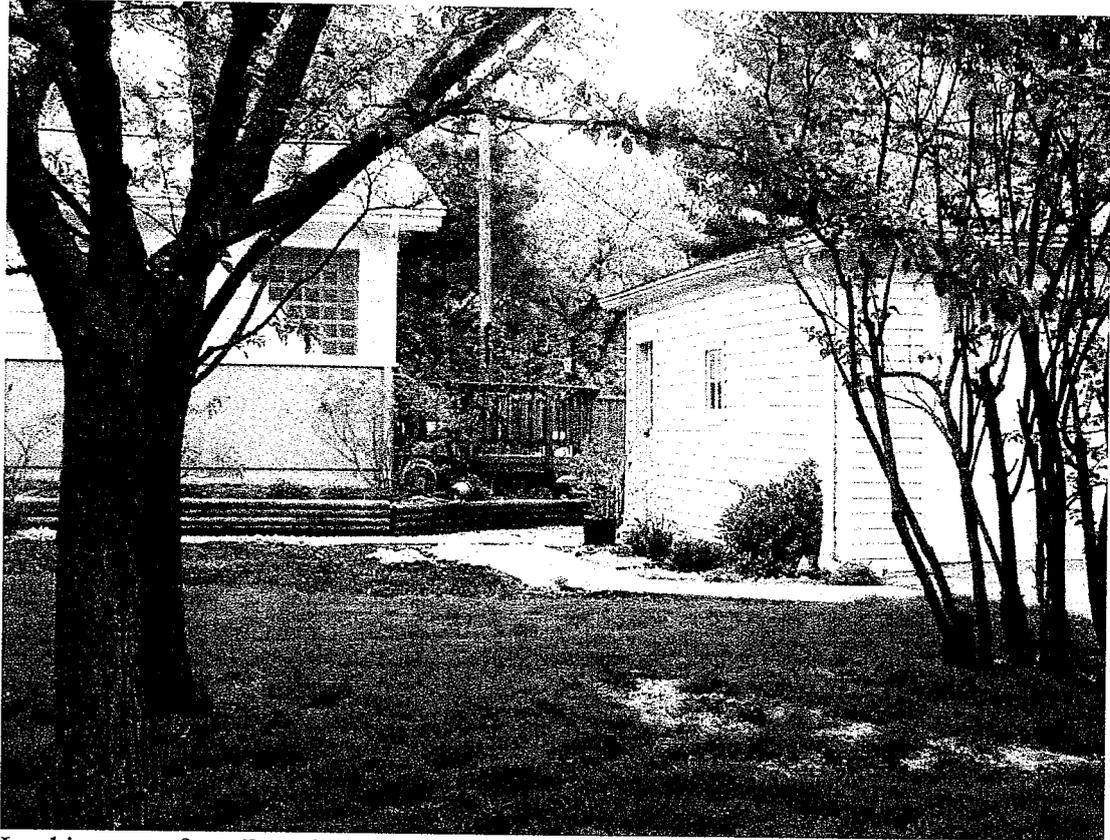
## Exhibit D: Site Photos



Looking west at Bald Cypress from Broadway Avenue

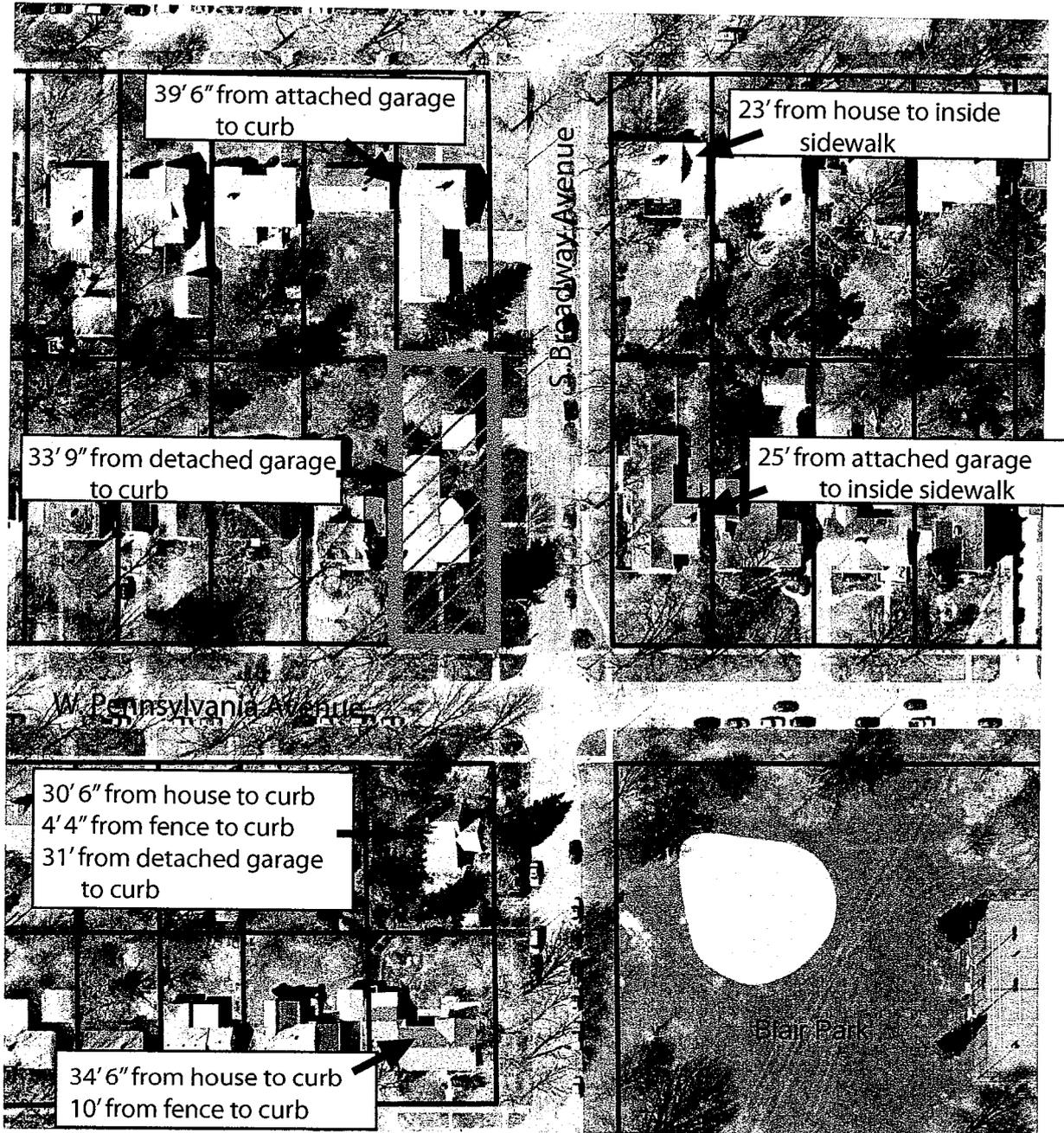


Looking west at existing garage from Broadway. The Bald Cypress is to the right of the garage.



Looking west from Broadway at existing garage and house.

# Exhibit E: Setbacks



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

**Legend**  
 Subject Property



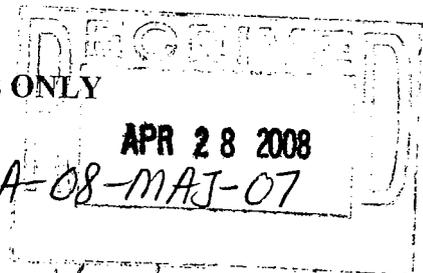
# Request for Variance

# Zoning Board Of Appeals

APPLICATION FEE – \$150.00 (Major) and \$125.00 (Minor)

The Applicants are responsible for paying the cost of legal publication fees as well. The fees usually run from \$75.00 to \$125.00. The applicant is billed separately by the News-Gazette.

DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY



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

**PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION:**

A VARIATION is requested in conformity with the powers vested in the Zoning Board of Appeals to permit (insert use or construction proposed and the type and extent of variation requested) a new detached garage with reduced setback.

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

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

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

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

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

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

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

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

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

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

5. Name of Professional Site Planner(s) \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_  
(street/city) (state) (zip)

6. Name of Architect(s) \_\_\_\_\_ Coachhouse Garages \_\_\_\_\_ Phone \_\_\_\_\_

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

7. Name of Engineers(s) \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_  
(street/city) (state) (zip)

8. Name of Surveyor(s) \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_  
(street/city) (state) (zip)

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

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

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

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

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

Zoning Designation R-2

**REASONS FOR REQUEST FOR VARIATION:**

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

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

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

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

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

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

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

See answer to previous question.

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

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

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

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

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

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

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

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

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

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

Respectfully submitted this 25<sup>TH</sup> day of April, 2008, A.D.

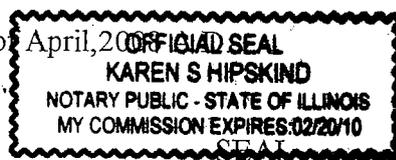
Marc J. Ansel Frances V. Ansel  
Signature of Applicants

STATE OF ILLINOIS )  
  )  
  ) SS  
CHAMPAIGN COUNTY )

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

Subscribed and sworn to before me on this 28<sup>th</sup> day of April, 2008

Karen S. Hipskind  
Notary Public



Petitioner's Attorney: \_\_\_\_\_  
(if applicable)

\_\_\_\_\_  
(address)  
\_\_\_\_\_  
(telephone number )

**PLEASE RETURN THIS FORM ONCE COMPLETED TO:**

City of Urbana  
Community Development Department Services  
Planning Division  
400 South Vine Street  
Urbana, IL 61801

Or Fax to (217) 384-2367  
Please call (217) 384-2440 if you have any questions.