



## DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

*Planning Division*

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

**TO:** Urbana Zoning Board of Appeals

**FROM:** Christopher Marx, AICP, Planner I

**DATE:** June 15, 2018

**SUBJECT:** **ZBA-2018-C-03:** A request for a Conditional Use Permit by Carol Osgood to allow a second principal structure on her property at 603 East Oregon Street in the R-3, Single and Two-Family Residential zoning district.

**ZBA-2018-MAJ-08:** A Major Variance request by Carol Osgood for a reduction in the required eastern side yard setback from five feet to zero feet at 603 East Oregon Street in the R-3, Single and Two-Family Residential zoning district.

**ZBA-2018-MAJ-09:** A Major Variance request by Carol Osgood for a reduction in the required southern rear yard setback from ten feet to zero feet at 603 East Oregon Street in the R-3, Single and Two-Family Residential zoning district.

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## Introduction

Carol Osgood requests a Conditional Use Permit and two Major Variances to permit a second principal structure that encroaches into the side and rear yard setbacks on her property at 603 East Oregon Street. The zoning requests would allow her to add an apartment to the upper level of her existing detached garage.

The Urbana Zoning Board of Appeals must review the applications and hold a public hearing. The Board may approve, approve with conditions, or deny the Conditional Use Permit. For the Major Variances to be approved, the Zoning Board of Appeals must recommend approval by a two-thirds majority to forward them to City Council for final review and approval.

## Background

The applicant would like to add an apartment unit to an existing, detached, two-car garage on her property. The garage is 672 square feet, on the southeastern corner of the property. It contains parking spaces for two vehicles with some space for storage. The applicant is renovating the upper level of the garage and would like to add a 450 square-foot, one-bedroom apartment (See Exhibit C). The property would still be able to accommodate the four off-street parking spaces required by the Zoning Ordinance, with two spaces in the garage and room for three vehicles on the driveway. The size and

height of the garage would be unchanged.

The garage is currently classified as an accessory structure to the house on the property. The addition of a kitchen and bathroom, with independent access from the exterior of the structure would reclassify the second story as a dwelling unit, as defined in Article II of the Zoning Ordinance. A second dwelling unit, in a separate building from the house<sup>1</sup>, would constitute two principal structures on one lot. Section V-3.C of the Zoning Ordinance states that more than one principal structure on a lot is allowed with a Conditional Use Permit.

While a Conditional Use Permit would allow a second principal structure, it would also reclassify the garage as a nonconforming structure. As an accessory structure, the garage is allowed to encroach into the required side and rear yard setbacks up to 18 inches from the property line<sup>2</sup>. If the garage is converted to a second principal structure, it would be required to be set back five feet from the side yard property line and ten feet from the rear yard property line. The applicant is therefore requesting two Major Variances to permit the existing garage to encroach into the required yards as a principal structure. Because the deviation from the yard requirements of the Zoning Ordinance is more than 25%, the requests are classified as Major Variances per section XI-3.C.2.b.1 of the Zoning Ordinance.

**Description of the Site and Surrounding Properties**

The subject property contains a single family home and is zoned R-3, Single- and Two-Family Residential. It is a 13,934 square foot corner lot. All of the neighboring properties also contain single-family homes and are zoned R-3.

The following chart identifies the current zoning, existing land uses, and Comprehensive Plan future land use designations of the site and surrounding properties (see Exhibits A, B, and C).

<b>Direction</b>	<b>Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use</b>
Site	R-3, Single- and Two-Family Residential	Single-Family Home	Residential
North	R-3, Single- and Two-Family Residential	Single-Family Home	Residential
East	R-3, Single- and Two-Family Residential	Single-Family Home	Residential
South	R-3, Single- and Two-Family Residential	Single-Family Home	Residential
West	R-3, Single- and Two-Family Residential	Single-Family Home	Residential

<sup>1</sup> In the R-3 district, two dwelling units in one building (i.e. a duplex) would be allowed by right.

<sup>2</sup> Zoning Ordinance Section VI-5.B.9

## Discussion

The applicant needs a Conditional Use Permit to put an apartment on the second story of her existing garage. If granted, she would also need two Major Variances to allow the garage to continue to encroach into the required side and rear yards. The Conditional Use Permit procedures are meant to ensure that the use is consistent with the intentions of the R-3 zoning district.

The dimensions of the property and the details of the applicant's proposal make it appropriate to approve a Conditional Use Permit. First, two dwelling units are permitted by right in the R-3 district on any lot that is at least 6,000 square feet in area and 60 feet in width, when platted before 1970, according to Section VI-3.B of the Zoning Ordinance. If the proposed second dwelling unit was not detached from the existing principal structure, a second dwelling unit would be allowed without a Conditional Use Permit. Additionally, the property is quite large and can accommodate the addition of a small dwelling unit. The location of off-street parking and vehicle access on the property will not change. The existing driveway and garage would provide the required four parking spaces for both dwelling units. Finally, the request is to improve an existing structure. While the garage would change from being an accessory structure to being a principal structure, its physical footprint would remain the same. The property already meets the required Floor-Area and Open Space Ratios, and the proposal would not change either.

The Major Variances would allow the existing garage to serve as a principal structure to house vehicles and an apartment. The apartment would provide an affordable unit for a potential tenant or for an individual related to the homeowner. The property owner is already able to add living space to the garage without a Conditional Use Permit. It is only with the inclusion of a kitchen, bathroom, and separate entrance that reclassify the building as a principal structure and require the three requested zoning approvals.

## Requirements for a Conditional Use Permit

According to Section VII-2 of the Urbana Zoning Ordinance, an application for a Conditional Use Permit shall demonstrate the following:

*1. That the proposed use is conducive to the public convenience at that location.*

The proposed use is conducive to the public convenience at its location. The proposed apartment would allow the applicant to provide living space for a caregiver when she is older and remain in her household and provide aging community benefits. It would also provide an additional affordable apartment for the neighborhood.

*2. That the proposed use is designed, located, and proposed to be operated so that it will not be unreasonably injurious or detrimental to the district in which it shall be located, or otherwise injurious to the public welfare.*

The use would not be unreasonably injurious or detrimental to the public welfare in the district. The apartment would be inside an existing garage, and no changes would be made to the building's footprint. The property would be able to accommodate the required parking for both the main household and the proposed apartment. There would be no loss of open space on the property. Furthermore, an additional dwelling unit could be added to the garage without a Conditional Use Permit if the garage was attached to the house.

- 3. That the proposed use conforms to the applicable regulations and standards of, and preserves the essential character of, the district in which it shall be located, except where such regulations and standards are modified by Section VII-6.*

The proposed use would conform to all applicable regulations and preserve the essential character of the R-3 zoning district. The existing garage and house would remain the same, with no changes to their building footprints or exterior appearance. While converting the garage to a principal structure would make it nonconforming with respect to the property's required yards, the Conditional Use Permit can be made contingent on the approval of the requested Major Variances.

### **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 and the criteria outlined in the ordinance:

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

There are special circumstances and difficulties with the concerned parcel in carrying out the strict application of the law. The property could be granted a Conditional Use Permit for a second principal structure, but the structure would then be deemed nonconforming because it already encroaches into the required side and rear yards. The garage already exists as a conforming accessory structure, and its location and size will remain the same whether the variances are granted or not.

- 2. 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 proposed variance would not serve as a special privilege. The garage already exists and its structural footprint would not be altered.

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

The variance requested was not the result of a situation or condition having been knowingly created by the Petitioner. The garage was constructed before the applicant purchased the property.

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

The variance will not alter the essential character of the neighborhood. The garage already

exists and its footprint would not change. The proposed improvements would be entirely inside the garage.

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

The variances will not cause a nuisance to the adjacent property. The building footprints would remain the same and the property can accommodate the four off-street parking spaces required by the Zoning Ordinance. The additional dwelling unit would not drastically change the density of the property.

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

The variances represent the minimum deviation from the requirements of the Zoning Ordinance. The requests would allow the existing building to remain in place.

## **Consideration**

According to Section VII-2, the Zoning Board of Appeals shall determine whether the reasons set forth in the application, and the evidence adduced during the public hearing, justify the granting of the Conditional Use Permit, and whether the proposed use will be in harmony with the general purpose and intent of the Zoning Ordinance, and will not be unreasonably injurious or detrimental to the district in which it shall be located, or otherwise injurious or detrimental to the public welfare.

In addition, the Zoning Board of Appeals may also impose such additional conditions and requirements on the operation of the proposed use as are appropriate or necessary for the public health, safety, and welfare, and to carry out the purposes of the Zoning Ordinance, including but not limited to the following:

1. Regulate the location, extent, and intensity of such use;
2. Require the screening of such use by means of fences walls or vegetation;
3. Stipulate a required minimum lot size;
4. Regulate vehicular access and volume;
5. Require conformance to health, safety, and sanitation requirements as necessary;
6. Increase the required yards;
7. Any other conditions deemed necessary to affect the purposes of this Ordinance.

## **Summary of Findings**

1. Carol Osgood has applied for a Conditional Use Permit to allow a second principal structure on her property at 603 East Oregon Street in the R-3, Single-and-Two Family Residential zoning district. She has also applied for two Major Variances to permit a setback of zero feet in the required side and rear yards.
2. The Conditional Use Permit and Major Variance requests would allow Ms. Osgood to add an apartment to the upper level of her existing two-car garage, with 450 square feet of living space.

3. If granted, the proposed Conditional Use Permit would make the garage nonconforming, as only accessory structures may encroach into required side and rear yards. The two Major Variance requests would address the nonconformity that would be created by granting the Conditional Use Permit.
4. The property is currently compliant with the Zoning Ordinance requirements for floor area ratio, open space, and off-street parking. The property would remain compliant with the Zoning Ordinance if the proposed Conditional Use Permit and Major Variances are granted.
5. The proposed use is conducive to the public convenience at that location.
6. The use would not be unreasonably injurious or detrimental to the public welfare in the district in which it would be located.
7. The proposed use would conform to all applicable regulations and preserve the essential character of its zoning district.
8. The proposed variances are due to special circumstances and difficulties in carrying out the strict application of the ordinance.
9. The proposed variances would not serve as a special privilege.
10. The variances requested were not the result of a situation or condition having been knowingly created by the Petitioner.
11. The variances will not alter the essential character of the neighborhood.
12. The variances will not cause a nuisance to the adjacent property.
13. The variances represent the minimum deviation from requirements of the Zoning Ordinance.

## Options

The Zoning Board of Appeals has the following options in Case No. ZBA-2018-C-03:

1. **Grant** the conditional use as requested based on the findings outlined in this memo; or
2. **Grant the conditional use with conditions.** If the Urbana Zoning Board of Appeals elects to add conditions they should articulate findings accordingly; or
3. **Deny** the conditional use. If the Zoning Board of Appeals elects to do so, the Board should articulate the findings supporting its denial.

The Zoning Board of Appeals has the following options in Case Nos. ZBA-2018-MAJ-08 and ZBA-2018-MAJ-09:

1. Forward the cases to City Council with two-thirds of members voting to recommend to **approve** the variances as requested, based on the findings outlined in this memo; or
2. Forward the cases to City Council with two-thirds of members voting to recommend to **approve the variances with certain terms and conditions**, and if so, articulate all terms, conditions, and findings; or
3. **Deny** the variance requests, and if so, articulate findings supporting the denial.

### **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 **APPROVE** the proposed Conditional Use Permit in Case No. ZBA-2018-C-03 for the reasons articulated above and with the following conditions:

1. The apartment is confined to the existing garage.
2. The existing garage is granted Major Variances to permit its encroachment as a principal structure into the required side and rear yards.
3. The garage improvements generally conform with the site plan in Exhibit D, dated June 1, 2018, in the Memorandum of Case No. ZBA-2018-C-03, submitted in this application.
4. The structure conforms with all applicable zoning and building safety codes in the City.

Staff recommends that the Zoning Board of Appeals recommend **APPROVAL** of the proposed Major Variances to City Council in Case Nos. ZBA-2018-MAJ-08 and ZBA-2018-MAJ-09 for the reasons articulated above and with the following conditions:

1. The encroachments are only permitted for the existing garage.


Attachments: Exhibit A: Location and Existing Land Use Map  
Exhibit B: Zoning Map  
Exhibit C: Site Plan  
Exhibit D: Site Photos  
Exhibit E: Conditional Use Permit Application  
Exhibit F: Major Variance Application

CC: Carol Osgood

# Exhibit A: Location & Existing Land Use Map



Case: ZBA-2018-C-03, ZBA-2018-MAJ-08, ZBA-2018-MAJ-09  
Subject: Conditional Use Permit, Major Variances - Required Yard Setback Reduction  
Location: 603 East Oregon Street  
Petitioner: Carol Osgood



 Subject Property



# Exhibit B: Zoning Map



Case: ZBA-2018-C-03, ZBA-2018-MAJ-08, ZBA-2018-MAJ-09  
Subject: Conditional Use Permit, Major Variances - Required Yard  
Setback Reduction  
Location: 603 East Oregon Street  
Petitioner: Carol Osgood

 Subject Property  
 R3

Carol Osgood  
603 E. OREGON  
URBANA 61801  
6-1-2018

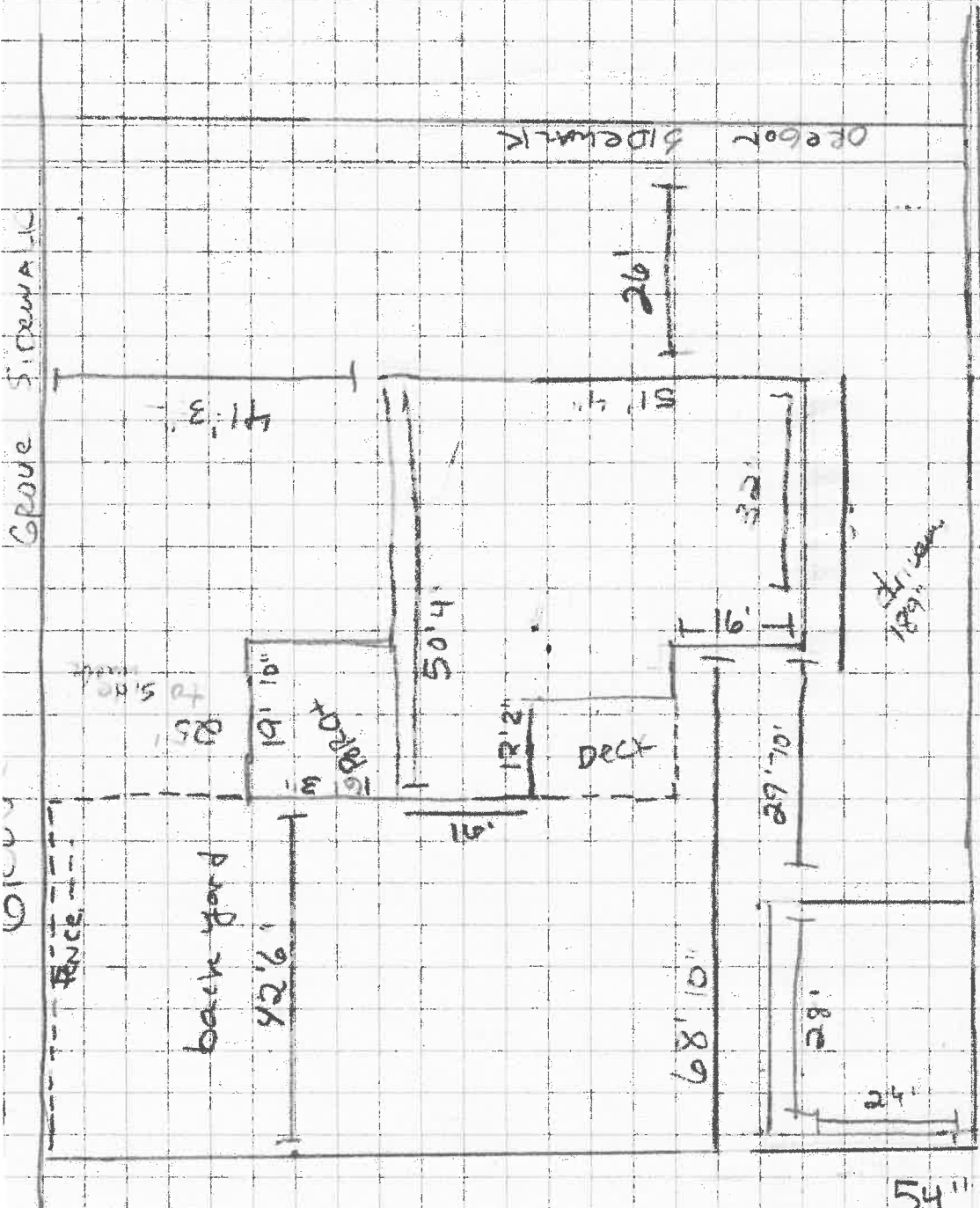
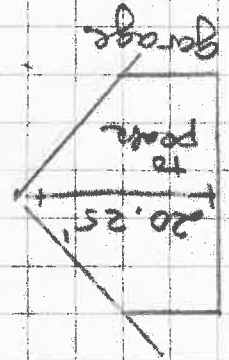
# Exhibit C - Site Plan

OREGON

PROPERTY LINE

Grove Sidewalk

OREGON Sidewalk

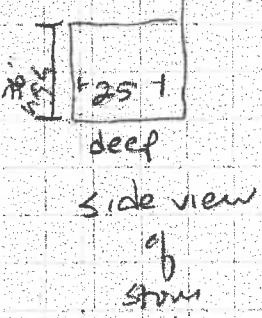
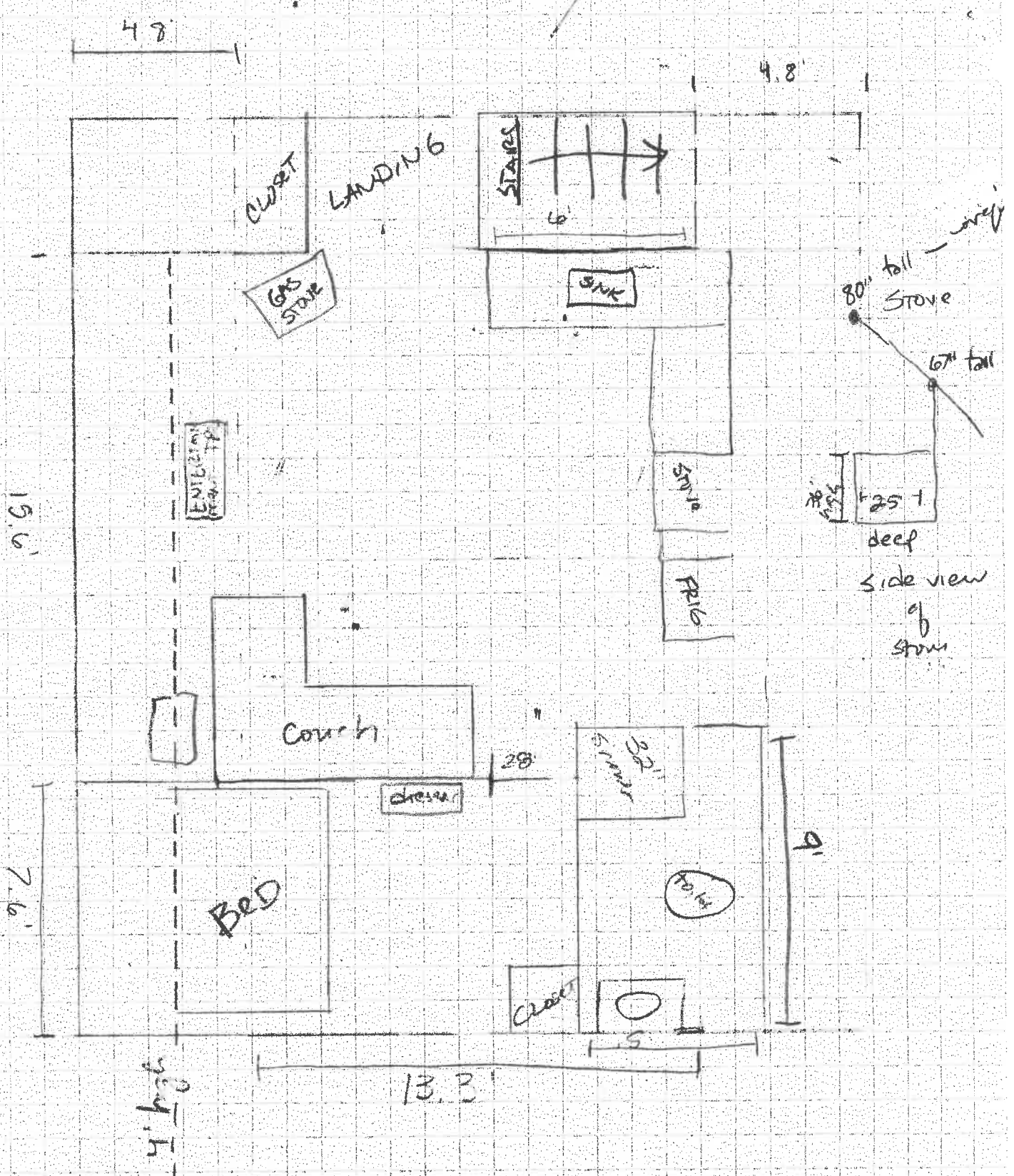
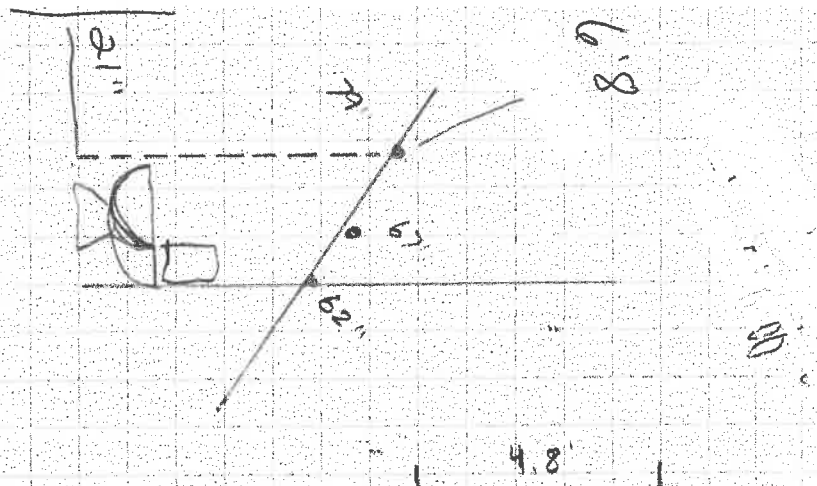


13 1/4" from  
side  
property line  
best guess

← 26 1/2"  
between garage  
and fence

54"  
between back of  
garage + fence

Carol Osgood  
 603 E. OREGON  
 URBANA 61801



## Exhibit D – Site Pictures



# Exhibit E - Conditional Use Permit Application



## Application for Conditional Use Permit

## 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 05-18-2018 ZBA Case No. ZBA-2018-C-03  
Fee Paid - Check No. \_\_\_\_\_ Amount \_\_\_\_\_ Date \_\_\_\_\_

### PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION

A CONDITIONAL USE PERMIT is requested in conformity with the powers vested in the Zoning Board of Appeals to permit the following use or construction purpose:

on the property described below, and in conformity with the plans in the permit application.

#### 1. APPLICANT CONTACT INFORMATION

Name of Applicant(s): Carol Osgood Phone: 217-480-6612  
Address (street/city/state/zip code): 603 E. Oregon-URBANA 217-344-2925  
Email Address: carolosgood@yahoo.com  
Property interest of Applicant(s) (Owner, Contract Buyer, etc.):

#### 2. OWNER INFORMATION

Name of Owner(s): Same 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: 603 E. Oregon St. corner of Oregon & Grove  
PIN # of Location: 92-21-17-287-001  
Lot Size: 0.3198 0.32 acres 13934  $\square$  feet  
Current Zoning Designation: R3

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

Proposed Land Use: *remodel existing 2nd floor of garage into apartment.*

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 CONDITIONAL USE PERMIT

Explain how the proposed use is conducive to the public convenience at the location of the property.

*The neighborhood is already zoned for duplexes. The 2nd story of the garage (if allowed by city of Urbana) will be made into an apartment.*

*The main reason we want to do this is to provide a unit for a care-giver to live if we need that in our older years. I'm already 65...*

*- In the meantime, the apartment would provide affordable housing for the neighborhood.*

Explain how the proposed use is designed, located and proposed to be operated, so that it will not be unreasonably injurious or detrimental to the district in which it shall be located, or otherwise injurious or detrimental to the public welfare.

The structure is already in place. Nothing about the structure or position on the lot will change. The yard is large, with plenty of open space. The double driveway provides plenty of off street parking for the existing and proposed residence. The new apartment would be an asset to the neighborhood and not diminish it in any way.

Explain how the proposed use conforms to the applicable regulations and standards of, and preserves the essential character of, the district in which it shall be located (except where such regulations and standards may be modified by Section VII-3 of the Urbana Zoning Ordinance, 1979).

It would not change much at all. The structure has existed the way it is for 25 years. The neighborhood is already zoned for duplexes. The garage apartment would be about 450 sq feet. It would provide a nice apartment for someone or a nice office space and guest quarters for our home.

**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.

Carol Osgood  
Applicant's Signature

May 18, 2018  
Date

# Exhibit F - Major Variance Application



## 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 05-18-2018 ZBA Case No. ZBA-2018-MAJ-08  
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*)

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

#### 1. APPLICANT CONTACT INFORMATION

Name of Applicant(s): Carol Osgood Phone: 217 480-6612  
Address (street/city/state/zip code): 603 E. Oregon St Urbana  
Email Address: carolosgood@yahoo.com  
Property interest of Applicant(s) (Owner, Contract Buyer, etc.):

#### 2. OWNER INFORMATION

Name of Owner(s): Same 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: 603 E. Oregon Street (at Grove)  
PIN # of Location: 92-21-17-287-001  
Lot Size: 0.3198 0.32 acres 13934 sq feet



Current Zoning Designation: **R3**  
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**

<b>Name of Architect(s):</b>	Phone:
Address ( <i>street/city/state/zip code</i> ):	
Email Address:	
<b>Name of Engineers(s):</b>	Phone:
Address ( <i>street/city/state/zip code</i> ):	
Email Address:	
<b>Name of Surveyor(s):</b>	Phone:
Address ( <i>street/city/state/zip code</i> ):	
Email Address:	
<b>Name of Professional Site Planner(s):</b>	Phone:
Address ( <i>street/city/state/zip code</i> ):	
Email Address:	
<b>Name of Attorney(s):</b>	Phone:
Address ( <i>street/city/state/zip code</i> ):	
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.

We would like to build an apartment above the existing garage. Current structure meets current code for accessory structure. The existing structure was in place when we bought the property.

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 garage was built over 25 years ago - before we bought the property. It meets current code for an accessory structure. We will not alter the exterior or the footprint of the existing structure.

Explain how the variance is not the result of a situation or condition that was knowingly or deliberately created by you (the Petitioner). I had no idea that there were set-back issues related to this project. I had had 2 city employees here to look over the alterations I had in mind. Neither mentioned code issues.

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

Nothing will change for the exterior structure or the lot around it. The apartment would only add 1 person to the house and lot. There is plenty of parking in the driveway and plenty of open space on the lot.

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

It will not change existing structure or landscaping. 2 people currently live in home and the apartment will add 1 more person. The adjacent properties will hardly notice the change.

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

Yes - garage already exists.

**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.

Carol S. Osgood  
Applicant's Signature

may 18, 2018  
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