



## DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

*Planning Division*

m e m o r a n d u m

**TO:** Mayor Diane Wolfe Marlin and City Council Members

**FROM:** Lorrie Pearson, AICP, Community Development Services Director  
Katherine Trotter, Planner I

**DATE:** March 4, 2021

**SUBJECT:** An Ordinance Approving Major Variances (Duplex at 213 W. Illinois St. / ZBA-2020-MAJ-07 and ZBA-2020-MAJ-08)  
An Ordinance Approving a Major Variance (Garage at 213 W. Illinois St. / ZBA-2020-MAJ-09)

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### Introduction

Gary Apfelstadt requests two variances to allow a duplex at 213 West Illinois Street on a lot that is smaller than the Zoning Ordinance requires, with less than the required amount of parking in the R-2, Single-Family Residential zoning district. Section VI-3.B of the Zoning Ordinance requires a minimum lot width of 60 feet and a minimum lot area of 6,000 square feet for duplexes on parcels in the R-2 district that were platted before December 21, 1970. The lot at 213 West Illinois Street is 50 feet wide and has an area of 5,775 square feet, so it is 16.67 percent more narrow and has 3.75 percent less area than required by the Zoning Ordinance. A major variance is therefore required to allow a duplex on the lot.

Table VIII-7 of the Zoning Ordinance requires four parking spaces for a duplex. There are currently two parking spaces on the lot. A major variance is therefore required to reduce the number of parking spaces by 50 percent, from four spaces to two.

The applicant would also like to rebuild the existing garage in its current location, which is in the required front yard, four feet from the west property line. The lot is a corner lot and is required to have 15-foot front yards on both Illinois and Cedar Streets. To rebuild the garage in its current location would therefore require a major variance, since the garage already encroaches 11 feet into the required 15-foot front yard.

At its January 20, 2021 meeting, the Zoning Board of Appeals (ZBA) held a public hearing on cases ZBA-2020-C-05, ZBA-2020-MAJ-07, and ZBA-2020-MAJ-08. Case ZBA-2020-MAJ-09 was not heard at this public hearing due to an error in advertisement. No members of the public spoke regarding the case. Staff received one communication in favor of the variance prior to the public hearing. **The ZBA voted unanimously, with six ayes and zero nays, to grant the conditional use permit and to recommend that City Council approve the requested variances.**

At its February 18, 2021 meeting, the ZBA held a public hearing on case ZBA-2020-MAJ-09. No members of the public spoke regarding the case. Staff received two communications in favor of the variance prior to the public hearing. **The ZBA voted, with four ayes and one nay, to recommend that the City Council approve the requested variance.**

## **Background**

The property at 213 West Illinois Street is in the northeastern portion of the West Urbana Neighborhood. The applicant has owned the property since 2014, when he purchased the home as a duplex. He was unaware of the nonconforming status of the property. Records show that the home has been a duplex since at least 2007, and probably much longer.

The only zoning record pertaining to the house's use is a memo from 1991. The memo was accompanied by Ordinance Number 9091-75, which identified the house as a single-family home and rezoned the property from R-5, High Density Multiple-Family Residential to R-2, Single-Family Residential as part of the City's actions to implement the Downtown to Campus Plan. Prior to the ZBA recently approving the applicant's request for a conditional use permit, there had been no conditional use permit or Certificate of Occupancy on file allowing the duplex use. However, systematic building inspections in 2009 and 2019 list the home as a duplex, and the property has been registered through the rental registration program as a duplex since 2007. It has been a duplex for as long as the applicant has owned it.

One likely scenario is that staff misidentified the house as a single-family home when they conducted an inventory of all properties in West Urbana in the 1980s as a precursor to the Downtown to Campus Plan and subsequent rezoning. Given the layout of the house, which has one entrance along Illinois Street and one entrance at the rear, which is not readily identifiable from the right-of-way as an entrance to a separate unit, it would have been easy to misidentify. While the City followed up their land use inventory of West Urbana with letters to property owners to confirm the presumed land use, it is likely that some properties were still misidentified for any number of reasons.

The ZBA approved a conditional use permit on Wednesday, January 20, 2021, to allow the duplex use. The requested major variances would allow the existing duplex to remain as is: on a substandard lot, with two fewer parking spaces than required by the Zoning Ordinance. Neither the exterior of the home itself nor the lot will be altered. The applicant has also requested a variance to allow his garage to be rebuilt in a required front yard, four feet from the west property line. The lot is a corner lot, with 15-foot required front yards on both Illinois Street and Cedar Street (which the garage faces).

## **Description of Site and Area**

The lot is 5,775 square feet and is located at the corner of West Illinois Street and Cedar Street. Nearby are single-family residences, duplexes, and small apartment buildings. All adjacent properties are also zoned R-2, Single-Family Residential.

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

Table 1. Zoning and Land Use

<b>Location</b>	<b>Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use</b>
Site	R-2, Single-Family Residential	Single-Family	Residential
North	R-2, Single-Family Residential	Duplex Rental	Residential
South	R-2, Single-Family Residential	Single-Family	Residential
East	R-2, Single-Family Residential	Apartment Building, 3-7 Units	Residential
West	R-2, Single-Family Residential	Apartment Building, 3-7 Units	Residential

## **Discussion**

The property at 213 West Illinois Street has been a duplex since before the applicant purchased it in 2014; in 2007, it was registered as having two units through the City’s rental registration program. Two of the requested major variances would allow its continued use as a duplex on a lot that is smaller and narrower than the Zoning Ordinance requires, with two fewer parking spaces than required. The final major variance request would allow the garage to be rebuilt in the same general location as the existing garage, in a required front yard, four feet from the west property line.

The lot was platted in 1900 to be 50 feet wide and 115.5 feet deep, with a lot area of 5,775 square feet. Section VI-3.B of the Zoning Ordinance requires a minimum lot width of 60 feet and a minimum lot area of 6,000 square feet for duplexes on parcels in the R-2 district that were platted before December 21, 1970. The requested major variance would allow the duplex use on a lot that is 16.67% more narrow and 3.75% smaller than required. Without the requested variance, the lot size and width will not change.

The property has two off-street parking spaces in the existing garage. According to Table VIII-7 of the Zoning Ordinance, two-family uses (i.e., duplexes) require two off-street parking spaces per dwelling unit. The property contains two separate dwelling units, one on the first floor of the home and one on the second, so four off-street parking spaces would be required. The building has functioned with two dwelling units and two parking spaces for many years. The requested variance would reduce the parking from four off-street spaces to two.

The applicant requests a separate variance to allow the existing garage to be rebuilt in the required front yard, in generally the same location. Table VI-3 of the Zoning Ordinance requires a 15-foot front yard in the R-2 district. The property at 213 West Illinois Street is a corner lot and is required to have 15-foot front yards on both Illinois and Cedar Streets. The garage would be rebuilt four feet from the west property line on Cedar Street. The narrow lot configuration creates a practical difficulty in rebuilding the garage 15 feet from the property line. The building encroaches into the required front yard on Cedar Street and is only 8 feet from the property line, and there is a garden in the rear yard that the property owner would like to retain.

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

The requested variances are to legalize a nonconforming duplex use that has existed on a substandard lot with less parking than required since before the applicant purchased the property. The applicant is planning to do internal renovations, and legalizing the duplex use as it exists now would allow for reinvestment in the property. The third variance request would allow for the existing garage to be rebuilt in a required front yard, four feet from the property line, as it has existed for over 100 years.

## Variance Criteria

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

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

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

The lot was platted long ago to be smaller and narrower than what is now required by the Zoning Ordinance. The lot size and configuration creates a practical difficulty in providing the required amount of off-street parking spaces, and in rebuilding the garage 15 feet from the west property line. The requested variances will not serve as a special privilege, because they will permit the existing duplex use to continue as it has for many years, and would allow the garage to be rebuilt in the same location as the existing garage.

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

The applicant purchased the house as a duplex in 2014, unaware that the duplex use was nonconforming. There are records of City inspections from 2009 and 2019 acknowledging the house as a duplex, so it was reasonable for the applicant to believe the duplex was allowed. The requested major variances would allow for the duplex use to continue on a substandard lot, with two fewer parking spaces than required by the Zoning Ordinance.

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

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

The duplex use has existed since before the applicant purchased the property and is consistent with the essential character of the neighborhood. The exterior of the house and the lot size will remain unchanged. The garage will be rebuilt in generally the same location and in the same style as the dwelling. There are other nonconforming duplexes and apartments adjacent to the property and in the surrounding area.

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

According to the applicant, and City records, there have been no nuisance complaints at 213 West Illinois Street since he purchased it in 2014. Its continued use as a duplex is unlikely to create a nuisance at this time or in the future. While two parking spaces will be provided on-site, street parking is also available. The property is in the West Urbana Neighborhood, and residents there are eligible to purchase parking permits in the West Urbana Neighborhood Residential Parking Zone.

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

The requested variances will not alter the size of the structure or the property in any way. The request was made to allow the existing duplex use to continue and to bring the property into conformity with the Zoning Ordinance. The lot width of 50 feet and area of 5,775 square feet will not change if the variance request is granted. However, the garage would not be rebuilt as far from the west property line as possible, because the property owner would like to retain the existing garden.

## **Zoning Board of Appeals**

At its January 20, 2021 meeting, the ZBA held a public hearing on cases ZBA-2020-C-05, ZBA-2020-MAJ-07 and ZBA-2020-MAJ-08. Staff received one letter in favor of the request prior to the meeting. No members of the public spoke regarding the case. There was discussion among the Board members and the applicant about the amount of parking on the site. After some discussion, the ZBA voted unanimously (six ayes and zero nays) to grant the conditional use permit to allow a duplex, and to recommend that the City Council approve the two related variances.

At its February 18, 2021 meeting, the ZBA held a public hearing on case ZBA-2020-MAJ-09. Staff received two letters in favor of the request prior to the meeting. No members of the public spoke regarding the case. There was some discussion among the Board, staff, and the applicant regarding the safety of rebuilding the garage four feet from the sidewalk (see Exhibit G). The Board members discussed options to move the garage further from the sidewalk, by removing the garden or reorienting the garage to take access off of the alley. However, the applicant would like to keep the garden, and the garage has been four feet from the sidewalk with no known issues for 100 years. Ultimately, the ZBA voted with four ayes and one nay to recommend that the City Council approve the variance with the condition that the garage generally conforms to the site plan.

## **Case Summary**

1. The property is zoned R-2, Single-Family Residential Zoning District.
2. At their January 20, 2021 meeting, the ZBA granted a conditional use permit to allow a duplex at 213 West Illinois Street.

3. Gary Apfelstadt requests two major variances to allow a duplex on a lot that is smaller and more narrow than required by the Zoning Ordinance, and one major variance to allow a garage to be reconstructed in a required front yard, four feet from the property line.

*For cases ZBA-2020-MAJ-07, ZBA-2020-MAJ-08:*

4. The applicant has applied for a major variance to allow a duplex on a lot that is 16.67% narrower and has 3.75% less area, and fewer off-street parking spaces than required by the Zoning Ordinance. Section VI-3.B of the Zoning Ordinance requires a minimum width of 60 feet and a minimum area of 6,000 square feet for lots platted before December 21, 1970. The lot at 213 West Illinois Street is 50 feet wide and has an area of 5,775 square feet.
5. The variance will not serve as a special privilege to the property owner. The lot was platted in 1900 to be smaller and narrower than required today; two off-street parking spaces will be provided.
6. The variance was not the result of a situation knowingly created by the applicant.
7. The variance will not alter the essential character of the neighborhood, as the duplex has existed on the property since before the applicant purchased it.
8. The variance will not cause a nuisance to adjacent property owners, as there will be no change in use or off-street parking.
9. The variance represents the minimum deviation necessary from the requirements of the Zoning Ordinance, as there will be no changes to the lot size or principal structure.

*For case ZBA-2020-MAJ-09:*

10. The applicant has applied for a major variance to allow a garage to be reconstructed in a required front yard, four feet from the west property line.
11. The variance will not serve as a special privilege to the property owner, as the narrow lot configuration creates a practical difficulty in rebuilding the garage 15 feet from the front property line.
12. The variance was not the result of a situation knowingly created by the applicant, as the lot was platted in 1900 to be narrower than required today.
13. The variance will not alter the essential character of the neighborhood, as the garage will be rebuilt in generally the same location as the existing garage, four feet from the property line.
14. The variance will not cause a nuisance to adjacent property owners, as the garage will be entirely on the applicant's property as it exists now.
15. The variance does not represent the minimum deviation necessary from the requirements of the Zoning Ordinance, because the property owner wants to retain the existing garden.

## **Options**

The Urbana City Council has the following options:

1. Approve the Ordinances; or

2. Approve the Ordinances with certain terms and conditions; or
3. Deny the Ordinances.

### **Recommendation**

At the January 20, 2021 meeting, the ZBA voted with six ayes and zero nays to forward cases ZBA-2020-MAJ-07 and ZBA-2020-MAJ-08 to the City Council with a recommendation to APPROVE the requests.

At the February 18, 2021 meeting, the ZBA voted with four ayes and one nay to forward case ZBA-2020-MAJ-09 to the City Council with a recommendation to APPROVE the request, with the following condition:

That the garage generally conforms to the site plan in Ordinance Attachment A.

Staff concurs with all ZBA recommendations.

Attachments: Exhibit A: Location Map  
Exhibit B: Zoning Map  
Exhibit C: Garage Site Plan  
Exhibit D: Site Photos  
Exhibit E: Public Input Received  
Exhibit F: Zoning Board of Appeals Minutes 1/20/2021 (DRAFT)  
Exhibit G: Zoning Board of Appeals Minutes 2/18/2021 (DRAFT)  
Exhibit H: Variances Application

cc: Gary Apfelstadt, Property Owner/Applicant

**ORDINANCE NO. 2021-03-008**

**AN ORDINANCE APPROVING MAJOR VARIANCES**

**(Duplex at 213 W. Illinois St. / ZBA Case Nos. 2020-MAJ-07 and 2020-MAJ-08)**

**WHEREAS**, the City of Urbana (“City”) is a home rule unit of local government pursuant to Article VII, Section 6, of the Illinois Constitution, 1970, and may exercise any power and perform any function pertaining to its government and affairs, and the passage of this Ordinance constitutes an exercise of the City’s home rule powers and functions as granted in the Illinois Constitution, 1970; and

**WHEREAS**, the Urbana Zoning Ordinance provides for a major variance procedure to permit the Zoning Board of Appeals and the Corporate Authorities to consider applications for a major variance where there is a special circumstance or condition with a parcel of land or a structure; and

**WHEREAS**, Gary Apfelstadt has submitted a petition for two major variances to allow a duplex on a lot that is 16.67% narrower and 3.75% smaller, and with two fewer off-street parking spaces than required by the Zoning Ordinance, at 213 West Illinois Street; and

**WHEREAS**, the Zoning Board of Appeals held a public hearing on such petition at 7:00 p.m. on January 20, 2021, in ZBA Case Nos. 2020-MAJ-07 and 2020-MAJ-08; and

**WHEREAS**, in accordance with Urbana Zoning Ordinance Section XI-10, due and proper notice of such public hearing was given by publication in *The News-Gazette*, a newspaper having a general circulation within the City, on a date at least 15 days but no more than 30 days before the time of the public hearing, and by posting a sign containing such notice on the real property identified herein; and

**WHEREAS**, the Zoning Board of Appeals voted six (6) ayes and zero (0) nays to forward the case to the Urbana City Council with a recommendation to approve the requested variances; and

**WHEREAS**, the City Council finds that the requested variance conforms with the major variance procedures in Article XI, Section XI-3(C)(2)(d), of the Urbana Zoning Ordinance; and

**WHEREAS**, the City Council has considered the variance criteria established in the Urbana Zoning Ordinance and has made the following findings of fact:

1. The property is zoned R-2, Single-Family Residential Zoning District.
2. Gary Apfelstadt requests two major variances to allow a duplex on a lot that is 16.67% narrower and 3.75% smaller, and with two fewer off-street parking spaces than required by the Zoning Ordinance, at 213 West Illinois Street.
3. The variance will not serve as a special privilege to the property owner. The lot was platted in 1900 to be smaller and narrower than required today; two off-street parking spaces will be provided.
4. The variance was not the result of a situation knowingly created by the applicant.
5. The variance will not alter the essential character of the neighborhood, as the duplex has existed on the property since before the applicant purchased it.
6. The variance will not cause a nuisance to adjacent property owners, as there will be no change in use or provided parking.
7. The variance represents the minimum deviation necessary from the requirements of the Urbana Zoning Ordinance, as there will be no changes to the lot size or principal structure.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Urbana, Illinois, as follows:

**Section 1.**

In ZBA Case Nos. 2020-MAJ-07 and 2020-MAJ-08, the major variances requested by Gary Apfelstadt, to allow a duplex on a lot that is 16.67% narrower and 3.75% smaller, and with two fewer off-street parking spaces than required by the Zoning Ordinance, at 213 West Illinois Street, is hereby approved in the manner proposed in the application.

The major variances described above shall only apply to the property located at 213 West Illinois Street, more particularly described as follows:

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

Illinois.

Commonly known 213 West Illinois Street, Urbana, Illinois 61801

P.I.N.: 92-21-17-186-001

**Section 2.**

The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities, and this Ordinance shall be in full force and effect from and after its passage and publication in accordance with Section 1-2-4 of the Illinois Municipal Code. Upon approval of this Ordinance, the City Clerk is directed to record a certified copy with the Champaign County Office of the Recorder of Deeds and transmit one copy of the recorded Ordinance to the petitioner.

This Ordinance is hereby passed by the affirmative vote, the “ayes” and “nays” being called of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

**PASSED BY THE CITY COUNCIL** this \_\_\_\_ day of \_\_\_\_\_, 2021.

AYES:

NAYS:

ABSTENTIONS:

\_\_\_\_\_  
Phyllis D. Clark, City Clerk

**APPROVED BY THE MAYOR** this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Diane Wolfe Marlin, Mayor

**CERTIFICATE OF PUBLICATION IN PAMPHLET FORM**

I, Phyllis D. Clark, certify that I am the duly appointed and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois. I certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 2021, the corporate authorities of the City of Urbana passed and approved Ordinance No. \_\_\_\_\_, entitled “An Ordinance Approving Major Variances (Duplex at 213 W. Illinois St. / ZBA-2020-MAJ-07 and ZBA-2020-MAJ-08)” which provided by its terms that it should be published in pamphlet form. The pamphlet form of Ordinance No. \_\_\_\_\_ was prepared, and a copy of such Ordinance was posted in the Urbana City Building commencing on the \_\_\_\_\_ day of \_\_\_\_\_, 2021, and continuing for at least ten (10) days thereafter. Copies of such Ordinance were also available for public inspection upon request at the Office of the City Clerk.

DATED at Urbana, Illinois, this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**ORDINANCE NO. 2021-03-009**

**AN ORDINANCE APPROVING A MAJOR VARIANCE  
(Garage at 213 W. Illinois St. / ZBA Case No. 2020-MAJ-09)**

**WHEREAS**, the City of Urbana (“City”) is a home rule unit of local government pursuant to Article VII, Section 6, of the Illinois Constitution, 1970, and may exercise any power and perform any function pertaining to its government and affairs, and the passage of this Ordinance constitutes an exercise of the City’s home rule powers and functions as granted in the Illinois Constitution, 1970; and

**WHEREAS**, the Urbana Zoning Ordinance provides for a major variance procedure to permit the Zoning Board of Appeals and the Corporate Authorities to consider applications for a major variance where there is a special circumstance or condition with a parcel of land or a structure; and

**WHEREAS**, Gary Apfelstadt has submitted a petition for a major variance to allow a garage to encroach 11 feet into a required 15-foot front yard at 213 West Illinois Street; and

**WHEREAS**, the Zoning Board of Appeals held a public hearing on such petition at 7:00 p.m. on February 18, 2021, in ZBA Case No. 2020-MAJ-09; and

**WHEREAS**, in accordance with Urbana Zoning Ordinance Section XI-10, due and proper notice of such public hearing was given by publication in *The News-Gazette*, a newspaper having a general circulation within the City, on a date at least 15 days but no more than 30 days before the time of the public hearing, and by posting a sign containing such notice on the real property identified herein; and

**WHEREAS**, the Zoning Board of Appeals voted four (4) ayes and one (1) nay to forward the case to the Urbana City Council with a recommendation to approve the requested variances; and

**WHEREAS**, the City Council finds that the requested variance conforms with the major

variance procedures in Article XI, Section XI-3(C)(2)(d), of the Urbana Zoning Ordinance; and

**WHEREAS**, the City Council has considered the variance criteria established in the Urbana Zoning Ordinance and has made the following findings of fact:

1. The property is zoned R-2, Single-Family Residential Zoning District.
2. Gary Apfelstadt requests a major variance to allow a garage to be reconstructed in a required front yard, four feet from the west property line at 213 West Illinois Street.
3. The variance will not serve as a special privilege to the property owner, as the property is a corner lot, and the narrow lot configuration creates a practical difficulty in rebuilding the garage 15 feet from the front property line.
4. 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 in 1900 to be narrower than required today.
5. The variance will not alter the essential character of the neighborhood, as the garage will be rebuilt in generally the same location, in a style that matches the dwelling.
6. The variance will not cause a nuisance to adjacent property owners, as the garage will be rebuilt in its same location, as far from Cedar Street as possible, where it has not been a nuisance the adjacent properties.
7. The variance does not represent the minimum deviation necessary from the requirements of the Zoning Ordinance, because the property owner would like to retain the existing garden.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Urbana, Illinois, as follows:

**Section 1.**

In ZBA Case No. 2020-MAJ-09, the major variance requested by Gary Apfelstadt, to allow a garage to encroach 11 feet into a required 15-foot front yard at 213 West Illinois Street, is hereby approved in the manner proposed in the application with the following condition: that the garage generally conforms to the site plan in Attachment A. The major variance described above shall only apply to the property located at 213 West Illinois Street, more particularly described as follows:

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

Commonly known 213 West Illinois Street, Urbana, Illinois 61801  
P.I.N.: 92-21-17-186-001

**Section 2.**

The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities, and this Ordinance shall be in full force and effect from and after its passage and publication in accordance with Section 1-2-4 of the Illinois Municipal Code. Upon approval of this Ordinance, the City Clerk is directed to record a certified copy with the Champaign County Office of the Recorder of Deeds and transmit one copy of the recorded Ordinance to the petitioner.

This Ordinance is hereby passed by the affirmative vote, the “ayes” and “nays” being called of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

**PASSED BY THE CITY COUNCIL** this \_\_\_\_ day of \_\_\_\_\_, 2021.

AYES:

NAYS:

ABSTENTIONS:

\_\_\_\_\_  
Phyllis D. Clark, City Clerk

**APPROVED BY THE MAYOR** this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Diane Wolfe Marlin, Mayor

**CERTIFICATE OF PUBLICATION IN PAMPHLET FORM**

I, Phyllis D. Clark, certify that I am the duly appointed and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois. I certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 2021, the corporate authorities of the City of Urbana passed and approved Ordinance No. \_\_\_\_\_, entitled “An Ordinance Approving Major Variances (Garage at 213 W. Illinois St. / ZBA-2020-MAJ-09)” which provided by its terms that it should be published in pamphlet form. The pamphlet form of Ordinance No. \_\_\_\_\_ was prepared, and a copy of such Ordinance was posted in the Urbana City Building commencing on the \_\_\_\_\_ day of \_\_\_\_\_, 2021, and continuing for at least ten (10) days thereafter. Copies of such Ordinance were also available for public inspection upon request at the Office of the City Clerk.

DATED at Urbana, Illinois, this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

213 West Illinois St  
Garage plan views



Viewing North from alley to Illinois St



Viewing East across Cedar St

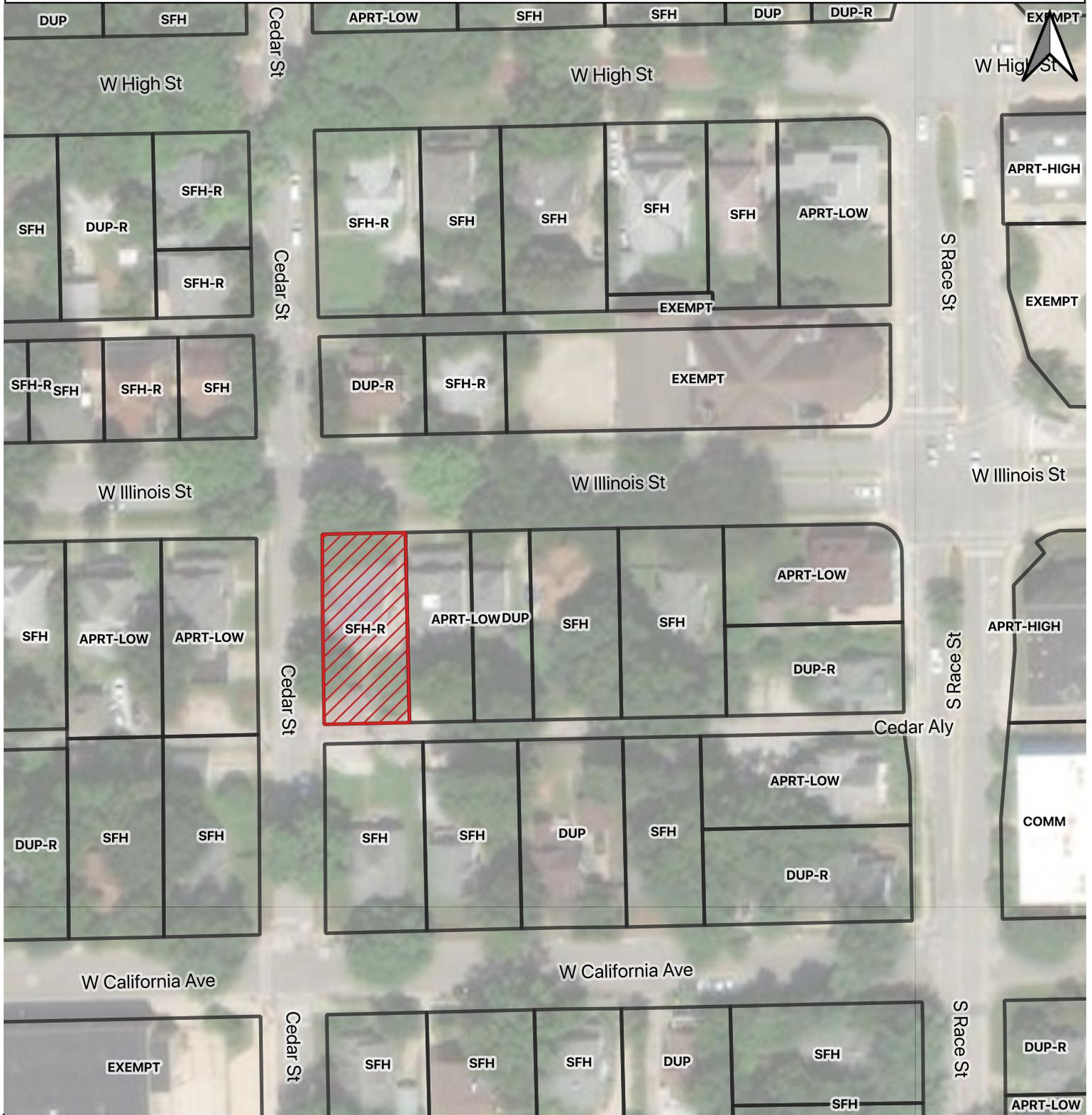


Current foot print of 20' x 20' garage



Foot print of proposed 24' x 24' garage

# Exhibit A - Location and Land Use Map



Case No. ZBA-2020-C-05, ZBA-2020-MAJ-07,  
 ZBA-2020-MAJ-08 and ZBA-2020-MAJ-09  
 Subject Address Apfelstadt Duplex  
 213 W. Illinois St.  
 Petitioner Gary Apfelstadt

### Legend

 Subject Property

0 50 100 150 ft



# Exhibit B - Zoning Map



Case No. ZBA-2020-C-05, ZBA-2020-MAJ-07,  
 ZBA-2020-MAJ-08 and ZBA-2020-MAJ-09  
 Subject Apfelstadt Duplex  
 Address 213 W. Illinois St.  
 Petitioner Gary Apfelstadt

## Legend

-  Subject Property
- Current\_Zoning**
-  B-3
-  B-4
-  CRE
-  MOR
-  R-2
-  R-3
-  R-5

0 50 100 150 ft



213 West Illinois St  
Garage plan views



Viewing North from alley to Illinois St



Viewing East across Cedar St



Current foot print of 20' x 20' garage



Foot print of proposed 24' x 24' garage





# Supporting ZBA-2020-MAJ-09

Jonah Weisskopf [REDACTED]

Wed 2/3/2021 3:32 PM

To: Trotter, Katherine <krtrotter@urbanillinois.us>;

Categories: PUBLIC INPUT

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\*\*\* Email From An External Source \*\*\*

Hi!

I strongly support this request~

Thanks!

Jonah Weisskopf

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# 213 W Illinois zoning variance

Michael Fuerst [REDACTED]

Wed 1/6/2021 5:39 PM

To: Trotter, Katherine <krtrotter@urbanillinois.us>;

Categories: PUBLIC INPUT

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\*\*\* Email From An External Source \*\*\*

I own 211 West Illinois

It seems that the variance and use requests for 213 W Illinois are

a) to make an existing use of many years as a duplex official

b) to rebuild an existing garage.

I have no objections to any of the four requests

[REDACTED]

**MINUTES OF A REGULAR MEETING**

**URBANA ZONING BOARD OF APPEALS**

**DATE:** January 20, 2021

**DRAFT**

**TIME:** 7:00 p.m.

**PLACE:** Zoom Webinar

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**MEMBERS ATTENDING REMOTELY:** Joanne Chester, Ashlee McLaughlin, Adam Rusch, Nancy Uchtmann, Charles Warmbrunn

**MEMBER ATTENDING AT CITY BUILDING:** Harvey Welch

**MEMBERS ABSENT** Matt Cho

**STAFF PRESENT** Kevin Garcia, Principal Planner; Katherine Trotter, Planner I; Jason Liggett, UPTV Manager

**OTHERS PRESENT** Gary Apfelstadt, Mick Wolf

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**1. CALL TO ORDER, ROLL CALL AND DECLARATION OF QUORUM**

Chair Welch called the meeting to order at 7:00 p.m. Roll call was taken, and he declared a quorum of the members present.

**2. CHANGES TO THE AGENDA**

Mr. Garcia noted that Case No. ZBA-2020-MAJ-09 would not be heard due to an error in the legal ad. Planning staff would re-advertise the legal ad and the Zoning Board of Appeals would consider the case at the February 17, 2021 regular meeting.

**3. APPROVAL OF THE MINUTES**

The minutes from the December 16, 2020 regular meeting were presented for approval. Ms. Uchtmann moved that the Zoning Board of Appeals approve the minutes as written. Mr. Rusch seconded the motion. Roll call on the motion was as follows:

Ms. Chester	-	Yes	Ms. McLaughlin	-	Yes
Mr. Rusch	-	Yes	Ms. Uchtmann	-	Yes
Mr. Warmbrunn	-	Yes	Mr. Welch	-	Yes

The minutes of the December 16, 2020 regular meeting were approved as written.

#### 4. COMMUNICATIONS

There were none.

#### 5. CONTINUED PUBLIC HEARINGS

There were none.

#### 6. NEW PUBLIC HEARINGS

**ZBA-2020-C-05 – A request by Gary Apfelstadt for a Conditional Use Permit to allow a duplex at 213 West Illinois Street in the R-2, Single-Family Residential Zoning District.**

**ZBA-2020-MAJ-07 – A request by Gary Apfelstadt to allow a duplex on a lot 50 feet wide and 5,775 square feet in area at 213 West Illinois Street in the R-2, Single-Family Residential Zoning District.**

**ZBA-2020-MAJ-08 – A request by Gary Apfelstadt to reduce the number of parking spaces required for a duplex from four to two at 213 West Illinois Street in the R-2, Single-Family Residential Zoning District.**

**ZBA-2020-MAJ-09 – A request by Gary Apfelstadt to allow a garage to encroach four feet into a required 15-foot front yard at 213 West Illinois Street in the R-2, Single-Family Residential Zoning District. *{This case was continued to the February 17, 2021 meeting.}***

Chair Welch opened the public hearing for Case Nos. ZBA-2020-C-05, ZBA-2020-MAJ-07 and ZBA-2020-MAJ-08 simultaneously since they relate to the same property. He restated that Case No. ZBA-2020-MAJ-09 would be continued to the next regular meeting of the Zoning Board of Appeals due to an error in the legal ad.

Kat Trotter, Planner I, gave the staff report for the cases. She explained the purpose for the proposed conditional use permit and two variances requests, which are to allow a duplex on a lot which is smaller than required by the Zoning Ordinance and to allow a reduction in the number of required parking spaces. She stated the location of the subject property, described the lot and talked about the duplex use. She noted the zoning and future land use designation of the subject property as well as for the adjacent properties. She showed photos of the existing buildings on the site. She reviewed the requirements for a conditional use permit from Section VII-2 of the Zoning Ordinance and the requirements for a variance from Section XI-3 of the Zoning Ordinance. She summarized staff findings, read the options of the Zoning Board of Appeals for each case, and presented City staff's recommendations for approval of all three cases. She noted that the applicant was available to answer questions.

Chair Welch asked if any members of the Zoning Board of Appeals had questions for City staff.

Ms. Chester felt that the issue with the parking was tied to the garage variance, which the Zoning Board of Appeals would not be considering until the February 17, 2021 meeting.

Mr. Rusch asked how the issue with the duplex use come into question. Ms. Trotter explained that the first case submitted was for the garage to be rebuilt in the front yard setback. At the same time, the applicant had applied for a building permit to do internal renovations of the house, which is when City staff discovered that the house was being used as a duplex. The duplex use was never legalized by the City of Urbana. So, the City is requiring the applicant to obtain approval for the duplex to make it a legal use.

Ms. Chester stated that she researched the tax records with Cunningham Township and noted that the house was constructed and used as a single-family house. A previous owner must have converted it into a duplex without informing the City. She felt that the use of the house tied into the number of parking spaces. Ms. Trotter stated that regardless of whether or not the garage is rebuilt, there are two existing parking spaces on site. One of the variance requests being considered at this public hearing was to allow a reduction in the required number of parking spaces from four spaces to two.

Ms. Chester asked if people are allowed to park in front of the house on Illinois Street. Mr. Warmbrunn said no. Mr. Rusch agreed. He said that a person could park on Illinois Street a block before this one, but that the street begins to narrow down on this block to allow for a median. He added that there was room for about three cars off Cedar Street and more parking was available across Cedar Alley.

Ms. Chester asked how wide Cedar Street was. Mr. Rusch stated that it was fairly narrow; however, it was not frequently travelled. The majority of the traffic was from parents parking along Cedar Street to pick up their children from Leal School.

Ms. Uchtmann asked if the two existing parking spaces were in the garage. Ms. Trotter replied yes. Ms. Uchtmann asked when the garage was built.

Chair Welch opened the hearing for public input. He invited the applicant or the applicant's representative to speak.

Mr. Apfelstadt, applicant, raised his hand to speak. Chair Welch swore him in. Mr. Apfelstadt stated that he was the current owner of 213 West Illinois Street. The house appears to have been built before 1897, and the garage was constructed between 1897 and 1902 according to the Sanborn maps.

Ms. McLaughlin asked if City staff had received any complaints about parking issues in or around this property. Ms. Trotter stated that there have been no complaints about parking at 213 West Illinois Street. The email communication received from Michael Fuerst, which was in the packet of information, stated that he had no objections to any of the four requests.

Ms. Uchtmann asked how many bedrooms were in the existing house. Mr. Apfelstadt replied that there are two apartments. The first floor apartment has two bedrooms, and the second floor apartment has two bedrooms.

Ms. McLaughlin asked if the applicant had any concerns about the number of parking spaces or was two parking spaces enough. Mr. Apfelstadt replied that two parking spaces have been adequate. It provides one parking space per apartment. If a tenant has more than one vehicle,

then they refer the tenant to obtain a parking permit to allow the tenant to park one vehicle on the street nearby.

Ms. McLaughlin acknowledged that there was not much space to provide additional parking spaces on the subject property. Would the Zoning Board of Appeals need to consider the amount of paved space on the lot should the applicant wish to increase the number of parking spaces on site? Ms. Trotter stated that she did not calculate the Open Space Ratio (OSR) for this particular property. One of the factors in the variance requests was the narrow lot size, which creates a practical difficulty in providing more than the necessary amount of parking. This also factors in to the discussion about Case No. ZBA-2020-MAJ-09, which would be discussed at the February 17, 2020 regular meeting of the Zoning Board of Appeals. Mr. Rusch added that there was space to provide two additional parking spaces; however, the applicant would have to remove a large garden and doing so would remove all of the green space on the property.

Mr. Apfelstadt pointed out that the one variance was to reduce the number of required parking spaces from four spaces to two spaces. The variance for the garage, which was not under consideration at this meeting, would not be changing the number of parking spaces. The proposed new garage would be the same size as the existing garage. So, the variance for the number of parking spaces is needed the same as the variance for the reduction in lot width and the duplex use were in order to bring the property into legal conformity.

With there being no further input from the audience, Chair Welch closed the public input portion of the hearing and opened the hearing for discussion and/or motions by the Zoning Board of Appeals.

Ms. Chester did not feel that the garage could be rebuilt in the same spot because it was located too close to the sidewalk and created safety issues when a person backs out of the garage.

Ms. McLaughlin stated that with there being street parking available and given that the area was known as being walkable and accessible to many destinations by either walking, bicycling or mass transit, she was not concerned about there only being two parking spaces. There have not been any note-worthy complaints about parking issues over the years since it became used as a duplex. She did not want to increase the paved surface area on the property.

Mr. Rusch agreed it would be beneficial to not have any more paved area on the block. All of the properties on this block, except for one, are used as duplexes or cooperative housing. Preserving green space is a good thing.

Ms. Uchtmann moved that the Zoning Board of Appeals approve Case No. ZBA-2020-C-05 as requested. Ms. Chester seconded the motion. Roll call on the motion was as follows:

Ms. Rusch	-	Yes	Ms. Uchtmann	-	Yes
Mr. Warmbrunn	-	Yes	Mr. Welch	-	Yes
Ms. Chester	-	Yes	Ms. McLaughlin	-	Yes

The motion passed by unanimous vote.

Mr. Rusch moved that the Zoning Board of Appeals forward Case Nos. ZBA-2020-MAJ-07 and ZBA-2020-MAJ-08 to the City Council with a recommendation for approval as requested. Mr. Warmbrunn seconded the motion. Roll call on the motion was as follows:

Ms. McLaughlin	-	Yes	Ms. Chester	-	Yes
Ms. Uchtman	-	Yes	Mr. Warmbrunn	-	Yes
Mr. Welch	-	Yes	Mr. Rusch	-	Yes

The motion passed by unanimous vote. Ms. Trotter stated that Case Nos. ZBA-2020-MAJ-07 and ZBA-2020-MAJ-08 would be forwarded to City Council on February 8, 2021.

**7. OLD BUSINESS**

There was none.

**8. NEW BUSINESS**

There was none.

**9. AUDIENCE PARTICIPATION**

There was none.

**10. STAFF REPORT**

There was none.

**11. STUDY SESSION**

There was none.

**12. ADJOURNMENT OF MEETING**

Chair Welch adjourned the meeting at 7:35 p.m.

Respectfully submitted,

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Kevin Garcia, AICP  
Principal Planner  
Secretary, Urbana Zoning Board of Appeals

**MINUTES OF A RESCHEDULED MEETING**

**URBANA ZONING BOARD OF APPEALS**

**DATE:** February 18, 2021

**DRAFT**

**TIME:** 7:00 p.m.

**PLACE:** Zoom Webinar

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**MEMBERS ATTENDING REMOTELY:** Joanne Chester, Ashlee McLaughlin, Adam Rusch, Charles Warmbrunn

**MEMBER ATTENDING AT CITY BUILDING:** Harvey Welch

**MEMBERS EXCUSED** Matt Cho

**MEMBERS ABSENT** Nancy Uchtmann

**STAFF PRESENT** Kevin Garcia, Principal Planner; Katherine Trotter, Planner I; Jason Liggett, UPTV Manager

**OTHERS PRESENT** Gary Apfelstadt, Deborah Berthold

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**1. CALL TO ORDER, ROLL CALL AND DECLARATION OF QUORUM**

Chair Welch called the meeting to order at 7:04 p.m. Roll call was taken, and he declared a quorum of the members present.

**2. CHANGES TO THE AGENDA**

There were none.

**3. APPROVAL OF THE MINUTES**

The minutes from the January 20, 2021 regular meeting were presented for approval. Mr. Warmbrunn moved that the Zoning Board of Appeals approve the minutes as written. Mr. Rusch seconded the motion. Roll call on the motion was as follows:

Ms. McLaughlin	-	Yes	Mr. Rusch	-	Yes
Mr. Warmbrunn	-	Yes	Mr. Welch	-	Yes
Ms. Chester	-	Yes			

The minutes of the January 20, 2021 regular meeting were approved as written.

#### 4. COMMUNICATIONS

There were none.

#### 5. CONTINUED PUBLIC HEARINGS

There were none.

#### 6. NEW PUBLIC HEARINGS

##### **ZBA-2020-MAJ-09 – A request by Gary Apfelstadt to allow a garage to encroach four feet into a required 15-foot front yard at 213 West Illinois Street in the R-2, Single-Family Residential Zoning District.**

Chair Welch opened the public hearing for Case No. ZBA-2020-MAJ-09. Kat Trotter, Planner I, gave the staff report for the case. She explained the purpose for the proposed major variance request, which was to allow the applicant to rebuild the existing garage in its current location; 11 feet into the required 15-foot front yard setback. She noted two email communications were received; one from Michael Fuerst and the second from Jonah Weisskopf, both in favor of the proposed request. She described the location of the subject property noting the zoning and future land use designation of the subject property as well as for the adjacent properties. She showed photos of the existing garage on the site. She reviewed the requirements for a variance from Section XI-3 of the Zoning Ordinance. She summarized staff findings, read the options of the Zoning Board of Appeals for each case, and presented City staff's recommendations for approval. She noted that the applicant was available to answer questions.

Chair Welch asked if any members of the Zoning Board of Appeals had questions for City staff.

Ms. Chester questioned the safety of allowing a garage to be rebuilt four feet from the sidewalk. The driver would have no visibility of a pedestrian walking down the sidewalk when the driver backs out of the garage. Ms. Trotter explained that the existing garage has been in its current location for over 100 years, and there have not been any issues from the applicant's position or from any nuisance complaints by the neighbors. Ms. Chester commented that regardless of how many years the garage has been there, it was not safe. She would be okay with the variance request if the vehicular entrance to the garage was located along the alley. Mr. Rusch stated that the tenants would not be able to pull out into the alley without backing into the parking area of the house across the alley. Ms. Trotter noted that the applicant had expressed concern about the turn radius of backing out into a narrow alley if the vehicular access was located along the alley.

Mr. Warmbrunn asked for confirmation that the proposed new garage would be bigger than the existing garage. Ms. Trotter said that was correct. The new garage would be 24' x 24', and the existing garage is 20' x 24'.

Mr. Rusch asked if the proposed foot print of the new garage squared off where the jut was. Ms. Trotter referred the question to the applicant.

Mr. Warmbrunn asked if the garage was rebuilt where the garden currently was located, would it meet the City's setback requirements. Ms. Trotter replied that the garage would have to be moved 11 feet to the east in order to meet the front yard setback requirement.

Mr. Warmbrunn asked how big the garden was. Ms. Trotter referred the question to the applicant.

Ms. McLaughlin asked if the Zoning Board of Appeals could approve the request conditional upon the applicant rebuilding the garage further to the east or were they restricted to approving the request as submitted. Kevin Garcia, Principal Planner, stated that the Zoning Board of Appeals could approve a lesser variance; however, they could not consider a greater variance.

Ms. McLaughlin wondered if there were any perimeters of how close a garage could be constructed near an alleyway in terms of turn radius. Ms. Trotter stated that this would be a question for the City's Public Works Department. With regards to the Zoning Ordinance, the garage would be required to be constructed at least 18 inches from the rear property line.

Mr. Rusch stated that he knows of other garages that were located close to the street similar to the proposed property. Ms. McLaughlin noted that there were many properties in the City that are non-conforming. The time to correct them is when the owners want to rebuild.

Ms. Chester asked if the owner wanted to rebuild using some of the existing structure, would he be allowed to rebuild in the same location. Ms. Trotter replied that there were some caveats to this. If a non-conforming building burnt down more than 50% of its total value, then the building could not be reconstructed. If there was less than 50% damage, then it could be rebuilt with the non-conformity.

Mr. Garcia pointed out that every variance case is brought to the Public Works Department for their input prior to being presented to the Zoning Board of Appeals. The Public Works staff did not express any concern about the location of the garage in this case.

Mr. Rusch did not have concern about a driver backing out of the garage. However, he did understand wanting the owner to rebuild the garage to be more conforming than the existing garage.

Chair Welch opened the hearing for public input. He invited the applicant or the applicant's representative to speak.

Mr. Apfelstadt, applicant, raised his hand to speak. Chair Welch swore him in. Mr. Apfelstadt addressed the issue of safety. He stated that he has owned the property since 2014. Some tenants have vehicles, and some tenants do not. All of the tenants have been made aware of the proximity of the garage to the sidewalk and street. There have been no complaints or incidents of threatening people's safety.

He talked about the caveat of replacing a non-conforming structure without having to replace the entire structure at once. A person could replace one wall at a time without having to bring the structure into legal conformity with the regulations.

He explained that the purpose for making the structure bigger when they rebuild was to make it easier for the tenants to back their vehicles out of the garage onto Cedar Street with regards to visibility. He intends to move the garage layout to be two feet away from the alley. The alley was too narrow for a person to back out of the garage into the alley.

He stated that the garden is a feature that he wants to maintain for his tenants. When tenants do not use the garden, then he maintains it.

He stated that City staff told him that this seemed to be a reasonable variance that would likely be approved.

Mr. Rusch asked if Mr. Apfelstadt intended to have windows in the new garage. Mr. Apfelstadt replied yes on both the north and south sides of the garage.

Mr. Warmbrunn asked how feet there are between the existing garage and the property line on the east side. How big is the garden? Mr. Apfelstadt replied that there is about ten feet between the shed and the eastern property line. The garden is approximately 14 to 16 feet.

Ms. Chester asked if the applicant had considered moving the garage to the east and encroaching into the garden space a few feet to allow more visibility when a tenant pulls out of the garage. Mr. Apfelstadt replied that the dimension of the proposed new garage would already encroach into the garden space. The old shed would be demolished and the garage would encroach to the edge of where the existing shed is to preserve the garden space. There are perennial raspberry bushes that would be destroyed if they encroached more into the garden space.

Mr. Warmbrunn asked if the new dimension would expand the garage from east to west. Mr. Apfelstadt said it would expand in both east to west and north to south. The existing garage is 20' x 20', and the new garage would be 24' x 24'. They would shift the garage four feet to the east and six feet to the north.

With there being no further input from the audience, Chair Welch closed the public input portion of the hearing and opened the hearing for discussion and/or motions by the Zoning Board of Appeals.

Mr. Rusch moved that the Zoning Board of Appeals forward Case No. ZBA-2020-MAJ-09 to the Urbana City Council as requested with the recommendation for approval with the condition that the garage generally conform to the plans shown as exhibits in the packet of information and that the garage be reconstructed with a large window on the north facing wall to allow drivers to see pedestrians. Ms. McLaughlin seconded the motion.

Mr. Rusch moved to add a friendly amendment to add that a large window be installed on the north and south facing walls. Ms. McLaughlin seconded the amendment.

Mr. Warmbrunn stated that he could not visualize a driver trying to look over another vehicle to look through a window. Mr. Rusch said that vehicles have windows too. Mr. Warmbrunn said what if it there was a bicyclist. One could look and not see anyone, and then all of a sudden there is a bicyclist coming by. So he did not feel that the windows would effective.

Ms. McLaughlin stated that considering that there have been no complaints or safety issues in the past, it would be hard adding the condition or to deny the request. She understood the effort to add the condition but felt it would be tricky. She noted that she tried to check the access management guidelines for the region. The guidelines are specific to intersection proximity and are minimal to this type of low traffic street.

Ms. Chester stated that a fence would be required to allow for visibility. She wondered if the rules for requiring visibility for a fence could be applied to a garage structure. Mr. Rusch replied that in an ideal world, they would rather see the garage located in a different location on the lot; however, he felt that the existing garage was probably built in the best place it could be allowed to be built without taking up the rest of the yard. It is a precedent that it is there, and people know it as a characteristic of the neighborhood. By allowing the garage to be rebuilt a little bit bigger, it increases the visibility.

There was discussion amongst the Zoning Board of Appeals members about the issue of safety and lack of visibility for a driver exiting the existing or new garage.

Mr. Rusch withdrew his motion and the amendment.

Ms. McLaughlin moved that the Zoning Board of Appeals forward Case No. ZBA-2020-MAJ-09 to the City Council with a recommendation for approval as requested based on the findings outlined in the written staff memo. Mr. Rusch seconded the motion.

Mr. Warmbrunn asked if there was a site plan included in the packet. Ms. Trotter stated that Exhibit D shows Garage Plan Views.

Roll call on the motion was as follows:

Mr. Warmbrunn	-	Yes	Mr. Welch	-	Yes
Ms. Chester	-	No	Ms. McLaughlin	-	Yes
Ms. Rusch	-	Yes			

The motion passed by a vote of 4 ayes to 1 nay, which is a necessary majority for a major variance. Ms. Trotter stated that Case No. ZBA-2020-MAJ-09 would be forwarded to City Council on March 8, 2021.

**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.**

Chair Welch opened the public hearing for Case No. ZBA-2021-MAJ-01. Kat Trotter, Planner I, gave the staff report for the case. She explained the purpose for the proposed major variance request, which was to allow the overhang on a garage roof to extend 6” into the required 18” setback from the south property line. She described the location of the subject property noting the zoning and future land use designation of the subject property as well as for the adjacent properties. She showed photos of the existing garage on the site. She reviewed the requirements for a variance from Section XI-3 of the Zoning Ordinance. She summarized staff findings, read the options of the Zoning Board of Appeals for each case, and presented City staff’s recommendations for approval. She noted that the applicant was available to answer questions.

Chair Welch asked if any members of the Zoning Board of Appeals had questions for City staff. There were none.

Chair Welch opened the hearing for public input. With there being no input from the applicant or the audience, Chair Welch closed the public input portion of the hearing and opened the hearing for discussion and/or motions by the Zoning Board of Appeals.

Ms. Chester moved that the Zoning Board of Appeals forward Case No. ZBA-2021-MAJ-01 to the City Council with a recommendation for approval. Ms. McLaughlin seconded the motion. Roll call on the motion was as follows:

Mr. Rusch	-	Yes	Mr. Warmbrunn	-	Yes
Mr. Welch	-	Yes	Ms. Chester	-	Yes
Ms. McLaughlin	-	Yes			

The motion was approved by unanimous vote. Ms. Trotter stated that Case No. ZBA-2021-MAJ-01 would be forwarded to the Urbana City Council on March 8, 2021.

**7. OLD BUSINESS**

There was none.

**8. NEW BUSINESS**

There was none.

**9. AUDIENCE PARTICIPATION**

There was none.

**10. STAFF REPORT**

Mr. Garcia reported on the following:

- Lily Wilcock – was recently promoted to Planner II. She has been working on updating the City’s Comprehensive Plan.

**11. STUDY SESSION**

There was none.

**12. ADJOURNMENT OF MEETING**

Chair Welch adjourned the meeting at 8:04 p.m.

Respectfully submitted,

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Kevin Garcia, AICP  
Principal Planner  
Secretary, Urbana Zoning Board of Appeals



## Application for Variance

## ZONING BOARD OF APPEALS

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

**ZBA-2020-MAJ-07**

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

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

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

### PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION

A VARIATION is requested in conformity with the powers vested in the Zoning Board of Appeals to permit the following variation (*Describe the extent of the Variation Requested*)

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

#### 1. APPLICANT CONTACT INFORMATION

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

Phone: **217 552 9105, 217 552 9103**

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

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

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

#### 2. OWNER INFORMATION

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

Phone: **217 552 9105, 217 552 9103**

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

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

Is this property owned by a Land Trust?  Yes  No

*If yes, please attach a list of all individuals holding an interest in said Trust.*

#### 3. PROPERTY INFORMATION

Location of Subject Site: **213 West Illinois Street, Urbana IL 61801**

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

Lot Size: **50 feet x 115.5 feet**

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

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

Proposed Land Use: **Duplex**

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

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

#### 4. CONSULTANT INFORMATION

**Name of Architect(s):**

Phone:

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

Email Address:

**Name of Engineers(s):**

Phone:

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

Email Address:

**Name of Surveyor(s):**

Phone:

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

Email Address:

**Name of Professional Site Planner(s):**

Phone:

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

Email Address:

**Name of Attorney(s):**

Phone:

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

Email Address:

#### 5. REASONS FOR VARIATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**CERTIFICATION BY THE APPLICANT**

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



Applicant's Signature

Dec. 3, 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