123 Washington Street Columbus, Indiana 47201 Phone: (812) 376-2550 Fax: (812) 376-2643





CITY OF COLUMBUS BOARD OF ZONING APPEALS (October 29, 2013 Meeting)

STAFF REPORT

Docket No. / Project Title: C/DS-13-28 (Matthew Battin)

Staff: Thom Weintraut

Applicant: Matthew Battin

Property Size: 8,100 Square Feet

Current Zoning: RE (Residential: Established)

Location: 738 Lafayette Avenue, in the City of Columbus

Background Summary:

The applicant has indicated that the proposed variance from Zoning Ordinance Section 3.12(C) is for the purpose of allowing a reduction in the side setback of an accessory structure (26 ft. x 30 ft. garage) from the required 3 feet to 0 feet.

Preliminary Staff Recommendation:

Denial: None of the criteria have not been met.

If approved, the petitioner shall obtain a minimum 3 foot wide maintenance easement from the adjoining property owner to the north. The easement shall be recorded before a building permit is issued.

Zoning Ordinance Considerations:

District Intent: The intent of the RE (Residential: Established) zoning district is as follows: The RE district is intended to ensure the continued viability of neighborhoods and developments in existence on the effective date of this Ordinance. This district should be used to maintain traditional, contextually appropriate setbacks, uses, and other standards in a manner consistent with the Comprehensive Plan.

Development Standards: Section 3.12(C) of the Zoning Ordinance establishes a minimum side setback at 3 feet for accessory structures.

Current Property Information:			
Land Use: Single-family residential.			
Site Features: House and detached garage.			
Flood Hazards: None.			
Vehicle Access:	The property will be accessed by an alley along the rear of the lot.		

Surrounding Zoning and Land Use:				
Zoning: Land Use:				
North:	RE (Residential: Established)	Single and multifamily residential use.		
South:	RE (Residential: Established)	Single family residential.		
East:	RE (Residential: Established)	Single and multifamily residential use.		
West:	CD (Commercial: Downtown Center)	First Presbyterian Church parking lot		

Interdepartmental Review:					
City Engineering:	Project will have no impact to access or drainage.				
City Utilities:	ties: No comments provided.				
Code Enforcement:	I would not support this variance for several reasons. Maintenance of the structure would have to be done from the adjoining property. A land surveyor has a certain amount of error allowed by law depending on the type of survey so how do know that the structure is exactly on the property line and not possibly on the adjoining property? For building safety reasons; a fire or explosion in a garage is not uncommon and could affect the adjoining property. 3' as allowed by the Zoning Ordinance alleviates these concerns and that is why the 0' setback was removed from the ordinance and replaced with 3'.				

Planning Consideration(s):

The following general site considerations, planning concepts, and other facts should be considered in the review of this application:

- 1. The site is located in a tradition urban neighborhood where building setbacks can typically be less than 5 feet from side property lines.
- 2. While it is not uncommon for some building setbacks to be less than 3 feet, and in some instances on the property line, providing a setback for a building allows for the maintenance of the structure without the need to encroach onto adjacent properties. The applicant states that they are the property manager for the property the building will be abutting onto, however both properties may eventually be under separate control, and that could create an issue for continuing maintenance.
- 3. The minimum 3 foot setback allows for separation of buildings in the event of a fire and for greater access to all sides of a building in the event of a fire.
- 4. The petitioner states that allowing the encroachment of the building into the setback will enable them to use their yard to a greater degree, such as providing a greater area south of the building for a garden. Allowing the encroachment of the building onto the neighboring property line may impact the use and enjoyment of that neighboring property by reducing the amount of light available to the lot as well as hinder the air circulation on the adjoining lot.

- 5. The petitioner states that space is a premium in older neighborhoods and they wish to optimize the area of their yard by encroaching into the setback. The petitioner is proposing to build a 24 x 28 foot (26 x 30 feet with roof overhang) garage which is a standard size for a 2 ½ car garage. Because of the 1 foot overhang for the eaves, the foundation will still be set at a minimum of 1 foot off the property line. The width of the property is 54 feet. The garage can be placed to meet the minimum 3 foot setback for the foundation and still leave a 23 foot wide usable area between the garage and the south property line.
- 6. The petitioner states he maintains the adjacent property that abuts the proposed garage and they can obtain a 3 feet wide easement on that adjacent property for the maintenance of the proposed garage.
- 7. The adjacent property currently contains a garage that is set 8 feet north of the property line, so the proposed garage would be located 8 feet from the nearest structure.

Provisional Findings of Fact/Decision Criteria:

The Board of Zoning Appeals may approve or deny variances from the development standards of the City of Columbus Zoning Ordinance. The Board may impose reasonable conditions as part of an approval. A variance from the development standards may only be approved upon a determination in writing that:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.

Provisional Findings: The approval for a reduction in the 3 foot setback for the accessory structure may be injurious to the public health, safety, morals and general welfare of the community because the accessory structure may be used to store flammable materials thus creating a potential fire risk to adjacent structures. The purpose for a building setback is to allow ample space between structures to contain the spread of fires and to provide easy access to all sides of a building to fight fires. This criterion has not been met.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

Provisional Findings: The use and value of the area adjacent to the property included in the variance may be affected in a substantially adverse manner because the encroachment of the building onto the property line could limit the use of the adjoining property along the building because of the maintenance easement as well as a reduction in light reaching the lot and air circulation on the adjoining lot. *This criterion* <u>has not</u> been met.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.

Provisional Findings: The strict terms of the zoning ordinance will not result in practical difficulties in the use of the property because the petitioner has a lot with ample width to locate an accessory structure of this size within the required setbacks. The lot is 54 feet in width and the proposed building is 28 feet wide and therefore meeting the side setback plus the building width would leave a 23 foot area south of the garage for a garden and play area. This criterion has not been met.

Board of Zoning Appeals Options:

In reviewing a request for <u>development standards variance</u> the Board may (1) approve the petition as proposed, (2) approve the petition with conditions, (3) continue the petition to a future meeting of the Board, or (4) deny the petition (with or without prejudice). Failure to achieve a quorum or lack of a positive vote on a motion results in an automatic continuance to the next regularly scheduled meeting.

Columbus – Bartholomew County Planning Department Development Standards Variance Application

Planning Department Use Only:		SEP 17 2	VER
Jurisdiction: Columbus Bartholomew County		SEP 17 2	0010
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Zoning: KE Docket No.: C/D 5-13-18	By	FP	
Hearing Procedure: Hearing Officer Board of Zoning Appe	als		
Development Standards Variance Application:			
		*	
Applicant Information (the person or entity that will own and/	or execute what is propos	ed):	
Name: MATTHEW BATTIN			
Address: 738 LAFAYETTE AVE	COLUMBUS	IN	47701
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Variance Requested:
I am requesting a variance from Section 3. (2) of the Zoning Ordinance to allow the following:
A GARAGE TO BE BUILT ON THE NORTH SIDE OF
OUR PROPERTY ON THE PROPERTY LINE
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V23 170
Variance Request Justification:
The Indiana Code and the Columbus & Bartholomew County Zoning Ordinance establish specific criteria that each must be met in order for a development standards variance to be approved. Describe how the variance request meets each of the following criteria.
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GARDENS, AND KEEP THE HISTORIC ATTENDANCE OF A STRUCTURE ON THE PRO
The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
THE ADJACENT PROPERTY IS A RESTORED ONE BED ROOM
ONE ON GALVER HOUSE MAINTAINED BY US. GURRININ I HERE
IS A FENCE ON THE PROPERTY LINE. WE WANT TO THE THE FENCE
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THE GARAGE / PROPERTY FOR FUTURE USE IF ADMINIT
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By US

Application Fee Refund Information:

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•	(number)	(street)		(0	sity)	(state)	(zip)
Applica	nt's Signature	:					
The inform	mation included	in and with thi	s application is com	pletely true and	d correct to the best of	my knowledg	e and belief.
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(Applicant's	s Signature)	M/W/	<u> </u>		(Date)		
Property	/ Owner's Sig	nature (the "	owner" does not inc	lude tenants or	contract buyers):		
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(Owner's S	ignature)				(Date)		_
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The adopted Planning Department Schedule of Application Fees provides for the refunding of application fees for this request $\underline{i}\underline{f}$ it is approved by the Board of Zoning Appeals. The refund will be provided by mail in the form of a check. It may take several

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