



PLANNING AND DEVELOPMENT

200 Third Street North

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MEMORANDUM

TO: Board of Adjustment
FROM: Aaron Nelson, Planner *AN*
DATE: August 16, 2016
RE: Board of Adjustment Meeting

The next meeting of the Board of Adjustment will be held on Tuesday, August 23, at 9:00 a.m. in the City Commission Room at Fargo City Hall. If you are not able to attend, please contact staff at 241-1474 or planning@cityoffargo.com. Thank you.

BOARD OF ADJUSTMENT
Tuesday, August 23, 2016 9:00 a.m.
City Commission Room
AGENDA

1. Approve Minutes of July 26, 2016 Meeting
2. New Business
 - a) Variance Request – 810 11th Street North
Request for a variance of Section 20-0501 of the LDC. The requested variance is to allow construction of an accessory building that would encroach into the required rear and interior-side setback areas within the SR-5, Single-Dwelling Residential, zoning district.
3. Other Business
4. Adjournment

Board of Adjustment meetings are broadcast live on cable channel TV Fargo 56 and can be seen live by video stream on www.cityoffargo.com/streaming. They are rebroadcast each Tuesday at 9:00 a.m. for one month following the meeting.

People with disabilities who plan to attend the meeting and need special accommodations should contact the Planning Office at 241-1474 or TDD at 241-8258. Please contact us at least 48 hours before the meeting to give our staff adequate time to make arrangements.



BOARD OF ADJUSTMENT MINUTES

Regular Meeting:

Tuesday:

July 26, 2016

The Regular Meeting of the Board of Adjustment of the City of Fargo, North Dakota, was held in the City Commission Room at City Hall at 9:00 o'clock a.m., Tuesday, July 26, 2016.

The Members present or absent were as follows:

Present: Deb Wendel-Daub, Matthew Boreen, Michael Love, Mark Lundberg, Mike Mitchell

Absent: Russell Ford-Dunker

Chair Wendel-Daub called the meeting to order.

Item 1: Approval of Minutes: Regular Meeting of June 28, 2016

Item 2: Approval of Minutes: Adjourned Regular Meeting of June 30, 2016

Member Lundberg moved the minutes of the June 28, 2016 and June 30, 2016 Board of Adjustment meetings be approved. Second by Member Love. All Members present voted aye and the motion was declared carried.

Item 3: New Business

a) Variance Request – 3068 Thunder Road South: Request for a variance of Section 20-0502 of the Land Development Code. The requested variance is to allow construction of a building that would encroach into the required interior-side setback area within the LI, Limited Industrial zoning district: DENIED Planner Aaron Nelson presented the staff report and reviewed the criteria used during staff's analysis of the request. Mr. Nelson stated staff is recommending denial as review criteria a and c have not been met.

Applicant Jaron Gustofson, Abodz, spoke on behalf of the application.

Board discussion ensued concerning how this proposal could affect future development of adjoining properties, and other possible options for the applicant that would not require a variance.

Member Lundberg moved the findings of staff be accepted and the variance to allow a building addition to encroach into the required interior-side setback in the LI, Limited Industrial zoning district be denied, on the basis that the review criteria of Section 20-0914.E.1 (a & c) have not been met. Second by Member Love. Upon call of the roll Members Love, Boreen, Lundberg, and Wendel-Daub voted aye. Member Mitchell voted nay. Absent and not voting: Member Ford-Dunker. The motion was declared carried.

Item 4: Other Business

a) Nomination and Election of Officers

- Chairperson
- Vice Chairperson

Member Lundberg moved Deb Wendel-Daub be nominated as the Board of Adjustment Chairperson, and Mike Love be nominated as Vice Chairperson. Second by Member Mitchell. Upon call of the roll Members Mitchell, Boreen, Lundberg, Love, and Wendel-Daub voted aye. Absent and not voting: Member Ford-Dunker. The motion was declared carried.

Item 5: Adjournment:

Member Love moved to adjourn the meeting at 9:37 a.m. Second by Member Boreen. All Members present voted aye and the motion was declared carried.

CITY OF FARGO

Board of Adjustment

Variance Staff Report

| | |
|---|------------------------------|
| Item No: 2.a | Date: August 16, 2016 |
| Address: 810 11th Street North | |
| Legal: South ½ of Lot 6, Block 9, Harwood's 3rd Addition | |
| Owner(s)/Applicant: Steven Hannig | |
| Reason For Request: To construct a detached garage within the required setback area. | |
| Zoning: SR-5, Single Dwelling Residential | |

| SR-5 Dimensional Standards | | Proposed Accessory Structure Standards | |
|----------------------------|----------------------------------|--|------|
| Setbacks: | | Setbacks: | |
| Front: | 15' (20' for front-entry garage) | Front: | >20' |
| Street-Side: | 10' | Street-Side: | >50' |
| Interior-Side: | 4' | Interior-Side: | 0' |
| Rear: | 15' | Rear: | 3' |

Background:

The applicant, Steven Hannig, would like to construct a 14-foot-wide detached garage within the required interior-side and rear setback areas at the site of an existing single-family house. The property is located at 810 11th Street North and is within the SR-5, Single-Dwelling Residential, zoning district. Section 20-0403(B)(3) of the LDC allows accessory structures to be constructed as close as 3 feet from interior-side and rear property lines, provided that the accessory structure is located within the rear yard of the property. However, because the rear yard of the subject property is only 3 feet deep, placing a garage in the rear yard is not possible. Consequently, the applicant has proposed to construct the garage in the side yard where the standard SR-5 setbacks would apply. The SR-5 setbacks allow for an accessory building to be constructed as close as 4 feet from interior-side property lines and 15 feet from the rear property lines. The applicant, however, would like to construct the proposed accessory garage 0 feet from the interior-side property line, within the interior-side yard and 3 feet from the rear property line. Accordingly, the applicant is requesting a variance in order to allow the proposed garage to encroach 4 feet into the required interior-side setback area and 12 feet into the required rear setback area.

Criteria for Approval & Staff Analysis:

§20-0914.E.1 of the LDC states that, "A variance may be granted by the Board of Adjustment upon an affirmative finding that all of the following conditions exist."

- a. The requested variance arises from conditions that are unique to the subject property not ordinarily found in the same zoning district and are not a result of the owner's intentional action;**
 Compared to other residential properties within the vicinity, the subject property is uniquely small in size. The subject property has a lot depth of 50 feet. By comparison, of the 293 SR-zoned lots within a quarter-mile of the subject property, the average lot depth is 118 feet and the median lot depth is 140 feet. Additionally, the subject property is 3,500 square feet in area, which is half the size of the 7,000-square-foot median lot size for SR-zone properties within a quarter-mile.

Due to the small lot size and depth of the property, there is a small building envelope on which to construct or expand any structures. The subject property has a building envelope of 15 feet by 56 feet, which equates to an 840-square-foot rectangle that is 3.7 times wider than it is deep. Due to placement of

the existing house on the property, there is no way to construct a single garage stall within the defined building envelop. City parcel data indicates that the existing house was constructed in 1920, which demonstrates that the lack of buildable area is not a result of the owner's intentional action.

Because of the placement of the home on the property and the smaller lot depth in comparison to adjacent properties, staff finds that the requested variance arises from conditions that are unique to the subject property not ordinarily found in the same zoning district and are not a result of the owner's intentional action. **(Criteria satisfied)**

b. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;

Staff has no data that would identify an adverse impact to adjacent neighbors with this variance. In accordance with the notification requirements of the LDC, neighboring property owners were provided notice of the variance request. To date staff has not received any comments on this application. **(Criteria satisfied)**

c. The strict application of the applicable standards will constitute an unnecessary physical hardship (not economic hardship) because the property cannot be used for an otherwise allowed use without coming into conflict with applicable site development standards;

According to the applicant, the variance is being requested in order to construct a detached garage, which is a typical accessory structure permitted with single-family homes. Specifically, the applicant intends to construct a single-stall garage on the north side of the existing house.

Staff finds that there are no options for placing a single garage stall on the subject property without coming into conflict with applicable site development standards. Due to the location of the home on the property and limited lot depth, the side yard areas are the only options available for the placement of a garage on the subject property. However, the applicable setbacks limit the buildable area of the property and would restrict the construction of a garage. For example, the rear setback is 15 feet and the front setback for a garage is 20 feet. On a 50-foot-deep lot, the setbacks only leave 15 linear feet of buildable space, which is not deep enough to accommodate the depth of a functional garage. Consequently, staff finds that the strict application of the applicable standards will constitute an unnecessary physical hardship because the property cannot be used for an otherwise allowed use without coming into conflict with applicable site development standards. **(Criteria satisfied)**

d. The variance desired will not adversely affect the public health, safety or general welfare;

Staff has no data that would suggest an adverse affect on public health, safety or general welfare. No public health, safety or general welfare issues have been identified. **(Criteria satisfied)**

e. The variance is the minimum variance that will overcome the hardship;

Staff suggests that the proposed variance would be the minimum variance needed for the applicant to construct a new accessory structure in the location that would allow its use as a detached garage. **(Criteria satisfied)**

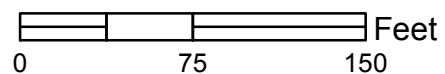
Staff Recommendation: "To accept the findings of staff and approve the requested variance to allow a detached garage to be placed 0 feet from the interior-side and 12 feet from the rear property lines in the side yard area within the SR-5 zoning district, on the basis that the review criteria of Section 20-0914.E.1 have been met."

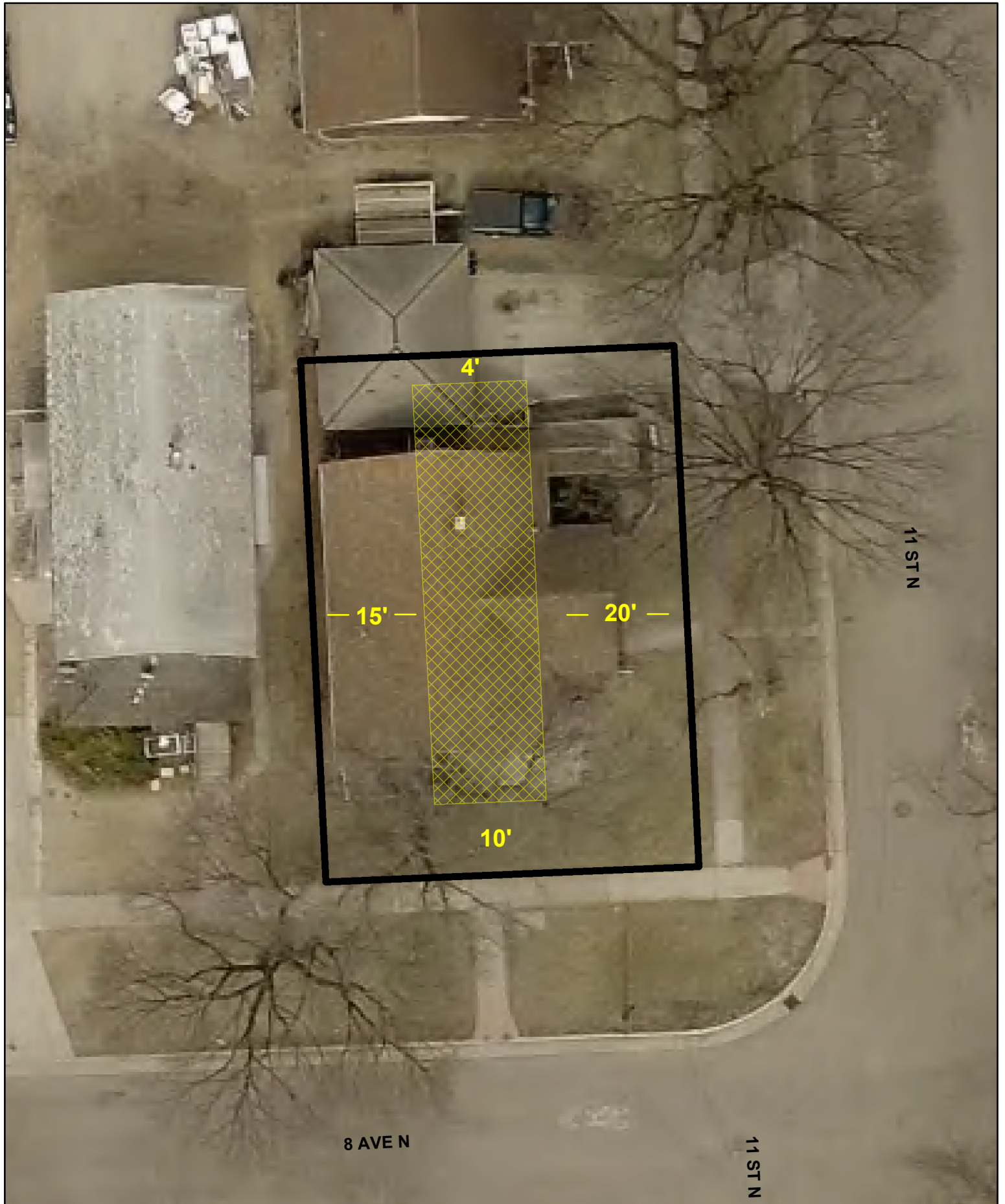


Zoning Districts

| | | | |
|-----|------|------|------|
| AG | GO | MR-2 | SR-1 |
| DMU | LC | MR-3 | SR-2 |
| UMU | LI | NC | SR-3 |
| GC | MHP | NO | SR-4 |
| GI | MR-1 | P/I | SR-5 |

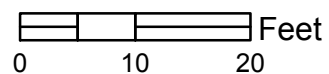
810 11th Street North





 Building Envelope

810 11th Street North





DEADLINE FOR APPLICATION
JULY 29TH

PLANNING AND DEVELOPMENT
200 Third Street North
Fargo, North Dakota 58102
Phone: (701) 241-1474
Fax: (701) 241-1526
E-Mail: planning@cityoffargo.com
www.cityoffargo.com

VARIANCES (§20-0914)

The Board of Adjustment is authorized to grant variances from the zoning district dimensional standards and off-street parking and loading standards of the Land Development Code (LDC) that will not be contrary to the public interest or the spirit of the LDC, where owing to special conditions, a literal enforcement of the provisions of this LDC would result in unnecessary physical (not economic) hardship to the property owner.

Variance Application Process

- 1) The application and a nonrefundable fee of \$185 are due at the time of submittal
- 2) Notice of the Public Hearing is mailed to property owners within 300 feet of the proposed site at least 15 days prior to the Hearing and published once a week for two consecutive weeks in the newspaper.
- 3) The City Planner reviews your case, develops a staff report and prepares a recommendation to the Board of Adjustment based on the Criteria for Approval, below.
- 4) Board of Adjustment meetings are scheduled as needed.

Criteria for Approval

A variance may be granted by the Board of Adjustment upon an affirmative finding that all of the following conditions exist.

- a. The requested variance arises from conditions that are unique to the subject property, that are not ordinarily found in the same zoning district and that are not a result of the owner's intentional action;
- b. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;
- c. The strict application of the applicable standards will constitute an unnecessary physical hardship (not economic hardship) because the property cannot be used for an otherwise allowed use without coming into conflict with applicable site development standards;
- d. The variance desired will not adversely affect the public health, safety or general welfare; and;
- e. The variance is the minimum variance that will overcome the hardship.

Acknowledgement – I hereby acknowledge that I have familiarized myself with the rules and regulations to the preparation of this submittal and that the foregoing information is true and complete to the best of my knowledge. I, the undersigned, do hereby petition the Board of Adjustment of the City of Fargo, North Dakota, to take such action as may be required by law of the City of Fargo to grant a variance pursuant to Section 20-0914 of the Land Development Code of the City of Fargo.

Owner (Signature):

[Signature]

Date: 7-29-16

Note: A nonrefundable filing fee of \$185.00 must be accompanied with the application at time of submittal.

Office Use Only

Date Filed: _____ Planning Contact: _____ Nonrefundable Fee \$185.00: _____

APPLICATION FOR VARIANCE

The Board of Adjustment is authorized to grant variances from the zoning district dimensional standards and off-street parking and loading standards of the Land Development Code (LDC) that will not be contrary to the public interest or the spirit of the LDC, where owing to special conditions, a literal enforcement of the provisions of this LDC would result in unnecessary physical (not economic) hardship to the property owner.

| Property Owner Information: | Representation Information: (if applicable) |
|--------------------------------------|---|
| Name (printed): <u>STEVE HANNIG</u> | Name (printed): _____ |
| Address: <u>810 11 ST. NORTH</u> | Address: _____ |
| Primary Phone: <u>805-471-0515</u> | Primary Phone: _____ |
| Alternative Phone: _____ | Alternative Phone: _____ |
| Fax: _____ | Fax: _____ |
| Email: <u>STEVE.HANNIG@GMAIL.COM</u> | Email: _____ |

| Location of property requesting a variance: |
|---|
| Address: <u>810 11 ST. NORTH</u> |
| Zoning District: <u>SR-5</u> |
| Legal Description: <u>S 1/2 OF 6, HARWOODS 3RD BLOCK 7, HARWOODS 3RD</u> |
| |
| |

Proposed Variance Information:

What Land Development Code Standard are you seeking a variance? (e.g. setback, lot coverage, height)

SETBACK

Please describe difference between the standard and the proposed (e.g. The standard is 10 ft. and my project would propose a 7' setback).

STANDARD: 3' ACCESSORY STRUCTURE SETBACK. PROPOSED ZERO SETBACK.

Please explain your project, describing why you are requesting a variance and why you believe a variance is justified. Along with your project description, please include a site plan/diagram with dimensions. (Attach additional pages, if needed.)

REMOVAL OF EXISTING SHARED GARAGE AND CONSTRUCTION OF
A NEW SINGLE-STALL GARAGE LOCATED ENTIRELY ON THE
SUBJECT LOT. THE EXISTING CONDITIONS PREVENT THE CONSTRUCTION
OF A FUNCTIONAL, STANDARD-SIZED SINGLE CAR GARAGE.

Criteria for Approval:

Please explain how your requested variance meets the following five criteria for approval, pursuant to Section 20-0914 of the Land Development Code: (Attach additional pages, if needed.)

- 1) The requested variance arises from conditions that are unique to the subject property, that are not ordinarily found in the same zoning district and that are not a result of the owner's intentional action;

THE EXISTING LOT SIZE AND CONFIGURATION ARE UNIQUE TO THE PROPERTY, AND ARE BELIEVED TO DATE BACK TO 1920. THE CITY OF FARGO HAS ALREADY FOUND THE LOT TO BE A UNIQUE CONDITION WHEN THE REQUESTED ZONING CHANGE TO SRS WAS APPROVED.

- 2) The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;

THERE IS NO INGRESS/EGRESS, OR OTHER USE ADJACENT TO THE GARAGE THAT WOULD BE ADVERSELY AFFECTED.

- 3) The strict application of the applicable standards will constitute an unnecessary physical hardship (not economic hardship) because the property cannot be used for an otherwise allowed use without coming into conflict with applicable site development standards;

~~WHERE~~ THERE IS APPROXIMATELY 18' 6" FROM THE NORTH WALL OF THE HOUSE TO THE NORTH PROPERTY LINE. A STANDARD 14' WIDE GARAGE, 3' SETBACK, AND 5' SEPARATION TO THE HOUSE WOULD REQUIRE 22'. THE LARGEST GARAGE THAT ~~COULD~~ COULD BE BUILT UNDER CODE IS 10.5' WIDE (9.5' INSIDE DIMENSION), WHICH IS NOT PRACTICAL OR FUNCTIONAL ~~FOR~~ FOR A MODERN VEHICLE.

- 4) The variance desired will not adversely affect the public health, safety or general welfare; and

THE PROPOSED VARIANCE WILL ~~BE ADJACENT TO~~ BE ADJACENT TO ~~A PARKING AREA OR FUTURE GARAGE,~~ A PARKING AREA OR FUTURE GARAGE, AND WILL NOT AFFECT ~~ACCESS~~ ACCESS OR USE OF ANY ADJACENT LOTS.

- 5) The variance is the minimum variance that will overcome the hardship.

THE PROPOSED VARIANCE WILL ALLOW FOR THE CONSTRUCTION OF A STANDARD WIDTH ONE-STALL GARAGE, AND NOTHING ADDITIONAL.

AN ATTACHED GARAGE IS NOT POSSIBLE DUE TO THE LOCATION OF EXISTING LOT.

