AGENDA
Carbondale Zoning Board of Appeals
February 20, 2019
City Hall/Civic Center, Room 108
200 South Illinois Ave.
6:00 p.m.

1. Call to Order and Roll Call


3. Citizens Comments and Questions

4. Hearings:

**ZBA 19-02:** Russell Martin is requesting a 550 foot variance from Section 15-3.4.1.B.2 of the Carbondale Revised Code, which outlines the combined square footage maximum for accessory structures in R-1, Low-Density Residential, zoning districts. This request is being made for property located at 1003 South Emerald Lane so that the owner may construct a detached 1200 square foot garage.

5. Old Business

None

6. New Business

None

7. Adjournment
1. Call to Order and Roll Call

Roll call was completed and the determination of a quorum was made.

2. Approval of Minutes:

Mr. Sheffer moved, seconded by Ms. Lilly, to approve the minutes of January 10, 2018.

The motion was approved by a unanimous voice vote.

3. Citizen Comments or Questions:

None

4. Hearing:

ZBA 19-01 – Katie Rednour is requesting a 65 foot variance from Section 15-2.9.7 of the Carbondale Revised Code, which outlines the front yard setback requirements in the AG, General Agriculture, zoning district. This request is being made for property located at 2801 Airport Road.

Ms. Litecky opened the Public Hearing at 7:00 p.m. and asked Mr. Taylor to read the Legal Notice.

Mr. Taylor, Senior Planner for the City of Carbondale, read the Legal Notice.

Ms. Litecky asked Mr. Taylor to present the staff report.

Mr. Taylor read part A of the staff report for ZBA 19-01.
Ms. Litecky asked if the Board had any questions for the staff.

There were none.

Ms. Litecky asked if the applicant was present.

Mr. David Rednour of 409 W. Pine St. Percy IL, came forward to speak about the background information on the property and how he wants to build his house on the property but it is impacted by the floodplain.

Ms. Litecky asked if the Board had any questions for the applicant.

There were none.

Ms. Litecky asked if anyone wished to speak in favor.

Jack Huppert of 2884 W. Harrison Rd. Murphysboro, is the seller of the property came forward to speak about the history of the property. Mr. Huppert stated that he will be neighbors to Mr. Rednour and is in support of the house that is going to be built on the property.

Ms. Litecky asked if there were any questions.

There were none.

Ms. Litecky asked if anyone wished to speak in opposition.

There were none.

Ms. Litecky asked Mr. Taylor to read the staff analysis.

Mr. Taylor read Part B and C of the staff report for ZBA 19-01, with a recommendation of approval.

Ms. Litecky asked if the Commissioners had questions for staff.

Mr. Henson asked if the blank space on Exhibit B is the 80’ variance. Mr. Taylor stated that is correct. Mr. Henson asked on question A(4) why is the applicant granted a special privilege. Mr. Taylor stated that that is a complicated question and is almost always going to be a special privilege due to the unique circumstances of the property. Mr. Henson asked if the Commission has the boundaries of the AG district. Mr. Taylor stated that the boundaries of this AG District go north to Airport property and are primarily the outskirts of the City.
Mr. Taylor also stated that he has proposed a different distance than requested by the applicant that the Commission should discuss with the applicant, if considered.

Ms. Litecky asked if there were questions from anyone to anyone.

Mr. Sheffer asked the applicant for his opinion of the change from 65’ variance to 45’ variance that the staff recommended.

Mr. Rednour stated that he would build his house 95’ from the center line of the road, so it would be 15’ from the property line. Mr. Rednour thinks it would be far enough off the road and away from the floodplain so he could have a backyard.

Ms. Litecky stated that the airport may try and develop the area to the north as well. Mr. Sheffer commented that area is highly looked at for development and may result in road expansion.

Ms. Litecky asked, from the right away line would the setback would be 35”? Mr. Taylor stated that is correct. Mr. Sheffer asked what the distance would be from the center of the road. Mr. Taylor stated that it would be 115’ from the center of the road. Mr. Rednour asked how many feet would that leave for a backyard. Mr. Taylor stated it would be about a foot to the floodplain.

Mr. Huppert asked what it would hurt for the setback to be 15’ instead of 35’ when it’s already 95’ from the centerline of the road. Mr. Sheffer stated that it depends on the type of roads that the new builds are going to be on. Mr. Huppert stated that he talked with staff and considered rezoning the area to an R-2 with a setback of 30’. Mr. Sheffer stated that’s a matter for a different time as the Commission would have to look into the area to be rezoned. Mr. Huppert stated that because of the flooding on Airport Road, he has been in contact with IDOT and if there would be any expanding it would come from New Era Road or HWY 51. Mr. Huppert stated that they did the 35’ variance that would not leave a backyard for Mr. Rednour. Mr. Taylor clarified that on the map of Exhibit B the edge of the floodplain is not the drop off the property and tree line and the one foot would be off of the floodplain not the tree line. Mr. Huppert suggested a compromise of 20’ variance to utilize the property. Mr. Taylor stated that the property across the street is 35’ from the property line, that’s why he recommended the 35’ variance.

Mr. Henson stated that he agrees with the applicant on the expanding coming from New Era or HWY 51. Mr. Rednour reiterated that it would be hard for any kind of development to happen on that piece of property as there is a sharp drop-off towards the back of the property and it does flood in that area.

Ms. Litecky asked why the applicant doesn’t pursue the property to be rezoned. Mr. Huppert stated that it would change what can and cannot be built on the property. Mr. Huppert stated that the neighbor’s property line is 24’ closer to the road than his
and when the road when redone there was more of his property taken away than the neighbors.

Mr. Sheffer stated that the Commission is trying to come to a compromise, so Mr. Rednour won’t regret building too close if there happens to be a major road expansion that comes into the area. Mr. Rednour requested clarification of the variance that the staff requested, which would be a 45’ variance with a setback of 35’ and the total from the center line being 115’ and 1’ from the floodplain the backyard where staff measured. Mr. Rednour is concerned that there is not enough distance from the back of the house until the drop-off in the backyard.

Mr. Henson asked if Mr. Rednour is willing to deal with construction and a road 15’ outside his front door if that road was to be expanded to its maximum. Mr. Rednour stated that there would be nothing he could do.

Ms. Litecky stated that the variance is based on the design of the house. Mr. Rednour confirmed. Mr. Sheffer stated that the applicant could possibly rearranging the design of the house to accommodate the land or move dirt around. Mr. Huppert stated that the land is a wet-land and dirt cannot be added or removed from the area.

Mr. Huppert asked if the Commission could meet in the middle with a new variance since Mr. Rednour is asking for 15’ and staff recommended 35’.

Mr. Henson said that the only issue he has with pushing the variance back 20’ is the flood water projections in the area are predicted to hold more water in the future. Ms. Litecky stated that most people who design and build houses, designs and builds the house around the property and work within the limitation of the property.

Mr. Sheffer proposed to move the variance to 50’ with a setback of 30’ that would make 5 more feet to work with. Mr. Rednour clarified that the back of the property would be 6’ from the floodplain. Mr. Rednour asked to clarify, if the floodplain is incorrect from the maps that the City has, what will happen. Mr. Taylor stated that the map that City has is what the floodplain will go off of. Mr. Huppert stated that there is a concrete marker on the property across the road and asked if that marker could be used as a guide to find this current property. Mr. Taylor stated that it would be best to hire a property surveyor to help find the property corners. Mr. Rednour stated that IDOT can build 80’ from the center line, he then asked what if the property line is within that 80 feet. Mr. Taylor stated to build from the property line and to make sure to get a surveyor to know where the property lines are.

Mr. Sheffer asked staff when to make a recommendation to change from what the City has requested. Mr. Taylor stated that change can be made with the regular motion.
Mr. Henson asked the applicant if the new recommendation of extra 5 foot variance acceptable. Mr. Rednour agrees and can make it work.

Mr. Henson asked if a first motion if a 15’ variance doesn’t pass could there be a second motion made of 30’.

Mr. Taylor stated that the Commission could make a motion with an amount for the variance, if someone disagrees with the amount specified then make an amendment to the motion that can be voted on by the zoning board.

Ms. Litecky declared ZBA 19-01 closed and asked for a motion on the findings of fact.

Mr. Sheffer moved that the ZBA has jurisdiction over the matter being requested second by Dr. Lebeau.

    The motion was approved by a unanimous voice vote.

Mr. Sheffer moved that applicant has the standing to make this application second by Mr. Henson.

    The motion was approved by a unanimous voice vote.

Mr. Sheffer moved that Part A and the applicant and one person spoke in favor, zero people spoke in opposition, and zero letters in favor or opposition were submitted all be accepted as the findings of fact, second by Ms. Lilly.

    The motion was approved by a unanimous voice vote.

Mr. Sheffer moved to make a motion to consider all five criteria as one and that they have all been met, seconded by Dr. Lebeau.

    Roll Call Vote
    Yes – 5 (Henson, LeBeau, Sheffer, Lilly and Litecky)
    No – 0

Mr. Sheffer moved to grant the variance of ZBA 19-01 with the condition of the variance being 50’ and the setback being 30’, seconded by Ms. Lilly.

Mr. Henson asked to amend the variance to 65’ and the setback to 15’, seconded by Dr. Lebeau.

    Roll Call Vote
    Yes – 3 (Henson, LeBeau, Lilly)
    No – 2 (Sheffer, Litckey)
Mr. Taylor stated that motion to amend the variance to 15’ setback has failed as five affirmative votes were needed.

Mr. Henson asked if the applicant could come back if the vote fails. Mr. Taylor stated that the applicant could not come back with a variance request but could come back with the option to rezone the property and rezoning would be about the same distance as what Mr. Sheffer has proposed.

Mr. Sheffer’s original motion was then called to a vote.

Roll Call Vote
Yes – 5 (Henson, LeBeau, Sheffer, Lilly and Litckey)
No – 0

Mr. Taylor stated that the motion for the variance at 50’ and the setback of 30’ has been approved.

5. **Old Business:**

None

6. **New Business:**

None

7. **Adjournment:**

Ms. Litecky adjourned the meeting at 8:11 p.m.
TO: City of Carbondale Zoning Board of Appeals

FROM: Travis Taylor, AICP, Senior Planner

RE: ZBA 19-02, 1005 South Emerald Lane, Variance from the maximum allowed floor area for accessory structures in an R-1-8, Low-Density Residential, District

DATE: February 12, 2019

(Zoning Board of Appeals Public Hearing on Wednesday, February 20, 2019, 6:00 p.m.)

Applicant/Owner: Russell Martin, Jr.
1005 Emerald Lane
Carbondale, IL 62901

PART A. BACKGROUND AND SUMMARY

Russell Martin, Jr., residing at 1005 Emerald Lane, is requesting a 550 ft² variance from Section 15-3.4.1.B of the Carbondale Revised Code, which limits the maximum combined floor area of accessory structures to 800 ft² in the R-1-8, Low-Density Residential, District. The variance would allow for the construction of a 1200 ft² storage building on property with an existing 150 ft² storage building. (Please refer to Exhibit A: Applicant’s Brief; and, Exhibit B: Location Map).

The subject property and surrounding property along South Emerald Lane has been zoned R-1-8, Low Density Residential, since the adoption of the 1974 zoning ordinance. The applicant’s property consists of two parcels located on the east side of South Emerald Lane. The applicant currently maintains a single family residence, a 150 ft² storage building on the south parcel, while the parcel to the north is currently vacant. After a recent fire at 1003 South Emerald Lane, the applicant purchased the property and removed the damaged structure, leaving the parcel vacant. Since both parcels are contiguous and have the same owner of record, the City considers them as one property. Therefore, though the property will be larger than the average parcel size in the district, it still must conform to the regulation which limits the combined floor area of accessory structures to 800 ft². (Please refer to Exhibit C: Photos of Subject Property).
APPLICABLE REGULATIONS:

15-3.4 ACCESSORY USES, STRUCTURES AND BUILDINGS

B. Size/Scale/Number – Special Standards for R-1, R-2, R-3, and PUD Districts

The following standards shall apply to accessory buildings in all R-1, R-2, R-3, and PUS districts

1. There shall be no more than two accessory buildings on a lot or tract with one principal building.

2. The floor area of any accessory building shall not exceed the larger of the following:
   (a) Eight hundred square feet (800 ft²); or
   (b) The combined floor area of accessory buildings shall not exceed eight hundred square feet (800 ft²).

3. The height of an accessory building shall not exceed the lower of the following:
   (a) Ten feet (10') less than the permitted height for the zoning district; or
   (b) Twenty-five feet (25').

NOTE: that this height limit does not apply to permitted antenna structures or the towers or other support systems for them.

Sec. 15-6.9.1 Provisions for Hearing and Deciding upon Appeals and Variances:

B. Variances

1. A variance may be granted by the Zoning Board of Appeals after a public hearing upon the following conditions:

   a. That the party seeking a variance makes written application to the Board demonstrating:
      (1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
      (2) That literal interpretation of the provisions of this Article would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Article;
      (3) That the special conditions and circumstances do not result from the actions of the applicant.
      (4) That granting the variance requested will not confer on the applicant any special privilege that is denied by this Article to other lands, structures, or buildings in the same district.

   b. That the granting of the variance will be in harmony with the general purpose and intent of this Article and will not be injurious to the neighborhood, or detrimental to the public welfare. A variance shall not be granted merely to serve as a convenience to the applicant, but only if it is necessary to alleviate some demonstrable hardship or difficulty. Under no circumstances shall the Board grant a variance to allow a use not expressly permissible under the terms of this Article in the district involved.

CORRESPONDENCE RECEIVED: City Staff has received no correspondence in regards to this request.

PART B. ANALYSIS

Sec. 15-6.9.1.B.1: A variance may be granted by the Zoning Board of Appeals after a public hearing upon the following conditions:

Staff's responses to the criteria in Section 15-6.9.1.B.1 for granting a variance are as follows:
a. (1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.

After receiving the applicant’s original concept, staff explored options for Mr. Martin to attach the proposed garage to the main structure so that all structures would conform to the Carbondale Revised Code. Upon examination, the current construction of the home, coupled with the drainage way which separates both lots, makes this unfeasible for the applicant. It is staff’s opinion that these attributes, specifically the drainage way, are peculiar to the property and prevent the applicant from constructing an attached garage which would be an option for other property owners in the district.

(2) That literal interpretation of the provisions of this Article would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Article.

The literal interpretation of the provisions of this article would deprive the applicant of rights enjoyed by other properties in the R-1-8 district. The literal interpretation of the article would prevent the applicant from constructing a garage as an addition across property lines not be viable for this property as it may for other property owners in the district.

(3) That the special conditions and circumstances do not result from the actions of the applicant.

The current drainage separating both lots is not a result of actions of the applicant. This drainage is a result of the development of the subdivision to the east. This creates a unique circumstance on the applicant’s property.

(4) That granting the variance request will not confer on the applicant any special privilege that is denied by this Article to other lands, structures, or buildings in the same district.

Granting the variance will not confer on the applicant a special privilege not available to other land in the district. While, all homeowners located within the R-1, R-2, R-3, and PUD zoning districts are limited to a maximum of 800 ft² of combined floor area for accessory structures, the variance process would be available to any property owner whose property suffers from the same circumstances discussed herein.

b. That the granting of the variance will be in harmony with the general purpose and intent of this Article and will not be injurious to the neighborhood, or detrimental to the public welfare. A variance shall not be granted merely to serve as a convenience to the applicant, but only if it is necessary, to alleviate some demonstrable hardship or difficulty. Under no circumstances shall the Board grant a variance to allow a use not expressly permissible under the terms of this Article in the district involved.
It is Staff’s opinion that the granting of the variance would be in harmony with the general purpose and intent of this Article. The intent of the variance process is to allow for flexibility in the zoning code only where its strict enforcement would cause an undue hardship upon the applicant due to unique circumstances surrounding the property or structure. As identified in the response to Criterion 1, it is Staff’s opinion that there are certain circumstances surrounding the property which make the construction of the attached garage unfeasible or, rather cause an unreasonable hardship upon the applicant.

It is also Staff’s opinion that granting the variance would neither be injurious to the neighborhood nor detrimental to the public welfare. It is Staff’s opinion that the intent of the regulation to limit the size of accessory structures is to prevent the adverse effects the structures may have on surrounding properties with regards to storm water runoff, visibility, and neighborhood character. Specifically, these regulations were written with the intent to limit accessory structures per parcel. As the applicant will own both parcels and as the size of the garage will not be unlike that of a single family structure on that lot, the proposed accessory structure should not adversely impact the neighborhood. In fact, it is Staff’s opinion that the proposed design of the structure, as it is in keeping with the style of the applicant’s home, will not only compliment the home, but, also, add to the character of the neighborhood.

**ADDITIONAL ANALYSIS:**

The applicant has requested a variance from the maximum combined floor area for accessory structures within the R-1-8 zoning district. The applicant intends to build a 30’ by 40’ detached garage which will accompany an existing 120 ft² storage building to the south.

It should be noted that a very similar case has come before the Zoning Board of Appeals in 2014. Paul Hinze, residing at 1500 Mary Nell’s Lane, requested a 1,450 ft² variance from the same section of code. This variance was requested so Mr. Hinze could construct a detached, 1,500 ft² storage building on an empty parcel he owned which abuts his property. Although Staff identified no special circumstances surrounding his property and therefore recommended denial of the request, the Carbondale Zoning Board of Appeals unanimously recommended approval.

**PART C. RECOMMENDATIONS:**

Based on the analysis presented in this report, and the applicant having met the five criteria for granting a variance, Staff recommends the Zoning Board of Appeals approve ZBA 19-02.
Exhibit A - Applicant's Brief

Russell H. Martin, Jr
1005 Emerald Lane
Carbondale, IL 62901
(618)457-5404
rhmartin@mchsli.com

January 18, 2019

Zoning Board of Appeals
209 South Illinois Avenue
P.O. Box 2047
Carbondale, IL 62902-2047

Dear Commissioners:

I am writing to request a variance to building Code 15-3.4.1.B.2 (Combined 800 sq. ft. maximum floor area for accessory structures) for a free-standing garage. Last October, my wife and I purchased the home and lot at 1003 S. Emerald Lane. The home was a blight to the neighborhood. The roof was falling in, the sewer was not functioning, the ceilings were compromised by rain water due to the damaged roof, mold filled the house caused by roof leakage and water collecting in the crawl space. Because the previous owner was a hoarder, every room in the house was full of stuff from floor to ceiling. We had the home removed in November.

In place of the home, we would like to build a free-standing garage to house our vehicles, lawn maintenance equipment, ladders and general storage. The proposed garage will be an improvement to the property. The architectural design of the garage will conform to our house, having the same pitched roof and the same siding. The roof will also have dormers facing the street. The landscaping will be similar to the landscaping around our home.

My wife and I hope that you grant a variance based on the conditions outlined in the attached explanation and pictures of the hardships.

Sincerely,

[Signature]

Russell H. Martin, Jr.
Attic Space

Sloped Ceiling

Unfinished Storage
31-4x14-0

Dn
Public Hearing Date & Time
February 20, 2019
6:00 p.m.

Case Description
Russell Martin is requesting a 550 foot variance from Section 15-3.4.1.B.2 of the Carbondale Revised Code which outlines the maximum combined square footage for accessory structures in residential districts for 1003 South Emerald Lane.

Zoning Classifications
AG    General Agriculture
R-1   Low-Density Residential
SIU   Southern Illinois University

Legend
Subject Property
Parcels

0 100 200 Feet

CARBONDALE
All Ways Open