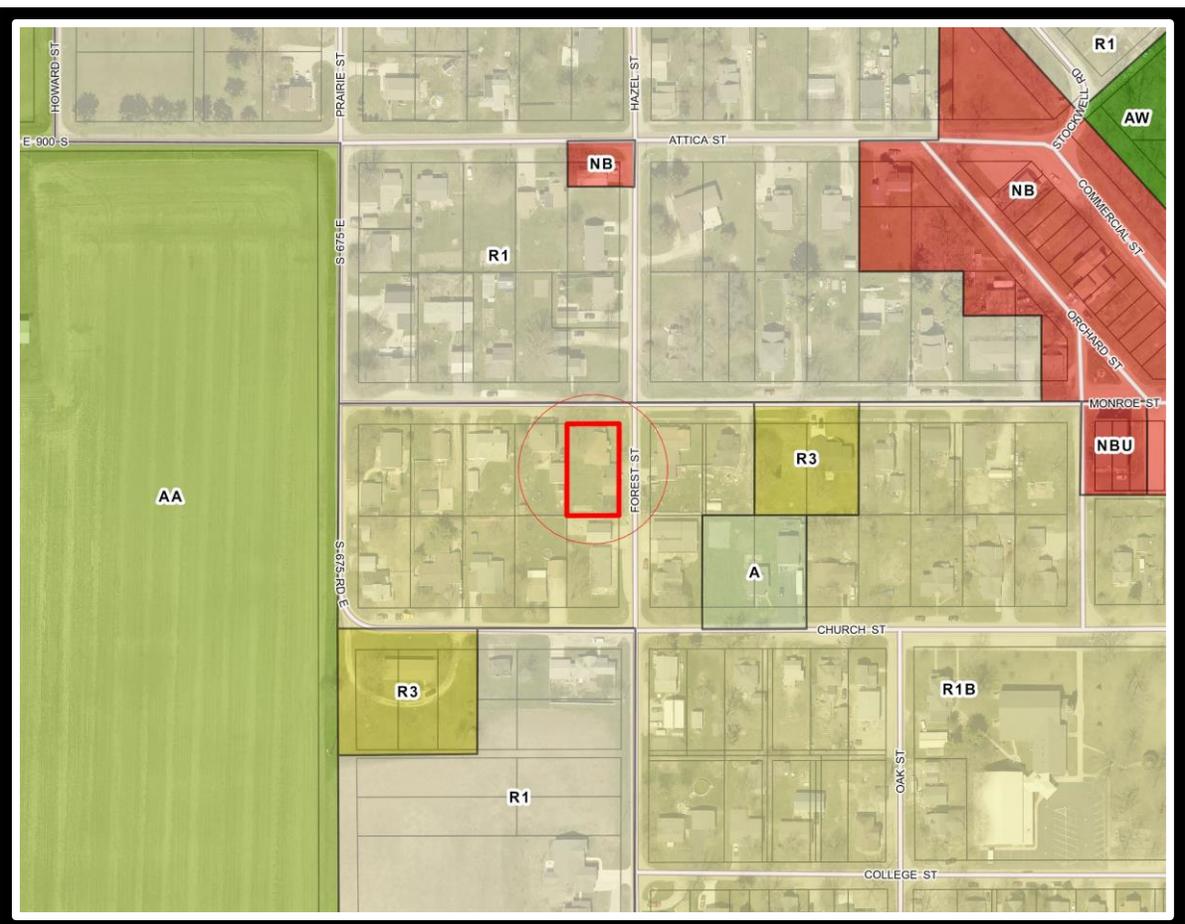

BZA-2058
DANIEL L. MCDOLE
(variance)

STAFF REPORT
June 17, 2021



BZA-2058
DANIEL L. MCDOLE
Variance

Staff Report
June 17, 2021

REQUEST MADE, PROPOSED USE, LOCATION:

Petitioner, who is also the owner, is requesting a setback variance of 1 foot instead of the required setback of 25 feet. The property is located in Stockwell at the southwest corner of Forest and Monroe Streets. Petitioner would like to rebuild a garage that was recently destroyed in a fire utilizing the old foundation. The site is commonly known as 6827 Monroe Street, in the unincorporated town of Stockwell, Lauramie 8 (NE) 21-3.

AREA ZONING PATTERNS:

The lot in question is zoned R1B as is land to the west, south and east. North across Monroe Street properties are zoned R1.

AREA LAND USE PATTERNS:

The site supports a single-family home and a carport. Other single-family homes surround this lot.

TRAFFIC AND TRANSPORTATION:

This property has a driveway to Forest Street and a concrete parking pad. Both Forest and Monroe Streets are classified as rural local roads per *The Thoroughfare Plan*.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:

Sewer and water serve the site.

STAFF COMMENTS:

Petitioner's garage was destroyed by fire earlier this year. This garage, per the Assessor's records was built in 1947. The owner would like to use the existing foundation to rebuild the garage, but the setback from the property line is only 1 foot.

Forest Street was platted with 40 feet of right-of-way and based on aerial photography the pavement appears to be only 15 feet wide. This means that the leading edge of the former garage appeared to be setback further from the right-of-way than it actually was.

The zoning ordinance allows for a setback to be averaged for existing homes on a block face, but never less than 10 feet. In this situation, there is only one other home whose setback can be averaged. The house just south of the subject site appears to have a setback of 12 feet based on aerial photography. Based on averaging, a new garage could be built 12' from the right-of-line. There is nothing preventing the garage from being built

further from the property line except petitioner's desire to re-use the existing cement building foundation.

Regarding the ballot items:

1. The Area Plan Commission at its June 16, 2021 meeting determined that the variance requested **IS NOT** a use variance.

And it is staff's opinion that:

2. Granting this variance **WILL NOT** be injurious to the public health, safety, and general welfare of the community. The former garage was located with a 1 foot setback for decades and staff is not aware of any resulting problems from that location. Rebuilding in this same location will not be injurious to the public health and safety.
3. Use and value of the area adjacent to the property included in the variance request **WILL NOT** be affected in a substantially adverse manner. Again, the garage existed in this location since the 1940's and staff does not believe any surrounding properties will be adversely affected.
4. The terms of the zoning ordinance are being applied to a situation that **IS NOT** common to other properties in the same zoning district because the home and former garage were built before zoning requirements were adopted in 1965.
5. Strict application of the terms of the zoning ordinance **WILL NOT** result in an unusual or unnecessary hardship as defined in the zoning ordinance. The ordinance allows for setbacks to be averaged along a block face but never less than 10 feet. The home just south of petitioner's lot appears to have a setback of 12', which would allow for a 12' setback for petitioner's garage. Adequate room exists to rebuild the garage without a variance.

Note: Questions 5a. and 5b. need only be answered if a hardship is found in Question 5 above.

5a. The hardship involved **IS** self-imposed or solely based on a perceived reduction of or restriction on economic gain. While building the garage on a new foundation 12' from the property line causes petitioner a practical difficulty and would cost more, it cannot be considered an ordinance-defined hardship.

5b. The variance sought **DOES NOT** provide only the minimum relief needed to alleviate the hardship because staff can find no ordinance-defined hardship. Minimum relief would be to build at the 12' averaged setback.

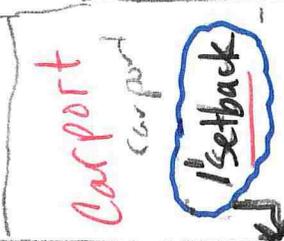
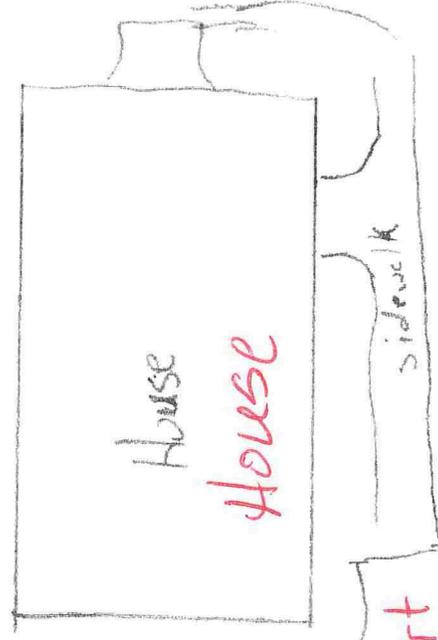
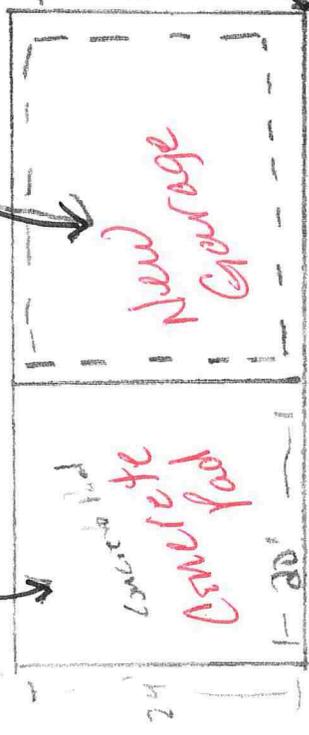
STAFF RECOMMENDATION:

Denial

Existing fence on property line

To Rebuild on
Existing 24' x 24'
Foundation
from burnt garage

old 24' x 20'
addition that
burned



Right of Way
(PROPERTY LINE)

Edge of Pavement

Existing Paved Driveway

21'

7'

center of Street

Forest St.

Monroe St