

CITY COUNCIL SPECIAL MEETING AGENDA

Brainerd, Minnesota
Tuesday, October 25, 2016
12 p.m. (Noon)

Brainerd City Hall
Council Chambers

____ Mayor Menk
____ G. Scheeler
____ M. Johnson
____ M. Pritschet
____ M. Koep
____ K. Bevans
____ S. Hilgart
____ C. Borkenhagen

1. Call to Order

2. Roll Call

3. Pledge of Allegiance

4. New Business

- Gordon Murphy, 704 6th St N to reconstruct detached accessory building (garage):
- Conditional Use Permit is to allow the garage to be 1' taller than permitted
 - Variance is to allow the garage to be 6' closer to Grove Street than permitted

5. Adjourn



Brainerd City Council Agenda Request

Agenda Item #

Requested Meeting Date: October 25, 2016 Special Meeting

Title of Item: Gordon Murphy, 704 6th St N. - Conditional Use Permit and Variance to reconstruct a detached accessory building (garage)

☐ INFORMATION ONLY ☐ CONSENT AGENDA ☐ P&F COMMITTEE ☐ SPW COMMITTEE ☒ MAIN AGENDA	Action Requested: ☒ Approve/Deny Motion ☐ Adopt Resolution (attach draft) *provide copy of published hearing notice ☐ Direction Requested ☐ Discussion Item ☐ Hold Public Hearing* ☐ Ordinance 1 st Reading
Submitted by: Mark Ostgarden, City Planner	Department: Planning
Presenter (Name & Title): Same	Estimated Time Needed: 10 -15 minutes
Summary of Issue: A detached garage was destroyed by fire in April, 2016. Mr. Murphy plans to reconstruct the garage in the same location, however he desires to increase the size from 24' x 24' to 24' x 30' creating a 14' street side yard setback where 20' is required. Mr. Murphy also would like to increase the roof height with a 6/12 slope to match the dwelling slope. The steeper slope will cause the roof height to exceed the maximum height of 15' (at the roof midpoint) by 1'. The increase in size will require a setback Variance and a Conditional Use Permit will allow the garage height to be increased above the maximum allowed height. Attached are the Conditional Use Permit and Variance Staff Reports, and draft October 19, 2016 Minutes with Findings of Fact	
Alternatives, Options, Effects on Others/Comments: 1. Approve both the Conditional Use Permit and the Variance. 2. Approve the Conditional Use Permit but not the Variance. 3. Approve the Variance but not the Conditional Use Permit 4. Deny both the Conditional Use Permit and the Variance.	
Recommended Action/Motion: The Planning Commission recommends: A motion by _____ and 2nd by _____ to approve the Conditional Use Permit at 704 N. 6th Street for the garage height to be 1' taller than permitted and a Variance to have a 14' street side yard setback where 20' is required.	
Financial Impact: Is there a cost associated with this request: ☐ Yes ☒ No What is the total cost, with tax and shipping \$ _____ Is this budgeted? ☐ Yes ☒ No <u>Please Explain:</u>	

PLANNING COMMISSION
Wednesday, October 19, 2016

Vice Chairman Dale Parks called the meeting of the Brainerd Planning Commission to order at 6:00 p.m. in the City Hall Council Chambers.

Noted present were Commissioners Parks, Straw, Headley, Turner, and Pritschet. Also present were City Planner Ostgarden, City Administrator Thoreen, Planning Intern Bryan Harvey and 12 others.

#2 Approval/Amendment of Agenda

MOTIONED AND SECONDED BY COMMISSIONERS PRITSCHET AND STRAW, DULY CARRIED, TO APPROVE THE AGENDA AS PRESENTED.

#3 Approval of minutes of the regular meeting held on September 21, 2016

MOVED AND SECONDED BY COMMISSIONERS PRITSCHET AND STRAW, DULY CARRIED, TO APPROVE THE MINUTES OF THE SEPTEMBER 21, 2016 REGULAR PLANNING COMMISSION MEETING AS PRESENTED.

#4 NEW BUSINESS

- a) Gordon Murphy, 704 6th St N to reconstruct detached accessory building (garage):
- Conditional Use Permit is to allow the garage to be 1' taller than permitted
 - Variance is to allow the garage to be 6' closer to Grove Street than permitted

The Chair opened the Public Hearing at 6:12 P.M.

City Planner Ostgarden stated the detached garage on the property was destroyed by fire in April, 2016. Mr. Murphy plans to reconstruct the garage in the same location however he desires to increase the size from 24' x 24' to 24' x 30' creating a 14' street side yard setback where 20' is required. Mr. Murphy also would like to increase the roof height with a 6/12 slope to match the dwelling slope. The steeper slope will cause the roof height to exceed the maximum height (at the roof midpoint) of 15' by 1'. The increase in size will require a setback Variance and a Conditional Use Permit will allow the garage height to be increased above the maximum allowed by right.

He reviewed the staff reports for the Conditional Use Permit and Variance and described how the property is part of the original plat of the city dating back to the 1870's. Over the decades the neighborhood has developed with a mixture of dwelling and accessory building mixes and roof slopes. Mr. Murphy's site plan depicts the larger garage will be setback the same distance from the property line as the garage on the lot to the east.

Mr. Ostgarden inquired of the Planning Commission whether it received Mr. Murphy's letter e-mailed to them earlier in the day and each acknowledged receipt. There were no other letters or e-mail received regarding the requests.

Mr. Murphy addressed the Planning Commission and talked about the fire that destroyed the garage, the additional 6' size increase will match the setback of the garage on the adjacent lot. He also explained this was an opportunity to have a more aesthetic roof design by increasing the garage roof

slope to match the house roof slope. He stated he thought the roof slope and setback would not be out of character in the neighborhood.

The Chair closed the Public Hearing at 6:35 P.M.

Findings of Fact

1. The property is located in an (R-1 Single Family Residential) District and is a 50' x 150' (7,500 sf) lot, a typical lot size in the neighborhood.
2. The garage was destroyed by fire in April, 2016.
3. The garage will be increased in size from 24' x 24' to 24' x 30' with the additional 6' going closer to the Grove Street property line.
4. The accessory building setback from the Grove Street property line is 20' and the request is to have a 14' setback creating the request for a 6' setback variance.
5. The property owner desires to have a 6/12 roof slope creating a roof height of 16' at the midpoint. A Conditional Use Permit allows the roof of an accessory building to exceed 15' if the roof slope matches the principal building roof slope.
6. The 14' setback will match the setback of the garage located on the property to the east.
7. The new garage will meet side yard and rear yard setbacks, be less than the allowed 10% of lot area and impervious lot area will less than 60%.
8. The property is part of the Original Plat of Brainerd and the neighborhood that is part of the original plat has developed with a variety of principal building and accessory building styles and roof slopes.
9. The application meets the following Comprehensive Plan Goals and Strategies: *LAND USE GOAL #3: Plan for the orderly, efficient and fiscally responsible growth of residential development in Brainerd.*
 - Strategies
 - *Encourage compatible infill residential development throughout the developed portions of the city, to encourage the efficient use of land, the establishment of a strong tax base and the cost effective provision of city service*
 - Encourage housing rehabilitation and redevelopment in appropriate areas.
- LAND USE GOAL #5: Support development that enhances community character and identity.*
10. The petitioner spoke on his behalf and there was no other public comment.

MOVED AND SECONDED BY COMMISSIONERS PRITSCHET AND STRAW, DULY CARRIED, TO ACCEPT THE FINDINGS-OF-FACT.

MOVED AND SECONDED BY COMMISSIONERS PRITSCHET AND STRAW, DULY CARRIED, TO RECOMMEND THE APPROVAL OF THE REQUEST FOR A CONDITIONAL USE PERMIT AND VARIANCE AS APPLIED FOR BY GORDON MURPHY AT 704 N. 6TH STREET.

- b) Art Space LLP, Conditional Use Permit (CUP) Request to operate brewery and taproom at Franklin Art Center, 1001 Kingwood Street

#5 **PUBLIC FORUM** – None

#6 **OLD BUSINESS** – None

#7 **COMMISSIONERS' QUESTIONS/COMMENTS** - None

#8 **CITY PLANNER'S REPORT** – None

#9 **ADJOURN**

AS THERE WAS NO FURTHER BUSINESS, WITH A MOTION BY PRITSCHET AND SECOND BY HEADLEY, DULY CARRIED, THE MEETING ADJOURNED AT 7:50 TO THE 2ND FLOOR CONFERENCE ROOM TO DISCUSS THE DRAFT VACATION RENTALS BY OWNER ORDINANCE.

Respectfully submitted,

Mark Ostgarden AICP
City Planner

STAFF REPORT TO THE PLANNING COMMISSION

October 12, 2016

CONDITIONAL USE PERMIT

APPLICANT/LOCATION: Gordon Murphy, 704 6th Street N.

PROPOSED USE: Increase Garage Height to Match Dwelling Roof Slope

LOT AREA: 50' x 140' (7,000 sq. ft.)

CURRENT ZONING: R-1 (Single Family Residential) District

ADJACENT USES: East: Residential
South: Residential
West: Residential
North: Residential

ADJACENT ZONING: North: R-1 (Single Family Residential) District
East: R-1 (Single Family Residential) District
South: R-1 (Single Family Residential) District
West: R-1 (Single Family Residential) District

REPORT

The detached garage on the property was destroyed by fire in April, 2016. Mr. Murphy desires to reconstruct the garage in the same location, however he desires to increase the size and increase the roof height with a 6/12 slope to match the dwelling slope. The increase in size will require a setback Variance and a Conditional Use Permit will allow the garage height to be increased above the maximum allowed by right.

Please see the Variance review for the applicant's information for the Conditional Use Permit.

A. Criteria for Granting Conditional Use Permits. In granting a Conditional Use Permit, the City Council shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use upon the health, safety, morals and general welfare of occupants or surrounding lands. Among other things, the City Council shall make the following findings where applicable.

- 1. The proposed use conforms to the district and conditional use provisions and all general regulations of this Ordinance.*

Zoning Ordinance Section 515-17-8 B. c. 3. Accessory Buildings, Uses and Equipment. reads:

Height. Detached accessory buildings shall not exceed the height of the principal building or fifteen (15) feet, whichever is less. Exceptions may be granted to allow for the detached accessory building to match the roof pitch of the existing principal building by Conditional Use Permit in accordance with Section 5 of this Ordinance.

As stated, a setback Variance is requested to increase the size of the garage. The garage fronts on Grove Street and is required to have a 20' setback. A 6' addition towards Grove Street is proposed creating a 14' setback and a 6' setback Variance request.

The other district, Conditional Use provisions or general regulations that apply are side and rear yard setbacks, maximum garage size and maximum lot coverage. The proposed garage size will meet setback requirements, not exceed the maximum size allowed and will cause the maximum lot coverage to be exceeded.

2. *The proposed use meets all special standards which may apply to its class of conditional uses as set forth in this section.*
There are no special standards that apply to this application.
3. *The proposed use shall not involve any element or cause any condition that may be dangerous, injurious, or noxious to any other property or persons.*
The proposed garage height will not create dangerous, injurious or noxious conditions for other property or persons in the neighborhood.
4. *The proposed use shall be sited, oriented and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and properties.*
The new garage will be in the same location and oriented in the same direction as the old one.
5. *The proposed use shall produce a total visual impression and environment which is consistent with the environment of the neighborhood.*
The garage size, height, roof pitch and location is consistent with the character of the neighborhood.
6. *The proposed use shall organize vehicular access and parking to minimize traffic congestion in the neighborhood.*
This request has no impact on traffic congestion.
7. *The proposed use shall preserve the objectives of this Ordinance and shall be consistent with the Comprehensive Plan.*
The objectives of the Zoning Ordinance are:
515-1-2: *Intent and Purpose.*

- A. *Protect the public health, safety, and general welfare of the community and its people through the establishment of minimum regulations governing development and use.*
- B. *This Ordinance shall divide the City into use districts and establish regulations in regard to location, erection, construction, reconstruction, alteration and use of structures and land.*
- C. *Protect neighborhoods.*
- D. *Promote orderly development and redevelopment of land for residential, commercial, industrial, recreational and public areas.*
- E. *Provide adequate light, air, and convenience of access to property.*
- F. *Prevent congestion in the public right-of-way.*
- G. *Prevent overcrowding of land and undue concentration of structures by regulating land, buildings, yards, and density of population.*
- H. *Protect and preserve the natural environment of the City.*
- I. *Encourage the protection of historic and aesthetic resources in the City.*
- J. *Conserve energy through the use of alternative energy systems and conservation through the encouragement of energy efficient structures for commercial, industrial and residential uses.*
- K. *Provide for compatibility of different land uses.*

LAND USE GOAL #3: Plan for the orderly, efficient and fiscal responsible growth of residential development in Brainerd.

Strategies

- 1. *Encourage compatible infill residential development throughout the developed portions of the city, to encourage the efficient use of land, the establishment of a strong tax base and the cost effective provision of city services.*
- 2. *Encourage housing rehabilitation and redevelopment in appropriate areas.*

LAND USE GOAL #5: Support development that enhances community character and identity.

B. *Requirements for Granting Conditional Use Permits. In permitting a new conditional use or the alteration of an existing conditional use, the following requirements shall be met where applicable:*

- 1. *Fire Protection. Fire prevention and firefighting equipment acceptable to the Board of Fire Underwriters shall be readily available when any activity involving the handling or storage of flammable or explosive materials is carried on.*
- 2. *Electrical Disturbance. No activity shall cause electrical disturbance adversely affecting radio or other equipment in the vicinity.*
- 3. *Noise. Noise which is determined to be objectionable because of volume, frequency, or beat shall be muffled or otherwise controlled subject to MPCA standards. Fire sirens and related apparatus used solely for public purpose shall be exempt from this requirement.*

4. *Vibrations. Vibrations detectable without instruments on neighboring property in any district shall be prohibited.*
5. *Odors. No odorous gas or matter shall be permitted which is discernible on any adjoining lot or property.*
6. *Air Pollution. No pollution of air by flying ash, dust, smoke, vapors, or other substance shall be permitted which is harmful to health, animals, vegetation or other property.*
7. *Glare. Lighting devices which produce objectionable direct or reflected glare on adjoining properties or thoroughfares shall not be permitted.*
8. *Erosion. No erosion by wind or water shall be permitted which will carry objectionable substances onto neighboring properties.*
9. *Water Pollution. Water pollution shall be subject to the standards established by the Minnesota Pollution Control Agency.*

DEPARTMENT INFORMATION

Engineering
No Issues

Utilities
No Issues

Fire
No issues

Police
No Issues

Building
No Issues

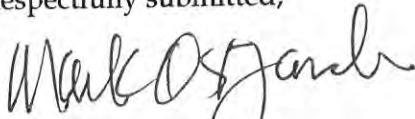
Planning Department

In reviewing the roof design with the Building Department, it has been determined that the proposed 6/12 roof slope with the 10' tall wall and 1 block course will cause the garage height to increase 1' above the 15' roof midpoint height maximum.

PLANNING COMMISSION AND CITY COUNCIL ACTION

The Planning Commission may consider a recommendation at its meeting on October 19, 2016 and the City Council has scheduled a special meeting on October TBD, 2016 to consider the request.

Respectfully submitted,



Mark Ostgarden AICP
City Planner

STAFF REPORT TO THE PLANNING COMMISSION

October 12, 2016

VARIANCE

APPLICANT/LOCATION: Gordon Murphy, 704 6th Street N.

PROPOSED USE: Street Side Yard Setback Variance

LOT AREA: 50' x 140' (7,000 sf)

CURRENT ZONING: R-1 (Single Family Residential) District

ADJACENT USES: East: Residential
South: Residential
West: Residential
North: Residential

ADJACENT ZONING: North: R-1 (Single Family Residential) District
East: R-1 (Single Family Residential) District
South: R-1 (Single Family Residential) District
West: R-1 (Single Family Residential) District

REPORT

The detached garage on the property was destroyed by fire in April, 2016. Mr. Murphy desires to reconstruct the garage in the same location, however he desires to increase the size and increase the roof height with a 6/12 slope to match the dwelling slope. The increase in size will require a setback Variance and a Conditional Use Permit is requested to permit the garage height to be increased to 1' above the maximum allowed by right.

Criteria for Granting Variances

- A. Variances shall only be permitted:
When they are in harmony with the general purposes and intent of the ordinance. Following is the Intent and Purpose section of the Zoning Ordinance:
- A. *Protect the public health, safety, and general welfare of the community and its people through the establishment of minimum regulations governing development and use.*
 - B. *This Ordinance shall divide the City into use districts and establish regulations in regard to location, erection, construction, reconstruction, alteration and use of structures and land.*

- C. *Protect neighborhoods.*
- D. *Promote orderly development and redevelopment of land for residential, commercial, industrial, recreational and public areas.*
- E. *Provide adequate light, air, and convenience of access to property.*
- F. *Prevent congestion in the public right-of-way.*
- G. *Prevent overcrowding of land and undue concentration of structures by regulating land, buildings, yards, and density of population.*
- H. *Protect and preserve the natural environment of the City.*
- I. *Encourage the protection of historic and aesthetic resources in the City.*
- J. *Conserve energy through the use of alternative energy systems and conservation through the encouragement of energy efficient structures for commercial, industrial and residential uses.*
- K. *Provide for compatibility of different land uses.*
- L. *Provide for administration of this Ordinance.*
- M. *Provide for amendments.*
- N. *Prescribe penalties for violation of such regulations.*
- O. *To define powers and duties of the City staff, the Planning Commission, the City Council and the Board of Zoning Appeals in relation to the Zoning Ordinance.*

Construction of the accessory building is in harmony with the above highlighted general purposes and intent of the Zoning Ordinance.

When the Variance is consistent with the Comprehensive Plan.

LAND USE GOAL #3: Plan for the orderly, efficient and fiscally responsible growth of residential development in Brainerd.

Strategies

- 1. *Encourage compatible infill residential development throughout the developed portions of the city, to encourage the efficient use of land, the establishment of a strong tax base and the cost effective provision of city services.*

LAND USE GOAL #5: Support development that enhances community character and identity.

- B. **Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the Zoning Ordinance.**

Subdivision 4. "Practical Difficulties", as used in connection with the granting of a variance means that:

I. The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance.

Is it reasonable to allow a 14' driveway on private property which will cause vehicles to be partly parked on the public right of way?

The Walkable Bikeable City Committee (WBCC) has recommended a Non-Motorized Transportation Plan to the City Council. This neighborhood known as the North Side, was part of the original Brainerd plat dating back to the 1870's, has an established sidewalk network, however over the decades, gaps have developed or sidewalk may have never been constructed in some locations. This portion of the Grove Street right of way is one with a sidewalk gap.

The WBCC has recommended in the Plan that the North Side sidewalk gaps be filled. It has recommended improvements in 3-3 year tiers and filling the gaps is in the 3rd tier, meaning that if the Plan is approved by the City Council and unless road improvements to Grove Street are needed sooner (which is very unlikely) filling the sidewalk gaps would not occur until 2022 at the earliest.

II. The plight of the landowner is due to circumstances unique to the property not created by the landowner.

The property is part of the original plat of Brainerd going back to the 1870's. It is a typical lot in length/width/area. There are no unusual lot characteristics like steep slopes, poor soils, woodlands, wetland etc.

III. The variance, if granted, will not alter the essential character of the locality.

There appear to be very few 6/12 garage (accessory building) roof slopes in the neighborhood. However the 6/12 slope is permitted and not the issue for the variance. The roof height that is 1' taller than permitted will not be a noticeable change that will affect the neighborhood.

Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

PLANNING COMMISSION AND CITY COUNCIL ACTION

The Planning Commission may consider a recommendation at its meeting on October 19, 2016 and the City Council has scheduled a special meeting on October TBD, 2016 to consider the request.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark Ostgarden".

Mark Ostgarden AICP
City Planner

Date: 10/15/16

To: Brainerd Planning Commission

From: Gordy Murphy

Re: 704 Nth 6th St Garage

To whom it may concern:

I am asking for consideration, a variance and a conditional use permit for the reconstruction of a garage. The reason for the reconstruction is due to a garage fire.

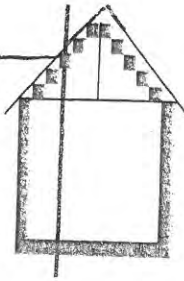
The requested variance is to allow for the garage to be 6 feet closer to Grove Street than permitted. On Grove Street, there are 4 lots that run west to east. I own two lots and my neighbor owns the remaining two lots. My neighbor's garage is 30 feet deep. My former garage was 24 feet deep. By allowing my reconstructed garage to be 30 feet deep, it would match my neighbor's garage depth and from an east and west perspective view, it would look symmetrical from an aesthetic view point. With the adjoining property garage depth being intact, I am not aware of any negative impact with my garage following the same frontage line.

The requested conditional use permit would be asking for consideration to increase the height of the new garage by 1 foot than allowed. The reason for this is that my former garage had a 4-12 pitch and my house is approximately a 6-12 pitch (two story home). By making the newly constructed garage to be built with a 6-12 pitch, it would be more aesthetically appealing and be more commensurate with the size and shape of the home. The added height of 1 foot is not thought to block any views or prevent sunlight from any neighbors that may be affected.

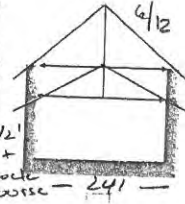
Sincerely,

Gordy Murphy

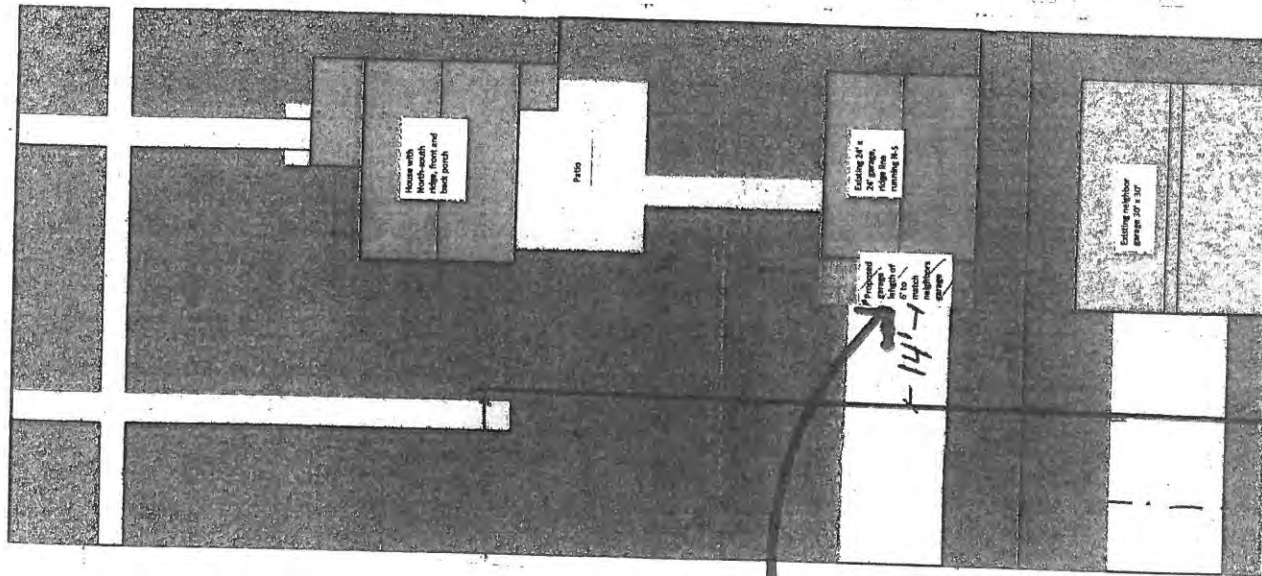
16' tall at
midpoint. 15'
is permitted



Proposed garage is one course of block with 8" side walls and 6"12 pitch
Proposed garage is one course of block with 12" side walls and 6"12 pitch



Block course - 24" -

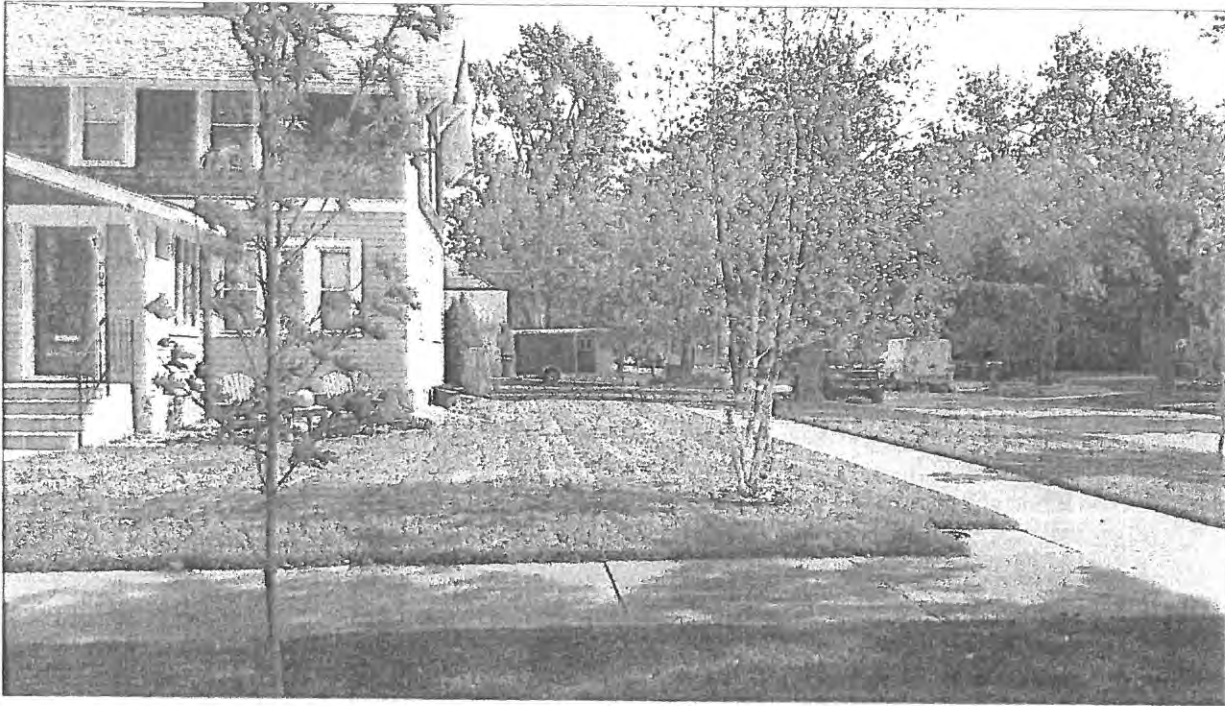


property
line

Setback is 14' where 20'
is permitted



Looking at the front of my house, you can see my neighbor's garage, my proposal is to match the depth of their garage.



From my garage slab, looking at my two story house



From my house, looking at where my garage slab is, seeing my neighbor's garage and house roof top

