



City of Aurora

44 East Downer Place
Aurora, Illinois 60505
www.aurora-il.org

Legistar History Report

File Number: 18-0606

File ID: 18-0606

Type: Petition

Status: Draft

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General Ledger #:

In Control: Planning & Development Committee

File Created: 07/12/2018

File Name: Gerardo and Ana Sosa / 816 Hinman Street / Driveway Replacement & Patio

Final Action:

Title: Major Variance to exceed the forty percent lot coverage requirement in the R-2, One Family Dwelling District to allow for a driveway extension, pursuant to Section 10.5 and Section 7.6-5.6 of the Aurora Zoning Ordinance, for the property located at 816 Hinman Street (Gerardo and Ana Sosa - 18-0606 / AU27/4-18.109-V - SB - Ward 3) (PUBLIC HEARING)

Notes:

Agenda Date: 09/27/2018

Agenda Number:

Sponsors:

Enactment Date:

Attachments: Exhibit "A" Legal Description - 2018-09-14 - 2017.173.pdf, Driveway Permit 18-1996 - 2018-05-03 - 2018.109.pdf, Driveway Extension Photographs - 2018-05-11 - 2018.109.pdf, Lot Coverage Calculation - 2018-06-29 - 2018.109.pdf, Plat of Survey - 2018-07-12 - 2018.109.pdf, Property Research Sheet - 2018-06-08 - 2018.109.pdf, Land Use Petition and Supporting Documents - 2018-07-11 - 2018.109.pdf, Legistar History Report - 2018-09-12 - 2018.109.pdf, Findings of Facts - 2018-09-12.pdf

Enactment Number:

Planning Case #:

Hearing Date:

Drafter: sbroadwell@aurora-il.org

Effective Date:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Committee of the Whole	07/17/2018	Forward to Planning Council	Planning Council			
	Action Text:		This Petition was Forward to Planning Council to the Planning Council				
1	Planning Council	07/24/2018					
	Notes:		<i>Mr. Sieben said just as a little background, this was a permit that came into repave the driveway and slightly expand it. What happened is what was submitted was an aerial that was hand drawn and I</i>				

think there was some confusion of exactly where the expansion was, but it ended up that the expansion exceeded what I had originally approved. Myself and Zoning Inspector Rebecca Sabo have been out at the site. We met with the Sosa's and really the Plat of Survey kind of sums it up. The new area that's shown there does exceed the 40% and it would need to go through a variance for the lot coverage. If you guys want to just introduce yourselves and just kind of describe why you are asking for this, how you improved the property and what you're looking at.

Hi. My name is Ana Sosa and this is my husband, Gerardo Sosa. We asked for the permission. He came to the city and asked for the permission and we exceeded because, I mean, we didn't think it was bad when the guy was there and said it would look nice if you go out a little bit.

Mr. Sosa said it was like 2 yards maybe. I tried to put like a patio and then make like a curb, but I decided to go straight and I think is like 2 yards maybe over.

Mrs. Sosa said we didn't think it was going to be bad. It looks very nice and we really like it. Our girls really like it and we would like to keep it. We already have it done. He's been there and he sees that it's like a nice patio.

Mr. Sieben said so it is really a combination of a driveway and then it also functions as your patio.

Mrs. Sosa said yes.

Mr. Sieben said and you went ahead and did some drainage improvements to your downspouts you put under the new driveway.

Mrs. Sosa said he's done that on both sides.

Mr. Sieben said we did get a complaint from your neighbor to the north. You did slope it. The natural drainage is that way. However, the pipes from the house run back to the alley on the north side of the garage, but the rainwater, the natural slope, does slope to the north.

Mr. Sosa said I added like an extra pipe. It is not going through the yard.

Mr. Sieben said and it goes to the alley.

Mr. Sosa said inside of the straight pipe that I took to the alley. I don't think it is going to be a big problem with the water anymore.

Mr. Sieben said do you guys have anything else you want to say as far as the reason you want to keep it?

Mr. Sosa said the reason we want to keep it is because we just, we've been living there for 20 years and it is more comfort to the family.

Mrs. Sosa said and the work is already done and we already paid for it. If we remove it, we have to pay for it to remove it again.

Mr. Sosa said we think that it is not like too much, maybe 2 yards.

Mr. Sieben said so you have submitted for the variance. What I had said we were going to do is we anticipate there are 2 other variances that may be coming in any day now. Both of them are fences, but what we try to do is combine hearings for one ZBA meeting. The meetings could be either the 1st or 3rd Wednesday of the month. Let me find out where the other 2 stand and then once we find out if those are coming in I'd like to bundle them together. If they are not coming in anytime soon, then we'll go ahead and schedule you. So hopefully within the next week I'll have a tentative date for you when the Zoning hearing will be, but it would be, obviously, not until later in August at the earliest. Just sit tight because everything is already done. We'll get back in contact with you.

Notes: *Mr. Sieben said we will leave this here. We have a couple of other variances coming in. We wanted to have them on the same meeting date, so we'll just leave this here for now.*

1 Planning Council 08/07/2018

Notes: *Mr. Sieben said we'll leave this here. We don't have a ZBA date set yet for this.*

1 Planning Council 08/14/2018

Notes: *Mr. Sieben said we will set a date most likely later September or the beginning of October for this one.*

1 Planning Council 08/21/2018

Notes: *Mr. Sieben said we are scheduling this for a Zoning Board meeting, which will be on September 19th, so we will leave this here.*

1 Planning Council 08/28/2018

Notes: *Mr. Broadwell said we are working on the public notice with the Petitioner. We are looking at the September 19th ZBA meeting.*

1 Planning Council 09/04/2018

Notes: *Mr. Broadwell said we got the public notice requirements back from the Petitioner on August 31st, so they are all set with that. They are going to the September 19th ZBA.*

Mr. Sieben said so we will vote it out next week?

Mr. Broadwell said yes.

1 Planning Council 09/11/2018 Forwarded Zoning Board of Appeals 09/19/2018 Pass

Action Text: A motion was made by Mr. Broadwell, seconded by Mr. Minnella, that this agenda item be Forwarded to the Zoning Board of Appeals, on the agenda for 9/19/2018. The motion carried by voice vote.

Notes: *Mr. Broadwell said the Petitioner has completed the public notice requirement, so this is ready to be voted out for the ZBA on September 19th. I make a motion to move this out. Mr. Minnella seconded the motion. The motion carried unanimously.*

2 Zoning Board of Appeals 09/19/2018 Forwarded Planning & Development Committee 09/27/2018 Pass

Action Text: A motion was made by Mrs. Owusu-Safo, seconded by Ms. Tidwell, that this agenda item be Forwarded to the Planning & Development Committee, on the agenda for 9/27/2018. The motion carried.

Notes: *Mr. Broadwell said a little about the purpose of this variance. This is pursuant to Section 7.6-5.6 of the Zoning Ordinance, which allows for maximum lot coverage of 40% in the R-2 One Family Dwelling District. In particular, the expansion of the existing driveway is exceeding this permitted lot coverage. A little bit of background of the nature of the Zoning Ordinance here. Again, this property is zoned R-2 One Family Dwelling District and it is a legal non-conforming lot and it does not meet the R-2 zoning district standards for lot width, which is 60 feet, or area, which is 8,000 square feet. The existing lot is approximately 42 feet wide, 132 feet deep and has an area of approximately 5,542 square feet. The approximate total footprint of the building is 1,115 square feet. The detached garage is 576 square feet. The footprint of the area that is covered by paving prior to the new driveway extension is 1,471 square feet. Therefore, the total approximate lot coverage prior to the new driveway extension here was 3,172 square feet, which is approximately 57% lot coverage. You can see a little bit more about the property in your Legistar packet in the Property Research Sheet and there is other documentation in there regarding this case. As for the discussion, the Petitioner applied for a driveway permit in May 2018. That permit indicated a driveway that repaved the existing driveway and was also to expand the driveway's edges to the southern edge of the garage. This was the permit that was approve and issued. The driveway that was paved, however, extends past the garage's southern edge by approximately 8 feet to run even with the southern building line of the home. The paved area, which is approximately 576 square feet of new extension, does not match the reviewed and approved permit. The current lot coverage of the lot right now is 67%. That's a little bit of the background discussion. The Petitioner is here unless there are any questions of staff at this point.*

Ms. Tidwell said just to be sure that I understood, the current coverage is 67% would you say?

Mr. Broadwell said yes.

Ms. Tidwell said and the ordinance allows for 40%?

Mr. Broadwell said that is correct.

Mr. Sieben said if I could just expound on that a little bit. Obviously before the driveway was even repaved, they were over the 40% coverage. So what we do in those cases, obviously, the lot is small as Steve mentioned, the size. The garage is at the back of the lot. Obviously, you have to have a paved surface, a driveway to get to your garage, so how we look at it is basically you are pretty much grandfathered in with the coverage that you have to really do the minimum driveway to your garage. So when the Sosa's came in in May, they were pretty much replacing what was there. There was a very slight extension that I was okay with, but there was really just a slight extension to kind of even up the driveway into the garage there and then to bring it to the back door, kind of right there where you see the address number of 816. It is close to where the door is right in the middle of the back of the house. I gave them just a slight extension. It just made sense. However, when the Zoning Inspector went to do the inspection, we noticed that it was quite a bit different, quite a bit expanded beyond that. Just again, a little more of a background, myself and Rebecca Sabo, our Zoning Inspector, we did meet out at the site with the Sosa's. We did walk it. We did see if we could try to see if we could agree to cut back some of it. There was also a complaint after the fact from one of the neighbors because of the excess drainage that was allegedly being caused. We were not able to come to an agreement so then the Sosa's decided to go this route to apply for relief through a variance.

Ms. Tidwell said so as I understand what you said, they went beyond what you had recommended.

Mr. Sieben said that is correct.

Mrs. Owusu-Safo said so just also for my understanding, originally they were about 57% and now they are 67%.

Mr. Sieben said that is correct.

Mrs. Owusu-Safo said so they are more like 27% over what is normally allowed per the ordinance.

Mr. Sieben said correct.

Mrs. Cole said how many lots in this area would you say exceed the 40% and how many would exceed the 75%? I took a ride over in that area today and I lived on the east side for a long time and I know many of the lots in my area exceeded that coverage. There seems to be quite a bit that if you actually looked at the coverage in that area, quite a few exceed.

Mr. Sieben said absolutely.

Mrs. Cole said this is not unusual in this area to exceed and probably to go up to, I saw some that I would guess are 75% covered. So in this area of Aurora, that's not something that's unusual.

Mr. Sieben said that would probably be accurate. If you see just from the small area, the aerial there on Hinman, what tends to add to the coverage is, at least the homes right near this one, all the driveways are in the front on Hinman, even though there is an alley in the back there, so you do have some areas where the homes are built with a detached garage in the back where they just have a quick access to the alley so you don't have that long driveway to add to the coverage. It just depends in certain parts of the city, but in this area because they all have driveways in the front, most of these are going to be well over 40%. It is just a matter of the amount of extension beyond what was originally there. So that's what we are here for.

Mrs. Owusu-Safo said can I just ask another question? Since there was some concern about drainage and potential flow into other properties, is there any grassy area at all left in that back area to absorb any of the run-off?

Mr. Sieben said on the north side, which is adjacent to 812, basically no. There might be less than a foot there. There is also a downspout from the house gutter that goes under the new driveway and I believe it exits in that area next to the garage on the side. The Petitioner can explain that. There is virtually no green on that north side. There is a little bit of green on the south side. You can see that in the photos.

Mr. Pilmer said just a question on that. The prior driveway, how much new driveway is to the north?

Mr. Sieben said there is a little bit. They went a little bit closer to the north lot line than what was there. The garage is about 3 feet off the lot line. The old driveway was pretty close to the edge of the garage. They went a little closer.

Mr. Pilmer said mainly between the house and the garage they squared it off there.

Mr. Sieben said correct, but pretty far to the south.

Ms. Tidwell said I'm sorry. The north is to the right?

Mr. Sieben said the north is to the right on the photo.

Mrs. Owusu-Safo said there is another picture where you have a green shaded area.

Mr. Sieben said let me go to that. Essentially, if the amount of green went to this, it would be acceptable, but they've gone really beyond this to the south, or to the bottom here, and they've gone a little beyond it on the north side of the garage where the thinner green is. So what we are kind of showing here is what would be acceptable to remain in green.

Chairman Cameron said what square footage did they exceed what was authorized?

Mr. Broadwell said it is about 576 square feet.

Mr. Sieben said it is a little over 500 square feet.

Chairman Cameron said that exceeded what was authorized?

Mr. Sieben said yes, a little over 500.

Mr. Pilmer said where is that at?

Mr. Sieben said you see where it says Lot 7 new, that kind of rectangle is really the new area that has exceeded, most of that has exceeded what we had on the permit. They have a little bit where it says 9 square feet, this isn't quite accurate, but they kind of went a little bit along the side of the garage there.

Mr. Pilmer said were they supposed to just square up the south side of the garage to the house?

Mr. Sieben said that's correct, yes.

Mr. Pilmer said but the flow of the water is south to north, the natural flow?

Mr. Sieben said that is generally correct, I believe south to north, which would be up in this plat.

Mrs. Cole said and the drainage that comes through the pipe under the driveway, it looks like it goes into a PVC pipe, 3" or so, that runs from where it comes out of the house there in the back, runs under the driveway and currently there is a PVC pipe that runs between the cement and the fence that takes

that water all out to the alley.

Mr. Sieben said correct, right on the edge of that fence, or the edge of the concrete. I can let the Petitioner's describe it a little bit more.

Ms. Tidwell said is there a recommendation from staff on this?

Mr. Sieben said generally we don't do recommendations on variances. They have to show a hardship or practical difficulty why they can't meet the ordinance. So we just kind of lay out the facts on that.

Ms. Tidwell said can you say whether granting this would be consistent with what the ZBA has done in the past? Since I am new I don't know.

Mr. Sieben said so I've been here 18 years as Zoning Administrator and we've taken a pretty hard line on the 40% lot coverage probably a little after I started here because we were just getting so many properties that were just paving their whole yard and parking all over the place. We've been pretty successful with it. Granted you have properties like these where you are already over 40%, so we try to hold the line pretty much at what's there. I don't think we've had a lot of granting of variances above and beyond that. I'm not familiar with many.

The Petitioners were sworn in.

My name is Ana. We are here because we asked for a variance on our driveway because we already had it done. We know we did a mistake maybe. We didn't ask. When the people that went there, like who worked on it, just suggested that it would like nice like that. We thought it would really look nice so we said yes to it. We didn't know the consequences. We do really like how it looks. We really would like to keep it if possible. We see our kids how they enjoy it playing back in the yard. We prefer them to be back there safe then going in front of the street and playing. We really like it. We would like to keep it.

My name is Gerardo Sosa. About the water, I think it is not going to be any problem because I put 3" pipe on each side so all the water, 90% to 95% is going to go out to the alley. I don't think that we are going to have any problem with the water with the neighbors.

Mrs. Sosa said that's taken care of already.

Mr. Sosa said so we just want to keep it. We've been living there for 20 years and we are trying to live more comfortably. We are here to see what we can do about it.

Chairman Cameron said anything else?

Mrs. Sosa said no, just if you have any questions for us.

Chairman Cameron said I would start from the standpoint that I think it is great that you applied for a permit, but what I don't understand is why you exceeded what was authorized. I can tell you that 500 square feet is no little item unless you've got a concrete man that gets paid by the square foot so he has his own vested interest and you've authorized it, but I honestly don't see any reason that on the basis of clean and apparent violation that we shouldn't look at ordering you to cut that 570 feet or whatever it happens to be, cut the concrete out and remove it. When you apply for something and then go do something completely different, I can only look and think that the word on the street is that go ahead and do it and they'll forgive you. I don't know how the rest of the Commission feels, but that's where I come from at least.

Mr. Pilmer said I've got a quick question for staff. The total amount is 3,162 feet? Am I doing my math right there?

Mr. Broadwell said of the...

Mr. Pilmer said of the footprint.

Mr. Broadwell said of the total lot coverage.

Mr. Sieben said that equals the 67 % with the new.

Mr. Pilmer said I guess my point would be, and I know that's not the case, it is extremely unusual. If it were an 8,000 square foot lot that's 39%, so it is just ironic that you get a non-conforming lot to start with and it makes it difficult. As Linda said, there is not a lot of consistency with the garage, so by nature of, like what staff even said, by where the garage is located, the amount of coverage just to get to the garage more than likely, just alone on a driveway, probably takes them to above 40% coverage just on a pure driveway. I initially think too that the rules and there and we generally don't provide a variance, but it is certainly extremely unique to this property that the homeowners are putting a big investment into and have put in a big investment from a maintenance perspective, so it is very unusual and really particular to that general area.

Mrs. Owusu-Safo said I have another question for you. What is the nature of the drainage complaint? Are they talking about water going into the alley like he says, or is it water that is sheet flowing from their lot into the adjacent lot?

Mr. Sieben said I'm not privy to the exact details. I believe it was relayed to the Engineering Department. I believe it was the 812 lot to the north, which the concrete is the closest spot. The slope of the driveway, I believe, does slope that way to the north. I did not speak to the complaint. I don't know if the complainant is here or now, but my understanding was it was to the north.

Mrs. Owusu-Safo said I guess it is a little concerning that the whole back yard has no way for water to infiltrate if all he is doing it going to the downspout that is draining just the garage roof or the building, so everything else has to sheet somewhere and if it is going to somebody else's lot, that could be a concern.

Mr. Sieben said correct me if I'm wrong, but they did a great job sloping it because it does slope away from their house. Does it generally slope to the north and back?

Mr. Sosa said yes. I don't think that is going to be any problem.

Mr. Pilmer said my only point on that earlier is that the majority of that driveway is a replacement, that's not a new condition, so the natural terrain, probably always, unless the concrete settled, was away from the home to the north.

The public input portion of the public hearing was opened. No witnesses came forward. The public input portion of the public was closed.

Mrs. Cole said first off, I do not approve of not following the instructions on what you get a permit for. I don't approve of that. However, I could see this happening to myself some years ago. There are other driveways in that area that actually have a wraparound that exceed into the back yard. I think that some of them are used for patios. Some of them are used to park a couple of vehicles on, which in that area there is no place to park on the street. There is only parking on one side of the street. The drainage issue, that's an unusual issue also because I think that the street, Hinman Street actually slopes to the east. The alley is actually a little lower than I think what the street is. Their particular property also slopes a little to the north. They've got a lot of challenges. It also looks like they recently invested in new siding.

Mr. Sieben said I think they have made improvements to the property. Just to be clear for the ZBA and the Petitioner, the Zoning Board is just going to be a recommending body. This will go onto City Council for this case.

Chairman Cameron said Ed, did anyone in this process talk to them about solving the square

footage of concrete lot coverage by reversing the garage and opening it into the alley that you know of?

Mr. Sieben said no.

Chairman Cameron said because that would have solved the problem.

Mr. Sieben said they already had the curb cut and everything.

Ms. Tidwell said a question. Did you just say that we are recommending and not deciding?

Mr. Sieben said correct. Because it is a major variance on this, you guys are a recommending body to the City Council. On the next one, you guys are the final vote.

Ms. Tidwell said if the variance is recommended to be denied and ultimately is denied by Council, would the property owner have to go back to 40%?

Mr. Sieben said no.

Ms. Tidwell said or to the 57% that was there before the...

Mr. Sieben said I'm sorry. It would be what it was before, the 57%.

Chairman Cameron said plus whatever adjustments you made.

Mr. Sieben said correct. We'll work with them. If it were to get denied, we would work with them on where that would be removed.

Mrs. Owusu-Safo said so my understanding of where it would have been acceptable is what you shaded in green is that if we got it to look like this we would find this acceptable.

Mr. Sieben said that's correct.

Mr. Pilmer said I have another question for staff. If the concrete is removed per what was originally issued, do they have the right to put pavers or something there?

Mr. Sieben said no.

Mrs. Anderson said it has to be grass?

Mr. Sieben said yes.

Mrs. Cole said they can use pervious pavers. They could put pervious pavers there. Is that correct?

Mr. Sieben said they could potentially do that. They would also have to separate it so it is not part of the driveway. In other words, you can't park on it. If they had a little area for a patio it would be off the back door. Then it is possible they could do that. We'll have to work with them on that.

MOTION OF DENIAL WAS MADE BY: Mrs. Owusu-Safo

MOTION SECONDED BY: Ms. Tidwell

AYES: Mrs. Anderson, Mrs. Owusu-Safo, Ms. Tidwell

NAYS: Mrs. Cole, Mr. Pilmer, Mrs. Truax

Mr. Sieben said it is 3 to 3.

Chairman Cameron said I'll vote yes.

Mr. Sieben said so the motion is 4 to 3 for denial. Again, that's a recommendation.

FINDINGS OF FACT

1. Is the proposal in accordance with all applicable official physical development policies and other related official plans and policies of the City of Aurora?

Ms. Tidwell said no.

2. Does the proposal represent the logical establishment and/or consistent extension of the requested classification in consideration of the existing land uses, existing zoning classifications, and essential character of the general area of the property in question?

Ms. Tidwell said no.

3. Is the proposal consistent with a desirable trend of development in the general area of the property in question, occurring since the property in question was placed in its present zoning classification, desirability being defined as the trend's consistency with applicable official physical development policies and other related official plans and policies of the City of Aurora?

Ms. Tidwell said no.

Mrs. Cole said while this does not meet the letter of the law, this is an old neighborhood with very narrow streets and very small lots and a good many residences in this area exceed the 40% coverage. My guess is that there are many that also exceed 70% to 75% coverage of the lots. So while I do not agree with not following the instructions on the permits you get, I'm not sure that I think we should deny this.

4. Will the proposal maintain a compatible relationship with the traffic pattern and traffic volume of adjacent streets and not have an adverse effect upon traffic or pedestrian movement and safety in the general area of the property in question?

Mrs. Truax said I don't believe that's an issue in this case.

Ms. Tidwell said it is not applicable.

5. Will the proposal allow for the provision of adequate public services and facilities to the property in question and have no adverse effect upon existing public services and facilities?

Mrs. Truax said there should be no effect on public services and facilities.

6. Does the proposal take adequate measures or will they be taken to provide ingress and egress so designed as to maximize pedestrian and vehicular circulation ease and safety, minimize traffic congestion, and not substantially increase the congestion in the public streets?

Mrs. Anderson said the same as #4. It is not applicable.

8a. Is the variance based on the particular physical surroundings, shape or topographical conditions of the specific property involved so that a particular hardship to the owner would result, as distinguished from a mere inconvenience, if a strict letter of regulations were carried out?

Ms. Tidwell said no.

Mr. Pilmer said I might add on that that it is a unique size property. It is a non-conforming lot to start with and based on the size of the lot, it does make it unique for this situation. Potentially being based on the investment, it could be a financial hardship to the owner if it were to be removed.

8b. Is the variance based on unique conditions to the property for which the variance is sought and are not applicable, generally, to other property within the same zoning classification?

Ms. Tidwell said no.

8c. Is the variance based on an alleged difficulty or hardship that is caused by the ordinance and has not been created by any person presently having an interest in the property?

Ms. Tidwell said no.

Mr. Sieben said this will next be heard at the Planning and Development Committee meeting on Thursday September 27, 2018, at 4:00 p.m. in the 5th floor conference room of this building.

Aye: 4 At Large Owusu-Safo, At Large Cameron, At Large Anderson and At Large Tidwell

Nay: 3 At Large Cole, At Large Pilmer and At Large Truax
