

1. Board Of Adjustment Packet

Documents:

[BOARD OF ADJUSTMENT AGENDA SEPTEMBER 16, 2014 - ITEM 1.PDF](#)
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Notice of Public Meeting
BOARD OF ADJUSTMENT

Agenda for Tuesday, September 16th, 2014 - 5:00 p.m.
City Council Chambers, City Hall
10 West State Street, Marshalltown IA

Committee Members:

Darrell Eaton
Kevin Hitchins
G Ward Miller

David Schulze
Vacant

Call to Order:

Roll Call: Miller

1. Approve Agenda
2. Review and approval of the Minutes from 8-19-14

Old Business:

3. None

New Business:

- a. Variance
 - i. 1502 South 5th St

Date Posted: 9-9-14

<http://www.ci.marshalltown.ia.us/meetings/view/MeetingID/1130>

Date Submitted & Fee Paid: 8/29/14

Hearing Date: 9/16/14

Variance Application Form

36 N. Center Street, Marshalltown, IA 50158 Ph: 641-752-3454 Fax: 641-754-5742

www.ci.marshalltown.ia.us

All items listed must be submitted with this application:

Failure to complete and submit all the required materials as a part of this application will result in a delay in accepting your application until it is complete.

X

A site plan, drawn in ink and to scale, which clearly shows the variance being sought. This site plan shall not be larger than 11" X 17." And must include:

- Dimensioned property lines indicating any easements;
- Location & identification of adjacent streets and alleys;
- Location and size of all existing and proposed buildings and structures (include distances to all property lines and distances between buildings and structures.);
- Dimensioned driveways and parking areas; and
- Any other pertinent information necessary to fully understand the need for a variance.

X

Site photographs showing all views of the property, including any special features such as topography and existing and adjacent structures. **Please note:** Materials submitted with the application or presented as evidence during the public hearing will not be returned and must be kept as a part of the public record.

X

Completion of all of the following questions included in this application.

X

Legal description of the property. The property owner should have a copy of the legal description. If not, owners may obtain a copy of the recorded deed, which contains the legal description, from the Marshall County Recorder's Office for a fee.

X

Application fee. A fee of **\$150 for owner-occupied residential properties** and a fee of **\$200 for any other property** is required payable to "City of Marshalltown."

The fee must be paid when the application is submitted to the Housing Department.

Please type or print legibly in ink.

Property Address: <u>1502 So. 5th St. Marshalltown Ia.</u>	
Owner: <u>Ace W. Perry</u>	
Mailing Address: <u>1502 So. 5th St. Marshalltown Ia.</u>	
Phone: <u>641-753-7079</u>	Fax:
Email Address:	
Owner's Agent (if applicable):	
Agent Phone:	Agent Fax:



VARIANCE APPLICATION PACKET

36 N. Center Street, Marshalltown, IA 50158

Ph: 641-752-3154 Fax: 641-754-5742

www.ci.marshalltown.ia.us

Purpose: Zoning regulations include specific development standards. There are occasions, however, when the strict application of such standards may be inappropriate because of unique characteristics of the property. The variance procedure is designed to permit minor adjustment to the zoning regulations where there are unique or extraordinary circumstances applying to a parcel of land or building that prevent the property from being used to the extent intended by the zoning. Unique circumstances may include factors such as the size, shape, topography, vegetation, wetlands, or other unique characteristics of the land.

Pre-Application Meeting: The applicant is required to meet with the Zoning Administrator prior to submitting an application to discuss the feasibility of the request as well as any possible alternatives that may eliminate the need for a variance or improve the chance of the variance being granted. A preliminary site plan should be brought to this meeting to review the project design as it relates to the zoning requirements.

Application Packet: Applications will not be accepted unless complete. All required items must be submitted with the application. Failure to complete and submit all the required materials as a part of this application will result in a delay in accepting your application until it is complete.

Submission Deadline: Please refer to the attached meeting and deadline schedule. The complete application with fee must be submitted by 5:30 p.m. on the deadline date to the Housing & Community Development Department Office, located on the first floor of City Hall, 24 N. Center St.

Board Meetings: The Board of Adjustment considers the facts presented by the applicant in the application and testimony given at the public hearing, and makes the final decision, based on the standards in the Ordinance. The Board meetings are held at 5:00 p.m. on the first and third Tuesday of each month in the City Council Chambers, second floor of City Hall, 24 N. Center St. Attendance at the meeting is required.

It is the burden of the property owner to provide sufficient facts with this application and at the Board of Adjustment meeting to support a finding that all the standards for approval have been met. The concurring vote of three (3) members of the Board is necessary to decide any issue before the board regardless of the number of members present at the meeting. The Board is a five (5)-member board. Appeals to the decision of the Board of Adjustment can be made in District Court.

Notifications: The City will place a sign on the property to notify the public that a variance request has been submitted. The sign includes the city's phone number so that concerned individuals will have an opportunity to learn about the proposal and can present information on this matter to the board at the public hearing. A notice of public hearing is also published in the newspaper.

All of the following questions must be answered. The board will use this information to review your request. Additional information may be attached if necessary. Contact Zoning at 641-752-3454 with any questions.

The applicant makes the following request:

I want to add 6' 2" to my garage - south side.

would leave 4' 2" side yard setback. Total setback
(both yards combined) would be 13' 1".

Please state your hardship.

If I understand Stephen Troskey correctly, I'm about 1' closer to border than he allows. That is why I'm asking for the variance.

In order to grant a variance, the Board of Adjustment must make a finding of unnecessary hardship. The hardship must be related to the physical aspects of the property and not a personal hardship. The granting of a variance should not merely serve as a convenience to the applicant. To support a finding of unnecessary hardship, the board must find, based upon your evidence, that all of the following are met:

1. The land in question cannot yield a reasonable return if used only for a purpose allowed in the district. State how you will lose all beneficial use and/or enjoyment of the property if the variance is not granted. You may include supporting evidence from a professional appraiser, real estate professional, or other professional. The Board may require documentation of loss of value in order to grant this variance. I'm trying to get another car indoors and need a double stall to accomplish that.

2. This variance is required because of the unique circumstances of this property and not the general conditions of the neighborhood. The applicant must show that physical circumstances (such as an odd-shaped lot or difficult topography) on the property are unique to this property and unlike other properties in the vicinity. Also, the hardship should not be self-inflicted.

Correct.

3. **The proposal will not alter the present character of the area or seriously affect any adjoining property.** The applicant must show that the proposal is compatible with the character of the surrounding area. *Will not alter character of area
will not affect adjoining property*

4. **The variance will not be in contrary to the public interest.** The applicant must present information to indicate the variance will not impair an adequate supply of light and air to adjacent property, will not unreasonably increase the congestion in public streets or endanger public safety, nor will it devalue nearby property. *Variance will not be contrary to public interests.*

5. **The general intent and purpose of the Zoning Ordinance is protected.** A variance must be consistent with the intent of the Zoning Ordinance and the Comprehensive Plan. Is there another option which you could pursue that would not require a variance? If alternatives exist which do not require a variance, the proposal would not be consistent with the intent of the Zoning Ordinance and Comprehensive Plan. *The only alternative I can think of would be to build a free standing garage in back yard. That would be too expensive for me.*

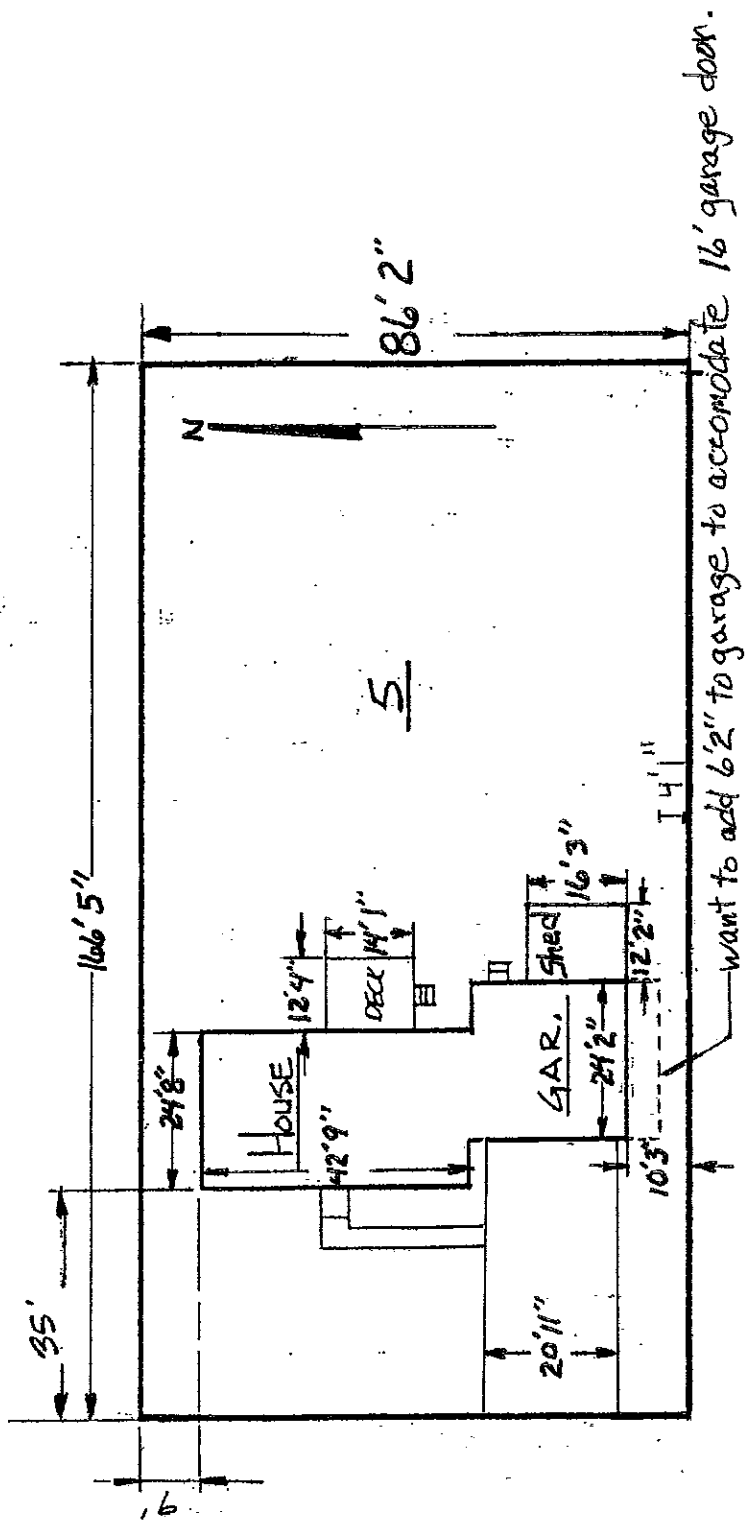
Additional Comments and Information:

Attach additional information as necessary.

As evidenced by the signature(s) below, I (we) certify that I (we) have been denied a building/zoning permit, that I (we) have submitted all the required information to appeal for a variance, and that said information is factual.

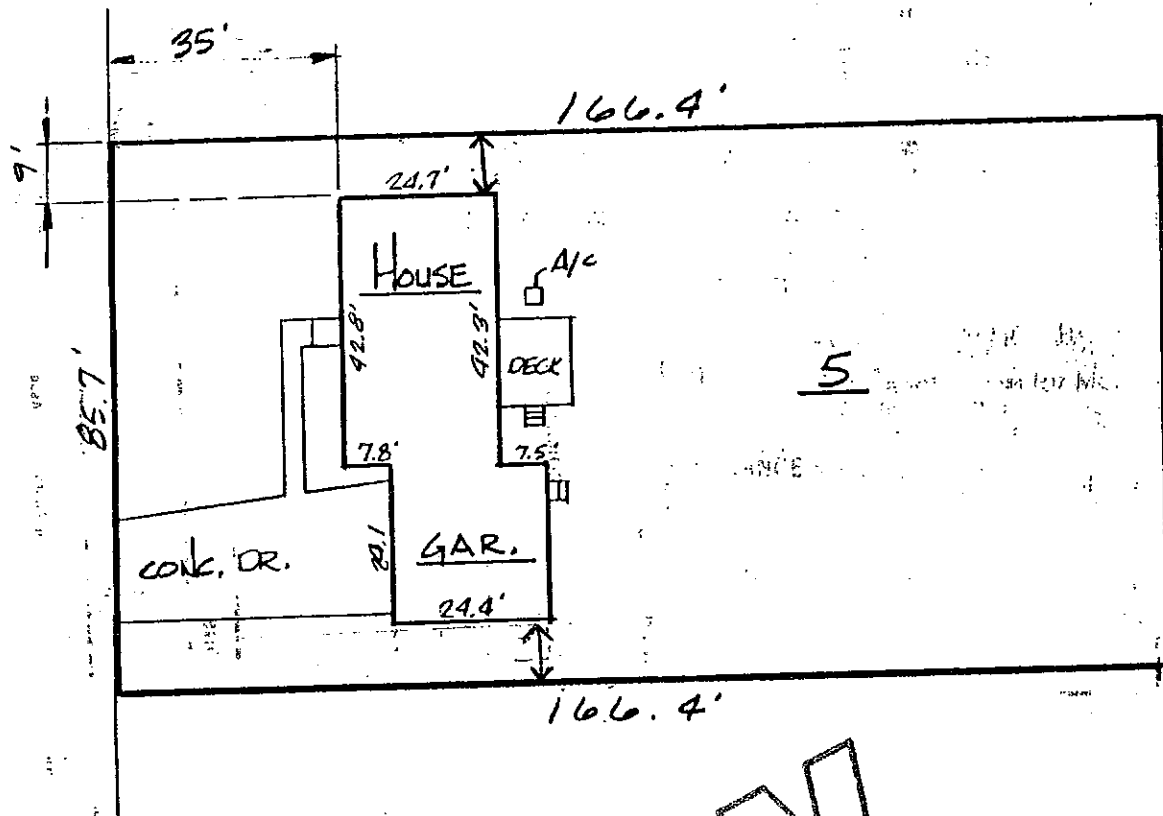
Owner Signature: <i>Ale Perry</i>	Date: <i>8-29-14</i>
-OR- Agent Signature:	Date:

546 ST - 60'



1502 So. 5th St.

5th ST. - 60'



COPY

LEGAL DESCRIPTION:

Lot 5 in Block 2 of Point Addition to Marshalltown, Marshall County, Iowa.

NOTE: The accuracy of determining property lines in this inspection report is for mortgage purposes only, and the report may be relied on only by the Mortgagee, its successors and/or assigns. Any other use of the dimensions on this plat could result in error. The requirements of Chapter 2, Section 340 of the Iowa Administrative Code have been excluded from this survey under the provisions of Rule 2.1 (114) (2) of said Chapter 2.

CERTIFICATE: I hereby certify that I have made an inspection of the property herein described, that this plat shows the location of the improvements thereon, that there are no encroachments except as noted on the plat above, that this inspection was made by me or under my direct personal supervision and that I am a duly Registered Land Surveyor under the laws of the State of Iowa.

Robert L. Stumbo, Jr.
Robert L. Stumbo, Jr. R. L. S. #6586



STUMBO & ASSOCIATES LAND SURVEYING		Page: <u>1</u> of <u>1</u>
P.O. Box 1664 Ames, Iowa 50010 Phone 233-3689		Date: <u>8-27</u>
MORTGAGE INSPECTION FOR: United Federal Savings Bank		Drawn by: <u>JJ</u>
PROPERTY ADDRESS:		Checked by:

Memorandum

To: Board of Adjustment

From: Stephen Troskey – City Planner

Date: October 23, 2017

Re: 1502 S 5th St.

Ace Perry seeks a variance to expand a garage on his residential property.

The R3 Medium Density Residential district requires at least four feet of side yard setback per side and a total of 15 feet when both sides are combined. With this addition he would have 13'1" total. This is 87.2% of what the code requires.

Each side of his property would have at least four feet of setback so for this reason staff supports this variance application.

I can be reached at stroskey@ci.marshalltown.ia.us or 641-752-3154.

