



CITY OF RACINE DEPARTMENT OF CITY DEVELOPMENT STAFF REPORT

Meeting Date: 5/8/2019

To: Zoning Board of Appeals Members

From: City Development Department, Division of Planning and Redevelopment

Division Manager: Matt Sadowski – (262) 636-9152 matthew.sadowski@cityofracine.org

Case Manager: Jeff Hintz

Location: 3105 Lathrop Avenue

Applicant: Gina and Anthony Dentici

Property Owner: Gina Dentici

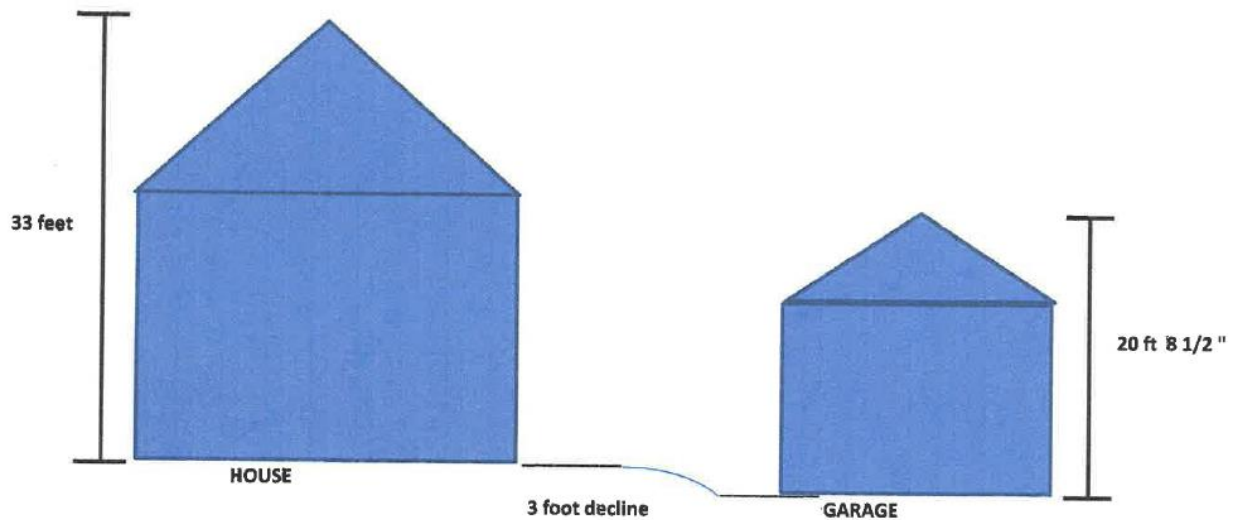
Request: Consideration of a variance in which the applicant seeks to exceed the maximum height of an accessory structure as allowed by [Sec. 114-693](#) of the Municipal Code. The maximum allowable height is 20 feet and the proposed garage structure would be 20 feet, 8.5 inches in overall height.

BACKGROUND AND SUMMARY: The applicant seeks to construct a 20 foot by 36 foot detached accessory (garage) structure on the property to the east of the main house in the rear yard of the property. The structure would be 20 feet, 8.5 inches in total height, whereas in this instance, Sec. 114-693 allows a maximum of 20 feet. The applicant has purchased all the materials and worked with a designer to develop the plans. Through various changes in design of the structure, the applicant has noted that a change in beams was necessary to properly and safely construct the structure. As a result, if allowed, the overall height will be 8.5 inches taller than what is allowed by Sec. 114-693 of the Municipal Code.

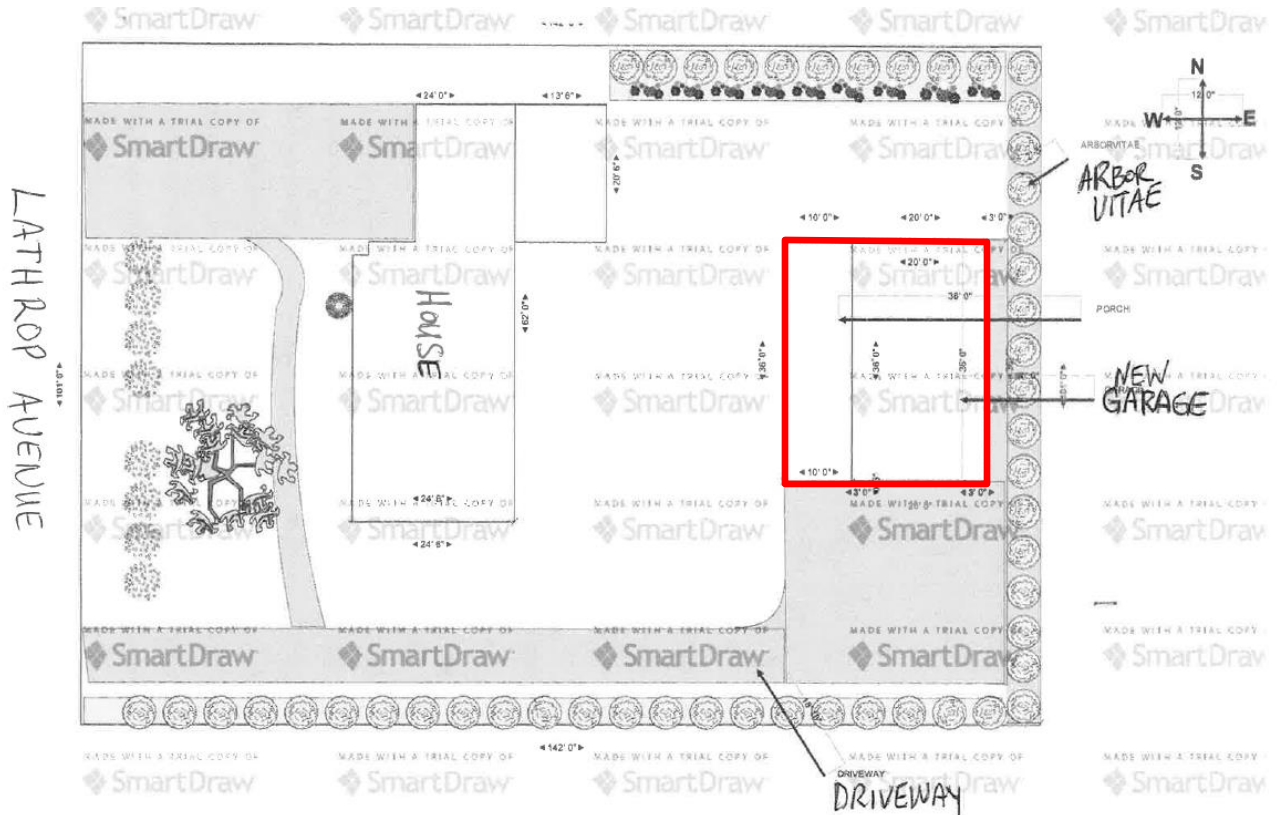
The Zoning Ordinance establishes the maximum height of an accessory structure in Sec. 114-693 as 15 feet as measured from finished floor to peak of roof; or 75 percent of the house height, whichever is greater. In any case, the maximum height as measured from finished floor of accessory structure to peak of roof is 20 feet. Only due to the overall height of the house being approximately 33 feet, is this structure allowed to be 20 feet.



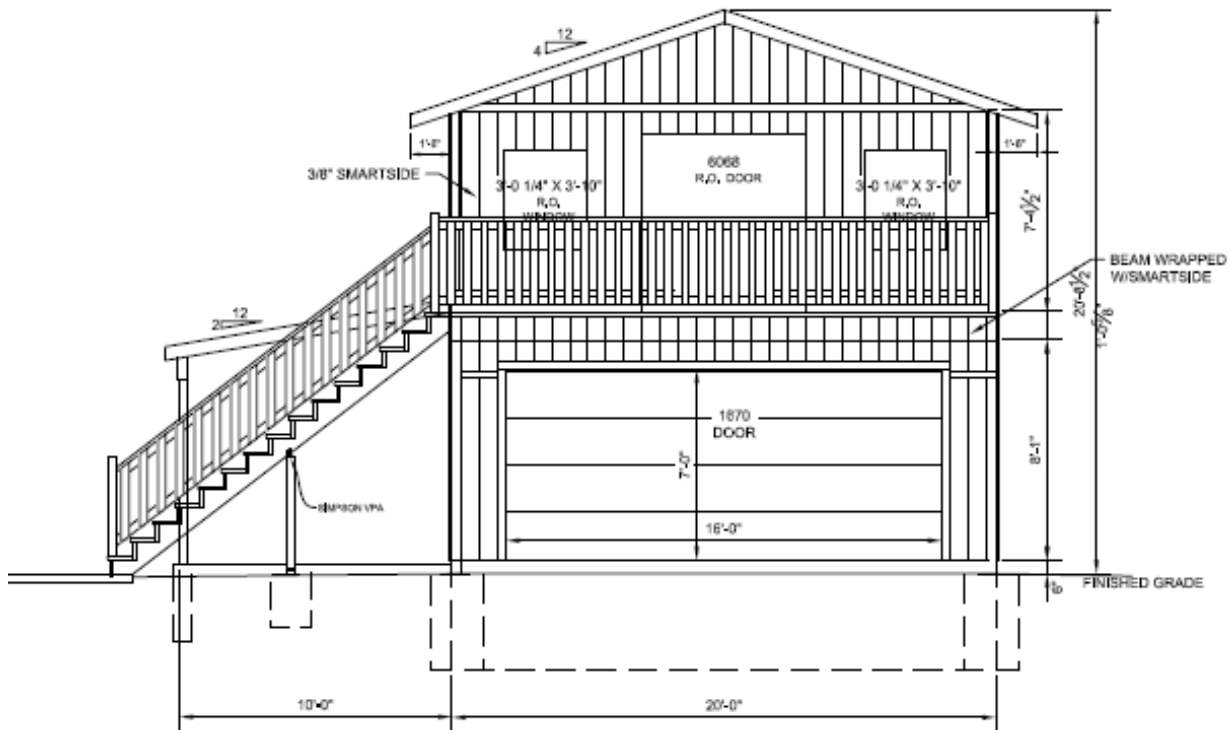
Birdseye view of the property, indicated in red (image from City Pictometry).



Height illustration showing height of house and height of proposed detached accessory structure.



Proposed Site plan, submitted by applicant, garage location shown in red



Proposed south elevation view, submitted by applicant

GENERAL INFORMATION

Parcel Number: [23747006](#)

Property Size: 14,437 square feet

Comprehensive Plan Map Designation: Commercial

Consistency with Adopted Plans:

The [Racine Comprehensive Plan](#) states that:

- The plan should encourage the redevelopment of older areas and commercial areas.
- Maintain and develop a land use pattern that strengthens the character and livability of the City's downtown core, commercial and industrial areas, and neighborhoods.
- Promote redevelopment and infill in areas with existing infrastructure and services, enhancing existing residential, commercial, and industrial areas.

Corridor or Special Design District?: N/A

Historic?: N/A

Current Zoning District: B-2 Community Shopping

Purpose of Zone District: The B2 community shopping district is intended to accommodate the needs of a much larger consumer population than is served by the neighborhood convenience district, thus a wider range of uses and structure sizes is permitted for both daily and occasional shopping.

Proposed Zoning: No change proposed

Existing Land Use: Detached single unit dwelling.

Surrounding Zoning and Land Uses:

North	B-2 Community Shopping	Multiple dwelling unit building
East	B-2 Community Shopping	Religious Institution
South	B-2 Community Shopping	Undeveloped property
West	Village of Elmwood Park	Single unit dwellings

ANALYSIS:

Development Standards:

Accessory Structures: (114-Article VII, Division 3 [Accessory Buildings and Structures](#)): The plans submitted by the applicant would require a variance of 8.5 inches to be able to construct the detached accessory (garage) structure as proposed by the applicant. Other development standards related to accessory structures are being met with the plans submitted by the applicant.

Building design standards (114-Secs. [735.5](#) & [736](#)): The proposed detached accessory building on the parcel complies with the design requirements of the ordinance.

Engineering, Utilities and Access:

Access ([114-1151](#)): This application does not contemplate changes in access to the site. Access is provided from residential driveways off Lathrop Avenue.

Surface drainage ([114-739](#) & Consult Engineering Dept.): A site drainage plan will need to be submitted as part of permitting prior to construction of the accessory building.

Sewage disposal and water supply ([114-821](#) & Consult Engineering and S/W Utility): All utilities are available for this site and the applicant proposal is not expected to impact the ability to serve this area.

REQUIRED FINDINGS OF FACT ZONING BOARD OF APPEALS:

STANDARDS FOR VARIANCES - Sec. 114-48(a)

The board of appeals shall not vary the regulations of this chapter unless it shall make findings based upon the evidence presented to it in each specific case that:

- 1) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out;**

Staff Comments: There is nothing particularly unique topographically or because of the physical surroundings which create a hardship on the lot. The variance sought is related to height and is not related to an x or y plane dimensional issue, but a z variable (height) issue if thought about in three dimensions. There isn't anything particular to this lot which would not allow the height requirement to be met. The ordinance is written in such a manner that the height is measured from the floor to the peak of the roof of the structure; it's not as if there is a hill and height is measured from bottom of the hill to the top of the roof. The height of the overall structure is at issue, the layout of the lot (shape, topography) is not at issue; any possible dimensional configuration and slope of the lot would have no bearing on a detached accessory structure being able to meet the height requirement.

- 2) The conditions upon which an application for a variance is based are unique to the property for which the variance is sought, and are not applicable, generally, to other property within the same zoning classification;**

Staff Comments: Within the City limits there are at least several dozen homes which are zoned commercially or industrially, but used and built residentially. The development standards related to

accessory structures are applicable equally to commercial, industrial and residentially zoned properties related to height. There are other English Tudor architectural styled homes in the City and those of other architectural styles and compositions which regardless of zoning, would have to follow this requirements. All detached accessory buildings in the City, regardless of zoning classification are required to follow this development standard. Due to the style of the home and overall height there is a built in bonus in the development standards, which allows the 20 foot height. There are other similarly situated properties which have a maximum height of 15 feet for a detached accessory structure because of the overall height of the primary structure.

3) The purpose of the variance is not based exclusively upon a desire to increase financial gain;

Staff Comments: Staff has found that the variance is based solely upon financial gain; not in the sense that the applicant's property will be more valuable with this structure upon it, but in the sense that the building materials have already been purchased. The reason for the variance is that the materials to build the structure have been purchased and per discussions with the applicant, cannot be returned. To the applicant, this is technically a financial loss, but in the sense of the variance, is an application based on financial gain, so that loss will not be incurred as the materials have already been purchased.

4) The alleged difficulty or hardship is caused by the provisions of this chapter and has not been created by any persons presently having an interest in the property;

Staff Comments: The hardship is essentially self-created, but not by the property owner, but through a designer and/or contractor hired by the property owner. The design of the structure changed a couple of times and as a result, different beams were required for safety and/or structural reasons, which resulted in the overall height of the structure increasing. Further compounding matters for the owner is that the materials have been purchased. The difficulty or hardship in this instance isn't in that the development standards will not allow an accessory structure. Because the design changed part way through and the materials were subsequently purchased, the hardship now exists. The development regulations did not cause this hardship.

A garage of shorter height, which complies with development standards could be built on the property; fortunately, there are a couple of options which would achieve this.

- One, the garage could be one story. This isn't what the applicant submitted or desires, but would be an option. It is not as if the development standards prevent a garage from being built on this property.
- Two, lower the pitch of the roof on the garage and/or utilize structural beams with a different material or thickness which would lower the overall height. This would allow substantially the same garage as submitted in the proposed plans to be built on the property.

Either of these options would likely require different materials to be purchased and/or exchanged. Again though, this is only a problem or difficulty because the materials have already been purchased and is not a difficulty or hardship because of development standards.

- 5) The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; and**

Staff Comments: The request for a variance seems small enough that in the sense of being practically noticeable to surrounding properties, no, the request would not be practically detrimental to the surrounding properties, it isn't likely to be noticeable at all. The structure will be built properly and permitted, and if built as proposed would fit with the property. However, the request is detrimental to the other properties in the City in the sense that there is absolutely nothing inherently special or unique to this property which would prevent ordinance from being followed. It is also worth noting that if the dwelling on the structure wasn't the overall height it is, or had a lower pitched roof, the maximum height for the accessory structure would be lower. The ordinance is already affording the property an additional five feet in height other homes would not necessarily receive.

The maximum height requirement is established so that there is a clear distinction between the primary structure on the lot and any other subordinate (accessory) structures. While 8.5 inches does not seem like it would make a big difference one way or the other, being unnoticeable or not seeming to make a big difference, is not a criteria for consideration. The variance is grounded on the fact that materials have been purchased and it may not be possible, or would be inconvenient to take them back. There is no technical reason or uniqueness related to the lot that precludes the 20 foot maximum height being met. This accessory structure will already be taller than the primary building for the religious establishment to the west of the property, which has a flat roof and is approximately 17 feet in total height from grade to peak of building cornice.

Staff finds that, 8.5 inches is not practically noticeable, but again, something generally going unnoticed, is not alone a reason to grant a variance. Other property owners have complied with this requirement even when it may have been convenient for them to do so; to grant this variance could set a precedence that this regulation is not important and optional. In the sense of spirit and intent of the rule and those who have complied with it, this request is detrimental and injurious to the other properties in the City.

- 6) The proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or impair natural drainage or create drainage problems on adjacent properties, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.**

Staff Comments: Similar to criterion 5 (above), no, the 8.5 inches of increased height is not expected to have a meaningful impact on this property or those in the general area. The structure is generally concealed from view by the dwelling on the property and is likely to go unnoticed or is innocuous enough that most travelling past will not readily focus on it. Of all the variance criteria, this is the one the request unquestionably meets. The structure is not expected to impair property values of the area, endanger safety or create any issues for adjacent properties.

POSSIBLE ACTIONS FOR THE ZONING BOARD OF APPEALS

1. Approve the request as submitted; or
2. Approve the request with conditions deemed necessary to mitigate any adverse impacts that could arise from the project; or
3. Deny the request; or
4. Defer the request to obtain more specific information about the request.

STAFF DOES NOT SUPPORT THE APPLICATION FOR THE FOLLOWING REASONS:

- Variance is grounded in convenience and financial gain as opposed to a hardship or unique feature(s) about the property.
- Staff finds that 5/6 criteria for the Zoning Board of Appeals to grant a variance have not been met.

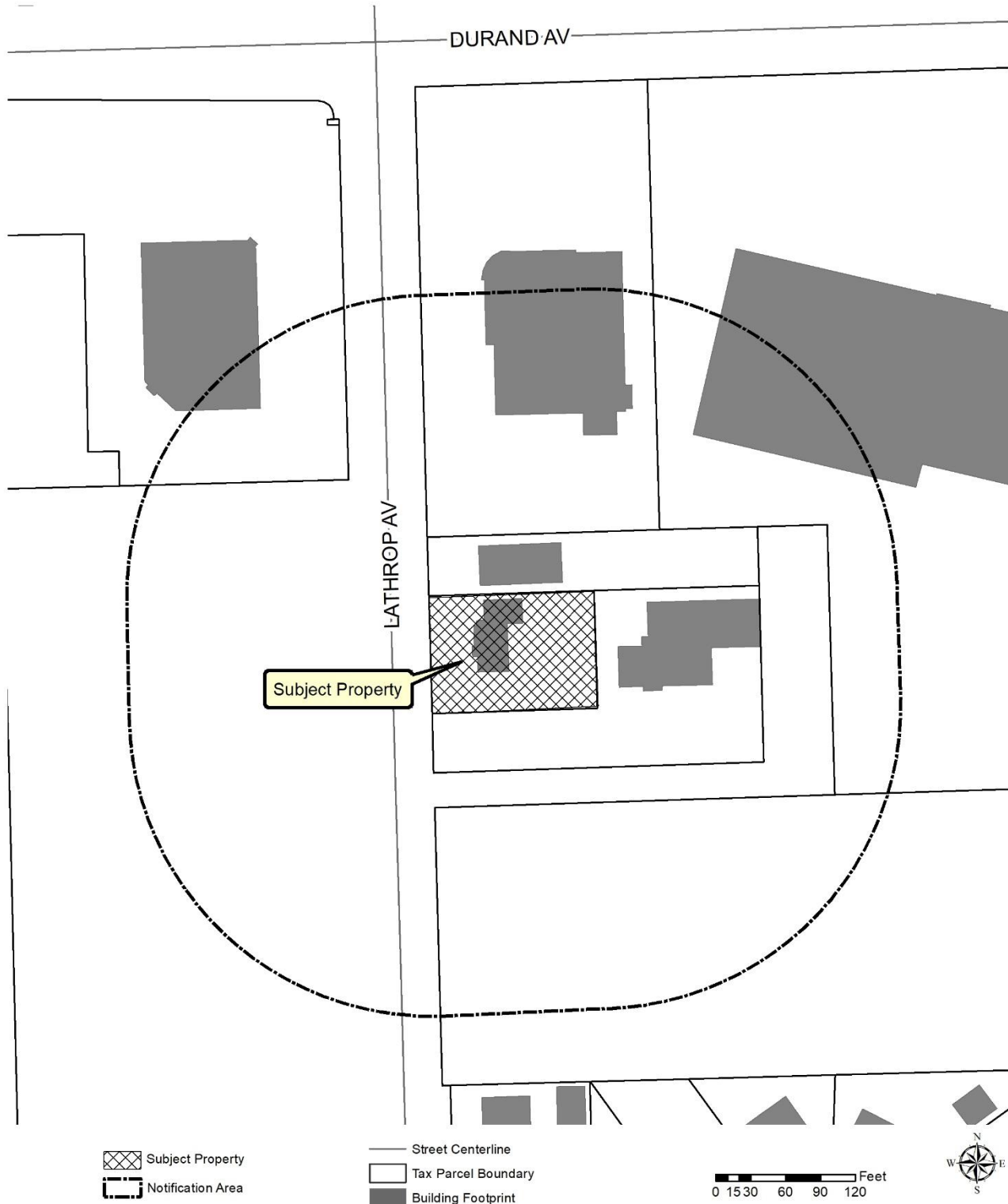
STAFF RECOMMENDATION: BASED ON THE FINDINGS OF FACT IN THIS REPORT, THAT THE REQUEST FROM GINA AND ANTHONY DENTICI., SEEKING AN 8.5 INCH VARIANCE FROM SEC. 114-693 TO CONSTRUCT A 20 FOOT, 8.5 INCH DETACHED ACCESSORY (GARAGE) STRUCTURE, AT 3105 LATHROP AVENUE BE DENIED.

ATTACHMENTS:

- 1) Property owner notification map indicating the subject property;
- 2) Aerial Photo indicating the subject property;
- 3) Zoning Map indicating the subject property;
- 4) Land Use Map from Comprehensive Plan, indicating the subject property;
- 5) Site photos of the property and general area; and
- 6) Submittal documents ([click to view](#)).





Variance Request - 3105 Lathrop Avenue






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 Subject Property
 Notification Area

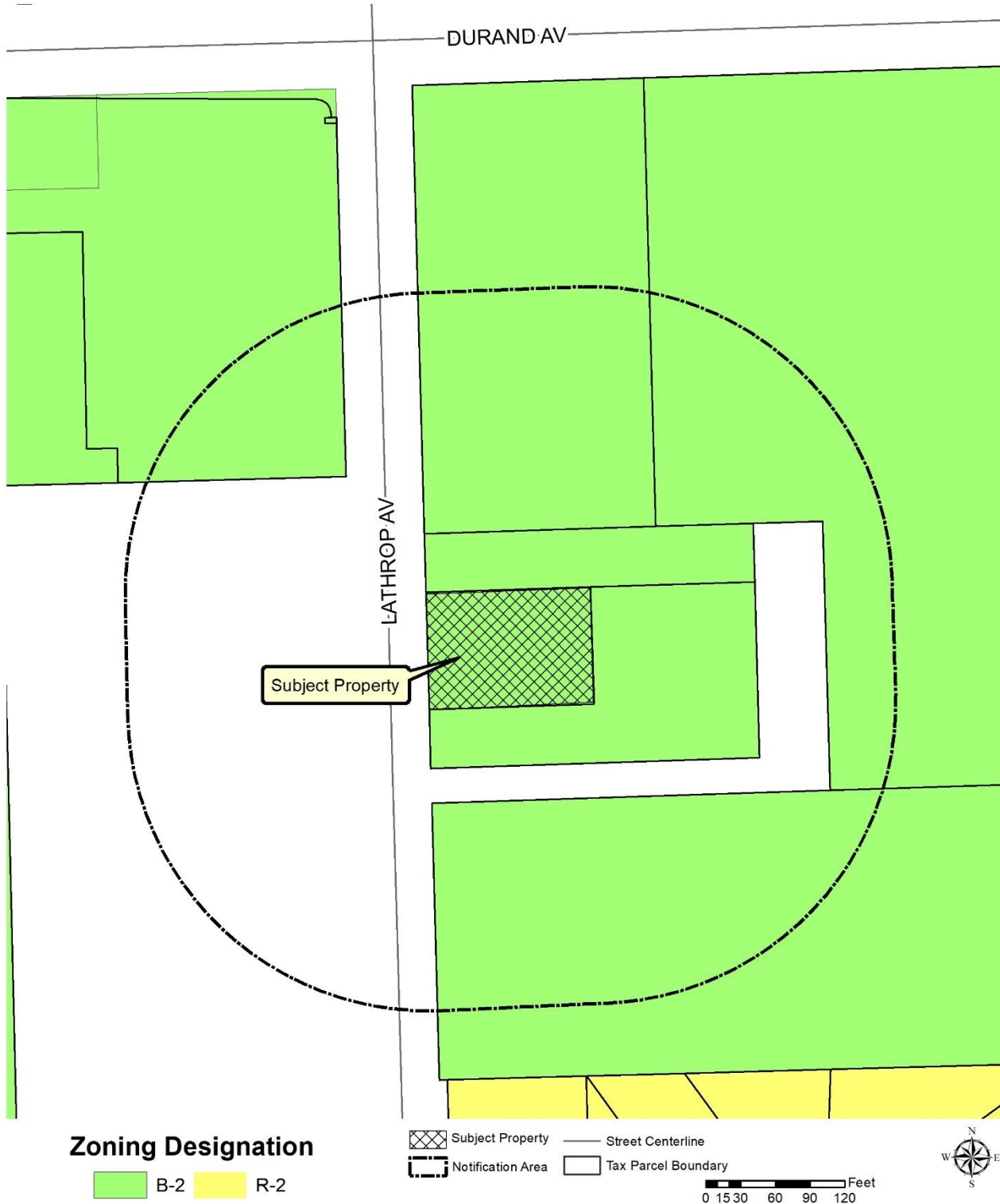
 Street Centerline
 Tax Parcel Boundary

 Feet
0 15 30 60 90 120



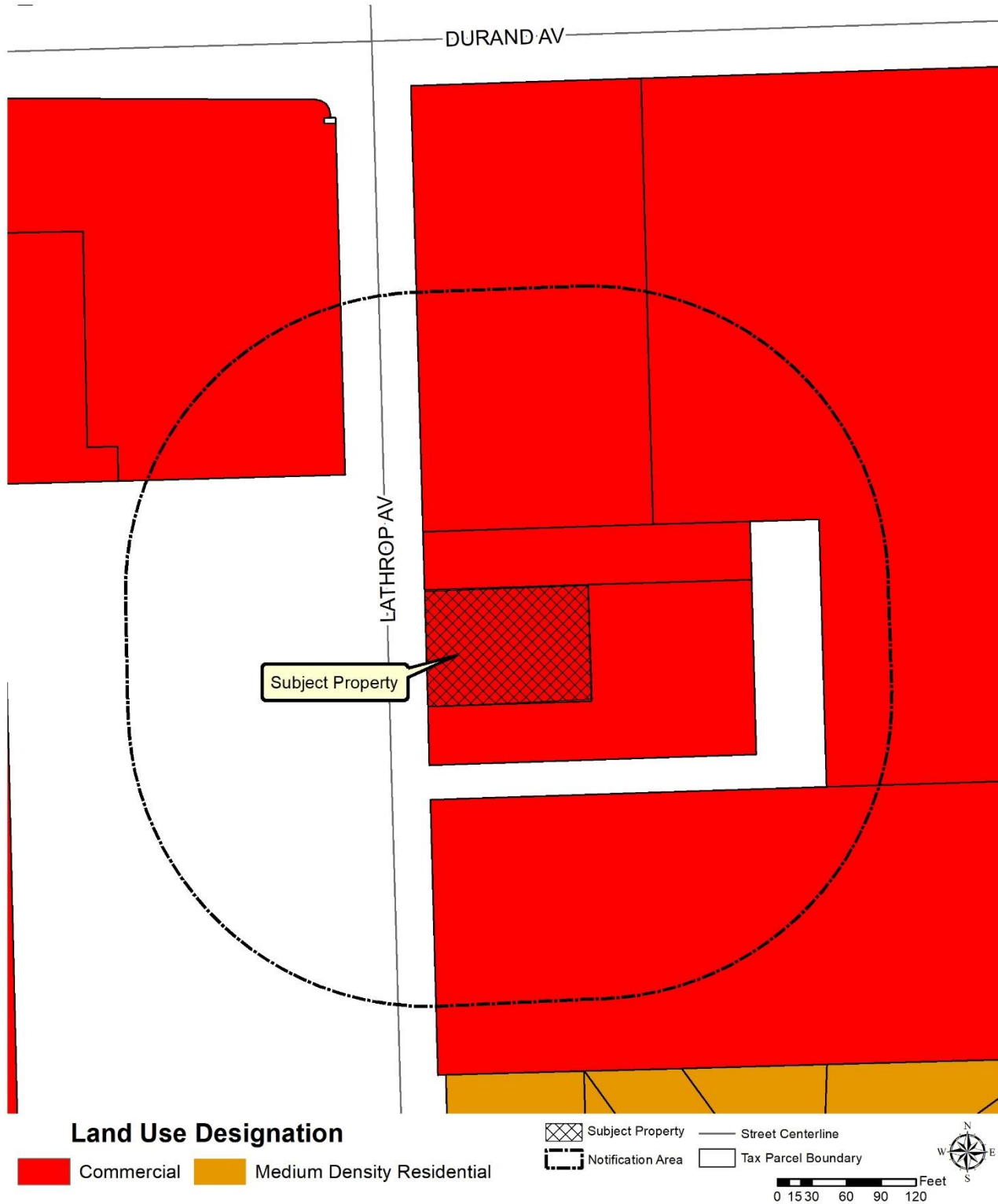


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Site Photos



Looking north towards garage location from adjacent parking area



Looking east from adjacent parking area



Looking south from adjacent parking area



Looking west at subject property from parking area



Looking south along Lathrop Avenue



Looking west at subject property from Lathrop Avenue