

CITY OF PULLMAN

Public Works and Planning Departments

325 S.E. Paradise Street, Pullman, WA 99163
(509) 338-3220 or (509) 338-3213 Fax (509) 338-3282
www.pullman-wa.gov

MEMORANDUM

TO: Pullman Board of Adjustment

FROM: Pete Dickinson, Planning Director *PD*
Jason Radtke, Assistant Planner *JR*

FOR: Meeting of June 21, 2010

SUBJECT: Zoning Code Variance No. V-10-2
Lee Carport Setback Variance

DATE: June 17, 2010

Staff Report No. 10-8

BACKGROUND DATA

Applicant: Pamela Lee

Property Location: 625 NW Gary Street (See Attachment A, Location and Zoning Map).

Applicant's Request: Obtain a variance to construct an attached carport with an interior side yard setback of two feet as opposed to the five-foot minimum setback prescribed in the zoning code (See Attachment B, Application V-10-2; Attachment C, Site Plan; Attachment D, Front and Side Elevation of Proposed Garage; and Attachment E, Applicant's Proposed Findings of Fact).

Property Zoning: R2 Low Density Multi-Family Residential.

Applicable Zoning Code Regulations: Subsection 17.75.080(7) states that the minimum required side yard for interior property boundaries in all residential districts is five feet.

Property Features: Current Land Use: Single family house & accessory structures

(See Attachment F, Photographs of Existing House) and driveway.

Lot Area: 5,850 square feet.

Utilities: The property is served by city water and sanitary sewer lines.

Topography: The driveway at the site is gently sloped; the remainder of the property is relatively flat with some moderate slopes near property boundaries.

Vegetation: There are two significant trees on the property.

Adjacent Zoning and Land Use:

North, South, East, and West: R2 district; single family homes.

Access:

Gary Street, designated as a local access street in the Pullman Comprehensive Plan Arterial Street Plan Map.

Comments of Affected Agencies:

Department of Public Works: Stated that the variance was acceptable.

Protective Inspections Division: Suggested the applicant be made aware of Washington Administrative Code (WAC) 51-51-0302 and International Residential Code (IRC) Sections R302.1 and R302.2, which regulate fire separation ratings in accessory structures.

Department of Public Services: *No response.*

Fire Department: No concerns.

Police Department: *No response.*

Pullman School District: *No response.*

Hearing Notification:

Notice of Public Hearing mailed 6/8/10; Notice of Public Hearing published 6/10/10; Notice of Public Hearing posted at subject property 6/10/10.

Correspondence Received: Letter from Judy R. Rumph, dated 5/15/10 (See Attachment G).

PERTINENT PLANNING PROVISIONS

There are a number of provisions contained within the Comprehensive Plan and zoning code that relate to this variance request. These provisions, which are available for review at the city's web site (www.pullman-wa.gov), are referenced below.

Comprehensive Plan Goals LU4, T1, T4, and their respective policies.
Zoning Code Sections 17.01.050, 17.75.010, and 17.130.020

ZONING CODE VARIANCE REVIEW CRITERIA

According to Zoning Code Section 17.130.020, a variance may be approved when all of the following findings required by this section can be made.

- (1) Special Circumstances. That because of special circumstances relating to the property, the strict enforcement of the Zoning Code would deprive the owner of development rights and privileges permitted to other properties in the vicinity with the same zoning.
 - (a) Special circumstances include the size, shape, topography, location of the property and surrounding property, and environmental factors such as vegetation, streams, ponds, and wildlife habitats.
 - (b) Special circumstances should not be predicated upon any factor personal to the owner/applicant such as age or disability, extra expense which may be necessary to comply with the Zoning Code, the ability to secure a scenic view, the ability to make more profitable use of the property, or any factor resulting from the action of the owner/applicant.
- (2) Special Privilege. That approval of the variance is not a grant of a special privilege to the property in comparison with the limitations upon other properties in the vicinity with the same zoning.
- (3) Comprehensive Plan. That approval of the variance is consistent with the Comprehensive Plan.
- (4) Zoning Ordinance. That approval of the variance is consistent with the purposes of the zoning code and the zone district in which the property is located.
- (5) Not Detrimental. That the variance as approved or conditionally approved will not be significantly detrimental to the public health, safety, and welfare, or injurious to the property or improvements in the vicinity and same zone.
- (6) Minimum Variance. That the approved variance is the minimum necessary to allow the owner the rights enjoyed by other properties in the vicinity with the same zoning.

STAFF ANALYSIS AND RECOMMENDATION

Planning staff is in favor of granting the proposed variance. The applicant wishes to construct an attached carport over the existing driveway. In order to accomplish this objective, the applicant must build the carport with a two-foot interior side yard setback. Without a variance, there would not be sufficient room to build a carport. The subject property is located in a secluded neighborhood. As noted earlier in this report, there are moderate slopes, up to approximately 1.5:1, on the property, as well as two significant trees. These conditions prohibit placement of a carport or garage elsewhere on the property.

Zoning Code Subsection 17.130.020(1) states that a variance may be granted based on special circumstances pertaining to the parcel under consideration. This subsection indicates that special circumstances may include the "topography" and "vegetation." Staff believes that the topography of the parcel combined with the presence of the significant trees constitute special circumstances that help justify the proposed variance. Given that these special circumstances exist, the request for a two-foot side setback would not be considered a grant of special privilege compared to other properties in the vicinity. Also, the suggested variance appears to be the minimum necessary to facilitate the applicant's construction plans.

From staff's perspective, the proposed variance would not be detrimental to the public health, safety, and welfare, nor would it be injurious to surrounding properties. The side setback of the proposed carport would match that of existing accessory structures (built in 1940 under a different set of setback standards), helping to develop a harmonious relationship between the carport and exterior studio. Also, as noted in the correspondence received with respect to this case, the adjacent neighbor has expressed support for the proposed variance.

The Protective Inspections Division of the City of Pullman has indicated that the applicant should be made aware of WAC 51-51-0302 and IRC Section R302.1, which require exterior building walls that have a fire separation distance of less than three feet from the property boundary to have not less than a one-hour fire resistive rating with exposure from both sides, and IRC Section R302.2, which states that openings are not permitted in the walls of accessory structures with a fire separation distance of less than three feet, as measured perpendicular to the line used to determine the fire separation distance. According to these code provisions, the applicant would need to build a wall with no openings for that portion of the carport along the side property line, and that wall would need to meet the fire resistance requirements of the building code. Planning staff believes it is appropriate to make this a condition of approval for this variance request.

Staff believes that the applicant's proposal would advance the objectives of

Comprehensive Plan Goal LU4 to “preserve opportunities for high quality, diversified life styles within the community’s residential neighborhoods” and Zoning Code Subsection 17.01.050(1) to “promote the public health, safety, order, convenience, and general welfare.” Based on the preceding information, planning staff recommends approval of the requested variance with the following condition:

- The applicant shall comply with WAC 51-51-0302 and IRC Sections R302.1 and R302.2 when constructing the subject carport.

FINDINGS OF FACT AND CONCLUSIONS

The applicant has provided proposed findings of fact for this case (Attachment E). Planning staff has also prepared findings of fact and conclusions for consideration at the public hearing. Staff’s findings and conclusions are incorporated in draft Resolution No. BA-2010-3 (See Attachment H).

Prior to making a decision to approve or deny a zoning code variance, the Board must adopt findings of fact and conclusions which specify the basis for its decision. The Board may abstract findings and conclusions from the applicant, staff, public, or Board of Adjustment members.

ACTION REQUESTED

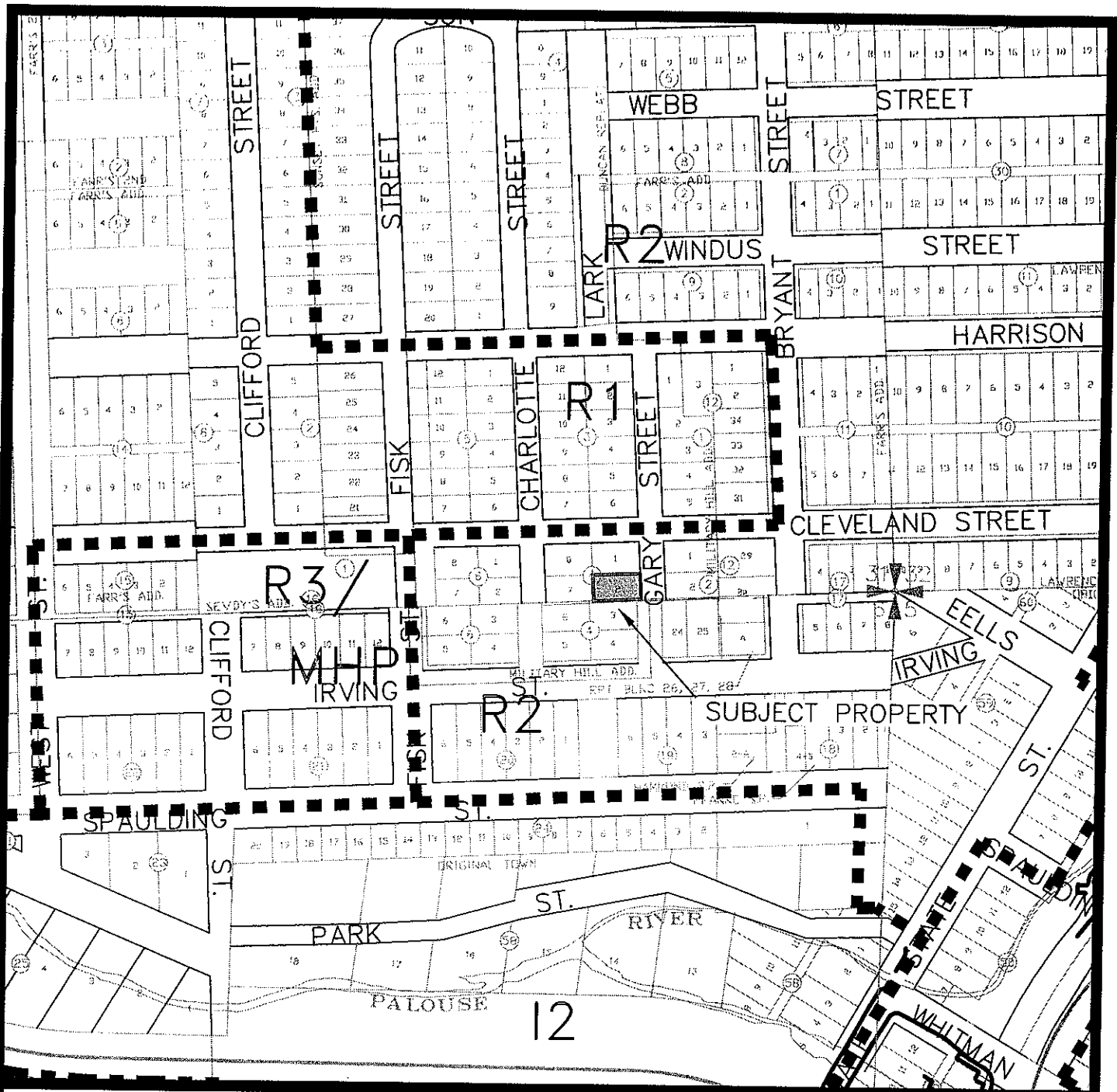
- A. Establish rules of procedure and ask Appearance of Fairness questions.
- B. Accept staff report.
- C. Take testimony on the request for a zoning code variance.
- D. Adopt, by motion, Findings of Fact.
- E. Adopt, by motion, Conclusions.
- F. Move to approve or deny the granting of the zoning code variance. If the motion is to approve, the same motion should include any conditions the Board wishes to apply.

ATTACHMENTS

- “A” Location and Zoning Map
“B” Variance Application
“C” Site Plan

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June 17, 2010
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- "D" Front and Side Elevation of Proposed Garage
- "E" Applicant's Proposed Findings of Fact
- "F" Photographs of Existing House
- "G" Letter from Judy R. Rumph, dated 5/15/10
- "H" Draft Resolution No. BA-2010-3



SUBJECT PROPERTY



CITY LIMITS



P:\Engr & CAD\PLANNER\LOC\MAPS\IV-10-2.dwg

LOCATION AND ZONING MAP

CASE NUMBER
V-10-2

RECEIPT NO.: 41344
DATE APPLICATION RECEIVED: May 17, 2010
DATE APPLICATION ACCEPTED AS COMPLETE: _____

CITY OF PULLMAN
ZONING CODE VARIANCE APPLICATION
Pullman City Code 17.130

APPLICANT:

NAME: Pamela A. Lee
ADDRESS: 625 NW Gary Street
TELEPHONE: 509-338-5859
STATUS (property owner, lessee, agent, purchaser, etc.): property owner

PROPERTY OWNER (if different than applicant): same as applicant

NAME: _____
ADDRESS: _____
TELEPHONE: _____

PROPERTY LOCATION (general or common address):

625 NW Gary Street
Pullman, WA 99163

VARIANCE REQUESTED:

State Pullman City Code section(s) involved, and give description of and reason for request.

Pullman City Code section 17.75.08 Garages and Carports
(7) Minimum Required Yards (c) side yard, interior

A zoning code variance is being requested for a two-foot interior side setback for a proposed new carport that would be attached to the home. This requested variance would place the proposed carport in alignment with the existing profile of the outbuilding, a small studio. The proposed carport would utilize the existing cement driveway, which is located in the flattest portion of the front property.

All information provided in this application is said to be true under penalty of perjury by the laws of the State of Washington.

Pamela A Lee
Applicant's Signature

May 13, 2010
Date

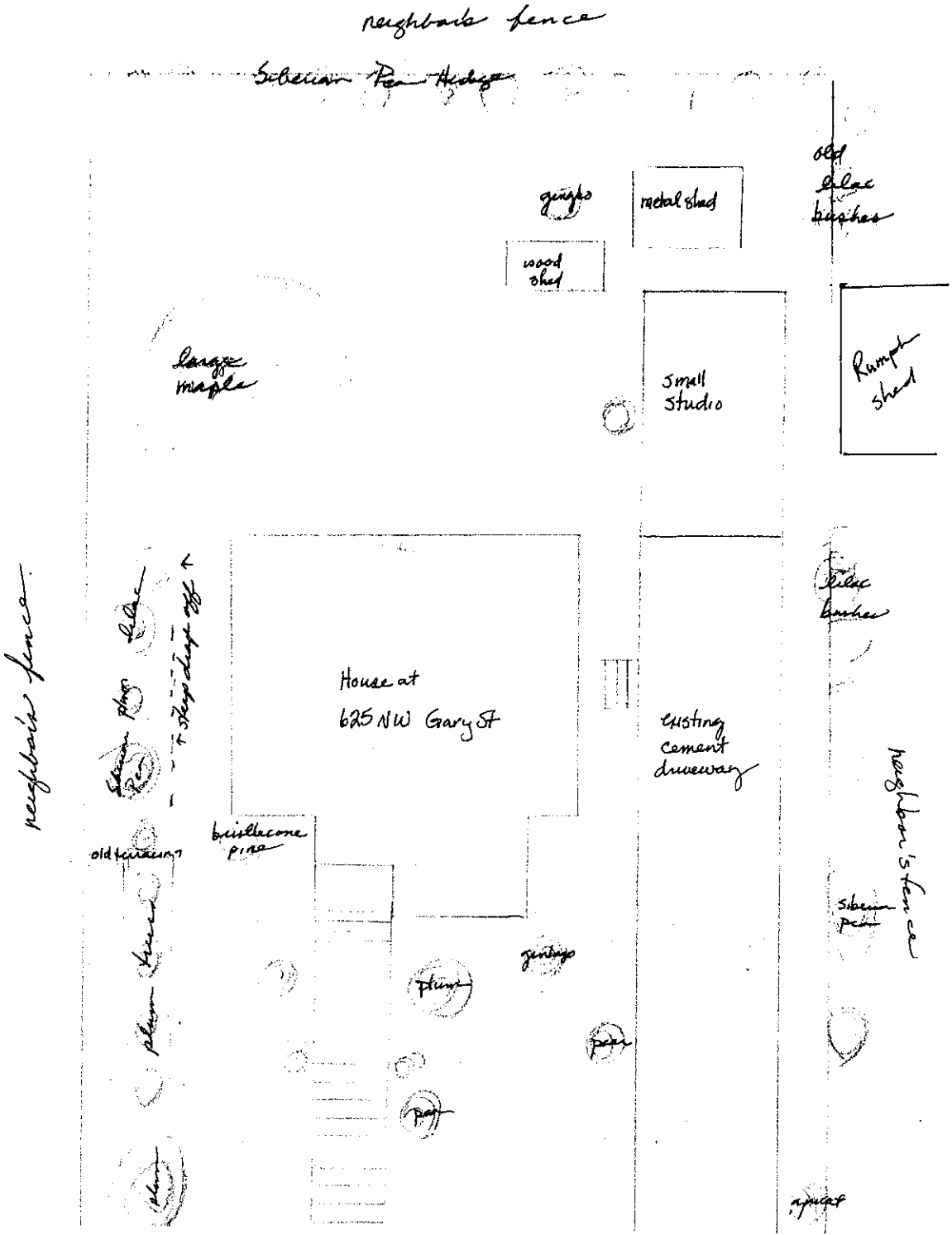
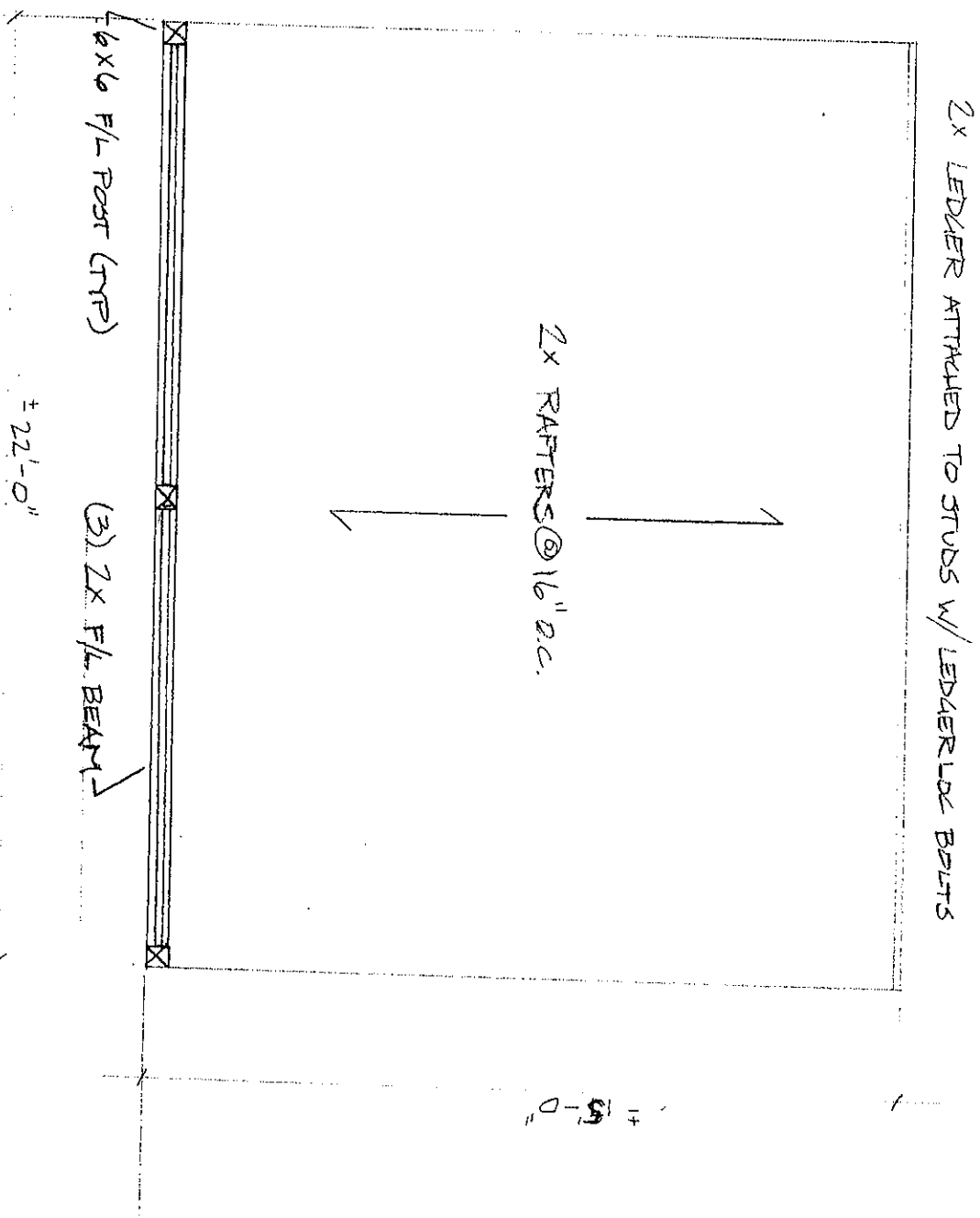


Diagram of property at 625 NW Gary Street with existing structures, trees, etc

KAC1 diagram of proposed carpent

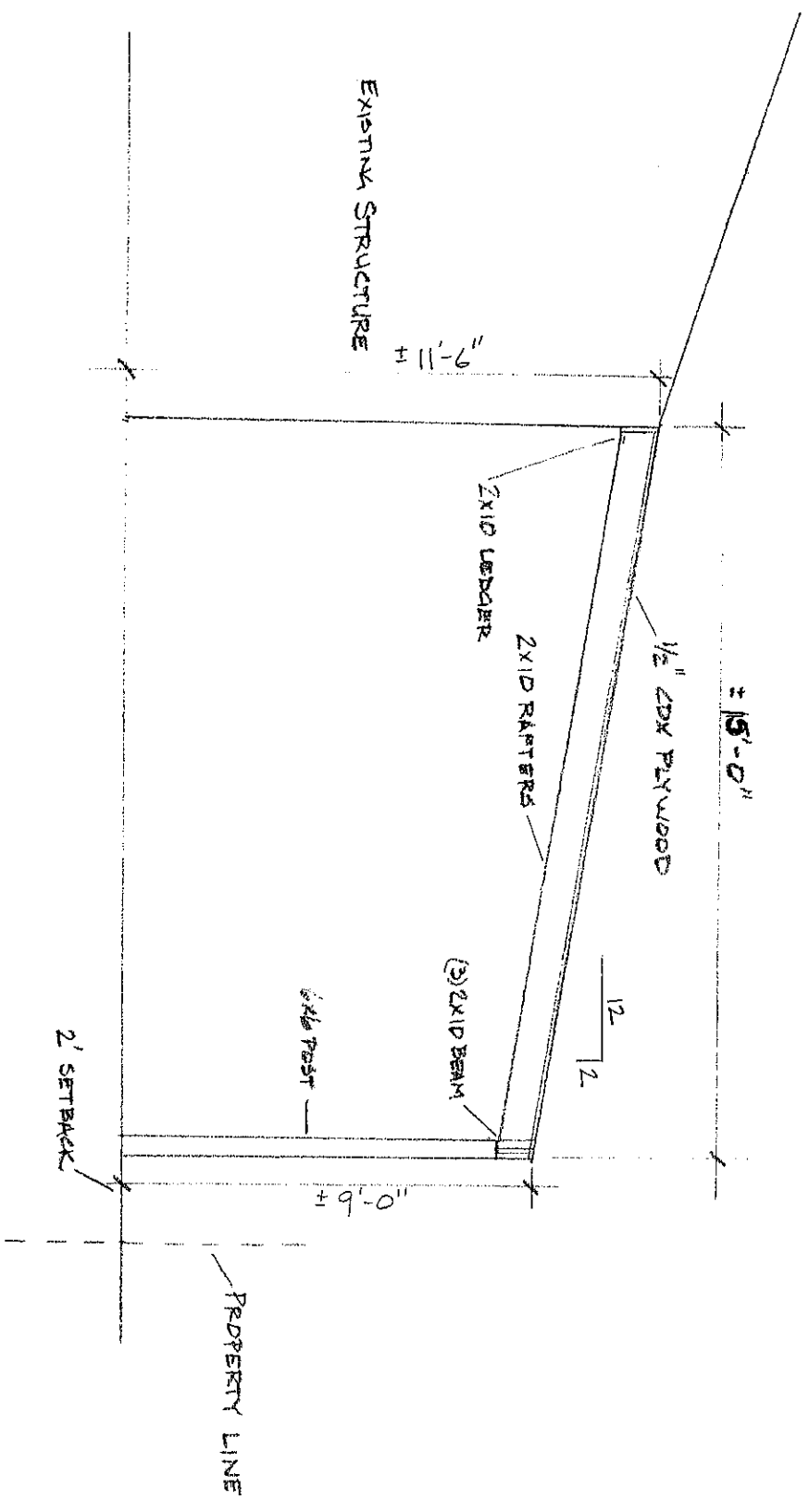
LEE CARPORT
SCALE: 1/4" = 1'-0"



LEE ELEVATION
SCALE: 1/4" PER 1'-0"

page 2/2

2 AC 1 diagram of proposed carport



Variance Application

A zoning code variance is being requested for a two-foot interior side setback for a proposed new carport. The existing home, built in 1940, does not have a carport or a parking structure. This requested variance would place the proposed carport in alignment with the existing profile of the outbuilding, a small studio. The proposed carport would utilize the existing cement driveway which is located in the flattest portion of the front property.

The front property is located on a hill that slopes down to Gary Street. The existing driveway runs parallel along the north side of the property. The driveway is positioned in a 90-degree orientation to the street. The existing driveway is located on the flattest portion of the front property. The slope of the yard increases considerably moving to the middle front yard, with an even steeper hill on the south side of the front property. The only street access is on the front of the existing house. On the south side of the house there is an additional hill that slants in a steep drop-off towards the south adjacent neighbor's property. The steep drop-off would inhibit the construction of a carport on the south side of the house. There is a healthy, well established bristlecone pine tree on the southeast corner of the house. Bristlecone pine trees are very slow growing and one of the longest surviving species of trees. I have also been told by arborists that it is an unusual tree for our area.

In the front yard there are five fruit trees, two boxwood bushes, a ginkgo tree and the bristlecone pine. The south side perimeter of the property has six small plum trees, a Siberian pea tree, and lilac bushes. The back yard has a very large silver maple tree, old lilac bushes, a ginkgo tree and an apricot tree. There is a hedge of Siberian pea trees along the west property line.

The proposed carport and the variance application have been discussed with the adjacent neighbor on the north side of the property. The north interior side property line would allow for, at the minimum, a two foot setback in locating the proposed carport. A letter from this neighbor, Ms. Rumph, will accompany this application. The adjacent Rumph lot is 65-feet wide. My property is 60-feet wide by 97.5-feet deep. County assessor documents, photographs, and drawings accompany this application.

I have read the Pullman building code for carports or garages, and understand that the code specifies a five-foot interior side setback. When the homes at 625 and 635 NW Gary were built, there appear to

have been different standards. I am hoping you consider allowing me to hire KACI construction to build a carport that follows the existing profile of the driveway and the small studio. The proposed 6 x 6-inch support posts would stay within the existing profile and would leave a two-foot setback at the minimum.

I have discussed, with Sean Dorigo at KACI, whether widening or moving the driveway closer to the existing home is a possibility. This would require excavation to level the yard and my home foundation would be exposed by a one and a half to two feet. This could result in drainage and structural problems to the existing home. I do not want to risk structural damage to my home. One of the fruit trees in the front, a fruit bearing red Anjou pear, would be killed by widening the driveway. I prefer not to lose this fruit bearing pear tree.

Thank you for your time and effort as you consider this request for an interior side setback variance for a proposed new carport. As revealed by the accompanying diagram, the proposed carport would be attached to the existing home.

Sincerely,
Pamela Lee
625 NW Gary Street, Pullman, WA 99163
Phone: 509-338-5859

Attachments:

- Two photographs
- Tract map with adjacent neighbors' names and addresses
- A diagram of the property, existing buildings, foliage
- Two-page diagram of proposed carport supplied by Sean Dorigo of KACI construction
- A letter from the neighbor at 635 Gary Street, Ms. Rumph
- Tax documents as proof of ownership

This paper serves as my Findings of Fact.



625 NW Gary Street, photographed with back to the east, looking west.



625 NW Gary Street, photographed with back to the northeast, facing southwest.

May 15, 2010

To Whom It May Concern:

I agree and support Pamela Lee's 2 (two) foot variance for a Carport.

Sincerely,

Judy R. Rumph

Judy R Rumph

Owner: 635 NW Gary St.
Pullman, WA 99163
509-334-0876

**BEFORE THE BOARD OF ADJUSTMENT
FOR THE CITY OF PULLMAN**

In the Matter of Zoning
Zoning Code Variance
Application No. V-10-2

) Resolution No. BA-2010-3
)
) A Resolution Adopting Findings of Fact and
) Conclusions Representing the Official
) Determination of the City of Pullman
) Board of Adjustment

WHEREAS, a zoning code variance application was duly filed by Pamela Lee for a variance to reduce the standard interior side yard setback for an attached carport at the property described in Exhibit "A," attached hereto and by this reference made a part hereof as though set forth in full herein; and,

WHEREAS, a notice of the Board of Adjustment public hearing on this matter was mailed to the applicant and property owners within 300 feet of the subject property on June 8, 2010, said notice was posted at the subject property on June 10, 2010, and said notice was published in the Daily News on June 10, 2010; and,

WHEREAS, a public hearing was held before the Board of Adjustment on June 21, 2010, in the Council Chambers at City Hall, 325 SE Paradise Street, Pullman, Washington, at which time public comment from persons favoring and opposing this zoning code variance application was solicited, and after hearing public comment thereon, Board members deliberated over the matter in open session; and,

WHEREAS, this Board now considering it appropriate to enter its formal written decision, makes and enters the following

Findings of Fact

1. On May 17, 2010, Pamela Lee filed a zoning code variance application with the planning department to construct an attached carport with an interior side yard setback of two feet as opposed to the five-foot minimum setback prescribed in the zoning code at 625 NW Gary Street; said application was labeled by planning staff as No. V-10-2.
2. The subject property is located within an R2 Low Density Multi-Family Residential zoning district.
3. Subsection 17.75.080(7) states that the minimum required side yard for interior property boundaries in all residential districts is five feet.
4. The subject property is approximately 5,850 square feet in size and is occupied by a single family house, accessory structures, and driveway.

5. The driveway at the subject property is gently sloped, and the remainder of the property is relatively flat with some moderate slopes near property boundaries.
6. The subject property is served by city water and sanitary sewer lines.
7. At the subject property, there are two significant trees on the south side of the house.
8. The area surrounding the subject property is zoned R2 and is occupied by single family residences.
9. Access to the subject property is gained by way of Gary Street, designated as a local access street in the Pullman Comprehensive Plan.
10. Staff Report No. 10-8, dated May 15, 2007, includes the following description of responses from agencies to which a notice of the subject application was transmitted:

Department of Public Works: Stated that the variance was acceptable.

Protective Inspections Division: Suggested the applicant be made aware of Washington Administrative Code (WAC) 51-51-0302 and International Residential Code (IRC) Sections R302.1 and R302.2, which regulate fire separation ratings in accessory structures.

Department of Public Services: *No response.*

Fire Department: No concerns.

Police Department: *No response.*

Pullman School District: *No response.*

11. A letter of support for the requested variance was received by the planning department from Judy R. Rumph, owner of property adjacent to the subject parcel.
12. Staff Report No. 10-8 states that the following Pullman Comprehensive Plan and zoning code provisions pertain to the subject application:

Comprehensive Plan Goals LU4, T1, T4, and their respective policies.
Zoning Code Sections 17.01.050, 17.75.010, and 17.130.020.
13. According to Zoning Code Section 17.130.020, a variance may be approved when all of the following findings required can be made:
 - (1) Special Circumstances. That because of special circumstances relating to the property, the strict enforcement of the Zoning Code would deprive the owner of development rights and privileges permitted to other properties in the vicinity with the same zoning.
 - (a) Special circumstances include the size, shape, topography, location of the property and surrounding property, and environmental factors such as vegetation, streams, ponds, and wildlife habitats.

- (b) Special circumstances should not be predicated upon any factor personal to the owner/applicant such as age or disability, extra expense which may be necessary to comply with the Zoning Code, the ability to secure a scenic view, the ability to make more profitable use of the property, or any factor resulting from the action of the owner/applicant.
- (2) Special Privilege. That approval of the variance is not a grant of a special privilege to the property in comparison with the limitations upon other properties in the vicinity with the same zoning.
- (3) Comprehensive Plan. That approval of the variance is consistent with the Comprehensive Plan.
- (4) Zoning Ordinance. That approval of the variance is consistent with the purposes of the zoning code and the zone district in which the property is located.
- (5) Not Detrimental. That the variance as approved or conditionally approved will not be significantly detrimental to the public health, safety, and welfare, or injurious to the property or improvements in the vicinity and same zone.
- (6) Minimum Variance. That the approved variance is the minimum necessary to allow the owner the rights enjoyed by other properties in the vicinity with the same zoning.

14. Staff Report No. 10-8 states the following:

Planning staff is in favor of granting the proposed variance. The applicant wishes to construct an attached carport over the existing driveway. In order to accomplish this objective, the applicant must build the carport with a two-foot interior side yard setback. Without a variance, there would not be sufficient room to build a carport. The subject property is located in a secluded neighborhood. As noted earlier in this report, there are moderate slopes, up to approximately 1.5:1, on the property, as well as two significant trees. These conditions prohibit placement of a carport or garage elsewhere on the property.

15. Staff Report No. 10-8 includes the following paragraph:

Zoning Code Subsection 17.130.020(1) states that a variance may be granted based on special circumstances pertaining to the parcel under consideration. This subsection indicates that special circumstances may include the "topography" and "vegetation." Staff believes that the topography of the parcel combined with the presence of the significant trees constitute special circumstances that help justify the proposed variance. Given that these special circumstances exist, the request for a two-foot side setback would not be considered a grant of special privilege compared

to other properties in the vicinity. Also, the suggested variance appears to be the minimum necessary to facilitate the applicant's construction plans.

16. Staff Report No. 10-8 states the following:

From staff's perspective, the proposed variance would not be detrimental to the public health, safety, and welfare, nor would it be injurious to surrounding properties. The side setback of the proposed carport would match that of existing accessory structures (built in 1940 under a different set of setback standards), helping to develop a harmonious relationship between the carport and exterior studio. Also, as noted in the correspondence received with respect to this case, the adjacent neighbor has expressed support for the proposed variance.

17. Staff Report No. 10-8 reads, in part, as follows:

The Protective Inspections Division of the City of Pullman has indicated that the applicant should be made aware of WAC 51-51-0302 and IRC Section R302.1, which require exterior building walls that have a fire separation distance of less than three feet from the property boundary to have not less than a one-hour fire resistive rating with exposure from both sides, and IRC Section R302.2, which states that openings are not permitted in the walls of accessory structures with a fire separation distance of less than three feet, as measured perpendicular to the line used to determine the fire separation distance. According to these code provisions, the applicant would need to build a wall with no openings for that portion of the carport along the side property line, and that wall would need to meet the fire resistance requirements of the building code. Planning staff believes it is appropriate to make this a condition of approval for this variance request.

18. Staff Report No. 10-8 states the following:

Staff believes that the applicant's proposal would advance the objectives of Comprehensive Plan Goal LU4 to "preserve opportunities for high quality, diversified life styles within the community's residential neighborhoods" and Zoning Code Subsection 17.01.050(1) to "promote the public health, safety, order, convenience, and general welfare."

From the foregoing Findings of Fact, this Board now makes the following

Conclusions

1. The strict enforcement of the zoning code in this instance would deprive the applicant of development rights and privileges permitted to other property owners because there appear to be special circumstances associated with this proposal; those special circumstances relate to the topography of the property and the presence of significant trees on the parcel.

2. Approval of this variance request would not be a grant of a special privilege to the property in comparison with the limitations upon other properties in the vicinity with the same zoning.
3. The proposed variance appears to be consistent with the applicable goals and policies of the Comprehensive Plan.
4. The proposed variance appears to be consistent with the general purposes of the zoning code and the purposes of the zone district in which the property is located.
5. The granting of this variance would not be detrimental to the public health, safety, and welfare, or injurious to the property or improvements in the vicinity and same zone.
6. The approval of this variance is the minimum necessary to allow the owner the rights enjoyed by other properties in the vicinity with the same zoning.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Board of Adjustment for the city of Pullman that, based upon the foregoing Findings of Fact and Conclusions, this Board now makes and enters its formal

Decision

Zoning Code Variance Application No. V-10-2 is hereby approved, subject to the following condition:

- The applicant shall comply with Washington Administrative Code 51-51-0302 and International Residence Code Sections R302.1 and R302.2 when constructing the subject carport.

DATED this _____ day of _____, 2010.

Michael Kallaher, Chairperson
Pullman Board of Adjustment

ATTEST:

Pete Dickinson, Planning Director

LEGAL DESCRIPTION

Pamela A. Lee Property

In the city of Pullman, county of Whitman, state of Washington, to wit:

Lot 2, Block 4 of Military Hill Addition, according to the plat thereof filed under Auditor's File Number 163258.

Approved for Form:

5-20-10

Engineering Technician

Date