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September 5, 2017

TO: George Bell, Chairman  
Lake County Zoning Board of Appeals

FROM: Eric Tooke, Senior Planner  
Lake County Department of Planning, Building, and Development

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CASE NO: VAR-000257-2017

REQUESTED ACTION: 1. Variance to allow a garage as a principal structure and use.  
2. Reduce the minimum required front yard setback from 10 feet to 3 feet.

HEARING DATE: September 14, 2017

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#### **GENERAL INFORMATION**

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OWNER: George P. Block, Jr. as Trustee of the George P. Block Family GST Exempt Trust FBO George P. Block Jr.

# OF PARCELS: One; 01-14-402-001

SIZE: Approximately 0.34 per Lake County GIS.

LOCATION: 41286 N. Elime Road, Antioch, IL.

EXISTING ZONING: Residential – 1 (R-1)

EXISTING LAND USE: Detached garage

PROPOSED LAND USE: Detached garage for personal storage

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## **SURROUNDING ZONING / LAND USE**

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<b>NORTH:</b>	Residential - 1 (R-1) / Tennis court
<b>SOUTH:</b>	Residential - 1 (R-1) / Detached garage (common ownership with home to the east, across Elime Road)
<b>EAST:</b>	Residential – 1 (R-1) / Single-family residence
<b>WEST:</b>	Open Space (OS) / Lake Marie

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## **COMPREHENSIVE PLANS**

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<b>LAKE COUNTY:</b>	Medium Lot Residential 1- 3-acre lot density
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## **DETAILS OF REQUEST**

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<b>ACCESS:</b>	Direct access to the subject lot property is from N. Elime Road.
<b>NATURAL RESOURCES:</b>	There are some mapped wetlands along the Lake Marie Shoreline and the entire property is located within the floodplain.
<b>SEPTIC AND WATER:</b>	If the property was developed with a residence, a private septic system and well would need to be installed to serve the property, however the soils are not suitable for a septic system to be installed on the property based on the results of soil tests performed in 1992 and 2017.

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## **PROPERTY HISTORY**

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- The accompanying exhibit illustrates the zoning lot that existed until 2016 and included PIN(s) 01-14-403-007 (house and garage across Elime Road), 01-14-402-001 (detached garage), 01-14-400-007 (tennis court) and PIN 01-14-400-006 (vacant). The zoning lot was owned by the George P. Block Family GST Exempt Trust.

- Subsequently, each parcel of the zoning lot has been sold off individually to separate property owners. The subject property is the last property owned by the Block Family Trust.
- In 1992 the Building Department issued a building permit for the 1,200-square foot garage on the subject property in relation to the existing house located across the street. At that time, the Zoning Ordinance allowed accessory structures and uses to be permitted in any district in connection with any principal use lawfully existing within such district. Any question of whether a particular use was permitted as an accessory use by the provisions of the ordinance section was to be determined by the Zoning Officer pursuant to his or her authority to interpret the provisions of that Chapter.
- The property is for sale with a condition that a house be built on the property within 6 months of purchase, which would remedy the issue of the nonconforming use of the accessory structure in absence of a single-family dwelling, however septic constraints identified in the comments below would preclude the construction of a single-family dwelling on the property.

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#### **ADDITIONAL COMMENTS**

- The applicants reside at 40471 N. Bluff which is located on a separate lake and is approximately 1.16 miles southeast of the property that is subject to the variation request. The driving distance is approximately 2.1 miles.
- A principle use is defined as, “the specific primary purpose for which land is used”. Given the applicants do not intend to construct a single-family residence as the principal structure and use for the property, the garage would function as the principal use should the variance be granted.
- The County does provide some relief for nonconforming lots with single-family dwellings on them by permitting accessory structures across the street. Specifically, Section 151.233(B)(1) of the Lake County Code states: “In AG, RE, E, R1–R6, and RR Districts, an accessory detached garage not to exceed 576 square feet in size, underground utilities, or a boathouse may be constructed at or after the time of issuance of a building permit for a principal dwelling on a nonconforming parcel under the same ownership on the opposite side of an alley, easement, or right-of-way.” In this instance, the 1,200-square foot garage was constructed in 1992 by the same owners of PIN 01-14-403-007 at that time. If the variation to allow a garage as a principal structure and use is approved, the associated single-family dwelling would be approximately 2.1 miles from the subject structure.

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## STAFF COMMENTS

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**1. Bob Springer – Building Division**

The Building/Enforcement division cannot support this request unless a condition is placed on the request that would forbid any outside storage on the property and limit the building use to storage only.

**2. Eric Steffen – Engineering Division**

No objection to the requested variance. It should be noted that the entire parcel is located within the FEMA mapped regulatory floodplain of Lake Marie and any proposed development within the regulatory floodplain will need to meet the performance standards outlined in Section 151.149 of the Lake County Code of Ordinances.

**3. Joe Meyer – Lake County Division of Transportation**

No Comment.

**4. Mark Mussachio - Environmental Health Department –**

We have no objections to the requested variance. It is my understanding that there is no plumbing in the garage. Recent soil borings were done by John A. Raber and Associates on March 13, 2017 which show that the soil is not suitable for a code compliant septic system.

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## RECOMMENDATION ON VARIANCE

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**Each variance request has been considered by staff based on its own merit and our recommendations are broken into 2 sections.**

Staff has determined the application fails to meet the approval criteria for a variation specified in Section 151.056 (C)(4) after considering the facts in this case, and we recommend denial of the variance to allow a garage as a principle structure and use for the following reasons:

**1. Exceptional conditions peculiar to the applicant's property:**

Comment – The subject property is a nonconforming lot within the R-1 zoning district and located within the 100-year floodplain. Lots without septic systems and single-family dwellings do not constitute a peculiar condition for parcels in Lake County. In addition, there are many garages located across the street from the principle structure including the garage directly south of the subject property, since Section 151.233(B)(1) of the Lake County Code allows it. When the garage was constructed in 1992, it served as an accessory structure to the house located across the street on PIN 01-14-402-001.

2. Practical difficulties or hardship in carrying out the strict letter of the regulation:

Comment – The separation of the subject garage from the associated single-family dwelling across the street has resulted in a nonconformity. The independent sale of the parcels independently, (separating the house from the subject garage) has created a hardship. The nonconformity would not have occurred, had the property owners sold the garage with the house across the street, which were under the same ownership for many years.

While the subject property cannot support a septic system to accommodate a single-family dwelling, the subject garage could be removed or sold to an owner across the street, as is allowed per Section 151.233(B)(1).

3. Harmony with the general purpose and intent of the zoning regulations:

Comment – The intent of the Lake County Code is to allow accessory uses/structures only in conjunction with a lawfully established principle use/structure. The Lake County Code does allow for accessory structures across the street from the principle structure on nonconforming lots. In this case the principle structure is located approximately 2.1 miles away by car which was not the intent of the ordinance. In addition, the lack of proximity of the principle structure to this garage can create issues such as infrequent property maintenance, increased vandalism, theft, noise, nuisance and use violations. The proximity of a house across the street owned by the same property owner as the garage would reduce these concerns

Furthermore, the applicant intends to use the garage for their personal storage (cars, boats, etc.), similar to a self-storage unit rented by nonresidents, which is not a permitted use in the R-1 Zoning District.

After considering the facts in this case, staff has determined the application fails to meet the approval criteria for a variation specified in Section 151.056 (C)(4), and we recommend denial of the variance to reduce the minimum required front yard setback from 10 feet to 3 feet, for the following reasons:

1. Exceptional conditions peculiar to the applicant's property:

Comment – The existing garage is 3 feet from the front property line. The purpose of the variance request is to preserve the garage in the same location if it is destroyed more than 50 percent using the existing slab/foundation, however without a house and septic system on the property, the garage could be reconstructed to meet the setback requirements of the Lake County Code.

2. Practical difficulties or hardship in carrying out the strict letter of the regulation:

Comment – The variance request for the reduced front yard setback from the east property line is necessary to rebuild on the existing foundation. The Lake County Code allows such a structure to be rebuilt no closer than 10 feet to the property line. There are no impediments on the property itself that would keep a rebuilt garage from meeting the 10- foot setback or even the 30-foot setback requirement for a new garage.

3. Harmony with the general purpose and intent of the zoning regulations:

Comment – The intent of the Lake County Code is to allow accessory uses/structures only in conjunction with a lawfully established principle use/structure and to eliminate uses, structures and situations that do not comply. Though there are detached garages along Elime Road that do not meet the required street yard setback, a vast majority are associated with a house and septic system limiting the location of a detached garage on those properties.