

ZONING ADMINISTRATOR'S REPORT
 VARIANCE APPLICATION
 102 N. Brearly St.

Zoning: TR-C4

Owner: Tosha Kowalski

Technical Information:

Applicant Lot Size: 31' N Brearly) x 66' (E Mifflin)

Minimum Lot Width: 40'

Applicant Lot Area: 2,046 sq. ft.

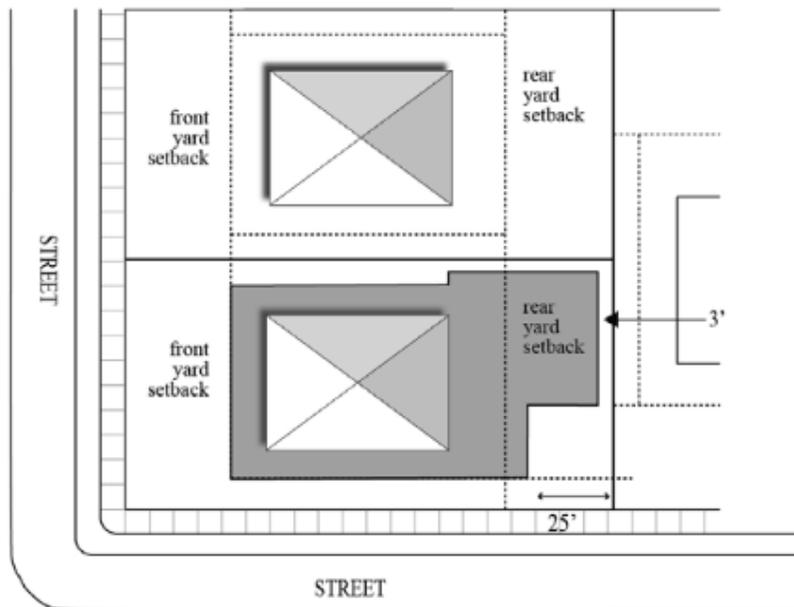
Minimum Lot Area: 4,000 sq. ft.

Madison General Ordinance Section Requiring Variance: 28.131(e)(5); 28.045(2)

Project Description: Petitioner requests accessory building placement, setback and Usable Open Space variances to construct a 12' x 22' detached garage with a second-level open deck. Proposed garage replaces an existing 10.2' x 18.2' dilapidated garage, and includes a roof deck level feature with spiral-stair from grade to the roof deck.

<u>Usable Open Space (UOS)</u>	<u>Lot Line Setbacks</u>	<u>Accessory Building Placement</u>
750 sq. ft. required	3.0' required	20.0'* required
250 sq. ft. provision	1.0' provided	7.9' provided
500 sq. ft. variance	2.0' variance	12.1' variance

*Placement requirement: In the rear yard setback of a reversed corner lot, no closer to the street side lot line than the front yard setback of the adjacent property (*in this case 20 feet*), for the first twenty-five (25) feet from the common property line.



Comments Relative to Standards:

1. Conditions unique to the property: The subject property is a reverse-corner lot, part of an original platted lot that was split off into four development sites at the time of original development. The lot provides a quarter less the lot width and about half the lot area required by the ordinance. The existing detached garage could be replaced with the garage replacement rule, however the garage cannot be expanded as allowed because open space would be further reduced and the projection into the reverse-corner placement restriction area would be increased. The UOS, size and setback requirements makes placement of a detached garage of any size not possible without variances.
2. Zoning district's purpose and intent: The regulations being requested to be varied are the *Usable Open Space*, *lot line setback*, and *accessory building placement requirement on reverse-corner lots*.

Usable Open Space

In consideration of this request, the UOS requirement is intended to provide the occupants of the building with on-site areas at the ground-level for outdoor recreation and use. The roof area does not qualify as a UOS in this zoning district. The new garage reduces the UOS provision through the expanded garage width, and the proposed spiral stair further reduces the UOS by about 130 sq. ft. Consuming a small amount of UOS for a slightly larger footprint weighs the balance between needs of parking and storage, and the provision of UOS on a lot. Consuming the UOS for the desired roof deck is not consistent with the intent and purpose of the UOS provision.

Lot line setback

In consideration of this request, the *lot line setback for detached accessory structures* is intended to provide minimum buffering between buildings on a lot, generally located behind the principal structure on a lot. The proposed placement improves the existing condition, where the structure is actually across the lot line, but does leave little room for maintenance of the structure (see recommended condition below). The placement also maintains access to the garage by a vehicle and minimizes the loss of UOS by shifting the garage less into the yard. The proposal matches the existing setback to the west and increases to 1' on the north, but generally maintains the status quo and is consistent with what the City has found for detached garages on the end-blocks lots in this area.

Accessory building placement

In consideration of this request, this restriction is intended to ensure that a detached accessory structure does not get placed in front of the adjacent home, for the first 25' of the rear yard area and building envelope of the subject lot, or, at a minimum, will be placed at the minimum front setback required for the home to the rear, if the home is placed behind the minimum front setback. The home to the rear, the home which the reverse-corner setback is intended to protect, provides a similar front yard setback as the proposed garage. The proposed placement of the detached garage is about 38' from the home to the rear (west) and would have little impact on the neighboring home. However, the property to the rear appears to have a space open for a future new home, and this garage could be as close as 4.3' or so from the new home.

A garage-only project appears to result in development consistent with the purpose and intent of the TR-C4 district. The proposed roof deck part of the request does not appear consistent with purpose and intent of the TR-C4 district.

3. Aspects of the request making compliance with the zoning code burdensome: The lot size and setbacks requirements limit the ability to construct any garage structure. The only area available for placement of a detached garage is the area to the west of the home, and much of this area is impacted by the reverse-corner accessory building placement regulation.
4. Difficulty/hardship: The home was constructed in 1910 and purchased by the current owner in September 2011. See comment #1 and #3 above.
5. The proposed variance shall not create substantial detriment to adjacent property: The proposed garage is located next to an open area on a lot, which appears to be a possible future home site. A typical garage would be common for the area, and would not have significant impact on the neighboring property. The roof area deck would introduce a new occupy-able area and extra bulk very close to a potential future home (minimum setback for the new home would probably be 3.3'). The second-level deck could have negative impacts on the likely future neighboring home. In regard to drainage, the proposal shows pitching a flat roof toward the home on the lot, with downspouts discharging into the yard.
6. Characteristics of the neighborhood: the general area is comprised of lots with varying sizes, but with similarly sized homes and typically smaller one-car detached garages. There appears to be one example of a garage with a roof deck. Most garages do not have the roof deck.

Other Comments: The project includes a roof deck access spiral stair. This stair occupies an area which results in disqualifying a UOS area, because the minimum dimension around this stair that connects to a UOS area is less than 6' in width. Eliminating the stair increases the provided UOS by about 130 sq. ft. (380 sq. ft. provided, 370 sq. ft. variance).

The garage provides a very small setback to the property lines. The placement leaves little room for maintenance of the structure. In situations where less than a 2' setback is being requested which would result in challenges in maintaining the structure, the ZBA normally requires the following condition of approval: *the petitioner must secure and record a maintenance agreement between the subject property and the properties to the north and west.*

If the ZBA does not approve the roof deck, a redesign to a pitched roof is likely. Staff would not oppose a pitched roof design. The ZBA could provide staff and the petitioner guidance to allow a conventional roof pitch with gutter system, to be reviewed and approved by staff.

Staff Recommendation: The burden of meeting the standards is placed upon the petitioner, who needs to demonstrate satisfaction of all the standards for variance approval. It is clear that a garage cannot be placed without zoning variances, however the roof deck aspect of the request appears based on the personal preference of the petitioner.

Per MGO Sec. 28.184(4), the Zoning Board of Appeals may:

- Approve, conditionally approve, or deny a variance
- Impose conditions on the use, development or activities subject to the variance
- Require the conditions in order to comply with the standards in this section, to mitigate the effect of the variance on other property in the neighborhood, and to better carry out the general intent of this ordinance.

Garage: It appears standards have been met, therefore staff recommends **approval** of the variance requests, subject to further testimony and new information provided during the public hearing.

Roof deck portion of project: Staff recommends that the Zoning Board find that the variance standards are not met and **deny** the requested variances as submitted, subject to further testimony and new information provided during the public hearing.