

ZONING ADMINISTRATOR'S REPORT
VARIANCE APPLICATION - ADDENDUM
202 – 204 N Brearly St.

At its September 19, 2019 meeting, the Madison Zoning Board of Appeals referred the following requests for rear yard variance:

Rear yard, 2-story enclosed porch addition (replace/expand at second-level)*

Zoning Ordinance Requirement:	16.5'
Provided Setback:	7.2'
Requested Variance:	9.3'

Rear yard, third-level elevated deck (replace/expand) ^^**

Zoning Ordinance Requirement*:	10.5'
Provided Setback:	5.2'±
Requested Variance:	5.3'

* Per the petitioner, the rear porches had been converted into conditioned living space at some point in time, and the requested project desires to re-establish these porches as unheated amenity spaces.

** With reconstruction, the elevated deck has been expanded toward E. Dayton Street and also expanded (cantilevered) a few more feet into the rear yard setback area.

^^Sec 28.132(1) allows for a 6' projection into the rear yard setback for an elevated deck that is open to the sky.

In response, the petitioner has made the following changes:

- Rear porch at second-level eliminates cantilever (closer to pre-reconstruction condition),
- Window installed in place of rear door at first-level.

Other notes:

- The 3rd level deck continues to be cantilevered out to the edge of the rear roof.
- Opposite the street side, the reconstructed porch continues to be placed at the side wall of the existing building (not inset, as the original porch was) which accommodates additional windows in the second-level of the deck. NOTE: the original porch had no windows facing the interior side-yard.

Other Comments: The proposed reconstruction of the porch matching the side wall of the existing building opposite the street-side accommodates necessary framing for the two windows proposed at the second level. Note: the pre-existing porch had no windows in this side wall. It is not clear how the windows could be allowed if the porch did not align with the existing side

wall, nor is it clear how these windows might impact the privacy of the neighboring dwellings. Also the inset of the pre-existing porch did break up the bulk and mass of the wall, and porches typically are inset some small amount from the side walls. The board should consider the impact of this expansion relative to the standards of approval for zoning variance.

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 not clear that this burden has been met. With the exception of some minimal concessions by the petitioner, these requests primarily involves obtaining permission for already-constructed work that should have been reviewed by City Plan Review, Zoning and Building Inspection, and likely the Zoning Board of Appeals before the construction commenced. This work should have been identified when the previous variance request was submitted to add the third unit, which involved an architect preparing plans for the petitioner.

Rear Enclosed Porch: The reconstruction/reestablishment of a pre-existing enclosed porch at its pre-existing size and bulk could be seen as a reasonable variance request. This case also involves reconstruction *and* small (approximately 6”) expansion of the enclosed porch to match the side wall of the building opposite the street-side. Staff recommends that the Zoning Board find that the variance standards are not met and **refer** the case for more information relative to the standards of approval or **deny** the requested variances as submitted, subject to approval of the rear porch variance request and further testimony and new information provided during the public hearing.

Rear Enclosed Porch and third-level elevated deck: The reconstruction/reestablishment of a pre-existing dilapidated third-level deck at its pre-existing size and bulk could be seen as a reasonable variance request, however, this case also involves reconstruction *and* expansion of the deck to the property owners and occupants’ benefit, and increases bulk impacts on neighboring property and the streets. Staff recommends that the Zoning Board find that the variance standards are **not met** and approve a **modified request**, to allow for a 3rd level deck with the railing placed at the side wall of the porch below, subject to further testimony and new information provided during the public hearing.