



City of Madison

City of Madison
Madison, WI 53703
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Meeting Minutes - Approved ZONING BOARD OF APPEALS

Thursday, October 24, 2013

5:00 PM

215 Martin Luther King, Jr. Blvd.
Room LL-110 (Madison Municipal Building)

CALL TO ORDER / ROLL CALL

Basford, chair, called the meeting to order at 5:05 pm and explained the appeals process.

Staff Present: Matt Tucker and Chrissy Thiele

Present: 5 -

John W. Schlaefler; Diane L. Milligan; Dina M. Corigliano; Michael A. Basford and Winn S. Collins

Excused: 2 -

Susan M. Bulgrin and Frederick E. Zimmermann

APPROVAL OF MINUTES

Schlaefler motioned to approve the minutes, seconded by Collins, with the clarification of who submitted additional information in item three. The motion passed by voice vote/other, with Milligan abstaining.

DISCLOSURES AND RECUSALS

Milligan disclosed that the applicants of 448 Jean Street are neighbors of hers, but that won't affect her vote.

PETITION FOR VARIANCE OR APPEALS

1. [31894](#) Thomas and Lynette Felhofer, owners of property located at 402 West Shore Drive, request a front yard variance to construct a second level balcony atop an existing front three-seasons porch on their two-story single family home. Ald. District #13 Ellingson

Attachments: [402 West Shore Dr.pdf](#)
[402 West Shore Dr Staff Report.pdf](#)

Tucker introduced the project as having a zoning code requirement of 20' front yard setback while the construction of the second level balcony would only provide a 16.5' setback. Therefore, the owners are requesting a 3.5' front yard variance. Property is zoned TR-C2.

Lynette Felhofer explained that they are currently remodeling the second floor for a master bedroom and office space, and in the process removed the gable styled roof over the existing three-season porch, with the hope of adding the second floor balcony. The three-season porch partially sits in the front yard setback. She said they would like to have the requested 3.5' variance for the balcony, but they would accept a reduced variance if the board required it. She

also handed out pictures of similar balconies that can be found in their neighborhood.

Tom Felhofer explained they would like the 3.5' variance so they can have an 8' foot balcony, which would fit a table and chairs and space to move around. The eave would extend 2' beyond the front of the three-season porch to provide more shade to the room, as well as divert water away from it. The eave would also provide shelter for the stoop, as they have removed the awning that was previously there.

Tucker explained how the eaves wouldn't need a variance as long as they didn't project more than 3' into the setback.

Board members acknowledged an email in support of the variance request from Theodora Zehner.

Milligan motioned to approve a 2.5' variance, with the condition that the balcony be in line with the front wall of the porch and the overhang on the front porch match the overhang on the sides of the front porch, seconded by Schlaefer.

Board members determined the house is forward of the other homes on the block, causing the front porch to project into the front yard setback. They agreed that if the applicants complied with the setback requirements, the resulting balcony would be narrow and odd looking. However, that does not support the applicant's request for the balcony to go beyond the porch walls. They didn't believe that the balcony would create detrimental hardship to adjacent properties and the bulk has been reduced with the removal of the gable roof over the porch. They also agreed that having a second level balcony is a common feature in the neighborhood and the proposed project would fit in with the surrounding homes.

The motion to approve a 2.5' variance, with the condition that the balcony be in line with the front wall of the porch and the overhang on the front porch match the overhang on the sides of the front porch, passed (5-0) by voice vote/other.

2. [31895](#)

Katharine Blood and Mitchell Tyler, owners of property located at 723 & 725 Jenifer Street, request a front, side, and rear yard setback variances, as well as a lot frontage, lot area, and usable open space variances, for a land division resulting in each principal structure having its own lot.

Ald. District #6 Rummel

Attachments: [723-725 Jenifer St.pdf](#)
[723-725 Jenifer St Staff Report.pdf](#)

Tucker informed board members that the applicants wish to subdivide the lot so each residential structure would have its own lot, resulting in many variance requests. 723 Jenifer Street, a multi-family apartment building, would have zoning requirements of 2,000 sq. ft. usable open space, 8,000 sq. ft. lot area, and 30' lot frontage. However, it would only have 483 sq. ft. usable open space (needing a 1,517 sq. ft. variance), 2,121 sq. ft. lot area (needing a 5,879 sq. ft. variance), and 29.38' lot frontage (needing a .62' variance). This proposed lot also has zoning requirements for a 20.39' rear yard setback, with a 14.39' rear yard setback for the elevated deck, and a 6' side yard setback. The subdivision of the lot, though, would only provide 13.6' rear yard setback (needing a 6.79' variance), 6.5' for the elevated deck (needing a 7.89' variance),

and 2.6' side yard setback (needing a 3.4' variance). 725 Jenifer Street, a single family home, would have a zoning requirement of 20' front yard setback and 30' lot frontage. The proposed subdivision, however, would provide an 18.2' front yard setback (needing a 1.8' variance) and a 10.53' lot frontage (needing a 14.47' variance). Property is zoned TR-V2.

Dan Birrenkott, the surveyor for the project, stated that it is uncommon for a lot to have two buildings and has caused trouble for banks to provide mortgages to interested buyers. He pointed out that they are not altering either of the buildings in anyway; the owner would just like for each building to have its own lot. Both of the buildings were built over 100 years ago, before a zoning code was enforced, and this property was never split like other properties in Madison during the 1950's and 1960's. Birrenkott pointed out that they had tried to convert the property to condominiums, but have also had trouble finding the finance to do so, as condos aren't looked upon favorably anymore.

Kate Blood, the owner, explained to board members that she purchased the home back in 1995 and had to get a commercial loan. Now, however, it is more difficult for banks to find comparables to this lot, resulting in banks demanding 50% down in order to get a loan. She also thought about rezoning the property to a PD, but the City has informed her that she would have trouble getting it approved.

Tucker informed board members that this property has an economic engine, as it is able to generate revenue through renting out the multi-family apartment building, which other properties don't have. Also, both of the buildings are allowed in a TR-V2 district, just not on the same property.

Schlaefer motioned to approve the variance requests, seconded by Corigliano.

Board members reflected on the variance requests they had in the past, with lots that were substandard due to properties subdividing in the '50's and '60's, and whether these lots would need future variance requests for modifications or additions. They agreed that having two buildings on one lot was a unique condition, and that the buildings were built before the zoning code adds to the hardship. They also agreed that the proposed variance wouldn't detrimentally affect surrounding properties as nothing would be physically altered. However, board members pointed out that if the lot were to be subdivided, 723 Jenifer Street would become substandard, especially in lot area and usable open space requirements. It also appears that part of the motivation for the variance requests is the owner's present interest in the property as opposed to the ordinance creating the hardship. They also couldn't find a lot in the neighborhood that would be comparable to 723 Jenifer Street.

The motion to approve the variance requests failed (1-4) by voice vote/other.

3. [30418](#)

David Panofsky and Patricia Smith, owners of property located at 448 Jean Street, request a side yard variance for a dormer and roof modifications to accommodate finished attic space onto their two story single family home.

Ald. District #2 Zellers

Attachments: [448 Jean St Original Plans.pdf](#)
[448 Jean St Revised Plans.pdf](#)
[448 Jean St Staff Report.pdf](#)

Tucker introduced the project as having a zoning code requirement of 4' side yard setback, while the modifications to the roof and addition of a dormer would provide a 3' setback. Therefore, the owners are requesting a 1' side yard variance. He reminded the board that this case had previously come before them in June and had been deferred so the applicant could modify the plans.

Dan Panofsky indicated that the new proposed plans addresses the board members concern by eliminating the need for a third story variance, yet still allow him to have a finished attic and a code appropriate stairway for access. He added that the modification to the pitch of the roof would put him right around the 35' height limit for residential buildings.

Tucker pointed out that the applicant would need to make sure the chimney complies with the building code when the roof is modified, but it wouldn't need a variance and is exempt from the 35' building height restriction.

Corigliano motioned to approve the variance request, seconded by Schlaefer.

Board members determined that the size of the lot and the location of the house drives the need for the variance. They noted that even though the applicant is changing the pitch of the roof, the area that needs the variance contains a minimal amount of bulk and the driveway of the neighboring property also puts some space between the two buildings. Board members agreed that the proposed project is similar to other developments in the neighborhood and fits well with the house, as well as the surrounding area.

The motion to approve the variance request passed (5-0) by voice vote/other.

4. [31228](#)

Andrew Fieber, owner of property located at 4122 Cherokee Drive, requests a side yard variance for a single story attached garage addition to his two-story single family home.

Ald. District #10 Cheeks

Attachments: [4122 Cherokee Dr.pdf](#)
[4122 Cherokee additional images.pdf](#)
[4122 Cherokee Dr Staff Report.pdf](#)

Tucker introduced the project as having a zoning code requirement of 7' side yard setback, while the addition of the attached garage would provide a 5' setback. Therefore, the owners are requesting a 2' side yard variance. He also clarified that the property is under new ownership, with the previous owner coming before them August 22.

Dan Kruse, the new owner, explained that he would like to expand the garage for storage or a possible tandem style garage. He addressed the board members concerns from the last meeting about how large the storage space would be by pointing out the remodeling of the house removed a lot of storage

space in the basement in order to make it finished living space. He also informed board members that he wouldn't have a problem changing to a flat roof in the back if they thought it would be better than the pitched roof previously proposed. He would also be willing to add a railing above the roof for aesthetic purposes if the board wished for it. He indicated that he'd like to have the garage wall extended versus jogging it in to comply with the setback requirement as it would be more aesthetically pleasing.

Schlaefer motioned to defer the variance request to a meeting no later than January 9, 2014, seconded by Corigliano.

Board members determined that the placement of the house and the size of the lot created a hardship if the applicant were to use the space as a tandem garage; however some board members weren't sure if those factors also created a hardship if the extra space were to be used primarily as storage. Some felt that if the applicant were to comply with the setback, there would still be plenty of room for storage, however there wouldn't be enough room to park a car. Board members pointed out that if the applicant shortened the length of the request a bit, they might be more inclined to approve the variance, and it would still give the option of parking a second car. They also requested new plans to show what the applicant is proposing differently from the previous owner.

The motion to defer the variance passed (5-0) by voice vote/other.

DISCUSSION ITEMS

5. [08598](#) Communications and Announcements

There were no communications or announcements.

ADJOURNMENT

Meeting adjourned at 6:47 pm.

Matt Tucker
City of Madison
Zoning Board of Appeals, (608) 266-4569
Wisconsin State Journal, October 17, 2013