



CITY OF MADISON
ZONING BOARD OF APPEALS
APPEAL APPLICATION

\$200 Filing Fee

Ensure all information is **typed** or legibly **printed** using blue or black ink.

Notices are sent to the District Alderperson and to owners of record as listed in the Office of the City Assessor. Maximum size for all drawings is 11" x 17".

Name of Applicant: Daniel Gorman

Address: 5451 Whaler Road Oregon, WI 53575

Daytime Phone: 608-445-6127 Evening Phone: _____

Email: dag5456@colorado.edu

1. The undersigned hereby appeals the decision of the Zoning Administrator in regard to Madison General Ordinance Section No. 28.211 (b)

2. When relevant to a specific property, fill out below:
Street Address: 138 S. Franklin St. Madison, WI
53703

3. List of grounds for the appeal, statements, evidence of fact, and any additional information associated with the appeal are provided on a separate attachment.

Applicant Signature: [Handwritten Signature]

FOR OFFICE USE ONLY

Amount Paid: \$200
Receipt: 027122-0008
Filing Date: 3/2/17
Received By: [Signature]
Parcel Number: 0709-133-1824-6
Alder District: 6-Rummel

Zoning District: DR-1 H/S-FS
Hearing Date: 3-23-17
Published Date: _____
Appeal Number: LNDAPP-2017-00001
GQ: _____

DECISION

The Board, in accordance with the findings of fact, hereby determines that the requested appeal for _____ is

Approved Denied Conditionally Approved

Zoning Board of Appeals Chair:

Date:

28.205 BOARD OF ZONING APPEALS.

5. Appeals to Decisions of the Zoning Administrator.

Appeals to the Zoning Board of Appeals may be taken by any person aggrieved, or by any officer, department, board or bureau of the City affected, by any decision of the Zoning Administrator.

- (a) An appeal shall be taken within a reasonable time, as provided by the rules of the Zoning Board of Appeals.
- (b) The applicant shall file a notice of appeal with the Zoning Board of Appeals. The notice of appeal must specify the grounds for the appeal, including a specific reference to the terms of this chapter, state or federal law, or the state or federal constitution that the applicant believes were incorrectly applied.
- (c) The Zoning Administrator shall transmit all the papers constituting the record upon which the action appealed from was taken to the Zoning Board of Appeals.
- (d) Stay of Proceedings. An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Zoning Board of Appeals that by reason of facts stated in the certificate, a stay would in her/his opinion cause imminent peril to life or property. In that case, proceedings shall not be stayed unless the Zoning Board of Appeals or a court of record grants a restraining order on application. A restraining order requires the applicant to show due cause and to notify the Zoning Administrator.
- (e) Notice. An appeal requires the following types of notice (See Sec. 28.181(5)):
 1. Mail – sent at least 10 days before the required public hearing.
 2. Publication - at least 7 days before the required public hearing.
- (f) Scheduling. The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal.
- (g) Rendering the Decision. The Zoning Board of Appeals, upon its findings, shall render a decision on the appeal within a reasonable time. The Board, upon the concurring vote of a majority of quorum, may reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed from.
- (h) Approval Criteria. The Zoning Board of Appeals may reverse or modify the decision appealed from if it determines that it is error based on the terms of this chapter, a lawful condition of approval established under this chapter, or a provision of a federal or statute or constitution.
 1. For appeals concerning increases in regional flood elevation the Board shall:
 - a. Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and any appropriate legal arrangements are made with all adversely affected property owners.
 - b. Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.
 2. For disputes concerning floodplain district boundaries:
 - a. If a floodplain district boundary is established by approximate or detailed floodplain studies, the map scale, and the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.
 - b. In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Zoning Board of Appeals.
 - c. If the boundary is incorrectly mapped, the Zoning Board of Appeals should inform the person contesting the boundary location to petition the Common Council for a map amendment.

6. Finality of Decisions of the Zoning Board of Appeals.

All decisions and findings of the Zoning Board of Appeals are considered final administrative determinations, and are subject to judicial review as provided by law.

**Arguments for Appealing the Interpretation of General Ordinance Section No. 28.211
(b)**

Ordinance in question: Dwelling, Two-Family – Two Unit. A building containing two dwelling units that generally are vertically stacked one above the other, with a separate entrance to each unit and with yards on all sides

- 1) Through many months of working with the Landmarks Commission, the current design of this home was debated and constructed. The new construction is designed the way it is to maintain the historical integrity and original design of the home. Here are specific reasons how this design does that:
 - a. The entire original structure of the home will not be taken down or defaced in anyway. The only portion being removed is **not** a part of the original structure, and even if you did include it, it would only be around ~15%.
 - b. The original front facing windows will be restored and the deck/front porch will be rebuilt in its original likeness.
 - c. The second, much smaller two bedroom unit is in the back of the property and hidden from view. It's only visible if you are looking at the property from the backyard of an adjacent property.

- 2) The interpretation of this ordinance by the Department of Planning would not allow a design of this home that would maintain its historical integrity and original design. The problem with 138 S. Franklin that was explained to me was that it wasn't vertically stacked. My response to this is if this home were to be vertically stacked, it completely changes the original two-story layout of the home. In the design that the Landmarks Commission and I came up with the original kitchen and dining room stays in the same spot only with more square footage added to those spaces. Same concept with the original upstairs layout.

- 3) This is perhaps my least important argument, as I think my arguments for keeping the original likeness and historical integrity should have more priority in this situation, but the interpretation of this ordinance seems extreme. This is the exact wording of the ordinance defining a Two-Family – Two-Unit Dwelling:
 - a. "A building containing two dwelling units that **generally** are vertically stacked one above the other, with a separate entrance to each unit and with yards on all sides"
 - i. I bolded the word "generally" because the interpretation by the Department of Planning interprets that as this type of dwelling *needs* to be vertically stacked. I do think it's fair to argue there's a difference between a type of dwelling that's *usually* designed in a certain manner, and a type of dwelling that *has* to be designed in a certain manner.

Thank you for considering my appeal and I hope we can come to a conclusion on a path forward that is best for maintaining the integrity of historical neighborhoods and homes in Madison.

Thank you,
Daniel Gorman