

**ADDENDUM-PLANNING DIVISION REPORT  
DEPARTMENT OF PLANNING AND COMMUNITY  
AND ECONOMIC DEVELOPMENT  
January 7, 2009**

**RE: I.D. #12152, Conditional Use Permit – 637 South Shore Drive**

1. Requested Action: Approval of a conditional use permit for a new garage exceeding 576 square feet at 637 South Shore Drive in R2 (Single-Family Residence District) zoning.
2. Applicable Regulations: Section 28.12 (11) provides the guidelines and regulations for the approval of conditional uses. Accessory buildings exceeding 576 square feet in R2 zoning are governed by Section 28.08(3)(c)(5).
3. Report Prepared By: Heather Stouder, AICP, Planner

**PREVIOUS ACTION**

On October 6, 2008, the Plan Commission referred this case, requesting that the applicant and District 13 Alder meet with neighbors to further discuss design alternatives and seek compromises to address their concerns.

**SUMMARY OF REVISIONS**

The applicant has met with neighbors on three occasions in July, August, and November 2008 (with Alder Kerr) to review design alternatives, and the following changes have been made:

- The footprint of the proposed structure has decreased slightly from 735 square feet to 716 square feet, due to the elimination of a one-foot protrusion of half of the front (west side) of the structure.
- The size of the uninsulated second floor has decreased from 415 square feet to 388 square feet.
- The garage has been moved one foot to the west to maintain a four-foot setback from the property to the east. (Planning Division staff had originally recommended maintaining a six-foot setback, consistent with that of the house on the lot. However, neighbors were generally concerned about shortening the driveway, and none expressed concerns about the four-foot setback).
- The salvaged stone on the front of the garage now only covers the base of the structure, and has been replaced by vinyl on the upper portion.
- A small dormer with a window originally proposed on the upper level has been removed.
- The rear (east) elevation now includes a gabled roofline with a window on the upper level
- Two upper level windows were eliminated on the front (west) and left (north) elevations.
- The interior stairway has been moved to the other side of the structure.

While acknowledging that compromises have addressed some of their concerns, many neighbors remain concerned about the potential use of the second floor of the structure, especially as it relates to the permanent stairway proposed.

Planning Division staff note that permanent interior and exterior stairways are allowable within garages in general. Staff believe that the applicant has worked to address many concerns, and that on balance, the proposed garage is an improvement to the property at 637 South Shore Drive and is not detrimental to the uses, values, and enjoyment of other property in the neighborhood.

### **RECOMMENDATION**

After careful consideration, Planning Division staff maintain the original recommendation that the Plan Commission **approve** the conditional use for construction of a 716 square foot garage and associated driveway expansion subject to input at the public hearing and the following conditions:

1. Comments from reviewing agencies.
2. That the applicant submits a final plan set that includes a sheet clearly indicating the structure and pervious paving to be removed as well as added, and demonstrates a net decrease in impervious surface on the lot associated with the project as a whole.

Douglas and Alicia Alexander  
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Wednesday, January 07, 2009

**Heather Stouder, AICP**  
Planner, Planning Division  
City of Madison Department of Planning &  
Community & Economic Development  
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Dear Heather,

In response to your request, here is a synopsis of my meetings with our neighbors re. our garage project.

Spring 2008	Our dilapidate garage started to cave in; 2x4's were required to stabilize it, and we started to plan for a new garage to be completed in the Fall. Upon meeting with our builder and architect, we learned that there was a zoning limitation at 25' x 25' –at least, that's what I was erroneously told. It turns out to be a 576 sq. foot limit, of which one way to achieve is 24' x 24'.
Mid-July	I asked my neighbors on Whittier street (where the garage faces) to meet with me and they graciously did at the home of Jeff Porter and Cherri Seeger. They were overall OK with the architects plans, but wanted it smaller: they agreed to a 25' x 29' structure.
August 26	We met at the home of Rusty and Mary Willauer to review the updated plans, which I had brought to each of them a few days earlier. Our architect had confronted the challenge of an off-balance design by incorporating some Tudor stylistic elements (our house is Tudor, albeit muted by vinyl siding). I was expecting them to say something to the effect "this is really nice; if this is what passes the commission, don't cut corners to save money." I was surprised that their reaction was the opposite. Concerns expressed: <ol style="list-style-type: none"><li>1. They were upset at the added design elements and said it was too stylish for the neighborhood, and looked like a small house. There was too much stonework; a curved wall was too stylish.</li><li>2. The couple directly across Whittier St, (Rusty and Mary) were concerned that the window in the upstairs storage would threaten their privacy.</li><li>3. Their overall concern was that a future new neighbor could use the 2<sup>nd</sup> floor storage area for illegal purposes such as a small business, which would threaten the neighborly norms of the block. (We only need/want the 2<sup>nd</sup> floor for storage of lawn furniture, table, bikes, burley, bike trailer, tricycles, a baby carriage, jogger, toys, plastic</li></ol>

	<p>fence, baby “saucer,” paddleboat accessories, etc. in the winter, and ski equipment, snowboard in the summer as well as clothes, boxes, camping equipment, Christmas decorations, etc.)</p> <p>a. I pointed out that they could bring for illegal use intentions to the city to prevent such usage, but they were not convinced that would suffice.</p> <p>We ended the meeting penciling suggested changes that they preferred on the architectural drawings.</p>
~September 5	I met with my wife, the builder and architect. They saw things differently and pointed out similar design feathers on houses within sight of the garage, including on the homes of my neighbors. More importantly, the architect said their recommended changes were not architecturally feasible.
The next day	I called Julia Kerr and left a message.
September 14 or 15	Julia Kerr and I talked live; I explained where things stood. She strongly encouraged me to set up a meeting with the neighbors in which the architect was present, so that he could dialogue with them and work up something that was doable.
September 15	<p>I contacted the neighbors asking if they could meet with our architect “tomorrow” so that a dialogue could occur. (Time was short: I would be out of town that weekend, and gone most of the next on a family vacation.) The responses of the four households:</p> <ul style="list-style-type: none"> <li>• One said they couldn’t come that day but could another</li> <li>• One said they had “made up their mind”</li> <li>• One said she couldn’t do it tomorrow. I asked about the next day. She said she was off that day but was tired of meetings and didn’t want to.</li> <li>• One never responded.</li> </ul>
October 7	<p>Planning Commission meeting: all four neighbors showed up to protest the project! During board discussions it was suggested that a restricted use clause could be included restricting usage to only that of storage. I was in favor of this but never had a chance to say so. Julia Kerr moved to defer the vote so that she could meet with all of us.</p>
November 25	<p>Julia Kerr, Alicia and I, the architect (Jason Ekestron), and all four neighbors met at the Washington Inn Coffee Shop on Lakeside St. At our additional expense Jason took a stab at what the neighbors might like and presented new plans. They were overall well received. Two changes were agreed to as a result of this meeting:</p> <ol style="list-style-type: none"> <li>1. Changing the window facing Whittier St. to a decorative wooden item. (done.)</li> <li>2. Pushing the building back so that there would be adequate space in the driveway. (Done: the plans submitted are &gt;2 feet longer than our current garage, and the same length as Jeff &amp; Cherri’s garage immediately next to ours.)</li> </ol> <p>One concern that I don’t remember being expressed at our previous</p>

	<p>meetings or at the planning commission meeting was re. the stairway, which had been in the plans from the start. The neighbors expressed concern that a permanent stairway would make it “all the easier” for someone to contemplate using the 2<sup>nd</sup> floor space as an office. I looked into pull down stairways and have decided against it for the following reasons:</p> <ul style="list-style-type: none"> <li>• A solid stairway is wider than a pull down: 36” vs. 24.5”.</li> <li>• The most significant advantage of a solid stairway is that the handrail on the 2nd floor is removable, which greatly enlarges the opening to it and allows large items to fit upstairs. None of the items we want to store up there could be brought up easily via a pull down stairway with its narrow steps, handrails on both sides, and its shallow, narrow opening in the floor. Most would not fit through a pull-down stairway, period.</li> <li>• What items could fit through a pull-down stairway, such as boxes, would be difficult to carry up due to the steep grade of all pull-down stairways found on our internet searches by either the architect, Jeff and Cherri, or me.</li> <li>• A custom pull-down stairway might alleviate some of the above problems, but would cost well over \$5,000. At that point such an expensive stairway would make it easier for a future neighbor to contemplate using the 2<sup>nd</sup> floor for illegal uses, thus obviating the reason for installing it in the first place.</li> </ul>
<p>January 6, 2009</p>	<p>I gave the updated plans to Jeff Porter and explained that we had kept the solid stairway in the design. I offered to meet and explain my reasoning but he was not interested in discussing it further.</p>

**Stouder, Heather**

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**From:** Jeff Porter [jsp251@sbcglobal.net]  
**Sent:** Tuesday, January 06, 2009 12:33 PM  
**To:** Stouder, Heather  
**Cc:** cherisp@aol.com; jsp251@sbcglobal.net; Mary Willauer; Daina Juozevicius; john.juozevicius@uwmf.wisc.edu  
**Subject:** written coments for plan commission Jan 12, 2008

To: Madison City Plan Commission

c/o Heather Stouder, Department of Planning and Community and Economic Development.

From: Jeff Porter, 638 W. Lakeside St, Cheri Seeger Porter, 638 W. Lakeside St.,

Mary Willauer 910 Whitter St., Rusty Willauer, 910 Whitter St.,

Daina Juozevicius, 701 South Shore Dr., John Juozevicius, 701South Shore Dr.,

Jean Anne Hlavacek, 702 W. Lakeside St.,

We appreciate the opportunity to offer comments to you.

We have had the opportunity to meet with our district Alder, Julia Kerr and have been able come to some design compromises, but we the adjoining property owners still have reservations with this garage project as presented. From the start of discussions with Alexander, all have made it clear that we are most fearful and concerned with what may happen in this second story space in the future.

Since this latest revision still indicates an installed - permanent stairway, the group of neighbors remains objectionable and hopes the Plan Commission will see that the requested additional square footage for the purpose of building a 3'-4" X 12' stairway structure should not receive a conditional use. With less building square footage and less concrete driveway needed, it would provide more pervious soil area on the lot as requested by Staff and the Plan Commission.

**We request that this space not be allowed an installed - permanent, easy access stairway but only a retractable - pull down version for gaining access to this second story storage area.**

*\*\*Also we would like to provide responses to some of the questions and comments members of the Plan Commission had during the October 6, 2008 meeting regarding the 637 S. Shore Dr. Garage Project.*

**Commissioner Cnare and Bowser**

-Indicated staff recommends less impervious surface area required and by moving the east set back from 3' to 6'

1/6/2009

with a shorter driveway. **\*Our concerns were with a shorter driveway putting parked vehicles at or over the edge of the sidewalk causing possible blind spots at our adjoining driveway as well as passing traffic. This is a very pedestrian friendly sidewalk used by continuous dog walkers, joggers and children passing by daily. \*\*The revised plan has taken this into consideration by placing the setback at 4', with a 21'-10" driveway.**

#### Commissioner Olson

-Indicated access to the second story of the garage shows an installed stairway and asked, "Won't a drop down accommodate moving stuff up and down to storage"

**\*The neighbors were under the impression that the additional 5'x 24' of space requested was to be used for storage, NOT an installed stairway. By engineering a retractable or pull down stairway the need for the additional square footage to accommodate this installed stairway would not be needed, thus adding more pervious surface area to the property.**

#### Commissioner Sundquist

-Indicated to Mr. Murphy best case for impervious surface would be to build to code and was unclear if the additional existing patio slabs would go away. Additionally, provided the statement that "we have standards for sizes of garages and I haven't heard a compelling reason to exceed it". Also stated he had personal research and found pull down ladders that get you up and down from a storage area that are better than the cheap ones commented on by the Alexanders architect present. Felt with a little research they could work that out with the space given under code.

**Research provided many pull down and retractable stair units such as these listed.**

[http://www.blwilcox.com/ladders/disappearing\\_ladders/attic-access.php](http://www.blwilcox.com/ladders/disappearing_ladders/attic-access.php)

<http://www.precisionladders.com/simplexvideodemo.htm>

<http://www.nextag.com/Werner-A2208-8-Foot-500345288/prices-html>

<http://www.bessler.com>

**Alexander has decided against the use of this stairway design.**

**\*\*Again, reducing the garage to code square foot dimension and utilizing a pull down stairway would then increase pervious surface area to the lot.**

#### Commissioner Basford

-Indicated thoughts on the Conditional use standard and asked if the conditional use not impede the normal and orderly development improvements of the surrounding properties for uses permitted in the district. Asked Mr Murphy what would be the effect on the normal and orderly element in this neighborhood that this conditional use would provide.

**Staff Mr Murphy**

Responded, "There may be other properties who propose garages over by what's allowed by right. In other lots in this same neighborhood that could certainly happen in the future, don't know if it would. There are other standards in the code for the approval of conditional uses that also the commission could look at that the effect of this might have on the uses, values and enjoyment of other properties in close proximity that is something that you could also consider in thinking about in approving this proposal or recommended changes".

**\*Our concern is if granted, this project could possibly be opening the door for others in the district area to reevaluate and want to construct larger than code structures. This could cause drastic changes in the values and enjoyment of adjoining properties already established in these neighborhoods.**

**Commissioner Cnare**

-Indicated to Mr. Murphy the importance of understanding the concerns of the upper story and can it be controlled and what we as city would take to enforce behavior. Also asked if we could preclude any other use than storage through the conditions put on the conditional use.

**\*The neighbors indicated to the commission concern of the installed stairway providing very easy access to the second floor. Our concern is not only for what the space will be used for now but what may happen in the future with the next owners. It was stated it will be used for storage, but Mr Murphy also stated 'staff believe it could be used for other things'. Could this then open it up to be an office with clients coming and going, adding potential traffic and parking. Another possibility could be a rehearsal space or recording studio for a band causing noise complaints from a residential area. Only a few potential possibilities.**

**Mr Murphy**

-Responded "It would be an enforcement matter for the building inspection division to pursue and orders would typically be written to seek compliance to the code to cease the illegal use and restore it to a legal use".

**Commissioner Kerr**

-Followed up with Alder Cnare, "If condition was storage only and that a matter of continuing jurisdiction for the plan commission and enforcement action but that would apply to Mr Alexander and the person after him and the person after him and 10 people later. Is that right. Want to clarify, doesn't matter who owns the house, once the condition is there it is there.

**Mr Murphy**

-Responds "That is correct".

**Our concern lies in the fact that a Zoning Rewrite Committee has been formed and in the future may draft new language that could eliminate this conditional use language.**

**Commissioner Olson**

-Asked question in regards to zoning code rewrite related to ADU accessory apartments on single lots.

Could Mr. Murphy comment.

**Mr Murphy**

-"It would require speculation on all of our parts to try and guess what might come out of the discussion about the conditions under which ADU would be allowed: Carriage houses, the minimum and maximum size, the lot area requirements and the parking that might be required, also usable open space.

**\* The neighbors want to again state our concerns of this, over code 700 sq ft, 2 story garage. With the potential zoning rewrite in the future, we again want to state that there is little control of the second story space and what it could be used for in the future.**

**We request the Plan Commission approve a standing code dimensions of 576 sq ft be permitted without an installed - permanent stairway to the second floor storage area.**

Thank You for your time and consideration.

**Jeff Porter**  
**jsp251@sbcglobal.net**