

ZONING ADMINISTRATOR'S REPORT
VARIANCE APPLICATION
2817 Kendall Avenue

Zoning: TR-C2

Owner: Brett Gann

Technical Information:

Applicant Lot Size: 67.03' x 119.5 irregular

Minimum Lot Width: 40 ft.

Applicant Lot Area: 7,770 sq. ft.

Minimum Lot Area: 4,000 sq. ft.

Madison General Ordinance Section Requiring Variance: 28.141(9)(b) 1; 28.141(8)(c)1.

Project Description: Single-family home. Construct new driveway wider than legal parking area it leads to, resulting in the creation of a front yard parking area.

Zoning Ordinance Requirement: Garage space width = 10'±

Provided driveway width in the front yard setback: 15'

Comments Relative to Standards:

1. Conditions unique to the property: The subject property exceeds lot minimums but has a slope at the front, not generally unique, but nonetheless a topographical condition that results in a basement-level access to the attached garage.
2. Zoning district's purpose and intent: The regulation being requested to be varied is the *residential driveway design (width) limitation*. In consideration of this request, the *residential driveway design (width) limitation* is intended to allow a vehicle path (driveway) from the public right-of-way to the legal parking area on a property. Once the driveway that leads to a legal parking area is established, vehicles may park on the driveway. Typically, vehicles will park in the legal parking area, and then use the driveway for extra parking if they choose, without violation.

The 16' depth of the widened area could potentially adversely impact pedestrians, should a vehicle be parked in this space overhang or otherwise obstruct the sidewalk area. The shallow depth of the widened area enhances this as a possibility. The potential pedestrian/vehicle conflict from a vehicle backing out of this space is neither increased nor decreased from what would otherwise be allowed, because backing vehicles will be how the parking area and driveway itself is accessed with the common/daily use of any driveway, regardless of width.

3. Aspects of the request making compliance with the zoning code burdensome: The Zoning ordinance requires one parking space for this home, which is provided by the garage space. The Zoning ordinance also allows for a driveway to be installed, which can clearly be installed in a compliant fashion. The wider driveway accommodates the ability to park more vehicles in the front setback, which may be the desire of the current owner or a future owner, but is not a requirement.

The property does have significant slope at the front, which limits the ability to widen the driveway that must lead to a legal parking area, theoretically alongside the garage at this property. This condition limits an owner from installing *extra* parking and an associated wider driveway than required, which is not necessarily a hardship but rather a limitation on the property above/beyond what is required.

The petitioner notes the retaining walls make for difficulty in walking around a car in the driveway. The Zoning ordinance regulates the driveway width, not the actual placement of the retaining walls, which could be moved to create better access while not expanding the driveway width beyond what is allowed.

4. Difficulty/hardship: As noted above, the driveway has already been installed and the retaining walls have been moved and reconstructed in advance of obtaining the necessary approvals to widen the driveway. Had this been reviewed before the work was completed, the project would not have been approved. The current owner is responsible for the decision to proceed without necessary approvals, even if he did not know about the necessary approvals prior to commencing the project.
5. The proposed variance shall not create substantial detriment to adjacent property: The widening of the driveway itself adds little detriment to the neighboring property, however the expansion of the driveway to accommodate the storage of more vehicles at a location closer to the sidewalk due to the placement of the retaining wall, which could be seen as a potential negative impact to neighboring property.
6. Characteristics of the neighborhood: The general area is characterized by single-family homes on lots of varying sizes, with typically code-compliant driveways. There are a few examples of driveways that were installed wider than current code allows, but those appear to have been installed prior to current regulations being in place.

Other Comments: In the submitted materials, the petitioner refers to the widened driveway area as “an extension of the front walk” but it is at the same plane and surfacing, is contiguous to, and otherwise not distinguishable from the driveway area. Staff interprets the paving expansion to be part of the code-regulated driveway area and if approved, vehicles could park in this area.

This situation was discovered when the owners’ contractor applied for the street terrace permit to widen the curb-cut and apron, after the landscaping, paving and retaining walls had already been modified/reconstructed. Typically, no work commences until the street terrace permit is approved, which requires zoning to approve the driveway/apron relationship between the public right-of-way (apron and curb-cut) and private property (driveway and legal parking area).

Staff Recommendation: The burden of meeting the standards is placed upon the applicant, who needs to demonstrate satisfaction of all the standards for variance approval. It is not clear that this burden has been met. This request appears to be primarily based upon the desire to obtain approvals for work that has already been completed without obtaining the necessary approvals, resulting in an illegal driveway widening and front yard parking area. Staff recommends that the Zoning Board find that the variance standards are not met and **deny** the requested variance as submitted, subject to further testimony and new information provided during the public hearing.