



# City of Madison

City of Madison  
Madison, WI 53703  
www.cityofmadison.com

## Meeting Minutes - Approved ZONING BOARD OF APPEALS

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Thursday, June 23, 2011

5:00 PM

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

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### CALL TO ORDER / ROLL CALL

**Matt Tucker and Jenny Kirchgatter were present representing the City of Madison.**

**Present:** 5 -

Diane L. Milligan; Dina M. Corigliano; Michael A. Basford; Frederick E. Zimmermann and Susan M. Bulgrin

**Excused:** 2 -

Mark C. Neidinger and Tina L. Warner-Hutchinson

### APPROVAL OF MINUTES

The minutes from the meeting of June 9, 2011 were approved.  
Motion by Ms. Bulgrin, seconded by Ms. Corigliano.  
4-0 (approved) (Milligan abstained)

### DISCLOSURES AND RECUSALS

There were no disclosures or recusals.

### NEW BUSINESS

1. [22794](#) Christine White and Ed Ryan, owners of property located at 405 Elmside Boulevard, request a side yard variance to construct a first-story screen porch addition to a two-story, single family home.  
Ald. District # 6 Rummel

**Attachments:** [405 Elmside Blvd..pdf](#)  
[405 Elmside Blvd REVISED.pdf](#)

Mr. Tucker stated that the petitioner has an existing at grade deck and they would like to build a screen porch atop it. The setback requirement is 7', and the petitioners are proposing for the porch to provide a 1.33' side setback and are requesting a 5.67' variance.

Edward Ryan and Christine White appeared before the board. Mr. Ryan stated that Mr. Tucker gave them information as to why they are not in accordance with the ordinance, and they have tried to provide a rebuttal to each of the

arguments. Mr. Ryan stated that the neighbor who shares the lot line is present to speak in support, and that she doesn't feel the encroachment on her property is a problem. They have an informal easement agreement. Mr. Ryan stated that the deck is already there, so any encroachment already exists in a smaller form. They are putting up a screen porch rather than a three-season porch, so it will not interfere with light and air flow to the property. Mr. Ryan stated that they are in violation of the ordinance due to the size of their lot, the shape of their lot, and the position of the house on the lot. If they would follow the ordinance, they would end up with a very narrow porch, too narrow to be useful. Ms. White provided the board with pictures showing the porch with a pre-existing bump-out, and a picture of the neighbor's garage and porch to illustrate proximity. Mr. Ryan stated that they found an example of a porch in their neighborhood with the exact same situation that received a variance in 2009. For that property they did not have an existing deck, but received a variance to put up the deck and a porch on top of it close to their lot line.

In response to a question as to why the screened porch couldn't be built off the back of the house, Ms. White responded that there is not much room, and if they were to do that they would essentially be on their driveway in a much less private spot. Ms. White also stated that it would take up a good portion of their already small yard, and they would be looking into their bathroom. In response to a question about making the porch smaller, Ms. White stated that they considered it, but they would end up with a space that wouldn't be useable, and for them to take 4' off, they would end up with a narrow tunnel. Ms. White stated, that if required, they would be in support of a formal maintenance agreement with their neighbor.

Melanie Herzog, 401 Elmside Blvd., appeared in support of the application. Ms. Herzog stated that she is the next door neighbor and the person with the garage in the picture that was presented. Ms. Herzog stated that her porch did not require a variance because her yard is wider and the configuration of the house is wider. Ms. Herzog stated that the yards in her neighborhood are mosquito infested, and that the yards are not useable without a screened porch. Ms. Herzog stated that she would be in support of a formal maintenance agreement with the applicant.

James Westring, of Westring Construction appeared in support. Mr. Westring stated that he and the applicants looked at various ways to make it a useable space. Mr. Westring also stated that the present plan fits the house cosmetically and enhances the structure of the house. They did consider moving it over, but found some interference with some of the architectural details of the house, but most importantly the roof lines weren't working. If they narrowed the porch to a 9' width, there would be some structural issues on load bearing weights.

Ms. Corigliano moved to defer to a meeting not later than August 25, 2011, seconded by Ms. Milligan.

Ms. Corigliano stated that she understands they have a hardship because of the location of the house, but she doesn't think the hardship warrants a 1.33' setback for an enclosed porch. Ms. Corigliano also stated that this is 12' x 14', and a lot of times the board approves front porches that are 7' wide which seem to be very useable. She could see where it would be difficult to move this back to where the variance is requiring it, but she doesn't see a hardship

in moving this back to being in line with the house. Ms. Corigliano also stated that she sees other options as to where they could put an enclosed porch. She sees other options which eliminate the width of the lot being the hardship.

Mr. Basford stated that he agreed that the applicant had options. Mr. Basford also stated that rather than voting it up or down, giving the applicant a deferral would provide them with the opportunity to re-examine and see if they can come back with something that doesn't require as much of a setback.

Ms. Milligan stated that she agreed with both Ms. Corigliano and Mr. Basford.

5-0 (deferred)

2. [22795](#) Colleen and Michael Campbell, owners of property located at 2129 Commonwealth Avenue, request a rear yard area exception to construct a single-story rear addition to their two-story home.  
Ald. District # 10 Solomon

Attachments: [2129 Commonwealth Ave..pdf](#)

This item was withdrawn by the applicant and was not heard.

3. [22798](#) James Peterson and Susan Collins, owners of property located at 3017 Irvington Way, request a rear yard variance to construct a first-story screen porch addition to their single-story home.  
Ald. District 14 Bruer

Attachments: [3017 Irvington Way.pdf](#)

Mr. Tucker stated that the petitioner is proposing to revise or remove a portion of an existing rear deck and build a screen porch. Mr. Tucker stated that on Tuesday the City Council adopted a change to the code. At the time the project would likely be coming in for a building permit, the setback requirement will be 35' and not 40', which he referred to in the staff report. Presently, the required rear yard is 40', with 31.26' provided, and they are requesting an 8.74' variance.

James Peterson appeared before the board. Mr. Peterson stated that they would like to add a screened porch to the rear of the house. At first they were thinking of adding the screened porch in the area of the existing deck, which wouldn't need a variance, but they had trouble visualizing what the roof lines would look like. Their designer, Mark Udvari-Solner, suggested that they place the porch where they are proposing now, which is aesthetically superior and resolves their roof line issues. Their lot slopes from front to back, and they have a walk-out lower level. The proposed screened porch would be at the first floor level from the front, but is raised from the ground in the back. The topography also slopes from the west to the east, and their house is lower than their neighbor to the west, so they still are looking up to that property. They are higher than the neighbor to the east, whose property is substantially flat from front to back, so it is not set that they would look down to both of the neighbors. Mr. Peterson stated that the shape of the property is a little peculiar because of the outlot platted immediately to the south. The lot line of the adjacent property runs significantly further to the south and is much deeper,

about 26' deeper. Mr. Peterson stated that, if the platting had been done differently at the time the Knollwood Nature Conservancy was laid out, they wouldn't be there for a variance, because they wouldn't need it. The burden they face, is that working within the setback makes the project aesthetically and architecturally inferior, and that the interest to the rear of the house is not really affected because of the dense woods and nature conservancy behind them. Mr. Peterson stated that, anything that they do within the envelope that they have, will impair their neighbor's interests more severely than what they are proposing. In exchange for a little bit of a variance toward the south, they actually improve the property with respect to their neighbors. Mr. Peterson further stated, that the neighbors on both sides have submitted letters of support.

Mark Udvari-Solner, of Udvari-Solner Design, appeared before the board. Mr. Udvari-Solner stated that being aware of the outlot, he did work with the staff and the city to discuss what was happening with the revised setback. The new required passing of the rear setback is only going to require a 3'-9" variance due to the fact that they are allowing that situation. Mr. Udvari-Solner stated that the logic for moving the screen porch to the location was that they did not want to have a strong reaction to the property to the east. They were trying to respect the neighboring properties as well as the public space to the rear.

Ms. Corigliano stated that the board doesn't get to decide on preferences, but has to decide on hardships and the other variance standards. Ms. Corigliano stated that the area of the existing deck looked like a perfect location because everything would fit there neatly within the setbacks, and asked for Mr. Udvari-Solner to explain why they couldn't put it there. Mr. Udvari-Solner responded that there is a change in the rooflines, and putting the screen porch in the back would cause a greater impact on the east elevation. Mr. Udvari-Solner also stated, that leaving the house in character as it is without changing the dynamics dramatically, he feels strongly that the proposed location is most conducive. Mr. Udvari-Solner stated, that if they made it narrower and were to re-design it within the setback, it would only be an 8' wide screen porch. It is a challenging corner, and there is wash-out and drainage of the existing property, and they are trying to stay away from disturbance of existing conditions. Mr. Udvari-Solner stated that to put it in the back opens up a great degree of challenge. Mr. Udvari-Solner further stated that there is quite a bit of a challenge to create an architectural and efficient way of making it work well without opening up a lot of other issues.

Mr. Zimmermann moved to approve, seconded by Ms. Bulgrin.

Ms. Milligan stated that she has concerns about the hardship and feels that the standard has not been met. There is not a uniqueness issue, and they are setting up a situation that could invite additional types of requests. Ms. Milligan stated that she heard preference, convenience, aesthetics, and avoiding imposing on the neighbor. The whole concept of the setback is that this is where you can build by right, even though it might be more neighborly to be farther away. Ms. Milligan also stated that she had a concern with conservancy land. The board has been consistently protective of public spaces, and even if there is not a house there, it is everybody's property. Ms. Milligan further stated that when asked why they couldn't put the screened porch on the deck within the setback, it didn't sound like they couldn't, but that they would rather not.

Ms. Bulgrin stated she heard the comment that the roof line was in question, the fact that it would be difficult, the washout, and the irregular lot.

Mr. Zimmermann stated that there is also impinging on the adjacent property. The screened porch is supported by columns, and there will be minimum impact with the ground. There will be drainage questions, but there are drainage questions in any of the conditions where they would put it. Mr. Zimmermann further stated, that the proportion being added is not exorbitantly hindering against the existing building.

Ms. Corigliano stated that she was struggling with a hardship issue. She agreed that the location of the porch is a better location, but the board doesn't get to decide if it is better or not. In looking at the lot size it is over 14,000 sq. ft. and the minimum lot area required is 8,000 sq. ft., so it is an enormous lot. They are not asking for much over the setback line, but she sees that there is quite a bit of room on the lot to add a screened porch. They have an existing location, and she agreed it would be inconvenient to change the roof, but she has a hard time saying it's o.k. to go beyond the lot line in a neighborhood that has these enormous lots. Ms. Corigliano further stated that she thinks it is a bad precedent to set.

Mr. Basford stated that the precedent is a rather strong one for him too, and that he was not comfortable voting in favor of it either. Mr. Basford was wondering if the board should offer a deferral to give the applicant another opportunity to re-look at it.

Ms. Corigliano questioned that in regard to a deferral that if they kept it in the existing location, reduced the width, and were over by a foot if that would make any difference.

Ms. Milligan stated that if they put it over the existing deck they wouldn't need to come back.

Ms. Milligan stated that with the new setback they will have an extra foot to work with and several to the side.

2-3 (denied) (Basford, Milligan, Corigliano)

Mr. Basford stated that the finding is it does not meet the standards.

4. [22800](#)

Gail Martinelli and Scott Spoolman, owners of property located at 2317 West Lawn Avenue, request a side yard area exception to construct a single-story front/side porch addition onto their two-story home.  
Ald. District # 10 Solomon

Attachments: [2317 West Lawn Ave..pdf](#)

Mr. Tucker stated that the petitioner is proposing to remove an existing side entrance feature and construct a new front/side open porch. The project also includes construction of a rear porch and decks, which do not require a zoning exception. The required setback is 8'-10" with a 22" depth penalty. They will be providing 6'-3" and are requesting a 2'-7" side yard area exception.

Gail Martinelli appeared before the board, along with her architect Edward Kuharski. Ms. Martinelli stated that they are asking for an area exception to create a welcoming porch for the house. Presently the house is quite incomplete. When they purchased the house they were thinking that it needed a porch. The stoop and the steps are lower than the door, so people have to step up into the house, which is something they would like to level out. Ms. Martinelli also stated that there is not enough space for people to stand when the door swings open. The proposal will be an enhancement to safety, and will more clearly identify the entrance. The porch will be open and neighborly, and they hope to create an old traditional neighborhood feel. Ms. Martinelli stated that the detailing they created was taken from a porch in the neighborhood near Vilas Park. It will be an improvement and make the entrance more useable. In response to a question about the dimension from the face of the existing chimney to the proposed porch, Mr. Kuharski stated that it is a minimum passage, but they would not scrape themselves on the bricks.

Ms. Corigliano moved to approve, seconded by Ms. Milligan.

Ms. Corigliano stated that it is a great enhancement to the house, and they are providing safe access. Ms. Corigliano also stated that they made it the minimum width that they possibly could to provide access to the front door, and they are not going overboard in any way, and it totally ties in with the house and the neighborhood.

Ms. Milligan stated that she agreed that this is the type of thing an area exception is meant to address. Ms. Milligan also stated that, it is a unifying fix to a house that looks like it fits with the house quite well. It is a minimum encroachment into the side yard.

Mr. Basford stated that the design blends in quite nicely with the existing structure.

5-0 (approved)

Mr. Basford stated that the finding is it meets the standards for an area exception.

5. [22801](#)

John and Mariann Bertram, owners of property located at 1437 Morrison Street, request side yard variances to construct a new two-story single family home. Ald. District # 6 Rummel

Attachments: [1437 Morrison St.-1.pdf](#)

Mr. Tucker stated that the petitioner is proposing to demolish the existing home and detached accessory building, and construct a new home and an accessory building. The accessory building is flipped and it goes to the front yard from where it is now into the waterfront setback yard. The new home projects irregularly into the required side yard setbacks on both sides. Mr. Tucker stated that a 6' side yard setback is required, providing a 4' setback at its closest point, and requesting a 2' variance on both sides.

Marian and John Bertram appeared before the board along with Thomas Vogel. Ms. Bertram stated that she has owned the property for a very long time and it has been a rental property. They would like to make it into a single-family

home. It is a very small lot, under 40' wide, and was built in 1923 and oriented to the street and not to the lake. Ms. Bertram stated that there really isn't any good way to have a garage on the lake side and have any kind of a view or enjoyment of the lake. They are proposing to build a new home and put the garage on the street side. They will make every attempt to make it as attractive as possible so it doesn't look like a great big garage. There are some modifications they would make to the garage as they see it in the picture. It would have a different door, and they would make it look as pleasing as possible from the street. In regard to the elevation adjacent to the park, they have made every effort to make it as attractive as possible, and have worked hard to make it fit into the neighborhood. Ms. Bertram stated that there was a letter of support from David Mollenhoff with various comments about the architecture, and how it is consistent with the neighborhood and the lakeshore buildings.

Ms. Milligan stated that they are seeking a variance on both sides of the house. The issue they are concerned about is encroachment of both sides. Since they are tearing down the whole house and starting over, Ms. Milligan asked the applicant to help the board understand why they can't comply with the code.

Mr. Vogel responded that they met with Matt Tucker regarding the new code, and their understanding was that the new code will stay on sub-standard lots and that this lot is less than 5000 sq. ft. When it comes into effect, it will be 10% of the lot width, which would put them at a 4' setback. Mr. Vogel stated knowing up front that this is taking place, they decided to ask for the variance now, because they would like to get started before winter. Another reason is that the actual width of the lot buildable area with the 6' setbacks becomes about 22' for the house. With a 22' wide house it would not be proportionate because of the width. Mr. Vogel stated that they have been looking at the lot and what to do with it for about a year, considering how to make it blend with the neighborhood as best as they can. Mr. Vogel reiterated that the new code change may take place in September or October, and with the timing of it, they thought they would come to the board now to ask for a variance rather than wait.

Ms. Milligan stated that it puts the board in an awkward spot, because the code hasn't changed yet. Ms. Milligan also stated that the board needed to find that they met the burden of showing them that they qualify. Mr. Vogel responded that the width of the lot makes it difficult.

Deborah Mulligan, 1436 Morrison Street, appeared in opposition. Ms. Mulligan stated that since they are tearing down an existing house, there is no hardship involved. She is concerned about the precedent that could be established by changing the type of neighborliness that they all enjoy. She is worried about people tearing down existing houses to build large houses.

G. Spencer Walts, 1444 Morrison Street, appeared in opposition. Mr. Walts stated that he lives across the street from the house. He is opposing it because he doesn't like the idea of walking out of his house and seeing a big garage facing him and a little entryway on the side. Mr. Walts also stated that he felt that it was inhospitable and that they were turning their back on the neighborhood to a certain extent with the design. Everything from the house on the other side of the property, to his view of the lake, and the size of the park will feel a little smaller.

Steve Stepnock, 1438 Morrison Street, appeared in opposition. Mr. Stepnock stated that his issue is that the house is oriented to the lake and not to the street, and that there are no houses on Morrison Street that have the garage doors as the prominent feature. This house would turn Morrison Street more into an alley, which he does not believe is appropriate.

Mr. Basford stated that there were several people in opposition who did not wish to speak including:

Carol Tertadian, 1438 Morrison Street  
Karoline Kirst, 1404 Morrison Street  
Eileen Fitzgerald, 1444 Morrison Street  
Bill Wachtendock, 1446 Morrison Street  
Christine Wachtendock, 1446 Morrison Street

In rebuttal, Ms. Bertram stated that in terms of encroachment on the neighbor to the west, that the neighbor on that side submitted an email stating that she has no problem with the proposal. (Luann Tribus, 1435 Morrison Street).

Ms. Corigliano moved to approve, seconded by Ms. Milligan.

Mr. Basford stated that this is going to go before the Plan Commission for demolition and conditional use permits, and a lot of the arguments made in opposition would be better suited for that venue than here. Mr. Basford also stated that all that they can do is address the side yard setback variances.

Ms. Milligan stated that number of stories didn't matter to her, but the volume of house that they are seeking to put into the setback did. Ms. Milligan also stated that it may be that this will be allowed by right when the code changes, but they don't have that code yet since it hasn't passed. They have been pretty consistent when people do a tear down and replacement, and have been very stingy with variances, because they think creative use of the space should allow people not to have to encroach. Ms. Milligan stated that here they have something that is encroaching on both sides with a lot of bulk. Ms. Milligan further stated that it is too much for this lot,

Mr. Basford stated that in this case, it is a really narrow lot, so with the setback requirements that leaves them with a 24' wide building envelope.

Ms. Milligan stated that sometimes they see people adjust, so they only need a variance on one side, and not on both sides, or they see some kind of reduction in what they are requesting. Maybe it's true they won't need a variance next year, but then they are in a convenience mode, in that it is convenient for them to have a variance now so they can start building.

Ms. Corigliano stated that she agreed with Ms. Milligan. Ms. Corigliano stated that she felt uncomfortable with it especially if something happened and the lot gets re-zoned, doesn't go through, and they just granted something that wasn't really going to get granted.

Ms. Milligan stated that there is a more creative way to potentially do this without encroaching. There are a lot of lovely living spaces within the plan, but maybe with such a small lot you don't get such a big great room or dining



room.

Ms. Corigliano stated that maybe you just don't get this size of house with this size of lot. It has to be in proportion to what you have. Ms. Corigliano also stated that if these are the setback requirements, something has to give.

Mr. Basford stated that what is on there now is a narrower house than what is being asked for by the applicants.

Ms. Milligan stated that most of the other houses in the neighborhood have a one-car garage. If they did something there, maybe they would have more space to add more house, but within the setback.

1-4 (denied)(Zimmermann)

Mr. Basford stated that the finding is it doesn't meet the standards for a variance.

#### DISCUSSION ITEMS

6. [08598](#) Communications and Announcements

Mr. Basford stated that he received a phone call from Bill White, wishing to speak with him about item # 1 on tonight's agenda. Mr. Basford stated that he sent him an email, which he also forwarded to staff, telling him that he doesn't discuss cases outside of meetings.

#### ADJOURNMENT

Matt Tucker, Zoning Administrator  
City of Madison  
Zoning Board of Appeals, 266-4569  
Wisconsin State Journal, June 16, 2011