

ZONING ADMINISTRATOR'S REPORT
VARIANCE APPLICATION
2701 Van Hise Ave

Zoning: TR-C2

Owner: David & Kari Gordon

Technical Information:

Applicant Lot Size: 60' x 100'

Minimum Lot Width: 40'

Applicant Lot Area: 6,000 sq. ft.

Minimum Lot Area: 4,000 sq. ft.

Madison General Ordinance Section Requiring Variance: 28.043(2)

Project Description: The subject property is a single zoning lot that contains the entirety of two originally platted lots in an irregular "L" shape. The petitioner wishes to separate the zoning lot into two separate and developable lots. For the lot at 2701 Van Hise Ave., a rear yard setback variance will be required to allow the home to be on a lot with a substandard rear yard setback. The petitioner intends to construct a new home on the vacant lot to the west and sell the subject property.

Zoning Ordinance Requirement: 30.0'

Provided Setback: 20.4'

Requested Variance: 9.6'

Comments Relative to Standards:

1. Conditions unique to the property: The individual lots in this zoning lot exceed minimum lot width and lot area requirements. The corner lot is a reverse-corner lot and the vacant lot is an interior lot. As a zoning lot, the "L" shape of this lot is highly irregular for this type of residential development (typically zoning lots such as this contain similar lot shapes that are basically square or rectangular in shape). The subject property was originally constructed on its own platted lot when in the town of Madison in 1940, and subsequently annexed to the City in 1946. The rear yard setback requirements appear to differ between jurisdictions around this time. The placement of the principal structure on the lot pre-dates any City of Madison zoning requirement, and no construction on this lot is proposed (but for removal of noncompliant accessory structures installed by a previous owner without a permit). The two lots do contain moderate slope, but that does not relate to this request in any way.
2. Zoning district's purpose and intent: The regulations requested to be varied are the *rear yard setback*. In consideration of this request, the *rear yard setback* is intended to provide minimum buffering between principal buildings on lots and to align buildings within a

common building envelope, common back yards, and generally resulting in space in between the building bulk and commonality of bulk constructed on lots.

The existing building placement and relationship between the existing home and the existing vacant lot to the west is a long-standing condition, dating to the original development of these lots. The fact that the lot to the west remained undeveloped is unusual. The home on the lot is placed more to the center of the lot, providing more front setback and reverse-corner side setback than required, but in turn, the home is placed into the rear setback, likely due to setback requirements at the time the home was constructed. The request appears to be consistent with the purpose and intent of the TR-C2 district, and particularly some other similarly-zoned corner lot development in this neighborhood.

3. Aspects of the request making compliance with the zoning code burdensome: The variance allows the vacant lot to the west, an interior residential lot, to be developed for a single-family home. Without the variance, the vacant lot could remain undeveloped. The vacant lot could be made narrower, resulting in a deeper lot and compliant setback for the corner lot, but that would result in a lot line inconsistent with platting and to a size smaller than what is common for the neighborhood, and could be seen as an unreasonable burden for the petitioner. Also, the home directly north across Van Hise Ave. is of a similar size but has a lesser rear yard setback than what is being requested for the subject property.
4. Difficulty/hardship: See Comments #1 and #3. The existing home was constructed in 1940 and purchased by the current owner in May 2017.
5. The proposed variance shall not create substantial detriment to adjacent property: No construction is proposed with this variance; however, the variance will allow the vacant lot to the west to be developed in compliance with the ordinance. Any detriment from the variance would be felt by the petitioner, as the petitioner owns both lots.
6. Characteristics of the neighborhood: The general area is characterized by principal structures on lots of similar size. The block-ends and corners have lots that are often smaller/shallow in depth/size and with lesser setbacks. The home would not appear unusual on the lot as the result of the variance being approved.

Other Comments: There are many examples of homes on “zoning lots” containing multiple platted lots in the City, where the home is shifted to one of the original platted lots, to enable future development of a home on the vacant lot. The vacant lot is typically used for green/open space. Typically, and even if a substandard setback exists, a property owner can simply build on the vacant lot without requiring a zoning variance. This is allowed only when the zoning office has not issued a subsequent zoning approval for the zoning lot, where the vacant lot was used to comply with a zoning requirement at the time the permit was issued. In this case, a permit was issued for work at the rear of the structure in 1993, and a zoning approval was granted for the project with the two lots presented as a zoning lot, where the 40’ required rear yard setback was easily met.

As noted above, the submitted plan, shows two sheds and a pergola have been installed by a previous owner without obtaining building permits. The sheds are noncompliant and must be moved or removed, but the pergola appears to be approvable. Resolution of these matters will be handled separately and prior to the issuance of a building permit for the new home.

Also, development on the vacant lot would require the removal of the existing nonconforming screening fence (fencing exceeds maximum height and obstructs driveway vision clearance) on the vacant lot to the west.

At its July 15, 1970, meeting, the Madison Zoning Board of Appeals approved a lot area variance to allow for the construction of a new home on the vacant lot to the west. Construction did not proceed at that time.

At its July 28, 1987, meeting, the Madison Zoning Board of Appeals denied a similar request for a rear yard variance for 2701 Van Hise Ave., to allow the vacant lot to the west to be separated from the zoning lot, and subsequently developed.

Staff Recommendation: It appears standards have been met; therefore, staff recommends **approval** of the variance request, subject to further testimony and new information provided during the public hearing.