

ZONING ADMINISTRATOR'S REPORT  
VARIANCE APPLICATION  
1221 Spaight Street

**Zoning:** HIS-TL, TR-C4

**Owner:** Johanna Cherry

**Technical Information:**

**Applicant Lot Size:** 33' x 132'

**Minimum Lot Width:** 40'

**Applicant Lot Area:** 4,356

**Minimum Lot Area:** 4,000 sq. ft.

**Madison General Ordinance Section Requiring Variance:** 28.045(2)

**Project Description:** Petitioner requests a side yard setback variance to construct a shed roof addition to a two-story, singlefamily dwelling.

Zoning Ordinance Requirement: 3'

Provided Setback: 1.8'

Requested Variance: 1.2'

**Comments Relative to Standards:**

1. Conditions unique to the property: The lot meets minimum lot area. The lot width is less than the minimum for the zoning district, but the zoning code addresses this condition by requiring a side setback that is 10% of lot width. The existing principal structure's projection into the side setback is the unique condition for this property.
2. Zoning district's purpose and intent: The *side yard setback* is intended to provide minimum buffering between buildings, generally resulting in space in between the building bulk constructed on lots, to mitigate potential adverse impact and to afford access to the backyard area around the side of a structure. The small proposed addition to the existing dwelling does not change the placement of the dwelling relative to the lot lines. The project appears to result in a condition that is consistent with the purpose and intent of the TR-C4 district.
3. Aspects of the request making compliance with the zoning code burdensome: The shed roof addition appears to be driven by the desire of the petitioner, rather than a hardship. The proposed shed roof addition will allow for a larger bathroom that contains more

bathroom amenities than required for a functional bathroom: a bathtub, separate 3' x 6' shower, and double sink. It appears that a compliant bathroom could be achieved by making a smaller bathroom with fewer amenities or by rearranging the proposed floor plan.

4. Difficulty/hardship: As noted above, an alternative design in compliance with zoning code requirements appears possible. The alleged difficulty or hardship appears not to be created by the ordinance so it does not appear that this standard has been met.
5. The proposed variance shall not create substantial detriment to adjacent property: The existing house is within the side setback, and there is not much space between the two houses. This small addition could have an impact on light and air available to the adjacent property but a relatively small amount.
6. Characteristics of the neighborhood: The neighborhood is comprised of mostly two-story, older dwellings, many with noncompliant side setbacks. The side setback will not be uncharacteristic for the surrounding neighborhood.

**Other Comments:** The original existing bathroom had noncompliant head height. A proposal that solved the noncompliant head height issue by inseting the bathtub was approved by Landmarks Commission, and a building permit was issued.

During construction, the Building Inspector identified a change in the bathroom floor plan. The bathtub had been moved to the edge of the bathroom floor area, resulting in noncompliant head height. To provide compliant head height, a shed roof addition was built, necessitating a new Landmarks Commission approval and this variance request. A Certificate of Appropriateness has been granted.

The proposed addition provides a very small setback to the property lines, which leaves little room for maintenance of the structure. In situations where less than a 2' setback is being requested, the ZBA typically requires the following condition of approval: *the petitioner must secure and record a maintenance agreement between the subject property and the property to the east.* However, staff is not recommending that condition for this variance because the existing building already has a less than 2' side setback.

**Staff Recommendation:** The burden of meeting the standards is placed upon the petitioner, 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 driven by the petitioner's desire as reflected in their proposed design, rather than a hardship. Staff recommends that the Zoning Board find that the variance standards are not met and **refer** the case for more information relative to the standards of approval, or **deny** the requested variance as submitted, subject to further testimony and new information provided during the public hearing.