



City of Madison

City of Madison
Madison, WI 53703
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Meeting Minutes - Approved ZONING BOARD OF APPEALS

Thursday, June 21, 2018

5:00 PM

210 Martin Luther King, Jr. Blvd.
Room 354(City-County Building)

CALL TO ORDER / ROLL CALL

Corigliano, chair, called the meeting to order at 5:05 pm and explained the appeals process.

Staff Present: Matt Tucker and Gretel Irving

Present: 4 - Peter A. Ostlind; Patrick W. Heck; Dina M. Corigliano and Winn S. Collins

Excused: 2 - Agnes (Allie) B. Berenyi and Jessica Klehr

APPROVAL OF MINUTES

A motion was made by Collins to approve the May 17, 2018 minutes, seconded by Ostlind. The motion passed (2-0) by voice vote/other with Heck and Ostlind abstaining.

DISCLOSURES AND RECUSALS

There were no disclosures or recusals.

PETITION FOR VARIANCE

1. [51604](#) Dewey and Sandy Bredeson, owners of property at 116 E Dayton St, request a side-yard variance to remove and reconstruct a two-story addition with a third-level deck.
Alder District #2

Tucker explained that the property in question is zoned UOR because it was an existing commercial use in an otherwise residential neighborhood. The surrounding properties are zoned DR-1, which has a lesser 5' side yard setback. The applicants are proposing to enclose the existing first story and renovate the existing second story rooms and third story porch.

Dewey Bredeson, applicant, reported minor objections to the staff report including the date of construction of the original building. Bredeson gave a brief history of the building, originally constructed as a hotel with staff rooms in the attic. He stated the renovations were intended to preserve design features inside the building. The proposed project would add a closet, bath and kitchen to the first floor by enclosing the porch and widening the first story. On the third floor, the renovations would move the porch entrance from a bedroom to a living room and replace a structurally unsound fire escape with a stairwell.

In response to Board questions, Bredeson stated that the building already exists within the setback and the proposal would be consistent with the neighborhood. If zoned DR-1 like the neighbors, a variance would not be required, so the hardship is the UOR designation. A stairwell with retaining walls leading to the basement and a driveway leading to an underground parking stall limit the ability to expand on the other side of the building. Shifting to the other side on the second floor would result in loss of a window. Other considerations include the slope of the lot and locations of bike parking and an accessible parking stall.

In response to Board questions, Tucker clarified that while the UOR designation does not have a parking requirement, if a property does have parking stalls, at least one must be accessible. He also confirmed that if the property were re-zoned DR-1, the addition and remodel would be allowable without a variance, however the applicants would forfeit any commercial use of the property.

Ostlind moved to approve a variance; Heck seconded the motion.

Review of Standards:

Standard 1: The Board noted the rarity of the UOR designation, that the property is surrounded by DR-1 properties, and the history of commercial and residential uses. They noted the applicant's interest in preserving the interior design features of the building.

Standard 2: The Board noted that the primary impact of a variance would be enclosing the first story as the second and third stories already exist in the setback. The Board noted that the variance would be consistent with the setback requirements on the surrounding lots.

Standards 3 & 4: Board members noted that the applicant could apply to rezone the property and build their project without a variance. The applicant

had argued that the timeline for rezoning and loss of commercial uses would be burdensome. Board members disagreed that a standard process could be considered burdensome but noted the history of commercial uses. The Board debated if the applicant could reasonably keep the current zoning and redesign the project to be compliant.

Standards 5: The Board concluded that the proposal would not be detrimental to the neighboring properties.

Standard 6: The Board concluded that the proposal would not present a change to the neighborhood.

The motion passed by a vote of 3-1.

2. [52001](#) Matthew & Nicole Booher, owners of property at 2221 Lakeland Ave, request a lakefront setback variance to construct an elevated deck at the rear of the two-story single-family home. Alder District #6

Tucker described the calculations of the lakefront setback for this request for an elevated deck.

Matthew Booher, applicant, stated that due to the slope of the lot, the rear door sits roughly a story above grade and that most properties in the area have a deck or patio facing the lakefront. He stated the current basement door/exit would be demolished; the door shown on the plans accesses a storage area. Booher also noted a patio door would be added that does not appear in the plans. The property to the east is set forward of the proposed patio so the stairs were placed to minimize the impact on the neighbors to the west, which sits further back from the lakefront. In response to comments in the staff report, the applicants presented brochures showing the proposed decking material and railings.

Corigliano noted that the applicants had not provided elevations and had provided inaccurate plans with incorrect dimensions, hampering the Board's ability to evaluate their request.

Collins moved to approve a variance; Ostlind seconded the motion.

Review of Standards:

Standard 1: The Board noted slope of the lot limiting the amount of useable open space available. The Board also noted the placement of the adjacent home to the east but expressed concerns about encouraging creep towards the lakefront.

Standard 2: The Board agreed on the intent of the lakefront setback requirement as protecting the viewshed.

Standard 3: The Board determined that the burden in this instance is the lack of useable open space and that a compliant deck would be oddly shaped and have limited utility.

Standard 4: The Board debated a reasonable size and width for a deck.

Noting discrepancies between the plans and survey, Collins moved to reopen the public hearing, seconded by Ostlind. The motion passed 4-0. The applicants stated that the measurements on the survey were correct and the plans were incorrect. Corigliano, chair, closed the public hearing.

Standards 5: The Board determined that the variance would not present a detriment to the easterly neighbor. The proposal might cause some detriment to the westerly neighbor but not a substantial detriment.

Standard 6: The Board concluded that the proposal was in keeping with the neighborhood.

The Board debated whether to amend the motion to require screening or other

design elements.

Collins offered a friendly amendment to the motion to require that the width of the deck not exceed 28'; that the railings and decking materials be consistent with the brochures presented at the meeting and that the lower portion of the deck have ornamental (not fully opaque) screening. Ostlind seconded the motion.

The motion passed by a vote of 3-1.

3. [52003](#)

Tracey Powers & Susan Ferguson, owners of property at 2806 Sommers Ave, request a side-yard setback variance to replace/reconstruct the attic level of the three-story three-family dwelling. Alder District #6

Tucker explained that the proposal would change a three-story building to a two-story with dormers, changing the slope of the roof while matching the existing setbacks.

Tracey Powers, applicant, explained that the current attic space is not structurally sound so they plan to remove the third-story flooring system. The second story is not sufficient to support a rebuilt third story so they will be using trusses to transfer the weight to the outside walls.

Ostlind noted the dormer design limits the impact to the neighbors while providing space to the interior. Powers also noted the new design is intended to match the Craftsman style of the home and maintain the existing stairwells. They could eliminate one of the dormers in the setback but it would create an odd, asymmetrical appearance.

Collins moved to approve a variance; Ostlind seconded the motion.

Review of Standards:

Standard 1: The Board noted the nonconforming footprint of the existing house on a narrow lot with an existing third floor.

Standard 2: The Board determined that as the first and second floor would not change, there would be little impact on the buffering intent of the side yard setback.

Standard 3: The Board determined that a compliant design would have an odd stepped-in appearance. Attempts to reduce the variance would likewise have an unappealing design or result in loss of a dwelling unit.

Standard 4: The Board noted that the applicant could replace the existing structure as-is but the cost would be burdensome with little benefit.

Standards 5: The Board concluded that the increase in roof pitch would not cause a substantial detriment and that the applicant had shown efforts to minimize the bulk of the structure in both design and scale. The Board noted the windows would line up with neighboring roofs, further reducing the impact on the neighbors.

Standard 6: The Board concluded that the proposal was in keeping with the neighborhood and improved upon the existing structure.

The motion passed by a vote of 4-0.

4. [52032](#)

Louis Olson, owner of property at 1001 N Wingra Drive, requests a fence height variance to construct a screening fence to a height not to exceed 10 ft. Alder District #13

Tucker explained that the proposal is to exceed the maximum fence height and reiterated the concerns expressed in the staff report.

Louis Olson, applicant, stated his goal is to reduce the light from the neighboring parking lot. The slope and retaining wall on the adjacent property mean that a standard height fence would not block car headlights. He stated that the runoff from the parking lot prevents using landscaping for screening. The application is worded as “not to exceed” because he is uncertain of the height needed to successfully block headlight glare. The retaining wall is not on his property so he is unable to place a standard height fence on top of the wall. Olson contended that the fence would need to extend along the side lot line to fully block light and activity from the parking lot and reiterated concerns over both runoff and human activity in the adjacent rear yard. In response to questions from the Board, the applicant requested a referral to a future date to clarify his application.

As the applicant was unsure of the requested height and length of the desired fence and hence the resulting variance needed and as the applicant expressed interest in a referral, Collins moved to refer the application to a future meeting no later than Aug. 16, 2018. Heck seconded the motion.

Review of Standards:

Standard 1: The Board noted that typically a fence would be placed on top of the retaining wall rather than at its base. The Board acknowledged that the zoning code does not require screening on the neighboring property but noted the unusual configuration of a parking lot abutting the rear of a single-family dwelling.

Standard 2: The Board clarified the intent of the ordinance as limiting the impact of fencing on the adjacent properties. Board members questioned the need for a higher fence to extend past the parking lot to the open green space along the rear lot line as the light problems would not effect this area but the neighbor would lose light and air. They were especially concerned about the impact of a higher fence along the side lot line, which abuts another yard and garage.

Standards 3 & 4: The Board agreed that the grade of the parking lot abutting the rear yard is burdensome but did not extend this finding to the green space along the rear or to the property to the side. The Board debated the viability of using landscaping as screening but recognized that fencing would be more durable, year-round and a more immediate solution.

Standard 5: The Board questioned the need for a higher fence along the side lot line as the additional height would likely have a detrimental effect on that neighbor.

Standard 6: The Board asked for more evidence addressing this standard.

In response to comments made by the applicant, the Board cautioned that it

could not grant a waiver to the ordinance to construct a fence prior to a determination on the variance request.

The motion passed by a vote of 4-0.

5. [08598](#) Communications and Announcements

There were no announcements.

ADJOURNMENT

The meeting adjourned at 8:21 pm.