

ZONING ADMINISTRATOR'S REPORT
VARIANCE APPLICATION
1154 E. Mifflin Street

Zoning: TR-V1

Owner: Gene W. Blabaum

Technical Information:

Applicant Lot Size: 33' w x 44' d **Minimum Lot Width:** 30'

Applicant Lot Area: 1,452 sq. ft. **Minimum Lot Area:** 3,000 sq. ft.

Madison General Ordinance Section Requiring Variance: 28.047(2)

Project Description: Petitioner requests front and rear setback variances and a variance to allow a three-story structure, to raise the existing structure to create a new basement level for an attached garage and building entrance, and living space for a bedroom/bath or potential Accessory Dwelling Unit. Project also involves adding a rear 3rd story expansion off an existing shed/gable story to the left (west) to accommodate the requirement of a second exit from the new 3rd living level of the proposed building.

<u>Zoning Setbacks</u>	<u>Front Yard</u>	<u>Rear Yard</u>
Zoning Ordinance Requirement:	17.68'*	11.0'
Provided Setback:	5.66'	3.33'
Requested Variance:	12.02'	7.67'

**Front yard setback block average*

Maximum number of Building Stories (component of building height regulations)

Three-Story building proposed

Two-story building maximum allowed

Variance to allow three-story building

Comments Relative to Standards:

1. Conditions unique to the property: The subject property is part of an original 44' w (N. Few St.) by 66' d (E. Mifflin St.) platted (re-platted) lot, which was split at the time of development into two development sites. The existing lot has the appropriate lot width but less than half the minimum lot area than required, due to shallow depth, and is a nonconforming lot. The footprint of the home covers most of the lot. The existing home placed on the lot does not comply with current bulk requirements and the requirement to provide one off-street parking space. Just about any addition or expansion, or a new home as a replacement, would require approval of zoning variances.

2. Zoning district's purpose and intent: The regulations being requested to be varied are the *front yard setback*, *rear yard setback*, and *two-story maximum component of building height regulations*.

Front yard setback

In consideration of this request, the *front yard setback* is intended to provide minimum buffering between principal buildings on lots and to align buildings within a common building envelope, common front yards, and generally resulting in space in between the building bulk and commonality of bulk constructed on lots. The setback also prevents structures from being placed in front setback areas, which may cause unsafe conditions for pedestrians and vehicles on the adjacent street and sidewalk.

The existing building projections into the front setback include both allowed projections (the open porch and steps) and prohibited projections (the gable dormer/roof). The elevating of the home to accommodate an in-set garage-level creates less front yard setback bulk at the new first-level, but in turn adds bulk at the new second-level (open porch) at the second creates new bulk in the setback at the new third level. This is not similar or compatible with other homes on the block, and specifically the existing twin to this home on the adjacent lot to the east. The request appears in conflict with the intent and purpose of the front yard setback requirement.

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 rear addition will push the occupied space deeper into an already noncompliant rear yard area, providing less rear setback than any home in the immediate area, and the raising of the structure and expansion of the third level further exacerbates this condition. The elevating of the home to accommodate a garage-level will push the living space deeper into the rear yard than neighboring homes and into the rear setback, which can create privacy issues for the occupants of neighboring homes. The rear addition also creates additional similar bulk impacts at the rear/left side, directly adjacent to an existing two-story single-family home. The request appears in conflict with the intent and purpose of the rear yard setback requirement.

Two-story maximum

The *two-story maximum component of building height regulations* is intended to establish uniform parameters across lots in a district, relative to the number of living levels that a building may have, under the overall 35' structure height maximum, to mitigate potential adverse impact that come with structures having multiple living levels in proximity to their neighboring structures. The proposed number of stories in the building primarily relates to the new first level and the proposed third level (existing/proposed for expansion second level).

New first level: The proposed two-car garage fills part of the space of the new level of the home, appears to be necessary to have a functional garage living area, and

associated storage for the dwelling in consideration of the placement of the existing house on the lot.

Proposed third level: The third level incorporates an existing shed and gable roof to the rear center and right-side, and a proposed matching shed roof to the left-side. The new shed roof encloses a required exiting spiral stair. This addition is only necessary due to second exiting requirements for an occupied third level in a dwelling.

Modifications to the structure resulting in the three-story building introduce both bulk and use impacts on neighboring property. The request appears in conflict with the intent and purpose of the two-story maximum component of building height regulations.

Public Interest

In regard to the public interest, the petitioner proposes to step back the new basement level, to respond to driveway vision clearance requirements. The vision clearance requirements are not part of the zoning ordinance {MGO Sec. 27.05(2) (bb)} and are established to require structures provide vision for vehicles entering and exiting private driveways. The proposal projects into vision clearance areas, however, the petitioner has obtained a vision clearance waiver from the City's Traffic Engineering Division for the proposal.

The existing building/site does not have off-street parking, so vision clearance is currently not an issue. Introducing on-site parking creates a potential for harm to the public interest, regardless of the fact that a vision clearance exception has been granted. Also, the proposed two-car garage incorporates an associated width curb-cut, which affects the on-street parking availability in the area. One off-street parking space is required per code, and a driveway leading to only one stall would maintain more space for on-street parking, depending on how parking is allowed on-street.

An off-street parking space may be a direct replacement for the parking needs of a current tenant, who must use on-street parking if they have a motor vehicle.

3. Aspects of the request making compliance with the zoning code burdensome: As noted above, just about any addition would require a zoning variance, due to the shallow lot depth and setback requirements. However, this structure has been existing and viable for over 100 years with little modification.
4. Difficulty/hardship: See standards #1, 2, and 3. The subject property was originally developed in 1916 and purchased by the current owner in 1987. The owner has indicated the property will be marketed to an owner-occupant upon completion of the construction, repairs and remodeling. The property has been occupied for many years in its current placement and without providing off-street parking. Regarding the left-rear roof addition, this feature is only necessary because the owner desires to have a three-story building and thus must incorporate required exiting, which appears to make the hardship for this variance self-created.

5. The proposed variance shall not create substantial detriment to adjacent property: The proposed location for the home is closer to side and rear setbacks, closer in some cases than the existing condition. Raising/elevating existing bulk and adding new bulk in the setbacks as proposed will increase potential adverse impact on surrounding structures.
6. Characteristics of the neighborhood: The general area is characterized by a mix of single, two and multiple-family dwellings. Some dwellings have garages or off-street parking spaces, and others do not. There are two-story homes in the area which appear to have occupied living space attic areas, but it does not appear as though there are other three-story homes in the immediate area. The proposal represents architecture that is not common for the area, and the design as proposed is uncommon for the area. Particular uncommon/unusual looking features on the street side include the basement-level garage set back/cantilevered under the porch feature, and the porch feature itself which will look more like an elevated balcony.

Stories and Dormers comment:

The two-story height limit allows for up to four living levels: a basement which is more than 50% below grade, two at or above grade living levels, and an occupied habitable attic area, under roof. These levels must be at or below the maximum height for the zoning district, which is 35'. Dormers may also be constructed through a roof. The Zoning Ordinance definitions of a "story" and "dormer" follows:

MGO 28.211, Definitions

Story. A story is that portion of a building, other than a basement or mezzanine, included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

- a) *For the purposes of this ordinance, there shall be only one basement which shall be counted as a story when the front exterior wall of the basement level is exposed more than fifty percent (50%).*
- b) *Any part of a building that is above the second story and between the eaves and the ridge line of pitched roofs is not a story, but may be occupied as long as the requirements for human occupancy are met.*

Dormer. A structure projecting through a sloping roof that contains a window or opening.

The Residential Building Forms section of the Zoning Ordinance also defines allowable dormers:

28.172 - RESIDENTIAL BUILDING FORMS.

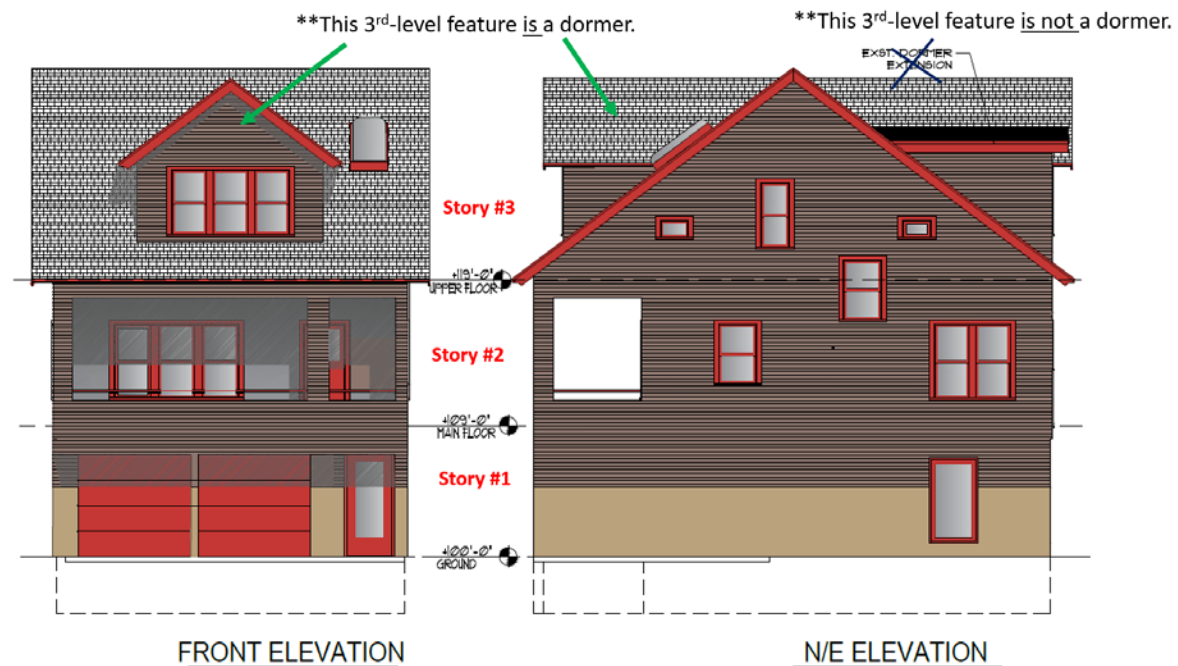
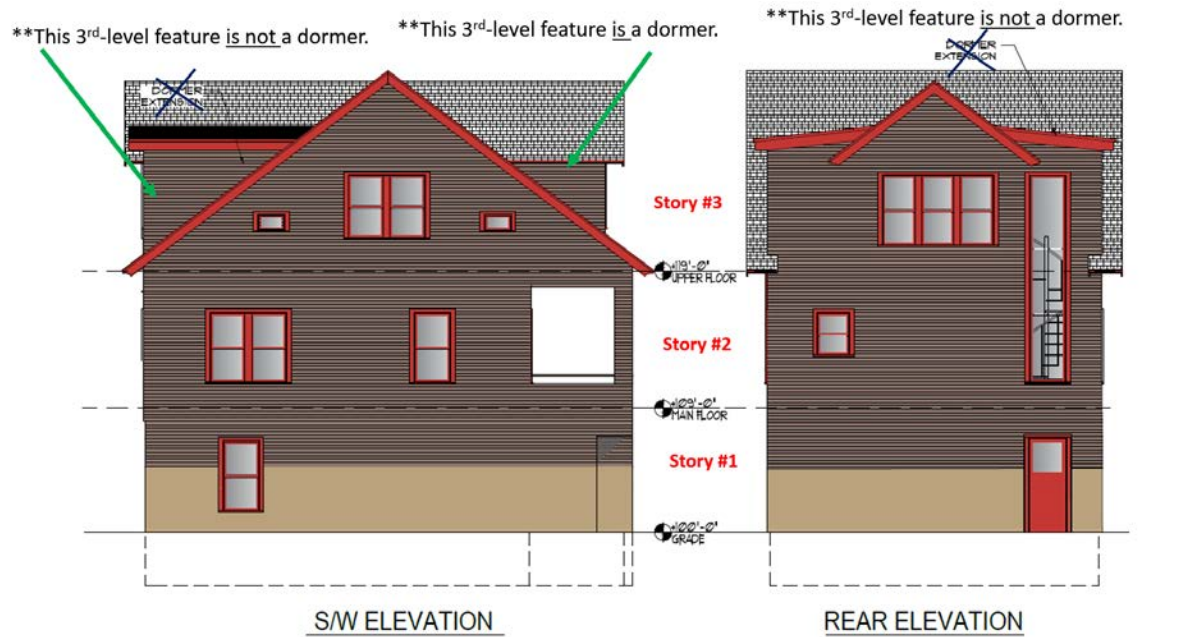
(1) Use of Dormers.

Dormers may be added to the roof of a two-story building, provided that the dormer width does not exceed fifty percent (50%) of the lineal width of the floor immediately below the roof, and may not extend above the ridge of the roof in which the dormer is placed.

The subject property currently is classified as a two-story dwelling, and is under 35' in height. The structure has a typical original basement, mostly underground and partially exposed behind the front porch, a first-level living area, and a second-level living area under roof, with gable dormers facing front and rear, and a rear- left shed expansion off what appears to have originally been a

rear gable dormer (this is not classified as a dormer per current code). The new basement level is exposed over 50%, resulting in this level counting as a story. Existing levels of the building all shift up about five to six feet, to allow for the new basement story. Existing elevations have not been provided to verify the height increase.

The existing rear shed roof off the right side of the original rear gable dormer is not considered a dormer, and the proposed new shed roof off the right-side of the existing rear gable dormer similarly is not a dormer. All aspects of the rear 3rd level construction are not considered dormers.



Other Comments:

The subject property recently suffered a significant fire, and is currently being remodeled for future occupancy.

Zoning ordinance and state law allowances for nonconforming structures would allow for this structure to be repaired and remolded to the pre-fire condition without necessitating zoning variances.

With this proposal, the subject building is being shifted on the lot to provide a compliant side yard setback (3.3') and to obtain a driveway vision clearance exception from the Traffic Engineering Division. The following chart represents the existing and proposed setback requirements:

	Front	Side, West	Side, East	Rear
Existing	3.33'	2.75'	6.25'	5.66
Proposed	5.66'	3.33'	5.25'	3.33'

The proposal also calls for the removal of an existing rear landing and stair to grade. These features are allowed projections into setbacks and may be repaired by-right.

The existing and proposed structure is very close to neighboring structures. The recent fire at the rear of the structure demonstrates that close proximity of this structure to its neighbors resulted in fire damage to those neighboring structures. Adding bulk and shifting the structure closer to the rear lot line would appear to increase the potential for fire damage on neighboring structures.

The owner has indicated an intent to sell to an owner-occupant, and has stated the home is more suitable to an owner-occupant with off-street parking. Staff agrees, however, there is not guarantee it will be sold to an owner occupant, and it also is no a guaranteed that a future owner may need or desire off-street parking, or may be satisfied purchasing the home without any off-street parking.

The submitted plans show a potential of an Accessory Dwelling Unit (ADU) at the rear of the first-level addition. An ADU is allowed only at an owner-occupied single-family property as a *Conditional Use*, requiring Plan Commission approval as part of a public hearing. At this time no such Conditional Use request has been submitted for this property.

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. The proposal is a significant construction project, intended to repair, remodel, update and expand the existing fire-damaged home. The request appears to be based upon the owners' desire to keep the footprint size of the home generally as is, perform significant construction to the building, and only modify placement to satisfy vision clearance requirements necessary for adding the parking amenity. Other options, such as remodeling/repairing the structure as it currently exists or demolishing the structure and constructing a new single family home more considerate of the setbacks, and potentially more in keeping with the standards of approval for zoning variances, does not appear to have been considered by the owner.

This request appears to be driven by the petitioner's desire to add the new basement level including a garage component and the associated necessary 3rd level addition for exiting, in conflict with Zoning Ordinance requirements, rather than a hardship. Staff recommends the Zoning Board find the standard of approval have not been met, and **denial** of the variance requests, subject to further testimony and new information provided during the public hearing.