

ZONING ADMINISTRATOR'S REPORT
VARIANCE APPLICATION
206 N. Spooner Street

Zoning: TR-C3

Owner: Raphael Kadushin

Technical Information:

Applicant Lot Size: 57' w x 60' d **Minimum Lot Width:** 30'

Applicant Lot Area: 3,420 sq. ft. **Minimum Lot Area:** 3,000

Madison General Ordinance Section Requiring Variance: 28.044(2)

Project Description: Two-story single family home. Demolish existing dilapidated attached single-story garage, construct new 2-story addition that included first-level garage space and second level loft space.

	<u>Side Yard</u>	<u>Rear Yard</u>
Zoning Ordinance Requirement:	5' 0"	20' 0"
Provided Setback:	1' 1"	1' 0"
Requested Variance:	3' 11"	19' 0"

Comments Relative to Standards:

1. Conditions unique to the property: The subject lot is small in size and shallow in depth, one of the smaller lots in the neighborhood. This lot and the lot to the south were split and adjusted from primarily one single platted lot prior to initial development, resulting in small lot size and shallow lot depth. This lot is not necessarily unique, as lots in this neighborhood vary in size. The side setback is also relatively shallow, limiting the ability to attach the addition alongside the home while retaining functionality of a garage space. Just about any addition would necessitate a zoning variance.
2. Zoning district's purpose and intent: The regulations being requested to be varied are the *side yard and rear yard setbacks*. In consideration of this request, the *side yard and rear yard setback* are 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 also to afford access to the backyard area, around the side of a structure. The proposed addition is a two-story addition placed nearly entirely behind the home, not like the more common single-story detached garage found typically alongside or behind the home in the neighborhood. Two-story elements including garage spaces appear to be most often placed alongside the home, and have what appear to be interior connections similar to a home

addition. This project appears to result in development that is not consistent with the purpose and intent of the TR-C3 district and/or code requirements for detached accessory structures.

3. Aspects of the request making compliance with the zoning code burdensome: Garages in the neighborhood tend to be placed on one of two configurations: an attached garage to the home, generally alongside or below the home, integral and connected to the home with an interior connection point, or as detached garages behind the home. A setback variance will be required for any construction that could afford function as garage space, alongside or behind the home, so some variance appears necessary.
4. Difficulty/hardship: As noted above, just about any addition would require a zoning variance. This fact does not then equate to an argument that any addition, or this particularly tall addition (2-story), should be approvable. To maintain the status quo for the property, variances for the replacement of the existing 1-story garage with a similar new garage could be requested. It appears as though this request is based upon a desire to gain space within an accessory structure that would otherwise not be permissible, by requesting the two-story addition as part of needing to replace the dilapidated garage.
5. The proposed variance shall not create substantial detriment to adjacent property: The placement of the addition in close proximity to the neighboring lots appears as though it could have an adverse impact on those lots. Future construction on those lots will likely be adversely impacted by the proposed building, a significantly taller building than the existing garage, as it introduces two-story bulk placed at approximately one foot from a common lot line with two adjacent properties.
6. Characteristics of the neighborhood: The proposed structure is not generally common with other similar buildings found in the general area. A two-story appearing detached garage is not usual or common. The requested project appears to represent a higher amount of useable house area relative to the property lot size (a floor area ratio measurement), as compared with other homes in the area. The proposed materials and general design for the building appear to be common for similar buildings in the neighborhood.

New Comments:

At its December 4th 2014 meeting, the ZBA deferred the case. The following comments were provided:

- Concerns were expressed about the hardship versus desire of the applicant,
- A question about the project representing consistency with other similar structures or additions in the neighborhood was expressed. More information needs to be provided showing setbacks to property lines for examples that are shown as similar,
- The concerns that the request involves allowing more than just a garage space was raised,
- Concerns about the bulk of a two-story structure into the rear and side setback area.

In response, the applicant has provided the following:

- Additional information regarding the standards for approval for a variance,
- Additional information regarding the desire for the loft portion of the addition**

*** The petitioner has indicated the loft space will be used in support of a home occupation. Although the use of the space will be fluid across the various owner of the property through time, the proposed use for home occupant purposes appears to violate both the building and zoning code provisions for home occupations.*

The petitioner has included a number of example photos of property that are claimed to be similar to the request, but no information is presented relative to these properties, including but not limited to: setback to the property line, connection between garage space and house, or date/time of construction, etc. Staff recommends the ZBA find this information inadequate to represent the claim of commonality of this project with the neighborhood/general area.

Comments form 12-4-14 staff report:

The existing single-story garage is attached to the home solely because it is placed at the location necessary for the building to serve as a garage. There is no interior connection between the existing garage and the home. The proposed placement generally matches the current placement of the detached garage on the corner lot to the north. The placement of a garage is most appropriate as proposed.

The petitioner is requesting to build a two-story addition that is generally behind the home and without an interior connection to the home. The function of the addition is like a typical detached garage and the ZBA should give consideration to this fact when discussing this request. The project is considered an addition because it is attached to the home. The proposed addition is less than the maximum height of what would be allowed should this be considered an addition to the home, but taller than what would be otherwise allowed if this were to be viewed as a detached accessory structure. By attaching the structure to the home, the height requirement for detached accessory structures is not applicable, so the setback variance request affords flexibility from the height requirement that would limit otherwise similar free-standing detached structures on other similar property in the neighborhood.

At its December 10th, 1968 meeting, the Madison Zoning Board of Appeals granted side and rear yard variances for a two-story addition to the south side of the home.

As this property is located within the University Heights Historic District, the Madison Landmarks Commission must issue a *Certificate of Appropriateness* for this project. No application has been made for Landmarks Commission review to date. The Landmarks Commission review process will commence pending the outcome of the zoning variance requests.

Staff Recommendation: The burden of meeting the standards is placed upon the applicant, 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 primarily based on the desire of the applicant to replace an existing garage with a two-story garage/studio space as designed, rather than a definable hardship. Staff recommends that the Zoning Board find that the variance standards are not met and **deny** the requested variance as submitted, subject to further testimony and new information provided during the public hearing.