

ZONING ADMINISTRATOR'S REPORT
VARIANCE APPLICATION
7202 Mineral Point Road

Zoning: Suburban Employment

Owner: NADD1, LLC

Technical Information:

Applicant Lot Size: 190'±w x 245'±d

Minimum Lot Width: 65'

Applicant Lot Area: 47,374 sq. ft.

Minimum Lot Area: 20,000 sq. ft.

Madison General Ordinance Section Requiring Variance: 28.085(4)(b)

Project Description: Demolish existing single-story restaurant-tavern and construct single-story restaurant with vehicle access sales and service widow and outdoor eating area. Project requests variance from parking/drive aisle setback requirement.

Zoning Ordinance Requirement: 25'

Provided Setback: 20'

Requested Variance: 5'

Comments Relative to Standards:

1. Conditions unique to the property: The lot exceeds minimum lot area and lot width requirements and is of regular shape with adequate access to adjacent streets. There does not appear to be an unusual or unique condition present, outside of a desire to design and place a restaurant of this size and capacity, with these facilities, at this location.
2. Zoning district's purpose and intent: The regulation being requested to be varied is the *drive/parking aisle setback*. In consideration of this request, the intent of the setback design requirement is to establish an appropriate landscaped buffer and physical separation between a street and a parking/drive aisle on the private property. The requested variance is not necessarily contrary to the public interest; however, the loss of this landscape buffer is in contrast to the intent of the required setback.
3. Aspects of the request making compliance with the zoning code burdensome: It appears as though the site could provide the required minimum setback without significant impact to the traffic flow and function of the restaurant and vehicle access sales and service window. A minor change to the plan could be introduced that would result on no off-street parking being eliminated.

4. Difficulty/hardship: See comments #1 and #3. The petitioner notes some challenges fitting the “prototype” store programming on the site, in terms of efficiency, traffic and profitability. This point to the question of whether or not this site is adequate to support the restaurant. If the proposed “prototype” cannot fit on the site with the relatively minor 5’ change, perhaps the site is not appropriate for the “prototype” building, and a different solution should be designed in consideration of site constraints and zoning code requirements.
5. The proposed variance shall not create substantial detriment to adjacent property: It does not appear as though the variance would introduce detriment or adverse impact on surrounding properties.
6. Characteristics of the neighborhood: The general area is comprised of mostly larger-scale commercial and employment uses, primarily auto oriented, where landscaping areas commonly separate the off-street parking areas from public streets and sidewalks. As properties redevelop, which is occurring in the area, zoning code requirements will ensure appropriate landscaped areas and buffers are included.

Other Comments: This project required Plan Commission review for the demolition of the principal structure and Conditional Use for the vehicle access sales and service window and outdoor eating area. The project was originally designed and submitted for review without providing the required setback, and was approved with a condition the setback be met or a variance be secured.

The application references replacement of the existing 32 year old building that operates with late hours and serves alcohol, as being factors in support of the variance relative to standard #5. The use of the facility, hours of operation, increase or decrease of traffic, alcohol service, etc. are not germane to this parking area setback variance request, and are within the jurisdiction/review of the Plan Commission and Alcohol License Review Committee.

The application references a reduction “back to the original 16 feet” but the submitted plans show a 20’ setback. The ZBA may consider a different reduction that shown on the submitted plans on other plans that may be presented, but should include facts and findings relative to any variance they may decide to grant.

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 develop the project as originally designed for a “prototype” building, 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.