

ZONING ADMINISTRATOR'S REPORT
VARIANCE APPLICATION
938 Spaight Street

Zoning: TR-V2, HIS-TL

Owner: Apex Real Estate Holdings, LLC

Technical Information:

Applicant Lot Size: 48' wide x 132' long **Minimum Lot Width:** 50'

Applicant Lot Area: 6,336 square feet **Minimum Lot Area:** 12,000 square feet

Madison General Ordinance Section Requiring Variance: 28.078(2)

Project Description: Applicant requests side yard setback variances for reconstruction and expansion of front open porch and new rear decks and stairs on a multi-family building. Project also involves removal of existing front and side fire escapes.

Side Yard Setback for Open Porch

Zoning Ordinance Requirement: 4.8'

Provided Setback: 3.2'

Requested Variance: 1.6'

Side Yard Setback for Stairs

Zoning Ordinance Requirement: 4.8'

Provided Setback: 3.2'

Requested Variance: 1.6'

Comments Relative to Standards:

- 1. Conditions unique to the property:** A condition unique to the property is that the existing building has a front open porch and rear stairs both located within the side setback. Another unique condition is that the property is within a local historic district, and the building historically had an open front porch that spanned most of the building width and had the proposed side setback. The existing stairs' noncompliance with the building code is another unique condition.

- 2. Zoning district's purpose and intent:** The *side yard setback* is intended to provide minimum buffering between buildings, generally resulting in space 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 proposed open porch, stairs, and decks are no closer than the existing building to the side property line so this variance would not ultimately result in a narrower side yard than already exists. Air conditioner units are also located within this side yard so primary access around the building and to the backyard is on western side of the building. This proposal will not change that condition. The proposal appears to result in conditions consistent with the purpose and intent of the side yard setback in the ordinance.

- 3. Aspects of the request making compliance with the zoning code burdensome:** The zoning code requires that a rebuilt and expanded front open porch conform to the side setback requirements. The property is located within a historic district which generally seeks to return structures to historically consistent design. The expansion of the porch is designed to match the historic porch footprint.

The existing stairs are too steep, which does not comply with the building code. The new stairs and decks would be code compliant and maintain an additional entrance/exit on the building. Completely rebuilding the stairs and decks with a zoning code compliant setback would make the reuse of existing doors and components of the existing stairs and decks challenging. For these reasons, compliance with the zoning code appears to be unnecessarily burdensome.

- 4. Difficulty/hardship:** The building was built in 1902 and purchased by the current owners in 2006. The difficulty or hardship appears to be created by the terms of the ordinance as applied to the existing building. See #1 and #3 above.

- 5. The proposed variance shall not create substantial detriment to adjacent property:** The existing open porch, decks, and stairs are located within the side setback with no known substantial detriment to adjacent property. Although additional bulk will be added to the rear stairs and decks within the setback, it does not appear that the variance would have substantial impacts on access to light and air for adjacent property.

- 6. Characteristics of the neighborhood:** The neighborhood is primarily a mix of small multi-family buildings and single family houses. Open porches and rear decks and stairs

like the proposed are common within the surrounding neighborhood and many have nonconforming setbacks.

The open front porch as proposed received a Certificate of Appropriateness from the Landmarks Commission, and that variance appears to be compatible with the character of the immediate neighborhood. However, the rear decks and stairs have been revised since they received Landmarks Commission approval, and they may no longer be compatible with the historic character of the neighborhood.

Other Comments:

At its December 13, 2021 meeting, the Landmarks Commission issued a Certificate of Appropriateness (COA) for the front porch as proposed and an earlier concept for the rear stairs. The plans for the stairs have been revised since the COA was received so they will be required to receive a new COA. According to the City's Preservation Planner, the stairs as proposed are unlikely to be approved by the Landmarks Commission.

Staff Recommendation:

It appears the variance standards for the open front porch have been met. Therefore, staff recommends **approval** of the open front porch side setback variance request, subject to further testimony and new information provided during the public hearing.

It also appears that some variance for stairs and decks within the side setback could be approvable. However, because the stairs and decks will likely need to be revised before receiving approval from the Landmarks Commission, staff recommends **referral** of this variance until a COA is approved for this portion of the project, so that both Landmarks Commission approvals and Zoning Board of Appeals approvals match, subject to further testimony and new information provided during the public hearing.