



# City of Madison

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

*Consider: Who benefits? Who is burdened?  
Who does not have a voice at the table?  
How can policymakers mitigate unintended consequences?*

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Thursday, May 18, 2023

5:00 PM

Virtual

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### CALL TO ORDER / ROLL CALL

Board Chair Peter Ostlind was excused from this meeting, in his absence Craig Brown moved to nominate Angela Jenkins as acting chair, David Waugh seconded. The motion passed 2-0 by unanimous vote.

Jenkins called the meeting to order at 5:10 pm.

Staff Present: Katie Bannon, Nancy Kelso, and Cary Olson

Board Members Present: 3 - Angela Jenkins, David Waugh, Craig Brown

Board Members excused: 2 - Peter Ostlind, Allie Berenyi

### APPROVAL OF MINUTES

A motion was made by Brown to approve the April 20, 2023 minutes, seconded by Waugh. The motion passed 2-0 by unanimous vote.

### PUBLIC COMMENT

1. [61712](#) Zoning Board of Appeals Public Comment Period

There were no public comments.

### DISCLOSURES AND RECUSALS

There were no public comments.

### PETITION FOR VARIANCE, AREA EXCEPTIONS OR APPEALS

**2. [77622](#)**

Victoria Opitz, owner of the property at 333 E. Sunset Ct., requests a side yard setback variance for an attached garage on a single family house. Alder District #5.

**Bannon stated the property is a two-story, single-family home; the proposal is to build an attached garage on the south side of the existing structure. Utilizing the submitted plans, Bannon detailed the layout of the addition explaining the required side yard setback is 7', the proposal provides a 5.2' setback, resulting in the request for a 1.8' variance.**

Victoria Opitz, owner of the property at 333 E. Sunset Ct., explained the original garage design was reduced in width for less encroachment into the setback. Opitz stated that the side and rear yards of 333 E. Sunset Ct. being adjacent to the rear yard of the reverse corner lot of 337 E. Sunset Ct. presents a unique condition and with that configuration, the proposal maintains buffering between the properties.

Opitz stated that constructing a code compliant detached garage would be burdensome as that would result in increased costs and maintenance for a longer driveway with an impervious surface, and take away open greenspace from the lot.

The Board questioned the state of the shed in the backyard and if there was any consideration for replacing it with a detached garage. Opitz explained the shed is approximately 12' x 18' in size, in failing condition and not likely salvageable. Opitz further stated that there may not be enough space on that side of the house to accommodate a driveway. Bannon clarified that there are no side setback requirements for driveways.

Opitz clarified the interior dimensions of the proposed addition, noting the unusual depth is needed for storage of a rowing shell.

Bannon noted that for all accessory structures on a lot, the code allows for a total maximum area of 1,000 square feet.

Kurt Sonnenburg of 4110 Mineral Point Rd. spoke in support of the proposal.

Jenkins closed the public hearing.

Waugh moved to approve the requested variance; Brown seconded.

**Review of Standards:**

**Standard 1: The Board was divided on determining if this standard was met; while there may not be unique physical conditions on the property, it was also stated that not having a garage built at the time of lot development is a situation unique to this location.**

**Standard 2: There were differing viewpoints among the Board regarding this standard. Although the submitted proposal maintains buffering between properties by having minimized the width of the garage along with the open space of the rear yard on the adjacent property, it was noted that a smaller garage could still accommodate a standard sized vehicle and there would be concerns for buffering if any structures were to be built on the adjacent property in the future.**

**Standards 3: Board members were divided between whether the proposal met**

standard 3. While there is space to build a detached garage, it would result in more impervious space which could be burdensome. A narrower attached garage would reduce impervious surface area, and there are also pervious driveway options.

Standard 4: Board members were divided between whether the proposal met standard 4. Permeable driveways are more expensive and more design is needed, so it's difficult to reduce impervious surface following the strict letter, building a compliant detached garage instead. The property was purchased by the owner in 2022. However, , the request seems to be driven by the desire of the owner to have an attached garage.

Standard 5: The Board found the proposed garage would not present substantial detriment to the neighboring properties.

Standard 6: The Board determined that as proposed, the attached garage would be compatible with the character of the neighborhood.

The Board voted 1-2 by roll call vote to deny the requested variance.

**3. [77624](#)**

Eric Helt and Chris Heck, owners of the property at 109 E Gorham St., request a side yard setback variance for stairs on a multi-family building. Alder District #2.

**Bannon stated the property is a multi-family apartment building in the downtown area, and the request is for a side yard setback variance to construct exterior stairs and decks. Noting the current stairway is too steep, Bannon explained the proposal to replace and reconfigure the current system of stairs and decks using portions of the existing structure will correct that issue. Utilizing photos and the submitted plans, Bannon explained how the proposed system will have less encroachment into the setback than what currently exists. The required side yard setback is 5', and the proposal provides 1.8', resulting in a request for a 3.2' variance.**

**Chris Heck, co-owner of the property at 109 E. Gorham St., stated the existing stairs and decks need to be replaced as the pitch of the stairway is too steep and needs to be brought up to code. Noting that the current configuration provides approximately 6" between the structures on this lot and the adjacent lot, Heck explained the proposed configuration will provide just over 2' of space between the structures.**

**Additionally, Heck stated that when working with the architect to reconfigure the stairs and deck, they had considered alternate arrangements and locations for the stairs and decks. However, due to the narrow spaces between properties on either side, the submitted proposal is the best option.**

**Eric Helt, co-owner of the property at 109 E. Gorham St., reiterated the need to improve the stairs and decks to code compliant standards. Helt explained how the placement of the decks tie into the 2nd and 3rd floor units with the existing structural supports integrated along the back wall of the building, noting it would be quite difficult to modify the submitted plans to avoid building in the setback.**

**The applicants provided further details on what would need to be done to restructure the entire building at the back to construct fully code compliant stairs, decks and landings, noting the impact that would have on the current tenants.**

**Jenkins closed the public meeting.**

**Brown moved to approve the requested variance; Waugh seconded.**

**Review of Standards:**

**Standard 1: The Board found that the narrow lot and the current non-compliant stairway create unique conditions to this property.**

**Standard 2: The Board determined the proposal meets the intent of the code as there will be less encroachment in the setback and is an overall improvement to the existing structure.**

**Standards 3 & 4: Noting that the back of the house would need to be structurally re-engineered to fulfill zoning code requirements and that with a relatively small variance, the proposal complies with building and fire codes, the Board found that strict code compliance would be unnecessarily burdensome and it is the ordinance that is creating hardship and difficulty.**

**Standard 5: The Board found that with the reduction to encroachment and improved safety, there would be no substantial detriment to adjacent properties.**

**Standard 6: Acknowledging the benefit of the Certificate of Appropriateness from the City of Madison Landmarks Commission, the Board determined the proposal would be compatible with the character of the immediate neighborhood.**

**The Board voted 2-0 by unanimous vote to approve the requested variance.**

4. [77625](#)

Aaron Kaleas, representative of the owner of the property at 938 Spaight St., requests side yard setback variances for stairs and an open porch on a multi-family building. Alder District #6.

**Bannon stated that the proposal consisted of variance requests for an open front porch and stairs at the back of the multi-family dwelling. Bannon noted that the plans for the stairs are in revision; therefore, only the variance request for the open front porch will be presented. Bannon explained the request is for a side yard setback variance on the eastern side of the property; the proposal is to remove and replace the existing front porch, expanding towards the western side of the property. Bannon further explained a variance is needed when rebuilding if the new structure is not going to meet the setback requirements. The required side yard setback is 4.8', the proposal provides 3.2', resulting in a request for a 1.6' variance.**

**Aaron Kaleas, representative for the owner of the property at 938 Spaight St., confirmed the request for variance at this time is for the open front porch only. However, he clarified that the lower foundation and floor area is to be removed and re-built while the existing porch roof will be maintained and extended back to its original width. Kaleas explained the house is on the historic register and through research, the plans were developed to restore it to its original appearance as much as possible. Kaleas stated that the encroachment into the setback will not be increased, but it cannot be decreased due to the placement of the structure on the lot, having been built prior to when setbacks were calculated and became established in the zoning code. Kaleas further explained there are other structural issues on the front porch that need to be addressed that meet setback requirements.**

**The Board questioned the depth of the eaves into the setback. Bannon explained that the code allows for encroachment up to 2 feet into the setback; however, they cannot extend over property lines.**

**Jenkins closed the public meeting.**

**Brown moved to approve the requested variance; Waugh seconded.**

**Review of Standards:**

**Standard 1: The Board determined that the restrictions imposed by the City of Madison Landmarks Commission on properties located in a Local Historic District, along with the entire side of the house situated in the side yard setback create conditions unique to this property.**

**Standard 2: The Board found that the variance would not be contrary to the intent of the regulations as there is no dimensional changes to the portion of structure that is already sited in the setback.**

**Standards 3 & 4: Noting the property is on the historic register and that it pre-dates the current zoning code, the Board found that strict adherence to the ordinance would cause hardship or difficulty and be unnecessarily burdensome. Additionally the Board stated that any attempt at code compliance would likely be in opposition to the Landmarks Commission.**

**Standard 5: The Board stated the proposal as submitted would not impose**

substantial detriment to the adjacent properties.

**Standard 6:** The Board found that with improvements to safety and aesthetics, along with the Certificate of Appropriateness from the City of Madison Landmarks Commission, the proposal is compatible with the immediate neighborhood.

The Board voted 2-0 by unanimous vote to approve the requested variance.

#### DISCUSSION ITEMS

5. [08598](#) Communications and Announcements

Kelso noted there is one case submitted for the June 15, 2023 meeting.

Kelso stated that due to a scheduling conflict with City staff for the August 17, 2023 meeting date, and with consensus from Board members, that meeting will be re-scheduled for Thursday August 10, 2023.

#### ADJOURNMENT

The Board adjourned at 6:47pm.