



City of Madison

City of Madison
Madison, WI 53703
www.cityofmadison.com

Meeting Minutes - Approved ZONING BOARD OF APPEALS

Thursday, April 18, 2019

5:00 PM

215 Martin Luther King, Jr. Blvd.
Room 013, Madison Municipal Building

CALL TO ORDER / ROLL CALL

Corigliano, chair, called the meeting to order at 5:01pm and explained the appeals process.

Staff Present: Matt Tucker, Cary Perzan, Nancy Kelso

Present: 4 - Peter A. Ostlind; Agnes (Allie) B. Berenyi; Dina M. Corigliano and Winn S. Collins

Excused: 1 - Jessica Klehr

APPROVAL OF MINUTES

A motion was made by Collins to approve the March 21, 2019 minutes with amendments, seconded by Berenyi. The motion passed (5-0) by voice vote.

PUBLIC COMMENT

DISCLOSURES AND RECUSALS

Berenyi disclosed that had previously worked with Sweeney Construction Company, but stated this will not affect her decision.

PETITION FOR VARIANCE, AREA EXCEPTIONS OR APPEALS

1. [55265](#) Brian and Annette Hellmer, owners of property at 2224 Waunona Way, request a lakefront setback variance to construct an elevated deck on the existing single-story, single-family dwelling. Alder District #14

Tucker explained that the property in question is a single-family dwelling zoned TR-C1, is lakefront property on Lake Monona. The request is for a lakefront setback variance to construct an elevated deck.

Brian Hellmer, applicant, stated they had purchased the home 3 years ago and in that time the current deck design proved to be dysfunctional in relationship to where the house structure comes to a point, creating a narrow passage at the center. Additionally, the deck areas on either side of this point do not provide enough space for normal usage of their deck furnishings. Hellmer also stated that the zoning code had changed since the original deck was built and as a result the current deck is non-compliant. While the new design extends the length of the deck, the width was scaled back to be more compliant. There is no infringement on the sightlines for the neighbors to the east, there is a public right of way (Fayette Ave) that separates 2224 Waunona Way from the residences to the west.

The board questioned the structure and use of Fayette Ave from where it crosses Waunona Way and continues to the lake. Hellmer responded that it is a gravel road; from his observations it is mainly used by city utilities to access the pump house situated close to the lake, and is occasionally used in winter by ice fishers to access the lake.

The board questioned that if there wasn't a right of way, what would the setback be and would a variance be necessary. Tucker replied that No variance would be necessary if Fayette Avenue did not exist. Tucker also noted that other homes and structures on neighboring properties to the west (as shown in the aerial photograph) are more forward to the lake than the home at 2224 Waunona Way.

The board noted that there were no details of the type of railing to be installed on the new decking, and also questioned if the deck is usable in its current condition and size. Hellmer stated that the type of new railing had not yet been determined. He did note that the current railing incorporates translucent panels, which is in agreement with current code. Due to the maintenance and cleaning concerns with translucent panels, they are considering installation of a cable type railing, which would also meet the current code requirements. Hellmer further described that as the deck stands now it is essentially divided in to two separate spaces by the angle of the house. He further explained that this results in cramped spaces for placement and use of their patio table and chairs, grill and other outdoor furnishings. Hellmer also stated the existing deck was built approximately 11-12 years ago and now many of the floorboards are warped causing an uneven surface, and a portion of the railing is damaged. While the deck is usable in its current state and repairs are needed, their goal is to improve overall functionality.

Tucker noted that no variance would be needed to rebuild the deck. A variance is needed because of the shape change to a deck that is in the lakefront setback area.

Ostlind moved to approve the variance as stated; Collins seconded the motion.

Review of Standards:

Standard 1: The Board noted the Staff Report addressed the uniqueness of the existing deck in relation to the current code; the house was built to anticipate a deck in some form as evidenced by the placement of sliding doors. Code compliance for the home would be quite unique even in its current state. Additionally, the undeveloped public right of way is unique to this site and is a factor in this specific setback.

Standard 2: The Board noted Fayette Ave mainly serves as a gravel maintenance road; the intent is to create uniformity for the homes in this area; the proposed plan does not encroach on the lake greater than the neighboring properties to the west and in line with neighbors to the east and was revised to reduce the size of the deck.

Standard 3 & 4: The Board noted that the house was clearly designed for an elevated deck and to be code compliant would be difficult with a typical lot, and is even more so with a lakefront lot. Also creating hardship is the method for setback calculation and the fact that the code was changed after the house and deck had been built.

Standard 5: The Board noted that neighboring properties to the west are situated closer to the lake and that the view for the properties to the east would not be affected.

Standard 6: The Board noted that due to the sufficient slope between house placement and lake, that elevated decks facing the lakefront are common within the neighborhood.

The Board voted 4-0 to approve the requested variance by voice vote.

2. [54577](#) Jay Patel, representative of the owner of property at 2301 East Springs Dr., requests a maximum building placement variance to construct a new five-story hotel. Alder District #17

Tucker explained that this item was deferred from the February 21st meeting and the proposal is to demolish a one-story commercial building and then to construct a five-story hotel. The variance request is for building placement.

Nick Bower reiterated the existing site conditions presenting challenges too include the shape of the lot, significant change in grade across a 45 foot distance and the driveway entrance shared with Home Depot. Bower presented new topographical information detailing the 6.5% grade in the driveway, and an expanded setback exhibit to show more detail with surrounding businesses. Bower stated that the major changes in design were the elimination of some parking stalls, green space and an ADA entrance on the west side of the building, along with a reduction in drive lane width. Bower also presented a new grading plan with slight changes to the current grades, ranging from ½ to 2 feet, to mainly improve on drainage. The revised plans included a 3-D rendering of the finished property.

The Board questioned if parking could be moved further to downward slope as there appears to be some discrepancy between the original and revised plans; additionally asked what the rationale was for not moving the drive closer to the street and bring the building along. Bower stated that there was essentially no change to the parking, that the plan holds the existing edge on the slope 3 to 1 to prevent erosion. If the drive were moved closer a retaining wall would be needed along the length of the property at street level, which they felt would present a less desirable/more massive view from the street.

The Board asked for clarification on ordinance compliance in regard to fire access. Bower noted that the revised plan allows for a full drive around the building. If the building was placed to be code compliant, the drive would become a dead end on the north side and there would not be enough room for fire vehicles to turn around, therefore the looping drive maintains complete access.

In regard to standards #3 and #4, Angie Black stated that the layout with the neighboring businesses creates a stair-step down effect resulting in this particular lot to be graded in multi directions narrowing to a pie shape. Also, the intent of the new code is to make the area more pedestrian friendly but doesn't accommodate the out-lot system used when the area was first developed.

Nick Bower added that these issues would not only apply to this specific project, but to any type of building project chosen for this site.

Tucker made note of how when this lot was first developed, due to the steep grade, a T-intersection was built on the private property entrance shared with Home Depot. This driveway entrance is needed to accomplish the grade and allow traffic to access the property. Tucker stated that although this may not necessarily be a zoning code issue, situations like this occur frequently and in this instance traffic engineering and civil engineering on this site affects the building placement opportunity.

Collins moved to approve the variance as stated; Berenyi seconded the motion.

Review of Standards:

Standard 1: The Board noted the conditions unique to the property are the grading issues in front that limit placement of the building, and that code compliance is unattainable due to the easement and shared access with the neighboring Home Depot property.

Standard 2: The Board noted that the intent of the zoning code is to get buildings to shift toward the front property line. However, the private roadway and t-intersection placed in the 100 ft. setback result in a building can only be placed beyond that point. The revised plans show that the applicant is attempting to get as close as possible to meet the building placement rule given the site constraints.

Standards 3 & 4: The Board noted the easement makes it impossible to comply with zoning code, and other construction alternatives would be quite burdensome. Since the original structure was built the code has changed from allowing placement of the building at the back of the lot to requiring a more forward placement, creating difficulty in redeveloping this lot.

Standard 5: The Board noted that among the neighboring businesses, this property would be closest to the front lot line while still respecting the easement and maintaining a buffer between adjacent properties.

Standard 6: The Board noted that the commercial business character of the neighborhood would be maintained and this would be an improvement over the previous building at this location.

The Board voted 4-0 to approve the variance as stated by voice vote.

DISCUSSION ITEMS

3. [08598](#) Communications and Announcements

Tucker thanked outgoing member Dina Corigliano for her 11 years of service with the Zoning Board.

ADJOURNMENT

The Board adjourned at 6:03 pm.