



# 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, March 16, 2023

5:00 PM

Virtual

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### CALL TO ORDER / ROLL CALL

Ostlind called the meeting to order at 5:08 pm.

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

Board Members Present: 4 - Peter Ostlind, Angela Jenkins, David Waugh, Craig Brown

Board Members Excused: 1 - Allie Berenyi

### APPROVAL OF MINUTES

A motion was made by Jenkins to approve the February 16, 2023 minutes with modifications, seconded by Brown. The motion passed 3-0 by unanimous vote.

### PUBLIC COMMENT

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

There were no public comments.

### DISCLOSURES AND RECUSALS

Ostlind disclosed that he had past professional contacts in regard to agenda items 3 and 5, however this would not affect his actions here tonight.

### PETITION FOR VARIANCE, AREA EXCEPTIONS OR APPEALS

2. [76605](#) Marta McRae and Eric Swenson, owners of the property at 237 Westmorland Blvd., request a rear yard setback variance for an addition to a single family house. Alder District #5.

Bannon stated the property is a one-story single family home on a corner lot. Bannon shared photos and floor plans of the existing house and proposed addition, noting that a small portion of the proposed addition extends into the rear yard setback on the eastern side of the lot. Bannon explained the required setback is 25.69 feet, the proposal provides 25.1 feet, resulting in the request for a .59 foot variance.

Eric Swenson, owner of the property at 237 Westmorland Blvd., explained the addition is needed to add dwelling space to better accommodate the occupants in the household, noting the size of the requested variance is less than one foot in area. Swenson stated he had spoken with the neighbors on each side of the property and they had provided written support of the proposed addition.

Swenson clarified for the Board the proposed changes to the existing floor plan with the new addition.

Bannon provided further information regarding the minimum required setbacks for this property. Bannon stated that although a significant portion of the existing structure is in the rear yard setback, a variance is needed for any new construction located in the setback.

Bannon read into the record an e-mail from the property owners of 240 Standish Ct. stating their support of the proposal.

Ostlind closed the public hearing.

Waugh moved to approve the requested variance; Brown seconded.

Review of Standards:

**Standard 1:** The Board determined that the age of the existing structure, having been built prior to the current zoning code, is now non-compliant, thus creating a unique condition of this property.

**Standard 2:** The Board found the proposed addition efficiently creates more dwelling space while the amount of existing buffering between properties is maintained.

**Standards 3 & 4:** The Board noted that with the existing structure having been built prior to current code along with its placement in the rear yard setback, and the very small area requiring a variance, the terms of the ordinance create hardship and strict compliance would be unnecessarily burdensome.

**Standard 5:** The Board found the proposed addition would not impose any substantial detriment to neighboring properties.

**Standard 6:** The Board found the portion of the proposal requiring a variance to be in keeping with the character of the neighborhood, however stated that

the majority of the addition appeared less compatible.

The Board voted 3-0 by unanimous to approve the requested variance.

3. [76606](#) William and Kim Donovan, owners of the property at 531 N. Pinckney Street, Unit B, request a rear yard setback variance for an elevated deck on a multi-family condominium building. Alder District #2.

**Bannon stated the property at 531 N Pinckney St. is a multi-family condominium building. Utilizing photos and the submitted plans, Bannon explained the proposal is to replace an existing patio with an elevated deck in the rear yard. Bannon noted the required rear yard setback is 14.6 feet, the proposal provides for 5 feet, resulting in a variance request of 9.6 feet. For additional reference, Bannon provided information regarding an approval for variances granted in 1984 when the original structure was built.**

**Kim Donovan, property owner of 531 N Pinckney St. Unit B, stated the proposed deck will extend the existing outdoor living space by approximately 77 square feet. Donovan explained the proposed deck was designed to mitigate obstruction of sight lines to the west. Donovan further explained the layout of their unit and its location within the condo complex. Additionally, Donovan noted the proposal did receive a Certificate of Appropriateness from the City of Madison Landmarks Commission.**

**Bannon clarified for the Board the portion of the proposed deck extending towards the lake is within the required lakefront setback, and the variance request is only for the rear yard setback. Bannon stated that a patio may be placed in the rear setback, however an elevated deck cannot be in the rear setback without an approved variance.**

**The Board questioned the possibility of extending the retaining wall out towards the lakefront to construct a bigger patio. Bannon stated zoning code would not prohibit the expansion of an at-grade patio or deck. The Board asked the applicant if they would consider this option. Donovan stated that option would significantly increase the cost of construction and it would be very difficult to get materials and equipment in that location.**

**Ostlind closed the public hearing.**

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

**Review of Standards:**

**Standard 1: The Board stated that the steep terrain of the lakefront property and the narrow strip of land between the neighboring structure create conditions unique to this property.**

**Standard 2: The Board determined the proposal is not contrary to the spirit, purpose and intent of the ordinance as the deck is situated below grade of the adjacent property and appropriate buffering between properties is maintained.**

**Standards 3 & 4: The Board was divided regarding whether these standards had been met. The Board noted the difficulty and expense of altering the retaining wall to eliminate the elevation of the deck could be burdensome. However the Board stated that code compliance could be met with an at-grade deck constructed within the current conditions of the property. Although the Board felt the ordinance to be somewhat restrictive, it was stated that any hardship created is more from the desired size and extension of the proposed deck rather than by the terms of the ordinance.**

**Standard 5: The Board found that with the location of the unit and access to it within the complex, the proposed deck would not impose any detriment to adjacent properties.**

**Standard 6: The Board determined the proposal is compatible with the character of the immediate neighborhood, noting the letter of approval from the condo owners association and the Certificate of Appropriateness from the City of Madison Landmarks Commission.**

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

4. [76607](#)

1010 Ann Street LLC requests an appeal of the Zoning Administrator's determination as it pertains to the use of a property at 1010 Ann St. Alder District #14.

**Prior to the meeting the applicant requested a continuance for hearing. Waugh moved to refer the item to a future meeting date; Jenkins seconded.**

**The Board voted 3-0 by unanimous vote to approve the referral.**

**5. [76608](#)**

John Seamon requests an appeal of the Zoning Administrator's determination as it pertains to the Downtown Design Standards and a proposed multi-family building at 139 W Wilson St. Alder District #4.

**John Seamon, of SEA Designs, appeals the Zoning Administrator's determination of the Downtown Design Standards, MGO 28.071(3)(c), as applied to a proposed multi-family building at 139 W Wilson St. In regard to the vertical facade articulation, Seamon explained how the proposed building material (faceted concrete panels) meets the ordinance requirement due to the textural changes of the facade effected by weather conditions. Seamon further explained his position that although articulation, modulation, and palette of materials are not clearly defined in the zoning code, the proposed design and materials are code compliant.**

**Zoning Administrator Katie Bannon explained the zoning code changed in 2013, detailing the changes and requirements applicable to Downtown Design Standards. Bannon stated that when reviewing the proposed new construction design, zoning staff determined that two design standards were not met; the first was the vertical facade articulation, the second was the requirements when using concrete panels as building material. Bannon provided the specific requirements and the variety of options available to meet those standards as stated in the ordinance. Bannon explained the definition of articulation, modulation, and palette of materials as related to the zoning code and as applied to this proposal. Bannon provided photographic examples of existing structures in the area of 139 W Wilson St. that meet these standards.**

**Seamon and Bannon took the opportunity to respond to each other's statements.**

**Terrence Wall spoke in opposition to the submitted proposal.**

**Seamon spoke in response to Wall's comments.**

**The Board posed questions to Seamon and Bannon for further explanation and clarification of their respective positions relating to interpretation and application of city ordinance.**

**Ostlind closed the public hearing.**

**Waugh moved to approve the petitioner's appeal of the Zoning Administrator's determination of Downtown Design Standards; Brown seconded.**

**After deliberations were completed and with no further discussion, the Board voted by roll call vote 0-3, denying the appeal. Discussion and reasons for the Board's decision are on the record of the proceeding.**

**DISCUSSION ITEMS**

6. [08598](#) Communications and Announcements

**Kelso noted the submission deadline for the April 20, 2023 meeting is Thursday March 23rd.**

**Bannon will e-mail Board members regarding date selection for re-scheduling the special session with City attorney Kate Smith.**

**ADJOURNMENT**

**The Board adjourned at 7:58pm.**