

ZONING ADMINISTRATOR'S REPORT
VARIANCE APPLICATION
531 N Pinckney St.

Zoning: DR-1, HIS-MH

Owner: Kim and William Donovan

Technical Information:

Applicant Lot Size: 103' d x ~184' w

Minimum Lot Width: 40'

Applicant Lot Area: 14,535 square feet

Minimum Lot Area: 3,000 square feet

Madison General Ordinance Section Requiring Variance: 28.078(2)

Project Description: Applicants request a rear yard setback variance for an elevated deck on a six-unit condominium building. A 20.6' rear setback is required for principal buildings, and elevated decks may encroach up to 6' into a required rear setback.

Rear Setback

Zoning Ordinance Requirement: 14.6'

Provided Setback: 5'

Requested Variance: 9.6'

The variance is requested for Unit B, on the northeast corner of the building. There is an existing 7.5' x 25.4' patio in this location. The proposed deck would be over the existing patio and then extend past the patio toward the lakefront for an additional 10 x 7.7' area.

Comments Relative to Standards:

- 1. Conditions unique to the property:** The property meets minimum lot width and lot area requirements for the DR-1 zoning district. A unique condition is that there is substantial slope on the property towards Lake Mendota.
- 2. Zoning district's purpose and intent:** The regulation requested to be varied is the *rear yard setback*. In consideration of this request, the *rear yard setback* is intended to provide minimum buffering between principal buildings on lots and to align buildings within a common building envelope, common back yards, and generally resulting in space in between the building bulk and commonality of bulk constructed on lots.

When looking at existing buildings that front N. Pinckney on the same block face, the two principal buildings to the south have a similar rear setback or slightly larger rear setback when compared to the condominium building. The third principal building to the south has a larger rear setback. It appears that this elevated deck would be in conflict with the purpose and intent of the rear yard setback in the zoning district because it would not align with other buildings and a common building envelope.

- 3. Aspects of the request making compliance with the zoning code burdensome:** The strict letter of the ordinance does not unreasonably prevent use of the property for a permitted purpose or render compliance with the ordinance unnecessarily burdensome. A patio has been and could be built in this location with no variance required. Not allowing an elevated deck does not appear to unreasonably prevent use of the property for a permitted purpose.
- 4. Difficulty/hardship:** The building was built in 1985, and this condo unit was purchased by the current owners in 1995. There does not appear to be a difficulty or hardship created by the terms of the ordinance. Rather, the variance request appears to be driven by the applicants' personal preference to build an elevated deck in this location, regardless of a required setback.
- 5. The proposed variance shall not create substantial detriment to adjacent property:** It appears that there will be no substantial impacts to light and air to adjacent property. However, the proposed elevated deck, which extends and overlooks the lake, may impact the experience of 166 E Gilman St. residents that use the adjacent stairway to access the lakefront.
- 6. Characteristics of the neighborhood:** The surrounding neighborhood includes a mix of uses and architecture. The property is located within the Mansion Hill local historic district, and the Landmarks Commission has approved the deck design. The deck appears to be relatively compatible with the character of the immediate neighborhood, other than its setback.

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. The variance request appears to be driven by the applicant's desire as reflected in the proposed design, rather than a 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.