



**Project Address:** 1138 Spaight Street  
**Application Type:** Variance/Waiver request for Certificate of Appropriateness for exterior alteration in historic district  
**Legistar File ID #** [30373](#)  
**Prepared By:** Amy L. Scanlon, Preservation Planner, Planning Division

## Summary

**Applicant/Property Owner:** John Curtin and Melody Niwot

**Requested Action/Proposal Summary:** The Applicant came before the Landmarks Commission to request numerous exterior alterations on June 24, 2013. At that time, the Landmarks Commission was unable to grant the request to add windows to the front elevation and suggested that the Applicant request a variance/waiver. The Applicant is now requesting that the Landmarks Commission grant a variance/waiver from the Landmarks Ordinance for a Certificate of Appropriateness for the installation of a non-historic window configuration on the front elevation of the residence located at 1138 Spaight Street in the Third Lake Ridge Historic District. The proposed project removes, modifies, and reinstalls the existing picture window and decorative transom window and adds a flanking double hung unit on each side.

**Applicable Regulations & Standards:** Section 33.19 of the Madison General Ordinances (see below)

**Review Required By:** Landmarks Commission

## Background Information

**Parcel Location:** The subject site is located in the Third Lake Ridge (local) Historic District and the Orton Park National Register Historic District.

### Relevant Landmarks Ordinance Sections:

#### 33.19(15) Variances.

- (a) Authority. The Landmarks Commission may vary the criteria for review of additions, exterior alterations or repairs for designated landmarks, landmark sites and improvements in any Historic District and the criteria for new construction in any Historic District in harmony with the general purpose and intent to preserve the historic character of landmarks, landmark sites and of each Historic District only in the specific instances hereinafter set forth and only if the proposed project will be visually compatible with the historic character of all buildings directly affected by the project and of all buildings within the visually related area. The variance procedure and standards are designed to prevent undue hardships caused by application of the strict letter of the regulations of this chapter and to encourage and promote improved aesthetic design by allowing for greater freedom, imagination and flexibility in the alteration of existing buildings and the construction of new buildings within an Historic District while ensuring substantial compliance with the basic intent of the ordinance.
- (b) Application for Variance and Notice of Hearing. An application for a variance shall be filed with the Landmarks Commission. After the filing of such application, a public hearing shall be held thereon. Notice of such hearing shall be published as a Class 1 notice under the Wisconsin

- Statutes. At least ten (10) days prior to the hearing, the Commission shall notify the owners of record, as listed in the office of the City Assessor, who are owners of property in whole or in part situated within two hundred (200) feet of the boundaries of the property affected. Notice of the time, place and purpose of the hearing shall also be sent to the alderperson of the ward in which the property affected is located.
- (c) Standards. The Landmarks Commission shall not vary the regulations of this ordinance unless it makes findings of fact based upon the evidence presented to it in each specific case that one or more of the following conditions is present:
1. The particular physical characteristics of the specific building or site involved would result in a substantial hardship upon the owner as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out, provided that the alleged difficulty or hardship is created by this ordinance and has not been created by any person presently having an interest in the property.
  2. In the case of the alteration of an existing building, the proposed design would incorporate materials, details, or other elements not permitted by the ordinance but which can be documented by photographs, architectural or archaeological research or other suitable evidence to have been used on other buildings of a similar vintage and style in the Historic District in which the building is located, provided that the project will not destroy significant architectural features on the building.
  3. In the case of new construction, the proposed design incorporates materials, details, setbacks, massing or other elements that are not permitted by the ordinance but which would enhance the quality of the design for the new building or structure, provided that said new building or structure otherwise complies with the criteria for new construction in the Historic District in which the building or structure is proposed to be located and provided further that it would also have a beneficial effect on the historic character of the visually related area.
- (d) Authorized Variances. Variances shall be granted by the Landmarks Commission only in accordance with the standards set forth in (13)(c)\*\*\* above, and may be granted only in the following instances:
1. To permit residing with a material or in a manner not permitted under this chapter.
  2. To allow additions visible from the street or alterations to street facades which are not compatible with the existing building in design, scale, color, texture, proportion of solids to voids or proportion of widths to heights of doors and windows.
  3. To allow materials and/or architectural details used in an alteration or addition to differ in texture, appearance and design from those used in the original construction of the existing building.
  4. To permit the alteration of a roof shape otherwise prohibited under this chapter.
  5. To permit the use of roofing materials otherwise prohibited under this chapter.
  6. To allow use of materials for new construction which use would be otherwise prohibited under Sec. 33.19(12)(f)1.b.

\*\*\* It was determined that the Ordinance was renumbered with the addition of Marquette Bungalows and First Settlement Historic Districts and that the revision did not pick up this reference.

## Analysis and Conclusion

A brief discussion of 33.19(15)(c) follows:

1. The existing configuration of windows on the front elevation appears to be original to the initial construction. The desire to have more light in the front room is not a substantial hardship and

- the placement of one window on the front elevation was not the decision of the current property owners.
2. The proposal to create two new window openings flanking the existing fixed window on the street façade does not retain the original or existing historical proportional relationships of door sizes to window sizes which is the main reason this request could not be approved at the June 24 Commission meeting. There are numerous examples of residences in the neighborhood, the historic district, and across the country of similar style and date of construction that have a three part window similar to that requested by the Applicants. Significant architectural features will not be destroyed by this work.
  3. Not applicable.

A brief discussion of 33.19(15)(d) follows:

Two instances are present which allow accordance with the standards of (c) above.

2. This request is for an alteration to a street facade which is not compatible with the existing building in proportion of solids to voids or proportion of widths to heights of doors and windows.
3. The architectural detail of the requested configuration of windows differs from the appearance and design from those used in the original construction of the existing building.

## **Recommendation**

Staff believes that the variance standards for the proposed window configuration are met and recommends that the Landmarks Commission approve the variance.