

ZONING ADMINISTRATOR'S REPORT
VARIANCE APPLICATION
138 S Franklin St

Zoning: DR1, HIS-First Settlement

Owner: Daniel and Gary Gorman

Technical Information:

Applicant Lot Size: 40'w x 92'±d

Minimum Lot Width: 30 ft

Applicant Lot Area: 3686 sq. ft.

Minimum Lot Area: 3000 sq. ft.

Madison General Ordinance Sections Requiring Variance:

- 28.072(1) {DR1 use list}
- 28.073 {allowable building forms}

Project Description: Two-story single-family home. The petitioner desires to remodel and construct an addition to the existing dilapidated principal structure, resulting in a two-unit building that does not meet zoning code definitions and building forms requirements. A single principal building is proposed, where one unit will be a two-story dwelling unit to the front of the lot and a second unit will be a two-story dwelling unit to the rear.

Comments Relative to Standards:

1. Conditions unique to the property: The lot exceeds minimum lot width and lot area requirements, and is similar in size to other lots in the area with similar principal structures. The lot is in a historic district, but that is not unusual or unique.
2. Zoning district's purpose and intent: The requested regulation to be varied is the allowed uses in the DR1 use list, but the principal variance request is based upon the building forms section and the list of definitions for two-family dwelling structures, which does not allow for a dwelling unit configuration as proposed. In consideration of this request, the zoning code requirements are intended to provide design requirements for two-family dwellings. Relevant to this case, the requirement is designed to discourage placing a dwelling unit behind another, resulting in little to no street presence for the rear dwelling unit. The proposed project is clearly in conflict with the intent and purpose of the zoning regulations.
3. Aspects of the request making compliance with the zoning code burdensome: The zoning code allows a *two-family two-unit* (stacked), but that design has not been presented to the Landmarks Commission or zoning staff for review. A *two-family two-unit* that otherwise complies with zoning and historic preservation ordinance is possible, but has not been explored to date. Such a design would most likely not require a zoning variance.

4. Difficulty/hardship: The owner purchased the property in June 2016. The premise of the applicant's request appears to be that the Landmarks Commission might not allow the *two-family two-unit* (stacked), which is a premise the staff does not accept. Per the attached memo from Preservation Planner Amy Scanlon, "*A proposal showing the units in a stacked configuration was not provided to the Landmarks Commission for review*". This request appears to be based upon the owner's desire to proceed with plans that have already been prepared rather than a definable hardship.
5. The proposed variance shall not create substantial detriment to adjacent property: The bulk/mass of the structure appears to meet setback requirements and otherwise would be permissible. This would have little adverse impact above/beyond what would be otherwise allowed.
6. Characteristics of the neighborhood: The general area is characterized by primarily residential structures on varying lot sizes and configurations. The bulk of the principal structure would not be out-of place for the area, however, the design of the dwelling units (one behind another) would appear to be in conflict with the design of what appear to be the commonly-found two-family dwelling units in the area or similar zoning.

Other Comments: This project was reviewed and approved by the Landmarks Commission, prior to the zoning conflict being discovered relative to the zoning ordinance requirements. Attached is a memo from Preservation Planner Amy Scanlon, noting that landmarks Commission does not have standards toward the use of the building (interior), they are primarily concerned with the project being "visually compatible with the historic character of the structure and the historic district." The petitioner has indicated that he feels the Landmarks Commission would not allow him to construct the addition in a zoning code-compliant fashion. This argument is not accepted by staff. In conversations with Ms. Scanlon, including a meeting with the petitioner, she has stated that it is likely the Landmarks Commission would approve a zoning code compliant *two-family two-unit* (stacked) design, in the same or very similar bulk and design as the current project. Such a design would not require zoning variances.

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. This request appears to be primarily based upon the desire to proceed with plans that have already been prepared and the presumption by the petitioner that Landmarks would not approve a zoning code-compliant design. 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.