

ZONING ADMINISTRATOR'S REPORT  
VARIANCE APPLICATION

**Zoning: TR-C2**

**Owner: Asifa Quraishi-Landes**

**Technical Information:**

**Applicant Lot Size:** 50' x 115'

**Minimum Lot Width:** 40'

**Applicant Lot Area:** 5,750 sq. ft.

**Minimum Lot Area:** 4000 sq. ft.

**Madison General Ordinance Section Requiring Variance:** 28.141(8)(c)1.

**Project Description:** Construct irregularly-shaped off-street parking area located in the required front yard setback area, adjacent to existing shared driveway. Additional paving allows for additional off-street parking for the single family near the front entrance of the home.

**Setback:**

Zoning Ordinance Requirement: 20.0'

Provided Setback: 0.0'

Requested Variance: **20.0'**

**Comments Relative to Standards:**

1. Conditions unique to the property: The subject lot exceeds the lot width and lot area minimum requirement and is otherwise a regular and compliant lot. The lot has some slope from front to rear, but this condition does not appear to relate to the request. The property has an existing shared driveway that provides access to a tuck-under garage space at the rear of the home and an open parking area behind the home, the legal parking for these homes. The lot is similarly sized to most lots on the neighborhood.
2. Zoning district's purpose and intent: The regulation being requested to be varied is the *requirements for front yard parking and driveway areas*. In consideration of this request, the requirement is intended to allow for driveways to be installed to access legal parking, located behind the minimum front yard setback. Driveways leading to off-street parking spaces are permitted to cross the front yard setback area, and vehicles may park on a legal driveway. The requirement for a legal parking space to be located outside of the front setback is intended to encourage a vehicle to be parked in the legal space and not the driveway/setback, however, it is legal to park a vehicle in any legal driveway area.

The request creates a parking area in front of the structure, to provide an additional parking option for occupants of the property at the front of the home. The request appears in conflict with the purpose and intent of the regulation, by sacrificing the front yard setback area for desired additional off-street parking near the front entrance.

In regard to public interests concerns, there is sidewalk on West Lawn Ave., and the parking of vehicles directly adjacent to the sidewalk will negatively affect pedestrians, with the creation of more pedestrian-vehicle conflicts.

3. Aspects of the request making compliance with the zoning code burdensome: The existing house placement and rear tuck-under garage, taking advantage of the shared driveway arrangement, limits the ability to construct a driveway or parking area at the front of the dwelling. However, legal parking exists at the rear of the structure, both in the tuck-under garage and at the surface level.
4. Difficulty/hardship: See comments #1 and #3. The property was originally developed in 1928 and purchased by the current owner in August 2004.
5. The proposed variance shall not create substantial detriment to adjacent property: The introduction of the driveway and parking area will have potential adverse aesthetic impact by expanding the parking area in front of the homes, which is a negative aesthetic condition.
6. Characteristics of the neighborhood: The general area is characterized by homes with driveways to one side or another, typically leading to an attached or detached garage. There are some nearby examples of parking areas located in the front yard setback, however none appear to lead to the front of homes. The resulting expanded parking area appears out-of-character for the broader neighborhood characteristics for driveways and parking.

**Other Comments:** The minimum off-street parking requirement for this property is one space, which must be located outside of the front yard setback area. As noted above, this property provides compliant parking behind the principal structure. The variance would allow for additional vehicles to be parked park in the requested area (front yard setback).

A shared driveway limits opportunities driveway/parking areas in front of the home, but this condition allows for a wider home to be constructed due to a smaller setbacks devoted to a shared driveway. The shared driveway arrangement also prohibits parking within the legal driveway, as that would block access to the legal parking in the backyard for either property that shares the driveway. Shared driveway arrangements are private agreements.

A legal off-street parking space is 9'w x 18'd. The proposal calls for an irregular space, adequate in depth for parking parallel or perpendicular to West Lawn Ave., and possibly for more than one vehicle. Also, the submitted site plan shows an area identified as "walkway" directly adjacent to the requested parking area. Staff included this in the request because as submitted, there does not appear to be any distinction about this walkway and the driveway. Vehicles could park on the walkway, and likely would. Enforcement to prevent vehicles from parking on the walkway would be very difficult. Staff only considers adjacent walkways as separate when there is some physical separation or design characteristic (such as a raised walkway) that would otherwise clearly prevent a vehicle form parking onto the walkway. No such physical separation or design characteristic has been presented with the variance application.

This request was generated as the result of a code enforcement action. The property owner apparently installed the parking area without advanced approvals, and requests to make the existing condition legal with this application. A wider curb-cut was installed when this portion of West Lawn Ave. was reconstructed a few years ago. Staff is investigating how this driveway was approved for installation, with no information available at the time of the preparation of this report. If the variance is denied, the applicant will be required to narrow the curb-cut to match the legal shared driveway, restoring the previous condition. The neighboring property sharing the driveway also has a similar illegal parking area, being addressed under a separate code enforcement action.

At its October 10, 2013 meeting, the Madison Zoning Board of Appeals approved a side yard setback variance at the subject property to allow for the construction of an elevated deck at the rear of the home. The submitted site plan for this case did not show the existing noncompliant parking area.

**Staff Recommendation:** The burden of meeting the standards is placed upon the applicant, who needs to demonstrate satisfaction of the standards for variance approval. It is not clear that this burden has been met. Since it appears this request is based upon desire of the petitioner to add off-street parking at the front of the home, rather than a definable hardship, at this time staff recommends **denial**, unless further testimony and new information is provided during the public hearing to address the standards of approval.