



City of Madison

City of Madison
Madison, WI 53703
www.cityofmadison.com

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?*

Thursday, August 15, 2024

5:00 PM

Virtual

CALL TO ORDER / ROLL CALL

Ostlind called the meeting to order at 5:04pm.

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

Board Members Present: 4 – Peter Ostlind, Allie Berenyi, Angela Jenkins, and David Waugh

APPROVAL OF MINUTES

A motion was made by Jenkins to approve the July 18, 2024, minutes; seconded by Waugh. 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

Berenyi recused herself from agenda item 2 as she is employed at Madison College and the case directly involves her department. Referencing agenda item 4, Berenyi disclosed she is acquainted with Jeannie Kowing; however, that would not impact her decision.

PETITION FOR VARIANCE, AREA EXCEPTIONS OR APPEALS

2. [84658](#)

Wade Wyse, representative of the owner of the property at 1849 Wright St, requests a variance for the location of outdoor storage for college. Alder District #12

Bannon stated the variance request is for the placement of an outdoor storage area, noting Zoning Code supplemental regulations prohibit outdoor storage placed between a principal building and an abutting street. Bannon explained there is existing outdoor storage on the property, the use of which is to be discontinued and replaced with the proposed outdoor storage area in the location as depicted in the submitted plans. Utilizing photographs and the submitted plans, Bannon further explained the proposal and indicated where code compliant outdoor storage could be placed.

Wade Wyse of Wyser Engineering, representative for the property owner of 1849 Wright St., explained why the outdoor storage is needed at this location, noting the building renovation currently in progress at Madison College to accommodate the construction program that will be using the outdoor storage area in its course work. Wyse stated the proposed location for outdoor storage would have the least amount of impact to pedestrian and vehicular traffic and would provide the most efficient movement of construction platforms in and out of the building. Wyse further explained why the current and other locations on the site are less suitable to accommodate outdoor storage.

Bannon clarified for the Board that the existing location of the outdoor storage area is a lawful non-conforming site condition because it was in place prior to changes made to the zoning code in 2013. Bannon noted that from a zoning perspective, the existing outdoor storage area could be improved upon such as with grading, paving, and fencing.

Wyse further explained to the Board several difficulties that would be encountered when moving the construction platforms from inside the building out to either of the suggested alternate outdoor storage locations.

Lynn Dahlgren, representing Madison College, explained that proposed development to the Early Learning Campus, which is near the existing and proposed outdoor storage area, is planned to be in one of the suggested alternate storage locations. Additionally, Wyse and Dahlgren provided information on why the proposed location is most preferred and how it provides better functionality for the College program it will serve.

Dahlgren provided more detail of how the outdoor storage area is used in day-to-day operations by the College.

There was discussion among the Board, Zoning Administrator, and applicants about referring the request to a later meeting or continue the process and move to a vote. The applicants chose to move forward with the hearing process.

Ostlind closed the public hearing.

Waugh moved to approve the requested variance; Jenkins seconded.

Review of Standards:

Standard 1: The Board determined the significant distance between the principal building and abutting street, along with the allowed use of an existing outdoor storage area present conditions unique to the property.

Standard 2: The Board found the proposal is not contrary to the intent and purpose of the zoning code as the depth of the lot provides areas for outdoor storage to be located far enough from the street to maintain needed buffering.

Standard 3: The Board was divided regarding whether this standard had been met. Referencing a code compliant area on the property for locating the outdoor storage area, it was stated that it would be unnecessarily burdensome as that would require renovation or reconfiguration existing infrastructure. Conversely, it was stated other code compliant areas exist on the lot where it would not be burdensome to locate the storage area.

Standard 4: The Board noted that with the large size of the lot there are alternate areas on the property that could accommodate the outdoor storage area; therefore, any hardship or difficulty is not the result of compliance to the terms of the ordinance.

Standard 5: The Board found the proposal would be an improvement on the existing conditions and would have no substantial detriment to adjacent properties.

Standard 6: The Board determined the proposal is consistent with the character of the neighborhood.

The Board voted 0-2 by roll call vote to deny the requested variance.

3. [84659](#)

Tom Zalewski and Ann Kinkade, owners of the property at 5630 Lake Mendota Dr, request a lakefront yard setback variance for elevated deck and building addition to a single family house. Alder District # 19.

Bannon stated that the proposal consists of two requests for variances to the lakefront yard setback at this property. One variance is for a second story addition, and the other variance is for construction of an elevated deck. Using the submitted site plan, Bannon explained how the lakefront yard setback is determined. Noting the existing house is situated in the setback, Bannon explained that any changes in bulk to the second story within the lakefront setback will require a variance. Bannon stated the required setback for the proposed second story addition is 64.23', the proposal provides a 61.25' setback, resulting in a variance request of 2.98'. Bannon further explained the proposal to remove an existing elevated deck, which is not in the setback, and construct a new elevated deck that will encroach into the lakefront yard setback. Bannon noted that City ordinance allows up to 6 feet of encroachment into the setback for an elevated deck. The new deck is proposed to be 12' x 24', the required lakefront yard setback is 58.23', and the proposal provides a 51.98' setback resulting in a variance request of 6.25'.

Ann Kinkade, owner of the property at 5630 Lake Mendota Dr., explained their position on how the proposal meets the required standards for a variance. Kinkade stated both components of the proposal will have minimal impact to neighboring properties, and only a small section of the structures encroach into the setback. Kinkade explained their preference for the size and placement of the deck, noting there are nearby properties that have decks of similar style and mentioned the letters of support from area neighbors.

The Board chose to review the 2 variances separately to preserve clarity and avoid confusion on each component. Ostlind stated that the variance request for the second story addition would be considered first, the variance request for the elevated deck would be considered second.

Referencing the submitted site plan, Banon provided for the Board more detail of where the setback encroachment occurs on the second story addition.

The Board questioned if the addition could be moved back and constructed without a variance. Property owner Thomas Zalewski explained that would not be structurally practical as the second-floor walls need to align with the first-floor load bearing supports.

The Board asked for further explanation of what is initiating the need for this variance. Bannon explained that a variance is needed when there is a change in bulk in the setback.

Ostlind noted for the record the members of the public who have registered their support of the proposal.

Ostlind closed the public hearing.

Berenyi moved to approve the variance request on the second story addition; Waugh seconded.

Review of Standards:

Standard 1: The Board determined that the existing structure being situated in the setback, along with the lakefront border, presented conditions unique to the property.

Standard 2: The Board found the proposal meets the intent of the code as there is minimal encroachment into the setback, similar to existing conditions.

Standards 3 & 4: Noting the existing roof line is in the setback, the Board determined that any type of renovation would require a variance. Additionally, code compliance would require offsetting the walls of the addition which would cause significant hardship and be unnecessarily burdensome.

Standard 5: Stating that the structural bulk in the proposal is similar in scope to what currently exists, the Board found the proposal would not cause substantial detriment to adjacent properties.

Standard 6: The Board stated that as proposed the addition would be compatible with the character of the immediate neighborhood.

The Board voted 3-0 by unanimous vote to approve the requested variance for the second story addition.

Waugh moved to re-open the public hearing to consider the request for a variance to construct an elevated deck; Jenkins seconded. Ostlind re-opened the public hearing.

Bannon provided further information about the definition of an elevated deck and explained the setback requirements and allowances for this structure relative to this property.

The Board questioned if it would be possible to lower the elevation of the deck so that a variance would not be required for construction. The applicants replied that it would not be feasible due to the existing structural elements of the home's lower level.

The Board questioned if the deck could be placed more off center with less or no encroachment into the setback to reduce or eliminate the requested variance. Zalewski stated their preference is to place the deck equally distant from either neighbor.

Noting the 12-foot depth of the proposed deck, the Board questioned if it was possible to reduce that dimension. The applicants provided their reasons for wanting to construct the deck as designed, noting its proportion to the existing house and lot.

Through continued discussion between the Board and applicants, the applicants proposed a size reduction for a 10'x 24' elevated deck.

Ostlind closed the public hearing.

Berenyi moved to approve the request for a variance to construct a 10' x 24' elevated deck in the location of the original proposal; Jenkins seconded.

Review of standards:

Standard 1: The Board stated that the difference between lakefront lots versus landlocked lots present unique conditions to this property.

Standard 2: The Board stated that with the reduction to the amount of variance the revision to deck size did not meet this standard.

Standards 3 & 4: Noting there are alternate options available to meet code compliance, The Board found that compliance is not unnecessarily burdensome or significant hardship, and any hardship or difficulty is not the result of compliance to the terms of the ordinance.

Standard 5: The Board determined this standard was met, as the orientation of the house and proposed placement of the deck does not create substantial detriment to adjacent properties.

Standard 6: The Board stated that the proposed deck would be compatible with the character of the immediate neighborhood as this is a typical feature found on lakefront homes.

The Board voted 0-3 by roll call vote to deny the requested variance for the elevated deck.

4. [84660](#)

Jeannie Kowing, representative of the owner of the property at 2003 Van Hise, requests rear and side yard setback variances for a new detached garage for a single family house. Alder District # 5.

Bannon stated the proposal is to remove an existing 20' x 12' one-car detached garage with non-conforming setbacks and construct a new 20' x 22' two-car detached garage with the same 2' side yard and 1.5' rear yard setbacks. Bannon explained how the proposal does meet the zoning code conditions for a replacement garage with the same nonconforming setbacks; therefore, a 3' setback is required for both side and rear yard setbacks, resulting in a 1' side yard setback variance request and 1.5' rear yard setback variance request. Bannon shared a staff exhibit of the site plan to illustrate how a detached garage with the proposed 20' x 22' dimensions could function when placed on the lot in a code compliant manner.

Jeannie Kowing of Jeannie Kowing Design LLC, representative for the property owners of 2003 Van Hise St., stated the shared driveway makes it difficult to park in the driveway except for in front of the garage and there is very limited availability of on street parking. Kowing explained that locating the new garage in the same area as the existing garage is best for maintaining water runoff, would utilize the existing driveway grading, and best align with the garage structure in the shared driveway.

John Santarius spoke in opposition to the proposal. Kowing chose not to rebut Santarius' statements.

The Board questioned why the garage could not be situated in the required setback. Kowing stated that placement in the setback would reduce the amount of area for mitigating water runoff, there would be less uniformity with the neighboring structures, and maneuvering vehicles would be more difficult.

Ostlind closed the public hearing.

Waugh moved to approve the requested variance; Berenyi seconded.

Review of Standards:

Standard 1: The Board stated that the shared driveway presents issues not usually encountered with residential properties, which presents a unique condition to this property.

Standard 2: The Board was divided regarding whether this standard had been met. Noting that a two-car garage is a common residential structure not inherently contrary to the spirit of the code, the Board stated that the placement of a new structure should maintain the purpose and intent of the code.

Standard 3: The Board found that there appear to be other options available to construct a code compliant garage that would not be unnecessarily burdensome or prevent use for a permitted purpose.

Standard 4: The Board determined this standard was not met as there was no convincing statement from the applicant demonstrating difficulty or hardship with code compliance.

Standard 5: The Board stated that as proposed, there would not be substantial detriment to adjacent properties, but it would incur the need for maintenance agreements between neighbors.

Standard 6: The Board found the proposal to be in keeping with the character of the immediate neighborhood, noting the common practice of structures having been built close to property lines.

The Board voted 0-3 by roll call vote to deny the requested variances.

5. [84661](#)

Abner Castro, Alpha Building & Design LLC, representative of the owner of the property at 501 N Rosa Rd, requests a side yard setback variance for an open porch addition to a single family house. Alder District # 11.

Bannon explained the request is for a side yard setback variance to construct an open porch addition to the front of a single-family house. Bannon, noting the existing house is situated at an angle on the lot, stated the required side yard setback is 6', the proposal provides 3', resulting in a 3' variance request. Bannon shared the submitted plans and photos to further detail the proposal and existing conditions.

Abner Castro of Alpha Building & Design LLC, representative for the property owner of 501 N. Rosa Rd, explained that due to the angle of the house on the lot, the front of the house where the porch is proposed is only 3 feet from the lot line, limiting options to be code compliant. Castro stated the proposed structure would improve both the function and aesthetics of the front entryway.

The Board discussed with Castro discrepancies noticed in the submitted plans. Castro clarified details and measurements of the proposed structure.

There was discussion among the Board, Zoning Administrator, and Castro regarding possibilities for reducing the amount of variance.

Ostlind closed the public hearing

Jenkins moved to approve the requested variance; Berenyi seconded.

Review of Standards:

Standard 1: The Board determined the unusually bad placement of the house on the lot creates a unique condition.

Standard 2: The Board found the proposal meets this standard as the open porch design adds very little bulk to the property.

Standard 3: The Board stated there may be a way to build a code compliant porch; however, the placement of the front door and the angle of the house presents a significant and burdensome challenge.

Standard 4: The Board was divided regarding whether this standard had been met, debating if a covered front entryway is a standard house feature and lack thereof presents difficulty or hardship. Additionally, the Board noted the skewed placement of the house would create difficulty for any changes to the front of the building.

Standard 5: The Board determined the proposal would not cause substantial detriment to adjacent properties.

Standard 6: The Board stated the proposed open porch would improve the aesthetics of the house's exterior and is in line with the character of the neighborhood.

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

DISCUSSION ITEMS

6. [08598](#) Communications and Announcements

Kelso noted the submission deadline for the September 19, 2024, meeting is Thursday August 22, 2024.

ADJOURNMENT

Berenyi moved to adjourn the meeting; Waugh seconded. By unanimous vote of 3-0 the Board adjourned at 9:41pm.