

ZONING ADMINISTRATOR'S REPORT
VARIANCE APPLICATION
302 Van Deusen Street

Zoning: TR-C3

Owner: Devin Coogan

Technical Information:

Applicant Lot Size: 60' x 60' **Minimum Lot Width:** 30'
Applicant Lot Area: 3,600 sq. ft. **Minimum Lot Area:** 3,000 sq. ft.

Madison General Ordinance Section Requiring Variance: 28.044(2)

Project Description: Petitioner requests a rear yard variance to increase the height of the existing two-story two-unit dwelling. The increase in height to the structure amounts to a maximum of approximately a 36" increase. The variance allows for a new foundation to be installed, to create positive drainage from the foundation, and to allow for a floor-to-ceiling height which could be finished as habitable area in the future.

Zoning Ordinance Requirement: 20'-0"
Provided Setback: 3'-2"
Requested Variance: 16'-10"

Comments Relative to Standards:

1. Conditions unique to the property: The subject lot was split from an originally platted 60'w x 120'd lot into two development sites. The resulting structures are on small lots and are nonconforming in regard to some of the required setbacks. The existing building sits close to the required minimum front yard setback and projects significantly into the rear yard setback. The lot is relatively flat, and the existing foundation is sinking or otherwise failing, resulting in the necessity to install a new foundation. The sanitary sewer serving the structure is relatively shallow, and a new basement may require pumping of sewage because a gravity system may not be possible.
2. Zoning district's purpose and intent: The requested regulation 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, generally resulting in space in between the building bulk constructed on lots, to mitigate potential adverse impact. The existing home is located well within the rear yard setback, so meeting the setback is not possible. Raising the dwelling on a new foundation, either the minimum necessary or as requested (more than the minimum) has no impact on the distance of the structure from the rear lot line, but will add bulk in the setback to some extent. The foundation replacement necessitates raising the structure, so some variance is

necessary. The rear yard setback area, as the ordinance intends, does not exist on this property, and that condition is not changing with the requested height increase.

3. Aspects of the request making compliance with the zoning code burdensome: The existing building placement is entirely in the rear yard area and cannot be changed. A new foundation will require positive drainage from the top of the wall and sill plate, which will require overall height of the structure to be raised, necessitating some variance. However, the petitioner is choosing to raise the structure higher than necessary to accommodate what appears to be a future habitable basement (approximately 36") rather than only the amount needed to create positive drainage (7"-12" or so). The petitioner could push the foundation deeper into the ground, which would allow for the floor-to-floor height for habitability and would minimize the overall height of the structure.
4. Difficulty/hardship: See comments #1 and #3. The existing home was constructed in 1894 and purchased by the current owner in December 2018.
5. The proposed variance shall not create substantial detriment to adjacent property: The height increase will have an impact on the neighboring property to the north, which could be substantial. The lower height increase, the lesser the impact to the neighboring property. See comment #3.
6. Characteristics of the neighborhood: The general area is characterized by single and two-story residential structures of similar overall height. Common foundations tend to project above ground about a foot or so. Exposed foundations are not predominant, and the proposal would reflect a condition which is not commonly found at residential property in the general area.

Other Comments: The project appears to involve conversion of the existing 1-car attached garage into a finished living area for one of the dwelling units. Floor plans have not been provided, so it is unclear of the intention for the garage space, and how compliance with off-street parking requirements will be maintained. A complete site plan will be required before any building permits will be issued.

The motivation for the project is a necessary repair to a failing foundation. It is reasonable and common to replace a basement with a new basement that has higher ceilings and/or could be finished/habitable, if it is possible. The petitioner's personal preference is for the basement to include a habitable floor-to-ceiling height, while also being served by a gravity sanitary sewer. This is why the foundation is taller than necessary. The placement of the foundation higher than necessary is proposed as a method to utilize a gravity-style sewer, rather than a pump sewer method, which must be employed if the sanitary sewer lateral is too shallow. There are additional costs associated with a deeper foundation and a pumping system; however, those costs cannot be the sole reason for approval of the variance.

The submitted materials do not include detail on the proposed basement, such as a cross-section. The submitted materials include an egress well, which is a feature necessary for exiting of a habitable basement space.

Some of the photographic examples of basement exposures appear to be located several blocks away from the subject property. It does not appear that basement exposure similar to the proposal is a common feature found at similar residential structures in the general area.

Most homes have a gravity system for waste water and sewage. When the sanitary sewer main is higher than the lateral of the home, a sanitary pump is used. They are an alternative to a gravity system, require some additional equipment over a gravity system, and are a code-compliant alternative.

The subject property contains two dwelling units and is located in a single-family zoning district. This is a nonconforming use. Adding space to a nonconforming use, which may be finished in the future, is permissible per the City Zoning ordinance and state law. Structural repairs or structural alterations to the building or structure shall not exceed fifty percent (50%) of the total assessed value of the building or structure. It is doubtful this project would add any substantial value, however a future remodel of the space could increase the value, or future additions including the proposed foundation and future finished basement eventually could exceed the maximum 50% current total assessed value limit. The property owner is ultimately responsible if construction exceeds the value limitations. The Zoning section of the Building Inspection Division tracks the value of construction improvements at nonconforming uses over time. This is not a matter for the Zoning Board of Appeals to consider, as no request relative to the value limitation for nonconforming uses is being requested with this project.

Less variance would be necessary if the petitioner chose to lower the floor elevation (dig/place the floor level of the basement deeper) or install a foundation that had a lower floor-to-ceiling height. Regardless of the depth of the basement floor, it will be necessary to approve a variance to raise the structure somewhat, to generate positive drainage from the new foundation.

Staff Recommendation: The burden of meeting the standards is placed upon the petitioner, who needs to demonstrate satisfaction of all the standards for variance approval. It is not clear that this burden has been met. A variance is necessary to replace the foundation because the height of the structure must increase slightly to meet building code, however, the height increase requested exceeds the minimum necessary, and there is an alternative method that would require less variance and result in the spaces desired by the petitioner.

For the variance requests for the 36” height increase, staff recommends that the Zoning Board find that the variance standards are not met and **refer** the case for more information relative to the standards of approval, or **deny** the requested variance as submitted, subject to further testimony and new information provided during the public hearing.

As an alternative, staff recommends the Zoning Board find the standards of approval have been met and recommends **approval** of a variance for a new foundation and sill plate set at the minimum elevation necessary to achieve positive drainage from the home, as required by building code, subject to further testimony and new information provided during the public hearing.