



# City of Madison

City of Madison  
Madison, WI 53703  
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## 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?*

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Thursday, January 20, 2022

5:00 PM

Virtual Meeting

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### CALL TO ORDER / ROLL CALL

Allie Berenyi called the meeting to order at 5:08 pm. Ostlind moved to appoint Berenyi as acting chair for this meeting, Brown seconded. The motion passed 4-0 by unanimous vote.

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

Board Members Present: 5 - Allie Berenyi, Angela Jenkins, Peter Ostlind, David Waugh, and Craig Brown.

Board Members Excused: 1 - Winn Collins

### APPROVAL OF MINUTES

A motion was made by Waugh to approve the November 18, 2021 minutes with modifications, seconded by Brown. The motion passed 4-0 by unanimous vote.

### PUBLIC COMMENT

1. [61712](#) Zoning Board of Appeals Public Comment Period

There were no public comments.

### DISCLOSURES AND RECUSALS

Ostlind recused himself from hearing the case for 161 Division Street.

### PETITION FOR VARIANCE, AREA EXCEPTIONS OR APPEALS

2. [69039](#) Michael Kowalkowski and Traci Tucker, owners of the property at 1146 E. Mifflin Street, request a side yard variance to construct a second-story addition onto a two-story single family home. Alder District #6.

Bannon stated the property is located in the east isthmus area, one block north of E. Washington Ave., between N. Ingersoll St. and S. Baldwin St., and zoned TR-V1. Bannon, noted the Zoning Board of Appeals approved the principal structure setbacks in 1990 and stated the original plans for the structure included living space over the garage. However, that space was not constructed when the home was built in 1992. Bannon explained the proposal is to construct a second story addition over the existing one story garage, adjacent to the existing structure along the west side elevation. Explaining the setback calculations for this lot, Bannon stated the side yard setback is 3.86 feet and the proposed addition provides a setback of 2.58 feet, resulting in the request for a 1.28 foot variance.

Michael Kowalkowski, owner of the property at 1146 E Mifflin St., noting the prior approved variance and original design, further explained their proposal for the second story addition upon the existing structure. Kowalkowski stated the proposed addition does not change the distance between neighboring properties, does not move the structure forward on the lot, and maintains existing access to the back yard. Kowalkowski explained the difficulties encountered if the addition were to be constructed without the variance. Additionally, Kowalkowski noted the aesthetic difference between this structure, having been built in 1992, and neighboring structures that were built in the early 1900s.

The Board questioned the lack of windows placed on the west elevation. Petitioner Kowalkowski stated they chose not to include windows on that side of the addition, as the view opens to the side of the building next door. Kowalkowski expressed a willingness to include a window on that level at the west end of the hallway.

The Board questioned if other locations for the addition were considered. Kowalkowski explained that both the basement and the area at the back of the house were studied. However, there were substantial complications in design, structural challenges, and higher costs to locating the addition in either space.

The Board questioned how the variance approved in 1990 relates to the current proposal and if that approval is applicable to this case. Tucker explained that the 1990 variance was approved for constructing a two-story dwelling, and it is unknown why the second level over the garage was not built. Tucker stated that when granted, a variance needs to be implemented within twelve months of approval, noting that the prior approval has expired. Tucker explained that the current proposal for a second story addition creates a bulk change in the existing setback, which requires a variance.

The owner of property in the 1100 block of E. Mifflin St. submitted written comments in opposition to the proposal.

Berenyi closed the public hearing.

Brown moved to approve with the condition to include a window in the hallway on the west elevation of the second floor addition; Waugh seconded.

**Review of Standards:**

**Standard 1:** The Board found the current position of the existing structure in the existing setback presents a unique condition to this property.

**Standard 2:** The Board noted that with the condition to add a window and with the bulk of the proposed addition situated at the front of the structure, the proposal is not contrary to the spirit, purpose and intent of the ordinance.

**Standards 3 & 4:** The Board determined that due to the placement of the existing structure and the difficulties of constructing an offset addition, strict compliance with the ordinance would cause hardship and be unnecessarily burdensome.

**Standard 5:** The Board found no substantial detriment to the adjacent properties, noting that privacy and some buffering is maintained with the property most affected by the proposal.

**Standard 6:** The Board determined the proposal would improve the structure's compatibility with the character of the neighborhood.

The Board voted 4-0 by unanimous vote to conditionally approve the requested variance.

3. [69187](#)

Kevin Burow, representative for the owner of the property at 161 Division Street, requests front yard setback variances to construct a two-story, two-family, two unit building and a lot line setback variance to construct a detached garage. Alder District #15.

Bannon stated the subject property is a vacant lot zoned TR-V1, located east of the isthmus, two blocks north of Atwood Ave., between Lafollette Ave. and Bashford Ave. Bannon explained the proposal is to build a two-story, two-unit building (principal structure) with a walk-out basement and an open front porch with living space in the basement level extended underneath the porch area. A detached two car garage (accessory structure) is also proposed. Bannon stated the request was a front yard variance for the principal structure and a side yard variance for the accessory structure. Bannon explained the required front yard setback for the dwelling portion of the principal structure is 15.5 feet and the proposed setback is 5 feet, resulting in a requested variance of 10.5 feet. Bannon further explained the required front yard setback for the open porch portion of the principal structure is 8.5 feet, the proposed setback is 5 feet, resulting in a requested variance of 3.5 feet. In regard to the accessory structure, Bannon stated when the structure is located behind the rear plane of the principal structure, the required side yard setback is 3 feet; the proposed setback is 1 foot, resulting in a requested variance of 2 feet. Bannon provided photos of the vacant lot indicating proposed placement of the structures relative to the neighboring properties, also noting the large oak tree at the back of the lot.

Kevin Burrow of Knothe & Bruce Architects, representative for applicant Joe Krupp, explained how the proposed design focused on siting the structures on the lot with minimal impact to the tree. Burow further explained how a paved turnaround space along the driveway would provide ease of movement for vehicles entering and exiting the detached garage. Noting the dimensions of the requested side yard variance, Burow stated a maintenance agreement with the owners of the adjacent property to the south has been obtained.

The Board questioned the placement above grade for the front porch, Burow noted it was approximately 4 feet above grade.

In response to questions from the Board regarding the garage placement and design, Burow explained that if the garage was situated within the setback the impact on the tree may be minimal; however, the turnaround space would be lost, which could make exiting the driveway more difficult. Burow noted that with placing the garage in the desired location, the water runoff would be collected in gutters and downspouts positioned to drain to the north.

The Board questioned what other options were considered to build these structures without the need for a variance. Applicant Joe Krupp stated the initial plans were for the dwelling and detached garage to be constructed within the existing setbacks, designed to be similar in style to neighboring properties. After consulting with an arborist, Krupp noted the plans were changed to the current proposal to avoid severely impacting the tree.

Tucker clarified for the Board that while there is no requirement by ordinance to provide vehicle turnaround space on a residential lot, it is required to provide one parking space per dwelling unit. Tucker stated the provided parking spaces are permissible within a garage or in a driveway area or open

space outside of the front yard setback.

The Board questioned if any parking options other than the proposed garage had been considered. Krupp stated other options were not contemplated, expressing the view that an enclosed two-car garage would be the minimum standard for this property. The Board questioned if any design changes were considered to the principal two-unit in order to minimize the requested variance. Krupp explained that other options would reduce the functionality of and decrease the amount of living space in both units. Additionally, Krupp noted the width of the lot, wanting to preserve the tree, and the desired features of the proposal constrained the layout and placement of the structures.

Casey Krupp spoke in support of the proposal. Kevin Grohskopf and Jessica Buske expressed their views on the proposal.

Berenyi closed the public hearing.

Waugh moved to approve the requested variances; Jenkins seconded.

**Review of Standards:**

**Standard 1:** The Board determined the vacant lot and the large, old tree presented conditions unique to this property.

**Standard 2:** The Board found the amount of variance requested for the front yard setback to be of a large size, however noted there have been similar requests previously presented to the Board.

**Standard 3:** The Board determined that with the vacant lot, it would not be unnecessarily burdensome to build code complaint structures. Stating that there previously existed structures of similar scope on this lot, the Board found compliance would not prevent use of the property for a permitted purpose.

**Standard 4:** The Board, while noting the desire to preserve the specimen tree was admirable, found that any difficulty or hardship was not caused by the terms of the ordinance, but rather by the size and range of the submitted proposal.

**Standard 5:** The Board found that the amount of bulk the structures placed in the front yard setback and along the lot line in the side yard setback, posed the possibility of substantial detriment to adjoining properties.

**Standard 6:** The Board determined that the concept of a two-story, two unit dwelling with a detached garage would be compatible to the immediate neighborhood, however the proposal submitted for consideration does not meet this standard.

The Board voted 0-3 by roll call vote; the motion to approve did not carry.

Brown moved for a five minute recess; Jenkins seconded.

The Board voted 3-0 by unanimous vote for approval of a five minute recess.

4. [69032](#) Ron Trachtenberg, representative for the owners of the property at 18 Chippewa Court, requests a rear yard setback variance to construct a single-story addition onto an existing single-story single family dwelling. Alder District #10.

Tucker stated this case had been referred from the July 15, 2021 meeting; noting that all Board members currently present, with the exception of Craig Brown, were in attendance at that meeting. Tucker explained the original proposal was for a second story addition atop the existing attached garage on the east side of the home. Tucker explained the current proposal is for a single story addition projecting into the rear yard setback. Noting the irregular shaped lot and the placement of the proposed addition in the setback, Tucker further explained the required rear yard setback is 30.05 feet, and the proposal provides a setback of 17.1 feet, resulting in the request for a variance of 12.95 feet. Tucker provided photos of the property to further illuminate the positioning of the addition.

Ron Trachtenberg, representative for David Friedman and Pamela Robbins, owners of the property at 18 Chippewa Ct., stated the placement of the existing structure on the lot created a shallow rear yard as the house sits parallel to the street and askew to the rear yard lot line which borders the Southwest Commuter Bike Path. Trachtenberg noted that some time after the petitioners purchased the property, the zoning code applicable to rear yard setback calculations changed. Trachtenberg detailed the changes made in the updated proposal, stating the structure remains as a single-story dwelling, and the addition is placed further from the neighboring property to the west and does not affect the front facing street view.

There were no questions from the Board.

Berenyi closed the public hearing.

Ostlind moved to approve the requested variance; Brown seconded.

Review of Standards:

Standard 1: The Board determined that the irregularly shaped lot on the cul-de-sac along with the placement of the structure and available space in the rear yard setback combined to present unique challenges to construct the proposed addition.

Standard 2: The Board found that with no property sitting directly behind this lot and with minimal encroachment, the proposal is in keeping with the intent of the regulations in the zoning district.

Standards 3 & 4: The Board, noting that the change in the zoning code changed the availability of space in the rear yard, found that code compliance would be difficult and burdensome.

Standard 5: The Board determined there could be some impact on the transportation corridor bordering the rear yard, however found no substantial detriment to neighboring residential properties.

**Standard 6: The Board found the re-designed proposal to be an improvement from the prior submission and in alignment with the character of the neighborhood.**

**Board member Brown stated that although he was not present for the July 15, 2021 meeting, he did review the available records of that meeting.**

**The Board voted 4-0 by unanimous vote to approve the requested variance.**

5. [68257](#)

Rachel Bergh, owner of the property at 226 Jackson Street, requests a front yard variance to construct a first-story dwelling addition with an open porch onto a two-story single family dwelling. Alder District #15.

Tucker stated the property is zoned TR-V1, the case having been referred from the November 18, 2021. Tucker explained the proposal is to rebuild the front porch with a portion to be finished as a part of the conditioned space in the home and a portion to be an open entryway to the home. Tucker further explained this area will increase in size, expanding towards the sidewalk. Tucker, noting the applicant had provided a more detailed site plan for this submission, stated the dimensions of the proposal have not changed. Tucker re-iterated the front yard setback requirement for this property is 12'9", the petitioner's placement of the structure provides for a 9'6" setback resulting in the request for a 3'3" variance. Tucker shared photos of the property that were presented at the November meeting, along with photos of this property and others in the immediate neighborhood submitted by the applicant.

Applicant Rachel Bergh noted the revised submission provided updated plans to include better scaled floor plans, detailed building materials, a clarified layout of furniture placement, and more clearly defined elevations, wall sections and foundation plans. Bergh explained that the photos she submitted better show the limitations to locating the addition at the back of the home and illustrate the number of homes of similar design on Jackson St.

There were no questions; however the Board commended the applicant for submitting the much improved materials for the proposal, providing more clarity and a better understanding of the project.

Berenyi closed the public hearing.

Brown moved to approve the requested variance; Jenkins seconded.

**Review of Standards:**

**Standard 1:** The Board noted the placement of the structures on the lot provides narrow access to the rear yard, and the evident need to repair the porch presents a unique challenge to additional living space.

**Standard 2:** The Board found that with setback averaging taken into account, the proposal preserves the general alignment of the streetscape and is in keeping with the intent of the zoning code.

**Standards 3:** The Board determined strict code compliance would prove burdensome as it would create an unusable space within the home.

**Standard 4:** The Board noted the age of the house, its placement on the lot, and lack of other areas for expansion on the site create hardship and difficulty for the proposal to meet the terms of the ordinance.

**Standards 5 & 6:** The Board found the proposed addition to be balanced among other structures on the block, posing no substantial detriment to adjacent property and maintaining the character of the neighborhood.

The Board voted 4-0 by unanimous vote to approve the requested variance.



**DISCUSSION ITEMS**

6. [69181](#) Statement of Interest Filing
- Kelso outlined the Statement of Interest Filing directive noting that all Zoning Board of Appeals members are in compliance.**
7. [08598](#) Communications and Announcements
- Tucker introduced new Zoning Administrator Katie Bannon. Tucker noted there were no cases submitted by today's deadline for the February meeting; therefore, the meeting scheduled for February 17, 2022 is cancelled.**

**ADJOURNMENT**

**The Board adjourned at 8:21pm.**