



# City of Madison

City of Madison  
Madison, WI 53703  
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## Meeting Minutes - Approved ZONING BOARD OF APPEALS

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Thursday, October 17, 2019

5:00 PM

215 Martin Luther King, Jr. Blvd.  
Room 013-A Madison Municipal Building

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### CALL TO ORDER / ROLL CALL

Collins, chair, called the meeting to order at 5:00pm

**Staff Present:** Matt Tucker and Nancy Kelso

**Present:** 4 - Peter A. Ostlind; Angela Jenkins; David P. Waugh and Winn S. Collins

**Excused:** 2 - Agnes (Allie) B. Berenyi and Jessica Klehr

### APPROVAL OF MINUTES

A motion was made by Ostlind to approve with modifications the September 19, 2019 minutes, seconded by Jenkins. The motion passed 2-0 (1 abstention) by voice vote.

### PUBLIC COMMENT

### DISCLOSURES AND RECUSALS

There were no recusals. Board member Waugh disclosed that he knows the applicant, Beth Cannestra, through previous City committee work. Waugh stated that this would not impact his decision.

### PETITION FOR VARIANCE, AREA EXCEPTIONS OR APPEALS

### NEW BUSINESS

1. [57688](#) Beth Cannestra, owner of property at 2106 E. Mifflin St., requests variances for the placement of a detached accessory structure less than three feet from the rear and side lot lines. Alder District #12

Tucker stated that the property is zoned TR-C4, situated on East Mifflin Street just north of North 3rd Street. The request is for variances of usable open space and lot line setback less than three feet from the rear and side lot lines for removal and replacement of the existing detached garage. Tucker explained that the current structure had been built across the property line (as are other garages and driveways among neighboring properties), the structure cannot be rebuilt as it exists, and that placement of a new structure within the property necessitates the variance requests.

Applicant Beth Cannestra stated that she had purchased the property with the existing garage in 2000 and has endeavored to maintain and make improvements to the structure, however that has not been enough to keep it from needing to be replaced. Cannestra explained that, if built to code, the placement of the garage would lessen the usable open space in the rear yard and would make vehicle access quite difficult. Cannestra stated she has maintenance agreements in writing with those neighbors ready to record if the project is approved.

The Board asked what had been done to minimize impact and if a lesser variance would be workable. Cannestra responded that she has opted for the smallest size garage available of a conventional size that will accommodate a vehicle and provide necessary storage space for the tenants. Cannestra stated that although the garage could be placed on the property with a lesser variance, it would not alleviate the reduction in usable open space and any vehicle movement into or out of the garage would be problematic. She also noted that custom sizing for garage significantly increase the cost for a garage, and she is trying to basically replace the garage with a functional garage, in budget.

Tucker provided more information on structural issues relating to the size and placement of the proposed garage, stating that placement of a smaller sized garage within standard setbacks would greatly lessen the functionality of the garage. There was further discussion on possible options for size and placement of the structure. Tucker further explained the usable open space requirement and its impact on this proposal.

An e-mail from a resident at 2106 E. Mifflin in support of the applicant was submitted for consideration.

The Chair closed the public portion of the hearing.

Jenkins moved to approve the variances requested for lot line setback and usable open space contingent upon filing a maintenance easement agreement; Waugh seconded the motion.

Review of Standards:

Standard 1: The Board noted that the location of structures on the property and existing neighboring encroachments present unique challenges.

**Standard 2:** The Board noted that the setback variance request is in conflict with the intent and purpose of the zoning code as it would not provide sufficient buffering between neighboring properties. However, any variance would negatively impact the usable open space, and the impact on UOS gets greater as a larger side yard setback is provided.

**Standard 3:** The Board determined that strict compliance to the ordinance would prove unnecessarily burdensome and unreasonably prevent use of the property with regard to vehicular movement and the ability to have a functional and accessible garage.

**Standard 4:** The board noted that any difficulty or hardship created is shared by the terms of the ordinance and by the lot size and placement of existing structures.

**Standard 5:** The Board determined that there would be no substantial detriment to adjacent property. However with the submitted plan there could be an issue with water runoff that would need to be remedied.

**Standard 6:** The Board determined the structure could be compatible with the neighborhood, and would improve upon issues of encroachment.

After further discussion among the Board, Jenkins moved to re-open the hearing to the public, Waugh seconded the motion. The motion passed 3-0 by voice vote. The Board discussed with the applicant possible adjustments to the variances and options to control water runoff affecting adjacent properties.

The Chair again closed the public portion of the hearing and the Board resumed deliberations.

Collins moved to amend the motion to include the provision that the applicant shall design and ensure that all runoff from the roof discharges on to the applicant's property; amend the side lot line variance to a 9 inch setback; amend the rear lot line variance to a 2 foot setback. Jenkins seconded the motion. The Board voted 3-1 by voice vote to amend the motion.

The Board voted to approve the motion as amended 2-2 by voice vote; the motion did not carry, the variance was not granted.

## DISCUSSION ITEMS

2. [57689](#) Rudy Moore, owner of property at 711 Orton Ct., requests an appeal to the Zoning Administrator's interpretation in regard to Zoning Code Ordinance 28.151, tourist rooming house. Alder District #6.  
  
Tucker stated this item has been deferred to the Zoning Board of Appeals meeting scheduled for Thursday, November 21, 2019.
3. [08598](#) Communications and Announcements  
  
Communication: Tucker introduced new board member David Waugh.

**ADJOURNMENT**

The Board adjourned at 6:44 pm.