



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?*

Thursday, March 17, 2022

5:00 PM

Virtual Meeting

CALL TO ORDER / ROLL CALL

Brown moved to appoint Ostlind as acting chair for this meeting, Waugh seconded. The motion passed 4-0 by unanimous vote. Ostlind called the meeting to order at 5:05 pm.

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 Berenyi to approve the January 20, 2022 minutes with modifications, seconded by Jenkins. 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

Berenyi disclosed that a letter of support for the case at 1221 Spaight Street was submitted by a co-worker, however this would not impact her decision.

PETITION FOR VARIANCE, AREA EXCEPTIONS OR APPEALS

2. [70374](#)

Jerry Walls, representative for the owner of the property at 301 Clemons Avenue, requests a side yard setback variance for a second-story addition to a single-story, single family dwelling. Alder District #6.

Bannon stated the property is located in the east isthmus area, adjacent to the Capital City Trail, south of Winnebago St., zoned TR-C4. Bannon explained the proposal is to construct a second-story addition atop the existing single-story dwelling. Noting the minimum side yard setback for the property is 4 feet, Bannon explained that the placement of the existing structure provides a 2.9 foot side yard setback; with the proposed addition constructed directly on top of the current dwelling, a 1.9 foot variance is being requested.

Jerry Walls, representative for applicant Elizabeth Morgan, owner of the property at 301 Clemons Ave, stated that it was not structurally possible to shift the proposed addition to meet the required setback. Walls explained that due to the age and manner of original construction of the house, the weight of the addition must be supported by the existing foundation and framework. Walls noted other aspects of the proposal are code compliant, and that the proposal does not further encroach on and is similar in design to neighboring properties.

The Board questioned how water runoff would be managed. Walls stated the roof overhang on the addition would be of the same dimensions as the existing roof; gutters with guards to be installed; downspouts to be installed to direct runoff into the yard, away from neighboring properties and pavement.

Morgan explained their planning process for the proposed addition, noting the steps taken to decrease the amount of variance requested. Walls further clarified the proposed floor plan for the Board.

Ostlind closed the public hearing.

Berenyi moved to approve the requested variance; Brown seconded.

Review of Standards:

Standard 1: The Board found the placement of the existing dwelling, garage and driveway on the lot does not provide for an alternate area for an addition, presenting a unique condition to this property.

Standard 2: The Board noted that although the proposal adds vertical bulk to the structure, it is of similar size to neighboring properties and is not contrary to the spirit, purpose and intent of the ordinance.

Standards 3 & 4: The Board determined that with the existing structure having been built prior to the current code and its placement in the existing setback that presents complex issues for code compliance and where strict compliance with the ordinance would cause hardship and be unnecessarily burdensome.

Standard 5: The Board found there could be some detriment to the adjacent properties with the additional bulk and window placement on the addition. However, it was noted that close proximity to each other for dwellings of this size and style is common to this area so there was no substantial detriment.

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

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

3. [70380](#)

Mark Alexander, representative for the owner of the property at 1221 Spaight Street, requests a side yard setback variance to construct shed roof addition to two-story, single family dwelling. Alder District #6.

Ostlind introduced the proposal noting for the Board that submitted documents and photos showed construction had begun on the addition requiring variance. Ostlind stated the Zoning Board of Appeals reviews applications for variance based on proposals; the fact that construction is in progress is not relevant for consideration or discussion as to whether or not the standards have been met.

Bannon stated the subject property is in the east isthmus area, two blocks south of Williamson St., zoned TR-C4. Bannon explained the proposal is to construct a shed roof addition over the southeast corner of the two-story dwelling. Bannon noted the minimum side yard setback required for this property is 3 feet, the addition is proposed to be built over the existing house along the existing side setback of 1.8 feet, resulting in the variance request of 1.2 feet. Bannon presented photos and scaled drawn plans for further depiction of the proposal.

Johanna Cherry, owner of the property at 1221 Spaight St., stated that when they purchased the property in August of 2021 it was in a state of neglect and in need of repairs and renovation. Noting the age of the house, Cherry explained the second floor bathroom was not in compliance with current building code and the slanted ceilings impeded on the usable interior space. Cherry noted the dormer roof addition would resolve the room height issues created by the original design. Cherry stated the existing structure is non-conforming and that the addition is to be constructed along existing walls. Additionally, Cherry mentioned the proposal had received approval from the Landmarks Commission.

The Board asked for clarification on the Landmarks Commission process. Mark Alexander, of Actuate Improvements and representative for Johanna Cherry, stated the original submission was approved by the Commission and the building permit issued; when the project scope changed after construction began, the revised plans were also submitted to Landmarks Commission and approved. Bannon further clarified that the original design submission was approved at Landmarks Commission level; the revised design was approved at Landmarks staff level.

Referencing the staff report and the submitted plans, the Board noted the possibility that the addition could be built to be code compliant and questioned the need for the size and included amenities of the proposed bathroom addition. Cherry explained that this bathroom location was the only area in which to place a bathtub. Additionally Cherry stated the other amenities they proposed to include would assist to keep the property value in line with neighboring properties as few other amenities (such as a driveway and garage) exist on this property.

The Board questioned if other locations for the bathroom had been considered in the overall renovation design. Cherry noted the basement did not have sufficient height to add either a bathroom or laundry room and that it was cost prohibitive to dig the basement deeper to accommodate any finished space. For this reason Cherry explained that the laundry room was located on the first floor and the bathroom located on the second floor.

Bannon shared the floor plans from the originally approved building permit for comparison to the changes made on the plans submitted for the variance request. The differences in design, construction and compliance were discussed. The Board questioned why the original, permitted plan wasn't built. Cherry stated an error in the plans was discovered after approval; that due to the pitch of the roof over the shower area, there was insufficient space in this configuration to construct a shower that would meet building code.

Alexander further explained the home renovation design process for this property, noting the limitations of the basement, placement of the laundry room on first floor and height and space issues on the second floor. Alexander stated that after the original plans were approved, permitted and construction began, they discovered some design adjustments were needed and that is when the variance application and the second Landmarks approval were submitted for the shed roof/dormer addition. Alexander stated that while there may be alternative designs for the bath without the dormer, they would not resolve the present height and space issues.

Matt Tucker provided a timeline covering the submittal of the original plans, Landmarks Commission approvals, and building code inspections, noting the point when it was determined that construction did not match the approved plans, that the revised plans had not been re-submitted for building & zoning approval, and when it became apparent a zoning variance request was needed.

Further discussion took place between the Board, applicant and representative regarding the amenities included in the bath and issues related to floor plan layout.

Ostlind closed the public hearing.

Waugh moved to approve the requested variance; Brown seconded.

Review of Standards:

Standard 1: The Board determined the narrow lot and age of the existing house are conditions unique to this property.

Standard 2: The Board found that the placement of the addition at the rear of the structure and the small setback encroachment, there would be no adverse effect to the purpose and intent of the ordinance.

Standard 3: The Board determined that the remodel design is of modest size and the area of placement in the structure presents difficulty to code compliance, however the remodel could be constructed to comply with the zoning code and code compliance would not prevent use of the property for a permitted purpose.

Standard 4: The Board acknowledged the need to improve the size and amenities of the bathroom to add value to the house, however determined that any hardship or difficulty caused is due more to the applicant's interests rather than the terms of the ordinance.

Standard 5: The Board determined that the size and location of the proposed addition would not have substantial detriment to adjoining properties.

Standard 6: Referencing the Landmarks Commission approvals the Board found the proposal to be compatible with the character of the neighborhood.

The Board voted 1-3 by roll call vote; the motion to approve did not carry.

DISCUSSION ITEMS

4. [08598](#) Communications and Announcements

Kelso noted there is an application pending for the April 14, 2022 meeting and will keep the Board apprised of its progress.

ADJOURNMENT

The Board adjourned at 7:08pm.