

ZONING ADMINISTRATOR'S REPORT  
VARIANCE APPLICATION  
4809 Hillview Terrace

**Zoning:** SR-C1

**Owner:** Todd Jindra and Elizabeth Shortreed

**Technical Information:**

**Applicant Lot Size:** 100' x 98'

**Minimum Lot Width:** 50'

**Applicant Lot Area:** 9,800 square feet

**Minimum Lot Area:** 6,000 square feet

**Madison General Ordinance Section Requiring Variance:** 28.131(d)

**Project Description:** Applicant requests an accessory structure placement setback variance for a single-family dwelling.

The subject property is a corner lot with the property's front on Hillview Terrace and reversed corner side yard on Edward Street. The existing single family house has a basement level attached garage. This garage will be converted into living space and the existing driveway to it will be removed.

The proposed new detached garage will have a lower level inset into the slope and include interior stairs to an upper story above. In the zoning code, accessory structure height is "measured from the average elevation of the approved grade at the front of the building to the highest point of the roof in the case of a flat roof, to the deck line of a mansard roof, and to the midpoint of the ridge of a gable, hip, or gambrel roof. The average height shall be calculated by using the highest ridge and its attendant eave. The eave point used shall be where the roof line crosses the side wall." (MGO 28.134 (1)(a)) The proposed structure is below the maximum height limit in the code.

In the rear yard setback of a reversed corner lot, an accessory structure may be placed "no closer to the street side lot line than the front yard setback of the adjacent property, for the first twenty-five (25) feet from the common property line. Beyond this distance, the minimum setback shall be equal to the setback required for a principal building in the district." (MGO 28.131(d)5)

**Accessory Building Placement Setback**

Zoning Ordinance Requirement: 30'

Provided Setback: 22.4'

Requested Variance: 7.6'

## **Referral Information**

This variance proposal was referred from the June 15, 2023 meeting. The ZBA identified concerns about the following:

- The proposed bulk of the detached garage and the extent of the requested variance
- Having an upper story on the garage
- The upper story's location, size, and whether it could be setback so that it is outside the setback
- The detached garage not being setback behind the Edward Street-facing facade of the principal structure
- The size of the lower story of the garage and whether it could be reduced to minimize the variance request

In response, the applicant has revised the upper story of the garage, reducing its size and setting it back further from the reversed corner side lot line. The upper story is now located outside of the accessory building placement setback.

Additionally, the size of the lower story of the garage has been reduced from 24' x 26' to 22' x 26'. This results in a 2' reduction in the variance setback request, from the previous request of 9.6' to the current request of 7.6'

## **Comments Relative to Standards:**

- 1. Conditions unique to the property:** The property is a zoning code compliant lot for minimum lot size and lot width. However, a unique condition is that the property has significant slope along both street frontages. The location of an existing mature tree on the lot is another unique condition. According to the arborist report submitted with the application, the tree is a Norway maple, 22.5" diameter at breast height.
- 2. Zoning district's purpose and intent:** The purpose of the reversed corner accessory structure placement requirement is to generally locate accessory structures behind the principal structures on a lot, making them less obtrusive along a street frontage and on adjacent properties. The TR-C1 zoning district requires a minimum front setback of 30'.

The existing house on the subject property is setback approximately 20' from the reversed corner side yard. The detached garage's lower level is proposed to be setback 22.4', approximately two feet behind the Edward Street-facing facade of the existing house. The upper story of the garage is proposed to be setback 30', meeting the accessory structure placement setback of 30'.

The single family house on the adjacent property to the south has a front setback of 43.6' and is located significantly uphill from the proposed detached garage. It does not appear that a detached garage setback two feet behind the plane of the existing house will cause significant blocking of views for the neighbor to the south, beyond the blocking of the

existing house. It does not appear that a variance would be contrary to the zoning code's purpose and intent.

- 3. Aspects of the request making compliance with the zoning code burdensome:** The mature tree behind the existing single family house makes compliance with the zoning code burdensome if the tree is to remain. While setting the garage back further than 22.4' is possible, it would require that the tree be removed. The arborist report concludes that "this tree with proper management during and after construction will survive the build-out and will give the client continued added value for years to come."
- 4. Difficulty/hardship:** The existing single family house was built in 1954 and purchased by the current owners in 2022. See #3 above. The accessory structure placement variance request seems to be driven by the location of an existing tree (see #3 above).
- 5. The proposed variance shall not create substantial detriment to adjacent property:** The lower level of the proposed garage will be built into the slope, and the upper level of the garage will meet the accessory building placement setback. The single family house adjacent to the accessory structure placement setback variance is setback more than the zoning code requires and is uphill from the proposed garage. The variance request does not appear to cause substantial detriment. It does not appear the variance would impact access to light and air on adjacent property.
- 6. Characteristics of the neighborhood:** The immediate neighborhood is generally made up of single family houses, with some houses making use of the slope in their architectural design. Properties developed in the 1950s, like the subject property, appear to generally have smaller front and reversed corner side yard setbacks than properties in the neighborhood developed in the 1960s or later. The variance appears to be compatible with the surrounding area.

**Staff Recommendation:** It appears the standards have been met, therefore staff recommends **approval** of the variance request, subject to further testimony and new information provided during the public hearing.