



# 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, February 8, 2018

5:00 PM

210 Martin Luther King, Jr. Blvd.  
Room 103A (City County Building)

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### CALL TO ORDER / ROLL CALL

Corigliano, chair, called the meeting to order at 5:00 pm and explained the appeals process.

**Staff Present: Matt Tucker and Gretel Irving**

**Present:** 5 - Peter A. Ostlind; Agnes (Allie) B. Berenyi; Patrick W. Heck; Dina M. Corigliano and Winn S. Collins

### APPROVAL OF MINUTES

A motion was made by Heck to approve the January 25, 2018 minutes, seconded by Collins. The motion passed (3-0) by voice vote/other with Berenyi and Ostlind abstaining.

### DISCLOSURES AND RECUSALS

Berenyi disclosed that she has consulted on the Garver Feed Mill project adjacent to the Olbrich Gardens through her work and had discussed the project at 412 North St with Mr. Hanson through her work.  
Collins and Heck disclosed memberships with the Olbrich Gardens.

### PETITION FOR VARIANCE

1. [50308](#) Olbrich Botanical Gardens, City of Madison - Parks Department, owner of property at 3330 Atwood Avenue, requests a side yard setback variance for a greenhouse addition.

Tucker described the request for a side yard setback variance for a new greenhouse addition at the Olbrich Botanical Gardens. The property is zoned Parks and Recreation, which has a uniform 30' setback on all borders, including from Sugar Ave, which bisects the lot.

Randy Wiesner, City of Madison Engineering, reviewed the Master Plan for Olbrich Gardens, which includes the new green house as well as new office and educational spaces. The Plan brings the property in line with updated Fire Access requirements. Wiesner stated greenhouses are manufactured in 12' bays (so can only be designed in 12' increments) and require a setback from other buildings for the heating and cooling systems. A greenhouse compliant with the zoning setback requirement would be very long and narrow, which would be hard on both staff and the energy/air handling systems.

Discussion between the Board, Wiesner and Roberta Sladky, representing Olbrich Gardens addressed the following:

- Equipment outside of greenhouse – water evaporation pads for A/C system
- Distance between greenhouse and main building – setback of fans (HVAC) from wall and fire code requirements (greenhouse will not be sprinklered)
- Zoning code requirements at time of construction – no setbacks were required for this district
- Placement of Greenhouse – maximize sun exposure and efficiency of operations
- Function of Sugar Ave- connects to bike path and Garver Feed Mill property. Olbrich Gardens has staff and storage facilities on the other side of the train tracks.
- Future of Sugar Ave – will be maintained as public right-of-way especially for bike and pedestrian traffic but vehicle traffic at Garver Feed Mill will be directed towards Fair Oaks to discourage crossing of the train tracks
- Park space on other side of Sugar Ave- City of Madison Parks but not part of Olbrich Gardens; will be maintained as park space but has separate functions

Collins moved to approve a variance; Ostlind seconded the motion.

Review of Standards:

Standard 1: The Botanical Garden is itself unique for a city property and the adjacent properties are also owned and managed by the City of Madison – Parks Department. The Board also noted the unique nature of Sugar Avenue, which is designated a public right-of-way but does not function as a typical urban street.

Standard 2: The intent of the ordinance is to create a buffer between properties. In this instance, the properties are both parks and the road serves primarily as access to parking.

Standard 3: The Board noted that the placement of the public right-of-way in

an unexpected location is burdensome and that compliance with the zoning ordinance would unreasonably limit operations and efficient use of space for the property. The applicant had clearly outlined why the greenhouse could not be reasonably located elsewhere on the property.

**Standard 4:** The Board concluded that the difficulty derived from the placement of the street and not from the interest of the current owner.

**Standards 5 & 6:** The Board concluded that the proposed variance would not create any detriment to adjacent properties and was compatible with the surrounding neighborhood.

The motion passed by a vote of 5-0.

2. [50313](#) Robert Hanson, owner of property at 412 North St, requests a maximum front yard setback variance to allow for changes to the first-story walls and a second-story addition onto the existing single-story single-family home.

Tucker introduced the request for a maximum front yard setback variance. The proposal would remove a single-story addition at the front of the existing non-conforming house, demolish and rebuild a substantial portion of the remaining structure and add a second story. Per state statute, the existing property could be rebuilt in the same location up to 100% of the existing value and bulk. The applicant could, by right, remove the front addition, demolish and rebuild the existing single-story building in its current location and make modifications to bring the structure up to current building code requirements. The introduction of new non-conforming bulk (in the second-story addition) triggers the need to either move the structure to a conforming location or obtain a variance.

Robert "Andy" Hanson, applicant, stated that the house was purchased in 2016 with the expectation that only minor remodeling would be needed but that as work on the house progressed, substantial problems were discovered. The proposal would keep the existing foundation and basement for the main structure as well as the side (north and south) walls and the newly exposed front wall.

His goal is to re-use the foundation, to keep the project to a moderate budget, and to make the house "livable". He argued that while the variance asks for 48.5', the net change would be an increase of 6' from the existing non-conforming status.

In response to questions from the Board regarding the staff report, Tucker stated that, for review of the building plans, City staff considered the proposal to be demolition and new construction making use of recycled materials. City of Madison ordinance defines "demolition" as any project that includes the removal of a street-facing wall or removes more than 50% of exterior walls (including new openings for windows and doors) and requires review by the Plan Commission. Tucker defined the purpose of the maximum front yard setback ordinance as both to align houses along a block face for a relatively uniform appearance and to preserve privacy between adjoining properties.

Discussion centered on the relative burden of expanding up vs forward and the merits of expanding the house forward if not into full compliance. The Board also discussed the relative hardship of the small size of the house and the likelihood of further expansions in the future and the impact of a second story expansion on the neighboring properties.

Ostlind moved to approve the variance; Collins seconded the motion.

Review of Standards:

Standard 1: The location of the existing house is a unique factor for this property.

Standard 2: The Board identified the purpose and intent of this ordinance as two-fold: creating a uniform block face to avoid a "missing tooth" effect and

protecting relative privacy of houses and rear yards.

Corigliano argued that if the first story is permissible per the state statute, adding a second story does not significantly affect this standard. The additional space is designed to mitigate any impact on the privacy of the neighboring houses through the placement of windows and slope of the roof and is not actually a full second story in height. Ostlind disagreed, noting an increase of windows on all sides of the new house. Collins argued the applicant had not made an effort to minimize the variance request but instead was increasing the non-conformity. Corigliano countered that any incremental expansion forward, short of building a new foundation in a compliant location, would have only a negligible impact. Ostlind noted that, in its current form, the house could be mistaken for an accessory building such as a garage but that adding a second story would accentuate the nonconformity.

**Standards 3 & 4:** The Board debated whether the applicant had reasonable options for bringing the property into greater or full compliance. Debate included whether to consider the project as a whole or focus on the second story addition. Some expressed that requiring a new basement, foundation and utility connections was burdensome. Others felt that, relative to the planned demolition and construction, it would not be substantially more burdensome. Board members noted the small size of the house (450 sq. ft.) and the relatively small amount of requested additional living space (145 sq. ft.) in weighing the hardship of building only the state-allowed non-conforming structure. Ostlind questioned, since the applicant had purchased the property at its current size and under the current zoning code, whether not allowing expansion was a hardship of the ordinance rather than the present interest of the owner.

**Standard 5:** Since the first story is allowed by right, Board members debated whether the second story addition would be detrimental to neighboring properties. Several expressed that it would be detrimental to the neighborhood to reinforce the existing non-conformity instead of advocating greater adherence to the ordinance.

**Standard 6:** Board members noted that both the design and size are different from the adjacent properties. While the existing location is non-conforming, the applicant had argued that this is not uncommon for the neighborhood and staff had stated it is uncommon within the City. Berenyi noted that the chief characteristic of this neighborhood is its diversity, noting that it includes commercial businesses, taverns and a former fire station in addition to residences.

Ostlind moved to reopen the public hearing; Collins seconded. The motion passed (5-0).

Board members asked the applicant if he would be interested in a referral to allow him to present a revised proposal or additional information to the Board. The applicant indicated he would prefer an up-or-down vote. The public hearing was closed.

The motion failed on a vote of 2-3.

**Ayes:** 2 - Agnes (Allie) B. Berenyi and Dina M. Corigliano

**Noes:** 3 - Peter A. Ostlind; Patrick W. Heck and Winn S. Collins

**DISCUSSION ITEMS**

The Board reviewed the revised meeting calendar for 2018.

3. [08598](#) Communications and Announcements

The meeting for February 22, 2018 has been cancelled due to lack of agenda items.

**ADJOURNMENT**

The meeting adjourned at 7:31 pm.