



CITY OF MADISON
ZONING BOARD OF APPEALS
APPEAL APPLICATION

\$200 Filing Fee

Ensure all information is **typed** or legibly **printed** using blue or black ink.

Notices are sent to the District Alderperson and to owners of record as listed in the Office of the City Assessor. Maximum size for all drawings is 11" x 17".

Name of Applicant: Jungang Li
Address: 1933 Winnebago St Unit 2
Madison, WI 53704
Daytime Phone: 541-650-5932 Evening Phone: _____
Email: jungang.alex@gmail.com

1. The undersigned hereby appeals the decision of the Zoning Administrator in regard to
Madison General Ordinance Section No. 28.151
2. When relevant to a specific property, fill out below:
Street Address: 1933 Winnebago St
Madison, WI 53704
3. ☒ List of grounds for the appeal, statements, evidence of fact, and any additional information associated with the appeal are provided on a separate attachment.

Applicant Signature: _____

FOR OFFICE USE ONLY	
Amount Paid: <u>\$200</u>	Zoning District: _____
Receipt: _____	Hearing Date: <u>2/20/2025</u>
Filing Date: _____	Published Date: <u>2/13/2025</u>
Received By: _____	Appeal Number: _____
Parcel Number: <u>071007205133</u>	GQ: _____
Alder District: <u>07 Rummel</u>	

DECISION

The Board, in accordance with the findings of fact, hereby determines that the requested appeal for _____ is

☐ **Approved**

☐ **Denied**

☐ **Conditionally Approved**

Zoning Board of Appeals Chair:

Date:

28.205 BOARD OF ZONING APPEALS.

5. Appeals to Decisions of the Zoning Administrator.

Appeals to the Zoning Board of Appeals may be taken by any person aggrieved, or by any officer, department, board or bureau of the City affected, by any decision of the Zoning Administrator.

- (a) An appeal shall be taken within a reasonable time, as provided by the rules of the Zoning Board of Appeals.
- (b) The applicant shall file a notice of appeal with the Zoning Board of Appeals. The notice of appeal must specify the grounds for the appeal, including a specific reference to the terms of this chapter, state or federal law, or the state or federal constitution that the applicant believes were incorrectly applied.
- (c) The Zoning Administrator shall transmit all the papers constituting the record upon which the action appealed from was taken to the Zoning Board of Appeals.
- (d) Stay of Proceedings. An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Zoning Board of Appeals that by reason of facts stated in the certificate, a stay would in her/his opinion cause imminent peril to life or property. In that case, proceedings shall not be stayed unless the Zoning Board of Appeals or a court of record grants a restraining order on application. A restraining order requires the applicant to show due cause and to notify the Zoning Administrator.
- (e) Notice. An appeal requires the following types of notice (See Sec. 28.181(5)):
 - 1. Mail – sent at least 10 days before the required public hearing.
 - 2. Publication - at least 7 days before the required public hearing.
- (f) Scheduling. The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal.
- (g) Rendering the Decision. The Zoning Board of Appeals, upon its findings, shall render a decision on the appeal within a reasonable time. The Board, upon the concurring vote of a majority of quorum, may reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed from.
- (h) Approval Criteria. The Zoning Board of Appeals may reverse or modify the decision appealed from if it determines that it is error based on the terms of this chapter, a lawful condition of approval established under this chapter, or a provision of a federal or statute or constitution.
 - 1. For appeals concerning increases in regional flood elevation the Board shall:
 - a. Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and any appropriate legal arrangements are made with all adversely affected property owners.
 - b. Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.
 - 2. For disputes concerning floodplain district boundaries:
 - a. If a floodplain district boundary is established by approximate or detailed floodplain studies, the map scale, and the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.
 - b. In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Zoning Board of Appeals.
 - c. If the boundary is incorrectly mapped, the Zoning Board of Appeals should inform the person contesting the boundary location to petition the Common Council for a map amendment.

6. Finality of Decisions of the Zoning Board of Appeals.

All decisions and findings of the Zoning Board of Appeals are considered final administrative determinations, and are subject to judicial review as provided by law.

Statement of Purpose

I am appealing the Zoning Administrator's determination that converting my property from a two-unit dwelling to a single-family dwelling requires conditional use approval under Section 28.151. I believe this determination misinterprets the ordinance, and I respectfully request the board to overturn this decision.

The ordinance in question applies to single-family detached dwellings "constructed after the effective date." My property was constructed in 1900, and the proposed project involves a change in use, not the construction of a new building.

Currently, the property is a two-unit residential dwelling. The proposed project involves converting it into a single-family dwelling. According to the city's own guidance, the only physical changes required are the removal of interior doors to connect common spaces. This does not constitute structural alteration or new construction.

Furthermore, according to **MGO Chapter 28 - Rules of Construction**, words not defined uniquely in the ordinance must be given their common meaning. The term "constructed" is not specially defined in this context, and its common meaning refers to the act of creating a new building. The Zoning Administrator's position, which conflates "constructed" with "converted," does not adhere to this rule.

Context

Relevant Municipal Code

SUBCHAPTER 28J: SUPPLEMENTAL REGULATIONS

28.151 - Applicability

Single-Family Detached Dwelling: In the NMX, TSS, and CC-T Districts, single-family detached dwellings constructed after the effective date of this ordinance require conditional use approval.

The Zoning Administrator's Position

The Zoning Administrator determined that this conversion requires conditional use approval under Section 28.151, citing the requirement for single-family detached dwellings "constructed after the effective date."

The Appeal

I believe this determination represents a misapplication of the ordinance. The term "constructed" explicitly refers to the creation of new buildings and does not encompass changes in use or non-structural modifications to existing buildings. By requiring conditional use approval for a conversion, the city is conflating two distinct concepts: the physical act of constructing a new building and the administrative act of converting an existing one.

Supporting Evidence and Code Analysis

1. Definitions

SUBCHAPTER 280: DEFINITIONS AND RULES OF CONSTRUCTION

28.210 - RULES OF CONSTRUCTION

(f) *All words not defined shall have their common meaning.*

The Madison General Ordinance (MGO) instructs that words not specifically defined in the code must be interpreted using their common meaning. Since the word "construct" is not uniquely defined within the code, it must be understood in its ordinary sense as used in Ordinance 28.151.

28.211 - DEFINITIONS

- **Dwelling, Single-Family Detached:** A building designed exclusively for and occupied exclusively by one (1) family in one (1) dwelling unit, with yards on all sides.
- **Building:** A structure with a permanent location on the land, having a roof that may provide shelter, support, protection, or enclosure of persons, animals, or property of any kind.
- **Structure:** Anything constructed or erected that requires a permanent location on the ground or is attached to something with a permanent location on the ground (e.g., in floodplain areas, in the streambed or lakebed).

These definitions, directly from the Madison Code of Ordinances, establish that a "single-family detached dwelling" refers to a structure functioning as a building designed and used for a single family in one unit. A change in the designation or use of interior units should not be conflated with the physical act of constructing a new structure.

2. Distinct Uses of the Terms 'Conversion' and 'Construction'

The Madison General Ordinance consistently uses the term "construction" to refer to the creation of new buildings, while "conversion" is used to describe the alteration or change in use of an existing building. These terms are distinct and are applied separately throughout the code, demonstrating that they are not interchangeable.

29.02 - Purpose and Scope of Building Code

This section explicitly lists distinct actions: "constructed," "enlarged," "altered," "repaired," "moved," "converted to other uses," or "demolished." The inclusion of "converted" alongside "constructed" as a separate process clearly shows that conversion is not considered part of construction.

28.211 - Definitions

- **Accessory Dwelling Unit:** This definition distinguishes between accessory buildings that are “constructed” and those “converted” into dwelling units, further reinforcing that these terms represent different processes.

28.006 - Scope of Regulations

This section establishes that “construction” applies specifically to new building sites and provides separate provisions for alterations and additions, again separating construction from other processes like conversion.

28.049 - Traditional Residential - Urban Districts

(d) Encourages the “restoration” of single-family dwellings previously “converted” to multi-family units. The deliberate use of the term “converted” highlights that this process involves altering the use of an existing structure, not constructing a new one.

28.151 - Applicability

- **Housing Cooperative:** Subsections (b) and (d) distinguish between buildings “converted” for cooperative use and those newly constructed, demonstrating that conversion is explicitly recognized as a distinct action.

Historical Precedent of Distinguishing "Constructed" and "Converted"

A 2013 ordinance (Legistar 32705) explicitly distinguished “constructed” and “converted” as separate actions regarding two-family twin dwellings in Traditional Residential zoning districts:

"No two-family twin dwelling shall be constructed or converted within three hundred (300) feet of a zoning lot containing another two-family twin building, as measured from the perimeter of each zoning lot, unless approved by conditional use."

This language mirrors the structure of Section 28.151 and demonstrates that “constructed” refers to creating new buildings, while “converted” refers to altering existing ones. Though the code has since changed, this precedent underscores a clear and consistent intent to treat these terms distinctly, further supporting the argument that they are not interchangeable.

Conclusion

The ordinance consistently applies “construction” to new buildings and “conversion” to changes in use or modifications of existing structures. This distinction, reflected in multiple sections of the code, affirms that a change in use, such as a conversion, cannot be reasonably interpreted as construction under the ordinance.

Appendix: Relevant Code Excerpts

1. 29.02 - Purpose and Scope of Building Code

"The purpose of this code is to provide minimum regulations, provisions and

requirements in the City of Madison to ensure safety to persons and property, safe and stable design, skillful methods of construction and uses of materials in any building constructed, enlarged, altered, repaired, moved, converted to other uses, or demolished..."

2. **28.211 - Definitions**

- **Accessory Dwelling Unit:** "An additional dwelling unit contained within a principal building with up to eight (8) dwelling units or within a detached building located on the same lot as a principal building with up to eight (8) dwelling units. This definition includes accessory buildings constructed in connection with a private garage or a private garage converted into a dwelling unit."

3. **28.006 - Scope of Regulations**

"All new building sites shall meet the requirements of this ordinance unless, prior to the effective date of this ordinance, a building permit was issued and is still valid; and provided construction is begun within ninety (90) days of such effective date and diligently prosecuted to completion, said building may be..."

4. **28.049 - Traditional Residential - Urban Districts**

"(d) Encourage restoration of single-family dwellings previously converted to multi-family units back to single- or two-family dwellings."

5. **28.151 - Applicability - Housing Cooperative**

- "(b) In all Districts where Housing Cooperatives are allowed, lodging houses and buildings with more than one (1) dwelling unit may be converted for use as a Housing Cooperative with an occupancy of no more than two (2) times the number legal bedrooms prior to conversion..."
- "(d) When lodging houses or two-family, three-family, and multi-family dwellings are converted for use as a Housing Cooperative, the corresponding bulk requirements for lodging house, two-family, three-family, and multi-family dwellings in the district apply."

6. **Legistar 32705 - Dispersion of Dwellings (2013 Ordinance)**

- "No two-family twin dwelling shall be constructed or converted within three hundred (300) feet of a zoning lot containing another two-family twin building, as measured from the perimeter of each zoning lot, unless approved by conditional use."