

## Chapter 33.19, Madison General Ordinances

### (15) Variances.

(a) Authority. The Landmarks Commission may vary the criteria for review of additions, exterior alterations or repairs for designated landmarks, landmark sites and improvements in any Historic District and the criteria for new construction in any Historic District in harmony with the general purpose and intent to preserve the historic character of landmarks, landmark sites and of each Historic District only in the specific instances hereinafter set forth and only if the proposed project will be visually compatible with the historic character of all buildings directly affected by the project and of all buildings within the visually related area.

The variance procedure and standards are designed to prevent undue hardships caused by application of the strict letter of the regulations of this chapter and to encourage and promote improved aesthetic design by allowing for greater freedom, imagination and flexibility in the alteration of existing buildings and the construction of new buildings within an Historic District while ensuring substantial compliance with the basic intent of the ordinance.

(b) Application for Variance and Notice of Hearing. An application for a variance shall be filed with the Landmarks Commission. After the filing of such application, a public hearing shall be held thereon. Notice of such hearing shall be published as a Class 1 notice under the Wisconsin Statutes. At least ten (10) days prior to the hearing, the Commission shall notify the owners of record, as listed in the office of the City Assessor, who are owners of property in whole or in part situated within two hundred (200) feet of the boundaries of the property affected. Notice of the time, place and purpose of the hearing shall also be sent to the alderperson of the ward in which the property affected is located.

(c) Standards. The Landmarks Commission shall not vary the regulations of this ordinance unless it makes findings of fact based upon the evidence presented to it in each specific case that one or more of the following conditions is present:

1. The particular physical characteristics of the specific building or site involved would result in a substantial hardship upon the owner as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out, provided that the alleged difficulty or hardship is created by this ordinance and has not been created by any person presently having an interest in the property.
2. In the case of the alteration of an existing building, the proposed design would incorporate materials, details, or other elements not permitted by the ordinance but which can be documented by photographs, architectural or archaeological research or other suitable evidence to have been used on other buildings of a similar vintage and style in the Historic District in which the building is located, provided that the project will not destroy significant architectural features on the building. BOARDS, COMMISSIONS, AND COMMITTEES Sec. 33.19(15)(c)3.  
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3. In the case of new construction, the proposed design incorporates materials, details, setbacks, massing or other elements that are not permitted by the ordinance but which would enhance the quality of the design for the new building or structure, provided that said new building or structure otherwise complies with the criteria for new construction in the Historic District in which the building or structure is proposed to be located and provided further that it

would also have a beneficial effect on the historic character of the visually related area.

(d) Authorized Variances. Variances shall be granted by the Landmarks Commission only in accordance with the standards set forth in (13)(c) above, and may be granted only in the following instances:

1. To permit residing with a material or in a manner not permitted under this chapter.
2. To allow additions visible from the street or alterations to street facades which are not compatible with the existing building in design, scale, color, texture, proportion of solids to voids or proportion of widths to heights of doors and windows.
3. To allow materials and/or architectural details used in an alteration or addition to differ in texture, appearance and design from those used in the original construction of the existing building.
4. To permit the alteration of a roof shape otherwise prohibited under this chapter.
5. To permit the use of roofing materials otherwise prohibited under this chapter.
6. To allow use of materials for new construction which use would be otherwise prohibited under Sec. 33.19(12)(f)1.b.

(Sec. 33.01(13) Renumbered by Ord. 10,871, Adopted 3-15-94)