

ZONING ADMINISTRATOR'S REPORT
VARIANCE APPLICATION
330 E. Wilson Street

Zoning: UMX

Owner: Palladia, LLC

Technical Information:

Applicant Lot Size: Regular Corner

Minimum Lot Width: 30'

Applicant Lot Area: 6,171 sq. ft.

Minimum Lot Area: 3,000 sq. ft.

Madison General Ordinance Section Requiring Variance: 28.076(3) - setback
28.071(3)(a)(1) – design standard

Project Description: Demolish existing two-story commercial building, construct six-story mixed use commercial/ residential building with ground-floor retail/commercial space, under-building parking, and 30 dwelling units above.

	<u>Rear Yard</u>
Zoning Ordinance Requirement:	10' 0"
Provided Setback:	6' 0"
Requested Variance:	4' 0"

Design Standard: Sec. 28.071(3)(a)1. Parking shall be located in parking structures, underground, or in surface parking lots behind principal buildings. Parking structures shall be designed with liner buildings or with ground floor office or retail uses along all street-facing facades. *Petitioner proposed parking in a configuration different than the three options above, and also intends to pace parking between street-facing façade with a “community display space”, which is not a required “office or retail use.”*

Comments Relative to Standards:

1. Conditions unique to the property: The subject property is a regular corner lot, has a slightly irregular shape, and has a topographic change of about 3'-4' from east to west. None of these conditions are unique in comparison to the similar properties in the general area, and none of these conditions appear to prevent or otherwise limit the ability of the owner to develop the property in compliance with the zoning code requirements. The site exceeds minimum lot area requirements and is adequately sized for an urban infill redevelopment project.
2. Zoning district's purpose and intent: There are two variances being requested, a rear yard variance and a design standard variance.

Rear yard variance: The purpose and intent of the rear yard setback is to provide some limited buffering and spacing between developments, typically for access to corridors, mechanical spaces, light/air flow around buildings, fire lanes, and other necessary space for two abutting properties to have some level of separation. There has not been information provided to support a request for a variance in consideration of this standard.

Design standard variance: The purpose of the design standard is to require active spaces at the first story of a street-facing wall, to restrict parking from being placed behind street-facing walls, since parking areas are not active spaces with typical active storefronts. The personal consideration of the petitioner to maintain parking has resulted in the evolution of the plans (original proposal was façade with only vision glass between parking and street), resulting in a proposed “display space” in an attempt to provide some interest at the street level. This space is not an “active” space as the code requires, and therefore is not consistent with purpose and intent of the parking placement requirement.

3. Aspects of the request making compliance with the zoning code burdensome:

Setback: The petitioner has presented a set of plans that have been already prepared, and has chosen to shift the building to the south 4’ rather than redesign the building to accommodate a personal preference of a front yard setback from S. Hancock Street and the required 10’ rear yard setback. Since this is a new development, a building could be designed in compliance with the setback requirements (and at the personal preference of the petitioner) and not require a zoning variance. This appears to be a self-created hardship due to the design selected by the petitioner, and/or a decision not to redesign the building in compliance with code requirements, and including personal preferences of the petitioner within code allowances.

Design standard/parking: The lot shape does present challenges in providing off-street parking. However, this property is located in the “downtown area” where no off-street parking is required. Off-street parking is a benefit/amenity for a development, but parking cannot be accommodated on all properties. This is one of the reasons why there is no minimum parking requirement in the downtown area. As noted above, the property could be redeveloped without any parking or with a reconfigured parking area, likely providing less parking spaces but providing the required retail/office space at the street facing façade and not require variances. The petitioners’ personal preference to provide otherwise not-required parking as shown in the plans, and for the current plans to be approved without revision, appears to be the basis for this request.

4. Difficulty/hardship: It appears that the requests are based primarily upon a personal preference to satisfy the owners aspiration for the project including a certain amount of non-required off-street parking, and some nearby residents/property owner interests as part of the negotiations associated with a redevelopment of the property, while preserving the current building plans. This is not a lot-based hardship. The project could be redesigned to meet the required rear setback and design standard requirements, along with providing the desired small front setback area that is not required by code but desired by some interests. This is common with similar projects that progress through City’s land use entitlement process.

5. The proposed variance shall not create substantial detriment to adjacent property: it does not appear as though these requests would result in substantial detriment to adjacent property, above/beyond what would be otherwise allowed by-right.
6. Characteristics of the neighborhood: The general area is characterized by a mix of large-scale commercial development and lower-scale residential development. Some properties have under building parking, surface parking or structured parking, while others have none. A six-story mixed-use building is an allowable use on the subject property, and would likely obtain necessary and use approvals and be considered orderly. The street-facing walls of properties in the general area appear to consist mostly of occupiable commercial tenant spaces. Not providing an active, occupiable space with commercial/retail uses at the ground-level is generally inconsistent with other development found in the general area.

Other Comments: This project will require approval from the Plan Commission for the demolition of the principal building and Conditional Use approval for the new building. The project also requires design approval from the Urban Design Commission for a new building in the UMX zoning district. The project has secured initial approval from the UDC on July 9th 2014, and will be scheduled for Plan Commission pending the outcome of these variance requests.

The proposed setback/building placement changes are a late project design change, introduced after the project has had significant review by staff, neighborhood interests, and after initial approval of the original project from the Urban Design Commission.

The setback variance request appears to be based upon some level of negotiation between neighborhood interests and the developer, to provide some setback on S. Hancock Street while preserving the mass and scale of a building that maximizes setback requirements. This type of negotiation has no founding in the zoning code, and is not part of any standard of approval for a zoning variance.

An appeal to the Zoning Administrator's interpretation of Sec. 28.071(3)(a)1. appears on the agenda where these variance requests are being considered.

Staff Recommendation: The burden of meeting the standards is placed upon the applicant, who needs to demonstrate satisfaction of all the standards for variance approval. This burden does not appear to have been met. It appears the project could be modified to provide the personal consideration of the petitioner for the front setback and a code-complaint rear yard setback, as described above, and non-required parking could be eliminated or redesigned in compliance with code requirements. Staff recommends that the Zoning Board find that the variance standards are not met and **deny** the requested variances as submitted, subject to further testimony and new information provided during the public hearing.