



City of Madison

City of Madison
Madison, WI 53703
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Meeting Minutes - Approved ZONING BOARD OF APPEALS

*Consider: Who benefits? Who is burdened?
Who does not have a voice at the table?
How can policymakers mitigate unintended consequences?*

Thursday, October 15, 2020

5:00 PM

Virtual

CALL TO ORDER / ROLL CALL

Peter Ostlind called the meeting to order at 5:03pm. Berenyi moved to appoint Ostlind as acting chair for this meeting, Waugh seconded. The motion passed 4-0 by voice vote.

Staff Present: Matt Tucker, Nancy Kelso and Cary Olson

Present: 5 - Allie Berenyi, Angela Jenkins, Jessica Klehr, Peter Ostlind, and David Waugh

Excused: 1 - Winn Collins

APPROVAL OF MINUTES

A motion was made by Waugh to approve the August 20, 2020 minutes, seconded by Berenyi. The motion passed 4-0 by voice vote.

PUBLIC COMMENT

1. [61712](#) Zoning Board of Appeals Public Comment Period

DISCLOSURES AND RECUSALS

There were no disclosures or recusals.

PETITION FOR VARIANCE, AREA EXCEPTIONS OR APPEALS

2. [62499](#)

Karen Paulus, owner of property at 1214 Temkin Avenue, requests a side yard setback variance to construct a one-story attached garage addition onto a 2-story single family dwelling. Alder District #19.

Tucker stated the property, located on the west side of the City south of University Avenue, is zoned SR-C2 and the request is for a side yard setback variance to construct a single story attached garage. Tucker explained the proposal is for a one stall garage with some added space for storage; the required setback is 7 feet, the proposal provides a 5.4 foot setback, resulting in the request for a 1.6 foot variance.

Applicant Karen Paulus stated she has planned for the smallest garage possible that will meet legal requirements and provide additional storage space for various tools and items.

Paulus clarified for the Board the layout of the garage to include stairs from the garage floor to the house level, explaining how a vehicle would be parked relative to the staircase.

Ostlind closed the public hearing.

Waugh moved to approve the requested variances; Jenkins seconded.

Review of Standards:

Standard 1: The Board noted that the topography of the lot and existing placement of the home present unique conditions to constructing a garage.

Standard 2: The Board determined the proposed structure would not be contrary to the spirit, purpose and intent of the code and that it could be beneficial to have the added interior storage space.

Standards 3 & 4: The Board found that although a portion of the proposal appeared to serve the applicant's interests, competing ordinances in regard to minimum parking stall requirement and side yard setback were burdensome, causing difficulty to construct a code compliant garage.

Standard 5: The Board determined there would be no detriment, sufficient open space would remain as a buffer to neighboring properties.

Standard 6: The Board found the proposed design appropriate for the existing house and consistent with the character of the neighborhood.

The Board voted by roll call 4-0 to approve the requested variance.

3. [62500](#)

Patrick Whitty, representative for the owner of the property at 102 N Brearly Street, requests accessory building placement, setback and Usable Open Space variances to construct a detached garage with a second-level open deck. Alder District #2.

Tucker stated the property is zoned TR-C4, located across Mifflin St. from the Breese Stevens athletic field complex, across the corner from a redeveloped mixed use and multi-family project, and a block off of E. Washington Ave. on the corner of N. Brearly and E. Mifflin Streets. Tucker detailed the petitioner's request for Usable Open Space (UOS), lot line setbacks, and accessory building placement variances to replace a dilapidated garage with a garage that would include a second level open deck with a spiral staircase from grade to deck.

Petitioner, Tosha Kowalski, stated that in the time since purchasing the property on-street parking has become much more challenging and the garage/shed structure had deteriorated to the point where she previously received notice from the City to make repairs. Kowalski noted that increased vehicular traffic in front of her home and the minimal amount of usable open space on her lot led to the roof top deck design.

Tucker further clarified for the Board the issues of usable open space and how it's affected by the placement of the staircase and off street vehicle parking between the home and the detached garage.

Patrick Whitty, representative and contractor for Kowalski, confirmed for the Board that the proposed structure is 12'x22' in area, water runoff is directed towards the house, and that maintenance agreements have been obtained from neighboring property owners. Whitty noted that the placement of staircase could be relocated.

The Board asked Tucker to explain the differing considerations for a garage with a gabled roof as opposed to the proposed garage with the rooftop deck. Tucker noted that it is possible to have a detached garage with a rooftop deck, citing a previously approved building permit request in the neighborhood from 2012 which added a deck atop an existing detached garage. This project met the setback requirements and did not require a zoning variance. Tucker detailed the setback differences between the 2012 project nearby and the subject request. Tucker mentioned there exists the possibility for the neighboring lot to be split and that a home built on the newly created lot would sit in very close proximity to the garage structure at 102 N Brearly. Tucker further discussed the differences of intent and purpose between usable open space and setback requirement relative to this proposal.

David Zoppo, owner and resident of the property at 944 E. Mifflin St., spoke in support of the submitted proposal.

Ostlind closed the public hearing.

Berenyi moved to approve the requested variances; Jenkins seconded.

Review of Standards:

Standard 1: While discussing standard 1, Board member Klehr made a motion to re-open the public hearing, Berenyi seconded. Further discussion took place

among the Board, Tucker, and petitioners. Ostlind then closed the public hearing. The Board noted the current garage structure is not able to accommodate a vehicle, and that although corner lot positioning is not unique in this area, this particular corner lot presents more challenges to this proposal.

Standard 2: The Board determined that to construct a new standard-type and size code compliant garage would necessitate variances, the addition of the elevated deck and stairway appeared to be contrary to the spirit, purpose and intent of the regulations.

Standards 3 & 4: The Board noted that compliance with the ordinance would be burdensome to place a replacement garage, and that any difficulty or hardship is created by the terms of the ordinance and that any form of a garage structure would require a variance.

Standard 5: The Board determined that the closeness of the structure relative to the setbacks could have detrimental impact to adjacent properties.

Standard 6: The Board concluded a garage structure would be in keeping with the character of the neighborhood, however the added rooftop deck could cause potential conflict.

The Board voted by roll call 2-2 to approve the requested variances; breaking the tie, acting chair Ostlind voted against approval. Therefore the motion failed to pass and the request was denied.

4. [62501](#)

Patrick Riha, representative for the owner of the property at 3001 N. Sherman Avenue, has withdrawn the variance request. Alder District #12.

Petitioner withdrew request for variance prior to meeting date.

Klehr moved to recess for five minutes; Berenyi seconded.

5. [62502](#)

Jason and Marcella Speich, owners of the property at 1112 Garfield Street, request a rear yard setback variance to construct a second-level dwelling addition onto a 2-story single family dwelling. Alder District #13.

Tucker stated the property is zoned TR-C2 in the Vilas neighborhood, it is a triangle shaped lot upon a slope which abuts on an alleyway. Tucker noted the proposal is to construct a second level addition on top of the flat roof of the partially sunken garage. Tucker detailed the measurement of the back yard setback on the triangle lot, noting the required setback is 22.2 feet, the proposal provides 12.42 feet, resulting in the request for a 9.78 foot variance.

Applicant Jason Speich stated the shape and size of the lot and placement of the house on the lot made it very difficult to minimize the amount of requested variance. Speich indicated the proposed addition would have minimal impact on the adjacent property as the closest neighboring structure is a garage across the alley. Speich noted that the addition would be an aesthetic improvement to the house and would maintain the character of the neighborhood.

There were no questions put forth by the Board.

Nancy Webb and Richard Shaffer, owners of the property at 1710 Adams St., registered in support of this proposal but did not wish to speak.

A letter of support submitted by e-mail from Hickory Hurie, owner of the property at 1522 Vilas Ave., was read into the record for the Board's consideration.

Ostlind closed the public hearing.

Waugh moved to approve the requested variance; Jenkins seconded.

Standard 1: The Board found the triangular shaped lot presents a unique condition to this proposal.

Standard 2: The Board noted the intent of the ordinance is to provide buffering between properties and determined the alley abutting the lot provides for adequate buffering.

Standard 3: The Board, having determined that the lot is unique, found that for any addition to be constructed a variance would be required.

Standard 4: The Board noted that compliance with the ordinance would be burdensome and create hardship due to the age of the house and the nature of the lot in an older, established neighborhood developed under different zoning requirements.

Standard 5: The Board found there would be no detrimental impact to adjacent properties.

Standard 6: The Board determined the proposal would be an improvement to both the existing house and the character of the neighborhood.

The Board voted by roll call 4-0 to approve the requested variance.

6. [62503](#) Ronald Trachtenberg, representative for the owner of the property at 414 Grand Canyon Drive, requests an appeal to the Zoning Administrator's determination as it pertains to a proposed business establishment at 414 Grand Canyon Drive. Alder District #19.

Petitioner requested referral of this item to the meeting scheduled for Thursday, November 19, 2020.

DISCUSSION ITEMS

7. [62505](#) Zoning Board of Appeals Notice Requirements
- Tucker discussed with the Board the requirements the Zoning Board of Appeals and the City have to notify the public of impending hearings. Tucker provided information on the city ordinance requiring notification compared to the standard practice used by the Zoning Department. Further discussion on this item will take place at the next scheduled meeting.**
8. [08598](#) Communications and Announcements
- No communications or announcements.**

ADJOURNMENT

The Board adjourned at 8:00 pm.