

ZONING ADMINISTRATOR'S REPORT
VARIANCE APPLICATION
4809 Hillview Terrace

Zoning: SR-C1

Owner: Todd Jindra and Elizabeth Shortreed

Technical Information:

Applicant Lot Size: 100' x 98' **Minimum Lot Width:** 50'

Applicant Lot Area: 9,800 square feet **Minimum Lot Area:** 6,000 square feet

Madison General Ordinance Section Requiring Variance: 28.131(d), 28.132

Project Description: Applicant requests an accessory structure placement setback variance and an eaves and gutter setback encroachment variance to construct a new detached garage for a single-family dwelling.

The subject property is a corner lot with the property's front on Hillview Terrace and reversed corner side yard on Edward Street. The existing single family house has a basement level attached garage. This garage will be converted into living space and the existing driveway to it will be removed. The proposed new detached garage will have a basement level inset into the slope and include stairs to a story above.

In the rear yard setback of a reversed corner lot, an accessory structure may be placed "no closer to the street side lot line than the front yard setback of the adjacent property, for the first twenty-five (25) feet from the common property line. Beyond this distance, the minimum setback shall be equal to the setback required for a principal building in the district." (MGO 28.131(d)5)

Accessory Building Placement Setback

Zoning Ordinance Requirement: 30'

Provided Setback: 20.4'

Requested Variance: 9.6'

A second requested variance is for an eaves and gutter encroachment. The zoning code allows for an up to 2' encroachment of eaves and gutters into a setback. The proposed detached garage has 4' eaves, requiring a variance for the additional 2' encroachment beyond what is allowed.

Eaves and Gutters Setback Encroachment

Zoning Ordinance Allowance: 2'

Provided Setback Encroachment: 4'

Requested Variance: 2'

Comments Relative to Standards:

1. **Conditions unique to the property:** The property is a zoning code compliant lot for minimum lot size and lot width. However, a unique condition is that the property has significant slope along both street frontages. The location of an existing mature tree on the lot is another unique condition.
2. **Zoning district's purpose and intent:** The purpose of the reversed corner accessory structure placement requirement is to generally locate accessory structures behind the principal structures on a lot, making them less obtrusive along a street frontage and on adjacent properties. The TR-C1 zoning district requires a minimum front setback of 30'. The existing house on the subject property is setback approximately 20' from the reversed corner side yard. The single family house on the adjacent property to the south has a front setback of 43.6' and is located significantly uphill from the proposed detached garage. It does not appear that a detached garage at the same setback as the existing house will cause significant blocking of views beyond the existing house. It does not appear that a variance would be contrary to the zoning code's purpose and intent.

The purpose of the eaves and gutter encroachment allowance is to allow a reasonable encroachment beyond the foundation of a building to accommodate typically-sized eaves and gutters. Four foot eaves are beyond a typical size, having an impact beyond 2' eaves and gutters and appearing more like a roof extension or overhang than like an eave. A variance for the eave and gutter encroachment appears contrary to the purpose and intent of the encroachment allowance in the zoning code.

3. **Aspects of the request making compliance with the zoning code burdensome:** The mature tree behind the existing single family house makes compliance with the zoning code burdensome if the tree is to remain. While setting the garage back further is possible, it would require that the tree be removed. However, it appears that the size of the garage could be reduced to 22', allowing sufficient room for two cars while reducing the variance request by 2'.

It seems that it would not be unnecessarily burdensome to reduce the size of the eaves to 2' to meet the zoning code's maximum allowance. A reduction of the eave size would not prevent a detached garage from being built and being usable.

4. **Difficulty/hardship:** The existing single family house was built in 1954 and purchased by the current owners in 2022. The accessory structure placement variance request seems to be driven by the location of an existing tree.

The request for a variance from the maximum eaves and gutter encroachment appears to be driven by the applicant's desire for a particular architectural feature and perhaps a more significant overhang than allowed by the ordinance.

5. **The proposed variance shall not create substantial detriment to adjacent property:** The first floor of the proposed garage will be built into the slope. The single family house adjacent to the accessory structure placement setback variance is setback more than the zoning code requires and is uphill from the proposed garage. The existing house has large eaves that project into the setback. Neither variance request appears to cause substantial detriment. It does not appear the variances would impact access to light and air on adjacent property.
6. **Characteristics of the neighborhood:** The immediate neighborhood is generally made up of single family houses, with some houses making use of the slope in their architectural design. Properties developed in the 1950s, like the subject property, appear to generally have smaller front and reversed corner side yard setbacks than properties in the neighborhood developed in the 1960s or later. The variances appear to be compatible with the surrounding area.

Other Comments: When driveways and driveway approaches are of different widths, Zoning and Engineering staff require a 45 degree angle transition between the widths. That transition is not shown on the site plan submitted with this application. After reviewing the site plan, staff shared this requirement with the applicant. Staff recommends the following condition be included with any approval: *"Driveway width shall be reduced at a 45 degree angle at the property line to provide the required transition between the driveway width and driveway approach width."*

Staff Recommendation: It appears that some variance for an accessory structure placement setback could be approvable. However, it seems that the garage size could be reduced to 22' x 26', which would still allow adequate space for two cars and an interior stair. Therefore, staff recommends **referral** pending additional information and **approval** if gaps in information relative to the standards of approval can be filled, subject to further testimony and new information provided during the public hearing.

For the eaves and gutters encroachment setback, it does not appear that the standards of approval have been met. The burden of meeting the standards is placed upon the petitioner, who needs to demonstrate satisfaction of all the standards for variance approval. It is not clear that this burden has been met. This request appears to be driven by the petitioner's desire for a particular

architectural design, rather than a hardship. For the eaves and gutter encroachment setback variance, staff recommends that the Zoning Board of Appeals find that the variance standards are not met and **refer** the case for more information relative to the standards of approval, or **deny** the requested variance as submitted, subject to further testimony and new information provided during the public hearing.