

ZONING ADMINISTRATOR'S REPORT  
VARIANCE APPLICATION  
**401 Morningside Avenue**

**Zoning:** SR-C2

**Owner:** Margarethe Buzten

**Technical Information:**

**Applicant Lot Size:** Irregular Corner (66' fr. on Morningside) **Minimum Lot Width:** 50'

**Applicant Lot Area:** 6,588 sq. ft. **Minimum Lot Area:** 6,000 sq. ft.

**Madison General Ordinance Section Requiring Variance:** 28.141(8)(c)

**Project Description:** Single-story single family home construct driveway and off-street parking space, which projects into the required front and side yard setback.

	<u>Front Yard</u>	<u>Side Yard</u>
Zoning Ordinance Requirement:	20.25'*	6.0'
Provided Setback:	14.0'	2.0'
Requested Variance:	<b>6.25'</b>	<b>4.0'</b>
(* setback average)		

**Comments Relative to Standards:**

1. Conditions unique to the property: The subject property exceeds minimum lot width requirements, has an irregular shape, and is a regular-corner lot. The lot abuts an unimproved right-of-way, dedicated when the land was platted in the township, and there is no plan to extend a street to improve this right-of-way in the near future. The lot has significant slope toward the side and rear, with the home taking advantage of this slope to allow for a walk-out basement exposure to the rear.
2. Zoning district's purpose and intent: The regulation being requested to be varied is the *front and side yard setback* requirements, to allow for a parking area that projects partially into to the required setbacks (partial front yard parking space). In consideration of this request, the side and rear yard setback are intended to provide buffering between developments and the right-of-way, generally resulting in a space between building bulk placed on lots and adjoining streets, to mitigate potential adverse impact of development in close proximity to the property lines. By requiring the parking space to be located outside of a required front or side setback, it is likely a car will park outside of a setback, but it is not required. Once a legal parking area has been established outside of a setback, the ordinance allows parking in a driveway also.

In this case the side setback abuts an unimproved street, and the street to the front has no sidewalk denoting the property line. Because no street or sidewalks exists, there is no

appearance of parking in a front or side setback. Because a small retaining wall will be required at the side of the space by the stoop area, the space will appear to project out of the ground somewhat, but parking in this area does not appear to be contrary to the public interest.

3. Aspects of the request making compliance with the zoning code burdensome: Noting the factors described above in comment #1, placing a legal parking area on this lot would require the paving and significant re-grading of the area alongside the home, to lead to a legal parking space in the rear yard, or significant installation of paving in the unimproved right-of-way area to lead to a space in the backyard area and would result in a parking space behind the house. Either alternative would still require people to climb back up the slope to enter the home at the primary (front or side) entrance. Also, the existing side entrance to the home adjacent to the proposed parking area includes basement beneath, which obstructs the ability to place the legal 8'w x 18' parking space.

The proposed parking area is 2' wider than code minimum for a legal parking space, but the extra width does allow one to step out of a door of a car onto a paved surface, which is common and reasonable. This extra width does not accommodate additional parking for more vehicles; it allows pedestrian circulation around a parked car. Given the adjacent slope change, having this extra width appears appropriate. It appears as though the variance results in the least possible encroachment to the setbacks to allow for an otherwise reasonable parking space near the primary entrance to the home.

4. Difficulty/hardship: The home was constructed in 1956 and purchased by the current owner in March 2012. See comment #1 and #3.
5. The proposed variance shall not create substantial detriment to adjacent property: The proposed driveway would have little adverse impact upon neighboring properties, above/beyond what would otherwise be permissible.
6. Characteristics of the neighborhood: The proposed driveway/parking area will appear similar to others found in the general area.

**Other Comments:** As stated above, the property abuts an unimproved right-of-way (Drexel Avenue). In consultation with City Engineering staff, it is highly unlikely this road would be improved to serve as possible street anytime soon, given the complexities associated with constructing the street and managing the drainage for this area should a street be constructed. There is one vacant lot that has frontage on the unimproved street, but at this time, there are no plans for that property to be developed. It is possible that a driveway could be approved to serve this vacant lot, in lieu of a full street, similar to the driveway that currently serves the home at 309 Morningside Avenue.

The backyard area of this lot is enclosed with a 6' tall screening fence, that has a gate for access oriented to the unimproved right-of-way. There does appear to be some gravel leading to this gate, but this is not an established driveway, appears to be used very rarely, and appears to be fairly overgrown due to non-use.

**Staff Recommendation:** It appears standards have been met, therefore staff recommends **approval** of the variance request, subject to further testimony and new information provided during the public hearing.