



# City of Madison

City of Madison  
Madison, WI 53703  
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## Meeting Minutes - Draft 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?*

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Thursday, August 10, 2023

5:00 PM

Virtual

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### CALL TO ORDER / ROLL CALL

Ostlind called the meeting to order at 5:02 pm.

Staff Present: Katie Bannon, Nancy Kelso, and Cary Olson

Board Members Present: 4 – Peter Ostlind, Allie Berenyi, David Waugh, and Craig Brown

Board Members excused: 1 - Angela Jenkins

### APPROVAL OF MINUTES

A motion was made by Waugh to approve the July 20, 2023 minutes, seconded by Brown. The motion passed 3-0 by unanimous vote.

### PUBLIC COMMENT

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

There were no public comments.

### DISCLOSURES AND RECUSALS

With regard to agenda item 2, Berenyi disclosed that she's had past professional contact with Chad's Design Build, however this would not affect her participation.

### PETITION FOR VARIANCE, AREA EXCEPTIONS OR APPEALS

**2. [79193](#)**

Chad's Design Build, representative of the owners of the property at 1039 Spaight St, requests a side yard setback variance for a second story screened porch addition on a single family house. Alder District #6.

**Bannon stated the variance request is slightly larger than what was presented in the documents provided to the Board; noting that it was brought to her attention prior to the meeting, that the proposed side setback is 2.5', not the 2.8' noted in the staff report and previously distributed marked up site plan. Bannon explained that zoning code requires a 4 foot side yard setback, the proposed addition provides for a 2.5 foot setback, resulting in the request for 1.5 foot variance. Utilizing the submitted floorplans and elevations, along with photos of the property, Bannon further described the proposal for constructing a second story screened porch over the existing garage. Referencing the building permit application for the existing house, Bannon stated an area variance was requested at that time and appeared to have been granted. Additionally Bannon noted that the permit application referenced that the dwelling at 516 S. Mills St. was built with the same plans as the house at 1039 Spaight St. Bannon provided photos of the property at 516 S. Mills St., highlighting the second-story door from the house to a deck over the attached garage that exists on both houses.**

**Chris Hacker of Chad's Design Build, representative for the property owner of 1039 Spaight St., noted the dwelling was built prior to the current zoning code creating a non-compliant structure. Hacker explained construction would follow the original floorplan design to access the porch and would build on top of the existing walls and foundation. Hacker stated building a code compliant addition would impose unconventional construction methods requiring structural changes to the area below the proposed addition, negatively impacting the functionality of both the garage and screen porch. Hacker further explained how the proposal meets the standards for variances.**

**Simon Balto, owner of the property at 1039 Spaight St., expressed his agreement with the statements made by Hacker, and noted he had discussions with neighbors regarding the proposed addition.**

**The Board questioned if the garage roof would be removed and reframed. Hacker responded that the goal is to maintain the existing roof; however, it may be necessary to lessen the current pitch when constructing the addition.**

**The Board noted the roofline appeared to extend out over the structure more than usual. Hacker explained the overhang is proposed to be 1 foot; Bannon stated zoning code allows for up to 2 feet of encroachment in the setback for eaves and gutters.**

**Bannon clarified for the Board the relationship between Zoning and Landmarks Commission regarding their respective approval processes.**

**Ostlind closed the public hearing.**

**Waugh moved to approve the requested variance; Brown seconded.**

**Review of Standards:**

**Standard 1:** The Board determined that the placement of the attached garage in the side yard setback at the time of original construction presented conditions unique to this property.

**Standard 2:** Noting that the addition does add bulk to the structure, the Board found that with the minimal intrusion into the setback and with support from the City of Madison Landmarks Commission, the proposal meets this standard.

**Standard 3:** The Board stated strict code compliance would be burdensome as that would create complications with construction and the ability to comply with historic district requirements.

**Standard 4:** The Board determined any difficulty or hardship is created by the ordinance, noting the original building permit approved the placement of dwelling on the lot when first constructed.

**Standard 5:** the Board stated the use of the proposed screened porch would likely have an impact on the neighboring property; however, it would not present substantial detriment.

**Standard 6:** Acknowledging the support from the City of Madison Landmarks Commission, the Board determined the proposal would be compatible with the character of the immediate neighborhood.

The Board voted 3-0 by unanimous vote to approve the requested variance.

**3. [79194](#)**

Sheldon Roberts and Don Jensen, owners of the properties at 5 Vinje Ct and 9 Vinje Ct, respectively, request an appeal of the Zoning Administrator's determination as it pertains to screening hedges. Alder District #16.

**Ostlind outlined the appeal process, noting the differences from a variance request hearing.**

**Sheldon Roberts, owner of the property at 5 Vinje Ct., and Don Jensen, owner of the property at 9 Vinje Ct., appeal the Zoning Administrator's determination as it pertains to screening hedges, MGO 28.142(11)(a). Speaking on behalf of both petitioners, Roberts stated they disagree that the row of trees in question are in use as a screening hedge between neighboring properties. Roberts expressed the opinion that the ordinance cited in the enforcement case is not applicable because it was set forth many years after the trees were planted. Additionally, Roberts stated that the ordinance does not clearly define the term "low growing trees" and does not specify other vegetation suitable for a hedge. Noting their consultations with certified arborists, Roberts asserted that the trees would suffer irreparable damage or possibly die if they were to be trimmed down to 6 feet in height or pruned to be less than 50 percent opaque.**

**Zoning Administrator Katie Bannon explained the process of the enforcement case that generated the notices of violation which resulted in the filing of this appeal, noting the enforcement case is on hold pending the outcome of the appeal. Bannon provided details of the zoning code applicable to this situation including definitions for what constitutes a screening hedge versus an ornamental hedge, what is meant by low growing trees and how the code is applied to regulation. Bannon shared photos of both properties to further clarify the determination of violation. Bannon noted options available to the petitioners to bring the hedges into code compliance.**

**Roberts and Bannon took the opportunity to respond to each other's statements.**

**Linda Elmore, owner of the property at 1528 Twilight Trail, spoke in opposition to the appeal.**

**Roberts spoke in response to Elmore's comments.**

**The Board posed questions to Roberts and Bannon for further explanation and clarification of their respective positions relating to interpretation and application of city ordinance.**

**Ostlind closed the public hearing.**

**Brown moved to uphold the Zoning Administrator's determination as it pertains to screening hedges under MGO 28.142(11)(a); Berenyi seconded.**

**After deliberations were completed and with no further discussion, the Board voted by roll call vote 2-1, denying the appeal. Discussion and reasons for the Board's decision are on the record of the proceeding.**

**DISCUSSION ITEMS**

4. [08598](#) Communications and Announcements

**Kelso noted the submission deadline for the September 21, 2023 meeting is August 24, 2023.**

**ADJOURNMENT**

**Waugh moved to adjourn the meeting; Brown seconded. By unanimous vote of 3-0 the Board adjourned at 6:31pm.**