



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, September 19, 2024

5:00 PM

Virtual

CALL TO ORDER / ROLL CALL

Ostlind called the meeting to order at 5:03pm.

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

Board Members Present: 4 – Peter Ostlind, Allie Berenyi, Angela Jenkins, and David Waugh.

APPROVAL OF MINUTES

A motion was made by Berenyi to approve the August 15, 2024, minutes; seconded by Jenkins. The motion passed 3-0 by unanimous vote.

PUBLIC COMMENT

There were no public comments.

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. [85121](#)

Michael Ring, owner of 402 Gammon Place, requests variances from the site standards for buildings and the site standards for automobile infrastructure in the Transit-Oriented Development Overlay District for a commercial building with a drive-through. Alder District #19.

Bannon explained the property is located at the southeast corner of Gammon Rd. and Mineral Point Rd. Noting the existing three-story building on the lot, Bannon stated the proposal is to construct a one-story commercial building with a drive-through in the area presently used for parking. Bannon explained the intent of the Transit Oriented Development (TOD) Overlay District is for site and building design to be oriented more towards transit riders and pedestrians rather than vehicle users. Referencing the submitted plans, Bannon further explained what is and isn't allowed by ordinance in the TOD Overlay District along with recent code changes for drive-through requirements which result in the five requested variances for the proposed development.

Michael Ring, owner of the property at 402 Gammon Pl., expressed his opinion that TOD requirements apply to a full site redevelopment and the proposal is more an infill development on the existing lot. Ring explained the proposal is designed to maintain the quality and character of the surrounding area. Ring stated that if the new building were to meet the required setback it would negatively impact the drive-through function of the existing bank building.

Further discussion took place between the Board, Ring, and Bannon regarding the location and function of the new structure, the drive-through, and traffic flow and parking to further explain the proposal and the requested variances.

Ostlind noted for the record the members of the public who have registered their opposition to the proposal.

Ostlind closed the public hearing.

Jenkins moved to approve the 5 requested variances; Waugh seconded.

Review of Standards:

Standard 1: Noting the property is established and the proposed development is of a pattern similar to other buildings in the area, the Board stated that the entrance to the lot from a secondary street is a unique feature of this location.

Standard 2: Stating the proposal is quite contrary to the intent of the TOD Overlay District and approval of the number of variances could set a bad precedent, the Board found this standard was not met.

Standard 3: The Board determined there were options available to develop the property in a code compliant manner or perhaps not require as many variances as are being requested; therefore, this standard was not met.

Standard 4: Noting it's possible that the recent ordinance change could create some difficulty, the Board stated that the TOD Overlay District has been in effect for enough time that development could be done to meet the ordinance requirements.

Standard 5: The Board determined the proposal would not cause substantial

detriment to neighboring properties as they exist today; however, when considering future developments there's the possibility of detriment to those that are code compliant.

Standard 6: The Board found the proposal creates dual drive-throughs on the same lot which is not compatible with the TOD Overlay District in the neighborhood.

The Board voted 0-3 by roll call vote to deny the requested variances.

3. [85122](#)

Leslie Fields and Jeff Lindholm, owners of 1146 & 1148 Erin St, request a side yard setback variance for a two-car detached garage for a two-family house. Alder District #13.

Bannon stated the property is a two-family house that had an existing two-car detached garage which was measured and surveyed prior to being demolished. Bannon explained the proposal is to construct a new two-car detached garage in the area of where the garage previously existed without encroachment into the neighboring property, placed more forward from the rear lot line, and with a 3'3" setback between the garage and house. Bannon stated the variance request is for the side yard setback, noting the required setback is 5', the proposal provides 10", resulting in a request for a 4.2' variance.

Leslie Fields, co-owner of the property at 1146-1148 Erin St., stated the garage could be rebuilt in the same footprint with the existing setbacks, however they chose to pursue a variance request for a slightly larger garage, proposing to fully comply with the rear yard setback requirement and needing a variance for the side yard setback. Fields noted that the distance between the proposed garage and the existing house could be reduced for less variance, however it is already a very narrow passageway as proposed. Fields further explained the need for a larger garage.

Jeff Lindholm, co-owner of the property at 1146-1148 Erin St., stated they have recently set up a maintenance agreement with the neighbor to the west. Lindholm explained the proposal will increase permeable surface area and will better manage water runoff.

Further discussion took place between the Board, Fields, Lindholm, and Bannon to clarify the need for a two-car garage, the amount of space needed between the garage and house, water runoff management, and the Usable Open Space requirement.

Ostlind closed the public hearing.

Waugh moved to approve the variance request with conditions that the garage is moved 3" to the east, and that maintenance easements from adjoining, affected property owners are obtained and recorded. The motion was not seconded and therefore failed.

Berenyi moved to approve the variance request with the condition that maintenance easements from adjoining, affected property owners are obtained and recorded; Jenkins seconded.

Review of Standards:

Standard 1: The Board found that the lot being under minimum size and the house taking up much of the lot area presented conditions unique to the property.

Standard 2: The Board stated the proposal meets the intent of the code as the garage is moved out of the rear setback and improves on the side yard setback for better buffering between adjacent properties.

Standards 3 & 4: Noting the reasonable expectation to have a two-car garage

for a two-unit home, the Board determined that constructing a code compliant, standard size two-car garage on this lot would be unnecessarily burdensome and the terms of the ordinance would cause significant hardship or difficulty.

Standard 5: The Board found this standard was met, remarking that the proposal removes the encroachment into the neighboring property and reduces some of the existing detriment.

Standard 6: The Board found the proposed garage to be of a style common to this area and would be compatible with the character of the neighborhood.

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

4. [85123](#)

Stacey Schultz, representative of the owners of 3746 Hammersley Ave, requests a side yard setback variance for a second-story addition on a single-family house. Alder District #5.

Bannon stated the proposal is to construct a second story addition on the existing house which is situated in the side yard setback. Bannon explained the planned addition would also be located in the side yard setback; therefore, a variance is requested. Utilizing photos and submitted plans, Bannon further detailed the proposed addition. Bannon stated the addition would not be visible from the front view of the house, noting the property is on a corner lot with the front facing Hammersley Ave. Referencing the submitted site plan, Bannon explained the required setback is 5', and the proposal provides 4.3' resulting in a request for a 0.7' variance.

Stacey Schultz of Heartland Build & Design LLC, representative of the for the property owner of 3476 Hammersley Ave., stated the proposed addition would add a second bathroom on the second story of the home. Schultz noted that the addition was planned using existing attic space and will not extend into the setback beyond where the house is presently located. Schultz further explained the decision-making process that determined where and how to locate the addition to best accommodate the modest sized bathroom.

There were no questions from the Board to either Schultz or Bannon.

Ostlind closed the public hearing.

Waugh moved to approve the requested variance; Berenyi seconded.

Review of Standards:

Standard 1: The Board found that the existing structure being situated in the setback presents a unique condition to this property.

Standard 2: The Board noted that the addition does add a small amount of bulk, however the bulk is in an upward direction rather than outward. As well, the Board stated the applicant has shown effort to minimize the amount of requested variance and the proposal does meet the purpose and intent of the code.

Standards 3 & 4: Stating that this type of request is common when an existing structure is situated in the setback the Board determined that code compliance would require major structural changes that would be unnecessarily burdensome, and any difficulty or hardship is created by the terms of the ordinance.

Standard 5: The Board found that the proposal would not create substantial detriment as the slight amount of bulk in the addition does not move the structure closer to the adjacent property.

Standard 6: The Board found the proposal meets this standard, noting how the addition won't be seen from the front street view and the overall design is complementary to the house and immediate neighborhood.

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

DISCUSSION ITEMS

5. [85124](#) Board Procedures Update

There was a conversation among Board members and Bannon on the progress of the updates to the Board Procedures. This item will be on the October meeting agenda for further discussion.

6. [08598](#) Communications and Announcements

Kelso noted a case has been submitted for the October 17, 2024 meeting.

ADJOURNMENT

Waugh moved to adjourn the meeting; Berenyi seconded. By unanimous vote of 3-0 the Board adjourned at 7:12pm.