



# City of Madison

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

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Thursday, December 19, 2019

5:00 PM

215 Martin Luther King, Jr. Blvd.  
Room 13 (Madison Municipal Building)

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### CALL TO ORDER / ROLL CALL

Peter Ostlind, called the meeting to order at 5:00pm. Berenyi moved to appoint Ostlind as acting chair for this meeting; Jenkins seconded. The motion passed 3-0 by voice vote

Staff Present: Matt Tucker and Nancy Kelso

Present: 4 - Peter Ostlind, Angela Jenkins, Allie Berenyi, and Jessica Klehr

Excused: 2 - Winn Collins, David Waugh

### APPROVAL OF MINUTES

A motion was made by Berenyi to approve the July 11, 2019 minutes, seconded by Jenkins. The motion passed 2-0 (1 abstention) by voice vote.

A motion was made by Jenkins to approve the November 21, 2019 minutes, seconded by Berenyi. The motion passed 2-0 (1 abstention) by voice vote.

### PUBLIC COMMENT

### DISCLOSURES AND RECUSALS

There were no recusals. Board member Ostlind disclosed his partner owns property on Morrison St., however this would not impact his decision.

### PETITION FOR VARIANCE, AREA EXCEPTIONS OR APPEALS

1. [58621](#) Paul Kardatzke, representative of the owner of property at 1350 Morrison St., requests lot area, usable open space, lot width and setback variances to construct an attic-level third unit to the existing two-story, two family, two unit dwelling. Alder District #6

Tucker stated that the existing two family, two unit property is zoned TR-C4. The request is for lot area, usable open space, and lot width and setback variances to convert the third level space to an additional dwelling unit. Tucker detailed the required lot area, lot width, usable open space, and setback requirement for a 3 unit dwelling, resulting in the request for variances.

Paul Kardatzke, representative for applicant Kyle Knox, noted that the third level is currently approved habitable space used in conjunction with the second level unit. Kardatzke provided details for the expansion of a dormer and addition of a required stairway in order that it may utilized as a separate, third dwelling unit. Kardatzke stated the square footage of the structure would not increase and an existing shed would be removed from the property. Applicant Knox stated that creating the third dwelling unit would not increase the number of occupants and the additional stairway increases the level of safety for the third level of the structure.

Tucker clarified that the structure is a two story building with habitable space in the attic, it is not a three story building. Tucker further clarified the occupancy regulations and definitions that apply to dwelling units in the TR-C4 zoning district.

The Board questioned if other options were considered for placement of the stairway. Kardatzke responded that different locations were looked into, however they were not as compatible with the existing structure. The board noted the stairway would not be necessary if the variance to add a 3rd unit was not approved. Applicant Knox concurred, and indicated the stairwell would not be constructed if the third unit were not approved.

Board members asked the applicant to explain to the board how adding a third unit to the building met the standards of approval for zoning variance. Applicant responded.

The Board discussed the rear yard setback variance for a dormer addition approved in 2002. It was noted that zoning and building codes have since changed and that current building and zoning code requirements differ between two and three unit dwellings.

Ostlind closed the public hearing.

Berenyi moved to approve in entirety the four variance requests; Klehr seconded.

Review of Standards:

Standard 1: The Board noted conditions unique to the property are that it is legally nonconforming and the structure takes up a major amount of space on the narrow lot.

**Standard 2:** The Board determined that the bulk requirement variance requests were contrary to the intent and purpose of the zoning ordinance.

**Standards 3 & 4:** The Board noted there is no undue hardship to follow the ordinance with the property remaining in its current state of use. Additionally the lot has reached or exceeded its capacity with a two unit dwelling, which may remain as a nonconforming use.

**Standard 5:** The Board determined that there could be detriment to neighboring properties with the possibility of additional occupants and vehicles by adding a 3rd unit to this structure and lot.

**Standard 6:** The Board found that the proposal would be in keeping with the character of the neighborhood.

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

**2. [57411](#)**

Cindy Sullivan and Alan Mross request front and rear yard setback variances to allow for additions to the existing two-story three family dwelling as follows: a 3rd level elevated deck at the front of the structure; a 3rd level elevated deck, reconstructed and expanded porch, and new 1st level elevated deck/landing at the rear. Alder District #2

**Referred from the September 19, 2019 meeting: Variance request for a rear yard, 2-story enclosed porch addition, and variance request for a rear yard, third-level elevated deck.**

Tucker reviewed the details of the variance requests and provided information on the City's policy regarding porch replacement for the Board's consideration. Tucker noted that this policy is not governed by City Ordinance, however has been in practice for a number of years.

Applicant Sullivan and Mross detailed the changes in the plans submitted with the application and provided additional photos to the Board.

Berenyi moved to include acting chair Ostlind in discussion; Klehr seconded. The Board voted 3-0 to approve the motion by voice vote.

After discussion of the third-level elevated deck, it was clarified for the record by the petitioners that the placement of the deck to the edge of the overhang was not correct, and that the request is for a 3.3 foot rear variance, aligned with the rear wall of the porch. Discussion regarding the 2-story enclosed porch further clarified the request for a 5.3 foot variance, with Tucker providing scaled dimensions of the submitted plan and Sullivan and Mross providing additional photos and explaining.

In reference to the staff report addendum, further discussion was held regarding the applicants having met all the standards for variance approval.

Ostlind closed the public hearing.

Klehr moved to approve both variance requests together; Berenyi seconded.

**Review of Standards:**

**Standard 1:** The Board noted the condition unique to the property is the pre-existing condition of a large house built on a substandard size lot.

**Standard 2:** The Board determined that with the revised submitted plans, the requested variances are not contrary to the intent and purpose of the zoning code.

**Standards 3 & 4:** The Board noted that it would not be unnecessarily burdensome to use the property without the variance approval, however due to the structure already in place within the setbacks, compliance with the ordinance creates hardship for any replacement in kind to the 2-story enclosed porch.

**Standard 5:** The Board determined there would not be substantial impact to adjacent properties.

Standard 6: The Board concluded the structure could be compatible with the neighborhood.

The board voted 3-1 to approve the motion by voice vote.

### NEW BUSINESS

### DISCUSSION ITEMS

3. [08598](#) Communications and Announcements

Communication: Tucker indicated that cases are scheduled for the January 16, 2020 meeting.

### ADJOURNMENT

The Board adjourned at 7:17 pm.