



City of Madison

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

Thursday, February 21, 2019

5:00 PM

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

CALL TO ORDER / ROLL CALL

Corigliano, chair, called the meeting to order at 5:00pm and explained the appeals process.

Staff Present: Matt Tucker and Cary Perzan

Present: 5 - Peter A. Ostlind; Agnes (Allie) B. Berenyi; Patrick W. Heck; Dina M. Corigliano and Winn S. Collins

Excused: 1 - Jessica Klehr

APPROVAL OF MINUTES

A motion was made by Collins to approve the January 17, 2019 minutes with amendments, seconded by Ostlind. The motion passed (5-0) by voice vote.

PUBLIC COMMENT

DISCLOSURES AND RECUSALS

Berenyi disclosed that she knows Christi Weber professionally and had previously worked for TDS Custom Construction, but stated these will not affect her decision.

PETITION FOR VARIANCE, AREA EXCEPTIONS OR APPEALS

1. [54578](#) Christi Weber, representative of the owner of property at 821 Miami Pass, requests a sideyard setback variance to construct a first-story addition onto the existing two-story single-family dwelling. Alder District #10

Tucker explained that the property in question is a single-family dwelling zoned TR-C1 in the Nakoma neighborhood on the west side. The request is for a side yard setback variance to build a first-story addition onto the existing two-story dwelling. The zoning code requires 7 ft., 5.4 ft. is provided, requiring a 1.6 ft. variance. Tucker noted the unique condition where there exists a foundation that is currently covered by a sidewalk. He noted that other portions of the overall project at 821 Miami Pass, including the two-story addition, driveway relocation, and garage, do not require zoning variance and are not to be considered.

Christi Weber, representative of the applicant, provided more information about the existing foundation wall. She noted there is concern about the lack of water proofing in the area and worried about difficulty insulating and sealing, and water seepage in the future, which could lead to rot and/or warping. There is a secondary concern that without the variance, the jog in the structure would be an awkward spot for the homeowners. Weber noted there is an existing roofline that will be rebuilt. She stated that enclosing the space under consideration would increase the durability of the home. She noted that it would be cost-prohibitive to the owners to remove the existing foundation and repour to fit when the money could be used elsewhere to revive the property.

The Board questioned the representative about evidence of water intrusion. Weber replied that there is not bulk water intrusion evident yet, but the sidewalk covers the area so it may be present, and that disturbing the site with the necessary excavations may lead to intrusion in the future.

The Board questioned about other options for the area, including roofing the portion at grade where the current kitchen door is. Weber explained that alternatives to the one proposed would all end up needing a variance anyway since the wall is already built into the side yard setback. The proposed design changes the slope to make it more aesthetically pleasing and to move water away from dwelling. Tucker added that in certain cases, the Director of Building Inspection can approve roofing changes at his/her discretion.

Brian Stoops and Amy Lamere-Stoops, owners of 817 Miami Pass, spoke in opposition to the proposed variance. The Stoops explained their property is adjacent to 821 Miami Pass and they would be impacted the most by both the overall construction project and the proposed variance relating to the renovations. The Stoops noted that they understood that the Zoning Board is only considering a fraction of the project, but wanted to make their opposition known and noted in a public forum. They stated that even the small portion in the variance will affect the views and lighting from their property. Also, this additional encroachment, though small, is unacceptable because the properties are already close together and, if approved, this variance will make the situation worse.

Weber rebutted that the Stoops' property is uphill from 821 Miami Pass, which means their lighting and views will not be impacted greatly. She noted that

she understands their overall concern with the scope of the wider project, but stressed that, with the exception of section in question, all other components are compliant with zoning regulations, and that this specific area is incredibly minor.

Collins moved to approve the variance as stated; Berenyi seconded the motion.

Review of Standards:

Standard 1: The Board noted the Staff Report notes the unique conditions of the property well: the key is the existing foundation wall under pavement with no structure above it that already projects into the side yard setback area. The fact that there is more structure that includes a roof, makes it more than a stoop.

Standard 2: The Board noted that the intent of the zoning code is to provide a buffer between adjacent properties. However, in this case, the Board noted that the projection into the setback already exists in part and over the portion in question, there exists both a foundation and roofline so the addition is not creating much more of a buffering issue than currently exists. The Board also noted that the most affected adjacent property has a retaining wall with landscaping to provide sufficient buffering.

Standards 3 & 4: The Board noted that it is difficult to consider the representative's statements about bulk water intrusion and air sealing when no sufficient evidence was provided beyond suppositions about their existence to this point or into the future. But, the Board noted that the owners are new and do not have the benefit of history to understand the specifics of the house's relationship with water. However, the Board acknowledged it would be a burden to have to build a new foundation in basement to maintain the current jog in building to comply with the side yard setback. The Board also acknowledged that other design options for the space may also require a variance, and the one presented is a good option that works with the overall design of the house.

Standard 5: The Board noted that since there is a structure already present in the setback, this request does not rise to the level of substantial with blockage of sun and air to the adjacent property. The Board stated with the addition, the area will look better aesthetically and will provide additional privacy with a regular window instead of the existing door.

Standard 6: The Board noted that the same materials will be used to match the dwelling's current style and will fit in with the overall characteristic of the neighborhood. The proposed sloped roof will be more characteristic than the existing flat roof.

The Board voted 5-0 to approve the requested variance by voice vote.

2. [54577](#)

Jay Patel, representative of the owner of property at 2301 East Springs Dr., requests a maximum building placement variance to construct a new five-story hotel. Alder District #17

Tucker explained that the property in question is a commercial property zoned CC on East Springs Dr. which is the last road before Interstates 90/94/39. The area consists of primarily large commercial auto centers and a variety of retailers. The required building placement is 70% frontage maximum 100 ft. from front property line. The request is for a 144 ft. 4 in. variance to have the building placed 244 ft. 4.5 in. back from the front property line.

Jay Patel, representative of the applicant, provided an overview of the hotel developer and this specific project: a dual-brand hotel that would require 250 keys to be a viable project in the area and require 1:1 parking ratio. He stated the concerns about the steep slope at the entrance of the site, which would require extensive grading to comply with the current zoning requirement.

Nick Bower, associate of the representative and engineer on the project, reiterated that the slope at the entrance of the drive, which is further complicated by being shared with the neighboring Home Depot, is the main reason behind the variance request. He explained the reasoning behind the presented design of the parking lot, including ease of movement and circulation for fire protection. Bower also noted that ADA compliance for the sidewalk was a major consideration. Bower further explained that the considerations of corporate's requirements for the development play into the presented design.

The Board questioned the representatives about the lack of elevation information in the submission, as it seems to be of vital importance to the request. Patel and Bower conceded that it would be helpful, but they provided as much information as was available at the time and could get the needed information for the Board.

The Board discussed various other options for making the building more compliant with the zoning code, including altering the proposed parking lot to move more parking to the rear of the building and raising the parking lot with a retaining wall. The Board noted these options may be less desirable from an industry standpoint, but would take more consideration of the relevant zoning ordinances. Tucker added that if certain other features are altered, other zoning requirements may become non-compliant as a result of those changes, as some requirements were met by the presented plans. Tucker also added that the current zoning code was adopted after this site and its neighbors were originally developed in the 1990s and is the direction the City would like to see future developments and redevelopments in this zoning district move toward.

The Board acknowledged that meeting that 100 ft. requirement would be challenging, but stated that the need for the 244 ft. placement due to the zoning code rather than industry preference had not been sufficiently made. Bower noted that the ADA requirements for the development are a major factor in the decision presented. He presented specifics for ADA compliance on the submitted plans. The Board asked if a referral would be acceptable to the representative if more information about elevation and grading options could be compiled for the Board's consideration. Patel indicated that he would be in

favor of that option.

Ostlind moved to refer the variance as stated to a date no later than May 16, 2019; Heck seconded the motion.

The Board went over the Review of Standards to help the representative compile necessary information.

Review of Standards:

Standard 1: The Board noted the key issue here is the steep grade at the shared entrance of the drive. It likely is not possible to be completely compliant, but other options that would reduce the non-compliance need to be explored in greater detail with more factual evidence to support each option.

Standard 2: The Board noted that the intent of the zoning code is to present the building closer to the street, whereas in the past it was suitable for a building to sit further back on the lot. The Board noted the variance request would put the proposed hotel more in line with neighboring properties that were built before the current zoning code was adopted, but this is not how the City wants redevelopment to proceed in the present and into the future. The Board noted it would be useful to have data about how much of an effort was made and what options were explored to become more compliant.

Standards 3 & 4: The Board noted the representative should focus on Standards 3 & 4 when the case is brought back. The applicant and their representative(s) must prove that the burden and hardship is caused by the zoning code rather than interest in the property and the needs of corporate. The Board stated that exact costs are not necessary, but fact-based estimates about grading would be acceptable and the reasoning behind corporate's needs for the development.

Standards 5 & 6: The Board noted that these Standards have already been satisfied with current presented information.

The Board voted 5-0 to refer the variance as stated to a date no later than May 16, 2019 by voice vote.

DISCUSSION ITEMS

3. [08598](#) Communications and Announcements

Tucker stated there would be a March meeting as cases have been submitted.

ADJOURNMENT

The Board adjourned at 6:30 pm.