



City of Madison

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

Thursday, September 19, 2019

5:00 PM

215 Martin Luther King, Jr. Blvd.
Room 013, Madison Municipal Building

CALL TO ORDER / ROLL CALL

Collins, chair, called the meeting to order at 5:01pm.

Staff Present: Matt Tucker and Nancy Kelso

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

APPROVAL OF MINUTES

A motion was made by Ostlind to approve with modifications the August 15, 2019 minutes, seconded by Jenkins. The motion passed 5-0 by voice vote.

PUBLIC COMMENT

DISCLOSURES AND RECUSALS

There were no recusals. Board member Collins disclosed that the applicants, Cindy Sullivan and Alan Mross, were present at the August 15, 2019 meeting and soon thereafter they and Collins had crossed paths at a public event. Collins stated that this would not impact his decision.

PETITION FOR VARIANCE, AREA EXCEPTIONS OR APPEALS

1. [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

Tucker stated that the property is zoned TR-V1, situated in the east isthmus area at the corner of E. Dayton and N. Brearly Streets. The request is for front and rear yard setback variances for additions/alteration to a three-story, three-family dwelling. Tucker explained in detail the four separate requests: front yard, elevated deck at third level; rear yard, two-story enclosed porch addition (replace/expand at second-level); rear yard, third-level elevated deck (replace/expand); rear yard first-level elevated deck.

Petitioner Cindy Sullivan stated that when they purchased the property in 2010, City of Madison records listed the property as a 2-unit building although it was functioning as a 3-unit building for many years prior to their purchase. She noted that in 2011 they applied for and were granted a variance to convert the second and third floors to two units and have the property approved as a three unit dwelling. Sullivan explained they chose to remodel the entire building focusing mainly on the interior but decided to include re-building of the existing porches and added a third story porch and deck. Sullivan did state the porches were over-built beyond allowable scope but only became aware of this in May of 2019 when they received notice of violations of City Ordinances. The Board asked for further clarification on previous variance request. Tucker provided copies of the 2011 application and explained that Lot Area and Usable Open Space variances were granted to approve a 3rd unit in the building, which involved remodeling the building, but not to expand or replace the rear porches or allow any other exterior construction. The approval included a condition that the enclosed front porches were to be opened. The remainder of the structure was to be left unchanged.

The Board asked for further explanation on Usable Open Space requirements. Tucker explained that in this zoning district, Qualifying UOS must be on the ground and that open porches and/or decks do not qualify as UOS. Tucker noted that there was a UOS area in the rear yard setback area until the rear deck was constructed.

The Board was made aware that the construction of the porches and deck was done without obtaining the necessary permits. As a result extensive inspections will need to be done if these structures are to stay in place, should variances be granted.

The board noted examples of 3rd level decks in the petitioner's submission, but also noted that none of these examples were from the immediate neighborhood, and those examples could be in different zoning classifications which might allow the decks or not projecting in required setback areas.

The Board noted that the floor plans which were used for approval on the 2011 variance don't match to what was actually built, specifically noting the expanded rear porch reconstruction. Petitioner Alan Mross provided explanation of work done by the previous owner and the work they did to make repairs and remodel; Architect Robert Bouril submitted an additional plan showing the renderings of the project as it was approved in 2011 (labeled

page A7) and discussed the remodeling process along with options to reduce the size of expansion. Bouril noted that the property is non-conforming and that any form of remodeling or reconstruction would require a variance.

The Board agreed to review each variance request individually.

Ostlind moved to approve the variance requested for a front yard, elevated deck at third level; Klehr seconded the motion.

Review of Standards:

Standard 1: The Board noted that the lot is of substandard size and there is minimal flexibility in regard to setbacks.

Standard 2: The Board determined that there is no conflict with the intent and purpose of the zoning code with the proposed front third level deck.

Standards 3 & 4: The Board determined that the third level front deck has no bearing on building code compliance of the structure, and that there would be no difficulty or hardship incurred by not having a third level front deck.

Standard 5: The Board noted there was not much information presented to address this standard, however any detriment to the neighboring property would be minimized by the proposed reduction in size from the existing illegal deck.

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

The Board voted 0-4 to deny the requested variance by voice vote.

Ostlind moved to approve the variance requested for a rear yard, third-level elevated deck; Berenyi seconded the motion.

Review of Standards:

Standard 1: The Board noted that the lot is of substandard size and there is minimal flexibility in regard to setbacks.

Standard 2: The Board noted that the structure impedes on buffering at the rear of the property which is conflicting to the intent and purpose of the zoning code.

Standards 3 & 4: The Board determined that compliance would not be burdensome and could likely be met by constructing a smaller deck than proposed. It was also determined that the lot size and existing building placement create some hardship rather than the ordinance.

Standard 5: The Board stated that there would be some detriment to the adjacent property to the rear of the building as the structure is situated very close to the lot line.

Standard 6: The Board determined the structure is compatible and the

character of the neighborhood is maintained.

Ostlind moved to amend the motion to recommend deferral of decision until no later than the meeting scheduled for December 19, 2019; Berenyi seconded the motion.

The Board voted 4-0 to defer by voice vote.

Ostlind moved to approve the variance requested for a rear yard, two-story enclosed porch addition; Berenyi seconded the motion.

Review of Standards:

Standard 1: The Board noted that the lot is of substandard size and there is minimal flexibility in regard to setbacks.

Standard 2: The Board noted that the expansion to the rear and sides, along with enclosing the porch increases the bulk of the structure which is conflicting to the intent and purpose of the zoning code.

Standards 3 & 4: The Board determined that compliance would not be burdensome and would not prevent use of the property for permitted purpose. The Board noted that a change in ordinance since the structure was originally constructed adds some difficulty but does not entirely prevent compliance.

Standard 5: The Board stated that the architectural structure is an aesthetical improvement with minimal detriment to adjacent property.

Standard 6: The Board determined the structure is compatible and the character of the neighborhood is maintained.

Ostlind moved to amend the motion to recommend deferral of decision until no later than the meeting scheduled for December 19, 2019; Jenkins seconded the motion.

The Board voted 3-1 to defer by voice vote.

Ostlind moved to approve the variance requested for a rear yard first-level elevated deck; Berenyi seconded the motion.

Review of Standards:

Standard 1: The Board noted that the lot is of substandard size and there is minimal flexibility in regard to setbacks.

Standard 2: The Board determined that the request is not contrary to the public interest, but does conflict with the intent and purpose of the zoning district regulations.

Standards 3 & 4: The Board determined that code compliance would not be burdensome nor any difficult or hardship is created by terms of the ordinance.

Standard 5: The board stated that there would be no detriment to adjacent properties.

Standard 6: The Board determined the structure is compatible and the character of the neighborhood is maintained.

The Board voted 0-4 to deny the requested variance by voice vote.

DISCUSSION ITEMS

- 2. [08598](#) Communications and Announcements

Communication: Tucker announced that a new board member has been appointed and will be introduced at the October 17, 2019 meeting. Tucker announced that Edgewood High School has filed a lawsuit against the City of Madison in Federal Court. Tucker advised board members to not comment publicly about the case or the appeal.

ADJOURNMENT

The Board adjourned at 7:22 pm.