



# 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?*

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Thursday, March 18, 2021

5:00 PM

Virtual Meeting

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### CALL TO ORDER / ROLL CALL

Winn Collins, chair, called the meeting to order at 5:04pm.

Staff Present: Matt Tucker, Nancy Kelso and Cary Olson

Present: 5 - Winn Collins, Allie Berenyi, Angela Jenkins, Peter Ostlind, and David Waugh.

### APPROVAL OF MINUTES

A motion was made by Jenkins to approve the February 18, 2021 minutes, seconded by Berenyi. The motion passed 3-0 by unanimous vote with one abstention.

### PUBLIC COMMENT

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

### DISCLOSURES AND RECUSALS

In reference to agenda item 4, Board member Ostlind disclosed that he frequents the business at this location and participated in a neighborhood association meeting regarding this project, however this would not impact his decision.

### PETITION FOR VARIANCE, AREA EXCEPTIONS OR APPEALS

2. [63585](#) Douglas Pahl, representative for the owners of the property at 1401 Northern Court, requests a Usable Open Space variance to construct a new dwelling unit. Alder District #6.

Tucker stated the property is located in the East Isthmus area and is zoned TE (traditional employment), noting that in this type of zoning district it is common to find a mixed use of commercial and residential structures. Tucker explained the Usable Open Space (UOS) requirement, providing details regarding acceptable dimensions, stating that a maximum of seventy five percent of UOS may be structured, such as on a roof deck or balcony, and the remaining twenty five percent needs to be at grade. Tucker noted that this property does not meet the 75/25 percent ratio as there is no open space at grade, the current structure covers the entire lot area at the first story, which necessitates the variance request.

Douglas Pahl, representative for applicant Troy Sedlak, provided further details for UOS in the proposed dwelling unit, also noting the original structure was built in 1951 and borders on a residential neighborhood.

Pahl submitted an updated plan and clarified for the Board how the Usable Open Space would be accessed from the dwelling unit.

Tucker clarified for the Board the areas in the proposal designated as Usable Open Space. Additionally, Tucker explained how the Board's decision on a variance request on a given property may impact a review of that property by the City's Plan Commission, because standards of review between the committees have some overlap.

Collins closed the public hearing.

Waugh moved to approve the requested variance; Berenyi seconded.

Review of Standards:

Standard 1: The Board noted that the existing structure completely fills the lot without any at grade usable open space presents a unique condition.

Standard 2: The Board determined that the proposal does provide for Usable Open Space and does not conflict with the intent of the code.

Standards 3 & 4: The Board noted that it would be quite burdensome to create at grade UOS, that any difficulty or hardship is created by the terms of the ordinance when applied in this instance.

Standard 5: The Board found there would be no detrimental impact to adjacent properties.

Standard 6: The Board determined the requested variance of Usable Open Space would be compatible with the character of the neighborhood.

The Board voted 4-0 by unanimous vote to approve the requested variance.

3. [64514](#)

Elizabeth Cwik, representative for the owners of the property at 1805 Rutledge Street, requests a side yard variance to construct a second-story addition at the rear of the existing two-story single-family dwelling. Alder District #6.

Tucker explained the proposal is to construct a second level addition, to replace an existing deck with an enclosed, conditioned space. Tucker stated the addition sits atop the existing side wall which provides 3 foot side yard setback; the minimum side yard setback for this lot is 3.8 feet resulting in the request for a 0.8 foot variance. Tucker noted the proposal includes a rear-facing balcony which does comply with the setback requirement.

Elizabeth Cwik, representative for applicants M. Jake Vander Zanden & Helen C. Sarakinos, stated the location for the addition was chosen because the existing deck has been under-utilized and was the most logical area of the home to accommodate an expansion with the least amount of impact to adjoining properties. Cwik noted that the placement of the structure close to the side lot line is typical of several homes in the area and creates a unique condition for this project.

The Board asked how water runoff from the roof was to be managed. Cwik explained that a gabled roof will be constructed off the attic with gutters on both east and west sides; Sarakinos stated all water collected will be discharged on to the property in the back yard.

The Board asked for further clarification on where the variance is needed in relation to the plans presented. Tucker explained that the existing home has a legal non-conforming setback, sitting 0.8 feet in the setback, with no requirement for anything to be done to change that condition. Tucker stated that any bulk change to the existing structure, such as an addition or expansion, does need to comply with the setback requirement. For this project, a variance would be needed for the addition to be flush atop the side wall rather than stepped-in the 0.8 feet.

The Board questioned if the siding to be used on the addition will match the existing type of siding on the home. Cwik explained the new siding will be of different composition but will be matched in color.

Collins closed the public hearing.

Berenyi moved to approve the requested variance; Ostlind seconded.

**Review of Standards:**

**Standard 1:** The Board noted that although the lot is not unique, the placement of the structure in the setback on the lot does present a unique challenge.

**Standard 2:** The Board found that although the addition as proposed would add bulk, there wouldn't be a significant decrease in bulk if built in compliance with the ordinance. Additionally, the Board determined that buffering will be maintained between adjacent properties, therefore the proposal meets the intent and purpose of the zoning code.

**Standard 3:** The Board determined that compliance with the ordinance would

adversely affect the architectural integrity of the home and would be burdensome both structurally and aesthetically.

**Standard 4:** The Board found that hardship would be caused by code compliance due to the existing structure's placement on the lot and changes in zoning ordinance since original construction.

**Standard 5:** The Board determined there would not be substantial detriment to adjacent properties and that privacy between properties will be maintained.

**Standard 6:** The Board noted that the proposed addition is in keeping with the character of the neighborhood.

The Board voted 4-0 by unanimous vote to approve the requested variance.

4. [64515](#)

Greg Norman, owner of the property at 555 W. Washington Avenue, requests a zoning variance to allow for the use of vehicle access sales and service window facility in proximity to a property with a residential use. Alder District #4.

Tucker stated the building is located southwest of the Capitol at the corner of W. Washington Avenue and Bedford Street, explaining that it was originally constructed as a bank with drive-through service. Tucker noted it is a multi-tenant building with the retail hardware store on the first level and office space on the second level. Tucker explained the current zoning ordinance requires vehicle access sales and service window (VASSW) facilities to be located sixty feet from a residential property and directly east of this location is an existing residential building with multiple dwelling units. Tucker stated that the requested variance is to utilize the VASSW facility within the sixty foot minimum setback. Tucker noted when this ordinance was adopted in 2013 the bank had legal nonconforming status; however after the bank vacated the building the opportunity to utilize the VASSW was lost and the legal nonconforming status is not available to the current tenant.

Greg Norman, proprietor of the retail hardware store, stated the intention is to utilize only one lane of the three that constitute the VASSW facility, that being the lane closest to the building, farthest from the residential structure. Norman explained the plan to expand the pass through window and add a larger drawer to facilitate delivery of large item purchases, noting that use of the two outer lanes would be impractical for this purpose.

Tucker clarified for the Board that it is permissible for a tenant of a building to petition for a variance.

Tucker provided further explanation of how the ordinance governing VASSW facilities evolved and how it has applied in other instances. Tucker stated that most businesses that utilize VASSW facilities are not in close proximity to a residential zoning district or use and did note that this location is adjacent to property zoned as a downtown residential district and is a residential use.

The Board questioned if there were other options considered for placement of the VASSW on the lot. Tucker provided further details showing where the 60' setback falls on the property and stated that this proposal is the only viable option to utilize a VASS window.

Collins closed the public hearing.

Jenkins moved to approve the requested variance; Ostlind seconded.

**Review of Standards:**

**Standard 1:** The Board noted that the structure is unique to this neighborhood and this type of use was intended when originally designed and built.

**Standard 2:** The Board found the proposal was not contrary to the intent of the code and the planned use is comparable to other business models and would serve the public interest.

**Standard 3:** The Board determined that compliance would be burdensome as there is no other way to locate the VASSW on the property.

**Standard 4:** The Board, noting the structure's previous legal non-conforming status and prior zoning code changes, found that current difficulty or hardship to be caused by the terms of the ordinance.

**Standard 5:** The Board determined that any detriment to adjacent properties would be mitigated by the screening fence and usage of only one lane, the lane closest to the building.

**Standard 6:** The Board found that the proposal is compatible with the neighborhood, as there are several other established commercial properties in the immediate area, some with VASSW facilities.

Prior to voting, the motion to approve the variance request was amended to include the condition that the single lane adjacent to the service window is the only lane to be used for the Vehicle Access Sales and Service Window.

The Board voted 4-0 by roll call vote to conditionally approve the requested variance

#### DISCUSSION ITEMS

5. [62505](#) Zoning Board of Appeals Notice Requirements

Discussion regarding the requirements the Zoning Board of Appeals and the City have to notify the public of impending hearings was referred to the next scheduled meeting.

6. [08598](#) Communications and Announcements

Tucker stated he would not be in attendance for the April 15th meeting and Assistant Zoning Administrator Jacob Moskowitz would serve in his place.

#### ADJOURNMENT

The Board adjourned at 6:51 pm.