



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, June 17, 2021

5:00 PM

Virtual

CALL TO ORDER / ROLL CALL

Peter Ostlind called the meeting to order at 5:02pm. Klehr moved to appoint Ostlind as acting chair for this meeting, Waugh seconded. The motion passed 3-0 by unanimous vote

Staff Present: Matt Tucker, Nancy Kelso and Cary Olson

Present: 4 - Angela Jenkins, Jessica Klehr, Peter Ostlind, and David Waugh.

Excused: 2 - Winn Collins, Allie Berenyi

APPROVAL OF MINUTES

A motion was made by Waugh to approve the April 15, 2021 minutes, seconded by Jenkins. The motion passed 3-0 by unanimous vote.

PUBLIC COMMENT

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

There were no public comments.

DISCLOSURES AND RECUSALS

Board member Waugh disclosed he knows applicant representative Jim Glueck, however this would not impact his decision.

PETITION FOR VARIANCE, AREA EXCEPTIONS OR APPEALS

2. [65835](#) Patrick Whitty, representative for the owner of the property at 102 N Brearly Street, requests accessory building placement, lot line setback and Usable Open Space variances to construct a detached garage. Alder District #2.

Tucker stated this property is located in the east isthmus area, noting that a similar proposal had been previously presented to the Board last fall. Tucker explained the restrictions and setback requirements that apply to this reverse corner lot, providing details of the requested variances for accessory building placement, lot line setback and Usable Open Space.

Patrick Whitty, architect and representative for Tosha Kowalski, the owner of the property at 102 N. Brearly St., stated the current garage is in need of replacement due to its dilapidated condition. Whitty noted that because of the small lot, to construct a functional garage of any size a variance would be needed. Whitty added that maintenance easement agreements with the neighboring properties have been obtained.

Tucker shared pictures of the property that were taken recently and from a year ago. It was noted that an order had been issued from the City calling for demolition of the existing garage.

Whitty clarified for the Board the dimensions of the proposed garage and its distance from the street. Tucker clarified for the Board the application of setback regulations and the use of setback averaging in this zoning district, noting that most of the homes in this area were constructed prior to the establishment of the zoning code and are forward of the minimum setback. Tucker noted the garage setback would be close to the average front setback of houses on the block.

Ostlind closed the public hearing.

Klehr moved to approve the requested variance; Waugh seconded.

Review of Standards:

Standard 1: The Board determined that this reverse corner lot and small size of the lot presented unique challenges to constructing a functional garage.

Standard 2: The Board found that the proposal, having preserved the available Usable Open Space as much as possible and upon recording of the maintenance easements, meets the intent and purpose of the zoning code.

Standards 3 & 4: The Board noted the requested variances were minimized as much as possible and that there is not enough space on the lot to construct a code compliant garage; therefor compliance with the zoning code would be burdensome, causing difficulty and hardship.

Standard 5: The Board found that with placement of the new structure on the site of the old structure along with the proposed design there would not be substantial detrimental impact to the neighboring properties.

Standard 6: The Board determined the scale, proportion, and materials proposed for the garage would be compatible with the existing home and be

in keeping with the character of the neighborhood.

After further discussion the motion to approve the requested variances was amended to require the maintenance easement agreements from adjoining properties are to be recorded with the Dane County Register of Deeds prior to issuance of a building permit.

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

3. [65836](#)

Jim Glueck, representative for the owners of the property at 226 Dunning Street, requests a lot line setback variance to construct a detached garage. Alder District #6.

Tucker, noting the property is zoned TR-V1 and located on the City's east side just north of Atwood Avenue, stated the proposal is to raze the existing dilapidated garage, construct a new garage on the same site, utilizing a side yard setback placement. Tucker explained that a 3 foot minimum side lot line setback is required by code, the applicant proposed a 1 foot 5 inch setback resulting in the request for a 1 foot 7 inch variance. Tucker shared pictures of the property showing the condition of the existing garage and the proximity of the existing Maple tree to the location of the proposed garage.

Jim Glueck, representative for Henry and Martha Detering, owners of the property at 226 Dunning Street, stated that the maintenance easement would be with the owners of the property to the south of 226 Dunning St. rather than with property owners to the north and west as mentioned in the staff report; Tucker concurred. Glueck noted that the Maple tree is a barrier to locating the new structure further north on the subject property.

The Board questioned how the water run-off from the garage roof was to be managed. Susan Detering, property owner of 230 Dunning St., noted that the parcels are graded such that water drains away from the street and towards the back yards. Ms. Detering stated her intentions to collect the run off in a rain barrel and divert any overflow on to her property. Glueck discussed the option of reducing the roof overhang to 12 inches and installing a gutter to collect and disperse the runoff on to the subject property. Property owners Henry and Martha Detering voiced their agreement with the reduction of overhang and managing water runoff onto their property.

Ostlind closed the public hearing.

Waugh moved to approve the requested variance with conditions that a maintenance easement agreement with adjoining property owners is to be recorded with the Dane County Register of Deeds and that the proposed structure is modified to provide a 12 inch overhang with gutter to collect run off and discharge onto the subject property; Klehr seconded.

Review of Standards:

Standard 1: The Board noted the placement of the specimen tree in proximate location to the existing driveway presents a unique situation to an otherwise standard lot.

Standard 2: The Board found that the intent and purpose of the zoning code is met as a garage is a reasonable request and the proposal has balanced the need for a variance while maintaining valued tree on the property.

Standards 3 & 4: The Board determined that code compliance would be burdensome as it would require removal of the tree. Noting the proposal is for a permitted purpose, and that replacing the garage and preserving the tree would be a reasonable request, the Board found that strict compliance with the ordinance would impose difficulty and hardship on the property owner.

Standard 5: The Board found the applicant has done their due diligence to minimize any detrimental impact to the neighboring properties.

Standard 6: The Board noted that it is common in this neighborhood to have a one or two car detached garage and this proposal is found to be in alignment with the characteristics of the neighborhood.

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

DISCUSSION ITEMS

4. [62505](#) Zoning Board of Appeals Notice Requirements

Discussion continued on the Zoning Board of Appeals notice requirements. At a prior meeting it was determined that the code does need to be amended to represent the process, and that a “public notice” sign should be displayed at a property requesting a variance. Tucker presented details on the current ordinance, ZBA Board procedures, and the current practice in place. Tucker provided options for possible changes to the noticing process for the Board’s consideration. After further discussion, Tucker outlined the proposal to be presented to the sponsoring Alder and Plan Commission to modify and update the current code.

5. [08598](#) Communications and Announcements

Tucker noted cases have been submitted for the July 15, 2021 meeting.

ADJOURNMENT

The Board adjourned at 7:20 pm.