

Minutes

August 12, 2024

MADISON CITY BOARD OF ZONING APPEALS

The City of Madison Board of Zoning Appeals held a regular meeting on Monday, August 12, 2024, at 6:00 p.m. in City Hall. Scott Baldwin presided over the meeting with the following additional Board Members present: Mark Acosta, Nancy Burkhardt, Karl Eaglin, and Rick Farris. Also present: Devon Sharpe, Attorney; Ray Dibaya, Secretary/Associate Planner, and Nicole Schell, Director of Planning.

Minutes:

There were no corrections or additions to the July 8th, 2024, meeting minutes. M. Acosta made the motion to approve the July 8th, 2024, minutes – Seconded by R. Farris - Unanimous Consent Vote – Final vote is five (5) in favor and none against – Motion carries.

Minutes for July 8, 2024, approved in accordance with the motion and vote.

Renewals:

1. Angela Tharp – Conditional Use Permit for a mobile home.
Location: 988 Saddletree Ln Zoned: Medium Density Residential (R-8)
One-Year Renewal
2. Margaret Seifert-Russell – Conditional Use Permit for a folk art and doll museum and learning center.
Location: 113 E Third St Zoned: Historic District Residential (HDR)
One-Year Renewal
3. Sarah E. (Libby) Mann – Conditional Use Permit for a Bed & Breakfast.
Location: 409 W First St Zoned: Historic District Residential (HDR)
One-Year Renewal
4. Howie & Lisa Cutshall – Conditional Use Permit for a medical facility with multiple doctor offices.
Location: 601 Broadway St Zoned: Historic District Residential (HDR)
One-Year Renewal
5. Cara Fox – Conditional Use Permit to utilize middle section of building for weddings and/or receptions.
Location: 602 W Main St Zoned: Specialty District (SD)
Two-Year Renewal
6. CASA of Jefferson County – Conditional Use Permit to provide an office for support staff and volunteers for children advocacy.
Location: 319 W Second St Zoned: Historic District Residential (HDR)
One-Year Renewal
7. Kevin D. & Denise R. Brierly – Conditional Use Permit for a wedding barn and reception venue.
Location: 193 N Music Dr Zoned: Residential Agricultural (RA)
Two-Year Renewal
8. Garrett Leahigh – Conditional Use Permit to utilize property as a second residence and short-term rental. No more than one (1) car parked on the street.
Location: 312 E Third St Zoned: Central Business District (CBD)
One-Year Renewal
9. Mary Ann Bennett – Conditional Use Permit for a residence with camping on select dates/events and additional occasional use by family/friends.
Location: 1011 Fillmore St Zoned: Open Space (OS)
One-Year Renewal

10. Fortino Miranda – Conditional Use Permit for a mobile home.
Location: 3684 W Interstate Block Rd Zoned: Central Business District (CBD)
One-Year Renewal
11. Rebecca Brown – Conditional Use Permit for short-term rentals.
Location: 307 E Fourth St Zoned: Historic District Residential (HDR)
One-Year Renewal
12. Kelsey Shaw – Conditional Use Permit for short and long-term rentals.
Location: 118 Ferry St Zoned: Historic District Residential (HDR)
One-Year Renewal

S. Baldwin noted that all renewals except #2 had been paid. S. Baldwin made the motion that the renewals that had been paid be approved – Seconded by N. Burkhardt – Unanimous Consent Vote – Final vote is five (5) in favor and none against – Motion Carries.

Renewal #1 and Renewals #3-12 were renewed in accordance with the motion and vote.

S. Baldwin made the motion that #2 be tabled until staff can confirm that the use is no longer in use – Seconded by M. Acosta – Unanimous Consent Vote – Final vote is five (5) in favor and none against – Motion carries.

Renewal #2 was tabled in accordance with the motion and vote.

New Applications:

1. **BZVD-24-37:** Kenton Mahoney – Variance from Development Standards for lot acreage to allow for the construction of an addition.
Location: 1716 Taylor St Zoned: Residential Agricultural (RA)

Kenton Mahoney – 1716 Taylor St – the applicant approached the podium and explained the purpose of the application. He explained that he had already been before the BZA for a Variance for setbacks for the property two years prior but was informed by staff that he now needs a Variance for lot acreage for the property to bring it into full conformance with the Zoning Ordinance.

S. Baldwin stated that he recalls the previous meeting K. Mahoney attended for the first Variance and recalls that nobody had any objections at the time. He added that due to the applicant having already gone through the process, he would quickly review the Finding of Facts to expedite the meeting.

S. Baldwin asked the Board and the audience if they had any questions or comments and then went into the Findings of Fact.

Findings of Fact

1. *Will this variance be injurious to the public health, safety, morals, and general welfare of the community?*

S. Baldwin: So, the first one is injurious to the public health and so forth. Any objections, Board members?

M. Acosta: No.

R. Farris: No.

N. Burkhardt: No.

K. Eaglin: No.

2. *Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?*

M. Acosta: Is that going to hurt any adjacent properties' property values?

R. Farris: No.

N. Burkhardt: No.

K. Eaglin: No.

S. Baldwin: No.

3. *Will the strict application of the terms of the zoning ordinance result in practical difficulties in the use of the property?*

S. Baldwin: Will this be practical difficulties? In my view, yes. Is there anybody that disagrees that there would be practical difficulties in this particular case?

M. Acosta: No.

R. Farris: No.

N. Burkhardt: No.

K. Eaglin: No.

S. Baldwin: And obviously, just for the record, I can't resist – the practical difficulty is this miserable zoning situation that he's in.

S. Baldwin made the motion to approve the application as submitted – Seconded by M. Acosta – Unanimous Consent Vote – Final Vote is five (5) in favor and none against – Motion carries.

Application BZVD-24-37 was approved in accordance with the motion and vote.

2. **BZVD-24-38** David Carlow – Variance from Development Standards for setbacks to allow for the construction of a new detached garage and carport.

Location: 747 W Main St

Zoned: Specialty District (SD)

David Carlow – 747 W Main St – approached the podium and discussed the proposal and why he needs a Variance. He presented pictures to the Board of the structure he wants to replace his current garage and carport.

K. Eaglin made a motion to accept the pictures D. Carlow presented into the record – Seconded by M. Acosta – Unanimous Consent Vote – Final Vote is five (5) in favor and none against – Motion carries.

D. Carlow stated that he hadn't received a completed survey from the surveyor that he had commissioned but added that he knew where they placed the stakes near an alley behind his home and used that to ascertain where his property line was and justify why he wants to build a foot off of the property line.

M. Acosta asked D. Carlow if the new structure would be one-story tall.

D. Carlow confirmed that it would be and added that he would consider putting a cupola on top of the structure as decoration. He also stated that he knows he'll have to go before the Historic Board for approval for some of

the modifications he'd like to add to the structure, which he believes will fit in with the aesthetic of the neighborhood.

S. Baldwin made a comment about having walked near the property to see the carport in relation to his neighbors' carport to ensure that the placement of the new structure wouldn't be an issue.

N. Burkhardt asked D. Carlow if he was going to use the same footprint, to which D. Carlow responded that he plans on tearing out the foundation and using the same footprint.

D. Carlow then stated he spoke to neighbors beforehand and ensured that they received notices and informed them of the meeting to allow them to voice their concerns.

S. Baldwin asked D. Carlow how certain he was that his lot line was accurate in relation to the requested setbacks.

D. Carlow stated that he was able to see markers from the survey he commissioned and used them to determine the setbacks he needed.

K. Eaglin asked D. Carlow if he had any kind of utilities other than electric.

D. Carlow responded that the only other utilities he uses are the gas line and sewer line which run underneath his current carport and added that he may replace the sewer line when he tears the concrete out. He added that the gas and sewer line run down the alley near the property and that the replacement shouldn't affect either of them.

S. Baldwin asked the Board and the audience if they had any more comments or questions. S. Baldwin then went into the Findings of Fact.

Findings of Fact

1. *Will this variance be injurious to the public health, safety, morals, and general welfare of the community?*

M. Acosta: No, not in any way.

R. Farris: No, I don't believe it will.

N. Burkhardt: No, I don't see a problem with any of those.

K. Eaglin: I do not see a problem.

S. Baldwin: And rebuilding a structure on the same footprint that's already been there for decades. I don't think that's going to harm the general welfare.

2. *Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?*

M. Acosta: No, I think to the contrary, having a new building there will improve that.

R. Farris: I agree with those comments from Mr. Acosta.

N. Burkhardt: I too agree with those comments.

K. Eaglin: Yes, I agree with the comments.

K. Eaglin: No, it should be good.

S. Baldwin: Having listed testimony of how the house is going to be constructed, and the fact that it's going to have to be constructed to Madison's Flood Hazard Ordinance standards, I think that one is met.

2. *Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?*

M. Acosta: No, I think it will actually be an improvement and improve the entire property so the adjacent areas will benefit from that.

R. Farris: I agree with Mr. Acosta's comments.

N. Burkhardt: I too agree with those comments.

K. Eaglin: Yes, I agree, no harm.

S. Baldwin: The biggest harm would come from a flood washing the thing into somebody else's property, and I do not see a high likelihood of that when following Madison's rules for Flood Plain construction.

3. *Will the strict application of the terms of the zoning ordinance result in practical difficulties in the use of the property?*

M. Acosta: Yeah, just as we mentioned in the previous application, they restrict them from doing any upgrades, but also would keep the current structure non-compliant.

R. Farris: Strict application would prevent the upgrade of the property and I guess the substantially adverse part of the situation is the lack of zoning back when the property was built.

N. Burkhardt: I agree with the prior comments.

K. Eaglin: I agree.

S. Baldwin: The practical difficulty difficulties... it's a narrow lot for one, which was laid out in the 19th century by their standards. Modern standards are different, and I think that is the practical difficulty that's involved. So, I think that one's met.

S. Baldwin made the motion to approve the application with the following conditions: (1) that all construction must conform to Madison's Flood Hazard Area Ordinance #3-2015, (2) failure to comply with it will disqualify any Building Permit issuance – Seconded by K. Eaglin - Unanimous Consent vote – Final vote is five (5) in favor and none against – Motion carries.

Application BZVD-24-39 was approved in accordance with the motion and vote.

4. **BZCU-24-56:** Carolina and Ken Mackinlay – Conditional Use Permit for a single-family residence to be used as a short-term rental.

Location: 1328 W Second St

Zoned: Historic District Residential (HDR)

Carolina Macklinay – 1229 W Main St – the applicant approached the podium and explained the proposal. She stated that she intends to use the property as an Airbnb when it is not in use by her relatives when they come to visit.

S. Baldwin made a comment that the home was originally a part of a property that was a Civil War-era hospital building that was also used as an AirBNB. He added that his major concerns for the proposal were noise and parking.

S. Baldwin asked that C. Macklinay make amendments to her submitted House Rules such as, no parking be allowed on the street, no events or gathering be held in the cottage, no more than six people at the cottage at a time, and that all guests are registered and accounted for on Airbnb.

S. Baldwin then asked staff if the additional rules would be legally binding, to which D. Sharpe stated that Airbnb probably has additional rules that C. Mackinlay didn't include in her House Rules because they'd be redundant.

S. Baldwin then continued with amendments to the submitted House Rules including that; there be no parking allowed on the street, that guests please lock all car doors, that no events or gatherings be held by guests, that all guests be registered and accounted for on Airbnb, quiet hours run from 10pm to 9am, that no more than six people may stay at the cottage at a time, and no pets.

S. Baldwin asked if the Board members or audience had any questions or comments.

M. Acosta asked C. Mackinlay if the additional rules were acceptable, to which she agreed.

S. Baldwin then went into the Findings of Fact.

Findings of Fact

1. *Is this use in fact a conditional use as established under the provisions of Article V and appears on the Official Schedule of District Regulations adopted by Section 7.00 for the zoning district involved?*

M. Acosta: Agreed

R. Farris: Yes.

N. Burkhardt: Correct.

K. Eaglin: Yes.

S. Baldwin: Yes.

2. *Will this use be harmonious with and in accordance with the general objectives, or with any specific objective of the City's Comprehensive Plan and/or the Zoning Ordinance?*

M. Acosta: Yes.

R. Farris: Yes.

N. Burkhardt: Yes.

K. Eaglin: Yes.

S. Baldwin: No objections.

3. *Will this use be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area?*

M. Acosta: Yes.

- R. Farris: Yes.
 N. Burkhardt: Yes.
 K. Eaglin: Yes.
 S. Baldwin: All approve.

4. *Will this use not be hazardous or disturbing for existing or future neighboring uses?*

- M. Acosta: Yes
 R. Farris: With House Rules.
 N. Burkhardt: Yes.
 K. Eaglin: Yes.
 S. Baldwin: With House Rules.

5. *Will this use be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services?*

- M. Acosta: Yes.
 R. Farris: Yes.
 N. Burkhardt: Yes.
 K. Eaglin: Yes.
 S. Baldwin: All agree.

6. *Will this use not create excessive additional requirements at public expense for public facilities and services and will not be detrimental to the economic welfare of the community?*

- M. Acosta: Correct.
 R. Farris: Yes.
 N. Burkhardt: Agreed.
 K. Eaglin: Yes.
 S. Baldwin: All agreed.

7. *Will this use not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors?*

- S. Baldwin: This is the one about activities, processes, excessive production of traffic noise, smoke, fumes, glare and odors. Any problems?
 M. Acosta: No.
 R. Farris: No issues.
 N. Burkhardt: No.

K. Eaglin: No problem.
S. Baldwin: No issues.

8. *Will this use have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares?*

S. Baldwin: This one's about vehicular approaches to the property. Not interfering with other traffic?
M. Acosta: No.
R. Farris: No.
N. Burkhardt: No.
K. Eaglin: No, it does not.
S. Baldwin: I agree, not an issue.

9. *Will this use not result in the destruction, loss, or damage of natural, scenic, or historic features of major importance?*

M. Acosta: No issue.
R. Farris: No.
N. Burkhardt: No problem.
K. Eaglin: It complies.
S. Baldwin: I think it probably helps preserve them.

S. Baldwin made the motion to approve the application as submitted for a one-year renewal term contingent upon enforcement of the amended House Rules, changed in the Board meeting and submitted to staff – Seconded by N. Burkhardt - Unanimous Consent vote – Final vote is five (5) in favor and none against – Motion carries.

Application BZCU-24-56 was approved in accordance with the motion and vote.

No further business brought before the Board.

K. Eaglin made the motion to adjourn – Seconded by M. Acosta – Unanimous Consent vote – Final vote is five (5) in favor and none against – Motion carries.

The meeting adjourned at 6:43 p.m. in accordance with the motion and vote.

BY ORDER OF THE CITY OF MADISON BOARD OF ZONING APPEALS

Scott Baldwin, Chairman

Ray Dibaya, Secretary/Associate Planner
