

MEMORANDUM

To: City of Whitewater Zoning Board of Appeals

From: Allison Schwark, Zoning Administrator

Date: December 9, 2025

Re: Variance Request

Summary of Request	
Requested Approvals:	Variance request for a two-story building addition that does not comply with current setback regulations
Location:	836 W Walworth Street (Parcel #/BIR 00017)
Current Land Use:	Residential
Proposed Land Use:	Residential
Current Zoning:	R-2 One & Two Family Residence
Proposed Zoning:	N/A
Future Land Use, Comprehensive Plan	Central Area Neighborhood

Staff Review

The applicant is requesting a variance to construct a second level addition on a home that currently exists on the parcel but is nonconforming as it does not meet the setback requirements for the R-2 zoning district. The home was constructed many years ago, and recently significant damage was caused to the existing home due to a fire. During the fire, the area where the addition is proposed had an existing first floor with crawl space that needed to be ripped off the building to gain access to areas for the fire department to effectively extinguish the fire. Significant damage was done to that area of the building, and it was completely removed, sealed, and the property was listed for sale.

The new owners of the parcel would like to rebuild the existing first floor level of the home that was ripped off, which is allowed per ordinance. The property owners have the ability to re-build within the same footprint and replace exactly what existed prior to the damage occurring.

Per Section 19.60.040:

A nonconforming structure with a conforming use that is damaged or destroyed by violent wind, vandalism, fire, flood, ice, snow, mold, infestation, or other calamity may be restored or replaced to the size, location, and use that it had immediately before the damage or destruction occurred, subject to building code and other applicable requirements. No limits may be imposed on the costs of the repair, reconstruction, or improvement of said structure. The size of the structure may be larger than the size immediately before the damage or destruction occurred if necessary for the structure to comply with applicable state or federal requirements. Any reconstruction shall conform to the development regulations of this title, to the extent practicable, and existing sanitary code requirements, and shall commence within twenty-four months of the date of damage or destruction, unless an extension is granted by the government agency having authority.

Additionally, the owners would like to expand the addition to include a second story above the first story, which never existed previously.

Per Section 19.60.040:

Additions and enlargements to existing nonconforming structures with a conforming use are permitted and shall conform to the established yard/setback, height, parking, loading, and access provisions of this title.

The proposed addition does not currently meet the setback requirements of the R-2 zoning district.

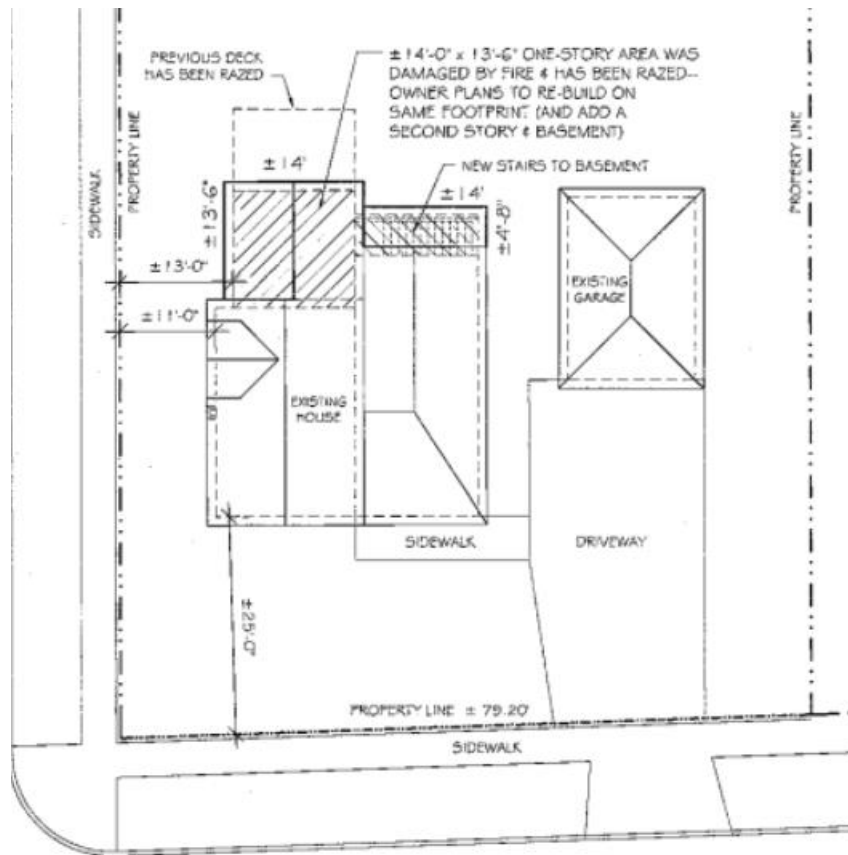
19.18.060 - Yard requirements.



Minimum yard requirements in the R-2 district are:

- A. Front, twenty-five feet; (not more than forty percent of the front yard may be an impervious surface except by conditional use permit);
- B. Side, ten feet for one-family, fifteen feet for two-family and multifamily; corner lots, twenty-five feet;
- C. Rear, thirty feet (not more than forty percent of the yard may be an impervious surface except as a conditional use);
- D. Shore, seventy-five feet. All shoreland shall be in compliance with [Chapter 19.46](#), and in addition may require DNR approval;
- E. For all structures larger than a one-family dwelling unit, the building setback standards established in the R-3 multifamily residence district shall apply.

Per section 19.18.060 the side yard setback on corner lots is 25 feet. The proposed addition is 13 feet from S Whiton Street.



Per Section 19.72.080:

No variance to the provisions of this title shall be granted by the board unless it finds beyond a reasonable doubt that all of the following facts and conditions exist, and so indicates in the minutes of its proceedings:

- A. The particular physical surroundings, shape, or topographical conditions of the specific property involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out;
- B. The conditions upon which the application for a variance is based would not be applicable generally to other property within the same zoning classification;
- C. The purpose of the variance is not based exclusively upon a desire for economic or other material gain by the applicant or owner;
- D. The hardship is not one that is self-created;
- E. The proposed variance will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion in the public streets, or increase the

danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhoods;

- F. The proposed variance will not have the effect of permitting a use which is not otherwise permitted in the district;

Decision and Final Action

