

ZONING ADMINISTRATOR'S REPORT
VARIANCE APPLICATION
5630 Lake Mendota Drive

Zoning: TR-C1

Owner: Tom Zalewski and Ann Kinkade

Technical Information:

Applicant Lot Size: 71.38' w x 228.52' l **Minimum Lot Width:** 50'

Applicant Lot Area: 19,578 square feet **Minimum Lot Area:** 6,000 square feet

Madison General Ordinance Section Requiring Variance: 28.138(4)

Project Description: Applicants request a lakefront yard setback variance for a new elevated deck and a lakefront yard setback variance for a modification of the second story bulk of a single-family house.

The subject property is a lakefront property. The lakefront yard setback was determined using first allowable method in the code, the average setback of the principal building on the two adjoining lots. For the subject property, the minimum lakefront yard setback is 64.23 from the Ordinary High Water Mark.

The zoning code requires setbacks for uncovered decks that are elevated over 3 feet above adjacent ground level ("elevated decks.") An existing elevated deck that is not located within the lakefront setback is proposed to be removed, and a new 12' x 24' deck elevated 4.67' above adjacent grade is proposed to be built, which would be in the lakefront rear yard. Decks over three feet above adjacent grade may encroach up to 6' into the rear setback. However, an additional 6.25' encroachment beyond the allowable 6' is proposed so a variance is required.

The western corner of the existing house is located within the lakefront setback. Roofline changes are proposed so, because bulk is changing within the lakefront setback, a variance is required.

Lakefront Yard Setback for Elevated Deck

Zoning Ordinance Requirement: 58.23'

Provided Setback: 51.98'

Requested Variance: 6.25'

Lakefront Yard Setback for Single Family House

Zoning Ordinance Requirement: 64.23'

Provided Setback: 61.25'

Requested Variance: 2.98'

Comments Relative to Standards:

- 1. Conditions unique to the property:** The subject property is located on a portion of the Lake Mendota shoreline which is inset compared to the adjacent property directly to the east and compared to the property two doors down to the west of the subject property. However, variation in shoreline is part of the nature of a lakeshore, and a meandering lakeshore property line is characteristic of many lakefront properties.

The existing house's location on the property is a unique condition. Because the house is located within the lakefront setback, bulk changes to portions of the house within the lakefront setback require a variance.

- 2. Zoning district's purpose and intent:**

In consideration of this request, the *lakefront yard setback* is intended to establish general uniformity for the setback for abutting properties on the lake to preserve viewsheds and limit bulk placement that might negatively impact adjacent properties. Compared to other types of setbacks, lakefront yard setbacks are particularly driven by the setbacks of surrounding properties because there is extra sensitivity regarding the placement of structures along lakefronts to prevent a "race to the bottom."

Elevated Deck

Uncovered decks *not* more than 3 feet above adjacent ground level are allowed to fully encroach within all setbacks, including rear lakefront setbacks. This encroachment is allowed because these decks do not add significant bulk above grade. Decks that are elevated over three feet above adjacent ground level are only allowed to encroach 6' into a rear yard because they have bulk and impacts beyond a shorter deck. It appears the elevated deck variance may be contrary to the spirit, purpose, and intent of lakefront yard setbacks.

House

Principal buildings are required to meet the lakefront setback so the change to the roofline in the lakefront setback as part of the second story building addition also requires a variance. A shed roof is proposed, with the taller portion facing the lakefront. It seems the style of roof and the taller portion within the lakefront setback could potentially be contrary to the purpose and intent of the zoning code. However, the proposed height of less than 30' at peak may mitigate that.

3. Aspects of the request making compliance with the zoning code burdensome:

Elevated Deck

The strict letter of the ordinance does not unreasonably prevent use of the property for a permitted purpose or render compliance with the ordinance unnecessarily burdensome. An existing deck on the property was built outside the lakefront setback. Not allowing the proposed elevated deck in this location and of this size and height does not appear to unreasonably prevent use of the property for a permitted purpose. A deck elevated 3 feet or less above adjacent grade or a patio could provide additional outdoor space if desired. Accessibility is not a factor in determining if a variance should be granted.

House

The location of the existing house within the lakefront setback makes compliance with the zoning code burdensome because changes to its bulk require a variance. The roofline modification on the existing house would change the bulk of the house but not substantially.

4. Difficulty/hardship: The building was built in 1955 and purchased by the current owners in 2007.

Elevated Deck

There does not appear to be a difficulty or hardship created by the terms of the ordinance for the elevated deck variance request. Rather, the request appears to be driven by the applicants' personal preference to build an elevated deck of this size in this location, regardless of a required setback.

House

For the second story bulk change, the zoning code presents a difficulty or hardship by limiting bulk changes on a portion of the house that already exists within the lakefront setback.

5. The proposed variance shall not create substantial detriment to adjacent property:

It appears that there will be no substantial impacts to light and air to adjacent property. Due to the variation in the lakeshore, the elevated deck and bulk addition in the setback will be relatively unobtrusive, with the possible exception of the adjacent property to the west.

For the second-story bulk change, a different roof style or a shed roof with the taller portion on the non-lakefront portion of the building could potentially have less negative impact on adjacent property by providing less visual obstruction within the lakefront setback. However, the proposed overall height from grade to peak will be around 30', less than the maximum height allowed by the zoning code.

6. **Characteristics of the neighborhood:** The surrounding neighborhood is made up of single-family houses with a mix of architectural styles.

Elevated Deck

Elevated decks are a common feature on lakefront houses, so the deck is perhaps compatible, other than its size and setback.

House

The roofline change appears to be relatively compatible with the character of the immediate neighborhood.

Staff Recommendation:

Elevated Deck

The burden of meeting the standards is placed upon the applicant, who needs to demonstrate satisfaction of all the standards for variance approval. It is not clear that this burden has been met. The variance request for the elevated deck appears to be driven by the applicant's desire as reflected in the proposed design, rather than a hardship. Staff recommends that the Zoning Board find that the variance standards are not met and **deny** the requested variance as submitted, subject to further testimony and new information provided during the public hearing.

House

It appears the standards have been met; therefore, staff recommends **approval** of the variance request, subject to further testimony and new information provided during the public hearing.