

From: Herman Felstehausen [mailto:hhfelste@wisc.edu]

Sent: Sunday, April 09, 2017 11:18 PM

To: Tucker, Matthew

Cc: Clear, Mark; Aaron Crandall

Subject: Comments regarding variance appeal: 5646 Lake Mendota Dr

Please distribute to Zoning Board of Appeals

To: Matt Tucker, Zoning Administrator

Members, Zoning Board of Appeals

Cc: Alder Mark Clear and Aaron Crandall, SHNA president

From: Herman Felstehausen, Spring Harbor neighborhood planning representative

Subj: Homeowner requests a side yard variance at 5646 Lake Mendota Drive to allow a newly reconstructed exterior wall to rest 7 inches from the street right of way of Laurel Crest, a court running from Lake Mendota Drive to the Mendota shoreline. Homeowner dwellings resting on the edge of public right of way formed by Lake Mendota courts has been the source of numerous ongoing controversies. Lake Mendota neighbors urge the Board to increase the side yard setback from the current 7 inches.

THE CONCERN: The house at 5646 Lake Mendota Dr on the lake and to the right of Laurel Crest is proposed to be gutted, rebuilt on the inside, and reshaped and expanded on the outside. The house (originally cottage) was constructed very near the access drive that later became Laurel Crest. When the area was annexed into the City of Madison and official plat maps prepared, streets were drawn with straight lines and uniform widths. Laurel Crest is now an officially platted 30 foot wide street running down to the Lake Mendota shoreline. It is a public access point to Lake Mendota.

THE PROBLEM: If Laurel Crest had curb and gutter, the curb would run 7 inches from the left side wall of the 5646 house. The eaves if added would hang into the street. City ordinances forbid any kind of construction within or over public right of way. An exception cannot be made just because this is a street/or court ending on the lakeshore.

LAKE MENDOTA ACCESS CASES: There is a long history of Lake Mendota streets and courts that end on the lakeshore becoming overgrown with trees and shrubs, and by default, being claimed by adjoining property owners for their own use. These conflicts are ongoing and resulted in a court case 10 or 20 years ago in which Dane County courts ruled definitively that platted streets and courts leading to water must remain public rights of way and cannot be claimed by gradual encroachment. Of course in real life, shrubs continue to grow and property owners understandably act to defend their space. Conflicts continue. If this exception is granted in the face of an established ruling and prior experience, there is a high probably of future conflict

RECOMMENDATION: As a minimum, a partial setback should be required. Mark Collin, builder/architect, has described the poor condition of the existing walls (some may have to be removed). The plan includes setting the second story wall back from the first story. This appears to provide an opportunity to set the first floor wall back from the right of way by approximately 4 feet making the first floor more in line with the proposed second floor.

NEIGHBORHOOD ROLE: In cases such as these the neighborhood holds a 'public interest' in the quality of the residential environment and the freedom of access to the lakeshore that must be weighed against the 'private interests' of the homeowner. We urge you to consider that balancing of interests.

[April 2017 photo attached: Note the small yellow signpost just behind the rear bumper of the car. The R/W stands for Right of Way line. The attached PDF file of drawings, page 1, shows in blue the code specified setback of 7 feet that would be required if no variance were granted].

