

DATE: October 18, 2022

TO: zoning@cityofmadison.com

Cc: mtucker@cityofmadison.com

FROM: Candy Schrank, 5042 Lake Mendota Dr, Madison WI

RE: October 20, 2022 Zoning Board of Appeals Meeting,
Item 3 74186,
5050 Lake Mendota Dr Variance Request

Dear Members of the City of Madison Zoning Board of Appeals

I am registered to speak at the October 20 meeting regarding the variance request for a deck at 5050 Lake Mendota Dr (LMD). Here are my comments and concerns:

My home is the closest house to this partially constructed deck, even more so than the neighbors that share property lines with 5050 LMD.

As background, this spring I started seeing and hearing activities at 5050 LMD that concerned me including the removal of two large oaks during oak wilt season, major heavy equipment on the lakeside lot, removal and disturbance of soil, and backhoes cutting up shallow roots and larger deep roots of their remaining two oaks and those of the neighbors. In June, I voiced my concerns directly to the Harrisons and they assured me that the recommendations of their arborist were being followed. I replied that I remained unconvinced and concerned that their remaining oaks and those of the neighbors will likely suffer for years to come due to the injuries from the heavy equipment that ran up and down the hill side hauling away soil and rock and adding base gravel and huge wall-stones for what would become the new, taller retaining walls.

Later in the summer I saw the backhoes drilling deep holes with large diameter augers, so I assumed some sort of structure would be built. Eventually, later in the summer, I saw the deck subframe and joists being constructed on top of 4 concrete filled tubes. To my eyes, the deck seemed large and close to the eastern property line, and that on the north lake-ward side the deck joists cantilever out over one of the new approximately 6 ft tall retaining walls. I wondered how that could be allowed? So, in August I contacted the City Zoning Department to find out the permit conditions and side yard set-backs. From the City's information, I realized that the deck was over 3 ft above the newly installed terrain and 6 ft side yard set-backs should have been met on both east and west sides, and that it appeared the contractor misled the City by stating in writing when applying for a permit that no part of the deck would be higher than 3 ft above the new grade.

So, that brings us to today and unfortunately I feel I must voice objections to what should have been a compliant deck. The contractor should have known the permit conditions and I do not believe that the contractor misunderstood the City's requirements. As an aside from what I observed, I believe the contractor also did not adequately follow the recommendations of the arborist included in the Harrisons' variance request.

Even though part of the deck is already constructed, the Zoning Board of appeals should deny the request for a variance as submitted to date. Specifically addressing the six 'Standards for Variance', it is my opinion that standards 2, 3, 4 and 6 are not met and below I submit my basis for that opinion.

Standard 2 - The variance is contrary to the public interest due to the proximity of the small pocket park, Merrill Spring Park, a haven for people coming for lake views and access, bird watching, picnicking and a shady respite. The deck infringes on the required set-backs and a smaller size will be less obtrusive visually to park and lake users. The park is also a refuge providing rare and diminishing lakeside habitat for reptiles, mink, migrating acorn-seeking Wood Ducks, warblers and various owls, eagles, and raptors that have been observed in the park's small woodlot that does support a good variety of desirable native plants, shrubs and trees. Deck activity will infringe on birds looking to nest in nearby native shrubs and trees. As an aside, Madison recently recognized the need to protect large trees throughout the city and the deck reduces the area for healthy tree root growth to recover from construction damage.

Standard 3 – The variance is contrary to the intended use of the narrow 26 ft section of the property that was 'split' from a larger parcel in 2008 by the previous owners merely to provide 5050 LMD access to the lake. Prior to 2008, the lot at 5050 LMD did not have direct lake access.

Standard 4 – The alleged difficulty/hardship was created by construction of the deck that knowingly encroached into side yard set-backs in the narrow part of the lot.

Standard 6 – The proposed variance is not compatible with the character of the immediate area that is wooded, shady and quiet. The addition of more hard structure is detrimental to the area where people value the quiet and cool shade provided by the vegetated hillside next to the lake.

I suggest that the Harrisons resubmit the request for the variance with the following changes:

1. Request a west side yard variance of 1 foot since the Harrisons stated that the stairways are 5 ft wide, a 1 ft variance is necessary. This 1 ft variance was not shown on the site plan of the current variance request submittal.
2. Reducing the size of the deck by removing 2.75 feet of width along the east side to meet the 6 ft side yard setback on the east side AND scale back the lake side overhand to be flush with the top of the new retaining wall underneath the new deck (their stated intentions). The existing wood joists can be easily removed and shortened.
3. Include a deck plan showing the proposed height of railings and any other intended structures including lighting, benches, etc.

In conclusion, this request for a variance as submitted for the Oct 20 Zoning Board of Appeals should be denied. Thank you for your consideration.