



CITY OF MADISON
ZONING BOARD OF APPEALS
VARIANCE APPLICATION

\$300 Filing Fee

Ensure all information is typed or legibly printed using blue or black ink.

Address of Subject Property: 1001 N. WINGRA DR.

Name of Owner: LOUIS OLSON

Address of Owner (if different than above): _____

Daytime Phone: _____ Evening Phone: _____

Email Address: _____

I REQUEST PHONE NUMBER & EMAIL BE REDACTED & KEPT PRIVATE. THIS IS PERSONAL, CONFIDENTIAL, & PRIVATE INFORMATION

Name of Applicant (Owner's Representative): _____

Address of Applicant: _____

Daytime Phone: _____ Evening Phone: _____

Email Address: _____

Description of Requested Variance: M60 Z8.14Z (11)(a) 1. REQUEST VARIANCE FOR FENCING HEIGHT TO A NOT TO EXCEED 10' LIMIT FROM GRADE. SEE ATTACHED (EMAILED) ATTACHMENTS

(See reverse side for more instructions)

FOR OFFICE USE ONLY

Amount Paid: \$300
Receipt: 044999-0003
Filing Date: 5/31/18
Received By: [Signature]
Parcel Number: 0709 262 1520 7
Zoning District: TR-C1
Alder District: 13 - Eckrich

Hearing Date: 6-21-18
Published Date: 6-14-18
Appeal Number: LNDVAR-2018-00010
GQ: _____
Code Section(s): 28.142 (11)(a) 1.

Standards for Variance

The Zoning Board of Appeals shall not grant a variance unless it finds that the applicant has shown the following standards are met:

1. There are conditions unique to the property of the applicant that do not apply generally to other properties in the district.

SEE ATTACHED

2. The variance is not contrary to the spirit, purpose, and intent of the regulations in the zoning district and is not contrary to the public interest.
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3. For an area (setbacks, etc) variance, compliance with the strict letter of the ordinance would unreasonably prevent use of the property for a permitted purpose or would render compliance with the ordinance unnecessarily burdensome.
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4. The alleged difficulty or hardship is created by the terms of the ordinance rather than by a person who has a present interest in the property.
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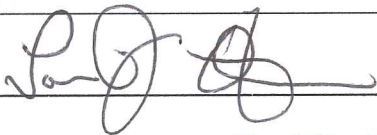
5. The proposed variance shall not create substantial detriment to adjacent property.
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6. The proposed variance shall be compatible with the character of the immediate neighborhood.
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Application Requirements

Please provide the following information: Incomplete applications could result in referral or denial by the Zoning Board of Appeals. (Maximum size for all drawings is 11" x 17".)

| | |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | Pre-application meeting with staff: Prior to submittal of this application, the applicant has met to discuss the proposed project and submittal material with the Zoning Administrator. |
| <input checked="" type="checkbox"/> | Site plan , drawn to scale. A registered survey is recommended, but not required. Show the following: <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Lot lines <input type="checkbox"/> Existing and proposed structures, with dimensions and setback distances to all property lines <input type="checkbox"/> Approximate location of structures on neighboring properties adjacent to variance <input type="checkbox"/> Major landscape elements, fencing, retaining walls or other relevant site features <input type="checkbox"/> Scale (1" = 20' or 1' = 30' preferred) <input type="checkbox"/> North arrow |
| <input checked="" type="checkbox"/> | Elevations from all relevant directions showing existing and proposed views, with notation showing the existing structure and proposed addition(s). |
| <input checked="" type="checkbox"/> | Interior floor plan of existing and proposed structure , when relevant to the variance request and required by Zoning Staff (Most additions and expansions will require floor plans). |
| <input checked="" type="checkbox"/> | Front yard variance requests only. Show the building location (front setback) of adjacent properties on each side of the subject property to determine front setback average. |
| <input checked="" type="checkbox"/> | Lakefront setback variance requests only. Provide a survey prepared by a registered land surveyor showing existing setbacks of buildings on adjacent lots, per MGO 28.138. |
| <input checked="" type="checkbox"/> | Variance requests specifically involving slope, grade, or trees. Approximate location and amount of slope, direction of drainage, location, species and size of trees. |
| <input checked="" type="checkbox"/> | Digital copies of all plans and drawings should be emailed to: zoning@cityofmadison.com |
| <input checked="" type="checkbox"/> | CHECK HERE. I understand that in order to process my variance application, City Staff will need access to my property so that they can take photographs and conduct a pre-hearing inspection of the property. I therefore give City Staff my permission to enter my property for the purpose of conducting a pre-hearing inspection and taking photographs. <i>PLEASE CALL PRIOR 608-852-7535 TO SET-UP TIME</i> |
| <input checked="" type="checkbox"/> | CHECK HERE. I acknowledge any statements implied as fact require supporting evidence. |
| <input checked="" type="checkbox"/> | CHECK HERE. I have been given a copy of and have reviewed the standards that the Zoning Board of Appeals will use when reviewing applications for variances. |

Owner's Signature:  Date: 5/31/18

----- (For Office Use Only) -----

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| <u>DECISION</u> | | |
| The Board, in accordance with its findings of fact, hereby determines that the requested variance for _____ (is) (is not) in compliance with all of the standards for a variance. Further findings of fact are stated in the minutes of this public hearing. | | |
| The Zoning Board of Appeals: <input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> Conditionally Approved | | |
| Zoning Board of Appeals Chair: | Date: | |

Description of Requested Variance:

Per the purpose of 28.142 (1) (d) – My family is requesting a variance to exceed a fence height as regulated per 28.142 (11) (a) 1 This would be on the Northeast back lot line, and the North corner running southwest side lot line approximately 15'-20' (See first picture)

At the time submission we ask for height limit from grade (on our property) of a limit of Not-to-Exceed 10'. On Average my grade has a negative height advantage of approximately 4.5'-5.' A 6' fence per MGO 28.142 (11) (a) 1. Would not accomplish even blocking headlights. An 8' foot fence would provide some improvement, but still at a disadvantage from the crown of the driveway, where not even a 10'. We are asking for a height of not to exceed 10', at the time of meeting we should have a better idea because I am currently working to install the fencing up to a 6' limit. Better pictures and a general idea will be provided.

We have surveyed and have had elevations taken, but I do not have the data/reports/design yet. It should be forthcoming in the next week or two, and I will supplement the information or provide it at the variance meeting. The final height (as measured from grade) will depend on the final grade drainage determinations for the repairing & restoring the backlot drainage pattern as coordinated the JDA.

Background:

1. The property immediately behind us 926 High Street, and its sister property 922 High Street share the same common driveway and also have one combined parking area. The back parking lot was built up with fill material with the greatest height along our shared back lot lines, in 2011 they enlarged the parking lot slightly, and dramatically changed the drainage of it. There was previously screening of plantings on there side that were never restored. These had screened for the light pollution from the headlights, vision, and sound during the "green" months. (My family and I are currently addressing myriad of the issues through different means.)
 - a. Part of the drainage issues relates to the water quality (they provided no treatment). 2 of my 3 lilacs had suffered greatly, due to the increase of the untreated drainage changing the soil condition. These mature lilacs, had during the late spring, summer, and early fall months provide some screening to my property. It was also during the 2014 repairs that they used enough vegetation killer to wash out down to my property and my screening lilacs have never been the same since. These lilacs had to be removed and new ones will be planted in there place. However, there is no replacement for the mature lilacs that we had, and it will take years.
 - b. The current property management company caused additional harm to my lilacs when, without my permission, they barbarously hacked numerous remaining healthy branches of them. This has further reduced the foliage screening and was done when they were doing repairs on the second retaining wall collapse.
2. It should be noted that the current out of town owner of the property (lives in Mosinee, WI) and does not live at the properties location. The property is an income property for the owner. They have been unresponsive to any of our concerns and have lied, defamed, and made serious allegations against me. They have refused to change operations and have continued to operate in their best interest.

- a. We are pursuing other means outside this variance to deal with a variety of issues. This may prevent me from full disclosure.
 - b. In general I had approached them hoping to avoid a variance. I cannot offer more comment on this time.
 - c. In summary, I live behind a nuisance property.
3. My previous fence 42" Vinyl Fence proved inadequate, was too low, and damaged/and ruined by the combined harm done by snowplowing operations, landscape contractor that repaired there new retaining wall.
 4. The current grade heights are approximately higher on average between 8" to 18" than the original grade heights due to the excessive erosion that has occurred from 926 & 922 High St.
 5. A 6' high fence elevation will not even make it to the crown height of the parking lot surface (the driveway concrete surface is higher than a 6' fence. On average from a quick visual interpretation is that a 6' fence will only average between a 1'- 2' along the closest edge to my property. This will not even cover the parked car headlights that shine directly into our house. We keep our window coverings shut a majority of the time because of this issue.
 - a. Even from there side, a 10' high fence will appear on average 3'-4'.
 6. Within this last year I have seen drug use in a car parked immediately behind one of the removed lilacs, and indecent exposure/partial nudity that I documented because the management company is trying to discredit me (exhibit). These things are not appropriate for my 3 year old son, my wife, and me.

Standards for Variance

The Zoning Board of Appeals shall not grant a variance unless it finds that the applicant has shown the following standards are met:

1. There are conditions unique to the property of the applicant that do not apply generally to other properties in the district.
 - a. I am unaware of any other properties within the boundaries of Haywood Dr., Park Street, Fish Hatchery, and N. Wingra Drive that has this unique condition.
 - i. There are two properties on the 900 High Street Block & 900 N. Wingra block that have similar elevation differences, however, the higher properties have full length garages built on the back of the parking area that provide complete screening for the lower properties.
2. The variance is not contrary to the spirit, purpose, and intent of the regulations in the zoning district and is not contrary to the public interest.
 - a. It is for the exact purpose as outlined within MGO 28.142 (1) Statement of Purpose (d) Increase the compatibility of adjacent uses, by minimizing adverse impacts of noise, dust and other debris, motor vehicle headlight glare or other artificial light intrusions and other objectionable views, activities or impacts to adjacent or surrounding uses. is the reason why we are applying for this variance.

- b. I cannot make any comments related to the spirit and purpose of the zoning district or is that it is not contrary to the public interest. I do not have the data or understanding to comment other to offer that this is a private, not public issue.
- 3. For an area (setbacks, etc) variance, compliance with the strict letter of the ordinance would unreasonably prevent use of the property for a permitted purpose or would render compliance with the ordinance unnecessarily burdensome.
 - a. Not Applicable for this variance request I believe.
- 4. The alleged difficulty or hardship is created by the terms of the ordinance rather than by a person who has a present interest in the property.
 - a. It's a unique situation, It is because of the ordinance control that I cannot comply with the Statement of Purpose MGO 28.142 (1) (d). Specifically the reasons found in the purpose to **"minimize noise, other debris, motor vehicle headlight glare or other artificial light intrusions and other objectionable views."**
- 5. The proposed variance shall not create substantial detriment to adjacent property.
 - a. I have discussed the side lot line extension with the owner 921 N. Wingra Drive. I had permission to apply for a variance on his property to extend the fence on his side approximately 10' or more to provide enough screening. During further discussion it was decided the best approach was to come down Our common side on my property. I would retain control, and only one variance needed. (There are more complexities about this option)
 - b. According to the "allegations" made against me, I see no reason why the back property owner would be opposed to it.
 - i. One detriment to their adjacent property is if future damage is done to my fence because of careless operations (snow plowing, future repairs to the retaining wall, fixing erosion damages) it will be a more expensive for them paying for repairs.
- 6. The proposed variance shall be compatible with the character of the immediate neighborhood.
 - a. I cannot offer comment on this other than a different variety of fences exist within the neighborhood, with a variety types of architecture, use, and upkeep.

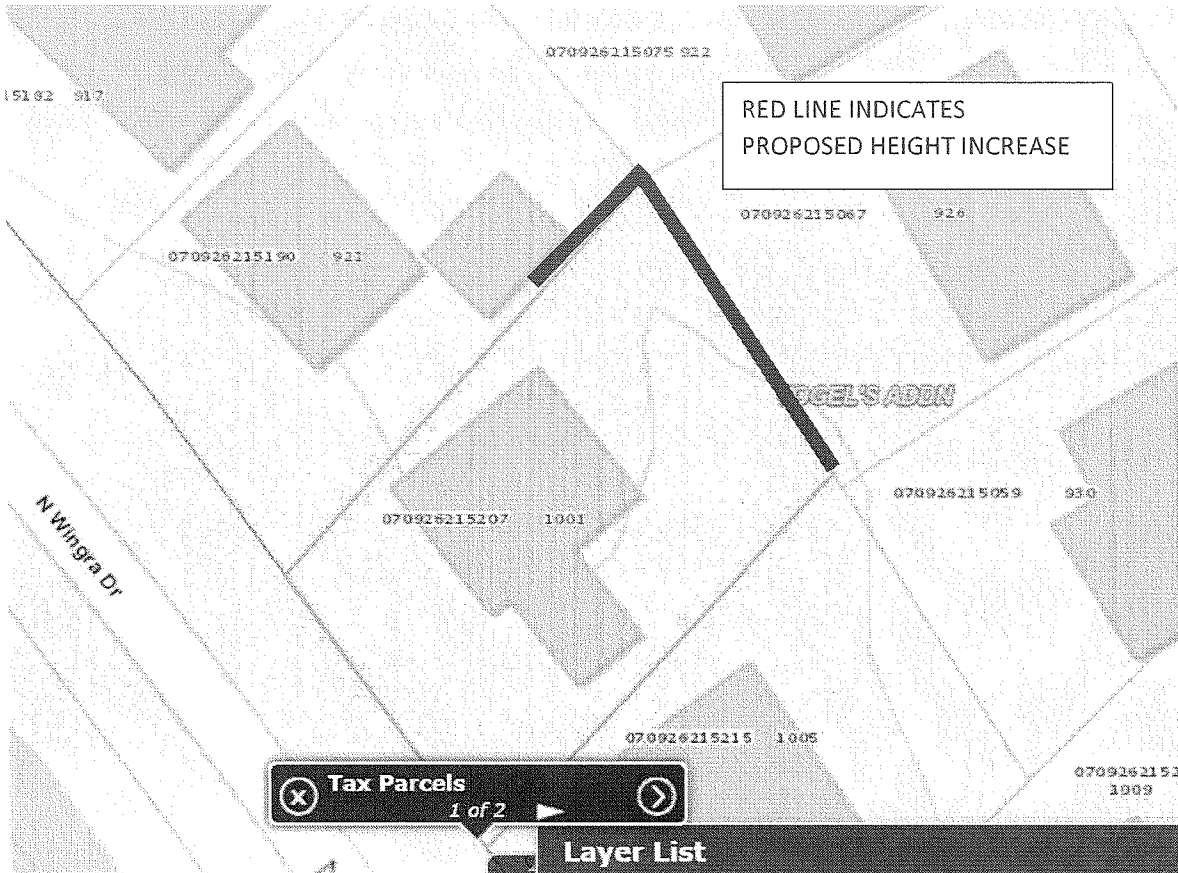
28.142 - LANDSCAPING AND SCREENING REQUIREMENTS. (1) Statement of Purpose (d) Increase the compatibility of adjacent uses, by minimizing adverse impacts of noise, dust and other debris, motor vehicle headlight glare or other artificial light intrusions and other objectionable views, activities or impacts to adjacent or surrounding uses.

28.142 - LANDSCAPING AND SCREENING REQUIREMENTS. (11) Fences, Walls and Hedges (a) Height in Residential Districts.

1. The maximum height of a screening fence or screening hedge within required interior side and rear setbacks in a residential zoning district shall not exceed six (6) feet. An ornamental fence or ornamental hedge may exceed six (6) feet in height. A screening fence or screening hedge of up to eight (8) feet in height may be placed on a district boundary line

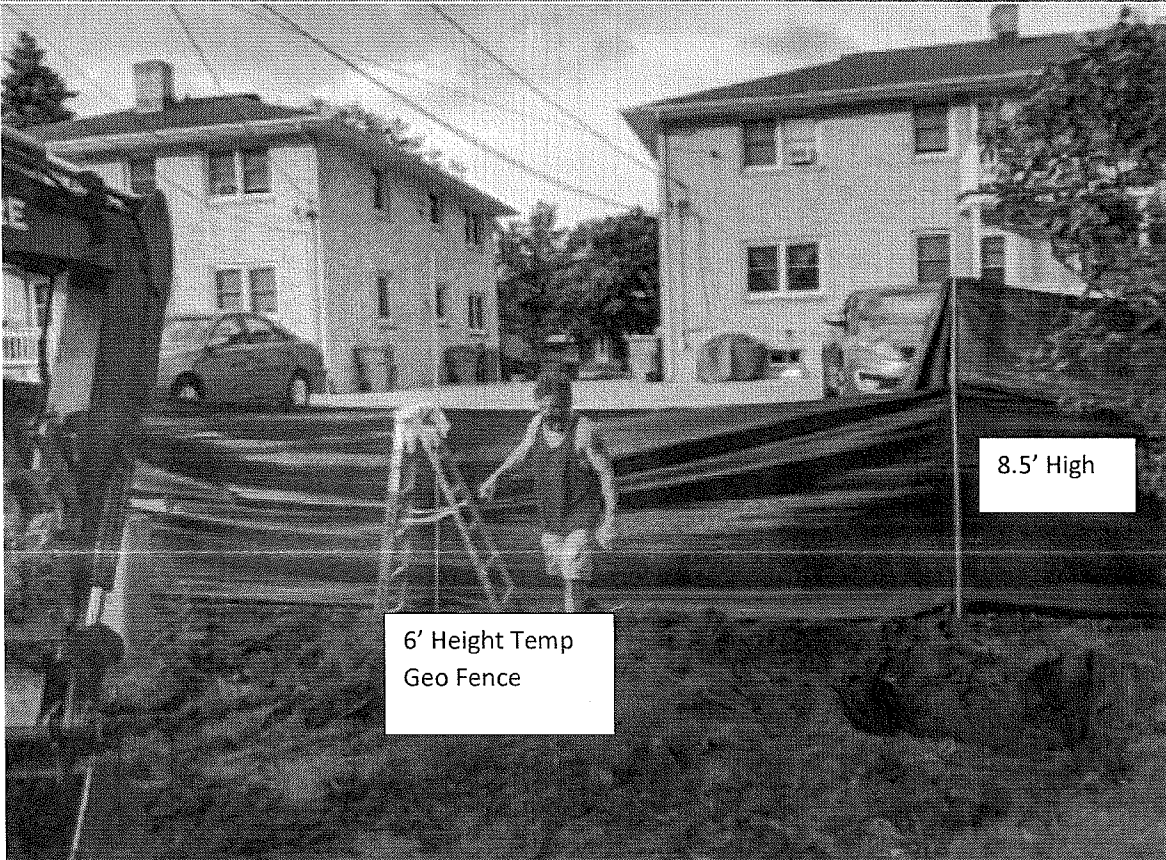
between a residential district and a mixed-use, commercial or employment district, or where adjacent to a public utility or public service use.

(c) Height Measurement. Fence or hedge height shall be measured from natural or approved grade. In the case of grade separation, such as the division of properties by a retaining wall, fence or hedge height shall be determined based on measurement from the average point between highest and lowest grade. If the fence or hedge is set back from the retaining wall by a distance of at least four (4) feet, the height shall be measured from the base of the fence or hedge. Berms and retaining walls shall not be used to increase grade relative to screening height.



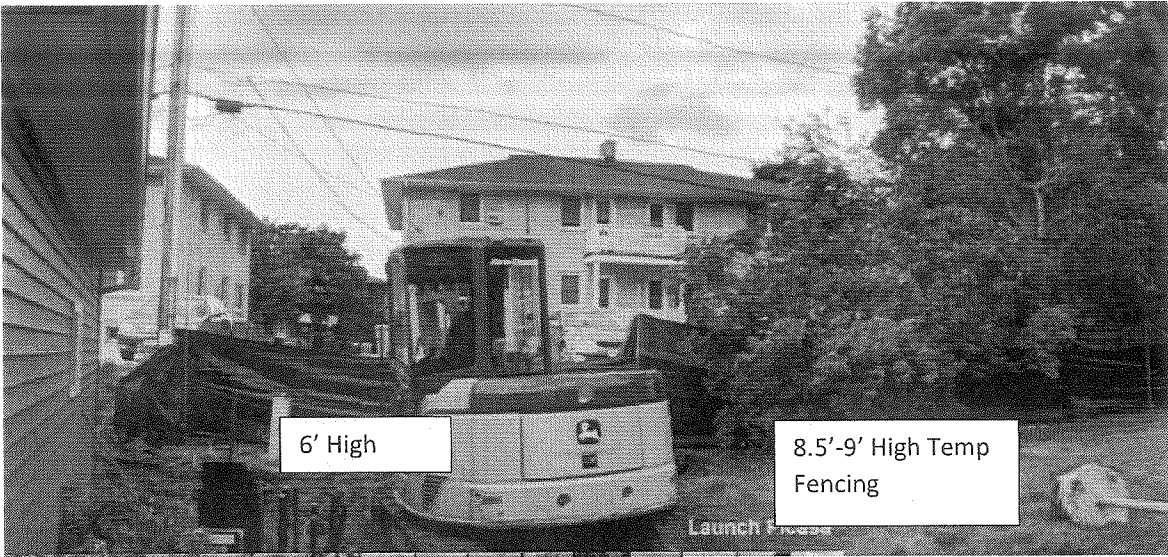


EXISTING CONDITION PRIOR TO
START OF REPAIR WORK



8.5' High

6' Height Temp
Geo Fence



6' High

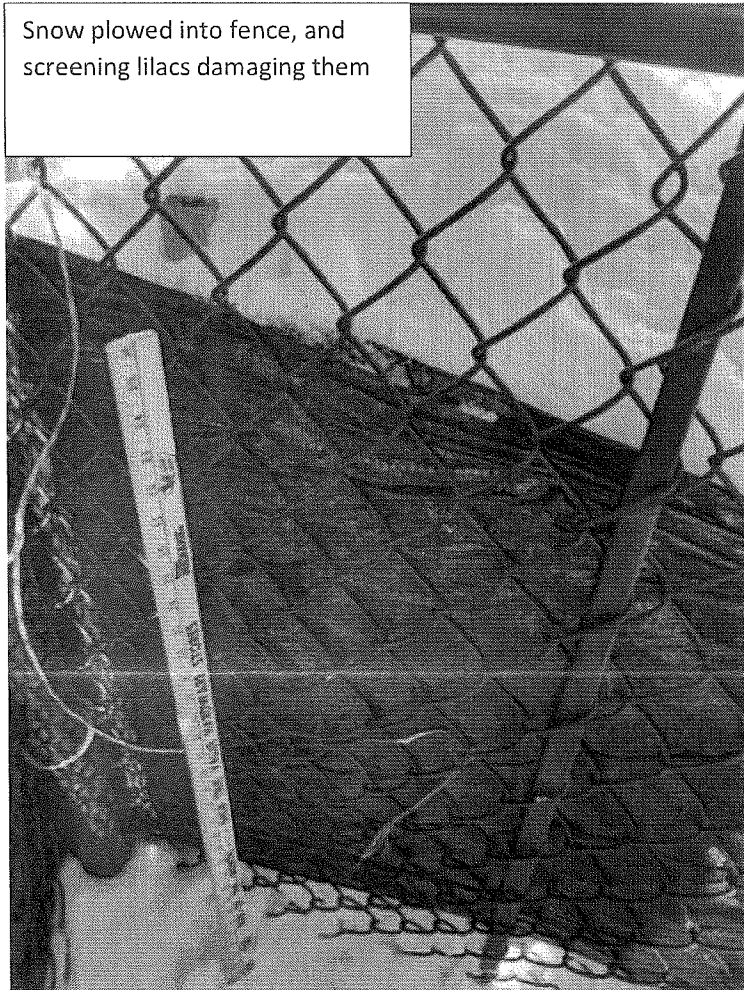
8.5'-9' High Temp
Fencing



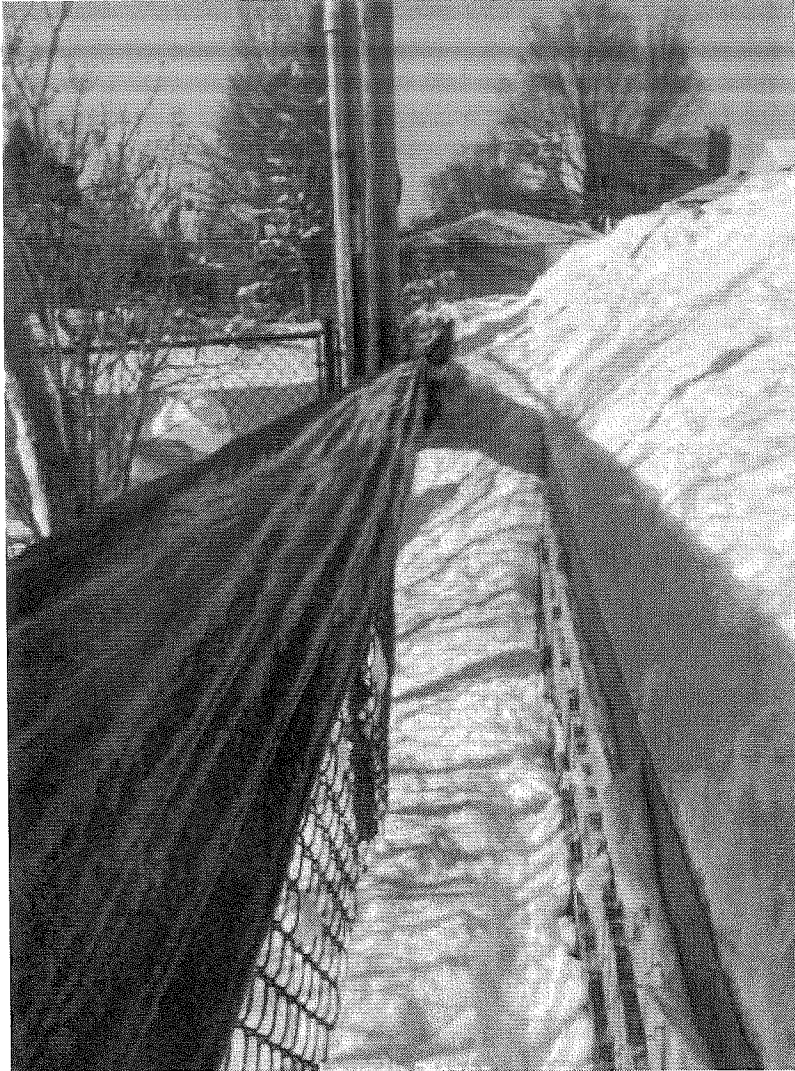
Headlights/Snow plowed into
fence, and screening lilacs
damaging them



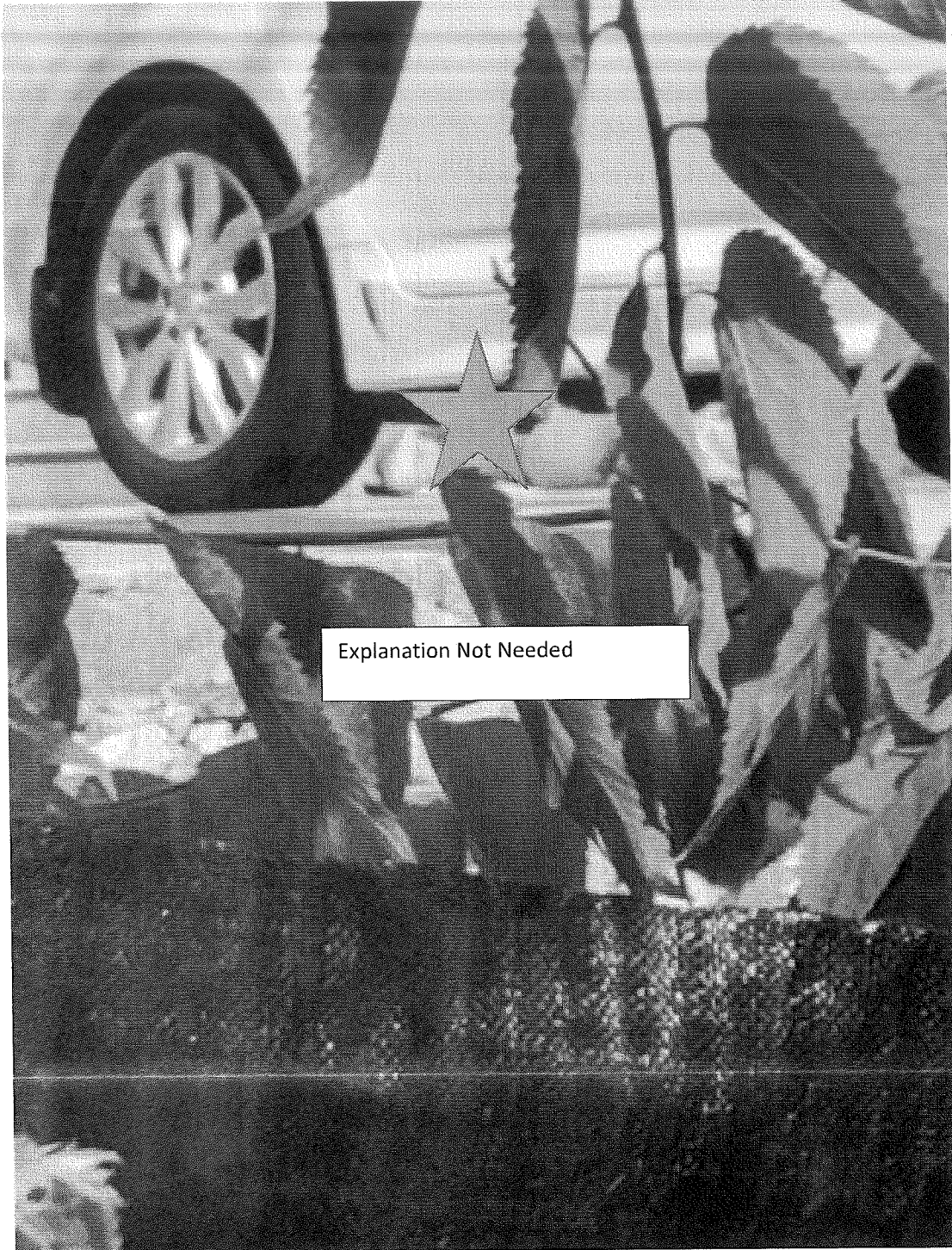
Headlights/Snow plowed into fence, and screening lilacs damaging them



Snow plowed into fence, and screening lilacs damaging them



Snow plowed into fence, and screening lilacs damaging them



Explanation Not Needed



EXISTING CONDITION PRIOR TO
START OF REPAIR WORK



8.5' High

6' Height Temp
Geo Fence



6' High

8.5'-9' High Temp
Fencing



Headlights/Snow plowed into
fence, and screening lilacs
damaging them



Headlights/Snow plowed into fence, and screening lilacs damaging them



Snow plowed into fence, and screening lilacs damaging them



Explanation Not Needed