

ZONING ADMINISTRATOR'S REPORT
VARIANCE APPLICATION
921 N. Wingra Dr.

Zoning: TR-C1

Owner: Lt. Col. Daniel Statz

Technical Information:

Applicant Lot Size: 75'±w x 113'±d irregular

Minimum Lot Width: 50 ft.

Applicant Lot Area: 8187 sq. ft.

Minimum Lot Area: 6000 sq. ft.

Madison General Ordinance Section Requiring Variance: 28.142(11)(a)1

Project Description: Requests a fence height variance to construct a screening fence to a height not to exceed 7.5 ft.

Zoning Ordinance Requirement: 6' maximum height

Provided fence height: 7.5'

Requested Variance: 1.5' height increase

Comments Relative to Standards:

1. Conditions unique to the property: The property is relatively flat and abuts a multi-family dwelling to the rear that has a grade separation of between three and about five feet (with a three foot retaining wall). The lot to the rear (with the multi-family dwelling) slopes slightly at the north end, with a surface parking area to the south, where cars park toward the subject lot. The lots to the north and south of the subject lot are relatively flat and at a similar grade to the subject lot.
2. Zoning district's purpose and intent: The regulation requested to be varied is the *screening fence height limitation*. In consideration of this request, the *screening fence height limitation* is intended to allow a property owner to erect a screening fence to enclose or potentially screen their lot under certain limitations, with fence height calculated relative to the grade at the site where the base of the fence is located. The height limitation also ensures that an overly-tall screening fence is not constructed to negatively affect the neighbor immediately adjacent to the party installing the fence.

The grade on the multi-family property to the east is above the grade of the subject property. There is a surface parking area on the multi-family parking adjacent to the rear lot line, where cars park facing west. A zoning variance would be required to effectively screen the vehicles that are parked on the parking area due to this grade separation. A taller fence on the subject property abutting the retaining wall would have little to no effect on the multi-family property to the rear.

3. Aspects of the request making compliance with the zoning code burdensome: As noted above, the grade and separation along part of the rear lot line impacts the ability of a screening fence to be functional. In addition, the width of this parking area would be a challenge to screen with landscaping. Taller screening could provide the desired and intended effect for part of the rear lot line, however, the balance of the request does not appear to be clearly articulated or supported with facts.
4. Difficulty/hardship: See comments #1 and #3. The existing home was constructed in 1952 and purchased by the current owner in September 2000.
5. The proposed variance shall not create substantial detriment to adjacent property: As noted above, due to the grade difference between the lots where the fence is to be placed, the fence probably will not introduce detriment above or beyond what would otherwise be permissible.
6. Characteristics of the neighborhood: The general area appears to have some cases where screening fences have been installed. A taller fence along the common rear lot lines to screen the property along the retaining wall would not be out-of-character for the area, as it would probably not be noticed as out-of-ordinary.

Other Comments: This fence project is being constructed in conjunction with the fence project at 1001 N. Wingra Drive, also on the current ZBA agenda for fence height variance.

As noted above, the presence of the retaining wall in close proximity to the fence modified the code-calculated height of the fence. In short summary, an averaging occurs, which in this case would deduct 1.5' of fence height because the retaining wall is 3' tall. What this means is that a fence that actually measures 9' tall would be considered 7.5' tall per the ordinance. The area identified in the color purple on the submitted site plan would be classified as 7.5' in height, per code. The area in orange would be classified as a 6' fence height, and not require a zoning variance.

Staff Recommendation: As noted above, the main interest for the screening fence is to effectively block vehicles parked on the adjacent lot, at the existing grade above the subject property. In consideration of this situation, it appears reasonable and consistent with the variance standards to allow screening to a height greater than otherwise permissible (the purple area on the submitted plan), but the screening should then taper to a code-complaint elevation past the parking area. Staff recommends **approval** of this specific part of the request only. This recommendation is subject to further testimony and new information provided during the public hearing.