

ZONING ADMINISTRATOR'S REPORT
VARIANCE APPLICATION
1001 N Wingra Drive

Zoning: TR-C1

Owner: Louis Olson

Technical Information:

Applicant Lot Size:

Minimum Lot Width: 50'

Applicant Lot Area: 8257 sq. ft.

Minimum Lot Area: 6000 sq. ft.

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

Project Description: Construct screening fence to a height of 10' along rear lot line and part of side lot line.

Zoning Ordinance Requirement: 6' maximum height

Requested fence height: 10'

Requested Variance: 4'

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 one and five feet. The lot on the multi-family dwelling slopes from north to south with a surface parking area to the north, where cars park toward the subject lot. The lots to the north and south of the subject lot are relatively flat, 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.

To fully screen in consideration of the grade separation to the multi-family to the rear, and particularly the area where vehicles are parked, would exceed the height of any legal screening fence. That part of the fence also abuts a retaining wall. A taller fence in that area of the retaining wall would have little to no effect on the neighboring property to the rear. However, the grade tapers to the south, and this height, along with the height request along

the side lot line would appear overly-tall and would be inconsistent with the intent and purpose of the *screening fence height limitation*.

3. Aspects of the request making compliance with the zoning code burdensome: As noted above, the grade, 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 affect 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 exiting home was constructed in 1952 and purchased by the current owner in October 2006.
5. The proposed variance shall not create substantial detriment to adjacent property: As noted above, the fence probably will not introduce detriment along where the vehicles are parked to the rear, but it would introduce some negative impact to the side neighbor and the rear neighbor where the grade tapers on the property to the rear along the lot line.
6. Characteristics of the neighborhood: The general area appears to have some cases where screening fences have been installed. A taller fence to screen the parking area along the retaining wall would not be out-of-character for the area, as it would probably not be noticed. However, the design of the fence is unknown, so it is not clear what exactly is being requested.

Other Comments: Overall, this request lacks the detail necessary to understand what is being requested. Particularly, the proposed fence height relative to the existing grades is at best a guess for the staff and the ZBA to understand, due to the petitioner not providing detailed information about grades with their application. The petitioner did inform staff in a separate email (attached to original case) that the side lot line length for the fence is 20', but it is not clear where that falls relative to the neighboring property to the north. The submission also lacks clear detail relative to the proposed fence, to understand what it might look like at the proposed height.

The request also asked to screen higher than 10' at the side lot line, to presumably address grade separation on an adjacent lot as viewed across that lot at an oblique angle toward the home on the subject lot. This screening might result in a desired solution for the subject property, but in turn results in adverse impact on the neighbor to the north. The screening could be substituted with a strategically placed landscape feature, such as a conifer tree or tall shrub, in lieu of the screening fence.

At its September 20, 2007, meeting, the Madison Zoning Board of Appeals approved a request for a side yard and front yard area exception to construct a single-story bedroom/bathroom/2-car addition at the property.

Staff Recommendation: The burden of meeting the standards is placed upon the petitioner, who needs to demonstrate satisfaction of all the standards for variance approval. It is not clear that this burden has been met. It appears as though a satisfactory argument relative to the standards of approval is possible for a taller fence to be allowed in some configuration at the lot, however the

lack of detail and specific facts relative to the standards of approval do not appear satisfied at this time. The application does indicate additional materials will be made available at the time of the hearing, so that evidence has not been included at the time of preparation of this report.

Staff recommends that the Zoning Board find that the variance standards are not met and **refer** the case for more information relative to the standards of approval or **deny** the requested variance as submitted, subject to further testimony and new information provided during the public hearing.