



CITY OF MADISON
ZONING BOARD OF APPEALS
APPEAL APPLICATION

\$200 Filing Fee

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

Notices are sent to the District Alderperson and to owners of record as listed in the Office of the City Assessor. Maximum size for all drawings is 11" x 17".

Name of Applicant: SHELDON ROBERTS, DON JENSEN
Address: 5 VINIE CT, 9 VINIE CT
MADISON, WI 53716
Daytime Phone: 608-843-0452 Evening Phone: 608-843-0452
Email: 7sheldons@gmail.com

1. The undersigned hereby appeals the decision of the Zoning Administrator in regard to
Madison General Ordinance Section No. 28.142(1)(a)

2. When relevant to a specific property, fill out below:

Street Address: 5 VINIE CT, MADISON

3. ☒ List of grounds for the appeal, statements, evidence of fact, and any additional information associated with the appeal are provided on a separate attachment.

Applicant Signature: Sheldon Roberts A pdf file with all documentation is being e-mailed to Katie Bunn

FOR OFFICE USE ONLY

Amount Paid: <u>\$200.00</u>	Zoning District: <u>SR-C1</u>
Receipt: <u>131071-0005</u>	Hearing Date: <u>8.10.23</u>
Filing Date: <u>7.13.23</u>	Published Date: <u>8.3.23</u>
Received By: <u>NJK</u>	Appeal Number: <u>LNDAPP-2023-00003</u>
Parcel Number: <u>071015206264</u>	GQ: _____
Alder District: <u>16-CURRIE</u>	

DECISION

The Board, in accordance with the findings of fact, hereby determines that the requested appeal for _____ is

☐ **Approved**

☐ **Denied**

☐ **Conditionally Approved**

Zoning Board of Appeals Chair:

Date:

Complaint



BUILDING INSPECTION OFFICIAL NOTICE

CASE NUMBER: CB2023-109-02326 **PROPERTY:** 5 VINJE CT
INSPECTION DATE: 04/26/2023 **INSPECTOR:** TRENT SCHULTZ
03:29 AM ZONING CODE ENFORCEMENT OFFICER I
MAILED DATE: 04/28/2023 (608) 266-5917
 tweschultz@cityofmadison.com

ROBERTS, SHELDON & SANDY
5 VINJE CT
MADISON, WI 53716

This notice does not start any legal action. The Building Inspection Division is willing to answer questions pertaining to this Official Notice in order to assist you in correcting the violations. If you have questions or concerns, it is important to contact the inspector as soon as possible. You are responsible for contacting the assigned inspector before the due date to arrange for any reinspections requiring access to the interior of the property.

If the violations are not corrected by the due dates listed below, the Building Inspection Division may issue a citation or refer the case to the City Attorney's Office for prosecution. The Madison General Ordinances allow for a fee of \$75.00 to be charged for any inspections that do not result in full compliance, including inspections that result in an extended due date. To avoid penalties or fees you are encouraged to correct the violations as soon as possible in advance of the due date and then notify the assigned inspector to verify the corrections made. Compliance shall be on a continual basis. Continued or repeated violations may result in the issuance of citations without further warning or written notice.

Any items on this notice that are not corrected by the originally required compliance date may be subject to rent abatement claims. Items that could be subject to abatement in the inspector's opinion have been marked "Y" in the abatable column. Actual abatement and eligibility, if applied for, will be determined by the Hearing Examiner.

All applications for appeal of orders shall be submitted to the Building Inspection Director in writing within fifteen (15) days of the postmark on the Official Notice. Appeal information may be obtained by calling (608)266-4551.

Item No.	Violation Section No.	Abate	Corrections Required	Due Date
1.	28.142(11)(a)	No	Reduce the height of the screening hedge (arborvitae) in the rear yard to not more than 6 ft.	06/01/2023
NOTE: A screening hedge is a hedge that is more than 50% opaque. To gain compliance, the arborvitae must be trimmed in such a way that above 6 ft, they are less than 50% opaque.				

- SUBCHAPTER 280: - DEFINITIONS AND RULES OF CONSTRUCTION
- **28.211 - DEFINITIONS.**
- Hedge . A row of closely planted shrubs or **low-growing trees**, forming a boundary or barrier, installed to enclose, screen or separate areas.
- Hedge, Ornamental . A hedge that is no more than fifty percent (50%) opaque. **(Cr. by ORD-13-00148, 9-11-13)**
- Hedge, Screening . A hedge that is more than fifty percent (50%) opaque. **(Cr. by ORD-14-00001, 1-14-14)**
- Hedge, Solid . A hedge that is at least ninety percent (90%) opaque.

- **28.142 LANDSCAPING AND SCREENING REQUIREMENTS.**
- (11) Fences, Walls and Hedges .
- Fences and hedges may be erected, placed, or maintained in any yard along or adjacent to a lot line in accordance with the requirements identified in this section. The owner shall be responsible for properly locating all property lines before construction or installation of any fence or hedge.
- (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.
- 2. Screening fences around pools shall not exceed eight (8) feet.
- 3. Screening fences within the building envelope shall not exceed eight (8) feet.
- 4. The maximum height of a screening fence or screening hedge within a required front or street side yard setback shall not exceed four (4) feet, in height with the following exceptions:
 - a. A screening fence or screening hedge of up to six (6) feet in height may be placed within a street side yard setback behind the rear plane of the principal building.
 - b. The height of a screening fence or screening hedge within a street side yard setback may be increased to a maximum of six (6) feet in height if it is set back a minimum of four (4) feet from the street side yard property line.
- 5. The maximum height of an ornamental fence located in a front yard is five (5) feet if the fence is less than fifty percent (50%) opaque, and six (6) feet if the fence is less than twenty percent (20%) opaque.

- (b) Height in Mixed-Use or Nonresidential Zoning Districts. The maximum height of a screening fence or screening hedge shall not exceed eight (8) feet except in required front or street side yard setbacks where the maximum height of a screening fence or screening hedge shall not exceed four (4) feet.
- (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.
- (d) Fences or hedges shall comply with the vision clearance triangle requirements of Subsection 27.05(2)(bb).
- (e) Fences located in the front or street side yard setback areas must be made of materials such as wood, ornamental metal, brick, vinyl-coated chain link or stone. Uncoated chain link fences may be used in interior side or rear yards.
- (f) Temporary fencing, including the use of wood or plastic snow fences for the purposes of limiting snow drifting between November 1 and April 1, protection of excavation and construction sites, and the protection of plants during grading and construction is permitted for a time period consistent with an approved building permit or up to one hundred eighty (180) consecutive days per calendar year.
- **(Sec. 28.142(11) Am. by ORD-14-00001, 1-14-14)**
- **(Sec. 28.142 Am. by ORD-13-00148, 9-11-13)**

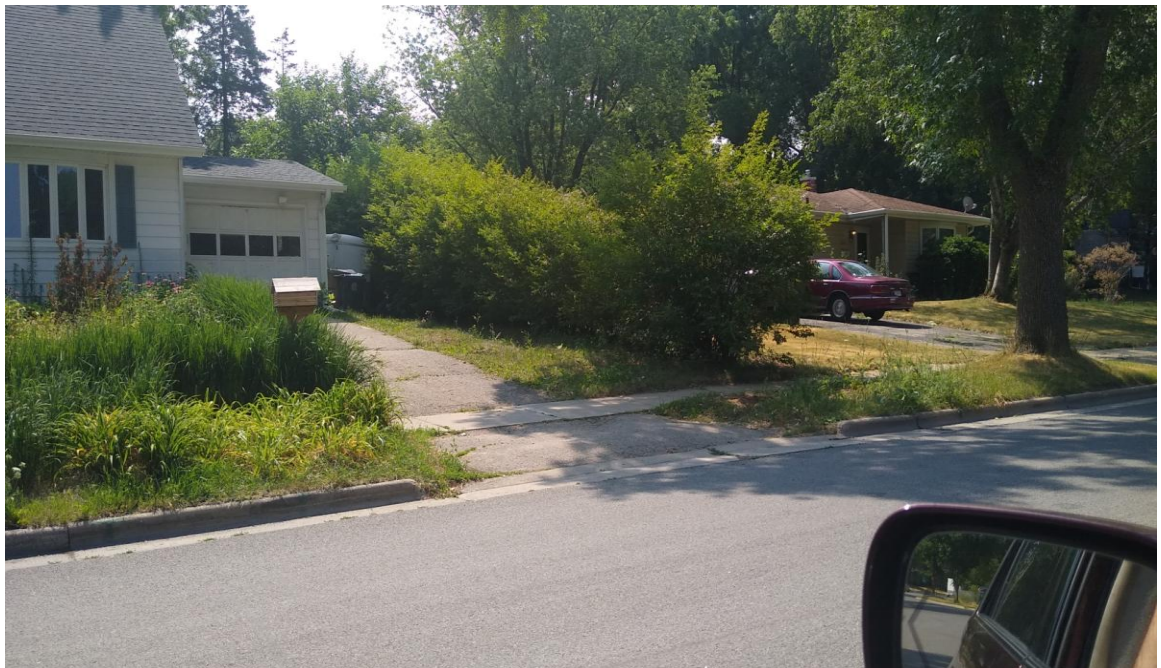
Reasoning for appealing the complaints

- The Jensens and Roberts reject the city's classification of our rows of white cedar trees as hedges as they are trees, not hedges and the ordinance does not apply.
- The trees per 5 separate tree and landscaping firms as well as 3 other certified arborists (their reports attached) **are not bushes, shrubs, or low growing trees, are not hedge material and thus the ordinance does not apply.** (Complete list of contacts attached)
- With regard to our trees, the city neglects to use the phrase "low-growing ", from the ordinances definition of a hedge, when examining our trees. By ignoring "low growing" they include our trees, that will grow to 40' or more, as hedges. The reports also state that because the trees are taller than 15' and will continue to grow taller they are trees and cannot be classified as "low growing"
- The city uses a definition of a hedge that **didn't come into existence until at least 10 – 15 years after the trees were planted** and is attempting to retroactively define our trees as hedges without giving any existing plantings the opportunity to "grandfather" in. (ORD-13-00148, 9-11-13) (Cr. by ORD-14-00001, 1-14-14) (summary of changes attached)
- The city's interpretation allows for no plantings that cannot be defined as anything but hedges. It just takes only a couple of plants to make up a hedge if they are planted to screen anything including a neighbors front drive, a utility box or trash cans. There is no allowance for a row of tall trees.
- This is an extremely common type of planting through out all of Madison and one landscaper stated "we do this all the time and get paid big bucks to do so. This is exactly what our customers ask for."

Other factors concerning having to bring these trees into compliance with the ordinance

- The neighbor filing the complaint has owned her property since 1988 and has had years of opportunities to work with the Jensens or previous owners of 5 Vinje Ct but has not done so in the past. She did not come to us with her concerns and these complaints were a total surprise. She suggested to the Jensens she may be downsizing and we can only guess a realtor may have suggested the trees, that provide complete privacy for her pool, might look bad.
- The ordinance requires these 20 - 25' trees to be trimmed back to 6'. Per every tree service person that looked at them, trimming these back would kill the trees requiring their removal and stumps ground out. If they didn't die they would never be aesthetically pleasing again.
- Taking out every other tree or clumps of trees is an option to come into compliance. Because of the species of trees, cutting out a tree that has grown into adjacent trees would leave a dead space the entire height of the remaining trees which may or may not ever fill in again. Also, since the adjacent trees roots are intergrown, the stumps could not be removed. Again leaving a very non aesthetically pleasing condition.
- These trees were a main selling point for the Roberts when they bought the house. A small lot but with complete privacy. Removing the trees would grossly devalue the property's value and desirability if they chose to sell.
- The trees are a considerable source of bird habitat. Early morning and early evening there is a constant stream of bird song coming from these trees.

Example of plantings in the neighborhood commonly accepted as hedges



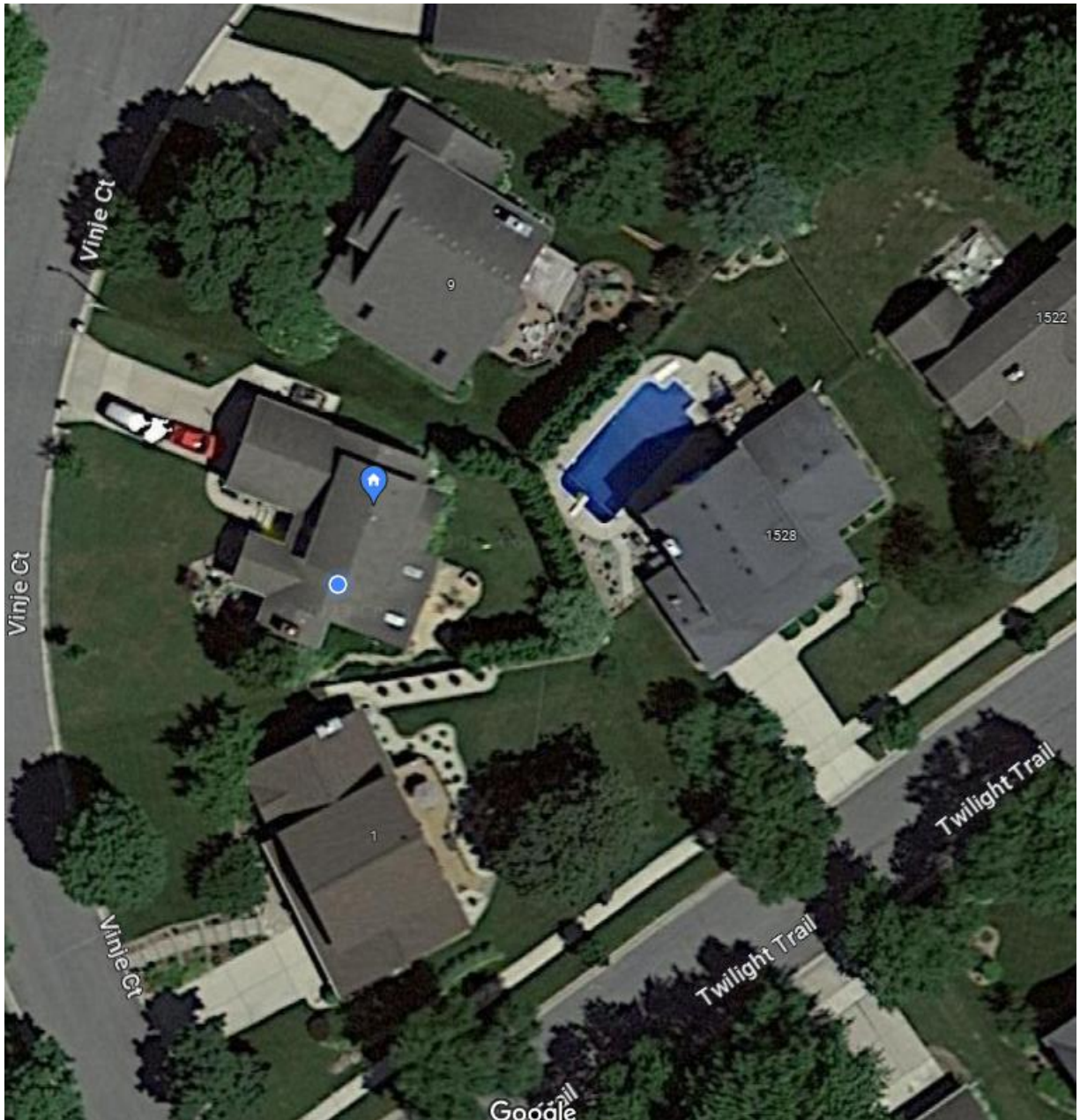
Example of plantings in the neighborhood commonly accepted as hedges



Example of plantings in the neighborhood
commonly accepted as hedges



Properties in Complaints



Jenson's trees



Robert's trees – common with Jensens



Roberts trees common with Elmore



Roberts trees common with Culvers



Example of a “hedge” using the city’s interpretation



The neighbor across the street uses 3 white cedars and an additional tree to shield the neighbor’s driveway

Example of a “hedge” using the city’s interpretation



Two staggered rows of pine trees are planted to provide noise reduction and privacy from the traffic on Buckeye Road.

The only difference between these plantings and ours is the type of tree used.

Contacted parties

- Ken Saiki, Landscape Architect, **Saiki Design Inc.**, Madison, WI
- Briana Frank, Certified Arborist Lic# WI-0661A, **Tree Health Management**, Madison, WI
- Tim Waterworth, Turf Division Manager/Certified Arborist Lic# WI-0673A, **Barnes, Inc.**, Madison, WI
- **City of Madison Forestry Department**
- Conner Amburn, Certified Arborist Lic# WI-1301A, **ECO Tree Company**
- **Treewerx LLC** 810 Bluebird Pass Cambridge, WI
- Adam Rahim, **Heartwood Tree Company**, Madison, WI
- Josh Knapp, **Canopy Tree and Shrub Care**, Madison, WI
- Rodney Boley, Certified Arborist Lic# WI-0246, **Boley Tree and Landscape Care**, Middleton, WI
- Bruce Allison, **Allison Tree**, Verona, WI

Arborist Report from Tree Health Management



TREEHEALTHMGMT.COM
608.223.9120

Tree Health Management
PO BOX 14374
Madison, WI 53708

Tree Assessment and Potential Damage Report

Prepared for

Sheldon Roberts
Site: 5 Vinje Ct
Madison WI, 53716

Prepared by

Briana Frank
Tree Health Management
PO Box 14374
Madison, WI 53708

July 8th, 2023

Arborist Report from Tree Health Management

July 8th, 2023

Sheldon Roberts
5 Vinje Ct.
Madison, WI 53716

Summary:

On June 13th, 2023, Sheldon Roberts met with Briana Frank of Tree Health Management LLC (THM) to provide an assessment and opinion of potential damage on approximately (18) Pyramidal Northern White Cedar trees. The trees are currently providing screening and aesthetic value to his backyard. This report aims to establish the health of the trees, as well as to describe the outcome if the subject trees were to be topped and reduced to 6 feet in height, or if every other tree were to be removed.

Background:

On June 13th, 2023, I met with Sheldon Roberts at his home located at 5 Vinje Ct in Madison, Wisconsin. Sheldon was concerned about a group of approximately 18 Pyramidal Northern White Cedar (*Thuja occidentalis*) trees in his back yard because he said he received a notice from the City of Madison that the trees were being considered a "hedge" and must be topped to 6 feet in height.

Assignment:

After speaking with Sheldon Roberts, we agreed that my extended assignment was:

- To report on my observations of the Pyramidal Northern White Cedar.
- To provide an opinion on the outcome of topping them to 6 feet in height, or removing every other tree.

Limitations of the Assignment:

My visual inspection of the trees was limited to a ground-based observation of the Pyramidal Northern White Cedar. The observations are limited to the site visit conducted on June 13th, 2023.

Purpose of the Report:

This report is to provide an assessment of the existing trees, intended to aid Sheldon in understanding the outcome of pruning or removing the subject trees and to inform any claim he chooses to make to recoup damages lost.

Arborist Report from Tree Health Management

Observations

The subject 18 Pyramidal Northern White Cedar (See Photo 1 and Photo 2 in Appendix A) trees appeared healthy during the site visit. They were approximately 20-25' in height. They were free from insect and disease and appeared to have normal vigor. The trees are mature, and are growing together, so their width varies from 3' to 5' wide. I observed no dead or necrotic areas. The trees all have excellent form and are providing aesthetic screening to the homeowner. The rows of Pyramidal Northern White Cedar have excellent structure and for their species and variety. The trees have been allowed to reach their mature specifications and have been over 6 ft. tall for many years, nearing or possibly exceeding a decade.

Analysis:

The 2023 Oxford dictionary defines a hedge as "noun. A fence or boundary formed by closely growing bushes or shrubs". Merriam-Webster (2023) defines a hedge as "noun: a fence or boundary formed by a dense row of shrubs or low trees." Hedge rows are generally maintained yearly at the same size, and to not have mature specifications that compete with maintaining their desired size. Hedges are defined by the green industry both by the mature size of the plant (shrubs and low growing trees), and the manner in which they are maintained over time (consistently pruned to a specified height).

Pyramidal Northern White Cedar are not classified as bushes, shrubs, or small trees. They are classified as trees with mature specifications of approximately 25' in height and 5' in width. By industry standards, these trees will be irreparably damaged if they are "topped" at six ft. in height. The term "topped" is an industry term used to describe the unprofessional practice of removing whole tops of trees, leaving stubs that are too small and deformed to assume the role of a terminal leader. This practice permanently destroys the structure of a tree.

This variety of Northern White Cedar does not require pruning, however if the homeowner preferred to reduce height, I would recommend removing no more than two years of outer growth (approximately 24"). Removal of every other tree in the row is also unsustainable due to the length of time they have been growing together. Removal of some of the trees would result in unsightly gaps in the remaining trees that would be unlikely to fill in over time.

Result:

The subject White Cedar trees located at 5 Vinje Court in Madison WI have not been maintained as a hedge at any point in time. The trees have been allowed to mature, and would no longer, by industry standards, be considered a hedge. Topping the trees to 6' in height would cause irreparable

Arborist Report from Tree Health Management

damage, as would removing every other tree. The trees now provide important aesthetics, shade, and screening from the neighboring property as well as environmental benefits and it is the intent of the homeowner to maintain them as trees.

Bibliography

Dirr, Michael A. Manual of Woody Landscape Plants. 6th Edition. Stipes Publishing Company, Champaign, IL. 2009

Harris, Richard. Arboriculture: Integrated Management of Landscape Trees, Shrubs, and Vines. Englewood Cliffs, NJ: Prentice Hall. 1992

Shigo, Alex L. A New Biology. 2nd Edition. Shigo and Trees, Associates. 1986

Arborist Report from Tree Health Management

Appendix A: PHOTOS



Photo 1(upper)

Photo 2 (lower)



Arborist Report from Tree Health Management

Appendix B

ASSUMPTIONS AND LIMITING CONDITIONS

1. It is assumed that any property is not in violation of any applicable codes, ordinances, Statutes or other governmental regulations.
2. Care has been taken to obtain all information from reliable sources. All data has been verified insofar as possible; however, the consultant can neither guarantee nor be responsible for the accuracy of information provided by others.
3. The consultant shall not be required to give testimony or to attend court by reason of this report unless subsequent contractual arrangements are made, including payment of an additional fee for such services as described in the fee schedule and contract of engagement.
4. Unless required by law, otherwise, possession of this report or a copy thereof does not imply right of publication or use for any purpose by any other than the person to whom it is addressed, without the prior expressed written or verbal consent of the consultant.
5. Unless required by law, neither all nor any part of the contents of this report, nor copy thereof, shall be conveyed by anyone, including the client, to the public through advertising, public relations, news, sales or other media, without the prior expressed written or verbal consent of the consultant - particularly as to value conclusions, identity of the consultant, or any reference to any professional society or institute or to any initialed designation conferred upon the consultant as stated in his qualifications.
6. This report expressed herein represent the opinion of the consultant, and the consultant's fee is in no way contingent upon the reporting of a specified value, a stipulated result, the occurrence of a subsequent event, nor upon any finding to be reported.
7. Sketches, drawings, and photographs in this report, being intended as visual aids, are not necessarily to scale and should not be construed as engineering or architectural reports or surveys unless expressed otherwise. The reproduction of any information generated by architects, engineers, or other consultants on any sketches, drawings, or photographs is for the express purpose of coordination and ease of reference only. Inclusion of said information on any drawings or other documents does not constitute a representation by Briana Frank, Tree Health Management, as to the sufficiency or accuracy of said information.
8. Unless expressed otherwise: 1) information contained in this report covers only those items that were examined and reflects the condition of those items at the time of inspection; and 2) the inspection is limited to visual examination of accessible items without dissection, excavation,

Arborist Report from Tree Health Management

probing, or coring unless otherwise specified. There is no warranty or guarantee, expressed or implied, that problems or deficiencies of the plants or property in question may not arise in the future.

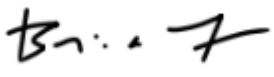
9. Loss or alteration of any part of this report invalidates the entire report.

Appendix C Certification of Performance

I, Briana Frank, certify that:

1. I have personally inspected the tree and property referred to in this report and have stated my findings accurately.
2. I have no current or prospective interest in the tree(s) or the property that is the subject of this report and have no personal interest or bias with respect to the parties involved.
3. The analysis, opinions and conclusions stated herein are my own and are based on current scientific procedures and facts.
4. My analysis, opinions and conclusions were developed and this report has been prepared in accordance to commonly accepted arboricultural practices.
5. No one provided significant professional assistance to me, except as indicated within the report.
6. My compensation is not contingent upon the reporting of a predetermined conclusion that favors the cause of the client or any other party nor upon the results of the assessment, the attainment of stipulated results, or the occurrence of any subsequent events.

I further certify that I am a member in good standing of the Wisconsin Arborist Association, American Society of Consulting Arborists, and the International Society of Arboriculture.

Signed: 

Date: 7/08/2023

Briana Frank

Tree Health Management Owner

ISA Certified Arborist # WI0661

Arborist Report from Boley Tree and Landscape



PROPOSAL

2305 Parview Road
Middleton, WI 53562-2525
www.BoleyTLC.com
Office: (608) 831-5638
Fax: (608) 831-3683

Don Jensen
9 Vinje Ct.
Madison, WI 53716-1887

Page 1
Proposal #: 73324
PropDate: 7/9/2023
Customer #: 17635
SalesRep: RODNEY

Item#	Quantity	Description of Services	Units	UnitPrice	Item Amount
1		Arborist Consultation			
		TREES: Row of Arborvitae trees in the back yard behind the pool			
		CONDITION: The row of Arborvitae trees appear to be healthy and are not hazardous			
		SPECIFICS: The row of Arborvitae trees in the back yard behind the pool are considered to be trees as they are taller than 15' tall. Shrubs grow to 15' tall at the most, so the Arborvitae trees are not to be low growing shrubs. Since trees are not considered shrubs it is impossible to prune the trees short due to the fact they would have no growth where the trees would be pruned down too, only on the sides which would make the trees very unsightly.			

Rodney Boley - President / Certified Arborist WI - 0246

Arborist report from Barnes Inc.



June 12, 2023

Sheldon Roberts
5 Vinje Ct
Madison 53716

Dear Sheldon,

You had asked us to evaluate and provide some insight on the row of arborvitae in your back and side yards.

After reviewing the city of Madison ordinance and comparing it to other similar nearby ordinances, arborvitae are classified as trees and not hedge plants. The ordinance does not specify whether trees can or can't be used as hedge plants. Trees used in this manner should be exempt from the hedge guidelines as they are in other nearby municipalities.

If the ordinance does specify that trees cannot be used, I could not find specific guidelines in the ordinance that indicate as such. If you as the homeowner are to follow the rules for hedges, thinning and lowering the height of the trees will cause a considerable loss in value and they will lose their aesthetic qualities. In this context, arborvitae should not be classified as hedge plants.

Since arborvitae are not classified as hedges and altering their present form will have a serious impact on their appearance, I would recommend leaving them alone in their present state. Furthermore, arborvitae are largely resistant to most pests and diseases and provide a habitat for a variety of birds and other wildlife.

If you have any questions, please let me know.

Sincerely,

Tim Waterworth
Certified arborist Lic #WI-0673A
Barnes, Inc.

Files pertaining to (ORD-13-00148, 9-11-13) (ORD-14-00001, 1-14-14)

7/6/23, 4:46 PM

City of Madison - File #: 31108

CITY OF MADISON - WISCONSIN
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Details Reports

File #: 31108 Version: 2
Type: Ordinance
File created: 7/31/2013
On agenda: 9/3/2013
Enactment date: 9/12/2013
Title: SUBSTITUTE Amending Sections 28.142 and 28.211 of the Madison General Ordinances to update various landscaping and screening requirements and create a definition for hedges.
Sponsors: [Mark Cleary](#), [Joseph R. Clausius](#)
Attachments: 1. [BODY - SUB](#), 2. [BODY](#), 3. [landscaping update to ZO 8-2013.pdf](#), 4. [LandscapeOrdinanceReport1080713.pdf](#), 5. [LandscapingOrdinanceReport1082813.pdf](#)

History (7)		Text					
7 records		Group	Export				
Date	Ver.	Action By	Action	Result	Action Details	Meeting Details	Watch
9/3/2013	1	COMMON COUNCIL	Adopt with the Recommendation(s)	Pass	Action details	Meeting details	Not available
8/28/2013	1	URBAN DESIGN COMMISSION	Return to Lead with the Recommendation for Approval		Action details	Meeting details	Not available
8/26/2013	1	PLAN COMMISSION	RECOMMEND TO COUNCIL TO ADOPT - PUBLIC HEARING	Pass	Action details	Meeting details	Not available
8/7/2013	1	URBAN DESIGN COMMISSION	Return to Lead with the Recommendation for Approval	Pass	Action details	Meeting details	Not available
8/6/2013	1	PLAN COMMISSION	Refer For Public Hearing		Action details	Meeting details	Not available
8/6/2013	1	COMMON COUNCIL	Referred for Public Hearing	Pass	Action details	Meeting details	Not available
7/31/2013	1	Attorney's Office/Approval Group	Referred for Introduction		Action details	Meeting details	Not available

7/6/23, 4:47 PM

City of Madison - File #: 32294

CITY OF MADISON - WISCONSIN
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Details Reports

File #: 32294 Version: 1
Type: Ordinance
File created: 11/22/2013
On agenda: 1/7/2014
Enactment date: 1/15/2014
Title: Amending Sections 28.142(9) and (11), Section 28.151 and Section 28.211 of the Madison General Ordinances to create a definition for "screening fence" and "screening hedge" and amend related rules.
Sponsors: [Scott J. Resnick](#), [Ludell Zellers](#)
Attachments: 1. [Staff Comments.pdf](#)

History (4)		Text					
4 records	Group	Export					
Date	Ver.	Action By	Action	Result	Action Details	Meeting Details	Watch
1/7/2014	1	COMMON COUNCIL	Adopt and Close the Public Hearing	Pass	Action details	Meeting details	Not available
12/16/2013	1	PLAN COMMISSION	RECOMMEND TO COUNCIL TO ADOPT - PUBLIC HEARING	Pass	Action details	Meeting details	Not available
12/3/2013	1	COMMON COUNCIL	Referred for Public Hearing		Action details	Meeting details	Not available
11/22/2013	1	Attorney's Office/Approval Group	Referred for Introduction		Action details	Meeting details	Not available

Files pertaining to (ORD-13-00148, 9-11-13) (ORD-14-00001, 1-14-14)

CITY OF MADISON, WISCONSIN

A SUBSTITUTE ORDINANCE _____

Amending Sections 28.142 and 28.211 of the Madison General Ordinances to update various landscaping and screening requirements and create a definition for hedges.

PRESENTED
REFERRED

August 6, 2013

PC, UDC (8/7); Public
Hearings: PC 8/26/13
CC 9/3/13

LEGISTAR # 31108

Drafted by: Maureen O'Brien

Date: August 30, 2013

SPONSOR: Aids. Clear & Clausius

DRAFTER'S ANALYSIS: This amendment updates various landscaping and screening requirements. It creates an exception for developments disturbing less than 10% of the site or increasing less than 10% of gross floor area, so long as no principal building is demolished. It reduces the required landscaping points for lots over 5 acres, and allows an exception where building placement prohibits compliance. Currently, the tree diversity requirement permits no more than four of any one species of trees on a single site, which becomes impractical with large numbers of trees. This amendment changes the regulation to limit any single species from comprising more than a defined percentage of the total trees. It creates a definition for "hedge," and separates solid hedges, used for screening, from ornamental hedges.

The Common Council of the City of Madison do hereby ordain as follows:

1. Section 28.142 entitled "Landscaping and Screening Requirements" of the Madison General Ordinances is amended to read as follows:

(11) Fences, Walls and Hedges.

Fences, walls and hedges may be erected, placed, or maintained in any yard along or adjacent to a lot line in accordance with the requirements identified in this section. The owner shall be responsible for properly locating all property lines before construction of any fence.

(a) Height in Residential Districts.

1. The maximum height of a solid fence or solid hedge within required side and rear setbacks in a residential zoning district shall not exceed six (6) feet. A solid fence or solid hedge of up to eight (8) feet in height may be constructed 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.

2. Fences around pools shall not exceed eight (8) feet.

3. The maximum height of a solid fence or solid hedge within a required front or corner side yard setback shall not exceed four (4) feet, except that a fence or hedge of up to six (6) feet may be located within a corner side yard setback behind the rear plane of the principal building. Screening Solid fences exceeding four (4) feet in height shall be set back a minimum of four (4) feet from the sidewalk.

a. Such front yard or corner side yard fences may be increased to a maximum height of five (5) feet if open, decorative, ornamental fencing materials that are less than fifty percent (50%) opaque are used or to a maximum height of six (6) feet if open, decorative, ornamental fencing materials that are less than twenty (20) percent opaque are used.

Files pertaining to
(ORD-13-00148, 9-11-13) (ORD-14-00001, 1-14-14)

- 2. Section 28.211 entitled “Definitions” of the Madison General Ordinances is amended by creating therein the following:
- “Hedge. A row of closely planted shrubs or low-growing trees, forming a boundary or barrier, installed to enclose, screen or separate areas.
- Hedge, Ornamental. A hedge that is no more than fifty percent (50%) opaque.
- Hedge, Solid. A hedge that is at least ninety percent (90%) opaque.”

Files pertaining to (ORD-13-00148, 9-11-13) (ORD-14-00001, 1-14-14)



Department of Planning & Community & Economic Development Building Inspection Division

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DATE: July 31, 2013
TO: Urban Design Commission, Plan Commission
FROM: Zoning Text Amendment Staff Team
SUBJECT: Proposed changes to the Landscaping section of the Zoning Ordinance

On January 2, 2013, the City's new zoning code went into effect. It is the first major revision to the code since 1966. The standards in the new code were tested prior to adoption, but it was generally accepted by policy-makers and staff that changes would be necessary during the first year or two of implementation.

One of the most significant areas of change from the old code to the new was the landscaping standards. The new code takes a much more comprehensive approach. In working with the new code, staff has discovered several issues regarding the new landscaping requirements that need to be addressed, such as the requirements and triggers for compliance on sites developed prior to the new code. This memo summarizes changes to the landscaping section as proposed by staff after further testing and evaluation.

Summary of Changes to Sec. 28.142:

(11) Fences, Walls and Hedges

- Clarify height limitation for "solid" fences. *Clarifies regulation is intended for solid fences as defined, not more open styles of fences.*
- Clarify language to prohibit the use of retaining walls and berms to increase height of screening. *Clarification.*

New Definitions:

- hedge,
- hedge, ornamental,
- hedge, solid

These definitions match similar definitions for fencing, to clarify regulations for screening hedges comparable to screening fencing.

Files pertaining to (ORD-13-00148, 9-11-13) (ORD-14-00001, 1-14-14)

PLANNING DIVISION STAFF REPORT

December 16, 2013



PREPARED FOR THE PLAN COMMISSION

Proposal: Zoning Text Amendments

Legistar File ID #: [32294, 32295, 32296, 32299](http://madison.legistar.com/LegislationDetail.aspx?ID=1448007&GUID=77BBB3C5-C8CC-45EE-B57A-B649AD7CF104&Options=ID|Text|&Search=30660)
<http://madison.legistar.com/LegislationDetail.aspx?ID=1448007&GUID=77BBB3C5-C8CC-45EE-B57A-B649AD7CF104&Options=ID|Text|&Search=30660>

Prepared By: Planning and Zoning Staff

The following is a staff summary of the proposed zoning text amendments for Plan Commission consideration.

32294 – Definition for “Screening Fence” and “Screening Hedge”, and Related Rules

This amendment provides technical clarifications to the regulations in place for screening, fencing and landscape screening using vegetation. The amendment also unifies certain screening height limitations for certain zoning districts. The definitions have also been modified to relate to the regulation language.

This amendment clarifies the maximum screening height required for certain site elements, as required in the landscaping section of the zoning ordinance. The amendment also clarifies a uniform maximum screening height in nonresidential zoning districts and areas where outdoor storage is provided. That maximum screening height limitation is eight feet, which matches the most-recent code limitation for maximum screening height.

In regard to fences and hedges used for screening on private property, the language clarifies the specific limitations on height, percentage of opacity, and specific location on a lot where fences and hedges of certain height or opacity may be located. The language also includes a maximum height for a fence, within the building envelope area, not to exceed eight feet in height. The term “wall” has been removed to eliminate confusion, as a wall can be used as a fence or a retaining wall (which is not a fence). With the exception of the new maximum fence height rule, no specific change to the regulations was included with this amendment, it simply clarifies what type and height of fence or hedge is allowed on the various areas of a lot, which was found to be confusing in the current zoning text.

In the definition of *fence*, the material type *brick*, *stone* has been added, as this material type often constitutes a wall, which may also be a type of fence.