

ZONING ADMINISTRATOR'S REPORT
VARIANCE APPLICATION
1001 N Wingra Dr

Zoning: TR-C1

Owner: Louis Olson

Technical Information:

Applicant Lot Size: 75'±w x 115'±d irregular **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 7'5' along rear lot line.

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 zero and about five feet (with a three foot retaining wall). The lot on the multi-family dwelling slopes slightly at the south 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, 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. However, the grade levels from north to south, and this grade change, along with the fence height request, would result in a fence that appears overly tall towards the south of the lots. This part of the request 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 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 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 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 along the common rear lot lines 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 as out-of-ordinary.

Other Comments: This fence project is being constructed in conjunction with the fence project at 921 N. Wingra Drive, also on the current ZBA agenda for fence height variance.

At its June 21 2018 meeting, the Madison Zoning Board of Appeals deferred this case. Comments included:

- The application lacked detailed information about the actual grade change at the rear of the property,
- The rationale for why the fence needed to be taller where the grade is similar was not provided,
- The request was not clear,
- The request for a side-yard screening fence height variance was not clearly articulated, and further information regarding the possibility of alternative screening in this area, such as installing landscaping in lieu of the fence, should be analyzed.

In response, the petitioner has provided new detailed information for this request, and has abandoned the side lot line fence height request. The petitioner also has installed a screening fence within code limitations, which staff have visited the site to view and photograph. This fence is about 12" taller than code would allow at the south end, which the petitioner has acknowledged and indicated he would be willing to modify/step down to a code-complaint height.

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. Depending on final determinations of grade change, the area in orange appears as though it would be classified as a 6' fence height, and not require a zoning variance.

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: 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.