

ZONING ADMINISTRATOR'S REPORT
VARIANCE APPLICATION
3101 Grandview Boulevard

Zoning: SR-C1

Owner: Kim Egan

Technical Information:

Applicant Lot Size: 100' w. x 150' d

Minimum Lot Width: 60'

Applicant Lot Area: 15,000 sq. ft.

Minimum Lot Area: 8,000 sq. ft.

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

Project Description: Single story single family home. Construct 8' tall screening fence along a portion of the western property line alongside and behind portion of the home.

Zoning Ordinance Requirement: 6' maximum height for screening fence

Desired condition: 8' tall screening fence

Requested Variance: **2' screening fence height variance**

Comments Relative to Standards:

1. Conditions unique to the property: The lot is of uniform size and shape, exceeds ordinance minimums, and is generally consistent with other lots the area. The lot has a gentle slope from front to rear, perhaps a foot or two of drop in slope is present behind the home. There is nothing unusual or unique about this lot that that limits the ability to install an otherwise-complaint screening fence.
2. Zoning district's purpose and intent: The regulations requested to be varied are the *screening fence height limitations*. In consideration of this request, the *screening fence height limitations* are intended to allow for a property owner of a residential property to install screening fence on their property line at a height of 6', to allow for property line definition and also provide some opportunity for privacy in the backyard area with limitation on impact on the adjacent neighbor. In this case, the 8' tall fence simply increases the ability to further screen the petitioners' property without regard for the impact of this fence on the abutting property. This fence does not appear to negatively impact the broader public interest, given its location at the side and rear property lines.
3. Aspects of the request making compliance with the zoning code burdensome: The zoning ordinance allows a 6' tall screening fence, which the City has determined to be the height limit for screening fence height in this scenario. The greater height allows for more privacy of the petitioner with also greater impact on the adjacent neighbor, whose back yard abuts an

8' tall fence wall placed on the lot line. Compliance with the ordinance does not appear unduly burdensome in this case.

4. Difficulty/hardship: See comments #1 and #3. The home was originally constructed in 1967 and purchased by the current owners in June 2014. The petitioner recently constructed a home addition an elevated rear patio to the side where the fence height variance is being requested, based upon a desire to have an at-grade walk-out patio from the home. This patio height grade change, installed by the applicant at their desire, appears to be the basis for the 8' tall screening request. There does not appear to be a relevant lot-base hardship associated with this request.
5. The proposed variance shall not create substantial detriment to adjacent property: The 8' tall fence portion will have an potential adverse impact on the neighboring property, in that the increased screening height placed at the lot line blocks more light and air than an otherwise permissible screening fence would, and has a more looming an ominous presence at the side/rear yard area of that home.
6. Characteristics of the neighborhood: There does not appear to be any other instances of 8' tall screening fences in the general neighborhood area. This fence, although attractively designed and constructed out of quality and durable materials, would not be a common feature for the area.

Other Comments: This case comes forth out of an enforcement action, where a fence was constructed taller than ordinance allowances and zoning staff have issued an Official Notice of Violation. The current installed screening fence is 8', placed on the side lot line from the side of the home to the rear property line. The submitted plan does not indicate exactly how much fencing would be lowered should this request be approved, and that exact amount would need to be clarified should the ZBA determine a variance be approved.

At the site visit, the Zoning Administrator observed that other portions of the newly constructed fence exceed the maximum height limit for screening fences. Per a separate discussion, the petitioner acknowledged this fact, and he has indicated those portions of the fence will be modified to comply with ordinance requirements.

Staff Recommendation: The burden of meeting the standards is placed upon the applicant, who must demonstrate satisfaction of all the standards for variance approval. It is not clear that this burden has been met. As noted above, this request appers to be primarily based on the desire of the applicant to install taller screening to increase screening for an elevated patio feature they recently constructed, rather than a definable hardship. Staff recommends that the Zoning Board find that the variance standards are not met and **deny** the requested variance as submitted, subject to further testimony and new information provided during the public hearing.