

ZONING ADMINISTRATOR'S REPORT  
VARIANCE APPLICATION  
5454 Lake Mendota Drive

**Zoning: TR-C1**

**Owner: Kathleen S. Cox**

**Technical Information:**

**Applicant Lot Size:** Irregular, 66' on Lake Mendota Drive **Minimum Lot Width:** 50'

**Applicant Lot Area:** 17,127 sq. ft. ± **Minimum Lot Area:** 6,000 sq. ft.

**Madison General Ordinance Section Requiring Variance: 28.138(4)(a)**

**Project Description:** Demolish existing two-story single family home with attached garage and construct new two-story single-family home with attached garage. Lakefront setback variance.

Zoning Ordinance Requirement: 123.8'

Provided Setback: 109.2'

Requested Variance: 14.6'

**Comments Relative to Standards:**

1. Conditions unique to the property: The lot exceeds lot width and lot area minimums. The lot has slope to the lake, but this slope does not affect zoning compliance. The lot contains a "wet" boathouse, which is a boathouse with excavation beneath that allows the lake water under the boathouse. This appears to be the only lot in the City of Madison with a "wet" boathouse. Per the Wisconsin Department of Natural Resources, the Ordinary High Water Mark (OHWM) that is used to measure the required setback must be measured from the water's edge inside/underneath the boathouse, rather than the typical shoreline. Because of the excavation and resulting water's edge, the closest distance to the OHWM is a shorter distance than typical lake property.
2. Zoning district's purpose and intent: The regulation being requested to be varied is the *lakefront yard setback*. In consideration of this request, the *lakefront yard setback* is intended to establish general uniformity for the setback for abutting properties on the lake and to preserve view sheds and limit bulk placement that might negatively impact adjacent properties. The ordinance requires two methods to calculate the required setback:

- a. *The average setback of the principal building on the two (2) adjoining lots, provided that the setbacks of those buildings are within twenty (20) feet of one another; or*
- b. *The median setback of the principal building on the five (5) developed lots or three hundred (300) feet on either side (whichever is less), or thirty percent (30%) of lot depth, whichever number is greater*

In this case, the second option applies, using the median setback calculator method. This method is intended to consider the varying setback of properties in a proximate distance from the subject lot and their setback to establish a median setback. Outliers are discarded and the median setback of the qualifying properties is used. This is why the homes that are much closer or much farther away from the OHWM get discarded from the calculation. Most newer homes tend to provide less setback than older homes, because positioning closer to the lake provides a more advantageous panoramic view from the home.

The home adjacent to the south is a new home (5450 Lake Mendota Drive), completing construction), and the setback requirement for this home is 133.8'. This distance is measured to the OHWM at the shoreline, and not to the OHWM under the wet boathouse. This home is generally in alignment with the proposed house placement, but for the deck/porch. The home to the north (5458 Lake Mendota Drive) dates to 1910 according to city records, and provides a 164.5' setback to the OHWM. This setback exceeds the maximum allowed lakefront setback for this lot. A new home would likely be placed closer to the lake than the existing home, more in line with the subject home and the homes to the north and south. The required setback for this lot is approximately 123.4'. This lot is also affected by the OHWM measurement under the wet boathouse.

This case is primarily about the penalty the lot assumes because of the OHWM relative to the wet boathouse, rather than using the common shoreline across the property for setback calculation. The placement of the home generally matches the placement of the principal structures to the south, and the likely pattern to the north as homes are replaced through time. On some of the neighboring lots, the setback is measured to elevated decks or porch-like features, similar to the subject property. The result of the request would allow this home to be placed generally in line with the pattern of development of homes in the area, by reducing the hardship established by OHWM measurement under the wet boathouse. The project appears generally consistent with the purpose and intent of the ordinance.

3. Aspects of the request making compliance with the zoning code burdensome: As noted above, the irregular OHWM results in a measured setback (a setback calculated by using the setback of the ten principal structures in the vicinity of the subject property that do not have wet boathouses and resulting irregular OHWM measurements) that affects building placement on this lot different than any of the other qualifying lots. To build a setback compliant dwelling, the structure must be placed further from the natural edge of the lake due to the OHWM under the wet boathouse.
4. Difficulty/hardship: The home/lot was purchased by the current owner in 2017. See comments #1, #2 and #3 above.
5. The proposed variance shall not create substantial detriment to adjacent property: The proposed home will be in general alignment with the (new) home to the south, but will be closer to the lake than the home on the lot to the north. That home provides more setback

than required. The proposed home will block views of the lake from the home to the north, which will have some impact, but since the encroachment is an open porch and deck, the bulk of this encroachment is less than if it was conditioned space. *(NOTE: the submitted plans do not clearly indicate if this area is open or enclosed. The ZBA should ask the applicant to explain if the basement-level porch is proposed for screens or will be an open porch. )*

6. Characteristics of the neighborhood: The general development pattern on the lake-side of the street is characterized by large principal structures on varying lot sizes. The architectural styles of homes vary greatly in this neighborhood. The proposed design for the structure is not out of character for the area.

**Other Comments:** The structure will be one of the largest homes in the area from a floor area perspective, with a significant amount of the floor area designed into the basement area, generally below street grade.

The Wisconsin DNR has no jurisdiction over the City of Madison requirement for structure setback from the OHWM.

This project will require approval from the City's Plan Commission for principal structure demolition and Conditional Use for a new lakefront home and a principal structure with floor area that exceeds 10,000 sq. ft.

**Staff Recommendation:** It appears standards have been met, therefore staff recommends **approval** of the variance request, subject to further testimony and new information provided during the public hearing