

ZONING ADMINISTRATOR'S REPORT  
VARIANCE APPLICATION  
5642 Lake Mendota Drive

**Zoning:** TR-C1

**Owner:** Jay and Janet Loewi

**Technical Information:**

**Applicant Lot Size:** 71'w x 287.5'±d (irregular)   **Minimum Lot Width:** 50'

**Applicant Lot Area:** 20,296 sq. ft.                   **Minimum Lot Area:** 6,000 sq. ft.

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

**Project Description:** Petitioners request a lakefront setback variance to construct an elevated deck addition at the rear of the existing two-story single-family home. Project also involved eliminating a stairwell to grade facing the west property line.

Zoning Ordinance Requirement:       68.3'

Provided Setback:                       65.8'

Requested Variance:                    **2.5'**

**Comments Relative to Standards:**

1. Conditions unique to the property: The lot exceeds lot width and lot area minimums. The shoreline is irregular along the lake frontage of the lot, resulting in an uneven setback requirement for the principal structure. The lot has slope to the lake and slope from the west to the east, creating an opportunity for basement-level exposure. The existing home contains a walk-out basement with a partial deck above, resulting in the existing deck being classified as an "elevated deck" which must comply with lakefront setback requirements. Also, the existing deck projects into the setback requirement approximately four feet, which is a legal nonconforming condition.
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 three methods to calculate the required setback for a home, as measured from the Ordinary High Water Mark (OHWM):

- 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) *If the subject property only abuts one developed lot, the setback of the existing principal residential structure on that abutting lot; or*
- c) *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, method “c” 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.

This case is primarily about the penalty the subject lot assumes because the setback required for the neighbor to the west is actually less than the median setback calculation for the subject lot. The existing noncompliant deck setback does not change with the small deck expansion, which will not affect views from neighboring properties. The request appears consistent with the intent and purpose of the lakefront setback requirement.

3. Aspects of the request making compliance with the zoning code burdensome: As noted above, the irregular shoreline results in a measured setback that affects building placement on this lot different than their abutting neighbor on the side where the deck is to be placed. Also, the grade change that results in the deck being classified as “elevated” similarly affects the subject property. To expand the deck, any expansion must be behind the setback requirement, which is further from the OHWM than where the neighbor to the west may place their similar improvements by-right or where the existing deck is located.
4. Difficulty/hardship: The home was constructed in 1958 with additions and the current deck constructed in 1999. The property was purchased by the current owner in September, 2007. See comments #1, #2 and #3 above.
5. The proposed variance shall not create substantial detriment to adjacent property: The proposed deck expansion is located to the west side of the lot and is behind the deck and screen porch on the new home to the west. The project will have little impact above or beyond the current deck, and eliminates a stairwell to grade.
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. Lake-side decks are common. The proposed deck expansion is not out of character for the area.

**Other Comments:** The request does not affect the calculated setback for this or any other property, because the proposed deck expansion is further away from the OHWM than the existing deck.

Because the setback requirement and the proposed deck expansion are not parallel, the proposed setback for the deck varies from 65.8’ at its closest point to 67.1’.

The home adjacent to the west is a new home (5646 Lake Mendota Drive). Because 5646 abuts only one lot (the subject lot) they may use method “b” above for calculating the required lakefront setback. The required setback for this lot is 64.4’, which is measured to the elevated deck on the subject property. The setback requirement for the neighboring property is less than the setback required for the subject property. As a result, the neighbor constructed a deck and enclosed screen porch using the 64.4’ setback minimum when gaining approval for their new house.

This project will require approval of a Conditional Use alteration for the deck expansion. The alteration was submitted last year, has a positive recommendation from the District Alderperson and approval from the Planning Director, and will be completed if the variance request is granted.

**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.