

CITY OF SHEBOYGAN

REQUEST FOR ZONING BOARD OF APPEALS CONSIDERATION

ITEM DESCRIPTION:

Address: 3990 PINE BLUFF DR

Parcel #: 654029

Owner's Name: TAMARA L LUKONEN

Zoning: SR-3 (SUBURBAN RESIDENTIAL 3)

REPORT PREPARED BY: Ellise Rose, Associate Planner

REPORT DATE: 07/3/2024

MEETING DATE: 07/17/2024

BACKGROUND / ANALYSIS

Owner would like to construct a 6 foot high privacy fence within their required street-yard setback of 25 feet.

Ordinance #: Sec 105-945(c)(1)a - Any fence within a street yard, including along property lines which intersect a right-of-way, shall be a maximum of 50 percent opaque.

Requesting: solid fence

Allowed: 50% opaque

Ordinance #: Sec 105-945(c)(3)a - *Maximum height*. The maximum height of any fence, landscape wall, or decorative post shall be the following: Four feet when located within a required street yard on any property...

Requesting: 6 feet height within required street yard

Allowed: 4 feet height within required street yard


Ordinance #: Sec 105-945(c)(3)b - Six feet when located on any residentially zoned property, within required interior side or rear yards, but not within a required front yard or a required street yard.

Requesting: 6 feet within required street yard

Allowed: 4 feet within required street yard

ATTACHMENTS:

Application, pictures, and drawing

	CITY OF SHEBOYGAN VARIANCE APPLICATION	Fee: _____ Review Date: _____
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Read all instructions before completing. If additional space is needed, attach additional pages.

SECTION 1: Applicant/ Permittee Information			
Name (Ind., Org. or Entity) <i>Tamara Lukonen Owner</i>			
Mailing Address <i>3995 Pine bluff Dr.</i>	City <i>Sheboygan</i>	State <i>WI</i>	ZIP Code <i>53083</i>
Email Address <i>tamaralukonen@gmail.com</i>		Phone Number (incl. area code) <i>(920) 207-5547</i>	
Applicants interest in property: <i>n/a</i>			
SECTION 2: Property Information			
Property Address <i>3995 Pinebluff Dr.</i>	City <i>Sheboygan</i>	State <i>WI</i>	Zip <i>53083</i>
Type of Building: <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential			
Request for: <input type="checkbox"/> New Construction <input type="checkbox"/> Repairs <input type="checkbox"/> Alterations <input type="checkbox"/> Addition <input type="checkbox"/> Nonconforming Use <input checked="" type="checkbox"/> Other			
SECTION 3: If the Request is for a Nonconforming Use			
Your intended use: <i>request for use of 4ft privacy fence. children + business on premises small dog. 4ft 50% open recommended fence not suitable for safety purposes</i>			
Date last occupied as a nonconforming use: <i>n/a</i>			
By Whom:		Previous Use:	
SECTION 4: Requested Variance			
On a separate letter to the Board, describe the requested variance and include what unnecessary hardship or difficulty is caused by following the regulations or requirements of the ordinance. See the attached "The Three Tests for a Variance" and be prepared to argue how you pass the THREE TESTS FOR A VARIANCE.			
SECTION 5: Certification and Permission			
Certification: I hereby certify that I am the owner or authorized representative of the owner of the property which is the subject of this Variance Application. I certify that the information contained in this form and attachments are true and accurate. I certify that the project will be in compliance with all conditions. I understand that failure to comply with any or all of the provisions of the permit may result in permit revocation and a fine and/or forfeiture under the provisions of applicable laws. Permission: I hereby give the City permission to enter and inspect the property at reasonable times, to evaluate this notice and application, and to determine compliance with any resulting permit coverage.			
Name of Owner/Authorized Representative (please print) <i>Tamara Lukonen</i>	Title <i>Owner</i>	Phone Number <i>920-207-5547</i>	
Signature of Applicant <i>Tamara Lukonen</i>		Date Signed <i>5/15/24</i>	

Complete application is to be filed with the Building Inspection Department, 828 Center Avenue, Suite 208. Variances to zoning ordinances are considered by the City of Sheboygan Zoning Board of Appeals monthly on the third Wednesday at 3 p.m. at a public hearing. To be placed on the agenda of Zoning Board of Appeals, application must be received no later than 4:30 p.m. on the third Wednesday of the month prior to the scheduled public hearing. Applications will not be processed if all required attachments and filing fee of \$250 (payable to the City of Sheboygan) are not submitted along with a complete and legible application. Application filing fee is non-refundable.

All applications must include:

- 1) Application forms, signed and dated, which are available at the Building Inspection Department Office and online.
- 2) The non-refundable filing fee - \$250.00.
- 3) Photographs of the property.
- 4) Samples of materials being used – roofing, siding, decking, etc.
- 5) A site sketch (see example), drawn to scale indicating location of all existing structures and proposed construction. Also indicate lot lines, size of lot, streets and other public ways, driveways, off-street parking, loading areas, and existing and proposed front, side and rear yards. *Please consult with Building Inspection staff for more information.*

Notes:

- a) The applicant can present any additional information to inform the Board of the facts.
- b) Applicants should be aware staff may require a survey as part of the application information in order to clarify specific variance(s) requested.
- c) Applicants should be aware the Board of Appeals may require a survey as part of the application review and/or as a condition of approval prior to issuance of a building permit if a variance is granted.
- d) Building permits must be acquired within 6 months of the granted approval or the approval will be voided.
- e) Any information submitted on the application will become public record and is not subject to confidentiality.

FAILURE TO SUPPLY ADEQUATE AND / OR ACCURATE INFORMATION AS REQUESTED ABOVE CAN BE GROUNDS FOR DISMISSAL OF THE APPEAL REQUEST.

Applicants should be prepared to answer the following questions:

- *What **hardship** is created by the application of the Zoning Ordinance to this property? Is **reasonable use** of the property denied by the zoning regulations? In other words, is there an alternative plan that would **comply** with the ordinance?*
- *Is there a **unique physical characteristic** of the property which prevents development of the property in compliance with the Zoning Ordinance?*
- *Would granting the variance harm the **public interest** in any way? For example, would public safety be compromised? (Note: Lack of neighborhood opposition does not necessarily mean a variance would not harm the public interest.)*

A notice of the date and time of the hearing will be mailed to all property owners within 100 feet and municipal property within 1,000 feet of your property. Notice of hearing will also be sent to the City of Sheboygan Planning Department. It is important you discuss your proposal with the Building Inspection and Planning Departments.

The property owner or a representative shall be present at the public hearing to present his or her request to the Board and answer any questions the Board members may have. Should an appearance not be made, or insufficient information presented, the appeal will not be considered and may be either placed on the agenda for the next meeting or denied. The appellant will be required to pay the additional expense incurred because of postponement of the hearing. Appellants are reminded the filing fee for a variance request is non-refundable.

THE THREE "TESTS" FOR A VARIANCE

The CITY OF SHEBOYGAN adheres to a set of Zoning Ordinances to make certain your proposed construction is consistent with neighboring developments, a development does not infringe on the enjoyment of property belonging to neighboring owners, it does not detract from surrounding buildings or lots and is not out of character with the neighborhood, and a project meets necessary public health and safety standards. If your proposed construction cannot meet the requirements of the zoning or sign code, a **VARIANCE** is needed.

To obtain a variance, you must establish, due to some peculiarity of the property's size, shape, topography, etc., it would be a hardship or practical difficulty to meet zoning code requirements. ***These circumstances must not be self-imposed or self-created.*** In short, your proposed construction must meet and pass the three "tests" for a variance listed below.

IT IS RECOMMENDED YOU MEET WITH THE STAFF IN THE CITY'S PLANNING DEPARTMENT AND BUILDING INSPECTION DEPARTMENT BEFORE SUBMITTING YOUR APPLICATION FOR A VARIANCE. BUILDING INSPECTION STAFF WILL REVIEW THE STANDARDS FOR A VARIANCE (BELOW) PRIOR TO YOUR FILLING OUT THE APPLICATION AND PAYING THE NON-REFUNDABLE FILING FEE.

TEST #1: UNNECESSARY HARDSHIP

The Wisconsin Supreme Court has ruled that unnecessary hardship only exists when the zoning ordinance denies ***all reasonable use*** of the property. ***If there is an alternative plan that is within the bounds of the zoning ordinance, a variance is not warranted.***

The hardship experienced ***must not be self-imposed***; loss of profit, expense already incurred and additional expense incurred to comply with zoning ordinances ***are not*** unnecessary hardships.

TEST #2: UNIQUE PROPERTY LIMITATIONS

Unique physical characteristics of your property must prevent you from completing your proposed construction in compliance with the ordinance. The **property** must qualify for the variance, **not your particular situation**.

Additionally, existing violations on other properties or improper variances previously granted are not grounds for a variance.

X TEST #3: NO HARM TO PUBLIC INTEREST

The Board members will be taking into account the reason for the existence of the zoning ordinance in applying this test. Lack of opposition ***does not*** necessarily mean the proposed construction would not harm the public interest.

The Board, in granting a variance, may impose conditions on the proposed construction to assure the public's interests are protected. Board members may only grant the ***minimum relief*** necessary for the reasonable use of the property.

Your proposed construction must meet all three "tests" to qualify for a variance. Variances are meant to be an ***infrequent remedy*** where an ordinance imposes a unique and substantial burden. ***They are not intended as an accommodation for a property owner's convenience.*** A variance decision may be appealed within 30 days of the filing of the decision in the office of the board.

Please contact the staff at the City's Planning Department and/or Building Inspection Department if you have any further questions.

Hand-drawn site plan of a property. The plan shows a rectangular lot with a dashed line indicating the "existing fence 97'". A "Proposed Fence in red." is shown as a solid line. The lot is divided into two main sections: a "Garage" and a "House".

Garage: Dimensions are 22' wide and 24' deep. It is set back 10' from the left fence line and 10' from the bottom fence line. A 6' setback is shown from the right side of the garage to the house.

House: Dimensions are 28' wide and 33' deep. It is set back 27' from the right fence line. The distance from the right side of the house to the "existing fence 97'" is 46'.

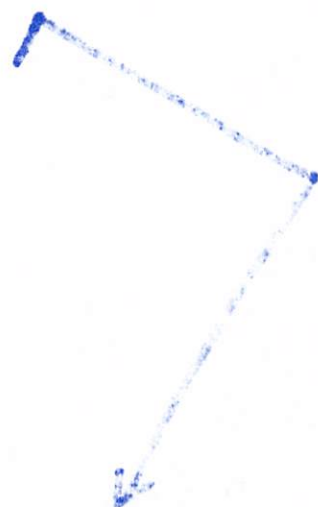
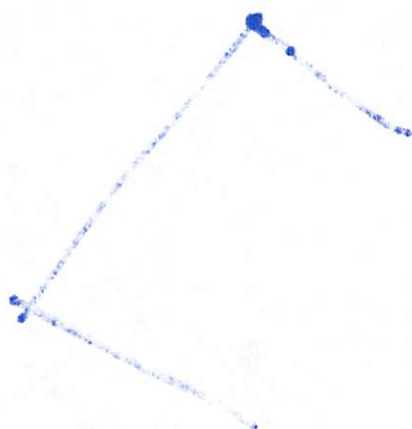
Setbacks and Distances:

- From the left fence line to the left side of the house: 19' max.
- From the left fence line to the left side of the garage: 19' max.
- From the bottom fence line to the bottom of the garage: 10'.
- From the bottom fence line to the bottom of the house: 10'.
- From the right side of the house to the right fence line: 27' max.
- From the right side of the garage to the right fence line: 46'.
- From the right side of the house to the "existing fence 97'": 46'.
- From the right side of the garage to the "existing fence 97'": 40'.
- From the right side of the house to the "existing fence 97'": 40'.
- From the right side of the garage to the "existing fence 97'": 40'.
- From the right side of the house to the "existing fence 97'": 40'.

Side Walk: A sidewalk is shown on the right side of the property, with a width of 8' 3" 6".

Sidenwalk





Good Afternoon,

We are requesting a variance for the fencing code requiring fences on corner houses to have 4ft 50% openings. We would like to have a 6ft privacy fence. We live in a cul de sac and I work from home. We do have a lot of people speeding through our area as we are off of LS and the speed out there is significantly higher. We don't have sidewalks for the kids to walk on so when the kids play in the yard it's easier for them to run into the road which is a safety risk.

I also work from home. It is hard to be in the yard when our 5yo wants to be on the swingset which is located on the other side of the house with no visibility from the living quarters. I do understand the crime rate is low but it's never zero. It is sad having to tell my daughter she can't go play because I have work calls and employees to attend to.

We also have a small dog that would get out of the 50% open recommended fence. If we would put up that fence we still would not be able to let him out in his own yard.

We live on a hill with drainage ditches, so putting a 4 ft fence at the bottom of the hill would not offer any privacy or protection.

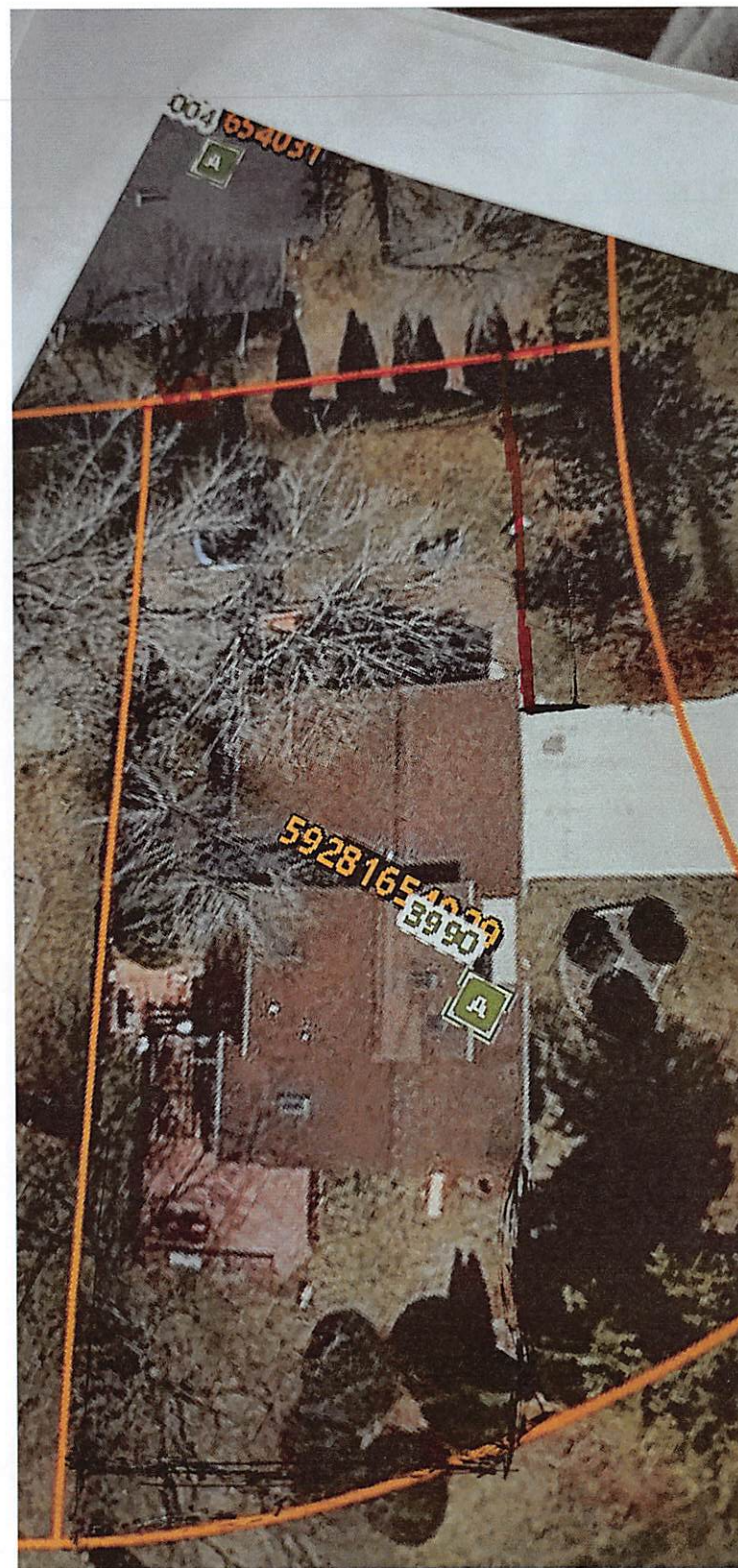
We have asked surrounding neighbors and they are in favor of us getting a fence as well. Which poses no harm to public interest.

Our fence on the garage side would need to extend past the sidewalk on the pathway as there's existing cement and landscape that prevent fence from sitting flush with house/structure.

We are also going to be doing an egress window in the near future. Although required for safety in the lower level, it also creates another entrance into our home. Some home owners are able to purchase guns as protection and peace of mind. My dad committed suicide, I had to take him off of life support due to a gun shot injury so that is not an option for me. I am just asking to feel safe in my home.

The 3 reasons we want a fence are Safety, privacy, and containment. None of which can be accomplished with a 4ft 50% open fence.

We are requesting the use of a 6ft wooden privacy fence. We live in a wooded area off of pigeon river. Our house is cedar with a brown roof and all of our neighbors have wooden fences. A recommended vinyl fence would not be able to be joined to meet the neighbor fences. It would also look like it doesn't belong. I understand the "step above the dog ear fence" and that's ok. Even the lattice at the top or the horizontal fence is fine. I will include imagery of both.



[illegible]

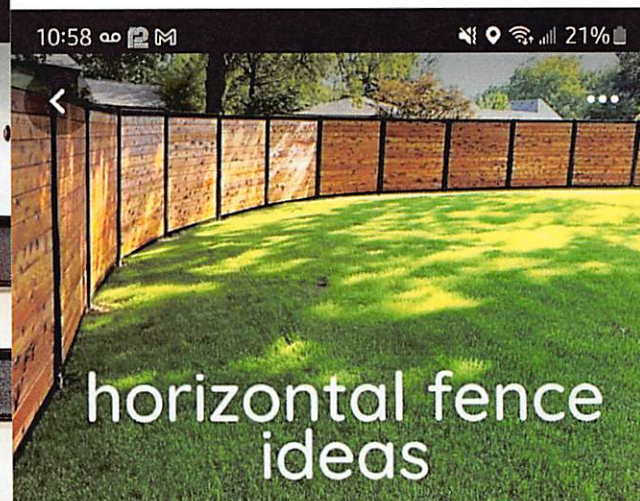
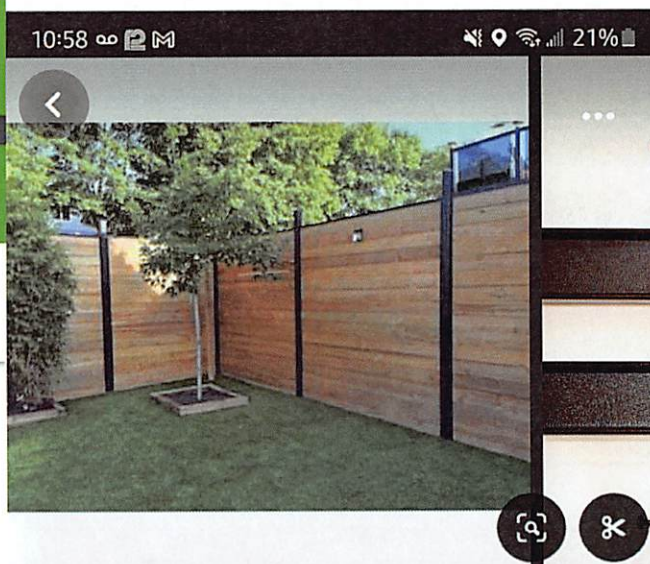
A

$I = 31^{\circ}41'14''$
 $R = 205.00'$
 $CB = S\ 43^{\circ}01'S$
 $CHD = 111.94'$

B

$I = 31^{\circ}11'14''$
 $R = 202.12'$
 $CB = S\ 38^{\circ}18'0''$
 $CHD = 109.84'$

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1

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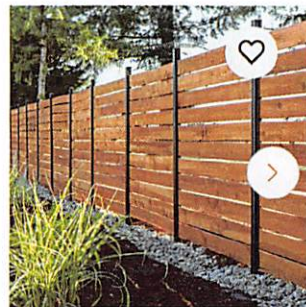
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