

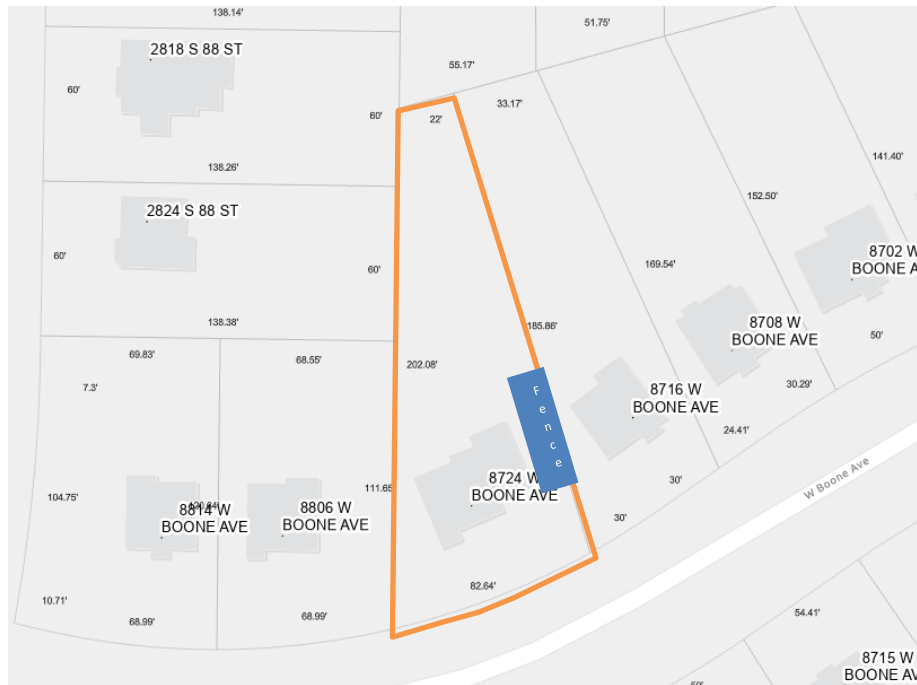


STAFF REPORT
WEST ALLIS BOARD OF APPEALS
Wednesday, July 9th, 2025, 5:30 PM
Room 128 – City Hall – 7525 W. Greenfield Ave.

2. **Appeal by Rami Kamhawi for an Area Variance to Sec. 13.31 for a fence exceeding 6 ft. in height at 8724 W. Boone Ave. (Tax Key No. 517-0276-000)**

Request for area variance:

Rami Kamhawi applied for a variance to permit the fencing installed above the maximum height requirement for fences in residential districts at 8724 W. Boone Ave. The fence is installed along the eastern side of his property and is 6 ft. in height with an additional 2 ft. lattice extension, totaling 8 ft. in height. The fence extends along the eastern side of the property for roughly 9 ft. in distance toward the property owner's garage.



[Sec. 13.31\(2\)](#) of the West Allis Municipal Code outlines regulations for fences in one- and two-family residences. According to these regulations, “Fences are permitted, not to exceed six (6) feet in height, in the side and rear yards.” The applicant is requesting a variance to exceed this height requirement to extend screening measures for their yard, at a height outside the requirements of this regulation.

The applicant's fencing is a wood board fencing (good side facing neighbor) with lattice, but exceeds 6-ft in height limit. An image of the existing fence shown.



Staff Comments: The applicant has been having ongoing disputes with their neighbor to the east and contends that their neighbor's yard is unsightly and prompted a fence to maintain their enjoyment and perceived value of their property.

Due to these differences, the applicant wishes to keep a permanent and decorative extension of screening on their property.

Considering the nature of these disputes, staff believe that the installation of a wood high-quality fence, within a portion of the side yard, at the dimensions outlined (8-ft tall including lattice) may provide a level of solvency to the problems for both the applicant and neighbor.



There are three points staff have considered in their review of the area variance:

- 1) Reasonable use: "compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome" *Snyder v. Waukesha County Bd. of Adjustment*, 74 Wis.2d 468, 247 N.W.2d 98 (1976). In this case, the property owner/applicant fence was installed based on the premise that their neighbor's yard is disorderly and unsightly and negatively impact the value of surrounding properties. This could demonstrate that the property owner is denied some reasonable use or enjoyment of their property

in obtaining its true value, absent of their neighbor's unwillingness to address their yard condition. While troublesome, the conditions presented in this variance request may not solve the reasonable use for granting a variance. For instance, removal of the lattice would result in a 6-ft tall compliant fence, while still providing some level of privacy. Further, other options of screening exist - certain types of landscaping could be installed/grown to exceed the height of the existing fence.

- 2) Unique property condition: "zoning variance applicants must show that the alleged unnecessary hardship is due to a unique property condition." Unique property conditions are inherently environmental in nature – soil conditions, steep slopes, and wetlands present common unique property conditions in Wisconsin. Additionally, the term "unique" is used, as the condition that impacts the property owner requesting the variance cannot also apply to other neighboring properties. While troublesome, the conditions presented in this variance request may not be unique to solve the environmental conditions required for granting a variance. For instance, removal of the lattice would result in a 6-ft tall compliant fence, while still providing some level of privacy. Further, certain types of landscaping could be grown to exceed the height of a 6-ft fence, or the existing 8-ft tall fence.
- 3) Not contrary to the public interest: This criterion requires the zoning board to consider the purposes of the ordinance at issue and determine "whether the relief requested is consistent with the public interest such that the variance should be granted, or whether a variance would subvert/undermine the purpose of the zoning restriction to such an extent that it must be denied." *Ziervogel*, 269 Wis.2d at para. 34. Zoning staff find that the lattice extension appears to be of quality construction and in relative scale/harmony with neighboring properties and not contrary to the general public's interest. As part of the notice of this request, no objections have been received to date.

Staff notes that the Board of Appeals could recommend denial based on not all the above standards being met. However, staff notes the design of the fence is wood which is compliant with recommended materials of the design guidelines, the 8-ft height is comprised of a 6-ft solid wood fence with a 2-ft lattice extension and the height could be reduced to comply with the ordinance at any time, and the fence is located in a side yard on the east side of the property (not around the entire property). Further, while a landscaping solution could be considered there is a limited amount of space on the east side of the property between the property line and driveway. A fence height variance may provide a level of solvency to the problems for both the applicant and neighbor.

Recommendation: Approval of an appeal by Rami Kamhawi for an Area Variance to Sec.13.31(2) to appeal a fence height restriction of 6 ft to construct a fence and lattice extension up to 8-ft in height at 8724 W. Boone Ave. (Tax Key No. 517-0276-000).