

**CITY OF LA CROSSE, WISCONSIN
CITY PLAN COMMISSION
REPORT
August 3, 2015**

➤ **AGENDA ITEM – 15-0704 (Tim Acklin)**

Application of Jeffrey Skarboszewski for a Conditional Use Permit at 2036 George Street to allow a fence greater than 6 feet in height.

➤ **ROUTING:** J&A Committee

➤ **BACKGROUND INFORMATION:**

The applicant is requesting a Conditional Use Permit for the property depicted on attached **MAP PC15-0704** to allow for a fence over 6 feet in height. The applicant is requesting a fence over 6 feet in height in order to minimize the noise from the adjacent business to the north, which is an auto-repair shop. The distance between the business and the applicant's home is approximately 15-20ft. The applicant states that there is a service door facing their house which is left open fairly often, likely for air circulation, and the noise from the shop is quite loud, particularly from the tools that are being used. The applicant also states that excessive noise originates from this business at all hours of the night in addition to normal business hours. The applicant initially constructed a 6ft white vinyl fence to act as a sound barrier; however, since the service door is taller than the fence it was only partially effective. The applicant then purchased and erected a noise reducing product called "Acoustifence" next to the vinyl fence that extended an additional 3ft above it. This "fence" is not attached to the white vinyl fence. It is located immediately adjacent to it. The structure itself consists of a black noise reducing fabric attached to a wood frame and mounted on wood posts. (See attached photos.)

Our code defines fences as a barrier consisting of vegetation, wood, stone, vinyl, brick, fieldstone, wrought iron, or metal intended to prevent ingress or egress. No fence shall be constructed of unsightly or dangerous materials which would constitute a nuisance. It was determined that this constituted as a "fence" as it prevents the ingress or egress of sound. A Conditional Use Permit is required for any fence that is over 6ft in height. Fences that require a Conditional Use Permits shall comply with the material requirements as specified in the Municipal Code.

The applicant was issued an Order to Correct as this was constructed without a Fence Permit, likely due to the fact that he did not realize he was constructing a "fence".

➤ **GENERAL LOCATION:**

2036 George Street.

➤ **RECOMMENDATION OF OTHER BOARDS AND COMMISSIONS:**

N/A

➤ **CONSISTENCY WITH ADOPTED COMPREHENSIVE PLAN:**

N/A

➤ **PLANNING RECOMMENDATION:**

Staff understands that this is a very unique situation and has attempted to review this request in a manner that will not set a precedent for future requests. With this in mind, staff has determined to review this item based on the requirements stated in the Municipal Code regarding fences and on the basis of need. The Municipal Code requires:

Fences to be situated in side and/or rear yards shall be constructed using materials suitable for residential-style fencing, including, but not limited to, brick, fieldstone, wrought iron, vinyl, chainlink (with a minimum thickness of nine gauge and a required top rail support), stockade or board-on-board wood. No fence or fence panels shall be constructed with multiple building materials or more than one pattern of the same materials on any given lot line (for example, a wooden stockade fence cannot be constructed with a wooden picket fence as part of the same fence).

The proposed fence is not constructed with residential style materials. It is constructed with a wood frame; with a black, noise reducing fabric attached to it with zip ties; and wooden posts going into the ground. While there are technically two fences located along this property line it is intended to be used as one solid barrier. The proposed fence and the existing white vinyl fence are constructed with different building materials.

Staff talked with the owner of the adjacent repair shop to discuss hours of operation and what activities occur there. The owner stated that they are open from approximately 9am in the morning to approximately 5:30pm. Sometimes if they have an emergency repair they will stay until 8-10pm in the evening to accommodate their customers. The owner stated that this does not occur very often. The owner also stated that they operate a tow truck service from this location that could be dropping off vehicles at any hour day or night. In consideration of the applicant the owner stated that they now drop the vehicles off along Moore Street (not adjacent to the homeowner). The owner further stated that the service door that faces the applicant's house is open often for air circulation. During the later hours of the evening if staff is at the shop an effort is made to keep it closed.
























The applicant has stated that he has several calls to the Police Department to enforce the noise ordinance. In checking with the Police Department there were 2 calls in 2014

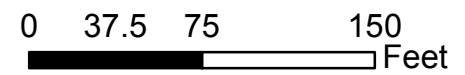
between 11am and 12pm. Both reports state that the officers did not feel there was excessive noise in relation to the type of use that was occurring. There was also a noise complaint in April 2015 at 12:48am. Officers found that there were people working in the shop and they issued them a verbal warning.

An auto-repair business has been at this location for a very long time, much longer than the applicant has lived at 2036 George Street. There has not been any evidence that this operation violates the City's noise ordinance or is excessive in relation to its use. During normal business hours, and within close proximity of the business, there will be higher levels of noise generated from the day to day activities. The owner has stated that there is little to no late evening operations and has moved the tow truck operations to the other side of the building. In addition, the proposed fence does not meet the design requirements in the City's fence ordinance. Lastly, the overall height of the fence is approximately 9ft which is extremely high in residential areas, particularly for emergency services/safety issues. **Due to these findings, staff recommends denial of this application.**



BASIC ZONING DISTRICTS
























-  R1 - SINGLE FAMILY
-  R2 - RESIDENCE
-  WR - WASHBURN RES
-  R3 - SPECIAL RESIDENCE
-  R4 - LOW DENSITY MULTI
-  R5 - MULTIPLE DWELLING
-  R6 - SPECIAL MULTIPLE
-  PD- PLANNED DEVELOP
-  TND - TRAD NEIGH DEV.
-  C1 - LOCAL BUSINESS
-  C2 - COMMERCIAL
-  C3 - COMMUNITY BUSINESS
-  M1 - LIGHT INDUSTRIAL
-  M2 - HEAVY INDUSTRIAL
-  PS - PUBLIC & SEMI-PUBLIC
-  PL - PARKING LOT
-  UT - PUBLIC UTILITY
-  CON - CONSERVANCY
-  FW - FLOODWAY
-  A1 - AGRICULTURAL
-  EA - EXCLUSIVE AG
-  City Limits
-  SUBJECT PROPERTY

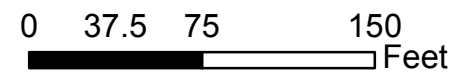


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