

## Board of Zoning Appeals Variance Application

(To be completed by City Clerk or Zoning Staff).

City of La Crosse, Wisconsin

Application No.: 2565

Filing Fee: 250.00

Date Filed: 8/3/16

Date Paid: 8/3/16

Application Complete: Yes X No      Reviewed By BB (Initial)

(To be completed by the applicant).

Application Deadline: By 5:00 PM the first Wednesday of every month.

Building Permit Application Deadline: 10 Calendar Days prior to first Wednesday of every month for the Inspection Department to provide review. Any building permit submitted after deadline must wait until the following Board of Zoning Appeals meeting.

	Owner / Agent	Contractor
Name	Jesse Ramos	
Address	1908 21 <sup>st</sup> St. S.	
Phone	608-738-3495	

Legal Description: Garden Addition Lot 2 Block 4, City of La Crosse, Wis.

Tax Parcel Number: 17-50062-120

Lot Dimensions and Area: 50' x 130.38 feet. = 6,519 sq. ft.

Zoning District: R-1

A variance is a relaxation of a standard in a land use ordinance. The Board of Zoning Appeals decides variances. The Board is a quasi-judicial body because it functions like a court. The Board's job is not to compromise ordinance provisions for a property owner's convenience but to apply legal criteria provided in state laws and the local ordinance to a specific fact situation. Variances are meant to be an infrequent remedy where an ordinance imposes a unique and substantial burden. The burden of proof falls on the variance applicant.

### Process:

At the time of application, you will be asked to:

- **Complete an application** form and timely submit it with a non-refundable fee as required in La Crosse Municipal Code § 15.29(D)(4); Failure to complete any section of the application form will result in rejection of the application. If additional space is needed, please attach additional pages.
- **Provide detailed plans** describing your lot and project (location, dimensions, and materials);
- **Provide a written statement** of verifiable facts showing that your project meets the legal criteria for a variance (Three-Step Test below); and
- **Stake out lot corners or lines**, the proposed building footprint and all other features of your property related to your request so that the Zoning Board and/or City staff may inspect the site.

Following these steps, the Inspection Department must approve the application as to form and completeness and then the application and fee must be submitted to the City Clerk. The zoning agency will then provide notice of your request for a variance to the City of La Crosse's official newspaper noting the location and time of the required public hearing before the Zoning Board. Your neighbors and any affected state agency will also be notified. The burden will be on you as a property owner to provide information upon which the Board may base its decision. At the hearing, any party may appear in person or may be represented by an agent or attorney. If any of these requirements are not met or if you or your agent does not appear at the public hearing, the Board **must** deny your request for a variance and your fee will be forfeited.

**Part A: General Information and Alternatives Analysis.**

*(To be completed by the applicant).*

**1. General Information.**

Complete the questions in the general information section of the application to provide the necessary background information needed for the property at issue.

- (a) Current use and improvements.

Primary (only) residence.

No barrier between rental property and my residence.

- (b) Proposed Use.

Barrier for SOUND from rental property (reason for tall solid fence)  
Barrier for pitbulls that roam unleashed currently  
and future animals/children of future renters.

- (c) Description and date of any prior petition for variance, appeal, or special exception.

No prior petition for variance.

(d) Description and location of all nonconforming structures and uses on the property.

None

(e) Ordinance standard from which variance is being sought (include code citation).

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(f) Describe the variance requested.

Please allow a solid fence to reduce noise level from adjacent Double Rental property that would seem to not be compliant with any current Code.

(g) Specify the reason for the request. To maintain property value of single family dwelling as the two rental units on a single lot adjacent <sup>that</sup> doesn't provide adequate space for leisure/living, is visually and audibly invasive. Previous tenants' dependants' belongings spilled into and were thrown into my yard. Currently there are 2 pitbulls who are not leashed and the strong urine has affected my grass and berry bushes. Many breeds are able to leap a 6 ft. fence. There is a concern that the frame of a "lattice" portion could act as a place for paws to use as a resting place, jumping off from place. A dog can be more agitated when visibly seeing a pet in my yard or small child in my yard.

(h) Describe the effects on the property if the variance is not granted.

\* see small sampling of photos.

The properties with solid fences between them seem to be associated with non owner occupied properties. One could conclude that these fences enhance the living condition on both sides of the fence. Homes built in the era of this neighborhood are closer together than is now comfortable and without the feeling of comfort/pride to be in and relax in one's own yard, yard can become less maintained/used. The lack of security and privacy of a solid fence can lead to non used/maintained to a high level property that if put up for sale can be on the market longer - implying people like their privacy - on both sides of an attractive, well built, strong fence. Even a well built fence can be damage by pets jumping up on it to look over into next yard if visibility is allowed at that 4'-6' height.

## 2. Alternatives.

Describe alternatives to your proposal such as other locations, designs, and construction techniques. Attach a site map showing alternatives you considered in each category below.

- **Alternatives you considered that comply with existing standards.** If you find such an alternative, you can move forward with this option with a regular permit. If you reject compliant alternatives, provide the reasons why you rejected them.

1. A valid concern exists that a strong dog breed that has known abilities to summit a 6 foot fence will be given a "strong hold" or "footing" at the transition point of lattice on the upper portion of a non-solid fence.
2. A lattice upper portion allows to an exponentially higher degree sound from late night gatherings to travel.

- **Alternatives you considered that require a lesser variance.** If you reject such alternatives, provide the reasons why you rejected them.

## Part B: Three-Step Test.

To qualify for a variance, applicants must demonstrate that their property meets the following three requirements:

### 1. **Unique Property Limitation.** *(To be completed by the applicant).*

Unique physical characteristics of the property such as steep slopes or wetlands that are not generally shared by other properties must prevent compliance with ordinance requirements. The circumstances or desires of an applicant (growing family, need for a larger garage, etc.) are not a factor in deciding variances. Nearby ordinance violations, prior variances, or lack of objections from neighbors do not provide a basis for granting a variance. Property limitations that prevent ordinance compliance and are common to a number of properties should be addressed by amending the ordinance.

You will be asked whether there exist any unique physical characteristics to your property that prevent compliance with the ordinance. You will be asked to show where these unique physical characteristics are located on your property by showing the boundaries of these features on a site map. If there is not a unique property limitation, a variance cannot be granted.

Do unique physical characteristics of your property prevent compliance with the ordinance?

- ☒ **Yes.** Where are they located on your property? In addition, please show the boundaries of these features on the site map that you used to describe alternatives you considered. *Property is bordered on the East to a single site with 2 rental properties. Not only couldn't this be allowed by today's guidelines, it provides a unique characteristic. This uniqueness allows for unusual intrusion and potentially reduces my property value. This was not known by me when I recently purchased this home with pictures online of a fence (tall, solid) in the location I want to put one.*
- ☐ **No.** A variance cannot be granted.

## 2. No Harm to Public Interest.

A variance may not be granted which results in harm to public interests or undermines the purpose(s) of the ordinance. In applying this test, the Zoning Board must consider the impacts of the proposal and the cumulative impacts of similar projects on the interests of the neighbors, the entire community, and the general public. These interests may be listed as objectives in the purpose statement of an ordinance and may include:

- *Public health, safety, and welfare*
- *Water quality*
- *Fish and wildlife habitat*
- *Natural scenic beauty*
- *Minimization of property damages*
- *Provision of efficient public facilities and utilities*
- *Achievement of eventual compliance for nonconforming uses, structures, and lots*
- *Any other public interest issue*

### (a) Ordinance Purpose. (To be completed by zoning staff).

The Zoning Board must consider the purpose and intent of zoning codes when considering a variance request. As promulgated by the City of La Crosse Common Council, the purpose and intent of the La Crosse Zoning Code include, but is not limited to, the following:

§ 15.03(A)	§ 15.16(A)	§ 15.18(A)
§ 15.19(A)	§ 15.23(A)	§ 15.33
§ 15.36(A)	§ 15.37(A)	§ 15.38(G)
§ 15.41(A)	§ 15.44(C)	§ 15.45(A)
§ 15.46(A)	§ 15.47(A)	§ 15.48

The failure of any particular city official to identify additional purpose and intent information on the application does not preclude the city official from raising the issue at the public hearing on the requested variance.

**(b) Purpose(s) of Standard from which Variance is Requested.** *(To be completed by zoning staff).*

The City of La Crosse Building Inspector, Code Enforcement Officer and any other officials may be aware of other reasons a particular ordinance standard is required. The city official(s) may list those reasons on this application. The failure of any particular city official to identify additional purpose information on this application does not preclude the city official from raising the issue at the public hearing on the requested variance.

**(c) Analysis of Impacts.** *(To be completed by applicant).*

Discuss impacts (e.g. increased runoff, eroding shoreline, etc.) that would result if the variance were granted. For each impact, describe potential mitigation measures and the extent to which they reduce the impacts (i.e. completely, somewhat, or marginally). Mitigation measures must address each impact with reasonable assurance that it will be reduced to an insignificant level in the short term, long term, and cumulatively.

Short-term impacts are those that occur through the completion of construction. Long-term impacts are those that occur after construction is completed. Cumulative impacts are those that would occur if a similar variance requested were granted for many properties. After completing the impact analysis, you will be asked to give your opinion whether granting the variance will harm the public interest.

**(1) Short-term Impacts** (through the completion of construction):

- Impact: **None**  
Mitigation measure(s):  
Extent to which mitigation reduces project impact:
  
- Impact:  
Mitigation measure(s):  
Extent to which mitigation reduces project impact:

(2) **Long-term Impacts** (after construction is completed):

- Impact: **None as all property owners affected welcome and approve**  
Mitigation measure(s): **Of fence style and placement.**  
Extent to which mitigation reduces project impact:
- Impact:  
Mitigation measure(s):  
Extent to which mitigation reduces project impact:

(3) **Cumulative Impacts** (what would happen if a similar variance request was granted for many properties?):

- It would seem, by the many (although only a small sampling) photos submitted that many variances have already been granted - especially beside rental units.**
- Impact:  
Mitigation measure(s).  
Extent to which mitigation reduces project impact:

- Impact: **Positive impact as current renters and likely future renters wanted to put up a fence anyway as they don't like to put their dogs on a leash - as they said to me.**  
Mitigation measure(s):  
Extent to which mitigation reduces project impact:

**Will granting the variance harm the public interest?**

☐ **Yes.** A variance cannot be granted.

☒ **No.** Mitigation measures described above will be implemented to protect the public interest.

**3. Unnecessary Hardship. (To be completed by the applicant).**

The unique property limitation must create the unnecessary hardship. An applicant may not claim unnecessary hardship because of conditions that are self-imposed or created by a prior owner (for example, excavating a pond on a vacant lot and then arguing that there is no suitable location for a home). Courts have determined that economic or financial hardship does not justify a variance. When determining whether unnecessary hardship exists, the property as a whole is considered rather than a portion of the parcel.

You will be asked whether you are requesting an area variance or a use variance and to detail whether there exists an unnecessary hardship.

An **area variance** is a relaxation of lot area, density, height, frontage, setback, or other dimensional criterion. Unnecessary hardship exists when compliance with the strict letter of the area restrictions would unreasonably prevent the owner from using the property for a permitted purpose (i.e. leaving the property owner without any use that is permitted for the property) or would render conformity with such restrictions unnecessarily burdensome. The Zoning Board must consider the purpose of the zoning restriction, the zoning restriction's effect on the property, and the short-term, long-term, and cumulative effects of the variance on the neighborhood, the community, and on the public interests. This standard reflects the Wisconsin Supreme Court decisions in *State v. Waushara County Bd. of Adjustment*, 2004 WI 56; and *State ex rel. Ziervogel v. Washington County Bd. of Adjustment*, 2004 WI 23.

A **use variance** is a relaxation of the zoning regulation on how the property is fundamentally used. A use variance allows property to be utilized in a manner not permitted by zoning regulations (i.e. an appropriate adaptive re-use of a school or church in a residential district). Unnecessary hardship exists only if the property owners show that they would have no reasonable or viable use of the property without the variance. Though not specifically restricted by statute or case law, a use variance is very rare because of the drastic effects it has on the neighborhood, the community, and the public interests. The Zoning Board must consider whether the owner has no reasonable return if the property is only used for the purpose allowed in zoning regulation, whether the plight of the owner is due to unique circumstances and not merely general conditions in the neighborhood, and whether the use sought to be authorized will alter the nature of the locality. See generally *State ex rel. Ziervogel v. Washington County Bd. of Adjustment*, 2004 WI 23.



Are you applying for an area variance or a use variance?

☒ Area variance

☐ Use variance

Is unnecessary hardship present?

☒ Yes. Describe. Without a tall, solid barrier from flying objects, roaming pets that can become agitated (current renters but also any/all future renters) with visibility to guests on my property, my yard is not able to be used for the purpose of a yard. There must have been a variance at some time for the rental property to have a home + a garage on a lot not larger than mine and this has impacted my backyard use. Not being able to maintain a privacy and security from potential negative situations would be a hard ship.

☐ No. A variance cannot be granted.

Part C: Additional Materials / Exhibits.

In order for the zoning staff to conduct evaluations, the applicant's site map, with a scale of not less than 1"=50', and other exhibits must show the following:

- ☐ Location of requested variance
- ☒ Property lines
- ☐ Ordinary high-water mark
- ☐ Flood plain and wetland boundaries
- ☒ Dimensions, locations, and setbacks of existing and proposed structures
- ☐ Utilities, roadways, driveways, off-street parking areas, and easements
- ☐ Existing highway access restrictions and existing proposed street, side and rear yards
- ☐ Location and type of erosion control measures
- ☐ Vegetation removal proposed
- ☐ Contour lines (2 ft. interval)
- ☐ Well and sanitary system
- ☐ Location and extent of filling/grading
- ☐ Any other construction related to your request
- ☐ Anticipated project start date
- ☐ Sign locations, dimensions, and other specifications
- ☒ Alternatives considered
- ☒ Location of unique property limitation
- ☒ Lot corners, lines, and footprints have been staked out
- ☒ Abutting street names and alleys
- ☒ Abutting property and land within 20 feet
- ☒ Indication of the direction "North"

## **BOARD OF ZONING APPEALS**

### **STANDARDS FOR AREA VARIANCE**

- ☐ 1. The proposed variance is not contrary to the public interest. The purpose statement of the ordinance and related statutes must be reviewed in order to identify the public interest. Variances must observe the spirit of the ordinance, secure public safety and welfare and do substantial justice. In considering effects of a variance on public interests, broad community and even statewide interests should be examined; the public interest standard is not confined to scrutiny of impacts on neighbors or residents in the vicinity of a project.
- ☐ 2. The property has a special or unique condition. The property must have unique or physical features which prevent compliance with the ordinance. The circumstances of an applicant, such as growing family or need for a larger garage, are not legitimate factors in meeting this standard. Property limitations that prevent ordinance compliance and that are not unique but common to a number of properties should be addressed by amendment of the ordinance.
- ☐ 3. The special condition of the property creates an unnecessary hardship:
  - A. Unnecessary hardship means unnecessarily burdensome, considering the purpose of the ordinance.
  - B. Unnecessary hardship may not be self created. An applicant may not claim hardship because of conditions which are self-imposed. Examples include claiming hardship for a substandard lot after having sold off portions that would have allowed building in compliance and claiming hardship where construction was commenced without required permits in violation of ordinance standards.
  - C. Financial hardship is not a deciding factor. Economic loss or financial hardship does not justify a variance.

**Part D: Authorization to Examine**

You **must complete and sign** the authorization for the City of La Crosse Board of Zoning Appeals and the Planning and Development Department to examine the property of the variance request.

I hereby authorize the City of La Crosse Board of Zoning and Appeals and the Planning and Development Department to inspect premises

At: 1908 21<sup>st</sup> St. S.  
(Address where variance is sought)

Date: 7-7-16 Signature of Owner: Jesse Ramos

**Part E: Certification**

You **must sign your application**, certifying that it and any additional materials are accurate and do not contain any misrepresentations or omissions. An unsigned variance application will not be considered. You also must get the application notarized by a certified notary.

**Submit** completed application to: Board of Zoning Appeals  
400 La Crosse St.  
Clerks Office- 2<sup>nd</sup> Floor  
La Crosse, Wisconsin 54601

**Submit** complete copy to: Chief Inspector  
400 La Crosse St.  
Planning & Development Dept.- Division of Inspections- 3<sup>rd</sup> Floor  
La Crosse, Wisconsin 54601

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By signing below, I certify that I have received and reviewed all of the application materials. I further certify that all of my answers herein are true and accurate; I have not made any intentional misrepresentation or omission. I understand that if I intentionally misrepresented or omitted anything in this application that my application will be denied and any variance granted thereunder may be revoked.

Signed: (Applicant or Agent) \_\_\_\_\_

Date: \_\_\_\_\_

Signed: (Owner, if different from applicant) Jesse Ramos

Date: 7-7-16

THE APPLICANT OR AGENT

THE OWNER

By: \_\_\_\_\_

Jesse Ramos

STATE OF WISCONSIN )

STATE OF WISCONSIN )

COUNTY OF LA CROSSE )

COUNTY OF LA CROSSE )

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2011, the above named \_\_\_\_\_ to me known to be the person(s) who executed the foregoing instrument and acknowledged the same.

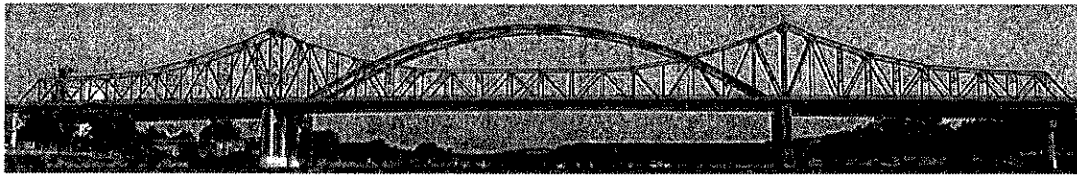
Personally came before me this 3<sup>RD</sup> day of AUGUST, 2011, the above named JESSE RAMOS to me known to be the person(s) who executed the foregoing instrument and acknowledged the same.

\_\_\_\_\_  
Notary Public, La Crosse County, WI  
My commission expires: \_\_\_\_\_

Raymond E Thompson Jr  
Notary Public, La Crosse County, WI  
My commission expires: 12.26.17



La Crosse County

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## 1908 21ST ST S LA CROSSE

Parcel: 17-50062-120 Internal ID: 36408  
 Municipality: City of La Crosse Record Status: Current

Print View

## Parcel Information:

Parcel: 17-50062-120  
 Internal ID: 36408  
 Municipality: City of La Crosse  
 Record Status: Current  
 On Current Tax Roll: Yes  
 Total Acreage: 0.150  
 Township: 15  
 Range: 07  
 Section: 09  
 Qtr: SW-NW

Parcel

Taxes

Outstanding Taxes

Assessments

Deeds

Permits

History

## Legal Description:

GARDEN ADDITION LOT 2 BLOCK 4 LOT SZ: 50 X 130.38

## Property Addresses:

<u>Street Address</u>	<u>City (Postal)</u>
1908 21ST ST S	LA CROSSE

## Owners / Associations:

<u>Name</u>	<u>Relation</u>	<u>Mailing Address</u>	<u>City</u>	<u>State</u>	<u>Zip Code</u>
JESSE M RAMOS	Owner	1908 21ST ST S	LA CROSSE	WI	54601-6507

## Districts:

<u>Code</u>	<u>Description</u>	<u>Taxation District</u>
2849	LA CROSSE SCHOOL	Y
5	Book 5	N

## Additional Information

<u>Category</u>	<u>Description</u>
2012+ VOTING SUPERVISOR	2012+ Supervisor District 10
2012 + VOTING WARDS	2012+ Ward 24
POSTAL DISTRICT	LACROSSE POSTAL DISTRICT 54601
Use	1 UNIT

## Lottery Tax Information ⓘ

Lottery Credits Claimed: 0  
 Lottery Credit Application Date:

La Crosse County Land Records Information  
 (Ver: 2016.4.26.0)

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