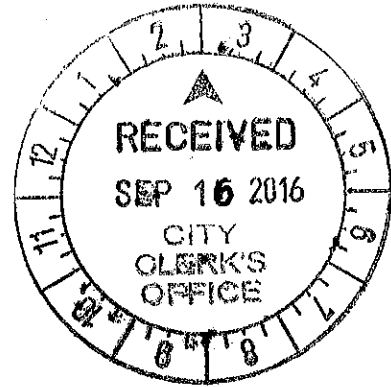


September 15, 2016

Attn: City Clerk  
Secretary of the Board of Zoning Appeals  
City Hall  
400 La Crosse Street  
La Crosse, WI 54601

File #: 2569  
Date Filed: 9/16/16  
Date Paid: 9/16/16



Re: Appeal of Chief Inspector's interpretation of the City of La Crosse Zoning Code, Chapter 115 pursuant to Wis. Stat. § 62.23(7)(e)7 and La Crosse Municipal Code § 115-59(1).

Dear Secretary Lehrke:

Please accept this written communication as my request to appeal the erroneous decision of the Chief Inspector regarding various zoning code interpretations he has recently made. The Chief Inspector is charged with making administrative decisions of the City of La Crosse Zoning Code. I am an aggrieved person affected by the Chief Inspector's recent determinations and therefore may appeal such decision to the City's Board of Zoning Appeals who, in turn, can reverse and modify such determinations in accordance with Wis. Stat. § 62.23(7)(e) and La Crosse Municipal Code § 115-59(1). Likewise, state law indicates an appeal shall stay proceedings in furtherance of the action appealed from.

As background, I was just informed of the Chief Inspector's decision at approximately 2:30 pm today. Since there is still sufficient opportunity to have this appeal noticed and heard on the upcoming September 21, 2016 Board of Zoning Appeals regular meeting and a delayed review of the Chief Inspector's decision would cause harm to my property, I respectfully request that the matter be placed on that agenda. Since this is an appeal of the Chief Inspector's interpretation of the zoning code and how it affects my property under La Crosse Mun. Code § 115-59(1), unlike a request for a variance under § 115-59(2), I see no provision under state law or the City Code requiring specific notice to any other property owners which would preclude its inclusion on the September 21, 2016 meeting. Rather, the law only requires compliance with the Open Meetings Law in this circumstance. Notwithstanding, I have also paid a special meeting fee in the event you determine you cannot place it on the September 21, 2016 agenda.

Please be advised that neither your office nor the Fire Department – Division of Fire Prevention and Building Safety has any official forms or applications to submit in order to make this appeal pursuant to La Crosse Mun. Code § 115-59(1). Likewise, the appeal submission list in § 115-60 applies to variance requests under § 115-59(2) not appeals under § 115-59(1). Nonetheless, I have included with this letter my interpretation of the various code provisions at issue as well as an imprecise handwritten diagram given to me by the Fire Department. Also attached is a list of property owners. I have not received any written interpretation of the code provisions in dispute to date from the Fire Department, but it is not a prerequisite for appeal.



I respectfully request to be notified of any reasons that would preclude this matter from being noticed and heard on the upcoming September 21, 2016 meeting of the Board of Zoning Appeals so that I may try to timely address and correct them.

Thank you, in advance, for your time and attention to this matter.

Very truly yours,



Stephen F. Matty  
5260 Grandwood Pl. E.  
La Crosse, WI 54601  
608-787-8543 (home)  
608-789-7511 (work)

Enc.

cc: Chief Inspector  
Fire Chief  
BOZA

CITY OF LA CROSSE, WI  
General Billing - 141206 - 2016  
003150-0084 Amber W. 09/21/2016 01:59PM  
186441 - MATTY, STEPHEN  
Payment Amount: 250.00





## MAIN STREET LAW OFFICES, LLC

A PARTNERSHIP OF PROFESSIONAL ASSOCIATIONS

September 13, 2016

Mr. David Reinhart  
Chief Inspector, City of La Crosse  
Building and Inspection Department  
400 La Crosse Street  
La Crosse, WI 54601

Re: Vie and Stephen Matty – Construction at 5270 Grandwood Place East  
Municipal Violation Concerns

Dear Mr. Reinhart:

This office represents Vie and Stephen Matty with their concerns over the construction of the property located at 5270 Grandwood Place East in La Crosse. Mr. and Mrs. Matty are the adjoining property owners residing at 5260 Grandwood Place East. From your prior conversations with Mr. Matty and your on-site visit with my clients, you are aware of their concern with respect to the direction of runoff/water onto their property due to the construction of the neighboring home. More specifically, we are concerned with the application and violations of Municipal Ordinance §115-399.

In reviewing Municipal Ordinance §115-399, we feel there are several violations of that ordinance designed to protect the adjoining property owners. We will address each one in turn:

§115-399(c) provides:

*If fill exceeds two feet above the grade of adjoining properties, the abutting property owners shall be notified in writing by the City. A land use permit is required and the permit approval is subject to a review by the City's Design Review Committee to determine if the proposed fill is contrary to the public interest and considering any impacts to the abutting property owners. For properties not located in the floodplain, no lot or parcel shall be filled to a height exceeding two feet above the grade of adjoining properties and in no case shall the final grade of the parcel allow any storm water runoff to be directed to any adjacent or abutting lot or parcel in accordance with section 103-336(c).*

Daniel E. Dunn  
Licensed In WI and MN  
Phillip James Addis  
Licensed In WI, MN, and IA

504 Main Street  
Suite 200  
PO Box 1627  
La Crosse, WI 54602-1627  
P 608.784.1355  
F 608.784.2919

I know there has been some discussion as to the application of this ordinance, but, by its clear language and intent, it applies to all lands within the City of La Crosse. By this code, proposed fill is capped at two (2) feet. If the property owner wishes to exceed two (2) feet of fill and the property is not located in a flood plain, then there is a three-step process:

1. Written notice from the City to all adjoining property owners of the plan to exceed the allowed amount of fill;
2. A land use permit; and
3. Review and approval by the City Design Review Committee.

The City is not at fault for failing to send out the notice because, from the submitted plans, it does not appear that the contractor ever notified the City of the elevation changes or that they intended to exceed two (2) feet of fill. Now that all parties are aware of this, a stop work order should be issued until the contractor submits updated plans to the Inspection Department for review and approval, (including the proposed changes in the size of the driveway) and follows the permit approval process with proper notice and opportunity to object.

A second violation occurs in Municipal Ordinance §115-399 because the clear plan and the actual effect based upon photos and videos is to direct the storm water runoff on to Mr. and Mrs. Matty's property. This is a violation of §103-366(c).

§115-399(d) provides:

*The height of any retaining wall or poured wall system shall not exceed two feet above the base flood elevation and shall not be closer than three feet to a lot line on all four sides unless an affidavit signed by the abutting property owners is presented to the Department of Planning and Development and shall have the exterior side of the retaining wall be of decorative CMU or poured wall with a form that has a decorative finish and there shall be shrubs and plantings placed on all four sides of said retaining wall within the three foot setback area. Such retaining walls must also meet the existing vision clearance ordinances. Fill in the three-foot setback may be allowed to the same neighboring property grade. Fill placed inside the poured retaining wall shall be clean porous sand or other earthy material such as subsoil. All retaining walls constructed for the purpose of creating a building site for a structure or building shall be a decorative poured masonry wall or decorative CMU.*

The retaining wall proposed by the contractor is much closer than three (3) feet to my client's property. We have not seen the proposed retaining wall to know if the rest of the requirements are being met.

The reference to base flood elevation (which is defined as the computed elevation to which floodwater is anticipated to rise during the base flood) is irrelevant to this property, but the other five to six requirements still apply. My clients have not consented to a waiver of this ordinance; therefore, any waiver or variance must go the Board of Zoning Appeals (BOZA).

§115-399 (e) provides:

*The maximum of any grade on a driveway as part of a retaining wall or poured wall system shall be eight percent.*

Proof of Compliance with an ordinance is with the contractor. The contractor has not submitted verification by an engineer that the proposed grade is no greater than 8 percent. From a non-engineering review, the proposed driveway and retaining wall does appear to exceed an 8-percent grade when measured from the property line between the parcels. (This would be the most logical spot to measure the grade change since the intent of the ordinance is to insure that storm water is not directed onto an adjoining property.) The contractor should be required to submit detailed plans with this information and a stop work issued until full compliance, review and approval is given or BOZA approves a variance.

§115-399 (f) provides:

*One hundred percent of all water from roof drains, rain gutters, and spouts shall be directed to rain gardens and no storm water runoff shall impact an abutting property and shall not be directed toward abutting private property nor shall it be directed to or across public property including sidewalks, streets or alleys in any manner unless a recorded drainage easement is recorded to allow water to be drained to a rain garden on neighboring property.*

Again as shown from photos and videos, this is not happening. There is an extreme amount of ponding and washout which will all flow onto the Matty's property and, in some spots, already is during construction. The contractor needs to adjust the grading and water flow on the owner's parcel, not on the Matty's property.

§40-4 (b) (9) provides:

*Driveways shall not be less than six inches in depth including the sidewalk portion.*

Mr. David Reinhart  
September 13, 2016  
Page 4

No sidewalk is proposed, but the ordinance requires no less than 6 inches of hard service on the driveway; therefore, when added to the Municipal Ordinance §155-399(d), the allowed fill would be 18 inches, plus a 6-inch hard surface for a total of two (2) feet, not to exceed an 8 percent grade. There is no plan on file or proposed plan that meets these requirements. (My assumption, since enforcement is with the Fire Chief, the 6-inch depth was to insure sufficient strength of a driveway for emergency vehicles.)

Mr. Reinhart, the Mattys did offer to meet with the adjoining property owner and contractor to work out these issues, without involving City Inspection, but they have declined to meet. Mr. Matty even recommended some adjustments to the plans that would resolve their concerns, but these were rejected by the contractor. We do not know if the homeowner is aware of these problems/concerns, since they currently live out of the area. If you feel it would be helpful, we would be willing to meet, in your office, with the contractor and homeowners to try and work out a solution to these issues. Until that time, however, we would ask that any further permits be placed on hold and stop work orders be issued under Municipal Ordinance(s) 115-399 and §40-4 are complied with or a variance is granted.

Should you have any questions, please feel free to contact this office at your convenience.

Very truly yours,

MAIN STREET LAW OFFICES, LLC

Phillip James Addis

PJA:bcf

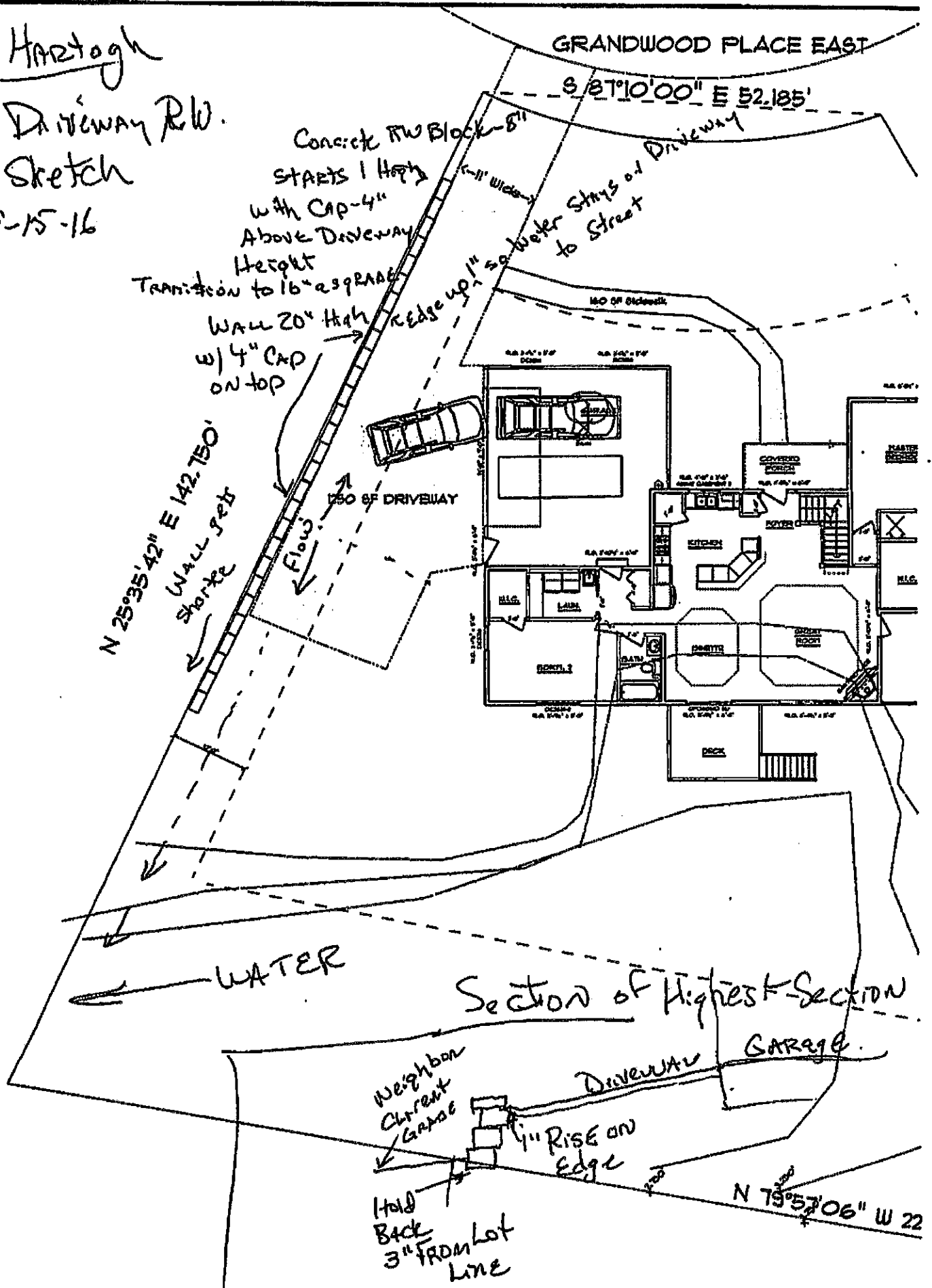


Hartogh

Driveway R/W.

Sketch

9-15-16





| Owner                                       | Property Address / Tax Parcel  | Mailing Address                                   |
|---|--|---|
| Clearview Development LLC                   | 2370 Sablewood Road<br>La Crosse, WI 54601<br>17-10689-270<br>17-10410-560<br>17-10689-300 | 201 Main Street, Suite 800<br>La Crosse, WI 54601 |
| Chad and Ann Thurman                        | 2350 Sablewood Road<br>La Crosse, WI 54601<br>17-10689-290                                 | 2350 Sablewood Road<br>La Crosse, WI 54601        |
| Phillip and Jamie Tennant                   | 2360 Sablewood Road<br>La Crosse, WI 54601<br>174-10689-280                                | 310 Grant Street<br>Holmen, WI 54636              |
| Andrew and Calison Weiss<br>Revocable Trust | 5250 Grandwood Pl E<br>La Crosse, WI 54601<br>17-10689-260                                 | 924 Keith Pl<br>Onalaska, WI 54650                |
| Denny and Diane Hartogh                     | 5270 Grandwood Pl E<br>La Crosse, WI 54601<br>17-10689-240                                 | 8296 Gullwood Road<br>Lake Shore, MN 56468        |
| Donna Louise Jendersee Living<br>Trust      | 5245 Grandwood Pl E<br>La Crosse, WI 54601<br>17-10689-210                                 | 5245 Grandwood Pl E<br>La Crosse, WI 54601        |
| Dennis and Anne Costakos Trust              | 5255 Grandwood Pl E<br>La Crosse WI 54601<br>17-10689-220                                  | 5255 Grandwood Pl E<br>La Crosse WI 54601         |
| Russel and Sandra Lee Revocable<br>Trust    | 5265 Grandwood Pl E<br>La Crosse, WI 54601<br>17-10689-230                                 | 5265 Grandwood Pl E<br>La Crosse, WI 54601        |
| Troy and Megan Harcey                       | 5235 Grandwood Pl E<br>La Crosse WI 54601<br>17-10689-200                                  | 5235 Grandwood Pl E<br>La Crosse WI 54601         |
| Stephen and Vie Matty                       | 5260 Grandwood Pl E<br>La Crosse, WI 54601<br>17-10689-250                                 | 5260 Grandwood Pl E<br>La Crosse, WI 54601        |

