



June 15, 2018

Philip Nohr, Chair
City of LaCrosse Board of Appeals
400 La Crosse Street
La Crosse, WI 54601

Subject: RE: Variance Appeal of Impact Seven – 733 Kane Street, Parcel 17-10068-100

Dear Mr. Nohr:

The Department of Natural Resources (Department) received the appeal requested, requesting relief of a dimensional fill variance for construction of new development within the flood fringe. The property is located in the Section 29, Town 16 North, Range 7 West, City of La Crosse, La Crosse County.

The proposed plan dated May 23, 2018, submitted by the petitioner, proposes to reduce the 15 feet of fill in the walkway/stairway construction but will maintain the 15 feet of fill all other areas around the proposed structure. The City of La Crosse Floodplain Ordinance requires 15 feet of fill to be placed around the structure at 1 foot above the regional flood elevation height. The petitioner is asking for the minimum relief necessary to grant relief in the fill requirements of the ordinance while meeting all other requirements for new development standards in the flood fringe.

As the Board reviews these variance requests, please keep in mind that the applicant has the burden of proving that their application meets all of the statutory requirements for the granting of a variance for each variance request. The City of La Crosse Ordinance Section 115-59 outlines the appeal criteria for floodplain variances. Please refer to this section when you make a decision in regards to this variance.

Unique physical limitations: The applicant must demonstrate that unique physical limitations (wetlands, steep slopes, streams, rock outcroppings) or special conditions of the property exist that prevent compliance with ordinance regulations. The physical limitations must be unique to the property in question and not generally shared by other properties in the area. When determining if compliance is prevented, the whole parcel must be considered.

No harm to public interests: The applicant must demonstrate that variance will not result in harm or be contrary to public interests. The Board must consider the impacts of the proposed project as well as the cumulative impacts of similar projects on the interests of the neighbors, the community, and the general public. These interests are listed in the purpose statement of the floodplain ordinance include protect, life, health and property; minimize rescue and relief efforts undertaken at the expense of taxpayers; minimize business interruptions and other economic disruptions, discourage the victimization of unwary land and homebuyers, etc.

Unnecessary hardship: The applicant must demonstrate that if the variance is not granted, an unnecessary hardship exists. The applicant may not claim unnecessary hardship because of conditions which are self-imposed or created by a prior owner. Courts have also determined that economic or financial hardship does not justify a variance. When determining whether unnecessary hardship exists, the Board must consider the property as a whole, rather than just a portion of the parcel.

It is the responsibility of the Board of Adjustment to assure that the statutory standards for the granting of a variance are met. The department does not have any opposition with the granting of a variance for less than 15 feet of fill around the structure. The Department appreciates your commitment to the City of La Crosse's floodplain management program and the continuing protection of life, health and property.

Sincerely,

A handwritten signature in black ink, reading "Michelle Staff". The signature is written in a cursive, flowing style.

Michelle J. Staff, CFM
State National Flood Insurance Program Coordinator
Dam Safety and Floodplain Section

Cc: Lewis Kuhlman, City of La Crosse Environmental Planner (via-email)
Michelle Hase, DNR, regional Water Management Engineer (via-email)
Tylon McGee, FEMA Region V, Floodplain Management and Insurance Branch (via-email)