



June 15, 2018

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

Subject: Variance Appeal of Eugene & Betty Linse – 712 Cliffwood Lane, Parcel 17-30190-110

Dear Mr. Nohr:

This letter is in regard to the variance request submitted by Eugene and Betty Linse for the property located at 712 Cliffwood Lane, La Crosse, WI. The FEMA FIRM Panel 55063C0262D with the effective date of January 2, 2012 indicates that this property is located in a Zone AE, flood fringe and is a legal non-conforming structure. Zoning nonconformities are existing uses, structures or lots that were legally established prior to a change in floodplain provisions and which do not comply with today's ordinance standards. Section 115-59 of the La Crosse FP Ordinance outlines the requirements for existing non-conforming structures.

The intent of this ordinance provision is to prevent existing buildings from being turned into a new or substantially improved building, therefore increasing the value of the structure without protecting them from flood risk and meeting new development standards. New development standards are designed to reduce risk and mitigate loss during a flood events. The proposed improvements constitute development per Federal, State, and local floodplain management regulations. The variance standards are based on the general principal of zoning law that variances pertain to the piece of property and are not personal in nature. Federal Code CFR 60.3 does not allow structures to be substantially improved without the structure being floodproofed to the regional flood elevation height.

The National Flood Insurance Program (NFIP) is based on a mutual agreement between the Federal Government and the community. In addition, the State of Wisconsin has floodplain management requirements which are located in State Statute (Chapter 87.30) and the Wisconsin Administrative Code (NR116). The floodplain ordinance the City adopted incorporates both Federal and State minimum standards. Federally-based flood insurance is made available in those communities that agree to regulate and enforce their floodplain ordinance. The Department of Natural Resources (DNR) is a partner with the Federal Emergency Management Agency (FEMA) on the NFIP and we work with communities on the implementation and enforcement of their Floodplain Zoning Ordinance as outlined in Federal Code 44 CFR 60.25.

Unique Property Limitations: The applicant must demonstrate unique property conditions which are not common to adjacent lots or premises. There are no unique characteristics to the property in this case that differs from any other property within the floodplain. All non-conforming floodplain properties within the City of La Crosse are subject to the same 50% limitation. In fact, these floodplain standards are applied

throughout the State of Wisconsin in all municipalities. There are no unique property limitations preventing the applicant from meeting the ordinance requirements.

No Harm to Public Interest: A variance may not be granted which results in harm to public interest. Public interest can be determined from the general purpose of the floodplain ordinance as well as the purpose of a specific ordinance provision. It can be analyzed as the short-term, long-term, and cumulative impacts of the variance request on the neighbors, community, and statewide public interest. The incremental benefits of allowing the development are outweighed by the increased costs of future flood damage.

Unnecessary Hardship: An unnecessary hardship exists only if the property owner shows that they would have no reasonable use of the property without a variance. A variance is intended to provide only the minimum relief necessary to preserve a reasonable use of the property. In all applicable Federal, State and local variance criteria, a variance cannot be granted for an economic gain or loss. Granting a variance for construction in the floodplain based on financial hardship only increases the probability that the owner will suffer high health and safety risk as well as monetary adversity.

Please be aware that Wisconsin Statutes provides the opportunity for certiorari review of the variance under s. 62.23(7)(e). NR116.22 outlines additional enforcement actions that the Department may take to ensure community compliance with the Ordinance. In addition, if the variance was granted as is, The City of La Crosse Board of Appeals may encounter difficulty meeting NFIP standards. FEMA can review a community's findings justifying the granting of variances, and if that review indicates a pattern inconsistent with the objectives of sound floodplain management, FEMA could take appropriate action up to and including suspending the community from the National Flood Insurance Program (NFIP).

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 appreciates your commitment to City of La Crosse 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 fluid and cursive, with the first name "Michelle" written in a larger, more prominent script than the last name "Staff".

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)