

Board of Zoning Appeals Variance Application

(To be completed by City Clerk or Zoning Staff)

City of La Crosse, Wisconsin

Application No.: 2617

Date Filed: 11/7/18

Application Complete: Yes ☒ No ☐ Reviewed By AM (Initial)

Filing Fee: \$250.00

Date Paid: 11/7/18

(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	<u>RMJ Investments, LLC.</u>	<u>Nickelatti Construction</u>
Address	<u>5665 Meir Ct.</u> <u>La Crosse, WI 54601</u>	<u>W3206 West Lane</u> <u>Kodard, WI</u>
Phone	<u>608-797-4396</u>	<u>608-792-5227</u>

Legal Description: 2118 19th St. South, City of La Crosse, Wis.

Tax Parcel Number: 17-50294-110

Lot Dimensions and Area: 52.9 x 130.38 feet. = 6897.1 sq. ft.

Zoning District: Dist. 10.

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 § 115-60; 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.

Front entrance landing/steps into home.
Prior landing was not safe. It had uneven
concrete steps.

(b) Proposed Use.

Safe Front Landing entrance to home for person living
in the home who is disabled. (Legally blind)

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

N/A

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

Not aware of any at all.

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

Setback violation? 115-143 (c) (2)
115-142 (c) (1)

(f) Describe the variance requested.

Install deck/landing in front yard setback.

(g) Specify the reason for the request.

The person living in the home needs safe access into the home. She is disabled. (Legally blind). The deck that was built at her request was to allow her safe access. It is a landing on the front of house door that needs to be safe for her.

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

She will not be able to safely get into the home. A ramp is not going to help either. She cannot judge the slope of a ramp with her sight. In the winter the ramp becomes too slippery with ice & snow. 2 steps up onto the landing is what she requested because she can navigate that much easier than a ramp.

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. *An 18 sq. ft. (3x6) landing would not have eliminated the uneven concrete configuration. In addition, it was a hazard due to the outswing of the screen door that would make her step backwards onto the steps and potentially fall down.*
- Alternatives you considered that require a lesser variance.** If you reject such alternatives, provide the reasons why you rejected them. *We considered that adding the size of the landing/deck could be too big, but due to her disability she needs more room to be able to set down her belongings, hang onto the handrails, and get into the home safely. A smaller size would inhibit her ability to get into the home without stepping backwards. The possibility of falling or losing her balance would be far too great of a risk/hazard.*

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.

Due to the structure of the front entrance concrete steps being uneven, cracked, and no railings, the entrance to the home was not safe for the tenant and her disability. (Legally blind). We need to be outside of the ordinance guidelines in order to grant her safe access into the home.



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:

§ 8-86	§ 101-58	§ 109-6
§ 115-3	§ 115-140	§ 115-141
§ 115-148	§ 115-156	§ 115-158
§ 115-211	§ 115-319	§ 115-437
§ 115-510	§ 115-548	§ 115-594

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:
Mitigation measure(s): *N/A*
Extent to which mitigation reduces project impact:

- Impact:
Mitigation measure(s): *N/A*
Extent to which mitigation reduces project impact:

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

- Impact:
Mitigation measure(s):
Extent to which mitigation reduces project impact:

N/A

- Impact:
Mitigation measure(s):
Extent to which mitigation reduces project impact:

N/A

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

- Impact:
Mitigation measure(s): N/A
Extent to which mitigation reduces project impact:

- Impact:
Mitigation measure(s): N/A
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.



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"

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: 2118 19th St. S LaCrosse, WI. 54601
(Address where variance is sought)

Date: 9-24-2018 Signature of Owner: Nguyen Quin
BMS Investments, LLC.

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- 2nd Floor
La Crosse, Wisconsin 54601

Submit complete copy to: Chief Inspector
400 La Crosse St.
Building and Inspections Division, Fire Department
La Crosse, Wisconsin 54601

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) Ryan Liium

Date: 9-24-18

Signed: (Owner, if different from applicant) _____

Date: _____

THE APPLICANT OR AGENT

THE OWNER

By: _____

STATE OF WISCONSIN)

STATE OF WISCONSIN)

COUNTY OF LA CROSSE)

COUNTY OF LA CROSSE)

Personally came before me this 24th day of
September, 2018, the above named
Ryan Liium to me
known to be the person(s) who executed the
foregoing instrument and acknowledged the same.

Personally came before me this _____ day of
_____, 2015, the above named
_____ to me
known to be the person(s) who executed the
foregoing instrument and acknowledged the same.

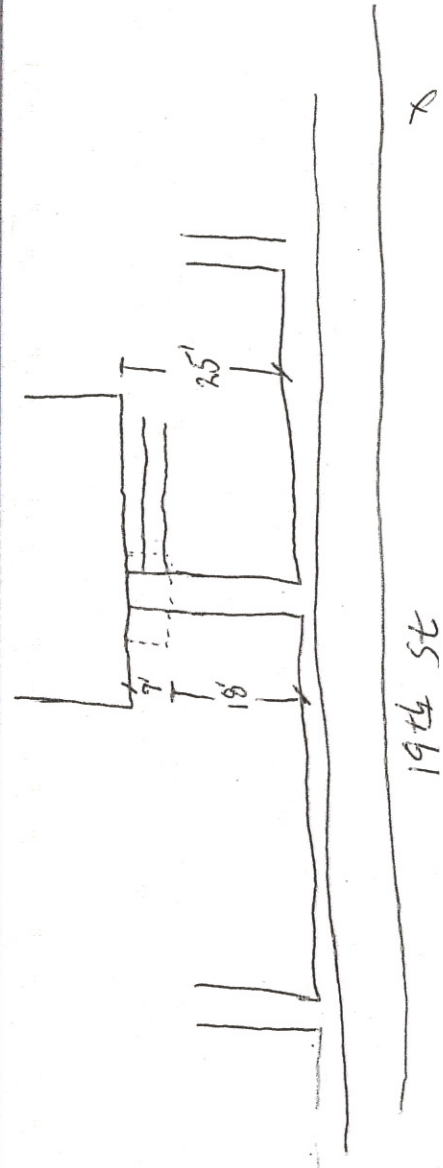
[Signature]
Notary Public, La Crosse County, WI

My commission expires: 8-7-21

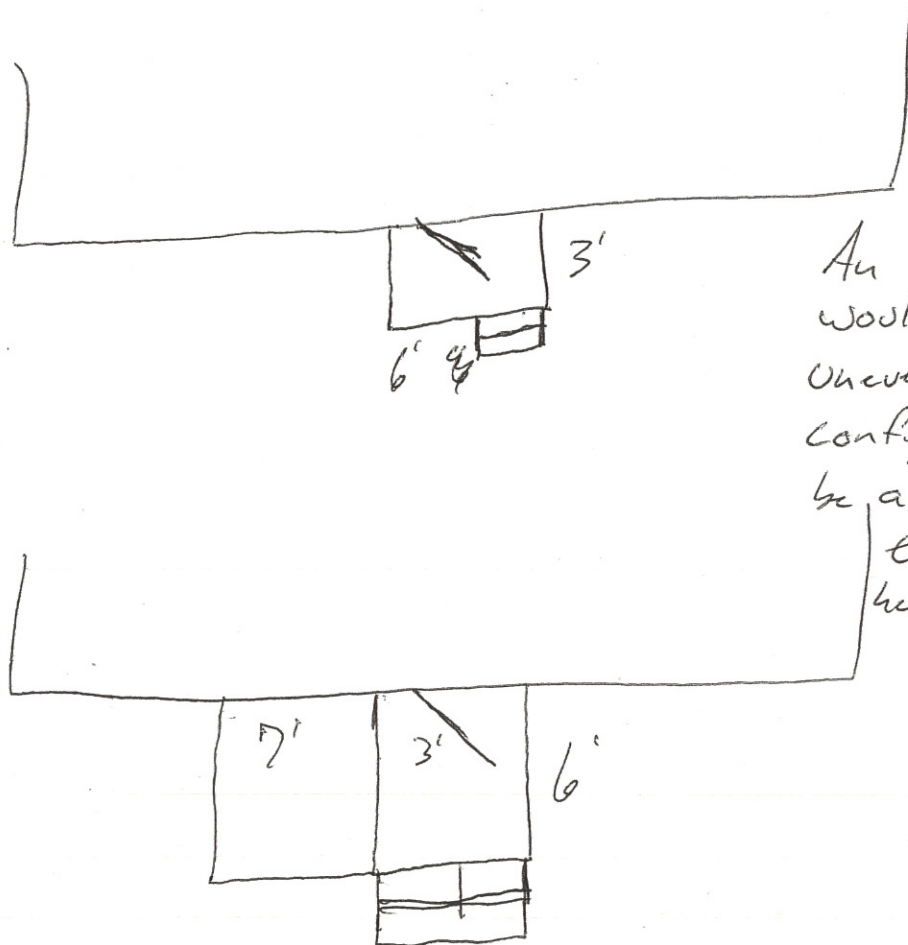
Notary Public, La Crosse County, WI

My commission expires: _____





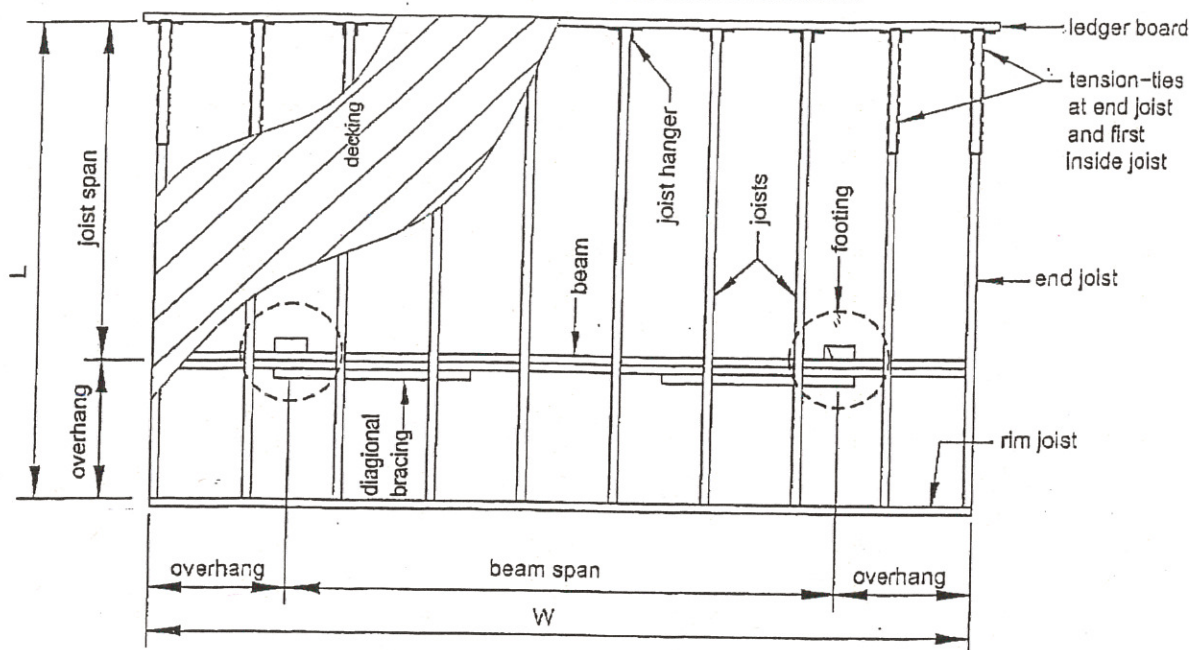
Due to the structure of the front ^{concrete} steps being ~~not~~ safe and uneven, ^{and broken up with no railing} the entrance to the home was not safe for the tenant's disability (legally blind).



An 18 sq ft (3x6) landing would not have eliminated the uneven concrete ~~as well as the~~ configuration ^{in addition} ~~and~~ would potentially be a hazard due to the outgoing. the screen door might make her step backwards

We considered that adding the size of the deck ^{that we did} could possibly be too large, but due to her disability, she needs more room to be able to set down her belongings ~~and~~ in order to get into the home. A smaller size would inhibit her ability to get into the home without stepping backwards and losing her balance. Possibility of falling would be far too great of a risk/hazard.

Figure 35
TYPICAL DECK FRAMING PLAN



Decking: ☐ 2x4 ☐ 2x6 ☒ five-quarter board ☐ wood-plastic composite (per ASTM D 7032)
☐ Other decking, evaluation report number: _____

Joists: size: ☐ 2x6 ☒ 2x8 ☐ 2x10 ☐ 2x12 spacing: ☐ 12 in. ☐ 16 in. ☐ 24 in.
 joist span dimension: 5 ft. - _____ in.

overhang: ☒ Yes ☐ No overhang dimension: 2 ft. - _____ in.

rim joist: ☐ 2x6 ☒ 2x8 ☒ 2x10 ☐ 2x12

Beam(s): number of plies: ☐ 2 ☐ 3 size: ☐ 2x6 ☐ 2x8 ☒ 2x10 ☐ 2x12
 overhang: ☐ Yes ☐ No overhang dimension: 2 ft. - _____ in.

Posts: size: ☐ 4x4 ☒ 4x6 ☐ 6x6 height: 2' ft. - _____ in.

Footings: size: 12 in. ☐ square ☒ round thickness: 3 in.

Ledger: ledger board size: ☒ 2x8 ☐ 2x10 ☐ 2x12 ☐ Not applicable (free-standing deck)
 fastener: ☒ Through bolt ☐ Lag screw ☐ Wood screw
☐ Expansion anchor ☐ Adhesive anchor

Lateral support: ☐ Tension-tie ☐ Diagonal bracing, size: ☐ 2x
 (not permitted for free-standing deck)

Deck size: L = 11 ft. - _____ in. W = 11 ft. - _____ in.

Guards: "Height" - Guards shall extend to at least 36 inches above the floor or to the underside of a stair handrail complying with s.SPS 321.04 (3) (b). Measurement shall be taken from the hard structural surface beneath any finish material to the top of the guard.

"Opening size" - Guards shall be constructed to prevent the through-passage of a sphere with a diameter of 4 3/8 inches, when applying a force of 4 pounds.

2118 19TH ST S LA CROSSE

Parcel: 17-50294-110
 Internal ID: 39080
 Municipality: City of La Crosse
 Record Status: Current
 On Current Tax Roll: Yes
 Total Acreage: 0.158
 Township: 15
 Range: 07
 Section: 09
 Qtr: NW-SW

Abbreviated Legal Description:

TILLMAN UNREC LOT 4 BLOCK 1 LOT SZ: 52.9 X 130.38

Property Addresses:

Street Address	City(Postal)
2118 19TH ST S	LA CROSSE

Owners/Associations:

Name	Relation	Mailing Address	City	State	Zip Code
RMJ INVESTMENTS LLC	Owner	5665 MEIR CT	LA CROSSE	WI	54601

Districts:

Code	Description	Taxation District
2849	LA CROSSE SCHOOL	Y
5	Book 5	N

Additional Information:

Code	Description	Taxation District
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:	1 on 10/24/2017
Lottery Credit Application Date:	10/5/2017

Tax Information:**Billing Information:**

Bill Number: 14524
 Billed To:

Volume Number	Page Number	Document Number	Recorded Date	Type
0	0	1656093	5/14/2015	TRANSFER ON DEATH DEED
0	0	1692251	4/24/2017	Warranty Deed
0	0	1712904	7/9/2018	Warranty Deed

Outstanding Taxes

There are no outstanding taxes for this property.

Permits Information:

Municipality: City of La Crosse
Property Address: 2118 19TH ST S

Click on the permit number for additional details regarding the permit.

Description	Per. #	Applicant Name	Status	Status Date	Activity
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History Information:

Parent Parcel(s)

There are no parent parcels for this property.

Child Parcel(s)

There are no child parcels for this property.

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.