



# City of La Crosse, Wisconsin

City Hall  
400 La Crosse Street  
La Crosse, WI 54601

## Meeting Minutes - Final Board of Zoning Appeals

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Monday, April 15, 2024

4:00 PM

Council Chambers  
City Hall, First Floor

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### Call to Order

*Cherf called the meeting to order at 4:02 p.m. and explained the meeting procedure.*

### Roll Call

**Present:** 5 - Douglas Farmer, James Cherf, James Szymalak, William Raven, Anastasia Gentry

### Annual Election of Vice Chair

*Raven nominated Farmer. Unanimous consent to reappoint Farmer for another year; Szymalak abstained.*

### Variance Appeals:

[2684](#)

An appeal regarding the requirement to have a fence not exceeding 48 inches in height from grade in the front yard at 1627 North Salem Road, La Crosse, WI 54601.

*Andy Berzinski was sworn in to speak. Berzinski went over the requirements for granting a variance: unnecessary hardship, hardship due to unique property limitations, and no harm to public interests. He stated that the applicant has applied for a permit for a proposed 6-foot tall fence in the front yard setback. Municipal code Sec. 115-398 (c)(1) states that residential fences are permitted up to the property lines in Residential Districts but shall not, in any case, exceed a height of six feet without a conditional use permit, shall not exceed 48 inches in height from grade in the front, side, or rear yard setback abutting a public sidewalk, shall not encroach into any vision corner and shall not be closer than three feet to any public right-of-way along a public alley. The height of any fence shall be measured as an average and shall not include the posts or pillars to which a fence is attached. A variance allowing a 6-foot-tall fence to be placed in the front yard will need to be granted for this permit to be issued.*

*Berzinski showed aerial and street views of the property, renderings of the proposed fence locations on the property, as well as examples of what the fence material would look like. Berzinski added that fencing cannot be in vision the clearance triangles. He stated that there is no unnecessary hardship; the lot can still be used as a dwelling and 4 ft fence still be an option; owning a dog is a self-created hardship. There is a unique property limitation in the layout of dwelling and garage on the property. There is harm to the public interest in that it would set precedence for 6-foot fences in the front yard.*

*Szymalak asked for clarification on the fence ordinance as far as the notation on*

abutting a public sidewalk; Berzinski responded that there is 14.5 feet of public right-of-way here to allow for a possible future sidewalk; the proposed fence would abut that. Cherf added that the intent of that is if the fence is abutting a sidewalk at 4 feet tall rather than 6 feet would allow for snow to be blown over the fence abutting sidewalk where a 6-foot fence would not.

Jake Zabinski, 1627 North Salem Rd, was sworn in to speak. Zabinski stated that the lot is unique, and they don't have a backyard for privacy purposes with the way the lot is laid out. He agreed that there is no unnecessary hardship, but it comes down to being able to have that privacy and where to have it. He added that this is their first home, and the hope is that they could get the variance. He added that the biggest issue is that it may set a precedence for having 6-foot fences in front yards; he stated his hope is that it won't because the variance appeal process may be a deterrent. Farmer asked Zabinski if he considered leveling off the front yard and bringing in fill and putting fence at crest of leveled off area. Zabinski stated that it was not something they considered. Farmer reiterated that it may be a possible solution.

**A motion was made by Farmer, seconded by Gentry, that the appeal be DENIED. The motion carried by the following vote:**

**Yes:** 5 - Farmer, Cherf, Szymalak, Raven, Gentry

### 2685

An appeal regarding the requirement to have fill 15 feet beyond the structure one foot or more above the regional flood elevation at 2710 Onalaska Ave, La Crosse, WI.

Andy Berzinski, still sworn, stated that the applicant applied for a permit to place 15 feet of fill on only three sides of a dwelling, instead of the required 4 sides. Municipal Code Sec. 115-281 (3)(a)(1) states that the elevation of the lowest floor shall be at or above the flood protection elevation on fill unless the requirements of section 115-281(3)(a) (2) can be met. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. A variance will be required to allow only 15 feet of required fill on three of four required sides of the dwelling.

Berzinski showed aerial and street views of the property as well as a survey showing where they want to place the fill on the lot. Berzinski stated for the unnecessary hardship, the dwelling can't become floodplain compliant if all of the fill isn't installed. The unique property limitation is that the property is in the floodplain. He added that there is no harm to the public interest, this type of variance has been granted multiple times previously. Szymalak asked how much fill they are proposing no fill on the north side or 5 feet of fill; Berzinski responded that they are proposing no fill. Szymalak asked why the applicant can't do the 5 feet up to the fence. Both Berzinski and Cherf responded that the applicant should answer that question.

Susan Roble, 2712 Onalaska Ave, was sworn in to speak. Roble states that they are the adjacent property to the north, and they don't want fill on their side of the property, so they're in favor of the appeal. Roble asked if the floodplain requirements are needed because of it being considered "new construction." Berzinski states that it is considered new construction because of the remodeling and updates that have been done. Roble asked if it is the City's requirement; Berzinski stated that the 15 feet of fill is required. Roble stated that they are in favor because they want the property sold and occupied which will benefit their neighborhood.

Mara Keyes, representing the City Planning Department, was sworn in to speak. Keyes stated that the property at 2712 is about 3 feet to property line and 5 feet to fence. They considered the options with fill on that side. She stated that the two properties to the south are being built by Habitat for Humanity. Keyes stated that they don't want to dump water on the neighboring property. By approving this variance would have flexibility to do that and the other two properties would be in compliance with floodplain

rules. Szymalak confirmed that the properties to the south are being brought up to floodplain compliance; Keyes responded that they are being brought up to match the fill on this property. Szymalak stated that those have no bearing on the north side. He added that there is a legal requirement within the floodplain that an applicant should seek the minimum relief that is necessary, which would be three feet, not a full waiver of that side of the house.

Szymalak asked if there was discussion about asking for the minimum relief versus the whole thing, and asked if that would be a legal outcome. Keyes stated that they have considered options, significant money has been put in to bring it in to this level of compliance and they still need to add more fill. Keyes stated that they took into account the neighboring fence, and this seemed like a reasonable way to meet as many requirements as possible. Szymalak reiterated that the legal requirement is to only ask for minimum amount of relief, but the appeal is for the maximum amount; he asked if any legal reviews been made to allow them to ask for the maximum amount of relief. Keyes stated that they met with their inspector from Community Risk Management (CRM), and they had talked through options.

Farmer asked for the aerial view of the property. Farmer confirmed that the grey house is the current property, and the white house is the one to the north. Farmer confirmed that there is 3 feet from the grey house to the property line. Farmer confirmed that the owners of the white house are in favor of the appeal. Farmer asked where the runoff goes. Keyes responded that they are before the Board so they can put erosion measures in place and not dump water on the neighbor. Farmer asked how they are doing the erosion measures; Keyes stated that they don't have an answer for that right now. Farmer stated that rules are in effect, so they don't create waterflow conditions that cause water in basements. Keyes stated they may also have to remove the sidewalk and re-work it to add the fill, and that is partially the reason why she doesn't have an answer for how they plan to deal with runoff; she added that they've filled the basement already and need the variance in order to move to the next steps.

Szymalak asked why a variance wasn't sought before any of the work was undertaken.

Jonah Denson, representing the City Planning Department, was sworn in to speak. Denson stated that the City bought property and at that time the Parks department was in managing the parcel and asked the Planning Department to bring it into compliance and sell the property as they have done in the past. Denson stated they realize they were out of compliance with the DNR and City ordinance after they had completed filling the basement in order to comply with FEMA regulations. Szymalak asked if they had considered a French drain; Denson responded that they'd have to work with CRM on their options. Denson stated that the neighbor has chain link fence so that may be a challenge; Denson stated that they would likely add a berm and run the water toward the alley; they know they have to manage water.

Farmer stated a French drain may not work with a spring melt. Farmer asked if they have an opinion on referring the appeal until they have plans on how they will be dealing with the water. Denson responded that they wouldn't be opposed in waiting one month, they're not trying to avoid their responsibilities, they're just trying to be fair. David Reinhart, representing the Community Risk Management Department, was sworn in to speak. Reinhart added that the way the roof on this house is, it slants toward the east and west (toward street and alley), so all the water would go east and west from the downspouts; the probability of water going north is virtually zero. Farmer clarified that he is worried about the water coming off the parcel itself in the spring with the snow in the yard melting in a short amount of time. Cherf asked what the end game of the property is because, as it is proposed, a LOM-R (Letter of Map Revision) may not be granted; even if 3 feet of fill is placed. Reinhart stated that Cherf is correct; the fill is needed to bring the property into floodplain compliance; removing the lot from floodplain by a LOM-A (Letter of Map Amendment) or LOM-R is not the end game. Wayne Roble, 2712 Onalaska Ave, was sworn in to speak. Mr. Roble stated that the

*prior owner did some fill and there was a swale close to where the fence is, and they still have quite a bit of water in their yard. He added that they've gotten more water in their yard, which is like mush in the spring. Mr. Roble asked why they can't just get a variance to have no fill there. He added there are different levels of floodplain; and again asked why they have to put fill in.*

**A motion was made by Farmer, seconded by Szymalak, that the appeal be Denied.**

**A motion was made by Farmer, seconded by Gentry, that appeal be REFERRED 90 days (or applicant may come back sooner). The motion carried by the following vote:**

**Yes:** 5 - Farmer, Cherf, Szymalak, Raven, Gentry

## **Adjournment**

*Meeting adjourned at 4:53 p.m.*