



City of La Crosse, Wisconsin

City Hall
400 La Crosse Street
La Crosse, WI 54601

Meeting Minutes - Final

Board of Zoning Appeals

Wednesday, July 19, 2017

7:00 PM

3rd Floor Conference Room

Call to Order, Roll Call

Chairman Nohr called the meeting to order at 7:22 p.m. and explained the Board of Zoning Appeals meeting procedure.

Present: 4 - Douglas Farmer, James Cherf, Charles Clemence, Philip Nohr

Excused: 2 - Carol Haefs, Joe Konradt

Absent: 1 - Anastasia Gentry

Variance appeals:

Chairman Nohr opened the public hearing.

2585

Request by Joe Konradt for a rehearing of File 2541 - an appeal regarding the requirement that all development, building construction, and land disturbances be set back at least 75 feet from the Ordinary High Water Mark at 1931 Cherokee Ave., La Crosse, Wisconsin.

Withdrawn by appellant

A motion was made by Farmer, seconded by Cherf, that the withdrawal letter be received and filed. The motion carried by the following vote:

Yes: 4 - Nohr, Farmer, Cherf, Clemence

Excused: 2 - Haefs, Konradt

Absent: 1 - Gentry

2586

An appeal regarding the requirement that all development and building construction be set back at least 50 feet from the Ordinary High Water Mark at 1931 Cherokee Ave., La Crosse, Wisconsin.

Brent Thielen, representing Fire Prevention and Building Safety, 400 La Crosse Street is sworn in to speak. Thielen states that the owner is proposing to replace some existing retaining walls and alter a retaining wall. Municipal Code Section 109-33(a) (5) states that there shall be a shoreland setback area of 50 feet from the ordinary high water mark (OHWM). The previous variance File Number 2541 limited the retaining wall height in the corner to 42 inches. The owner proposes a setback of 8 feet from the ordinary high water mark and the owner is proposing to add an additional 24 inches of block to the existing retaining wall for 66 inches total in height. For this project to proceed as proposed, the Board would have to grant two variances: 1) a variance of 42 feet to the 50 foot setback requirement, and 2) a

variance of 24 inches in height set forth in a previously approved variance for File Number 2541.

Nohr states that the last time this was before the board it was 75 feet; Thielen states that the ordinance has changed to 50 feet. Thielen states that it was a State Statute it went through Governor Walker and we adopted it. The county is different than the municipality. Nohr confirms that the City operates under 50 foot setback.

Thielen shows the original survey and points out the ordinary high water mark and the retaining wall that Konradt is proposing to be replaced. He shows the portion of the retaining wall that was approved with the height limitation. He shows a diagram of the new retaining wall from where the dock comes out and what it will basically look like. Thielen states that there will be 7 feet of flat area and 7 feet that will be terraced. Nohr asks if the deck is off the retaining wall and Thielen responds that it is off the back of the house; it says dock at the top of the diagram and docks are allowed in the 50 feet area.

Nohr breaks to go over the Board meeting procedures and calls the roll.

Thielen shows another aerial view of the survey that the appellant provided and he points out the area from the previous slide that is going to be redone. He points out the portion of the other variance, 2541. Thielen also points out the corner that Konradt wants to raise up for variance number 2. Farmer asks if all they are discussing is the corner tonight and Thielen responds by pointing out the areas for part 1 and part 2 of the request. Nohr confirms that the original approval was the dark line running through the diagram and then Thielen points out the areas that will be new for tonight.

Thielen shows a more detailed drawing of the corner of Konradt's lot and where the neighbor's gazebo is in relation to his corner. Thielen states that Konradt wants to have the wall three courses higher at 66 inches instead of 42 inches in height. Nohr asks about the box that is in the picture and Thielen responds that it may be yard or concrete. Thielen then shows a picture of what he wants to replace on the center area that is 8 feet from the ordinary high water mark. Farmer confirms that Konradt will be redoing the entire area. Nohr asks if it was there already and Thielen responds that it was there when Konradt bought the property.

Nohr asks for confirmation that Konradt will be going no further into the setback. Thielen responds that it is his impression is that Konradt is going no further than what it is now. Clemence asks if the house outside of the 50 feet and Thielen responds that he would have to go back to the original survey to check and see if it is 75 or 50. Nohr states that they will ask the appellant.

Thielen shows a picture of from the east side looking west down Konradt's property line along the retaining wall; he points out that it is curved and bowed. Thielen next shows a picture of the east side that was taken west that shows Mr. Maha's gazebo and part of the retaining wall. Thielen states that a portion of this was already granted. He shows a picture taken from the neighbor's yard that shows the retaining wall. Thielen points out the height of the retaining wall at 42 inches and the section behind it which is out of the previous variance. Farmer asks about the black tubing in the picture and Thielen responds that it is drain tile so he can drain the water out.

Thielen shows a picture that he took while standing in the neighbor's property and looking along the east property line which shows the height of three courses of block with a cap. Thielen states that he took pictures so he can give them an idea of what the height would look like for the corner. Nohr confirms that the corner is going to be

higher and Clemence asks if it will be as high as the highest course. Thielen responds that the corner edge will be higher, it is proposed to be the height the variance from 2541 he came across; Konradt was to taper it down, but tapering it is hard to do with block so he would come so far and have to start stepping the block, go back around and start stepping it back up.

Thielen lastly shows an overhead view of the property and Farmer asks where the corner wall will be located and states that you can't see the neighbors' gazebo. Thielen points out how where it should be located and states that the photo was from 2015. Thielen states that he tried to take more pictures but his camera was not working.

Speaking in Favor of the Request:

Joe Konradt, 1931 Cherokee Ave, is sworn in to speak. Konradt gives out color copies of the slides to be able to see the print in color. Konradt points out the high water mark on the survey map and responds to the question about the 50 foot setback. Konradt states that about less than half is in the 50 foot setback and the 75 comes more than halfway into their house. Konradt states that the retaining wall is out a little bit more, but not in that section. He shows a picture of the overview and states that the previously granted variance covered the west side of the lot and the neighbor requested a one block stepdown for a planting area, but it turned out to be a problem. Konradt states that the neighbor had a contractor put a wall up to meet the height of his wall, but it is actually one inch higher and now water flows into Konradt's planting area and over the wall now that the neighbor's wall section is higher than Konradt's.

Konradt states that when he redid the lot he re-contoured and tried to keep water off the neighbor's property. Konradt says he had to put a knee wall in the planting bed because it is an 8 inch height difference immediately by doing the step-downs; the step-downs make it very hard to do reasonable landscaping and it makes the water go over it. Konradt states that the western neighbor has redone the landscaping so some water is on his lot and they may both hire a contractor to both get some riprap. It has been an issue but they are both working on it.

Konradt points out the center area that was previously approved was to remove timbers, but he states that it has deteriorated since then. On the eastern part of the property the retaining wall is complete in the areas that didn't require a transition of step-downs. Konradt states that the original approval worded it as three blocks at 8 inches per block, which makes 24 inches; some of that area will be filled in already because it is terraced down. It is not really 24 inches the entire distance. Konradt states that he had found that in order to meet his driveway, he needs the three courses which was approved to a certain point, but he needs two more courses around the corner then it will be level across the yard. The request is for 3 (levels of block) but 2 is really needed and that is what he would like to do. Konradt states that instead of stepping it down, he will cut it at a diagonal, so over six to eight blocks they will have a better transition without having an erosion problem.

Konradt states that his request is two pieces; part 1 is the area affected by the step-down and some is not done because he wanted to wait for this hearing. Some is already approved by the previous variance and the center has all the riprap. Konradt shows a page with more detail of the corner. When the original variance was granted there was discussion about some adjustments to accommodate some concerns and he tried to make it a number of adjustments to work for both parties.

Konradt gives a color copy of pictures of the retaining wall and says what he would've

liked to have done is meet up with the corner of the wall. The box on the picture is a concrete retaining that wall was put up a long time ago. Instead of what he wanted to do, he put up the lower section of wall in and it came about two inches below the concrete. He is using multiple walls to terrace up which provides greater strength and a clearer viewing area for the neighbors from their gazebo. Konrad states that when he first talked to Mr. Macha about it a few years ago, Macha had a concern and they made an agreement.

Konrad states that in the previous meetings Mrs. Macha testified that the drain for the back yard was 4 feet into the Macha's property and it is actually 5 feet into Konrad's property. The black pipe in the picture goes down in to the existing drain. There was concern by the Machas that their property did not have access to the drain and Konrad says he talked to Thielen and he said that he is not required to provide drainage for the neighbors. Konrad agreed two years ago to provide drains for his neighbors; he shows a picture of the drains he put in each with six inch tubes that tie into his storm sewer drain; one long drain and one square drain. Konrad states that he installed another drain pipe in case the first one fails. Konrad states that he installed this at his cost and labor because it was the right thing to do.

Konrad shows two more pictures that are in color. He states that he put in a second lower wall. When they did the first variance it was stated that the fence on the Macha's gazebo is 42 inches, but there was dirt over the cement, so it is actually 44 inches above the cement. The 42 inches was used as the criteria for height of his retaining wall. If they already have a fence their view is already obstructed below that, so Konrad stayed under the 42 inches with his wall. Konrad points out a stake in the picture and states that Mr. Macha agreed that it was the line of sight from the Macha's gazebo. Konrad actually only went 41.5 and six inches further back from what was agreed to. Konrad states that he provided the Macha's more than what was agreed to in the previous variance.

Konrad states that Thielen asked him not to install any more block because the Macha's didn't like what was going on. Instead of meeting with Konrad, the Macha's called Thielen. Konrad shows a picture of the wall and states that he held the entire wall 4 inches back to allow for pavers over the entire distance for Mr. Macha to not have trim at his wall. He did all of these things for the neighbor at Konrad's cost and labor to create a nice situation for the neighbors.

Konrad says what he is concerned about is from a safety and environmental perspective; if he steps the wall down to the corner what is going to happen is if you look like a storm like tonight there will be a huge amount of water going that way because that area is terraced down and it will fill the walls with water and blow them out. Konrad states that his concern is a possibility of for a catastrophic failure of the wall that will be greatly increased by having the terracing, which he doesn't think it is necessary.

Konrad advances to another one of his pictures and points out that approximately 80 feet of the wall are along the water. Only the last 15 feet is in this area in question and those 15 feet face the water, and is not really in the view of the neighbor. There are examples of many other properties, including the Macha's, that have higher walls than Konrad's that face the water. The property directly across from Konrad's has the same blocks as him. Konrad states that there is a fence on the neighbor's property along the 33 feet on the east side of his lot that is higher than Konrad's requested height for part of the distance. Part of it is also blocked by the gazebo because there are no windows on that size of the gazebo.

Konrad hands out photos of the view from the wall toward the neighbor's property

where that section would be. Konradt states that the gazebo has no windows on that side; out of the portion that Konradt is talking about, there are 33 feet and 12 feet of that part of his wall is blocked. Konradt says that the first 8 feet at the top are below the fence in the photo and there are plants growing into the fence anyway. Konradt adds that there are steps going from the Macha's patio going down to the gazebo; most people are going to look at steps as they walk, so they aren't really going to be looking at his retaining wall. Looking at it from an aesthetics point of view, it would not really have an impact on the public interest if the retaining wall is 16 to 24 inches higher. Konradt states that there would only be 13 feet of the 33 feet of the retaining wall that he is requesting that would be higher than the Macha's fence or not blocked by the gazebo. Konradt states that it is a very small area that would need an additional 16 inches of block to prevent erosion and it is a modest amount of additional protection. Farmer asks if Konradt means two blocks when he says 16 inches and Konradt responds that he is correct and that is what he is proposing. Konradt says that he and Thielen looked at the diagram and some of this area will be covered by the previously granted variance.

Nohr asks if Konradt if with the two courses of block that he is proposing, if he knows if the height is higher or lower than the fence the Macha's have around the gazebo. Konradt states that there are two fences; one is a metal fence that was used as a point of reference. The 8 foot section is blocked by the metal fence; that area is used as steps down to the gazebo and it is not a high viewing area. Nohr states that it looks like there is a deck area behind the gazebo. Nohr asks if what Konradt is proposing will block the Macha's view from the gazebo patio. Konradt says that the 42 inch height that he was allowed in the original variance is not going to be impacted by what he is doing. Konradt says that their deck wraps around the gazebo (toward the south). Konradt says that the Macha's could see (the wall) if they look back along that side, but most of the area will be blocked by the gazebo even if they are on the patio. Nohr states that he believes the view they would be concerned about is the waterway. Konradt states that the only windows are on the gazebo face out; Nohr states that there is a deck on the gazebo. Konradt states that the deck wraps along the side so it is further out away from his wall. Konradt states that the closest thing to his wall is the window.

Nohr asks Konradt if it is his opinion if two more courses of blocks are put in that it will not block their view of the waterway. Konradt responds in the affirmative and states that he has more photographs to demonstrate this. He states that he took photos from his pontoon boat this morning; in the pictures, the gazebo windows have arrows pointing them out. Konradt states that he was out on the water in Richmond Bay, which is what the neighbors want to have a view of, and he can see the window so they should have an unobstructed view of the water from the windows. Nohr states that the full wall is not there yet and Konradt points out on the photo that at the corner it is 42 inches. Nohr asks Konradt if he wants to do two more courses and Konradt points out where they would be. Nohr states that it looks like the wall is terraced now and Konradt responds that the first terrace is done.

Konradt states that the first two terraces are done and he points them out in the picture; he adds that they meet the 42 inch requirement from the first variance and are six inches behind the line of sight. Nohr asks Konradt to point out on the photo where he wants to add two more rows of blocks. Konradt points out the area. Clemence asks if he wants the two courses down in the corner by their window. Konradt states that he is correct and adds that it will not block their window. He shows a close-up of the gazebo windows and points out where the 42 inches wall is and where the two additional blocks are stopping. He directs the board to another picture he took from Richmond Bay and he points out that you can still see the gazebo windows. He states that the deck is actually further out than the wall so

nothing is obstructed.

Konradt shows more pictures, one of the gazebo and one of the wall. He shows them where the 42 inches are and where the next two rows of blocks will go. Farmer asks to clarify where the additional blocks will be going and Konradt points out where they will be and states that he has to glue the blocks down and cut them correctly.

Konradt moves on to the next part of his request, which is the center section. He shows the drawing of the center section and points out the walkways from the deck and the steps that go down with about an 11 foot elevation change to the landing. Konradt says that because they are in the tailwaters of Pool 8 they can have variations of 8 feet in the water level; it varied 10 inches today. Konradt says the dock floats, so the ramp is on the water level and attaches to the landing. He points out on his drawing that nothing will be happening to the landing or steps, but the center section of the retaining wall area is what will be changed.

Konradt gives the board color photos and states that he will explain what the plan involves. Konradt says that the top picture shows the area and there is an arrow that points to a hole that was created in a major storm last year. The mortar blew and they had sand and water shooting out of the hole that went all the way onto the landing and riprap. The entire subdivision that they live in is built out of dredge sand that came out of the river and it wants to go back where it came from, so unless you can do something to hold it back, it erodes quickly into the river. Konradt states that underneath the flagstone it is hollowed out and cracking. The picture on the bottom shows that the ties are bowed out and leaning over toward the water.

Konradt states that his proposal last time was to just replace the timbers to brace the upper wall, but he now needs to replace the area of mortar that was blown out. He states that the stone in the picture was used for landscaping in the front yard and he will be using it for additional riprap. Konradt shows another set of photos that depict the failure of the wall at the bottom; he states that the gap moves 2 inches per year. The main stones vertical stones that hold up the bottom area leaning over 7 or 8 inches and are no longer vertical. At one point Konradt thought he could straighten them out, but they have cracked and one of these days during a major storm, they will crack and fall over and the sand will all fall out. The whole thing has got to be replaced. Konradt says Thielen saw it and it is failing.

Konradt states that his plan is to use three terraces of wall to give it additional strength; the top terrace will be right in front of the deck and the walls will be at least three feet apart and the thickness will be 1 foot, 4 feet and 7 feet with each be from 3 to 4 feet high. Konradt says that while installing the current portion of wall he dug into the sidewalk and put in drain tiles under them so it will drain rather than build up water behind the walls. Nohr asks what kind of material will be on the surface of the areas. Konradt states that they will be using exposed aggregate on the walkways and landing, but he will have to pour a retaining structure along the edge of the stairs; that will be exposed aggregate. Konradt says for aesthetics it might be good to put the top wall at a height where you could sit and make it exposed aggregate and make the other two blocks to match the rest of the retaining wall to tie it all together.

Nohr asks what will be between the walls he is proposing. Konradt responds that it is only going to be about three feet so he is planning on doing gravel. He states that he may put in bushes in two of the tiers, but not at the top. Nohr asks about the bottom closest to the dock and Konradt states that it will be exposed aggregate to match the walkway. Nohr asks if it will be sloped or flat. Konradt responds that it will be flat because if it was sloped like a driveway everything slides.

Cherf states that he understands that Konradt is putting drain tiles in the area and asks how is he is tying in the retaining wall blocks and if he is using steel bars that will be lower than the bottom rank of block. Konradt says he did research on retaining walls and when he put them in there is 12 inches of compactable; he bought his own compactor. He states that he buried the first tier of block entirely and compacted it; he used geogrid, a one-inch square non-deteriorating mesh that goes back in the wall and then fill goes on top of it so you can't pull it out. Konradt states you only need it if it is over four feet high, but he likes to over-engineer so he put it at the base level and again one or two blocks up just to make sure it is not going to pull out.

Konradt says that along the side, in addition to buried block, the second block is buried by riprap. Konradt says that he will probably put two tiers of block below grade because there won't be any riprap in front of it. The geogrid will connect it back into the fill behind it. Konradt says he owns a property in Onalaska and the neighbor there has a 12 foot retaining wall where his parking lot sits 12 feet above Konradt's lot and he can see geogrid coming out every four feet. Konradt says he saw pictures online of a railroad that is 40 feet high which uses geogrid and block and the railroad is still operating. Konradt says that the goal for the center section is that it will not have to be worried about until his kids will worry about it after his lifetime.

Konradt states that his neighbor on the west side did not want to comment on the Macha's side, but he is in support of the plan for the center section. Konradt submits a letter from that neighbor to the Board.

Linda Konradt, 1931 Cherokee Ave., is sworn in to speak. Linda states that she is in favor of the house not sliding into the river; she thinks it is a good plan and it is attractive. She says that other people area using the same block in the area.

Speaking in Opposition:

Betty Macha, 1930 Cherokee Ave, is sworn in to speak. Macha states that she is on the east side of Mr. Konradt. She states that she has pictures for the Board. She says that from her side things do not look the same as Mr. Konradt's. She shows two pictures from the gazebo. She states that the first photo is of the windows on the gazebo. She states that she has heard different things from Mr. Konradt about there being one or two windows; she states that there are two windows and shows a picture. Macha says that the wall that Konradt believes the wall does not obstruct their view. She shows picture one taken from the left side of the gazebo that shows their view. Picture two shows the right side of the gazebo and (the wall) is quite obstructive. Nohr confirms with Macha as to where the pictures were taken; she responds that they are from inside the gazebo looking out since you can see the screen on the windows.

Macha states that it is not only the gazebo's view that is affecting them as landowners of the property from 29 years; They have a patio and master bedroom that they have water views from that are now being affected by his proposed construction. She took a photo from her patio (picture 3) where she drinks her coffee; the view is also obstructed from there. Picture number 4 is another shot of view they are losing just outside of the gazebo window; it was taken before he put up the wall that he has up right now, it is what they used to see. Nohr asks where the photo was taken and she states that it is just outside the gazebo. Nohr states that he can see the existing wall. She points out where Konradt first started and states that the wall has gotten much higher.

Macha shows a fifth picture of more of the view that they are losing; this one is also

from before picture number one was taken (this one was during construction) and is from the inside of the gazebo. The sixth picture is the view going outside of the room. Number 7 is a view from the family room before he put the final blocks up. She states that they just have a sliver of the river there that they can see. Nohr states that for picture number 6, what is being proposed is to extend the wall around and the view will be over the wall; what is done was already approved. Macha states that according to Thielen, Konradt put up blocks to see how it would look.

Macha states that because of the way Konradt is going up and up and up, it is affecting more than just the view from the gazebo. She thinks the property will be devalued because they purchased the property for the views from the patio, family room, and master bedroom, and now they will be ruined. Nohr asks if she is concerned about water runoff if the project does not proceed. Macha states that they are not concerned about there being water running off. She shows a picture and states that there was testimony from Konradt that there was erosion. Nohr says that the picture was taken before the wall that the Board approved was put in. Macha states that Nohr is correct. Nohr asks if it is left as-is there is going to be a contour into the lot that may cause runoff into her lot like Konradt was experiencing on the other side. Macha states that there are drains in there now. Nohr asks if she believes it will address that.

Macha states that the other thing that she wanted to mention is that Konradt said she testified under oath about a drainage pipe, but she does believe she said anything about that. She goes back to the seventh picture and states that it was taken from the patio and shows Konradt's latest addition to his area. She again states that the construction doesn't just affect her view from the gazebo. Farmer asks why they need the wire fence and Macha responds that it is because they have two year old grandchildren and they don't want them in the water. Farmer asks for confirmation that it is not on the property line; Macha states that it is not on the property line and adds that it is scarlet runner that is growing on the fence. She states that it is up for two months of the year and it attracts birds and butterflies.

Macha asks if the photos are helpful in their opposition on the height. Nohr states that pictures are always helpful for the Board. Clemence asks if she has feelings on the center portion. Macha says doesn't want the wall to wash into the water. She has no objections to the center, just the height of the wall. She asks if there are any questions for her. Farmer asks if she would like the Board not to grant the just requests on their side. Macha states that she would agree to that.

Allen Macha, 1930 Cherokee Ave., is sworn in to speak. He points out on the drawing of the corner area that the gazebo windows are on that side. He states that when you look at the diagram you have to be on that one corner, but indeed the windows are right in that wall and you are getting blocked because of the height of the wall. Mr. Macha states that Konradt went 42, but it was on the lower wall. Macha says that it was his understanding they were going to start at 42 inches on the 2nd wall and taper up. He says that was the way Knothe stated the previously approved variance, but Konradt has already gone 49 inches on the second wall. Nohr asks Mr. Macha where he is saying that area is and Macha points it out on the picture and says it is his opinion that Konradt has already gone to 49 inches on the top wall and it has blocked the view from the second window.

Mr. Macha confirms with Thielen that he was in the gazebo to look out both windows; Thielen states that he was in the gazebo, but he was having problems in the camera and he cannot give an opinion. Cherf asks if Macha is saying that the second wall is at 49 and if it is running with the land or is it stepped up somehow. Macha states that it is running with the land it is up higher than the 42. Clemence asks about the wall

that is 49 and Macha points it out. Macha again states that from his understanding, Konradt was supposed to start at 42 and taper up. Farmer asks him to point it out again. He points out the wall that he believes is at 42 and points out the one to the next level which he believes is eight inches higher.

Mike Abraham, 1926 Cherokee Ave., is sworn in to speak. Abraham states that he has no objection to the cement thing that Joe wants to put in front. Abraham states that he was there a few times and was there again this this afternoon. Abraham says he wants to preface his comments by saying that he does not believe the Board can make a fair and equitable decision unless they go and look at it. Abraham states that the questions are going back and forth here and it is hard to get an idea of a picture from the diagrams and all of that. It is only fair to the parties that the Board goes to see.

Abraham says he sat in the gazebo and he can't tell where it will actually end up. From what he could see today, some of the view from that area is going to be obstructed, but he is not sure how high the wall will go. Abraham reiterates that it is common sense to go and take a look. Farmer asks if he is speaking in opposition to the appeal. Abraham states that he is. Nohr asks Abraham if from his observation today while in the gazebo...Farmer states that Abraham is the only uninvolved party giving testimony; he doesn't live in either house. Abraham states that goes there and is here to support his friends. Abraham states that if the Macha's house goes down in value, his house may also go down in value. Farmer states that he is not so sure he has to take the trip up there because Abraham is an innocent third party and he is speaking in the portion of the meeting in opposition.

Konradt has a right to a rebuttal. Konradt goes back to the aerial view of the property. Konradt states that Mrs. Macha said she has enjoyed the view from her patio, master bedroom, and family room of the river. He states he is puzzled by that because there were 25 foot cedar trees with branches starting at the ground along that side when they purchased the property and it was impossible to see the river from their house. When he wanted to cut them down Mrs. Macha asked him not to because their daughter was going to be married in the back yard. He waited two months to cut down the trees. Konradt states that it was her testimony that Konradt has now taken away the view that she has had for 29 years and that is not correct. Konradt says the trees blocked the view more extensively than the wall will.

Konradt states that the second thing is that when he installed the wall he put in two stakes showing the sight line, and he showed the Machas on more than one occasion and Mr. Macha agreed that it was the sight line. Konradt states that Macha agreed that Konradt was 6 inches farther back than the marker. Konradt addresses the issue about the wall that has three terraces. Konradt says rather than having the wall come all the way up, he decided to put a second layer behind it to strengthen that corner. Konradt states that he had approval to do that – the wall could be put all the way across and around that corner. Konradt says that the fact that he chose to have a second partial wall behind it does not change the original zoning approval.

Konradt says everything that is there today was within his right under the existing variance approval. In discussing with Thielen, they agreed on stopping in the area in question. Konradt says that when he and Thielen discussed the request, Thielen stated that there was room for multiple interpretations and he needed to go to the City Attorney for interpretation. Thielen states that it was his supervisor that he needed to speak to. Konradt stated that rather than doing that, he was going to need to go back to the Board for the center portion anyway, so he was just going to come back for the corner as well.

Konradt reiterates that some of the area will be filled in regardless of the decision tonight because the terracing was already allowed by the previous variance. Konradt states that he guarantees that the water will go over each tier of the structure and he will have the problem over and over. Konradt states that he would also like to point out that the view is not a valid reason to oppose development. Konradt states that it happens all the time where someone builds something and now the view that you used to have is no longer there. Konradt states that when they bought their first lot here in 1981, he stood where he thought their living room window would be and looked at the two empty lots across the street and said he was going to pick this lot because he thinks he will have a view of the bluffs. Konradt says someone could've put their house to the edge of one of those lots. He tried to anticipate and buy a lot with a view, but he could not prevent someone from building as long as they met the setback requirements.

Konradt states he does not see how this harms the public interest because it will prevent the sand and other things falling into the public waterway. Nohr asks if Konradt if he believes that water will run off onto his neighbor if he cannot raise the wall higher. Konradt states that it depends on how much rain in how much time. Konradt says that even on the west side during a rainstorm the rain flows from the western neighbor's yard into his yard and over the wall. Konradt states that his last edge stones had sunk down in because the amount of water going into the seam there between the two walls. Konradt states that if he has to slope the thing in the direction of the corner, it is going to go over. Konradt states that he is trying to do things to help everyone. Konradt states that he dug down four feet on his side and drilled 3.5 inch holes which he filled with gravel and put 8 inches of soil on top so shrubbery or grass could go in; Konradt adds that he created drainage that didn't previously exist. Konradt says that it is the amount of rain that matters. If it goes into the terraced walls it will be a problem; seepage will be taken care of.

Farmer states that he is reading the fine print in the application and says that it defines no harm to the public interest as preserving natural scenic beauty. Konradt agrees that is one of the criteria; Farmer says that it could be the view – Konradt states that it depends on if you mean the view of one individual opinion or of the overall aesthetic. Konradt states that he has heard from people going by on the river that it looks nicer than what it did prior to their work on the entire property. Konradt states that it is nicely landscaped with grass and has a flagpole that is lighted. It looks dramatically nicer than what it did when he bought the property. Farmer states that natural beauty is in the eye of the beholder. Konradt states that he is the City of La Crosse property owner and resident and the neighbor is only here because they saw the notice in the paper, not because they are a City of La Crosse Resident. Konradt asks what rights does he have as a property owner. Konradt states that they were trying out paint colors for new siding so they painted some different colors on the side of the house and Mr. Macha came over and asked if he gets a say. Konradt states that he is not used to a neighbor having an opinion about what he does on his property.

The Board allows Mrs. Macha to have one last comment. She states that it is really about the view. She states that the cedars did not block the view at all. The only thing was those cedars did was give them privacy. She points them out in one of the pictures.

Thielen states that he wants to make a suggestion. Thielen states that in the motion of the previously granted variance the word taper was used and you cannot do that with block. The wording is left up to so much determination. Thielen states that if you step instead of taper it is easier for the department to interpret and enforce. He adds that most blocks are all in 8 inches and the cap block is one inch.

***For part 1 of the variance request.**

Farmer: relative to the appeal at 1931 Cherokee Ave., appeal number 2586, to approve a variance of 42 feet to the 50 foot setback requirement and a variance of 24 inches set forth in a previously approved variance for file 2541. To be specific, this applies to the center portion of his property. I move for approval. The unique property limitation is that the house is originally built in the 50 foot setback probably prior to the 50 foot setback and on sand, both of which create problems. There is no harm to the public interest in that not granting a variance would harm the public interest because of erosion. The unnecessary hardship is that failure to grant the variance would result in substantial erosion and loss of area. I move for approval of that portion of the variance.

Clemence seconds.

The motion carried by the following vote:

Yes: 4 - Nohr, Farmer, Cherf, Clemence

Excused: 2 - Haefs, Konradt

Absent: 1 - Gentry

***For part 2 of the variance request.**

Farmer: with great regret that the portion of the appeal at 1931 Avenue for file 2586, we decline the variance for an 8 foot setback from the high water mark and the additional block or tile for a total of 66 inches in height. We decline it, though we acknowledge that there is a unique property limitation and that there could be an unnecessary hardship, but in the public interest, as best we can define it, is that this is not in the public interest.

Clemence seconds.

Concurring: Doug Farmer, Charles Clemence, James Cherf

Dissenting: Phil Nohr

Other Business:

[17-0872](#)

Update and possible settlement agreement regarding on-going litigation, Verizon, Central States, Sand Lake Development v. City of La Crosse Board of Zoning Appeals.

(Note: The Committee and/or Council may convene in closed session pursuant to Wis. Stat. 19.85(1)(g) to confer with legal counsel. Following such closed session, the Committees and/or Council may reconvene in open session.)

A motion was made by Cherf, seconded by Clemence to convene in CLOSED SESSION pursuant to Wis. Stat. 19.85(1)(g) to confer with legal counsel. The motion carried unanimously.

A motion was made by Farmer, seconded by Cherf to reconvene in OPEN SESSION. The motion carried unanimously.

No action taken.

Adjournment

Farmer/Clemence motion to adjourn at approximately 9:27 p.m.