



City of La Crosse, Wisconsin

City Hall
400 La Crosse Street
La Crosse, WI 54601

Meeting Minutes - Final

Board of Zoning Appeals

Wednesday, February 21, 2018

7:00 PM

3rd Floor Conference Room

Call to Order, Roll Call

Vice Chair Farmer called the meeting to order at 7:00 p.m.

Present: 5 - Douglas Farmer, James Cherf, Charles Clemence, Carol Haefs, Anastasia Gentry

Excused: 2 - Philip Nohr, Lu Seloover

Variance appeals:

Vice Chair Farmer explained the meeting procedure and opened the Public Hearing.

2601

An appeal regarding the requirement that fill around the perimeter of a building shall be not less than one foot below the flood protection elevation and shall extend at least 15 feet beyond the limits of any structures at 710 George Street, La Crosse, Wisconsin.

Brent Thielen, 400 La Crosse Street, representing Fire Prevention & Building Safety, is sworn in to speak. Thielen states that the owner is proposing to raze the existing retail store and build a new retail store which will not meet the minimum requirement for fill around the perimeter of a building. The perimeter fill shall be not less than one foot below the flood protection elevation and shall extend at least 15 feet beyond the limits of any structure. Municipal Code Section 115-281(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. For this project to proceed as proposed, the Board would have to grant two variances: nine feet on the north side and four feet on the west side to the fifteen feet requirement of elevated fill beyond the limits of the structure.

Thielen shows a plan of the new O'Reilly on George Street. Farmer asks if it is where Champion Auto used to be and Thielen responds that he is correct. Thielen says they are talking about razing the building and installing a new structure and they do not meet the requirements for the perimeter fill on the north and west side – the extension of 15 feet around the perimeter. Farmer asks how much higher it is going to be and Thielen responds that he doesn't know exactly what it will be at. Farmer states that the old Trane Company site across the street would make kind of a good benchmark. Thielen says that site is pretty high though.

Thielen point out the north and the west sides and he points out where the billboard is and where the new building would sit in this location (on an aerial drawing). Haefs asks if this in the flood plain, has the DNR gotten involved at; Thielen responds that they are noticed, but it is up to us (Inspection Dept.) to enforce this because it is in our Code.

Speaking in favor:

Gary Thagerstrom, C.M. Architecture, 4484 Wild Rice Drive NE, East Bethel, Minnesota, is sworn in to speak. He states that they are the architecture for O'Reilly's. He states that they want to raze the existing building and put in new building that will look a lot nicer; it will have block instead of the metal and it will have windows which meet the new ordinance requirements. In regard to the elevations, they are going to be 2.5 feet higher than the existing building. The neighbor to the south raised the whole area above floodplain so it is more sellable and so they will need also need to raise it enough to floodplain requirements.

Thagerstrom states that the site is kind of skinny, so they had to make the new building skinnier than they normally would to get it on the site and to have a drive aisle on the side, so they had to move everything closer to the property line. Farmer confirms that the drive aisle on the side means the exit to River Valley Drive. Farmer asks if the building will be meeting the commercial design standards and Thagerstrom responds in the affirmative. Farmer says that the old building certainly does not meet the new requirements. Farmer says Nohr would ask how much less it would be in square feet. Thagersrom states that is pretty close, but they had to narrow it and make it longer in the back; right now it is about 7,200 square feet and the stores are usually probably 7,500 square feet. Farmer states that they have then made some accommodations in design.

Clemence asks if they believe they need the variance in order to make it economically viable. Thagerstrom says that the option is if they can't get this size, they would have to reduce it even more because of parking requirements. It wouldn't make it feasible for O'Reilly's to even do this renovation. Clemence adds that it is because the size of the lot. Farmer states that if they hadn't reduced the building from the normal size, this would be a self-created hardship, but they have trimmed down to accommodate the site. Thagerstrom says if they can't get the variance they would probably work with the old building.

Speaking in opposition: none

Cherf: The unique property limitation is that it is located in the flood fringe and requires fill that requires larger setbacks of 15 feet around the perimeter. There is no harm to the public interest; this will be improving the location as well. The unnecessary hardship is the size of the lot and this is not a self-created hardship. We need to grant two variances and the first one would be a variance of a 9 foot setback on the north side and a 4 foot setback on the west side to the 15 foot requirement of elevated fill beyond the limits of the structure. Farmer adds that the building is a smaller size than their normal, so they've already made some accommodations. Haefs adds that the number of the appeal should be stated and Farmer adds that this is for File 2601.

Cherf moves to grant the variance based on the previously stated reasons and Haefs seconds the motion. The motion carried by the following vote:

Yes: 5 - Farmer, Cherf, Clemence, Haefs, Gentry

Excused: 2 - Nohr, Selover

2602

An appeal regarding the requirement to provide 7,200 square feet of lot area for a lot created after 1966 at 1003 25th St. S., La Crosse, Wisconsin.

Brent Thielen, still sworn, states that the owner has applied for a permit for a new

single-family dwelling located at 1007 25th St. S. The owner of the two lots is proposing to relocate the existing lot line. Both lots are currently conforming lots with approximately 7,500 square feet of lot area. The proposed lots will have 8,237 square feet for one and 6,740 square feet for the other. The structure designed for the existing lot is too large. Moving the lot line to accommodate the proposed dwelling would constitute a self-created hardship and the variance should not be granted.

Municipal Code Section 115-142(c)(2) states that every lot in the single-family residence district of record before August 27, 1938, may have an area of less than 5,000 square feet. Every lot in the single-family residence district of record between August 27, 1938 and September 15, 1966, shall have a lot area of not less than 5,000 square feet. Every lot in the single-family residence district not of record on September 15, 1966 shall have an area of not less than 7,200 square feet. For this project to proceed as proposed, the Board would have to grant a variance of 460 square feet to the total lot area requirement for the property at 1003 25th St. S.

Cherf asks when this residential area was plotted and Thielen responds that it originally was after 1966, but it doesn't matter because they are changing the lot area, so it will fall under the very last one. Farmer states that the lot would then be around 6,800 square feet and he asks if there are any other lots two or three lots away that are similar to this; Thielen shows the two lots on the certified survey map and says that the lot to the south is 50 by 150 and he points out that most of the lots around are that same size. Farmer states that it looks like the lots across the alley are the same size as well and Thielen states that one across the alley is zoned heavy-industrial. Farmer states that he cannot see measurements, but it looks like the ones across the street are also lining up.

Thielen says the next slide shows that the lots are zoned R1. He points out that it is 1003 and 1007 now. Farmer asks if this was one lot with one house on it and Thielen states that it was two lots with one house, which he shows a picture of on the next slide. Thielen states that it is an aerial of the existing house that was demoed. Farmer says that it sat on both lots; he adds that he did not think that you could do that. Thielen states that it was probably built when that was ok. Lot line running through the house, there was a problem of this. Farmer states that in his day-time job, he just got done with a lawsuit where there was a lot line running through the house. Thielen states that they find lots all over the city where there are lot lines running through structures that were built years ago and if they want any permits now they have to move the lot line or they can't do it. They have to combine the lots. Farmer says it would solve the problem. Gentry asks if it had a caboose in the house. Someone from the audience shouts that it was a caboose. Thielen then shows a picture of the lot as is now vacant. Someone from the audience shouts something (unintelligible).

Speaking in favor:

Mark Torgerud, owner of Kratt Lumber Company, 1714 16th St. S., La Crosse, is sworn in to speak. Torgerud states that they purchased these lots in good faith from the City after negotiating and going through the planning and development board. In the purchase agreement it specifically said that they needed to resize the lot because they had a house that was presold in order to buy the lot. Farmer asks if he has a copy of the purchase agreement and Torgerud gives one to each of the Board members. Clemence asks which house is presold and Torgerud responds that it is the one that's too big. He says that is the one they need to resize the lot for and then they were planning on using a City house plan that has been used on 40 foot wide lots. Torgerud also gives a copy of the minutes of the meeting along with the purchase agreement.

He says that it is the meeting where they had to get approval to buy the lot; it was the Community Development Committee that approved the sale of the lot to them with his contingency to change the lot line. Torgerud says no one mentioned that anything about the lot size needing to be 7,200 square feet.

Torgerud states that the two lots directly across the street is 6,400 square feet with a duplex on it and what they are proposing is that lot 1007 would be 55 feet wide, 1003 would be 45 feet wide, and the lot next to that is 50 (wide). Around the corner, less than a block away, those sizes are mirrored. Farmer asks who bought the lots and Torgerud responds that his company bought the lots. Farmer asks if they are building the house for Mike Kratt and Torgerud responds that Mike is moving from Shelby to La Crosse. He adds that Mike has a very specific requirement for the home in that he wants an attached garage. In order to put on an attached garage on where there is already an access point on the right-handed lot, in order to make it useable with the cottage plan he had to widen a lot to conform to what Mike wanted. Torgerud states that he knew that going in when he bought the lot.

Farmer says that the contingency he mentions is C – that building permits need to be obtained within six months; there is nothing that says 7,200 square feet. Torgerud states there is nothing that said the lots had to be 7,200 feet. When he went to get the permits after he had the lot surveyed, they rejected the permit based on the fact that he was making the other lot too small, which was the first time he had ever heard of that. Farmer asks if Torgerud has a picture of what they will be building on the smaller lot and Torgerud states that he has plans for both of them. Farmer states that the house that is going to be built for Mike Kratt will surely be nice, but what the Board wants to avoid is creating a problem on the other lot. Torgerud shows the plans and says he has supplied the material on many 40 foot lots for the City and says it won't look out of place next to the one for Mike Kratt.

Farmer asks Torgerud if he is saying that he is not making a problem with the smaller, substandard lot because we have built these houses before; Torgerud agrees. Torgerud says that in dealing with the City on buying that lot, they didn't mention the limit. Farmer states that he understands that, but it is not their job to enforce that part of the Code, and this Board is not bound by their perceived ineptness. Clemence asks if he is also saying that he can't build the house that they want on the other lot if they are restricted to 7,200 square feet. Torgerud says that if he leaves the lots as they are, he cannot build the presold house. The hardship is that he has to build two spec. houses and sell them, which he is not prepared to do and then he'd have to come back to the City and sue the City to buy the lots back.

Farmer says that nowhere does he specify the square footage of the house that is presold; Torgerud says it is specified in the original...Farmer says that what he is getting at is no one knew either way; no one knew that this little problem was going to occur at the time of the sale. Gentry says counter offer two requests to resize the lots. Cherf says the City's first counter offer was denied; counter offer two by the purchaser requested the resizing. Torgerud says the actual purchase agreement is signed by the Mayor and City Clerk who is supposed to know the ordinances. Farmer asks Gentry what OTP means and she responds that it is "offer to purchase."

Farmer asks if the counter offer accepted and Torgerud states that the only way he could purchase the lots if they accepted his counter offer and the agreement was signed. Farmer states that it is on the second page of the minutes: "accepting the second offer to resize the lots contingent on one of the two houses being built following the plans presented." Farmer states that it binds them, but not this Board.

Clemence states that we have Bodies that make judgements because people make mistakes; Farmer adds that we are here for those mistakes.

Speaking in opposition: none

Cherf: As I see it, for item 2602, the unique property limitation is the property line based upon the CDC's accepted and specified offer which does create an undersized lot. The unnecessary hardship acknowledges that there are other lots in proximity to this that are similarly sized. There's no harm to the public interest for the same reason. Additionally for unnecessary hardship once again, the CDC accepted the counter-offer that creates the hardship and they acknowledged the resizing of the lots. If we are to grant this variance we would have to approve a variance of 460 square feet to the total lot area requirement for lot number 3 of the property.

Clemence moves to approve for the reasons previously stated. **Gentry** seconds. The motion carried by the following vote:

Yes: 5 - Farmer, Cherf, Clemence, Haefs, Gentry

Excused: 2 - Nohr, Selover

Adjournment

Meeting adjourned at approximately 7:42 p.m.