



City of La Crosse, Wisconsin

City Hall
400 La Crosse Street
La Crosse, WI 54601

Meeting Minutes - Final

Board of Zoning Appeals

Wednesday, June 20, 2018

7:00 PM

3rd Floor Conference Room

Call to Order, Roll Call

Chairman Nohr called the meeting to order at 7:00 p.m. and explained the Board of Zoning Appeals meeting procedure.

Present: 5 - James Cherf, Charles Clemence, Carol Haefs, Philip Nohr, Lu Selover

Excused: 2 - Douglas Farmer, Anastasia Gentry

Variance appeals:

Chairman Nohr opened the public hearing.

[2608](#)

An appeal regarding the regulation that wall signs must face the principal parking lot or street at 322 Causeway Blvd., La Crosse, Wisconsin.

Brent Thielen, 400 La Crosse Street, representing Fire Prevention & Building Safety, is sworn in to speak. The owner is proposing to install a wall sign that does not face a street or the principal parking lot. Municipal Code 111-94 states that wall signs may be placed on no more than two walls and only face a public street or the principal parking lot of the structure. A variance to allow a wall sign not to face the public street or the structure's principal parking lot will need to be granted to allow this project to proceed as proposed.

Thielen shows the building and the proposed sign. He points out that City Brewery is leasing part of the building that also houses S&S Cycle on the Causeway Boulevard. The sign will be below the S&S Cycle sign. He shows a picture of the structure from an aerial view and points out the property line and shows that it abuts a separate parcel (where the sign would face). He shows a view from the Copeland Avenue looking over toward Midwest off-road and the building where the sign will be put.

Nohr asks where are the other signs; Thielen points out the S&S Cycle sign that is already there. Nohr asks if there are two other signs and Thielen states that it is the only sign that is on the building now. Nohr confirms that they technically could have one facing the street. Thielen states that they have a projecting sign on that side, but it doesn't count as a wall sign. Nohr asks if this is an industrial park and asks if these ordinances apply in these areas as well. Thielen states that the sign ordinance applies everywhere. Clemence confirms that a protruding sign facing the street would be legal and Thielen states that they have been given a permit for one, but they are waiting to see if this variance is approved before they put it up.

Clemence asks if the area where the sign is going belongs to the owner and Thielen responds in the affirmative. Clemence also asks if they could put a projecting sign there and Thielen says they already have one projecting sign on the other side; they

could move it, but the projecting sign is not very big. The wall sign would be bigger. Cherf confirms that they would only be able to put one projecting sign up and he asks what the purpose of the sign will be and Thielen states that the owner can answer in detail. Nohr asks if the projecting sign would have to come down if the Board were to approve this sign and Thielen says they would not; they are allowed to have both, but they actually haven't put the projecting sign up. They are waiting to see if this one will be allowed. Clemence says the projecting sign will be a lot smaller and Thielen agrees and states that there are a lot more limitations on projecting signs and size is one of them. Thielen states that he doesn't know the exact footage for the projecting sign, but it is 5 by 8 for the wall sign. Haefs confirms that the S&S Cycle sign is already there and the City Brewery sign will be added.

Speaking in favor:

Scott Phillips, N7103 Birch St., Holmen, is sworn in to speak. Phillips said Brent did a great job explaining. He says that they haven't put any signs up yet. If you are driving south, you turn right onto Causeway Boulevard and right now the trucks have no idea where City Brewery is. Phillips says they have the east side of the building, which he calls the high bay. S&S Cycle is on the west side at the low bay. He says he talked to the City about putting a sign on the north side, but it wouldn't do any good because by the time the trucks see it they are already turning around. The sign is to clarify the location; it will be put below the other sign. He adds that there is no harm to public interest; it is just an aluminum sign without lights.

Phillips says they do want to put a smaller sign where the truck drivers would go in like Brent said. The sign would project out from the building and be the location drivers would enter to for the check-in area. Phillips says the dock doors are just west of there. Phillips says they are just putting up those signs. Nohr asks if it is a painted sign and if it can be removed. Phillips responds that it will be similar to the S&S Cycle sign, but with a white background and it will not be illuminated. Nohr says he asked if it can be removed in case there will be different tenants in the building. Phillips responds that George Parks bought the building and City brewery is leasing one half and S&S Cycle has a 25 year lease. City Brewery is actually George Parks' business. Nohr confirms that in the future the sign could be removed.

Cherf asks if the purpose of the sign is for wayfinding and Phillips responds that it is a sign so the truck drivers know where to go. Cherf confirms that City brewery has the east side and S&S Cycle is in the west section. Phillips states that the side that is shown in the picture is the brewery's side. Nohr asks where they want the trucks to pull in and Phillips responds that they pull in down farther at the dock doors. Thielen shows the aerial view picture on the projector and Phillips states that the brewery has 5 bays and S&S Cycle has 4.

Speaking in opposition: none

Cherf: regarding item 2608, an appeal regarding the regulation that wall signs must face the principal parking lot or street at 322 Causeway Blvd., La Crosse, Wisconsin, I would move for approval for a variance to allow the wall sign not to face the public street or the structure's principal parking lot. The unique property limitation is that the building is used as a warehouse for semi trucks coming in from outside the community and having to locate this property. From the site plan and photo of the property, clearly there would be a benefit to have a way-finding sign on the side of the building to facilitate those foreign trucks coming in to pick up their deliveries. There is no harm to the public interest; there's already another sign on that side of the building. The unnecessary hardship is being limited to a very small protruding sign on the

other side does not help with the way-finding function that this requested sign serves.

Haefs seconded.

The motion carried by the following vote:

Yes: 5 - Nohr, Cherf, Clemence, Haefs, Seloover

Excused: 2 - Farmer, Gentry

[2609](#)

An appeal to allow a concrete parking pad/driveway in the front yard at 131 26th St. S.

Thielen, still sworn, states the owner has applied for a permit to add onto his driveway. Municipal Code 115-143 (2) states that the entire front yard shall be graded, seeded, or sodded in a manner which will produce an acceptable lawn excepting such areas as may be required for driveways and sidewalk. Municipal Code Section 115-395 prohibits parking of any automobile, truck, motorcycle, boat, trailer, or other motor vehicle in the front yard of the premises. Two variances will need to be granted for this project to proceed as proposed: a variance to allow paving of a nonrequired driveway in the front yard and a variance to allow parking in the front yard on a nonrequired driveway.

Thielen shows a plan of the property and points out the house and shows that the area that is going to be paved. Nohr asks if that makes room for a vehicle. Thielen say it adds enough room. Nohr asks why the line for the pavement goes so far into the street and Thielen says he is not sure. Thielen shows an aerial picture and points out the curve of the current driveway. He adds that you can see from the front of the house that they will continue the paved area down the outer sidewalk line. Clemence says it used to be that if you wanted to park in the front yard you had to meet certain conditions and you had to have a design approved by the Heritage Preservation Commission; Thileen responds that those are for Losey Blvd. only; there are 18 square feet you can add, but only on that street. Clemence responds that the rule is strange, but they should apply to the whole city. He adds that it explains why it didn't come before HPC.

Speaking in favor:

Dan Claussen, 131 26th St. S., is sworn in to speak. Claussen says they are trying to take the very little piece of grass (he points it out in the picture) and take the sidewalk out that the garbage cans don't even fit on. Claussen says there are nine feet to the boarder of yard. It would allow them to park their second car off the street which is what they are looking for. Nohr asks if he cannot park it in the driveway right now; Claussen responds that if there is a car in the garage they would have to move the car in the driveway to get it out of the garage and that is what they are trying to eliminate that aggravation.

Nohr asks if they have talked to neighbors; Claussen responds that she is here. Seloover asks if they are they paving to the lot line and Claussen responds that they are allowed to do that; he adds that they did spend the money to have it surveyed so they know where the lot line is. Claussen clarifies about the outlined area in the plan, which is actually the survey of the property; he says it goes out far because it will go to the curb – they have no sidewalk, so part of their front yard is considered in the public right-of-way. Claussen says they have already met with Engineering and the Board of Public Works have Okayed it. He says that this Board needs to ok the parking in front yard and have a non-central driveway. Nohr asks if the permission they received was to go beyond the curb and Claussen reiterates that the City has right-of-way in their front

yard because there is no boulevard or sidewalk there.

Thielen tells the Board that Claussen's inspector did say that he had permission from BPW to do what he wants to do. Nohr asks if that means there is no plan for sidewalk there and Claussen responds that the sidewalks are on the opposite side of 26th Street; he never has had a sidewalk for the 32 years they have lived there. Claussen adds that the two neighbors that are here in support actually had sidewalks taken out which the City approved of and said they would never go back in. Nohr asks if the hardship is that they have a second vehicle. Nohr states that they have three criteria to meet and Clemence adds that he is having a hard time seeing the hardship.

Nohr asks if the hardship is having to park on the street. Claussen says as he grows older that is going to become more of an issue and he says within one block there are seven properties that have done what he is asking to do. Haefs says they must've gotten variances; nor says maybe they were done before the ordinance. Cherf asks if there are any rules for the setbacks for property lines for driveways and Thielen responds that there are none, but you can't pitch it toward a neighbor's property so water runs on neighbors, the water will have to go on owner's own lot.

Kathy Accola, 129 26th St. S., is sworn in to speak. She states that they see what they are doing as being very positive and she understands what Dan said. Accola says you can't fit a walker up those sidewalks, and if you park on the street you have to move your car in the winter and as an older individual it can be a problem. Accola says she doesn't see any differentiation with the project; she doesn't have any discomfort with the project. She understands the issue about the sidewalk, but she hopes that they won't put them back in.

Speaking in opposition: none

Cherf: for file 2609, an appeal to allow a concrete parking pad/driveway in the front yard at 131 25th St. S., the motion is to refer it for 30 days (next meeting date 7/18/18).

Clemence: with a friendly amendment to have staff let them know what the concerns of the Board are regarding the project being more aesthetically pleasing.

Haefs seconded.

The motion carried by the following vote:

Yes: 5 - Nohr, Cherf, Clemence, Haefs, Seloover

Excused: 2 - Farmer, Gentry

2610

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 733 Kane St., La Crosse, Wisconsin.

Thielen, states that the owner has applied for a permit to construct a new multi-family apartment complex. Municipal Code Section 115-281 (3)(a)(1) states that the lowest floor level of the structure shall be elevated to the flood protection elevation (2 feet above Base Flood Elevation) and the fill surrounding the structure shall extend a minimum of 15 feet beyond the limits of the structure at 1 foot above BFE. To allow this project to proceed as proposed the Board would have to grant a variance to allow the encroachments of numerous sets of stairs and an ADA ramp in the 15 foot fill requirement area.

Thielen shows the floodplain map and points out where it is going to be built; he shows a plan of where it is and what it is going to look like. He adds that the architect is here with a large set of plans. Nohr asks if they are going to meet the fill requirements and Thielen responds that they will, except for stairs and ADA ramps because it is going to be so high above the ground. Nohr says they will be on top of the fill, but they will cut into it (he points out the fill, the ramp, and all of the stairs). Cherf says the staircases will be cut into that fill, and Thielen states that he is correct. Thielen says the sidewalk around the building will be five or six feet above the street because that is how high it needs to be filled.

Clemence says the structure is above flood elevation, but the stairways and ramps won't be. Seloover says they do have 15 feet to go around, and Thielen points the perimeter out on the map and says just the stairs will cut in. Seloover asks if all of the stairs are to apartment doors and Thielen responds that most of them are to get up to the lawn and sidewalks for access to the structure and ADA ramps for the small parking area. Per State Building Code you have to get from the structure to 50 feet away or to a public sidewalk, so the stairs are needed. Nohr asks if they have to meet any parking requirements and Thielen responds that all of that went to other committees for approval, so parking is not an issue. Nohr states that it looks like pretty limited parking; Thielen says there are 50 units. Nohr asks if it will be senior living; Thielen says it may be market rate and some for helping homeless vets. He says the architect will know more.

Speaking in favor:

Chris Rappe, 201 Main Street, in La Crosse, is sworn in to speak. Rappe states that he is the architect here on behalf of client, Impact Seven. Rappe shows a large map of the project. He points out the apartment building; he says the building is siting along the edge and at the property line they will have a retaining wall to raise it out of the floodplain. The finished floor is of the building is the required two feet above base flood elevation (BFE) for this area. In general the retaining wall is 15 feet out from the building at 1 foot above BFE. Rappe says the steps cut into the 15 feet because they need the required access to units and the required ADA access to the building.

Nohr asks if there is a walkway at the top of the access points and Rappe responds that there is a walkway to the various building's doors; he points out the stairways and the main access to the building which has the ADA ramp there. He points out other stairs serving individual units which have to do with the type of occupancy they are designed for – these units are required to have individual access from the public right-of-way. Cherf asks who are those for and Rappe says it is more based on low-income and some are for homeless veterans. In order to get some of the funding for the project, for 30 years it will be for those purposes and then it could become market rate. Cherf asks if some of the steps are from street level and if some others are inset. Rappe responds that it has to do with the grades around the building to keep it more consistent around the edges; they come down to meet the existing grades around the site.

Nohr asks if the a number of access points are in case of a fire and Rappe says that is also part of the reason for the number of access points. Clemence asks if it is one story or two and Rappe responds that it is two. He adds that they looked at a couple different options. They looked at three stories, but it was kind of unfeasible because of project costs and they looked at extending and taking up the other half of the block and getting a larger footprint, but it was not feasible either; this was the best option. Nohr asks what the inset shows; Rappe says it is a community center that goes with

the project below it, but the variance needed on apartment portion only. Clemence says that Rappe stated that cost for three stories was the issue, but the application says the City was against three stories. Rappe said that part of it was the cost and since it was raised up five or six feet the building would be very high. Nohr asks if there is a lot of public funding. Rappe says it may be does not know really the funding portions.

Thielen states that Michelle Staff, the State DNR coordinator, sent a letter and he just wants to make sure the Board looks at them; one for this project and one is for the next. Cherf states that someone from the DNR is actually here. Michelle Hase with DNR is sworn in to speak. She states that she is the Regional Engineer, but is here on behalf of Michelle Staff who drafted the letters. She states that she is here to watch the process and to answer questions; she is not necessarily for or against the projects. Nohr asks if there would be any objections they would be in the letters; Hase responds that they are in the letters.

Speaking in opposition: none

Cherf: the motion for file 2610, an appeal 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 733 Kane St., La Crosse, Wisconsin, the motion is to allow the project to proceed as proposed by granting a variance to allow numerous sets of stairs and an ADA ramp in the 15 feet of fill area. The unique property limitation is because of the elevation that is needed to get up to the structure. There is no harm to the public interest. This is a unique physical setting. The unnecessary hardship is the fact that it is in the floodplain and they are doing everything to bring it out of the floodplain to allow this project to proceed.

Clemence seconded.

The motion carried by the following vote:

Yes: 5 - Nohr, Cherf, Clemence, Haefs, Seloover

Excused: 2 - Farmer, Gentry

2611

An appeal regarding the requirement to provide 15 feet of perimeter fill around an addition and an appeal to exceed 50 percent of the assessed value of a nonconforming structure for an addition and remodel at 712 Cliffwood Ln., La Crosse, Wisconsin.

Nohr states that he wants to make it known that it is a neighbor of his, but he believes that he can be unbiased in his judgement.

Thielen, still sworn, states that the owner has applied for a permit to construct an addition at this address. Municipal Code Section 115-281 (3)(a)(1) states that the lowest floor elevation shall be at or above flood protection elevation and the fill shall extend 15 feet beyond the limits of the structure at 1 foot above the Base Flood Elevation. Municipal Code Section 115-222 states that no modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50 percent of its present equalized assessed value, shall be allowed unless the entire structure is changed to a conforming use in compliance with the applicable requirements of this division. For this project to proceed as proposed two variances will need to be granted: a variance of 15 feet to the 15 feet perimeter fill requirement, and a variance to allow the owner to exceed the 50 percent threshold by \$100,000 or a 64.5 percent for this structure.

Thielen points out where the addition will be placed on the back of the house. Nohr asks if it is the existing structure and Thielen states that it is. Nohr then asks if the addition is more than 50 percent and Thielen states that it is what is on the plan; it is more than 50 percent of its present equalized assessed value of the structure. He shows where the house sits in the floodplain area. Nohr asks if the addition is going to be in the floodplain and Thielen states that the hashed area in the picture is the floodplain area – because the building is partially in the floodplain, they have to enforce the rules like the whole parcel is in the floodplain, even though the section may not be in the floodplain.

Cherf asks if the addition is on the south side of the structure and Thielen responds that he is correct. Nohr says it looks like there is a deck there now and Thielen says they are going to take it off. Nohr says that Thielen said in his initial comments that the building is nonconforming; Thielen says it is in the floodplain so that makes it nonconforming. Thielen says it was probably built before floodplain regulations went into effect, so it is called a nonconforming structure. Cherf states that he wants to know for certain if the house weren't already existing here... Thielen says the whole thing would have to meet all of the floodplain regulations, like raising it out of the floodplain, 15 feet of perimeter fill, 2 feet above BFE, not allowed to have a basement, all of that.

Speaking in favor:

Eugene Linse, 712 Cliffwood Dr., is sworn in to speak. Linse says that the entire 7.5 feet of addition is not in the floodplain; he says that the maps given to him by City were different, but he didn't bring them along. Thielen says he doesn't know what Linse was given. Nohr states that the only maps that are truly official are FEMA maps and they don't have addresses listed on them, they tell you to leave that up to the lending institution to decide. Nohr says the City tried to overlay the addresses on map, but FEMA did not allow that. Linse states that if we had the map that he submitted, the 7.5 feet of the addition is not in the floodplain. Linse says the exception to the 15 foot of fill was based on the idea that the proposed addition was not in the floodplain, there's no need to have a 15 foot bank. There would be a high bank in the back of the house which is not in the floodplain, and there would be no bank in the front which is in the floodplain, so it doesn't make sense.

Nohr asks what his plans for the addition are and Linse responds that it is for an expansion for a kitchen, so that is why the monetary portion is large. Linse says there's a deck back there which will be replaced at a smaller size. The reason he is going for 7.5 feet is because code will allow it without needing a rear yard setback variance. Linse says he doesn't have architectural drawings yet because he doesn't want to spend money if he can't do this; he wants to see if this is approved first. Any addition will be less than 7.5 feet and he will spend less than \$100,000. Nohr asks if the addition will be at the same elevation as the existing and Linse responds that it will, otherwise they would have two levels in the kitchen.

Nohr says they have an elevated deck in the back and Linse says it is at the same level as the inside of the house, but it is elevated off the ground. Nohr asks if this addition will be off the ground and Linse responds that there would be a cement crawl space under it. Nohr asks about the area of the proposed addition and Linse says it would be 7.5 feet by 29 feet. Nohr asks where the existing kitchen is and he points out that it is adjacent to the planned addition; they really just want to widen the kitchen as it is now. When they bought the house it wasn't in floodplain and they never had to get flood insurance and now it is in the floodplain. The effect on the neighbors will be nil,

because based on his map the addition will not be in the floodplain.

Nohr asks if he has talked to neighbor to the south and Linse says he is aware of it and as far as he knows, the neighbor is fine with it. Cherf says the board has a copy of the parcel information, but not the assessed value; he asks what the value would be and Linse responds that it is around \$175,000. Clemence asks if they have a certain amount of time to build and there are multiple responses that it is 180 days. Clemence asks if they can meet that and Linse says they will be able to do it this fall. He again points out that the proposed addition is not in the floodplain and says there is an ongoing battle with the floodplain stuff. Linse says they are optimistic that the floodmap is going to get redrawn and they will hopefully be out of it when the next version comes. Linse says, in any event, it is his risk and he will pay more taxes and if he winds up selling it then the buyer has to buy flood insurance, which is life.

Linse says this is a benefit to the City and there's no harm to his neighbors and from his standpoint he sees no problem. Nohr asks if the proposal is to make deck smaller; Linse says they will make the deck smaller and they probably won't even use all of the 7.5 feet, they just need a bit of width to the kitchen. Nohr asks if the exterior will be finished in the same manner as the rest of the home and Linse says the siding and roofing will match what is there now. In theory, with the floodplain requirements, there are houses that can't put new windows in or no new roof by this code. Everyone just ignores it, but if you follow the letter of the code it is devastating.

Nohr asks if Linse was able to see the letter that the DNR wrote to the Board. Linse says he did not and Nohr allows him to read it. Selover says with the \$100,000 and the assessment at \$175,000...inaudible...Linse says there is more to the equation than that though, any previous improvements you've made count. Thielen states that the percentage is over the lifetime of the structure. Nohr asks if Linse is aware of any additions to the structure and he responds that they put new windows and siding up. Linse says someone at the City did the math and based on what has been used over the lifetime of the property, the limit is 5,000. Nohr asks him if he disputes any of the City's testimony. Linse says he doesn't dispute anything other than the maps that were initially given were different regarding where the floodplain boundary is.

Nohr asks Brent why he was given two different maps. Thielen says he doesn't have any info on the maps, it wasn't included in his packet and the one in the PowerPoint was pulled off the floodplain website. Linse got his maps from another inspector. Cherf says in either case at least part of the structure that exists is in the floodplain; Linse agrees, but says the addition is not. Linse said the question is whether the addition is and if you look at the one he was given, the difference is the probably in the southeast area. It might be more or less close to the corner or the area. That corner not in the floodplain and when he adds on it will also not be in the floodplain. Cherf asks isn't whether the addition is in the floodplain, it is because the existing structure is in the floodplain. Linse says the reason it is relevant from his standpoint is if the addition is not in the floodplain, it is rather bizarre that he have the bank. Haefs asks if Thielen said that part of the house is in the floodplain they have to enforce that the whole thing is in the floodplain. Thielen says the photo is for reference only, without an actual survey showing the floodplain lines are, they have to enforce it this way.

Hase is asked to come forward to answer questions. Nohr says the letter leaves the impression that this project would possibly cause the City to encounter difficulty meeting FEMA standards and it could a review by FEMA. Hase says FEMA reviews all of floodplain variances and the DNR was involved as well. They have a process and if they don't agree with the Board's decision, they could go through their enforcement

process – the DNR and FEMA are a little different with their actions. The DNR does not regulate the national flood insurance program. Hase says the City has participated in the community rating system which means the City has pledged to adopt stricter standards and do public outreach and go above and beyond in the floodplain regulations to lower flood insurance rates. Hase says FEMA does their review to see if the City is meeting the spirit and intent of the ordinance and the spirit and intent of the community rating system. If the City is not, FEMA can suspend the City or bump the City (from the flood insurance program). The second thing is does the City meet the spirit and intent of the ordinance to participate in the national flood insurance program.

Hase says FEMA is looking at the variances and making sure they meet the three criteria the State requires, along with the things that they require; if there is a history of the City not following those criteria, they may start suspension from the insurance program. Nohr asks if she is representing the State and not FEMA; she says she is representing the State DNR. Hase says the interesting part here is the 50 percent rule, which is actually a federal requirement, so it is not in any of the State Statutes or Codes, but it trickles down where FEMA's regulations need to be met. This is why they commented in the letter that FEMA may do these things (suspend or remove), but they don't know for sure because they are FEMA and not State regulations.

Hase says the purpose and intent is to limit the amount of monetary risk if they are continually improving structures in the flood zone. There might be more money that FEMA would have to spend after a disaster occurs. The purpose and intent is to make sure if you hit the 50 percent, then you bring your structure into compliance and therefore mitigating the risk. Hase says that is an option for this structure – they could bring the rest of the property into compliance and they do not have to worry about the additions and modification. Cherf asks if she means that another option is that the homeowner could go through the necessary steps to bring the structure out of the floodplain; he asks if it would bring it out of the floodplain. Hase states that it would still be in the floodplain, but it would meet the minimum flood-fringe development standards.

Hase says she understands that Linse doesn't want to spend a lot of money before he came before the board, but it is difficult to comment on a project if you don't have a survey to show where that floodplain boundary is and how much of the structure is in and is there a basement and what is its elevation, and how difficult would it be to bring the structure into compliance as opposed to getting a variance from the 50 percent rule. Nohr asks if one way to meet the requirements is to become compliant; Hase states that there are two requirements: the basement floor has to be at or above BFE and the first floor has to be 2 feet above BFE. Nohr asks about the basement being filled to be part of the elevation calculation. Hase says you would fill it to the floodplain elevation; if the basement is 7 feet below, you would have to fill it 7 feet and probably lose it if it was that far below. Nohr says the basement is part of the calculation; Hase says it is part of the calculation for meeting flood-fringe development standards, but it would not determine if you are in or out.

Cherf says in the hypothetical about the basement, you would also need 15 feet of fringe fill and Hase agrees. Nohr says this property is close to being totally out of the floodplain; it is on the fringe. He asks if they brought the property to the correct elevation and a LOM-R they could build it without any variance and Hase responds that they wouldn't need a LOM-R (letter of map revision). Most of the LOM-Rs are issued for larger properties where you are changing the map which is then reflected on the FEMA flood insurance map; most of these are so small that you couldn't draw it on their map. Nohr states that he is trying to think of options here and one would be in

compliance with floodplain standards. Clemence asks if they would have to fill the basement and Hase responds that they don't know what it would take because they don't have the exact elevations.

Nohr says this property touches his property on one corner and he is not in the floodplain, so that is how close this property is to being out. Hase says an option for them is to get a letter of map amendment (LOMA) and that means through a survey, you are showing that you are out per natural grade; some of these houses that were built in the 50s or 60s they were put on fill because builders were being smart, so the maps will show them based on old topography and they are not fully accurate. Hase says a survey is really what rules; a lot of people can get to do a survey and say they are on fill and FEMA will say they are then out, based on that letter of map amendment. That is without bringing in fill, it has to be natural grade; the LOMA officially removes a structure from the floodplain. Nohr says his other option would be to get it surveyed and he is above the BFE then he can get a letter of map amendment; Hase says he then wouldn't need this hearing.

Linse states it would've been nice to hear from them first. Linse says the DNR letter is a statement of the code and that puts you on one side or the other of the line. The purpose of a variance committee is to approve worthy projects that create unnecessary hardships. Linse says he has read the State code and variance rules and it is within the Board's authority to grant a variance; they are not bound by the State code. Linse says on 28th street they moved an entire house in and by code that can't happen because the value of the lot was 30 or 40-thousand and the value of the house was a couple hundred thousands of dollars. It is bizarre that the State would have a problem with his addition being that it is not in the floodplain and they didn't care about moving a whole house in to the floodplain. The Board did a variance on that one or it did not get a proper review. Nohr says that he believes that one went from flood hazard and went into flood fringe, but he doesn't know the full story on that one. Linse says his argument is if that one was ok, why can't this be ok.

Cherf asks Nohr if he would not be able to reapply for a year if the Board were to deny the variance, Nohr says that would be correct unless there was a significant change. Cherf says Hase said a letter of map amendment could be a potential cure for this issue once a survey is done. Cherf asks Linse if he would like to investigate. Linse states that he does not want to do that; he adds that Cherf is proceeding under the assumption that the elevations now are incorrect and he has no reason to believe that the elevations that the City has done are incorrect. Nohr states that he hired a surveyor and proved that his house was out of the floodplain; the reason why the City maps were wrong was because they used fire hydrants as data and they were inaccurate. Nohr states that he is not sure if Linse is actually in the floodplain. Linse says if he hired a surveyor and he proved that he was not in the floodplain he wouldn't have to come back here; Nohr says that he is correct and he says that it would be good to know if it was in or out.

Clemence asks Linse if he would be interested in the option if the Board would refer the item for 30 days. Linse says he doesn't know if the option gets him anywhere; if a surveyor demonstrates that he is not in the floodplain, he doesn't come back here. Nohr states that he would have to get a letter of map amendment and then he wouldn't have to come back to the Board. Linse says he is going to go with what the Board decides. If the City is incorrect and he is not in the floodplain, he doesn't need a variance but he would have to apply for a building permit. Clemence says that he does not see why that wouldn't be better. Hase asks if a building permit needs a survey anyway. Thielen states that he would need a preliminary survey based on construction

drawings that show where floor heights and perimeter fill are and then they'd need a finished elevation survey showing where the finished floor and the crawl space and that is for the addition only.

Linse asks if he would still need a survey if the variance is granted; Thielen states that he will still need elevations of the finished floor and crawl space for the addition. Linse says if the survey says he is at what is on the map...Thielen states that he doesn't know where the current structure is at. Clemence says that is why he asked about the referral, so Linse could get the survey. Thielen states what they accept is the survey from a licensed professional engineer. Linse asks Thielen if he has the elevations, to which he responds that he does not. Linse says his inspector had them; they are the elevations of the structure based on a surveyor. Linse says he is two inches enough on his elevation on the backyard to make it acceptable. It is all pretty close in the front and back either way. Linse says if he thinks that the board would reject it, then he should have the Board put it off for a month. Clemence says if they would reject it, he would be done for the year, but if it is referred, he would be back in business in 30 days and if the survey shows he is out of the floodplain then he doesn't have to worry about it. Clemence states that he would have to do a survey anyway. Linse says he is more concerned about running out of time. Clemence says it is better than waiting for the whole year; Linse says he would prefer a referral.

Speaking in opposition: none

Clemence: I move to refer the item for 30 days (next meeting date 7/18/18).

Haefs seconded.

The motion carried by the following vote:

Yes: 5 - Nohr, Cherf, Clemence, Haefs, Seloover

Excused: 2 - Farmer, Gentry

Other Business:

[18-0853](#)

Action on proposed update to Board Procedural Rules regarding special meetings.

A motion was made by Haefs, seconded by Clemence, that the proposed update be approved. The motion carried by the following vote:

Yes: 5 - Nohr, Cherf, Clemence, Haefs, Seloover

Excused: 2 - Farmer, Gentry

Adjournment

Meeting adjourned at approximately 8:47 p.m.