



City of La Crosse, Wisconsin

City Hall
400 La Crosse Street
La Crosse, WI 54601

Meeting Minutes - Final

Board of Zoning Appeals

Wednesday, July 18, 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 - Douglas Farmer, Charles Clemence, Carol Haefs, Philip Nohr, Anastasia Gentry

Excused: 2 - James Cherf, Lu Selover

Variance appeals:

Chairman Nohr opened the public hearing.

Roll Call

Farmer states that he has a conflict of interest on the first appeal; the appellant worked for the bank (Farmer's employer). James Cherf joins the Board to make a full membership of five on the board.

Present: 5 - James Cherf, Charles Clemence, Carol Haefs, Philip Nohr, Anastasia Gentry

Excused: 2 - Douglas Farmer, Lu Selover

2609

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

Brent Thielen, representing the Inspection Department, 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 that was submitted and shown last month. He shows an aerial view of the property. Thielen states that the applicant supplied some extra photos. He shows the existing plat and he points out the driveway and what will be added on. Nohr asks if this is the same proposal as last month and Thielen responds that it is the same. He shows photos, one coming from the south, one of the front of the house. He points out where the stakes and string lines are so you can see where the driveway will go. Thielen says they have already Engineering Department to go into the public right

of way with their driveway – because of the sidewalk issue. He shows another photo looking west from their property; it also shows where the driveway is going to be. He says it is another angle; they were looking east on the last one.

Speaking in favor:

Pam Claussen, 131 26th St. S., is sworn in to speak. Claussen thanks the Board for giving them the opportunity to revisit this and see what they could do to improve it. Claussen says she asked Matt Gallagher to come out to the house and they have worked out the way to meet the Code of the street right-of-way and they have moved the side over a bit. She points out a stake that is on the property line and they tried to move the stake at the curb. They would be using the zero depth and they would come curved around to stay within the property line and have some greenspace. Claussen draws a line with a laser pointer and shows where the edge of the concrete will sweep around to meet the City Engineering Code. It has a zero depth from the curb coming up and will come in and curve around.

Nohr asks if they have a drawing of the proposal and she shows the plan and says although it looks straight, but it will be curved from the curb inward. The new way of putting curbs in is you go to ground level or street level curve up and it fills and comes around to come back. Nohr says the drawing shows cement up to the lot line and asks if that is their intention. Claussen says there will be some green space between the lot line and the driveway near the curb, but it will be two to three feet long. To be able to park two cars in the middle, they do need to come to the lot line. She points out the garden space that will remain. She shows where the driveway will curve and that is where the string is located. She says the lot does not run straight at all.

Cherf says they are taking out the curb head and where that string is that is where the radius is. The radius will start at the seam and curve in. She agrees and again shows where the slope will begin and how it will curve. Cherf confirms that they are not paving a straight driveway all the way to a curb head, it is going to be a curb cut, so it will look like a driveway for a two-car garage, but they only have a one car garage. Claussen agrees and says it was at the suggestion of Matt Gallagher.

Clemence asks the reason they want to do this. Claussen says they would like to have both cars off the street in the winter as they get older. The second reason is more of a medical reason for her. She says they have spent a great deal of time remodeling the inside of the house and making it ADA compliant; there is no way at this point in time that a person with a walker or wheelchair would be able to get out of the garage. They have plenty of room for the sidewalk that will replace the current narrow sidewalk. It would fit a wheelchair and you would gain access to the garage. Clemence asks if she has a current medical need; Claussen says there is no immediate need, which you can see, but someplace down the road she will. Clemence says they have to provide a hardship, so that is why he asked. Claussen says they want to stay in the house in the future and she takes care of flowers in the garden and hopes to do so long as she can.

Nohr asks if she talked to the neighbor; Claussen says she was at the last meeting and stated that she was very much in favor; her only comment was “who is going to mow that strip of grass.” Claussen says it will be taken care of. Haefs says she would prefer if she puts more green space; Claussen says she thinks it can be done, but it would more difficult to get in and out. She points out where the City right-of-way is and says they have been granted permission to do as they are doing. Claussen asks if Haefs means that she would approve of concrete only from the garage halfway to the street. Haefs says the Board has approved these in the past and she doesn’t believe

Claussen would park many cars there, but other people have parked three or four cars in the driveway. Clemence says the Board also needs to find that the variance is not contrary to public interest and generally it is not a good idea to have people parking the front yard. Clemence says if they are going to make an exception, they have to...personally I have a lot of sympathy because I have a one-car driveway and don't have parking on either side of the street. Claussen says she understands that and if you'd look at the driveways down their street have boats and trailers in driveways.

Nohr confirms that there has been testimony that she has invested other money in the home to make it accessible and asks if she can mention what some of those are. Claussen says right now it is a walk-out basement kind of plan. They have done everything so if they cannot use the downstairs they can do everything on the first floor. She says they took out a wall between the kitchen and dining room so there is a larger area to go through; the hallway to the house was made wide enough for a wheelchair. Cherf asks how wide the doorways are and Claussen says she is not sure. She adds that they have done inside of the house because they want to stay in the house.

Doug Kerns, 4162 Pfeffer Valley Rd, La Crescent, representing the Engineering Department, is sworn in to speak. Kerns says he is in charge of issuing the permit. Kerns states that he is neutral on this, but wants to clarify a couple of things. Specifically what the Engineering Department does is they issue permits for curb cuts and the permit he issues is from the curb to the property line. The original permit was denied because this curb cut has to meet the other code requirements like front yard parking. Typically he doesn't issue permits when he knows it is going to infract another part of the code. Kerns says the homeowners went the Board of Public Works to permission for the cut; part of that decision was to then get approval from BOZA to park in the front yard. Kerns says putting the concrete there doesn't require a permit, but the ability to park there does require approval from the board. He will issue the curb cut permit if the Board allows the parking there. Nohr says that clarifies things.

Speaking in opposition: none

Cherf: in regard to file 2609, for 131 26th St. S. we need to grant two variances. The first variance is to allow a nonrequired driveway in the front yard and the second variance would be to allow parking on said nonrequired driveway in the front yard. We discussed the unique property limitation which is there is an inability to expand the garage and to accommodate two cars across, it needs a wider driveway, but they can't comply by adding a garage space. There is no apparent harm to the public interest in allowing this parking for their usage. The unnecessary hardship is that if we don't grant this variance, we are not helping facilitate the Americans with Disabilities Act accessibility for the home, which the homeowner indicated was a concern and a potential necessity.

Gentry seconded.

The motion carried by the following vote:

Yes: 4 - Nohr, Cherf, Clemence, Gentry

No: 1 - Haefs

Excused: 2 - Farmer, Seloover

Roll Call

Farmer returns to the Board for the remainder of the appeals.

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.

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 shows a drawing of the property and he points out the proposed addition. He shows an aerial view of the property with the floodplain overlay and says the hatched area is in the floodplain. He also shows an aerial picture of the house on the lot. Thielen shows a picture of the front of the house and letters from DNR Michelle Staff. The next picture he shows is of an elevation certificate. Nohr says there was testimony at the last meeting that there are various maps that the City is using for floodplain ...Thielen says Michelle Hase at the DNR sent the City's Floodplain Manager some extra maps yesterday and he has them in the PowerPoint.

Nohr asks if it is nonconforming because it is in the floodplain; Thielen says that he is correct. Nohr then confirms that if it were not in the floodplain the 50 percent rule does not apply; Thielen again says that is correct. Nohr says unless the house is changed to a conforming use in compliance with the requirements of the division; he asks what that means. Thielen responds that the entire house would need to be brought up to code with filling in the basement and making sure the first floor is at level and putting in 15 feet of fill. Nohr says they would have to complete all of those requirements unless they can prove they are not in the floodplain and Thielen responds that he is correct. Thielen says that the Floodplain Manager is here today for floodplain questions. Thielen then shows additional photos of the house and then shows a map that depicts flood fringe and flood way; one is red and the other is blue.

Speaking in favor:

Gene Linse, 712 Cliffwood Ln, is sworn in to speak. Linse says they purchased the home in 1980 and at that time they were not in the floodplain and did not require flood insurance. The floodplain boundaries are not black and white and as it stands right now they are in the floodplain. Linse says he has not seen the blue and red map; the first map that they were provided showed that their addition is not in the floodplain because it cuts right through their lot. As a result the rules apply because a portion is in the floodplain, but from a practical standpoint it does no harm to anyone else because the actual addition is not in the floodplain. Linse says there is some precedent because there was a home moved into the floodplain on 28th Street a few years ago and it was moved wholly in the floodplain.

Nohr says they have an elevation certificate, and asks if it is in or out. Linse says it provides data; in 2016 there was an elevation survey that was completed and they were

provided the data from that survey, but they didn't see the actual survey. The data recorded at the City has lowest adjacent grade actually one foot lower than the flood stage. Linse says they recently obtained the actual survey. Linse says based on the actual elevation certificate their lowest adjacent grade is right at the flood stage, 665 feet. They are literally on that boundary, and if you kick some dirt to or from the foundation, you may be in or out, it is that close. Nohr asks if the certificate is for the entire building and Linse says they show the lowest adjacent grade and the highest adjacent grade; based on the certificate, his lot is level. Nohr says this suggests that they are at base flood elevation and adds that they need to find out if this means they are in or if it means they are out. Linse says that Nohr is right, with the baseball analogy, if the ball gets to first base at the same time as the runner, is he safe or out.

Linse says there's a lot of work being done by the City to get this area out of the floodplain. Nohr asks if he the City is doing so because they don't believe the current maps. Linse says it depends on who you talk to; the State says the water that comes out of Ebner Coulee is such an amount and engineers say it is much less. Linse says whether or not they are in or out, they are treated like they are in and the only way they can do anything with their house is to go through the variance appeal process. Linse says that the inspectors said at the last meeting that they only have 5,000 to work with because of the 50 percent rule. Farmer asks what other additions have occurred and Linse says most of them had occurred prior to them purchasing the home; there was just a carport there and they added a one-car garage and then made it a two-car garage. Linse goes on to say that they expanded it in the house because if you go in the attic the trusses are different. Linse says they haven't done anything, but at this point they need to add on.

Farmer asks who did the calculations; Linse says that they came from the City. Thielen says that you have to go back into the property records; the inspector calculated from 1970 to today for all of remodels, and additions. Farmer asks if they would be using the 1970 prices or today's prices and Thielen responds that they go through each project and add the actual cost of the remodel and the permit fee at the time of the project; it is not an easy process. Farmer asks if additions count prior to being in the floodplain; Thielen says he believes that they have to go back to 1970. Thielen says the City didn't become a member of the floodplain insurance program until....Farmer says the floodplain moves around and it would be fair to start from when it went in.

Linse says this addition does not affect anyone, even if it is in the floodplain and he doesn't believe it is in the floodplain. Farmer says he may be missing the point; if it is not in the floodplain, you are not displacing water, which doesn't raise the water for the neighbors to contend with. Farmer says he deals with flood insurance regulations all of the time and they don't care if one corner is in it effects the whole structure. Clemence says they have to draw a line somewhere and if you are the wrong side of the line it is unfair; that is why we have the board. Gentry asks Linse why they need this addition. Linse responds that the current kitchen is narrow and they are adding the 7 feet to make it wider. Farmer says that make sense why it costs so much. Linse says it is tough to go to contractors when you are in a situation like this; if you say you are going to try to get a variance, they are ballpark numbers.

Nohr says he wants to talk about the floodplain elevation certificate and what the City is doing. Lewis Kuhlman, 222 Jay St., #211, La Crosse, is sworn in to speak. Kuhlman is asked by Nohr if a home elevation is at BFE is it in the floodplain or if it is out according to FEMA and the DNR. Kuhlman says it would be in the floodplain. Nohr asks if he would need to file a LOM-R in order to get out. Kuhlman says the process

is...the intention of having the City fund the elevation certificate surveys is to give people the base information they need to get the Letter of Map Revision (LOMR) process started. Until they complete a Letter of Map Revision approved by FEMA, they are in the floodplain.

Nohr asks if Kuhlman is aware if the City feels very strongly that the elevation maps are in contention and are proceeding to attempt to get them changed and asks if Kuhlman can give an update on the progress made so far. Kuhlman says the Engineering Department has engaged a consulting firm (SEH) to study the floodplain in the Ebner Coulee Watershed; the main impetus for that was many residents felt that they were not in the floodplain. Kuhlman says the Engineering Department was using historical data and current data from last July so they are using a different model than what the DNR is using, to try to demonstrate that the model that SEH is using is more accurately assessing the risk for that area. Nohr asks where they are at with the study and Kuhlman says that it is probably a few months from being completed but DNR and FEMA approval could be a multi-year process.

Nohr asks Kuhlman if he has seen the maps that the City is going to propose and asks if he has any idea if this property would be in or out were the maps to be adopted. Kuhlman says he doesn't know, but based the information for now, it is in the floodplain and that it would continue to being the floodplain. Gentry asks if there are only seven houses in the area of Farnam and Cliffwood that remain in the floodplain there. Kuhlman says there are a few that are in the floodplain, but he does not know the exact number. Nohr says he believes there are quite a few on 28th Street and Kuhlman agrees. Clemence asks if the numbers on the map are the average. Kuhlman says the image was sent by Michelle Hase from the DNR and the purpose of it is to illustrate that the elevation certificate done by the surveyor was not correct. The numbers show where the base flood elevation would be at that point in the floodway measuring from the center of the floodway out. Kuhlman goes on to say the base flood elevation toward the house is 665.93 or rounded up 666.

Nohr asks where the mistake is and Kuhlman says the base flood elevation in the elevation certificate has an error in it. Nohr confirms that the 665.0 recorded on the certificate was incorrect and asks if it was done by the City. Kuhlman says it was done by a surveyor that was contracted by the City. Nohr asks what determines that the certificate is in error and Kuhlman says the current map shows the error. Nohr says typically the surveyor is pretty accurate and asks who made the map and Kuhlman says it was FEMA. Nohr says he hopes it wasn't like a few years back when they flew over the City; Kuhlman says the maps are from a study from 2012 – it is the most recent flood insurance rate map. Gentry says when you look at the map, the location of the proposed addition is not in the floodplain; Kuhlman responds that if one part of a building is in the floodplain, the whole building is considered in the floodplain.

Nohr asks if that would be the same for a building if only the land is in the floodplain, and Kuhlman says from a flood insurance perspective it is only your building, because you are only insuring the building. Farmer says part of their building is undeniably in the floodplain, whether you look at the map or the elevation certificate. Farmer said the point is even though the addition may not be in the floodplain, if they have a mortgage the flood insurance is applied to the whole structure including the money they are spending on the addition. Kuhlman says if a variance is granted in the floodplain, they are supposed to notify the property owner that it may increase the risk of life and property and flood insurance premiums may increase up to 25 percent. Farmer says if the Board says yes and the owner goes forward with the project, he is taking a risk far greater than any other petitioner the Board has had because the flood insurance premiums are going up even though he is not getting anything for it; not that it is a

reason to do it, but he is volunteering to run the risk on his own. Farmer asks if there are different flood insurance rates across the country and Kuhlman says there are. Gentry says if your mortgage is paid off then you don't have to worry about that and Linse's is probably paid off.

Linse says that he believes the FEMA maps are flyovers and he would argue that the surveyor on the ground has a more accurate number than what the flyover has. He reiterates that this is a risk that they are willing to assume; maybe their house stays and maybe it goes out of the floodplain, they don't know. Linse says they understand the risk; Farmer says when they sell their house the buyer will have to pay insurance. Linse says it could seriously affect the resale value of their home. They really don't want to move and it really isn't harming anyone else. Right now they are at the mercy of the government. Farmer says the harm to others is if we are cavalier in providing variances from flood plain regulations the Board could jeopardize the flood insurance program for the whole city; that would be the potential harm. Farmer says he is trying to find the reasonableness of it; you could put in two inches of fill or maybe it is a foot or raise the house except you would have to get a map revision. Farmer says that they really can't jeopardize people's insurance coverage.

Linse says he understands that and he hopes that FEMA or anyone else who looks at this would see that the addition is not in or only in a little bit. Linse says if the City was so concerned about it there would never have been a variance granted for the house that was moved in on 28th Street which is right in the middle of the floodplain. Nohr says you can put a house in a floodplain as long as it meets floodplain requirements. And that home is at an elevation that is above the BFE. They didn't have to bring in fill (you have to bring in fill from the floodplain) was because they dug some land from their front yard to help with the fill and they put rock around the house because they couldn't bring in more fill. Linse says that argument works for the perimeter, but it does not work for the 50 percent rule. Nohr says he doesn't know if they did any improvements. Farmer says most of the properties in the floodplain are on the north side; he north side is filled with these little islands of areas in the floodplain.

Gary Padesky, 825 20th St. S. and District 7 Council Member, is sworn in to speak. Padesky states that he is thankful for the opportunity to speak and he is here in support of the Linse family. Padesky says he understands that the City staff is doing their job. But he wants to correct one thing, since he has been on the City floodplain committee for three years; insurance rates may be the same nationwide. Nohr says they are higher on the coastline. Padesky says the people in Ebner Coulee are subsidizing those that are in those areas. Farmer says he agrees with that even if the rates are different. Padesky says when the Ebner Coulee floodplain study was done it was based on a bluff in Winona. After that rain event in July of last year, according to FEMA or the DNR, there were no houses in water in the Ebner Coulee, there was only one on Jackson, but that was because of a clogged sewer drain.

Padesky says he doesn't give a lot of credit to elevation certificates; he was recently given one saying a couple was out, but then he was informed late yesterday that they were actually in because of an error by the surveyor. Padesky says it is really a moving puzzle. Ebner might have the second most houses in the City the floodplain. The floodplain issue is just a lot of moving pieces – people are in and then they are out. Padesky says he believes the Board has the authority here to grant the variance and override the State part; the problem would be if FEMA came in and asked why did they grant it. He thinks part of the problem of the floodplain is no one really knows if they are going to be in or out tomorrow. They did redo the study and they are hoping it won't take a couple years and if it does go through there would be 60 to 70 houses that

would be out. Nohr asks if he knows that this would be one of them and Padesky says he doesn't know if this house would be. Padesky says they didn't do a study on those other side of Farnam Street because if the houses in this area are out, so would the ones on Farnam. Padesky says by going off memory that Linse's would be out. In a few years they will be out and if they aren't it is a shame that FEMA is using our residents to subsidize people down south.

Michelle Staff, 101 South Webster St., Madison, is sworn in to speak. Staff says that she is from the DNR and she wrote the letter in the packets from last month; she is the floodplain policy coordinator and the national flood insurance coordinator for the State. Staff says she is here to be neutral; the letter spells out what a floodplain variance entails. There are additional criteria than the regular requirements for granting a normal variance; she cites it in the letter in the three criteria test. The 50 percent rule for nonconforming structures includes structures that were out of the floodplain or by a map change or something else that puts them in; so it would be those structures that at the time they were built they were ok, but over time they became noncompliant. She says that we heard that the property was not in the floodplain in the past; if additions were done before it was in the floodplain, they don't count against the 50 percent unless the City has a more restrictive ordinance than the State and Federal Code, which they are allowed.

Staff says she is only here to talk about State and Federal codes. The nonconforming is put into place basically to have structures at some point in time without putting a lot of improvements in it to be a compliant structure in the floodplain so it reduces the financial risks to the owner or to cities or municipality for fire and rescue. Staff says when you look at the certificate, all of the utilities are all underneath and if those get wet, they will not be able to live in the house; that is the reason they have the nonconforming part, hopefully it comes into compliance. Staff says Michelle Hase is also here to answer questions. Staff says insurance rates are all about how far the lowest floor is to the floodplain elevation; the lower your floor is from the 1 percent chance the higher your rates are. It also depends on a zone you are in; if you are in a coastal zone, like down in Florida, you are paying twice as much as we are here. Farmer asks if it is twice as much; Nohr says it doesn't matter. Farmer says it matters because on the coast they go into the ocean and here it is a flooded basement. Staff says she can get the table rates if needed. She wants to say talk about this because when you have a basement you are paying a higher rate than if your flood is above. Nohr adds that that is assuming you have a loan on the property. Staff says floodplain management is beneficial to all because if you didn't have a loan then you are not paying out of pocket; in 2017 in the Kenosha area there were many people who had damage that didn't have flood insurance.

Staff says the map with the red and blue is a representation of the FIR Map (Flood Insurance Rate Map) and the number there is from FEMA. Nohr asks where the numbers came from and Staff says they were from a study is in the Flood Insurance Study and she is not an engineer, so she can't say how they did the engineering for that. Nohr says there are so many elevations there and they couldn't have surveyed all of the properties; they do it on a flyover. Staff says the maps are created by topography maps. La Crosse County or the City provided LIDAR, which is a topographical map of the City; what rules is the elevations the elevation certificate is telling them that the land...it shows where the elevations are of the different parts of the property, that the entire land around the house is a foot in the floodplain.

Clemence asks if that number is an average; there are 10 or 12 different elevations on the certificate and there is only one number on the map. She points out that the map

points out the base flood elevation. The base flood elevation on the certificate should've been 665.9 (what was on the map). The basement is 659.1, so it is almost six feet below. If you look at the lowest adjacent grade, around the house, it is at 665.0. Farmer says he needs to fill his basement and Staff says yes, to become a compliant structure. Nohr says the owner wanted to attempt to get a map revision and asks if he is not allowed to bring fill in. Staff says he can bring fill into the area, but it won't get him out of the floodplain without meeting all of the requirements to remove land from the floodplain. The fill has to be two feet high and a certain material and filled so far out; there are a lot of things involved in this. Staff says the letter of map revision is an official letter of a map change of the entire area that FEMA does; depending on when the City's study is done it could take a while.

Farmer asks if the additions Linse referenced were done prior to them building the property; Linse says they were. Farmer asks if the property was not in the floodplain when Linse bought it and he says that he doesn't know for sure, but they did not have to get flood insurance. Nohr says he assumes they had a mortgage and the bank would've known. Linse says that there are two variances and he would like to have the Board vote on them individually if they can't approve them both. Linse says they are at a point where if they don't put the addition on there's not much they can do at all with the 50 percent rule.

Hase, with the Wisconsin Department of Natural Resources is sworn in to speak. Hase says she was here last time to answer questions and clarifying things. She says she wants to point out on the elevation certificate it is not uncommon for a surveyor to not fully understand how to go in and determine that floodplain elevation. It is actually a very complex system because of the steepness of it; you can see at the top it is 670 and at the bottom it is 665. Nohr says he went to a FEMA and DNR meeting and he asked where his property is on the map and they said they didn't know; Nohr said he then asked them how he would find out and they said it is up to the lender to look at the map and determine if the property was in or out. He adds that the City came up with a way to overlay addresses on the map and FEMA said they would not accept that. He asks how they really know where things are on the map. Hase says that she thinks it is because FEMA looks at things from an overview perspective; she went in and did this floodplain determination. There's something in the flood insurance study called the profile where there are street locations and number of feet in between and she found 29th St and did an estimate of how far this house was away and found the floodplain elevation.

Nohr asks Hase if this is a map she made; Hase says it was a coworker. She says this is the same flood insurance study map and it is kind of mapped similar to what is on the City's website. It is a tool to start and she went into the actual profile and found where the location of the house was and where the floodplain elevation was at different points. Nohr asks if this is a map that they share with the city and she says shared the map and the profile for this property to show where they got this elevation. Farmer asks why she wanted to point this out and Hase says according to the survey data, is that the lowest adjacent grade and highest adjacent grade are both 665.0. She says she has never seen them be the same before so it is a little fishy. She says that tells her that the surveyor shot elevations around the entire structure and determined that the lowest part touching the ground and the highest part touching the ground are both below the floodplain elevation; according to the survey, his entire structure is in the floodplain and below and that back half is in the floodplain and below.

Farmer says he assumes that there is a basement now which puts it in, but there probably won't be one under the addition. Hase says a basement doesn't put you in, it

is purely the grade next to your house, so she could build right up to the floodplain line and put a 20 foot deep basement and not be in. Nohr says that based on her testimony she believes the addition would be in the floodplain and she responds that based on the survey it would be in the floodplain. Hase goes on to say the addition itself has to meet minimum flood fringe standards, so the lowest floor has to be 2 feet above the floodplain elevation; therefore, it would be 667.9 which is .8 feet higher than the existing first floor. Hase says if it were at the floodplain elevation, it would actually be out; Farmer says "the tie goes to the homeowner."

Farmer says that the board is trying to find a reasonable approach and everything that she has said has gone against the petitioner. Farmer says it is unusual to have something from this side of Losey Blvd. come in because they don't normally run afoul of property zoning. We usually see properties that have zoning passed from the 60s and 70s and the house was built in the 1890s. He says we struggle to find a reasonable approach here; it doesn't seem like a 7 foot wide addition is unreasonable. He asks if Hase can help here and she says she can't provide that; they are here not necessarily neutrally, but they are here to show the Board what is in their regulations and how to decipher meeting those regulations. Farmer says the addition wouldn't potentially be in 10 feet of water; that would clearly be unreasonable. It is a matter of maybe one or two inches of water. Farmer also says he understands the desire to staying your house.

Nohr asks if the risk in that area would be considered flooding, by the DNR or FEMA, to be an overflow of Pammel Creek. Hase says surface or overland flow would be flooding, but it wouldn't be flooding from a river...inaudible...system. Nohr asks if it would be covered by FEMA. Hase responds that FEMA covers all types of flooding; any kind of surface water. Farmer adds that is if you have insurance. Hase says FEMA would also cover if you are declared a disaster.

Kerns comes forward to speak regarding the elevation certificate. He says the City has contracted around 400 surveys and they are not meant to be used as regulatory devices. Kerns says they are done for insurance purposes and the number gets rounded to a whole number. He says that 665.0 should be 665, which is okay in the insurance world. Kerns says he came up with 665.7 and if the surveyor did a similar evaluation, he may have come up with 665.4 and rounded down. Kerns says he disagrees with the DNR map; there's an eight inch drop from a certain part of the road, but the numbers are the same. Kerns says he reviews the surveyor's work if that matters at all. Nohr asks if he stands by the numbers and Kerns responds that he stands by the 665 being rounded down for insurance purposes. Nohr says there's an elevation for the property and an elevation for the BFE (base flood elevation). Kerns says as far as these certificates go, they are used for insurance only and not for construction purposes. Linse says that their position is that the numbers are great and everyone can argue but they are asking for a reasonable request and are getting hung up on the engineering here, but they are counting on the Board not to punish them over a couple of numbers. Farmer says it is tough because they cannot jeopardize the coverage for everyone else.

Kuhlman comes forward and says that he wants to clarify the variance requirements in the floodplain code (Section 115-223 (c) (5)). Kuhlman says one of the requirements is that it is an unnecessary hardship. Their local code is based on the State code so the floodplain code is applied to all of those in the floodplain so it is not unique to this property; there are also others in the floodplain so it is not a unique condition. Farmer says that it is the Board's judgement call. Kuhlman says the map shows that there are parcels next-door in the floodplain...Farmer says they know their job. Kuhlman says he

wants to say that after reviewing the application, the applicant did not include alternatives and personally he believes that this is important part of explaining why this variance is necessary. In the code there are opportunities to get out of floodplain and as they mentioned they can get a LOM-R or a LOM-A. Kuhlman says the study will take multiple years and individually it may only take 60 days. Kuhlman says another one of the requirements is that it is not contrary to the purpose of the floodplain zoning code and one of those purposes is to discourage development in the floodplain; lastly, variances are not supposed to increase, expand, or allow a prohibited use in the zoning district and this is a nonconforming structure.

Farmer: the unique property limitation is obvious even by the flood maps that the house is possibly partially in the floodplain or maybe not. It is possibly in the floodplain by a small amount of water or maybe as much as a foot, proceeding on a request for a variance of 15 feet to the 15 feet of perimeter fill requirement and to allow the owner to exceed the 50 percent threshold by \$100,000 or 64.5 percent of the structure for file 2611. There is an awful lot of confusion, and we have not been arbitrary; we have worked hard trying to figure this out, only to resolve that it is not easily figured out. It is either in or out by a little bit or not at all and it is quite confusing. If ever there is a property that was close to being not in, this could be it. The addition no harm to the public interest is, I think, is probably not in the floodplain so no water would be displaced and harming any members of the public. That is a key thing; someday someone is going to figure out that all of those islands on the north side that are four feet high are just displacing water and raising the water level for everyone else. This would not do that and in that respect it is somewhat better than some of the other solutions we have approved. The reason for the variance is, I believe, that in our attempt to be reasonable should not result in...although I do anticipate that while the DNR and FEMA may not be happy because the line it has been crossed, it has been crossed reasonably. The unnecessary hardship is that the property is severely compromised if the floodplain restrictions are fully enforced. I don't think the 50 percent rule applies; we had conflicting testimony on that too where the inspection department said it did and the DNR said it didn't. With conflicting testimony, that too would be a difficulty. The petitioner indicated, and I believe that the \$100,000 represents the top side of this and he is smart enough to ask for the top side rather than have to come back later on. Ideally, it is going to be \$45,000 or 50,000; it is hard to believe you spend that on a kitchen, but we finally redid our kitchen and I spent \$30,000 and I didn't put on an addition. As Charles said earlier, people should be able to use their house like other people.

Nohr makes a friendly suggestion for an amendment. Nohr states that he believes the testimony from the DNR was that they didn't know if the additions for the property were made prior to this being in the floodplain. Farmer said they didn't know, but from his testimony they were done prior to 1980 and the program didn't exist in 1980. Farmer adds that the DNR said they didn't know if it was in the floodplain at that time.

Haefs seconded.

The motion carried by the following vote:

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

Excused: 2 - Churf, Seloover

[2612](#)

An appeal regarding the regulation that limits wall height of residential

accessory structures to a maximum of 10 feet at 1423 20th St. S., La Crosse, Wisconsin.

Thielen states that the owner has applied for a permit to construct a detached garage. Upon inspection it was discovered that the wall height was 11 feet, 1 inch tall. Municipal Code Section 115-390(1)(d)(1) states that the overall wall height cannot exceed 10 feet from the lowest floor elevation. For this project to proceed as proposed a variance to allow the wall height of a detached garage to exceed the 10 foot height limit, a 1 foot, 1 inch needs to be granted.

Thielen shows a copy of the conditional approval letters which are attached to the permits he points out in the extra comments it says that you cannot have the wall height exceeding 10 feet. Nohr asks if this item is a referral; Thielen says this is a new one. Clemence says they had a similar one last month. Thielen then shows a copy of the section drawing and the inspector highlighted and circled the wall height including the curb head. Nohr asks how the wall height is measured and Thielen points out the on the picture how it is measured and says if you pitch your garage floor four inches, it is measured from the lowest point floor. Farmer asks when this was discovered and Thielen says upon inspection it was discovered. Thielen say it is partially built and shows an aerial view of the property before the project was started and a picture of the garage as it was on Monday. Nohr asks if a stop order was issued; Thielen responds that the inspector probably had a talk with him and told him to stop until the Board made a decision.

Speaking in favor:

Austin Siewert, 1423 20th St. S., is sworn in to speak. Siewert says the reason for the extra height was because the row of block on the bottom. Siewert says in the initial handbook that he read the maximum wall of was 10 feet without realizing that the block counts. Siewert says it is eight inch block and the two top plates of the wall. Nohr says from the floor to the...Siewert says from the bottom of the floor to the trusses is 11 feet, 1 inch. Nohr says he will need a 1 foot, 1 inch variance; Siewert agrees. He says the sketch that was shown on the previous slide was handed out after the permit was issued, so he didn't really go back into the documents once he got the permit; he just went ahead and built it.

Nohr asks Siewert if he is the builder and he responds that he, along with his 76 year old grandpa and his dad were the builders. Siewert says this is his first home and it was an honest mistake. Farmer asks if he will have a problem with the overall height when the project is complete; Siewert says the height is under 17 feet. He says he was aware of both requirements and the structure is 14 feet high. Nohr confirms that he didn't know where it was going to be measured from. Siewert says something that would help is if in the pdf of the requirements for building a garage included information about what is included in the measurement of the wall height; if it was put more clearly on there it would help. Nohr asks if the walls were not prefabbed; Siewert responds that they were 10 feet studs from Menards. Siewert says for the hardship if he would have to fix it, he would have to take all of those parts down. Siewert says he wanted 10 foot walls because he drives a large truck. If he would need to bring the wall height down, he would have to reframe and get new garage doors. Nohr asks what size they are and Siewert says they are 9 by 8 garage doors.

Speaking in opposition: none

Farmer: I move for approval of the variance of one foot, one inch. This is for appeal 2612 with a property address of 1423 20th St. S. The unique property

limitation is like many other properties in that the garage is partially built, but the difference with this one versus others in the City of La Crosse is that it is built in the last 60 days and not 60 years ago. Nevertheless, it exists and it is not going away. There is no harm to the public interest because in this case it is nice to see that the garage is not disproportionate in size to the rest of the neighborhood, its design is similar to the rest of the neighborhood, and when it is done it will blend in quite well. The unnecessary hardship is that it would be a significant cost to dismantle and reduce each individual stud by two feet to get it underneath the proper size requirement.

Clemence seconded.

The motion carried by the following vote:

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

Excused: 2 - Churf, Selover

[2613](#)

An appeal regarding the requirement that an accessory structure cannot exceed 17 feet in height from the finished floor at 2703 Hass St., La Crosse, Wisconsin.

Thielen says the owner has applied for a permit to construct a detached garage. Upon inspection it was discovered that the height of the detached garage exceeded the maximum height limitation by 1 foot, 6 inches. Municipal Code Section 115-390(1)(d)(1) states that the overall maximum height of a detached garage may not exceed 17 feet from the lowest floor elevation. For this project to proceed as proposed a variance to allow the overall height of a detached garage to exceed the 17 feet maximum height, 1 foot, 6 inches would need to be granted.

Thielen shows a section drawing and an aerial view of the property and says the original house burned down from a few years ago. Thielen says the structures in the picture are not there anymore. Nohr asks Thielen if he knows why the garage ended up being more than 17 feet and Farmer and Thielen both say it is because of the pitch of the roof. Thielen says it is an 8-12 pitch and shows a picture of the garage right now and the new house adjacent to it. Farmer asks if this is on the north side and Thielen says it is on Hass Street.

Speaking in favor:

John Bayer, 1802 21st Pl. S., is sworn in to speak. Bayer says when they bought the property two years ago they spent some time designing it because they wanted to build a home that matches the neighborhood. During the process the person that designed it put a steeper pitch on the garage roof to kind of match the house. They applied for a permit and got it approved; the general contractor ordered parts and began the process and during the first inspection it was discovered that it was too tall. Nohr asks if the builder knew the 17 feet was the requirement and Bayer says he is not sure that the contractor knew, the person designing the blueprints didn't add the height, which would've been easily recognized. Once they found out they stopped construction; the only thing they did was to add doors and windows to secure the property inside. Bayer says they are just asking them to exceed the maximum by one foot, six inches.

Jon Molledahl, representing the Inspection Department, is sworn in to speak. He states that he is not in favor or against. Molledahl says he did the initial plan review and it is his mistake that he missed the overall height. Nohr asks if the height was shown and Molledahl says the wall height is shown and the roof pitch was 8-12 and it was his fault. Nohr asks Molledahl if when they issue permits they have to meet the

requirements. Nohr says it really isn't the final approval then, it comes when the final inspection is when it is finished. Molledahl says he is correct; they try to catch it up front. Farmer says they have to thank Molledahl for being honest to come up and say it was his error. The Board agrees. Molledahl says the owner has talked to his neighbors and they are not opposed to it.

Speaking in opposition: none

Farmer: the motion will be the same for this item except this is the overall height of 17 feet, a variance of 1 foot, six inches for allowing an overall height of 17 feet. I would make the same points as I made previously because the garage is already built, it is a fact of life. The difference being that it was only 60 days ago as opposed to 60 years and that creates the unique limitation. Again, this property has no harm to the public interest. The garage will blend in very well with the neighborhood and in this case the garage has the chance to match the house because of the construction of the new house. Finally his costs will be even more significant because the trusses will have to be discarded and new trusses ordered, creating the unnecessary hardship. For these reasons I move for approval.

Haefs seconded.

The motion carried by the following vote:

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

Excused: 2 - Cherf, Selover

Adjournment

Meeting adjourned at approximately 9:20 p.m.