



# City of La Crosse, Wisconsin

City Hall  
400 La Crosse Street  
La Crosse, WI 54601

## Meeting Minutes - Final

### Board of Zoning Appeals

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Wednesday, July 17, 2019

7:00 PM

3rd Floor Conference Room

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#### Call to Order, Roll Call

**Present:** 5 - Douglas Farmer, James Cherf, Charles Clemence, Philip Nohr, Lu Seloover

**Excused:** 2 - Carol Haefs, Anastasia Gentry

#### Variance appeals:

##### 2626

An appeal regarding the requirement to provide a 25 foot setback from the front property line at 1647 Charles St., La Crosse, Wisconsin.

*Dave Reinhart, chief building inspector for the City of La Crosse, is sworn in to speak. Reinhart goes over the requirements for granting a variance: unnecessary hardship, hardship due to unique property limitation, and no harm to the public interest; he states that all three must be met to grant a variance. Reinhart says the owner of this property is proposing to build a new deck in the front yard. Per Municipal Code Section 115-143(c)(2), there shall be a front yard setback of 25 feet or the average of the neighboring main structures. The owner is proposing a 19 foot front yard setback. For this project to proceed as proposed, the Board would have to grant a variance of 4 feet, 11 inches to the required 25 feet.*

*Reinhart says one of the reasons for the referral was because of the original plot plan, which he shows. He also shows an aerial view and a street view and points the house out. He shows a new plot plan that depicts a 19 foot setback with the proposed deck at an 8 foot depth and 15 foot width. He says the plot plan doesn't show the setbacks of the neighboring houses, but it should show both setbacks along with what the average setback should be for the property in question. Reinhart says they did receive a list of setbacks down the street, but the only ones that matter are 1649 Charles Street and the one for the southern neighbor, which is not provided.*

*Reinhart says that the Code states that the front yard setbacks of the dwellings on either side can be averaged for the required setback; Reinhart says the plot plan submitted does not show this. The measurement for 1649 Charles Street has been provided; the setback there is 22 feet, 10 inches. Since they do not have a measurement provided for the setback of the dwelling to the south with the address of 1643 Charles Street, a 25 foot setback is assumed for that address. Reinhart says with the information provided, the average setback requirement is 23 feet, 11 inches. The setbacks of any other lots on Charles Street are irrelevant.*

*Reinhart shows the pictures that were submitted with the new plot plan. He points out the house to the south that they don't have the setback measurement for; 1643 Charles Street. Nohr says it looks like part of the house is in line with the house in question, but part of it is out into the setback. Reinhart agrees with that statement.*

Nohr says if they had the setback, it would qualify for part of the average; Reinhart says that is correct. Farmer asks about the setback of the house further down the block that sticks out so far; Reinhart says that one is not on the corner, it is 1637 Charles Street and it has a 7.5 foot setback. Farmer says it is irrelevant by law, but it adds to the appearance of the block.

Farmer says he is curious to the square footage of the lot, but it doesn't show on the plan. Reinhart says he would bet it is a 140 foot lot, which is normal. Farmer says you have to have 7,200 square feet now-a-days. Reinhart says it depends on when it was a lot of record. Farmer says they frequently encounter lots that are smaller than 7,500 square feet and all of the ordinances are designed for people who have 7,500 square feet so that is where they sometimes have to compromise. Reinhart says he did some calculations today; the measurement for the rear yard is 60 feet deep. Reinhart says it is not 50 feet wide, but it is 35 across in the back and about 40 toward the front; Farmer says there is a jog in the width of the lot. Farmer says it was legal once and no longer legal today. Reinhart says technically it is legal depending on the date it became a lot; if it was a lot before 1938 they could have less than 5,000 square feet. Farmer says by today's standards it is a nonconforming lot; Reinhart says that is not correct. He goes on to say in our code if it was a lot of record by a certain date it does conform, so technically it is not nonconforming. Farmer says it is 2,000 less than required lots today.

Nohr says that view confirms that the house to the north is very close. Reinhart says it does have a four foot deck. Farmer asks if that deck was built with a permit. Reinhart says they don't research that; it could've been built without a permit or gotten a variance depending when it was built. Farmer says the measurements are here somewhere and Reinhart says it is 4 feet, 2 inches by 13 feet. Clemence asks Farmer if the point he is trying to make is that the ordinance is really geared toward lots bigger than this. Farmer says they have a patchwork of lots and a patchwork of ordinances that make a quilt; he also says the deck is wood which is why it is here and if it were concrete it would not require a variance because it is considered an extension of sidewalk. Reinhart says they could put in a deck that is 18 square feet or less that is 24 inches or less above grade; they could do so without a permit. Farmer states that he did not know that. Reinhart says that would meet the requirement of a 3 by 3 minimum landing that doesn't need handrails.

Reinhart shows one more slide that goes over the variance requirements. He says this would be considered a self-created hardship because they could build the same deck or larger in the rear yard that would meet all the accommodations listed in the variance application. There are no unique property limitations; this is a typical City lot. There is no harm to the public interest. In the Inspection Department opinion, this request does not meet the criteria for granting variances.

Speaking in favor:

Brandon Stemper, W5387 Brookview Road, Holmen, is sworn in to speak. Stemper states that the 24 inches above grade would not work because they need 36 inches to get up to the deck, so they would need a handrail. Stemper says he has notes from neighbors and he gives them to the Board to look over. Nohr says it would be helpful if they had the setback of the property to the south. Stemper states that it is the same as the current house. Nohr says it doesn't look like it is the same. Nohr says that addition counts, but Stemper says that he didn't think it would count. Reinhart says the current setback for this house to the south is 27 feet, but the addition is out two feet, so the actual setback would be 25 feet. Nohr confirms that where the houses line up is

at the 27 foot mark; Reinhart says they cannot use 27 feet, because code requires 25 at maximum. There is some back-and-forth on what the setback to the addition would be. Stemper states that he didn't think it would work in his favor or would be relevant. Nohr says properties on both sides are relevant.

Stemper says the curb appeal of having a deck would be significant. It will be nice decking with a nice metal railing and it will have an option in the future to have an accessible ramp be put on it. Stemper adds that the owners' health is declining and eventually they may need the ramp. Farmer asks if there are currently steps down to the sidewalk; Stemper responds that there are two steps. Clemence asks if there was consideration to put a deck in the back; Stemper states that it wouldn't work because of the 35 percent rule and the garage taking up too much area. Reinhart steps in and states that he did the measurement and they could put the same size deck or bigger if they put it on the back. Stemper says the owners really want the deck on the front to visit with the kids from the school and the neighbors that have a deck on the front. Stemper says if you look at the picture of their lot there is a rear door that might have to be wrapped around and they would be pretty secluded if the deck was put in the back. Stemper says this would greatly improve the value of the owner's health if on the front.

Nohr asks if steps can encroach the setback and Reinhart says that they can. Farmer asks if a smaller deck would be okay; Stemper says they are trying to make it as handicap accessible as possible so they can turn around with a wheelchair. Farmer says if they wanted a 4 foot deck they would need a smaller variance; they have two steps hitting the sidewalk down there. He says he understands more activity on the front of the house and the hardship of Alzheimer's, but he won't be living out there; it will be a limited use during the seasons throughout the year. Clemence says a 4 foot deck would be a 23 foot setback, which would be more than the neighbors. Nohr asks how large the neighbors' deck is; Cherf responds that it is 4 feet, 2 inches by 13 feet. Clemence says it would be similar to the neighbors; Farmer says if they matched the neighbors they'd have some uniformity. Clemence says it is more in line with the other neighbor; Stemper says the house that is 7 feet off the sidewalk is not helping. Farmer says they have to go with what they have here. Stemper says they were talking about taking the average of four houses last time. Nohr states that they are not supposed to consider that. Farmer again asks for the size of the neighbors' deck and again says four feet would provide uniformity.

Nancy Kjos, 1647 Charles Street, is sworn in to speak. Kjos states that she said everything she wanted to say at the last meeting. She says her husband is now on a stronger medication so hopefully it will be longer until he is totally disabled. Nohr asks how critical is the 8 feet; he asks if they can they live with a size like the neighbors have. Kjos says she would like a nice table and a reclining rocker type chair would fit since her husband sleeps most of the day on most days. This would give him more to be out to watch the kids. She says there is no place to sit in the yard and they don't want to be in the back because her husband wants to be out by the people. Nohr confirms that they want a table and chairs and a rocker for him; she agrees and says he has a cane and a walker to get around. She says the deck would come even with the door so he wouldn't have to go up steps into the house because he shuffles when he walks. Clemence asks if they can they live with a 4 foot or 4 and a half foot deck; Kjos says there wouldn't be much room out there with the walker and a chair out there. Clemence asks if they would not build if they didn't get the variance; she states that she probably would not build it.

Speaking in opposition: none

**Cherf:** The motion for file number 2626 at 1647 Charles Street is a variance of 1 foot to the required setback. The unique property limitation is the lot is 2,000 feet less than the standard lot. And this variance falls within the averaging of the neighboring setbacks assumed. There is no harm to the public interest; it meets the neighboring deck and an 8 foot deck would negatively impact the uniformity of the neighborhood's street appearance. The unnecessary hardship is the use of the property by an impaired property owner.

**Farmer:** I move that motion.

**Cherf:** I second.

**The motion carried by the following vote:**

**Yes:** 4 - Clemence, Farmer, Cherf, Seloover

**No:** 1 - Nohr

**Excused:** 2 - Haefs, Gentry

### 2627

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 structure at 2023 Charles St., La Crosse, Wisconsin.

*Reinhart, still sworn, states that this project would need 4 variances granted to allow construction as it has been proposed: a variance of 9 feet on the north side of the building, a variance of 9 feet on the south side of the building, but the third and fourth are in the air because the plans don't show any measurements of what would be required for the front and rear yard. Reinhart says he is requesting that they refer this to get the proper plans and measurements, unless they want to grant a blanket variance. Reinhart restates the variances requirements of 9 feet on both sides, which he points out on the plot plan. Reinhart says the property owner needs 9 because he cannot get affidavits signed by the neighbors to go to the property line.*

*Farmer says, based on what the slide says the driveway was going to be placed on the fill area; he asks if that is at street level and, thus, not filled, or is it on top of the fill. Reinhart says it will be on top of the finished fill; the finished floor has to be two feet above base flood elevation, and this still has to be at one foot above and the driveway will be sloped from the house to the alley, but they don't have the measurements for where the 1 foot of fill will stop. Farmer says they can't have the driveway on top of the fill; Reinhart says it can't go the fifteen feet that is required on the front or the back, but they don't have the measurements stating exactly how many feet it will be going outward at the required height of the fill.*

*Reinhart shows a plan and then shows another more detailed plot plan. He shows a street view of a house and says that it was razed and removed. Reinhart says they have been bringing in fill. He points the property out on an aerial view. Cherf asks how big is the lot and Reinhart says he did not prepare that; he adds that they can start making that part of their presentation, though the plot plan should show it. Clemence asks how big it could be built; Reinhart says there are no measurements on the plot plan, but it would be pretty small.*

*Speaking in favor:*

*Tom Treacle, 1521 Kane Street, is sworn in to speak. Treacle says he is here in on behalf of Scott, the owner, because there have been a lot of issues with the neighbors. The fences were on their properties so Scott could not obtain the affidavits*

and he didn't try to get them. He thinks the neighbors may have had to move their fences. Treacle says the lot is 50 feet wide so they couldn't put the retaining wall on the lot line because he messed things up with the neighbors. Treacle states that he doesn't really know what went on, he is just the contractor. The house is only 1,200 square feet; Scott is building it for veterans. It is a single-story with attached garage; bedrooms on each side with shared commons. Treacle states the front yard is only 5 feet into the variance; a staircase would be going into the variance on that.

Treacle says he didn't pick the house for the lot; he is just here because Scott is out of town. He was given a plan so he is the middle man. Treacle says there is actually a whole blueprint with dimensions on it; he had given it to the inspector. He says the house would be 9 feet off of there instead of 15 feet and that would be the two side yard setbacks. Instead of the 15 that are required, it would be 9 on the sides and he is trying to get above floodplain; Treacle says he doesn't know the measurements on the front and the back as it wasn't mentioned to him. Seloover asks what the length is and he responds that the lot is 142 by 50. Treacle says it makes it very difficult to get out of the floodplain; they are going to take up 30 feet with the fill requirement so would be 20 feet wide. Nohr asks how wide it would be based on this drawing; Treacle does the math and state that the house would be 32 feet wide; 50 feet wide lot minus the 9 foot setbacks on both sides. Seloover asks if they would also have to come in three feet because of the retaining wall; Treacle agrees. Cherf says they need better measurements. Treacle says he wishes he would have the blueprints that he gave to the inspector; he says he didn't know he was going to need to refer to them. Nohr says it may be something they have to refer.

*Speaking in opposition:*

Nohr requests to enter into testimony the objection letter from a neighbor issued by Sandi Weber dated July 12; he is not going to read it aloud (see attachment for this file).

**Cherf:** I am going to move for deferral to the next month's meeting. We need more useful measurements. We need the size of the lot, we need the dimensions of the structure, we need elevations that we can read; we also need clarification as to whether the front stairs are going to slice through this elevated land or the entire front yard is going to be terraced to accommodate the stairs. As you recall the home on Kane Street, they sliced into their setback and got a variance for the stairs only, but the rest of the property remained the required height. The driveway plan is difficult or impossible to read. For file 2627, 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 structure at 2023 Charles St., I move that we are deferring this for the specific information: the dimensions of the lot, the elevations on all four sides of the property, clarity as to whether the front yard is going to be terraced or if the staircase that goes down to the sidewalk will be cut into that elevated land, also the proposed driveway layout if it is going to terrace down to the alley or is there going to be a flat plane and then a drop-off; we need those elevations, also it would be nice to have a rendering of the property but that is not necessary.

**Clemence:** Second.

**The motion carried by the following vote:**

**Yes:** 5 - Clemence, Nohr, Farmer, Cherf, Seloover

**Excused:** 2 - Haefs, Gentry

## **Adjournment**

**Motion by Cherf, second by Farmer to adjourn at 8:02 p.m.**