



City of La Crosse, Wisconsin

City Hall
400 La Crosse Street
La Crosse, WI 54601

Meeting Minutes - Final

Board of Zoning Appeals

Wednesday, August 21, 2019

7:00 PM

3rd Floor Conference Room

Call to Order, Roll Call

Chair Nohr called the meeting to order, explained the meeting procedure, and called the roll.

Present: 5 - Douglas Farmer, Charles Clemence, Carol Haefs, Philip Nohr, Anastasia Gentry

Variance Appeals:

Chair Nohr opened the public hearing session.

[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.

Matt Diehl, building inspector for the City of La Crosse, is sworn in to speak. He states that the owner has proposed to construct a new dwelling at this address which is located in the regulated floodplain. Municipal Code 115-281 states that the elevation of the lowest floor shall be at or above the flood protection elevation on fill. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. This project would need four variances granted to allow construction as it has been proposed: a variance of 9.5 feet to the 15 feet of fill on the north side of the building, a variance of 9.5 feet on the south side, a variance of 8 feet on the west side, and a variance to allow the steps to be placed in the fill on the east side.

Diehl shows a plan for the building which depicts the layout and property lines and location of structure. The next plan has all of the elevations and the following plan shows where the variances are being sought after on the sides, in the rear, and the front steps as well. The 15 feet of fill will be met in the front, but the steps will go in to the 15 feet of fill; a variance would need to be granted to allow that. Diehl also shows a plan of the elevations and proposed finished product. He shows a street view of the property which shows the house that was there and an aerial view of the property with the old house still there. Nohr confirms that the house has since been taken down.

Farmer says the drawing shows that there's a retaining wall away from the property line; Diehl states that it is just over 3 feet on both sides. Farmer asks if this was something that was missing last month; Nohr responds that they didn't have good drawings for what they are proposing. Farmer says there was an opponent at last month's meeting and they are not here tonight, so he's trying to figure out what has changed. Diehl says that he believes what has changed is clarification on plans and what exactly is being proposed. Diehl says the retaining wall has to be 3 feet off property lines according to

municipal code, or they have to get an affidavit in order to put it on the property line. Diehl says since is 3 feet off, they don't need the affidavit.

Nohr asks if Diehl if he knows the reasoning behind the retaining wall being three feet off the property line. Diehl states that he doesn't know for sure. Farmer says it matches up to the fence ordinance; if you have a no-maintenance fence you can go to the property line, but if you're going to have a maintenance fence, you have to be three feet off of the property line. Diehl says it would allow you three feet to access the retaining wall or fence for maintenance purposes without crossing the property line. Farmer says the irony is you can put a vinyl or a brick and mortar on the property line; retaining walls are different than fences because the elevation right behind it is going to be higher. Clemence says he thought that the proposal was to have it on the property line. Farmer says he doesn't remember the retaining wall at all. Farmer says it was a very vague proposal last time.

Speaking in favor:

Dan Cook, 115 6th St. S., from Davy Engineering, is sworn in to speak. Cook says at the last submittal they were not sure if they were going go three feet from the property line or if they were going to get a variance to go to the property line, so that was the confusion; the owner did not answer that question. Cook thanks the Board for postponing this a month. Cook says there's no way he (the property owner) will get approval from the adjacent property owners to be on the property line. Cook says the setback area on the drawing is a bit hard to see because the copies are not in color. He shows a color version and says the blue thatched area is where the fill will go and points out that they can't go the 15 feet because there is not 15 feet to the property line. Cook says if they did 15 feet to the property line they'd have a 10 foot building in the middle. Nohr says it would be about 14; Cook agrees and says you would get maybe a one-car garage in there.

Nohr asks how wide the building will be; Cook responds that it is 32 feet wide, the property is about 60 feet wide, and the garage is about 28 wide. Nohr asks if the variance for the steps is so it matches up with the front entrance. Cook says the building has to be two feet above the flood elevation and the flood elevation is two feet above the sidewalk so they have 4 to 5 feet of vertical steps; it might be 4.5 feet. The first flood is a half-foot higher than needed to make sure it is plenty high and then there is a step into the garage at the same elevation. Cook adds the garage isn't flat; it is sloped out to the back. Nohr asks if the proposed entrance to the garage is even with the variance request and if it will have a steep driveway. Cook responds that it is 15 percent, but that's what you have to have when the house is above the floodplain; hopefully they don't have damage when there are flood waters.

Cook says the 15 feet of fill works really good if you have a new lot in a new development because then you are taking the whole property out of the floodplain and you could even put a basement in it because you have 15 feet of dirt on the outside so it would take a lot of time for the water to get down there to the basement. Cook says the lots aren't big enough here to have 15 feet of fill. Nohr asks if they are having a basement; Cook says it is slab on grade. He says he did the grading for Davy Engineering on this project to make sure it was meeting the code for the minimum variances. Clemence confirms that Cook is saying there's no way to build on this lot unless you build a 10 foot wide house. Clemence asks if the neighbors aren't objecting this month because it was the wall they were objecting to; Cook states that they are probably objecting because they are a neighbor and they aren't getting along. Cook says there is a similar house across the street with a similar grade and similar size lot

too. Cook says there are several like that in the area; you can't build a new house there without raising it up.

Tom Treacle, 1521 Kane Street, is sworn in to speak. Treacle shows the Board some pictures of 2022 Charles Street, which was built within the last couple of years. It is the house right across the street. Treacle says they had to put a retaining wall up. He says he roughly measured it at 9.5 feet from the retaining wall to side of house. He says the neighbor on the south side of that house was up high enough so it is the same setup and distance as what they are looking at doing here (at 2023 Charles St.). Nohr asks if they intended, at last month's meeting, to put the retaining wall on the lot line. Treacle responds that they are going to put it three feet from the lot line. The neighbors to the north and south do not get along with the property owner (Scott Vieaux) because those neighbors had their fences on Scott's property and he took them to court to have them removed. Because they don't get along, he wasn't going to be able to get them to sign the affidavit allowing him to have the retaining wall on the property line. Treacle says the property at 2022 doesn't have the retaining wall in front, but they will need that for this property; the staircase will be enclosed and the retaining wall will be pretty much around the entire property.

Nohr confirms with Treacle that he believes the property was built in the last few years; Treacle says he guessed so since it looks fairly new. Clemence asks if the inspection department knows if that property got variances; Diehl states that they did get variances at that property in 2015 or 2016.

Speaking in opposition: none.

Farmer: motion for file 2627 at 2023 Charles Street, I move for approval of the four variances requested: a variance of 9.5 feet on the north side of the building, a variance of 9.5 feet on the south side of the building, a variance of 8 feet on the west side of the building, a variance to allow the steps to be placed in the 15 foot fill requirement on the east side. The property limitation is only unique to the extent to comply with the various restrictions, the setback for the neighbors if they object to the fill of 3 feet on both sides and then 15 feet to the fill if you are going to comply with the flood ordinances, then you end up with a house that is somewhere between 13, 14, or 15 feet which is not a practical application. So the property, while standard in a sense for many areas in the City of La Crosse, the various restrictions, in order to comply with them create the unique property limitation. The harm to the public interest is, first of all no neighborhood prospers if a lot is vacant, unless the vacant lot is going to be redeveloped. But if it is going to sit there being vacant for year after year, and there are going to be others, it creates a declining feel to the neighborhood; by appearance it is not good. As I mentioned during the discussion the City requires a residential concentration to make the city sewer and water practical to put in. Detroit is a perfect example, they don't know what to do because you have a whole block between houses and they are running a sewer line between the two. That is the best public interest for running a city and appearances to grant the variances. The unnecessary hardship would be the enforcement of the various restrictions which would result in a lot that is basically vacant. The only conceivable use would be for storage units and you'd have to get a change in zoning. The sidewalk is just common sense; I don't know how you would get the steps there. The steps again, you expect seeing the door accessible to the main sidewalk when you walk down the street. It is just a series of circumstances that make this all, in sense, a perfect storm if you comply with all the restrictions. So for those reasons I move for approval of the four variances

Haefs: Second.

The motion carried by the following vote:

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

Other Business:

[18-1532](#)

Update regarding Complaint for Certiorari Relief (2422 Onalaska Ave. - Nylander property).

Nohr apprised the Board of the Court's decision in the Nylander case. He stated that the judge overturned the decision of the Board regarding the denial of the driveway variance. Nohr also let the board know that Mr. Nylander called him to let him know all of the struggles he and his family had regarding having to take the appeal to Circuit Court.

Adjournment

**Motion by Haefs, second by Clemence to adjourn at approximately 7:35 p.m.
Motion carried.**