



City of La Crosse, Wisconsin

City Hall
400 La Crosse Street
La Crosse, WI 54601

Meeting Minutes - Final

Board of Zoning Appeals

Monday, July 15, 2024

4:00 PM

Council Chambers
City Hall, First Floor

Call to Order

Chair Cherf called the meeting to order at 4:00 p.m. and explained the meeting procedure.

Roll Call

Present: 5 - Douglas Farmer, James Cherf, Anastasia Gentry, Ryan Haug, William Raven

Variance Appeals:

Roll Call

Farmer recused himself during applicant testimony for file 2685 and Szymalak stepped in to participate; he participated for the remainder of the meeting.

Present: 5 - James Cherf, Anastasia Gentry, Ryan Haug, William Raven, James Szymalak

[2685](#)

An appeal regarding the requirement to have fill 15 feet beyond the structure one foot or more above the regional flood elevation at 2710 Onalaska Ave, La Crosse, Wisconsin.

Andy Berzinski, representing the Community Risk Management Department, was sworn in to speak. Berzinski went over the requirements for granting a variance: unnecessary hardship, hardship due to unique property limitations, and no harm to public interests. The applicant applied for a permit to place 15 feet of fill on only three sides of a dwelling, instead of the required 4 sides. Per Municipal Code Section 115-281(3)(a)(1), the elevation of the lowest floor shall be at or above the flood protection elevation on fill unless the requirements of section 115-281(3)(a)(2) can be met. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. A variance will be required to allow 15 feet of required fill on only three of the four sides of the dwelling.

Berzinski showed an aerial view and a street view of the proposed project. He also showed a site plan where the fill is located on the three sides. Cherf confirmed that the property in question shown on the site plan is the top property with the grey hashmarks. Berzinski stated that for the unnecessary hardship, the dwelling cannot become floodplain compliant if the fill is not installed. For the hardship due to unique property limitations, the property is in the floodplain. He added that this type of variance has been granted multiple times previously and there is no harm to the public interest.

Mara Keyes, representing the Planning and Development Department, was sworn in to speak. Keyes stated that they looked into options for the erosion measures as discussed in the prior meeting. They could put in a retaining wall, which is the 4th option, but will still need a variance for that option.

Szymalak asked about the retaining wall option and confirmed. Keyes stated they're asking for the zero on the north side of the property to give them room for the retaining wall. Szymalak responded that they could meet the retaining wall they could meet the height restriction but reduce the amount. Keyes agreed that it would be about three feet, so if that is what is granted, they will work with that. Szymalak again confirms with Keyes on what exactly they are asking for in regard to the feet needed for the variance, if it is zero or three. Keyes stated that they need to get the property sold, so they are trying to come into compliance by obtaining a variance of zero feet with showing the water erosion plans. Szymalak stated that the applicant has the burden of proof to prove that the variance is justified; with option four in the retaining wall there doesn't need to be a zero-foot variance.

Gentry asked for clarification on why this is required for the property to be sold. Keyes responded that with the DNR floodplain code they cannot sell in the property in its current state. They did fill the basement and brought some fill in around the property to meet FEMA code, but because they're not up to the DNR standards, they need to get a variance so they can sell. Szymalak stated there is no legal prohibition about transfer of property that is not floodplain compliant, and asked if there is something else causing this. Keyes responded that Community Risk Management was not going to recommend for approval regarding some floodplain dollars that they were putting into the property. Szymalak stated that not recommended is not the same as prohibited from something. Keyes responded that in her understanding they need to get it into compliance because the City doesn't want to sell a property to a low-income homeowner when they know it is not compliant. Szymalak reiterated that the requirement is to grant the minimum variance to get to compliance and that zero feet is not required; this is a policy choice on transfer, not a legal choice. Keyes stated that she agrees with that statement. She asked Berzinski if he could add to that from the floodplain standpoint. Berzinski responded that he would need to refer to Chief Reinhart to confirm if floodplain grant money could be used in this case. Keyes added that it was their understanding that they could not transfer the property until it becomes DNR complaint.

Kevin Conroy, representing the Planning & Development Department, was sworn in to speak. Conroy stated that they went through the compliance process through FEMA but found out they were not in compliance with DNR regulations. He stated that the amount of fill on three sides will be substantial and because of the position of the property line on the north side, there is very little space to satisfy the 15 feet. The variance request was to not have any fill added to the north side. Szymalak stated that if they used the same block as is used a couple lots down, they could raise it up to the floodplain without the use of soil. He asks why they can't use monster block instead of soil, then they don't need the zero-foot variance and adds that the law requires the minimum variance possible. He stated that an engineering fix could be the use of the blocks and asks why they haven't considered that option. Conroy stated that it would be an option if they brought in a barrier to contain the fill, but it would be contingent on the adjacent homeowner being in agreement with the use of the blocks as opposed to a retaining wall.

A motion was made by Szymalak to grant a variance of from 15 feet minus whatever the property line is up to the property line. Szymalak added: the extra-large block that Habitat was required to put on their property two houses

down, will work fine; it's very economical, it can be set in place above the soil level so we don't have to worry about water coming into the north side house, they can slope it out to drain out back, a very easy solution. My recommendation would be up to the property line and no farther.

Cherf asked to confirm that the distance of the variance; Berzinski stated that it is roughly five feet.

Szymalak modified his motion by stating that the variance is from the 15-foot requirement to the five-foot property line from the house.

Haug seconded.

The motion carried by the following vote:

Yes: 5 - Cherf, Gentry, Haug, Raven, Szymalak

[2688](#)

An appeal regarding the requirement to provide an 8.915 foot setback from the front property line at 1018 Badger St., La Crosse, Wisconsin.

Andy Berzinski, still sworn, stated that the applicant applied for a permit to build a new single-family house that does not meet the allowed 8.915-foot front yard setback requirement. Per Municipal Code Section 115-142(c)(2), states that on every lot in the Residence District, there shall be a front yard having a depth of not less than 25 feet, provided that where lots comprising 40 percent or more of the frontage on one side of a block are developed with buildings, the required front yard depth shall be the average of the front yard depths of the two adjacent main buildings. A variance allowing a 2-foot, 1.5-inch reduction to the allowed front yard setback, from the front property line, would need to be granted for this project to proceed as proposed. Berzinski showed an aerial view, a site plan with the proposed setbacks noted. Cherf asked about the setbacks of the adjacent properties. Berzinski stated that the setbacks of the adjacent properties are 8.83 feet and 9 feet. Berzinski showed a street view and noted that the house in the photo is now demolished, and then showed a street view of the property with the foundation for the new dwelling. Cherf asked if the foundation encroaches; Berzinski confirmed that it does encroach into the required setback.

Eric Glamm, 320 West Avenue N, was sworn in to speak. Glamm stated that the property in question is on an exceedingly small lot. There was a very old house that outlived its useful lifespan. They submitted plans that were approved to redevelop the property into a four-bedroom, two-bath property. Glamm stated that there were some challenges when working with a lot that is about 1800 square feet, they are proposing a 1200 square foot home. They support a variance because otherwise the requirement severely limits the size of the living area that they can put in, which is approximately 11 feet by 10 feet; if they comply with the required setback, the living area would be 11 by 9. Glamm stated that all houses in the area are dense and built prior to the current code requirements, which is why they don't have the 25-foot setback that you normally see. Glamm adds that a 2-foot variance isn't too much to consider to develop the property to its full potential.

A motion was made by Haug, seconded by Szymalak, that the variance be granted due to unique property limitations being how narrow the property is.

Cherf confirmed that Haug was referring to a variance of 2 feet, 1.5 inches.

Szymalak added that it would be an unnecessary hardship to cut this back and to make modifications to the foundation that was poured in good-faith reliance

from what they were told by the city; it would be against the public interest to penalize this property owner for complying in good-faith with what they were told by the City. This is an aesthetic (inaudible) with a setback, I walked the property and it's still in line with the neighbors. I believe this variance is consistent with the public interest; it's a unique property, it's small and again, it would be a truly unnecessary hardship on the property owner.

The motion carried by the following vote:

Yes: 5 - Cherf, Gentry, Haug, Raven, Szymalak

Adjournment

Meeting adjourned at 4:37 p.m.