



City of La Crosse, Wisconsin

City Hall
400 La Crosse Street
La Crosse, WI 54601

Meeting Minutes - Final

Board of Zoning Appeals

Monday, August 18, 2025

4:00 PM

Council Chambers
City Hall, First Floor

Call to Order

Chair Cherf called the meeting to order and explained the meeting procedures.

Roll Call

Present: 5 - Ben Stepanek, Douglas Farmer, James Cherf, James Szymalak, Andrew Sherman

Also present: Second Alternate Jai Johnson (non-voting)

Variance Appeals:

[2696](#)

An appeal to allow a fence to be placed closer than three (3) feet to the public alley at a property known as 104 22nd St. S., La Crosse, Wisconsin.

Andy Berzinski, representing the Building & Inspections Department, was sworn in to speak. Berzinski went over the three requirements to grant a variance: unnecessary hardship, hardship due to unique property limitations, and no harm to public interests. He stated that the applicant has applied for a permit to construct a fence that does not meet the required setbacks along a public alley. Per Municipal Code Section 115-398(C)(1), fences and hedges, residential fences are permitted up to the property lines in Residential Districts but shall not, in any case, exceed a height of six feet without a conditional use permit, shall not exceed 48 inches in height from grade in the front, side, or rear yard setback abutting a public sidewalk, shall not encroach into any vision corner and shall not be closer than three feet to any public right-of-way along a public alley. The Board would have to grant a variance of three feet to allow a fence to be placed on the rear property line abutting a public alley.

Berzinski showed an aerial view of the property, street views of the current retaining wall on the alley where the applicant wishes to place the 42-inch fence, and a picture of the proposed aluminum fencing type. Berzinski stated that there is no unnecessary hardship as the fence can be installed to meet code. He added that there are no unique property limitations as this lot is the same size as many in the City. He also stated that there is harm to the public interest if the alley is redone; the city would be required to pay to remove and reinstall the fence.

Szymalak asked if Inspection is okay with the fence in the vision corner Berzinski responded that they are okay with this type because of the open style. Szymalak stated that he asked because he read the provision that if a fence is under 48 inches and of open style then it would be okay. Szymalak added that in the prohibited fence section up to a 36-inch fence is allowed in the vision clearance. Berzinski responded that they consider fences that are over 50 percent open to be acceptable in a vision

clearance corner. Szymalak stated that the fence regulations should be looked at with the zoning code update.

Rachael and Torey Vande Walle, 104 22nd St S, were sworn in to speak. Rachael stated if the fence needs to be redone because of re-doing the alley, they have a retaining wall, so by proposing to put the fence on top of it, there should be no issues. They would like to do this because it is the only feasible area to put the yard because it is not a busy area and they can ensure the kids don't get into the alley. She added that this would allow them to maximize the use of the area without having to have an additional three-foot area that is between the retaining wall and fence. Torey stated that the visibility of the fence type would be 82 percent see-through where the regulation states it has to be 50-percent see-through so there is greater visibility with this type of fence. He added that this type is decking material which is stronger and more durable; because of the drop-off they want it to be strong as their daughter tumbled off the retaining wall. He also added that it would be nice looking for the neighborhood. The Vande Walles submitted photos and information on their proposed fence materials to the Board for the file. Rachael added that the fence would be for the safety of the children in the yard and also function as a barrier to keep items from getting out of the yard into the alley.

Larry Sleznikow, 2203 Cass Street, was sworn in to speak. Sleznikow stated that he is the Council representative for the district where the property is located. He stated that the Vande Walles have been making improvements to the property and there is not much yard space on the lot, and it is also elevated above grade for the sidewalk and alley. Sleznikow added that owners are trying to maximize the use of the property and to improve resale value of home. He stated the requirements to grant a variance and added that there is a hardship because to move the fence would reduce the amount of yard they have. He stated that the owners added the concrete retaining wall to keep the yard in place, and that those using the alley won't have issues with visibility with this type of fence. He added that it is unique and will improve quality of life for the owners and the neighbors.

A motion was made by Szymalak, seconded by Farmer, to grant a variance of three feet to allow a fence to be placed on the rear property line along a public alley, subject to a 48-inch height limitation and compliance with all other applicable provision of the regulations. The motion carried by the following vote:

Yes: 5 - Stepanek, Farmer, Cherf, Szymalak, Sherman

2691

An appeal regarding the requirement to provide a 25-foot front yard setback at 2546 7th St. S, La Crosse, Wisconsin.

Berzinski, still sworn, stated that the applicant has applied for a permit to put an addition onto a Single-Family Dwelling that does not meet the required front yard setback. Per Municipal Code Sec. 115-143(2), front yards, on every lot in the Residence District, there shall be a front yard having a depth of not less than 25 feet. The two adjacent main buildings are setback over 25 feet, so they can't use the compromising percentage of the average of the two adjacent buildings. A variance of 14.5 feet would need to be granted for this project to proceed as proposed. He showed an aerial view of the property, a street-view image of the house, as well as a photo of where the new addition would be placed. Berzinski then showed an overall site plan and pointed out that the addition is tied into existing house through a breezeway at 10.5 feet back from the 14.5 feet of right-of-way. He showed additional renderings of what it would look like.

Berzinski stated that there is no unnecessary hardship because the property can continue to be used without the addition, that there is no unique property limitation because the property is larger than most in the city, and he also added that there is no

harm to the public interest. Because of these reasons, he stated that the variance should not be granted.

Johnson asked if the term is a front yard setback; Berzinski stated that it is still the front yard of the property. Johnson for confirmation that this is regarding a front yard setback, because the driveway will be in the proposed setback area; Berzinski responded that it is a front yard setback because it is the front yard of the property. Cherf confirmed with Berzinski that the proposed dimensions of the addition are 58 feet by 42 feet at the widest points.

Doug Buchner, 2546 7th St S, was sworn in to speak. Buchner stated that almost all properties in the city are built closer than what is allowed, and he wants the addition to look similar with neighbors because what is along the street is similar to what he is proposing (25 feet from the curb). He added that the property is unique because there is no alley access, so the front yard is where everyone is storing their boats, trailers, etc. He added that if he was to build it as required, the driveway would be 39 feet. He stated that the city is pushing for more greenspace, and he would prefer to have that in the back along the river. He also stated that this would take that away that greenspace and create more water runoff. Buchner stated that he needs the extra space because the two-car garage is not enough. He stated that he would need to remove the tree if he had to place the addition where it is required. He added that not all of the addition would be garage; the area facing the river will have a seating area with windows. He also stated that the neighbor to the south has a garage 17 feet off the curb, so he wants his addition to be similar.

Stepanek asked Berzinski to give context on floodplain concerns since the property is along the river. Berzinski responded that the property has completely been removed from the floodplain.

A motion was made by Farmer, seconded by Sherman, to grant a variance of 14.5 feet to the required setback. The motion failed by the following vote:

Yes: 2 - Farmer, Sherman

No: 3 - Stepanek, Cherf, Szymalak

[2695](#)

An administrative appeal of the Zoning Administrator's interpretation of the City of La Crosse Zoning Code, Chapter 115-151 pursuant to Wis. Stat. Section 62.23(7)(e)7(b) and La Crosse Municipal Code Section 115-59(1), in regard to permitted and non-permitted uses at 3102 Chestnut Place, La Crosse, WI 54603.

A motion was made by Szymalak, seconded by Stepanek, that the appeals be REMOVE FROM THE TABLE. The motion carried by the following vote:

Yes: 4 - Stepanek, Cherf, Szymalak, Sherman

No: 1 - Farmer

[2695](#)

An administrative appeal of the Zoning Administrator's interpretation of the City of La Crosse Zoning Code, Chapter 115-151 pursuant to Wis. Stat. Section 62.23(7)(e)7(b) and La Crosse Municipal Code Section 115-59(1), in regard to permitted and non-permitted uses at 3102 Chestnut Place, La Crosse, WI 54603.

Gideon Wertheimer, representing the Legal Department, was sworn in to speak. Cherf asked Wertheimer if the Board needed to know anything specific before proceeding. Wertheimer responded that the Board must first decide on whether a decision has been made. If a decision hasn't been made that would be the end, but if a decision has been made, then they go on to the review standards which are different than the variance standards. He stated that the Board is still acting like a court but analyzing the statute (ordinance) and interpreting it; if the ordinance is clear then the Board would decide based on that. If the ordinance is unclear, the Board would use other avenues of interpretation. Wertheimer added that he could guide the Board through the standards as they get to them.

Farmer asked what decision they are hearing and Wertheimer stated it he could not answer that question and that it would be better hearing that from the applicant. Wertheimer added that it is up to the Board to decide that if a decision has been made. Johnson asked if anything has changed since the last meeting; Berzinski responded that no permits have been applied for to date. Farmer asked if the applicant still has the right to appeal to circuit court, no matter what is decided by the Board and Wertheimer responded that they have 30 days after the Board makes a decision. Farmer asked if a motion to leave on the table would be a decision and Wertheimer responded that a decision would be to grant or not grant the appeal. Farmer stated that the motion to table made in the prior month was because it is too vague.

Stepanek asked Wertheimer to go over what it takes to get an industrial use permit; Wertheimer stated that it would have to be in one of the zoning districts that allow that use and then a permit would be applied for based on what the zoning district allows, and then the permit could be approved or not approved based on what the Municipal Code allows. Stepanek asked if NNG (Northern Natural Gas) had taken any of those steps and Wertheimer responded that he did not have that information and that other staff or the appellant may have that information. Johnson stated there is no variance to grant asked if there is a mechanism to refund fees, because she believes there is no basis for this application. Wertheimer responded that he would not recommend rejection of completed applications. Cherf asked Wertheimer for confirmation that the Board cannot make determinations on the fees; Wertheimer confirmed that Cherf's statement was correct.

Berzinski, still sworn, stated that the applicant has applied for an administrative appeal of two items. One appeal is the determination that an industrial use was approved for a party, and the other appeal is that a residential/commercial rowhouse was refused. Berzinski stated that at this time no permits have been applied for or issued for either of the alleged appeals. The Zoning Administrator feels that for this reason, these appeals shouldn't be heard as no official determination has been made via issuance of a permit or denial letter being supplied. Johnson asked if appeal means conversation; Berzinski responded that appeal would mean being before the board. Johnson confirmed with Berzinski that an industrial use has not been approved and residential/commercial has not been refused.

Joe Van Aelstyn, 3152 33rd St S, was sworn in to speak. Van Aelstyn stated that the appeal was tabled which meant that the filing of the appeal stayed the decision of the zoning administrators. He stated that staff said that no written permit was requested or provided and added that per Municipal Code 115-59, the Board has the power to hear and decide appeals where it is alleged that there is an error on any order, requirement, decision or determination made. On April 3, 2025, he received an email from Tim

Acklin stating that staff had met (David Reinhart, Matt Gallager, and Tim Acklin) and their determination was that NNG could build the facility that they wanted on his property. Van Aelstyn stated that the word "any" indicates any type of communication. Van Aelstyn stated that he believes NNG met with staff and were given verbal okay to proceed; Van Aelstyn added they weren't authorized to do it.

Van Aelstyn stated that the zoning consultants have concluded that the code on the commercial district is unconstitutional because it only lists items that you cannot do. Van Aelstyn stated that there are no approved uses listed in the local business district and listed the approved uses in the section on residential/commercial uses (row-houses - commercial or garage on the first floor). He stated that he wanted to build row houses with commercial on first floor or garages that could be converted to commercial on the first floor and Acklin said he could not do it. He went over other uses allowed in the commercial district. Van Aelstyn stated that the only place where a natural gas substation can be put is in heavy industrial and in that section of the code, no building or occupancy permit can be issued for the dangerous or unwholesome use unless approved by the Board of Zoning Appeals after a public hearing. Van Aelstyn explained that for town boarder stations the gas comes in owned by NNG and goes out owned by Xcel Energy. He stated that there are six of these in the County and gave pictures of these to the Board. He added that they all have signs stating that the areas are dangerous. He stated that the zoning administrators don't have authorization to approve the use and only the Board has the right and may only do so in the heavy industrial.

Van Aelstyn stated that an additional reason why their determination should be rejected is that he placed a restrictive covenant on property. He stated that NNG want to take 29,000 feet. He also stated that he doesn't want it there and it will destroy the neighborhood and the property values. He added if NNG goes through eminent domain to get the land, he would be entitled to fair market value of the property, but neighbors aren't entitled to a settlement. He stated that he has plans for housing for the land which is needed.

Lisa Fitzpatrick, 1591 Medary Ln, Onalaska, was sworn in to speak. They stated that the NNG project would be detrimental to the neighborhood.

Johnson asked if there is a potential remedy for the applicant to apply for the permit since it is unknown if the row houses would be approved or not. Wertheimer replied that they could apply, it could be denied and the denial could be appealed to the Board. Johnson stated that the permit application could be a starting point for the process. Stepanek asked if the same legal standards apply to administrative appeals and variance requests. Wertheimer stated that first, the Board must decide the threshold whether there was a determination made. If a determination was made, the Board would move into statutory interpretation of the Code to decide if the ordinance is ambiguous. If it is ambiguous, the Board should determine the intent of the ordinance, what the plain meaning of the text is, if there are related ordinances and ensure they harmonize with no contradictory information. This includes giving meaning to every word of the ordinance and the process can be discussed further if the Board gets to that point. Cherf stated that the procedure is on page 155 in the packet of review standards.

Tim Acklin, Deputy Director of the Planning Department, 400 La Crosse Street, was sworn in to speak. He stated his intention was to provide clarification and context on the appeal of conversations rather than any applications to the City. On the issue of determination of zoning, Northern National Gas (NNG) requested a meeting with staff to discuss an expansion or relocation of current facilities just to the West of the subject property. Other properties were discussed, but NNG preferred the subject property because it is on their existing easement. Acklin stated that based on the plans described at the time and the existing zoning, Chief Inspector David Reinhart, Director of Public Works Matt Gallager, and himself determined the subject property

could be used for the proposed project but did not grant approval. Acklin provided NNG the necessary steps to move forward, including discussion with the property owner. Acklin requested further information, in writing, to determine if the zoning for the project was appropriate. Acklin recognized that the Code states what is disallowed and not what is allowed. He stated that this is being fixed in the updated zoning code to be completed in 2026.

Acklin stated the second issue was a conversation between Director of Planning Andrea Trane and himself on the row house proposed use. At the time of the conversation, a Conditional Use Permit was required but now conditional uses are allowed by zoning code. Originally, the applicant wanted to do it on all four parcels and Acklin and Trane recommended he go to the Planning and Development Department because he could not do it on all four parcels due to different zoning. Acklin stated that the subject appeal is an appeal of conversations, nothing was submitted to the City for formal review. Farmer stated his prior experience having a conversation with the Inspections Department regarding a garage which he took only as an opinion prior to applying for a permit. Farmer stated that the subject appeal is of advisory discussions, not official approvals. Acklin agreed with Farmer's statement and stated that advisory discussions based on proposals are common. Farmer asked for confirmation that until an application is submitted, there is no official decision, only advisory discussions, and that the subject conversation fell into these parameters. Acklin agreed to Farmer's statement.

Farmer asked for confirmation that the property owner must agree to the proposed project or there has to be eminent domain for the project to occur. Wertheimer confirmed, assuming that the project is allowed by zoning code. Farmer asked for confirmation that the issue of eminent domain can be lengthy and involve the courts. Wertheimer confirmed, assuming that there is no earlier settlement. Wertheimer stated that the appeals could go as far as the United States Supreme Court.

Todd Douglas, 1558 Young Drive West, was sworn in to speak. They stated the negative environmental impacts of the proposed NNG project.

Christopher Meyer, 1589 Medary Lane, was sworn in to speak. They stated that the lack of clarity on the subject issue makes it an issue for the Board to decide.

A motion was made by Farmer, seconded by Stepanek, to DENY the administrative appeals. The motion carried by the following vote:

No: 5 - Stepanek, Farmer, Cherf, Szymalak, Sherman

Other Business

[25-0143](#)

Update on the zoning/subdivision code project.

No action taken. Discussion only. Chair Cherf wanted to bring attention to the discussion and input from other committees.

Adjournment

Meeting adjourned at 5:50 p.m.