



City of La Crosse, Wisconsin

City Hall
400 La Crosse Street
La Crosse, WI 54601

Meeting Agenda - Final Board of Zoning Appeals

Tuesday, January 17, 2023

4:00 PM

Council Chambers
City Hall, First Floor

The Board of Zoning Appeals meeting is open for attendance in person. The meeting will be also be conducted through video conferencing. The meeting can be viewed by typing the URL in your web browser address bar: <https://stream.lifesizecloud.com/extension/5037463/bfd42716-d6ed-4af0-b960-fc9ab91ab338>

Call to Order, Roll Call

Notice is hereby given that the Board of Zoning Appeals will hear the following variance appeals in the Council Chambers on the first floor of City Hall, 400 La Crosse Street, at 4:00 p.m. on January 17, 2023:

[2664](#)

An appeal regarding the requirement to provide a lot area of 7,200 square feet at a property known as 1027 Hayes St., La Crosse, Wisconsin.

Adjournment

Property owners affected by an appeal may appear either in person, by agent, or by attorney, and may express their written approval of or objection to the granting of the appeal by filing a letter in the office of the City Clerk, or in lieu thereof may, upon oath, testify thereto. Written comments are encouraged to be submit in writing prior to the meeting and should be submitted to craigs@cityoflacrosse.org, dropped in a drop box outside of City Hall, or mailed to the City Clerk, 400 La Crosse Street, La Crosse WI 54601. Questions, call 608-789-7510.

*Dated this 4th day of January, 2023
Board of Zoning Appeals
Nikki Elsen, Secretary*

Notice is further given that members of other governmental bodies may be present at the above scheduled meeting to gather information about a subject over which they have decision-making responsibility.

NOTICE TO PERSONS WITH A DISABILITY

Requests from persons with a disability who need assistance to participate in this meeting should call the City Clerk's office at (608) 789-7510 or send an email to ADAcityclerk@cityoflacrosse.org, with as much advance notice as possible.

Board of Zoning Appeals Members:

James Cherf, Douglas Farmer, Anastasia Gentry, Jim Webb, Olena Bilous, Ryan Haug (first alternate), Vacant (second alternate)



City of La Crosse, Wisconsin

City Hall
400 La Crosse Street
La Crosse, WI 54601

Text File

File Number: 2664

Agenda Date: 1/17/2023

Version: 1

Status: Agenda Ready

In Control: Board of Zoning Appeals

File Type: BOZA - Request for
Variance

Agenda Number:

Board of Zoning Appeals Variance Application

(To be completed by City Clerk or Zoning Staff)

City of La Crosse, Wisconsin

Application No.: 2664

Date Filed: 1/3/2023

Filing Fee: 1/3/2023

Date Paid: 300.00

Application Complete: Yes ☒ No ☐ Reviewed By AB (Initial)

(To be completed by the applicant)

Application Deadline: 5:00 p.m. the first Monday of every month.

Building Permit Application Deadline: 10 Calendar Days prior to the first Monday of every month for the City of La Crosse Fire Department – Division of Community Risk Management to provide review. Any building permit submitted after this deadline must wait until the following month's Board of Zoning Appeals meeting.

	Owner / Agent	Contractor
Name	<u>Ray & Delores Spies</u>	
Address	<u>1019 & 1027 Hayes - 2207 Ave</u>	
Phone	<u>608-386-0845</u>	

Legal Description: ST Paul First Addn. Lots 1, 2, 3 Block 2, City of La Crosse, Wis.

Tax Parcel Number: 17-10194-MO

Lot Dimensions and Area: 99.5 x 140 feet. = 13,930 sq. ft.

Zoning District: R-1 single family

A variance is a relaxation of a standard in a land use ordinance. The Board of Zoning Appeals decides variances. The Board is a quasi-judicial body because it functions like a court. The Board's job is not to compromise ordinance provisions for a property owner's convenience but to apply legal criteria provided in state laws and the local ordinance to a specific fact situation. Variances are meant to be an infrequent remedy where an ordinance imposes a unique and substantial burden. The burden of proof falls on the variance applicant.

Process:

At the time of application, you will be asked to:

- **Complete an application** form and timely submit it with a non-refundable fee as required in La Crosse Municipal Code § 115-60; Failure to complete any section of the application form will result in rejection of the application. If additional space is needed, please attach additional pages.
- **Provide detailed plans** describing your lot and project (location, dimensions, and materials);
- **Provide a written statement** of verifiable facts showing that your project meets the legal criteria for a variance (Three-Step Test below); and
- **Stake out lot corners or lines**, the proposed building footprint and all other features of your property related to your request so that the Zoning Board and/or City staff may inspect the site.

Following these steps, the City of La Crosse Fire Department – Division of Community Risk Management must approve the application as to form and completeness and then the application and fee must be submitted to the City Clerk. The zoning agency will then provide notice of your request for a variance to the City of La Crosse's official newspaper noting the location and time of the required public hearing before the Zoning Board. Your neighbors and any affected state agency will also be notified. The burden will be on you as a property owner to provide information upon which the Board may base its decision. At the hearing, any party may appear in person or may be represented by an agent or attorney. If any of these requirements are not met or if you or your agent does not appear at the public hearing, the Board **must** deny your request for a variance and your fee will be forfeited.

Part A: General Information and Alternatives Analysis.

(To be completed by the applicant).

1. General Information.

Complete the questions in the general information section of the application to provide the necessary background information needed for the property at issue.

(a) Current use and improvements.

3 single family dwellings that are
rentals on one
parcel

(b) Proposed Use.

3 single family dwellings that are
rentals on 3 separate parcels

(c) Description and date of any prior petition for variance, appeal, or special exception.

None

2. Alternatives.

Describe alternatives to your proposal such as other locations, designs, and construction techniques. Attach a site map showing alternatives you considered in each category below.

- **Alternatives you considered that comply with existing standards.** If you find such an alternative, you can move forward with this option with a regular permit. If you reject compliant alternatives, provide the reasons why you rejected them.

they are none that I am aware of.

- **Alternatives you considered that require a lesser variance.** If you reject such alternatives, provide the reasons why you rejected them.

none that I am aware of

Part B: Three-Step Test.

To qualify for a variance, applicants must demonstrate that their property meets the following three requirements:

1. Unique Property Limitation. (To be completed by the applicant).

Unique physical characteristics of the property such as steep slopes or wetlands that are not generally shared by other properties must prevent compliance with ordinance requirements. The circumstances or desires of an applicant (growing family, need for a larger garage, etc.) are not a factor in deciding variances. Nearby ordinance violations, prior variances, or lack of objections from neighbors do not provide a basis for granting a variance. Property limitations that prevent ordinance compliance and are common to a number of properties should be addressed by amending the ordinance.

You will be asked whether there exist any unique physical characteristics to your property that prevent compliance with the ordinance. You will be asked to show where these unique physical characteristics are located on your property by showing the boundaries of these features on a site map. If there is not a unique property limitation, a variance cannot be granted.

(d) Description and location of all nonconforming structures and uses on the property.

3 nonconforming single family dwellings (see attached)

(e) Ordinance standard from which variance is being sought (include code citation).

115-142.6(2)

(f) Describe the variance requested.

divide parcel into 3 separate lots

(g) Specify the reason for the request.

so each property can have its own sewer + water.
So they are more conforming,

(h) Describe the effects on the property if the variance is not granted.

sewer + water for all 3 houses will be on one service

Do unique physical characteristics of your property prevent compliance with the ordinance?



Yes. Where are they located on your property? In addition, please show the boundaries of these features on the site map that you used to describe alternatives you considered.



No. A variance cannot be granted.

2. No Harm to Public Interest.

A variance may not be granted which results in harm to public interests or undermines the purpose(s) of the ordinance. In applying this test, the Zoning Board must consider the impacts of the proposal and the cumulative impacts of similar projects on the interests of the neighbors, the entire community, and the general public. These interests may be listed as objectives in the purpose statement of an ordinance and may include:

- *Public health, safety, and welfare*
- *Water quality*
- *Fish and wildlife habitat*
- *Natural scenic beauty*
- *Minimization of property damages*
- *Provision of efficient public facilities and utilities*
- *Achievement of eventual compliance for nonconforming uses, structures, and lots*
- *Any other public interest issue*

(a) Ordinance Purpose. (To be completed by zoning staff).

The Zoning Board must consider the purpose and intent of zoning codes when considering a variance request. As promulgated by the City of La Crosse Common Council, the purpose and intent of the La Crosse Zoning Code include, but is not limited to, the following:

§ 8-86	§ 101-58	§ 109-6
§ 115-3	§ 115-140	§ 115-141
§ 115-148	§ 115-156	§ 115-158
§ 115-211	§ 115-319	§ 115-437
§ 115-510	§ 115-548	§ 115-594

The failure of any particular city official to identify additional purpose and intent information on the application does not preclude the city official from raising the issue at the public hearing on the requested variance.

(b) Purpose(s) of Standard from which Variance is Requested. (To be completed by zoning staff).

The City of La Crosse Building Inspector, Code Enforcement Officer and any other officials may be aware of other reasons a particular ordinance standard is required. The city official(s) may list those reasons on this application. The failure of any particular city official to identify additional purpose information on this application does not preclude the city official from raising the issue at the public hearing on the requested variance.

(c) Analysis of Impacts. (To be completed by applicant).

Discuss impacts (e.g. increased runoff, eroding shoreline, etc.) that would result if the variance were granted. For each impact, describe potential mitigation measures and the extent to which they reduce the impacts (i.e. completely, somewhat, or marginally). Mitigation measures must address each impact with reasonable assurance that it will be reduced to an insignificant level in the short term, long term, and cumulatively.

Short-term impacts are those that occur through the completion of construction. Long-term impacts are those that occur after construction is completed. Cumulative impacts are those that would occur if a similar variance requested were granted for many properties. After completing the impact analysis, you will be asked to give your opinion whether granting the variance will harm the public interest.

(1) Short-term Impacts (through the completion of construction):

- **Impact:**

Mitigation measure(s):

Extent to which mitigation reduces project impact:

N/A

- **Impact:**

Mitigation measure(s):

Extent to which mitigation reduces project impact:

N/A

(2) **Long-term Impacts** (after construction is completed):

- Impact:
Mitigation measure(s):
Extent to which mitigation reduces project impact:

N/A

- Impact:
Mitigation measure(s):
Extent to which mitigation reduces project impact:

N/A

(3) **Cumulative Impacts** (what would happen if a similar variance request was granted for many properties?):

- Impact:
Mitigation measure(s):
Extent to which mitigation reduces project impact:

none to compare to

- Impact:
Mitigation measure(s):
Extent to which mitigation reduces project impact:

N/A

Will granting the variance harm the public interest?

☐ Yes. A variance cannot be granted.

☒ No. Mitigation measures described above will be implemented to protect the public interest.

3. Unnecessary Hardship. (To be completed by the applicant).

The unique property limitation must create the unnecessary hardship. An applicant may not claim unnecessary hardship because of conditions that are self-imposed or created by a prior owner (for example, excavating a pond on a vacant lot and then arguing that there is no suitable location for a home). Courts have determined that economic or financial hardship does not justify a variance. When determining whether unnecessary hardship exists, the property as a whole is considered rather than a portion of the parcel.

You will be asked whether you are requesting an area variance or a use variance and to detail whether there exists an unnecessary hardship.

An **area variance** is a relaxation of lot area, density, height, frontage, setback, or other dimensional criterion. Unnecessary hardship exists when compliance with the strict letter of the area restrictions would unreasonably prevent the owner from using the property for a permitted purpose (i.e. leaving the property owner without any use that is permitted for the property) or would render conformity with such restrictions unnecessarily burdensome. The Zoning Board must consider the purpose of the zoning restriction, the zoning restriction's effect on the property, and the short-term, long-term, and cumulative effects of the variance on the neighborhood, the community, and on the public interests. This standard reflects the Wisconsin Supreme Court decisions in *State v. Waushara County Bd. of Adjustment*, 2004 WI 56; and *State ex rel. Ziervogel v. Washington County Bd. of Adjustment*, 2004 WI 23.

A **use variance** is a relaxation of the zoning regulation on how the property is fundamentally used. A use variance allows property to be utilized in a manner not permitted by zoning regulations (i.e. an appropriate adaptive re-use of a school or church in a residential district). Unnecessary hardship exists only if the property owners show that they would have no reasonable or viable use of the property without the variance. Though not specifically restricted by statute or case law, a use variance is very rare because of the drastic effects it has on the neighborhood, the community, and the public interests. The Zoning Board must consider whether the owner has no reasonable return if the property is only used for the purpose allowed in zoning regulation, whether the plight of the owner is due to unique circumstances and not merely general conditions in the neighborhood, and whether the use sought to be authorized will alter the nature of the locality. See generally *State ex rel. Ziervogel v. Washington County Bd. of Adjustment*, 2004 WI 23.

Are you applying for an area variance or a use variance?

☒ Area variance

☐ Use variance

Is unnecessary hardship present?

☒ Yes. Describe.

all houses are on one water line & sewer line,
if problem in one they all have it,

☐ No. A variance cannot be granted.

Part C: Additional Materials / Exhibits.

In order for the zoning staff to conduct evaluations, the applicant's site map, with a scale of not less than 1"=50', and other exhibits must show the following:

- ☐ Location of requested variance
- ☐ Property lines
- ☐ Ordinary high-water mark
- ☐ Flood plain and wetland boundaries
- ☐ Dimensions, locations, and setbacks of existing and proposed structures
- ☐ Utilities, roadways, driveways, off-street parking areas, and easements
- ☐ Existing highway access restrictions and existing proposed street, side and rear yards
- ☐ Location and type of erosion control measures
- ☐ Vegetation removal proposed
- ☐ Contour lines (2 ft. interval)
- ☐ Well and sanitary system
- ☐ Location and extent of filling/grading
- ☐ Any other construction related to your request
- ☐ Anticipated project start date
- ☐ Sign locations, dimensions, and other specifications
- ☐ Alternatives considered
- ☐ Location of unique property limitation
- ☐ Lot corners, lines, and footprints have been staked out
- ☐ Abutting street names and alleys
- ☐ Abutting property and land within 20 feet
- ☐ Indication of the direction "North"

Part D: Authorization to Examine

You must complete and sign the authorization for the City of La Crosse Board of Zoning Appeals and the Planning and Development Department to examine the property of the variance request.

I hereby authorize the City of La Crosse Board of Zoning and Appeals and the Planning and Development Department to inspect premises

At: 1027 Hayes St
(Address where variance is sought)

Date: 12/07/2022 Signature of Owner: [Signature]

Part E: Certification.

You must sign your application, certifying that it and any additional materials are accurate and do not contain any misrepresentations or omissions. An unsigned variance application will not be considered. You also must get the application notarized by a certified notary.

Submit completed application to: Board of Zoning Appeals
400 La Crosse St.
Clerk's Office- 2nd Floor
La Crosse, Wisconsin 54601

Submit complete copy to: Chief Inspector
400 La Crosse St.
City of La Crosse Fire Department –
Division
of Community Risk Management
La Crosse, Wisconsin 54601

By signing below, I certify that I have received and reviewed all of the application materials. I further certify that all of my answers herein are true and accurate; I have not made any intentional misrepresentation or omission. I understand that if I intentionally misrepresented or omitted anything in this application that my application will be denied and any variance granted thereunder may be revoked.

Signed: (Applicant or Agent)

Date:

Signed: (Owner, if different from applicant)

Date:

THE APPLICANT OR AGENT

By:

THE OWNER

STATE OF WISCONSIN)

COUNTY OF LA CROSSE)

Personally came before me this 7 day of
December, 2022 the above named
Veloris Spies to me
known to be the person(s) who executed the
foregoing instrument and acknowledged the same.

Notary Public, La Crosse County, WI

My commission expires: 9/28/26

STATE OF WISCONSIN)

COUNTY OF LA CROSSE)

Personally came before me this 7 day of
December, 2022 the above named
Veloris Spies to me
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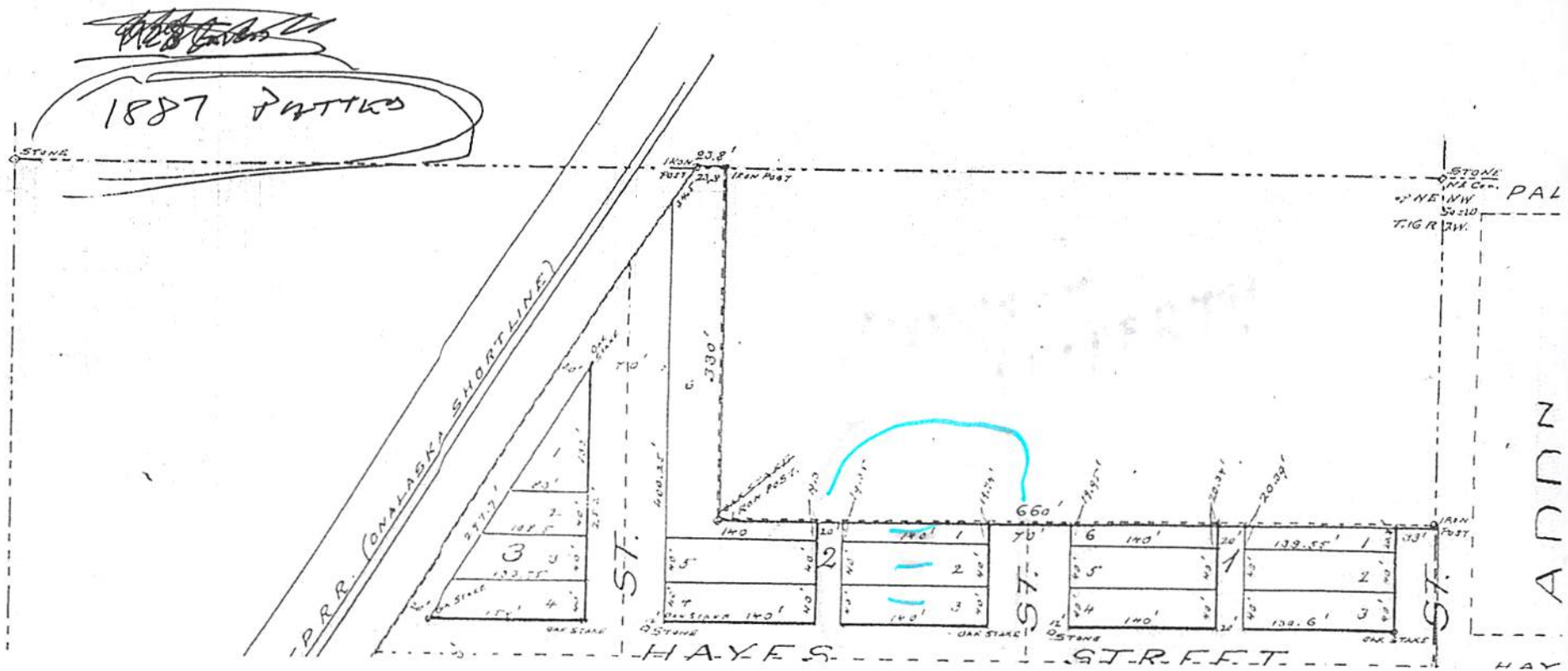
My commission expires: 9/28/26

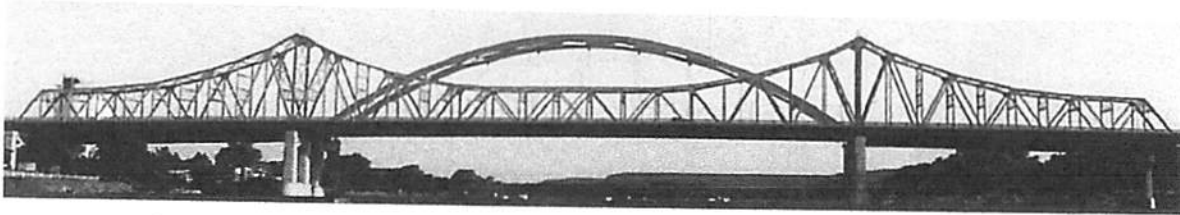


PLAT OF St Paul First Addⁿ

TO THE
CITY OF LA CROSSE

Scale 150' = 1"





1027 HAYES ST LA CROSSE

Parcel: 17-10194-70 Internal ID: 26055
 Municipality: City of La Crosse Record Status: Current



Parcel Information:

Parcel: 17-10194-70
 Internal ID: 26055
 Municipality: City of La Crosse
 Record Status: Current
 On Current Tax Roll: Yes
 Total Acreage: 0.320
 Township: 16
 Range: 07
 Section: 20

[Parcel](#)
[Taxes](#)
[Outstanding Taxes](#)
[Assessments](#)
[Deeds](#)
[Permits](#)
[History](#)

Legal Description:

ST PAUL FIRST ADDN LOTS 1, 2 & 3 BLOCK 2 LOT SZ: 140 X 99.74

Property Addresses:

<u>Street Address</u>	<u>City (Postal)</u>
1027 HAYES ST	LA CROSSE
2207 KANE ST	LA CROSSE
1019 HAYES ST	LA CROSSE

Owners/Associations:

<u>Name</u>	<u>Relation</u>	<u>Mailing Address</u>	<u>City</u>	<u>State</u>	<u>Zip Code</u>
DELORES M SPIES	Owner	2011 LIBERTY ST	LA CROSSE	WI	54603-2084
RAYMOND SPIES	Owner	2011 LIBERTY ST	LA CROSSE	WI	54603

Districts:

<u>Code</u>	<u>Description</u>	<u>Taxation District</u>
2849	LA CROSSE SCHOOL	Y
1	Book 1	N

Additional Information

<u>Category</u>	<u>Description</u>
2020+ VOTING SUPERVISOR	2020+ Supervisor District 1
2020+ VOTING WARDS	2020+ Ward 1
Use	1 UNIT
Use	2 HOUSES ON 1 LOT

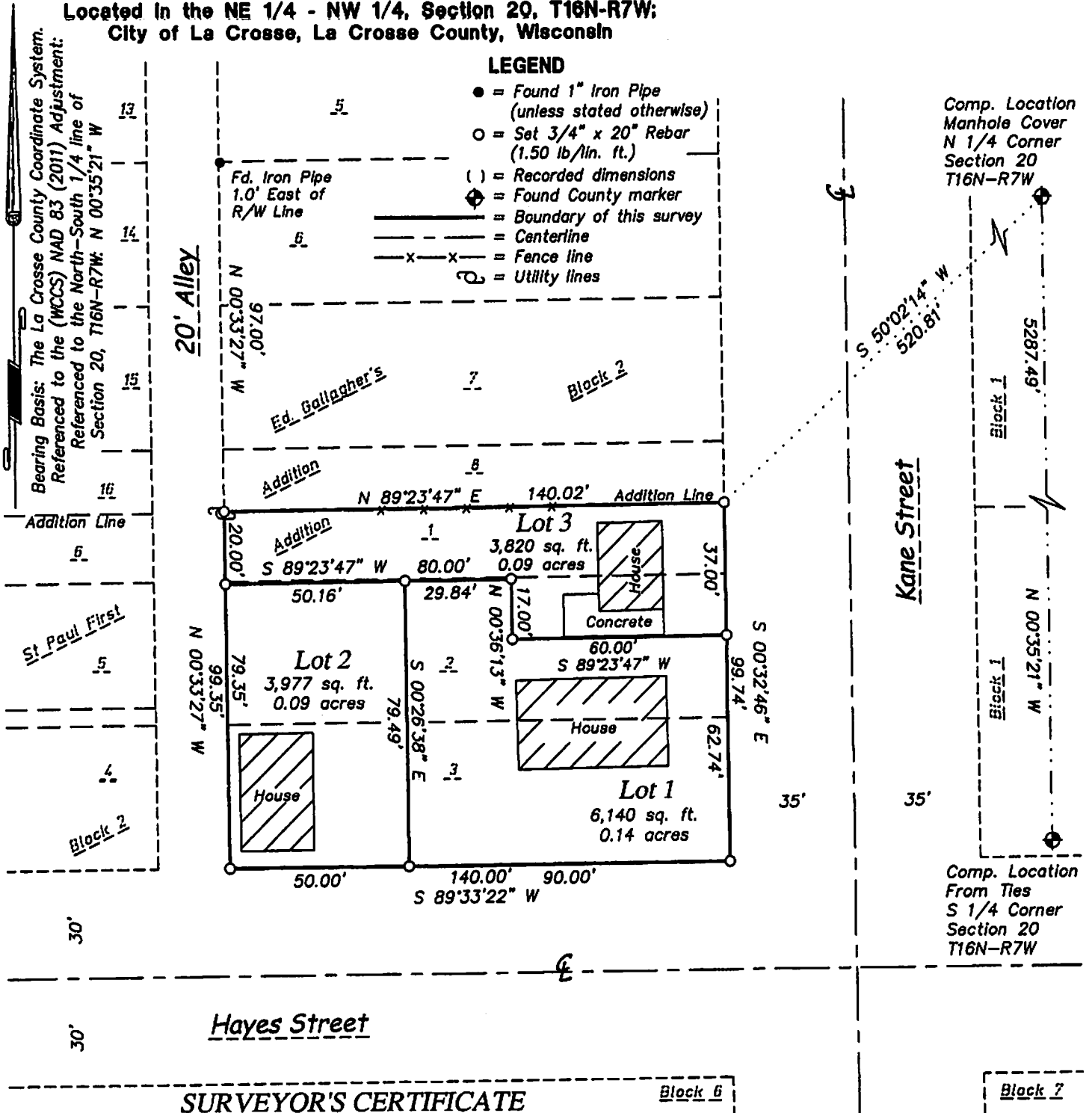
Lottery Tax Information ⓘ

Lottery Credits Claimed: 0
 Lottery Credit Application Date:

CERTIFIED SURVEY MAP No. _____

ALL OF

Lot 1, 2, & 3, Block 2, St. Paul First Addition;
Located in the NE 1/4 - NW 1/4, Section 20, T16N-R7W;
City of La Crosse, La Crosse County, Wisconsin



SURVEYOR'S CERTIFICATE

I, Christopher W. Fechner, Professional Land Surveyor, do hereby certify that I have surveyed and mapped this Certified Survey Map being all of Lot 1, Lot 2, Lot 3, Block 2, St. Paul First Addition; Located in the NE 1/4 of the NW 1/4, Section 20, T16N-R7W, City of La Crosse, La Crosse County, Wisconsin described as follows:

Subject to any easements, covenants and restrictions of record.

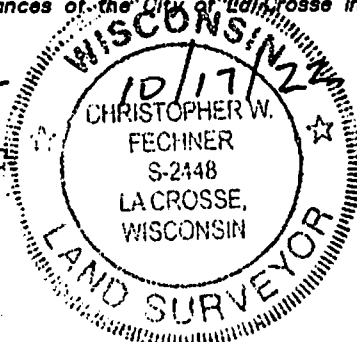
That I have made such survey, map and division of land at the direction of Delores Spies, owner of said land.

That such map is a correct representation of the exterior boundaries of the land surveyed and subdivision thereof made.

That I have fully complied with the provisions of the 236.34, Wisconsin Statutes and with the subdivision ordinances of the City of La Crosse in surveying and mapping the same.

Christopher W. Fechner PLS #2448
Coulee Region Land Surveyors, LLC
917 S. 4th Street
La Crosse, WI 54601

Owners:
Delores & Raymond Spies
2011 Liberty Street
La Crosse, WI 54603



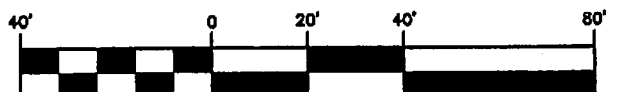
CITY OF LA CROSSE APPROVAL

Resolved that this Certified Survey Map is hereby approved by the City of La Crosse.

Dated this ____ day of ____, 2022

City Clerk

Graphic Scale



(IN FEET)

1 inch = 40 ft.

S-7921

SHEET 1 OF 1



La Crosse Fire Department

Division of Community Risk Management

inspection@cityoflacrosse.org (P) 608.789.7530 (F) 608.789.7589

<http://www.cityoflacrosse.org/your-government/departments/fire-department>



December 28, 2022

Ray and Delores Spies
2011 Liberty St
La Crosse, WI 54603

RE: An appeal regarding the requirement to provide a Lot area of 7,200 square feet at 1027 Hayes St., La Crosse, Wisconsin.

Dear Ray and Delores,

We have received the permit application to divide the current parcel into three separate parcels which does not meet the minimum requirements set forth in the Municipal Code of Ordinances of the City of La Crosse (Code) regarding area regulations listed under 115-142 (c)(2).

The project as proposed is in direct violation of the following subparagraph of the Code:

Sec. 115-142 (c)(2) - R-1 Single Family Residence District Regulations.

(c)Area regulations.

(2) Lot area. Every lot in the Single-Family Residence District of record before August 27, 1938, may have an area of less than 5,000 square feet. Every lot in the Single-Family Residence District of record between August 27, 1938, and September 15, 1966, shall have an area of not less than 5,000 square feet. Every lot in the Single-Family Residence District not of record September 15, 1966, **shall have an area of not less than 7,200 square feet.**

Therefore, if upon consideration of all of the facts surrounding this appeal in a public hearing, the Board of Zoning Appeals determines that this appeal meets all of the criteria established by the Legislature of the State of Wisconsin, as interpreted by the Supreme Court of the State of Wisconsin for the granting of variances, the Board of Zoning Appeals would have to grant a 3 separate variances for the new lots of 3,380 square feet, 1,060 square feet and 3,223 square feet to proceed as proposed per the CSM.

Sincerely,

Andy Berzinski
Building Inspector

Properties within 100 feet of 1027 Hayes St

Tax Parcel Number	OwnerName	PROPADDCOMP	Mailing Address	MailCityStateZip
17-10192-110	JESSICA J GJERTSEN, SAMINA L GRIMES	2216 KANE ST	2216 KANE ST	LA CROSSE WI 54603
17-10192-120	VANESSA LARIMER	2212 KANE ST	2212 KANE ST	LA CROSSE WI 54603
17-10193-110	JANA L SCHALOW	2220 CHARLES ST	2220 CHARLES ST	LA CROSSE WI 54603
17-10193-120	CARRIE K DAVIS	2218 CHARLES ST	2218 CHARLES ST	LA CROSSE WI 54603
17-10193-130	IAN MONTALVO	2212 CHARLES ST	2212 CHARLES ST	LA CROSSE WI 54603
17-10193-40	TIMOTHY J & CYNTHIA A THOMASON	2221 KANE ST	2221 KANE ST	LA CROSSE WI 54603
17-10193-50	JOSEPH J CONNELLY	2219 KANE ST	2219 KANE ST	LA CROSSE WI 54603
17-10193-60	TARA L MARTIN	2211 KANE ST	2211 KANE ST	LA CROSSE WI 54603
		1103 HAYES ST		
17-10194-40	LJT & A RENTALS LLC	2204 KANE ST	N5558 COMMERCE RD	ONALASKA WI 54650
17-10194-61	KELLY JEAN K JACOBSON, BRIAN P WILSON	2208 KANE ST	2208 KANE ST	LA CROSSE WI 54603
17-10194-80	MATTHEW A YESKE	2202 CHARLES ST	2202 CHARLES ST	LA CROSSE WI 54603
17-10194-90	DIANA HELLERUD	2204 CHARLES ST	2204 CHARLES ST	LA CROSSE WI 54603
17-10197-110	ROBERT J & HOPE M HEMBD	2138 CHARLES ST	2138 CHARLES ST	LA CROSSE WI 54603
17-10196-60	LJT & A RENTALS LLC	2137 KANE ST	N5558 COMMERCE RD	ONALASKA WI 54650
17-10199-10	DANIEL K & DEEANNA L ERDMAN	2138 KANE ST	2138 KANE ST	LA CROSSE WI 54603
Property Owner				
17-10194-70	DELORES M SPIES, RAYMOND SPIES	1027 HAYES ST	2011 LIBERTY ST	LA CROSSE WI 54603
	MEGAN DUFFY			
	Water Regulations & Zoning Engineer	WI DEPT. OF NATURAL RESOURCES	3550 MORMON COULEE RD	LA CROSSE WI 54601
	FLOODPLAIN MANAGER	WI DEPT. OF NATURAL RESOURCES	PO BOX 7921	MADISON WI 53707



Properties within 100 feet of 1027 Hayes St.