# Department of Planning and Development
## Building and Inspections

Torey & Raechel Vander Walle
104 22nd St. S.
La Crosse WI 54601

RE: An appeal to allow a fence to placed closer than 3' to the public alley at 104 22nd ST. S. La Crosse, Wisconsin.

Dear Torey Vander Walle:

We have received your building permit application to construct a fence that does not meet the minimum requirements set forth in the Municipal Code of Ordinances of the City of La Crosse (Code) regarding fences along a public alley.

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

. Sec. 115-398. - Fences and hedges.

(c) Height and setback of fences regulated.
(1)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 height of any fence shall be measured as an average and shall not include the posts or pillars to which a fence is attached.

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 variance of 3' to allow a fence to placed on the rear property line along a public alley.

Sincerely,

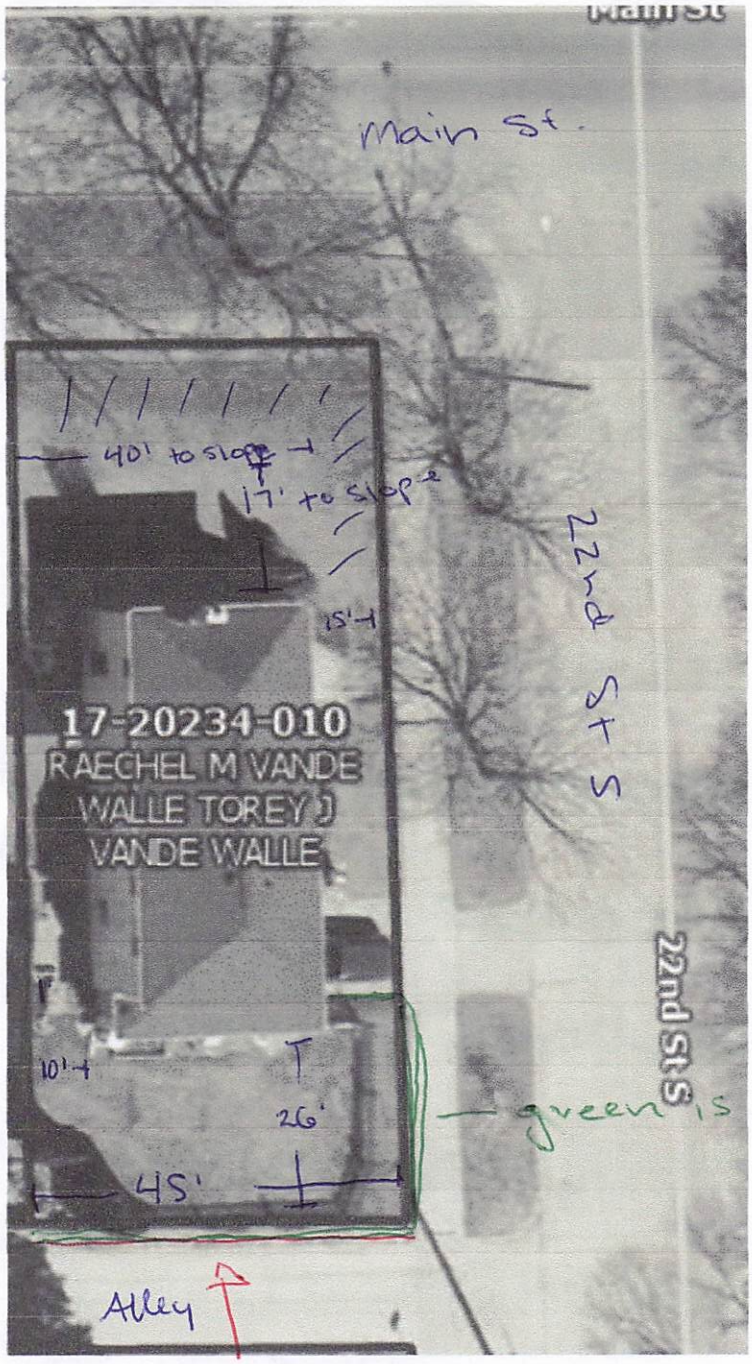
Eddie Young
Building Inspector

## Abbreviated Legal Description

(See recorded documents for a complete legal description)

GRANDVIEW ADDITION LOT 1 BLOCK 1 SUBJ TO ESMT IN V1132 P713 LOT SZ: IRR

pulled from GIS



# Board of Zoning Appeals Standards

The Board of Zoning Appeals functions like a court, and must follow State laws and local zoning ordinances. The Board of Zoning Appeals cannot change or ignore any part of the zoning ordinance or State laws, but must apply the laws as written.

The Board may only grant a variance, special exception, or administrative appeal if the applicant provides evidence showing that they meet **all** of the legal standards for that decision. The burden of proof falls on the variance applicant, not the Board of Zoning Appeals. The legal standards the Board will use to decide on each application are shown below.

## STANDARDS FOR USE or AREA VARIANCE

☐ 1. **The proposed variance is not contrary to the public interest.** The purpose statement of the ordinance and related statutes must be reviewed in order to identify the public interest. Variances must observe the spirit of the ordinance, secure public safety and welfare, and do substantial justice. In considering effects of a variance on public interests, broad community and even statewide interests should be examined; the public interest standard is not confined to scrutiny of impacts on neighbors or residents in the vicinity of the project.

☐ 2. **The property has a special or unique condition.** The property must have unique or physical features which prevent compliance with the ordinance. The circumstances of an applicant, such as growing family or need for a larger garage, are not legitimate factors in meeting this standard. Property limitations that prevent ordinance compliance that are not unique but common to a number of properties should be addressed by amendment of the ordinance.

☐ 3. **The special condition of the property creates an unnecessary hardship:**

a. Unnecessary hardship means unnecessarily burdensome, considering the purpose of the ordinance.
b. Unnecessary hardship may not be self-created. An applicant may not claim hardship because of conditions which are self-imposed. Examples include claiming hardship for a substandard lot after having sold off portions that would have allowed building in compliance or claiming hardship where construction was commenced without required permits in violation of ordinance standards.
c. Financial hardship is not a deciding factor. Economic loss or financial hardship does not justify a variance.

# Board of Zoning Appeals Procedure Handout

1) You, or someone speaking on your behalf, should arrive at 4:00 p.m. for the meeting even if you are not listed first on the agenda.
2) Neighbors within 100 feet of the property (where the variance is requested) will receive a copy of the meeting notice. They may appear before the Board to speak for or against your appeal or they may write a letter in support of your appeal or against your appeal and submit it to the City Clerk's office. You may contact your neighbors and share your proposal with them so they are aware.
3) The Board will have received a copy of your denial letter from the Building and Inspections department, your variance application, and any other materials you have attached to your application. Any presentation to the Board is limited to written materials, diagrams and photographs. No electronic devices for presentations will be allowed. This restriction does not apply to the presentation by Building & Inspections. Public hearings before the Board may be limited to ten (10) minutes for the proponents, ten (10) minutes for the opponents and a three (3) minute rebuttal for each side. The Board reserves the right to extend these time limits as it determines.
4) The Board follows the criteria listed on the previous page to determine whether or not your request meets the standards set forth by the Wisconsin Supreme Court.
5) If the Board grants your appeal, after you receive your letter of the Board's decision, you may apply for your building permit. The letter will be mailed to you within a week, after the meeting has taken place.