Board of Zoning Appeals Variance Application

(To be completed by City Clerk or Zoning Staff)

City of La Crosse, Wisconsin

203939

Application No.: 2696
Date Filed: 7/31/2025
Filing Fee: 800.00
Date Paid: 7/31/25
Application Complete: Yes X No _____ Reviewed By EJ (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	Raechel Vande Walle / Torey VandeWalle	Steiger Construction
Address	104 22nd St S, La Crosse WI 54601	2812 S 28th St, La Crosse WI 54601
Phone	608-780-1183	608-788-4233

Legal Description: GRANDVIEW ADDITION LOT 1 BLOCK 1 SL, City of La Crosse, Wis.
Tax Parcel Number: 17-20234-010
Lot Dimensions and Area: 105 x 45 feet. = 4,725 sq. ft.
Zoning District: _____

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 sub mitted 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.

The house sits on a corner lot with a street to the north and east and an alley to the south. The west portion (backyard) of the yard is approximately 10 feet from the neighboring home. The east portion of the yard (front yard) is approximately 15 feet to the sidewalk. The larger portions of the yard are the two sides, one facing main street and the area in question along the alley approximately 45' x 26' from home to alley. The alley section is the largest area of yard space on the lot and is used as the backyard since there is no actual backyard on the corner lot. We had to replace a worn retaining wall in the fall and removed a picket fence that was in disrepair above the wall for installation of the new retaining wall. When the wall was installed the contractor said they checked with the city and fence was allowable along the

(b) Proposed Use.

A fence is requested for the side yard along the alley on top of the retaining wall that was installed/replaced last fall. The proposed fence has more than 50% visibility and is under 48" high from grade. The fence material (aluminum decking) decreases the number of posts needed as it can span up to 10' per specs and is rated higher than traditional fencing for load/weight, further increasing visibility to the alley and sidewalk. The fence is requested to create a barrier for people using the yard to not fall from the retaining wall into the alley or sidewalk. It increases functional use of the only area of the lot feasible to use as a backyard.

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

No known petitions have been previously submitted.

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

There is not currently any nonconforming structures or uses on the property

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

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

(f) Describe the variance requested.

A variance is requested to allow the fence to be built less then three feet from the public right-of-way along a public alley. The current retaining wall is less than three feet from the alley. The fence requested is made from black aluminum decking material and is more than 50% visible for line of sight and raised 3' (height of retaining wall) from the grade to minimize damage in the alley.

(g) Specify the reason for the request.

As stated above, fence along the top of the retaining wall limits access to the alley and sidewalk for backyard users safety, decreases the risk of injury should a user fall from the yard with no fence in place, increases functional use of the yard in the only area of the property that could feasibly hold a fence. The corner location of the house limits use of the back and front yard and north side yard (along main street), the south side yard along the alley is the best location for a traditional backyard. The old retaining wall needed to be replaced and a fence was removed for installation of a new wall. If a variance is not approved the usable space in the area requested would shrink from approx. 26' to 23' at the longest section of the yard reducing usable sq/ft 1,040 (40' x 26') to 920 (40' x 23') which is less than

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

The size of yard, which is already small will be significantly reduced. If a fence is three feet from the retaining wall, care of the yard between the wall and fence will be difficult to manage as there is no direct path to that area and the retaining wall is about three feet from the alley grade. Additionally, users of the yard could be injured should they fall from the wall if no fence is installed as a way to maximize use of the backyard space.

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.

  There were no suitable alternatives found

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

  No alternatives were found to consider.

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.

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.

The house is on a non-conforming corner lot with no traditional backyard. The side yard is the backyard space based on lot location. The next largest area of yard is on main street which limits its use and the other section of yard is along the alley which also limits installations. The house is built above the sidewalk grade requiring either significant slope to the yard or a retaining wall. With a retaining wall, more yard space is available (hence installation on the alley side of the house), but this creates a drop off that could injury users with no fence installed as it is approximately 3' high at its highest point along the alley and sidewalk

☐ **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:
  NA

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

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

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

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

(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:
  NA

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

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.
The area of use is significantly reduced as the majority of the yard runs along the alley (approximately 40 feet) in the only area of the lot that is usable backyard space. Additionally, care of the area between the fence and the alley will be difficult to impossible since it is three feet from grade. If no fence is installed for use of the full yard, then users are at risk of injury from falling off the retaining wall.

☐ **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: 104 22nd St S, La Crosse WI 54601
(Address where variance is sought)

Date: 07/14/2025 Signature of Owner: _____

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) Torey VandeWalle

Date: 7/18/2025

Signed: (Owner,if different from applicant) _____

Date: _____

THE APPLICANT OR AGENT

_____

By:

STATE OF WISCONSIN)

COUNTY OF LA CROSSE)

Personally came before me this 18th day of July, 2025 the above named Torey R. VandeWalle to me known to be the person(s) who executed the foregoing instrument and acknowledged the same.

Sharon Y. Seymour

Notary Public, La Crosse County, WI

My commission expires: 03/14/2027.

SHARON Y SEYMOUR NOTARY PUBLIC STATE OF WISCONSIN

THE OWNER

_____

STATE OF WISCONSIN)

COUNTY OF LA CROSSE)

Personally came before me this _____day of _____ ,20__, the above named _____ 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: _____.