

Board of Zoning Appeals Variance Application

(To be completed by City Clerk or Zoning Staff)

City of La Crosse, Wisconsin

Application No.: 2657 Filing Fee: 300.00
 Date Filed: 6/2/2021 Date Paid: 6/2/2021
 Application Complete: Yes 8 No _____ Reviewed By DR (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	Derek Clark	Steiger Construction, Inc.
Address	1711 Weston St.	2812 S. 28th St., La Crosse
Phone	(608) 788-0433	(608) 788-4233

Legal Description: Willing & Lachers Addn lot 22 block 1, City of La Crosse, Wis.

Tax Parcel Number: 17-50009-80

Lot Dimensions and Area: 50 x 130 +/- feet = alc702/24 lc668/58 sq. ft.

Zoning District: R-1

→ 665/898

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.

Private residence. Improvements made to the house in the past were an addition of two bedrooms and a bathroom to the rear of the house before we bought the house (we bought the house in 2002, I think the addition was put on in the 1980s). We have done some basement remodeling, and enlarged the steps and landing ("deck") to the side entrance. We have also had the house resingled twice since we have lived here.

(b) Proposed Use.

No change in use proposed.

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

None.

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

To our knowledge, there are no nonconforming structures or uses on the property.

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

115-142(c)(1) Front yard, side yard and rear yard. Front yard, side yard and rear yard regulations applicable in the Residence District shall apply to the Single Family Residence District. And 115-143(c)(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, 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, or if there is only one adjacent main building the front yard depth of said

(f) Describe the variance requested.

A variance of one foot, seven inches in relation to the front yard depths of the two adjacent main buildings.

(g) Specify the reason for the request.

We would like a front porch added on to the front of the house. In order for the porch to be big enough (deep enough - from the front of the porch to the front of the house) to be usable, we need to build it out a little farther from the house (into the front yard) than our neighbors' houses go.

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

If the variance is not granted the porch cannot be built because it cannot be big enough to be usable without the variance.

→ (e) continued
main building shall govern; provided further that this regulation shall not be so interpreted as to require a front yard depth of more than 25 feet in any case. The entire front yard shall be graded and sodded or seeded in a manner which will produce an acceptable lawn, excepting such areas as may be required for driveways and walks.

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 are no other alternatives. A smaller porch would not be usable.

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

In choosing the size of the porch we have chosen the smallest size (depth - from the front of the porch to the front of the house) that is usable. We rejected smaller sizes because they would not be usable.

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.

Our house is placed too far forward on the property (too close to the sidewalk/street) to comply with the ordinance. Many other houses in La Crosse are placed farther back on the property, and thus are not limited in the way we are, and have front porches.

- ☐ **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:** No short term impacts.
Mitigation measure(s): No mitigation measures needed since there are no impacts.
Extent to which mitigation reduces project impact:
The project has no impact.

- **Impact:** No short term impacts.
Mitigation measure(s): No mitigation measures needed since there are no impacts.
Extent to which mitigation reduces project impact:
The project has no impact.

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

- **Impact:** Adds value to house and beauty to neighborhood.
Mitigation measure(s): No negative impacts so no mitigation measures needed.
Extent to which mitigation reduces project impact:
No negative impacts so no mitigation measures needed.

- **Impact:** No negative impacts.
Mitigation measure(s): No negative impacts so no mitigation measures needed.
Extent to which mitigation reduces project impact:
No negative impacts so no mitigation measures needed.

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

- **Impact:** Other people could build front porches onto their houses if they wished.
Mitigation measure(s): No negative impacts, so no mitigation measures needed.
Extent to which mitigation reduces project impact:
No negative impacts, so no mitigation measures needed.

- **Impact:** No negative impacts.
Mitigation measure(s): No negative impacts, so no mitigation measures needed.
Extent to which mitigation reduces project impact:
No negative impacts, so no mitigation measures needed.

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.**

It is unnecessarily burdensome for us not to be allowed to improve our private property simply because we would be a little closer to the sidewalk than our neighbors' houses. It would be unnecessarily burdensome for us to move the entire house back 1 foot 7 inches in order to comply with the zoning restriction. Without the variance we would be unreasonably prevented from using our property for an otherwise permitted purpose - simply to build a

☐ **No. A variance cannot be granted.**

perch onto the front of the house.

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: 1711 Weston St.

(Address where variance is sought)

Date: 5-24-2021 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) Derek J. Clark

Date: 5-24-2021

Signed: (Owner, if different from applicant) _____

Date: _____

THE APPLICANT OR AGENT

Derek J. Clark
By:

THE OWNER

Derek J. Clark

STATE OF WISCONSIN)

COUNTY OF LA CROSSE)

Personally came before me this 24th day of May, 2021 the above named Derek Clark 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: is permanent

STATE OF WISCONSIN)

COUNTY OF LA CROSSE)

Personally came before me this 24th day of May, 2021 the above named Derek Clark 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: is permanent

To whom it may concern,

All of the information in this written statement is in the variance application. This written statement is being provided as required under "Process" at the bottom of page 1 of the application, **"Provide a written statement of verifiable facts showing that your project meets the legal criteria for a variance (Three-Step Test below); and"**.

We want to build a porch onto the front of our house. Putting a porch of usable size onto the front of our house would put the front of the new porch 1 foot 7 inches closer to the sidewalk than is allowed by the following restriction. We are requesting an area variance for the following zoning restriction:

115-142(c)(1) *Front yard, side yard and rear yard*. Front yard, side yard and rear yard regulations applicable in the Residence District shall apply to the Single Family Residence District. And 115-143(c)(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, 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, or if there is only one adjacent main building the front yard depth of said main building shall govern; provided further that this regulation shall not be so interpreted as to require a front yard depth of more than 25 feet in any case. The entire front yard shall be graded and sodded or seeded in a manner which will produce an acceptable lawn excepting such areas as may be required for driveways and walks.

1. Unique property limitation.

Our house is placed too far forward on the property to build a porch of usable size onto the front of the house within the parameters of the zoning rule above. Many other houses in La Crosse are placed farther back on the property, and thus are not limited in the way we are and have front porches.

2. No harm to public interest.

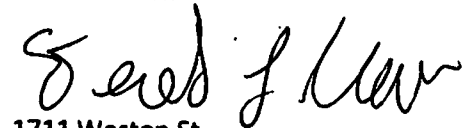
Building a porch onto the front of the house that is only 1 foot 7 inches closer to the sidewalk than adjacent structures in no way harms the public interest.

3. Unnecessary hardship.

It is unnecessarily burdensome for us not to be allowed to improve our private property simply because we would be a little closer to the sidewalk than our neighbors' houses. It would be unnecessarily burdensome for us to move the entire house back 1 foot 7 inches in order to comply with the zoning restriction. Without the variance we would be unreasonably prevented from using our property for an otherwise permitted purpose - simply to build a porch onto the front the house.

Respectfully submitted,

Derek L. Clark



1711 Weston St.

La Crosse, WI 54601

DClarkCello@gmail.com

(608) 788-0433

Derek Clark board of zoning appeals variance application, May 24, 2021.

Please let me know of any errors or omissions so they may be corrected.

Derek L. Clark

A handwritten signature in black ink, appearing to read "Derek L. Clark". The signature is fluid and cursive, with the first name "Derek" being more prominent than the last name "Clark".

1711 Weston St.
La Crosse, WI 54601
DClarkCello@gmail.com
(608) 788-0433



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



APPLICATION FOR BUILDING PERMIT Revision 1/1/2020

Application Number _____ Date _____ Parcel Number: _____

OWNER INFORMATION					
Name: <u>Derek Clark</u>					
Address of Above: Street <u>1711 Weston St</u>		City <u>LaCrosse</u>		State <u>WI</u>	Zip Code <u>54601</u>
Phone:	Cell:	Fax:	Email:		
CONTRACTOR INFORMATION					
Name: <u>Steiger Const.</u>					
Address of Above: Street <u>2812 28th St. S.</u>		City <u>LaCrosse</u>		State <u>WI</u>	Zip Code <u>54601</u>
Phone: <u>608-788-4233</u>	Cell: <u>608-790-5289</u>	Fax:	Email:		
PROJECT INFORMATION					
Project Address: <u>1711 Weston St</u>					
Construction Cost: <u>\$ 31,890</u>		Description of Work: <u>Remove Front Foyer</u> <u>Install New covered front porch</u>			
Project Type: <input type="checkbox"/> Building <input type="checkbox"/> Addition <input type="checkbox"/> Sign <input type="checkbox"/> Alteration/Remodel <input type="checkbox"/> Demolition					
Architect/Engineer Name:		Architect/Engineer Phone:		Level of Alteration (per IEBC):	
PROPERTY INFORMATION					
Zoning: <u>A-1</u>	Nbr. Dwling Units:	Flood Plain: <input type="checkbox"/> Yes <input type="checkbox"/> No	Fire Limits: <input type="checkbox"/> Yes <input type="checkbox"/> No	Archaeological District: <input type="checkbox"/> Yes <input type="checkbox"/> No	
Building Construction Type:			Occupancy Type:		
FEE INFORMATION					
Copies: \$	Plan Review: \$	Permit: \$	Record Mtce: \$	Other: \$	Total: \$

IT IS HEREBY AGREED between the applicant, as owner, owner's agent or servant, and the City of La Crosse that for and in consideration for the premises and of the permit to construct, erect, alter, move, raise, or install and the occupancy of a building or property as above described, to be issued and granted by the La Crosse Fire Department - Community Risk Management, that the work thereon will be done in accordance with the descriptions set forth in this statement, and as more fully described in the specifications and plans herewith filed; and it is further agreed to construct, erect, alter, move, raise or install and occupy in strict compliance with the ordinances of the City of La Crosse, and to obey any and all lawful orders of the La Crosse Fire Department - Community Risk Management and State of Wisconsin laws relating to the construction, alteration, repairs, removal and safety buildings and other structures and permanent building equipment.

Brent Thiele Brent Thiele 5-1821
Agent/Contractor: (Print) (Sign) (Date) (WI Cred/Qual)

Owner: (Print) (Sign) (Date)

OFFICE USE ONLY		
Application Approved:	Inspector:	Date:

Derek Clark variance application "detailed plans", May 24, 2021

See "Steiger Steel and Fabricating, Inc." for plans.

Materials to include composite porch floor, aluminum railings, and PVC wrapped posts.

Derek Clark
1711 Weston St.
La Crosse, WI 54601
DClarkCello@gmail.com
(608) 788-0433

Steiger Steel and Fabricating, Inc.

2811 So. 28th Street
La Crosse, WI 54601

1711 weston st.

(608) 788-4239
FAX (608) 787-8964

