



La Crosse Fire Department

Division of Community Risk Management

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6-2-21

Ben Voigtlander
3514 Mormon Coulee Rd
La Crosse WI. 54601

Hoogland Zoerhoff LLC
2500 Lehigh Ave.
Glenview IL, 60026

RE: An appeal to allow a 6-foot-tall, wooden privacy fence to be installed on a Commercial (C-2) property.

Dear Ben Voigtlander:

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 on Commercial zoned property.

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

115-398 (d) *Fences on nonresidential property.* Fences are permitted on the property lines in all commercial zoning districts but shall not exceed eight feet in height in commercial zoning districts and ten feet in height for property zoned light or heavy industrial and shall be of an open type similar to woven wire, chainlink or wrought iron fencing. Fences regulated under Section 10-49(2)(b) as part of an approved Beer Garden License are not subject to these restrictions. Solid vinyl or composite fences are only allowed on property lines abutting a residential property, but cannot be taller than six feet. The fence can be up to eight feet tall by a conditional use permit.

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 to allow a wooden privacy fence to be constructed at this address for this project as proposed.

Sincerely,

David Reinhart
Chief Building Inspector

BOARD OF ZONING APPEALS

STANDARDS FOR 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 a 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 and 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 and 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.

STANDARDS FOR USE 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 a 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 and 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 no reasonable use of the property. An applicant would have to demonstrate that none of the uses allowed as permitted or conditional uses in the current zoning district are feasible for the property in order to comply with this task. This circumstance is highly unlikely.
 - 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 and 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

Administrative Appeal

An administrative appeal is a legal process provided to resolve disputes regarding ordinance interpretation (including decisions about jurisdiction, and procedures) and where the reasonableness of a zoning department order is challenged. Where zoning ordinance language is unclear or contested, it must be interpreted in order to implement local land use policies. Appointed officials and staff who administer an ordinance interpret its provisions routinely and must apply them consistently. Their interpretations should reflect the understanding of the planning committee or commission on the matter since these bodies are responsible for local land use policy administration. The committee/ commission is, in turn, politically responsible to the local governing body for accurate interpretation or an administrative decision is formerly contested, state statutes require local zoning boards to resolve the question. Their decisions may be appealed through the courts.

(Zoning Board Handbook 2001 UW- Stevens Point)