

## **Agenda Item 5C**



CITY OF LA VISTA  
BOARD OF ADJUSTMENT

# STAFF REPORT

VARIANCE REQUEST

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**DATE OF BOA MEETING:**

June 25, 2025

**SUBJECT:**

Variance to Section 5.06.05.01 Height and Lot Requirements of the  
La Vista Zoning Ordinance

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**PROPERTY INFORMATION**

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**APPLICANT:**

Dave Garcia  
7804 S. 71<sup>st</sup> Street  
La Vista, NE 68128

**PROPERTY OWNER:**

Garcia Family Trust  
David & Donna Garcia, Trustees  
7804 S. 71<sup>st</sup> Street  
La Vista, NE 68128

**SUBJECT PROPERTY:**

Lot 120 Ardmore, located at 7804 S. 71<sup>st</sup> Street, La Vista, NE 68128, located in the  
SW Corner of Section 13, Township 14 North, Range 12 East, of the 6th P. M. in  
Sarpy County, Nebraska

**ZONING:**

R-1 Single Family Zoning District

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## BACKGROUND

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### Description of Request:

1. David and Donna Garcia received a notice from the City dated April 4, 2025 to remove a garage on their property located at 7804 S. 71<sup>st</sup> Street as the garage is located within the required 5' side yard setback. Property owners David and Donna Garcia are seeking a variance from the 5' required side yard building setback and the 700 square foot maximum total area of accessory structures established in Section 5.06.05.01 of the La Vista Zoning Ordinance, to allow for the garage to remain in its current location.

### Applicable Zoning Regulations:

#### 5.06.05 Height and Lot Requirements:

5.06.05.01 The height and minimum lot requirements shall be as follows:

Uses	Lot Area (SF)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Building Coverage
Single-family Dwelling (existing development <sup>1</sup> ) <sup>2</sup>	5,000	60'	30'	5'	30'	35'	35%
Single-family Dwelling (future development <sup>3</sup> ) <sup>2</sup>	7,000	70'	30'	10'	30'	35'	40%
Other Permitted Uses	8,000	75'	25'	25'	25'	35'	25%
Other Conditional Uses	8,000	75'	25'	25'	25'	45'	25%
Publicly owned and operated facilities <sup>5</sup>	-	-	-	-	-	-	-
Accessory Buildings	-	-	50'	5'	5'	17'	10% <sup>1</sup>

<sup>1</sup> Provided total area of accessory structures for single family does not exceed 700 sq. ft. and the total lot coverage of all buildings and accessory structure does not exceed 50%

<sup>2</sup> On Corner Lots the following criteria apply to setbacks. In existing developed areas, the Street Side Yard setback may conform to existing setbacks of existing structures along that street. In new developments, the Street Side Yard setback shall be equal to the Front Yard setback.

<sup>3</sup> Future development shall be defined as all new subdivisions created after the adoption of Ordinance No. 848 on November 20, 2001.

<sup>4</sup> Existing development shall be defined as existing prior to the adoption of this regulation and shall not include any replatting or lot splits done after the date of original adoption.

<sup>5</sup> Publicly owned and operated facilities are exempt from requirements of this subsection 5.06.05. (Ordinance No. 1371, 10-15-19)

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## CONDITIONS FOR VARIANCES

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### Section 8.03.03.01 and Nebraska Revised State Statutes Section 19-910:

The Board of Adjustment shall authorize no such variance, unless it finds that:

1. The strict application of the Ordinance would produce undue hardship;
2. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;

3. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
4. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.

### **Bylaws and Rules of Procedure of the City Of La Vista Board of Adjustment – Section 7, Specific Requirements in Approval of a Variance:**

In any action by the Board with regard to approval of a variance, such action shall be taken in accordance with the limitations of Nebraska law and the requirements and limitations of the applicable City Zoning Regulations and these Rules of Procedure. In any action to approve a variance, the Board shall make findings which shall be recorded in the minutes of the Board that:

A. The strict application of any applicable provision of the applicable City Zoning Regulation would, in each specific variance petition, result in **at least one** of the following:

1. Peculiar and exceptional practical difficulties to or undue hardship upon the owner of the piece of property included in the petition due to the exceptional narrowness, shallowness or shape of the piece of property in question;

**Staff Analysis:** Staff does not find any hardship related to the exceptional narrowness, shallowness, or shape of the piece of property in question. The shape and dimensions of this property are generally consistent with a majority of the properties in the Ardmore subdivision.

**Resulting Hardship:** Yes / No

2. Peculiar and exceptional practical difficulties to or undue hardship upon the owner of the piece of property included in the petition due to exceptional topographic conditions on the piece of property in questions;

**Staff Analysis:** Staff does not find any hardship related to exceptional topographic conditions on the piece of property in question. The property has a very gradual slope

downward to the northeast corner of the property, but not in such a way that it restricts the use of the property.

**Resulting Hardship:** Yes / No

3. Peculiar and exceptional practical difficulties to or undue hardship upon the owner of the piece of property included in the petition due to other extraordinary and exceptional situation or condition of the piece of property in question.

**Staff Analysis:** Staff does not find any undue hardship or practical difficulties upon the owner due to extraordinary or exceptional situations or conditions of the piece of property in question.

**Resulting Hardship:** Yes / No

B. In authorizing any variance, the Board shall also make findings, which shall be recorded in the minutes of the Board, that **EACH** of the following requirements for authorizing a variance can be met:

**1. Such variance may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the applicable City Zoning Regulations;**

**Staff Analysis:** The purpose of the side-yard building setback requirements in the La Vista Zoning Ordinance is to ensure a proper space that is free and clear of objects, structures, garages, sheds, etc. to slow and contain the spread of fire in the event of a fire. Allowing for such objects, structures, or garages to be placed within this setback and even up to the property line can produce potentially dangerous conditions where fire may spread quickly, especially in inhabited residential areas.

Staff believes such variance would be a substantial detriment to the public good and would substantially impair the intent and purpose of the applicable City Zoning regulations.

**Specific requirement:** satisfied / not satisfied

**2. The strict application of the requirements of the City Zoning Regulations would produce an undue hardship upon the owner of the property included in the petition;**

**Staff Analysis:** Staff does not believe that the strict application of the zoning requirements would produce an undue hardship upon the owner of the property. If the subject garage in violation is removed, this property still contains an attached 2-car garage (attached to the home), a detached 2-car garage in the rear yard, and a detached shed in the rear yard. Together, this detached garage and shed already meet the maximum allowed 700 square feet for accessory structures on properties in the R-1 Single-Family Zoning District.

**Specific requirement:** satisfied / not satisfied

**3. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;**

**Staff Analysis:** All other properties in the R-1 Zoning District in La Vista are subject to the side-yard building setback that must remain free and clear of structures. All other properties in the R-1 Zoning District also share the allowance to contain up to 700 square feet of accessory structures such as garages and sheds to meet the storage needs for the property owners. A neighboring property owner was recently required to remove a structure on their property that was constructed in the side yard setback. The need to adhere to this requirement is commonly shared and enforced.

**Specific requirement:** satisfied / not satisfied

**4. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the zoning district will not be changed by such variance;**

**Staff Analysis:** Staff believes that substantial detriment may be experienced by the adjacent property owner in the event of such variance being granted as the garage in the setback may accelerate the spread of fire in the event of a fire. Additionally, staff believe the character of the R-1 Single Family Zoning District will be changed by allowing for garages or structures to be placed up to the property lines and/or to not conform with the side-yard building setbacks by granting such variance. Staff also believes that granting a variance to increase the maximum allowable square footage for accessory structures will change the character of the zoning district.

**Specific requirement:** satisfied / not satisfied

**5. The authorization of a variance is based upon reasons of demonstrable and exceptional hardship stemming from characteristics of the property involved**



**in the petition and not for reasons of convenience, profit or desire of the property owner;**

**Staff Analysis:** Staff believe that the variance request is not being made based upon reasons of demonstrable and exceptional hardship stemming from characteristics of the property involved, but rather for purposes of convenience for the property owner to allow for the garage to remain where it is located and to provide for additional garage space.

**Specific requirement:** satisfied / not satisfied

**6. The condition or situation of the property included in such petition or the intended use of such property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the applicable City Zoning Regulations.**

**Staff Analysis:** Staff does not believe an amendment to the zoning regulations is appropriate as the need and desire to place additional structures in the setback and exceeding the 700 square foot maximum has not been communicated with staff in a general or recurring nature, and there are public health and safety reasons to retain such minimum side yard building setback.

**Specific requirement:** satisfied / not satisfied

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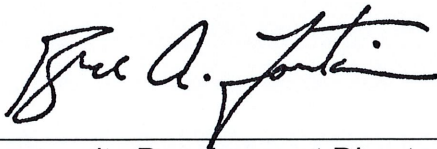
## STAFF RECOMMENDATION

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Staff does not believe that the variance requests from the 5' required side yard building setback nor the maximum square footage for accessory structures established in Section 5.06.05.01 of the La Vista Zoning Ordinance by David Garcia meet the conditions for the granting of a variance established in Section 8.03.03.01 and Nebraska Revised State Statutes Section 19-910, and therefore staff recommend to the Board of Adjustment denial of both of the variance requests.



Prepared by: Associate City Planner



Community Development Director

6-20-25

Date

City of La Vista  
Community Development  
8116 Park View Blvd  
La Vista, NE 68128  
P: (402) 593-6400  
F: (402) 593-6445  
CityofLaVista.org

# BOARD OF ADJUSTMENT & BOARD OF APPEALS APPLICATION



Date of Application: 4-17-2025

## I. General Information

### A. Applicant

Name: Dave Garcia Contact: \_\_\_\_\_  
Address: 7804 S. 71<sup>st</sup> St. City: La Vista State: NE Zip: 68128  
Phone: 402-250-9349 Fax: \_\_\_\_\_ E-mail: dmgarcia6@yahoo.com

### B. Property Owner\* (if different than above)

Business Name: \_\_\_\_\_ Contact: \_\_\_\_\_  
Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

\*If more than one property owner or developer is involved, please attach additional names and addresses to this application

### C. Primary Project Contact\* (applicant, representative, or other)

Business Name: \_\_\_\_\_ Contact: \_\_\_\_\_  
Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

\*The contact person will receive all staff correspondence.

### D. Certification

An application may be filed only by the owners(s) of the property, a person with the power of attorney from the owner authorizing the application, or by the attorney-at-law representing the owner. Please indicate your authority:

- ☒ I (we) am (are) the sole owner(s) of the property.  
☐ I have the power of attorney from, or am the attorney-at-law of the property owner(s) authorizing the application and a copy of the authorization is attached.

[Signature]  
Signature

David A Garcia  
Print Name

7804 S. 71<sup>st</sup> St.  
Address

The applicant or representative must be present at the scheduled hearing to answer any questions or present required information to the Board. It is the Board's policy to postpone the case when the applicant or representative fails to appear at the scheduled hearing; however, the Board is not required to postpone the application and may postpone, approve, or disapprove the application with or without the applicant or representative's presence. If the applicant or representative is unable to attend the hearing, they may request a postponement of the application prior to the meeting.



## II. Project Information

A. Description of the proposed project, use, exemption, or variance:

Variance: requesting that our canopy can remain just inside the property line due to limited space.

Please see attached letter and photos for further description.

B. Property Legal Description: \_\_\_\_\_

C. Project Location: \_\_\_\_ 1/4 \_\_\_\_ 1/4 Section \_\_\_\_, T\_\_\_\_, R\_\_\_\_, Sarpy County, Nebraska

D. General Location: \_\_\_\_\_

E. Project/Property Address (if applicable): 7804 S. 71<sup>st</sup> St., LaVista, NE 68128

F. Area (acres): \_\_\_\_\_

G. Proposed Land Use Designation (if applicable): \_\_\_\_\_

H. Present Use of the Land: \_\_\_\_\_

I. Variance Request: Section 8.03.03.01 of the La Vista Zoning Ordinance.

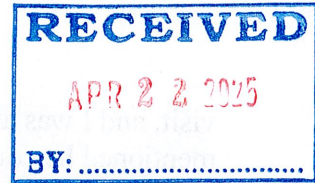
## III. Application Requirements

Please submit the following along with this application:

- Legal description of property and Surveyor's Certificate
- List of property owners located within 300 feet of the subject property, including four sets of mailing label copies. This list and address labels must be prepared by a title company.
- Site plan and/or other documents that illustrate this request as per the appropriate regulations within the Zoning Ordinance.
- Application fee per the La Vista Master Fee Ordinance.

Please note that the Board of Adjustment does not have unlimited authority and discretion in deciding whether to grant a variance or appeal. The Board of Adjustment must follow Section 8 of the La Vista Zoning Ordinance in their deliberations (see Section 8.03 on the following page).

April 4, 2025



Bruce Fountain, Brad Baber, the Secretary of the Board of Adjustment and the Secretary of the Board of Appeals  
Community Development Department  
8116 Park View Boulevard  
La Vista, NE 68128

To all:

I appeal the orders and decisions in the Notice to Abate Violations – 7804 S. 71st Street, dated April 4, 2025 and signed by Bruce Fountain, Community Development Director, and Brad Baber, Chief Building Official, of the City of La Vista, to the Board of Adjustment and Board of Appeals. The grounds for these appeals are as follows:

This canopy was purchased and installed in good faith, with the intent of providing temporary protection for our vehicle from the elements.

The canopy is not a permanent structure and therefore cannot be classified as a garage or carport. It does not have walls, permanent footings, or electrical service, and is not being used as an enclosed or permanent garage structure. We believe it meets the criteria for a canopy under general zoning and building code definitions and respectfully request that the City of La Vista reconsider its classification and the resulting directive to remove it. Alternatively, if the board determines my understanding is incorrect, I ask for an appropriate variance as removing the structure will cause me undue hardship.

I am a veteran, a disabled individual with health challenges, and I have always been a respectful and responsible member of the City of La Vista for the last 20 years. I have consistently followed city procedures for past property improvements and this case was no different. I had several discussions with various city officials to ensure proper compliance. Below is a timeline of events detailing my communications with the Code Enforcement Office, including the dates I reached out, the individuals I spoke with, and a summary of each conversation.

- April 2022

I contacted the City of La Vista Planning Office to ask whether a permit was required to install a canopy on my property. I spoke with the individual in charge, who asked whether the structure would be attached to the house. I responded, “No, it’s a canopy.” He confirmed that no permit was needed. Based on this information, I purchased a canopy for \$1,800.

- March 2024

Mario Hatcher from the City visited my home and spoke with my wife, Donna, regarding the canopy. At the time, there was a separate issue involving our neighbor, who had constructed a permanent structure without a permit. My wife called me during Mario’s



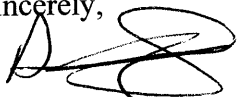
visit, and I was able to speak with him by phone for approximately 35–40 minutes. Mario mentioned he couldn't find any specific references to canopies in the city code, and eventually said, "Never mind. Don't worry about it."

- October 2024  
Mario returned to our home and left a yellow notice card regarding the canopy. I spoke with him in person, and he stated that he had no issue with the canopy, commenting that "the canopy is inside the fence anyway."
- October 2024  
Following Mario's visit, I contacted the Planning Office again and requested to speak with the individual in charge. I did not receive a return call until November 2024, at which point I spoke with Mr. Brodersen. Our conversation became contentious. He repeatedly referred to the canopy as a "structure" or "garage," while I clarified that it is a canopy—a temporary, non-permanent shelter. I explained that I had received verbal confirmation in 2022 that a permit was not required and would never have invested in the canopy otherwise. During this conversation, Mr. Brodersen remarked that the previous planning official "would let things slide," which I found inappropriate and dismissive. At the time of our conversation, I was under considerable emotional strain due to my father being in hospice care. I ultimately ended the conversation by stating that I needed to focus on my family and my father's final days. Even if Mr. Brodersen's comments are true, I feel the City's change of opinion is unfair as I did everything within my control to comply with our ordinances.
- April 2025  
Six months later, I received another notice from Mr. Brodersen regarding the canopy. He continues to refer to it as a "garage," which I respectfully disagree with. A garage is a permanent structure, and it is not reasonable to assume one could be built for \$1,800. I feel unfairly targeted, particularly given the lack of previous concern for the structure over the past two years.

The canopy is not an eyesore; it is located inside our fenced yard, and none of my neighbors have expressed any complaints about it. Its sole purpose is to protect my truck from hail and severe weather.

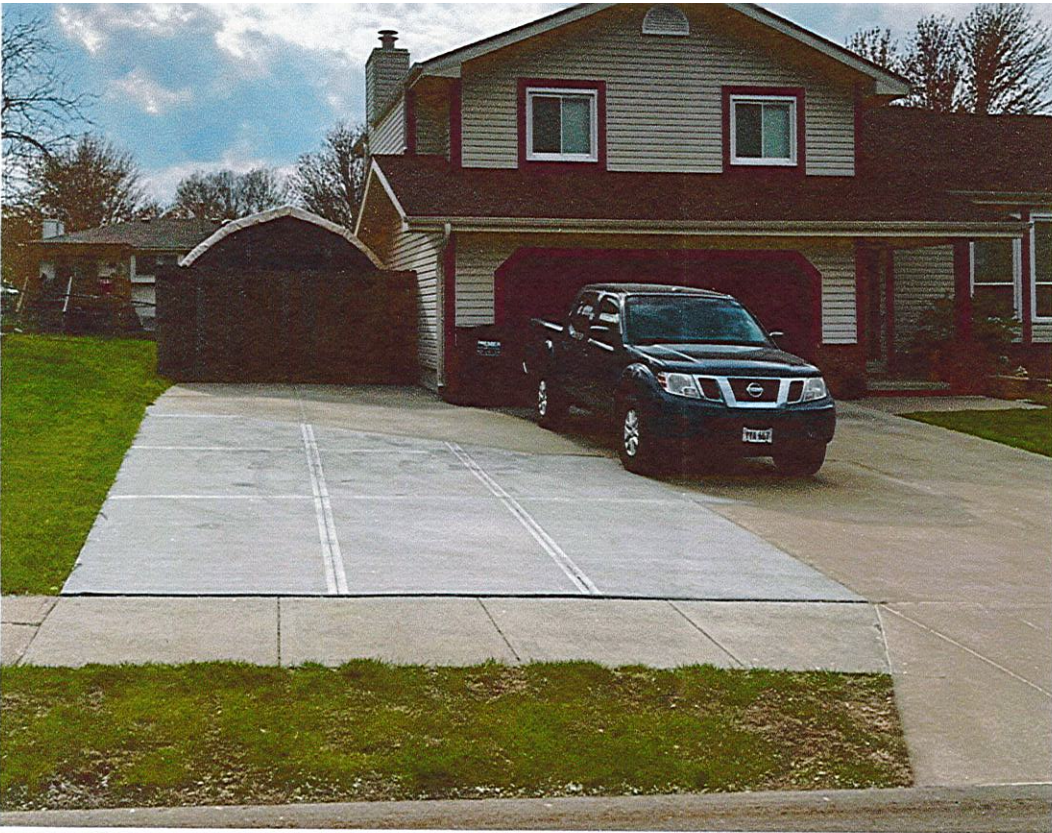
Thank you for taking the time to consider my appeal and reclassification, or in the alternative, the appropriate variance.

Sincerely,



Dave Garcia  
7804 S. 71<sup>st</sup> Street  
LaVista, NE 68128







State of Florida, County of Orange, ss:

Ankit Sachdeva, being first duly sworn, deposes and says: That (s)he is a duly authorized signatory of Column Software, PBC, duly authorized agent of Sarpy County Times, a legal newspaper of general circulation in the Counties of Sarpy, Bellevue, Cass, Papillion, Gretna, La Vista and Springfield, state of Nebraska and published therein; that said newspaper has been established for more than one year last past; that it has a bona-fide paid subscription list of more than three hundred; that to this personal knowledge, the advertisement, a copy of which is hereto attached, was printed in the said newspaper once each week, the first insertion having been on;

Jun. 11, 2025

**And that said newspaper is a legal newspaper under the statutes of the State of Nebraska. The above facts are within my personal knowledge.**

*Ankit Sachdeva*

(Signed) \_\_\_\_\_

**VERIFICATION**

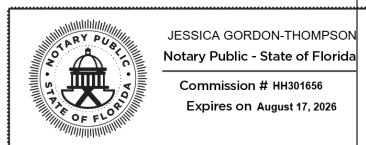
State of Florida  
County of Orange

Subscribed in my presence and sworn to before me on this: **06/11/2025**

*J. Thompson*

Notary Public

Notarized remotely online using communication technology via Proof.



**Notice of Public Hearing  
Board of Adjustment of the City  
of La Vista**

NOTICE IS HEREBY GIVEN, that the Board of Adjustment of the City of La Vista, Nebraska, will hold a public hearing during the scheduled meeting on June 25, 2025, beginning at 6:00 p.m. at La Vista City Hall, 8116 Park View Blvd., La Vista, NE, 68128 to consider Dave Garcia's appeal of the City's April 4, 2025 Notice to the Garcia Family Trust c/o David and Donna Garcia, Trustees, to remove the garage within the 5' side yard of 7804 S. 71st Street, and alternative request for a variance allowing the garage to remain in such side yard. The public is encouraged to attend.

Board of Adjustment  
City of La Vista  
COL-NE-902483 6/11 ZNEZ



**SARPY COUNTY**  
**TIMES**  
**AFFIDAVIT OF PUBLICATION**

State of Florida, County of Orange, ss:

Edmar Corachia, being first duly sworn, deposes and says: That (s)he is a duly authorized signatory of Column Software, PBC, duly authorized agent of Sarpy County Times, a legal newspaper of general circulation in the Counties of Sarpy, Bellevue, Cass, Papillion, Gretna, La Vista and Springfield, state of Nebraska and published therein; that said newspaper has been established for more than one year last past; that it has a bona-fide paid subscription list of more than three hundred; that to this personal knowledge, the advertisement, a copy of which is hereto attached, was printed in the said newspaper once each week, the first insertion having been on;

Jun. 11, 2025

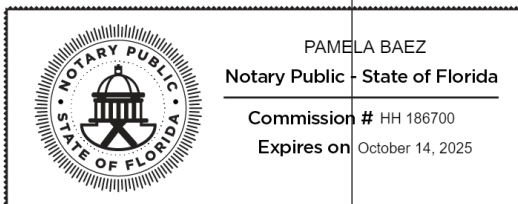
And that said newspaper is a legal newspaper under the statutes of the State of Nebraska. The above facts are within my personal knowledge.

**Edmar Corachia**

(Signed) \_\_\_\_\_

**VERIFICATION**

State of Florida  
County of Orange



Subscribed in my presence and sworn to before me on this: 06/12/2025

Notary Public

Notarized remotely online using communication technology via Proof.

Printers Fee: **\$9.27**  
Customer Number: 1013655  
Order Number: COL-NE-902482

**Notice of Public Meeting  
Board of Adjustment of the City  
of La Vista**

NOTICE IS HEREBY GIVEN, that an open and public meeting of the Board of Adjustment of the City of La Vista, Nebraska, has been scheduled for 6:00 p.m. on June 25, 2025, at La Vista City Hall, 8116 Park View Blvd. An agenda for such meeting, kept continuously current, is available for public inspection at the office of the City Clerk at City Hall.

Board of Adjustment  
City of La Vista  
COL-NE-902482 6/11 ZNEZ