



CITY OF LA VISTA
BOARD OF ADJUSTMENT
JUNE 5, 2013
6:30 P.M.

The City of La Vista Board of Adjustment held a meeting on Wednesday, June 5, 2013, in the Harold "Andy" Anderson Council Chamber at La Vista City Hall, 8116 Park View Boulevard. Chairman Paulsen called the meeting to order at 6:37 p.m. with the following members present: Strittmatter, Malmquist, Karnik, and Paulsen. Absent: Jordan. Also in attendance were Jeff Sinnett, Chief Building Official, and Michelle Alfaro serving as Recording Secretary.

Legal notice of the public meeting and hearing were posted, distributed and published according to Nebraska law. Notice was simultaneously given to all members of the Board of Adjustment. All proceedings shown were taken while the convened meeting was open to the attendance of the public.

1. Call to Order

- a. The meeting was called to order by Chairman Paulsen at 6:37 p.m. Copies of the agenda and staff reports were made available to the public.

2. Approval of Meeting Minutes – September 28, 2011

- a. Malmquist moved, seconded by Strittmatter to approve the September 28, 2011 minutes. **Ayes:** Malmquist, Strittmatter and Karnik. **Nays:** None. **Abstain:** Paulsen. **Absent:** Jordan. **Motion Carried.** (3-0)

3. New Business

A. Hearing regarding the denial of a building permit by the Building Official for construction in the flood plain – Watkins Concrete Block Co. 14306 Giles Road

- i. **Staff Report:** Jeff Sinnett, Chief Building Official, came forward to explain that a building permit for the Watkins Company had been denied. The request was to expand their current facility to accommodate a new piece of production equipment. The existing building is approximately 22,000 square feet and was built in 1979. The request is to add approximately 4,600 square feet. As noted in the packet from the information provided by the applicant's engineer, the original building was built in compliance with the regulations at the time it was constructed. It was not within the designated flood plain. In 2010, FEMA came out with new maps identifying this property as within the designated flood zone. The flood zone elevation is higher than the existing finished floor elevation and the regulations require the lowest

finished floor elevation to be at least one foot above the flood plain. Additional information has been provided by the applicant. After listening to the testimony of the applicant, the Board should comply with Section 5.18.21.02, 03, and 04 as the finding of facts in order to make their decision.

- ii. **Applicant Report:** Ralph Gladbach, an architect working on the project, came forward to represent the applicant. Also in attendance were John LaRondeau and Al Marvin, with the Watkins Company, who were there to explain their operations experience at the building and with the equipment. Mr. Gladbach summarized the information provided by Mr. Sinnett, and stated due to the raised elevation requirement the floor is about one-foot below the flood plain elevation. The Watkins Company is replacing a piece of equipment to increase their production and efficiency, but this piece of equipment has a bigger footprint which is leading to the additional 4,600 square feet of floor area. To comply with the flood plain elevation, they would have to bring the elevation of the addition to about two feet above the existing floor line. This is such a small area in comparison to the rest of the building, and with the fork lift traffic that goes through the building and the rails for the production equipment, it is not a feasible option to bring the floor elevation up. The equipment planned does sit up a little bit so if there are issues, it doesn't affect anything. The construction of the building is a concrete block shell, a very industrial building, and it will match up with what is out there now which is a painted concrete block building. The inside will be exposed concrete block and Portland cement aggregate so that if it does flood there are very few items that will be caught up in the flood waters. At the north side of the Watkins property, over the years they did, in conjunction with the Corps of Engineers, build up a dike on the creek to the north so there is some protection, but it does stop at the east end of the property. It does afford some protection.

Paulsen asked if the dike starts at 144th Street and goes east.

Mr. Gladbach stated yes, it is not a true dike but it is an elevated barrier.

Mr. LaRondeau came forward. He stated one point is the new equipment they are adding has to be the same elevation as the existing equipment. If they have to raise the elevation of the new equipment, they would have to raise the elevation of the entire plant. They are 16 inches below the flood plain elevation but it is a very industrial building and there are no finishes inside the building that would be damaged by a flood. The equipment, although it is bolted to the floor, all the working parts are two to three feet above the floor.

Strittmatter asked if the equipment is technically above the flood plan but the building itself is not.

Mr. LaRondeau stated yes, the finished floor is below the flood plain. The equipment is bolted to that floor but the working areas of the equipment are steel and it is on legs that keep it elevated above.

Strittmatter asked about erosion around the building and whether they have had to do anything to mitigate erosion in order to maintain the integrity of the structure.

Mr. LaRondeau stated they are doing their storm water tests twice a year and submitting it to DEQ. They have had to consider some erosion control or storm water run-off measures that are not affected by the building addition or protecting the surrounding building.

Mr. Gladbach stated that most of the areas to the west and south are already paved up to the building. There are small areas on the north and northeast corner that are still exposed.

Strittmatter asked if this is the first addition since the 2010 change in the flood plain.

LaRondeau stated this is the first addition to the plant. The office building was added on to with a new warehouse but that was years ago back in the early 90's. The plant building is separate from the office and showroom facility.

Strittmatter asked if they anticipated a lot of continued expansion. This addition is relatively small to an existing facility, but if they are planning any major expansions where they would be adding 10, 20, 30,000 square feet, then they would be getting into significant flood plain issues with new structures.

LaRondeau stated potential expansion in the future would be a completely new block plant which wouldn't be an expansion of that building. It would be a new structure to the north and that building would be raised and removed. That could be a decade or 15 years down the road.

Strittmatter stated his thought was a minor expansion, because it was conforming when it was built, seemed to make sense as a natural progression. If they are going to do something new, it is a whole different ball game and they are stuck with the flood plain.

Strittmatter asked if the applicant was familiar with the conditions for granting a variance.

LaRondeau stated he was not 100 percent clear.

Paulsen stated La Vista has always been supportive of businesses and want to work with you wherever we can legally but we will have to go over some of the conditions, and write down the reasons for their decision.

Mr. Gladbach stated the ten items listed in the staff report were addressed in the summary submitted by the applicant.

Paulsen stated with the type of construction proposed he did not see any danger to the public with items washing down the creek. Paulsen read section 5.18.21.02

which states "Variances shall not be issued within any designated floodway if any increase in flood levels along the floodway profile during the base flood discharge would result."

Strittmatter stated this would be an extremely complicated modeling analysis to determine that and it may not be able to be proved one way or another.

Paulsen read section 5.18.21.03 which states "Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

Malmquist stated the building is the minimum size necessary for their purposes as well as any impedance to the flow.

Paulsen read section 5.18.21.04 which states "Variances shall only be issued upon a showing of good and sufficient cause; a determination that failure to grant the variance would result in exceptional hardship to the applicant; and a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

Strittmatter stated it is a permitted use and an operating business. Paulsen added it would be a hardship if they had to raise all the floors. Karnik asked if the downstream area property owners would be comfortable with what they are proposing to do. if a major flood were to happen, do they have any concern that the downstream property owners would have about this proposed addition.

Mr. LaRondeau stated is not 100 percent sure how a flood would act up there. They have never had water there in 35 years from what he has understood from others. They do store a lot of their product outside around the building and on the property. Right now, there are drainage basins that catch any rain flow that hits the property and he assumes flood waters would follow a similar drainage path except where maybe it is over and would go down to the east. They have some basins set up to catch logs or trash that might get on the property, so if they had a flood in the area, he anticipates it would be a slow process since they are so close to the flood elevation. It would be slow moving water and it would not be rushing water over the dike or down to the east on to the neighboring properties. Most of the debris potential would be still maintained on their property based on their catch basins they have set up now.

Paulsen asked if this is the same creek that goes through downtown Papillion.

Sinnett stated yes.

Karnik asked what other options were considered for this addition in order to try to comply with the flood plain requirements.

Mr. LaRondeau stated they looked at some permanent structures that surround the plant.

Mr. Gladbach added they had looked at some flood barriers around the building but the whole area is almost dead level across the property so the dike system would be fairly extensive across the property to protect the area.

Karnik asked Sinnett if he had any additional comments for the Board to consider in light of the applicant's comments.

Sinnett stated no.

Paulsen stated he had talked to the Papio NRD and he got the impression they did not agree with this flood assessment and that is why Wehrspann dam is there.

Karnik stated the Board did not want to be in violation of the conditions for variances so they need to be diligent in their opinion.

Karnik asked Strittmatter with his prior experience with this type of work before if he had any recollection of a similar type of case.

Strittmatter stated yes, and typically as long as it is not in the floodway, which it isn't, and permanent structures aren't large enough to affect the potential flood elevation, which is the "no rise certificate", this is so small it would never rise to that level. The 100 year flood plain elevation is such a theoretical elevation you cannot model it that closely, this is immaterial in terms of an elevation calculation standpoint. It is pretty common for approval for nonconforming uses that were put in that position by flood plain revisions. For major changes or major expansions, you would enforce the flood plain regulations more strictly. That is the reason for the question about future expansion plans, so if they ever came back with a 20,000 square foot expansion that would be tough to approve a variance in his opinion. But something that is connected to their existing facility and connected to their existing operation, it sounds like the equipment is directly connected to the other equipment. That is the hardship, if they have to raise the whole thing, it is an economic hardship and this is a permitted use and we are putting undue responsibility on them. Strittmatter stated he was comfortable with it meeting the variance conditions.

Karnik asked the applicant if they would confirm whether or not this is an economic hardship for them.

LaRondeau stated yes, it would be an economic hardship based on the cost to raise the entire existing floor of the existing plant to be a foot above the flood plain.

Karnik stated that any of these businesses in a similar situation could have a similar case if they wanted to expand.

Mr. Gladbach stated for most of the adjoining properties along Giles Road, the buildings are closer to the frontage and not close to the creek, so the applicant is in a unique situation.

- iii. Malmquist motioned to grant a variance based on a showing of the following finding of facts as presented:
- 5.18.21.02: An increase in flood levels cannot be proven with the minimal construction proposed;
 - 5.18.21.03: The applicant has shown the construction is the minimum necessary to replace their existing equipment already on the site;
 - 5.18.21.04: The applicant has shown a reasonable and sufficient cause for the need to add on to the structure; they have shown a hardship would result to the applicant which would impede their existing operation; and if the variance is granted, none of those determinations to increased heights and public safety have been shown to be there.

Strittmatter made a motion to amend Malmquist's motion in order to add the findings together with the information submitted by the applicant and their registered professional engineer who provided the data and stated information regarding items 1 through 10 of section 5.18.20.04. Strittmatter stated it was well documented in his opinion. Karnik seconded the amendment. **Ayes:** Paulsen, Malmquist, Karnik and Strittmatter. **Nays:** None. **Abstain:** None. **Absent:** Jordan. **Motion Carried.** (4-0)

Upon approval of the amendment, the original motion, as amended, to grant the variance was seconded by Karnik. **Ayes:** Paulsen, Malmquist, Karnik and Strittmatter. **Nays:** None. **Abstain:** None. **Absent:** Jordan. **Motion Carried.** (4-0)

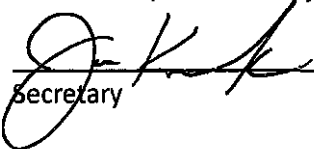
4. Old Business

None.

5. Adjournment

Paulsen moved, seconded by Karnik, to adjourn. **Ayes:** Paulsen, Malmquist, Karnik and Strittmatter. **Nays:** None. **Abstain:** None. **Absent:** Jordan. **Motion Carried.** (4-0) The meeting adjourned at 7:12 P.M.

Reviewed by Board of Adjustment:


Secretary


Board of Adjustment Chair

7-16-13
Approval Date