



July 20, 2011

Habitat for Humanity-Sarpy County
Attn; Mr. John Taylor
119 W. Mission Ave., Ste. F
Bellevue, NE. 68005

Re: 7721 Lillian Ave, La Vista NE
Lot 682 La Vista Subdivision

Dear Sirs,

Thank you for your interest in City of La Vista for a possible building project, however your building permit application for the above referenced project has been denied. The reason for the denial is:

- The building you have selected does not meet the required thirty (30') foot front yard setbacks as required in an R-1 Zoning District.

Please be advised you have fifteen (15) days from this date to appeal this decision to the Building Board of Appeals. We will hold your plans for that amount of time. If you have any questions regarding this information or the variance application please contact myself or Chris Solberg-City Planner at 402-331-4343.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Sinnett", is written over a horizontal line.

Jeff Sinnett
Chief Building Official

Cc: Ann Birch, Community Development Director

City Hall
8116 Park View Blvd.
La Vista, NE 68128-2198
p: 402-331-4343
f: 402-331-4375

Community Development
8116 Park View Blvd.
p: 402-331-4343
f: 402-331-4375

Fire
8110 Park View Blvd.
p: 402-331-4748
f: 402-331-0410

Golf Course
8305 Park View Blvd.
p: 402-339-9147

Library
9110 Giles Rd.
p: 402-537-3900
f: 402-537-3902

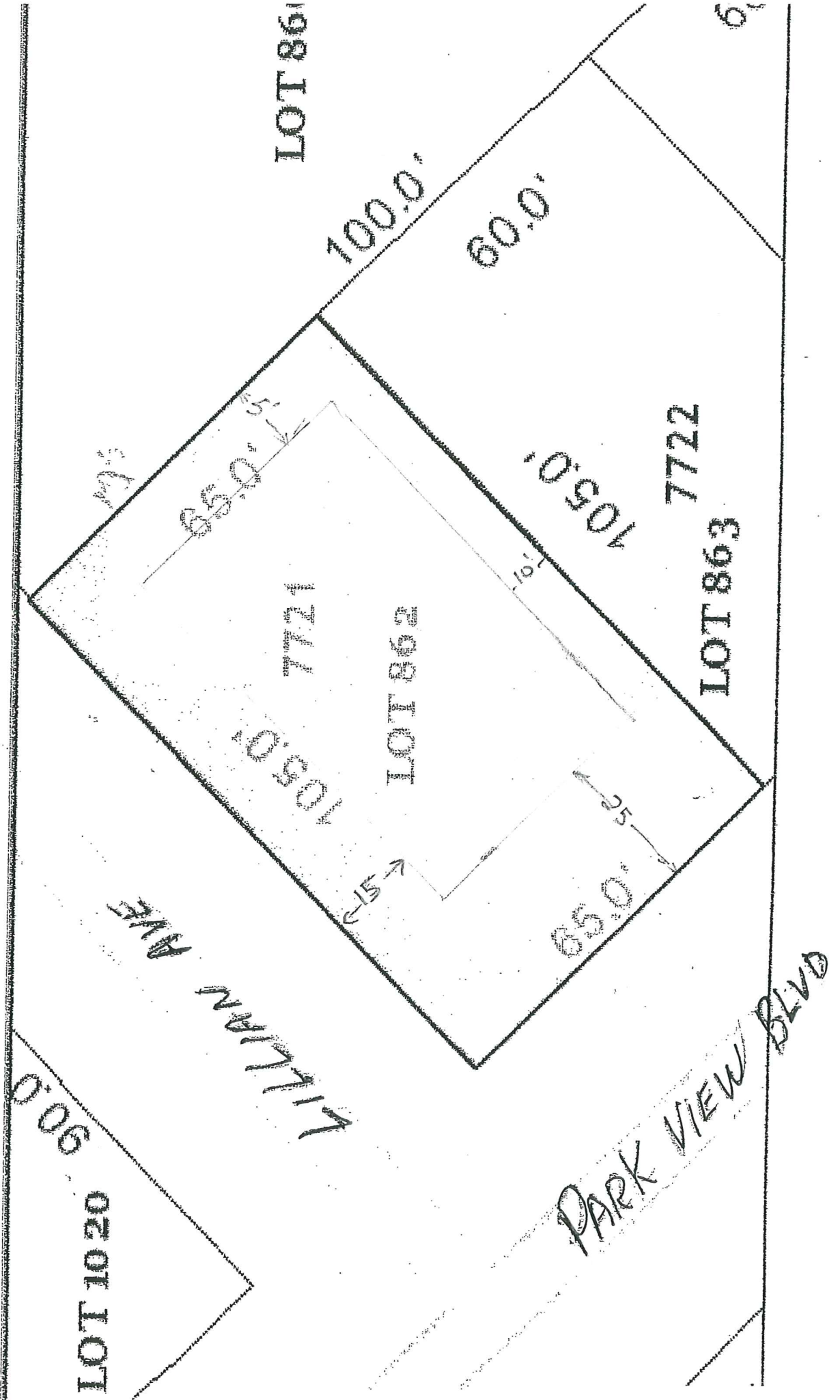
Police
7701 South 96th St.
p: 402-331-1582
f: 402-331-7210

Public Works
9900 Portal Rd.
p: 402-331-8927
f: 402-331-1051

Recreation
8116 Park View Blvd.
p: 402-331-3455
f: 402-331-0299

THIS IS NOT A PROPERTY RECORD FILE

Residential Information for 1 January Roll Year 2011





Lot 862 La Vista

Board of Adjustment Subject Property

September 26, 2011
CAS





CITY OF LA VISTA
BOARD OF ADJUSTMENT

STAFF REPORT

VARIANCE
HABITAT FOR HUMANITY

DATE OF BOA MEETING:

September 28, 2011

SUBJECT:

Variance of Section 5.06.05 of the City of La Vista Zoning Ordinance;
Request for a variance to the front yard setback.

PROPERTY INFORMATION

APPLICANT:

Habitat for Humanity of Sarpy County
John H. Taylor
119 W. Mission Street
Bellevue, NE 68005

PROPERTY OWNER:

Olan Dwight Kline, Sr.
904 N. Beadle Street
Papillion, NE 68046

SUBJECT PROPERTIES:

Lot 862 La Vista

ZONING:

R-1, Single-Family Residential

DEFINITIONS

(from Section 2 of Zoning Ordinance)

SETBACK, FRONT YARD shall mean the line which defines the depth of the required front yard. Said setback line shall be parallel with the right-of-way line *or other access way*.
(Ordinance No. 1083, 2-17-09)

BACKGROUND

Description of Development:

Lot 862 La Vista is a lot located in a single-family residential district lying at the corner of Park View Boulevard and Lillian Avenue. The lot is relatively flat with a slow slope upward as the property follows Lillian northward. Fire destroyed an existing house on this lot in 2010. The property has since been cleaned up and has been properly seeded.

See attached aerial image for more information.

Applicable Zoning Regulations:

Section 5.06 R-1 Single-Family Residential

5.06.01 Intent: The Single-Family Residential District is intended to permit low to medium-density residential developments to accommodate residential and compatible uses.

5.06.02 Permitted Uses:

- 5.06.02.01 Single family dwellings.
- 5.06.02.02 Public and private schools.
- 5.06.02.03 Public Services.
- 5.06.02.04 Publicly owned and operated facilities.
- 5.06.02.05 *Child Care Home, as per Section 7.10. (Ordinance No. 880, 11-19-02)*
- 5.06.02.06 *Group Care Home (Ordinance No. 1118, 4-6-10)*

5.06.03 Permitted Conditional Uses:

- 5.06.03.01 Public and private recreation areas as, country clubs, golf courses, lakes, common areas and swimming pools.
- 5.06.03.02 Churches, temples, seminaries, convents, including residences for teachers and pastors.
- 5.06.03.03 Public utility main transmission lines including substations, distribution centers, regulator stations, pumping stations, storage, equipment buildings, garages, towers, or similar public service uses.
- 5.06.03.04 Home Occupations, as per Section 7.10.
- 5.06.03.05 Child Care Center.

5.06.04 Permitted Accessory Uses:

- 5.06.04.01 Buildings and uses customarily incidental to the permitted uses.
- 5.06.04.02 Decks, elevated patios either attached or detached.
- 5.06.04.03 Private swimming pool, tennis court, and other recreational facilities in conjunction with a residence.
- 5.06.04.04 Parking for permitted uses as per Section 7.05 through 7.09.
- 5.06.04.05 Signs allowed in Section 7.01 through 7.04.
- 5.06.04.06 Temporary buildings incidental to construction work where such building or structures are removed upon completion of work.
- 5.06.04.07 Landscaping as required by Section 7.17.

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 ⁴) ²	5,000	60'	30'	5'	30'	35'	35%
Single-family Dwelling (future development ³) ²	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%
Accessory Buildings	-	-	50'	5'	5'	17'	10% ¹

¹ 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%

² 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.

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

⁴ 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.

The applicant has applied to construct a new single-family house, utilizing the approximate setbacks of the previous house constructed on the lot. The proposed house footprint would encroach 15 feet into the existing required front yard setback of 30 feet. The applicant is requesting a 15 foot front yard setback.

SPECIFIC REQUIREMENTS IN APPROVAL OF A VARIANCE

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 exceptional narrowness, shallowness or shape of the piece of property in questions;

Staff Analysis: The lot is unusually narrow. If the current zoning setbacks were applied to this lot, it would make the lot basically unbuildable for a single-family residence.

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 exception topographic conditions on the piece of property in questions;

Staff Analysis: The lot slopes downward from north to south, dropping a total of approximately four feet from the northern edge to the southern edge of the property. This is relatively similar to the topography of other lots in this subdivision. The issue of this application is not related to topographical aspects.

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: The depth of the lot is shallower than the average lot in this subdivision. This hardship was an unintended consequence of the layout of the subdivision. The house previously constructed on this lot was built with a 15' front yard setback to compensate. Other houses within this subdivision have reduced front yard setbacks due to the insufficient layout of the lots.

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 house previously constructed on this lot was built with a 15' front yard setback. It does not appear that any issues with the core principles of setbacks will be impacted by this variance.

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: The lot is unusually narrow. If the current zoning setbacks were applied to this lot, it would make the lot basically unbuildable for a single-family residence.

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: Other corner lots in the La Vista plat were similarly sized. However, initial GIS-based measurements of the front yard setbacks of the houses on those lots have resulted in shorter than required setbacks.

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 does not believe substantial detriment would occur on adjacent properties or within 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: The variance request would allow the proposed house to meet the setbacks of the previous house on this property, allowing the property to be buildable again.

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: Although this situation is replicable on a few lots within the original La Vista plat, it is not a standard issue throughout the plat, and certainly not throughout the city. Staff does not believe an amendment to the zoning regulations for these few already developed lots is necessary.

Specific requirement: satisfied / not satisfied

DECISION AND ORDER

Move to approve the variance request, as proposed and presented to the City of La Vista Board of Adjustment, finding that at least one hardship has been created by the strict application of the Zoning Ordinance and finding that each specific requirement has been satisfied.

Seconded: _____

Vote: Ayes _____ Nays _____

If motion to approve fails:

Move to deny the variance request, as proposed and presented to the City of La Vista Board of Adjustment based on the following reasons for denial:

Vote: Ayes _____ Nays _____