



CITY OF LA VISTA
BOARD OF ADJUSTMENT

STAFF REPORT

VARIANCE REQUEST

DATE OF BOA MEETING:

September 2, 2020

SUBJECT:

Variance to Section 5.13.05 Height and Lot Requirements of the
La Vista Zoning Ordinance

PROPERTY INFORMATION

APPLICANT:

Dorwill, LLC
8231 S 107th Street
La Vista, NE 68128

PROPERTY OWNER:

Richard Essi
8231 S 107th Street
La Vista, NE 68128

SUBJECT PROPERTY:

Lot 1, I-80 Business Park 2nd Addition
La Vista, Nebraska

ZONING:

I-1, Light Industrial District with a Gateway Corridor Overlay District

BACKGROUND

Description of Request:

1. Dorwill is an industrial business seeking to construct a 3,183 square foot contractor's office on Lot 1, I-80 Business Park 2nd Addition.
2. Applicant has acquired two additional pieces of excess right-of-way from the Nebraska Department of Transportation. If a variance is granted, applicant will be required to plat the three pieces of property into one parcel in order to develop the property.
3. The request is to:
 1. Allow a reduction in proposed front yard setback along South 108th Street from 35 feet to 30 feet.
 2. Remove the 60-foot setback requirement for front yards with parking in the front for this property.
 3. Allow a reduction in proposed side yard setback along the west side lot line from 30 feet to 15 feet.
4. According to the applicant, the hardship is stated as, "Even with the lots combined, the small lot size and a utility easement that runs through the lot result in my inability to meet some of the building setback requirements."
5. The property lies along the eastern side of Interstate 80. It is an irregularly configured lot due to the location of the interstate, Harry Anderson Ave, and S 118th Street right-of-ways. A utility easement cuts across the southern one-third of the property until it turns north toward the Interstate 80 right-of-way. The Papillion Creek floodplain extends into the southwestern corner of the property and up the western edge.

Applicable Zoning Regulations:

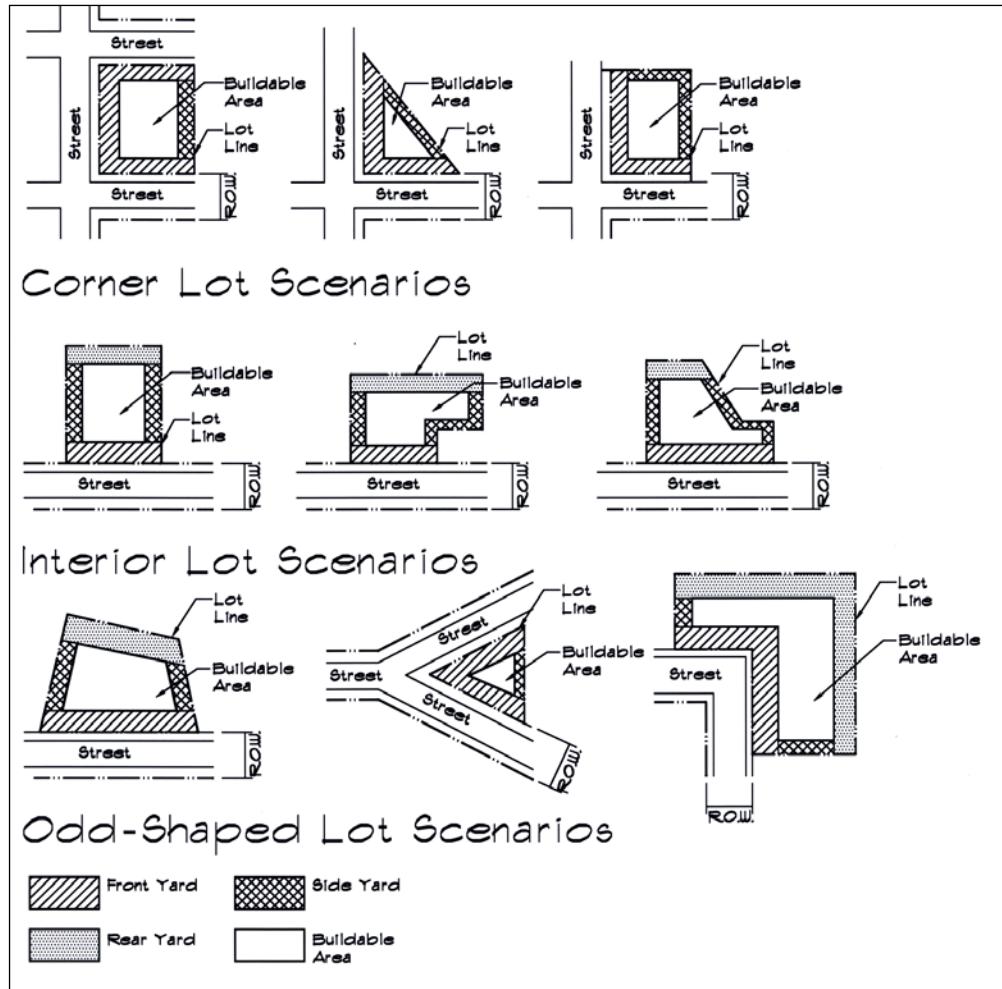
5.13.05 Height and Lot Requirements:

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

Use	Lot Area (SF) ₂	Lot Width ₂	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	10,000	100	35'	30'	25'	45'	65%
Permitted Conditional Uses	10,000	100	35'	30'	25'	45'	65%
Accessory Buildings	-	-	70'	10'	10'	25'	20%

1. 35' front yard setback required only when no parking is present in the front yard. If parking is located in the front yard then front yard setback is a minimum of sixty (60) feet.
2. *Lots created before January 1, 2008 may have a minimum Lot Area of 10,000 square feet and may have less than the minimum 100 feet lot width. (Ordinance No. 1053, 1-15-08)*

ARTICLE 2: DEFINITIONS



Example of possible Lot Configurations and Yard Requirement

CONDITIONS FOR VARIANCES

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 of irregular shape and narrowness to due to the location of the Interstate 80, Harry Anderson Ave, and S 118th St right of ways as compared to other I-1 Industrial lots. Due to the shape of the property, parking in front of a building on the lot pushes the setback along Harry Anderson Ave and S 118th Street to 60 feet. Additionally, a floodplain along the third side of this lot further limits the building envelope, creating an irregular and narrow buildable area. Further constricting the buildable area is a utility easement that cuts across the southern third of the property.

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 gradually slopes downward from east to west before shifting upward at a steep slope up to the interstate in the adjoining right-of-way. Prior to this upward shift the topography dips to an elevation of 1042, which is approximately where the floodplain area encroaches upon the property. Although this topography is roughly similar to other industrial lots in the general vicinity, these lots are not impacted by the floodplain as a result of the topographical changes.

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 irregular size and shape of the property limit the size of the building envelope available to this property. Additionally, the fact that the property fronts topographically accessible streets on two of its three sides further constricts the building envelope reducing the buildable area as the Zoning Ordinance requires these areas to be considered Front Yards, with greater setbacks than other yard designations. Further reducing the possible envelope is the relative inability to develop a site plan without having a portion of the building encroach into one of these designated Front Yards. Finally, an existing utility easement cuts across the southern third of the property, before turning north near the western edge. With parking in a

Front Yard, the setbacks along Harry Anderson Ave and S 118th Street increase to 60 feet, as well as the utility easement, the site constraints make the potential building envelope extraordinarily small.

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: Staff does not believe such variance would be a substantial detriment to the public good and would not 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: Due to the size and configuration of the lot, limitations due to floodplain and utility easement constraints, and the front yard setback requirements, the buildable area of the lot is extremely limited.

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 I-1 uses in La Vista do not have similar irregular lot shape and size issues significantly restricting the buildable area of their lots.

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 is related to the applicant's desire to construct an industrial building of sufficient size for a contractor's office within a limited footprint.

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 for an irregularly shaped and undersized property is appropriate as this property is not similar to others in the city.

Specific requirement: satisfied / not satisfied

DECISION

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.

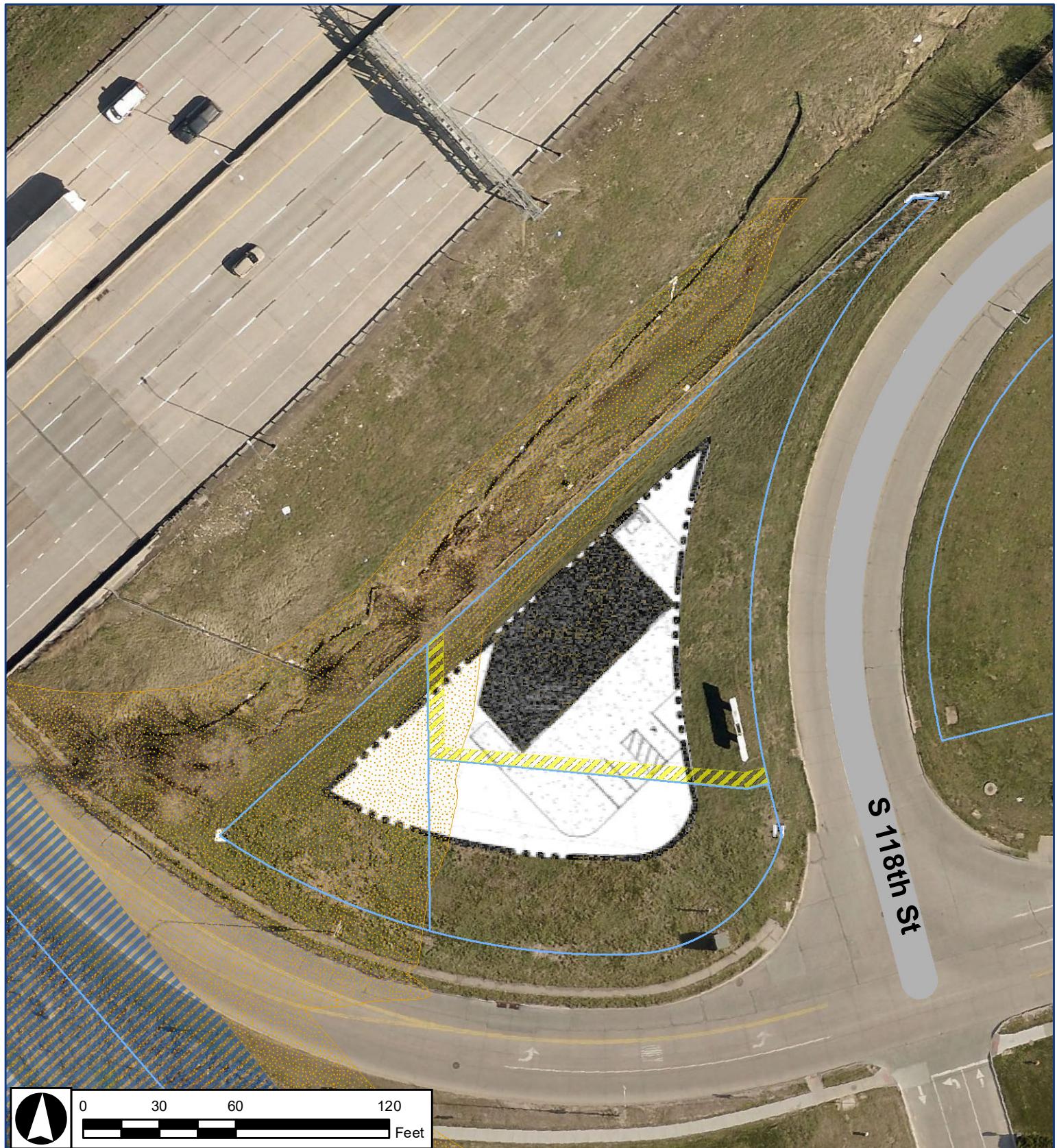
Seconded: _____

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 _____



Variance Request Detail Map

Dorwill Variance Request - 2020-BOA-01

Legend

- FLOODWAY
- A - 100-Year Flood Zone
- AE - 100-Year Flood Zone, Detailed Study
- 500-Year Flood Zone

- Utility Easement
- Tax Parcels

8/24/2020
CAS