

CITY OF LA VISTA
LA VISTA BOARD OF APPEAL MEETING

September 23, 2009

The Board of Adjustment of the City of La Vista, Nebraska was convened at 6:02 p.m. on September 23, 2009 at the La Vista City Hall, 8116 Park View Boulevard. Members present: Malmquist, Jordan, Paulsen, Brown and McEneaney. Also present was John Herdzina, Hearing Examiner.

Legal notice of the public meeting was published in The Papillion Times. 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 public.

1. Call to Order and Roll Call

The meeting was called to order by Paulsen at 6:02p.m. and roll call was taken.

2. Approval of Minutes of September 9, 2009

Malmquist moved to approve the minutes of September 9, 2009 as presented. Jordan seconded. Ayes: Malmquist, Jordan, Brown, McEneaney and Paulsen. Nays: None. Minutes were approved.

3. Old Business

4. New Business

a. Hearing of Appeal of building Official Notice & Order – 7121 Harrison Street

i. Staff Report: Those appealing are: Longs Sales & Service, Mr. Earl and Mr. Cyrus Long. The property owner is Mr. Earl Long and the property is Lot 1C Ex Pt To Rd, La Vista Replat addressed as 7121 Harrison Street. This property is zoned C-2, General Commercial District.

The service station was constructed in 1960 and was built of standard concrete blocks with a wood truss system for the roof.

This is an appeal by Appellants Longs Sales & Service, Earl Long and Cyrus Long of the Notice & Order dated July 8, 2009. The Notice & Order stated the necessary demolition permits were to be secured within 60 days of the Notice and demolition of the building to be completed within 15 days after the permit is obtained. The Notice & Order also stated if the required permit is not obtained and the demolition not completed within the above stated timeframe, the City will order the building to remain vacant and posted to prevent further occupancy. The City will then proceed to cause the demolition to be done and charge the costs of the demolition against the property and its owners. The Appellants were notified that they may appeal the Notice & Order of the Chief Building Official to the Building Board of Appeals.

On August 6, 2009 a written request from Terry K. Barber, the attorney representing Appellants Longs Sales & Service, Earl Long & Cyrus Long, was received by the Chief Building Official requesting an appeal hearing to the City's Building Board of Appeals from the Notice & Order dated July 8, 2009.

The packets prepared for the Board of Appeals members include the following attachments:

1. Notice & Order dated July 8, 2009
2. Appeal Letter dated August 6, 2009 from Terry Barber
3. Notice of Hearing from board of Appeals dated September 11, 2009

ii. Public Hearing: The public hearing was convened at 6:02 pm

The hearing was opened at 6:04 pm by Hearing Examiner, John Herdzina who introduced himself. An appeal was filed by Longs' attorney on August 6, 2009 for Longs' Sales and Service.

Also identified at the hearing were: Jerry Friedrichsen, City Attorney; John Thomas, Videographer; Terry Barber, Attorney for the appellants; Jeff Sinnett, Chief Building Official; Ann Birch, Community Development Director; Rich Uhl, La Vista Fire Chief; Earl Long and Cyrus Long, appellants. Official hearing minutes were taken by Court Reporter, Cara.

Gerry Friedrichsen explained that the notebook in front of them contained the exhibits of the hearing.

The hearing was being held in accordance with selected portions of the Uniform Code for the Abatement of Dangerous Buildings (Exhibit #6).

Herdzina took the five members of the Board of Appeal, Friedrichsen, Barber, Earl and Cyrus Long, and Jeff Sinnett on an outside tour of the property at 7121 Harrison Street along with the videographer. Upon approval the video will become part of the official record. The hearing will remain open during the tour which left at 6:12 pm.

The tour group returned at 6:30 pm. having inspected the premises. The video was marked as Exhibit 14 and became part of the official record. The Board members walked around the property but did not go inside. They viewed what was formally a gas station, on a full concrete pad, otherwise the video will speak for what was seen.

Barber called Earl Long as his first witness. Oath taken.

Earl Long stated under questioning by his attorney, Barber, that he did know why he was present at the hearing and that he had just visited the station with the group. He understood that the City of La Vista had issued an order requiring the station be demolished and that he had given instructions to file an appeal to that order by the City of La Vista to demolish the building through his attorney. Mr. Long did not think that the building was in that bad of shape to be destroyed. He said that he was the sole owner of the property at this time and had owned it since 1968. He said that it had been operated as a service station since 1968. He said the gas station had ceased operation about years ago. The building he said was made of cement block and was on the property when it was purchased. It has steel siding over the block on two sides, the rest is glass, and block on the back. He said he had not been at the station over the last 3-4 years as he was ordered to stay away. During tonight's visit he had not noticed the cracks in the block or deterioration. Earl Long said that the building needed a roof and didn't know that it needed any other repairs. On the left of the building near the wash rooms there is a hole where some lady ran into the building with her car longer than 9 years ago. Mr. Long felt the building does have value. He felt with a little time and effort it would be back to the way it was with roof repairs and the block fixed. He didn't see so much debris, only what was on the truck. He didn't pay that close of attention to anything that was stacked up or strewn about. He felt yes it probably needed a good cleaning after setting empty 4-5 years. It needs allot of paint.

Earl Long didn't remember receiving a notice approximately 4-4 1/2 years ago. The exhibit was shown to Mr. Long. He may have seen it, but forgotten about it he stated. He read the date aloud as August 8, 2005. He agreed it was about that time when the city first contacted Longs about the problems with the building. During the duration from 2005 until now, he said he had been interested in making repairs to the building so that he could get back in and conduct business. He felt that he had been ordered not to go back onto the property.

Exhibit #11 was shown to Mr. Long which was a letter dated September 19, 2005 but could not say that he had seen the letter before. Upon reading Exhibit #12, a letter dated September 23, 2006, it was Mr. Longs' understanding that he was not allowed to enter the building only if he applied for; and, were issued any and all necessary permits required by the City of La Vista. Mr. Long felt like the city wanted him to hire someone to come in and do the work. He didn't hire anyone because he didn't have the money and he preferred that he and his son Cyrus do the work.

He had not talked personally with, or been contacted personally, by anyone representing the City of La Vista about the conditions of the building since 2005.

He didn't have any knowledge that anyone had become ill, or had complained about being ill, because of having been around the structure on this property. Nor, had there been an injury.

Mr. Earl Long believed that the building can be repaired and asked for an opportunity to do that, if things worked out.

Mr. Barber had no further questions.

Gerry Friedrichsen, attorney for the City of La Vista questioned Mr. Earl Long. Mr. Long stated he sometimes lived at 7605 S 76 Avenue and had for many years. Sometimes he lives with his daughter who lives in Bellevue.

Mr. Long said he had not personally received an order to vacate letter dated December 19, 2005. He said his wife may have opened it. He said he had not been active at all in the station since and before 2005. He said the station had been run by his son Cyrus. He couldn't remember the last time he was inside the station. He felt it was before September 2005. He said his son had handled most of the letters that were sent to the S. 76th Avenue address. He said his son Cy would know about any permits that would have been applied for. Earl Long said he would be involved in doing what he could in bringing the property up to the City of La Vista codes.

Mr. Long agreed with Mr. Friedrichsen that Exhibit 11, letter of 2005, shows that it was not technically true that he was not allowed on the premises at all but the city did require permits in order to do the work. He cannot answer whether the city was treating him any different than anyone else.

Tab 12 Exhibit dated September 19, 2005, stated that he was allowed on the property to remove debris, trash and vehicles on the exterior of the structure or for construction and repair work for the structure. He had no idea if his son had applied for any permits.

Mr. Friedrichsen had no further questions.

Mr. Long said it was his understanding that he had been ordered to stay away from the property for any reason when asked by Herdzina.

Mr. Earl Long did recall the front door being closed off with a board on the tour, but did not recall any red signage that he knew of when quizzed by Barber, his attorney.

Cyrus Long was called upon as witness by Mr. Barber. Cyrus is Mr. Earl Long's son and is familiar with the property. He started working there at 14 years old and has been there his entire life, until it was closed, doing auto repair, gasoline and service station. He was ordered off the property immediately or be subject to arrest and recalls that it may have been Jeff Sinnett and approximately 6 police officers. He has not been back to conduct business since a letter stated he was to stay off the property or be arrested. He doesn't have that letter with him. He did see a red sign, during tonight's tour, posted on a piece of plywood at the front door. He generally thought the message said that no one was allowed inside or something to that nature. He thought Jeff Sinnett had posted it.

Cyrus Long stated he had been to the property since he was directed to leave the premises in 2005 about 5 or 6 times due to break-ins. He parked at the bar lot nearby and phoned the La Vista police department. He stated he is not an owner. He believes the building has value and that it can be repaired and put back into active service. He asks, along with his dad, to be given the opportunity to do this.

Friedrichsen questioned Cyrus Long as to the City of La Vista having cleaned up the interior once before and he said they hadn't. When prompted about the incident of putting gasoline on a police car, he said he remembered very well. The city was only cleaning the outside.

He said he was inside with an officer once on Easter Sunday when he put 5 tires inside that had been found outside. The red sign seen posted on the door at this evening's tour was not on the building at the time he put the tires inside.

That sign was put on the building about two months ago at the end of a month he stated. He sent a letter from the City of La Vista to his attorney in which an inspection was requested. Cyrus did not reply. He later learned that the City of La Vista had obtained an order from the judge to inspect. He was not given any notice of the inspection date. An inspection was conducted on May 27, 2009 but Cyrus Long was not present.

Mr. Long was directed to exhibit letters that were sent to S. 76 Avenue where he has lived since 1961. He assumed he had received them and read them. They contained violations of La Vista City Code. He states there was no debris but it was not 100% clean. There were aisles to walk through. The fire marshal came and he could see that the aisles had been cleaned. The fire marshal told him it still needed improvement. He had received a notice to remove his tanks but didn't end up having to do that.

Having been given the notice of violations, he did not file an appeal. A notice dated Sep 19, 2005 was received from Jeff Sinnett and six police officers on that date. There was no prior notice. He was not allowed to do any business at that point, but could do repairs. He states he and his wife came up and applied for permits the following week. A couple of weeks later they were told they would have to have the building structurally inspected. He believes he received a letter saying they were going to order a structural engineer come out to see if it was safe to put a roof on. This was about a month before Thanksgiving in 2005.

Since 2005 there was not anyone at 7121 Harrison Street to receive any mail.

Cyrus Long was shown a Records Request from his attorney to the City of La Vista to obtain a copy of a Building Permit application and attested that it was an application for a roofing permit.

The second page is what his wife wrote out on the application dated October 5, 2005. This was accepted in as Exhibit #15.

Cyrus Long did not have contact with La Vista after Mar 17, 2006 to discuss any application to re-roof or to address any of the other concerns expressed by Mr. Sinnett in his letter of August 5, 2005, but his wife did.

Mr. Long in reviewing the photos which make up Exhibit #10 taken May 2009 felt the photos do accurately reflect the condition of the outside of the property and the interior of the premises.

When questioned, Mr. Long, remembered that the damage to the building by the car driving into it had happened approximately 1998, or 1997, when they realigned the gas tanks under a court order. The driver of that vehicle had no money nor insurance to make the repair. He has not had the money to repair the hole since.

Barber was told upon questioning Mr. Cyrus Long that the State Fire Marshal ordered them to remove the petroleum tanks. He was allowed to realign them, or have them pressure tested once a month, otherwise they would be required to remove the tanks as they were too old. And, they were realigned to the satisfaction of the state fire marshal and they are still serviceable. Last time gas was put in them was in September 2005.

Jordan asked Cyrus Long if he had not been in that building for an extended period of time since 2005. Mr. Long said he had not.

Paulsen inquired if there was still gas in those tanks. Mr. Long said there was not.

Herdzina referenced Exhibit 1 to Cyrus Long asking if Mr. Long agreed that the violation items exist at the premises. He said he does know it now and, said that he wasn't to be allowed back onto the property or he would be subject to arrest.

Cyrus Long said he does now have some of the resources to fix it up. He has a part-time job.

Herdzina did not understand why a permit was never granted when his wife applied. Cyrus said they had not heard back from the city. Then they received a letter saying the City wanted a structural engineer to look at the building. His wife was there when the structural engineer was on site.

When asked by Barber, Cyrus Long felt it was difficult getting a response to the permit application. Barber and Barber made the request for records dated March 16, 2006 on behalf of Cyrus and his wife because the city was not responding to his wife's phone calls. The Letter regarding the permit was dated March 17, 2006.

There were no further questions.

A five minute break time was announced for return at 8 p.m.

Friedrichsen called Chief Uhl to the stand. Oath given.

Richard Uhl, La Vista Fire Chief has been with La Vista almost 2-1/2 years. During his tenure as Deputy Fire Marshal in Sioux City, Uhl attended the National Fire Academy for the Principals of Fire Inspection; and, the Iowa Law Enforcement Academy for Interrogation and Investigation Procedures both classes particular to enforcing and learning about fire protection codes.

His job with La Vista does not require his evaluation on properties on a regular basis to perform fire inspections, but when asked to do so, or to accompany a State Fire Marshal. He is familiar with La Vista Codes.

Upon inspection of 7121 Harrison Street he prepared a report, Exhibit #7. The photographs accurately depict the condition of the property. The building has allot of problems. First and foremost it is obvious the amount of clutter. The roof has large holes. And he found it to be alarming the presence of black mold. When this was discovered the inspectors exited and put on face masks for the remainder of the inspections. NFPA stands for the National Fire Protection Agency. LVCO stands for La Vista Code of Ordinance. Chief Uhl was evaluating the property as an operating business, which was the original intent and looking for obvious safety violations and considerations.

It was Chief Uhls' opinion that the breaches in the roof itself present an extreme fire hazard and these holes would act as a chimney affect and expand the fire rapidly. It is a huge safety concern for his volunteer fire fighters and there would be a concern with this size of fire, if he as Chief would allow them to go into the building at all. There are several gallons of hazardous materials both inside and outside the building. He is a hazardous materials technician having served 8 years on the Sioux City Hazardous Materials Team.

Friedrichsen asked what types of hazards do these represent, for the firefights or the community? Chief Uhl said the car batteries throughout the building, if on fire, would emit sulfuric acid vapor causing an inhalation hazard. There is a 35-gallon drum marked sulfuric acid outside the building that would have to be considered as sulfuric acid. Compressed gas cylinders inside the building, acetylene and oxygen, are free standing. If those have product in them and are tipped over they would act like a jet engine. There were containers of propane and Freon which could cause shrapnel if charged in a fire situation.

Chief Uhl added that the fire load (the combustible materials inside the building and the structural members of the building itself) of the building is currently extreme compared to other service stations. There are so many combustible materials strewn about it will burn more intense, hotter and be difficult to fight. Tires inside the building, coupled with the others would make a fire situation difficult.

Friedrichsen asked if the combustibles were not there what would the status of the building be. Chief Uhl indicated there would still be the roof problems, the breech wall, the mold problem is significant, and there is no ceiling.

Barber asked if black mold is a fire hazard. Chief Uhl answered it was not a fire hazard, but a health hazard.

Chief Uhl stated there was a 35-gallon drum labeled phosphoric acid. It was a fairly opaque material and approximately 2/3 of the way full; also, on the outside is one or two above ground storage tanks, unmarked.

Chief Uhl defined combustibles as paper, wood, rubber or anything that will burn.

Barber asked Chief Uhls' opinion as to whether the property is subject to burn. He stated it depends upon the security, break-ins do cause fires. An electrical problem is not a possibility right now. There is a possibility of hazardous materials leakage or spillage. Chief Uhl was under the understanding that there had been deterioration since 2005, but he was not with the city at that time and could not attest to that.

Barber asked Chief Uhl if there was anything listed that is beyond being cleaned up or remedied in some fashion. To correct the items on his list would not require demolition.

Paulsen asked if there was anything found that would cause spontaneous combustion. Chief Uhl said nothing definitively.

Paulsen asked Mr. Long what phosphoric acid was used for in the business. Cyrus Long answered that it was just a barrel for used grease, he didn't realize it had a label on it. He assumed it just has water in it now.

Friedrichsen called Ka Squire, Structural Engineer from Thompson, Dreessen and Dorner to the stand. Oath given.

Ka Squires was asked by the City of La Vista to perform a structural inspection at 7121 Harrison Avenue which was accomplished on May 27, 2009. A Mr. Heimes from Thompson, Dreessen and Dorner had inspected the property in the past and based on that report, Squires concluded that nothing had been remedied to speak of and conditions had been the same, or gotten a little worse. He was asked to assess the structural condition of the building. The building was constructed of block walls, wood roof and plywood over the roof. The ceiling was basically gone, it had a gyp board ceiling. There were visible holes in the roof. He was not able to walk through the whole interior of the building due to clutter and he was fearful of the mold. Water could enter numerous locations which he assumes deteriorated the drywall and ceiling. Insulations was down everywhere. The conditions on the interior looked as if they were probably conducive to having mold although he doesn't recall having seen the mold. He drew his own conclusions that under certain circumstances, if for instance in a good windstorm, that it would probably tear the remaining plywood off the roof. At such a point the building would not have much lateral stability, and you would have plywood flying around and at some point the roof would collapse and not provide support for the walls and the walls would collapse.

Barber asked Squires why the original inspection was done by Mr. Heimes in January 2006. Squires said he could only reference a letter from Mr. Sinnett that says in accordance with the request that a review had been done in the southeast corner in 2006. Squires had no reason not to believe the report by Mr. Heimes, but Squires was not able to go in and see how the roof was tied into the walls.

Squires had no particular reason why he believed there was danger from winds. He was just basically commenting on what had changed from the previous report of January 2006 to 2009. Squires found in his report that the building is in need of repair. Basically the roof should be repaired and the blocks fixed and he felt these were repairable.

Herdzina asked if in Squire's professional opinion was the building dangerous, but for windstorms. Squires answered that it was not going to collapse on its own. The greatest danger would be, in a wind, that things would be falling around.

There were no further questions for Ka Squires.

Kip Withers was called and given oath.

Kip Withers, Real Estate Appraiser, with Valuation Services was asked to appraise the condition of the property at 7121 Harrison Street on May 27, 2009 along with Mr. Squire, the structural engineer. He was not able to get through the whole building due to the clutter. He determined that the highest and best use of the property was to raze the improvements. Because of the land values on the 72nd Street corridor the value as the properties improve is quit a bit less than

what the value would be if it were just vacant. Withers looked at a sales comparison approach in the value of the land; and, also considered a sales comparison approach in value of improvements. He determined due to the age of the improvements that they had no added value; and he, therefore, used only the sales comparison approach in the value of the land. The income approach was not applicable because in his opinion the building could not be leased in its present condition. The highest and best use in his final determination was to look at it as a vacant site and then deduct to get the "as is condition" of the property to deduct the cost to demolish and raze the improvements, remove the tanks and prepare the site for redevelopment. The value of the property, hypothetically if it were vacant, would be valued at around \$170,000 for a vacant, ready to build on site. He researched the cost of demolition of the building and remediation of the tanks at \$33,000. Withers concluded a value of \$135,000 "as is". A cost to cure was considered by using the Marshall & Swift Valuation Service which is a cost manual used to arrive at replacement costs of properties and breaks things out. Based on his assessment of the property, and the deficiencies in the building, things that would be required to get it to a condition where someone would want to occupy it, or potentially lease it produced his estimate at \$60-70,000 to get it to that point. This number exceeded the value of the property in order to function the way a service station should.

Barber asked Withers if his duty was to determine the value of this property on the highest and best use and not on its past use. Withers said that was correct.

Barber noted that Sarpy County values the land at \$77,000 and the building at \$23,000 and asked how that compares to the highest and best use. Withers cannot attest to the methodology of the appraisers office, they are to appraise at market value is his understanding. Different agencies have different threshold levels that they appraise property at and it often gets adjusted by the state. It often depends on what the sales to assessment ratios are. Withers has not had any interest in looking at this compared to ratio that they are to provide. He evaluates from a market perspective as to what he believes the market value is on this property and not compared to the assessors numbers. Withers objective was to determine the value of the property on the market for sale.

There were no further questions for Kip Withers.

Friedrichsen called upon Jeff Sinnett, La Vista Chief Building Official and gave oath.

Sinnett has been with the City of La Vista for 11-1/2 years and has been Chief Building Official for the past 9 years. He is charged with enforcing commercial and residential building codes, which includes plumbing, mechanical, electrical and property maintenance code. He is involved with new construction, retro-fits, addition, code violations and complaints.

In 2005 Sinnett inspected the property as a result of a request from the Nebraska State Fire Marshal wanting to know the status of the building at 7121 Harrison Street. Throughout the course of the years, the City has dealt with the state fire marshals office on clean-ups. On one clean-up of the interior a fuel burning stove was taken out which was illegal under the building code and the NFPA.

Exhibit 6 are the provisions of International Building Codes International Property and Maintenance Code and the Universal Building Codes by which inspections are based.

Sinnett identified Exhibit 10 as photos taken during their inspection at the site of the interior and exterior and the copies of the violations observed. Pictures were of the entry wall, hole in the roof, showed insulation down and appears to have mold, fire resistant drywall is missing. Roof, ceiling and construction are all components of a fire-rated ceiling assembly which were all

missing and, yet, required by code. Clutter and debris on the floor were found such as gas cans, oil cans, cylinders, oil barrels full of oil rags and general debris. There was a vehicle on a raised hoist with debris below. The debris and the clutter had remained the same since the initial inspection in August 2005, the ceiling and roof area had deteriorated worse and the mold was not present in 2005. The general area was wet, damp and moist.

Sinnett identified letters he had sent to the Longs in which to prohibit activity on the premises as long they cleaned up the outside and took out any permits necessary for construction. In August 2005 a letter was issued by Sinnett to close the facility and vacate the property because the property in his opinion violated numerous city codes and met the definitions of the Abatement of Dangerous Buildings which were identified in his letter. They were asked to cease operation and not conduct business and to get permits, get the area cleaned up and brought into compliance with codes. The letter also provided information that they could appeal the decision. No appeal was ever received.

An additional letter was sent in September to make sure that the Longs were on the same page about when to enter and if they wanted to try and fix the property. The Longs were required to obtain permits just as any other property owner. The requirement to obtain permits for any type of repair is uniformly enforced. Failure to obtain a necessary permit means they would not put up the building. Only once did he hear from Ms. Long in connection to getting a roof permit. Exhibit 15 is a copy of permit application/s which there are two separate applications, both dated October 5, 2005. Sinnett explained that his written notes said, "see: attachments, conditions and requirements" which needed to be met were given to Ms. Long. They had a materials submittal with their permit application which showed a rubber roofing but not what they were attaching it with and what they were putting underneath the frame resistant construction is all part of the fire rated assembly. She was also asked to get an inspection report stating that the framing members were not compromised and were not wet, but dry enough, which Ms. Long took with her. The City never heard from the Longs regarding permits thereafter.

A letter of notice in July 2009 to the Longs from the City of La Vista, indicated that the conditions that were identified in August 2005 still existed and listed the code violations. Sinnett requested that the La Vista Fire Chief, Mr. Withers and Mr. Squire accompany him on that inspection so that the City could obtain an appraisal on the building to see what it was worth; to get a structural analysis to see if the building had gotten any worse; and, for fire safety issues.

Mr. Heimes had originally been asked to inspect the property in December 2006 as to its structural integrity and if it were in danger of falling down.

Sinnett used the reports from these individuals as consideration in his determinations. Sinnett said that in his opinion the building should be demolished. He did consider all options. The data from the Sarpy County Appraiser office listed the building at approximately \$23,000 worth of value, and using the best construction practices and current pricing on the little over 1200 sq ft building, he figured the cost of replacing the roof at approximately \$30/sq ft., replace bathroom, fixtures and dig up some of the sewer lines (because the traps had been dry for 10 years), replacing all of the utilities, and reglazing totaled approximately \$50,000 which was twice as expensive as the value of the building. These are normal costs that as a Chief Building Official he works with often using common building practices and pricing.

Sinnett acknowledged under question from Barber that he had talked with Julie Long about the permit application in person once; and, once by phone prior to her application for the permit. He did not try to phone them after their initial contact.

Sinnett assured that the fuel burning stove that had been removed during an inspection was against the law to have when asked by Barber.

Sinnett reported that he had made his first inspection in approximately December 1997. At that time Sinnett, the state fire marshal and La Vista public works department removed the stuff under court order for the State Fire Marshal.

Sinnett agrees with the content of the reports by Mr. Heimes and Mr. Squire. Sinnett said he had factored into his decision that nothing had been done with the property between the inspections in 2005 and 2009.

Herdzina asked if Sinnett were to assume that if the debris were removed both inside and outside what would his professional opinion be as to the condition of the building. Sinnett answered that if all the debris were removed they could go back in to get a better look at the ceiling assembly, they could get ladders to get up there to see where the roof attaches to the building.

To Barbers' question, Sinnett said they had originally asked Mr. Heimes to inspect the property in 2005 to get a structural analysis to see how bad a condition it was in and if it were in danger of falling. Sinnett felt from the report that the building was structurally sound. The purpose of having another inspection in 2009 was that it had been four years and they wanted to see if the deterioration had gotten worse. It was determined that some of the areas did need to be addressed and that the outside four corners had remained the same.

Sinnett informed Herdzina that his phone conversation with Julie Long was about how to go about getting a permit which took place prior to her permit application in person at the city. This would have been the only permit that would have been applied for. If Longs would have wanted to appeal the letter of 2005, all they would have had to do is the same as what they are now doing.

Friedrichsen asked Sinnett what the permit process was. Sinnett said they would have to complete an application, in general, specific requirements are needed as to what is being repaired, a detailed list of the materials, and who the contractor is and that the contractor is licensed. The permit application is the intent that the project will be done right and the actual verification is on the field inspection.

Barber asked if the City of La Vista requires permits to clean up. Sinnett said no they would not. Nor, as asked, would you need a permit in La Vista to clean up debris so that you could walk around.

Neither side had further questions. The Board of Appeal had no further questions.

Herdzina expected to have the board order him to draft up and submit a report with a proposed decision for review. That will be delivered before the continuation date. At the continuation hearing the board can either reverse, ratify or confirm his proposal. Legal council will have a chance to review that also. Then a decision can be rendered at that time.

Jordan motioned that Herdzina be directed to draft up and submit a report with his proposed decision for the board review and to continue the hearing to October 28. McEneaney seconded. Ayes. All. Motion carried.

It is suggested that all five board members are present at this next meeting.

No further evidence will be accepted.

Reviewed by BOA Secretary: Randy Jordan

Sharon R. Dennis
Recording Secretary

Dean Paulsen
Board of Adjustment Chair

9-30-09
Approval Date

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