



BOARD OF ADJUSTMENT MEETING AGENDA

April 6, 2023

Tom Baker Meeting Room Lower level	5:00pm	City-County Office Building 221 North 5 th Street
--	---------------	--

The City of Bismarck is encouraging citizens to provide their comments via email to jwollmuth@bismarcknd.gov. The comments will be sent to the Board of Adjustment members prior to the meeting and included in the minutes of the meeting. To ensure that comments are compiled and forwarded to the Board of Adjustment with enough time to review all comments, please submit your comments no later than 12 noon the day of the meeting. Comments should also include which agenda item number or topic your comment references and your name (anonymous comments will not be forwarded to the Board of Adjustment members or included in the minutes of the meeting). If you would like to appear via video or audio link for a 3-5-minute comment on a public hearing item, please provide your e-mail address and contact information to jwollmuth@bismarcknd.gov at least one business day before the meeting.

Item No.	Page No.
----------	----------

ELECTION OF OFFICERS AND OATHS OF OFFICE

- Election of Officers:** Election of Chairman and Vice Chairman
- Oaths of Office:** Oaths of Office for remaining Board members

MINUTES

- Consider approval of the minutes of the March 2, 2023 meeting of the Bismarck Board of Adjustment.

PUBLIC HEARINGS

- Section 14-03-10(5) of the City Code of Ordinances (Off-Street Parking and Loading / Design Standards for Required Off-Street Parking and Loading**



Spaces) Lot 19, Block 1, Northern Plains Commerce Centre Second Addition (2103 Trade Street) | VAR2023-002

Owner / Applicant: Dale Demaray, Lafarge Holcim

Board Action: ☐approve ☐continue ☐table ☐deny 3

OTHER BUSINESS

5. **Stakeholder Selection:** Selection of Board of Adjustment member to stakeholder group for revisions to Section 14-04-19 of the City Code of Ordinances (FP – Floodplain)

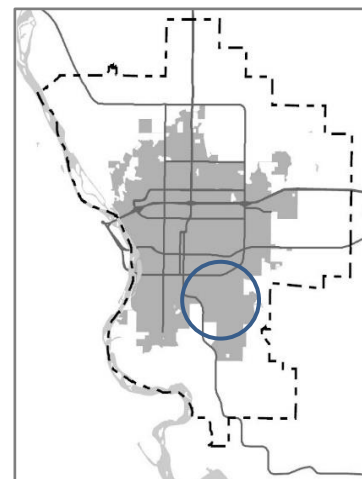
ADJOURNMENT

6. **Adjourn:** The next regular meeting date is scheduled for **May 4, 2023**.

Enclosures: Meeting Minutes of March 2, 2023

Project Summary

<i>Title:</i>	Lot 19, Bock 1, Northern Plains Commerce Centre Second Addition (2103 Trade Street)
<i>Status:</i>	Board of Adjustment
<i>Property Owner(s):</i>	Dale Demaray, Lafarge Holcim
<i>Project Contact:</i>	Abe Ulmer, PE Independent Land Surveying & Engineering Inc.
<i>Project Location:</i>	In south Bismarck, south of Airway Avenue and northeast of Bismarck Municipal Airport between Trade Street and Yegen Road
<i>Project Size:</i>	10.28 acres
<i>Applicant Request:</i>	Variance from Section 14-03-10(5) of the City Code of Ordinances (Off-Street Parking and Loading)



Site Information

Existing Conditions:

<i>Lots/Blocks:</i>	1 lot in 1 block
<i>Land Use:</i>	Industrial
<i>Future Land Use:</i>	Industrial Flex (IF)
<i>Zoning:</i>	MA – Industrial
<i>Uses Allowed:</i>	MA – Light industrial, general commercial, warehouses, manufacturing and shop condos
<i>Max Density:</i>	MA – N/A

Area Information

Property History

<i>Zoning Jurisdiction:</i>	Bismarck City Limits	<i>Zoned:</i>	Pre-1980
<i>Township:</i>	Lincoln (not organized)	<i>Platted:</i>	12/2009
<i>Neighborhood:</i>	Airport District	<i>Annexed:</i>	Pre-1980

Project Narrative

Dale Demaray, Lafarge Holcim is requesting a variance from Section 14-03-10(5) of the City Code of Ordinances (Off-Street Parking and Loading / Design Standards for Required Off-Street Parking and Loading Spaces) to eliminate the requirement to pave the access to the paved required parking on Lot 19, Block 1, Northern Plains Commerce Centre Second Addition (2103 Trade Street).

Background Information

A variance to eliminate the requirement to pave the access to required parking in conjunction with the construction of a proposed 5,000 square foot building was approved by the Board of Adjustment on December 5, 2019. An excerpt of the minutes from this meeting are attached.

A site plan for the construction of two single-story buildings with a combined footprint of 1,112 square feet and required parking was approved on May 21, 2021. During the site plan review process it was determined that even though the scope of work changed from the approved variance, the variance still applied as the proposed building sizes were smaller than 5,000 square feet. Staff noted in their review for the 2021 site plan that approval of another variance to eliminate the requirement to pave the access to required parking would be required if any additional buildings were added to the site. Review comments are attached.

According to the applicant's consulting engineer the 5,000 square foot building was not constructed. A 512 square foot building was permitted and constructed on site in 2021. This building is proposed to be removed and a new 2,800 square foot building to proposed to be constructed.

Public Engagement

The project is located with the Lincoln Township, which is completely disorganized. Therefore, no communications have occurred.

The public has been duly notified of this request, six letters were mailed to the owners of nearby properties on March 23, 2023. All written comments received by staff prior to the public hearing will be distributed to the Board of Adjustment and summarized by staff during the board meeting.

The applicant has submitted a written statement that identifies their anticipated hardship and explains why they believe the variance should be granted.

Review Standards Pursuant to Section 14-06-02 of the City Code of Ordinances, the Board of Adjustment may vary or adjust the strict application of any of the requirements of the zoning ordinance in case of an exceptionally irregular, narrow, shallow or steep lot or other exceptional physical or topographical, by reason of which the strict application of the provisions of the zoning ordinance would result in an unnecessary hardship that would deprive the owner of a reasonable use of land or building involved, but in no other case. No adjustment in the strict application of any provisions of the zoning ordinance shall be granted by the Board of Adjustment unless it finds the following:

That there are special circumstances or conditions fully described in the findings of the board, applying to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or building, and do not apply generally to land or buildings in the neighborhood, and have not resulted from any act of the applicant taken subsequent to the adoption of this article, whether in violation of the provisions of the article, or not

That, for reasons fully set forth in the findings of the board, the circumstances or conditions so found are such that the strict application of the provisions of this article would deprive the applicant of the reasonable use of said land or building, and the granting of the variance is necessary for the reasonable use of the land or

(continued)

building, and that the variance as granted by the board is the minimum variance that will accomplish the relief sought by the applicant.

That the grant of the variance will be in harmony with the general purposes and intent of this article, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare

A variance granted under this chapter must be put into use within 24 months of the granting of

the variance or is shall lapse and the landowner must re-apply.

Attachments

1. Aerial Map
2. Zoning Plan and Reference Map
3. Written Statement of Hardship
4. Proposed Site Exhibit
5. December 2019 Meeting Minutes
6. 2021 Site Plan Review Comments

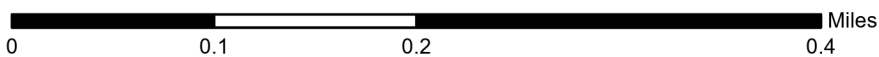
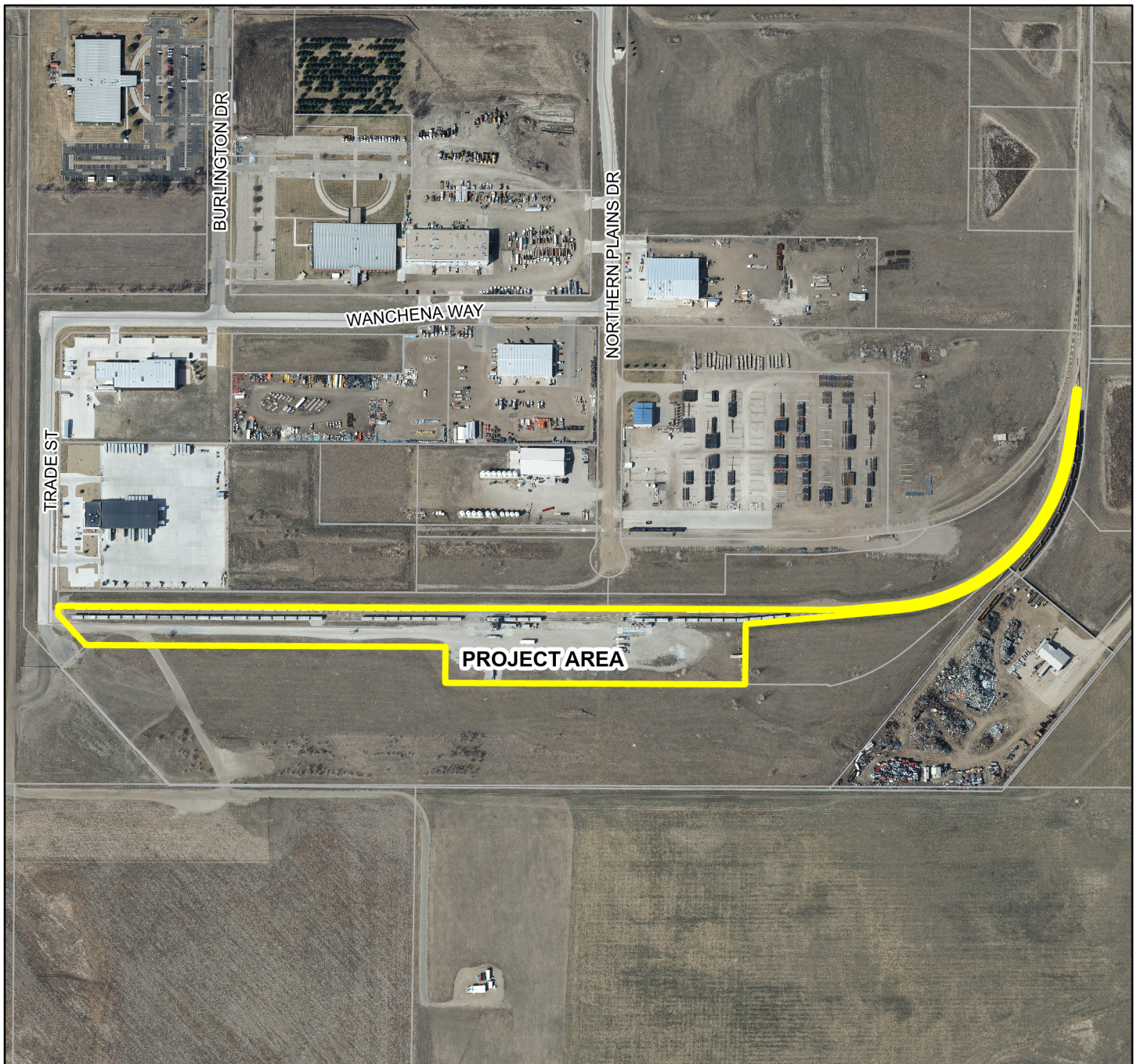
Staff report prepared by: Jenny Wollmuth, AICP, CFM, Senior Planner
701-355-1845 | jwollmuth@bismarcknd.gov



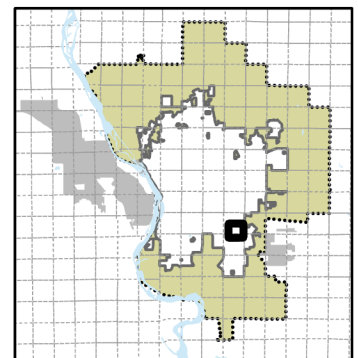
Aerial Map

NORTHERN PLAINS COMMERCE CENTRE 2ND ADDITION

VAR2023-002



 City Limits  Bismarck ETA Jurisdiction



City of Bismarck
Community Development
Planning Division
March 28, 2023

Aerial Imagery from April 2020

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



Zoning and Plan Reference Map

NORTHERN PLAINS COMMERCE CENTRE 2ND ADDITION

VAR2023-002

Zoning Districts

A	Agriculture
RR	Rural
	Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

Future Land Use Plan

UN	Urban
NMU	Neighborhood Mixed Use
CMU	Community Mixed Use
DMU	Destination Mixed Use
DT	Downtown
IND	Industrial
IF	Industrial Flex
IMU	Industrial Mixed Use
INS	Institutional
RR	Rural
TR	Residential Transitional
PKOS	Parks/Open Space
URA/	Urban Reserve
URB	Mid/Long-Term

Major Street Plan

- Future Arterial
- Future Collector
- Future Interstate

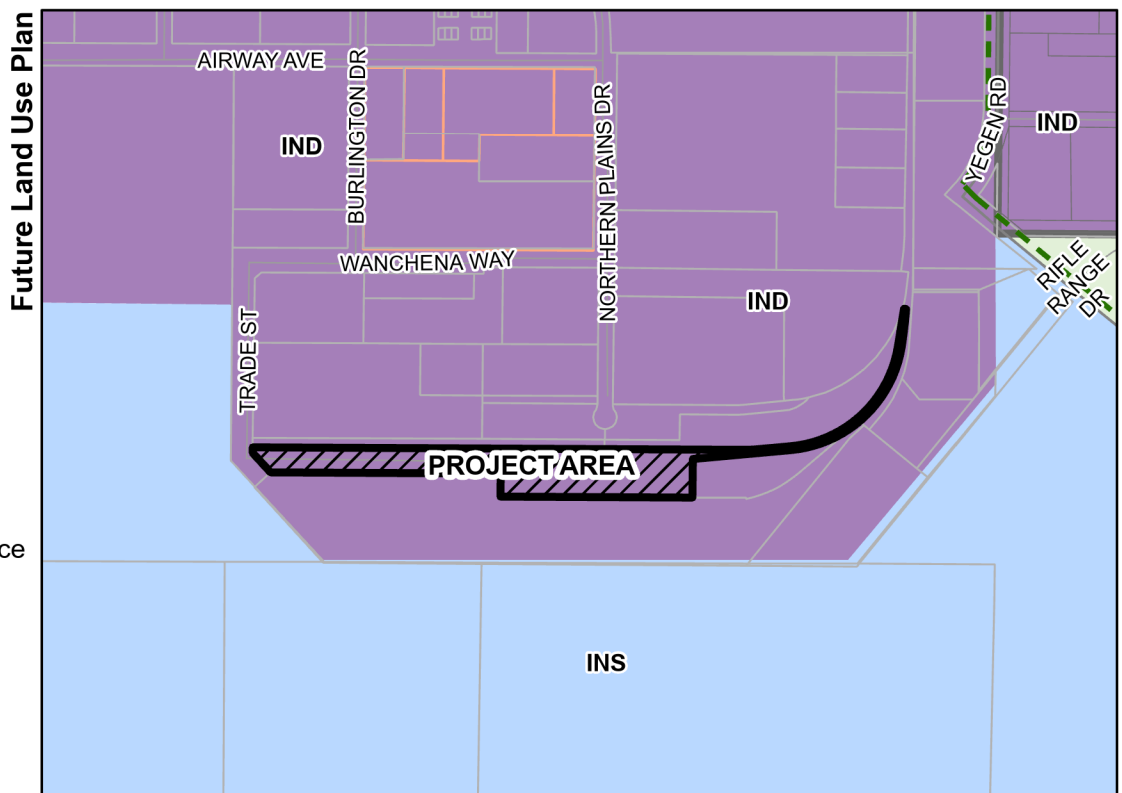
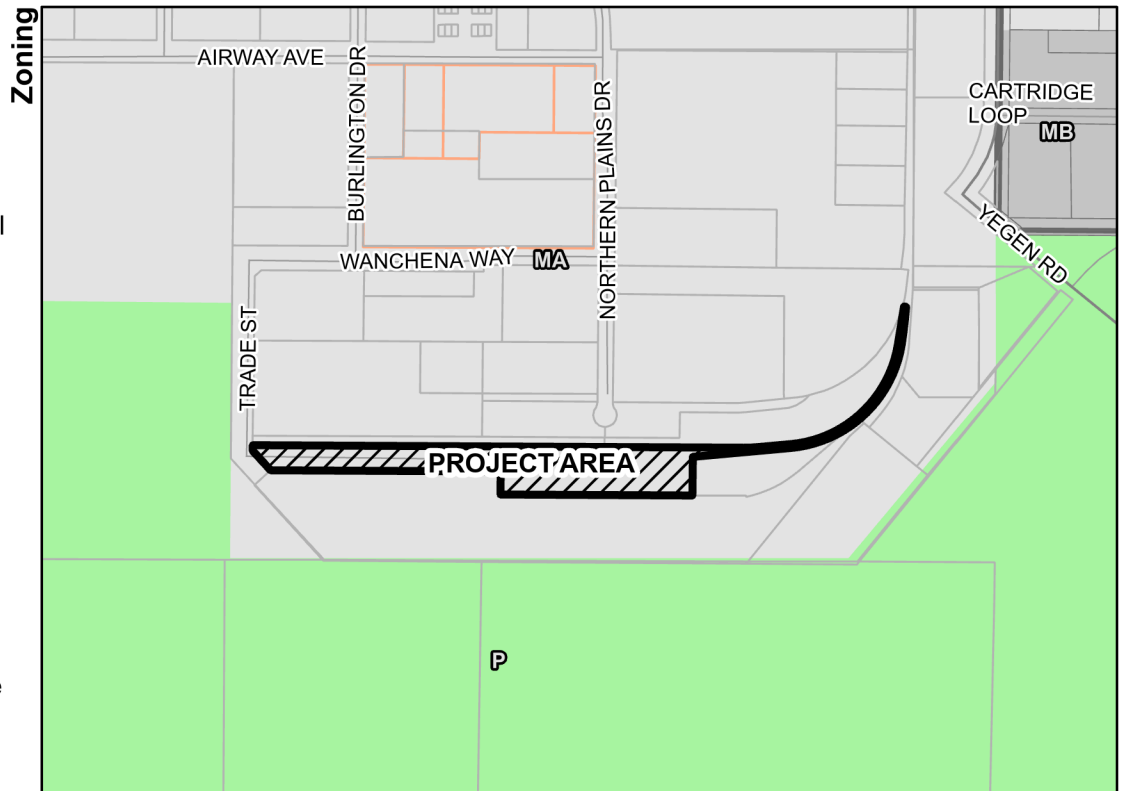
Active Mobility Plan

- Future Shared Trail

Streets

Functional System

- Interstate



This map is for representational use only and does not represent a survey.
No liability is assumed as to the accuracy of the data delineated herein.



City of Bismarck
Community Development
Planning Division
March 28, 2023



City of Bismarck
Community Development Department
Planning Division
Phone: 701-355-1840 * FAX: 701-222-6450 * TDD: 711
PO Box 5503 * Bismarck, ND 58506-5503
planning@bismarcknd.gov

Last Revised: 01/2017

WRITTEN STATEMENT OF HARDSHIP (VARIANCE REQUEST)

NOTE: WRITTEN STATEMENTS OF HARDSHIP MUST ACCOMPANY EVERY VARIANCE REQUEST APPLICATION

PROPERTY INFORMATION

Property Address or Legal Description: (Lot, Block, Addition/Subdivision)	2103 Trade Street, Bismarck ND 58504
Location of Property:	☒ City of Bismarck ☐ ETA
Type of Variance Requested:	LaFarge NPCC Office-Shop Building Parking and Paved Access Variance
Applicable Zoning Ordinance: (Chapter/Section)	Chapter 14-03-10

Describe how the strict application of the requirements of the Zoning Ordinance would limit the use of the property. (Only limitations due to physical or topographic features – such as an irregularly shaped, narrow, shallow or steep lot or other exceptional physical or topographic condition – that are unique characteristics and not applicable to other properties in the neighborhood are eligible for a variance. Variances cannot be granted on the basis of economic hardship or inconvenience.)

LafargeHolcim is planning to construct a 2,800 SF office-shop building with 1,200 square feet office space and 1,600 square feet shop/storage space. According to the City codes, the use of this type of building would require paved parking spaces and paved access. The building is planned to service only 3 full-time employees and is located 1500' off a street with no through traffic. The access road is currently comprised of crushed concrete which is a highly efficient surface for it's use in carrying heavy trucks being loaded and unloaded with cement product. Therefore we are requesting a variance from the City's requirement for paved access which would allow the more functional existing crushed concrete access road remain. Paved access would not stand up to the heavy loads as well as the existing crushed concrete surface.

Describe how these limitations would deprive you of reasonable use of the land or building involved, and result in unnecessary hardship.

LafargeHolcim delivers dry bulk cement to our local ready mix producers in our area for their construction needs. This process consists of receiving bulk cement by rail, then offloading the rail cars directly into LafargeHolcim customer and contractor delivery trucks by the use of cement augers and leg. The LafargeHolcim NPCC terminal has 3 employees and our normal operational hours are from 7am to 5 pm weekly with some Saturday openings depending on our customer needs. The NPCC Terminal seasonal daily general output is around 400 st which equals to around 12 trucks per day and may increase depending on our customers needs. Improvements are needed at the NPCC Terminal to include an office/shop for maintenance on our plant equipment and to house our rail equipment in the winter months. The NPCC Terminal is utilized for rail offloading only and does not sell to the general public. Without the new permanent structure, LafargeHolcim would quickly become in violation of its lease agreement and may no longer be able to operate out of this

Describe how the variance requested is the minimum variance necessary to allow reasonable use of the property.

The current site has an existing crushed concrete surface which handles the heavy truck loads extremely well with minimal maintenance. The required paved road would need to be over 1,550 feet long and need extensive regular maintenance. This site is the furthest end of an industrial development that will see no drive through or public traffic and dust is not an issue as there are no nearby buildings.



CAUTION
CONTRACTOR IS RESPONSIBLE
FOR VERIFYING LOCATION OF ALL
UTILITIES PRIOR TO EXCAVATION

REGISTERED PROFESSIONAL ENGINEER
ABRAHM E. JUMER
PE-6693
NOT FOR CONSTRUCTION
DATE:
NORTH DAKOTA

PRELIMINARY

SCALE: 1" = 150'

0 75 150

SURVEY INFO: VERT. DATUM: NAVD88
HORIZ DATUM: 1983 STATE PLANE, ND SOUTH (3302)

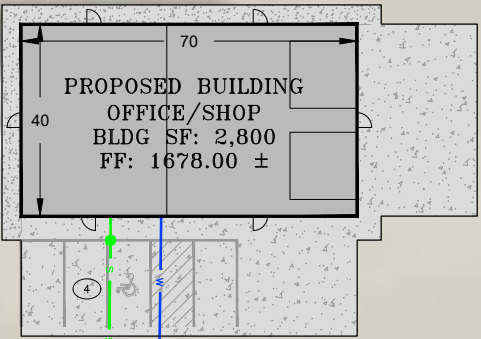
**Independent Land Surveying
& Engineering Inc.**
4215 OLD RED TRAIL NW, Mandan, ND 58554
Phone: 701-663-5184 Cell: 701-220-0968 PROJ # 23014

**LAFARGE HOLCIM NPCC
EXHIBIT 1**

2103 TRADE STREET
BISMARCK, NORTH DAKOTA
LOT 19, BLK 1, NORTHERN PLAINS COMMERCE CENTRE 2ND ADD.
SHEET OF 7 MARCH, 2023

STORMWATER & DRAINAGE EASEMENT

LOT 19
BLOCK 1



55' WATER & SEWER EASEMENT

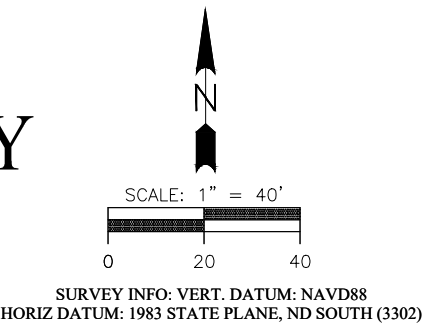
25' UTILITY EASEMENT

12" PVC WATERMAIN

8" PVC SAN. SEWER

20' ACCESS EASEMENT

CAUTION
CONTRACTOR IS RESPONSIBLE
FOR VERIFYING LOCATION OF ALL
UTILITIES PRIOR TO EXCAVATION



**Independent Land Surveying
& Engineering Inc.**
4215 OLD RED TRAIL NW, Mandan, ND 58554
Phone: 701-663-5184 Cell: 701-220-0968 PROJ # 23014

**LAFARGE HOLCIM NPCC
EXHIBIT 2**

2103 TRADE STREET
BISMARCK, NORTH DAKOTA
LOT 19, BLK 1, NORTHERN PLAINS COMMERCE CENTRE 2ND ADD.
SHEET OF 7 MARCH, 2023

Chair Marback said he is not opposed to the higher side wall or the size given the trees on the property and feels it will be better hidden than most.

MOTION: A motion was made by Ms. Clark to approve the variances from Section 14-03-06(1)(b)(4) of the City Code of Ordinances (Incidental Uses/Accessory Uses and Buildings) to increase the area of accessory buildings from 1,200 square feet to 1,600 square feet and to increase the side wall height of an accessory building from 12 feet to 15 feet on Lot 2, Block 5, Imperial Valley Subdivision (3651), based on it being consistent with neighboring accessory building uses. The motion was seconded by Mr. Wohl and with Board Members Clark, Marback and Wohl voting in favor of the motion and Board Members Hoff and Janssen opposing the motion, the variance was not approved by the Board of Adjustment, as four affirmative votes are required to grant any variance under North Dakota Century Code 40-47-07, therefore the variance is denied.

VARIANCE FROM SECTION 14-03-10(3) OF THE CITY CODE OF ORDINANCES (OFF-STREET PARKING AND LOADING) – AUDITOR’S LOT H AND TRACTS 2 AND 3 OF LOT 1, BLOCK 1, NORTHERN PLAINS COMMERCE CENTRE ADDITION (2103 TRADE STREET)

Chair Marback stated the applicants, LaFarge Holcim (lessee) and the City of Bismarck (owner), are requesting a variance to eliminate the requirement to pave the access (driveway) from Trade Street to three required off-street parking spaces located adjacent to a 5,000 square foot building which is proposed to be constructed.

Ms. Wollmuth said the applicant originally indicated that the proposed building would require 15 off-street parking spaces. However, upon further review by staff, as the proposed use of the site is not specifically referenced in the zoning ordinance; the Zoning Administrator is permitted to assign required off-street parking spaces based on similar uses listed in the ordinance. She said based on the information outlining how the site would function, which was submitted with the application, it has been determined that three off-street parking spaces, one for each employee, would be required.

Ms. Wollmuth gave an overview of the request, including the following findings:

1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within the MA-Industrial zoning classifications.
2. The hardship is not caused by the provisions of the Zoning Ordinance.
3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.

4. The requested variance is not the minimum variance that would accomplish the relief sought by the applicant.
5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance.

Ms. Wollmuth said staff recommends reviewing the findings in the staff report and modifying them as necessary to support the decision of the Board.

Chair Marback asked if there is railroad right-of-way on either side, since the property is adjacent to a railroad spur.

Ms. Wollmuth said the applicant would likely be able to define that information best.

Ms. Clark asked what is to the south of this property and if there is the potential for development there in the future.

Ms. Wollmuth said to the south is all airport property, so further development is not likely.

Brad Krogstad, KLJ, said the road leading to the property is approximately 1500 feet long, adding that the parking area on-site would be paved. He said there is one-foot deep crushed concrete on the road now and that works well for the moving of heavy equipment, such as their concrete trucks. He said the concern with the paving requirement is that a lot of maintenance would end up being involved and it would not be cost effective. He said it would cost approximately \$250,000 for asphalt and even more for concrete. He said the proposed building is proposed to be 5,000 square feet with a small office area. He added that to his knowledge there is not any railroad right-of-way easements here.

Mr. Hoff asked if the intent is to keep their current location.

Dale Demaray, LaFarge Holcim, said they would keep their location on Front Street for now since the oil boom tripled their business. He said they eventually would like to move completely, but for now they own their location on Front Street and would continue to lease the additional land from Burlington Northern Santa Fe.

Ms. Clark asked then if the variance is to not pave the road, but the parking area would still be paved.

Mr. Krogstad said that is correct, that the parking lot would be paved in addition to the sidewalk around the building and a concrete pad in the shop area.

Chair Marback opened the public hearing.

There being no comments, Chair Marback closed the public hearing.

Mr. Hoff asked if this has all been covered with fire and the other emergency services.

Ms. Wollmuth said those items would be reviewed during the site plan approval process. Any compliance issues would need to be corrected during the review process at that time.

Ms. Clark asked if there has been requests similar to this one in the past. Ms. Wollmuth recalled one similar request for a property on Channel Drive which was denied.

MOTION: A motion was made by Mr. Wohl to approve the variance from Section 14-03-10(3) of the City Code of Ordinances (Off-street Parking and Loading) to eliminate the requirement to pave the access to the required parking in conjunction with the construction of a 5,000 square-foot building to be constructed on Auditor's Lot H and Tracts 2 and 3, Block 1, Northern Plains Commerce Centre Addition (2103 Trade Street), based on the infeasibility of paving a 1500-foot long roadway and this being an extreme case. The motion was seconded by Ms. Clark and with Board Members Clark, Hoff, Janssen, Marback and Wohl voting in favor of the motion, the motion was approved and the variance was approved.

PARKING DETERMINATION – AUDITOR'S LOTS A & B OF THE SE¼ OF THE NE¼ OF SECTION 33, T139N-R80W/CITY LANDS AND LOTS 1 & 2, BLOCK 1, REPLAT OF CALKINS ADDITION (1100 EAST BOULEVARD AVENUE)

Chair Marback stated City staff is requesting the Board of Adjustment make a parking determination in accordance with Section 14-03-10 of the City Code of Ordinances (Off-street Parking and Loading/Uses Not Specifically Listed).

Ms. Wollmuth said Lutheran Social Services is currently managing the property located at 1100 East Boulevard Avenue, previously owned and operated by Ruther Meiers Hospitality House. She said Lutheran Social Services has a purchase agreement for the property and is proposing to renovate the facility to enhance underutilized areas within the existing buildings and upgrade existing parking lots. Ms. Wollmuth further explained that the facility will include a total of 108 residential apartments with a mix of efficiency, 1, 2, and 3-bedroom units for low- and moderate-income tenants and office space for 28-30 Lutheran Social Services staff. Ms. Wollmuth added that renovations would also allow for the existing commercial kitchen, located in the main building, to be rented by local food entrepreneurs and educational partners within the community. She said the existing parking areas on site would be upgraded and hard surfaced with curb and gutter, and will include landscaping and lighting. Lutheran Social Services has indicated that 158 off-street parking spaces would be sufficient for the facility, based on their experience with similar housing projects, and as outlined in project narrative attached to the staff report.



Project Reviews City of Bismarck

Project Number: SP2021-029

Description: LAFARGE EQUIPMENT SHOP

Applied: 4/9/2021

Approved: 5/17/2021

Site Address: 2103 TRADE ST

Closed: 5/17/2021

Expired: 5/17/2021

City, State Zip Code: BISMARCK, ND

Status: APPROVED

Applicant: KLJ ENGINEERING LLC - BISMARCK

Parent Project:

Owner: BISMARCK, CITY - LAFARGE

Contractor: <NONE>

Details:

This site plan is for the construction of two buildings and parking at the existing LaFarge site in Northern Plains Commerce Centre Addition. Improvements consist of a new parking area, a new 12'x50' manufactured modular office building and a 12'x32' equipment building with 10' sidewalls. The project will include concrete paving, sanitary sewer service, water service, and other associated work.

LIST OF REVIEWS

SENT DATE	RETURNED DATE	DUE DATE	TYPE	CONTACT	STATUS	REMARKS
Review Group: AUTO						
4/9/2021	4/13/2021	4/10/2021	COMPLETENESS CHECK SB	Sandra Bogaczyk	COMPLETED	
Notes: 4/12/2021 SBOG WHEN RETRUNED SM-04 IS ATTACHED AND FEES PAID REVIEWS WILL BE PROJECTED 4/12/2021 SBOG WHEN RETURNED SM-04 IS ATTACHED REVIEWS WILL BE PROJECTED 4/12/2021 ECON SM04 is attached						
Review Group: SP - MINOR						
4/13/2021	5/11/2021	4/20/2021	MSP - BUILDING INSPECTIONS	Brady Blaskowski	COMPLETED	
Notes: 4/20/2021 BBLA The both exterior doors of the office building are served by stairs. Please provide an accessible route to an entrance and the exit that is the required means of egress. 4/23/2021 ECON New plans have been uploaded showing an ADA ramp.						
4/13/2021	5/7/2021	4/20/2021	MSP - ENG - CONCRETE	Christopher DeLupo	APPROVED	
Notes:						
4/13/2021	5/17/2021	4/20/2021	MSP - ENG - OVERALL	Linda Oster	APPROVED	
Notes: 4/16/2021 LOST Your application has been received and is under review. My review will be considered approved when all outstanding issues from other reviewers are resolved.						

4/13/2021	4/22/2021	4/20/2021	MSP - ENG - SWMP	Waylon Erdmann	APPROVED	
Notes:						
4/13/2021	4/14/2021	4/20/2021	MSP - ENG - TRAFFIC	Mark Berg	APPROVED	
Notes:						
4/13/2021	4/16/2021	4/20/2021	MSP - ENG - UTILITIES	Dave Renner	APPROVED	
Notes:						
4/13/2021	5/18/2021	4/20/2021	MSP - ENGINEERING	Gabe Schell	APPROVED	
Notes:						
4/23/2021 GSCH Your application has been received and is under review. My review will be considered approved when all outstanding issues from other reviewers are resolved.						
5/18/2021 GSCH Approved as per site plan approval letter dated 5/17/21						
4/13/2021	4/15/2021	4/20/2021	MSP - FIRE	Ron Kunda	APPROVED	
Notes:						
4/13/2021	5/11/2021	4/20/2021	MSP - FORESTRY	Michael Miller	N/A	
Notes:						
4/15/2021 WHUT The proposed parking lot contains 5 parking spaces. Landscaping requirements are applicable per Section 14-03-11(2) of the City Code Ordinances - Landscaping / Applicability:						
b. The installation of any parking area or the expansion of any existing parking area by five (5) or more off-street parking spaces						
Applicable requirements may include Street Trees and Perimeter Parking Lot Landscaping.						
Based on the configuration of this lot, minimal street trees would be required in this location adjacent to Trade Street. Are sidewalks and improvement to Trade street proposed at this time?						
Perimeter parking lot landscaping is required to shield views of any parking lot located within 300 feet of Right of Way. Based on the site plan provided it is unclear if this lot is located within 300 feet and visible from Northern Plains Drive. Please provide an exhibit.						
4/15/2021 ECON We will reduce the parking stalls to 4. Landscaping doesn't make sense in this environment						
4/22/2021 WHUT If the parking remains below 5 parking spaces no landscaping will be required.						
4/23/2021 ECON Plans have been resubmitted showing 4 parking stalls.						
5/11/2021 WHUT Based on the reduced parking lot size, no landscaping is required.						

Project Reviews

City of Bismarck

4/13/2021	5/11/2021	4/20/2021	MSP - PLANNING	Jenny Wollmuth	COMPLETED	
Notes: 4/15/2021 JWOL Planning staff have reviewed the narrative and proposed site plan and have the following comments. 1. A variance was approved by the Board of Adjustment in December of 2019 to eliminate the requirement to pave the access from Trade Street to three required parking spaces in conjunction with the construction of a 5,000 square foot building. Prior to approval of the variance, Planning and Building inspection staff administratively approved the reduction of required parking spaces from 15 to 3. Was the proposed building constructed and will it be in the future? 2. According to the narrative a 600 square foot office and 384 square foot equipment building. Is the equipment building a cold storage building and will additional employees be on site as a result of the proposed construction of the two buildings? 3. The proposed site plan shows 5 parking spaces, 2 more spaces than what was proposed in 2019 and utilized in the approval of the variance in 2019. Please note, if 5 spaces are to be provided a new variance must be approved. 4/20/2021 ECON 1. The proposed building was not constructed. They are going to keep their existing building instead as shown in this site plan. 2. No. The equip building is just cold storage to replace the existing storage building their today. No new employees will be hired. 3. We are now showing 4 spaces in the latest upload. Why do we need a new variance if we are providing one more? We could see the need if we were providing one less. 5/11/2021 JWOL Planning staff and the City Attorney have reviewed the proposed site plan and have determined that the variance approved in 2019 (to eliminate the requirement to pave the access / driveway from the right-of-way to the required off-street parking spaces) would apply to the proposed site plan as the proposed building(s) sizes are actually smaller than what was proposed for the variance approved in 2019. Please note approval of another variance may be required if any additional buildings (other than the two proposed in this site plan) are to be added on site, approval of a new variance to eliminate the requirement to pave the access would be required.						
4/13/2021	5/14/2021	5/13/2021	MSP - PLANNING W/H	Will Hutchings	COMPLETED	
Notes: 4/23/2021 WHUT The provided narrative does not sufficiently explain which buildings are new, removed and/or being relocated which is creating confusion for reviewers. Please revise this narrative. 4/23/2021 ECON The equipment building is being replaced. The office building is remaining but being set on permanent foundations. 4/30/2021 WHUT The required narrative needs to include this information. Per the Site Plan Requirements Document found here: https://bismarcknd.gov/DocumentCenter/View/30794/Site-Plan-Requirements?bidId= The required narrative should include the following as well as any all information pertinent for staff to conduct their review accordingly. "Project Scope Narrative: A written overview of the proposed project including a general description of the project, property legal description, construction schedule, current zoning, parking calculations, existing use(s), proposed use(s), landscaping, any pertinent technical considerations and phasing (if applicable)." 4/30/2021 ECON New narrative is uploaded						
4/13/2021	4/19/2021	4/20/2021	MSP - PUBLIC WORKS - SERVICES	Jeff Heintz	NO COMMENTS	
Notes:						
4/13/2021	4/16/2021	4/20/2021	MSP - PUBLIC WORKS - SWM	Terry Halstengard	NO COMMENTS	
Notes:						
4/13/2021	4/16/2021	4/20/2021	MSP - PUBLIC WORKS - WWTP/PRETREAT	Bill Gefroh	NO COMMENTS	
Notes:						



Project Reviews City of Bismarck

4/13/2021	5/6/2021	4/20/2021	MSP - WATER METER	Bernadette Houser	APPROVED	
Notes: 4/15/2021 BHAU This property was annexed prior to February 1, 2019 where water and sewer trunkline fees were assessed in accordance with the policies at that time. This parcel is vested for a utility capacity comparable to a 2" water meter capacity. The site plan indicates that one 1" water meter will be installed; therefore, no additional capital charges will be required. The 2021 cost of the 1" water meter that must be purchased through the City of Bismarck is \$577.20. Please contact Public Work Utility Operations at 355-1700 if there are changes to the planned number or size of meter(s) for this site to determine additional capital charges. If additional capital charges are required, they are due prior to receiving a building permit along with the cost of any meters. 4/20/2021 ECON Thanks. They currently have no plans but could they update to a 2" service/meter in the future without an additional charge or maybe add a second 1" service/meter? 4/20/2021 BHAU According to the current capital charge policies, once a water meter is installed the future capacity capital charge follows the water meter. Any additional water meters installed in the future would have to pay the capital charge based on the size of the water meter chosen. 4/30/2021 ECON Will we increase the water line and meter to 2". 5/3/2021 BHAU Thank you for your comments. Please submit an updated plan showing the 2" domestic water service. The 2021 cost of the 2" water meter is \$832.68 5/6/2021 ECON The updated plan showing a 2" service has been uploaded 5/6/2021 BHAU Thank you. The site plan indicates that one 2" water meter will be installed; therefore, no additional capital charges will be required. The 2021 cost of the 2" water meter that must be purchased through the City of Bismarck is \$832.68. Any water meters installed in the future would incur a capital charge based on the water meter size.						

**BISMARCK BOARD OF ADJUSTMENT
MEETING MINUTES
March 2, 2023**

The Bismarck Board of Adjustment met on March 2, 2023, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. Chair Marback presided via Zoom.

Board members present were Curtis Janssen and Rick Wohl. Board members Jennifer Clark and Michael Marback appeared remotely.

Members absent were Chris Seifert and alternate Ken Hoff.

Staff members present were, Jannelle Combs – City Attorney, Kim Lee – Planning Manager, Jenny Wollmuth – Senior Planner and Tracy Walters – Office Assistant II.

MINUTES:

Chair Marback called for approval of the minutes of the October 6, 2022 meeting of the Board of Adjustment.

MOTION: A motion was made by Ms. Clark and seconded by Mr. Janssen to approve the minutes of the October 6, 2022 meeting. Board Members Clark, Janssen, Marback, and Wohl all voted in favor and the minutes were approved.

VARIANCE FROM SECTION 14-04-16(5) OF THE CITY CODE OF ORDINANCES (P – PUBLIC / SIDE YARD) TRACT 3 OF PART OF SECTION 31 (1005 RIVER ROAD), TO BE PLATTED AS LOT 1, BLOCK 1, TECHNOLOGY HILL ADDITION, PART OF THE E ½ OF THE NE ¼ OF SECTION 31 (1200 SCHAFFER STREET)

Ms. Wollmuth stated the applicants, Bismarck State College (BSC) and BSC Foundation, are requesting a variance from Section 14-04-16(5) of the City Code of Ordinances, (P – Public / Side Yards) to reduce the required side yard setback along the east side of the property, legally described as Tract 3 of Part of Section 31 (1005 River Road), to be platted as Lot 1, Block 1, Technology Hill Addition, and to reduce the required side yard setback along the west side of the property, legally described as part of the E½ of the NE¼ of Section 31 (1200 Schaffer Street), from 6 feet to 0 feet to allow the construction of a skywalk between the National Energy Center of Excellence Building and the Polytechnic Building.

Ms. Wollmuth gave an overview of the request including the following findings:

1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within P - Public zoning district.
2. The hardship is not caused by the provisions of the Zoning Ordinance.
3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.
4. The requested variance is not the minimum variance that would accomplish the relief sought by the applicant.

5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance.

Ms. Wollmuth recommends reviewing the findings, identifying a hardship, and modifying the findings as necessary to support the decision of the Board.

Chair Marback asked if the Board had any questions for staff.

Mr. Janssen asked if there were similar situations like this in Bismarck.

Ms. Wollmuth replied that there are many skywalks in Bismarck, mainly in the downtown or medical districts. They are constructed over public right-of-ways and the building front yard setbacks are 0 feet. She did mention that in 2017, the Board of Adjustment approved a variance for a connection between two buildings for an assisted care facility. The Board of Adjustment deemed the variance was necessary to transport patients and equipment between the buildings and that the buildings were also under separate ownership.

Hearing no other questions from staff, Chair Marback invited a representative of Bismarck State College to come forward.

Lon Romsaas, with Swensen, Hagen and Company, stated he is representing Bismarck State College, and is asking the for the Board of Adjustment to approve this variance. Mr. Romsaas stated the connection located at the Baptist Home is between two buildings under different ownership, but it was deemed necessary to transport patients and equipment between the two buildings. The Bismarck State College variance is a similar situation in which it is necessary for staff and students to transfer equipment safely between the two buildings. The National Energy Center of Excellence is owned by the BSC Foundation, but it is for the use of Bismarck State College. In the year 2032, the BSC Foundation will be able to transfer the National Energy Center of Excellence Building to Bismarck State College, adding that in the future, the two buildings will be under the same ownership. He stated that we cannot change the property's ownership right now, and that is the reason they are asking for a variance.

Chair Marback asked if anyone had any questions for Mr. Romsaas.

Mr. Janssen asked if there was a topographical issue between the existing building and the Polytechnic Building.

Mr. Romsaas stated the National Energy Center of Excellence has four floors, and there are only three floors in the Polytechnic Building; however, they are close to being the same elevation. Where the skywalk is to be located, there is a slope that does not allow for the direct connection from the Polytechnic Building to the National Energy Center of Excellence Building.

Chair Marback opened the public hearing.

Jim Christianson stated he serves on the BSC Foundation Board of Trustees, and he is also the Chair for the Bismarck Parking Authority. There is a skyway from the Radisson Hotel to the Parkade parking ramp on 6th Street and Broadway Avenue that is under separate ownership and has a similar situation as the one we are proposing today. He states he would strongly encourage the Board of Adjustment to approve this variance as it is very important to the project at Bismarck State College with the addition of the new Polytechnic Building. It is not feasible to

have a sidewalk between the two buildings because of the existing topography and the skywalk will assist with transferring students and equipment safely.

Chair Marback asked if anyone else would like to speak on this item. Hearing none, he closed the public hearing and asked for the Board's wishes.

Mr. Janssen added that his company that he works for was hired to build the Polytechnic Building. He is not involved in the project and does not have financial interest in it, and the decision one way or the other does not affect what would take place. He wants to make everyone aware of the situation for transparency and make sure no one has any issues with this.

Chair Marback called for Board recommendations.

Ms. Clark moved to grant the variance based on the unique topographical elements of the property and unique ownership between the BSC Foundation and Bismarck State College.

Chair Marback stated there was a motion to approve the variance and asked for a second motion.

Mr. Wohl seconded the motion.

Chair Marback asked for any further discussion.

Mr. Wohl asked if the Board could add a condition that the properties be the same ownership after 2032.

Ms. Clark asked if the Board would have to make BSC take it down if the properties were not under common ownership.

Ms. Combs added the Board can approve or deny the variance but cannot make a condition to the transfer of ownership. State lands can be very difficult to transfer ownership.

Mr. Wohl thought it would be a guarantee that what were discussing happens in the future but stated its not a deal breaker for him.

Chair Marback asked for any other discussion.

MOTION: Ms. Clark made a motion to approve the variance based on the unique topographical elements of the property and unique ownership between the BSC Foundation and Bismarck State College. Mr. Wohl seconded the motion. Board Members Clark, Janssen, Wohl and Marback voted in favor of the motion and the variance was approved.

OTHER BUSINESS:

The bylaws were presented for approval at this time.

MOTION: Mr. Wohl moved to approve the bylaws. Mr. Janssen seconded the motion. Board members Clark, Janssen, Wohl, and Marback all voted in favor of the motion, the bylaws were unanimously approved.

OATH OF OFFICE:

Chair Marback asked if this had taken place before the meeting.

Ms. Wollmuth stated that Mr. Wohl had signed the Oath of Office before the meeting.

ADJOURNMENT:

There being no other business, Chair Marback declared the meeting of the Board of Adjustment adjourned at 5:18 p.m. to meet again on April 6, 2023.

Respectfully Submitted,

Tracy L. Walters
Recording Secretary

APPROVED:

Michael Marback, Chair