

**BISMARCK BOARD OF ADJUSTMENT
MEETING MINUTES
April 6, 2023**

The Bismarck Board of Adjustment met on April 6, 2023, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. Vice Chair Clark presided via Zoom.

Board members present were Curtis Janssen, Rick Wohl, Chris Seifert and alternate Ken Hoff. Vice Chair Jennifer Clark appeared remotely.

Member absent was Michael Marback.

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

ELECTION OF OFFICERS AND OATHS OF STAFF:

Vice Chair Clark stated that she would like to postpone the election of officers until all Board members were present and asked for a motion from the Board.

MOTION: A motion was made by Mr. Seifert to postpone the elections of the Board of Adjustment until all Board members are present. The motion was seconded by Mr. Wohl. Board Members Clark, Janssen, Seifert, Wohl and Hoff all voted in favor and the motion was approved.

Vice Chair Clark asked if the Oaths of Office could be done at the end of today's meeting.

Ms. Wollmuth stated that Mr. Seifert had completed his Oath of Office prior to the meeting and no further action of the Board was required.

MINUTES:

Vice Chair Clark called for approval of the minutes of the March 2, 2023 meeting of the Board of Adjustment.

MOTION: A motion was made by Mr. Janssen and seconded by Mr. Wohl to approve the minutes of the March 2, 2023 meeting. Board Members Clark, Janssen, Seifert, Wohl, and Hoff all voted in favor and the minutes were approved.

VARIANCE FROM SECTION 14-04-10(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).

Ms. Wollmuth stated the applicant, 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).

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

- 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 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 it shall lapse, and the landowner must re-apply.

Ms. Wollmuth went on to say that the applicant has submitted a written statement that identifies their anticipated hardship and explains why they believe the variance should be granted. She also noted that the public has been notified of this request; six letters were mailed to the owners of nearby properties on March 23, 2023. Ms. Wollmuth asked the Board to review the review standards, identify a hardship and modify the review standards or findings to support their decision.

Mr. Wohl asked if this variance was due to the lapsing of twenty-four months of the approved variance in 2019 and because the new structure is going to be smaller than the original 5,000 square feet structure that was originally approved in 2019, would the original variance still be in effect today.

Ms. Wollmuth stated that in 2021 during the City's site plan review, staff notified the applicant that if additional buildings were going to be constructed on site that they would have to come back to the Board for additional approval as the scope of work has changed.

Ms. Clark asked if there were any other questions for staff, seeing none, she invited the applicant to come forward.

Abe Ulmer, Independent Land Surveying & Engineering Inc., stated back in 2021 the building was changed from a 5,000 square feet building to a temporary building, and now there is a need to add a new permanent 2,800 square foot structure on site to create a shop, extra storage and office space. The main reason for the variance request is that having to pave the parking lot, the pavement will have extra maintenance over time. The crushed asphalt works very well for the heavy loading of the bulk cement trucks and distributors driving on the parking lot.

Mr. Janssen asked if they have crushed concrete now and what maintenance is currently required.

Mr. Ulmer replied they will run a blade over the crushed concrete. If they were required to have asphalt, they would have additional street maintenance repairs and if they have the crushed concrete, its easier and more cost effective to blade it over and maintain it.

Mr. Janssen asked if crushed concrete was a problem for driving in the winter.

Mr. Ulmer stated they would do something temporary in the winter months.

Mr. Hoff stated he would like to ask Mr. Demaray, Lafarge Holcim's owner, to explain why they put in a temporary building instead of the 5,000 square foot structure that was originally approved in the 2019 variance.

Ms. Clark invited the owner to speak.

Dale Demaray, Lafarge Holcim, explained that the temporary building that they have now has a temporary permit. They have used up the time for temporary permit and now want to be compliant with the City of Bismarck's ordinance. They also had to get the funding from corporate to construct the permanent building, with that secured they are now ready to proceed with the permanent structure on the property.

Vice Chair Clark asked for clarification from staff stating that it was her understanding that the pavement of the access road was related to the order of construction of the buildings.

Ms. Wollmuth replied that the variance is to eliminate the pavement requirement from Trade Street. She stated that in 2019, the previous variance was in conjunction with the 5,000 square foot building that was not constructed. Staff approved a site plan back in 2021 for two separate buildings that were smaller than the 5,000 square feet building and that any additional changes of the scope of work would need to go thru the variance process again.

Vice Chair Clark asked for any testimony from the public, seeing none, she asked the Board for their wishes.

Mr. Wohl stated that most commercial properties have street frontage and this site has a unique situation in which there is 1/3 mile of driveway from the public street to the Trade Street building.

MOTION: Mr. Wohl moved to approve the variance based on the unusual configuration of the lot which requires a longer distance than usual to access the usable portion of the property and stated that due to the unusual shape of the property, this would be the minimum variance requirement to make use of the property. Mr. Seifert seconded the motion with Board members Wohl, Seifert, Janssen, Hoff and Clark all voting in favor of the motion, the variance was approved.

Vice Chair Clark stated that the variance is now final and will need to be completed within two years of the approval date.

STAKEHOLDER SELECTION: SELECTION OF BOARD OF ADJUSTMENT MEMBER TO STEAKEHOLDER GROUP FOR REVISIONS TO SECTION 14-04-19 OF THE CITY CODE OF ORDINANCES (FP – FLOODPLAIN)

Ms. Wollmuth stated that a stakeholder group comprised of industry professionals, Board members, the Mayor of Bismarck, the Chairman of the Planning and Zoning Commission and a member of the Board of Adjustment is also needed for the committee. Planning staff has been directed to make zoning changes to the floodplain requirements in the zoning ordinance and stated a Board of Adjustment member is requested to be present among the group. She noted

that she had a previous discussion with Chair Marback and he has suggested Board Member Chris Seifert to be elected for the Stakeholder Selection Group.

Vice Chair Clark asked Mr. Seifert if he would have any objections.

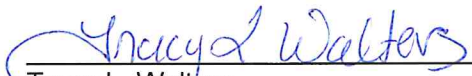
Mr. Seifert stated he would accept the nomination.

MOTION: Mr. Hoff made a motion for Board member Seifert to be selected for the Stakeholder Selection Group. Mr. Janssen seconded the motion with Board members Janssen, Seifert, Wohl, Hoff and Clark voting in favor of the motion, Mr. Seifert was elected to the Stakeholder Selection Group.

ADJOURNMENT:

There being no further business, Vice Chair Clark declared the meeting of the Bismarck Board of Adjustment adjourned at 5:23 p.m. to meet again on May 4, 2023.

Respectfully Submitted,


Tracy L. Walters
Recording Secretary

APPROVED:


Michael Marback, Chair