



PLANNING AND DEVELOPMENT

200 Third Street North

Fargo, North Dakota 58102

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MEMORANDUM

TO: Board of Adjustment
FROM: Aaron Nelson, Planning Coordinator *AN*
DATE: February 20, 2018
RE: Board of Adjustment Meeting

The next meeting of the Board of Adjustment will be held on Tuesday, February 27, at 9:00 a.m. in the City Commission Room at Fargo City Hall. If you are not able to attend, please contact staff at (701) 241-1474 or planning@FargoND.gov. Thank you.

BOARD OF ADJUSTMENT
Tuesday, February 27, 2017 9:00 a.m.
City Commission Room
AGENDA

1. Approve Minutes of September 26, 2017 Meeting
2. Old Business
 - a) Variance Request – 3600 39th Avenue South
Request for a variance of Article 21-06 of the Municipal Code. The requested variance is to allow for the construction of a building at an existing manufacturing facility at a lower elevation than would otherwise be required by the City's Floodproofing Code.
3. Other Business
 - a) 2018 Meeting Dates
4. Adjournment

Board of Adjustment meetings are broadcast live on cable channel TV Fargo 56 and can be seen live by video stream on www.FargoND.gov/streaming. They are rebroadcast each Tuesday at 9:00 a.m. for one month following the meeting.

People with disabilities who plan to attend the meeting and need special accommodations should contact the Planning Office at 701.241.1474 or TDD at 701.241.8258. Please contact us at least 48 hours before the meeting to give our staff adequate time to make arrangements.



BOARD OF ADJUSTMENT MINUTES

Regular Meeting:

Tuesday:

September 26, 2017

The Regular Meeting of the Board of Adjustment of the City of Fargo, North Dakota, was held in the City Commission Room at City Hall at 9:00 o'clock a.m., Tuesday, September 26, 2017.

The Members present or absent were as follows:

Present: Deb Wendel-Daub, Matthew Boreen, Russell Ford-Dunker, Michael Love

Absent: Mike Mitchell, Mark Lundberg

Chair Love called the meeting to order.

Item 1a: Approve Order of Agenda

Member Wendel-Daub moved the Order of Agenda be approved as presented. Second by Member Ford-Dunker. All Members present voted aye and the motion was declared carried.

Item 1b: Approval of Minutes: Regular Meeting of August 22, 2017

Member Boreen moved the minutes of the August 22, 2017 Board of Adjustment meeting be approved. Second by Member Wendel-Daub. All Members present voted aye and the motion was declared carried.

Item 2: New Business

a) Variance Request – 1701 Dakota Drive North: APPROVED

Request for a variance of Section 20-0705 of the Land Development Code. The requested variance is to allow for the construction of a driveway that would encroach into the required street-side paving setback area within the UMU, University Mixed-Use, zoning district.

Assistant Planner Barrett Voigt presented the staff report and an overview of the request. Mr. Voigt reviewed the criteria used during staff's analysis, and stated all approval criteria have been met and staff is recommending approval.

Member Boreen moved the findings of staff be accepted and the variance to allow paving to encroach 11 feet into the required 15-foot street-side paving setback be approved as requested, on the basis that the review criteria of Section 20-0914.E.1 have been satisfied. Second by Member Wendel-Daub. Upon call of the roll Members Wendel-Daub, Boreen, Ford-Dunker, and Love voted aye. Absent and not voting: Members Lundberg and Mitchell. The motion was declared carried.

Item 3: Adjournment:

Member Ford-Dunker moved to adjourn the meeting at 9:08 a.m. Second by Member Wendel-Daub. All Members present voted aye and the motion was declared carried.

CITY OF FARGO - Board of Adjustment Variance Staff Report

Item No: 2.a	Date: February 20, 2018
Address: 3600 39th Street South	
Legal Description: Part of Lot 2, Block 1, Collins Third Addition (Currently being platted as Lot 1, Block 1, Collins Fourth Addition)	
Owner(s)/Applicants: Larking Properties LLP/Rick Laliberte	
Reason For Request: To construct a new building with a lower earth fill elevation than would otherwise be required by the City’s Floodproofing Code.	
Zoning District: LI: Limited Industrial	
Status: Board of Adjustment Public Hearing: February 27, 2018	

Floodproofing Code Standards		Proposed Structure	
Elevations:		Elevations:	
Lowest opening:	41-foot WSEIA plus 1.2' or FEMA BFE plus 2.0'	Lowest opening:	41-foot WSEIA plus 1.2'
Fill around building:	41-foot WSEIA plus 0.7' or FEMA BFE plus 1.5'	Fill around building:	41-foot WSEIA minus 0.9' (At FEMA BFE)
Fill 15' from building:	At or above FEMA BFE	Fill 15' from building:	2.4' below BFE

Background:

The applicant has proposed to construct a new warehouse building at the site of an existing manufacturing facility. The proposed building would have a lower earth fill elevation around the structure than would otherwise be required by the City's Floodproofing Code. The property and proposed building location are within the 41-foot water surface elevation inundation area (WSEIA) and is also within the FEMA-designated Special Flood Hazard Area (100-year floodplain). At this location, the base floodplain elevation (BFE) is about 905.7 feet and the 41-foot WSEIA is at an elevation of 906.6 feet. For construction within the FEMA Special Flood Hazard Area or WSEIA at this location, the Floodproofing Code requires the following:

1. The lowest opening in a building is required to be at or above an elevation that is 1.2 feet above the 41-foot WSEIA elevation. (906.6-foot WSEIA elevation plus 1.2 feet = 907.8')
2. The fill around the building is required to be at or above an elevation that is 0.7 feet above the 41-foot WSEIA elevation. (906.6-foot WSEIA elevation plus 0.7 feet = 907.3')
3. The fill within 15 feet of the building must be at or above the FEMA BFE (905.7')

The lowest opening of the proposed structure would be at an elevation of 907.8 feet, which meets the minimum Floodproofing Code elevation. Additionally, the fill adjacent to the building and the fill within 15 feet of the building will meet minimum elevations on the north, west, and east sides of the building. However, the fill adjacent to the south side of the building is proposed to have an elevation as low as 905.7 feet, which is 1.6 feet lower than required. Additionally, the fill within 15 feet of the south side of the building is proposed to have an elevation as low as 903.3 feet, which is 2.4 feet lower than required. Accordingly, the applicant is requesting a variance in order to allow the fill adjacent to, and within 15 feet of, the south side of the proposed building to be at a lower elevation than is required by the Floodproofing Code.

According to the applicant, the proposed building would not be possible without a variance. The proposed building needs to connect to the two existing buildings at the facility for functionality purposes. The two existing buildings were constructed prior to adoption of the current Floodproofing Code and, consequently, were constructed with a lower floor/lowest opening elevation than is required for the proposed new building. In order to transition between the difference in elevation between the existing buildings and the proposed new building, floodable enclosed ramps will be constructed to link the existing buildings with the south side

of the new building. The applicant states that due to the proximity of the proposed new building with the existing buildings, regrading would create drainage issues and would impact existing exterior ramp and dock areas located south of the proposed building.

Codes Background:

The rationale behind the development of the City's 41-foot WSEIA is in anticipation for future increases to the FEMA Special Flood Hazard Area (1% annual chance/100-year flood plain). While mapping flood elevations as part of the FM Diversion Feasibility Study, it was found by the Army Corps of Engineers that the hydrology used by FEMA to establish the Special Flood Hazard Area was obsolete. It was based on a study that did not include in the period of record for the Red River events after 1979. It is the practice of FEMA to review communities every 5 years to determine if a new map is warranted. Based on information contained in the FM Diversion Feasibility Study of Fargo which accounts for recent flood events, including the flood of record in 2009, the information on updated hydrology and hydraulics is readily available and FEMA will have cause to remap Fargo. When this update occurs, it is anticipated FEMA will raise the elevation of the Special Flood Hazard Area, resulting in additional areas of the City being located within this flood plain and subject to additional flood insurance requirements or increases. As such, the purpose of the 41-foot WSEIA is to prevent non-floodproof construction within areas that will potentially be located within Special Flood Hazard Area in the future. It should also be noted that the state rules require elevation on fill to the BFE +1 foot. In an attempt to keep new construction compliant with this state requirement into the future, we are requiring the additional 1.2 feet.

Another caveat of floodproofing and protection has to do with localized flooding versus flooding from the Red River. Many areas of the City are at risk of flooding due to the stormwater infrastructure not being able to handle significant rainfall events. In this aspect the City's floodproofing requirements and policies are intended for emergency protection from both the Red River and from overland flooding or stormsewer overflows.

Criteria for Approval:

The Floodproofing Code was enacted by reference within Article 21-06 (Flood Plain Management) of the Fargo Municipal Code. Appeals from Article 21-06 are heard and decided upon by the Board of Adjustment as outlined within Section 21-0603 of the Municipal Code.

§21-0603.G.5 of the Municipal Code states that, *In determining appeals or requests for variances, the board of adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:*

- a. The danger that materials may be swept onto other lands to the injury of others;*
- b. The danger to life and property due to flooding or erosion damage;*
- c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;*
- d. The importance of the services provided by the proposed facility to the community;*
- e. The necessity to the facility of a waterfront location, where applicable;*
- f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;*
- g. The compatibility of the proposed use with the existing and anticipated development;*
- h. The relationship of the proposed use to the comprehensive plan and floodplain management program or that area;*
- i. The safety of access to the property in times of flood for ordinary and emergency vehicles;*

- j. *The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,*
- k. *The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets and bridges.*

§21-0603.H.1 of the Municipal Code includes additional considerations for variances:

1. *Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base level, providing items (a-k) in subsection (G)(5) above have been fully considered. As the lot size increases beyond the one-half acre, the technical justifications required for issuing the variance increases.*
2. *Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or any state or local inventory or register of historic places without regard to the procedures set forth in the remainder of this section.*
3. *Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.*
4. *Variances shall be issued only upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.*
5. *Variances shall be issued only upon:*
 - a. *A showing of good and sufficient cause;*
 - b. *A determination that failure to grant the variance would result in exceptional hardship to the applicant; and*
 - c. *A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.*
6. *Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk from the reduced lowest floor elevation.*

Staff Analysis:

a. The danger that materials may be swept onto other lands to the injury of others;

Due to the building being elevated, this situation is unlikely. Exterior materials will not be any different than previous or current operation and most likely will result in a better situation due to the building being elevated.

b. The danger to life and property due to flooding or erosion damage;

The applicant has submitted documentation certifying the design of the proposed building to withstand hydrostatic pressure up to the elevation of the finished floor. Additionally, the applicant has proposed to pave the area adjacent to the south side of the proposed building (the area of variance), which provides advantages over standard earth fill.

c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;

Not susceptible due to building elevation.

d. The importance of the services provided by the proposed facility to the community;

The facility is a large manufacturing facility that is important to the business community. In a flood situation, it would not be important to the critical stability of the city infrastructure.

e. The necessity to the facility of a waterfront location, where applicable;

Not applicable. The proposed improvement is not in the MDZS or the LDZS river setback zones.

f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

The proposed use would be allowed by-right within GI (General Industrial) and LI (Limited Industrial) zoning districts. There are vacant properties outside of the 41-foot WSEIA and 100-year floodplain within industrial zoning districts. However, an alternative location for the proposed building would not provide for the necessary connectivity with the existing facility that the applicant desires.

g. The compatibility of the proposed use with the existing and anticipated development;

The proposed use is compatible with existing facility.

h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

No inconsistencies have been identified in relation to the comprehensive plan. Floodplain management is related to the City's floodproofing policies as part of the 41' WSEIA elevation requirements.

i. The safety of access to the property in times of flood for ordinary and emergency vehicles;

Access may be questionable as servicing roadways may become inundated during storm sewer overflows or heavy rainfall events. The applicant will need to understand this potential risk as staff has no data to suggest that the requested variance would result in an increased or decreased safety of access.

j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

Staff has no data to confirm the effects of flooding as a result of overland flooding or storm sewer overflows.

k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets and bridges.

Costs associated with government services during or after flood conditions will not change due to this variance.

Since this is a variance request to Article 21-06 (Flood Plain Management) related to floodproof construction, the Zoning Administrator defers to the Building Official/Flood Plain Administrator as well as the City Engineer for current and future floodplain management. This application was reviewed by the City's Planning and Development, Engineering, and Building Inspections Departments ("staff"), whose comments are included in this report.

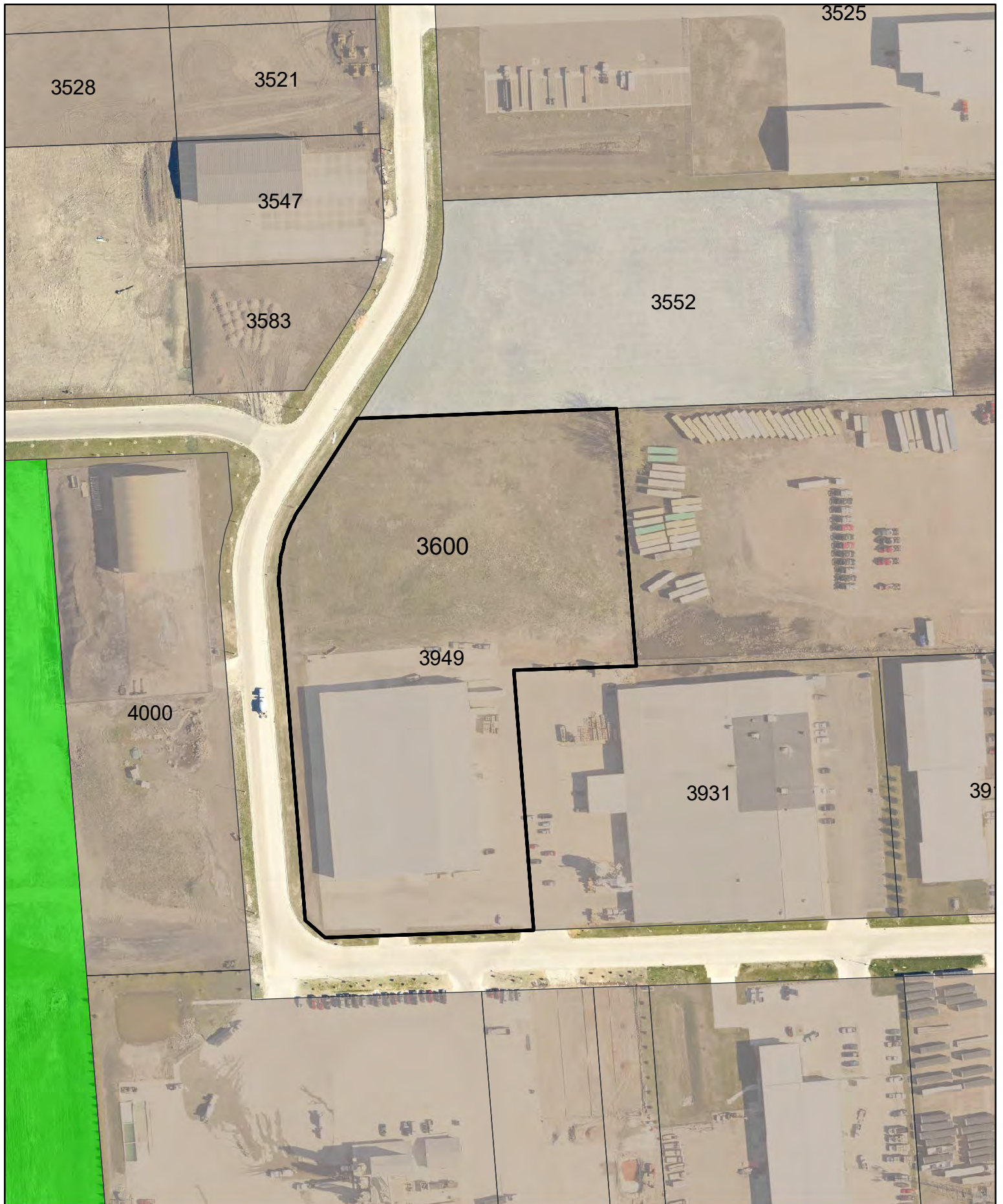
Staff finds that the proposed variance is somewhat unique in that the proposed variance would violate elevation standards established by the federal government, specifically the Special Flood Hazard Area (100-year floodplain) established by FEMA. The City of Fargo has worked with FEMA to secure an exemption to federal standards in order to allow the construction of basements when properly floodproofed. While the option for variance exists to provide relief from floodproofing requirements in situations resulting in hardship, the City has been warned by FEMA that abuse of the variance provision could result in a loss of the current city-wide basement exemption that FEMA has granted the City of Fargo. Staff feels that this

variance will not affect the City of Fargo's basement exemption due to the minimal variance required and the below grade area being provided with concrete surface.

Ultimately, staff is in support this request for variance. Staff finds that the applicant has demonstrated that the proposed building and adjacent grade elevation provides a level of flood protection that meets or exceeds the minimum Floodproofing Code standards. The applicant has submitted documentation certifying the design of the proposed building to withstand hydrostatic pressure up to the elevation of the finished floor. Additionally, the applicant has proposed to pave the area adjacent to the south side of the proposed building (the area of variance), which provides advantages over standard earth fill.

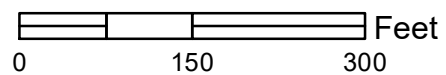
Staff recommends that any grant of a variance be conditioned upon the applicant agreeing to a waiver of liability against the City. Engineering staff would work with the City Attorney's Office to draft an acknowledgment form that would outline the owner's decision to not follow the City's floodproof construction requirements. The purpose of this document would be to provide additional protection to the City from unforeseen issues that may arise as a result of the variance.

Staff Recommendation: "To accept the findings of staff and hereby approve the requested variance on the basis that the review considerations of Section 21-0603 have been satisfied, with the condition that the applicant sign and submit a waiver of liability against the City."

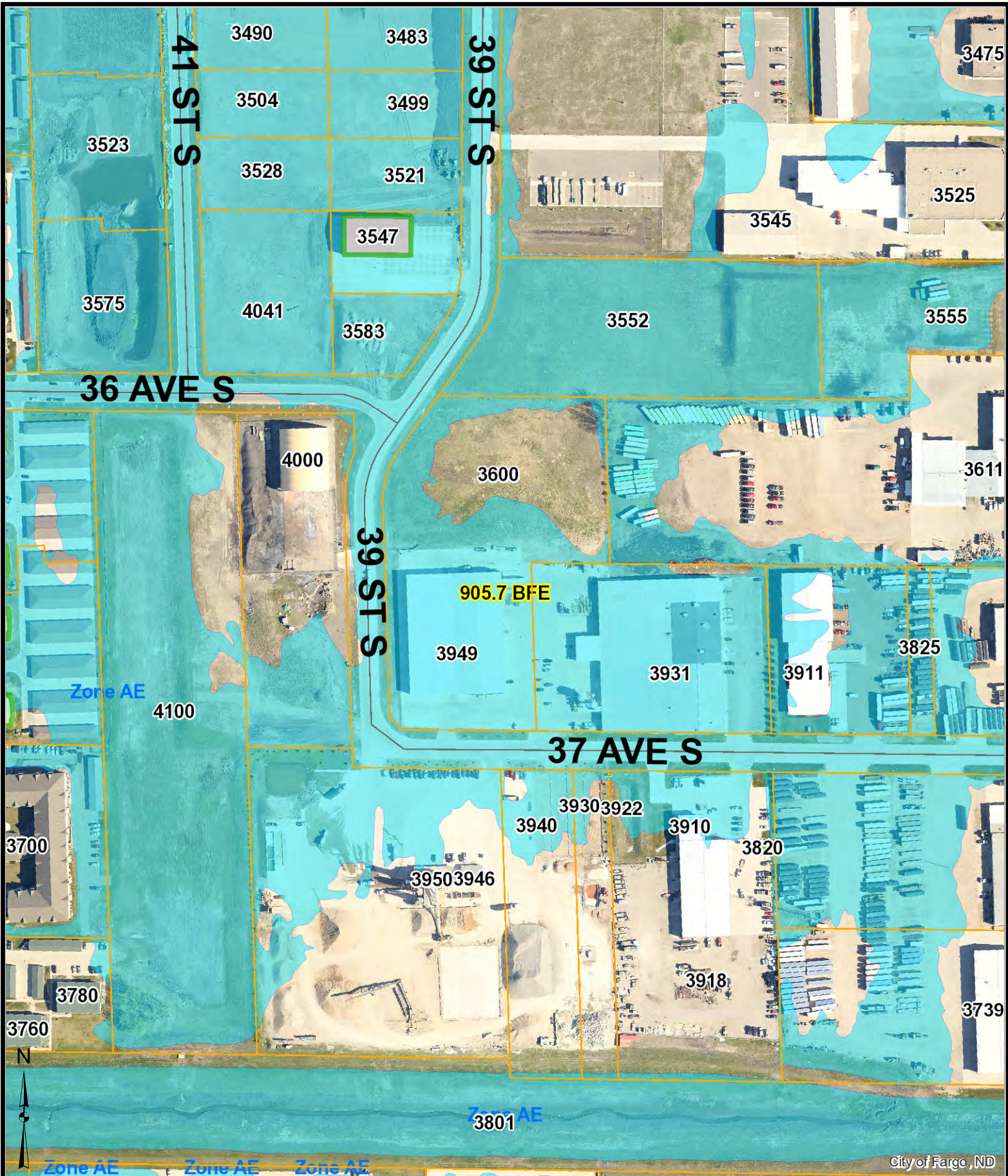


AG	LC	MHP	SR-1
DMU	LI	NCI	SR-2
GC	MR-1	NO	SR-3
GI	MR-2	P/I	SR-4
GO	MR-3	UMU	SR-5

3600 39th Street South







These data are provided on an "AS-IS" basis, without warranty of any type, expressed or implied, including but not limited to any warranty as to their performance, merchantability, or fitness for any particular purpose.

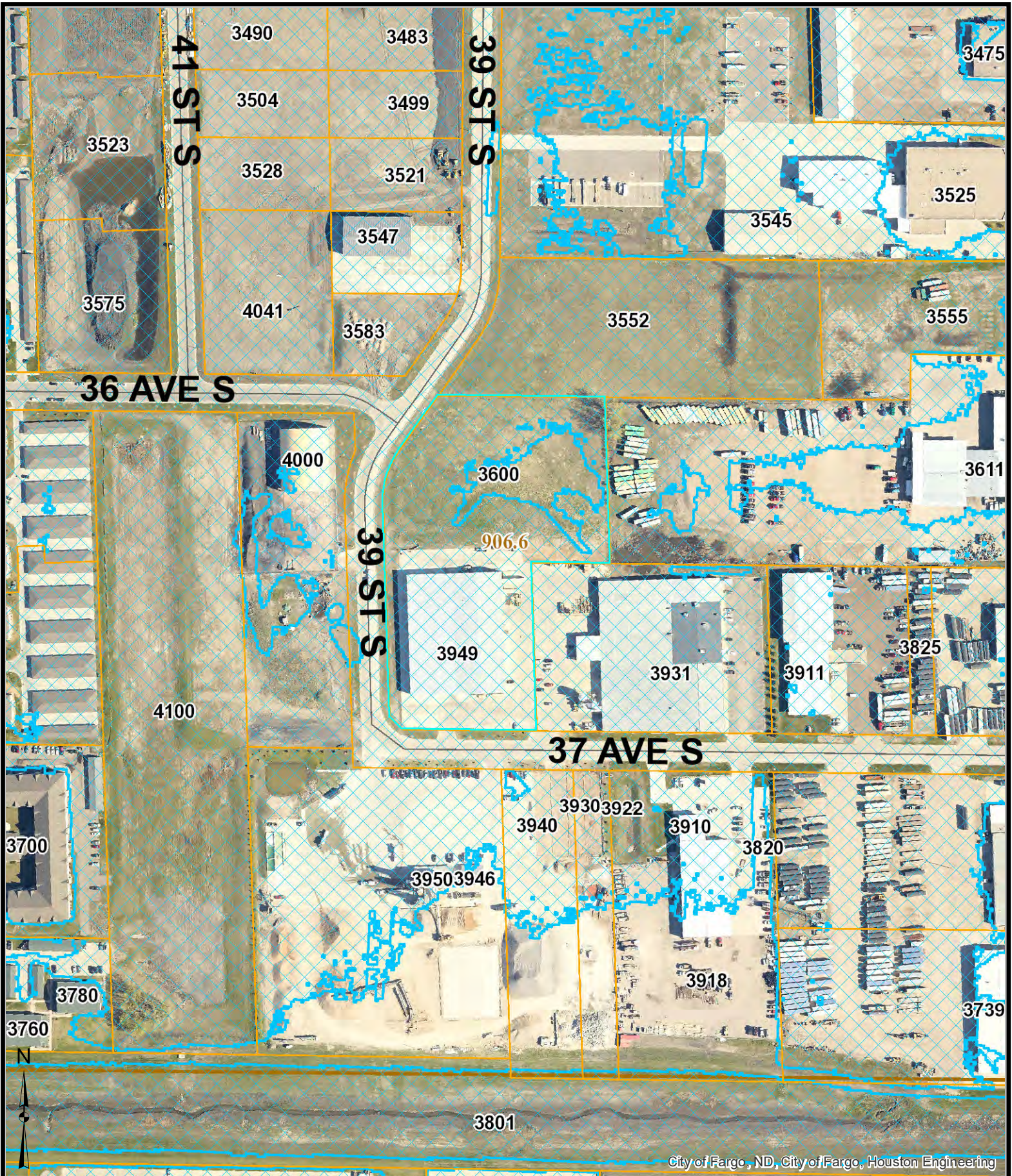
FEMA Special Flood Hazard Area

1:4,514

2/20/2018 8:50:34 AM

This map is not a substitute for accurate field surveys or for locating actual property lines and any adjacent features.

CITY OF
Fargo



City of Fargo, ND, City of Fargo, Houston Engineering

These data are provided on an "AS-IS" basis, without warranty of any type, expressed or implied, including but not limited to any warranty as to their performance, merchantability, or fitness for any particular purpose.

41' WSEIA

1:4,514

2/20/2018 8:48:05 AM

This map is not a substitute for accurate field surveys or for locating actual property lines and any adjacent features.





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FLOOD PLAIN MANAGEMENT VARIANCE APPLICATION (§21-0603)

The Board of Adjustment is authorized to grant variances from the Flood Plain Management requirements of Article 21-06 of the Fargo Municipal Code, pursuant to the considerations and standards of Section 21-0603.

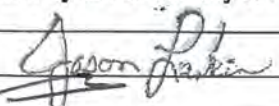
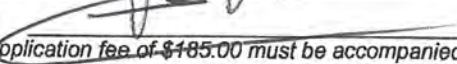
Please contact the Fargo Department of Planning and Development to schedule a pre-application meeting prior to submitting this application.

The following must accompany this application form:

- Site plan illustrating existing and proposed buildings, property lines, and other applicable information relevant to the requested variance.
- Building plans illustrating information relevant to the requested variance.
- Application fee.

Property Owner Information	Representation Information (primary contact)
Name (printed): <u>Larkin Properties, LLP</u>	Name (printed): <u>Rick Laliberte</u>
Address: <u>3931 37th Ave S, Fargo, ND 58104</u>	Company: <u>Solid Comfort, Inc</u>
Primary Phone: <u>701-282-4900</u>	Address: <u>3931 37th Ave S, Fargo, ND 58104</u>
Alternative Phone: _____	Primary Phone: <u>701-282-4900</u>
Email: <u>jlarkin@solidcomfort.com</u>	Alternative Phone: _____
	Fax: <u>701-282-8925</u>
	Email: <u>rlaliberte@solidcomfort.com</u>
	<input type="checkbox"/> Same as property owner

Location of property for which variance is being requested:
Address: <u>3600 39th St S</u>
Zoning District: _____
Legal Description: <u>That part of Lot 2, Block 1, Collins Third Subdivision, in the City of Fargo, Cass County, North Dakota</u>

Acknowledgement – I hereby acknowledge that I have familiarized myself with the rules and regulations to the preparation of this submittal and that the foregoing information is true and complete to the best of my knowledge. I, the undersigned, do hereby petition the Board of Adjustment of the City of Fargo, North Dakota, to take such action as may be required by law of the City of Fargo to grant a variance pursuant to Section 21-0603 of the Fargo Municipal Code.	
Owner (Signature): <u></u>	Date: <u>1-10-18</u>
Representative (Signature): <u></u>	Date: <u>1-10-18</u>
Note: A nonrefundable application fee of \$185.00 must be accompanied with the application at time of submittal.	

Office Use Only
Date Filed: <u>1/16/18</u> Planning Contact: _____ Nonrefundable Fee \$185.00: <u>ck. #21000</u>

Solid Comfort, Inc.
3931 37th Ave. S.
Fargo, ND 58104-6913
701-282-4900

Proposed Variance Information:
(Attach additional pages, if needed)

Please list all Flood Plain Management standards for which you are seeking a variance (e.g. elevation of lowest opening, fill adjacent to building, floodproof construction standards).

Request of a variance for the fill adjacent to building. Specifically section IV A. of the City of Fargo Floodproof Construction Requirements.

Please describe difference between the standard(s) and the proposed variation (e.g. The standard would require a lowest opening elevation of 901.5 ft. and my project would propose a lowest opening elevation of 900.7 ft.).

The standard would require an exterior grade elevation of 907.3 ft per the Floodproof Construction of 41' WSEIA plus 0.7'. The project would propose a minimum exterior grade elevation of 905.7 (FEMA BFE for the site) modification along the building exterior on the south lot line of the site only.

Please explain your project, describing why you are requesting a variance and why you believe a variance is justified. Along with your project description, please include a site plan/diagram with dimensions.

See Attached for project description, reason for variance, and site plan/diagram

Please explain how failure to grant the variance would result in exceptional hardship.

Failure to grant the variance would require that the existing facilities be completely relocated to a new location and/or construction of a new building to allow expansion of the existing facility. Alternatively the existing facility would be required to be completely demolished and reconstructed to allow for expansion of the existing facility and full compliance with the City of Fargo Floodproof Construction requirements. The site is otherwise in compliance with the LDC and if not located in the 41' WSEIA or FEMA BFE could be constructed per City regulations.

Considerations for Approval:

Please explain how your requested variance satisfies the following considerations, pursuant to Section 21-0603 of the Fargo Municipal Code: (Attach additional pages, if needed.)

a. The danger that materials may be swept onto other lands to the injury of others;

See attached

b. The danger to life and property due to flooding or erosion damage;

See attached

c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;

See attached

d. The importance of the services provided by the proposed facility to the community;

See attached

e. The necessity to the facility of a waterfront location, where applicable;

Not applicable

f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

See attached

g. The compatibility of the proposed use with the existing and anticipated development;

See attached

- h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

See attached

- i. The safety of access to the property in times of flood for ordinary and emergency vehicles;

See attached

- j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

See attached

- k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets and bridges.

See attached



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VARIANCES (§20-0914)

The Board of Adjustment is authorized to grant variances from the zoning district dimensional standards and off-street parking and loading standards of the Land Development Code (LDC) that will not be contrary to the public interest or the spirit of the LDC, where owing to special conditions, a literal enforcement of the provisions of this LDC would result in unnecessary physical (not economic) hardship to the property owner.

Variance Application Process

- 1) The application and a nonrefundable fee of \$185 are due at the time of submittal
- 2) Notice of the Public Hearing is mailed to property owners within 300 feet of the proposed site at least 15 days prior to the Hearing and published once a week for two consecutive weeks in the newspaper.
- 3) The City Planner reviews your case, develops a staff report and prepares a recommendation to the Board of Adjustment based on the Criteria for Approval, below.
- 4) Board of Adjustment meetings are scheduled as needed.

Criteria for Approval

A variance may be granted by the Board of Adjustment upon an affirmative finding that all of the following conditions exist.

- a. The requested variance arises from conditions that are unique to the subject property, that are not ordinarily found in the same zoning district and that are not a result of the owner's intentional action;
- b. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;
- c. The strict application of the applicable standards will constitute an unnecessary physical hardship (not economic hardship) because the property cannot be used for an otherwise allowed use without coming into conflict with applicable site development standards;
- d. The variance desired will not adversely affect the public health, safety or general welfare; and;
- e. The variance is the minimum variance that will overcome the hardship.

Acknowledgement – I hereby acknowledge that I have familiarized myself with the rules and regulations to the preparation of this submittal and that the foregoing information is true and complete to the best of my knowledge. I, the undersigned, do hereby petition the Board of Adjustment of the City of Fargo, North Dakota, to take such action as may be required by law of the City of Fargo to grant a variance pursuant to Section 20-0914 of the Land Development Code of the City of Fargo.

Owner (Signature): _____ Date: 1-11-18
Note: A nonrefundable filing fee of \$185.00 must be accompanied with the application at time of submittal.

Office Use Only

Date Filed: _____ Planning Contact: _____ Nonrefundable Fee \$185.00: _____

APPLICATION FOR VARIANCE

The Board of Adjustment is authorized to grant variances from the zoning district dimensional standards and off-street parking and loading standards of the Land Development Code (LDC) that will not be contrary to the public interest or the spirit of the LDC, where owing to special conditions, a literal enforcement of the provisions of this LDC would result in **unnecessary physical (not economic) hardship** to the property owner.

Property Owner Information:	Representation Information: (if applicable)
Name (printed): <u>Larkin Properties, LLP</u>	Name (printed): <u>Rick Laliberte</u>
Address: <u>3931 37th Ave S, Fargo, ND 58104</u>	Address: <u>3931 37th Ave S, Fargo, ND 58104</u>
Primary Phone: <u>701-282-4900</u>	Primary Phone: <u>701-282-4900</u>
Alternative Phone: _____	Alternative Phone: _____
Fax: <u>701-282-8925</u>	Fax: <u>701-282-8925</u>
Email: <u>jlarkin@solidcomfort.com</u>	Email: <u>rlaliberte@solidcomfort.com</u>

Location of property requesting a variance:
Address: <u>3600 39th St S</u>
Zoning District: _____
Legal Description: <u>That part of Lot 2, Block 1, Collins Third Subdivision, in the City of Fargo, Cass County, North Dakota</u>

Proposed Variance Information:

What Land Development Code Standard are you seeking a variance? (e.g. setback, lot coverage, height)

See Attached Sheet

Please describe difference between the standard and the proposed (e.g. The standard is 10 ft. and my project would propose a 7' setback).

See Attached Sheet

Please explain your project, describing why you are requesting a variance and why you believe a variance is justified. Along with your project description, please include a site plan/diagram with dimensions. (Attach additional pages, if needed.)

See Attached Sheet

Criteria for Approval:

Please explain how your requested variance meets the following five criteria for approval, pursuant to Section 20-0914 of the Land Development Code: (Attach additional pages, if needed.)

- 1) The requested variance arises from conditions that are unique to the subject property, that are not ordinarily found in the same zoning district and that are not a result of the owner's intentional action;

See Attached Sheet

- 2) The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;

See Attached Sheet

- 3) The strict application of the applicable standards will constitute an unnecessary physical hardship (not economic hardship) because the property cannot be used for an otherwise allowed use without coming into conflict with applicable site development standards;

See Attached Sheet

- 4) The variance desired will not adversely affect the public health, safety or general welfare; and

See Attached Sheet

- 5) The variance is the minimum variance that will overcome the hardship.

See Attached Sheet



SANDMAN
Structural Engineers

1/12/18

Olaf Anderson Construction
Attn: Troy Mallow
P.O. Box 2766
Fargo, ND 58108

Re:

To Whom it May Concern:

Sandman Structural Engineers (SSE) was retained to provide a stamped letter stating that the concrete foundation walls of the new Larkin building have the strength to withstand hydrostatic pressure. The Larkin building is located at 3600 39th Street South in Fargo, North Dakota.

Background

The new warehouse is a pre-engineered metal building. The foundations consist of cast in place concrete frost depth foundation walls and piers supported by strip and pad footings. The finished floor of the warehouse will be 2.5' above the existing building finished floor. There will be two connecting links that will have internal ramps to connect the building slabs together. The connecting link buildings will have the foundation wall cast 2.5' above the interior slab elevation. The south side of the new warehouse will be dock high with 2.5' of the foundation wall exposed. The west, north, and east sides will have the exterior grade bermed up around it so the exterior grade elevation will match the interior slab on grade elevation.

Conclusion

The reinforcement in the exterior foundation walls has been designed to withstand hydrostatic pressure from flood waters to the elevation of the slab on grade in the new warehouse which is approximately 2.5'. SSE shall be held free of any and all liability with respect to changes in the structure condition or applied loads after the new warehouse is complete, which may have detrimental effects on the performance and/or serviceability of the structure.

SSE appreciates the opportunity to assist you with this project. If you have any questions or comments feel free to contact SSE.

Thank you,

Justin Schoenberg, PE
Project Engineer



Kurt Sandman, PE
Project Engineer

Proposed Standard Variation

The City of Fargo Standard is floodproofed construction to an elevation of the 41' Water Surface Elevation Inundation Area (WSEIA) plus 1.2' or FEMA BFE plus 2' for lowest opening, fill around the building equal to an elevation of the 41' WSEIA plus 0.7' or FEMA BFE plus 1.5' and fill 15' away from the building at or above FEMA BFE. The variance to the standard would be to remove the elevation requirement for Fill around the building along the south portion of the proposed building similar to the existing exemption for depressed loading docks.

Proposed Project Description and Reason for Variance

The proposed project is construction of new warehouse and manufacturing building to expand the manufacturing capacity of the applicant's existing facilities. The existing area of the property for the proposed building is currently undeveloped. Two existing manufacturing and warehouse facilities exist on the property and are owned by the applicant. The variance in the floodproofing elevation is requested due to issues with providing floodproofed construction per the City's Floodproofing Construction Requirements and having connection to the existing manufacturing facility.

The existing manufacturing facilities were constructed prior to both the current FEMA Floodplain maps, City of Fargo Floodproof Construction requirements, and the 41' WSEIA. As such the existing facilities are not compliant with the current development standards. The existing facilities are approximately 5 inches below the current FEMA BFE. In order to stay at their current location and expand their manufacturing capacity the variance in exterior grade is requested to provide connectivity from the new facility to the existing facilities.

The granting of the variance on the property is justified as the existing site and city infrastructure was developed prior to the current development code and floodproofing requirements were instituted and cannot be brought into compliance with the existing codes short of complete demolition of the all existing facilities and complete reconstruction of the site. The proposed variance allows the continued use of the existing facilities as they exist today and the applicant to expand the existing facility and meet the needs of the applicant. The requested variance applies only to the City of Fargo Floodproofing requirements and at that a single provision along a limited portion of the site. The site will otherwise be in compliance with the LDC. The applicant has work with the City of Fargo to develop a proposed project that will allow them to expand their existing facility and still meet the needs for flood protection.

Criteria For Approval:

- 1) **The requested variance arises from conditions that are unique to the subject property, that are not ordinarily found in the same zoning district and that are not a result of the owner's intentional action.**

The existing site was developed prior to the current development code and floodproofing requirements were instituted and cannot be brought into compliance with the existing codes short of complete demolition of the all existing facilities and complete reconstruction of the site. The proposed variance allows the continued use of the existing facilities as they exist today. The requested variance applies only to the City of Fargo Floodproofing requirements and at that a single provision along a limited portion of the site. The site will otherwise be in compliance with the LDC.

- 2) **The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;**

Granting of the variance is to allow the adjacent property to continue to be used as it currently is operating. The variance will not negatively affect the adjacent properties.

- 3) **The strict application of the applicable standards will constitute an unnecessary physical hardship (not economic hardship) because the property cannot be used for an otherwise allowed use without coming into conflict with applicable site development standards:**

The existing site was developed prior to the current development code and floodproofing requirements were instituted and cannot be brought into compliance with the existing codes short of complete demolition of the all existing facilities and complete reconstruction of the site. The proposed variance allows the continued use of the existing facilities as they exist today.

- 4) **The variance desired will not adversely affect the public health, safety or general welfare; and**
The proposed building will comply with the majority of the City of Fargo Floodproofing requirements and those of the Land Development Code requirements. It is not anticipated that the variance will adversely affect the public health, safety or general welfare.

- 5) **The variance is the minimum variance that will overcome the hardship.**

The proposed variance is for a limited portion of the site and relates only to the exterior grade elevation directly adjacent to the building. The site will comply with other applicable Land Development Code and City of Fargo Floodproofing requirements.

Per City of Fargo Code the following address the Conditions for the Flood variance.

Flood Variance Criteria Fargo Code Section §21-0603(G) 5

The danger that materials may be swept onto other lands to the injury of others;

As the proposed building will be located above the 41' WSEIA it is not anticipated that materials from the property will be swept onto other properties should the parcel ever be flooded.

The danger to life and property due to flooding or erosion damage;

The proposed building will be a slab on grade construction and the low opening of the building will comply with the City of Fargo Floodproofing code elevation. The two connecting links to the existing facility will be constructed to be floodable with all mechanical and electrical systems in the connecting links being located above the flooding elevation. As the proposed building floor elevation will be in compliance with the City of Fargo Floodproofing requirements the building should be minimally susceptible to flood damage.

The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;

The proposed building will be a slab on grade construction and the low opening of the building will comply with the City of Fargo Floodproofing code elevation. The two connecting links to the existing facility will be constructed to be floodable with all mechanical and electrical systems in the connecting links being located above the flooding elevation. As the proposed building floor elevation will be in compliance with the City of Fargo Floodproofing requirements the building should be minimally susceptible to flood damage.

The importance of the services provided by the proposed facility to the community;

The proposed facility provides an increased tax base for the City, economic growth, and the potential for additional jobs. The proposed facility is also located along existing infrastructure and in an infill project. Because the project is an infill, the City does not need to further extend the existing infrastructure.

The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

The 41' WSEIA affect a large portion of the City including many developed areas. As the developed areas of the City were constructed prior to the implementation of the floodproof construction requirement the existing roadways, properties, and vacant and is too low to accommodate development of existing sites and meet the requirements.

The compatibility of the proposed use with the existing and anticipated development;

The proposed project meets the requirement of the Limited Industrial zoning district. The proposed use is and expansion of the existing use on the property. Additionally the surround parcels are zoned Limited Industrial.

The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

The proposed project meets the requirement of the existing LI zoning on the site. The proposed building will be compliant with City of Fargo floodproofing code with the exception of the exterior grade on the south side of the site. The requested elevation variance is similar to the allowed elevation exception of a depressed loading dock written into the Floodproofing Code. As such the proposed project will be in general conformance with the City of Fargo policy on development in the FEMA special flood hazard area.

The safety of access to the property in times of flood for ordinary and emergency vehicle;

As the property is located behind the City of Fargo flood protection measures access to the site during flood events is not expected to be impacted.

The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

Based on the 41' WSEIA elevation for the property the depths of the floodwater in adjacent streets would be approximate 1' to 2'. As the floodwaters are backwater from the drain to the south or backflow from storm sewer velocity of the floodwaters would be minimal if any. As the site is located behind the City of Fargo Line of flood protection, the duration, rate of rise, and sediment transport are unknown. Without City Flood protection the duration and rate of rise is anticipated to be similar to typical flood events for the area. Wave action is not anticipated at the site.

The cost of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets and bridges.

The existing city and public infrastructure adjacent to the project are existing and do not meet the current elevation standards for floodproof construction. Construction of the project and granting of the variance should not affect any cost to provide service during or after flood conditions.



PLANNING AND DEVELOPMENT
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MEMORANDUM

TO: ALL DEPARTMENTS
FROM: ALBERT GIBSON, PLANNING AND DEVELOPMENT DEPARTMENT AG
DATE: NOVEMBER 27, 2017
SUBJECT: 2018 BOARD OF ADJUSTMENT MEETING SCHEDULE

Listed below are the Board of Adjustment meeting dates for calendar year 2018.

2018 Meeting Schedule

Board of Adjustment Meetings
January 23
February 27
March 27
April 24
May 22
June 26
July 24
August 28
September 25
October 23
November 27
*December 18 @ 10 a.m.
Board of Adjustment meetings will be held the 4th Tuesday of each month at 9:00 a.m. in the City Commission Room, City Hall. (*Date change due to Holiday)
**Room subject to change with new City Hall opening.



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