



CITY OF LA VISTA
BOARD OF ADJUSTMENT

STAFF REPORT

VARIANCE REQUEST

DATE OF BOA MEETING:

May 23, 2022

SUBJECT:

Variance to Section 7.17.03.02 (3) Landscaping Requirements of the
La Vista Zoning Ordinance

PROPERTY INFORMATION

APPLICANT:

Nebraska Multisport Complex
8101 Eastport Parkway
La Vista, NE 68128

PROPERTY OWNER:

Nebraska Multisport Complex
8101 Eastport Parkway
La Vista, NE 68128

SUBJECT PROPERTY:

Tax Lots 11 and 15, together with all of Tax Lot 2A and parts of Tax Lots 2B1 and 3 lying North and West of railroad right-of-way, together with Northwesterly part of Tax Lot 1A1B and the Northwesterly part of Tax Lots 2B1 and 3 lying South and East of railroad right-of-way, all located in Section 17, Township 14 North, Range 12 East, of the 6th P. M. in Sarpy County, Nebraska

ZONING:

TA, Transitional Agriculture District with a Gateway Corridor Overlay District

BACKGROUND

Description of Request:

1. Nebraska Multi-Sport Complex is seeking to construct a private recreational facility on a series of tax parcels northeast of Eastport Parkway and Giles Road.
2. A majority of the property involved has significant slopes downward from the edges of the street along Eastport Parkway and Giles Road.
3. The request is to:
 - a. Allow removal of the requirement for street trees along Eastport Parkway and Giles Road, except for street frontages along Eastport Parkway, north of Port Grace Blvd.
4. According to the applicant, the requirement to plant street trees along a majority of the street frontages adjacent to the subject property will create a hardship. Due to the extreme slopes along these street frontages, the street trees will be planted well below the street elevation and well into the subject property. This will have an impact on the layout of the playing fields and the maintenance of the Astroturf that is being used for the playing surface.

Applicable Zoning Regulations:

7.17.03.02 Street Frontage:

A landscaped area having a minimum depth of fifteen feet (15') from the property line shall be provided along the street frontage of all lots or sites including both street frontage of corner lots.

1. The required landscaped are fifteen feet (15') may be reduced to ten feet (10') if an equal amount of square feet of landscaped area, exclusive of required side and rear yard landscaped areas, is provided elsewhere on the site.
2. Exclusive of driveways and sidewalks not more than twenty five percent (25%) of the surface of the landscaped area shall have inorganic materials such as brick, stone, concrete, asphalt, aggregate, metal or artificial turf.
3. A minimum of one (1) tree shall be planted for every forty lineal feet (40') or fraction thereof.

CONDITIONS FOR VARIANCES

Section 8.03.03.01 and Nebraska Revised State Statutes Section 19-910:

The Board of Adjustment shall authorize no such variance, unless it finds that:

1. The strict application of the Ordinance would produce undue hardship;
2. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
3. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
4. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.

Bylaws and Rules of Procedure of the City Of La Vista Board of Adjustment – Section 7, Specific Requirements in Approval of a Variance:

In any action by the Board with regard to approval of a variance, such action shall be taken in accordance with the limitations of Nebraska law and the requirements and limitations of the applicable City Zoning Regulations and these Rules of Procedure. In any action to approve a variance, the Board shall make findings which shall be recorded in the minutes of the Board that:

A. The strict application of any applicable provision of the applicable City Zoning Regulation would, in each specific variance petition, result in **at least one** of the following:

1. Peculiar and exceptional practical difficulties to or undue hardship upon the owner of the piece of property included in the petition due to exceptional narrowness, shallowness or shape of the piece of property in question;

Staff Analysis: Staff does not find any particular hardship related to exceptional narrowness, shallowness or shape of the piece of property in question.

Resulting Hardship: Yes / No

2. Peculiar and exceptional practical difficulties to or undue hardship upon the owner of the piece of property included in the petition due to exceptional topographic conditions on the piece of property in questions;

Staff Analysis: The land in this area significantly slopes downward from the edges of Eastport Parkway and Giles Road before leveling out near where the property lines start. Near Eastport Parkway and 123rd Plaza alone, the topography drops from an elevation of 1060 near the curb, to 1040 near the property line. Depending on the species of the trees planted, it would likely take many years of growth for a tree planted at 1040 to be visible at the 1060 elevation, let alone have the intended impact above that elevation that the street trees regulation was intended.

Resulting Hardship: Yes / No

3. Peculiar and exceptional practical difficulties to or undue hardship upon the owner of the piece of property included in the petition due to other extraordinary and exceptional situation or condition of the piece of property in question.

Staff Analysis: Due to the extreme slopes along these street frontages, the street trees will be planted well below the street elevation and well into the subject property. This will have an impact on the layout of the playing fields and the maintenance of the Astroturf that is being used for the playing surface, creating a hardship upon the owners of the properties involved.

Resulting Hardship: Yes / No

B. In authorizing any variance the Board shall also make findings, which shall be recorded in the minutes of the Board, that **EACH** of the following requirements for authorizing a variance can be met:

1. Such variance may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the applicable City Zoning Regulations;

Staff Analysis: The property has roughly 3,800 feet of street frontage. Roughly 80% of that street frontage sits well below the street due to the extreme slopes from the base street elevation. Hence, the impact of street trees as per Section 7.17.03.02 (3) of the Zoning Ordinance will have virtually none of the intended impact of the regulation.

Hence, staff does not believe such variance would be a substantial detriment to the public good and would not substantially impair the intent and purpose of the applicable City Zoning regulations.

Specific requirement: satisfied / not satisfied

2. The strict application of the requirements of the City Zoning Regulations would produce an undue hardship upon the owner of the property included in the petition;

Staff Analysis: Due to the configuration of the lot, the requirement to plant street trees along the street frontages will have a detrimental impact on the layout of the playing fields and the maintenance of the Astroturf that is being used for the playing surface, and the subsequent grading work that would be required for the property owner to meet the intent of the requirement would constitute undue hardship.

Specific requirement: satisfied / not satisfied

3. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;

Staff Analysis: Other properties in the TA District in La Vista do not have similar topographical issues along the street frontage that limit the viability of street trees in the area.

Specific requirement: satisfied / not satisfied

4. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the zoning district will not be changed by such variance;

Staff Analysis: Staff does not believe substantial detriment would occur on adjacent properties or within the zoning district.

Specific requirement: satisfied / not satisfied

5. The authorization of a variance is based upon reasons of demonstrable and exceptional hardship stemming from characteristics of the property involved in the petition and not for reasons of convenience, profit or desire of the property owner;

Staff Analysis: The variance request is related to the applicant's desire to construct a private recreational facility within the constraints of the property involved. The requirement to plant street trees along the street frontages will have a detrimental impact on the layout of the playing fields and the maintenance of the Astroturf that is being used for the playing surface.

Specific requirement: satisfied / not satisfied

6. The condition or situation of the property included in such petition or the intended use of such property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the applicable City Zoning Regulations.

Staff Analysis: Staff does not believe an amendment to the zoning regulations is appropriate as this property is not similar to others in the city.

Specific requirement: satisfied / not satisfied

DECISION

Move to approve the variance request, as proposed and presented to the City of La Vista Board of Adjustment, finding that at least one hardship has been created by the strict application of the Zoning Ordinance and finding that each specific requirement has been satisfied.

Seconded: _____

Vote: Ayes____ Nays____

If motion to approve fails:

Move to deny the variance request, as proposed and presented to the City of La Vista Board of Adjustment based on the following reasons for denial:

Vote: Ayes____ Nays____