



CITY OF ARANSAS PASS

AGENDA MEMORANDUM
for the City Council Meeting of May 7, 2018

Date: May 3, 2018
To: Honorable Mayor and Council
From: Katherine A. Comeaux, CFM

Consider and act text on a request from Grant Erickson for a variance on floodplain regulations at 420 Bigelow St., Aransas Pass.

PURPOSE:

To consider the request of Grant Erickson for a variance from the requirements of City of Aransas Pass Code of Ordinances, Article VIII – Flood Damage Prevention at 420 Bigelow.

BACKGROUND AND FINDINGS:

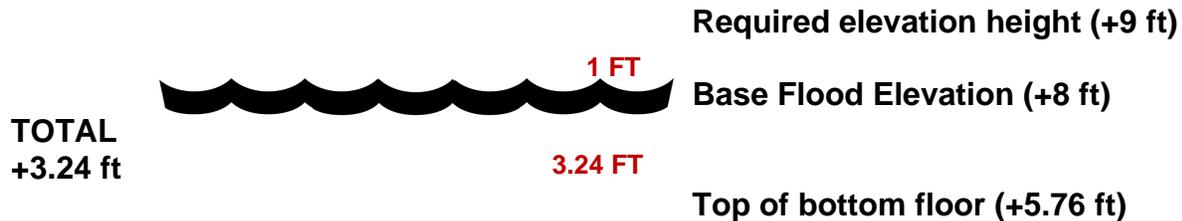
420 Bigelow Street was substantially damaged by Hurricane Harvey. Under the current NFIP requirements, this would require in most cases that the building be elevated to one foot above the Base Flood Elevation level.

The elevation certificate on the property shows that the top of the bottom floor is currently at 5.76 feet above mean sea level. The projected BFE for this area of the Harbor is 8 feet. With the City’s one-foot freeboard requirement, this puts the required elevation point at 9 feet above mean sea level.

		Freeboard	
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Base Flood Elevation (BFE)	Top of Slab	(Required Elevation above BFE)	Total Elevation Needed
+8 feet	+5.76 feet	+1 foot	+3.24

*Elevations are based on the Bench Mark Tidal #2, Elevation +9.971, U.S.C. & G.S. Datum



As a non-residential structure, dry-floodproofing would be allowed up to three feet; however, the required elevation is approximately 3 inches above the three feet maximum. This variance request is to allow this business owner to dry flood proof or wet flood proof the structure without requiring the elevation of the building.

Erickson & Jensen Seafood operates out of 420 Bigelow St. at Conn Brown Harbor. The main operation of this business is shrimping, and the variance request is based on the business's functional dependency on its location being on the water. Workers for Erickson & Jensen bring in the shrimp by boat to 420 Bigelow, at which point the shrimp is brought directly into the building for cold storage. For this reason, the operations of this business make it functionally dependent on its proximity to the water.

LOCAL GOVERNMENT AUTHORITY TO GRANT VARIANCES

The Flood Damage Prevention Ordinance, Section 5-125, outlines the following considerations for granting a variance on floodplain regulations:

“Considerations for granting variance:

- (2) Variances shall only be issued upon:
 - a. Showing a 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.”

CFR REQUIREMENTS FOR VARIANCES

Cities and counties that participate in the National Flood Insurance Program (NFIP) in order to allow residents access to federally-subsidized flood insurance are allowed to grant variances through their elected officials. Because variances on floodplain regulations may expose insurable property to a higher flood risk, all variances granted by local governments are evaluated by FEMA to determine whether or not the variance is consistent with sound floodplain management standards. Once a variance is granted, the documentation and justifications for that variance must be sent for FEMA review for compliance with the CFR, or the Code of Federal Regulations.

Variances in general are discouraged due to the potential of resulting NFIP-participation probation and/or suspension, which could limit or eliminate access to federally-subsidized flood insurance for a community. In order to avoid this, variances should be considered carefully and in conjunction with Section 60.6 of the Code of Federal Regulations:

44 CFR 60.6 Variances and exceptions

(a) The Federal Insurance Administrator does not set forth absolute criteria for granting variances from the criteria set forth in §§ 60.3, 60.4, and 60.5. The issuance of a variance is for flood plain management purposes only. Insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance. The community, after examining the applicant's hardships, shall approve or disapprove a request. While the granting of variances generally is limited to a lot size less than one-half acre (as set forth in paragraph (a)(2) of this section), deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases. The Federal Insurance Administrator may review a community's findings justifying the granting of variances, and if that review indicates a pattern inconsistent with the objectives of sound flood plain management, the Federal Insurance Administrator may take appropriate action under § 59.24(b) of this subchapter. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure. Procedures for the granting of variances by a community are as follows:

(1) Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result;

(2) Variances may be issued by a community 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 flood level, in conformance with the procedures of paragraphs (a) (3), (4), (5) and (6) of this section;

(3) Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) 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;

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

(5) A community shall notify the applicant in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions as required in paragraph (a)(6) of this section; and

(6) A community shall (i) maintain a record of all variance actions, including justification for their issuance, and (ii) report such variances issued in its annual or biennial report submitted to the Federal Insurance Administrator.

(7) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria of paragraphs (a)(1) through (a)(4) of this section are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

ALTERNATIVES:

Denying requested variance.

RECOMMENDATION:

Staff recommends following federal requirements. If variance is granted, staff recommends requiring a study be conducted to show that the variance for development would not result in increased flood levels.

ATTACHED DOCUMENTATION:

ATTACHMENT A - Elevation Certificate