

HISTORY OF 401 2nd Avenue, Lyons—PLEASE READ

This house was built in the 70s. In September 2013, the basement was flooded. I was in Boulder the night of the flood and remembered being “shut in” while it rained for days.

On June 11, 2014, a letter was issued stating the house was not substantially damaged. The house was not in the National Flood Insurance Program but even if it had been, not much would have been covered for that flood damage. The owner of a similar style house, Nancy Arp, received money to relocate her hot water heater but not for restoration itself.

I applied for several programs such as through Boulder County, the SBA and FEMA. For awhile it looked like I would receive a grant through Boulder County, but in the end others received higher priority for the available money due to things such as being a veteran, disabled, etc.

FEMA GRANT

I worked with planning consultant, Rosi Dennett to apply for a FEMA grant through the Town of Lyons. The grant application was submitted in June 2014 or 2015, while I was laid up on a sofa in Longmont from having recently broken my ankle and wrist in Lyons, resulting in being in a wheelchair for a couple of months.

I filled out an application for a building permit for the house but Rosi Dennett got word of it and told me if I got a building permit I would not be eligible for the programs I had applied for. Thus I pulled the paperwork and did not follow through with getting a building permit.

In early 2017 I was told verbally that I was awarded a FEMA grant to elevate the house. In the fall of 2017 I signed a contribution agreement, agreeing to pay the Town of Lyons my 12.5% share of the total cost. On September 1, 2017, at an in person meeting at the Lyons Depot, I was told I would need to provide 12.5 percent of the \$175,000 cost of the FEMA Hazard Mitigation Grant Program (HMGP) Grant. I signed an 8 page contribution agreement on October 13, 2017. On October 20, 2017, I paid \$21,875.00, which was 12.5 percent to the Town of Lyons.

I participated in a number of in person meetings with an architect, Richard Hooker and Philip Strom. Town of Lyons was to find the contractor for the contractor after advertising the job. I was not allowed to find my own contractor. Several contractors showed up at a pre-bid meeting but none of them were interested in paying for a

bond, fronting all the monies for labor and materials, meeting approximately 180 pages of FEMA specifications and then wait to be pass a FEMA inspection and possible re-inspections to be paid. The contractors who showed up did not think it was worth the risk for that small of a job (when there were more lucrative bridge and road and other bigger projects available). Frankly, it had not occurred to me that the Town of Lyons would not be able to find a contractor during the pendency of the grant. But since no contractor was willing to take on the project, the grant was closed for my house, and for another house in Lyons.

On March 19, 2018, the Flood Recovery Manager and I signed in person a termination form prepared by The Town of Lyons. On April 3, 2018, the funds I had advanced the Town of Lyons in the amount of \$21,875 were wired back to me, (noted in writing by then Town Clerk Deb Anthony) and under the direction of Richard Markovich, the Flood Recovery Manager at the time.

TIME SPENT AND ACTIVE INVOLVEMENT

Meanwhile, my brother who was judge in Harpers Ferry, West Virginia died on June 9, 2017, as An unexpected result of a surgery. I began making unexpected flights to Washington D.C. to travel to West Virginia to administer his estate and deal with the personal property in his 3-story house, garage and storage unit, as he was divorced and had no children.

Though I was primarily based in Lawrence, Kansas I was also spending an average of a week every other month in Colorado often meeting with house-related people such as town staff, volunteers or contractors. In November 2020 through March 2021 I was in Colorado about a week a month and was gearing up to spend significantly more time. I was turning 65 in August 2020 and planned to reside in Lyons, Colorado. Then like the flip of a light switch, the world changed. I was in Colorado mid-March but went back to Kansas to hunker down and wait and see what happened. Due to ski counties, etc., Colorado was much more of a “hot spot” than Kansas so Northeast Kansas (an hour from Kansas City) seemed like a good place to hunker down and wait for things to open up again. I was not on a plane again until June 2021.

Over the years when I was not in Colorado, a local person was checking in on the house and mowing the yard, etc. Between my occupancy and the local contact, my Lyons house was not totally empty all those years since the flood. I was actively involved with various processes.

BUILDING AND FLOOD DEVELOPMENT PERMITS PRE-2020

A Flood Development Permit was issued on September 26, 2017.

I applied for a subsequent Flood Development Permit on March 20, 2018 which was granted on August 24, 2018. I also applied for a building permit that summer. Electrician Justin King of CKG Electric also applied for a Building Permit on June 29, 2018 and the Building Permit was issued on July 16, 2018.

A new breaker box was installed and other electrical work was done under the permit pulled by the electrician. His electrical work passed inspection on August 3, 2019, at which time an electric meter Release was approved.

A water meter was released and installed, as well as a gas meter. Steve McClain checked/cleared the drain at some point after the flood. I met at various times with Lyons Volunteers.

Other work was done. A shear nailing and sheathing inspection occurred on November 21, 2019 after that work was done by contractor Oracle Lynn since the then building inspector required the rock to be removed from the front of the house and a vapor barrier installed.

I arranged with Oracle Lynn of Lynn Construction LLC to have a tankless hot water heater installed by his plumber but Oracle Lynn's plumber did not show up and Oracle seemed busy with bigger projects. After some failed installation attempts, I returned the hot water heater to the vendor.

I planned to have Goulx Mechanical Heating and Cooling Inc install a furnace in the basement but cancelled the installation after running into Victoria one evening in downtown Lyons. Victoria had caught wind of the furnace installation and informed me the furnace needed to be elevated further and I'd have to redo it if I went ahead. I then cancelled that furnace installation until the height was clarified. I emailed back and forth with the Flood Engineer in February 2020 about the height of appliances and had not heard a resolution by the time an application was filed for a Flood Development Permit.

2020 FLOOD DEVELOPMENT PERMIT

I hired Architect Danielle Lynn to help prepare an Application for a Flood Permit which was filed on March 4, 2020. I was in Colorado and when the covid shut-down hit, I flew back to Kansas City. I did not hear whether the Application was approved or denied. I had been negotiating about the

height of the electrical outlets and appliances (whether two feet or six feet or a compromise) but the architect hand carried the application to Town Hall and filed it in advance of the Town of Lyon's flood mapping change which I think took place later in March 2020, though I do not know the exact date.

I did not hear anything about the application for a Flood Development Permit in 2020. I hunkered down in Northeast Kansas, where the covid rate was less than in Colorado. I assumed the Town was on a "pandemic pause" as was I. I did talk to the receptionist I think the last half of December 2020 and asked to speak to Paul Glasgow, the then town planner, as he had been a meeting with the flood engineer and myself before the application was filed. He was not available and I'm not sure that I left a message, as messages left with the Town weren't always returned.

I asked to speak to him maybe a month later and was told that Paul Glasgow was no longer with the Town and that Philip Strom had taken his place. I emailed Philip on February 18, 2021 and received a response on April 13, 2021. Philip Strom set up a Zoom meeting with Flood Engineer Chris Rain and myself which took place on April 14, 2021. During that meeting I asked about the status of the application for the Flood Development Permit and was told by Chris Rain that the permit had been approved but he did not have the file in front of him and did not know the exact date. Another Zoom meeting took place with the three of us plus Town Administrator Victoria Simonsen and on May 5, 2021. She said the Flood Application Permit had been approved and had expired. I said I had not been notified of whether it had been approved, and I had looked through my emails from town staff. I asked whether the Flood Application Permit could be reinstated as I had not been notified.

On April 30, 2021, I received an email from Victoria Simonsen letting me know that the Flood Application Permit had been approved on March 27, 2020 and had expired on March 27, 2021 and that town staff had no authority to reinstate it. Also I was notified in that April 30 email that I had to repair or replace the deck within 60 days or the Town would take steps to abate it.

BOT AGENDA REQUEST

On May 10, 2021, I filed a request to be on the BOT agenda on May 17, 2021. The agenda was full and I thought I was going to be on the June 7, 2021

agenda. After paying an old utility balance on June 4, 2021, I learned that I had to have paid it by June 3 in order to be on the June 7 agenda. Thus, the matter was put on the June 21st agenda.

STAFF MEETINGS

On Thursday, June 10, 2021 I met with Victoria Simonsen at Town Hall. The following day, June 11, 2021, I met with Chris Rain (flood engineer), Mike Marsh (building inspector) and Aaron Caplan, Director of Utilities at 401 2nd Avenue in Lyons to discuss the deck and various permitting aspects. On Monday, June 15, 2021, I met briefly with Victoria Simonsen at Town Hall in the morning and in the afternoon with Planner Philip Strom at Town Hall.

First, I am asking that the one year time period for the Flood Application Permit start AFTER I have received a copy of the Flood Development Permit. I received a copy of that Permit on June 17, 2021, after filing two record requests without receiving a copy. After sending a follow up email to the record requests on June 17 I received the Flood Development Permit on June 17, 2021.

TWO REQUESTS

1st) Flood Development Permit Extension

There are two issues to address. First, ask that the one year time frame of the Flood Development Permit start on June 21, 2021, or alternatively, no earlier than June 17, 2021, the date I actually received a copy of the approved Flood Development Permit. Typically the Flood Development Permit should be approved before an application for a building permit is submitted.

2nd) Deck Repair or Removal

Second, I ask that the Town extend the date for repair or removal of the deck to August 31, 2021. I have called a number of contractors and kept hearing "I'm slammed" (which must be the local contractor slang for "I'm busy"). I met with two contractors last week, but neither one wanted the job, for various reasons such as living too far away. On June 17, 2021, I did obtain an emailed bid dated May 24, 2021 from a local contractor who said he couldn't do the job until August. Some contractors couldn't even look at it by then with their busy schedule. Also, this contractor has obtained building permits but not a Flood Development Permit. My local contact

put yellow tape around the steps to the deck.

CONSEQUENCES OF EXTENSION

If the Town were to extend the one year date on the Flood Development Permit to start after I had received a copy of it, that Permit could be used for the deck (with a modification to replace instead of repair the deck) rather than having to begin entirely over with a new Flood Development Permit application. Then I would need a Demolition Permit and a Building Permit.

If the BOT does not reinstate the Flood Development Permit, the house is under the floodway rather than a 100 year floodplain. Utilities have to be relocated and the value of the house decreases due to only having one level instead of two under the current Town of Lyons flood maps which place the house in the most restrictive floodway instead of a 100 year floodplain.

Theoretically the newly constructed 2nd Avenue bridge could result in some less restrictive flood remapping in a few years but that would be too late to save the basement level of this house and keep from having to relocate the utilities to upstairs and/or the attic.

CONCLUSION

I am asking that the time frame for repairing or removing the rear deck be extended to August 31, 2021, due to availability of a contractor. I am also asking that the Flood Development Permit be Extended for one year after I received a copy of the permit (on June 17, 2021), for two reasons: 1st) the world was in shutdown due to what I call the “pandemic pause” and 2nd) I was notified that my application for a Flood Development Permit had been approved AFTER it had already expired. An applicant should receive notice before the applicable time period begins.

It should be incumbent upon Town Staff to notify an applicant for a permit that the application has been approved or denied, a Flood Development permit or a Building Permit, I am asking that the Flood Development Permit be extended for one year proper notice has been given to me and that I received a copy of the Flood Development Permit. Also given the availability of contractors, I ask that I be given until August 31, 2021 to remove, repair or replace the deck.

Bonita Joy Yoder, June 17, 2021