

Appeal of denial of the Floodplain Permit for 216 S. Lahoma Avenue and requests that the Board of Adjustment:

1. **Reverse the denial**, or
2. **Grant relief** allowing the project to proceed under the non-conforming / substantial-improvement framework, or
3. **Direct staff to process the project through Floodplain review** with conditions, rather than deny outright.

## **BACKGROUND AND FACTS**

### **1. Pre-Existing, Lawful Structure**

- The residence at 216 S. Lahoma Avenue is a **lawfully established residential structure** that existed prior to current floodplain and zoning regulations.
- The structure has historically been recognized by the City as **non-conforming but lawful**.

### **2. Flood Events and City Direction**

- The property experienced flooding prior to and after the owner's acquisition (November 2022).
- In 2023, City staff advised that **any future work must comply with floodplain regulations** and that an updated engineering report would be required.
- The City also issued correspondence stating that **no work could occur until floodplain compliance was addressed**.

### **3. Good-Faith Reliance and Continuous Effort**

- Relying on City guidance, the owner:
  - Retained a licensed professional engineer (Gary Keen, PE),
  - Paid engineering and permit fees,
  - Prepared plans explicitly designed to **reduce floodplain impact**,
  - Worked continuously with City staff to resolve compliance issues.
- At no time did the owner express or demonstrate intent to abandon the use of the property.

### **4. Nature of the Proposed Work**

- The proposal:
  - Removes an existing flood-obstructive structure,
  - Removes non-compliant fencing,
  - Removes an accessory storage building,
  - Replaces the structure with a **FEMA-compliant elevated residence on piers**,
  - Results in **equal or reduced obstruction** to flood flows.
- The project **improves floodplain function**, not worsens it.

## **BASIS FOR APPEAL**

### **A. Non-Conforming Use Has NOT Been Abandoned**

#### **Norman Code §36-505**

- Abandonment of a non-conforming use requires **intent**.
- Vacancy alone, especially when caused by **flood damage and City restrictions**, does not constitute abandonment.
- The owner's actions demonstrate:
  - Continuous pursuit of permits,
  - Ongoing engagement with City staff,
  - Financial investment in compliance.
- Therefore, the non-conforming residential use **remains legally intact**.

### **B. Demolition Required for Compliance Should Not Eliminate Rights**

#### **Norman Code §36-508 (Restoration / Repair of Non-Conforming Structures)**

- The structure cannot be repaired or elevated safely without demolition due to:
  - Structural instability,
  - Sandy soils and shallow groundwater,
  - Flood damage.
- Demolition is a **necessary step to achieve FEMA compliance**, not a voluntary abandonment.
- Penalizing demolition required for public safety and flood mitigation defeats the purpose of the ordinance.

### **C. Project Qualifies as Substantial Improvement / Flood Mitigation**

#### **NFIP + Local Floodplain Ordinance**

- The project:
  - Raises finished floor elevation above BFE,
  - Uses open pier foundations,
  - Minimizes solid obstructions,
  - Improves conveyance of floodwaters.
- FEMA policy **encourages exactly this type of mitigation**.
- Treating this as prohibited "new construction" contradicts flood-risk reduction goals.

### **D. Hardship and Equity**

#### **BOA Authority**

- Strict application of zoning interpretation:
  - Prevents any reasonable use of the property,
  - Leaves the lot undevelopable,

- Imposes hardship not shared by neighboring properties.
- The hardship is **not self-created**; it arises from flood conditions and regulatory constraints.
- The Board has authority to grant relief where literal enforcement produces unjust results.

## **E. Public Interest and Policy Benefit**

Approving relief will:

- Reduce flood risk,
- Improve safety,
- Remove debris-catching structures,
- Improve neighborhood conditions,
- Return the property to productive use.

Denial leaves:

- A blighted, flood-damaged lot,
- Continued obstruction risks,
- No path forward.