

CITY BOARD OF ZONING APPEAL #22004

DATE SCHEDULED FOR PUBLIC HEARING:

August 26, 2022

ADDRESS: 240 North 33rd Street

LEGAL DESCRIPTION: Lot A-B, Folsoms Subdivision, Lincoln, Lancaster County, Nebraska.

EXISTING LAND USE AND ZONING:

Residential

R-4 Residential

SURROUNDING LAND USE AND ZONING:

North: Residential

R-4

South: Residential

R-4

East: Residential

R-4

West: Residential

R-4

TYPE(S) OF APPEAL(S):

THIS APPEAL IS DIRECTED TO THE BOARD RELATIVE TO A VARIANCE PER LINCOLN MUNICIPAL CODE 27.75.020(A).

1. Lincoln Municipal Code (LMC) Section 27.72.020(A) - In the R-4 zoning district the minimum lot area for a detached single-family dwelling is 5,000 square feet, and 2,500 square feet for attached single-family dwellings.

STAFF FINDINGS:

1. The subject property, Lot A-B, Folsoms Subdivision is addressed as 240 North 33rd Street. It is developed with one single-family dwelling.
2. The petitioner is proposing to replat and subsequently redevelop the property into four lots. Two of the lots are proposed to be 4,750 square feet in area, and two of the lots are 2,375 square feet in area. The petition is seeking a variance to the minimum lot area of the R-4 zoning district from 5,000 to 4,750 square feet for detached single-family dwellings, and from 2,500 to 2,375 square feet for attached single-family dwellings.
3. The site plan shows two lots intended for detached single-family dwellings that are 4,750 square feet in area, and two lots that are 2,375 square feet in area for two attached single-family dwellings. The total lot area of the parcel involved is 14,750 square feet, 750 square feet short of the total required for the dwelling types shown.

4. A 'duplex' is labeled for Lots 3 and 4, but to clarify definitions a duplex is not the same as attached single-family. A duplex is two dwelling units located on the same lot where they must remain under common ownership because they are located on a single lot and cannot be sold separately. Attached single-family dwellings are units which also share a common wall, but each dwelling unit is located on a separate lot and therefore can be sold and held under separate ownership.

Different building codes also apply to the different housing types, where attached single-family dwellings have separate water meters and sewer service – they are treated as separate single-family dwellings where a duplex isn't. Attached single-family dwellings are also commonly referred to as 'townhouses', but according to the Zoning Ordinance they are not. Townhouses are defined as three or more attached dwelling units.

5. At 14,750 square feet, the parcel is more than large enough to allow for four attached single-family dwellings (2,500 sq. ft. per unit x 4 = 10,000 sq. ft.) where each dwelling unit is located on its own lot and also enables separate ownership. In this scenario there are two pairs of attached single-family dwellings, with each pair sharing a common wall.
6. During the review of the petition, it was noted by the Lincoln Transportation and Utilities/Engineering Services Division that the property lacks water and sanitary sewer lines abutting all four proposed lots. This will require a non-abutting service agreement at the time of final plat to be developed as shown. Additionally, there is also a north-south sanitary sewer line on the eastern-most lot. It will likely require a 10 or 15'-wide utility easement where only a 5'-wide easement is shown, but this requires further investigation. This may impact the lot configuration and perhaps even this BZA request if reconfiguration is required.
7. The application notes that the variance is requested to 'provide a diversity of housing types and to respond more appropriately to the historic scale and rhythm of the surrounding neighborhood'. This property is located within a very large area zoned R-4, and any replatting and redevelopment has been done consistent with the R-4 requirements dating back to the adoption of the Zoning Ordinance in 1979. The R-4 zoning allows a duplex on one lot of 50 feet in width. There are many other duplexes in the neighborhood, so two attached units is consistent with the neighborhood character.

The minimum lot area requirements are designed to both allow for appropriate density while providing adequate area depending on the dwelling type. With the adoption of the Zoning Ordinance in 1979 attached single-family dwellings were not intended to require the same amount of area as a detached single-family dwelling. This is designed to both preserve the character of an area and to also provide an overall appropriate density with respect to dwelling units.

It is noted there are a few cases of smaller lots in the area. However, the vast majority of the lots in the neighborhood are 142' x 50' with 7,100 square feet of area. The smaller lots are the exception and don't create the development pattern for the neighborhood, the standard 7,100 square foot lots do.

8. There is no demonstrated hardship associated with this request. The petitioner is seeking to develop four dwelling units for separate ownership, something easily achievable with four attached single-family dwelling units consistent with the underlying zoning district. Nor is the petitioner denied a reasonable use of the land if the request is denied, as the property can be developed with same number of dwelling units if done consistent with the Zoning Ordinance.
9. Approving this request would in fact allow development which exceeds the maximum density allowed under the R-4 zoning district and would not be consistent with surrounding neighborhood. There are no unique circumstances associated with this property that justify a variance and development not compatible with the larger neighborhood and in compliance with the R-4 zoning district. While it may not be the petitioner's preference, redevelopment of the subject tract consistent with the R-4 zoning district is easily achievable without any exceptions or variances to the Zoning Ordinance. An owner's preference which does meet the requirements of the Zoning Ordinance is not a basis for granting a variance.
10. The Board of Zoning Appeals is authorized to grant this variance per Section 27.59.110 and Neb. Rev. Stat. Section 3-312. Specifically, it shall allow variances where a literal application or enforcement of the regulations would result in a practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of the regulations.

In this case, the Board's Original Jurisdiction - Powers Relative to Variances applies. The Board of Zoning Appeals is authorized, upon petition, to vary the strict application of the height, area, parking, density or sign requirements to the extent necessary to permit the owner a reasonable use of the land in those specified instances where there are peculiar, exceptional and unusual circumstances in connection with a specific parcel of land, which circumstances are not generally found within the locality or neighborhood concerned.

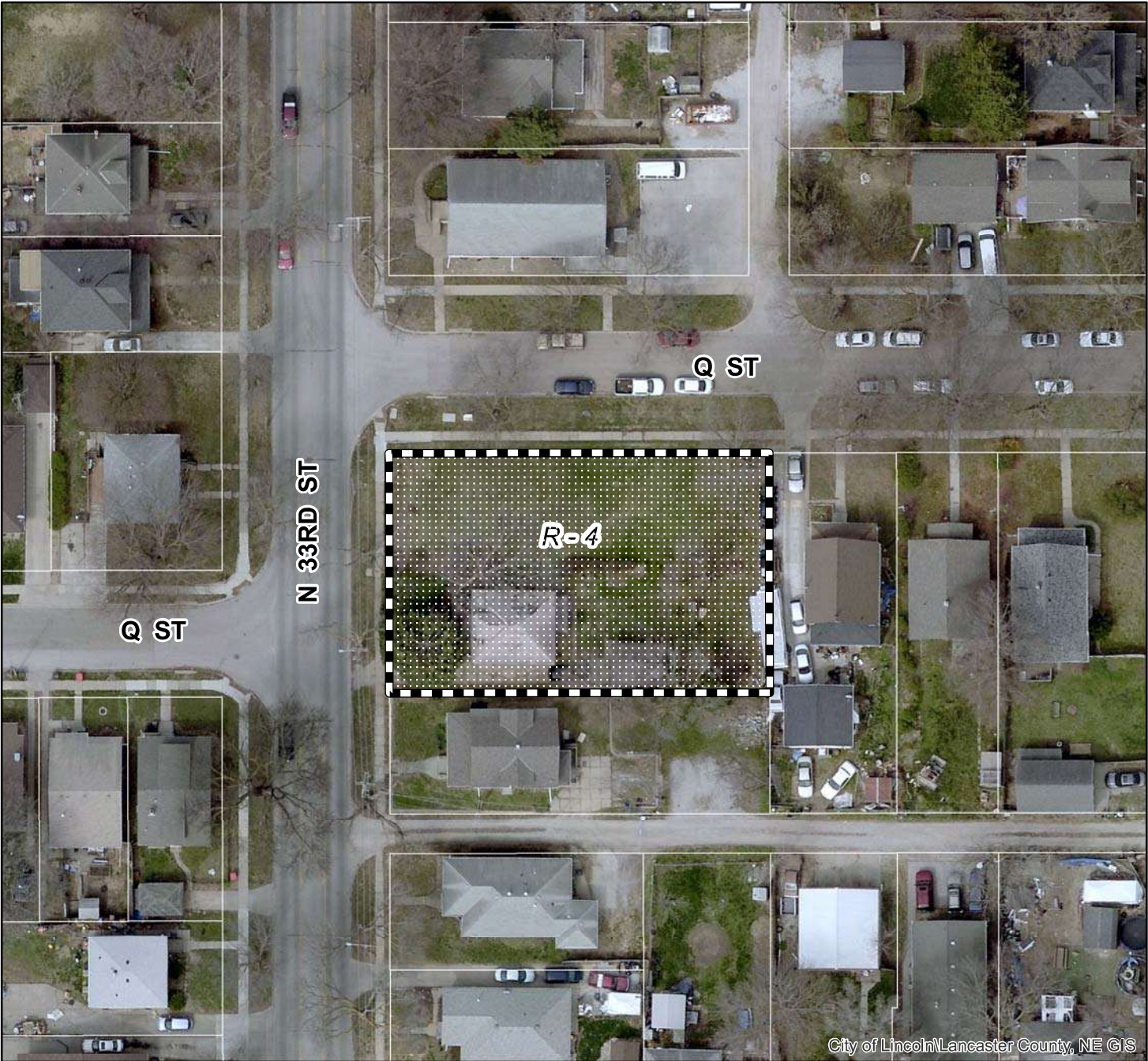
If the variance is approved the petitioner will be allowed to replat to build two detached single-family dwellings and two attached single-family dwellings on the property. If the variance is denied redevelopment must occur consistent with the requirements of the R-4 zoning district.

Prepared by

Brian Will, 441-6362, bwill@lincoln.ne.gov
Planner
August 17, 2022

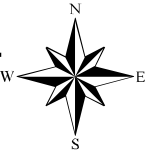
**APPLICANT/
CONTACT/
PETITIONER:**

Wayne Mortensen
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2530 Q Street
Lincoln, NE 68503
402-444-7181
Wayne.mortensen@nwlincoln.org



2020 aerial


Board of Zoning Appeals #: BZA22004
N 33rd St & Q St




Zoning:

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District


One Square Mile:
Sec.19 T10N R07E



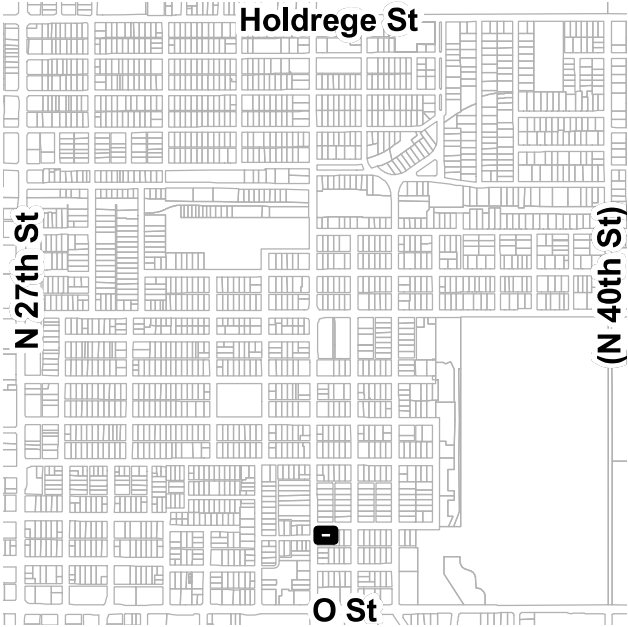
Area of Application



Zoning Jurisdiction Lines



Lancaster County Jurisdiction



ZONING INFORMATION:

SITE ADDRESS: 240 N 33RD STREET, LINCOLN, NE 68503
LEGAL DESCRIPTION: FOLSOMS SUBDIVISION, LOT A-8
PARCEL ID: 17-19-411-004-000
CURRENT ZONING: R-4 (RESIDENTIAL)

REVISIONS SCHEDULE		
MARK	DATE	DESCRIPTION

240 N 33RD STREET

PROJECT: 222403 DATE: 07/01/2022

DRAFT

SITE PLAN

A1.0

'Q' STREET

N 33RD STREET

2240 N 33RD STREET, LINCOLN, NE 68503
(FOLSOMS SUBDIVISION, LOT A-B)

1 ARCHITECTURAL SITE PLAN



July 8, 2022

Board of Zoning Appeals
City of Lincoln
555 S 10th St, Ste 213
Lincoln, NE 68508

Distinguished Board Members:

NeighborWorks Lincoln aspires to develop four (4) affordable housing units on a large parcel at 240 N 33rd Street (PPN: 17-19-411-004-000). The site is zoned R-4 and occupies the corner of N 33rd and 'Q' Streets. In the interest of providing a diversity of housing types and to respond more appropriately to the historic scale and rhythm of the surrounding neighborhood, NeighborWorks plans to construct two (2) detached single-family structures and one (1) two-family structure (duplex) on this parcel. We believe this approach will complement the context of the neighborhood and lessen any stigma associated with the affordable units (and their first-time owners). Attached, please find a schematic site plan illustrating the proposed replatting.

Current zoning would allow us to develop, by-right, two (2) two-family structures on the site, but disallows our approach due to minimum lot area requirements associated with the R-4 designation. Despite our proposed lot widths surpassing that required by LMC 27.72.020, each of the four lots are 5% shy of meeting minimum lot area requirements—the single family lots are 250SF shy or the 5,000SF minimum and the duplex parcels are 125SF shy of the required 2,500 SF threshold. NeighborWorks Lincoln has a long track record of designing home (and site) plans responsive to unique and nuanced infill sites and are confident that we will be able to construct homes that fit comfortably on these proposed lots and are assets to both their owners and the neighborhood. The designs for all four units will observe all required setbacks and requirements of the Neighborhood Design Standards and complement the scale and rhythm of their context.

We humbly request a waiver(s) to the minimum lot area requirements on this parcel to allow for the construction of four affordable homes. Per the advice of planning staff, we are aware of our ability to develop two (2) two-family structures without such a waiver, but feel this only further illustrates the fact that developing the parcel as proposed will have no negative impacts on neighborhood congestion or crowding (i.e. granting our request will not result in the parcel being developed to a unit density beyond what is currently allowed). The proposed project will ensure a diversity of housing types with more enduring value to the neighborhood and a broader array of homebuyers over the next several decades.

Thank you for your consideration in this matter and please let me know if I can provide any further information.

Best,

Wayne A. Mortensen, AIA
Chief Executive Officer



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