

MEETING RECORD

Advanced public notice of the City Board of Zoning Appeals meeting was posted on the County-City bulletin board and the Planning Department's website. In addition, a public notice was emailed to the Lincoln Journal Star for publication on Thursday, October 23, 2025.

NAME OF GROUP:	CITY BOARD OF ZONING APPEALS
DATE, TIME AND PLACE OF MEETING:	Friday, October 31, 2025, 1:30 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10 th Street, Lincoln, Nebraska
MEMBERS IN ATTENDANCE:	Annette McRoy, Steve Miller, and David Johnson. Cindy Ryman Yost and Lynn Sunderman absent. Tim Sieh of the Law Department; Terry Kathe, Steve Henrichsen, Ben Callahan, Curtis Hromas and Clara McCully of the Planning and Development Services Department; and other interested parties.
STATED PURPOSE OF MEETING:	Regular City Board of Zoning Appeals meeting.

Chair Miller called the meeting to order and acknowledged the Open Meetings Act posted at the back of the room.

Miller called for a motion approving the minutes of the City Board of Zoning Appeals hearing of June 27, 2025.

Motion for approval made by Johnson, seconded by McRoy, and carried 3:0; McRoy, Miller, and Johnson voting 'yes'; Ryman Yost and Sunderman absent.

BOARD OF ZONING APPEALS 25006

PUBLIC HEARING:

October 31, 2025

Members present: McRoy, Miller, and Johnson; Ryman Yost and Sunderman absent.

Ex parte communications:

There were no ex parte communications.

Appellant:

Paul Holt, appellant, 9637 St. Gregory Circle, came forward and was sworn in. He stated the

structure on his property was built in 1900 and had been used as a four-plex since the 1970s. Over the past two years, he has been working with the City to renovate and bring the property into compliance for use under the SODO program.

Staff questions:

No staff questions

Testimony in support, opposition or neutral:

No testimony

Applicant Rebuttal:

No applicant rebuttal.

Johnson moved to close the public hearing, seconded by McRoy, and carried 3:0; McRoy, Miller, and Johnson voting 'yes'; Ryman Yost and Sunderman absent.

APPEAL NO. 25006

ACTION BY THE CITY BOARD OF ZONING APPEALS:

October 31, 2025

Johnson moved to approve a variance reducing the minimum lot area per dwelling unit to 625 square feet and also reducing the minimum parking requirement to zero for the Property, seconded by McRoy, and carried 3:0; McRoy, Miller, and Johnson voting 'yes'; Ryman Yost and Sunderman absent.

BOARD OF ZONING APPEALS 25007

PUBLIC HEARING:

October 31, 2025

Members present: McRoy, Miller and Johnson; Ryman Yost, and Sunderman absent.

Ex parte communications:

Johnson had a conversation with Tom Huston, Diana Jacobsen, and Mark Jacobsen ten minutes before the hearing.

Appellant:

Michael Kusma of Hilgers Graben Law Firm, 14301 FNB Parkway, Suite 100, Omaha, Nebraska,

68154, representing OnCenter Construction, came forward and was sworn in. He stated the request was for a variance for a 2.8-inch rear and 4.8-inch south front corner setback reduction due to unique lot conditions and shape. He explained that the poured foundation slightly encroaches within the setback but remains entirely on the applicant's property.

Kusma explained that the foundation and walls were poured based on approved permits and verified surveys (Permit B2403284). A subsequent survey identified the variance issue after completion. The applicant has cooperated with the City throughout the process to resolve the discrepancy.

Support:

Andrew Page of Hilgers Graben Law Firm, 14301 FNB Parkway, Suite 100, Omaha, Nebraska, 68154, came forward and was sworn in. He stated the variance is technical in nature and does not impact adjacent properties or public welfare. The irregular, trapezoidal lot near Salt Creek made layout compliance difficult. Denying the variance would require costly demolition and reconstruction, resulting in greater neighborhood disruption.

McRoy asked for clarification about two defects.

Page stated the slab itself was compliant, but the foundation wall was identified as too close to the property line following a second survey.

Johnson inquired whether the first survey established the foundation position.

Page confirmed that it did, but communication issues between subcontractors led to the discrepancy.

Opposition:

Kami Sweeney, Dornan Law, 1403 Farnam Street, Suite 232, Omaha, Nebraska, 68102, came forward and was sworn in. She appeared representing Robert and Jessica Jensen, adjacent property owners. She stated her clients opposed the variance, asserting that the foundation was placed less than two inches from the required setback, in violation of the Lincoln Municipal Code. Sweeney argued that the contractor failed to obtain the required second survey before pouring the foundation, and granting the variance would reward carelessness and disregard for code. She had submitted a letter in opposition and referenced affidavits from surveyor Billy Joe Kerr, confirming that the error originated with the subcontractor who placed the wall too close to the property line.

Staff questions:

Curtis Hromas, Planning and Development Services, came forward and was sworn in. Hromas stated that the foundation and garage footings were approved but that additional footing inspections were denied later in the process. He confirmed that initial survey documentation may not have been properly filed but that the surveyor later indicated the walls were too close to the property line.

McRoy asked how often contractors fail to complete the required initial survey.

Hromas responded that it occasionally happens but that staff typically verifies compliance verbally before proceeding.

Appellant Rebuttal:

Page corrected his prior statement that the March 31 survey was correct but acknowledged a communication error between the surveyor and contractor.

Appellant questions:

McRoy asked how many homes the appellant builds annually.

Page stated 15-20 homes in Lincoln and the surrounding area.

Discussion:

Johnson stated he had reviewed the letters, visited the site, and observed no visible encroachment impacting the neighborhood. He noted that while the process was flawed, the encroachment was minimal and the ramifications of denial outweighed approval.

McRoy expressed concern that the survey requirement was not properly followed but considered the issue primarily technical and outside the Board's jurisdiction for enforcement.

Johnson and McRoy both expressed disappointment with the procedural missteps but agreed the variance met the Board's criteria.

McRoy moved to close the public hearing, seconded by Johnson, and carried 3:0; McRoy, Miller, and Johnson voting 'yes'; Ryman Yost and Sunderman absent.

APPEAL NO. 25007

ACTION BY THE CITY BOARD OF ZONING APPEALS:

October 31, 2025

Johnson moved to approve a variance to reduce the side yard setback to 4'7" at the southwest corner of the main structure and 4'9" at the southeast corner of the main structure and along a line extending between such points, as outlined in the application and as shown by the testimony at the public hearing, seconded by McRoy, and carried 3:0; McRoy, Miller, and Johnson voting 'yes'; Ryman Yost and Sunderman absent.

Adjourned 2:20 pm

Note: These minutes will not be formally approved by the City Board of Zoning Appeals until their next regular meeting.