

City of Lincoln

BOARD OF ZONING APPEALS

AGENDA

BOARD OF ZONING APPEALS

Steve Miller, Chair
David Johnson
Vickie McDonald
Annette McRoy
Cindy Ryman Yost

February 23, 2024

CITY BOARD OF ZONING APPEALS

Notice is hereby given that the **CITY BOARD OF ZONING APPEALS** will hold a regular meeting on **Friday, February 23, 2024**, at **01:30 p.m.** in the **City Council Chambers** on the 1st Floor of the County-City Building, 555 South 10th Street, on the following item. For more information, please contact the Planning Department at (402) 441-7491.

AGENDA

February 23, 2024

1. Approval of the minutes of the City Board of Zoning Appeals hearing, held August 25, 2023.
2. Election of Vice Chair

ADMINISTRATIVE ACTION

3. BOARD OF ZONING APPEALS 24001, a request for a variance to Lincoln Municipal Code 27.69.040, to allow a freestanding sign in excess of the maximum allowed height of 25' when located outside the required front yard, on property generally located at 1140 Calvert Street.

* * * * *

The City Board of Zoning Appeals agenda may be accessed on the Internet at

<http://www.lincoln.ne.gov/city/plan/boards/cibza/cibza.htm>

ACCOMMODATION NOTICE

The City of Lincoln complies with Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973 guidelines. Ensuring the public's access to and participating in public meetings is a priority for the City of Lincoln. In the event you are in need of a reasonable accommodation in order to attend or participate in a public meeting conducted by the City of Lincoln, please contact the Director of Equity and Diversity, Lincoln Commission on Human Rights, at 402 441-7624 as soon as possible before the scheduled meeting date in order to make your request.

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 Friday, August 11, 2023.

NAME OF GROUP:**CITY BOARD OF ZONING APPEALS****DATE, TIME AND
PLACE OF MEETING:**

Friday, August 25, 1:30 p.m., City Council Chambers,
First Floor, County-City Building, 555 S. 10th Street, Lincoln,
Nebraska

**MEMBERS IN
ATTENDANCE:**

Annette McRoy, Tracy Edgerton, Steve Miller, and Vickie McDonald; David Johnson absent. Tim Sieh of the Law Department; Ron Rehtus of the Building and Safety Department; Steve Henrichsen, Brian Will and Clara McCully of the Planning Department; and other interested parties.

**STATED PURPOSE
OF MEETING:**

Regular City Board of Zoning Appeals meeting.

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

McRoy called for a motion to nominate a Chair.

Edgerton moved to nominate Miller as chair, seconded by McDonald and carried 4-0; McRoy, Edgerton, Miller and McDonald voting yes; Johnson absent.

Chair Miller called for a motion to nominate a Vice Chair.

McDonald moved to nominate Edgerton as Vice Chair, seconded by McRoy and carried 4-0; McRoy, Edgerton, Miller and McDonald voting yes; Johnson absent.

Miller called for a motion approving the minutes of the City Board of Zoning Appeals hearing of July 25, 2023.

Motion for approval made by Edgerton, seconded by McRoy and carried 4-0: McRoy, Edgerton, Miller and McDonald voting yes; Johnson absent.

BOARD OF ZONING APPEALS 23006, BY MIKE EASTMAN FOR A VARIANCE TO THE REQUIRED SIDE YARD SETBACK, ON PROPERTY GENERALLY LOCATED AT 329 NORTH 36TH STREET.

PUBLIC HEARING:

August 25, 2023

There were no ex parte communications disclosed.

Applicant:

Mike Eastman, applicant, 5331 Rockford Drive, Omaha, NE, 68521: The entries to the house are on the south and north. The house runs east and west. There's a double driveway with two single garages and the unit is set up where the main entrance is to the south and the back entrance is to the north. He was told at one point five feet of property was sold on the north side. At one point, they had seven feet of setback and now they have two feet of setback. On the south side, he can make the entrance narrower, and it will get the five feet of clearance needed on the side yard on the south side of the property. He is asking for a setback variance on the north side. The entrance is currently 36 inches, and he can't get it much narrower, otherwise, people won't be able to get in and out once he gets the railing on it.

Edgerton asked if they are reconstructing the entrance and egress.

Eastman stated that is correct. There are existing decks and entrances there now. He did not construct them. The homeowners hired him to get them up to code.

Edgerton asked if the ingress and egress that are there currently are already in the setback.

Eastman confirmed on both sides, they are currently in the setback. The deck on the south side is currently 6.5 feet wide. If we move it to 4.5 feet wide, that will give them room to get furniture in and out and still get up and down the stairs. The north side is tight. It's close to the property line.

Edgerton asked if the primary entrance is in the south, and the secondary one is in the north.

Eastman confirmed.

Miller asked how long the existing steps have been there.

Eastman stated the current steps have been there for 25 to 30 years based on the wood condition.

Miller asked if there was any other way to access the north side or to find any other egress.

Eastman said there is no good way other than how it is now. It wasn't an issue before the 5 feet were sold off.

Staff questions:

Brian Will, Planning Department, 555 South 10th Street, stated there is a point of clarification. The lot lost ten feet, not five feet. If this lot is lined up with the lot to the west, it has a ten-foot jog. All of the lots throughout the block are uniform— 50' by 142'. The property to the north, a duplex, was built in 1910. Sometime between when the subdivision was platted and prior to building the duplex, the ten feet were sold off. Also, on the street side, there are two garages on the ground level facing the street with a significant slope coming up, moving to the west. The primary entrance and exit is on the south side. He doesn't know how else to create a way to get in and out of this building other than with the stairs and decks that were constructed, which would date back to the original dwelling itself.

Miller asked if the structure has been over 40 years.

Will confirmed. He believes these facilities were built with the original dwelling and they are not shown on the building permit, but he assumes there was an inspection, and the building permit was approved. This has been the primary entrance from the very beginning.

Miller asked if the Planning Department had received any comments or complaints from surrounding property owners.

Will stated they have all been notified but he didn't receive any calls.

Edgerton asked if the building code requires an ingress and egress.

Will stated yes, there must be more than one way in and out of the building.

McRoy asked if the final inspection was in 1979 and it didn't mention any stairs or landing at that time so was it added after 1979.

Will stated he thinks they were part of the original building. They're just not shown on the plans on the building permit, but without them, there's no way to get into the building. He believes it was an error of omission on the building permit and site inspection.

Applicant Rebuttal:

None

APPEAL NO. 23006

ACTION BY THE CITY BOARD OF ZONING APPEALS:

August 25, 2023

Edgerton moved to approve a variance to the required side yard setback, seconded by McRoy and carried 4-0: McRoy, Edgerton, Miller and McDonald voting yes; Johnson absent.

BOARD OF ZONING APPEALS 23007, BY DAN HEMINGER, FOR A VARIANCE TO THE REQUIRED REAR YARD SETBACK, ON PROPERTY GENERALLY LOCATED AT 5036 BUNKER HILL ROAD.

PUBLIC HEARING:

August 25, 2023

There were no ex parte communications disclosed.

Applicant:

Dan Heminger, 8032 Maple Street, Omaha, NE 68134, stated he is here on behalf of Poloceks and ABC Seamless. The sunroom on the back of the property is eight feet, four inches in the setback. The building was erected without a permit. They did not have a preexisting sunroom, just a concrete patio.

McDonald asked if the room was already built.

Heminger confirmed the room is already built. There is no issue with the neighbors. It's next to two corner lots. Those lots are closer together than this room is to the property line. It's 11 feet, 8.25 inches off the property line.

Miller asked when the sunroom was built.

Heminger stated it was built in 2022.

Miller asked if the applicant had been talking to staff.

Heminger stated he has been talking to staff. The only thing that doesn't pass the code is the setback and the neighbors have no issues.

McRoy asked if staff had pulled the proper building permit, would the room have been permitted to be built.

Heminger stated the building permit would be denied due to the setback.

McRoy asked if they had changed their process because of this oversight.

Heminger stated there is no change just process, a step in the current process had been skipped. They would order the product after they get the permits.

Edgerton asked if the building permit was denied at the time, did he have another product that would have fit within the setback.

Heminger stated he would have given them other options, such as a patio cover.

Staff questions:

Miller asked how this code violation was discovered.

Brian Will, Planning Department, 555 South 10th Street, stated he received a call from Building and Safety. Once they were referred to Planning, he started talking to Mr. Hemminger about the process.

Miller asked if the Planning Department received any complaints.

Will stated the Planning Department notified surrounding property owners within 200 feet. He received calls from two neighbors requesting information, but not in opposition.

Miller asked if there are any public safety concerns such as in the case of fire or other emergency services.

Will stated he hasn't heard of other issues. The structure encroaches into the rear yard setback. There are 37 other interior lots on the block and all appear to meet zoning setbacks. There are accessory buildings in rear yards that are allowed. He doesn't see any other additions in the block that protrude into the rear yard.

McRoy asked if there is a way that they can get past inspection though it's encroaching if the Board grants a variance.

Will stated the building permit was denied because of the setback. It meets all other requirements for the building permit. If the setback is approved, they may otherwise meet all requirements for a building permit.

McRoy asked if this request for variance meets the stated provisions for this board. It's not unusual, one of a kind, or hardship.

Will stated the opinion from staff is there is no unique circumstance. This lot is like most of the other lots on the block and the others appear to meet setback requirements. There is no denial of reasonable use for the property because even without the sunroom, there's still a single-family dwelling in a single-family residential zoning district. There is reasonable use and benefit of the property by virtue of the fact the owner has a house there. There's nothing peculiar about this property, unique or exceptional in any other regard. An addition was constructed without a building permit. This happens every year. In similar situations, he tells the applicant this is a self-imposed hardship caused by the applicant's action contrary to the ordinance and it doesn't meet the test for the Board of Zoning Appeals. They will make the structure come into compliance. Without the variance, the sunroom must go.

Applicant Rebuttal:

Heminger stated there are a lot of people who don't pull building permits and he wants to do what takes to make this right. A competitor may have called Building and Safety. He doesn't think it was a neighbor who called it in. This is not in the middle of the block. The only reason for this code is so neighbors don't live on top of each other. The neighbors haven't complained. This is an oddity. The corner lots on the block are closer together than this sunroom is to the property line. The difference is that this property is right next to the corner lot. This doesn't affect anyone but the decision here today.

Darryl Polocek, property owner, 5036 Bunker Hill Road, stated he was the one who requested the permit when ABC presented them with the bill. He asked for a copy of the permit for his own files, which is how it was discovered a permit wasn't pulled. He came into the City offices and talked to several people. He is trying to get this settled. He and his wife requested that an appeal be made to the Board.

McDonald asked when the sunroom was finished.

Polocek stated the sunroom was finished April 2022 and construction started around December 2021 or January 2022.

Miller stated this is not a special circumstance. He can see from street view, it is visible in the side yard. He struggled with a way to make this work, but it sets a bad precedent for other cases.

Edgerton stated it's an honest mistake by a reputable builder and homeowners who are trying to do right. The standards for this board in granting a variance if the application and enforcement results in impracticality, difficult or extreme hardship, extraordinary or unusual circumstances of permitting reasonable use of the land. She doesn't see that in this case. She is worried about how to make the call if it's right next to the corner lot if two lots in or if 20 lots into the block is ok. The rules are there to encourage there to be a black-and-white case of what's allowed and what isn't. Granting this variance would be allowing a message that folks don't need to come in and get a building permit before they do projects. This is certainly something that, as a community, we have decided to put importance on which is why she is voting against it.

McDonald stated she is voting to grant the variance, as it is a hardship for the homeowner to tear the structure down. Every situation that comes to the zoning board meets its own standard. The Board has to look at each property in and of itself.

Edgerton stated this case is distinguishable from the case heard earlier today, BZA23006, in terms of ingress and egress being the issues and accessing the property. The length of time that had been in place and they were trying to rebuild it to make it safe. That made it distinguishable for her why she is voting differently in the current case.

McRoy stated she commends homeowners for wanting the building permit, and realizing it didn't exist, to go through the process to make things right. She does not see the corner lots or locations within the subdivision having much to do with the decision, it is irrelevant. If the Board does deny this remedy, there are other options. They may build a covered patio, which is not as nice as an all-weather sunroom, but they can improve it from the original concrete slab.

APPEAL NO. 23007

ACTION BY THE CITY BOARD OF ZONING APPEALS:

August 25, 2023

Edgerton moved to deny a variance to the required rear yard setback, seconded by McRoy and carried 3-1: McRoy, Edgerton and Miller voting yes voting 'yes'; McDonald voting "no"; Jonhson absent.

There being no further business, the meeting was adjourned at 2:13 p.m.

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

CITY BOARD OF ZONING APPEAL #24001

DATE SCHEDULED FOR PUBLIC HEARING:

February 23, 2024

ADDRESS: 1140 Calvert Street

LEGAL DESCRIPTION: The West 79' of Lots 4-6, and Lots 7-9 except the West 50', all in Block 5, Southview, located in the NE 1/4 of Section, 02-09-06, Lancaster County, Nebraska

EXISTING LAND USE AND ZONING:

Commercial

H-3 Highway Commercial

SURROUNDING LAND USE AND ZONING:

North:	Commercial	B-1, H-3
South:	US Post Office\	B-2
East:	Multiple-family Residential	B-1
West:	Commercial	H-3

TYPE(S) OF APPEAL(S):

THIS APPEAL IS DIRECTED TO THE BOARD RELATIVE TO A VARIANCE PER LINCOLN MUNICIPAL CODE 27.69.040(Table 3).

1. Lincoln Municipal Code (LMC) Section 27.69.040(Table 3) - In the H-3 zoning district freestanding signs are limited to a maximum height of 25' and 100 square feet of sign area when located outside the required 20' front yard setback. This request seeks a variance to increase the required height limit from 25' to 65' for a freestanding sign.

STAFF FINDINGS:

1. The subject property is located at 1140 Calvert Street. The property is developed with a two-story hotel and associated parking lot surrounding the building. According to the Lancaster County Assessor, it is a 47-unit hotel that was built in 1987.
2. The subject property upon which the hotel is located is a combination of portions of 6 lots comprising one larger, rectangular tract of approximately 52,000 square feet in area. The tract is rectangular and not unusually shaped. It is adjacent to commercial zoning in all directions occupied by commercial uses to the west and north, and apartments to the east and the US Post Office to the south across Calvert Street.

3. The petitioner is requesting a variance to the allowed maximum height for a freestanding sign from 25' to 65'. Zoned H-3 Highway Commercial, the applicable sign regulations are as follows:

Sign Type	# of Permitted Signs	Max Height Inside Front Yard	Max. Height Outside Front Yard
Freestanding	1 per business per frontage	50 sq. ft. sign area up to 15' tall	100 sq. ft. sign area up to 25' tall
	OR		
Center	1 per frontage	N/A	150 sq. ft. sign area up to 35' tall
	AND		
Interstate (only if within 660' of interstate)	1	150 sq. ft sign area up to 15' tall	300 sq. ft. sign area up to 80' tall

4. The application states there is a 55'-tall sign pole on the property today, which at some point had a sign at the top resulting in a maximum height of 65'. The sign permit history for the property includes a 50'-tall sign was approved by permit #S9800363 in 1998. In 2008 sign permit #S0800106 was approved allowing the sign face to be replaced.
5. Most recently the owner contacted Building and Safety about replacing the sign but was told it was not possible. The applicant was informed that since 2009 the 50'-tall sign was considered nonconforming, but since the sign was removed more than two years ago that status is lost. It became nonconforming when the sign code was amended in 2009 and the maximum allowed freestanding sign height in the H-3 zoning district was lowered from 50' to 25' as part of a larger overhaul of the sign code.

Lincoln Municipal Code (LMC) 27.69.320 allows face changes on nonconforming signs. However, LMC also states that once a use has been discontinued for more than two years it is no longer nonconforming and any subsequent use must comply with the requirements of the Zoning Ordinance. The sign has been gone from the pole for more than two years so the nonconforming status was lost, and the new sign must conform to code requirements in effect today.

6. In 1988 the owner of the property at that time applied to the Board of Zoning Appeals for BZA#1732 to exceed the allowed sign height. That request sought a variance to the maximum height from 35' to 50'. Prior to the 1979 zoning update, the maximum sign height was 35'. This was approximately the same time the hotel was built according to the County Assessor's records. By a unanimous vote the Board denied the variance request.

7. The current Zoning Ordinance was adopted in 1979 where the maximum allowed height for a sign in the H-3 zoning district was increased from 35' to 50'. However, the applicant states the pole is 55' tall and had a sign on top of that for a maximum height of 65'. A 65'-tall sign was not allowed in the H-3 zoning district at this location since the adoption of the updated zoning ordinance in 1979, and a variance to the maximum height was never granted.
8. The appellant states the 'request for a variance is based upon exceptional and extraordinary circumstances whereby a locally owned business is unable to adequately advertise the existence and location of its business.' There is nothing extraordinary or unique about this location as there are many businesses around the city located mid-block and not fronting onto a major street. The status as a locally owned business is not unique and is not a consideration in the adoption or implementation of zoning regulations.
9. Appellant states that the 'strict application of the zoning regulations would produce an undue hardship given there is no other reasonable method to advertise the location of the business.' It is noted that a 25'-tall sign is still allowed and is very visible, and wall signs are allowed as well. The role technology plays today in locating businesses continues to diminish the need for sign visibility from great distances.

The hardship is entirely self-imposed as a sign which complies with the requirements of the Zoning Ordinance can be permitted and erected. The fact that the allowed sign is not as tall as the appellant desires is not a hardship.

Further, the appellant is not denied a reasonable use of the land as it is developed with a hotel, a permitted use in the H-3 zoning district which is allowed to continue. A freestanding sign is also allowed, albeit one which complies with the Zoning Ordinance. These would be the identical conditions under which any other owner seeking to use the property would face.

10. The purpose of defining 'nonconforming uses' in the Zoning Ordinance is to allow uses which were legally created to continue should the applicable zoning regulations change. As a result, property owners are not required to make changes to comply simply because the regulations have changed.

However, at such time as the use ceases to exist for more than two years then subsequent development must comply with the current codes. The effect of defining nonconforming uses provides a 'grace period' for owners with respect to complying with changed regulations, but the overall intent is for nonconforming development to eventually come into compliance with current zoning regulations.

11. The property, building and location are all typical with no unique characteristics and there is no hardship. Complying with the current sign code is the expectation for anyone applying to Building and Safety for a sign permit today.
12. 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.

13. There is nothing unique or unusual about this property and the development otherwise can meet the requirements of the Zoning Ordinance.

Denying the variance does not deny the owner a reasonable use of the property as the hotel can remain as originally constructed, and a sign which complies with the Zoning Ordinance can be erected. A hotel and a sign are permitted uses in the H-3 zoning district.

This petition is without justification. Granting this variance would serve as a basis for those seeking relief from the BZA instead of coming into compliance with the Ordinance.

If the variance is approved the sign permit can be issued for a sign 65' in height provided the appellant obtains a building permit and passes inspections. If denied the new sign can be permitted in compliance with the Zoning Ordinance.

Prepared by

Brian Will, 441-6362, bwill@lincoln.ne.gov

Planner

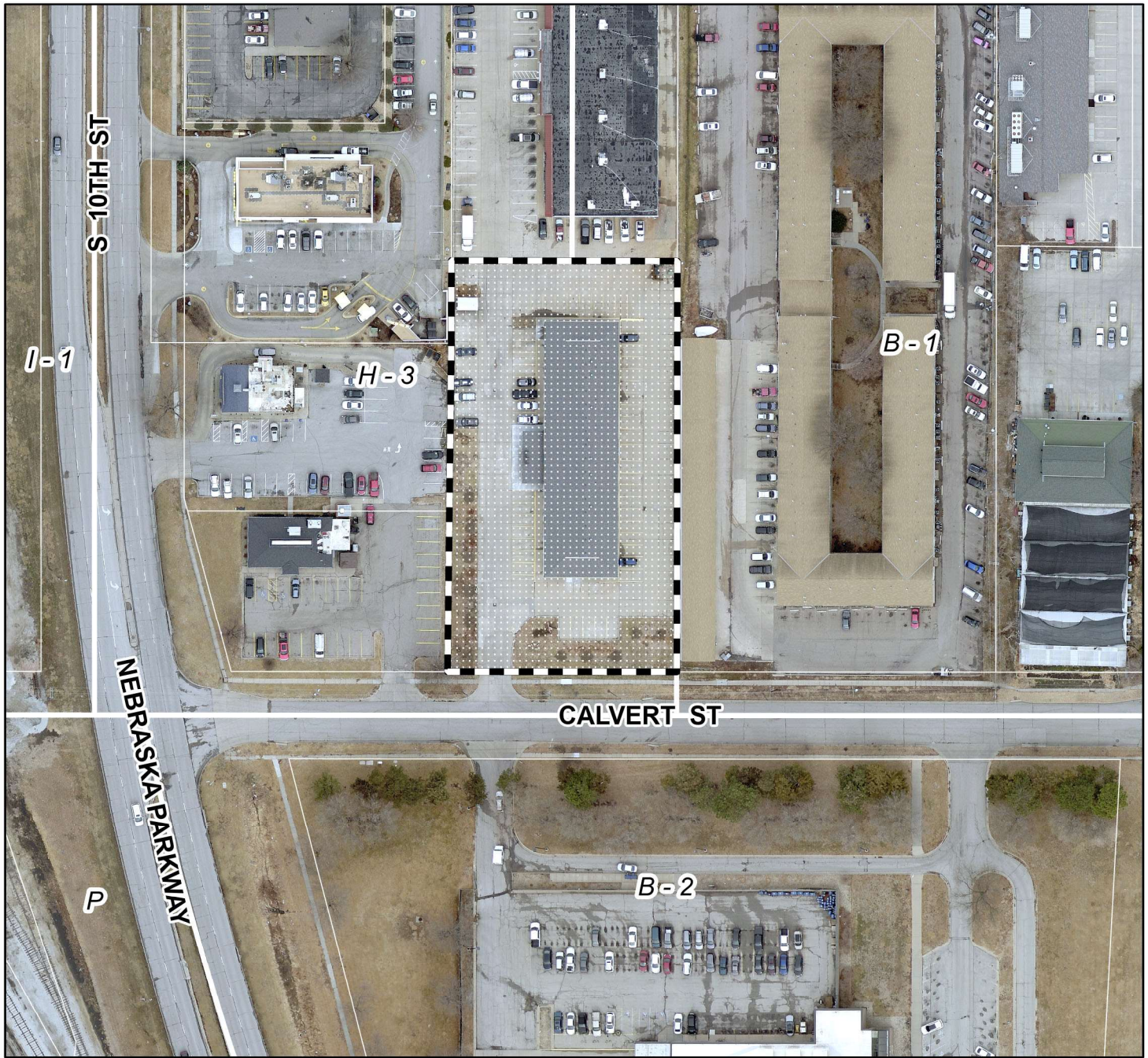
February 13, 2024

**PETITIONER/
CONTACT:**

Liam Wakeman
4200 West Milton
Lincoln, NE 68528
402-802-4213
pm2@futuresone.com

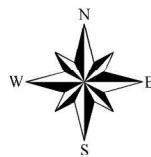
OWNER:

Lincoln Inn Hotel, LLC
700 R Street, Suite 313
Lincoln, NE 68508
402-304-0200
pm2@futuresone.com



2020 aerial

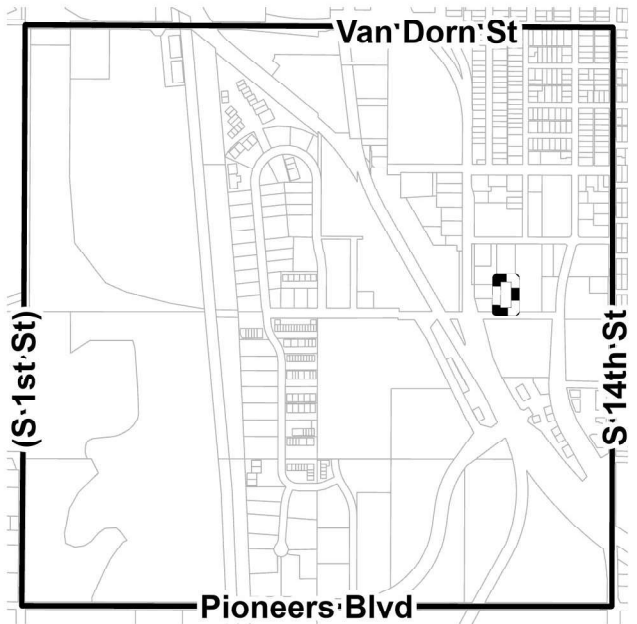
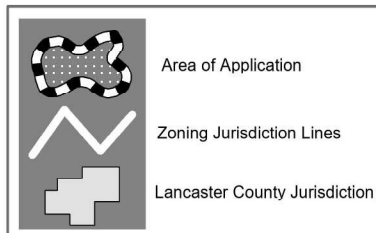
Board of Zoning Appeals #: BZA24001 S 10th St & Calvert



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.02 T09N R06E





APPROX 75'

APPROX 36'

SIGN LOCATION

1140

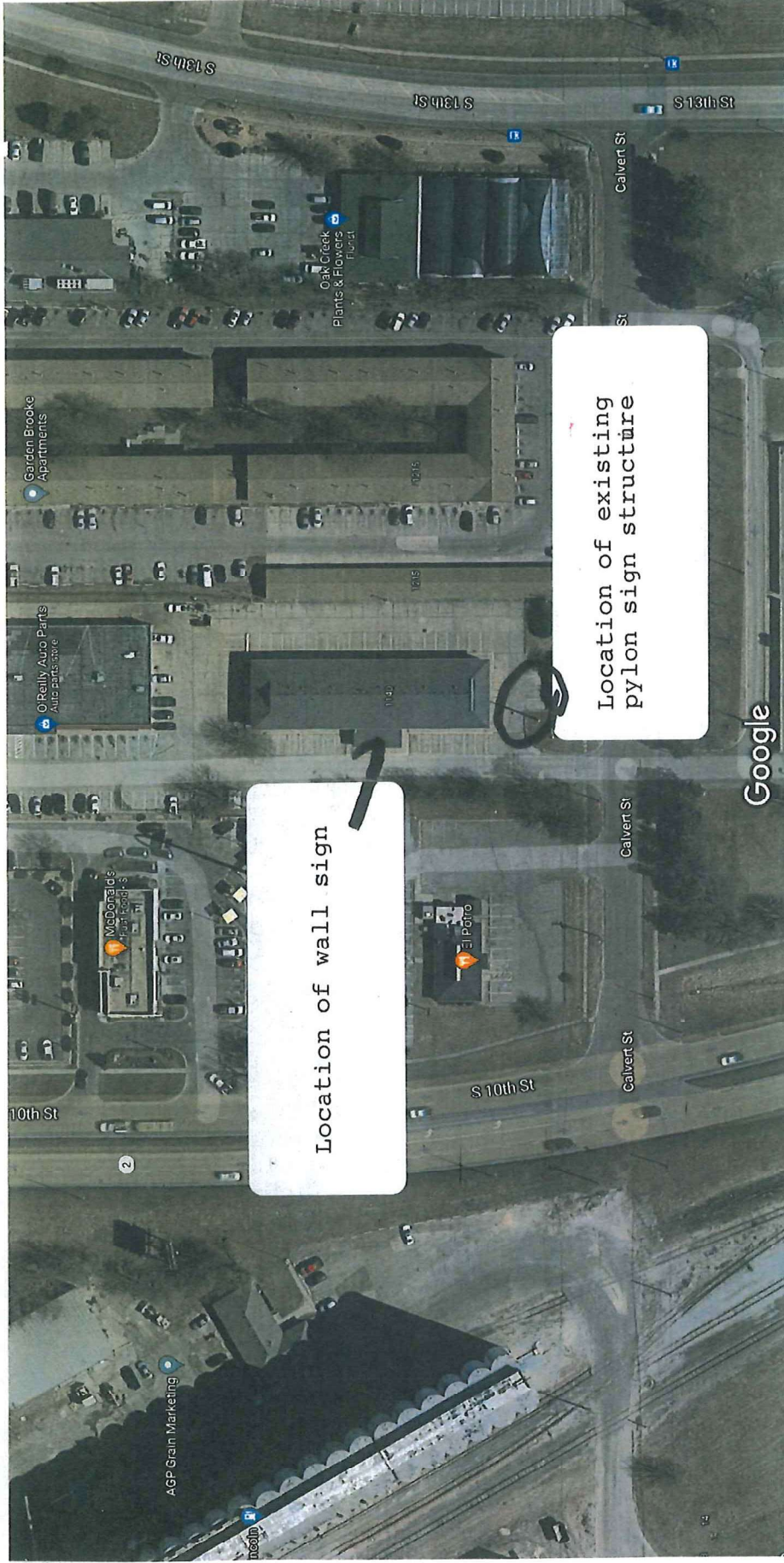
2002

2020

2020



Lincoln Lane



Building & Safety Department
City of Lincoln - Lancaster County
Room 203, 555 S 10TH ST., Lincoln, NE 68508-3995

SIGN PERMIT

Inspection Line 441-8213
For Technical Questions,
Call Plan Reviewers at 441-7882 - 8:00 a.m. to 4:00 p.m.
Call Building Inspectors at 441-7061

*6609
Days Inn*

NEBRASKA NEON SIGN CO
1140 N 21ST ST
LINCOLN, NE
68503

Permission is hereby granted to construct the following stationary sign as described per application and listed hereon:

PERMIT #: S0800106
STATUS: ISSUED

APPLIED: 02/28/2008
APPROVED: 03/07/2008
ISSUED: 03/13/2008
FINALED:
TO EXPIRE: 07/11/2008

JOB ADDRESS: 1140 CALVERT ST L

LEGAL DESC: SOUTH VIEW, BLOCK 5, W79' LOTS, 4, 5 & 6 & LOTS 7, 8 & 9 EX
OWNER: DAYS INN

WORK DESCRIPTION: FACE CHANGE ILLUMINATED POLE SIGN, 46" X 17' & 9'5 1/2" x 5' = 100 SQ FT, HEIGHT = 65', DAYS INN

Zoning: H-3 Setback: 20'
Sign Size: 46'x17' + 9-5x5'
Sign Height: 65'
Total Area(SQ FT): 100 SF

DESCRIPTION	TOT FEE	PAID
Face Change	15.00	15.00
	TOTAL FEES:	\$15.00

TOTAL PAYMENT: \$15.00
BALANCE DUE: \$0.00



SAFETY DEPT.
THIS APPROVED DRAWING
SHALL BE KEPT ON THE
CONSTRUCTION PREMISES
AT ALL TIMES DURING
WHICH THE WORK AUTH-
ORIZED IS IN PROGRESS
AND SHALL BE OPEN TO
INSPECTION BY PUBLIC
OFFICIALS.

DATE 3-11-08

REVIEWER BAC

PERMIT # 50800106

On Behalf of Lincoln Inn Hotel, L.L.C.
1140 Calvert St.
Lincoln, NE 68502
01/03/2023

City of Lincoln Planning Department
555 S 10th St., Ste 213
Lincoln, NE 68508

RE: Planning Department Application Request for Variance of Sign Height

Lincoln Inn Hotel, L.L.C. is requesting a variance to Lincoln Municipal Code § 27.69.040 Table 3. Specifically, a variance to the requirement that Freestanding Signs within Zoning District H-3, must not be more than 25 ft. tall when placed outside the front yard.

Background:

Lincoln Inn Hotel, L.L.C. (the "Hotel") is operating as a Travelodge by Wyndam at 1140 Calvert St. which is located approximately 100 yards to the West from Nebraska Parkway. Several businesses separate the Hotel from Nebraska Parkway; including, McDonalds, Long John Silvers, and El Potro. The McDonald's business has two signs that are outside the allowed height and make it more difficult for passerbys to view the Hotel's signage unless it is allowed a variance.

The Hotel has a pole on the south side of the property with a height of approximately 55 ft. Historically, this pole held an illuminated Days Inn hotel sign and sign cabinet. The face change permit was issued on March 13, 2008, providing for a 100 sq. ft. sign with a height of 65 ft.

The Hotel purchased 1140 Calvert St. On April 14, 2021. The business has invested over \$1,000,000 in the purchase and improvements to the property. At this point, the Hotel proceeded to remodel the premises and pursued buying a new sign and sign cabinet to mount to the existing pole unaware that there was a time requirement for face change permits or the existing height restriction on signs within Zoning District H-3. The Hotel is no longer able to pursue obtaining a Face Change Permit due to the fact that sign cabinet is no longer attached to the top of the pole and therefore seeks to obtain a variance in order to utilize the existing sign pole to advertise its business.

The Hotel believes that this variance will aid the City of Lincoln in its goal of redeveloping and improving the area located to the North and West of the property at 1140 Calvert St. This improvement of 1140 Calvert St. will be in line with the City's goal of improving the substandard and blighted areas surrounding the property pursuant to Resolution No. A-93742. Overall, the

Hotel is a locally owned small business that caters to the needs of the Lincoln community and has increased the value of its property and the properties located nearby through its improvements.

Further, the Hotel believes that its request for a variance is based upon exceptional and extraordinary circumstances whereby a locally owned small business is unable to adequately advertise the existence and location of its business. A sign remaining within the standards of Lincoln Municipal Code § 27.69.040 Table 3 would not be visible to vehicles traveling along Nebraska Parkway. However, a taller sign, such as one allowed through this variance, would grant the Hotel the ability to advertise to passerbys along Nebraska Parkway.

A strict application of the zoning sign regulation would produce undue hardship in this circumstance because there is no other reasonable method to advertise the location of this business given that it is located behind other businesses with signs that are likely variances to Lincoln Municipal Code § 27.69.040 Table 3. Given the nature of the location of this business, the hardship is not shared by others in the same zoning district and vicinity. Further, the approval of this variance will very likely not produce a substantial detriment to the adjacent properties. Instead, this variance will very likely generate increased business to businesses in the vicinity. The approval of this variance is based upon reason of demonstrable and exceptional hardship as distinguished from variation for purpose of convenience, profit or caprice.

For the foregoing reasons the Hotel believes it should be granted a variance for sign height, allowing it mount a sign cabinet on the existing sign pole and maintain a permitted freestanding sign with a maximum height to grade of 65' and less than or equal to 100 square feet as allowed under § 27.69.040 Table 3.

Sincerely,

Liam Wakeman

On Behalf of Lincoln Inn Hotel, L.L.C.

Enclosure

City of Lincoln - Planning Department Request Form

Site Maps

Sign Permit #S0800106