

City of Lincoln

BOARD OF ZONING APPEALS
AGENDA

BOARD OF ZONING APPEALS

Steve Miller, Chair
David Johnson
Lynn Sunderman
Annette McRoy
Cindy Ryman Yost

January 30, 2026

CITY BOARD OF ZONING APPEALS

Notice is hereby given that the **CITY BOARD OF ZONING APPEALS** will hold a regular meeting on **Friday, January 30 2026** at **1:30 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

January 30, 2026

1. Approval of the minutes of the City Board of Zoning Appeals hearing, held [October 31, 2025](#).

ADMINISTRATIVE ACTION

2. [BOARD OF ZONING APPEALS 25008](#), requested for a variance to reduce the average lot width, on property generally located at 1400 Arbor Road. [More information](#)

* * * * *

The City Board of Zoning Appeals agenda may be accessed on the Internet at <https://www.lincoln.ne.gov/City/Departments/PDS/Planning/Boards-and-Commissions/City-Board-of-Zoning-Appeals>

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 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.



CITY BOARD OF ZONING APPEAL #25008

DATE: January 16, 2026

DATE SCHEDULED FOR PUBLIC HEARING: January 30, 2026

LOCATION: Generally located at the northeast corner of N 14th Street & Arbor Road.

ADDRESS: 1400 Arbor Road

LEGAL DESCRIPTION: Lot 56 Irregular Tract, located in NW 1/4 of Section 25, Township 11, Range 6, Lancaster County, Nebraska.

APPLICANT: Joel & Renee Dee Heusinger

LOT AREA: 20.32 acres, more or less

ZONING: AG, Agriculture

EXISTING LAND USE: Farmland

SURROUNDING LAND USE AND ZONING:

North: Farmland	AG, Agriculture
South: Single Family Dwelling	AG, Agriculture
East: Single Family Dwelling / Farmland	AG, Agriculture
West: Farmland	AG, Agriculture

TYPE OF APPEAL:

THIS APPEAL IS DIRECTED TO THE BOARD RELATIVE TO

Chapter 27.72.010 of the Lincoln Municipal Code Zoning Regulations requires a 550-foot minimum Average Lot Width for a property zoned AG Agriculture. This is a request for a variance to reduce the minimum Average Lot Width to 543 feet.

STAFF FINDINGS:

1. The applicant is requesting a variance to reduce the minimum average lot width with the AG Agriculture from 550 feet to 543 feet. The existing AG lot is approximately 20.32 acres and abuts two public roadways, N 14th Street and Arbor Road.
2. The property is not within Lincoln city limits but is located within the 3-mile zoning jurisdiction, requiring the property to follow city zoning regulations.

3. Within the LMC, the definition for Average Lot Width is defined as, "Average lot width shall mean the width determined by dividing the total lot area by the depth of the lot from the right-of-way line to the furthest rear lot line. If the rear lot line and right-of-way line are not parallel, an average depth dimension shall be used."
4. Although this lot abuts two public right-of-ways, N 14th Street and Arbor Road, the measurement for the lot depth is taken only from N 14th Street as the primary frontage for the lot.
5. Show on the submitted exhibit, the subject property is Lot 56 I.T. The applicant also owns Lot 55 I.T. and Lot 22 I.T., to the south, along Arbor Road. There is an existing single family home on Lot 55 I.T. The three I.T. lots have functioned as a farm with one single family home and associated agricultural accessory buildings.
6. The issue of lot width was discovered as the applicant inquired about constructing a new single-family home on Lot 56 I.T. It was determined a building permit could not be issued for the AG zoned Lot 56 I.T. due to the lot width not being met.
7. This variance is being requested as it was determined the three existing lots were previously created by a subdivision permit, with the 1.88-acre Lot 55 created in 1976 and later then 2.4-acre Lot 22 in 1985. When Lot 22 I.T. was created, it left the remaining 20.32-acre Lot 56 I.T. which does not meet the minimum lot width today.
8. The LMC 27.72.010(c)4 provides that for lots of twenty (20) acres or more created prior to January 1, 2017, the minimum frontage requirement shall not apply. The minimum AG District frontage requirement 27.72.010(a) is 550 feet in width. In this case, Lot 56 I.T. does not meet the required frontage, but is exempt as it was created prior to January 1, 2017.
9. Although LMC 27.72.010(c) waives the required lot frontage, it does not waive the required lot width. The existence of Lot 56 I.T. could be considered unusual as it is a 20.32-acre corner lot, with over 900 feet of frontage on two public roadways but does not meet the Average Lot Width of 550 feet. If granted, the variance request in this case would allow for one single family dwelling to be built on the 20.32-acre Lot 56 I.T.
10. If the variance is not granted, no building permit could be issued for a single-family dwelling as the minimum lot width could not be met on Lot 56 I.T. To rectify this issue, the owner could submit a final plat, consolidating Lot 55 I.T. & Lot 22 I.T., and reconfigure the eastern lot line of Lot 22 I.T. This would allow Lot 56 I.T. to increase in size to meet the minimum lot width requirement.

Chapter 27.75 BOARD OF ZONING APPEALS

27.75.020 Jurisdiction.

The jurisdiction of the Board of Zoning Appeals shall be limited to the following:

- a. Appellate Jurisdiction. The Board of Zoning Appeals is authorized to hear and decide appeals where it is alleged there is an error in any order, decision, or determination made by an administrative official in the enforcement of this title;
- b. Original Jurisdiction.
 1. Powers relative to variances. 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.
 2. Powers relative to exceptions. The Board of Zoning Appeals is authorized, upon petition, to make the following zoning exceptions:
 - i. To permit the reconstruction of a nonconforming building which has been destroyed, or partially destroyed by fire or act of God where the board shall find some compelling public necessity requiring the continuance of the nonconforming use;
 - ii. To interpret the provisions of the title where the street layout actually on the ground varies from the street layout as shown on the map fixing the several districts, which map is attached to and made a part of this title;
 - iii. To reduce the parking requirements in the commercial, business or industrial districts whenever the character of the use of building is such as to make unnecessary the full provisions of parking facilities as required. In permitting a reduction, the board may restrict the use of the building to uses requiring a similar reduced number of parking facilities. The board's granting of a reduction in parking requirements shall not serve as a convenience to the petitioner but shall recognize the varying demands for off-street parking by different uses that cannot reasonably be determined in detail in the zoning ordinance.

Annot.: Use variances are customarily concerned with "hardship" while area variances are customarily concerned with "practical difficulty." Alumni Control Board v. City of Lincoln, 179 Neb. 194, 137 N.W.2d 800 (1965).

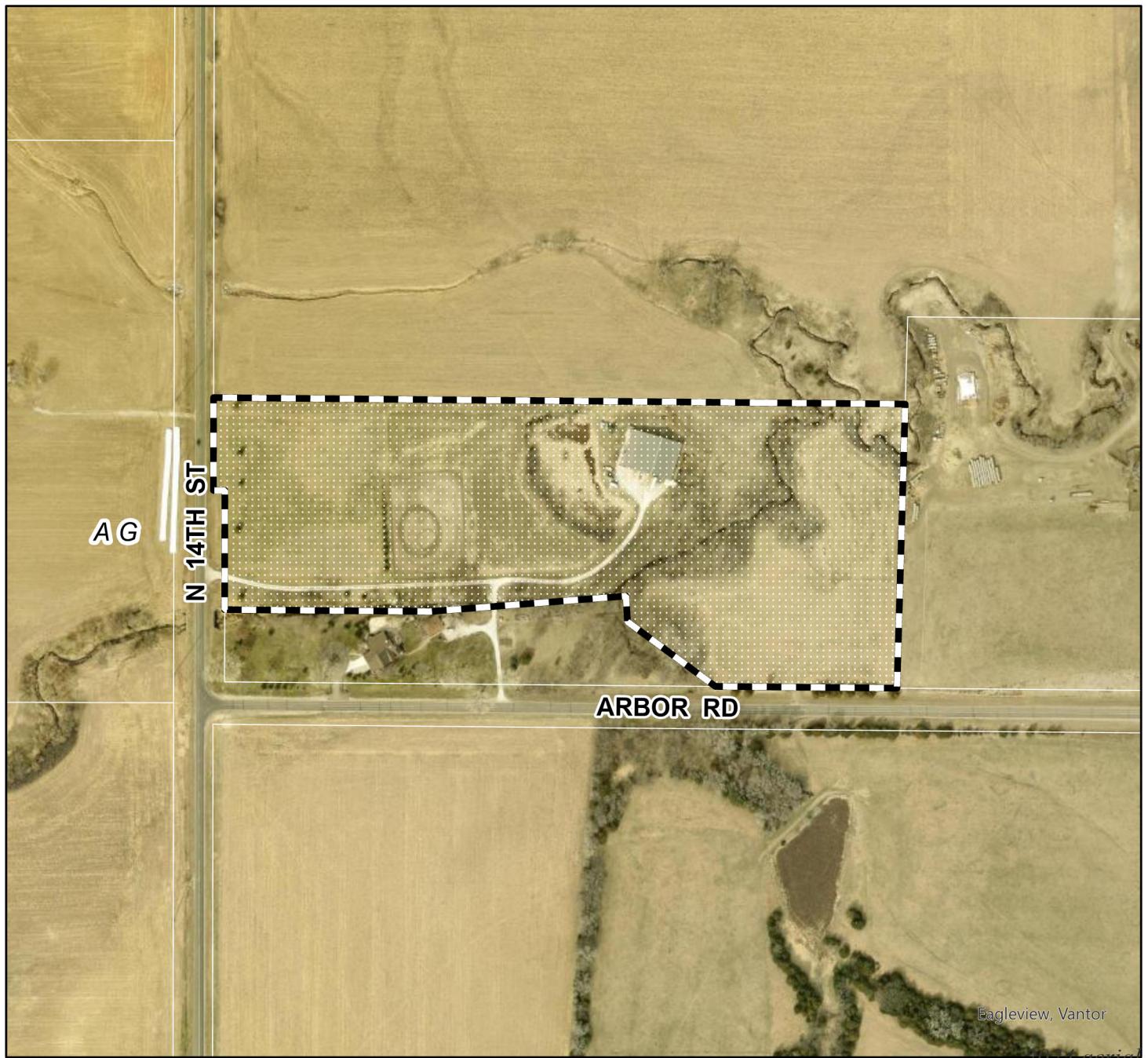
Proper criteria on review of application for variance include:

3. *Whether strict compliance would preclude a permitted use of property;*
4. *Whether grant of variance would do substantial justice to both property owner and neighbors;*
5. *Whether relief can be granted in such a fashion that the spirit of the ordinance will be observed and the public safety and welfare secured. Id.*

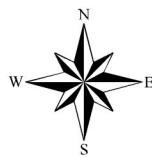
University of Nebraska housing code and economic realities applying to fraternity house operation are not practical difficulties sufficient to sustain an application for a variance.

27.75.050 Decisions of the Board; Scope and Factors Considered.

In exercising its appellate jurisdiction, the board may in conformity with the provisions of this title reverse or affirm, wholly or partially, or may modify the order, requirement, decision, or determination appealed from and may make such decision as ought to be made. In considering all petitions for variances and exceptions within its jurisdiction under this title, the board shall, before making any finding in a specific case, first determine that the proposed change will not constitute a change in the district map and will not impair an adequate supply of light and air to adjacent property, or increase the congestion in public streets, or increase the public danger of fire and safety, or materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals, and welfare of the City of Lincoln. In making a determination, the board may request information and recommendations from any department of the City of Lincoln. Every decision by the board shall be accompanied by a written finding of fact based on testimony and other evidence, specifying the reason for granting or denying the variation. In the event that the proposed variance or exception is denied by the Board of Zoning Appeals, no new request shall be made for the same or a substantially similar variance or exception within one year of said denial thereof. (Ord. [19886](#) §4; June 17, 2013: prior Ord. 12571 §398; May 8, 1979).



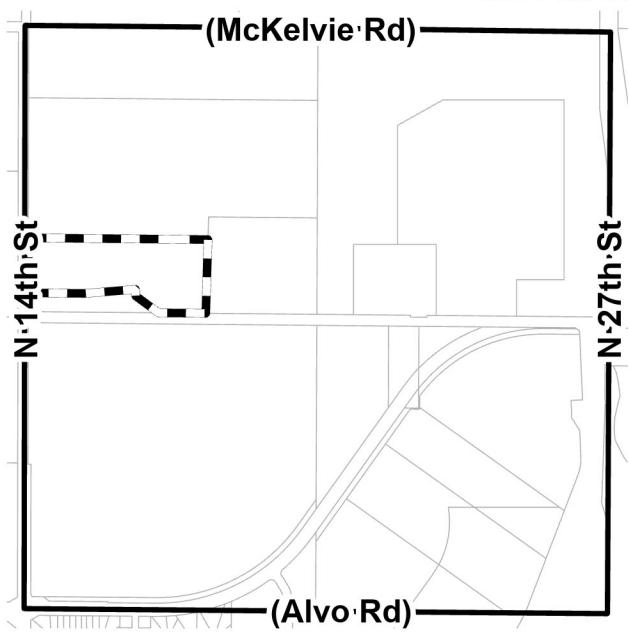
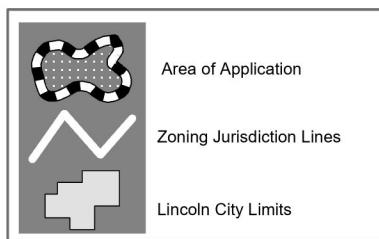
Board of Zoning Appeals #: BZA25008
N 14th St & Arbor Rd



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.25 T11N R06E





Civil Design Group, Inc.

Consulting Engineers & Land Use Planners
Civil Design • Site Development • Planning & Zoning

December 22, 2025

Mr. David Cary, Director of Planning
City of Lincoln /Lancaster County
555 South 10th Street, Room 213
Lincoln, NE 68508

Re: Request for a Hearing with the City Board of Zoning Appeals (BZA) to consider a variance to the minimum average lot width as defined by LMC 27.72.010(a) for a 20.32 acre lot located on the northwest corner of N. 14th Street & Arbor Rd.

Dear Mr. Cary:

On behalf of Joel Heusinger we submit the enclosed application for a waiver of the minimum average lot width for an AG zoned 20.32 acre parcel legally described as Lot 56 I.T., Section 25, T11N, R6E. The parcel in question does meet the minimum average lot width of 550' as calculated from the Arbor Rd right-of- way (ROW), however, when calculated from N. 14th Street ROW the average lot width is 543', seven feet short of the 550' requirement.

The request for this variance is due to the definition of the "Average Lot Width". The definition states, "*average lot width shall mean the width determined by dividing the total lot area by the depth of the lot from the right-of-way line to the furthest rear lot line*". For this lot, the distance to the furthest rear lot line is a measurement off of N. 14th Street. Thus the average lot width is calculated from the N. 14th Street ROW. Given this fact pattern we request a variance to the average lot width requirement for this lot which meets 99% of 550' standard as off of N. 14th Street ROW.

With this request for application we submit the following items:

Application for a Zoning Variance to the City BZA
City BZA application fee of \$490.00
Exhibit 1 of Lot 56 IT Section 25-T11N, R6E, 20.32 acres

I hope that this letter and exhibit assists the BZA in reviewing this application. Please feel free to call me at (402) 434-8494 with any questions you may have.

Sincerely,

Mike Eckert, AICP

cc: Joel Heusinger

RECEIVED

MAR 02 1998

SURVEY RECORD REPOSITORY

LANCASTER COUNTY
\$5.00

Survey Record

PREPARED BY

L & S SURVEYING

R.R.1 BOX 254

CRETE, NE 68333

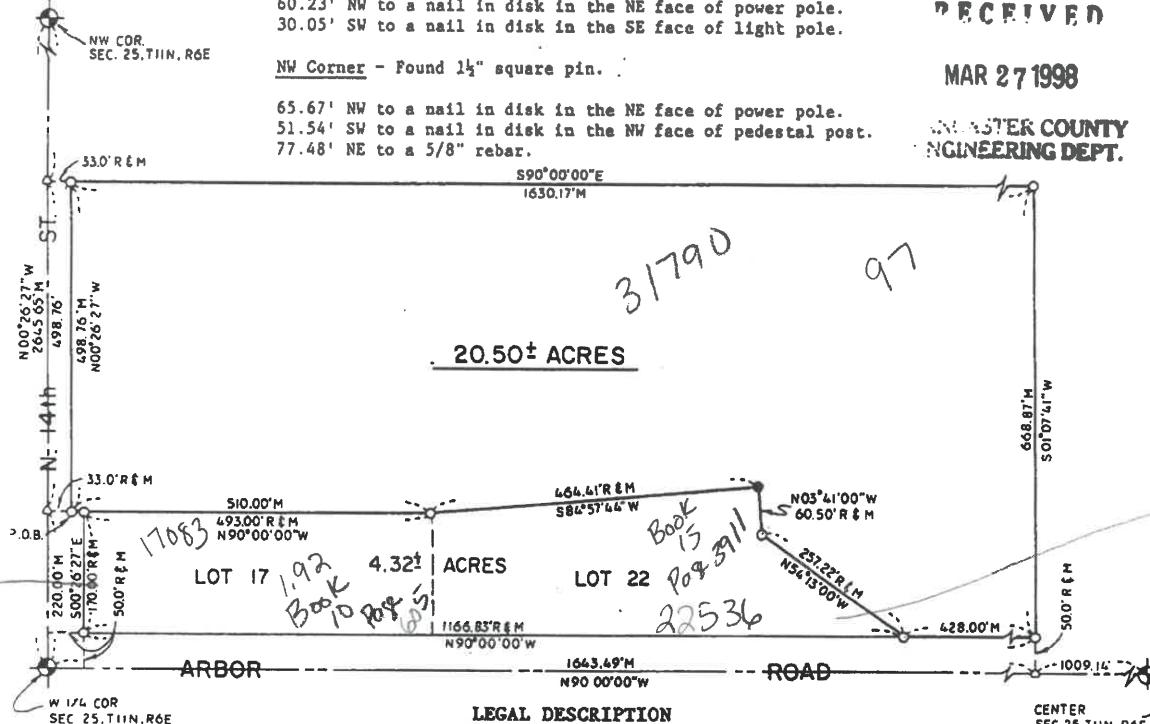
(402) 826-3876

CORNER TIES - SECTION 25, T11N, R6E

Center Section - Found 3/4" iron pipe.

286-55

AA-17759



A tract of land located in the NW $\frac{1}{4}$ of Section 25, T11N, R6E of the 6th P.M., Lancaster County, Nebraska, described as follows:

Commencing at the SW Corner of said NW $\frac{1}{4}$; thence N00°26'27"W (Assumed Bearing) on the west line of said NW $\frac{1}{4}$, 220.00 feet; thence S90°00'00"E parallel to the south line of said NW $\frac{1}{4}$, 33.00 feet to the point of beginning; thence N00°26'27"W on a line 33.00 feet east of and parallel to the west line of said NW $\frac{1}{4}$, 498.76 feet; thence S90°00'00"E parallel to the south line of said NW $\frac{1}{4}$, 1630.17 feet; thence S01°07'41"W, 668.87 feet to a point 50.00 feet north of the south line of said NW $\frac{1}{4}$; thence N90°00'00"W on a line 50.00 feet north of and parallel to the south line of said NW $\frac{1}{4}$, 428.00 feet to the SE Corner of Lot 22 of Irregular Tracts; thence N54°13'00"W on the east line of said Lot 22, 257.22 feet; thence N03°41'00"W on the east line of said Lot 22, 60.50 feet to the NE Corner of said Lot 22; thence S84°57'44"W on the north line of said Lot 22, 464.41 feet to the NW Corner of said Lot 22, also being the NE Corner of Lot 17 of Irregular Tracts; thence N90°00'00"W parallel to the south line of said NW $\frac{1}{4}$ and on the north line of said Lot 17, 510.00 feet to the point of beginning.

Containing 20.50 acres more or less.

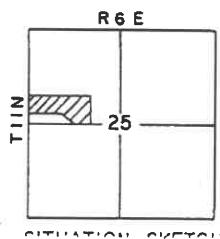
SURVEYOR'S CERTIFICATE

I, Leslie J. Siedschlag, a Registered Land Surveyor in the State of Nebraska, hereby certify that this survey was made under my direct supervision on December 9, 1997 and that all dimensions shown are in feet and decimals of a foot and are correct to the best of my knowledge and belief.



LEGEND

- ⊕ Corners Found
- Corners Found
- Corners Set (5/8" Iron Bar)
- △ Temporary Point
- R Recorded Distance
- M Measured Distance




Leslie J. Siedschlag, Nebraska L.S. No. 469

FIELD BOOK CERT 9 PAGE 66
DRAWN BY: Dick DATE: 12-12-97

75433

LANCASER COUNTY, NE
C. An *Julia*
REGISTER OF DEEDS

\$5.50

INST. NO 97

DEC 29 3 05 PM '97 0 5 3 9 0 8

NEBRASKA DOCUMENTARY
STAMP TAX

DEC 29 1997

JOINT TENANCY WARRANTY DEED

\$ 87⁵⁰ BY *ce*

BLOCK
CODE
CHECKED
ENTERED
EDITED

100
B 10
100

KEITH PESTER AND LEE ETTA I. PESTER, HUSBAND AND WIFE, GRANTORS, in consideration of ONE DOLLAR AND OTHER GOOD AND VALUABLE CONSIDERATION received from GRANTEEES,

JOEL HEUSINGER AND RENEE DEE HEUSINGER, HUSBAND AND WIFE

conveys to GRANTEEES, as joint tenants and not as tenants in common, the following described real estate (as defined in Neb. Rev. Stat. 76-201):

A TRACT OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 25, TOWNSHIP 11 NORTH, RANGE 6 EAST, LANCASTER COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER; THENCE N00°26'27"W (ASSUMED BEARING) ON THE WEST LINE OF SAID NORTHWEST QUARTER, 220.00 FEET; THENCE S90°00'00"E PARALLEL TO THE SOUTH LINE OF SAID NORTHWEST QUARTER, 33.00 FEET TO THE POINT OF BEGINNING; THENCE N00°26'27"W ON A LINE 33.00 FEET EAST OF AND PARALLEL TO THE WEST LINE OF SAID NORTHWEST QUARTER, 498.76 FEET; THENCE S90°00'00"E PARALLEL TO THE SOUTH LINE OF SAID NORTHWEST QUARTER, 1630.17 FEET; THENCE S01°07'41"W, 668.87 FEET TO A POINT 50.00 FEET NORTH OF THE SOUTH LINE OF SAID NORTHWEST QUARTER; THENCE N90°00'00"W ON A LINE 50.00 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID NORTHWEST QUARTER, 428.00 FEET TO THE SOUTHEAST CORNER OF LOT 22 OF IRREGULAR TRACTS; THENCE N54°13'00"W ON THE EAST LINE OF SAID LOT 22, 257.22 FEET; THENCE N03°41'00"W ON THE EAST LINE OF SAID LOT 22, 60.50 FEET TO THE NORTHEAST CORNER OF SAID LOT 22; THENCE S84°57'44"W ON THE NORTH LINE OF SAID LOT 22, 464.41 FEET TO THE NORTHWEST CORNER OF SAID LOT 22, ALSO BEING THE NORTHEAST CORNER OF LOT 17 OF IRREGULAR TRACTS; THENCE N90°00'00"W PARALLEL TO THE SOUTH LINE OF SAID NORTHWEST QUARTER AND ON THE NORTH LINE OF SAID LOT 17, 510.00 FEET TO THE POINT OF BEGINNING. CONTAINING 20.50 ACRES MORE OR LESS.

GRANTOR covenants (jointly and severally, if more than one) with GRANTEEES that GRANTOR:

- (1) is lawfully seized of such real estate and that it is free from encumbrances except those easements and restrictions of record, if any;
- (2) has legal power and lawful authority to convey the same;
- (3) warrants and will defend title to the real estate against the lawful claims of all persons.

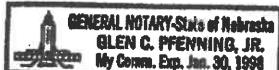
Executed 12-23-97, 1997

Keith Pester
KEITH PESTER

Lee Ett I. Pester
LEE ETTA I. PESTER

STATE OF NEBRASKA)
COUNTY OF Lancaster)
) SS.

The foregoing instrument was acknowledged before me on Dec 23, 1997
by KEITH PESTER AND LEE ETTA I. PESTER, HUSBAND AND WIFE.



Notary Public