

City of Lincoln

BOARD OF ZONING APPEALS

AGENDA

BOARD OF ZONING APPEALS

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

October 31, 2025

CITY BOARD OF ZONING APPEALS

Notice is hereby given that the **CITY BOARD OF ZONING APPEALS** will hold a regular meeting on **Friday, October 31 2025** 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

October 31, 2025

1. Approval of the minutes of the City Board of Zoning Appeals hearing, held [June 27, 2025](#).

ADMINISTRATIVE ACTION

2. [BOARD OF ZONING APPEALS 25006](#), a request for a variance to the required minimum lot area in R-7 zoning to allow a 4-unit dwelling on an approximately 2,500 square foot lot zoned R-7 Residential, and a variance to the require R-7 parking requirement for multifamily dwellings to zero, on property generally located at 920 S 16th Street. [More information](#)
3. [BOARD OF ZONING APPEALS 25007](#), a request for a variance to reduce the southern 5 foot side yard setback on property generally located at 7050 N 50th Place. [More information](#)

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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, June 19, 2025.

NAME OF GROUP:

CITY BOARD OF ZONING APPEALS

**DATE, TIME AND
PLACE OF MEETING:**

Friday, June 27, 2025, 1:30 p.m., City Council Chambers,
First Floor, County-City Building, 555 S. 10th Street, Lincoln,
Nebraska

**MEMBERS IN
ATTENDANCE:**

Annette McRoy, Cindy Ryman Yost, and David Johnson.
Steve Miller and Lynn Sunderman absent. Tim Sieh of the
Law Department; Ron Rehtus of the Building and Safety
Department; Steve Henrichsen, Ben Callahan and Clara
McCully of the Planning Department; and other interested
parties.

**STATED PURPOSE
OF MEETING:**

Regular City Board of Zoning Appeals meeting.

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

Johnson called for a motion approving the minutes of the City Board of Zoning Appeals hearing of February 23, 2025.

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

BOARD OF ZONING APPEALS 25003, A REQUEST FOR A VARIANCE TO THE REQUIRED 20 ACRE MINIMUM LOT AREA IN AG ZONING TO 17.36 ACRES, A VARIANCE FOR A REDUCTION IN THE REQUIRED AG SIDE YARD SETBACK FROM 60 FEET TO 15 FEET, AND A VARIANCE TO THE REQUIREMENT FOR LOT FRONTAGE ALONG A PUBLIC STREET OR PUBLIC ROADWAY, ON PROPERTY LEGALLY DESCRIBED AS LOT 52 I.T., ALL LOCATED IN THE SW ¼ OF SECTION 21-10-8, LANCASTER COUNTY, NEBRASKA, GENERALLY LOCATED AT 14010 O STREET.

PUBLIC HEARING:

June 27, 2025

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

Ex parte communications:

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

Applicant:

Tom Huston, on behalf of the appellant, 9200 Andermatt Drive, came forward and was sworn in. The Jacobsens' home, assessed at \$580,000 and located on 140th and O Street, was destroyed by fire on March 22, 2025. New footings and foundation are not covered by insurance, so the applicants wish to rebuild on the existing footings and foundations. It would also save them \$25,000 in reconstruction costs.

The home was originally built in 1995 in an industrial zone as a caretaker residence, which is allowed in Industrial zoning districts. In 2010, the property became part of the Stevens Creek Place Condominium Regime, which included five condo units (Units A–E), with Unit D containing 17.37 acres and a shared drainage facility. In 2012, a Change of Zone (Exhibit 1) was approved, rezoning the property (including Unit D and the adjacent detention cell) from I-1 to AG, which exceeded 21 acres, and is important when looking at minimum acres and area for AG zone. The change of zone included no conditions or development agreement requiring the combination of parcels. In 2012, Unit D was removed from the condo regime, and the Jacobsens purchased the 17.36-acre parcel in July of that year. Although the lot exceeds the 10-acre statutory threshold (and thus did not require subdivision approval), it falls short of the 20-acre AG minimum and lacks street frontage. These facts only came to light after the home was destroyed. They are asking for 3 exceptions: First, is to the 20-acre minimum lot size. This lot is 17.3 acres. Second, is to the 60-foot side yard requirement. This lot ranges from 15 feet to 45 feet. Third is to the 550-foot Frontage requirement, due to an existing permanent easement to O Street (Highway 34).

Huston stated they considered several options for addressing the issue- AG to AG-R zoning change may be a spot zoning issue. To resubdivide, they are not members of condo regime. They would need to terminate condo regime and redo the ordinance. It would be a \$25,000 cost. The nonconforming use ordinance permits reconstruction of destroyed homes in all R districts. They could file to add AG and AG-R as a text amendment. They could also have a Special Permit provision. They were trying to find a solution that is least disruptive and most property-specific. This was the best approach. The Comprehensive Future Land Use map land designated as Industrial (Exhibit 2). It is a priority 3 redevelopment, which means it could be a long time before the land is redeveloped.

Staff questions:

Steve Henrichsen, Planning Department, 555 S 10th Street, came forward and was sworn in.

Johnson asked if this Change of Zone was approved by City Council at the time, that would be governed by all the provisions and doesn't mention that it's nonconforming?

Henrichsen stated it was understood that the property owner at the time would take steps to conform. Thought at the time was that it would be worked out, but no additional steps were taken by the property owner.

McRoy asked if the Planning Director at the time requested that the four acres be added.

Henrichsen confirmed. The original application was 17 acres and added in the Change of Zone but there was no condition to require lots to come together.

Applicant Rebuttal:

No applicant rebuttal.

APPEAL NO. 25003

ACTION BY THE CITY BOARD OF ZONING APPEALS:

June 27, 2025

Johnson moved to approve a variance to the required 20 acre minimum lot area in ag zoning to 17.36 acres, a variance for a reduction in the required ag side yard setback from 60 feet to 15 feet, and a variance to the requirement for lot frontage along a public street or public roadway, seconded by McRoy, and carried 3-0: McRoy, Ryman Yost, and Johnson voting 'yes'; Miller and Sunderman absent.

Ryman Yost stated it is an unfortunate situation for anyone and no fault to the owners.

Johnson stated it was unconnected steps over course of 20-something years for how this happened.

There being no further business, the meeting was adjourned at 2:02 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 #25006

DATE: October 24, 2025

DATE SCHEDULED FOR PUBLIC HEARING: October 31, 2025

LOCATION: Generally located southeast of S 16th Street & F Street.

ADDRESS: 920 S 16th Street

LEGAL DESCRIPTION: South 50' of Lot 6, Block 183, Lincoln Original, Lincoln, Lancaster County, Nebraska.

APPLICANT: Paul Holt

LOT AREA: 2,500 square feet, more or less

ZONING: R-7 Residential

EXISTING LAND USE: Multifamily Residential (4-plex)

SURROUNDING LAND USE AND ZONING:

North: Multifamily Residential	R-7 Residential
South: Multifamily Residential	R-7 Residential
East: Multifamily Residential	R-7 Residential
West: Multifamily Residential	R-7 Residential

TYPE OF APPEAL:

THIS APPEAL IS DIRECTED TO THE BOARD RELATIVE TO A VARIANCE PER LINCOLN MUNICIPAL CODE 27.72.020(b) & 27.62.020

Chapter 27.72.020 of the Lincoln Municipal Code (LMC) Regulations requires a minimum lot area of 700 square feet per dwelling unit within the R-7 Residential District and LMC 27.62.020 requires 1 parking space per dwelling unit in the R-7 Residential District. This is a request for a variance to reduce the minimum lot area required to allow 4 dwelling units on a 2,500 square foot lot, and to reduce the required parking spaces to zero.

STAFF FINDINGS:

1. The applicant is requesting a variance to the required minimum lot area with the R-7 Residential District to allow an existing 4-plex multifamily dwelling on the existing 2,500 square foot lot. The LMC requires 700 square feet of lot area in the R-7 District. This would reduce the minimum lot area to approximately 625 square feet of lot area per unit at this location.

2. A variance is also requested to the LMC for the minimum parking requirement, as 4 dwelling units would require one space for each unit. This site would require a variance to the minimum parking as there are no on-site parking spaces.
3. The property is located within the City of Lincoln city limits.
4. The residence at 920 S 16th Street is estimated to have been constructed around 1920 as a single family residence as there are multiple permits between 1923 and 1950 for alterations. In 1940 a permit for alterations was done with the listed number of units at two. In July of 1950, a building permit was approved for an alteration to an apartment for a studio with the number of units on the permit stated as three. It is unclear from permit records if this permit stated the home had three existing units and was adding an additional studio, or if the studio was the third unit. Building permits after 1950 did not list the number of units.
5. In 1972 the City began requiring licensing with the Housing Division and licensing by the Fire Department for the operation and inspection of apartments. Records show the first approved apartment license at this location in 1972 list the property as a 4-unit apartment. Since 1972, the apartment licenses and inspections listed for this address state the property has 4 units. The 1972 Housing Survey Report is attached as Exhibit A.
6. The applicant purchased the property in 2012 with the understanding it was a 4-unit residential dwelling. The conformance of the property was questioned when the applicant started building permits with the City for renovation of the existing units in November 2024. The initial permit fees and plans were never received, causing the permit to expire. The applicant then applied for new building permit in May 2025 in which the number of allowed units was questioned based on the last building permit issued in 1950 stating it had 3 units.
7. The last building permit noting the number of units for this property was in 1950 which was listed as 3 but noted the permit was for an apartment alteration. Since this permit, the only documentation started in 1972 is the apartment licenses which the City has required and approved for this location allowing a 4-plex. As a reference, the Lincoln City Directory was published each year from the late 1890s to early 1980s. The applicant stated the four units were addressed as 918 for the studio, two units under 920, and the basement unit at 922. The 1955 directory does have four individuals living at this address with one at 918, two at 920, and one at 922.
8. A variance is included to the required parking minimum as the structure covers much of the small 2,500 square foot lot, leaving very little room for provided parking. It is clear the structure was approved for at least 3 units in 1950, predating the zoning standards for required parking. If a variance is granted to allow 4-units, the site would need an associated variance to continue with no

onsite parking as the R-7 Residential district requires one space for every dwelling unit on site.

9. The property is shown for future urban residential on the 2050 Comprehensive Plan Future Land Use Map.
10. The applicant has applied for a building permit to renovate the structure with the intention to continue with 4-units as purchased and licensed since 1972. If the variance is approved to allow the continuation of the 4-units and waiver for parking, any modification to the structure would still be required to meet applicable building codes.
11. 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.

12. The City determined that the best course to firmly legalize the use and establish a record for future building permits, is to have the Board of Zoning Appeal approval of the four units and reduce the parking to zero to reflect the existing condition. The four plex has been in place for over 50 years, has been repeatedly licensed by the City, and the building permits don't provide a clear record on the number of units. BZA approval will establish a clear record for future reviews that the four plex with no parking stalls is legal.
13. The City waived the filing fee for the BZA application. Mr. Holt then applied for the BZA application on October 7, 2025, 2025.

Chapter 27.75 BOARD OF ZONING APPEALS

27.75.020 Jurisdiction.

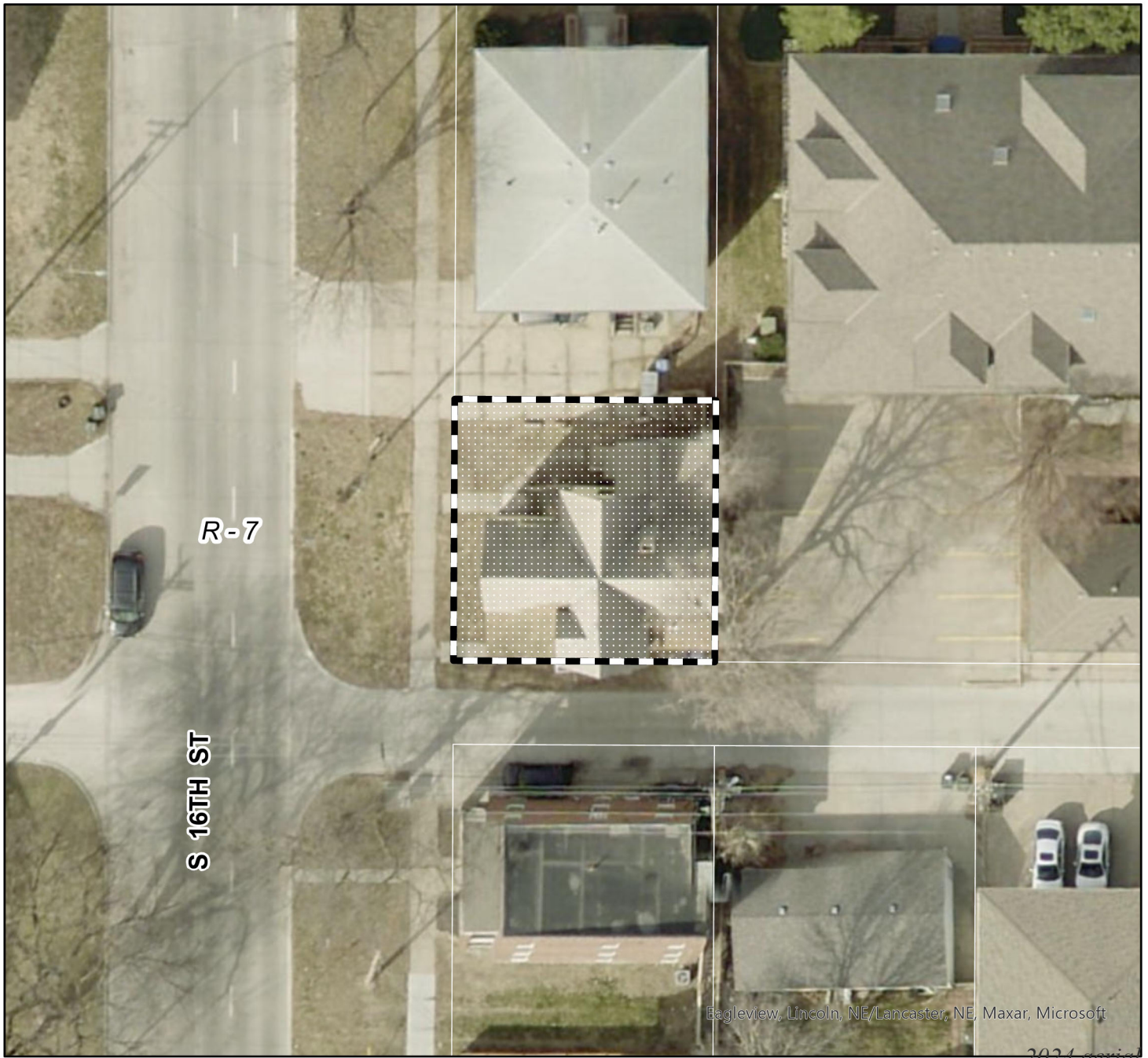
The jurisdiction of the Board of Zoning Appeals shall be limited to the following:

- 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.

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

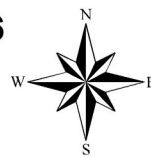
similar variance or exception within one year of said denial thereof. (Ord. [19886](#) §4; June 17, 2013: prior Ord. 12571 §398; May 8, 1979).



Eagleview, Lincoln, NE/Lancaster, NE, Maxar, Microsoft

2024 aerial

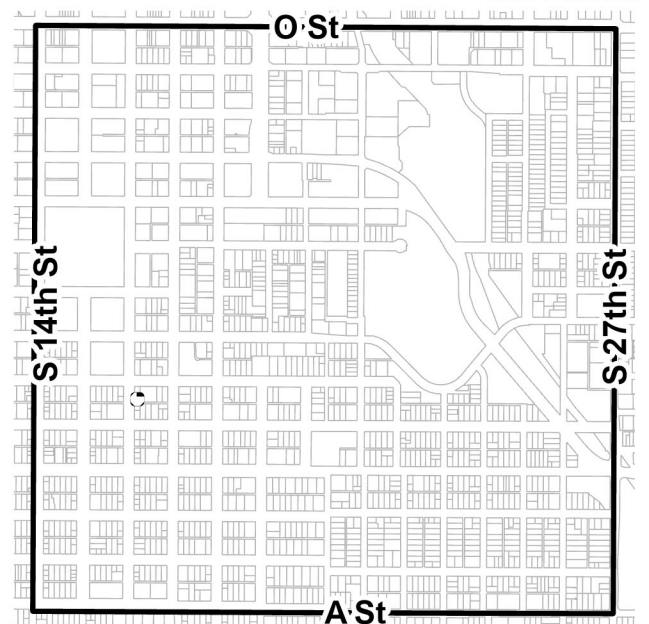
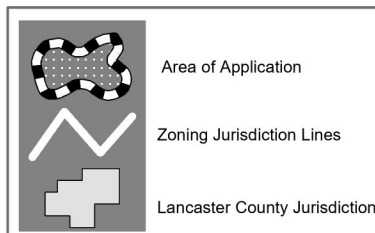
Board of Zoning Appeals #: BZA25006 S 16th St & F St



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.25 T10N R06E



A Test of Lincoln's Commitment to Affordable Housing Preservation

5250 Cornhusker Hwy
Lincoln, NE 68504
Phone: 531-207-2419
Email: holtpb@gmail.com

October 7, 2025

To:

Lincoln-Lancaster County Planning Department
Attn: Ben Callahan & Steve Henrichsen
555 S. 10th Street, Suite 213
Lincoln, NE 68508

RE: Board of Zoning Appeals Application – 920 S. 16th Street (Parcel ID 10-26-232-007-000)

Subject: Request for Recognition as a Legal Nonconforming 4-Unit Dwelling ('Grandfathered Use')

Dear Members of the Board of Zoning Appeals,

I, Paul Holt, property owner of 920 S. 16th Street, respectfully request formal recognition of this property as a legal nonconforming 4-unit dwelling under the City's grandfather provisions for long-standing uses predating current zoning standards.

This property has operated continuously as a four-unit apartment building since at least 1972, based on the City's own apartment licensing records and Fire Department inspections. Those records, which I have provided, show uninterrupted city-issued licenses for four units from 1972 through 2025—over 50 years of documented oversight and taxation as a 4-plex.

At no point during that period was the property reclassified, abandoned, or converted to another use. It has consistently been occupied, inspected, and licensed under the City's rental program as four separate units — 918 (studio, east side), 920 Apt 1 (main level front), 920 Apt 2 (upper level), and 922 (basement unit) — including recent periods of renovation while addressing the current zoning disagreement with Building & Safety.

Per Lincoln Municipal Code §27.70.020 and §27.02.210 (Nonconforming Uses), a legally established use that predates current zoning regulations and has not been discontinued for more than 12 months may continue as a lawful nonconforming use. Given that the City's own licensing and inspection records confirm continuous recognition of this property as a four-unit dwelling for over five decades, it satisfies all requirements for such status.

The City's continuous issuance of rental licenses and occupancy permits for four units is clear evidence of lawful establishment. To now disregard those records would create an unreasonable and inconsistent precedent—placing the burden on property owners to prove legality beyond the City's own official documentation.

Recognizing 920 S. 16th as a lawful 4-plex upholds the City's credibility in recordkeeping and fair enforcement, protects affordable housing stock in the South of Downtown district, and aligns with the SODO Rental Rehab Grant Program's intent to preserve and improve existing housing rather than eliminate it.

Accordingly, I respectfully request that the Board of Zoning Appeals recognize 920 S. 16th Street as a lawful, existing nonconforming four-unit dwelling based on documented historic use and licensing continuity.

Thank you for your time and consideration. I appreciate the cooperation and professionalism of the Planning and Building & Safety staff throughout this process.

Respectfully submitted,

Paul Holt
Property Owner
5250 Cornhusker Hwy
Lincoln, NE 68504
531-207-2419 | holtpb@gmail.com

Exhibit A

HOUSING SURVEY REPORT

916-920

ADDRESS 920 16th DATE July 10/1972

OWNER _____ ADDRESS _____

OCCUPANTS NAME _____ NO. OF OCCUPANTS _____ NO. UNITS 4

ELDERLY OCCUPANT OWNER (circle) INITIAL SURVEY X RESURVEY _____ RATING _____

RENT _____ NO. STORIES 2 SIZE X TYPE STRUCTURE Frame ZONING Env.

AGE: PRE-1905 1905-1920 1921-1930 1931-1940 1941-1950 1951-1960 1960-present

LEGAL DESCRIPTION _____

COMMENTS Survey for license Bon Apt

LIVING ROOM	Size <u>x</u>	DEFICIENCY COMMENTS
1 Elect. cond. S 1 2 3 2 Elect. outlets S 1 2 3		
3 Walls S 1 2 3 4 Floor S 1 2 3		
5 Ventilation S 1 2 3 6 Ceiling S 1 2 3		
DINING ROOM	Size <u>x</u>	
1 Elect. cond. S 1 2 3 2 Elect. outlets S 1 2 3		
3 Walls S 1 2 3 4 Floors S 1 2 3		
5 Ventilation S 1 2 3 6 Ceiling S 1 2 3		
KITCHEN	Size <u>x</u>	
1 Elect. cond. S 1 2 3 2 Elect. outlets S 1 2 3		
3 Walls S 1 2 3 4 Floors S 1 2 3		
5 Ventilation S 1 2 3 6 Ceiling S 1 2 3		
7 Sanitation S 1 2 3 8 Plumbing S 1 2 3		
BEDROOMS		
#1: Size <u>x</u> Location _____		
1 Elect. cond. S 1 2 3 2 Elect. outlets S 1 2 3		
3 Walls S 1 2 3 4 Floor S 1 2 3		
5 Ventilation S 1 2 3 6 Ceiling S 1 2 3		
#2: Size <u>x</u> Location _____		
1 Elect. cond. S 1 2 3 2 Elect. outlets S 1 2 3		
3 Walls S 1 2 3 4 Floor S 1 2 3		
5 Ventilation S 1 2 3 6 Ceiling S 1 2 3		
#3: Size <u>x</u> Location _____		
1 Elect. cond. S 1 2 3 2 Elect. outlets S 1 2 3		
3 Walls S 1 2 3 4 Floor S 1 2 3		
5 Ventilation S 1 2 3 6 Ceiling S 1 2 3		
ROOM _____ X _____		
Location _____		
1 Elect. cond. S 1 2 3 2 Elect. outlets S 1 2 3		
3 Walls S 1 2 3 4 Floor S 1 2 3		
5 Ventilation S 1 2 3 6 Ceiling S 1 2 3		

BATHROOM Size x

1 Elect. cond. S 1 2 3 2 Elect. outlets S 1 2 3
3 Walls S 1 2 3 4 Floor S 1 2 3
5 Ventilation S 1 2 3 6 Ceiling S 1 2 3
7 Plumbing S 1 2 3 8 Fixtures S 1 2 3
Privacy Shared Bathroom
Fixtures lacking

HEATING TYPE Forced Air

10 Condition S 1 2 3 11 Venting S 1 2 3

PLUMBING

12 Water Heater S 1 2 3
13 Condition (Water) S 1 2 3 Sewer S 1 2 3
14 Piping (Water) S 1 2 3 Sewer S 1 2 3

ELECTRICAL

TYPE: OPEN ROMEX
Fuse Circuitbreaker
Overfused 1 Condition S 1 2 3

BASEMENT Fin. Unfin. None

1 Elect. cond. S 1 2 3 Elect. outlets S 1 2 3
3 Walls S 1 2 3 4 Floor S 1 2 3
5 Ventilation (habitable room) S 1 2 3
6 Ceiling S 1 2 3 16 Cleanliness S 1 2 3
17 Supports S 1 2 3 18 Waterproof S 1 2 3
Excess storage: Yes No

STAIRWAYS

19 Condition Bsmt. S 1 2 3 Int. S 1 2 3
20 Handrails Bsmt. Yes No Int. Yes No

EXTERIOR CONDITION HOUSE

21 Protective coating S 1 2 3 22 Siding S 1 2 3
23 Roof S 1 2 3 24 Doors S 1 2 3
25 Windows S 1 2 3 (sills) 26 Panes/Screens
27 Cornice/Rakes S 1 2 3 28 Gutter/Dnspt. S 1 2 3
29 Chimney S 1 2 3 30 Foundation S 1 2 3
31 Porches: front S 1 2 3 rear S 1 2 3
32 Garage: Attached Detached
32 Cond. S 1 2 3 Protective Coat. S 1 2 3

PREMISES

7 Sanitation (garbage) S 1 2 3
33 Yard: Clean Cluttered
34 Dilapidated: Shed Fence (Circle)

APARTMENTS

35 Public Hallway Lighting S 1 2 3
36 Exits S 1 2 3

*Cloth Cord. in fireplace
Room*

*Hand Rail to be
apart.*

House exterior in need of paint

2 Apt OK

*Building Repair on stairs
exit from basement
Wall Repair
door Repair*

November 15, 1972

Mrs. Joyce Critchfield
3220 West Summitt
Lincoln, Nebraska

Re: 916-20 South 16

Dear Mrs. Critchfield:

A resurvey of your apartmentshouse at 916 South 16 Street indicates that you have made the corrections requested in a previous letter from Mr. Charles Woerth, a housing consultant from our office.

We can therefore, recommend approval of a license for these units subject to the Fire Department's approval of exiting and fire protection.

Thank-you for your cooperation in this licensing program.

Sincerely yours,

Garrett J. Huenink
Chief Housing Consultant

GJH/pd

CITY BOARD OF ZONING APPEAL #25007

DATE: October 22, 2025

DATE SCHEDULED FOR PUBLIC HEARING: October 31, 2025

ADDRESS: 7050 N 50th Place

LEGAL DESCRIPTION: Lot 2, Northbank Preserve 9th Addition, Lincoln, Lancaster County, Nebraska

APPLICANT: Chris Collins, OnCenter Construction

LOT AREA: .21 acres or 9,323 square feet, more or less

ZONING: R-3 Residential

EXISTING LAND USE: Single Family Dwelling

SURROUNDING LAND USE AND ZONING:

North: Single Family Dwellings	R-3 Residential
South: Single Family Dwellings	R-3 Residential
East: Salt Creek	P Public
West: Single Family Dwellings	R-3 Residential

TYPE OF APPEAL:

THIS APPEAL IS DIRECTED TO THE BOARD RELATIVE TO A VARIANCE PER LINCOLN MUNICIPAL CODE 27.72.020(a)

Chapter 27.72.020 of the Lincoln Municipal Code (LMC) Regulations requires a minimum 5-foot side yard setback for a single family dwelling within the R-3 Residential District. This is a request for a variance to reduce the side yard setback on the south side of the lot to 4.60 feet.

STAFF FINDINGS:

1. The subject property is located at 7050 N 50th Place. The lot is approximately 136' by 67' or 9,318 square feet. The property is zoned R-3 Residential. The single family house on the lot is nearly completed. The lot size is similar to the surrounding single family lots.
2. The applicant is requesting a variance to reduce the minimum side yard setback within R-3 Residential from 5 feet to 4.60 feet on a nearly complete single family home. The R-3 Residential setbacks are as follows:

Front	20'
Side	5'
Rear	20' (or 20% lot depth)

3. The property is within Lincoln city limits, requiring the property to follow city zoning regulations.
4. The property was purchased by the applicant, OnCenter Construction, Inc. in November of 2024. A building permit (B2403284) was then filed to start construction of the single family dwelling.
5. As part of the building permit review, the Lincoln Municipal Code (LMC) 20.12.080 references the International Residential Building Code 109.1.1.1 for setback verification for residential foundation depending on the distance to the property line. If the foundation is less than 6 inches but more than 2 inches from the setback, the Building Official will verify the setback with a string line during the permit inspection. The code states if the foundation is less than 2 inches from meeting the required setback, the contractor must have a licensed surveyor verify the foundation and setback location relative to the property line prior to pouring the concrete walls.
6. For this building permit, the foundation was less than two inches which would require the licensed surveyor to mark the location. This step was not completed by the contractor and concrete was poured in March 2025. To the knowledge of the Building Official, no survey was conducted before the foundation was poured, violating the code requirement and procedure for the foundation being closer than 2 inches from the setback.
7. Since the survey was not conducted prior to pouring the concrete, the foundation permit was denied as the south foundation wall as constructed was located within the setback.
8. The contractor continued construction of the home even though a foundation permit was never approved. The contractor did continue to get approved permits for other construction phases of the home including mechanical, plumbing and electrical, as each permit would have a different inspection process and inspector overseeing the work at that time.
9. The City became aware of the setback concern through a resident complaint in September. The required survey showing the exact location of the foundation was then completed and provided for this application and attached as Exhibit A showing the south side of the home being within the 5-foot side yard setback.

10. The 67' x 136' lot is typical of this residential area and not unusual in any respect. The surrounding lots all appear to be developed with dwellings that meet the required side yard setback for the R-3 district.
11. The property is shown for future urban residential on the 2050 Comprehensive Plan Future Land Use Map.
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.

Denying the variance would require the location of the south foundation wall to be modified and reconstructed to meet the required R-3 Residential 5-foot setback before the dwelling could be considered conforming to the zoning standards. It is unknown what impact this would have on the nearly completed dwelling.

If the variance is approved, the location of the dwelling could remain in place, reducing the required side yard setback and obtaining an approved foundation permit.

13. With the request the applicant submitted a copies of the Lincoln Municipal Code Chapter 26 & 27, the City Board of Zoning Appeals process and regulations and City of Lincoln Design Standards, all which can be access on the Planning and Development Services website under the Planning Division. The applicant submitted previously legal cases with the application; (Eastroads LLC v. Omaha Board of Appeals, Bruning v. City of Omaha Zoning Board of Appeals, Dolezal-Soukup v. Dodge County Board of Adjustment, Hardship and the Granting of Zoning Variances, and Self-imposed Hardship / Self-created Conditions, all which can be access on the Planning Division website under the Planning Application Tracking Services (PATs) by searching the application number ["BZA25007"](#).

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.

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).



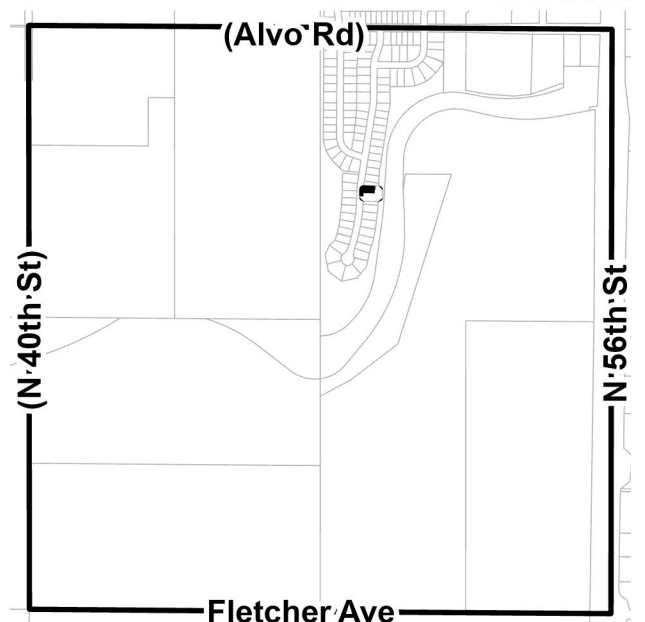
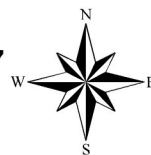
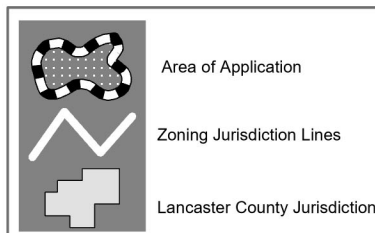
2024 aerial

Board of Zoning Appeals #: BZA25007 **N 49th St & N 50th 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.32 T11N R07E



HILGERS GRABEN

To: City of Lincoln Planning Department
From: 555 S 10th Street, Suite 213, Lincoln, NE 68508
Date: October 10, 2025
Re: Board of Zoning Application – Property 7050 N 50th Street, Lincoln, NE 68514

Dear Members of the City Planning Department,

We hereby write this letter as a request for a variance for the property located at 7050 N 50th Street, Lincoln, NE 68514 (“Property 7050” or the “Property” as context may require), legally described as Lot 2, Northbank Preserve 9th Addition, Located in the Northeast Quarter of Section 32, Lincoln, Lancaster County, Nebraska. This variance is being requested due to a minor, unintentional encroachment resulting from an inaccurate initial survey report and is hereby requesting the minimum necessary relief to meet the requirements of the city’s 5-foot setback and to resolve any and all future disputes with the neighboring property. Furthermore, this application requests a variance to the required South side yard setback to permit an encroachment of approximately 2.8 inches at the rear corner and 4.8 inches at the front right corner of the structure. We hereby state further that this request is being made in good faith and will not adversely affect any risk to public interest or safety.

BACKGROUND

Property 7050 was purchased by OnCenter Construction, Inc., a Nebraska corporation on November 12, 2024, and building permits were pulled and approved on the same day and construction began shortly thereafter. Subcontractor K&M Land Surveying was hired to perform mapping services related to boundary and lot lines of the Property prior to the foundation being laid. Subcontractor R & T Walls conferred with K&M Land Surveying regarding their findings of the property and lot lines and laid the foundation for the Property shortly thereafter. Construction of Property 7050 is currently

HILGERS GRABEN

ongoing. An updated survey was issued on September 23, 2025 (attached hereto as Exhibit A), verifying that Property 7050 was within the appropriate property lines and was not invading the neighboring property or property lines. However, the survey did note that Property 7050 is encroaching on the required setback on the South side of the property by approximately 2.8 inches at the rear corner and 4.8 inches at the front corner of the property. It is noteworthy that the property was built at an angle on the lot due to its size. We hereby request a variance of the South side yard setback, revised by 2.8 inches at the rear corner and 4.8 inches at the front right corner of the property.

GROUND FOR APPLICATION

According to the rules of the City Board of Zoning, a variance may be granted when strict application of the zoning ordinance would cause undue hardship because of special circumstances or physical conditions peculiar to the property, provided that granting the variance will not injure the public welfare, nor impair the purpose and intent of the zoning ordinance. Our request meets this standard for the following reasons:

1. The encroachment is extremely modest (only a few inches) and is the **minimum necessary** relief to resolve the situation.
2. The irregular shape and orientation (angle) of the lot created difficulty in precise compliance with the setback lines.
3. The Property was placed in good faith, relying on professional survey data, and any deviation from the setback requirements was neither intentional nor self-imposed, but rather resulted from reasonable reliance on licensed professional surveying services.
4. Granting the variance poses no threat to public safety, light, air, or neighborhood character.
5. The variance will not confer special privilege inconsistent with other similarly situated lots.

HILGERS GRABEN

SUPPORTING DOCUMENTATION

We have included the following materials in support of our application for review:

Exhibit A – Site plan noting the proposed variance request

Exhibit A-1 - Site plan mark up

Exhibit B – Lincoln Municipal Code, Title 27 (Zoning Ordinance)

Exhibit C – City Board of Zoning Appeals (Lincoln)

Exhibit D – Lincoln’s Design Standards & Subdivision Ordinance (Title 26 / Design Standards)

Exhibit E – Comprehensive / Development Plan & Setback Definitions

Exhibit F – Eastroads, L.L.C. v. Omaha Zoning Bd. of Appeals, 261 Neb. 969, 628 N.W.2d 677 (2001)

Exhibit G – Bruning v. City of Omaha Zoning Bd. of Appeals, 303 Neb. 146, 927 N.W.2d 366 (2019)

Exhibit H – Dolezal-Soukup v. Dodge Cnty. Bd. of Adjustment, 308 Neb. 63, 952 N.W.2d 674 (2020)

Exhibit I – Hardship and the Granting of Zoning Variances (Schroetlin, UNL Law Review article)

Exhibit J – “Self-imposed Hardship / Self-created Conditions” in Nebraska Zoning

CONCLUSION

We understand the requirement for a public hearing which is currently scheduled for Friday, October 31, 2025 and we are prepared to present our case in person and answer any questions the board may have. We respectfully submit this application for a variance and request that the board approve the same.

Respectfully submitted,

Michael G. Kuzma

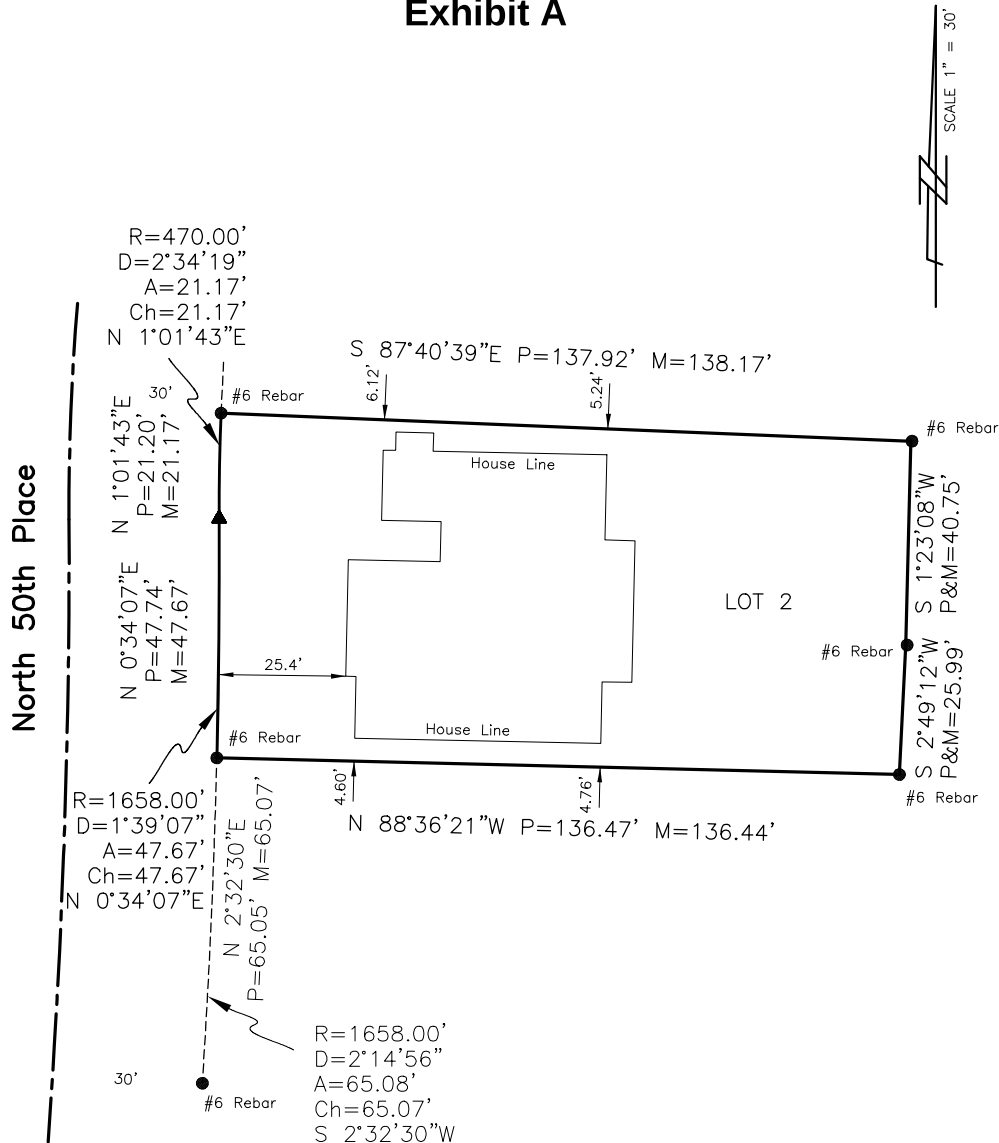
Attorney for OnCenter Construction, Inc.

Legal Description: LOT 2, NORTHBANK PRESERVE 9th ADDITION, LOCATED IN THE
NORTHEAST QUARTER OF

Section: 32, T 11 N, R 7 E, of the 6th P.M. LINCOLN, LANCASTER County, Nebraska

7050 North 50th Place

Exhibit A

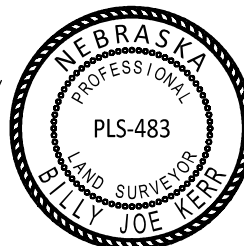


SURVEYOR'S CERTIFICATE

I, Billy Joe Kerr, Nebraska Professional Land Surveyor No.483, duly registered under the Land Surveyor's Regulation Act, do hereby state that I have performed a survey of the land depicted on the accompanying plat; that said plat is a true delineation of said survey performed personally or under my direct supervision; that said survey was made with reference to known and recorded monuments marked as shown, and to the best of my knowledge and belief is true, correct and in accordance with the Minimum Standards for Surveys in Nebraska in effect at the time of this survey.

Billy Joe Kerr
Billy Joe Kerr, PLS #483

Date: 9-23-2025



6811 SOUTHFORK CIRCLE
LINCOLN, NE 68516
(402) 476-3020
(402) 499-6580 text
kmsurvey.com

LEGEND

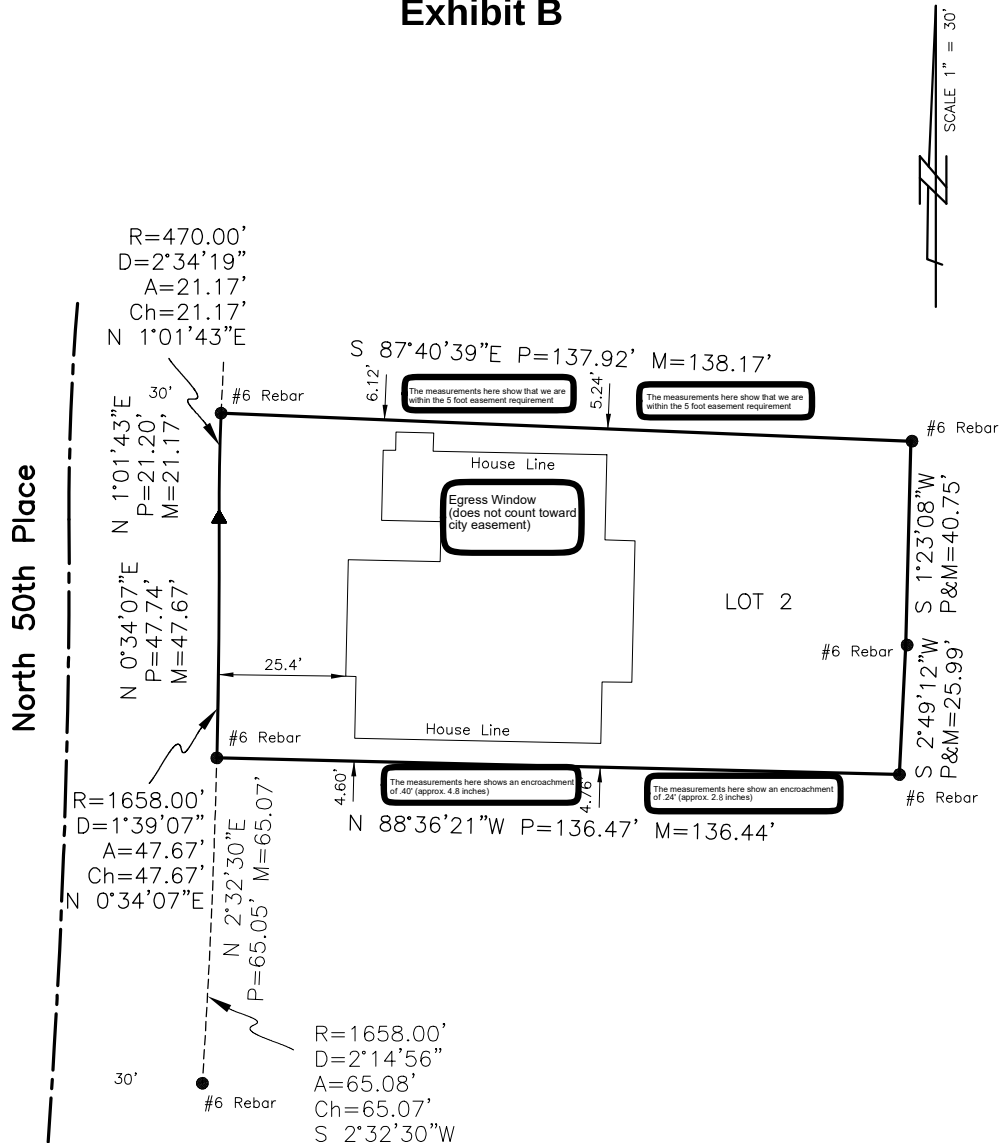
P = Platted
R = Record
M = Measured
● = Found Monument as noted
○ = Set #5 Rebar & LS 483 cap
▲ = Temporary/computed Point

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7050 North 50th Place

Exhibit B

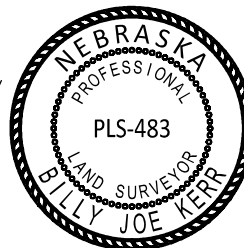


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Billy Joe Kerr
Billy Joe Kerr, PLS #483

Date: 9-23-2025



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LEGEND

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