

## MEETING RECORD

*Advanced public notice of the County 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, November 4, 2021.*

**NAME OF GROUP:** COUNTY BOARD OF ZONING APPEALS

**DATE, TIME AND PLACE OF MEETING:** Friday, November 12, 2021, 2:30 p.m., County-City Building, City Council Chambers, 555 S. 10<sup>th</sup> Street, Lincoln, NE.

**MEMBERS IN ATTENDANCE:** Jeff Frack, Jim Pinkerton, Herschel Staats and Ed Woeppel; (Matthew Warner absent).

**OTHERS IN ATTENDANCE:** Tom Cajka and Teresa McKinstry of the Planning Dept.; Ron Rehtus of Building & Safety; John Ward of County Attorney's Office; Duncan Young of Young and White; and other interested parties.

Chair Woeppel opened the meeting and acknowledged the posting of the Open Meetings Act in the room.

Woeppel then called for a motion approving the minutes of the regular meeting held August 14, 2020. Motion for approval made by Frack, seconded by Pinkerton and carried 4-0: Frack, Pinkerton, Staats and Woeppel voting 'yes'; Warner absent.

**COUNTY BOARD OF ZONING APPEALS NO. 21001, REQUESTED BY SETH AND JILL LIESKE TO WAIVER THE FRONTAGE REQUIREMENT ON PROPERTY GENERALLY LOCATED AT 15830 N. 1<sup>ST</sup> STREET**

**PUBLIC HEARING:** November 12, 2021

Members present: Frack, Pinkerton, Staats and Woeppel; Warner absent.

There were no ex parte communications disclosed.

**Duncan Young from Young & White, 8742 Frederick Street, Omaha, NE** is representing the applicant. The applicant Jill Lieske is his niece. The applicant purchased this property in 2017. They signed the purchased agreement in September and eventually closed on the property. This is a piece of property that has been platted since 1997. He showed a map of the property from

1997. The entirety of this development was put together in 1997. January 1, 2017 is when new County Zoning Regulations became effective and it required each lot to have 550 feet of frontage. This piece of property obviously did not have that much frontage. He pointed out the easement that turned into a gravel road. There is 30 feet on each side of the property line. That is the way it sat until around 2018. The grandfathered clause of the regulation allowed a lot platted prior to 2017 didn't have to meet the frontage requirement. Unfortunately, there was an ornate ornamental gate to the south of their property, just at about the lot line. A couple of problems were noted. It is partially on the applicant's property, it is partially in the easement. The applicant talked to the Real Estate Agent. The agent spoke with the sellers to see what they wanted to do. The Lieske's purchase agreement had already been signed. The owners of Parcel 4 decided that the easiest way to remedy this was to carve out the area where the gate is. Everyone put their heads together and came up with a solution. They carved out a niche of the lot for the gate to remain where it was. Had they not done that, they could have gone forward and submitted the building permit request and been grandfathered in. The applicant was not aware that once you altered the legal description of Parcel 3, it became a new parcel that didn't happen until 2017/2018. That is why we are here today. The applicant thought that by being neighborly and solving the issue themselves, it would be taken care of. They did not know that this would create a whole new set of problems. This is the land for their dream house. They were shocked to find out this was now an unbuildable lot. It was clearly set up so it could be a lot that would be built on. There is no way this property can have 550 feet of frontage. This would have been a buildable lot had they done nothing with the gate. This is the last lot that doesn't have a house built upon it. He believes there will be absolutely no detriment to the neighborhood. He is not aware of any objections to this. He pointed out the notch for the gate. He is asking for approval because this lot has essentially remained the same since 1997. The lot did not change. He pointed out language for the easement for the road and maintenance. He doesn't believe it makes any sense to not allow the applicant to build. If they don't receive a variance, there is nothing that can go on this lot. He believes this is an undue hardship. He would like common sense to prevail. He believes the area will be improved by the addition of one more house. It will benefit the area with more taxes. He would like to see the applicant have reasonable use of their land. This is a strange situation. The applicant didn't know that by being neighborly, they wouldn't be able to build on their lot.

Frack asked about the survey. It appears to show 227 feet of frontage. Young stated that is correct. That is how they would access their property.

Pinkerton inquired who the access easement is with. Young stated that according to a document filed in the Register of Deeds, it provides for ingress and egress for all lots in perpetuity. There is 30 feet on each side of the property on all lots.

Pinkerton believes the owner needs to do their due diligence on any easements and who owns what. Young noted that what the applicant didn't understand was that by deeding the piece to their neighbor, this is a brand new lot that was created.

**Judy Mueller 15820 N. 1<sup>st</sup> St., Raymond, NE**, appeared in support. She stated that in the beginning, they were told the County would take over the road. All the owners split the expense of maintaining the road. She talked to the County and found out it wasn't going to happen. The road isn't wide enough and not up to County specifications. Every year the owners get together and purchase some rock for the road. The people who originally owned both of the properties thought it might be left to their relatives. Everyone assumed someone would always build on this lot.

No one appeared in opposition

**Tom Cajka Planning staff** wanted to clarify a few items regarding the road frontage and access easement. Frontage is to a public or private street. This is an access easement. There is zero frontage. That is why the waiver being requested is from 550 feet to zero.

Frack asked if would make sense to have this modified to 227 feet. Cajka responded that there is no frontage. It must be to a public road. These were all 20 acre lots when they were created. They weren't requiring frontage when these lots were created. In 2018, a text amendment cleaned up language that said any lot created before 2017, the frontage requirement didn't apply if the parcel 20 or more acres. The applicant laid out the sequence of events very well.

**ACTION:**

Pinkerton moved to close the public hearing, seconded by Staats and carried 4-0: Frack, Pinkerton, Staats and Woeppel voting 'yes'; Warner absent.

Staats moved to approve the appeal and waive the frontage requirement from 550 feet to zero feet, seconded by Frack.

All members voiced agreement that the applicant made their case and that they believe this appeal should be granted so this can be a buildable lot.

Motion for approval carried 4-0: Frack, Pinkerton, Staats and Woeppel voting 'yes'; Warner absent.

There being no further business, the meeting was adjourned at 2:55 p.m.