

**City of Lincoln
Planning**

**County Board of Zoning Appeals
Agenda**

NOTICE: There will be a meeting of the County Board of Zoning Appeals on Friday, **April 13, 2012**, 2:30 p.m. in the City Council Chambers, County-City Building, 555 S. 10th Street, Lincoln, Lancaster County, Nebraska, on the following items. For more information, call the Planning Department, (402) 441-7491.

AGENDA

APRIL 13, 2012

1. Election of Chair and Vice-Chair
2. Review and approval of minutes of meeting held [April 9, 2010](#).
3. Review and approval of Lancaster County Board of Zoning Appeals [bylaws](#).

CONTINUED PUBLIC HEARING AND ACTION

4. [County Board of Zoning Appeals No. 12001](#), requested by Gary King, to reduce the side yard setback from 30 feet to 15 feet along the west lot line of property located at 15200 Martell Rd.

COUNTY BOARD OF ZONING APPEAL #12001

DATE: April 4, 2012

DATE SCHEDULED FOR PUBLIC HEARING: April 13, 2012

LOCATION: Generally located at South 148th Street & Martell Road

ADDRESS: 15200 Martell Road.

LEGAL DESCRIPTION: Lot 7 located in the SW 1/4 of Section 22, Township 8 North, Range 8 East, Lancaster County, NE.

APPLICANT: Gary W. And Joyce I. King
15200 Martell Rd
Bennet, NE 68317
(402) 450-1475

LOT AREA: 10.00 acres

ZONING: County AG Agriculture

EXISTING LAND USE: home site, wooded pasture, wetland.

SURROUNDING LAND USE AND ZONING: Wooded pasture to the east and south, single home site to the southeast, remaining surrounding land in agricultural use. All zoned AG Agriculture. Martell Road is a gravel County road, South 162nd/Highway 43 is a paved highway about ½ mile east.

TYPE OF APPEAL:

THIS APPEAL IS DIRECTED TO THE BOARD RELATIVE TO

Article 4.017(a) of the Lancaster County Zoning Regulations, requires a side yard of 60 feet. In the case of this lot, this is reduced to 51.24 feet due to narrowness of the lot. A previous Board of Zoning Appeals ruling allowed the reduction of the west side yard to 30 feet. This is a request to further reduce to 15 feet in order to remove and replace two existing sheds.

STAFF FINDINGS:

1) The applicant is requesting a reduction in the required side yard from 30 feet to 15 feet.

2) The applicant previously received an approval to reduce the side yard from 51.24 feet to 30 feet in order to build a new shed in 1999 (CBA99001).

2) The applicant states the reason for the request is to allow the replacement of two older buildings with a single new building. This new building would be built to 15 feet from the west property line, which is the current approximate location of the two existing buildings.

3) This lot was created legally in 1977, prior to the 1978 change of zone that increased the minimum lot size in the AG zoning district to 20 acres with a side yard of 60 feet. At the time this lot was created the required side yard was 15 feet.

4) It is unclear when these buildings were built. If it was prior to 1978, they would be legal nonstandard uses. It is possible that they were built before 1968 when zoning was first instituted in the county, in which case there would not have been a side yard requirement.

5) Had this lot been created after 1978 through the provisions of Lancaster County Zoning Regulations 4.017(h), commonly called the farmstead split provision, the required side yard setback would be 15 feet, according to 4.017(h)(1).

6) Article 19.007 (2) Powers relative to Variances states the role of the County Board of Zoning Appeals is "To hear and decide upon petitions for variances, and subject to such standards, principles and procedures provided in this resolution, to vary the strict application of the height, area, parking or density requirements to the extent necessary *to permit the owners a reasonable use of their 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.*" (Emphasis added)

7) The owner is not being denied reasonable use of his land as there is ample room to locate the new building within the buildable area of this lot.

8) The lot has no peculiar topography, the lot is a regular rectangle, there are no streams, bodies of water, or floodplains that limit the buildable area of this lot, there were no peculiar easements or other restrictions found. No peculiar, exceptional, or unusual circumstances are found.

9) Because the rules prior to 1978 allowed subdivision of land to a minimum of 1 acre in size, and the State allowed division of land of 5 acres or more without subdivision, there are likely many parcels in the county that experience these same restrictions (In the 6 sections bordering 22-8-8, and within the county jurisdiction [two are within Bennet's jurisdiction] a quick review finds 8 parcels under 10 acres created before 1978 that would face the same restrictions).

Conclusion: The owner is not being denied reasonable use of the land, the lot has no peculiar, exceptional or unusual circumstances.

Prepared by

Sara Hartzell, 441-6371, shartzell@lincoln.ne.gov
Planner

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**County Board of Zoning Appeals #12001
15200 Martell Rd**

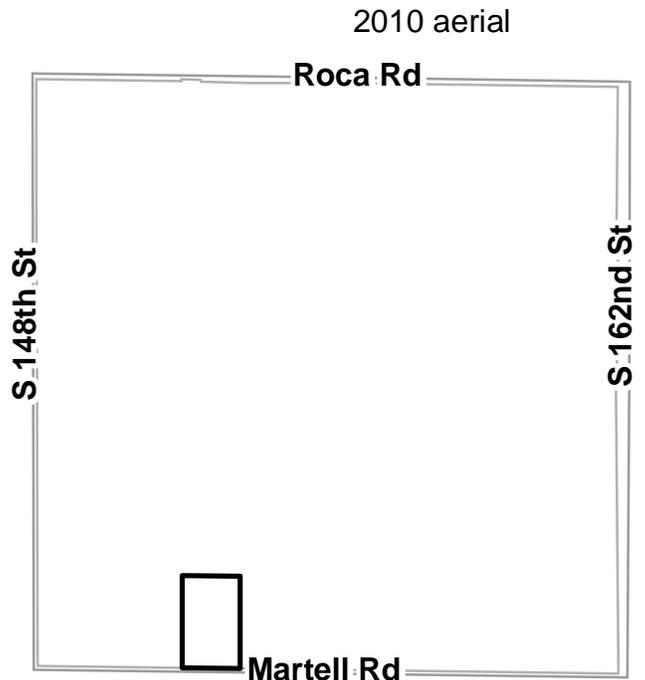
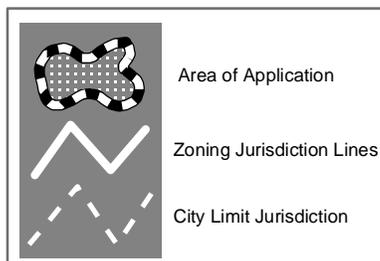
2010 aerial

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

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**One Square Mile
Sec. 22 T08N R08E**



I need to replace two deteriorating buildings on my property with one functional building, much like an Astro building. The new building would be north of my current Astro building. Presently, I have a 30 foot variance for this existing Astro building.

I face some property limitations due to my north windbreak and the only mature tree I have left in that whole area which made it through the 2004 tornado. Because of these restrictions, I cannot place the new building 30 foot from my property line.

I am requesting a variance of 15 feet from my property line to erect my new building. The south side of the new building would be approximately 190 feet from the edge of the road.



Gary W. King

To Whom It May Concern,

We own the property to the North
and East of Gary's property.

We understand he would like to put up
a new building 15 feet from his West property
line.

We do not object to this.

Keith R King

Doris M. King

Date: March 8, 2012

To: Interested Parties

From: Arthur and Pamela Hutt
15301 Martell Road (N½ NW ¼ 27-8-8)
Bennet, Nebraska 68317

Re: New Tractor and Machinery Building
Gary and Joyce King
15200 Martell Road
Bennet, Nebraska 68317

Mr. King is requesting a setback variance from Lancaster County for the replacement of an existing pole type tractor and machinery building with a new building to house farm equipment and other machinery.

Mr. King is seeking approval to build the new structure fifteen (15) feet east of his west property line. This new structure would replace the existing building at approximately the same location.

In reviewing Mr. King's request, we support allowing the setback variance and recommend the County give its approval.

Regards,



Arthur K. Hutt



Pamela K. Hutt

Leonard Ringland
16794 S. 148th St.
Bennet, NE 68317

March 4, 2012

Lancaster County Board

RE: Neighbor erecting new shed

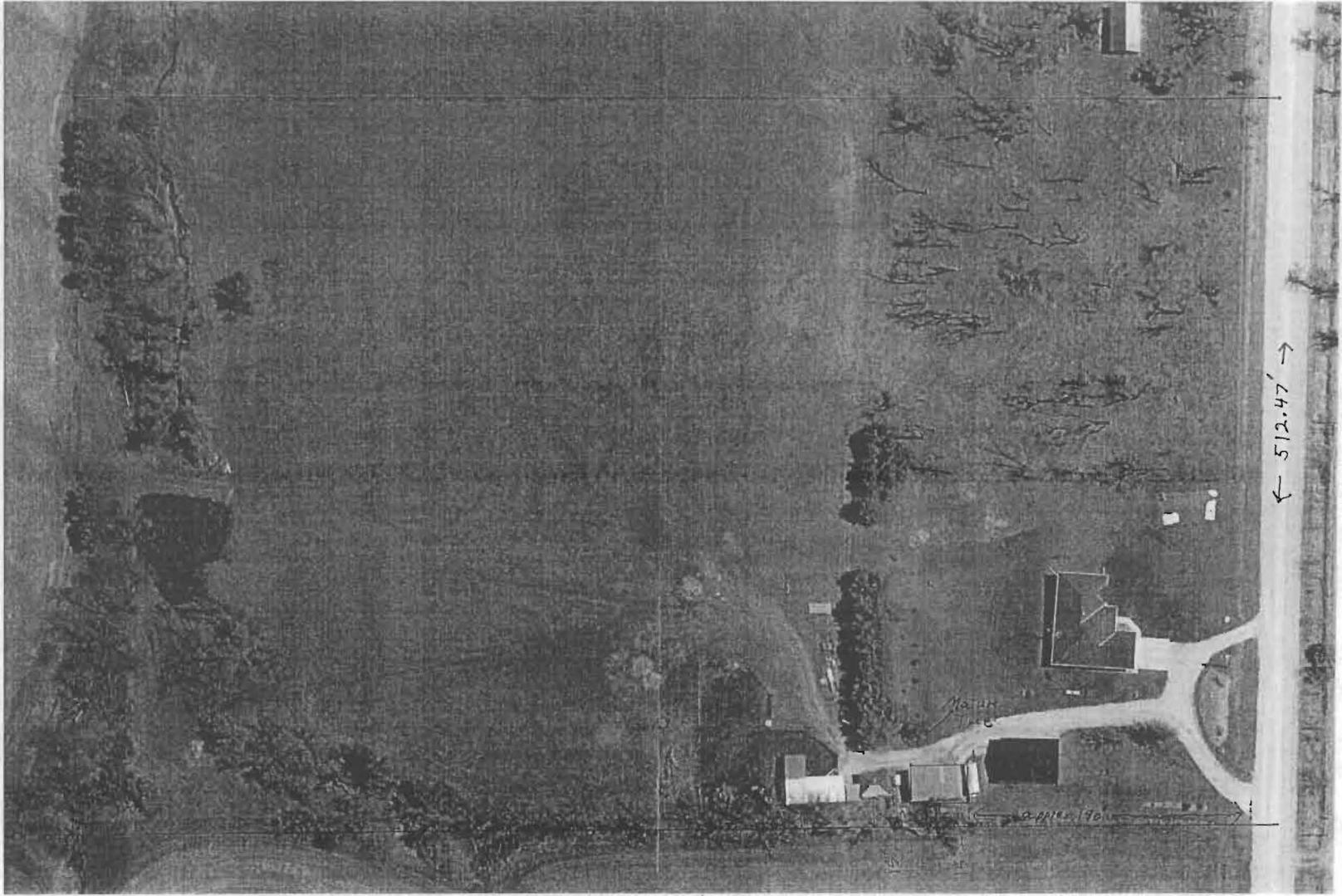
To Whom This Concerns:

I am writing this letter to inform you I own the piece of property on the West side of Gary and Joyce King and I have no objections to Gary erecting a shed on the North side of his current Astro building. I understand the new shed will be fifteen feet from his West property line.

Regards,

A handwritten signature in cursive script that reads "Leonard Ringland". The signature is written in black ink and is positioned to the right of the typed name.

Leonard Ringland





← 850' →

15'

15'

approx. 190'

Mature Tree

← 512.47' →

Copy

Board of Zoning Appeals
 Written Decision
 LMC Chapter 27.75

03/13/2012
 Date

Dale Stertz
 Staff Member

Department of Building & Safety
 City of Lincoln
 555 South 10th Street, Room 203
 Lincoln, Nebraska 68508-2803

RECEIVED

MAR 15 2012

CITY BUILDING AND SAFETY

Contact Person Gary W. King

Address 15200 Martell Road

This Department has reviewed your submission regarding the property located

at: (address) 15200 Martell Road

and legally described as: (legal description) Lot 7, Section 22-Township 8, Range 8

or an alleged error regarding _____

The result of this review found noncompliance with the following zoning requirements of the Lancaster County Zoning Ordinance.

1. Article 4.017(d) Lancaster County Zoning Ordinance requires a side yard setback of 51.25 feet.

***A variance to reduce the side yard setback from 51.25 feet to 15 feet, along the west property line is requested.

Note: Any appeal to the Board of Zoning Appeals must be filed within 14 days.

Received 3-15-12
(Date)

By Gary W. King
(Signature)

PLANNING DEPT. _____ DATE OF HEARING _____ CO. BOARD OF APPEALS NO CBA 12001
Fee 300⁰⁰ Receipt No. _____ Date 3-12, 2012.

APPEAL TO COUNTY BOARD OF ZONING APPEALS

BOARD OF ZONING APPEALS, Lancaster County, Nebraska

On 2-24-12, 2012, the undersigned applied for a building permit to Construct a
pole shed approx 24' x 36', 15' from west property line

Located on Lot 7 Block _____ Addition _____ Sec. 22 Township 8 Range 8
Address 15200 Martell Rd Bennet, Ne 68317 Have you met with the neighboring properties? Yes ___ No

TO BE FILLED IN BY BUILDING OFFICIAL: This permit was denied because _____

RECEIVED
MAR 12 2012
CITY BUILDING AND SAFETY

The above decision(s) of the Building Official is hereby appealed on the grounds that (check and complete all that apply):

The Administrative Official erred by _____
 A Variance to (height, area, parking, density) is necessary because the property is peculiar, exceptional, and unusual in the following ways: see attached sheet

An exception is necessary to:
1. Reconstruct a non-conforming building for a compelling public necessity because: _____
2. To permit erection or use of a public service corporation for public utilities: _____
3. To interpret provisions where the map does not reflect the street layout on the ground: _____

Contact Person: Gary W. King Address: 15200 Martell Rd Bennet, Ne 68317
Phone #: 450-1475 E-mail (if applicable) _____

Staff will post a notification sign in the yard of the property and other officials may visit the site prior to the hearing. Signing this form hereby grants permission to the staff to enter onto property for purposes related to this application.

Signed: Gary W. King Appellant's Address 15200 Martell Rd Bennet, Ne Phone # (402) 782-8978 or (402) 450-1475
(cell)

CBA 99001 reduced setback from 51.24 to 30' -MP