

# **Boards & Commissions**

## **Lancaster County Board of Zoning Appeals Meeting**

### **AGENDA**

**June 23, 2017**

1. Approval of minutes of the County Board of Zoning Appeals meeting held April 14, 2017.

### **PUBLIC HEARING AND ACTION**

2. **COUNTY BOARD OF ZONING APPEALS NO. 17005**, requested by Robert and Kathy Findley, for a variance to the AG (Agricultural District) requirements, to reduce by 20 feet the requirement for 550 feet of minimum frontage on an AG zoned lot, on property generally located at 16600 S. 82nd Street, Roca, Nebraska.

**COUNTY BOARD OF ZONING APPEAL #17005**

**DATE:** June 12, 2017

**DATE SCHEDULED FOR PUBLIC HEARING:** June 23, 2017

**LOCATION:** Generally located at S. 82<sup>nd</sup> Street and Roca Road

**ADDRESS:** 16600 S. 82<sup>nd</sup> Street.

**LEGAL DESCRIPTION:** Lots 28 and 40, Irregular Tracts located in the NW1/4 of Section 23, Township 8 North, range 7 East; Lancaster County, NE

**APPLICANT:** Kathy Findley  
16600 S. 82<sup>nd</sup> Street  
Roca, NE 68430  
402-560-2851

**LOT AREA:** Lot 28 is 13.76 acres and Lot 33 is 19.51 acres. A total of 33.27 acres, more or less

**ZONING:** Ag Agricultural

**EXISTING LAND USE:** Single family house and farm ground

**SURROUNDING LAND USE AND ZONING:**

North: AG Agricultural	Farm ground and 4 farm houses.
South: AG Agricultural	Farm ground and 3 farm houses.
East: AG Agricultural	Farm ground and one farm house.
West: AG Agricultural	Farm ground and 3 farm houses.

**TYPE OF APPEAL:**

THIS APPEAL IS DIRECTED TO THE BOARD RELATIVE TO

Article 4.017(a) of the Lancaster County Zoning Regulations requires a minimum of 550 feet of frontage for parcels of 20 acres or more and 4.017(c) requires a minimum of 120 feet of frontage for lots less than 20 acres in the AG Agricultural District. This is a request to reduce the minimum frontage of 550 feet to 530 feet in order to subdivide the property.

**STAFF FINDINGS:**

1. The AG District of the County Zoning regulations allows a parcel of at least 21 acres that has an existing house that is at least 5 years old and is the primary residence of the farm to be subdivided into 2 lots. The existing house can be on a lot as small as one acre as long as the remainder is at least 20 acres. This is often referred to as a “farmstead split.” The one acre lot must have 120 feet of frontage and the 20 acre lot must have 550 feet of frontage.
2. The applicant inquired about doing a farmstead split on the property. This was not possible because the parcel does not have the required 670 feet of frontage. There is 650 feet of frontage; 20 feet short.
3. The applicant’s letter states that they met with the County Planner in 2001 to discuss subdividing the property in the future. The County Planner at the time reviewed the farmstead split option with the applicant. In 2001 the requirement to have 550 feet of frontage on a 20 acre lot was not being enforced by the Building and Safety Department.
4. Prior to September 2002 building permits and zoning could not be enforced on parcels of 20 acres or more per State Statute. Resolution R-02-0106 passed on September 17, 2002 required building permits and conformance with zoning regulations for non-farm buildings used as residences regardless of the size of the parcel.
5. In a County Board staff meeting of August 22, 2002 the minutes show that the County attorney stated that existing 20 acre parcels that did not have the minimum frontage could be “grandfathered.” This exception was not addressed in Resolution R-02-0106 or in the County Zoning Regulations.
6. After Resolution R-02-0106 was passed there were multiple County Board staff meetings to discuss the issue of frontage on interior parcels. An amendment to the County Zoning Regulations was discussed, but never initiated.
7. It is clear from reviewing County Board staff meeting minutes from 2002 that there was confusion on whether the frontage requirement should be enforced for parcels of 20 acres or more. The Building and Safety Department staff were instructed by the County Board to not enforce the frontage requirement on parcels of 20 acres or more after 2002.
8. The deletion of the frontage requirement Mr. Findley references in his letter refers to a recent text amendment. This amendment waives the frontage requirement for parcels of 20 acres or more that were created before January 1, 2017. This does not allow someone to create a new 20 acre parcel without the

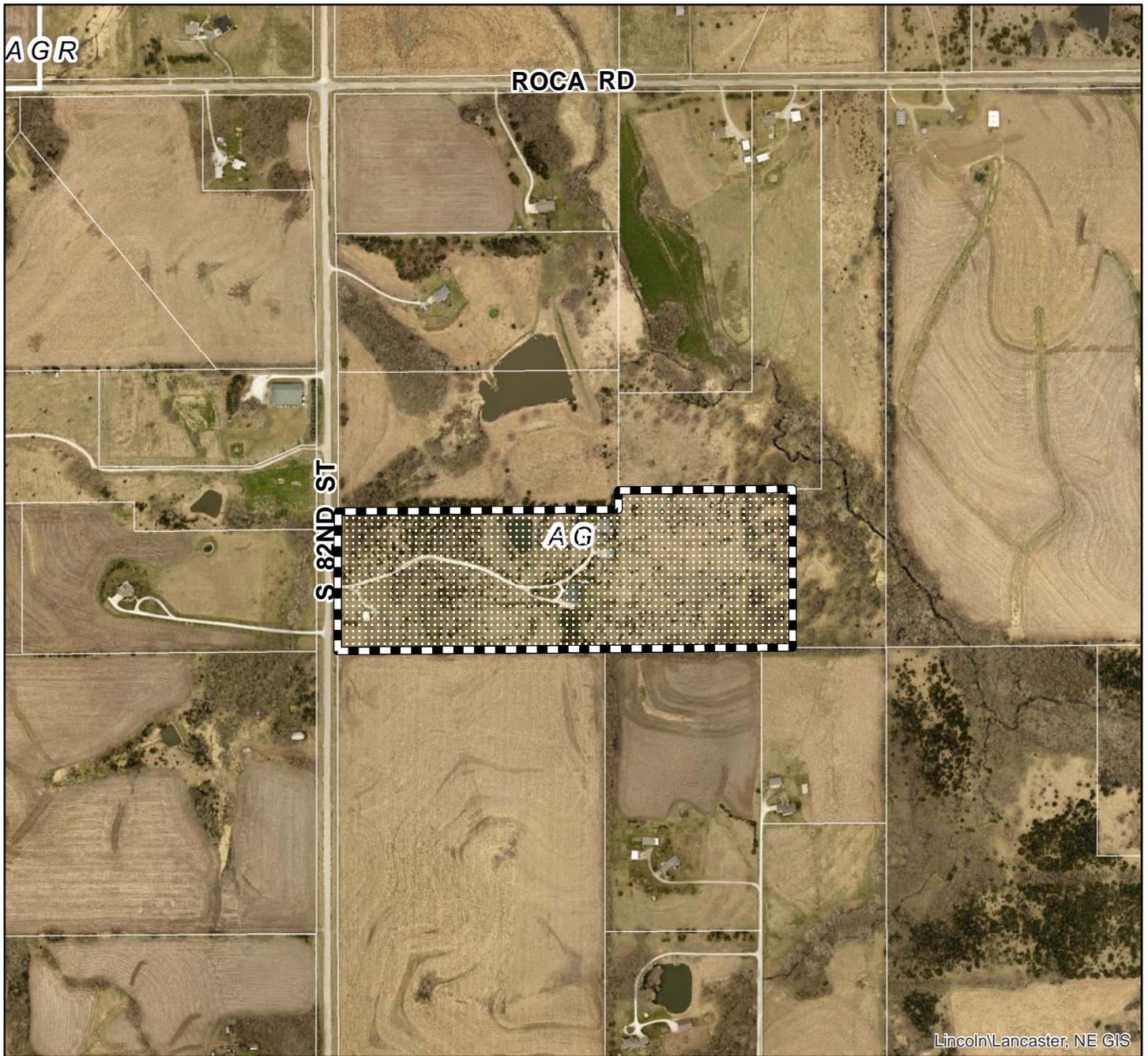
required frontage. Mr. Findley could not proceed with his subdivision and avoid the frontage requirement as stated in his letter because the new subdivision has to meet the frontage requirement.

9. Section 19.003 (2) Powers Relative to Variances. The Board of Zoning Appeals is authorized, upon petitions for variances, 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.

Prepared by

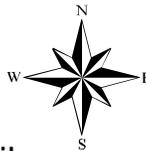
Tom Cajka  
Planner

F:\DevReview\BZA\17000\BZA17005 Findley.tjc.docx



2016 aerial

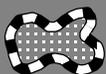
**Board of Zoning Appeals #: BZA17005**  
**S 82nd St & Roca Rd**

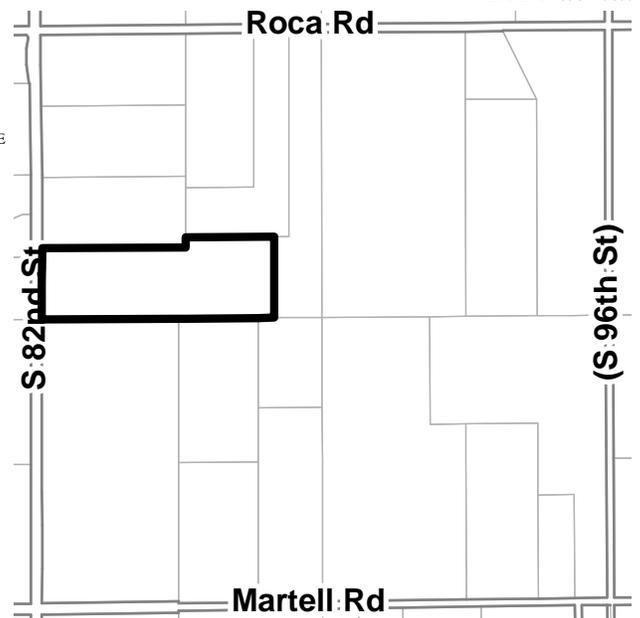


**One Square Mile:**  
**Sec.23 T08N R07E**

**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

	Area of Application
	Zoning Jurisdiction Lines
	Lancaster County Jurisdiction



May 1, 2017

Robert & Kathy Findley  
16600 South 82<sup>nd</sup> Street  
Roca, Nebraska 68430

Kathy and I have 3 grown children and 14 grandchildren. Findley & Assoc.-Architects have been a part of Lincoln, Nebraska and surrounding towns for 40 years. Kathy is the daughter of Clifford and Vada Cheever, founders of Cheever Construction, also apart of the Lincoln community for over 50 years.

We purchased this property in the fall of 2000, designed and constructed our home in 2001. Shortly thereafter, we visited Mike DeKalb, the County Planner at that time. Our reason for the meeting, was to inquire about how the land could be subdivided, enabling our son to build a house in the future. Mike told us that there was a clear path to this idea of an additional house or houses on this property, via the Homestead Ordinance. After 5 years, the original dwelling could be subdivided out in 3 to 5 acre parcels, and another house built, as long as the remaining property was 20 acres or more. He further stated that in 5 years after the second house was built and as long as you had 20 acres, a third house could be built. We asked if we should subdivide the original house off at that time and he told us to wait until we were ready to build. I personally saw Mike in the following years, and he reiterated what we were told earlier.

It is important to note that we even made arrangements in our will, regarding our children, and based it on the information the County and Mr. DeKalb had told us. We placed a lot of weight on his recommendations. We also purchased an additional 14 acres of trapped land for future subdivision based County recommendations, giving us a total of 34 acres.

We constructed a 3 stall stand alone garage, and a legal lagoon for a close by outbuilding, with a future house in mind. This allowed us to plan, and economically use these for the future house.

About 3 years ago, I designed the house and had it bid out, to prepare for the next step meeting with the County Planner, and start the subdivision of our existing house from our total of 34 acres, leaving 28 to 29 acres allowing a 2<sup>nd</sup> home according to what we were told.

We went to the current County Planner, Mr. Tom Cajka, to start the process. This is when we were told a totally different take on our 34 acres. He explained the after subdividing off our residence on a 5 acre plot, we could build another house because we had 28 to 29 acres left, however we would need 550' frontage for the second house. He went on to say that the past County Attorney did not require the 550', but the new County Attorney does.

This law has been into existence since 1979, but apparently sometimes followed and sometimes not and we were caught right in the middle of a questionable interpretation of this 1979 ordinance.

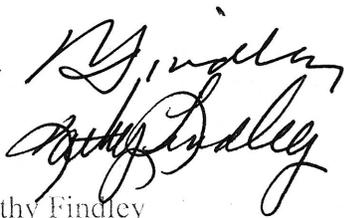
The only recommendation Mr.Cajka could give us was for us to try to buy 20'feet from our neighbors on either side. We tried this and the neighbors refused. The reason they gave us was that they didn't trust the County regarding changing their minds from year to year, thus rendering their property in the future to legal jeopardy.

We have also learned the "County Board" is currently studying a new ordinance that would delete frontage requirements from subdivisions divided before January 1, 2017. Here again, Mr. Cajka did not comment on this when we visited with him about this permit, in late 2016 or during our phone conversations in early 2017. I also reached out to Deb Schorr for help and her recommendation was, again, to try to acquire the 20' from the neighbors. Had we been informed of the possibility of the new ordinance we would have moved forward immediately to plot our land to qualify with in the required date.

After much frustration with being told 2 sets of requirements on our property, designing and bidding out a 2<sup>nd</sup> house, waiting to subdivide, relying on County recommendation, all regarding 20' of frontage on a current frontage of 650' in lieu of 670'. The Findley family respectfully pleads with the "County Board of Appeals," to grant a 20' variance, allowing us to build a house on this property.

It is worth noting that this house would be set back 1200', nestled into over a thousand trees,would be able to use an already existing drive, an existing 3 stall garage and a "Legal Lagoon." The information above is all factual and not exaggerated

Respectfully,

Handwritten signatures of Robert and Kathy Findley in black ink. The signatures are written in a cursive style. Robert's signature is on top and Kathy's is below it.

Robert & Kathy Findley

Roca Road.

ROCA RD

So. 82nd. St.

(need 670')

660' - 120'

need 550' frontage.

530'

Robert & Kathy Findley  
16600 So. 82  
Roca, Nebr. 68430  
402.568.2851

new house for son.

remaining 29 acres  
only need 20 acres to  
build house for son & family  
\* can use same driveway

34 acre's ±

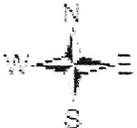
exist house

need 10' more  
x 5' deep  
to get to 670'

- exist Findley Residence
- lot needs 120' frontage (5+ acres)
- \* would turn around & give 100 year easent. for \$1.00.
- \* would trade 20'x9' anywhere along abutting property line.

Vicky's farm.

# Lancaster County/City of Lincoln GIS Map



Printed: Aug 26, 2016

DISCLAIMER: The information is presented on a best-efforts basis, and should not be relied upon for making financial, survey, legal or other commitments. If you have questions or commitments regarding the data displayed on this map, please email [ags@lincoln.ne.gov](mailto:ags@lincoln.ne.gov) and you will be directed to the appropriate department.