

Lancaster County

BOARD OF ZONING APPEALS

AGENDA

BOARD OF ZONING APPEALS

Jeff Frack
James Pinkerton
Herschel Staats
Matthew Warner
Ed Woepfel

November 12, 2021

COUNTY BOARD OF ZONING APPEALS

NOTICE: Notice is hereby given that the County Board of Zoning Appeals will hold a public hearing on Friday, **November 12, 2021**, at **2:30 p.m.**, in the City Council Chambers, 555 South 10th Street, County-City Building, Lincoln, Lancaster County, Nebraska, on the following items. For more information, call the Planning Department, 441-7491.

Masks are strongly encouraged for our public meetings in this building.

AGENDA

AUGUST 14, 2020

1. Approval of minutes of the County Board of Zoning Appeals meeting held [August 14, 2020](#).

PUBLIC HEARING AND ACTION:

2. **BOARD OF ZONING APPEALS 21001**, requested by Seth and Jill Lieske, to waive the frontage requirement, on property generally located at 15830 North 1st Street.

The County Board of Zoning Appeals agenda may be accessed on the Internet at <http://www.lincoln.ne.gov/city/plan/bdscom/cbza/index.htm>

MEETING RECORD

NAME OF GROUP: COUNTY BOARD OF ZONING APPEALS

DATE, TIME AND PLACE OF MEETING: Friday, August 14, 2020, 2:30 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: James Pinkerton, Herschel Staats, Matthew Warner and Ed Woepfel; Jeff Frack absent; Tom Cajka and Rhonda Haas of the Planning Department Ron Rehtus of Building and Safety; Jennifer Holloway of County Attorney's Office; and other interested parties.

STATED PURPOSE OF MEETING: Regular County Board of Zoning Appeals Meeting

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

Woepfel called for a motion approving the minutes of the regular meeting held June 12, 2020. Motion for approval made by Staats, seconded by Warner and carried, 4-0: Pinkerton, Staats, Warner and Woepfel voting 'yes'; Frack absent.

BOARD OF ZONING APPEALS 20004, REQUESTED BY MIKE ELWOOD, TO REDUCE THE FRONT YARD SETBACK, ON PROPERTY GENERALLY LOCATED AT 6000 OLIVE CREEK ROAD
PUBLIC HEARING: **AUGUST 14, 2020**

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

There were no ex parte communications disclosed.

Mike Elwood, 330 South Harrison Street, Hallam, came forward and stated that they purchased this property on it May 14. He shared that he had contacted Building & Safety about the residential addition and remodel project located at 6000 Olive Creek Road. He shared that he previously applied and received a building permit from Building & Safety, but this time the permit is being denied because the home is too close to the property line. Elwood stated that he is requesting a permit to reduce the setback requirement on this property so that he can complete the renovation and expansion of the home. He explained that he had contacted Building & Safety and talked with staff about his intentions before purchasing the property and Building & Safety said that there was no

obvious issues with his plans. Then, when he applied for the permit, it was denied with the explanation that the original permit was given to him in error in 2004.

No one in came forward in support or opposition

Pinkerton asked if Building & Safety approved the permit in the past with the current setback. **Tom Cajka, Planning Department**, came forward and stated that a building permit was issued at the current location, in the past.

Woepfel asked when it was approved. Cajka said it was approved in 2004.

Pinkerton asked what the setbacks were at that time. Cajka explained that they are same as what they are today, 50 feet. Pinkerton inquired how it was approve then. Cajka stated he did not know. Pinkerton asked if in the future something like this could get through. Cajka said he would hope not. He shared that in the county there are many times that people have ownership to the center of the road. If this would have been measured from the center of the road it would have been 50 feet. Pinkerton asked if the setback was from the road. Cajka said yes, but not from the center of the road.

Cajka stated that he was entering the County Regulations into the record for this item.

ACTION:

AUGUST 14, 2020

Warner made a motion to grant the variance to reduce the setback, seconded by Staats and carried, 4-0: Pinkerton, Staats, Warner and Woepfel voting 'yes'; Frack absent.

There being no further business, the meeting was adjourned at 2:42 p.m.

Please note: The Board will not approve these minutes until the next regular County Board of Zoning Appeals hearing.

COUNTY BOARD OF ZONING APPEAL #21001

DATE: October 25, 2021

DATE SCHEDULED FOR PUBLIC HEARING: November 12, 2021

LOCATION: Generally located at N. 1st Street and Branched Oak Road

ADDRESS: 15828 N. 1st Street

LEGAL DESCRIPTION: Lot 41 Irregular Tract, NW ¼ of Section 35, Township 12, North, Range 6 East, Lancaster County, NE

APPLICANT: Jillion and Seth Lieske

LOT AREA: 22 acres

ZONING: AG-Agriculture

EXISTING LAND USE: Undeveloped/agriculture

SURROUNDING LAND USE AND ZONING:

North:	AG-Agriculture	single family dwellings on 20 acre lots
South:	AG-Agriculture	single family dwelling on 20 acre lots
East:	AG-Agriculture	farm ground and single family dwellings
West:	AG-Agriculture	single family dwellings on 20 acre lots.

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 in the AG Agricultural District. This is a request to waive the frontage requirement from 550 feet to zero feet to allow Lot 41 to be a buildable lot.

STAFF FINDINGS:

1. The applicant is requesting to waive the frontage requirement from 550 feet to zero to allow Lot 41 to be a buildable lot.
2. The lot in question started as Lot 20 I. T. (Parcel 3 on the survey attached). A survey was filed in June 1997 and the warranty deed was filed in March 1998. It was over 20 acres in size but did not have any frontage. At that time, it was not a buildable lot per the zoning regulations because it lacked frontage.

3. In May 2017 a text amendment was approved to the County zoning regulations. This amendment added to the zoning regulations that any lot created prior to January 1, 2017 was buildable even if it didn't have any frontage. So, Lot 20 I. T. became a buildable lot.
4. The applicants purchased Lot 20 I. T. on December 28, 2017. At that time, it was a buildable lot per the new text amendment. However, the applicant then revised the lot line with an adjacent property owner. This revised property was now Lot 41 (Parcel A on the second survey attached) which was created in January 2018. Since Lot 41 I. T. was created after January 1, 2017, it was no longer subject to the conditions of the text amendment that allowed lots created prior to January 1, 2017 to be buildable without any lot frontage. Thus, Lot 41 I. T. is not buildable.
5. 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.
6. Although frontage was required after September 17, 2002, 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. The frontage requirement has been enforced **since 2014**.
7. This lack of enforcement of frontage resulted in many parcels with no street frontage or less than the 550 feet required. The text amendment done in May 2017 was to address this issue. The text amendment allowed that lots created prior to January 1, 2017 that are 20 acres or more are not required to have frontage.
8. 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



City of Lincoln/Lancaster County, NE GIS

2020 aerial

Board of Zoning Appeals #: BZA21001
N 1st St & Branched Oak Rd



Zoning:

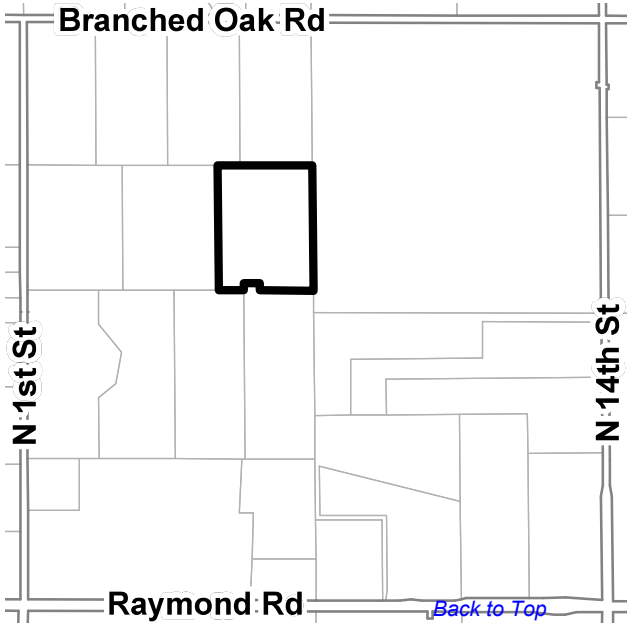
- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial 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.35 T12N R06E

Area of Application

Zoning Jurisdiction Lines

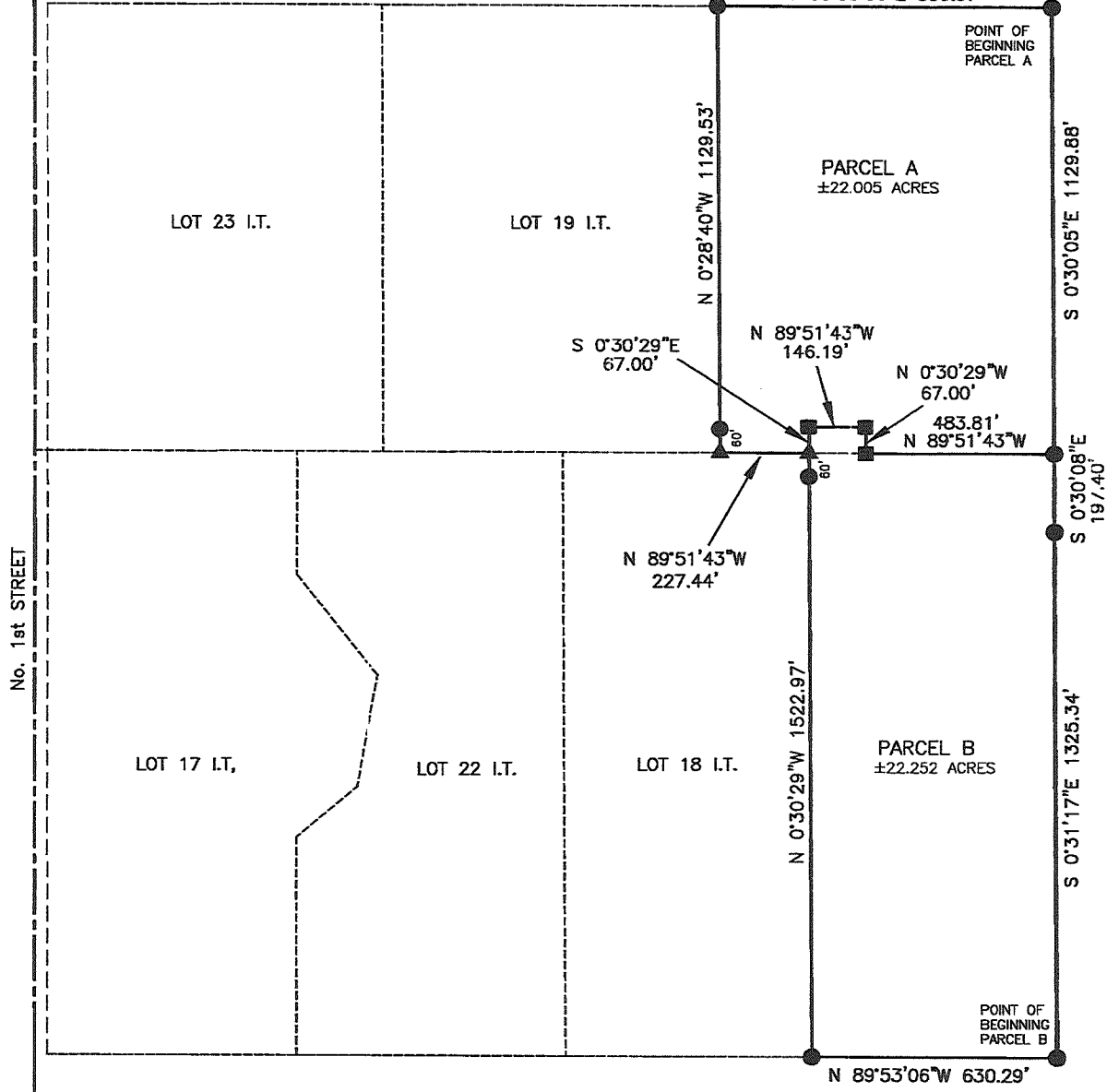
Lincoln City Limits



[Back to Top](#)

LEGEND

- P = PLATTEE DISTANCE
- M = MEASURED DISTANCE
- = FOUND MONUMENT 1" PIPE OR AS NOTED
- = SET MONUMENT (#5 REBAR & CAP)
- ▲ = COMPUTED POINT



DESCRIPTION

PARCEL A
 THAT PART OF LOT 20 IRREGULAR TRACT, LOCATED IN THE NORTHWEST QUARTER OF SECTION 35, TOWNSHIP 12 NORTH, RANGE 6 EAST OF THE 6th P.M., LANCASTER COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 20 IRREGULAR TRACT, SAID POINT BEING THE NORTHEAST CORNER OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF SAID SECTION 35; THENCE SOUTHERLY ON THE EAST LINE OF SAID LOT 20, ON AN ASSIGNED BEARING OF S 0°30'05"E A DISTANCE OF 1129.88', TO THE SOUTHEAST CORNER OF SAID LOT 20; THENCE WESTERLY ON THE SOUTH LINE OF SAID LOT 20, N 89°51'43"W 483.81'; THENCE NORTHERLY, N 0°30'29"W 67.00'; THENCE WESTERLY, N 89°51'43"W 146.19'; THENCE SOUTHERLY, S 0°30'29"E 67.00', TO A POINT ON THE SOUTH LINE OF SAID LOT 20, SAID POINT BEING THE NORTHWEST CORNER OF LOT 21 IRREGULAR TRACT IN SAID SECTION 35; THENCE WESTERLY ON SAID SOUTH LINE, N 89°51'43"W 227.44', TO THE SOUTHWEST CORNER OF SAID LOT 20; THENCE NORTHERLY ON THE WEST LINE OF SAID LOT 20, N 0°28'40"W 1129.53', TO THE NORTHWEST CORNER OF SAID LOT 20; THENCE EASTERLY ON THE NORTH LINE OF SAID LOT 20, S 89°53'06"E 856.97', TO THE POINT OF BEGINNING, SAID TRACT CONTAINING AN AREA OF 958,528.56 SQUARE FEET OR 22.005 ACRES, MORE OR LESS.

PARCEL B
 THAT PART OF LOT 20 IRREGULAR TRACT AND ALL OF LOT 21 IRREGULAR TRACT, LOCATED IN THE WEST HALF OF SECTION 35, TOWNSHIP 12 NORTH, RANGE 6 EAST OF THE 6th P.M., LANCASTER COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 21 IRREGULAR TRACT, SAID POINT BEING THE SOUTHEAST CORNER OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 35; THENCE WESTERLY ON THE SOUTH LINE OF SAID LOT 21, ON AN ASSIGNED BEARING OF N 89°53'06"W A DISTANCE OF 630.29', TO THE SOUTHWEST CORNER OF SAID LOT 21; THENCE NORTHERLY ON THE WEST LINE OF SAID LOT 21, N 0°30'29"W 1522.97', TO THE NORTHWEST CORNER OF SAID LOT 21; THENCE NORTHERLY ON SAID WEST LINE EXTENDED, N 0°30'29"W 67.00'; THENCE EASTERLY, S 89°51'43"E 146.19'; THENCE SOUTHERLY, S 0°30'29"E 67.00', TO A POINT ON THE NORTH LINE OF SAID LOT 21; THENCE EASTERLY ON SAID NORTH LINE, S 89°51'43"E 483.81', TO THE NORTHEAST CORNER OF SAID LOT 21; THENCE SOUTHERLY ON THE EAST LINE OF SAID LOT 21, S 0°30'05"E 197.37', TO THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 35; THENCE CONTINUING SOUTHERLY ON THE EAST LINE OF SAID LOT 21, S 0°31'18"E 1325.34', TO THE POINT OF BEGINNING, SAID TRACT CONTAINING AN AREA OF 969,302.85 SQUARE FEET OR 22.252 ACRES, MORE OR LESS.

SURVEYOR'S CERTIFICATE

I, THE UNDERSIGNED, A DULY REGISTERED LAND SURVEYOR IN AND FOR THE STATE OF NEBRASKA, DO HEREBY CERTIFY THAT I CAUSED A SURVEY TO BE MADE OF THE FORGOING DESCRIBED PROPERTY, AND THAT THE RESULTS OF SAID SURVEY ARE TRULY AND ACCURATELY DEPICTED HEREON, TO THE BEST OF MY KNOWLEDGE AND BELIEF.

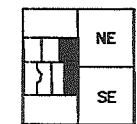
IN TESTIMONY WHEREOF WITNESS MY HAND AND SEAL
 THIS 12th DAY OF DECEMBER, 2017.

Billy Joe Kerr

BILLY JOE KERR, LS #483



LOCATION SKETCH
 NOT TO SCALE



BOUNDARY SURVEY
 LOTS 20 & 21 I.T., IN THE W 1/2
 SEC. 35, T 12 N, R 6 E
 LANCASTER COUNTY, NEBRASKA

K & M INC.
 LAND SURVEYING

6811 SOUTHFORK CIRCLE
 LINCOLN, NE 68516
 (402) 476-3020
 (402) 476-3138 FAX

PROJ. # 1712027

2

PARCEL A

THAT PART OF LOT 20 IRREGULAR TRACT, LOCATED IN THE NORTHWEST QUARTER OF SECTION 35, TOWNSHIP 12 NORTH, RANGE 6 EAST OF THE 6th P.M., LANCASTER COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 20 IRREGULAR TRACT, SAID POINT BEING THE NORTHEAST CORNER OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF SAID SECTION 35; THENCE SOUTHERLY ON THE EAST LINE OF SAID LOT 20, ON AN ASSIGNED BEARING OF S 0°30'05"E A DISTANCE OF 1129.88', TO THE SOUTHEAST CORNER OF SAID LOT 20; THENCE WESTERLY ON THE SOUTH LINE OF SAID LOT 20, N 89°51'43"W 483.81'; THENCE NORTHERLY, N 0°30'29"W 67.00'; THENCE WESTERLY, N 89°51'43"W 146.19'; THENCE SOUTHERLY, S 0°30'29"E 67.00', TO A POINT ON THE SOUTH LINE OF SAID LOT 20, SAID POINT BEING THE NORTHWEST CORNER OF LOT 21 IRREGULAR TRACT IN SAID SECTION 35; THENCE WESTERLY ON SAID SOUTH LINE, N 89°51'43"W 227.44', TO THE SOUTHWEST CORNER OF SAID LOT 20; THENCE NORTHERLY ON THE WEST LINE OF SAID LOT 20, N 0°28'40"W 1129.53', TO THE NORTHWEST CORNER OF SAID LOT 20; THENCE EASTERLY ON THE NORTH LINE OF SAID LOT 20, S 89°53'06"E 856.97', TO THE POINT OF BEGINNING, SAID TRACT CONTAINING AN AREA OF 958,528.56 SQUARE FEET OR 22.005 ACRES, MORE OR LESS.

PARCEL B

THAT PART OF LOT 20 IRREGULAR TRACT AND ALL OF LOT 21 IRREGULAR TRACT, LOCATED IN THE WEST HALF OF SECTION 35, TOWNSHIP 12 NORTH, RANGE 6 EAST OF THE 6th P.M., LANCASTER COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 21 IRREGULAR TRACT, SAID POINT BEING THE SOUTHEAST CORNER OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 35; THENCE WESTERLY ON THE SOUTH LINE OF SAID LOT 21, ON AN ASSIGNED BEARING OF N 89°53'06"W A DISTANCE OF 630.29', TO THE SOUTHWEST CORNER OF SAID LOT 21; THENCE NORTHERLY ON THE WEST LINE OF SAID LOT 21, N 0°30'29"W 1522.97', TO THE NORTHWEST CORNER OF SAID LOT 21; THENCE NORTHERLY ON SAID WEST LINE EXTENDED, N 0°30'29"W 67.00'; THENCE EASTERLY, S 89°51'43"E 146.19'; THENCE SOUTHERLY, S 0°30'29"E 67.00', TO A POINT ON THE NORTH LINE OF SAID LOT 21; THENCE EASTERLY ON SAID NORTH LINE, S 89°51'43"E 483.81', TO THE NORTHEAST CORNER OF SAID LOT 21; THENCE SOUTHERLY ON THE EAST LINE OF SAID LOT 21, S 0°30'05"E 197.37', TO THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 35; THENCE CONTINUING SOUTHERLY ON THE EAST LINE OF SAID LOT 21, S 0°31'18"E 1325.34', TO THE POINT OF BEGINNING, SAID TRACT CONTAINING AN AREA OF 969,302.85 SQUARE FEET OR 22.252 ACRES, MORE OR LESS.

September 20, 2021

Jillion & Seth Lieske
540 W. Dilin St.
Lincoln, NE 68521
Seth 402-429-8311
Jillion 402-429-8301



RE: Lieske's Request Variance to Waive Frontage Requirement
15830 N 1st St. Raymond, NE 68428 was the purchasing address and current address is 15828 N 1st St.

Dear Mr. Tom Cajka and Mr. Dustin Hladik,

My husband and I communicated with you last week regarding our property 15830 N 1 St Raymond, NE 68428. You indicated that our land is not buildable due to a law that changed in January 2017 requiring a frontage road. We purchased our land on December 28, 2017 and this law went into effect 11 months prior. Throughout the process of looking at this land, talking with our realtor, our purchase agreement, the companies who surveyed our land, tested our land, closing with our Title Company and bank, it was never shared with us that we were unable to build on this land. In fact, we were not able to close on our property until an approved well and 'perc' test came back approved since all those involved knew that our plan was to build on this property.

We went to the City of Lincoln Board of Zoning Appeals website to research this process and see the monthly City of Lincoln Board Zoning Appeals meeting is this Friday, September 24 at 1:30pm. We would very much appreciate if we could be on that agenda. This has been a shock for us as we are planning to break ground on October 4th for our dream home.

Below are a few dates, contacts, and documents to assist in applying for a variance to waive the frontage requirement:

- Worked with Realtor, Kevin Burkland 402-416-0416, through Woods Bros Realty.
- March 4, 2017, reviewed client detail report from midlandsmis.rapmls.com/scripts/mgrqispi.dll.
 - Listing #10126893 - County Lancaster N 1st Raymond, NE 68428
 - Report stated: 22.3 acres of beautiful rolling hills just a very few minutes from the northwest edge of Lincoln. Off the main road, at the end of the lane, very private.... **A home site to build your dream house.** (See attachment #1)
- Purchase agreement October, 31, 2017 (See attachment #2)
- Email correspondence November 1, 2017- November 18, 2017 with Kevin Burkland regarding questions to our perc test, septic options, soil, etc. all in preparation to build our home. (See attachment #3)
- Took our two children to see the land we purchased on November 12, 2017 (*Photo above*)
- Received Land Survey back on December 13, 2017 from K&M Land Surveying (See attachment #4)
- Title Company: Nebraska Land Title & Abstract (NLTA), Sheryl Oldham 402-434-3714
- Loan Company: The Cattle National Bank and Trust Company, Chase J. Peil 402-420-7400
- We have been making monthly payments on our land since December 2017.
- Signed with Murray Custom Homes in January 2021 and finalized our blue prints in August 2021.
- Murray Custom Homes sent our plans for permits in August 2021.
- Learned from Murray on September 14, 2021 that our land is not buildable due the law change after requesting our City Permit.
- Communication with our builder and the City regarding our land being unbuildable (See attachment #5)

Please see the attached Planning Department Application Request Form and supporting documentation. Thank you for assisting us with this process and consideration for our waiver. We appreciate any guidance and help that you can provide.

Jillion & Seth Lieske