

Lancaster County

BOARD OF ZONING APPEALS

AGENDA

BOARD OF ZONING APPEALS

Jeff Frack
James Pinkerton
Tai Pleasant
Matthew Warner
Ed Woepfel

March 10, 2023

COUNTY BOARD OF ZONING APPEALS

NOTICE: Notice is hereby given that the County Board of Zoning Appeals will hold a public hearing on Friday, **March 10, 2023** 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.

AGENDA

March 10, 2023

1. Approval of minutes of the County Board of Zoning Appeals meeting held February 10, 2023

PUBLIC HEARING AND ACTION:

2. **BOARD OF ZONING APPEALS 23002**, requested by Rodney and Cheryl Koehler for a variance to reduce the required side yard setback from 15 feet to 4 feet for a garage, on property generally located at 4140 Princeton Road.

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

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, February 2, 2022.

NAME OF GROUP: COUNTY BOARD OF ZONING APPEALS

DATE, TIME AND PLACE OF MEETING: Friday, February 10, 2023, 2:30 p.m., County-City Building, City Council Chambers, 555 S. 10th Street, Lincoln, NE.

MEMBERS IN ATTENDANCE: Jeff Frack, Jim Pinkerton, and Ed Woepfel; Matt Warner Absent.

OTHERS IN ATTENDANCE: Tom Cajka and Alexis Longstreet of the Planning Dept.; Ron Rehtus of Building & Safety; John Ward of County Attorney's Office; Chris Roth; 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 December 09, 2022. Motion for approval made by Frack, seconded by Pinkerton and carried 3-0: Frack, Pinkerton, and Woepfel voting 'yes'; Warner absent.

COUNTY BOARD OF ZONING APPEALS NO. 23001, REQUESTED BY CHRIS ROTH FOR A VARIANCE TO REDUCE THE REQUIRED REAR YARD SETBACK FROM 100 FEET TO 60 FEET, ON PROPERTY GENERALLY LOCATED AT 7601 WEST WAVERLY ROAD.

PUBLIC HEARING:

February 10, 2023

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

There were no ex parte communications disclosed.

APPLICANT

Chris Roth, 311 Crestview Drive, Deshler, NE, approached and gave history on the property. The applicant has had the home since 2016. The home was previously occupied by a hoarder. Roth stated that material from salvage yards was used as fencing. About 5 acres of the property was covered in various weeds. The home isn't suitable for permanent living. Roth stated that the HVAC system does not work. He has had multiple HVAC technicians work on it. It is an old modular type of home on a trailer. The plan was to relocate the home and place another home on the property and move it south. The southern portion is elevated so it provides a scenic view. The property currently has a circular drive. The driveway has been extended further south. There is an existing well. Hydrants were put in on the east side of the property. The electrical can be ran from Norris. No additional electric or water services have been done other than existing. Roth stated the property neighboring is 450 feet south from where the home would sit and the closest property to the east is about 700 feet away. Roth stated that they have good relationships with the neighbors, and they appreciate the clean-up of the property.

Frack asked if Roth was moving the current house or building a new home.

Roth stated that he is moving a house on the property. He had an inspector from Lincoln inspect the home he plans to move onto the property in September. Roth stated he serves on the Thayer County Economic Development Board and the county received a grant to build four houses. This house sits on a small lot about 100 x 150 that isn't suitable to put a house on. Roth stated he purchased the two smaller lots next to the current lot. He reiterated his plans to remove the home from the larger lot and combining all three lots to create a corner lot that he will donate to the county so that they can utilize the housing grant they received from Southeast Development Nebraska. He stated that is has also been inspected by the city.

Frack expressed his confusion. There are 9 acres, and 100 feet is needed for easement. Frack asked Roth why does he need 60 feet?

Roth stated there was confusion with seeing that the regulation was either 100 feet or 60 feet. He reiterated that there is 9 acres but where the house sits to the west, from north to south is a low area, kind of like a valley. A driveway can't be placed there. All the electricity and water are located on the east side. There is only a small area for the house to be placed. If the home is moved further north, where excavation work has been done, another tree will have to be removed in order to route water from the home.

STAFF QUESTIONS

Tom Cajka, Planning Dept, 555 South 10th Street, approached to be sworn in.

Frack expressed his confusion regarding the easement. Frack asked if the applicant was told different requirements by the Planning Department or someone else.

Cajka stated that he doesn't recall discussing easement measurements regarding this property. He is unsure where the confusion came from. AG zoning district has a 100 rear setback and 60-foot side yard. Cajka stated that the applicant could be confusing AG with AGR zoning which has rear yard setback of 50 feet.

Pinkerton reiterated that the applicant mentioned an inspector visiting the site, was that from the staff?

Cajka stated that Building and Safety received a complaint about a hole being dug on the property for the basement which was accurate. He stated that the permit was applied and denied by Building and Safety because it failed to meet the 100-foot lot line requirement.

SUPPORT

No one appeared in support.

OPPOSITION

No one appeared in opposition.

APPLICANT REBUTTAL

Applicant did not appear in rebuttal.

APPEAL NO. 23001

ACTION BY THE COUNTY BOARD OF ZONING APPEALS:

February 10, 2023

Woepfel closed public hearing.

Frack motioned to deny, seconded by Pinkerton. Motion for denial carried 3-0: Frack, Pinkerton, and Woepfel voting ' yes'; Warner absent.

There being no further business, the meeting was adjourned at 2:50 p.m.

COUNTY BOARD OF ZONING APPEAL #23002

DATE: March 1, 2023

DATE SCHEDULED FOR PUBLIC HEARING: March 10, 2023

LOCATION: Generally located at S.38th St. and Princeton Rd.

ADDRESS: 4140 Princeton Rd.

LEGAL DESCRIPTION: Lot 38 Irregular Tract, SW ¼ of Section 17, Township 7, North, Range 7 East, Lancaster County, NE

APPLICANT: Rodney and Cheryl Koehler

LOT AREA: 20.37 acres

ZONING: AG-Agriculture

EXISTING LAND USE: Dwelling with accessory structures.

SURROUNDING LAND USE AND ZONING:

North:	AG-Agriculture	farm ground and dwellings
South:	AG-Agriculture	farm ground
East:	AG-Agriculture	acreage lots
West:	AG-Agriculture	farm ground and dwellings

TYPE OF APPEAL:

THIS APPEAL IS DIRECTED TO THE BOARD RELATIVE TO

Article 4.017(a) of the Lancaster County Zoning Regulations requires a setback of 15 feet from the side yard for accessory structures. This is a request to reduce the side yard setback for an existing accessory structure from 15 feet to 4 feet.

STAFF FINDINGS:

1. The applicant is requesting the side yard setback be reduced from 15 feet to 4 feet for an existing accessory building on Lot 38 I. T. The accessory building was built in 2006 per the applicant’s letter. There is no record of a building permit.
2. The applicant has submitted a Farmstead Split application to the Building & Safety Department (B&S) to reduce Lot 38 by approximately 2 acres and add the 2 acres to Lot 45, the adjacent lot to the west. Lot 45 currently is unbuildable due to it being less than 20 acres. Adding the 2 acres Lot 45 would make it 20.07 acres in size. In the review of the Farmstead Split B&S discovered that the

accessory building is only 4.3 feet from the side lot line. Lancaster County zoning regulations require a 15 feet setback for a side lot line.

3. Nebraska State Statute 23-114.03 exempts agriculture buildings from zoning and building permits if the parcel is a minimum of 20 acres. By reducing the parcel from 20.4 acres to 18.5 acres, the exempt status is lost and the accessory building must now conform to the zoning. This leaves four options; move the building, demolish the building, withdraw the farmstead split, or request a variance.
4. The applicant is not requesting a variance for the entire side lot line. This request is specifically for the accessory building as shown on Parcel A of the attached site plan.
5. 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.

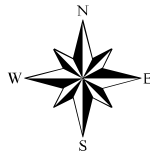
Prepared by

Tom Cajka
Planner



2022 aerial

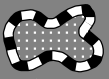


Board of Zoning Appeals #: BZA23002
S 38th St & Princeton Rd

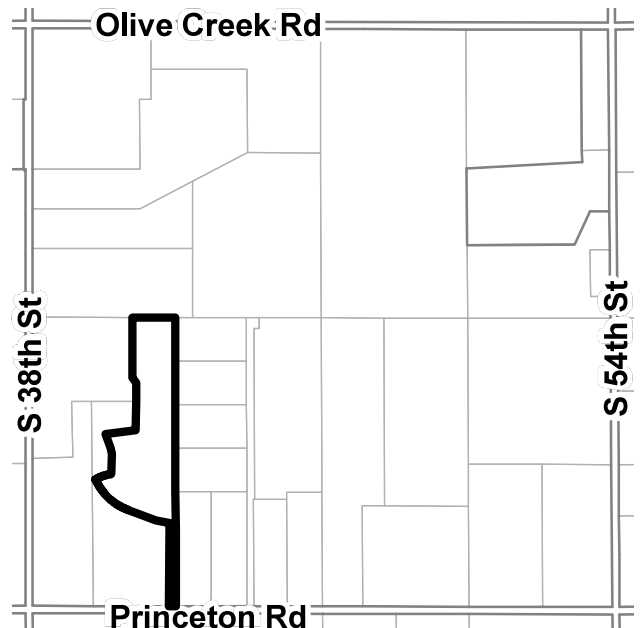


Zoning:

- 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.17 T07N R07E

	Area of Application
	Zoning Jurisdiction Lines
	City of Lincoln Jurisdiction





Civil Design Group, Inc.

Consulting Engineers & Land Use Planners
Civil Design • Site Development • Planning & Zoning

February 8, 2023

Mr. David Cary
Director of Planning
City of Lincoln /Lancaster County
555 South 10th Street, Room 213
Lincoln, NE 68508

Re: 4140 Princeton Road Variance request to the Board of Zoning Appeals
CDG Project No. 2016-0104

Dear Mr. Cary:

On behalf of Rodney & Cheryl Koehler we are requesting to be on the March 10, 2023 Board of Zoning Appeals agenda to request a variance to the Lancaster County AG Zoning side-yard setback. Specifically, we are requesting a variance of the side-yard setback from 15' to 4' in a small area where the out-building exists near the eastern property line.

Our client submitted a Farmstead Split application with the Lancaster County Building & Safety Department to reduce the size of the lot their house and the out-building reside on. During the review of the Koehler's application the Lancaster County Building & Safety Department (B&S) noted that Farmstead Split invokes the Lancaster County setbacks, including the 15' side-yard setback which would deem the aforementioned out-building to be encroaching upon. The suggested remedies from B&S were to either remove the building or dismantle and rebuild the building outside of the 15' side-yard setback.

Our basis for this appeal is the fact that when this out-building was built in 2006 it was on a legal parcel that was 20 acres or more. Under Nebraska State Statute 23-114.03 such a structure, when used for agricultural purposes on a legal parcel greater than 20 acres, is not subject to county zoning regulations. Thus, the Koehler's hardship, and the basis for this variance request, is that their desire to plat their lot on less than a 20 acre parcel should not invoke the hardship of having to either demolish or rebuild an out-building that has stood for 16 years, without issue to any neighbors, within the newly required 15' setback.

Sincerely,

Mike Eckert, AICP

Encl/jds