

**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, June 5, 2025.*

**NAME OF GROUP:** COUNTY BOARD OF ZONING APPEALS  
**DATE, TIME AND PLACE OF MEETING:** Friday, June 13, 2025, 2:30 p.m., County-City Building, City Council Chambers, 555 S. 10th Street, Lincoln, Nebraska

**MEMBERS IN ATTENDANCE:** Joe Shaw, Ed Woeppel, James Pinkerton; Tai Pleasant and Matt Warner absent.

**OTHERS IN ATTENDANCE** George Wesselhoft and Clara McCully of the Planning Department; Andrew Barnes of County Attorney’s Office; and other interested parties.

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

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 February 14, 2025.

Shaw moved approval, seconded by Pinkerton, and carried 3-0. Shaw, Woeppel, and Pinkerton voting ‘yes’; Warner and Pleasant absent.

**COUNTY BOARD OF ZONING APPEALS 25002**  
**requested by Ben Benischek, representing Kathleen Benischek, for a variance to reduce the minimum lot area and average lot width, on a property legally described as Lot 38 I.T., located in the NW 1/4 of Section 17-11-6, Lancaster County, Nebraska generally located at 3601 W Waverly Road.**

**PUBLIC HEARING:** June 13, 2025

Members present: Shaw, Woeppel, and Pinkerton. Warner and Pleasant absent.

There were no ex parte communications disclosed.

Shaw moved to open the public hearing, seconded by Pinkerton, and carried 3-0. Shaw, Woepfel, and Pinkerton voting 'yes'; Warner and Pleasant absent.

**APPLICANT:**

**Benjamin Benischek, 3601 W Waverly Road**, came forward and was sworn in. Benischek stated the lot in question is small and irregular, originating in 1979. In 2006, his parents purchased some property from the farm next door. After his father's passing, in 2015, his mother sold the 1.53 acres to the neighboring farm, unintentionally reducing the size of their lot below the required threshold. At the time, they were unaware that this action would require a subdivision permit. They recently discovered that the lot is now considered non-buildable and non-permittable, which they learned while attempting to refinance the home. Financial institutions declined to proceed because of the zoning issue.

Benischek emphasized that there are no plans to expand the current structures. They simply wish to make home improvements, including replacing a water heater, trenching electric service to an outbuilding, and undertaking general maintenance such as painting and roofing. He stated that resolving the zoning issue is necessary before they can move forward with these improvements or secure financing.

Pinkerton asked if the lot was not buildable for 10 years.

Benischek confirmed.

Pinkerton asked if it is located in the floodplain.

Benischek stated it is next to floodplain.

Pinkerton asked how much higher the house is.

Benischek stated it is 2 feet higher.

Pinkerton asked when the house was built.

Benischek stated 1981.

Woepfel stated the house at the time met requirements at the time. The applicant purchased and resold land without realizing would be an issue.

Benischek confirmed. They did not realize it was an issue, even with the title

company and the purchaser.

Pinkerton asked why they are asking for the variance now.

Benischek stated they need permits. They went to a different title company from their initial title company. The new title company realized they were zoned non-buildable. No one will work with them unless we get this resolved.

Pinkerton said so they can't do anything.

Benischek confirmed. They are not adding any buildings. They are adding a water heater, electricity into an outbuilding, and new roof. Just upgrades.

Shaw stated there is a letter of support from Kyle Schachenmeyer (Exhibit 1). Is that the neighbor?

Benischek confirmed. Schachenmeyer is the neighbor who had bought the land.

**SUPPORT:**

No one appeared in support.

**OPPOSITION:**

No one appeared in opposition.

**STAFF QUESTIONS:**

Pinkerton stated pieces of the property has been bought and sold multiple times. The details indicate that this has occurred, but such transactions may not be valid.

**George Wesselhoft, Planning Department, 555 S 10<sup>th</sup> Street, Suite 213**, came forward and was sworn in. He explained that the 2015 conveyance of land reduced the lot size, triggering the issue. While increasing the size of a non-conforming lot is allowed, reducing it is not. Under the law, any land subdivision 10 acres or less requires a plat. The applicant's property no longer meets the required minimum lot size or average lot width, which is what renders it unbuildable.

Woepfel asked if this was an illegal sale.

Wesselhoft stated that under the law, there should have been a final plat.

Pinkerton stated they could buy more land and bring it up to 20 acres, and would have to have it platted.

Wesselhoft confirmed, but today the minimum lot size is 20 acres, and the average lot width must be at least 550 feet. So the non-conforming status can't be modified or increased retroactively without a variance.

Shaw moved to close the public hearing, seconded by Pinkerton, and carried 3-0. Shaw, Woeppel, and Pinkerton voting 'yes'; Warner and Pleasant absent.

**ACTION:**

Shaw moved to approve a variance to reduce minimum lot area from 20 acres to 10 acres, seconded by Pinkerton, and carried 3-0. Shaw, Woeppel, and Pinkerton voting 'yes'; Warner and Pleasant absent.

Pinkerton moved to approve a variance to reduce the average lot width from 550 feet to 275 feet on the property, seconded by Shaw, and carried 3-0. Shaw, Woeppel, and Pinkerton voting 'yes'; Warner and Pleasant absent.

Motion to adjourn made by Saw, seconded by Pinkerton, and carried 3-0. Shaw, Woeppel, and Pinkerton voting 'yes'; Warner and Pleasant absent.

There being no further business, the meeting was adjourned at 2:46 pm