

**Lancaster County**

**BOARD OF ZONING APPEALS**

**AGENDA**

**BOARD OF ZONING APPEALS**

Jeff Frack  
James Pinkerton  
Herschel Staats  
Matthew Warner  
Ed Woepfel

**December 9, 2022**

# COUNTY BOARD OF ZONING APPEALS

NOTICE: Notice is hereby given that the County Board of Zoning Appeals will hold a public hearing on Friday, **December 9, 2022**, 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

**December 9, 2022**

1. Approval of minutes of the County Board of Zoning Appeals meeting held November 12, 2021.

### PUBLIC HEARING AND ACTION:

2. **BOARD OF ZONING APPEALS 22007**, requested by Andre and Erin Orduna, to waive the minimum lot size requirement, on property generally located at 8401 South 162nd 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>

**COUNTY BOARD OF ZONING APPEAL #22007**

**DATE:** November 28,2022

**DATE SCHEDULED FOR PUBLIC HEARING: December 9,2022**

**LOCATION:** Generally located at S. 162<sup>nd</sup> St. and Yankee Hill Rd.

**ADDRESS:** 8401 S. 162<sup>nd</sup> St.

**LEGAL DESCRIPTION:** Lot 16 Irregular Tract, SE ¼ of Section 2, Township 9, North, Range 8 East, Lancaster County, NE

**APPLICANT:** Andre and Erin Orduna

**LOT AREA:** 5.6 acres

**ZONING:** AG-Agriculture

**EXISTING LAND USE:** Dwelling with accessory structures.

**SURROUNDING LAND USE AND ZONING:**

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

**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 20 acres for parcels in the AG Agricultural District. This is a request to waive the minimum lot size from 20 acres to 5.6 acres.

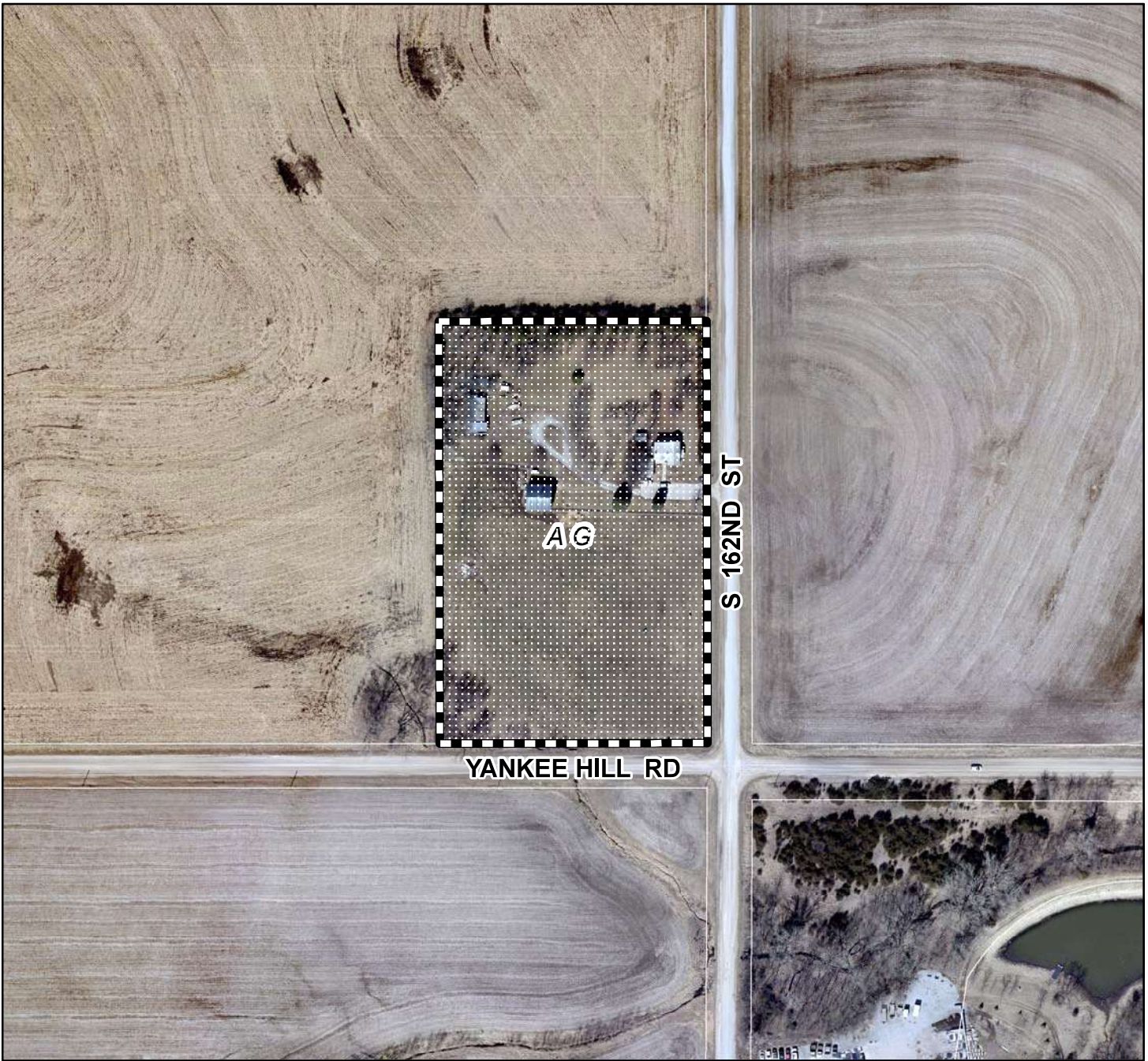
**STAFF FINDINGS:**

1. The applicant is requesting the minimum lot size be reduced from 20 acres to 5.6 acres to allow Lot 16 to be a buildable lot.
2. Lot 16 I.T. was split off from the East half of the SE quarter of Section 22-9-8. This created a 6.4-acre lot and a 73.6-acre lot. A deed was filed with Register of Deeds for the 6.4-acre lot on October 12, 1988. Lot 16 has a house and accessory structures on the property. The house was built around 1900. The house needs repairs.

3. An Administrative Subdivision Permit (ASP) was submitted to the Planning Department in August 1988. The ASP proposed to create the 2 lots as they are today. There is no approved ASP in the Planning Department file. Neither Lancaster County Engineering nor Lancaster County Assessor had any records of the ASP being approved. The ASP process no longer exists and any unfinished permits were expired if they were not approved.
4. The only options to make the lot buildable are either to go to Board of Zoning Appeals or do a new final plat. A final plat would require the cooperation of the adjacent Lot 17 property owner. The adjacent property (Lot 17) is no longer owned by the original person who did the lot split. As there is no issue with Lot 17 being buildable, there is no reason for the owner to participate in a final plat.
5. Lot 16 was first sold October 31, 1988, by lola Finke, the applicant of the ASP. The parcel was then sold to the current owner in October 2022. Although Andre and Erin Odruna were aware of the lot not meeting zoning regulations, their letter states that they were told they could not delay the closing due to there being a clen title on the property.  
Erin Orduna first contacted Planning Department by phone on October 19<sup>th</sup> to inquire about building permits for accessory structures. She was informed during the phone conversation that the lot appeared to be unbuildable. After consulting with County Engineering and County Assessor it was determined that the lot was unbuildable due to being created without an ASP.
6. The applicant's letter states that per the previous owner a survey was done. A survey was done, but it appears that the survey was never filed with the State or County Engineering (see attached). A survey on its own would not make Lot 16 buildable. The ASP would have needed to be approved to make the lot buildable.
7. 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

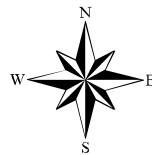


2022 aerial

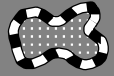


**Board of Zoning Appeals #: BZA22007**  
**S 162nd St & Yankee Hill Rd**

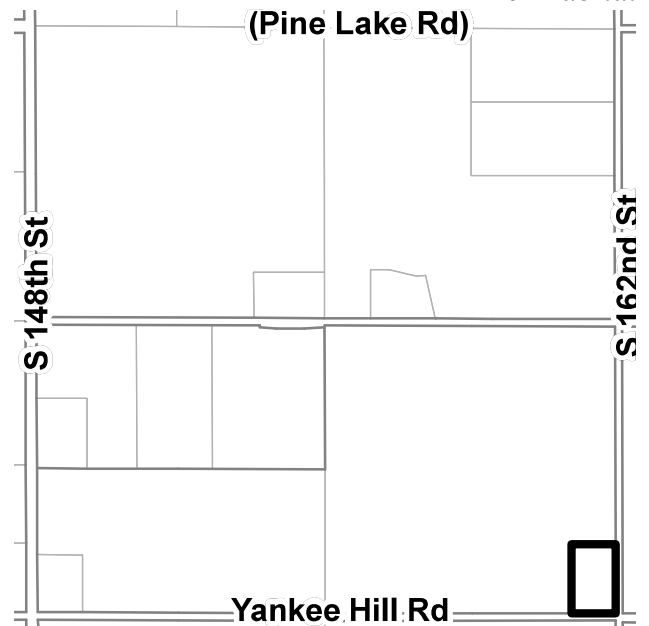
**Zoning:**

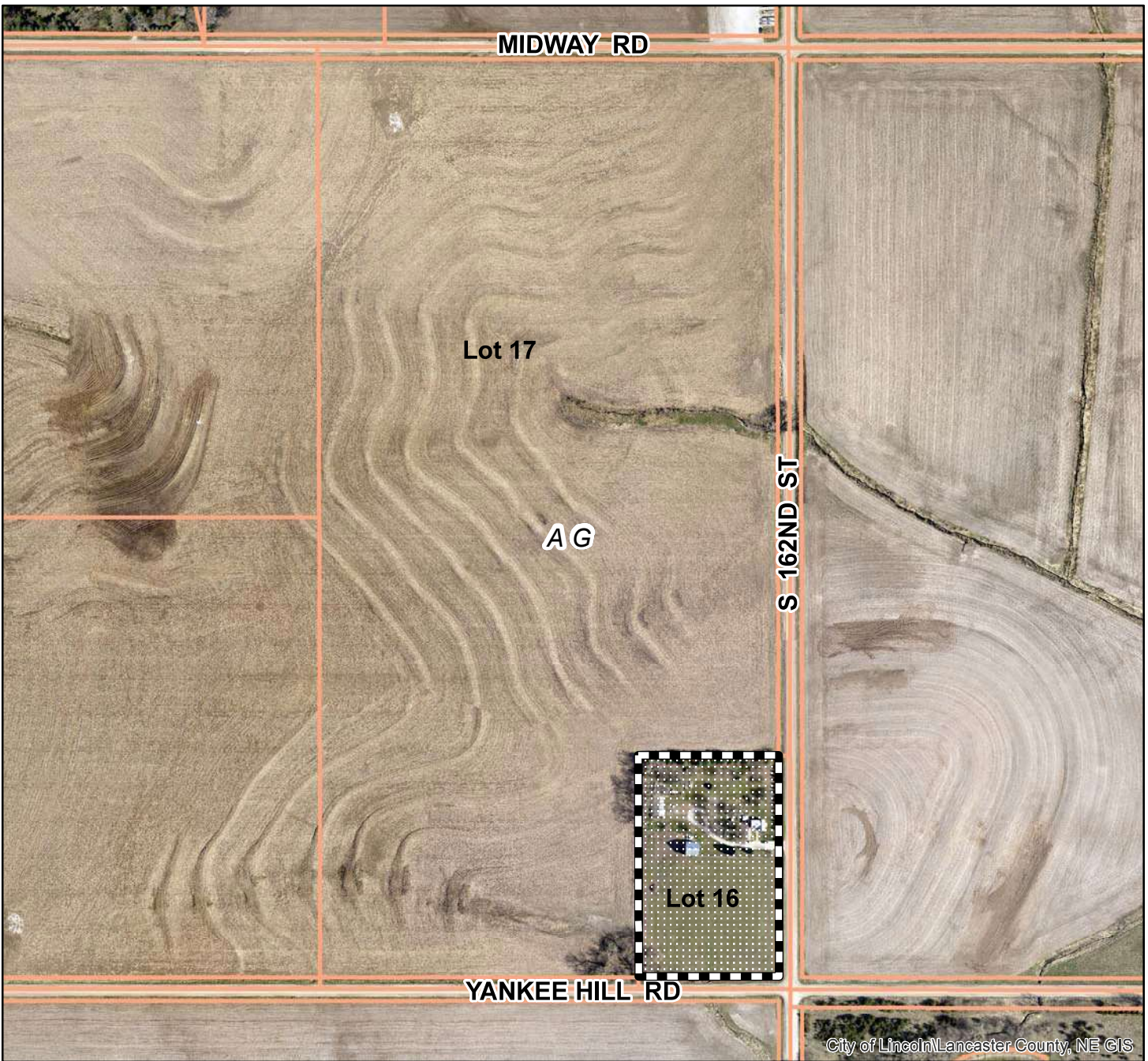
- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial 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.22 T09N R08E**

	Area of Application
	Zoning Jurisdiction Lines
	Lincoln City Limits

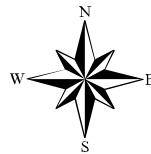




City of Lincoln Lancaster County, NE GIS

2020 aerial

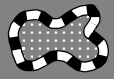


**Board of Zoning Appeals #: BZA22007**

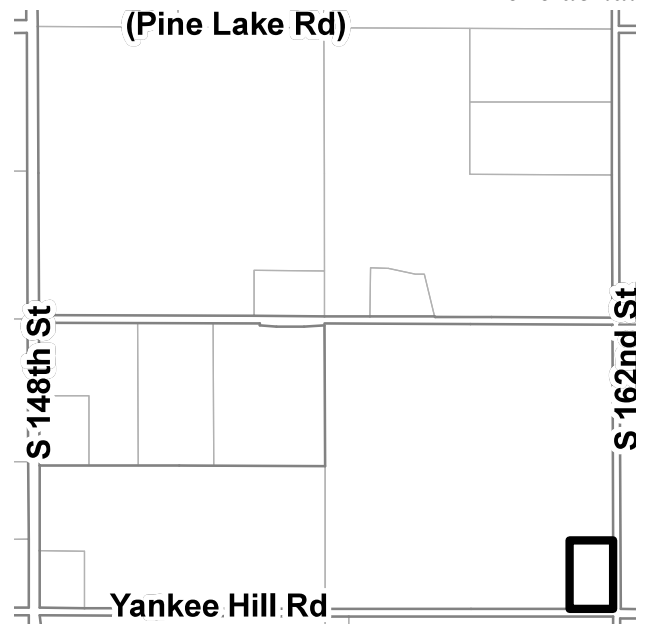


**Zoning:**

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One Square Mile:  
Sec.22 T09N R08E

	Area of Application
	Zoning Jurisdiction Lines
	Existing City Limits





November 3, 2022

Board of Zoning Appeals,

We are writing to you today to request a waiver that would allow us to pull permits and make necessary renovations to the home which currently is described as a "non buildable" lot.

On 10/21/2022 our family closed 8401 S. 162nd St. in Bennett, NE. A 5.62 acre property with an existing home, barn, and 3 outhouse structures.

In preparation for closing, Erin called Tom Cajka (planning commission) to inquire about how we might be able to use the land in the future and make the necessary improvements needed. During the phone call Tom informed us that this land was a "non buildable" lot which meant when we would go to pull permits in the future, we would be declined. Additionally, Ron Rehtus (Zoning coordinator) confirmed he cannot issue permits for this property until it becomes a buildable lot. We were advised we were unable to delay the closing due to there being a clean, legal title.

Per Steve Hettenbaugh (previous owner of 8401 S 162nd St) a survey was completed when he purchased the land in 1993; however, we have been unable to locate this record. It appears there were multiple documentation errors and/or incorrect procedures followed in filing the documents when the original homestead was split up. Because not all of the paperwork was filed by the previous owners correctly, our property is considered a "non buildable" lot. There are several safety concerns and liabilities with the current home. It is old, run down, and has not been maintained well over the years. Windows are broken and leaks can be visibly seen to the outside around the windows and doors, additions have been added on without permits in the past, wiring and electrical is not up to code, heating and air-conditioning are outdated and not efficient, and the home and garage foundations both have significant structural problems.

We bought this property with the intention of being able to create an updated and safe home for our family, and we hope you can help us accomplish this.

Sincerely,

The Orduna Family