

Lancaster County

BOARD OF ZONING APPEALS

AGENDA

BOARD OF ZONING APPEALS

Tai Pleasant
James Pinkerton
Joe Shaw
Matthew Warner
Ed Woepfel

September 13, 2024

COUNTY BOARD OF ZONING APPEALS

NOTICE: Notice is hereby given that the County Board of Zoning Appeals will hold a public hearing on Friday, **September 13, 2024** at **9:30 a.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

September 13, 2024

1. Approval of minutes of the County Board of Zoning Appeals meeting held August 11, 2023

PUBLIC HEARING AND ACTION:

2. **BOARD OF ZONING APPEALS 24002**, requested by Vladimir and Svetlana Netsvetayev, for a variance to rear yard setback, on property legally described as Lot 8 I.T., located in the NE1/4 of Section 18 07 07, Lancaster County, Nebraska, generally located at 3475 Olive Creek 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>



COUNTY BOARD OF ZONING APPEAL #24002

DATE: August 23, 2024

DATE SCHEDULED FOR PUBLIC HEARING: September 13, 2024

LOCATION: Generally located at S. 38th St. and Olive Creek Road

ADDRESS: 3475 Olive Creek Road

LEGAL DESCRIPTION: Lot 8 Irregular Tract, NE ¼ of Section 18, Township 7, North, Range 7 East, Lancaster County, NE

APPLICANT: Vladimir and Svetlana Netsvetayev

LOT AREA: 9.57 acres

ZONING: AG-Agriculture

EXISTING LAND USE: Vacant Acreage

SURROUNDING LAND USE AND ZONING:

North:	AG-Agriculture	farm ground
South:	AG-Agriculture	farm ground and acreage lot
East:	AG-Agriculture	acreage lot
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 rear yard setback of 100 feet the AG Agricultural District. This is a request to reduce the minimum rear yard from 100 to 50 feet.

STAFF FINDINGS:

1. The applicant is requesting to reduce the rear yard setback along the south property line from 100 feet to 50 feet to allow for the construction of a new single-family dwelling. The proposed structure would be located right at the 50-foot setback at its closest point.

2. The applicant provided building plans that also show a future home to the north of the proposed initial home. The applicant at a future date intends to apply for a Special Permit for Accessory Dwelling Unit. Currently, the applicant has only applied for the one dwelling unit.
3. It was determined that even though the lot is less than the minimum AG lot size requirement of 20 acres because it existed, although with slightly different boundaries prior to 1979, it could be considered a buildable lot. This because the lot was effectively created prior to the 1979 Lancaster County Zoning update which changed the minimum lot requirement from 1 acre to 20 acres.
4. The original 10-acre parcel was created in 1969 and was slightly enlarged in 1975, so the lot is buildable for a single-family home under the section for buildable lots not meeting the general requirements of 4.017(b)(1)(i)(6); however, the exceptions to the minimum lot area under 4.017(c) do not apply except when a farmstead split is involved. This case does not involve a farmstead as a new home is proposed. Thus, the building must follow the general 4.017(a) setbacks including a rear yard setback of 100 feet.
5. The applicant states in their letter that they checked with the Building and Safety Department in August, 2023 prior to the purchase date of their lot on October 18, 2023 and that they were told the rear yard setback required was 50 feet. (See attached emails from the applicant.)
6. The applicant subsequent to the purchase of the lot and prior to the submittal of the building permit for their new residence did site preparation including clearing debris, removing old, dilapidated structures, cutting down trees and setting a pad for the building. (See attached photographs from the applicant.)
7. The applicant's letter notes that they submitted the building permit application to the Building and Safety Department and on June 5, 2024, were informed that the plans showed an incorrect rear yard setback of 50 feet and that it needed to be 100 feet.
8. Building and Safety Department acknowledged with apology that the applicant was incorrectly told that the rear yard setback was 50 feet instead of 100 feet and noted that if the lot was less than 300 feet deep the 50-foot setback would apply.
9. The specific Lancaster County Zoning Regulation at issue in this matter was Article 4.017 (1)(v) below. This is an exception to the above general AG Height and Lot Requirements. It was initially thought that this exception applied to the lot but after further review, including double checking with the County Attorney's office, it does not. Specifically, had the applicant's lot not exceeded 300 feet at any one point or had the word "average" been part of the provision, then this section would apply, and the rear yard would only be 50 feet instead of the

general AG requirement of 100 feet. The provision in question under Article 4.017 that was thought to apply but does not is as follows:

- v. Where a buildable lot on the effective date of this Resolution has a depth of not more than three hundred (300) feet, there shall be a required rear yard having a depth of not less than fifty (50) feet or twenty percent (20%) of the depth of the lot, whichever is smaller; (Resolution No. R-12-0058, July 24, 2012);
10. In this case, the lot is long and narrow and it barely exceeds the 300' depth. The depth on the east end measures approximately 286 feet. The depth on the west end measures approximately 277 feet. There is an unusual small section on the south property line that exceeds the 300 feet at 322 feet approximately which is what disqualifies the property from using the above provisions for the 50-foot rear yard.
 11. The applicant notes that the change in what they had understood to be the correct rear yard setback of 50 feet causes them hardships as they spent time and money on the preparation work, and the entire design and planning was done with the 50-foot setback in mind. Due to the intent to build a bigger house to the north and apply for a Special Permit for Accessory Dwelling Unit and save existing mature trees they state that the proposed structure location cannot be easily moved. Topography is another factor noted by the applicant as the drive and proposed house location are on a hill with sloping topography to the east and west.
 12. 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

George Wesselhoft
Planner



Board of Zoning Appeals #: BZA24002
S 38th St & Olive Creek Rd

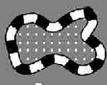




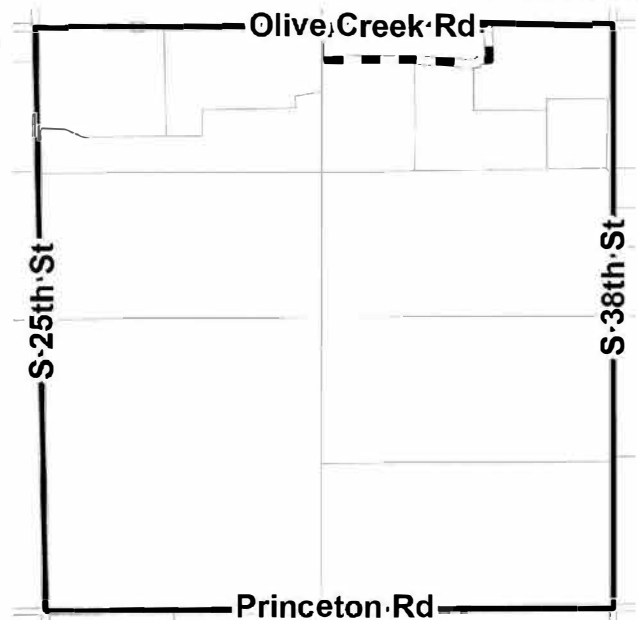
2020 aerial

One Square Mile:
 Sec.18 T07N 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
	Existing Lincoln City Limits
8	



NETSVETAEV
RESIDENCE

514 N. 10TH STREET
LINCOLN, NEBRASKA

DATE: 10/20/2021
PROJECT NO: 21-0014

GENERAL NOTES

- FOUNDATION & CONCRETE**
- PROVIDE JOINT BRASS OR JOINT MATERIAL WITH SEALANT BETWEEN ALL CONCRETE SLABS AND ADJOINING CONCRETE WALLS OCCURRING IN EXTERIOR OR UNHEATED INTERIOR SLABS.
 - PLATES, SELLS, AND SLEEPERS WHICH REST ON CONCRETE THAT IS IN DIRECT CONTACT WITH THE EARTH SHALL BE PRESSURE TREATED WOOD.

- CARPENTRY**
- UNLESS OTHERWISE NOTED:
 - FINISHED INTERIOR WALLS - 1/2" GYPSUM WALL BOARD
 - PROTECTION AGAINST DECAY AND TERMITES: WOOD IN CONTACT WITH GROUND OR IN DIRECT CONTACT WITH EARTH SHALL BE PRESSURE TREATED WOOD.

- FIRES TOP ALL WALLS OVER 10 FEET IN HEIGHT
- ALL WALLS OVER 12 FEET IN HEIGHT TO BE 2x6 MIN. OR EQUAL
- ALL GLASS WITHIN 18" OF FLOORS, DOORS, OR OPENING TO BE TEMPTED. ALL GLASS IN DOORS TO BE TEMPTED.
- FOLLOW ALL TECH MANUAL 11 FOR THE INSTALLATION AND FINISH OF GYPSUM WALL BOARD. ALL GYPSUM WALL BOARD INSTALLED SHALL BE TAPED, FINISHED, PRIMED AND PAINTED - EXCLUDING MECHANICAL ROOMS, STORAGE AND GARAGES.
- PRE-ENGINEERED WOOD FLOOR TRUSSES, GROSS TRUSSES, ROOF TRUSSES AND STRUCTURAL HEADERS AND TRANSFER BEAMS BY TRUSS SUPPLIER. TRUSS SUPPLIER SHALL INCLUDE STAMPED DRAWINGS AND CALCULATIONS BY A NEBRASKA LICENSED STRUCTURAL ENGINEER FOR ALL COMPONENTS SUPPLIED.

- 20, 12, 20 DRAFTSTOPPING
R302.12 DRAFTSTOPPING IN COMBUSTIBLE CONSTRUCTION WHERE THERE IS UNUSABLE SPACE BOTH ABOVE AND BELOW THE CONCEALED SPACE OF A FLOOR/CEILING ASSEMBLY, DRAFTSTOPPING SHALL BE INSTALLED SO THAT THE AREA OF THE CONCEALED SPACE DOES NOT EXCEED 1,000 SQUARE FEET. DRAFTSTOPPING SHALL DIVIDE THE CONCEALED SPACE INTO APPROXIMATELY EQUAL AREAS. WHERE THE ASSEMBLY IS ENCLOSED BY A FLOOR MEMBRANE ABOVE AND A CEILING MEMBRANE BELOW, DRAFTSTOPPING SHALL BE PROVIDED IN FLOOR/CEILING ASSEMBLY'S UNDER THE FOLLOWING CIRCUMSTANCES:
 - CEILING IS SUSPENDED UNDER THE FLOOR FRAMING.
 - FLOOR FRAMING IS CONSTRUCTED OF TRUSS-TYP OPEN WEB OR PERFORATED MEMBERS.

THERMAL & MOISTURE PROTECTION

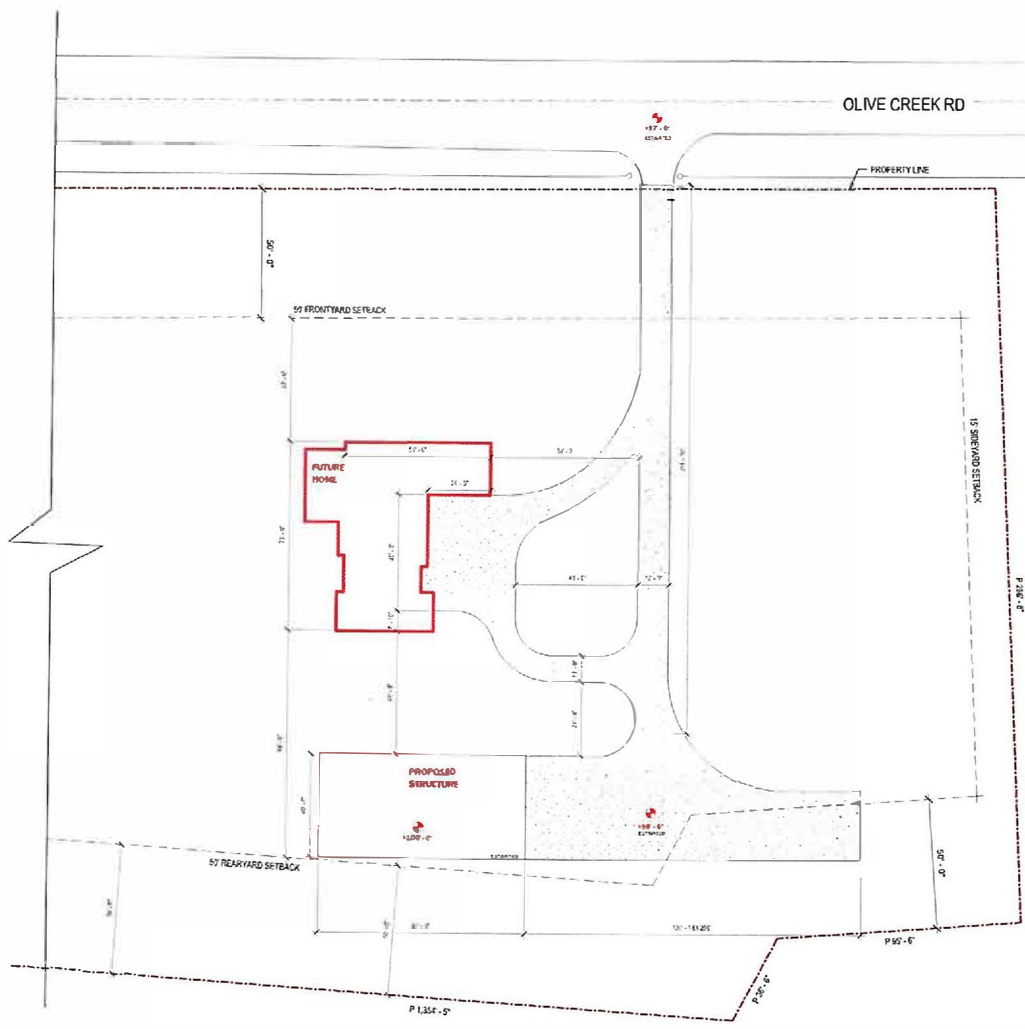
- 3 1/2" R-21 INSULATION INSULATION IN 2x6 WALLS, R38 BATT INSULATION AT LOW SLOPE ROOFS AND CEILING OR RAFTERS ADJACENT TO THE EXTERIOR OR UNHEATED SPACES
- FOAM GEL SEALER CONTINUOUS BETWEEN FOUNDATION AND SILL PLATE.
- CAULKING/SEALANT AT ALL WINDOW FRAME PERIMETERS, GARAGE DOORS, AND ENTRANCE DOORS.
- PROVIDE 3% SLOPE AWAY FROM THE BUILDING AT ADJACENT PAVING. PROVIDE 5% SLOPE AWAY FROM BUILDING AT ALL ADJACENT UNPAVED AREAS.

NOTE: ADDITIONAL GROUND COVER, TREES, AND PLANTINGS BY SEPARATE LANDSCAPING PACKAGE BY OWNER INCLUDING LAWN IRRIGATION SYSTEM.

ELEVATION CONTROL

ELEVATION DATUM 1	FINISHED SLAB	55'-0"
ELEVATION DATUM 2	FINISHED SHED SLAB	107'-0"
ELEVATION DATUM 3	OLIVE CREEK ROAD	ESTIMATED

RESOURCES
FOR OWNER SHALL SUBMIT RESUBMIT BUILDING ENERGY PROGRAM PER CITY OF LINCOLN RESIDENTIAL PERMIT REQUIREMENTS.



SITE PLAN
SCALE 1" = 20'-0"

SITE PLAN

1" = 20'-0"



C1.1



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 comments regarding the data displayed on this map, please email assessor@lanaster.ne.gov and you will be directed to the appropriate department.



Legend

- Address Labels
- Footprints2022

1: 1,128

0.0 0 0.02 0.0 Miles

WGS_1984_Web_Mercator_Auxiliary_Sphere

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 comments regarding the data displayed on this map, please email plan@lincoln.ne.gov and you will be directed to the appropriate department.

Notes



SITE PLAN
SCALE: 1"=100'

NETSVETAEV
RESIDENCE

DATE: 10/15/2024
PROJECT: NETSVETAEV RESIDENCE
SHEET NO: 1 OF 1
SCALE: 1"=100'

SITE PLAN -
Topography

C1.3

Septic/sewer Plans





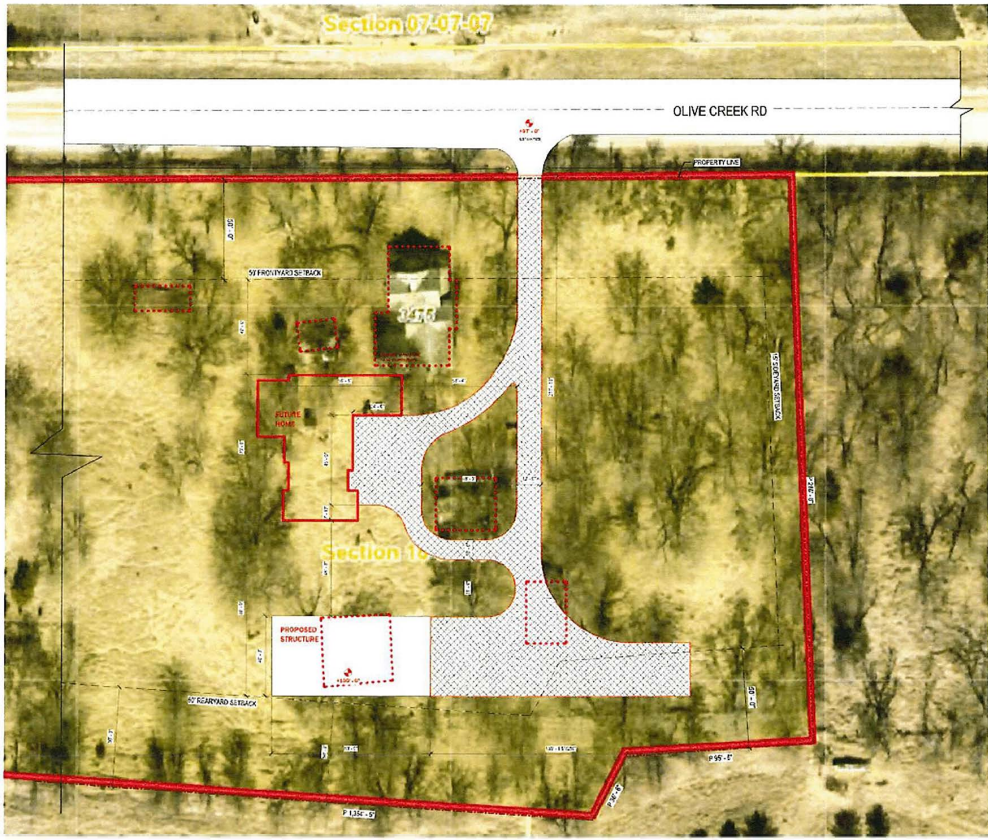
NETSVETAEV
RESIDENCE

PROJECT INFORMATION	
PROJECT NAME	NETSVETAEV RESIDENCE
CLIENT	NETSVETAEV
DATE	10/20/2023
SCALE	AS SHOWN
DRAWN BY	NETSVETAEV
CHECKED BY	NETSVETAEV
DATE	10/20/2023

SITE PLAN -
 Aerial

1" = 100'

C1.2



NETS/NETAEV
RESIDENCE

PROJECT: NETS/NETAEV RESIDENCE
 PREPARED BY: [unreadable]
 DATE: [unreadable]

SITE PLAN -
 Aerial +
 Existing

SCALE: 1" = 20'

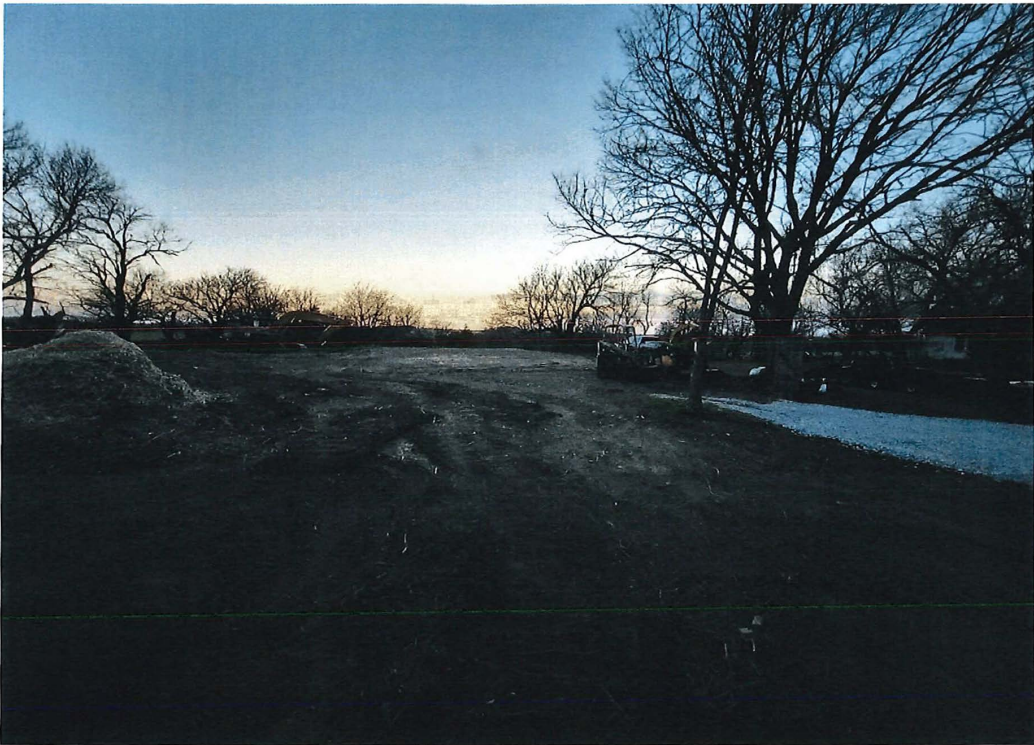
C1.4

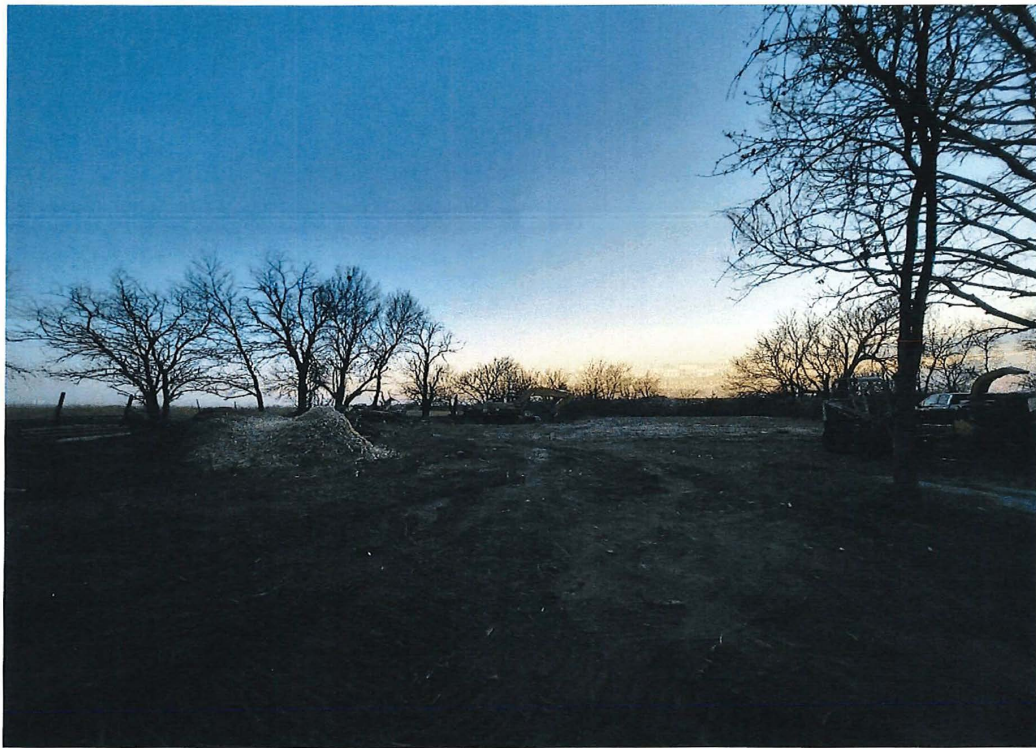












QuickRef ID: 854337 Owner: NETSVETAYEV, VLADIMIR & SVETLANA Property Address: 3475 OLIVE CREEK RD, HICKMAN, NE 68404 2024 Assessed Value: \$176,400

2024 GENERAL INFORMATION

Property Status: A-Active
 Property Type: Real Property
 Property Class: Residential Unimproved
 Zoning: AG - AG-Agriculture District
 Legal Description: S18, T7, R7, 6th Principal Meridian, LOT 8 NE
 Neighborhood: Rural 3400S
 Property ID: 14-18-200-004-000
 Taxing Unit Group: 0059

2024 VALUE INFORMATION

Total Non-Ag Assessed: \$176,400
 Total Ag Sp Assessed: \$0

2024 OWNER INFORMATION

Owner Name: NETSVETAYEV, VLADIMIR & SVETLANA
 Mailing Address: 4120 W THATCHER CIR LINCOLN, NE 68528
 Exemptions: -
 Percent Ownership: 100%

Print
property
information

MARKET LAND SEGMENTS

LAND TYPE	ZONING	METHOD	ACRES	SQFT	LAND VALUE
RHS-Home Site	-	Site Method of Valuation	1	-	\$125,000
HSA - Add'l Acres	-	Acre Method of Valuation	9	-	\$51,420

ASSESSED VALUE HISTORY

YEAR	LAND	BUILDING	TOTAL
2023	\$176,400	\$0	\$176,400
2022	\$81,000	\$0	\$81,000
2021	\$81,000	\$0	\$81,000
2020	\$81,000	\$0	\$81,000
2019	\$81,000	\$0	\$81,000

SALES HISTORY

SALE DATE	SELLER	BUYER	INSTR #	Sale Price
10/18/2023	DEVRIES, CHARLES DEAN & BERGT, EILEEN EDNA	NETSVETAYEV, VLADIMIR & SVETLANA	2023031384	\$150,000
1/12/2007	VESTECKA, ROSE	DEVRIES, CHARLES DEAN & BERGT, EILEEN EDNA	2007002680	\$69,500
2/14/2002	VESTECKA, ROBERT G & ROSE	VESTECKA, ROSE	2002022823	\$0
9/8/1997			1997038038	\$0

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RE: 3475 Olive Creek Rd

Geovanni Moreno <GMoreno@lincoln.ne.gov>

Wed 8/23/2023 2:28 PM

To: Vladimir Netsvetayev <vlad-16@hotmail.com>

The front and rear setbacks would be 50' and the side setbacks would be 15.'

For questions pertaining to well and septic system permits, you would have to contact Nate Hartman with the health department. I will provide his contact information below.

Office phone #: 402-441-8643

Email: nhartman@lincoln.ne.gov

Let me know if you have any other questions.

Thanks,

Geovanni Moreno

Building and Safety

555 South 10th Street, Suite #203

Lincoln, NE 68508

402.441.6472

gmoreno@lincoln.ne.gov



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From: Vladimir Netsvetayev <vlad-16@hotmail.com>

Sent: Wednesday, August 23, 2023 1:29 PM

To: Geovanni Moreno <GMoreno@lincoln.ne.gov>

Subject: RE: 3475 Olive Creek Rd

Can you confirm what setbacks we have to comply with for the site plan?

And also for well and septic, are there any setbacks for either?

Sent via the Samsung Galaxy Z Fold3 5G, an AT&T 5G smartphone

----- Original message -----

From: Geovanni Moreno <GMoreno@lincoln.ne.gov>

Date: 8/23/23 1:21 PM (GMT-06:00)

To: vlad-16@hotmail.com

Subject: FW: 3475 Olive Creek Rd

Vlad,

I have forwarded you an email conversation between myself, Ron (Zoning Coordinator), and Tom (City Planner).

We have all concluded that **S18, T7, R7, 6th Principal Meridian, LOT 8 NE (3475 Olive Creek Rd)** is a buildable lot due to the fact that it was created prior to 1979.

Regarding your question about an accessory dwelling unit, I would contact the planning department to see if a special permit to reduce the minimum lot area from 20 acres to 10 acres would even be allowed. You can contact Tom (City Planner) @ (402) 441-5662 or tcajka@lincoln.ne.gov

Please note that having a dwelling unit within an accessory building IS allowed but it would be considered a house and you are limited to 1 house per lot. That is why you would have to build it as if it were an accessory dwelling unit. It may be a tricky process since your plan is to build that ADU prior to your house so I will ask my supervisor how we would handle that situation if it does turn out to be a possibility.

Below are the rules for ADUs in the county. I misinformed you when I said that the max SF is 800.

One accessory dwelling unit per lot may be allowed by special permit in the AG zoning district under the following conditions:

The lot area shall be 20 acres or larger. For purposes of determining minimum lot area, abutting County section line and one-half section line road right-of-way is included in the total area.

The total square footage of the ADU shall not exceed the lesser of 1,000 square feet or 40% of the square footage of the principal dwelling, excluding the garages, carports, and space used for mechanical equipment, such as heating, utilities and water heater or pumps. Any other unfinished space in a basement is included in the square footage to allow it to be furnished in the future. The calculation for the principal dwelling shall be based on the floor area as of the date the special permit is filed.

No more than two (2) bedrooms are allowed in the ADU. Bedroom shall mean any room or space used or intended to be used for sleeping purposes.

The owner of the lot is required to live on the property in either the principal dwelling or the ADU. The owner of the lot shall file with the Register of Deeds, a deed restriction agreement on the property stating that the accessory dwelling cannot be sold separately from the principal dwelling. The deed restriction agreement must be to the satisfaction of the County Attorney. The deed restriction agreement shall be filed prior to any building permit for the ADU.

The ADU must share the same access point to the public or private street as the principal dwelling.

The ADU must meet the same setback requirements as the principal dwelling of the district. The height of the ADU must meet the height limit of the district for a dwelling, but be no higher than the principal dwelling.

A detached ADU shall be located a distance no greater than 200 feet from the principal dwelling and must not be closer to the street right-of-way than the principal dwelling.

The ADU must share utilities with the principal dwelling unless the owner can demonstrate a practical problem with sharing due to the topography or other unique site considerations.

The Planning Commission and if appealed, the County Board, may amend any of the above conditions, with the exception of Conditions 4 and 5, or impose additional conditions, upon a showing that such conditions are reasonably related to the interest of public health, safety, and the general welfare. (Resolution No. [R-18-0094](#), December 18, 2018)

Feel free to reach out if you have any other questions!

Geovanni Moreno

Building and Safety

555 South 10th Street, Suite #203

Lincoln, NE 68508

402.441.6472

gmoreno@lincoln.ne.gov



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From: Ron E. Rehtus <RRehtus@lincoln.ne.gov>

Sent: Wednesday, August 23, 2023 12:09 PM

To: Giovanni Moreno <GMoreno@lincoln.ne.gov>

Cc: Tom J. Cajka <tcajka@lincoln.ne.gov>; John V. Berry <JBerry@lancaster.ne.gov>

Subject: FW: 3475 Olive Creek Rd

Geo,

Tom and I agree that Lot 8 can be considered buildable. They will need to meet the setback requirements for the county AG zoning district that it is in, per LCZR 4.017(c). Let me know if you need any additional assistance.

Ron Rehtus

Zoning Coordinator

Geovanni Moreno

Building and Safety

555 South 10th Street, Suite #203

Lincoln, NE 68508

402.441.6472

gmoreno@lincoln.ne.gov



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RE: 3475 Olive Creek Rd

Geovanni Moreno <GMoreno@lincoln.ne.gov>

Wed 8/23/2023 3:03 PM

To:Vladimir Netsvetayev <vlad-16@hotmail.com>

I asked our Chief Plans Examiner about that, and he said that if you are planning to have living space within the accessory building, it would be approved. Not as an "ADU" but as a "Single family home" for the time being. And then when you decide to apply for the building permit for the actual house, you will also need to apply for a building permit to change the use of the living space within the accessory building from a "single-family home" to an "ADU." Does that make sense?

If you want to build a regular accessory building without living space, that would not be allowed until there is a house on the lot.

Geovanni Moreno

Building and Safety

555 South 10th Street, Suite #203

Lincoln, NE 68508

402.441.6472

gmoreno@lincoln.ne.gov



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NOTE: To register for an account in the Citizen Access Portal [CLICK HERE.](#)

From: Vladimir Netsvetayev <vlad-16@hotmail.com>

Sent: Wednesday, August 23, 2023 1:37 PM

To: Geovanni Moreno <GMoreno@lincoln.ne.gov>

Subject: RE: 3475 Olive Creek Rd

Also who can we talk to about getting approval for building an accessory building prior to completion of the actual house

Sent via the Samsung Galaxy Z Fold3 5G, an AT&T 5G smartphone

----- Original message -----

From: Geovanni Moreno <GMoreno@lincoln.ne.gov>

Date: 8/23/23 1:21 PM (GMT-06:00)

To: vlad-16@hotmail.com

Subject: FW: 3475 Olive Creek Rd

Vlad,

I have forwarded you an email conversation between myself, Ron (Zoning Coordinator), and Tom (City Planner).

We have all concluded that **S18, T7, R7, 6th Principal Meridian, LOT 8 NE (3475 Olive Creek Rd)** is a buildable lot due to the fact that it was created prior to 1979.

Regarding your question about an accessory dwelling unit, I would contact the planning department to see if a special permit to reduce the minimum lot area from 20 acres to 10 acres would even be allowed. You can contact Tom (City Planner) @ (402) 441-5662 or tcajka@lincoln.ne.gov

Please note that having a dwelling unit within an accessory building IS allowed but it would be considered a house and you are limited to 1 house per lot. That is why you would have to build it as if it were an accessory dwelling unit. It may be a tricky process since your plan is to build that ADU prior to your house so I will ask my supervisor how we would handle that situation if it does turn out to be a possibility.

Below are the rules for ADUs in the county. I misinformed you when I said that the max SF is 800.

August 3, 2024

Board of Zoning Appeals,

We are writing to request a reduction of our rear yard setback which is currently 100' to 50' or less if possible.

My wife and I found a property we liked which had many mature trees and before we purchased it we reached out to the building department to verify it was buildable and what the setbacks were so that we could begin cleaning up the property and clearing out the site for our construction. I have included an email, which is dated August 23rd of 2023, prior to our purchase date of the lot on October 18th of 2023. In that email I had requested what the setbacks were for that said property that we needed to comply with were. I was informed by Geovanni Moreno with the building and safety department that the setbacks I needed to comply with were 50' for the front and rear and 15' for the side. His chain of emails included guidance to my original question from Ron Rehtus, the zoning coordinator with the building and safety department. Ron Rehtus has stated in the email that we would need to meet the setback requirements for the county AG zoning district per LCZR 4.017(c). The chain of emails is included here for your review.

With that information we set out to clean up the lot and clear the site for where we wanted to build, which is another issue as where we could build was limited due to the fact that lot is on a hill with slopes going east and west. Our drive sits on top of the hill and the area we cleared for building is on top of the hill as well. We want to preserve as many trees as we can and we don't want to cut down trees that we don't need to. Which we had already done, we cut many trees down to clear the area for the building per the 50' setback we were originally informed of. Since October we have cleared the lot of debris, old ruined structures, cut down trees and built a pad for the building with the setbacks we were told in mind.

When we were finally ready to start with the construction, we submitted the plans and site plan to the building department and submitted an application for building permits. On June 5th of 2024 I had received an email from RJ Hamilton, a plans reviewer with the building and safety department. He had informed me of the comments he had of the issues that needed to be corrected. Among which had said that our siteplan showed an incorrect rear yard setback of 50' and needed to be 100'. He informed us that we would have to move the building further north to comply with the setback of 100'.

At which point I presented the emails I had from their department informing me that our rear yard setback was 50', I told them of all the work I had already had done they said there was nothing I could do but file an appeal with the board of zoning appeals. I had requested to speak with Ron Rehtus and explained my situation to him as well, he apologized for misinforming us and said all we could do is file an appeal with the board of zoning appeals. They also informed that if my lot was less than 300' deep then the 50' setback would apply.

The lot we purchased is an irregular size, it is long and narrow, adjacent to the road. It barely exceeds the 300' requirement. According to the GIS map, on the east end, north to south, the depth measures approximately 286'. On the west end, north to south. The depth measures approximately 277'. There is an abnormal small section on the south property line that goes over the 300' requirement. Which is what disqualifies our lot from the 300' exemption of the 100' rear yard setback. I was told by the building and safety department, because the regulation doesn't indicate whether that is an average depth of the lot or any depth they are saying they have to assume it means any depth of the lot not exceeding 300' and are unable to allow us to use the 50' setback.

This causes many hardships for us, we already spent time and money on clearing the area of trees and building the pad to comply with 50' setback we were originally informed of prior to purchasing the lot. The entire site plan design and planning was done with the 50' setback, we cleared trees, built a driveway, had trucks of rock brought in for the driveway based on the placement of the building being 50' from rear yard setback. We cannot move the building east because there are many mature trees there that we want to preserve, as well as a significant elevation change to both east and west sides of the existing pad we had built. It is a similar situation with moving the pad north. There are mature trees to the north of the property. In our included site plan you can see our plans are to have the building we build first, meet all ADU requirements and later build a bigger house to the north of it. If we move the first structure to 100', it will be impossible for us place a house on the lot while still meeting the ADU requirements for the ADU due to the limited depth of the lot and the elevations because the area we are building on is a hill, it would not be practical to move that much earth to reshape the topography of the lot.

Thank you for your consideration and understanding. Please help us accomplish our goals so we can build a home and a future for our family.

Sincerely,

Vladimir and Svetlana Netsvetayev