

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, March 2, 2023.

NAME OF GROUP: COUNTY BOARD OF ZONING APPEALS

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

MEMBERS IN ATTENDANCE: Jeff Frack, Jim Pinkerton, Tai Pleasant, Matthew Warner and Ed Woeppel

OTHERS IN ATTENDANCE: Tom Cajka and Teresa McKinstry of the Planning Dept.; Ron Rehtus of Building & Safety; John Ward of County Attorney's Office; Mike Eckert of Civil Design Group; Rodney Koehler; 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 10, 2023. Motion for approval made by Warner, seconded by Pinkerton and carried 5-0: Frack, Pinkerton, Pleasant, Warner and Woeppel.

COUNTY BOARD OF ZONING APPEALS 23002

REQUESTED BY RODNEY AND CHERUL 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

PUBLIC HEARING:

March 10, 2023

Members present: Frack, Pinkerton, Pleasant, Warner and Woeppel.

There were no ex parte communications disclosed.

APPLICANT:

Mike Eckert of Civil Design Group appeared and showed a map of the location. This used to be part of an 80 acre parcel. Lots 36 and 45 are the lots that the Koehlers own. They are trying to get a fourth unit that is allowed in 80 acres. He showed a farmstead split that was submitted to Building and Safety Department. When the parcels that are kept are over ten acres, this goes to Building and Safety for their review. A few acres of Parcel A are being transferred to Parcel B. The issue that has come to hand is making sure all the setbacks are met. There is one building on the western boundary that is within a new setback that would be applied with the final plat. The existing house is on the lot. That it is due to some trees that the applicant wished to remain on their lot. He showed the location of the outbuilding. He referenced the Nebraska State statute that talks about if you are agriculturally zoned and build a building for agricultural purposes, that it does not need to conform to the Lancaster County setbacks. That is how it was done when the building was built. You were allowed to place it within two feet of the property line. He further explained that there is a provision when you have been in a house for more than five years, you can place it on as little as three acres. They want to go down to 18.5 acres. The owner has been in their house for decades. It was in the review process for the farmstead split. At that time, it was noted there was a building in the new setback. The option was to remove the building entirely or move it. They are requesting a variance to the farmstead split due to the fact that this outbuilding has been there for twenty plus years. They believe this is a hardship due to the fact that State law allowed the owner to build it in the location that it sits now. They believe it would be a hardship to dismantle it and move it.

Pinkerton inquired if the building is used for agriculture. Eckert responded that it has been used as agricultural. There is paving and a roof on it now.

Pleasant wondered why this is being reduced from less than 20 acres to 18 acres. Eckert stated that what we have today is the applicant's other lot is less than 20 acres and there is no house on it. If you wanted to build on this lot, you couldn't get a building permit. You have to have 20 acres to build a house. The parcel the owner is on now is 20.49 acres. When you have been in the house for more than five years, you can reduce the lot. He would take a few acres off and give it to the other lot.

Pinkerton asked if the applicant desires to build a new house. Eckert responded that the applicant would like to build a new house or sell it.

Rodney Koehler, 4140 Princeton Road stated that he bought the first lot, and the second lot at a later point.

Pinkerton asked if the 20 acres was already split off. Koehler stated that he bought 20 acres, then bought 39 acres and sold 20 acres to a neighbor who lives there now.

Warner wondered what the applicant wants to do with the property. He pointed out that what the applicant is going to do with the property isn't our job to figure out. You can plant apples and say you call it a farm. He tried to remember things that were voted on in the past. He remembers in 2016, there was an application in Roca, Nebraska where something similar to this was allowed to happen. He wondered if the applicant had spoken with his neighbor. He looked at previous setbacks and when he looked at this property, he doesn't believe it would affect the neighbor in his opinion. He wondered if there is anyone that should be notified. It is always good to be a good neighbor. Koehler stated that he has talked to his neighbor.

Warner is leaning toward approval. He doesn't believe there would be an impact to the neighbors.

Woepfel would like the applicant to talk about his business. Koehler had a farm in Johnson County. It was a cow and calf operation. They have always had cows and goats. The stock tank is still there. He is retired and was a landscaper as well.

Pleasant pointed out that the neighbor appears to have just trees. He aligns with Warner's thinking. He doesn't believe there would be an impact to the neighbors.

Eckert pointed out that on the five acre lot to the east, their setback for the rear yard is about 50 feet.

Frack is still unclear about the swapping of acres. Eckert stated this procedure goes to having lived in the house for five years and having the ability to lower the number of acres. In case of a disaster, there is a plat and the house could be rebuilt. It is a more formal process this way. This creates a less than 20 acre lot, but a legal lot in Lancaster County opinion.

No one came forward in support or opposition.

STAFF QUESTIONS:

Tom Cajka, Planning Dept. stated that there is a Nebraska State statute that speaks to a farm. Under State law, it is defined as at least 20 acres and produces at least \$1,000.00 of product a year. It also says if you are on a farm, that agricultural buildings are exempt from zoning and don't require a building permit. When this was built, it didn't need to meet zoning and setbacks. Going from 20 acres to 18 acres means it is no longer exempt. The variance will only reduce the side yard setback for this building, not the entire lot line. The question regarding why it is being reduced, they want to make the adjacent lot up to 20 acres so it is a buildable lot. State statute

says any time you parcel off land where all the parcels are over ten acres, you cannot require them to do a final plat. They have to go through this process at Building and Safety. This would create two buildable lots. The lot with the existing house is being reduced to 18 acres.

Pinkerton asked if they could build a shed. Cajka replied yes. They just have to meet the 15 foot sideyard setback. You can have accessory buildings in the rear setback.

Warner moved to close the public hearing, seconded by Pinkerton and carried 5-0: Frack, Pinkerton, Pleasant, Warner and Woeppel.

ACTION:

Warner moved approval of the variance to reduce the required side yard setback from 15 feet to 4 feet on Lot 38, I.T. for a garage, as shown on Parcel A of the submitted site plan, seconded by Frack and carried 5-0: Frack, Pinkerton, Pleasant, Warner and Woeppel.

Pleasant made a motion to adjourn, seconded by Frack and carried 5-0: Frack, Pinkerton, Pleasant, Warner and Woeppel.

There being no further business, the meeting was adjourned at 3:05 p.m.