

CITY BOARD OF ZONING APPEAL #07002

DATE SCHEDULED FOR PUBLIC HEARING: March 30, 2007

LOCATION: Northwest of the intersection of South 6th and D Streets.

ADDRESS: 540 D Street

LEGAL DESCRIPTION: Lot 6, Block 193 Original Town of Lincoln

ZONING: R-4 Residential

EXISTING LAND USE: Church

SURROUNDING LAND USE AND ZONING:

North:	Single-family Residential	R-4
South:	Single-family Residential	R-4
East:	Park	P
West:	Single-family Residential	R-4

ASSOCIATED APPLICATIONS: Special Permit #06037 - A request to expand a nonstandard building into the required front and side yards. This request was approved by the Planning Commission of June 21, 2006.

TYPE OF APPEAL:

THIS APPEAL IS DIRECTED TO THE BOARD RELATIVE TO A VARIANCE.

1. Lincoln Municipal Code (LMC) Section 27.71.170(b)(2) allows the front yard setback to be reduced down to 17.8' along South 6th Street based upon the setback of the existing buildings. A variance to the allowed front yard setback from 17.8' to 2.8' is requested.

BACKGROUND:

This variance request was originally approved by the Board of Zoning Appeals on June 30, 2006. The resolution approving the variance requires that a certified copy of the resolution be recorded with the Register of Deeds at the applicant's expense within 60 days of approval. The funds to record the resolution were not deposited with the City Clerk in time to record the resolution within 60 days of approval, so the variance request must be reconsidered by the Board in order to allow another 60 days.

STAFF FINDINGS:

1. The subject property is located at 540 D Street and is zoned R-4. The church is located on a residential lot not atypical for the area, surrounded by similar lots that are generally developed with single-family residences.
2. The applicant is seeking to build an addition onto the front of the existing Friedens Lutheran Church to facilitate improved access to all three levels (basement, sanctuary, and choir loft), and will allow space for new restrooms that comply with the requirements of the Americans with Disabilities Act (ADA).
3. The church predates the Zoning Ordinance and is considered nonstandard because it does not comply with the front and side yard setbacks of the R-4 district. The typical setbacks for a church in the R-4 district are as follows: front - 25'; side - 15'; and rear - 30' or 20% of lot depth, but in no case less than 15'.
4. LMC Section 27.71.170(b)(2) allows for an adjustment to the front setback based upon the setback of the other buildings in the block. In this case, the front yard setback is allowed to be reduced down to 17.8' consistent with the house to the north.
5. The site plan shows the church 4.3' from the front lot line along South 6th Street, approximately 7' from the other front lot line along D Street, and approximately 2.5' from the side lot line to the north. The proposed addition is approximately 2.8' from the front lot line along South 6th Street, approximately 10' from the other front lot line along D Street, and approximately 5.5' from the side lot line to the north.
6. LMC Section 27.63.280 provides for a special permit to expand a nonstandard use where the expansion does not encroach further into required yards. The special permit applies to the setback conditions at the north and south lot lines where the proposed expansion does not encroach any further into the required yards. However, because the proposed expansion encroaches further than the existing building into the required yard along South 6th Street, the special permit does not apply to that setback. The only way the setback along South 6th Street can be adjusted is by a variance granted by the Board of Zoning Appeals. The applicant previously applied for a special permit to adjust the other two setbacks, and it was approved by the Planning Commission on June 21, 2006.
7. This site is within the South Bottoms Historic District, a district listed on the National Register. While the City of Lincoln has no local design review authority relative to the National Register, staff does request the Historic Preservation Commission (HPC) to review and comment on discretionary applications affecting National Register properties, such as the special permit application.

The HPC considered the proposed expansion at their June 15, 2006 meeting, and voted 4-1 to recommend that Planning Commission and BZA grant the requested special permit and appeal, on the condition that the final design for the additions to the building be returned to the HPC for review under the procedures of LMC27.57 (Historic Preservation District).

8. This request does not appear to be merely for the convenience of the applicant, but rather is an attempt to adapt the church to allow it to continue to serve the needs of all who wish to attend. The layout of the church does not lend itself to making the addition at any other location. If the addition were located at the west end of the church, then the annex building must be removed. Also, the addition would encroach into the sanctuary and reduce seating, and it would not align with the existing stairwells found at the east end of the church.
9. The applicant has stated that it is the intent of the church to respect the historic heritage, and to remain a viable facility that can continue to serve the needs of its patrons. If it does not remain viable and continue as a church, its contribution to the neighborhood and the National Register designation will be diminished.
10. The Board of Zoning Appeals is empowered to grant variances “to the extent necessary to permit the owner a reasonable use of the 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.” If this waiver is not approved, the proposed expansion cannot extend closer to South 6th Street than the existing building line.

Prepared by

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March 22, 2007

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2005 aerial

Board of Zoning Appeals #07002

540 D Street

Zoning:

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation 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. 26 T10N R6E

