

COUNTY BOARD OF ZONING APPEAL #10001

DATE: March 4, 2010

DATE SCHEDULED FOR PUBLIC HEARING: March 12, 2010

LOCATION: Generally located at Northwest 27th Street (not open) and W. Davey Road.

ADDRESS: In the address range of 2600 to 3300 W. Davey Road, south side (no address assigned).

LEGAL DESCRIPTION: Lot 27 I.T. located in the NE 1/4 of Section 29, Township 12 North, Range 6 East, Lancaster County, NE.

APPLICANT: Howard and Marion Stillinger
2063 Westfork Cir
Raymond, NE 68428
(402) 783-0383

LOT AREA: 12.54 acres

ZONING: County AG Agriculture

EXISTING LAND USE: floodplain, wooded pasture.

SURROUNDING LAND USE AND ZONING: Acreages to the east and west. Agricultural uses surrounding. All zoned AG Agriculture. NW. 27th is nonexistent, W. Davey Road is a hilly gravel county road.

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 lot area of 20 acres. A variance from 20 acres to 12.54 acres is being requested .

STAFF FINDINGS:

- 1) The applicant is requesting a waiver of the lot area from 20 acres to 12.54 acres.
- 2) The applicant states the reason for the request is to create a buildable lot to build a residence.

3) In 1999, Lancaster County realigned West Davey Road. The old right-of-way was vacated in 2001.

4) The prior Lot 23 I.T. (Of 25.05 acres) was split by the old road alignment but was still one lot. During the process of the road realignment and vacation, the Lancaster County Engineer assigned Lot 28 I.T. to the portion north of the new road and Lot 27 I.T. to the portion south of the road.

5) The lot renumbering by the County Engineer created a lot that is not “grand fathered” nor under an exception in the Zoning Resolution and thus is not buildable.

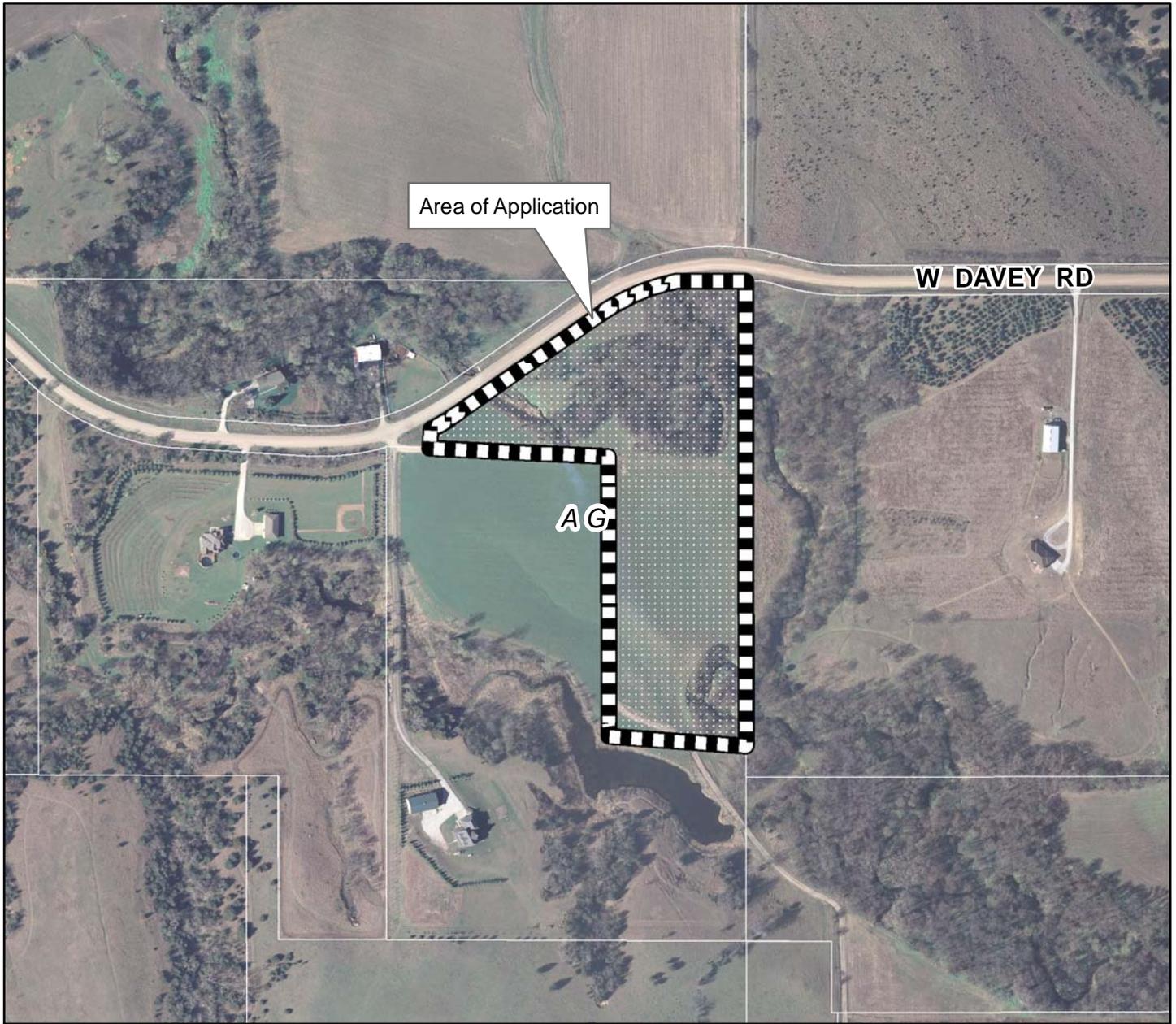
6) In April 2008 the applicant purchased the lot, assuming it was buildable. A building permit was requested and denied in 2010.

7) Section 19.007 (2) Powers relative to Variances states “ To hear and decide upon petitions for variances, and subject to such standards, principles and procedures provided in this resolution, 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.
“

7) This is an unusual circumstance in that the road was relocated and the county assigned new lot numbers, all contributing to the appearance and natural assumption that a parcel on the other side of the road is a separate lot. And the creation of that parcel left an unbuildable lot.

Prepared by

Mike DeKalb, 441-6370, mdekalb@lincoln.ne.gov
Planner



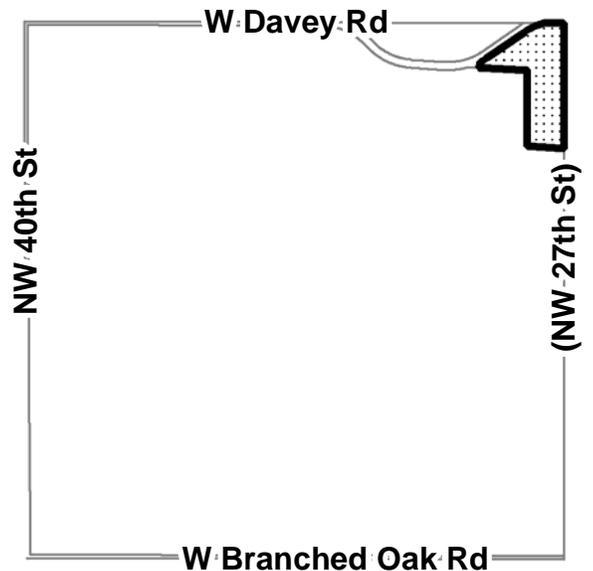
2007 aerial

County Board of Zoning Appeals #10001 NW 27th St & Davey 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. 29 T12N R06E



PLANNING DEPT. _____ DATE OF HEARING _____ BOARD OF APPEALS NO CBA10001
Fee 300.00 pd. Receipt No. _____ Date _____, 20____

APPEAL TO COUNTY BOARD OF ZONING APPEALS

BOARD OF ZONING APPEALS, City of Lincoln, Nebraska

On FEB 16, 2010, the undersigned applied for a building permit to CONSTRUCT
A SINGLE FAMILY HOME

Located on Lot 27 Block _____ Addition SEC 29-T12N-R6E
Address _____ Have you met with the neighboring properties? Yes No

TO BE FILLED IN BY BUILDING OFFICIAL: This permit was denied because _____

The above decision(s) of the Building Official is hereby appealed on the grounds that (check and complete all that apply):

- The Administrative Official erred by _____
- A Variance to (height, area, parking, density, sign) is necessary because the property is peculiar, exceptional, and unusual in the following ways: NON BUILDABLE LOT IN ACCORDANCE WITH LANCASTER COUNTY ZONING

An exception is necessary to:

1. Reconstruct a non-conforming building for a compelling public necessity because: _____
2. Correct a mapping error due to: RECONSTRUCTION OF PORTION OF W. DAVENPORT (SEE ATTACHED)
3. Reduce the parking requirements due to the use of the building is such as to make unnecessary the full provisions of the parking because: _____

Contact Person: HOWARD & MARION STILLINGER Address: 2013 WESTFORK CIR RAYMOND NE

Phone #: 402-783-0383 E-mail (if applicable) _____

Staff will post a notification sign in the yard of the property and other officials may visit the site prior to the hearing. Signing this form hereby grants permission to the staff to enter onto property for purposes related to this application.

Signed: [Signature] Appellant 2013 WESTFORK CIR RAYMOND NE 68418 Appellant's Address 402-783-0383 Phone #

REQUEST

WE REQUEST THAT A WAIVER BE GRANTED TO CHANGE, LOT 27, SEC 29-T12N-R6E, AN IRREGULAR TRACT OF 12.54 ACRES IN NORTHERN LANCASTER COUNTY, TO A BUILDABLE LOT OF LESS THAN THE 20 ACRES THAT IS REQUIRED BY LANCASTER COUNTY ZONING.

BACKGROUND

IN APRIL OF 2008, WE (HOWARD & MARION STILLINGER) PURCHASED LOT 27, SEC 29-T12N-R6E FROM DAVID AND SHARON FRIEDMAN WITH THE INTENTION OF BUILDING A HOME. WHILE IN THE PROCESS OF RE-ROUTING AN EASEMENT THAT RAN THROUGH THE PROPERTY WE DISCOVERED, IN JANUARY OF 2010, THAT IT WAS NOT A BUILDABLE LOT.

IN 1999 LANCASTER COUNTY ROADS RE-ALIGNED A PORTION OF THE WEST DAVEY ROAD BETWEEN NORTH WEST 27TH AND NORTH WEST 40TH STREETS IN LANCASTER COUNTY, THAT BI-SECTED THEN LOT 23, (AN IRREGULAR TRACT OF 25.02 ACRES) SEC 29-T12N-R6E (EXIBIT A). WHEN THIS RE- ALIGNMENT WAS COMPLETED, THE LANCASTER COUNTY ENGINEER ASSIGNED LOT NUMBERS 28 (10.29 ACRE TRACT) AND 27 (12.54 ACRE TRACT) WITHOUT ATTACHING THE TWO LOTS TOGETHER, THUS GIVING THE ILLUSION THAT BOTH LOTS MIGHT BE BUILDABLE (EXIBIT B).

WITH THE GRANTING OF THIS WAIVER, WE WILL BE ABLE TO MOVE FORWARD, AND PROCEED WITH OUT PLANS. WITHOUT A WAIVER WE WOULD END UP WITH 12.54 ACRES OF WOODS AND PASTURE THAT IS ESSENTIALLY USELESS TO US.

EXHIBIT A

THIS PLAT IS INTENDED TO SHOW AS ACCURATELY AS POSSIBLE THE RELATIONSHIP OF PARCELS BUT IS NOT INTENDED TO BE CONSTRUED AS SURVEY ACCURATE IN ANY MANNER.

SEC.29-T12N-R6E LITTLE SALT

Scale: 1 inch = 200 feet

