MEETING RECORD

NAME OF GROUP:	**CITY BOARD OF ZONING APPEALS**
DATE, TIME AND PLACE OF MEETING:	Friday, April 27, 2018, 1:30 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska
MEMBERS IN ATTENDANCE:	Chris Hove, Annette McRoy, Steve Miller, Scott Sandquist; Vicki McDonald absent. Tim Sieh of the Law Department; Ron Rehtus of the Building and Safety Department; Brian Will, Dessie Redmond, and Amy Huffman of the Planning Department.
STATED PURPOSE OF MEETING:	Regular City Board of Zoning Appeals meeting.

Chair Hove called the meeting to order and acknowledged the Open Meetings Act posted at the back of the room.

Hove called for a motion approving the minutes of the City Board of Zoning Appeals hearing of March 30, 2018. Motion for approval made by Sandquist, seconded by McRoy and carried 4-0: McRoy, Miller, Sandquist and Hove voting 'yes'; McDonald absent.

APPEAL NO. 18004, TO ATTACH A GARAGE TO AN EXISTING DWELLING WITH A REQUEST FOR A VARIANCE TO THE REAR YARD SETBACK, GENERALLY LOCATED AT 3225 W. PERSHING RD.
PUBLIC HEARING: April 27, 2018

There were no ex parte communications disclosed.

Daniel and Alexa Meinke, 3225 W. Pershing Road, came forward as the applicants. Mr. Meinke stated that they have requested this appeal due to the unique lot formation on Pershing Road. Their lot is triangle shaped and is at the convergence of three intersections: Pershing Road, 17th Street, and High Street. They are currently a non-conforming house on a non-conforming lot, as neither the house nor the garage meet the rear yard setbacks. The current garage is only 19' x 21' which is just enough for two small cars with only about 15 inches between the cars and the outside walls. Their goal is to expand the width without encroaching on the neighbor's nice sunroom area. Building as they propose also prevents impinging on the front entrance to their house and becoming an eyesore. They have received signed endorsements from all four neighbors within 200 feet. They feel the conditions of their lot are unique and enough to justify their request.

Alexa Meinke said that their family is growing. When they park their SUV in the garage, she has to crawl out through the passenger side. With the baby carrier, she does not want to be outside in the driveway. They simply want to be able to use their garage for safe parking and storage. There are no sidewalks and there is heavier traffic since they are the first house entering the neighborhood. Right now, the garage is not very functional. This addition will also add aesthetic appeal and the addition will be already be done for a future homebuyer. They have put their blood, sweat and tears into updating the interior. Now they would like to finish with the garage and create a better environment for everyone involved.

Miller asked for more detail about the proximity to the neighbor's sunroom. Mr. Meinke said it is directly behind the existing garage, across from their front entrance. It looks west down W. Pershing towards the park.

Hove said it looks like two neighbors will be the most impacted by this request. He asked if they signed the documents in support of the project. Mr. Meinke said they did.

Sandquist noted that it appeared in the aerial photo that several houses in the neighborhood do not meet legal setbacks. Mr. Meinke said that is correct.

McRoy commented that she can understand the difficulty of working with such a small garage.

There was no public testimony on this item.

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Sandquist moved for approval, seconded by Miller.

Sandquist stated as a side note that he appreciates the signatures from the neighbors. Though this will not be approved on that basis, the effort is still appreciated.

Sandquist went on to iterate his findings that are the basis for his motion of approval. The lot configuration is very unique and it deprives the owners of reasonable use of their garage. Staff mentioned that there is no other way to handle this than with the appeal.

Hove stated he will support the appeal due to the unique characteristics of the lot.

Motion carried, 4-0: McRoy, Miller, Sandquist, and Hove voting 'yes'; McDonald absent.

APPEAL NO. 18005, REQUESTED BY REGA ENGINEERING, FOR A VARIANCE TO THE FRONT YARD SETBACK, ON PROPERTY GENERALLY LOCATED AT 5745 O STREET.
PUBLIC HEARING: **April 27, 2018**

There were no ex parte communications disclosed.

Nate Burnett, REGA Engineering, stated that this application is similar to other requests from restaurants that have come before the Board of Zoning Appeals because, like the other sites, they are trying to fit a relatively large building on a smaller site. It can be a challenge to meet the parking requirement of one stall per 100 square feet. This site is unique in that there are three abutting streets: O Street to the north, Cotner to the east, and N Street to the south. This makes the site unique due to the controlled access points. O Street is a State highway, and Cotner is a one-way, so there are not many options for moving access points.

Freddy's will occupy the site, leasing the property from Taylor Family Partnership. They own everything around this site except for the houses directly to the south. The requested variance will not impact on any of the adjacent neighbors. The request is to put up an attractive, opaque fence that will allow for easy movement of trash vehicles. This fence cannot go up because of the setback requirement for a front yard. It fits the location and is far more attractive than an open area for the dumpsters. If the appeals board denies this request, they will have to go with an open fence.

Sandquist asked how many stalls are required. Burnett said 37 stalls are required. There are 12 diagonal stalls and there will be a cross access parking agreement to meet the remainder.

Miller asked how many stall will be lost if the dumpsters are moved. Burnett said the only location would be to the south of the drive-thru menu board, so that would be unpleasant for patrons. Miller asked for confirmation that if the variance is not granted, a fence would go up in place of the solid wall structure. Burnett said that is correct.

McRoy asked if an alternate site plan has been considered. Burnett said this is the 8th proposal in working with the architect and Freddy's. They all prefer this design.

Hove asked if the location of the dumpsters will stay in the proposed location, and if the waiver is needed because this is a masonry structure. Burnett said they are not trying to hide anything, and the dumpsters will go in the same location, but this site is unique, with the three frontages. This would be a side yard, so we sympathize with Freddy's, who would prefer the nicer masonry structure. It will be better for people driving by and for the restaurant.

McRoy asked for more details about the materials as they relate to the requested waiver. Burnett said that because the area is considered to be within the setback, a structure cannot be placed there without the waiver. A fence is not considered a structure, whereas this masonry design is.

Sandquist commented that the design works with the site plan, though it appears that if the dumpster could be moved a little to the west and south, it would might fit right on the setback corner. Even with gates that swing open, it seems manageable. It may not interfere with a

parking stall any more than what is proposed. Burnett said there is a stall in that very southeast corner that might be lost or would have to be relocated, so then they would be below the required 37 spots.

There was no public testimony on this item.

Hove asked Staff if the applicant is allowed to locate the dumpster anywhere on the lot. Brian Will of the Planning Department said they could, and with the fence, which would meet the definition. At some point, the threshold is crossed and the enclosure is considered a structure and there are rules for structures as far as distance from residential homes.

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McRoy moved for denial of the application based on the fact that there is no evidence that the regulations in place deprive the owner of reasonable use of their land; seconded by Miller.

Miller stated he agreed with McRoy. This finding does not disrupt reasonable use of this property. There are other locations to relocate the dumpsters without sacrificing parking, or causing disruption to the operation of the business.

McRoy said that it is possible to do another site plan; this is not the only option available. There is nothing unusual or remarkable about this site and other similar uses exist under similar conditions throughout the city. It is clear the owner takes pride in the appearance of their operation, and there is opportunity to come up with another option that will complement the proposed building.

Sandquist agreed with his fellow Board members and had no additional comments.

Hove stated he will vote against the motion for denial from the standpoint that what is proposed is a better design.

Motion carried, 3-1: McRoy, Miller, Sandquist, voting 'yes'; Hove dissenting; McDonald absent.

There being no further business, the meeting was adjourned at 2:03 p.m.

Note: These minutes will not be formally approved by the City Board of Zoning Appeals until their next regular meeting.