

**CITY BOARD OF ZONING APPEAL #07006**

**DATE SCHEDULED FOR PUBLIC HEARING:** October 26, 2007

**LOCATION:** Northwest of the intersection of South 35<sup>th</sup> and D Streets.

**ADDRESS:** 1029 South 35<sup>th</sup> Street

**LEGAL DESCRIPTION:** Lot 10, Block 3, Fairhill 2<sup>nd</sup> Addition

**ZONING:** R-2 Residential      **EXISTING LAND USE:** Residential

**SURROUNDING LAND USE AND ZONING:**

North:	Single-family Residential	R-2
South:	Single-family Residential	R-2
East:	Single-family Residential	R-2
West:	Single-family Residential	R-2

**TYPE OF APPEAL:**

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

1. Lincoln Municipal Code (**LMC**) **Section 27.13.080(a)** requires a 5' side yard setback in the R-2 zoning district. A variance to the side yard setback from 5' to 1.5' is requested.

**STAFF FINDINGS:**

1. The subject property is located at 1029 South 35<sup>th</sup> Street and is developed with a single-family residence. Zoned R-2, the lot is typical for the area and is surrounded by similar lots that are also developed with single-family residences.
2. Per Section 27.13.080(a), the required setbacks for a principal structure in the R-2 district are as follows: Front - 25'; Side - 5'; and Rear - 30' or 20% of the lot depth whichever is less. Per Section 27.13.080(d), accessory buildings must be set back at least 2' from the side and rear property lines.
3. The owner applied for a building permit in 2004 to construct a detached garage. The permit site plan showed the new garage setback 2' from the side property line and otherwise in compliance with the Zoning Ordinance. Building and Safety had not yet been contacted for a final inspection, so early in 2007 the Department conducted a site visit. During that visit it was discovered that the carport connecting the house to the garage had been constructed without a permit, and that the constructed garage was actually setback 1.5' from the side lot line.

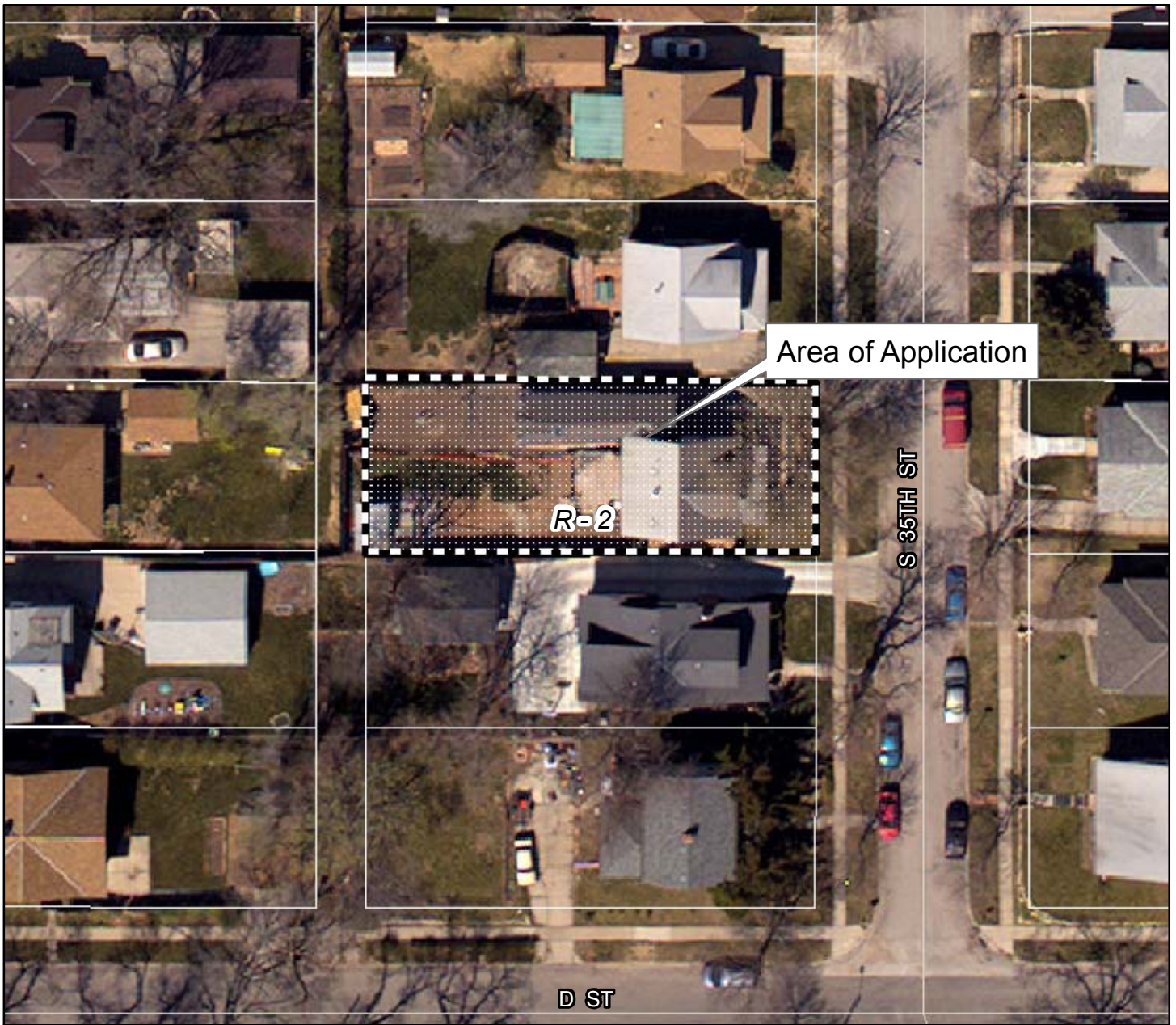
4. By connecting the detached garage to the house by a carport, the garage is no longer considered an accessory building but is part of the principal structure. As a result, the required setback from the side lot line is 5' instead of 2'.
5. The Board of Zoning Appeals is empowered to grant variances “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 owner must come into compliance with the required setbacks for the R-2 district.

Prepared by

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Planner  
October 17, 2007

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**Board of Zoning Appeals #07006**  
**1029 S 35th Street**

2005 aerial

**Zoning:**

One Square Mile  
 Sec. 30 T10N R07E

- 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

