MEETING RECORD

NAME OF GROUP:	COUNTY BOARD OF ZONING APPEALS
DATE, TIME AND PLACE OF MEETING:	Friday, April 9, 2010, 2:30 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska
MEMBERS IN ATTENDANCE:	Lynette Nelson, Tom Thurber, Matthew Warner and Leland Volker; Ed Woeppel absent. Terry Kathe of Building and Safety; Tom Fox of County Attorney's office; Mike DeKalb and Teresa McKinstry of the Planning Dept. and other interested citizens.
STATED PURPOSE OF MEETING:	Regular County Board of Zoning Appeals Meeting

Vice-Chair Tom Thurber called the meeting to order and requested a motion approving the minutes for the regular meeting held March 12, 2010. Motion for approval made by Nelson, seconded by Warner and carried 4-0: Nelson, Thurber, Warner and Volker voting 'yes'; Woeppel absent.

COUNTY BOARD OF ZONING APPEALS NO. 10001
REQUESTED BY HOWARD AND MARION STILLINGER, TO CONSTRUCT A SINGLE FAMILY RESIDENCE ON PROPERTY LESS THAN 20 ACRES, GENERALLY LOCATED AT NW 27TH STREET AND DAVEY ROAD
PUBLIC HEARING: **April 9, 2010**

Members present: Nelson, Thurber, Warner and Volker; Woeppel absent.

Howard Stillinger appeared as applicant. He and his wife purchased 12.5 acres on Davey Rd. He believed the property he bought was big enough to be subdivided. He did not know it was not big enough to be built on. He would like to see this application moved onto the County Board for their decision. 3.7 acres of his property are outside the floodplain. His property contains a lot of floodway. This has been approved by FEMA. He presented a map showing the current buildable area of the lot that is not in the floodplain. He and his wife would eventually like to build a home on this property. He would pay more in property taxes if he were allowed to build a home. He doesn't know a lot about agriculture, but he doesn't believe a lot could be done on this small of a property to make money. He would like to avoid a confrontation with the seller. He doesn't believe they sold it to him knowing that it wasn't a buildable lot.

Thurber questioned if the applicant is originally from Lancaster County and was he aware of the 20 acre buildable lot rule. Stillinger replied that he previously lived in Seward County. He probably knew about the rule at some point. He doesn't recall. The seller indicated to him that this was a buildable lot and he didn't question it.

Nelson appreciates the applicant's honesty. She wondered if Seward County has a 20 acre requirement like Lancaster County does. Stillinger replied that Seward County has a different process. A variance is requested from the Planning and Zoning Board. He doesn't recall all the details.

Nelson wondered about the applicant's reaction to a letter from the Mellens who live in the area. Stillinger stated there are some 'for sale' signs across the road, but he is not sure where. He did approach a neighbor about possibly selling some of their land but they only have 22 acres. The Mellens have about 70-80 acres but they are very protective of their land and he doesn't believe they would want to sell.

Thurber questioned the logic of the county creating and numbering two separate pieces.

Ken Schroeder, Lancaster County Engineering stated that the road was relocated in 1977. The road realignment cut across the original lot and created two pieces. They were identified by two different lot numbers. This didn't identify that it was a buildable lot. The policy in place now is that this is not a farmstead split. He didn't find any documentation on why these were assigned separate lot numbers.

Thurber wondered if there is a residence on Lot 28. Schroeder replied that yes, there is.

Mike DeKalb of Planning staff appeared. Originally the road was to the north of the parcel. When the county improved the road and realigned it, the parcel was split into two pieces and assigned separate lot numbers. Lot 28 has a house would have been on 25 acres. There is an exception to the 20 acre rule today. If a residence has ever been used as a farm house, this can be cut down to 1-3 acres. Lot 28 could claim the farmstead exception today if they were to ask.

Thurber asked how many acres are needed for a legal farmstead exception. DeKalb replied that basic zoning is 20 acres. A farmstead split states that if there has been a farm residence for at least five years, the house can be cut off from the balance of the farm, 1-3 acres.

Thurber questioned if the Friedemans could sell enough land from Lot 28 to create a farmstead. DeKalb stated that this is a possibility, but he is unsure how the land being split by the road affects that.

Volker would like verification of the definition of a farm. DeKalb replied a farm is defined by at least 20 acres and generates at least $1,000.00 of income.

Warner sees the job of this board to identify if something has happened to approve a variance. Warner sees the moving of the road as an error that created a useless piece of ground that can't be used for anything. He believes this is a unique situation and a home should be allowed on the property as long as it is out of the floodplain.

Nelson hasn't changed her position. She has a problem that this was created a long time ago and the applicant has owned this property for a while.

Stillinger stated that when he bought this property, he was living in Seward County. This looked like a nice piece of property that they could retire on and build a house. He didn't find out that this wasn't a buildable lot until they started checking out the floodplain. Regardless of whether mistakes have been made, it makes no sense to him to leave a lot that can't be built on. It would be better to have a lot that can create taxes.

Volker questioned if this property would have any effect on the floodplain. Stillinger replied that any regulations would be met. He would probably put in a lagoon.

Volker wondered about access to the house. Stillinger replied that there is an access road to the property that is not in the floodplain. There is already an easement that is part of the old road.

Thurber believes that this is definitely an unusual circumstance.

Karen Brouwer is the person who surveyed this property. The board members wondered about the Friedemans selling the Stillingers any more property. This is probably not a feasible idea. She has also surveyed the Friedeman's property and their horse barn is what abuts the Stillinger's property.

Volker questioned if Stillinger has approached the Mellens about selling them some property. Stillinger replied that he has not, but he doesn't believe that they would be willing to sell. He would like this application to move forward to the County Board.

DeKalb stated that there has been a lot of discussion about this property. He believes there is enough land out of the floodplain to have property left to build on. Section 19.007(2) of the zoning code allows a reasonable use of the land where there are peculiar or exceptional circumstances not generally found. It appears that the applicant is dealing with an unusual piece of property. It has been split and an unbuildable lot was created.

Warner looked at this property. He thinks this is a perfect case for a variance. He can't see this ground being used as farm ground. He believes this is an unusual circumstance. This ground would be better used to create more taxes.

ACTION:

Warner moved approval, seconded by Nelson and carried 4-0: Nelson, Thurber, Warner and Volker voting ‘yes’; Woeppel absent.

There being no further business, the meeting was adjourned at 3:10 p.m.

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