

MEETING RECORD

NAME OF GROUP: COUNTY BOARD OF ZONING APPEALS

DATE, TIME AND PLACE OF MEETING: Friday, April 14, 2016, 2:30 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Jeff Frack, Jennifer Hiatt, Herschel Staats, and Matthew Warner; Ed Woepfel absent. Terry Kathe and Ron Rehtus of Building and Safety; David Derbin of County Attorney's Office; Tom Cajka, and Amy Huffman of the Planning Department.

STATED PURPOSE OF MEETING: Regular County Board of Zoning Appeals Meeting

Acting Chair Frack opened the meeting and acknowledged the posting of the Open Meetings Act in the room.

Frack called for a motion approving the minutes of the regular meeting held August 12, 2016. Motion for approval made by Staats, seconded by Hiatt and carried 4-0: Frack, Hiatt, Staats, and Warner voting 'yes'; Woepfel absent.

COUNTY BOARD OF ZONING APPEALS NO. 17003
REQUESTED BY SCOTT WOBIG, FOR A VARIANCE TO THE AG (AGRICULTURAL DISTRICT) AREA REQUIREMENT OF 550 FEET OF MINIMUM FRONTAGE ON PROPERTY GENERALLY LOCATED AT 19974 S. 120TH STREET.

PUBLIC HEARING:

April 14, 2017

Members present: Frack, Hiatt, Staats, Warner; Woepfel absent.

There were no ex parte communications disclosed.

Scott Wobig, 8109 Hunters Ridge Road, came forward to state that in 2007, he entered into the first purchase agreement on Lot 12. At that time, he had no knowledge of the 550-foot requirement. In 2014, when he purchased Lot 14 via a for-sale-by-owner transaction, he still had no knowledge of that requirement. The next door owner of Lot 19 built on his property 2-3 years ago. At that time, he still assumed everything was under the buildable clause. Only when he came in for the building permit did he discover the requirements.

Frack asked if the building on Lot 12 belonged to Wobig. Wobig said yes, he owns that barn. The attorney for the realtor who sold the first property was able to find another property with a structure similar to what he requests. He is just asking to be able to build.

Staats asked if one building is already built. Wobig said yes, more than one building.

Frack asked if the central road would service four lots, assuming this went through today. Wobig said yes.

Frack asked Staff how this is different from clustering 5-6 homes in a rural area.

Tom Cajka of the Planning Department noted that those would be considered cluster developments that fall under a special permit PUD. That would allow a private street. This is not a street, but is a private access servicing these lots.

Cajka went on to say that if a person wants to build a house on a lot in the County, there must be at least 20 acres and 550 feet of street frontage. There has been a lot of confusion about enforcing the frontage rule. At the time Wobig purchased his properties, the frontage rules were not being enforced. If he had built right away, he would not have an issue. Around two years ago, County Board concluded that the zoning rules must be enforced better, so now, Mr. Wobig's only option is appeal. Even though there is clearly access to his property, it does not meet the regulations because it is not considered a street.

Frack asked if Lot 19 has the frontage. Cajka said it does not, but he does not know when the house on that property was built. He assumes Lot 18 was created as part of a farmstead split, so Lot 18 and 19 were probably part of one lot.

Frack asked Wobig if his intention is to sell the lots. Wobig stated that Lot 12 is definitely for his personal use. If someone wanted to purchase Lot 14, he would want to sell it as a buildable lot. He reiterated that when he purchased both properties, he assumed that since this development was done by another person and called "Nature's Meadows", that it was a buildable area.

Warner asked if the vote today is on both lots. Cajka said yes. Warner wondered if both lots were approved today, and Lot 14 were sold, if it will stay "grandfathered" in. Cajka said yes.

Warner went on to ask the purpose of the 550-foot frontage requirement. Cajka said that rule has been in place since 1979. Warner asked if it is in place for the sake of safety or visibility. Cajka said that from what he understands, it was put in place to limit access on County roads and to create distance between access points. Warner said that could be taken as a safety feature. Cajka agreed that could be one aspect of it.

Warner asked for clarification if this is considered one lot. Cajka said it is currently two lots. An action today would not change the lot lines; it will simply grant the right to build on each lot without the street frontage.

Staats stated that he assumes the history provided in the Staff Report is correct. Cajka said that was compiled using dated resolutions and official minutes, so yes.

Wobig added that he hopes this will apply in some way towards future developments. Part of this conversation should include providing a hard date that sets this amendment into affect. There is too much gray area regarding when these regulations began to be followed. Cajka made it clear that the granting of this particular variance will only make these two lots in question buildable. Staats reiterated that the action taken today will only impact Mr. Wobig's lots.

Hiatt noted that the zoning has been in effect, it just hasn't been enforced. Today the variance would be granted for two lots only. This would not be a statement about all lots. Wobig thanked Board Members for the clarification.

David Derbin of the County Attorney's Office came forward to state for the record that today's vote is only on this variance, so the decision is whether to waive the frontage down to zero and in lieu of that, have the access as it is shown today in the diagram provided.

Warner expressed his continued concern that this could be a safety issue if someone built a house right on a corner. He is familiar with this lot and the area. In other words, he wants to know what permissions are being granted. Cajka replied that this is not building along the frontage road, but rather, at the end of a private access road. The main road is to the east. The house would still have to meet all setback rules.

Wobig added that his intention is to build away from even the access road.

Staats stated that regulations allow for the preservation of farmland, so the 20-acre lot size requirement helps to keep building at a lower density. Wobig responded that there were covenants in place at the time of purchase that read one dwelling unit per 20 acre lot, so that is extra assurance that he is not allowed to put more than one house on the property. He also seeks to keep this area as agricultural land.

ACTION:

April 14, 2017

Staats moved approval of the variance, seconded by Warner and carried 4-0: Frack, Hiatt, Staats and Warner voting 'yes'; Woeppel absent.

There being no further business, the meeting was adjourned at 2:52 p.m.