

Meeting Minutes

MEETING RECORD

NAME OF GROUP: COUNTY BOARD OF ZONING APPEALS

DATE, TIME AND PLACE OF MEETING: Friday, June 12, 2020, 2:30 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Jeff Frack, James Pinkerton, Herschel Staats, Matthew Warner and Ed Woeppel; Tom Cajka and Rhonda Haas of the Planning Department Ron Rehtus of Building and Safety; Jennifer Holloway of County Attorney's Office; and other interested parties.

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

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

Woeppel called for a motion approving the minutes of the regular meeting held February 14, 2020. Motion for approval made by Warner, seconded by Staats and carried, 5-0: Frack, Pinkerton, Staats, Warner and Woeppel voting 'yes'.

BOARD OF ZONING APPEALS 20003, REQUESTED BY RAY W. COFFEY, THE PERSONAL REPRESENTATIVE OF THE VELDA F. COFFEY ESTATE, FOR A VARIANCE TO REDUCE THE MINIMUM LOT SIZE FROM 20 ACRES TO 10 ACRES, ON PROPERTY GENERALLY LOCATED AT 2801 STAGECOACH ROAD
PUBLIC HEARING: JUNE 12, 2020

Members present: Frack, Pinkerton, Staats, Warner and Woeppel.

There were no ex parte communications disclosed.

Loel Brooks, Brooks, Pansing Brooks, PC, LLO (via zoom), 1248 O Street, Suite 984, stated that he represents Ray Coffey, Personal Representative and Greg Coffey. Brooks stated that this is a petition for a variance to reduce the minimum lot area for a subdivision from 20 acres to 10 acres. In 1994, when the parents of the Coffey family had a survey done to create some potential lots. In October 2019, Mr. Coffey the personal representative of Velda Coffey sold the larger two lots, which left one lot being discussed in today's proceedings. In February 2020, Mr. Coffey entered into an agreement with Tom Shea for the remaining lot and at the time of closing, Mr. Coffey became aware of a potential problem with the setback on this property from the purchaser of the larger two

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lots. Mr. Coffey was not aware of the setback rules, because the lots were still owned by Velda Coffey and not for sale. When they learned of the setback violation, they tried to find a solution before the property sale was final. This property closed into escrow on March 2020, and it was discussed with the potential purchaser that there was a setback issue for this property and they were working to get this resolved. During the process of selling these lots, Mr. Coffey was never advised that the creation of the smaller lot violated zoning regulations. The adjoining landowner declined to help with correcting the problem, because of his own development schedule. We are asking that this variance be approved, to correct an innocent error by Mr. Coffey who had no knowledge that any problem had occurred and to allow the owner Mr. Shea to use this property, as he would have been permitted to if he had purchased property without this particular problem. This would be a significant harmful to Mr. Shea if this lot remained unbuildable.

Proponents:

Greg Coffey, 2555 West High Ridge Circle, came forward in approval of this variance and stated that he is a local attorney and does not know about the zoning laws. He shared that his parents purchased the land to build their home and raise cattle and he knew it was divided in two parcels, but not three. His father had mentioned to them years ago that if they stopped raising cattle they would sell a portion of their land and keep the remaining 10-acres with the house to live on. They did not find out that there was a problem until they went to sell the smaller of the two lots.

Tomas Shea, 6525 Rolling Hills Court, came forward and stated that he is the purchaser of the property, and he further stated that they only found out just recently that there was a problem. He shared that they have been doing extensive renovations to the house.

Ray Coffey Personal Representative of Velda Coffey, 1728 King's Road, Manhattan, Kansas, came forward and said that he lives in Kansas and this was a shock to him. He shared that he would hope that the board would consider this variance.

Opponents:

Todd Lewis (via zoom), 1401 Stagecoach Road, stated that he lives a mile west of this property, and he sympathizes with the applicant, but he has been through something similar with his land. In 1977, his lots were surveyed and recorded with the Lancaster County Engineers Office. He stated when he went to improve the lots he was told that they were unbuildable, and he further stated that he is neutral on this.

Warner asked what year this took place. Lewis stated the surveys were in 1977 and 2000 was the Zoning Board of Appeals.

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Staats asked if there was already a house built on this land. Shea stated that the house was built in 1994. Staats stated that this is not to build another house on the lot. Shea said no, and the only renovations have been on the interior of the house.

Tom Cajka, Planning Staff, came forward and stated this does come up in the county and the state statute does say anytime you have lots that are greater than 10-acres they do not need to do a subdivision final plat. When these lots were surveyed, they were considered legal lots, however, the zoning regulations state that you need to have 20-acres to have a house. Cajka stated that one option was to see if they could purchase more land to increase the lot size to 20-acres. Their other option was to do a farmstead split, which is a provision that goes through the Building & Safety Department. This would allow a house to be on a lot that is between 10 and 20-acres and had they gone this way it would have been a legal lot. Cajka stated another issue brought up is about a lagoon and the setback to a lagoon. He shared that is not a zoning issue, because there is no zoning code for setbacks to lagoons. This would be an issue with the Lancaster County Health Department. Cajka stated what you are voting on today is a request to reduce the lot size from 20-acres to 10-acres, and had nothing to do with the lagoon setbacks, which needs to be worked out with the Health Departments. Cajka stated that the zoning code as it is today needs to be added into the record, and he presented the Clerk with a Certified Copy of the County Zoning Regulations.

Jenifer Halloway, County Attorney's Office, came forward and stated to she wanted to clarify, that previously Certified County Zoning Regulations were given to the Clerk as they are today.

Warner stated that he had thought in 2012, the smaller lots were allowed. Cajka said no. Warner asked if the talked about allowing a 3 to 5-acre parcel. Cajka stated they did discuss smaller lots, although it was never approved. Cajka stated with AG preservation they need to have a minimum of 20-acres and a maximum of 80-acres, which could be vacant land. For every 20-acres of land, they would get one buildable lot, and that can be as small as 3-acres because 75 percent needs to stay unbuildable.

Pinkerton asked if the 75 percent stay as agricultural land. Cajka said yes, that the zoning would not change on any of the land.

Pinkerton asked how long the 20-acres has been a requirement. Cajka said since October 1979. Pinkerton asked if that means no more additional buildings or that the building that is there cannot be there. Cajka stated if they wanted to remodel or do an addition to the house, they would need to get a building permit.

Warner stated that while doing research on this he contacted Bob Workman, who thought that in 2014, a rule was amended to allow a 3 to 5-acre parcel in situations similar to this. Cajka stated that he feels Workman is referring to the AG Preservation.

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Pinkerton inquired about that there was no administrative plat of this division completed and asked if that was legal. Cajka stated that the survey of the three parcels is legal.

Warner asked Mr. Cajka, if this is the way that he is requesting to divide the land. Cajka stated that he is not requesting anything to be done different from the way it is now. Warner stated it looks as if the property line goes through the farmstead. Cajka stated in 1994, and that created the three parcels. Two of the three are over the 20-acers and not a problem, but the third parcel is not quire 11-acres and that is why we are here today. Cajka stated that the existing house is on this smaller parcel and that is why they have requested the variance, which is to reduce the lot size from 20-acres to 10-acres to have a buildable lot.

Halloway stated that Lot A and C have nothing to do with today's hearing and are referred to as the history, and all that is being done if the remaining Lot B. She stated that in the zoning requirements you need to have 20-acres for agriculture land to be buildable and here there is not, and she further stated that all they are asking for is that the board essentially waves that requirement and allow them to have a buildable lot even though it is only 10.99 acres.

Woepfel stated that the land has already been split. Holloway said yes.

Warner stated that there is no way for them to buy another 9.1-acre from the 129-acres. Holloway said no, the other owner is not wanting to cooperate in that manner.

Woepfel asked if they make a variance and then this lot would be buildable, and he asked what that would state and if it means that the owner could build whatever he wants on the lot. Cajka stated that the owner gets one house on the lot. Woepfel stated that the house is already there. Cajka said yes, and he could build additional accessory buildings.

Warner stated that he has been on the board since 2004, and this if the first time that he is unsure of what the best solution would be. He shared that the lots have already been sold and the house is already there, so this seems like it is a done deal.

Pinkerton asked when the Health Department was going to rule. Cajka said that he was not sure.

Woepfel stated that is not the issue of the board, and suggested that that the members just look at this case.

Warner asked if they have done everything, they could to try to add to the neighbor's property. He shared that they cannot approve a variance unless it is a hardship, and obviously, this is a hardship, but he also does not want to open the door to have an increase in the number of requests for variances. Warner asked if the applicant exhausted

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all avenues to acquire additional land, even if it is not buildable. Cajka said one option was to purchase land from the neighbor and they did not want to sell. The second option was to do the farmstead split, which was discussed earlier, which would also require that the adjoining property be involved. The last option for the applicant was to come here before the Board of Zoning Appeals and ask for a variance to reduce the minimum lot size. Cajka stated that the variance is stating that instead of having 20-acres to be a legal lot they would only need 10-acres to be a legal lot.

ACTION:

JUNE 12, 2020

Frack made motion to grant the variance, seconded by Staats and carried, 4-1: Frack, Pinkerton, Staats and Woeppel voting 'yes'; Warner voting 'no'.

There being no further business, the meeting was adjourned at 3:25 p.m.

Please note: The Board will not approve these minutes until the next regular County Board of Zoning Appeals hearing.