MEETING RECORD

NAME OF GROUP:	COUNTY BOARD OF ZONING APPEALS
DATE, TIME AND PLACE OF MEETING:	Friday, November 17, 2017, 2:30 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska
MEMBERS IN ATTENDANCE:	Jeff Frack, Herschel Staats, and Matthew Warner; Jennifer Hiatt and Ed Woeppel absent. Ron Rehtus of Building and Safety; David Derbin of County Attorney's Office; Ron Rehtus of Building and Safety, Tom Cajka and Amy Huffman of the Planning Department.
STATED PURPOSE OF MEETING:	Regular County Board of Zoning Appeals Meeting

Vice 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 June 23, 2017. Motion for approval made by Staats, seconded by Warner and carried, 3-0: Frack, Staats, and Warner voting 'yes'; Hiatt and Woeppel absent.

COUNTY BOARD OF ZONING APPEALS NO. 17013, REQUESTED BY DUNCAN AND SHELLY LOCKE, FOR A VARIANCE TO REDUCE FROM 60 FEET TO 40 FEET THE PUBLIC ACCESS EASEMENT AND TO REDUCE 40 ACRES TO 39.9 ACRES IN ORDER TO SUBDIVIDE THE PROPERTY INTO 2 LOTS, GENERALLY LOCATED AT 2020 MILL ROAD.
PUBLIC HEARING: November 17, 2017

Members present: Frack, Staats, and Warner; Hiatt and Woeppel absent.

There were no ex parte communications disclosed.

Duncan Locke, 2020 Mill Road, stated a year and a half ago, they looked into selling a portion of roughly seven acres of his property. He was in the process of selling when he found out that because of the zoning, the property could not be split. A realtor was hired to help, but there have been no buyers because people either want a house with a few acres, or they want the land to build a larger development. Otherwise, people do not want this odd size because it is too expensive. The variance would allow for the property to be split.

Frack asked how long Mr. Locke has owned the property. He said he has owned it 18 years.

Warner asked how the 7-acre area was decided upon when attempting to sell the first time. Locke said there is a tree line, but it was otherwise arbitrary. They were attempting to do a sale by owner and did not realize the property needed to be platted. Frack commented that the position of the existing house is contributing to the problem of being able to subdivide.

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Tony Milana, BankWise Realty, came forward to state that he has been working with Mr. Locke to sell the property. It is very clear that the owner has sincere intentions and is not attempting to develop for extra money, but just wants fair market value.

Warner asked if the barrier to selling was created by rules in the Ag Act. Milana said that is his understanding. When the property was purchased, these rules were not in effect, as far as the selling of limiting sections to be pieced off for sale.

Tom Cajka, Planning Department, came forward to provide background. Mr. Locke came in several months ago to ask about parceling off his existing house. He was told that would not be possible because there must be 20 acres to build. That rule has been in place for the last 30 years or more. Even though his property is nearly at 40 acres, it does not meet the frontage requirements. The other option to pursue is the farmstead split, but the problem is the frontage. A final option would be to do an agricultural preservation final plat. Frontage is not required then, but there does need to be 60 feet of public access easement off of the road; Mr. Locke only has 40 feet of width. It was suggested that he inquire whether his neighbors would be willing to sell him 20 feet so that it would be possible to do a final plat to subdivide the property. Neighbors were unwilling to sell. His only recourse was to seek a variance through this body. He is asking for a variance so that his 39.96 acres could be split. He noted that the resolution is less specific, using the approximate acreage amount of 39.9 acres.

Cajka went on to say that under agricultural preservation, 75% must remain unbuildable outlot for the continuation of farming or open space. On 40 acres, 75% would be 30 acres of outlot. That leaves 10 acres to be split, with the help of a surveyor, into lots with a minimum size of three acres. That would be the next step if this variance is granted.

Frack asked if Mr. Locke's house would have to remain on a 3-acre lot if the variance is granted. Cajka said that is correct. Mr. Locke has some ideas about where he would put the lot based on the access easement. The rest would be open space.

Warner asked if it makes the most sense to grant the variance based on farmstead split. Cajka said if he chose to do the farmstead split, a variance on the frontage would still be needed.

There was no testimony in opposition on this item.

ACTION: **November 17, 2017**

Warner moved approval of the variance, seconded by Staats.

Warner asked if an amendment to the resolution was necessary to clarify the exact acreage amount. David Derbin, County Law Department, said the motion sufficient since it is clear that the approximation of 39.9 acres will suffice. Warner asked if the single motion is also sufficient to cover the public access easement variance. Derbin said that it is.

Motion carried, 3-0: Frack, Staats and Warner voting 'yes'; Hiatt and Woeppel absent.

There being no further business, the meeting was adjourned at 2:47 p.m.