

MEETING RECORD

Advanced public notice of the County Board of Zoning Appeals meeting was posted on the County-City bulletin board and the Planning Department's website. In addition, a public notice was emailed to the Lincoln Journal Star for publication on Thursday, August 3, 2023.

NAME OF GROUP: COUNTY BOARD OF ZONING APPEALS

DATE, TIME AND PLACE OF MEETING: Friday, August 11, 2023, 2:30 p.m., County-City Building, City Council Chambers, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Jeff Frack, Jim Pinkerton, Tai Pleasant and Ed Woepfel. Matt Warner absent.

OTHERS IN ATTENDANCE Tom Cajka and Clara McCully of the Planning Dept.; John Ward of County Attorney's Office; and other interested parties

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

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

Woepfel then called for a motion approving the minutes of the regular meeting held March 10, 2023. Motion for approval made by Frack, seconded by Pinkerton and carried 4-0: Frack, Pinkerton, Pleasant and Woepfel voting 'yes'; Warner absent.

COUNTY BOARD OF ZONING APPEALS 23005

REQUESTED BY ANDRE AND ERIN ORDUNA, FOR A VARIANCE TO LOT AREA AND FRONT YARD SETBACK, ON PROPERTY GENERALLY LOCATED AT 8401 SOUTH 162ND STREET.

PUBLIC HEARING:

August 11, 2023

Members present: Frack, Pinkerton, Pleasant and Woepfel. Warner absent.

There were no ex parte communications disclosed.

APPLICANT:

Erin Oduna, 8401 S. 162nd Street, Bennet, NE 68317 stated she did not receive the resolution from the previous hearing for the same appeal and was unaware they needed to file the resolution. She stated the gentlemen at the December 9, 2022 Board meeting told her she could pull a permit directly following the hearing. In the situation related to this appeal, the required protocol was not appropriately followed by the County with no responsibility assigned to the oversight. In this instance where the citizen was at fault it was accompanied by additional financial burden and significant time delays. The house is unsafe to live in. It has been in her possession since October of 2022, is not up to code, and she is unable to get a permit to fix the house without a filed resolution. The Register of deeds and County Clerk should correct mistakes, follow through on resolutions or help citizens.

STAFF QUESTIONS:

Tom Cajka, Planning Department, 555 South 10th Street stated this is an unusual circumstance. This is the same application from last December. The issue is there's a regulation in the zoning code that says the resolution must be filed by the applicant appellant within 60 days of approval. The applicant was sent a letter and the department has a copy, which is dated December 12, 2022. He is unable to prove if it was lost in the mail or if it was ever sent. The letter outlines the regulations and what the applicant needed to do. The applicant said she didn't get it and he is not disputing that. He looked into ways to avoid coming back to this Board, but how it's written in the zoning code, there isn't.

The application is to reduce the lot acres from 28 to 5.6 and to reduce the front yard setback along 162nd Street from the required 50 feet to 32 feet. The house is 35-40 feet from the front lot line, and he used 32 feet as the measurement. The issue came up because the 5.6-acre lot was parceled off in 1998 without going into the proper process. When the lot was sold to the applicants and they tried to get the Building Permit, Building and Safety said it doesn't meet zoning code or the lot size so the applicants need to go to the Board. It was approved in December, with a vote of 3-0. The item is in front of the Board again to make it legal and file the Resolution with Register of Deeds. He is in the process of amending the zoning code to remove the 60-day requirement, and instead, the code will require the resolution to be filed by the applicant prior to filing for a Building Permit.

Pleasant asked, will the same letter go out again, or could the applicant get the letter today?

Cajka stated the letter would not be ready today. It is prepared by someone else in the Planning Department.

Woepfel stated he guesses someone will follow up on the letter.

Woepfel told the applicant the Board doesn't make any rules, that would be staff. The Board just sits as the appeals board. The board can have influence, but it seems Tom has already addressed the issue. The Board heard what the applicant said but they cannot make changes.

SUPPORT:

No one appeared in support.

OPPOSITION:

No one appeared in opposition.

APPLICANT REBUTTAL:

Oduna asked if the Board would be able to talk to David Cary. She made every step possible to do what is needed and had to pay twice. Oduna asked if the Board could consider speaking with David Cary so she could have a portion of the fee returned to her.

John Ward, Lancaster County Attorney, 605 South 10th Street stated the board's authority is limited and they are authorized to hear zoning appeals, variances, and similar items. The applicant is free to speak with the Planning Department regarding the fee.

Tai Pleasant asked Oduna if she plans on getting the letter submitted within 60 days.

Oduna stated yes.

APPEAL NO. 23005

ACTION BY THE COUNTY BOARD OF ZONING APPEALS:

August 11, 2023

Woepfel closed public hearing.

Pinkerton moved to approve the variance to lot area and front yard setback, seconded by Pleasant and carried 4-0: Frack, Pinkerton, Pleasant, and Woepfel voting 'yes'; Warner absent.

There being no further business, the meeting was adjourned at 2:45 p.m.