

Bellevue Board of Adjustment Meeting

Wednesday, November 20, 2024 6:00 PM

Bellevue City Hall

1500 Wall Street

Bellevue, NE 68005

1. CALL TO ORDER:

a. Roll Call

b. The Open Meetings Act location

c. Approve Minutes of August 16, 2023 Regular Meeting

d. Accept into the record all staff reports, attachments, memos, and handouts regarding each application.

2. PUBLIC HEARINGS:

a. Request for a variance of Section 5.09.05, City of Bellevue Zoning Ordinance, regarding the minimum 35-foot front yard setback for Lot 13, Hillcrest Addition. The applicant is requesting the minimum 35-foot yard setback be reduced to 9 feet for a covered porch. Applicant: Noemi Gonzalez Morales. Location: 101 Caldor Drive. Case #: BOA-2410-01.

3. CURRENT BUSINESS

a. Approval of the 2025 BOA Uniform Review Schedule

b. Re-appointments

c. Election of Officers

4. ADJOURNMENT

MINUTE RECORD

Bellevue Board of Adjustment, August 16, 2023, Page 1

The Bellevue Board of Adjustment held a regular meeting on Wednesday, August 16, 2023, at 6:00 p.m. in the Bellevue City Council Chambers. Upon roll call, present were Board Members Petersen, Crompton, Anderson, and Conte. Absent was Hankins. Also present were Tammi Palm, Planning Director, and Angela Curry, Assistant Planning Manager.

Notice of this meeting was given in advance thereof by publication in the Sarpy Times and posting in two public places and was also given to the Chairperson and members prior to the meeting. These minutes were written and available for public inspection within ten days of the meeting.

Anderson announced a copy of the Open Meetings Act was posted in the entry to the City Council Chambers.

Motion was made by Petersen, seconded by Conte, to approve the minutes of the April 19, 2023, regular meeting as presented. Upon roll call, all present voted yes. Motion carried unanimously.

Motion was made by Crompton, seconded by Petersen, to accept into the record all staff reports, attachments, memos, and handouts regarding each application. Upon roll call, all present voted yes. Motion carried unanimously.

Anderson explained the public hearing procedures.

PUBLIC HEARING was held on an appeal for a variance of Section 5.08.05, City of Bellevue Zoning Ordinance, regarding the minimum 35-foot rear yard setback in the RS-120 zoning district for Lot 2, Marchio Subdivision Replat 1, located in the Southeast ¼ of Section 23, T14N, R13E of the 6th P.M., Sarpy County, Nebraska. The applicant is requesting the minimum 35-foot rear yard setback be reduced to 15 feet. Applicant: Sebastian Enzolera. Location: 417 Bellevue Blvd. N. Case #: BOA-2307-02.

Sebastian Enzolera, 1609 Grove Rd., Bellevue, NE stated he is the landowner. Enzolera gave a brief history of the property. He stated the land was subdivided approximately two years ago so they could build a house. Enzolera stated the lot is not a standard lot and somewhat difficult to build on.

Terry Morrison, Ehrhart Griffin and Associates, 3552 Farnam St., Omaha, NE was present on behalf of the applicant. Morrison stated the lot is very steep and the grade drops off significantly from the road. He said the proposed driveway length is to eliminate an extremely steep driveway which would be treacherous during the winter. Morrison said pushing the garage further south helps the slope of the driveway. He stated if the garage was a separate structure, it would not have to conform to the 35 Foot rear setback, but it would make the property less useable. Morrison stated if the house was moved closer to the north side of the lot there are retaining walls in that area which overlap between the two properties. Because of the extreme elevation change, these retaining walls help navigate the grade from the west to the east. If the house was moved to this area, the retaining walls would need to be cut back, destabilizing the northern area of the lot.

Anderson stated Section 19-910 of Nebraska State Statutes requires the Board to make four findings prior to granting a variance. Morrison stated the first is the strict application of the zoning regulations producing undue hardship is because the non-standard shape and elevations of the lot would create a significant change to the slope of the driveway making it somewhat dangerous and unmanageable in icy conditions. He said the second being that such hardship is not shared by properties in same zoning district. Morrison stated the adjoining lots in this area are rectangular and not irregular like the Enzolera's lot. Morrison stated the house on the property to the south is located on the southern part of the lot; therefore, having a garage within 15' of the property line would not be a detriment to that property. Morrison stated cost is not the bases for the request. He said the slope of the driveway and having the garage attached to the house is a benefit and does not cause a hardship to either the properties to the north or south of this lot. Morrison stated in his opinion the request meets the requirements of the statute.

There was no one present to speak in favor of, or in opposition to this request. Subsequently, Anderson closed the public hearing.

Conte asked staff how far a detached garage needed to be from the house. Palm stated a detached garage would have to be a minimum of six feet from the house in order to meet the regulations of the zoning ordinance and building code.

Petersen inquired where the lot had been divided with the previous small subdivision plat. Morrison

MINUTE RECORD

Board of Adjustment Meeting, August 16, 2023 Page 2

showed the new lot line.

Anderson inquired about the large tree on the north side of the property. He said he had visited the property and in some cases the need to remove a large, mature tree would be an acceptable hardship. Discussion ensued regarding several trees along the northern edge of the lot. Anderson asked if the house would be moved to the north how close would the foundation be to the 100-year-old tree. Enzolera stated approximately 18- to 20-feet. Discussion ensued regarding possible damage to the tree if the house was moved to the north.

Petersen asked if it was possible to flip the house and garage and use the garage foundation as a retaining wall. Discussion ensued regarding the dangerous elevation of the driveway if the garage was on the north side of the lot. Enzolera stated flipping the house would still create the same setback problem, if not worse, because the house is larger than the garage.

Discussion ensued regarding elevations of the lot and required setbacks.

Anderson stated the Board can only allow a variance if there is an adequate hardship. He said State Statute requires an extreme topographical issue. Morrison stated if you look at the lots surrounding this lot, they are mostly level compared to Mr. Enzolera's lot. He said the lot drops off as you go to the east so by the time you get to the rear of the lot you are 36-feet below the street.

Petersen asked if dirt work or retaining walls could resolve the problem. Morrison stated the plan is already utilizing foundations as retaining walls.

Anderson asked if a detached garage is out of the question. Enzolera stated detaching the garage and moving it six feet from the house would reduce the ability to deal with the slopes on the property.

Petersen stated the Board must follow State Statutes and the applicant must provide proof of a hardship. Morrison stated he felt as if they had given the Board proof of a hardship. He said this is a hardship that other lots in the area do not have to deal with. Petersen stated the applicant had provided an alternative drawing that would meet the required setbacks. Enzolera stated that is correct but once the different options were put on paper, they realized the difficulties of moving the house and garage 6 feet to the north side of the lot.

Anderson stated the slope along the north side of the lot is not unusual and under normal construction practices it can be dealt with. He said it is not easy or desirable, but it can be dealt with. Morrison stated the code is for the entire City of Bellevue and the entire city does not have to deal with this elevation change and lot configuration. He said he has exhausted all the significant information regarding the hardships for this lot.

MOTION was made by Petersen, seconded by Conte to approve Exhibit A, showing the 15-foot rear setback for Case # BOA-2307-02, Lot 2, Marchio Subdivision Replat 1, located in the Southeast ¼ of Section 23, T14N, R13E of the 6th P.M., Sarpy County Nebraska. Applicant: Sebastian Enzolera. Location: 417 Bellevue Blvd. N. Case#: BOA-2307-02. Upon roll call, all present voted no. MOTION failed.

Meeting adjourned at 7:05 p.m.



Dianna Van Horn
Planning Secretary

CITY OF BELLEVUE BOARD OF ADJUSTMENT REPORT

CASE NUMBER: BOA-2410-01

FOR HEARING OF:
REPORT #1: November 20, 2024

I. GENERAL INFORMATION

A. APPLICANT:

Noemi Gonzalez Morales
101 Caldor Drive
Bellevue, NE 68

B. PROPERTY OWNERS:

Jose Gonzalez-Reyes
Noemi Gonzales Morales
101 Caldor Drive
Bellevue, NE 68005

C. GENERAL LOCATION:

101 Caldor Drive

D. LEGAL DESCRIPTION:

Lot 13, Replat of Lots 42, 43, and 44 Hillcrest Addition, located in the Northeast ¼ of Section 26, T14N, R13E of the 6th P.M., Sarpy County, Nebraska.

E. REQUESTED ACTIONS:

Variance of Section 5.09.05, regarding height and lot requirements for Lot 13, Hillcrest Addition.

F. EXISTING ZONING AND LAND USE:

RS-84, Single family residential.

G. PURPOSE OF REQUEST:

The applicant is requesting a variance to allow for a nine-foot front yard setback in the RS-84 zoning district to allow for a front porch cover, which requires a minimum 35-foot front yard setback.

H. SIZE OF SITE:

The site is approximately .30 acres.

II. BACKGROUND INFORMATION

A. GENERAL NEIGHBORHOOD/AREA LAND USES AND ZONING:

- 1. **North:** Single Family Residential, RS-84
- 2. **East:** Single Family Residential, RS-84
- 3. **South:** Single Family Residential, RS-120
- 4. **West:** Single Family Residential, RS-84

B. GENERAL COMMENTS:

1. Section 19-910 of the Nebraska State Statutes requires the Board of Adjustment to make four (4) findings prior to granting a variance. If the Board finds the following present, the applicant is entitled to a variance. If the Board finds the following not present, it is suggested the variance be denied.

- i. Does the strict application of the zoning regulation produce undue hardship? Section 19-910 (a) Yes or No?
- ii. The hardship created is not shared by other properties in the same zoning district or vicinity. Section 19-910 (b) Yes or No?
- iii. Granting of this variance will not be of substantial detriment to adjacent property or the character of the zoning district. Section 19-910 (c) Yes or No?
- iv. Is this a demonstrable and exceptional hardship as distinguished from a variance for convenience, profit or caprice? Section 19-910 (d) Yes or No?

The applicant should be prepared to address these statements.

2. The applicant is requesting a variance of Section 5.09.05, height and lot requirements of the RS-84 zoning district, for the front yard setback for a covered porch. Section 5.09.05 requires a minimum 35-foot front yard setback for this purpose. The applicant desires to be nine feet from the front property line.

3. The applicant was issued a stop work order by the Permits Department on September 11, 2024, for failing to acquire proper building, electrical, or siding permits prior to start of construction. The applicant was unable to obtain a permit for the covered porch due to the front yard setback issue.

4. Staff has included pictures of the covered porch attached to this report.

VI. ATTACHMENTS TO REPORT

1. Vicinity Map/Zoning Map
2. 2024 GIS aerial photo of the property
3. GIS aerial plot plan with covered porch marked, received by applicant October 29, 2024
4. Staff pictures of the covered front porch taken November 8, 2024

VII. COPIES OF REPORT TO:

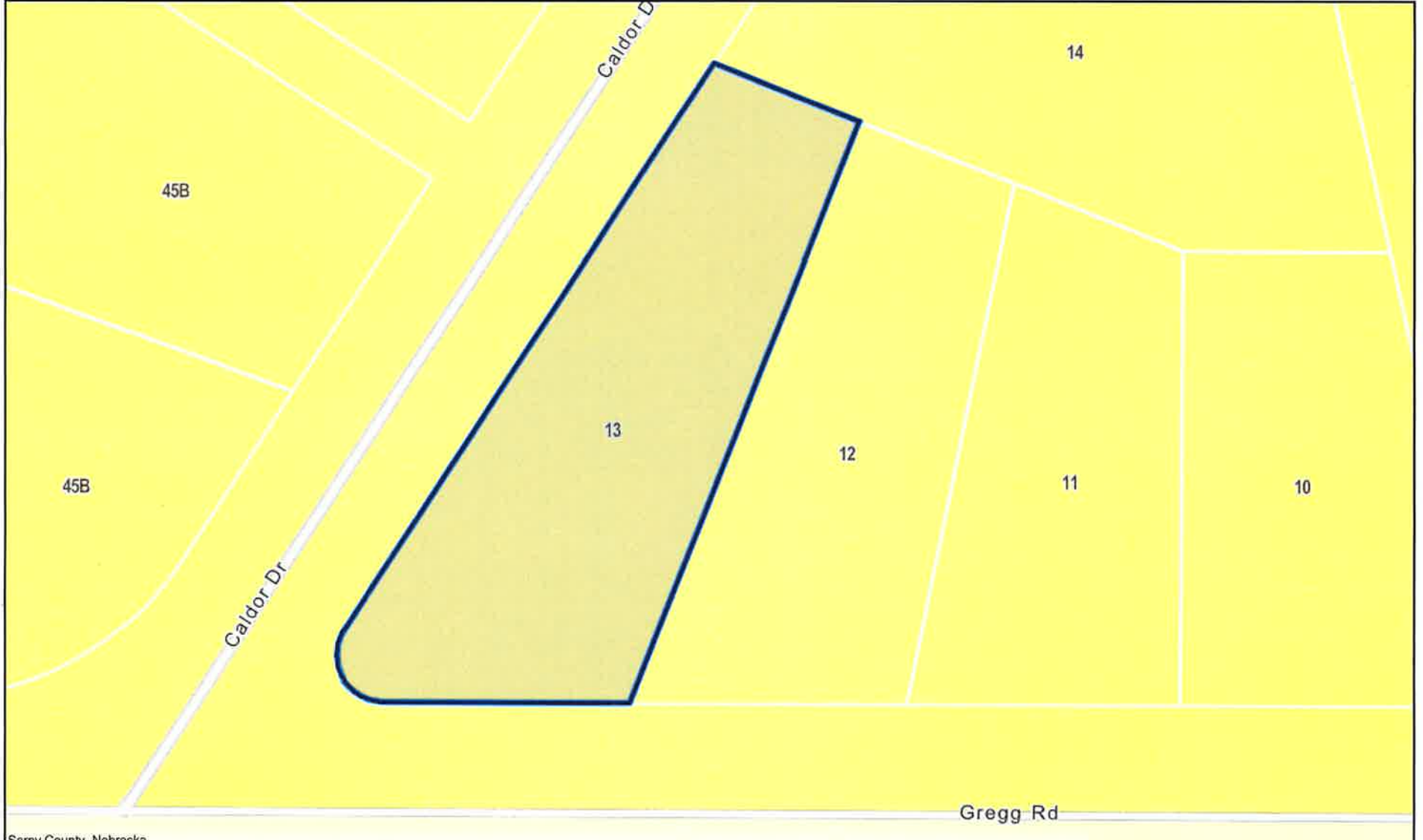
1. Noemi Gonzalez Morales
2. Public Upon Request


Assistant Planning Manager

 11/13/2024
Planning Director Date of Report



101 Caldor Drive - RS-84



Sarpy County, Nebraska



Map Scale 1: 637

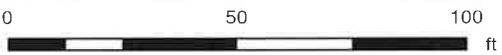
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Notes



101 Caldor Drive



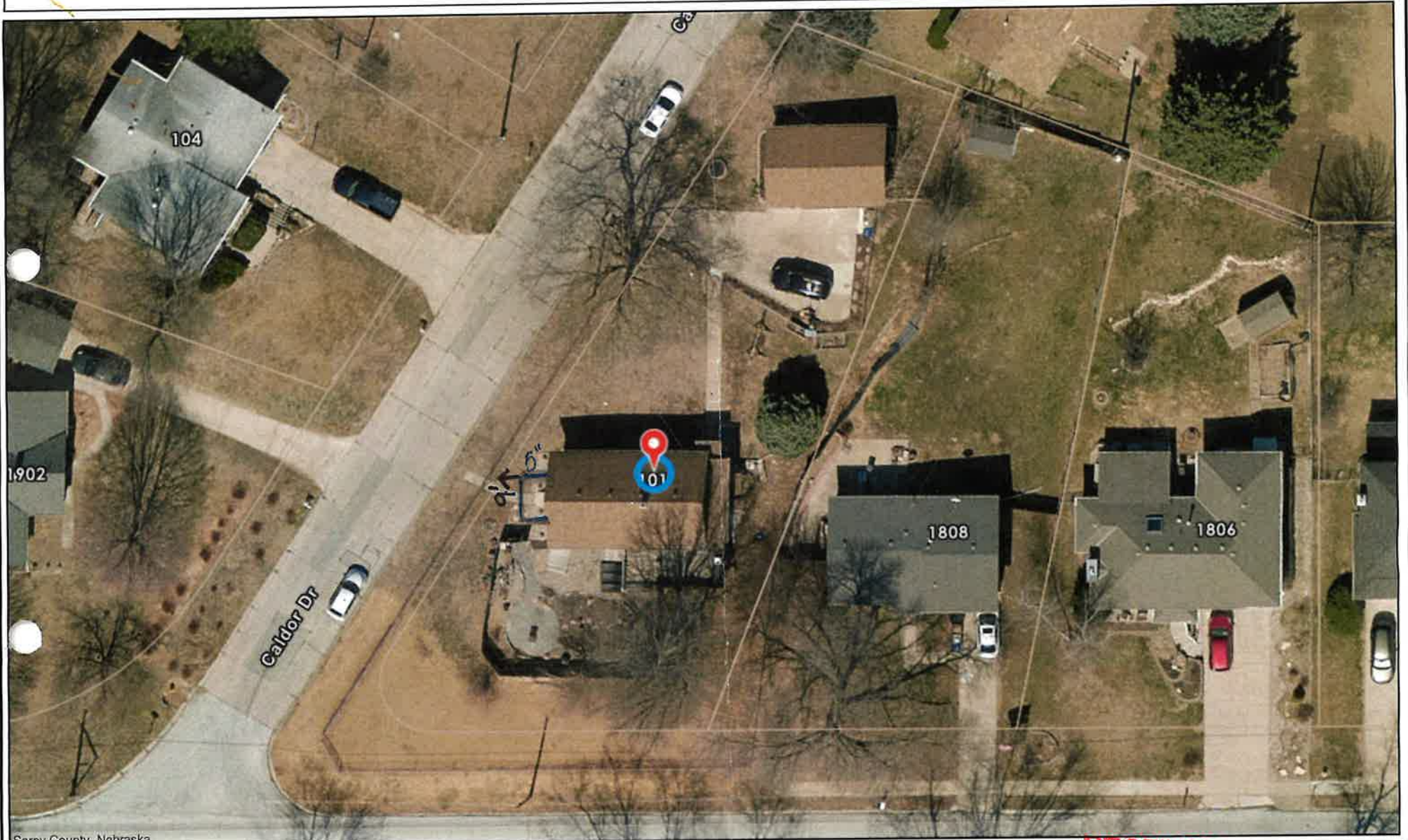
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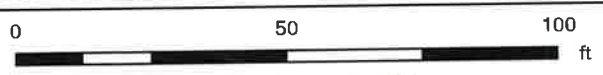


Notes





Sarpy County, Nebraska



Map Scale 1: 564

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Notes



RECEIVED
OCT 29 2024
PLANNING DEPT.



PUBLIC HEARING
ZONING ACTION
HAS BEEN REQUESTED
ON THIS PROPERTY
FOR FURTHER INFORMATION
CONTACT THE CITY OF BELLEVUE
PLANNING DEPARTMENT
AT 402-293-3026



PUBLIC HEARING
The City of Millerville
is holding a public hearing on
the proposed rezoning of
the site of Millerville
Planning Department
at Millerville.



BOARD OF ADJUSTMENT
Uniform Review Schedule – 2025

SUBMITTAL DEADLINE	NOTICE IN LEGAL NEWSPAPER	POST PROPERTY	HEARING DATE ¹
December 27, 2024	January 08, 2025	January 03, 2025	January 15, 2025
January 31, 2025	February 12, 2025	February 07, 2025	February 19, 2025
February 28, 2024	March 12, 2025	March 07, 2025	March 19, 2025
March 28, 2025	April 09, 2025	April 04, 2025	April 16, 2025
May 02, 2025	May 14, 2025	May 09, 2025	May 21, 2025
May 30, 2025	June 11, 2025	June 06, 2025	June 18, 2025
June 27, 2025	July 09, 2025	July 03, 2025	July 16, 2025
August 01, 2025	August 13, 2025	August 08, 2025	August 20, 2025
August 29, 2025	September 10, 2025	September 05, 2025	September 17, 2025
September 26, 2025	October 8, 2025	October 03, 2025	October 15, 2025
October 31, 2025	November 12, 2025	November 07, 2025	November 19, 2025
November 28, 2025	December 10, 2025	December 05, 2025	December 17, 2025

Approved by the Board of Adjustment

Chairman

Date

¹ Board of Adjustment will only be held if an application has been submitted

*Please note meeting date reflects the second Wednesday of the month