

## **BOARD OF ADJUSTMENT AGENDA**

Notice is hereby given that the Board of Adjustment of the City of North Platte will hold a meeting and public hearing on June 22, 2021 at 8:30 a.m. The meeting and hearing will be held in the City of North Platte Council Chambers located in City Hall at 211 West Third Street, North Platte, Nebraska. The following items will be heard and all interested persons are invited to attend.

1. Roll Call.

A current copy of the open meetings act of Nebraska is posted adjacent to the door at the back of the Council Chambers.

2. Approve the minutes of the meeting held on May 25, 2021.

3. Public Hearing. File No. BA21-003 Discuss and consider action on an application by Dustin and Shannon Roberts for a variance to the North Platte City Code of Ordinances Section 156.083(b)(3) Side yard, the minimum side yard setback on all corner lots shall be 25 feet, except in cases of lot width of less than 66 feet, the side yard setback shall be no less than 15 feet. An accessory building on a side street may have a building setback equal to the main structure, but in no event less than 10 feet. The applicant is proposing a 5 foot and 3 foot side yard setback. The property is located in an R-4 Dwelling District at 524 N Allen and is described as Lot 1, Block 1, Shults 2nd Replat, North Platte, Lincoln County, Nebraska.

4. Election of officers.

5. Old Business.

6. New Business.

7. Adjourn.

MINUTES OF THE MEETING OF THE NORTH PLATTE BOARD OF ADJUSTMENT HELD ON THE 25<sup>th</sup> DAY OF MAY 2021 IN THE CITY HALL COUNCIL CHAMBERS.

MEMBERS PRESENT: Greg Wilke, Marcene Franzen, Paul Pedersen, Marilyn McGahan, John Patterson

MEMBERS ABSENT: None

STAFF MEMBERS PRESENT: Judy Clark, Planning Administrator; Michelle Bain, Recording Secretary

Notice of the meeting was given in advance thereof, by posting in at least three places in the City as follows: North Platte Public Library, Lincoln County Courthouse, and City Hall offices.

Notice of the meeting was given to the Chairman and all members of the Board of Adjustment. Availability of the agenda was communicated in the advance notice and in the notice to the Chairman and members of the Board. All proceedings thereafter shown were taken while the convened meeting was open to the attendance of the public.

Chair Franzen called the meeting to order at 8:30 a.m. and stated a current copy of the open meetings act of Nebraska is posted at the back of the Council Chambers.

2. McGahan moved and Patterson seconded the motion to approve the minutes of the November 24, 2020 Board of Adjustment meeting. Roll call vote: "Aye": Wilke, Franzen, McGahan, Pedersen, Patterson. "Nay": None. Absent: None. Motion carried.
3. Public Hearing. File No. BA21-001 Discuss and consider action on an application by Terry and Nancy McNew for a variance to the North Platte City Code of Ordinances Section 156.144(2)(c) Sideyard setback, the minimum side yard setback for all corner lots adjoining a side street shall be 25 feet. The applicant is proposing a 2 foot side yard setback. The property is located in an R-4 Dwelling District located at 1620 North Dodge Avenue and is described as Lot 7, Keslar's Subdivision, North Platte, Lincoln County, Nebraska.

Chair Franzen opened the public hearing.

Judy explained that the applicant is proposing a 2 foot side yard setback. In an R-4 Dwelling District, city code requires a 25 foot side yard setback on corner lots adjoining a side street. This project has already been completed and as it sits is non-compliant with current city zoning regulations. There are two possible options to bring this property into compliance, demolish the recently constructed covered deck or request and be approved for a variance to city regulations. Dave Hahn, City Building Inspector, states that with the gravel road, it does not appear that allowing the variance will cause any issues. The construction does not conflict with clear vision; however, if the variance is approved he is requesting a stipulation be placed on the property stating that the patio never be enclosed in any way. Planning Staff suggests that the Board of Adjustment grant the variance to put a condition in the motion that the patio is to remain open and never be enclosed in the future.

Pedersen mentioned it sets back pretty well now but if a paving district happens in the future it could be close.

McGahan moved and Pedersen seconded the motion to close the public hearing. Roll call vote: "Aye": Wilke, Franzen, McGahan, Pedersen, Patterson. "Nay": None. Absent: None. Motion carried.

McGahan asked how the board handles things that have already been done that weren't right. She's concerned that the thought is to do it and ask for permission. She is concerned about encroaching the street if the street gets paved.

Judy explained that the concrete was already poured for that patio and the concrete has no regulations other than staying out of the right-of-way. In this instance the patio was built and the property owner wanted to enclose it. It is huge in educating the contractors and property owners.

There was discussion among the Planning Commission regarding amount of paving, landscaping requirements, and wanting people to be able to improve their property.

Pedersen moved and Wilke seconded the motion to find that the application to the North Platte City Code of Ordinances Section 156.144(2)(c) Sideyard setback, the minimum side yard setback for all corner lots adjoining a side street shall be 25 feet to allow a 2 foot side yard setback with the condition that the covered deck will never be enclosed in any way, be approved and granted forthwith because the strict application of any enacted regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the owner of such property, and such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any ordinance or resolution and the applicant does conform with the following five findings necessary for the board to grant the variance.

- a. The strict application of the zoning regulation would produce undue hardship,
- b. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity,
- c. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance,
- d. The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variance for purposes of convenience, profit or caprice.
- e. The board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulation.

Roll call vote: "Aye": Wilke, Franzen, McGahan, Pedersen, Patterson. "Nay": None. Absent: None. Motion carried.

4. Public Hearing. File No. BA21-002 Discuss and consider action on an application by Janna Ryan for a variance to the North Platte City Code of Ordinances Section 156.044 (D)(2)(a) Front yard setback, the front yard setback shall be 40 feet or in direct conformity with the majority of similar buildings on the same block. The applicant is proposing a 33 foot setback. The property is located in a A-1 Transitional Agricultural District located at 3191 North Studley Road and is described as Tract A in Rosedale Ranch, Inc. Subdivision of the West Half of the Northwest Quarter of Section 26, Township 14 North, Range 30 West of the 6<sup>th</sup> P.M., Lincoln County, Nebraska.

Chair Franzen opened the public hearing.

Judy explained that the applicant is proposing a 33 foot setback. In an A-1 Transitional Agricultural District, city code requires a 40 foot front yard setback. The proposed project is to construct a 130' x 130' addition to the current structure. There is a 40' right-of-way on the north side of the property and the proposed building would be 33' south of the right-of-way, essentially meaning the building would be 73' back from the paved portion of Hall School Road. The variance has been submitted in conjunction with a request for an amendment to a conditional use permit to allow a dance school in an A-1 Transitional Agricultural District. If the variance is approved, the Planning Commission will hear the request at their meeting scheduled for May 25, 2021 at 5:30 PM. Planning Staff has no objections to the application, the proposed construction should not cause any adverse effects to the area since there will still be a fairly large setback from Hall School Road. Carla O'Dell, Lincoln County Highway Superintendent, has stated that the trees need to be removed from the north side of the property and possibly the west side of the property. If the trees come down that would increase the visibility around the building when driving. The contractor said no problem to take down the trees.

Philip Hamilton, 818 Reid Avenue, was present to represent the application. He stated they plan to tear the trees down and he can put it in writing. They need the extra 5' to accommodate everything they want to do. The building will be 24' tall, the same size as the building to the south and they will attach this to the preexisting building.

Kurt Pieper, 720 E. 4<sup>th</sup>, HD Management Company, was present and stated he manages property that surrounds this property. He has no objection to the building other than the trees being terrible to get onto Hall Road. He thinks something needs to say that trees can't grow back. The parking lot needs to be done at the same time. Sometimes it's tough to get trucks through there because of parking on the road. He hopes there is adequate room for whatever parking is required for that many patrons. He's concerned about building blocking the view of the road and thinks removing the trees and never being allowed to have them grow back would be a big improvement.

Wilke moved and Patterson seconded the motion to close the public hearing. Roll call vote: "Aye": Wilke, Franzen, McGahan, Pedersen, Patterson. "Nay": None. Absent: None. Motion carried.

Judy explained that when they get their building permit, they will have to put in parking to meet city code. As far as parking on the road, Carla said she would be willing to put no parking signs out there. Policing that might be hard but it might deter people from parking on the road.

Wilke stated that no parking signs on the road will be a good idea.

Patterson moved and McGahan seconded the motion to find that the application to the North Platte City Code of Ordinances Section 156.044 (D)(2)(a) Front yard setback, the front yard setback shall be 40 feet or in direct conformity with the majority of similar buildings on the same block to allow a 33 foot front yard setback be approved and granted forthwith including the prohibited use of trees or other types of growth that would prohibit the site line to the road because the strict application of any enacted regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the owner of such property, and such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any ordinance or resolution and the applicant does conform with the following five findings necessary for the board to grant the variance.

- a. The strict application of the zoning regulation would produce undue hardship,
- b. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity,
- c. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance,
- d. The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variance for purposes of convenience, profit or caprice.
- e. The board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulation.

Roll call vote: "Aye": Wilke, Franzen, McGahan, Pedersen, Patterson. "Nay": None. Absent: None. Motion carried.

Judy told the contractor the trees need to come out prior to starting the building.

5. Old Business. There was no old business to be discussed.
6. New Business. There was no new business to be discussed.
7. Adjourn. Patterson moved and Wilke seconded the motion to adjourn. Roll call vote: "Aye": Wilke, Franzen, McGahan, Pedersen, Patterson. "Nay": None. Absent: None. Motion carried.

Meeting adjourned at 9:10 a.m.

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Michelle Bain, Recording Secretary



## **CITY OF NORTH PLATTE BOARD OF ADJUSTMENT STAFF SUMMARY REPORT**

**June 22, 2021**

### **AGENDA ITEM TITLE:**

Public Hearing: Application No. BA21-003 Discuss and consider action on an application by Dustin and Shannon Roberts for a variance to the North Platte City Code of Ordinances Section 156.083(b)(3) Side yard, the minimum side yard setback on all corner lots shall be 25 feet, except in cases of lot width of less than 66 feet, the side yard setback shall be no less than 15 feet. An accessory building on a side street may have a building setback equal to the main structure, but in no event less than 10 feet.

### **EXECUTIVE SUMMARY:**

The applicant is proposing a 5 foot and 3 foot side yard setback.

The property is located in an R-4 Dwelling District at 524 N Allen and is described as Lot 1, Block 1, Shults 2nd Replat, North Platte, Lincoln County, Nebraska.

In an R-4 Dwelling District, city code requires a 25 foot side yard setback on corner lots adjoining a side street.

A site plan, location map and pictures provided by the applicant are attached.

Dave Hahn, City Building Inspector, states that with the gravel road, it does appear to have plenty of room between the street and the property line; however if this street was paved in the future it would look much different. The setbacks, if approved as requested, will require the owner to construct a one-hour wall assembly from the floor to the roof deck ( IRC Table R302.1(1)) Construction of the wall assembly may require the owner to hire a design professional for proper design. Dave states that he would support a 10 foot side yard setback.

Brent Burklund, City Engineer, also has concerns regarding the clear vision zone and suggests a 10 foot side yard setback and a stipulation stating that the garage door opens to North Allen and not to West 6<sup>th</sup> Street.

Planning Staff agrees, a 10 foot side yard setback would be the best option to ensure clear vision at the intersection of the alley and West 6<sup>th</sup> Street.

### **ACTION REQUIRED AT THIS BOARD OF ADJUSTMENT MEETING:**

Hold public hearing, discuss and take action on the application.

### **PROPOSED MOTION:**

Making a motion to APPROVE:

I move that we find that the application for a variance to the North Platte City Code of Ordinances Section 156.083(b)(3) Side yard, the minimum side yard setback on all corner lots shall be 25 feet, except in cases of lot width of less than 66 feet, the side yard setback shall be no less than 15 feet, to allow a side yard setback of 10 foot be approved and granted forthwith because (pick one or more of the following three)

(1) of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the zoning regulations,

**or**

(2) of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property,

**or**

(3) the strict application of any enacted regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the owner of such property,

(continue motion by reading all of the following) and such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any ordinance or resolution and the applicant does conform with the following five findings necessary for the board to grant the variance.

- a. The strict application of the zoning regulation would produce undue hardship,
- b. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity,
- c. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance,
- d. The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variance for purposes of convenience, profit or caprice.
- e. The board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulation.

(end of motion)

Making a motion to DENY:

I move that we find that the application for a variance to the North Platte City Code of Ordinances Section 156.083(b)(3) Side yard, the minimum side yard setback on all corner lots shall be 25 feet, except in cases of lot width of less than 66 feet, the side yard setback shall be no less than 15 feet to allow for a side yard setback of 5 foot and 3 foot be denied.











