

MINUTES OF THE MEETING OF THE NORTH PLATTE BOARD OF ADJUSTMENT HELD ON THE 22<sup>nd</sup> DAY OF JUNE 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. Patterson moved and Wilke seconded the motion to approve the minutes of the May 25, 2021 Board of Adjustment meeting. Roll call vote: "Aye": Wilke, Franzen, McGahan, Pedersen, Patterson. "Nay": None. Absent: None. Motion carried.
3. Public Hearing. File No. BA21-003 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.

Chair Franzen opened the public hearing.

Judy stated that 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 Burkland, 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.

Dustin Roberts, 524 N. Allen, was present to represent the application. He stated that the garage door is facing North Allen.

Regarding the 10' setback, Mr. Roberts stated that there is an egress window to the basement that 10' would clear it but is there concern being that close to the window. He thinks he could make 10' work if it won't hinder the egress window.

Roger Harmon, 519 N. Allen, was present and questioned whether a firewall would be required.

Judy explained that depending how close he is to the property line, it may require a fire wall. If he's back 10' he shouldn't need a firewall.

Lawrence Ostendorf, 512 N. Elder, was present and stated he has no problem with this application.

Matthew Kibbon, City Administrator, was present and stated the reason a firewall is required is because of the 3' dimension. He would like to make the motion that there is latitude for city administration and building department to determine if they would need to require that 1 hour firewall. There would never be a structure adjacent to this building along 6<sup>th</sup> Street.

Mr. Roberts asked if the firewall or visibility is the main concern, he would rather leave the setback at 5' and is okay with putting the firewall in..

Judy stated that visibility is the main concern.

Mr. Roberts stated his neighbor's fence seems to be a visibility concern so why would his garage be different.

Judy explained the reason for the clear vision zone.

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

Patterson stated he drove by the site and it seems clear he would follow the guidelines that city engineer and planning staff has come up with.

There was some discussion about adding something about working with the city administrator if the applicant has difficulty fitting the building in the guidelines. It was determined that should not be added to the motion.

There was discussion regarding whether the street will be paved in the future. At this point there are no plans for paving.

Patterson moved and Pedersen seconded the motion to 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 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. Election of officers.

Franzen nominated Wilke for Chair. Pedersen seconded the nomination. Roll call vote: "Aye": Wilke, Franzen, McGahan, Pedersen, Patterson. "Nay": None. Absent: None. Motion carried.

McGahan nominated Patterson for Vice-Chair. Pedersen seconded the nomination. Roll call vote: "Aye": Wilke, Franzen, McGahan, Pedersen, Patterson. "Nay": None. Absent: None. Motion carried.

New Officers are:

Wilke – Chair

Patterson – Vice-Chair

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

Meeting adjourned at 8:57 a.m.

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Michelle Bain, Recording Secretary