

MINUTES OF THE MEETING OF THE NORTH PLATTE BOARD OF ADJUSTMENT HELD ON THE 26<sup>th</sup> DAY OF OCTOBER 2021 IN THE CITY HALL COUNCIL CHAMBERS.

MEMBERS PRESENT: Greg Wilke, Marilyn McGahan, John Patterson, Jim Backenstose, Paul Pedersen

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 Wilke 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 McGahan seconded the motion to approve the minutes of the September 28, 2021 Board of Adjustment meeting. Roll call vote: "Aye": Wilke, McGahan, Patterson, Backenstose, Pedersen. "Nay": None. Absent: None. Motion carried.
3. Public Hearing. File No. BA21-004 Discuss and consider action on an application by Harvey Benes for a variance to North Platte City Code of Ordinances Section 156.238(C) Side yard. A 10-foot side yard is required, except where the side yard abuts a residential district where the side yard shall be 25 feet with screening from residential districts. The applicant is proposing a 5 foot side yard setback for both side yards. The property is located in an I-1 Light Industrial District located at 801 N Miles Avenue and is described as Lot 11, Block 1, Harrach's Subdivision to North Platte, Lincoln County, Nebraska.

Chair Wilke opened the public hearing.

Judy stated that the applicant is proposing a 5 foot side yard setback on both side yards to allow construction of a 40' x 100' storage building. The applicant states that when the buildings to the north were constructed the zoning regulations allowed for a 5' setback; therefore, this building would be similar in size and location on the lots and would not cause a detriment to the surrounding properties. Due to the narrowness of the lot and current setback regulations the maximum width of the building would only be allowed at 30' which isn't practical for his desired use. Dave Hahn, City Building Official, states that he has no objection to the variance; however, according to Building Code both side yards of the proposed building will require a one hour wall if the setbacks are less than 10 feet. Planning Staff has reviewed the site plan and general characteristics of the area. A hardship may be difficult to justify; however, the use of the area and general characteristics of surrounding properties show the same use and placement on site as what is being requested by the applicant and granting the variance would not cause a detriment to surrounding property owners.

Harvey Benes, 1108 W. Reid Ave., was present to represent the application.

Pedersen mentioned the property seems lower than other properties and asked if the property will be built up during construction.

Mr. Benes stated he plans to build it up this fall and construct in the spring.

Judy stated she received a call from Rob Evans, 805 N. Miles. He has no problem with the application as long as they are required to have a fire wall. She also received a call from Judy Harrach, neighboring property owner, who has no problem with the application.

Backenstose: Looks like it will fit right in.

Mr. Benes submitted a letter from Jim Miller, Twin Rivers Body Shop, stating he is in favor of the request for a 5 ft. side setback.

Pedersen asked about the address.

Judy explained there are two addresses on the property and the building officials will have to take care of that when they build.

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

Patterson moved and Pedersen seconded the motion to find that the application for a variance to the North Platte City Code of Ordinances Section 156.238(C) Side yard. A 10-foot side yard is required, except where the side yard abuts a residential district where the side yard shall be 25 feet with screening from residential districts to allow 5 foot side yard setbacks on both side yards be approved and granted forthwith because of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the zoning regulations, 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, McGahan, Patterson, Backenstose, Pedersen. "Nay": None. Absent: None. Motion carried.

4. Old Business. There was no old business to be discussed.
5. New Business. There was no new business to be discussed.
6. Adjourn. Chair Wilke adjourned the meeting at 8:43 a.m.

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Michelle Bain, Recording Secretary