

## **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 May 24, 2022 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 February 22, 2022.

3. Public Hearing. File No. BA22-001 Discuss and consider action on an application by Janette Earl for variances to North Platte City Code of Ordinances Section 156.104(2)(A) Side yard. The minimum side yard setback shall be 7 feet for all lots 75 feet in width or more and Section 156.104 (3) Rear yard. The minimum rear yard setback is 25 feet. The applicant is proposing a 0 foot side yard setback and a 0 foot rear yard setback. The property is located in an R-2 Dwelling District located at 3414 W 2nd Street and is described as Haws Subdivision Part of Lot 4 Neville's Acreage, North Platte, Lincoln County, Nebraska.

4. Old Business.

5. New Business.

6. Adjourn.

MINUTES OF THE MEETING OF THE NORTH PLATTE BOARD OF ADJUSTMENT HELD ON THE 22<sup>nd</sup> DAY OF FEBRUARY 2022 IN THE CITY HALL COUNCIL CHAMBERS.

MEMBERS PRESENT: Greg Wilke, Marilyn McGahan, John Patterson, Rob Stefka, Paul Pedersen

MEMBERS ABSENT: Jim Backenstose

STAFF MEMBERS PRESENT: Judy Clark, Planning Administrator

STAFF MEMBERS ABSENT: 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 October 26, 2021 Board of Adjustment meeting. Roll call vote: "Aye": Wilke, McGahan, Patterson, Stefka, Pedersen. "Nay": None. Absent: Backenstose. Motion carried.
3. Public Hearing. File No. BA22-001 Discuss and consider action on an application by Hall Rentals, LLC for a variance to North Platte City Code of Ordinances Section 156.199(B) Side yard. No side yard setback is required, but if a side yard setback is provided, it must be no less than 5 feet and Section 156.199(C) Rear yard. No rear yard is required, except for a lot abutting an A or R District, where the rear yard shall be 30 feet. The applicant is proposing a 4.6 foot side yard setback and a 14.8 foot rear yard setback. The property is located in a B-2 Highway Commercial District located at 2221 East 4th Street and is described as Lot 1, Sculley Replat, North Platte, Lincoln County, Nebraska.

Chair Wilke opened the public hearing.

Judy stated that the applicant is proposing a 4.6 foot side yard setback and a 14.8 foot rear yard setback. The applicant is proposing to install a roof over the currently existing structure for cold storage. The location of the current fencing/structure will not be moved, it is in place with a 4.6' side yard setback and a 14.8 foot rear yard setback. Planning Staff has reviewed the site plan and general characteristics of the area. Adding a roof to the existing structure will not create any additional increase in the non-conformity. Granting the variance would not cause a detriment to surrounding property owners.

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

McGahan moved and Pedersen seconded the motion to find that the application for a variance to the North Platte City Code of Ordinances Section 156.199(B) Side yard. No side yard setback is required, but if a side yard setback is provided, it must be no less than 5 feet and Section 156.199(C) Rear yard. No rear yard is required, except for a lot abutting an A or R District, where the rear yard shall be 30 feet to allow 4.6 foot side yard setback and a 14.8 foot rear yard setback 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, McGahan, Patterson, Stefka, Pedersen. "Nay": None. Absent: Backenstose. 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 8:38 a.m.

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Judy Clark, Planning Administrator



**CITY OF NORTH PLATTE BOARD OF ADJUSTMENT  
STAFF SUMMARY REPORT  
May 24, 2022**

Public Hearing:

Application No. BA22-001 Discuss and consider action on an application Janette Earl for variances to North Platte City Code of Ordinances Section 156.104(2)(A) Side yard. The minimum side yard setback shall be 7 feet for all lots 75 feet in width or more and Section 156.104 (3) Rear yard. The minimum rear yard setback is 25 feet. The property is located in an R-2 Dwelling District located at 3414 W 2nd Street and is described as Haws Subdivision Part of Lot 4 Neville's Acreage, North Platte, Lincoln County, Nebraska.

The applicant is proposing a 0 foot side yard setback and a 0 foot rear yard setback for a small 8'x10' garden shed.

There is not enough room for the shed if it is required to meet the current required setbacks. There is a windmill in the middle of the yard that is cemented into the ground. The applicants would like to construct the small shed on an existing concrete pad. Additionally, there are neighboring properties to the east that have accessory buildings constructed on the property lines, this building should not cause a detriment to the area.

A site plan and location map are attached.

Planning Staff has reviewed the site plan and general characteristics of the area. Placing a small garden shed on the side and rear property line would not cause a detriment to surrounding property owners.

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 156.104(2)(A) Side yard. The minimum side yard setback shall be 7 feet for all lots 75 feet in width or more and Section 156.104 (3) Rear yard. The minimum rear yard setback is 25 feet to allow 0 foot side yard setback and a 0 foot rear yard setback 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 North Platte City Code of Ordinances Section 156.104(2)(A) Side yard. The minimum side yard setback shall be 7 feet for all lots 75 feet in width or more and Section 156.104 (3) Rear yard. The minimum rear yard setback is 25 feet to allow a 0 foot side yard setback and a 0 foot rear yard be denied. The strict application of the zoning regulation would not produce an undue hardship,

**Section 2-213 the Board of Adjustment shall have the following powers:**

- (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures;
- (2) To hear and decide, in accordance with the provisions of any zoning regulation, request for interpretation of any map; and
- (3) The Board of Adjustment may grant a variance where by reason of (1) exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the zoning regulations, (2) exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, (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, and (4) 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. No such variation shall be authorized by the board unless it finds:
  - 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.





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