

MINUTES OF THE MEETING OF THE NORTH PLATTE BOARD OF ADJUSTMENT HELD ON THE 23rd DAY OF JANUARY 2024 IN THE CITY HALL COUNCIL CHAMBERS.

MEMBERS PRESENT: Paul Pedersen, David Fudge, Jim Backenstose, Jarid Childears, Rob Stefka

MEMBERS ABSENT: John Patterson

STAFF MEMBERS PRESENT: Judy Clark, Planning Administrator. Michelle Bain, Recording Secretary. Bill Troshynski, City Attorney

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.

The meeting convened at 8:30 a.m.

Childears nominated Fudge to serve as Chair Pro Tem for this meeting since the current Chair has resigned and Vice-Chair Patterson was absent from the meeting. Backenstose seconded the nomination. Roll call vote: "Aye": Pedersen, Childears, Backenstose, Stefka. "Nay": None. "Abstain": Fudge. Absent: Patterson. Motion carried.

2. Backenstose moved and Pedersen seconded the motion to approve the minutes of the April 25, 2023 Board of Adjustment meeting. Roll call vote: "Aye": Pedersen, Fudge, Backenstose, Stefka. "Nay": None. "Abstain": Childears. Absent: Patterson. Motion carried.
3. Public Hearing. File No. BA24-001 Discuss and consider action on an application by Michael and Terrie Mooney for a variance to North Platte City Code of Ordinances Section 156.125(A) Front yard. A 25-foot front yard setback is required. The applicant is requesting a 0' front yard setback on property located at 1014 E 15th Street in an R-3 Dwelling District and described as Lot 2, Ridinger's 2nd Addition to North Platte, Lincoln County, Nebraska.

Chair Pro Tem Fudge opened the public hearing and stated a current copy of the open meetings act of Nebraska is posted at the back of the Council Chambers.

Judy stated that the applicant is proposing to build an 18' x 27' carport in front of his home. He states in his application that it would not be able to fit in the backyard due to the backyard being grass only. The alley is also grass. When looking at the back yard at home it was sloppy grass where you could easily get stuck. The alley is not a through alley that can be accessed, and it is very tight. The neighbor behind has grass. The neighbors all mow their portions of the alley. The back fence has a small opening, a car won't fit. He also states that they have a small one car garage in front of the home. There is no other place to install a carport on the property, no one has a carport in the area. It will not affect any other property.

Judy further stated that a receipt from Dave Hahn, Building Inspector, states that the partial structure as currently placed is setting over the property line and is in city right-of-way. A 0' front yard setback is a terrible plan. This leaves no buffer if the street is ever paved. All other properties in this neighborhood have met the required setback. There is plenty of room in the rear yard for this structure. Also, there is an alley that is grass, but could easily be graveled. Boyd Giesler, Municipal Light and Water, states that the City Electric Department objects to this variance. Right-of-ways are very busy with utilities requiring all footage we can get. National electric codes would have any future electric distribution lines be 10' into right-of-way, putting a pinch on space for other utilities such as water, sewer, etc. Planning staff received a phone call from Merry Palmer, 1021 East 15th Street, who said she and her husband had no issues with the request. The following comments were received from Brent Burklund, City Engineer: The structure is proposed to be on city right of way and would impede city right of way, the structure would be close to any future street improvements, by ordinance private structures cannot be in city right-of-way, the Council is the only entity that can vacate the street right of way, this would set a bad precedence for the city, and street vacation involves adjacent property owners receiving their respective portion. Planning staff has reviewed the variance request. The structure was started without first receiving a building permit. Had the property owner gotten the building permit prior to beginning construction he would have had a better idea where his property lines were located. Based on the aerial photo

provided, it does seem that property owners have extended their lawns and landscaping into the city right-of-way; however, this does not change where their property lines are located. If 15th Street is paved in the future, the request to allow the structure to be built on the property line will not provide a buffer between the structure and traffic, it would be a safety hazard. Since the structure is partially complete and currently setting in city street right-of-way, if the board chooses to grant the 0' front yard setback, the property owner will still be required to tear down the existing structure and move it back to the property line.

In order to approve a variance, the applicant needs to be able to prove a hardship:

- Does the property have exceptional narrowness, shallowness, or shape?
- Does the property have exceptional topographic conditions?
- Does the strict application of any enacted regulation result in peculiar and exceptional practical difficulties?

The property at 1014 East 15th Street is 77' x 139' and rectangular in shape, which is larger than an average city residential lot. The lot does not appear to have any unusual topographic conditions and there is room on the lot, in the rear yard, for the structure to be built meeting current city setbacks for the R-3 Zoning District.

Based on review of the application and statements from other city staff above, Planning Staff is recommending that the Board deny the application since a hardship does not appear to exist. There is plenty of room on the lot, specifically in the backyard, to build the structure. It may be more convenient to place the carport in the front yard; however, inconvenience does not constitute a hardship.

Backenstose stated he drove by and noticed there was no frame or footings on the structure.

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

Attorney Troshynski stated that from a legal perspective there are those findings that have to be made to grant a variance. It seems clear they have not met their burden on it.

Backenstose asked about a time frame for tearing down the structure if it is denied.

Judy stated that the Building Inspector will generally send a letter out and they usually work with them. Not sure how many days. If they do not comply, it goes to the Attorney. The Attorney would seek an order to get them to tear it down.

Backenstose moved and Stefka seconded the motion to find that the application for a variance to North Platte City Code of Ordinances Section 156.125(A) to allow a 0' front yard located at 1014 East 15th Street be denied. The strict application of the zoning regulation would not produce an undue hardship. Roll call vote: "Aye": Pedersen, Fudge, Backenstose, Childears, Stefka. "Nay": None. Absent: Patterson. Motion carried.

4. Election of Officers.

Backenstose stated he is resigning from the Board of Adjustment and would not be eligible to be Chair.

Pedersen nominated Fudge for Chair. Childears seconded the nomination. Roll call vote: "Aye": Pedersen, Backenstose, Childears, Stefka. "Nay": None. "Abstain": Fudge. Absent: Patterson. Motion carried.

Pedersen nominated Patterson for Vice-Chair. Backenstose seconded the nomination. Roll call vote: "Aye": Pedersen, Fudge, Backenstose, Childears, Stefka. "Nay": None. Absent: Patterson. Motion carried.

Officers are:

Fudge – Chair

Patterson – Vice-Chair

5. Old Business. There was no old business to be discussed.

6. New Business. Judy mentioned the Nebraska Planning and Zoning Association conference in Kearney in March in case any of the members would like to attend.

7. Adjourn. Chair Pro Tem Fudge adjourned the meeting at 8:51 a.m.