

CITY OF PLATTE
APPROVED CITY COUNCIL/BOARD OF ADJUSTMENT PROCEEDINGS
SPECIAL MEETING
WEDNESDAY, OCTOBER 13, 2010

Mayor Gustad called the meeting to order at Platte City Hall at 6:00 p.m.

Those present for Roll Call were: Dalldorf, Foxley, Hoppe, Iedema, Overweg, Spoelstra and Mayor Gustad.

Staff present: Finance Officer Haskell, Police Chief Christensen.

Others present: Ralph Nachtigal, David Carter, Scott Podhradsky, John Stekly, Karen Stekly, Kirk Jensen, JoAn Beck, Kathy Standy, Lynn Standy, Karla Campbell.

AGENDA

No changes were made to the agenda.

NEW BUSINESS – ACTING AS BOARD OF ADJUSTMENT

Public Hearing – Wagner Conditional Use Permit

Mayor Gustad declared commencement of Public Hearing @ 6:05 pm

Hoppe reported to the Board of Adjustment that the Planning Commission made their recommendation at their public hearing held September 20th, 2010 to approve the Conditional Use Permit to Richard & Roberta Wagner to maintain a single family residence within a Commercially zoned district.

There was a motion to approve the Conditional Use by Dalldorf . Seconded by Foxley.

Motion approved. 6-0.

Mayor Gustad declared Public Hearing ceased @ 6:06 pm

Public Hearing – Karen Stekly Building Permit Applications Appeal

Mayor Gustad declared commencement of Public Hearing @ 6:07 pm

Written public testimony was distributed to the board from the following individuals:

Karen Steklys' letter requests that the board reverse the decision of the zoning administrator stating that the size of the attached garage should not matter and she also included photographs of properties where zoning had not been enforced.

Phyllis and Dennis Schaefer submitted a letter supporting the zoning administrators decision. They have concerns regarding aesthetic appearance in the neighborhood, setting the wrong precedent, a history of poor maintenance, snow removal, the condition of the existing house and the serious effects that a building of this size would have on the drainage due to the slope of the lot. (diagrams of drainage included)

Lori Trolls' letter requested that the Stekly's each receive one building permit.

Tim Whalen, City attorney explained the procedure of evaluating building permit applications and explained the methods in which to proceed with the action of appeals to all present.

Haskell presented reasons for the denial of three separate building permit applications from Karen Stekly @ 309 Illinois Ave. (Lot 10, Block 39 of Milwaukee 2nd Addition) as follows:

On September 15, 2010 I received notification from Karen Stekly that she wishes to appeal my decision to deny 3 separate building permit applications.

My first concern in reviewing these building permit applications was determination of the "principal use". It was my determination from Platte's zoning ordinances that the principal uses proposed on these multiple building permits are not allowable in the R-1 district.

July 28, 2010 - Karen applied for a permit to remove 2 existing structures from the 50' x 140' lot and build a 30' x 72' 1 story building that would include a 219 sq ft. enclosed dwelling.

Reasons for denial: *(Section 701;intent-703;permitted principal uses and structures;705-permitted accessory uses and structures)*

Property is zoned R-1 accessory buildings allowed however living quarters within a building of this size to be primarily used for storage does not meet the specifications of R-1.

August 12, 2010 – Karen submitted 2 applications for building permits. The first proposes that the smallest building be removed (10'8" x 10'6") and the existing home on the property be left with only the removal of a porch on the east side of the structure and attach a 30' x 72' garage with 12' sidewalls.

Reasons for denial: (*Section 701;intent-703;permitted principal uses and structures;705-permitted accessory uses and structures*)

Property is zoned R-1. An addition of this size to a primary structure, to be used primarily for storage does not meet the use as described for R-1 zoning. **The home is 783 sq ft. The proposed building is 2,160 sq ft. indicating its primary use as storage. The site plan does not show any access between the primary structure and storage addition.**

The second permit received that same day was the same as the first with the only difference being the porch would be left on the house.

Reasons for denial: (*Section 701;intent-703;permitted principal uses and structures;705-permitted accessory uses and structures*)

Property is zoned R-1. An addition of this size to a primary structure, to be used primarily for storage does not meet the use as described for R-1. **Karen's home is 783 sq ft. The proposed building is 2,160 sq ft. indicating its primary use as storage. The site plan does not show any access between the primary structure and storage addition.**

In addition:

Section 709; Classification of Unlisted Uses and Section 711; Prohibited Uses and Structures

Since Section 705 doesn't specifically allow for "Storage" these sections apply.

Legal Council for Karen, Scott Podradsky addressed the board making appeals on Ms. Stekly's behalf and suggested to the Board that they simply approve the 4th building permit for the same location and Ms. Stekly would in turn withdraw the appealed applications. City Attorney Whalen then advised that the appeals would be heard and the 4th building permit application submitted by Karen would be reviewed by the zoning administrator and she would receive notification of that decision in a timely fashion.

Karen Stekly addressed the board asking that the 4th building permit application be considered and pointed out that on this permit the attached garage to the existing house is considerably smaller.

Dave Carter stated that he supports Stekly's opportunity to improve her property.

Lynn Standy commented that storage seems to be the issue with this permit application and he feels that there are more appropriate areas of town for that type of building. He also wants to see improvements but is concerned about what will happen to the empty lot to the north of the Stekly property if this large building were to go up.

Kathy Standy spoke to the upkeep of the property and stated that the only time it is mowed is on Sunday afternoons and the lawn is primarily weeds and tree branches.

Kirk Jensen stated that R-1 is no place for a storage building that contains a living dwelling and has concerns regarding extra traffic in an area so close to the schools.

A motion was made by Spoelstra to uphold the decisions of the zoning administrator. Seconded by Dalldorf. Motion carried on voice vote. 6-0.

Mayor Gustad declared Public Hearing ceased @ 7:01 pm.

Public Hearing – John Stekly Building Permit Applications Appeal

Mayor Gustad declared commencement of Public Hearing @ 7:02 pm.

Written public testimony was distributed to the board from the following individuals:

John Stekly's letter recalled his version of the events that led up to his applications for 3 building permits and gave examples and photos of properties where zoning had not been enforced.

JoAn Becks' letter supported the decision of the zoning administrator and felt that a building of this size would decrease the value of her property in the residential area.

Lori Trolls' letter requested that the Stekly's each receive one building permit.

Haskell presented reasons for the denial of three separate building permit applications from John Stekly @ 200 Ohio Ave.(Lots 1 & 2 and the North ½ of Lot 3, Block 9, in the town, now City of Platte, Charles Mix County) as follows:

On September 15, 2010 I received notification from John Stekly that he wishes to appeal my decision to deny 3 separate building permit applications.

My first concern in reviewing these building permit applications was determination of the “principal use”. It was my determination from Platte’s zoning ordinances that the principal uses proposed on these multiple building permits are not allowable in the R-1 district.

July 28, 2010 - John applied for a permit to remove an existing car port and another 16’ x 9’ accessory building and build a 36’ x 64’ 1 story building for storage, 21.5’ high with 14’ sidewalls. The site plan showed 8’ between existing attached garage and the proposed storage building.

Reasons for denial: (*Section 701;intent-703;permitted principal uses and structures;705-permitted accessory uses and structures*)

Property is zoned R-1 accessory buildings allowed but must be less than 75% of the largest floor of primary structure, as described in *Chapter 1 – Definitions*. John’s home is 1,248 sq ft. The proposed building is 2,304 sq ft.

Also defined in *Chapter 1 – Definitions* states that unattached accessory buildings must be a minimum of 10’ from the principal building. John’s site plan shows only 8’ between buildings.

July 29, 2010 – John applied for a permit to remove an existing car port and another 16’ x 9’ accessory building and build a 36’ x 64’ 1 story building for storage, 21.5’ high with 14’ sidewalls. The only difference on this permit application is the distance between buildings. This permit allows for the 10’ between buildings.

Reasons for denial: (*Section 701;intent-703;permitted principal uses and structures;705-permitted accessory uses and structures*)

Property is zoned R-1 accessory buildings allowed but must be less than 75% of the largest floor of primary structure, as described in *Chapter 1 – Definitions*. John’s home is 1,248 sq ft. The proposed building is 2,304 sq ft.

August 12, 2010 – John applied for a permit to remove an existing car port and another 16’ x 9’ accessory building and build a 36’ x 64’ 1 story building for storage, 21.5’ high with 14’ sidewalls attached to his existing attached garage.

Reasons for denial: (*Section 701;intent-703;permitted principal uses and structures;705-permitted accessory uses and structures*)

Property is zoned R-1 accessory buildings allowed but must be less than 75% of the largest floor of primary structure, as described in *Chapter 1 – Definitions*. The primary use for the addition of 2,304 sq ft. is storage and based on its size does not meet the requirements to the R-1 intent of “like” structures.

In addition:

Section 709; Classification of Unlisted Uses and Section 711; Prohibited Uses and Structures

Since Section 705 doesn’t specifically allow for “Storage” these sections apply.

Legal council for John, Scott Podrasky addressed the board making appeals on Stekly’s behalf, pointing out prior issued permits that are not in accordance with zoning ordinances. He also stated that a garage can be any size as long as it is attached and meets the set backs according to his interpretation of Platte’s zoning ordinance. He suggested to the Board that they approve the 4th building permit for the same location and Stekly would in turn withdraw the appealed applications.

City Attorney Whalen then advised that the appeals would be heard and the 4th building permit application submitted by John would be reviewed by the zoning administrator and he would receive notification of that decision in a timely fashion.

John Stekly addressed the board stating that he wanted more garage space and wishes to use building materials that do not require painting. He has no intention of using the garage for anything other than personal storage and expressed a willingness to attach the garage to allow for a larger structure and the ability to leave his home never having to be exposed to the weather to access his vehicles. Stekly said that the materials he would use to build the structure would be similar in appearance to his existing home and attached garage. He also stated that all of the setback requirements have been met on his site plan.

JoAn Beck stated that she believes there are more appropriate areas of town for storage and is also concerned about snow removal off of Stekly’s property blocking her garage entrance to the alley.

Lynn Standy believes that Johns’ choice of building type is a good one but has concerns of burglary and vandalism in the area for the types of items that will be stored there.

Spoelstra made the motion to uphold the decisions of the zoning administrator. Seconded by Foxley.

Roll call vote was requested. Overweg, Foxley, Spoelstra voted in favor. Iedema, Dalldorf and Hoppe voted nay. Mayor Gustad voted in favor. Failing to receive the 2/3 vote necessary the decision of the zoning administrator stands.

Mayor Gustad declared Public Hearing ceased @ 7:45 pm.

NEW BUSINESS – ACTING AS CITY COUNCIL

Public Hearing – Consumption Permit Legion

Mayor Gustad declared commencement of Public Hearing @ 7:46 pm.
Motion by Dalldorf to approve the consumption permit. Seconded by Hoppe.
Motion carried. 6-0.
Mayor Gustad declared Public Hearing ceased @ 7:47 pm.

Public Hearing – Consumption Permit Pheasants Forever

Mayor Gustad declared commencement of Public Hearing @ 7:48 pm.
Motion by Foxley to approve the consumption permit. Seconded by Iedema.
Motion carried. 6-0.
Mayor Gustad declared Public Hearing ceased @ 7:49 pm.

Determination of surplus land value and type of sale

Mayor Gustad explained that this decision will be tabled until after the section labeled R-10 owned by the City is surveyed to determine the square footage to be declared surplus.
Motion by Overweg to have Eisenbraun and Associates proceed with the survey. Seconded by Foxley.
Motion carried. 6-0.

Karla Campbell asked to be notified of property sales or zoning changes with the Farmers Elevator to the south of her property.

COUNCIL COMMENTS

Spoelstra asked about the progress with the Brumbaugh property. Whalen responded that the nuisance violation has been addressed.
Spoelstra also inquired as to the difference between consumption permits and temporary liquor licenses in regards to the City’s liability. He also stated that maybe local businesses should be given the chance at all events serving alcohol rather than allowing individuals to bring in their own alcohol not necessarily purchased in the City. Staff will review the Ordinances and make recommendations if found necessary.

There being no further business before the City Council, Spoelstra moved and Hoppe seconded to adjourn the meeting at 8:15 pm.
Motion carried. 6-0.

DATED: _____

By: _____
Rick Gustad
Mayor

By: _____
Vicky Haskell
City Finance Officer