

These minutes are subject to formal approval by the Wyoming Zoning Board of Appeals at their regular meeting on January 4, 2010.

MINUTES OF THE WYOMING BOARD OF ZONING APPEALS
HELD AT WYOMING CITY HALL

January 4, 2010

The meeting was called to order at 1:30 P.M. by Chairman Burrill.

Members present: Beduhn Burrill Dykhouse Lomonaco
 Postema VanderSluis VanHouten

Other official present: James W. DeLange, Chief Building Official

A motion was made by Van Houten and seconded by Lomonaco to approve the minutes of the Board of Zoning Appeals meeting.

Motion carried: 7 Yeas 0 Nays

PUBLIC HEARING:

Appeal #V100054 P.P. #41-17-02-256-002
Wyoming Housing Commission
1068 Rathbone Ave. S.W.
Zoned R-2

The application requesting a Use variance from City Zoning Code section 90-96 regulating R-2 single family zone districts; to grant legal non-conforming use status to this two family in use since the mid 1970's was read by Secretary Lomonaco.

Chairman Burrill opened the public hearing.

Helen Haight, Director of the Wyoming Commission, explained the Housing Commission was a department of the City of Wyoming. This house was purchased as a two family with Federal Department of Housing and Urban Development funds. She has been with the department for 6 ½ years, and the dwelling has been rented out as two units during that time. There is a one bedroom apartment upstairs and a two bedroom apartment on the lower level. This variance would grant legal status to the existing condition.

There being no further remarks, Chairman Burrill closed the public hearing.

DeLange noted when the Inspection Department started their Rental Inspection Program for one and two family houses; this address was registered with the program as a two family, however, staff could not find legal record of a conversion of the house into a two family dwelling. The Housing Commission was notified, and requested the variance. The home is currently used by handicapped individuals with limited need for vehicle parking; however there is available parking in the rear.

A motion was made by Van Houten and seconded by Dykhouse that the request for a variance in application no. V100054 be granted, accepting staff's Finding of Facts.

1. That the condition, location, or situation of the specific piece of property or of the intended use of the property is unique to the property in the zoning district in which it is located because this parcel has long term evidence of two family use dating back at least to the 1970's when it was purchased by the City. The property is renovated and maintained, providing dwelling units for physically challenged individuals.
2. That the building, structure or land cannot be reasonably used in a manner consistent with the uses allowed in the zoning district in which it is located because the property was configured as a two family for several decades, purchased and used as such by the Wyoming Housing Commission.
3. That the use variance will not alter the essential character of the neighborhood nor the intent of the City Master Plan, nor be of detriment to adjacent properties because it is evident that its continuing presence has not negatively affected property values. Street congestion is not affected as the typical occupants have not used private vehicles for day to day needs and the property fronts on a public street with paved parking area access to rear 16' wide public alley.
4. That the requested use is not of so general or recurring a nature as to make reasonably practical the formulation of a general regulation or adding it to the permitted uses in the zoning district in which it is located or to permitted uses in other more appropriate zoning districts because of the history of use, and separate rear paved parking area with paved alley access.
5. That the variance will not impair the intent and purpose of this Ordinance because several two family uses are in the general area and in fact, was for a period of time, a permitted use in the district with larger lot sizes.
6. That the immediate unnecessary hardship causing the need for the variance request was not created by the applicant because the house was used and purchased as a duplex several decades ago.

Dykhouse asked if the dwelling conformed to the City's Property Maintenance ordinance. He also wondered if the code required two means of exit for the upper unit.

DeLange responded the dwelling will be subject to the City's Property Maintenance guidelines, as inspected under the Rental Property Program. He said the code did not require two means of exit for an upper dwelling unit.

Motion carried: 7 Yeas 0 Nays (Resolution #5227)

PUBLIC HEARING:

Appeal #V100055/56

P.P. #41-17-33-276-021 and 009

Nederveld Associates

2479/2501 56th St. S.W.

Zoned R-1

The application requesting a variance from City Zoning Code section 90-895, which in part requires a Special Use Group Day Care Center to front on a major thoroughfare; to allow proposed Appletree Learning Center day care facility (168 children capacity) to be constructed on a parcel(s) fronting 56th St., which is not designated as a major thoroughfare was read by Secretary Lomonaco.

Chairman Burrill opened the public hearing.

Dan Boverhof, BBI Holdings, LLC, felt the proposed use would be a good fit for the area. He stated the project had been approved through the Planning Commission process. He added that while there was nothing in writing, Adams Christian School had agreed to share their entrance on 56th St. He noted he had been surprised when notified that a day care facility had to front on a major thoroughfare.

There being no further remarks, Chairman Burrill closed the public hearing.

DeLange said staff supported the variance request. He noted a minor change in staff's recommended Finding of Facts.

A motion was made by VanderSluis and seconded by Beduhn that the request for a variance in application no. V100055/56 be granted, accepting staff's Finding of Facts.

1. That there are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use that do not apply generally to other property or class of use in the same vicinity and district because this proposed daycare center will be on a relatively large parcel of 1.6 acres with 305 feet of frontage on 56th St. It will be served by two means of traffic frontage on 56th St. via drive approaches including a shared driveway easement with adjacent parochial school. Major streets such as Gezon Parkway and Byron Center Ave. are to the east within 400 feet.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because this variance will allow a professional, large capacity day care facility, serving the immediate area and nearby business, and medical development. The proposed use in its proximity to business and senior living provides a good transition to single family areas.
3. That the granting of such variance will not diminish the marketable value of adjacent land and improvements, or unduly increase congestion in the public streets because it is a relatively large and expansive development with immediate area benefits. Street congestion will be minimized by appropriate traffic movement planning and controls.
4. That the condition or situation of a specific piece of property, or the intended use of said property, for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such condition or situation because of the aforementioned findings

Dykhouse had questions concerning screening on the north property line. DeLange pointed out the line was adjacent to the playground of the school, and noted the proposed fencing location on the site plan.

Van Houten raised a concern about water pooling on the east bound lane of 56th St. DeLange was unable to address the concern, but would notify the City's Engineering Department.

Motion carried: 7 Yeas 0 Nays (Resolution #5228)

There were no public comments at the meeting.

The new business items were discussed by DeLange and the Board members.



Canda Lomonaco
Secretary

CL:cb