

These minutes are subject to formal approval by the Wyoming Zoning Board of Appeals at their regular meeting on January 19, 2015.

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

January 5, 2015

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

Members present: Beduhn Dykhouse Lomonaco Palmer
 Postema Vandenberg VanderSluis

Other official present: Tim Cochran, City Planner
 James DeLange, Chief Building Official

A motion was made by Postema, and seconded by Palmer to approve the minutes of the December 15, 2014 Board of Zoning Appeals meeting.

Motion carried: 7 Yeas 0 Nays

PUBLIC HEARING:

Appeal #V140034 P.P. #41-17-31-101-002
Todd Troost
5280 Kenowa Ave. S.W.
Zoned ER

Secretary Lomonaco read the application for the variance request from the City of Wyoming Zoning Code as follows:

Zoning Code Section 90-45 (7) Accessory Buildings specifies a maximum of 1,800 square feet of total accessory building area for properties of between two and three acres with the largest building not to exceed 1600 square feet. A total accessory building area of 2,197 square feet has been constructed on the property with the largest building being 1680 square feet. The petitioner requests a variance to allow 397 square feet of total accessory building area, with the largest building being 80 square feet larger, than established by the Zoning Code. was read by Secretary Lomonaco.

Chairman VanderSluis opened the public hearing.

Todd Troost, 5280 Kenowa Ave. S.W. had received a phone call from the City of Wyoming to inform him that his barn was too big. He looked at his records, and found the loan papers he had from 2001. He did not have the paperwork from the 1999 Zoning variance. This was an oversight on his part. He did not do his paperwork properly. He wanted to be allowed to keep the large structure.

Jeff Applehof, 5252 Kenowa Ave. S.W. supported the variance requested.

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

Cochran explained this situation was unfortunate; however the City has documentation from the variance request in 1999. The most current addition to the accessory structure exceeded the authorization of the former variance. Just last year the City revised the Zoning Code Ordinance to allow larger accessory building on atypical sized residential properties. The revision was partially based on what the Zoning Board had granted in the past as well as consideration of what is allowed in other municipalities. The structure exceeds even the current code allowance. Staff felt the standard should be upheld, and recommended denial of the variance request, and removal of the excessive square footage of the building. He offered the following Finding of Facts for the Board's consideration.

1. This property has no exceptional or extraordinary circumstances or conditions that would distinguish it from other properties in the vicinity or zoning district. In June 1999 the petitioner was granted a variance from the Board of Zoning Appeals to construct a 960 (24'x40') detached accessory building on the property (see attached minutes). This modified request followed a prior denied variance request for an accessory structure of 2,160 square feet. The total approved combined accessory building area on the property is 1,477 square feet. The variance consideration was due to the Zoning Ordinance limiting the total building area to 1000 square feet with no single structure larger than 768 square feet.

Subsequently, the petitioner constructed an accessory structure of 1,680 square feet (24'x70'). This is 720 square feet greater than authorized by the variance in June 1999. In September 2014, the Zoning Ordinance was amended to provide for larger accessory buildings on larger properties. The crafting of that amendment was based largely on the scope of variances approved and denied by the Board of Zoning Appeals on larger properties. This 2.5 acre property is now allowed a single detached building of up to 1600 square feet with a combined accessory building of up to 1,800 square feet. There is an attached garage on the property of approximately 517 square feet. The detached accessory building exceeds the maximum allowed by the Zoning Ordinance by 80 square feet. The combined accessory building area exceeds the maximum allowed by 397 square feet. To obtain compliance with the Zoning Ordinance, 16.5 feet (by 24 feet) from one end of the detached accessory building would need to be removed.

2. The property is entitled to significant accessory building area as recently determined by the adoption of new community standards in September 2014. The authorization of the requested variance is not necessary for the preservation or enjoyment of a substantial property right.
3. That the granting of such variance would not diminish the marketable value of adjacent land or unduly increase congestion.
4. The condition of the property is not so recurrent as to make practicable the creation of a general regulation. The condition of the large properties along Kenowa Avenue was considered in the development of the Zoning Ordinance amendment for accessory buildings adopted in September 2014.

VanderSluis asked for a repetition of the dates of the previous variance, which was provided by Lomonaco.

VanderSluis then asked for clarification that the variance request was based on the current code allowances. Cochran answered that the variance request had been based on the new code that was enacted in 2014 as it applied to the existing building.

A motion was made by Lomonaco and seconded by Dykhouse that the request for a variance in application no. V140034 be denied, accepting staff's Finding of Facts.

Postema asked DeLange if he had viewed the existing building, and what would be necessary to bring the building into compliance.

DeLange had not been out to the property. He said the existing concrete slab would need to be cut, the edge thickened, and the building reduced in size, most likely on the gable end.

Palmer asked if there was a way to fine the applicant for not adhering to the code but allow the building to remain but still not set precedence.

DeLange said the Zoning Board of Appeals did not have the authorization to penalize an applicant.

General discussion included that fact that the building had been constructed without benefit of a building permit. Sometime after the initial variance, the applicant had enlarged the building. The applicant acknowledged it had been enlarged an additional 30' approximately twelve years ago. The Inspection Department had been notified by the Assessor's Department of the anomaly in the size of the building as compared to permits and variances of record.

Motion carried: 7 Yeas 0 Nays

(Editor's Note: DeLange left the meeting following the first appeal.)

PUBLIC HEARING:

Appeal #V140035 P.P. #41-17-09-451-035
Innovative Design
2530 Thornwood
Zoned I-2

Secretary Lomonaco read the application requesting a variance from the City of Wyoming Zoning Code as follows:

Zoning Code Section 90-41 requires properties to have abutting street access before a building permit may be issued. The petitioner desires to construct an addition to the existing industrial building on a property that does not abut a public right-of-way. The requested variance is to allow the addition to the building on a property that does not abut a public street.

Chairman VanderSluis opened the public hearing.

Mark McDowell, Innovative Design, 1257 Leonard NE, Grand Rapids explained the owner of the property wanted to building addition to the inside area of the current building.

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

Cochran explained this area of the City was unusual. It is mostly industrial use, and is located west of Byron Center and north of 28th St. The public street stops prior to the area, but continues as private drives so numerous properties are without street frontage. Many variances have been granted for additions to buildings in this area, including addition to the building on the property requesting the variance. Because of the unique location, staff recommended approval and provided the following Finding of Facts for the Board's consideration.

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 the numerous industrial facilities in this area of Wyoming are accessed through a network of private drives. This situation has been in existence since the 1940's. This is a distinctive development pattern that does not exist elsewhere in the community.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because the proposed addition is a reasonable expansion of the facility. The addition otherwise conforms to the required zoning and building codes for the City.
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 the proposed addition will have no impact on the adjoining properties and will not unduly increase congestion.
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 this industrial area is unique in the City of Wyoming due to its historical development pattern.

A motion was made by Beduhn and seconded by Palmer that the request for a variance in application no. V140035 be granted, accepting staff's Finding of Facts.

Motion carried: 7 Yeas 0 Nays (Resolution #5571)

There were no public comments at the meeting.

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

Canda Lomonaco
Secretary

CL:cb

