

These minutes are subject to formal approval by the Wyoming Zoning Board of Appeals at their regular meeting on April 21, 2014.

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

April 7, 2014

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

Members present: Beduhn Burrill Lomonaco VanderSluis

A motion was made by Burrill and seconded by Lomonaco to excuse Dykhouse, Palmer and Postema.

Motion carried: 4 Yeas 0 Nays

Other official present: Tim Cochran, City Planner

A motion was made by Beduhn, and seconded by Lomonaco to approve the minutes of the March 17, 2014 Board of Zoning Appeals meeting.

Motion carried: 4 Yeas 0 Nays

PUBLIC HEARING:

Appeal #V140007 P.P. #41-17-10-155-004

Robert Jewell

2231 Porter St. S.W.

Zoned B-1

The application was read by Secretary Lomonaco. The petitioner has a non-conforming single family residence in this B-1 Local Business zoning district. The petitioner currently has one non-related boarder at the residence, which is allowable under Zoning Code Section 90-7 (1) under the definition of Family. The petitioner desired to rent an additional room to a second boarder, which would cause the residence under Zoning Code Section 90-3 to become a Boardinghouse. This use is not allowable under the B-1 Local Business use provisions of Zoning Code Section 90-336. The petitioner requests a use variance to allow a second non-related boarder on the premises. E-mails received from Mike Hasmanis, Kent Sullivan and Jan Weidenaar, all in objection to the variance request were also read.

Chairman Vander Sluis opened the public hearing.

Tory, a tenant of 2231 Porter, said there had been problems with past tenants but she would help the owners find good tenants.

Robert Jewell, 8539 Cottonwood, Jenison and owner of the property, wants the extra boarder for the extra income. They had allowed family members to use the property, and had not charged them the full amount for rent. The family members had misused the property. They

want to be able to receive enough in rent to sustain the house until they decide what to do with it. They will try to only rent to non-smoking, non-drinking tenant with no pets or children to try to prevent destruction of the property.

Amy and Paul Swanberg, 2225 Porter St. S.W., had problems with former tenants with alcohol and smoking issues. That situation seems to have been resolved. However, they objected to the variance request. They do not want to see the property turned into a commune. They would prefer the area to be more family oriented. They also submitted a statement in objection to the Use variance request. The statement was signed by 14 persons, including (Editor's Note: the signature of the three persons that spoke after the Swanbergs were included on the statement.)

Casey Kamps, 2533 Cherrywood opposed the variance request. She thought it was not in the neighborhood's best interest nor the City's. She said there had been frequent turnover with occupants.

Sandra Bestersly, 2227 Porter St. S.W. (tenant) opposed the variance request. She said the house only had one driveway. The house is not conducive to more people living there that are not related. She does not feel safe in her house.

Frank Dornbush, 2211 Porter St. S.W., was concerned with the amount of people that could live at the property if a variance was granted. He objected to the variance request.

Jennifer Paszten, 2229 Porter St. S.W (tenant) was offended because Mr. Jewell said children were destructive.

Mrs. Jewell said their son lives there with one other person. They want the ability to rent to another boarder. To keep the house as a rental, they need the income. If they sold the house, a new family could have numerous children. Her husband and she had spent \$40,000 on house repairs.

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

Chairman VanderSluis explained to everyone present that in order to grant a Special Use, five Board members must vote for the Special Use request. Because only four members were present, the Board would not be able to vote on the Special Use variance request at this meeting. He would entertain a motion to table the application until April 21, 2014.

A motion was made by Burrill and seconded by Lomonaco that application no. V140007 be tabled until the next scheduled meeting, April 17, 2014.

Burrill asked if it was the fact the property was rental that initiated the need for a variance for a second boarder, or if it was the fact the property was zoned B-1.

Cochran explained the house had been built in conformity to the City's Zoning Code when the property was zoned residential, and could continue that use even though at some point the

property has been rezoned to B-1. By zoning ordinance definition every residential house can have one boarder by right. The issue is there is one tenant and one boarder, and the owner wishes to add a second boarder. To allow second boarder for any residential property requires a variance.

Motion carried: 4 Yeas 0 Nays

PUBLIC HEARING:

Appeal #V140008 P.P. #41-18-19-153-049
Charles Duzan
143 Janet St. S.E.
Zoned R-3

The application was read by Secretary Lomonaco. The petitioner requested a variance from the City of Wyoming Zoning Code as follows:

The petitioner has a residential lot in this R-3 Residential District. The petitioner desires to purchase a rear yard portion of the lot adjoining a lot at 146 Walter Street to combine with that property. Zoning Code Section 90-891 Residential Districts requires lots to be a minimum of 8,400 square feet in this in this R-3 Residential District. The proposed lot would be 7,980 square feet in area. The petitioner requests a variance of 420 square feet to the required lot area of 8,400 square feet.

Chairman VanderSluis opened the public hearing.

Mr. Charles Duzan, 146 Walter S.E., explained his fiancé owned the property at 146 Walter, however a portion of 143 Janet St. abuts her property and fronts Walter St. They have been maintaining the property and keeping it looking nice. They are looking to annex this small piece of property so they can continue to maintain it. The property is too small for any new construction.

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

Cochran said City staff recommended the variance request be approved. The aerial photo showed the location of the section of 143 Janet in question. From the street the property looks like it should belong to 146 Walter, so the variance request makes sense.

A motion was made by Burrill and seconded by Beduhn that the request for a variance in application no. V140008 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 the owner has a highly irregular property which extends through to the adjoining block. An adjoining land owner would purchase the irregular portion of the property. The subsequent combination of the properties would result in a lot that is more compatible with the two adjoining properties. The remnant lot would remain in character with the adjoining properties.

2. That such variance is necessary for the preservation and enjoyment of substantial property rights because the authorizing of the variance allows for a more conducive land use and ownership of both respective properties.
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 authorizing of the land transfer will not change the appearance of the properties. It will not diminish the marketable value of the adjacent lands or increase congestion in the public streets.
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 the highly irregular configuration of the lot is so unusual that it is not general or recurrent.

Motion carried: 4 Yeas 0 Nays

PUBLIC HEARING:

Appeal #V140009 P.P. #41-17-25-300-043
Universal Sign
651 – 50th St. S.W.
Zoned I-2

The application was read by Secretary Lomonaco. The petitioner desired to erect a wall sign of approximately 322 square feet on this industrial building under construction. Zoning Code Section 90-799 Primary Sign Requirements Nonresidential Districts limits such wall signs to a maximum of 100 square feet in this I-2 General Industrial District. The petitioner requests a variance of 222 feet of additional wall sign area.

Chairman VanderSluis opened the public hearing.

Nate Zevenbergen, Universal Sign Systems, asked the Board to table the variance request until more Board members were available. He said his company had submitted a letter and renderings with their application. This freezer facility is the largest of its kind in the area. The size of the sign is appropriate to the size of the building. Overall the sign is only over 20% of the wall space served. The sign will help in the direction of daily truck deliveries.

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

A motion was made by Burrill and seconded by Beduhn that the request for a variance in application no. V140007 be tabled until the next scheduled meeting, April 17, 2014.

Motion carried: 4 Yeas 0 Nays

PUBLIC HEARING:

Appeal #V140010 P.P. #41-17-33-427-022
First Companies

5811 Byron Center Ave. S.W.
Zoned PUD-1

The application was read by Secretary Lomonaco. The petitioner desired to construct a daycare center in the rear yard area of this property. The daycare site would be divided from the property and will not have frontage onto Byron Center Avenue and will not have direct driveway access to the street. Zoning Code Section 90-895 requires that daycare centers must front upon a major thoroughfare with direct access directly thereto. The petitioner requests a variance to waive these requirements. E-mails objecting the variance request from Amy Phillips, Brian Matzke and Carleen Kopko were also read as was a letter of objection from Bernadine Agacinski, 5738 Wineberry Dr.

Chairman VanderSluis opened the public hearing.

Don De Groot, Exxel Engineering, stated that Bayberry Farms Drive, although not designated as a major thoroughfare, has been designed to anticipate commercial traffic from the Bayberry Market Place Retail Center. The lot will have access to Byron Center Avenue through the existing Bayberry Market Retail Center via an established access easement benefitting this lot. The development of the daycare will provide the access drive link from Bayberry Market to Bayberry Farms Drive. This access drive has been planned since 1995. It will provide vehicular access to the commercial area to the residents of Bayberry without having to access Byron Center Avenue. No adverse traffic impacts are anticipated from the proposed use. He then asked the Board members to table the variance application because of the limited number of Board members present.

Burrill asked if the original P.U.D. development had been designed with an access to Bayberry Farms Dr., why the proposal would need a variance.

Cochran answered that it was not the property that needed the variance for an access to Bayberry Farms, but the proposed daycare use. A daycare is required to have access to a major thoroughfare.

Chris Veldcamp, spoke for her mother who resides at 5842 Trillium. There are concerns with the development because of major water problems. There was a study done in 2014 that shows there in deficiency in drainage issues as evidenced by the flooding of the fall of 2013. She said the existing storm drains bottle neck and cannot drain from the retention pond. 77% of the soils in the area are impervious. This development would only add more pavement and make the storm drainage issue worse. She felt the deficiency should be addressed before any more development took place.

Robert Shirley, 2718 Claridge Ct., was concerned about increase traffic impacting the school bus route. He was worried that traffic uses Bayberry Farms Drive to circumvent Byron Center Avenue.

Jennie Zandee, 5842 Trillium added to her daughter's comments about the storage drainage issue.

There being no further remarks, Chairman VanderSluis closed the public hearing. He also explained the narrow focus of the Board, by which they only had the authority to act on the variance request for the drive access.

A motion was made by Beduhn and seconded by Lomonaco that the request for a variance in application no. V140007 be tabled until the next scheduled meeting, April 17, 2014.

Motion carried: 4 Yeas 0 Nays

There were no public comments at the meeting.

There were no new business items.

Cochran reminded the present Board members of a training opportunity in May. They had been sent an e-mail with the details. Chairman VanderSluis asked if a reminder could be sent.

Cochran and the Board members had further discussion regarding the storm drainage issues. (Editor's Note: After the meeting Cochran also gave Ms. Veldcamp and Ms. Zandee information of how to contact Bill Dooley, the Public Works Director for more information on the City's intentions.)

Canda Lomonaco
Secretary

CL:cb