

These minutes are subject to formal approval by the Wyoming Zoning Board of Appeals at their regular meeting on July 1, 2013.

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

June 17, 2013

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

Members present: Beduhn Dykhouse Lomonaco Palmer
 Postema VanderSluis VanHouten

Other official present: Tim Cochran, City Planner

A motion was made by Postema, and seconded by Beduhn to approve the minutes of the June 3, 2013 Board of Zoning Appeals meeting.

Motion carried: 7 Yeas 0 Nays

TALBED PUBLIC HEARING:

Appeal #V130014 P.P. #41-17-32-476-018

Epique Homes, Inc.

3360-3380 56th St. S.W.

Zoned ER

The application was read by Secretary Lomonaco. Zoning Code Section 90-45 (7) Accessory Buildings specifies a maximum of 768 square foot per building and a maximum combined 1,000 square foot for all accessory buildings on a single family zoned parcel. The petitioner desires to construct a single accessory building of 1,080 square foot in conjunction with a new home. The petitioner requests a variance to allow an additional 312 square foot of accessory building area.

A motion was made by Postema, and seconded by Palmer to remove Appeal #V130014 from the table.

Motion carried: 7 Yeas 0 Nays

Chairman VanderSluis opened the public hearing.

Applicant was present, and available to answer any concerns from the Board.

Steve Beld, 5965 Ivanrest, wanted to reserve his right to comment until he had more information regarding the variance request.

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

Cochran went over the location of the site, the earlier submittal of a proposed platted development, the postponement of the development due to substantial cost of utility installation at present, and the subsequent identification of the proposed house site. The lot and house size is substantial, and as such a larger garage would be in character. Staff had not received the present details of the house configuration until after the Public Notice had been sent and posted. What had previously been thought to be part of the house layout was actually additional accessory storage in the proposed garage. This added additional square footage to the variance requested. To make sure legal notice had been available to the Public, staff had requested the Board table the request so staff could send out corrected notices. Staff's position has not changed. A large accessory building is reasonable. Staff supported the variance request, and had provided Finding of Facts to the Board.

Chairman VanderSluis asked Mr. Beld if he had any concerns. Mr. Beld did not.

A motion was made by Van Houten and seconded by Postema that the request for a variance in application no. V130014 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 petitioner's property is 6.55 acres. He had proposed a subdivision of the site to the Planning Commission in 2012. That proposal became unfeasible until such time as utilities are provided to the west with development of that property. The proposed home site, with accessory building, is positioned to be appropriate to allow the future subdivision. The proposed 240 square feet of accessory building (1080 square feet total) will not be out of scale with a property and home of this size.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because the requested accessory building area will provide for additional storage area.
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 accessory building area is 142 feet from the nearest adjoining property. It will not impact adjoining properties or 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 due to the size of the property, a limited accessory building increase can be granted without detriment to adjoining properties.

Motion carried: 7 Yeas 0 Nays (Resolution #5536)

ZONING CODE INTERPRETATION:

On June 3, 2013, staff had requested the Board of Zoning Appeals for assistance in determining whether a "learning lab" constituted a Public School. Staff had explained its request, and the options available to the Board. The Board had chosen to table the request for two weeks to consider the information provided by staff and the Kellogsville School system.

A motion was made by Lomonaco, and seconded by Palmer to remove the interpretation request from the table.

Motion carried: 7 Yeas 0 Nays

Cochran reminded the Board that the question regarding the interpretation is not bound to a location. The determination made by the Board may have ramifications to the property, but the interpretation would be used in a broader context in how the portion of the Zoning Code is applied in future contexts. Staff works with the Zoning Code on a constant basis, however when staff has questions about the Code, the Zoning Board makes the determination.

Chairman VanderSluis reminded the Board that the interpretation request must be narrowly determined. Before the location and school is even considered, the Board has to make the determination of how to interpret the proposed use. The Board must look at the activity and description of the use, and make the determination whether the proposed use is a "Public School." He noted the applicant was present, and if the Board needed additional information from staff or the applicant regarding the use, the Board could request additional information.

Dykhouse stated if the use receives operational funding from the State, it was a Public School.

Postema was not sure State funding made the use a Public School, it was still possible the use could be considered a vocational or business school. He had two questions for the applicant. One, does the program follow a complete educational curriculum, and second, will the school be applying to the State Bureau of Construction Services for inspections and approvals.

Tammy Savage, Director of the Rocket Learning Lab, said there is a complete curriculum, and follows the same Michigan guidelines as other schools.

Greg Warsen, Kellogsville School Superintendent, said they intended to work with the City of Wyoming to do whatever inspections were necessary. They would also need to contact the State Fire Marshall for inspection and approval.

Based on the information, Postema felt the use was definitely not a business or private school.

Chairman VanderSluis requested a motion on the determination with stated reasons to explain the determination.

A motion was made by Postema and seconded by Dykhouse, that a "learning lab" as described meets the definition of a Public School because it follows a mandated State school curriculum, and requires inspections and approvals from the State Fire Marshall.

Motion carried: 6 Yeas 1 Nay (VanHouten)

PUBLIC HEARING:

Appeal #V130019

P.P. #41-17-25-282-018

The Dock Ministry

4669 Division Ave. S.W.
Zoned B-2

The application was read by Secretary Lomonaco. The petitioner requests a variance from the City of Wyoming Zoning Code as follows: Zoning Code Section 90-371 (B-2 General Business District Permitted Uses) does not provide for public schools within the district. The petitioner requests a use variance to allow the Dock property to be used by Kelloggsville Public Schools for their Rocket Learning Lab - a variation of a traditional high school. Lomonaco also read a letter of support from Mr. and Mrs. Frederick Syswerda, 50 Elwell St. S.W.

Chairman VanderSluis opened the public hearing.

Ken Wenger, D.O.C.K. Ministry Board Chairman and Vice Chairman Immanuel Christian Reformed Church, explained that both the D.O.C.K. and Immanuel Christian CRC Church have been working with Kelloggsville Public School System. This is a ministry that serves over 300 students. It is not for monetary gain, but for the community.

Tammy Savage, Rocket Learning Lab Director, said the proposed use is a different way of learning. They utilize teachers but also utilize on-line computers, so school is available to the students 24 – 7. This is a community partnership. There are 66 students signed up for the learning lab, who want to be part of this new learning model. There is a need to offer another way to learn. If there is not other option presented, these 66 students will go out into the community without diplomas.

Greg Warsen, Kelloggsville Public School Superintendant, noted the Board of Zoning Appeals had received a letter of support from the Kelloggsville School Board. Two volunteer boards want to strengthen their partnership for the benefit of children. This is a blended learning model, which is more suited an individual pace for progress.

Wayne Ondersma, D.O.C.K. Ministry Director, said he had been at a meeting for One Wyoming 1 on 1 Mentoring Initiative that the mayor of Wyoming also attended. The mayor had made comments about building a strong community. Other States including California, Arizona and Florida are watching Wyoming to see how this program progresses.

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

Cochran said this was a difficult situation. Three years ago this property received Special Use Approval to operate as a community center. At that time, the City had just spent considerable time defining “community center” for the zoning code. The City recognized there could be vacated churches and schools in the City and that there was an issue on how to re-use these properties. During the process, the City also defined what community centers were not. The City recognized there can be a tremendous amount of blending. The D.O.C.K. is well received. It operates as a community center in the afternoons. They are now proposing to use the space for a public school, as the Zoning Board had just determined. The Zoning Code treats schools differently than community centers. Schools are allowed in

residential zones, as the City recognized the students came from the neighborhoods where the schools are located. This property is not in a residentially zoned property. This is a B-2 Business zoned property, and zoning code does not support the use of public schools in the business zones. Cochran had received an opinion from the City Attorney regarding the State's jurisdiction regarding schools. In the attorney's opinion, the State's jurisdiction supersedes the City's zoning ordinance in regards to site plan requirements and regulations, but does not supersede the City's zoning ordinance in regards to zoning restrictions. Historically, the school districts have worked well with the City regarding site plans, building permits and City inspections. However in this case staff is looking at the proposed use. To grant a use variance, the Board must be able to meet the State of Michigan's Enabling Act's six proposed Finding of Facts. Reviewing the Finding of Facts, staff determined the proposed use could not specifically meet the second and sixth conditions. The second condition has to prove the building, structure and land cannot be reasonable used in a manner consistent with the uses allowed in the district. The D.O.C.K. is operating there now, and the use is allowed. The sixth condition has to prove the immediate hardship causing the need for the variance was not created by the applicant. Kellogsville Public Schools caused the hardship. They have a closed building that could have otherwise been used, and have not proved their remaining buildings cannot be used in a manner consistent with the zoning code. Therefore City staff feels they have no option but to recommend denial.

A motion was made by Beduhn and seconded by Dykhouse that the request for a variance in application no. V130019 be denied, accepting staff's Finding of Facts.

Dykhouse thought item number six in the finding of facts was important. He agreed that the finding of facts could not be met.

Chairman VanderSluis agreed, and noted that if the building is already being used, then the use would not be able to meet the second condition either.

Lomonaco agreed there was a need in the community for the use, the Board had to comply with the State's Finding of Facts standards.

Motion carried: 5 Yeas 2 Nays (Postema, VanHouten)

PUBLIC HEARING:

Appeal #V130020 P.P. #41-17-10-476-030
Vista Springs
1905 28th St. S.W.
Zoned B-2

The application was read by Secretary Lomonaco. The petitioner requests a variance from the City of Wyoming Zoning Code as follows: Zoning Code Section 90-796-1 (General Standards for Permitted Signs) requires all signs on a property to advertise only the business transacted or goods sold or produced on the premises. The petitioner requests a variance to allow an off premise advertising sign for Vista Springs to be erected on the Kenowa Credit

Union property. A letter of support from Brian Moran, C.E.O, Kenowa Credit Union, and a letter of support from Don and Lillian VanderVeen, 1930 28th St. S.W. were also read.

Chairman VanderSluis opened the public hearing.

Lou Andriotti, Chief Executive Officer, Vista Springs spoke about the development of the site, the location and the need for a sign to help locating the facility. The sign will be handcrafted, and they will be creating a small flower bed as a small beautification project.

Pam Wicks, Executive Director, Vista Springs, said the location is difficult to locate. A sign would help families who are located out of town to identify the location. This sign would not be precedent setting as it would direct vendors, employees and visitors to the home of 100 people.

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

Cochran referred to the site plan. He agreed that Vistas Springs was a great project, and the City was glad to work with Vistas Springs, however this is a destination location, once a person finds it they will know where it is located. Even though this sign is small and nice looking, the problem with granting a variance is precedence. Every business would like more signage. The facility has limited occupancy. More signage is not warranted. The signage they have now is in line with the zoning ordinance. The Finding of Facts as required by the State of Michigan cannot be met. There is nothing unusual or unique about the location.

A motion was made by Dykhouse and seconded by Palmer that the request for a variance in application no. V130020 be denied, accepting staff's Finding of Facts.

Motion carried: 6 Yeas 0 Nays (Postema abstained)

There were no public comments at the meeting.

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

Canda Lomonaco
Secretary

Char Bell
Recording Secretary