

These minutes are subject to formal approval by the Wyoming Zoning Board of Appeals at their regular meeting on September 16, 2013.

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

September 3, 2013

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

Members present:    Beduhn            Burrill            Dykhouse        Lomonaco        Palmer  
                                 Postema            VanderSluis

Other official present:        Tim Cochran, City Planner

A motion was made by Beduhn, and seconded by Palmer to approve the minutes of the August 19, 2013 Board of Zoning Appeals meeting.

Motion carried:        7 Yeas            0 Nays

PUBLIC HEARING:

Appeal #V130032                    P.P. #41-17-13-355-017

Carniceria El Ranchito

743 36th St. S.W.

Zoned B-1

Secretary Lomonaco read the application requesting a variance from the City of Wyoming Zoning Code Section 90-44, which requires commercial mechanical appurtenances to be located in the rear yard and no closer than 20 feet to an adjoining property. The petitioner has constructed a cooler behind the commercial building that is 7 foot 3 inches from the adjoining side property line, and requests a variance for a reduction of 12 feet 9 inches to the required appurtenance setback.

Chairman VanderSluis opened the public hearing.

Marcello Gamino, the owner, was present as well as Juan Davis, 350 Collindale, Grand Rapids, who explained the situation to the Board. The building is narrow, and the existing floor plan is such that a cooler could not be located to meet Zoning Code requirements. The lot is only fifty feet wide, and the building lines up with the property on the one side. The owner did not know of the requirements, nor that a permit was required. Once the building inspector was aware of the situation all work stopped, and the owner submitted plans to the Inspections Department. However the location required a variance to remain in its current location, and so the owner is requesting the variance.

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

Cochran reiterated the cooler was installed without authorization. The building permit will be issued subject to obtaining the variance for the cooler location. He agreed the property is unique both in the lot and the building. The building is actually located on two properties, though the two properties look like one. The cooler is closer to the interior lot line. The butcher shop use is viable for the small building. This property has seen a lot of turn over in uses. The City's hope is that the butcher shop will help in stabilization of the area. For those reasons, staff is recommending the variance be granted, and staff formulated 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 petitioner has constructed a 40 sq. ft. walk-in cooler on the rear of the building. The building is part of a retail lease center that appears as a single property but is actually two parcels. The subject property is a nonconforming parcel 50 feet wide instead of the currently required 65 feet minimum. The property line splitting the building is 7 foot 3 inches from the cooler addition, with 20 feet required. The existing building on the parcel is 34 feet wide. The cooler was positioned to optimize its function with the business use.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because the walk-in cooler is a necessary component for the function of the butcher shop.
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 walk-in cooler will have no negative market impacts on adjacent land. The success of the butcher shop may well improve the overall vitality of this small retail area. No impacts to the public streets will occur with this addition.
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 property is nonconforming in width and is part of a retail lease center.

A motion was made by Burrill and seconded by Beduhn that the request for a variance in application no. V130032 be granted accepting staff's Finding of Facts.

VanderSluis asked if the cooler had been installed by a professional.

Cochran thought it had been. VanderSluis then commented the contractor should have known a permit would be required.

Motion carried:           7 Yeas           0 Nays (Resolution #5542)

PUBLIC HEARING:

Appeal #V130033                   P.P. #41-17-29-326-003  
Wilsontown, LLC  
4830 Wilson Ave. S.W.  
Zoned PUD-2

Secretary Lomonaco read the application requesting four variances from the City of Wyoming Zoning Code as follows:

1. Zoning Code Section 90-41 requires street frontage for any lot or parcel to obtain a building permit for construction. The petitioner desires to divide his property and create a separate parcel for the construction of Gordman's, a commercial business. That parcel would not have street frontage. The petitioner requests a variance to waive the street frontage requirement.
2. Zoning Code Section 90-893 Nonresidential Districts requires a front yard building setback of 25 feet. The petitioner proposes a front yard setback of 12 feet on the proposed new parcel. The petitioner requests a variance of 13 feet to the required 25 foot front yard setback for the proposed development.
3. Zoning Code Section 90-893 Nonresidential Districts requires a rear yard setback of 30 feet. The petitioner proposes a rear yard setback of 27.2 feet on the proposed new parcel. The petitioner requests a variance of 2.8 feet to the required 30 foot rear yard setback for the proposed development.
4. Zoning Code Section 90-799 Table 799 limits commercial pole signs to 200 square feet in area. In November 1999, the property obtained a variance to construct a 700 square foot pole sign on Wilson Avenue to identify the various businesses. The petitioner desires to add a 70 square foot sign panel to the existing sign to identify the new business. The request is to modify the prior sign area variance to accommodate the proposed additional signage.

Chairman VanderSluis opened the public hearing.

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

A motion was made by Burrill and seconded by Palmer to table the variance request until the end of the meeting.

Motion carried:                      7 Yeas              0 Nays

**REQUESTED FOR RECONSIDERATION:**

Appeal #V130031                      P.P. #41-17-23-279-003  
West Michigan Construction  
946 Iowa St. S.W.  
Zoned R-2

On August 19, 2013 the Board of Zoning Appeals considered and approved a rear yard setback of 30 feet (a reduction of five feet) for a 480 sq. ft. sun room addition to the property at 946 Iowa St. S.W. Subsequently, it was discovered that the addition would also be within 10 feet of an existing accessory building, as is the existing home. The Board of Zoning Appeals was requested to consider extending the variance by granting an additional variance from Zoning Code Section 90-45 (5) is to allow a five foot setback from the building addition to the detached accessory building instead of the required ten feet.

Chairman VanderSluis opened the public hearing.

Kathleen Bush, 946 Iowa, said the house was currently only five feet from the detached garage. Extending the house would not affect current setbacks.

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

Cochran said staff supported the additional request. The reduced setback had been noted during plan review, however since it was an extension of an existing condition, he had not thought to make it a part of the variance request. Staff discussed the situation, and decided to bring it back to the Board. The neighbors were notified of the additional request.

Burrill noted only the applicant was affected by the reduced setback between the house and the garage. He added that in the past if the garage setback was reduced the building inspector followed up with appropriate fire separation requirements during the permit process.

A motion was made by Palmer and seconded by Burrill that the request for a variance in application no. V130031 be granted amending staff's former Finding of Facts to include.

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 existing home is five feet from an attached garage. The 480 square foot sun room addition, approved by the BZA for a rear yard setback on August 19, 2013, will also be five feet from this garage. The Zoning Code requires a 10 foot setback from detached accessory structures to the main building. To maintain consistent interpretation of the Code, the request was brought back to request expanded the variance to also recognize the reduced setback between the addition and existing accessory building. The proposed addition will be no closer than the existing residence to the accessory building.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because the addition allows for greater living area of the home and thereby provides for greater enjoyment of the property.
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 addition will be in alignment with the adjoining garage so it will not result in an impact on the adjoining properties. The investment for the addition will benefit nearby properties. No increase to traffic will occur.
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 development characteristics of this particular neighborhood does not lend itself to amending the ordinance to address the situation proposed.

Motion carried:           7 Yeas           0 Nays (Resolution #5541 – amended)

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There were no public comments at the meeting.

PUBLIC HEARING:

Appeal #V130033                      P.P. #41-17-29-326-003  
Wilsontown, LLC  
4830 Wilson Ave. S.W.  
Zoned PUD-2

The Board discussed whether or not to table the appeal until the next Board meeting. Staff did not know why no one was present for the applicant, likely it was a scheduling error. The project had been through plan review, and had received approval from the Planning Commission.

Dykhouse had questions of the site plan so Cochran went over it with the Board members.

A motion was made by Burrill and seconded by Palmer to remove the appeal from the table.  
Motion carried:            7 Yeas            0 Nays

Cochran then elaborated on the site plan, showing the original development plans and the proposed site plan. The front yard setback is configured from Wilson Ave. Currently the site is an unused parking lot.

In 1999, the development received a variance for one pole sign for all the tenants in the shopping area including Home Depot, which did not have street frontage. The original sign variance was for 700 square feet. The sign would utilize a 70 square foot area on the existing pole sign under the Home Depot sign. The sign code recently changed to include the overall area used by a sign as part of the sign. This makes the extra sign variance necessary for a total of 770 square footage of signage. Staff recommended the variance be granted and suggested the following Findings of Facts.

(Setback Variances:)

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 proposed parcel for Gordman's will not have frontage on a public street. It is proposed to be an in-fill development located within the interior of a large retail center. The frontage for the retail center has been allocated with no potential to derive frontage for this site. Gordman's will share access from the existing drives serving the retail center. Gordman's will redevelop a parking area that has proven to be unnecessary for the retail centers needs. Gordman's obtained site plan approval from the planning commission on August 20, 2013, subject to obtaining the requested variances.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because the existing parking area is not needed to serve the retail center. The proposed redevelopment will strengthen the retail center and promote property rights. The requested variances for non-street frontage, front yard and rear yard setbacks, will not impact adjoining properties as the development will integrate with the surrounding retail center.

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 redevelopment will enhance the retail center. The traffic impact analysis prepared for the project demonstrated that the additional traffic generated by the proposed project can be accommodated.
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 retail center is fully developed. The proposed Gordman's redevelopment is an in-fill project. Retail centers of this size are rare within the City.

(Sign Variance:)

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 on November 1, 1999, the Board of Zoning Appeals granted a variance to allow a 700 square foot freestanding sign to be erected on Wilson Avenue to identify the numerous tenants within the Wilsontown Retail Center. At that time, the Zoning Code did not include gaps between the sign messages as part of the sign area. The sign ordinance amendments, adopted in 2009, now require inclusion of the gaps as part of the sign area. The proposed Gordman's sign would fill a 70 square foot gap in the existing sign, bringing the total square footage of the sign to approximately 770 square feet. The overall parameters of the sign will not change with the authorization of the variance.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because Gordman's would be a major tenant within the retail center, but would be obscured by the existing buildings. Reasonable identification of the location of the business is needed.
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 Gordman's will be an in-fill development and will strengthen the retail center. The identification of this major business on the existing pylon sign will promote traffic circulation and reduce conflicts on Wilson Avenue.

Postema asked if a variance should be requested for off premise placement of the sign.

Cochran answered the 1999 sign variance had been worded to cover the entire development, and staff felt the existing variance would cover this additional signage.

Lomonaco asked how the changes in the sign ordinance would have affected the size of the requested sign. Doing the calculation for properties with over 100 foot street frontage, the allowed signage would not have changed. The maximum allowed signage had been, and still would be 200 square feet.

A motion was made by Burrill and seconded by Dykhouse that the request for a variance in application no. V130033 be granted, accepting staff's Finding of Facts.

Motion carried:        7 Yeas            0 Nays (Resolution #5543)

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

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Canda Lomonaco  
Secretary

CL:cb