

These minutes are subject to formal approval by the Wyoming Zoning Board of Appeals at their regular meeting on November 4, 2013.

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

October 21, 2013

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

Members present:    Beduhn            Dykhouse        Palmer  
                                 Postema            VanderSluis

Official absent:        Lomonaco

Other official present:        David Rupert, City Inspector

A motion was made by Postema, and seconded by Beduhn to excuse Lomonaco.

Motion carried:        5 Yeas            0 Nays

A motion was made by Palmer, and seconded by Postema to approve the minutes of the October 7, 2013 Board of Zoning Appeals meeting.

Motion carried:        5 Yeas            0 Nays

PUBLIC HEARING:

Appeal #V130043                    P.P. #41-17-31-101-004  
Daniel Banister  
5350 Kenowa S.W.  
Zoned ER

The application was read by Acting Secretary Palmer. Zoning Code Section 90-45 (7) Accessory Buildings limits an accessory building in residential districts to a maximum of 768 square feet with a maximum combined square footage for all accessory buildings to 1000 square feet. The petitioner proposed to construct a two-story detached accessory building of 3,170 square feet. The existing 615 square foot attached garage would be retained, resulting in a combined accessory building area of 3,785 square feet. Section 90-45 (7) also limits accessory building heights to 14 feet. The building height for the proposed accessory building would be 17 feet 9 inches. The petitioner requested variances for an additional 2,402 square feet for a single accessory building, an additional 2,785 square feet for the combined accessory buildings, and an additional 3 feet 9 inches for the building height.

Chairman VanderSluis opened the public hearing.

Mr. Daniel Banister, 5350 Kenowa Ave., said he had started discussing the project with the City in March. He has spoken with James DeLange, Chief Building Official and Tim Cochran, City Planner. The plans have changed as he worked with the City. He believed the

square footage numbers in the notification were excessive. He does not believe the attic area should be included in the overall square footage of storage space. The design of the building was meant to tie in with the look of the house. He did not want just a steel pole barn in his back yard. He submitted a letter of support that had been signed by nine neighbors whose property abuts or has view of his property. This proposed building would not negatively affect the neighbors. The building would be 400 feet off the road and 200 feet from the rear yard setback. He feels the size of the accessory building should be tied to lot size. The proposed barn is smaller than some of his neighbor's barns.

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

Rupert clarified that two existing buildings would be removed if this building was constructed, however staff looked at the variances the Board had granted for large properties in this area, and historically, the Board has not exceed 1,800 square feet in combined square footage for two structures. Staff could not find anything unique for this property to grant a variance, and therefore recommended the Board deny the variance request. Staff had formulated Finding of Facts for the Board's consideration.

1. That there are no 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 area of Wyoming is rural in nature with many large estate parcels. Over the years, the Board has considered numerous variance requests for large accessory buildings to accommodate vehicle and equipment storage, or hobby activities. However, the Board has consistently held the combined accessory building square footages to under 1800 square feet. There are no exceptional or extraordinary circumstances applicable to this property to warrant an accessory building of this size.
2. That such variance is not necessary for the preservation and enjoyment of substantial property rights because in addition to the existing 615 square foot attached garage, the property has two additional detached accessory buildings of approximately 352 and 444 square feet, which would be removed if this variance is granted. The combined square footage of the existing three accessory buildings is approximately 1411 square feet. This amount of storage space exceeds the ordinance standard of 1000 square feet. The petitioner currently has the benefit of generous accessory building use without the variance.
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 he variance, if approved, would not diminish the marketable value of adjacent land or 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 may be 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 proposed 3,170 square foot accessory building would be out of character with this area within Wyoming and may set precedent for other exceptionally large accessory building requests.

A motion was made by Dykhouse and seconded by Beduhn that the request for a variance in application no. V130043 be denied, accepting staff's Finding of Facts.

Palmer thought the fact Mr. Banister has five acres of property should be a consideration. He wondered if the Board should grant something smaller in size.

VanderSluis said the problem would be that even a modification in the variance (i.e. eliminating the second floor) would still exceed 2,000 square feet in combined square footage.

Dykhouse said the Board had never granted a variance for something this large.

Beduhn asked what the building would be used for.

Mr. Banister said he would store his boat and trailer; and have a heated workshop.

Postema thought it was regrettable that the Board could not grant a variance. The proposal was nice looking, though he thought it was located a little close to the neighboring yard. He asked staff what code addressed what was defined habitable space.

Rupert answered the State of Michigan Building Code defined what is considered building area.

Postema thought it was unfortunate that the size of an accessory building could not be tied to the size of lot, but he understood that at some point the lot could potentially be developed into smaller single family lots.

Motion carried:        4 Yeas            1 Nays (Postema)

PUBLIC HEARING:

Appeal #V130044            P.P. #41-17-25-477-032  
Matthew Howell  
5097 Division Ave. S.E.  
Zoned B-2

The application was read by Acting Secretary Palmer. Zoning Code Section 90-893 Nonresidential Districts requires a rear yard building setback of 30 feet in this B-2 General Business District. The petitioner proposed to construct a storage building to the rear of the property that would be setback three feet from the rear property line. The petitioner requests a variance of 27 feet to the required 30 foot rear yard setback for the proposed addition. In addition, Zoning Code Section 90-894 (5) Nonresidential Districts requires a solid fence or ornamental wall to be constructed between business districts and residentially zoned districts. The petitioner requested a variance to allow the rear building wall of the proposed addition and a six foot chain link fence to serve in place of the solid fence or ornamental wall.

Chairman VanderSluis opened the public hearing.

Mr. Matthew Howell, 5097 Division, explained that this property is bordered by Consumers Power right-of-way on the north, with power lines to the west. Adjacent to the power lines is a park. His back fence is being overgrown with weeds and brush from the right of ways. He proposes building a retaining wall extending eight foot high that would also serve as the back side of the building. This wall then would also serve as a barrier between adjoining properties.

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

Rupert said in staff's opinion the building would not have any negative impact, and had formulated Finding of Facts to support the variance request as follows:

A motion was made by Postema and seconded by Dykhouse that the request for a variance in application no. V130044 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 property abuts a consumers power transmission line corridor which includes a bike trail. Beyond that is Kelloggsville Park. Locating the storage building as proposed will improve the appearance of the property as seen from the trail and park by removing the outdoor storage and deteriorating wooded fence currently there. There is no potential for further development within the consumers power corridor for the building reduced setback to influence. The ordinance requirement for the screen fencing is due to the transmission corridor being residentially zoned.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because the additional storage building allows the petitioner to obtain greater use and financial benefit 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 proposed storage building will not impact adjoining properties. Both abutting properties to the north and west are owned by Consumers Power, and are used for regional electrical distribution. No significant increase in traffic will occur with the proposed 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 Consumers Energy corridor ensures that no building construction will occur adjoining this site. The relationship between parcels adjoining transmission corridors is better served by evaluating development projects on a case by case basis.

Dykhouse questioned the need for fencing. Rupert answered that commercial properties are required to have a fence between commercial zoned properties and residentially zoned properties.

Motion carried:        5 Yeas            0 Nays (Resolution #5550)

PUBLIC HEARING:

Appeal #V130045                      P.P. #41-17-32-300-051  
Mark Koeze  
5770 Wilson Ave. S.W.  
Zoned ER

The application was read by Acting Secretary Palmer. Zoning Code Section 90-892 (12) Residential Districts requires basements for all single family dwellings in the ER Estate Residential district. The petitioner desired to construct a new single family residence without a basement. The petitioner requested a variance to waive the basement requirement.

Chairman VanderSluis opened the public hearing.

Mark Koeze, 6385 Lake Shore Dr., said his home design was unique, and would be aesthetically great for the City. The home design would help spur more ideas for unique homes. The house would be located on a busy road and face southwest. He had come up with the design from something similar out by the lakeshore. The house would not negatively impact the neighborhood. He believes the property would be developed later for a commercial use, but he does not think that would be for ten to fifteen years. The lot is around two acres.

James Wilcome, 5810 Wilson, did not object to a new house on the property but he wanted to make Mr. Koeze aware of a current situation in the area where someone was conducting a tent sale.

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

Rupert said the City Zoning Code requires basement for all new home construction. The only time it is ever waived, is if the proposed house would be located in a designated flood zone. Staff recommended the variance request be denied and formulated Finding of Facts for the Board's consideration.

1. That there are no 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 basements are required for all new residences in Wyoming, with the exception for properties with a high water table. No such condition applies to this property. There are no exceptional circumstances or conditions applying to this property.
2. That such variance is not necessary for the preservation and enjoyment of substantial property rights because the residence could be built with a basement.
3. That the granting of such variance may diminish the marketable value of adjacent land and improvements, or unduly increase congestion in the public streets because the proposed home is unusual, and would be out of character with the nearby residences. This may influence the marketable value of the adjoining properties in the short term.
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 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 request is to waive the basement requirement with no unusual

conditions or situations applying to the property. Granting the request may set precedence for other properties.

A motion was made by Beduhn and seconded by Dykhouse that the request for a variance in application no. V130045 be denied, accepting staff's Finding of Facts.

Motion carried:        5 Yeas        0 Nays

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There were no public comments at the meeting.

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

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Canda Lomonaco  
Secretary

CL:cb