

These minutes are subject to formal approval by the Wyoming Zoning Board of Appeals at their regular meeting on December 5, 2016.

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

November 7, 2016

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

Members present: Burrill Buist Lomonaco
 Palmer Postema VanderSluis

Member absent: Beduhn

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

Motion carried: 6 Yeas 0 Nays

Other official present: Tim Cochran, City Planner

A motion was made by Burrill, and seconded by Palmer to approve the minutes of the October 17, 2016 Board of Zoning Appeals meeting.

Motion carried: 6 Yeas 0 Nays

PUBLIC HEARING:

Appeal #V160033 P.P. #41-17-23-206-009
JD Builders, Inc.
3735 Milan Ave. S.W.
Zoned R-2

The application requesting three variances from the City of Wyoming Zoning Code was read by Secretary Lomonaco as follows:

Zoning Code Section 90-408A R-2 Residential District Development Standards specifies a minimum 35 foot rear yard setback, a minimum 7 foot side yard setback, and a maximum 35% lot coverage. The petitioner proposed to construct an attached garage to the rear of the property. The proposed attached garage would be 7 feet from the rear property line, 3.5 feet from the side property line, and would bring the overall lot coverage to 38.5%. The requested variances are to authorize a reduction of 28 feet from the required 35 foot rear yard setback, a reduction of 3.5 feet from the required 7 foot side yard setback, and an increase of 3.5% to the maximum lot coverage of 35%.

Chairman VanderSluis opened the public hearing.

Matt Frasee, 3724 Milan Ave. S.W., grew up in the neighborhood, and supported the applicant's request. There is a surge of newer owners, and they are making the neighborhood look better. The applicant wants a garage to store things like an extra vehicle and a mower.

Thomas Brummel, 3735 Milan Ave. S.W., intended to build a garage. He wanted to replace the shed with a garage. He is updating the house.

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

Cochran said the property is unusual as there is a room on the back side of the house that pushes into the rear yard. The garage would continue the building mass, leaving only a 7' rear yard from the proposed attached garage. Without that rear room, there would be room for a detached garage. There is a lot of building area for the size of the property. Staff is not in favor of the variance request. The conditions to grant a variance are not met. There is room to put additional storage, although the room is severely limited by the three season room.

A motion was made by Lomonaco and seconded by Burrill that the request for a variance in application no. V160033 be denied accepting staff's Finding of Facts.

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. The property owner desires to construct a 440 sq. ft. attached garage to the residence. The construction would result in a rear yard setback of 7 feet with 35 feet required. The addition would also have a side yard setback of 3.5 feet with 7 feet required. Also, the total lot coverage building area would be 38.5%, with a maximum 35% specified by the Zoning Ordinance. In 1983, the BZA granted a variance to allow the existing carport to be constructed with a side yard setback of 3 feet. The condition of approval was that the carport shall not be enclosed. The car port essentially acts as a garage for the property. There is also a small detached accessory building on the site. The construction of the three season addition on the rear of the home with the required 35 foot setback has limited the property to where an accessory building could be constructed and meet ordinance requirements. There are no exceptional conditions applying to the property.
2. A variance is not necessary as the petitioner has both a carport and detached accessory building in conformance with ordinance requirements.
3. The proposed addition would result in a building wall of over 73 feet from front to back. This would be out of character with other surrounding properties in this area of Wyoming with small lots. This may influence the marketable value of adjoining properties. No increase in traffic would occur with the addition.
4. The situation with the property is not of so general or recurrent a nature to make practicable the formulation of a general regulation.

Burrill clarified that a detached garage could be three foot from the side and rear of the property and ten feet from the house. He asked if the City looked at the lot area coverage from the inside the buildings or the outside.

Cochran said the City considered the building footprint and perimeter of the property.

Burrill wondered if the Board would be able to modify the variance request for lot area coverage so the applicant could look at building a detached garage without having to reapply for a variance for lot coverage.

Cochran thought the garage size could be reduced, and then the lot coverage area would not be a concern. The lot area had been calculated by the information available to the City. The applicant is welcome to examine the City's calculations.

VanderSluis saw the variance request as self-inflicted by the former improvements. He thought the Board should vote on the request before them today.

Burrill wondered if the applicant came in with a new request for a detached garage with extended lot coverage whether it could be a reconsideration.

VanderSluis did not think a new request would be the same as new information for a request for reconsideration.

Burrill asked for the size of the proposed garage. Cochran said it was 20'x22'.

Burrill thought findings could be made for granting a lot coverage variance.

Motion carried: 5 Yeas 1 Nays (Palmer)

PUBLIC HEARING:

Appeal #V160035 P.P. #41-17-11-233-029
David's House
2216 Antwerp Ave. S.W.
Zoned R-4

The application requesting two variances from the City of Wyoming Zoning Code was read by Secretary Lomonaco as follows:

Zoning Code Section 90-419A R-4 Residential District Development Standards specifies a minimum 35 foot front yard and a minimum 35 foot rear yard building setback. The petitioner proposed to construct several group homes upon the property. One group home and a storage building are proposed to have a front yard setback of 26.1 feet and 20 feet respectively. Two group homes are proposed to have a rear yard setback of 11 feet. The requested variances are to authorize a reduction of up to 15 feet from the required 35 foot front yard setback and a reduction of 24 feet from the required 35 foot rear yard setback.

Chairman VanderSluis opened the public hearing.

Joseph Grochowalski, Omega Architects said David's House purchased the property with the intent to develop more capacity for additional residents. Their offices are also currently

scattered throughout the facility. There is a bike path to the north of the property, an undeveloped road to the west, and a strip of non-buildable property to the east. The road was designed specifically not to run straight north-south, but with a little flair.

Dan Meyer, Jenison has a sister who lives on Huizen. He objected to the development because he believed there were wetlands in the area, and he did not want the wooded area to be removed.

Bruce Bierens, 2156 Denwood, also objected to the development. He worried about the impact on traffic, and the effect on the wild life in the area.

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

Cochran referred to the aerial photo to answer questions about the layout of the proposed development. The property will not go out to Antwerp Ave. The road at that point is very narrow and has a gravel surface. The property would be accessed from the current facility off Banner Dr. and would loop through to Huizen. The 35' rear yard setbacks are met to the west side of the property with the exception of one deck and a proposed accessory structure. There is no reason to affect Antwerp. To the east of the proposed development is an odd sized property that is considered unbuildable. Because that lot is unbuildable, the reduced yard setback to the east will not affect the adjacent parcel.

Chairman VanderSluis asked if the unbuildable lot was in private ownership.

Cochran believed it was. He also believed David's House had attempted to purchase the property.

Burrill asked if there were any public utilities on Antwerp, if not he thought the City might consider vacating the street. Cochran did not know if there were utilities, but there are properties to the south that use the drive for access.

Cochran explained the proposal started with review from the Planning Commission. Staff thought it was a great project. The expansion is based on the number of people in need of this type of residence. There are low areas on the property, and the architect was able to work with the property and come up with the proposed development.

A motion was made by Burrill and seconded by Palmer that the request for a variance in application no. V160035 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 owner desires to expand their assisted living complex to the west. The project includes six residential homes, a new office and an accessory storage building. The project obtained approval from the Planning Commission in February 2016, subject to approval by the BZA for the proposed setbacks. The property fronts onto Antwerp Avenue which, in this area, is a dead end dirt road within a 35 foot right-of-way. Typical residential streets in Wyoming have a 60 foot

wide right-of-way. There is no intention by the City to improve this road due to the minimal development expected and the poor soils inherent there. The requested reduced front yard setback for one residential porch and the accessory building will be negligible due to the condition of Antwerp Avenue and surrounding land uses. The requested rear yard reduction for two of the residences is adjacent to an undevelopable sliver of property that buffers the project site from residences to the east. That property is 24.75 feet wide, and with the requested 11 foot setback, results in a setback of 35.75 feet from those residential properties. This equates to meeting the intent of the 35 foot rear yard setback. Overall, the development could not occur without the requested setbacks.

2. That such variance is necessary for the preservation and enjoyment of substantial property rights because David's House Ministries has proven to be an important community-based facility devoted to serving those who are less fortunate. Given the property's obscure location, the expansion of the David's House complex into this undeveloped area is an optimum use of the property. The requested variances are necessary to reasonably utilize 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 development will be a quality infusion into this older neighborhood. The development is not foreseen to negatively impact surrounding properties or unduly increase traffic.
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 situation with the property is not of so general or recurrent a nature to make practicable the formulation of a general regulation.

Palmer asked if the develop had created new wetlands for the areas that were impacted.

David Gage, David's House said their Civil Engineer Feenstra & Associates had an engineer who is also an official wetland designator. Randy Feenstra had looked at the property and determined it would not be classified wetland. The soil was very mucky. The property had used to be a vegetable farm, and there is a high water table. They have removed much of the muck and replaced it with high level sand. They are already working on the site.

Motion carried: 6 Yeas 0 Nays (Resolution #5612)

PUBLIC HEARING:

Appeal #V160034 P.P. #41-17-11-233-029
Thomas A. Payne, Jr.
2385 Porter St. S.W.
Zoned B-2

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

Zoning Code Section 90-407B B-2 General Business District Permitted Uses identifies the land uses allowed within the district. The petitioner proposed to develop a brewery on the site. A brewery is an allowed use in the I-2 General Industrial District. The requested use variance is to permit a brewery on this B-2 General Business zoned property. Three communications from Robert G. Lomonaco, 2463 Forest Grove Ave. S.W., Wyoming; Margaret Bouwman, 2433 Byron Center Ave. #111, Wyoming, MI; and Brian Cusack, Right to Life of Michigan, 2340 Porter St. S.W., Wyoming were all in opposition to the variance request.

Chairman VanderSluis opened the public hearing.

Thomas Payne, 2539 Byron Center explained he wanted to use the vacant fire station to brew beer for his tap room that will be located across the street in what was a 7/Eleven convenience store. He and his wife are lifelong residents and live in the area. They love their neighborhood. He had started making beer as a hobby. Later he entered a competition and won a gold medal and best of show. His goal had been to own his own brewery. He has taken positions at other brewing companies to learn more about brewing. They looked at many buildings, and decided they wanted to open a microbrewery in their own neighborhood.

Amy Payne, 2539 Byron Center said she and her husband planned on providing a world class brewery. Calling the operation a "bar" would be a very loose description. The concerns mentioned in the opposition letters had no bearing on the variance request. The brewery operation at 2385 Porter will be quiet facility with very little traffic. When the brew pub is open, it will be very family oriented not a place to get drunk.

Chairman VanderSluis asked how the beer would be transported from the manufacturing facility to the brew pub.

Mr. Payne said he would use a truck twice a week to move the beer from the facility. He understands the neighbors' desire to improve the traffic at the four-way stop. He hopes his business will help be a catalyst to install a traffic light at the intersection.

Buist asked about delivery, and Mr. Payne said he would pick up most of the ingredients himself. Any deliveries would be by FedEx or UPS.

Ms. Weaver, 2433 Byron Center, read a statement on behalf of the condominium association in opposition to the variance request because of traffic concerns, which includes the Rapids bus stops.

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

Cochran explained that there are two buildings across from each other that have been vacant for quite some time. The applicant has proposed to use both facilities. The proposed activity would be less than the traffic that had been created by the former convenience store. The fire station building is unique in its location. Staff sees this area as a unique commercial district

that was developed in the 1930's or 1940's. The proposed use could energize the corner. The City Manager's office is working on a lease agreement. The lease agreement will need to be approved by the City Council. The liquor license for the brew pub will also need to be approved by the City Council. Staff does not anticipate any negative impact on the traffic. The City did not contemplate microbreweries when they formulated the zoning code, but this is unique enough to formulate findings. However because this is a Use variance request at least five members of the Zoning Board will have to vote for the request for it to pass.

Chairman VanderSluis noted that the variance request before the Board is for one individual property.

A motion was made by Burrill and seconded by Buist that the request for a variance in application no. V160034 be granted, accepting staff's Finding of Facts.

1. That the condition, location, or situation of the specific piece of property or of the intended use of the property is unique to the property in the zoning district in which it is located because the petitioner proposes to redevelop the vacant commercial building at the southeast corner of Byron Center Avenue and Porter Street into a microbrewery. The brewery production is proposed to occur within the vacant City building across Porter Avenue. The petitioner and the City Manager's office, have been working to finalize a lease agreement for this property. That site had previously been used for many municipal uses, including a fire station and meter shop. This brewery production property is zoned B-2 General Business. The Zoning Ordinance specifies that breweries are permitted in the I-2 General Industrial district with Special Use Approval from the Planning Commission. The ordinance was constructed several decades ago, and the concept of microbreweries was not anticipated. The microbrewery use must obtain a license through the City Council, and are working towards that authorization. If the BZA decides to authorize the use variance, it is recommended that the approval be specific to a microbrewery production.
2. That the building, structure or land cannot be reasonably used in a manner consistent with the uses allowed in the zoning district in which it is located because the building was not constructed for general commercial use. The demand for commercial businesses in this area is limited, given the proximity to 28th Street.
3. That the use variance will not alter the essential character of the neighborhood or the intent of the City Master Plan, nor be of detriment to adjacent properties because the use would not change the essential character of the neighborhood, nor the intent of the Master Plan, nor be of detriment to adjacent properties. Limited delivery traffic is anticipated with the use. The introduction of a viable and unique business in this area of Wyoming is considered to be of neighborhood benefit.
4. That the requested use is not of so general or recurring a nature as to make reasonably practical the formulation of a general regulation or adding it to the permitted uses in the zoning district in which it is located or to permitted uses in other more appropriate zoning districts because Microbrewery businesses are unique and new to the City. As their demand increases, the City may need to consider specific requirements within the Zoning Ordinance. However, at this time they are not general or recurrent in nature.
5. That the variance will not impair the intent and purpose of this Ordinance because the authorizing of the variance will permit a very low impact commercial use of the property.

The proposed use will not impair the intent and purpose of the Ordinance.

6. That the immediate unnecessary hardship causing the need for the variance request was not created by the applicant because the proposed microbrewery production use is limited in scale and is tied to an adjoining commercial business.

Burrill said the noted all the letters that opposed the variance request were for a separate address. The two addresses are not related to the variance request. He supported the variance request.

Lomonaco disagreed. She said it would not make sense to have the brewery if they did not have the brew pub. She opposed the request because it was not a proper use for the building. There are other buildings that could be used. The variance will stay with the property.

Burrill said he frequents mircobreweries in his own neighborhood.

Palmer said there is a restaurant nearby his house that serves alcohol. He appreciates the fact that the owners are also neighbors.

Cochran ascertained that the Board's motion included staff's recommendation that the variance be specific to a microbrewery.

Motion carried: 5 Yeas 1 Nays (Lomonaco)(Resolution #5613)

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