

These minutes are subject to formal approval by the Wyoming Zoning Board of Appeals at their regular meeting on December 15, 2014.

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

December 1, 2014

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

Members present: Beduhn Burrill Dykhouse Lomonaco
Postema VanderSluis VandenBerg

Member absent: Palmer

A motion was made by Dykhouse, and seconded by Lomonaco to excuse Palmer.
Motion carried: 7 Yeas 0 Nays

Other official present: Tim Cochran, City Planner

A motion was made by Postema, and seconded by Lomonaco to approve the minutes of the November 3, 2014 Board of Zoning Appeals meeting.

Motion carried: 7 Yeas 0 Nays

PUBLIC HEARING:

Appeal #V140029 P.P. #41-17-11-351-020 & 41-17-11-376-007
Integrated Architecture (Car City)
1409 28th St. S.W./2701 Hook Ave. S.W.
Zoned FBC

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

Zoning Code Section 90-1714 (E) Materials and Technique specifies that in this Form Based Code district metal may be used on exterior walls for beams, lintels, trim elements and ornamentation purposes only. The petitioner proposes to construct an 18,000 square foot building that will have metal walls on three sides. The requested variance would allow the three metal sided walls.

Zoning Code Section 90-1311 A. 3. Lighting specifies that in this Form Based Code district light fixtures shall not be mounted higher than 15 feet above the average grade of the site. The petitioner desires to have parking lot lighting 25 feet in height. The requested variance would allow an additional 10 feet.

Chairman VanderSluis opened the public hearing.

Michael Corby, Integrated Architecture, spoke on behalf of Car City. In response to the first variance request he indicated the site of the proposed expansion on an aerial photograph. The building Car City proposes to build would be used for car detailing and storage. The site of the proposed building was set up to retain frontage on 28th St. The buildings that currently front on 28th St. may be demolished, and at some time new building(s) may be constructed. This proposed building will be a little over 400 feet away from 28th St. The ordinance was formulated for buildings that would affect the street and public presence. Modifications were made to the proposal to alter the south façade of the building. The south façade of the building would then comply with the ordinance.

As for the second variance request, Mr. Corby acknowledged the code provides limitation on the lighting to provide a more pedestrian scale. However the current lot to the west has 25' high poles. Car City wants to match what is already there. This will not be a pedestrian oriented development. This business is not the kind of activity to which the ordinance would apply. If the variance is not granted, Car City will have to erect more poles, and expend more energy on lighting.

Susan LaLonde, 2740 Hook Ave. was concerned with the traffic the development would bring to the street. There are five houses on the street. She questioned whether car haulers would be accessing the site from Hook Ave. She did not want children to get hurt.

John Wilholt, owner of 2727 and 2741 Hook Ave. was concerned with the setback of the building and how it would impact drainage. He wondered if there would be a privacy fence, and he also worried about the traffic.

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

Burrill asked Cochran to explain to the public the process that brought the request to the Zoning Board of Appeals.

Cochran explained the proposed development had already been reviewed and approved by the Planning Commission. However the Planning Commission does not have the authority to waive code ordinance so the proposed building façade and proposed 25' high light poles had to be brought to the Zoning Board of Appeals for consideration. The Board's focus was only on the façade and light pole issues. He stated the lot would be fenced. As the lot would be used for vehicle storage, he did not see there being much traffic generated. The City had been working closely with the architect and owner of this property on the façade. The City has wanted to change the look of 28th St. and has been dealing with how to do that since 1999. The new zoning code is a form based code which is very different than anything that has been in the Zoning Code. The code affects how the buildings look and how they relate to each other. The City does recognize the proposed building will be over 400' back from the street and will be screened from street view by a row of evergreens. The City does not want buildings that do not make at least a good faith effort to comply with the code. Staff thought compromise was the way to get the south side façade to look the way the City would like.

The building sits substantially off Hook Ave. Staff supported the variance request for the building façade and 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 expansion of Car City onto this property was approved by the Planning Commission on October 21, 2014 subject to conditions. One condition involved approval by the Board of Zoning Appeals for the proposed 18,000 square foot detail building façade. The Form Based Code under Section 90-1706 specifies required building facades. The front wall, oriented toward 28th Street, would meet those requirements. The other three walls are proposed to be primarily metal, which is allowable under Section 90-1714 only for beams, trim and ornamentation. It is suggested by staff, and supported by the Planning Commission, that the request is reasonable. The building will be used for detailing vehicles and is not a retail service building. The building will set back 460 feet from 28th Street and will be obscured by an evergreen planting screen. Further, the two obsolete existing buildings along the 28th Street frontage will be demolished and will be available for development in conformance with the Ordinance requirements.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because the granting of the variance will allow the petitioner optimal use 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 expansion of Car City will develop a primarily vacant property. The expansion will also allow the redevelopment of two obsolete adjoining sites. Maintaining strong commercial uses at this location increases the marketable value of nearby properties. The associated traffic increase will be negligible.
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 in nature as to make reasonably practicable the formulation of a general regulation for such condition or situation because this situation is unique and does not make practicable the formulation of a general regulation.

A motion was made by Burrill and seconded by VandenBerg that the request for a variance in application no. V140029 be granted, accepting staff's Finding of Facts.

Motion carried: 7 Yeas 0 Nays (Resolution #

In regards to the variance request for the 25' high light poles, Cochran said the standard light pole is 15' high. Prior to the change in code to the form based code, light poles could be as high as 50'. The City recognized that the area where the light poles would be located is substantially set away from 28th St. However there will be other properties with futures buildings located away from 28th St. He cited the current vacant Studio 28 site. Granting a variance for this proposed development could very well set precedence. Staff recommended the variance for the light poles be denied.

1. 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 the expansion of Car City onto this property was approved by the Planning Commission on October 21, 2014 subject to conditions. One condition involved approval by the Zoning Board of Appeals for the desired 25 foot high light poles in the parking lot. The Form Based Code under Section 90-1311-3 specifies that light poles be a maximum of 15 feet in height throughout the district. The purpose of this, and many other standards, is to transform this area into an urban, rather than suburban, form. The implementation of shorter light poles, over time, will diminish this area's light impact. There are no exceptional circumstances applicable to the property from other properties in this FBC district to warrant the variance.

2. The variance is not necessary for the preservation and enjoyment of substantial property rights because the petitioner is otherwise able to provide lighting in conformance with the Ordinance requirements.
3. 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 variance, if authorized, in the short term would not diminish the marketable value of adjoining properties. Over the long term, reduced light pole height is important to the transformation of this area. The associated traffic increase will be negligible.
4. This situation is not unique.

A motion was made by VandenBerg and seconded by Lomonaco that the request for a variance in application no. V140029 be denied, based on staff's Finding of Facts.

Lomonaco could understand the owner wanted to have consistency in height, but if the variance is granted, other property owners will want the same consideration.

Burrill understood that precedence was a concern, but he wondered what the height was of existing light poles in the area.

Cochran said current light poles range from 20' – 40'. The ordinance was set in place to move development to change the look. The look will change with each new development.

Burrill then asked if the grade in the land would make the light poles appear shorter.

Cochran answered the grade increased north from 28th St. The City's water tower sits on the highest point. After that the grade drops drastically to where the City's Public Works and Pinery Park is located.

Burrill thought maybe the requested height was necessary for the movement of car haulers.

Chairman VanderSluis said the reasons stated for the request were wholly aesthetics and cost. If the site is not right on 28th St. and the site is not right next to the current lot, then it is not important for the light standard to be consistent.

Motion carried: 5 Yeas 2 Nays (Beduhn, Burrill)

There were no public comments at the meeting.

The new business item was discussed by Cochran and the Board members.

A handwritten signature in black ink, appearing to read "Canda Lomonaco", written over a horizontal line.

Canda Lomonaco
Secretary

CL:cb