

These minutes are subject to formal approval by the Wyoming Zoning Board of Appeals at their regular meeting on June 4, 2015.

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

June 1, 2015

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

Members present: Beduhn Lomonaco Meeter Palmer
 Postema VandenBerg VanderSluis

Other official present: Tim Cochran, City Planner

A motion was made by VandenBerg, and seconded by Postema to approve the minutes of the Board of Zoning Appeals meeting.

Motion carried: 7 Yeas 0 Nays

PUBLIC HEARING:

Appeal #V150024 P.P. #41-17-23-132-013

Salas, Janice

3754 Heron Ave. S.W.

Zoned R-2

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

Zoning Code Section 90-45 (1) Accessory Buildings and Uses requires a three foot minimum setback for accessory buildings from side lot lines in this R-2 Single Family Residential District. The petitioner desires construct a 177 square foot addition to the existing garage that would be 1 1/2 feet from the side lot line. The requested variance is to allow a side yard accessory building setback of 1 1/2 feet, which is 1 1/2 feet below the required 3 foot side yard setback.

Chairman VanderSluis opened the public hearing.

Janice Salas, 3754 Heron Ave. S.W., explained they wanted to extend their garage in the front, and keep it in line with the existing garage.

The builder Rod Lengrak, 2206 Highlander, introduced himself as the builder, and added he would be increasing the walls to 12' to allow for storage of taller vehicles.

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

Cochran said this was a small addition, and an extension of a current encroachment. As such staff supported the variance requested, and formulated Finding of Facts for the Board's consideration.

A motion was made by VandenBerg, seconded by Postema that the request for a variance in application no. V150024 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 proposes to construct a 177 square foot addition to their 357 square foot one stall detached garage (534 square feet total proposed). The existing side yard setback for the garage is 2.2 feet. The proposed addition would extend the building wall and would come to as close as 1.5 feet from the side yard property line. The petitioners are otherwise entitled to an accessory building of up to 768 square feet. The proposed addition would be in keeping with the character of the neighborhood, and the side yard setback would be minimally reduced from that of the existing building with the authorization of the variance.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because the addition will allow for an improved accessory building on the property. This will enhance their property value and rights.
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 building addition is modest. The requested side yard variance will not diminish the marketable value of the adjacent lands, and will not increase congestion along Heron Avenue.
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 existing accessory buildings location on the property, there is limited opportunity for its expansion which is otherwise entitled by the Zoning Ordinance.

Motion carried: 7 Yeas 0 Nays (Resolution #5581)

PUBLIC HEARING:

Appeal #V150025 P.P. #41-17-14-482-008
Baker 91936, LLC
919 36th St. S.W.
Zoned B-1

Secretary Lomonaco read the application requesting a use variance from the City of Wyoming Zoning Code as follows:

Zoning Code Section 90-336 Permitted Uses B-1 Local Business District does not permit kennels as an allowed use. The petitioner desires to establish a primarily indoor dog day care and kennel use within the existing commercial building. The requested use variance is to

allow the dog day care and kennel use within a B-1 Local Business zoned commercial building.

Chairman VanderSluis opened the public hearing.

The owner Mr. Baker, 3280 Beltline Ct. S.E., explained the only need for the variance was the kennel use. The zoning of the property allowed the retail, bakery and other dog services. He said the property was unique. The business needs to provide lots of services. He submitted copies of signatures of neighboring business in support of the variance request. There will be a very small outside area. An existing lean-to will be demolished. The outside area will be surrounded by a solid fence for supervised training and fresh air.

Kristie Sarber, 2561Newstead, told the Board members the Barkery currently has a business in Grandville. They would like to expand their business to allow doggie daycare and overnight stays.

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

Cochran noted the City has not had many dealings with kennel businesses. The only one he recalled had opened a year or two ago in an Industrial zoned area, which is allowed under the current Zoning ordinance. He acknowledged the zoning code may be somewhat obsolete in regards to kennel use. The proposed use is a combination of kennel and retail, the retail use being allowed by right at this property. there is an abundance of buildings from the 1950's and 1960's in the City. These businesses were once vibrant in the neighborhoods they served. Now many are vacant and the owners struggle to find tenants for the buildings. This building had once been a grocery store that served the neighborhood, now only certain uses could occupy the building and be successful. The proposed use would be a destination business. It would not be dependent on the neighborhood for support. Staff supported the variance request and had formulated finding of facts for the Board's consideration.

A motion was made by Postema and seconded by Palmer that the request for a variance in application no. V150025 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 this property was used for many years as grocery. After the grocery ceased operation, the building of approximately 22,000 square feet, was divided with a retail business (dollar store) operating out of the eastern half. The western half of this property has languished for several years. The proposed Dogwood Barkery is a combination retail store with pet grooming, day care and boarding services. The retail and grooming is allowable by-right on this B-1 Local Business zoned property. The pet boarding is a kennel service which is allowable in the I-2 General Industrial district with Planning Commission approval. The dual use business is unique. The building and property under consideration is also unique in that it will require a destination type business to be successful at this location. Also, the building's open floor area is conducive to this proposed business.

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 this commercial property is overly large to meet the commercial needs of the surrounding area. More vibrant commercial areas exist nearby in the 28th Street and 54th Street areas. The existing location, building and property comprise an aged secondary commercial site that, in combination, is not viable for most commercial businesses.
3. That the use variance will not alter the essential character of the neighborhood nor the intent of the City Master Plan, nor be of detriment to adjacent properties because the business is almost entirely contained within the building. A small outdoor dog exercise area is proposed along the north building wall. This would be at least 190 feet from the nearest residential buildings. 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. The establishment of a viable and stable business in this long term vacant building would be beneficial to nearby businesses and property owners.
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 the proposed dual use retail / boarding business is unique to Wyoming and has not been contemplated for inclusion in the Zoning Ordinance. The proposed use is not general or recurring.
5. That the variance will not impair the intent and purpose of this Ordinance because the authorizing of the variance will permit a low impact commercial use of the property. The proposed use has a substantial retail component, which is permissible within the B-1 Local Business district.
6. That the immediate unnecessary hardship causing the need for the variance request was not created by the applicant because the building and property is unique given its size, location and age. Its reuse requires a destination type business with need for an open floor plan. The requested variance would tie the unique property with a unique business to obtain a viable and potentially long term beneficial use of the site.

Lomonaco asked if dogs would be boarded overnight, and if there were, would there be on site supervision.

Ms. Sarber stated there would be overnight provision, and someone would be on site.

Beduhn asked how many dog could be accommodated.

Ms. Sarber answered the maximum is 50. The dogs would only be outside for playtime. Even then they would only be in groups of ten. The outside area would be contained within a 6' privacy fence

Meeter noted that the submitted signatures were only from area businesses. He wondered if the applicant had contacted the residential neighbors.

The applicant had left notes at the residential homes.

Chairman VanderSluis explained the notification procedure to Meeter. The neighbors within 300' would have been notified.

Palmer wondered about noise issues.

Ms. Sarber explained the dogs would receive training. If the dogs are barkers, they will not be welcomed back. The applicant had had a kennel in Texas that was successful.

Cochran also noted the City has a noise ordinance.

Motion carried: 7 Yeas 0 Nays (Resolution #5582)

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