

These minutes are subject to formal approval by the Wyoming Zoning Board of Appeals at their regular meeting on July 16, 2012.

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

June 18, 2012

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

Members present: Burrill Dykhouse Lomonaco
Postema VanderSluis VanHouten

Member absent: Beduhn

Other official present: James W. DeLange, Chief Building Official

A motion was made by Postema, and seconded by Burrill to approve the minutes of the June 4, 2012 Board of Zoning Appeals meeting.

Motion carried: 6 Yeas 0 Nays

TABLED HEARING:

Appeal #V120215 P.P. #41-18-19-276-7020
D & D Building
3959 Linden Ave. S.E.
Zoned I-1

The application requesting a variance from City Zoning Code section 90-893 requiring a minimum 30' rear yard and 10' side yard setbacks in I-1 Light Industrial zoned districts; to allow proposed construction of a 4,050 square foot "L" shaped building addition with a 10 foot rear yard and a 8 foot 8 inch sideyard setback (south side yard) was tabled at the June 4, 2012 meeting.

A motion was made by Dykhouse and seconded by Lomonaco to remove application no. V120215 from the table.

Motion carried: 6 Yeas 0 Nays

A motion was made by Dykhouse and seconded by Lomonaco to remove the application from the table.

Motion carried: 6 Yeas 0 Nays

A motion was made by Burrill and seconded by Lomonaco to re-open the public hearing.

Motion carried: 6 Yeas 0 Nays

Rich Hoekwater, D & D Building, 3959 Linden Ave. S.W., explained the mill shop was running out of room. They needed storage for cabinets waiting to be shipped. The logical

location for the addition is in the rear and side. That is why they are requesting the variance. They will be getting an easement from the neighbor for fire equipment access.

Chairman VanderSluis closed the Public Hearing.

A motion was made by Burrill and seconded by Dykhouse that the request for a variance in application no. V120215 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 building addition will allow expansion of this business. The site is narrow in width, and long in length. The limited parcel width and small rear yard create a need for setback variances in order to reasonably expand this business.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because this variance will allow for business expansion and improvement in processing of goods at this existing facility.
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 building expansion typically improve adjacent property values. The site retains adequate paved parking for its employees, customers and vehicle maneuvering.
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 of the aforementioned finding of facts.

DeLange said staff had formulated Finding of Facts supporting the granting of the variance request. However he noted that the aerial map on Regis indicated the rear of the building was located in an easement. He needed additional information from the applicant.

Mr. Hoekwater said he was working with Carlos Caceres, City of Wyoming Engineering, to obtain an abandonment of easement.

DeLange had not been contacted by the Engineering Department, but would make certain the issue was resolved prior to issuance of a building permit.

Motion carried: 6 Yeas 0 Nays (Resolution #5330)

PUBLIC HEARING:

Appeal #V120216 P.P. #41-17-22-101-048
Samuel D. Barnes
3660 Byron Center Ave. S.W.
Zoned R-2

The application requesting a use variance from Zoning Code section 90-96 regulating R-2 business districts to allow a portion of the property to be used for outdoor cooking as an accessory to Dallas Deli Meat business was read by Secretary Lomonaco.

Chairman VanderSluis opened the public hearing.

Mr. Samuel Barnes, business owner at 3660 Byron Center, bought the business eight years ago. The previous owner had used outdoor smoking, and Mr. Barnes has continued that use. Most of his cooking is done by the smoker. The use has been there at least 20 years, and he would like to be able to continue. The business had been recently cited in the news as the best barbecue in the area.

Cindy Lee, 3704 Byron Center, had no issue with the smoker but with the hours the smoker operates. Last Thursday, it was still smoking at 10 P.M. with no one in attendance. Plus the owner recently added a second smoker that is located in the rear yard on the grass. She is concerned that sparks from the smoker will start a fire.

Dave Harabarda, 3546 Bluebird Ave. S.W., lives in the area and enjoys the aroma. He also operates a similar business and supports the variance request.

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

DeLange said the variance request originated because of a written complaint concerning an issue with customer parking, and allegedly the cooker was an eyesore. Researching the situation, it was noted the outdoor cooking had never received formal approval. The property is zoned Residential but is located next to a school so it could be considered a transitional property. The building was constructed as a commercial building and there is past history of variance for commercial use. Staff supported the variance request and offered a few stipulations concerning the location of the smoker and the wood storage. The Board might want to add an additional stipulation limiting the numbers of smokers.

A motion was made by VanHouten and seconded by Burrill that the request for a variance in application no. V120216 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 proposed cooking operation is small in scale, and will be located so as not to obstruct parking spaces nor be placed in the required front yard area. The cooker must be setback a minimum 25 feet from front property lines. Wood storage is required to be in a trailer, wood rack or other suitable device located east and behind the cooker at least ten feet from side property lines or be placed near the masonry structure.
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 meat smoking process is necessary for the cuisine offered by this business type, which has been at this site for many years.
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 this food service use has been in place for many years with outdoor cooking with no historical record of complaint.

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 food product offered, which is primarily ready to cook smoked or barbecued cuisine serves a relatively small market. The property is zoned residential, which prohibits a new commercial business from operation in said districts.
5. That the variance will not impair the intent and purpose of this Ordinance because this business use (I.E. without outdoor cooking) is a legal non-conforming use located in an R-2 Residential zoned district.
6. That the immediate unnecessary hardship causing the need for the variance request was not created by the applicant because the business was purchased from former owners who operated it in a similar manner. There were no prior formal complaints which may have triggered a code compliance investigation.

Burrill had no issue with two smokers but suggested a limitation to discourage more.

Lomonaco thought the safety should be addressed. She suggested the second cooker be placed on concrete.

VanderSluis asked DeLange what safety measures there are for this type of equipment.

DeLange noted unless the cooker was commercially manufactured and UL listed, there were very little. Many cookers are homemade. The equipment only needs to be licensed for the road if it is to be towed to other locations.

Burrill thought City staff including the Fire Department could handle the safety measures. His understanding would be any fire threat would be through the stack of the cooker not from a spark to the ground directly under it.

VanHouten did not intend to amend his motion.

Dykhouse asked the owner if he used both smokers.

Mr. Barnes said he has used both the smokers. The second one needs some work, but he does tow the one that is licensed to a farmers market on a regular basis, and the second one would be needed for the Byron Center Ave. location during that time. His business is growing, and his orders are increasing. He would be willing to add a concrete area.

DeLange said Inspections would get together with the Fire Department to discuss any safety issues.

Motion carried: 6 Yeas 0 Nays (Resolution #5331)

PUBLIC HEARING:

Appeal #V120217

P.P. #41-17-35-300-030

Gordon Food Service

1300 Gezon Parkway S.W.
Zoned I-3

The application requesting a variance from Zoning Code Signs 90-799 as follows;

1. Variance from maximum directional sign size of six square feet measured from grade level to allow nine square foot directional signs (3x2 mounted 12" above grade) throughout the site.
2. Variance from maximum one ground sign 75 square feet in size to allow two stone monument signs, 3'x30' with curvature design at main entrance drive.
3. Variance to allow two 40 square foot signs "We Are Here To Serve" on circular stone foundation near the main building entrance was read by Secretary Lomonaco.

Chairman VanderSluis opened the public hearing.

Mr. Ron Scott, 333 50th St. said when finished the Gordon Food Service building will be the biggest office building in Wyoming. It will be unique and is located on a very large site. Because of the size of the location and street frontage, the signage will not be excessive in appearance but will look nice. The directional signage is necessary to help direct traffic including trucks on site.

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

DeLange said staff agreed with Mr. Scott's remarks and had formulated suggested Finding of Facts for the Board's consideration, and supported granting the variance request.

A motion was made by Postema and seconded by Burrill that the request for a variance in application no. V120217 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 signage proposed on curved and circular stone landscaped monuments at main entrances (2) and at main building entrance are aesthetically pleasing and incorporated into the overall site landscape design. The site is very large with over 50 acres and 1,400 plus lined feet of frontage on a curving street with substandard grade changes. The incidental signs of six square feet are placed with one foot of open air between grade and sign, which by definition result in a technical nine square foot display area. These signs are necessary to direct site traffic for employees, visitors and delivery vehicles.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because the proposed signs adequately identify this large office facility and provide direction for vehicular safety on the site.
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 sign size remains reasonable considering the fifty acre site, limited number and being on a landscaped monument structure. Signs as proposed serve to reduce congestion in public streets.

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 very large office complexes on large parcels are relatively unique in the City.

Burrill cited a variance request that was granted for the Metro Health site. The excessive signage did not cause any negative issues, and in hind sight may have even been allowed to larger without being an issue.

Dykhouse congratulated Gordon Food Services on their continued growth. He had worked there when he was in high school.

Motion carried: 6 Yeas 0 Nays (Resolution #5332)

PUBLIC HEARING:

Appeal #V120218 P.P. #41-17-31-151-003
Jim Lyons
5500 Kenowa Ave. S.W.
Zoned ER-1

The application requesting a variance from City Zoning Code section 90-45(7) allowing a combined residential storage area of maximum 1,000 square feet; to allow proposed construction of a 768 square foot, 32'x24' detached accessory building garage which with existing 528.84 square foot, 22.6'x23.4' attached garage results in a total combined storage area of 1,296.84 square feet was read by Secretary Lomonaco.

Chairman VanderSluis opened the public hearing.

Mr. Jim Lyons, 5500 Kenowa, has two existing structures that need to be replaced. The requested accessory building would replace those two and provide sufficient storage

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

DeLange said staff had formulated Finding of Facts supporting the granting of the variance request. The new building would be an improvement. The request was reasonable.

A motion was made by Burrill and seconded by Postema that the request for a variance in application no. V120218 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 is ample in area and the proposed additional storage area reasonable. The new construction will result in an older accessory building being removed.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because the total storage area proposed is reasonable for the parcel size

and will allow enclosed and secure residential storage. Business use storage or activity is not permitted.

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 new construction should improve surrounding value of adjacent land. Public street congestion is not affected.
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 of the size and location of the applicant property.

Motion carried: 6 Yeas 0 Nays (Resolution #5333)

There were no public comments at the meeting.

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

Canda Lomonaco
Secretary

CL:cb