

These minutes are subject to formal approval by the Wyoming Zoning Board of Appeals at their regular meeting on August 2, 2010.

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

July 19, 2010

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

Members present: Beduhn Burrill Dykhouse Lomonaco
 Palmer Postema VanHouten

Member absent: VanderSluis

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

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

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

Motion carried: 7 Yeas 0 Nays

PUBLIC HEARING:

Appeal #V100079 P.P. #41-18-18-426-094 and part of 41-18-18-426-026
Stephen's Pipe & Steel
3353 Eastern Ave. S.E.
Zoned I-1.

The application requesting a Use variance from City Zoning Code section 90-471 to allow expansion of an I-1 zone district special use IE. outdoor contractor fence material storage in an I-1 light industrial zone district; to expand yard area by 1.2 acres on adjoining property at 3314 Union (purchase pending) was read by Secretary Lomonaco.

Chairman Burrill opened the public hearing.

Terry Powell, Stephen's Pipe & Steel, said they just wanted to add more outdoor storage. This property would sort of square off their lot. There would be no difference in the materials that are stored.

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

DeLange gave the variance staff's support. The lot at 3353 Eastern would retain 50' from the building to the west property line, with 48% lot coverage. The code allows 50% maximum, so it would be in compliance. He submitted staff's finding of facts for the Board's consideration.

A motion was made by Dykhouse and seconded by VanHouten that the request for a variance in application no. V100078 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 parcel has surplus land area best served by attachment to the larger 3314 Union Ave. parcel. Its use will be an expansion of the existing outdoor pipe/fence material storage.
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 of the existing building design at 3353 Eastern, it is unlikely to be expanded. This surplus rear lot area will compliment the growing business located at 3314 Union Ave.
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 it is a relatively modest expansion of an existing outdoor storage area.
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 of its being immediately adjacent to the large exterior storage yard and its apparent limited value to the current parent parcel.
5. That the variance will not impair the intent and purpose of this Ordinance because the exterior storage yard adjacent thereto already has Zoning Board of Appeals approval for its current use.
6. That the immediate unnecessary hardship causing the need for the variance request was not created by the applicant because the need for additional storage area is based on increased business demand.

Motion carried: 7 Yeas 0 Nays (Resolution #5244)

PUBLIC HEARING:

Appeal #V100080 P.P. #41-17-10-302-012
Victor and David Kuiper
2440 Byron Center Ave. S.W.
Zoned B-1

The application requesting a Use variance from City Zoning 90-336 and 90-682 to allow an expansion of a non-conforming use IE., three dwelling units in a B-1 local; business zone district to add a fourth residential dwelling unit was read by Secretary Lomonaco.

Chairman Burrill opened the public hearing.

Victor Kuiper, 4721 Ridgeland Ct., said he purchased the property in 2003, and there were four apartments at that time. When they renovated for the beauty salon, the City was made aware of the fourth apartment, and he was told it was illegal and told to vacate it. Since then he has made repairs, and all four apartments were inspected and approved. He said there was enough parking. He thought 25 parking spaces were required and he has 27. The apartment had been occupied for five years before the City said it was illegal.

David Kuipers, the brother of the owner, had helped finance the purchase of the property. He also said they did not know the fourth apartment was illegal until they got permits for the beauty salon.

Norma Van Prooyen, 2465 Byron Center, was opposed to having a fourth apartment. She was familiar with the building, and the building was not large enough for a fourth apartment.

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

DeLange had been in the building in the late 1980's when the building was posted No Occupancy because of gas fumes wafting upstairs from an earlier automotive use. At that time there were three apartments and a former storage space upstairs. Since then there have been other uses in the lower part of the building. The storage space must have been converted into the fourth apartment between then and when Mr. Kuipers purchased the property. When the City discovered the fourth apartment had been added without City approval or permit, the current owner was directed to cease the occupancy of the unit. The mix of residential and commercial use at this location is non-conforming. Staff does not think having a fourth apartment is not a good use of the property, and provided finding of facts for the Board to consider. Staff's recommendation is to deny the request.

A motion was made by Dykhouse and seconded by that the request for a variance in application no. V100079 be denied, accepting staff's Finding of Facts.

1. The condition, location, or situation of the specific piece of property or of the intended use of the property is not unique to the property in the zoning district in which it is located. The existing non conforming mixed use I.E. business and three dwelling units already maximize the effective use of this property. Adding a fourth dwelling unit intensifies the need for parking and related residential storage needs. The property has no unique features warranting a variance.
2. The building can be utilized for the zone district it resides in. No evidence has been submitted to justify expansion of a non-conforming multi family use.
3. Adding to a non-conforming use has potential to further negatively affect the area. It also encourages additional traffic, refuse and noise, all of which are detrimental to other properties.
4. Allowing expansion of a non-conforming use at this location may encourage similar requests in the area.
5. The intent of the ordinance is already jeopardized due to the existing "grandfathered" non-conforming use. I.E. three dwelling units on the second floor and business use on the grade level.
6. The request for variance in this use is solely created by the applicant as an increase in property revenue generation

Postema asked the size of the apartments. DeLange did not know the square footage

Van Houten asked for more information of the layout of the building. He was informed the apartments were upstairs, and the current beauty salon was downstairs.

Chairman Burrill asked if a mixed use of the property would be allowed by current zoning. Mr. DeLange answered, it would not.

Mr. Kuipers said the fourth apartment was 600 square feet, and was the smallest of the four apartments.

DeLange noted all available parking was provided per an agreement with an adjacent property owner.

The Board had general questions regarding parking requirements for the two properties. Mr. Kuipers then added he had purchased the lot that was used for parking.

Mr. DeLange said if the Board wished, they could table the variance request to further consider the parking situation and parking agreements, which may be related.

Chairman Burrill asked if the Board was interested in tabling the request, or voting on the motion. In general, the Board was willing to vote on the motion. Dykhouse noted that Mr. Kuipers would have the right to come back to the Board if there was new information to consider.

Motion carried: 7 Yeas 0 Nays

Norma Van Prooyen reiterated her position on variance request #V1000 during the public comment portion of the meeting.

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



Canda Lomonaco
Secretary

CL:cb