

These minutes are subject to formal approval by the Wyoming Zoning Board of Appeals at their regular meeting on August 20, 2012.

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

August 6, 2012

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

Members present:    Beduhn            Burrill            Dykhouse        Lomonaco  
                                 Palmer            Postema        VanHouten

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

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

Motion carried:        7 Yeas            0 Nays

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

Motion carried:        7 Yeas            0 Nays

PUBLIC HEARING:

Appeal #V120226                    P.P. #41-17-23-167-008

Dan Joyce

3865 Havana Ave. S.W.

Zoned R-2

The application requesting a variance from City Zoning Code section 90-47 which limits fence height in front yard setbacks to maximum 36" height; to allow a recently installed 6' fence in a portion of the front yard setback to remain was read by Secretary Lomonaco. There was an e-mail from Louise Kerkstra, 3851 Havana Ave. S.W. in support of the variance request.

Vice Chairman Dykhouse opened the public hearing.

Dan Joyce, 3865 Havana Ave. S.W., said he replaced a 20 year old wooden fence with the new one. He thought it made the property and neighborhood look better.

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

DeLange reported staff had received a complaint on the new fence. He reminded the Board members that the fence ordinance had just changed recently to allow a 36" fence in the front yard area, but the front yard area still is determined as the first 35' of the property. If Mr. This is a unique situation as the neighboring property is a corner lot, and that property owner would be allowed to erect a 6' fence to within 10' of the side yard, so Staff would support a

modification to allow part of the fence to remain but requiring part be removed so the fence would retain a 20' setback from the front property line closely matching the setback of the neighbor's garage. Staff's findings were as follows:

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 this house is located adjacent to a corner lot, which has a directly adjacent garage placed at a code compliant 20' secondary front yard setback. Renovating the length of the fence to the front of the neighbor's garage (20' setback) is reasonable in this case. A slight modification to the existing fence will be necessary.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because a partial screen fence will screen the adjacent detached garage. The neighbor could legally place a six foot fence up to the suggested front of the detached garage and then three foot in height thereafter to the front lot line.
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 fence as modified meets the intent of the code in this particular application if a portion is removed to 20' back from the front lot lines.
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 adjacent lot also being a corner lot with permitted reduced setbacks and placement of accompanying detached garage.

A motion was made by VanHouten and seconded by Lomonaco to grant the variance request with staff's stipulations.

Postema asked if the previous fence had been there, was there some kind of grandfather provision.

DeLange answered that the removal of the fence negated any non-conforming status, and the new fence would be required to meet code regulations.

Dykhouse noted there were many residences in the neighborhood that had taller chain link fences in the front yard.

DeLange said many older chain link fences were installed illegally.

Burrill felt there could be extraordinary circumstances to allow the Board to grant the variance. The fence does not cause a vision clearance problem.

There was additional conversation on how the fence could possibly be modified.

DeLange gave clarification to Dykhouse regarding shrubbery. Only when shrubbery functions as a hedge or barrier is it subject to the Zoning Code regulations on fencing.

Burrill did not see any reason why the fence could not be allowed to remain, especially if the neighbor on the corner lot would be able to erect a fence in the same setback that this fence is. He felt the fence height request was not typical. Usually applicants want fences that come closer to the sidewalk.

DeLange pointed out because of the difference in grade with the retaining wall, the neighbor's fence could not be equal in height to the fence erected by Mr. Joyce.

VanHouten withdrew his motion, and Lomonaco withdrew her support.

A motion was made by Burrill and seconded by Lomonaco that the request for a variance in application no. V120226 be granted, modifying 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 this house is located adjacent to a corner lot, which has a directly adjacent garage placed at a code compliant 20' secondary front yard setback.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because a partial screen fence will screen the adjacent detached garage.
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. The fence will not constitute a vision clearance problem.
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 adjacent lot also being a corner lot with permitted reduced setbacks.

Motion carried:           7 Yes                   0 Nays (Resolution #5336)

PUBLIC HEARING:

Appeal #V120228                   P.P. #41-17-02-331-001  
Godfrey Lee Public Schools  
1335 Lee St. S.W.  
Zoned R-2

The application requesting a variance from City Zoning Code section Table 90-798 which does not allow a moving image or changeable copy sign to be part of a wall sign in a residential district to allow 24.8 square feet (25%) of a 99.5 square foot wall sign to be electronic changeable message for Lee High School on the north wall of the school. No other signage is located on this same wall was read by Secretary Lomonaco.

Lomonaco asked to abstain as she derived personal income from the applicant. A motion was made by Postema, supported by Palmer to excuse Lomonaco.

Motion carried:           6 Yeas                   0 Nays

Vice Chairman Dykhous opened the public hearing.

Scott Bergman, Director of Operations, Godfrey Lee Schools, said the school wanted to increase the communication with their neighbors and the community.

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

DeLange said staff had considerable discussion concerning the appearance of a changeable message sign. After addressing the City's concerns with the applicant, staff had formulated Finding of Facts to grant the variance with certain stipulations. The applicant had been agreeable to the requested stipulations.

A motion was made by Postema and seconded by VanHouten that the request for a variance in application no. V120228 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 as a public school facility it is desirous to provide information to the interested general public within this school district. Technology such as changeable message boards can serve this purpose. The building is located a considerable distance from the public street, which also is a wide two way street with boulevard. Single family houses south of the proposed wall sign and public street do not front on Lee St.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because it is reasonable to utilize newer technology to provide public information. As a residential zoned area, the zoning code does not permit electronic message boards because of possible garish appearance of bright lights, rapid message scrolling, etc. The following restrictions are placed on this sign: sign to be turned off between the hours of 10:00 P.M. and 7:00 A.M., message changes may occur no less than 30 seconds apart, and method of change to be instantaneous.
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 of the restrictions placed on the sign and its considerable distance from the street and its location on a wall rather than street level.
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 unique site of the school building and the conditions placed on sign operation.

Burrill had a question regarding the City's Zoning regulations in regards to the State's jurisdiction over schools.

DeLange explained that the City has an on going professional relationship with several schools. The schools have requested the variance out of courtesy to the City and its residents.

Motion carried:           6 Yeas           0 Nays (Resolution #5337)

PUBLIC HEARING:

Appeal #V120229 P.P. #41-18-19-302-035  
Richard Postema Associates  
150 Burt St. S.E.  
Zoned R-3

The application requesting a variance from City Zoning Code section 90-684 non-conforming use to allow proposed construction of a 52'x100' irregular 5.496 square foot activity multi purpose room to existing church located on a site less than the minimum three acres required in 90-96(2). The proposed site is .98 acre, which combined with the adjoining parcel at 153 Wilbur St. S.E. will include an existing house was read by Secretary Lomonaco. The combined use will include a religious facility and a single family home.

Postema asked to abstain as he was affiliated with the applicant. A motion was made by Lomonaco, supported by Palmer to excuse Postema.

Motion carried: 6 Yeas 0 Nays

Vice Chairman Dykhouse opened the public hearing.

Pastor Dave Struyk, Community Christian Reformed Church, explained the neighborhood where the church is located is linked to the church's identity. They had considered moving but they looked at their ties with community including members, food truck distribution and Bible studies at a nearby apartment complex. They felt relocation would undermine their neighborhood commitments. In addition, they considered the economic feasibility of the project considering most members are on the lower end of economic pay scales. The rental income from the residential house would be helpful otherwise financially, it would be difficult for the church to do the building project.

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

DeLange noted an activity room is currently a common feature of most churches. It is not used as the main body of worship, and since it is not, it does not affect the zoning requirements for additional parking spaces. The parking they proposed should be adequate. In addition, many older churches have houses on the property. In the past they were typically used as a parsonage. This house even as rental is still a single family use. The house remains subject to the rental inspection program.

A motion was made by Burrill and seconded by Lomonaco that the request for a variance in application no. V120229 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 this small religious facility is located on a minimal zoned parcel as it has been for decades. The congregation is in need of a modest activity room addition, which necessitates additional lot area. This is accomplished by purchase and combination of an adjacent lot containing a small single family house. The

proposed combined lot area will afford enough area to accommodate this building property while retaining the house for rental income or as a parsonage as needed.

2. That such variance is necessary for the preservation and enjoyment of substantial property rights because this is an existing religious facility, as such a modest addition for an activity room is typical for these organizations. Seating capacity in the main area of worship is not increased.
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 single family house and church currently exist. The proposed addition is to the rear of the church and does not impact values of other parcels. The main seating area of worship is not increased therefore an additional volume of traffic is not anticipated.
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 findings and there are relatively few small religious facilities in the nearby area.

Motion carried:        6 Yeas            0 Nays (Resolution #5338)

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There were no public comments at the meeting.

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

ELECTION OF OFFICERS:

A motion was made by Lomonaco and seconded by Postema to elect VanderSluis as Chairman of the Zoning Board of Appeals.

Motion carried:        7 Yeas            0 Nays

A motion was made by Lomonaco and seconded by Dykhouse to elect Palmer as Vice Chairman of the Zoning Board of Appeals.

Motion carried:        7 Yeas            0 Nays

A motion was made by Beduhn and seconded by Palmer to elect Lomonaco as Secretary of the Zoning Board of Appeals.

Motion carried:        7 Yeas            0 Nays

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Canda Lomonaco  
Secretary

CL:cb

