

These minutes are subject to formal approval by the Wyoming Zoning Board of Appeals at their regular meeting on October 6, 2014.

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

September 2, 2014

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

Members present: Beduhn Burrill Dykhouse
 Lomonaco Palmer Postema

Member absent: VanderSluis

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

Motion carried: 6 Yeas 0 Nays

Other official present: Tim Cochran, City Planner

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

Motion carried: 6 Yeas 0 Nays

A motion was made by Postema, and seconded by Burrill to approve the minutes of the July 21, 2014 Board of Zoning Appeals meeting.

Motion carried: 6 Yeas 0 Nays

PUBLIC HEARING:

Appeal #V140025 P.P. #41-17-36-402-041
Wyoming Mall, LTD
1216 28th St. S.W.
Zoned FBC

Secretary Lomonaco read the application requesting three variances from the City of Wyoming Zoning Code as follows:

Zoning Code Section 90-1403-1 requires retail buildings to have a 25 foot setback from the 28th Street right-of-way in this Form Based Code Corridor Center context area. The petitioner requested a variance to allow a retail building to be setback 79.5 feet from 28th Street. A variance of 54.5 feet was requested.

Zoning Code section 90-1709-5 requires drive through lanes to be located in the rear yard of properties in this Corridor Center context area. The petitioner requested a variance to allow a drive through lane in the front yard area.

Zoning Code Section 90-799-2 (Secondary Sign Requirements – Nonresidential Districts) prohibits menu boards from front yard areas and to locations not visible from a public street. The petitioner requested a variance to allow a menu board in the front yard area that will be visible from 28th Street.

Acting Chairman Palmer opened the public hearing.

Mr. Tim Timmins, partner of Wyoming Mall, LTD explained the property owners had been working with City staff for over a year on this project. The variances were a request from the proposed tenants. This is the first time in many years that a national chain business has expressed interest in developing in this area of Wyoming

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

Cochran noted while this building is small, the redevelopment is actually a big deal for the City. The City has been working on a concept for 28th St. for over four years. First the City formulated a Master Plan. Then the City adopted the Form Base Code. A major component of the discussion was the development of a crescent street. This street is vital for the future development of the area. This project with the proposed tenant use of Dunkin Donuts and Jimmy John's is critical in the beginning of the overall development. The new project would infuse outside investment in the area. The City would gain a greenbelt along 28th Street where currently there is a parking lot. The parking lot and lighting of the area would also change. The property owner's next phase in the development would be to remove two sections of the current mall and a separate building. With the Studio 28 building demolished, this area is open for redevelopment. The City is committed to invest \$1,500,000 to create the first section of the crescent street. The money programmed for remilling of existing roads would be deferred to construct the crescent street. Wyoming Mall would then add a 30,000 square foot addition to the west side of their current building.

The fact that the proposed building would require three variances from the newly created and adopted Form Base Code gave the City pause, however there was no other way to create this core area without the new development. The new Code directs developments with buildings placed closer to 28th St. and also buildings placed further back along the crescent street with parking lots in between. The proposed project is a unique building for the area in that there will be two drive-throughs, one on two sides of the building. The third tenant is unknown at this time. There is a similar building in under construction in Portage. The Planning Commission approved the site plan on August 19 with conditions, including the required variances. Staff had just received a picture of a sample of the menu board, which he displayed for the Board members. Staff recommended the variance requests be approved and offered the findings necessary to grant it.

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 City and the property owner Meyer C. Weiner Company are engaged in a public-private partnership to redevelop the Wyoming Village Plaza. This redevelopment includes the demolition of the north wing of the plaza the construction of the public crescent street through the property from Michael Avenue

to 28th Street, and a planned major addition to the west of the plaza. The initial, and essential, first step in this redevelopment is the approval of the proposed pad site along the 28th Street frontage. This pad site project will infuse necessary outside investment into the overall property which provides for significant landscaping beds, parking realignments and lighting enhancements for a much larger area than just the pad site area. The three variances to accommodate the pad site development project are necessary to meet the specific needs of the tenants (Jimmy Johns & Dunkin Donuts). The pad site project was reviewed and approved unanimously by the Planning Commission on August 19 subject to conditions including approval of the variances by the Board of Zoning Appeals. The City Council has authorized the hiring of a civil engineer to design the crescent street and the Public Works Department has set aside up to \$1.5 million for its construction, which is planned for 2015.

2. That such variance is necessary for the preservation and enjoyment of substantial property rights because this development project initiates the redevelopment of the Wyoming Village Plaza. The center dates from the 1960's and is in need of reinvestment. The overall redevelopment plans for the entire property will reinvigorate this mall.
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 authorizing of the variances will allow the pad site redevelopment project to occur. This will initiate the redevelopment of the center and the construction of the crescent street which is essential to the increasing the value and marketability of properties in this area. The project uses existing driveways to 28th Street, and further provides greater on-site delineation of drive lanes. The authorizing of the variances will not increase congestion on the 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 the associated development of the essential crescent street through the property is highly unusual and does not make practicable the formulation of a general regulation for this condition.

A motion was made by Burrill and seconded by Postema that the request for a variance in application no. V140025 be granted accepting staff's Finding of Facts.

Dykhouse asked if there would be enough parking.

Cochran answered that with the recent change in the Form Based Code to minimize parking, and the overall reduction in building area from the property, parking would meet easily requirements.

Motion carried: 6 Yeas 0 Nays (Resolution #5567)

PUBLIC HEARING:

Appeal #V130047 P.P. #41-17-02-183-013 & -014

Maldonado- Montoya, Johnny Wilter

1251 & 1255 Chicago Dr. S.W.

Zoned B1

Cochran explained the petitioner had requested a Use variance from City Zoning code section 90-336 to allow a B-2 general business automotive repair garage to operate in a portion of a building located in a B-1 local business zone district. The variance request was heard at the Public meeting on November 4, 2013, and the Board had voted to deny the request. Mr. Maldonado-Montoya the appealed the Board's decision to Circuit Court. The judge ordered the case sent back to the Board of Zoning Appeals for further consideration within sixty days of the order. The attorneys for both sides have met and have agreed to a stipulated settlement, which will be brought back to the judge for his approval. At this time there is no reason for the Board to rehear the case. He referred to the letter from the City's Attorney in which Jack Sluiter stated based on the settlement, the case could be removed from the agenda. Cochran suggested the Board might wish to table the agenda item for an indefinite time period. If the property owner and the City Council agree to the settlement, the need to rehear the case will have been resolved.

A motion was made by Lomonaco and seconded by Postema to table the rehearing of application no. V130047.

Motion carried: 6 Yeas 0 Nays

During the public comment portion of the meeting Mary Raterink, Don Lamse and Manuela Santos all spoke of the good character and hard work of Johnny Wilter Maldonado-Montoya, and their desire to see him be allowed to continue working on the building and start his business.

Johnny Wilter Maldonado- Montoya expressed his gratefulness for the support he has received.

Juan Davis hoped that the tabling of the agenda item indefinitely would not be an issue.

Cochran report there was no new business items and therefore the September 15, 2014 meeting would be cancelled. The next scheduled meeting would be October 6, 2014.

Canda Lomonaco
Secretary

CL:cb