

These minutes are subject to formal approval by the Wyoming Zoning Board of Appeals at their regular meeting on November 19, 2012.

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

November 5, 2012

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

Members present:    Beduhn            Dykhouse        Lomonaco        Postema  
                                 Palmer            VanderSluis    VanHouten

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

A motion was made by Postema, and seconded by Palmer to approve the October 15, 2012 minutes of the Board of Zoning Appeals meeting.

Motion carried:        7 Yeas            0 Nays

PUBLIC HEARING:

Appeal #V120240                    P.P. #41-17-26-305-027

William Heinhuis

1473 Trentwood St. S.W.

Zoned R-2

The application requesting a variance from City Zoning Code section 90-891 requiring minimum side yard setbacks of 7 foot, and combined side yard setbacks of 18 feet within R-2 zoned districts to allow a proposed 10'x23' room addition to rear of house with a 34.5 rear yard setback and a 17.3 foot combined side yard setback (existing house has a 16.3 foot combined side yard setback) the addition begins one foot west of the N.E. rear corner of house was read by Secretary Lomonaco.

Chairman VanderSluis opened the public hearing.

Mr. William Heinhuis, 1473 Trentwood, said the addition would help accommodate his disabilities better than the existing house does.

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

DeLange said he had numerous conversations with the owner and the builder regarding the project. Staff supported the request, and had formulated Finding of Facts for the Board's consideration.

A motion was made by Postema and seconded by Lomonaco that the request for a variance in application no. V120240 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 side yard setbacks currently exist with placement of the house and garage. The addition is placed yet another foot away from the property line. The rear yard variance is miniscule in scope.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because it will allow expansion of habitable living space to the rear of an existing house.
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 improvements of this type increase property values. Congestion in the public street 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 the existing house side yard setbacks dictate the need to variance considerations.

Motion carried:           7 Yeas           0 Nays (Resolution #5345)

PUBLIC HEARING:

Appeal #V120241                   P.P. #41-18-18-326-031  
William Zimdar  
3331-3333 Lousma Dr. S.E.  
Zoned I-1

The application requesting a variance from City Zoning Code section 90.41, requiring lots and parcels subject to building permits to abut a public right of way, to allow division of a two acre parcel into two separate lots, one with zero feet of lot frontage (access thereto by easement) was read by Secretary Lomonaco.

Chairman VanderSluis opened the public hearing.

Mr. William Zimdar, owner of Zimdar Properties, was present with Max George, engineer if the Board had any questions.

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

DeLange pointed out to the Board that under the previous definition of "lot" there was a requirement for frontage on a public street. When the Zoning Code was expanded in 2010, the requirement for street frontage had been removed from that definition. Now the only code language that requires street frontage relates to 90.41, which requires a property to have street frontage in order to obtain building permits. This property could currently be legally split according to the "lot" definition, however they would not be able to obtain building permits if they did not have the variance. The requirement for street frontage was used in the past primarily to prevent residential splits that would circumvent platting requirements and

conditions. Staff will have further discussion with the Planning Commission regarding this matter in general. For now staff would recommend this variance be granted.

A motion was made by Palmer and seconded by Van Houten that the request for a variance in application no. V120241 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 Zoning Code definition of lot(s) was amended without reference to requiring public street frontage. This omission was likely an error and reconsideration is likely. However the property functions as two separate businesses in separate buildings located on one parcel. It also could be affectively divided by an industrial condominium agreement. A permanent deed recorded ingress/egress easement is proposed to service the rear parcel with zero street frontage. In light of the situation and current effective code language it is reasonable to grant this request. The variance will allow future building permits as necessary to be issued to this property.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because it will allow means to divide the parcel other than as an industrial condominium agreement.
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 it does not change the configuration of the original parent parcel or its buildings in relationship to adjacent land. Public street congestion should not be a factor due to no increase in scope/use of the two existing buildings.
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 above notations and current language or lack thereof in the City Zoning Code.

Dykhouse asked if the new lot would be allowed to have signage.

DeLange said the property could have a wall sign, but nothing on the street without further variance(s) because that would be an off premise sign.

Postema notice that Staff's recommended Finding of Facts had a notation "with reservation."

DeLange said staff was not sure yet of what the ramifications of "no requirement of street frontage" would be long term. That bear further discussion. Industrial and commercial splits are available now with a site condominium, which was not the case decade ago when the original language was adopted. Personally he does not like the trend of not requiring street frontage but that is the code. This proposed site does have proposed ingress/egress easement agreements proposed to be recorded with the deeds.

VanderSluis asked if the proposed easement could be part of the Board's variance.

DeLange answered the Board could make recording of the easement on the deeds a condition of the variance.

VanderSluis asked if Palmer and VanHouten would amend their motion and support to include the stipulation regarding the easement. They agreed, and amended their motion and support accordingly.

Postema asked if any lot with two buildings on it could now be split if no street frontage was required.

DeLange said if the proposed lots met the required lot area and setbacks, etc. that would be the case.

Dykhouse asked about a previous variance at this location.

DeLange recalled there was a previous variance to allow a building connector between 3331 and 3343 Lousma Dr. (Editor's Note: May 17, 1999)

Postema asked if the new lot could have a pole sign by the building not the street.

DeLange believed there was a plat restriction in the Kent Industrial Park agreement that restricted the lots to ground signs only.

Motion carried:        7 Yeas            0 Nays (Resolution #5346)

PUBLIC HEARING:

Appeal #V120245            P.P. #41-18-19-101-016  
Bob Meringa  
3744 S. Division  
Zoned B-2

The application requesting a variance from City Zoning Code 90-684 Non-conforming use of a building and 90-893 minimum lot size and building area, which require a minimum 65' lot front width, 6,500 square foot minimum lot size and 25' minimum front yard setback to allow a proposed second story addition on a building with existing 22' lot width, existing 2,200 lot area and existing 12' front yard setback was read by Secretary Lomonaco.

Chairman VanderSluis opened the public hearing.

Mr. Bob Meringa, 146 Monroe Center, wants to move his business from Grand Rapids to Wyoming. His father is the current owner of the property. The building would be used for the sole purpose of managing real estate property. The addition would allow the building to have a couple of office spaces.

DeLange noted the lot was very small as was the existing building, so the property needs many variances. He had discussed the structural capability of the foundation in regards to

supporting a second story. Mr. Meringa is checking on the situation, and if the foundation cannot support a second story, he would then propose to build a new two story building on the same foot print. Staff supported the variance request and formulated Finding of Facts for the Board's consideration.

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

A motion was made by Postema and seconded by Lomonaco that the request for a variance in application no. V120245 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 is a unique and very small existing parcel. The owner seeks to add a small second story to the existing building pursuant to analysis of structural capacity. A second option, if necessary, is to demolish the existing structure and construct a new two story building on the same foot print. The parcel will be functional for its proposed modest office use.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because it will allow for a modest amount of additional building area without impacting additional lot coverage. The architectural design proposed should just fit well with conceptual discussions for structures along the Division Ave. corridor.
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 improvement/new construction enhances adjacent land values. Street congestion is not an issue in this case. Off street parking will be provided.
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 its historical small parcel and building size.

Dykhouse asked if paving will be required.

DeLange said the site would need a minimum of one parking space per 200 square feet gross floor area.

Dykhouse asked if landscaping would be required.

DeLange answered that since it was an existing building, landscaping was not required.

Motion carried:        7 Yeas            0 Nays (Resolution #5347)

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There were no public comments at the meeting.

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

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Canda Lomonaco  
Secretary

CL:cb