

These minutes are subject to formal approval by the Wyoming Zoning Board of Appeals at their regular meeting on December 17, 2012.

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

December 3, 2012

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

Members present:     Beduhn           Dykhouse       Lomonaco       Palmer  
                          Postema          VanderSluis    VanHouten

Other official present:       James W. DeLange, Chief Building Official  
  Tim Cochran, City Planner

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

Motion carried:       6 Yeas           0 Nays (VanHouten abstained)

PUBLIC HEARING:

Appeal #V120249                   P.P. #41-17-22-103-007  
Deb Lyon  
3646 Wyoming Ave. S.W.  
Zoned R-2

The application requesting a Use variance from City Zoning Code Section 90-9 and 90-96 regulating home occupation business in residential zones; to allow proposed single station pet grooming business (B-1 zone); to operate in a portion of a single family home located in a R-2 single family zone district was read by Secretary Lomonaco. A letter from the applicant in support of her variance was also read. One letter from Kathryn Rood, 3640 Wyoming Ave., and one e-mail from 3658 Wyoming Ave., both in opposition to the variance request were also read.

Chairman VanderSluis opened the public hearing.

Deb Lyon, 3646 Wyoming Ave. S.W., explained she would only groom dogs a couple days a week, starting at 9 A.M. and ending at noon. There will be no problem with parking. The dogs would be dropped off in the morning, and picked up later. They have a fenced in back yard where the dogs can be kept or she can keep them in her basement. She can make more money working a couple of days in her home then working full time elsewhere.

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

DeLange said staff had looked at the request. The lot is modest in size and has a shared driveway with each owner having approximately 8'. This could limit parking. The property

does maintain its previous home occupation use which had been a hair salon. The applicant's request is the sole driving force for the variance request. The property is not unique. Staff recommended the variance be denied.

A motion was made by Dykhouse and seconded by Lomonaco that the request for a variance in application no. V120249 be denied accepting staff's Finding of Facts.

Beduhn noted the Board had granted a dog grooming business previously.

DeLange acknowledged there had been a dog grooming business granted on Palm Dale. (Editorial Note: records indicated 5277 Cottondale had received a variance for a dog grooming station.) He remembered it had a larger lot with a large private driveway. Certain conditions had been made on the variance including no outside storage of dogs, no boarding and time limitations.

Postema also thought there was a limit on the number of dogs.

Beduhn asked if the City had received any complaints for that variance.

DeLange was not aware of any complaints.

Motion carried:           6 Yeas           1 Nays (Beduhn)

REQUEST FOR RECONSIDERATION:

Appeal #V12-0247           P.P. #41-17-11-203-004  
Daniel Lynema  
1066 Burton St. S.W.  
Zoned B-1

The application requesting a Use variance from City Zoning Code 90-682 regulating non-conforming lots and buildings to allow a one unit residential apartment located on the second floor of a business in a B-1 (90-366) zone district on a sub-standard lot (90-893); minimum lot width 65' required 24' existing, minimum lot area 6,500 square foot required 3,282 square feet existing had been denied at the November 19, 2012 Zoning Board of Appeals. The applicant had submitted a written request for reconsideration. The Board took several minutes to review the previous ZBA meeting minutes and Mr. Lynema's letter written request.

A motion was made by Dykhouse and seconded by Palmer that the request for reconsideration of application no. V12-047 be granted.

Motion carried:           4 Yeas           2 Nays (Beduhn, Lomonaco)(Van Houten abstained)

Mr. Lynema did not think staff's finding of facts were true to the request. There are other mixed uses in the neighborhood, though not on the same block. He said there was adequate parking, as he owned adjacent two parcels, and the building shared parking with the pharmacy by way of agreement. The building had been originally constructed with an

apartment. The previous apartment had been sealed about 1983 because the apartment did not meet code and the previous owner did not want to renovate it.

Dykhouse asked Cochran to respond to the question of future Zoning codes.

Cochran explained his earlier comments on changes to the Zoning code regarding mixed uses. Currently there is discussion regarding 28<sup>th</sup> St. between Clyde Park and Burlingame. The discussion involves Form Based Codes and a mixture of uses, such as commercial, health care, offices or residential live/work units. It is pretty clear the area can no longer be sustained by only retail use. Other areas of the City will also be considered for this, such as Division with the Bus Rapid Transit, Burton, Chicago Dr. and Porter. It is a public process involving a lot of conversations, and it will take time to work through it.

Dykhouse had not known about the other mixed uses i.e. retail/apartment in the area at the previous meeting. Also he was not aware Mr. Lynema owned the adjacent property, and he felt parking would not be an issue.

Chairman VanderSluis recalled staff did not cite parking as a reason to deny the variance in staff's recommended Finding of Facts. As for the other uses, while the Board did not know the history behind the zoning, the fact they exist may not have a bearing on the property in question. The uses may have pre-existed any Zoning changes. He questioned staff on the non-conforming use status of other apartments mentioned.

DeLange said the Zoning Code had large changes in 1978 or 1979. The apartment/retail uses probably were in existence prior to the change, and if the use continued would be grandfathered as legal nonconforming.

VanderSluis asked if the other apartments were vacated, could they possibly require future variance applications to be re-instated.

DeLange noted that under the current Zoning code language, they would lose their non-conforming use status if vacant for over one year. Variance consideration would be needed after that unless the Zoning Code allowed those uses at that time.

A motion was made by Lomonaco and seconded by Beduhn that the Board's denial of a variance for application no. V12-0247 be reaffirmed.

Motion carried:        7 Yeas        0 Nays

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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