AGENDA

WYOMING ZONING BOARD OF APPEALS

CITY COUNCIL CHAMBERS

March 7, 2016

1:30 P.M.

1. Call to Order

2. Roll Call

3. Approval of Minutes

4. Public Hearings:

Appeal #V160003

Applicant: Stacy Brown-O'Dell
Location: 5387 Canal Ave. S.W. (Zoned ER)

Request: The petitioner requests a variance from the City of Wyoming Zoning Code as follows:

Zoning Code Section 90-41 requires properties to abut public street right-of-ways. The petitioner proposes to divide the 7.19 acre acre property into two parcels, with a rear parcel of 2.45 acres without street frontage. Access would be provided through an easement. The requested variance is to allow a parcel to be created that does not abut a public right-of-way. P.P. #41-17-31-101-007

Tabled _____ Closed _____
Granted _____ Denied _____
Motion by _____
Seconded by _____
Yeas _____ Nays _____

Appeal #V160004

Applicant: Gezon High LLC
Location: 1045 Gezon Parkway (Zoned RO1)

Request: The petitioner requests a variance from the City of Wyoming Zoning Code as follows:

Zoning Code Section 90-893 Nonresidential Districts requires properties in the B-3 Planned Business District to be a minimum of 5 acres. The petitioner proposes to divide the 6 acre property into two parcels of 2.7 acres and 3.3 acres. The requested variance is to allow two parcels to be established that are 2.3 acres and 1.7 acres below the minimum 5 acre B-3 District requirement. P.P. #41-17-35-258-001

Tabled _____ Closed _____
Granted _____ Denied _____
Motion by _____
Seconded by _____

Yeas _____ Nays _____

Appeal #V160005

Applicant: Jay Farlin
Location: 835 Canterbury St. S.W. (Zoned R-2)

Request: The petitioner requests variances from the City of Wyoming Zoning Code as follows:

Zoning Code Section 90-891 Residential Districts requires residences in the R-2 Single Family District to have a rear yard setback of 35 feet, a side yard setback of 7 feet, and maximum lot coverage of 35%. In addition, Zoning Code Section 90-45 (5) requires accessory buildings to be a minimum of 10 feet from the residence. The petitioner constructed an addition and decking to the residence without permit. The addition and decking resulted in a rear yard setback of 28 feet, a sideyard setback of zero, and lot coverage of 39%. Also, the addition comes to 3 feet from the garage. The requested variances are to approve a reduced rear yard setback of 28 feet (35 feet required), approve a side yard setback of zero feet (7 feet required), approve a lot coverage of 39% (35% required) and a separation of 3 feet (10 feet required) from the residence to the garage. P.P. #41-17-14-226-018

Tabled _____ Closed _____
Granted _____ Denied _____
Motion by _____
Seconded by _____
Yeas _____ Nays _____

Appeal #V160006

Applicant: Diesel Injection Service, LLC
Location: 440 54th St. S.W. (Zoned I-2)

Request: The petitioner requests a variance from the City of Wyoming Zoning Code as follows:

Zoning Code Section 90-893 Nonresidential Districts requires properties in the I-2 General Industrial District to have a minimum front yard setback of 25 feet. The petitioner proposes to construct a 316 square foot addition to the front of the existing building that would have a 17 foot setback. The addition would align with the existing front building wall which has a nonconforming front yard setback of 17 feet. The requested variance is to allow a reduced front yard setback of 8 feet from the required 25 feet for the proposed addition. P.P. #41-17-36-177-012

Tabled _____ Closed _____
Granted _____ Denied _____
Motion by _____
Seconded by _____
Yeas _____ Nays _____

5. Public Comment:

6. New Business:

Application No.:	V160003	**STAFF RECOMMENDATION**	
Applicant:	Stacy Brown-O'Dell	**Approve:**	X
Address:	5387 Canal Avenue, SW	**Deny:**	

FINDINGS OF FACT SHEET

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 petitioner has a single family home on a large 7.19 acre estate parcel. They desire to split the property into two parcels of 4.74 acres and 2.45 acres to allow for a second residence to be constructed on the proposed rear parcel. The minimum parcel size for the ER Estate Residential District is two acres. The proposed rear parcel does not have frontage on Canal Avenue and would be served by a recorded access easement through the front parcel. The property has approximately 250 feet of frontage along Canal Avenue with a minimum 150 feet of lot width required. Because the rear parcel would not have street frontage, a variance from the Board of Zoning appeals is required.

The property is exceptional because it is unusually large within this district and is underutilized with one residence. The petitioner has conducted a wetland determination (see attached) for the property which substantiates a viable building site served by a well and septic field on the proposed rear parcel. In addition, they have verified with the Fire Department the required alignment and upgrade necessary to the driveway to service two homes. Approval of the requested variance is conditioned upon provision to the Building Inspections Department of a recorded perpetual access easement serving the rear parcel and compliance with the Fire Department requirements for enhancement of the driveway serving the two parcels.

2. That such variance is necessary for the preservation and enjoyment of substantial property rights because:

The authorization of the requested variance allows for a reasonable use of this large property. The variance provides for the preservation and enjoyment of substantial property rights.

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 authorization of the variance will have no impact on adjacent land or on traffic. The two proposed parcels will be of similar size to many of the nearby parcels.

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 proposed additional home site is unique due to the size of the property and the limited street frontage. Such a situation does not make practicable the formulation of a general regulation.

Application No.:	V160004	**STAFF RECOMMENDATION**	
Applicant:	Gezon High LLC	**Approve:**	X
Address:	1045 Gezon Parkway, SW	**Deny:**	

FINDINGS OF FACT SHEET

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 petitioner has constructed a 26,000 retail center on the eastern half of this 6 acre property. They desire to construct a companion retail center of approximately 20,000 on the balance of the property. They request a variance to split the overall property into two parcels of 2.7 acres and 3.3 acres. A minimum of 5 acres is required for properties in this B-3 Planned Business district.

The overall site, including the RO-1 Office zoned and developed property to the rear, was zoned, master planned, and constructed to accommodate two commercial centers and the office building. Shared access easements are in place for all properties to Gezon Parkway and Palmer Hills Drive. Due to this comprehensive development plan, the property is exceptional in its intended use that distinguishes it from other properties in this B-3 zoning district. The authorizing of the variance will not result in any visual change to the planned development of the overall site.

2. That such variance is necessary for the preservation and enjoyment of substantial property rights because:

The authorization of the requested variance allows for a reasonable use of this large property. The variance provides for the preservation and enjoyment of substantial property rights.

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 authorization of the variance will have no impact on adjacent land or on traffic. The overall property is 2/3's developed, with the undeveloped area master planned for a retail center. Access to all properties has been coordinated.

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 proposed parcel split allows the developer to simplify financing for the second commercial phase while maintaining the integrity of the overall master planning for the site. Such a situation does not make practicable the formulation of a general regulation.

Application No.:	V160005	**STAFF RECOMMENDATION**	
Applicant:	Jay Farlin	**Approve:**	X (one of four)
Address:	835 Canterbury Street, SW	**Deny:**	

FINDINGS OF FACT SHEET

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 petitioner has constructed a four season room, with decking to the rear and side of the property, without permit. This was an expansion of an addition authorized by permit in 2013. The property abuts single family homes to the east and west, with a large parking lot for Rogers Plaza to the north. The new addition and decking has resulted in noncompliance with four Zoning Ordinance requirements:

a. Required rear yard setback of 35 feet with 28 feet provided from the deck.
b. Required side yard setback of 7 feet with zero feet provided from the deck.
c. Required maximum lot coverage of 35% with 39% provided.
d. Required accessory building setback of 10 feet with 3 feet provided.

The property abuts single family residences to the east and west, with the Rogers Plaza parking lot to the north. Staff is most concerned with the separation between the two stall garage and addition as this is a safety issue. The petitioner has offered if necessary to remove one stall of the garage to provide the required separation. Staff recommends denial of the accessory building setback variance, which would probably result in removal of the garage stall and the roof over it.

The decking in the side yard is raised and overlooks the adjoining property. Staff recommends denial of the side yard variance. This decking should be removed, leaving the building wall with the required 7 foot side yard. The removal of the side yard decking, and one garage stall, would bring the lot coverage to below the required 35%.

Staff supports the variance for the rear decking as it is oriented to a parking lot and has no direct impact on that property. This is the exceptional condition applicable to the property. If the rear decking remains, the four season room and decking may need to be modified to incorporate a desired ramp as described it the petitioner's letter. Plans, permits and inspections will be required for all unauthorized work and any subsequent modifications.

2. That such variance is necessary for the preservation and enjoyment of substantial property rights because:

The authorization of one of the four requested variances (rear yard setback) allows the property owner to maintain much of that constructed without permit. These provide for the reasonable expansion and enhancement of this property. The variance provides for the preservation and enjoyment of substantial property rights.

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 authorization of the one variance (rear yard setback) will have no impact on adjacent land or on traffic. The other three requested variances (accessory building setback, side yard setback and lot coverage) would be of detriment to adjoining properties. The overall investment on the property will be of benefit to nearby properties.

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 requested rear yard setback exceedance is not general or recurrent in nature. Such a situation does not make practicable the formulation of a general regulation.

Application No.:	V160006	**STAFF RECOMMENDATION**	
Applicant:	Diesel Injection Service, LLC	**Approve:**	X
Address:	430 - 54th Street, SW	**Deny:**	

FINDINGS OF FACT SHEET

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 petitioner has an existing Industrial use which is connected and located on two adjoining properties. The eastern portion of the building has a nonconforming front yard setback of 17 feet, which is 8 feet below the required 25 foot setback of this I-2 General Industrial district. The petitioner proposes to construct a modest 316 square foot addition to the front of the west side of the building as part of the overall improvement to the appearance and function. The addition would align with the existing 17 foot building setback. A landscaped greenbelt will be installed replacing pavement along 54th Street. The entire front building façade will also be improved. The alignment of the small building addition with the existing building wall is an exceptional circumstance which is generally not applicable to other properties in this I-2 district.

2. That such variance is necessary for the preservation and enjoyment of substantial property rights because:

The authorization of the requested variance allows for the reasonable expansion and enhancement of this property. The variance provides for the preservation and enjoyment of substantial property rights.

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 authorization of the variance will have no impact on adjacent land or on traffic. The overall enhancement of the property will be of benefit to nearby properties.

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 modest expansion of the building conforms with the overall building front yard setback. Such a situation does not make practicable the formulation of a general regulation.