

These minutes are subject to formal approval by the Wyoming Zoning Board of Appeals at their regular meeting on August 19, 2013.

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

July 15, 2013

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

Members present:    Beduhn            Burrill            Dykhouse        Palmer  
                                 Postema            VandenBerg    VanderSluis

Other official present:        Tim Cochran, City Planner

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

Motion carried:        7 Yeas            0 Nays

A motion was made by Postema, and seconded by Palmer to approve the minutes of the July 1, 2013 Board of Zoning Appeals meeting.

Motion carried:        7 Yeas            0 Nays

PUBLIC HEARING:

Appeal #V130027                    P.P. #41-17-02-255-009, -010, -011, -012, -013, & -025  
Williams & Works  
1115 Chicago Dr. S.W.  
Zoned B-1

The application requesting a greenbelt of 8.4 feet on Chicago Drive and 7 feet on Freeman and Rathbone and Menu boards within 100 feet of residential district and visible from the public streets is proposed was read by Acting Secretary Burrill. Greenbelt requirement is 25' along Chicago Dr. and 10' along Freeman Avenue and Rathbone Street. (Ordinance sections 90-893 and 90-894 (6) and (Ordinance section 90-799-2)

Chairman VanderSluis opened the public hearing.

Jeff Brinks, Williams and Works explained there have been many meetings with the City regarding this project as well as including the Planning Commission and City Council. These have included site plan approval and vacation of an existing alley. This final request involving the Zoning Board of Appeals addresses the greenbelt area and the menu boards. They have done as much as they could to minimize any negative impact on the surrounding area. There is screening to negate any visual impact. The sound level for the menu boards is pretty low. Even with the variance, the proposed landscaping is an improvement. Unfortunately, to meet other requirements such as fire lanes and site access, the greenbelt landscape has to suffer. However, the greenbelt will be closer to 9 – 9.5' of effective landscaping even though the variance is asking for a reduction to 7 feet,.

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

Cochran noted this project has taken a considerable amount of time. Properties to at least 600' of the proposed site lot lines have been notified. The neighborhood has been supportive. There has been rezoning of the properties and vacation of the alley. The Planning Commission as well as staff have spent a considerable amount of time on the site plan. This variance request is the last step to get the project authorized. Even though McDonald's has acquired six properties, seven including the alley, the lot is still a tight fit. The north side of the property will be especially landscaped and fenced. There will monument signs instead of pole signs. Staff supported the variance request, and proposed the following 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 proposed McDonald's involves the combination and redevelopment of six properties, and the relocation of a public alley. Five buildings will be removed. The project has obtained rezoning from the City Council with special use and site plan approval from the Planning Commission. McDonald's is proposing a standard drive-through restaurant with its related functional needs. Configuring the redevelopment onto the confines of the properties has resulted in the need for the greenbelt and menu board variances.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because McDonald's is entitled to reasonable use of the property. Considerable effort and expense will occur in acquiring the properties, removing the buildings, and relocating the alley. The development of a restaurant, which incorporates the variances, is necessary for a suitable return of these actions. The ability to redevelop obsolete properties, which enhances the community, is the preservation and enjoyment of a substantial property right.
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 public hearings for both the rezoning and special use approval considerations were noticed extensively throughout the surrounding area. The clear majority of those who spoke were in favor of the redevelopment project. Care has been taken to design the property with careful attention to building placement, driveway locations, extensive landscaping, fencing and lighting to integrate the development into the adjoining neighborhood. The project will be an enhancement to the surrounding area. A traffic impact analysis prepared for the project demonstrated no undue increase to traffic congestion.
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 redevelopment project is unique due to the six properties acquired, necessary alley relocation and the restaurant's design requirements. These conditions and situation are not of so general or recurrent a nature to make practicable the formulation of a general regulation.

A motion was made by VandenBerg and seconded by Burrill that the request for a variance in application no. V130027 be granted accepting staff's Finding of Facts.

Dykhouse asked if the lighting on the west side by the dumpster would affect the house across the alley.

Postema answered that the Planning Commission stipulated that there be zero foot candles at the property line. Mr. Brinks did not know if the current plan had lower lights or were shielded but the stipulation would be met.

Dykhouse then had a concern about graffiti. Cochran said McDonald's would have to address any graffiti. City staff believes that the added activity from McDonald's would reduce graffiti action.

Dykhouse asked if this site had more parking than a previously proposed McDonald's on S. Division.

Cochran noted while there was not more parking than a previously proposed site on S. Division, the City had recently changed their formula for parking from the square footage of a building to its occupancy load.

VandenBerg asked if the alley would be lighted. Cochran responded that McDonald's was not responsible to light the alley.

Motion carried:        7 Yeas            0 Nays (Resolution #5539)

PUBLIC HEARING:

Appeal #V130028                    P.P. #41-17-02-454-045  
Roberto Flores Amaro  
1961 Godfrey Ave. S.W.  
Zoned B-1

The application requesting an eighteen foot five inch setback for a walk-in cooler was read by Acting Secretary Burrill. City Ordinance section 90-44 requires a 20 foot setback for mechanical appurtenances from adjoining properties.

Chairman VanderSluis opened the public hearing.

There being no one present in regards to this variance request, Chairman VanderSluis closed the public hearing.

Dykhouse said traditionally the Board would deny any variance where the applicant or his representative was not present.

VanderSluis understood the reason why the Board would deny the variance, however he thought the variance request was simple enough that no further explanations would be required of the applicant. The applicant had paid his fee, and staff was ready to state their

case so the applicant has taken his chances on having the Board deny the request if the Board had any concerns.

The Board requested staff to state the City's position.

Cochran said staff recommended approval. There had been a previous variance for a cooler in the side yard. This location is more appropriate. The reduced setback is along an alley that does not continue farther. Staff would request one condition be placed on the variance, and that is that the existing dumpster be enclosed.

A motion was made by Burrill and seconded by Postema that the request for a variance in application no. V130028 be granted with the stipulation the dumpster be enclosed, 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 property's rear property line abuts an alley which has a commercial building and several garages located immediately adjacent. The proposed location of the cooler will be significantly farther away from the alley than those structures.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because the proposed cooler will be an asset to the business.
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 cooler is proposed appropriately in the rear yard and will not be closer to the residence to the north than the existing commercial building. The cooler will be screened from the public street by the building. It will not increase traffic. As a condition of approval, a dumpster enclosure shall be constructed in conjunction with the cooler, to improve the property's appearance and not diminish the marketable value of adjoining 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 property abuts an alley that has several structures directly aligning it. The proposed cooler will be set back further from the alley than those structures. This situation is unique and is not of so recurrent a nature as to make practicable the formulation of a general regulation.

VandenBerg questioned the construction of the existing shed. Dykhouse thought a previous dumpster enclosure had been converted into a storage shed.

Chairman VanderSluis asked that staff be sure the applicant is made aware of the condition placed on the variance approval.

Motion carried:        7 Yeas            0 Nays (Resolution #5540)

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There were no public comments at the meeting.

Cochran announced that as there was no new business, the August 5, 2013 Zoning Board of Appeals meeting would be canceled.

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Canda Lomonaco  
Secretary

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Char Bell  
Recording Secretary