



BOARD OF ADJUSTMENT MEETING MINUTES

MARCH 26, 2020
6:00 P.M.

Stefanie Boster (Chair) called the meeting to order at 6:09 p.m.

MEMBERS PRESENT: Stefanie Boster (Chair), Michelle Garcia, Swede Nelson, Kevin Schwaiger, Tony Laird, Trent Carroll, and L Cooper Overstreet (Board Attorney)

MEMBER ABSENT: Brian Fenimore

QUORUM PRESENT: Roll Call was taken; a quorum was present.

CITY STAFF PRESENT: Charles Bloom (Planning and Development Director), Lisa Pafford (Deputy Director), Connor White (Planner), Stephanie Lowe (Planner II), Alessandra McCoy-Fakehman (City Attorney)

OTHERS PRESENT: Ben Floyd, Irene Cook, Lindsay Simineo, David Klindck, Linda Klink, John Bonomo

APPROVAL OF MINUTES: February 20, 2020

Tony Laird made a Motion to approve the minutes. Swede Nelson seconded. The February 20, 2020 minutes were approved unanimously 6 to 0.

Deputy Director Lisa Pafford read Item 1 into the record.

ITEM 1: [Postponed from the December 18, 2019 meeting].
UDC-19-00669-01: Conditional Use approval request to allow Wireless Telecommunications Antennas on an existing billboard in a CB Community Business zone, pursuant to Section 5.8.1.d.2.(b)(2) of the Unified Development Code for Lots 1 & 2, East 4th Lot 3, Block 1, Lake Minnehaha Addition, Cheyenne, WY.

LOCATION: 2543 E. Lincolnway

Applicant-Agent: Irene Cooke, agent on behalf of Verizon Wireless

Connor White presented the staff report.

Mr. Nelson asked if there was language for the motion; Mr. White clarified that it was at the end of the staff report.

Chair Boster opened the meeting for Public Comment.

Irene Cook, the agent on behalf of Verizon Wireless, presented her presentation. Mr. Laird asked the reason why the billboard owner wants the antennas to start 8' above the billboard; Ms. Cook stated that it's just their requirement. Mr. Laird stated the previous regulations allowed for the antennas 30' above the structure and the original plan was something along those lines, but what was the difference in design then; Ms. Cook answered the design has not changed. In consultation with staff, they all agreed that three antennas in the canister was the best way to minimize visual impact and that design has not changed; the only change in this is to move the equipment from beneath the billboard where it was originally approved

to behind the restaurant, where Mr. White showed, as well as the new height waiver not being requested.

Having no other questions from the Board of Ms. Cook and no other comments from the public, Chair Boster closed the Public Comment period.

Mr. Nelson made a Motion to approve the condition use of a new wireless communication facility in the CB Community Business zone atop the existing billboard and the exemption to the standard in Section 5.8.1.f.17 to allow the antenna to extend 15-feet above the existing billboard at 2543 E Lincolnway, legally known as Lots 1 and 2, the East 4-feet of Lot 3, Block 1, Lake Minnetaha Addition, Cheyenne, Wyoming; Michelle Garcia seconded.

RESULT: There being no further comment by the Board, the motion passed by a unanimous 6-0 vote.

Ms. Pafford read Item 2 into the record.

ITEM 2: [Postponed from the February 20, 2020 Board Meeting.]
UDC-19-00689: Variance request to reduce the required corner lot street side setback from 10-feet to 0-feet for a 6-foot high fence in a MR Medium-density Residential zone, pursuant to Section 5.8.4.a Table 5-9: Fence Height Limits of the UDC for Lot 1, South 22-feet of Lot 2, Block 1042, Capital Heights Addition, Cheyenne, WY.

LOCATION: 4000 Bent Avenue
Applicant and Owner: Wendy Volk (not present)

Mr. White stated the applicant has withdrawn the application.

Ms. Pafford read Item 3 into the record.

ITEM 3: UDC-20-00060: Conditional Use approval request to allow a Limited Office Use in the MR Medium-density Residential zone, pursuant to Section 5.1.4 Table 5-1: Zoning District Uses of the UDC for the South 90-feet of the East 44-feet of Lot 8, Block 47, City of Cheyenne, Cheyenne, Wyoming.

LOCATION: 122 East 27th Street
Applicant and Owner: Lindsay Simoneo

Mr. White presented the staff report. Chair Boster asked what other business operate in this block; Mr. White couldn't recall the exact businesses off the top of his head, but did pull up a map of the area and stated he believed the applicant has that information in her presentation.

Chair Boster opened the meeting for Public Comment.
Lindsay Simoneo presented her presentation. Ms. Simoneo provided a map showing her location as well as other businesses in the neighborhood: Hi-County Insurance on the northwest corner of the same block, ERA on the block to the south, SecOp Securities is also a block to the south, Ameriprise Financial is to the north of this property. She stated that a case can be made that this is something that has happened in this neighborhood already. There is also mixed-use zoning close to the property to the north as well as a block to the south. Ms. Simoneo continued. Mr. Nelson asked if this is a counseling service; Ms. Simoneo answered yes. Mr. Nelson asked if her parking will be minimum requirement; Ms. Simoneo answered yes, and those who do come to the office, leave on the hour all day. Neither Ms. Simoneo or her partner practices

past 6 pm.

John Bonomo lives in the house next to this one, 116 E 27th Street is his address. He stated that parking presented is not an accurate representation of the parking, because of the quarantine the school district is not at full staff and other businesses in the area are not either. The parking can ebb and flow and it does affect parking on the street. Warren and Central do have other businesses located on them, but 27th Street itself does not. He and his wife get off work between 3-4 pm which is also when school's get out, so during operational hours [of this business] children will be at home between 3 and 6 pm, as well as during the summers children will be in the neighborhood during office times. Mr. Bonomo read a prepared statement. Mr. Bonomo's major concerns are about the nature of the business and the safety of his family and others in the neighborhood. There is also concern about the desirability of future possible owners of his house and not being able to resell it when they want to move.

David Klink lives at 108 E 27th Street. Mr. Klink confirmed what his neighbor spoke to, no there are not other businesses that operate on this street, but there are on Warren and Central further away. He read a prepared statement. Mr. Klink speaks against this commercial intrusion in this historical neighborhood. He addressed the Planning staff review criteria item 3, "property is most suited for residential use as it has been since 1920." This is 100 years of residential use and this change shouldn't be taken lightly. Item 4 regarding parking, he wants to affirm that there is no off-street parking available at this site, there is a garage but there is also a rule that you can't back out on Warren. Item 5 states "the review is intended to protect neighborhood character and to protect primary use of land." Please protect the intent of the original use of the property. Item 6, "the area is planned to remain residential." Again, the intent of this item is to remain residential. Item 7 states "the area is classified as residential and access is not intended for commercial use." This is reported by the WYDOT concerning street access to the residences on the block. Item 8, Mr. Klink's comment is that he disagrees with staff assessment that there are no anticipated impacts to public safety. We live in age of violence in neighborhoods and public places and the presence of persons with history of abnormal mental health in this neighborhood is frightening. His neighbor's children play on the sidewalks and around the block and there is concern for their health and safety. Mr. Klink also believes there is a greater need for residential housing than commercial spaces. Chair Boster asked if there is an alley behind these homes on either side of 27th Street; Mr. Plink said there is an alley behind the properties that face 27th Street, but the question about the property at 122 does not have access to that alley due to another home adjacent to the north, across the street on 27th, none of the homes face the street, there is an alley from north to south in the center of the block so that the people on Warren and Central have access. Ms. Garcia asked how long has Mr. Plink has lived at this residence; Mr. Plink answered almost 5 years. Ms. Garcia asked if he has a garage; Mr. Plink answered yes he does, it's an old single-car garage which cannot fit the pickup so he has to park out front on the street.

Ms. Simineo responded to the issue of safety; her current practice location is in the Majestic building downtown. Her clients are always in the public realm and there has never been a safety issue, she has never called police or ambulance. Majority of her clients are under the age of 18. The other counselor also sees children and adolescence. Regarding the historic nature of the homes, Ms. Simineo has zero plans of putting a sign out front to advertise the business. Instead she wants to name the house and is researching the history of the house to find out who the original owner is, looking to name the house after the original owner. The sign will then state the original owner. She has seen Jenkins the most, but also have thought about the Cottonwood House has come up a lot because of the area. Ms. Simineo bought the house in 2005, before she got married, and it was the first house they lived in. They moved out in 2015. They have attempted to sell property, but it is very unattractive to residences due to corner street and there is no backyard. Did rent it, but the house has seen significant damage due to renters that were there. They do believe that to put significant money into the house and moving her practice there, is the best thing to ensure historic nature of the home. They live in another historic house nearby because they love historic homes. Putting \$50,000 in this house to preserve the house, to ensure that the historic nature of the home meets with the neighborhood.

John Bonomo reiterated that Mr. Klink also hit on this, but when Ms. Simineo mentioned that her business

is by the Paramount, people are choosing to go out there, but the homeowners have no choice but to be exposed to the clients she sees. Mr. Boromo is glad that Ms. Simineo wants to maintain the historic nature of her house, but his concern is the nature of the neighborhood and how that will be impacted as well as make his house less desirable.

Chair Boster asked Ms. Simineo if she would be interested in posting the application; Ms. Simineo said she would consider postponement since the quarantine has delayed work on the house. Mr. Carroll asked how many clients would be at that property at any given time; Ms. Simineo answered that it would be two at any given time, one for each business partner, and if the clients are under the age of 16 then it would be two and their parents. Mr. Carroll is curious if there is public parking on the east side of Warren; Ms. Simineo answered yes it is public parking, traditionally it is open but the [School] district does use it from time to time. Mr. Carroll stated that there is quite a bit of parking on 27th Street across from Warren, against the school's parking lot; Ms. Simineo believes that is correct, on the east side of Warren there is residential on the south side of 27th Street. Ms. Garcia asked if Ms. Simineo has looked for an office; Ms. Simineo has an office that she loves in the Majestic, but they were renting this house to family and it didn't go good. When they were evaluating this situation further, it was the believe that it is the best option instead of renting to someone who is unknown and her paying rent elsewhere, it is the most beneficial for her to move her business into this property. Ms. Garcia asked if she could live in the property; Ms. Simineo stated that the property is currently empty, they asked the current tenant to move out, November of last year. Since then been slowing getting bids to repair the house and doing research to understand how to best historically restore the house.

Linda Klink lives at 108 E 27th Street. Her and her husband bought this property five years ago. She spoke to how this neighborhood is meant to be residential, as it's zoned that way on purpose.

Having no other questions from the Board of Ms. Simineo and no other comments from the public, Chair Boster closed the Public Comment period.

Ms. Garcia stated that she used to live in this neighborhood, there has been a lot of times where there is some kind of event at Storey Gym and parking was unbelievable. She had a one car garage driveway that she had and most of those houses in that district, sometimes they do have garages, sometimes they don't. Majority of residences do have to park on the street. Really leery on approving this motion, living in that area, it was so hard to park and if you don't find a parking space, you have to wait a couple hours at the coffee shop.

Mr. Laird moved to approve the conditional use to allow a limited office use in the MR medium-density residential zone located at 122 E 27th Street, legally known as the South 90-feet of the East 44-feet of Lot 8, Block 47, Cheyenne, Wyoming; seconded by Mr. Carroll.

Chair Boster stated that she lives at 2612 Central Avenue, about a block away, so she is familiar with the trouble of the neighborhood, and parking is an issue. From the Hathaway Building all the way to Pershing and beyond is a concern [for parking]. She hears issues from neighbors regarding parking and increase in traffic. Mr. Laird wanted to back track to process question, Chair Boster asked the applicant if she was interested in postponing and that we barely had a quorum so would need an unanimous vote tonight; Chair Boster deferred to staff. Director Bloom asked staff to confirm. Ms. Pafford has roll call and there are six members present and it would take a vote of four affirmatives to pass the motion, so it would be four to two to get a passed motion.

Mr. Nelson stated that he is concerned about 'business creep' that comes into a neighborhood, you see one home with a soft business use of the property and the next thing you know there is another home and another and over the years, the neighbors are right, before too long you've lost the charm of the historic neighborhood. Even though it isn't in the regulations, it's very hard to identify and put a value to it, but there is something to be said about those things that you cannot put into compliance and those

types of things. A block south of there that they are remodeling the Herschler building, which has always had parking problems. Both the Herschler and the School District are putting pressure on the neighbors for parking problems. Going to be voice of the wilderness, that even though you see compliance on all these various issues, he will stand up for some of these neighborhood values and history.

Mr. Laird stated that this is a tough one but he thinks he is going to oppose the motion. At looking at the map and exhibits, there are only six properties that face the street, and there are two property owners that have taken the time and trouble to testify tonight, they are pretty passionate against the change, not sure he completely shares the safety concern but he understands it. Thinks clearly looking at the criteria and protecting neighborhood character, primary use of land, the intent and applicability of zoning district. They are not doing that in the opinion of neighbors, the neighbors are pretty rational reasons for that. He will oppose the motion.

Chair Boster asked the Board if there is interest in postponing this matter to another evening; Mr. Nelson asked what is the reason for postponing? Chair Boster answered that it wouldn't be necessary but she wanted to gauge interest. Ms. Garcia stated that there is more than six so no need to postpone. Mr. Schwaiger wanted to comment that he doesn't see postponement changing anyone's mind.

Mr. Carroll asked the other Board members about the parking challenges, are there times of the day when parking is more difficult and would it be an issue during those hours that are on the application, 9-6, when people are home in the evening, is there a difference in traffic flow.

Mr. Schwaiger stated that he doesn't agree with "comply" on all of the criteria and the specific wording is hard in this instance. He thinks that there is the concern of the public health and safety of number 8, Ms. Simineo is bringing in a higher risk population, they are disturbed individuals that has issues, so it's hard to understand how it doesn't impact the immediate neighbors. He is trying to reconcile number 8 on the criteria, how to put that in its proper place. Regarding the integrity of neighborhood, He struggles to think that the intent of the UDC will have something come in that could negatively impact the neighbors, the two neighbors made strong cases. The parking is a nightmare down there, anytime there is an event at Storey Gym, it's overrun. Hard to say that parking is not an issue.

Mr. Laird wanted to talk more about the parking issue. Thinking about the business, Ms. Simineo lives close enough that she can walk there, but her partner would need to park there, but there might be a time period at each hour change over, where four clients are finding a place to park, two of those places would be covered for most of the rest of the hour, short term parking problem as opposed to people parking all day that work there. He doesn't know how often Storey Gym is used during the day, or don't know how often it's used even at night, doubt that's the big pressure for parking in that area most of the time. State office buildings a couple blocks away could cause considerable parking issues.

Ms. Garcia spoke to Mr. Carroll to address his question; there are no events during the day at Storey Gym, they do have events there at night, not sure what they are. She walks a lot in this neighborhood, the parking was packed with cars everywhere, it was almost impossible to even walk because traffic was so bad trying to find parking. The School District does heavily use Storey Gym even though they have other venues, she doesn't know the kind of events but it does get packed.

Chair Boster stated again that parking is an issue. There are businesses on Central and Warren north and south and traffic coming from the School District property to the east and state building to the west, a state library and church. The people that live in neighborhood constantly trying to find parking, and constant flow of traffic to the point where you have to be cautious. Regarding Criteria number 8, she does think it's a safety issue having businesses on Central and Warren. Chair Boster struggles with this, because there are businesses that currently exist on Central and Warren, and she could see how the applicant would want to add and believes there is not much impact to neighborhood. She believes that the neighborhood is at capacity with regard to businesses in what used to be a historic neighborhood without businesses.

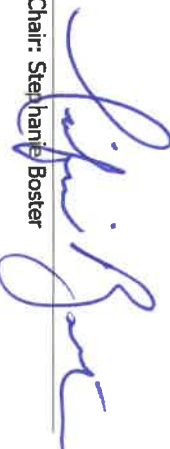
RESULT: There being no further comment by the Board, the motion failed by a unanimous 6-0 vote.

OTHER BUSINESS:

1. Mr. Nelson welcomed Mr. Carroll. Director Bloom also welcomed Mr. Carroll, would normally offer training but circumstances make it difficult.
2. Director Bloom stated that the City is looking to use Zoom for public meetings. This meeting might be using Zoom to meet next month, but he will keep the Board updated.
3. Director Bloom mentioned that the West Edge public meeting that was planned for March 25th did not occur as planned due to the quarantine situation.

ADJOURNED: 7:59 p.m.


Prepared by: Stephanie Lowe


Chair: Stephanie Boster

** Minutes are meant to provide a brief summary of the meeting's action items, discussions, and decisions made. For more detailed information, please refer to the audio recording found on the City of Cheyenne's website.*