



BOARD OF ADJUSTMENT MEETING MINUTES

AUGUST 20, 2020
6:00 P.M.

MEMBERS PRESENT: Stephanie Boster (Chair), Tony Laird (Vice Chair), Michelle Garcia, Kevin Schwaiger, Trent Carroll, Swede Nelson and Jeffrey Boldt (Board Attorney)

MEMBER ABSENT: Brian Fenimore

QUORUM PRESENT: Stephanie Boster (Chair) called the meeting to order at 6:00 pm. Roll Call was taken; a quorum was present.

CITY STAFF PRESENT: Charles Bloom (Planning and Development Director), Lisa Pafford (Deputy Director), Connor White (Planner), Alessandra McCoy-Fakelman (Staff Attorney), Anissa Gerard (Traffic Engineer)

OTHERS PRESENT: Braeden Hyde, Jessica Rehling, Kelly Cheshire, Charles Tarter, Megan Hayes, Robert Mancini, Patti Lindell, TJ Stark, Councilman Scott Roybal, Lindsey Weber, Brenda Cowley, Asha Bean, Sheila Powers, Rachael Weber, Megan Johnston,

APPROVAL OF MINUTES: July 16, 2020

Swede Nelson made a motion to approve the minutes with noted changes and Michelle Garcia seconded. The minutes were approved unanimously 6 to 0.

Director Charles Bloom read Item 1 into the record.

ITEM 1: UDC-20-00320: Conditional Use permit request to allow Outdoor Sales of UTV's in the LI Light Industrial zone, pursuant to Section 5.1.4 Table 5-1: Zoning District Uses of the UDC for Lot 3, Block 9, Grier Leech Addition, 4th Filing, Cheyenne, Wyoming.

LOCATION: 3005 Nationway

Owner: David Barnett
Agent: Braeden Hyde, Sunrise Engineering

Planner Connor White presented an overview of the proposal and staff report. Staff recommended approval of the Conditional Use request with conditions listed in the staff report.

Tony Laird asked for the zoning to be confirmed by staff. Mr. White confirmed that the existing zone on this property is split between CB and LI.

Braeden Hyde (Agent) described the proposed request.

Stephanie Boster opened the floor to public comment. Hearing none, public comment was closed.

Trent Carroll made a motion to approve the Conditional Use to allow outdoor sales with conditions as

listed in the staff report. Mr. Nelson seconded.

RESULT: The motion passed by a unanimous vote of 6-0.

Mr. Bloom read Item 2 into the record.

ITEM 2: UDC-20-00323: Variance request to allow a reduction of the street side setback to 5-feet for a new shed in the MR Medium-density Residential Zone, pursuant to Section 5.1.5.a Lot Type DD6, Accessory Building Setbacks of the UDC for Lot 1, Block 10, Sun Valley Addition, 3rd Filing, Cheyenne, Wyoming.

LOCATION: 4129 E 8th Street

Owner: Calvin Rehling
Agent: Jessica Rehling

Planner Connor White presented an overview of the proposal and staff report. Staff recommended approval of the Variance request with listed condition.

Mr. Laird asked if this lot is wider than the internal lots in the rest of the block. Mr. White stated no.

Jessica Rehling (Agent) described the proposed request.

Stephanie Boster opened the floor to public comment.

Scott Roybal, City Councilman, stated he visited the site and felt that the shed is limited in its location and is in favor of the application.

Ms. Boster closed the public comment period.

Mr. Nelson made a motion to approve the Variance request with conditions as listed in the staff report. Kevin Schwaiger seconded the motion.

Mr. Carroll stated he is in favor of the variance and stated it meets all criteria. Tony Laird stated he felt that the power lines limit the placement.

RESULT: The motion passed by a unanimous vote of 6-0.

Mr. Bloom read Item 3 into the record.

ITEM 3: UDC-20-00336: Conditional Use permit request to allow the expansion of a liquor store in the CB Community Business zone, pursuant to Section 5.1.4 Table 5-1: Zoning District Uses of the UDC for Lots 4, 5 and 6, Block 1, Dell Range Marketplace, 2nd Filing, Cheyenne, Wyoming.

LOCATION: 3806 Dell Range Blvd.

Owner and Applicant: Gino Dimarzio

Planner Connor White presented an overview of the proposal and staff report. Staff recommended approval of the Conditional Use request with conditions listed in the staff report.

Robert Mancini (Agent) described the proposed request.

Stephanie Boster opened the floor to public comment. Hearing none, public comment was closed.

Mr. Nelson made a motion to approve the Condition Use to allow expansion of the Liquor Store with conditions listed in the staff report. Ms. Garcia seconded.

RESULT: The motion passed by a unanimous vote of 6-0.

Mr. White read Item 4 into the record.

ITEM 4: UDC-20-00331 – Appeal of an Administrative decision to allow a Child Care In-Home Major in the MR Medium-density zone, pursuant to Section 2.2.5 Administrative Use Approval and Section 5.7.4 Child Care Uses of the UDC.

LOCATION: 1273 Wendy Ln.

Appellant: Charles Q Tarter, The Pointe Homeowners Association

Director Charles Bloom presented an overview of the basis for the approval granted for the administrative decision. Staff recommended affirming the administrative decision.

Mr. Nelson asked if there was an issue with the previous level of day care. Mr. Bloom stated there was no issue that we were made aware of. Mr. Laird asked Mr. Bloom to clarify if the sign was existing or not. Mr. Bloom stated the required signage has been installed. Mr. Bloom clarified that stated sign is required by code for this level of day care.

Jeffrey Boldt, Board attorney, stated this is not a contested case hearing.

Charles Tarter (Appellant) made a presentation in opposition to the approval for a Child Care In-Home Major (up to 15 children). Mr. Tarter's justification was based on covenant's recorded for the area and a safety hazard regarding traffic.

Mr. Carroll asked Mr. Tarter to clarify information provided by the Homeowners association. Mr. Nelson asked if there were steps taken to shut down the day care within the last 12 years. Mr. Laird asked if Mr. Tarter if he agrees that the City does not have any authority over covenants. Mr. Tarter agrees that the City cannot enforce covenants.

Stephanie Boster opened the floor to public comment.

Brenda Cowley, Homeowner association board member, discussed the issue with the traffic complaints. Ms. Cowley also stated that the required signs were just recently installed but do not comply with the covenants. Megan Hayes stated there is traffic blocking the mailboxes. Ms. Hayes stated the traffic is increased at the same time the kids are loading or unloading from the school buses. Sheila Powers is associated with the property management company that reviews the covenant enforcement for the

Homeowners association. Ms. Powers stated that she viewed 3 violations by this property owner regarding the area covenants.

Patti Lindell, property owner, provided the history of her use of a childcare at this location. Kevin Schwaiger asked if Ms. Lindell has proof from the other management company 12 years ago. Mr. Laird asked how many employees are working at this location. Ms. Lindell stated one.

Megan Johnston, daycare client, called into question about the violations viewed today by Sheila Powers. Mr. Johnston stated they park in the driveway and enter thru the garage door. Ms. Johnston stated she has been a customer for over 10 years. Justin Johnston stated that he drops off his kids 90% of the time and has not run into another parent or parking issue at the property. Ms. Garcia asked how long they have been using that daycare. Mr. Johnston stated it has been over 10 years.

Lindsey Weber commented that "Patti's daycare is an amazing and established daycare and as a member of the neighborhood I believe it is a wonderful part of our neighborhood! with her being on a corner lot there is plenty of parking space and I have never felt crowded driving past each morning during drop off time."

Rachael Weber stated she has lived in the area for two years and feel that she has never seen more than two cars across the street at the daycare.

Asha Bean, area resident, stated she is a client of the daycare for the last year. Ms. Bean stated she has noticed pedestrian traffic as any neighborhood does. Ms. Bean has not viewed any traffic concerns.

Kelli Cheshire stated she works for Patti for the last year. Ms. Cheshire stated that the driveway is hard to see to back out, even with a back-up camera.

Justin Johnston stated that the snow is always removed from the daycare residence.

Mr. Bloom pointed out that this is an appeal of an administrative decision and determination if staff has made a clear error. The office has several criteria that need to be evaluated and have been. Mr. Schwaiger asked if staff can look at the character of the neighborhood and where people park. Mr. Bloom stated that the applicant only must demonstrate the parking is available.

Ms. Boster closed the public comment period.

Mr. Carroll made a motion to affirm the administrative decision for the Child Care. Mr. Nelson seconded.

Mr. Schwaiger stated that Criteria 2 would be in question in his mind. Mr. Schwaiger asked for Board members to provide their comments. Mr. Nelson stated he support the day care. Ms. Garcia agrees.

RESULT: The motion was approved by a vote of 4-1 with Mr. Schwaiger voting no and Michelle Garcia unavailable to vote.

OTHER BUSINESS: Mr. Charles Bloom, Planning & Development Director, informed the Board that we rolled out our new template for staff reports and ask for any input from the Board.

ADJOURNED: 8:15 p.m.



Recording Planner: Lisa Pafford



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.*