



BOARD OF ADJUSTMENT MEETING MINUTES

NOVEMBER 19, 2020
6:00 P.M.

- MEMBERS PRESENT:** Stephanie Boster (Chair), Tony Laird (Vice Chair), Trent Carroll, Michelle Garcia, and Jeffrey Boldt (Board Attorney)
- MEMBER ABSENT:** Swede Nelson and Kevin Schwaiger
- 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), Connor White (Planner), Sam Crowley (Planner), Alessandra McCoy-Fakelman (Staff Attorney)
- OTHERS PRESENT:** Russell Martens, Ken Mitchell, Mark Davidson, Tim Liberman, and Mindy Schornak
- APPROVAL OF MINUTES:** September 17, 2020

Trent Carroll made a motion to approve the minutes and Tony Laird seconded. The minutes were approved unanimously 4 to 0.

Director Charles Bloom read Item 1 into the record.

ITEM 1: [UDC-20-00431 Variance request to allow a second accessory building over 120 square feet and more than 40% of the principal building square footage in a MR Medium Density Residential zone, pursuant to UDC Section 5.7.1 Accessory Buildings, on Lot 1, Block 1, Navy Subdivision, Cheyenne, Wyoming.](#)

LOCATION: 3911 Pierce Ave.

Owner/Applicant: Kenneth Mitchell

Planner Connor White presented the staff report. Staff recommended denial of the variance request.

Tony Laird asked if the applicant would be permitted to build a garage at 40% the size of the principal building. He also asked about the annexation of the property. Connor White answered that the garage was grandfathered into the 40% and that he doesn't know the history of the property. Mr. Laird then asked if the person would be able to upgrade curb gutter or sidewalk. Mr. White replied no; this would only be if the site was completely redeveloped, not with a condition. Charles Bloom verified this as well. Mr. Laird asked if the fire department signing off is a condition required by the planning department, or if it would always be required regardless. Mr. White answered that regardless the fire department would have to sign off.

Kenneth Mitchell (Owner) described the proposed request.

Mr. Laird asked Mr. Mitchell if he had any discussions with the Planning Department about the process for a zone change, which would need to go before the Planning Commission. Mr. Mitchell said he has not had this discussion with the Planning Department as he only found the information about an hour before this meeting, and he was not aware that rezoning's are presented to the Planning Commission. Mr. Laird emphasized again that this does not fall under the purview of the Board of Adjustment. Mr. Bloom verified that they would need to put that before the Planning Commission. He said the likelihood of a rezone from MR to AG is unlikely.

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

Tony Laird made a motion to approve the Requested variance to UDC 5.7.1, specifically 5.7.1.f and 5.7.2.f. to grant relief from accessory building size requirements and number of accessory buildings to allow construction of a 2,480 square foot accessory building subject to staff's recommended conditions at 3911 Pierce Avenue, legally known as Lot 1, Block 1, Navy Subdivision, Cheyenne, Wyoming. Michelle Garcia seconded.

Tony Laird asked if it would be appropriate to ask the applicant if they would like to postpone.

Chair asked the applicant what he prefers. He responded that he prefers to move forward with the voting.

Tony Laird can see the argument that the applicant is being deprived compared to his county neighbors, as they can build large accessory buildings. Trent Carroll agreed that a case can be made that the landowner is being deprived of similar use compared to adjacent lots. He also understands the point the applicant is making about the zoning because the UDC is being applied to this situation even though the applicant does not enjoy the amenities he should in the current zone. Michelle Garcia agrees with Mr. Laird and Mr. Carroll because it borders the county. She does not think it's fair to apply those rules when the property is surrounded by county properties.

Chair allows Mitchell to make another comment. Mitchell says that he had to send out a letter to neighbors to notify them of this, county was included in this, and based on the notification he thinks the separation of county and city should be negligent.

RESULT: The motion passed by a unanimous vote of 4-0.

ITEM 2: [UDC-20-00432: Conditional use approval request to allow Outdoor Storage \(lay down yard\) use in a LI Light Industrial zone pursuant to Section 5.1.4 Table 5-1: Zoning District Uses of the UDC, on Lots 1 and 3, Block 1, Southwest Industrial Park, 2nd Filing, Cheyenne, WY.](#)

LOCATION: 112 Southwest Drive

Owner: CH Yarber Crane Services, Inc.
Agent: Mark Davidson, Sunrise Engineering

Planner Connor White presented the staff report. Staff recommended approval of the conditional use.

Mr. Laird asked if the report includes interstate use. Mr. White told him that staff was more focused on the public streets of southwest drive and 5th as the outdoor storage area would be located in lot 3. Mr. Bloom added that there is a previously approved site plan for this, so staff was looking at change in scope from the previously approved site plan, just focusing on the corner.

Mr. Davidson (Agent) described the proposed request.

Mr. Laird asked what materials will be stored in the storage area. Mr. Davidson answered that the storage area would be used for the steel structural members, and associated delivery and pickup.

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

Mr. Carroll made a motion to approve a conditional use request for operation of an outdoor storage yard on lot 1 and lot 3 subject to staff's recommended conditions at 112 Southwest Drive on Lots 1 and 3, Block 1, Southwest Industrial Park, 2nd Filing, Cheyenne, WY. Ms. Garcia seconded.

RESULT: The motion passed by a unanimous vote of 4-0.

ITEM 3: [UDC-20-00433: Variance request to allow a reduction to the width of the Level 3 landscaping buffer adjacent to W. 5th Street and Southwest Drive in a LI Light Industrial zone pursuant to Section 6.3.5 \(a and b\) of the UDC, on Lots 1 and 3, Block 1, Southwest Industrial Park, 2nd Filing, Cheyenne, WY.](#)

LOCATION: 112 Southwest Drive

Owner: CH Yarber Crane Services, Inc.
Agent: Mark Davidson, Sunrise Engineering

Planner Connor White presented the staff report. Staff recommended approval of the variance.

Mr. Davidson (Agent) described the proposed variance.

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

Ms. Garcia made a motion to approve the variance request to UDC 6.3.5.b, reducing the width of the Level 3 Buffer to 10-feet along West 5th Street and 15-feet along Southwest Drive subject to staff's recommended conditions at 112 Southwest Drive, legally known as Lots 1 through 4, Block 1, Southwest Industrial Park, 2nd Filing, Cheyenne, Wyoming. Mr. Carroll seconded.

Ms. Boster commented that she is in support, and she commended the staff and agent on their cooperation and discussion.

RESULT: The motion passed by a unanimous vote of 4-0.

ITEM 4: [UDC-20-00434 Variance request to allow a side yard setback reduction from 7.5-feet to 16-inches for a 180 square foot accessory building in a MR Medium Density Residential zone, pursuant to Sections 5.1.5.a Detached Dwelling Type DD5 on Lot 6, Block 7, The Pointe, 5th Filing, Cheyenne, Wyoming.](#)

LOCATION: 1327 Marie Lane

Owner/Applicant: Russell Martens

Planner Connor White presented the staff report. Staff recommended denial of the variance.

Mr. Laird asked Mr. White to clarify the purpose of the condition of the building permit. Mr. White clarified that if the board moves to approve, they can eliminate that condition - it was an oversight on his part. Mr. Laird also asked if the HOA approval form in the package is for a fence, not for a shed. Mr. White answered that the shed is mentioned in the approval form.

Mr. Martens (Owner) described the proposed variance.

Ms. Boster asked if he has contacted his neighbors about the variance. Mr. Martens verified that he has. Mr. Laird asked if the blue color is final. Mr. Martens replied that he still needs to put the siding on it, and it will be the same gray and green colors as his house. Ms. Boster asked if he would be willing to apply for a building permit. Mr. Martens said he would. Mr. White added that the Board can disregard the building permit recommendation; it was an oversight on his part. Trent Carroll asked if he would have enough room to meet the setback. Mr. White answered that the applicant would not be able to meet the 3-foot setback. Mr. Carroll asked if there is any other place where the shed could be built. Mr. Martens answered that there is a small backyard, but he would prefer to keep that space for his children to use as a play area. Mr. Laird asked if the setback of 16 inches is measured from the roofline or the side of the shed. Mr. Martens answered that it is from the proper side of the shed.

Ms. Boster asked Mr. Martens if he would prefer to table the vote until the December meeting in the hopes of a larger number of members for voting. Mr. Marten stated that he is in no rush but would like the Chair's advice of whether to postpone it. Ms. Boster advised him to decide after the Board discussion.

Ms. Boster opened the floor to public comment. Tim Liberman, 1308 Marie Lane, lives approximately half a block south of the subject's property. Ms. Boster swore Mr. Liberman in. Mr. Liberman expressed concern that the shed may be a fire hazard.

Ms. Garcia asked Liberman to explain why the shed could a fire hazard. He elaborated that it would be a storage shed and, if a fire were to start, it could spread to adjacent buildings. He also made the point that this is part of the reason there are setback requirements.

Charles Bloom clarified the fire code requirements. An accessory building under 200 square feet in size is not required to have a building permit or fire rating, even if on the property line.

Mindy Schornak, 1369 Miracle Pkwy, lives a street over from Mr. Martens. Ms. Boster swore Ms. Schornak in. Ms. Schornak expressed her support for the shed and stated that she has no issues with it.

Ms. Boster asked if any other members of the public wish to speak in favor or opposition, hearing no comments she closed the public comment period.

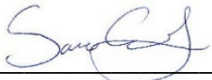
Mr. Laird made a motion to approve the variance request to UDC 5.1.5.a., Lot Type DDS Accessory Building Setbacks to reduce the side setback from 7.5-feet to 160inches for a new shed at 1327 Marie Lane, legally known as Lot 6, Block 7, The Pointe, 5th Filing, Cheyenne, Wyoming. Mr. Carroll seconded.

Mr. Laird commented that he was originally inclined to vote against but, after hearing the applicant, he has changed his mind. He believes there was a communication issue and Mr. Martens was inadvertently misled by the City and the first HOA. He also believes Mr. Marten made a good faith effort to do things the right way. He understands Mr. Liberman's Concern, but still supports the motion. Trent Carroll agrees with Mr. Laird. Ms. Garcia is impressed that Mr. Martens self-reported this issue and she will be supporting. Ms. Boster agrees.

RESULT: The motion passed by a unanimous vote of 4-0.

OTHER BUSINESS: Mr. Bloom asked members to fill out reappointment forms if they intend to. He also mentioned the Planning Department is working on amendments to the fencing code and accessory building code. Mr. Bloom introduced Sam Crowley, a new Planner I, and notified the Board that there is another vacancy in the planning department.

ADJOURNED: 7:49 p.m.



Recording Planner: Sam Crowley



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.*