

**Sheridan City Board of Adjustment
Variance Decision**

On May 13, 2021 at 7:00PM, the City of Sheridan Board of Adjustment ("Board") held a meeting to consider the granting of a variance to David Kubly and Troy Kubly, Trustees of the Kubly Living Trust, as record owners of 123 South Tschirgi St.; South 26 feet of the west 65 feet of lot 5 and north 10 feet of the west 65 feet of Lot 6, Block 20, Thurmond 2nd Addition to the Town, now City of Sheridan, Sheridan County, Wyoming (herein the "Property"). Said variance consisted of the following request made by the owner:

Consideration of PL-21-18; 123 S Tschirgi St., a variance request from the 15 foot front yard setback in the R-3 Residence District to allow for new construction to have a 2 foot front yard setback.

The Board of Adjustment convened an advertised public hearing and voted on the matter of the variance by a quorum of members.

Persons in attendance and heard at the public meeting on the matter were:

- Mr. Kubly, owner

Mr. Kubly, the property owner, as part of their application to the Board, submitted a packet of materials that included an exhibit of the proposed site plan, variance letter and an application.

Mr. Kubly testified at the public hearing that the building has structural issues and are requesting this variance in an effort to keep approximately the same footprint as the existing structure. If the variance is approved they will be increasing both side yards setbacks to 5' and rear yard to 15'

City Staff submitted a staff report for the May 13th hearing, which was considered by the Board of Adjustment in their review of the matter. The contents of the staff report and all other submittals referenced above, are incorporated herein by reference.

The request was for a variance to allow a front yard setback of 2 feet to allow a new dwelling to be built, and after full consideration of the evidence presented at the hearing, and the staff report, the application for a variance was granted.

In order for a variance to be granted by the Board, the following factors must be met (Sheridan City Code Appendix A §14.4):

1. Does the variance meet the criteria of variances the Board of Adjustments may grant?
2. The granting of the variance will not be contrary to the public interest.
3. The need for a variance is owing to special conditions and a literal enforcement of the Code will result in unnecessary hardship, and
4. The spirit of the Code is still observed and substantial justice done.

The Board's findings for this request were as follows:

1. Sheridan City Code Appendix A §14.4 allows the Board of Adjustment to grant area variances to *"Permit the extension of a nonconforming building upon the lot occupied by such building at the time of passage of this ordinance."* The applicant is proposing to construct the new home in the location of the old home.
2. The granting of this variance will not be contrary to the public interest. The Board's ability to grant variance for nonconforming buildings recognizes that there is a complimentary effect in allowing the improvement of existing homes so long as the improvement does not prove to be a detriment to nearby properties. Staff does not feel that the location of the new home is detrimental to the health and safety to the surrounding property owners. The proposed 2 foot setback is in character with adjacent properties along Tschirgi Street.

3. Owing to special conditions a literal enforcement of the provisions of the zoning ordinance will result in unnecessary hardship. The location of the home was due to the home buiding built before zoning regulations were created. The property is 2,178 square feet, a relatively small lot.
4. The spirit and intent of the zoning ordinance shall be observed and substantial justice done. The *"spirit of the zoning ordinance,"* is found in its express purpose of, *"promoting the health, safety, morals and general welfare of the inhabitants of the City of Sheridan."* (Ord. 826 Preamble). The hardship is inherent in the property due to the lot being platted in 1890.

Conclusions of Law:

1. The request was in accordance with and met the criteria of the Sheridan City Code, Appendix A, Section 14 and with Wyoming Statutes, 15-1-606 and 15-1-608. Particularly Sheridan City Code Appendix A Section 14.4 allows the Board of Adjustment to permit a variance for the extension of a preexisting nonconforming building.
2. The public hearing for this request was held in accordance with the requirements of Sheridan City Code, Appendix A, Section 14 and 15-1-606, Wyoming Statutes.
3. The requested variance will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this ordinance will result in unnecessary hardship.
4. The spirit of the Code is still observed and substantial justice done.

THEREFORE, the Board of Adjustment hereby approves the application for a variance as described in Planning Case File PL-21-18, 123 S Tschirgi St., and grants the variance in favor of the Property, and the record owners thereof, to allow a dwelling to be built 2 feet from the front property line.

So decided by the Board of Adjustment following the hearing date of May 13, 2021

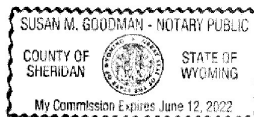

Chairman, Board of Adjustment

The foregoing instrument was acknowledged before me this 12th day of August, 2021.

Witness my hand and official seal.



My commission expires 6-12-2022.



STATE OF WYOMING
COUNTY OF SHERIDAN