

**Sheridan City Board of Adjustment
Decision**

On June 8, 2017, at 7:00PM, the City of Sheridan Board of Adjustment ("Board") held a meeting to consider the granting a variance for a continued use of a residential structure as a three unit apartment to Michael A. Champlin, record owner of 747 Avon/805 Delphi; Lot 7, Block 3 of the Nielsen Heights Addition to the Town, now City of Sheridan, Sheridan County, Wyoming. Said variance consisted of the following request made by the owners:

- (i) Consideration of PL-17-10: 747 Avon St. /805 Ave. Delphi; a variance request made by the record owner of the property to allow the continuation of a three unit multifamily use of a residential building at 747 Avon St. /805 Delphi Ave. under the provisions of W.S. 15-1-608(b).

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:

- Michael Champlin – Present owner
- Matt Westcott – Speaking on behalf of Michael Champlin
- Jane Clark – Real estate agent speaking on behalf of Michael Champlin
- Jess Hattervig – Representing the potential purchaser of the property
- Bill Raymond – Nearby property owner
- Cedar Koetting – Nearby property owner
- Robert Briggs – City staff providing information on staff review

The property owner, as part of their application to the Board, submitted evidence on their behalf in the form written testimony that they had operated the apartment building as a multifamily structure for the 20 year period they had owned the building. The owner also submitted a written statement from Ed Neeriemer, the son of the previous owner, stating that their parents, as proceeding owners, had put the property to multifamily use during the time they owned the property. Mr. Champlin provided deed information showing that at the time of construction there were two property owners. Mr. Champlin additionally submitted copies information obtained from the County assessor listing the date of construction as being 1941, drawings of the structure's floor plan, and several years of lease records supporting his assertion that he had been actively renting the property as a multifamily structure for at least five years.

Mr. Westcott spoke in favor of the variance request, to the reason behind the request in allowing the prospective buyer to get financing, and to the requirement of egress windows. Mr. Champlin spoke on his behalf stating his belief that the first floor of the structure was clearly built as a duplex. Ms. Clark stated that the basement plumbing and bathroom was evidence that the basement was intended to be occupied. Mr. Raymond spoke against the project, expressing his concern that allowing the continued use was a precedent that would result in further multifamily uses in the neighborhood. Ms. Koetting also spoke regarding her concern that the request might result in additional multifamily use in the neighborhood, and spoke to her belief that basement egress windows were important. Mr. Hattervig spoke on behalf of the prospective buyer saying that they were fine with the potential requirement of egress windows, but requesting a reasonable timeframe to be able to do so. Robert Briggs provided information on staff review of the request.

City Staff submitted a staff report prepared June 1, 2017 and dated for the June 8, 2017 hearing, which was considered by the Board of Adjustments in their review of the matter, the contents of which are incorporated herein.

The request for a variance to allow the continuation of a three unit multifamily use of a residential building at 747 Avon St. /805 Delphi Ave., after full consideration of the evidence presented at the hearing, the staff report, the application materials, was granted.

The motion by the Board of Adjustment approves Planning Case File PL-17-10: 747 Avon St; a variance to allow the continuation of a residential multifamily use of a multi-unit building at 747 Avon St. under the provisions of W.S. 15-1-608(b) with the following condition:

1. That egress windows be installed according to specifications provided by the Building Department in both basement bedrooms, to be installed within 90 days of the date of the execution of this Notice of Decision as a condition of the continued variance. This condition is in no way to be construed as bringing the structure in full compliance with the requirements of the presently adopted building code.

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



1. The granting of the variance must not be contrary to the public interest.
2. The granting of the variance must be in a case where it can be demonstrated that owing to special conditions a literal enforcement of the provisions of this ordinance will result in unnecessary hardship.
3. The spirit of the ordinances shall be observed and substantial justice done.
4. The variance must be one that the Board is authorized to grant.

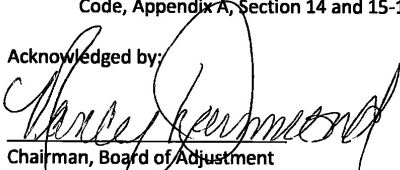
The Board's findings for this request were as follows:

1. The variance is not contrary to the public interest because it allows for a use which has existed on the property for several decades. That no challenge to this use has arisen before this time supports that the multifamily use of the building at 747 Avon St./805 Delphi Ave. has not proven injurious to surrounding properties.
2. Owing to special conditions a literal enforcement of the provisions of the zoning ordinance will result in unnecessary hardship. Multiple property owners have used and sold the property as a three unit structure. This has established an expectation of allowed use and monetary value, which has formed the basis of multiple real estate transactions. Stripping the property owner of the allowed use would prove to be a substantial financial burden.
3. The spirit and intent of the zoning ordinance shall be observed and substantial justice done. The purpose of the City's adopted zoning ordinance is to promote *"the health, safety, morals and general welfare of the inhabitants of the City of Sheridan."* (Ord. 826 Preamble). The express purpose is purpose of the zoning is, *"promoting the health, safety, morals and general welfare of the inhabitants of the City of Sheridan."* (Ord. 826 Preamble). The City's zoning ordinance works to fulfill this purpose by separating incompatible uses, and mandating certain area and dimensional standards of construction. R-1 Residence zoning is set aside as a single family home district. While the structure's use at this time does not meet with this intended use, the longtime history of the structure's use as a multifamily structure, and the constraints to the building's present footprint, makes allowing the multifamily use to continue less problematic than it might otherwise be. Additionally the egress window requirement is in harmony with the zoning ordinance's purpose of promoting the health, safety, and welfare of building occupants.

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 W.S. 15-1-608(b)(iii) which allows the Board of Adjustment to grant variances in for any use in the case in which it can be demonstrated that, *"a nonconforming building or use existed for a period of at least five (5) years in violation of local ordinance and the city or town has not taken steps toward enforcement"*.
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.

Acknowledged by:


 Chairman, Board of Adjustment

The foregoing instrument was acknowledged before me this 19 day of Sept., 2017.

Witness my hand and official seal.

Susan M. Goodman

My commission expires June 12, 2018.

STATE OF WYOMING
 COUNTY OF SHERIDAN

