

**Sheridan City Board of Adjustment
Variance Decision**

On November 10, 2021 at 7:00PM, the City of Sheridan Board of Adjustment ("Board") held a meeting to consider the granting of a variance to KW Capital, LTD, as record owner of 1405 DeSmet Ave.; Lots 15 and 16, Block 23, Sheridan Gardens Addition to the City of Sheridan, Sheridan County, Wyoming (herein the "Property"). Said variance consisted of the following request made by the owner:

Consideration of PL-21-59; 1405 De Smet Ave., a variance request from the 20 foot rear yard setback in the R-1 Residence District to allow for a 16.1 foot rear yard setback to a proposed property line.

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:

- Jeff Baron – WWC Engineering, agent

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

Mr. Baron, testified at the public hearing that he represented KW Capital Ltd LLC who is requesting a variance to allow a 16.1 foot rear yard setback.

City Staff submitted a staff report for the November 10th 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 from the 20 foot rear yard setback in the R-1 Residence District to allow for a 16.1 foot rear yard setback to a proposed property line, 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 such variation of the area requirements as may be necessary to secure an appropriate improvement of a lot which has such exceptional geographical or topographic conditions that it cannot be appropriately improved without such variation."* The property is relatively flat. From west to east there is only a 2 foot grade change with an overall slope of 1%.
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 future lot configuration requiring the variance to be detrimental to the health and safety of the surrounding property owners. The applicant is trying to keep the existing home on the property, with the new lot configuration as well as maintain the character of the neighborhood.

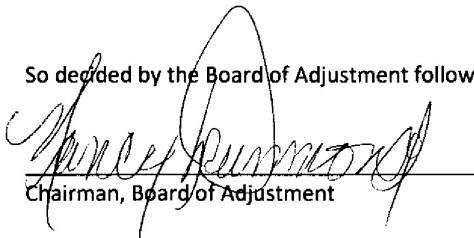
3. Owing to special conditions a literal enforcement of the provisions of the zoning ordinance will result in unnecessary hardship. The granting of the variance would allow for the subdivision of the lot providing more housing in the neighborhood.
4. The spirit and intent of the zoning ordinance shall 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).
Staff believes the hardship expressed in the application is inherent in the zoning ordinance and is under the purview of the Board of Adjustment to allow for variances to rear yard setbacks to allow for the reconfiguration of the lot.

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 exceptional geographical or topographic conditions that it cannot be appropriately improved without such variation.
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.

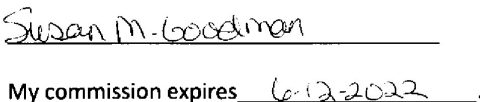
THEREFORE, the Board of Adjustment hereby approves the application for a variance as described in Planning Case File PL-21-59, 1405 De Smet Ave., a variance request from the 20 foot rear yard setback in the R-1 Residence District to allow for a 16.1 foot rear yard setback to a proposed property line.

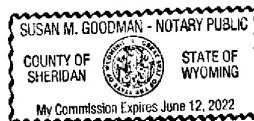
So decided by the Board of Adjustment following the hearing date of November 10, 2021:


Chairman, Board of Adjustment

The foregoing instrument was acknowledged before me this 17th day of December, 2021.

Witness my hand and official seal.


My commission expires 6-12-2022.



STATE OF WYOMING
COUNTY OF SHERIDAN