

**Sheridan City Board of Adjustment  
Variance Decision**

On March 11, 2021 at 7:00PM, the City of Sheridan Board of Adjustment ("Board") held a meeting to consider the granting of a variance to Mark and Frances Smith as record owners of 242 Arapahoe Street; Tract A of the Arapahoe Subdivision, City of Sheridan, Sheridan County, Wyoming (herein the "Property"). Said variance consisted of the following request made by the owners:

Consideration of PL-21-6; 242 Arapahoe Street, a variance request from the 5 foot side yard setback in an R-1 Residence District to allow new construction to have a four foot setback on each side.

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:

- Mark Smith – Property Owner

The Property owners, as part of their application to the Board, submitted a packet of materials that included the subdivision plat, house elevation exhibit, site plan exhibit and application.

Mr. Smith testified at the public hearing that he planned on a 70' house with 5' on each side. A conventional frame construction would be about \$25,000 more than using an Insulated Concrete for (ICF) on the outer walls. This would take up an extra foot of space on the interior or exterior of the home and he didn't want to eliminate interior space footage.

City Staff submitted a staff report dated for the March 11th 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 5 foot side yard setbacks in an R-1 Residence District to allow for new construction to have a 4 foot side yard setback on both sides, 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 on vacant property.
2. The granting of the variance will not be contrary to the public interest. Property setback requirement exist for two primary reasons. First, is providing for resident health, safety, and welfare by helping to reduce risk of fire, and ensuring adequate light and air for intended use. Second, is to establish and reinforce the character of neighborhoods and districts by regulating similar patterns of building placement across properties of like zoning designations.

Staff does not feel the location of the new home is detrimental to the surrounding property owners. This creates a total of 9 feet separation from the existing home at 1802 Warren and this property.

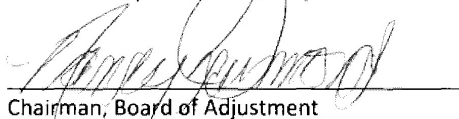
3. Owing to special conditions a literal enforcement of the provisions of the zoning ordinance will result in unnecessary hardship. A conventional frame construction would put the proposed home within the required setbacks. The ICF casts are causing the proposed home to encroach into the side yard setbacks.
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 concept of substantial justice in this context refers to the overall fairness in weighing the potential loss to the property owner that would occur if the zoning ordinance is strictly applied against the public benefit of strict compliance. Staff believes the hardship is self imposed, however, it is under the purview of the Board of Adjustment to allow for variances.

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-21-6, 242 Arapahoe Street, and grants the variance in favor of Property, and the record owners thereof, to allow new construction to be built 4 feet from the side property lines.

So decided by the Board of Adjustment following the hearing date of March 11, 2021:

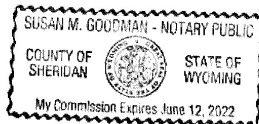
  
Chairman, Board of Adjustment

The foregoing instrument was acknowledged before me this 25th day of May, 2021.

Witness my hand and official seal.

  
Susan M. Goodman

My commission expires 6-12-2022.



STATE OF WYOMING  
COUNTY OF SHERIDAN