

**Sheridan City Board of Adjustment
Variance Decision**

On July 9, 2020, at 7:00PM, the City of Sheridan Board of Adjustment ("Board") held a meeting to consider the granting a variance for a continuation of a residential apartment use and a variance to Alex and Lyndsey Nero, record owners of 448 W Brundage St.; Lot B of the Brundage-Linden Minor Subdivision to the City of Sheridan, Sheridan County, Wyoming. Said variance consisted of the following request made by the owners:

- (i) Consideration of PL-20-27: 448 W Brundage St.; a variance request made by the record owners of the property to allow variance from the 15 foot rear yard setback in an R-3 Residence District to allow an existing dwelling to have a rear setback of 4.7 feet and to grandfather the same building to continue operation as an apartment, using the process outlined in W.S. 15-1-608(b) (iii).

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:

- Alex Nero – property owner

The property owner, as part of their application to the Board, submitted a packet of materials that included a survey, a site plan, letter from the owner, rental payment receipts, addressing letter, building permits starting from 1972 and an application

Mr. Nero testified at the public hearing that he bought the house a year ago. He does not plan on expanding the building, but will remodel the interior.

City Staff submitted a staff report dated for the July 9, 2020 hearing, which was considered by the Board of Adjustment in their review of the matter, the contents of which are incorporated herein.

The request for a variance to allow the continuation of an apartment and a variance from the rear yard setback, 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-20-27: 448 W Brundage St.; a variance for rear yard setback and to allow the continuation of apartment use under the provisions of W.S. 15-1-608(b).

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 property has existed as a rental property for the prior 5 years.

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

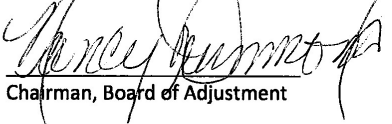
1. The variance is not contrary to the public interest because it allows for a use which has existed on the property for several years. The existing garage lays 4.7 feet from the rear property line. Adjacent to the property is an additional 15 foot wide separation of the property to the south. Allowing additional units is allowed per the R-2 zone District. Further, increased density in the R-2 is part of the City's attainable housing strategy.
2. Owing to special conditions a literal enforcement of the provisions of the zoning ordinance will result in unnecessary hardship. The 7,275 square foot lot size allows significant separation from adjacent property. The lot size also proved ample parking on the property. 3 spaces will be required. The applicant is proposing to have the future tenants' park on the south side of the property.
3. 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 inherent in the property as the existing apartment has been on the property since 1905.

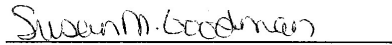
Conclusions of Law:

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:

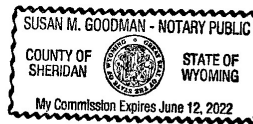

Chairman, Board of Adjustment

The foregoing instrument was acknowledged before me this 19th day of August, 2020.
Witness my hand and official seal.



My commission expires 6-12-22.

STATE OF WYOMING
COUNTY OF SHERIDAN



NO. 2020-761205 VARIANCE

EDA SCHUNK THOMPSON, SHERIDAN COUNTY CLERK
CITY OF SHERIDAN - PLANNING P O BOX 848
SHERIDAN WY 82801