

**Sheridan City Board of Adjustment
Variance Decision**

On September 9, 2021 at 7:00PM, the City of Sheridan Board of Adjustment ("Board") held a meeting to consider the granting of a variance to Jordan Aibel as record owner of 204 and 212 S Custer St; Lots 1 and 2 of the Ten Above Minor Subdivision, City of Sheridan, Sheridan County, Wyoming (herein the "Property"). Said variance consisted of the following request made by the owners:

Consideration of PL-21-38; 204 and 212 S Custer St.; a variance request from the 5 foot side yard setback requirement in an R-3 Residence District to allow a proposed property line between two existing buildings to be 4 foot for 204 S Custer and 0 feet on the 212 S Custer side. Pin 56842635500625.

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:

- Jordan Aibel – Property Owner

The Property owner, as part of their application to the Board, submitted a packet of materials that included a variance letter, surveyed variance exhibit, pictures of the buildings and application.

Mr. Aibel testified at the public hearing that it is one property with two houses and consists of 3 lots. He will use fire rated materials, and subdivide the property so each house is on its own lot.

City Staff submitted a staff report dated for the September 9th 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 from the 5 foot side yard setback requirement in to allow a proposed property line between two existing buildings to be 4 foot for 204 S Custer and 0 feet on the 212 S Custer side, 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 divide the property into two lots to bring the property in compliance with the zoning code.
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 feels that this variance will bring the properties more in compliance with the zoning code, and the character of the neighborhood.

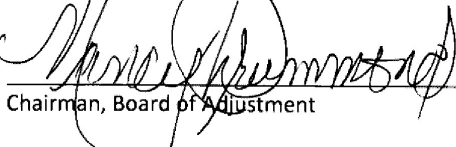
3. Owing to special conditions a literal enforcement of the provisions of the zoning ordinance will result in unnecessary hardship. The homes were constructed before the current zoning code, which requires detached homes to be located on its own individual lot.
4. The spirit and intent of the zoning 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 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 that the hardship is inherent in the property due to the time of construction of the homes.

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 an extension of a nonconforming building upon the lot occupied by such building at the time of passage of this ordinance.
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-21-38, 204 and 212 S Custer St. and grants in favor of the Property, and the record owners thereof, to allow side yard setbacks of 4 feet and 0 feet.

So decided by the Board of Adjustment following the hearing date of September 9, 2021:

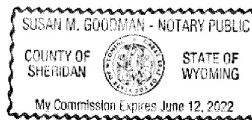

Chairman, Board of Adjustment

The foregoing instrument was acknowledged before me this 14th day of October, 2021.

Witness my hand and official seal.

Susan M. Goodman

My commission expires 6-12-2022.



STATE OF WYOMING
COUNTY OF SHERIDAN