

**CITY of YANKTON**  
**PLANNING COMMISSION MEETING MINUTES**  
for  
**Monday, April 12, 2021**

The meeting was called to order at 5:31PM by Planning Commission Chairman Steve Pier.

This meeting was conducted via technology; with public comment available prior to the meeting via phone, mail and email and during the meeting via YouTube live stream chat. There were also staff and technology in the meeting room to allow live public comments if people attended.

**ROLL CALL:**

Present: Brad Wenande, Deb Specht, Mike Healy, Evie Sime, Warren Erickson, Marc Mooney, Sean Wamble, Steve Pier, City Commission Liaison, Dave Carda, and ETJ Member Michael Welch.

Unable to attend: Lynn Peterson.

Chairman Pier asked for the consideration of the March 8th, 2021 meeting minutes.

21-10 **MINUTES** – March 8th, 2021

**MOTION** – It was moved by Commissioner Erickson and seconded by Commissioner Wamble to approve the minutes from March 8th, 2021, as they are presented.

**VOTE** – Voting “Aye” – all members present. Voting “Nay” – none.

**MOTION – PASSED**

**CONSENT ITEMS:**

Chairman Pier moved on to Consent Items to establish the next regular meeting as the date for a public hearing to consider a rezoning from R-2 Single Family Residential to B-2 Highway Business on the North 220 feet of the West 700 feet of the SW 1/4 of the NW 1/4, Except KYNT Addition in Section 12, T93N, R56W of the 5th P.M., Yankton, South Dakota. Jim Tramp, LLC and Jason Tramp, LLC, owners. Address, 1301 W. 21st Street.

21-11 **MOTION** - It was moved by Commissioner Wenande and seconded by Commissioner Healy to establish the next regular meeting as the date for a public hearing to consider a rezoning from R-2 Single Family Residential to B-2 Highway Business on the North 220 feet of the West 700 feet of the SW 1/4 of the NW 1/4, Except KYNT Addition in Section 12, T93N, R56W of the 5th P.M., Yankton, South Dakota. Jim Tramp, LLC and Jason Tramp, LLC, owners

**VOTE** - Voting “Aye” – all members present. Voting “Nay” – None.

**MOTION - PASSED**

Chairman Pier continued on with Consent Items to establish the next regular meeting as the date for a public hearing to consider a rezoning from R-2 Single Family Residential to R-3 Two Family Residential on future Lots 1A, 1B, 6A, 6B, 7A and 7B, in Block 9 and 1A and 1B in Block 10. And, from R-2 Single Family Residential to R-4 Multiple Family Residential on future Outlots 4 and 5, all in Summit Heights Addition to the City of Yankton in the SW 1/4 of the NW 1/4, Section 12, T93N, R56W of the 5th P.M., Yankton, South Dakota. Jim Tramp, LLC and Jason Tramp, LLC, owners. Address, the 1900 Blocks of Kellen Gross Drive and Dakota Street.

- 21-12 **MOTION** - It was moved by Commissioner Specht and seconded by Commissioner Wenande to establish the next regular meeting as the date for a public hearing to consider a rezoning from R-2 Single Family Residential to R-3 Two Family Residential on future Lots 1A, 1B, 6A, 6B, 7A and 7B, in Block 9 and 1A and 1B in Block 10. And, from R-2 Single Family Residential to R-4 Multiple Family Residential on future Outlots 4 and 5, all in Summit Heights Addition to the City of Yankton in the SW 1/4 of the NW 1/4, Section 12, T93N, R56W of the 5th P.M., Yankton, South Dakota. Jim Tramp, LLC and Jason Tramp, LLC, owners.  
**VOTE** - Voting “Aye” – all members present. Voting “Nay” – None.  
**MOTION – PASSED**

Chairman Pier continued on with Consent Items to establish May 10, 2021 as the date for a public hearing to consider amendments to the City of Yankton Zoning Ordinance #711. The proposed amendments are in Chapter 27, Article II, Section 36 Part G and Section 37, Part G, and if approved, would change the maximum allowable height of structures in the B-2 Highway Business District and B-3 Central Business District from the current 50 feet to 65 feet.

- 21-13 **MOTION** - It was moved by Commissioner Sime and seconded by Commissioner Wamble to establish May 10, 2021 as the date for a public hearing to consider amendments to the City of Yankton Zoning Ordinance #711. The proposed amendments are in Chapter 27, Article II, Section 36 Part G and Section 37, Part G, and if approved, would change the maximum allowable height of structures in the B-2 Highway Business District and B-3 Central Business District from the current 50 feet to 65 feet.  
**VOTE** - Voting “Aye” – all members present. Voting “Nay” – None.  
**MOTION – PASSED**

**OLD BUSINESS:**

Chairman Pier stated there was no Old Business to discuss.

**NEW BUSINESS:**

Chairman Pier moved on to New Business to Request for a request for a variance from the front yard setback requirements in a B-2 Highway Business District on Lot 4, Block 1, Walmart Addition in the City of Yankton, South Dakota. Address, 3007 Broadway Avenue. Jeff Koster, owner.

After announcing the New Business item, Chairman Pier stated he had a potential conflict with his business regarding this action item, so turned the discussion over to Vice Chairman Wenande.

Vice Chairman Wenande asked Dave Mingo for some background on the staff’s position in this matter.

Dave Mingo provided a lengthy background on the matter. In the past when the City has considered issues like this we have discussed whether or not we should change the ordinance for all property rather than granting a special privilege for one property owner. The 15-foot front yard setback has applied to all of the development on properties in the B-2 District for many decades. Specific locations to the south of this request may have a reduced setback because there are provisions in the code that allows new structures to be in line with older structure built before the ordinance was adopted.

This specific setback was discussed at length during the ordinance re-write in 1995 and multiple several times since as permits or other requests have been considered. Some other provisions of the ordinance were changed with dimensions reduced through the Planning Commission and City Commission amendments to the ordinance as it applies to all rather than granting variances for individual property owners.

It is the staff's opinion that the 15-foot setback continues to represent the intended goals. A majority of the discussions that the Planning Commission has had regarding the front yard setback in the B-2 District have been about 15 feet being a bare minimum and that the dimension should possibly be increased, not decreased. The 15-foot dimension has been maintained because a majority of the northern commercial development in town has occurred under that setback criteria over many decades. Changing the code to reduce front yard setbacks everywhere in the B-2 District would not be fair to those that have complied with the setback for many years. A reduction would also impact the visual corridor of some of the most travelled streets in the community.

There is no doubt that Mr. Koster has constructed a very nice structure and developed a successful business at the location. The material submitted by him, included in your packet, describes his business, an explanation of its impact on the community and his desire to expand.

The information in the letter of application is informative and interesting but not of consequence for consideration of a variance. We are not aware of any place in case law or statute that includes sales volumes or taxes generated in the definition of a hardship.

Proof of hardship is the test that must be passed when considering a variance request and there is no documentable hardship based on state law or city ordinance.

Staff recommends that the variance request be denied.

Commissioner Sime asked Mingo to explain the 15-foot setback. Is it from the property line? And is space from the property line considered right-of-way for future road expansion or special designation?

Mingo replied that setbacks, not just in Yankton, but across the country for zoning purposes, are based on property lines. So in this instance, Mr. Koster is requesting to go 5-feet into the 15 foot front yard setback. Additionally, the right-of-way widths vary throughout the community because of utility needs, drainage needs, ditches, pipes...etc.

Jeff Koster was in the audience and wished to address the Commission. Mr. Jeff Koster stated he was available to answer any questions the Commission may have. When Koster built the car wash, he actually had moved the building over for future expansion. He thought they had moved it over far enough. He thought maybe the setback at the time was 10 feet, not 15 feet as it is today. He asked Dave Mingo to clarify.

Dave Mingo confirmed the setback was 15 feet at the time of the original building construction.

Commissioner Wamble stated: to avoid this situation all together, could you build the new addition on the other side? Maybe open up the curb area so cars can enter from that side.

Koster said this wouldn't be possible because they are not closing down the two current wash bays and need to keep the current flow of vehicles. Also, Walmart has jurisdiction on the two other sides and will not allow any changes to be made.

There were no additional questions for Mr. Koster, so discussion went back to the Commission.

Dave Mingo wanted to add another comment and stated these dimensional requirements need to be reviewed on a regular basis. We kept the 15-foot setback when we discussed the matter in 1995 and will discuss them again during the Comprehensive Plan Process coming up beginning in 2022.

21-14 **MOTION** - It was moved by Commissioner Sime and seconded by Commissioner Erickson to recommend denial of a variance from the front yard setback requirements in a B-2 Highway Business District on Lot 4, Block 1, Walmart Addition in the City of Yankton, South Dakota. Address, 3007 Broadway Avenue

**VOTE** - Voting "Aye" – Commissioners Wamble, Sime, Erickson, Healy, Specht, and Wenande. Voting "Nay" – None.

Abstained – Commissioner Mooney and Chairman Pier.

**MOTION - PASSED**

**SCHEDULE** - The variance will move forward for consideration by the Yankton Board of City Commissioners acting as the Zoning Board of Adjustment on April 26th.

Vice Chairman Wenande turned the discussion back over to Chairman Pier.

**OTHER BUSINESS:**

Chairman Pier moved on to Other Business to discuss the March, 2021 Building Permit Report. The total, year to date valuation, at the end of March, 2021 was \$1,243,668.40. For comparison, the total, year to date valuation, at the end of March, 2020 was \$5,386,449.60

**ADJOURNMENT**

21-15 **MOTION** – It was moved by Commissioner Wenande and seconded by Commissioner Wamble to adjourn at 6:06PM.

**VOTE** – Voting "Aye" – all members present. Voting "Nay" – none.

**MOTION – PASSED**

Respectfully submitted,



Dave Mingo, Secretary