

STAFF REPORT  
June 28, 2005

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**No. 05FV003 - Fence Height Exception to allow a six foot four inch high fence within the required 25 foot front yard setback**

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GENERAL INFORMATION:

PETITIONER	Jon Dicks
REQUEST	<b>No. 05FV003 - Fence Height Exception to allow a six foot four inch high fence within the required 25 foot front yard setback</b>
EXISTING LEGAL DESCRIPTION	Lot A of Lot 14 and the south 20 feet of Lot C of Lot 14, Acre Tract, Section 33, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately .23 acres
LOCATION	430 South Canyon Road
EXISTING ZONING	Low Density Residential District
SURROUNDING ZONING	
North:	Low Density Residential District
South:	Low Density Residential District
East:	Low Density Residential District
West:	Low Density Residential District
PUBLIC UTILITIES	City water and sewer
DATE OF APPLICATION	6/9/2005
REVIEWED BY	Todd Tucker / Michelle Horkey

RECOMMENDATION:

Staff recommends that the Fence Height Exception to allow a six foot four inch high fence within the required 25 foot front yard setback be approved with the following stipulations:

1. The maximum height of the fence shall not exceed six feet;
2. Prior to Public Works Committee approval, a revised site plan shall be submitted showing the existing fence relocated to the west in a location that does not encroach any further into the required 25 foot front yard setback than the existing legal non-conforming structures; and,
3. The existing landscaping located on the exterior of the fence shall be maintained in a live vegetative state.

GENERAL COMMENTS: The subject property is located at the northwest corner of South Canyon Road and 42<sup>nd</sup> Street. The applicant is requesting approval of a Fence Height Exception to allow an existing six foot high wood screening fence located within the required 25 foot front yard setback along 42<sup>nd</sup> Street. The existing fence is approximately 60 feet in

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length.

STAFF REVIEW: Section 15.40.040 of the Rapid City Municipal Code states that, a variance to the fence height requirements can be granted by the City Council if the exception is not contrary to the public interest and the exception will not be injurious to the surrounding neighborhood. Staff has reviewed the proposed Fence Height Exception as it relates to the applicable provisions of the Rapid City Municipal Code and has noted the following issues:

Sight Triangles: Staff noted that the applicant's site plan shows the existing fence to be located within the sight triangle for pedestrian intersections. The existing fence is located directly next to the existing sidewalk along 42<sup>nd</sup> Street. The existing fence creates a hazardous situation for pedestrians traveling along the sidewalk due to the location of the existing detached garage located on the subject property.

Right-of-Way: As previously indicated the existing fence abuts the existing sidewalk located within the 42<sup>nd</sup> Street right-of-way. The property line for the subject property is approximately one foot to the west of the sidewalk. As such, the fence must be removed from the public right-of-way as structures including fences are not allowed within a public right-of-way.

Location: The existing single family residence and detached garage are legal non-conforming structures with regards to the required front yard setback from 42<sup>nd</sup> Street. The minimum front yard setback in the Low Density Residential Zoning District is 25 feet. The existing single family residence is located 10.7 feet from the property line along 42<sup>nd</sup> Street and the existing detached garage is located 12.3 feet from the property line along 42<sup>nd</sup> Street. Staff supports allowing a six foot high fence between the northeast corner of the existing single family residence and the southeast corner of the existing detached garage due to the fact that they are existing legal non-conforming structures. As such, staff is recommending that the existing fence be relocated to the west so as to not encroach any further than the existing legal non-conforming structures.

Landscaping: Previously the City Council approved similar Fence Height Exceptions with the provision that a landscape buffer be provided. In order to provide an aesthetic buffer between the fence and the right-of-way, the City Council required landscaping on the outside of the fence as it abuts the public right-of-way. If the fence is relocated to the west there will be three large trees located on the exterior of the fence as it abuts 42<sup>nd</sup> Street. The existing landscaping should provide an adequate landscaping buffer.

Staff is recommending that the Fence Height Exception be approved with the previously stated stipulations.