

**MINUTES**  
**ZONING BOARD OF ADJUSTMENT**  
**August 5, 2003**

The Zoning Board of Adjustment met on Tuesday, August 5, 2003, with the following members present: Peter Neumann, Chairman; John Herr; Jeff Stone; Vernon Osterloo; and Greg Peter. Staff present: Brenda Vespested, Building Inspection; Dave Johnson, Engineering; Jeff Marino and Vicki Fisher, Planning; and Jason Green, Acting City Attorney.

Pete Neumann called the meeting to order.

**Appeal No. 5285**

Stephen Hyk, Jr., 3310 Ivy Avenue, Rapid City, SD 57701, applies for a variance on the side yard setback for the property located at 3310 Ivy Avenue, legally described as Lot 3 of Block 2 in Robbinsdale # 8 Subdivision.

There was no one present to represent this case. Osterloo made a motion to continue this appeal until August 19, 2003; second by Stone.

**Appeal No. 5286**

Avvampato Construction Co. Inc., 6716 Maidstone Court, Rapid City, SD 57702, applies for a variance on the front yard setback for the property located at 6416 Muirfield Drive, legally described as Lot 29 of Block 11 in Red Rock Estates.

Solon gave the video presentation. The green cards were turned in before the meeting. Joseph & Kelly Avvampato presented the case. K Avvampato presented a sequence of events to the Board. When the project was started there were no roads and the surveyors had put the pins at the 10' and they verified with the on-site engineers that they were back far enough according to K Avvampato. Avvampato's have 4 lots on Maidstone Court, and all the setbacks were 10'. K Avvampato said that Dwight from City Engineering told them after the house was built that they needed 15'4". The reason that this area is different from the rest of the development is because of the collector street according to K Avvampato. Reyelts Construction has done a PRD on the town homes down the street. Solon read the staff comments for the record. Fire Department – ok. Engineering – it appears that reasonable use of the property can be obtained without granting of a variance; we are unaware of any locations in this subdivision in which property corners have been incorrectly placed; if it is determined that the appellant has demonstrated that the variance meets the standards required for the Board to grant a variance, there needs to be adequate conditions in place to assure that there would not be a change in the structure or use that would result in a reduction of public use of the right-of-way; for instance, under the existing condition a concern would be that a car parking in the driveway in front of the garage would obstruct the sidewalk; because there is a full garage any such vehicle so parked would likely be there for only a limited time; if the garage would be converted to another use, this area in front of the garage would have a high probability of being used for parking for much longer periods. Planning – the City's Major Street Plan identifies Muirfield Drive is a collector street; as previously noted, Muirfield Drive is located along the south lot line of the subject property; a planned residential development has previously been approved by the City to allow town homes to be constructed within 15 feet of Muirfield Drive east of the subject property with the stipulation that an 18 foot parking apron be provided in front of the garage(s); it appears that the applicant could

provide an 18 foot parking apron in front of the garage on this site as well; if the applicant also seeks a PRD for this site to reduce the setbacks as proposed, a stipulation of approval will limit the area of the encroachment to "garage" use only; a PRD could serve as a tool to allow the encroachment and safeguard the status of Muirfield Drive functioning as a collector street; as such, staff is recommending that the variance request be denied and the applicant submit a PRD request to the City's Planning Department as identified. K Avvampato stated that they had asked and called the developers, the engineers, the City; and everybody had recommended that they seek the variance versus the PRD because the developers said that they would have to hire private engineers and it would be very costly and time consuming to get the PRD. Herr asked why they would have to get an engineer. K Avvampato said that this is what the developer told them and her files shows that in the title work the developers and the covenants that you are to be 25' from the shoulder of the asphalt. According to K Avvampato, this is not why the house was built this way, it is a really steep lot and dirt had been put in before they bought it. J Avvampato said that in regards to having to get a private engineer is because they want to take the whole block and re-map it. J Avvampato showed the Board a picture that shows a car parked in the driveway and it doesn't interfere with the sidewalk and it's the shortest part of the garage parking. Herr asked how many other houses on this street are in the same situation. K Avvampato said that this is the only one because there's was the first house built. Fisher said that there are town homes that do have the reduced setbacks, and staff could support the PRD and not the variance. Fisher said that it is not necessary to hire a private engineer for the PRD. Herr asked about the covenants. K Avvampato said that according to the covenants, the house could potentially be closer to the street, but city ordinance does not allow this. There was more discussion on the variance versus the PRD. Herr moved to deny the variance because it does not meet all 9 criteria, with a second by Stone. Appeal No. 5286 was denied by a vote of 4-1 with Osterloo opposed.

#### **Appeal No. 5287**

Craig Bailey, 1221 11<sup>th</sup> Street, Rapid City, SD 57701, applies for a variance on the maximum lot coverage for the property located at 1221 11<sup>th</sup> Street, legally described as Lot 11-12 of Block 32 in Boulevard Addition.

Solon gave the video presentation. The green cards were turned in before the meeting. Craig and Natalie Bailey presented the case. C Bailey explained to the Board that they wanted to put a carport next to the garage for storage of their classic vehicle. N Bailey had several police reports that they have filed because of vandals breaking vehicle windows and vagrants breaking in and sleeping in a vehicle. They do not want to keep this car parked on the street or in the driveway because of the vandalism. Neumann clarified that the carport is only for the classic vehicle and could potentially be a smaller carport. C Bailey said that it could be reduced but would not look as nice and the historical board has approved the 16X22 foot carport. Solon read the staff comments for the record. Fire Department – ok. Engineering – The applicant is requesting a variance from the lot coverage requirements of city ordinance to allow construction of a carport addition to an existing garage; the maximum lot coverage permitted in this zoning district is 30%; the parcel is located in the Downtown drainage basin; the design of drainage facilities to serve the basin uses estimates of the level of development in the upstream areas of the basin; if the level of development is larger than that estimated, additional facilities would be necessary to retain or transport larger flows; greater areas of hard surfaced impervious improvements on a site, such as roofs or pavement, increases the amount and rate of runoff from a site; it was also noted that the street approach to the existing garage is in poor condition; expansion of the garage would result in increased

use of the approach; it appears that there is currently reasonable use of the property; in our opinion, the standards for approval of a variance have not been met. Planning – staff finds that the applicant already has reasonable use of the property and that no hardship exists that result in the need to grant a variance; additionally, staff finds that granting the variance would be in conflict with the comprehensive plan and the zoning ordinance; staff cannot support the variance request. N Bailey said that the vehicle does not get driven; it was a vehicle that her dad had restored so there will be no increased use of the approach. N Bailey said that there is a large boulevard area on Fairview and 11<sup>th</sup> Streets. There was a variance granted in 1983 for the garage to allow a 0' setback. Neumann believes that a 10X22 carport would be better with 30 1/2% coverage. N Bailey wanted to state again that if the boulevard areas were not so large, lot coverage would not be an issue. Herr wanted to know if the covered porch was included in the lot coverage. C Bailey said that the covered porch is included in the footprint on the drawing. There was discussion about different carport sizes and how the lot coverage would change. Neumann made a motion to grant the variance for a 10'X22' carport with the lot coverage being 30.5%; increasing the lot coverage by one-half percent, with a second by Herr. There are special circumstances being in the historic district, the use is allowed in the zoning district, strict application would deprive reasonable use, this is the minimum adjustment necessary, it is in harmony with the zoning ordinance, it is not injurious to the neighborhood, it is not detrimental to the public welfare, it is not in conflict with the comprehensive plan, and is necessary for more reasonable use of the property. Appeal No. 5287 was granted by a vote of 5-0.

Stone moved to approve the minutes of July 15, 2003, second by Herr. Motion carried 5-0.

There being no further business to come before the board at this time, the meeting adjourned at 8:00 a.m.