

MINUTES

ZONING BOARD OF ADJUSTMENT August 19, 2003

The Zoning Board of Adjustment met on Tuesday, August 19, 2003, with the following members present: Peter Neumann, Chairman; Jeff Stone; Vernon Osterloo; and Robb Schlimgen. Staff present: Brad Solon and Brenda Vespested, Building Inspection; Dave Johnson and Dave LaFrance, Engineering; Jeff Marino, Planning; and Jason Green, Acting City Attorney.

Pete Neumann called the meeting to order. Neumann advised the appellants that there are only 4 board members present today. In order to grant a variance, the vote must be unanimous. The appeal can be heard or continued for 2 weeks.

Appeal No. 5285 Continued from August 5, 2003

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.

Stephen Hyk, Jr. called Building Inspection on August 13, 2003, and indicated that he is going a different route with his plans. Osterloo moved to deny without prejudice with a second by Stone. Appeal No. 5285 was denied without prejudice by a vote of 4-0.

Appeal No. 5288

Patrick Hall, 3600 Sheridan Lake Road, Rapid City, SD 57702, applies for a variance on the side yard setback for the property owned by James Evans, legally described as Lot 3 of Block 3 in Skyline Pines Subdivision.

Solon gave the video presentation. Pat Hall and the potential buyers, Kurt & Amber Solay, were present for the variance. Hall presented the green cards. Hall said that this is a classic example where engineering comes in to conflict with reality. Hall explained that this lot is in a cul-de-sac in Skyline Pines. Hall said generally the homes in the area have three car garages. Renner & Sperlich Engineering Co. was hired to measure the lot and the building sites and shows the lot has approximately 2,500 sq ft of building site on the property. The 2,500 sq ft has to include an allowance for a three car garage, this is the standard in the area, according to Hall. Hall doesn't know if the 2,500 sq ft building site is with the 15' setback or the 30' setback, which the 30' setback is required in park forest zoning. Hall asked the Board that when they look at these properties, this is a mountainous terrain within the Black Hills up on Skyline Pines. There are topography issues to build on and there is a drainage area. Hall said that to get enough building site, they need the side setback to be reduced from 30' to 15'. There have been no objections to the variance. Hall told the Board members that there is no way to build a home and comply with a three car garage and the covenants for minimum square footage on the main floor on this lot site without having this variance. Hall said that they are in complete disagreement with the statements made by staff. Hall didn't know who to call on the staff comments because the Engineering comments were not signed by the staff member that wrote the comments. Hall was also frustrated that he didn't have enough time to contact the staff about their comments because he didn't receive the comments until Friday. Hall said that most this lot is totally impossible to build on. Hall said that there have been exceptions in this Skyline Pines areas to setbacks, they have already been done because of some of the limiting lots so this
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is not the first one that's asked; there's Lot 12R in Blk 2 that the side yard setback, and the front yard setback on Lot 5, Blk 2. Amber Solay showed the Board some photos of the lot. Solay also showed an example of the type of home they are looking at building, they do not have a home chosen yet. Solay wanted to ask whomever in the Engineering Dept. that wrote the comments where he came up with the 2,500 sq ft building pad. Johnson said that LaFrance had been working on this. Johnson explained how LaFrance came up with his measurements. Johnson stated that they are working without any site plan. Hall said that there is a drastic slope by the drainage area that they can't build on, 15' from the drainage easement they can't build on, or is economically not feasible and that's why they hired Renner & Sperlich to go up there. Solay said that the purchase of the lot is contingent upon the variance and the ability to build on the property. Solay said that the owner of Lot 2 wants them to build up on top because he is going to build back down below on his lot. Solon read the staff comments for the record. Fire Department – ok. Engineering – without a proposed site or building plan for the proposed lot submitted, it is difficult to comment on whether or not the lot is too small with the current set back limitations; it does appear the lot dimensionally would support at least a 2,500 sq ft building pad area at its westernmost edge; Engineering recommends the variance be denied. Planning – staff finds that the applicant could potentially redesign the site plan to be in compliance with the City of Rapid City Municipal Codes; the City of Rapid City Municipal Code has that site designated as the Park Forest Zoning District which requires additional open space through increased minimum setbacks; reducing these minimum required setbacks will diminish the open space at the site, which will not meet the intent of the Zoning Ordinance; staff cannot support the variance request. Solay asked if staff takes into consideration previous variances granted in the area. Green said absolutely not, that would be completely inappropriate criteria for the Board to consider. Each variance request is considered on its own merits, which is mandated by City Ordinance. Schlimgen stated that he was involved with this development issue and his own personal feelings on this would be that he doesn't think a development should have been build that already is asking for a lot of variances; and the 3 acres should have taken into consideration that there should have been buildable sites. Schlimgen would understand if Hall asked for the appeal to be continued based on his heavy personal involvement with the development. Hall said to make every lot in Rapid City comply with the stringent restrictions, would be totally not feasible and that's why there are variance boards like this. Hall wanted a moment with the Solay's to discuss whether or not they want this continued. Osterloo wanted to say that as a Board member he can read contours and looking at the site map, the contours on this lot and the one next door that they are able to build on are not that different in the contours. Osterloo would make a motion to continue in order for Hall to bring more information of what setbacks they would require and a site plan showing the house and the setbacks required. Hall said that they don't have a specific plan but what he is asking for is 15' within these layouts on the plot plan. Stone asked if they could buy some adjoining land. Hall said that they could look into that. Kurt Solay said that the contour of Lot 2 is quite different that Lot 3. The slope on Lot 2 is very gradual and the slope on Lot 3 is very steep and he doesn't know how they could build a road down there. Osterloo asked how the neighbor was going to build a road down his lot because he has the same contours. Solay said that he does not have the same contours. Stone stated that they should have the engineer check the contour map, because by the drawing, they have very similar contours. Stone moved to continue this appeal until September 2, 2003, with a second by Osterloo. Appeal No. 5288 was continued until September 2, 2003, by a vote of 4-0.

Appeal No. 5289

Debra Ross, 3711 Lawrence Drive, Rapid City, SD 57701, applies for a variance on the front, side, and rear yard setbacks for the property located at 3711 Lawrence Drive, legally described as Lot 3 of Block 3 in Northridge Subdivision.

Solon gave the video presentation. The green cards were presented before the meeting. Janelle Fink from Fisk Land Surveying was present to represent the owner. Fink said that the reason they are asking for the variance is because of an existing encroachment of the principal structure. What Ross proposes to build or develop doesn't encroach or violate any setbacks or easements. Ross intends to add a garage on to the south side of the house. Ross secured Fisk Land Surveying's services to do a boundary survey and give her a site plan that told her exactly how much room she would have to build the garage. Fink said that during the course of the survey, they discovered that the north corner of the building is close to a foot into the setback requirement and the front corner of the house is about 6" into the front setback. Fink said that they need the variance to be able to build the garage onto the house. Fink said that the hardship is that Ross has is to remove that portion of the house within the setbacks. The house has been there for over 20 years, Ross did not build the house, and has only lived there since 1993. Fink said that this is the minimum adjustment necessary. Since the house has been in existence for over 20 years, it is not injurious to the neighborhood. Adding a garage is a reasonable and good use of the property and Ross has a medical condition where she has a pacemaker. Fink said that not having to shovel snow and keeping her car running during the winter is a necessity for Ross and her medical condition. Fink said that the other item they are asking for on the variance application is to enclose the existing deck on the back of the house. The deck provides egress from the second story and often freezes shut during the winter along with drifting snow. There are several garages in the neighborhood. Neumann asked if there was going to be a means of egress from the house into the garage. Fink said that Ross is planning a walkway from the back deck to the garage along the rear portion of the house. Stone asked about the garage and if it meets the requirements for a building permit. Fink said that it does meet all the requirements. Solon read the staff comments for the record. Fire Department – ok. Planning – staff finds the variance request is self imposed, and that granting the variance would be in conflict with the City of Rapid City Municipal Code; in addition, the applicant currently has reasonable use of the property as a single family residential home; staff cannot support the variance request. Osterloo asked about the variance for the deck. Fink said that there is a 25' rear yard setback requirement, the lot is not very deep and there is a major drainage easement along the back of the property. The deck does not encroach into the drainage easement but the deck does encroach into the setback, which it can, as long as it remains an open deck. Stone asked what the size of the deck is currently. Fink did not know the exact dimensions, but thinks it is an 8' or 10' by 12'. Schlimgen asked if the deck is enclosed, can it become an actual room in the house. Solon said that it could be turned into a room. Schlimgen asked to address the issues of the house and the deck separately. Schlimgen does not have a problem with the house, but would title insurance come into play. Fink said that the title insurance companies have exclusions just for cases like these. Green agreed. Osterloo moved to approve the 7.1' side yard setback, northeast property line; and 24.4' front yard setback, with a second by Stone. The special circumstances are that the house has been existing for over 20 years, the use is allowed in the zoning district, strict application would deprive the applicant of reasonable use, it is the minimum adjustment necessary, it is in harmony with the intent of 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 it is necessary to overcome an

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obstacle. The house portion of Appeal No. 5289 was granted with a vote of 4-0. The enclosed deck portion of the variance was discussed. Osterloo moved to deny the enclosure of the back deck, with a second by Schlingen. The enclosed deck portion of Appeal No. 5289 was denied by a vote of 3-1 with Stone opposed.

Osterloo moved to approve the minutes of August 5, 2003, second by Stone. Motion carried 4-0.

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

MINUTES

ZONING BOARD OF ADJUSTMENT September 2, 2003

The Zoning Board of Adjustment met on Tuesday, September 2, 2003, with the following members present: Peter Neumann, Chairman; Jeff Stone; Vernon Osterloo; and John Herr. Staff present: Brad Solon and Brenda Vespested, Building Inspection; Jeff Marino, Planning; and Jason Green, Acting City Attorney.

Pete Neumann called the meeting to order. Neumann advised the appellants that there are only 4 board members present today. In order to grant a variance, the vote must be unanimous. The appeal can be heard or continued for 2 weeks.

Appeal No. 5288 Continued from August 19, 2003

Patrick Hall, 3600 Sheridan Lake Road, Rapid City, SD 57702, applies for a variance on the side yard setback for the property owned by James Evans, legally described as Lot 3 of Block 3 in Skyline Pines Subdivision.

Solon gave the video presentation. Doug Sperlich and the potential buyers, Kurt & Amber Solay, were present for the variance. Sperlich wrote a response to the staff comments in a handout with a potential house layout on the site plan. Sperlich said that it could be summed up in item #5; they are asking for a minor variance to the setback on the south side of the property so that they can put the house in a more favorable location. It will not allow them to put a larger house on this lot, but to allow the house to be moved closer to the cul-de-sac for preservation of the trees, reducing amount of concrete for the driveway, and decrease the amount of disturbance to the natural surroundings according to Sperlich. Sperlich said that this variance would make it more conducive to a park forest setting by allowing them to move the house closer to the pavement, it doesn't increase the density, it doesn't injure the neighbors, and the notices were sent out and to his knowledge nobody has called or written back objecting to the variance. The original variance asked for all the setbacks to be reduced to 15', but with the footprint actually on the site plan, the variance only needs to be 10' on the south property line. There is a drainage easement on the south property line and the house to the south is already built on the southwest corner of that lot. Amber Solay added that they contacted the owner of Lot 2, which is to the north of this lot, and this owner wants them to build at the front of their lot because he is going to build at the back of his lot. They also asked this landowner if they could purchase some of his lot so the variance was not needed and they got a very adamant no. Kurt Solay said that his reason not be sell part of his lot is that his lot is very narrow at the front. Herr wanted to know how many lots Lampert Court serves. K Solay said that it only serves 2 lots. Herr clarified that the request was for 6 ½ feet. Sperlich said yes for this particular house, they don't have the building plans and would like to keep the 10' variance in case the drawing is off. A Solay said that the original request was 15', but at the last meeting the Board wanted the proposed house on the lot, once they did this they realized that the variance didn't need to be the full 15' but they need 20'. Herr asked Sperlich if they had done the engineering on the original lots and what the intent of the developers was for a park-like setting. Sperlich said that Renner & Sperlich had done the engineering on the original lots and the 65 acres being zoned park forest set the density being a 3-acre lot minimum. Sperlich did say that they do try to maximized the density by trying to fit more 3-acres lots within the platted area. Herr wanted to know how far back the house would need to be moved to fit within the required setbacks. K Solay showed the Board a site plan with the house moved back almost the full length of the house. Herr asked about why this development was not in a PRD. Sperlich said that there a Zoning Board of Adjustment

lot of issues on Skyline Drive when property is rezoned. This property was already zoned park forest and they worked within those parameters so that they didn't have to go through the rezoning process. Herr stated that this development was just platted within the last 3 years. Herr thinks that they just tried to squeeze too many lots in the amount of area with the terrain and now people will be asking for special exceptions on setbacks for houses that are fit for that area. Sperlich said these people have a specific house and a specific lot and are asking a small variance to put this house on the lot. Herr asked about the other variances that Pat Hall had mentioned at the last meeting. Vespested said that she had done some research and that there have been no variances granted in the Skyline Pines Subdivision. Sperlich said that they had re-platted some lots. Solon said that they had planned on applying for variances but they did not apply for them. Solon read the staff comments again from the last meeting. There was discussion about the neighbor to the south and buying property from him. Neumann agreed with Herr in that the developers come in and try to put too many lots on the property and this is self-imposed. Osterloo said that when Wildwood was finishing up, there were about 6 lots that nobody would build on because of the shape and topography; they put houses on these that would fit the lots and he doesn't see why this one can't be done the same by finding the right house to put on the lot. Osterloo moved to deny the variance because the applicant has not proved that this is the minimum adjustment necessary for reasonable use of the land, with a second by Herr. Appeal No. 5288 was denied by a vote of 3-1 with Stone opposed.

Stone moved to approve the minutes of August 19, 2003, second by Ostserloo. Motion carried 4-0.

There being no further business to come before the board at this time, the meeting adjourned at 7:45 a.m.