

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 to 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 maximize the density by trying to fit more 3-acre 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.

MINUTES

ZONING BOARD OF ADJUSTMENT September 16, 2003

The Zoning Board of Adjustment met on Tuesday, September 16, 2003, with the following members present: Peter Neumann, Chairman; Vernon Osterloo; John Herr; Greg Peter; and Robb Schlimgen. Staff present: Brad Solon and Brenda Vespested, Building Inspection; David Johnson, Engineering; Jeff Marino, Planning; and Jason Green, Acting City Attorney.

Neumann called the meeting to order.

Appeal No. 5290

Ritchie Nordstrom, 401 E Meade Street, Rapid City, SD 57701, applies for a variance on the maximum lot coverage for the property located at 401 E Meade Street, legally described as Lot 7 of Block 1 in South Robbinsdale Subdivision.

The green cards were presented before the meeting. Solon gave the video presentation. Ritchie Nordstrom presented his appeal. Nordstrom explained that he wants to put an addition on the backside of the house behind the garage, which will be a 3 seasons room. The room will be insulated and will square up the house according to Nordstrom. Solon read the staff comments for the record. Fire Department – ok. Engineering – no comment. 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. Herr asked Solon if all the lots in the area were the same size. Solon said that in this portion of Meade Street they are all about the same size. These lots were always in the city limits. Neumann asked Nordstrom if he was keeping both sheds. Nordstrom said that he would like to keep them for storage, but he could move them out if needed. One shed is 8'x10' and the other is 8'x12'. The proposed addition is 12'x14'. Herr asked about getting rid of one shed if that would solve the problem. Neumann said that not to need a variance, he would have to remove both sheds. Neumann asked Nordstrom if he would be willing to give up both sheds. Nordstrom said that if he had to he would. Schlimgen said that if the sheds were gone, then he would have this stuff in the open in the yard. Herr asked Marino why this variance is in conflict with the comprehensive plan. Marino said that the comprehensive plan needs the open space and by covering the open space it would be in conflict. Herr asked how many houses in the area have garages. Nordstrom said that on the south side, most of them do have garages and there is one on the north side. Herr commented that people should have the right to make some improvements to their houses instead of making them move out of the neighborhood. Osterloo said that he didn't feel comfortable approving the 34% lot coverage but would like to approve the addition size. Green said that the application request was for lot coverage and not addition size, and the hardship was self-imposed. Neumann moved to grant the variance for 32% lot coverage, with a second by Schlimgen. The special circumstance is the lot size, the use is allowed in the zoning district, strict application would deprive reasonable use of the land, 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 obstacle. Appeal No. 5290 was granted by a vote of 5-0.

Appeal No. 5291

Jerry Peacock, 2032 Central Boulevard, Rapid City, SD 57702, applies for a variance on the side yard setback for the property located at 2032 Central Boulevard, legally described as Lot 20 of Block 4 in Strathavon Addition Revised 1952.

The green cards were presented before the meeting. Solon gave the video presentation. Jerry Peacock presented his appeal. Peacock said that he just bought his house this summer and wants to put up a carport attached to his house. Peacock said that he spent \$330 on a full boundary survey and found out that his neighbor's wall is encroaching on his property. He is landlocked meaning there is no alley behind him for access from the back of the property. Peacock has listed on the application other addresses that have variances granted for reduced side yard setbacks. This house was built in 1952. Herr asked about the other variances. Peacock said that Bechtel helped him look up the other variances in the neighborhood. The current side yard setback is 8 feet. When the house was built, the zoning ordinance required 5' and that's why the house is 5' from the north property line. There was also a variance granted to put the shed at the same setback on the north property line. The video was replayed again. Peacock said that the driveway is 16'7" wide. Solon read the staff comments for the record. Fire Department – ok. Engineering – Appellant should identify if there are easements on adjacent property for drainage, construction, and maintenance of the proposed structure. 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. Neumann feels that people are entitled to have at least a carport or garage on their properties. Peter said that the vehicles are sitting there right now in the setback whether they have a roof over them or not. Schlimgen wanted to clarify that the building that will be closest to Peacock's carport is the neighbor's garage, not a house. Osterloo moved to grant the variance request with a 5' setback, with a second by Neumann. The special circumstance is the size of the lot, it is for a use allowed in the zoning district, strict application would deprive the applicant of his right to have a carport or garage, 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 obstacle which is a small lot. Schlimgen doesn't think that being less than 5' would be injurious to the neighborhood. Schlimgen made a substitute motion to grant the variance as requested for a 2.7' side yard setback from the south property line, with a second by Herr. The substitute motion is based on the same findings as the original motion maker. The substitute motion was denied by a vote of 3-2, with Osterloo and Neumann opposed. Osterloo moved to amend his original motion to a 4.7' side yard setback from the south property line for a 12' wide carport, with a second by Schlimgen. Appeal No. 5291 was granted by a vote of 5-0.

Appeal No. 5292

Rita Fullmer, 321 Basham Road, Rapid City, SD 57702, applies for a variance on the minimum lot frontage abutting a public street, minimum paving requirements, and minimum lot area for the property located at 231 Basham Road, legally described as Lot B of Lot 16B-16A & 17 in Acre Tract.

Rita Fullmer presented the green cards. Solon gave the video presentation. Rita Fullmer and Doyle Cole presented the appeal. Fullmer wants to put a garage on her property because she is disabled and can't scrape her car windows. Fullmer showed the Board a picture of the garage she is going to put up. Cole said that all setbacks are being met. Herr wanted to know when the City started requiring frontage on a public street. Solon said that it has always been in there, and most of them that are being done today are in a PRD. Basham Road is not paved and is considered an alley, which is maintained by the City. The ordinance says that the first 50' from the street (primary access) or curb line of the driveway must be paved. Johnson said that the street would be considered Basham Road and it is not paved. Herr asked if the City was planning on paving Basham Road. Johnson said that there is nothing in the capital improvement plan to pave this. Solon read the staff comments for the record. Fire Department – ok. Engineering – we recommend driveway paving be required to eliminate tracking on streets, sediment discharge, and prevent negative air and water quality impacts. Planning – staff supports the request for a variance for zero feet of frontage on a public street in lieu of the requirements for a lot to have 25 feet of frontage, and the request for a lot to have a minimum of 6,000 square feet in lieu of the requirement for a lot to have a minimum of 6,500 square feet; staff finds that the requirement for a lot to have 25 feet of frontage on a public street and for the requirement for a lot to have a minimum of 6,500 square feet cannot be met through conventional methods, and the strict application of the zoning ordinance would deprive the applicant of reasonable use of the property; additionally, staff supports the request for a variance from paving the first 50 feet of a single family residential driveway; staff finds that the request for a variance from the requirement to pave the first 50 feet of a residential driveway meets the intent of the Zoning Ordinance and the Comprehensive Plan. Osterloo moved to grant the variance for zero feet of frontage on a public street, lot size of 6,000 square feet, and no paving of the residential driveway based on Planning Department's comments; with a second by Schlimgen. Appeal No. 5292 was granted by a vote of 5-0.

Osterloo moved to approve the minutes of September 2, 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.