

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 11th Street, Rapid City, SD 57701, applies for a variance on the maximum lot coverage for the property located at 1221 11th 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 11th 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.

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

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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.

MINUTES

ZONING BOARD OF ADJUSTMENT October 7, 2003

The Zoning Board of Adjustment met on Tuesday, October 7, 2003, with the following members present: Vernon Osterloo, John Herr; Greg Peter; Jeff Stone, and Robb Schlimgen. Staff present: Brad Solon and Brenda Vespested, Building Inspection; David Johnson, Engineering; Vicki Fisher, Planning; and Jason Green, Acting City Attorney.

Osterloo called the meeting to order.

Appeal No. 5293

George Black, 224 Markay Place, Rapid City, SD 57702, applies for a variance on the front yard setback for the property located at 224 Markay Place, legally described as Lot 32 of Block 2 in Sunrise Heights Subdivision.

The green cards were presented before the meeting. Solon gave the video presentation. George Black presented his appeal. Black said that he is asking to be allowed to enclose the space under the deck he will be building. The house is located at the minimum setback of 25 feet. Black said that east side yard setback is at 7 feet and the west side yard setback is at 13 feet. With the house being at the minimum setback, this allows for a deck to encroach up to 6 feet into the front yard setback. Black said that the narrowness of the lot at the front limits his access to the backyard, and there is no other means of access to the backyard. Black said that he would like to enclose the space under the deck and use it for storage. Once the deck has been enclosed underneath, it is considered a structure and can't be in the setback according to code. Black only has a one-car garage and would like to utilize the space for woodworking and still park a vehicle in it. Osterloo asked if the deck enclosure would only be accessible from the exterior of the house, Black said yes. There was some discussion about decks and what could be done legally to the underneath of the them without getting a permit. Osterloo asked if the storage shed was not attached to the deck, could it be put in the front yard setback. Fisher said no, it would have to be 35 feet from the front property line. There was some discussion on overhangs from decks. Solon read the staff comments for the record. Engineering – no comment. Fire Department – the requested variance does not appear to adversely affect any Fire Department access to the structure; ensure that the deck enclosure does not obstruct any required egress windows to the basement level. 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. Peter made a motion to grant the variance request to allow the enclosure of the space under the deck, creating a 19' front yard setback; with a second by Stone. The special circumstance is the narrowness of the front of the property, the use is allowed in the zoning district, strict application of the zoning ordinance 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 obstacle. Appeal No. 5293 was granted by a vote of 5-0.

Herr moved to approve the minutes of September 16, 2003, second by Peter. Motion carried 5-0.

There being no further business to come before the board at this time, the meeting adjourned at 7:20 a.m.

MINUTES

ZONING BOARD OF ADJUSTMENT November 4, 2003

The Zoning Board of Adjustment met on Tuesday, November 4, 2003, with the following members present: Peter Neumann, Chairman; Vernon Osterloo, John Herr; Greg Peter; and Jeff Stone. Staff present: Brad Solon and Brenda Vespested, Building Inspection; David Johnson, Engineering; and Vicki Fisher and Todd Tucker, Planning.

Neumann called the meeting to order.

Appeal No. 5294

Lloyd Batchelder, 24 E Saint Louis Street, Rapid City, SD 57701, applies for a variance on the front yard setback for the property located at 24 E Saint Louis Street, legally described as Lot 31-32 of Block 18 in Blakes Addition # 2.

Solon gave the video presentation. The green cards were presented before the appeal. Lloyd & Irene Batchelder were present for the appeal. Solon read the staff comments for the record. Irene Batchelder read a letter from her daughter, who is the property owner. Batchelder explained their situation and why they were requesting a variance. Solon read the staff comments for the record. Fire Department – ok. Engineering – no comment. Planning – the property is zoned General Commercial District; a single family residence is not a permitted use in the General Commercial District; however, the existing residence is a legal non-conforming use in the district; allowing the expansion of a use that is not permitted in the General Commercial District will be in conflict of the intent of the district; 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; staff cannot support the variance request. Herr asked when this was zoned general commercial. Fisher said that she did not know for sure, but thinks it was around 1968. Solon said that it was probably 1968 during the citywide rezoning. Batchelder commented on some of the Planning Department arguments. Stone asked if the porch was going to be heated and what the foundation was. Batchelder said no and it was blocked every 2 feet. Fisher said that Board should look at the health issues brought forward today by the applicant. There was discussion about the front setback and conflicting site plans. Fisher suggested that they make the variance explicit to the existing porch and footprint. Herr moved to grant the variance using the footprint of the existing porch as the setback, with a second by Stone. There is a special circumstance, it is not injurious to the neighborhood, it is the minimum adjustment necessary, it is in harmony with the general purpose and intent, it is not detrimental to the public welfare, it not in conflict with the comprehensive plan, and it is necessary to overcome an obstacle. Osterloo asked if this would be hard to enforce if in the future something would happen to the porch. Fisher said that they would have to rebuild within the specific footprint of the old porch. Appeal No. 5294 was granted by a vote of 5-0.

Appeal No. 5295

Peter Anderson, PO Box 9612, Rapid City, SD 57709, applies for a variance on the minimum off-street parking requirements for the property located at 601 12th Street, legally described as: Lot 1-16, S1/2 of 17-18, Easterly 2' of Alley Adjacent to Lot 1-5 of Block 5 in Boulevard Addition.

Solon gave the video presentation. The green cards were presented before the appeal. Steve McCarthy and Peter Anderson were present for the appeal. Fisher said that she spoke with Anderson and the request is correct and was advertised correctly. McCarthy said they are going to expand a business. McCarthy gave the board a copy of some pictures of the property. McCarthy explained the pictures and what they represent. Bill Hughes represented the Evangelical Church. Hughes explained their parking agreements with the neighbors. Arlen Dice represented the business that was expanding. He gave the board pictures of the parking at different times of the day and explained the pictures. Dice also had a letter from Dr. Anderson stating that there was not a parking problem and other statements from surrounding businesses. McCarthy said that there are five tenants in the building and they are busy at different times of the day. Solon read the staff comments for the record. Fire Department – even with the various power poles, the FD has adequate access to and around the building; there would be no real reason for any of our larger apparatus to pass the entire of the alley between the Metz building and the dental office. Engineering – all required parking should be configured such that backing into right-of-way is prevented; assure parking does not obstruct pedestrian ways (sidewalks) or sight triangles at intersections or approaches. Planning – the Evangelical Free Church is located north of the subject property obtained a variance from the Zoning Board of Adjustment to reduce the parking requirement for the church from 120 parking spaces to 51 parking spaces in 1984; the church sited that a parking agreement had been obtained from Quinn Funeral Home and Metz Baking Company (The Weight Room property) to use 23 parking spaces and 35 parking spaces, respectively, on the two properties; on March 6, 2001, the Zoning Board of Adjustment granted a variance for the subject property to allow 40 percent of the landscaping to be located in the right-of-way in lieu of 25 percent; to allow a 64 foot sight triangle at the corner of Twelfth Street and Kansas City Street in lieu of a 75 foot sight triangle; to allow backing into the alley; to allow a 9x18 foot parking stall directly off the alley in lieu of a 10x20 foot parking stall; and, to reduce the parking from 125 parking spaces to 87 parking spaces; granting this variance will reduce the parking requirement by an additional 13 spaces resulting in the site being short a total of 51 parking spaces; considering the parking agreement referenced by the Evangelical Free Church, the site poses substantial parking problems; staff finds the variance request is in conflict with the City of Rapid City Municipal Code; in addition, the applicant currently has reasonable use of the property as a commercial gymnasium; as previously noted, staff cannot support the variance request. Dice said that the Hospital will be leasing the room now used for classes and they will move this classroom to the second floor. Fisher stated that Green said that the parking agreement is not one that would qualify to allow the City to be a party to the agreement; the agreement can be cancelled by either party at any time. McCarthy said that they would be willing to change the agreement. Osterloo stated that he would have to abstain from voting in light of the fact that the Hospital is involved and he is a hospital employee. Herr moved to approve the variance waiving the required 13 additional parking stalls and that a parking agreement that is acceptable by the City Attorney's office is put in to place prior to the issuance of the building permit, with a second by Stone. Appeal No. 5295 was granted by a vote of 4-0, with Osterloo abstaining.

Appeal No. 5296

Isaac Almaza, 1620 McDermott Road, Spearfish, SD 57783, applies for a variance on the front and rear yard setbacks for the property located at 1210 Nowlin Street, legally described as W45' of Lot 7 of Block 15 in Scotts Addition.

Solon gave the video presentation. Isaac Almaza presented the green cards. Almaza said that the lot is empty and that the old house was condemned. Almaza wants to put his house on the lot. The house will be one-story single-family structure with no decks. Neumann asked about the side yard setbacks. Fisher said that this meet the small lot status setbacks for the side yard. Solon read the staff comments for the record. Fire Department – ok. Engineering – assure parking for the property is configured such that any sidewalks or pedestrian ways would not be obstructed. Planning – the strict application of the zoning ordinance deprives the applicant from any structural development on the property; reducing the setbacks as proposed to allow a 20x30 foot single family residence allows the applicant reasonable use of the property; as such, staff is recommending that the variance to reduce the front yard setback and the rear yard setback from 25 feet to 15 feet, respectively, be approved. Angela Meisner came to speak in opposition to the variance because the fence encroached onto her property by 2' 6". She wanted to know where the 15 feet would be measured from, the fence or the property line. Meisner was ok with the variance if the 15 feet was measured from the property line. Almaza said that he could move the fence once the property corners were marked. Osterloo moved to grant the variance for a 15' front yard setback and a 15' rear yard setback based on staff comments, with a second by Herr. Appeal No. 5296 was granted by a vote of 5-0.

Appeal No. 5297

Mike Abourezk, 117 Knollwood Drive, Rapid City, SD 57701, applies for a variance on the front and side yard setbacks for the property located at 102 E Kansas City Street, legally described as Lot 17 & W1/2 of Lot 18 of Block 5 in Denman's Subdivision.

Solon gave the video presentation. Mike Abourezk presented the green cards. Abourezk said that the steps on the front and side are old and dilapidated, and that they are a safety hazard. Abourezk said that he just wants to replace the existing decks and steps with no further encroachment into the setbacks. Abourezk said that the adjoining landowner closest to the subject property has signed an affidavit stating that he has no problem with this variance. Solon read a letter of opposition from Larry O'Neil, who is a co-owner of the property at 116 E Kansas City St. Solon said that there must be confusion on the size of the decks. Solon read the staff comments for the record. Fire Department – fire escapes should be built to code and in a safe, sound condition. Engineering – no comment. Planning – granting the variance to allow the applicant to replace the steps in order to provide safe access to the multi-family structure is the minimum adjustment necessary for reasonable use of the property to continue; as such, staff is recommending that the variance to reduce the setbacks as aforementioned be approved. Stone moved to approve the variance for a 15'4" front yard setback from Kansas City Street, 4'6" front yard setback from Myrtle Avenue, and 14" side yard setback from the east property line based on staff comments, with a second by Peter. Appeal No. 5297 was granted by a vote of 5-0.

Peter moved to approve the minutes of October 7, 2003, second by Osterloo. 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.

MINUTES

ZONING BOARD OF ADJUSTMENT January 6, 2004

The Zoning Board of Adjustment met on Tuesday, January 6, 2004, with the following members present: Peter Neumann, Chairman; Rob Schlimgen, John Herr; and Greg Peter. Staff present: Brad Solon and Brenda Vespested, Building Inspection; David Johnson, Engineering; and Vicki Fisher and Todd Tucker, Planning.

Neumann called the meeting to order.

Appeal No. 5298

KEVN-TV, Inc., 2000 Skyline Drive, Rapid City, SD 57701, applies for a variance on the minimum off street parking requirements for the property located at 2001 Skyline Drive, legally described as Tract B (Pt NW1/4NW1/4 West of Skyline Drive) T1N, R7E, Sec 11.

The appellant did not have the green cards to hear the meeting. Herr moved to continue the appeal until January 20, 2004, with a second by Peter.

There being no further business to come before the board at this time, the meeting adjourned at 7:30 a.m.