

## MINUTES

### ZONING BOARD OF ADJUSTMENT February 3, 2004

The Zoning Board of Adjustment met on Tuesday, February 3, 2004, with the following members present: Peter Neumann, Chairman; Vern Osterloo, John Herr; Jeff Stone, and Rob Schlimgen. Staff present: Brad Solon, Brenda Vespested, David Johnson, Sig Zvejnieks, and Todd Tucker from Growth Management; Jason Green, City Attorney; and Joel Landeen, Assistant City Attorney.

Neumann called the meeting to order.

#### **Appeal No. 5298 Continued from January 20, 2004**

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.

Solon gave the video presentation. The green cards were turned in at the last meeting. The new fire department comments were read. Fire Department – A site review was conducted regarding the existing site conditions; based upon the fact that the 15' wide parking lot access and the tower guy wire have existed for a number of years, the Fire Department would allow the access to remain the same with the following stipulations: the guy wire must be prominently marked with a fluorescent color and vertical streamers suspended to ensure the wire is seen by fire truck operators; the parking lot configuration must be modified to allow a fire truck room to turn around as per the Fire Department criteria; any future building modifications or site development will require improved access width and vertical mitigation (guy wire); sufficient area currently exists around the parking lot to make provisions for Fire Department access and turn around. Bold talked about the marking of the guy wire. Schlimgen asked about what was brought up at the last meeting. Solon explained what happened at the last meeting. Bold said that the parking has been this way since the second addition was put up in 1985. Bold said that this plan is modified for parking and took out the parking spaces that were in the middle of the lot. Osterloo made a motion to approve the variance keeping the 41 parking spaces, requiring adequate turn around for the fire department, and the 13' wide access to the parking lot; with a second by Herr. The special circumstance is the topography of the lot, the variance is for a use allowed in the zoning district, strict application would deprive reasonable use, it is the minimum adjustment necessary, it is in harmony with the general purposes and 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 the topography. Appeal No. 5298 was granted by a vote of 5-0.

#### **Appeal No. 5299 Continued from January 20, 2004**

Robert Hale, 315 S Main # 101, Minot, ND, 58701, applies for a variance on the landscaping requirements for the property located at 4001 Derby Lane, legally described as Lot B2 of Parcel B in MJK Subdivision.

Solon gave the video presentation. The green cards were turned in before the meeting. Robert Hale was present for the appeal. Hale explained the basis for the variance - the parking is concentrated on two sides and the landscaping would have to be based around this parking lot, which will obstruct the view to the north. Solon read the staff comments and the letter of opposition for the record. Fire Department –  
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Landscape material must not obstruct access to the structure in any manner; the landscape material must also be kept clear of all fire protection equipment – fire hydrants, fire department sprinkler connections, etc. Engineering – assure all landscaping is installed in a manner that does not result in obstruction of sight distance for vehicles entering roadways from the property, or at street intersections; it is noted that the site landscaping plan as originally submitted with the building permit did not result in sight distance obstructions; this should be a stipulation of approval if it is determined that the conditions for approval of a variance are satisfied. Planning – staff finds the variance request is in conflict with the City of Rapid City Municipal Code; the purpose of the Zoning Ordinance is to provide a balance between live vegetation and pavement within or in close proximity to parking lots; by not meeting the minimum required number of landscaping points located in the parking lot or within 20 feet of the parking, potential environmental, aesthetic, health, and safety issues arise; in addition, the applicant currently has reasonable use of the property for an assisted living center; as such, staff cannot support the variance request. The letter from Josh Hall and other home owners on Derby Lane is attached to the minutes for the record. The property Hale owns is separated into two separate lots, and the one small lot will be developed separately, the property owners is opposition are probably unaware of this. The small lot is adjacent to residence of Josh Hall. There was more discussion on the landscaping points and percentage around the parking lot. Tucker calculated the percentage of points around the parking lot of the proposed plan to be 23.7%. Schlingen made a motion to grant the variance allowing 25% of the landscaping points to be in or within 20 feet of the parking lot, with the stipulation of the additional landscape points required for the site be met somewhere else as indicated on the proposed plan provided, and not blocking sight triangles and fire hydrants; with a second by Osterloo. The special conditions are the position of the building and the topography on the site, it is for a use allowed in the zoning district, strict application of the provisions would deprive reasonable use of the land, it is the minimum adjustment necessary, it is in harmony with the general purposes and intent of the zoning ordinance, it is not injurious to the neighborhood, it is not detrimental to the public welfare, is it not in conflict with the comprehensive plan, and it is necessary to overcome the obstacle preventing the owner from using his property as the zoning ordinance intended . Appeal No. 5299 was approved by a vote of 5-0.

Stone moved to approve the minutes of January 20, 2004, with a 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.

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### ZONING BOARD OF ADJUSTMENT February 17, 2004

The Zoning Board of Adjustment met on Tuesday, February 17, 2004, with the following members present: Peter Neumann, Chairman; Vern Osterloo, John Herr; Jeff Stone, and Robb Schlimgen. Staff present: Brad Solon, Brenda Vespested, David Johnson, Sig Zvejnieks, Curt Huus, Vicki Fisher, and Todd Tucker from Growth Management; and Joel Landeen, Assistant City Attorney.

Neumann called the meeting to order.

#### **Appeal No. 5301**

Shirley Richter, 631 City Springs Court, Rapid City, SD 57702, applies for a variance on the front, side, and rear yard setbacks for the property located at 631 City Springs Court, legally described as Lot 2 of City Springs Subdivision.

Solon gave the video presentation. The green cards were turned in before the meeting. Shirley Richter was present for the appeal. Solon read the staff comments for the record. Fire Department – no comment. Growth Management Engineer – The majority of the drainage from the properties to the west and north of the subject property follow to the north; reduction of the setback on the west lot line will reduce the area available to transport the portion of the runoff from the adjacent lot discharges to City Springs Ct; there are two existing approaches to the property, one is from City Springs Ct and the other is from City springs Rd; only one approach to the property is permitted by the Street Design Criteria Manual; if a garage were constructed as proposed it would be necessary that the non-complying second approach would be removed; in addition, landscape timbers have been installed in the area of the approach of City Springs Rd; these are located in a drainage and utility easement and should be removed; it appears that reasonable use of the property currently exists; if it is determined that this is not the case and that the conditions for approval of the variance request exist, it is recommend that the following stipulations be included as stipulations of approval: the owner of the property shall be responsible to install, operate, and maintain any facilities or improvements necessary to accommodate and transport storm runoff in the vicinity of the property line between Lot 2 and Lot 3 of City Springs Subdivision; and the appellant shall remove the approach to the property from City Springs Rd and install standard curb and gutter, all landscape timbers on the property in the vicinity of the approach and located in the existing utility and drainage easement shall also be removed. Growth Management Planner – staff finds that variance request is in conflict with the City of Rapid City Municipal Code; the intent of the zoning ordinance is to provide sufficient separation from main and accessory structures from the street right-of-way and neighboring properties; by not meeting the minimum required setbacks, potential safety and aesthetic issues arise; in addition, the applicant currently has reasonable use of the property as a single-family residence; as such, staff cannot support the variance request. Richter wants to build a detached garage on her property, and as a result in a new survey, it was discovered that the house is not in compliance with the setbacks; therefore she is also asking for a variance on the house. Richter explained that she could not build an attached garage because of the bedrooms and the bedroom windows being at that end of the house. Fisher explained that the appellant can pick which of the property lines she wants to be considered as the rear setback because her property is adjacent to two streets. There was discussion on whether the garage could be moved forward or backwards to achieve the required 5' rear setback. Fisher said that the stipulations that the GM Engineer stated in his comments would not have to be part of the variance because these stipulations would have to be met before a building permit was issued

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along with a vacation of the utility easement. Richter said that she is already working on the vacation of this utility easement. Schlingen moved to approve the variance request for a 4.4' rear yard setback, 24.7' setback from City Springs Rd, and a 24.1' setback from City Springs Ct; with a second by Osterloo. The special circumstance is the existing house is situated on a lot abutting two streets and the garage can only be located at the proposed side of the house, the variance is for a use allowed in the zoning district, the strict application would deprive the applicant of reasonable use, it is the minimum adjustment necessary, it is in harmony with the purposes and 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, it is necessary to overcome an obstacle, and the variance brings some existing conditions into compliance. Appeal No. 5301 was approved by a vote of 5-0.

Osterloo moved to approve the minutes of February 3, 2004, with a second by Stone. Motion carried 5-0.

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