



Rapid City Zoning Board of Adjustment Variance Project Report

September 10, 2015

Applicant Request(s)

Case #15VA003, a Variance request to reduce the minimum required side yard setback from 8 feet to 5 feet for an attached garage as per Chapter 17.10.050(B)1 of the Rapid City Municipal Code

Companion Case(s) # N/A

Development Review Team Recommendation(s)

The Development Review Team recommends that the requested Variance be denied

Project Summary Brief

The applicant has submitted a request to reduce the minimum required side yard setback for an attached garage from 8 feet to 5 feet as per Chapter 17.10.050(B)1 of the Rapid City Municipal Code. The applicant is proposing to construct a 14 foot by 44 foot garage addition in the footprint of a legal non-conforming carport that was removed from the property. There is an existing 1,260 square foot single-family dwelling located on the property. There are no utility or minor drainages easements on the interior lot lines.

Applicant Information

Applicant: Gary C. Brundige and Michele S. Deisch

Property Owner: Gary C. Brundige and Michele S. Deisch

Architect: N/A

Engineer: N/A

Surveyor: N/A

Other: N/A

Development Review Team Contacts

Planner: Fletcher Lacock

Engineer: Nicole Lecy

Fire District: Tim Behlings

School District: N/A

Water: Nicole Lecy

Sewer: Nicole Lecy

Subject Property Information

Address 4021 West Chicago Street

Neighborhood West Rapid

Subdivision Pleasant Valley Subdivision

Land Area 0.16 acres (6,970 square feet)

Existing Buildings Single family residence

Topography Generally level

Primary Access West Chicago Street

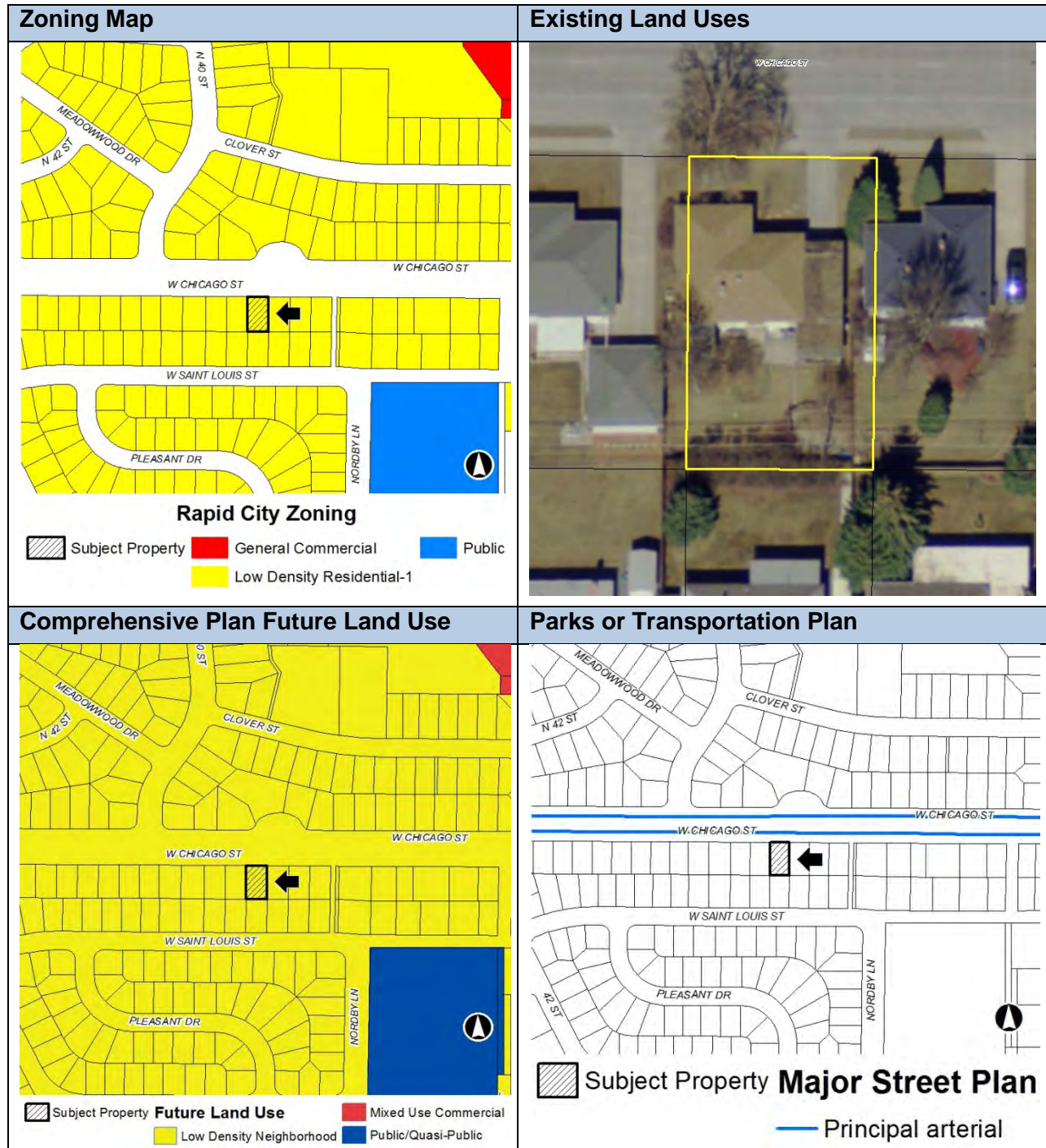
Water Provider Rapid City

Sewer Provider Rapid City

Electric/Gas Provider Black Hills Power/ MDU

Floodplain N/A

Subject Property and Adjacent Property Designations			
	Existing Zoning	Comprehensive Plan	Existing Land Use(s)
Subject Property	LDR	LDN	Single family dwelling
Adjacent North	LDR	LDN	Single family dwelling
Adjacent South	LDR	LDN	Single family dwelling
Adjacent East	LDR	LDN	Single family dwelling
Adjacent West	LDR	LDN	Single family dwelling



Relevant Case History			
Case/File#	Date	Request	Action
N/A			

Relevant Zoning District Regulations		
Low Density Residential District	Required	Proposed
Lot Area	6,500 square feet	Approximately 6,970 square feet
Lot Frontage	Minimum 50 feet at the front building line	65 feet
Maximum Building Heights	2.5 stories, 35 feet	One story
Maximum Density	30%	27%
Minimum Building Setback:		
• Front	20 feet	25 feet
• Rear	25 feet to primary structure / 5 feet to accessory structures	Approximately 36 feet
• Side	8 feet	Requesting 5 feet
• Street Side	N/A	N/A
Minimum Landscape Requirements:		
• # of landscape points	N/A	N/A
• # of landscape islands	N/A	N/A
Minimum Parking Requirements:		
• # of parking spaces	2	2
• # of ADA spaces	N/A	N/A
Signage	Pursuant to RCMC	None proposed
Fencing	Pursuant to RCMC	Existing chain link fence in rear yard

Applicant's Justification:	
Pursuant to Chapter 17.54.020.D of the Rapid City Municipal Code, before the Board shall have the authority to grant a variance, the applicant must adequately address the following criteria:	
Criteria:	Applicants Response (verbatim):
1. The granting of the variance will not be contrary to the public interest.	Correct. Most if not all residences in this neighborhood have a garage and/or shed that are within the 8' setback. For example, our neighbor's garage is less than 3' from our west property line. Garages either required a variance or were constructed under the original development setbacks. Addition of a garage to our property will ensure added value and desirability of the neighborhood. It is a norm and reasonable expectation to find a home with a garage. Some south-side W. Chicago homes that appear to have variances include 4009, 4013, 4025, 4029, 4035, 4105, 4107, 4205, 4209, 4223. Some north-side W.St. Louis include 4010, 4014, 4018, 4022, 4026, 4030, 4036, 4106, 4110, 4114
2. Due to special conditions the literal enforcement of the zoning ordinance will result in unnecessary hardship.	Correct. When purchased in 2014, we planned to replace the dilapidated carport (removed as a condition of financing) with a garage. When applying for a remodel building permit, we were told to apply for a separate garage building permit because a variance would be required due to carport removal. We were told this was a simple formality. If denied: 1) we will be deprived reasonable use of property, 2) we will have a house with less

	resale potential and value as compared to neighborhood homes, 3) no physical protection of automobiles against weather, vandalism and limestone dust, 4) financial hardship resulting from incurring unreasonable insurance deductibles and higher premiums, 5) no place to store automobile maintenance supplies and fluids which should not be in a home 6) home access for senior citizen/disabled
3. By granting the variance to the provisions of the zoning ordinance the spirit of the zoning ordinance will be observed.	Yes, we don't understand why the spirit wouldn't be observed. The granting of the variance would be consistent with the original intent for the neighborhood of single family dwellings and would be consistent with the original clearances of neighboring properties. Our residence would be in character with the neighborhood and other neighborhoods in Rapid City. The increased value and aesthetic would enhance city values. This variance is not injurious or detrimental to the neighborhood or the city.
4. By granting the variance substantial justice will be done.	Yes. Rapid City is a community that appears to want neighborhoods to keep their attractiveness, safety and comfort of its residents. We have remodeled this home and there would be an unjust mark against this home if it were not permitted a garage. Lots in this neighborhood were historically and originally narrow and did not accommodate future family needs, such as a garage. Absence of a garage is a real estate deal breaker when other homes in the area have garages. Our home should be on equal and fair par with the neighborhood.

Board of Adjustment Criteria and Findings for Approval	
Should the Board of Adjustment grant the variance for a reduction in the required side yard setback, the following criteria, findings, and conditions of approval would be applicable:	
Criteria:	Findings:
1. The variance is for a use allowed in the zoning district.	The requested Variance is for an attached garage. A single family dwelling with an attached garage is a permitted use in the Low Density Residential District.
Conditions of Approval	
1. Upon submittal of a building permit, construction plans prepared by a registered land surveyor shall be submitted. In addition, construction plans showing that a residential fire sprinkler protection system is being provided in the garage shall be submitted. Plans shall also show that the proposed addition is being constructed with approved fire resistant materials.	

Board of Adjustment Criteria and Findings for Denial	
Should the Board of Adjustment decide to deny the variance for a reduction in the required side yard setback, the following criteria would be applicable:	
Criteria:	Findings:
1. There are special circumstances or conditions that do not apply generally in the district (exceptional narrowness, topography, etc).	The property is approximately 6,970 square feet in size. The minimum required lot size is 6,500 square feet for a single-family dwelling. There are numerous dwellings located on West Chicago Street and West Saint Louis Street that have setbacks that are less than what is currently required by the Zoning Ordinance. However, all of those properties are legal non-conforming to setbacks and would also have to comply with the current Zoning Ordinance or obtain a Variance if they were to be rebuilt. In addition, there are approximately 16 dwellings located on West Chicago Street and West Saint Louis Street that have

	constructed detached garages in the rear yards. The applicant could construct a 20 foot by 24 foot detached garage in the rear yard and comply with all setback requirements.
2. The strict application of the provisions of the zoning ordinance denies any reasonable use of the land.	There is an existing one story single-family dwelling located on the property. There was previously a legal non-conforming carport located on the property that was removed. As noted above, the property is in compliance with the minimum lot size requirement. A detached garage could be constructed in the rear yard and comply with all setback requirements. The property to the west has constructed a detached garage in the rear yard. In addition, the adjacent neighbor to the east does not have a carport or a garage. Reasonable use of the land does exist with the single-family dwelling.
3. The variance is the minimum adjustment necessary for the reasonable use of the land.	The applicant is proposing to construct an attached garage in the footprint of the previously existing carport. A building permit was issued for the carport; however, the site plan did not identify the setback. It appears that the setback for the carport could be anywhere from 5 feet to 3 feet. Staff cannot support the proposed Variance request based on the submitted site plan and the applicant should be aware that if the Variance is approved a site plan stamped by a registered land surveyor would be required.
4. The variance is in harmony with the general purposes and intent of the zoning ordinance and will not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the comprehensive plan for development.	<p>Side yard setbacks exist to provide the following: adequate, safe separation between structures, sufficient open space for the maintenance of side yards and the siding of structures, and adequate open space for light and aesthetics for a neighborhood.</p> <p>The adopted Comprehensive Plan identifies the property as suitable for Low Density Neighborhood which identifies reducing the visual prominence of garages as a design principle. The proposed attached garage would be more prominent and would not be in compliance with the City's adopted Comprehensive Plan. A detached garage could be constructed in the rear yard and meet all required setbacks.</p>

Summary of Findings	
<p>The applicant is proposing to construct an attached garage measuring 14 feet by 44 feet onto the east side of an existing single-family dwelling. There was previously a legal non-conforming carport that was located on the east side of the dwelling. The applicant is requesting a Variance to reduce the minimum required side yard setback for an attached garage from 8 feet to 5 feet. The applicant has stated that there are numerous properties with legal non-conforming setbacks located in the area. All of the identified properties are legal non-conforming and no Variances have been granted for the reduced setbacks. All the identified properties would have to comply with the minimum required setbacks if the structures needed to be rebuilt. In addition, many of those properties have constructed detached garages in the rear yard which the applicant could also propose. The City's adopted Comprehensive Plan identifies the subject property as suitable for Low Density Neighborhood which promotes reducing the visual prominence of garages as a design principle. There is an existing single-family dwelling located on the property with a driveway that provides sufficient parking. There are also many dwellings located in the area without garages or carports including the adjacent property to the east. Reasonable use of the land exists with the single-family dwelling and a driveway for parking. The requested Variance is not in compliance with the spirit of the Zoning Ordinance or the City's adopted Comprehensive Plan. Staff recommends that the Variance request be denied.</p>	