



# Rapid City Zoning Board of Adjustment Variance Project Report

September 24, 2015

Applicant Request(s)
Case #15VA004 – CIVAR15-0016, a Variance request to reduce the minimum required front yard setback from 25 feet to “0” feet as per Chapter 17.18.050(A) of the Rapid City Municipal Code
Companion Case(s) # 15VR012 – Vacation of a portion of West Rapid Street right-of-way

Development Review Team Recommendation(s)
<b>The Development Review Team recommends that the requested Variance be denied</b>

Project Summary Brief
-----------------------

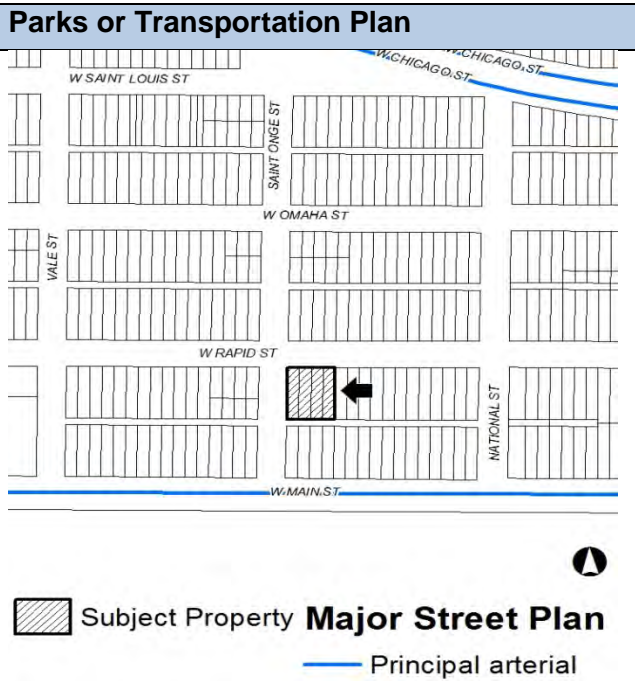
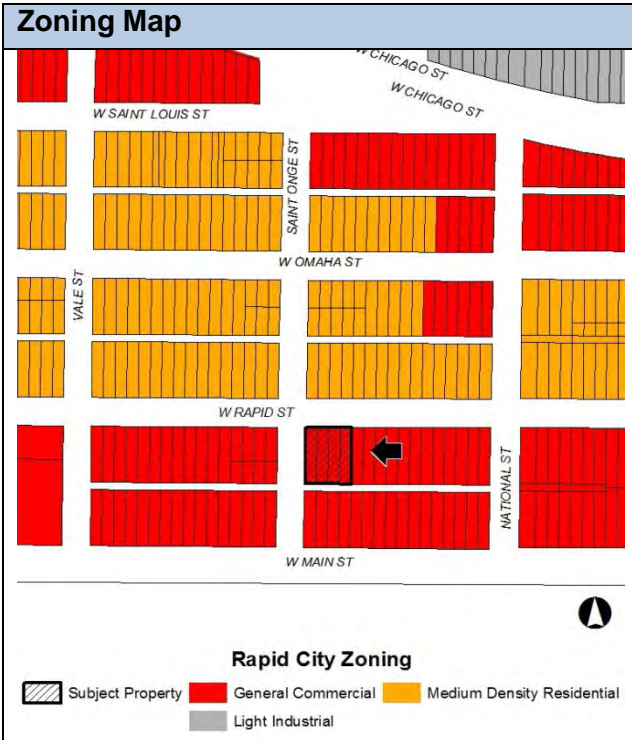
The applicant has submitted a Variance request to reduce the minimum required front yard setback for a commercial property from 25 feet to “0” feet as per Chapter 17.18.050(A) of the Rapid City Municipal Code. The applicant has also submitted a Vacation of Right-of-Way request (File #15VR012) for a portion of West Rapid Street where the structure encroaches into the right-of-way. On June 17, 2014, the Zoning Board of Adjustment granted a Variance (File #CIVAR14-0012) to reduce the minimum required front yard setback from 25 feet to 5 feet for a proposed 20 foot by 40 foot addition. The Variance also granted existing parking spaces on the west side of the property to back into Saint Onge Street right-of-way. The applicant constructed the proposed addition which encroaches 1.9 feet into the West Rapid Street right-of-way.

Applicant Information	Development Review Team Contacts
Applicant: GBA Inc, Bill Barber	Planner: Fletcher Lacock
Property Owner: Mark Schreiner	Engineer: Ted Johnson
Architect: N/A	Fire District: Tim Behlings
Engineer: N/A	School District: N/A
Surveyor: Renner and Associates	Water: Ted Johnson
Other: N/A	Sewer: Ted Johnson

Subject Property Information	
------------------------------	--

Address	404 Saint Onge Street
Neighborhood	West Rapid
Subdivision	Green Acres Subdivision
Land Area	0.29 acres (12,632 square feet)
Existing Buildings	Approximately 5,089 square feet
Topography	Generally level
Primary Access	West Rapid Street and Saint Onge 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	GC	MUC	Commercial structure
Adjacent North	MDR	UN	Single family dwelling
Adjacent South	GC	MUC	Office building
Adjacent East	GC	MUC	Commercial structure
Adjacent West	GC	MUC	Single family dwelling



Relevant Case History			
Case/File#	Date	Request	Action
CIVAR14-0012	6/17/14	To reduce the front yard setback from 25 feet to 5 feet and to allow parking to back into the right-of-way	Approved

Relevant Zoning District Regulations		
General Commercial District	Required	Proposed
Lot Area	N/A	12,500 square feet
Lot Frontage	N/A	225 feet
Maximum Building Heights	Four stories or 45 feet	One story
Maximum Density	75%	40%
Minimum Building Setback:		
• Front	25 feet	Requesting Variance to reduce to "0" feet
• Rear	"0" feet	"0" feet
• Side	"0" feet	40 feet
• Street Side	25 feet	19.7 feet from Saint Onge Street
Minimum Landscape Requirements:		
• # of landscape points	7,425	8,190
• # of landscape islands	"0"	"0"
Minimum Parking Requirements:		
• # of parking spaces	13	13
• # of ADA spaces	1 van accessible	1 van accessible
Signage	Two square feet for every linear square foot of frontage	No new signage proposed
Fencing	8 feet	No fencing proposed

Applicant's Justification:	
<p><b>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:</b></p>	
<b>Criteria:</b>	<b>Applicants Response (verbatim):</b>
1. The granting of the variance will not be contrary to the public interest.	<b>Not contrary to public interest:</b> We have verified that no utilities, public or private are located within the land included in the variance request or vacation of right of way request. We have also verified that all adjacent properties in the block are already served by water, sewer, power, gas and communications infrastructure and none of these facilities are located within the lands impacted by the proposed variance or vacation of right of way. The proposed Variance would not prohibit a adjacent property from performing improvements on their site.
2. Due to special conditions the literal enforcement of the zoning ordinance will result in unnecessary hardship.	<b>Special Conditions result in undue hardship for applicant:</b> The structure is existing and serves the need of the building owner, without approval of variance the building size would be reduced to a size not serving the needs of the business at a financial loss not able to be supported.
3. By granting the variance to the provisions of the zoning ordinance the spirit of the zoning ordinance will	<b>In the spirit and intent of the ordinance:</b> Granting of this variance will allow adaptation of an existing structure to be compliant with local ordinance. The Owner has made improvements to the property and enhanced the neighborhood

be observed.	and community. The project is compliant with all other ordinance and building code requirements.
4. By granting the variance substantial justice will be done.	<b>Will Serve substantial justice:</b> In the absence of approval demolition of the existing structure will be required causing financial hardship, loss of revenue and decrease the functionality of the business to the point that any growth will require a new location.

<b>Board of Adjustment Criteria and Findings for Approval</b>	
<b>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:</b>	
<b>Criteria:</b>	<b>Findings:</b>
1. The variance is for a use allowed in the zoning district.	The requested Variance is a commercial structure which is a permitted use in the General Commercial District.
<b>Conditions of Approval</b>	
1. The requested Variance shall be approved contingent upon the associated Vacation of Right-of-Way request (File #15VR012) being approved by City Council; and,	
2. The Variance shall be for the existing structure only. Any redevelopment of the site shall be required to provide a minimum 5 foot setback from the original property line abutting West Rapid Street.	

<b>Board of Adjustment Criteria and Findings for Denial</b>	
<b>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:</b>	
<b>Criteria:</b>	<b>Findings:</b>
1. There are special circumstances or conditions that do not apply generally in the district (exceptional narrowness, topography, etc).	On June 17, 2014, a Variance was granted to reduce the minimum required front yard setback from 25 feet to 5 feet. Subsequently, the approved 20 foot by 40 foot addition was constructed onto the north side of the existing building and now encroaches into the right-of-way. The applicant has also submitted a Vacation of Right-of-Way request to vacate the portion of West Rapid Street right-of-way where the structure encroaches. However, the minimum adjustment necessary was granted with the previous Variance request to reduce the front yard setback from 25 feet to 5 feet.
2. The strict application of the provisions of the zoning ordinance denies any reasonable use of the land.	The applicant was granted a Variance to reduce the minimum required front yard setback from 25 feet to 5 feet. As noted above, the structure was built into the West Rapid Street right-of-way because the site plan was hand drawn and not accurate to the existing conditions. If the Variance is to be granted, it should be for the existing structure only. Any redevelopment of the site would be required to have a 5 foot setback as previously granted.
3. The variance is the minimum adjustment necessary for the reasonable use of the land.	The Variance granted June 17, 2014, which reduced the minimum required front yard setback from 25 feet to 5 feet, is the minimum adjustment necessary. The applicant overbuilt the site because a surveyed site plan was not provided which identified the current conditions of the property. Staff was not in support of the original Variance request and cannot support this request as the minimum adjustment necessary has already been granted.
4. The variance is in harmony with the general purposes and intent of the	Front yard setbacks exist to provide the following: adequate, safe separation between structures and from adjacent rights-of-way, sufficient open space for the maintenance of yards and the siding

<p>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>	<p>of structures, and adequate open space for light and aesthetics for a neighborhood. The properties to the north are residential and the minimum required front yard setback provides an additional separation from residential properties.</p> <p>The West Rapid Neighborhood Area identifies that existing commercial development is in need of reinvestment and revitalization. Though the structural addition encroaches into the right-of-way and requires a Variance, the addition supports the reinvestment in the commercial area. In addition, the property is identified as Mixed-Use Commercial in the City's adopted Comprehensive Plan which identifies buildings closer to the street, parking on the side of the building, and clear pedestrian connections as design principles. The subject property does meet these criteria.</p>
---	---

<b>Summary of Findings</b>
<p>On June 17, 2014, a Variance was granted to reduce the minimum required front yard setback on the subject property from 25 feet to 5 feet for a 20 foot by 40 foot addition. The applicant submitted a hand drawn site plan showing that the proposed addition would have a 5 foot setback. However, the applicant subsequently constructed the addition which actually encroaches 1.9 feet into the West Rapid Street right-of-way. The site plan was approximately 7 feet in error. The applicant has also submitted a Vacation of Right-of-Way request to vacate the portion of West Rapid Street right-of-way where the structure encroaches. Staff did not support the original Variance request. The minimum adjustment necessary was granted by the Zoning Board of Adjustment to reduce the front yard setback from 25 feet to 5 feet. Staff recommends that the Variance to reduce the front yard setback from 25 feet to "0" feet be denied as the request does not meet all of the criteria needed to grant a Variance. If the Zoning Board of Adjustment grants the Variance, staff recommends that the Variance be granted for the existing structure only and that any redevelopment of the site will require a minimum 5 foot setback from the original property line as previously granted.</p>