

**MINUTES OF THE
ZONING BOARD OF ADJUSTMENT
June 19, 2012**

MEMBERS PRESENT: Peter Neumann, Steve Rolinger, Gene Herr, Steve Malone and Vernon Osterloo

MEMBERS ABSENT: none

OTHERS PRESENT: Brad Solon, Karmen Deuter, Fletcher Lacock, Brandon Quiett, Ted Johnson, Allison Marsland, Ron Davis – Davis Engineering, Steve and Lynn Hammond

Neumann called the meeting to order at 7:00 a.m.

Appeal No. 5576

Steve and Lynn Hammond, 1224 Skyline Drive, Rapid City, SD 57701 have applied for a **Variance to the Zoning Ordinance to reduce the minimum required front yard setback from 25 feet to 2 feet as per Chapter 17.10.050 (A2) of the Rapid City Municipal Code and increase the maximum sidewall height from 15 feet to 16 feet as per Chapter 17.10.060 of the Rapid City Municipal Code** for the property located at 1224 Skyline Drive, legally described as Lot B, Forest Hills Subdivision, Section 2, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota.

Solon read the request and presented video identifying the property and the variance request.

Ron Davis, Davis Engineering, stated that the homeowners have a lot of equipment sitting outside and would like to put a large garage on site to contain all the equipment in an effort to clean up the area. The location proposed is the only available area on the site.

Solon read the staff comments into the record.

Community Planning and Development Services:

SUMMARY: The property located at 1224 Skyline Drive is zoned Low Density Residential District. A two-story single family dwelling with an attached garage and two sheds are located on the property. On October 27, 1995, a building permit was issued for a single family dwelling with an attached garage. The existing sheds appear to be located in the front yard setback and appear to have a building footprint of over 120 square feet. As such, the sheds must be relocated outside of the required front yard setback and a building permit may be needed. A variance is needed to allow the existing sheds located in the required front yard setback.

State Scenic Byway Plan
The property is located within the boundaries of the Skyline Drive Infrastructure and Development Plan as approved by the City Council on October 11, 1995. The Skyline Drive area is one of the most visible physical features in the landscape of Rapid City. It is the location of Dinosaur Park, outdoor recreation areas and dramatic vistas. The approved plan recommended that a 25 foot front yard setback be maintained along Skyline Drive which concurs with the Zoning Ordinance. In addition, the plan recommends that all structures maintain a maximum height of 16 feet. The Zoning Ordinance requires that accessory buildings have a maximum height of 15 feet.

The current request does not meet all nine criteria required in order to grant a variance. Reasonable use of the property exists without granting the variance to allow a 16 foot high

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detached garage in the minimum 25 foot front yard setback. The applicant could construct a smaller detached garage outside of the required front yard setback. Staff cannot support this request for a variance to the required front yard setback and maximum height of an accessory building. In addition, the existing sheds located in the front yard setback must be removed or relocated and may require a building permit, or the applicant must seek a variance to allow them to remain in the front yard setback.

Public Works - Engineering:

SUMMARY: The Skyline Drive Infrastructure and Development Plan recommend's the preservation of 25' setbacks along Skyline Drive. The detached garage is proposed within the 25' front yard setback. The applicant currently has an 896 SF attached garage per a 1995 building permit. The addition of a 2,856 SF garage will require a conditional use permit. The location of the detached garage is proposed along the inside corner of a particularly steep and windy section of Skyline Drive. This variance request does not meet any of the 8 criteria that engineering uses for recommending approval.

During a site visit it was noted that there are currently 2 sheds onsite that appear to be located within the 25' front yard setback. If these sheds are within the setback, they shall be removed or a variance shall be obtained to allow the encroachment.

Fire Department:

SUMMARY: The Rapid City Fire Department, Fire Prevention Division has reviewed this request and has provided the following comments. The Fire Department is not in a position to support the request as presented for the following reasons:

- As noted in the applicant's request, no municipal water supply is provided to the property, therefore the fire flow provisions of the fire code cannot be maintained. The garage based upon the square footage of 2856 sq. ft. would require a minimum Fire Flow of 1500 GPM at 20 psi residual pressure.
- The property also exists within a wild land urban interface fire hazard area, in which limited combustible building materials, fire resistant landscaping plantings, and adequate water supply are all key features that must be carefully considered to aid in maintaining a survivable property.
- Fire Sprinkler Protection can be utilized to offset the fire flow provisions as well as preventing a structure fire from spreading to the wildland. In this situation a type of stored water and pump system would be needed to support a fire sprinkler system.
- Lastly the applicant noted that they were obtaining a piece of firefighting equipment. Although an honorable personal property protection effort I would discourage engaging in any wildland or structure fire fighting without Proper Personal Protective Equipment, Training and Experience. The risk of personal injury or death is great during any fire fighting.

Neumann asked if there were any covenants and applicants responded no, also stating that the neighbors were contacted and all were ok with this. Neumann asked about another location and Davis responded that any other location would require massive dirt work and expense.

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Neumann stated the board has to follow the criteria and asked what the hardship is. Davis responded that the topography is the hardship. Hammond addressed the board explaining several issues with vandalism and theft. Hammond also stated that the building would block the wind and the noise from the lookout however the view would not be blocked. Osterloo asked if there is a reason for the right of way being 100 feet. Lacock answered that Skyline is identified as a collector street and Quiett stated that 68 ft is required and 80 is recommended for the area. Davis spoke about vacating 10 feet of property. Rollinger stated that he was on the council at the time this was approved and they really didn't want anyone building up there at the time due to keeping the view open. Rollinger agreed that it would look better with equipment in a building. Neumann stated that he didn't have a problem with that either but the criteria states a hardship is necessary and there isn't a hardship here. He can't support this the way it is. Malone stated that he cannot support this request as it is. Osterloo asked about adjusting location to keep it within the setback. Davis stated that it was not possible and Hammond stated that it would not be attractive or practical. **Malone moved to deny the variance request, Herr seconded and motion passed with Osterloo, Malone, Herr and Neuman voting yes and Rollinger voting no.**

Approval of the May 15, 2012 Zoning Board of Adjustment Meeting minutes

Malone moved to approve the minutes of the May 15, 2012 meeting. Osterloo seconded and motion carried with Osterloo, Neuman, Herr, Rollinger and Malone voting yes and none opposed.

There being no further business, the meeting adjourned at 7:24 a.m.

STAFF REPORT

June 19, 2012

Variance Appeal No. 5576

GENERAL INFORMATION:

APPLICANT	Steve and Lynn Hammond
PROPERTY OWNER	Steve and Lynn Hammond
PIN NUMBER	37 02 302 001
REQUEST	Variance to the Zoning Ordinance to reduce the minimum required front yard setback from 25 feet to 2 feet as per Chapter 17.10.050 (A2) of the Rapid City Municipal Code and increase the maximum sidewall height from 15 feet to 16 feet as per Chapter 17.10.060 of the Rapid City Municipal Code.
LEGAL DESCRIPTION	Lot B, Forest Hills Subdivision, Section 2, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota.
PARCEL ACREAGE	1.18
LOCATION	1224 Skyline Drive, Rapid City, SD 57701
EXISTING ZONING	Low Density Residential
SURROUNDING ZONING:	
North	PF
South	PF
East	LDR
West	PF
PUBLIC UTILITIES	Private well and septic
DATE OF APPLICATION	May 21, 2012
REVIEWED BY	Fletcher Lacock, Planner I

STAFF REVIEW:

Pursuant to Chapter 17.54.020.D of the Rapid City Municipal Code, staff has evaluated the application based on the nine criteria established for the Zoning Board of Adjustment to review in order to grant a Variance. They are as follows:

There are special circumstances or conditions that do not apply generally in the district, (exceptional narrowness, topography, etc)

Yes _____ No X

Comments: Currently, there are no special circumstances or conditions that do not apply generally in the district. The property is located on Skyline Drive where there are steep slopes.

The variance is for a use allowed in the zoning district.

Yes _____ No X

Comments: A detached garage is a permitted use in the Low Density Residential District. However, the applicant is proposing to construct a 2,856 square foot detached garage which exceeds the allowable square footage for a private garage. A Conditional Use Permit to allow an oversized garage will be required.

The strict application of the provisions of the zoning ordinance denies any reasonable use of the land.

Yes _____ No X

Comments: On October 27, 1995, a building permit was issued for a two-story single family dwelling with a building footprint of 916 square feet with an 896 square foot attached garage. Reasonable use of the land exists without granting this variance.

The variance is the minimum adjustment necessary for the reasonable use of the land.

Yes _____ No X

Comments: The applicant is proposing a 2,856 square foot detached garage. The total square footage of accessory buildings would increase to 3,752 square feet plus the two sheds. The applicant could build a smaller garage outside of the front yard setback. The variance is not the minimum adjustment necessary.

The variance is in harmony with the general purposes and intent of the zoning ordinance.

Yes _____ No X

Comments: The purpose and intent of the Zoning Ordinance is to provide a sufficient level of open space from main and accessory structures from neighboring properties and abutting streets within the City of Rapid City. By not meeting the minimum required setbacks, potential safety and aesthetic issues arise.

The variance requested is not injurious to the neighborhood.

Yes _____ No X

Comments: On October 11, 1995, the City Council approved the Skyline Drive Infrastructure and Development Plan. Under the Development Standards of the Skyline Drive Infrastructure and Development Plan, a 25 foot front yard setback is proposed to be maintained along Skyline Drive. The

proposed garage has a 2 foot front yard setback. Implementation Strategy 4-G sets a maximum height for all structures of 16 feet. The proposed height of the garage would comply with the plan.

The purpose of maintaining the minimum front yard setback is to provide a sufficient level of open space between main and accessory structures and adjacent rights-of-way. Granting the variance may reduce the general welfare of the neighborhood by creating potential safety and aesthetic issues. In particular, the property is located along a bend in Skyline Drive opposite the "Look-out Point" with a significant change in elevation that already impedes the view of vehicles and pedestrians. The proposed garage may further impede the view of pedestrians and vehicles along a collector street adjacent to a tourist destination.

The variance is not detrimental to the public welfare. Yes _____ No X

Comments: The Skyline Drive area is well known as the location of Dinosaur Park, outdoor recreation areas and dramatic vistas. For this reason the Skyline Drive Infrastructure and Development Plan was approved by the City Council to encourage safe and appropriate development. The proposed garage is located opposite "Look-out Point" along Skyline Drive which is identified as a collector street on the City's Major Street Plan. The significant changes in elevation along Skyline Drive already impede the view of vehicles and pedestrians. The proposed detached garage will reduce the required front yard setback from 25 feet to two feet. It appears that with the impeded view due to the change in elevation and the bend in the road, that an additional encroachment will further impede the view of vehicles and pedestrians.

The variance is not in conflict with the comprehensive plan for development. Yes _____ No X

Comments: The Zoning Ordinance is the tool that carries out the designations of the comprehensive plan. Chapter 17.10.050(A)2 of the Rapid City Municipal Code requires a minimum front yard setback of 25 feet for dwellings and detached garages. In addition, Chapter 17.10.060 of the Rapid City Municipal Code requires that accessory buildings shall not exceed 15 feet in height. Waiving these requirements would be in conflict with the comprehensive plan.

The variance is necessary to overcome an obstacle that prevents the owner from using his property as the zoning ordinance intended. Yes _____ No X

Comments: The property is zoned Low Density Residential District. This District is intended to be used for single-family residential development with low population densities. A single family residence with an attached garage and two sheds are currently located on the property. There appears to be room on the site to locate a smaller garage outside of the required front yard setback. As such, a variance is not necessary for the owner to use the property as the Zoning Ordinance intended.

SUMMARY:

The property located at 1224 Skyline Drive is zoned Low Density Residential District. A two-story single family dwelling with an attached garage and two sheds are located on the property. On October 27, 1995, a building permit was issued for a single family dwelling with an attached garage. The existing sheds appear to be located in the front yard setback and appear to have a building footprint of over 120 square feet. As such, the sheds must be relocated outside of the required front yard setback and a building permit may be needed. A variance is needed to allow the existing sheds located in the required front yard setback.

The property is located within the boundaries of the Skyline Drive Infrastructure and Development Plan as approved by the City Council on October 11, 1995. The Skyline Drive area is one of the most visible physical features in the landscape of Rapid City. It is the location of Dinosaur Park, outdoor recreation areas and dramatic vistas. The approved plan recommended that a 25 foot front yard setback be maintained along Skyline Drive which concurs with the Zoning Ordinance. In addition, the plan recommends that all structures maintain a maximum height of 16 feet. The Zoning Ordinance requires that accessory buildings have a maximum height of 15 feet.

The current request does not meet all nine criteria required in order to grant a variance. Reasonable use of the property exists without granting the variance to allow a 16 foot high detached garage in the minimum 25 foot front yard setback. The applicant could construct a smaller detached garage outside of the required front yard setback. Staff cannot support this request for a variance to the required front yard setback and maximum height of an accessory building. In addition, the existing sheds located in the front yard setback must be removed or relocated and may require a building permit, or the applicant must seek a variance to allow them to remain in the front yard setback.