

STAFF REPORT  
June 29, 2010

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**No. 10FV006 - Fence Height Exception to allow an 8 foot fence in lieu of a 6 foot fence along the side yard setback**      **ITEM**

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GENERAL INFORMATION:

APPLICANT/AGENT	Alan Aker for Zane Martin
PROPERTY OWNER	Zane Martin
REQUEST	<b>No. 10FV006 - Fence Height Exception to allow an 8 foot fence in lieu of a 6 foot fence along the side yard setback</b>
EXISTING LEGAL DESCRIPTION	Lot 17 & 18 of Block 34, Flormann Subdivision, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.16 acres
LOCATION	635 Saint Andrew Street
EXISTING ZONING	Medium Density Residential District
SURROUNDING ZONING	
North:	Medium Density Residential District
South:	Medium Density Residential District
East:	Medium Density Residential District
West:	Medium Density Residential District
PUBLIC UTILITIES	City water and sewer
DATE OF APPLICATION	6/10/2010
REVIEWED BY	Jim Flaaen / Karley Halsted

RECOMMENDATION:

Staff recommends that the Fence Height Exception to allow an 8 foot fence in lieu of a 6 foot fence along a side yard setback be denied.

GENERAL COMMENTS: The applicant has submitted a Fence Height Exception to allow an 8 foot high fence in the along the side yard setback. In particular, the applicant is proposing to construct an 8 foot wood privacy fence between the applicant's residence and the adjacent residence to the east. The applicant has indicated that the 8 foot portion of the fence would extend from the front yard setback line 40 feet south and then the fence will shorten to 6 feet in height for approximately 15 feet to match the existing fence. The proposed fence will be light brown in color that will match the existing fence.

The applicant has indicated that portions of the proposed fence will be constructed on top of

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an existing retaining wall. Chapter 15.40.020 of the Rapid City Municipal Code identifies that fences may be constructed on top of retaining walls with the fence height measured from the top of the fence to the ground elevation on the uphill side of the retaining wall. The portion of the fence that will be located on top of a retaining wall is not a part of the 40 feet of proposed 8 foot high fence and will be 6 feet in height from the top of the fence to the ground elevation on the uphill side of the retaining wall.

The applicant has indicated that the proposed fence is needed for privacy between the residence and the adjacent residence to the east. A substantial amount of vegetation exists between the two properties where the proposed fence would be located that serves as screening between the two properties. The applicant has indicated that this vegetation would be removed to construct the proposed fence.

The property is located at 635 Saint Andrew Street which is located on the south side of Saint Andrew Street, west of 7<sup>th</sup> Street and north of Saint Patrick Street. A single family residence is currently located on the property.

STAFF REVIEW: Section 15.40.040 of the Rapid City Municipal Code states that, a variance to the fence height requirements can be granted by the City Council if the exception is not contrary to the public interest and the exception will not be injurious to the surrounding neighborhood. Staff has reviewed the proposed Fence Height Exception as it relates to the applicable provisions of the Rapid City Municipal Code and has noted the following issues.

Easements: The proposed fence will not be located within any utility or drainage easements.

Sight Triangles: The proposed fence will be located on an interior lot line in between to structures. As such, there are no sight triangle conflicts with the location of the proposed fence.

Building Permit: Chapter 15.40.060 of the Rapid City Municipal Code requires that a Building Permit must be obtained for all fences over 6 feet in height. As such, prior to the start of construction of the fence, a building permit must be obtained

Adjacent property: As previously indicated the fence is proposed to be constructed to provide privacy and screening from the adjacent residence to the east. The adjacent residence has a side yard setback of 5 feet to the applicant's property. The adjacent structure was built in 1939 at which time a 5 foot side yard setback was permitted in a Residential Zoning District.

The adjacent property has several windows on the west side of the residence. The fence as proposed will cast a shadow, restricting sunlight to the windows and adjacent property, resulting from the fence's proposed height and the short setback of the residence. In addition, the proposed fence will restrict airflow between the two properties and may negatively affect the adjacent property owner because of the reduced setback.

The provisions of the Rapid City Municipal Code allow for a 6 foot high fence (measured to grade on the high side of a retaining wall) in the side yard. In this case the resulting height

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**No. 10FV005 - Fence Height Exception to allow a six foot high fence within the 25 front yard setback**      **ITEM**

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of the fence for the highest portion of the fence with the 8 foot fence, as measured from the adjacent property, would be 8 feet and 11 feet on the applicant's side. However if no exception is granted, the highest portion of the fence, with a 6 foot fence, will be 6 feet on the adjacent property and 9 feet on the applicant's side. It appears that adequate screening can be provided without an exception being granted.

Due to the potential negative impacts on the adjacent property, staff recommends that the Fence Height Exception to allow an 8 foot fence in lieu of a 6 foot fence along the side yard setback be denied.