



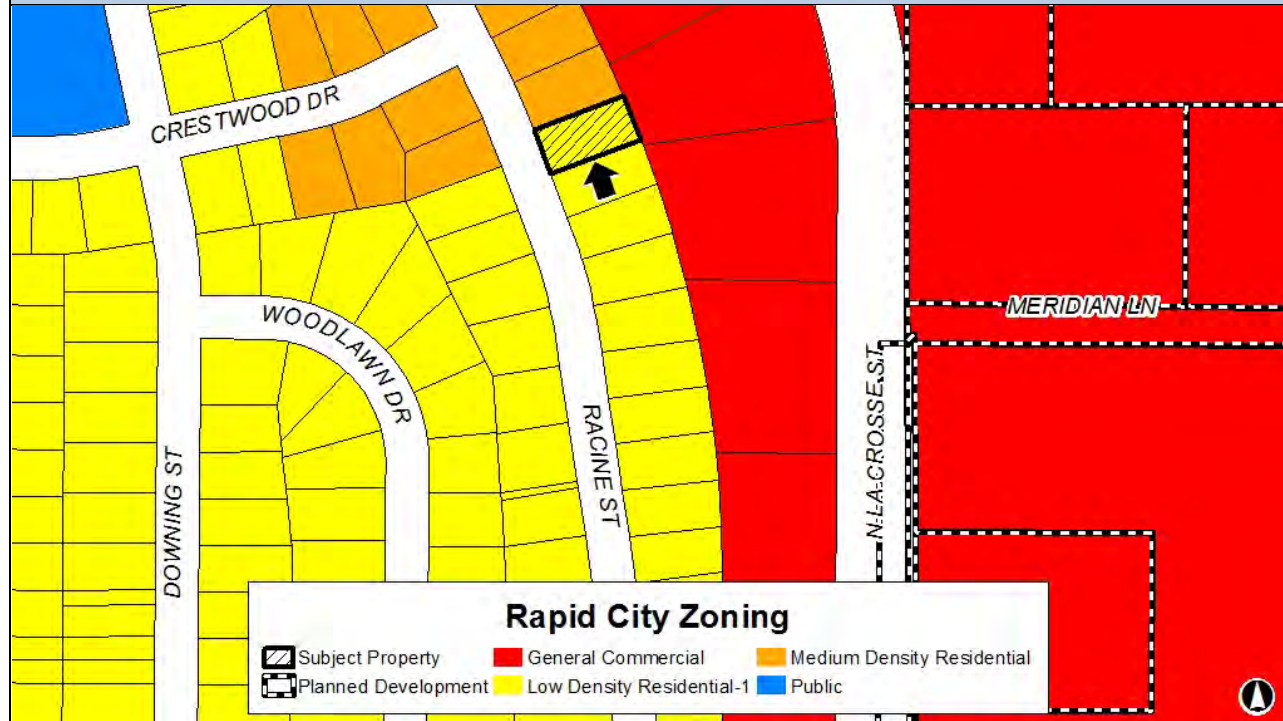
Rapid City Zoning Board of Adjustment Variance Project Report

May 24, 2018

Item #2	
Applicant Request(s)	
Case #18VA005, a Variance request to reduce the minimum required side yard setback that from 8 feet to 5 feet as per Chapter 17.10.050 of the Rapid City Municipal Code	
Companion Case(s) N/A	
Development Review Team Recommendation(s)	
Staff recommends that the Planning Commission acknowledge the applicant's withdrawal of the Variance application.	
Project Summary Brief	
<p>(Update: 5/17/18) This item was continued at the May 10, 2018 Zoning Board of Adjustment meeting to allow staff to review whether bank lending regulations have been changed to require confirmation that a legal non-conforming setback be allowed when a structure is rebuilt or damaged by 50% or more. During staff's research, it was determined that the requirement to ensure that a structure can be rebuilt on a property was established about 17 years ago. In addition, the issue typically only arises for certain types of loans, such as Fannie Mae or HUD funding. After visiting with the mortgage lender, it was determined that a Zoning Letter of Compliance describing the size and topography of the property was sufficient to ensure the lender that a same size residential structure could be rebuilt on the property and meet all of the setback requirements. Subsequently, the applicant has withdrawn the Variance application.</p> <p>The applicant has submitted a Variance request to reduce the minimum required side yard setback for an existing dwelling from 8 feet to 5 feet. The property is developed with a single-family dwelling, a detached garage, and a shed. The applicant has indicated that the existing shed will be removed from the side yard setback on the south side of the property. The existing dwelling was constructed with a 5 foot side yard setback in compliance with the Zoning Ordinance at the time. As such, the existing dwelling is legal non-conforming and can continue until such time as the structure is removed or damaged beyond 50% of the value. New development on the property would be required to provide an 8 foot side yard setback for a one-story single-family dwelling or 12 feet for a two-story single-family dwelling.</p>	
Applicant Information	Development Review Team Contacts
Applicant: Felix Young	Planner: Fletcher Lacock
Property Owner: Felix Young	Engineer: Todd Peckosh
Architect: N/A	Fire District: Tim Behlings
Engineer: N/A	School District: N/A
Surveyor: N/A	Water: Todd Peckosh
Other: N/A	Sewer: Todd Peckosh
Subject Property Information	
Address/Location	1502 Racine Street
Neighborhood	North Rapid Neighborhood Area
Subdivision	Knollwood Heights Subdivision
Land Area	0.02 acres
Existing Buildings	Single-family dwelling
Topography	Rises from west to east approximately 10 feet
Access	Racine Street
Water Provider	Rapid City
Sewer Provider	Rapid City
Electric/Gas Provider	Black Hills Power/ MDU

Subject Property and Adjacent Property Designations			
	Existing Zoning	Comprehensive Plan	Existing Land Use(s)
Subject Property	LDR	LDN	Single-family dwelling
Adjacent North	MDR	UN	Single-family dwelling
Adjacent South	LDR	LDN	Single-family dwelling
Adjacent East	GC	GC – Revitalization Corridor	Commercial strip mall
Adjacent West	LDR and MDR	LDN and UN	Single-family dwelling

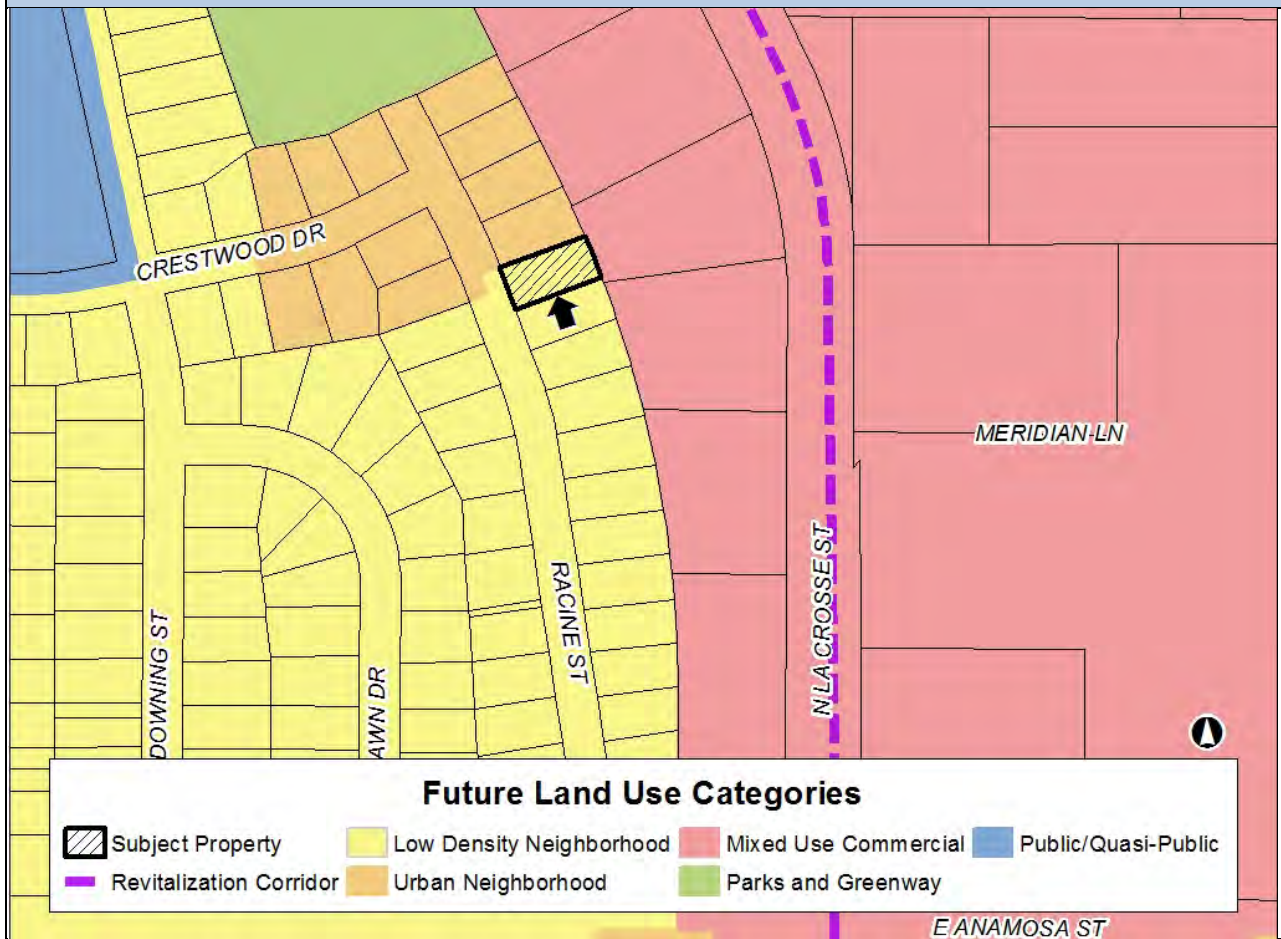
Zoning Map



Existing Land Uses



Comprehensive Plan Future Land Use



Future Land Use Categories

- Subject Property
- Low Density Neighborhood
- Mixed Use Commercial
- Public/Quasi-Public
- Revitalization Corridor
- Urban Neighborhood
- Parks and Greenway

Parks or Transportation Plan



Major Street Plan

- Subject Property
- Collector
- Minor arterial
- Principal arterial
- Proposed minor arterial

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

Relevant Zoning District Regulations		
Low Density Residential District	Required	Proposed/Existing
Lot Area	6,500 square feet	8,712 square feet
Lot Frontage	25 feet	65 feet
Maximum Building Heights	2½ stories, 35 feet	1 story
Maximum Density	30%	19%
Minimum Building Setback:		
• Front	20 feet	25.5 feet
• Rear	25 feet	26.5 feet to detached garage
• Side	8 feet	Requesting a Variance to reduce the side yard setback from 8 feet to 5 feet for an existing structure
• 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	None proposed

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.	I am only one of hundreds and even thousands of Rapid City citizens who will be affected by this re-zone and re-classification which is preventing the sale of our property and/or limiting the pool of available purchases which affects the value of the property.
2. Due to special conditions the literal enforcement of the zoning ordinance will result in unnecessary hardship.	The hardship to me is pretty apparent. The change in zoning and the resulting change in the property classification is devaluing my property and affecting a significant asset in my retirement.
3. By granting the variance to the provisions of the zoning ordinance the spirit of the zoning ordinance will be observed.	The ordinance was intended to adopt new set-back requirements while preserving the value and marketability of existing properties which were legally constructed and conformed to applicable ordinances. This situation is not consistent with that purpose.
4. By granting the variance substantial justice will be done.	I have fully complied with all laws and restrictions applicable to my property and I have not contributed, in any way, to the circumstances that are now preventing me from being able to sell my property.

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.	A single-family dwelling with a detached garage is identified as a permitted use in the Low Density Residential District.
Conditions of Approval	
N/A	

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. The strict application of the provisions of the zoning ordinance denies any reasonable use of the land.	The existing side yard setback is legal non-conforming as it was constructed in compliance with the Zoning Ordinance at the time. Any new structure on the property will be required to provide an 8 foot side yard setback for a one-story dwelling and 12 feet for a two-story dwelling. There is a reasonable building envelope to construct a dwelling in compliance with the current 8 foot or 12 foot side yard setbacks. Reasonable use of the land exists.
2. The variance is the minimum adjustment necessary for the reasonable use of the land.	As noted above, the existing setback is legal non-conforming. Removing the structure from the property or damage beyond 50% of the value would require that an 8 foot side yard for a one-story or 12 feet for a two-story dwelling, be provided. There is a reasonable building envelope to construct a dwelling in compliance with the current setback requirements.
3. There are special circumstances or conditions that do not apply generally in the district (exceptional narrowness, topography, etc).	The property is zoned Low Density Residential District. A single-family dwelling with a detached garage is identified as a permitted use. There are no special circumstances that do not apply generally in the district. The existing 5 foot side yard setback is legal non-conforming. The property is 8,712 square feet in size which exceeds the minimum required lot size of 6,500 square feet for a single-family dwelling.
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.	The Zoning Ordinance is the tool that carries out the designations of the Comprehensive Plan. The purpose of Chapter 17.10.050 of the Rapid City Municipal Code is to ensure the separation of structures on adjacent properties and to maintain open space for light and air. The existing 5 foot side yard setback is legal non-conforming. Redevelopment of the property should require that a minimum 8 foot side yard setback for a one-story dwelling or 12 feet for a two-story dwelling is provided to ensure that the intent of the Zoning Ordinance is being met.
Summary of Findings	
<p>The applicant has submitted a Variance request to reduce the minimum required side yard setback for an existing dwelling from 8 feet to 5 feet. The subject property is zoned Low Density Residential District and is approximately 8,712 square feet in size. There is a single-family dwelling with a detached garage and shed currently located on the property. A Building Permit was issued in 1971 to construct the single-family dwelling showing a 5 foot side yard setback which was the minimum required side yard setback at the time. The existing dwelling is legal non-conforming. There are no special circumstances such as elevation or exceptional narrowness for granting a reduced side yard setback when the property redevelops. Staff recommends that the Planning Commission acknowledge the applicant's withdrawal of the Variance application.</p>	

