Rapid City Zoning Board of Adjustment
Variance Project Report
April 26, 2018

Applicant Request(s)
Case #18VA004, a Variance request to reduce the minimum required front yard setback from 25 feet to 0 feet as per Chapter 17.18.050 of the Rapid City Municipal Code
Companion Case(s) N/A

Development Review Team Recommendation(s)
Staff recommends that the requested Variance be approved

Project Summary Brief
(Update April 24, 2018. All revised and/or added text is shown in bold.) The project report has been updated to revise the recommendation of approval. The Variance request is for an existing structure located on the property. Staff is recommending that in the event the existing structure is ever removed in its entirety or the existing structure is damaged beyond 50% of the value, a minimum 25 foot front yard setback must be provided. The applicant has submitted a Variance request to reduce the minimum required front yard setback from 25 feet to 0 feet along Racine Street. There is an existing commercial structure located on the property with a 0 foot setback along Racine Street. The applicant has indicated that the existing property will be platted in the future. A Design Exception from the Infrastructure Design Criteria Manual was previously granted to waive the requirement to dedicate additional right-of-way along Racine Street in association with a Preliminary Subdivision Plan (File #16PL095). A stipulation of approval of the Exception required that the applicant enter into a Covenant Agreement securing the timing of the dedication of right-of-way. This allows the applicant to continue using the entire building until the right-of-way is needed and a portion of the building is removed. When the right-of-way is dedicated, a new lot line is being established requiring a minimum 25 foot setback for existing or proposed structures be provided. In anticipation of dedicating the right-of-way, the applicant is requesting this Variance to minimize the area of the structure that must be removed.

Applicant Information
Applicant: Nooney and Solay LLP
Property Owner: ARM Land LLC
Architect: N/A
Engineer: FMG Engineering
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/Location 414 East Omaha Street
Neighborhood North Rapid Neighborhood Area
Subdivision Eastbrooke Subdivision
Land Area 3.02 acres
Existing Buildings Auto dealership
Topography Relatively flat
Access Waterloo Street / East Omaha Street / Racine Street
Water Provider Rapid City
Sewer Provider Rapid City
Electric/Gas Provider Black Hills Power/ MDU
Floodplain Federally designated 100-year and 500-year floodplain
<table>
<thead>
<tr>
<th>Subject Property and Adjacent Property Designations</th>
<th>Existing Zoning</th>
<th>Comprehensive Plan</th>
<th>Existing Land Use(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject Property</td>
<td>GC</td>
<td>MUC – Revitalization Corridor</td>
<td>Auto dealership</td>
</tr>
<tr>
<td>Adjacent North</td>
<td>GC w/PD</td>
<td>EC</td>
<td>Wellspring Inc</td>
</tr>
<tr>
<td>Adjacent South</td>
<td>FH and LI</td>
<td>LI – Revitalization Corridor</td>
<td>Commercial properties</td>
</tr>
<tr>
<td>Adjacent East</td>
<td>GC</td>
<td>MUC – Revitalization Corridor</td>
<td>Void of structural development</td>
</tr>
<tr>
<td>Adjacent West</td>
<td>FH</td>
<td>PG – Revitalization Corridor</td>
<td>Roosevelt Park</td>
</tr>
</tbody>
</table>

**Zoning Map**

**Rapid City Zoning**

- Subject Property
- Planned Development Designation
- General Commercial
- Flood Hazard
- Medium Density Residential
- Light Industrial
- No Code

**Existing Land Uses**
Relevant Case History

<table>
<thead>
<tr>
<th>Case/File#</th>
<th>Date</th>
<th>Request</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>16PL095</td>
<td>11/07/2016</td>
<td>Preliminary Subdivision Plan for proposed Lots 1 and 2 of Granite Subdivision</td>
<td>City Council approved</td>
</tr>
<tr>
<td>PL 1797</td>
<td>10/07/1991</td>
<td>Plat – Lot split for Lots 1 and 2 of Eastbrooke Subdivision</td>
<td>Approved</td>
</tr>
</tbody>
</table>

Relevant Zoning District Regulations

<table>
<thead>
<tr>
<th>General Commercial District</th>
<th>Required</th>
<th>Proposed/Existing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Area</td>
<td>N/A</td>
<td>3.02 acres</td>
</tr>
<tr>
<td>Lot Frontage</td>
<td>N/A</td>
<td>478 feet</td>
</tr>
<tr>
<td>Maximum Building Heights</td>
<td>4 stories, 45 feet</td>
<td>1 story</td>
</tr>
<tr>
<td>Maximum Density</td>
<td>75%</td>
<td>11.3%</td>
</tr>
</tbody>
</table>

Minimum Building Setback:
- Front: 25 feet
- Rear: 0 feet
- Side: 0 feet
- Street Side: 25 feet

Requests a Variance to reduce front yard setback from 25 feet to 0 feet

Minimum Landscape Requirements:
- # of landscape points: 116,692
- # of landscape islands: 1

0 points / legal non-conforming
0 / legal non-conforming

Minimum Parking Requirements:
- # of parking spaces: 45
- # of ADA spaces: 2

59
0 / legal non-conforming

Signage: Pursuant to RCMC
Fencing: Pursuant to RCMC

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:

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Applicants Response (verbatim)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The granting of the variance will not be contrary to the public interest.</td>
<td>Conditions currently exist.</td>
</tr>
<tr>
<td>2. Due to special conditions the literal enforcement of the zoning ordinance will result in unnecessary hardship.</td>
<td>If the variance is not granted the property cannot be subdivided and repurposed. It is not practical to remove 25' from each of the building walls.</td>
</tr>
<tr>
<td>3. By granting the variance to the provisions of the zoning ordinance the spirit of the zoning ordinance will be observed.</td>
<td>The variance is as proposed by the City during discussions regarding the replat and related Covenant Agreement requiring possible future right of way dedication.</td>
</tr>
<tr>
<td>4. By granting the variance substantial justice will be done.</td>
<td>The variance is as proposed by the City during discussions regarding the replat and related Covenant Agreement requiring possible future right of way dedication.</td>
</tr>
</tbody>
</table>
### 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:**

<table>
<thead>
<tr>
<th>Criteria:</th>
<th>Findings:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The variance is for a use allowed in the zoning district.</td>
<td>Auto sales are identified as a permitted use in the General Commercial District.</td>
</tr>
<tr>
<td>2. The strict application of the provisions of the zoning ordinance denies any reasonable use of the land.</td>
<td>As noted above, there is an existing structure with a legal non-conforming 0 foot setback located on the property. The property owner will enter into a Covenant Agreement with the City to secure additional right-of-way along Racine Street in the future. When the right-of-way is dedicated, a new lot line is being established requiring a minimum 25 foot setback for existing or proposed structures be provided. In anticipation of dedicating the right-of-way, the applicant is requesting this Variance to minimize the area of the structure that must be removed.</td>
</tr>
<tr>
<td>3. The variance is the minimum adjustment necessary for the reasonable use of the land.</td>
<td>The applicant is requesting a Variance to secure a 0 foot setback along Racine Street for the existing structure located on the property in the event that additional right-of-way for Racine Street is needed by the City. When the right-of-way is dedicated, a new lot line is being established requiring a minimum 25 foot setback for existing or proposed structures be provided. In anticipation of dedicating the right-of-way, the applicant is requesting this Variance to minimize the area of the structure that must be removed.</td>
</tr>
<tr>
<td>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.</td>
<td>The Zoning Ordinance is the tool that carries out the designations of the Comprehensive Plan. The purpose of Chapter 17.18.050 of the Rapid City Municipal Code is to ensure the separation between structures and adjacent rights-of-way. When the right-of-way is dedicated, a new lot line is being established requiring a minimum 25 foot setback for existing or proposed structures be provided. In anticipation of dedicating the right-of-way, the applicant is requesting this Variance to minimize the area of the structure that must be removed. <strong>Staff recommends that the Variance be approved for the existing structure. In the event the existing structure is ever removed in its entirety or the existing structure is damaged beyond 50% of the value, a minimum 25 foot front yard setback must be provided.</strong></td>
</tr>
</tbody>
</table>

**Conditions of Approval**

Any new development or redevelopment of the property shall require that a minimum 25 foot front yard setback be provided.

### 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:**

<table>
<thead>
<tr>
<th>Criteria:</th>
<th>Findings:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. There are special circumstances or conditions that do not apply generally in the district (exceptional narrowness, topography, etc.).</td>
<td>The subject property is a parcel of land approximately 3.02 acres in size zoned General Commercial District. The existing structure is legal non-conforming to setbacks. There are no special conditions that do not apply generally in the district.</td>
</tr>
</tbody>
</table>

**Summary of Findings**

The applicant has submitted a Variance request to reduce the minimum required side yard setback that abuts a street from 25 feet to 0 feet. The subject property is zoned General
Commercial District and is approximately 3.02 acres in size. There is an existing commercial structure located on the property that is legal non-conforming to setbacks. A Design Exception from the Infrastructure Design Criteria Manual was previously granted to waive the requirement to dedicate additional right-of-way along Racine Street in association with a Preliminary Subdivision Plan (File #16PL095). A stipulation of approval of the Exception required that the applicant enter into a Covenant Agreement securing the timing of the dedication of right-of-way. This allows the applicant to continue using the entire building until the right-of-way is needed and a portion of the building is removed. When the right-of-way is dedicated, a new lot line is being established requiring a minimum 25 foot setback for existing or proposed structures be provided. In anticipation of dedicating the right-of-way, the applicant is requesting this Variance to minimize the area of the structure that must be removed.

Recommendation

Staff recommends that the Variance to reduce the front yard setback from 25 feet to 0 feet be approved for the existing structure. A minimum 25 foot front yard setback shall be provided in the event the existing structure is ever removed in its entirety or the existing structure is damaged beyond 50% of the value.