

MINUTES OF THE
RAPID CITY ZONING BOARD OF ADJUSTMENT
May 10, 2018

MEMBERS PRESENT: Erik Braun, Karen Bulman, Racheal Caesar, Mike Golliher, John Herr, Galen Hoogestraat, Curt Huus, Kimberly Schmidt, Justin Vangraefschepe and Vince Vidal. John Roberts, Council Liaison was also present.

MEMBERS ABSENT: Mike Quasney,

STAFF PRESENT: Ken Young, Vicki Fisher, Sarah Hanzel, Tim Behlings, Ted Johnson, Todd Peckosh, Carla Cushman and Andrea Wolff.

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

1. Approval of April 26, 2018 Zoning Board of Adjustment Meeting Minutes.

Bulman moved, Golliher seconded and the Zoning Board of Adjustment approved the April 26, 2018 Zoning Board of Adjustment Minutes. (9 to 0 with Braun, Bulman, Caesar, Golliher, Herr, Hoogestraat, Huus and Schmidt, Vangraefschepe and Vidal voting yes and none voting no)

2. No. 18VA005 - Knollwood Heights Subdivision

A request by Felix Philip Young to consider an application for a **Variance to reduce the minimum required side yard setback from 8 feet to 5 feet for existing dwelling** for property generally described as being located at 1502 Racine Street.

Fisher presented the application and reviewed the associated slides. Fisher stated that the house had been built in 1972 which required a 5 foot setback at that time, Fisher noted that the ordinance has been amended and that an 8 foot side yard setback is now required. Subsequently, the structure is currently, legal non-conform. Fisher reviewed the criteria for granting a variance noting that the property does not meet any of the criteria and as such staff recommends the variance be denied.

Felix Philip Young, 1502 Racine Street, stated that he is asking for the variance to enable the sale of the house. Young said the insurance company has informed him that they will not insure it and that the bank will not provide financing based on new financing laws. Young stated he has lost two offers due to this issue.

In response to Braun's question whether this occurrence of finance issue is common, Fisher stated that staff receives requests for Zoning Letters to confirm authorized zoning and use. However, Fisher stated that to her knowledge, this was the first where a lender refused to finance a sale as a result. Fisher recommended that better communication between the City and banking facilities be initiated to address this issue.

Nyberg addressed the idea behind legal non-conforming stating that it is the allowance for property that exists within previous regulations to continue as it is, with the understanding that upon improvement or change, that property will be

required to meet current zoning requirements. He stated he would also like to hear from banks and lenders regarding this issue.

In response to a question from Hoogestraat, Fisher clarified that there are numerous other houses in the area with the 5 foot setback as that was the required setback at the time the houses in that area were built.

John Roberts, City Council Liaison, noted that the majority of houses of the area have these same setbacks and spoke to the possibilities of rebuilding houses with more than 50 percent damage. Roberts explained how a house does not have to be destroyed to be considered more than 50 percent damaged and said he would also like to discuss the issue with mortgage lenders and banks.

In response to a suggestion from Caesar to have the lender attend a meeting to discuss this issue, Fisher and Hoogestraat stated they would rather work among staff to reach an agreement.

Vangraefcshepe spoke to the reasoning behind the lenders request to retain the setback considering the cost of rebuilding on an existing foundation rather than move a foundation in addition to rebuilding which is substantial. Vangraefcshepe agreed that future discussions need to be held to address this issue between lenders and the City.

Further discussion including the possible need for an Ordinance Amendment regarding this portion of the Zoning Ordinance followed.

In response to a request from Huus's that the discussion on Ordinance Amendment be addressed in conjunction with the review, Fisher advised that the issues be handled separately to avoid delay on action for this application.

Hoogestraat moved, Caesar seconded and the Zoning Board of Adjustment continued the requested Variance to reduce the minimum required side yard setback from 8 feet to 5 feet for existing dwelling be to the May 24, 2018 Zoning Board of Adjustment meeting to allow staff to meet with mortgage lenders. (9 to 0 with Braun, Bulman, Caesar, Gollither, Herr, Hoogestraat, Huus and Schmidt, Vangraefcshepe and Vidal voting yes and none voting no)

3. Discussion Items

None

4. Staff Items

None

5. Zoning Board of Adjustment Items

None

There being no further business, Caesar moved, Hoogestraat seconded and unanimously carried to adjourn the meeting at 7:30 a.m. (9 to 0 with Braun, Bulman, Caesar, Gollither, Herr, Hoogestraat, Huus and Schmidt, Vangraefcshepe and Vidal voting yes and none voting no)

MINUTES OF THE
RAPID CITY PLANNING COMMISSION
May 10, 2018

MEMBERS PRESENT: Erik Braun, Karen Bulman, Racheal Caesar, Mike Gollhofer, John Herr, Galen Hoogestraat, Curt Huus, Justin Vangraefschepe and Vince Vidal. John Roberts, Council Liaison was also present.

MEMBERS ABSENT: Mike Quasney

STAFF PRESENT: Ken Young, Vicki Fisher, Sarah Hanzel, Tim Behlings, Todd Peckosh, Wade Nyberg and Andrea Wolff.

Braun called the meeting to order at 7:30 a.m.

Braun reviewed the Consent Agenda and asked if any member of the Planning Commission, staff or audience would like any item removed from the Consent Agenda for individual consideration.

Motion by Gollhofer seconded by Caesar and unanimously carried to recommend approval of the Consent Agenda Items 1 thru 7 in accordance with the staff recommendations. (9 to 0 with Braun, Bulman, Caesar, Gollhofer, Herr, Hoogestraat, Huus, Vangraefschepe and Vidal voting yes and none voting no)

---CONSENT CALENDAR---

1. Approval of the April 26, 2018 Planning Commission Meeting Minutes.
2. No. 17VR009 - Boulevard Addition
A request by Fisk Land Surveying & Consulting Engineers, Inc for Northwestern Engineering Company, Harney Lumber Company and The Robford Company, LLC to consider an application for a **Vacation of Right-of-Way** for , right-of-way adjoining Lot 12 and 1/2 of the vacated alley, Lot E, Lot 13 and Lots 33 thru 43, all located in Block 6 of Boulevard Addition, located in Section 2, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located north side of Kansas City Street west of West Street.
Planning Commission recommended that the Vacation of Right-of-Way be approved.
3. No. 18AN001 - Section 20, T2N, R8E
A request by City of Rapid City to consider an application for a **Resolution of Intent to Annex** for the W1/2 of the E1/2 of the SE1/4 of the SW1/4 Less Tract 1 of Vetsch Subdivision; the E1/2 of the W1/2 of the SE1/4 of the SW1/4; all of the section line right-of-way and dedicated right-of-way lying north of Seger Drive including plat of Lot H1 and dedicated right of way in the W1/2 of the E1/2 of the SE1/4 of the SW1/4 less Tract 1 Vetch's Subdivision and the E1/2 of the W1/2 SE1/4 of the SW1/4; plat of Lot H1 in the E1/2 of the E1/2 of the SE1/4 of the

SW1/4; plat of Lot H1 in the SE1/4 less lots A, B, C and D; all of the dedicated right-of-way in Lot D of the Golden Eagle Subdivision in the SW1/4 of the SE1/4; plat of Lot H1 in Lot B in the SW1/4 of the SE1/4; plat of Lot H1 in W400' of Lot A in the S1/2 of the SE1/4; and plat of Lot H2 in Lot A Less W400' in the S1/2 of the SE1/4, all located in Section 20, T2N, R8E, BHM, Pennington County, South Dakota, more generally described as being located north of Seger Drive, east of 143rd Avenue west of Dyess Avenue.

Planning Commission recommended that the Resolution of Intent to Annex be approved.

*4. No. 18PD014 - Original Town of Rapid City

A request by ACES for Pennington County Buildings & Grounds Department to consider an application for a **Major Amendment to a Planned Development Overlay to expand the boundary of Planned Development Overlay and to renovate the Pennington County Jail Complex** for Lots 1 thru 15 and the N1/2 vacated alley adjacent to said lots; Lot 16; Lots 20 thru 32 and the S1/2 of vacated alley adjacent to said lots and the eastern 75 feet of the previously vacated 3rd Street right-of-way lying adjacent to Lot 16 of Block 98 of Original Town of Rapid City, located in Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located 307 St. Joseph Street and 248 Kansas Street.

Planning Commission recommended that the Major Amendment to a Planned Development to expand the boundary of the planned development and to renovate the Pennington County jail complex be continued to the May 24, 2018 Planning Commission meeting at the applicant's request

The Rapid City Planning Commission's action on this item is final unless any party appeals that decision to the Rapid City Council. All appeals must be submitted in writing to the Department of Community Development by close of business on the seventh full calendar day following action by the Planning Commission.

*5. No. 18PD016 - Robbinsdale Subdivision

A request by Jessica Castleberry to consider an application for a **Major Amendment to Planned Development to allow a child care center** for Lot 1 thru 20 of Block 1 of Robbinsdale Addition, located in Section 7, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 301 E. St. Patrick Street, Suite 315B and 317.

Planning Commission recommended that the Major Amendment to a Planned Development to allow a child care center be approved with the following stipulations:

1. **A minimum of 78 parking spaces shall be provided on the property. Four of the parking spaces shall be ADA accessible with one of the ADA spaces being "van accessible". The two parking spaces on the east side of the structure shall be removed so that they do not interfere with**

the loading area. The submitted parking plan is hereby approved as submitted with a total of 92 parking stalls, of which 79 are in compliance with Section 17.50.270 of the Rapid City Municipal Code, until such time as the building is expanded, removed and/or a new structure is built on the subject property. At the time the building is expanded, removed and/or a new structure is built, the subject property shall conform to the parking requirements pursuant to Chapter 17.50.270 of the Rapid City Municipal Code;

2. Acknowledge the Exception granted to waive the screening requirement until such time as the building is expanded, removed and/or a new structure is built on the subject property. At the time the building is expanded, removed and/or a new structure is built the subject property shall conform to the screening requirement pursuant to Chapter 17.20.080 of the Rapid City Municipal Code;
3. Acknowledge the Exception granted to waive the landscaping requirement until such time as the building is expanded, removed and/or a new structure is built on the subject property. At the time the building is expanded, removed and/or a new structure is built, the subject property shall conform to the landscaping requirement pursuant to Chapter 17.50.300 of the Rapid City Municipal Code;
4. All signage shall comply with the requirements of the Rapid City Sign Code. No electronic or Light Emitting Diode (LED) signage is being approved as a part of this Major Amendment to a Planned Development. The addition of electronic or LED signage shall require a Major Amendment to the Planned Development. A sign permit is required for any new signs; and,
5. The Major Amendment to a Planned Development shall allow a child care center for a maximum of 81 children operated in compliance with the submitted operational plan. A total of 5,689 square feet of indoor play area shall be provided. Any expansion of the use or change in operator shall require a Major Amendment to the Planned Development. Permitted uses within the Neighborhood Commercial District in compliance with the Parking Ordinance shall be allowed with a Building Permit. Any conditional use shall require the review and approval of a Major Amendment to the Planned Development.

The Rapid City Planning Commission's action on this item is final unless any party appeals that decision to the Rapid City Council. All appeals must be submitted in writing to the Department of Community Development by close of business on the seventh full calendar day following action by the Planning Commission.

*6. No. 18PD017 - Robbinsdale Addition

A request by Douglas C. Langworthy to consider an application for a **Major Amendment to a Planned Development to allow a recreation facility** for Lot 1 thru 20 of Block 1 of Robbinsdale Addition, located in Section 7, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being

located at 301 E. St. Patrick Street, Suite 311 and 313.

Planning Commission recommended that the Major Amendment to a Planned Development to allow a child care center be approved with the following stipulations:

- 1. A minimum of 78 parking spaces shall be provided on the property. Four of the parking spaces shall be ADA accessible with one of the ADA spaces being “van accessible”. The two parking spaces on the east side of the structure shall be removed so that they do not interfere with the loading area. The submitted parking plan is hereby approved as submitted with a total of 92 parking stalls, of which 79 are in compliance with Section 17.50.270 of the Rapid City Municipal Code, until such time as the building is expanded, removed and/or a new structure is built on the subject property. At the time the building is expanded, removed and/or a new structure is built, the subject property shall conform to the parking requirements pursuant to Chapter 17.50.270 of the Rapid City Municipal Code;**
- 2. Acknowledge the Exception granted to waive the screening requirement until such time as the building is expanded, removed and/or a new structure is built on the subject property. At the time the building is expanded, removed and/or a new structure is built the subject property shall conform to the screening requirement pursuant to Chapter 17.20.080 of the Rapid City Municipal Code;**
- 3. Acknowledge the Exception granted to waive the landscaping requirement until such time as the building is expanded, removed and/or a new structure is built on the subject property. At the time the building is expanded, removed and/or a new structure is built, the subject property shall conform to the landscaping requirement pursuant to Chapter 17.50.300 of the Rapid City Municipal Code;**
- 4. All signage shall comply with the requirements of the Rapid City Sign Code. No electronic or Light Emitting Diode (LED) signage is being approved as a part of this Major Amendment to a Planned Development. The addition of electronic or LED signage shall require a Major Amendment to the Planned Development. A sign permit is required for any new signs; and,**
- 5. The Major Amendment to a Planned Development shall allow a recreation center operated in compliance with the submitted operational plan. Any expansion of the use shall require a Major Amendment to the Planned Development. Permitted uses within the Neighborhood Commercial District in compliance with the Parking Ordinance shall be allowed with a Building Permit. Any conditional use shall require the review and approval of a Major Amendment to the Planned Development.**

The Rapid City Planning Commission's action on this item is final unless any party appeals that decision to the Rapid City Council. All appeals must be submitted in writing to the Department of Community Development by

close of business on the seventh full calendar day following action by the Planning Commission.

*7. No. 18UR003 - Rapid City Greenway Tract

A request by Dana Forman of KLJ for Connie LeZotte of Story Book Island to consider an application for a **Major Amendment to a Conditional Use Permit to allow a structure in the Flood Hazard District** for Tract 8 of Rapid City Greenway Tract, located in Section 3, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2900 Jackson Boulevard.

Planning Commission recommended that the Major Amendment to a Conditional Use Permit to allow additional structures in the Flood Hazard District be approved with the following stipulations:

1. **The Major Amendment to a Conditional Use Permit shall allow the proposed carousel house and mechanical room to be located in the Flood Hazard District. Any change in use that is a permitted use in the Flood Hazard District and in compliance with the Parking Ordinance shall require the review and approval of a Building Permit. Any change in use that is a Conditional Use in the Flood Hazard District shall require the review and approval of a Major Amendment to the Conditional Use Permit; and,**
2. **Prior to issuance of a building permit, a Floodplain Development Permit shall be obtained. The structure shall be constructed above the base flood elevation and be firmly anchored to prevent flotation.**

The Rapid City Planning Commission's action on this item is final unless any party appeals that decision to the Rapid City Council. All appeals must be submitted in writing to the Department of Community Development by close of business on the seventh full calendar day following action by the Planning Commission.

---END OF CONSENT CALENDAR---

---BEGINNING OF REGULAR AGENDA ITEMS---

8. Discussion Items

Young informed the Planning Commission that there will be a joint meeting between the City Council and Planning Commission to review the City's Infrastructure Design Criteria. Young stated that this will be more of an informational round table discussion to provide a better understanding of the Design Criteria and a history of them and the impact of granting Exceptions. Young said the session is scheduled for Thursday, July 9, 2018 at 6:30 p.m., in the 3rd Floor Conference Room and hopes that the Planning Commission will attend.

9. Staff Items

None

10. Planning Commission Items

Planning Commission Liaison for the May 21, 2018 City Council Meeting will be Erik Braun.

There being no further business, Gollither moved, Hoogestraat seconded and unanimously carried to adjourn the meeting at 7:34 a.m. (9 to 0 with Braun, Bulman, Caesar, Gollither, Herr, Hoogestraat, Huus, Vangraefschepe and Vidal voting yes and none voting no)