

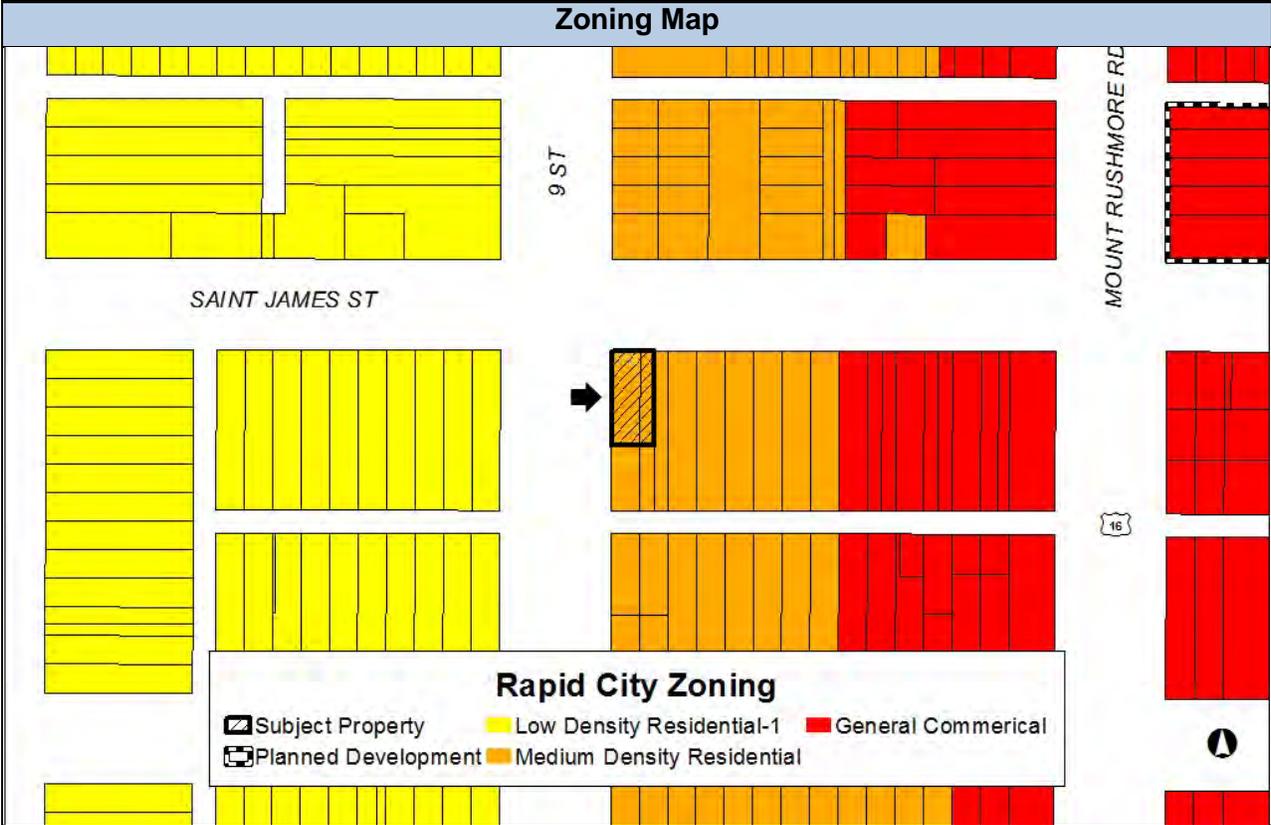


# Rapid City Zoning Board of Adjustment Variance Project Report

October 25, 2018

<b>Item #3</b>	
<b>Applicant Request(s)</b>	
Case #18VA011, a Variance request to a reduce front yard setback abutting a street from 20 feet to 8 feet and to reduce a side yard setback from 12 feet to 6 feet for the existing residence; and to reduce the front yard setback for a proposed deck from 14 feet to 4 feet.	
Companion Case(s) N/A	
<b>Development Review Team Recommendation(s)</b>	
Staff recommends that the Variance request to reduce a side yard setback from 12 feet to 6 feet and reduce a front yard setback abutting a street from 20 feet to 8 feet be approved and the Variance request to reduce a front yard setback from 14 feet to 4 feet be denied.	
<b>Project Summary Brief</b>	
<p>The applicant has submitted a Variance request to reduce a front yard setback abutting a street from 20 feet to 8 feet and to reduce a side yard setback from 12 feet to 6 feet for the existing residence; and to reduce the front yard setback for a proposed deck from 14 feet to 4 feet. On July 20, 1999, a Variance (Appeal # 5102) was granted to reduce the rear yard setback on the property to 4.5 feet in lieu of 25 feet, reduce the front yard setback to 10 feet in lieu of 25 feet, and reduce the side yard setback to 8 feet in lieu of 12 feet for the existing structure.</p> <p>At the time the previous Variances on the property were granted, an inaccurate site plan was submitted that did not reflect the actual setbacks of the structure on the property. The Variance to reduce the east side yard setback from 12 feet to 6 feet as part of this application is meant to address the measurement error for the side yard Variance granted in 1999 that allowed a reduced setback of 8 feet. In addition, the previously granted Variance reducing the side yard setback abutting a street from 12 feet to 8 feet should have been requested to reduce the setback from 20 feet to 8 feet. This Variance request also addresses this error.</p> <p>The proposed deck was constructed without a building permit and will require Historic Preservation Committee review and approval. The applicant has submitted an application for review to the Historic Preservation Committee.</p>	
<b>Applicant Information</b>	<b>Development Review Team Contacts</b>
Applicant: Tim Aylward	Planner: John Green
Property Owner: Tim Aylward	Engineer: Dan Kools
Architect:	Fire District: Tim Behlings
Engineer: N/A	School District: N/A
Surveyor: N/A	Water: Dan Kools
Other: N/A	Sewer: Dan Kools
<b>Subject Property Information</b>	
Address/Location	831 Saint James Street
Neighborhood	Downtown / Skyline Drive Neighborhood Area
Subdivision	West Boulevard District
Land Area	3,050 square feet
Existing Buildings	1,450 square feet
Topography	Relatively flat
Access	9 <sup>th</sup> Street
Water Provider	Rapid City
Sewer Provider	Rapid City
Electric/Gas Provider	Black Hills Power/ MDU
Floodplain	N/A
Other	West Boulevard Historic District

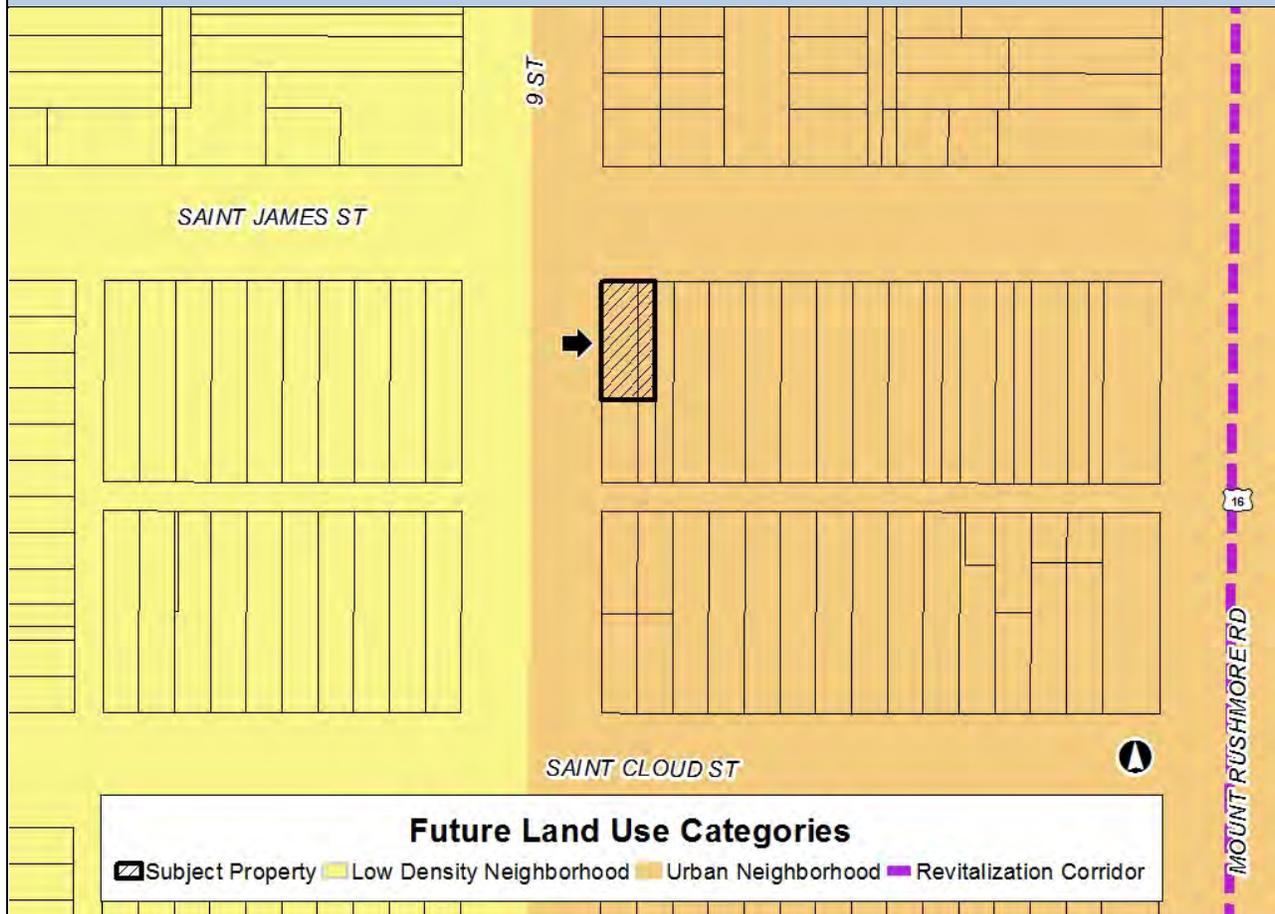
Subject Property and Adjacent Property Designations			
	Existing Zoning	Comprehensive Plan	Existing Land Use(s)
Subject Property	MDR	UN	Residence
Adjacent North	MDR	UN	Residence
Adjacent South	MDR	UN	Residence
Adjacent East	MDR	UN	Residence
Adjacent West	LDR	LDN	Residence



**Existing Land Uses**



## Comprehensive Plan Future Land Use



## Parks or Transportation Plan



Relevant Case History			
Case/File#	Date	Request	Action
Appeal # 5102	7/20/1999	Variance on the side, front, and rear yard setbacks for a second story addition to a garage.	ZBOA approved 7/20/1999

Relevant Zoning District Regulations		
Medium Density Residential District	Required	Proposed/Existing
Lot Area	6,500 square feet/8000 square feet	3,050 square feet
Lot Frontage	50 feet/100 feet	37.5 feet/83 feet
Maximum Building Heights	35 feet	2 stories
Maximum Density	30%	47.5%
Minimum Building Setback:		
• Front	20 feet	Requesting a Variance to reduce to 4 feet in lieu of 10 feet granted in 1999
• Rear	25 feet	4.5 feet (Variance granted)
• Side	12 feet	6 feet in lieu of 8 feet granted in 1999
• Street Side	20 feet	Requesting a Variance to allow 8 feet in lieu of 20 feet minimum for a street side setback
Minimum Landscape Requirements:		
• # of landscape points	N/A	N/A
• # of landscape islands	N/A	N/A
Minimum Parking Requirements:		
• # of parking spaces	N/A	0
• # of ADA spaces	N/A	0
Signage	Pursuant to RCMC	None proposed
Fencing	Pursuant to RCMC	None proposed

Applicant's Justification:	
<p><b>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:</b></p>	
<b>Criteria:</b>	<b>Applicants Response (verbatim):</b>
1. The granting of the variance will not be contrary to the public interest.	The new deck will enhance the property and the aesthetics of the surrounding area. It does not interfere with line of sight from 9 <sup>th</sup> to Saint James and vice versa.
2. Due to special conditions the literal enforcement of the zoning ordinance will result in unnecessary hardship.	Our daughters have no safe place to play as we have no backyard or otherwise usable space given our lot size.
3. By granting the variance to the provisions of the zoning ordinance the spirit of the zoning ordinance will be observed.	This not only improves the neighborhood without any impact to pedestrians/traffic etc, it also provides a family with an enjoyable and value added space.
4. By granting the variance substantial justice will be done.	See above.

<b>Board of Adjustment Criteria and Findings for Approval</b>	
<b>Should the Board of Adjustment grant the Variances for reduced front, side, and street side yard setbacks, the following criteria, findings, and conditions of approval would be applicable:</b>	
<b>Criteria:</b>	<b>Findings:</b>
1. The variance is for a use allowed in the zoning district.	A single family residence with a deck is a permitted use within the Medium Density Residential District. An uncovered deck may encroach up to 6 feet into a setback.
<b>Conditions of Approval</b>	
N/A	

<b>Board of Adjustment Criteria and Findings for Denial</b>	
<b>Should the Board of Adjustment decide to deny the Variance, the following criteria would be applicable:</b>	
<b>Criteria:</b>	<b>Findings:</b>
1. The strict application of the provisions of the zoning ordinance denies any reasonable use of the land.	<p>The Variances granted in 1999 were based on an inaccurate site plan submitted with that appeal. The requests to reduce a side yard setback from 12 feet to 6 feet and to reduce a front yard setback abutting a street from 20 feet to 8 feet submitted as part of this application are intended to address the site plan errors for the previously granted Variances in 1999.</p> <p>In 1999, a Variance was granted to allow a 10 foot front yard setback. The proposed deck associated with this Variance application was constructed without a permit and encroaches into the front yard setback that was previously granted in 1999. The applicant could remove 2 feet of the existing deck and relocate the access stairway in order to be in compliance with the 10 foot front yard setback that was previously granted. Reasonable use of the land exists and the applicant could receive a building permit if the design of the deck was altered.</p>
2. There are special circumstances or conditions that do not apply generally in the district (exceptional narrowness, topography, etc).	The lot is zoned Medium Density Residential District and is approximately 3,050 square feet in area. Due to limited lot size, the applicant is requesting a variance to allow more room for an attached deck. However, the applicant could build the deck in compliance with the 10 foot front yard Variance granted in 1999 by removing 2 feet off of the north end of the deck and aligning the access stairway in an east-west orientation.
3. The variance is the minimum adjustment necessary for the reasonable use of the land.	Reasonable use of the land exists. The applicant could change the design of the deck and obtain a building permit.
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 intent of the ordinance requiring a 20 foot front yard setback in Medium Density Residential District is to protect and enhance residential neighborhood character, reduce sight line obstructions, decrease fire danger between structures, provide access to public utilities, and provide adequate pedestrian/vehicular access adjacent to the right-of-way. The Variance to reduce the front yard setback from 14 feet to 4 feet for the proposed deck could create potential pedestrian hazards near the adjacent sidewalk.
<b>Recommendation</b>	
Staff recommends that the Variance request to reduce a side yard setback from 12 to 6 feet and to reduce a front yard setback abutting a street from 20 feet to 8 feet be approved for the existing structure and the Variance request to reduce a front yard setback from 14 feet to 4 feet	

for the deck be denied.