MEMBERS PRESENT: Erik Braun, Karen Bulman, Racheal Caesar, Mike Golliher, John Herr, Galen Hoogestraat, Eric Ottenbacher, Mike Quasney, Justin Vangraafschepe and Vince Vidal.

MEMBERS ABSENT: Curt Huus and John Salamun, Council Liaison

STAFF PRESENT: Vicki Fisher, Fletcher Lacock, John Green, Wade Nyberg and Andrea Wolff.

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

1. Approval of the May 23, 2019 Zoning Board of Adjustment Meeting Minutes.
   Bulman moved, Golliher seconded and the Zoning Board of Adjustment approved the May 23, 2019 Zoning Board of Adjustment Meeting Minutes be approved.

2. No. 19VA004 - Boulevard Addition
   A request by John and Mary Buchy to consider an application for a Variance to reduce the front yard setback from 25 feet to 15.5 feet, to reduce the rear yard setback from 25 feet to 2 feet, to reduce the side yard setback that abuts a street from 20 feet to 12 feet, to reduce the side yard setback from 12 feet to 5 feet, and to increase the lot coverage from 30% to 41.2% for the east 78 feet of Lot 11 and 12 of Block 18 of Boulevard Addition, located in Section 2, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 923 West Boulevard.

   Lacock presented the application and reviewed the associated slides. Lacock noted that this item had been before the Zoning Board of Adjustment at the April 25, 2019 Zoning Board of Adjustment meeting (File#19VA001) and Zoning Board of Adjustment had motioned to approve the setback Variances and to deny the lot coverage Variance, but as the vote was less than the 2/3 majority required to take action, the motion failed and the item was denied. The applicant filed a second application to try to receive approval. Lacock explained that the Variance requests for setbacks represent the existing setbacks and would bring the current structure into compliance with the exception of the front yard setback, which would actually reduce the setback encroachment making those Variance requests the minimal adjustment necessary for reasonable use of the land as it is today. However, the addition of the covered porch is not the minimum adjustment to allow reasonable use of the property and as such staff does not support the request to increase lot coverage as a result of covering the deck. Lacock reviewed the historical review comments on this request noting that it is a non-contributing structure and that they found the project would cause no adverse effect. Lacock stated that staff is recommending that the Variances for setbacks be approved and the Variance for lot coverage be denied.
In response to a question from Vangraefschepe on the relationship between lot coverage and coverage of the patio to the setback Variances, Fisher explained that the covering of the patio increases the calculation of lot coverage, whereas none of the other requests are increases only corrections. Fisher stated that the patio can be modified in other ways without creating an issue to lot coverage. Lacock explained that the setback requests are corrections whereas covering the patio would be a modification and is not the minimal adjustment.

Jean Kessloff, 11015 2th Street, spoke to her reasons why she does not support the request listing her past community activity and committee involvement and current membership with the West Boulevard Neighborhood Association. Kessloff read from the Secretary of Interiors Standards regarding setbacks and settings and how they affect the character of a neighborhood. Kessloff listed her concerns regarding the City’s maintenance of the historical integrity of the West Boulevard Historic District noting that the addition of on-street parking, rezoning changes that have allowed commercial encroachment into the historic district, and the plans to allow multi-family dwellings which she believes these actions are endangering the historic district. Kessloff stated she believes that whether the structure is contributing on its own or not, each one is part of the overall viability of the district as a whole.

Mary Buschy, 923 West Boulevard, referenced the research she had done before deciding on her project design. Buschy stated her basis for requesting the deck is that she believes that at some time in the past, some form of patio had to have been in place based the location of the mail slot so far up and to the side, but she is unable to locate photos that show what was there. Bushy believes that the existing deck is completely out of character with the style or era of the house and is more of an adverse effect to the historic character of the property than the covered deck she is proposing. She stated that covering the deck is important to allow her and her husband use of the deck as they are limited in the time they can be in the sun, so without the covering, the deck is not of much use to them. Bushy spoke to the improvements they have made to the property including putting in a curb.

Sarah Hanzel, Long Range Planner and liaison to the Historic Preservation Commission, reviewed the process that the applicant went through to receive Historic Review approval. Hanzel noted that as a non-contributing structure this particular project as reviewed on its individual basis would not be adverse in terms of materials or design. Hanzel noted that the Historical Review is used to looking at the individual requests on a case-by-case basis and this one was found to not pose an adverse effect to the overall District.

Bulman said that the improvements are appropriate and the correction to the setbacks are needed, but the question is the covered patio which is the deciding factor on the lot coverage question so she asked to separate the two into separate actions.

**Bulman moved, Vidal seconded to approve the setback Variances contingent on the removal of the concrete patio.**
Fisher made a friendly amendment to identify the basis of approval to include that the small lot size creates a hardship.

**Bulman and Vidal accepted the amendment to the motion and the Zoning Board of Adjustment approved unanimously.**

Braun opened the floor to discussion on the covered deck and the Variance for lot coverage.

Hoogestraat asked what the lot coverage would be with the 2 foot reduction from the existing deck to the proposed deck and covered section of the proposed deck and the removal of the concrete patio and provided a fast calculation of the difference, stating that he feels that the increase is very minor and he supports the covered deck.

Vangraefschepe stated that he does not see that the minimal increase in lot coverage will create an adverse drainage affect.

Caesar stated that she believes the small lot size creates a reason for the Variance to increase the lot coverage and she feels that providing shade to patio is reasonable use.

In response to a question from Vidal regarding the Historic aspect of the covered patio, Hanzel clarified the request for the covered patio had received staff approval based on design and material.

Bulman reviewed how lot coverage is calculated clarifying it is by roof covering not ground level coverage. She stated that the use of the property is still available without the addition of the covered deck. Bulman stated she feels that the Zoning Board of Adjustment is bound to follow the guidelines set out to review and grant Variance and she does not believe that this request meets them.

Ottenbacher spoke to his agreement that Variances are available to allow for cases that have no options or are a hardship and not every request and reason are justifiable. Ottenbacher also questioned the drainage issues in the Boulevard area that were mentioned during the previous review of this item stating that he would not support the request for the additional lot coverage.

**Hoogestraat moved to approve Variance to allow the increase to lot coverage based on criteria that it is in harmony general purposes and is not detrimental to the public welfare, Herr seconded.**

**Fisher offered a friendly amendment to use criteria that the small lot size creates a unique situation as criteria. Hoogestraat and Herr agreed to the amendment.**

Fisher further clarified that staff had met with the Engineering Division and they had determined that covering the deck will not create further drainage issues.

In response to a question from Quasney regarding whether the lot coverage is
being corrected from 30 percent to 41.2 percent or from 38 percent to 41.2 percent, Fisher clarified that the correction is being requested reflects the allowed coverage to the final desired coverage not from the existing coverage.

Vidal stated that he is not in support of granting the Variance to lot coverage as he believes that the applicant has options that do not require the Variance. Vidal says he feels that granting this Variance creates a precedence or example for other such requests and will encourage requests for Variances rather than working to build within the requirements, more of an expectation than a need.

Quasney agreed that this will set a precedence and that the Zoning Board of Adjustment needs to consider when they should enforce the ordinances and when there is a reason or need to grant a Variance.

Nyberg reviewed the standards set for the Zoning Board of Adjustment granting Variances noting that in addition to identifying criteria of having a special condition such as small lot size, the condition needs to create an unreasonable hardship and that the correction is the minimal adjustment necessary to rectify that hardship.

Hoogestraat spoke to his thoughts on the precedence issue and the historical actions stating that he feels each request should be reviewed on an individual basis and it is the Zoning Board of Adjustment’s duty to find what the acceptable tolerance is.

Bulman spoke to the Zoning Board of Adjustment’s review of the land and the usability of the land and the reasons that Variances should be granted based on reasonable use versus the owner’s desires and visual and aesthetic effects.

Vidal stated that he does not believe that not granting the Variance to lot coverage would create a hardship and he cannot support the request.

Ottenbacher said that although it shouldn’t be a key factor, precedent cannot be ignored and he believes it is the responsibility of the Zoning Board of Adjustment to follow regulations and not let emotion direct their decisions.

Vangraefeschepe asked if they should be considering, should the requested Variance of 41.2 percent fail, to offer a motion to grant a substitute Variance to correct the lot coverage to the actual 38 percent that currently exists. Vangraefeschepe stated that although he does not believe the 3 percent difference between the existing and requested is that big a deal he does believe that the lot coverage should be brought into compliance while it is before the Zoning Board of Adjustment.

Fisher clarified that the current legal non-confirming status would remain even if the requested Variance for lot coverage is denied, but agreed that it would be advisable to bring the lot coverage into compliance.

In response to a question from Braun; if one action fails could they, as the Zoning Board of Adjustment, offer a separate motion to grant a Variance from 30 percent lot coverage to 38 percent lot coverage. Nyberg confirmed that would be
acceptance.

A roll call vote was called on the motion to approve the Variance to grant 41.2 percent lot coverage. Vote was 5 to 4. Motion failed due to a lack of 2/3 majority.

Bulman moved, Vidal seconded and the Zoning Board of Adjustment carried to approve that the Variance to reduce the front yard setback from 25 feet to 15.5 feet, to reduce the rear yard setback from 25 feet to 2 feet, to reduce the side yard setback that abuts a street from 20 feet to 12 feet, to reduce the side yard setback from 12 feet to 5 feet be granted contingent upon the concrete patio being removed based on the 4 criteria listed in the Project Report and that the small lot status creates a hardship. (9 to 0 with Braun, Bulman, Caesar, Golliher, Herr, Hoogestraat, Quasney, Vangraefschepe and Vidal voting yes and none voting no)

Hoogestraat moved, Herr seconded that the Zoning Board of Adjustment approve the Variance request to increase the lot coverage from 30% to 41.2% based on criteria identifying small lot status as a hardship. Motion failed due to lack of 2/3 majority. (5 to 4 with Braun, Caesar, Herr, Hoogestraat and Vangraefschepe voting yes and Bulman, Golliher, Quasney and Vidal voting no)

Bulman moved, Golliher seconded to increase lot coverage from 30 percent to 38 percent based on the 4 criteria listed in the Project Report. (9 to 0 with Braun, Bulman, Caesar, Golliher, Herr, Hoogestraat, Quasney, Vangraefschepe and Vidal voting yes and none voting no)

Discussion Items
None

Staff Items
None

Zoning Board of Adjustment Items
None

There being no further business, Caesar moved, Quasney seconded and unanimously carried to adjourn the meeting at 7:56 a.m. (9 to 0 with Braun, Bulman, Caesar, Golliher, Herr, Hoogestraat, Quasney, Vangraefschepe and Vidal voting yes and none voting no)