

MINUTES OF THE
RAPID CITY ZONING BOARD OF ADJUSTMENT
September 5, 2019

MEMBERS PRESENT: Kelly Arguello, Erik Braun, Karen Bulman, Racheal Caesar, Mike Gollhofer, Eirik Heikes, John Herr, Galen Hoogestraat, Eric Ottenbacher, Mike Quasney and Vince Vidal. John Roberts, Council Liaison was also present.

MEMBERS ABSENT: None

STAFF PRESENT: Ken Young, Vicki Fisher, Fletcher Lacock, John Green, Patsy Horton, Todd Peckosh, Ted Johnson, Wade Nyberg and Andrea Wolff.

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

1. Approval of the August 22, 2019 Zoning Board of Adjustment Meeting Minutes.

Caesar moved, Quasney seconded and the Zoning Board of Adjustment approved the August 22, 2019 Zoning Board of Adjustment Meeting Minutes.

2. No. 19VA010 - Boulevard Addition

A request by Daniel S. Palmer and Thomas E. Chase to consider an application for a **Variance to reduce the rear yard setback from 5 feet to 1-foot, to reduce the side yard setback from 5 feet to 1-foot, to reduce the front yard setback from 35 feet to 28 feet, and to increase lot coverage from 30 percent to 33 percent** for Lots 11 thru 12 of Block 28 of Boulevard Addition, located in Section 2, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1121 West Boulevard.

Lacock presented the application and reviewed the associated slides. Lacock reviewed the submitted site plan showing the proposed construction noting that the kitchen expansion contributes to the Variance for lot coverage from allotted 30 percent to 33 percent, and encroaches into the setback requirements. The proposed garage addition located to the back of the existing garage would require Variances for setbacks from the side yard and rear yard from 5 feet to 1-foot and a side yard that abuts a street from 35 feet to 28 feet. Lacock confirmed that the property, which is located in the West Boulevard Historic District, has received Historic Review approval for the proposed plans.

Lacock stated that Public Works staff has indicated that the proposed garage may cause drainage issues in the alley and along the side lot line due to the known pattern of drainage versus the location of the proposed garage as well as limiting the allowable room for Public Works to maintain or work in the alley if needed. Lacock stated that should the reduced setbacks be approved, the eaves on the north of the proposed garage would need to be removed to avoid overhanging onto the adjacent property. Lacock called attention to the difficulties of maintenance with the 1-foot setback. Regarding other such setbacks that exist in the neighborhood, Lacock stated that these properties are defined as legal non-conforming, having been built prior to the existing Zoning Ordinance

and that if they were to be damaged they would be required to be rebuilt to current Zoning Ordinance standards. Lacock noted that the 1-foot setback from the rear lot line may create issues with maneuvering in and out of the garage. Lacock stated that the intent of the Zoning Ordinance is to maintain separation between structures and adjacent properties and rights-of-way for open space, drainage, and safety and that the current development of the property allows reasonable use of the land and therefore it is staff's recommendation that the Variance requests be denied as they are not the minimum adjustment necessary and there are no special circumstances that deny reasonable use of the land.

Lacock stated that the applicants were in the audience and available to answer any questions.

In response to a question from Braun regarding the lot coverage, Lacock confirmed that it is the combined additions that exceed the allowable lot coverage and that the kitchen expansion if done without the garage addition would not exceed the lot coverage.

Quasney stated that he had visited the site and he feels that the density of the area makes it hard for him to approve the reduced setbacks. In response to Quasney's question if they could separate the Variance request to allow the kitchen expansion to be built, but deny the setback Variances, Fisher clarified that if the setback Variances were denied, the lot coverage Variance would become unnecessary.

Thomas Chase and Daniel Palmer, 1121 West Boulevard, spoke to the concerns regarding the drainage issues, stating that they plan to install rain barrels to gather the runoff water from the additional garage. Chase showed photos of other visibility and access issues in alleys around the area stating that there are numerous instances and wondering why one more is such an issue. Chase reviewed an engineered drawing that showed there is maneuvering space for accessing the garage.

Palmer noted that they have visited other areas where the standard for development is less space between properties with alley access with a 12 foot right-of-way stating that the maneuvering was being successfully managed. Palmer stated that the location of the garage was done specifically for both architectural and historic reasons. He spoke to the work that they have done to meet the Historical Society standards noting that the structure will be stucco which is very low maintenance and will help alleviate the space issue for maintenance. Palmer noted that the current garage is not large enough to be used as a garage as well as the driveway along the side of the house being 10 feet wide and only 1-foot from the house, making its use exceedingly treacherous and as such they are left to park their vehicles along the street.

Palmer further noted the options that were reviewed with City staff to lessen the Variances including different placement of the garage and smaller sized garage, noting that due to the constriction of the lot, any additional construction would create set back issues, but they feel this is the best option to allow the best use. Palmer stated that they are working to maintain the historic nature of the

property. Palmer stated that he believes that the minimum parking for a property of this value is a two-car garage. Palmer also referenced the state of the surrounding roads, the damage that they have received while parking on the street and that the garage would remove vehicles from the road.

Hoogestraat commended the applicants on the efforts they have invested in their design for this project, but stated that he is uncomfortable with the 1-foot west lot line setback. In response to a question from Hoogestraat on the potential to extend the existing garage to the rear and still allow for a 5-foot side setback, Chase stated that the existing garage structure is very narrow so extending it is not an option for a two-car garage.

Chase stated that he believes that there is a lack of reasonable use of their property, as the existing garage is not actually usable as a garage since it is too narrow, in a neighborhood where there are two, three and even five car garages.

Quasney thanked the applicants for working with the Historic Society to retain the historic aspects of the. In response to Quasney's question regarding the removal of the driveway in the front of the house, Chase stated that they will remove the pavement as they do not use it due to the long narrow design. Chase said they believe this will help relieve some of the drainage issues.

Quasney discussed his discomfort with the location of the requested garage having such limited spacing from both the alley and the west property line. Quasney said that he understands that there may be other homes in the neighborhood that do not conform to current standards, but explained that part of the job of the Zoning Board of Adjustment is to avoid creating more of those with new construction and even to correct existing instances where possible.

Palmer stated that they visited the Stapleton, Colorado area and that development is implementing reduced setbacks of 4 feet between properties with alley access at 12 feet in contrast to Rapid City's 18 to 20 feet and that the concept is working well suggesting it as an example for allowing the reduced setbacks.

Quasney stated that he understands the ideas they are discussing, but that currently the City has not adopted those standards and noted that they have options and believes that they should revisit those so there is not a hardship.

Chase said that as they consider Clark Street the front of their property, placing the garage that close to the street is contrary to the Rapid City Comprehensive Plan regarding the placement of secondary structures as well as the preference for alley access.

Caesar stated that she understands that the current Zoning Ordinance is not always in line with the what is historically accurate, but that it is not the job of the Zoning Board of Adjustment to revise the Zoning Ordinance, but to make allowances when possible based on the current Ordinance and she did not see where that was possible in this instance.

Fisher addressed a point of order explaining that the applicants need to obtain the Chairman's approval to speak either in response or to offer additional subject matter.

Fisher reviewed the issues stating that due, to the age of this neighborhood, many of the structures do not meet current standards. However, Fisher pointed out that the current structure, without any additions, would not be allowed to be rebuilt at current standards. Drainage is an issue especially since the proposed design allows only a single foot for drainage which will cause issues for the neighboring properties even with the proposed additional greenspace. Regarding the existing instances in the neighborhood, Fisher stated that in no instance should those conditions be compounded. She referenced Engineering staff's review of the safety aspect of the alley use based on the current criteria and that allowing additional uses creates issues both for safety and maintenance. Fisher stated that there is reasonable use of this individual property regardless of what other properties may have and that the applicant has options that would not require all of the requested Variance.

Fisher suggested that the Variance to approve the kitchen separately from the garage is one option, another is the redesign of the garage, but in order to do that the item would need to be continued to allow the applicant time to meet with staff and review those options.

Bulman stated she had driven through the neighborhood to review the property and noted that there are a number of large homes on small lots which creates congestion, but she cannot see contributing further to congestion of the neighborhood by the allowing the 1-foot setbacks to both the side yard and back lot line. Bulman further stated that she believes there is reasonable use of the property without the additional garage and she agrees that the item should be continued to allow the options to be reviewed.

Bulman moved, Quasney seconded to continue to the October 10, 2019 Zoning Board of Adjustment meeting.

In response to a request from Palmer for the definition of what is a reasonable sized garage, Braun said that is defined by the individual property.

In response to a question from Vidal as to when construction abutting an alley was allowed, Fisher stated that the regulations were adopted in 1968. Vidal stated that the Zoning Board of Adjustment has heard what the applicant is saying, but that he cannot support the reduced setbacks and he is in favor of the continuation.

Arguello complimented the applicants on their research and their presentation, but stated that he too feels that the 1-foot setback as well as the overhang of the eaves do create issues and he agrees that there are compromises that can be made.

Hoogestraat restated that it appears the Zoning Board of Adjustment's main issue is the 1-foot setbacks and that if they could come up with an alternative that

would allow for the 5-foot setbacks he believes that the Zoning Board of Adjustment would be more likely to consider granting the Variance.

In response to Palmer's statement that if they were to change the garage they then have to meet State Historic requirements, Fisher stated that staff would set up a meeting with the owners and have the Historic Preservation Planner join that meeting and they would bring those results forward at the October 10, 2019 Zoning Board of Adjustment Meeting.

Bulman moved, Quasney seconded and the Zoning Board of Adjustment carried to continue to the October 10, 2019 Zoning Board of Adjustment meeting the Variance request to reduce the rear yard setback from 5 feet to 1-foot, to reduce the side yard setback from 5 feet to 1-foot, to reduce the front yard setback from 35 feet to 28 feet, and to increase lot coverage from 30 percent to 33 percent. (9 to 0 with Arguello, Braun, Bulman, Caesar, Gollhofer, Herr, Hoogestraat, Quasney and Vidal voting yes and none voting no)

3. **Appeal by Stagecoach West Signs LLC to overturn the decision of the Building Official declaring the Stagecoach West Signs located at 4110 Mount Rushmore Road as unlawful.**

Fisher stated that the Appellant has requested that the Appeal be continued to the October 10, 2019 Zoning Board of Adjustment meeting and as such staff is recommending to continue the Appeal by Stagecoach West Signs LLC to overturn the decision of the Building Official declaring the Stagecoach West signs located at 4110 Mount Rushmore Road as unlawful be continued to the October 10, 2019 Zoning Board of Adjustment Meeting at the applicants request.

Talbot Wiazerski, of Gunderson Palmer, stated that he represents TNS who are the land owners and that they agree with the complaint, have previously notified the sign company to remove the signs and that they will be in attendance at the October 10, 2019 Zoning Board of Adjustment Meeting.

Vidal stated that he does not support the continuation because he believes the owner of the signs have been given plenty of time to remove the sign and he believes it should be addressed in a timely manner

Bulman moved, Caesar seconded and the Zoning Board of Adjustment continued the Appeal by Stagecoach West Signs LLC to overturn the decision of the Building Official declaring the Stagecoach West Signs located at 4110 Mount Rushmore Road as unlawful at the applicants request. (8 to 1 with Arguello, Braun, Bulman, Caesar, Gollhofer, Herr, Hoogestraat and Quasney voting yes and Vidal voting no)

4. Discussion Items
None

5. Staff Items
None

6. Zoning Board of Adjustment Items
None

There being no further business, Caesar moved, Bulman seconded and unanimously carried to adjourn the meeting at 7:55 a.m. (9 to 0 with Arguello, Braun, Bulman, Caesar, Gollither, Herr, Hoogestraat, Quasney and Vidal voting yes and none voting no)