

MINUTES OF THE
RAPID CITY ZONING BOARD OF ADJUSTMENT
October 10, 2019

MEMBERS PRESENT: Kelly Arguello, Erik Braun, Karen Bulman, Racheal Caesar, Mike Gollither, Eirik Heikes, Mike Quasney and Vince Vidal.

MEMBERS ABSENT: John Herr, Galen Hoogestraat, Eric Ottenbacher John Roberts, Council Liaison

STAFF PRESENT: Vicki Fisher, Brad Solon, Fletcher Lacock, John Green, Patsy Horton, Sarah Todd Peckosh, Ted Johnson, Kinsley Groote and Andrea Wolff.

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

Braun explained that due the nature of the Zoning Board of Adjustment that action on a Zoning Board of Adjustment item required a 2/3 majority or no less than 6 yay votes. Braun noted that there was currently only 7 Zoning Board of Adjustment members present and offered the applicants the option to continue any item they wished due to the special circumstances. No continuations were requested.

1. Approval of the September 26, 2019 Zoning Board of Adjustment Meeting Minutes.

Bulman moved, Caesar seconded and the Zoning Board of Adjustment approved to approve the September 26, 2019 Zoning Board of Adjustment Meeting Minutes. . (8 to 0 with Arguello, Braun, Bulman, Caesar, Gollither, Heikes, Quasney and Vidal voting yes and none voting no)

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 noting that the applicants have worked with staff and have submitted a revised site plan that reduces the requested setbacks from the original request to reduce the rear yard setback from 5 feet to 1-foot, the side yard setback from 5 feet to 1-foot, the front yard setback from 35 feet to 28 feet and to increase the lot coverage from 30 percent to 33 percent. This revised site plan moves the proposed garage back off of the alley and extending to the south so the back and side yard setbacks are no longer needed, and changing the Variance request to allow 23 feet in lieu of 35 feet setback for a side yard abutting a street and changes the Variance to lot coverage to 32 percent in lieu of 30 percent, which addresses the majority of the concerns addressed by the Zoning Board of Adjustment at the September 5, 2019 meeting. Staff feels this revised plan is an acceptable modification and as such recommends that the revised Variance request to allow 23 feet in lieu of 35 feet setback for a side yard

abutting a street and the Variance to lot coverage to 32 percent in lieu of 30 percent be approved on the criteria that it is the minimal adjustment for reasonable use of the land and is not injurious to the neighborhood or detrimental to the public welfare.

In response to a question from Quasney on drainage, Lacock confirmed that the new plan did address the drainage concerns.

Tom Chase, thanked the Zoning Board for offering to work with them on their project and staff for working with them to reach a viable alternative.

In response to Bulman's question on Historic review, Chase stated that it has already received approval.

Heikes noted that he would be abstaining from this item due to conflict of interest.

Caesar moved, Quasney seconded and Zoning Board of Adjustment approved the Variance request to reduce the side yard setback that abuts a street from 35 feet to 23 feet and to increase the maximum allowed lot coverage from 30% to 32%. The criteria would be that the request is the minimum adjustment for reasonable use of the land and that the proposed request will not be injurious to the neighborhood or detrimental to the public welfare. (7 to 0 to 1 with Arguello, Braun, Bulman, Caesar, Gollither, Quasney and Vidal voting yes and none voting no and Heikes abstaining)

3. No. 19VAp01 - Section 14, T1N, R7E

A request by Stagecoach West LLC to consider an application for a **Appeal by Stagecoach West Signs LLC to overturn the decision of the Building Official declaring the Stagecoach West Signs located at 4110 Mount Rushmore Rd as unlawful** for property more generally described as being located 4110 Mt. Rushmore Road.

Solon stated that Building Services had received valid complaints on the two signs in early spring of 2019. Solon briefly reviewed the history of the signs noting that they are off-premise signs and had been built prior to the enactment of the current Sign Code. Solon noted that records show that changes were made to the signs since that placed them in violation of the Sign Code of which include the lighting of the sign and overhead service laterals and the questionable construction to the south sign in regards to the timing to the Sign Code requiring Conditional Use Permits. Solon noted that the second sign was denied by both Sign Code Board of Appeals which heard such requests at the time and denied by City Council. Solon stated that following the denial of the Variance request for the north sign and the subsequent appeals, Stagecoach requested an identical sign permit request for an on-premise sign which was granted for the north side sign. Solon stated that this sign has been used for off-premise advertising and that there are self-issued permits in the file for an electrical service to the sign. Solon stated that due to these and other issues the Building Services have identified these signs illegal and ordered them removed.

Chuck Jasper, representing Herman Jones and Stagecoach Signs, stated he believes there is a 2019 sign license for the sign and paid fees and that the signs are not abandoned. Jasper noted that the land owner has changed since the signs were built and that the ownership of the easement and the signs are in question and he believes this should be decided by the courts before it is addressed by the Zoning Board of Adjustment.

Discussion regarding the sign licenses, land ownership and on-premise and off-premise sign requirements followed.

Fisher reviewed the Sign Code for on-site signs versus off-premise signs, stating that signs must meet Sign Code regardless of being on or off premise and these signs have been identified, by the Building Division, as not meeting those requirements.

Caesar asked about the potential court action regarding the landownership, Jasper stated that there is currently no action on schedule.

Talbot Wieczorek, representing TNS Holdings who is the land owner stated that he agrees that the signs are in violation and need to be taken down. Wieczorek stated that the permit does not allow the signage it just allows the use of the sign, but it must be used within compliance. Wieczorek noted that one of the signs has been unused for years. Wieczorek said that land owner believes the signs are illegal and need to come down.

Bulman noted that the issue is the signs themselves noting that they have been unused for years. Bulman discussed the Sign Code which changed billboard signage, noting these sign have never been brought into compliance and she supports them being removed.

In response to questions on self-issued permits, Solon stated that self-issued permits are applied for on-line and are not reviewed by staff.

Quasney moved, Heikes seconded and Zoning Board of Adjustment approved the Board upheld the decision of the Building Official that the signs are unlawful, and order the signs removed. (8 to 0 with Arguello, Braun, Bulman, Caesar, Golliher, Heikes, Quasney and Vidal voting yes and none voting no)

Green requested that Items # 4 and 5 be taken together but acted on separately.

4. No. 19VA013 - North Rapid Addition No. 2
A request by Longbranch Civil Engineering, Inc for Sara Hyde to consider an application for a **Variance to reduce a front yard setback from 20 feet to 17.2 feet and a reduce a side yard setback from 8 feet to 1.3 feet for a single family dwelling** for Lot 17 and 18 of Block 60 of North Rapid Addition No. 2, located in the NE1/4 of the NW1/4 of Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1006 Farlow Avenue.

Green reviewed the application and associated slides noting that along with the Variance requests there is an associated Rezoning (File#19RZ029) request from Neighborhood Commercial District to Medium Density Residential District to allow the residential use. Green noted this request is to bring the existing property into compliance. Green stated that staff recommends that the Variance be approved based on the Criteria that it is the minimal adjustment necessary for reasonable use of the land and that it is in harmony with the neighborhood.

Buman moved, Golliher seconded and Zoning Board of Adjustment approved the Variance request to reduce the required front yard setback from 20 feet to 17.2 feet and to reduce the required side yard setback from 8 feet to 1.3 feet for the existing single-family dwelling in conjunction with the associated Rezoning request (File# 19RZ029) based on Criteria #3 and #4. (8 to 0 with Arguello, Braun, Bulman, Caesar, Golliher, Heikes, Quasney and Vidal voting yes and none voting no)

5. No. 19VA014 - North Rapid Addition No. 2

A request by Longbranch Civil Engineering, Inc for Sara Hyde to consider an application for a **Variance to reduce a front yard setback from 20 feet to 16.8 feet for a single family dwelling** for Lot 19, 20 and 21 of Block 60 of North Rapid Addition No. 2, located in the NE1/4 of the NW1/4 of Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1012 Farlow Avenue.

Green presented the application and reviewed the associated slides noting that this property is also being brought into compliance for the existing structure and not for current or future expansion. Green stated that staff recommends approval of the Variance based on the Criteria that it is the minimal adjustment necessary for reasonable use of the land and that it is in harmony with the neighborhood.

Heikes moved, Golliher seconded and Zoning Board of Adjustment approved the Variance request to reduce the required front yard setback from 20 feet to 16.8 feet for the existing single-family dwelling in conjunction with approval of the associated Rezoning request (File# 19RZ029) based on Criteria #3 and #4. (8 to 0 with Arguello, Braun, Bulman, Caesar, Golliher, Heikes, Quasney and Vidal voting yes and none voting no)

6. Discussion Items

None

7. Staff Items

None

8. Zoning Board of Adjustment Items

None

There being no further business, Bulman moved, Quasney seconded and unanimously carried to adjourn the meeting at 7:49 a.m. (8 to 0 with Arguello,

Braun, Bulman, Caesar, Gollhofer, Heikes, Quasney and Vidal voting yes and none voting no)