



Rapid City Zoning Board of Adjustment Variance Project Report

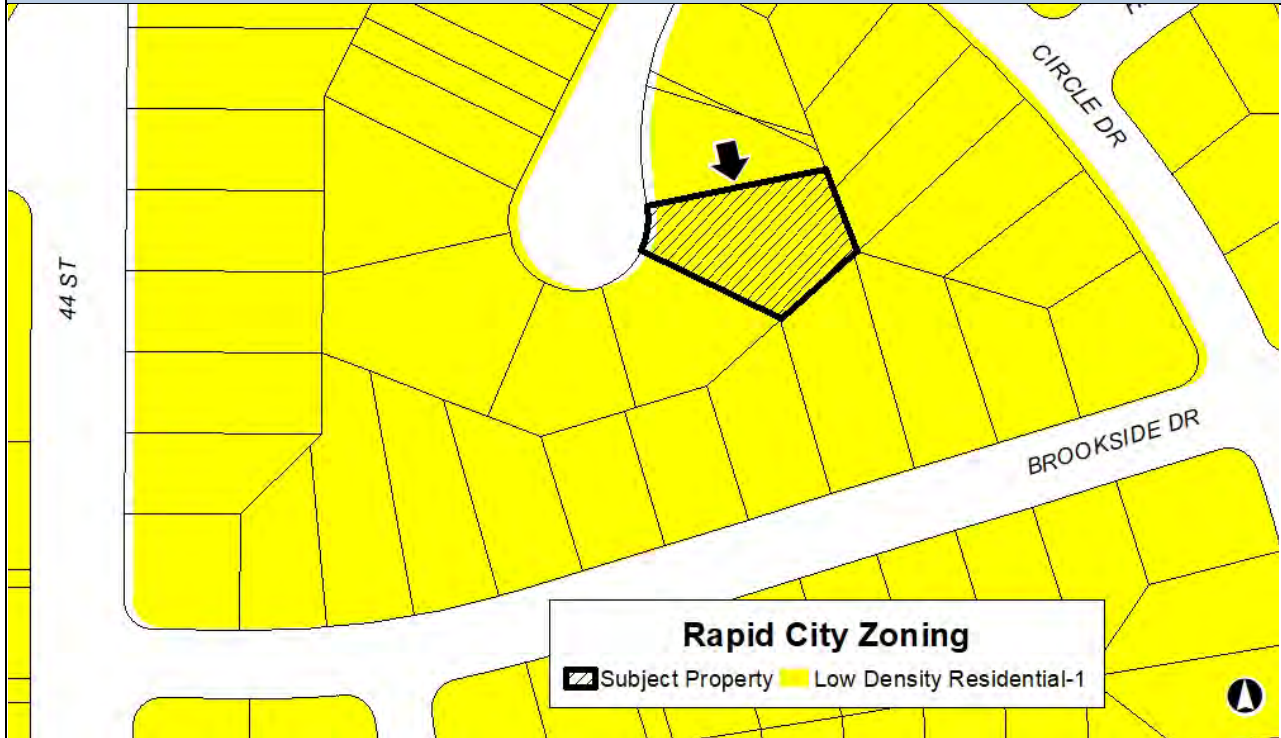
April 22, 2021

Item #1	
Applicant Request(s)	
Case #21VA001, Variance to reduce the front yard setback from 20 feet to 13.1 feet and the side yard setback from 8 feet to 0.3 feet	
Companion Case(s) N/A	
Development Review Team Recommendation(s)	
<p>Staff recommends to deny the Variance request. If the Zoning Board of Adjustment determines that topographic constraints created by the location of the house on the lot creates a special circumstance, then the Variance request to reduce the front yard setback from 20 feet to 13.1 feet and the side yard setback from 8 feet to 5 feet shall be approved with the stipulation that prior to issuance of a Building Permit the 25-foot setback line shall be vacated.</p>	
Project Summary Brief	
<p>(Update April 15, 2021. All revised and/or added text is shown in bold.) On April 8, 2021, this Variance request was continued to allow the applicant to meet with staff to provide additional separation and safety materials to protect the neighboring property. On April 13, 2021, staff met with the applicant's contractor to discuss options. The Building Official and Fire Department concur that a 5-foot side yard setback would remove any additional building code and fire code requirements. Subsequently, the applicant submitted a revised site plan showing a 5-foot side yard setback for the proposed carport. The applicant has submitted a Variance request to reduce the front yard setback from 20 feet to 13.1 feet and the side yard setback from 8 feet to 0.3 feet for a proposed carport located at 628 43rd Court. A Building Permit was issued in error for the proposed carport. However, the carport was not constructed before the error was found. The applicant is proposing to construct a carport measuring 18 feet by 22 feet over the existing driveway. There are no utility and minor drainage easements in the location of the proposed car port. There is a 25-foot setback line on the plat. The applicant would have to vacate the 25-foot setback line prior to issuance of a Building Permit, if the Variance is granted.</p>	
Applicant Information	Development Review Team Contacts
Applicant: Deborah Larson	Planner: Fletcher Lacock
Property Owner: Deborah Larson	Engineer: Roger Olson
Architect: N/A	Fire District: Tim Behlings
Engineer: N/A	School District: N/A
Surveyor: N/A	Water: Roger Olson
Other: Sam Deschamp	Sewer: Roger Olson
Subject Property Information	
Address/Location	628 43 rd Court
Neighborhood	West Rapid Neighborhood Area
Subdivision	Brookside #2
Land Area	0.27 acres
Existing Buildings	2,140 square feet
Topography	Rises in elevation from north to south approximately 10 feet
Access	43 rd Court
Water / Sewer	Rapid City
Electric/Gas Provider	Black Hills Power/ MDU
Floodplain	N/A
Other	N/A

Subject Property and Adjacent Property Designations

	Existing Zoning	Comprehensive Plan	Existing Land Use(s)
Subject Property	LDR	LDN	Single-family dwelling
Adjacent North	LDR	LDN	Single-family dwelling
Adjacent South	LDR	LDN	Single-family dwelling
Adjacent East	LDR	LDN	Single-family dwelling
Adjacent West	LDR	LDN	Single-family dwelling

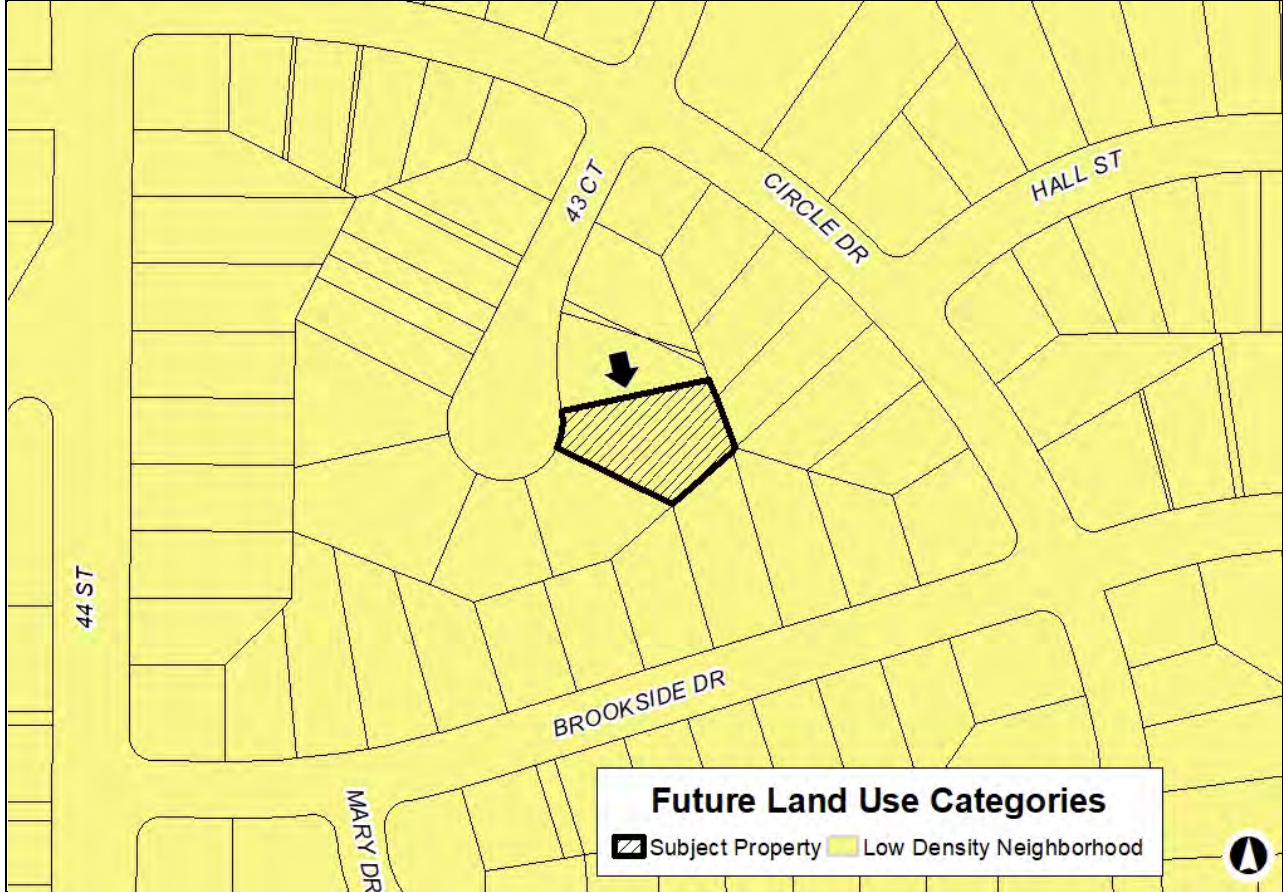
Zoning Map



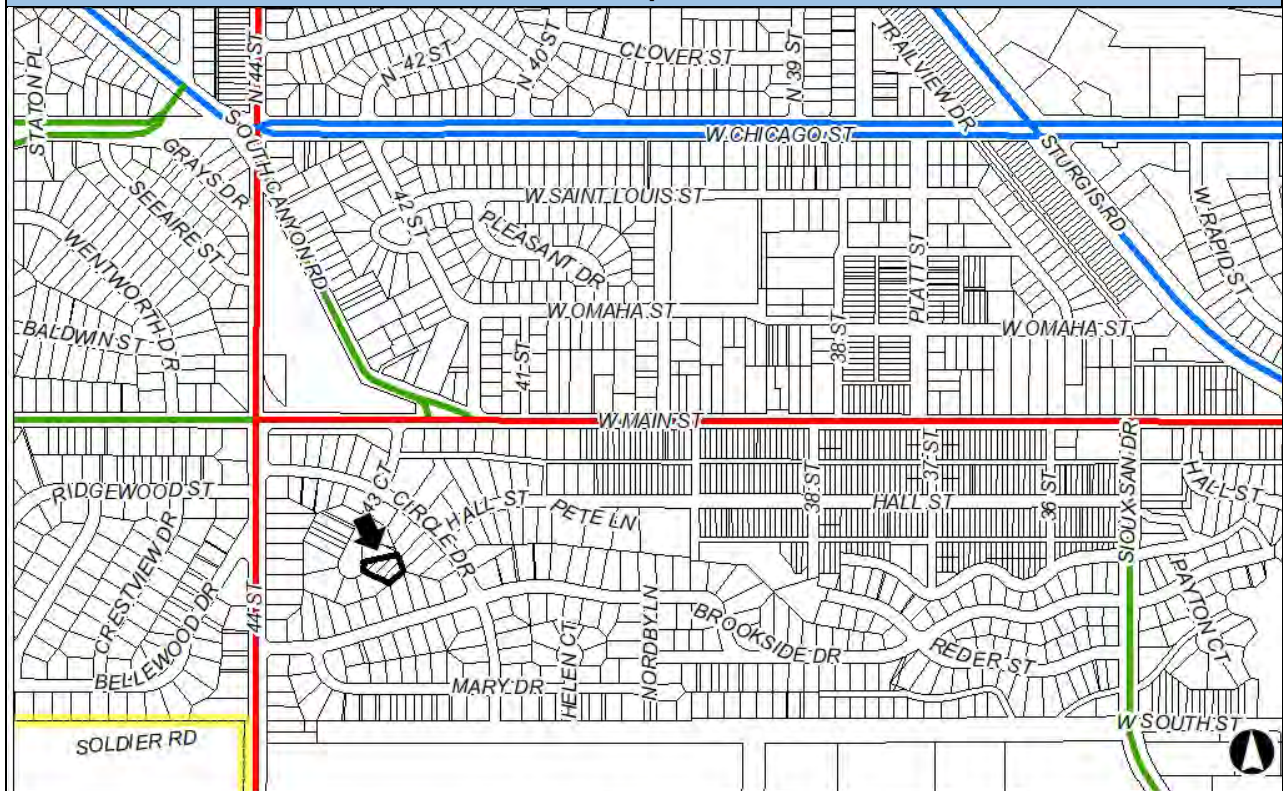
Existing Land Uses



Comprehensive Plan Future Land Use



Parks or Transportation Plan



Relevant Case History			
Case/File#	Date	Request	Action
N/A			
Relevant Zoning District Regulations			
Low Density Residential District	Required	Proposed	
Lot Area	6,500 square feet	11,761 square feet	
Lot Frontage / Lot Width	25 feet	Approximately 40 feet	
Maximum Building Heights	2½ stories or 35 feet	One-story	
Maximum Density	30%	22%	
Minimum Building Setback:			
• Front	20 feet	Requesting Variance to 13.1 feet	
• Rear	25 feet	25 feet	
• Side	8 feet	Requesting Variance to 0.3 feet	
• Street Side	N/A	N/A	
Minimum Landscape Requirements:			
• # of landscape points	N/A	N/A	
• # of landscape islands	N/A	N/A	
Minimum Parking Requirements:			
• # of parking spaces	2	2	
• # of ADA spaces	N/A	N/A	
Signage	As per RCMC 17.50.080	None proposed	
Fencing	As per RCMC 17.50.340	None proposed	
Applicant's Justification:			
<p>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:</p>			
Criteria:	Applicants Response (verbatim):		
1. The granting of the Variance will not be contrary to the public interest;	No, will not be contrary to the public interest.		
2. There are special conditions attached to the property that do not generally apply to other properties in the same district;	True. Only because the permit was issued in error, and non-refundable materials have been purchased.		
3. Owing to special conditions, the literal enforcement of this title will result in unreasonable hardship;	Yes.		
4. By granting the Variance contrary to the provisions of this title, the spirit of this title and the city's Comprehensive Plan will be observed; and,	Yes.		

5. By granting the variance, substantial justice will be done.	Yes.
Board of Adjustment Criteria and Findings for Approval	
Should the Board of Adjustment grant the Variance for a reduction in the required side yard setback, the following criteria, findings, and conditions of approval would be applicable:	
Criteria:	Findings:
1. Variances shall not be granted to allow a land use otherwise excluded from the particular district in which requested.	The subject property is developed with a single-family dwelling. The applicant is proposing to construct a carport over the existing driveway. A carport is identified as a permitted use in the Low Density Residential District.
Board of Adjustment Criteria and Findings for Denial	
Should the Board of Adjustment decide to deny the Variance for a reduction in the required side yard setback, the following criteria would be applicable:	
Criteria:	Findings:
1. For reasons fully set forth in the findings of the Board, the aforesaid circumstances or conditions are such that the strict application of the provisions of this title would deprive the applicant of reasonable use of his or her land. Mere loss in value shall not constitute a deprivation of reasonable use so as to justify a variance.	The property is currently zoned Low Density Residential District and is developed with a single-family dwelling. Reasonable use of the land exists. The provisions of the Zoning Ordinance require that two off-street parking spaces be provided for a single-family dwelling. The driveway currently provides the off-street parking. The applicant is proposing to construct a carport to cover the driveway.
2. Variances granted under the provisions of this section should be the minimum adjustment necessary for the reasonable use of the land.	As noted above, reasonable use of the land exists. The property is developed with a single-family dwelling.
3. The granting of any variance is in harmony with the general purposes and intent of this title and will not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the City's Comprehensive Plan.	<p>A Building Permit for the proposed carport was issued in error during the Spring of 2020. The applicant has indicated that the materials were ordered before the error was caught. Chapter 17.54.020.E.2 of the Rapid City Municipal Code states that the board may not find an unreasonable hardship if the hardship is self-imposed or economic. The City is aware that a staff error was made; however, the granting of the Variance is not in harmony with the general purposes or intent of the Zoning Ordinance or Comprehensive Plan. The Comprehensive Plan supports de-emphasizing the prominence of garages.</p> <p>The Rapid City Fire Department has indicated that the proposed carport location may adversely affect the neighboring property to the north. The addition of a structure increases the potential of fire spread between the properties.</p>
4. Variances may be granted where special circumstances or conditions (such as lot size or dimension, topography	The property is "pie-shaped" as are many properties located on cul-de-sac streets. There is a 25-foot front yard setback line located on the plat for all of Block 12 of Brookside #2 Subdivision. There are no special circumstances other than a Building Permit was issued in error.

<p>or existing building location), fully described in the findings of the Board, do not apply generally in the district.</p>	
<p>Summary of Findings</p>	
<p>The applicant has submitted a Variance request to reduce the minimum required front and side yard setbacks for a proposed carport. A Building Permit for the proposed carport was issued in error. The error was caught before the carport was constructed. The proposed Variance is not in keeping with the Zoning Ordinance or Comprehensive Plan. The Comprehensive Plan supports de-emphasizing garages. There are no special circumstances other than that a Building Permit was issued in error. The Zoning Board of Adjustment may not find an unreasonable hardship due to economic circumstances.</p>	
<p>ZBOA Recommendation and Stipulations of Approval</p>	
<p>Staff recommends to deny the Variance request. If the Zoning Board of Adjustment determines that topographic constraints created by the location of the house on the lot creates a special circumstance, then the Variance request to reduce the front yard setback from 20 feet to 13.1 feet and the side yard setback from 8 feet to 5 feet shall be approved with the stipulation that prior to issuance of a Building Permit the 25-foot setback line shall be vacated.</p>	