Applicant Request(s)
Case #21VA008, Variance to reduce a portion of the side yard setback from 8 feet to 5.5 feet
Companion Case(s) N/A

Development Review Team Recommendation(s)
Staff recommends that the Variance request to reduce a portion of the side yard setback from 8 feet to 5.5 be approved with the stipulations at the end of the report.

Project Summary Brief
(Update 10/28/21. All revised and/or added text is shown in bold print.) This item was continued at the October 21, 2021 Zoning Board of Adjustment meeting due to the item needing to be re-published. The re-publication has occurred and no other part of this report has been altered or changed). The applicant has requested a Variance to reduce a portion of the side yard setback from 8 feet to 5.5 feet for the property located at 5936 Cloud Peak Drive. The property is 0.38 acres in size and developed with a single family residential structure, typical in size and layout to that of the neighborhood. The residence has recently been constructed and later determined that a small portion of the structure is within the minimum required 8-foot side yard setback. The property is zoned Low Density Residential District II which is the same zoning designation as the properties in this neighborhood. Single family homes are a permitted use in the Low Density Residential District II. An 8-foot drainage and utility easement exists along the side yard where the Variance is requested. In making this request, the applicant has vacated the portion of the drainage and utility easement located within the proposed setback reduction area. The exact area is recorded on the property as Exhibit A, File #21VE006. A vast majority of the drainage and utility easement remains intact to secure future utility access and provide necessary drainage areas. The structures in this neighborhood, including the subject property, are protected with residential fire sprinkler equipment. Cloud Peak Drive is a local street carrying residential traffic. The Variance request does not create any loss of visibility for pedestrians or the travelling public.

Applicant Information
Applicant: Boom Construction, Inc.  Planner: Sarah Hanzel
Property Owner: Daene Boomsma  Engineer: Todd Peckosh
Architect: N/A  Fire District: Tim Behlings
Engineer: N/A  School District: N/A
Surveyor: N/A  Water: City
Other: N/A  Sewer: City

Subject Property Information
Address/Location 5936 Cloud Peak Drive
Neighborhood Sheridan Lake Road
Subdivision Highpointe Ranch Subdivision
Land Area 0.38 acres
Existing Buildings Single family residence
Topography Relatively flat
Access Cloud Peak Drive/Targhee Drive
Water / Sewer City of Rapid City
Electric/Gas Provider Black Hills Power
Floodplain N/A
Other N/A
<table>
<thead>
<tr>
<th>Property</th>
<th>Existing Zoning</th>
<th>Comprehensive Plan</th>
<th>Existing Land Use(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject Property</td>
<td>LDR-2</td>
<td>UN</td>
<td>Low Density Residential</td>
</tr>
<tr>
<td>Adjacent North</td>
<td>LDR-2</td>
<td>UN</td>
<td>Low Density Residential</td>
</tr>
<tr>
<td>Adjacent South</td>
<td>LDR-2</td>
<td>UN</td>
<td>Low Density Residential</td>
</tr>
<tr>
<td>Adjacent East</td>
<td>LDR-2</td>
<td>UN</td>
<td>Low Density Residential</td>
</tr>
<tr>
<td>Adjacent West</td>
<td>LDR-2</td>
<td>UN</td>
<td>Low Density Residential</td>
</tr>
</tbody>
</table>

**Zoning Map**

**Rapid City/Pennington County Zoning**
- Subject Property
- Low Density Residential-2
- Agriculture

**Existing Land Uses**
Relevant Case History

<table>
<thead>
<tr>
<th>Case/File#</th>
<th>Date</th>
<th>Request</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>21VE006</td>
<td>9/30/2021</td>
<td>Vacation of Utility and Drainage Easement</td>
<td>Approved</td>
</tr>
</tbody>
</table>

Relevant Zoning District Regulations

<table>
<thead>
<tr>
<th>Low Density Residential District II</th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Area</td>
<td>6,500 square feet</td>
<td>16,552 (existing)</td>
</tr>
<tr>
<td>Lot Frontage / Lot Width</td>
<td>25 feet</td>
<td>90 feet</td>
</tr>
<tr>
<td>Maximum Building Heights</td>
<td>2½ stories or 35 feet</td>
<td>1 story</td>
</tr>
<tr>
<td>Maximum Density</td>
<td>30%</td>
<td>21%</td>
</tr>
</tbody>
</table>

Minimum Building Setback:
- Front: 20 feet / 22.5 feet
- Rear: 25 feet / 97 feet
- Side: 8 feet / 5.5 feet
- Street Side: 20 feet / 24.5 feet

Minimum Landscape Requirements:
- # of landscape points: N/A / N/A
- # of landscape islands: N/A / N/A

Minimum Parking Requirements:
- # of parking spaces: 2 / N/A
- # of ADA spaces: N/A / N/A

Signage: As per RCMC 17.50.080 / N/A
Fencing: As per RCMC 17.50.340 / N/A

Applicant’s Justification:

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:

Criteria: | Applicants Response (verbatim):
---        | ---------------------------------------------
1. The granting of the Variance will not be contrary to the public interest; | The reduced side yard setback will not obstruct any sight paths. The home and the adjacent home will have interior fire suppression installed. The adjacent land owner does not object this variance.
2. There are special conditions attached to the property that do not generally apply to other properties in the same district; | The foundation was placed in the excavation site out of the square causing the building to corner to fall within the setback.
3. Owing to special conditions, the literal enforcement of this title will result in unreasonable hardship; | 5.5 feet is being provided. To move the foundation would require demolition and foundation/roof design changes.
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, | The setback variance will not affect the overall development of the area. There is significant green space in the rear of this property and the neighboring properties.
5. By granting the variance, substantial justice will be done. The project is 100% complete and ready for occupancy by the family that is purchasing.

**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:

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Variances shall not be granted to allow a land use otherwise excluded from the particular district in which requested.</td>
<td>The property is developed with a single family residential structure, typical in size and layout to that of the neighborhood. The lot is 0.38 acres, or 16,552 square feet. The single family residence and attached garage have a footprint of approximately 3,500 square feet. The property is zoned Low Density Residential District II which is the same zoning designation as the properties in this neighborhood. Single family homes are a permitted use in the Low Density Residential District II.</td>
</tr>
<tr>
<td>2. Variances granted under the provisions of this section should be the minimum adjustment necessary for the reasonable use of the land.</td>
<td>This Variance request is only for the portion of the side yard setback being encroached upon by the structure. As such, this request is the minimum adjustment necessary for the reasonable use of the land.</td>
</tr>
<tr>
<td>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.</td>
<td>An 8-foot drainage and utility easement exists along the side yard where the Variance is requested. In making this request, the applicant has vacated the portion of the drainage and utility easement located within the area occupied by the residence. The exact area is recorded on the property as Exhibit A, File #21VE006. A vast majority of the drainage and utility easement remains unobstructed to secure future access and provide necessary drainage areas. The structures in this neighborhood, including the subject property, are protected with residential fire sprinkler equipment. Cloud Peak Drive and Targhee Drive are local streets carrying residential traffic. The Variance request does not create any loss of visibility for pedestrians or the travelling public.</td>
</tr>
<tr>
<td>4. 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.</td>
<td>The Variance request is for a fully constructed new residence. Granting the request will allow reasonable use of the land. The alternative mitigation of the setback encroachment would involve demolishing a portion of the structure, redesigning, and reconstructing the northeast side of the structure. This alternative would restrict reasonable use of the land. Given the minimal area of the setback encroachment, reasonable use is best accomplished by granting the Variance for the area of the structural encroachment only.</td>
</tr>
</tbody>
</table>

**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:
<table>
<thead>
<tr>
<th>Criteria:</th>
<th>Findings:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Variances may be granted where special circumstances or conditions (such as lot size or dimension, topography or existing building location), fully described in the findings of the Board, do not apply generally in the district.</td>
<td>The Variance request is necessary due to an error during construction. The error alone does not create a special circumstance.</td>
</tr>
</tbody>
</table>

**Summary of Findings**

The applicant has submitted a Variance request to reduce a portion of the side yard setback from 8 feet to 5.5 feet. The following circumstances are pertinent to the staff recommendation to approve the request with stipulations:

- The area of the reduced side yard setback coincides with a drainage and utility easement that has already been vacated (File #21VE006). Sufficient area for access to utilities and drainage are provided within the unobstructed setback area.
- This structure, and surrounding properties in the neighborhood, were built with residential fire sprinkler protection equipment.
- The residence is in character with the surrounding neighborhood.
- No sight conflicts for pedestrians or the travelling public are created as a result of the Variance request.

**ZBOA Recommendation and Stipulations of Approval**

Staff recommends that the Variance to reduce a portion of the side yard setback from 8 feet to 5.5 feet be approved. The Variance is only for the portion of property identified as the vacated drainage and utility easement filed on the property as Exhibit A, File #21VE006.