

MINUTES OF THE  
RAPID CITY ZONING BOARD OF ADJUSTMENT  
May 25, 2023

MEMBERS PRESENT: Kelly Arguello, Erik Braun, Karen Bulman, Mike Gollhofer, Eirik Heikes, Haven Stuck, Brook Kaufman, Mike Quasney and Vince Vidal. Bill Evans, Council Liaison was also present.

MEMBERS ABSENT: Karen Bulman, John Herr. Bill Evans, Council Liaison was also absent.

STAFF PRESENT: Vicki Fisher, Tanner Halonen, Alex Osborne, Jonathan Howard, Kip Harrington, Sarah Hanzel, Chip Premus, Todd Peckosh, Kinsley Groote and Andrea Wolff.

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

1. Approval of the May 4, 2023 Zoning Board of Adjustment Minutes

**Gollhofer moved and Kaufman seconded and the Zoning Board of Adjustment approval of the May 4, 2023 Zoning Board of Adjustment Minutes be approved. (8 to 0 with Arguello, Braun, Gollhofer, Heikes, Kaufman, Quasney, Stuck and Vidal voting yes and none voting no)**

3. No. 23VA004 - North Valley Park Subdivision

A request by KTM Design Solutions, Inc for Valley Six Property LLC to consider an application for a **Variance request to allow an unpaved circulation aisle** for Lot D of North Valley Park Subdivision, located in Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1004 N. Valley Drive.

Halonen presented the application noting the property is used as a HVAC business that proposes to use the yard to store heavy equipment that will be moved on and off of the property. Paving the drive aisles would lead to damage that will be caused by the movement of the large equipment if paved rather than graveled. Halonen stated that a stipulation of granting the Variance, the applicant will be required to apply a dust palliative to the yard to reduce dust thus reducing any impact of not paving the drive aisles. Halonen stated that staff recommends approval of the Variance request to allow an unpaved circulation aisle with the stipulation.

Potential development of area, length of use and options such as asphalt millings were discussed.

**Vidal moved and Quasney seconded and the Zoning Board of Adjustment that the Variance request to allow an unpaved driving circulation aisle be approved based on Criteria # 1 and 3, with the following stipulation:**

1. **A dust palliative shall be applied annually to the graveled circulation area or as otherwise directed by the Engineering Division. (8 to 0 with Arguello, Braun, Gollhofer, Heikes, Kaufman, Quasney, Stuck and Vidal voting yes and**

**none voting no)**

4. No. 23VA005 - Canyon Park Subdivision

A request by Interstate Engineering, Inc for Carey Kassube to consider an application for a **Variance to reduce the minimum required lot sizes and minimum required side yard setbacks** for Lots 1A and 2A of Lot J of Parcel No. 2 of Canyon Park Subdivision of Section 18, T1N, R7E, BHM, Pennington County, South Dakota, more generally described as being located at 5900 West Highway 44.

Halonen presented the application explaining that the property has been annexed into the city limits and is proposing a rezone to Park Forest District. However, Park Forest District requires lot size of a minimum of 3 acres and the applicant is subdividing the property into two lots of approximately 1.37 and 1.27 to allow the existing residential structures located on the lots. Subdividing the lots creates the need to reduce lot sizes and to reduce setbacks as the layout of the structures creates difficulty meeting requirements. Fisher clarified that the property was developed in the county with two residences on one parcel and the applicant is looking to subdivide in order to retain and live on one lot and to sell the other. Fisher also noted that in order for the change in zoning to be approved, the property must meet setback requirements.

**Vidal moved and Gollither seconded and the Zoning Board of Adjustment that the Variance request to reduce the minimum required lot sizes and minimum required side yard setbacks be approved for the existing structures only based on Criteria #1, 2 and 3. (8 to 0 with Arguello, Braun, Gollither, Heikes, Kaufman, Quasney, Stuck and Vidal voting yes and none voting no)**

2. No. 23VA001 - Skyline Pines Subdivision

A request by Terrasite Design Inc for Les and Faye Hinzman to consider an application for a **Variance to reduce the front yard setback to 8 feet in lieu of 35 feet for an accessory structure and to allow a 6 foot high wall in the front yard setback in lieu of a maximum 4 foot high wall** for Lot 6 of Block 1, Skyline Pines Subdivision, located in Section 11, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 3217 Skyline Drive.

Osborne presented the application explaining the applicant is requesting to extend the driveway apron to allow a turn-around area with a pergola that will be located 8 feet from the front yard property line in lieu of the required 35 feet. The applicant is also requesting to construct a 6 feet high, 160 foot long gabion wall with a gated entrance. Osborne noted that a number of vandalism actions have been recorded at this property and as a result the applicants see these modifications to be their best option to protect their property. Osborne reviewed the criteria for granting or denying a Variance. Osborne stated that if the Zoning Board of Adjustment finds the requested Variance to be appropriate they should approve the Variance.

Fisher explained staff's concern that the wall will create an impact to the view shed along Skyline Drive. Fisher further stated that the pull over located on Skyline Drive near the front of the property creates issues.

Heikes stated that he would be abstaining from the item.

Les Hinzman, property owner, spoke to instances of vandalism and damage to the property and accidents in the area. Hinzman offered to lower the outer portions of the wall with the gate area remaining at the 6 feet height and explained why they opted for gabion wall.

Jennifer Utter, Assistant City Attorney, spoke to the existence of vandalism at the location stating that the Police Department has noted 4 separate instances that have caused damage to the property.

Removal of the turnout and reasons for the shoulder or turn-out, potential for the wall to create an opportunity for graffiti and the challenge presented to the vandals, potential for fences blocking view shed in additional areas, possibility of guard rails along Skyline Drive were discussed.

Fisher suggested the requests be taken separately to allow the Zoning Board of Adjustment more options.

**Quasney moved, Stuck seconded to separate the requests into two actions. (8 to 0 with Arguello, Braun, Gollither, Heikes, Kaufman, Quasney, Stuck and Vidal voting yes and none voting no)**

**Quasney moved and Vidal seconded and the Zoning Board of Adjustment approved the Variance to reduce the front yard setback to 8 feet in lieu of 35 feet for an accessory structure based on Criteria # 1 and 5. (8 to 0 with Arguello, Braun, Gollither, Heikes, Kaufman, Quasney, Stuck and Vidal voting yes and none voting no)**

**Arguello moved and Vidal seconded to approve a 54 inch high wall north of the pergola and a 6-foot high wall to the south in the front yard setback in lieu of the 4-foot height maximum height was approved due to special circumstances surrounding the property based on Criteria # 1, 3 and 5. (3 to 4 with Arguello, Gollither, and Vidal voting yes and Braun, Kaufman, Quasney and Stuck voting no and Heikes abstaining) Groot confirmed that since the motion failed, the Variance was denied.**

Arguello left the meeting at this time.

5. Staff and Zoning Board of Adjustment Discussion Items

None

**There being no further business Vidal moved, Kaufman seconded and unanimously carried to adjourn the meeting at 7:58 a.m. (7 to 0 with Arguello, Braun, Gollither, Heikes, Kaufman, Quasney, Stuck and Vidal voting yes and none voting no)**

MINUTES OF THE  
RAPID CITY PLANNING COMMISSION  
May 25, 2023

MEMBERS PRESENT: Erik Braun, Mike Gollhofer, Eirik Heikes, Brook Kaufman, Mike Quasney, Haven Stuck and Vince Vidal.

MEMBERS ABSENT: Kelly Arguello, Karen Bulman, and John Herr. Bill Evans, Council Liaison was also absent.

STAFF PRESENT: Vicki Fisher, Sarah Hanzel, Kip Harrington, Tanner Halonen, Alex Osborne, Jonathan Howard, Chip Premus, Todd Peckosh, Kinsley Groote and Andrea Wolff.

Braun called the meeting to order at 7:58 a.m.

**Braun reviewed the Consent Agenda and asked if any member of the Planning Commission, staff or audience would like any item removed from the Consent Agenda for individual consideration.**

**Staff requested that Item 3 be removed from the Consent Agenda for separate consideration.**

**Motion by Vidal seconded by Quasney and unanimously carried to recommend approval of the Consent Agenda Items 1 thru 10 in accordance with the staff recommendations with the exception of Item 3. (7 to 0 with Braun, Gollhofer, Heikes, Kaufman, Quasney, Stuck and Vidal voting yes and none voting no)**

**---CONSENT CALENDAR---**

1. Approval of the May 4, 2023 Planning Commission Meeting Minutes.
2. No. 23VR001 - Section 7, T1N, R8E  
A request by Longbranch Civil Engineering, Inc. to consider an application for a **Vacation of Right-of-Way** for a portion of H1 Lot of the NE1/4 of the SE1/4 and the SE1/4 of the NE1/4 of Section 7, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located lying east of Hennessy Drive.

**Planning Commission recommended approval of the Vacation of Right-of-Way.**

4. No. 23VR003 - Blakes Addition  
A request by D.C. Scott Co. Land Surveyors, Inc for Hope Center to consider an application for a **Vacation of Right-of-Way** for 10 feet adjacent to previously vacated East Boulevard North public right-of-way adjacent to Lots 6 thru 10 of Block 3 of Blakes Addition, located in the NE1/4 of the SE1/4 of Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 630 East Boulevard North.

**Planning Commission recommended approval of the Vacation of Right-of-Way.**

5. No. 23AN002 - Section 21, T1N, R8E

A request by KTM Design Solutions, Inc for SSST, LLC to consider an application for a **Petition for Annexation** for portions of the S1/2, NW1/4, Section 21, T1N, R8E, BHM, Pennington County, South Dakota, more accurately described as follows: Commencing at the West 1/4 corner of Section 21, T1N, R8E, being monumented by a BLM Brass Cap; Thence (1) coincident with the west section line of said Section 21, North 00°05'46" East, 1,318.81 feet to the West 1/16th of Section 20/21; Thence (2) coincident with the north 1/16th line of said Section 21, South 89°49'50" East, 647.79 feet to the point of beginning; Thence (3) continuing with said north 1/16th line, South 89°49'50" East, 823.66 feet; Thence (4) leaving said north 1/16th line, South 40°09'51" West, 311.96 feet; Thence (5) North 90°00'00" West, 622.45 feet; Thence (6) North 0°00'00" East, 240.83 feet to the point of beginning, more generally described as being located south of Rombauer Drive.

**Planning Commission recommended approval the applicant's petition for annexation.**

6. No. 23RZ006 - Section 21, T1N, R8E

A request by KTM Design Solutions, Inc for SSST, LLC to consider an application for a **Rezone request from No Use District to Low Density Residential District II** for located in portions of the S1/2 of the NW1/4, Section 21, T1N, R8E, BHM, Pennington County, South Dakota; more thoroughly described as follows: Commencing at the West 1/4 corner of Section 21, T1N, R8E, being monumented by a BLM Brass Cap; Thence (1) coincident with the west section line of said Section 21, North 00°05'46" East, 1,318.81 feet to the West 1/16th of Section 20/21; Thence (2) coincident with the north 1/16th line of said Section 21, South 89°49'50" East, 647.79 feet to the point of beginning; Thence (3) continuing with said north 1/16th line, South 89°49'50" East, 823.66 feet; Thence (4) leaving said north 1/16th line, South 40°09'51" West, 311.96 feet; Thence (5) North 90°00'00" West, 622.45 feet; Thence (6) North 0°00'00" East, 240.83 feet to the point of beginning, more generally described as being located south of Rombauer Drive.

**Planning Commission recommended approval of the Rezoning request from No Use District to Low Density Residential 2 District in conjunction with the associated Petition to Annexation application.**

7. No. 23AN003 - Red Rock Shadows No. 2 Subdivision

A request by KTM Design Solutions, Inc for Christopher Hamm to consider an application for a **Petition for Annexation** for that part of the W1/2 of the NE1/4 of the SE1/4 lying south of Portrush Road and outside Rapid City Corporate boundaries, less Red Rock Estates and less right-of-way, located in Section 29, T1N, R7E, BHM, Pennington County, South Dakota, more generally described as being located at 7380 Muirfield Drive.

**Planning Commission recommended approving the applicant's petition for annexation.**

8. No. 23RZ007 - Red Rock Shadows No. 2 Subdivision

A request by KTM Design Solutions, Inc for Christopher Hamm to consider an application for a **Rezoning request from No Use to General Commercial District** for a tract of land, located in the W1/2 NE1/4 SE1/4 of Section 29, Township 1 North, Range 7 East of the Black Hills Meridian, Pennington County, South Dakota described as follows: Commencing at the southwest corner of Lot 8B of Block 2 of Red Rock Shadows Subdivision, the Point of Beginning; Thence 1st course, South 88 degrees 02 minutes 47 seconds East, 399.34' on the south boundary of the aforescribed Red Rock Shadows Subdivision; Thence 2nd course, South 1 degree 51 minutes 05 seconds West, 709.31' Thence 3rd course, North 87 degrees 52 minutes 27 seconds West, 130.13'; Thence 4th course, North 24 degrees 21 minutes 43 seconds West, 398.93'; Thence 5th course; a curve to the right with a radius of 667.74', a length of 173.97' a delta of 14 degrees 55 minutes 38 seconds, a Chord Bearing of North 16 degrees 52 minutes 38 seconds West and a Chord Distance of 173.47' to a point of tangency; Thence 6th course, North 9 degrees 25 minutes 04 seconds West, 190.90' to the point of beginning, more generally described as being located at 7380 Muirfield Drive.

**Planning Commission recommended approval of the Rezoning request from No Use to General Commercial District in conjunction with the associated annexation.**

9. No. 23RZ008 - Red Rock Shadows No. 2 Subdivision

A request by KTM Design Solutions, Inc for Christopher Hamm to consider an application for a **Rezoning request from No Use to Low Density Residential District I** for that part of the W1/2 of the NE1/4 of the SE1/4 lying south of Portrush Road and outside Rapid City Corporate boundaries, less Red Rock Estates and less right-of-way, located in Section 29, T1N, R7E, BHM, Pennington County, South Dakota, more generally described as being located at 7380 Muirfield Drive.

**Planning Commission recommended approval of the Rezoning request from No Use to Low Density Residential District I in conjunction with the associated annexation.**

10. No. 23RZ005 - Canyon Park Subdivision

A request by Interstate Engineering, Inc for Carey Kassube to consider an application for a **Rezoning request from No Use to Park Forest District** property generally described as being located at 5900 West Highway 44.

**Planning Commission continued the Rezone request from No Use District to Park Forest District to the June 8, 2023 Planning Commission Meeting.**

---END OF CONSENT CALENDAR---

3. No. 23VR002 - Original Town of Rapid City

A request by Schreier Engineering, Inc for Rob Huber to consider an application for a **Vacation of Right-of-Way** for the westerly 20 feet of 1st Street adjacent to Lot 1 of Block 119 of Original Town of Rapid City, located in Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located on 1st Street between Quincy and the alley.

Harrington presented the application noting this item had previously been continued from the May 4, 2023 Planning Commission meeting to allow staff to meet with the property owner to review options to meet the property owner needs and retain the right-of-way. Harrington reviewed the proposed site plan and the Variances that would be needed to enable improvements if the vacation of right-of-way was not obtained.

Existing right-of-way, the need to retain right-of-way for a major water line project which is not yet designed and how much of the right-of-way is needed and that the vacated right-of-way be identified as an easement if granted and the potential for other vacation of right-of-way in the area were discussed. Potential stipulations and the option to reduce the south 20 feet of the right-of-way by modifying the design of Columbus Street improvements were discussed.

Rob Huber, property owner, addressed his plans for developing the property and the need for the right-of-way to enable meeting any of the setbacks, lot size and stating he wants to improve the property and without the vacation it is not worth developing the property.

**Quasney moved, Heikes seconded and the Planning Commission recommended approval of the Vacation of Right-of-Way with the following stipulations;**

- 1. The existing water curb stop shall be relocated prior to recording the vacation document so that the curb stop will remain in the public right-of way;**
- 2. The south 20 feet of the proposed right-of-way vacation shall remain public right-of-way to allow future improvements to the Columbus Street intersection, which was originally planned to be an alley but now functions as a street with inadequate right-of-way; and,**
- 3. A utility easement shall be dedicated on the vacated right-of-way. (7 to 0 with Braun, Gollhofer, Heikes, Kaufman, Quasney, Stuck and Vidal voting yes and none voting no)**

**---BEGINNING OF REGULAR AGENDA ITEMS---**

- \*11. No. 23UR013 - Lakeview #1 Subdivision  
A request by Robert Crow to consider an application for a **Conditional Use Permit to allow an oversized garage** for Lot 5 of Lakeview #1, located in Section 8, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 3105 Chapel Lane.

Osborne presented the application and reviewed the associated slides noting the exiting garage will be demolished and replaced with the new detached garage that is 1,492 square feet. Osborne noted that a neighbor had contacted staff with concerns regarding drainage so staff is recommending approval of the Conditional Use Permit to allow an oversized garage with an additional stipulation regarding drainage.

**Gollhofer moved and Vidal seconded and the Planning Commission recommended that the Conditional Use Permit to allow an oversized garage to be approved with stipulations:**

1. Prior to the submittal of a Building Permit, the site plan shall show the first 50 feet of the driveway as paved or a Variance shall be obtained; and,
2. All erosion and sediment control measures shall be installed and continually maintained as necessary; and,
3. The Conditional Use Permit shall allow for a total of 1,492-square-feet of garage and storage space. The garage shall not be used for commercial purposes or as a second residence. Any expansion or change in use that is permitted in the Low Density Residential District 1 shall require the review and approval of a Building Permit. Any expansion or change in use that is a Conditional Use in the Low Density Residential District 1 shall require a review and approval of a Major Amendment to the Conditional Use Permit. (7 to 0 with Braun, Gollhofer, Heikes, Kaufman, Quasney, Stuck and Vidal voting yes and none voting no)

*The Rapid City Planning Commission's action on this item is final unless any party appeals that decision to the Rapid City Council. All appeals must be submitted in writing to the Department of Community Development by close of business on the seventh full calendar day following action by the Planning Commission.*

\*12. No. 23UR014 - Original Town of Rapid City

A request by Rodger Hartley for Catalyst Theater Company to consider an application for a **Conditional Use Permit to allow on-sale liquor in conjunction with a theater company** for Lot 1 thru 5 of Block 83 of Original Town of Rapid City, located in Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 513 7th Street.

Halonen presented the application and reviewed the associated slides identifying the theater is 1,500 square feet in size with a maximum occupant load of 49. The applicant proposes to sell beer and wine to customers during shows with the alcohol being locked in a cabinet out of sight between shows with approximately 60 performance per year. Halonen stated staff recommends approval of the Conditional Use Permit to allow on-sale liquor in conjunction with a theater company with stipulations.

**Heikes moved and Kaufman seconded and the Planning Commission recommended that the Major Amendment to the Conditional Use Permit to allow on-sale allow liquor in conjunction with a theater company be approved with the following stipulations;**

1. The Conditional Use Permit shall allow an on-sale liquor establishment as an accessory use to the theater and shall be operated in compliance with the applicant's operational plan. Any change in use or expansion of use permitted in the Central Business District shall require the review and approval of a Building Permit. Any change in use or expansion of use that is a Conditional Use in the Central Business District shall require review and approval of a Major Amendment to the Conditional Use Permit. (7 to 0 with Braun, Gollhofer, Heikes, Kaufman, Quasney, Stuck and Vidal voting yes and none voting no)



***The Rapid City Planning Commission's action on this item is final unless any party appeals that decision to the Rapid City Council. All appeals must be submitted in writing to the Department of Community Development by close of business on the seventh full calendar day following action by the Planning Commission.***

13. Introduction of Planning Commission Bylaws Update

Groote spoke to the changes to the bylaws to match the Rapid City Municipal Code confirming this is informational only, and action will be taken at the next meeting. Fisher reviewed the reason the change is needed so that membership is maintained as the previous requirements were too restrictive.

Heikes left the meeting at this time.

14. Staff and Planning Commission Discussion Items

None

**There being no further business, Golliher moved, Kaufman seconded and unanimously carried to adjourn the meeting at 8:43 a.m. (6 to 0 with Braun, Golliher, Kaufman, Quasney Stuck and Vidal voting yes and none voting no)**