

**Minutes
Board of Adjustment
Council Chambers
January 21, 2009, 7 p.m.**

Members Present

Chairman Dave Van Nieuwenhuyzen, Robert Kummer, John Kolander, Tim Johnson, and Roger Mack

Members Absent

Chad Kucker and Scott Hjellming

Guests Present

None

Unfinished Business

1. **Item 76-08:** Wayne Krump, 46374 250th Street, Colton, SD, was present to explain his variance in (1) an accessory structure occupying more than 30 percent of the rear yard; and (2) the required rear yard setback from 15 feet to 3.5 feet at **520 West McClellan Street**. He stated he is a contractor and he bought this house to flip it, which means to fix it up and sell it. Mr. Krump wanted to build a garage on the existing foundation; and in order to do that, he needs the variances. He showed the Board a new site plan drawn to scale and he stated it would be good for the neighborhood and the garage would cause no obstruction to any of the neighbors. The Board asked if he had talked to his neighbors regarding the new garage and Mr. Krump indicated he had not. The Board indicated that they struggled with the garage taking up the whole backyard. It was expressed to Mr. Krump that he could revise his plans and meet the necessary setback without a variance.

A motion was made by Tim Johnson and a second was made by Roger Mack to grant the variance in (1) an accessory structure occupying more than 30 percent of the required rear yard; and (2) the required rear yard setback from 15 feet to 3.5 feet, which failed unanimously.

New Business

1. **Item 01-09:** Tim Stanga, 1335 East Third Street, was present to explain his variance in the fence height from 4 feet to 6 feet in a front yard at **1335 East Third Street**. Mr. Stanga stated the reason he put the fence up along Wayland Avenue 6 feet high is because of the crime in the neighborhood, drug houses, neighbors using lurid language when his daughters were in the backyard, people peeing in the yard and in neighborhood, people stealing items from his garden, and people throwing garbage into his yard. He also stated that he had talked to Brian Hartmann from the City and that Mr. Hartmann had no problem with the

fence three years ago. Mr. Stanga showed the Board pictures at this time of his lot and stated he was not creating a traffic hazard or hazard to his neighbors. He then showed the Board pictures of other corner lots with fence violations. Mr. Dave Sagness, 622 North Wayland Avenue (he lives up the street from Mr. Stanga), stated he had no problem with the fence and reiterated the problems with the neighborhood. Tony Hanson, 916 North Van Eps Avenue, another neighbor, stated he had no problem with the 6-foot-high fence. Ray DeKing, 1320 East Third Street, has no problem with the fence and reiterated what the applicant stated about the neighborhood. Judy Stanga, mother of the applicant, owns property next to Mr. Stanga and has no problem with the fence and also reiterated the problems with the neighborhood. John Kolander indicated that he sees a personal safety hardship. Roger Mack and Dave Van Nieuwenhuyzen agreed. Mr. Johnson struggled with the fact no permit was pulled and does not believe the lot slopes that much in the backyard.

A motion was made by John Kolander and a second was made by Robert Kummer to grant the variance in the fence height from 4 feet to 6 feet in the front yard, which passed—Yeses 4, Noes 1.

2. **Item 03-09:** Rachel Sturing was present to explain the variance in (1) the required rear yard setback from 15 feet to 1.9 feet; and (2) an accessory structure covering more than 30 percent of the required rear yard setback at **951 West Seventh Street**. Rachel stated that she is unable to use the existing garage to park her small Honda as it is too small. Rachel also stated it would be an improvement to the neighborhood and she is going no closer to the side or rear yard setbacks and that her neighbors do not have a problem with her building a new garage. The Board indicated that the existing garage is nonfunctional and she is creating a functional garage and that her hardship is the size of the lot.

A motion was made by Tim Johnson and a second was made by Roger Mack to grant the variance in (1) the required rear yard setback from 15 feet to 1.9 feet; and (2) an accessory structure covering more than 30 percent of the required rear yard setback, which passed unanimously.

3. **Item 04-09:** Mr. Eric Juhl, 5116 South Pennbrook Avenue, was present to explain the variance in the required side yard setback from 10 feet to 0 feet at **1417 West 12th Street**. Mr. Juhl stated that the lot is already hard surfaced to the lot line and they would like to park cars in that area. He was asked if he had talked to the neighbor about the situation and he stated he had not. The Board was concerned if the property changed uses if this variance would go along with the property or for this use only. Mrs. Shawna Goldammer, Zoning Enforcement Manager, interjected that they could put a stipulation on their approval subject to this use only. Mrs. Goldammer also explained that they had already obtained a conditional use permit for car sales and now they want to be able to park vehicles in the required side yard setback. The Board did not see a problem with it.

A motion was made by Roger Mack and a second was made by John Kolander to grant the variance in the required side yard setback from 10 feet to 0 feet, which was approved unanimously.

4. **Item No. 05-09:** John Brown, architect with Confluence Architects, 524 North Main Avenue, Suite 201, was present to explain the variance in the required number of trees from 13 to 9 in the required front yard setback at **5700 East Highline Place**. Mr. Brown explained that there are a lot of easements in the front yard setbacks and is too difficult to provide the necessary required trees in the required front setbacks. Mr. Brown stated that on the site they are providing more trees than the City ordinances require. The Board had no problem with granting the variance based on the hardship of the easements in the front yard setbacks.

A motion was made by Tim Johnson and a second was made by John Kolander to grant the variance in (1) the required number of trees from 13 to 9 in the required front yard setback, which passed unanimously.

Adjournment

A motion was made by Tim Johnson and a second was made by John Kolander to adjourn the meeting at 8:02 p.m. Yeses, 5. Noes, 0.

Clerk of the Board