

CITY OF DEADWOOD

PLANNING AND ZONING COMMISSION

November 3, 2010

JOINT MEETING

The Joint Meeting of the Deadwood Planning and Zoning Commission was called to order by Chairperson Jim Shedd on Wednesday November 3, 2010 at 5:00 p.m. in the Deadwood City Hall Meeting Room located at 102 Sherman Street, Deadwood, SD 57732.

PRESENT PLANNING & ZONING: Jim Shedd, Mel Allen, Marie Farrier, Sheree Green and Larry Ryan.

PRESENT BOARD OF ADJUSTMENT: Mayor Francis Toscana, Bruce Oberlander, Joe Peterson, Lenny Schroeder and Georgeann Silvernail.

APPROVAL OF MINUTES:

Mr. Ryan moved to approve the minutes of the September 15, 2010 Joint Meeting, as mailed. Ms. Farrier seconded and the motion carried.

All in favor - 5  
Opposed - 0

SIGNS:

None

FINAL PLAT - Plat of Lots 9A, 10C and 12A, Block M, and 15' Sanitary Easement, Formerly Lots 9, 10A, 10B, 11A, 11B, Lot 1 of Lot 11A, Lot 1 of Lot 11B and Lot 12, Block M, Original Town of Deadwood, All Located in the SE ¼ of Section 22, T.5N, R.3E, B.H.M., City of Deadwood, Lawrence County, South Dakota.

Mr. Nelson stated that the applicant Ms. Norman Struempf, of Marvin J. Lehman Properties was requesting approval of the Final Plat for 37-47 Denver Avenue. Mr. Nelson explained that the purpose of the plat was to clean up lot lines, show boundaries and create three parcels from eight smaller parcels. The lots would be of uniform shape. He noted the City of Deadwood's sewer main easement across the property on the final plat.

Ms. Green moved to approve the Final Plat of Lots 9A, 10C and 12A, Block M, and 15' Sanitary Easement to the City of Deadwood. Mr. Allen seconded and the motion carried.

All in favor - 5  
Opposed - 0

Mr. Shedd closed the Planning & Zoning Meeting.

Mr. Toscana opened the Board of Adjustment.

Mr. Schroeder and Mr. Peterson recused themselves from consideration of the Final Plat.

Ms. Silvernail moved to approve the Final Plat of Lots 9A, 10C and 12A, Block M, and 15' Sanitary Easement to the City of Deadwood as recommended by the Planning and Zoning Commission. Mr. Oberlander seconded and the motion carried.

All in favor - 3  
Opposed - 0  
Abstain - 2 (Schroeder and Peterson)

Mr. Toscana closed the Board of Adjustment and turned the meeting over to the Planning and Zoning Commission.

REQUEST FOR EXTENSION ON VARIANCE

Mr. Nelson referred to the following memo:

**Request for Extension on Variance  
Section 17.80.010F**

**Applicant:** Russ and Donna Smith

**Address:** 1 Meverden St.

**Legal:** Lots 8 and 9, Meverden Addition and Tract M-L of M.S. 81, Located in the City of Deadwood, Lawrence County, South Dakota

**Background:**

Russ and Donna Smith of Parker South Dakota were approved for a 2'6" variance from the front porch and a 1' variance from the attached garage on a proposed new house at 1 Meverden St. The approval was on February 20, 2008 and a variance expires two years from that date. Mr. and Mrs. Smith did get the utility work and some site work done to the property shortly after their variance approval. As planning began to start construction of the house their family was hit with a personal health concern and they chose to stop their project. They are prepared now to get this project back on track and begin construction.

I was unaware the variance had been applied for and approved in 2008 or I may have followed up with Mr. and Mrs. Smith to inquire as to their intentions before the variance expired. Under section 17.80.010F of the Zoning Code the Smiths are allowed to ask the Board of Adjustment for a one year extension of said variances. They have written the Zoning Office requesting a one year extension of the variance. It is the opinion of the staff that the Smiths have a good cause for the delay and request that the Board of Adjustment grant the Smiths with an extension of one year from the date of this public hearing. Staff is aware the variances have expired and the Board of Adjustment could require the Smiths to go through process again however, given the transition of staff, I had no knowledge of the variances in question.

I have attached a copy of the staff report on the variances from the February 20, 2008 Planning and Zoning meeting as well as the emailed request from the Smiths for an extension.

**Action:**

Approve / Approve with Conditions / Deny by City of Deadwood Board of Adjustment

Mr. Nelson explained that only the Board of Adjustment approval was needed.

Mr. Shedd closed the Planning & Zoning Meeting.

Mr. Toscana opened the Board of Adjustment.

Mr. Toscana questioned if the extension would run from November 3, 2010. Mr. Nelson stated that was correct and noted that the applicants had received approval from Historic Preservation to construct the home.

**Mr. Peterson moved to approve the request for a one-year extension for a variance from Section 17.80.010.F at 1 Meverden Street for Mr. Russ and Donna Smith. Ms. Silvernail seconded and the motion carried.**

<u>All in favor</u>	-	<u>5</u>
<u>Opposed</u>	-	<u>0</u>

Mr. Toscana closed the Board of Adjustment and turned the meeting over to the Planning and Zoning Commission.

**FINDINGS OF FACT:**

**Findings of Fact and Conclusions for a Variance from Front Yard Setback - 752 Stage Run**

Mr. Nelson noted that this was the final step in closing the file. Mr. Nelson noted that the builder did not use the entire setback when constructing the building.

**Mr. Allen moved to approve the Findings of Fact and Conclusions for a Front Yard Setback Variance for 752 Stage Run. Ms. Green seconded and the motion carried.**

<u>All in favor</u>	-	<u>5</u>
<u>Opposed</u>	-	<u>0</u>

Mr. Shedd closed the Planning & Zoning Meeting.

Mr. Toscana opened the Board of Adjustment.

**Mr. Oberlander moved to approve the Findings of Fact and Conclusions for a Front Yard Setback Variance for 752 Stage Run, as recommended by the Planning and Zoning Commission. Ms. Silvernail seconded and the motion carried.**

**All in favor - 5**  
**Opposed - 0**

**PROPOSED AMENDMENTS TO CHAPTER 5.28 CITY OF DEADWOOD CODE OF ORDINANCES**

Mr. Nelson stated he would review each section from his memo and follow with discussion.

**Proposed Amendments to Chapter 5.28  
City of Deadwood Code of Ordinances**

Planning and Zoning Commission:

After review of Chapter 5.28 of the City of Deadwood Code of Ordinances, it has come to my attention the some additions and corrections are needed to make enforcement and regulation of Chapter 5.28 an easier process. Along with that there have been concerns brought before staff in regard to temporary structures for vending within the City of Deadwood.

The first proposed change is an addition to Section 5.28.020 Definitions. Currently there is not a definition for “temporary” when referencing temporary business. Jason Campbell the City of Deadwood Attorney has proposed the following definition for “temporary”.

“temporary” – No business that plans to be in Deadwood for less than a year, whether evidenced by short-term lease or otherwise, shall be deemed anything but temporary as such business is expected to change in status, conditions or place; is intended to exist for only a definite period; is not lasting, or intended to last as that term is commonly known, or lasting for a short or limited time; and is transitory in nature.

There were no questions or discussion.

The second proposed change is within Section 5.28.070 Temporary structures of Chapter 5.28. After meetings with local established businesses and many local residents it has come to my attention that there is a desire to not allow temporary structures within the Locally Designated Historical District. This area is defined within Chapter 5.28 as follows: (1) 424-818 Main Street; (2) all of Lee Street; (3) all of Siever Street; (4) all of Deadwood Street; (5) all of Pine Street; (6) all of Sherman Street; and (7) 1-13 Charles Street. I have included with this memo a copy of the existing ordinance as it is and I have included a copy of the proposed change to ordinance. This change is highlighted in section 5.28.070A.

Ms. Green questioned the location of 424 Main Street. Mr. Nelson stated it was on lower Main Street owned by the Mineral Palace.

Mr. Toscana questioned the location on Charles Street. Mr. Nelson explained that it would encompass the area just past Pizza Hut and the area would not include the lumber yard. Mr. Nelson stated that the area defined came directly from the Code of Ordinance.

Mr. Allen stated that he was not aware that Sherman and Charles Street were included in the Locally Designated Historic District. Mr. Allen questioned where it ended on Main Street. Mr. Nelson stated that it ended at the Penny Hotel.

Mr. Schroeder questioned if the changes would affect events such as the Deadwood Jam. Mr. Nelson explained that he address it in the proposed third change that would allow exemptions with approval from City Commission. Mr. Nelson stated that currently the ordinance prohibits temporary structures on private property in the C-1 Commercial and CH Commercial Highway. However with the proposed change it will allow an exemption with approval from the City Commission with a Public Hearing. Ms. Farrier questioned if the Commission has the right to deny a request. Mr. Nelson stated the commission could deny a request.

Mr. Allen stated that he did not feel there had been a problem in the past with tent on Main Street. Mr. Nelson explained that a business owner can vend outdoors in a tent with their own products, such as the Celebrity Hotel during the Sturgis Rally.

The third proposed change is within Section 5.28.080A under Exceptions. After reading this section of the ordinance there was a mistake found and the proposed correction, which is highlighted in the included copy of the ordinance, is to change the term “vendor” to say “sponsors of said events”. You will also note that there is an exception that does permit the use of temporary structures on private property zoned CH-

commercial highway district or C1 commercial district if the prohibition of temporary structures is waived upon a public hearing on this issue. This reference is highlighted in green on the proposed changes copy of the ordinance. Also temporary structures may be used on public property during special events if the prohibition of vending on public property has been waived in a public hearing.

Staff is requesting you consider these proposed changes and recommend the changes to City Commission or recommend to staff to leave the ordinance as it is in its current state. These recommendations need to be done on all three proposed changes.

Thank you for your time and consideration on these concerns. Staff feels it is in the best interest of the City and the people that reside in Deadwood to make these changes to ordinance.

Mr. Nelson noted that Mr. Campbell felt that "sponsor of said event" was more appropriate than the term "vendor".

Ms. Farrier questioned if these changes address all of the issues brought up during the 2010 Sturgis Rally. Mr. Nelson stated that it did address the issues and he was continuing to work with Mr. Campbell on the ordinance.

Ms. Farrier questioned if a motion was needed to move forth on the changes. Mr. Nelson stated that a motion was needed to bring forth the changes to the City Commission, if the Planning and Zoning Commission agreed with all of the proposed changes.

Mr. Allen questioned if the sixty day requirement would be changed. Mr. Nelson stated that the sixty day requirement would stay the same. Ms. Farrier stated that the sixty day requirement is an issue. Mr. Shedd suggested continuing the discussion until the sixty days is addressed. Mr. Nelson stated that a motion could be made to move forth on these changes and more changes could be brought forward at a later time.

After discussion, it was decided that proposed vending change discussion would be continued to the next meeting.

**OPEN:**

None

**ADJOURNMENT:**

**Ms. Farrier moved to adjourn the Joint Meeting of the Planning and Zoning Commission. Ms. Green seconded and the motion carried.**

<b><u>All in favor</u></b>	<b><u>-</u></b>	<b><u>5</u></b>
<b><u>Opposed</u></b>	<b><u>-</u></b>	<b><u>0</u></b>

There being no further business, Planning & Zoning Commission adjourned at 5:35 p.m.

ATTEST:

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Mr. Jim Shedd  
Chairman  
Planning and Zoning

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Ms. Sheree Green  
Secretary  
Planning and Zoning