

CITY OF DEADWOOD

PLANNING AND ZONING COMMISSION

November 4, 2009

JOINT MEETING

The Joint Meeting of the Deadwood Planning and Zoning Commission was called to order by Chairperson Marie Farrier on Wednesday November 4, 2009 at 5:00 p.m. in the Deadwood City Hall Meeting Room located at 102 Sherman Street, Deadwood, SD 57732.

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

ABSENT PLANNING & ZONING: Ms. Bernadette Williams, Zoning Administrator, was absent.

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

ABSENT BOARD OF ADJUSTMENT: Mike Klamm.

APPROVAL OF MINUTES:

Mr. Ryan moved to approve the minutes of the October 21, 2009 Meeting as mailed. Mr. Shedd seconded and the motion carried.

All in favor	-	5
Opposed	-	0

SIGNS: NONE

NEW BUSINESS:

James Lee- Request for an 18' variance from Section 17.28.040.B front yard setback requirements, a 5' variance from Section 17.28.040.C.2 side yard setback requirement and a 10' variance from Section 17.28.040.D rear yard setback requirement at 24 McKinley Street.

Ms. Deanna Berglund referred to the following staff report.

STAFF REPORT
REQUEST FOR VARIANCE
FROM CHAPTER 17.28
SECTIONS 17.28.040.B, C & E

APPLICANTS: James Lee

SIZE AND LOCATION: The site includes approximately 5,847.79 square feet.

ADDRESS: 24 McKinley Street

LEGAL DESCRIPTION: Lot 3, Block C, Weisflog Addition, City of Deadwood, Lawrence County, South Dakota

ZONE: R2 - Multi-family Residential District

BACKGROUND:

Variations Requested: An 18' variance from Section 17.28.040.B - Front Yard Setbacks; A 5' Variance from Section 17.28.040.C.2.; and a 10' Variance from Section 17.28.040.D - Rear Yard Requirements. The front of the garage will set 2' from the front property line and a portion of the garage will set along the side lot line; however, the distance widens as it progresses towards the rear of the property. The rear of the future garage would set along the rear property line.

Mr. Lee is proposing to construct a 28'x36' garage. The area of the proposed site for the garage narrows and for that reason constricts the placement of the new garage. The lot has an irregular shape and limits the site for new construction.

The Comprehensive Plan designates this land as medium density residential. This category includes duplexes, manufactured and modular homes, apartments, town homes, and other forms of attached housing. This category may also include such supporting land uses as neighborhood shops and services, parks and recreation areas, religious institutions and schools.

Environmental Corridor Status: The property is located within Other Flood Area - Zone X - Areas of 500 year flood; areas of 100-year flood with average depths of less than one foot or with drainage areas less than 1 square mile; and areas protected by levees from 100-year flood.

AREA ZONING PATTERNS: The property is currently zoned R2 - Multi-family Residential District. The area has a mixture of uses including townhouses, apartments and single-family dwellings. The City Streets department is also located within the vicinity of this district.

ADJACENT ZONING AND LAND USES:

The property to the north is zoned R2 - Multi-family Residential District. The apartments and townhouses are located in this area. The land to the west is zoned R2 - Multi-family Residential. The land to the east is zoned R2 - Multi-family Residential District and the area is made up of a mixture of residential uses. The land to the south of the site is zoned R2 - Multi-family Residential District.

COMPLIANCE:

- 1. The Zoning Officer provided notice identifying the applicant, describing the project and its location and giving the scheduled date and time of the public hearing in accordance with Section 17.80.010.B. This notice was mailed to property owners within 300 feet of the subject property.**
- 2. A sign was posted on the property for which the request was filed as required by Section 17.80.010.B.**
- 3. Notice of the time and place for the public hearing was published ten (10) days in advance of the hearing in the designated newspaper of the City of Deadwood as required by Section 17.80.010.B.**

VARIANCE:

The purpose of a variance is to modify the strict application of the specific requirements of this Ordinance in the case of exceptionally irregular, narrow, shallow or steep lots, or other exceptional (Amended 99-952) conditions, whereby, such strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of the reasonable use of his or her land. The variance shall be used only where necessary to overcome some obstacle which is preventing an owner from using his or her lot as the Zoning Ordinance intended.

The Board shall consider and decide all applications for variances within 30 days of such public hearing and in accordance with the standards provided below.

STANDARDS FOR VARIANCES:

In granting a variance, the Board shall ascertain that the following criteria are met, and presented at the public hearing or otherwise included in the record.

- 1. A variance may be appropriate where, by reason of exceptional narrowness, shallowness, or shape or by reason of other exceptional topographic conditions or other extraordinary conditions on a piece of property, the strict application of any regulation enacted under this Ordinance would result in peculiar, exceptional, and undue hardship on the owner of the property. The previously mentioned circumstances or conditions shall be set forth in the Findings of the Board.**

The Special Circumstance in this case is the fact that the subject site has existing structures that hinders any new construction on the site and the remaining open area(s) involve a narrowing of the size of the lot. The subject lot has an irregular shape which presents problems for new construction.

The term undue hardship encompasses virtually any problem and the hardship only need to be practical. Because of the particular physical constraints of the specific property involved, a hardship

to the owners would result, as distinguished from a mere inconvenience, if the strict letter of regulations were carried out. Strict compliance with the specific regulations would result in practical difficulty or unnecessary hardship inconsistent with the purposes of the zoning regulations. Approving the variance requests would enable the reasonable use of the property and improve operational efficiency and appearance.

- 2. Variances shall not be granted to allow a use otherwise excluded from the particular district in which requested.**

The subject use is a use by right in the R2 – Multi-family Residential District.

- 3. Any variance granted under the provisions of this section shall be the minimum adjustment necessary for the reasonable use of the land.**

That within the intent and purposes of the applications for variance, if granted, is the minimum adjustment necessary to afford relief or the reasonable use of the land. Except for the rear lot line, the remaining request(s) relate to partial variances since the proposed structure is not aligned flush with the lot lines and the variances only apply to the portions of the structures that set nearest to the lot lines. The remaining bulk and height regulations are all met

- 4. The granting of any variance is in harmony with the general purposes and intent of this Ordinance and will not be injurious to the neighborhood, and/or detrimental to the public welfare, or in conflict with the established policies of the City of Deadwood.**

The proposed project is compatible with the present and future logical development of the area. The new construction will not be readily visible since it is situated on Meverden Street. This street is generally used to enter the apartment complex.

The granting of the variances in the subject area would not be injurious to the area in general. The variances, if granted, would not alter the essential character of the surrounding area in which the property is located; substantially or permanently impair the appropriate use or development of adjacent property.

- 5. There must be proof of practical difficulty, which may be based upon sufficiently documented economic factors but such proof shall not be based solely upon or limited to such economic factors. Furthermore, the hardship complained of cannot be self-created; nor can it be established on this basis by one who purchases with or without the knowledge of the restrictions; it must result from the application of this Ordinance; it must be suffered directly by the property in question; and evidence of variance granted under similar circumstances shall not be considered.**

Due to the constraints associated with the presence of existing structures and the irregular shape of the lot, it is not felt that special circumstances in this case are a result from actions of the Applicant. The variance would not constitute a grant of special privilege inconsistent with limitations imposed on similarly situated properties or inconsistent with the purposes of the zoning regulations.

Strict compliance with the regulations would deprive the applicant of privileges enjoyed by owners of similarly zoned property; and strict compliance would preclude an effective design solution fulfilling the basic intent of the applicable regulation.

- 6. That the proposed variance will not impair an adequate supply of light and air to adjacent properties, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the adjacent neighborhood.**

The use and value of the area adjacent to the property included in the variance request will not be affected in a substantially adverse manner. There will be no significant adverse impacts on water supply, fire protection, schools, or other services. The granting of the variance would not be detrimental to public health, safety or general welfare. A variance cannot be granted if it would pose any threat to the public health or safety. This finding includes concerns such as fire safety, structural stability, and visual and aesthetic concerns. Granting this variance will not be injurious to the public health, safety, and general welfare of the community.

- 7. The fee, as adopted by resolution, was paid to the Zoning Administrator as agent for the Board to cover the costs of notices and other expenses incidental to the hearing.**

- 8. *The applicant has proven that he or she is the owner of the property, or is his or her officially designated agent and has presented proof thereof.***

Requirements for the Granting of a Variance:

Before the Board shall have the authority to grant a variance, the person claiming the variances has the burden of showing:

1. **That the granting of the permit will not be contrary to the public interest;**
2. **That the literal enforcement of the Ordinance will result in unnecessary hardship; and,**
3. **That by granting the permit, substantial justice will be done.**

A variance shall be null and void two (2) years from the date it is granted unless completion or substantial construction has taken place. The Board of Adjustment may extend the variance for an additional period not to exceed one (1) year upon the receipt of a written request from the applicant demonstrating good cause for the delay.

If upon review by the Zoning Administrator, a violation of any condition, imposed in approval of a variance is found, the Administrator shall inform the applicant by registered mail of the violation and shall require compliance within sixty (60) days, or the Administrator will take action to revoke the permit. The Administrator's letter, constituting Notice of Intent to Revoke Variance may be appealed to the Board of Adjustment within thirty (30) days of its mailing. The Board of Adjustment shall consider the appeal and may affirm, reverse, or modify the Administrator's Notice of Intent to Revoke. The applicant must comply with the Board of Adjustment's Order on Appeal of Notice of Intent to Revoke Variance within thirty (30) days of the Board's decision.

ACTION REQUIRED:

1. Recommendation by Planning and Zoning to approve/deny/approve with conditions: An 18' variance from Section 17.28.040.B - Front Yard Setbacks; A 5' Variance from Section 17.28.040.C.2; and a 10' Variance from Section 17.28.040.D - Rear Yard Requirements.
2. Approve/deny/or approve with conditions: An 18' variance from Section 17.28.040.B - Front Yard Setbacks; A 5' Variance from Section 17.28.040.C.2; and a 10' Variance from Section 17.28.040.D - Rear Yard Requirements, by Board of Adjustment.

Ms. Berglund stated that she had received one call from a neighbor who was concerned about Mr. Lee building on the lot line.

The applicant, Mr. James Lee, was present.

Mr. Allen questioned if the person raising the concern was Mr. Lee's next door neighbor to which Mr. Lee stated that he was not sure. Mr. Allen stated that Meverden was a dead-end street and that he did not foresee any problems with the request. Mr. Allen also asked if Mr. Lee knew anything about the vacant lot by his house. Mr. Lee stated that the property owner lives in Sioux Falls and plans on building a house on the lot.

Ms. Farrier stated that the Commission had had some trouble determining how the garage would be situated on the lot. She also questioned if the front of the garage would face Meverden Street. Mr. Lee confirmed that the front of the garage would face Meverden Street and explained to the Commission how the garage would be situated on the lot. Mr. Lee noted that the garage would not be absolutely square. He stated that it was necessary to build on the lot line in order to make a workable space that would accommodate the lot.

Mr. Shedd moved to approve the request for an 18' variance from Section 17.28.040.B front yard setback requirements for 24 McKinley Street. Mr. Ryan seconded and the motion carried.

All in favor - 5
Opposed - 0

Chairman Farrier adjourned the Planning and Zoning meeting and turned the meeting over to the Board of Adjustment.

DEADWOOD BOARD OF ADJUSTMENT

Mayor Toscana called the Board of Adjustment to order.

Ms. Silvernail moved to approve the request for an 18' variance from Section 17.28.040.B front yard setback requirements for 24 McKinley Street as recommended by the Planning & Zoning Commission. Mr. Peterson seconded.

Mr. Schroeder questioned how much of the garage would be on the lot line. Mr. Lee stated that only one side of the structure would be on the lot line. Mr. Toscana stated that he understood that GIS could be off; however, he noted that according to the GIS picture of the lot, it appeared that his house was over the lot line. Ms. Berglund stated that it was her understanding that GIS could be up to five feet off in any direction.

Motion carried.

All in favor - 4
Opposed - 0

Mayor Toscana adjourned the Board of Adjustment and turned the meeting back over to the Planning and Zoning Commission.

Ms. Green moved to approve the request for a 5' variance from Section 17.28.040.C.2 side yard setback requirement for 24 McKinley Street. Mr. Shedd seconded and the motion carried.

All in favor - 5
Opposed - 0

Mr. Allen moved to approve the request for a 10' variance from Section 17.28.040.D rear yard setback requirement for 24 McKinley Street. Mr. Shedd seconded and the motion carried.

All in favor - 5
Opposed - 0

Chairman Farrier adjourned the Planning and Zoning meeting and turned the meeting over to the Board of Adjustment.

DEADWOOD BOARD OF ADJUSTMENT

Mayor Toscana called the Board of Adjustment to order.

Ms. Silvernail moved to approve the request for a 5' variance from Section 17.28.040.B front yard setback requirements and a 10' variance from Section 17.28.040D rear yard setback requirement for 24 McKinley Street as recommended by the Planning & Zoning Commission. Mr. Schroeder seconded and the motion carried.

All in favor - 4
Opposed - 0

Mayor Toscana adjourned the Board of Adjustment and turned the meeting back over to the Planning and Zoning Commission.

James Fletcher - Request for a 20' variance from Section 17.28.040.B front yard setback requirement.

Ms. Berglund referred to the following staff report.

**STAFF REPORT
REQUEST FOR 20' VARIANCE
FROM SECTION 17.24.040. – FRONT YARD SETBACK**

APPLICANT: James Fletcher

SIZE AND LOCATION: The site includes approximately 6,510.51 square feet.

ADDRESS: 350 Williams Street

LEGAL DESCRIPTION: Lot 8, less the southwest 20' and all of Lot 9, Block G, O.T., City of Deadwood, Lawrence County, South Dakota

ZONE: R1 - Residential District

BACKGROUND:

Mr. Fletcher is proposing to construct a 30'x40' two (2) bay garage into the rear hillside. Section 17.24.040 – Front setback requirements does require 20' and the variance being requested would place the garage at the sidewalk line. Staff communicated with the contractor and recommended Mr. Fletcher set back a few feet, if possible, in order to enable safe passage from the garage unto the street. The contractor indicated they would examine the site to see if it was possible to set back a few feet from the sidewalk.

Variance Requested: A 20' variance from Section 17.24.040.B - Front Yard Setbacks.

The Comprehensive Plan designates this land as low density which is intended for predominately single family detached residential development, similar to that found in many existing city neighborhoods. In general, these areas are quiet residential neighborhoods, predominately consisting of single-family dwellings. This classification may also include such supporting land uses as neighborhood shops and services, parks and recreation areas, religious institutions, and schools. A full range of urban services and infrastructure is required.

Environmental Corridor Status: The property is located within Other Flood Area - Zone X – Areas of 500 year flood; areas of 100-year flood with average depths of less than 1foot or with drainage areas less than 1 square mile; and areas protected by levees from 100-year flood.

AREA ZONING PATTERNS: The property is currently zoned R1 – Residential District. There is a mixture of uses in the subject area which includes some non-conforming apartment houses. There are parking problems on this street with very few off-street parking sites.

ADJACENT ZONING AND LAND USES:

The property to the north is zoned R1 - Residential District. The area has a mixture of uses. The lands to the east and west are also zoned – R1 – Residential District and there is a church in the previous block. The land to the south of the site is zoned PU - Public Use and includes the Broadway Parking Ramp and commercial uses.

COMPLIANCE:

1. **The Zoning Officer provided notice identifying the applicant, describing the project and its location and giving the scheduled date and time of the public hearing in accordance with Section 17.80.010.B. This notice was mailed to property owners within 300 feet of the subject property.**
2. **A sign was posted on the property for which the request was filed as required by Section 17.80.010.B.**
3. **Notice of the time and place for the public hearing was published ten (10) days in advance of the hearing in the designated newspaper of the City of Deadwood as required by Section 17.80.010.B.**

VARIANCE:

The purpose of a variance is to modify the strict application of the specific requirements of this Ordinance in the case of exceptionally irregular, narrow, shallow or steep lots, or other exceptional (Amended 99-952) conditions, whereby, such strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of the reasonable use of his or her land. The variance shall be used only where necessary to overcome some obstacle which is preventing an owner from using his or her lot as the Zoning Ordinance intended.

The Board shall consider and decide all applications for variances within 30 days of such public hearing and in accordance with the standards provided below.

STANDARDS FOR VARIANCES:

In granting a variance, the Board shall ascertain that the following criteria are met, and presented at the public hearing or otherwise included in the record.

1. **A variance may be appropriate where, by reason of exceptional narrowness, shallowness, or shape or by reason of other exceptional topographic conditions or other extraordinary conditions on a piece of property, the strict application of any regulation enacted under this Ordinance would result in**

peculiar, exceptional, and undue hardship on the owner of the property. The previously mentioned circumstances or conditions shall be set forth in the Findings of the Board.

The Special Circumstance in this case is the fact that the subject site has a hillside and old retaining wall in the rear. Construction is limited on the property due to the constraints in the rear lot and existing structures. Extending further into the hillside would require a large retaining wall to stabilize the hillside and could undermine Forest Avenue, located next to Fletchers rear lot line. The rear wall of the garage may require a retaining wall also, that will be up to the building inspector.

The term undue hardship encompasses virtually any problem and the hardship only need to be practical. Because of the particular physical constraints of the specific property involved, a particular hardship to the owners would result, as distinguished from a mere inconvenience, if the strict letter of regulations were carried out. Strict compliance with the specific regulations would result in practical difficulty or unnecessary hardship inconsistent with the purposes of the zoning regulations. Approving the variance request would enable the reasonable use of the property.

- 2. Variances shall not be granted to allow a use otherwise excluded from the particular district in which requested.**

The subject use is a use by right in the R1 – Residential District.

- 3. Any variance granted under the provisions of this section shall be the minimum adjustment necessary for the reasonable use of the land.**

That within the intent and purposes of the application for variance, if granted, is the minimum adjustment necessary to afford relief or the reasonable use of the land without added disturbance into the rear hillside. The remaining bulk and height regulations are all met. If the structure length was reduced, a smaller variance could be attainable; however, Mr. Fletchers goal is to be able to park 4 vehicles inside of this structure since parking is a problem on Williams Street and he needs additional parking for storage and parking.

- 4. The granting of any variance is in harmony with the general purposes and intent of this Ordinance and will not be injurious to the neighborhood, and/or detrimental to the public welfare, or in conflict with the established policies of the City of Deadwood.**

The proposed project is compatible with the present and future logical development of the area. Mr. Fletcher's lot measures, approximately, 65'x100' and is larger than most lots in Deadwood. Other properties in the same vicinity or zone have been developed with garages that set upon the sidewalk line. This variance is necessary for the applicant in order to preserve his existing substantial property right.

The granting of the variances in the subject area would not be injurious to the area in general. The variances, if granted, would not alter the essential character of the surrounding area in which the property is located; substantially or permanently impair the appropriate use or development of adjacent property.

- 5. There must be proof of practical difficulty, which may be based upon sufficiently documented economic factors but such proof shall not be based solely upon or limited to such economic factors. Furthermore, the hardship complained of cannot be self-created; nor can it be established on this basis by one who purchases with or without the knowledge of the restrictions; it must result from the application of this Ordinance; it must be suffered directly by the property in question; and evidence of variance granted under similar circumstances shall not be considered.**

Due to the constrains associated with the presence of the hillside and existing circumstances on the lot, it is not felt that special circumstances in this case are a result from actions of the Applicant. The variance would not constitute a grant of special privilege inconsistent with limitations imposed on similarly situated properties or inconsistent with the purposes of the zoning regulations.

This variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or zone in which it is located. If the applicant was required to set back the required 20', it would push the structure further into critical area of the hillside and street located above.

Strict compliance with the regulations would deprive the applicant of privileges enjoyed by owners of similarly zoned property.

- 6. That the proposed variance will not impair an adequate supply of light and air to adjacent properties, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the adjacent neighborhood.**

The use and value of the area adjacent to the property included in the variance request will not be affected in a substantially adverse manner. There will be no significant adverse impacts on water supply, fire protection, schools, or other services. The granting of the variance would not be detrimental to public health, safety or general welfare. A variance cannot be granted if it would

pose any threat to the public health or safety. This finding includes concerns such as fire safety, structural stability, and visual and aesthetic concerns. Granting this variance will not be injurious to the public health, safety, and general welfare of the community.

7. ***The fee, as adopted by resolution, was paid to the Zoning Administrator as agent for the Board to cover the costs of notices and other expenses incidental to the hearing.***
8. ***The applicant has proven that he or she is the owner of the property, or is his or her officially designated agent and has presented proof thereof.***

Requirements for the Granting of a Variance:

Before the Board shall have the authority to grant a variance, the person claiming the variances has the burden of showing:

1. **That the granting of the permit will not be contrary to the public interest;**
2. **That the literal enforcement of the Ordinance will result in unnecessary hardship; and,**
3. **That by granting the permit, substantial justice will be done.**

A variance shall be null and void two (2) years from the date it is granted unless completion or substantial construction has taken place. The Board of Adjustment may extend the variance for an additional period not to exceed one (1) year upon the receipt of a written request from the applicant demonstrating good cause for the delay.

If upon review by the Zoning Administrator, a violation of any condition, imposed in approval of a variance is found, the Administrator shall inform the applicant by registered mail of the violation and shall require compliance within sixty (60) days, or the Administrator will take action to revoke the permit. The Administrator's letter, constituting Notice of Intent to Revoke Variance may be appealed to the Board of Adjustment within thirty (30) days of its mailing. The Board of Adjustment shall consider the appeal and may affirm, reverse, or modify the Administrator's Notice of Intent to Revoke. The applicant must comply with the Board of Adjustment's Order on Appeal of Notice of Intent to Revoke Variance within thirty (30) days of the Board's decision.

ACTION REQUIRED:

1. Recommendation by Planning and Zoning to approve/deny/approve with conditions for height and front yard setback variances.
2. Approve/deny/or approve with conditions from Board of Adjustment.

Ms. Berglund stated that she had not received any concerns from adjacent landowners.

The applicants, Mr. and Ms. James and Donna Fletcher were present. They were joined by their contractor Mr. Dennis Purchase.

Mr. Purchase stated that the applicants were proposing to build a garage that would be 26' wide by 40' deep rather than 30' by 40' as stated in the staff report. Ms. Farrier stated that there was some discrepancy in the width of the lot. Mr. Purchase stated that the lot was supposed to be surveyed; however, the surveyor had measured the neighbor's house. Mr. Ryan expressed concern regarding the hillside and stated that he did not believe that it would be a problem to have the garage sit right on the sidewalk as other residents had done so. Mr. Purchase stated that Ms. Williams had felt that it would be too tight of a turn to get out of the garage if it sat on the sidewalk.

Mr. JR Raysor, Public Works Director and City Planner, stated that while he liked the idea of removing parked cars from Williams Street, he had a few concerns. Mr. Raysor stated that he was afraid that the garage would crowd the neighboring lot, based on the plat at the county, and that excavation would create serious issues as it is a well known fact that the soil on that side of town is less than stable. It was Mr. Raysor's recommendation to the Committee to have a licensed soils engineer come and make recommendations on excavation methods etc. prior to construction or approval of construction. Mr. Purchase along with Mr. and Ms. Fletcher stated that this would not be a problem.

After some discussion, the Commission agreed that without knowing the width of the lot or concrete size of the garage it would not be possible to grant a variance. They also believed it was necessary to follow Mr. Raysor's advice and have a soils engineer come in and look at the hill.

It was moved by Mr. Allen to continue Mr. & Ms. Fletchers request for a 20' variance from Section 17.28.040.B front yard setback requirement until the next regularly scheduled meeting, November 18, 2009. Mr. Ryan seconded and the motion carried.

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

PLATS:

FINAL PLAT: Plat of Lots 9A & 10A Block B, Sunnyside Addition Formerly A Portion of Lot 9 & All of Lots 10, 11, 12, 13, & 14, Block B, Sunnyside Addition and a portion of School Lot 38, Located in the NE 1/4 of Section 27, T5N, R3E, B.H.M., City of Deadwood, Lawrence County, South Dakota.

Ms. Berglund stated that the proposed plat would clear up areas of encroachment on School Lot 38 which would enable the applicant to sell the property.

Ms. Farrier asked if the applicant already owned the land referred to in the plat or if they would have to purchase it. Ms. Berglund stated that, according to GIS, Richard Granberg owned the land.

Ms. Green moved to approve the Final Plat for Lots 9A & 10A Block B, Sunnyside Addition Formerly A Portion of Lot 9 & All of Lots 10, 11, 12, 13, & 14, Block B, Sunnyside Addition and a Portion of School Lot 38, located in the NE 1/4 of Section 27, T5N, R3E, B.H.M, City of Deadwood, Lawrence County, South Dakota. Mr. Shedd seconded and the motion carried.

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

Chairman Farrier adjourned the Planning and Zoning meeting and turned the meeting over to the Board of Adjustment.

DEADWOOD BOARD OF ADJUSTMENT

Mayor Toscana called the Board of Adjustment to order.

Ms. Silvernail the Final Plat for Lots 9A & 10A Block B, Sunnyside Addition Formerly A Portion of Lot 9 & All of Lots 10, 11, 12, 13, & 14, Block B, Sunnyside Addition and a Portion of School Lot 38, located in the NE 1/4 of Section 27, T5N, R3E, B.H.M, City of Deadwood, Lawrence County, South Dakota as recommended by the Planning and Zoning Commission. Mr. Peterson seconded and the motion carried.

<u>All in favor</u>	<u>-</u>	<u>4</u>
<u>Opposed</u>	<u>-</u>	<u>0</u>

Mayor Toscana adjourned the Board of Adjustment and turned the meeting back over to the Planning and Zoning Commission.

OPEN:
None.

ADJOURNMENT:

Mr. Ryan moved to adjourn the Joint Meeting of the Planning and Zoning Commission. Mr. Shedd seconded and the motion carried.

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

Joint Meeting
November 4, 2009

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

ATTEST:

Ms. Marie Farrier
Chairman (Acting)
Planning and Zoning

Ms. Sheree Green
Secretary (Acting)
Planning and Zoning