

**DEADWOOD PLANNING AND ZONING COMMISSION**

**Wednesday, February 1, 2017 – 5:00 p.m.**

City Hall, 102 Sherman Street, Deadwood, SD

**AGENDA**

1. Call Meeting to Order
2. Approval of January 4, 2017 Minutes
3. Ali DeMersseman - Black Hills Council of Local Governments
4. Sign Review Commission  
No items for review.
5. Planning and Zoning Commission and Board of Adjustments

**Request for Variance - Jim and Rhonda Van Den Eykel - 36 Water Street**

Tract A, an 8' Platted Alley and a Portion of Lot R-1 of the City of Deadwood Railroad Property all Located in the Hillsdale Addition to the City of Deadwood, in the NW ¼ of Section 26, T5N, R3E, B.H.M., Lawrence County, South Dakota

Action Required:

- a. Approval/Denial by Planning and Zoning
  - b. Approval/Denial by Deadwood Board of Adjustments
5. Items from Staff
    - a. Welcome Center Update
    - b. Whitewood Creek
    - c. Cadillac Jacks
  6. Adjourn

## Lead – Deadwood Community Planning

To determine the best approach for Lead and Deadwood future individual and joint planning endeavors, and to determine what specific joint planning process would be appropriate, we suggest a phased approach to this project. At this point, we are proposing an **investigative phase**. There will not be an additional fee beyond each city's membership dues for completion of this phase. This phase will entail:

1. a review of each city's existing comprehensive planning documents to determine where there are overlapping goals and objectives between the two;
2. interviews with key city staff in order to determine how the existing comprehensive plans are used and where they see opportunities to update the plans;
3. community stakeholder interviews with community members from each city representing diverse views in which questions will be asked regarding their ideas for what is working and what is not working in each city, successes in terms of collaborations within the Lead-Deadwood Community, and opportunities for collaboration; and,
4. a report that will outlined the findings of the comprehensive plan review, staff interviews, stakeholder interviews, and recommendations for next steps.

If the items outlined above are agreeable to both Lead and Deadwood, we would be able to begin this phase at the beginning of 2017. We anticipate that this phase would be completed in approximately four months.

We will contact both communities in mid-November to set a meeting to discuss this proposal.

Thank you for your consideration

Blaise Emerson  
Executive Director

## LEAD AND DEADWOOD COMMUNITY PLAN, INVESTIGATIVE PHASE



### EXISTING PLAN REVIEW

1. Lead Comprehensive Plan, 2004-2014
2. Lead 2009 Addendum
3. Lead 2017 Addendum
4. Deadwood Comprehensive Plan, 2001
5. Deadwood/Lead Housing Study, 2016



### STAFF INTERVIEWS

1. How is the City using its comprehensive plan?
2. Are there specific areas within the plan that need to be updated or improved?
3. Why do you choose to live/work in Lead/Deadwood?
4. What changes would you like to see in Lead/Deadwood?
5. In what ways have the cities of Lead and Deadwood been successful in collaborating?
6. Where do you see opportunities for collaboration?



### STAKEHOLDER INTERVIEWS

1. Why do you choose to live/work in Lead/Deadwood?
2. What changes would you like to see in Lead/Deadwood?
3. In what ways have the cities of Lead and Deadwood been successful in collaborating?
4. Where do you see opportunities for collaboration?



### FINAL REPORT

1. Summary of plan review
2. Summary of interviews
3. Recommendations for next steps

CITY OF DEADWOOD  
PLANNING AND ZONING COMMISSION

Wednesday, January 4, 2017

The meeting of the Deadwood Planning and Zoning was called to order by Chairperson Jim Shedd on Wednesday, January 4, 2017, at 5:00 p.m. in the Deadwood City Hall Meeting Room, located at 102 Sherman Street, Deadwood, SD 57732.

**Planning and Zoning Commission Present:** Jim Shedd, Marie Farrier, Tony Biesiot, John Martinisko and Brett Runge

**Absent:** None

**Board of Adjustments Present:** Dave Ruth and Gary Todd

**Staff Present:**

Bob Nelson Jr., Trent Mohr and Bonny Anfinson

**Approval of December 7, 2016 Minutes:**

*It was moved by Mr. Biesiot and seconded by Ms. Farrier to approve the December 7, 2016 meeting minutes. Aye - All. Motion carried.*

**Election of Officers**

**Chairman**

*It was moved by Ms. Farrier and seconded by Mrs. Runge to nominate Tony Biesiot for Chairman. Aye - All. Motion carried.*

**Vice Chairman**

*It was moved by Ms. Farrier and seconded by Mr. Shedd to nominate Brett Runge for Vice Chairman. Aye - All. Motion carried.*

**Secretary**

*It was moved Mr. Shedd and seconded by Mrs. Runge to nominate Marie Farrier for Secretary. Aye - All. Motion carried.*

**Sign Review Commission:**

**61 Charles Street - Lead/Deadwood Regional Hospital - Install New Projecting Sign**

Mr. Mohr stated the applicant is requesting permission to install a new projecting sign marking the location of the emergency room at the hospital. The applicant is currently standardizing the signage at all properties throughout the region. The design of this sign reflects standardization plus some additional scroll work. The proposed sign and its location require variances from the sign ordinance for the use of plastic, internal illumination and the top of sign being higher than the bottom of the second story windows. Ms. Farrier questioned the use of plastic for signs and whether we should change the ordinance or start turning down the requests. Mr. Nelson did consult with HP regarding the height of the sign and because of the nature of the sign HP had no issues. Mr. Nelson stated we will continue to receive requests.

*It was moved by Mr. Biesiot and seconded by Mrs. Runge to approve the sign permit for the new projecting sign at 61 Charles Street granting variances for plastic sign face, internal illumination and the top of the sign above the bottom of the second story windows. Aye - All. Motion carried.*

**Planning and Zoning Commission and Board of Adjustments:**

**Final Plat - City of Deadwood - Define Property Lines**

Mr. Nelson stated the subject property is currently used as a driveway for 31 Charles Street and vacant land. The lots meet the area and bulk requirements for square footage and this plat creates a maintenance easement for the Stewart Street retaining wall. Legally described as Lots 107A and 107B of Block 71, Original Town of Deadwood Formerly the Public Lots of Division Street and an Unnamed Public Alley, and Lot 107, Original Town of Deadwood; All located in the City of Deadwood, Lawrence County, South Dakota.

*It was moved by Ms. Farrier and seconded by Mrs. Runge to recommend to the City Commission approval of the final plat for Lots 107A and 107B of Block 71, Original Town of Deadwood Formerly the Public Lots of Division Street and an Unnamed Public Alley, and Lot 107, Original Town of Deadwood; All located in the City of Deadwood, Lawrence County, South Dakota. Aye – All. Motion carried.*

**Items From Staff** (no action taken)

- Mr. Mohr stated the weather has shut down most of the exterior work at the Welcome Center and the interior of the building is currently being worked on. Mr. Nelson stated pictures of the interior will be included in the next packet.
- Mr. Nelson stated a grant application has been submitted for Whitewood Creek for \$182,000 to continue the cleanup. Signed contract with Tall Grass to complete the next two phases of design, reclamation and clean up.
- Mr. Nelson stated the D.O.T and Oftedal Construction has been working on the restrooms. They should be open to the public by the end of week.
- Mr. Nelson stated 3 Shine Street retaining wall is complete; Guy and Forest is waiting for a day to pour concrete and put railings up.
- Mr. Nelson stated there was a pre-construction meeting for Cadillac Jacks Tuesday. You will start seeing mobilization and January 23 they plan to start digging. Utilities first then storm sewer. There are issues of parking for their employees during the construction. They are working with Parking and Transportation to solve issue. They might be renting Days of 76 Campground for a few months.
- Mr. Nelson stated the crow's nest is back up on legs. The staircase needs to be completed. It will be done before the snocross event January 19.

**Comments:**

Mel Allen has resigned from the Planning and Zoning Commission.

John Martinisko was welcomed as the new Planning and Zoning Commissioner.

**Adjournment:**

*It was moved by Mr. Biesiot and seconded by Ms. Farrier to adjourn the Regular Meeting of the Planning and Zoning Commission. Aye – All. Motion carried.*

There being no further business, the Planning and Zoning Commission adjourned at 5:17 p.m.

ATTEST:

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Chairman, Planning & Zoning Commission  
Bonny Anfinson, Planning & Zoning Office/Recording Secretary

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Secretary, Planning & Zoning Commission

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Planning & Zoning Administrator  
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**STAFF REPORT REQUEST  
FOR VARIANCE FROM  
CHAPTER 17.20  
SECTION 17.42.040.B.1**

**APPLICANTS:** Jim and Rhonda Van Den Eykel

**SIZE AND LOCATION:** Water Street - 0.18± Acres

**ADDRESS:** 36 Water Street

**LEGAL DESCRIPTION:** Tract A, an 8' Platted Alley and a Portion of Lot R-1 of the City of Deadwood Railroad Property all Located in the Hillsdale Addition to the City of Deadwood, in the NW ¼ of Section 26, T5N, R3E, B.H.M., Lawrence County, South Dakota

**ZONE:** R1 – Residential District

**REQUEST:** Six foot variance from front yard setback requirements.

**EXISTING ZONING AND LAND USE:** The property is currently zoned R1 – Residential District. The applicant intends on building a new residential structure and removing the existing garage, in addition the applicant intends on platting their property into two tracts as to separate the two houses on two tracts of land. The proposed use is a use by right.

**ADJACENT ZONING AND LAND USES:**

The property to the north is zoned PU – Public Use District and is currently an outdoor recreation area known as Powerhouse Park. The land to the south is zoned PU – Public Use District and the current use is municipal parking. The land to the east is zoned C1 - Commercial District with a variety of commercial business. To the west is vacant land and residential dwellings on residentially zoned land.

**BACKGROUND:**

The Van Den Eykels are requesting a variance from the front yard setback requirement of 20 feet in an R1 – Residential District. Their request is for a six foot variance from said setback. The subject lot has infrastructure provided at the lot line for a home site, however the topography of the lot is very restrictive as the elevation increases rapidly in the rear of the parcel and Whitewood Creek fronts the lot. Given the slope in the rear of the lot, moving the dwelling into the setback will alleviate the hardship of construction on the proposed lot while accommodating use of the property.

**Environmental Corridor Status:** The property is located within the special flood hazard area and a floodplain development permit will be required prior to approval of any building permit for the home.



## **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 eight (10) days in advance of the hearing in the designated newspaper of the City of Deadwood.**

## **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 shape of the lot in this case does not create a hardship for construction. The topographic conditions as well as the location of Whitewood Creek in relation to the property create a hardship on the owner to build a dwelling and maintain the front setback.***

- 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 this application for variance, if granted, the minimum adjustment necessary to afford relief or the reasonable use of the land***

*will be a six foot variance. The remaining bulk and height regulations are all met (i.e. side and rear setback requirements and height).*

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 development of the area. The granting of the proposed structure will not be detrimental to fire safety, clearance, preservation of light and open space and/or visual and aesthetic concerns.*

*The variance will 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 topographic conditions and the proximity of Whitewood Creek along with the depth of the lot the hardship to build on the property exists. With the proposed minimal variance the hardship can be alleviated.*

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 an adverse manner. There will be no significant adverse impacts on water supply, schools, or other services. 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, and visual and aesthetic concerns.*

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.

*The Van Den Eykels have paid the \$150.00 fee to process the variance and hold the public 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.

*The Van Den Eykels have proven to the City of Deadwood Planning and Zoning office that they are the current owner of the subject property.*



### **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. Approve/deny/ or approve with conditions from Planning and Zoning.
2. Approve/deny/or approve with conditions from Board of Adjustment.

# 36 Water Street Variance Request

