



Spearfish Board of Adjustment
Regular Session Agenda
January 6, 2020 5:30 p.m. – immediately following City Council Regular
Session
City Council Chambers of City Hall
625 5th Street, Spearfish

1. Call to Order
2. Roll Call
3. Approve Minutes from December 2, 2019
4. Approve the findings for the variance approved in Resolution 2019-24
Location: Lot 1B of Block 36 Uhlig Addition
5. Public Comments
Public comments are welcome at this time, however, no action will be taken.
6. Adjourn

ADA Compliance: The City of Spearfish fully subscribes to the provisions of the Americans with Disabilities Act. If you desire to attend this public meeting and are in need of special accommodations, please notify the Building and Development Office at 642-1335 and 24 hours prior to the meeting so that appropriate auxiliary aids and services are available.



Spearfish Board of Adjustment
Regular Session Minutes
December 2, 2019

The Spearfish Board of Adjustment met in regular session on Monday December 2, 2019 following the 5:30 p.m. Spearfish City Council regular meeting in the council chambers at Spearfish City Hall. Chairman Dana Boke called the meeting to order at 6:25 pm. Roll call was taken with the following members present: Clark, Eisenbraun, Hermann, Jacobs, and Klarenbeek. Absent: Dan Hodgs. Also Present: City Administrator Harmon, City Planner Watson, City Attorney McDonald, and Finance Officer DeNeui.

Approval of Minutes – Eisenbraun moved, Jacobs seconded and all voted to approve the minutes of the Board of Adjustment meeting of Monday, October 15, 2018 as presented.

Resolution 2019-24 – Chairman Boke requested the Board of Adjustment members to disclose if they had received any information other than the staff information or had a conversation with anyone regarding this request. No board member comments were received. City Planner Watson provided a summary of the request and applicant Jason Richards explained his request for a variance at Lot 1b Block 36 of the Uhlig Addition in which the applicant Jason Richards requests a variance from the rear setback of 25 feet required to allow 12 feet and to increase the lot coverage from 40 percent to 44 percent.

Chairman Boke opened the public hearing. No persons offered comment or testimony. Public hearing was closed. Eisenbraun moved, Jacobs seconded and all voted to adopt Resolution 2019-24 as follows:

RESOLUTION 2019-24

A RESOLUTION GRANTING A VARIANCE TO LOT 1B BLOCK 36, UHLIG ADDITION, CITY OF SPEARFISH, LAWRENCE COUNTY, SOUTH DAKOTA

WHEREAS, the owner of the following-described real property has requested a variance to the building setbacks and lot coverage requirements of the R-1 Single Family zoning district. This variance is to allow the rear building setback from the south property line to be reduced from twenty five (25) feet to twelve (12) feet, and for the overall lot coverage to be increased from forty (40) percent to forty-four (44) percent

Lot 1b Block 36, Uhlig Addition to the City of Spearfish according to as shown on the Plat thereof recorded in Plat Book 3, Page 17, as recorded in the Office of the Lawrence County Register of Deeds, and,

WHEREAS, the City of Spearfish Board of Adjustment has reviewed the record and has concluded that the applicant has satisfied the criteria for receiving the variance requested,

NOW THEREFORE, BE IT RESOLVED by the Board of Adjustment of the City of Spearfish, Lawrence County, South Dakota, that the above-described property is hereby granted a variance to Appendix A. Zoning Article IV. Section 2.D.3.a and Section 2.D.6 of the Revised Ordinances of the City of Spearfish and the owner shall be allowed to construct a residence in accordance with the site plan attached hereto as Exhibit A. No other improvements are permitted by this variance. This variance shall be deemed to run with the land for so long as the house exists but shall terminate automatically if the house is demolished or the property is otherwise re-developed.

Dated this 2nd day of December, 2019.

BOARD OF ADJUSTMENT

(Seal)
Attest:

By: _____
Dana Boke, its Chairperson

Michelle DeNeui, Finance Officer

Public Hearing: 12-2-2019

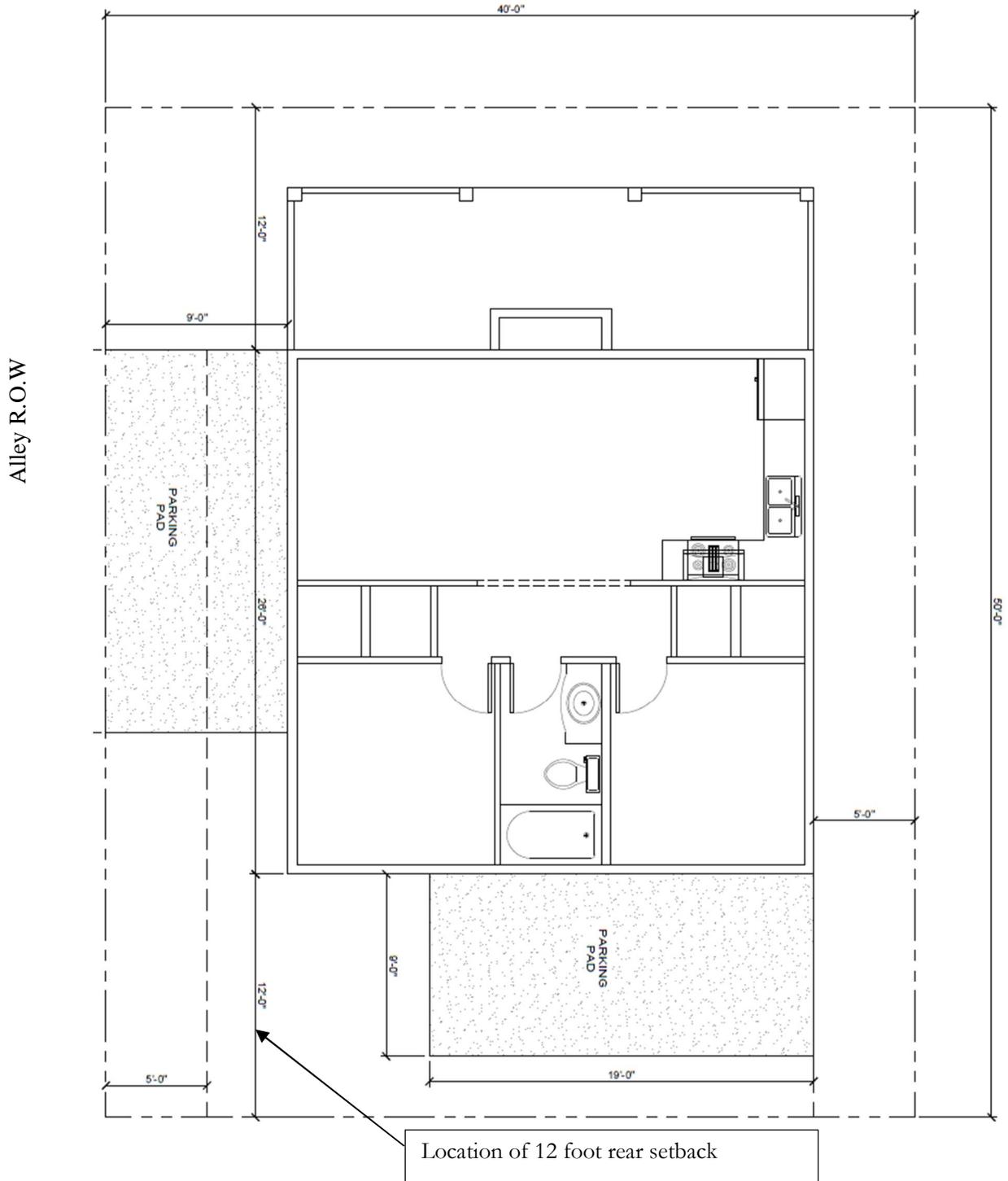
Adopted: 12-2-2019

Published: 12-7-2019

Effective: 12-27-2019

EXHIBIT A – CITY OF SPEARFISH RESOLUTION 2019-24

Lincoln St. R.O.W



Overall lot coverage to increase to 44 percent from 40 percent per the following:

Lot Area = 2,000 square feet.

Building coverage = 26 feet x 34 feet incl. covered porch = 884 Sq. ft. / 2,000 sq. ft. = .44 or 44%

Public Comment - Public comment section opened; no comments received.

Adjournment - There being no further business to come before the commission, Chairman Boke adjourned the meeting at approximately 6:30 p.m.

Dated this 6th day of January, 2020

BOARD OF ADJUSTMENT

(Seal)
Attest:

By: _____
Dana Boke, its Chairperson

Michelle DeNeui, Finance Officer

Published once at the approximate cost of _____

City of Spearfish Board of Adjustment Variance Findings

Applicant: Jason Richards

Location: Lot 1B of Block 36, Uhlig Addition to the of the City of Spearfish

Zoning: R-1; Single Family Residential

Variance Request: Appendix A. Zoning Article IV.:

Section 2.D.3.a - requires a 25 foot rear yard setback from the property line to the structure.

Applicant proposes a 12 foot rear yard setback.

Section 2.D.6 - requires a 40 percent maximum lot coverage. Applicant proposes 44 percent maximum lot coverage.

Date of Board of Adjustment Public Hearing: December 2, 2019

Planning Commission Recommendation: On November 18, 2019 the Commission recommended approval with no added conditions.

The Board of Adjustment has reviewed the variance criteria (*italicized text*) and makes the following findings, (**bold text**).

Applicability.

1. *Variances may not be granted to allow a use prohibited or ineligible for a Conditional Use Permit.*
2. *A variance may be granted for the development standards found within the area regulations of each zoning district that apply to maximum/minimum numerical distances, maximum/minimum numerical quantities, ratios, square footage type standards, and parking standards.*

Finding: Criteria 1 and 2 are satisfied. A residence is allowed in the R-1 zoning district; the variance requested is for a numerical standard of the zoning code, specifically the rear setback and lot coverage.

Evaluation Criteria. A variance shall be approved only if the applicant is able to satisfy each of the following three (3) criteria:

1. *The requested variance is not contrary to the public interest, as determined by the Board of Adjustment. In order to fulfill the public interest, the proposed variance must not:*
 - a. *Alter the essential character of the locality or*
 - b. *Endanger public safety.*

Finding: Criteria 1a. and 1b. are satisfied. The rear setback of the adjacent residence at 440 E Lincoln is within ten feet of the property line. Other nearby structures are also within a similar distance to property line. Parking for the dwelling will be provided between the home and the south property line and on the alley side of the dwelling. The public sidewalk is at the back of the curb along the Lincoln Street frontage and is unaffected by this request.

2. *The requested variance must result from special physical conditions on the property, which:*
 - a. *Are natural or man-made surroundings, shape, or topographical conditions that do not result from persons presently having an interest in the property; or*
 - b. *Because the property is situated within any of the following downtown core neighborhoods and has a lot width of seventy-five feet (75') or less, or a square footage of less than eight thousand (8,000) square feet*
 - i. *Original Town Plat*
 - ii. *Uhlig Addition*
 - iii. *Ramsdell Addition*
 - iv. *West Addition*
 - v. *Schar's Addition*

Finding: Criteria 2a and 2.b are satisfied. The need for the variance is directly related to the size of the property which was platted by the person that owned this property in 1953, who is not the same as the present owner. The property is located in the Uhlig Addition and has a lot width of less than 75 feet.

3. *A literal enforcement of the provisions will result in unnecessary hardship.*
 - a. *Because of the special physical conditions of the property, unusual hardship that would serve no public purpose would result to the owner if required to act in strict conformity with the provisions of the zoning regulations and the authorization of a variance is therefore necessary to enable the reasonable use of the property.*
 - b. *The hardship must be unique to a particular piece of property to justify a variance, and not shared by all property in a particular zone.*

Finding: Criteria 3.a and 3.b are satisfied. Because the setback in question is a rear setback, the public is unaffected by a reduction from 25 to 12 feet. The difference in lot coverage of 4 percent is not a perceptible impact to the public. The hardship of the small lot size is not shared by all properties in the surrounding R-1 zoning district, which are primarily 50 x 140 lots.

I verify that the above findings and approval by the Spearfish Board of Adjustment were made in a public hearing on December 2, 2019, by a vote of 6-0.

Dana Boke, Chairperson

Date