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## PLANNING AND ZONING COMMISSION STAFF REPORT REQUEST FOR VARIANCE

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### Staff Report

**Date:** September 12, 2025  
**To:** Planning and Zoning Commission  
**From:** Kevin Kuchenbecker  
Planning, Zoning & Historic Preservation Officer  
**RE:** Request for Variance

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**APPLICANT(S):** Travis Lindner

**PURPOSE:** Request for Variance

**ADDRESS:** 118 Mystery Wagon Road

**LEGAL DESCRIPTION:** Lot 2A, Block 3A of Palisades Tract of Deadwood Stage Run addition to the City of Deadwood formerly Lot 2, Block 3A and a portion of Palisades Tract of Deadwood Stage Run addition located in the SW  $\frac{1}{4}$  of Section 14, the SE  $\frac{1}{4}$  of Section 15, the NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  of Section 22 and the N  $\frac{1}{2}$  NE  $\frac{1}{4}$  of Section 23, T5N, R3E, B.H.M., City of Deadwood, Lawrence County, South Dakota.

**FILE STATUS:** All legal obligations have been completed.

**ZONE:** R2 – Multi-Family Residential

### STAFF FINDINGS:

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#### Surrounding Zoning:

North: PU – Public Use

South: R2 – Multi-Family Residential

East: PU – Public Use

West: R2 – Multi-Family Residential

#### Surrounding Land Uses:

Open Space

Residences

Open Space

Residences

## **SUMMARY OF REQUEST**

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The applicant has applied for a variance to Ordinance Chapter 17.24.040 (B) – Area and Bulk Requirements. (Minimum front yard for accessory buildings and uses: twenty feet).

## **FACTUAL INFORMATION**

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1. The property is currently zoned R2 – Multi-Family Residential.
2. The property is not located within a flood zone.
3. The area is characterized by multi and single-family homes.

## **STAFF DISCUSSION**

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The applicants have submitted a Request for a Variance to Ordinance 17.24.040 (B) – Area and Bulk Requirements. (Minimum front yard for accessory buildings and uses: twenty (20) feet). According to their application, a shed is to be placed on the property nine and one-half (9.5) feet from the front yard property line. A variance from the required twenty (20) feet minimum front yard for accessory buildings and uses is being requested due to the narrowness of the property.

## **COMPLIANCE:**

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1. The Zoning Office provided notice identifying the applicant, describing the project and its location, and giving the scheduled date of the public hearing in accordance with Section 11-4-4.
2. A sign was posted on the property for which the requests were filed.
3. Notice of the time and place was published in the designated newspaper of the City of Deadwood.

## **GENERAL USE STANDARDS FOR VARIANCE REQUESTS:**

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In reviewing any application under the authority of this chapter and as a further guide to its decision upon the facts of the case, the Commission(s) shall consider, among other things, the following facts:

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 title would result in peculiar, exceptional, and undue hardship on the owner of

Request for Variance  
118 Mystery Wagon Road  
October 1, 2025

such property. The aforesaid circumstances or conditions shall be set forth in the findings of the board.

*The flat portion of the lot at 118 Mystery Wagon Road measures approximately twenty-five (25) feet wide at its widest point. The dwelling unit located on the property required a variance to front yard setback requirements to be built. The shed will be placed in line with the house, approximately nine and one-half feet from the front property line.*

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

*The subject property is in zoning district R2 – Multi-Family Residential, and accessory buildings, such as sheds, are allowed within this zone.*

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

*The proposed shed will measure 10 feet wide x 20 feet deep. This will provide additional storage space for UTV/ATV, lawn equipment, etc. The property owner intends to paint the shed the same color as the house.*

4. The granting of any variance is in harmony with the general purposes and intent of this title 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.

*The granting of this variance is not anticipated to be injurious and/or detrimental to the public welfare. It is required that the property owner schedule a staking inspection prior to shed installation to ensure the shed is not intruding on any existing easements located on the 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 knowledge of the restrictions; it must result from the application of this title; it must be suffered directly by the property in question; and evidence of variance granted under similar circumstances shall not be considered.

*The applicant has stated the storage shed is needed for additional storage space on the property to keep the proper neat and tidy.*

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 proposed variance will not impair light and air to adjacent properties, nor will it increase the congestion in the public streets.*

7. A fee, as adopted by resolutions, due and payable prior to the public hearing, shall be paid to the zoning administrator as agent for the board to cover the costs of notices and other expenses incidental to the hearing.

*The applicant paid an application fee at the time the Request for Variance was submitted to the Zoning Administrator.*

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.

*Per the Lawrence County online database, the applicant is the owner of the subject property.*

#### **CONDITIONS GOVERNING APPLICATIONS AND PROVISIONS:**

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1. 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 year upon the receipt of a written request from the applicant demonstrating good cause for the delay.
2. 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.

If approved, staff recommendations for stipulation(s):

1. Staking inspection to occur prior to installation of the shed to ensure it does not intrude on any existing easements located on the property.

Request for Variance  
118 Mystery Wagon Road  
October 1, 2025

**ACTION REQUIRED:**

1. Approval/Denial by Deadwood Planning and Zoning Commission