



FINDINGS OF FACT AND CONCLUSION REQUEST FOR VARIANCE

Date: November 10, 2023

From: Kevin Kuchenbecker
Planning, Zoning & Historic Preservation Officer

RE: Request for Variance from Section 17.24.040.B – Front Yard and
Side Yard Setback Requirements – R1 Residential

APPLICANT(S): Jackie Diana Fisher and Bryan James Duffy Revocable
Trust

ADDRESS: 22 Washington Street
Deadwood, Lawrence County, South Dakota

LEGAL DESCRIPTION: TRACT C, BLOCK 53, A SUBDIVISION OF PART OF
LOTS 1 AND 2, BLOCK 53, ORIGINAL TOWN, CITY OF
DEADWOOD, LOCATED IN THE NW1/4 OF SECTION
26, T5N, R3E, B.H.M., LAWRENCE COUNTY, SOUTH
DAKOTA, ACCORDING TO PLAT RECORDED AS
DOCUMENT NO. 2001-01165, SUBJECT TO
EASEMENTS, RESERVATIONS, AND RESTRICTIONS
OF RECORD

PURPOSE: The applicant has submitted a request for a variance to
the required 20-foot setbacks according to Deadwood
City Ordinance 17.24.040 (Area and Bulk
Requirements).

ASSESSORS NO.: 30025-05300-010-00

RE: Request for Variance

WHEREAS, the above application for a Variance from the Front Yard and
Side Yard Setbacks came for public hearing on July 3, 2023 at 5:00 p.m. were
recommended for approval by the Deadwood Planning and Zoning Commission
with the Deadwood Board of Adjustment approving the requests as
recommended by the Planning and Zoning Commission.

WHEREAS, all present members of the Deadwood Planning and Zoning Commission and the Deadwood Board of Adjustment having reviewed the Variance request and having considered all comments offered and all of the evidence and testimony presented for the application; and, after discussion and consideration of the application and being fully advised in the premises, the Deadwood Planning and Zoning Commission and Deadwood Board of Adjustment hereby enter their:

FINDINGS OF FACT AND CONCLUSION

COMPLIANCE:

1. A sign was posted on the property for which the request was filed as required by Section 17.80.010.B.
2. Notice of 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.
3. Application(s) requirements were met.

FINDINGS:

1. Planning and Zoning staff conducted a site visit and concluded that the developer has limited buildable space due to the size and shape of the lot. Strict adherence to the ordinance would adversely affect the rhythm, site, and setting of the National Landmark District, and the State and National Register Historic Districts (Collectively known as historic districts for the balance of this report). The existing adjacent historic properties do not meet the setback dimensions in the zoning ordinance.
2. The construction of a new single-family home that has been proposed is a use by right in the R1 – Residential Zoning District.
3. The intent and purpose of this application for variance, if granted, is to mimic existing setbacks on adjacent historic properties and to allow the maximum use of the land. The remaining bulk and height regulations are all met (i.e., side and rear setback requirements and height).
4. The proposed project is compatible with 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 is evidence of practical difficulty due to the size of the lot. The applicant has made an attempt to provide infill housing on an existing lot which has been vacant within the City of Deadwood. In many ways, this is efficient use of stranded infrastructure which is not fully utilized and does not require high costs and additional maintenance from the city services already provided to this area of the community.
6. 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 applicant has paid the \$200.00 fee to process the variance and have the public hearing.
8. The applicant has proven to the City of Deadwood Planning and Zoning office that they are the current owner of subject property.
9. For the above-mentioned reasons, and based on the information and findings included in the Staff Report, Minutes, and other records of proceedings, the Deadwood Planning and Zoning Commission and Board of Adjustment recommended approval of the variance.

ATTEST:

Jessica McKeown, Finance Officer
City of Deadwood
/ / /2023

David Ruth, Mayor
City of Deadwood
/ / /2023

John Martinisko, Chairman
Planning and Zoning Commission
/ / /2023

David Bruce, Secretary
Planning and Zoning Commission
/ / /2023