

OFFICE OF  
PLANNING, ZONING AND  
HISTORIC PRESERVATION  
108 Sherman Street  
Deadwood, SD 57732



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**FINDINGS OF FACT AND CONCLUSIONS**  
REQUEST FOR VARIANCE  
FROM SECTION 17.24.040.B. –  
FRONT YARD SETBACK REQUIREMENTS  
R1 - RESIDENTIAL DISTRICT

**APPLICANTS:** Rob & Wendy Nelson

**ADDRESS:** 19 Centennial Street

**LEGAL DESCRIPTION:** Lot 8A, Block K, Original Townsite, City of Deadwood, Lawrence County, South Dakota, Formerly Portions of Lots 8 and 9, Block K

**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).

**ZONING:** R1 - Residential District

**WHEREAS,** the above application for a variance from the Front Yard Setback came on for public hearing on June 16, 2021, at 5:05 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 applications 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 CONCLUSIONS**

**COMPLIANCE:**

1. Staff provided public notice identifying the applicant, describing the purpose of the application and its location, and giving the scheduled date of the public hearing to adjacent landowners within 300' in accordance with Section 17.80.010.B.
2. Notice was placed in the designated newspaper of the City of Deadwood, ten (10) days in advance of the hearing as required by Section 17.80.010 B.
3. An official sign was posted on the property for which the variance was filed as required by Section 17.80.010 B
4. Application(s) requirements were met.

## **FINDINGS:**

- 1. There are special circumstances unique to this property. These circumstances involve the shape of the lot and the hillside, along with the amount of excavation that would be needed to meet the 20' front yard. This has created a physical constraint which is unique to this site. Approving the variance requests from front yard setback requirements and notice requirements enable the reasonable use of the property.***
- 2. The zoning ordinance does not preclude the construction of a garage in this zone, the uses are permitted by right.***
- 3. That within the intent and purposes of this application for variances, as granted, is the minimum adjustment necessary to afford relief or the reasonable use of the land and substantial notices had been given regarding the application. The remaining bulk regulations are all met.***
- 4. 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, clearance, preservation of light and open space, and visual and aesthetic concerns.***
- 5. The granting of the variances in the subject area would not be injurious to the area in general. Again, this use is permitted by right in the R1-Residential District. The variance would not alter the essential character of the neighborhood in which the property is located; substantially or permanently impair the appropriate use or development of adjacent property.***
- 6. The hardship was not self-created by the applicant(s). The granting of the variances would not constitute a special privilege.***
- 7. 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.***
- 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.***
- 9. Substantial notice had been established by notification to adjacent landowners within 300' and notice posted on the property. Notice in the newspaper was run ten (10) days in advance of the hearing.***
- 10. 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:

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Ms. Jessica McKeown, Finance Officer  
City of Deadwood  
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David R. Ruth Jr., Mayor  
City of Deadwood  
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John Martinisko, Chairperson  
Planning and Zoning  
City of Deadwood  
/ /21

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Josh Keehn, Secretary  
Planning and Zoning  
City of Deadwood  
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