

Agenda
WATERTOWN BOARD OF ADJUSTMENT
City Council Chambers
23 2nd Street NE

Thursday May 5, 2016

4:15 PM

Call to Order

Roll Call

1. Approval of April 21, 2016 Minutes
2. Applicant Mike Lawrence for Harry's Hair Cuts and Hot Towels, LLC (#16676) seeks Conditional Use approval for the sale, serving & consumption of alcoholic beverages, and operation of video lottery machines, in the C-1 Community Commercial District @ 16 & 18 W Kemp.
 - A. Public hearing
 - B. Board of Adjustment action
3. Applicant Cathryn Benda (#16678) seek variance relief from the requirements of the City Ordinance, by appealing the terms of Zoning Title 21 as it applies to her property located @ 1824 8th St NE, to allow for the construction of a nonconforming deck onto a compliant Single Family Dwelling in the PUD Planned Unit Development District.
 - A. Public hearing
 - B. Board of Adjustment action
4. Applicants Shirley Ness, Howard Buus, and Laverne Dally (#16677) seek variance relief from the requirements of the City Ordinance, by appealing the terms of Zoning Title 21 as it applies to their property located @ 1907 4th Ave SW, to allow for the construction of a nonconforming garage in the R-3 Multi-Family Residential District.
 - A. Public hearing
 - B. Board of Adjustment action

Old Business:

Motion to adjourn

FOUNDATION

Concrete Slab	
Concrete Block Walls	
Concrete Walls	
Wood Walls	

BASEMENT AREA

N	C	P	S	F
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EXTERIOR WALLS

Siding on Sheathing	
Steel Building	
Column Building	
Concrete Block Walls	
Hardboard/Cement Siding	
Vinyl/Wood Siding	
Steel Siding	
Brick/Stone/Stucco	
Wall Insulation	
Roof Insulation	
Other	

ROOF TYPE

Hip	Gable	
Mansard	Flat	

ROOFING

Asphalt Shingle	
Membrane Roof	
Steel	
Other	

FLOORS

	B	1st	2nd
Concrete			
Gravel/Earth			
Plyscore			

INTERIOR FINISH

	B	1st	2nd
Sheet Rock			
Type X Sheetrock			
Other			
Unfinished			

HEATING

Solar/Geothermal	
Heat Pump/Hot Water	
Electric	
Gas Furnace	
Air Conditioning	
Fireplace/Stove	
No Heating System	

PLUMBING

	B	1st	2nd
Rough In			
Bath Rooms			
Kitchen			
Laundry			
No Plumbing			

SITE REQUIREMENTS

Grass Blvd/Trees	
Sidewalks	
ESC > 1 acre	Y N
DLA	
WORTP	

FLOOD HAZARD

Floodway	
1% (100 yr.)	
.2% (500 yr.)	
Out	
Req'd Elev.	
Proposed Elev.	
Elev. Cert Req'd	
Flood Proof/Non Sub	
DFIRM Date	

APPLICATION FOR BUILDING PERMIT

16676

Zone C-1 Date _____ Co. Rcd# 9474
 Proposed Construction Conditional Use only - Bar/Tavern/Casino
 Size _____ Sq. Ft. 14,550' Height _____
 Address 18116 W. Kemp Lot Area 5,750'
 Lot 1-2 / E 25' + W 25' E 50' Lot 14
 Block -18 Addition Monk's Subd / Original Plat
 Estimated Value _____ Fee _____ BOA Fee Plans
 Details seeks CU for Bar/Tavern \$21,2403 (4) and
Casino \$21,2403 (21); contingent N upon compliance with
SR 6 ICUs \$21,0202 2(b)6(a-h), etc...

W

E

S

BUILDING PERMIT SHALL BE GOOD FOR ONE (1) YEAR FROM THE DATE OF ISSUANCE. PROJECTS WHICH ARE NOT COMPLETED WITHIN ONE YEAR MUST BE RENEWED.

IT IS HEREBY AGREED between the undersigned, as owner, his agent or servant, and the City of Watertown, that for and in consideration of the premises and the permit to construct, erect, alter or install and the occupancy of building as above described, to be issued and granted by the Building Official, that the work thereon will be done in accordance with the descriptions herein set forth in this statement, and as more fully described in the specifications and plans herewith filed; and it is further agreed to construct, erect, alter or install and occupy in strict compliance with the ordinances of the City of Watertown; and to obey any and all lawful orders of the City Engineer of the City of Watertown and all State Laws relating to the construction, alteration, repair, removal, and safety of buildings and other structures and permanent building equipment. By City Ordinance, 5.0301(2) 2012 IBC Section 107 SUBMITTAL DOCUMENTS, is hereby further amended by adding the following: [A] 107.6 Applicant's Responsibility for Compliance. Neither examination and review of construction and/or construction documents by the Building Official, nor the issuance of a building permit by the Building Official, shall relieve the permit applicant of the responsibility and duty to comply with this code and any other applicable local, state and federal rules, regulations, and ordinances.

Owner Harry's Hair Cuts & Hot Towels Address Mike Lawrence

By _____

Dated _____ Contractor _____

5/5/16
Members of Board of Adjustment

PERMIT APPROVAL

Authorized by: _____
 _____ Building Official
 _____ Fire Chief
 _____ City Engineer

Harry's Hair Cuts and Hot Towels
16 W. Kemp
Watertown, SD 57201

To whom it may concern on the Watertown Board of Adjustment:

Legal: LOTS 1-2 MONKS SUBD & E25' LOT 14 & W25' E50'
LOT 14 BLK 8
ORIGINAL PLAT

Harry's Hair Cuts and Hot Towels LLC. is asking for a conditional use to put Video Lottery in our building at 16/18 W. Kemp in Watertown. Our business hours are 7:00 am to 2:00 am and video lottery would be available during this time. Security cameras will be in place and we will comply with all industry and State standards in our business. The majority of the machines will be in the lower level with street access as well as access from the main level. The lower level has men's and women's bathrooms and its own heating system.

Regards,

Mike Lawrence
Owner/Member

11' SIDEWALK

OUTSIDE STAIRS

Alley

90

95'

115'

25'

25'

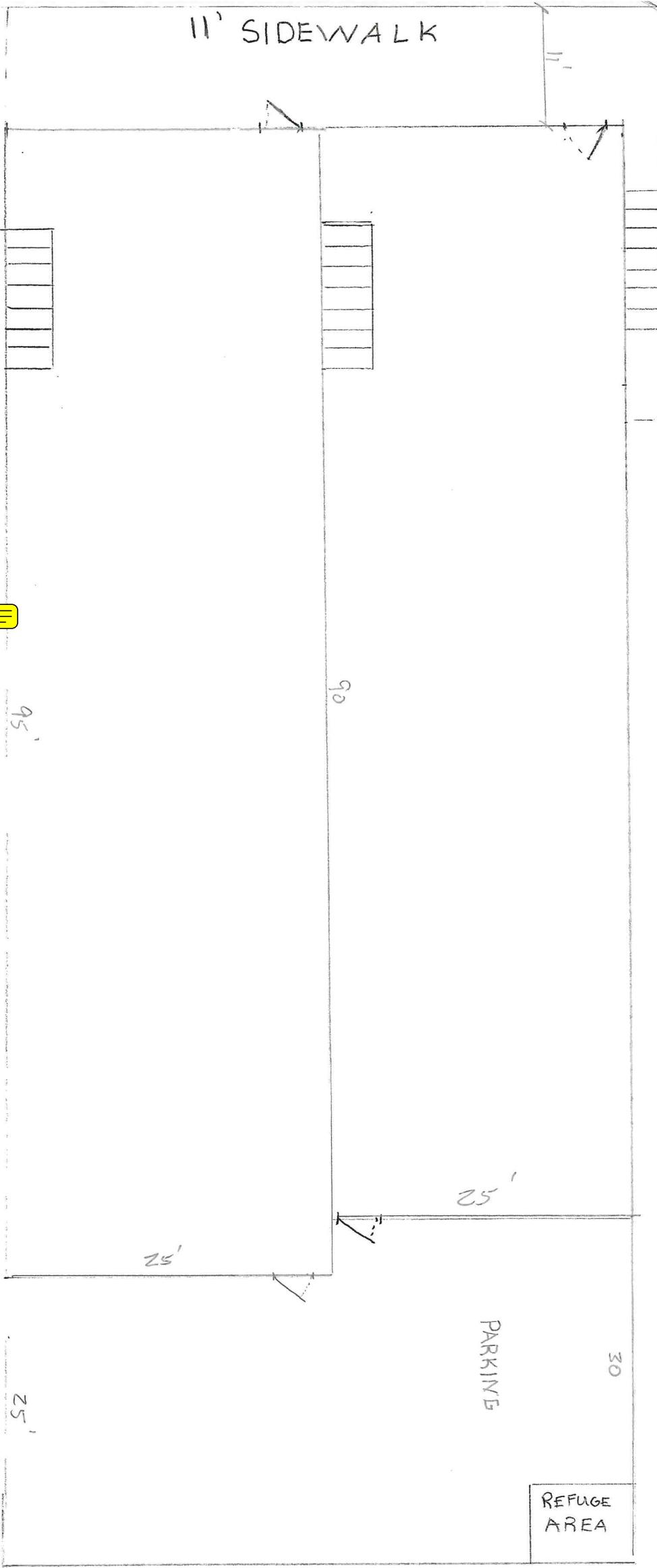
25'

30

PARKING

REFUGE AREA

50'





Date Received _____

Date Issued _____

License No. _____

Uniform Alcoholic Beverage License Application

Mail this copy to: Department of Revenue, Special Tax Division 445 East Capitol Ave Pierre, SD 57501-3100.

A. Owner Name and Address

Harry's Haircuts & Hot Towels, LLC
16 W Kemp
Watertown SD 57201

B. Business Name and Address

Harry's Haircuts & Hot Towels
16 W Kemp

License Number: _____

Business Telephone #: 605 878-3311

Owner's Telephone #: 605 881-5503

C. Indicate the class of license being applied for
(submit separate application for each class of license).

- Retail (on-sale) Liquor
- Retail (on-sale) Liquor - Restaurant
- Retail (on-off sale) Wine
- Package (off-sale) Liquor
- Retail (on-off sale) Malt Beverage
- Retail (on-off sale) Malt Beverage & SD Farm Wine
- Package (off sale) Malt Beverage
- Package (off sale) Malt Beverage & SD Farm Wine
- Other (please classify) _____
- Transfer Fee \$150.00

Number of other Package Liquor Licenses held: 0

Number of other On-sale Liquor Licenses held: 0

Is this License in active use? Yes No

D. Legal description of licensed premise:

Parcel I: E25' of Lot 14, Blk 8 of Wtn; & Lot 1 of Monks'
Subd of Lots 12, 13 & 14, Blk 8 of Wtn. Parcel II: W25'
of E50' of Lot 14, Blk 8 of Wtn & Lot 2 of Monks'
Subdiv of Lots 12, 13, & 14, Blk 8 of Wtn.

Have you ever been convicted of a felony? Yes No

Do you own or lease this property? (Check one)

E. State Sales Tax Number: 1030-9115-ST

F. Remember to obtain a Federal Alcohol Stamp, for help call TTB at 1-800-937-8864.

G. New license? Transfer? (\$150) Re-issuance?

H. CERTIFICATE: The undersigned applicant certifies under the penalties of perjury that all statements provided herein are true and correct; that the said applicant complies with all of the statutory requirements for the class of license being applied for and in addition agrees to permit agents of the Department of Revenue access to the licensed premises and records as provided in SDCL 35-2-2.1, and agrees this application shall constitute a contract between applicant and the State of South Dakota entitling the same or any peace officers to inspect the premises, books and records at any time for the purpose of enforcing the provisions of Title 35 SDCL, as amended.

Date 4/4/16 Print Name Michael Lawrence Signature _____

I. Any Application required to be submitted to a local governing board must be signed in the presence of the city or county auditor, the town clerk or notary public. This applies to ALL applications EXCEPT the following: distillers, manufacturers, wholesalers, municipalities, airports, solicitors, dispensers, carriers, transportation companies, and farm wineries.

Place of business is located in a municipality? Yes No County: Codington

This application was subscribed and sworn to before me this 4th day of April

Approving Officer's Telephone number 605 882 6203 Signature: [Signature]

J. APPROVAL OF LOCAL GOVERNING BODY - Notice of hearing was published on April 9, 2016. Public hearing on the application was held April 18, 2016, not less than SEVEN (7) days after official publication. The governing body by majority vote recommends the approval and granting of this license and certifies that requirements as to location and suitability of premises and applicant have been reviewed and conform to the requirements of local and South Dakota law.

Application approved for Sunday on-sale operation? Yes No

Are real property taxes paid to date? Yes No

Ineligible for video lottery

Number of video lottery terminals on licensed premise: _____

Renewal - no public hearing held

Amount of fee collected with application \$ 540.00

Amount of fee retained \$ 540.00

Forwarded with application \$ 0

For Local Government Use

(Seal) _____
Mayor or Chairman

If disapproved, endorse reason thereon and return to applicant

Transferred (State Use)

From: _____

Sales tax approval _____ Date _____

STATE LIQUOR AUTHORITY: APPROVAL _____ REVIEW _____

Please complete reverse side:
SOUTH DAKOTA
DEPARTMENT OF REVENUE

**Company supplement information
(For corporate/partnership/LP/LLC applicants)**

If supplement unchanged from last year check this box and sign below.

Affidavit

State of South Dakota)

:ss

County of _____

We, the undersigned, being first duly sworn upon oath, supply the following information:

Name of corporation/partnership/LP/LLC _____

Address of office and principal place of business of corporation/partnership/LP/LLC _____

Date of incorporation _____

Date of last report filed with Secretary of State _____

Are all managing officers of this corporation/partnership/LP/LLC of good moral character? _____

Have any of the managing officers of this corporation/partnership/LP/LLC ever been convicted of a felony? _____

Name, title of office, occupation and address of each of the officers/owners of the corporation, partnership, LP or LLC:

Name

Office

Address

Occupation

Name, address and occupation of each of the directors of the corporation:

Name

Address

Occupation

Name and address of each of the stockholders and percentage of shares owned or held by each:

Name

Address

Percentage of Shares

Name of any officers, directors, partners or stockholders of applicant having a financial interest or capital stock in any other retail liquor outlet:

Name

Type of License, Financial Interest Held, and Address of Retail Outlet

Where and with whom are all company records kept, such as charter, by-laws, minutes, accounts, notes payable, and notes and accounts receivable, etc?

With signature the applicant agrees to the following:

That the applicant company will comply with all provisions of ARSD chapter No. 64:75:02 of the Department of Revenue, relating to the transfer of stock and prior approval of the transfer of such stock by the Secretary of Revenue and violation of any of the provisions of said regulation or failure to comply therewith, whether by the undersigned corporation, partnership/LP/LLC or by any stockholder thereof, or by anyone interested in said company, shall constitute cause for revocation or suspension of any license issued pursuant to and in reliance on this application, or for refusal to renew such license upon expiration thereof.

We the undersigned officers and directors of the applicant company acknowledge that the within supplement application form is true and correct in every respect and that there exists no financial arrangement concerning this or any other alcoholic beverage license than that expressly set forth above. If company stock is to be transferred we ask for approval of such voluntary stock transfer.

Signature of Authorized Officer/Director/Partner _____

Subscribed and sworn to before me this 4th of April, Codrington County, State of South Dakota.

My commission expires 11-09-2018

D. WADE PENGILLY
SEAL NOTARY PUBLIC SEAL
SOUTH DAKOTA

(Notary Public)

Date Received _____

License No. _____

Date Issued _____

Uniform Alcoholic Beverage License Application

Mail this copy to: Department of Revenue, Special Tax Division 445 East Capitol Ave Pierre, SD 57501-3100.

A. Owner Name and Address

Harry's Hair Cuts & Hot towels LLC
16 W. Kemp
Watertown SD 57201

Owner's Telephone #: 605-891-5803

B. Business Name and Address

Harry's Hair Cuts & Hot towels LLC
16 W Kemp
Watertown SD 57201

Business Telephone #: 605-878-3711

C. Indicate the class of license being applied for (submit separate application for each class of license).

- Retail (on-sale) Liquor
- Retail (on-sale) Liquor - Restaurant
- Retail (on-off sale) Wine
- Package (off-sale) Liquor
- Retail (on-off sale) Malt Beverage
- Retail (on-off sale) Malt Beverage & SD Farm Wine
- Package (off sale) Malt Beverage
- Package (off sale) Malt Beverage & SD Farm Wine
- Other (please classify) _____
- Transfer Fee \$150.00

Number of other Package Liquor Licenses held: 0

Number of other On-sale Liquor Licenses held: 0

Is this License in active use? Yes No New

D. Legal description of licensed premise:

Parcel I: E25' of Lot 14, Blk 8 of Wtn; & Lot 1 of Monks' Subd of Lots 12, 13 & 14, Blk 8 of Wtn.
Parcel II: W25' of E50' of Lot 14, Blk 8 of Wtn & Lot 2 of Monks' Subdiv of Lots 12, 13, & 14, Blk 8 of Wtn.

Have you ever been convicted of a felony? Yes No

Do you own or lease this property? (Check one)

E. State Sales Tax Number: 1030-4115-ST

F. Remember to obtain a Federal Alcohol Stamp, for help call TTB at 1-800-937-8864.

G. New license? Transfer? (\$150) Re-issuance?

H. CERTIFICATE: The undersigned applicant certifies under the penalties of perjury that all statements provided herein are true and correct; that the said applicant complies with all of the statutory requirements for the class of license being applied for and in addition agrees to permit agents of the Department of Revenue access to the licensed premises and records as provided in SDCL 35-2-2.1, and agrees this application shall constitute a contract between applicant and the State of South Dakota entitling the same or any peace officers to inspect the premises, books and records at any time for the purpose of enforcing the provisions of Title 35 SDCL, as amended.

Signed this 15 day of February Print Name: Michael A. Lawrence Signature: [Signature]

I. Any Application required to be submitted to a local governing board must be signed in the presence of the city or county auditor, the town clerk or notary public. This applies to ALL applications EXCEPT the following: distillers, manufacturers, wholesalers, municipalities, airports, solicitors, dispensers, carriers, transportation companies, and farm wineries.

Place of business is located in a municipality? Yes No County: Cooking Co

This application was subscribed and sworn to before me this 16th day of February 2016

Approving Officer's Telephone number 605-882-6203 (US) Signature: [Signature]

J. APPROVAL OF LOCAL GOVERNING BODY - Notice of hearing was published on _____, Public hearing on the application was held _____, not less than SEVEN (7) days after official publication. The governing body by majority vote recommends the approval and granting of this license and certifies that requirements as to location and suitability of premises and applicant have been reviewed and conform to the requirements of local and South Dakota law.

Application approved for Sunday on-sale operation? Yes No

Are real property taxes paid to date? Yes No

Ineligible for video lottery

Number of video lottery terminals on licensed premise: _____

Renewal - no public hearing held

Amount of fee collected with application \$ 365.00

Amount of fee retained \$ 202.50

Forwarded with application \$ 162.50

For Local Government Use

(Seal) _____

Mayor or Chairman

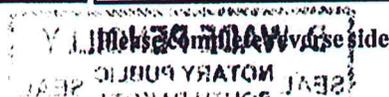
If disapproved, endorse reason thereon and return to applicant

Transferred (State Use)

From: _____

Sales tax approval _____ Date _____

STATE LIQUOR AUTHORITY: APPROVAL _____ REVIEW _____



**Company supplement information
(For corporate/partnership/LP/LLC applicants)**

If supplement unchanged from last year check this box and sign below.

State of South Dakota)
 :SS
County of)

Affidavit

We, the undersigned, being first duly sworn upon oath, supply the following information:

Name of corporation/partnership/LP/LLC HARRYS HAIRCUTS & Hot Tubs Towels LLC
 Address of office and principal place of business of corporation/partnership/LP/LLC 1522 Parkview Drive
 Date of incorporation 10/19/2015
 Date of last report filed with Secretary of State 2015
 Are all managing officers of this corporation/partnership/LP/LLC of good moral character? Yes
 Have any of the managing officers of this corporation/partnership/LP/LLC ever been convicted of a felony? No

Name, title of office, occupation and address of each of the officers/owners of the corporation, partnership, LP or LLC:

Name	Office	Address	Occupation
Kayleigh Lawrence		1522 Parkview Drive Watrous SD	Realtor
Michael Lawrence		1522 Parkview Drive Watrous SD	Realtor

Name, address and occupation of each of the directors of the corporation:

Name	Address	Occupation

Name and address of each of the stockholders and percentage of shares owned or held by each:

Name	Address	Percentage of Shares

Name of any officers, directors, partners or stockholders of applicant having a financial interest or capital stock in any other retail liquor outlet:

Name	Type of License, Financial Interest Held, and Address of Retail Outlet

Where and with whom are all company records kept, such as charter, by-laws, minutes, accounts, notes payable, and notes and accounts receivable, etc?

16 W. Kemp Watrous SD

With signature the applicant agrees to the following:

That the applicant company will comply with all provisions of ARSD chapter No. 64:75:02 of the Department of Revenue, relating to the transfer of stock and prior approval of the transfer of such stock by the Secretary of Revenue and violation of any of the provisions of said regulation or failure to comply therewith, whether by the undersigned corporation, partnership/LP/LLC or by any stockholder thereof, or by anyone interested in said company, shall constitute cause for revocation or suspension of any license issued pursuant to and in reliance on this application, or for refusal to renew such license upon expiration thereof.

We the undersigned officers and directors of the applicant company acknowledge that the within supplement application form is true and correct in every respect and that there exists no financial arrangement concerning this or any other alcoholic beverage license than that expressly set forth above. If company stock is to be transferred we ask for approval of such voluntary stock transfer.

Signature of Authorized Officer/Director/Partner [Signature]

Subscribed and sworn to before me this 16 of February, Codington County, State of South Dakota.

My commission expires 11-09-2018

[Signature]
(Notary Public)



STAFF REPORT
Application #16676 Conditional Use Request

Owner/Applicant: **Mike Lawrence for Harry's Hair Cuts and Hot Towels, LLC**
 Property Address: **16 & 18 W Kemp**
 Legal Description: **Lots1-2 Monks Subd, & E25' & W25' E50' Lot 14, Blk 8, Original Plat**

Conditional Use Request (part 1):

Applicant seeks approval to continue the sale, serving & consumption of alcoholic beverages at this property located in the C-1 Community Commercial District, pursuant to §21.2403(4) *Bar or Tavern* and contingent upon compliance with:

- *Specific Rules Governing Individual Conditional Uses* including but not limited to **§21.0202(2b6a-h)**;
- and any other conditions this Board deems necessary.

Conditional Use Request (part 2):

Applicant also seeks approval for the operation of video lottery machines at this property, pursuant to §21.2403(21) *Casino or Gambling Establishment* and also contingent upon compliance with:

- *Specific Rules Governing Individual Conditional Uses* including but not limited to **§21.0202(2b6a-h)**;
- and any other conditions this Board deems necessary.

	<u>C-1 District Regulations:</u>	<u>Subject Parcel:</u>
Minimum Lot Area:	10,000 sq ft	5,750 sq ft
Minimum Lot Width:	NA	50'
Required Yards:	0'	--
Blvd/Infra Rqts (21.73):	*this property exempt to the extent that it currently complies	
Min. Off-St Pkg (21.63):	**C-1 District shall be exempt from OSP requirements	

HISTORY:

1972	613	18 W Kemp	Cook's	remodel: lower ceilings & changing windows
1974-1983	1307, 913, 1331,2661	18 W Kemp	Tilly	remodels and windows/doors, etc...
1998	8234	16 W Kemp	Past Times / Mack	remodeling
2001	9011	16 W Kemp	Past Times / Mack	remodel: dining area & ADA restrooms
2010	13529	16 W Kemp	Herr	façade update
2016	16506	16 W Kemp	HHC&HT	interior remodel

STAFF FINDINGS: (all public notice requirements have been met)

Bar or Tavern and *Casino or Gambling Establishment* are listed Conditional Uses for the C-1 COMMUNITY COMMERCIAL DISTRICT per §21.2403(4) and §21.2403(21).

➤ **Definitions:**

Bar or Tavern: any establishment, including restaurants and gambling establishments, licensed to sell alcoholic beverages for consumption upon the premises where sold or provided. The term bar or tavern shall also include establishments licensed to sell alcoholic beverages for consumption off the premises where sold.

Casino or gambling establishment: an establishment that operates gambling facilities, such as video gaming terminals. A casino or gambling establishment may provide food and beverage services. The term casino or gambling establishment shall not include full-service restaurants/bars/taverns where gambling receipts do not exceed fifty percent (50%) of the total gross receipts of the business.

- This property consists of two (2) circa 1904 buildings totaling 14,550 sq ft: 4,850 sq ft main level (commercial uses), 4,850 sq ft 2nd level (residential units), and 4,850 sq ft basement (~1/3rd finished) with access via an outside stairway located in the alley.
- Floor Plans, showing the number and layout of video lottery machines, were not submitted.
- The following rules, requirements and standards of the Ordinance are to be considered for approval:
 - §21.0202(2)b(6a-h) *Specific Rules Governing Individual Conditional Uses:***
 - ingress/egress to the property, refuse & service areas, utilities, signage, exterior lighting, etc...
 - §2.0102 *Location:***
 - the C-1 Community Commercial District is exempt from this restriction.
 - Chapter 21.63 *Off-Street Parking and Loading Requirements:***
 - **the C-1 District is exempt from off-street parking requirements.
 - Chapter 21.65 *Outside Storage and Display Requirements for Specific Uses:***
 - outside display was not indicated in the application.
 - Chapter 21.73 *Landscape and Lighting Standards:***
 - *this portion of the C-1 District is exempt from these requirements.
 - Chapter 21.80 *Signs and Outdoor Advertising:***
 - Signage was not addressed in the application.

This Board must determine if satisfactory provision and arrangement has been made concerning **§21.0202(2)b(6a-h)** and **Chapters 21.65 & 21.80** for each use to be operated at this location: §21.2403(4) *Bar or Tavern* and §21.2403(21) *Casino or Gambling Establishment*.

§21.0202(2)b:

- (6) **Before any conditional use shall be issued**, the Board shall make written findings certifying compliance with the specific rules governing individual conditional uses and the satisfactory provision and arrangement has been made concerning the following, where applicable:
- (a) **Ingress and egress** to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
 - (b) **Off-street parking and loading** areas where required, with particular attention to the items in (*the written request*) and the economic, noise, glare or odor effects of the conditional use on adjoining properties and properties generally in the district.
 - (c) **Refuse and service areas**, with particular reference to the items in (a) and (b) above.
 - (d) **Utilities**, with reference to locations, availability and compatibility.
 - (e) **Screening and buffering** with reference to type, dimensions and character.
 - (f) **Signs, if any, and proposed exterior lighting** with reference to glare, traffic safety, economic affect, and compatibility and harmony with properties in the district.
 - (g) **Required yards** and other open space.
 - (h) **General compatibility** with adjacent properties and other property in the district.

FOUNDATION

Concrete Slab	
Concrete Block Walls	
Concrete Walls	
Wood Walls	

BASEMENT AREA

N	C	P	S	F
---	---	---	---	---

EXTERIOR WALLS

Siding on Sheathing	
Steel Building	
Column Building	
Concrete Block Walls	
Hardboard/Cement Siding	
Vinyl/Wood Siding	
Steel Siding	
Brick/Stone/Stucco	
Wall Insulation	
Roof Insulation	
Other	

ROOF TYPE

Hip	Gable	
Mansard	Flat	

ROOFING

Asphalt Shingle	
Membrane Roof	
Steel	
Other	

FLOORS

	B	1st	2nd
Concrete			
Gravel/Earth			
Plyscore			

INTERIOR FINISH

	B	1st	2nd
Sheet Rock			
Type X Sheetrock			
Other			
Unfinished			

HEATING

Solar/Geothermal	
Heat Pump/Hot Water	
Electric	
Gas Furnace	
Air Conditioning	
Fireplace/Stove	
No Heating System	

PLUMBING

	B	1st	2nd
Rough In			
Bath Rooms			
Kitchen			
Laundry			
No Plumbing			

SITE REQUIREMENTS

Grass Blvd/Trees	
Sidewalks	
ESC > 1 acre	Y N
DLA	
WORTP	

FLOOD HAZARD

Floodway	
1% (100 yr.)	
.2% (500 yr.)	
Out	X
Req'd Elev.	
Proposed Elev.	
Elev. Cert Req'd	
Flood Proof/Non Sub	
DFIRM Date	

APPLICATION FOR BUILDING PERMIT

16678

Zone PUO Date _____ Co. Rcd# 18059

Proposed Construction NONCON DECK

Size 10'x12'18' Sq. Ft. 1809' Height _____

Address 1824 8th ST NE Lot Area 9100^{sq}

Lot 5 - 54'

Block 10 Addition Northridge 19B

Estimated Value _____ Fee _____ BOA Fee Plans

Details App. appeals the terms of: §21.0302 prohibiting

the creation of nonconformities; N § 21.2001 HoP Regs; § 21.6001 All Req'd Yds (SBs) shall be open/ unoccupied space ...; and § 21.6002 No adj space shall be used to satisfy any SB for any other structure and ... No Yd. (SB) shall be reduced in dimension below the min. Req'd for that District.

W

E

S

BUILDING PERMIT SHALL BE GOOD FOR ONE (1) YEAR FROM THE DATE OF ISSUANCE. PROJECTS WHICH ARE NOT COMPLETED WITHIN ONE YEAR MUST BE RENEWED.

IT IS HEREBY AGREED between the undersigned, as owner, his agent or servant, and the City of Watertown, that for and in consideration of the premises and the permit to construct, erect, alter or install and the occupancy of building as above described, to be issued and granted by the Building Official, that the work thereon will be done in accordance with the descriptions herein set forth in this statement, and as more fully described in the specifications and plans herewith filed; and it is further agreed to construct, erect, alter or install and occupy in strict compliance with the ordinances of the City of Watertown; and to obey any and all lawful orders of the City Engineer of the City of Watertown and all State Laws relating to the construction, alteration, repair, removal, and safety of buildings and other structures and permanent building equipment.

By City Ordinance, 5.0301(2) 2012 IBC Section 107 SUBMITTAL DOCUMENTS, is hereby further amended by adding the following: [A] 107.6 Applicant's Responsibility for Compliance. Neither examination and review of construction and/or construction documents by the Building Official, nor the issuance of a building permit by the Building Official, shall relieve the permit applicant of the responsibility and duty to comply with this code and any other applicable local, state and federal rules, regulations, and ordinances.

Owner Cathryn Benda Address SAA (owner occupied)

By _____

Dated _____ Contractor _____

5/5/16
Members of Board of Adjustment

PERMIT APPROVAL

Authorized by: _____
 _____ Building Official
 _____ Fire Chief
 _____ City Engineer

April 11, 2016

Cathy Rice Benda
1824 8th St NE
Watertown SD 57201

Board of Adjustment
City Hall
Watertown SD 57201
ATTN: Jill Steiner, Building Services Specialist/Board of Adjustment Staff

RE: Variance Request

Dear Board of Adjustment:

Please consider this a formal request for a variance to my property located at 1824 8th St NE. The full legal description is **Lot 5 less the South 4 Feet, in Block 10 of Nortridge Nineteenth Addition to the Municipality of Watertown, Codington County, South Dakota, according to the record plat thereof.**

I purchased my home in 2007. The purchase was made through a licensed Realtor. A home inspection was completed and also a land survey of the property being purchased. I followed all the required steps and no concerns were brought to my attention. Fast forward eight years and those years have not been kind to the deck. The structure footings are not stable and sinking into the ground. The wood is in disrepair and in need of replacing. The steps are also in need of replacing. The replacement of the deck became a necessity especially with my daughter's impending Graduation party this May where many people would be on the deck at one time. I decided that since it had to be replaced I would use this opportunity to widen the deck but would leave the length the same not to impede the structure from moving closer towards my neighbor's house. I had hired a contractor and he had visited the City office to acquire a building permit. Much to my surprise, I received a phone call from my contractor informing me that I was unable to proceed as there was never a building permit given to "add" the deck onto my house. It was deemed an illegal structure (much to my horror!) To say I was speechless would be an understatement. I had done all the right things when I had purchased my home in 2007 and because the prior owner did not obtain the correct permits and the parties involved in the sales transaction of my home did not uncover the illegal structure, I am penalized. This will not only affect me in the present but when I attempt to put my house on the market, I will need to let the next owner know that this structure is not legal.

Pd
4-13-16

Board of Adjustment

04/08/2016

Page 2

I have spoken to the next door neighbors to the south of my house. They are/would be most affected by the deck. They said they have no objection to the current deck and no objection to the rebuilding of the deck.

This deck is a danger to my family and friends. The design of the house makes it impossible not to have a deck. The deck that will be replacing the current deck will not go out any further from the current location. I am therefore requesting that I am allowed a variance to replace the deck with an expansion from the east and west with the length the same so as not to inhibit my neighbor in any way. I have checked with my neighbors, and they have no objection to the rebuild of the deck.

Thank you for your consideration,

A handwritten signature in black ink, appearing to read "Cathy Rice Benda". The signature is written in a cursive style with a large, looping initial "C".

Cathy Rice Benda

Enclosures

PLOT PLAN

091940 ✓

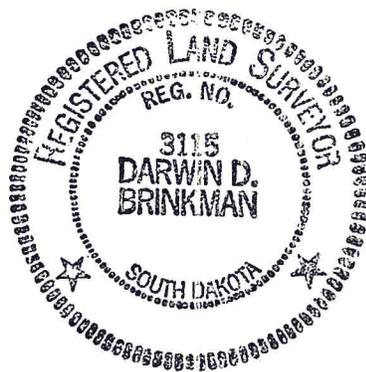
OWNER: CATHRYN BENDA

ADDRESS: 1824 8TH STREET NE WATERTOWN, SD 57201

LEGAL DESCRIPTION: LOT 5 LESS THE SOUTH 4', BLOCK 10, NORTHRIDGE NINETEENTH ADDITION TO THE MUNICIPALITY OF WATERTOWN, IN THE COUNTY OF CODINGTON, SOUTH DAKOTA

SUBJECT TO EASEMENTS & ENCROACHMENTS NOT FOUND OF RECORD.

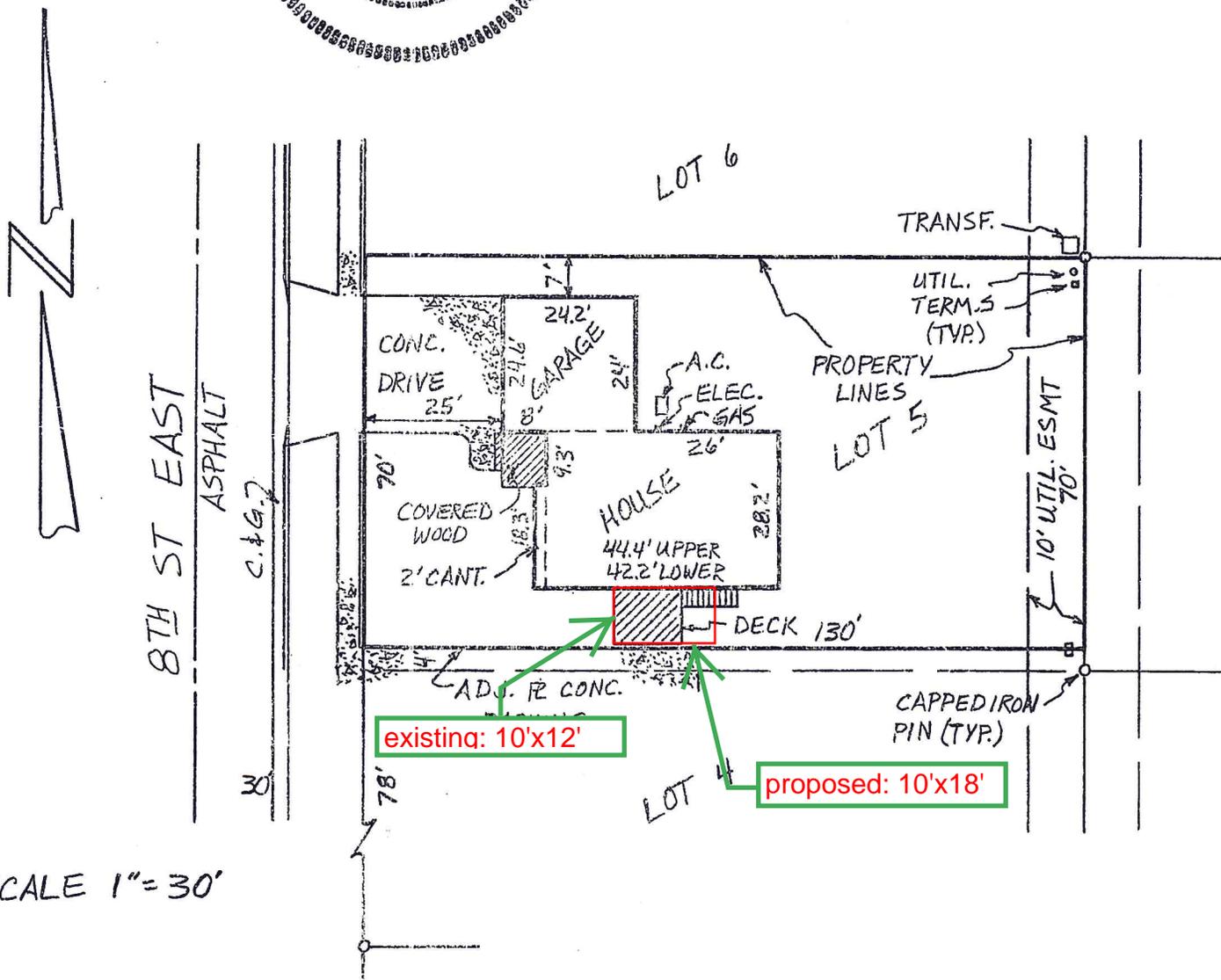
JUNE 19, 2007



SURVEYED BY:

A handwritten signature in cursive script, appearing to read "Darwin D. Brinkman".

REGISTERED LAND SURVEYOR



SCALE 1" = 30'

STAFF REPORT

Appeal Application #16678

Owner/Applicant: **Cathryn Benda**
 Property Address: **1824 8th St NE**
 Legal Description: **Lot 5 less S4', Blk 10, Northridge 19th Addn**

1. **Application was submitted** requesting to construct a **nonconforming 120 180 sq ft (10'x12'18')** deck onto a compliant Single Family Dwelling (SFD) located in a PUD Planned Unit Development; said structure proposed to be constructed:

- **0'** from the side (south) property line, where a minimum **7'** is required.

2. **Application was denied** based on the following ordinance regulations:

- §21.0302 prohibiting the design and creation of nonconforming structures;
- §21.1001 Height & Placement Regulations;
- §21.6001 All required yards (setbacks) shall be open, unoccupied space, extending from the natural ground level to the sky with no obstructions...; and
- §21.6002 No (adjacent) open space shall be used to satisfy any yard (setback) required for any other structure, ... no yard (setback) shall be reduced in dimension below the minimum requirements set for the district in which such yard or lot is located.

3. **Applicant appeals** the above (#2) requirements of the current Zoning Ordinance.

	<u>PUD District Regulations:</u>	<u>existing / proposed:</u>
Minimum Lot Area:	9,620 sq ft	*9,100 sq ft
Minimum Lot Width:	74'	*70'
Front SB:	25'	25'/ NA
Side SB:	7'	0' / 0'
Rear SB:	25'	>25'/ NA
Bldv Rqts (21.73):	15' grass bldv w/1-2 bldv trees	no trees
Infr Rqts (Titles 5, 18, 21 & 24):	4' sw/trl, c&g	exists
Min. Off-St Pkg (21.63):	2/sfd	2

*due to the transfer of 4' of the platted Lot

HISTORY:

2004	#10549	Midland Bldrs	house w/attached garage (no decks shown on application or BP)
???	NO BP issued	???	noncompliant 10x12 (south) deck & compliant 8x10 (west) deck
2015	#16304	Benda	bathroom remodel

STAFF FINDS THAT:

(all public notice requirements have been met)

- **Legally** (by permit) there exists a fully compliant primary structure (Single Family Dwelling with attached garage) on this PUD zoned Lot. The existing *unlawful 10'x12' (south) deck was constructed without permit or code inspections, and noncompliant with Ordinance regulations.
 - **Unlawful Uses: No buildings, structures or use which was not lawfully existing at the time of the adoption of this ordinance shall become or be made lawful solely by reason of the adoption of this ordinance; and to the extent that, and in any respect that, said unlawful building, structure or use is in conflict with the requirements of this ordinance, said building, structure or use remains unlawful hereunder.*
- Per §21.1001(j): *Decks shall observe the same setbacks as primary structures.*
- **Steps necessary for access to a building** are obstructions that shall be permitted in all Yards per §21.6001(2)a, and an ADA compliant 5'x5' platform may be required where said stairs are the only entrance to the dwelling, regardless of setback requirements; however, this SFD has a main entrance on the front (west) side (only one (1) access to a SFD is required by Code).
- This parcel lacks standard Blvd requirements (Blvd trees); if application is endorsed, this board may consider fulfillment of any/all of those requirements in conjunction with any structural improvements authorized by Building Permit.

NOTE: information was received last minute (4/29/16) from the applicant regarding the dimensions of the proposed deck: she wants to make new deck larger (10'x18') than the existing (10'x12'). Adjacent landowners notifications did not include this information.

Benda 1824 8th St NE



8th St NE

1830 8 ST NE

1824 8 ST NE

1818 8 ST NE

1829 9 ST NE

1823 9 ST NE

1817 9 ST NE

FOUNDATION

Concrete Slab	
Concrete Block Walls	
Concrete Walls	
Wood Walls	

APPLICATION FOR BUILDING PERMIT

16677

Zone R3 Date _____ Co. Rcd# 10959

BASEMENT AREA

N	C	P	S	F
---	---	---	---	---

Proposed Construction Garage
 Size 28'x30' Sq. Ft. 840^{sq} Height ≤18' / 10'-2 1/2' SUS

EXTERIOR WALLS

Address 1907 4th Ave SW Lot Area 7,500^{sq}

Siding on Sheathing	
Steel Building	
Column Building	
Concrete Block Walls	
Hardboard/Cement Siding	
Vinyl/Wood Siding	
Steel Siding	
Brick/Stone/Stucco	
Wall Insulation	
Roof Insulation	
Other	

Lot 10

Block 1 Addition Rancho Village Subd.

Estimated Value _____ Fee _____ BOA Fee Plans

Details Appr. Appeals the terms of: § 21.0302 prohibiting the creation

of non conformities; § 21.1001 N +/or § 21.1002 HPP Regs; § 21.6001 All Reg'd Yds (Sbs) shall be open/unoccupied space; and § 21.6002 No (adj) open space shall be used to satisfy any yard (S) Reg'd for any other structure, and no yard (S) shall be reduced in dimension below that which is Reg'd for that district.

ROOF TYPE

Hip	Gable	
Mansard	Flat	

ROOFING

Asphalt Shingle	
Membrane Roof	
Steel	
Other	

FLOORS

	B	1st	2nd
Concrete			
Gravel/Earth			
Plyscore			

INTERIOR FINISH

	B	1st	2nd
Sheet Rock			
Type X Sheetrock			
Other			
Unfinished			

HEATING

Solar/Geothermal	
Heat Pump/Hot Water	
Electric	
Gas Furnace	
Air Conditioning	
Fireplace/Stove	
No Heating System	

PLUMBING

	B	1st	2nd
Rough In			
Bath Rooms			
Kitchen			
Laundry			
No Plumbing			

SITE REQUIREMENTS

Grass Blvd/Trees	
Sidewalks	
ESC > 1 acre	Y N
DLA	
WORTP	

FLOOD HAZARD

Floodway	
1% (100 yr.)	
.2% (500 yr.)	
Out	X
Req'd Elev.	
Proposed Elev.	
Elev. Cert Req'd	
Flood Proof/Non Sub	
DFIRM Date	

W

E

S

← BUILDING PERMIT SHALL BE GOOD FOR ONE (1) YEAR FROM THE DATE OF ISSUANCE. PROJECTS WHICH ARE NOT COMPLETED WITHIN ONE YEAR MUST BE RENEWED. →

IT IS HEREBY AGREED between the undersigned, as owner, his agent or servant, and the City of Watertown, that for and in consideration of the premises and the permit to construct, erect, alter or install and the occupancy of building as above described, to be issued and granted by the Building Official, that the work thereon will be done in accordance with the descriptions herein set forth in this statement, and as more fully described in the specifications and plans herewith filed; and it is further agreed to construct, erect, alter or install and occupy in strict compliance with the ordinances of the City of Watertown; and to obey any and all lawful orders of the City Engineer of the City of Watertown and all State Laws relating to the construction, alteration, repair, removal, and safety of buildings and other structures and permanent building equipment.

By City Ordinance, 5.0301(2) 2012 IBC Section 107 SUBMITTAL DOCUMENTS, is hereby further amended by adding the following: [A] 107.6 Applicant's Responsibility for Compliance. Neither examination and review of construction and/or construction documents by the Building Official, nor the issuance of a building permit by the Building Official, shall relieve the permit applicant of the responsibility and duty to comply with this code and any other applicable local, state and federal rules, regulations, and ordinances.

Owner Shirley Ness + Howard Buns Address 44751 W. US Hwy 212
 Co/App: LaVerne Dally, purchaser LITN

By _____

Dated _____ Contractor 5/5/16

PERMIT APPROVAL

Authorized by:

_____ Building Official

_____ Fire Chief

_____ City Engineer

Members of Board of Adjustment

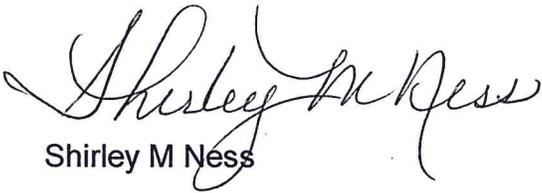
April 5, 2016

To whom it may concern:

I, Shirley M Ness and Howard Buus, as the legal owners, give our written permission to
do a variance of the property located at 1907 4th Ave SW.

Legal description as follows:

Lot 10, Block 1 of Rancho Village, Watertown, SD 57201.


Shirley M Ness


Howard Buus

THIS PROPERTY HAS BEEN ON THE MARKET 5 MONTHS
WITH NO OFFERS. CURRENT OFFER IS SUBJECT TO
RECEIVING A VARIANCE FOR A GARAGE. OTHER
PROPERTIES IN THE AREA HAVE STRUCTURES THAT
DO NOT MEET THE CURRENT SET-BACKS.



4-6-2016

To whom it may concern,

I, Laverne Dally would like to purchase the property located at 1907 4th Ave, SW.
The legal description is as follows: Lot 10, Block 1 of Rancho Village, Watertown, SD
57201.

This property currently only has a single garage and I need to build a larger one for my
other vehicle and storage needs. I have not been able to find any other suitable property
in the price range to meet my needs.

Thank you for your consideration in this matter.

Sincerely,

Laverne D. Dally



PD
4-8-16

BRINKMAN LAND SURVEYING

& BRINKMAN SPECIALTIES

Darwin D. Brinkman, L.S. - Registered Land Surveyor

1415 Harmony Lane • Watertown, SD 57201-1285 • Phone: 605/886-4007 • Cell: 605/881-7259 • Fax: 605/878-0879

PROJECT JIM SMITH - ROBY REALTORS REP.

DATE 4/7/16

LOT 10, BLOCK 1, RANCHO VILLAGE SUBD
1907 4TH AVENUE SW WATERTOWN, SD 57201
SELLERS: HOWARD BUUS & SHIRLEY NESS

DDB



20'
alley

GRAVEL ROADWAY / ALLEY

DOORS

PROPOSED
GARAGE

30'

28'

SCALE 1"=20'

LOT 11

LOT 10

LOT 9

22.3'
GARAGE
14.3'
4.7'

MANUF.
HOME

27.7'

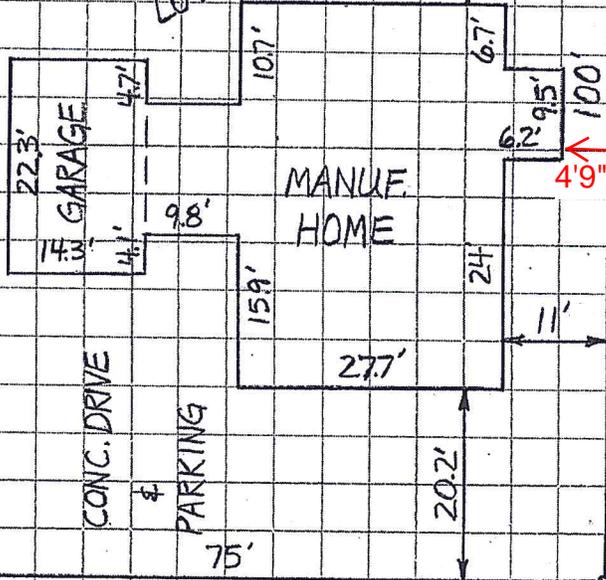
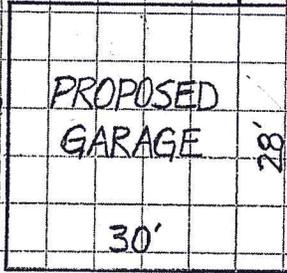
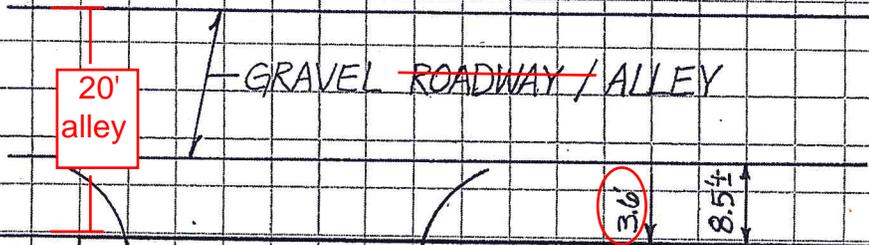
CONC. DRIVE

PARKING

75'

20.2'

4TH AVENUE SOUTH



STAFF REPORT

Appeal Application #16677

Owner/Applicant: **Shirley Ness & Howard Buus (Laverne Dally, purchaser)**

Property Address: **1907 4th Ave SW** Legal Description: **Lot 10, Blk 1, Rancho Village Subd**

1. **Application was submitted** requesting to construct a nonconforming **840 sq ft (28'x30')** garage; said structure proposed to be constructed:
 - **8'** from the primary structure, which creates an "**attached**" garage;
 - on a 7,500 sq ft lot where there is currently an existing **attached** garage (physically attached to the primary structure), and where only **1 attached** garage is allowed; and
 - **3.6'** from the rear (north) property line, where a minimum **25'** is required for **attached** garages (**9'** is required for unattached garages).

2. **Application was denied** based on the following ordinance regulations:
 - §21.0302 prohibiting the design and creation of nonconforming structures;
 - §21.1001 &/or §21.1002 *Height & Placement Regulations*:
 - (regulating the number, size, placement, etc... of residential accessory buildings);
 - §21.6001 All required yards (setbacks) shall be open, unoccupied space, extending from the natural ground level to the sky with no obstructions...; and
 - §21.6002 No (adjacent) open space shall be used to satisfy any yard (setback) required for any other structure, ... no yard (setback) shall be reduced in dimension below the minimum requirements set for the district in which such yard or lot is located.

3. **Applicant appeals** the above requirements of the current Zoning Ordinance.

	R3 SFD Req's	Existing & Proposed	Meets Req's:
Area	9,000 sq ft	7,500 sq ft	no
Width	75'	75'	X
Front SB	20' (per Plat)	20.2' / NA	X
Side SBs:	9'	NA / 9'	X
Rear SB (attached):	25'	39.6' / 3.6'	NO
*Rear SB (dettached):	9'	39.6' / 3.6'	NO
Bldv Rqts	15' grass bldv w/1-2 trees	no Bldv trees	no
Infr Rqts	sw/trl, c&g	no sw	no
Off-St Pkg	2 /sfd	2+ / 4+	X

*for reference, not requested by applicants

HISTORY:

1968	617	Northern Mobile Homes	House - double mobile
1973	742	Jordan	Putting mobile home on permanent foundation
1985	3314	Mueller	(west) Entryway with basement & modular home
???	???		Nonconforming 54 sq ft (6'x9') enclosed porch/entry and 84 sq ft (7'x12') deck (east side) constructed w/out BP
1987	3910	Mueller	308 sq ft attached garage

STAFF FINDS THAT: (all public notice requirements have been met)

- Currently, this is a fully compliant R-3 zoned Lot and primary structure (single family dwelling w/attached garage), except for the nonconforming 54 sq ft enclosed porch/entry and 84 sq ft deck (on the east side) that were constructed without permit(s).
- Due to the proposed size and placement of the proposed garage, it becomes the 2nd attached garage on the property per §21.1002(2)d:
 - *Accessory buildings, two hundred (200) square feet or greater, which are attached to or located within ten (10) feet of the main building shall be considered part of the main building and shall comply with the same yard requirements as the main building;*
 the creation of which is not allowed on a 7,500 sq ft parcel per §21.1002(2)e(1):
 - *Lots less than or equal to 43,560 square feet in total area: One (1) unattached garage, one (1) attached garage, and one (1) storage structure (per dwelling unit)*
 and would create a nonconformity which is prohibited by §21.0302.
- Note: as an *unattached* accessory structure, the proposed garage would also conflict with Ordinance regulations, as it would also not meet the minimum nine ft (9') accessory structure RRY (setback), and would occupy 35% of the RRY:
 - per §21.1002(3)d(2b) *Accessory structures may be located in the required rear yard, but may not occupy more than thirty percent (30%) of the required rear yard.*
- Applicant has reasonable use of this 7,500 sq ft parcel, but reasons that the adjacent public right-of-way (alley) is justifiably utilized to satisfy their structure's setback requirements, which is prohibited by §21.6002: *No open space ... required by this ordinance for any building, structure or use shall ... be used to satisfy any yard, open space, lot area ... required for any other building, structure or use, ...*
- This parcel lacks standard Blvd & Infrastructure requirements; if application is endorsed, this board may consider fulfillment of any/all of those requirements in conjunction with any structural improvements authorized by Building Permit.

See attached

Written Request, Site Plan, BP, Aerial View

Mtg date: May 5, 2016



Ness 1907 4th Ave SW



1907 4 AVE SW

1901 4 AVE SW

4TH AVE SW