



**Spearfish Board of Adjustments**  
Regular Session Agenda  
June 1, 2026 at 5:30 PM  
City Council Chambers, 625 5th Street, Spearfish

Join Zoom Meeting

<https://us02web.zoom.us/j/83652481922>

1. **Call to Order**
2. **Roll Call**
3. **Action Items**
  - A. Hold a public hearing for a variance request to reduce the required rear-yard setback from 10 feet to 5 feet for the construction of a gas station located at 2615 Colorado Avenue.
    1. Consider a variance request to reduce the required rear-yard setback from 10 feet to 5 feet for the construction of a gas station located at 2615 Colorado Avenue.
4. **Public Comment** – Public comments are welcome at this time, however, no action will be taken.
5. **Adjournment**

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 City Finance Office 12 hours prior to the meeting so that appropriate auxiliary aids and services are available.



## Agenda Item Report

Community Development

Item # 3.A.

**Meeting:** Regular Session Agenda

**Meeting Date:** June 1, 2026

**Department:** Action Items

**Request:**

Hold a public hearing for a variance request to reduce the required rear-yard setback from 10 feet to 5 feet for the construction of a gas station located at 2615 Colorado Avenue.

**Background Information:**

This is a variance request for the reduction of the rear setback requirement in Highway Service Commercial (C2) Zoning for 2615 E Colorado Boulevard. Following a fire, the previous structure was demolished, and the property is being redeveloped as a gas station, in line with the previous land use. Please see the attached Planning Commission staff report for detailed staff analysis.

Presently, the property is zoned C-2 and has a 10 ft. rear-yard setback requirement. The applicant is requesting a variance to reduce the rear-yard setback from 10 ft. to 5 ft. to improve vehicle movement and customer safety. Variance requests are reviewed according to City Code § 15.156.081 Variances, where three criteria must be satisfied to approve a requested variance. The review criteria are listed in the Planning Commission staff report. Variances are first reviewed by the Planning Commission and their findings and recommendations are forwarded to the City Council acting as the Board of Adjustment for final action.

Staff in their analysis found that the application meets only 1 out of 3 criteria listed in [§ 15.156.081](#). The Planning Commission considered the variance on May 19th, 2026, and voted 3-2 to recommend denial of the variance. In their motion to deny, the majority of the Commission found that the variance does not meet all the review criteria set forth in Section 15.156.081. The two Commissioners that supported the variance, felt that the reduction of the rear-yard setback was a reasonable request and voted against the motion to recommend denial.

**Fiscal Impact:** N/A.

**Recommended Board of Adjustments Action:** Deny

**Staff Contact Information:**

Vasiliki Pistoftzian, 605-717-2512, [v.pistoftzian@spearfish.gov](mailto:v.pistoftzian@spearfish.gov)

**Attachments:**

1. Staff Report
2. Existing and Proposed Building Setback
3. Application
4. § 156.081 Variances - Ordinance Section
5. Property Owner Authorization Email



**Request:** The applicant requests a variance to reduce the rear-yard setback from 10 feet to 5 feet for a gas station on a property zoned Highway Service Commercial (C-2).

**Applicant:** Branden Ginter, c/o Randy Bender.

**Location:** 2615 Colorado Boulevard.

**Recommendation:** Staff recommends denial of the variance to the Board of Adjustment, based on the finding that the variance request does not meet the review criteria set forth in City Code Section 156.081.D.

**Public Hearing:** No



### **Project Summary**

This is a variance request for the reduction of the rear setback requirement in Highway Service Commercial (C-2) Zoning for 2615 E Colorado Boulevard. Following a fire, the previous structure was demolished, and the property is slated for redevelopment as a gas station, in line with the previous land use.

Presently the property is zoned C-2 and has the following setback requirements ([§156.037.D Area Regulations](#)):

- (1) Front setback: 25 feet;
- (2) Side setback: none;
- (3) Rear setback: ten feet; and where serviced from the rear: 30 feet;

The applicant is requesting a variance to reduce the rear setback from ten feet to five feet to improve the layout of the site.

## Staff Analysis

Code Review: Variances to zoning requirements are governed by [§ 156.081 Variances](#) which follow the process outlined below.

1. Planning Commission review, recommendation, and setting of Board of Adjustment (City Council) public hearing
2. Board of Adjustment meets and issues their decision within 30 days of the public hearing

Review criteria of variances are established in City Code Section 156.081.D. The evaluation criteria and staff responses are as follows:

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

*Criteria 1: Staff do not find that the requested variance would alter the essential character of the locality or endanger public safety.*

(2) The requested variance must result from special physical conditions on the property, which:

- (a) Are natural or human-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 75 feet or less, or a square footage of less than 8,000 square feet:
  1. Original Town Plat;
  2. Uhlig Addition;
  3. Ramsdell Addition;
  4. West Addition; and
  5. Schar's Addition.

*Criteria 2: The criteria provided in ordinance directs staff to review the special physical conditions of the subject property. Staff do not find any unique or special physical conditions on the property as described in the variance criteria above. However, the applicant argues that the land use and lot size present a unique condition which could be better addressed through a reduced setback.*

(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; and

(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.

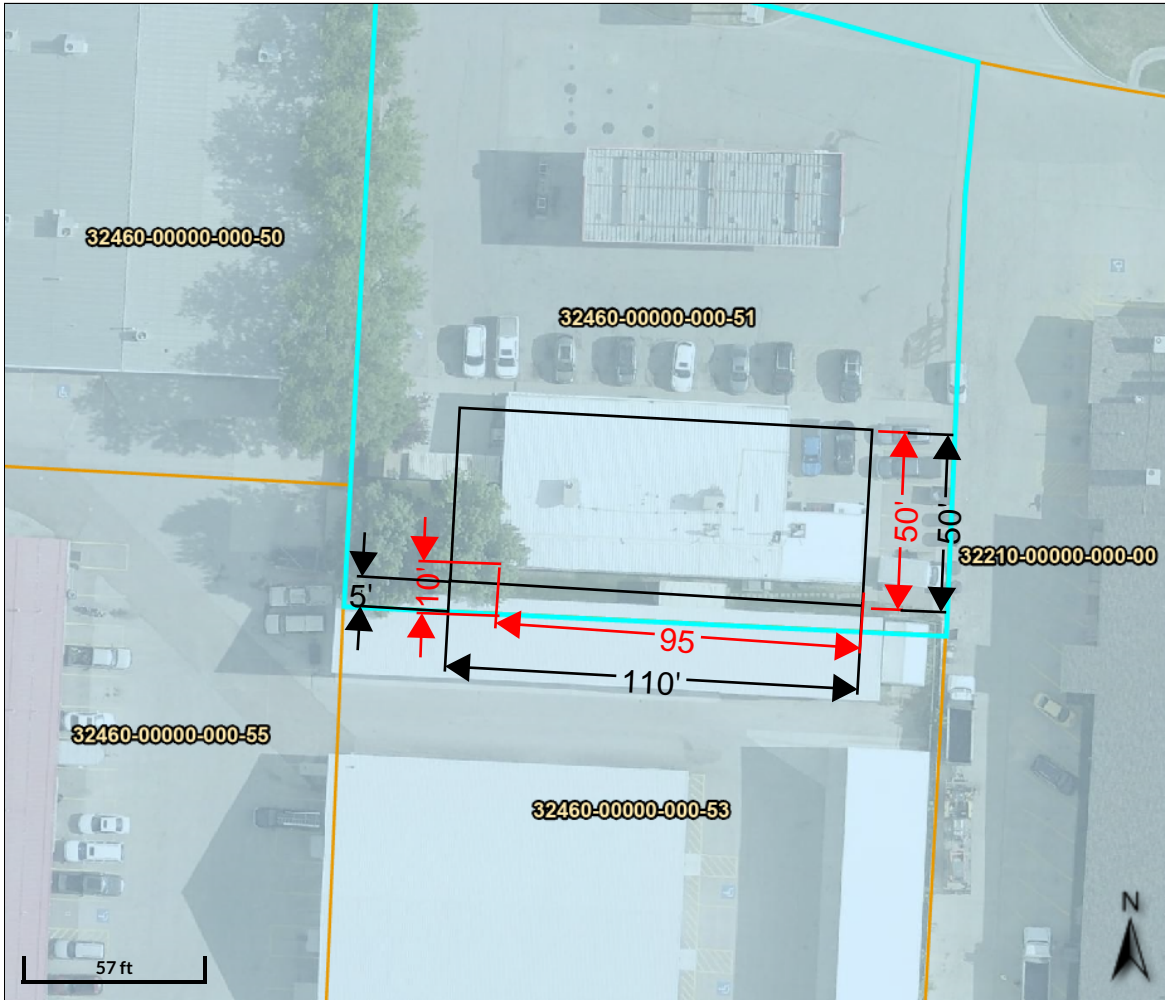
*Criteria 3: As stated in the review of criteria 2, in line with the criteria presented by the ordinance, there are no special physical conditions on the subject property that necessitate a variance request for the reduction of the rear setback.*

The previous building affected by the fire had a compliant rear-yard setback of 10 feet (as required by the zoning district). The applicant argues that this configuration limits the area available for vehicle turning movements in the front of the building, leading to conflicts. The proposed 5-foot setback, a 50% reduction, would allow for additional space in front of the building for patrons.

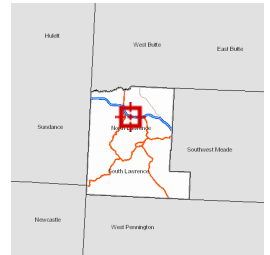
To contextualize the request, below is a comparable list of properties with the same land use zoned commercial within Spearfish. The lot size and existing rear setback were approximated using available data on [Beacon](#), Lawrence County's GIS tool.

<b>Property Address</b>	<b>Zoning</b>	<b>Lot size (approximate)</b>	<b>Building setback (rear)</b>	<b>Conforms to setback regulations?</b>
<b>2615 Colorado Boulevard</b>  <b>Previous structure</b>	Highway Service Commercial (C-2)	35,500 sq ft.	10 feet	Yes
Loaf n Jug - 813 Main Street	Central Commercial (C-1)	23,400 sq ft.	0 feet	Yes
Conoco - 820 E Colorado Boulevard	Central Commercial (C-1)	20,500 sq ft.	0 feet	Yes
Sinclair - 2728 1st Avenue	Highway Service Commercial (C-2)	50,000 sq ft.	10 feet	Yes
Conoco - 611 E Jackson Boulevard	Highway Service Commercial (C-2)	14,000 sq ft.	10 feet	Yes
Phillips 66 - 3275 Old Belle Road	Highway Service Commercial (C-2)	36,000 sq ft.	50 feet	Yes

Staff find that the application meets variance criterion 1, but not criteria 2 and 3. Should the Planning Commission wish to recommend approval of the variance to the Board of Adjustment, the Commission must determine that all criteria are met.



**Overview**



**Legend**

- Parcels
- Roads
- Railroads
- Lakes
- City Limits

Existing Dimensions

Proposed Dimensions

<b>Parcel ID</b>	32460-00000-000-51	<b>Alternate ID</b>	n/a	<b>Owner Address</b>	SPEEDY MART INC
<b>Sec/Twp/Rng</b>	n/a	<b>Class</b>	COMM - Commercial		2615 E COLORADO BLVD
<b>Property Address</b>	2615 E COLORADO BLVD SPEARFISH	<b>Acreage</b>	n/a		SPEARFISH, SD 57783
<b>District</b>	40-2_SM-SPFSH				
<b>Brief Tax Description</b>	Miller Addition Lot 1B Blk 1 pt SW1/4 SE1/4 including Lot PE1 (.03ac) Plat 1991-03029 <span style="color: red;">(Note: Not to be used on legal documents)</span>				

Date created: 5/13/2026  
 Last Data Uploaded: 5/12/2026 8:50:29 PM

Developed by SCHNEIDER  
 GEOSPATIAL

## Record No: VAR-26-3

Variance Application

Status: Active

Submitted On: 4/16/2026

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### Project Information

Address or Legal Description of Property\*

Property Zoning\*

2615 E Colorado Blvd

C-2 (Highway Service Commercial)

**Please provide details on the specific variance request.**

The owner would like a variance on rear/South setbacks that are currently 10' from property line to 5' or less with the understanding a 2 to 3 hour firewall will be required due to International Building Code.

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## Evaluation Criteria

### Subdivision Variances

(A) An applicant who is able to show an extraordinary hardship arising from the location, topography or other physical characteristic, which would make it difficult or impossible to conform strictly to this chapter, may apply for a variance.

(B) The Common Council, upon finding that such conditions do exist and that the public interest shall be secured and that such project will be beneficial to the community and not nullify the intent and purposes of the comprehensive plan or this chapter, may vary the regulations so that substantial justice may be done.

In granting variances and modifications, the Common Council may require such conditions as will secure substantially the objectives of the standards or requirements so varied or modified.

Application for a variance shall be made concurrently with the submission of the preliminary plat.

### Zoning Variances

A variance shall be approved only if the applicant is able to satisfy each of the following three 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.

(2) The requested variance must result from special physical conditions on the property, which: (a) Are natural or human-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 75 feet or less, or a square footage of less than 8,000 square feet: 1. Original Town Plat; 2. Uhlig Addition; 3. Ramsdell Addition; 4. West Addition; and 5. Schar's Addition.

(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; and (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.

**Please provide justification in line with the evaluation criteria above.**

The applicant is requesting a variance to reduce the required rear setback from ten (10) feet to five (5) feet in order to allow for a functional and safe site layout.

This request is not contrary to the public interest. The proposed reduction in setback is modest and consistent with the surrounding development pattern. Notably, the adjacent property to the rear has an existing structure built at a zero (0) foot setback. As such, the requested five (5) foot setback is more conservative than existing conditions and will not alter the essential character of the locality. Furthermore, granting the variance will improve site design by allowing for better circulation between the building entrance, parking areas, and fuel islands, thereby enhancing overall safety rather than endangering it.


The need for the variance arises from special physical conditions of the property that were not created by the applicant. Specifically, the adjacent structure located at a zero setback creates constraints related to fire separation requirements and construction limitations. These conditions significantly reduce the practical buildable area of the site. In addition, the functional requirements of the property—including accommodating a building entrance, parking, and fuel service areas—create a unique layout challenge that is not typical of all properties within the zoning district.

Strict enforcement of the ten (10) foot rear setback would result in unnecessary hardship. Without the variance, the applicant would be forced to either reduce the size of the building—limiting its reasonable and intended use—or relocate the building entrance in a manner that creates conflicts between pedestrian access, vehicle circulation, and fuel island operations. These outcomes would not serve any public purpose and would instead result in a less safe and less functional site design. The hardship is unique to this property due to the combination of the adjacent zero-setback structure and the operational requirements of the site, and is not shared broadly by other properties in the same zoning district.

For these reasons, the requested variance is reasonable, necessary to enable the practical use of the property, and consistent with both public interest and sound planning principles.

# Acknowledgement

**Applicant Signature\***

 **Branden Ginter**  
Apr 16, 2026

**Date\***

04/16/2026

## § 156.081 VARIANCES.

(A) *Generally.* A variance modifies the strict application of a particular zoning regulation in unique and individual cases where the application of the regulation would result in a practical difficulty or unnecessary hardship. Variances are to be granted under exceptional circumstances and shall only be for the minimum necessary relief.

(B) *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.

(C) *Application and approval procedure.*

(1) A property owner may apply to the Board of Adjustment for a variance, using forms available from the Zoning Administrator. Fees, as set forth in the fee schedule adopted by resolution of the City Council, shall accompany the application.

(2) Upon receiving a complete application for variance, the Zoning Administrator shall place the application on the Planning Commission's regular agenda.

(3) The Planning Commission shall review the variance request, set forth its findings, forward its recommendation to the Board of Adjustment, and set the date of the Board of Adjustment's public hearing.

(4) A minimum of ten days prior to the date of the Board of Adjustment's public hearing, the applicant shall post a sign measuring 18 by 24 inches on the property for which the variance is requested, notifying the public of the date and time of the public hearing. The Zoning Administrator shall provide the applicant with the sign. The applicant shall be responsible for ensuring the sign remains posted on the property until the public hearing is held.

(5) Legal notice of the Board of Adjustment public hearing shall be published in the official city newspaper ten days prior to the hearing. The notice shall contain the date, time and place of the public hearing.

(6) The Board of Adjustment shall issue its decision within 30 days of the public hearing. A variance shall be considered approved if the application receives an affirmative vote by a two-thirds' majority of present and voting members of the Board of Adjustment. As a condition of approval, the Board of Adjustment may impose, consistent with the general purpose and intent of the zoning ordinance, appropriate conditions and safeguards to any variance granted.

(7) The decision of the Board of Adjustment shall be documented by written findings of fact and conclusions of law based on the evaluation criteria.

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

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(E) *Recording*. If the variance is granted, the Zoning Administrator shall cause the resolution approving the variance to be recorded in the Office of the County Register of Deeds once a building permit has been issued and construction has commenced. The variance shall thereafter run with the land.

(F) *Denial*. If an application for a variance is denied, reapplication shall not be permitted for a period of one year, unless the Zoning Administrator determines that the nature of the application has materially changed.

(G) *Expiration*.

(1) A variance shall automatically expire in one of the following circumstances:

(a) A building permit has not been issued within 18 months of the variance approval; or

(b) A building permit has been issued, but construction has not commenced within one year of permit issuance.

(2) This section is expressly made retroactive to apply to variances granted prior to the passage of this chapter.

(Prior Code, App. A, Art. VI, § 2) (Ord. 1267, passed 9-18-2017)

**Re: Exit 14 Phillips Variance Request letter**

**From** LaDonna Bender <benderlbbb@gmail.com>  
**Date** Thu 4/16/2026 12:30 PM  
**To** Branden Ginter <brandenginter@ainsworthbenning.com>

**Warning: Unusual sender** <benderlbbb@gmail.com>  
You don't usually receive emails from this address. Make sure you trust this sender before taking any actions.

Branden,

The request from Ainsworth Benning is what we feel would be the best situation for the property. It would make the site safer & more practical. It would also allow for additional beautification of the landscape.

Randy & LaDonna Bender

On Thu, Apr 16, 2026 at 11:11 AM Branden Ginter <[brandenginter@ainsworthbenning.com](mailto:brandenginter@ainsworthbenning.com)> wrote:

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Branden Ginter  
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**Office:** 605-642-4716