



Board of Adjustment/Appeals Regular Meeting

September 28, 2023 - 7:00 PM

Town Board Chambers, 301 Walnut Street, Windsor, CO 80550

MINUTES

A. CALL TO ORDER

Chair Shea called the meeting to order at 7:00 p.m.

1. Roll Call

Present: Chair Stacey Shea
Vice Chair Don Threewitt (via Zoom)
Secretary James Penfold
Jeremy Benintende
Hunter Rivera

Absent: Dan Evans
Jeffery Gelvin

Also Present: Kaitlyn Cinnamon, Deputy Town Clerk
David Eisenbraun, Senior Planner

2. Review of Agenda by the Board and Addition of Items of New Business to the Agenda for Consideration

Board of Adjustment/Appeals Board Member Rivera moved to approve the agenda as presented, Board of Adjustment/Appeals Board Member Penfold seconded the motion. Roll call on the vote resulted as follows; Yeas - Jeremy Benintende, Don Threewitt, Hunter Rivera, Stacey Shea, James Penfold; Nays - None; Motion Passed.

3. Reading of the Statement of the documents to be entered into the record:

"I enter into the record the Town's Comprehensive Plan, the Town's Zoning Ordinance, the staff report regarding the action items of this hearing, and all of the testimony received at this hearing."

4. Public Invited to be Heard

Chair Shea opened the meeting up for public comment on any non-agenda item, to which there were none.

B. CONSENT CALENDAR

1. Approval of the June 22, 2023 Board of Adjustment/ Appeals Regular Meeting Minutes - K. Frawley, Town Clerk

Board of Adjustment/Appeals Board Member Threewitt moved to approve the consent calendar as presented, Board of Adjustment/Appeals Board Member Benintende seconded the motion. Roll call on the vote resulted as follows; Yeas - Jeremy Benintende, Don Threewitt, Hunter Rivera, Stacey Shea, James Penfold; Nays - None; Motion Passed.

C. BOARD ACTION

1. Public Hearing – Variance from Municipal Code Sections 15-3-30(b)(4) - Parking Lot Interior (islands), Sec. 15-3-30(b)(5) Standards for Landscaping in Developed Areas (foundation plantings); and 15-12-20 - Site Lighting, General Regulations for 1100 N 15th Street, all pertaining to the minimum landscape and lighting requirements in the RMU-1 (Residential Mixed Use) and ROL (Recreation Open Lands) Zone Districts. Michael McCullar, Weld RE-4 Schools, Owner/Applicant.

Located as a part of the Tacincala subdivision, the proposed North Campus Middle School site consists of 40-acres within Windsor, Colorado. The site is bounded by 15th Street to the east, future CR 70 to the south, existing agriculture to the west and north. The project will consist of a new 99,396 square foot middle school along with associated site improvements. The north staff parking lot provides 104 parking stalls including 6 ADA compliant stalls. The south guest parking lot provides 199 parking stalls, including 8 ADA compliant stalls. Town Municipal Code, Section 15-5-20 requires 2 parking spaces for every classroom or 1 space for every 3 seats in an auditorium. There are 42 classrooms within the proposed building and no auditorium is provided. Per this information, the site provides more parking than required onsite.

Based on the school's needs, safety and efficiency are paramount and driving the request for this variance. The islands within the proposed parking lots make clearing snow difficult and, during heavy snow events, resulting in damaged or destroyed equipment. Foundation plantings around a school will not last due to the nature of activities around a school and still raise cause for safety concerns.

The school is also requesting a variance to the height of the light poles from 15' to 30'. The requirement would dictate almost double the number of light fixtures and the additional height does not impact any adjacent residential properties.

Findings of Fact Analysis:

Municipal Code Section 14-2-150(c) (Major Variance) Review Criteria: The Zoning Board of Adjustment may grant a Major Variance only when it is demonstrated that:

Where special circumstances exist, that strict application of the standards adopted in this development code would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the property owner. It is the responsibility of the landowner to prove that an undue hardship exists; *Based upon CPTED standards for school safety design, the reduced vegetation and increased lighting are not self-imposed, as they are critical pieces ensuring the safety of the children.*

The applicant cannot derive beneficial use of the property without the variance; *The applicant would still be able to utilize their property if denied the variance. However, safety standards would be compromised.*

The purpose and intent behind the regulation would be maintained by granting the variance; *Additional plantings have been provided as a supplement for the islands and around the building entrances. Light fixtures will not impact any residential neighborhoods and will be fully cut-off.*

Granting the variance will not be detrimental to any adjacent properties or the surrounding area; *Granting the variance will not be detrimental to any adjacent properties.*

Granting the variance will not be detrimental to public health, safety, or welfare; *Granting the variance will not be detrimental to public health, safety or welfare.*

Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards, if applicable; *They have done alternative compliance on other matters, but a variance was the only way to address these items.*

Granting the variance will not create a building or fire code violation or other safety hazard; *Granting the variance will not create any safety hazards.*

The need for the variance is not created by a self-imposed hardship; *The requests are largely self-imposed but are in the name of public safety and efficiency.*

A variance shall allow only the least deviation from the standard that will afford relief; *This was the only way to follow the Town's protocol.*

Chair Shea opened the public hearing for the Variance from Municipal Code Sections 15-3-30(b)(4) - Parking Lot Interior (islands), Sec. 15-3-30(b)(5) Standards for Landscaping in Developed Areas (foundation plantings); and 15-12-20 - Site Lighting, General Regulations for 1100 N 15th Street, all pertaining to the minimum landscape and lighting requirements in the RMU-1 (Residential Mixed Use) and ROL (Recreation Open Lands) Zone Districts.

David Eisenbraun, Senior Planner, presented to the board.

Michael McCullar, applicant, stated there was nothing further to add to the presentation given by staff.

Chair Shea opened the meeting for public questions or comments, to which there were none.

Board Member Benintende asked questions of staff and the applicant pertaining to crosswalks, safety standards and stadium lighting, plus the lighting height.

Chair Shea asked the applicant a question regarding the number of parking rows.

Chair Shea asked the applicant and staff questions pertaining to landscaping and stadium lighting.

Board of Adjustment/Appeals Board Member Benintende moved to close the public hearing, Board of Adjustment/Appeals Board Member Penfold seconded the motion. Roll call on the vote resulted as follows; Yeas - Jeremy Benintende, Don Threewitt, Hunter Rivera, Stacey Shea, James Penfold; Nays - None; Motion Passed.

2. Variance from Municipal Code Sections 15-3-30(b)(4) - Parking Lot Interior (islands), Sec. 15-3-30(b)(5) Standards for Landscaping in Developed Areas (foundation plantings); and 15-12-20 - Site Lighting, General Regulations for 1100 N 15th Street, all pertaining to the minimum landscape and lighting requirements in the RMU-1 (Residential Mixed Use) and ROL (Recreation Open Lands) Zone Districts. Michael McCullar, Weld RE-4 Schools, Owner/Applicant.

Please see public hearing item.

Board of Adjustment/Appeals Board Member Benintende moved to approve the Variance from Municipal Code Sections 15-3-30(b)(4) - Parking Lot Interior (islands), Sec. 15-3-30(b)(5) Standards for Landscaping in Developed Areas (foundation plantings); and 15-12-20 - Site Lighting, limited to not exceed thirty (30) feet in height, General Regulations for 1100 N 15th Street, all pertaining to the minimum landscape and lighting requirements in the Residential Mixed Use and Recreation Open Lands Zone Districts, Board of Adjustment/Appeals Board Member Rivera seconded the motion. Roll call on the vote resulted as follows; Yeas - Jeremy Benintende, Don Threewitt, Hunter Rivera, Stacey Shea, James Penfold; Nays - None; Motion Passed.

D. COMMUNICATIONS

1. Communications from Board of Adjustments/Appeals

None

2. Communications from Staff

David Eisenbraun, Senior Planner, spoke to the board regarding future meetings for the year.

E. ADJOURN

Upon a motion duly made, the meeting was adjourned at 7:36 p.m.

A handwritten signature in black ink, appearing to read "Kaitlyn Cinnamon", with a stylized, flowing script.

Kaitlyn Cinnamon, Deputy Town Clerk