



BOARD OF ADJUSTMENT / APPEALS REGULAR MEETING

January 24, 2019 // 7:00 p.m. // Town Board Chambers
301 Walnut Street, Windsor, CO 80550

AGENDA

A. CALL TO ORDER

1. Roll Call
2. Review of Agenda by the Board and Addition of items of New Business to the Agenda for Consideration by the Board
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.

B. CONSENT CALENDAR

1. Approval of the minutes of the March 22, 2018
2. Approval of the minutes of the April 19, 2018
3. Approval of the minutes of the June 28, 2018
4. Approval of the minutes of the July 19, 2018

C. BOARD ACTION

1. Public Hearing – Variance of Municipal Code Section 16-12-30(d) pertaining to location of an accessory structure in the Residential Mixed Density (RMU) District – The Ridge at Harmony Road Subdivision Lot 8, Block2; Darci and Shane Hale, owners/applicants
 - a. Motion to open public hearing to receive evidence and comment regarding the variance request and second
 - b. Presentation of variance request by applicant
 - c. Receipt of any comments from the public regarding the variance request
 - d. Staff report and Recommendation
 - e. Questions and answers to/from BOA members to/from applicant, public, staff, legal counsel
 - f. Motion to close public hearing and second
 - g. Motion on variance and second
 - h. Board discussion
 - i. Board action on variance request
2. Public Hearing – Variance of Municipal Code Section 16-9-100(c)(2) pertaining to the height of building signs for major tenant – BBK II LLC, owner; Nicole Vatrano, DaVinci Signs, applicant

- a. Motion to open public hearing to receive evidence and comment regarding the variance request and second
 - b. Presentation of variance request by applicant
 - c. Receipt of any comments from the public regarding the variance request
 - d. Staff report and Recommendation
 - e. Questions and answers to/from BOA members to/from applicant, public, staff, legal counsel
 - f. Motion to close public hearing and second
 - g. Motion on variance and second
 - h. Board discussion
 - i. Board action on variance request
3. Election of officers (chairperson, vice-chair and secretary) for the 2019 calendar year

D. COMMUNICATIONS

1. Communications from the Board Members
2. Communications from staff

E. ADJOURN

**STATE LAW DICTATES THAT A FAVORABLE VOTE OF 4 OUT OF 5 MEMBERS OF THE BOARD OF ADJUSTMENT IS REQUIRED TO GRANT ANY VARIANCE.
A SIMPLE MAJORITY VOTE IS NOT SUFFICIENT.**

NOTE TO APPLICANTS: This agenda is considered tentative and may be revised at any time prior to the meeting. Applicants are advised to be present at 7:00 p.m. Final agendas will be available at the meeting.

Applicants may discuss the requests and the recommendations with staff during normal business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, except holidays. For the convenience of the applicants, appointments are recommended.

<u>Upcoming Meeting Dates</u>		
<u>Thursday, January 24, 2019</u>	7:00 P.M.	Regular Board of Adjustment Meeting*
<u>Thursday, February 28, 2019</u>	7:00 P.M.	Regular Board of Adjustment Meeting*
<u>Thursday, March 28, 2019</u>	7:00 P.M.	Regular Board of Adjustment Meeting*
<u>Thursday, April 25, 2019</u>	7:00 P.M.	Regular Board of Adjustment Meeting*

* All regular and special meetings of the Board of Adjustment are subject to the receipt of an item of business to be placed on the meeting agenda.



BOARD OF ADJUSTMENT/APPEALS

REGULAR MEETING

March 22, 2018 - 7:00 P.M.

Town Board Chambers

301 Walnut Street, Windsor, CO 80550

The Town of Windsor will make reasonable accommodations for access to Town services, programs, and activities and will make special communication arrangements for persons with disabilities. Please call (970) 674-2400 by noon on the Thursday prior to the meeting to make arrangements.

MINUTES

A. CALL TO ORDER

The meeting was called to order by Chairman Horner at 7:01 p.m.

1. Roll Call

The following members were present:

Chairman Danny Horner
Julie Dionne
David Sislowski
Jose Valdes
David White

Also Present:

Senior Planner

Millissa Barry

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

There were no changes to the agenda.

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.

B. CONSENT CALENDAR

1. Approval of the minutes of October 26, 2017

Mr. Valdes moved to approve the minutes, Mr. Sislowski seconded the motion. All Members votes Aye. Motion carried.

C. BOARD ACTION

1. Public Hearing – Variance of Municipal Code Section 16-9-100 (a)(4) pertaining to the prohibited use of building mounted illuminated signs within 150 feet of a residential district or development – Highlands Industrial Park Subdivision 1st filing, Lot 1, Block 4 – Nicole Vatrano, applicant

- Staff presentation: Millissa Berry, Senior Planner

This item was rescheduled for April 26, 2018 agenda per applicants request.

2. Public Hearing – Variance of Municipal Code Section 16-9-100(a)(4) pertaining to prohibited use of building-mounted illuminated signs within 150 feet of a residential district or development – Windsor Town Block 11 – Eric Thompson, applicant; Kailee Harvey, applicant’s representative
 - Staff presentation: Millissa Berry, Senior Planner

Mr. Sislowksi moved to open the public hearing; Mr. White seconded the motion. All Members voted Aye. Motion carried.

The applicant, Eric Thompson, 806 Shore Pine Court, Fort Collins, part owner requested a variance to allow a building-mounted illuminated sign within 150 feet of a residential district or development. He explained that the sign is LED illuminated and uses halo illumination that bounce off the back panel. The illumination measures less than 9 lumens. The applicant explained that the sign is in place but not illuminated at this time. He continued to explain that the location of the building in relation to residential zoning line. The distance is 138 feet and they are asking for a 12 foot or 8 % variance. He explained the hardship with not illuminating the sign. He explained most clients come after 5 pm and when the sign is not illuminated it makes it hard to find the business and keep things safe. He explained the past use of the building could not be consider as this is the first time the location was used as a retail location with a client base that comes in most hours of the day including evening.

Public Comments: No comments.

Ms. Berry reported, the applicant is Mr. Eric Thompson of Windermere Real Estate and is represented by Kailee Harvey, also of Windermere Real Estate. The applicant is requesting a variance from Municipal Code Section 16-9-100(a)(4) to allow for an internally illuminated building-mounted sign within 150 feet of a residential district or development.

Municipal Code Section 16-9-100(a)(4) states the following: In no event shall any illuminated building-mounted sign be allowed within one hundred fifty (150) feet of the nearest residential district or development, with this distance being measured from the nearest portion of the sign to the nearest property line contained within any such residential district or development.

The property is located at 207 4th Street in Windsor’s downtown and is zoned Central Business District. The property is in close proximity of the Single-Family Residential (SF-1) Zone. The business, Windermere Real Estate, is located in a building that is approximately 138 feet from the SF-1 Zone.

Municipal Code Section 16-6-60 (Variances) states the following:

Variances may be considered where, due to special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship. Variances will

not be granted contrary to the public interest and will only be considered when the spirit of this Chapter can be observed and public safety and welfare secured.

Section 16-6-60 defines unnecessary hardship as follows:

For purposes of this Article, unnecessary hardship shall be defined as a situation where the property cannot be reasonably used under the conditions allowed by this Code. The Page 2 of 3 situation shall result from circumstances unique to the property and shall not be created by the landowner. The variance, if granted, will not alter the essential character of the surrounding neighborhood. Economic considerations alone shall not constitute an unnecessary hardship if a reasonable use for the property exists under the provisions of the Code. It is the responsibility of the landowner to prove that an unnecessary hardship exists.

Municipal Code Section 16-1-10 (Declaration of Purpose) provides guidance on the purpose and spirit of the zoning code:

The regulations contained in this Chapter shall be held to be minimum requirements enacted to promote the health, safety and general welfare of the Town. To these ends such regulations have been prepared in accordance with the Comprehensive Development Plan for the Town and are designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land and undue concentration of population...

Staff has analyzed:

- whether special site specific circumstances unique to the property exist that were not created by the landowner
- whether an unnecessary hardship exists
- the impacts to the neighborhood character.

Staff analysis:

- a) The situation shall result from circumstances unique to the property and shall not be created by the landowner.
There appear to be no circumstances unique to this property, such as topography or lot dimensions, that would justify the variance.
- b) Unnecessary hardship - a situation where the property cannot be reasonably used under the conditions allowed by this Code.
Staff does not find that an unnecessary hardship exists.
Unnecessary hardship is defined as a situation where the property cannot be reasonably used under the conditions allowed by the Windsor Municipal Code. The business is able to have a building mounted sign in the proposed location. It just cannot be illuminated. The property itself has been used for commercial purposes in the past.
- c) The variance, if granted, will not alter the essential character of the surrounding neighborhood.
In this case, allowing an illuminated wall mounted sign may have minimal impact on the essential character of the surrounding

neighborhood due to the orientation of the sign facing west and the sign location on the property compared to the residential district to the south. Additionally, no houses are within 150 feet of the sign and the sign is back lit. However, the purpose of the regulation was to avoid the potential impact of illuminated signs on non-residential uses on adjacent residential districts and Page 3 of 3 development. This includes the visual impact of the illuminated sign on the residential neighborhood character and not necessarily solely light from the sign shining onto the adjacent properties.

d) Economic considerations alone shall not constitute an unnecessary hardship if a reasonable use for the property exists under the provisions of this Code.

The property as it exists today can be reasonably used under the provisions of the Code.

Recommendation

Staff considers that the literal enforcement of the Code will not result in an unnecessary hardship as defined by the Municipal Code and outlined above. Therefore, staff is recommending denial of the variance request to allow for a building-mounted illuminated sign within 150 feet of a residential district of development.

Ms. Dionne inquired if the sign could be moved on the building enough to meet code.
The Applicant stated there is not enough room to do so.

Ms. Dionne asked could customers still find the location through GPS.
The Applicant replied it could be a safety risk for distracted driving.

Mr. Valdes inquired what reasonable time would be if there was a time limit for illumination.
The Applicant replied 10 pm.

There was discussion on the surrounding area of the applicant.

Mr. Valdes moved to close the public hearing; Mr. White seconded the motion. All Member voted Aye. Motion carried.

Mr. Valdes moved to approve the variance request as presented subject to the condition the sign's illumination is turned off at 10 pm daily; Mr. Sislowksi seconded the motion.

All Members voted Aye. Motion carried.

3. Public Hearing – Variance of Municipal Code Section 16-21-20(c)(5) pertaining to the maximum square footage of accessory outdoor storage allowable on a lot – Falcon Point Subdivision 3rd Filing, Lots 1 and 2 – Amy Tjardes, applicant, Patricia Kroetch, applicant representative

- Staff presentation: Millissa Berry, Senior Planner

Mr. Sislowski moved to open the public hearing; Ms. Dionne seconded the motion. All Members voted Aye. Motion carried.

The applicant, Amy Tjardes, 40720 WCR 15 Fort, Collins, CO explained her intent to create on lot in a minor subdivision request that has a portion in the floodplain. The minor replat is to get proper financing and insurance for a building on the site. The floodplain is the hardship as it is out of her control. She stated that she would like a variance to allow for more than 65% of the lot to be outdoor storage.

Ms. Berry reported that the applicant is Ms. Amy Tjardes and the applicant's representative is Patricia Kroetch of NorthStar Design Inc. The applicant is requesting a variance from Municipal Code Section 16-21-20(c)(5) to allow for greater than sixty-five percent (65%) of a lot for accessory outdoor storage in the Limited Industrial (I-L) District. The property is located at 650 Gyrfalcon Drive in the Falcon Point Subdivision.

Municipal Code Section 16-21-20(c)(5) states the following:

The total square footage of accessory outdoor storage in the Limited Industrial I-L District shall not exceed sixty-five percent (65%) of the total square footage of the property.

The 100-year floodplain covers a portion of the subject property (Lot 2 of the Falcon Point Subdivision 2nd Filing). The property owner has submitted a minor subdivision request (Falcon Point Subdivision 3rd Filing) to create Lot 1 and Lot 2 of the 3rd Filing. The replat of the lot would create one lot completely out of the floodplain (Lot 1) and a lot (Lot 2) that has a portion within the floodplain. The purpose of the minor subdivision is for the applicant to get appropriate financing and insurance for a building that is proposed for the site.

The proposal is to keep the two properties under one ownership and develop the two lots as if one overall site. With this proposal, a building would be built on the western lot (Lot 1 which would not be encumbered by the floodplain). Also on the western lot would be an outdoor storage area. A parking lot associated with the building would be built on the eastern lot (Lot 2). All requirements (lot size, setbacks, parking count, landscaping area, access, etc.) of the Code would be honored for both sites.

To keep the accessory outdoor storage area as one unit and to keep the stored materials out of the floodplain, the applicant is asking for a variance to allow for greater than 65% of the site to be outdoor storage on Lot 1. The area of outdoor storage requested is 77% of Lot 1. No outdoor storage is proposed on Lot 2. If both lots were considered in the calculation then 61% of the lots would be accessory outdoor storage. However, if the applicant did not need to subdivide the property for financing purposes, the combined amount of outdoor storage on both Lots 1 and 2 if calculated together would be 61%, which would comply with the 65% maximum. The

total square footage of both lots is 97,995 square feet; the proposed area of outdoor storage is approximately 60,000 square feet.

A concept plan of the proposed site development is included in the packet. Some modifications are necessary to meet all other aspects of the Code. However, there is adequate space on the lots to modify the plan so that it does meet Town standards. A site plan review and the proposed minor subdivision would move forward if the Board approves the variance request.

Municipal Code Section 16-6-60 (Variances) states the following:

Variances may be considered where, due to special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship. Variances will not be granted contrary to the public interest and will only be considered when the spirit of this Chapter can be observed and public safety and welfare secured.

Section 16-6-60 defines unnecessary hardship as follows:

For purposes of this Article, unnecessary hardship shall be defined as a situation where the property cannot be reasonably used under the conditions allowed by this Code. The situation shall result from circumstances unique to the property and shall not be created by the landowner. The variance, if granted, will not alter the essential character of the surrounding neighborhood. Economic considerations alone shall not constitute an unnecessary hardship if a reasonable use for the property exists under the provisions of the Code. It is the responsibility of the landowner to prove that an unnecessary hardship exists.

Municipal Code Section 16-1-10 (Declaration of Purpose) provides guidance on the purpose and spirit of the zoning code:

The regulations contained in this Chapter shall be held to be minimum requirements enacted to promote the health, safety and general welfare of the Town. To these ends such regulations have been prepared in accordance with the Comprehensive Development Plan for the Town and are designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land and undue concentration of population...

Staff has analyzed whether an unnecessary hardship exists:

a) Whether the property can be reasonable used under the conditions of the Code.
The 100-year floodplain restricts the use of the site as well as the ability to finance and insure development on the site as it is. The proposal for the minor subdivision allows for the lot(s) to be developed and function as if the floodplain did not encumber the property.

b) Whether circumstances unique to the property exist that were not created by the landowner.

The occurrence of the 100-year floodplain was not created by the landowner.

c) Whether the essential character of the surrounding neighborhood would be altered.

The essential character of the surrounding neighborhood would not be altered. The property is located in an industrial zone with industrial uses adjacent to it. The proposal for using both lots would not increase the number of industrial use in the area and, from appearance, the industrial uses in the area would all be of similar size and a number of them have or propose to have accessory outdoor storage areas of similar size to this one.

d) Economic considerations alone shall not constitute an unnecessary hardship if a reasonable use for the property exists under the provisions of this Code.

Due to the floodplain, it would depend on the financing institution and insurance providers to determine if the property as it exists today can be reasonably used under the provisions of the Code.

Staff considers that the literal enforcement of the Code will result in an unnecessary hardship as defined by the Municipal Code and outlined above. Therefore, staff is recommending approval of the variance request to allow an accessory outdoor storage area of greater than sixty-five percent (65%) up to seventy-seven percent (77%) of the proposed western lot (Lot 1 of the Falcon Point Subdivision 3rd Filing) with the following conditions:

1. The site plan meets all other standards of the Code for both Lots 1 and 2 of the Falcon Point Subdivision 3rd Filing.
2. The site plan and minor subdivision are reviewed and approved according to Town processes.
3. The variance approved herein shall be recorded in the books and records of the Weld County Clerk and Recorder's Office, and is expressly conditioned upon the following requirements:
 - a. In the event that unity of ownership for Lot 1 and Lot 2 is discontinued, then a Town approved instrument shall be recorded simultaneously with the instrument under which unity of ownership is severed. The Town-approved instrument shall require the continuous use of Lot 2 in conjunction with the use of Lot 1 and in accordance with this variance, regardless of separate ownership.

Public Comments: No comments.

Mr. Valdes asked if the intent was to use the parking for personal use and not business use.

Ms. Tjardes explained that the parking and storage is to support the business not personal use.

Mr. Valdes moved to close the public hearing; Ms. Dionne seconded the motion. All Member voted Aye. Motion carried.

Mr. Valdes moved to approve the variance request as presented subject to the conditions; Mr. Sislowski seconded the motion.

4. Election of Officers

Danny Horner was nominated as chairperson, David Sislowski was nominated as vice-chairperson and Jennifer Dionne was nominated as secretary.

Motion was seconded. All Member voted Aye. Motion carried

D. COMMUNICATIONS

1. Communications from the Board Members

None

2. Communications from staff

Ms. Berry gave an update on the code review process.

E. ADJOURN

Ms. Dionne moved to adjourn; Mr. Sislowski seconded the motion. All Members voted Aye. Motion carried.

The meeting was adjourned at 7:55 p.m.



Jessica Scheopner, Customer Service Supervisor



**BOARD OF ADJUSTMENT/APPEALS
REGULAR MEETING**

April 19, 2018 - 7:00 P.M.

Town Board Chambers

301 Walnut Street, Windsor, CO 80550

The Town of Windsor will make reasonable accommodations for access to Town services, programs, and activities and will make special communication arrangements for persons with disabilities. Please call (970) 674-2400 by noon on the Thursday prior to the meeting to make arrangements.

MINUTES

A. CALL TO ORDER

The meeting was called to order by Chairman Horner at 7:01 p.m.

1. Roll Call

The following members were present:

Chairman Danny Horner
Julie Dionne
Jose Valdes
David White

Also Present:

Senior Planner

Millissa Berry

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

There were no changes to the agenda.

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.

B. CONSENT CALENDAR

1. None

C. BOARD ACTION

1. Public Hearing – Variance of Municipal Code Section 16-9-100 (a)(4) pertaining to the prohibited use of building mounted illuminated signs within 150 feet of a residential district or development – Highlands Industrial Park Subdivision 1st filing, Lot 1, Block 4 – Nicole Vatrano, applicant
- Staff presentation: Millissa Berry, Senior Planner

Mr. Valdes moved to open the public hearing; Mr. White seconded the motion. All Members voted Aye. Motion carried.

Applicant Nicole Vatrano, 4555 Highland Meadows, explained she is seeking variance to have a mounted illuminated sign for her portion of the building. She explained that the location is zoned commercial and all other tenants of the building have illuminated signs. All of the signs on the building, including this one, face or would face west and do not project light or even face a residential district. She is asking for the same signage as all others at the location.

Public Comments: There were none.

Ms. Berry reported, the applicant is Ms. Nicole Vatrano of DeVinci Sign Systems, Inc., representing the business owner, NuMotion. The applicant is requesting a variance from Municipal Code Section 16-9- 100(a)(4) to allow for an internally illuminated building-mounted sign within 150 feet of a residential district or development.

Municipal Code Section 16-9-100(a)(4) states the following:

In no event shall any illuminated building-mounted sign be allowed within one hundred fifty (150) feet of the nearest residential district or development, with this distance being measured from the nearest portion of the sign to the nearest property line contained within any such residential district or development.

The property is located at 4555 Highland Meadows Parkway (Lot 1, Block 4 of the Highlands Industrial Park Subdivision 1st Filing) and is zoned Limited Industrial. The property is adjacent to the Estate Residential 2 (E-2) Zone with developed single family lots that back up to the subject property. The business, NuMotion, is located in a building that is approximately 55 feet from the shared property line. The building in which the business is located is approximately 28 feet tall.

Municipal Code Section 16-6-60 (Variances) states the following:

Variances may be considered where, due to special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship. Variances will not be granted contrary to the public interest and will only be considered when the spirit of this Chapter can be observed and public safety and welfare secured.

Section 16-6-60 defines unnecessary hardship as follows:

For purposes of this Article, unnecessary hardship shall be defined as a situation where the property cannot be reasonably used under the conditions allowed by this Code. The situation shall result from circumstances unique to the property and shall not be created by the landowner. The variance, if granted, will not alter the essential character of the surrounding neighborhood. Economic considerations alone shall not constitute an unnecessary hardship if a reasonable use for the property exists under the provisions of the Code. It is the responsibility of the landowner to prove that an unnecessary hardship exists.

Municipal Code Section 16-1-10 (Declaration of Purpose) provides guidance on the purpose and spirit of the zoning code:

The regulations contained in this Chapter shall be held to be minimum requirements enacted to promote the health, safety and general welfare of the

Town. To these ends such regulations have been prepared in accordance with the Comprehensive Development Plan for the Town and are designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land and undue concentration of population...

Staff has analyzed:

- whether special site specific conditions exist
- whether an unnecessary hardship exists • the impact on public interest, safety, and welfare
- the impacts to the neighborhood character.

It does not appear that special site specific conditions exist that would support a variance. The rule is applied to all building mounted signs of non-residential uses within 150 feet of a residential district or development. The closest permitted illuminated sign on the building is 250 feet from the residential properties.

Staff does not find that an unnecessary hardship exists. The business is able to have a building mounted sign in the proposed location. It just cannot be illuminated.

The purpose of the regulation was to avoid the potential impact of illuminated signs on nonresidential uses on adjacent residential uses. This includes the visual impact of the illuminated sign and not necessarily solely light from the sign shining onto the adjacent properties. Although the sign will face west and the adjacent residential properties are to the north, the sign is located high on the building (approximately 24 feet), spans 17 feet by 2-4 feet (approximately 70 sf), and is viewable from two of the adjacent properties and a community trail. Although there are some evergreen trees between the subject building and the residential properties, the sign is visible between the trees. If any of the trees died and needed to be replaced, the view of the sign would be increased. Although the character of the industrial neighborhood may not be negatively impacted, the sign may cause a negative impact for the two neighbors with regard to the residential neighborhood character. Therefore, impacts to the public interest and neighborhood character are recognized.

Staff considers that the literal enforcement of the Code will not result in an unnecessary hardship or a practical difficulty, and therefore, is recommending denial of the variance request to allow for a building-mounted illuminated sign within 150 feet of a residential district of development.

Since all motions are to be made in the affirmative, staff recommends that the following motion, second and action on the petition be made as follows:

1. A motion to approve the request for a variance from Section 16-9-100 (a)(4)
2. A second; and

3. The Chair calling for the vote as follows: All members in favor of the variance vote “yes”; all opposed to the variance request vote “no”, with a minimum of four “yes” votes required to approve the variance request.

Furthermore, staff recommends the following findings of fact: 1. No hardship, as defined by the Municipal Code, exists in this case; and 2. Approval of the variance would alter the residential character of the neighborhood.

Mr. Valdes asked what the hours of operation where for the business.

Ms. Vatrano replied 8 am to 5 pm. Although there are occasional after hour customers.

Mr. Valdes asked if the applicant would consider having limited hours on illumination.

Ms. Vatrano said yes.

It was suggested that 8 pm would be a sufficient time.

Mr. White asked if the residents have been contacted.

Ms. Berry stated they are aware of the variance and the meeting tonight. None are in attendance.

Mr. Valdes moved to close the public hearing; Ms. Dionne seconded the motion. All Member voted Aye. Motion carried.

Mr. Valdes moved to approve the variance request as presented subject to the condition the sign’s illumination is turned off at 8 pm daily; Mr. White seconded the motion.

All Members voted Aye. Motion carried.

2. Public Hearing – Variance of Municipal Code Section 16-9-100 (a)(4) pertaining to major tenant building-mounted sign height – Eagle Crossing Subdivision 5th Filing Lot 2 - Marc Rogers, applicant

- Staff presentation: Millissa Berry, Senior Planner

Ms. Dionne moved to open the public hearing; Mr. White seconded the motion. All Members voted Aye. Motion carried.

The applicant, Marc Rogers, RBR Crossroads RE LLC, stated the existing sign ordinance does not allow for any vertical signage over 8 feet in height. The sign will be attached to a 25 foot high splice wall feature on the building. This vertical sign is an integral part of the Fuzzy’s corporate sign package.

The building design, splice wall feature, overall height of the building and proposed vertical sign height of 14 feet has been all approved and endorsed by the building department and planning personnel.

The sign if approved will conform to all other sign criteria from the Town of Windsor and was designed and engineered to blend in with the décor of the building. Additionally the vertical sign is over a landscaped area and will be a minimum of 10 feet from the ground.

The high visibility nature of our proposed 14 foot vertical sign will certainly drive more traffic to our business. The 8 foot height restriction of the current sign ordinance would not work in our particular situation.

Public Comments: No comments.

Ms. Berry reported, the applicant is Mr. Marc Rogers, representing the business owner, RBR Crossroads R.E. LLC (Fuzzy's Taco Shop). The applicant is requesting a variance from Municipal Code Section 16-9- 100(c)(2) to allow for building-mounted sign exceeding 8 feet in height / 25% of the building height.

The property is located at 4305 Fairgrounds Avenue (Lot 2 of the Eagle Crossing Subdivision 5th Filing), is zoned General Commercial (GC), and is surrounded by other GC-zoned properties. The building is greater than 5,000 square feet in area and, therefore, classified as a major tenant. The building is 25 feet in height.

Municipal Code Section 16-9-100(c)(2) states the following:

Major Tenant. The height of building-mounted signs for major tenants shall not exceed twenty-five percent (25%) of the height of the building elevation upon which the sign is mounted. However, in no event shall such sign exceed eight (8) feet in height.

The applicant is requesting to allow one building-mounted sign that is 14 feet in height on the south elevation. The proposed sign dimensions are 14' x 6' for an area of 84 square feet. Because the building is 25 feet in height, the maximum height allowed for the sign would be 6.25 feet. The sign meets the amount of signage allowable for the property but will have a vertical profile. The sign would be made of metal and be illuminated.

Municipal Code Section 16-6-60 (Variances) states the following:

Variances may be considered where, due to special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship. Variances will not be granted contrary to the public interest and will only be considered when the spirit of this Chapter can be observed and public safety and welfare secured.

Section 16-6-60 defines unnecessary hardship as follows:

For purposes of this Article, unnecessary hardship shall be defined as a situation where the property cannot be reasonably used under the conditions allowed by this Code. The situation shall result from circumstances unique to the property

and shall not be created by the landowner. The variance, if granted, will not alter the essential character of the surrounding neighborhood. Economic considerations alone shall not constitute an unnecessary hardship if a reasonable use for the property exists under the provisions of the Code. It is the responsibility of the landowner to prove that an unnecessary hardship exists.

Municipal Code Section 16-1-10 (Declaration of Purpose) provides guidance on the purpose and spirit of the zoning code:

The regulations contained in this Chapter shall be held to be minimum requirements enacted to promote the health, safety and general welfare of the Town. To these ends such regulations have been prepared in accordance with the Comprehensive Development Plan for the Town and are designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land and undue concentration of population...

For this case, there are no site specific circumstances. However, staff recognizes that the current sign regulations do not adequately address vertically-oriented signs. This is one of the items that staff will be proposing to modify with the revisions to the sign code that are currently being prepared but have not yet been reviewed for adoption. Vertical sign height has been an issue in the past and is expected to continue as development continues. Retaining the current language in the code in regard to sign height is contrary to allowing variety in the types of signs seen in town.

The property is located at the intersection of major arterial roads – Crossroads Boulevard and Fairgrounds Avenue so the size of the sign is appropriate in this location. The proposed sign is proportional to the building, is within the allowed square footage of signage for the site, and fits in with the character of the neighborhood. The sign would have 10 feet of clearance between sign and ground. Although the sign is not over a walkway or accessible area of the site, there is adequate space below the sign to avoid conflicts with activities on site thus alleviating concerns with public safety and welfare.

Staff considers that the literal enforcement of the Code will result in an unnecessary hardship and, therefore, is recommending approval of the variance request for the proposed sign height as presented in the application be approved based on the following findings of fact:

1. The applicable sign regulation does not appear to adequately address vertically oriented signs;
2. The overall size of the sign is in proportion to the size of each building wall upon which it will mounted;
3. The granting of this variance request will not alter the character of the surrounding neighborhood;
4. The proposed height of the subject signs meets the spirit and intent of the sign regulations; and
5. The granting this variance will not pose any public safety or welfare concerns.

Staff recommends that the following motion, second and action on the petition be made as follows:

1. A motion to approve the request for a variance from Section 16-9-100 (c)(2) as depicted in the variance application to allow the construction of a wall mounted sign with a height of 14' based upon the aforesaid findings of fact and the applicant obtaining the applicable sign permit;
2. A second; and
3. The Chair calling for the vote as follows: All members in favor of the variance vote "yes"; all opposed to the variance request vote "no", with a minimum of four "yes" votes required to approve the variance request.

Mr. Valdes moved to close the public hearing; Mr. White seconded the motion. All Member voted Aye. Motion carried.

Mr. Valdes moved to approve the variance request as presented; Mr. White seconded the motion.

All Members voted Aye. Motion carried.

D. COMMUNICATIONS

1. Communications from the Board Members
None
2. Communications from staff
None

E. ADJOURN

Ms. Dionne moved to adjourn; Mr. Valdes seconded the motion. All Members voted Aye. Motion carried.

The meeting was adjourned at 7:58 p.m.



Jessica Scheopner, Customer Service Supervisor



BOARD OF ADJUSTMENT / APPEALS SPECIAL MEETING

June 21, 2018 // 7:00 p.m. // Third Floor Board Chambers
301 Walnut Street, Windsor, CO 80550

MINUTES

A. CALL TO ORDER

Chairman Horner called the meeting to order at 7:03 p.m.

1. Roll Call

The following members were present:	Chairman	Danny Horner
		David White
		Grant Labaun
		Jose Valdes
		Jennifer Dionne
	(Absent)	Patrick Miller
	(Absent)	Charles Schinner
	Alternate	
	Alternate	
Also Present	Senior Planner	Millissa Berry
	Deputy Town Clerk	Amanda Mehlenbacher

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

There were no changes to the agenda

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.*

B. CONSENT CALENDAR

No items

C. BOARD ACTION

1. Public Hearing – Variance of Municipal Code Section 16-9-100(c)(2) pertaining to major tenant building-mounted sign height – Eagle Crossing Subdivision 5th Filing Lot 2 – Marc Rogers, applicant.
 - Staff presentation: Millissa Berry, Senior Planner

Ms. Dionne moved to open the Public Hearing; Mr. White seconded the motion. Roll call on the vote resulted as follows: Yeas – Horner, White, Labaun, Valdes, Dionne; Nays – None; Motion passed

The applicant, Marc Rogers, 6334 Sanctuary Dr. Windsor, CO., addressed the Board and stated that he wishes to install a 14 foot by 3 foot wide vertical sign. Visual aids were provided to show the Board similar locations with the exact signage he is requesting.

Mr. Horner opened the meeting up for public comment to which there was none.

Ms. Berry reported the applicant, Mr. Marc Rogers, is representing the business owner, RBR Crossroads R.E. LLC (Fuzzy's Taco Shop). The applicant is requesting a variance from Municipal Code Section 16-9-100(c)(2) to allow for building-mounted sign exceeding 8 feet in height / 25% of the building height.

The property is located at 4305 Fairgrounds Avenue (Lot 2 of the Eagle Crossing Subdivision 5th Filing), is zoned General Commercial (GC), and is surrounded by other GC-zoned properties. The building is greater than 5,000 square feet in area and, therefore, classified as a major tenant. The building is 25 feet in height.

Municipal Code Section 16-9-100(c)(2) states the following:

Major Tenant. The height of building-mounted signs for major tenants shall not exceed twenty-five percent (25%) of the height of the building elevation upon which the sign is mounted. However, in no event shall such sign exceed eight (8) feet in height.

The applicant is requesting to allow one building-mounted sign that is 14 feet in height on the south elevation. The proposed sign dimensions are 14' x 6' for an area of 84 square feet. Because the building is 25 feet in height, the maximum height allowed for the sign would be 6.25 feet. The sign meets the amount of signage allowable for the property but will have a vertical profile. The sign would be made of metal and be illuminated.

Staff considers that the literal enforcement of the Code will result in an unnecessary hardship and, therefore, is recommending approval of the variance request for the proposed sign height as presented in the application be approved based on the following findings of fact:

1. The applicable sign regulation does not appear to adequately address vertically oriented signs;
2. The overall size of the sign is in proportion to the size of each building wall upon which it will be mounted;
3. The granting of this variance request will not alter the character of the surrounding neighborhood;
4. The proposed height of the subject signs meets the spirit and intent of the sign regulations; and
5. The granting this variance will not pose any public safety or welfare concerns.

Staff requests the following be entered into the record:

- Application and all supplemental materials
- Staff memorandum and supporting documents
- All testimony received during the public hearing
- Recommendation

Mr. Valdez inquired if the size of the sign being requested is standard for Fuzzy's Taco Shop.

Mr. Rodgers responded yes.

Mr. Valdez requested clarification on the intent of the code regarding this matter.
Ms. Berry responded that she doesn't believe that it was the intent of the code to limit orientation but rather to limit any billboard look on the property.

Mr. Horner moved to close the Public Hearing; Mr. White seconded the motion. Roll call on the vote resulted as follows: Yeas – Horner, White, Labaun, Valdes, Dionne; Nays – None; Motion passed

Mr. Horner asked for a motion on the variance.

Mr. White moved to approve the request for a variance from Section 16-9-100(c)(2) pertaining to major tenant building-mounted sign height; Ms. Dionne seconded the motion. Roll call on the vote resulted as follows: Yeas – Horner, White, Labaun, Valdes, Dionne; Nays – None ; Motion passed

2. Public Hearing – Variance of Municipal Code Section 16-12-40/16-13-40/16-24-40 pertaining to a building location / setback in the Residential Mixed Use District – Town of Windsor (original plat) Lot 14, Block 14 – Chris Medina, applicant
 - Staff presentation: Millissa Berry, Senior Planner

Mr. White moved to open the Public Hearing; Mr. Labaun seconded the motion. Roll call on the vote resulted as follows: Yeas – Horner, White, Labaun, Valdes, Dionne; Nays – None; Motion passed; Nays – None; Motion passed.

The applicant, Chris Medina, 29 Main Street, Windsor, CO, addressed the Board and stated he is currently in the process of building a garage with a bathroom and living room located above. After construction commenced issues arose regarding setbacks. He requested a variance to allow a lesser front setback for the garage.

Mr. Horner opened the meeting up for public comment to which there was none.

Ms. Berry reported the applicant, Mr. Chris Medina, is requesting a variance from Municipal Code Section 16-24-40 / 16-12-40 / 16-13-40 to allow for an attached garage to be built within the minimum setback in the Residential Mixed Use (RMU) District.

Municipal Code Section 16-21-20(c)(5) states the following:

“Residential uses. All residential uses shall meet all of the density, setback and offset requirements set forth in this Code for each respective type of dwelling unit. For example, all single-family dwelling units in an RMU zoning district shall have a minimum lot size of six thousand (6,000) square feet, a minimum setback requirement of twenty (20) feet and a minimum offset requirement of five (5) feet.”

Sections 16-12-40 and 16-13-40 state:

“Minimum setback shall be twenty (20) feet. Minimum offset shall be five (5) feet.”

The property is located at 29 Main Street in the original plat of the Town of Windsor. The proposal is for an attached garage with second floor living space above. The applicant obtained a building permit prior to commencing construction of the garage. When reviewing the building permit application, the west property line was considered as a side setback (offset) and not a front setback. Meeting that dimension, the permit was issued. After obtaining the building permit, the garage foundation was poured prior to conducting a setback survey to determine if setbacks were met. The error was found when the actual setback survey was conducted.

Staff considers that the literal enforcement of the Code will result in an unnecessary hardship or a practical difficulty, and therefore, is recommending approval of the variance request, based on the following findings of fact:

1. An undue hardship, as defined by the Municipal Code, exists in this case.

With the following condition:

1. The applicant submits a revised plot plan with the requested items (sanitary sewer location, material and depth; driveway, curb cut, curb ramp location and dimensions) from Town staff.
2. The applicant obtains a driveway permit from the Town.

Staff requests that the following be entered into the record:

- Application and supplemental materials
- Staff memorandum and supporting documents
- All testimony presented during the Public Hearing
- Recommendation

Mr. Valdes inquired if the property has a Main Street address then would main street be considered the front setback and 1st street the side setback.

Ms. Berry responded that a front setback is for any property line fronting a street even if a property fronts more than one street.

Mr. Valdes inquired if the sewer line is located on the right-of-way or on private property.

Ms. Berry responded that the sewer line is on private property, however, due to the home being in the old part of town, the sewer line could be made out of clay pipe which could become a cost concern to the applicant with his garage being built on top shall the line ever need to be replaced.

Mr. White inquired about the driveway setback being 13.5 feet.

Ms. Berry stated that the typical parking space is 20 feet in length and 9 feet wide which will allow a vehicle to be completely within the stall and not hang over a sidewalk. The concern is if they hang over the sidewalk then people will be forced to walk around the vehicle. In this instance the setback is 13.5 feet with an additional 20 feet to the road. Staff feels that the vehicle can comfortably fit without blocking the sidewalk.

Mr. White moved to close the Public Hearing; Ms. Dionne seconded the motion. Roll call on the vote resulted as follows: Yeas – Horner, White, Labaun, Valdes, Dionne; Nays – None; Motion passed

Mr. Valdes asked for a motion on the variance.

Mr. Horner moved to approve the request for a variance from Section 16-12-40/16-13-40/16-24-40 pertaining to a building location / setback in the Residential Mixed Use District with conditions recommended by staff; Mr. Labaun seconded the motion. Roll call on the vote resulted as follows: Yeas – Horner, White, Labaun, Valdes, Dionne; Nays – None; Motion passed

3. Public Hearing – Variance of Municipal Code Section 16-12-40 pertaining to building location / setback in the Single-Family District – Winter Farm Subdivision 3rd Filing, Lot 18, Block 6 – Robert and Shauna Fagler, applicants
 - Staff presentation: Millissa Berry, Senior Planner

Per Ms. Berry the applicant has requested that the Board table item C.3. until Thursday, July 19, 2018 Special Meeting.

The question was presented to table item C.3 until Thursday, July 19, 2018 Special Meeting which was approved unanimously.

4. Public Hearing – Variance of Municipal Code Section 16-12-40 pertaining to building location / setback in the Single-Family Residential District and Variance of Municipal Code 16-11-70(a) pertaining to Minimum Exterior and Interior Standards – Park Addition Subdivision 5th Filing, Lot 2 – Meghan King, owner; Tim Rehnstrom, applicant.
 - Staff presentation: Millissa Berry, Senior Planner

Mr. Horner moved to open the Public Hearing; Mr. White seconded the motion. Roll call on the vote resulted as follows: Yeas – Horner, White, Labaun, Valdes, Dionne; Nays – None; Motion passed

The applicant, Mr. Tim Rehnstrom, requested a variance from Municipal Code Section 16-12- 40 pertaining to building location in the Single-Family Residential (SF-1) District and from Municipal Code Section 16-11-70(a) pertaining to minimum exterior and interior standards. The variance for the building location is to allow for a reduced front setback and the variance from the minimum exterior standards is to allow for a roof pitch less than three percent (3%) and a metal standing seam roof.

Ms. Berry reported that Municipal Code Section 16-12-40 states the following:

“Minimum setback shall be twenty (20) feet. Minimum offset shall be five (5) feet.”

Section 16-11-70(a) states:

“All single-family detached dwellings shall meet the following minimum exterior and interior standards:

... (2) The pitch of the roof shall be not less than three (3) inches of rise for each one (1) foot of horizontal run.

(3) Roofing materials shall be asphalt shingles or the equivalent...”

The property is located at 110 N. 2nd Street the Park Addition Subdivision 5th Filing, Lot 2. The project is a new single-family house (the lot is currently vacant). The house is designed with approximately 2,900 sf of living space plus a garage of approximately 980 sf.

The project was reviewed at a May 2018 Development Review Committee (DRC) meeting to discuss any issues or constraints that the site may have. Engineering staff conveyed that there are known drainage issues on the property and in the immediate area. Toward the rear (west end) of the lot, there is a low point that typically does not drain. Therefore, the engineering staff recommended that runoff from newly developed impervious surfaces be routed to N. 2nd Street to the east. A house closer to the street would allow for the runoff to be conveyed as recommended. The house would need to be at a distance that would retain at least 20 feet between the house and the inside edge of the sidewalk so that an adequate driveway is provided. The revised site plan for the house shows a front setback of approximately 16 feet.

The design of the house was also reviewed at the DRC meeting. The house design includes a metal, standing seam roof with a 2.12:1 slope. The current code requires asphalt shingles or the equivalent and a roof pitch of 3:1.

Staff considers that the literal enforcement of the Code will result in an unnecessary hardship as defined by the Municipal Code and outlined above. Therefore, staff is recommending approval of the variance request to allow for a 16-foot building setback and to construct a metal roof at a 2.12 slope as proposed with the following condition:

1. A drainage plan is submitted with the building permit that shows lot grading, including runoff from impervious surfaces being directed to N. 2nd Street.
2. The applicant calls for Engineering inspection and provides a grade certification for approval of drainage plan implementation.
3. The approval is conditioned on the site maintaining compliance with the approved grade certification in perpetuity.

Since all motions are to be made in the affirmative, staff recommends that the following motion, second and action on the petition be made as follows:

1. A motion to approve the request for a variance from Section 16-12-40 and Section 16- 11-70(a) with the three (3) conditions recommended by staff;
2. A second; and

3. The Chair calling for the vote as follows: All members in favor of the variance vote “yes”; all opposed to the variance request vote “no”, with a minimum of four “yes” votes required to approve the variance request.

Furthermore, staff recommends the following findings of fact:

1. An undue hardship, as defined by the Municipal Code, exists in this case for both variance requests.

Should the BOA be inclined to approve the variance request, findings of fact supporting the decision are required.

Staff requests that the following be entered into the record:

- Application and supplemental materials
- Staff memorandum and supporting documents
- All testimony presented during the Public Hearing
- Recommendation

Mr. White clarified if the original application had sufficient setback and if it was staff who requested the change.

Ms. Berry confirmed that the original application did have sufficient setbacks. Once engineering staff conducted a history of the site the drainage became a concern.

Mr. Valdes inquired who would monitor the perpetuity of the lot.

Per Ms. Berry, the Engineering Department would monitor the drainage over time.

Mr. Valdes asked if language could be added that if there were to be a desire to modify the grading that the applicant would need to return to have it reviewed by the town.

Ms. Berry responded yes, if any grading or draining were to change it would have to be reviewed by the town prior.

Mr. Horner moved to close the Public Hearing; Mr. White seconded the motion. Roll call on the vote resulted as follows: Yeas – Horner, White, Labaun, Valdes, Dionne; Nays – None; Motion passed

Mr. Valdes asked for a motion on the variance.

Mr. Horner moved to approve the request for a variance from Section 16-12-40 pertaining to building location / setback in the Single-Family Residential District and Variance of Municipal Code 16-11-70(a) pertaining to Minimum Exterior and Interior Standards with conditions recommended by staff; Mr. Labaun seconded the motion. Roll call on the vote resulted as follows: Yeas – Horner, White, Labaun, Valdes, Dionne; Nays – None; Motion passed

5. Public Hearing – Variance of Municipal Code Section 16-12-40 pertaining to building location / setback in the Single-Family Residential District – Winter Farm

Subdivision 6th Filing, Lot 3 – Bridgewater Homes, owner; Lee Lindholm, applicant.

- Staff presentation: Millissa Berry, Senior Planner

Mr. Horner moved to open the Public Hearing; Mr. White seconded the motion. Roll call on the vote resulted as follows: Yeas – Horner, White, Labaun, Valdes, Dionne; Nays – None; Motion passed

The applicant, Mr. Lee Lindholm, requested a variance from Municipal Code Section 16-12-40 to allow for a reduced offset (side setback) in the Single-Family Residential (SF-1) District.

Ms. Berry reported that Municipal Code Section 16-12-40 states the following:
Minimum setback shall be twenty (20) feet. Minimum offset shall be five (5) feet.

The applicant is requesting a 10% variance to allow for an offset of 4.5 feet instead of the required 5 feet.

Bridgewater Homes poured a foundation for the house being constructed at 670 Vermilion Peak Drive. When the site survey was conducted, it was determined that the north foundation wall was 4.5 feet from the north property line. It was found that the original offset measurement to set the location of the foundation was based on a disturbed offset stake. The foundation contractor was unaware that the stake had been disturbed when the foundation was poured.

Staff considers that the literal enforcement of the Code will result in an unnecessary hardship as defined by the Municipal Code and outlined above. Therefore, staff is recommending approval of the variance request as proposed.

Since all motions are to be made in the affirmative, staff recommends that the following motion, second and action on the petition be made as follows:

1. A motion to approve the request for a variance from Section 16-12-40.
2. A second; and
3. The Chair calling for the vote as follows: All members in favor of the variance vote “yes”; all opposed to the variance request vote “no”, with a minimum of four “yes” votes required to approve the variance request.

Furthermore, staff recommends the following findings of fact:

1. An undue hardship, as defined by the Municipal Code, exists in this case.

Should the BOA be inclined to approve the variance request, findings of fact supporting the decision are required.

Staff requests that the following be entered into the record:

- Application and supplemental materials
- Staff memorandum and supporting documents
- All testimony presented during the Public Hearing
- Recommendation

Mr. Valdes asked the Board if they had any questions for the applicant.

Ms. Dionne inquired if there is any room for error when setting an offset stake. Mr. Lindholm responded that it's not hard to have a stake moved though they try to be diligent in making sure everything is exactly precise. Mr. Lindholm stated that they work with top notch engineers and surveyors who use GPS guided equipment when staking the property in order to prevent this type of scenario from happening.

Mr. Valdes inquired about the affects this has on the operational use of the garage.

Mr. Lindholm responded that if the foundation would have been placed appropriately the first time there would be no need for a variance. If adjustments have to be made, we would lose 8" as opposed to 6" which would make the front corner of the garage look off.

Mr. Horner moved to close the Public Hearing; Mr. White seconded the motion. Roll call on the vote resulted as follows: Yeas – Horner, White, Labaun, Valdes, Dionne; Nays – None; Motion passed

Mr. Horner asked for a motion on the variance.

Mr. Horner moved to approve the request for a Variance of Municipal Code Section 16-12-40 pertaining to building location / setback in the Single-Family Residential District with conditions recommended by staff; Mr. Labaun seconded the motion. Roll call on the vote resulted as follows: Yeas – Horner, White, Labaun, Valdes, Dionne; Nays – None; Motion passed

D. COMMUNICATIONS

1. Communications from the Board Members

None

2. Communications from staff

Ms. Berry stated that there will be a Special Meeting held on July, 19, 2018.

The Town Board and Planning Departments have been discussing a potential administrative variance process. A memorandum was given to the Board Members for their review and comments on the matter.

ADJOURN

Upon a motion duly made, the meeting was adjourned at 8:38 p.m.



Deputy Town Clerk, Amanda Mehlenbacher



BOARD OF ADJUSTMENT / APPEALS SPECIAL MEETING

July 19, 2018 // 7:00 p.m. // First Floor Conference Room
301 Walnut Street, Windsor, CO 80550

AGENDA

A. CALL TO ORDER

Chairman Horner called the meeting to order at 7:00 p.m.

1. Roll Call

The following members were present:

	Chairman	Danny Horner
		David White
		Grant Labaun
		Jennifer Dionne
	(Absent)	Jose Valdes
	Alternate	Patrick Miller
(Absent)	Alternate	Charles Schinner
Also Present	Senior Planner	Millissa Berry
	Deputy Town Clerk	Amanda Mehlenbacher

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

There were no changes to the agenda

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.*

B. CONSENT CALENDAR

No items

C. BOARD ACTION

1. Public Hearing – Variance of Municipal Code Section 16-12-40 pertaining to building location / setback in the Single-Family Residential District – Winter Farm Subdivision 3rd Filing, Lot 18, Block 6 – Robert and Shauna Fagler, applicants

- Staff presentation: Millissa Berry, Senior Planner

The applicant, Robert Fagler, 698 Vermilion Peak Dr., stated his request is to build a shed located in the northeast corner of the property, which will match the features, and colors of the main house. The request for the shed to be located in the setback was due to the required drainage on the lot and existing utility easements that limited where the shed could be located. Mr. Fagler has received

approval from his Home Owners Association in regards to the location and type of shed he wishes to build.

Mr. Horner opened the meeting up for public comment to which there was none.

Ms. Berry reported the following:

The applicants, Mr. Robert Fagler and Ms. Shauna Fagler, are requesting a variance from Municipal Code Section 16-12-40 to allow a shed to be located in a front setback in the Single- Family Residential (SF-1) District. Municipal Code Section 16-12-40 states the following:

Minimum setback shall be twenty (20) feet. Minimum offset shall be five (5) feet.

The proposed location of the shed is the result of several site factors.

- A large portion of the rear (east) yard and north side yard need to be graded in a certain manner to allow for adequate drainage around the house. The drainage area is to be kept clear of structures.
- A 5-foot utility easement (with utilities) is located along the east property line. Utility boxes and a non-potable irrigation system are located in the southeast corner of the lot limiting the area to place a shed between the boxes, irrigation system, and the drainage area.
- The house is built to the side setback (offset) leaving no room south of the house for a shed.

The proposed location is an area where the shed would be outside the drainage area and not located over utilities. There is a utility easement platted along the north property line but no utilities are currently located in the easement. The shed would not be on a permanent foundation but kept on skids so that it can be moved if necessary. If utilities were to be located in that area, the shed would be moved to allow for it.

Sundance Drive along the north of the property is not a through street. It was planned as a stub in the case that the property to the east is ever developed. The property to the east is currently outside town limits and would need to annex prior to being developed in a manner that connects to the Town's street system. Due to these conditions, the frontage along Sundance Drive currently functions as a side yard.

The Sundance Drive right-of-way does extend approximately 4.8 feet south of the sidewalk. The applicant has obtained a revocable encroachment permit from the Town's Engineering Department to allow for a 6-foot privacy fence along the Sundance frontage. The fence would be located 2 feet inside the sidewalk. The proposed shed would be located approximately 2 feet south of the fence. The encroachment permit does retain the right to have the fence or shed removed if, in the future, Sundance Drive needs to be widened. The extension or widening of Sundance Drive is not expected in the foreseeable future.

Staff considers that the literal enforcement of the Code will result in an unnecessary hardship as defined by the Municipal Code and outlined above.

Therefore, staff is recommending approval of the variance request with the following conditions:

1. The shed is to remain moveable, i.e. on skids, so that that it can be moved if needed for utilities or right-of-way improvements.
2. If and when the property to the east is developed as a residential neighborhood and Sundance Drive is extended to the east, the shed will be relocated to another allowed location or removed if the Sundance right-of-way is needed for road improvements.
3. The encroachment permit for the fence is modified to include the shed.
4. The applicant obtain a building permit for the shed if it is taller than 8 feet.

Furthermore, staff recommends the following findings of fact:

1. An undue hardship, as defined by the Municipal Code, exists in this case.
Should the BOA be inclined to approve the variance request, findings of fact supporting the decision are required.

Mr. Horner asked the Board if they had any questions for the applicant.

Mr. White addressed the applicant and inquired if he accepted the conditions set forth by staff.

Mr. Fagler responded; yes.

Chairman Horner inquired about the electrical box that sits close to the purposed site for the shed.

Mr. Fagler responded that the box consists of a Comcast cable line that only services his house.

Mr. White inquired if the Town had any issues with the shed impeding with drainage.

Ms. Berry stated that the Town engineers had reviewed the plan and saw no issues.

Ms. Dionne moved to close the Public Hearing; Mr. White seconded the motion. Roll call on the vote resulted as follows:

Yeas – Horner, White, Labaun, Dionne, Miller

Nays – None

Motion passed

Mr. Horner asked for a motion on the variance.

Mr. White moved to approve the request for a variance from Section 16-12-40 with the two conditions recommended by staff; Mr. Labaun seconded the motion. Roll call on the vote resulted as follows:

Yeas – Horner, White, Labaun, Dionne, Miller

Nays – None

Motion passed

2. Election of vice-chair for the 2018 calendar year

The Board unanimously agreed to appoint Mr. Jose Valdes as Vice-Chair of the Board of Adjustment/Appeals.

D. COMMUNICATIONS

1. Communications from the Board Members

None

2. Communications from staff

None

E. ADJOURN

Upon a motion duly made, the meeting was adjourned at 7:19 p.m.

Deputy Town Clerk, Amanda Mehlenbacher



MEMORANDUM

Date: January 24, 2019
To: Board of Adjustment
From: Millissa Berry, AICP, Senior Planner
Re: Public Hearing – Variance of Municipal Code Section 16-12-30 (d) pertaining to location of an accessory structure in the Residential Mixed Density (RMU) District – The Ridge at Harmony Road Subdivision Lot 8, Block2; Darci and Shane Hale, owners/applicants
Item #: C.1

Background

The applicants, Mr. Shane Hale and Ms. Darci Hale, are requesting a variance from Municipal Code Section 16-12-30(d) to allow for a shed to be located closer to the front property line than the rear corners of the principal building.

Municipal Code Section 16-12-30(d) states the following:

...no accessory building, regardless of its size, shall be located any closer to the front property line than the rear corners of the principal building; that is, accessory buildings are only allowed in rear yards...

The applicants are proposing a 72 square foot (6'x12') shed to be located in the side yard of the property addressed as 1879 Atna Court. The shed, which would be constructed to match the features and colors of the main house, is proposed to be located in the southwest corner of the lot flush with the house and immediately north of the rear corners of the house.

Analysis

Municipal Code Section 16-6-60 (Variances) states the following:

Variances may be considered where, due to special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship. Variances will not be granted contrary to the public interest and will only be considered when the spirit of this Chapter can be observed and public safety and welfare secured.

Section 16-6-60 defines unnecessary hardship as follows:

For purposes of this Article, unnecessary hardship shall be defined as a situation where the property cannot be reasonably used under the conditions allowed by this Code. The situation shall result from circumstances unique to the property and shall not be created by the landowner. The variance, if granted, will not alter the essential character of the surrounding neighborhood. Economic considerations alone shall not constitute an unnecessary hardship if a reasonable use for the property exists under the provisions of

the Code. It is the responsibility of the landowner to prove that an unnecessary hardship exists.

Municipal Code Section 16-1-10 (Declaration of Purpose) provides guidance on the purpose and spirit of the zoning code:

The regulations contained in this Chapter shall be held to be minimum requirements enacted to promote the health, safety and general welfare of the Town. To these ends such regulations have been prepared in accordance with the Comprehensive Development Plan for the Town and are designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land and undue concentration of population...

Staff has analyzed whether an unnecessary hardship exists:

- a) Whether the property can be reasonably used under the conditions of the Code.

The property can be reasonably used under the conditions of the Code.

- b) Whether circumstances unique to the property exist that were not created by the landowner.

The rear yard of the property is less than 26' wide and includes a 10 foot utility easement along the rear property line and 5' drainage easements along both side property lines. The rear façade of the house includes windows, window well, and a patio. These factors limit the potential location of shed to the center of the rear yard.

- c) Whether the essential character of the surrounding neighborhood would be altered.

The essential character of the surrounding neighborhood would not be altered. The applicants have received approval of the shed design and its location from The Ridge Design Review Committee (HOA/Metro District). The shed will match the construction features and colors of the main house. A privacy fence will also screen the shed from offsite vantage points. The shed would be less visible in the proposed location than it would be in the rear yard.

- d) Public safety and welfare are not compromised.

The shed's location should not negatively impact public safety and welfare. The shed would be fully located on the site and visibility of the shed would be minimal from offsite vantage points. The proposed location is an area where the shed would be outside the drainage area and not located over utilities / easements.

Recommendation

Staff considers that the literal enforcement of the Code will result in an unnecessary hardship as defined by the Municipal Code and outlined above. Therefore, staff is recommending approval of the variance request.

Since all motions are to be made in the affirmative, staff recommends that the following motion, second and action on the petition be made as follows:

1. A motion to approve the request for a variance from Section 16-8-30(d);
2. A second; and
3. The Chair calling for the vote as follows: All members in favor of the variance vote "yes"; all opposed to the variance request vote "no", with a minimum of four "yes" votes required to approve the variance request.

Furthermore, staff recommends the following findings of fact:

1. An undue hardship, as defined by the Municipal Code, exists in this case.

Should the BOA be inclined to approve the variance request, findings of fact supporting the decision are required.

Notification

January 7, 2019 public hearing notice posted on Town of Windsor website.

January 8, 2019 development sign posted on the subject property.

January 11, 2019 public hearing notice published in the paper.

Attachments

Application materials

Presentation

CC: Darci and Shane Hale, applicants



VARIANCE APPLICATION

(Please see the Town of Windsor [Fee Schedule](#) for Application Fees)

1

- ☒ Please review Sec. 16-6-60, 16-6-70 and 16-6-80 of Chapter 16 of the [Town of Windsor Municipal Code](#) for variance requirements and procedures.
- ☒ Variance requests are considered by the Board of Adjustment, which meets at 7 p.m. on the fourth Thursday of every month.
- ☒ Prior to submitting an application, a pre-application meeting with Planning Department staff is required. In order for an item to be placed on a given month's agenda, a complete application and fee must be received no later than the 1st day of that month. Incomplete applications will not be scheduled for consideration.
- ☐ Scaled drawings necessary for the proper consideration of this variance shall be submitted with this application. With new construction projects, building additions or remodels, you must contact SAFEbuilt Colorado, Inc. (970-686-7511) to determine compliance with applicable building codes.

2

A request is hereby made for a variance of the Town of Windsor ordinances due to special conditions where a literal enforcement of the ordinance would result in unnecessary hardship.

Property Address*: 1879 Atna Court

Lot: 8 **Block:** 2 **Subdivision:** Ridge at Harmony

A variance is being requested from the following Municipal Code section(s)*:

16-8-30(d) Accessory Uses and Structures

3

OWNER:

Name(s)*: Shane and Darci Hale

Address*: 1879 Atna Court

Phone #*: 970.739.9720

Email*: Shane_hale@hotmail.com

APPLICANT or REPRESENTATIVE:

Name*:

Address*:

Phone #*:

Email*:

4

Municipal Code Section 16-6-60(b) states, in part:

Variances may be considered where, due to special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship.

Unnecessary hardship is defined by the Municipal Code as enumerated in items 1-4 below. Please describe how each item is met in the space provided. Applications will be deemed compete once *all* criteria have been addressed. You may attach additional sheets if necessary.

1. **A situation where the property cannot be reasonably used under the conditions allowed by this Code*.**

The requirement that all accessory structures be located strictly in the rear yard would be a hardship for the construction/location of a tool shed. Our backyard is narrow, less than 26' when measured from the foundation of the house at its widest point. Additionally, there is a 10' utility easement along the rear property line, as well as a 5' drainage easement along both side yard property lines, so the actual construction envelope in the rear yard is very curtailed. Given the constraints of the code and our limited property, the only place that we could construct a tool shed in our rear yard would be awkwardly in the middle of the yard, causing an eyesore for the neighborhood and ourselves.

2. **The situation shall result from circumstances unique to the property and shall not be created by the landowner*. Note: landowner also means any contractor or agent acting on behalf of the landowner.**

The requested variance is only a function of having a somewhat awkward shaped lot, combined with the narrowness of the property and the existing easements. Additionally, as our property borders dedicated open space, we are being considerate for our neighbors and attempting to construct this shed in a location where people don't have to look at it.

3. **The variance, if granted, will not alter the essential character of the surrounding neighborhood*.**

To the contrary, constructing this shed on the southwest corner in the side yard will place it in the least conspicuous space on the property. We've designed it to be narrow so it doesn't obstruct the drainage easement, and the paint and roofing material will match the existing house. Additionally, it will sit behind a 6' privacy fence, so it should be virtually unnoticeable. Conversely, there is a split rail fence alongside the rear of the property, so a shed in this location would be much more conspicuous. Finally, the Metro District has granted approval to the plan/location requested for this shed (please see the attached).

4. **Economic considerations alone shall not constitute an unnecessary hardship if a reasonable use for the property exists under the provisions of this Code*.**

Cost has no bearing on this request; I anticipate spending the same amount on the shed as I would have if it were constructed in the rear yard.

5

I hereby depose and state under the penalties of perjury that all statements, proposals, and/or plans submitted within this application are true and correct to the best of my knowledge.

Signature:



Date: December 12, 2018

(Proof of owner's authorization is required with submittal if signed by Applicant)

Print Name: Shane Hale

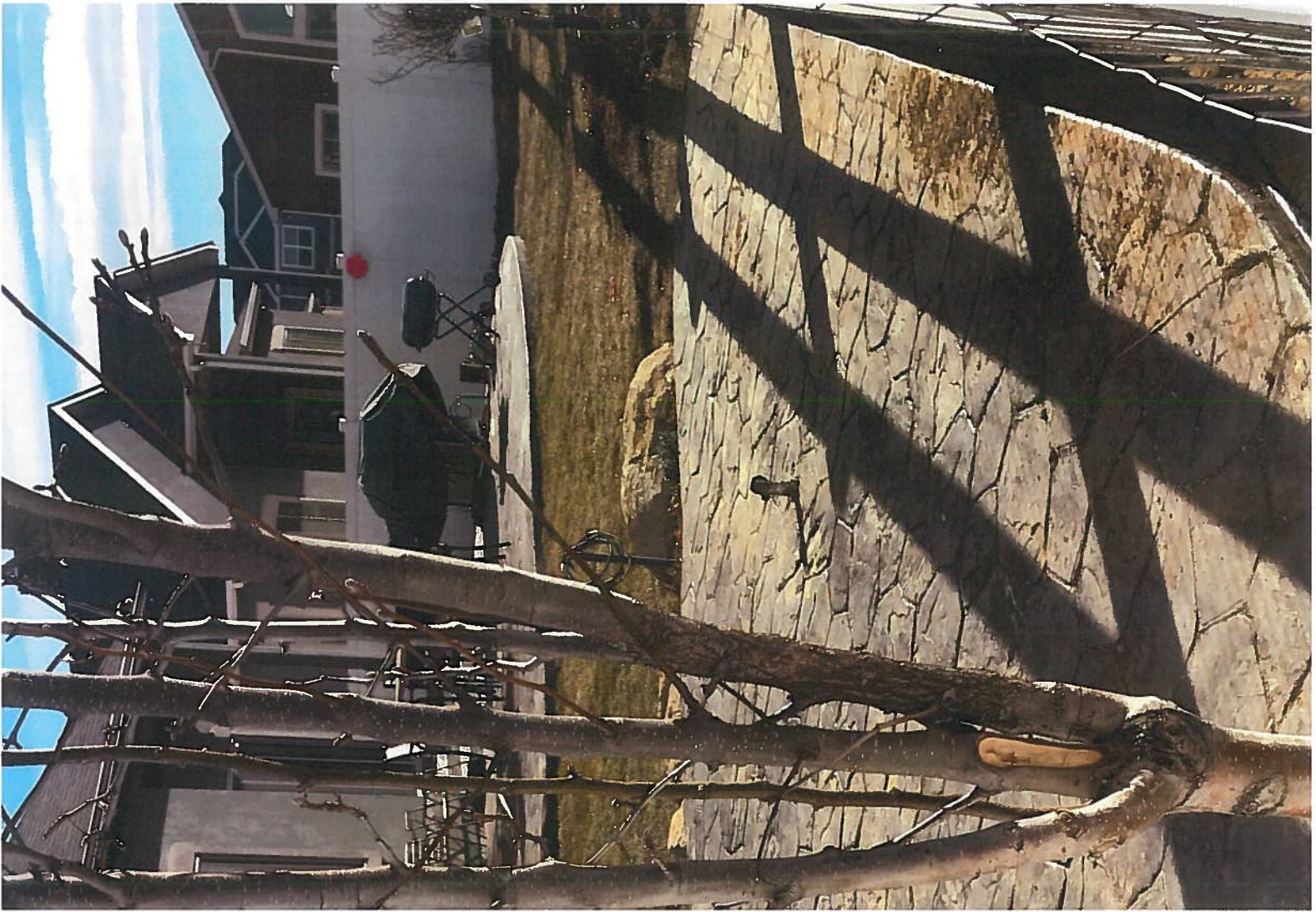
Submitted On: December 13, 2018

(Please email completed application and materials to planningtechs@windsorgov.com)

*Required fields











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+ New message

Reply



Delete



Archive



Junk



Sweep



Move to



Categorize



Inbox 7672

Junk Email 177

Drafts 24

Sent Items 8

Deleted Items 1

Archive

Conversation Hist...

i

Mortgage Corresp...

saved 1

New folder

The Ridge: Landscaping at 1879 Atna Court

EM

Emily McIntyre <emily@ccgcolorado.com>

Fri 8/3/2018, 1:35 PM

You; Ridge at Harmony Road Metropolitan District

1879 Atna Court - Landsc...

949 KB

Download Save to OneDrive

Hello Shane and Darci,

Thank you for your submittal! Your plan has been reviewed and approved. Please note the comments/conditions on page 2 of the attached approval.

Have a great weekend,

Emily McIntyre
Assistant Manager

[2619 Canton Court, Suite A](#)[Fort Collins, CO 80525](#)

Phone: 970-484-0101

Fax: 970-300-1042

Emergency after-hours phone: 970-829-2710

emily@ccgcolorado.comwww.ccgcolorado.com*Please consider the environment before printing this email.*

CONFIDENTIALITY AND PRIVILEGE NOTICE: This electronic mail message transmission contains information which may be confidential and/or privileged. The information is intended to be for the sole use of the individual, group or entity named above. If you are not the intended recipient, be aware that any disclosure, copying, distribution or other use of the contents of this transmission is strictly prohibited. If you have received this electronic mail transmission in error, please notify the sender immediately. Any views expressed in this message are those of the individual sender, except where the message states otherwise and the sender is authorized to state them to be the view of the sender's company.



Upgrade to Office
365 with premium
Outlook features



The Ridge

Application for Modifications or Improvements

(District use) Received on: _____

A. General Information:

Owner(s): Shane & Darci Hale
Property Address: 1879 Atna Ct
Email Address: Shane-hale@hotmail.com Phone Number: 970.739.9720

B. My request involves the following type of improvement:

- | | |
|---|--|
| ☒ Landscaping | ☒ Storage shed |
| ☒ Fencing | ☒ Deck / Patio / Slab |
| ☐ Drive / Walk addition or improvement | ☐ Roofing |
| ☐ Basketball backboard / pole | ☒ Patio Cover / Awning / Pergola |
| ☐ Storm doors | ☐ Painting (please see Section D) |
| ☐ Room addition | ☐ Other _____ |

C. Description of work (include materials, kind, exterior color(s), & location of improvement)

please see attached plan with narrative

D. Paint form for exterior paint (if applicable)

Please include a sample of the requested paint colors and fill out the below box indicating the color name and code that you are requesting for each area to be painted. Home exterior paint does not need approval for original home colors.

Base / Body	
Trim	
Front Door	
Accent	

E. Name and contact information of contractor or other owner representatives, if any:

None - Homeowner will be owners rep.

F. Attachments:

- | | |
|--|---|
| ☐ Color sample / description | ☒ Plot plan |
| ☐ Specifications (e.g. brochure) | ☐ Elevation drawings |
| ☐ Construction plans | ☐ Architectural drawings |
| ☐ Photographs | ☐ Sample of materials |
| ☒ Other <u>Narrative</u> | |

The Ridge

I understand that I must receive the written approval of the Design Review Council (DRC) in order to proceed. I understand that the District may request additional information prior to reviewing this request. DRC approval does not constitute approval of the local building or zoning department, drainage design, structural or engineering safety and/or soundness. I understand that I may be required to obtain building or other permits prior to the commencement of any work. I agree that my failure to obtain required building or other permits/approvals will result in the withdrawal of DRC approval.

I further agree not to alter existing drainage patterns on the Lot without the express approval in writing by the Board or DRC. I will not damage or alter District property at any time, and resulting damages may be repaired by the District and my responsibility to pay. Upon completion of my improvement, I hereby authorize the DRC or its delegate to enter onto my property for exterior inspection at a mutually agreed upon time, if requested. I agree that my refusal to allow inspection may result in the withdrawal of DRC approval.

I further agree that if, at any time during the process, the DRC requests to enter onto the Lot or requests further information to determine if the improvement is being constructed in accordance with the approval plan and/or Covenants, I will comply with the request. I agree that my failure to comply with the request shall result in the withdrawal of DRC approval. In addition, I agree that my failure to start or complete the Improvement within the time specified on the application shall result in withdrawal of DRC approval unless an extension is requested in writing and approved in writing.

Planned start date: 8-15-18

Planned completion date: All improvements slated for this year except pergola - will tackle next spring.


Homeowner Signature

7-31-18
Date

A \$40.00 DRC review fee applies. I prefer to pay this fee via: ☐ Check/Cash (enclosed)

Make check payable to: Ridge at Harmony Metro District ☐ Paid at closing (new homes only)

Design Review Council

The DRC / Board of Directors, having reviewed the submission above, hereby find that the request is:

☐ Approved as submitted.

☒ Approved with the following provisions and/or subject to HOA governing documents: Edging is required where rock/mulch abuts the open space. Driving on or bringing machinery through the open space is prohibited. Please submit shed photo for our records.

☐ Must be completed by: _____

☐ Further information is requested: _____

☐ Denied for the reason(s) stated below:

☐ Improvement does not comply with governing documents: _____

☐ Improvement is not reasonably suited for the lot.

☐ Not an approved exterior paint color

☐ Other reason: _____

Danahy Howe
DRC / Board Member / Authorized Representative

8/3/2018
Date



Variance Request:

The Ridge at Harmony Road Subdivision

L8 B2- 1879 Atna Court

Allowance for an accessory structure in side yard

Board of Adjustment January 24, 2019

Variance Request

Variance of Municipal Code Section 16-12-30(d) pertaining to accessory structure location:

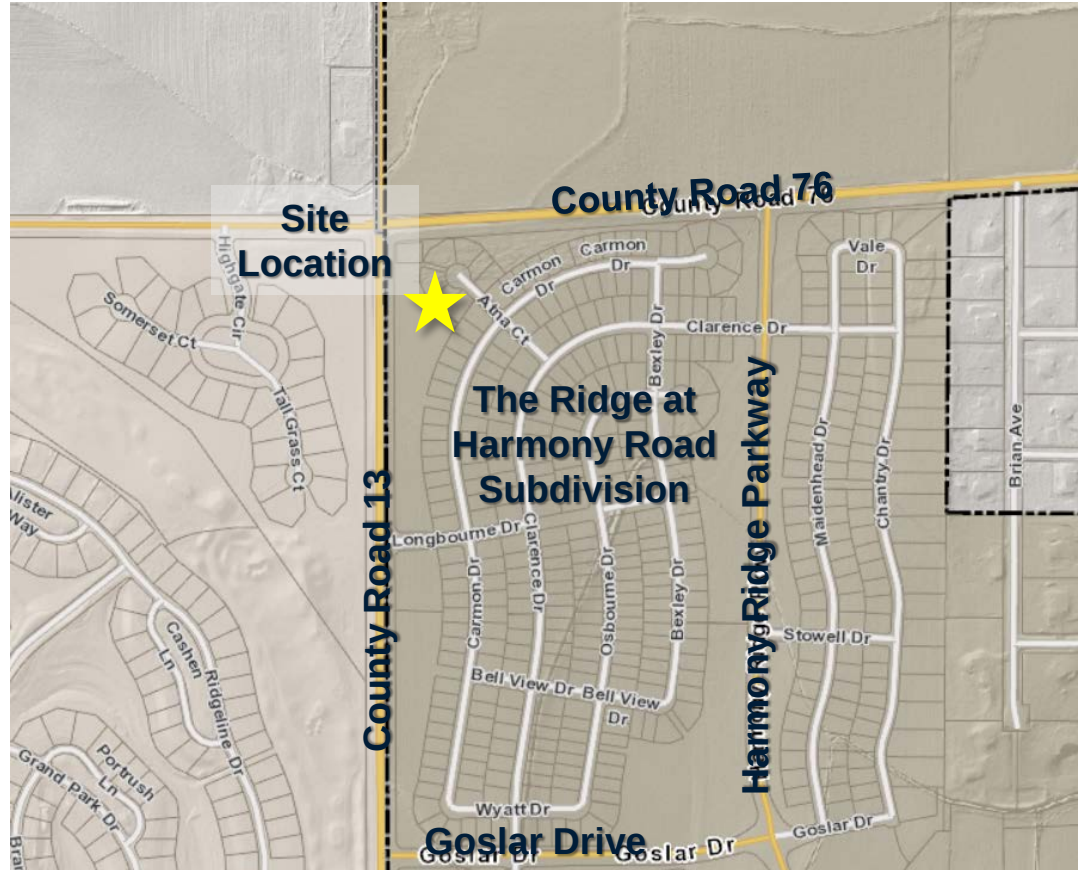
...no accessory building, regardless of its size, shall be located any closer to the front property line than the rear corners of the principal building; that is, accessory buildings are only allowed in rear yards...



1879 Atna Court

Town of Windsor Board of Adjustment – January 24, 2019

Site Vicinity Map

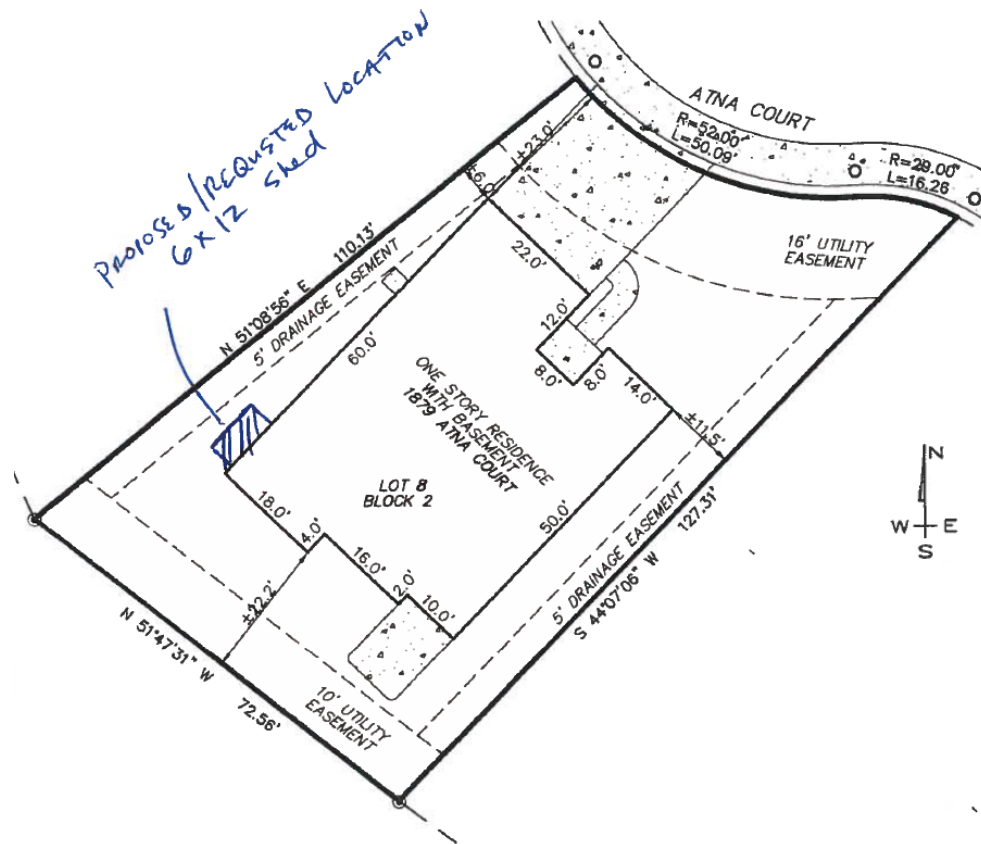


Site Vicinity Map





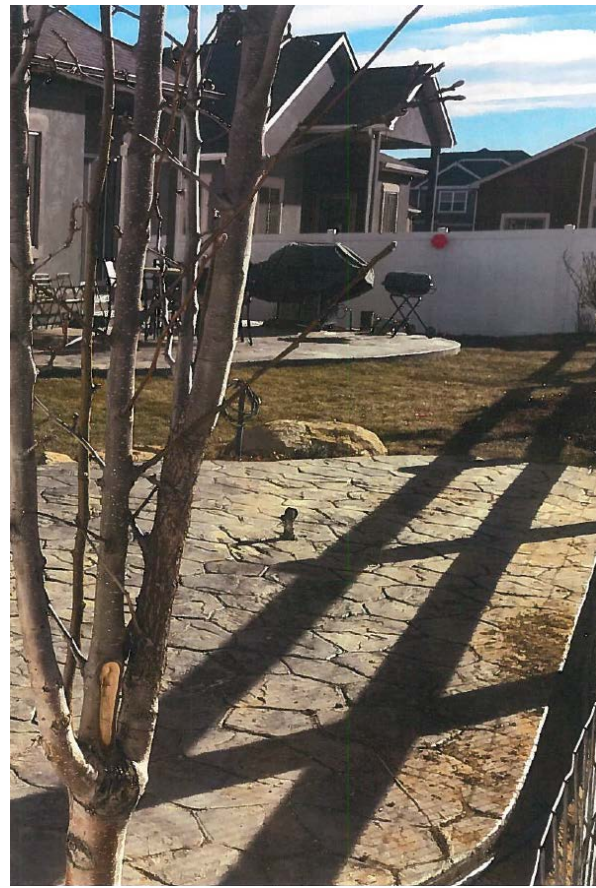
Site Concept Plan



Site Images



Site Images



Site Images



Municipal Code Section 16-6-60 (Variances) states the following:

Variances may be considered where, due to special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship. Variances will not be granted contrary to the public interest and will only be considered when the spirit of this Chapter can be observed and public safety and welfare secured.



1879 Atna Court

Town of Windsor Board of Adjustment – January 24, 2019

Section 16-6-60 defines **unnecessary hardship** as follows:

*For purposes of this Article, **unnecessary hardship** shall be defined as a situation where the property cannot be reasonably used under the conditions allowed by this Code. The situation shall result from **circumstances unique to the property** and **shall not be created by the landowner**. The variance, if granted, **will not alter the essential character of the surrounding neighborhood**. Economic considerations alone shall not constitute an unnecessary hardship if a reasonable use for the property exists under the provisions of the Code. It is the responsibility of the landowner to prove that an unnecessary hardship exists.*



1879 Atna Court

Town of Windsor Board of Adjustment – January 24, 2019

Analysis

The rear yard of the property is less than 26' wide

- 10' utility easement along the rear property line
- 5' drainage easements along both side property lines

The rear façade of the house includes windows, window well, and a patio.

These factors, not created by applicant, limit the location of shed to the center of the rear yard.



1879 Atna Court

Town of Windsor Board of Adjustment – January 24, 2019

Analysis

The essential character of the surrounding neighborhood would not be altered. Approval of the shed design and its location from The Ridge Design Review Committee (HOA/Metro District).

The shed will match the construction features and colors of the main house. A privacy fence will also screen the shed from offsite vantage points.

The shed would be less visible in the proposed location than it would be in the rear yard.



1879 Atna Court

Town of Windsor Board of Adjustment – January 24, 2019

Analysis

No foreseen negative impacts to public safety and welfare.

The shed would be fully located on the site and visibility of the shed would be minimal from offsite vantage points.

The proposed location is an area where the shed would be outside the drainage area and not located over utilities / easements.



1879 Atna Court

Town of Windsor Board of Adjustment – January 24, 2019

Variance Request

Staff requests that the following be entered into the record:

- Application and supplemental materials
- Staff memorandum and supporting documents
- All testimony presented during the Public Hearing
- Recommendation



1879 Atna Court

Town of Windsor Board of Adjustment – January 24, 2019

Recommendation

Staff considers that the literal enforcement of the Code will result in an unnecessary hardship or a practical difficulty, and therefore, is recommending approval of the variance request, based on the following findings of fact:

1. An undue hardship, as defined by the Municipal Code, exists in this case.



1879 Atna Court

Town of Windsor Board of Adjustment – January 24, 2019



MEMORANDUM

Date: January 24, 2019
To: Board of Adjustment
From: Millissa Berry, AICP, Senior Planner
Re: Public Hearing – Variance of Municipal Code Section 16-9-100 (c)(2) pertaining to the height of building signs for major tenant – BBK II LLC, owner; Nicole Vatrano, Davinci Signs, applicant
Item #: C.2

Background

The applicant, Ms. Nicole Vatrano of Davinci Signs, is requesting a variance from Municipal Code Section 16-9-100(c)(2) to allow for building-mounted projecting sign exceeding 8 feet in height / 25% of the building height.

The property is located at 4355 Fairgrounds Avenue (Lot 1 of the Eagle Crossing Subdivision 5th Filing), is zoned General Commercial (GC), and is surrounded by other GC-zoned properties. The building is greater than 5,000 square feet in area and, therefore, classified as a major tenant. The building is 22'8" feet in height with parapets of up to 26'8".

Municipal Code Section 16-9-100(c)(2) states the following:

Major Tenant. The height of building-mounted signs for major tenants shall not exceed twenty-five percent (25%) of the height of the building elevation upon which the sign is mounted. However, in no event shall such sign exceed eight (8) feet in height.

The applicant is requesting to allow one building-mounted sign that is 124 feet in height on the west elevation. The proposed sign dimensions are approximately 12' x 3.5' for an approximate area of 42 square feet. Because the building is 22'8" feet in height, the maximum height allowed for the sign would be 5'7" feet. The sign meets the amount of signage allowable for the property but will have a vertical profile.

Analysis

Municipal Code Section 16-6-60 (Variances) states the following:

Variances may be considered where, due to special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship. Variances will not be granted contrary to the public interest and will only be considered when the spirit of this Chapter can be observed and public safety and welfare secured.

Section 16-6-60 defines unnecessary hardship as follows:

For purposes of this Article, unnecessary hardship shall be defined as a situation where the property cannot be reasonably used under the conditions allowed by this Code. The situation shall result from circumstances unique to the property and shall not be created by the landowner. The variance, if granted, will not alter the essential character of the surrounding neighborhood. Economic considerations alone shall not constitute an unnecessary hardship if a reasonable use for the property exists under the provisions of the Code. It is the responsibility of the landowner to prove that an unnecessary hardship exists.

Municipal Code Section 16-1-10 (Declaration of Purpose) provides guidance on the purpose and spirit of the zoning code:

The regulations contained in this Chapter shall be held to be minimum requirements enacted to promote the health, safety and general welfare of the Town. To these ends such regulations have been prepared in accordance with the Comprehensive Development Plan for the Town and are designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land and undue concentration of population...

Staff has analyzed:

- whether special site specific conditions exist
- whether an unnecessary hardship exists
- the impact on public interest, safety, and welfare
- the impacts to the neighborhood character.

For this case, there are no site specific circumstances. However, staff recognizes that the current sign regulations do not adequately address vertically-oriented signs nor projecting signs outside of the Central Business Zone District. This is one of the items that staff will be proposing to modify with the revisions to the sign code that are currently being prepared but have not yet been reviewed for adoption. Vertical sign height has been an issue in the past and is expected to continue as development continues. Retaining the current language in the code in regard to sign height is contrary to allowing variety in the types of signs seen in town.

The property is located approximately 300 feet north of the intersection of major arterial roads – Crossroads Boulevard and Fairgrounds Avenue - so the size of the sign is appropriate in this location. The proposed sign is proportional to the building, is within the allowed square footage of signage for the site, and fits in with the character of the neighborhood. The sign would have at least 10 feet of clearance between sign and ground. Although the sign is not over a walkway or accessible area of the site (the sign will be over a planting area), there is adequate space below the sign to avoid conflicts with activities on site thus alleviating concerns with public safety and welfare.

Recommendation

Staff considers that the literal enforcement of the Code will result in an unnecessary hardship and, therefore, is recommending approval of the variance request for the proposed sign height as presented in the application be approved based on the following findings of fact:

1. The applicable sign regulation does not appear to adequately address vertically oriented signs nor projecting signs outside the Central Business Zone District;

2. The overall size of the sign is in proportion to the size of each building wall upon which it will mounted;
3. The granting of this variance request will not alter the character of the surrounding neighborhood;
4. The proposed height of the subject signs meets the spirit and intent of the sign regulations; and
5. The granting this variance will not pose any public safety or welfare concerns.

Staff recommends that the following motion, second and action on the petition be made as follows:

1. A motion to approve the request for a variance from Section 16-9-100 (c)(2) as depicted in the variance application to allow the construction of a vertically-oriented wall mounted projecting sign with a height of 12' based upon the aforesaid findings of fact and the applicant obtaining the applicable sign permit;
2. A second; and
3. The Chair calling for the vote as follows: All members in favor of the variance vote "yes"; all opposed to the variance request vote "no", with a minimum of four "yes" votes required to approve the variance request.

Notification

January 7, 2019 public hearing notice posted on Town of Windsor website.

January 8, 2019 development sign posted on the subject property.

January 11, 2019 public hearing notice published in the paper.

Attachments

Application materials

Presentation

cc: Nicole Vatrano, applicant



VARIANCE APPLICATION

(Please see the Town of Windsor [Fee Schedule](#) for Application Fees)

1

☒

Please review Sec. 16-6-60, 16-6-70 and 16-6-80 of Chapter 16 of the Town of Windsor Municipal Code for variance requirements and procedures.

☒

Variance requests are considered by the Board of Adjustment, which meets at 7 p.m. on the fourth Thursday of every month.

☒

Prior to submitting an application, a pre-application meeting with Planning Department staff is required. In order for an item to be placed on a given month's agenda, a complete application and fee must be received no later than the 1st day of that month. Incomplete applications will not be scheduled for consideration.

☒

Scaled drawings necessary for the proper consideration of this variance shall be submitted with this application. With new construction projects, building additions or remodels, you must contact SAFEbuilt Colorado, Inc. (970-686-7511) to determine compliance with applicable building codes.

2

A request is hereby made for a variance of the Town of Windsor ordinances due to special conditions where a literal enforcement of the ordinance would result in unnecessary hardship.

Property Address*: 4355 Fairgrounds Ave., Windsor CO

Lot: 1 Block: Subdivision: Eagle Crossing 5th

A variance is being requested from the following Municipal Code section(s)*:
Sec. 16-9-100 C. (2)

3

OWNER:
Name(s)*: BBK II LLC
Address*: 1007 E HARMONY RD., FORT COLLINS, CO 80525
Phone #*: Email*: DAVIDBYRLY@YAHOO.COM

APPLICANT or REPRESENTATIVE:
Name*: DAVINCI SIGN SYSTEMS INC.
Address*: 4496 BENTS DR UNIT A
Phone #*: 9700-203-9292 Email*: NICOLE.V@DAVINCISIGN.COM

4

Municipal Code Section 16-6-60(b) states, in part:

Variances may be considered where, due to special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship.

Unnecessary hardship is defined by the Municipal Code as enumerated in items 1-4 below. Please describe how each item is met in the space provided. Applications will be deemed compete once *all* criteria have been addressed. You may attach additional sheets if necessary.

1. A situation where the property cannot be reasonably used under the conditions allowed by this Code*.

The identification of the building has been difficult for prospective customer to identify it as as liquor store from crossroads. Many prospective customers have mistaken this building for a distribution center and not a liquor store. We feel that this additional 12 ft high sign with 11 inch copy helps to identify this building as a liquor store from Crossroads Blvd.

2. **The situation shall result from circumstances unique to the property and shall not be created by the landowner*. Note: landowner also means any contractor or agent acting on behalf of the landowner.**

The building at this location gets mistaken for a Liquor Distributor and not a Liquor Store. The building is placed in between two other individual major tenant buildings, that have large illuminated signs. This building does not have a reasonable location for a freestanding sign that can be easily viewed from Crossroads Blvd.

3. **The variance, if granted, will not alter the essential character of the surrounding neighborhood*.**

If granted this variance will not alter the essential character of the surrounding neighborhood. This general commercial zone's neighboring businesses have large projecting and monument signs next door. (Fuzzy's and The Summit)

4. **Economic considerations alone shall not constitute an unnecessary hardship if a reasonable use for the property exists under the provisions of this Code*.**

Prospecting customers mistake this building as a beverage distributor and not a retail liquor store. We are proposing the 12 foot tall sign because the proposed stacked 11 inch high lettering is legible and can be viewed at a distance of 300 feet to Crossroads Blvd according to the Letter Visibility Chart.

An 8 foot tall sign at this location would not be able to be designed to be legible the 300 ft to Crossroads Blvd.

5

I hereby depose and state under the penalties of perjury that all statements, proposals, and/or plans submitted within this application are true and correct to the best of my knowledge.

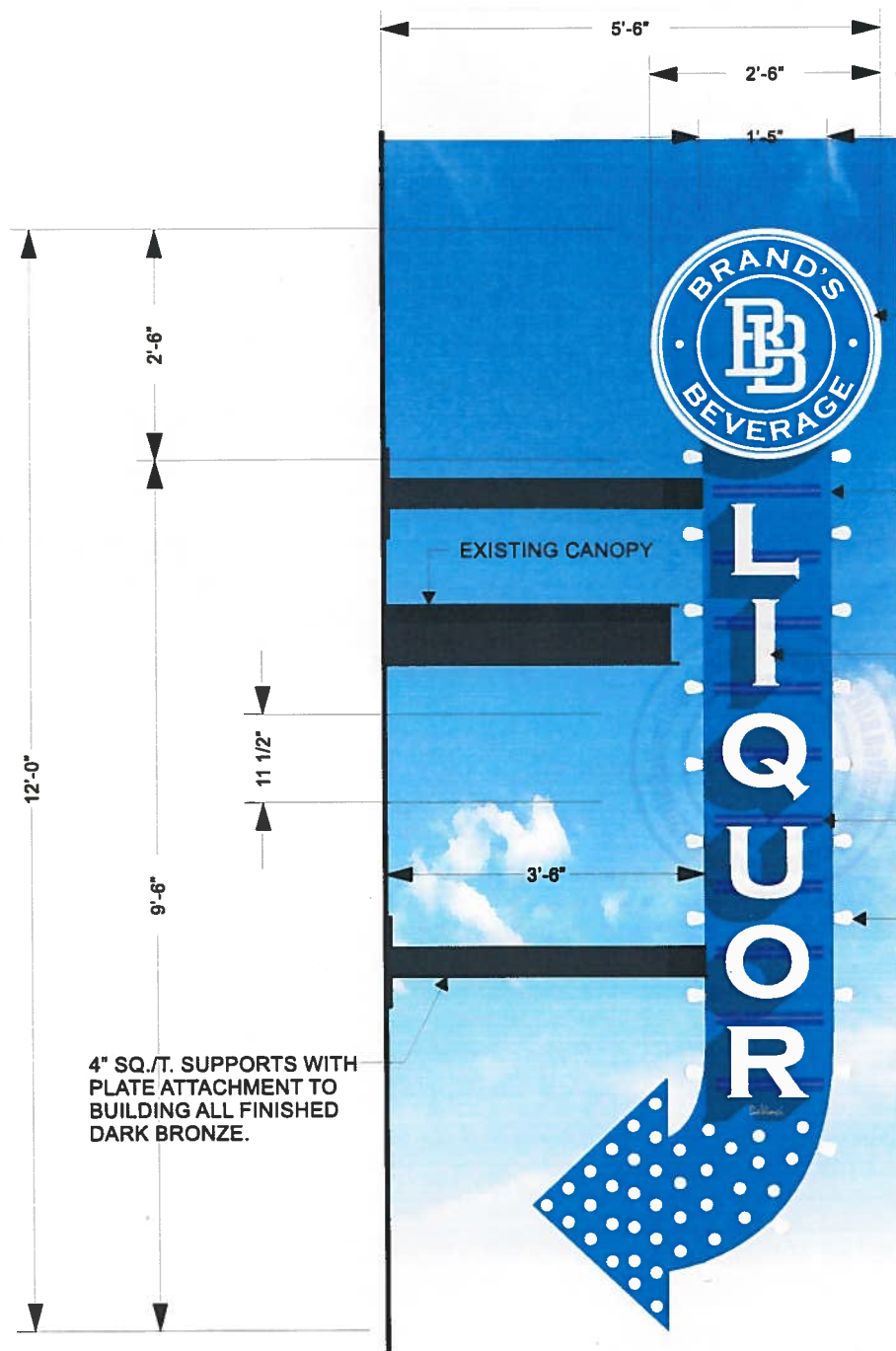
Signature: Nicole Vatrano **Date:** 12/28/18
(Proof of owner's authorization required with submittal if signed by Applicant)

Print Name: Nicole Vatrano

Submitted On: _____

(Please email completed application and materials to planningtechs@windsorgov.com)

*Required fields



D/F ILLUMINATED SIGN CABINET WITH 1" RETAINERS ALL FINISHED WHITE. FACES ARE #7328 WHITE ACRYLIC WITH 1ST SURFACE 3M FILM OVERLAYS. ILLUMINATE WITH SAMSUNG 6500K WHITE LED'S.

ALUMINUM SIGN CABINET FINISHED APPROVED BLUE COLOR.

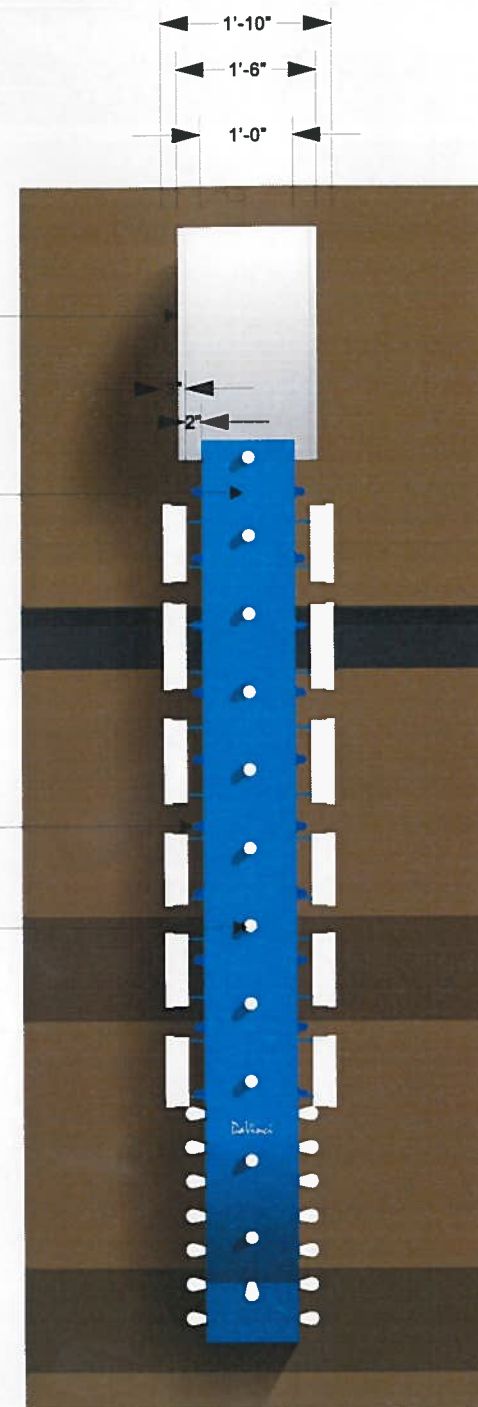
INDIVIDUAL 3" DEEP CHANNEL LETTERS CONSTRUCTED OF PRE-FINISHED WHITE ALUMINUM & 1" WHITE TRIMCAP. FACES ARE #7328 WHITE ACRYLIC. ILLUMINATE WITH SAMSUNG 6500K WHITE LED'S.

(20) ARBT-14XX BLUE LED BORDER TUBES MOUNTED FLUSH TO FACE OF CABINET.

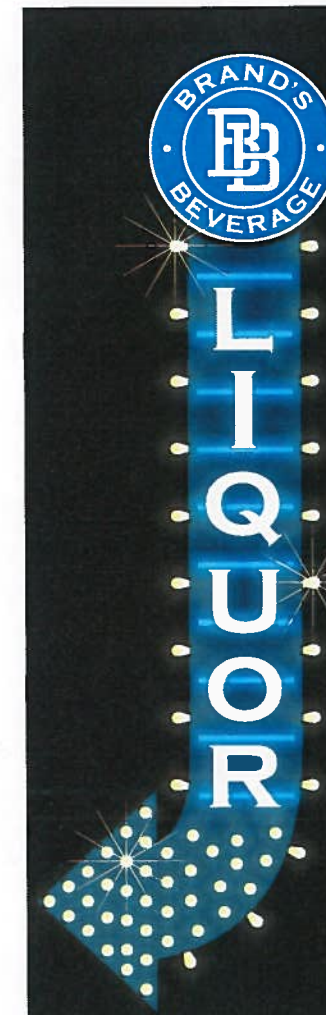
(95) 25W SOFT WHITE S14 DIMMABLE LED VINTAGE STYLE LIGHT BULBS (CLEAR).



CONCEPTUAL VIEW OF PROPOSED SIGNAGE



END VIEW SCALE: 1/2"=1'-0"



CONCEPTUAL NIGHT VIEW

1 D/F ILLUMINATED PROJECTING WALL SIGN SCALE: 1/2"=1'-0"
QUANTITY: 1 MANUFACTURE AND INSTALL

DA VINCI
SIGN SYSTEMS, INC.
the art and science of identification
 4496 Bents Dr.
 Windsor, CO 80550
 www.davincisign.com
 Ft. Collins: (970) 203-9292
 Fax: (970) 203-9293
 Denver: (303) 573-7446
 Greeley: (970) 353-8446



Job Name: _____

Address: _____
 4355 FAIRGROUNDS AVE.
 WINDSOR, CO

Designer: CASEYEASTON

Sales: NEILHUGHES

Scale: Noted

Date: 12.3.18

Revisions: _____

DaVinci Approval: _____

☒ Date: _____

Customer Approval: _____

☒ Date: _____

☐ Without Changes

☐ With Changes As Shown

Electrical hookup by others.
 Electrical requirements: 120V or as indicated.
 All landscaping by others.

This artwork is copyrighted, and the exclusive property of DaVinci Sign Systems. It is the result of the original work of its employees, and is submitted to your organization for the sole purpose of your consideration of whether to purchase from DaVinci Sign Systems. Distribution or exhibition of this artwork to anyone other than employees of your organization, or the use of this artwork to construct a similar sign is strictly prohibited. In the event your organization fails to comply with the stipulations outlined above, DaVinci Sign Systems expects to be compensated minimum \$5000 for its original design work. At any time you may purchase this artwork for \$5000, at which point you may use it however you see fit.

Sales Approval: _____

☒ Date: _____

Production Approval: _____

☒ Date: _____

Design #

18-920

Page: _____ of: _____

1 **1**

Brand's Beverage
Write a description for your map.



Legend

- Brand's Beverage
- Line Measure
- Nordy's BBQ



DA VINCI
SIGN SYSTEMS, INC.

the art and science of identification

Letter Visibility Chart

VIEWING DISTANCE	MINIMUM REQUIRED LETTER HEIGHT (IN INCHES)
100 ft.	4"
150 ft.	6"
250 ft.	10"
300 ft.	12"
360 ft. (city block)	16"
400 ft.	18"
500 ft.	22"
650 ft.	28"
750 ft.	33"
900 ft.	38"
1000 ft.	43"
1200 ft.	52"
1320 ft. (1/4 mile)	57"

This letters visibility chart has been made for you based upon information provided by Pennsylvania Transportation Institute, Penn State University and the United States Sign Council (USSC). c1998

Calculations based on externally (or naturally) lit sign with all upper case Helvetica letters utilizing negative space. Factors that may affect required letter size are: color scheme, font selection, traffic and weather conditions, or sign standoff. Please refer to the complete study for additional information.

303-573-7446

**4496 BENTS DRIVE
WINDSOR, CO 80550**

WWW.DAVINCISIGN.COM



Variance Request:
4355 Fairgrounds Avenue -
Eagle Crossing Subdivision
5th Filing Lot 1

*Request for a sign height in excess of 8 feet or
25% of the building height*

Board of Adjustment January 24, 2019

Variance Request

Variance of Municipal Code Section 16-9-100(c)(2) to allow for a sign height in excess of 25% of the building height and 8 feet.

Major Tenant. The height of building-mounted signs for major tenants shall not exceed twenty-five percent (25%) of the height of the building elevation upon which the sign is mounted. However, in no event shall such sign exceed eight (8) feet in height.



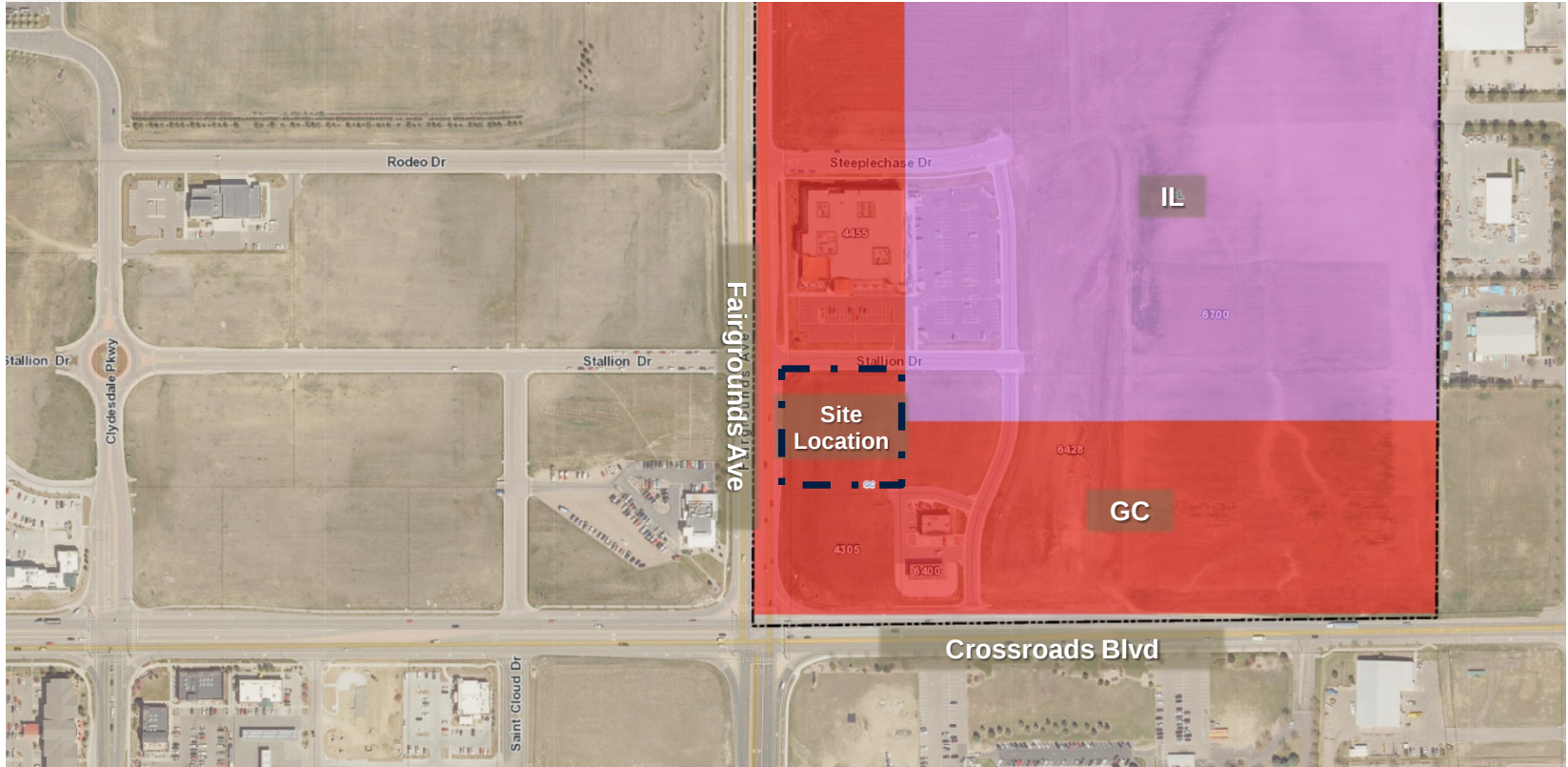
4355 Fairgrounds Avenue

Town of Windsor Board of Adjustment – January 24, 2019

Site Vicinity Map



Site Zoning Map

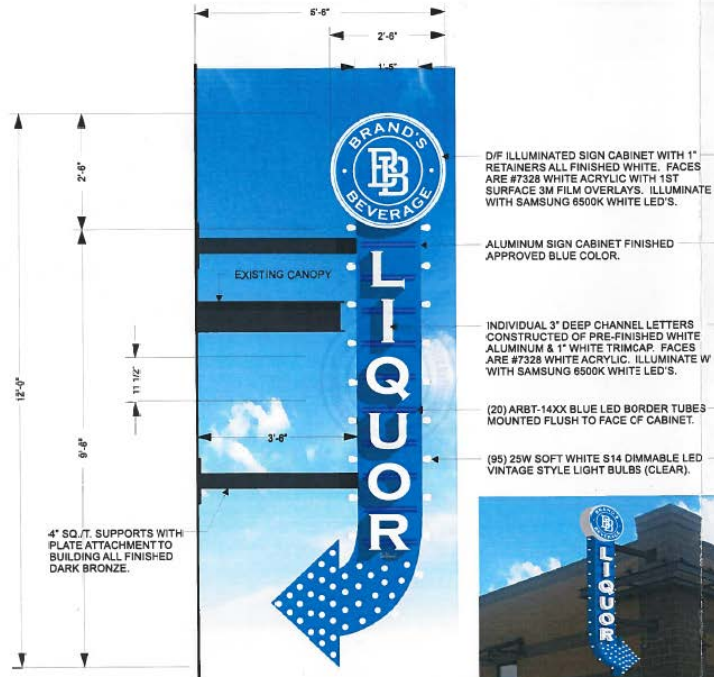




Building

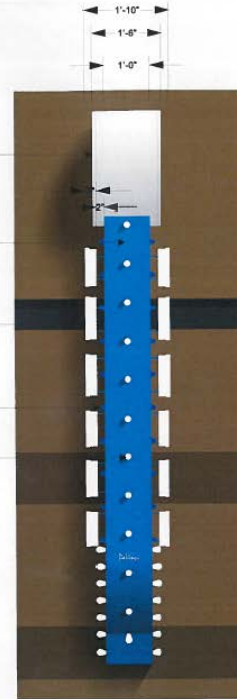


Proposed Sign

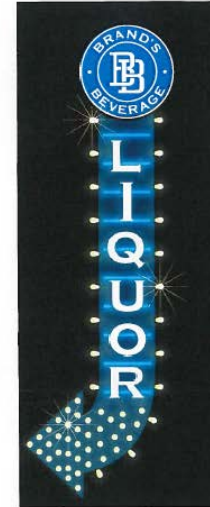


1 D/F ILLUMINATED PROJECTING WALL SIGN
QUANTITY: 1 MANUFACTURE AND INSTALL

SCALE: 1/2"=1'-0"



END VIEW SCALE: 1/2"=1'-0"





Nearby Sign

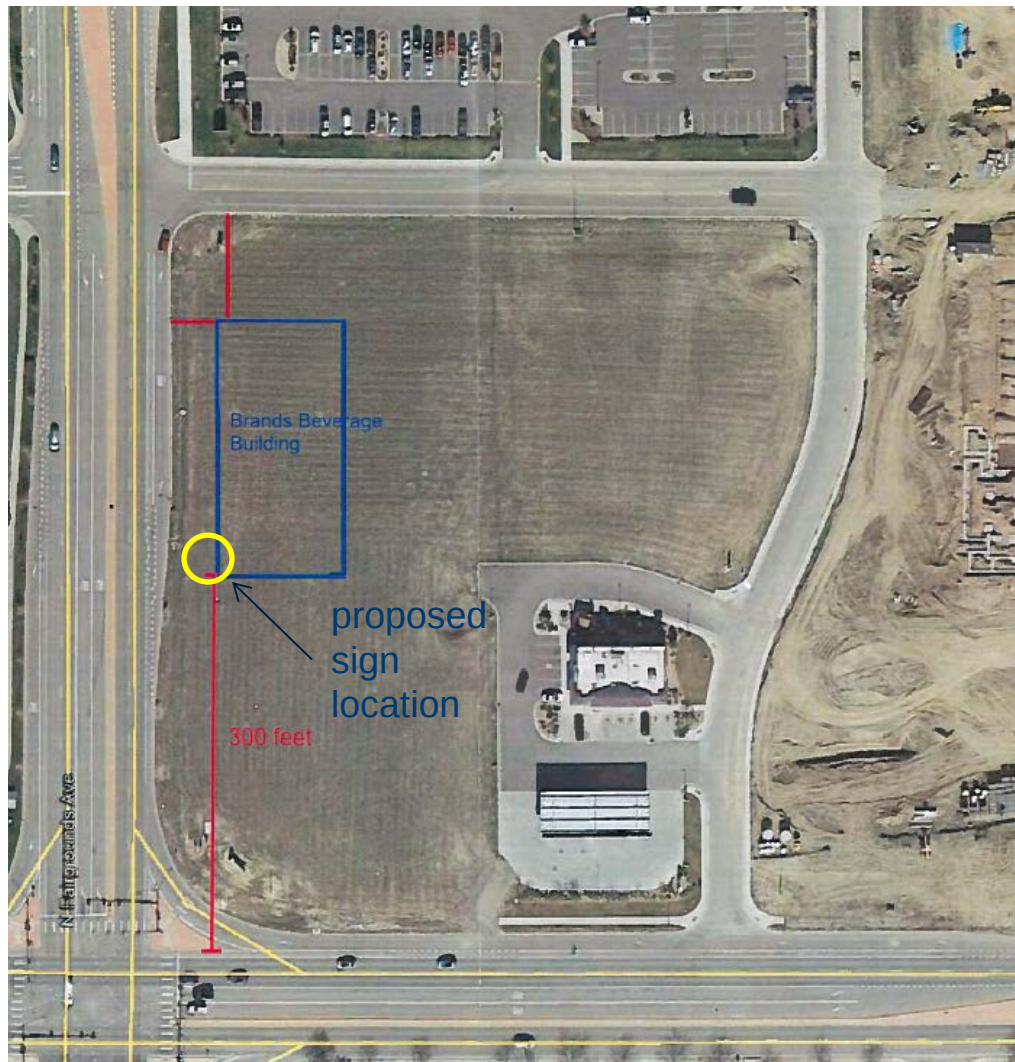




Site

Staff has analyzed:

- whether special site specific conditions exist
- whether unnecessary hardship exists
- the impact on public interest, safety, and welfare
- the impacts to the neighborhood character.



Municipal Code Section 16-6-60 (Variances) states the following:

Variances may be considered where, due to special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship.

Variances will not be granted contrary to the public interest and will only be considered when the spirit of this Chapter can be observed and public safety and welfare secured.



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Section 16-6-60 defines **unnecessary hardship** as follows:

*For purposes of this Article, **unnecessary hardship** shall be defined as a situation where the property cannot be reasonably used under the conditions allowed by this Code. The situation shall result from **circumstances unique to the property** and **shall not be created by the landowner**. The variance, if granted, will **not alter the essential character of the surrounding neighborhood**. Economic considerations alone shall not constitute an unnecessary hardship if a reasonable use for the property exists under the provisions of the Code. It is the responsibility of the landowner to prove that an unnecessary hardship exists.*



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Findings

- Special site specific conditions do not exist; however, the current sign code does not adequately address vertically-oriented building mounted signs nor projecting signs outside of the Central Business Zone District.
- Property is located on arterial roads where a sign of this size is appropriate.
- The proposed sign is proportional to the building and within the allowed sign area for the site. The same dimensions in a horizontal orientation would be allowed.
- The sign fits the character of the neighborhood.
- There will over 10 feet of clearance below the sign which is adequate room to avoid conflict (addresses safety and welfare concerns).



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Recommendation

Staff considers that the literal enforcement of the Code will result in an unnecessary hardship and, therefore, is recommending approval of the variance request for the proposed sign height as presented in the application be approved based on the following findings of fact.

1. The applicable sign regulation does not appear to adequately address vertically oriented signs;
2. The overall size of the sign is in proportion to the size of each building wall upon which it will mounted;
3. The granting of this variance request will not alter the character of the surrounding neighborhood;
4. The proposed height of the subject signs meets the spirit and intent of the sign regulations; and
5. The granting this variance will not pose any public safety or welfare concerns.



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Recommendation

Staff recommends that the following motion, second and action on the petition be made as follows:

1. A motion to approve the request for a variance from Section 16-9-100 (c)(2) as depicted in the variance application to allow the construction of a wall mounted projecting sign with a height of 12' based upon the aforesaid findings of fact and the applicant obtaining the applicable sign permit;
2. A second; and
3. The Chair calling for the vote as follows: All members in favor of the variance vote “yes”; all opposed to the variance request vote “no”, with a minimum of four “yes” votes required to approve the variance request.



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