



BOARD OF ADJUSTMENT / APPEALS REGULAR MEETING

March 22, 2018 // 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 October 26, 2017
- C. BOARD ACTION
 - 1. **This item has been re-scheduled for the April 26, 2018 agenda per applicant's request:** 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 – Highlands Industrial Park Subdivision 1st Filing, Lot 1, Block 4 – Nicole Vatrano, 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
 - 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

- 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. 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 Pointe Subdivision 3rd Filing, Lots 1 and 2 – Amy Tjardes, applicant; Patricia Kroetch, applicant's representative
 - 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
4. Election of officers (chairperson, vice-chair and secretary) for the 2018 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.

Upcoming Meeting Dates

<u>Thursday, April 26, 2018</u>	7:00 P.M.	Regular Board of Adjustment Meeting*
<u>Thursday, May 24, 2018</u>	7:00 P.M.	Regular Board of Adjustment Meeting*
<u>Thursday, June 28, 2018</u>	7:00 P.M.	Regular Board of Adjustment Meeting*
<u>Thursday, July 26, 2018</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 APPEALS/ADJUSTMENTS SPECIAL MEETING

October 26, 2017 – 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 7:00 p.m.

1. Roll Call

The following members were present:

Chairman Danny Horner
David Sislowksi
Jennifer Dionne
David White
Jose Valdes

Also present:

Senior Planner	Millissa Berry
Senior Planner	Paul Hornbeck
Customer Service Supervisor	Jessica Scheopner

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 the August 24, 2017 meeting and the August 31, 2017 meeting.

Mr. Sislowksi added that the August 24, 2017 meeting minutes need to note that Mr. Valdes was in attendance.

Mr. Valdes moved to approve the minutes as amended for August 24, 2017 and the August 31, 2017 minutes as presented; Mr. White seconded the motion.

Motion carried unanimously. Minutes stand approved.

2. Approval of the minutes of the August 31, 2017 meeting.

Mr. White moved to approve the minutes of the June 22, 2017 meeting; Ms. Dionne seconded the motion.

Motion carried unanimously. Minutes stand approved.

C. BOARD ACTION

1. Public Hearing – Variance of Municipal Code Section 16-9-50 (e) pertaining to freestanding sign setbacks and offsets in the Central Business (CB) zone district – Bowman's Subdivision, Lot 12, Block 2, Aaron Walker for Trust Company of America
 - Staff presentation: Millissa Berry, Senior Planner

Mr. White moved to open the Public Hearing; Ms. Dionne seconded the motion. Motion carried unanimously.

The applicant representative, Aaron Walker, 821 Main Street, stated the request is to place a freestanding sign within 100 feet of another free standing sign for the business. This is 2nd sign he has placed on Main Street within 100 feet of another free standing sign.

Mr. Horner asked for comments from the public.

There were none.

Ms. Berry reported the following:

The applicant is James Cosner of Trust Company of America, the property owner, 821 Main Street. The applicant's representative is Aaron Walker of Walker Landscaping. The applicant is requesting a variance from Municipal Code Section 16-9-50(e) to allow for a reduction in the separation requirement between freestanding signs.

Municipal Code Section 16-9-50(e) states the following:

Distance separation. Distance separation between freestanding signs shall be measured along the street frontages adjacent to the subject monument signs. Distance between freestanding monument signs located on different street frontages shall be measured along the street frontage to the point of

intersection of both street frontages. Freestanding signs shall be separated by at least one hundred (100) feet.

The property is a 9,900 square foot (0.23 acre) developed lot located at 821 Main Street in the Central Business District (CB) zone district. The site consists of a single family detached house and detached garage structure. The property was once residential in use and recently went through a change of use to commercial, which is allowed in the CB district.

The property is 50 feet wide, similar to the platting of other properties in the area. The proposed freestanding sign would be located approximately 15.5 feet from the east property line and approximately 32.5 feet from the west property line. This would result in a freestanding sign with a separation of 40 feet from the freestanding sign on the property immediately adjacent to the east and 38 feet from the freestanding sign on the property immediately adjacent to the west.

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

Special site specific conditions exist. The site and adjacent properties being 50 feet wide does create an unnecessary hardship for the property owner / tenant. If the code was enforced in this case, the ability to have a freestanding would not be allowed at this site due to the fact such signs were permitted on the neighboring sites. The sign code does support the use of a freestanding sign in this location. Section 16-9-120 (2.a.2.b) subarea requirements for the Downtown Corridor states:

Individual tenant freestanding sign. Individual tenants which are not part of a multiple tenant development are allowed one (1) individual tenant freestanding sign or one (1) freestanding hanging sign constructed of a single post and perpendicular bracket design.

The inability to have a freestanding sign may preclude the property owner / tenant from operating the business in this location both from a marketing standpoint and traffic safety as visiting clientele and vendors search for the property along Main Street. A variance would increase visibility of the property and business and may reduce traffic issues as a result of clients/vendors trying to locate the property along the busy corridor.

In this case, the request would not alter the essential character of the neighborhood. The property is located within a commercial district and along a major arterial. Similar uses and signage can be found on adjacent properties and others along Main Street. The current businesses (at 825 and 819 Main) on either side of the property currently have freestanding signs at a distance of approximately 80 feet between the two. Freestanding sign separations of less than 100 feet can also be found for properties at 616 / 612 Main (approximately 48 foot separation), and at 601/605/609 Main (about 50-60 feet between each).

In addition, the architectural style of the building (a farmhouse style single family house that is converted to a commercial use) does not lend itself to appropriate placement of a wall sign on the front façade.

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 to allow for the reduced separation of freestanding signs with the condition that the applicant / applicant's representative shall obtain sign

permit approval from the Windsor Planning Department prior to sign installation. Furthermore, staff recommends approval based on the following findings of fact:

1. The subject lots as well as adjacent lots are not wide enough to allow placement of a freestanding sign on the lot and meet the 100 foot separation distance.
2. The architecture of the building does not lend itself for placement of a wall sign.
3. The proposed sign location does not appear to negatively impact public health, safety, or welfare.
4. The variance does not appear to be contrary to the public interest.
5. The variance would not alter the character of the neighborhood.

Since all motions are to be made in the affirmative, staff also 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 16-14-60(e) with the condition that the applicant/developer shall obtain sign permit approval from the Windsor Planning Department
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. Horner asked if there are any questions of staff.

Mr. Valdes asked if there was a rendering of the sign with the sign permit application.

Ms. Berry stated that the sign copy was appropriate; that the application met code except for the the 100-foot separation requirement; and that the variance needed approval before the sign permit could be approved

Mr. Valdes moved to close the Public Hearing; Mrs. Dionne seconded the motion. Motion carried unanimously.

Mr. Horner asked for a motion on the variance.

Mr. White moved to approve variance of Municipal Code Section 16-9-50 (e) pertaining to freestanding sign setbacks and offsets in the Central Business (CB) zone district – Bowman’s Subdivision, Lot 12, Block 2, 821 Main Street. Motion was seconded by Mr. Valdes.

Mr. Horner opened the meeting for discussion by the Board.

None

Mr. Horner called for a vote on the motion with all members voting in favor of the variance to vote “yes” and all opposed to the variance request vote “no”.

Vote was unanimous for the approval of the variance.

2. Public Hearing – Variance of Municipal Code Section 16-14-60 pertaining to minimum setback/separation of an accessory building housing domestic animals from any residential dwelling in the Estate Residential (E-1) zone district. 912 Palomino Way—Joe and Theresa Johnson, property owners.
 - Staff presentation: Millissa Berry, Senior Planner

Mr. Valdes moved to open the Public Hearing; Ms. Dionne seconded the motion. Motion carried unanimously.

The applicant, Joe Johnson of 912 Palomino Way, stated that this is for a variance requesting the addition of their home to be 9 feet inside the setback to an accessory building housing domestic animals. Mr. Johnson explained the addition of the home and the corner that would be in the setback area.

Mr. Horner asked for comments from the public.

There were none.

Ms. Berry reported the following:

The applicant is Steve Brown of Integrity Contractors, LLC, representing the property owners, Joe and Theresa Johnson. Mr. Brown is requesting a variance from Municipal Code Section 16-14-60 – a 75 foot setback / separation requirement between a residence and an accessory building housing domestic animals in the Estate Residential (E-1) zone district.

Municipal Code Section 16-14-60 states the following:

No building or structure may be located within twenty-five (25) feet of any property line. The foregoing notwithstanding, no accessory building housing domestic animals may be located within thirty-five (35) feet of any property line, and such accessory buildings may not be located closer than seventy-five (75) feet from any residential dwelling.

The property is a 2.5 acre developed single family lot located in the E-1 zone district. The site consists of a single family house and an accessory building housing a domestic animal (one horse). Municipal Code Section 16-14-30 allows for one large domestic animal in the E-1 zone for each acre of property in the E-1 zone. The applicant is proposing an addition to the existing single family house. The addition includes expansion of the attached garage on the first story and a second story bedroom over the garage. As planned, the new addition would encroach 9 feet into the 75-foot setback requirement between the single family house and the accessory building housing domestic animals resulting in a separation of 66 feet.

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, the impact on public interest, safety, and welfare; impacts to the neighborhood character; and whether an unnecessary hardship exists.

In this case, the request would not alter the essential character of the neighborhood and would not impact public interest or welfare. The distance of the accessory structure to property lines will not change.

Due to the location of the existing garage, and its proximity to the existing accessory structure housing a domestic animal, any expansion of it would encroach into the setback between the accessory structure and the house.

A similar variance request was reviewed and approved by the Board of Adjustment in 2015. For the 2015 case, the setback was reduced to 35 feet. Staff at the time researched health and building codes and neighboring communities' regulations and found no similar requirements or health, safety, or welfare concerns regarding the construction of an accessory dwelling housing domestic animals 35 feet from a residence. It was also determined that the intent of Municipal Code Section 16-14-60 was to protect against the construction of an accessory structure housing domestic animals from adversely impacting residences on neighboring properties rather than a residence on the same property.

For this application, Staff again researched codes of comparable regional communities but only two of ten communities reviewed had any setback/separation requirement between structures on a lot in comparable zone districts. Timnath requires 40 feet separation between any buildings in their Estate zone regardless of housing of animals or not; and Frederick requires a 100 foot setback between corrals (not necessarily a structure) and residences. To determine if the requirement was associated with health concerns, Staff contacted the Weld County Health Department. The representative relayed that the department did not have a health basis for requiring a 75 foot separation between residences and an accessory building housing domestic animals.

Because the proposal would not alter the character of the neighborhood and would not impact public interest, safety or welfare, staff finds the proposal supportable.

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 to allow for the 66 foot setback between a residence and an accessory structure housing domestic animals, based on the following findings of fact:

1. The variance will not negatively impact public health, safety, or welfare.
2. The variance does not appear to be contrary to the public interest.

Please further note that since all motions are to be made in the affirmative, staff also 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 16-14-60
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. Horner asked if there are any questions of staff.

Mr. Valdes asked for confirmation that the domestic animal structure is not moving and this request has only a bearing on the residence on the property and not any other residence.

Ms. Berry stated that is correct.

Mr. Valdes moved to close the Public Hearing; Mr. Sislowksi seconded the motion. Motion carried unanimously.

Mr. Horner asked for a motion on the variance.

Mr. Sislowksi moved to approved variance of Municipal Code Section 16-14-60 pertaining to minimum setback/separation of an accessory building housing domestic animals from any residential dwelling in the Estate Residential (E-1) zone district. 912 Palomino Way; seconded by Mrs. Dionne

Mr. Horner opened the meeting for discussion by the Board.

Mr. Horner called for a vote on the motion with all members voting in favor of the variance to vote “yes” and all opposed to the variance request vote “no”.

Vote was unanimous for the approval of the variance.

3. Public Hearing – Variance of Municipal Code Section 16-19-30 pertaining to building location in the general Commercial (GC) zone district, 301 Main Street, Katy Thompson , Ripley Design, Inc., representing the property owner, Blue Ocean Enterprises Inc.
 - Staff presentation: Millissa Berry, Senior Planner

Mr. Valdes moved to open the Public Hearing; Ms. Dionne seconded the motion. Motion carried unanimously.

The applicant, Katy Thompson, Ripley Design, Inc., representing the property owner, Blue Ocean Enterprises Inc. for property located at 301 Main Street stated that this variance request is intended as a modification to the Board of Adjustment Zoning certificate that granted variance of Town of Windsor Municipal Code Section 16-19-30 on February 23, 2017.

The following items have been REMOVED from the variance request:

1. Stairs and loading dock

The following item has been ADDED to the variance request:

2. The reconstructed Windsor Mill building

The Windsor Mill is an icon in the Town of Windsor. It was built between 1899 and 1910, well before the latest zoning and land use standards were put in place. The building was built outside of the property line along its eastern boundary and within a short distance of the setbacks. The current land use standard requires a 20' offset along lot lines and a 25' setback along R.O.W. lines. There are three areas where this standard is not met:

1. The relocated silo in the southeast corner of the property

The relocated silo The State Historical Board is requiring the existing silo on site be preserved. The renovation of the mill into a usable commercial facility is requiring the existing silo to be moved. Since the existing building takes up most of the site there is only one place where relocating the silo will work. That placement is within the 25' side setback and 20' rear offset. The relocation complies with the four unnecessary hardship criteria listed in the Towns Variance Application.

- “A situation where the property cannot be reasonably used under the conditions allowed by code.”
 - Applicant Response: In order to preserve the silo per the requirements of the State Historic Board, the silo needs to be relocated on site. As stated above, the existing building takes up much of the site, and there is limited space remaining. There is no other option than to encroach into the setback to keep the silo.
- “The situation shall result from circumstances unique to the property and shall not be created by the landowner.”
 - Applicant Response: The required preservation of the silo is causing the code variance.
- “The variance, if granted, will not alter the essential character of the surrounding neighborhood”

- Applicant Response: The Mill has been in this location since 1910, and the existing silo is only moving a short distance from its current location. Therefore, this change does not affect the character that has been present in the neighborhood for over 100 years.
 - “Economic considerations alone shall not constitute an unnecessary hardship if a reasonable use for the property exists under provisions of this code.”
 - Applicant Response: The silo is required to remain per the State Historical Board. It would be more economically feasible for the developer to not keep the silo and comply with the land use standards.
2. The improvements along Third St.
- A) The reconstructed Windsor Mill building.
- B) Patio and stairs located to the south of the Windsor Mill building.
- On August 6, 2017, the Windsor Mill was destroyed in a fire. Plans motion to revive the project, including re-constructing the building which was lost. Due to the location of the existing foundation, the building and any additional features extending from the building (including the patio and stairs to the south), must encroach into the 25’ setback. The addition of these elements complies with the four unnecessary hardship criteria listed in the Town’s Variance Application.
- “A situation where the property cannot be reasonably used under the conditions allowed by code.”
 - Applicant Response: In order to maintain the intended use for the Windsor Mill, as well as to utilize the historic foundation which remains, it is necessary to encroach into the 25’ setback where the foundation currently exists. The patio extension and stairs that encroach the setback are necessary to access the door on that side of the building.
 - “The situation shall result from circumstances unique to the property and shall not be created by the landowner.”
 - Applicant Response: Due to the existing conditions stated above and the fire which decimated the building, the situation results from circumstances that are out of the hands of the landowner. In addition, a deed easement was dedicated on April 4, 2017, which allows the Windsor Mill building walls and foundation to encroach beyond the property line along the eastern boundary.

- “The variance, if granted, will not alter the essential character of the surrounding neighborhood”
 - Applicant Response: The Mill has been in this location since 1910 and the elements mentioned will have a minimal aesthetic impact to the large building.
- “Economic considerations alone shall not constitute an unnecessary hardship if a reasonable use for the property exists under provisions of this code.”
 - Applicant Response: The intended use of the building is anticipated to serve as an asset to the Town and its residents, and the additional floor space that lies within the 25’ setback would serve to benefit the community as a whole. In addition, the desire to maintain the historical value of the foundation requires this setback encroachment. The patio extension and steps that encroach are necessary to allow access to the required egress/ door located at the south east corner of the building.

3. The improvements along Main St.

A) Stairs and entry canopy

B) Brew tank(s)

A brew tank is required for the function of the brewery which is the proposed use for the building. The stairs and overhead canopy are required for entering the facility.

- “A situation where the property cannot be reasonably used under the conditions allowed by code.”
 - Applicant Response: Because the building is currently only 29’ from the right of way and the existing first floor is 3.8’ higher than the finish grade, the steps and canopy will need to encroach into the 25’ setback in order to access the first floor. In addition, the use of a brewery requires brew tanks. Because the building is only 29’ from the right of way, any functional items which extend at least 4’ north of the building will need a variance to the 25’ setback.
- “The situation shall result from circumstances unique to the property and shall not be created by the landowner.”
 - Applicant Response: Due to the existing conditions stated above and the proposed use of the building the encroachment is needed.
- “The variance, if granted, will not alter the essential character of the surrounding neighborhood”

- Applicant Response: The Mill has been in this location since 1910 and the elements mentioned will have a minimal aesthetic impact to the large building.
- “Economic considerations alone shall not constitute an unnecessary hardship if a reasonable use for the property exists under provisions of this code.”
 - Applicant Response: As stated above, these requests are based upon access-related building codes, functionality, and a needs-driven basis.

Mr. Horner asked for comments from the public.

There were none.

Ms. Berry reported the following:

The applicant is Katy Thompson, of Ripley Design, Inc, representing the property owner, Blue Ocean Enterprises, Inc. Ms. Thompson is requesting a variance from Municipal Code Section 16-19-30 to allow for a reduction in building location requirements in the General Commercial (GC) zone district.

Municipal Code Section 16-19-30 states the following:

Minimum setback shall be twenty-five (25) feet. Minimum offset shall be twenty (20) feet unless a lesser offset distance is approved by the Planning Commission.

The property is a developed lot located at 301 Main Street. The site consists of the remnants and foundation of the former Windsor Mill which was recently destroyed in a fire. The variance request is to allow a zero lot line setback and offset to allow for the reconstruction of the Mill site in the former building's footprint. The intent is to reconstruct the new building in the same footprint as the original mill building.

The current variance request is similar to the site plan and proposal of the February 2017 zoning certificate. One modification is that the stairs and loading dock proposed along 3rd Street are not included in this request. The variance request is to allow zero lot line setback and offset for the following specified elements:

- The relocated silo in the southwest corner of the property
- Along Main Street: stairs / entry canopy; brew tank(s)
- Along 3rd Street: reconstructed Windsor Mill building; patio and stairs located to the south of the building.

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.

The current variance request is based upon access-related building codes, functionality, and a needs-driven basis.

- The need for the setback reduction in the southeast portion of the property is to retain the historic silo onsite.
- Reduced setbacks along 3rd Street are necessary to reconstruct the building in its original foundation. Due to the location of the existing foundation, a reconstructed building and any additional features extending from the building (including the patio and stairs to the south), would encroach into the 25' setback. The patio extension and stairs are necessary for access.
- Reduced setbacks along Main Street are necessary to add brew tanks to support the function of the brewery and to add stairs with a canopy for access into the raised first floor elevation.

The Mill was originally built between 1899 and 1910, prior to the Town's adoption of a zoning ordinance. The former structure was built to the property line along its east boundary and within feet of the remaining property lines. The property owner obtained the property with the vision to restore the historic structure and repurpose it as a functioning site in the downtown. In February of 2017, the property owner obtained a Board of Adjustment Zoning certificate that granted a variance of the Town of Windsor Municipal Code Section 16-19-30 to allow the reconstruction to occur as proposed and the project commenced.

In August of 2017, the project was halted due to a fire that destroyed much of the structure. Although the project has shifted from a restoration project to a reconstruction project, the applicant desires to retain the character of the original historic structure and site layout and reconstruct the building in the original

footprint. And, although legal nonconforming structures are supposed to meet all code requirements when reconstructed, the Town supports the reconstruction of the Mill in a manner that is as historically correct as possible, which necessitates approval of the variance. The silo/grain bin was approved with the previous variance and, since it was not destroyed and has not moved, no action is necessary on this item as it is already approved.

With the removal of the original structure due to the fire, the circumstances supporting the original variance approval have changed, particularly the requirements placed on the property by the State Historic Preservation Program. However, the other facts supporting the February variance decision still exist:

- The variance request was consistent with the character of the downtown neighborhood
- The proposal is consistent with the development pattern in the adjacent Central Business (CB) zone district which allows zero setbacks and offsets
- The proposal follows the Downtown Corridor Plan – Old Town Windsor Sub Area building location guidelines
- The redevelopment of the Mill site is identified as a community goal in the Comprehensive Plan and is consistent with the Town's Strategic Plan.

At the October 11, 2017 regular meeting of the Windsor Historic Preservation Commission, the Commission unanimously approved a recommendation to the Board of Adjustment in support of the proposed setback variance for the Old Windsor Mill at 301 Main Street to allow for reconstruction in a manner that is as historically correct as possible.

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 to allow for the reduced setbacks and offset following findings of fact:

1. The original Mill was built up to the property line along its eastern boundary and within feet of the remaining property lines, similar to other structures in the downtown area.
2. A zero lot line setback and offset for the structure is similar to those of other businesses in the downtown and consistent with the Central Business (CB) zone district, which is adjacent to the property to the north and west.
3. A zero lot line setback and offset is encouraged in the Town's adopted Downtown Corridor Plan – Old Town Windsor Sub Area.
4. The current proposed plan is reflective of the previously approved 2017 variance for the redevelopment of the Mill site with only the removal of exterior stairs and loading dock.
5. The redevelopment of the Mill site is identified as a community goal in the 2016 Comprehensive Plan.
6. The redevelopment of the Mill site is consistent with the Town's Strategic Plan.

7. The variance does not alter the character of the surrounding area.
8. The variance does not appear to be contrary to the public interest.
9. The variance does not appear to negatively impact safety, health, and the general welfare of the Town.

Since all motions are to be made in the affirmative, staff also 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 16-19-30;
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. Horner asked for questions.

Mr. Sislowksi asked if there is a change in the brew tanks.

Ms. Thompson stated there are no changes she is aware of.

Mr. Sislowksi asked about the side with zero setbacks and if the edge of the building is going to the zero setback.

Ms. Thompson replied it is tracking the existing foundation which is in the easement. The easement request was approved in April.

Mr. Valdes asked how close the building would be to the street.

Ms. Thompson stated that could not be determined at this point. The project is just in the design stages.

Mr. White expressed without the exact drawing does the applicant go back to the Historical Preservation Board.

Mr. Hornbeck replied that the state is in the process of de listing the property and that would not be necessary.

Mr. Valdes moved to close the Public Hearing; Mr. White seconded the motion. Motion carried unanimously.

Mr. Horner asked for a motion on the variance.

Mr. Valdes moved to approve variance of Municipal Code Section 16-19-30 pertaining to building location in the general Commercial (GC) zone district, 301 Main Street; seconded by Mr. White.

Mr. Horner opened the meeting for discussion by the Board.

Mr. Horner called for a vote on the motion with all members voting in favor of the variance to vote “yes” and all opposed to the variance request vote “no”.

Vote was unanimous for the approval of the variance.

D. COMMUNICATIONS

1. Communications from the Board Members
NONE
2. Communications from staff
 - a. Scheduling of November/December BOA meeting

E. ADJOURN

Mr. Sislowksi moved to adjourn; Ms. Dionne seconded the motion. Motion carried unanimously.

The meeting was adjourned at 8:00 p.m.

Jessica Scheopner, Customer Service Supervisor



MEMORANDUM

THIS ITEM HAS BEEN RE-SCHEDULED FOR THE APRIL 26, 2018 BOARD OF ADJUSTMENT MEETING PER REQUEST BY THE APPLICANT

Date: March 22, 2018
To: Board of Adjustment
From: Millissa Berry, AICP, Senior Planner
Re: Public Hearing – Variance of Municipal Code Section 16-9-100(a)(4) pertaining to illuminated building-mounted signs within 150' of residential districts/developments, Nicole Vatrano, DeVinci Sign Systems, Inc, applicant
Item #: C.1.

Background

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.

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.

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 non-residential 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.

Recommendation

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.

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

Notification

February 6, 2018 development sign posted on the subject property.

February 9, 2018 public hearing notice posted on Town of Windsor website.

February 9, 2018 public hearing notice published in the paper.

Attachments

Application materials

Presentation

CC: Nicole Vatrano, DeVinci Sign Systems, Inc.



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*: 4555 Highland Meadows Pkwy., Windsor, CO

Lot: 1 **Block:** 4 **Subdivision:** Industrial Park

A variance is being requested from the following Municipal Code section(s)*:
Sec 16-9-100 (4)

3

OWNER:

Name(s)*: Highlands Industrial LLC

Address*: 4555 Highland Meadows Pkwy., Windsor, CO 80550

Phone #*: 970-674-2488 Email*:

APPLICANT or REPRESENTATIVE:

Name*: DaVinci Sign Systems Inc.

Address*: 4496 Bents Dr., Windsor, CO 80550

Phone #*: 970-203-9292 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 complete 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*.**

We would like the consideration of the board to allow this location an illuminated sign. This location is zoned commercial, and all other tenants on this building have illuminated signs. All of the signs on this building face West and do not project light or even face a residential district. The residential district is North of the building. There are no signs on the North elevation of the building.

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.**

This situation is unique due to this property being zoned commercial and, all other tenants on this building have illuminated signs. All of the signs on this building face West and do not project light or even face a residential district. The residential district is North of the building. There are no signs on the North elevation of the building.

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

If this variance is granted the essential character of the surrounding neighborhoods will be conforming. This location is zoned in a commercial zone, and all other tenants on this building have illuminated signs. The residential district is North of the building. There are no signs on the North elevation of the building. The proposed signage will not project light nor will it even face a residential district. The light from these signs does not project out of the side of the sign due to the aluminum returns on each letter.

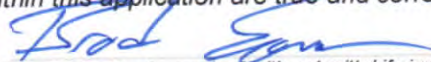
4. **Economic considerations alone shall not constitute an unnecessary hardship if a reasonable use for the property exists under the provisions of this Code*.**

There is no economic hardship in this case. We are requesting that the board allow the same signage that the other tenants are allowed at this location.

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: January 24, 2018

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

Print Name: Brad Evans

Submitted On: 1/24/18

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

*Required fields

COLORS

- 83 BRIGHT ORANGE
- 11 DARK BLUE

ELECTRICAL REQUIREMENTS

* (1) 20 AMP-120 VOLT CIRCUITS

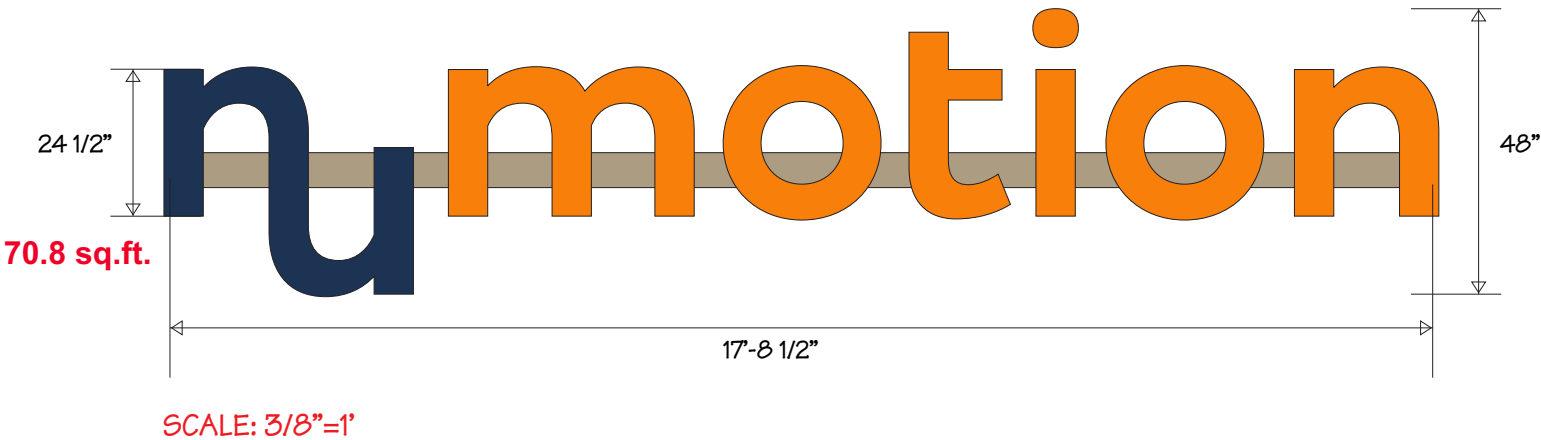
GENERAL NOTES

- FRONT LIT CHANNEL LETTERS ON RACEWAY
- > 5" DEEP CHANNEL LETTERS
- > .040" ALUMINUM RETURNS (BLACK)
- > .080" ALUMINUM BACKS
- > ACRYLIC FACES
 - * PERFORATED VINYL ON FACES (DARK BLUE/ORANGE)
 - * WHITE ILLUMINATION AT NIGHT
- > 1" TRIMCAP
 - * BLACK
- > WHITE SLOAN LEDs
- > 6"T x 5"D ALUMINUM RACEWAY
 - * LED POWER SUPPLIES LOCATED IN RACEWAY
 - * RACEWAY PAINTED TO MATCH BUILDING COLOR: Sw7544
 - * POWER LOCATION OUT MIDDLE/BACK

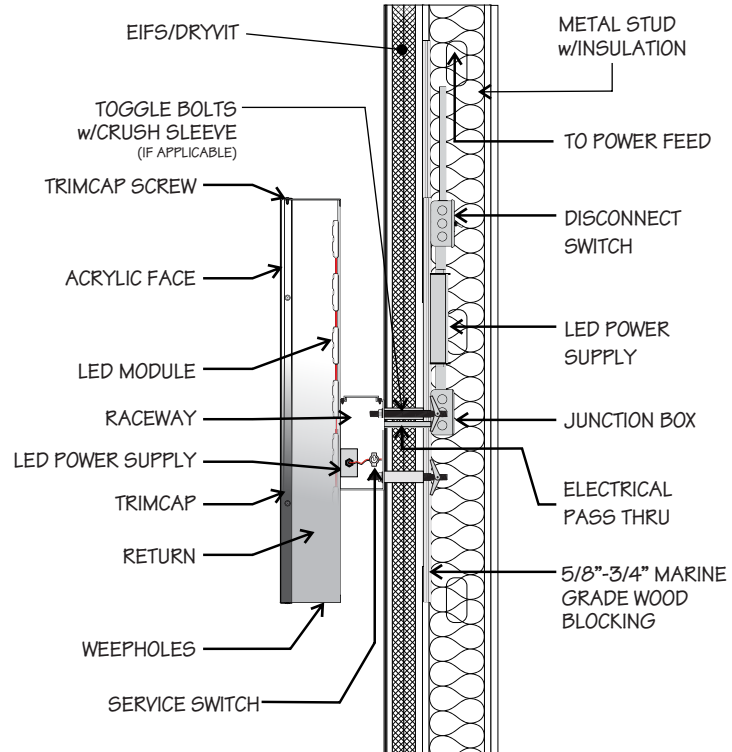
SIGN CALCULATIONS

> SIGN PROPOSED: 70.8 sq. ft.

Fenland SW 7544



***NOTE: NOT TO SCALE. WALL DIMENSIONS AND CONSTRUCTION MAY VARY.



Sign Type: CHANNEL LETTERS ON RACEWAY
Wall Type: WALL CONSTRUCTION DETAILS TBD
Fastener Type: TOGGLE BOLTS w/CRUSH SLEEVES

CONNECTICUT
780 FOUR ROD RD.
BERLIN, CT
PHONE (860) 829-9060

MASSACHUSETTS
21 LARSEN WAY
NORTH ATTLEBORO, MA
PHONE (508) 809-4638

THIS DRAWING IS THE PROPERTY OF
NATIONAL SIGN CORPORATION AND ALL
RIGHTS TO ITS USE FOR REPRODUCTION
ARE RESERVED BY NATIONAL SIGN CORP.

CLIENT/PROJECT
numotion
Mobility starts here.

LOCATION:
4555 HIGHLAND MEADOWS PKWY
WINDSOR, CO

FILE NAME:
NUMOTION
WINDSOR, CO

DRAWING NO.
56967-01

SCALE
SCALE AS MARKED

DRAWN BY:
DDD

DATE:
06/29/17

PROJECT MANAGER
TRACY

REVISIONS
REV. 1: 00/00/00
07/11/17
REV. 2: 00/00/00



North Elevation facing the residential district

Proposed location of sign not facing residential district

Illuminated Sign

Illuminated Sign

4555 Highland Meadows Pkwy



Variance Request:
4555 Highland Meadows
Parkway -
Highland Meadows Industrial
Park Lot 1 Block 4

*Allowing an illuminated building-mounted sign
within 150' of a residential district /
development*

Board of Adjustment April 26, 2018

Variance Request

Variance of Municipal Code Section 16-9-100(a)(4) to allow for an illuminated building-mounted sign within 150 feet of a residential district or development.

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.



4555 Highland Meadows Parkway

Town of Windsor Board of Adjustment – April 26, 2018

Site Vicinity Map



Zoning Map





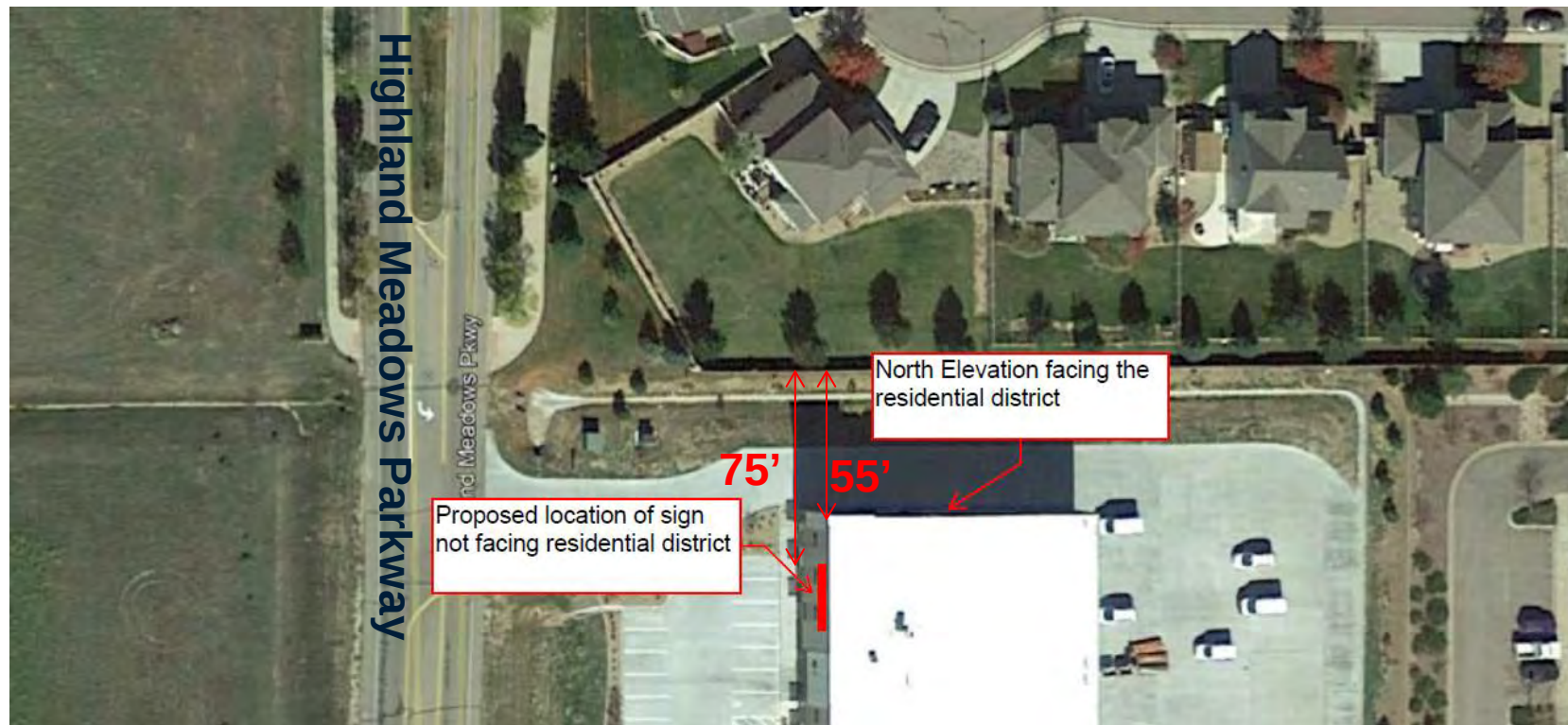
Site

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.



Site



Sign Design

COLORS

- 83 BRIGHT ORANGE
- 11 DARK BLUE

ELECTRICAL REQUIREMENTS

- (1) 20 AMP-120 VOLT CIRCUITS

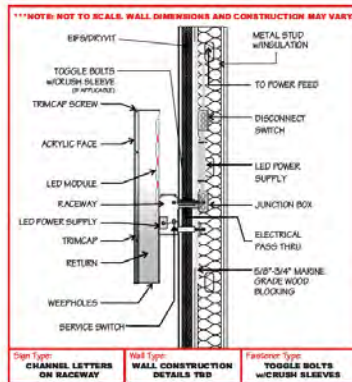
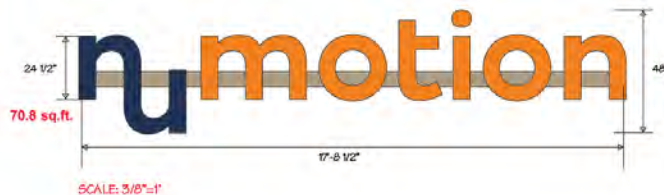
GENERAL NOTES

- FRONT LIT CHANNEL LETTERS ON RACEWAY
- > 5" DEEP CHANNEL LETTERS
- > .040" ALUMINUM RETURNS (BLACK)
- > .020" ALUMINUM BACKS
- > ACRYLIC FACES
- * PERFORATED VINYL ON FACES (DARK BLUE/ORANGE)
- * WHITE ILLUMINATION AT NIGHT
- > 1" TRIMCAP
- * BLACK
- > WHITE SLOAN LED®
- * 6TT x 6TD ALUMINUM RACEWAY
- * LED POWER SUPPLIES LOCATED IN RACEWAY
- * RACEWAY PAINTED TO MATCH BUILDING COLOR: SW7544
- * POWER LOCATION OUT MIDDLE/BACK

SIGN CALCULATIONS

- > SIGN PROPOSED: 70.8 sq. ft.

Fulland SW 7544



NATIONAL SIGN
CORPORATION
www.nationalsign.com

CONNECTICUT
780 FOUR EDD RD.
BERLIN, CT
PHONE (860) 833-9000

MASSACHUSETTS
21 LARSEN HWY.
NORTH ATTLEBORO, MA
PHONE (508) 809-4638

THIS DRAWING IS THE PROPERTY OF
NATIONAL SIGN CORPORATION AND IS
LOANED TO YOU FOR REPRESENTATION
AND NOT TO BE REPRODUCED OR
REPRODUCED IN ANY MANNER, WITHOUT

CLIENT/PROJECT
n motion
Marketing & Sales

LOCATION:
4000 HIGHLAND MEADOWS PARK
MINNEAPOLIS, MN

FILE NAME:
N.MOTION
WINDSOR, CO

DRAWING NO.:
50067-01

SCALE:
SCALE AS MARKED

DRAWN BY:
DGO

DATE:
06/23/17

PROJECT MANAGER:
TKACY

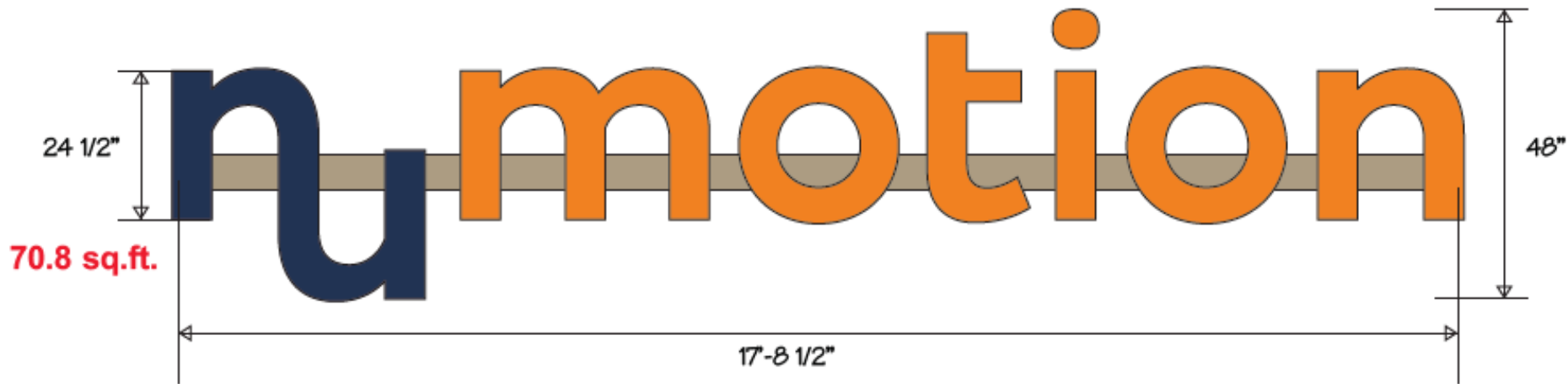
REVISION:
REV. 1: 06/23/17
07/11/17

REV. 2: 06/23/17

UL E164024

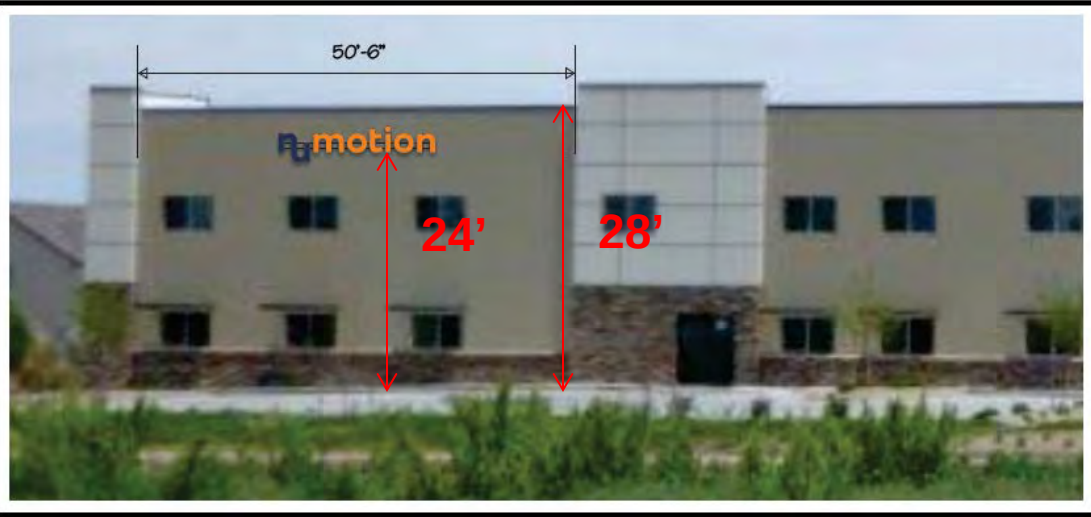


Sign Design





Sign Location



View: To Adjacent Neighbors





View: To Business from Trail



View: Highland Meadows Parkway



Findings

- 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.
- 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.
- Impacts to the public interest and impacts to the residential neighborhood character are recognized.



4555 Highland Meadows Parkway

Town of Windsor Board of Adjustment – April 26, 2018

Recommendation

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:

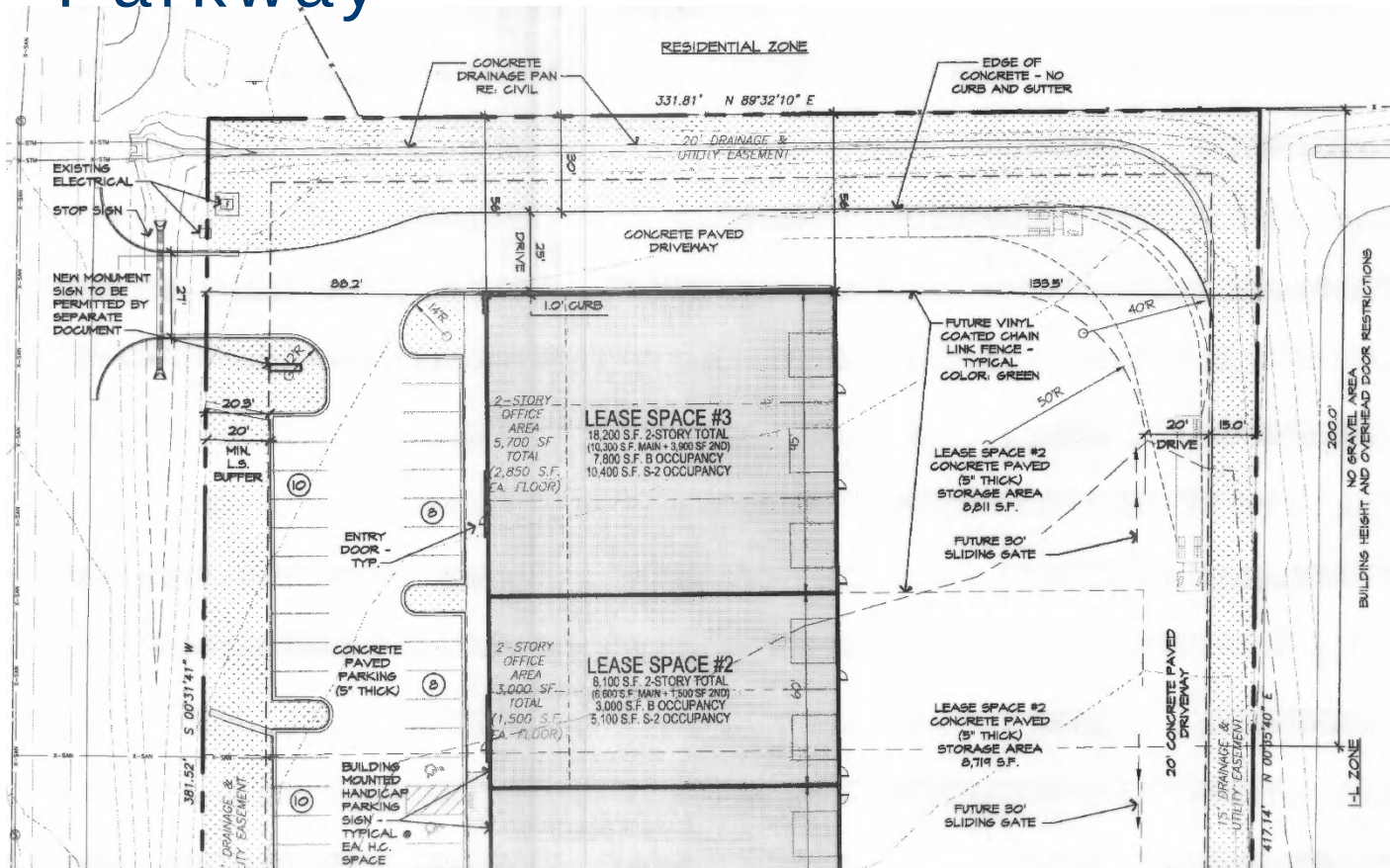
- A motion to approve the request for a variance from Section 16-9-100 (a)(4)
- A second; and
- The Chair calling for the vote as follows: All members in favor of the variance vote “yes”; all opposed to the variance request vote “no”, with a minimum of four “yes” votes required to approve the variance request.



4555 Highland Meadows Parkway

Town of Windsor Board of Adjustment – April 26, 2018

Site Plan : 4555 Highland Meadows Parkway





MEMORANDUM

Date: March 22, 2018
To: Board of Adjustment
From: Millissa Berry, AICP, Senior Planner
Re: Public Hearing – Variance of Municipal Code Section 16-9-100(a)(4) pertaining to illuminated building-mounted signs within 150' of residential districts/developments, Jennifer Dizmang-Bicycles in Burgundy, LLC, owner; Eric Thompson, Windermere Real Estate, applicant; Kailee Harvey, applicant's representative
Item #: C.2

Background

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.

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 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

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.

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.

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

Notification

March 6, 2018 public hearing notice posted on Town of Windsor website.

March 9, 2018 public hearing notice published in the paper.

March 9, 2018 development sign posted on the subject property.

Attachments

Application materials

Presentation

CC: Kailee Harvey, Windermere Real Estate
Eric Thompson, Windermere Real Estate



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*: _____

Lot: _____ **Block:** _____ **Subdivision:** _____

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

3

OWNER:

Name(s)*: _____

Address*: _____

Phone #*: _____ Email*: _____

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 complete 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*.**

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.***

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

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

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:** _____

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

Print Name: _____

Submitted On: _____

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

**Required fields*

V207 4th Street Variance Application

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

The building is zoned Central Business and is commercial in character; therefore, would most likely be used for a commercial use such as ours. Like most other commercial users, we would like to ensure our customers are able to find our location in the evening. Without the proposed illumination of the sign, excessive effort would be required to ensure business could be conducted as reasonably expected. Most of our clientele, home sellers and home buyers, work typical business hours and find it most convenient to meet in the evening hours. With no streetlights immediately adjacent to the building, visitors may have a difficult time identifying our building, most likely leading to slowing and stopping on the roadway which can lead to hazardous driving conditions for those following. The proposed illuminated sign would help ensure the property can be easily found and reasonably used as it's commercially intended. Not only does this have a negative impact on our clients, but it poses a practical difficulty in relation to recruiting staff and potential real estate agents and a potential public safety hazard if not allowed.

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 commercial and residential properties in this area have coexisted for many years, it is this situation that causes the unique circumstance. These circumstances were not created by the landowner, as this is the only option for sign placement, and there are other commercial properties directly adjacent, which would be allowed illuminated signage. This property is in a unique situation, given that it is 270 feet from the nearest residence and 197 feet from a church (directly south) that operates and holds services often late into the evening.

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

The essential character of the surrounding properties is commercial. Directly to the North is the Hearth Restaurant & Toast Coffee & Wine Bar. Directly to the South is a commercial garage. Directly across the street to the West is a convenience store and gas station. The subtle lighting on this sign will be consistent with the surrounding properties and not nearly as bright as the gas station across the street.

Additionally, a dark sign at night can send a negative message that perhaps the business is not doing well or managed properly; especially when neighboring signs are well lit.

Finally, the nearest residential home is 270 feet from the proposed sign location. The illumination of said sign will not impact that residence or any others in the surrounding neighborhood, therefore is not interfering with the spirit or intent of the sign regulation.

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

Safety - A lit sign will help light up an otherwise dark part of this commercial block, promoting the safety of the numerous pedestrians in the area. While the lighting is very subtle, measuring only 009 lumens from a six foot distance, it will be bright enough to enhance the lighting in the area but not so bright that it will disturb or reach the residential area.

Aesthetic - A well-lit sign will help show that the Windsor downtown area is vibrant and well-kept. The reasonable use of the building will encourage additional foot traffic, creating more eyes on the street and attracting more visitors to the downtown Windsor area.



Windermere

REAL
ESTATE



401

205

205 #1/2

207

212 #102

212212 #104

212 #101

213

215

ST

Current: 270.69 ft
Total: 270.69 ft

328



Variance Request: **207 4th Street -** **Windsor Town Block 11**

*Allowing an illuminated building-mounted sign
within 150' of a residential district /
development*

Board of Adjustment March 22, 2018

Variance Request

Variance of Municipal Code Section 16-9-100(a)(4) to allow for an illuminated building-mounted sign within 150 feet of a residential district or development.

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.



207 4th Street

Town of Windsor Board of Adjustment – March 22, 2018

Site Vicinity Map



Zoning Map





Site

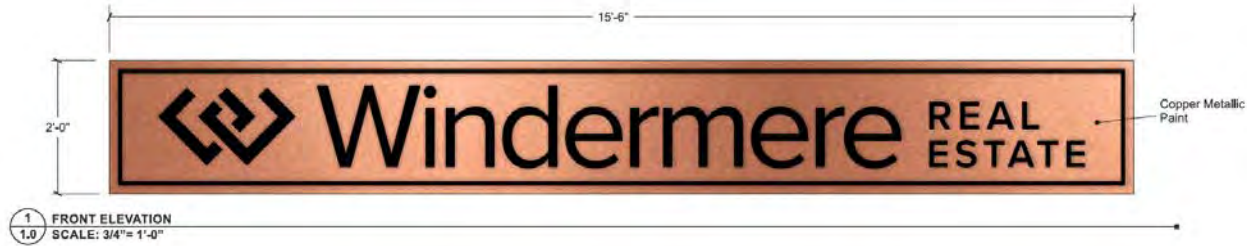


Site





Sign Design & Location



2 PHOTO RENDERING-WALL SIGN PLACEMENT
SCALE: N.T.S.



3 PHOTO RENDERING-ILLUMINATION RENDERING
SCALE: N.T.S.



View: To Adjacent Neighbors





Site

Staff has analyzed:

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



Findings

- It does not appear that special site specific conditions unique to this property 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.
- Staff does not find that an unnecessary hardship exists. The property can be reasonably used under the conditions allowed by the Code. The business is able to have a building mounted sign in the proposed location. It just cannot be illuminated.
- Potential impacts to the public interest and potential impacts to the residential neighborhood character are recognized although impacts may be minimal.



207 4th Street

Town of Windsor Board of Adjustment – March 22, 2018

Recommendation

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:

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



207 4th Street

Town of Windsor Board of Adjustment – March 22, 2018



MEMORANDUM

Date: March 22, 2018
To: Board of Adjustment
From: Millissa Berry, AICP, Senior Planner
Re: Public Hearing – Variance of Municipal Code Section 16-21-20(c)(5) pertaining to the maximum square footage allowable on a lot – Falcon Pointe Subdivision 2nd Filing Lot 2; Amy Tjardes, applicant; Patricia Kroetch, applicant's representative
Item #: C.3

Background

The applicant is Ms. Amy Tjardes and the applicant's representative is Patricia Kroetch of North Star 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 Pointe Subdivision 2nd Filing). The property owner has submitted a minor subdivision request (Falcon Pointe 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.

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 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 uses 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.

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 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 Pointe 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.

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 16-21-20 (c)(5) with the four 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.

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

Notification

March 6, 2018 public hearing notice posted on Town of Windsor website.

March 8, 2018 development sign posted on the subject property.

March 9, 2018 public hearing notice published in the paper.

Attachments

Application materials

Presentation

CC: Patricia Kroetch, North Star Design

Amy Tjardes, 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*: 650 Gyrfalcon Drive

Lot: 1 & 2 **Block:** **Subdivision:** Falcon Point Subdivision, Third Filing

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

Sec. 16-21-20. - Use regulations. Subsection (c) (5) Accessory outdoor storage

3

OWNER:

Name(s)*: SIZZNO, LLC

Address*: 40720 COUNTY ROAD 15 FORT COLLINS, CO 80524-9012

Phone #*: (970) 674-3450 Email*: amy@tmitraffic.com

APPLICANT or REPRESENTATIVE:

Name*: Patricia Kroetch, North Star Design, Inc

Address*: 700 Automation Drive, Unit I, Windsor, CO 80550

Phone #*: (970) 686-6939 Email*: tricia@northstardesigninc.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 complete 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*.**

This application is requesting that Lot 1 and Lot 2 be considered together to determine the 65% outdoor storage area. A sketch of the proposed layout is attached to this application. The purpose of the subdivision of this site into 2 lots is to segregate the floodplain from Lot 1 and place is entirely on Lot 2. This allows Lot 2 to be entirely unencumbered by the floodplain and will enable the owner to obtain financing on this lot and the improvements proposed on this lot (the building and outdoor storage). Without this subdivision, the owner will not be able to obtain financing and will not be able to develop this site.

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.*

This situation (the floodplain) was not created by the landowner. This situation existed when the landowner purchased the property and subdividing the property creates a way for the landowner to finance and develop the site. If the lot were developed without the subdivision, the proposed site would meet the maximum 65% outdoor storage requirement in Section 16-21-20.c.5 without requiring a variance.

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

Granting the variance will not alter the character of the surrounding neighborhood. This proposed site layout is similar in character to the developments existing and/or proposed in the Falcon Point Subdivision. The attached site layout proposes to develop, operate and maintain the site (Lots 1 and 2) as a single site which we are requesting that the code requirements be applied as if it were a single site, not two separate sites. The total area of both lots is 97,995 square feet and the total proposed outdoor storage is 57,755 square feet which is 58.9% of the combined area (Lots 1 and 2 together) but 74.2% of Lot 1 area only.

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

Economic considerations are not the driving force for this variance but the application of the Code as requested (calculating the 65% area based on both Lots 1 and 2) would allow for financing to be obtained which will allow for a better, more appealing project. If bank financing were not an issue, this site would be developed as a single user, single owner project and the layout would look exactly as it is proposed today without the lot division.

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: _____

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

Date: 2/26/18

Print Name: Amy Tjardes

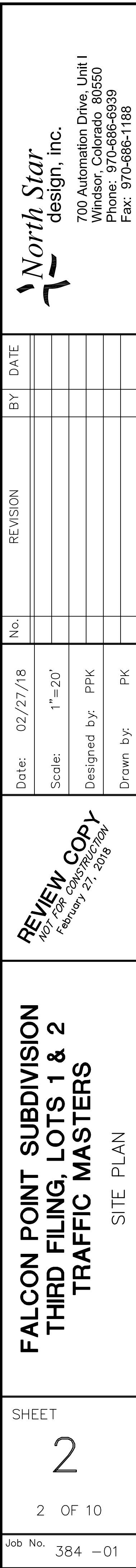
Submitted On: _____

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

*Required fields

Town of Windsor – Planning Department

301 Walnut Street | Windsor, Colorado | 80550 | phone 970-674-2415 | fax 970-674-2456 | www.windsorgov.com





Variance Request: Falcon Pointe Lot 2- 650 Gyrfalcon Drive

*Allowance for accessory outdoor storage area
to be greater than 65% of the site*

Board of Adjustment March 22, 2018

Variance Request

Variance of Municipal Code Section 16-21-20(c)(5) pertaining to accessory outdoor storage area in the Limited Industrial (I-L) District:

“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.”



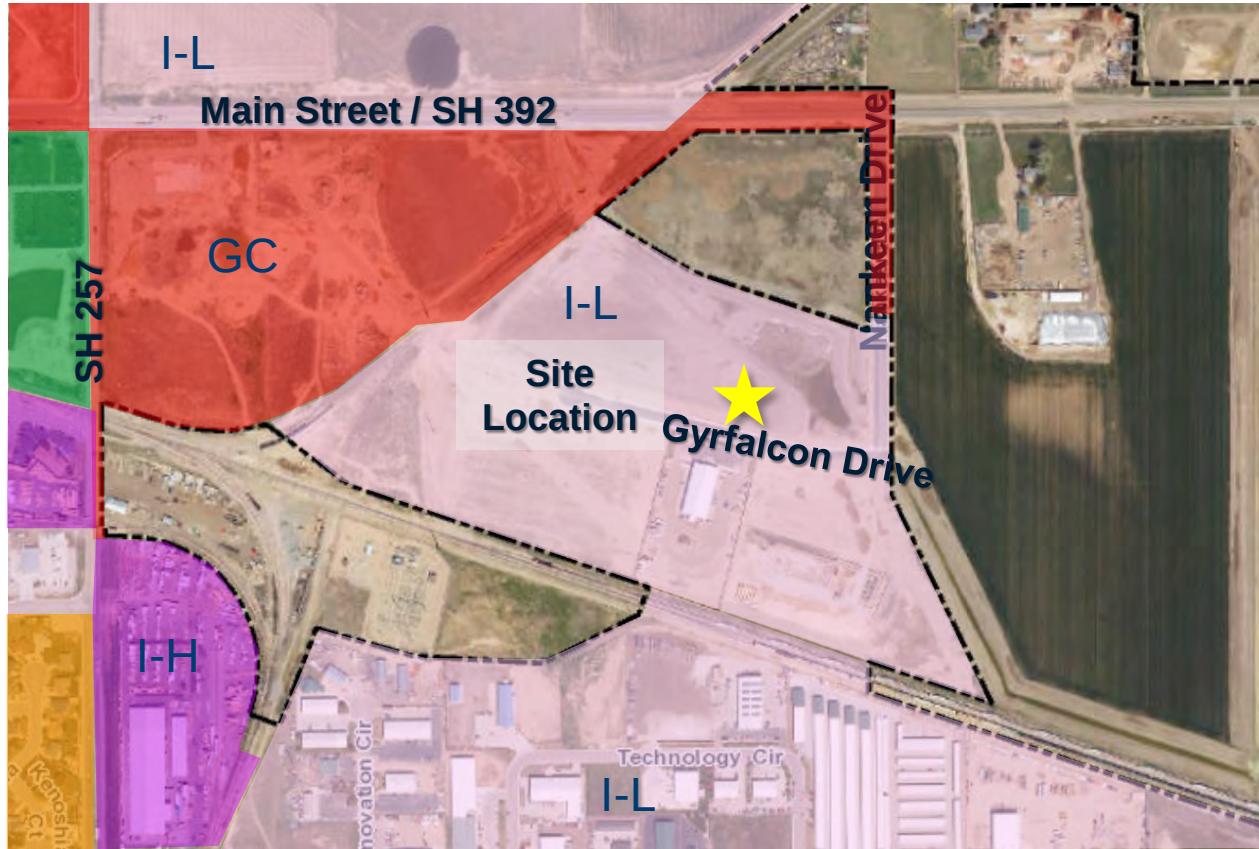
650 Gyrfalcon Drive

Town of Windsor Board of Adjustment – March 22, 2018

Site Vicinity Map



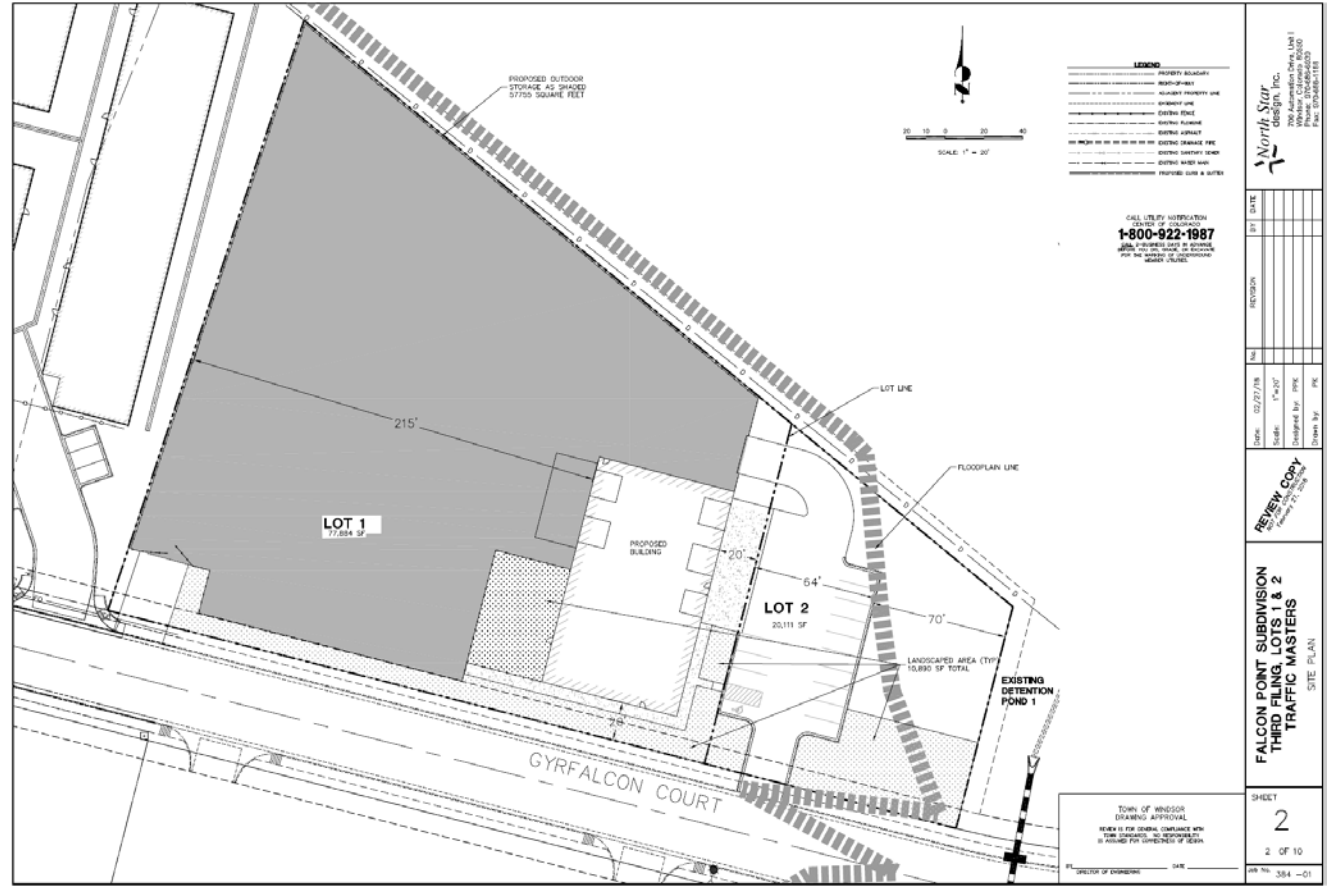
Zoning Map





Site Concept Plan

- 100-year flood plain
- Creation of 2 lots
- Retain single ownership
- All other zoning standards to be met
- 77% of Lot 1 as accessory outdoor storage; 61% of both lots



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.



650 Gyrfalcon Drive

Town of Windsor Board of Adjustment – March 22, 2018

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.



650 Gyr Falcon Drive

Town of Windsor Board of Adjustment – March 22, 2018

Analysis

- The 100-year floodplain restricts the use of the site and ability to finance and insure development. 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.
- The occurrence of the 100-year floodplain was not created by the landowner.



650 Gyrfalcon Drive

Town of Windsor Board of Adjustment – March 22, 2018

Analysis

- The essential character of the surrounding neighborhood would not be altered. The proposal for using both lots would not increase the number of industrial uses in the area and, from appearance, the industrial uses in the area would all be of similar lot size; a number of them have or propose to have accessory outdoor storage areas of similar size to this one.
- Due to the floodplain, it would depend on the financing institution / insurance providers to determine if the property as it exists today can be reasonably used under the provisions of the Code.



650 Gyrfalcon Drive

Town of Windsor Board of Adjustment – March 22, 2018

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.

With the following **recommended conditions of approval**:

1. The site plan meets all other standards of the Code for both Lots 1 & 2 of the Falcon Pointe 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.



650 Gyrfalcon Drive

Town of Windsor Board of Adjustment – March 22, 2018