



BOARD OF ADJUSTMENT / APPEALS REGULAR MEETING

May 24, 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

No items

C. BOARD ACTION

1. Public Hearing – Variance of Municipal Code Section 16-9-100(c)(2) pertaining to major tenant building-mounted sign height – Eagle Crossing Subdivision 5th Filing Lot 2 – Marc Rogers, applicant
 - 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 16-12-40/16-13-40/16-24-40 pertaining to a building location / setback in the Residential Mixed Use District – Town of Windsor (original plat) Lot 14, Block 14 – Chris Medina, applicant
 - 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

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.

- 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 16-12-40 pertaining to building location / setback in the Single-Family Residential District – Winter Farm Subdivision 3rd Filing, Lot 18, Block 6 – Robert and Shauna Fagler, applicants
- 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
 - j. Staff report and Recommendation
 - k. Questions and answers to/from BOA members to/from applicant, public, staff, legal counsel
 - l. Motion to close public hearing and second
 - m. Motion on variance and second
 - n. Board discussion
 - o. Board action on variance request

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, 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*
<u>Thursday, August 23, 2018</u>	7:00 P.M.	Regular Board of Adjustment Meeting*
<u>Thursday, September 27, 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.



MEMORANDUM

Date: May 24, 2018
To: Board of Adjustment
From: Millissa Berry, AICP, Senior Planner
Re: Public Hearing – Variance of Municipal Code Section 16-9-100 (c)(2) pertaining to the height of building signs for major tenant – RBR Crossroads R.E. LLC, owner; Marc Rogers, applicant
Item #: C.1

Background

The following project was tabled at the April 19, 2018 BOA meeting.

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

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

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

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

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

Analysis

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

Variances may be considered where, due to special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship. Variances will not be

granted contrary to the public interest and will only be considered when the spirit of this Chapter can be observed and public safety and welfare secured.

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

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

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

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

Staff has analyzed:

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

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

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

Recommendation

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

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

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

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

Notification

April 3, 2018 development sign posted on the subject property.
April 3, 2018 public hearing notice posted on Town of Windsor website.
April 6, 2018 public hearing notice published in the paper.

Attachments

Application materials
Presentation

cc: Marc Rogers, 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*: 4305 FAIRGROUNDS AVE. WINDSOR, CO 80550

Lot: 2 **Block:** 1 **Subdivision:** EAGLE CROSSING - FIFTH FILING

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

SECTION 16-9-100 (C) (2) MAJOR TENANT: THE HEIGHT OF THE BUILDING SIGNS FOR MAJOR TENANTS SHALL

NOT EXCEED 25% OF THE HEIGHT OF THE BUILDING ELEVATION UPON WHICH THE SIGN IS MOUNTED

3

OWNER:

Name(s)*: RBR CROSSROADS R.E. LLC

Address*: PO BOX 488 TIMNATH, CO 80547

Phone #*: 970-817-0894 **Email*:** MARC.ROGERS@FUZZYSTACOSHOP.COM

APPLICANT or REPRESENTATIVE:

Name*: MARC ROGERS

Address*: 6334 SANCTUARY DR WINDSOR, CO 80550

Phone #*: 970-817-0894 **Email*:** MARC.ROGERS@FUZZYSTACOSHOP.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*.**

THE EXISTING SIGN ORDINANCE DOES NOT ALLOW FOR ANY VERTICAL SIGNAGE OVER 8' IN HEIGHT.
WE WILL BE ATTACHING THE SIGN TO A 25' HIGH SPLICE WALL FEATURE ON THE BUILDING.
THIS VERTICAL SIGN IS AN INTEGRAL PART OF THE FUZZY'S CORPORATE SIGN PACKAGE.
WITHOUT THE VARIANCE WE WOULD HAVE TO SKIP THIS SIGN ALTOGETHER.

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

THE BUILDING DESIGN, SPLICE WALL FEATURE, OVERALL HEIGHT OF THE BUILDING AND PROPOSED VERTICAL SIGN HEIGHT OF 14' HAVE ALL BEEN APPROVED AND ENDORSED BY THE BUILDING DEPT. AND PLANNING PERSONNEL WE WORKED WITH THROUGHOUT THIS PROJECT.

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

THE SIGN IF APPROVED WILL CONFORM TO ALL OTHER SIGN CRITERIA FROM THE TOWN OF WINDSOR AND WAS DESIGNED AND ENGINEERED TO BLEND IN WITH THE DECOR OF THE BUILDING.
ADDITIONALLY THE VERTICAL SIGN IS OVER A LANDSCAPED AREA AND WILL BE A MINIMUM OF 10' FROM THE GROUND.

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

THE HIGH VISIBILITY NATURE OF OUR PROPOSED 14' VERTICAL SIGN WILL CERTAINLY DRIVE MORE TRAFFIC TO OUR BUSINESS. THE 8' HEIGHT RESTRICTION OF THE CURRENT (AND SOON TO BE REVISED) SIGN ORDINANCE WOULD NOT WORK IN OUR PARTICULAR SITUATION. WE SIMPLY HAVE TOO MUCH BUILDING HEIGHT.

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: Marc K. Rogers Date: MARCH 22ND, 2018

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

Print Name: MARC K ROGERS

Submitted On: MARCH 22ND, 2018

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

*Required fields



Variance Request:
4305 Fairgrounds Avenue -
Eagle Crossing Subdivision
5th Filing Lot 2

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

Board of Adjustment May 24, 2018

Variance Request

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

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



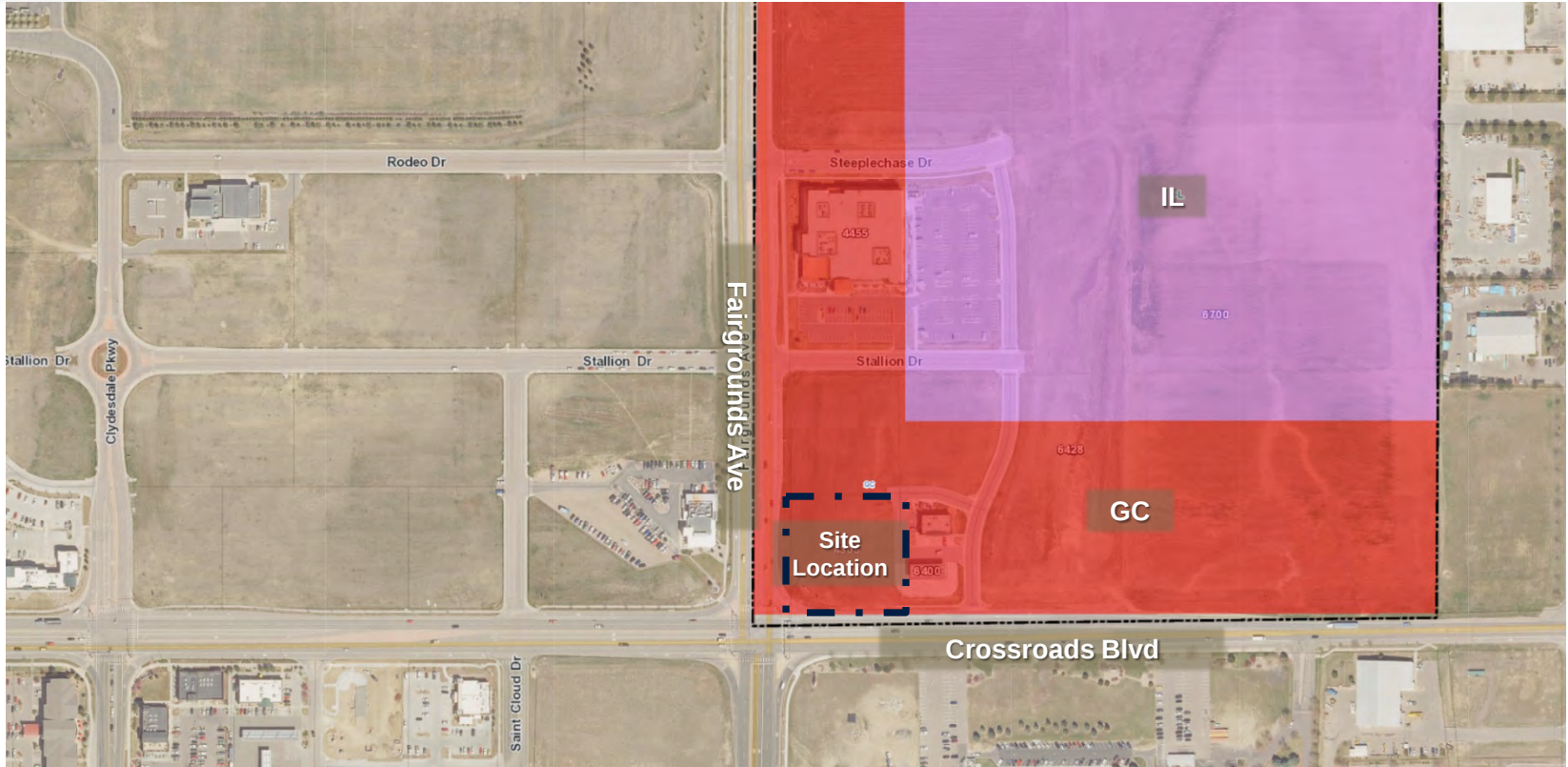
4305 Fairgrounds Avenue

Town of Windsor Board of Adjustment – May 24, 2018

Site Vicinity Map



Site Zoning Map



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.



4305 Fairgrounds Avenue

Town of Windsor Board of Adjustment – April 19, 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.

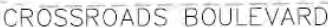


4305 Fairgrounds Avenue

Town of Windsor Board of Adjustment – April 19, 2018



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





Building Elevations

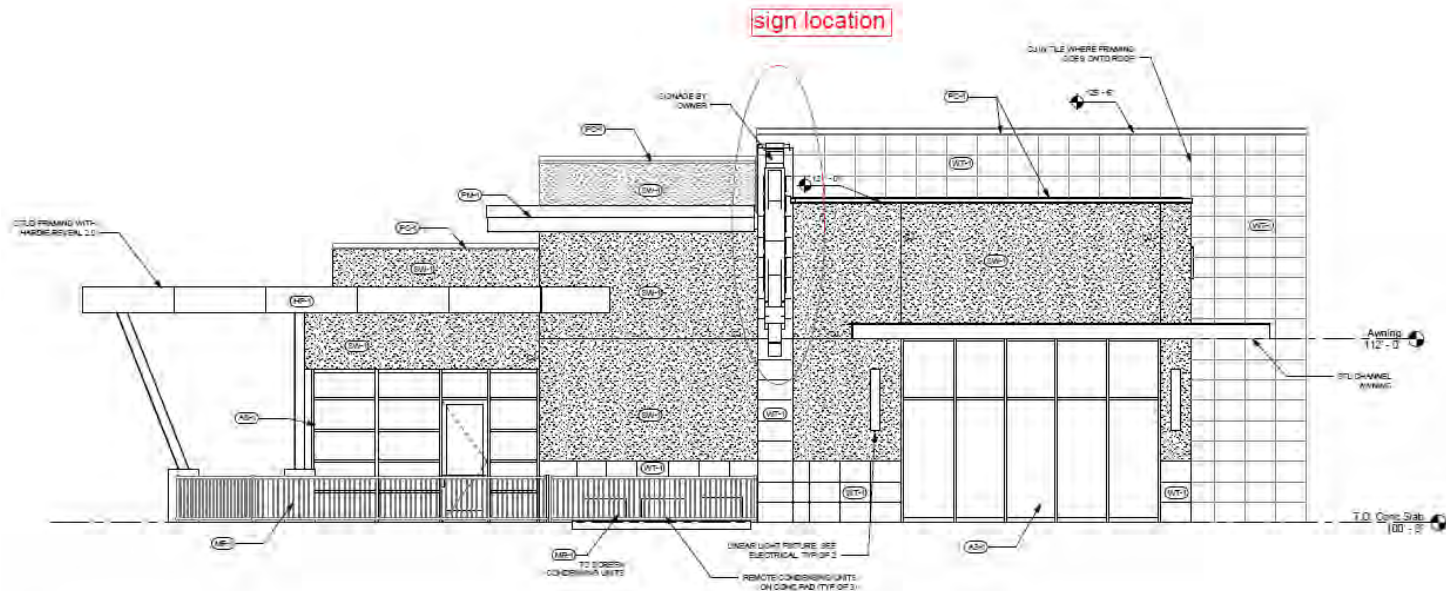


GROUND TABLE DESIGN

Building Elevations



Building Elevations





Sign Design



Findings

- Special site specific conditions do not exist; however, the current sign code does not adequately address vertically-oriented building mounted signs.
- Property is located on arterial roads where a sign of this size is appropriate.
- The proposed sign is proportional to the building and within the allowed sign area for the site. The same dimensions in a horizontal orientation would be allowed.
- The sign fits the character of the neighborhood.
- There will over 10 feet of clearance below the sign which is adequate room to avoid conflict (addresses safety and welfare concerns).



4305 Fairgrounds Avenue

Town of Windsor Board of Adjustment – May 24, 2018

Recommendation

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

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



4305 Fairgrounds Avenue

Town of Windsor Board of Adjustment – May 24, 2018

Recommendation

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

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



4305 Fairgrounds Avenue

Town of Windsor Board of Adjustment – May 24, 2018



MEMORANDUM

Date: May 24, 2018
To: Board of Adjustment
From: Millissa Berry, AICP, Senior Planner
Re: Public Hearing – Variance of Municipal Code Section 16-24-40/16-12-40/16-13-40 pertaining to building location / setbacks – Town of Windsor Original Plat Block 14 Lot 14; Chris Medina, owner/applicant
Item #: C.2

Background

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

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

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

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

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

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

Analysis

The subject lot was created through the original Town of Windsor plat. The north and west property lines are not located immediately adjacent to the sidewalk. The western property line is located approximately 20 feet from the inside edge of the sidewalk. The property is located on a corner lot thus has a double front setback of 20 feet from the north and west property lines.

The 1,000 square foot house was built in 1922 prior to the establishment of the existing standards. It is a non-conforming structure due to setbacks that do not meet the current code standards. The north elevation of the house is approximately 5 feet from the north property line and approximately 9 feet from the west property line. Considering the additional 20 feet to the inside of the sidewalk, the house appears approximately 29 feet from First Street.

Although the garage has a setback of approximately 13.5 feet from the property line, with the additional 20 feet of right-of-way between the garage and the sidewalk, the observable setback is approximately 33.5 feet.

The proposed driveway is planned to access the garage from First Street. The driveway length would be greater than 20 feet including the portion in the right-of-way. The Engineering Department has reviewed the proposal and has asked that the applicant submit a driveway permit request. It has also requested additional information on the sanitary sewer service to determine if the garage would be located over the line.

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

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

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

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

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

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

Staff has analyzed whether an unnecessary hardship exists:

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

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

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

The issuance of the building permit gave the impression that the garage met setbacks and other code requirements. It was not the intention of the applicant to create a non-conforming situation.

- 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 a residential zone and is adjacent to residential properties. The garage would be located within the existing fence line to the south of the lot in an area where accessory buildings were formerly located. The garage addition would not be any closer to the street than the existing house.

It is not foreseen that public safety and welfare will be compromised with the granting the variance request. The garage would be located outside of any visibility triangles and the driveway is of adequate length to avoid vehicles being parked over the sidewalk.

The Town is requesting additional information on the plot plan for the garage addition in order to adequately review the building permit. This includes:

1. The location of the sanitary sewer system, its depth and material.
2. The proposed location of the driveway, curb cut, and curb ramp along First Street.

If the sanitary sewer line is located underneath the proposed garage and if the sewer line is not an approved material, it will need to be replaced prior to finishing the garage. The applicant will also need to submit for a driveway permit.

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 the garage addition to be located as proposed in the building permit application with a setback of approximately 13.5 feet from the western property line - with the following conditions:

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

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 16-24-40 / 16-12-40 / 16-13-40 with the two 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

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

May 10, 2018 development sign posted on the subject property.

May 11, 2018 public hearing notice published in the paper.

Attachments

Application materials

Presentation

CC: Chris Medina, owner/applicant



RECEIVED MAY 02 2018

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*: 29 Main st

Lot: 14 **Block:** 14 **Subdivision:** Windsor Town.

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

16-12-40/16-13-40/16-24-40. Building location.

3

OWNER:

Name(s)*: Chris Medina

Address*: 29 Main St

Phone #*: 970-539-3069

Email*: coachmedina23@yahoo.com

APPLICANT or REPRESENTATIVE:

Name*: Chris Medina

Address*: 29 Main st

Phone #*: 970-539-3069

Email*: coachmedina23@yahoo.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*.**

The House was built in 1922 and is located on First street and Main, and is a corner lot. Because of its age the house itself does not meet the set back requirements for corner lots of 20 feet from said property lines. The structure in question is an attached garage and bonus rooms above that will be located on the south side of the current house. Its set back is further in then the current house by 4.5 feet. This being a new structure it would need to be 20 feet from west property line which it will not be it would be approximately 14 feet from said property line, with reference to the current code. Work on this property has already begun, with footers and foundation walls being constructed. The permit was issued, so work commenced. The issue with property line set backs was discovered later by my surveyor.

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.**

As mentioned the current property already intrudes on the feet property line by almost 10 feet because of its historical age. The attached addition does not intrude in any further but rather is set back further in then the current house of approximately 14 feet. So in essence this does structure does not create issues for future civil structures as it is set back further from the current house.

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

The variance if granted does not alter the character of the neighborhood, in fact this addition will most definitely raise the aesthetic of the neighborhood. In my opinion the house currently is the best well kept house in the neighborhood this will only enhance it.

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

The big hardship that exists for this property is that the current house does not set back 20 feet as the code states, again as it is an old home built in 1922. As so the set back was overlooked when the permit process commenced and the permit was granted.

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: 5/2/2018

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

Print Name: Chris Medina

Submitted On: _____

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

*Required fields

The House was built in 1922 and is located on First street and Main, and is a corner lot. Because of its age the house itself does not meet the set back requirements for corner lots of 20 feet from said property lines. The structure in question is an attached garage and bonus rooms above that will be located on the south side of the current house. Its set back is further in then the current house by 4.5 feet. This being a new structure it would need to be 20 feet from west property line which it will not be it would be approximately 14 feet from said property line, with reference to the current code. Work on this property has already begun, with footers and foundation walls being constructed. The permit was issued, so work commenced. The issue with property line set backs was discovered later by my surveyor.

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.**

As mentioned the current property already intrudes on the feet property line by almost 10 feet because of its historical age. The attached addition does not intrude in any further but rather is set back further in then the current house of approximately 14 feet. So in essence this does structure does not create issues for future civil structures as it is set back further from the current house.

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

The Variance if granted does not alter the character of the neighborhood, in fact this addition will most definitely raise the aesthetic of the neighborhood. In my opinion the house currently is the best well kept house in the neighborhood this will only enhance it.

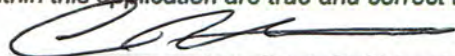
4. **Economic considerations alone shall not constitute an unnecessary hardship if a reasonable use for the property exists under the provisions of this Code*.**

The big hardship that exists for this property is that the current house does not set back 20 feet as the code states, again as it is an old home built in 1922. As so the set back was overlooked when the permit process commenced and the permit was granted.

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: 5/2/2018

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

Print Name: Chris Medina

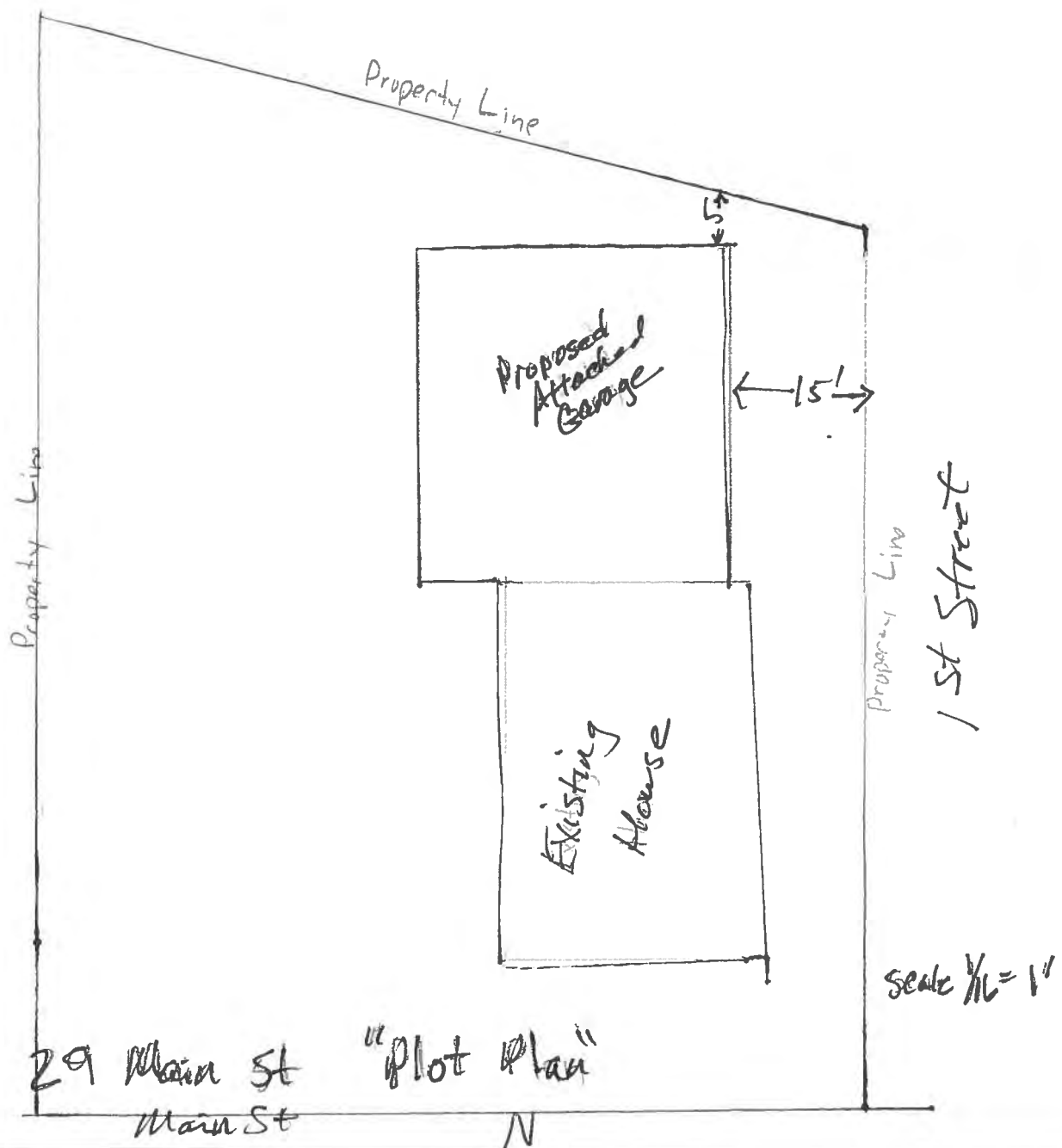
Submitted On:

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

*Required fields

S

→



31

BUILDING SHALL NOT BE USED OR OCCUPIED BEFORE A CERTIFICATE OF OCCUPANCY IS ISSUED BY THE TOWN
This building permit shall be posted at an enclosed conspicuous location and be accessible for duration of construction.

BUILDING PERMIT

Date 4/11/18

Issued by the Town of

WINDSOR

Permit No. 18UTN-004164

Type ☐ Group ☐

FOR INSPECTIONS CALL:

(970) 674-1036 / 1-866-671-1036

Name Chris Medina

Legal Description

Address 29 Main Street

Work To Be Done Garage Addition / living Space Above (Legal Description Continued) Not to be used as APU

Date Inspector

Date Inspector

SETBACKS			CONSTRUCTION		
LETTER			METER		
FOOTING			PERIMETER DRAIN		
LETTER			LETTER		

POUR NO CONCRETE UNTIL ABOVE IS SIGNED

REBAR			U-FER GROUND		
LETTER					
DECK PIERS					

DO NOT BACK FILL UNTIL ABOVE IS SIGNED

ELECTRICAL			PLUMBING		
GROUNDWORK			GROUNDWORK		

DO NOT COVER UNTIL ABOVE IS SIGNED

ELECTRICAL			PLUMBING		
ROUGH - IN			ROUGH - IN		
FRAMING			FLUES - VENTS		
PERMANENT			GAS TEST		
METER					

COVER NO WORK UNTIL ABOVE IS SIGNED

SEWER					
WATER SERVICE					

DO NOT COVER UNTIL ABOVE IS SIGNED

STRUCTURAL FLOOR			REEROOF		
INSULATION			A/C		
			FURNACE		
DRYWALL			WATER HEATER		

FINAL			FINAL		
PLUMBING			HEATING		
FINAL			FINAL		
ELECTRICAL			FIRE DEPT.		

CALL FOR FINAL INSPECTION

Date

Inspector

FINAL					
BUILDING					

Prior to use or occupancy of this building or tenant finish,
check with the Town (970) 686-7476
for all certificate of occupancy requirements for this permit.

REQUIRED MINIMUM DISTANCES FROM PROPERTY LINES: NORTH 5' EAST 5' SOUTH 20' WEST 5'
This Permit Is Not Transferable



Variance Request:

Windsor Town Lot 14

Block 14 - 29 Main Street

Allowance for reduced setback/offset for a garage

Board of Adjustment May 24, 2018

Variance Request

Variance of Municipal Code Section 16-24-40 (and 16-12-40 / 16-13-40) pertaining to building location in the Residential Mixed Use (RMU) District:

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



29 Main Street

Town of Windsor Board of Adjustment – May 24, 2018

Variance Request

Municipal Code Sections 16-12-40 / 16-13-40 pertaining to building location in:

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



29 Main Street

Town of Windsor Board of Adjustment – May 24, 2018

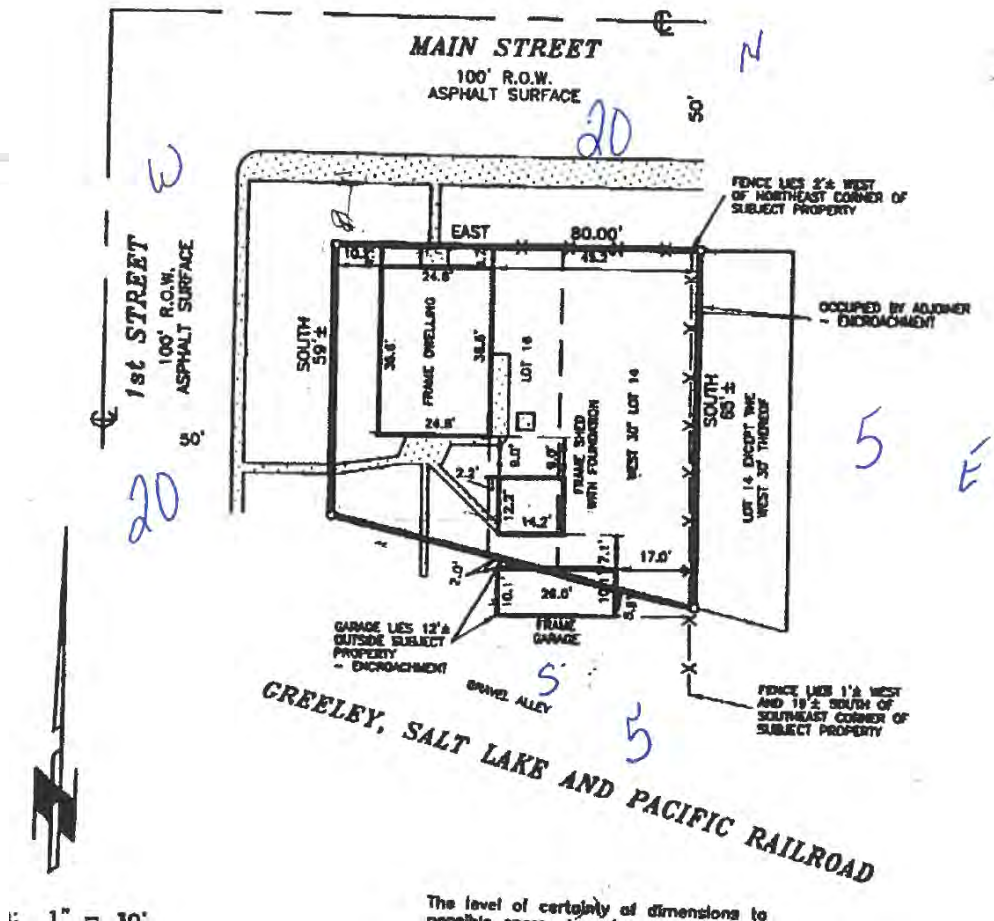
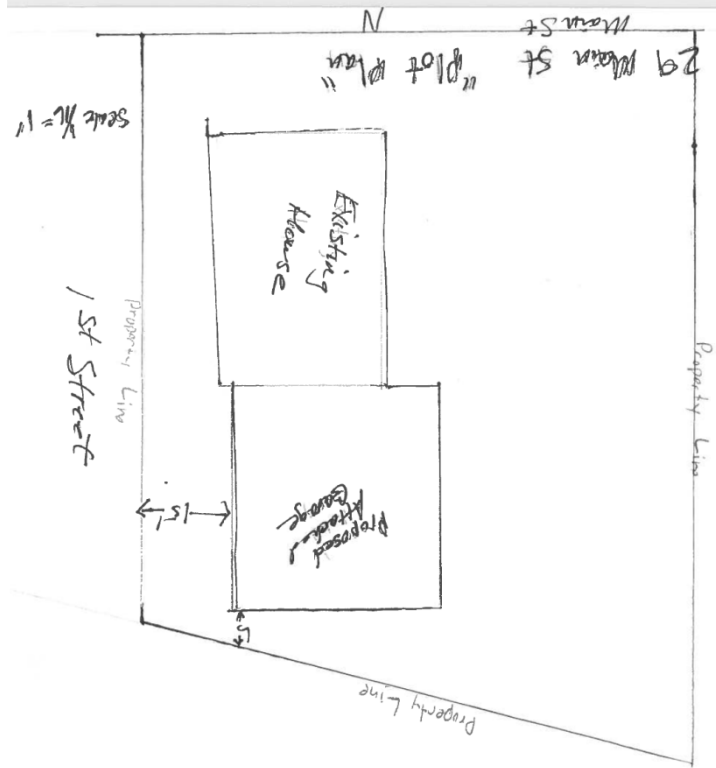
Site Vicinity Map



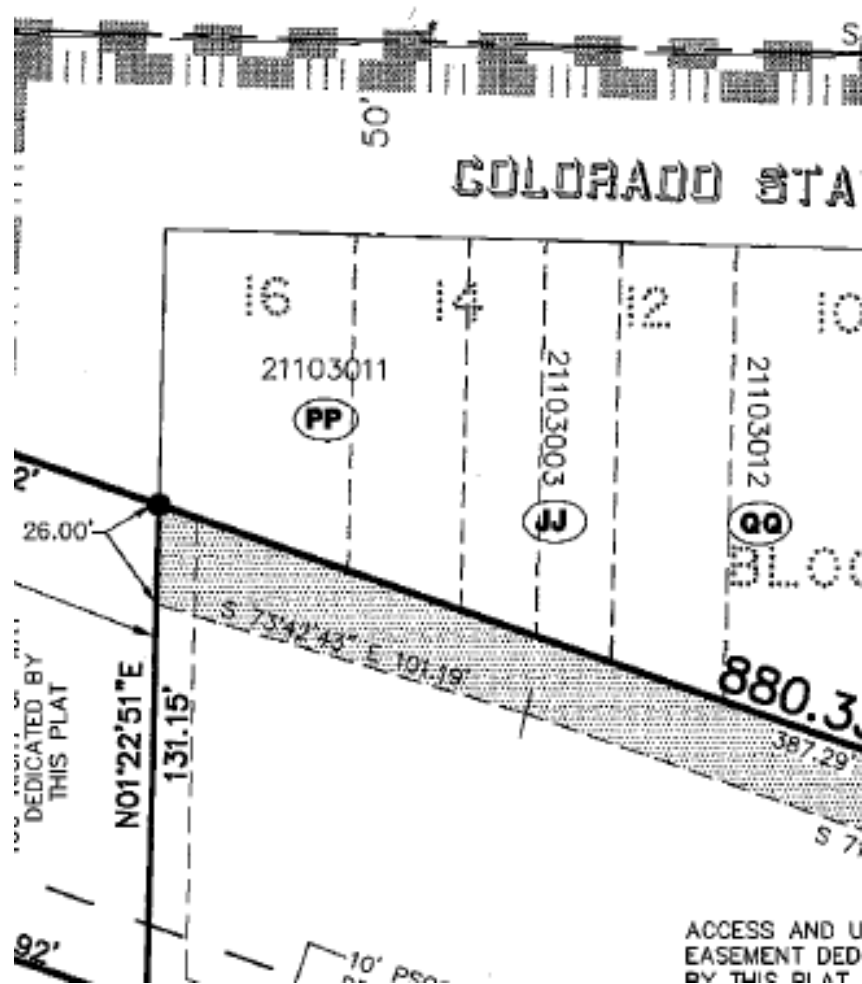
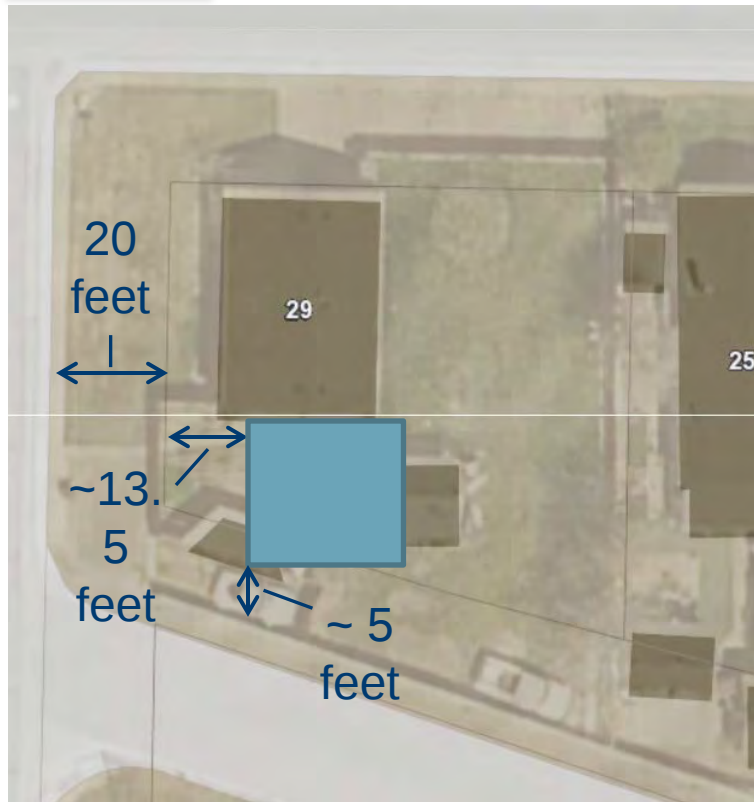
Zoning Map



Site Plan



Site Plan



Site Pictures



Site Pictures



Site Pictures



Site Pictures



Site Pictures



Site Pictures



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.



29 Main Street

Town of Windsor Board of Adjustment – May 24, 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.



29 Main Street

Town of Windsor Board of Adjustment – May 24, 2018

Analysis

- A building permit was issued for the garage – the west property line was viewed as a side lot boundary and not as a street frontage.
- The subject lot was created through the original Town of Windsor plat.
 - The western property line is located approximately 20 feet from the inside edge of the sidewalk.
 - The observable setback is approximately 33.5 feet from the sidewalk.
 - The setback for the garage is greater than the setback of the house.
- The garage is located within the fenced yard where other accessory structures were previously located.



29 Main Street

Town of Windsor Board of Adjustment – May 24, 2018

Analysis

- The property can be reasonably used under the conditions of the Code.
- The issuance of the building permit gave the impression that the garage met setbacks and other code requirements. It was not the intention of the applicant to create a non-conforming situation.
- The essential character of the surrounding neighborhood would not be altered.
- It is not foreseen that public safety and welfare will be compromised.



29 Main Street

Town of Windsor Board of Adjustment – May 24, 2018

Analysis

- The Engineering Department is asking for additional information from the applicant to complete their review of the garage.
 - Information on the location of the sanitation sewer line, its depth and its material is requested to know if the line is located under the proposed garage.
 - Information on the proposed driveway and curb cut along First Street has also been requested.



29 Main Street

Town of Windsor Board of Adjustment – May 24, 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 condition:

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



29 Main Street

Town of Windsor Board of Adjustment – May 24, 2018

Variance Request

Staff requests that the following be entered into the record:

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



29 Main Street

Town of Windsor Board of Adjustment – May 24, 2018



MEMORANDUM

Date: May 24, 2018
To: Board of Adjustment
From: Millissa Berry, AICP, Senior Planner
Re: Public Hearing – Variance of Municipal Code Section 16-12-40 pertaining to building location in the Single-Family Residential (SF-1) District; Robert and Shauna Fagler, owners/applicants
Item #: C.3

Background

This item was originally published as a variance to section 16-8-30 and 16-12-40. After discussions with the planning staff, it has been determined that the variance is only for code section 16-12-40.

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

Municipal Code Section 16-12-40 states the following:

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

The applicants are proposing a 100 to 120 square foot shed to be located in the northeast corner of the property addressed as 698 Vermilion Peak Drive. The property is a corner lot with frontage on Vermilion Peak Drive and Sundance Drive. The shed, which would be constructed to match the features and colors of the main house, is proposed to be located in the northeast corner of the lot. The shed may be taller than 8 feet. If it is taller than 8 feet, a building permit would need to be obtained for the structure and setback / offsets observed.

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

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

The proposed location is an area where the shed would be outside the drainage area and not located over utilities. There is a utility easement platted along the north property line but no utilities are currently located in the easement. The shed would not be on a permanent foundation

but kept on skids so that it can be moved if necessary. If utilities are to be located in that area, the shed would be moved to allow for it.

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

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

Analysis

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

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

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

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

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

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

Staff has analyzed whether an unnecessary hardship exists:

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

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

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

The property has a large area that must be left open to allow for proper drainage of the site. This area takes up a large portion of the backyard to the east of the house and side yard to the north of the house. The house is built to the south side setback (offset) line so there is no additional room in the side yard to accommodate a shed. Utilities are located in the south-east corner of the lot and along the east property line. These parameters reduce the possibilities for where a shed could be located. With the conditions of the site and the limited access of Sundance Drive, the location of the shed appears to be in the rear yard and side yard of the property.

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

The essential character of the surrounding neighborhood would not be altered. The applicants have received approval of the shed design and its location from the Winter Farm Homeowners Association / Metro District. The shed will match the construction features and colors of the main house. The permitted 6-foot privacy fence will also screen the shed from offsite vantage points.

- d) Public safety and welfare are not compromised.

The shed's location should not negatively impact public safety and welfare. The shed's location would not encroach into the sidewalk or block visibility at intersections. The shed would be movable if utilities were installed along the north portion of the site.

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 with the following conditions:

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

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

1. A motion to approve the request for a variance from Section 16-12-40 with the two 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 9, 2018 public hearing notice posted on Town of Windsor website.

March 10, 2018 development sign posted on the subject property.

March 11, 2018 public hearing notice published in the paper.

Attachments

Application materials

Presentation

CC: Robert and Shauna Fagler, applicants



VARIANCE APPLICATION

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

1

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

2

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

Property Address*: 698 Vermilion Peak Drive

Lot: 18 Block: 6 Subdivision: Winter Farm 3rd Filing

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

16-5-30 & 16-12-40

3

OWNER:

Name(s)*: Robert and Shauna Fagler

Address*: 698 Vermilion Peak Drive

Phone #*: 970-381-8003

Email*: mountainbound13@gmail.com

APPLICANT or REPRESENTATIVE:

Name*: Same

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.*

SEE ATTACHED

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

SEE ATTACHED

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

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: 5-1-2018

Print Name: Robert Fagler

Submitted On: 5-1-2018

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

*Required fields

Attachment for Variance Application for 698 Vermilion Peak Drive

I believe I have a hardship due to the following conditions:

2. The situation shall result from circumstances unique to the property and shall not be created by the landowner.

I started the purchase process for this property early last year. When the Town approved how the house sat on the property, it pushed the house as far the rear of the property as allowed by the code. Several weeks before closing, the Town had the builder add additional berming behind the property to the East for potential flooding. When the large berm was added, there was a drainage swale added to my property. This limits my back yard landscaping because the Town will not allow the grading to be changed in the rear yard. The slopes are significant in the area technically allowed for shed placement with 12 inches of grade difference.

Due to house placement from Town direction, it has limited the size of the back yard. Where the Town technically allows shed placement is also reduced by the 5 foot utility easement in the rear.

In an email from Town planner Paul Hornbeck, he gives a diagram of where I can place my shed. In the same email he stated that drainage cannot be blocked. The only places on the diagram he says a shed can be placed will definitely block the drainage.

The non-potable water system also prevents shed placement in the South portion of the back yard.

I am requesting a variance to the 20-foot setback rule to allow a shed to be placed in my side yard. Also per the Town, it will be placed 5 feet from the rear property line because there are utilities in that area. In research with Town Engineering, Specifically Desa Blair, there are no utilities in the 20-foot setback area where the shed can be placed.

The shed will be on skids if it were to ever have to be moved for easement or utility reasons.

The rear of my yard backs up to vacant land. I spoke briefly with the landowner and he stated that when he dies his Trust restrictions will not allow any building for 20 years. Also, my property is on a dead end street and the rear of my yard is at the dead end.

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

In an email from Town planner Paul Hornbeck, he states that buildings cannot be placed in setbacks due to aesthetics.

Usually HOAs and covenants have the strictest guidelines for new neighborhoods to keep the aesthetics pleasing. I have an approval letter for my shed placement from the Design Review Council for Winter Farm.

I will build the shed to match construction style, colors and roof design of my house. It will be behind a 6-foot privacy fence, limiting how much of the shed you can see. It will look like the house and keep the character of the neighborhood.

Winter Farm

Metropolitan District

Application for Modifications or Improvements

(District use) Received on: _____

A. General Information:

Owner(s): Robert Fagler
Property Address: 698 Vermilion Peak Dr.
Email Address: mountainbound13@gmail.com Phone Number: 970-381-8003

B. My request involves the following type of improvement:

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

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

Front Yard to be Completed by CLC.
See Attached for additional info.

D. Paint form for exterior paint (if applicable)

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

Base / Body	
Trim	
Front Door	
Accent	

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

CLC for front yard

F. Attachments:

- | | |
|--|---|
| ☐ Color sample / description | ☒ Plot plan |
| ☐ Specifications (e.g. brochure) | ☐ Elevation drawings |
| ☐ Construction plans | ☐ Architectural drawings |
| ☐ Photographs | ☐ Sample of materials |
| ☒ Other <u>Specifics on Fence, Concrete and Shed</u> | |

Winter Farm

Metropolitan District

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

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

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

Planned start date: Late April Planned completion date: _____
Robert E. [Signature] 4-12-18
Homeowner Signature Date

A \$40.00 DRC review fee applies. I prefer to pay this fee via: ☐ Check/Cash (enclosed) ☐ Online Portal
Make check payable to: Winter Farm Metro District ☒ Paid at closing (new homes only)

Design Review Council

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

☐ Approved as submitted.

☒ Approved with the following provisions and/or subject to HOA governing documents: _____

Fence must be setback at least 5' from the front corner of the home as is typical in Winter Farm - see attached photos. Driving on the open space is prohibited. Edging is required where landscaping rock abuts the open space. Shed must match home colors and materials.

☐ Must be completed by: _____

☐ Further information is requested: _____

☐ Denied for the reason(s) stated below:

☐ Improvement does not comply with governing documents: _____

☐ Improvement is not reasonably suited for the lot.

☐ Not an approved exterior paint color

☐ Other reason: _____

Danally Howe
DRC / Board Member / Authorized Representative

4/12/2018
Date

Site plans for 698 Vermilion Peak Drive

Fence:

- North side will be 2 feet off of the sidewalk inside the Town of Windsor easement.
- Proper Encroachment permit has been filed with the Town.
- Will be outside the 40' line of site triangle guidelines per Town requirements
- Request for the Northwest corner to be 2'8" from the front of the garage. There are dozens of houses in Winter Farm that have fences close to the front of the house. I will follow all Town of Windsor rules when it comes to site triangles and have filed for an Encroachment permit. This portion of the Garage is set back 2 feet more than the main garage. Will look aesthetically pleasing from the street. Will start after Stone on house and look better.
- Southwest corner will be at least 5' from that corner of the house

Concrete

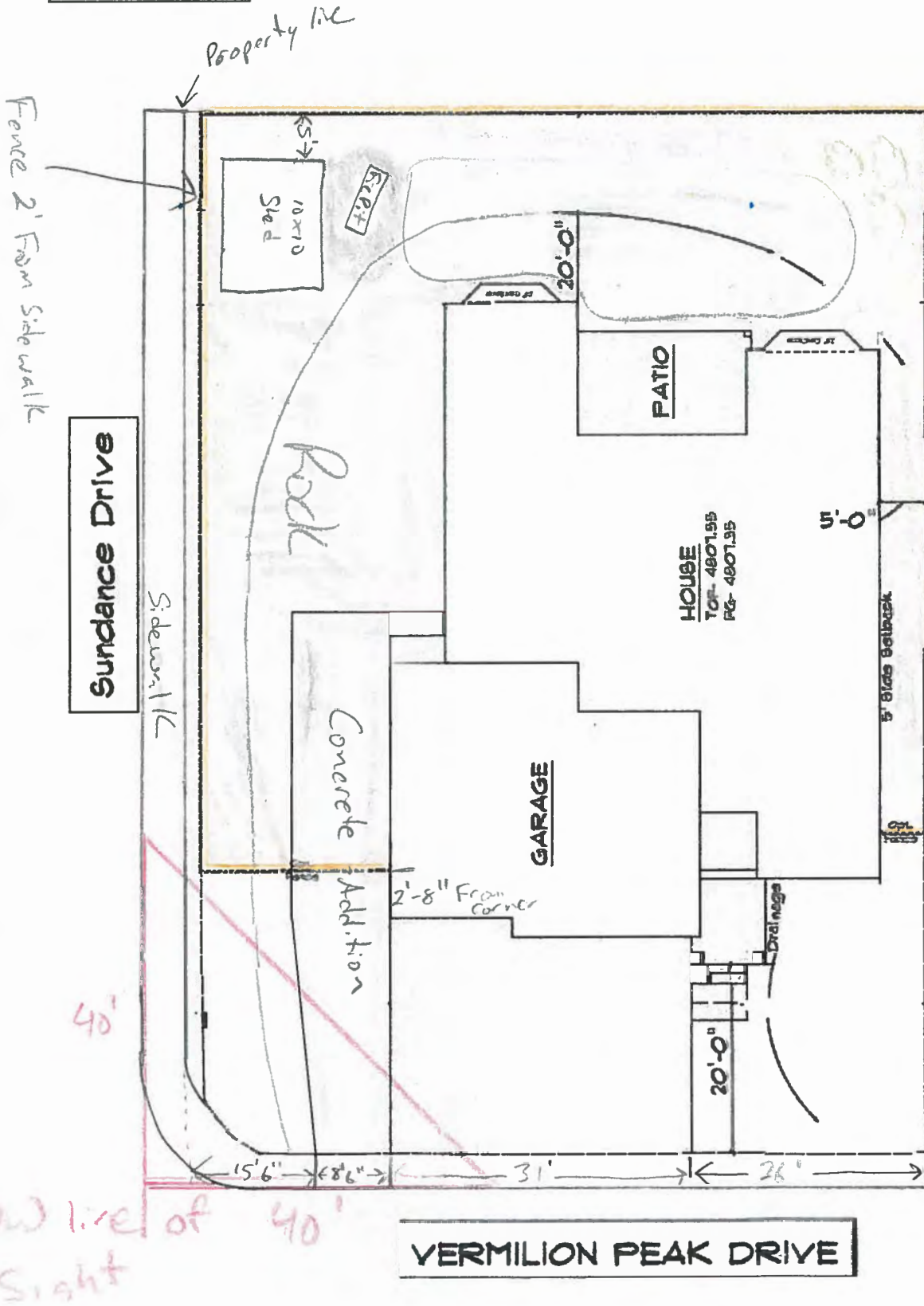
- Have had meetings with Town engineer Desa Blair and the concrete will not interfere with the drainage plan or grade certification. Desa said she will provide me with documentation when the project is finished that will reflect that the initial grade certification is still valid and the drainage meets Town of Windsor guidelines.
- flatwork within the setback is allowed per the Town of Windsor and will be to code.
- I will forward documentation to the Metro District for my file showing all things were done properly per Town guidelines
- Concrete will equal 48% of Front Property

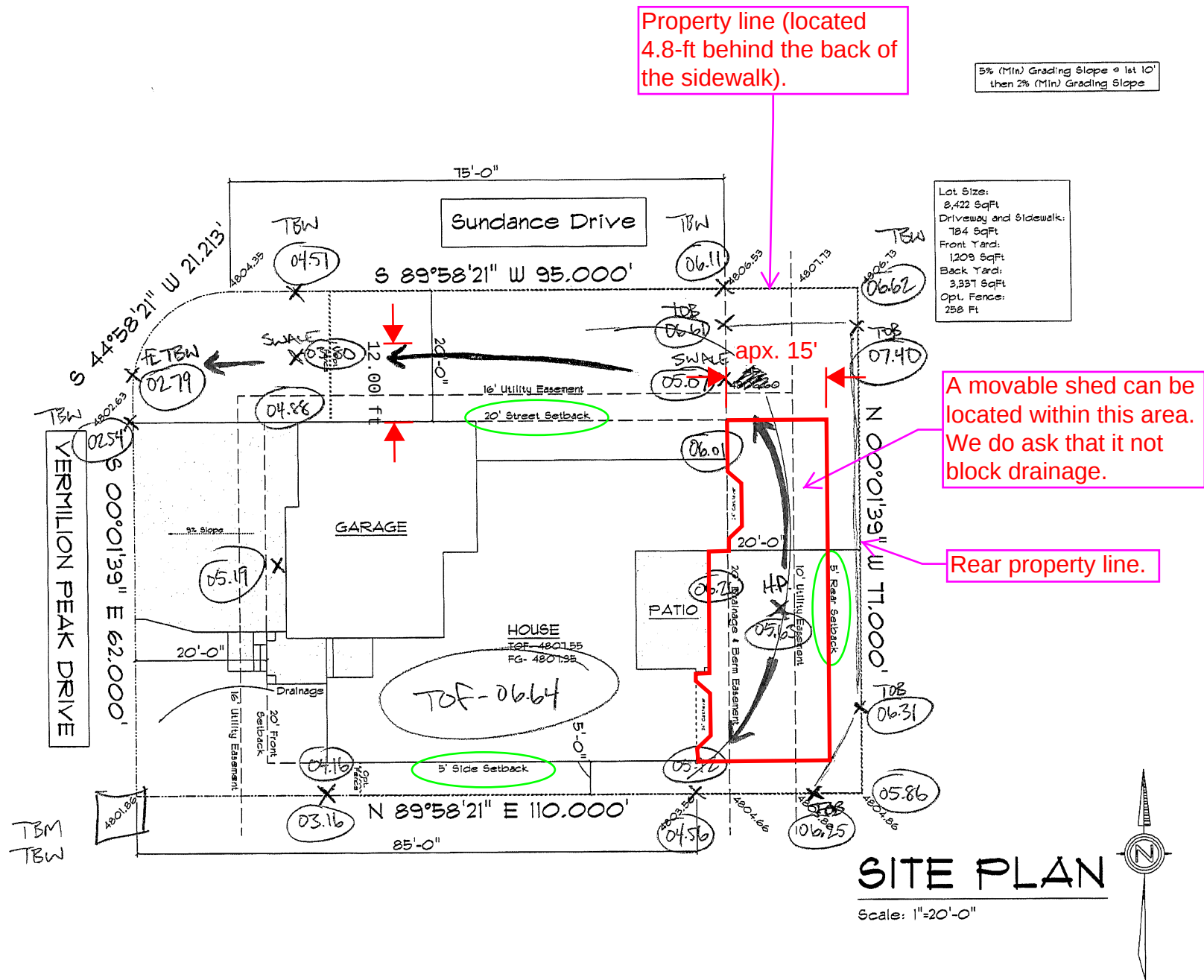
Shed

- Shed is allowed without permit under 120 Square feet.
- Town guideline state the MOVEABLE shed cannot be closer than 5 feet from rear property line.
- Shed will be on Skids and can be moved if necessary. NO permanent slab will be poured for the shed.
- Drainage plan will Not be interfered with.
- Shed will be no larger than 10 x 10
- Shed will match construction features and colors of the main house
- Shed will be built upon town approval



Lot Size:
0.422 Acre
704 Sqft
Front Yard:
1208 Sqft
Back Yard:
9,397 Sqft
Opt. Fences:
230 Ft





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THE SOPHIA
 Winter Farms 3, Lot 18, Block 6
 638 Vermilion Peak Drive
 Bridgewater Homes

Jon K. Remick
 159113
 159113

159113

**TOWN OF WINDSOR
ENGINEERING DEPARTMENT**Permit No. EN-04092018**ENCROACHMENT PERMIT**Date: April 9, 2018Fee: \$15.00

Receipt No.: _____

APPLICANT INFORMATION

NAME:

Robert Fagler

ADDRESS:

698 Vermilion Peak Dr.TELEPHONE NUMBER: (970) 381-8003

CONTACT PERSON:

Robert Fagler

LOCATION OF ENCROACHMENT, OBSTRUCTION OR STRUCTURE: _____

North side of 698 Vermilion Peak Dr. (along Sundance Dr.) 1.8-ft behind the
back of the existing sidewalk.

PURPOSE OF ENCROACHMENT, OBSTRUCTION OR STRUCTURE: _____

6-ft privacy fence (outside of the 40-ft sight triangle)

The applicant agrees to abide by the provisions of Chapter 11, Article III of the Windsor Municipal Code.

Handwritten signature of Robert E. Fagler in black ink.

Signature of Applicant

4-9-18

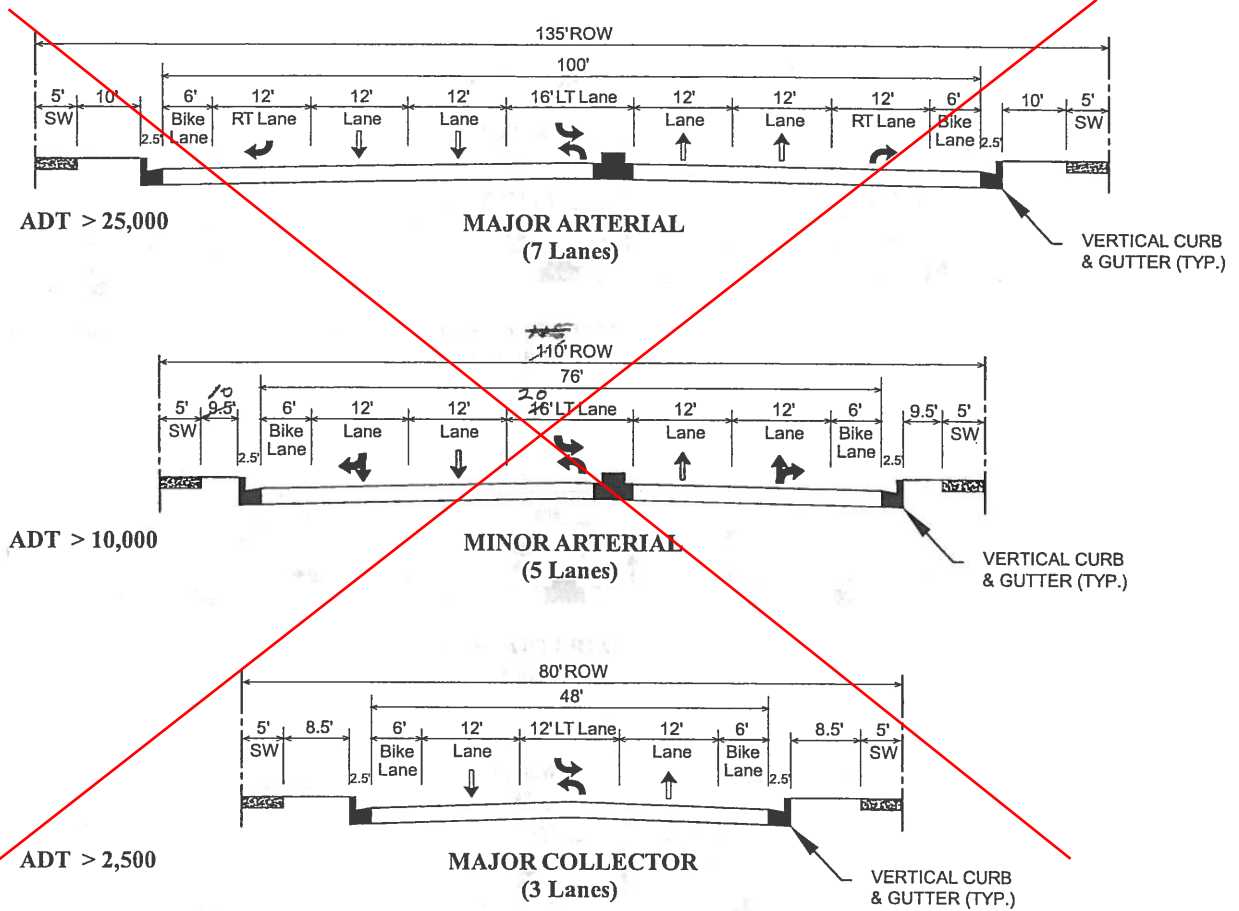
Date

Approved By: _____

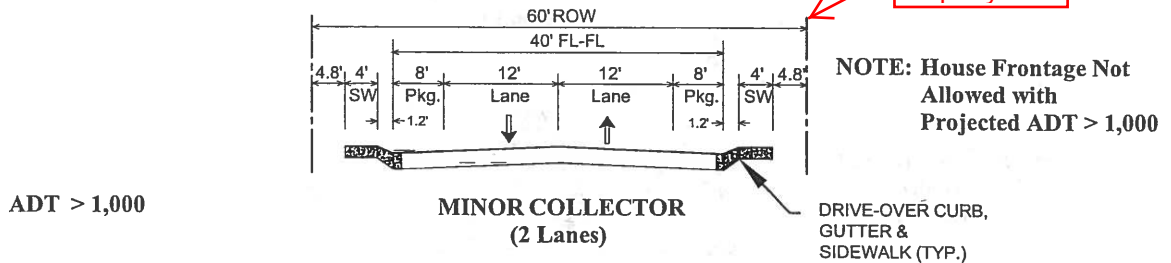
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Engineering Department4-9-18

Date

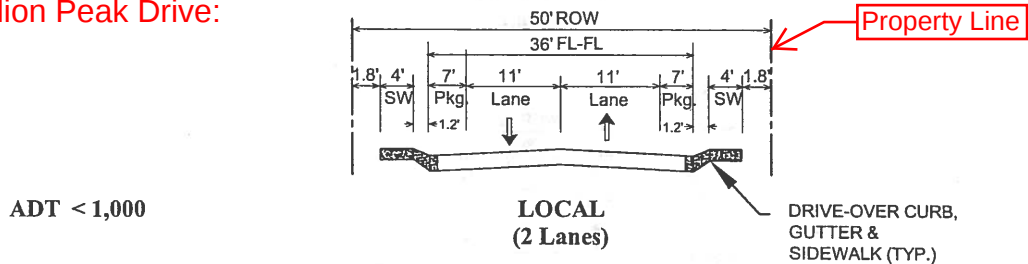
Town of Windsor



Sundance Drive:



Vermilion Peak Drive:



Urban Street Cross-Sections



Variance Request: Winter Farm Subdivision Lot 18 Block 6- 698 Vermilion Peak Drive

Allowance for an accessory structure within setback

Board of Adjustment May 24, 2018

Variance Request

Variance of Municipal Code Section 16-12-40 pertaining to building location:

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



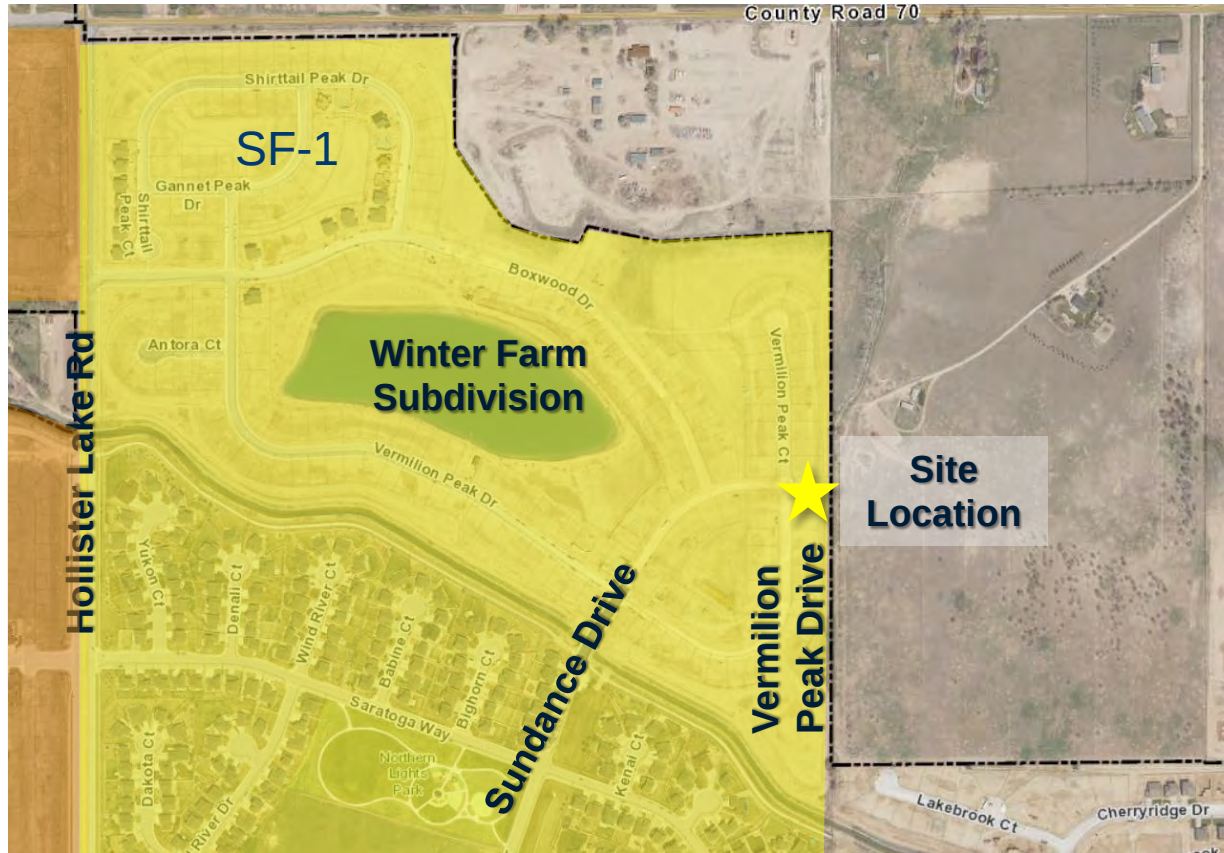
698 Vermilion Peak Drive

Town of Windsor Board of Adjustment – May 24, 2018

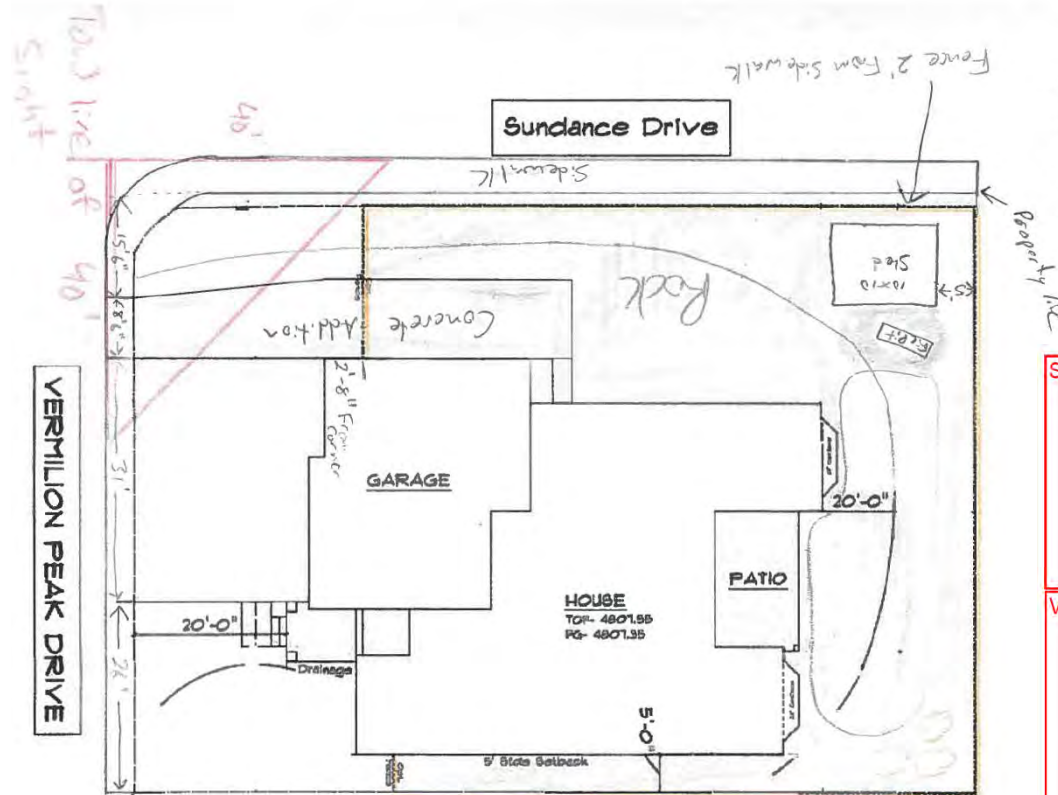
Site Vicinity Map



Zoning Map



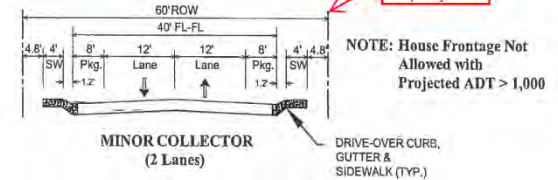
Site Concept Plan



Lot Size:
8,422 SqFt
Driveway and Sidewalk:
784 SqFt
Front Yard:
1206 SqFt
Back Yard:
5,931 SqFt
Opt. Reten:
259 Ft

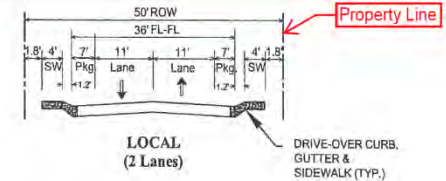
Sundance Drive:

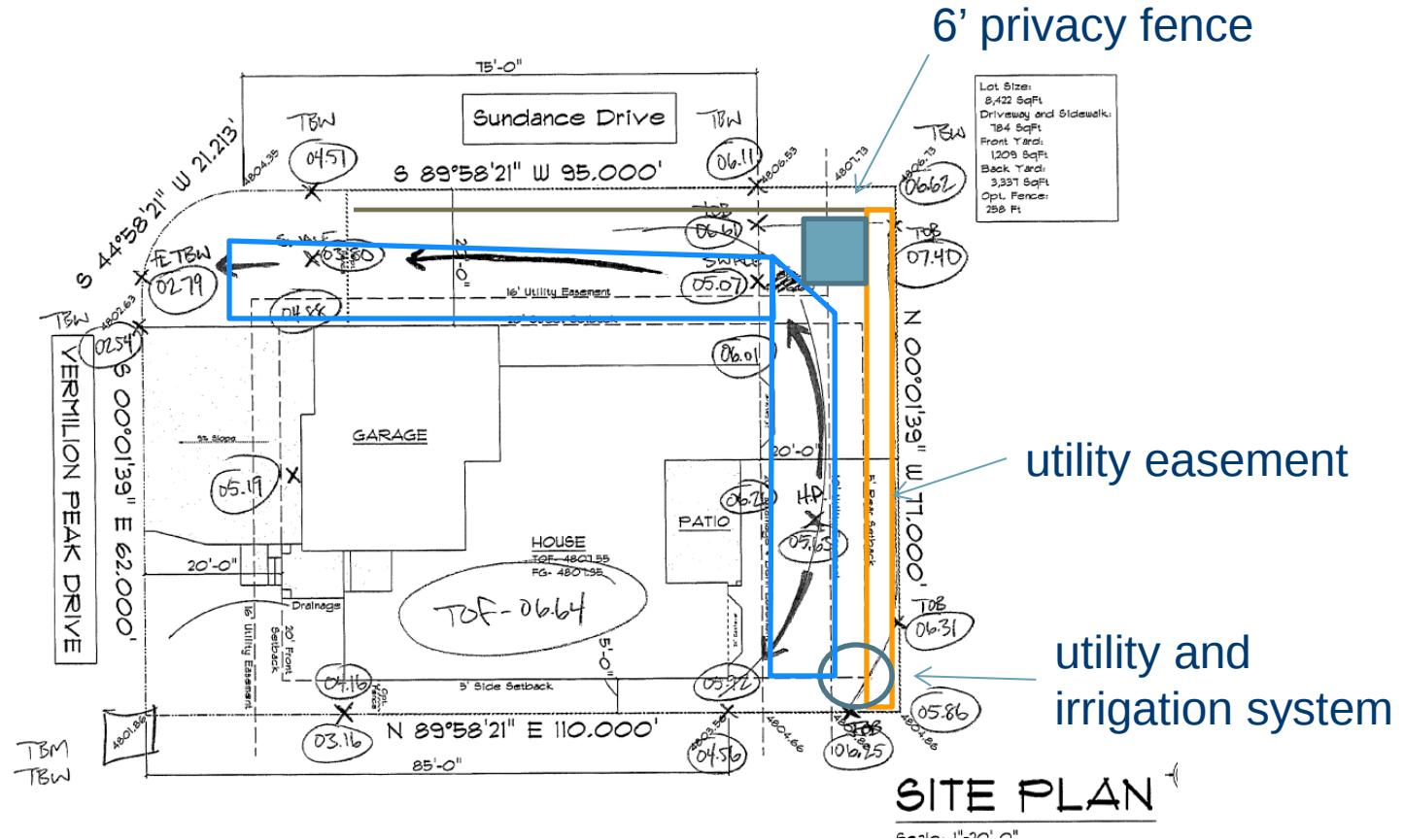
ADT > 1,000



Vermilion Peak Drive:

ADT < 1,000





Site Images



Site Images



Site Images



Site Images



Site Images



Site Images



Site Images



Site Images



Site Images



Site Images



Example Shed



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

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



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

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



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Analysis

- 100 to 120 square foot shed (shed may be taller than 8 feet)
- Constructed to match (complement) house design and color
- Lot has double frontage thus two 20 foot setbacks – one to the west and one to the north. West frontage functions as front of the lot.
- House built to the 5-foot offset along the southern property line.
- 5' utility easement and irrigation in rear yard.
- Required site drainage and associated grading along backyard and north side yard limit locations for shed.



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Analysis

- Sundance Drive dead-ends along north property line.
- Property to east is outside Town limits and would have to annex prior to development.
- Shed will be on skids so movable as needed by utility providers or if Sundance Drive is extended or widened in the future.
- Engineering will allow shed in the location proposed (also fence permit).
- Proposed location of shed is what appears to be the back yard of the lot.



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Analysis

- No foreseen negative impacts to public safety and welfare.
- The essential character of the surrounding neighborhood would not be altered.
 - The HOA provided approval of the shed and location.
 - Shed will be designed to compliment the house / neighborhood.
 - Views of shed limited by 6 foot privacy fence along Sundance Drive.



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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 condition of approval:

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



698 Vermilion Peak Drive

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Variance Request

Staff requests that the following be entered into the record:

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



698 Vermilion Peak Drive

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