



## BOARD OF ADJUSTMENT / APPEALS SPECIAL MEETING

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

### AGENDA

#### A. CALL TO ORDER

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 16-12-40 pertaining to building location / setback in the Single-Family Residential District – Winter Farm Subdivision 3<sup>rd</sup> 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
  - 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. Election of vice-chair for the 2018 calendar year

#### D. COMMUNICATIONS

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

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.

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, July 19, 2018</u>      | 7:00 P.M. | Special Board of Adjustment Meeting* |
| <u>Thursday, July 26, 2018</u>      | CANCELLED | 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* |
| <u>Thursday, October 25, 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:** July 19, 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 – Winter Farm Subdivision 3<sup>rd</sup> Filing Lot 18, Block 6; Robert and Shauna Fagler, owners/applicants  
**Item #:** C.1

### 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 if the Sundance right-of-way is needed for road improvements.
3. The encroachment permit for the fence is modified to include the shed.
4. The applicant obtain a building permit for the shed if it is taller than 8 feet.

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.

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

June 5, 2018 development sign posted on the subject property.

June 8, 2018 public hearing notice published in the paper.

June 21, 2018 agenda and meeting action: table to July 19, 2018 BOA meeting

### **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 1<sup>st</sup> 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 3<sup>rd</sup> 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\*.

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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

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

SEE ATTACHED

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

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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](mailto: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:

- |                                                                          |                                                          |
|--------------------------------------------------------------------------|----------------------------------------------------------|
| <input checked="" type="checkbox"/> Landscaping                          | <input checked="" type="checkbox"/> Storage shed         |
| <input checked="" type="checkbox"/> Fencing                              | <input type="checkbox"/> Deck / Patio / Slab             |
| <input checked="" type="checkbox"/> Drive / Walk addition or improvement | <input type="checkbox"/> Roofing                         |
| <input type="checkbox"/> Basketball backboard / pole                     | <input type="checkbox"/> Patio Cover / Awning / Pergola  |
| <input type="checkbox"/> Storm doors                                     | <input type="checkbox"/> Painting (please see Section D) |
| <input type="checkbox"/> Room addition                                   | <input type="checkbox"/> 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:

- |                                                                                        |                                                 |
|----------------------------------------------------------------------------------------|-------------------------------------------------|
| <input type="checkbox"/> Color sample / description                                    | <input checked="" type="checkbox"/> Plot plan   |
| <input type="checkbox"/> Specifications (e.g. brochure)                                | <input type="checkbox"/> Elevation drawings     |
| <input type="checkbox"/> Construction plans                                            | <input type="checkbox"/> Architectural drawings |
| <input type="checkbox"/> Photographs                                                   | <input type="checkbox"/> Sample of materials    |
| <input checked="" type="checkbox"/> 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: \_\_\_\_\_

Danahy 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

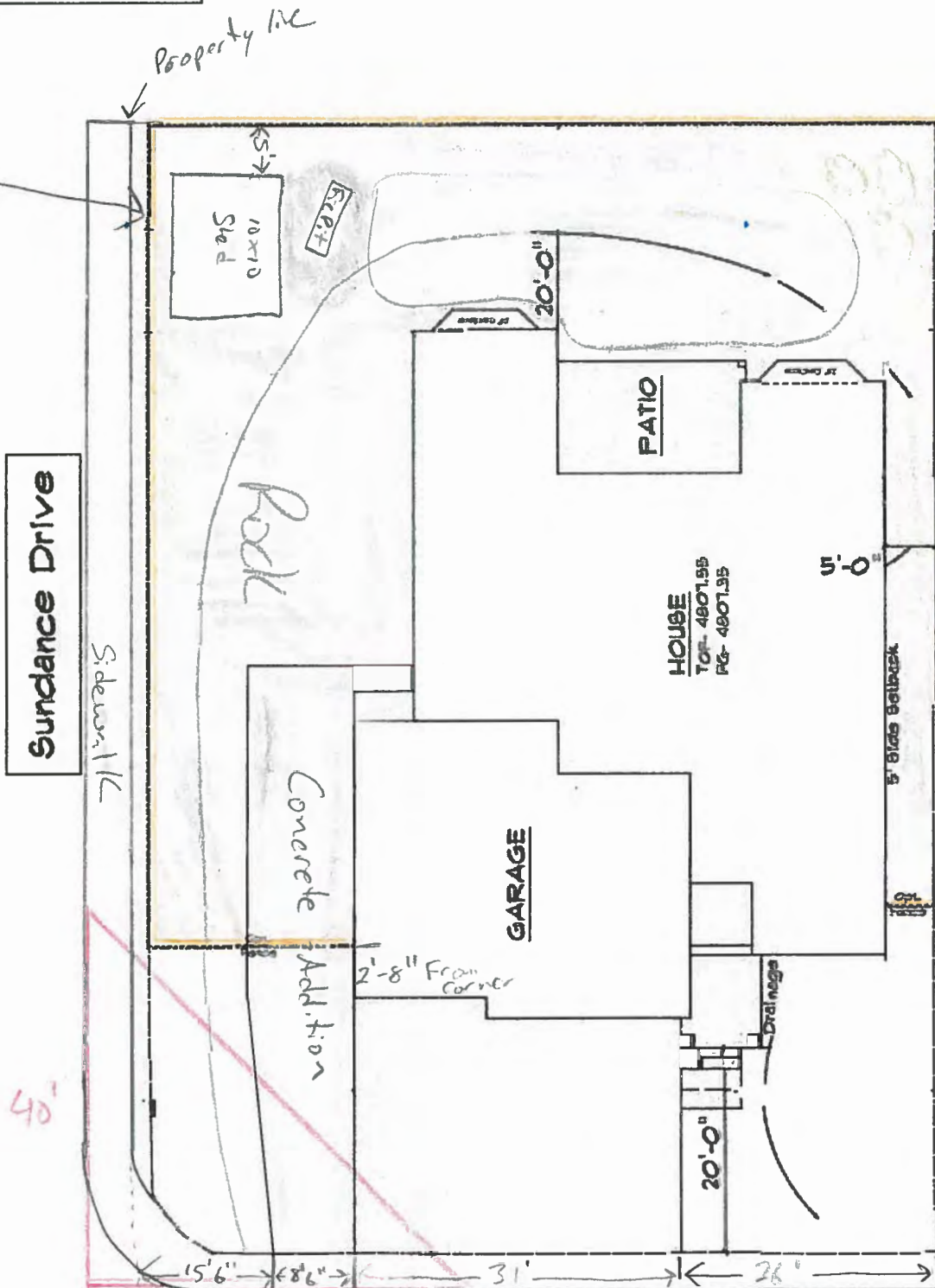
Fence



# SITE PLAN

Lot Size:  
8,422 sqft  
Driveway and Sidewalk:  
794 sqft  
Front Yard:  
1,208 sqft  
Back Yard:  
3,397 sqft  
Opt. Fence:  
238 Ft

Fence 2' from sidewalk



Sundance Drive

Sidewalk

Property line

10' x 10'

Rock

Concrete Addition

2'-8" from corner

GARAGE

PATIO

HOUSE  
TOP- 4807.95  
RG- 4807.95

5'-0"

5' Side setback

Opt. Fences

20'-0"

Driveway

40'

Top line of 40'  
Sight

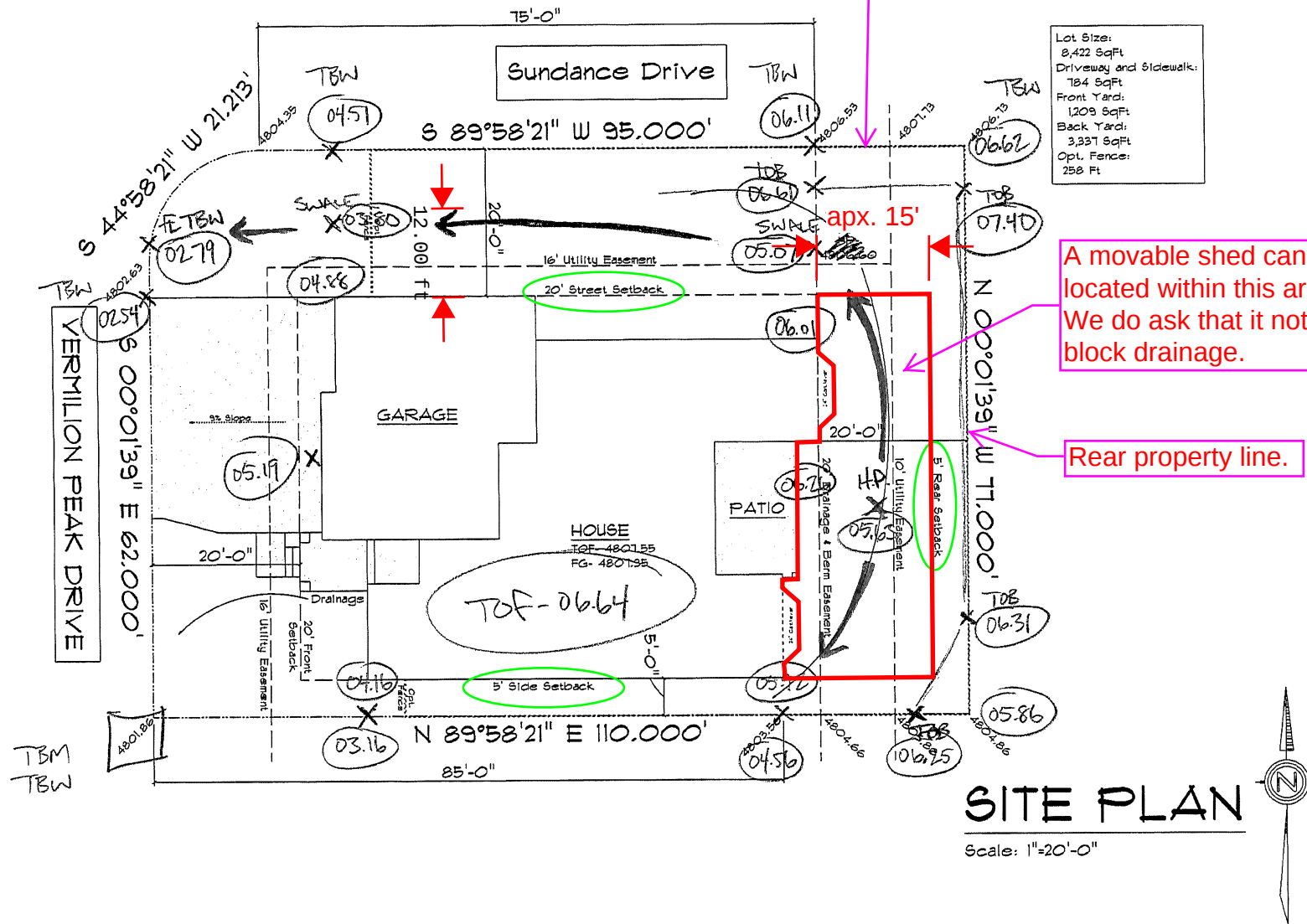
VERMILION PEAK DRIVE

5% (Min) Grading Slope @ 1st 10'  
then 2% (Min) Grading Slope

Lot Size:  
8,422 SqFt  
Driveway and Sidewalk:  
784 SqFt  
Front Yard:  
1,209 SqFt  
Back Yard:  
3,337 SqFt  
Opt. Fence:  
258 Ft

A movable shed can be located within this area. We do ask that it not block drainage.

Rear property line.



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|                                                                                                                                               |                                                                         |  |                                                                         |
|-----------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------|--|-------------------------------------------------------------------------|
|  <p><b>Rental Properties</b><br/> <i>Danjon, Inc.</i></p> | <p>1701 N. 16th St.<br/>         Room 100, Des Moines, IA 50319</p>     |  | <p>1701 N. 16th St.<br/>         Room 100, Des Moines, IA 50319</p>     |
|                                                                                                                                               | <p>2024 Alameda St.<br/>         P.O. Box 100, Des Moines, IA 50319</p> |  | <p>2024 Alameda St.<br/>         P.O. Box 100, Des Moines, IA 50319</p> |

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

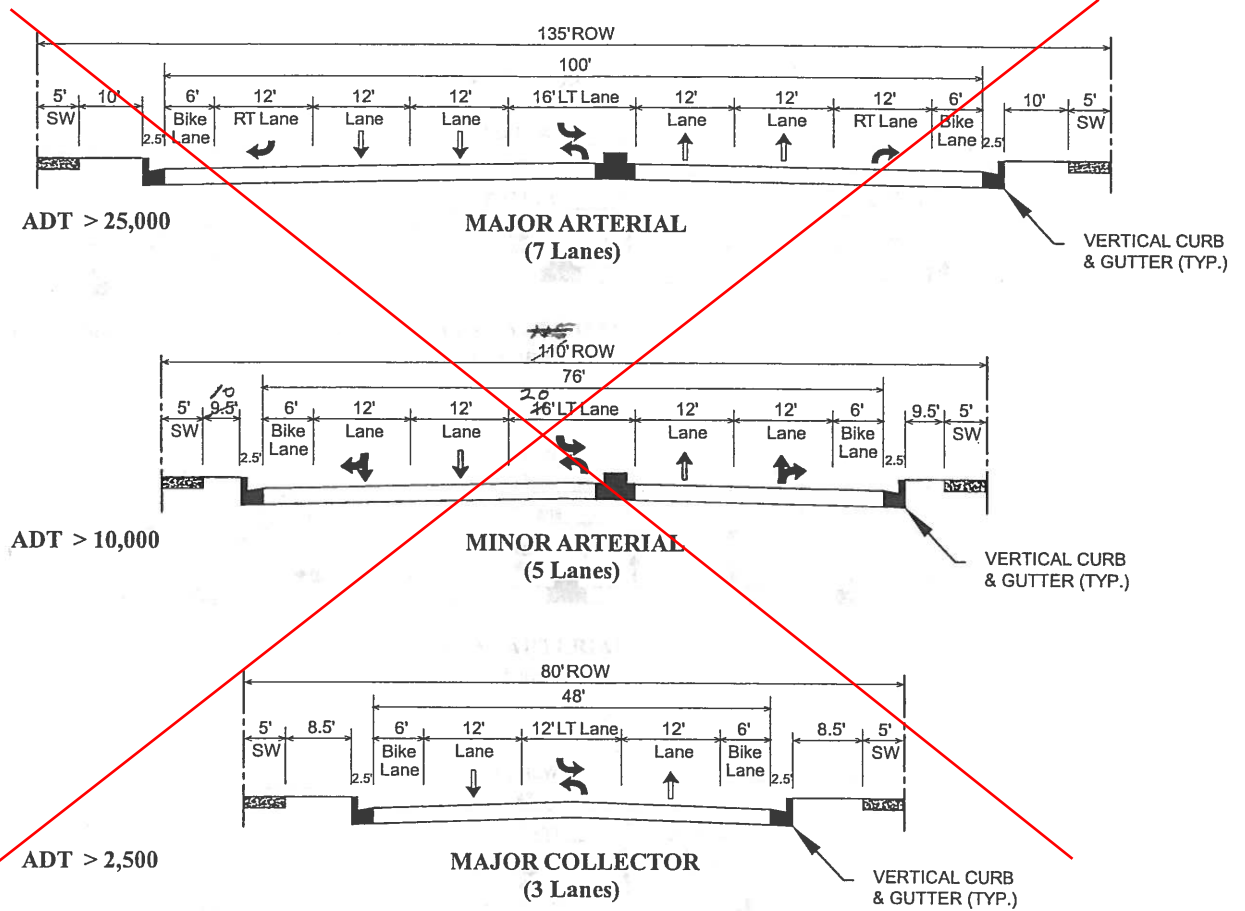
Date

Approved By: \_\_\_\_\_

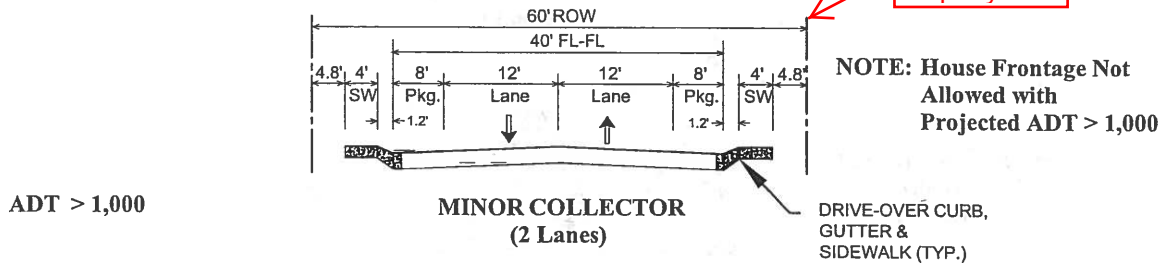
Handwritten signature of Dennis Wagner in black ink.  
Engineering Department4-9-18

Date

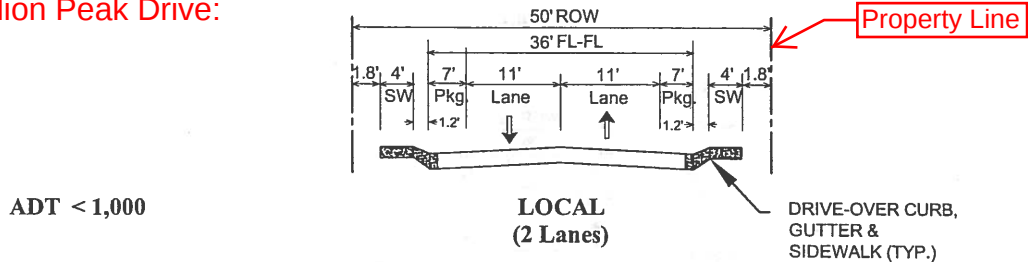
# Town of Windsor



## 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 July 19, 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.”



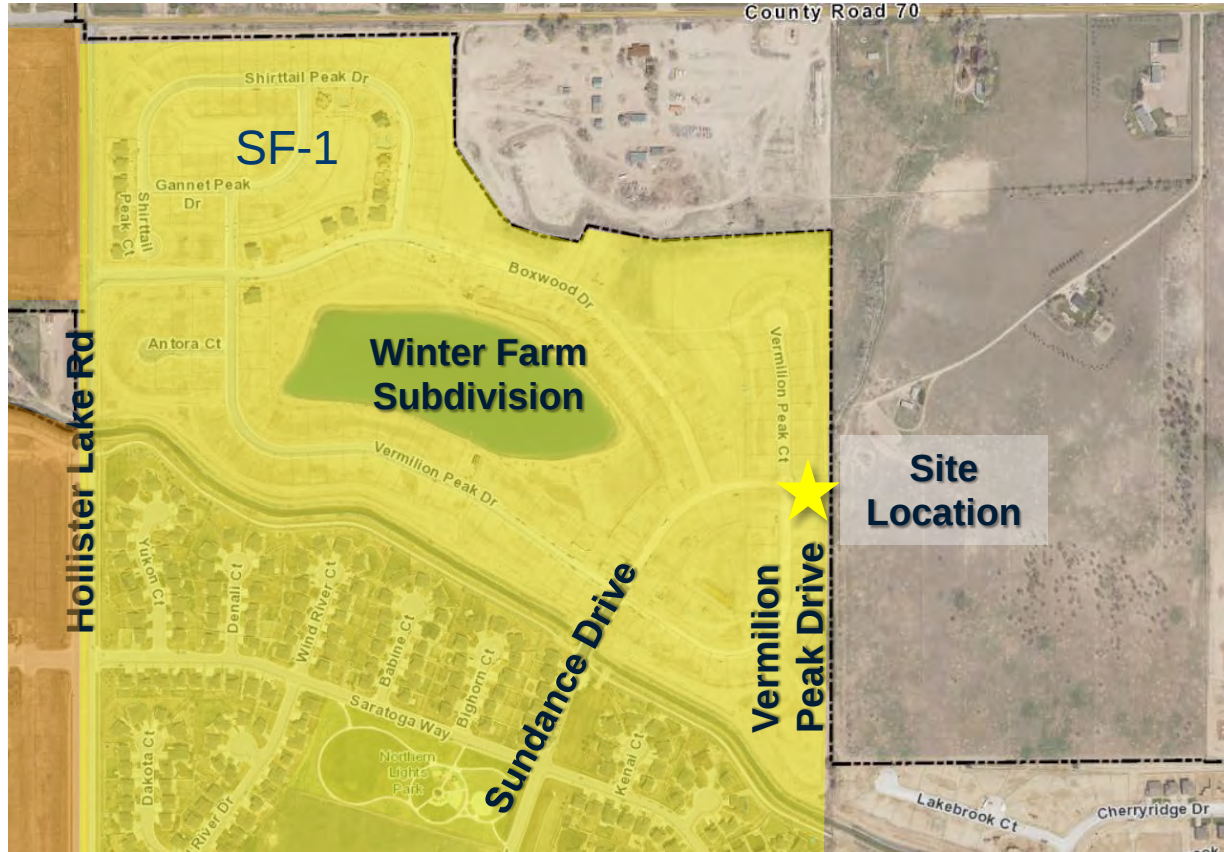
## 698 Vermilion Peak Drive

Town of Windsor Board of Adjustment – July 19, 2018

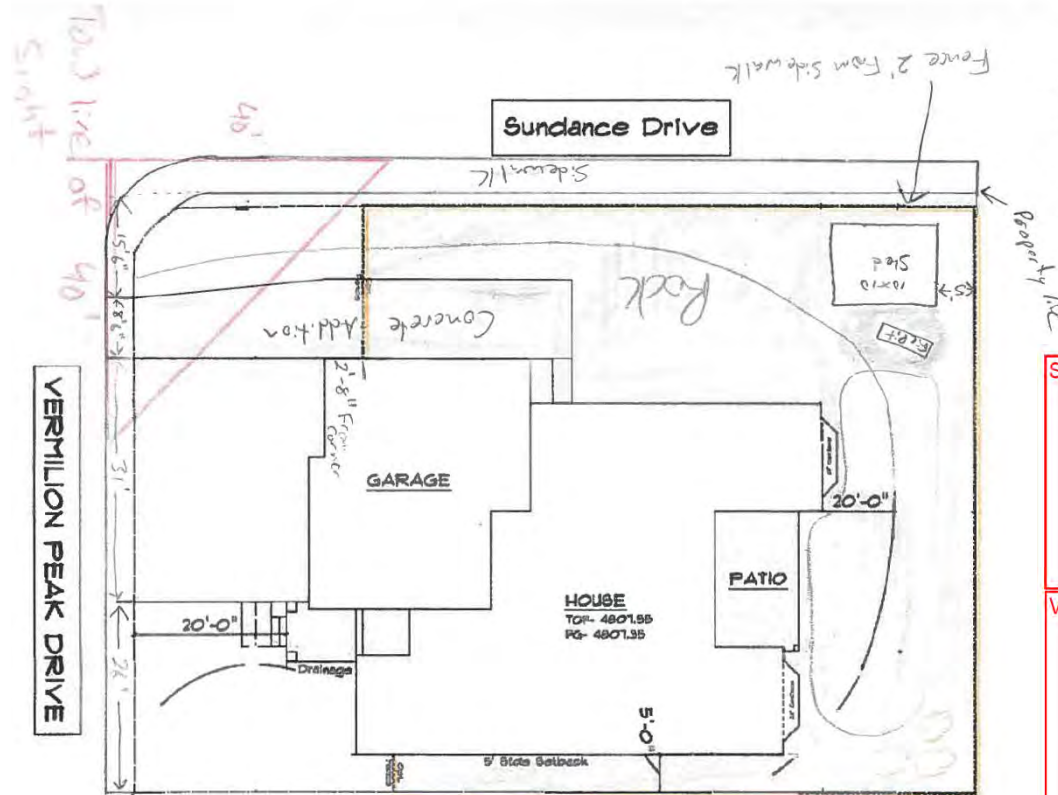
# Site Vicinity Map



# Zoning Map



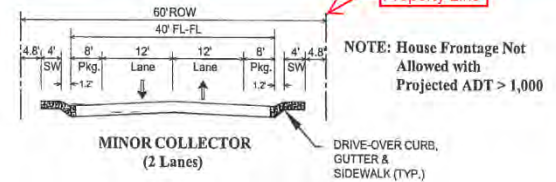
# Site Concept Plan



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

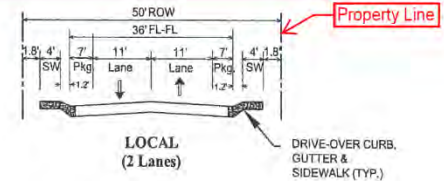
## Sundance Drive:

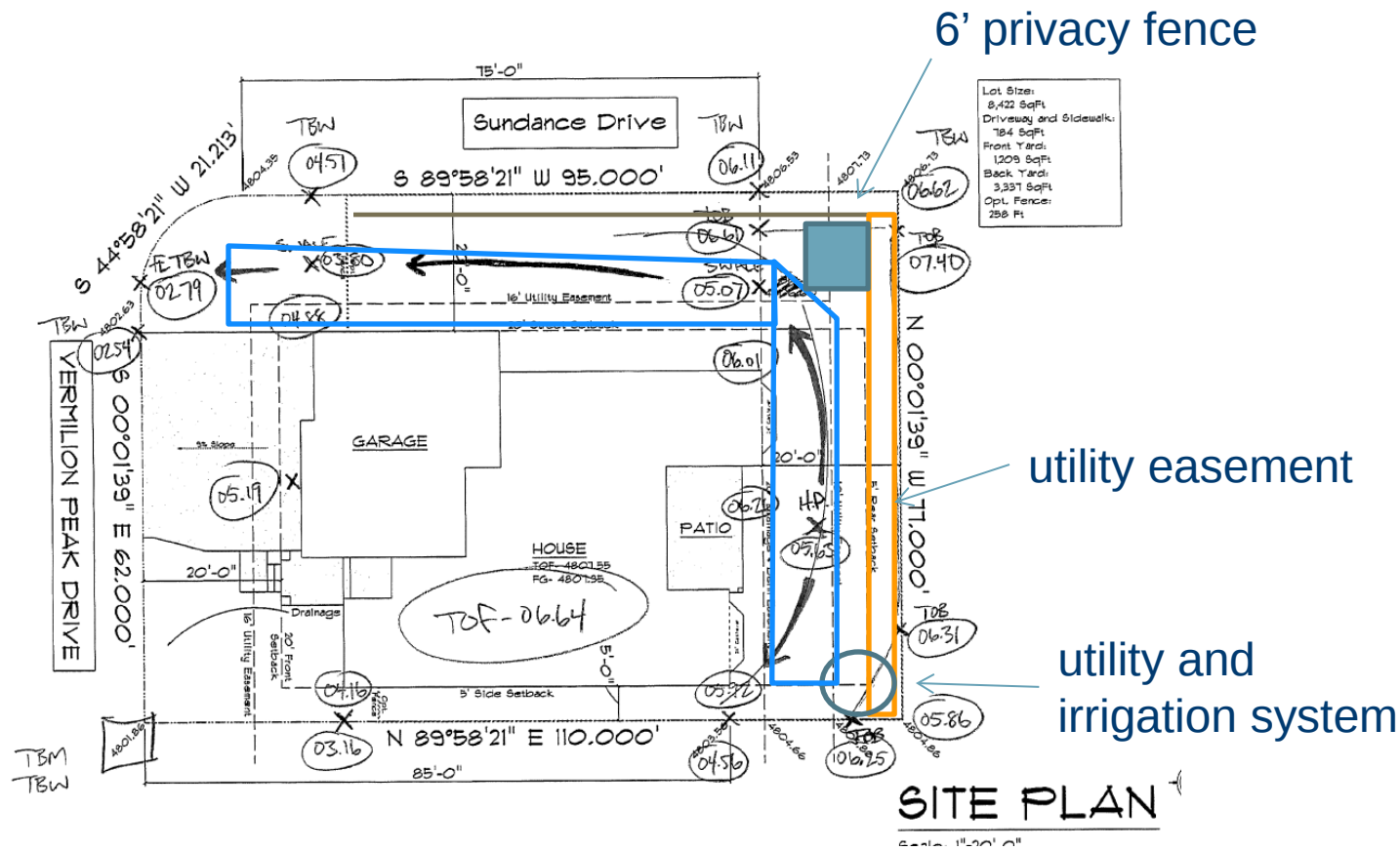
ADT > 1,000



## Vermilion Peak Drive:

ADT < 1,000





# Site Images



# Site Images



# Site Images



# Site Images



# Site Images



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# 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.*



## 698 Vermilion Peak Drive

Town of Windsor Board of Adjustment – July 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.*



# 698 Vermilion Peak Drive

Town of Windsor Board of Adjustment – July 19, 2018

# 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.



## 698 Vermilion Peak Drive

Town of Windsor Board of Adjustment – July 19, 2018

# 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.



## 698 Vermilion Peak Drive

Town of Windsor Board of Adjustment – July 19, 2018

# 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.



## 698 Vermilion Peak Drive

Town of Windsor Board of Adjustment – July 19, 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



## 698 Vermilion Peak Drive

Town of Windsor Board of Adjustment – July 19, 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 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 if the right-of-way is needed for road improvements.
3. The encroachment permit for the fence is modified to include the shed.
4. The applicant obtain a building permit for the shed if it is taller than 8 feet.



## 698 Vermilion Peak Drive

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