



BOARD OF ADJUSTMENT / APPEALS REGULAR MEETING

September 23, 2021 // 7:00 p.m. // Public Services Campus
922 North 15th Street, Windsor, CO 80550

AGENDA

A. CALL TO ORDER

1. Roll Call
2. Review of Agenda by the Board and Addition of items of New Business to the Agenda for Consideration by the Board
3. Reading of the statement of the documents to be entered into the record:
I enter into the record the Town's Comprehensive Plan, the Town's Zoning Ordinance, the staff report regarding the action items of this hearing, and all of the testimony received at this hearing.

B. CONSENT CALENDAR

1. Approval of the August 26, 2021 minutes.

C. BOARD ACTION

1. Public Hearing – Variance of Municipal Code Section 16-3-10 pertaining to location of an accessory structure on a residential lot in the Estate Residential (ER) Zone District – Providence Subdivision, Lot 2 (635 Southwood Lane) – Joseph and Amanda Kingry, Property Owners; and Stan Everitt, 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

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

Thursday, September 23, 2021	7:00 P.M.	Regular Board of Adjustment Meeting*
Thursday, October 28, 2021	7:00 P.M.	Regular Board of Adjustment Meeting*
Thursday, November 25, 2021	7:00 P.M.	CANCELED DUE TO HOLIDAY*

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



BOARD OF ADJUSTMENT / APPEALS REGULAR MEETING

August 26, 2021 // 7:00 p.m. // Town Board Chambers
301 Walnut Street, Windsor, CO 80550

MINUTES

A. CALL TO ORDER

Chairman Horner called the meeting to order at 7:01 p.m.

1. Roll Call

The following members were present:

Zoom	Chairman Danny Horner
	Vice-Chair Stacey Shea
	Jeffrey Gelvin
	James Penfold
Alternate	Don Threewitt
Absent	Shawn Wherry
	Patrick Miller
Chief Planner	Carlin Malone
Deputy Town Clerk	Trisha Conway

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

There were no changes to the agenda.

3. Reading of the statement of the documents to be entered into the record: *I enter into the record the Town's Comprehensive Plan, the Town's Zoning Ordinance, the staff report regarding the action items of this hearing, and all of the testimony received at this hearing.*

B. CONSENT CALENDAR

1. Approval of the minutes from July 22, 2021

Mr. Gelvin moved to approve the consent calendar as presented; Mr. Penfold seconded the motion. Roll call on the vote resulted as follows; Yeas – Horner, Shea, Gelvin, Penfold, Threewitt; Nays – None; Motion carried.

C. BOARD ACTION

1. Public Hearing – Variance of Municipal Code Section 16-3-10 pertaining to location accessory structure on a residential lot in the Estate Residential (ER) Zone District – Lot 44, Block 2, Westwood Village Subdivision 2nd Filing (645 Southwood Lane) – Philip and Emily Hartman, Property Owners; Philip Hartman, Applicant.

Ms. Malone reported the applicant, Mr. Philip Hartman, is requesting a variance from Municipal Code Section 16-3-10 of the Municipal Code pertaining to location of accessory buildings on residential lots, in the Estate Residential (ER) Zone District.

Municipal Code Section 16-3-10 states the following:

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

The applicants are proposing an outbuilding (barn) and a future accessory dwelling unit (ADU) on the northern side of the property, 645 Southwood Lane, which is adjacent to the front property line and therefore, the front yard. The principal structure (single-family home) is situated on the southern portion of the lot, the rear yard. Floodplain also traverses the northern portion of the property, limiting the opportunity for accessory structures to be located within the rear portion of the lot. The accessory structures, which would be constructed to match the features and colors of the main house, will need building permits. The accessory buildings will adhere to the setback requirements of the zone district.

The proposed location of the accessory structure is the result of several site factors.

- A large portion of the rear yard is floodplain;
- The principal structure (single-family residential home) is located closest to the rear property line, making it physically impractical to locate another structure in the rear yard and outside of the floodplain; and
- The front yard provides access to the principal structure and would provide access to the accessory structures. An access point from the rear property is not an option due to physical constraints associated with the floodplain and the lot configuration.

The proposed locations for the accessory structures are outside of the floodplain and consistent with and compatible with other accessory structure locations in this neighborhood.

Based on the lot configuration and principal structure orientation within this subdivision, largely due to the floodplain, front yards function similar to backyards of typical residential developments.

Analysis

Municipal Code Section 14-2-150 (Major Variance) states the following:

Major Variances are intended to alleviate practical difficulties or hardship arising from the strict application of the provisions of Chapters 15 and 16 of this Code to a specific property. Variances address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission. A variance, if granted, will constitute a change in the zoning provisions of Chapter 15 or Chapter 16 of this Code as distinct from a conditional use grant which allows for inclusion within the zones established by this Code for certain anticipated uses of a unique nature or character justified by temporary conditions.

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

- (1) Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property;*
- (2) The applicant cannot derive beneficial use of the property without the variance;*
- (3) The purpose and intent behind the regulation would be maintained by granting the variance;*
- (4) Granting the variance will not be detrimental to any adjacent properties or the surrounding area;*
- (5) Granting the variance will not be detrimental to public health, safety, or welfare;*
- (6) Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards, if applicable;*
- (7) Granting the variance will not create a building or fire code violation or other safety hazard;*
- (8) The need for the variance is not created by a self-imposed hardship;*
- (9) A variance shall allow only the least deviation from the standard that will afford relief; and*

(d) Conditions on granting variances. *In granting any variance, the Board of Adjustment may impose such conditions and requirements with respect to location, construction, maintenance and operation in addition to any which may be stipulated by this Chapter as deemed necessary for the protection of the adjacent properties and the public interest and welfare. Violation of such conditions and requirements, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Code. Any variance approval with conditions requiring affirmative action by the applicant prior to the variance becoming effective shall remain valid for a period of eighteen (18) months from the date the Board of Adjustment approves the variance and imposes the conditions requiring affirmative action. It shall be the sole responsibility of the applicant to satisfy all such conditions of approval within the eighteen-month period, or the grant of variance shall be deemed null and void.*

Staff has analyzed the major variance criteria as follows:

- (1) Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property;

Staff comment: Based on the subdivision layout and lot configuration within the constraints of the floodplain, the proposed placement of these accessory structures is in line with the intent of how this lot was designed to be used and compatible with the building placement of surrounding properties. With the rear yard encumbered by floodplain and primary structure adjacent to the floodplain, placement of accessory structures is limited. Strict application of the development code would result in practical difficulties.

- (2) The applicant cannot derive beneficial use of the property without the variance;

Staff comment: The property has use in its current condition; however, physical constraints associated with the lot limit the development opportunities that would otherwise be possible if developing on a standard estate residential lot.

- (3) The purpose and intent behind the regulation would be maintained by granting the variance;

Staff comment: The purpose and intent behind the regulation is to require principal buildings to front the street where they are located to provide for an attractive and pedestrian-oriented streetscape, and restrict accessory buildings from the front yards of residential development. The subject lot is atypical and has constraints that limit the development opportunities that would otherwise be allowed for a standard estate residential lot.

- (4) Granting the variance will not be detrimental to any adjacent properties or the surrounding area;

Staff comment: The essential character of the surrounding neighborhood would not be altered. The proposed accessory building locations are consistent with the neighboring properties.

- (5) Granting the variance will not be detrimental to public health, safety, or welfare;

Staff comment: The building locations would not negatively impact public safety and welfare. The building locations would not encroach into the floodplain, easements or building setbacks.

- (6) Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards, if applicable;

Staff comment: There are no other reasonable procedures that would provide adequate relief for compliance with standards.

- (7) Granting the variance will not create a building or fire code violation or other safety hazard;

Staff comment: Granting the variance will not create a building or fire code violation or other safety hazard.

- (8) The need for the variance is not created by a self-imposed hardship;

Staff comment: The physical constraints associated with the lot and its configuration were not created by the applicant.

- (9) A variance shall allow only the least deviation from the standard that will afford relief; and

Staff comment: The variance will allow the least deviation from the standard to afford relief, allowing a comparable development opportunity to that of a standard residential lot.

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 accessory structures are to be designed in a manner compatible with the principal structure; and
- (2) The applicant obtains building permits for the proposed accessory structures.

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 16-3-10 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:

Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property, in this case.

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

Notification

August 11, 2021 development sign posted on the subject property.
August 13, 2021 public hearing notice published in the paper.
August 9, 2021 letters mailed to neighboring residents (150')
August 11, 2021 public hearing notice published on Town website.

Chairman Horner opened the meeting for Board member comment or questions.

Mr. Threewitt asked Ms. Malone about the base zone district setback requirements.

Ms. Malone reported this is conceptual, the applicant will need to adhere to all setback requirements.

Mr. Threewitt asked Ms. Malone about the future accessory dwelling units, and about an expiration to the variance.

Ms. Malone reported there is no expiration to the variance.

Mr. Penfold asked Ms. Malone about a building code on how many dwelling units can be on a property.

Ms. Malone reported on a single family zone district any lot that can meet the criteria for setbacks, lot coverage is allowed one accessory dwelling unit that cannot exceed 950 square feet.

Mr. Gelvin reported his opposition with the home still being built, and support the statement, due to no fault of the applicant for the location of the sheds.

Mr. Threewill moved to close the public hearing; Mr. Gelvin seconded the motion. Roll call on the vote resulted as follows: Yeas – Horner, Shea, Gelvin, Penfold, Threewitt; Nays – None; Motion carried.

Chairman Horner opened the meeting for Board discussion.

Mr. Threewitt reported granting the variance doesn't support the regulation in the code, however the character and inhabitants of the neighborhood are being met with this property. Mr. Threewitt will be supporting this variance with the conditions recommended by staff.

Mr. Gelvin moved to approve the Variance of Municipal Code Section 16-3-10 pertaining to location accessory structures on a residential lot in the Estate Residential (ER) Zone District, Westwood Village Subdivision 2nd Filing (645 Southwood Lane); Ms. Shea seconded the motion. Roll call on the vote resulted as follows: Yeas – Horner, Shea, Gelvin, Penfold, Threewitt; Nays – None; Motion carried.

D. COMMUNICATIONS

1. Communications from the Board Members

- Ms. Shea asked Ms. Malone about other pending variance requests.
Ms. Malone reported there are currently no pending applications for variance requests.
- Mr. Gelvin asked Ms. Malone about any requests from the neighbor that approved of this variance request.
Ms. Malone reported the neighbor has not requested a variance request.

2. Communications from staff

- None

E. ADJOURN

Upon a motion duly made, the meeting was adjourned at 7:37 p.m.

Trisha Conway, Deputy Town Clerk



Variance Request:

635 Southwood Lane

Providence Farm

Subdivision, Lot 2

Allowance for an accessory structure within front yard

Board of Adjustment - September 23, 2021

Variance Request

Variance of Municipal Code Section 16-3-10 pertaining to building location:

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



635 Southwood Lane

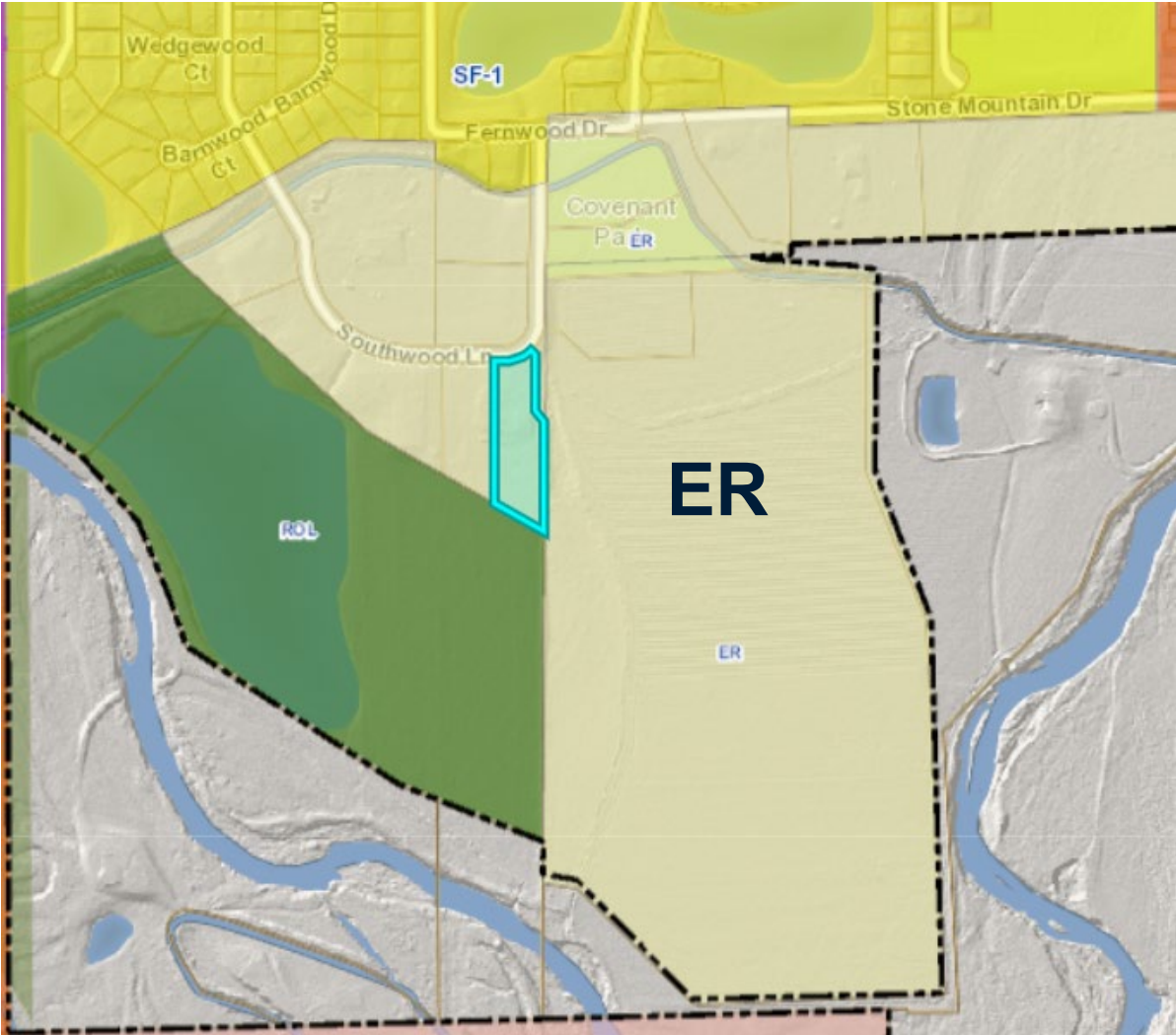
Town of Windsor Board of Adjustment – September 23, 2021

Site Vicinity Map





Zoning Map





Neighborhood Compatibility



636 Southwood Lane



629 Southwood Lane

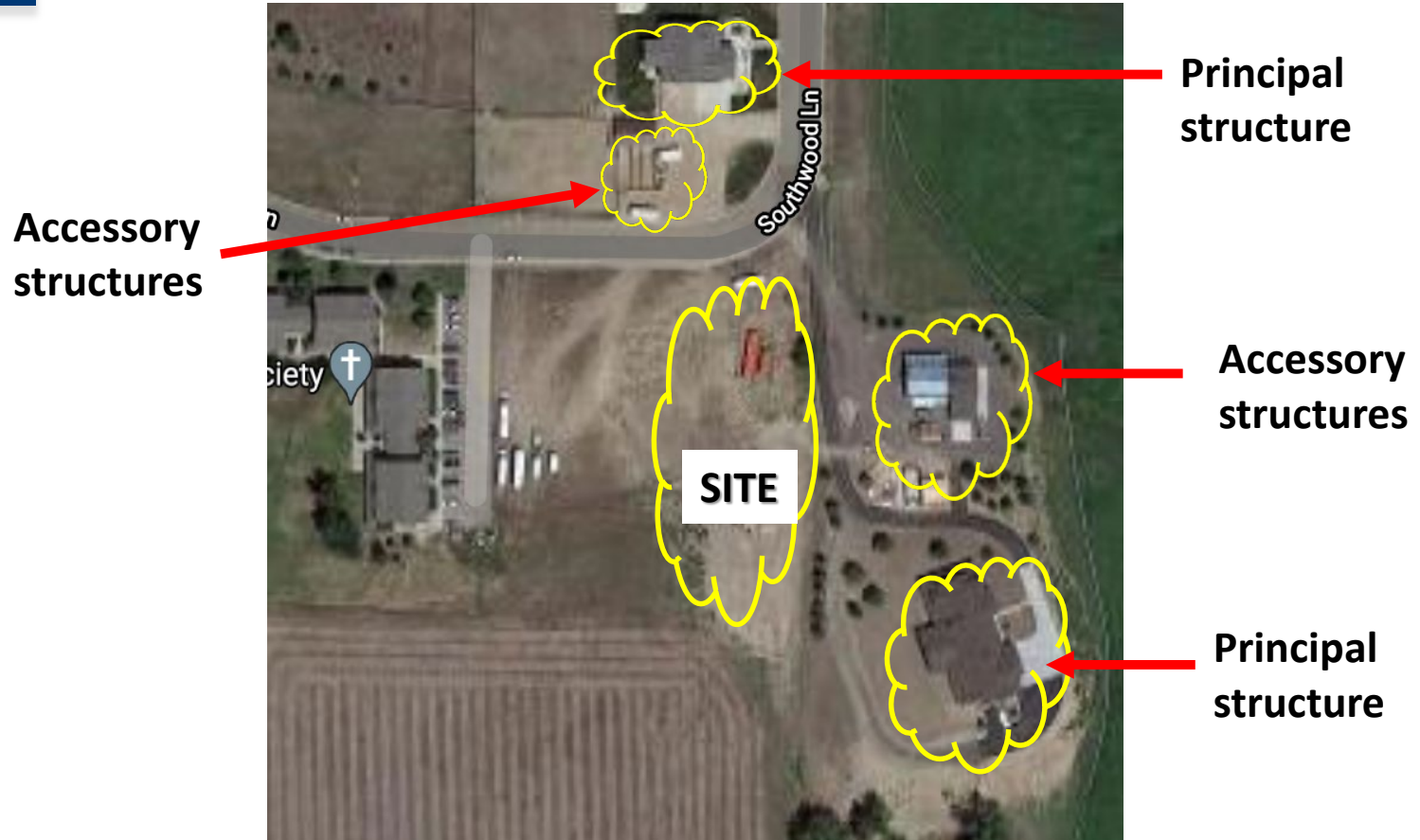
- annexed in 2014
- barn built in 2016
- house built in 2018



645 Southwood Lane

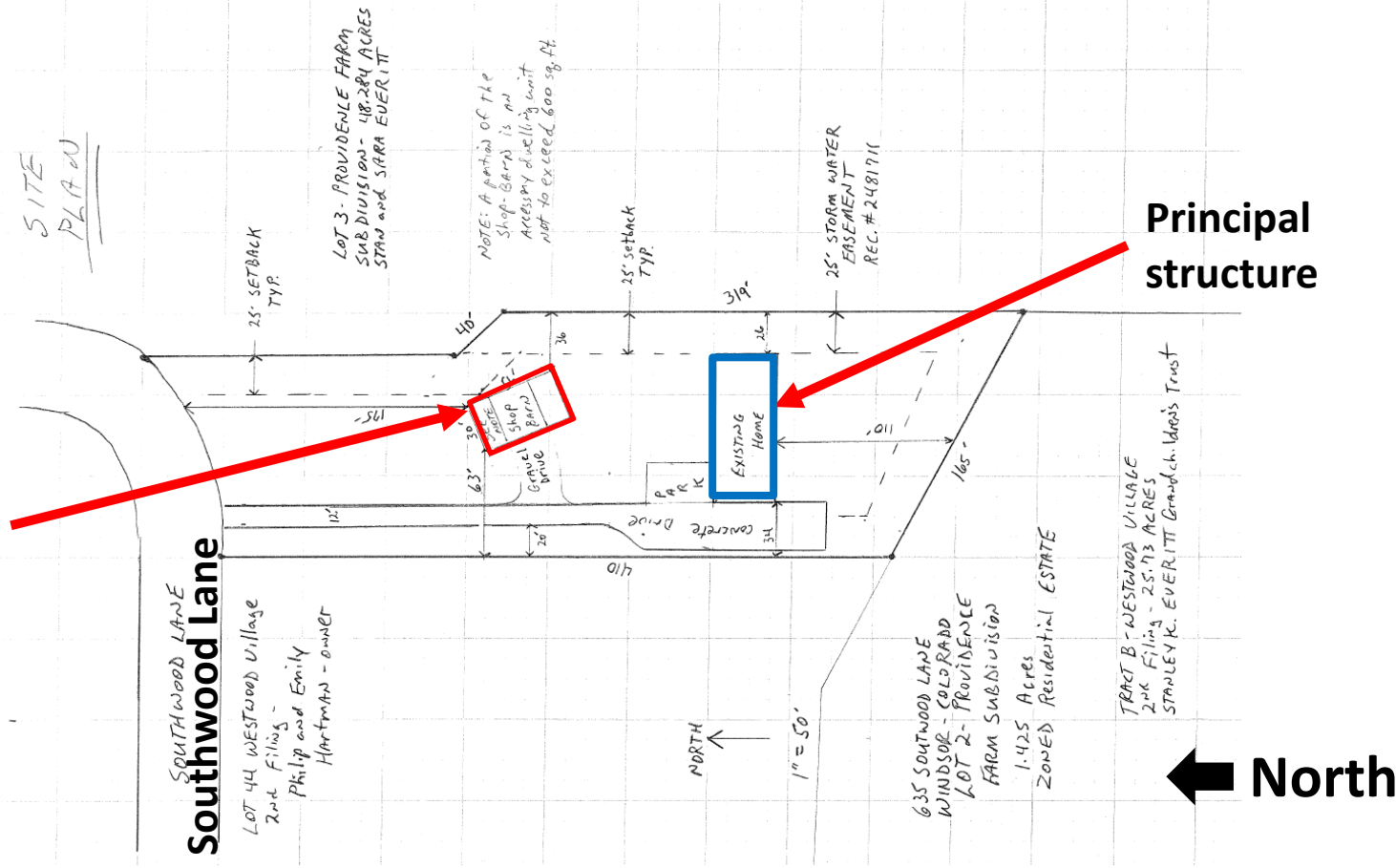
- variance approved on 8-26-21

Neighborhood Compatibility



Site Concept Plan

Proposed
accessory
Structure
(barn)



Municipal Code Section 14-2-150 (Major Variance) states the following:

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635 Southwood Lane

Town of Windsor Board of Adjustment – September 23, 2021

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

- (1) Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property;*
- (2) The applicant cannot derive beneficial use of the property without the variance;*
- (3) The purpose and intent behind the regulation would be maintained by granting the variance;*
- (4) Granting the variance will not be detrimental to any adjacent properties or the surrounding area;*
- (5) Granting the variance will not be detrimental to public health, safety, or welfare;*
- (6) Adequate relief cannot be reasonably obtained through a different procedure,*



635 Southwood Lane

Town of Windsor Board of Adjustment – September 23, 2021

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

(7) Granting the variance will not create a building or fire code violation or other safety hazard;

(8) The need for the variance is not created by a self-imposed hardship;

(9) A variance shall allow only the least deviation from the standard that will afford relief; and



635 Southwood Lane

Town of Windsor Board of Adjustment – September 23, 2021

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

*(d) **Conditions on granting variances.** In granting any variance, the Board of Adjustment may impose such conditions and requirements with respect to location, construction, maintenance and operation in addition to any which may be stipulated by this Chapter as deemed necessary for the protection of the adjacent properties and the public interest and welfare. Violation of such conditions and requirements, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Code. Any variance approval with conditions requiring affirmative action by the applicant prior to the variance becoming effective shall remain valid for a period of eighteen (18) months from the date the Board of Adjustment approves the variance and imposes the conditions requiring affirmative action. It shall be the sole responsibility of the applicant to satisfy all such conditions of approval within the eighteen-month period, or the grant of variance shall be deemed null and void.*



635 Southwood Lane

Town of Windsor Board of Adjustment – September 23, 2021

Analysis

- Would not create negative impacts to public safety and welfare.
- The character of the surrounding neighborhood would not be altered.
- Granting the variance will not create a building or fire code violation or other safety hazard.
- The physical constraints associated with the lot and its configuration were not created by the applicant.
- The variance will allow the least deviation from the standard to afford relief, allowing a comparable development opportunity to that of a standard residential lot.



635 Southwood Lane

Town of Windsor Board of Adjustment – September 23, 2021

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



635 Southwood Lane

Town of Windsor Board of Adjustment – September 23, 2021

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. Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property, in this case.

With the following recommended conditions of approval:

1. The accessory structures are to be designed in a manner compatible with the principal structure; and
2. The applicant obtains building permits for the proposed accessory structures.



635 Southwood Lane

Town of Windsor Board of Adjustment – September 23, 2021



MEMORANDUM

Date: September 23, 2021
To: Board of Adjustment
From: David Eisenbraun, Senior Planner
Re: Public Hearing – Variance of Municipal Code Section 16-3-10 pertaining to location of an accessory structure on a residential lot in the Estate Residential (ER) Zone District – Providence Subdivision, Lot 2 (635 Southwood Lane) – Joseph and Amanda Kingry, Property Owners; and Stan Everitt, Applicant
Item #: 1

Background

The applicant, Mr. Stan Everitt, is requesting a variance from Municipal Code Section 16-3-10 of the Municipal Code pertaining to location of accessory buildings on residential lots, in the Estate Residential (ER) Zone District.

Municipal Code Section 16-3-10 states the following:

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

The applicants are proposing an accessory structure on the northern side of the property, 635 Southwood Lane, which is adjacent to the front property line and therefore, the front yard. The principal structure (single-family home) is situated on the southern portion of the lot, the rear yard. Floodplain also traverses the southern portion of the property. The accessory structure, which would be constructed to match the features and colors of the main house, will need building permits. The accessory building will adhere to the setback requirements of the zone code.

The neighborhood is characterized with estate residential lots, agricultural uses, and a bible college with dormitories. Beginning with the Providence Farm Annexation (2014), which included 629 Southwood Lane, accessory structures were built closer to the street with the primary structure built closer to the floodplain and view corridor. As part of the annexation agreement for 629 Southwood Lane, the accessory structure (barn) was permitted to be built first (2016), followed by construction of the home (2018). This property set the character of the home locations along the southern side of Southwood Lane, which overlook the floodplain.

The proposed location of the accessory structure is the result of several site factors.

- The character of the neighborhood:
 - Principal structures (single-family residential homes) are located closest to the rear property line;
 - Portions of rear yards in this neighborhood are within the floodplain and homes overlook floodplain; and
 - It is impractical to locate accessory structures in the rear yard
- The front yard provides access to the principal structure and would provide access to the accessory structures. An access point from the rear property is not an option due to physical constraints associated with the floodplain and the lot configuration.

The proposed locations for the accessory structures are outside of the floodplain and consistent with and compatible with other accessory structure locations in this neighborhood.

Based on the lot configuration and principal structure orientation within this subdivision, largely due to the floodplain, front yard's function similar to backyards of typical residential developments.

Analysis

Municipal Code Section 14-2-150 (Major Variance) states the following:

Major Variances are intended to alleviate practical difficulties or hardship arising from the strict application of the provisions of Chapters 15 and 16 of this Code to a specific property. Variances address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission. A variance, if granted, will constitute a change in the zoning provisions of Chapter 15 or Chapter 16 of this Code as distinct from a conditional use grant which allows for inclusion within the zones established by this Code for certain anticipated uses of a unique nature or character justified by temporary conditions.

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

- (1) Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property;*
 - (2) The applicant cannot derive beneficial use of the property without the variance;*
 - (3) The purpose and intent behind the regulation would be maintained by granting the variance;*
 - (4) Granting the variance will not be detrimental to any adjacent properties or the surrounding area;*
 - (5) Granting the variance will not be detrimental to public health, safety, or welfare;*
 - (6) Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards, if applicable;*
 - (7) Granting the variance will not create a building or fire code violation or other safety hazard;*
 - (8) The need for the variance is not created by a self-imposed hardship;*
 - (9) A variance shall allow only the least deviation from the standard that will afford relief;*
- and*

(d) Conditions on granting variances. In granting any variance, the Board of Adjustment may impose such conditions and requirements with respect to location, construction, maintenance and operation in addition to any which may be stipulated by this Chapter as deemed necessary for the protection of the adjacent properties and the public interest and welfare. Violation of such conditions and requirements, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Code. Any variance approval with conditions requiring affirmative action by the applicant prior to the variance becoming effective shall remain valid for a period of eighteen (18) months from the date the Board of Adjustment approves the variance and imposes the conditions requiring affirmative action. It shall be the sole responsibility of the applicant to satisfy all such conditions of approval within the eighteen-month period, or the grant of variance shall be deemed null and void.

Staff has analyzed the major variance criteria as follows:

- (1) Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property;

Staff comment: Based on the subdivision layout and lot configuration within the constraints of the floodplain, the proposed placement of these accessory structures is in line with the intent of how this lot was designed to be used and compatible with the building placement of surrounding properties. With the rear yard encumbered by floodplain and primary structure adjacent to the floodplain, placement of accessory structures is limited and impractical. Strict application of the development code would result in practical difficulties.

- (2) The applicant cannot derive beneficial use of the property without the variance;

Staff comment: The property has use in its current condition; however, physical constraints associated with the lot limit the development opportunities that would otherwise be possible if developing on a standard estate residential lot.

- (3) The purpose and intent behind the regulation would be maintained by granting the variance;

Staff comment: The purpose and intent behind the regulation is to require principal buildings to front the street where they are located to provide for an attractive and pedestrian-oriented streetscape and restrict accessory buildings from the front yards of residential development. The subject lot layout is atypical, consistent with the joining estate lots.

- (4) Granting the variance will not be detrimental to any adjacent properties or the surrounding area;

Staff comment: The essential character of the surrounding neighborhood would not be altered. The proposed accessory building locations are consistent with the neighboring properties.

- (5) Granting the variance will not be detrimental to public health, safety, or welfare;

Staff comment: The building locations would not negatively impact public safety and welfare. The building locations would not encroach into the floodplain, easements or building setbacks.

- (6) Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards, if applicable;

Staff comment: There are no other procedures such as alternative compliance that would provide compliance with standards.

- (7) Granting the variance will not create a building or fire code violation or other safety hazard;

Staff comment: Granting the variance will not create a building or fire code violation or other safety hazard.

- (8) The need for the variance is not created by a self-imposed hardship;

Staff comment: The layout and character of the neighborhood was not created by the applicant. The applicant would have been able to building the principal home closer to the street; however, it would not have led to practical use of the property or been consistent with the layouts of the adjacent lots to the east and west.

(9) A variance shall allow only the least deviation from the standard that will afford relief; and

Staff comment: The variance will allow the least deviation from the standard to afford relief, allowing a comparable development opportunity to that of adjacent lots to the east and west.

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 accessory structures are to be designed in a manner compatible with the principal structure; and
2. The applicant obtains building permits for the proposed accessory structures.

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 16-3-10 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. Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property, in this case.

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

Notification

September 3, 2021, development sign posted on the subject property.
September 10, 2021, public hearing notice published in the paper.
September 9, 2021, letters mailed to neighboring residents (150')
September 7, 2021, public hearing notice published on Town website.

Attachments

Application materials
Presentation

Copy: Joseph and Amanda Kingry, Property Owners
Stan Everitt, applicant

Variance Application



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

1	☒	Please review Sec. 14-2-140 and 14-2-150 of Chapter 14 of the Town of Windsor Municipal Code for variance requirements and procedures.
	☒	Variance requests are considered by the Board of Adjustment, which meets 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 st 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: 635 Southwood Lane	
	Lot: 2	Block: NA Subdivision: PROVIDENCE FARM
A variance is being requested from the following Municipal Code section(s): Municipal Code, Sec. 16-3-10 – Accessory Buildings		

3	Owner Name(s): Joseph and Amanda Kingry	
	Address: 571 Wind River Drive Windsor Co 80550	
	Phone #: 303-514-1789	Email: amandakingry@me.com
	Applicant or Representative:	
	Name: Stan Everitt	
	Address: 629 Southwood Lane Windsor Co 80550	
Phone #: 970-222-4151		Email: stan@everittcompanies.com

4	Municipal Code Section 14-2-150(a) states, in part:	
	Variances are intended to alleviate practical difficulties or hardship arising from the strict application of the provision of Chapters 15 and 16 of the Municipal Code to a specific property. Variances address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission.	
	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.		

Variance Application

See Attachment

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 Attachment

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

See Attachment

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

See Attachment

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: Amie King Date: 9/3/21
(Proof of owner's authorization is required with submittal if signed by Applicant)

Print Name: Amanda King Joe King

Submitted On: 9/3/21

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

Variance Application Part 4, #1 – Narrative
635 Southwood Lane, Windsor

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

The south half of the lot is within the recently adopted Cache La Poudre Floodplain. To minimize encroachment of the floodplain and tie into the grading on both sides of the lot, the house was placed toward the back of the lot. The fill placed around the house to raise it above the floodplain resulted in most of the remaining portion of the lot to also be above the Base Flood Elevation (BFE) of the floodplain, which facilitates matching the fill at the same elevation as the adjoining properties. Placing outbuildings behind the house would cause the fill to encroach into the Floodway, an area off limits to buildings and filling (See Floodplain Exhibit).

FLOODPLAIN
EXHIBIT

SOUTHWOOD LANE

LOT 44 WESTWOOD Village
2nd Filing -
Philip and Emily
Hartman - owner

25' SETBACK
TYP.

LOT 3- PROVIDENCE FARM
SUBDIVISION- 48.284 ACRES
STAN and SARA EVERITT

Pre-Development
Floodplain 4/10

All Structures F.F
1' 6" Above BFE

25' setback
TYP.

NORTH

$$1'' = 50'$$

635 SOUTWOOD LANE
WINDSOR - COLORADO
LOT 2- PROVIDENCE
FARM SUBDIVISION
1.425 Acres
ZONED Residential ESTATE

25' STORM WATER
EASEMENT
REC. #2481711

Post Development Flood plain

TRACT B - WESTWOOD VILLAGE
2nd Filing - 25.73 ACRES
STANLEY K. EVERITT Grandch. Idress's Trust

Variance Application Part 4, #2 – Narrative
635 Southwood Lane, Windsor

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

The lot is located in close proximity to an active educational campus (a unique land use in this zoning district), and the parking lot for the on-campus housing is facing the lot and is closer to the street. Placing the house behind the parking lot buffers the activities associated with the parking lot and the dormitories. (See photo of campus and parking lot).



Variance Application Part 4, #3 – Narrative
635 Southwood Lane, Windsor

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

The design and placement of the outbuilding is fully aligned with the surrounding residential uses. The adjacent properties all have (or are planned to have) outbuildings and/or accessory dwelling units on those properties. The home to the east is placed well behind the home on this lot, and has two outbuildings placed between it and the street. These outbuildings and the proposed outbuilding are set back from the street at about the same distance, with irrigated turf, trees, fences and other landscaping between the street and the buildings. The architecture of both the house and the proposed outbuilding reflect contemporary Rural Design characteristics with steep gable ends, metal roof accents, expansive front porch, and full board and bat siding (See photos of house and buildings next door).







Variance Application Part 4, #4 – Narrative
635 Southwood Lane, Windsor

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

Economic considerations are not a part of this variance request.

SITE
PLAN

SOUTHWOOD LANE

LOT 44 WESTWOOD VILLAGE
2nd Filing -
Philip and Emily
Hartman - owner

LOT 3 - PROVIDENCE FARM
SUBDIVISION - 48.284 ACRES
STAN and SARA EVERITT

NOTE: A portion of the
Shop-BARN is an
Accessary dwelling unit
not to exceed 600 sq. ft.

NORTH
↑

1" = 50'

635 SOUTHWOOD LANE
WINDSOR - COLORADO
LOT 2 - PROVIDENCE
FARM SUBDIVISION
1.425 Acres
ZONED Residential ESTATE

TRACT B - WESTWOOD VILLAGE
2nd Filing - 25.73 ACRES
STANLEY K. EVERITT Grandchild's Trust

25' SETBACK
TYP.

40'

63' 30' SEE NOTE

SHOP BARN

GRAVEL DRIVE

20'

410

Concrete Drive

PARK

EXISTING HOME

34'

26'

319'

25' SETBACK
TYP.

25' STORM WATER
EASEMENT
REC. # 2481711

165'