



BOARD OF ADJUSTMENT/APPEALS REGULAR MEETING

April 25, 2024 - 7:00 PM
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
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.
4. Public Invited to be Heard
Individuals wishing to participate in Public Invited to be Heard (non-agenda item) are requested to sign up on the form provided in the foyer of the Town Board Chambers. When you are recognized, step to the podium, state your name and address then speak to the Board of Adjustments/Appeals.

Individuals wishing to speak during the Public Invited to be Heard or during Public Hearing proceedings are encouraged to be prepared and individuals will be limited to three (3) minutes. Written comments are welcome and should be given to the Town Clerk prior to the start of the meeting.

B. CONSENT CALENDAR

1. Approval of the January 25, 2024 Board of Adjustment/ Appeals Regular Meeting Minutes - K. Cinnamon, Deputy Town Clerk

C. BOARD ACTION

1. Election of Officers - Election of Board of Adjustment/Appeals Chair
 - Staff presentation: David Eisenbraun, Long Range Planner
2. Election of Officers - Election of Board of Adjustment/Appeals Vice Chair
 - Staff presentation: David Eisenbraun, Long Range Planner
3. Election of Officers - Election of Board of Adjustment/Appeals Secretary
 - Staff presentation: David Eisenbraun, Long Range Planner
4. Public Hearing - Major Variance from the Town of Windsor Municipal Code Section 15-17-110(e)(4) - Freestanding Signs to allow an increase in the allowable sign area for Iron Mountain Business Park - South Gate Business Park 8th Filing, Lot 1 (1015 Champion Drive) - Reese Foster, Owner, Southgate One LLC; and Marie Hashaw, DaVinci Sign Systems, Inc., applicant representative
 - Quasi-judicial action
 - Staff presentation: Mark Price, Planner I

5. Major Variance from the Town of Windsor Municipal Code Section 15-17-110(e)(4) - Freestanding Signs to allow an increase in the allowable sign area for Iron Mountain Business Park - South Gate Business Park 8th Filing, Lot 1 (1015 Champion Drive) - Reese Foster, Owner, Southgate One LLC; and Marie Hashaw, DaVinci Sign Systems, Inc., applicant representative
 - Quasi-judicial action
 - Staff presentation: Mark Price, Planner I
6. Public Hearing – Variance from Table 16-1-30(b): ER District Lot Development Standards pertaining to a reduced setback for buildings in the Estate Residential (ER) Zone District – Trent Kramer, Ascent Classical Academy (Owner/Applicant); Brian Campbell, Tait & Associates Engineering (Owner's Representative)
 - Quasi-judicial action
 - Staff presentation: Kimberly Lambrecht, Senior Planner
7. Variance from Table 16-1-30(b): ER District Lot Development Standards pertaining to a reduced setback for buildings in the Estate Residential (ER) Zone District – Trent Kramer, Ascent Classical Academy (Owner/Applicant); Brian Campbell, Tait & Associates Engineering (Owner's Representative)
 - Quasi-judicial action
 - Staff presentation: Kimberly Lambrecht, Senior Planner

D. COMMUNICATIONS

1. Communications from Board of Adjustments/Appeals
2. Communications from Staff

E. ADJOURN

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.



MEMORANDUM

Date: April 25, 2024
To: Board of Adjustment/Appeals Members
From: Kaitlyn Cinnamon, Deputy Town Clerk
Re: Approval of the January 25, 2024 Board of Adjustment/ Appeals Regular Meeting Minutes - K. Cinnamon, Deputy Town Clerk
Item #: B.1.

Background / Discussion:

Financial Impact:

Relationship to Strategic Plan:

Recommendation:

CC:

Attachments:

1. 01.25.24 BOA Draft Minutes



Board of Adjustment/Appeals Regular Meeting

January 25, 2024 - 7:00 PM

Town Board Chambers, 301 Walnut Street, Windsor, CO 80550

MINUTES

A. CALL TO ORDER

Chair Shea called the meeting to order at 7:00 p.m.

1. Roll Call

Present: Chair Stacey Shea
Vice Chair Don Threewitt
Jeffrey Gelvin
Jeremy Benintende

Absent: Secretary James Penfold
Hunter Rivera

Also Present: David Eisenbraun, Senior Planner
Kim Emil, Deputy Town Attorney
Kaitlyn Cinnamon, Deputy Town Clerk

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

Board of Adjustment/Appeals Board Member Benintende moved to approve the agenda as written, Board of Adjustment/Appeals Board Member Threewitt seconded the motion. Roll call on the vote resulted as follows; Yeas - Don Threewitt, Stacey Shea, Jeffrey Gelvin, Jeremy Benintende; Nays - None; Motion Passed.

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."

Chair Shea read the statement of the documents to be entered into the record.

4. Public Invited to be Heard

Chair Shea opened the meeting up for public comment, to which there was none.

B. CONSENT CALENDAR

1. Approval of the September 28, 2023 Board of Adjustment/ Appeals Regular Meeting Minutes - K. Cinnamon, Deputy Town Clerk

Board of Adjustment/Appeals Board Member Threewitt moved to approve the consent calendar as presented, Board of Adjustment/Appeals Board Member Benintende seconded the motion. Roll call on the vote resulted as follows; Yeas - Don Threewitt, Stacey Shea, Jeffrey Gelvin, Jeremy Benintende; Nays - None; Motion Passed.

C. BOARD ACTION

1. Public Hearing - Variance from Municipal Code Table 16-1-70 (b) (RMU-1 Lot Development Standards) pertaining to the minimum front and rear yard setback requirements for 618 Cedar Court in the RMU-1 (Residential Mixed Use) Zone District. Patricia and Jerry Kuyper, Owner/Applicants

In 2014, the lot was subdivided, changing its orientation and ability for the house to properly exist as anything other than a legal non-conforming structure. The house was built in 1970 and the applicants are only trying to build over a modest deck addition following the existing home's foundation and exterior walls. No other violations or modifications are being requested.

Chair Shea opened the public hearing for a Variance from Municipal Code Table 16-1-70 (b) (RMU-1 Lot Development Standards) pertaining to the minimum front and rear yard setback requirements for 618 Cedar Court in the RMU-1 (Residential Mixed Use) Zone District.

David Eisenbraun, Senior Planner, presented to the Board.

Chair Shea opened the hearing up for public comment, to which there was none.

Members Benintende, Threewitt, Gelvin, and Shea asked staff questions regarding the property and the future of the subdivision.

The owners/applicants, Patricia and Jerry Kuyper, spoke to the Board regarding their property at 618 Cedar Court, Windsor, CO.

Board of Adjustment/Appeals Board Member Benintende moved to close the public hearing, Board of Adjustment/Appeals Board Member Gelvin seconded the motion. Roll call on the vote resulted as follows; Yeas - Don Threewitt, Stacey Shea, Jeffrey Gelvin, Jeremy Benintende; Nays - None; Motion Passed.

2. Variance from Municipal Code Table 16-1-70 (b) (RMU-1 Lot Development Standards) pertaining to the minimum front and rear yard setback requirements for 618 Cedar Court in the RMU-1 (Residential Mixed Use) Zone District. Patricia and Jerry Kuyper, Owner/Applicants

See public hearing item.

Board of Adjustment/Appeals Board Member Benintende moved to approve the Variance from Municipal Code Table 16-1-70 (b) (RMU-1 Lot Development Standards) pertaining to the minimum front and rear yard setback requirements for 618 Cedar Court in the RMU-1 (Residential Mixed Use) Zone District. Board of Adjustment/Appeals Board Member Threewitt seconded the motion. Roll call on the vote resulted as follows; Yeas - Don Threewitt, Stacey Shea, Jeffrey Gelvin, Jeremy Benintende; Nays - None; Motion Passed.

D. COMMUNICATIONS

1. Communications from Board of Adjustments/Appeals

Chair Shea noted that at the next Board of Adjustments/Appeals meeting the election of officers will be an item on the agenda.

2. Communications from Staff

David Eisenbraun spoke to the Board about the upcoming Comprehensive Plan workshop on February 7, 2024.

E. ADJOURN

Upon a motion duly made, the meeting was adjourned at 7:30 p.m.

Kaitlyn Cinnamon, Deputy Town Clerk

DRAFT



MEMORANDUM

Date: April 25, 2024
To: Board of Adjustment/Appeals Members
From:
Re: Election of Officers - Election of Board of Adjustment/Appeals Chair
Item #: C.1.

Background / Discussion:

Financial Impact:

Relationship to Strategic Plan:

Recommendation:

A motion to nominate, followed by a second and vote to approve the appointment of an officer.

CC:

Attachments:



MEMORANDUM

Date: April 25, 2024
To: Board of Adjustment/Appeals Members
From:
Re: Election of Officers - Election of Board of Adjustment/Appeals Vice Chair
Item #: C.2.

Background / Discussion:

Financial Impact:

Relationship to Strategic Plan:

Recommendation:

A motion to nominate, followed by a second and vote to approve the appointment of an officer.

CC:

Attachments:



MEMORANDUM

Date: April 25, 2024
To: Board of Adjustment/Appeals Members
From:
Re: Election of Officers - Election of Board of Adjustment/Appeals Secretary
Item #: C.3.

Background / Discussion:

Financial Impact:

Relationship to Strategic Plan:

Recommendation:

A motion to nominate, followed by a second and vote to approve the appointment of an officer.

CC:

Attachments:



MEMORANDUM

Date: April 25, 2024
To: Board of Adjustment/Appeals Members
From: Mark Price, Planner 1
Re: Public Hearing - Major Variance from the Town of Windsor Municipal Code Section 15-17-110(e)(4) - Freestanding Signs to allow an increase in the allowable sign area for Iron Mountain Business Park - South Gate Business Park 8th Filing, Lot 1 (1015 Champion Drive) - Reese Foster, Owner, Southgate One LLC; and Marie Hashaw, DaVinci Sign Systems, Inc., applicant representative
Item #: C.4.

Background / Discussion:

Municipal Code Section 15-17-110(e) pertaining to development entrance signs:

*-(4) Maximum sign area. The maximum sign area of development entrance signs which are located adjacent to arterial or major collector streets shall not exceed fifty (50) square feet in area for each one hundred (100) feet of street frontage of the development, **but in no event shall the total sign area of any development entrance sign exceed two hundred (200) square feet in area.***

- The variance request is to allow for a monument sign to exceed 200 square feet (sqft) of display area.
- A 133 sqft Electronic Message Center (EMC) sign was installed on the existing 192 (sqft) Iron Mountain Autoplex monument sign.
- The monument sign text was also modified to Iron Mountain Business Park and the EMC board installed at some point in January 2024 without required sign permit or building permit approvals.
- The addition of the EMC sign (133 sqft) brings the total sign area to 325 sqft which exceeds the code requirement by 125 sq ft.

Background:

- A sign permit was administratively approved in 2006 (Permit # S-06-077), to allow the original monument sign to exceed the overall height requirements for the monument base and sign height code criteria.
 - Monument Base: shall not exceed six (6) feet in height.
 - Maximum Height: the height of any development entrance sign shall not exceed ten (10) feet.
 - Existing Sign Measurements: 21.33'(h) x 63.77'(w) – Monument Base: 8'(h)
- Staff approved the sign permit, administratively, due to the circumstances related to the sign's location and setback distance from Highway 34.
- A Variance was granted by the BOA on July 27, 2006, to allow letter heights exceeding 12 inches.
- From 2006 until January 2024, the sign was a static display and identified Iron Mountain Autoplex.

Financial Impact:

N/A

Relationship to Strategic Plan:

N/A

Recommendation:

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 major variance from Municipal Code Section 15-17-110(e) pertaining to Freestanding Sign and Development Entrance Sign criteria; and; a condition set that all sign\building permits are submitted and approved; and; based upon the aforesaid findings of fact, all Staff and BOA conditions being addressed, and the applicable sign and building permits.
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.

CC:

Carlin Malone, Chief Planner; Scott Ballstadt, Director of Planning

Attachments:

1. Variance Application 1015 Champion Dr
2. Applicant Presentation - 2024 Variance Slideshow
3. Staff Presentation - Variance - Iron Mountain Sign Updated

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 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: 1015 Champion Dr

Lot: 1 Block: _____ Subdivision: South Gate Business Park 8th Flg

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

15-17-110. - Freestanding signs. (e)(4)

3

Owner

Name(s): Southgate One, LLC

Address: 1625 Pelican Lakes Pointe, Ste 201, Windsor, CO 80550

Phone #: 970-686-5828

Email: _____

Applicant or Representative:

Name: DaVinci Sign Systems, Inc.

Address: 4496 Bents Dr, Unit A, Windsor, CO 80550

Phone #: 970-203-9292

Email: marie@davincisign.com / eric@davincisign.com

Variance Application

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.

4

Unnecessary hardship is defined by the Municipal Code as enumerated in items 1-9 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. Where, special circumstances exist, that strict application of the standards adopted in this development code would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the property owner. For the purposes of this Section, undue hardship and practical difficulties means a situation where the property cannot be reasonably used under the conditions allowed by this Code, and are neither a result of a situation created by the property owner, nor exclusively due to economic or cost considerations. The situation shall result from circumstances unique to the property, such as, exceptional narrowness, shallowness, or shape of a specific piece of property, topographic conditions, existing lot configuration, existing building locations on or adjacent to the property or other extraordinary and exceptional situation or condition of such piece of property that would result in peculiar and exceptional practical difficulties to, or exceptional undue hardship. Relief by variance may be granted if there is no substantial detriment to the public good and if it does not substantially impair the intent and purpose of the Comprehensive Plan and this Code. The variance, if granted, shall not alter the essential character of the surrounding neighborhood. Economic considerations alone shall not constitute an undue hardship if a reasonable use for the property exists under the provisions of this Code. It is the responsibility of the landowner to prove that an undue hardship exists.

This variance is regarding an existing sign that currently has a variance in place for increased letter height. Overall sign height and monument base height was approved administratively per Joe Plummer. In order to use the existing sign for multiple tenants, the addition of an EMC to the existing sign is needed for tenants to advertise to the public. The sign area has increased from 191.81 to 324.37 sq ft. Code allows for a maximum of 200 sq ft. However, the sign has not changed structure or height. The sign sits over 150' from Highway 34 which makes it difficult to see. A typical multi-tenant sign would not be visible to vehicular traffic on Highway 34 given its rate of speed.

The sign follows the intent of the code in regards to the EMC's size at less than 50% of the sign face. The sign area is 324.37 and the EMC area is 132.5. The EMC also follows all regulations regarding EMC signs as outlined in Section 15-17-60.

There is no detriment to the public good by refurbishing the existing sign. It does not alter the essential character of the surrounding neighborhood as there are several large signs along Highway 34.

2. The applicant cannot derive beneficial use of the property without the variance.

The uses within the business park sit far away from Highway 34. Without proper representation, the businesses may not thrive in today's economic climate. Being seen from the one main road it abuts is necessary for the businesses within the park to be seen.

3. The purpose and intent behind the regulation would be maintained by granting the variance.

As there was a variance in place for this sign, the purpose and intent behind the regulations will be maintained.

Variance Application

4. Granting the variance will not be detrimental to any adjacent properties or the surrounding area.

Granting the variance will not be detrimental to any adjacent properties or the surrounding area. In fact, it will be beneficial for those businesses within this large business park.

5. Granting the variance will not be detrimental to public health, safety, or welfare.

The granting of the variance will not be detrimental to the public health, safety or welfare. It will instead enhance safety for the vehicular traffic in that they will be able to easily read the EMC board rather than strain to see small tenant panels.

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

Adequate relief cannot be reasonably obtain through a different procedure.

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

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.

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.

The variance will allow the least deviation from the standard that will afford relief in that the sign has not changed in size or structure.

Variance Application

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: Marie Hashaw Date: 04-17-24
(Proof of owner's authorization is required with submittal if signed by Applicant)

Printed Name: Marie Hashaw

Date Submitted: 0417-24

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



**2024
TOWN OF
WINDSOR**

**VARIANCE
PROPOSALS**



IRON MOUNTAIN BUSINESS PARK



IRON MOUNTAIN BUSINESS PARK (2 OF 3)

IRON MOUNTAIN BUSINESS PARK (3 OF 3)





AIMS COMMUNITY COLLEGE (1 OF 1)



LOVELAND YARDS-NORTH ELEVATION
(1 OF 2)



LOVELAND YARDS-SOUTH ELEVATION
(2 OF 2)



JOHNSTOWN PLAZA (1 OF 1)



CROSSROADS MOTORPLEX (1 OF 3)



CROSSROADS MOTORPLEX (2 OF 3)



CROSSROADS MOTORPLEX (3 OF 3)

DAVINCI SIGN SYSTEMS
THANKS YOU FOR YOUR
TIME AND CONSIDERATION!



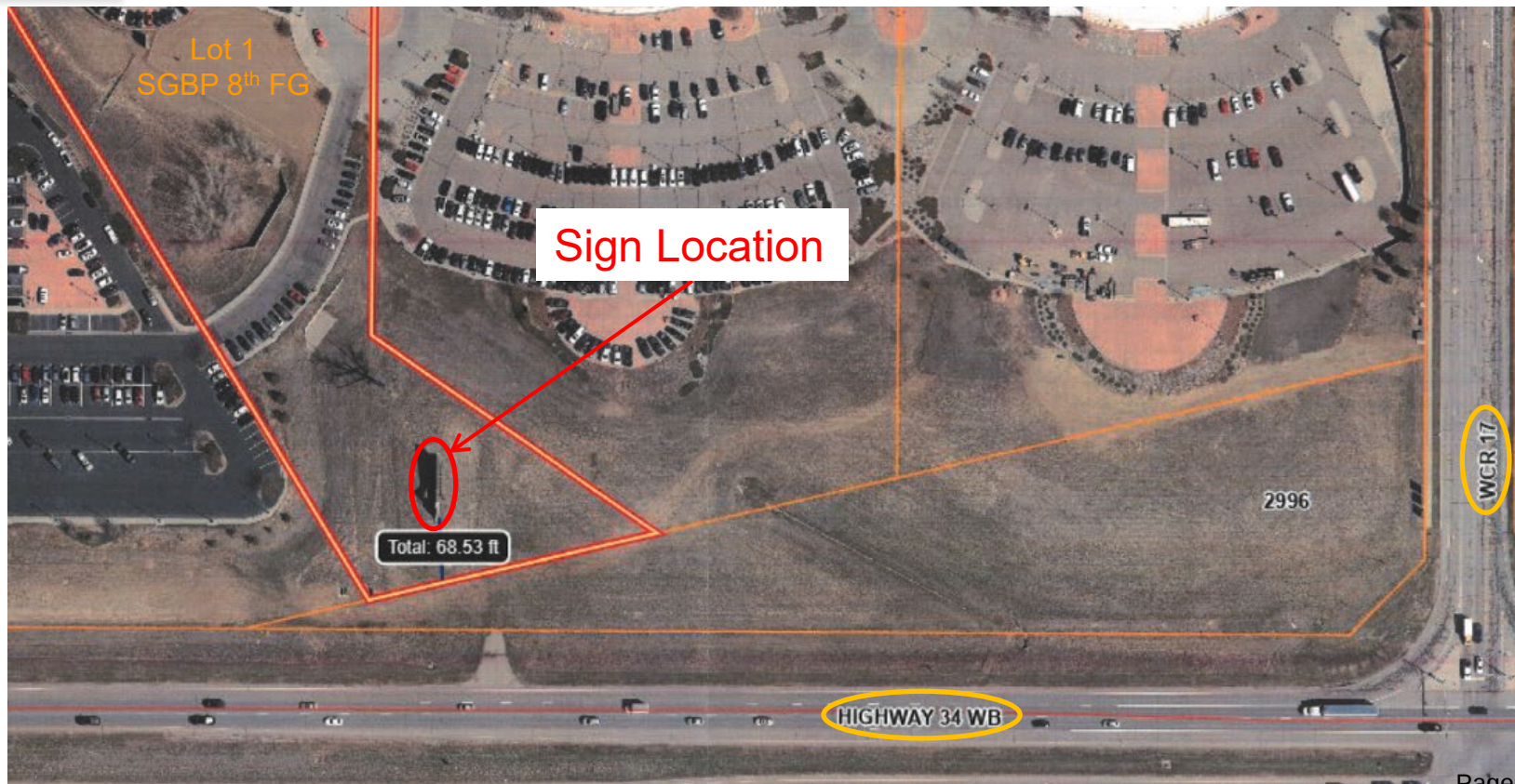


Lot 1, South Gate Business Park Subdivision 8th Filing - Major Variance Request

*Request to allow increased sign area for existing development
entrance sign – Iron Mountain Autoplex*

Board of Adjustment – April 25, 2024

Site Vicinity Map



Variance Request

Municipal Code Section 15-17-110(e)(4) Development Entrance Signs – Maximum Sign Area:

(4) Maximum sign area. The maximum sign area of development entrance signs which are located adjacent to arterial or major collector streets shall not exceed fifty (50) square feet in area for each one hundred (100) feet of street frontage of the development, **but in no event shall the total sign area of any development entrance sign exceed two hundred (200) square feet in area.**



South Gate Business Park 8th FG Major Variance Request

Town of Windsor Board of Adjustment – April 25, 2024

Variance Request

Municipal Code Section 15-17-110(e)(4) pertaining to development entrance signs:

- The variance request is to allow for a monument sign to exceed 200 square feet (sqft) of display area.
- A 133 sqft Electronic Message Center (EMC) sign was installed on the existing 192 (sqft) Iron Mountain Autoplex monument sign.
 - The monument sign text was also modified to Iron Mountain Business Park and the EMC board installed at some point in January 2024.
 - This was done without staff receiving/approving a sign permit or building permit.
- The addition of the EMC sign (133 sqft) brings the total sign area to 325 sqft which exceeds the code requirement by 125 sqft.



South Gate Business Park 8th FG Major Variance Request

Town of Windsor Board of Adjustment – April 25, 2024

Variance Request

Background:

- A sign permit was administratively approved in 2006 (Permit # S-06-077), to allow the original monument sign to exceed the overall height requirements for the monument base and sign height code criteria.
 - Monument Base: shall not exceed six (6) feet in height.
 - Maximum Height: the height of any development entrance sign shall not exceed ten (10) feet.
 - Existing Sign Measurements: 21.33'(h) x 63.77'(w) – Monument Base: 8'(h)
- Staff approved the sign permit, administratively, due to the circumstances related to the sign's location and setback distance from Highway 34.
- A Variance was granted by the BOA on July 27, 2006, for letter heights to exceed 12 inches.
- From 2006 until January 2024, the sign was a static display identifying Iron Mountain Autoplex.



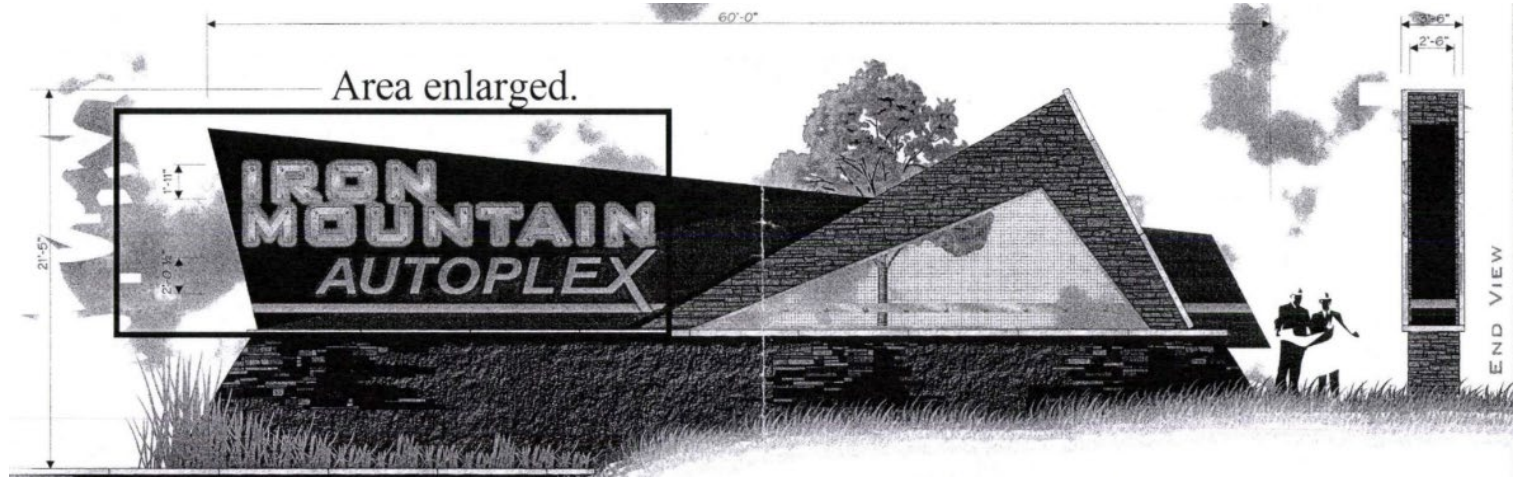
South Gate Business Park 8th FG Major Variance Request

Town of Windsor Board of Adjustment – April 25, 2024

Variance Request

Municipal Code Section 15-17-110(e)(4):

Original Approved Sign:



South Gate Business Park 8th FG Major Variance Request

Town of Windsor Board of Adjustment – April 25, 2024

Variance Request

Municipal Code Section 15-17-110(e)(4):

Current Existing Sign:



South Gate Business Park 8th FG Major Variance Request

Town of Windsor Board of Adjustment – April 25, 2024

Analysis

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

- (1) Where, special circumstances exist, that strict application of the standards adopted in this development code would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the property owner. For the purposes of this Section, undue hardship and practical difficulties means a situation where the property cannot be reasonably used under the conditions allowed by this Code, and are neither a result of a situation created by the property owner, nor exclusively due to economic or cost considerations...It is the responsibility of the landowner to prove that an undue hardship exists;**

-Applicant Response: See next slide



South Gate Business Park 8th FG Major Variance Request

Town of Windsor Board of Adjustment – April 25, 2024

Analysis

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

(1) *-Applicant Response:*

In order to use the existing sign for multiple tenants, the addition of an EMC to the existing sign is needed for tenants to advertise to the public. The sign area increased from 191.81 sqft to 324.37 sqft. The sign has not changed structurally or in height. The sign sits over 150' from Highway 34, which makes it difficult to see. There is no detriment to the public good by refurbishing the existing sign.



South Gate Business Park 8th FG Major Variance Request

Town of Windsor Board of Adjustment – April 25, 2024

Analysis (cont.)

Municipal Code Section 14-2-150(c) (Major Variance) Review Criteria:

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

-Applicant Response: The uses within the business park sit far away from Highway 34. Without proper representation, the businesses may not thrive in today's economic climate. Being seen from the one main road it abuts, is necessary for the businesses within the park to be seen.



South Gate Business Park 8th FG Major Variance Request

Town of Windsor Board of Adjustment – April 25, 2024

Analysis (cont.)

Municipal Code Section 14-2-150(c) (Major Variance) Review Criteria:

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

-Applicant Response: As there was a variance in place for this sign, the purpose and intent behind the regulations will be maintained.

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

-Applicant Response: Granting the variance will not be detrimental to any adjacent properties or the surrounding area. In fact, it will be beneficial for those businesses within this large business park.



South Gate Business Park 8th FG Major Variance Request

Town of Windsor Board of Adjustment – April 25, 2024

Analysis (cont.)

Municipal Code Section 14-2-150(c) (Major Variance) Review Criteria:

- (5) Granting the variance will not be detrimental to public health, safety, or welfare;**
-Applicant Response: The granting of the variance will not be detrimental to the public health, safety or welfare. It will enhance safety for vehicular traffic in that they will be able to easily read the EMC board.
- (6) Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards, if applicable;**
-Applicant Response: Adequate relief cannot be reasonably obtained through different procedure.
- (7) Granting the variance will not create a building or fire code violation or other safety hazard;**
-Applicant Response: Granting the variance will not create a building code, fire code, or other safety hazard.



South Gate Business Park 8th FG Major Variance Request

Town of Windsor Board of Adjustment – April 25, 2024

Analysis (cont.)

Municipal Code Section 14-2-150(c) (Major Variance) Review Criteria:

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

-Applicant Response: 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;

-Applicant Response: The variance will allow the least deviation for the standard that will afford relief in that the sign has not changed in size, height or structure.



South Gate Business Park 8th FG Major Variance Request

Town of Windsor Board of Adjustment – April 25, 2024



Analysis Summary

Staff has analyzed and found the following findings of fact, based on:

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

Staff has determined:

- Site-specific conditions exist that make sign visibility difficult due to the speed of traffic along Hwy 34, and the setback distance.
- Advertising for other businesses in the business park is limited.
- Modifications to the sign were not approved nor did staff receive required permit applications or building permits.
- Without a sign permit application or building permit submittal for review, staff are unable to determine if there is impact to public safety.

Notifications

The following notifications for the public hearing were made in accordance with the Municipal Code:

- April 5, 2024 - public hearing notice published on the Town of Windsor Website.
- April 8, 2024 - development under review sign posted on the subject property.
- April 4, 2024 - public hearing notice sent to surrounding property owners.
- April 5, 2024 - public hearing notice published in the paper.



South Gate Business Park 8th FG Major Variance Request

Town of Windsor Board of Adjustment – April 25, 2024

Recommendation

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 Municipal Code Section 15-17-110(e)(4) pertaining to Freestanding Sign and Development Entrance Sign criteria; and; a condition set that all sign\building permits shall be submitted and approved; and; based upon the aforesaid findings of fact, all Staff and BOA conditions being addressed;
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.



South Gate Business Park 8th FG Major Variance Request

Town of Windsor Board of Adjustment – April 25, 2024

Record

Staff requests that the following be entered into the record:

- Variance application and supplemental materials
- Staff memorandum and supporting documents
- Testimony received during the public hearing
- Recommendation



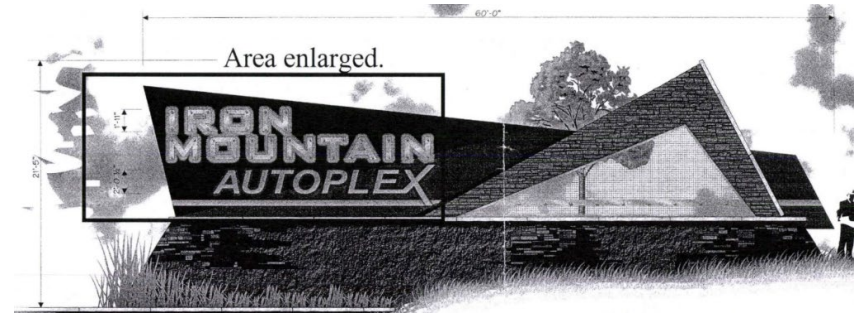
South Gate Business Park 8th FG Major Variance Request

Town of Windsor Board of Adjustment – April 25, 2024

Variance Request

**Municipal Code Section 15-17-110(e)(4)
pertaining to Development Entrance Signs –
Maximum Sign Area:**

(4) Maximum sign area. The maximum sign area of development entrance signs which are located adjacent to arterial or major collector streets shall not exceed fifty (50) square feet in area for each one hundred (100) feet of street frontage of the development, but in no event shall the total sign area of any development entrance sign exceed two hundred (200) square feet in area.



South Gate Business Park 8th FG Major Variance Request

Town of Windsor Board of Adjustment – April 25, 2024



MEMORANDUM

Date: April 25, 2024
To: Board of Adjustment/Appeals Members
From: Mark Price, Planner 1
Re: Major Variance from the Town of Windsor Municipal Code Section 15-17-110(e)(4) - Freestanding Signs to allow an increase in the allowable sign area for Iron Mountain Business Park - South Gate Business Park 8th Filing, Lot 1 (1015 Champion Drive) - Reese Foster, Owner, Southgate One LLC; and Marie Hashaw, DaVinci Sign Systems, Inc., applicant representative
Item #: C.5.

Background / Discussion:

Please refer to Background / Discussion for the Public Hearing item.

Financial Impact:

N/A

Relationship to Strategic Plan:

N/A

Recommendation:

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 Municipal Code Section 15-17-110(e) pertaining to Freestanding Sign and Development Entrance Sign criteria; and; a condition set that all sign\building permits are submitted and approved; and; based upon the aforesaid findings of fact, all Staff and BOA conditions being addressed, and the applicable sign and building permits.
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.

CC:

Carlin Malone, Chief Planner; Scott Ballstadt, Director of Planning

Attachments:



MEMORANDUM

Date: April 25, 2024
To: Board of Adjustment/Appeals Members
From: Kimberly Lambrecht, Senior Planner
Re: Public Hearing – Variance from Table 16-1-30(b): ER District Lot Development Standards pertaining to a reduced setback for buildings in the Estate Residential (ER) Zone District – Trent Kramer, Ascent Classical Academy (Owner/Applicant); Brian Campbell, Tait & Associates Engineering (Owner's Representative)
Item #: C.6.

Background / Discussion:

Brian Campbell of Tait & Associates Civil Engineering, on behalf of Trent Kramer, Headmaster of Ascent Classical Academy, is requesting a variance from Municipal Code Section 15-1-30 - Estate Residential (ER) Zone District, Table 16-1-30(b): ER District Lot Development Standards, pertaining to a reduced side yard setback. This variance request is to allow for a side setback of less than 25-feet from the property boundary at the southwest corner of the site.

The Ascent Classical Academy site is zoned Estate Residential (ER), and is located at 6402 S. County Road 5 (Lot 1, ASCENT CHARTER SCHOOL MLD NO 20-LAND4040), on the east side of Larimer County Road 5, approximately $\frac{3}{4}$ mile north of State Highway 392. Adjacent uses and zoning are as follows:

- North: Vacant (former gravel mining) (Larimer County Agriculture Zoning);
- East: Vacant (former gravel mining) (Larimer County Agriculture Zoning);
- South: Vacant Pasture (Larimer County Agriculture Zoning);
- West: Fossil Creek Ranch Subdivision – Single Family Homes (RMU-1 Zoning)

The Ascent Classical Academy opened in Northern Colorado in 2020, with occupancy at their current location starting in the Fall of 2022. When initially planning for the school at this site, the property was not located within the municipal boundaries of the Town, but was located within the Town's Growth Management Area (GMA). Thus, the applicant began the process in Larimer County in 2020, with Minor Land Division (subdivision) and Site Plan applications. These were subsequently sent to the Town, as a referring agency, for review and comment.

Upon review of the Larimer County applications, it was determined that the property was contiguous to the Town's municipal boundary, via the Larimer County Road 5 (LCR 5) right-of-way, and was proposed to be accessed from said right-of-way, thus supporting its eligibility for annexation to the Town.

An annexation application was received by the Town in the Spring of 2021. Because the site-specific development applications (Minor Land Division and Site Plan) were well under way in Larimer County, those processes continued to move forward, and the Town elected to incorporate a pre-annexation agreement into the process, in order to bridge the gap between Larimer County development standards / requirements, and those of the Town.

The Pre-Annexation agreement was signed in the Spring of 2021, and outlined development responsibilities for each party to the annexation, requirements that the Site Plan be developed in accordance with the lot development standards of the Town, and included specific thresholds that would drive the required improvements to bring Larimer County Road 5 up to urban street standards.

The site was then annexed to the Town in October 2021, and zoned Estate Residential (ER) in accordance with the land use designation of the Comprehensive Plan.

The Pre-annexation agreement has since seen two amendments to clarify enrollment thresholds that directed the timing of the LCR 5 improvements. To-date, the site is in compliance with the requirements of the Pre-annexation Agreement and Amendments.

The current site configuration is within the lot development standards for the Estate Residential (ER) zone district, which call for 25-foot setbacks on all sides, for ER zoned lots greater than 2.5 acres.

Due to a more rapid increase in enrollment than may have been originally expected, the school finds itself needing additional classroom space while they design and fund the planned Phase 2 expansion. The interim solution can be found in a way that many schools use to accommodate increased enrollment – modular classroom buildings. Ascent Classical Academy has determined that two modular buildings will serve their needs while the Phase 2 project is designed and implemented. These modulares will be ‘dry’, meaning they will not have plumbing extended to them. Potable water can be brought in via bottled water, and the existing building restrooms are able to serve the modulares. However, locating the two proposed modular classrooms has proved to be challenging, due to existing built conditions on the site.

The proposed location, at the southwest corner of the site, has been deemed to be the best solution, but it does not comply with the lot development standards of the ER zone district. Both modular buildings will encroach into the 25-foot side setback by three to four feet. Other locations that were explored but eliminated due to more significant impacts are:

- North side of the existing building – location of the proposed Phase 2 expansion
- East side of the site – too far from Building Code mandated distance to restrooms.

Note, the applicant has indicated that the modulares will be removed from the site once the Phase 2 expansion has been built and implemented.

VARIANCE REQUEST

The applicant is requesting a variance from the Lot Development Standards found in Table 16-1-30(b) in:

Municipal Code Section 16-1-30 (Estate Residential (ER) District Zoning which states:

(a) Purpose. The purpose of the ER zone district is:

- (1) To establish and preserve low-density single-family residential neighborhoods with urban level services that, in general, are located in a rural setting.
- (2) To provide an estate transition from higher urban densities in the Town to outlying rural densities and preserve environmentally sensitive areas.
- (3) To provide for generous building setbacks and lot frontages that ensure significant space between dwellings, resulting in an estate residential appearance within developed neighborhoods.

Staff has reviewed the proposed Site Plan which shows the location of the modulares along with the circulation of students and has determined the proposed location will generate the least impacts to the overall campus.

REVIEW CRITERIA (please refer the Application materials for detailed responses)

1. *Where, special circumstances exist, that strict application of the standards adopted in this development code would result in peculiar and exceptional practical difficulties to, or exceptional*

and undue hardship upon the property owner. For the purposes of this Section, undue hardship and practical difficulties means a situation where the property cannot be reasonably used under the conditions allowed by this Code, and are neither a result of a situation created by the property owner, nor exclusively due to economic or cost considerations. The situation shall result from circumstances unique to the property, such as, exceptional narrowness, shallowness, or shape of a specific piece of property, topographic conditions, existing lot configuration, existing building locations on or adjacent to the property or other extraordinary and exceptional situation or condition of such piece of property that would result in peculiar and exceptional practical difficulties to, or exceptional undue hardship. Relief by variance may be granted if there is no substantial detriment to the public good and if it does not substantially impair the intent and purpose of the Comprehensive Plan and this Code. The variance, if granted, shall not alter the essential character of the surrounding neighborhood. Economic considerations alone shall not constitute an undue hardship if a reasonable use for the property exists under the provisions of this Code. It is the responsibility of the landowner to prove that an undue hardship exists;; **Strict application of the setback requirement would be challenging due to the existing constructed conditions – i.e. the current school building, internal drive aisles and parking. Alternate locations were explored, (east side of existing building, north of existing building) but again, existing conditions negate these opportunities.**

2. *The applicant cannot derive beneficial use of the property without the variance;* **The modulares are necessary in order to provide additional space for the current school population, while the Phase 2 expansion is being funded, designed and built. Upon completion of the Phase 2 project, the modulares will be removed from the property.**
3. *The purpose and intent behind the regulation would be maintained by granting the variance:* **The purpose and intent of the setback requirements is to ensure significant space between dwellings.... The property to the south and west includes a ditch, and is not conducive to building construction, thus maintaining a significant space between any future buildings. The side setback will be reduced to a MINIMUM of 20-feet, to allow for slight variations in the actual site conditions.**
4. *Granting the variance will not be detrimental to any adjacent properties or the surrounding area:* **the adjacent property will not be impacted by the addition of the modulares, nor will the modulares impact any future construction on the adjacent properties.**
5. *Granting the variance will not be detrimental to public health, safety, or welfare.* **Building separations, building codes, and plumbing codes will be met.**
6. *Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards, if applicable:* **Alternate locations have been explored, and ruled out. There are no waiver opportunities available for this situation.**
7. *Granting the variance will not create a building or fire code violation or other safety hazard:* **Safety hazards are not anticipated with this proposal. The application does not seek any exceptions to the building code.**
8. *The need for the variance is not created by a self-imposed hardship:* **Existing conditions, along with rapid growth in student enrollment are driving the need for an interim solution while plans for the Phase 2 development are started.**
9. *A variance shall allow only the least deviation from the standard that will afford relief:* **Based on existing site conditions, the modulares have been placed to provide the least impacts to requirements of the Code, while still meeting the intent of the Code.**

SUMMARY

Staff has analyzed the Review Criteria, and found the following findings of fact, based on:

- *Whether special site-specific conditions exist:*

Staff has determined that the proposed Variance will aid in the ongoing development of the

campus by providing a interim educational space for the students while plans for the building/campus expansion are underway.

- *Whether an unnecessary hardship exists:*

Staff has determined that the proposed Variance is a compromise that provides an interim remedy for the rapid increase in enrollment and the existing site conditions that were not anticipated to happen so quickly.

- *The impact on public interest, safety, and welfare:*

Staff has determined that the proposed Variance has no negative impacts on the public welfare and will assist the school in expanding their facilities and operations in a safe and efficient manner.

NOTIFICATIONS

The following notifications for the public hearing were made in accordance with the Municipal Code:

- April 3, 2024 - public hearing notice sent to surrounding property owners
- April 5, 2024 - public hearing notice posted on Town of Windsor website
- April 5, 2024 - public hearing notice published in the paper
- April 8, 2024 - development sign posted on the subject property

RECORD

Staff requests that the following be entered into the record:

- Variance application and supplemental materials
- Staff memorandum and supporting documents
- Testimony received during the public hearing
- Recommendation

Financial Impact:

Relationship to Strategic Plan:

Recommendation:

Staff recommends approval of a variance to reduce the side setback for two (2) modular classroom buildings to a MINIMUM of 20-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 16-1-30 – Estate Residential (ER) Zone District, Table 16-1-30(b): ER District Lot Development Standards pertaining to a request for a reduced side yard setback; based upon the aforesaid findings of fact, all Staff and BOA conditions being addressed, and the applicant obtaining the applicable building permits.
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.

CC:

David Eisenbraun, Long Range Planner
Scott Ballstadt, Director of Planning

Attachments:

1. Variance - Application
2. Variance - Site Plan
3. Variance - Staff Presentation_4.25.2024

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 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: 6402 S County Road 5, Windsor, CO

Lot: _____ Block: _____ Subdivision: Ascent Charter School

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

Sec. 16-1-30. - Estate residential (ER) zone district.

Table 16-1-30(b): ER District Lot Development Standards

Side setback lot 2.5 acres in size or greater

3

Owner

Name(s): Trent Kramer

Address: 6402 S. County Road 5 Windsor, CO 80528

Phone #: (970) 545-6650 Email: tkramer@ascentclassical.org

Applicant or Representative:

Name: Brian Campbell

Address: 320 North Lincoln Avenue, Loveland, CO 80537

Phone #: (970) 613-1447 Email: bcampbell@tait.com

Variance Application

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.

4

Unnecessary hardship is defined by the Municipal Code as enumerated in items 1-9 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. Where, special circumstances exist, that strict application of the standards adopted in this development code would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the property owner. For the purposes of this Section, undue hardship and practical difficulties means a situation where the property cannot be reasonably used under the conditions allowed by this Code, and are neither a result of a situation created by the property owner, nor exclusively due to economic or cost considerations. The situation shall result from circumstances unique to the property, such as, exceptional narrowness, shallowness, or shape of a specific piece of property, topographic conditions, existing lot configuration, existing building locations on or adjacent to the property or other extraordinary and exceptional situation or condition of such piece of property that would result in peculiar and exceptional practical difficulties to, or exceptional undue hardship. Relief by variance may be granted if there is no substantial detriment to the public good and if it does not substantially impair the intent and purpose of the Comprehensive Plan and this Code.
The variance, if granted, shall not alter the essential character of the surrounding neighborhood. Economic considerations alone shall not constitute an undue hardship if a reasonable use for the property exists under the provisions of this Code. It is the responsibility of the landowner to prove that an undue hardship exists.

See attached pages for description of compliance to item #1

2. The applicant cannot derive beneficial use of the property without the variance.

See attached pages for description of compliance to item #2

3. The purpose and intent behind the regulation would be maintained by granting the variance.

See attached pages for description of compliance to item #3

Variance Application

4. Granting the variance will not be detrimental to any adjacent properties or the surrounding area.
See attached pages for description of compliance to item #4

5. Granting the variance will not be detrimental to public health, safety, or welfare.
See attached pages for description of compliance to item #5

6. Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards, if applicable.
See attached pages for description of compliance to item #6

7. Granting the variance will not create a building or fire code violation or other safety hazard.
See attached pages for description of compliance to item #7

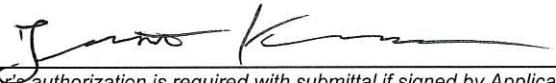
8. The need for the variance is not created by a self-imposed hardship.
See attached pages for description of compliance to item #8

9. A variance shall allow only the least deviation from the standard that will afford relief.
See attached pages for description of compliance to item #9

Variance Application

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.

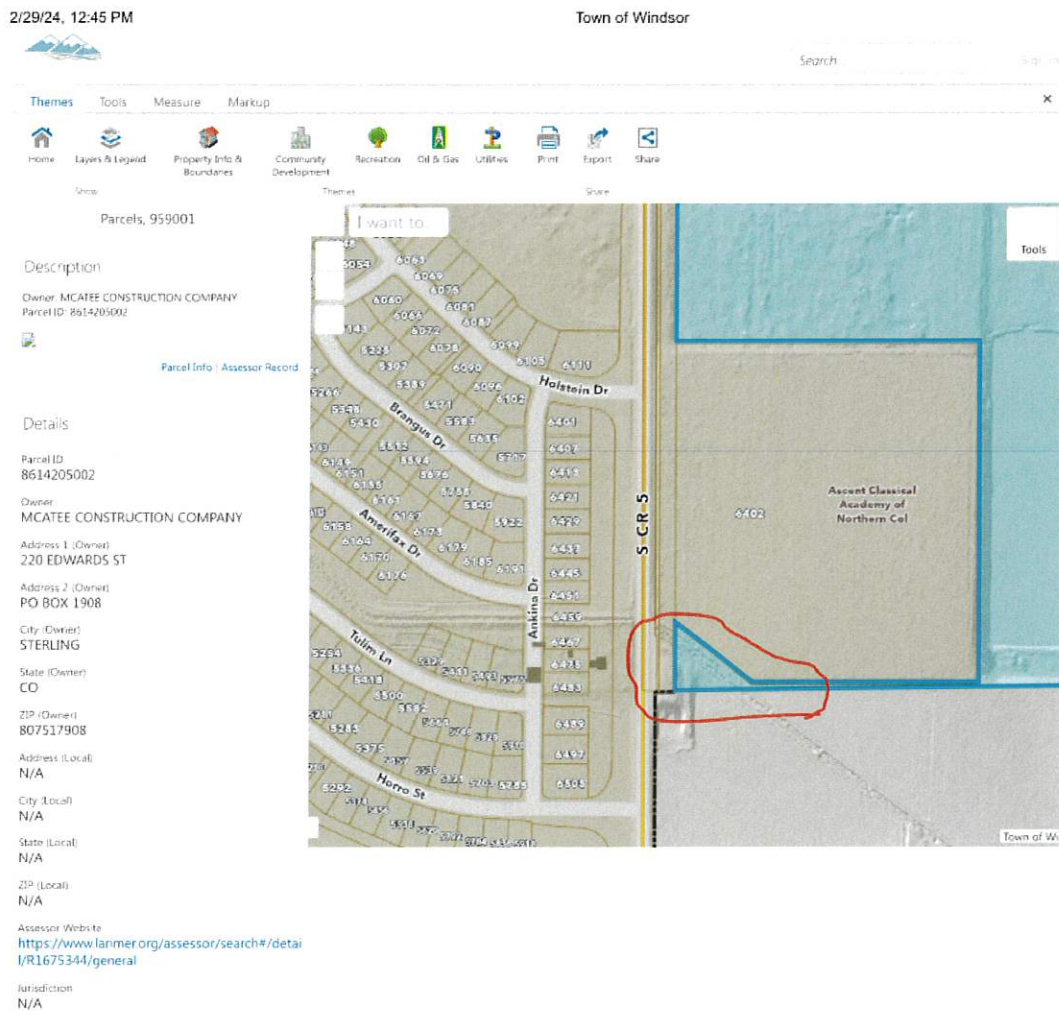
Signature:  Date: 03-05-2024
(Proof of owner's authorization is required with submittal if signed by Applicant)

Printed Name: Trent Krames

Date Submitted: 03-05-2024

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

1. Currently Ascent Classical Academy of Northern Colorado has constructed phase 1 and will not have the necessary classroom space for the 2024-2025 school year. Modular Classrooms are being proposed as a way to provide necessary capacity for the school until phase 2 can be constructed. Due to the location of the existing building and roadways on the site, the modular buildings are proposed to be placed in an area which will encroach into the building site side setback along the southwest corner of the property. Alternate locations have been explored, such as the east side of the building, but a maximum 500' path of travel must be provided from the dry modular buildings to the existing bathrooms inside the main school building. Other locations that meet this requirement will be in conflict with the future construction of the phase 2 improvements. The adjacent property to the south of the proposed modulares location is not usable as there is an existing irrigation adjacent the proposed modulares. See the following screenshot for information on the existing property.



2. The property is zoned ER (estate residential) which allows for the use of private schools. Currently the existing school is being used as a private school, but the capacity of students is too large for the existing phase 1 building. In order to provide classroom space for the school population, the modulares are being proposed as a temporary measure while the school raises enough funds to construct phase 2. As discussed in item #1, alternate locations for these modulares are not possible due to bathroom requirements and conflicts with future construction of phase 2. Upon completion of phase 2, the modulares will be removed from the property. Phase 2 improvements are expected to be completed and operational by the 2027 school year. Modulares are necessary in order to provide classroom space for the current enrolled student body.
3. The purpose and intent of the setback requirements is to “To provide for generous building setbacks and lot frontages that ensure significant space between dwellings, resulting in an estate residential appearance within developed neighborhoods.” as defined in Town Code Sec. 16-1-30.(3). At the maximum, 6’ of setback will be encroached by the Modular Trailers. Due to the existing property to the south having an irrigation ditch, no buildings or dwellings can be constructed in this area. At the minimum this property spans roughly 18’. Due to this, the modular trailers will not impact the intent of the setback regulation as described in the code.
4. As described in item 3, the placement of the modular classrooms will not be detrimental to the development of the property to the south. The existing irrigation ditch will not be affected by the placement of the modular classrooms. The existing school and private driveways will also not be affected by the placement of the modular classrooms. The front setback to the existing S Co Rd 15 will not be encroached on and the frontage will be maintained.
5. The location of the modulares as proposed will not be detrimental to the public health, safety, or welfare. The encroachment into the setback requirement is located within private property bordering a private property. A building separation of 20’ will be maintained to prevent any fire hazards from spreading from modular to modular. The irrigation will be maintained and placement of these modulares will not negatively affect water in said irrigation ditch.
6. A major variance is required for these trailers and cannot be achieved with any different procedure, such as waiver or alternative compliance standards. As described previously, alternate locations of the trailers have been explored and are not possible due to the location of the existing bathrooms and conflicts with the future construction of phase 2.

7. The variance will not create a building or fire code violation or other safety hazard. The proposed location of the modular classrooms is only 80' from an existing hydrant at the site. A 20' separation will be maintained to prevent any fire from spreading from one modular trailer to the other.
8. The need for the variance is not created by a self-imposed hardship. As previously mentioned, alternate locations for the modulators have been explored and are not feasible. The addition of these modulators between phase 1 and phase 2 could not have been accounted for in the previous design phase of the school. The 500' path of travel distance to bathrooms was only considered when the need for modular classrooms arose. Due to these requirements, the school is requesting the acceptance of this variance.
9. The modulators have been placed in location to minimize the least deviation from the standard that will afford relief. Six feet of encroachment into the setback is necessary to provide the path of travel to the existing bathrooms in the school. Shifting the modulators to the northwest will put the classrooms beyond this requirement and will not be adequate to provide bathroom capabilities to the students utilizing the classrooms.



Ascent Classical Academy Variance Request

*Request to reduce setback along side property line
Kimberly Lambrecht, Senior Planner
Board of Adjustment – April 25, 2024*

Variance Request

***Municipal Code Section 16-1-30 – Estate Residential (ER) Zone District,
Table 16-1-30(b): ER District Lot Development Standards*** - pertaining to a request for a reduced side yard setback.



Ascent Classical Academy

Variance Request

Town of Windsor Board of Adjustment – April 25, 2024

Variance Request

The current Municipal Code outlines **building setbacks in each zone district** within the Lot Development Standards table.

This Variance Request is specifically addressing the side setback for proposed modular classrooms on a lot 2.5 acres or greater.

Table 16-1-30(b): ER District Lot Development Standards		
<i>Vehicular Access</i>		
Residential Uses	Standard, Limited, or Rear	
Non-Residential Uses	Any	
<i>Lot Standards</i>	<i>Lots less than 2.5 acres in size</i>	<i>Lots 2.5 acres in size or greater</i>
Minimum Lot Area (acres)	1	2.5
Minimum Lot Width	45'	45'
Maximum Lot Coverage	65%	65%
<i>Minimum Setbacks - General</i>	<i>Lots less than 2.5 acres in size</i>	<i>Lots 2.5 acres in size or greater</i>
Front	20'	25'
Side	5'	25'
Rear	10'	25'



Ascent Classical Academy

Variance Request

Town of Windsor Board of Adjustment – April 25, 2024

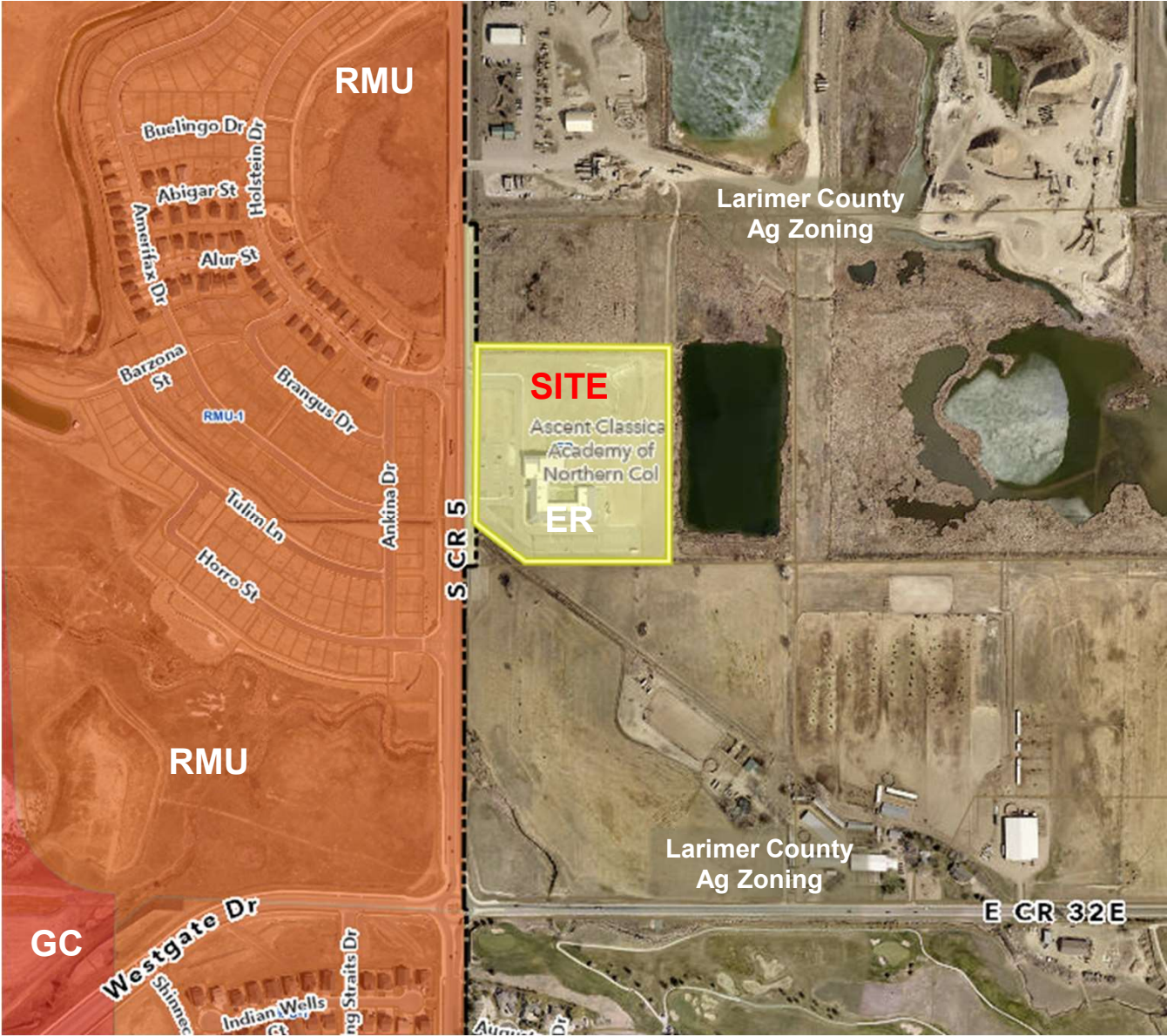


Vicinity Map





Zoning Map



Background

2020:	Began MLD / Site Plan Applications in Larimer County
Spring 2021:	Pre-Annexation Agreement
Fall 2021:	Annexation to the Town
Fall 2022:	School Opened
Spring 2024:	Pre-Annex Agreement 2nd Amendment
2024:	Proposed Modular Classrooms
2025+:	Phase 2 School Expansion



Ascent Classical Academy

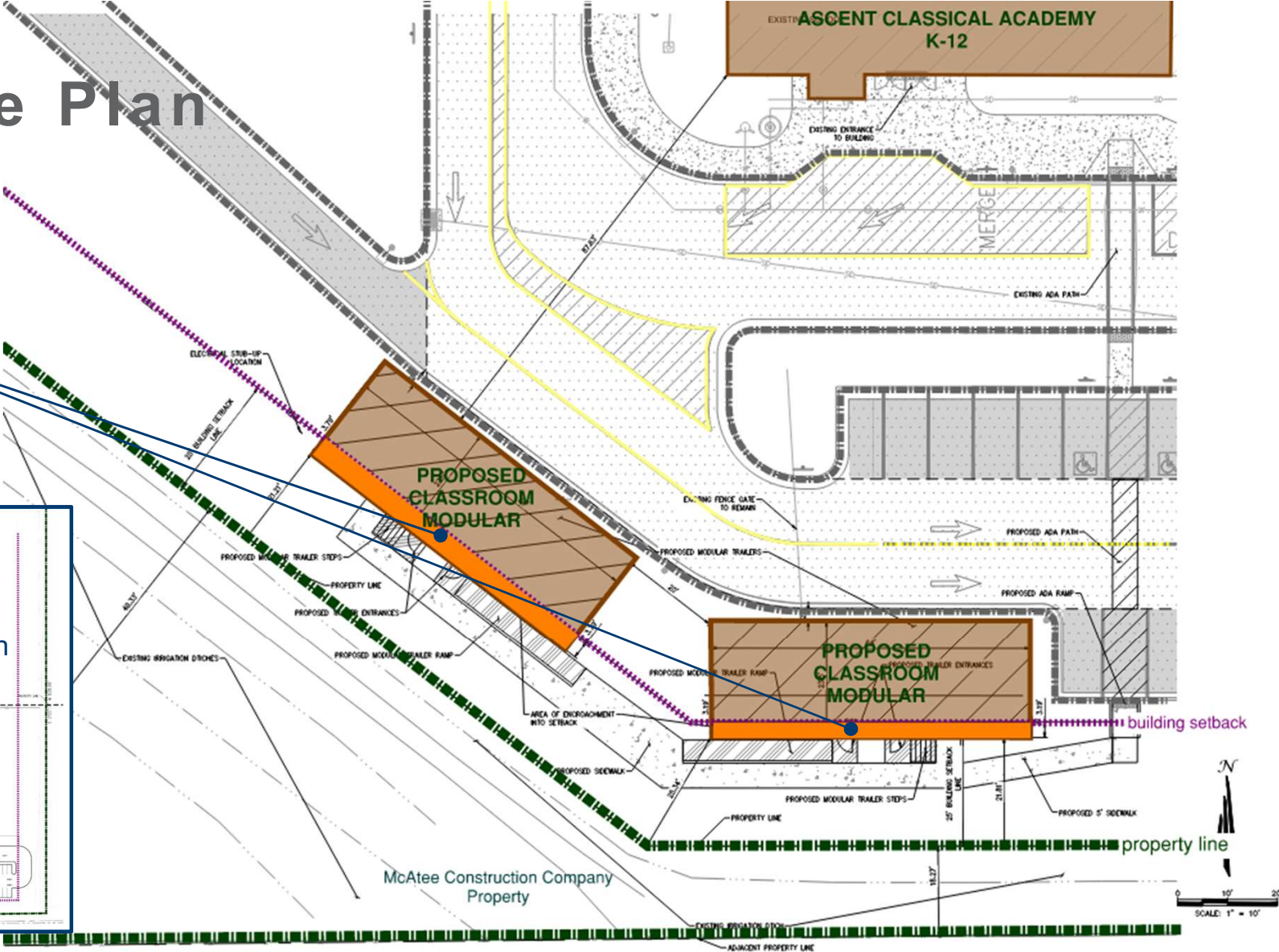
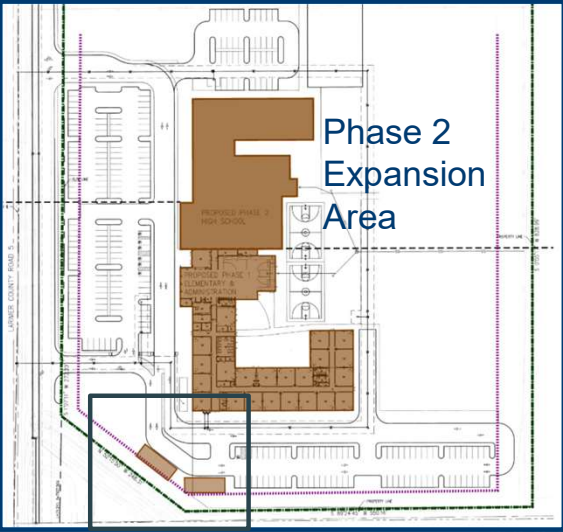
Variance Request

Town of Windsor Board of Adjustment – April 25, 2024



Site Plan

Setback
Encroachment
Area



Variance Request

Municipal Code Section 16-1-30 (Estate Residential (ER) District Zoning states:

- (a) Purpose. The purpose of the ER zone district is:
- (1) To establish and preserve low-density single-family residential neighborhoods with urban level services that, in general, are located in a rural setting.
 - (2) To provide an estate transition from higher urban densities in the Town to outlying rural densities and preserve environmentally sensitive areas.
 - (3) To provide for generous building setbacks and lot frontages that ensure significant space between dwellings, resulting in an estate residential appearance within developed neighborhoods.

Table 16-1-30(b): ER District Lot Development Standards

Table 16-1-30(b): ER District Lot Development Standards		
<i>Vehicular Access</i>		
Residential Uses	Standard, Limited, or Rear	
Non-Residential Uses	Any	
<i>Lot Standards</i>	<i>Lots less than 2.5 acres in size</i>	<i>Lots 2.5 acres in size or greater</i>
Minimum Lot Area (acres)	1	2.5
Minimum Lot Width	45'	45'
Maximum Lot Coverage	65%	65%
<i>Minimum Setbacks - General</i>	<i>Lots less than 2.5 acres in size</i>	<i>Lots 2.5 acres in size or greater</i>
Front	20'	25'
Side	5'	25'
Rear	10'	25'



Ascent Classical Academy

Variance Request

Town of Windsor Board of Adjustment – April 25, 2024

Analysis

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

- (1) *Where, special circumstances exist, that strict application of the standards adopted in this development code would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the property owner...; Strict application of the setback requirement would be challenging due to the existing constructed conditions – i.e. the current school building, internal drive aisles and parking.* Alternate locations were explored, (east side of existing building, north of existing building) but again, existing conditions negate these opportunities.
- (2) *The applicant cannot derive beneficial use of the property without the variance; The modulars are necessary in order to provide additional space for the current school population, while the Phase 2 expansion is being funded, designed and built.* Upon completion of the Phase 2 project, the modulars will be removed from the property.



Ascent Classical Academy

Variance Request

Town of Windsor Board of Adjustment – April 25, 2024

Analysis (cont.)

Municipal Code Section 14-2-150(c) (Major Variance) Review Criteria:

- (3) *The purpose and intent behind the regulation would be maintained by granting the variance:* The purpose and intent of the setback requirements is to ensure significant space between dwellings.... The property to the south and west includes a ditch, and is not conducive to building construction, thus maintaining a significant space between any future buildings. At a minimum, the setback will be reduced to 20-feet, to allow for slight variations in the actual site conditions.
- (4) *Granting the variance will not be detrimental to any adjacent properties or the surrounding area:* the adjacent property will not be impacted by the addition of the modulars, and is not conducive to future building construction.
- (5) *Granting the variance will not be detrimental to public health, safety, or welfare.* Building separations, building codes, and plumbing codes will be met.



Ascent Classical Academy

Variance Request

Town of Windsor Board of Adjustment – April 25, 2024

Analysis (cont.)

Municipal Code Section 14-2-150(c) (Major Variance) Review Criteria:

- (6) *Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards, if applicable:* Alternate locations have been explored, and ruled out. **There are no waiver opportunities available for this situation.**
- (7) *Granting the variance will not create a building or fire code violation or other safety hazard:* **Safety hazards are not anticipated with this proposal. The application does not seek any exceptions to the building code.**
- (8) *The need for the variance is not created by a self-imposed hardship:* **existing conditions, along with rapid growth in student enrollment are driving the need for an interim solution while plans for the Phase 2 development are started.**
- (9) *A variance shall allow only the least deviation from the standard that will afford relief:* **Based on existing site conditions, the modulares have been placed to provide the least impacts to requirements of the Code,** while still meeting the intent of the Code.



Ascent Classical Academy

Variance Request

Town of Windsor Board of Adjustment – April 25, 2024



Analysis Summary

Staff has analyzed and found the following findings of fact, based on:

- *whether special site-specific conditions exist*
- *whether an unnecessary hardship exists*
- *the impact on public interest, safety, and welfare*

Staff has determined that a variance for a *reduced side setback for modular classrooms:*

- will aid in the ongoing development of the campus by providing safe interim spaces for the students.
- is a compromise that provides a remedy for the **rapid increase in enrollment** and the **existing site conditions** that were not anticipated to happen so quickly.
- has no negative impacts and will assist the school in expanding their operations in a **safe and efficient** manner.

Notifications

The following notifications for the public hearing were made in accordance with the Municipal Code:

- April 3, 2024 - public hearing notice sent to surrounding property owners
- April 5, 2024 - public hearing notice posted on Town of Windsor website
- April 5, 2024 - public hearing notice published in the paper
- April 8, 2024 - development sign posted on the subject property



Ascent Classical Academy

Variance Request

Town of Windsor Board of Adjustment – April 25, 2024

Recommendation

Staff recommends approval of a variance to reduce the side setback for two (2) modular classroom buildings to a MINIMUM of 20-feet.



Ascent Classical Academy

Variance Request

Town of Windsor Board of Adjustment – April 25, 2024

Recommendation

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 16-1-30 – Estate Residential (ER) Zone District, Table 16-1-30(b): ER District Lot Development Standards** pertaining to a request for a reduced side yard setback; based upon the aforesaid findings of fact, all Staff and BOA conditions being addressed, and the applicant obtaining the applicable building permits.
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.



Ascent Classical Academy

Variance Request

Town of Windsor Board of Adjustment – April 25, 2024

Record

Staff requests that the following be entered into the record:

- Variance application and supplemental materials
- Staff memorandum and supporting documents
- Testimony received during the public hearing
- Recommendation



Ascent Classical Academy

Variance Request

Town of Windsor Board of Adjustment – April 25, 2024



Analysis

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

1. Where, special circumstances exist, that strict application of the standards adopted in this development code would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the property owner. For the purposes of this Section, undue hardship and practical difficulties means a situation where the property cannot be reasonably used under the conditions allowed by this Code, and are neither a result of a situation created by the property owner, nor exclusively due to economic or cost considerations. The situation shall result from circumstances unique to the property, such as, exceptional narrowness, shallowness, or shape of a specific piece of property, topographic conditions, existing lot configuration, existing building locations on or adjacent to the property or other extraordinary and exceptional situation or condition of such piece of property that would result in peculiar and exceptional practical difficulties to, or exceptional undue hardship. Relief by variance may be granted if there is no substantial detriment to the public good and if it does not substantially impair the intent and purpose of the Comprehensive Plan and this Code. The variance, if granted, shall not alter the essential character of the surrounding neighborhood. Economic considerations alone shall not constitute an undue hardship if a reasonable use for the property exists under the provisions of this Code. It is the responsibility of the landowner to prove that an undue hardship exists



Ascent Classical Academy

Variance Request

Town of Windsor Board of Adjustment – April 25, 2024



MEMORANDUM

Date: April 25, 2024
To: Board of Adjustment/Appeals Members
From: Kimberly Lambrecht, Senior Planner
Re: Variance from Table 16-1-30(b): ER District Lot Development Standards pertaining to a reduced setback for buildings in the Estate Residential (ER) Zone District – Trent Kramer, Ascent Classical Academy (Owner/Applicant); Brian Campbell, Tait & Associates Engineering (Owner's Representative)
Item #: C.7.

Background / Discussion:

Please refer to previous agenda item for background information.

Financial Impact:

Relationship to Strategic Plan:

Recommendation:

Staff recommends approval of a variance to reduce the side setback for two (2) modular classroom buildings to a MINIMUM of 20-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 16-1-30 – Estate Residential (ER) Zone District, Table 16-1-30(b): ER District Lot Development Standards pertaining to a request for a reduced side yard setback; based upon the aforesaid findings of fact, all Staff and BOA conditions being addressed, and the applicant obtaining the applicable building permits.
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.

CC:

David Eisenbraun, Long Range Planner
Scott Ballstadt, Director of Planning

Attachments: