



BOARD OF APPEALS / ADJUSTMENTS REGULAR MEETING  
August 25, 2011 – 7:00 P.M.  
Town Board Chambers – 301 Walnut Street  
Windsor, CO 80550

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MINUTES

**A. CALL TO ORDER**

Chairman Danny Horner called the meeting to order at 7:00 pm.

1. Roll Call

The following members were present:

Chair – Danny Horner  
Mary Ann Baak  
Richard Conard  
Jim Fanning  
Jim McIntyre

Also present: Associate Planner

Diana Aungst

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

**Ms. Baak moved to accept the Agenda as presented; Mr. Fanning seconded the motion. Motion carried unanimously.**

3. Reading of the statement of the documents to be entered into the record.

Chairman Horner stated that he enters 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.

There was no public comment.

**B. CONSENT CALENDAR**

1. Approval of the minutes of June 23, 2011

**Ms. Baak moved to approve the June 23, 2011 minutes as presented. Mr. McIntyre seconded the motion. Motion carried unanimously.**

### C. BOARD ACTION

1. Variance of Municipal Code Sections 16-12-40 pertaining to Building Location in the Single Family Residential (SF-1) zoning district – 222 Oak Street – Susan Hanson, applicant – D. Aungst

**Ms. Baak moved to open the public hearing. Mr. Conard seconded the motion. Motion carried unanimously.**

Ms. Susan Hanson 222 Oak St. stated that the main project was to replace 3'x5' step that was rotted. Ms. Hanson stated that she wanted to add a deck to replace the unsightly porch that was existing. Ms. Hanson stated that originally she proposed a 10'x18' deck that will now be 10'x15', to meet the building code requirements.

No comments from public.

Ms. Aungst stated that the owner, Ms. Susan Hanson, is requesting a variance for a reduced setback to build a deck on the south side of the house at 222 Oak Street. Ms. Aungst explained that the applicant is proposing 10'x18' deck (applicant had stated that the dimensions will be changed to 10'x15'), approximately eight feet from the south property line. Ms. Aungst continued explained that this is an encroachment of twelve feet into the setback and that according to Section 16-12-40 of the Municipal Code the minimum setback shall be twenty feet.

Ms. Aungst stated that the subject property is part of the Kern Subdivision, platted c. 1903; according to the Weld County assessor this structure was built c.1900. Ms. Aungst stated that the application materials propose to have the deck extend ten feet beyond the plane of the house with a setback of eight feet from the southwest corner of the deck to the property line that abuts Oak Street. Ms. Aungst stated that the deck will not encroach into the setback any further the neighboring structure at 230 Oak Street (the lot adjacent and to the west of the subject property) therefore a smaller setback to Oak Street will not be established.

Ms. Aungst stated that in reviewing this variance request, the Windsor-Severance Fire Protection District did not have any concerns with this request. Ms. Aungst stated that additionally, the Engineering Department, the Public Works Department and the Parks and Recreation Department had no concerns with this variance request. Ms. Aungst explained that SAFEbuilt, the Town's building inspectors, stated that the deck must be a minimum of five feet from the west property line. Ms. Aungst explained that the application materials show the deck between three and four feet from the west property line and the applicant has been notified that this distance will need to be increased to five feet to comply with requirements of the 2006 IBC Section 302.1.

Ms. Aungst stated that Section 16-6-60(b) of the Municipal Code states that, "Variances may be considered where, due to special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship" and that, "Variances will not be granted contrary

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

Ms. Aungst stated that staff considers the literal enforcement of the Code to result in an unnecessary hardship or a practical difficulty based upon the following findings of fact:

1. The neighbor to the west has a similar setback;
2. The addition of a deck at the subject property does not appear to adversely affect aesthetics of the neighborhood; and
3. Granting of the variance does not appear to pose any public safety or welfare concerns.

Ms. Aungst stated that therefore, based upon the aforementioned findings of fact, staff recommends that the Board of Adjustment make a motion to approve the variance request to Section 16-12-40 to allow a reduced setback for a deck to be built eight feet from the south property line subject to following conditions:

1. The applicant shall submit for, receive approval of, and pay all related fees for a building permit;
2. The applicant shall construct the deck so that it is a minimum of five feet from the west property line per the 2006 IBC Section 302.1; and
3. The applicant shall comply with all the requirements of SAFEbuilt, the Town’s building inspectors.

**Ms. Baak moved to close the public hearing. Mr. Conard seconded the motion. Motion carried unanimously.**

Mr. McIntyre asked what the regulations were for needing a building permit for a deck in the Town of Windsor.

Mr. Russ Weber of SAFEbuilt, the Town’s building inspectors, explained the building code to the board members and stated that although the codes will be changing in the future, at this time all decks, regardless of height or square footage, need a building permit.

**Based on staff’s recommendation, Ms. Baak moved to approve the variance subject to stated conditions. Mr. McIntyre seconded the motion.**

#### **D. COMMUNICATIONS**

##### **1. Communications from the Board Members**

Mr. Horner asked if there were any variance applications submitted for the month of September.

Ms. Aungst informed the board that no applications have been received for the month of September yet.

2. Communications from the staff

Ms. Aungst discussed the new GIS maps on the Towns website which display the public hearings and the current projects that are happening in Town. Ms. Aungst performed a brief demonstration for the Board members showing them how the maps work.

**E. ADJOURN**

**Mr. Conard moved to adjourn. Ms. Baak seconded the motion. Motion carried unanimously. The meeting was adjourned at 7:21 p.m.**

**CERTIFICATION**

**Approved by the Board of Adjustment on the 27<sup>th</sup> day of October, 2011.**

Submitted By:   
**Joy Liberty-Anglado**  
**Recording Secretary**