



**BOARD OF APPEALS/ADJUSTMENT REGULAR MEETING
OCTOBER 27, 2011 – 7:00 P.M.** Town Board Chambers
301 Walnut Street, Windsor, CO 80550

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 Monday prior to the meeting to make arrangements.

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
Sherry Carey

Also present: Director of Planning
Associate Planner

Joe Plummer
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. Conard seconded the motion. Motion carried unanimously.

Mr. Fanning joined the meeting at 7:05

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 August 25, 2011

Mr. Conard moved to approve the August 25, 2011 minutes as presented. Ms. Baak seconded the motion. Motion carried unanimously.

C. BOARD ACTION

1. Variance of Municipal Code Sections 16-12-40 pertaining to Building Location of single-family residential dwellings in the Central Business (CB) Zoning District located at 226 N. 6th Street in the Town of Windsor – Kathleen Claus, applicant – D. Aungst

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

Ms. Kathleen Claus, 226 N. 6th Street, stated that she had an addition built onto her garage. Ms. Claus stated that the original plot plan showed the original garage 5ft from the property line. Ms. Claus noted that the addition to the garage was built to match the original garage but when the survey came back it showed 4.5ft from the property line. Ms. Claus stated that she is asking for a variance for the .5ft.

Ms. Carey moved to close the public hearing. Mr. Fanning seconded the motion. Motion carried unanimously.

Ms. Aungst stated that the owner, Ms. Kathleen Claus, is requesting a variance for a reduced offset for an existing garage that was built on the subject property this summer. Ms. Aungst explained that when the garage was built the offset was four-and-a-half (4.5) feet from the south property line. Ms. Aungst noted that this is an encroachment of a one-half (1/2) foot into the offset. According to Section 16-12-40 of the Municipal Code the minimum offset shall be five (5) feet.

Ms. Aungst stated that the applicant received a variance approval on June 23, 2011 to build the 480 (16x30) square foot garage addition with a fifteen (15) foot setback and a five (5) foot offset. Ms. Aungst noted that the garage addition was built this summer and it is in-line with the original garage on the back which abuts the south property line. Ms. Aungst explained that the original garage was built in 1979 and at that time the plot plan that was submitted showed that the back wall was five (5) feet from the south property line. Ms. Aungst stated that when the final survey was completed on the garage addition in September of 2011 and it was revealed that the back wall of both garages was only four-and-a-half (4.5) feet from the south property line and that the lot is not fifty (50) feet in width as shown on the plot plans but rather it is only forty-nine-point-nine (49.9) feet in width.

Ms. Aungst stated that in reviewing this variance request, Windsor-Severance Fire Rescue, the Town's Engineering Department, the Public Works Department and the Parks and Recreation Department had no concerns with this variance request. Ms. Aungst noted that SAFEbuilt, the Town's building inspectors, have stated that walls located less than five (5) feet from a property line per table 302.1 of the 2006 International Residential Code shall be protected with a 1-hour fire resistant construction. Ms. Aungst continued, noting that SAFEbuilt also indicated that the eave overhangs located less than four (4) feet from a property line shall have a 1-hour material on the underneath side of the overhang.

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 garage addition was built so that is in line with the existing garage;

2. When the lot was platted in 1909 is was shown to be a fifty (50) foot wide lot but the current survey shows it as a forty-nine-point-nine (49.9) foot wide lot;
3. The dimensions of the offset that was measured in 1979 during the construction of the original garage was imprecise; and
4. Public safety and welfare concerns will be addressed by building code requirements for fire resistant construction.

Ms. Aungst stated that 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 the recently constructed garage addition to remain as built four-and-a-half (4.5) feet from the south property line subject to the following conditions:

1. The applicant shall comply with section 302.1 of the 2006 International Residential Code that requires that any walls located less than five (5) feet from a property line shall be protected with a 1-hour fire resistant construction. Eave overhangs located less than four (4) feet from a property line shall have a 1-hour material on the underneath side of the overhang.
2. The applicant shall comply with all other requirements of the building and fire codes.

Based on staff's recommendation, Ms. Baak moved to approve the variance subject to stated conditions. Ms. Carey seconded the motion. Motion carried unanimously.

D. COMMUNICATIONS

1. Communications from the Board Members

Mr. Conard asked how many times it comes up that lots are actually smaller than the original plot plan says for the older homes.

Mr. Plummer stated that he has not seen this come up before and that the plot plans are usually correct.

2. Communications from staff

Mr. Plummer stated that this was Ms. Carey's last meeting with the Board of Adjustment and that Cindy Scheuerman will be taking her place on the Board at the next meeting. Mr. Plummer stated that there is a variance request and appeal on the agenda for the next meeting.

Mr. Plummer stated that as usual staff will be combining the November and December meeting dates due to the Holidays and will be sending out an email regarding the dates that are available for a meeting.

Ms. Baak stated that she will not be able to attend a meeting scheduled on December 5th, 6th or 7th.

E. ADJOURN

Mr. Conard moved to adjourn. Ms. Baak seconded the motion. Motion carried unanimously. The meeting was adjourned at 7:31 p.m.

CERTIFICATION

Approved by the Board of Adjustment on the 14th day of December, 2011.

Submitted By: 

Joy Liberty-Anglado
Recording Secretary