

Mr. Walker reported the applicant is requesting a variance from Municipal Code Section 16-14-60 (Building Location) proposing to construct a solar array within twenty-five (25) feet of the side yard offsets, noting the solar arrays will be located as close as seven (7) feet to the side yard property lines. The applicant is requesting a variance to be five (5) feet from the property lines. The subject parcel is 1.2± acres (52,708 sq. ft.) and is zoned Estate Residential (E-1). According to the applicant, the size of the solar array is intended to eliminate the owner's reliance on off-site energy production.

Mr. Walker went on to say the subject property is surrounded on three sides (north, east, and west) by a sixty (60) foot wide *ditch, access, drainage, recreation, public trail, and pedestrian easement*, which is owned by the Town of Windsor. He told the Board there are no immediate plans to construct a trail on the site. He added the nearest privately-owned developable property is located sixty (60) feet from the subject lot and there is also a twenty (20) foot wide utility easement that bisects the lot in a north-south trajectory. According to the applicant, there is a gas line located within the twenty (20) foot wide easement. The location of the easement reduces the possibility of locating the solar array closer to the house and within the minimum offsets.

Mr. Walker added 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 upon the following findings of fact:

1. The subject parcel is an irregularly shaped lot and is smaller than neighboring lots within the Ventana Subdivision;
2. A review of the enclosed plot plan indicates that, based on the energy generation requirements to power the residence and existing easements encumbering the lot, there are no other locations on the lot which could accommodate the proposed solar array in the rear yard;
3. Granting of this variance does not appear to be contrary to the public interest and does not appear to adversely impact public safety and welfare; and
4. An unnecessary hardship exists as a result of circumstances unique to this lot. The granting of this variance will not alter the essential characteristic of the surrounding neighborhood.

In closing, Mr. Walker reminded the Board 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." He added staff recommends approval of the variance request with the following condition of approval:

1. There are trees in proximity to the proposed solar array location that are on Town-owned property. Care shall be taken to not damage any part of the tree, including the root system during the construction/installation of the solar panel. The applicant/property owner shall confer with the Town Forester to determine if a Tree Protection Plan is required prior to issuance of a building permit(s). Additionally,

the applicant/property owner is not permitted to alter trees located on Town property.

Ms. Baak moved to close the Public Hearing; Ms. Scheuerman seconded the motion. Motion carried unanimously.

Ms. Baak asked for clarification regarding the 12 degree repositioning of the array. Mr. Pike responded the ideal position would result in the array being located on or very near the property line, adding the substitution of 300 watt panels will more than offset the adjustment to the physical location of the array.

Ms. Scheuerman moved to approve the variance request to Section 16-14-60 of the Municipal Code to allow the construction of the solar array 5 feet from the side yard property lines; Ms. Baak seconded the motion. Motion carried unanimously.

D. COMMUNICATIONS

1. Communications from the Board Members

Mr. Horner asked if there were any Board Action items scheduled for next month; Mr. Walker responded at this time, there are not. Mr. Horner also inquired if any applications have been received for current openings on the Board; again Mr. Walker replied there are not.

2. Communications from staff

There were no additional communications from the staff.

E. ADJOURN

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

Approved by the Board of Adjustment on the 25th day of April 2013.

Submitted By:


Deputy Town Clerk