



MINUTES

A. CALL TO ORDER

1. The meeting was called to order by Chairman Danny Horner at 7:00 p.m.
2. Roll Call
The following members were present:

	Chair - Danny Horner
	Richard Conard
	Jim McIntyre
	Cindy Scheuerman
	Jose Valdes

Also Present:	Director of Planning	Joe Plummer
	Associate Planner	Josh Olhava
3. Review of Agenda by the Board and Addition of items of New Business to the Agenda for Consideration by the Board
There were no changes to the agenda.
4. 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.
5. Public Invited to be Heard
There was no public comment.

B. CONSENT CALENDAR

1. Approval of the minutes of February 28, 2013
Ms. Scheuerman moved to accept the Minutes of the February 28, 2013 meeting as presented; Mr. McIntyre seconded the motion. Motion carried unanimously.

C. BOARD ACTION

1. Public Hearing - Variance of Municipal Code Section 16-12-40 pertaining to the building location of single family dwellings in the Central Business (CB) zoning district - 131 N 6th Street, Lake View Addition Subdivision, Lot 10 Block 4, Windsor, CO –Jason and Catherine Kingery, applicants – J. Olhava
Ms. Scheuerman moved to open the Public Hearing; Mr. McIntyre seconded the motion. Motion carried unanimously.

Mr. Jason Kingery gave a presentation to the board explaining that building this house is going to improve the neighborhood. Mr. Kingery stated that having to comply with the 20ft setback off the front of the house will just not look good and would look better if he could have the setback at 15ft from the property line, which would still be 31ft from the sidewalk.

Mr. Kingery explained the same situation for the side of the property off of Birch Street and asked for a setback of 9ft from the property line.

Mr. Josh Olhava stated that the applicants, Jason and Catherine Kingery, are requesting a variance from Municipal Code Section 16-12-40 (Building Location). Municipal Code Section 16-12-40 states the following:

Minimum setback shall be twenty (20) feet. Minimum offset shall be five (5) feet

Mr. Olhava explained that the applicant has proposed building setbacks along both 6th Street and Birch Street that are less than the twenty (20) foot minimum. The proposed location of the single family residence is fifteen (15) feet from the 6th Street property line and nine (9) feet from the Birch Street property line. The proposed detached garage is located fifteen (15) feet from the Birch Street property line. Mr. Olhava continued stating that the proposed structures meet the minimum side yard and rear yard offsets. The subject parcel is 9,500 sq ft (0.22± acres) and is zoned Central Business (CB).

Mr. Olhava stated that the subject lot is fifty (50) feet wide x one-hundred ninety (190) feet deep. The lot depth is typical of residential lots located in central Windsor. As shown on the plot plan submitted with the application, there is fifty (50) feet between the proposed location of the proposed residence and proposed detached garage, and fifteen (15) feet between the detached garage and the rear property line. Mr. Olhava explained that there do not appear to be any conditions that would prevent the applicant from moving the location of the residence five (5) feet east of the proposed site to meet the minimum twenty (20) foot setback, and have reasonable use of the property.

Mr. Olhava noted that the buildable width of the fifty (50) foot wide lot is twenty-five (25) feet, based on minimum setbacks and offsets. Mr. Olhava continued explaining that the proposed residence is thirty-six (36) feet wide, and the applicant is requesting a nine (9) foot setback from the Birch Street property line. The proposed detached garage is thirty (30) feet deep; the applicant is requesting a fifteen (15) foot setback from the Birch Street property line. Mr. Olhava explained that the right of way for Birch Street is eighty (80) feet wide. Based on the Town's mapping software, the property line appears to be approximately eleven (11) feet from the back of the Birch Street sidewalk. Mr. Olhava noted that the proposed location of the residence is approximately twenty (20) feet from the back of the sidewalk. Mr. Olhava explained that typically, the Town requires a minimum of twenty (20) feet between the back of the sidewalk and garages to ensure that a vehicle can park in the drive way and not impede pedestrian movement on the sidewalk. Based on the aerial image, it appears that there is approximately twenty-six (26) feet between the proposed north elevation of the garage and back of the Birch Street sidewalk.

Mr. Olhava stated that the variance request for the setback along 6th Street, staff considers that the literal enforcement of the Code will not result in an unnecessary hardship or a practical difficulty, and therefore is recommending denial of the variance request based upon the following findings of fact:

1. The subject parcel is similar in size and shape of neighboring lots within the Lake View Addition Subdivision and lots in the central Windsor area;

2. The proposed fifteen (15) foot setback would cause the proposed residence to encroach closer to the street than adjacent residences on the east side of 6th Street;
3. A review of the enclosed plot plan indicates that there is adequate lot depth (190 feet) to accommodate the proposed residence and detached garage, while also meeting the minimum setback from 6th Street and rear yard offset; and
4. Denial of the 6th Street setback variance request will not place an unnecessary hardship on the applicant, and will not deny the applicant reasonable use of the subject lot.

Mr. Olhava stated that therefore, based upon the aforementioned findings of fact, staff recommends denial of the variance request for the 6th Street building location setback.

Mr. Olhava further noted that since all motions are to be made in the affirmative, staff also 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 16-12-40 of the Municipal Code to allow the proposed residence to be located fifteen (15) feet from the 6th Street property line;
- 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.

Mr. Olhava stated that the variance request for the setback along Birch Street, staff considers that the literal enforcement of the Code will result in an unnecessary hardship or a practical difficulty, and therefore is recommending conditional approval of the variance request based upon the following findings of fact:

1. Based on the minimum setbacks and offsets as defined by Windsor Municipal Code Section 16-12-40, the width of the developable area of the lot is twenty-five (25) feet;
2. Based on the location of the existing property line relevant to the location of the sidewalk; there is adequate distance between the proposed location of the residence to meet the *spirit* of the zoning code setback regulation;
3. Based on the proposed location of the detached garage, there is adequate distance between the north elevation of the garage and the back of the Birch Street sidewalk to meet the *spirit* of the zoning code setback regulation, and not impede pedestrian movement.

Mr. Olhava further noted that, based on the aforementioned findings of fact, staff recommends approval of the variance request for the Birch Street building location setback, subject to the following condition of approval.

1. The applicant shall provide a minimum of a twenty (20) foot setback between the back of the Birch Street sidewalk (south side) and the north elevation of the proposed detached garage. The applicant shall provide to the Town a survey, stamped by a Colorado State licensed professional land surveyor or professional engineer, that confirms that there is a minimum twenty (20) foot setback between the back of the Birch

Street sidewalk (south side) and the north elevation of the proposed detached garage. The applicant shall provide said survey prior to issuance of building permits.

Mr. Olhava stated that additionally, 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 16-12-40 of the Municipal Code to allow the proposed residence to be located nine (9) feet from the Birch Street property line and the proposed detached garage to be located fifteen (15) feet from the Birch Street property line subject to the following condition of approval:

That the applicant shall provide a minimum of a twenty (20) foot setback between the back of the Birch Street sidewalk (south side) and the north elevation of the proposed detached garage. The applicant shall provide to the Town a survey, stamped by a CO State licensed professional land surveyor or professional engineer, that confirms that there is a minimum twenty (20) foot setback between the back of the Birch Street sidewalk (south side) and the north elevation of the proposed detached garage. The applicant shall provide said survey prior to issuance of 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.

Dr. Valdes asked the planning department to bring the image up that showed the proposed home and the home next door to see what the difference would be with the new home set 5ft forward and the new home in line with the home next door. Dr. Valdes also asked where the house on the other side of the new home sits.

Dr. Valdes then asked for clarification regarding the setback for the garage on the North side of the property.

Mr. Olhava explained that based on the Town’s mapping software and site visits that the new home would stick out beyond existing homes along 6th Street if the Variance is approved. Mr. Olhava added that the garage will sit back 15ft from the property line.

Ms. Scheuerman stated that the porch of the new home seems to line up with the neighbor’s home and asked for clarification.

Mr. Olhava stated that the porch on the front of the home puts the new home a little in front of the house next door, but does not know exactly how much.

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

The Board discussed the variance.

Ms. Scheuerman moved to approve the 6th Street variance request as presented; Dr. Valdes seconded the motion. Motion denied unanimously.

Ms. Scheuerman moved to approve the Birch Street variance request as presented with the conditions stipulated by the Town; Mr. Conard seconded the motion. Motion carried unanimously.

2. Public Hearing – Variance of Municipal Code Section 16-9-50(a) pertaining to sign setback regulations and 16-9-80(2) pertaining to sign size and sign height in the Single Family Residential (SF-1) zoning district – 1020 Walnut Street, Faith United Church of Christ Annexation. Faith United Church of Christ/Fred Evenson, applicant – J. Olhava

Mr. Conard moved to open the Public Hearing; Ms. Scheuerman seconded the motion. Motion carried unanimously.

Mr. Fred Evenson 871 Cliffrose Way, Severance explained the need for the sign size and location in relation to where the church building sits on the large property. Mr. Evenson showed pictures of signs in front of Windsor High School and McDonalds and discussed the size of their signs comparing them to the sign the church is requesting. Mr. Evenson read a letter of recommendation from the Windsor School District and the Bank of Colorado.

Mr. Olhava stated that the applicant, A. Fred Evenson, Faith United Church of Christ, is requesting a variance from Municipal Code Section 16-9-50(a) (15' Sign Setback) and Municipal Code Section 16-9-80(2) (Sign Size). Municipal Code Section 16-9-50(a) states the following:

Any freestanding sign that is located adjacent to an arterial street shall be set back and offset a minimum distance of fifteen (15) feet from the property line.

Municipal Code Section 16-9-80(2) states the following:

Signs identifying any of the following uses in a residential district shall be allowed, subject to a maximum sign area of twenty-four (24) square feet, and, further, not more than one (1) such sign per street frontage shall be erected on any single lot or parcel, not to exceed a total of two (2) such signs. Such freestanding signs identifying the following uses shall not exceed six (6) feet in height and shall be located in accordance with the offset and setback requirements of this Section:

- a. Public or private school.*
- b. Places of assembly (small).*
- c. Nursing or rest home.*
- d. Public park or recreation area.*

Mr. Olhava stated that the applicant is proposing to construct a new monument sign abutting their northern property line along Main Street (HWY 392). Mr. Olhava explained that the current sign is located twenty five (25) feet from the south edge of pavement with an

additional five (5) feet of sidewalk along Main Street (HWY 392). The new sign which is proposed adjacent to the property line would replace the existing sign.

Mr. Olhava continued explaining that the proposed sign area is proposed to be approximately four feet - nine inches (4'9") high by eight feet - three inches (8'3") wide, totaling forty and one-half (40.5) square feet. The overall monument sign size is proposed to be nine feet - six inches (9'6") high by eleven feet - four inches (11'4") wide. The sign is proposed to include an LED display and ground lighting, with a stone veneer base and sandstone caps, buffed sandstone, and an aluminum column. The subject property is zoned Single Family Residential (SF-1) and surrounded by both commercial and residential zoned properties.

Mr. Olhava stated that although the subject property is not located within the Central Business (CB) zoning district, the minimum sign setback allowed by the Municipal Code is two feet (2'), per the following Section 16-9-50(c): "Freestanding signs within the Central Business (CB) zoning district shall maintain a minimum setback distance of two (2) feet from the back of the sidewalk which, for the purposes of this Section, shall be defined as the edge of the sidewalk that is farthest away from the curb, gutter and street. In no event shall any sign be located within the public right-of-way or outside of the property boundary." Therefore, the proposed conditions of approval recommend that the proposed setback conform to the minimum of two feet (2') allowed by the Municipal Code.

In relation to the Sign Setback, Mr. Olhava stated that by locating the sign two feet (2') from the northern property line and utilizing an LED message board with a monument style sign, the sign is already becoming more visible and highly noticeable to travelers on Main Street (HWY 392); and the need for additional sign area and sign height as presented are not necessary. This lot is a transition between Residential and Commercial properties and the sign as proposed is not comparable with existing signs in the neighborhood. However, staff recognizes the aesthetic improvements that the proposed sign design will bring to the commercial corridor. The proposed location along the northern property line is adjacent to commercial properties and within the commercial corridor. This sign will not impact any neighboring residential properties.

Mr. Olhava stated that additionally, according to the application materials the square footage of the sign has been incorrectly calculated since the sign area is shown to be forty and one-half (40.5) square feet by outlining an irregular shape instead of a rectangular box. Municipal Code Section 16-9-30(b)1 states the following:

Cabinet signs and signs other than individual letter signs. Sign area shall be determined by the outer edge of the sign background, frame or cabinet that encompasses all text, decorative artwork, logos or other information displayed. In instances where the background, frame or cabinet is an irregular shape, the sign area shall be calculated as the entire area within a continuous rectangular box drawn with straight lines at perpendicular angles to encompass the entire perimeter of the extreme limits of the background, frame or cabinet encompassing the background material.

Mr. Olhava explained that by using this calculation requirement and the scale shown on the submitted illustration, staff determined that the proposed sign area would be approximately eight feet – three inches (8'3") wide by six feet – two inches (6'2") high, totaling fifty-one and two tenths (51.2) square feet.

Mr. Olhava stated that 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 from Municipal Code Section 16-9-50(a) based upon the following findings of fact:

1. The distance between property line and edge of Main Street (SH 392) pavement is approximately fifteen feet (15'), which provides a generous setback from pedestrians and vehicular traffic;
2. Locating the sign two feet (2') from the northern property line would be consistent with existing signs along the corridor;
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;
4. The granting of this variance will not alter the essential characteristic of the surrounding neighborhood; and
5. The location of the sign two feet (2') from the northern property line will not conflict with the visibility triangles for either egress or ingress points along Main Street.

Mr. Olhava stated that therefore, based upon the aforementioned findings of fact, staff recommends conditional approval of the variance request for the sign location setback as follows: the sign shall maintain a setback of two feet (2') from property line per Section 16-9-50(c) of the Municipal Code.

Mr. Olhava further noted that since all motions are to be made in the affirmative, staff also 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 16-9-50 of the Municipal Code to allow the construction of the sign two feet (2') from the northern property line, located one hundred and ninety five feet (195') from the east and west property lines;
- 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.

Mr. Olhava stated that staff considers that the literal enforcement of the Code will not result in an unnecessary hardship or a practical difficulty, and therefore is recommending that the variance request from Municipal Code Section 16-9-80(2) for the proposed size as presented in the application not be approved based upon the following findings of fact:

1. By granting the sign setback variance to allow the sign to be located two feet (2') from the northern property line and utilizing an LED message board with a monument style sign the sign has already become more visible;

2. This lot is a transition between Residential and Commercial properties and the proposed sign is not comparable with existing signs in the neighborhood;
3. The overall sign height exceeds signs that are located along the property lines throughout the corridor and that were used for consistency for the variance analysis for the sign setback;
4. Denial of the sign area and sign height variance request will not place an unnecessary hardship on the applicant.
5. The granting of this variance would alter the essential characteristic of the surrounding neighborhood.

Mr. Olhava stated that based on staff's analysis of existing signs along the corridor and Section 16-9-110(c) of the Municipal Code, staff would support an alternative sign size that is comparable to those existing within the corridor and compliant with Commercial Zoned - Major Tenants. Section 16-9-110(c) of the Municipal Code allows for signs up to eight feet (8') in height and a sign area up to sixty (60) square feet when adjacent to arterial streets and over one hundred foot (100') of frontage. Staff would recommend conditional approval of a variance request for the sign size as follows: the sign shall comply with Section 16-9-110(c)(1)a. for Maximum sign area and Section 16-9-110(c)(2)a. for Maximum sign height.

Since all motions are to be made in the affirmative, staff also 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 16-9-80(2) of the Municipal Code to allow the construction of the sign and monument as depicted in the variance application, subject to the overall height of the sign not exceeding eight feet (8') and the advertising area not exceeding sixty (60) square feet as calculated in accordance with Section 16-9-30(b)1 of the Windsor Municipal Code;
- 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

Mr. Conard opened the floor up to questions and answers from the board, public and staff.

Mr. Plummer stated that both the McDonald and Bank of Colorado signs are non-conforming signs.

Ms. Scheuerman asked for some clarification regarding the zoning. If this property were zoned general commercial would the sign comply with that sign code?

Mr. Olhava explained that if the Bank of Colorado were to remove their sign and put up a new sign they would be required to also conform to the sign code. Mr. Olhava stated that both the Bank of Colorado and Faith United are considered major tenants and would need to follow the guidelines for major tenants.

Mr. Evenson stated that he doesn't believe the church is a major tenant and that the leasable space compared to the actual size of the property is a substantial difference and the frontage is more comparable to a shopping strip and not one small church on a very large lot.

Ms. Scheuerman asked how many times the LED message will be changing.

Mr. Evenson stated that the code only allows for the message to change once in a 24 hour period and that they will be complying with that.

The public and the board discussed the height and why it would need to be the size that it is and if there were any way to reduce the height.

Mr. LD Chase 2613 Red Mountain Court, Fort Collins of DaVinci Sign Systems stated that the LED message center is not high intensity and does dim at night so not to be too bright.

Mr. Conard asked if the lot was split and there were two buildings on both lots would they each qualify for a sign.

Mr. Olhava stated that both lots would be able to have a sign in accordance with the sign code.

The board and the public discussed the setbacks and the applicant stated they were glad the Town recognizes that the sign does need to be closer to the property line because of the large lot and where the church is located.

Mr. Dean Moyer 1383 Walnut Street Windsor asked if the sign were closer to the property line and 1 ½' taller than the current sign the church has now, is there eminent danger to the public?

Mr. Emerson stated that the highest point is the bottom of the sign to the tallest post which only stands on the side of the sign closer to the church and immediately goes down from there.

Mr. Plummer stated that staff was not considering danger to citizens, but more this being the main corridor into Town and keeping the standards of the corridor.

Mr. Conard moved to close the Public Hearing; Dr. Valdes seconded the motion. Motion carried unanimously.

The topics of the height of the sign and the setbacks were discussed in more depth.

On a motion by Ms. Scheuerman to approve a variance from Section 16-9-50(a) to allow the construction of the proposed monument sign two feet (2') from the northern property line and a second by Mr. McIntyre. Motion carried unanimously.

On a motion by Ms. Scheuerman to approve a variance from Section 16-9-80(2) to allow construction of a monument sign measuring nine feet – six inches (9'6") high by eleven feet – four inches (11'4") wide with an overall sign area measuring six feet – two inches (6'2") high by eight feet – three inches (8'3")

wide, totaling approximately fifty one (51) square feet, and a second by Mr. Conard. Motion carried unanimously.

D. COMMUNICATIONS

1. Communications from the Board Members

There were no communications from the board members.

2. Communications from staff

Mr. Plummer welcomed Dr. Valdes to the Board of Adjustment.

E. ADJOURN

Upon a motion duly made and seconded, the meeting was adjourned at 8:40 p.m.

CERTIFICATION

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

Submitted By: 
Joy Liberty
Secretary