



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

Mary Ann Baak

Cindy Scheuerman

Jose Valdes

Benjamin George

Also Present: Director of Planning
Associate Planner
Town Attorney

Joe Plummer

Brett Walker

Ian McCargar

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 April 25, 2013

Ms. Scheuerman moved to accept the Minutes of the April 25, 2013 meeting as presented; Dr. Valdes seconded the motion. Motion carried unanimously.

C. BOARD ACTION

Public Hearing – Variance of Municipal Code Section 16-24-40(1) pertaining to building or structure location in the Residential Mixed Use (RMU) zoning district – 2024 Shoreline Ct. Ridge West Subdivision, Lot 104/ Michael Snyder, applicant – B. Walker

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

Mr. Mike Snyder, 2024 Shoreline Ct, shared pictures of the constructed deck 0.3ft from his property line, the open space next to his property and explained his confusion regarding the vacation of easement that he was granted before constructing the deck. Mr. Snyder stated that originally the deck was to be 6ft away from the property line, but as he built he made a

few changes assuming that the vacation of easement allowed him to build up to his property line and not understanding that inspections by SAFEbuilt would need to be completed. Mr. Snyder also explained that where the deck sits on his property would be a waste of space and dangerous to keep up because of the slope of the hill. Mr. Snyder stated that although he realizes there are more spaces on his property to build a deck this was the best use of this space. Mr. Snyder asked that the board consider a variance to allow the deck to stay 0.3ft from his property line.

Mr. Walker stated that the applicant, Michael Snyder, is requesting a variance from Municipal Code Section 16-24-40 (1) (Building Location) at, 2024 Shoreline Ct, Ridge West Subdivision, Lot 104.

Mr. Walker explained that the applicant had originally applied for a building permit in 2002 to construct a deck off the southwest side of his residence. Mr. Walker continued explaining that on the building permit application, the applicant stated that the proposed deck would be located six (6) feet from the side-yard property line. According to the Town's records, the applicant never obtained a final inspection on the 2002 deck building permit, and the permit expired. Mr. Walker noted that subsequent to building the deck, the applicant obtained a survey of the property, which indicated that the deck is located as close as 0.3 feet from the property line.

Mr. Walker stated that subsequent to construction of the deck, the applicant added a hot tub, which currently crosses the property line. The applicant has stated that he will remove the hot tub and portion of the deck that crosses the property line.

Mr. Walker stated that the subject lot is 18,708 sq. ft. (0.43 acres) in size. The residence located on the site is approximately 3,450 sq. ft., plus an 808 sq. ft. garage, a 40 sq. ft. covered porch, and a 384 sq. ft. deck, according to the original building permit from 2001. With these improvements, there is over 13,000 sq. ft. of open space on the lot.

Mr. Walker stated that the subject lot is surrounded on the west and south sides by Tract B, which is identified as a drainage and emergency access easement that is owned and maintained by the homeowners association, according to the recorded Ridge West subdivision plat. Mr. Walker explained that the nearest developable property to the deck, identified as 2030 Shoreline Court, is approximately seventy-five (75) feet southwest of the subject lot. The property owners of 2030 Shoreline Court have submitted a letter regarding this variance request, which is attached.

Mr. Walker stated that the Municipal Code Section 16-6-60 (Variances) outlines the regulations and provisions for granting variances. Staff has reviewed the application materials, the zoning code, and made a site visit to the property (images of the deck are on pages 4-8 of this memo). Staff has analyzed whether special site specific conditions exist; the impact on public interest, safety, and welfare; impacts to neighborhood character; and whether an unnecessary hardship exists. Mr. Walker stated that economic considerations alone shall not constitute an unnecessary hardship if a reasonable use for the property exists under the provisions of the Zoning Code. The Board of Adjustment is empowered to approve or deny variances based on the criteria listed above.

Mr. Walker 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 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 Ridge West subdivision;
2. A review of the enclosed plot plan indicates that there are other locations in the rear yard, which could accommodate a deck.

Mr. Walker stated that therefore, based upon the aforementioned findings of fact, staff recommends denial of the variance request for a deck located within 0.3 feet of the side yard property line, as shown on the site plan survey.

Please further note 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 16-24-40(1) of the Municipal Code to allow the deck that has already been constructed 0.3 feet from the side property line to remain in its current location;
- 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. Walker explained that should the Board of Adjustment determine that a hardship exists based on certain findings of fact and approve to variance request, staff recommends that any such approval include the following Condition of Approval:

1. The applicant shall obtain a building permit from the Town of Windsor for the deck. All building code requirements, including but not limited to fire ratings, shall be met. The applicant shall obtain a final inspection on the deck.

The board, staff and applicant continued discussing the deck further regarding the railings that will need to be installed, the fire rating condition, and the recommendation from HOA that the applicant did not have at this time. The board also discussed the area on the property not being able to be used for anything else and would be dangerous to mow or weed.

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

The Board discussed the variance.

Ms. Baak moved to approve the variance request as presented; Ms. Scheurman seconded the motion. Motion approved.
Yeas 3 Nay 1

The Board of Adjustment closed its regular meeting and opened up the meeting for the Board of Appeals to hear an appeal of the Zoning Officer’s determination of June 24, 2013, filed by Mr. John Brunner, property owner of 117 Sixth Street, Windsor. The Notice of Determination of the appeal is attached hereto and incorporated herein by this reference.

D. COMMUNICATIONS

1. Communications from the Board Members

There were no communications from the board members.

2. Communications from staff

Mr. Plummer thanked the Board of Appeals for its decision concerning the appeal of his determination.

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/Appeals this 24th day of October 2013.

Submitted By: 
Joy Liberty
Secretary