



MINUTES

**A. CALL TO ORDER**

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

1. Roll Call

The following members were present:

Chair - Danny Horner  
Cindy Scheuerman  
Jose Valdes  
Mary Ann Baak  
Jim McIntyre

Also Present: Associate Planner

Brett Walker

2. 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.

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. None

**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 6<sup>th</sup> Street, Lake View Addition Subdivision, Lot 10 Block 4, Windsor, CO –Jason and Catherine Kingery, applicants – B. Walker

**Ms. Baak moved to open the Public Hearing; Mr. Valdes seconded the motion. Motion carried unanimously.**

Jason Kingery addressed the Board briefly, stating a survey revealed his lot is slightly smaller than it was thought at his previous presentation. He thanked the Board for reviewing these changes, as he is anxious to complete his project before winter weather sets in. He restated the dimensions of his lot and building project.

Mr. Walker told the Board 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 (emphasis added).*

Mr. Walker reminded Board Members that on April 25, 2013, the applicant obtained variance approval by the Board of Adjustment pertaining to setbacks for a proposed single family residence and proposed detached garage along the Birch Street frontage. The Board of Adjustment approved a nine (9) foot setback for the single family residence and a fifteen (15) foot setback for the detached garage. Subsequent to obtaining the variance approval, the applicant had the property surveyed, which revealed that the property is less than the fifty (50) foot width indicated on the Lake View Addition Subdivision. The survey indicates that the property width varies from 49.78 feet to 49.85 feet wide, which does not provide enough width to meet the variance setback approval from April 25, 2013.

Mr. Walker went on to explain the applicant is proposing to construct a new single family residence and detached garage on a corner lot. He added this variance request is to allow the proposed single family residence eight (8) feet from the Birch Street property line and the proposed detached garage eight (8) feet from the Birch Street property line. 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. Walker restated that the buildable width of the lot is less than twenty-five (25) feet, based on minimum setbacks and offsets of the Municipal Code.

#### Single Family Residence Setback

The proposed residence is thirty-six (36) feet wide, and the applicant is requesting an eight (8) foot setback from the Birch Street property line. The proposed location of the residence is approximately twenty-two (22) feet from the back of the sidewalk.

#### Detached Garage Setback

The proposed detached garage is thirty (30) feet deep; the applicant is requesting an eight (8) foot setback from the Birch Street property line. 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 driveway and not impede pedestrian movement on the sidewalk. Based on the applicant's survey, there is approximately twenty-three (23) feet between the proposed north elevation of the garage and back of the Birch Street sidewalk.

#### Single Family Residence Setback

Regarding the variance request for the single family residence 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 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 less than twenty-five (25) feet;
2. The proposed single family residence will be located approximately twenty-two (22) feet from the back of the Birch Street sidewalk.

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;

Detached Garage Setback

Regarding the variance request for the detached garage 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 less than twenty-five (25) feet;
2. The proposed detached garage will be located approximately twenty-three (23) feet from the back of the Birch Street sidewalk.
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. Walker concluded by stating that based on the site conditions outlined previously, staff recommends the following condition of approval:

1. The applicant shall provide a minimum of a twenty (20) foot distance 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 distance 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.

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

Ms. Scheuerman asked if the survey that has been submitted will satisfy these requirements. Mr. Walker noted if stamped by the surveyor, it would.

**Ms. Baak moved to approve the location of the single-family residence; Mr. Valdes seconded the motion.**

There were no additional questions.

**Motion carried unanimously.**

**Ms. Baak moved to approve the location of the detached garage; Mr. Valdes seconded the motion.**

There were no additional questions.

**Motion carried unanimously.**

#### **D. COMMUNICATIONS**

1. Communications from the Board Members

Mr. Horner asked if there were any action items for consideration next month. Mr., Walker responded nothing had been received at this time, but he will update members after the August 2 deadline has passed.

2. Communications from staff

There were no additional communications.

3. Communications from the Town Attorney

The Town Attorney was not in attendance.

#### **E. ADJOURN**

**Upon a motion dually made and seconded, the meeting was adjourned at 7:29 p.m.**

#### **CERTIFICATION**

Approved by the Board of Adjustment/Appeals this 24<sup>th</sup> day of October 2013.

Submitted By:   
Joy Liberty-Anglado  
Secretary