



BOARD OF ADJUSTMENT/APPEALS REGULAR MEETING
October 24, 2013 – 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.

AGENDA

A. CALL TO ORDER

1. Roll Call
2. Review of Agenda by the Board and Addition of items of New Business to the Agenda for Consideration by the Board
3. Reading of the statement of the documents to be entered into the record

B. CONSENT CALENDAR

1. Approval of the minutes of August 25, 2013
2. Approval of the minutes of August 30, 2013

C. BOARD ACTION

1. Public Hearing – Variance of Municipal Code Section 16-12-30 pertaining to minimum lot area per dwelling unit in the Residential Mixed Use (RMU) zoning district – 618/622 Cedar Ct. Lake View Addition, Portion of Lot 8 and Lot 9. Roger Allen Young, property owner; Gordon Boersma, applicant; Joseph Shrader, applicant’s representative – Brett Walker
 - a. Motion to open public hearing to receive evidence and comment regarding the variance request and second
 - b. Presentation of variance request by applicant
 - c. Receipt of any comments from the public regarding the variance request
 - d. Staff report and Recommendation
 - e. Questions and answers to/from BOA members to/from applicant, public, staff, legal counsel
 - f. Motion to close public hearing and second
 - g. Motion on variance and second
 - h. Board discussion
 - i. Board action on variance request

D. COMMUNICATIONS

1. Communications from the Board Members
2. Communications from staff
3. Communications from the Town Attorney

E. ADJOURN

STATE LAW DICTATES THAT A FAVORABLE VOTE OF 4 OUT OF 5 MEMBERS OF THE BOARD OF ADJUSTMENT IS REQUIRED TO GRANT ANY VARIANCE. A SIMPLE MAJORITY VOTE IS NOT SUFFICIENT.

NOTE TO APPLICANTS: This agenda is considered tentative and may be revised at any time prior to the meeting. Applicants are advised to be present at 7:00 p.m. Final agendas will be available at the meeting.

Applicants may discuss the requests and the recommendations with staff during normal business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, except holidays. For the convenience of the applicants, appointments are recommended.

Upcoming Meeting Dates

<u>Thursday, October 24, 2013</u>	7:00 P.M.	Regular Board of Adjustment Meeting*
<u>Thursday, November 28, 2013</u>	7:00 P.M.	Cancelled due to holiday*
<u>Thursday, December 26, 2013</u>	7:00 P.M.	Regular Board of Adjustment Meeting*

* All regular and special meetings of the Board of Adjustment are subject to the receipt of an item of business to be placed on the meeting agenda.



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



TOWN OF WINDSOR, COLORADO
BOARD OF ADJUSTMENT

NOTICE OF DETERMINATION

IN RE: Appeal of Zoning Officer determination dated June 24, 2013
117 Sixth Street, John Brunner, Appellant

INTRODUCTION

THE TOWN OF WINDSOR BOARD OF ADJUSTMENT (“Board”) convened on Thursday, July 25, 2013, for the purpose of hearing and determining an appeal brought by John Brunner (“Appellant”) pursuant to the appellate powers of the Board under § 16-6-40 of the *Windsor Municipal Code*. The Appellant sought reversal of a determination by the Zoning Officer dated June 24, 2013. The Appellant was given an opportunity to present evidence and argument in support of his request. The Board was represented by Special Counsel Greg Bell. The Zoning Officer, Joseph P. Plummer, was present and offered testimony. The Town was represented by Town Attorney Ian D. McCargar. A verbatim record was made by stenographic means. All exhibits were marked, received and retained by the Chair.

After considering the evidence and arguments of counsel, the Board voted to affirm the Zoning Officer’s determination, by a vote of 4 in favor (Horner, Scheuermann, Valdes and George), and 1 against (Baak), thereby denying the appeal. The within Notice of Determination stands as the Board’s specific findings and conclusions.

PROCEDURAL HISTORY

The subject of this appeal is the Zoning Officer’s determination that (a) the pole-mounted sign on the property located at 117 Sixth Street, Windsor, Colorado (“Property”) is damaged to more than 50% of its current local assessed value, and (b) the pole-mounted sign must be removed. This determination is dated June 24, 2013, and states:

Upon my review of the extent of damage to the sign, it is my determination that the extent of the damage exceeds 50% of the \$1,240 assessed value for all personal property at this address, according to the Weld County Assessor’s Office. It is my further determination that also in accordance with the provisions of Section 16-8-50 (1) b. of the Windsor Municipal Code, the sign may not be restored or repaired and must be removed from the property. Likewise, any future sign constructed on the property must meet all current sign criteria for the Central Business zoning District.

The Appellant timely filed his request for Board appellate review of the June 24, 2013, Zoning Officer determination.

RECITAL OF FACTS PRESENTED

The evidence reveals the following facts are not in dispute:

The Property is located within the Central Business CB zoning district as defined in the Chapter 16, Article XVIII of the Windsor Municipal Code. The pole-mounted sign was in existence prior to the adoption of Section 16-9-70 (j), which prohibits pole-mounted signs. As such, the pole-mounted sign on the Property is a legally-non-conforming sign under Section 16-8-50 (1) b. of the Windsor Municipal Code. The sign sustained damage as a result of a vehicle collision in late-May, 2013.

The real dispute before the Board is whether the damage to the sign exceeds the threshold set forth in Section 16-8-50 (1) b. of the Windsor Municipal Code:

When such structure is damaged to the extent of more than fifty percent (50%) of its current local assessed value, it shall not be restored except in conformity with the regulations of the district in which it is located.

The Appellant testified that the sign is vital to the retail liquor business being operated on the Property, as it draws attention to the business from Main Street. The Appellant testified that the sign pole and foundation are structurally sound, and that the sign message board/box itself requires some repairs. The sign is served by viable electrical service. He testified that a neighboring business parks vehicles in such a way that an elevated sign was needed for visibility. The Appellant tendered a number of photographs which were identified as Exhibit A.

The liquor store operator, Sherri Camilli, testified that the sign promotes her business and serves as a landmark for Town visitors.

Mr. Plummer testified that prior to making his determination of June 24, 2013, he had personally observed the damage to the sign, depicted accurately in photographs marked as Exhibit 1. He testified that he received a statement from the Weld County Assessor's Office containing a \$1240 assessed valuation for all personal property within the Property. This statement was identified for the record as Exhibit 2. Mr. Plummer testified that prior to making his June 24, 2013, determination, the Appellant had presented him with an undated estimate from Biltrite Signs, which estimate was presented as Exhibit 3. Exhibit 3 contained a statement from the proprietor of Biltrite Signs that the damaged sign was "a total loss", and that the cost to repair the damage was \$4,968.00. Mr. Plummer testified that he had over 25 years of experience in the building and zoning enforcement fields. Mr. Plummer testified that he relied on his experience, his personal inspection, and the contents of Exhibit 2. He testified that he placed reliance on Exhibit 3 in reaching his determination of June 24, 2013.

The Appellant testified that he could repair the damage to the sign for something less than \$500.00, as he has a sheet metal shop and access to sign components. He testified that he would replace both translucent panels within the message board cabinet, and that he would repair the dented aluminum cabinet message box. Under cross-examination, the Appellant testified that the proprietor of Biltrite Signs was familiar to him over many years of business dealings, was honorable, reliable and trustworthy. He testified that he had presented Exhibit 3 to Mr. Plummer in order that Mr. Plummer would consider and rely on it in making his determination regarding repair and removal of the sign.

FINDINGS OF FACT

Although the evidence is conflicting as to the extent of damage to the pole-mounted sign, the Board finds that Exhibit 3 is a reliable, competent source of information upon which Mr. Plummer made his determination. The photographs (Exhibit 1) reveal significant damage to the sign's message board, in that both translucent panels are essentially unusable. Lastly, the Board finds that Mr. Plummer has considerable experience, training, expertise and knowledge regarding zoning enforcement.

Although the cost of repair is not necessarily a measure of damage to an item, the Board gives weight to the estimate of repair cost found within Exhibit 3. A repair estimate of nearly \$5000 suggests substantial damage to the sign.

CONCLUSIONS OF LAW

Under Windsor Municipal Code § 16-8-50 (1) b., a non-conforming sign cannot be restored to a continuing non-conforming state if it has sustained damage to more than 50% of its current local assessed value. It should be noted that the evidence was weak as to the current local assessed value, as Exhibit 2 specifically states that the sign is not declared as personal property within the Property. However, the Board notes that the Appellant has the burden of proof, and did not present any evidence as to current local assessed value. The only evidence of current local assessed value presented was through Exhibit 2, upon which Mr. Plummer testified that he relied in reaching his determination of damage.

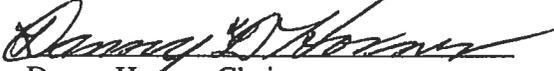
The Board also notes that Mr. Plummer's experience, personal inspection and reliance upon the "total loss" opinion of a reputable sign repair professional carries considerable evidentiary weight, regardless of the current local assessed value. A "total loss" in any context means that the value of the item is zero, which suggests that the damage to its value is 100%. The Board concludes that the Appellant has failed to carry his burden of proof with respect to current local assessed value, leaving the Board to rely on evidence presented by the Town on this question. It should be noted that Exhibit 3 was presented by the Appellant to Mr. Plummer with the intention that Mr. Plummer would rely on it.

Therefore, the Board concludes that the Zoning Officer's June 24, 2013, determination is and shall be **AFFIRMED**. Accordingly, it is ordered that the pole-mounted sign at the Property shall be removed by August 9, 2013, including the base and pole structure, and

shall not be restored unless done in compliance with the current standards for signage in the Central Business CB zoning district.

For purposes of further review, this Notice of Determination is final and effective this 23rd day of August, 2013.

WINDSOR BOARD OF ADJUSTMENT


Danny Horner, Chair



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 6th 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. Scheurman seconded the motion. Motion carried unanimously.

Ms. Scheurman 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 24th day of October 2013.

Submitted By: _____
Joy Liberty-Anglado
Secretary



MEMORANDUM

Date: October 24, 2013
To: Board of Adjustment
Via: Joseph P. Plummer, AICP, Director of Planning
From: Brett Walker, Associate Planner
Re: Variance of Municipal Code Section 16-12-30 pertaining to the density of single family dwellings in the Residential Mixed Use (RMU) zoning district
Location: On the north side of Cedar Court, east of 7th Street, Lake View Addition Subdivision, Block 3, Portion of Lot 8 and Lot 9; 618 and 622 Cedar Court, Windsor, CO
Item #: C.1

Background/Discussion:

The applicant, Gordon Boersma, is requesting a variance from Municipal Code Section 16-12-30 (Density). Municipal Code Section 16-12-30 states the following:

Minimum lot area per dwelling unit shall be six thousand (6,000) square feet.

The subject lot is 10,640 square feet according to the Weld County Assessor. The zoning at the site is Residential Mixed Use (RMU). Two single family residences are located on the lot. The applicant is requesting the variance to facilitate a minor subdivision to create two lots; one 5,458 sq. ft. lot, and one 5,461 sq. ft. lot, according to the attached site plan. The proposed lots will meet all setback/offset and minimum open space requirements.

Municipal Code Section 16-6-60 (Variances) outlines the regulations and provisions for granting variances. 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. Variances will not be granted contrary to the public interest and will only be considered when the spirit of the zoning code can be observed and public safety and welfare secured. The Board of Adjustment is empowered to approve or deny variances based on the criteria listed above.

Municipal Code Section 16-1-10 (Declaration of Purpose) provides guidance on the purpose and *spirit* of the zoning code. Section 16-1-10 states the following:

The regulations contained in this Chapter shall be held to be minimum requirements enacted to promote the health, safety and general welfare of the Town. To these ends such regulations have been prepared in accordance with the Comprehensive Development Plan for the Town and are designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land and undue concentration of population...

Cedar Court is a dead-end street, which provides access to four residential lots. The two existing residences on the subject lot will meet all minimum setback and offset requirements, and will exceed the minimum open space requirement with the proposed lot configuration. Staff does not believe that approval of this variance request will result in congestion in the streets, overcrowding of land or undue concentration of population.

The proposed minor subdivision will bring the two existing residences in compliance with Windsor Municipal Code Section 16-8-40(b) (Basic location regulations), which states the following:

One (1) building per lot. Except as otherwise provided for multifamily dwellings and planned unit developments, only one (1) principal residence structure shall be permitted on a lot.

Comments:

The application materials were submitted to the Development Review Committee for their review. The DRC did not have any comments on this variance application.

Recommendation:

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."

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 resultant lots will be relatively similar in size and shape of neighboring lots within the Lake View Addition Subdivision and lots in the central Windsor area;
2. The proposed 5,458 sq. ft. and 5,461 sq. ft. lot sizes provides adequate open space and meets all setback and offset requirements;
3. The variance request is not contrary to public interest, safety, or welfare.

Therefore, based upon the aforementioned findings of fact, staff recommends approval of the variance request, subject to the following condition of approval.

1. The applicant shall submit a subdivision application for the subject lot(s) within thirty (30) days of the Board of Adjustment's approval.

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 16-12-30 of the Municipal Code to allow the proposed lot sizes that are less than 6,000 square feet;
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.

Notification:

October 09, 2013	development sign posted on the subject property
October 09, 2013	public hearing notice placed on the Town of Windsor's website
October 11, 2013	public hearing notice posted in the paper

Enclosures: Application Materials/Plot Plan
Presentation slides

Pc: Gordon Boersma, applicant
Joe Shrader, applicant's representative
Roger Young, property owner

FEE (Non Refundable): \$100.00

APPLICATION FOR VARIANCE

TOWN OF WINDSOR
301 WALNUT STREET
WINDSOR, CO 80550

Office: (970) 674-2415
Fax: (970) 674-2456
www.windsorgov.com

For office use only:	
DATE: <u>10-7-13</u>	BY: <u>pt</u>
Project ID Number:	



TO BE COMPLETED BY APPLICANT

A request is hereby made for a variance of the Town of Windsor ordinances due to special conditions where a literal enforcement of the ordinance would result in unnecessary hardship on the property located at:

Street Address*: 622 Cedar ct, 618 Cedar ct

Lot: 9 & N 648 Block: 3 Subdivision: LakeView Addition pt

Describe the nature of the request for variance and the restriction(s) imposed by the ordinance(s). Attached additional sheet(s) if necessary*: Two residences on a single lot, non-

conforming use of lot (two single family residences on a single lot)

Describe the specific conditions, practical difficulties or undue hardship believed to justify this request* Attached additional sheet(s) if necessary: one residence per lot, sell each

lot/ residence individually

SCALED DRAWINGS AND SPECIFICATIONS NECESSARY FOR THE PROPER CONSIDERATION OF THIS VARIANCE SHALL BE SUBMITTED WITH THIS APPLICATION. WITH NEW CONSTRUCTION PROJECTS YOU MUST CONTACT SAFEbuilt COLORADO, INC (970-686-7511) TO DETERMINE IF ANY SPECIAL REQUIREMENTS EXIST ACCORDING TO THE INTERNATIONAL BUILDING CODE.

I hereby depose and state under the penalties of perjury that all statement, proposals and plans submitted within this application are true and correct to the best of my knowledge.

Submitted this 9 day of Sept, 20 13

Gordon Biersma
Applicant (please print)

Roger Allan Young
Property Owner* (please print)

[Signature]
Applicant's Signature

Property Owner's Signature*

PO 998 Loveland Co 80539
Mailing Address (street, city, state, zip)

Mailing Address* (street, city, state, zip)

970 674-1346
Telephone Number (during the day)

Telephone Number* (during the day)

Fax Number: 970-613-1801

Fax Number: _____

Email: IDS Homes@aol.com

Email*: _____

Applicant's Representative (if any): Name: _____

JOSEPH SHRADER

Address: _____

2152 RIVER WEST DR. - WINDSOR

Telephone: _____

970-460-9440 Fax: 970-460-9440

Email: _____

SHRADER3698@Gmail.com

* indicates required fields

8-5-13

I Roger Young

HAVE NO OBJECTION FOR
JOE SHRAEDER TO APPLY
FOR A VARIANCE ON PROPERTY
ON CEDAR CT. & CEDAR ST.
IN WINDSOR, CO. PERTAINING
TO CHANGING PROPERTY LINES.

Roger Young



VARIANCE

618 & 622 CEDAR COURT

LAKE VIEW ADDITION
BLOCK 3, PORTION OF LOT 8
AND LOT 9

Brett Walker, Associate Planner

October 24, 2013

Board of Adjustment
C.1



VARIANCE REQUEST

Variance from Municipal Code Section 16-12-30 (Density). Municipal Code Section 16-12-30 states the following:

Minimum lot area per dwelling unit shall be six thousand (6,000) square feet.

The applicant is requesting the variance to facilitate a minor subdivision to create two lots; one 5,458 sq. ft. lot, and one 5,461 sq. ft. lot.

AERIAL IMAGE

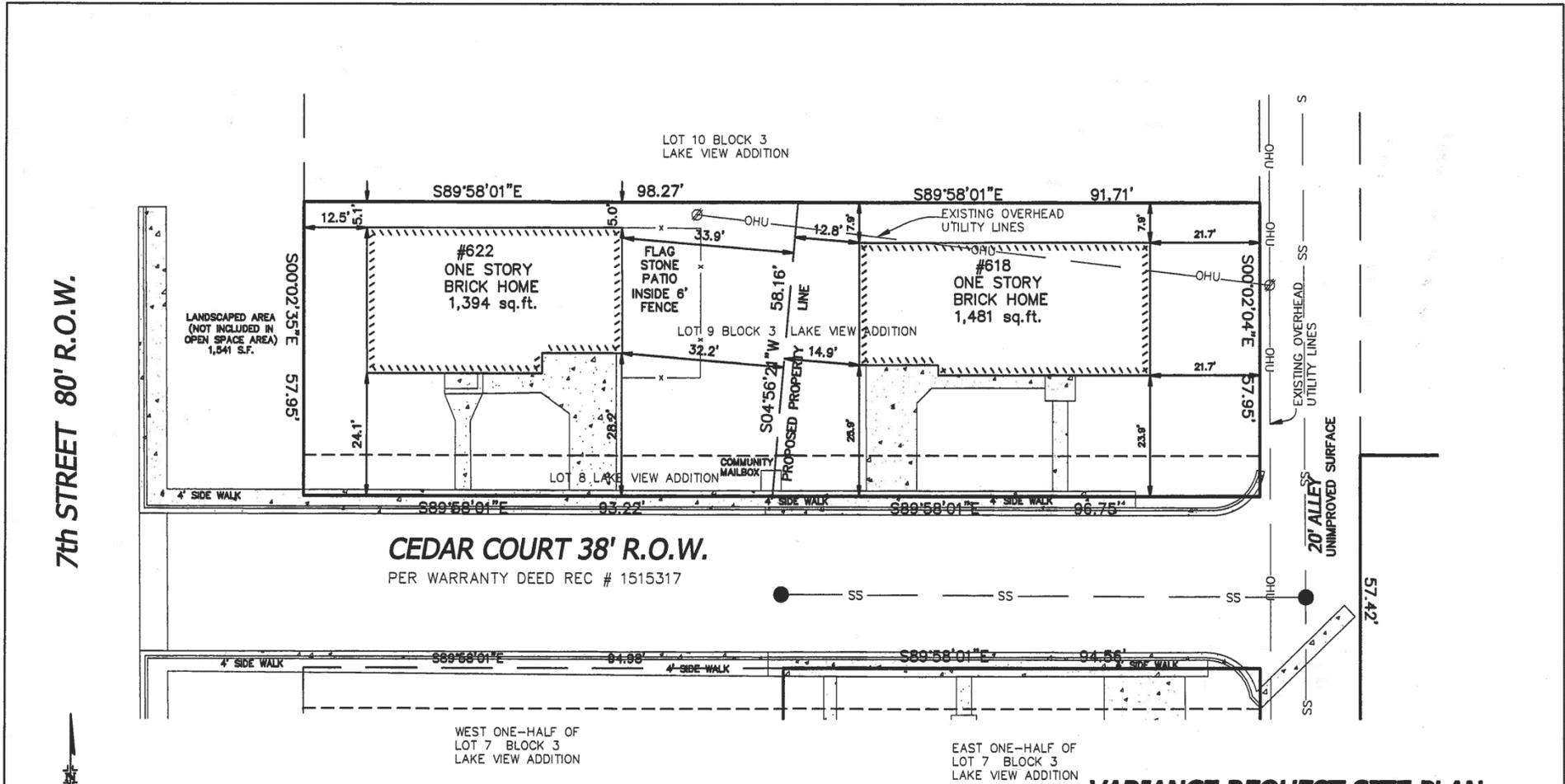


AERIAL IMAGE

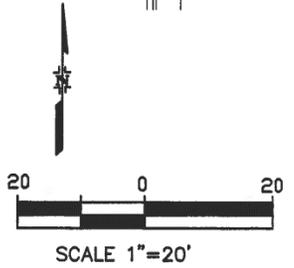




SITE PLAN



LAND USE TABLE				
HOUSE#	PROPOSED LOT AREA	HOME AREA	NON-OPEN SPACE	OPEN SPACE
#618	5,461 S.F.	1,481 S.F.	409 S.F.	3,571 S.F.
#622	5,458 S.F.	1,394 S.F.	915 S.F.	3,149 S.F.



**VARIANCE REQUEST SITE PLAN
LOT 8 AND 9 BLOCK 3
LAKE VIEW ADDITION
WINDSOR, COLORADO**

SCALE: 1" = 20'		PROJECT NO. 13-8590
DATE: 09-23-2013		DRAWING NO. JDS LAKEVIEW
FIELD BOOK: N/A	165 2nd ST SW LOVELAND, COLORADO 80538 (970) 667-8010	REVISION NO.
DRAWN: MJD CHECKED: MJD		SHEET 1 OF 1



RECOMMENDATION

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 resultant lots will be relatively similar in size and shape of neighboring lots within the Lake View Addition Subdivision and lots in the central Windsor area;
2. The proposed 5,458 sq. ft. and 5,461 sq. ft. lot sizes provides adequate open space and meets all setback and offset requirements;
3. The variance request is not contrary to public interest, safety, or welfare.

Therefore, based upon the aforementioned findings of fact, staff recommends approval of the variance request, subject to the following condition of approval.

1. The applicant shall submit a subdivision application for the subject lot(s) within thirty (30) days of the Board of Adjustment's approval.



RECOMMENDATION

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 16-12-30 of the Municipal Code to allow the proposed lot sizes that are less than 6,000 square feet;
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.