



BOARD OF ADJUSTMENT/APEALS SPECIAL MEETING

December 11, 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 October 24, 2013

C. BOARD ACTION

1. Public Hearing – Variance of Municipal Code Section 16-9-50(a) pertaining to the location of a freestanding sign located adjacent to an arterial street and Section 16-9-50(e) pertaining to the distance separation between freestanding signs in the General Commercial (GC) zoning district – 1241 Main Street. Lot 2, Windsor Town Center II Subdivision. Mike Howland, property owner; Mike Long, DaVinci Signs, applicant – 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
2. Public Hearing – Variance of Municipal Code Section 16-12-40 pertaining to building location of single-family dwellings in the Single Family Residential (SF-1) zoning district – 519 2nd Street, Lot 15, Block 2, Kerns Subdivision. Arlene and Rocky Clark, property owner's; Rick Hood, 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
3. Public Hearing – Variance of Municipal Code Section 16-12-30 pertaining to minimum lot area, Section 16-12-40 pertaining to building location, and Section 16-12-50 pertaining to open space for single-family dwellings in the Single Family Residential (SF-1) zoning district – 128 Chestnut Street, Lot 15, Block 13, Kerns Subdivision. Linda Johnson, property owner; Patrick Glasco, applicant’s representative – Josh Olhava
- 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>Wednesday, December 11, 2013</u>	7:00 P.M.	Special Board of Adjustment Meeting*
<u>Thursday, December 26, 2013</u>	7:00 P.M.	Cancelled
<u>Thursday, January 23, 2013</u>	7:00 P.M.	Regular Board of Adjustment Meeting*
<u>Thursday, February 27, 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
Dr. Jose Valdes
Dr. Benjamin George
Jim McIntyre
Richard Conard

Also Present: Associate Planner Brett Walker

Mr. Horner stated the appeals application for 753 Champion Drive, located in the South Gate Business Park, is not on tonight's agenda. Subsequent to publication of the legal notice for the appeals hearing, the applicant requested that the public hearing be postponed indefinitely. If the applicant decides to move forward with the appeals hearing in the future, a legal notice will be published in the newspaper notifying the public of the hearing date.

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.

B. CONSENT CALENDAR

1. Approval of the minutes of August 25, 2013
2. Approval of the minutes of August 30, 2013
Mr. Conard moved to accept the Consent Calendar as presented; Dr. Valdes seconded the motion. Motion carried unanimously.

C. BOARD ACTION

1. 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

Mr. Shrader addressed the Board briefly stating he and Mr. Boersma's plan is to renovate several properties in the Lake View Addition, currently owned by Mr. Young. This is one of those properties. Their wish is to obtain a variance, and then complete a minor subdivision for the site, permanently creating two lots, with homes on each.

Dr. George inquired if variance requests will be necessary at the other addresses. Mr. Shrader responded there will not. There were no public comments or questions.

Mr. Walker began his presentation by stating 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.

Mr. Walker told the Board 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. Mr. Walker went on to state 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.

Mr. Walker reminded the Board that 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. He added 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.

Mr. Walker then stated 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:

There shall be 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.

Mr. Walker 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 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.

Mr. Walker concluded his presentation by stating, based upon the aforementioned findings of fact, staff recommends approval of the variance request, subject to following conditions of approval:

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

Dr. Valdes asked for clarification regarding minor subdivisions. Mr. Walker stated that the Municipal Code requires lots be a minimum of 6,000 sq. ft. Mr. Walker stated that the subdivision process would permanently separate these two lots, and would be referred to as Lake View Subdivision 6th filing.

Dr. Valdes then asked Mr. Shrader if the conditions of approval were acceptable. Mr. Shrader answered they are.

Dr. George asked if the size of the current structures would increase during the planned renovation. Mr. Walker replied no additions to the structures are planned at this time, just renovations to the existing footprint. There was no additional discussion.

Dr. Valdes moved 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; Mr. Conard seconded the motion. Motion carried unanimously.

D. COMMUNICATIONS

1. Communications from the Board Members

Mr. Horner asked if any items have been filed for consideration next month. Mr. Walker replied to date there have not. He added because of the Thanksgiving holiday, if any items are received, an alternate date in early December would be proposed, and Board Members would be notified.

2. Communications from staff

There were no communications from staff.

E. ADJOURN

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


Deputy Town Clerk



MEMORANDUM

Date: December 11, 2013
To: Board of Adjustment
Via: Joseph P. Plummer, AICP, Director of Planning
From: Brett Walker, Associate Planner
Re: Variance of Municipal Code section 16-9-50(a) pertaining to the setback from an arterial street and 16-9-50(e) pertaining to the minimum distance separation between freestanding signs
Location: 1241 Main Street; Windsor Town Center II Subdivision, 5th Filing; Windsor, CO
Item #: C.1

Background/Discussion:

The applicant, Mr. Mike Long, DaVinci Signs, representing Mr. Mike Howland, Gib's NY Bagels, is requesting a variance from Municipal Code section 16-9-50(a) and 16-9-50(e). The applicant is requesting a variance to allow the proposed sign to be ten (10) feet from the Main Street property line and less than one hundred (100) feet from adjacent freestanding signs. Municipal Code (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 16-9-50(e) states the following:

Distance separation. Distance separation between freestanding signs shall be measured along the street frontages adjacent to the subject monument signs. Distance between freestanding monument signs located on different street frontages shall be measured along the street frontage to the point of intersection of both street frontages. Freestanding signs shall be separated by at least one hundred (100) feet.

According to the applicant, he is requesting the ten (10) foot setback to be an equal setback to the neighboring freestanding sign (Oil Can Henry's) so the public can see the sign associated with the business. Additionally, the existing landscaping will cause the sign to be ineffective at the fifteen (15) foot setback. The applicant is requesting a variance from the distance separation because it is not possible to place a freestanding sign on the subject property and meet the one hundred (100) foot minimum separation required by the code. According to the site plan, the sign would be located sixty-one (61) feet from the *Windsor Town Center* multi-tenant sign east of the site.

The subject lot is seventy (70) feet wide. There are three existing freestanding signs in proximity to the subject lot. The *Wing Shack/Windsor Valley Car Wash* sign is located approximately one-hundred six (106) feet west of the proposed sign location. The *Oil Can Henry's* sign is located approximately one-hundred nineteen (119) feet east of the proposed sign, and the *Windsor*

Town Center multi-tenant shopping center sign is located sixty-one (61) feet east of the proposed sign.

Analysis

Distance Separation

Given the existing freestanding signs on adjacent lots, the applicant is not able to meet the one-hundred (100) foot distance separation required by the Code. The applicant has chosen a location that meets the distance separation from the sign to the west, and, according to the applicant, provides adequate visibility for vehicles traveling on Main Street. Additionally, the proposed sign location is approximately equal distance between two existing mature trees, which would likely reduce potential impacts to the trees root systems. The Town Forester, Ken Kawamura, visited the site to analyze potential impacts to the existing trees. Should the Board of Adjustment approve the applicant's request, staff recommends that the Board of Adjustment approve the sign to be located in a range of fifty-five to sixty-five (55-65) feet from the *Windsor Town Center* multi-tenant sign east of the site to ensure that the sign location does not harm the root systems of the existing trees.

Setback

The *Oil Can Henry's* sign is setback ten (10) feet from the Main Street property line, and was approved prior to the adoption of the current sign code. The *Wing Shack/Windsor Valley Car Wash* sign is located fifteen (15) feet from the Main Street property line. The *Windsor Town Center* multi-tenant shopping center sign is located approximately 23 feet from the Main Street property line. The proposed sign would be located approximately thirteen (13) feet from the back of the Main Street sidewalk and approximately twenty-six (26) feet from the Main Street travel lane.

During a site visit with the applicant, the applicant pointed out that locating the proposed sign at the fifteen (15) foot setback would require the removal of some landscaping on the northern edge of the drive-through aisle.

Comments:

The application materials were submitted to the Development Review Committee (DRC) for their review. The DRC made the following comments:

1. The applicant/developer shall mark the exact location of the dig area for the sign, and contact the Town Forester prior to any digging. The Town Forester will verify that the hole will not have negative impacts on the existing trees at the site.
2. The applicant/developer shall adhere to Town of Windsor *Tree and Landscape Standards* Part II, sections H (Tree Protection and Replacement) and I (Tree Protection Specifications).
3. The applicant/developer shall obtain sign permit approval from the Windsor Planning Department.
4. The applicant/developer shall obtain a building permit from the Windsor Planning Department for electrical work associated with the sign.

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. 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. 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.

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."

Distance Separation

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 lot is not wide enough to allow placement of a freestanding sign on the lot and meet the one hundred (100) foot distance separation;
2. The applicant has chosen a location that meets the distance separation from the sign to the west. The sign location does not meet the distance separation to the east, however, the *Oil Can Henry's* sign, which is located one hundred (119) feet east of the proposed sign, is the most visible sign to the east from the Main Street right-of-way.
3. The proposed sign location does not appear to result in a health or safety risk.

Therefore, based upon the aforementioned findings of fact, staff recommends approval of the variance request for a sign located between 55 and 65 feet east of the existing *Windsor Town Center* sign located east of the site. 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 16-9-50(e) of the Municipal Code to allow a sign located between 55 and 65 feet east of the existing *Windsor Town Center* sign located east of the site, subject to the Conditions of Approval listed in the staff memo;
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.

Setback

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. Placing the sign at the fifteen (15) foot setback would require the removal of landscaping, as shown on the approved site plan, to accommodate the proposed sign;
2. Placing the sign at the fifteen (15) foot setback would result in obstructed views of the sign from vehicles travelling on Main Street which could result in a safety or traffic hazard due to motorists trying to read a sign that is set back an additional five (5) feet from the property line;
3. The proposed sign location does not appear to result in a health or safety risk.

Therefore, based on the aforementioned findings of fact, staff recommends approval of the variance request for a sign located ten (10) feet from the Main Street right-of-way. Please further note that since all motion 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(a) of the Municipal Code to allow a sign to be located ten (10) feet from the Main Street right-of-way, subject to the Conditions of Approval listed in the staff memo;
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.

Conditions of Approval

1. The applicant/developer shall mark the exact location of the dig area for the sign, and contact the Town Forester prior to any digging. The Town Forester will verify that the hole will not have negative impacts on the existing trees at the site.
2. The applicant/developer shall adhere to Town of Windsor *Tree and Landscape Standards* Part II, sections H (Tree Protection and Replacement) and I (Tree Protection Specifications).
3. The applicant/developer shall obtain sign permit approval from the Windsor Planning Department.
4. The applicant/developer shall obtain a building permit from the Windsor Planning Department for electrical work associated with the sign.

Notification:

November 27, 2013 development sign posted on the subject property
November 27, 2013 public hearing notice placed on the Town of Windsor's website
November 29, 2013 public hearing notice posted in the paper

Enclosures: Application Materials
Presentation Slides

Pc: Mike Howland, property owner
Mike Long, applicant

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: _____	BY: _____
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*: 1241 MAIN ST - G.B.S Bagels

Lot: 2 Block: _____ Subdivision: Windsor Town Center II 5th

Describe the nature of the request for variance and the restriction(s) imposed by the ordinance(s). Attached additional sheet(s) if necessary*: *Request + 10' setback from Property line - ordinance states 15' Ft - This ordinance will cause sign to be unreadable and non effective for business to insure successful identification.*

Describe the specific conditions, practical difficulties or undue hardship believed to justify this request* Attached additional sheet(s) if necessary: *G.B.S requests a monument ID sign equal to their neighbors so public can see their business. Present ordinance of 15' Ft with existing landscape will cause sign to be ineffective.*

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 8th day of Nov, 20 13

Mike Long
Applicant (please print)

Mike Howland
Property Owner* (please print)

Mike Long
Applicant's Signature

Mike Howland
Property Owner's Signature* At Collins, Co

4496 Bents Ln Windsor, CO 80550
Mailing Address (street, city, state, zip)

2531 S. Shield St 80526
Mailing Address* (street, city, state, zip)

203 9292 / cell- 402 1268
Telephone Number (during the day)

970-224-5946
Telephone Number* (during the day)

Fax Number: 203-9292

Fax Number: N/A

Email: mike@duincisign.com

Email*: mikehowland@hotmail.com

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

Address: _____

Telephone: _____ Fax: _____

Email: _____

* indicates required fields



4496 Bents Dr.
Windsor, CO 80550
www.davincisign.com

Phone: (970) 203-9292
Fax: (970) 203-9293
Denver (303) 573-7446
Greeley (970) 353-8446

November 7, 2013

Town of Windsor
301 Walnut Street
Windsor, CO 80550

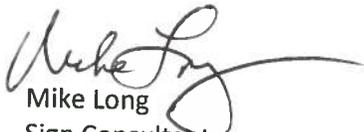
RE: Variance request –Gibs NY Bagels, 1241 Main St., Windsor, CO, 80550

DaVinci Sign Systems, Inc. has been retained by the property owner to request a variance for the following:

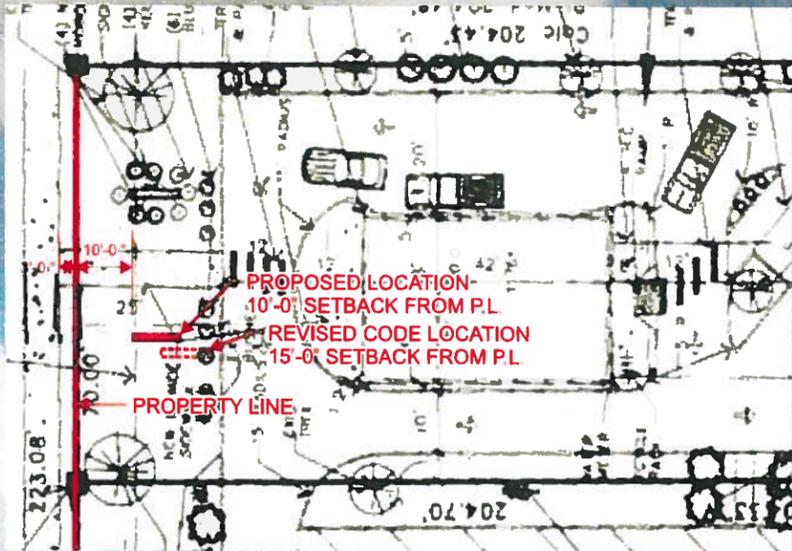
1. 10' set back from property line for new Double Faced Monument ID sign.
2. New sign noted in Design 13-708 R2 will be located on North elevation of property 106' from the Wing Shack sign to the West and 119' from the Oil Can sign to the East. Windsor Town Square sign, multi-tenant, is 61' from the new Gibs NY Bagels Monument ID sign.

We respectfully request a 10' setback and waiver of 100' rule, Section 16-9-50 (e).

Sincerely,


Mike Long
Sign Consultant
DaVinci Sign Systems, Inc.





120 V. + -
LED → 4 AMPS.



COLOR KEY	
VINYL	3M #3630-33 RED
PAINT	BLACK

THE COLORS DEPICTED ON THIS RENDERING MAY NOT MATCH ACTUAL COLORS ON FINISHED DISPLAY UNLESS OTHERWISE NOTED. PLEASE REFER TO SPECIFIED SAMPLES OR COLOR CHARTS FOR APPROVED COLOR SPECIFICATIONS.

DA VINCI
SIGN SYSTEMS, INC.
the art and science of identification

4486 Bents Dr.
Windsor, CO 80550
www.davincisign.com

Pl. Collins: (970) 203-9292
Fax: (970) 203-9293
Denver: (303) 573-7446
Greeley: (970) 353-8446

Job Name:

Address:
MAIN STREET
WINDSOR, CO

Designer: CASEYEASTON

Sales: MIKELONG

Scale: Noted

Date: 10.21.13

Revisions:

Customer Approval:

Without Changes
 With Changes As Shown

Electrical hookup by others.
Electrical requirements: 120V or as indicated.
All landscaping by others.

This artwork is copyrighted, and the exclusive property of DaVinci Sign Systems. It is the result of the original work of its employees, and is submitted to your organization for the sole purpose of your consideration of whether to purchase or exhibition of this artwork to anyone other than employees of your organization, or the use of this artwork to construct a similar sign is strictly prohibited. In the event your organization fails to comply with the stipulations outlined above, DaVinci Sign Systems expects to be compensated \$1000 for its original design work. At any time you may purchase this artwork for \$1000, at which point you may use it however you see fit.

Sales Approval:

_____ Date: _____

Production Approval:

_____ Date: _____

Design #
13-780R2

Page: **1** of: **3**

END VIEW SCALE: 3/4"=1'-0"

1 D/F ILLUMINATED MONUMENT SIGN DISPLAY
QUANTITY: 1 MANUFACTURE AND INSTALL

SCALE: 3/4"=1'-0"

Copyright 2013
DaVinci Sign

1302504 04/27/2016 14:42P Weld County, CO
 7' 11" 21' 02" 0 0 02 Steve Marino Clark & Rosemer

WINDSOR TOWN CENTER II SUBDIVISION - FIFTH FILING

BEING A REPLAT OF LOT A, WINDSOR TOWN CENTER II SUBDIVISION - THIRD FILING, LOCATED IN THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE 6TH P.M., TOWN OF WINDSOR, COUNTY OF WELD, STATE OF COLORADO.

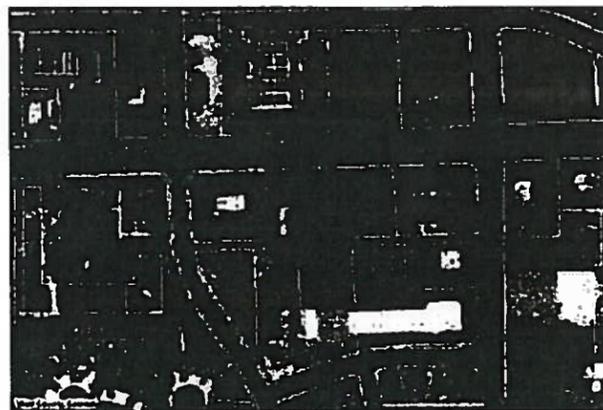
LEGEND:

■ FOUND #4 REBAR WITH PLASTIC CAP STAMPED JONES LS22093 UNLESS OTHERWISE NOTED

A variance of the minimum lot size required by Section 16-302 of the Municipal Code was approved by the Board of Adjustment on August 25, 2005

NOTES:
 According to Colorado law, you must commence any legal action based upon any defect in this survey within three years after you discover such defect. In no event, may any action based upon any defect in this survey be commenced more than ten years after the date of the certificate shown hereon.

— Existing Signs
 — Gibbs NY Sign



VICINITY MAP
 NOT TO SCALE

2 LOTS ZONED GC & GC-PUD = 45,699 SQ. FT.

REFER TO FOLLOWING IMPROVEMENT PLANS FOR INFORMATION ON STREET & UTILITIES (RIVERBEND SUBDIVISION 2ND REPLAT & SHOPS AT WESTWOOD)

WINDSOR TOWN CENTER PHASE 2
 LOT 4
 WINDSOR TOWN CENTER INC.
 ZONED GC

LOT 1
 31,380 sq. ft.
 0.72 acres
 ZONED GC

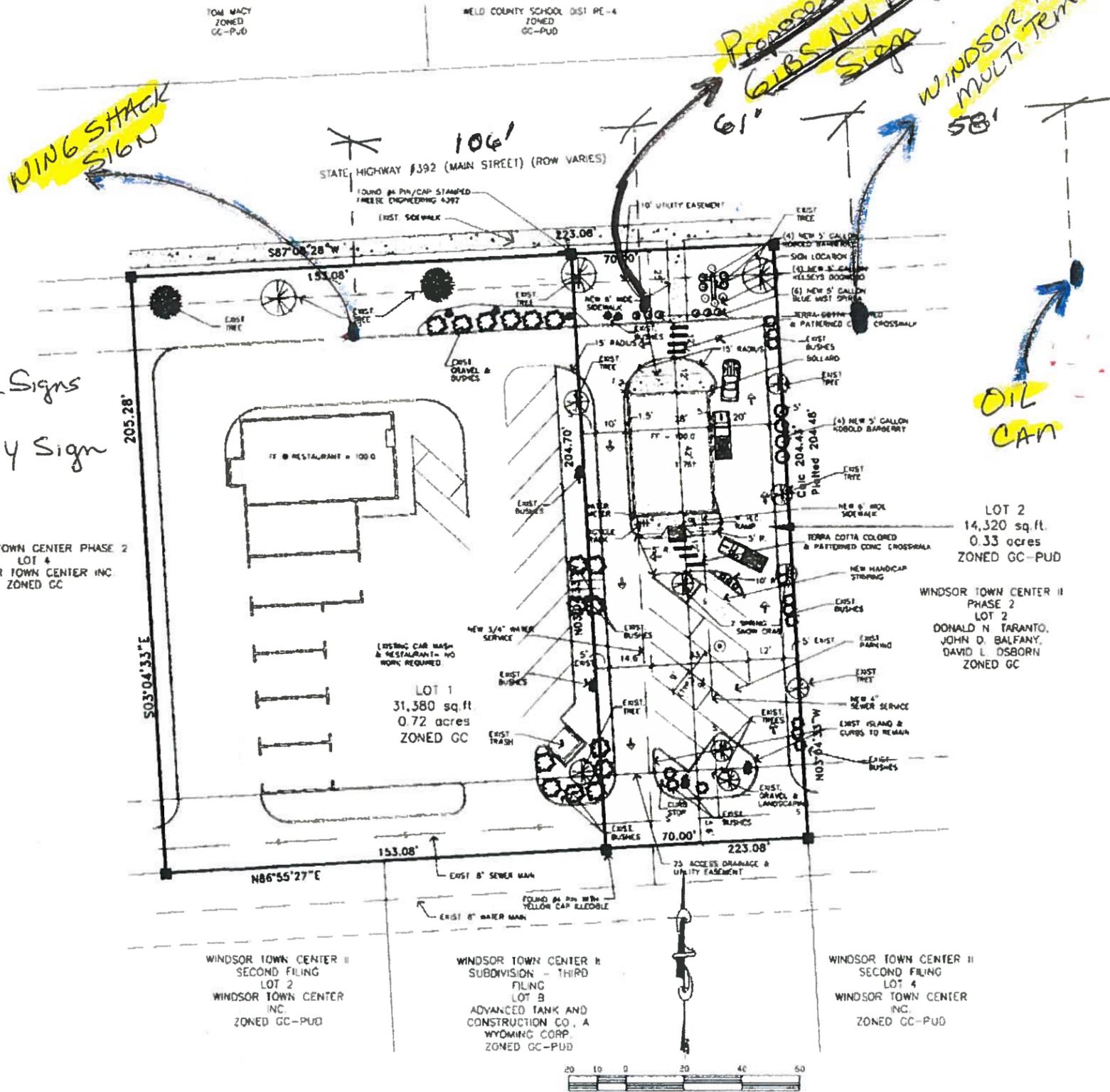
LOT 2
 14,320 sq. ft.
 0.33 acres
 ZONED GC-PUD

WINDSOR TOWN CENTER II
 PHASE 2
 LOT 2
 DONALD N. FARANTO,
 JOHN D. BOLFANY,
 DAVID L. OSBORN
 ZONED GC

WINDSOR TOWN CENTER II
 SECOND FILING
 LOT 2
 WINDSOR TOWN CENTER
 INC.
 ZONED GC-PUD

WINDSOR TOWN CENTER II
 SUBDIVISION - THIRD
 FILING
 LOT B
 ADVANCED TANK AND
 CONSTRUCTION CO., A
 WYOMING CORP.
 ZONED GC-PUD

WINDSOR TOWN CENTER II
 SECOND FILING
 LOT 4
 WINDSOR TOWN CENTER
 INC.
 ZONED GC-PUD



WING SHACK SIGN

Proposed
 Gibbs NY Sign

WINDSOR TOWN CENTER II
 MULTI-TENANT SIGN

OIL CAN

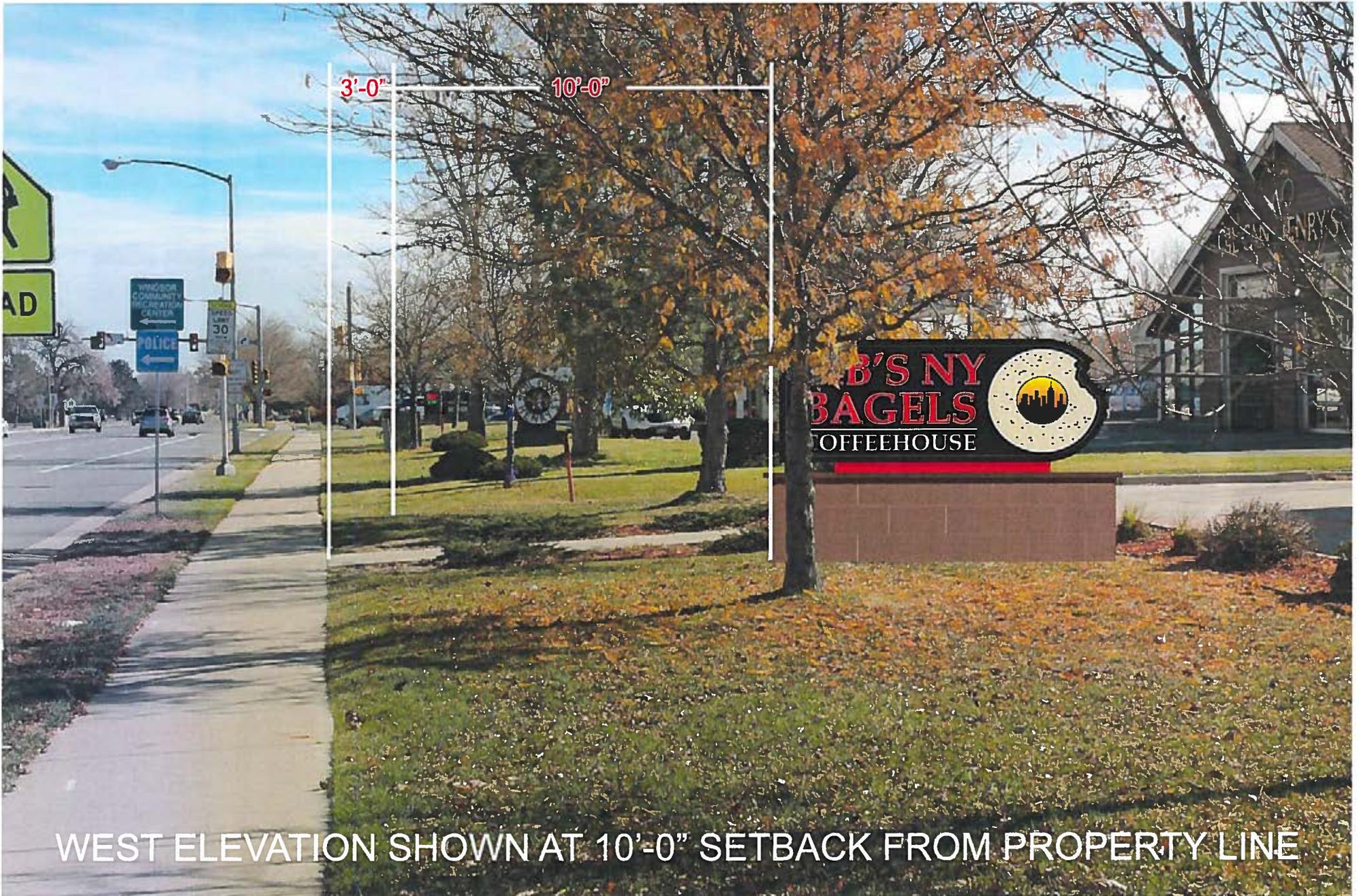
THOMAS SURVEY SERVICES LLC
 2619 W. 11TH STREET ROAD
 GREELEY, COLORADO 80631
 PHONE: 970-304-0984
 FAX: 970-304-0987

DATE	BY	REVISIONS
3/9/08		FROM COMMENTS
4/4/06		RESEALS DUB
		DATE DRAWN
		CHECKED RDT
		APPROVED RDT
		2 OF 2 DRAWINGS

DIGI-PIX
 1241 MAIN STREET WINDSOR, COLORADO
 PHONE: 970-674-1270 FAX: 970-674-1278

MINOR SUBDIVISION

TOWN OF WINDSOR
 PLANNING DEPARTMENT
 301 WALNUT STREET
 WINDSOR, CO 80550



WEST ELEVATION SHOWN AT 10'-0" SETBACK FROM PROPERTY LINE

10' setback requested



EAST ELEVATION SHOWN AT 10'-0" SETBACK FROM PROPERTY LINE



WEST ELEVATION SHOWN AT 15'-0" SETBACK FROM PROPERTY LINE

15' setback by code - sign is invisible!



15'-0"

3'-0"

M. Edwards

EAST ELEVATION SHOWN AT 15'-0" SETBACK FROM PROPERTY LINE



VARIANCE
1241 MAIN STREET
WINDSOR TOWN CENTER II SUBDIVISION
5TH FILING, LOT 2

BRETT WALKER
DECEMBER 11, 2013

Board of Adjustment

C.1

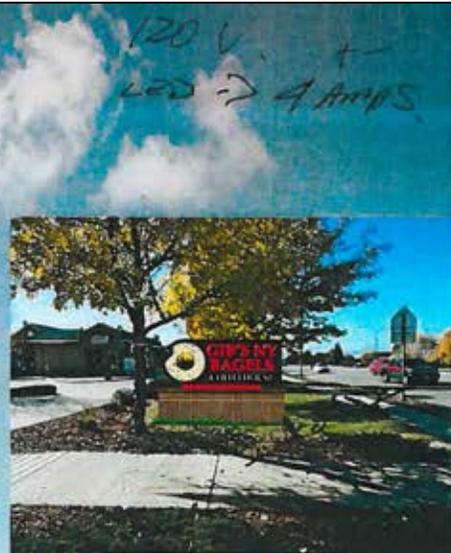
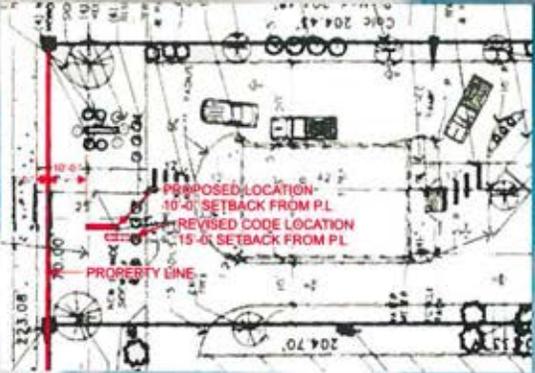
AERIAL IMAGE



AERIAL IMAGE



SIGN/SITE PLAN



ALUMINUM SIGN CABINET FINISHED BLACK WITH 2" RETAINERS FINISHED TO MATCH. FACES TO BE WHITE ACRYLIC WITH 1ST SURFACE #3630-33 RED, OPAQUE BLACK 3M FILM OVERLAYS. ILLUMINATE WITH SAMSUNG 8500K WHITE LED'S.

3" ALUMINUM REVEAL FINISHED RED.

CMU BLOCK BASE TO MATCH BUILDING WITH PRECAST CAP TO MATCH.

COLOR KEY

VINYL 3M #3630-33 RED

PAINT BLACK

THE COLOR SHOWN ON THIS SIGN IS APPROXIMATE. FOR ACTUAL COLOR, PLEASE REFER TO THE COLOR SAMPLES (A COLOR CHART) FOR APPROXIMATE COLOR MATCHING.

DA VINCI SIGN SYSTEMS, INC.
the art and science of identification

4400 Bentz Dr.
Windsor, CO 80550
www.davincisign.com

PL. Culture: (970) 203-9203
PL. Sales: (970) 203-9203
PL. Denver: (303) 573-7446
PL. Greeley: (970) 353-8446

Job Name:

Address:
MAIN STREET
WINDSOR, CO

Designer: CASEYEASTON

Sales: MITFLONG

Scale: Noted

Date: 10.21.13

Revisions:

Customer Approval:

X _____ Date: _____

Without Changes

With Changes As Shown

Electrical hook up by others.
Electrical requirements: 120V or as indicated.
All landscaping by others.

This artwork is copyrighted, and the exclusive property of DaVinci Sign Systems. It is the result of the original work of its employees, and is submitted to your organization for the sole purpose of your consideration of whether to purchase from DaVinci Sign Systems. Distribution or exhibition of this artwork to anyone other than employees of your organization, or the use of this artwork to construct a similar sign is strictly prohibited. In the event your organization fails to comply with the stipulations outlined above, DaVinci Sign Systems expects to be compensated \$1000 for its original design work. At any time you may purchase this artwork for \$1000, at which point you may use it however you see fit.

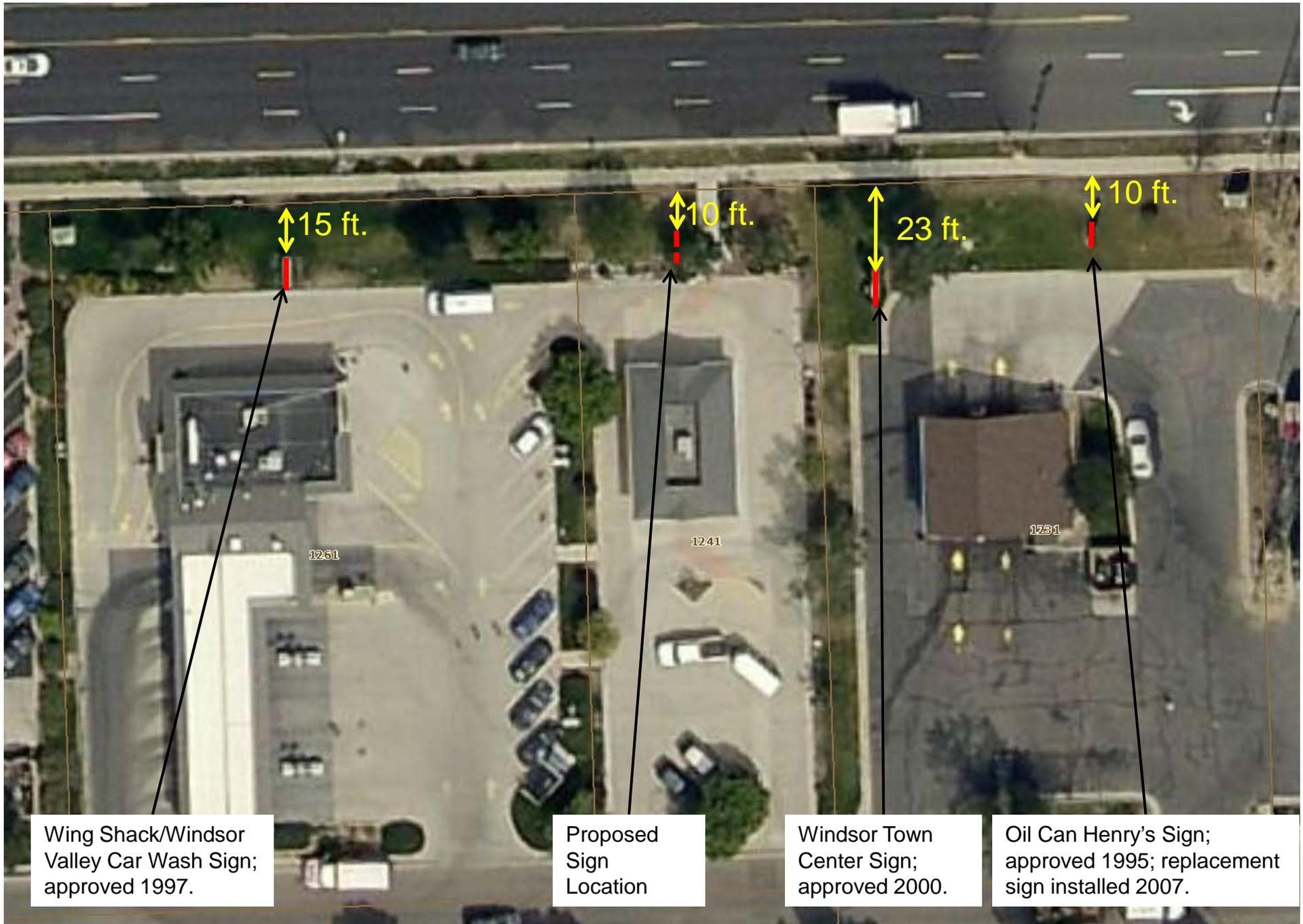
Sales Approval:

X _____ Date: _____

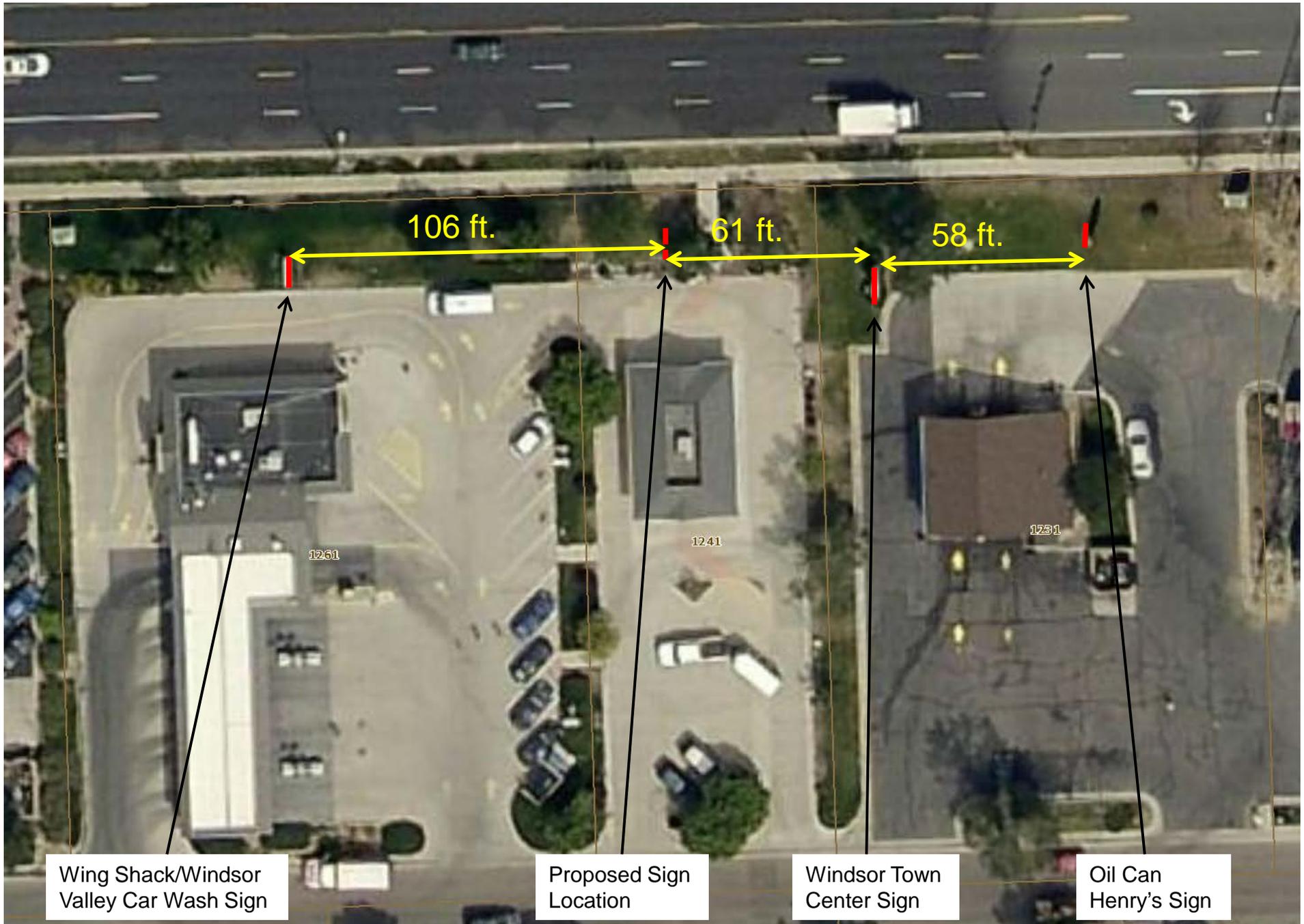
Production Approval:

X _____ Date: _____

SETBACK REQUEST



SEPARATION REQUEST



APPLICANT IMAGES



15' setback by code - sign is invisible!

APPLICANT IMAGES



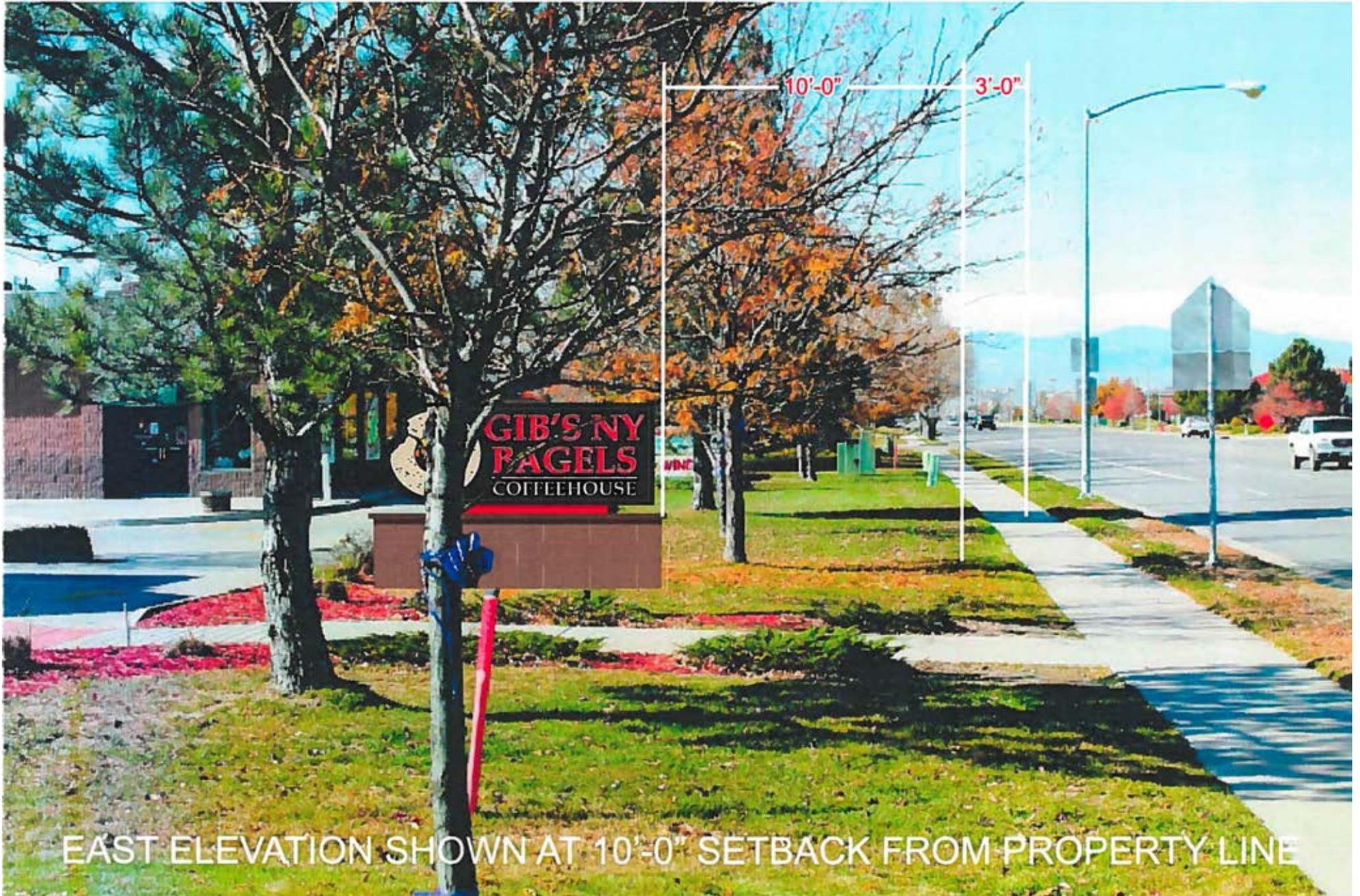
EAST ELEVATION SHOWN AT 15'-0" SETBACK FROM PROPERTY LINE

APPLICANT IMAGES



WEST ELEVATION SHOWN AT 10'-0" SETBACK FROM PROPERTY LINE

APPLICANT IMAGES



EAST ELEVATION SHOWN AT 10'-0" SETBACK FROM PROPERTY LINE



RECOMMENDATION

Distance Separation

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 lot is not wide enough to allow placement of a freestanding sign on the lot and meet the one hundred (100) foot distance separation;
2. The applicant has chosen a location that meets the distance separation from the sign to the west. The sign location does not meet the distance separation to the east, however, the *Oil Can Henry's* sign, which is located one hundred (119) feet east of the proposed sign, is the most visible sign to the east from the Main Street right-of-way.
3. The proposed sign location does not appear to result in a health or safety risk.

Therefore, based upon the aforementioned findings of fact, staff recommends approval of the variance request for a sign located between 55 and 65 feet east of the existing *Windsor Town Center* sign located east of the site. 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 16-9-50(e) of the Municipal Code to allow a sign located between 55 and 65 feet east of the existing *Windsor Town Center* sign located east of the site, subject to the Conditions of Approval listed in the staff memo;
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



RECOMMENDATION

Setback

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. Placing the sign at the fifteen (15) foot setback would require the removal of landscaping, as shown on the approved site plan, to accommodate the proposed sign;
2. Placing the sign at the fifteen (15) foot setback would result in obstructed views of the sign from vehicles travelling on Main Street which could result in a safety or traffic hazard due to motorists trying to read a sign that is set back an additional five (5) feet from the property line;
3. The proposed sign location does not appear to result in a health or safety risk.

Therefore, based on the aforementioned findings of fact, staff recommends approval of the variance request for a sign located ten (10) feet from the Main Street right-of-way. Please further note that since all motion 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(a) of the Municipal Code to allow a sign to be located ten (10) feet from the Main Street right-of-way, subject to the Conditions of Approval listed in the staff memo;
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.



CONDITIONS OF APPROVAL

1. The applicant/developer shall mark the exact location of the dig area for the sign, and contact the Town Forester prior to any digging. The Town Forester will verify that the hole will not have negative impacts on the existing trees at the site.
2. The applicant/developer shall adhere to Town of Windsor *Tree and Landscape Standards* Part II, sections H (Tree Protection and Replacement) and I (Tree Protection Specifications).
3. The applicant/developer shall obtain sign permit approval from the Windsor Planning Department.
4. The applicant/developer shall obtain a building permit from the Windsor Planning Department for electrical work associated with the sign.



MEMORANDUM

Date: December 11, 2013
To: Board of Adjustment
Via: Joseph P. Plummer, AICP, Director of Planning
From: Brett Walker, Associate Planner
Re: Variance of Municipal Code Section 16-12-40 pertaining to the building location for single family dwellings in the Single Family Residential (SF-1) zoning district
Location: At the northeast corner of 2nd and Oak streets, Lot 15, Block 2, Kerns Subdivision, 519 2nd Street, Windsor, CO
Item #: C.2

Background/Discussion:

The applicants, Ms. Arlene and Mr. Rocky Clark, 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).

The applicant is proposing to construct a new single family residence and detached garage on a corner lot. There is currently a residence located on the site; a detached garage was recently demolished. The existing residence will be demolished to accommodate the proposed residence and detached garage. The applicant has proposed building setbacks along both 2nd and Oak streets that are less than the twenty (20) foot minimum. The proposed location of the single family residence is one (1) foot from the 2nd Street property line and six and one-half (6 ½) feet from the Oak Street property line. The proposed detached garage is located four and one-half (4 ½) feet from the 2nd Street property line. The proposed structures meet the minimum side yard and rear yard offsets. Additionally, the 3,000 square foot minimum open space requirement would be met. The subject parcel is 8,833.97 sq ft (0.20± acres) and is zoned Single Family Residential (SF-1). The proposed residence is a one story ranch-style house that will be less than twenty feet in height.

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 (please see the images in the presentation slides). 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. Economic considerations alone shall not constitute an unnecessary hardship if a reasonable use for the property exists under the provisions of the Zoning Code.

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...

The minimum setback requirements of Municipal Code Section 16-12-40 are intended to support the *Declaration of Purpose* described in Section 16-1-10.

Residence 2nd Street Setback

The proposed residence is forty-three and one-half (43 ½) feet wide by seventy-nine (79) feet long. The subject lot is approximately fifty (50) feet wide by one-hundred seventy-five (175) feet deep. The lot width and depth is typical of residential lots located in central Windsor. The buildable width of the lot, based on minimum setbacks and offsets is twenty-five (25) feet. As shown on the plot plan submitted with the application, the residence would be located approximately five and one-half (5 ½) feet from the east property line, one (1) foot from the west property line, and sixteen and one-half (16 ½) feet from the back of the 2nd street sidewalk. There is currently not a sidewalk along the entire 2nd Street frontage, but Town Engineering standards require a sidewalk to be installed with the construction of a new residence. Existing building setbacks on surrounding 2nd Street lots from the back of sidewalk to buildings vary from twelve (12) to twenty-four (24) feet. The 2nd Street right-of-way width is one-hundred (100) feet and the street flow-line width is approximately fifty-nine (59) feet wide. Street flow-line width is measured from curb to curb. Based on a twenty-five (25) foot developable area (per zoning code), the right-of-way width and street width, the 2nd Street setback does not appear to result in a health or safety risk, and will not overcrowd the neighborhood.

Residence Oak Street Setback

The proposed residence is forty-three and one-half (43 ½) feet wide by seventy-nine (79) feet long. The property owner is requesting a six and one-half (6 ½) foot setback from the Oak Street property line. The proposed setback is twenty (20) feet from the back of the sidewalk. Building setbacks on surrounding Oak Street lots from the back of sidewalk to buildings vary from approximately seventeen (17) to thirty-two (32) feet. 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 property owner's site plan, there is twenty (20) feet between the south elevation of the residence with attached garage and back of the Oak Street sidewalk. The Oak Street right of way width is seventy-five (75) feet, and the street flow-line width is approximately forty (40) feet wide. The typical street right-of-way width in contemporary subdivisions for local streets is sixty (60) feet. Based on the distance between the south elevation fronting Oak Street and the back of sidewalk, along with the street right of way width, the proposed Oak Street setback does not appear to result in a health or safety risk and will not overcrowd the neighborhood.

Based on the site conditions described above, 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 Oak Street sidewalk and the south elevation of the residence with attached garage.

Detached garage 2nd Street Setback

The property owner has proposed to construct a thirty (30) foot by thirty (30) foot detached garage. The detached garage is proposed to be located four and one-half (4 ½) feet from the west property line, ten (10) feet from the north property line, and approximately fifteen and one-half (15 ½) feet from the east property line. The garage is proposed to be located over forty (40) feet from the proposed residence. The detached garage is located twenty (20) feet from the back of the 2nd Street sidewalk. Existing building setbacks on surrounding 2nd Street lots from the back of sidewalk to buildings vary from approximately twelve (12) to twenty-four (24) feet. The proposed garage setback is within the range of existing building setbacks on neighboring 2nd Street properties. The 2nd Street right-of-way width is one-hundred (100) feet and the street flow-line width is approximately fifty-nine (59) feet wide. Based on the right-of-way and street width, the detached garage 2nd Street setback will not overcrowd the neighborhood and does not appear to result in a health or safety risk.

Based on the site conditions described above, staff recommends the following condition of approval:

2. The applicant shall provide a minimum of a twenty (20) foot distance between the back of the 2nd Street sidewalk and the west elevation of the detached garage.

Comments:

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

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."

Residence 2nd Street Setback

Regarding the variance request to allow the residence to be setback one (1) foot from the 2nd Street property line, 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 similar in size and shape of neighboring lots within the Kerns Subdivision and lots in the central Windsor area;
2. The proposed one (1) foot setback is within a range of residential setbacks on neighboring lots and would not result in an overcrowding of land;
3. The proposed location of the residence does not appear to result in a health or safety risk.

Therefore, based upon the aforementioned findings of fact, staff recommends approval of the one (1) foot variance request for the proposed residence setback on 2nd Street.

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 16-12-40 of the Municipal Code to allow the proposed detached garage to be located one (1) foot from the 2nd 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.

Residence Oak Street Setback

Regarding the variance request to allow the residence to be setback six and one-half (6 ½) feet from the Oak Street property line, 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. The subject parcel is similar in size and shape of neighboring lots within the Kerns Subdivision and lots in the central Windsor area;
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 residence, there is adequate distance between the south elevation of the residence and attached garage and the back of the Oak Street sidewalk to not impede pedestrian movement.

Further, based on the aforementioned findings of fact, staff recommends approval of the variance request for the Oak Street building location setback, subject to the condition of approvals listed in this memo.

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 16-12-40 of the Municipal Code to allow the proposed detached garage to be located six and one-half (6 ½) feet from the Oak Street property line subject to the aforementioned condition of approval;
- 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.

Detached garage 2nd Street Setback

Regarding the variance request to allow the detached garage to be setback four and one-half (4 ½) feet from the 2nd Street property line, 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 similar in size and shape of neighboring lots within the Kerns Subdivision and lots in the central Windsor area;
2. Based on the location of the existing property line relevant to the location of the sidewalk; there is adequate distance between the detached garage location to meet the *spirit* of the zoning code setback regulation;
3. Based on the location of the detached garage, there is adequate distance between the west elevation of the detached garage and the back of the 2nd Street sidewalk to not impede pedestrian movement.
4. The proposed location of the detached garage does not appear to result in a health or safety risk.

Further, based on the aforementioned findings of fact, staff recommends approval of the variance request for the 2nd Street building location setback, subject to the condition of approvals listed in this memo.

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 16-12-40 of the Municipal Code to allow the proposed detached garage to be located four and one-half (4 ½) feet from the 2nd Street property line subject to the aforementioned condition of approval;
- 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.

Conditions of Approval

1. The applicant shall provide a minimum of a twenty (20) foot distance between the back of the Oak Street sidewalk and the south elevation of the residence with attached garage.
2. The applicant shall provide a minimum of a twenty (20) foot distance between the back of the 2nd Street sidewalk and the west elevation of the detached garage.

Notification:

November 26, 2013 development sign posted on the subject property
November 26, 2013 public hearing notice placed on the Town of Windsor’s website
November 29, 2013 public hearing notice posted in the paper

Enclosures: Application Materials
Presentation slides

Pc: Arlene and Rocky Clark, applicants/property owners
Rick Hood, applicant’s representative

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: _____	BY: _____
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*: 519 2ND STREET

Lot: 15 Block: 2 Subdivision: KERNS

Describe the nature of the request for variance and the restriction(s) imposed by the ordinance(s). Attached additional sheet(s) if necessary*:

WE'RE ASKING FOR A VARIANCE FOR OUR SET BACKS ON SECOND STREET AS WELL AS OAK STREET.

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

THIS CORNER LOT ONLY ALLOWS 25' OF BUILDING AREA WITH SET BACKS AS IS, MAKING IT IMPOSSIBLE TO BUILD A NORMAL SIZE HOUSE.

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 22 day of NOV, 20 13

Arlene Clark
Applicant (please print)

Arlene Clark
Applicant's Signature

1000 Valley Drive 80550
Mailing Address (street, city, state, zip)

970-396-2866
Telephone Number (during the day)

Fax Number: _____

Email: Electrcac@comcast.net

Applicant's Representative (if any):

Name: RICK HOOD CONSTRUCTION INC.

Address: 1729 GREEN RIVER DR

Telephone: 970-567-3306 Fax: 970-586-9767

Email: BUILDINGFREEDOM2013@GMAIL.COM

Arlene Clark
Property Owner* (please print)

Arlene Clark
Property Owner's Signature*

1000 Valley Drive 80550
Mailing Address* (street, city, state, zip)

970-396-2866
Telephone Number* (during the day)

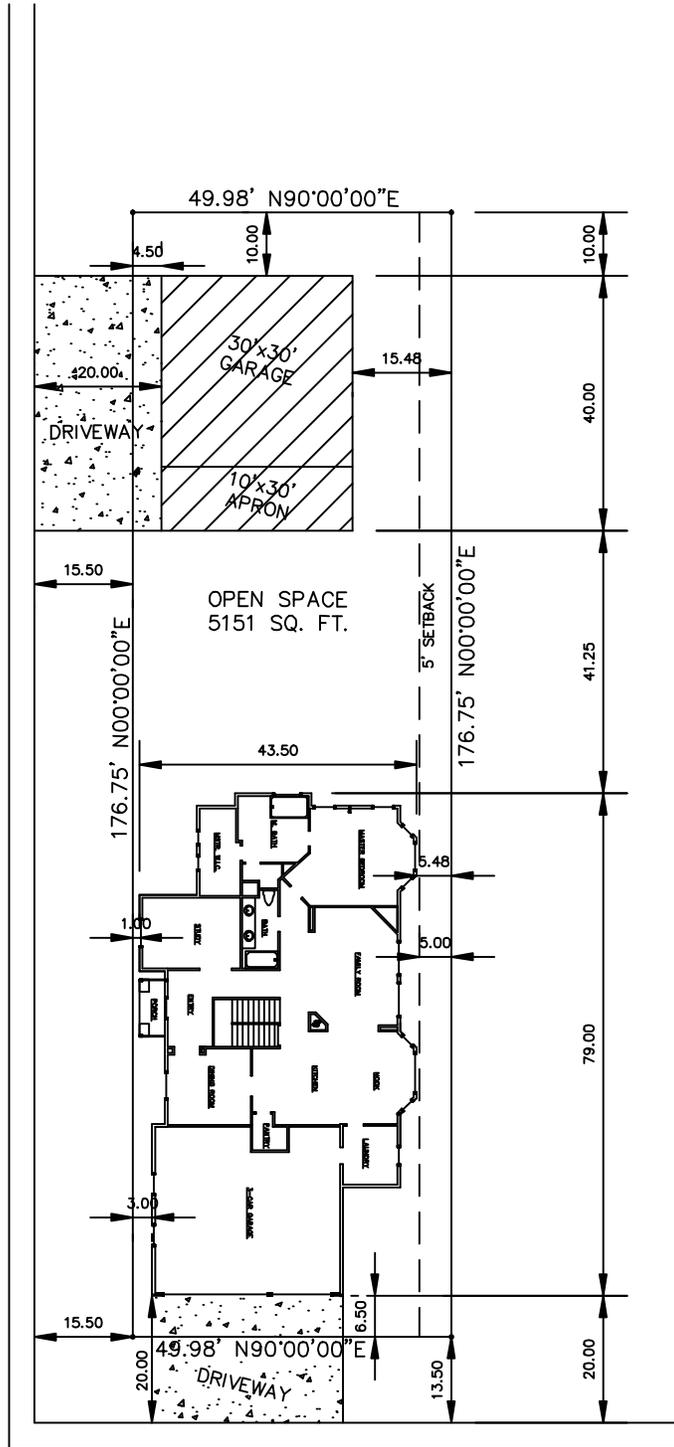
Fax Number: _____

Email*: ELECTRCAC@COMCAST.NET

* indicates required fields



SECOND STREET



OAK STREET

RANCH PLAN
20' MAX. HEIGHT

SITE PLAN

LOT AREA = 8,833.97 SF

JOB NO.
225-01-14-01
DATE
11/21/13
SCALE
1"=30'
DRAWN:
RS

Crown Engineering, LLC.
Structural Engineering & Inspections

524 Stover St. Phone: (970) 498 - 9537
Fort Collins, Colorado 80524 Cell: (970) 691 - 4239
reyessf5@msn.com

CLARK RESIDENCE
LOT 15, BLOCK 2, KERNS SUBDIVISION
519 2ND. STREET
WINDSOR, CO



VARIANCE
519 2ND STREET
KERNS SUBDIVISION
LOT 15, BLOCK 2

BRETT WALKER
DECEMBER 11, 2013

Board of Adjustment

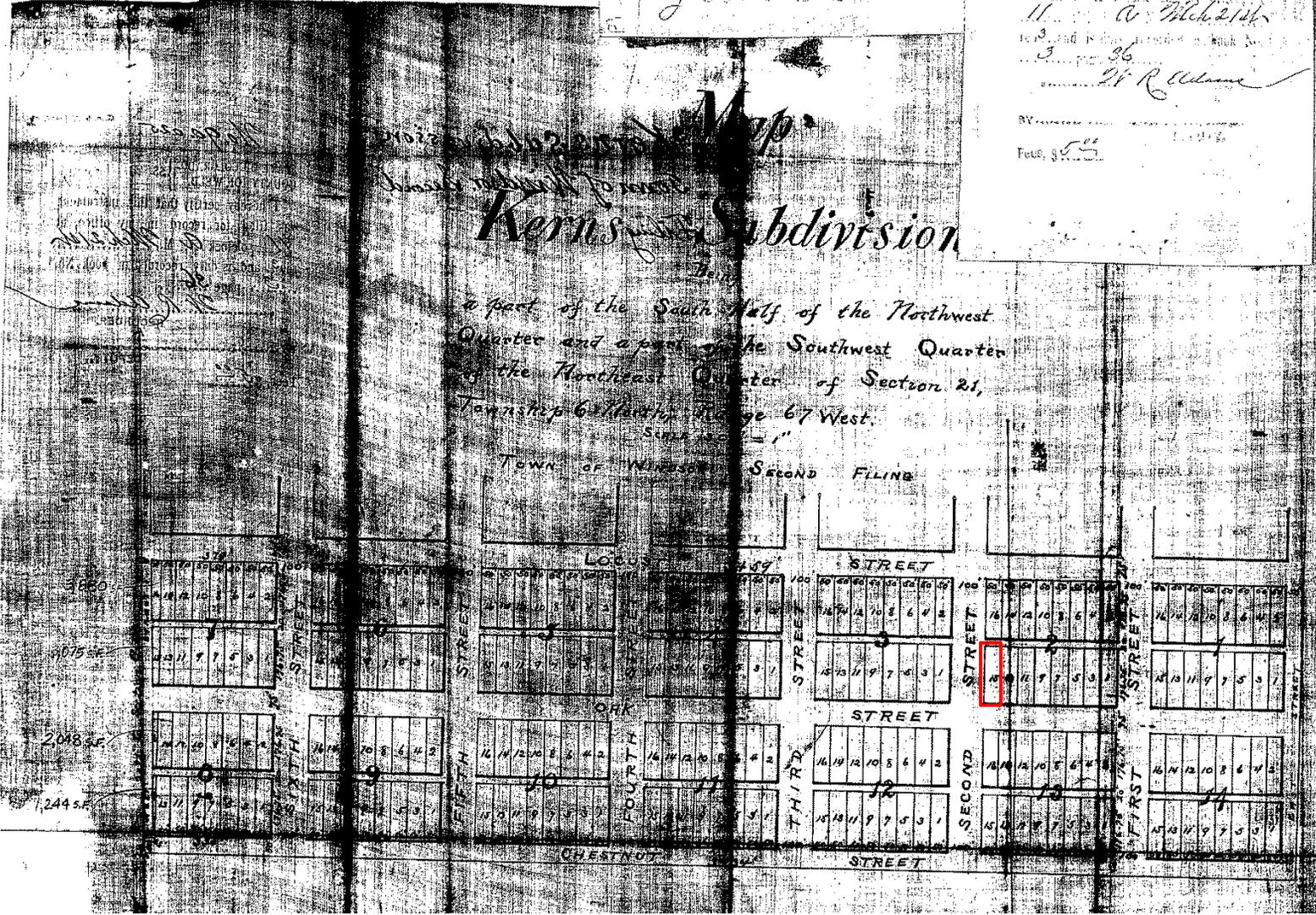
C.2



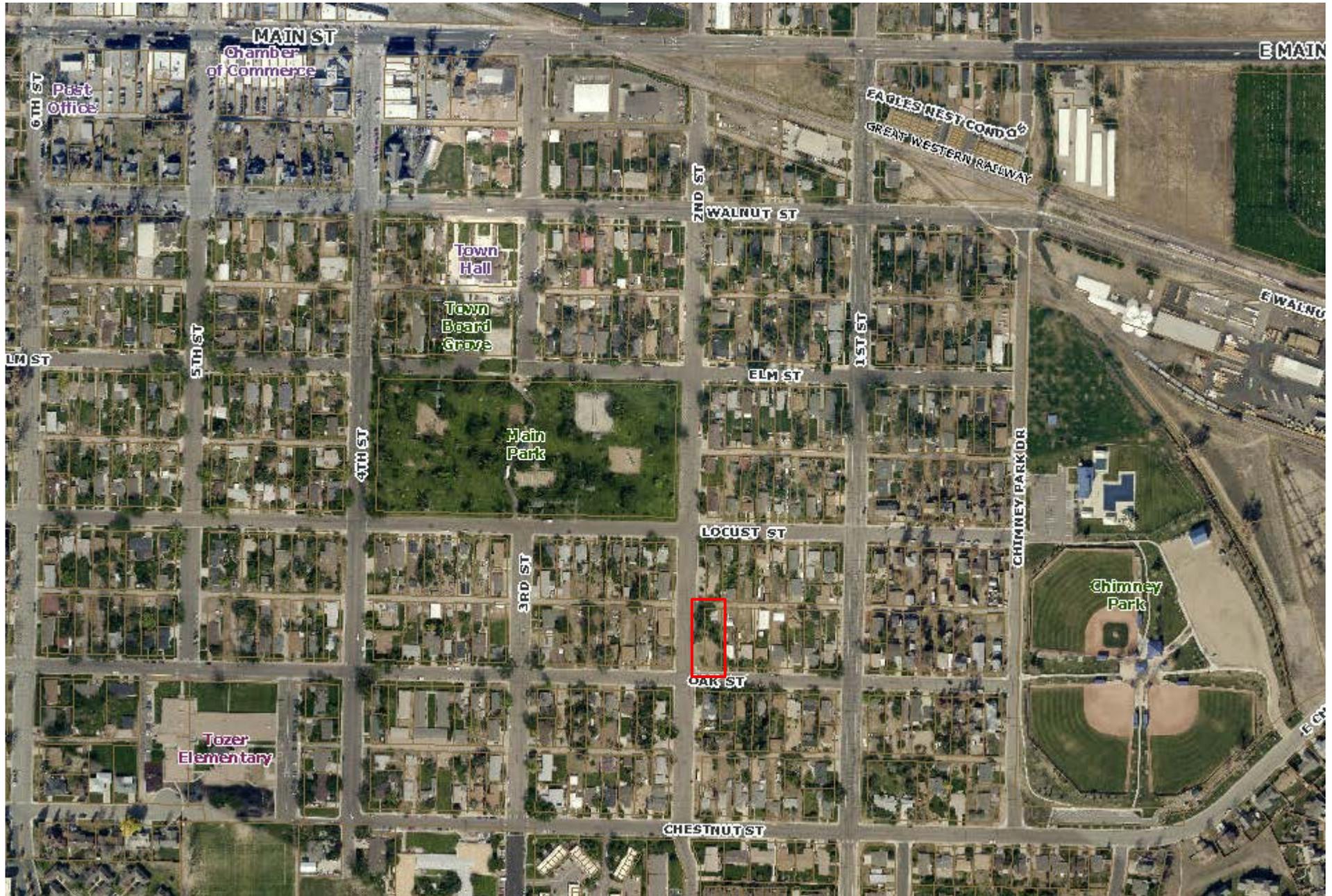
SUBDIVISION PLAT

Kerns Subdivision
Town of Windsor, Second
Filing

11090025 EXAMINED
I hereby certify that the foregoing
is a true and correct copy of the
original as filed in my office on
11. 10. 1906 A. Mich. 2146
Page 36
W. R. Adams
Treasurer
Fees, \$5.50



AERIAL IMAGE

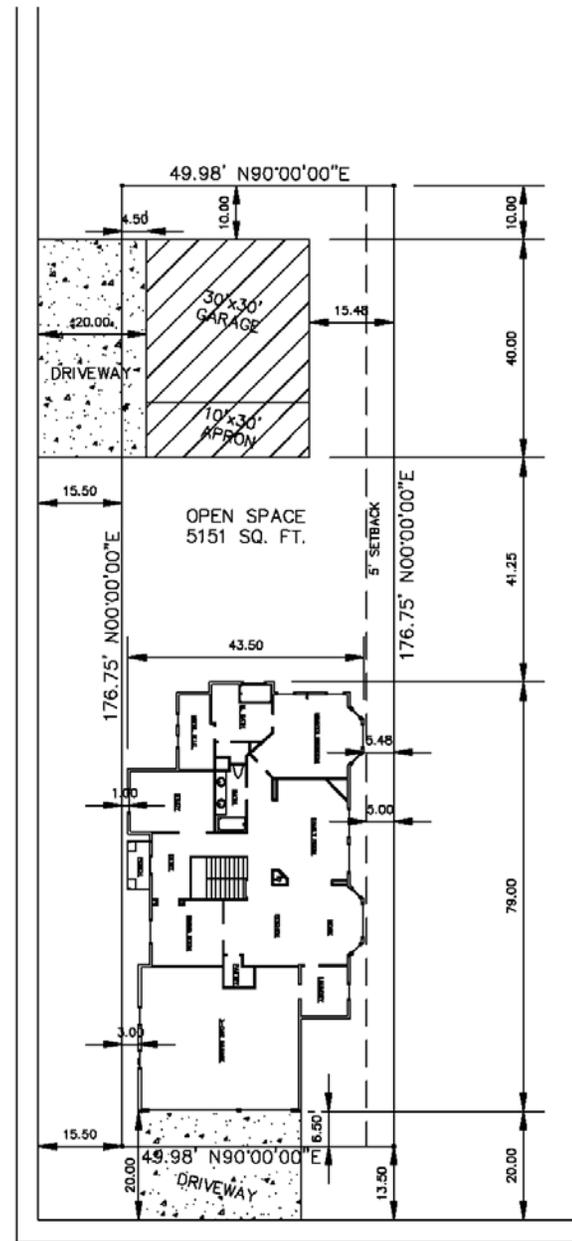




SITE PLAN



SECOND STREET



RANCH PLAN
20' MAX. HEIGHT

SITE PLAN
LOT AREA = 8,833.97 SF

OAK STREET

JOB NO.
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DRAWN
RS

Crown Engineering, llc.
Structural Engineering & Inspections
524 Stover St. Phone: (970) 498 - 9537
Fort Collins, Colorado 80524 Call: (970) 691 - 4239
reyesrf5@msn.com

CLARK RESIDENCE
LOT 15, BLOCK 2, KERNS SUBDIVISION
519 2ND. STREET
WINDSOR, CO

SITE IMAGES

Image 1: Subject Lot (facing north from Oak Street)



NEIGHBORHOOD IMAGES

Image 2: Facing south at 2nd and Oak



Image 3: Facing south at 2nd and Locust



NEIGHBORHOOD IMAGES

Image 4: Facing south at 2nd and Locust streets



Image 5: Subject Lot along 2nd Street (from alley)





RECOMMENDATION

Residence 2nd Street Setback

Regarding the variance request to allow the residence to be setback one (1) foot from the 2nd Street property line, 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 similar in size and shape of neighboring lots within the Kerns Subdivision and lots in the central Windsor area;
2. The proposed one (1) foot setback is within a range of residential setbacks on neighboring lots and would not result in an overcrowding of land;
3. The proposed location of the residence does not appear to result in a health or safety risk.

Therefore, based upon the aforementioned findings of fact, staff recommends approval of the one (1) foot variance request for the proposed residence setback on 2nd Street. 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 16-12-40 of the Municipal Code to allow the proposed detached garage to be located one (1) foot from the 2nd 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.



RECOMMENDATION

Residence Oak Street Setback

Regarding the variance request to allow the residence to be setback six and one-half (6 ½) feet from the Oak Street property line, 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. The subject parcel is similar in size and shape of neighboring lots within the Kerns Subdivision and lots in the central Windsor area;
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 residence, there is adequate distance between the south elevation of the residence and attached garage and the back of the Oak Street sidewalk to not impede pedestrian movement.



RECOMMENDATION

Residence Oak Street Setback

Further, based on the aforementioned findings of fact, staff recommends approval of the variance request for the Oak Street building location setback, subject to the following condition of approval.

1. The applicant shall provide a minimum of a twenty (20) foot distance between the back of the Oak Street sidewalk and the south elevation of the residence with attached garage.

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 16-12-40 of the Municipal Code to allow the proposed detached garage to be located six and one-half (6 ½) feet from the Oak Street property line subject to the aforementioned condition of approval;
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.



RECOMMENDATION

Detached Garage 2nd Street Setback

Regarding the variance request to allow the detached garage to be setback four and one-half (4 ½) feet from the 2nd Street property line, 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 similar in size and shape of neighboring lots within the Kerns Subdivision and lots in the central Windsor area;
2. Based on the location of the existing property line relevant to the location of the sidewalk; there is adequate distance between the detached garage location to meet the *spirit* of the zoning code setback regulation;
3. Based on the location of the detached garage, there is adequate distance between the west elevation of the detached garage and the back of the 2nd Street sidewalk to not impede pedestrian movement.
4. The proposed location of the detached garage does not appear to result in a health or safety risk.



RECOMMENDATION

Detached Garage 2nd Street Setback

Further, based on the aforementioned findings of fact, staff recommends approval of the variance request for the 2nd Street building location setback, subject to the following condition of approval.

2. The applicant shall provide a minimum of a twenty (20) foot distance between the back of the 2nd Street sidewalk and the west elevation of the detached garage.

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 16-12-40 of the Municipal Code to allow the proposed detached garage to be located four and one-half (4 ½) feet from the 2nd Street property line subject to the aforementioned condition of approval;
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.



MEMORANDUM

Date: December 11, 2013
To: Board of Adjustment
Via: Joseph P. Plummer, AICP, Director of Planning
From: Josh Olhava, Associate Planner
Re: Variance of Municipal Code Section 16-12-30 pertaining to the density of single family dwellings, Section 16-12-50 pertaining to the minimum Open Space requirements, and Section 16-12-40 pertaining to the Front Setback requirements in the Single Family (SF-1) Zoning District
Location: 128 Chestnut Street, Kern's Subdivision, Lot 15, Block 13, Windsor, CO
Item #: C.3

Background/Discussion:

The applicant, Ms. Linda Johnson, is requesting a variance from Municipal Code Section 16-12-30 (Density), Section 16-12-50 (Open Space), and Section 16-12-40 (Front Setback) to facilitate a minor subdivision to create two buildable lots at 128 Chestnut Street, located on the northeastern corner of Chestnut and 2nd Streets. The subject lot is 8,837.5 square feet according to the enclosed property survey site plan. The zoning at the site is Single Family Residential (SF-1). The existing single family residence is located on the southern portion of the lot.

Analysis:

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...

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 a Variance from Section 16-12-30 to subdivide the property into two lots that are less than the six thousand (6,000) square foot minimum. The southern lot with the existing home and detached shed will be approximately 4,700 sq. ft., and the new lot to the north would be approximately 4,137 sq. ft., according to the attached site plan. The proposed minor subdivision would be 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.”

Utilities will need to be re-routed to serve both new lots. Sewer service extends along the Alley Way on the north and will need to be re-routed to serve the southern lot, and water service extends along Chestnut Street on the south and will need to be extended to serve the northern lot. Staff visited with the applicant and came to the decision that a Right-of-Way Encroachment Permit will need to be obtained from the Engineering Department to route both the Sewer and Water services within the public right-of-way as depicted on the enclosed plat. Additionally, easements will need to be obtained during the subdivision process to allow the utilities to cross one another to serve the properties.

The proposed lot split is consistent with other residential lots located in central Windsor that are located on the corner lots. The proposed lot sizes, in relation to the improved areas on the lots, do not appear to result in a health or safety risk, and will not overcrowd the neighborhood. By drawing a real building envelope on the proposed north lot, the applicant has shown that the lot split will create two buildable and livable lots.

Open Space

Municipal Code Section 16-12-50 states the following:

As a part of the minimum lot area of six thousand (6,000) square feet per dwelling unit, a minimum of three thousand (3,000) square feet thereof shall be livable open space.

The applicant is proposing to subdivide the subject property into two lots and is requesting a Variance from Section 16-12-50 for one of the lots. The southern lot with the existing home and detached shed will be approximately 4,700 sq. ft., and will meet the minimum Open Space requirements of the Municipal Code. The new lot to the north would be approximately 4,137 sq. ft. as proposed with an Open Space area of 2,347 sq. ft. The proposed open space areas, in relation to the improved areas on the lots, do not appear to result in a health or safety risk. By drawing a real building envelope on the proposed north lot, the applicant has shown that the lot split will create two buildable and livable lots with adequate Open Space to meet the spirit of the zoning code.

Setback

Municipal Code Section 16-12-40 states the following:

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

The proposal to subdivide the subject property into two lots will create one lot to the south that is already improved and a second lot to the north that is unimproved. The applicant is requesting a variance from Section 16-12-40 for the unimproved lot to the north to build a home five (5) feet from the west property line. The new home would meet all offset requirements and the setback variance would allow for a usable backyard to the east of the proposed building footprint.

Existing building setbacks on surrounding 2nd Street lots from the back of sidewalk to buildings varies from approximately twelve (12) to twenty (20) feet. The 2nd Street right-of-way width is one-hundred (100) feet and the street flow-line width is approximately fifty-nine (59) feet wide. Street flow-line width is measured from curb to curb. Additionally, the sidewalk along 2nd Street is an attached sidewalk and the distance from the east edge of the sidewalk to the property line (all within the 2nd Street right-of-way) is approximately twenty (20) feet. Based on the right-of-way width and street width, the 2nd Street setback does not appear to result in a health or safety risk and will meet the character of the neighborhood and surrounding properties.

Comments:

The application materials were submitted to the Development Review Committee for their review. The Town Forester commented on leaving adequate room to accommodate streetscape trees between the proposed water and sewer services within the right-of-way and any new building along 2nd Street. The specific location of the utility easement within the right-of-way in relation to the building envelope will be addressed during the subdivision process. The Engineering Department commented that during the subdivision process a Right-of-Way Encroachment Permit will need to be submitted by the applicant to allow the extension of water and sewer services within the public right-of-way along 2nd Street.

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."

Density

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 proposed Density for the two lots would be consistent with other lots in the core of Windsor.
2. Based on the location of the existing property line on the west relevant to the location of the sidewalk along 2nd Street, and the proposed building envelope on the north lot, the two lots would meet the *spirit* of the zoning code density regulation by creating two buildable and livable lots;

3. The proposed lot split and development is consistent with the Overall Land Use Goal and Policy #4 of the Town of Windsor Comprehensive Plan which states:

“Infill development of all types of land uses should be encouraged, to ensure more efficient use of infrastructure, strengthen existing neighborhood connections, preserve the economic viability of the Town Center, and meet all Town Development Standards.”

Therefore, based upon the aforementioned findings of fact, staff recommends approval of the variance request for the proposed density of the two proposed lots, as shown on the site plan survey, subject to the following conditions of approval.

1. The applicant shall complete the Town's Minor Subdivision application within six (6) months of the Board of Adjustment approval of this variance request. The Minor Subdivision Plat shall show the proposed building envelope on the north lot to meet all setbacks and open space variance requests, and shall show all necessary easements for the crossing of Water and Sewer service lines serving the two new lots.
2. Concurrently with the Minor Subdivision application, the applicant shall apply for and obtain a Right-of-Way Encroachment Permit from the Town's Engineering Department to allow the Sewer and Water service lines serving the two new lots to be built in the Public Right-of-Way.
3. The applicant shall maintain a minimum lot size of 4,700 square feet on the south lot with the existing buildings to meet the minimum open space requirements of the Municipal Code. The applicant shall maintain a minimum lot size of 4,137 square feet on the north lot and meet the requirements and determination of the Open Space variance request.

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 minimum density on the two proposed lots to be less than the 6,000 square foot requirements, subject to staff's conditions of approval;
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.

Open Space

Regarding the open space variance request for the proposed north lot, 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 proposed Open Space on the north lot would be consistent and proportional to other lots in the core of Windsor.

2. Based on the location of the existing property line on the west relevant to the location of the sidewalk along 2nd Street, and the proposed building envelope; there is adequate open space on the proposed north lot to meet the *spirit* of the zoning code open space regulation;
3. The proposed lot split and development is consistent with the Overall Land Use Goal and Policy #4 of the Town of Windsor Comprehensive Plan which states:
“Infill development of all types of land uses should be encouraged, to ensure more efficient use of infrastructure, strengthen existing neighborhood connections, preserve the economic viability of the Town Center, and meet all Town Development Standards.”

Therefore, based upon the aforementioned findings of fact, staff recommends approval of the variance request for the open space on the proposed north lot, as shown on the site plan survey, subject to the following conditions of approval.

1. The applicant shall complete the Town’s Minor Subdivision application within six (6) months of the Board of Adjustment approval of this variance request. The Minor Subdivision Plat shall show the proposed building envelope on the north lot to meet all setbacks and open space variance requests, and shall show all necessary easements for the crossing of Water and Sewer service lines serving the two new lots.
2. Concurrently with the Minor Subdivision application, the applicant shall apply for and obtain a Right-of-Way Encroachment Permit from the Town’s Engineering Department to allow the Sewer and Water service lines serving the two new lots to be built in the Public Right-of-Way.
3. The applicant shall maintain an open space minimum of 3,000 square feet on the proposed south lot with the existing buildings and a minimum of 2,250 square feet on the proposed north lot.

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 16-12-50 of the Municipal Code to allow the minimum open space on the proposed north lot to be less than the 3,000 square foot minimum, and subject to staff’s conditions of approval;
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.

Setback

Regarding the variance request for the setback along 2nd Street for the proposed north lot, 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 proposed lots would meet all offset requirements;
2. The proposed Setback along 2nd Street for the new north lot would be consistent with other properties along 2nd Street, including the adjacent existing homes to the north and south;
3. 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;
4. Based on the proposed location of the attached garage, there is adequate distance between the west elevation of the garage and the back of the 2nd Street sidewalk to meet the *spirit* of the zoning code setback regulation, and not impede pedestrian movement.

Therefore, based upon the aforementioned findings of fact, staff recommends approval of the variance request for the 2nd Street building location setback, as shown on the site plan survey, subject to the following conditions of approval.

1. The applicant shall complete the Town's Minor Subdivision application within six (6) months of the Board of Adjustment approval of this variance request. The Minor Subdivision Plat shall show the proposed building envelope on the north lot to meet all setbacks and open space variance requests, and shall show all necessary easements for the crossing of Water and Sewer service lines serving the two new lots.
2. Concurrently with the Minor Subdivision application, the applicant shall apply for and obtain a Right-of-Way Encroachment Permit from the Town's Engineering Department to allow the Sewer and Water service lines serving the two new lots to be built in the Public Right-of-Way.
3. The applicant shall provide a minimum of a twenty (20) foot setback between the back of the 2nd Street sidewalk (east side) and the west 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 2nd Street sidewalk (east side) and the west elevation of the proposed garage. The applicant shall provide said survey prior to issuance of building permits.

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 16-12-40 of the Municipal Code to allow the proposed residence to be located five (5) feet from the 2nd Street property line and the proposed garage to be located no closer than ten (10) feet from the west property line subject to staff's conditions of approval;
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:

November 27, 2013 development sign posted on the subject property
November 27, 2013 public hearing notice placed on the Town of Windsor's website
November 29, 2013 public hearing notice posted in the paper

Enclosures: Application Materials
Presentation Slides

Pc: Linda Johnson, applicant/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: _____	BY: _____
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*: 128 Chestnut Street
Lot: 15 Block: 13 Subdivision: Kern's

Describe the nature of the request for variance and the restriction(s) imposed by the ordinance(s). Attached additional sheet(s) if necessary*: See Attached

Describe the specific conditions, practical difficulties or undue hardship believed to justify this request* Attached additional sheet(s) if necessary: See Attached

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 8th day of November, 20 13

Linda F. Johnson
Applicant (please print)

Linda F. Johnson
Applicant's Signature

128 Chestnut Street
Mailing Address (street, city, state, zip)

970.420.3289
Telephone Number (during the day)

Fax Number: _____

Email: LindaJohnsonCO@yahoo.com

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

Address: _____

Telephone: 970.405.8966 Fax: _____

Email: FirstHomeToDreamHome@Hotmail.com

Same
Property Owner* (please print)

Property Owner's Signature* _____

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

Telephone Number* (during the day) _____

Fax Number: _____

Email*: _____

* indicates required fields
Revised 04/03/2013

Nature of the request for variance and the restrictions imposed by the ordinances...

I live at the above address which consists of an 8837 sq. ft. lot (public records state 9000 sq ft) with an existing 980 sq. ft. dwelling and 200 sq. ft. shed. I am hoping to ultimately sub-divide the property and my house and shed would then be on an approximately 4700 sq. ft. lot. The new lot (to the north) would be 4137 sq. ft. **Both lots need a variance to Sec. 16-12-30 – Density minimum 6000 sq. ft.**

The existing footprint of the house and shed (total of 1693 sq ft including patio and walkways) on the proposed southern lot leaves 3007 sq ft open space. The proposed house footprint would be 1790 sq ft (including house, garage, driveway and patio). The open space after construction will be 2347 sq. ft on the new lot. **Thus the new lot will need a variance to Sec 16-12-50 – Lot Open Space minimum of 3000 sq. ft.**

As seen on the site plan attached the setback of the house would be 5'; I would **need a variance to Sec 16-12-40 – Front Setback of 20' minimum.** Five feet is the setback also of the current house on the existing (south) lot.

The water line which is in Chestnut Street in front of my house would have to get a utility easement to go across the front lot and onto the northern lot. The sanitary sewer line which comes from the alley would need to give a utility easement to run the line across the northern lot to my current house. (See plan.) It has been suggested that both could run in the right-of-way to the west of my property.

Regarding the landscaping, in addition to some plantings around the new house there would be room to plant two trees to the west of the house and be able to keep them 10' from the water lines. This is consistent with the landscaping on my current home.

Specific conditions, practical difficulties or undue hardship to justify this request...

1. I would like to have a house built on the lot I'm hoping to divide off and the literal enforcement of the provisions of the Code would cause a hardship in preventing me from doing that.
2. Windsor's Comprehensive Plan suggests infill to existing open lots in town and I believe my plan would aid in that.
3. It is difficult for me to keep the existing empty lot looking attractive due to noxious weeds and a house of a design consistent with the period of my neighborhood and a landscaped yard would be much more visually appealing.

My Map

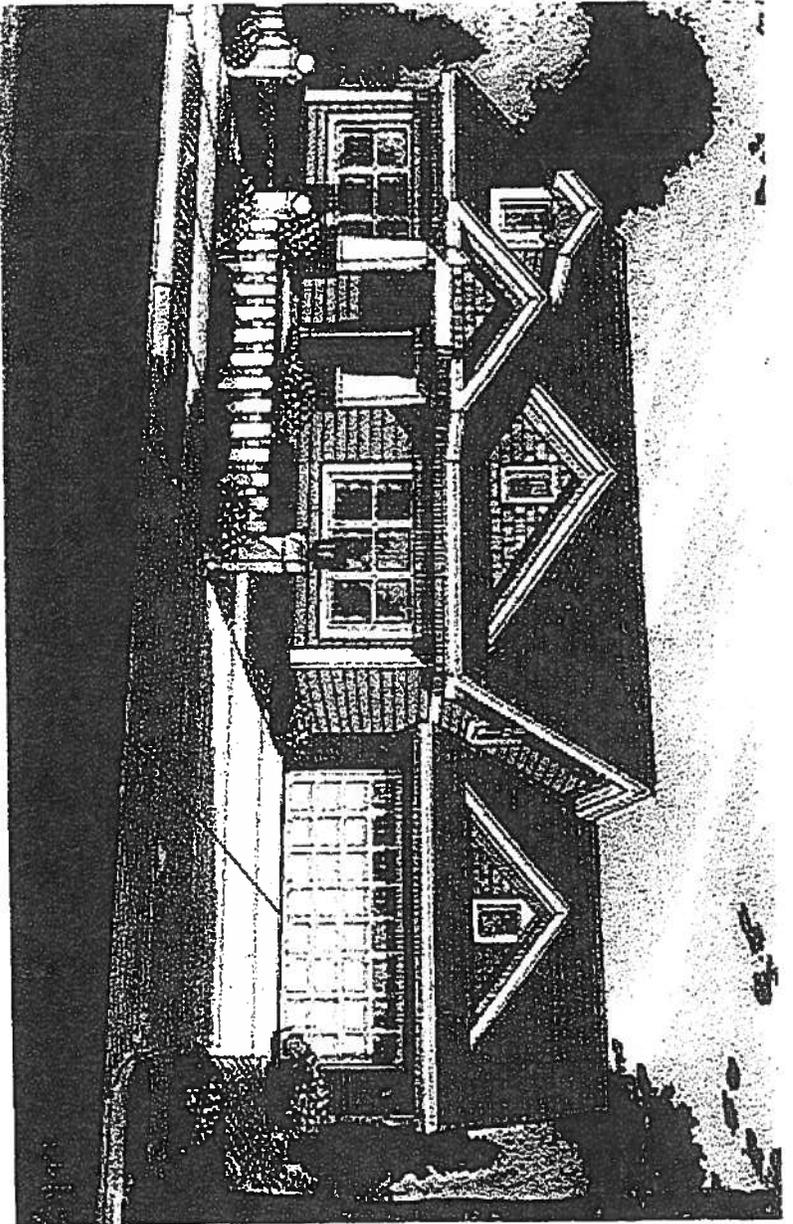


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Subject Property



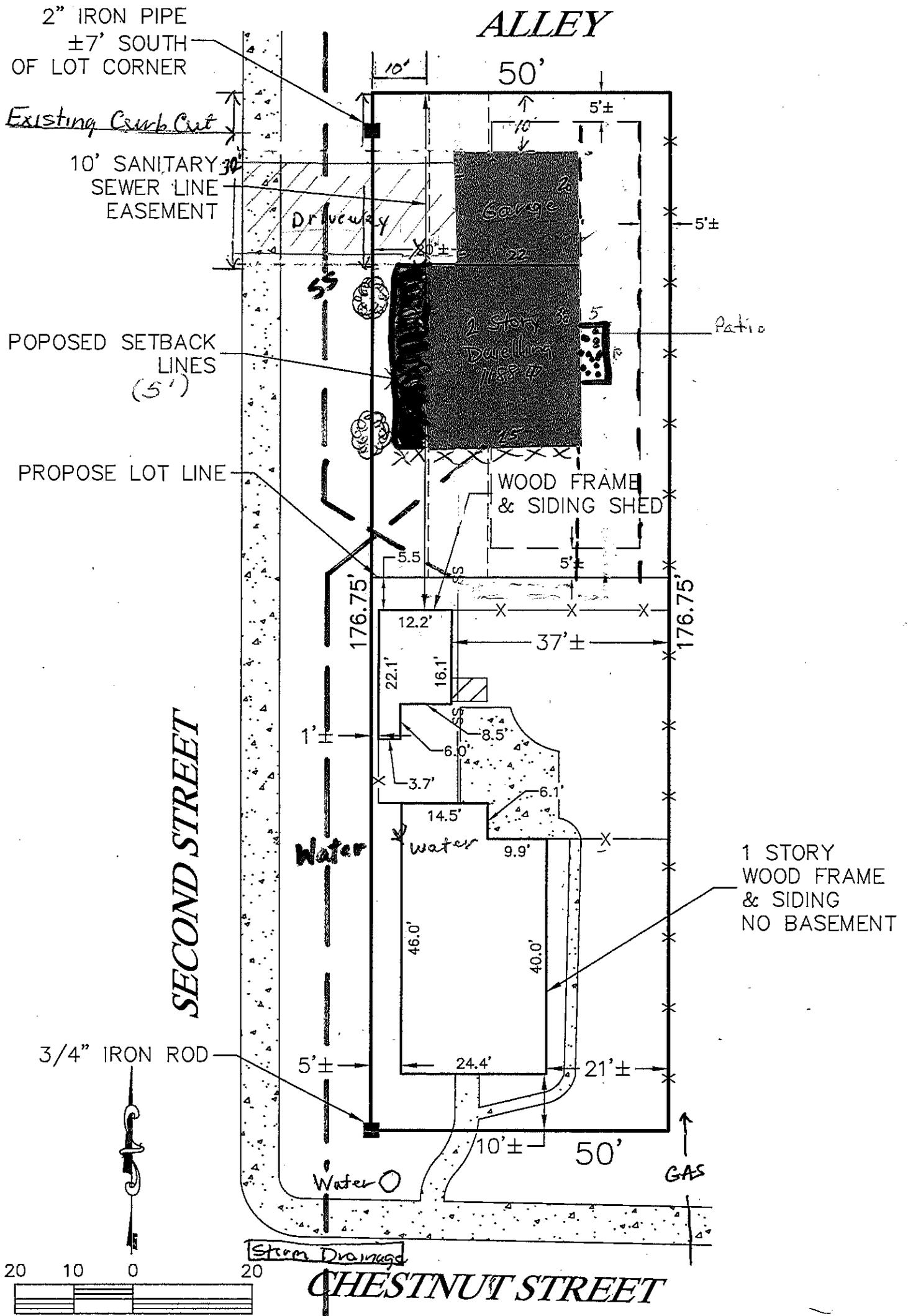
Craftsman Bungalow (or Similar) To Be Built



Rear Lot
128 Chestnut St
Windsor, CO

128 Chestnut St.

SITE PLAN



KING SURVEYORS, INC.

650 E. Garden Drive | Windsor, Colorado 80550

phone: (970) 686-5011 | fax: (970) 686-5821

www.kingsurveyors.com

PROJECT NO: 2013029

DATE: 01-28-2013

CLIENT: LINDA JOHNSON

DWG: ILC

DRAWN: EWL CHECKED: SIP



VARIANCE REQUEST

128 CHESTNUT STREET

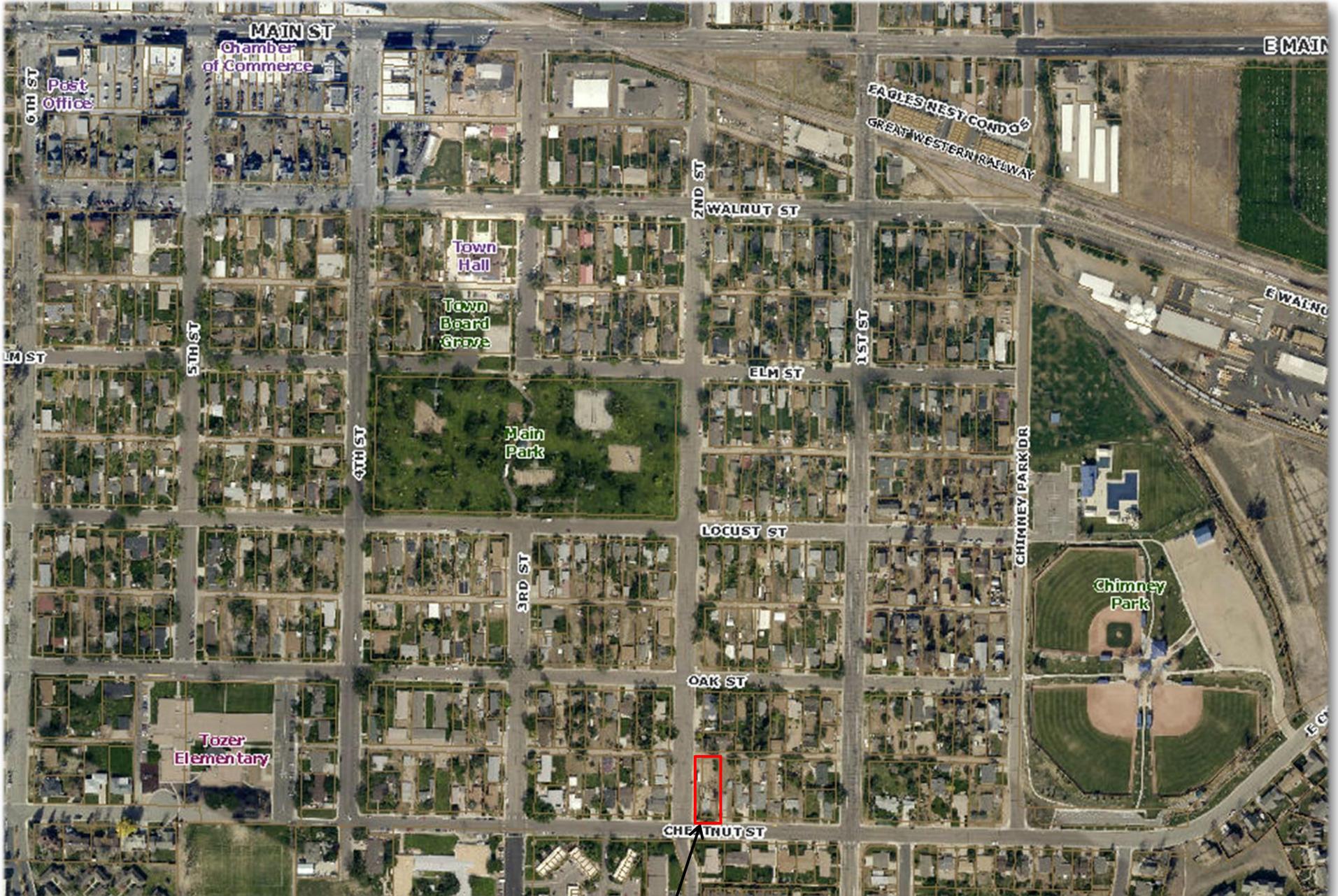
KERN'S SUBDIVISION
LOT 15, BLOCK 13

Josh Olhava, Associate Planner
December 11, 2013

Board of Adjustment

Item C.3

SITE VICINITY MAP



Site Location

SITE PLAN

Density

Variance request from Section 16-12-30 of the Municipal Code, which states:

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

Open Space

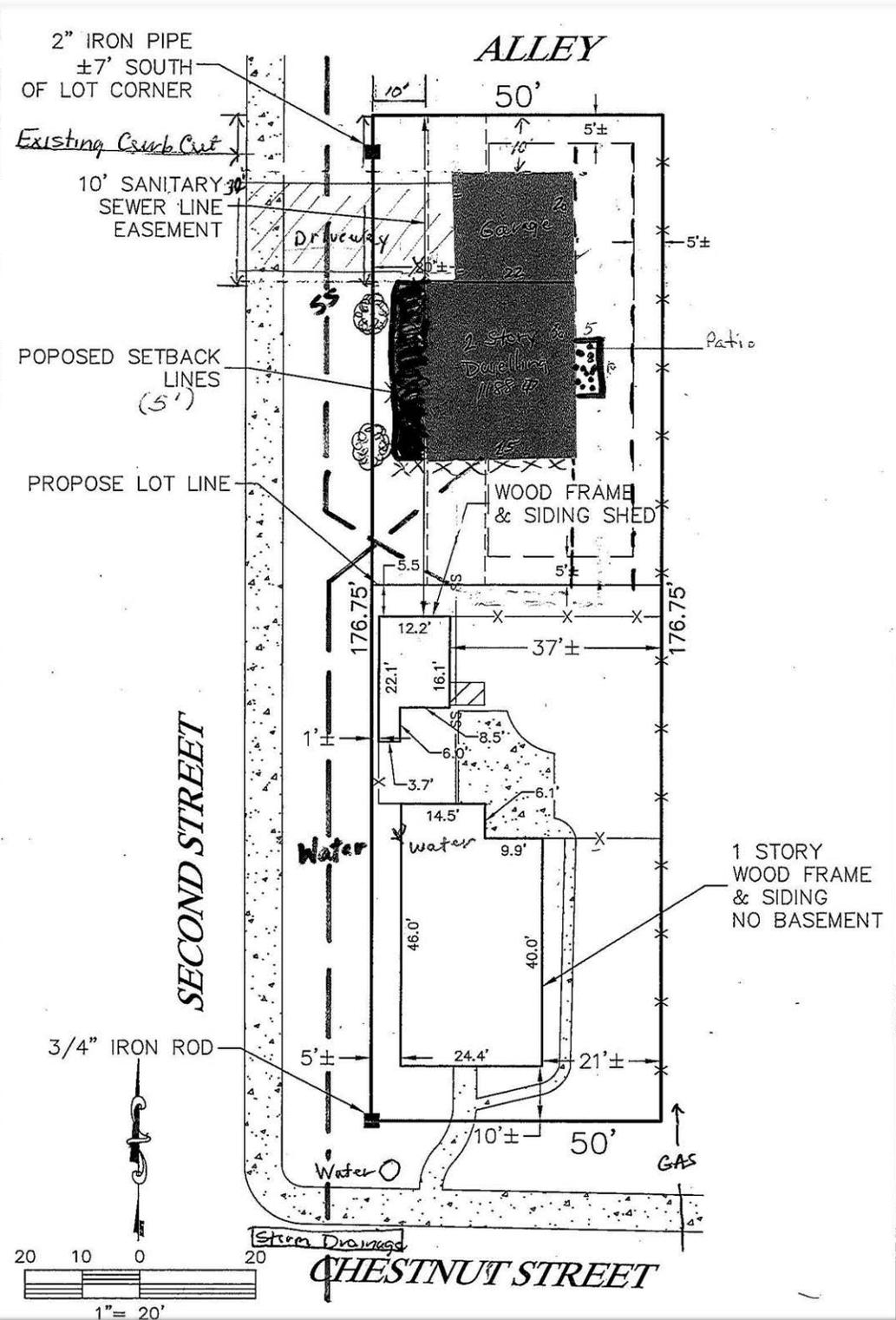
Variance request from Section 16-12-50 of the Municipal Code, which states:

- *As a part of the minimum lot area of six thousand (6,000) square feet per dwelling unit, a minimum of three thousand (3,000) square feet thereof shall be livable open space.*

Setback

Variance request from Section 16-12-40 of the Municipal Code, which states:

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



SITE IMAGE



New proposed lot to the north
for a new home

Existing shed and home on the
proposed south lot

NEIGHBORHOOD IMAGES

Looking south along 2nd Street



Existing shed and home on the proposed south lot

Looking north along 2nd Street



New proposed lot to the north for a new home



RECOMMENDATION FOR DENSITY VARIANCE FROM SEC. 16-12-30

Density

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 proposed Density for the two lots would be consistent with other lots in the core of Windsor.
2. Based on the location of the existing property line on the west relevant to the location of the sidewalk along 2nd Street, and the proposed building envelope on the north lot, the two lots would meet the *spirit* of the zoning code density regulation by creating two buildable and livable lots;
3. The proposed lot split and development is consistent with the Overall Land Use Goal and Policy #4 of the Town of Windsor Comprehensive Plan which states:
“Infill development of all types of land uses should be encouraged, to ensure more efficient use of infrastructure, strengthen existing neighborhood connections, preserve the economic viability of the Town Center, and meet all Town Development Standards.”

Therefore, based upon the aforementioned findings of fact, staff recommends approval of the variance request for the proposed density of the two proposed lots, as shown on the site plan survey, subject to the following conditions of approval.

1. The applicant shall complete the Town’s Minor Subdivision application within six (6) months of the Board of Adjustment approval of this variance request. The Minor Subdivision Plat shall show the proposed building envelope on the north lot to meet all setbacks and open space variance requests, and shall show all necessary easements for the crossing of Water and Sewer service lines serving the two new lots.
2. Concurrently with the Minor Subdivision application, the applicant shall apply for and obtain a Right-of-Way Encroachment Permit from the Town’s Engineering Department to allow the Sewer and Water service lines serving the two new lots to be built in the Public Right-of-Way.
3. The applicant shall maintain a minimum lot size of 4,700 square feet on the south lot with the existing buildings to meet the minimum open space requirements of the Municipal Code. The applicant shall maintain a minimum lot size of 4,137 square feet on the north lot and meet the requirements and determination of the Open Space variance request.



RECOMMENDATION FOR DENSITY VARIANCE FROM SEC. 16-12-30

Density cont.

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 minimum density on the two proposed lots to be less than the 6,000 square foot requirements, subject to staff's conditions of approval;
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.



RECOMMENDATION FOR OPEN SPACE VARIANCE FROM SEC. 16-12-50

Open Space

Regarding the open space variance request for the proposed north lot, 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 proposed Open Space on the north lot would be consistent and proportional to other lots in the core of Windsor.
2. Based on the location of the existing property line on the west relevant to the location of the sidewalk along 2nd Street, and the proposed building envelope; there is adequate open space on the proposed north lot to meet the *spirit* of the zoning code open space regulation;
3. The proposed lot split and development is consistent with the Overall Land Use Goal and Policy #4 of the Town of Windsor Comprehensive Plan which states:
“Infill development of all types of land uses should be encouraged, to ensure more efficient use of infrastructure, strengthen existing neighborhood connections, preserve the economic viability of the Town Center, and meet all Town Development Standards.”

Therefore, based upon the aforementioned findings of fact, staff recommends approval of the variance request for the open space on the proposed north lot, as shown on the site plan survey, subject to the following conditions of approval.

1. The applicant shall complete the Town’s Minor Subdivision application within six (6) months of the Board of Adjustment approval of this variance request. The Minor Subdivision Plat shall show the proposed building envelope on the north lot to meet all setbacks and open space variance requests, and shall show all necessary easements for the crossing of Water and Sewer service lines serving the two new lots.
2. Concurrently with the Minor Subdivision application, the applicant shall apply for and obtain a Right-of-Way Encroachment Permit from the Town’s Engineering Department to allow the Sewer and Water service lines serving the two new lots to be built in the Public Right-of-Way.
3. The applicant shall maintain an open space minimum of 3,000 square feet on the proposed south lot with the existing buildings and a minimum of 2,250 square feet on the proposed north lot.



RECOMMENDATION FOR OPEN SPACE VARIANCE FROM SEC. 16-12-50

Open Space cont.

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 16-12-50 of the Municipal Code to allow the minimum open space on the proposed north lot to be less than the 3,000 square foot minimum, and subject to staff's conditions of approval;
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.



RECOMMENDATION FOR SETBACK VARIANCE FROM SEC. 16-12-40

Setback

Regarding the variance request for the setback along 2nd Street for the proposed north lot, 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 proposed lots would meet all offset requirements;
2. The proposed Setback along 2nd Street for the new north lot would be consistent with other properties along 2nd Street, including the adjacent existing homes to the north and south;
3. 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;
4. Based on the proposed location of the attached garage, there is adequate distance between the west elevation of the garage and the back of the 2nd Street sidewalk to meet the *spirit* of the zoning code setback regulation, and not impede pedestrian movement.

Therefore, based upon the aforementioned findings of fact, staff recommends approval of the variance request for the 2nd Street building location setback, as shown on the site plan survey, subject to the following conditions of approval.

1. The applicant shall complete the Town's Minor Subdivision application within six (6) months of the Board of Adjustment approval of this variance request. The Minor Subdivision Plat shall show the proposed building envelope on the north lot to meet all setbacks and open space variance requests, and shall show all necessary easements for the crossing of Water and Sewer service lines serving the two new lots.
2. Concurrently with the Minor Subdivision application, the applicant shall apply for and obtain a Right-of-Way Encroachment Permit from the Town's Engineering Department to allow the Sewer and Water service lines serving the two new lots to be built in the Public Right-of-Way.
3. The applicant shall provide a minimum of a twenty (20) foot setback between the back of the 2nd Street sidewalk (east side) and the west 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 2nd Street sidewalk (east side) and the west elevation of the proposed garage. The applicant shall provide said survey prior to issuance of building permits.



RECOMMENDATION FOR SETBACK VARIANCE FROM SEC. 16-12-40

Setback cont.

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 16-12-40 of the Municipal Code to allow the proposed residence to be located five (5) feet from the 2nd Street property line and the proposed garage to be located no closer than ten (10) feet from the west property line subject to staff's conditions of approval;
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.