



## BOARD OF ADJUSTMENT/APPEALS REGULAR MEETING

June 26, 2014 – 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.

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### 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. No items

#### **C. BOARD ACTION**

1. Public Hearing – Variance of Municipal Code Section 16-12-40 pertaining to setback requirements in the Single-Family Residential (SF-1) zone district at 1021 Pinyon Drive in the Mountain View Subdivision, Second Filing in the Town of Windsor - Eric and Sonja Yauk, applicants – Joe Plummer
  - 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 16-9-120(1)b.1. pertaining to the height of a freestanding sign located adjacent to an arterial street in the I-25 Corridor in the General Commercial (GC) zoning district located at 4455 Fairgrounds Avenue, Lot 1, Block 1, Eagle Crossing Subdivision, Second Filing in the Town of Windsor - Summit Entertainment Centers of Northern Colorado, applicant; Nick Cashion, 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
3. Public Hearing – Variance of Municipal Code Sections 16-18-20(1) and 16-12-40 pertaining to Building Location for residential dwellings in the Central Business (CB) zone district located at 721 Main Street in the Bowman’s Addition in the Town of Windsor - Blayne St. James, applicant – 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
4. Public Hearing – Variance of Municipal Code Sections 16-24-40(1) pertaining to Residential Density, Setback and Offset Requirements and Section 16-4-45 pertaining to Non-obstruction of Easements in the Residential Mixed Use (RMU) zone district located at 8234 South Loudon Crossing Court in the Shutts Subdivision Second Filing the Town of Windsor - Rebecca A. Mergner, applicant – Paul Hornbeck
- a. Motion to open public hearing to receive evidence and comment regarding the variance request and second
  - b. Presentation of variance request by applicant
  - c. Receipt of any comments from the public regarding the variance request
  - d. Staff report and Recommendation
  - e. Questions and answers to/from BOA members to/from applicant, public, staff, legal counsel
  - f. Motion to close public hearing and second
  - g. Motion on variance and second
  - h. Board discussion
  - i. Board action on variance request

**D. COMMUNICATIONS**

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

**E. ADJOURN**

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

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

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

Upcoming Meeting Dates

<u>Thursday, June 26, 2014</u>	7:00 P.M.	Regular Board of Adjustment Meeting*
<u>Thursday, July 24, 2014</u>	7:00 P.M.	Regular Board of Adjustment Meeting*
<u>Thursday, August 28, 2014</u>	7:00 P.M.	Regular Board of Adjustment Meeting*
<u>Thursday, September 25, 2014</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.



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## MEMORANDUM

**Date:** June 26, 2014  
**To:** Board of Adjustment  
**From:** Joseph P. Plummer, AICP, Director of Planning  
**Re:** Variance of Municipal Code Section 16-12-40 pertaining to setback requirements in the Single-Family Residential (SF-1) zone district in the Mountain View Subdivision, Second Filing  
**Location:** 1021 Pinyon Drive  
**Item #:** C.1

### **Background/Discussion:**

The applicants, Eric and Sonja Yauk, 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 applied and paid for a building permit and constructed a 26' x 30' detached workshop on the subject property. The building permit application included the enclosed drawing depicting the workshop 19-feet from the eastern property line. Unfortunately, the eastern property line happens to coincide with the western edge of right-of-way for 7<sup>th</sup> Street but was not identified as such on the drawing. Therefore, the building permit was reviewed under the misconception that Pinyon Drive was the only street right-of-way from which the minimum setback applied. Section 16-2-20 of the Municipal Code defines a setback as follows:

*Setback* means the horizontal distance between any structure and the established street right-of-way line.

Therefore, the minimum setback of 20-feet should have been applied from the eastern property line to provide the required setback from the 7<sup>th</sup> Street right-of-way. Instead the permit was issued in error, the applicant proceeded to build the workshop and the Town's mistake was only discovered after construction had been completed. According to the enclosed setback exhibit which the Town had prepared, the encroachment is minimal at approximately 2-feet and, unlike most setbacks which are at the front of the property, this encroachment is in the rear yard where it has no impact on public health, safety or welfare.

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 attached images). The Board of Adjustment is empowered to approve or deny variances when the spirit of the zoning code can be observed and public safety and welfare secured. It does not appear as though the location of the workshop has a negative impact on public health, safety and welfare; and the fact that the Town issued the permit in error constitutes an unnecessary hardship.

**Comments:**

The application materials were submitted to the Development Review Committee for their review and no comments were received.

**Recommendation:**

Section 16-6-60(b) of the Municipal Code states that, "Variances may be considered where, due to special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship" and that, "Variances will not be granted contrary to the public interest and will only be considered when the spirit of this Chapter can be observed and public safety and welfare secured."

Staff considers that the literal enforcement of the Code would 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 applicant applied and paid for a building permit and the Town issued the permit in error.
2. The detached workshop only encroaches into the setback by approximately two (2) feet, resulting in a setback of approximately eighteen (18) feet from 7<sup>th</sup> Street.
3. The location of the detached workshop meets the *spirit* of the zoning code setback regulation and does not impede pedestrian movement.
4. The location of the workshop does not have a negative impact on public health, safety and welfare.

Additionally, staff recommends that the following motion, second and action on the petition be made as follows:

1. A motion to approve the request for a variance from Section 16-12-40 of the Municipal Code;
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:**

June 10, 2014	Development sign posted on the subject property
June 13, 2014	Public hearing notice placed on the Town of Windsor's website
June 13, 2014	Public hearing notice posted in the paper

**Enclosures:** Application Materials/Plot Plan  
Powerpoint slides

pc: Eric and Sonja Yauk, applicants



# APPLICATION FOR VARIANCE

(Please see the Town of Windsor Fee Schedule for Application Fees)

TOWN OF WINDSOR  
301 Walnut Street  
WINDSOR, CO 80550

Office: (970) 674-2415  
Fax: (970) 674-2456  
[www.windsorgov.com](http://www.windsorgov.com)

## 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\*: 1021 Pinyon Drive

Lot: 12 Block: 5 Subdivision: Mountain View Subdivision, Second Filing

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

Minimum offset in SF-1 residential district: 5 feet; minimum setback in SF-1 residential district: 20 feet  
Offset means the horizontal distance between a structure and a property line other than a street right-of-way line  
Setback means the horizontal distance between a structure and a street right-of-way line

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

See attached narrative

**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 10 day of June, 2014

Eric Yauk

Applicant (please print)

Eric Yauk

Property Owner\* (please print)

Applicant's Signature

1021 Pinyon Drive Windsor, CO 80550

Mailing Address (street, city, state, zip)

(970) 371-1052

Telephone Number (during the day)

Fax Number:

Email:

Applicant's Representative (if any):

Name:

Address:

Telephone:

Email:

Joseph P. Plummer

301 Walnut Street Windsor, CO 80550

(970) 674-2412

Fax: (970) 686-7180

jplummer@windsorgov.com

Property Owner's Signature\*

1021 Pinyon Drive Windsor, CO 80550

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

(970) 371-1052

Telephone Number\* (during the day)

Fax Number:

Email\*:

\* indicates required fields

Revised 03/13/2014

## Joe Plummer

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**Subject:** FW: 1021 Pinyon Dr  
**Attachments:** 1021 Pinyon Drive\_Page\_1.tiff

**From:** Scott Ballstadt  
**Sent:** Wednesday, May 28, 2014 4:20 PM  
**To:** Joy Liberty-Anglado; Joe Plummer  
**Cc:** PLANNING  
**Subject:** FW: 1021 Pinyon Dr

Unfortunately, if the garage was built according to plan, this will require BOA approval of a variance from the setback requirement. The Town will need to have a surveyor verify the location of the garage. It would be great if it meets the setback requirement, but if it does not, the Town will recommend approval of the variance based upon the permit being issued in error (the Town will also cover the cost of the BOA variance application fee).

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**From:** Joy Liberty-Anglado  
**Sent:** Wednesday, May 28, 2014 11:01 AM  
**To:** Scott Ballstadt  
**Subject:** 1021 Pinyon Dr

Attached is a plot plan that I approved with a detached garage permit in April. The side of the garage that says 19ft actually abuts 7<sup>th</sup> Street. Dennis has brought to my attention that it should have been 20ft since it is along 7<sup>th</sup>. He asked me to ask you how we should proceed. The building is on Final Inspections from SAFEbuilt.

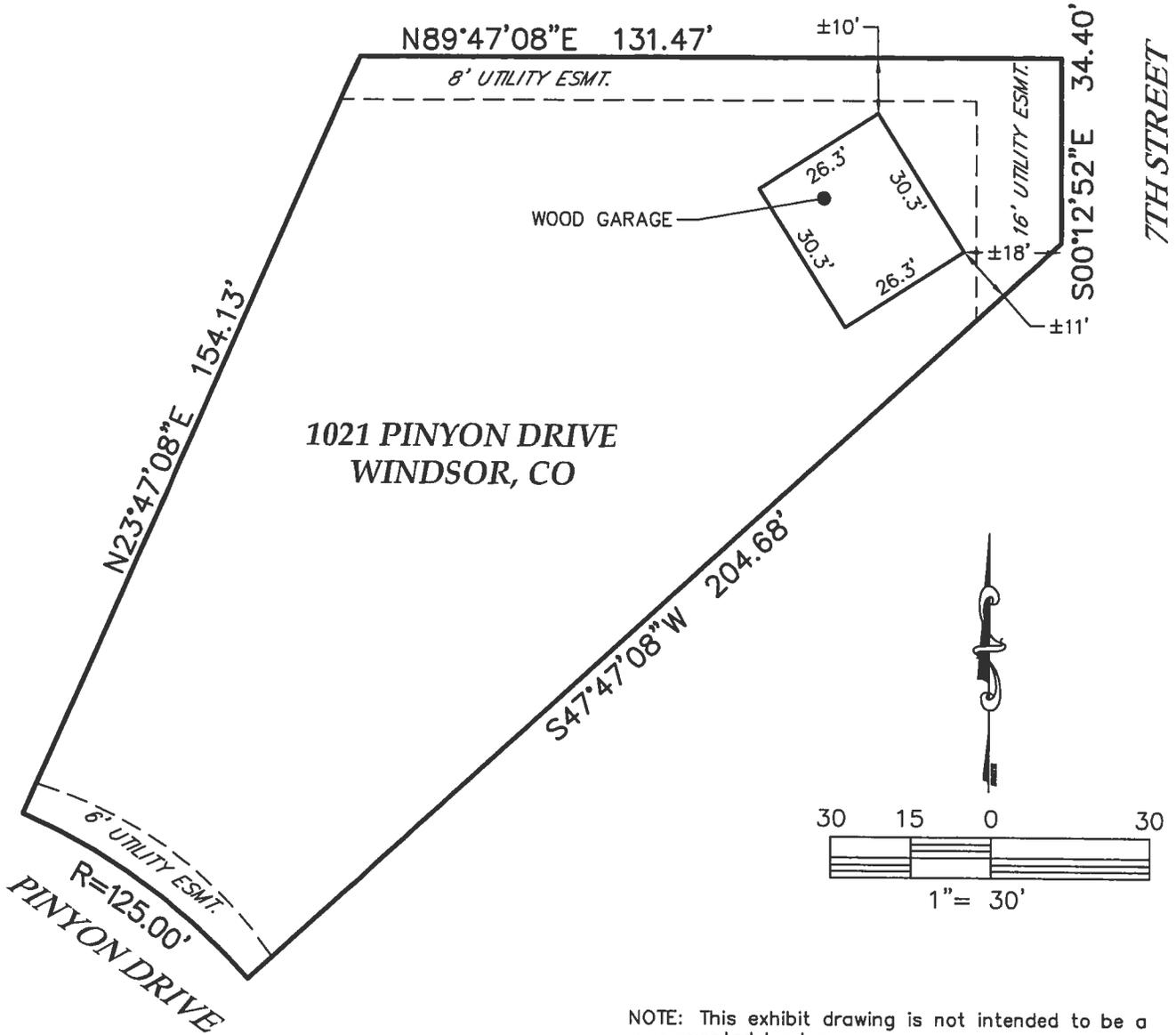
**Joy Liberty-Anglado**  
Permit Technician  
Town of Windsor | Customer Service / Planning  
301 Walnut Street | Windsor, CO 80550  
**Dir: 970-674-2436** | Off: 970-674-2400 | Fax: 970-674-2456  
[jliberty-anglado@windsorgov.com](mailto:jliberty-anglado@windsorgov.com)  
[www.windsorgov.com](http://www.windsorgov.com)

Follow Us [www.windsorgov.com/socialmedia](http://www.windsorgov.com/socialmedia)

GARAGE LOCATION

# EXHIBIT

LOT 12, BLOCK 5  
MOUNTAIN VIEW 2ND



NOTE: This exhibit drawing is not intended to be a monumented land survey.



## KING SURVEYORS

650 E. Garden Drive | Windsor, Colorado 80550  
phone: (970) 686-5011 | fax: (970) 686-5821  
www.kingsurveyors.com

**PROJECT NO:** 2014389

**DATE:** 06-06-2014

**CLIENT:** TOWN OF WINDSOR

**DWG:** 2014389 EXH



**BUILDING DIVISION**  
 Windsor  
 301 Walnut Street  
 Windsor, CO 80550  
 970-686-7476 Fax 970-686-7180

**BUILDING PERMIT**

Permit Number: 14WIN-00525

**For Inspections call 866-671-1036**

Date Issued: 04/21/2014 Job Site Address: <p style="text-align: center;"><b>1021 Pinyon Dr.</b></p> Property Owner: Eric Yauk Mailing Address: 1021 Pinyon Dr. Windsor, CO 80550 Phone Number: Home: 970-371-1052 Contractor/General: Rocky Mountain Storage Barns	Plumbing Contractor: License: Electrical Contractor: License: Heating Contractor: License:
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Subdivision: Lot: 12 Block: 5 Filing:  
 Required Set Backs  
 N: S: E: W:  
 Actual Set Backs  
 N: S: E: W:

TYPE AND VALUE OF BUILDING	FEE ITEMS	# of Each	Amount
Type: Alteration SubType: Residential Category: Detached Garage Valuation (Calculator): \$27657.00	Building Permit Fee	27657.00	\$293.20
	Plan Review Fee 30%	1.00	\$87.96
	Community Center Tax .2%	27657.00	\$27.66
	Windsor Use Tax 3%	27657.00	\$414.86
	Building Admin Fee	1.00	\$73.30
	<b>Total</b>		

Plans Reviewed by:  
 Description of Work: 26X30 workshop/storage on concrete

**NOTICE**

The applicant, his agents and employees of, shall comply with all the rules, regulations and requirements of the Town Zoning Regulations and Building Codes governing all aspects of the above proposed work for which the permit is granted. The Town or its agents are authorized to order the immediate cessation of construction at anytime a violation of the codes or regulations appears to have occurred. Violation of any of the codes or regulations applicable may result in the revocation of this permit. Buildings MUST conform with submitted and approved plans. Any changes of plans or layout must be approved prior to the changes being made. Any change in the use or occupancy must be approved prior to commencement of construction. Construction not commenced within 180 days of permit issuance voids this permit. Cessation of work for periods of 180 continuous days shall also void this permit. Permits are not transferable. SafeBuilt, Inc. and the Town of Windsor are not liable for workmanship.

Signature of Applicant/Date \_\_\_\_\_ Building Department Signature/Date \_\_\_\_\_

**MUST BE POSTED ON JOB SITE**

# TOWN OF WINDSOR

301 Walnut Street - Windsor - CO, 80550 Phone (970) 674-2436 Fax (970) 674-2456 www.windsorgov.com

Permit # 1411W-00525

Property Owner <u>Eric Yauk</u>		Phone <u>970-371-1052</u>	
Mailing Address <u>1021 Pinyon Drive Windsor CO 80550</u>		Owners email address	
Contractor - General <u>Rocky Mtn Storage Barns Inc</u>		Business License #	Phone <u>970-221-0257</u> Mobile <u>970-567-3032</u>
Contractor Mailing Address <u>1201 E Mulberry St Fort Collins CO 80524</u>		Fax <u>970-472-5044</u> Email <u>phil@mmstoragebarns.com</u>	
Electrical <u>None</u>	Address	Business License#	
Plumbing <u>None</u>	Address	Business License#	Heating: Business License#:
Job Site Address <u>1021 Pinyon Drive Windsor CO 80550</u>		Year Original Structure Built	
Subdivision <u>Mountain View</u>	Filing <u>2<sup>nd</sup></u>	Lot <u>12</u>	Block <u>5</u>
Distance to Property Lines (closest structure, including decks and covered patios): N <u>10-5'</u> E <u>19'</u> S <u>11'</u> W <u>66'</u>			Corner Lot? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Required setbacks/offsets (Office use only): N _____ E _____ S _____ W _____			Walkout Bsmt? Yes / No

<b>Type of Improvement</b> <input checked="" type="checkbox"/> New Building <input type="checkbox"/> Addition <input type="checkbox"/> Remodel <input type="checkbox"/> Other _____	<b>PROPOSED USE:</b> <u>Commercial / Industrial</u> <input type="checkbox"/> New Building <input checked="" type="checkbox"/> Shell Only <input type="checkbox"/> Remodel / Addition <input type="checkbox"/> Tenant Finish	Business Name: Electrical Valuation: \$ _____	<b>Office Use Only</b> Valuation: \$ <u>27,657.01</u> <b>FEES:</b> Total SAFEbuilt \$ <u>381.16</u> Total Town \$ <u>515.82</u> Total Fees \$ <u>896.98</u>
Estimated Value (Materials and labor) \$ <u>27,657.01</u>  Type of Heat <u>None</u> Type of Mechanical <u>None</u> Type of Sewage Disposal <input type="checkbox"/> Public <input type="checkbox"/> Septic Water Supply: Tap Size _____ Supplier? <u>None</u>	<b>New Residential Structures</b> <input type="checkbox"/> One Family <input type="checkbox"/> Duplex <input type="checkbox"/> Multi-Family # Units _____ <input type="checkbox"/> Hotel/Motel <input checked="" type="checkbox"/> Garage <input checked="" type="checkbox"/> Other <u>Workshop</u>  # Bedrooms <u>0</u> # Baths Full <u>0</u> 3/4 _____ 1/2 _____	RECEIVED APR 04 2014 STATE OF COLORADO New Master Plan Review? Yes _____ No _____ Same-As Plan Review? Yes _____ No _____	Lot Square Feet: _____ Zoning: _____ Open Space: _____ Use: _____ Plot Plan: To Engineer: _____ From Engineer: _____ Email HOA _____
Other Information: Describe in detail the proposed use (or proposed business name & product), type of construction, dimension, square footage, and materials, etc. <u>Proposed 26' x 30' Workshop / Storage on concrete monolithic foundation and floor</u> <u>Wood framed and shingled roof</u>			<b>Square Footage (Must be completed by applicant prior to submittal):</b> Main Floor: _____ Add. Floors: _____ UF Basement: _____ Fin. Basement: _____ Crawlspace: _____ Covered Porch: _____ Decks: _____ Garage: _____

### Notice

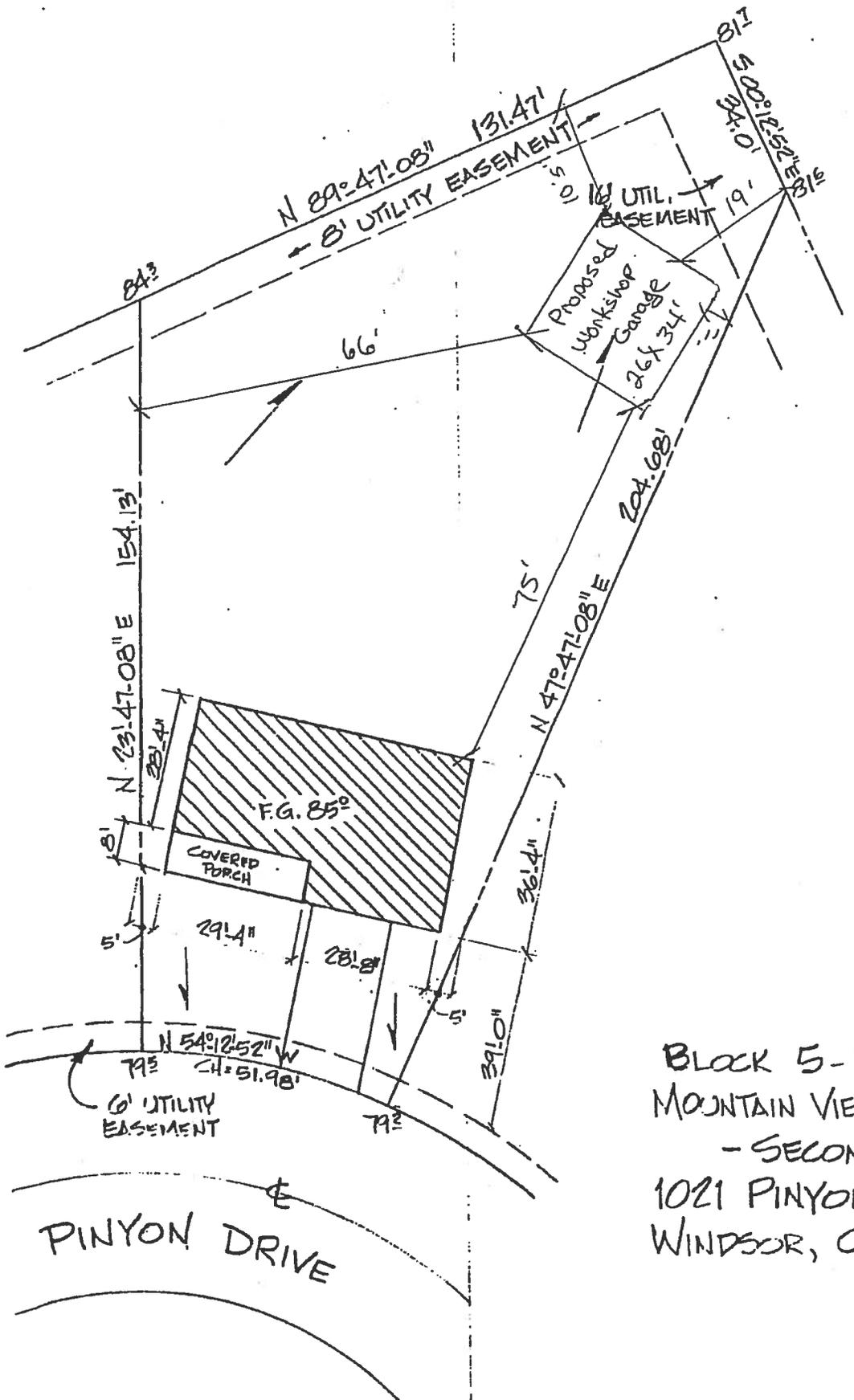
The applicant, his agents and employees shall comply with all the rules, restrictions and requirements of the Town and Building Codes governing location, construction, and erection of the above proposed work for which the permit is granted. The Town or its agents are authorized to order the immediate cessation of construction at anytime a violation of the codes or regulations appears to have occurred. Violation of any of the applicable codes or regulations may result in the revocation of this permit.

Buildings MUST conform with plans, as submitted to the Town. Any changes of plans or layout must be approved prior to the changes being made. Any change in the use or occupancy of the building or structure must be approved prior to proceeding with construction.

The applicant is required to call for inspections at various stages of the construction, and in accordance with the aforesaid requirement, the applicant shall give the building inspector not less than one working day's notice to perform such activities.

By my signature below, I acknowledge (1) that I am responsible for the payment of the plan review fee and the administrative review fee associated with this application regardless of whether I obtain the building permit or not, and regardless of any lapse in building permit approval, and (2) that before I am entitled to obtain a building permit for this property, I must pay any delinquent building permit fees associated with this property. Please see page 2 for additional notices regarding this building permit application.

Signature of applicant <u>[Signature]</u>	Date <u>4/3/2014</u>	Town Engineer	Date
Building Inspector Plan Review <u>[Signature]</u>	Date <u>4-16-14</u>	Approved by Town Official	Date



Block 5-Lot 12  
MOUNTAIN VIEW SUBDIVISION  
- SECOND FILING  
1021 PINYON DRIVE  
WINDSOR, COLORADO



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# Variance of Municipal Code Section 16-12-40 pertaining to setback requirements in the Single-Family Residential SF-1 zone district 1021 Pinyon Drive

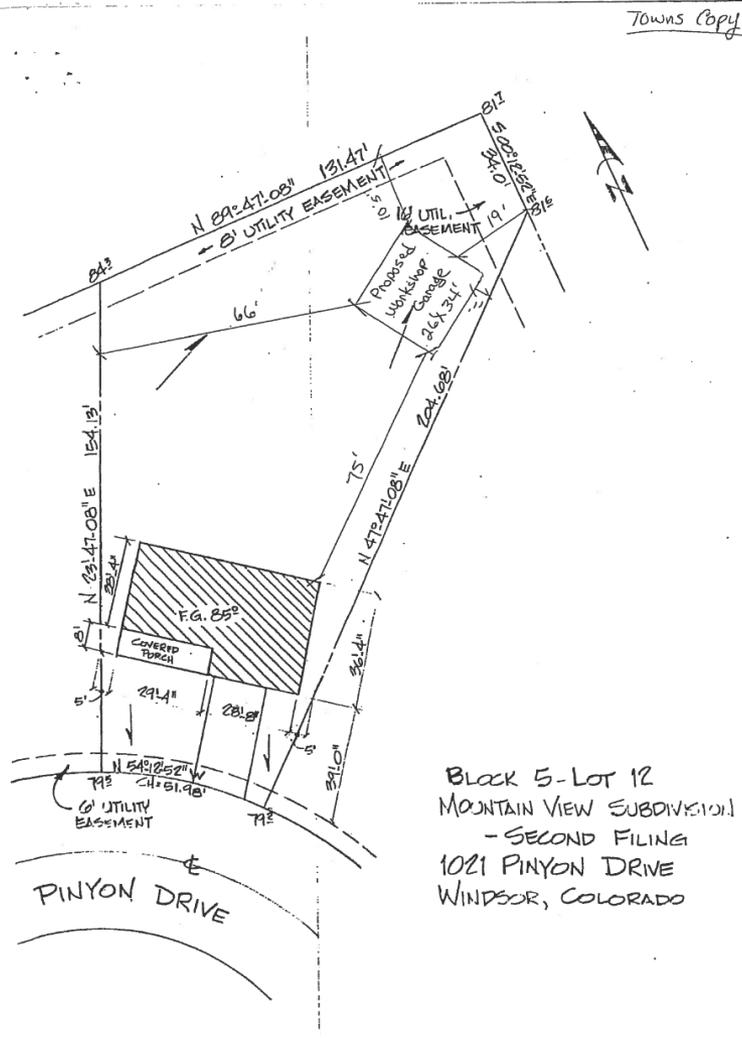
Joseph Plummer, AICP

June 26, 2014

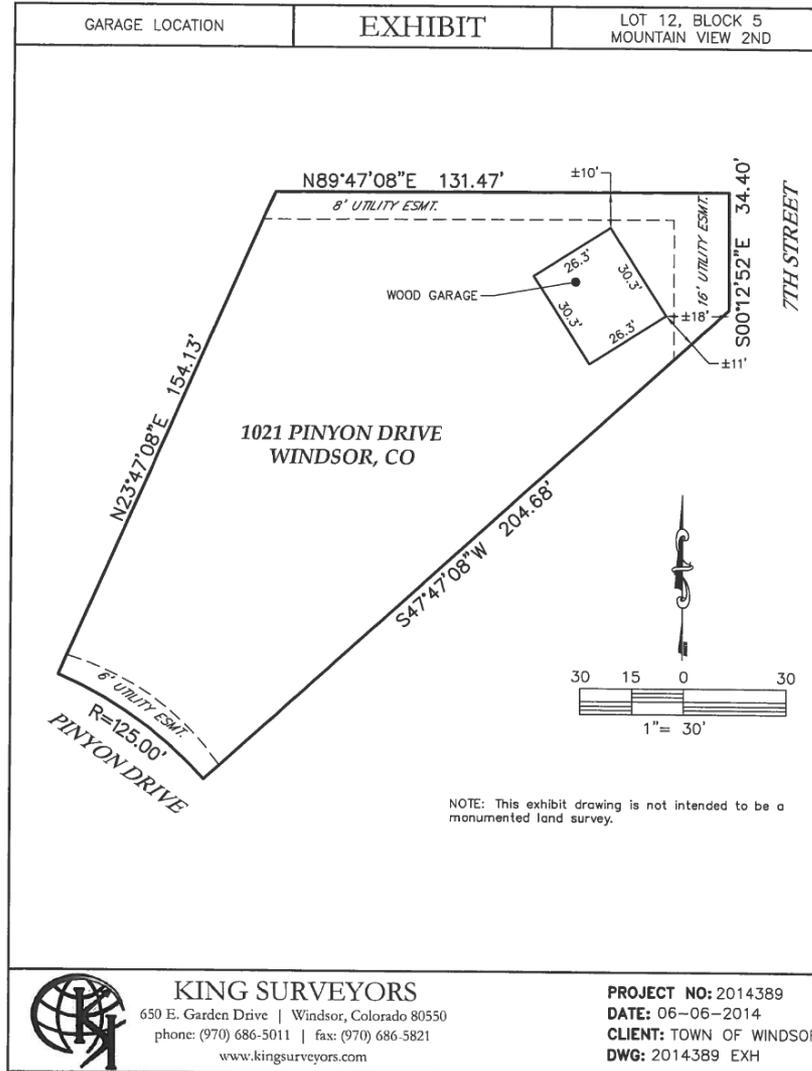
Board of Adjustment

Item C.1

# Plan Submitted with Building Permit Application



# Setback Exhibit



**KING SURVEYORS**

650 E. Garden Drive | Windsor, Colorado 80550  
 phone: (970) 686-5011 | fax: (970) 686-5821  
[www.kingsurveyors.com](http://www.kingsurveyors.com)

**PROJECT NO:** 2014389  
**DATE:** 06-06-2014  
**CLIENT:** TOWN OF WINDSOR  
**DWG:** 2014389 EXH









## MEMORANDUM

**Date:** June 26, 2014  
**To:** Board of Adjustment  
**Via:** Joseph P. Plummer, AICP, Director of Planning  
**From:** Josh Olhava, Associate Planner  
**Re:** Variance of Municipal Code Section 16-9-120(1)b.1. pertaining to the height of a freestanding sign located adjacent to an arterial street in the I-25 Corridor in the General Commercial (GC) zoning district  
**Location:** East side of Fairgrounds Avenue at 4455 Fairgrounds Avenue, Windsor, CO  
**Item #:** C.2

### **Background/Discussion:**

The applicant, Mr. Nick Cashion, Summit Entertainment Centers of Northern Colorado, is requesting a variance from Municipal Code Section 16-9-120(1)b.1. for a freestanding sign located within the Interstate 25 (I-25) Corridor subarea, which states the following:

***The maximum height of any freestanding sign that is located adjacent to an arterial street within the I-25 subarea shall be ten (10) feet.***

The applicant is proposing to construct a new monument sign on the southwest corner of the subject property located at 4455 Fairgrounds Avenue, at the corner of Fairgrounds Avenue and Stallion Drive, within the Eagle Crossing Subdivision. The proposed sign would be sixteen feet (16') high by eleven feet – two and one half inches (11' 2½") wide, with an estimated sign area of approximately one hundred twelve (112) square feet. The sign is proposed to include an LED display and ground lighting, with a monument style base and various architectural features to reflect those used on the Summit building's entry feature. The subject property is zoned General Commercial (GC) and surrounded by commercially zoned properties in Windsor and across Fairgrounds Avenue to the west in Loveland.

The Summit site as a whole encompasses one block totaling 206,031 square feet or 4.73 acres, with approximately 400 feet of frontage along Fairgrounds Avenue. The building footprint, as depicted on the approved site plan encompasses 49,818 square feet or 1.14 acres, with a height of 38'6".

The project site, 4455 Fairgrounds Avenue, is located within the Interstate 25 (I-25) Corridor Plan area. Therefore, any proposed signage within the Town of Windsor, and within this corridor area are subject to the signage subarea requirements of Sec. 16-9-120 of the Municipal Code. Please see the following code section language as it relates to the subject property and proposed signage.

### **Sec. 16-9-120. Subarea requirements**

*(1) Interstate 25 (I-25) Corridor subarea requirements. In addition to all other sign criteria contained in this Section, the I-25 Corridor, defined as that one-mile area east of I-25 to Larimer County Road 5, shall also be subject to the following subarea requirements:*

*a. Maximum sign area. The maximum sign area of any freestanding sign that is located adjacent to an arterial street within the I-25 Corridor subarea shall be forty-eight (48) square feet per side if the street frontage along the lot upon which the use is located does not exceed one hundred (100) feet. If the street frontage along the lot upon which the use is located exceeds one hundred (100) feet, the maximum advertising area of any such sign shall be sixty (60) square feet per side.*

*b. Maximum sign height.*

*1. The maximum height of any freestanding sign that is located adjacent to an arterial street within the I-25 subarea shall be ten (10) feet.*

Staff conducted a field visit to the immediate vicinity of the subject site, as well as the I-25/HWY 392 interchange. The enclosed staff PowerPoint includes photos of existing signage that is all located within the I-25 corridor plan area, within Windsor and within Loveland, as labeled. Fairgrounds Avenue, Crossroads Boulevard and HWY 392 are all classified as Arterial Streets; and any property within Windsor that was site planned or had a sign installed after the adoption of the sign ordinance would have been required to meet the requirements of Section 16-9-120.

Municipal Code Section 16-6-60 (Variances) outlines the regulations and provisions for granting variances. Staff has reviewed the application materials, zoning code, and the site vicinity. 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. 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...*

**Comments:**

The application materials were submitted to the Development Review Committee for their review. Staff received no comments on this variance application.

**Recommendation:**

Section 16-6-60(b) of the Municipal Code states that, "Variances may be considered where, due to special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship" and that, "Variances will not be granted contrary to the public interest

and will only be considered when the spirit of this Chapter can be observed and public safety and welfare secured.”

Staff considers that the literal enforcement of the Code will not result in an unnecessary hardship or a practical difficulty, and therefore is recommending that the variance request for the proposed sign size as presented in the application not be approved based upon the following findings of fact:

1. The granting of this variance would not be consistent with the requirements for other signs that are existing or may be proposed within the I-25 subarea;
2. Denial of the sign height variance request will not place an unnecessary hardship on the applicant, as defined in the municipal code; and
3. The granting of this variance has the potential to alter the essential character of the surrounding neighborhood for existing and future properties.

Since all motions are to be made in the affirmative, staff recommends that the following motion, second and action on the petition be made as follows:

- 1) A motion to approve the request for a variance from Section 16-9-120(1)b.1. of the Municipal Code to allow the construction of the monument sign to be sixteen feet (16') high as depicted in the variance application;
- 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.

Based on staff’s analysis of existing signs along the corridor and Section 16-9-110(b) of the Municipal Code, staff would support an alternative sign size that is comparable to those existing within the corridor and compliant with Commercial zoned – Large-scale Tenants within the community and as written in the Municipal Code, based upon the following findings of fact:

1. The current structure, as site planned, most closely fits the requirements of a Large-scale tenant, which is defined in the code as: *“any commercial or industrial use that exceeds fifty thousand (50,000) square feet of gross leasable area (GLA)”*;
2. If the structure was built in another location within the community, without specific corridor requirements, it would be evaluated as a Large-scale tenant;
3. Section 16-9-110(b) of the Municipal Code, under Large-scale tenants, allows for signs up to fourteen feet (14') in height and a sign area up to eighty-four (84) square feet, per side, when adjacent to arterial streets with over one hundred feet (100') of street frontage;
4. The granting of this alternative variance request would not alter the essential character of the surrounding neighborhood; and
5. The granting of this alternative variance request would most closely align the specific site characteristics of this property with language and requirements from the municipal code.

Staff would recommend conditional approval of an alternative variance request for the sign size as follows: the sign shall comply with Section 16-9-110(b)(1)a. for Maximum sign area and Section 16-9-110(b)(2)a. for Maximum sign height.

**Sec. 16-9-110. Freestanding signs**

*(b) Large-scale tenants. Large-scale tenants shall be eligible for one (1) freestanding sign per*

*street frontage adjacent to the lot upon which the use is located, up to a maximum number of two (2) freestanding signs for any single commercial or industrial use.*

*(1) Maximum sign area.*

*a. The maximum sign area of any freestanding sign that is located adjacent to an arterial street shall be seventy-two (72) square feet per side of sign if the street frontage along the lot upon which the use is located does not exceed one hundred (100) feet. If the street frontage along the lot upon which the use is located exceeds one hundred (100) feet, the maximum advertising area of any such sign shall be eighty-four (84) square feet per side of sign.*

*(2) Maximum sign height.*

*a. The maximum height of any freestanding sign that is located adjacent to an arterial street shall be fourteen (14) feet.*

Since all motions are to be made in the affirmative, staff recommends that the following motion, second and action on the petition be made as follows:

- 1) A motion to approve the alternative request for a variance from Section 16-9-120(1)b.1. of the Municipal Code to allow the construction of the monument sign to be fourteen feet (14') high with a maximum sign area of eighty-four (84) square feet, per side to comply with Sections 16-9-110(b)(1)a. and 16-9-110(b)(2)a. of the Municipal Code;
- 2) A second; and
- 3) The Chair calling for the vote as follows: All members in favor of the alternative variance vote "yes"; all opposed to the alternative variance request vote "no", with a minimum of four "yes" votes required to approve the alternative variance request.

**Notification:**

June 12, 2014	development sign posted on the subject property
June 13, 2014	public hearing notice placed on the Town of Windsor's website
June 13, 2014	public hearing notice posted in the paper

**Enclosures:** Application Materials  
PowerPoint slides

pc: Nick Cashion, Summit Entertainment Centers of Northern Colorado, applicant  
Planning Department staff



APPLICATION FOR VARIANCE

(Please see the Town of Windsor Fee Schedule for Application Fees)

TOWN OF WINDSOR
301 Walnut Street
WINDSOR, CO 80550

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

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\*: 4455 Fairgrounds Ave, Windsor, Co. 80550

Lot: 1 Block: 1 Subdivision: Eagle Crossing Subdivision, Second Filing

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

The applicant, is seeking a height variance for a freestanding sign; increasing the height from (10) feet, to (16) feet

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

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 1st day of June, 20 14

Summit + Entertainment Centers of Northern Colorado
Applicant (please print) Property Owner\* (please print)

Applicant's Signature Property Owner's Signature\*

9085 E. Mineral Circle #240, Centennial Co. 80112
Mailing Address (street, city, state, zip) Mailing Address\* (street, city, state, zip)

303-907-3901 Telephone Number (during the day) 303-759-9161 Telephone Number\* (during the day)

Fax Number: Fax Number: 303-759-8919

Email: NCashron@Summit+Companies.com Email\*:

Applicant's Representative (if any): Name: .net

Address:

Telephone: Fax:

Email:

\* indicates required fields
Revised 03/13/2014

The Summit, Family Entertainment Center, at 4455 N. Fairgrounds Ave. in Windsor is proposing a lighted monument sign with an electronic message center (approx. 16'0") at the corner of Fairgrounds Ave. and Stallion Dr.

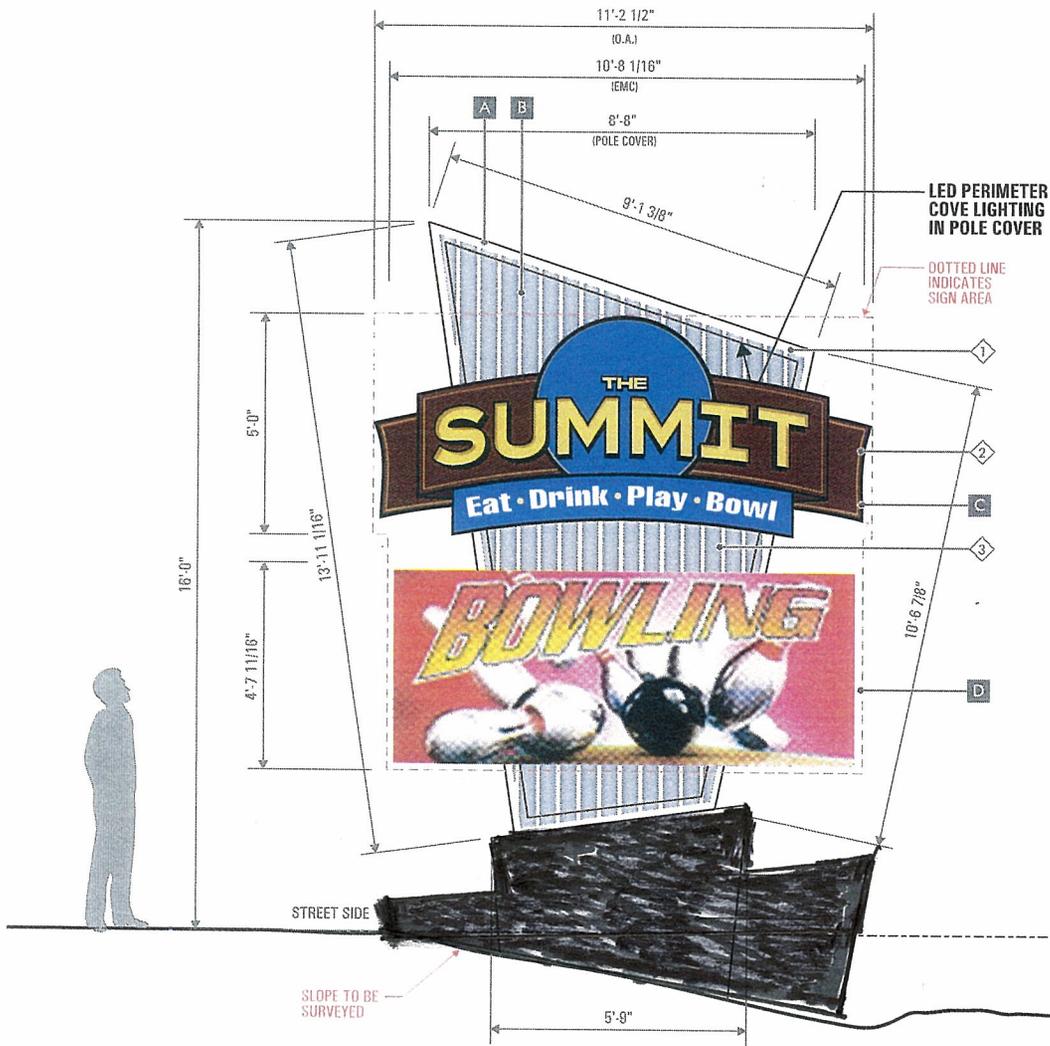
According to (Sec. 16-9-120, b., #1) The maximum allowable sign height for any freestanding sign that is located adjacent to an arterial street within the I-25 subarea shall be (10) feet. The applicant, Summit Entertainment Centers of Northern Colorado, is requesting a variance to increase their sign height to (16) feet, as allowed by Sec. 16-9-110, (2a);

"A shopping center development identification sign for multiple tenant developments exceeding a total of 75,000 square feet of total gross leasable area shall not exceed (16) feet."

The applicant believes there are several reasons why this variance should be considered ;

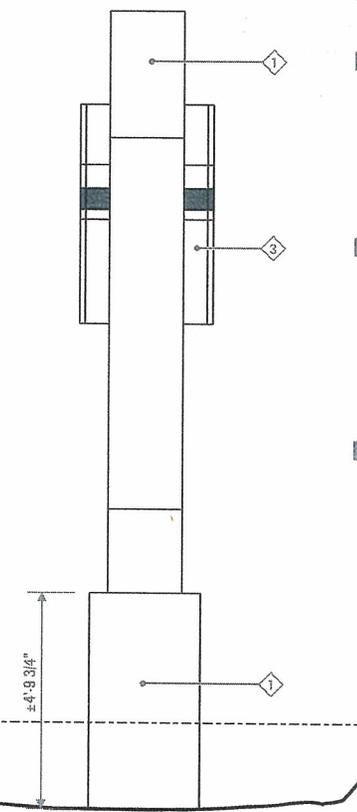
1. The applicant believes that the lot size (4.73 acres) and frontage (400') are consistent with size of typical shopping center developments of 75,000 square feet.
2. The building height of (30) feet, that covers approximately 1 acre, would dwarf a 10 foot sign; and the height limitation would disallow design elements of the sign that might correspond to the building design.
3. In the I-25 corridor there have been signs approved up to (40) feet; at (10) feet we feel that we are at a competitive disadvantage.

The monument sign will incorporate a newly developed logo for The Summit, which will be located at the top of each sign, with the electronic messaging unit. The sign proposed is to be double faced, internally illuminated, and will incorporate the design and materials used in the design of The Summit building, including the angular pylon at the top of the sign that simulates the roofline at the Northwest corner of the building. The anodized copper metal that encases the pylon base is the same material that is used on our roof; and the sheet metal frame is the same finish as the storefront material at our entry feature. The attached exhibit is an example of a design that is under consideration.



1.1 D/F INTERNALLY ILLUMINATED MONUMENT SIGN WITH EMC  
 QUANTITY: 1 MANUFACTURE & INSTALL  
 SCALE: 3/8" = 1'-0"

*Covered  
 BRUSHED?*



1.1.3 BUILDING SIDE

SCOPE OF WORK:  
 MANUFACTURE AND INSTALL (1) PYLON WITH EMC, ILLUMINATED CABINETS AND DECORATIVE POLE COVER.  
 INSTALLATION LOCATION IS SLOPED, FIELD MEASUREMENTS OF SLOPE REQUIRED.  
 PERMITTING | SIGN AREA: 112.5ft<sup>2</sup>  
 FINAL ELECTRICAL NOT INCLUDED  
 CONNECTION BY:

FABRICATION SPECIFICATIONS	
<b>A POLE COVER</b>	MATERIAL ALUMINUM LIGHTING WHITE LED COVE LIGHTING PAINT SEE COLOR KEY FINISH SATIN
<b>B DECKING</b>	APPLIED ON ALUMINUM POLE COVER VENDOR DREXMET MATERIAL STANDING SEAM ROOF DECKING THICKNESS T.B.D.
<b>C CABINET</b>	MATERIAL ALUMINUM PAINT SHERWIN BLACK FINISH SATIN LIGHTING LED
<b>RETAINER</b>	TYPE ALUMINUM SIZE 1 1/2" x 1 1/2" PAINT SHERWIN BLACK FINISH SATIN
<b>FACE</b>	MATERIAL POLYCARBONATE COLOR #7328 WHITE ACRYLIC LAYER 1st SURFACE COLOR DIGITAL PRINT (COLOR CORRECT)
<b>D EMC</b>	PIXEL SPACING 16mm MATRIX SIZE 80 x 192 NON-STRUCTURAL COLOR FULL COLOR COMMUNICATION RF WIRELESS HOST COMPUTER DESKTOP WIPRISMVIEW REMOTE COMPUTER INTERNAL COMPACT PC TEXT HEIGHT 4.5" CHARACTERS (10 LINES) LINES OF TEXT 10 LINES CHARACTERS/LINE 38 CHARACTERS PER LINE
<b>GRAPHICS</b>	VIDEO CAPTURE NONE GRAPHICS SOFTWARE YES TRAINING ONLINE MEDIA SERVICES 1 START UP PACKAGE (10 STILLS)
<b>E BASE</b>	MATERIAL ALUMINUM PAINT SEE COLOR KEY FINISH SATIN

COLOR KEY	
1	PAINT SHERWIN WILLIAMS #SW6251 OUTERSPACE
2	VINYL DIGITALLY PRINTED VINYL (COLOR CORRECTED)
3	PAINT SHERWIN WILLIAMS BLACK SATIN

NOTE: UNLESS OTHERWISE NOTED, THE COLORS SPECIFIED ON THIS DRAWING MAY NOT MATCH ACTUAL COLORS ON FINISHED DISPLAY. PLEASE REFER TO COLOR CALLOUTS AND THEIR APPROPRIATE VENDOR SPECIFIED SAMPLES FOR APPROVED COLOR SPECIFICATIONS.

**YESCO**  
 Rocky Mountain Region  
 Salt Lake City  
 1805 South Glenwood Street  
 Salt Lake City, UT 84114  
 801-457-8481  
 Denver  
 3770 Janel St.  
 Denver, CO 80209  
 800-878-0838  
 7000 Highway 125, Suite 100  
 Park City, UT 84302  
 801-225-1200  
 801-225-1200  
 www.yesco.com

CLIENT:  
**THE SUMMIT**  
 ADDRESS:  
**4455 N. FAIRGROUNDS AVE**  
 CITY / STATE / ZIP:  
**WINDSOR, CO**  
 ACCOUNT EXECUTIVE:  
**CHUCK HAND**  
 DESIGNER:  
 ORIGINAL DATE:  
**09.18.2013**

Client Signature / Date  
 Landmark Signature / Date

NOTE: UNLESS OTHERWISE NOTED, ELECTRICAL FINISHES ON FINAL ELECTRICAL CONNECTIONS CHANGES ARE NOT INCLUDED. MANUFACTURED PRODUCTS WILL BE SUPPLIED FOR THE VENDOR UNLESS OTHERWISE INDICATED.  
 A LIST OF ALL MATERIALS AND SUPPLIERS USED WITH THIS PROJECT IS ATTACHED TO THIS DRAWING.

DATE	REVISION	DESCRIPTION
09.11.13	addendum	None
09.21.14	addendum	None
09.23.14	addendum	None
09.23.14	addendum	None
09.23.14	no change	None
09.23.14	no change	None

PROFESSIONAL  
**702257R6**  
 PAGE 8 OF 9



# **VARIANCE REQUEST**

## **4455 FAIRGROUNDS AVENUE**

**EAGLE CROSSING SUBDIVISION, 2<sup>ND</sup> FILING**  
**LOT 1, BLOCK 1**

**Josh Olhava, Associate Planner**  
**June 26, 2014**

Board of Adjustment

Item C.2



# VARIANCE REQUEST

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Municipal Code Section 16-6-60 outlines the regulations and provisions for granting variances.

- Variance request from Section 16-9-120(1)b.1.  
(Pertaining to a freestanding sign located within the Interstate 25 (I-25) Corridor subarea)

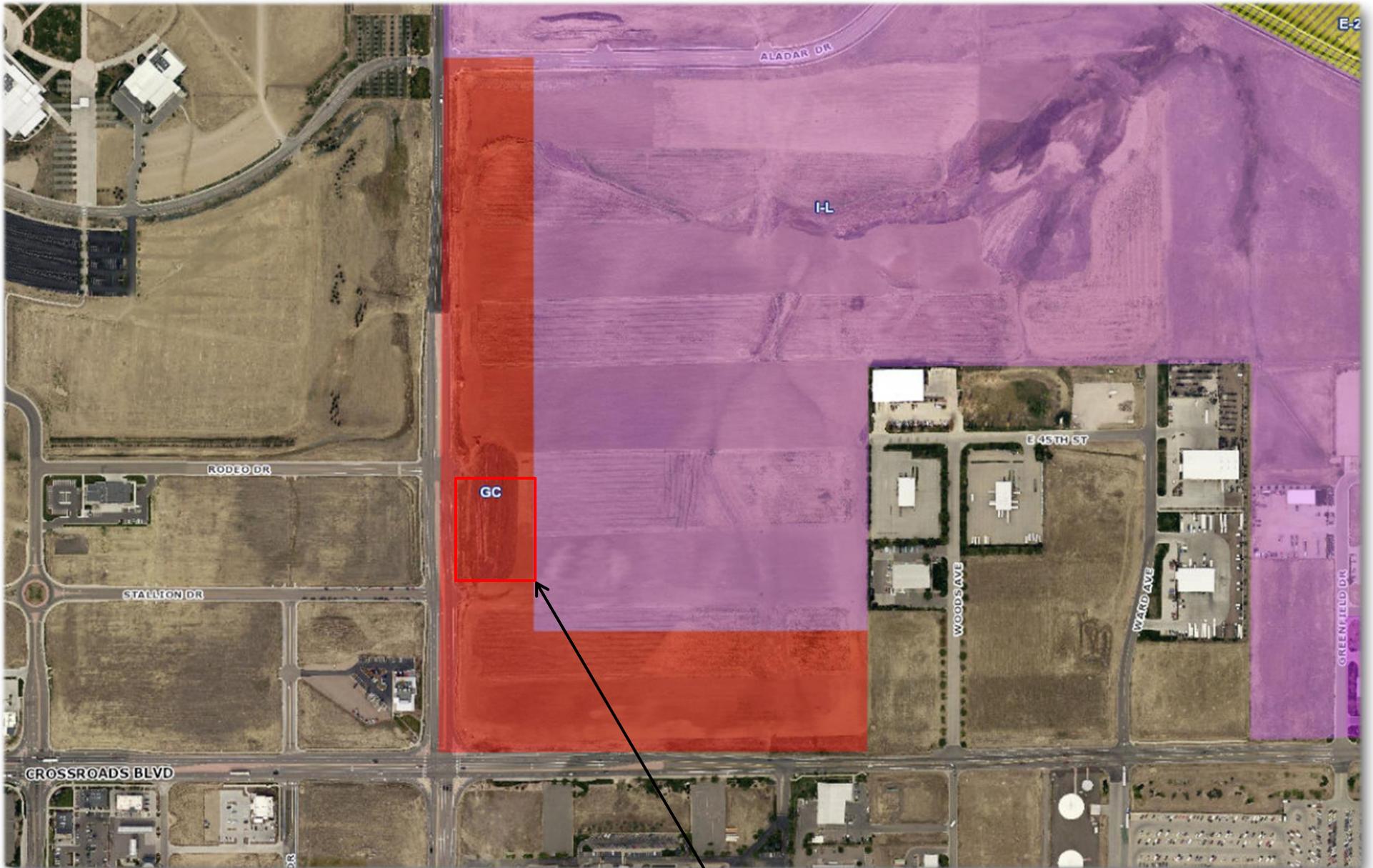
*“The maximum height of any freestanding sign that is located adjacent to an arterial street within the I-25 subarea shall be ten (10) feet.”*

# SITE VICINITY MAP



Site Location

# SITE PROXIMITY ZONING MAP



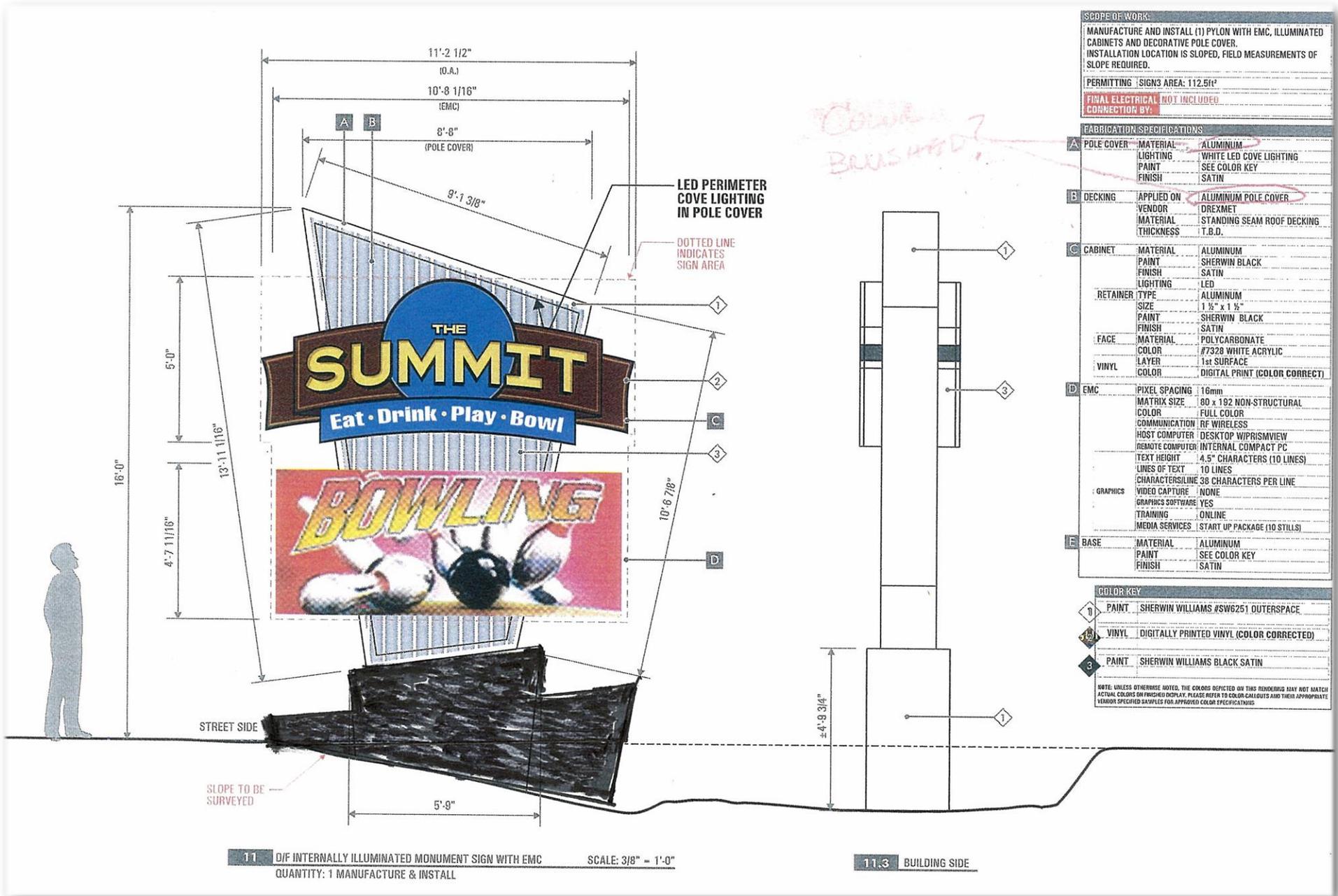
Site Zoned General Commercial (GC)

# SITE IMAGE



Location of the proposed sign

# PROPOSED SIGN CONCEPT



**SCOPE OF WORK:**  
 MANUFACTURE AND INSTALL (1) PYLON WITH EMC, ILLUMINATED CABINETS AND DECORATIVE POLE COVER.  
 INSTALLATION LOCATION IS SLOPED, FIELD MEASUREMENTS OF SLOPE REQUIRED.  
**PERMITTING:** SIGNS AREA: 112.5ft<sup>2</sup>  
**FINAL ELECTRICAL NOT INCLUDED**  
 CONNECTION BY:

**FABRICATION SPECIFICATIONS**

<b>A</b>	<b>POLE COVER</b>	<b>MATERIAL</b>	ALUMINUM
	<b>LIGHTING</b>		WHITE LED COVE LIGHTING
	<b>PAINT</b>		SEE COLOR KEY
	<b>FINISH</b>		SATIN
<b>B</b>	<b>DECKING</b>	<b>APPLIED ON</b>	ALUMINUM POLE COVER
	<b>VENDOR</b>		DREXMET
	<b>MATERIAL</b>		STANDING SEAM ROOF DECKING
	<b>THICKNESS</b>		T.B.D.
<b>C</b>	<b>CABINET</b>	<b>MATERIAL</b>	ALUMINUM
		<b>PAINT</b>	SHERWIN BLACK
		<b>FINISH</b>	SATIN
		<b>LIGHTING</b>	LED
	<b>RETAINER</b>	<b>TYPE</b>	ALUMINUM
		<b>SIZE</b>	1 1/2" x 1 1/2"
		<b>PAINT</b>	SHERWIN BLACK
		<b>FINISH</b>	SATIN
	<b>FACE</b>	<b>MATERIAL</b>	POLYCARBONATE
		<b>COLOR</b>	#7328 WHITE ACRYLIC
<b>VINYL</b>	<b>LAYER</b>		1st SURFACE
	<b>COLOR</b>		DIGITAL PRINT (COLOR CORRECT)
<b>D</b>	<b>EMC</b>	<b>PIXEL SPACING</b>	16mm
		<b>MATRIX SIZE</b>	80 x 192 NON-STRUCTURAL
		<b>COLOR</b>	FULL COLOR
		<b>COMMUNICATION</b>	RF WIRELESS
		<b>HOST COMPUTER</b>	DESKTOP W/PRISMVIEW
		<b>REMOTE COMPUTER</b>	INTERNAL COMPACT PC
		<b>TEXT HEIGHT</b>	4.5" CHARACTERS (10 LINES)
		<b>LINES OF TEXT</b>	10 LINES
		<b>CHARACTERS/LINE</b>	38 CHARACTERS PER LINE
	<b>GRAPHICS</b>	<b>VIDEO CAPTURE</b>	
	<b>GRAPHICS SOFTWARE</b>		YES
	<b>TRAINING</b>		ONLINE
	<b>MEDIA SERVICES</b>		START UP PACKAGE (10 STILL)
<b>E</b>	<b>BASE</b>	<b>MATERIAL</b>	ALUMINUM
		<b>PAINT</b>	SEE COLOR KEY
		<b>FINISH</b>	SATIN

**COLOR KEY**

1	PAINT	SHERWIN WILLIAMS #SW6251 OUTERSPACE
2	VINYL	DIGITALLY PRINTED VINYL (COLOR CORRECTED)
3	PAINT	SHERWIN WILLIAMS BLACK SATIN

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11 D/F INTERNALLY ILLUMINATED MONUMENT SIGN WITH EMC  
 QUANTITY: 1 MANUFACTURE & INSTALL

SCALE: 3/8" = 1'-0"

11.3 BUILDING SIDE

# NEIGHBORHOOD SIGNAGE IMAGES

Located on the southwest corner of Crossroads and Fairgrounds in Loveland



Located off HWY 392, within Windsor's I-25 subarea



Located off HWY 392, within Windsor's I-25 subarea





# RECOMMENDATION

---

Staff considers that the literal enforcement of the Code will not result in an unnecessary hardship or a practical difficulty, and therefore is recommending that the variance request for the proposed sign size as presented in the application not be approved based upon the following findings of fact:

1. The granting of this variance would not be consistent with the requirements for other signs that are existing or may be proposed within the I-25 subarea;
2. Denial of the sign height variance request will not place an unnecessary hardship on the applicant, as defined in the municipal code; and
3. The granting of this variance has the potential to alter the essential character of the surrounding neighborhood for existing and future properties.

Since all motions are to be made in the affirmative, staff recommends that the following motion, second and action on the petition be made as follows:

- 1) A motion to approve the request for a variance from Section 16-9-120(1)b.1. of the Municipal Code to allow the construction of the monument sign to be sixteen feet (16') high as depicted in the variance application;
- 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.



# ALTERNATIVE VARIANCE RECOMMENDATION

---

Based on staff's analysis of existing signs along the corridor and Section 16-9-110(b) of the Municipal Code, staff would support an alternative sign size that is comparable to those existing within the corridor and compliant with Commercial zoned – Large-scale Tenants within the community and as written in the Municipal Code, based upon the following findings of fact:

1. The current structure, as site planned, most closely fits the requirements of a Large-scale tenant, which is defined in the code as: *“any commercial or industrial use that exceeds fifty thousand (50,000) square feet of gross leasable area (GLA)”*;
2. If the structure was built in another location within the community, without specific corridor requirements, it would be evaluated as a Large-scale tenant;
3. Section 16-9-110(b) of the Municipal Code, under Large-scale tenants, allows for signs up to fourteen feet (14') in height and a sign area up to eighty-four (84) square feet, per side, when adjacent to arterial streets with over one hundred feet (100') of street frontage;
4. The granting of this alternative variance request would not alter the essential character of the surrounding neighborhood; and
5. The granting of this alternative variance request would most closely align the specific site characteristics of this property with language and requirements from the municipal code.

Staff would recommend conditional approval of an alternative variance request for the sign size as follows: the sign shall comply with Section 16-9-110(b)(1)a. for Maximum sign area and Section 16-9-110(b)(2)a. for Maximum sign height.



# ALTERNATIVE VARIANCE RECOMMENDATION

---

## **Sec. 16-9-110. Freestanding signs**

*(b) Large-scale tenants. Large-scale tenants shall be eligible for one (1) freestanding sign per street frontage adjacent to the lot upon which the use is located, up to a maximum number of two (2) freestanding signs for any single commercial or industrial use.*

*(1) Maximum sign area.*

*a. The maximum sign area of any freestanding sign that is located adjacent to an arterial street shall be seventy-two (72) square feet per side of sign if the street frontage along the lot upon which the use is located does not exceed one hundred (100) feet. If the street frontage along the lot upon which the use is located exceeds one hundred (100) feet, the maximum advertising area of any such sign shall be eighty-four (84) square feet per side of sign.*

*(2) Maximum sign height.*

*a. The maximum height of any freestanding sign that is located adjacent to an arterial street shall be fourteen (14) feet.*

Since all motions are to be made in the affirmative, staff recommends that the following motion, second and action on the petition be made as follows:

- 1) A motion to approve the alternative request for a variance from Section 16-9-120(1)b.1. of the Municipal Code to allow the construction of the monument sign to be fourteen feet (14') high with a maximum sign area of eighty-four (84) square feet, per side to comply with Sections 16-9-110(b)(1)a. and 16-9-110(b)(2)a. of the Municipal Code;
- 2) A second; and
- 3) The Chair calling for the vote as follows: All members in favor of the alternative variance vote "yes"; all opposed to the alternative variance request vote "no", with a minimum of four "yes" votes required to approve the alternative variance request.



## MEMORANDUM

**Date:** June 26, 2014  
**To:** Board of Adjustment  
**Via:** Joseph P. Plummer, AICP, Director of Planning  
**From:** Josh Olhava, Associate Planner  
**Re:** Public Hearing – Variance of Municipal Code Sections 16-18-20(1)o and 16-12-40 pertaining to Building Location for residential dwellings in the Central Business (CB) zone district located at 721 Main Street in the Bowman's Addition in the Town of Windsor - Blayne St. James, applicant  
**Location:** South side of Main Street (SH 392) at 721 Main Street, Windsor, CO  
**Item #:** C.3

### **Background/Discussion:**

The applicant, Mr. Blayne St. James, is requesting a variance from Municipal Code Section 16-18-20(1)o. (Use regulations) and Municipal Code Section 16-12-40 (Building location) for his property located at 721 Main Street within the Central Business (CB) zoning district. Properties that were once historically residential homes within the CB zoning district are subject to certain regulations set forth in the Single Family (SF-1) zoning district in Article XII of the Municipal Code.

Municipal Code Section 16-18-20(1)o. states that:

***One-family residential dwellings subject to the regulations set forth in Sections 16-11-70, 16-12-20(2), 16-12-30, 16-12-40, 16-12-50 and 16-12-60 of this Chapter.***

Municipal Code Section 16-12-40 states that:

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

The applicant is proposing to construct an ADA accessible ramp off the northern stair stoop into the building, adjacent to Main Street (SH 392). The existing stair stoop will remain and the ramp will be built around the stoop; first extending to the west, turning to the north and descending to the east to meet the existing driveway. Please see the enclosed Improvement Location Certificate for the proposed location of the ramp in relation to the building and property boundaries.

As presented in the variance application, the northern edge of the proposed accessibility ramp will be fourteen and a half feet (14.5') from the north property line, and approximately twenty feet (20') to the south edge of the sidewalk. The subject property is zoned CB and surrounded by both commercial and residential uses.

Municipal Code Section 16-6-60 (Variances) outlines the regulations and provisions for granting variances. Staff has reviewed the application materials, easement locations, zoning code, and aerial images. 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. 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...*

**Comments:**

The application materials were submitted to the Development Review Committee for their review. Staff received no comments on this variance application.

**Recommendation:**

Section 16-6-60(b) of the Municipal Code states that, “Variances may be considered where, due to special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship” and that, “Variances will not be granted contrary to the public interest and will only be considered when the spirit of this Chapter can be observed and public safety and welfare secured.”

Staff considers that the literal enforcement of the Code will result in an unnecessary hardship or a practical difficulty, and therefore is recommending approval of the variance request based upon the following findings of fact:

1. The distance between the northern property line and edge of curb of Main Street (SH 392) is approximately ten feet (10’);
2. Locating the northern most edge of the ramp structure as close as fourteen feet (14’) from the northern property line would be consistent with existing structures along the corridor;
3. Granting of this variance does not appear to be contrary to the public interest and does not appear to adversely impact public safety and welfare;
4. Granting of this variance does provide for accessibility entrance into the building to meet ADA and building code requirements; and
5. The granting of this variance will not alter the essential characteristic of the surrounding neighborhood or the existing structure.

Therefore, based upon the aforementioned findings of fact, staff recommends conditional approval of the variance request for the ADA accessibility ramp setback location as follows: the northern most edge of the ramp structure shall maintain a minimum setback of fourteen feet (14') from the property line.

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 the variance from Sections 16-18-20(1)o. and 16-12-40 of the Municipal Code to allow the construction of the ramp structures northern most edge to be fourteen feet (14') from the northern 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.

**Notification:**

June 12, 2014	development sign posted on the subject property
June 13, 2014	public hearing notice placed on the Town of Windsor website
June 13, 2014	public hearing notice posted in the paper

**Enclosures:** Application Materials  
PowerPoint slides

pc: Blayne St. James, applicant  
Planning Department staff



# APPLICATION FOR VARIANCE

(Please see the Town of Windsor [Fee Schedule](#) for Application Fees)

TOWN OF WINDSOR  
301 Walnut Street  
WINDSOR, CO 80550

Office: (970) 674-2415  
Fax: (970) 674-2456  
[www.windsorgov.com](http://www.windsorgov.com)

## 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\*: 721 Main St. Windsor, CO 80550

Lot: 14 Block: 1 Subdivision: Bowman's Addition ( Rec # 89312)

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

Sec. 16-18-20. Use regulations.

o. One-family residential dwellings subject to the regulations set forth in Sections 16-11-70, 16-12-20(2), 16-12-30, 16-12-40, 16-12-50 and 16-12-60 of this Chapter.

Sec. 16-12-40. Building location.

Minimum setback shall be twenty (20) feet. Minimum offset shall be five (5) feet. (Prior code 16-164; Ord. 2006-1236 §1)

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

See attached supporting documentation

**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 2 day of June, 20 14

Blayne St. James

Applicant (please print)

Applicant's Signature

1944 Lookout Dr. Windsor, CO 80550

Mailing Address (street, city, state, zip)

(970) 596-6089

Telephone Number (during the day)

Fax Number: (970) 251-7102

Email: blayne@blaynestjames.com

Applicant's Representative (if any): Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

Blayne St. James

Property Owner\* (please print)

Property Owner's Signature\*

1944 Lookout Dr. Windsor, CO 80550

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

(970) 596-6089

Telephone Number\* (during the day)

Fax Number: (970) 251-7102

Email\*: blayne@blaynestjames.com

\* indicates required fields

Revised 03/13/2014

Hardship Letter for Variance Request  
721 Main St. Windsor, CO 80550

June 2, 2014

After an onsite inspection with Mr. Russ Weber of SAFE built, Mr. Weber indicated building an ADA accessible ramp at the front of the building would make the most logical sense. The entrance on the east side of the building next to the garage is too narrow and a ramp would block access to the garage. The entrance off the back is too steep and could not possibly be constructed to meet ADA code thus leaving us with the front entry to work with.

The maximum variance needed from the front of the building to the lot line would be would be 5 ½ feet leaving the northern most portion of the ramp 14 ½ feet to the front of the lot line, just over 20 ft to the edge of the sidewalk. I have attached an ILC showing the current setbacks as well as a picture of 721 Main St. which depicts how the ramp would sit in relation to the front entry. In order to break up the look of an ADA ramp on the front of the building we would also like to build an oversized deck for seating directly west and south of the ramp. The ramp would gradually rise to the NE corner of the deck, perfectly meeting all rise & run requirements per ADA regulations. The deck would measure 83 inches wide x 144 inches long and would still remain in the 5ft setback off the side of the lot line.

After spending just a few minutes looking at some of the neighboring properties I noticed two building that measured well into the existing setback requirement. 809 Main St. measures 18ft from the porch to the sidewalk and 825 Main St. measures 20 ft 9 inches from the front of the porch to the side walk (see attached pictures). Additionally, the State Farm Insurance building which sits between the two properties noted above already has an existing ADA ramp in the front of their building which would be in line with my request.

I have spent a considerable amount of time and money fixing the property up to its current condition and the last thing I want to do is build something that aesthetically looks out of place. I believe this is the best scenario to meet town requirements and still retain the charm and character of the neighborhood.

Thank you for your time and consideration.

Respectfully,



Blayne St. James  
721 Main St  
Windsor, CO 80550

## **Chapter 16**

### **Article 6**

#### **Section 16-6-60. Variances.**

- (a) The Board of Adjustment is empowered to grant variances from the regulations and provisions of this Chapter.
- (b) A variance, if granted, will constitute a change in the zoning provisions of this Chapter as distinct from a conditional use grant which allows for inclusion within the zones established by this Chapter certain anticipated uses of a unique nature or character justified by temporary conditions. Variances may be considered where, due to special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship. 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.
- (c) For the purposes of this Article, unnecessary hardship shall be defined as a situation where the property cannot be reasonably used under the conditions allowed by this Code. The situation shall result from circumstances unique to the property and shall not be created by the landowner. The variance, if granted, will not alter the essential character of the surrounding neighborhood. Economic considerations alone shall not constitute an unnecessary hardship if a reasonable use for the property exists under the provisions of this Code. It is the responsibility of the landowner to prove that an unnecessary hardship exists. (Prior code 16-66; Ord. 2006-1241 §1)

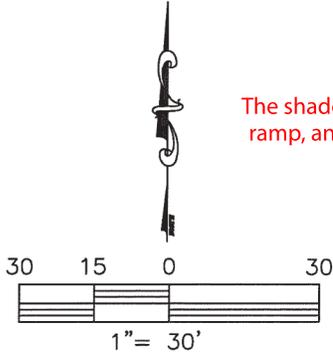
#### **Section 16-6-70. Variance Procedure.**

- (a) Application. An application for a variance shall be submitted to the Town Clerk in writing, together with the required application fee.
- (b) Determination by Board of Adjustment. The Board of Adjustment shall give notice and hold a public hearing on all variance applications in accordance with Section 16-36 of this Code. The Board of Adjustment shall consider the application for variance at a public meeting. (Prior code 16-67; Ord. 2006-1236 § 1)

#### **Section 16-6-80. Conditions on Granting Variances.**

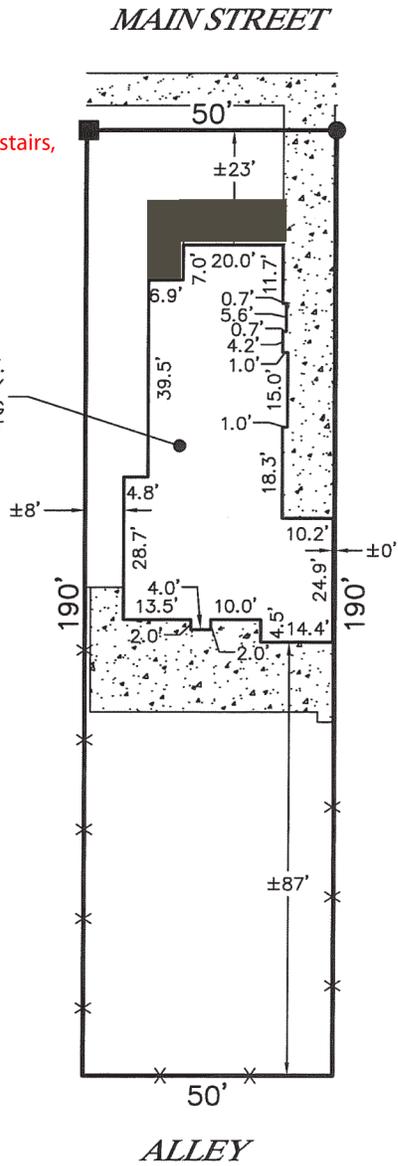
In granting any variance, the Board of Adjustment may impose such conditions and requirements with respect to location, construction, maintenance, and operation, in addition to any which may be stipulated by this Chapter, as deemed necessary for the protection of the adjacent properties and the public interest and welfare. Violation of such conditions and requirements, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Code. Any variance approval with conditions requiring affirmative action by the applicant prior to the variance becoming effective, shall remain valid for a period of eighteen (18) months from the date the Board of Adjustment approves the variance and imposes the condition or conditions of approval within the 18-month period, or the grant of variance shall be deemed null and void. (Prior code 16-68; Ord. 2006-1252 § 1)

# IMPROVEMENT LOCATION CERTIFICATE



The shaded area would include stairs, ramp, and deck.

721 MAIN ST.  
1 STORY  
BRICK/WOOD SIDING  
WITH BASEMENT



- FOUND #3 REBAR
- FOUND #4 REBAR

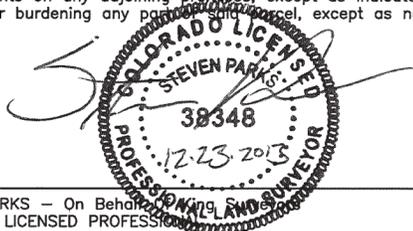
ADDRESS: 721 MAIN STREET, WINDSOR, CO

PROPERTY DESCRIPTION: LOT 14, BLOCK 1, BOWMAN'S ADDITION (REC. NO. 89312), TOWN OF WINDSOR, COUNTY OF WELD, STATE OF COLORADO.

No title work was provided by our client for the purpose of preparing this Improvement Location Certificate. Only those easements that are platted on the recorded plat of this subdivision are shown hereon.

NOTE: The improvements are generally situated as shown and only apparent improvements and encroachments are noted. King Surveyors and Steven Parks, PLS will not be liable for more than the cost of this Improvement Location Certificate and then only to the client specifically shown hereon or in our files by a signed work authorization. This document is valid for 90 days after the date as shown below. Acceptance and/or use of this instrument for any purpose constitutes agreement by the client to all terms stated hereon.

I hereby certify that this Improvement Location Certificate was prepared for Blayne St James, that it is not a Land Survey Plat or Improvement Survey Plat, and that it is not to be relied upon for the establishment of fence, building, or other future improvement lines. I further certify that the improvements on the above described parcel on this date, 12-20-2013, except utility connections, are entirely within the boundaries of the parcel, except as shown, that there are no encroachments upon the described premises by improvements on any adjoining premises, except as indicated, and that there is no apparent evidence or sign of any easement crossing or burdening any part of the parcel, except as noted.



STEVEN PARKS - On Behalf of  
COLORADO LICENSED PROFESSIONAL  
LAND SURVEYOR #38348



**KING SURVEYORS**

650 E. Garden Drive | Windsor, Colorado 80550  
phone: (970) 686-5011 | fax: (970) 686-5821  
www.kingsurveyors.com

**PROJECT NO:** 2013842  
**DATE:** 12-23-2013  
**CLIENT:** BLAYNE ST JAMES  
**DWG:** ILC  
**DRAWN:** EWL **CHECKED:** SIP



STATE FARM  
INSURANCE  
Scott Harper



8  
6  
0  
0

SOLD





825





# **VARIANCE REQUEST**

## **721 MAIN STREET**

**BOWMAN'S SUBDIVISION**  
**LOT 14, BLOCK 1**

**Josh Olhava, Associate Planner**  
**June 26, 2014**

Board of Adjustment

Item C.3



# VARIANCE REQUEST

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Municipal Code Section 16-6-60 outlines the regulations and provisions for granting variances.

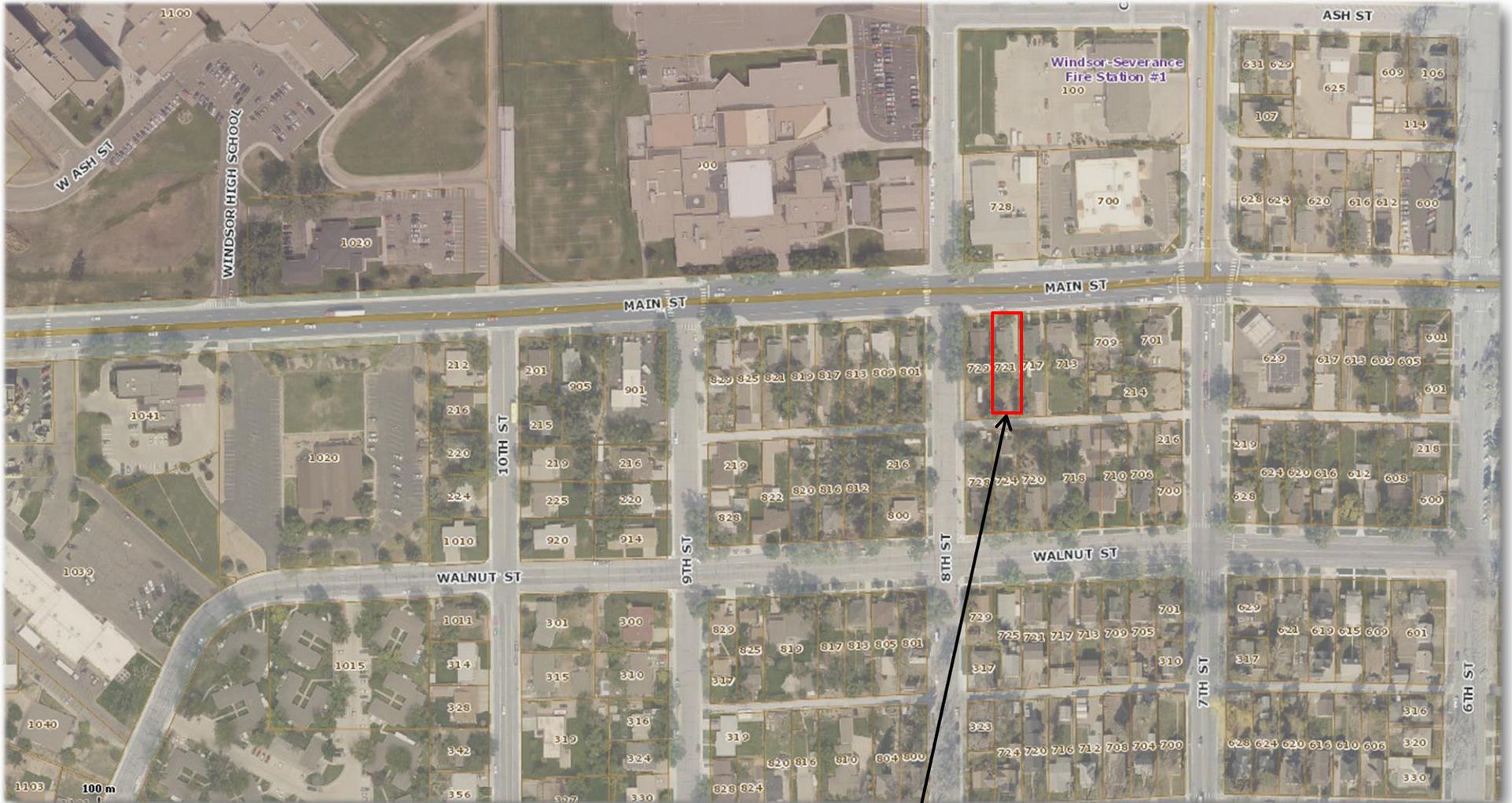
- Variance request from Section 16-18-20(1)o.  
(Use regulations within the Central Business (CB) zoning district for properties that were once historically residential homes.)

*“One-family residential dwellings subject to the regulations set forth in Sections 16-11-70, 16-12-20(2), 16-12-30, 16-12-40, 16-12-50 and 16-12-60 of this Chapter.”*

- Variance request from Section 16-12-40  
(Building location)

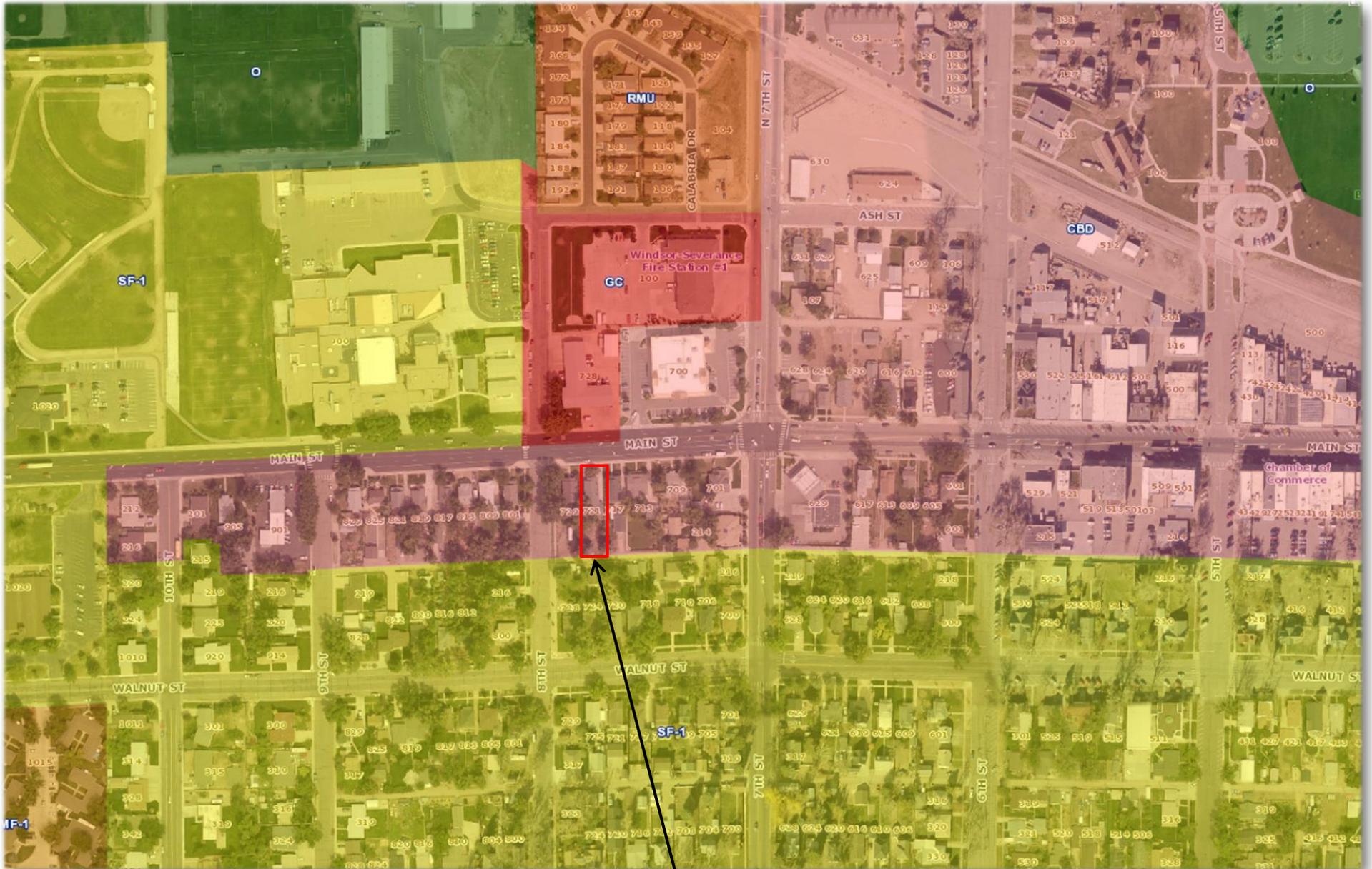
*“Minimum setback shall be twenty (20) feet. Minimum offset shall be five (5) feet.”*

# SITE VICINITY MAP



Site Location

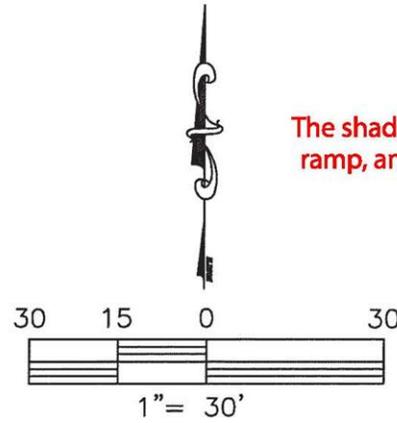
# SITE PROXIMITY ZONING MAP



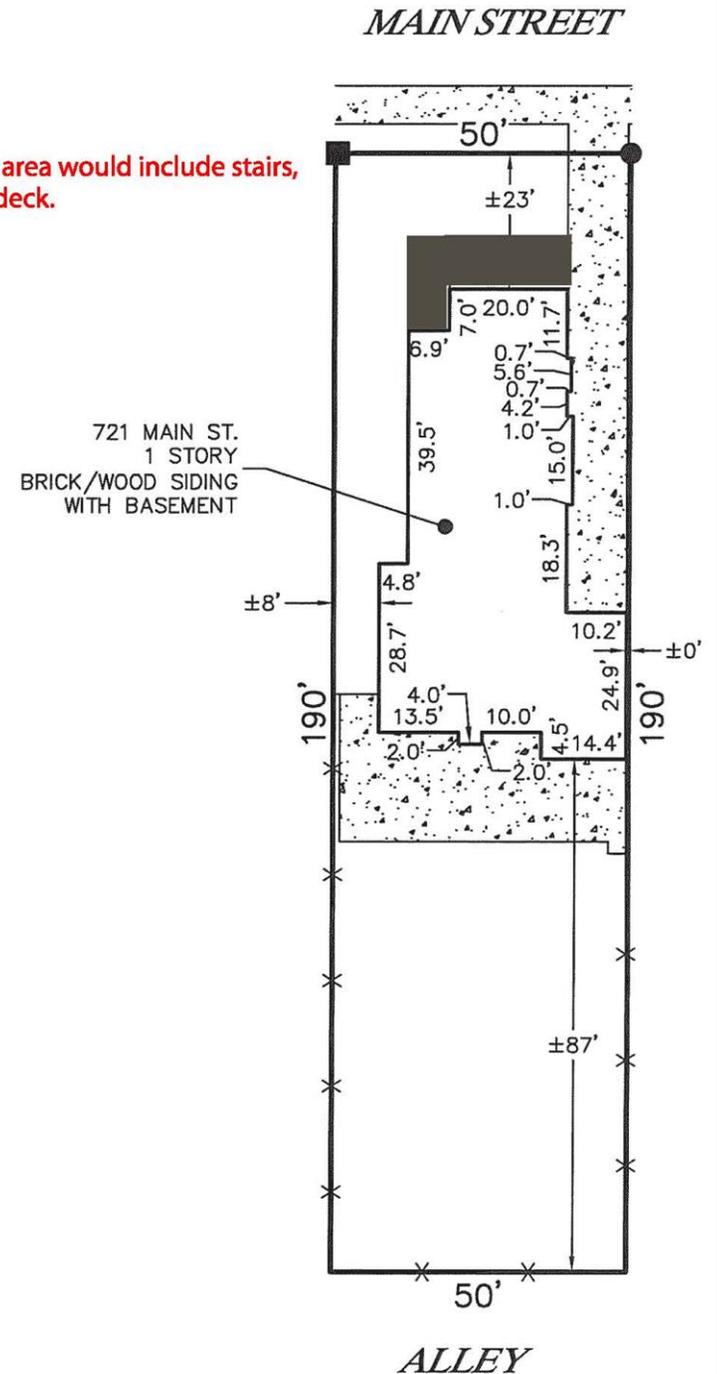
Site Zoned Central Business (CB)

# SITE

The northern edge of the proposed accessibility ramp will be fourteen and a half feet (14.5') from the north property line, and approximately twenty feet (20') to the south edge of the sidewalk.



The shaded area would include stairs, ramp, and deck.



- FOUND #3 REBAR
- FOUND #4 REBAR

# SITE IMAGE



Location of the proposed ADA accessibility ramp adjacent to the existing stairway

# NEIGHBORHOOD IMAGES

Looking east along Main Street



Existing State Farm  
accessibility ramp

Looking east along Main Street



Existing conditions along  
Main Street, west of the  
subject property.



# RECOMMENDATION

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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 distance between the northern property line and edge of curb of Main Street (SH 392) is approximately ten feet (10');
2. Locating the northern most edge of the ramp structure as close as fourteen feet (14') from the northern property line would be consistent with existing structures along the corridor;
3. Granting of this variance does not appear to be contrary to the public interest and does not appear to adversely impact public safety and welfare;
4. Granting of this variance does provide for accessibility entrance into the building to meet ADA and building code requirements; and
5. The granting of this variance will not alter the essential characteristic of the surrounding neighborhood or the existing structure.

Therefore, based upon the aforementioned findings of fact, staff recommends conditional approval of the variance request for the ADA accessibility ramp setback location as follows: the northern most edge of the ramp structure shall maintain a minimum setback of fourteen feet (14') from the property line.

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 the variance from Sections 16-18-20(1)o. and 16-12-40 of the Municipal Code to allow the construction of the ramp structures northern most edge to be fourteen feet (14') from the northern 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.



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## MEMORANDUM

**Date:** June 26, 2014  
**To:** Board of Adjustment  
**Via:** Joseph P. Plummer, AICP, Director of Planning  
**From:** Paul Hornbeck, Associate Planner  
**Re:** Variance of Municipal Code Section 16-12-40 pertaining to Residential Building Location and Section 16-4-45 pertaining to Nonobstruction of Easements  
**Location:** 8234 South Loudon Crossing Ct, Shutts Subdivision, Second Filing, Lot 20, Block 2, Windsor, CO  
**Item #:** C.4

### Background/Discussion:

The applicant, Rebecca A. Mergner, is requesting a variance from Municipal Code Section 16-12-40 (Building Location) and Section 16-4-45 (Nonobstruction of Easements). The applicant is requesting the variance to allow an existing storage shed to remain within an offset of 18" from the side/rear property line and to remain located within a drainage and utility easement. The subject lot is a corner lot and is surrounded by single family homes. The property is 16,997 sq. ft. (0.39 acres) in size. The residence located at the site is approximately 2745 sq. ft.

The applicant recently purchased the storage shed and placed it on the property unaware of the offset and easement requirements. The dimensions of the shed are 6' by 10' with an interior roof height of 9'. The shed is not located on a permanent foundation. The single family home is zoned Residential Mixed Use (RMU) and is therefore subject to the setback and offset requirements of the Single Family Residential (SF-1) zone district per Municipal Code Section 16-24-40(1) which states:

*All residential uses shall meet all of the density, setback and offset requirements set forth in this Code for each respective type of dwelling unit. For example, all single-family dwelling units in an RMU zoning district shall have a minimum lot size of six thousand (6,000) square feet, a minimum setback requirement of twenty (20) feet and a minimum offset requirement of five (5) feet.*

Municipal Code Section 16-12-40 deals with offsets, stating:

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

It should be noted that accessory structures that do not exceed 120 square feet in area or 8' in height are exempt from the location requirements of the zone district. However, in this case the shed is over 8' in height and therefore must meet the 5' offset requirement, per Municipal Code Section 16-8-30:

*(d) Accessory buildings which are not any larger than one hundred twenty (120) square feet in area, as measured around the perimeter of the building, and do not exceed eight (8) feet in height, as measured as the vertical distance from the ground level adjacent to the structure to the highest point of the roof surface, shall be permitted without a building permit. Accessory buildings which have dimensions in excess of either or both of these requirements shall conform to the location requirements of the zoning district in which the building is located and shall be required to have a building permit. However, no accessory building, regardless of its size, shall be located any closer to the front property line than the rear corners of the principal building; that is, accessory buildings are only allowed in rear yards. Additionally, all accessory buildings shall also conform to the visibility requirements of Section 16-10-10 of this Chapter and the open space requirements of the zoning district in which the building is located. (Prior code 16-103; Ord. 2006-1236 §1; Ord. 2007-1297 §1; Ord. 2012-1425A §2)*

The shed has also been placed over a drainage and utility easement. According to the Town's Engineering department, there are no water or sewer lines located within the easement. The Municipal Code does prohibit construction within any easements, per Section 16-4-45:

*No structure shall encroach into any easement, and no building permit shall be issued for any structure which is proposed for location within any easement. (Ord. 2011-1420 §3)*

The normal process to build within an easement is to request a vacation of the easement (or a portion thereof) to the Town Board, allowing all utility companies a chance to review the proposal.

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. Economic considerations alone shall not constitute an unnecessary hardship if a reasonable use for the property exists under the provisions of the Zoning Code. 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.

**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."

**Offset Variance Request**

Staff considers that the literal enforcement of Municipal Code Section 16-12-40 will not result in an unnecessary hardship and therefore is recommending denial of the variance request based upon the following findings of fact:

1. The subject parcel is not dissimilar in size or shape to other corner lots within the Town of Windsor.
2. A review of the enclosed plot plan indicates that there are other locations in the rear yard which could accommodate a storage shed.

Therefore, based upon the aforementioned findings of fact, staff recommends denial of the variance request for a storage shed with a reduced offset of 18”.

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 a reduced offset of 18” for the storage shed;
- 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.

#### Nonobstruction of Easements Variance Request

Staff considers that the literal enforcement of Municipal Code Section 16-4-45 will not result in an unnecessary hardship and therefore is recommending denial of the variance request based upon the following findings of fact:

1. The subject parcel is not dissimilar in size or shape to other corner lots within the Town of Windsor.
2. A review of the enclosed plot plan indicates that there are other locations in the rear yard which could accommodate a storage shed.
3. The 10’ drainage and utility easement is typical of most new developments.

Therefore, based upon the aforementioned findings of fact, staff recommends denial of the variance request for a storage shed located in an easement.

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 16-4-45 of the Municipal Code to allow a storage shed to be located in an easement;
- 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:**

June 12, 2014 development sign posted on the subject property  
June 13, 2014 public hearing notice placed on the Town of Windsor’s website  
June 13, 2014 public hearing notice posted in the paper

**Enclosures:** Powerpoint Slides  
Application Materials  
Neighboring property owner letter

Pc: Rebecca A Mergner, applicant  
Planning Department staff



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VARIANCE  
8234 LOUDEN CROSSING COURT  
SHUTTS SUBDIVISION, SECOND FILING  
LOT 20, BLOCK 2

PAUL HORNBECK, ASSOCIATE PLANNER  
JUNE 26, 2014

Board of Adjustment

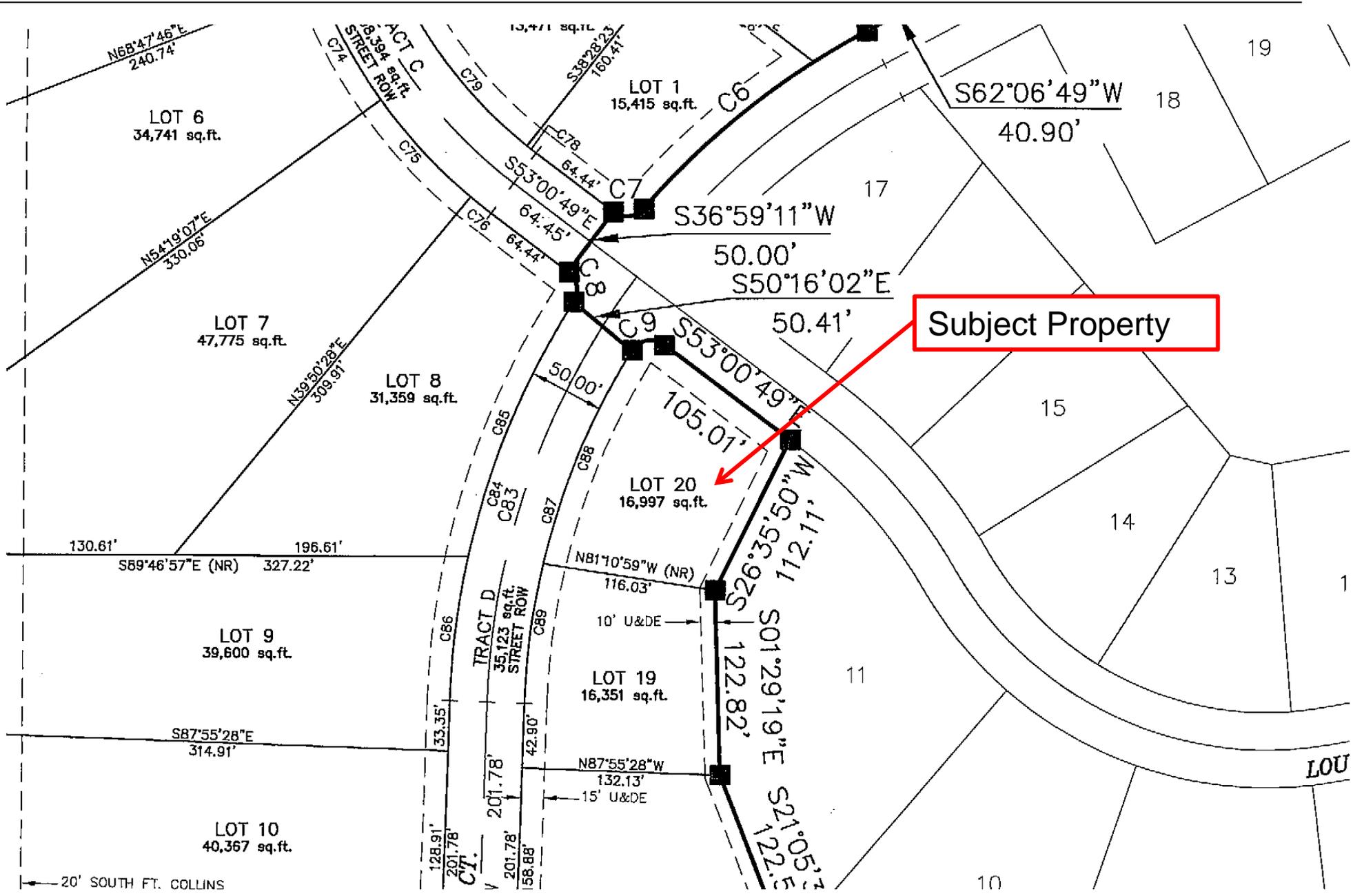
C.4

# VICINITY MAP





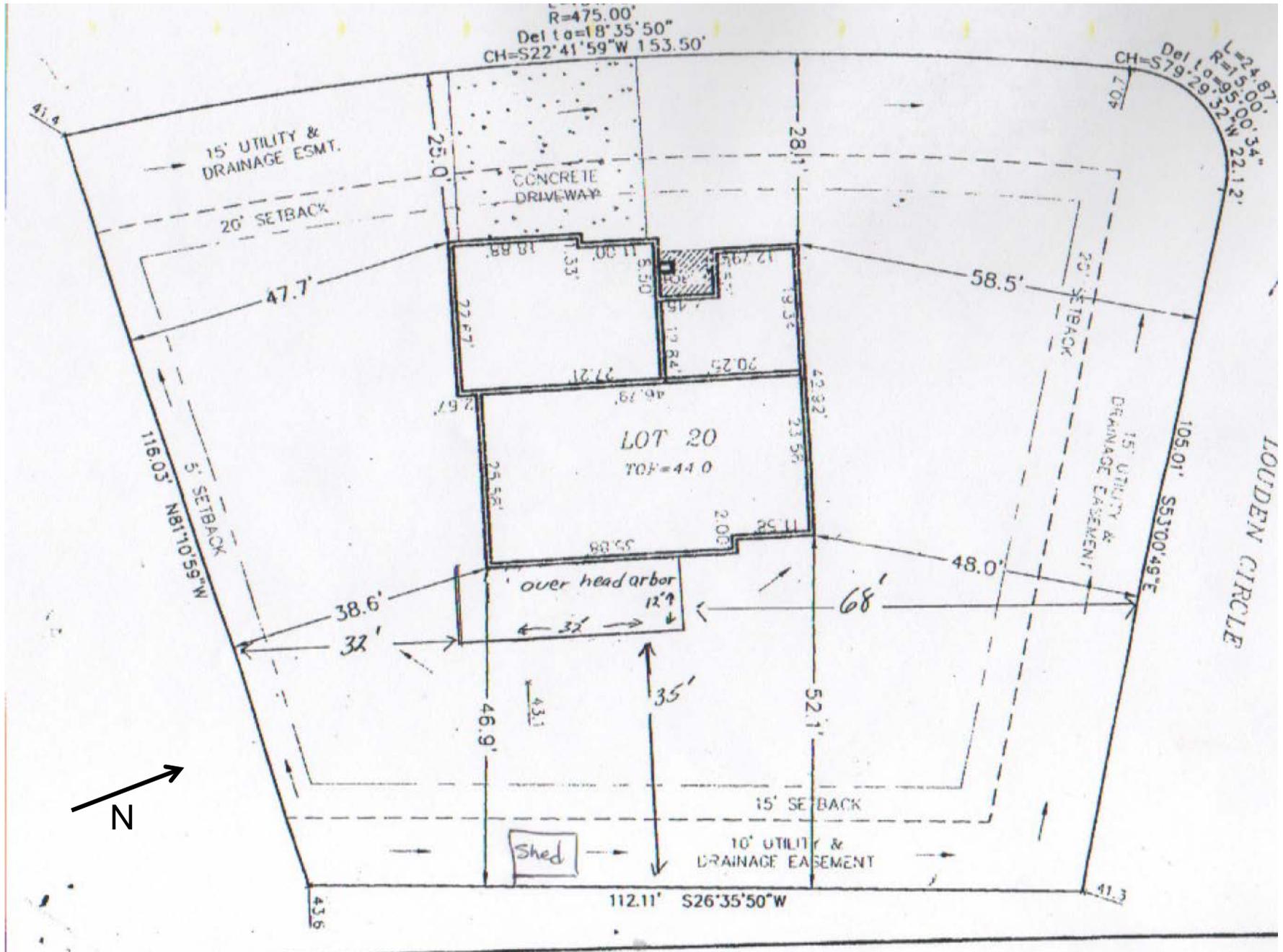
# SUBDIVISION PLAT



# AERIAL IMAGE



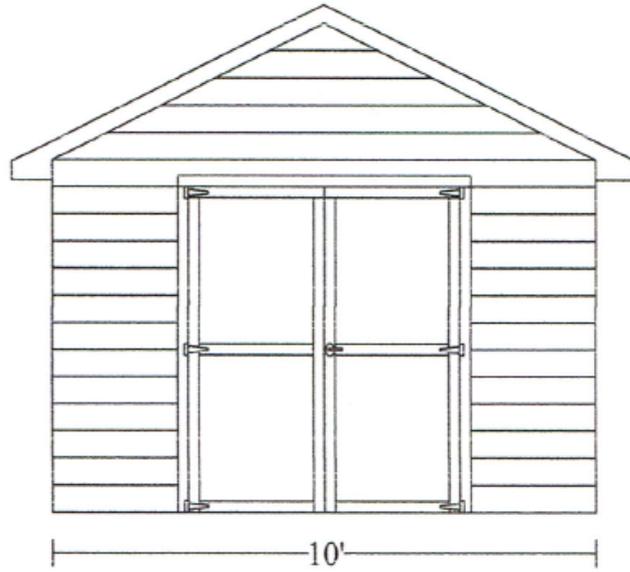
# PLOT PLAN



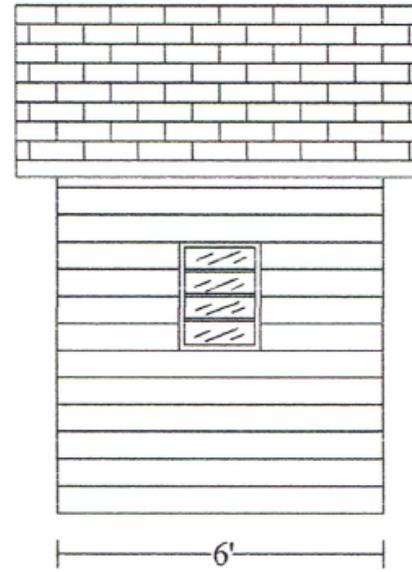
# PLAN SUBMITTED BY APPLICANT



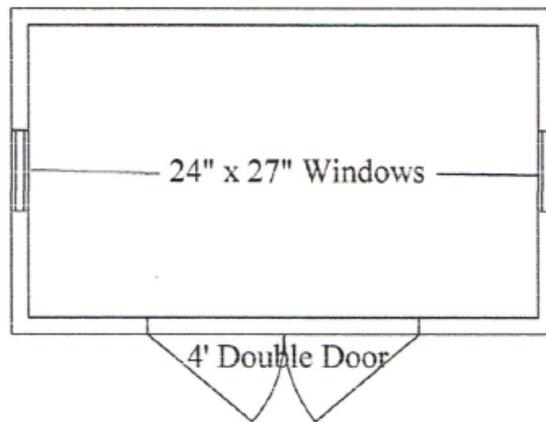
# ELEVATIONS



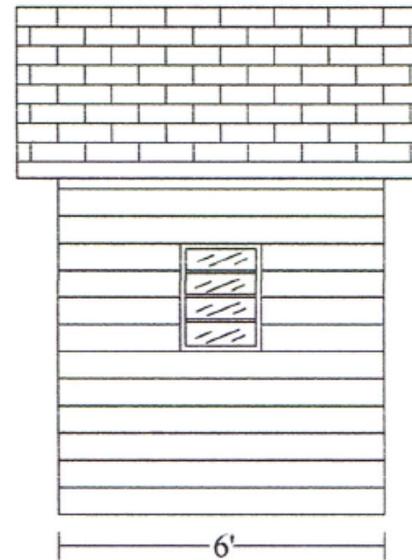
Front



Left



Floor Plan



Right

# SITE IMAGES





# RECOMMENDATION

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## Offset Variance Request

Staff considers that the literal enforcement of Municipal Code Section 16-12-40 will not result in an unnecessary hardship and therefore is recommending denial of the variance request based upon the following findings of fact:

1. The subject parcel is not dissimilar in size or shape to other corner lots within the Town of Windsor.
2. A review of the enclosed plot plan indicates that there are other locations in the rear yard which could accommodate a storage shed.

Therefore, based upon the aforementioned findings of fact, staff recommends denial of the variance request for a storage shed with a reduced offset of 18”.

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 a reduced offset of 18” for the storage shed;
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

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## Nonobstruction of Easements Variance Request

Staff considers that the literal enforcement of Municipal Code Section 16-4-45 will not result in an unnecessary hardship and therefore is recommending denial of the variance request based upon the following findings of fact:

1. The subject parcel is not dissimilar in size or shape to other corner lots within the Town of Windsor.
2. A review of the enclosed plot plan indicates that there are other locations in the rear yard which could accommodate a storage shed.
3. The 10' drainage and utility easement is typical of most new developments.

Therefore, based upon the aforementioned findings of fact, staff recommends denial of the variance request for a storage shed located in an easement.

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 16-4-45 of the Municipal Code to allow a storage shed to be located in an easement;
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.



# APPLICATION FOR VARIANCE

TOWN OF WINDSOR  
301 Walnut Street  
WINDSOR, CO 80550

(Please see the Town of Windsor [Fee Schedule](#) for Application Fees)

Office: (970) 674-2415  
Fax: (970) 674-2456  
[www.windsor.gov](http://www.windsor.gov)

## 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\*: 8234 S Louden Crossing Ct

Lot: 20 Block: 2 Subdivision: Country Farms 55042-Shutts Subdivision Second Filing

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

We would like a variance to the offset for 6ft deep by 10ft wide shed. We would like to offset it from our fence line by 18" instead of 5' due to the restrictions of landscaping / having a corner lot / underground utility lines.

(additional attached sheet)

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

(additional attached sheet)

**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 3 day of June, 20 14

Rebecca A Mergner  
Applicant (please print)

Rebecca Mergner  
Property Owner\* (please print)

Rebecca Mergner  
Applicant's Signature

Rebecca Mergner  
Property Owner's Signature\*

8234 S Louden Crossing Ct  
Mailing Address (street, city, state, zip) Windsor CO 80528

8234 S Louden Crossing Ct Windsor CO 80528  
Mailing Address\* (street, city, state, zip)

903 279 1811  
Telephone Number (during the day)

903 279 1811  
Telephone Number\* (during the day)

Fax Number: 866.463.4870

Fax Number: 866.463.4870

Email: mergner99@gmail.com

Email\*: mergner99@gmail.com

Applicant's Representative (if any): Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

\* indicates required fields

Revised 03/13/2014

Re: Variance to SEC 16-4-45.No obstruction of easements

I request a variance to this section as it pertains to the placement of a shed.

We would like to place a 6x10 shed in this section. The shed is very moveable due to it's size so if there is any issue with the easement it can be moved for whatever work needs to be accomplished.

The location of the shed is the only location in the yard that is more than 20ft from the front/side, doesn't cover utility lines, and isn't already covered by landscaping. Due to the narrowness of the yard this was our only location available.

Thank You,

Rebecca Mergner

We purchased the shed from Rocky Mountain on Mulberry and they indicated they only did building permits over 200 sq ft and that we should check with our HOA.

We submitted the shed drawing and a placement drawing to the HOA and received approval with no additional comment.

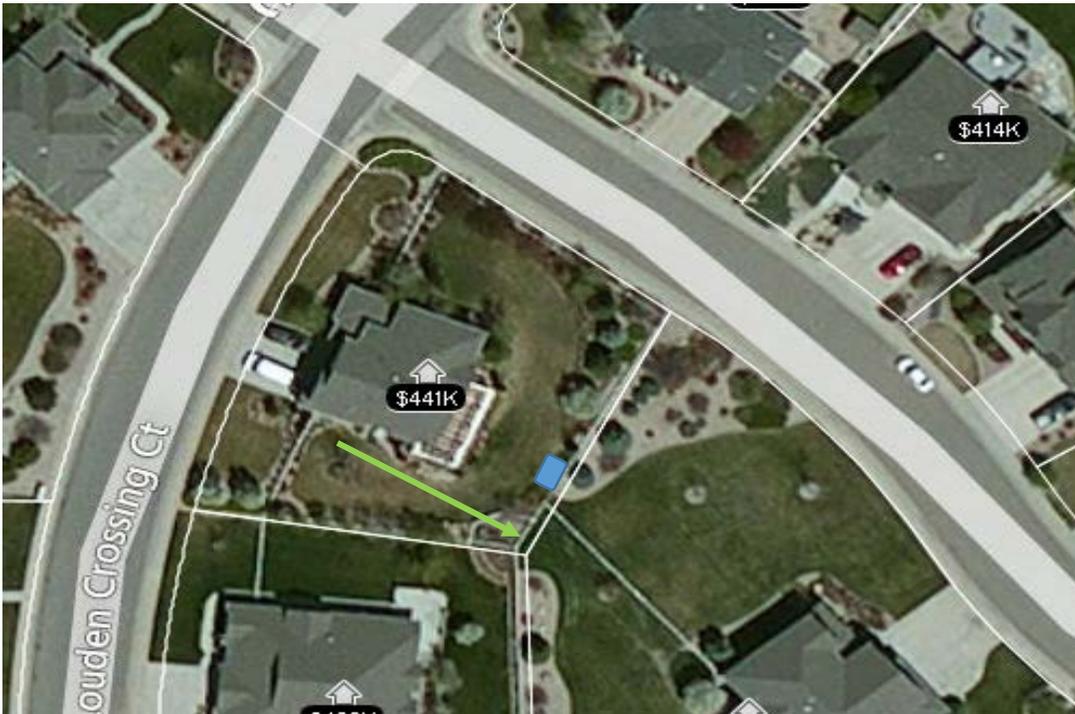
We had the shed installed and built on-site and then I received a visit from the HOA President indicating that a neighbor had complained because we didn't have it on a 5ft offset from the back property line. When I heard about the complaint and was told that he was indicating Windsor rules – I checked the website and went out and measured the height and it is 9ft from floor to roof on the inside.

The aerial picture (from Zillow) shows our corner lot and the reasons for placing it where it is placed.

- Blue square indicates where we have the 10wide x 6deep shed.
- It is the only non-landscaped area in the yard so we did not have to remove trees etc..
- The corner area is blank but that is because the utility lines run to that corner – as indicated by green arrow.
- With the corner lot requirements of a 20ft offset from the streets we are limited on placement and as you can see – offsetting by 5ft off the fence would place the shed in the middle of the grass area.

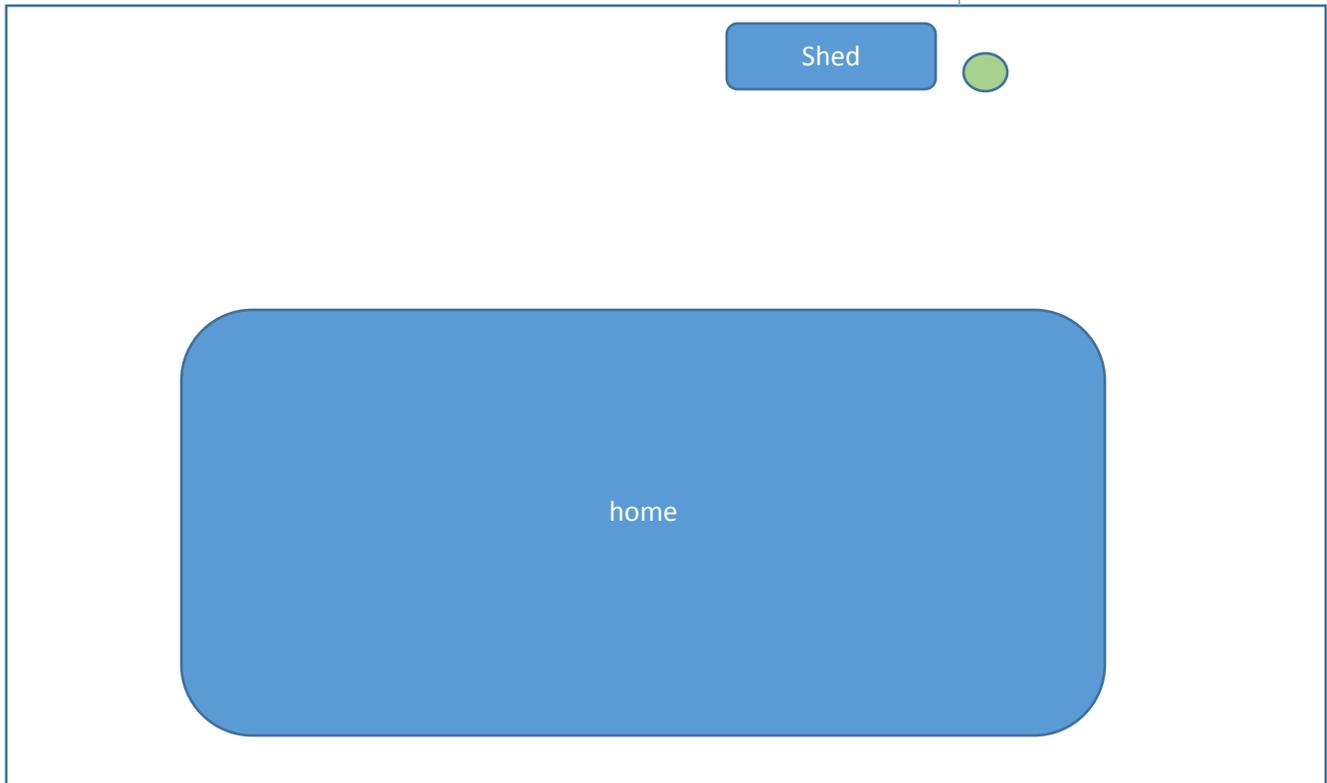
With the unique wrap around shape of our lot, utility lines making the south side unusable and the narrowness of the lot – this was our only option. HOA requirements state we have to have our lawn equipment / trash cans etc in a storage or in the garage, which is why we are adding the shed as we need additional storage capabilities (and we are not allowed a shed made from the Rubbermaid material etc... which could have been placed in the corner.

We can maintain the 18" offset from the back fence – the shed in this location is not readily visible from the front or side streets as it is hidden by fir trees on my property and on the neighbor's property, so it does not alter any essential characteristics of the neighborhood. The shed has roof line & lat siding to blend with the house.



Carrie & Pat side Yard

Carrie & Pat Back Yard



The shed will be located along the back fence where Carrie & Pat's fence perpendiculars our fence.

- Shed will have shingles matching as close as possible to home shingles
- Shed will have horizontal siding to match home siding
- Shed will have white windows to match home windows
- Shed has roof pitch similar to home roof pitch

Existing placement of shed.



The section to the right is where the utility lines run to (there is a box in the back of the neighbor's yard which they run to).

June 18, 2014  
8256 Loudon Circle  
Windsor, CO 80528

Josh Olhava, Associate Planner  
City of Windsor  
301 Walnut  
Windsor, CO 80552

Dear Mr. Olhava:

Regarding the zone variance request for a shed that has already been constructed at Fredrick and Roberta Mergner's property located at 8234 South Loudon Crossing Court. This shed was constructed during the month of May and does not meet the Windsor setback requirement of being constructed five feet from the property line.

We were members of the County Farms Home Owner's Association Architectural Review Committee for eight years. All homeowners in Country Farms were given copies of the Covenants and Rules and Regulations when they purchased their property. Those specific to shed requirements have been in effect for many years. During our service on the ARC, the Committee was cognizant of the Windsor setback requirements and that all structures were required to meet those requirements. This included the one that required all building structures to follow the setback requirement of being five feet from the property line. As a member of the Country Farms Board of Directors, part of Mrs. Mergner's duties was to be aware of the rules and regulations as well as the Covenants. Therefore it is obvious that this is not a case of ignorance of the law, but rather a case where she does not think that the laws that apply to everyone else should apply to her.

As citizens of the town of Windsor we believe it is the responsibility of all citizens to make themselves aware of the requirements of Windsor whenever they are doing construction on their property. If citizens choose not to make themselves aware of the building requirements then they are responsible to correct their negligence and meet said requirements. We have seen other members of Country Farms be required to correct their errors of not following Windsor's building codes and HOA requirements. The Mergners should also be required to correct their error of not following the building requirements.

As an old saying goes "Ignorance of the law is no excuse". We want the city of Windsor and the Country Farms sub-division to continue to be appealing communities. To set a precedent of not enforcing codes and requirements may lead to less than appealing communities.

Sincerely,



LeRoy S. Hurd



Jacqueline J. Hurd