



BOARD OF ADJUSTMENT/APPEALS REGULAR MEETING

August 28, 2014 – 7:00 P.M.

Third Floor Council Chambers, 301 Walnut Street, Windsor, CO 80550

The Town of Windsor will make reasonable accommodations for access to Town services, programs, and activities and will make special communication arrangements for persons with disabilities. Please call (970) 674-2400 by noon on the Monday prior to the meeting to make arrangements.

AGENDA

A. CALL TO ORDER

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

B. CONSENT CALENDAR

1. Approval of the minutes of July 31, 2014.

C. BOARD ACTION

1. Public Hearing – Variance of Municipal Code Section 16-10-30 pertaining to Off-street parking requirements in the Central Business (CB) zone district located at 201-205 4th Street, Town of Windsor Subdivision, Lots 26-32, Block 11 in the Town of Windsor – Eric Peratt, Applicant – Josh Olhava, Associate Planner
 - a. Motion to open public hearing to receive evidence and comment regarding the variance request and second
 - b. Presentation of variance request by applicant
 - c. Receipt of any comments from the public regarding the variance request
 - d. Staff report and Recommendation
 - e. Questions and answers to/from BOA members to/from applicant, public, staff, legal counsel
 - f. Motion to close public hearing and second
 - g. Motion on variance and second
 - h. Board discussion
 - i. Board action on variance request
2. Public Hearing – Variance of Municipal Code Section 16-12-30 pertaining to the density of single family dwellings, Section 16-12-40 pertaining to Building Location and Section 16-12-50 pertaining to the minimum Open Space requirements in the Single Family (SF-1) Zoning District located at 300 Oak Street, Kern's Subdivision, Lot 1, Block 4 in the Town of Windsor – Tim Lind, Applicant – Josh Olhava, Associate Planner
 - 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
- j. Staff report and Recommendation
- k. Questions and answers to/from BOA members to/from applicant, public, staff, legal counsel
- l. Motion to close public hearing and second
- m. Motion on variance and second
- n. Board discussion
- o. 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

Thursday, September 25, 2014 7:00 P.M. Regular Board of Adjustment Meeting*

Thursday, October 23, 2014 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.



BOARD OF ADJUSTMENT/APPEALS REGULAR MEETING

July 31, 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.

Minutes

1. The meeting was called to order by Chairman Danny Horner at 7:00 p.m.

2. Roll Call

The following members were present:

Chair - Danny Horner
Cindy Scheuerman
Mary Ann Baak
Jim McIntyre
Ken Gerlach

Also Present: Director of Planning
Associate Planner

Joe Plummer
Paul Hornbeck

3. Review of Agenda by the Board and Addition of items of New Business to the Agenda for Consideration by the Board.

There were no changes to the agenda.

4. Reading of the statement by Chairman Horner of the documents to be entered into the record:

I enter into the record the Town's Comprehensive Plan, the Town's Zoning Ordinance, the staff report regarding the action items of this hearing, and all of the testimony received at this hearing.

5. Public Invited to be Heard

There was no public comment.

B. CONSENT CALENDAR

1. Approval of the minutes of June 26, 2014

Ms. Scheuerman moved to accept the Consent Calendar as presented; Mr. McIntyre seconded the motion. Motion carried unanimously.

C. BOARD ACTION

1. Public Hearing – Variance of Municipal Code Section 16-9-100(c)(1) pertaining to the height of building mounted signs for a large-scale tenant located 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 – Nick Cashion, Applicant – Paul Hornbeck

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

Mr. Nick Cashion, 4455 Fairgrounds Ave Windsor, stated that the logo design on the building mounted sign exceeds the allowable height and would like a variance to keep the sign as it was designed.

Mr. Chuck Hand who designed the sign stated they are not trying to maximize square footage but are trying to allow people to read the sign and keep it proportional to the building.

Mr. Hornbeck stated that the applicant, Mr. Nick Cashion, Summit Entertainment Centers of Northern Colorado, is requesting a variance to the Municipal Code sign height requirements for building mounted signs in order to construct two new signs on the subject property located at 4455 Fairgrounds Avenue. Mr. Hornbeck explained that the subject property 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 totals 49,818 square feet or 1.14 acres. 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.

Mr. Hornbeck stated that this variance requested is from Municipal Code Section 16-9-100(c)(3) for a building mounted sign, which states the following:

Large-scale tenant. The height of building-mounted signs for large-scale tenants shall not exceed twenty-five percent (25%) of the height of the building elevation upon which the sign is mounted. However, in no event shall such sign exceed twenty (20) feet in height.

Mr. Hornbeck continued explaining that the applicant is proposing to construct two wall mounted signs, one on the south elevation and one on the east elevation. The proposed signs would each be 8'11" high by 20' wide with an area of approximately 178 square feet. The building elevations upon which the signs are mounted have a height of 30'; therefore, a maximum sign height of 7'6" is allowed. The sign on the south elevation would use fluorescent illumination while the no illumination is proposed for the sign on the east elevation. Mr. Hornbeck stated that the applicant has already received approval of eight other wall mounted signs totaling 568 square feet and one free standing sign of 84 square feet (per side).

Mr. Hornbeck continued stating that 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. Unnecessary hardship is defined in the code as a situation where the property cannot be reasonably used under the conditions

of the zoning code. The situation shall result from circumstances unique to the property and shall not be created by the landowner. 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.

Mr. Hornbeck stated that staff considers that the literal enforcement of the Code will result in an unnecessary hardship and practical difficulty, and therefore is recommending that the variance request for the proposed sign height as presented in the application for both of the subject signs be approved based upon the following findings of fact:

1. The proposed increase in height of the subject signs is in proportion to the size of each building wall upon which each sign will be mounted;
2. The applicable sign regulation does not appear to adequately address large-scale commercial uses relative to Finding No. 1 above;
3. The building is situated along Fairgrounds Avenue which is an arterial street with a 5 mile-per-hour speed limit, which could cause safety concerns with motorists slowing down to try and read a smaller size sign that is allowed by sign regulations;
4. The building is situated approximately 800 feet north of Crossroads Boulevard which is an arterial street with a 45 mile-per-hour speed limit, which could cause safety concerns with motorists slowing down to try and read a smaller size sign that is allowed by sign regulations;
5. The granting of this variance request will not alter the character of the surrounding neighborhood since all activities within this neighborhood will be commercial developments;
6. The proposed height of the subject signs meets the spirit and intent of the sign regulations; and
7. The granting this variance will not pose any public safety or welfare concerns.

Mr. Hornbeck stated that 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 16-9-100(c)(3) of the Municipal Code as depicted in the variance application to allow the construction of two wall mounted signs with a height of 8' 11" based upon the aforesaid findings of fact and the applicant obtaining the applicable sign permits;
2. A second; and
3. The Chair calling for the vote as follows: All members in favor of the variance request vote "yes"; all opposed to the variance request vote "no", with a minimum of four "yes" votes required to approve the variance request.

Ms. Baak asked what size the sign needs to be to meet code.

Mr. Hand stated that to meet code it would need to be 7' 6" and the sign now is 8' 11".

Mr. McIntyre asked how many building mounted signs are allowed on a building.
Mr. Hand stated that the code is by a percentage bases and not by the number of signs.

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

Ms. Baak moved to approve the request for a Variance of Municipal Code Section 16-9-100(c)(3) of the Municipal Code as depicted in the variance application to allow the construction of two wall mounted signs with a height of 8'11" based upon the aforesaid findings of fact and the applicant obtaining the applicable sign permits; Ms. Scheuerman seconded the motion. Motion carried unanimously.

D. COMMUNICATIONS

1. Communications from the Board Members
2. Communications from staff

Mr. Plummer stated that the technicians calculate the percentage of signs and it's done as part of the sign permit process.

E. ADJOURN

Upon a motion duly made and seconded, the meeting was adjourned at 7:35 p.m.

CERTIFICATION

Approved by the Board of Adjustment/Appeals this 28th day of August 2014.



Submitted By:
Joy Liberty-Anglado
Secretary



MEMORANDUM

Date: August 28, 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 Section 16-10-30 pertaining to Off-street parking requirements in the Central Business (CB) zone district
Location: 201-205 4th Street, Town of Windsor Subdivision, Lots 26-32, Block 11 in the Town of Windsor
Item #: C.1

Background/Discussion:

The applicant, Mr. Eric Peratt, is requesting a variance from Municipal Code Section 16-10-30 (off-street parking requirements) for his current project located at 201-205 4th Street. The subject lot is located on the corner of 4th Street and Main Street/Hwy 392 in downtown Windsor. The zoning at the site is Central Business (CB). The applicant is currently completing the Town's Administrative Site Plan process for the proposed changes to the site.

Analysis:

Municipal Code Section 16-6-60 (Variances) outlines the regulations and provisions for granting variances. Staff has analyzed whether special site specific conditions exist; the impact on public interest, safety, and welfare; impacts to neighborhood character; and whether an unnecessary hardship exists. Variances will not be granted contrary to the public interest and will only be considered when the spirit of the zoning code can be observed and public safety and welfare secured. The Board of Adjustment is empowered to approve or deny variances based on the criteria listed above.

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

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

Municipal Code Section 16-10-30 states the following:

“Off-street parking space shall be provided for buildings and uses as hereinafter specified.”

The applicant is requesting a Variance from Section 16-10-30 to be exempt from being required to provide off-street parking on site. As with many properties in downtown Windsor, there is not adequate space on site to provide off-street parking as outlined in the code. The CB zoning district is unique in that there are no building setback or offset requirements and in many instances buildings occupy the entire property. The Town is working on a Parking Study that should provide policies that can be adopted for the downtown area, due to its' unique nature.

Comments:

The application materials were submitted to the Development Review Committee for their review. 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 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 applicant is unable to provide adequate parking on site and off-street to meet the requirements of the Municipal Code, due to the unique nature of the downtown area and this specific lot.
2. The granting of this variance will not adversely impact the public interest, safety, and welfare; or cause unnecessary impacts to the existing neighborhood characteristics.
3. The 2012 Downtown Parking Study identified that "*The current parking supply is about 40% underutilized on non-event days during the peak hour...*".

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

1. The applicant shall complete the Town's Administrative Site Plan process by executing all drawings and documents.

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 16-10-30 of the Municipal Code, subject to staff's conditions of approval;
2. A second; and

3. The Chair calling for the vote as follows: All members in favor of the variance vote “yes”; all opposed to the variance request vote “no”, with a minimum of four “yes” votes required to approve the variance request.

Notification:

August 14, 2014 development sign posted on the subject property
August 14, 2014 public hearing notice placed on the Town of Windsor’s website
August 15, 2014 public hearing notice posted in the paper

Enclosures: Application Materials
Presentation Slides

Pc: Eric Peratt, applicant/property owner
Planning staff



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.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*: 205 1/2 4th Street

Lot: See below Block: 11 Subdivision: Downtown Windsor

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

P and L Properties is requesting a variance to Sec 16-10-30 (off-street parking). We are restricted by the lot since it is the building envelope and there are no designated parking spots for this building. There is also no land to build a parking lot. This is a downtown building and different than a stand alone that would have room for parking. Therefore, our customers will need to park downtown in available spots on 4th Street and Main Street or to the north of Main Street behind the businesses there. * Continued on additional sheet....

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

We feel this request is justified due to the lot being the building envelope and no room for parking to be created on the lot.

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 4 day of August, 20 14

Eric Peratt
Applicant (please print)

Applicant's Signature

Mailing Address (street, city, state, zip)

Telephone Number (during the day)

Fax Number:

Email:

Applicant's Representative (if any):

Name:

Address:

Telephone: Fax:

Email:

P and L Properties/Eric Peratt
Property Owner* (please print)

[Handwritten Signature]

Property Owner's Signature*

7230 Spanish Bay Drive Windsor, CO

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

(970) 481-7722

Telephone Number* (during the day)

Fax Number:

Email*: pinkees@frii.com

* indicates required fields

Revised 03/13/2014

Application for Variance from Sec 16-10-30 (Off-Street Parking)

P&L Properties/Eric Peratt

During the day there are plenty of spaces available within a block of the building or three blocks at the most and especially in the evening hours when most downtown businesses are closed. Granting of this variance will in no way cause issues for neighbors or businesses downtown Windsor. Customers realize when patronizing a downtown business that they may have to walk as is the nature of downtown. This can also be a positive outcome for other businesses as people may walk past a business they did not realize was there and stop in or come back to shop.

Thank you for your consideration to approve this variance.



VARIANCE REQUEST

201-205 MAIN STREET

TOWN OF WINDSOR SUBDIVISION
LOTS 26-32, BLOCK 11

Josh Olhava, Associate Planner
August 28, 2014

Board of Adjustment

Item C.1



VARIANCE

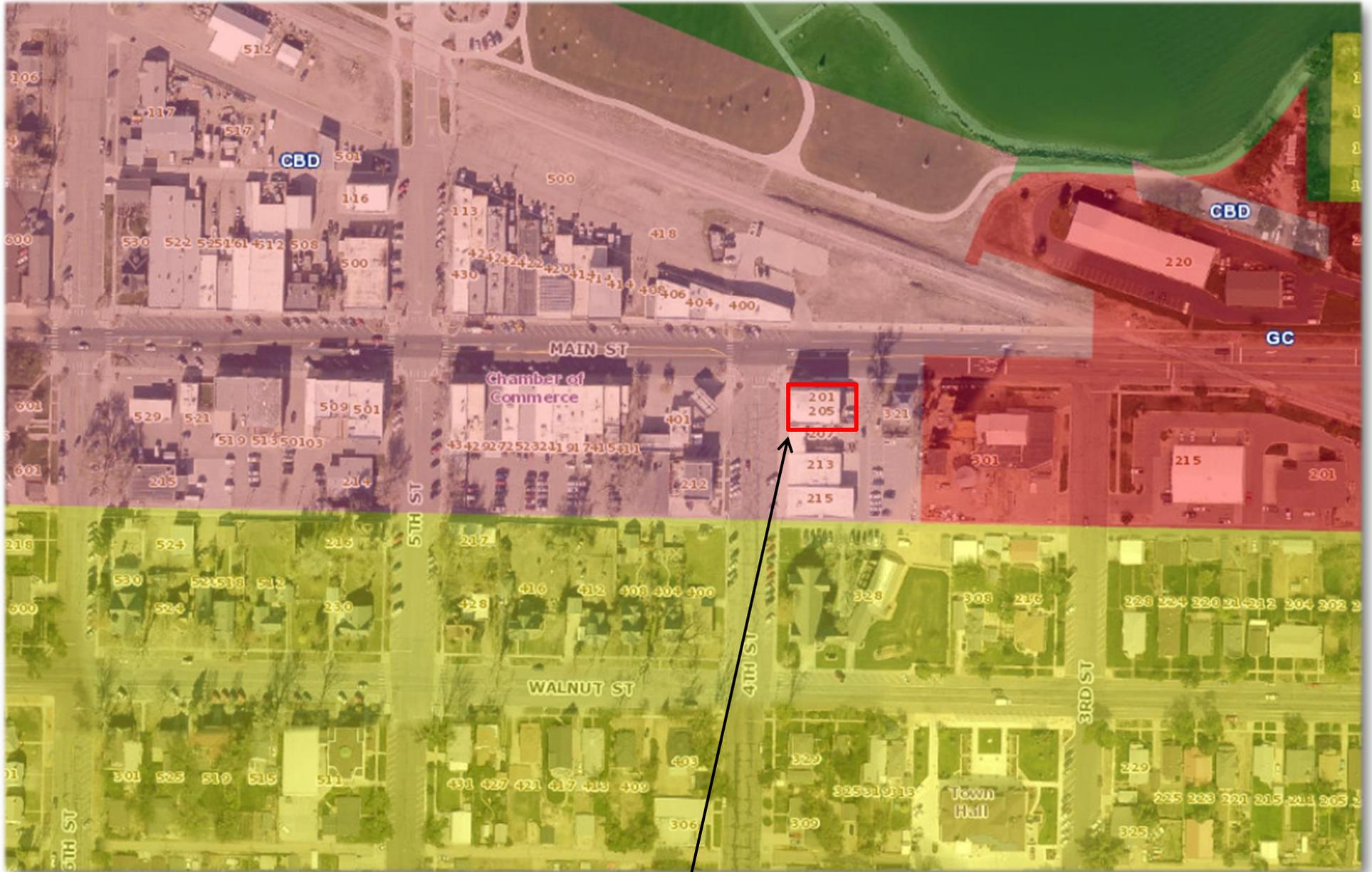
Article VI of Chapter 16 of the Municipal Code outlines the regulations and provisions for Variance applications and proceedings.

SITE VICINITY MAP



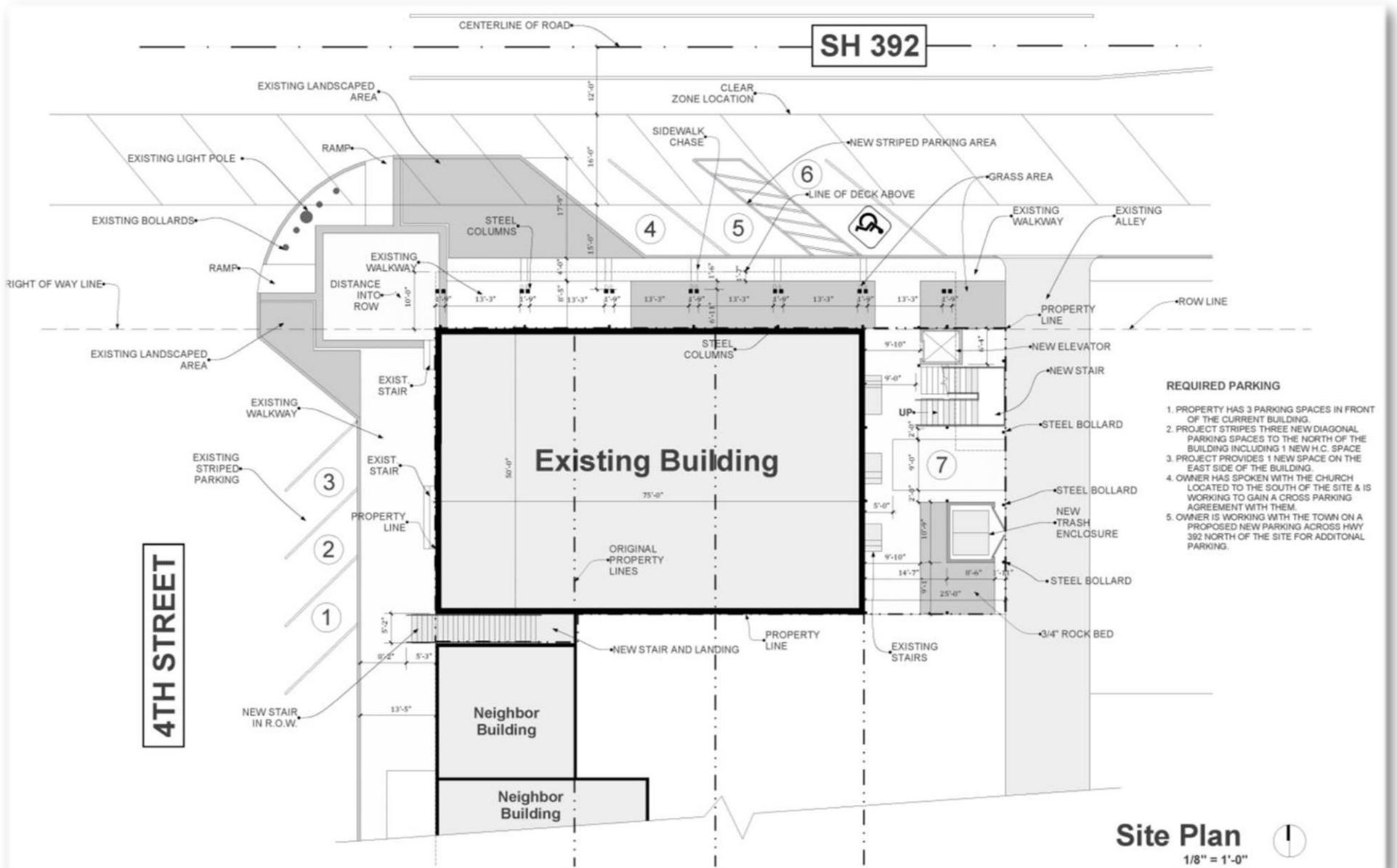
Site Location

ZONING MAP



Site Location

SITE PLAN





RECOMMENDATION FOR OFF-STREET PARKING VARIANCE FROM SEC. 16-10-30

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 applicant is unable to provide adequate parking on site and off-street to meet the requirements of the Municipal Code, due to the unique nature of the downtown area and this specific lot.
2. The granting of this variance will not adversely impact the public interest, safety, and welfare; or cause unnecessary impacts to the existing neighborhood characteristics.
3. The 2012 Downtown Parking Study identified that *“The current parking supply is about 40% underutilized on non-event days during the peak hour...”*.

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

1. The applicant shall complete the Town’s Administrative Site Plan process by executing all drawings and documents.

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 16-10-30 of the Municipal Code, subject to staff’s conditions of approval;
2. A second; and
3. The Chair calling for the vote as follows: All members in favor of the variance vote “yes”; all opposed to the variance request vote “no”, with a minimum of four “yes” votes required to approve the variance request.



MEMORANDUM

Date: August 28, 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 Section 16-12-30 pertaining to the density of single family dwellings, Section 16-12-40 pertaining to Building Location and Section 16-12-50 pertaining to the minimum Open Space requirements in the Single Family (SF-1) Zoning District
Location: 300 Oak Street, Kern's Subdivision, Lot 1, Block 4 in the Town of Windsor
Item #: C.2

Background/Discussion:

The applicant, Mr. Tim Lind, is requesting a variance from Municipal Code Section 16-12-30 (Density), Section 16-12-40 (Building Location) and Section 16-12-50 (Open Space) to facilitate a minor subdivision to create two buildable lots at 300 Oak Street, located on the northwestern corner of Oak and 3rd Streets. The subject lot is currently 9,500 square feet with approximately twenty (20) feet between the property line and edge of curb along 3rd Street, according to the enclosed property survey site plan. The zoning at the site is Single Family Residential (SF-1). The existing single family residence is located on the southern portion of the lot.

Analysis:

Municipal Code Section 16-6-60 (Variances) outlines the regulations and provisions for granting variances. Staff has analyzed whether special site specific conditions exist; the impact on public interest, safety, and welfare; impacts to neighborhood character; and whether an unnecessary hardship exists. Variances will not be granted contrary to the public interest and will only be considered when the spirit of the zoning code can be observed and public safety and welfare secured. The Board of Adjustment is empowered to approve or deny variances based on the criteria listed above.

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

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

Density

Municipal Code Section 16-12-30 states the following:

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

The applicant is requesting a Variance from Section 16-12-30 to subdivide the property into two lots that are less than the six thousand (6,000) square foot minimum. The southern lot with the existing home will be approximately 4,084 sq. ft., and the new lot to the north would be approximately 4,747 sq. ft., according to the attached site plan. The proposed minor subdivision would be in compliance with Windsor Municipal Code Section 16-8-40(b) (Basic location regulations), which states the following:

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

Utilities will need to be routed to serve the new lot to the north. Sewer service extends along the Alley Way on the north and will need to be extended to the northern lot; whereas water service extends along 3rd Street to the east and will need to be extended to serve the northern lot. Dry utility service locations will be worked out through the Minor Subdivision process with the applicable utility providers.

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

Setback

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

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

The proposal to subdivide the subject property into two lots will create one lot to the south that is already improved and a second lot to the north that is unimproved. The applicant is requesting a variance from Section 16-12-40 for the unimproved lot to the north to build a home six (6) feet from the east property line. The new home would meet all offset requirements.

The 3rd Street right-of-way width is one-hundred (100) feet and the street flow-line width is approximately fifty-nine (59) feet wide. Street flow-line width is measured from curb to curb. Additionally, the sidewalk along 3rd Street is an attached sidewalk and the distance from the west edge of the sidewalk to the property line (all within the 3rd Street right-of-way) is approximately fifteen (15) feet. This will result in over twenty (20) feet between the garage on the new northern lot and the edge of sidewalk. Based on the right-of-way width and street width, the 3rd Street setback does not appear to result in a health or safety risk and will meet the character of the neighborhood and surrounding properties.

Open Space

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

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

The applicant is proposing to subdivide the subject property into two lots and is requesting a Variance from Section 16-12-50 for the two new lots. Both lots will have a final open space square footage of more than 1,500 square feet, per lot. The proposed open space areas, in relation to the improved areas on the lots, do not appear to result in a health or safety risk. By drawing the planned building envelope on the proposed north lot, the applicant has shown that the lot split will create two buildable and livable lots with adequate Open Space to meet the spirit of the zoning code and be consistent with surrounding properties located within the core of Windsor.

Comments:

The application materials were submitted to the Development Review Committee for their review. The specific location of any dry utility easements, if necessary, will be addressed during the subdivision process.

Recommendation:

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

Density

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

1. The proposed Density for the two lots would be consistent with other lots in the core of Windsor.
2. Based on the location of the existing property line on the east relevant to the location of the sidewalk along 3rd Street, and the proposed building envelope on the north lot, the two lots would meet the *spirit* of the zoning code density regulation by creating two buildable and livable lots;
3. The proposed lot split and development is consistent with the Overall Land Use Goal and Policy #4 of the Town of Windsor Comprehensive Plan which states:

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

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

1. The applicant shall complete the Town's Minor Subdivision application within six (6) months of the Board of Adjustment approval of this variance request. The Minor Subdivision Plat shall show the proposed building envelopes to meet all setbacks and open space variance requests.
2. The applicant shall maintain a minimum lot size of 4,000 square feet on both lots and meet the requirements and determination of the Open Space variance request.

Please further note that since all motions are to be made in the affirmative, staff also recommends that the following motion, second and action on the petition be made as follows:

1. A motion to approve the request for a variance from Section 16-12-30 of the Municipal Code to allow the minimum density on the two proposed lots to be less than the 6,000 square foot requirements, subject to staff's conditions of approval;
2. A second; and
3. The Chair calling for the vote as follows: All members in favor of the variance vote "yes"; all opposed to the variance request vote "no", with a minimum of four "yes" votes required to approve the variance request.

Building Location

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

1. Based on the minimum setbacks and offsets as defined by Windsor Municipal Code Section 16-12-40, the proposed lots would meet all offset requirements;
2. The proposed Setback along 3rd Street for the new north lot would be consistent with other properties along 3rd Street;
3. Based on the location of the existing property line relevant to the location of the sidewalk; there is adequate distance between the proposed location of the residence to meet the *spirit* of the zoning code setback regulation;
4. Based on the proposed location of the structures, there is adequate distance between the east elevation of the proposed structures and the back of the 3rd Street sidewalk to meet the *spirit* of the zoning code setback regulation, and not impede pedestrian movement.

Therefore, based upon the aforementioned findings of fact, staff recommends approval of the variance request for the 3rd Street setback, as shown on the site plan survey, subject to the following conditions of approval.

1. The applicant shall complete the Town's Minor Subdivision application within six (6) months of the Board of Adjustment approval of this variance request.

The Minor Subdivision Plat shall show the proposed building envelopes to meet all setbacks and open space variance requests.

2. The applicant shall provide a minimum of twenty (20) feet between the back of the 3rd Street sidewalk (west side) and the east elevation of the proposed garage structures. The applicant shall provide to the Town a survey, stamped by a CO State licensed professional land surveyor or professional engineer, that confirms that there is a minimum twenty (20) feet between the back of the 3rd Street sidewalk (west side) and the east elevation of the proposed garage structures. The applicant shall provide said survey prior to issuance of building permits.

Please further note that since all motions are to be made in the affirmative, staff also recommends that the following motion, second and action on the petition be made as follows:

1. A motion to approve the request for a variance from Section 16-12-40 of the Municipal Code subject to staff's conditions of approval;
2. A second; and
3. The Chair calling for the vote as follows: All members in favor of the variance vote "yes"; all opposed to the variance request vote "no", with a minimum of four "yes" votes required to approve the variance request.

Open Space

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

1. The proposed Open Space for both lots would be consistent and proportional to other lots adjacent to and in the core of Windsor.
2. Based on the location of the existing property line on the east relevant to the location of the sidewalk along 3rd Street, and the proposed building envelope; there is adequate open space, including the right-of-way on the lots to meet the *spirit* of the zoning code open space regulation;
3. The proposed lot split and development is consistent with the Overall Land Use Goal and Policy #4 of the Town of Windsor Comprehensive Plan which states:

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

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

1. The applicant shall complete the Town's Minor Subdivision application within six (6) months of the Board of Adjustment approval of this variance request. The Minor Subdivision Plat shall show the proposed building envelopes to meet all setbacks and open space variance requests.

2. The applicant shall maintain a minimum open space of 1,500 square feet on both lots.

Please further note that since all motions are to be made in the affirmative, staff also recommends that the following motion, second and action on the petition be made as follows:

1. A motion to approve the request for a variance from Section 16-12-50 of the Municipal Code to allow the minimum open space on the lots to be less than the 3,000 square foot minimum, and subject to staff's conditions of approval;
2. A second; and
3. The Chair calling for the vote as follows: All members in favor of the variance vote "yes"; all opposed to the variance request vote "no", with a minimum of four "yes" votes required to approve the variance request.

Notification:

August 4, 2014 development sign posted on the subject property
August 7, 2014 public hearing notice placed on the Town of Windsor's website
August 8, 2014 public hearing notice posted in the paper

Enclosures: Application Materials
Presentation Slides

Pc: Tim Lind, applicant/property owner
Planning staff



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.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*: 300 oak st

Lot: 1 Block: 4 Subdivision: Kerns Filing 2

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

The variance is needed due to the fact that both subdivided lots will be less than 6000 sq. ft.

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

I need to use the proceeds from the sale of the property to build a two car garage. It will secure my vehicle and create more store than I presently have.

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 30 day of June, 2014

Tim Lind
Applicant (please print)

Tim Lind
Applicant's Signature
300 Oak St Windsor, CO 80550

Mailing Address (street, city, state, zip)
(970) 674-1581

Telephone Number (during the day)

Fax Number: _____

Email: lind_tim@hotmail.com

Applicant's Representative (if any):

Name: _____

Address: _____

Telephone: _____ Fax: _____

Email: _____

Tim Lind
Property Owner* (please print)

Tim Lind
Property Owner's Signature*
300 Oak S Windsor, CO 80550

Mailing Address* (street, city, state, zip)
(970) 674-1581

Telephone Number* (during the day)

Fax Number: _____

Email*: lind_tim@hotmail.com

* indicates required fields

Revised 03/13/2014

Variance request for 300 Oak St

Sec. 16-20-30. Density.

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

The lot sizes after subdividing will be greater than four thousand (4,000) square feet but less than six thousand (6,000) square feet. The majority of the corner lots on 3rd street are currently less than six thousand (6,000) square feet since they were created before this density requirement was established.

Sec. 16-12-40. Building location

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

Setback from right of way shall be six (6) feet. Minimum offset will be five (5) feet. New house and detached garage will line up with other newer homes north of the subdivided lot. The proposed setback will allow a full size vehicle to park on the new home's driveway and the new garage's driveway without blocking the sidewalk. This is the same as other buildings on this street. All buildings will conform for the minimum five (5) feet offset from each property line with the exception of the current home. An average size house would not fit on a lot with a twenty (20) foot setback.

Sec. 16-12-50. Open Space.

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

Since the lots will be less than six thousand (6,000) square feet per dwelling unit, the amount of open space will be less than three thousand (3,000) square feet but greater than one thousand five hundred (1,500) square feet. Since there is adjoining open space on both lots it will blend in with the rest of the residences on third street.



VARIANCE REQUEST

300 OAK STREET

KERN'S SUBDIVISION
LOT 1, BLOCK 4

Josh Olhava, Associate Planner
August 28, 2014

Board of Adjustment

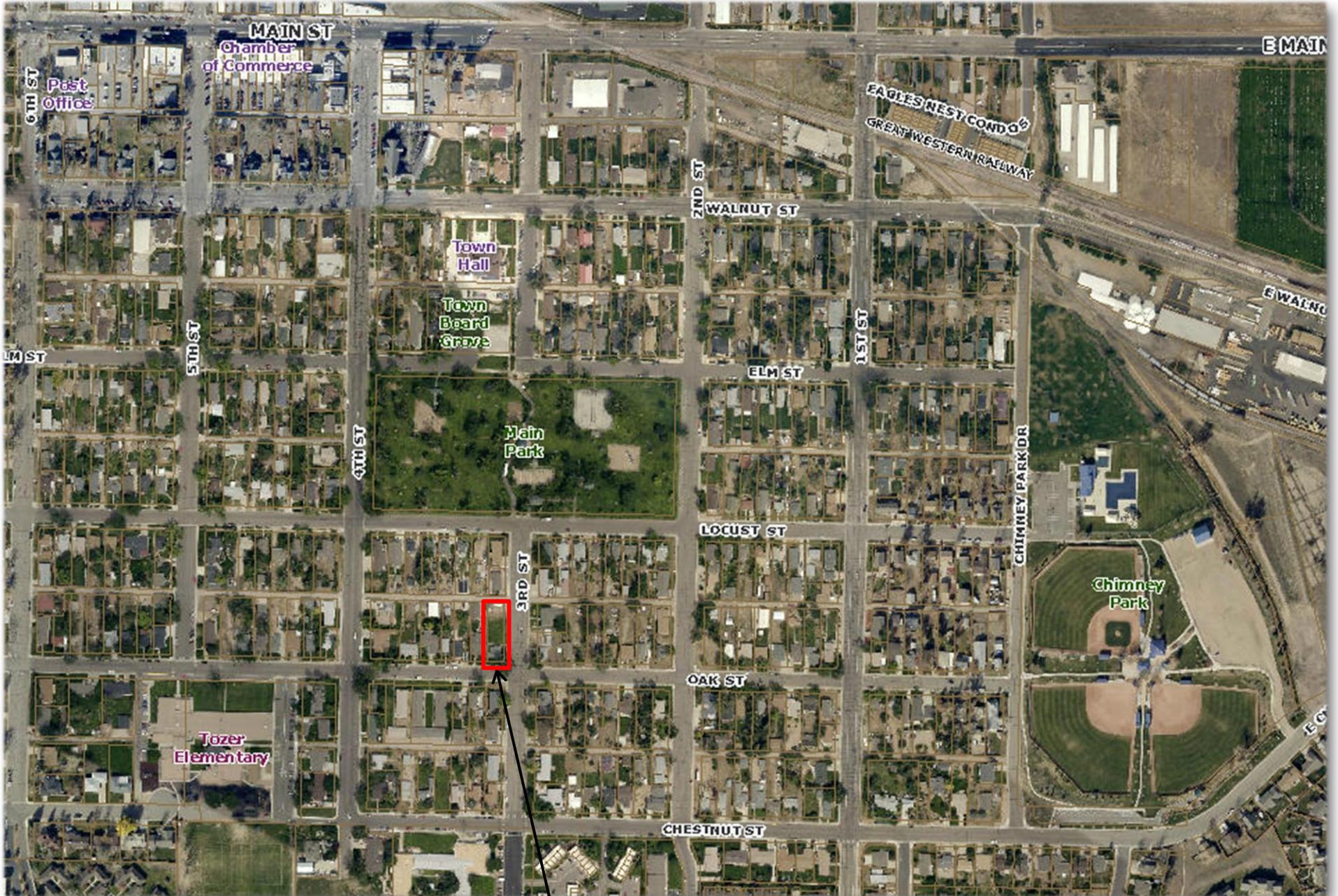
Item C.2



VARIANCE

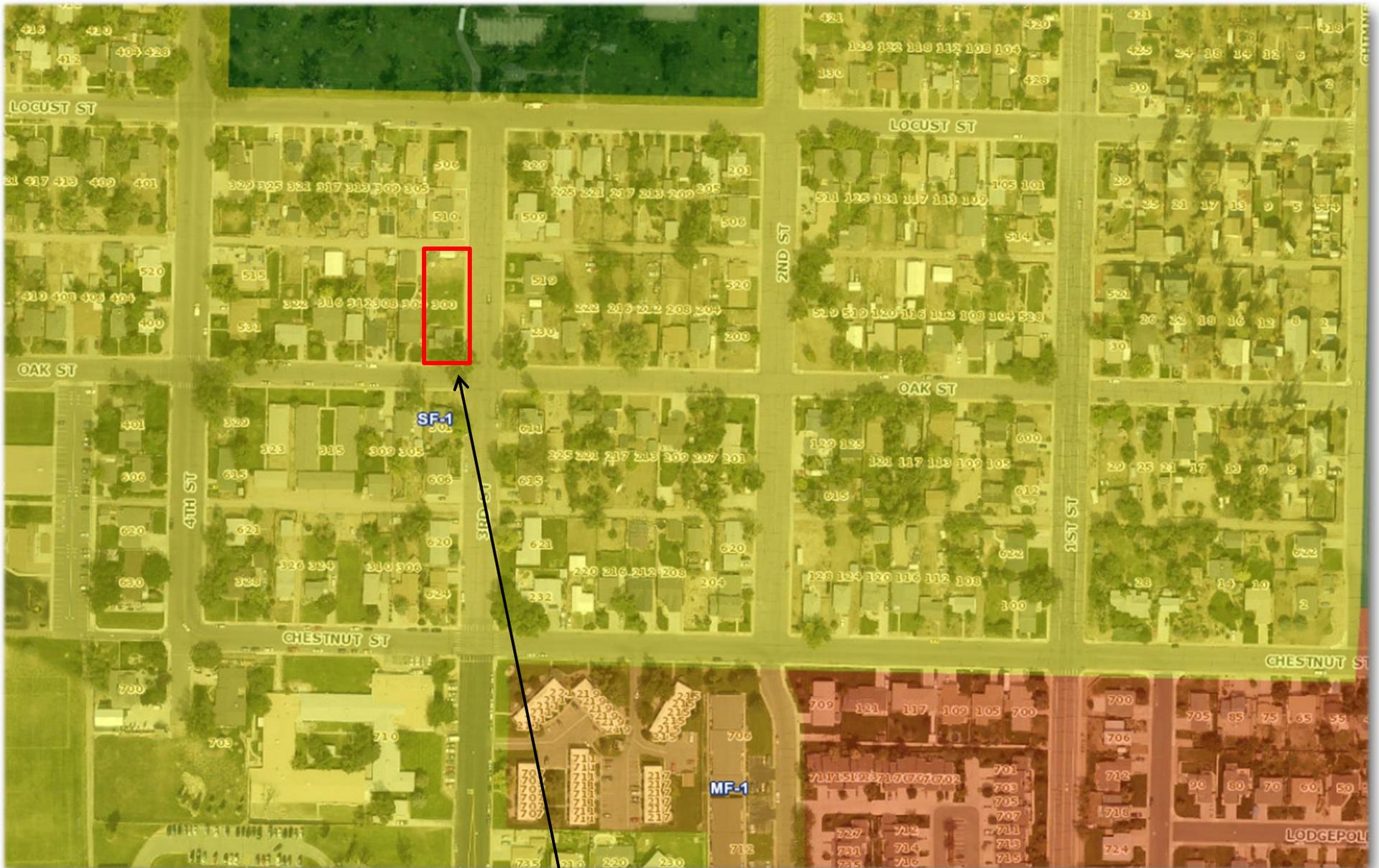
Article VI of Chapter 16 of the Municipal Code outlines the regulations and provisions for Variance applications and proceedings.

SITE VICINITY MAP



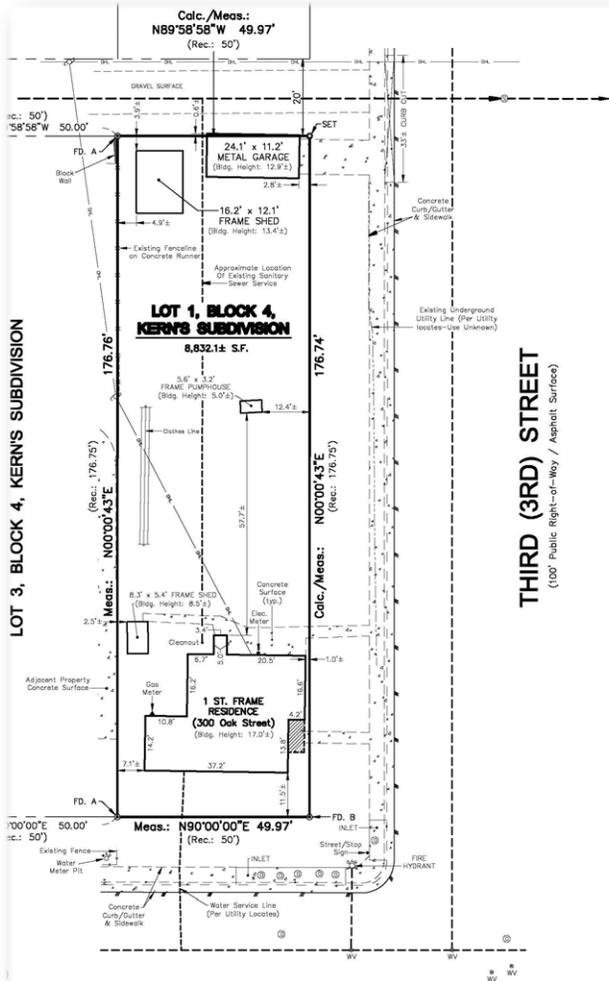
Site Location

ZONING MAP

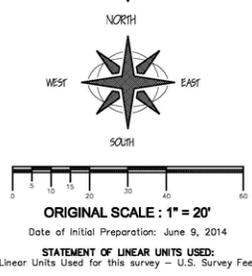


Site Location

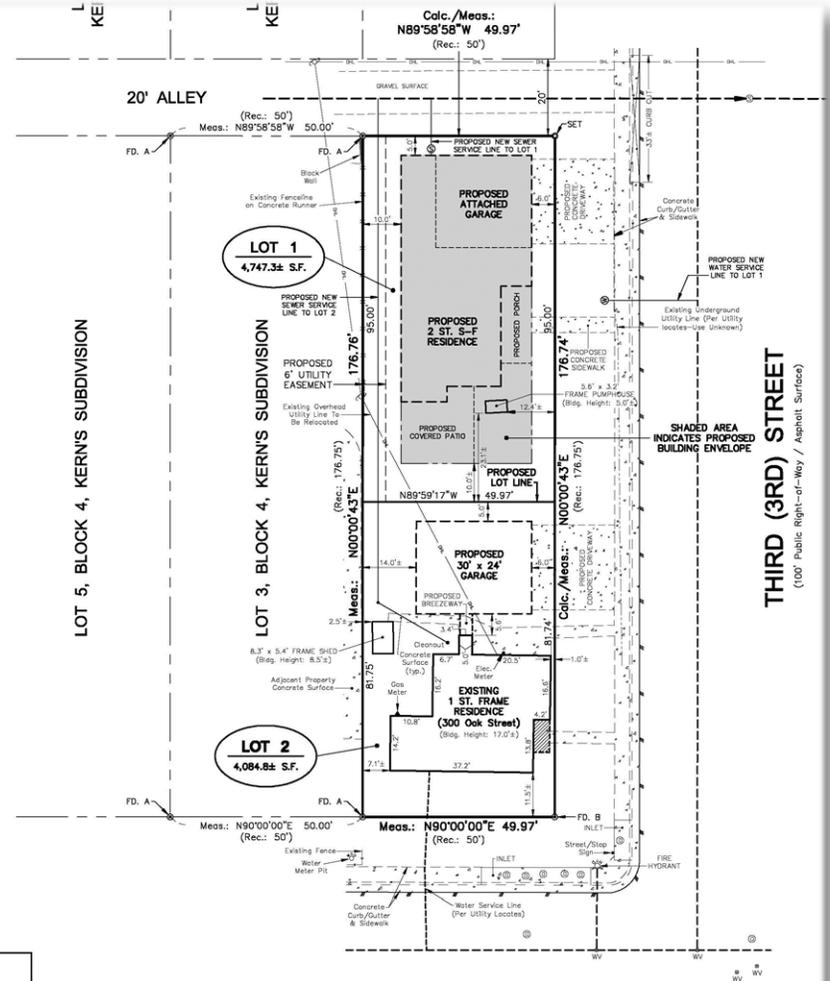
SITE PLAN



PROJECT DESIGN TEAM CONTACT INFORMATION
Owner/Applicant/Developer:
 TIMOTHY L. LIND
 300 Oak Street
 Windsor, Colorado 80550
 P: (970) 674-1561
 E: lind_tim@hotmail.com
Plan Prepared By/Land Surveyor:
 INTERMILL LAND SURVEYING, INC.
 Attn: Rob Perschitte
 1301 North Cleveland Avenue
 Loveland, Colorado 80537
 P: (970) 669-0516
 F: (970) 635-9775
 E: rob.ils@qwestoffice.net



MONUMENTATION LEGEND
SET: Indicates Set No. 4 rebar (16" long) with 1" dia. blue plastic cap marked LS 34174.
FD. A: Indicates Found No. 4 rebar (length unknown). No cap or markings. Accessed on the SE corner of Lot 1.



MONUMENTATION LEGEND
SET: Indicates Set No. 4 rebar (16" long) with 1" dia. blue plastic cap marked LS 34174.
FD. A: Indicates Found No. 4 rebar (length unknown). No cap or markings. Accessed on the SE corner of Lot 1.

SITE IMAGE



Existing home
on the proposed south lot

New proposed lot
to the north for a new home



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

Density

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

1. The proposed Density for the two lots would be consistent with other lots in the core of Windsor.
2. Based on the location of the existing property line on the east relevant to the location of the sidewalk along 3rd Street, and the proposed building envelope on the north lot, the two lots would meet the *spirit* of the zoning code density regulation by creating two buildable and livable lots;
3. The proposed lot split and development is consistent with the Overall Land Use Goal and Policy #4 of the Town of Windsor Comprehensive Plan which states:

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

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

1. The applicant shall complete the Town’s Minor Subdivision application within six (6) months of the Board of Adjustment approval of this variance request. The Minor Subdivision Plat shall show the proposed building envelopes to meet all setbacks and open space variance requests.
2. The applicant shall maintain a minimum lot size of 4,000 square feet on both lots and meet the requirements and determination of the Open Space variance request.



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

Density cont.

Please further note that since all motions are to be made in the affirmative, staff also recommends that the following motion, second and action on the petition be made as follows:

1. A motion to approve the request for a variance from Section 16-12-30 of the Municipal Code to allow the minimum density on the two proposed lots to be less than the 6,000 square foot requirements, subject to staff's conditions of approval;
2. A second; and
3. The Chair calling for the vote as follows: All members in favor of the variance vote "yes"; all opposed to the variance request vote "no", with a minimum of four "yes" votes required to approve the variance request.



RECOMMENDATION FOR BUILDING LOCATION VARIANCE FROM SEC. 16-12-40

Building Location

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

1. Based on the minimum setbacks and offsets as defined by Windsor Municipal Code Section 16-12-40, the proposed lots would meet all offset requirements;
2. The proposed Setback along 3rd Street for the new north lot would be consistent with other properties along 3rd Street;
3. Based on the location of the existing property line relevant to the location of the sidewalk; there is adequate distance between the proposed location of the residence to meet the *spirit* of the zoning code setback regulation;
4. Based on the proposed location of the structures, there is adequate distance between the east elevation of the proposed structures and the back of the 3rd Street sidewalk to meet the *spirit* of the zoning code setback regulation, and not impede pedestrian movement.

Therefore, based upon the aforementioned findings of fact, staff recommends approval of the variance request for the 3rd Street setback, as shown on the site plan survey, subject to the following conditions of approval.

1. The applicant shall complete the Town's Minor Subdivision application within six (6) months of the Board of Adjustment approval of this variance request. The Minor Subdivision Plat shall show the proposed building envelopes to meet all setbacks and open space variance requests.
2. The applicant shall provide a minimum of twenty (20) feet between the back of the 3rd Street sidewalk (west side) and the east elevation of the proposed garage structures. The applicant shall provide to the Town a survey, stamped by a CO State licensed professional land surveyor or professional engineer, that confirms that there is a minimum twenty (20) feet between the back of the 3rd Street sidewalk (west side) and the east elevation of the proposed garage structures. The applicant shall provide said survey prior to issuance of building permits.



RECOMMENDATION FOR BUILDING LOCATION VARIANCE FROM SEC. 16-12-40

Building Location cont.

Please further note that since all motions are to be made in the affirmative, staff also recommends that the following motion, second and action on the petition be made as follows:

1. A motion to approve the request for a variance from Section 16-12-40 of the Municipal Code subject to staff's conditions of approval;
2. A second; and
3. The Chair calling for the vote as follows: All members in favor of the variance vote "yes"; all opposed to the variance request vote "no", with a minimum of four "yes" votes required to approve the variance request.



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

Open Space

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

1. The proposed Open Space for both lots would be consistent and proportional to other lots adjacent to and in the core of Windsor.
2. Based on the location of the existing property line on the east relevant to the location of the sidewalk along 3rd Street, and the proposed building envelope; there is adequate open space, including the right-of-way on the lots to meet the *spirit* of the zoning code open space regulation;
3. The proposed lot split and development is consistent with the Overall Land Use Goal and Policy #4 of the Town of Windsor Comprehensive Plan which states:

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

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

1. The applicant shall complete the Town’s Minor Subdivision application within six (6) months of the Board of Adjustment approval of this variance request. The Minor Subdivision Plat shall show the proposed building envelopes to meet all setbacks and open space variance requests.
2. The applicant shall maintain a minimum open space of 1,500 square feet on both lots.



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

Open Space cont.

Please further note that since all motions are to be made in the affirmative, staff also recommends that the following motion, second and action on the petition be made as follows:

1. A motion to approve the request for a variance from Section 16-12-50 of the Municipal Code to allow the minimum open space on the lots to be less than the 3,000 square foot minimum, and subject to staff's conditions of approval;
2. A second; and
3. The Chair calling for the vote as follows: All members in favor of the variance vote "yes"; all opposed to the variance request vote "no", with a minimum of four "yes" votes required to approve the variance request.