



BOARD OF ADJUSTMENT/APPEALS REGULAR MEETING

December 4, 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

C. BOARD ACTION

1. Public Hearing – Variance of Municipal Code Section 16-12-40 pertaining to the building location for a single-family house in the Single Family Residential (SF-1) zoning district located at 500 Locust Street, Town Of Windsor Subdivision, Second Filing, Lot 1, Block 23 in the Town of Windsor – Phil Romero, Applicant – Paul Hornbeck, 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 16-12-40 pertaining to the building location for a detached garage in the Single Family Residential (SF-1) zoning district located at 519 2nd Street, Kerns Subdivision, Lot 15, Block 2, Windsor, CO – Rocky Clark, Applicant – Paul Hornbeck, 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

<u>Thursday, January 22, 2015</u>	7:00 P.M.	Regular Board of Adjustment Meeting*
<u>Thursday, February 26, 2015</u>	7:00 P.M.	Regular Board of Adjustment Meeting*
<u>Thursday, March 26, 2015</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.



MEMORANDUM

Date: December 4, 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 the building location for a single-family house in the Single Family Residential (SF-1) zoning district
Location: 500 Locust Street, Town of Windsor Subdivision, Second Filing Lot 1, Block 23, Windsor, CO
Item #: C.1

Background/Discussion:

The applicant, Mr. Phil Romero, is requesting a variance from Municipal Code Section 16-12-40 (Building Location) which states the following:

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

This request is for a variance to allow an existing set of exterior stairs to be replaced with new stairs with a setback of approximately ten (10) feet, rather than the required twenty (20) feet. The house has a setback of approximately seventeen (17) feet and the existing stairs have a setback of approximately thirteen (13) feet. The current steps do not comply with the building code and the applicant wishes to replace the steps with a safer design that meets building code.

Recommendation:

Section 16-6-60(b) of the Municipal Code outlines the considerations for review of variances, stating "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." The code further defines unnecessary hardship in Section 16-6-60(c) 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."

Staff considers that the literal enforcement of the Code will result in an unnecessary hardship as defined by the Municipal Code and therefore is recommending approval of the variance request with the following findings of fact:

1. The existing stairs that are being replaced do not comply with the building code;

2. No stairs could be constructed without a setback variance because of the building setback;
3. The proposed ten (10) foot setback is within a range of residential setbacks on neighboring lots;
4. The proposed location of the stairs does not appear to result in a health or safety risk;
5. The situation is not a result of circumstances created by the landowner.

Suggested Motion and Action:

In accordance with the Board of Adjustment's procedure of making all motions in the affirmative, staff offers for the Board's consideration the following motion and action:

Motion: Motion to approve the variance request from Section 16-12-40 of the Municipal Code to approve a setback variance of ten (10) feet from the property line that abuts Fifth Street in order to allow the construction of new stairs as depicted in the application.

Second: Second to approve the motion.

Vote: All in favor of the motion to approve the setback variance vote yes; all opposed vote no.

Notification:

November 17, 2014 development sign posted on the subject property
November 21, 2014 public hearing notice placed on the Town of Windsor's website
November 21, 2014 public hearing notice posted in the paper

Enclosures: Application Materials
Presentation slides

Pc: Phil Romero, applicant/property owner

PAID OCT 20 2014



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*: 500 Locust Street

Lot: 1 Block: [drawing] Subdivision: Replat of Lot 1 Block 23 Town of Windsor Sub

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

Both sets of existing steps are < 20 ft from the property line. The new requests only extends the steps 23" closer to the property line but brings the landing in line with existing code. Request an on site visit to see why new steps are needed. Questions can be routed to the GC @ Heritage Fence & Decking c/o Chad (970-454-2030)

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

Need to replace existing steps as they are unsafe and falling apart. House was built in 1903.

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 19 day of October, 20 14

Wilma Romero

Applicant (please print)

Wilma Romero

Applicant's Signature

500 Locust Street, Windsor, CO 80550

Mailing Address (street, city, state, zip)

(970) 631-4098

Telephone Number (during the day)

Fax Number:

Email: wlromero@comcast.net

Applicant's Representative (if any):

Name:

Address:

Telephone:

Email:

Phil Romero

Property Owner* (please print)

Phil Romero

Property Owner's Signature*

309 Whitney Bay, Windsor CO 80550

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

(970) 646-1959

Telephone Number* (during the day)

Fax Number:

Email*: Phil.romero@gmail.com

Chad c/o Heritage Fence

10 Oak Ave, Eaton CO 80615

(970) 454-2030

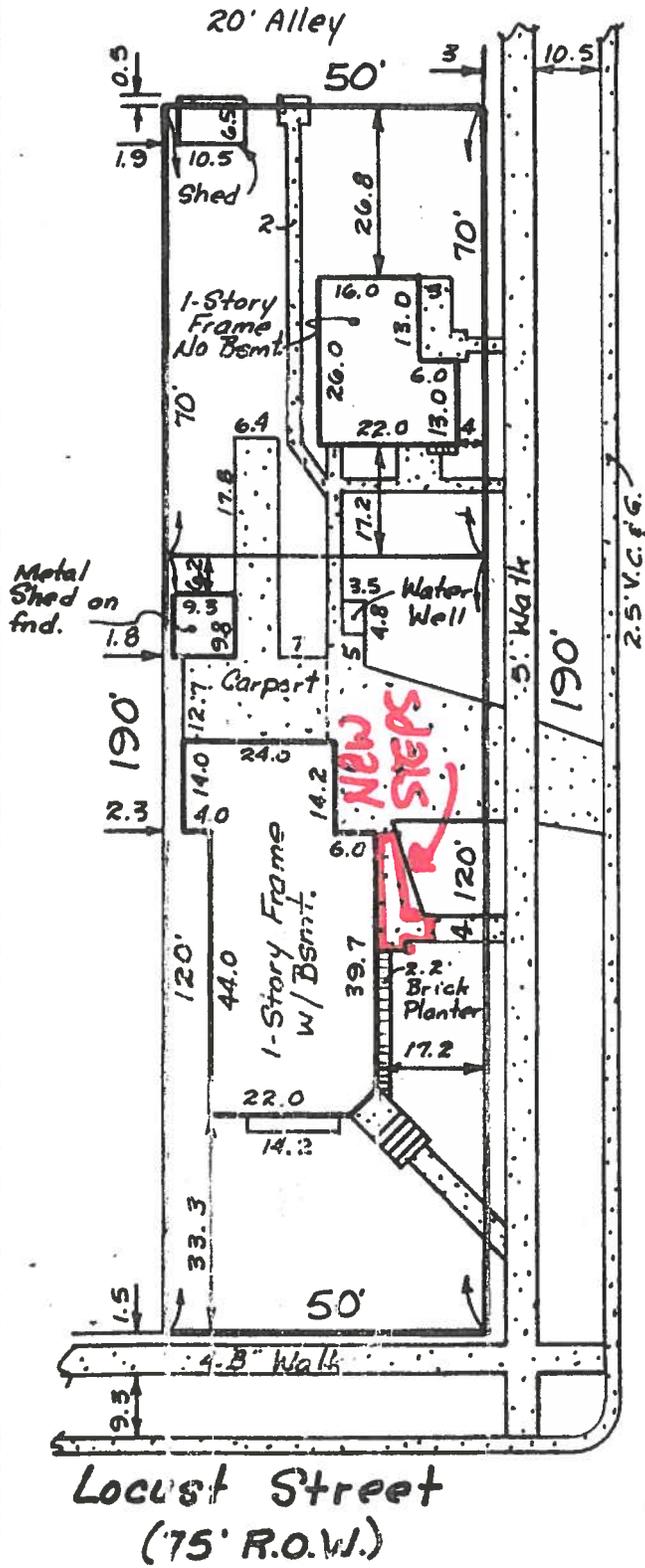
Fax: (970) 454-2030

heritagefence@aol.com

* indicates required fields

Revised 03/13/2014

IMPROVEMENT LOCATION CERTIFICATE



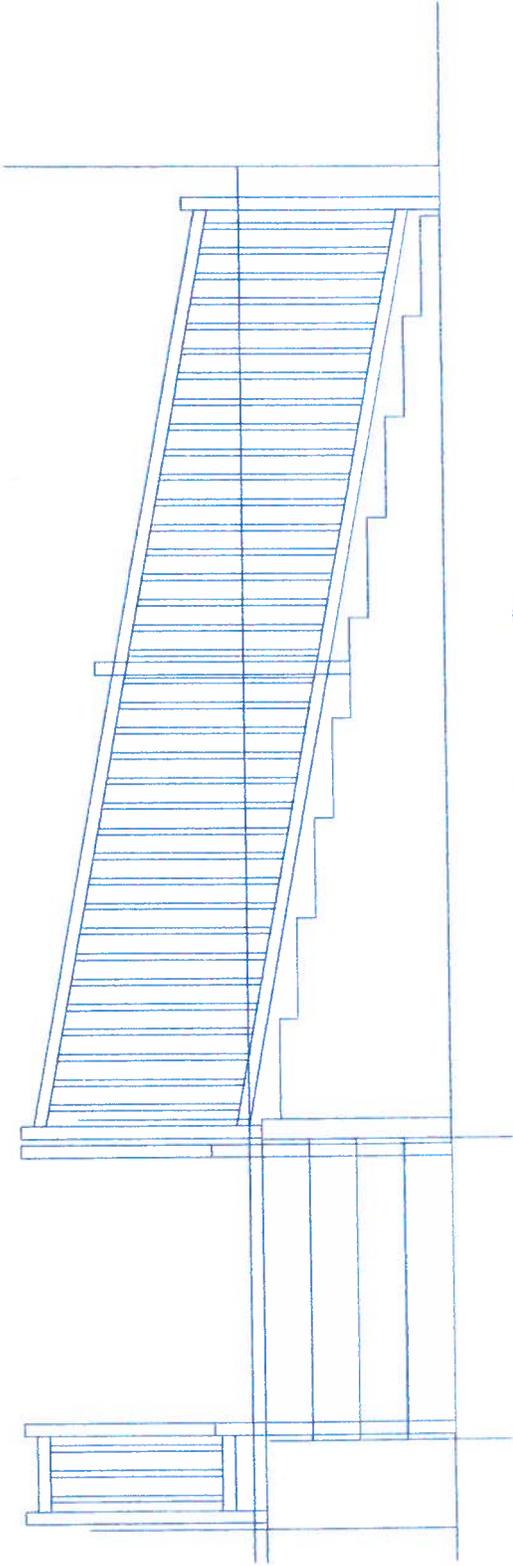
Scale: 1"=30'

LEGAL DESCRIPTION

Lot 1, Block 23
TOWN OF WINDSOR,
Weld County, Colorado

500 Locust Street & 418 - 5th Street

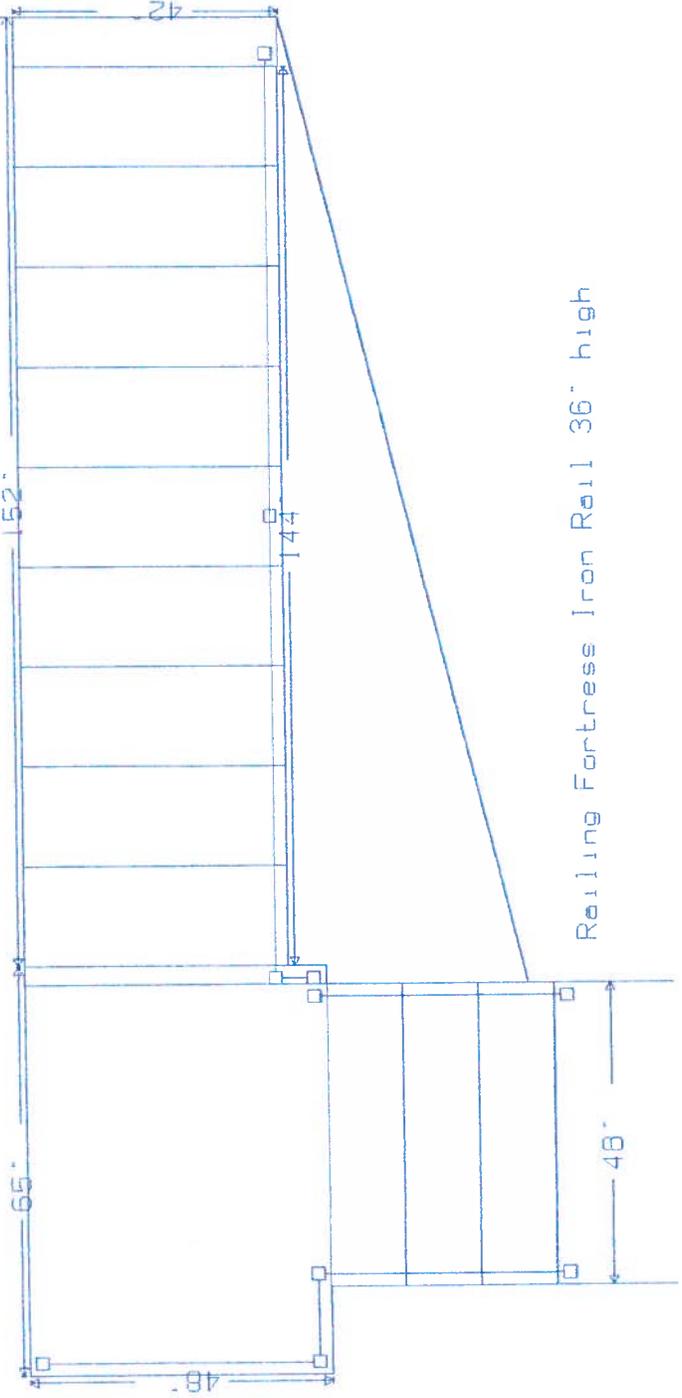
■ Pins Found



Side steps rise 3". run 17"
 Front steps rise 7". run 12"

Framing Treated 2x8. steps 2x12 All 12" on center
 Deck TimberTech composite hidden fastener

ROMERO.DWG



Railing Fortress Iron Rail 36" high

48"



VARIANCE
500 LOCUST STREET
TOWN OF WINDSOR SUBDIVISION, SECOND FILING
LOT 1, BLOCK 23

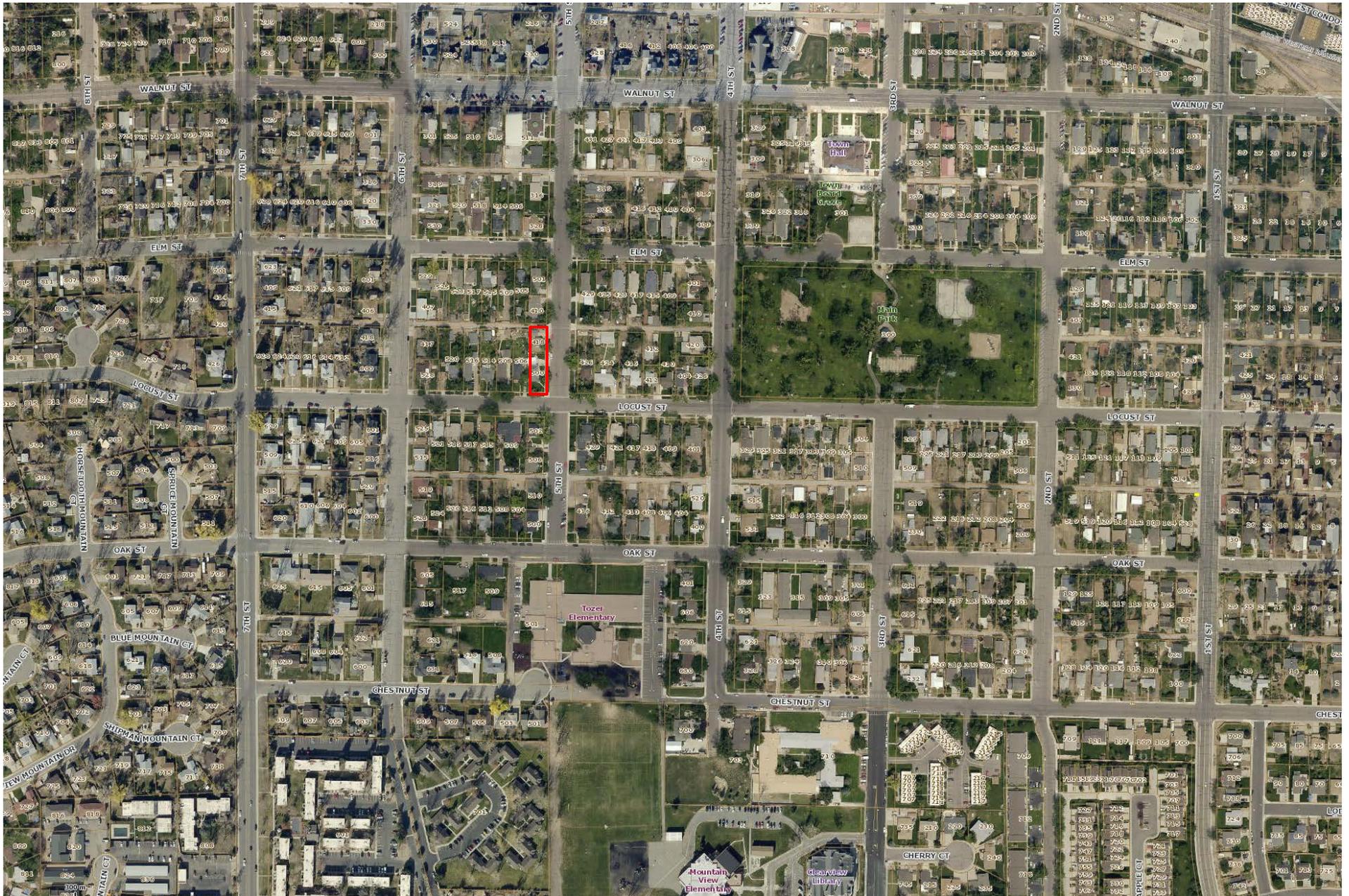
PAUL HORNBECK, ASSOCIATE PLANNER
DECEMBER 4, 2014

Board of Adjustment

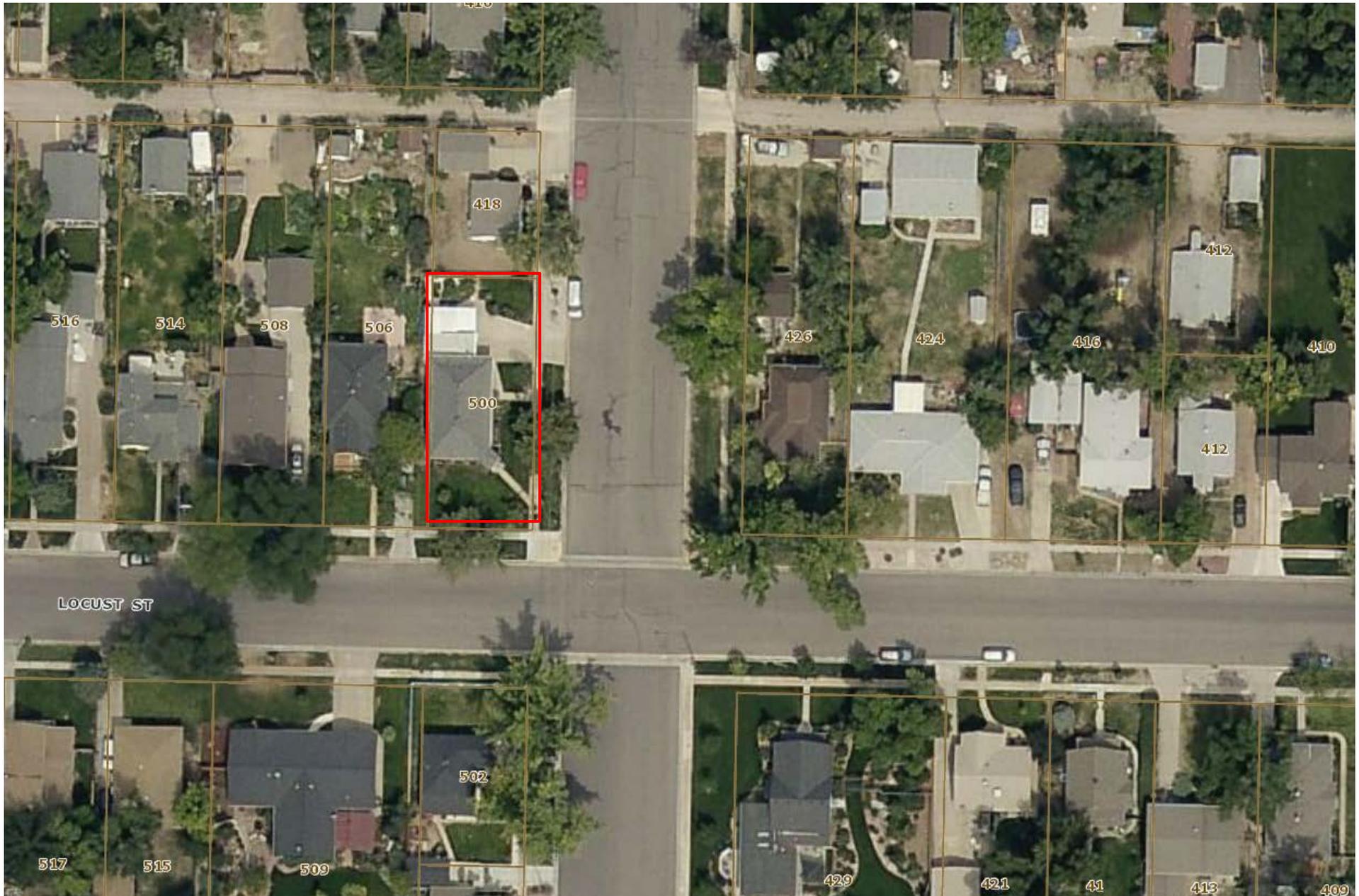
C.1



SITE VICINITY

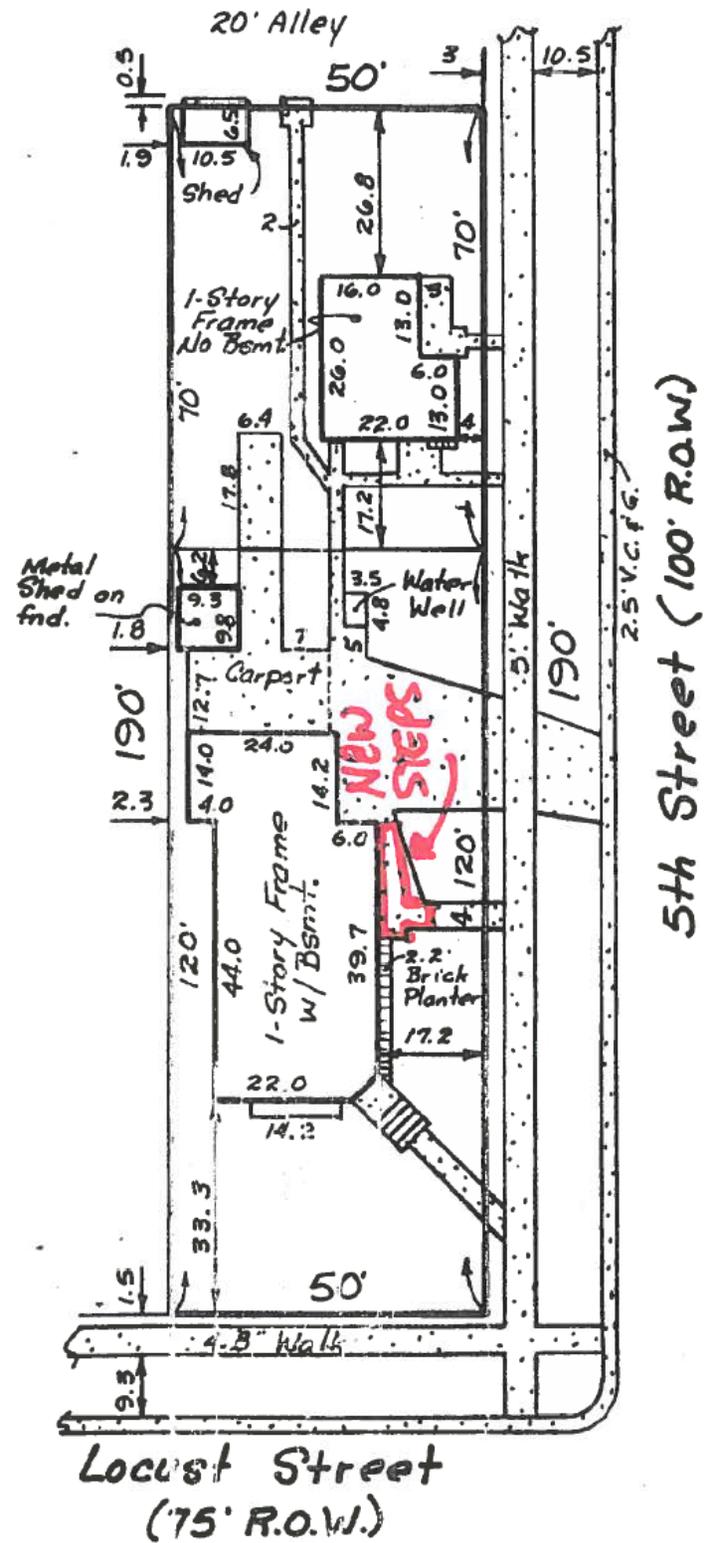


AERIAL IMAGE





SITE PLAN



SITE IMAGES



Image 1: Subject Property (facing southwest from 5th Street)

SITE IMAGES



Image 2: Subject Property (facing north from corner of 5th Street & Locust Street)



RECOMMENDATION

Staff considers that the literal enforcement of the Code will result in an unnecessary hardship as defined by the Municipal Code and therefore is recommending approval of the variance request with the following findings of fact:

1. The existing stairs that are being replaced do not comply with the building code;
2. No stairs could be constructed without a setback variance because of the building setback;
3. The proposed ten (10) foot setback is within a range of residential setbacks on neighboring lots;
4. The proposed location of the stairs does not appear to result in a health or safety risk;
5. The situation is not a result of circumstances created by the landowner.



RECOMMENDATION

In accordance with the Board of Adjustment's procedure of making all motions in the affirmative, staff offers for the Board's consideration the following motion and action:

Motion: Motion to approve the variance request from Section 16-12-40 of the Municipal Code to approve a setback variance of ten (10) feet from the property line that abuts Fifth Street in order to allow the construction of new stairs as depicted in the application.

Second: Second to approve the motion.

Vote: All in favor of the motion to approve the setback variance vote yes; all opposed vote no.



MEMORANDUM

Date: December 4, 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 the building location for a detached garage in the Single Family Residential (SF-1) zoning district
Location: 519 2nd Street, Windsor, CO
Item #: C.2

Background/Discussion:

The applicant, Mr. Rocky Clark, is requesting a variance from Municipal Code Section 16-12-40 (Building Location) which states the following:

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

This request is for a variance to allow a reduced setback for a detached garage of one and one-half (1½) feet from the Second Street property line. The Board of Adjustment granted a number of variances for the property in 2013 to allow construction of a single-family home and detached garage, both within the required setbacks. The house and garage are currently under construction and an inspection and corresponding setback certification revealed that the detached garage was not constructed in accordance with the approved variance. The Board of Adjustment granted a variance from the twenty (20) foot setback requirement to allow a setback on the detached garage of four and one-half (4½) feet from the 2nd Street property line. The setback certification, completed by a licensed surveyor, shows that the garage was constructed with a setback of one and one-half (1½) feet from the Second Street property line.

The variance granted in 2013 would have left twenty (20) feet between the garage and the back of the public sidewalk. Furthermore, the Board of Adjustment included in that approval a condition that the applicant must provide a minimum of twenty (20) feet between the garage and the back of the sidewalk. The current configuration leaves only seventeen (17) feet between the garage and the back of the sidewalk. The twenty (20) foot clear zone would have allowed for adequate clearance for vehicles to park in the driveway without impeding the sidewalk. The proposed seventeen (17) foot clear zone would create a situation where larger sized cars and trucks would likely impede the sidewalk.

A similar situation occurred previously at 500 Oak Street. In that case, a variance was granted to allow a garage to be constructed with a five (5) foot setback, providing a twenty (20) foot clear zone between the garage and the back of the public sidewalk. However, the garage was constructed with a setback of three feet, five inches (3'5"), leaving less than twenty (20) feet between the garage and the back of the public sidewalk. That variance was denied by the Board of Adjustment in 2010.

Comments:

This request was referred to the Town Engineer and he has commented that the Town has for many years recommended variances for garage setbacks provide at least twenty (20) feet between the public sidewalk and garage.

Recommendation:

Section 16-6-60(b) of the Municipal Code outlines the considerations for review of variances, stating "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." The code further defines unnecessary hardship in Section 16-6-60(c) 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."

Staff does not consider that the literal enforcement of the Code will result in an unnecessary hardship as defined by the Municipal Code and therefore is recommending denial of the variance request with the following findings of fact:

1. The variance request is contrary to the public interest because a setback of one and one-half (1½) feet would not allow the driveway length to be at least twenty (20) feet and therefore would create a situation where parking standard vehicles on the driveway could significantly obstruct the public sidewalk;
2. The property, including a detached garage, could reasonably be used under the previously approved setback variance of four and one-half (4½) feet and;
3. The situation is a result of circumstances created by the landowner.

Suggested Motion and Action:

In accordance with the Board of Adjustment's procedure of making all motions in the affirmative, staff offers for the Board's consideration the following motion and action:

Motion: Motion to approve the variance request from Section 16-12-40 of the Municipal Code to approve a setback variance of one and one-half (1½) feet from the property line that abuts Second Street in order to allow the existing detached garage to remain as constructed.

Second: Second to approve the motion.

Vote: All in favor of the motion to approve the setback variance vote aye; all opposed vote nay.

Notification:

November 17, 2014 development sign posted on the subject property

November 21, 2014 public hearing notice placed on the Town of Windsor's website

November 21, 2014 public hearing notice posted in the paper

Enclosures: Application Materials
12/13/13 BOA Minutes
Setback Certification
Presentation slides

Pc: Rocky Clark, applicant/property owner



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*: 519 2nd St

Lot: 15 Block: 2 Subdivision: Kerns

Describe the nature of the request for variance and the restriction(s) imposed by the ordinance(s). Attached additional sheet(s) if necessary*: We are requesting a reduced wet back

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

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 6th day of Nov, 20 14

Rocky Clark
Applicant (please print)

Rocky Clark
Applicant's Signature

1000 Valley Dr Windsor, Ca 80550
Mailing Address (street, city, state, zip)

970-556-8341
Telephone Number (during the day)

Fax Number:

Shree
Property Owner* (please print)

Property Owner's Signature*

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

Telephone Number* (during the day)

Fax Number:

The variance of Section 16-12-40 was approved subject to the following condition:

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

Section 16-12-40 (Building Location) – Detached Garage 2nd Street

Upon a motion duly made and seconded to approve the request, the Windsor Board of Adjustment voted by roll call vote unanimously to allow the detached garage to be setback four and one-half (4 ½) feet from the 2nd Street property line, subject to the Conditions of Approval listed in this Zoning Certificate.

The variance of Section 16-12-40 was granted based upon the following findings of fact:

1. The subject parcel is similar in size and shape of neighboring lots within the Kerns Subdivision and lots in the central Windsor area;
2. Based on the location of the existing property line relevant to the location of the sidewalk; there is adequate distance between the detached garage location to meet the *spirit* of the zoning code setback regulation;
3. Based on the location of the detached garage, there is adequate distance between the west elevation of the detached garage and the back of the 2nd Street sidewalk to not impede pedestrian movement.
4. The proposed location of the detached garage does not appear to result in a health or safety risk.

The variance of Section 16-12-40 was approved subject to the following condition:

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

The variance requests of Section 16-12-40 were granted to:

**Ms. Arlene and Mr. Rocky Clark
1000 Valley Drive, Windsor, CO**

Owner of the property described as follows:

**519 2nd Street
Kerns Subdivision, Block 2, Lot 15
Windsor, CO 80550**

Brett Walker, Associate Planner
12/19/2013

Pc: Mr. Danny Horner, Chairman, Board of Adjustment
Planning Department Staff

Town of Windsor Planning Department
301 Walnut Street, Windsor, Colorado 80550
Phone 970/686-7476 Fax 970/686-7180



SETBACK CERTIFICATION

THIS COMPLETED FORM MUST BE SUBMITTED FOR APPROVAL PRIOR TO THE UNDERGROUND PLUMBING INSPECTION (BEFORE INSTALLATION OF ANY FRAMING)

Date: 11-05-2014

Building Permit #

Lot 15 Block 2 Subdivision KERNS

Address: 519 2ND STREET, Windsor, Colorado

On 11-04-2014, a field crew measured the
(Date)

setbacks (distances from all property lines along streets) and offsets (distances from all property lines that are not along streets) for the above referenced property and found them to ~~be in~~ compliance with the approved plans and the requirements of the Windsor Municipal Code. *NOT BE IN sp*

BY: _____
Surveyor/Engineer



CONTRACTOR CERTIFICATION

I, _____ representing _____
(PRINT Name and title) (Contractor/Builder)

have reviewed the setback certification and the approved plans for the above referenced project and concur that the location of this structure is in conformance with the approved plans and the setback and offset requirements of the Windsor Municipal Code. Furthermore, I hereby certify that all portion(s) of the structure to be framed including, but not limited to, garages, porches, decks, cantilevers, bay windows or other structures, shall maintain compliance with said setback and offset requirements.

BY: _____

_____ Date

SETBACK CERTIFICATION

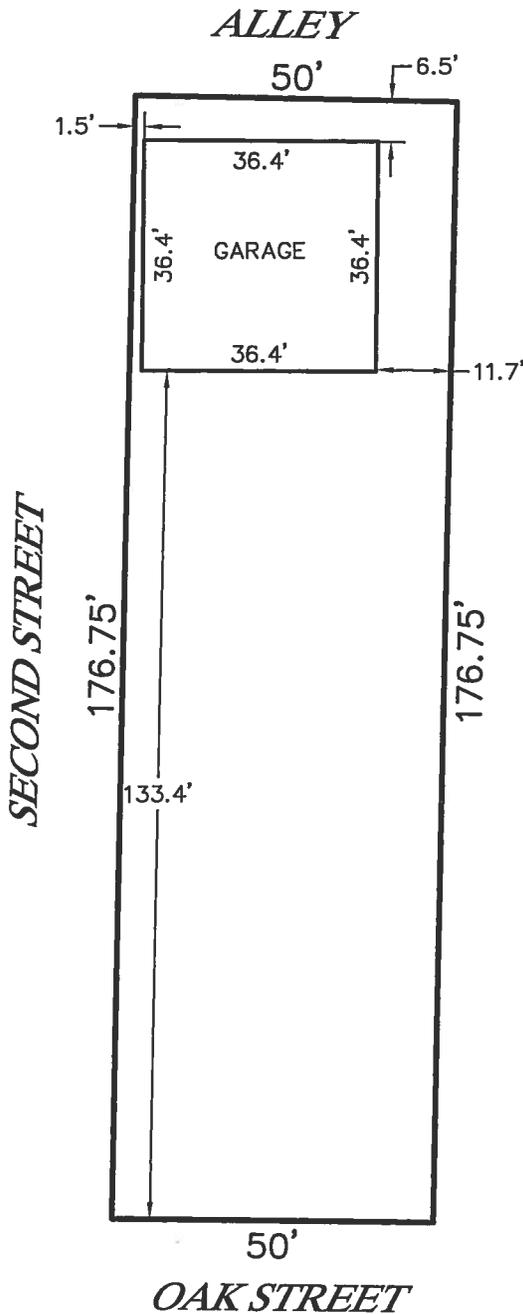
LOT 15 BLOCK 2 SUBDIVISION KERNS

COUNTY OF WELD STATE OF COLORADO

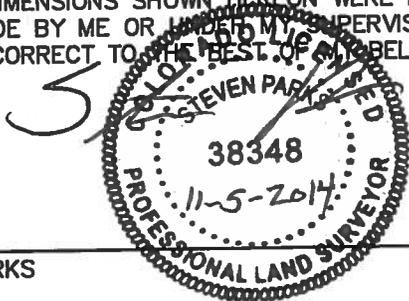
ADDRESS 519 2ND STREET, WINDSOR



LOT 15
BLOCK 2
8,838 SQ.FT.



I, STEVEN PARKS, A DULY LICENSED LAND SURVEYOR IN THE STATE OF COLORADO DO HEREBY STATE THAT THE DIMENSIONS SHOWN HEREON WERE DETERMINED FROM THE RESULTS OF AN ACTUAL FIELD SURVEY MADE BY ME OR UNDER MY SUPERVISION ON 11/04/2014 AND THE INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY BELIEF AND KNOWLEDGE.



STEVEN PARKS
LS 38348

DATE

DRAWN BY: EWL

SCALE: 1"=30'

DATE: 11-05-2014

JOB NO. 2013132

CLIENT: ROCKY CLARK



KING SURVEYORS

650 E. Garden Drive | Windsor, Colorado 80550

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

www.kingsurveyors.com



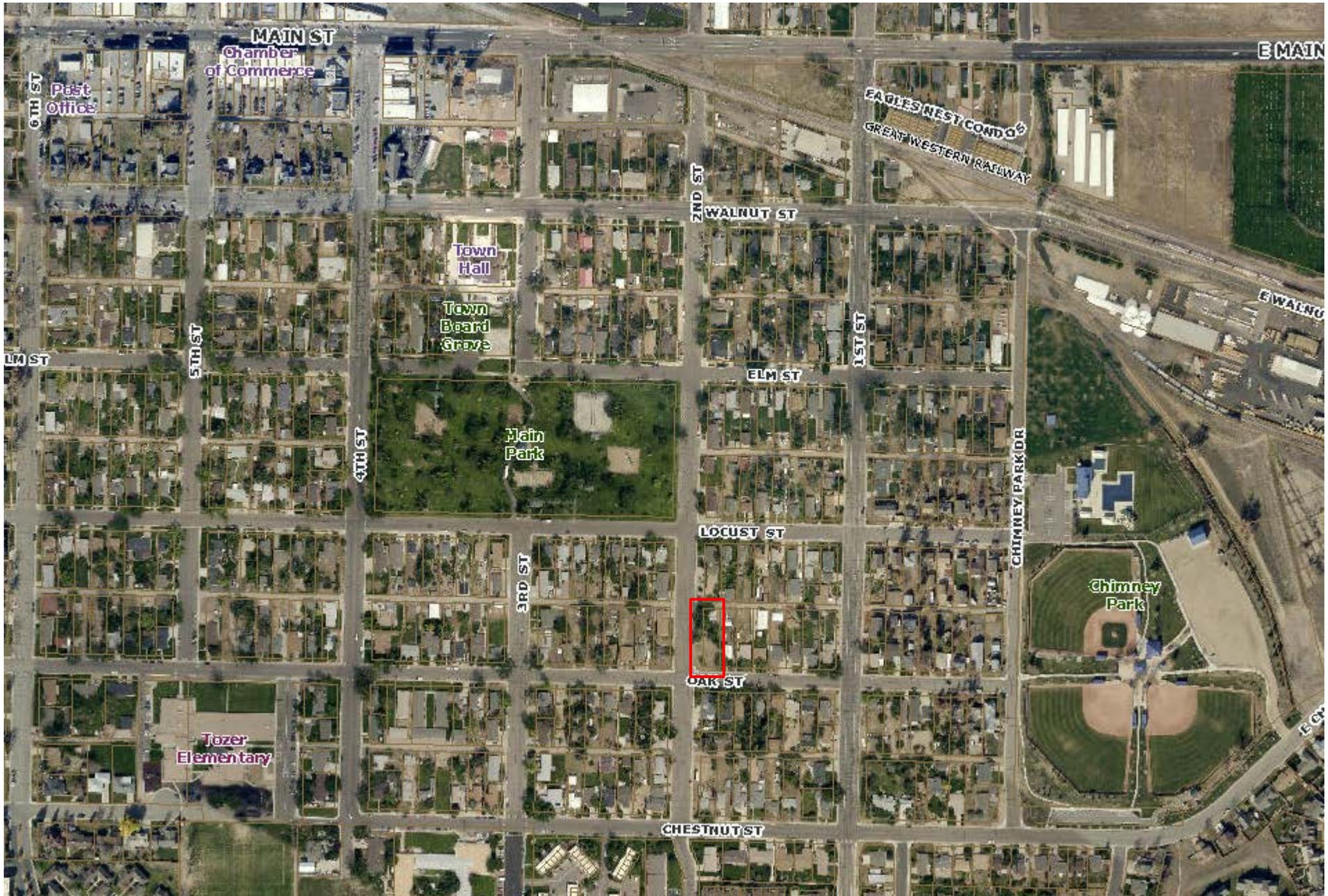
VARIANCE
519 2ND STREET
KERNS SUBDIVISION
LOT 15, BLOCK 2

PAUL HORNBECK, ASSOCIATE PLANNER
DECEMBER 4, 2014

Board of Adjustment

C.2

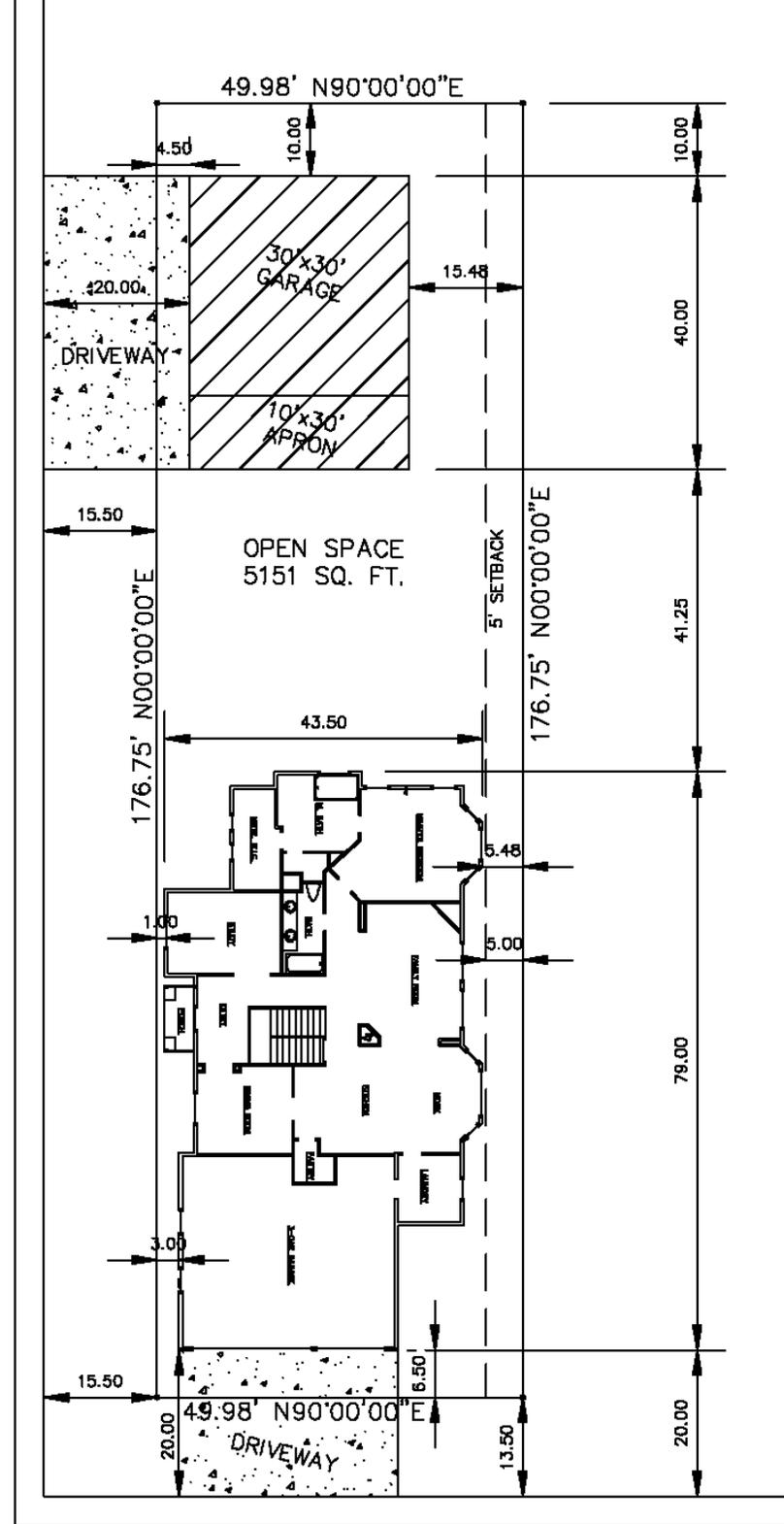
AERIAL IMAGE





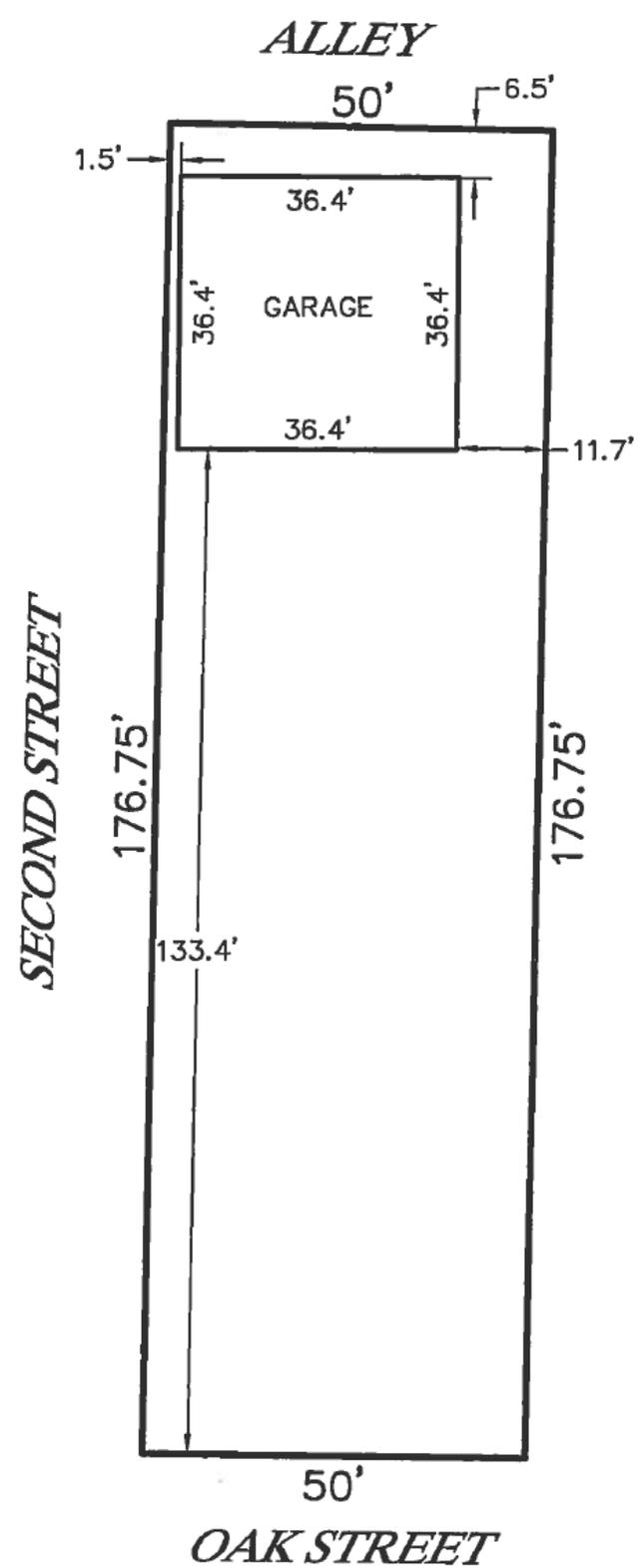
APPROVED SITE PLAN

SECOND STREET





SETBACK CERTIFICATION



SITE IMAGES



Image 1: Subject Garage (facing east from 2nd Street)

SITE IMAGES



Image 2: Subject Garage (facing south from the alley)

SITE IMAGES



Image 3: Subject Property (facing north from the corner of 2nd Street and Oak Street)



RECOMMENDATION

Staff does not consider that the literal enforcement of the Code will result in an unnecessary hardship as defined by the Municipal Code and therefore is recommending denial of the variance request with the following findings of fact:

1. The variance request is contrary to the public interest because a setback of one and one-half ($1\frac{1}{2}$) feet would not allow the driveway length to be at least twenty (20) feet and therefore would create a situation where parking standard vehicles on the driveway could significantly obstruct the public sidewalk;
2. The property, including a detached garage, could reasonably be used under the previously approved setback variance of four and one-half ($4\frac{1}{2}$) feet and;
3. The situation is a result of circumstances created by the landowner.



RECOMMENDATION

In accordance with the Board of Adjustment's procedure of making all motions in the affirmative, staff offers for the Board's consideration the following motion and action:

Motion: Motion to approve the variance request from Section 16-12-40 of the Municipal Code to approve a setback variance of one and one-half (1½) feet from the property line that abuts Second Street in order to allow the existing detached garage to remain as constructed.

Second: Second to approve the motion.

Vote: All in favor of the motion to approve the setback variance vote yes; all opposed vote no.