



BOARD OF ADJUSTMENT/APPEALS
REGULAR MEETING
March 26, 2015 - 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 Thursday 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:
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.

B. CONSENT CALENDAR

C. BOARD ACTION

1. Public Hearing –Variance of Municipal Code Section 16-10-20(1)i pertaining to a home occupation involving tutoring or instruction of more than two students at any one time in the Single Family Residential (SF-1) zoning district – Robin Flores, Applicant
 - Staff presentation: 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

D. COMMUNICATIONS

1. Communications from the Board Members

2. Communications from staff
 - a. Setback certifications
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, April 23, 2015</u>	7:00 P.M.	Regular Board of Adjustment Meeting*
<u>Thursday, May 28, 2015</u>	7:00 P.M.	Regular Board of Adjustment Meeting*
<u>Thursday, June 25, 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: March 26, 2015
To: Board of Adjustment
Via: Scott Ballstadt, AICP, Interim Director of Planning
From: Paul Hornbeck, Associate Planner
Re: Variance of Municipal Code Section 16-10-20(1)i pertaining to a home occupation involving tutoring or instruction of more than two students at any one time in the Single Family Residential (SF-1) zoning district
Location: 4630 Freehold Drive, Fossil Ridge Subdivision, Lot 7, Block 15, Windsor, CO
Item #: C.1

Background/Discussion:

The applicant, Mrs. Robin Flores, is requesting a variance from Municipal Code Section 16-10-20(1)i which states the following:

In the event a home occupation involves tutoring or instruction, no more than two (2) students may be present at the dwelling unit at any one (1) time.

This request is for a variance to allow up to eight students at any one time as a part of music lessons taught by the applicant at her home. The variance request is a result of a complaint by someone in the neighborhood about the impacts of parking and traffic generated by the music lessons. It was found that the applicant was operating without a business license and associated home occupation registration. Upon submittal of the home occupation registration by the applicant, it was revealed that more than two students were present at any one time, prompting this variance request.

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. An unnecessary hardship as not been proven by the landowner;
2. The property could reasonably be used as a private residence without the variance and;
3. The situation is a result of circumstances created by the landowner.

If the Board is inclined to approve this request, staff recommends parking be addressed to in some manner as that is primary basis for the complaint on the use.

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 116-10-20(1)i of the Municipal Code to approve a home occupation with up to eight students at any one time.

Second: Second to approve the motion.

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

Notification:

March 10, 2015	development sign posted on the subject property
March 13, 2015	public hearing notice placed on the Town of Windsor's website
March 13, 2015	public hearing notice posted in the paper

Enclosures: Application materials
Complaint materials
Presentation slides

Pc: Robin Flores, applicant



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*: 4630 Freehold Dr. Windsor, CO 80550
Lot: 7 Block: 15 Subdivision: Belmont Ridge

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

* See Page 2 - 1

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

* See Page 2 - 2

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 6 day of March, 2015

Robin Flores

Richard and Robin Flores

Applicant (please print)

Property Owner* (please print)

Applicant's Signature
4630 Freehold Dr. Windsor, CO 80550

Property Owner's Signature*
4630 Freehold Dr. Windsor, CO 80550

Mailing Address (street, city, state, zip)
970-682-3558

Mailing Address* (street, city, state, zip)
970-682-3558

Telephone Number (during the day)

Telephone Number* (during the day)

Fax Number: n/a

Fax Number: n/a

Email: Robin@singplaymusic.com

Email*: Robin@singplaymusic.com

Applicant's Representative (if any): Name: _____
Address: _____
Telephone: _____ Fax: _____
Email: _____

* indicates required fields

APPLICATION FOR VARIANCE

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

Variance is defined as the fact or quality of being different, divergent, or inconsistent. The only condition of the Sec. 16-10-20, that I do not meet is section i.

My business, teaching small group piano and music classes, involves teaching more than 2 students at a time. Most classes are 4-8 children at a time. My piano studio benefits the community, because I am able to offer reasonably priced music education, since I teach in my home studio, rather than using commercial space. The restriction imposed by the ordinance would only allow 2 children to attend class at a time, which is not as beneficial for the child. The Let's Play Music curriculum is a complete musicianship course. Our program is intentionally broad, and covers more than basic piano skills. We focus on movement, singing, and instruments to explore basic musical concepts such as tempo, rhythm, dynamics, phrasing, form, notation, and melody. Creating and developing complete musicianship skills, is one factor that differentiates our curriculum from other methods, and has been found to produce better long-term results than private piano lessons alone.

Having to teach in a commercial location would not allow my business to be profitable, which benefits the economy. I offer at least 1 scholarship per year for complete or partial tuition, based on financial need. This program allows parents to give their children quality music and piano instruction at an affordable and competitive rate.

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

The difficulties of moving my studio to a commercial location would involve, transporting my own upright piano plus 8 keyboards, keyboard stands, and stools back and forth, as well as all my instruments and teaching materials for each class. I am required by Let's Play Music to charge more to teach in a commercial location. I would have to raise my tuition rate well above the other Northern Colorado Let's Play Music teachers, which would not be effective in marketing my studio and maintaining my current students. I anticipate I would lose most if not all of my current student base due to the tuition increase. It would also involve applying for and obtaining a licensing addendum to teach in the new commercial location from Let's Play Music corporate offices. I would not be able to make a reasonable profit, after having to pay rent or lease a commercial location, and would have to close my studio.

Paul Hornbeck

From: Peggy Tremelling
Sent: Tuesday, March 10, 2015 10:19 AM
To: Paul Hornbeck
Subject: FW: @4630 Freehold dr

The complaining party for the above home occupation (which has just applied for the variance) is now sending in her complaint and photos. I will forward to you. Do you want me to notify the complainant that we have contacted the business owner and she has applied for a variance or do you want to? Just let me know. Thanks

Peggy Tremelling

Planning Technician
Town of Windsor | Planning
301 Walnut Street | Windsor, CO 80550
Dir: 970-674-2415

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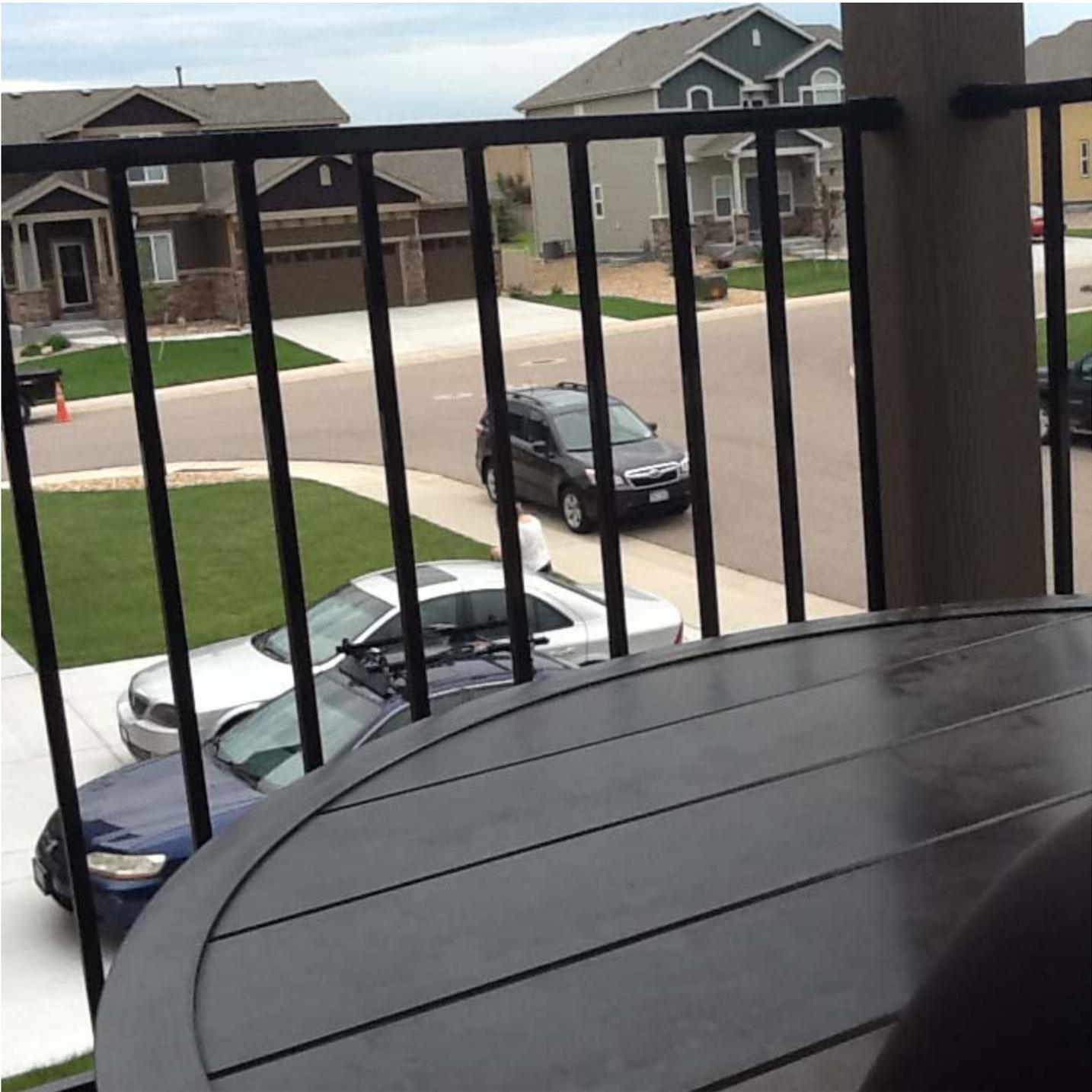
From: Linda.pretorius [<mailto:linda.pretorius11@gmail.com>]
Sent: Tuesday, March 10, 2015 9:56 AM
To: Peggy Tremelling
Subject: @4630 Freehold dr

Good morning Mrs. Tremelling,

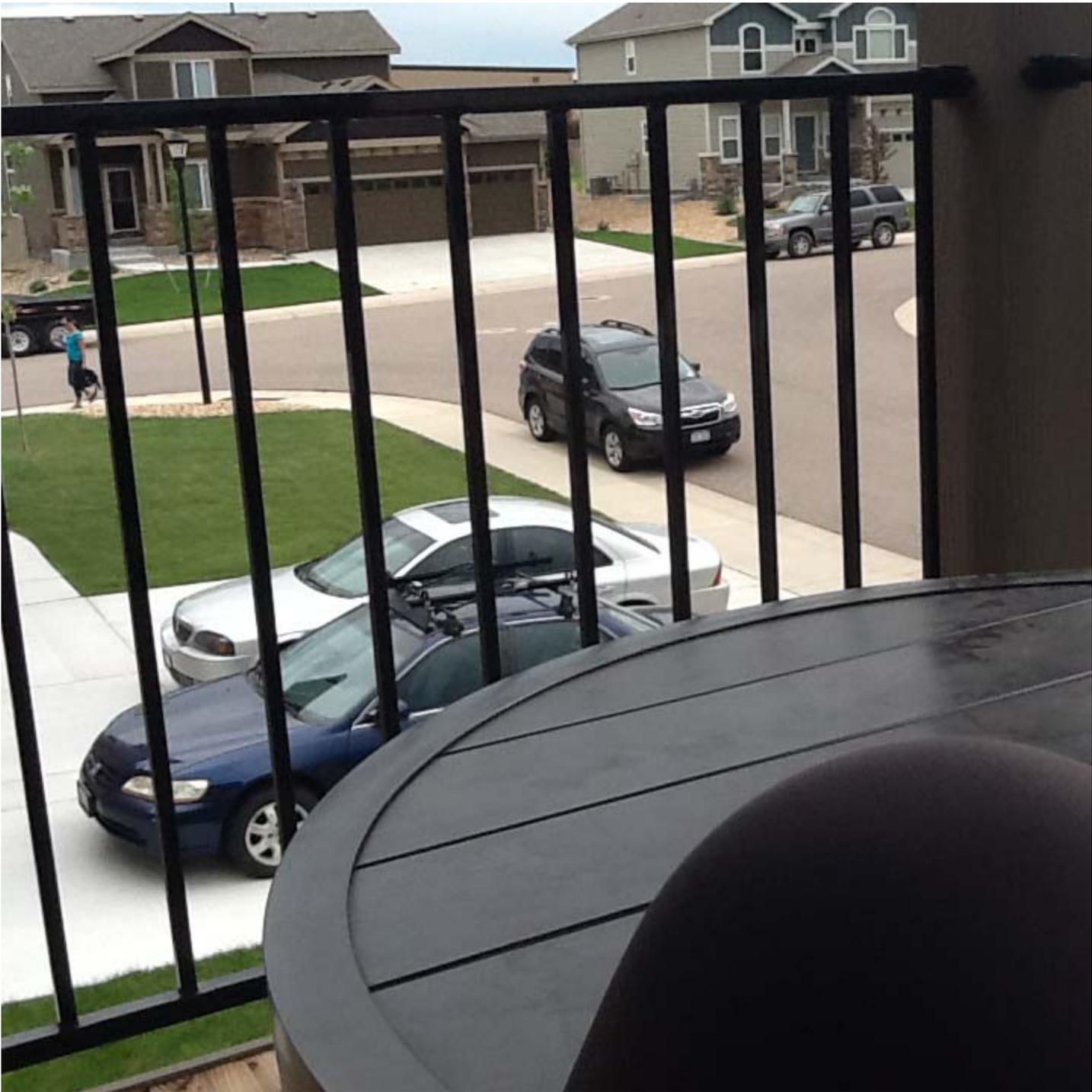
I spoke with you 3 weeks ago about a home-base business that my neighbor Richard and Robin Flores on 4630 FreeHold Dr. For the past 2 years this situation has added traffic on my street as the result of their business they also are advertising their business in a music stand and automobile. This is a nice neighborhood that I want to keep peaceful. I know the zoning laws are excellent in protecting my and others from the potential harm caused by occupations and business run at home that are incompatible with the peace and safety of this. I would like to ask for this situation to be dealt in the most peaceful way without compromising my safety and of my family. I will be sending you photos in different emails my computer doesn't allow me to attach them all together.

Thank you in advance,









Linda Pretorius

Paul Hornbeck

From: Peggy Tremelling
Sent: Tuesday, March 10, 2015 10:19 AM
To: Paul Hornbeck
Subject: FW: @4630 Freehold

#2

Peggy Tremelling
Planning Technician
Town of Windsor | Planning
301 Walnut Street | Windsor, CO 80550
Dir: 970-674-2415

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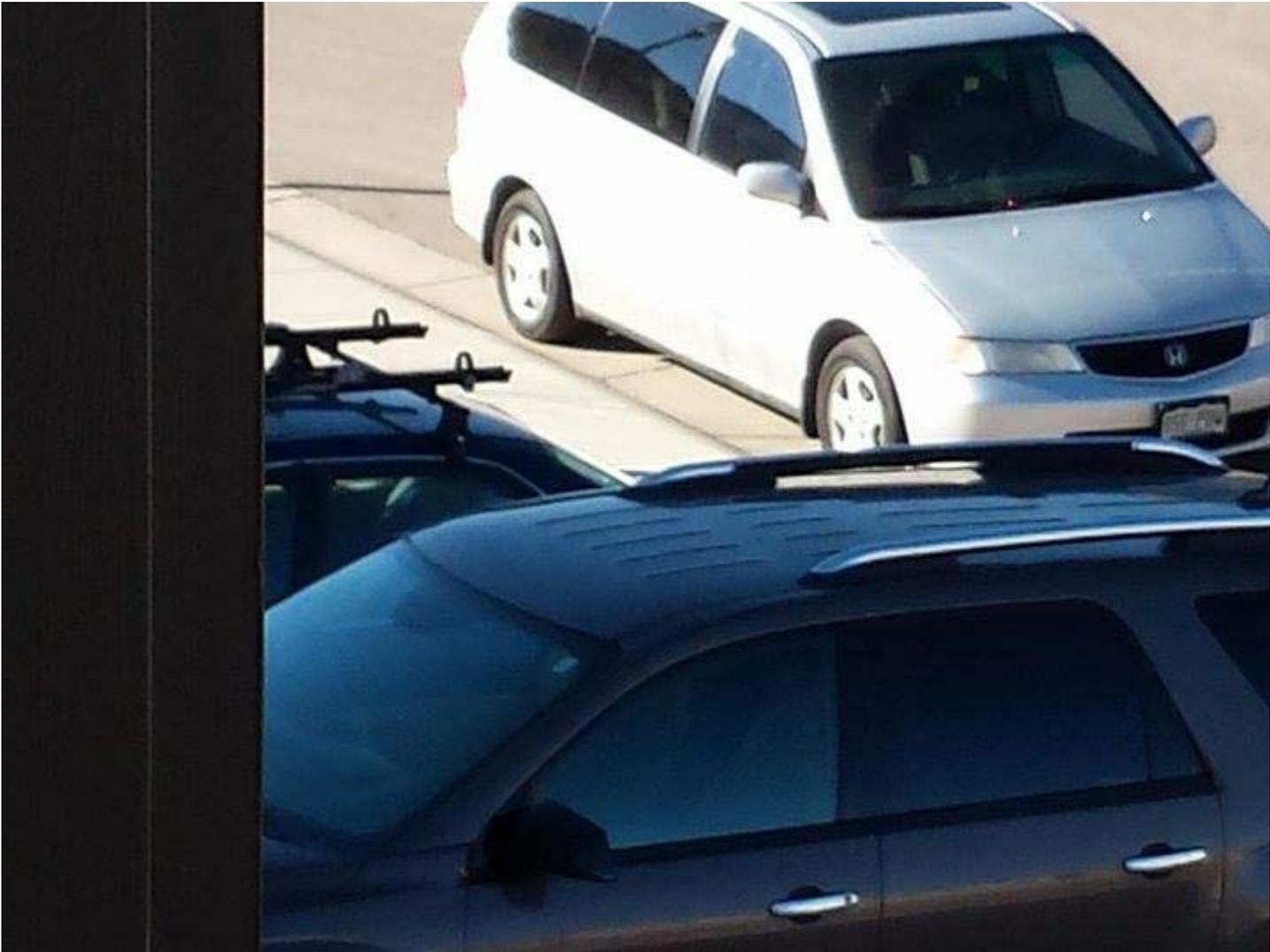
From: Linda.pretorius [<mailto:linda.pretorius11@gmail.com>]
Sent: Tuesday, March 10, 2015 9:58 AM
To: Peggy Tremelling
Subject: @4630 Freehold











Linda Pretorius

Paul Hornbeck

From: Peggy Tremelling
Sent: Tuesday, March 10, 2015 10:19 AM
To: Paul Hornbeck
Subject: FW: 4630 Freehold

#3

Peggy Tremelling
Planning Technician
Town of Windsor | Planning
301 Walnut Street | Windsor, CO 80550
Dir: 970-674-2415

Follow Us
www.windsorgov.com/socialmedia

From: Linda.pretorius [<mailto:linda.pretorius11@gmail.com>]
Sent: Tuesday, March 10, 2015 9:59 AM
To: Peggy Tremelling
Subject: 4630 Freehold











Linda Pretorius



VARIANCE
4630 FREEHOLD DRIVE
FOSSIL RIDGE SUBDIVISION, SECOND FILING
LOT 7, BLOCK 15

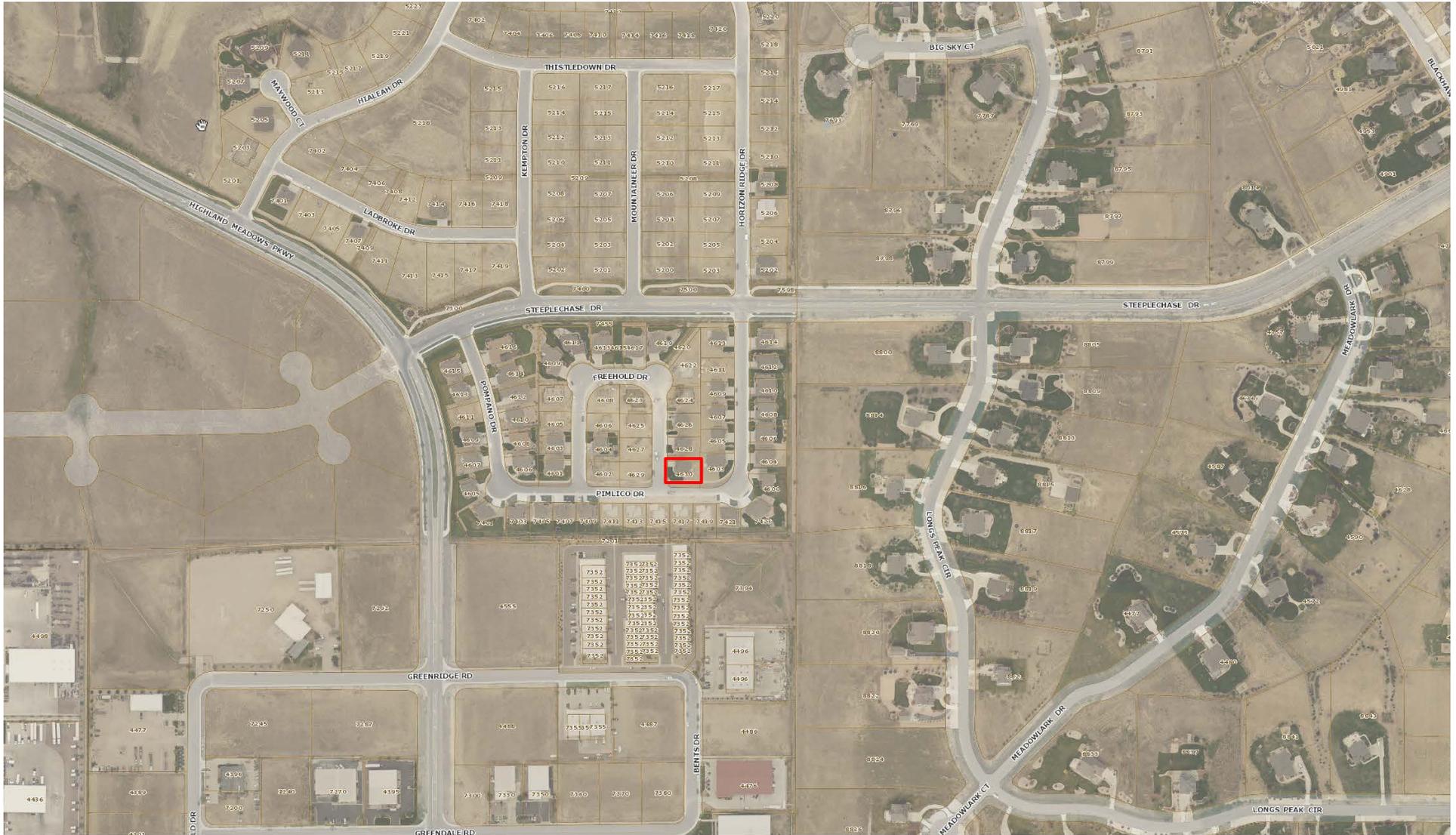
PAUL HORNBECK, ASSOCIATE PLANNER
MARCH 26, 2015

Board of Adjustment

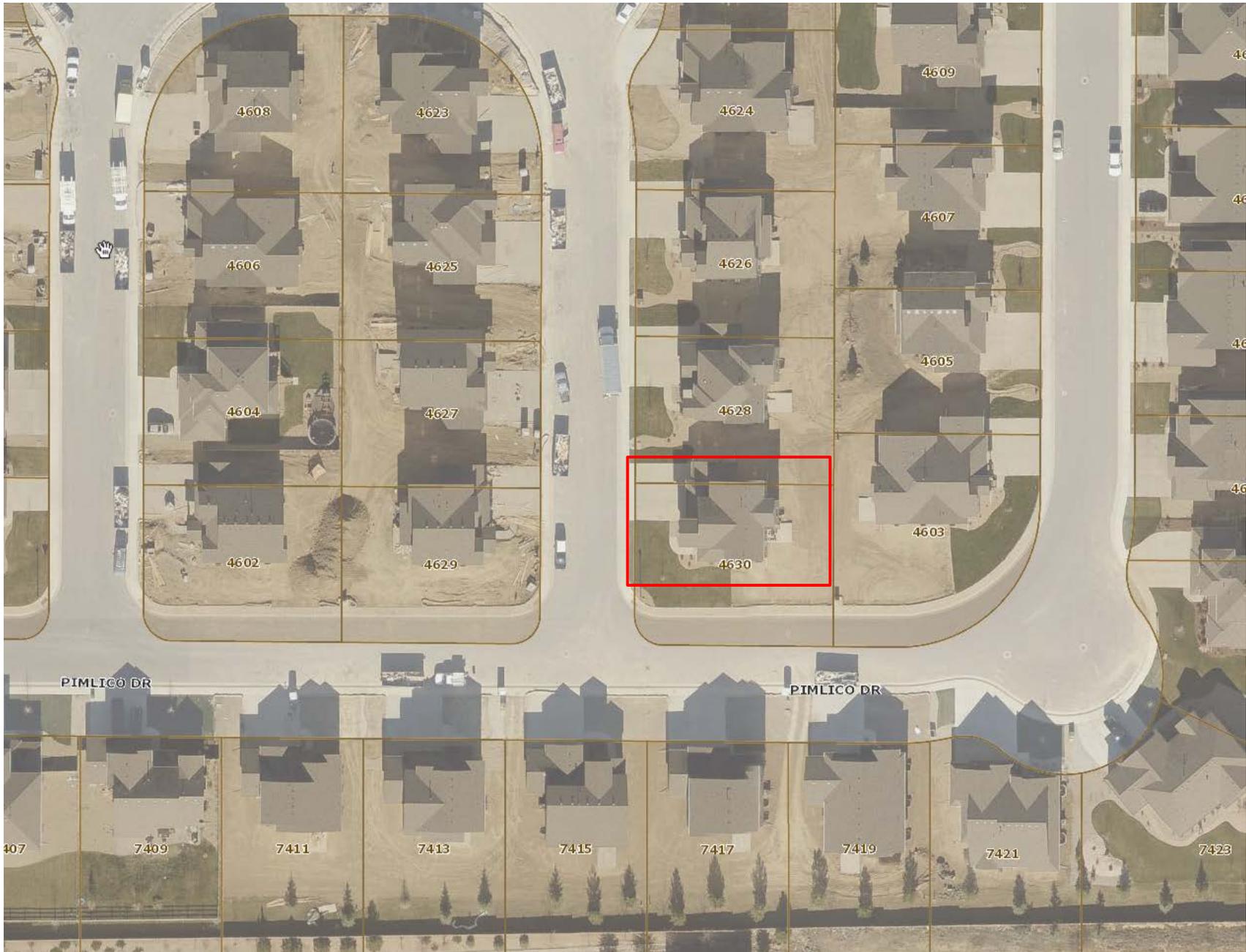
C.1



SITE VICINITY



AERIAL IMAGE





VARIANCE REQUEST

Municipal Code Section 16-10-20(1)i states the following:

In the event a home occupation involves tutoring or instruction, no more than two (2) students may be present at the dwelling unit at any one (1) time.

SITE IMAGES



SITE IMAGES



SITE IMAGES





RECOMMENDATION

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