



BOARD OF ADJUSTMENT/APPEALS
REGULAR MEETING
August 27, 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 16-14-260 pertaining to Building Location requirements in the Estate Residential (E-2) zone district, for the Property Located at 5874 Woodcliffe Drive
 - 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

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, September 3, 2015</u>	7:00 P.M.	Special Board of Adjustment Meeting*
<u>Thursday, September 24, 2015</u>	7:00 P.M.	Regular Board of Adjustment Meeting*
<u>Thursday, October 22, 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: August 27, 2015
To: Board of Adjustment
Via: Scott Ballstadt, AICP, Director of Planning
From: Paul Hornbeck, Associate Planner
Re: Public Hearing – Variance of Municipal Code Section 16-14-260 pertaining to Building Location requirements in the Estate Residential (E-2) zone district
Location: 5874 Woodcliffe Drive, Lot 2, Highpointe Estates Subdivision in the Town of Windsor
Item #: C.1

Background/Discussion:

The applicant, Mr. Ken Tarket of Kenrick Construction, LLC, is requesting a variance from Municipal Code Section 16-14-260 to allow a portion of the garage to protrude into the required setback. A construction error led to the corner of the garage being constructed with a setback of 19.8' rather than the required 20'. According to the applicant, the property line is 21" behind the sidewalk at the southwest corner but is 24" behind the sidewalk at the northwest corner and this discrepancy led to the error.

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 16-12-260 states the following:

For single-family detached dwelling units: minimum setback shall be twenty (20) feet; minimum offset shall be five (5) feet.

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 reduced setback still provides 20’ from the back of sidewalk to the garage face, allowing adequate room for parking
2. The curved lot line and its relationship to the sidewalk may have led to discrepancies in measurements

Therefore, based upon the aforementioned findings of fact, staff recommends approval of the variance request to allow a setback 19.8’, as shown on the site plan survey.

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 16-14-260
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 12, 2015 development sign posted on the subject property
August 13, 2015 public hearing notice placed on the Town of Windsor’s website
August 14, 2015 public hearing notice posted in the paper

Enclosures: Application Materials
Presentation Slides

Pc: Ken Tarket, applicant
Planning staff



APPLICATION FOR VARIANCE

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

TOWN OF WINDSOR
301 Walnut Street
WINDSOR, CO 80550

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

TO BE COMPLETED BY APPLICANT

A request is hereby made for a variance of the Town of Windsor ordinances due to special conditions where a literal enforcement of the ordinance would result in unnecessary hardship on the property located at:

Street Address*: 5874 Woodcliffe Dr.

Lot: 2 Block: N/A Subdivision: Highpointe Esttates

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

One corner of the front of the garage encroaches into the front 20' setback by 2"

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

It would be very costly to tear out and repour the foundation. Kenrick Construction's sub-contractor did their very best to conform. It took very sophisticated equipment to even find the 2" error.

SCALED DRAWINGS AND SPECIFICATIONS NECESSARY FOR THE PROPER CONSIDERATION OF THIS VARIANCE SHALL BE SUBMITTED WITH THIS APPLICATION. WITH NEW CONSTRUCTION PROJECTS YOU MUST CONTACT SAFEbuilt COLORADO, INC (970-686-7511) TO DETERMINE IF ANY SPECIAL REQUIREMENTS EXIST ACCORDING TO THE INTERNATIONAL BUILDING CODE.

I hereby depose and state under the penalties of perjury that all statement, proposals and plans submitted within this application are true and correct to the best of my knowledge.

Submitted this 3 day of August, 20 15

Ken Tarket - Kenrick Construction, LLC
Applicant (please print)

Applicant's Signature

6073 Woodcliffe Dr., Windsor, CO 80550

Mailing Address (street, city, state, zip)
(970) 460-0381 970-460-0381

Telephone Number (during the day)

Fax Number: (970) 460-0382

Email: KTarket@aol.com

Applicant's Representative (if any):

Name: KEN TARKET

Address: SAME

Telephone: 970-566-5332 Fax:

Email: SAME

Kenrick Construction, LLC
Property Owner* (please print)

Property Owner's Signature*

Same

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

Telephone Number* (during the day)

Fax Number: SAME

Email*: same

* indicates required fields
Revised 03/13/2014



VARIANCE REQUEST
5874 WOODCLIFFE DRIVE
HIGHPOINTE ESTATES SUBDIVISION
LOTS 2
Paul Hornbeck, Associate Planner
August 27, 2015

Board of Adjustment

Item C.1



VARIANCE REQUEST

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

Variance request from Section 16-14-260:

For single-family detached dwelling units: minimum setback shall be twenty (20) feet; minimum offset shall be five (5) feet.

SITE VICINITY MAP



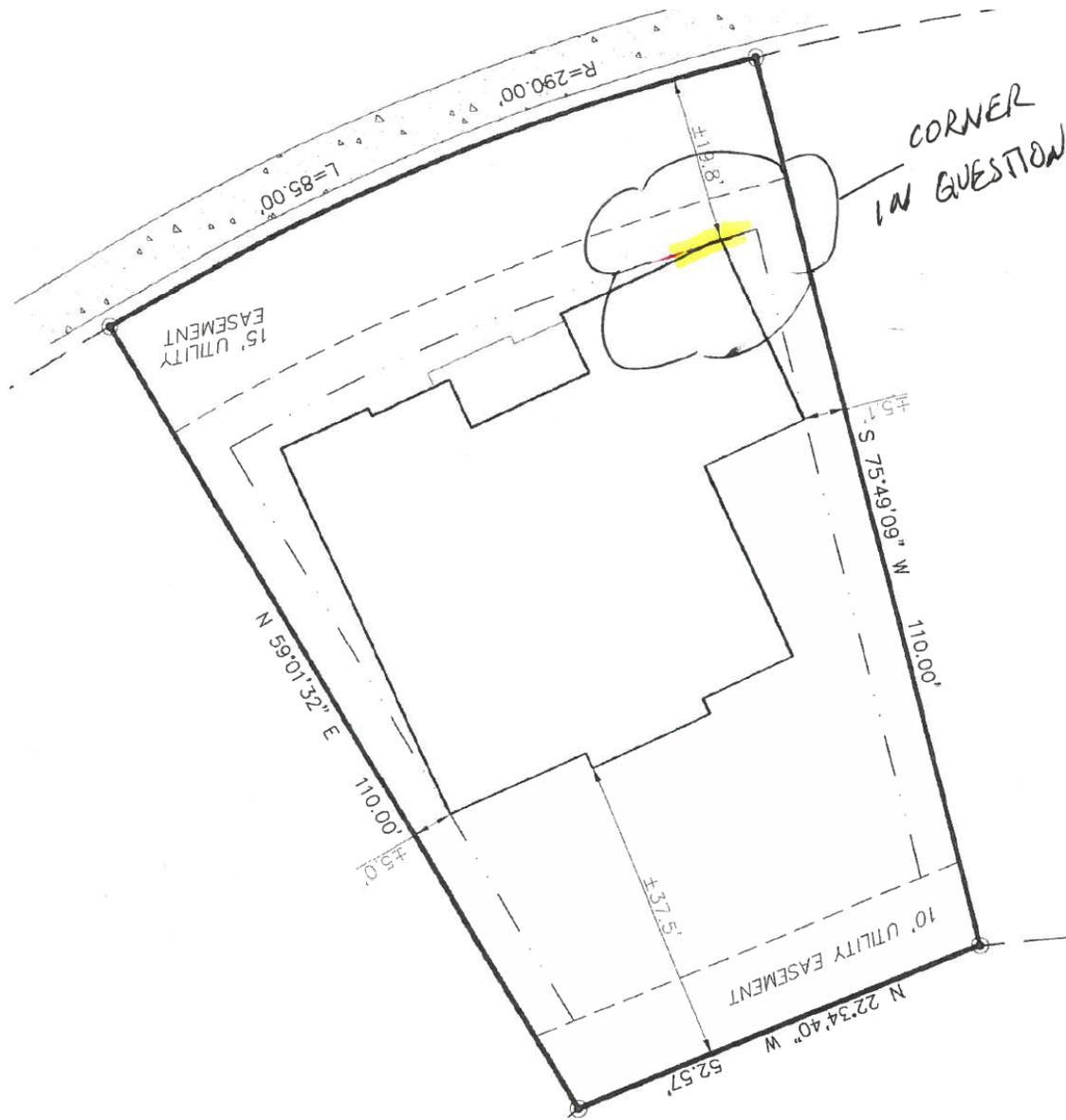
Site Location

SITE PROXIMITY ZONING MAP



Site Location

SITE PLAN SURVEY



RECOMMENDATION

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 reduced setback still provides 20' from the back of sidewalk to the garage face, allowing adequate room for parking
2. The curved lot line and its relationship to the sidewalk may have led to discrepancies in measurements