



BOARD OF ADJUSTMENT/APPEALS REGULAR MEETING

March 26, 2015 – 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.

MINUTES

A. CALL TO ORDER

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

1. **Roll Call**

The following members were present:

Chairman Danny Horner
Cindy Scheuerman
Jim McIntyre
Ken Gerlach
Jose Valdes

Absent:

Benjamin George

Also present:

Associate Planner
Interim Director of Planning
Safebuilt Building Official
Permit Technician

Paul Hornbeck
Scott Ballstadt
Russ Weber
Robin Volner

2. 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.

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.

4. Public invitation to be heard

Chairman Horner opened the meeting for public comment to which there was none.

B. CONSENT CALENDAR

1. Approval of the minutes of January 22, 2015

Ms. Scheuerman motioned to approve the February 26, 2015 meeting minutes; Mr. McIntyre seconded the motion. Motion carried unanimously.

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

Dr. Valdes motioned to open the Public Hearing; Mr. McIntyre seconded the motion. Motion carried unanimously.

Robin Flores, applicant/owner stated her business, teaching small group piano and music classes, involves teaching more than 2 students at a time. Most of the 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. Ms. Flores gave a complete history of this program and why it is so important to teach these classes in small groups. Ms. Flores presented pictures of the area and street. She indicated that if she is only allowed to teach 2 students at a time the traffic would be worse because there would be more classes during the day and more days a week that classes would be held. More classes would mean more traffic.

Public Comments: No public comment

Associate Planner Paul Hornbeck stated the applicant is requesting a variance from 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. The subject property is located at 4630 Freehold Dr. Windsor, CO 80550. 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. The Municipal Code 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.

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 has 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.

Dr. Valdes asked staff when was this ordinance created and under what circumstances were they created for two or less?

Mr. Hornbeck stated he didn't have the history for when and why but it isn't unusual for a limit to be put in place.

Mr. McIntyre asked the rational for limiting the number of students.

Mr. Hornbeck stated for this exact reason, the traffic impact.

Dr. Valdes stated you suggested if the board approved this request that parking would need to be addressed. Does the staff have a recommendation for parking?

Mr. Hornbeck stated staff recommends denial.

Chairman Horner ask for a motion to close the Public Hearing

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

Chairman Horner ask for a motion on the variance and a second

Ms. Scheuerman moved to approve the variance for a temporary period of (9) nine months; Mr. Gerlach seconded the motion.

Motion was approved.

D. COMMUNICATIONS

1. Communications from the Board Members
None
2. Communications from staff
Discussion on setback certifications
3. Communications from the Town Attorney
None

E. ADJOURN

Mr. McIntyre motioned to adjourn; Ms Scheuerman seconded the motion. Motion carried unanimously.

The meeting was adjourned at 7:50 p.m.

Robin L Volner, Permit Technician