



BOARD OF ADJUSTMENT/APPEALS

REGULAR MEETING

October 27, 2016 - 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

1. Approval of the minutes of September 22, 2016

C. BOARD ACTION

1. Public Hearing – Variance of Municipal Code Section 16-12-40 pertaining to building location requirements in the Single Family (SF-1) zone district– 202 Walnut Street – John Crescibene, Applicant
 - Staff presentation: Paul Hornbeck, Senior 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 16-24-40 pertaining to building location requirements in the Residential Mixed Use (RMU) zone district– 636 Park Edge Circle – J&J Construction of Northern Colorado, owner/Morgan

Kidder, applicant

- Staff presentation: Paul Hornbeck, Senior 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

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, December 1, 2016</u> | 7:00 P.M. | Special Board of Adjustment Meeting* |
| <u>Thursday, January 26, 2017</u> | 7:00 P.M. | Regular Board of Adjustment Meeting* |
| <u>Thursday, February 23, 2017</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.



BOARD OF APPEALS/ADJUSTMENTS REGULAR MEETING

September 22, 2016 – 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.

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
Jose Valdes
Rick Bowers
David White

Not present:

David Sislowski
Benjamin George
Cindy Scheuerman

Also present:

Senior Planner

Paul Hornbeck

Customer Service Supervisor Jessica Scheopner

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.

B. CONSENT CALENDAR

1. Approval of the minutes of the August 25, 2016 meeting

**Dr. Valdes moved to approve the minutes of the August 25, 2016 meeting;
Mr. White seconded the motion. Motion carried unanimously.**

C. BOARD ACTION

1. Public Hearing— Variance of Municipal Code Section 16-12-40 pertaining to building location requirements, minimum offset requirements for a proposed

residential addition, in the Single Family (SF-1) zone district—318 Elm Street—
applicants Chadd and Jennifer Bryant

- Staff presentation: Paul Hornbeck, Senior Planner

Dr. Valdes moved to open the Public Hearing; Mr. Bowers seconded the motion. Motion carried unanimously.

The applicants, Chadd and Jennifer Bryant at 318 Elm Street, explained that they want to put an addition on the home. The addition is to have additional room for the 2-3 children they are adopting. They plan to add two stories to the front of the home. They have tried to configure the plan the best they could to stay within the setback, however, in order to build the stairs correctly the addition would be inside the setback. The plan provided in the application shows the addition would be one (1) foot inside the five (5) foot setback. Furthermore, the addition would be within the required five (5) foot setback however, the orientation of the home does not sit straight within the property lines. Moving south from the corner of the home the line tapers closer to the westerly property line.

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

Mr. Horner requested the staff to present their report and recommendations.

Senior Planner Paul Hornbeck stated the applicant and property owners, Mr. Chadd Bryant and Mrs. Jennifer Bryant, are requesting a variance from Municipal Code Section 16-12-40, which states the following:

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

Municipal Code Section 16-6-60(Variations) states the following:

Variations may be considered where, due to special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship. Variations 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 Municipal Code defines unnecessary hardship as follows, with staff analysis listed below:

- a) A situation where the property cannot be reasonably used under the conditions allowed by this Code.

Analysis: Since no variance pertaining to the use of the property is proposed, this criteria is not applicable.

- b) The situation shall result from circumstances unique to the property and shall not be created by the landowner.

Analysis: The property was platted and built upon prior to adoption of zoning codes in Windsor and the house was built with a 14-inch offset from the side property line in question. The building is also oriented in a manner that is not parallel with the property lines.

- c) The variance, if granted, will not alter the essential character of the surrounding neighborhood.

Analysis: The nature of this area of Windsor is that many buildings were constructed closer to the property lines than current offsets allow. The variance would allow the four-square architecture to be maintained on the historic home.

- d) Economic considerations alone shall not constitute an unnecessary hardship if a reasonable use for the property exists under the provisions of this Code.

Analysis: Economic hardship alone has not been stated as a reason for the variance.

Staff considers that the literal enforcement of the Code will result in an unnecessary hardship, as defined by the Municipal Code and outlined above, and therefore is recommending approval of the variance request with the following condition.

1. Construction shall comply with building code requirements regarding fire resistive materials.

Furthermore, staff recommends the following findings of fact:

1. The home was built in 1914, prior to zoning in Windsor.
2. The home currently sits 14" from the property line.
3. The home is oriented so that it is not parallel to the property.
4. Approving the variance will help maintain the four-square architecture on the historic home.

Mr. Hornbeck requested an email of support from the adjoining property owner be entered into the record.

Mr. Horner asked if there were any questions of staff or the applicant at this time.

Dr. Valdes inquired who will be checking on the compliance of the use of proper materials during construction.

Mr. Hornbeck replied Safe Built has a contract with the Town to perform building inspections. They will be ones who will ensure compliance.

Dr. Valdes inquired if the point of connection between the new addition and the old house will it be an issue.

Mr. Hornbeck replied that the issue described will be considered under the building code and will be dealt with at the inspection.

Dr. Valdes asked if the applicant is aware of the requirement.

Mrs. Bryant responded yes, they are aware.

Mr. Horner asked for a motion to close the Public Hearing.

Dr. Valdes moved to close the Public Hearing; Mr. Bowers seconded the motion. Motion carried unanimously.

Mr. Horner asked for a motion on the variance.

Dr. Valdes moved to approve the variance request as presented; Mr. White seconded the motion.

Mr. Horner opened the meeting for discussion by the Board.

There was none.

Roll call vote was taken on the motion.

Mr. Horner voted yes.

Mr. White voted yes.

Mr. Bowers voted yes.

Dr. Valdes voted no.

Vote was unanimous for the approval of the variance.

D. COMMUNICATIONS

1. Communications from the Board Members
None
2. Communications from staff
Mr. Hornbeck explained there will be an item on the agenda for the next month's meeting.

E. ADJOURN

Dr. Valdes moved to adjourn; Mr. White seconded the motion. Motion carried unanimously.

The meeting was adjourned at 7:17 p.m.

Jessica Scheopner, Customer Service Supervisor



MEMORANDUM

Date: October 27, 2016
To: Board of Adjustment
Via: Scott Ballstadt, AICP, Director of Planning
From: Paul Hornbeck, Senior Planner
Re: Section 16-12-40 pertaining to building location requirements, for a proposed residential addition, in the Single Family (SF-1) zone district
Location: 202 Walnut Street, Lot 7, Block 12, Town of Windsor Subdivision
Item #: C.1

Background/Discussion:

The applicant, Mr. John Crescibene, is requesting a variance from Municipal Code Section 16-12-40, which states the following:

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

This variance request is in order to allow construction of a an enclosed porch to the front of the existing single family home with a one (1) foot side offset on the east side of the house, rather than the required five (5) feet, and a seventeen (17) foot front setback, rather than the required twenty (20) feet. According to the Weld County Assessor, the building was constructed in 1936. The property dimensions are 25 feet wide by 190 feet deep.

Analysis:

Municipal Code Section 16-6-60(Variances) states the following:

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.

Section 16-6-60 defines unnecessary hardship as follows:

For the purposes of this Article, unnecessary hardship shall be defined 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.

In this case, a number of circumstances unique to the property exist: the property was platted and built upon prior to adoption of zoning codes in Windsor, the lot is abnormally narrow at fifteen (15) feet wide, and the house was built with a side offset of twelve (12) to eighteen (18) inches on the side property line in question. The variance request is consistent with the

character of the neighborhood, in which many buildings are located closer to property lines than current setbacks and offsets allow. Most houses on this block appear to encroach into the front setback and therefore a front setback of seventeen (17) feet would be similar to the character of the surrounding neighborhood.

Comments:

The application materials were submitted to the Development Review Committee for their review. The following comments were received from Safebuilt, the Town's contract building plans review agency:

All construction located closer than 5 feet from a property line shall be protected with an approved 1-Hour fire rated assembly. Eaves shall also be protected on the underside with 1-Hour fire resistive material.

A letter of support was also received by the immediately adjacent neighbor who would be most impacted by the side offset variance.

Recommendation:

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

1. The home was built in 1936, prior to zoning in Windsor
2. The home currently sits 12"-18" from the side property line
3. A 17' front setback is similar to other houses on the block
4. A letter of support was received by the immediately adjacent neighbor who would be most impacted by the side offset variance.

Staff recommends approval of the variance subject to the following condition:

1. Construction shall comply with building code requirements regarding fire resistive material.

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 as presented by staff;
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:

October 3, 2016 development sign posted on the subject property

October 7 2016 public hearing notice placed on the Town of Windsor's website

October 7, 2016 public hearing notice posted in the paper

Enclosures: Application Materials
Presentation Slides

pc: John Crescibene, Applicant



VARIANCE APPLICATION

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

Please review Sec. 16-6-60, 16-6-70 and 16-6-80 of Chapter 16 of the [Town of Windsor Municipal Code](#) for variance requirements and procedures.

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.

Property Address*: 202 Walnut St. Windsor Colorado

Lot: 7 **Block:** 12 **Subdivision:** Town of Windsor

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

Our home is 25 ft from the Town of Windsor right of way. We would like to build a porch that would be the width of the home and towards the front by 8 ft. The ordinance is for building no closer than 20 ft. Our home was built in 1936 and setbacks did not seem to be a concern then. The side setback is also deemed to be 5 ft from the lot line. Our home as well as others on our street is 1 ft from the east lot line. We would like to extend the porch to the width of the home. 206 Walnut (next door) is approximately 17 ft from the setback as well as others. Our home would match the extension of our neighbor and others and would not stand out.

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

We are going to retire in this home. We are remodeling the entire home. It is extremely small and the porch is truly necessary for us to have an area that we can escape to. We plan to enclose it to be a 3 season room as we will be gone for 3 to 4 months in the winter. The home is 19 ft wide and if we can not get the variance for the side and the depth, the porch will only be 15 ft wide and 5 ft deep. If the variance is allowed, then the porch will be 19 ft wide and 8 ft deep. This will allow us to put furniture in the room and have some quality of life and make it truly usable. As stated previously, the addition will not stand out as other homes in the area have similar conditions.

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. to determine if any special requirements exist according to the International Building Code.

2 **OWNER:**

Name(s)*: John and Margaret Crescibene

Address*: 202 Walnut St. Windsor Co.

Phone #*: (970) 217-5218 **Email*:** jilljohn6339@msn.com

APPLICANT or REPRESENTATIVE:

Name*: John Crescibene

Address*: 202 Walnut Street

Phone #*: (970) 217-5218 **Email*:** jilljohn6339@msn.com

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

Signature:  **Date:** 8/4/16
(Proof of owner's authorization is required with submittal if signed by Applicant)

Print Name: John Crescibene

Submitted On: _____

*Required fields

(Please email completed application and materials to planningtechs@windsorgov.com)

Revised 8/1/2016

New Reply Delete Archive Junk Sweep Move to Categories



(No Subject)



john 9:39 PM Photo
To: Johncsremodel@msn.com

1 attachment (2.6 MB)



View slide show (1) Download as zip

Sent from my Verizon, Samsung Galaxy sm



New Reply Delete Archive Junk Sweep Move to Categories



(No Subject)



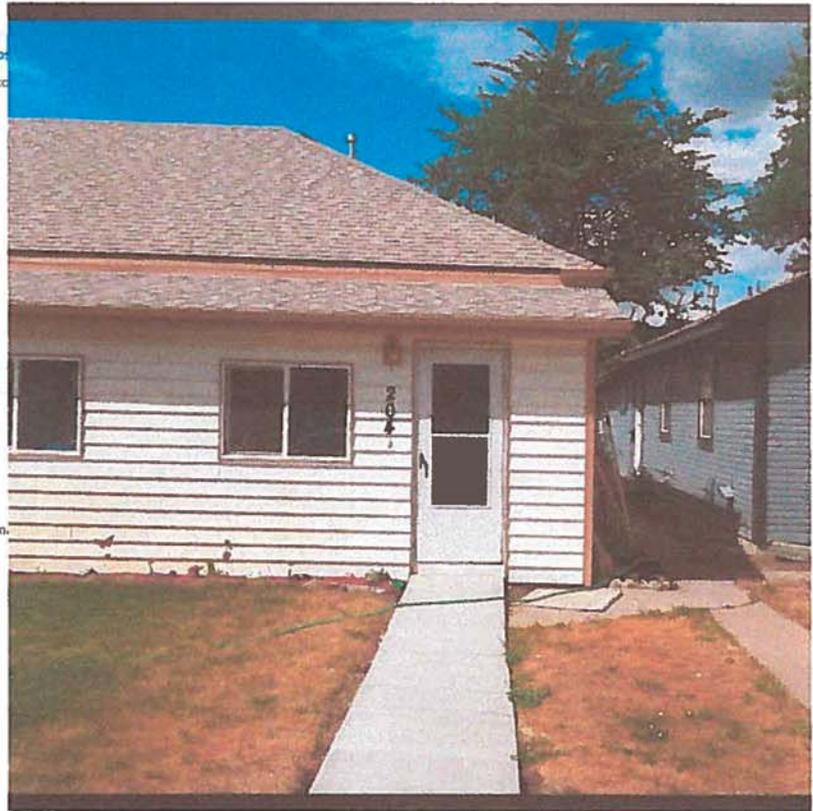
john 9:38 PM Photo
To: Johncsremodel@msn.com

1 attachment (3.4 MB)



[View slide show \(1\)](#) [Download as zip](#)

Sent from my Verizon, Samsung Galaxy sm



Porch for 202 Walnut Street, Windsor Co.

To: Whomever this concerns

From: Arlyn and Cindy

Wadel

We live at 200 Walnut St. in Windsor Co. Our neighbors to the west at 202 Walnut St. would like to put a porch onto the front of their home. Because of the difficulty incurred Due to the original setbacks, the present code calls for any new project to be 5 ft. from the property line. We have no objections to their adding onto their home and have it match the original envelope of the home. This puts the addition 1 ft from the original property line, but would present a very nice profile for the home. It would match most of the homes on Walnut St. Walnut St. would benefit from such a project. We also have no objections to the addition going out toward the street to match the home to the west and others on Walnut Street.

Thank you

Arlyn and Cindy

Arlyn

Cindy Wadel

Variance Request

202 Walnut Street

Lot 7, Block 12
Town of Windsor Subdivision

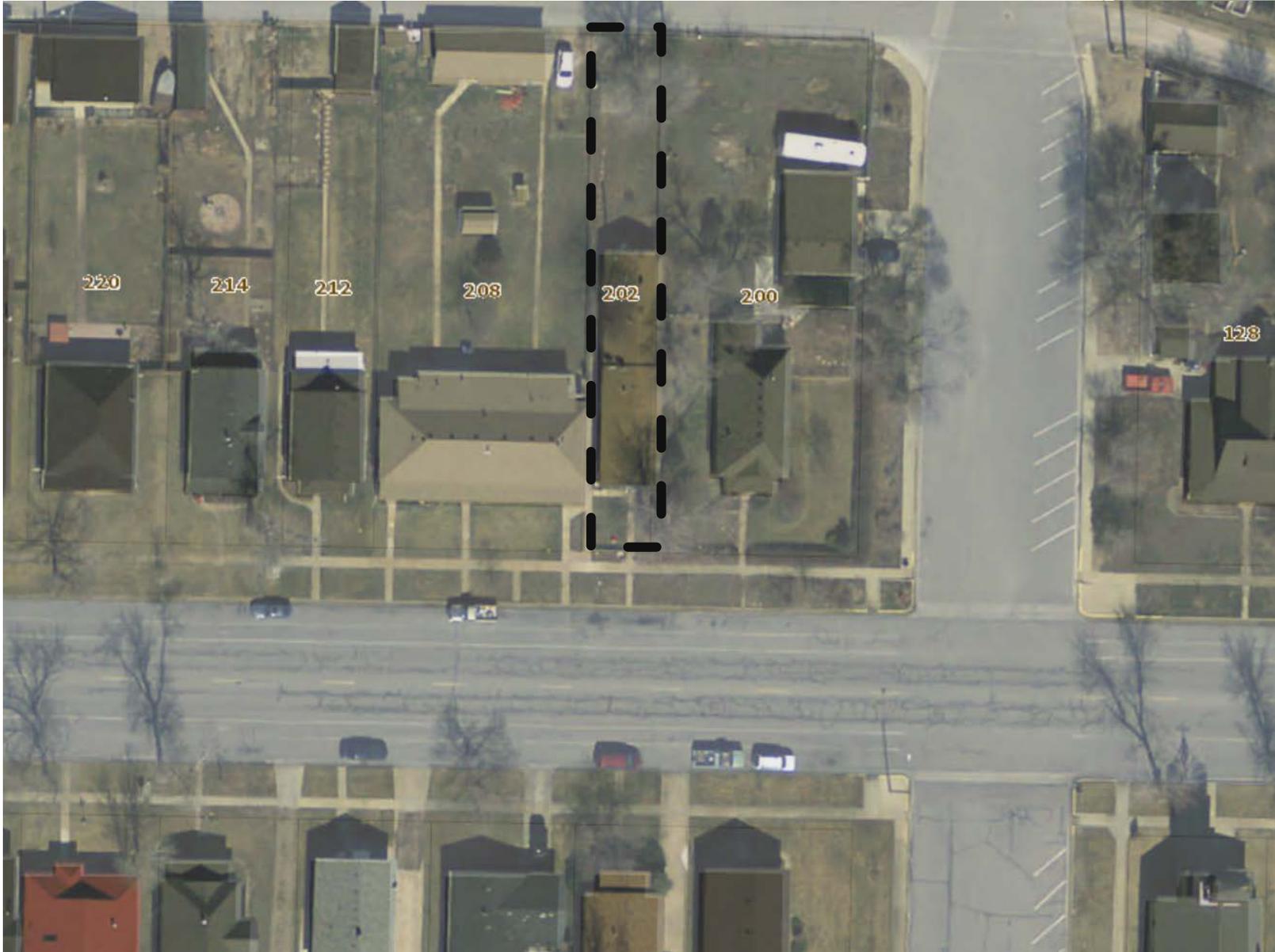
Paul Hornbeck, Senior Planner

October 27, 2016

Variance Request

- ▶ Variance request from Section 16-12-40:
*Minimum setback shall be twenty (20) feet.
Minimum offset shall be five (5) feet.*

Site Vicinity Map

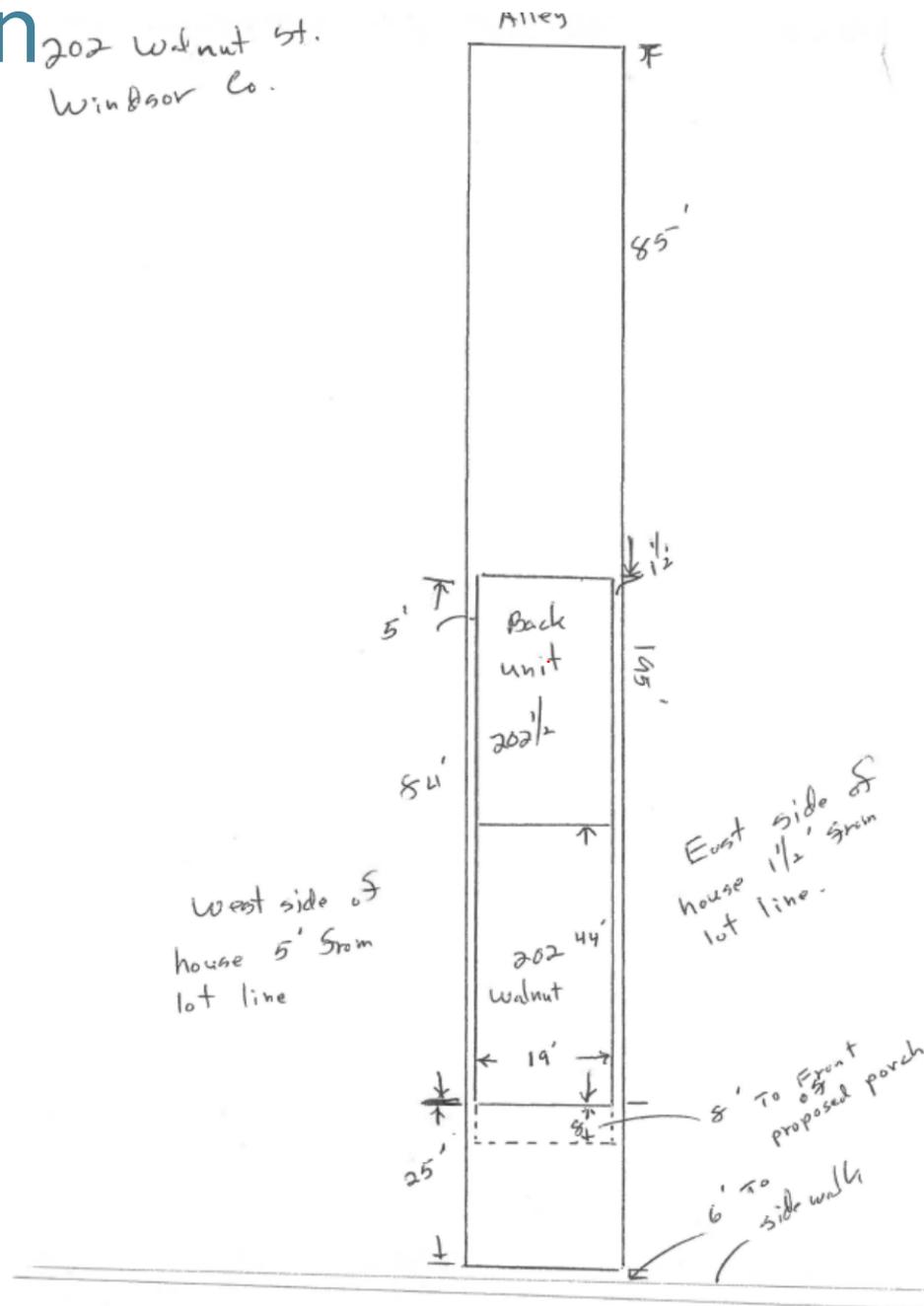


Site Proximity Zoning Map

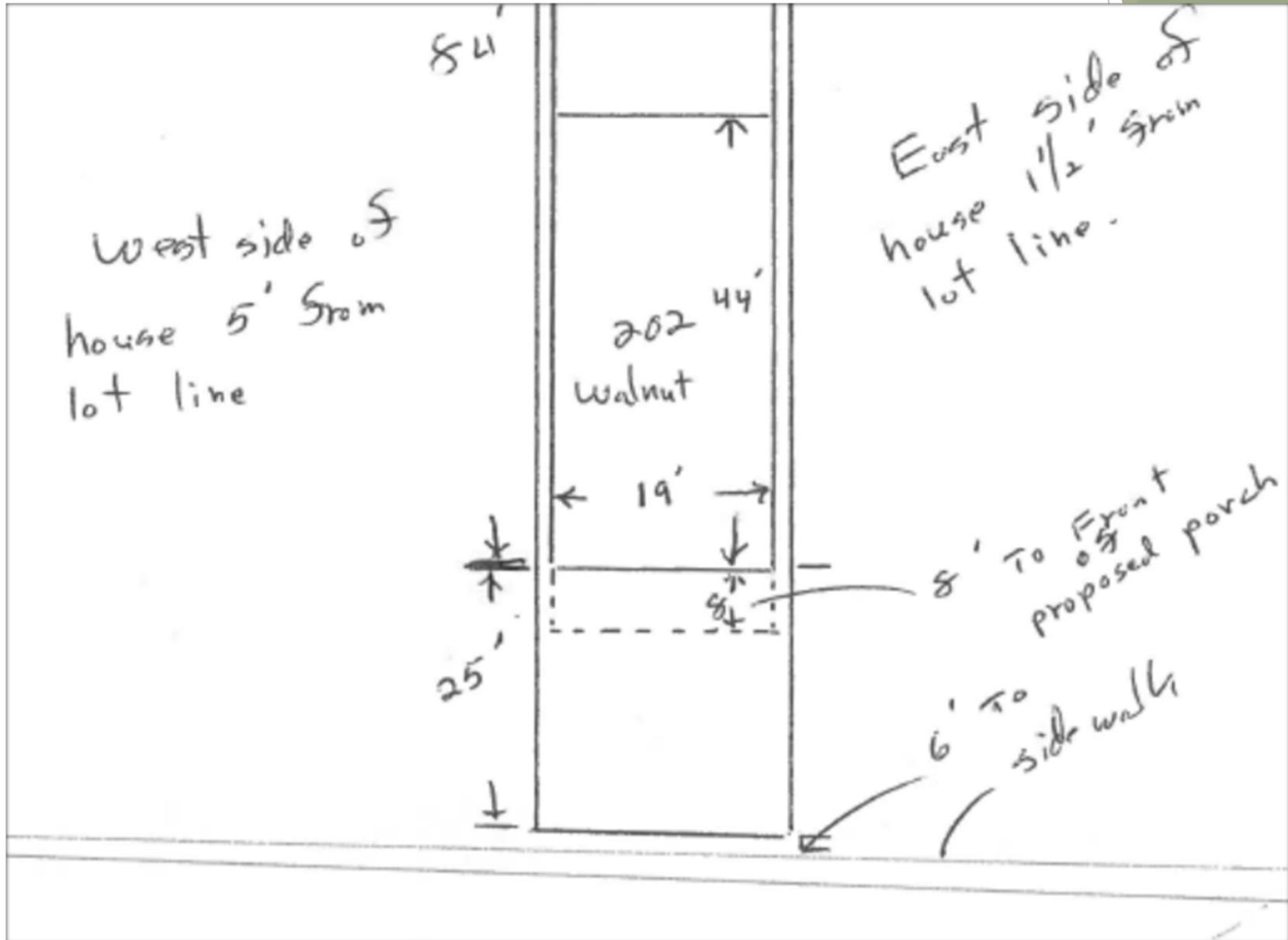


Plot Plan

202 Walnut St.
Windsor Co.



Plot Plan (enlarged)



Site Images



Site Images



Site Images



Site Images



Analysis

Municipal Code Section 16-6-60(Variances) states the following:

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.

Analysis (cont.)

- ▶ Section 16-6-60 defines unnecessary hardship as follows:

For the purposes of this Article, unnecessary hardship shall be defined 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.

Analysis (cont.)

- ▶ In this case, a number of circumstances unique to the property exist:
 - ▶ The property was platted and built upon prior to adoption of zoning codes in Windsor;
 - ▶ The lot is abnormally narrow at fifteen (15) feet wide; and
 - ▶ The house was built with a side offset of twelve (12) to eighteen (18) inches on the side property line in question.
- ▶ The variance request is consistent with the character of the neighborhood, in which many buildings are located closer to property lines than current setbacks and offsets allow.
- ▶ Most houses on this block appear to encroach into the front setback and therefore a front setback of seventeen (17) feet would be similar to the character of the surrounding neighborhood.

Recommendation

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

1. The home was built in 1936, prior to zoning in Windsor
2. The home currently sits 12"-18" from the side property line
3. A 17' front setback is similar to other houses on the block
4. A letter of support was received by the immediately adjacent neighbor who would be most impacted by the side offset variance.

Staff recommends approval of the variance subject to the following condition:

1. Construction shall comply with building code requirements regarding fire resistive material.

Variance Request

Staff requests that the following be entered into the record:

- Application and supplemental materials
- Staff memorandum and supporting documents
- All testimony presented during the Public Hearing
- Recommendation



MEMORANDUM

Date: October 27, 2016
To: Board of Adjustment
Via: Scott Ballstadt, AICP, Director of Planning
From: Paul Hornbeck, Senior Planner
Re: Section 16-24-40 pertaining to building location requirements, minimum offset requirements for a proposed residential addition, in the Residential Mixed Use (RMU) zone district
Location: 636 Park Edge Circle, Lot 4, Block 17, Village East Subdivision
Item #: C.2

Background/Discussion:

The applicant, J&J Construction of Northern Colorado, represented by Mr. Morgan Kidder, is requesting a side offset variance for the property at 636 Park Edge Circle, which is zoned Residential Mixed Use (RMU). The variance has been requested from Municipal Code Section 16-24-40, which states, in part:

Residential uses. All residential uses shall meet all of the density, setback and offset requirements set forth in this Code for each respective type of dwelling unit

In this case, as a single family dwelling, the Single Family Residential (SF-1) zone district offsets apply, which are stated in Section 16-12-40:

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

This request is for a side offset of four feet-nine and one-half inches (4'-9½") rather than the required five (5) feet for a newly constructed house that was built in error within the offset.

Analysis:

Municipal Code Section 16-6-60(Variances) states the following:

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.

Section 16-6-60 defines unnecessary hardship as follows:

For the purposes of this Article, unnecessary hardship shall be defined 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.

In this case, the front property line is curved and contains multiple property pins, presenting circumstances unique to the property. The applicant has stated that measurements were taken from the incorrect pin, leading to the encroachment into the offset. The 2½” encroachment into the offset would not alter the essential character of the surrounding neighborhood.

Comments:

The application materials were submitted to the Development Review Committee for their review. The following comments were received from Safebuilt, the Town’s contract building plans review agency:

Exterior wall located less than 5 feet from a property line shall have a fire resistive rating of 1-Hour. An approved GA or UL assembly tested in accordance with ASTM E 119 or UL 263 with exposure from both sides is required.

Recommendation:

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

1. The front property line is curved and contains multiple property pins; and
2. Measurements were taken off the wrong property pin, leading to the offset encroachment.

Staff recommends approval of the variance subject to the following condition:

1. Construction shall comply with building code requirements regarding fire resistive material.

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 16-24-40 as presented by staff;
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:

October 14, 2016 development sign posted on the subject property
October 14 2016 public hearing notice placed on the Town of Windsor’s website
October 7, 2016 public hearing notice posted in the paper

Enclosures: Application Materials
Presentation Slides

pc: Morgan Kidder, Applicant’s Representative



VARIANCE APPLICATION

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

1

- Please review Sec. 16-6-60, 16-6-70 and 16-6-80 of Chapter 16 of the [Town of Windsor Municipal Code](#) for variance requirements and procedures.
- Variance requests are considered by the Board of Adjustment, which meets at 7 p.m. on the fourth Thursday of every month.
- Prior to submitting an application, a pre-application meeting with Planning Department staff is required. In order for an item to be placed on a given month's agenda, a complete application and fee must be received no later than the 1st day of that month. Incomplete applications will not be scheduled for consideration.
- Scaled drawings necessary for the proper consideration of this variance shall be submitted with this application. With new construction projects, building additions or remodels, you must contact SAFEbuilt Colorado, Inc. (970-686-7511) to determine compliance with applicable building codes.

2

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.

Property Address*: 636 Park Edge Circle

Lot: 4 **Block:** 17 **Subdivision:** Village East Subdivision

A variance is being requested from the following Municipal Code section(s)*:

16-12-40. - Building Location

3

OWNER:

Name(s)*: J&J Construction of Northern Colorado, Larry S. Buckendorf, Authorized Agent

Address*: 7251 W. 20th Street, L-200, Greeley, CO 80634

Phone #*: (970) 352-7072 Email*: Larry@journeyhomes.com

APPLICANT or REPRESENTATIVE:

Name*: Morgan Kidder, Project Manager

Address*: 7251 W. 20th Street, L-101B, Greeley, CO 80634

Phone #*: (970) 397-9882 Email*: Morgan@crow-creek.com

4

Municipal Code Section 16-6-60(b) states, in part:

Variations may be considered where, due to special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship.

Unnecessary hardship is defined by the Municipal Code as enumerated in items 1-4 below. Please describe how each item is met in the space provided. Applications will be deemed complete once *all* criteria have been addressed. You may attach additional sheets if necessary.

1. A situation where the property cannot be reasonably used under the conditions allowed by this Code*.

The unique shape of the lot caused the foundation of the home to be built approximately 2.4" at the front of the garage and 1.2" at the rear of the garage into the 5' side yard setback.

2. **The situation shall result from circumstances unique to the property and shall not be created by the landowner***. *Note: landowner also means any contractor or agent acting on behalf of the landowner.*

There are multiple points on the front lot line for the curve of the front lot line. An incorrect pin was used as the property pin.

3. **The variance, if granted, will not alter the essential character of the surrounding neighborhood***.

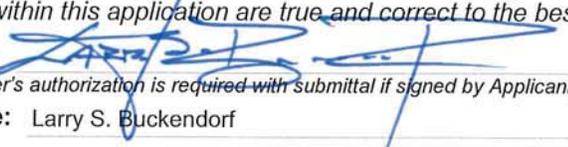
The minor variation of the sideyard setback will not be detrimental to the essential character of the surrounding neighborhood. This minor variation is not noticeable by the human eye when viewing the property from the street. The setback encroachment is only on the garage side.

4. **Economic considerations alone shall not constitute an unnecessary hardship if a reasonable use for the property exists under the provisions of this Code***.

The home has been fully completed and is pending a Certificate of Occupancy. Correction of the setback would require the garage/house to be demolished and rebuilt. The house is under contract and was scheduled to close on October 7th.

5

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

Signature: 
(Proof of owner's authorization is required with submittal if signed by Applicant)

Date: 10/6/12

Print Name: Larry S. Buckendorf

Submitted On: _____

(Please email completed application and materials to planningtechs@windsorgov.com)

*Required fields

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: 10/06/2016 Building Permit # WIN16-00932
Lot 4 Block 17 Subdivision Village East Subdivision
Address: 636 Park Edge Circle Windsor, Colorado

On 10/06/2016, 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. as modified by revised plot plan dated 10/7/16.

BY: Celine A. Landau
Surveyor

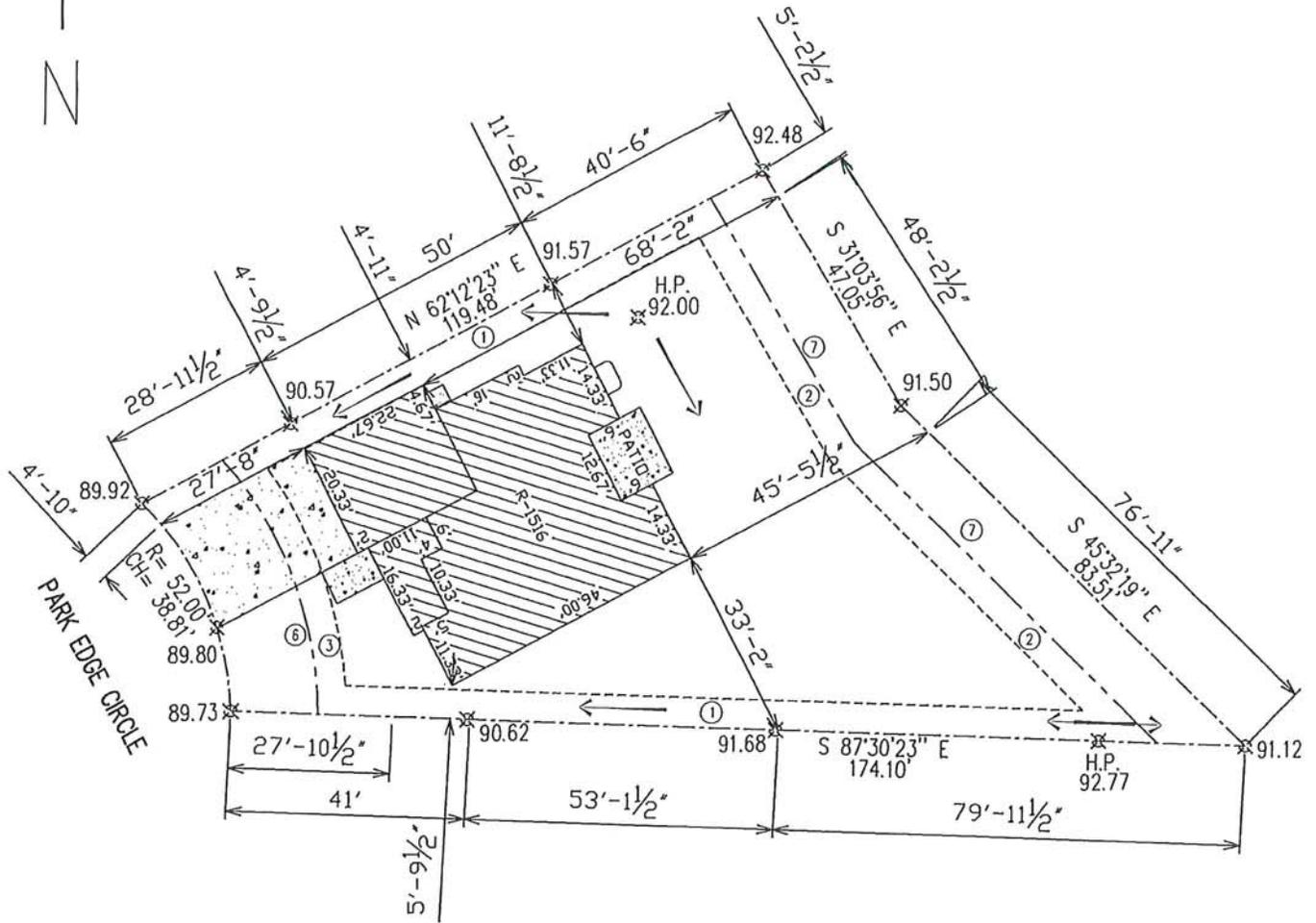


CONTRACTOR CERTIFICATION

I, Morgan Kidder representing S&J Construction
(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: [Signature] Date 10/7/16



636 PARK EDGE CIRCLE

LEGEND :

- GRADE BREAK/SWALE: - - - - -
- PROPERTY LINE : - - - - -
- SETBACK : - - - - -
- EASEMENT : - - - - -
- DRAINAGE DIRECTION : →

- ① 5' SIDE SETBACK
- ② 15' REAR SETBACK
- ③ 20' FRONT SETBACK
- ④ 20' SIDE STREET SETBACK
- ⑤ 2.5' UTILITY EASEMENT
- ⑥ 15' U & D EASEMENT
- ⑦ 10' U & D EASEMENT
- ⑧ 8' U & D EASEMENT
- ⑨ 5' UTILITY EASEMENT

SCALE: 1" = 30'-0"

| | |
|---|-------|
| TOP OF FOUNDATION | 93.20 |
| MAX FINISH GRADE ELEV AT FOUNDATION WALL | 92.53 |
| DRIVE SLOPE | 10.0% |
| FRONT GARAGE F.F. | 92.43 |
| GARAGE FLOOR ELEV. AT ENTRY DOOR | 92.85 |
| ELEV. OF FOOTING BOTTOM @ FRONT OF GARAGE | 89.93 |

SITE & GRADING PLAN
 PLAN #R-1516
 LOT 4, BLOCK 17 - 9,998 SQ. FT.
 VILLAGE EAST SUBDIVISION
 WINDSOR, COLORADO

CLIENT :
 J & J CONSTRUCTION OF NORTHERN COLO.
 7251 W. 20th ST., BLDG. L, STE. 200
 GREELEY, CO. 80634

RMG PROJECT NO: 153643

REV. DATE: 10/7/16



ROCKY MOUNTAIN GROUP
 1601 37th STREET
 EVANS, CO. 80620
 PHONE: (970) 330-1071
 FAX: (970) 330-1252

Variance Request

636 Park Edged Circle

Lot 4, Block 17
Village East Subdivision

Paul Hornbeck, Senior Planner

October 27, 2016

Variance Request

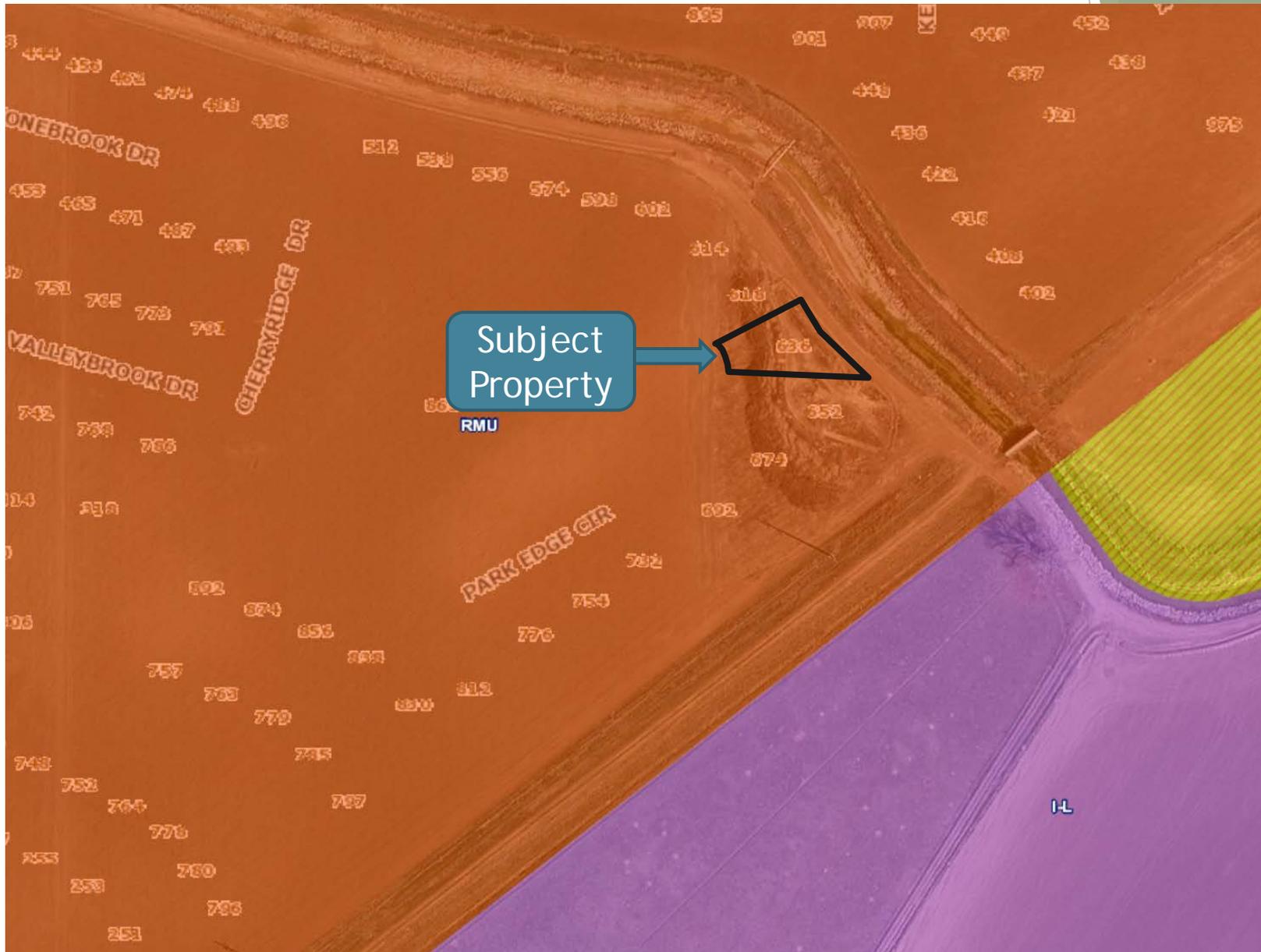
- ▶ Municipal Code Section 16-24-40:

Residential uses. All residential uses shall meet all of the density, setback and offset requirements set forth in this Code for each respective type of dwelling unit

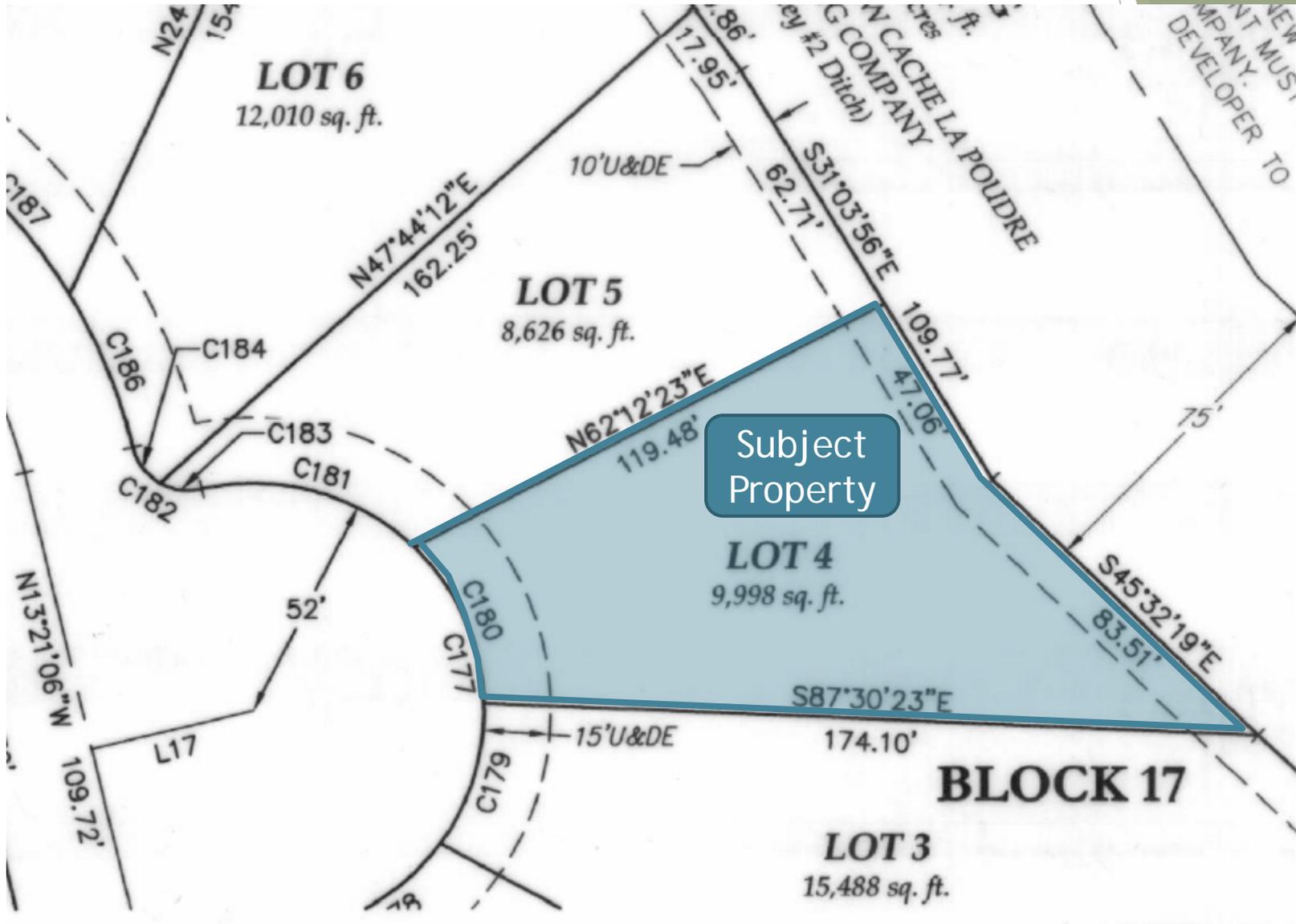
- ▶ Section 16-12-40:

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

Site Proximity Zoning Map

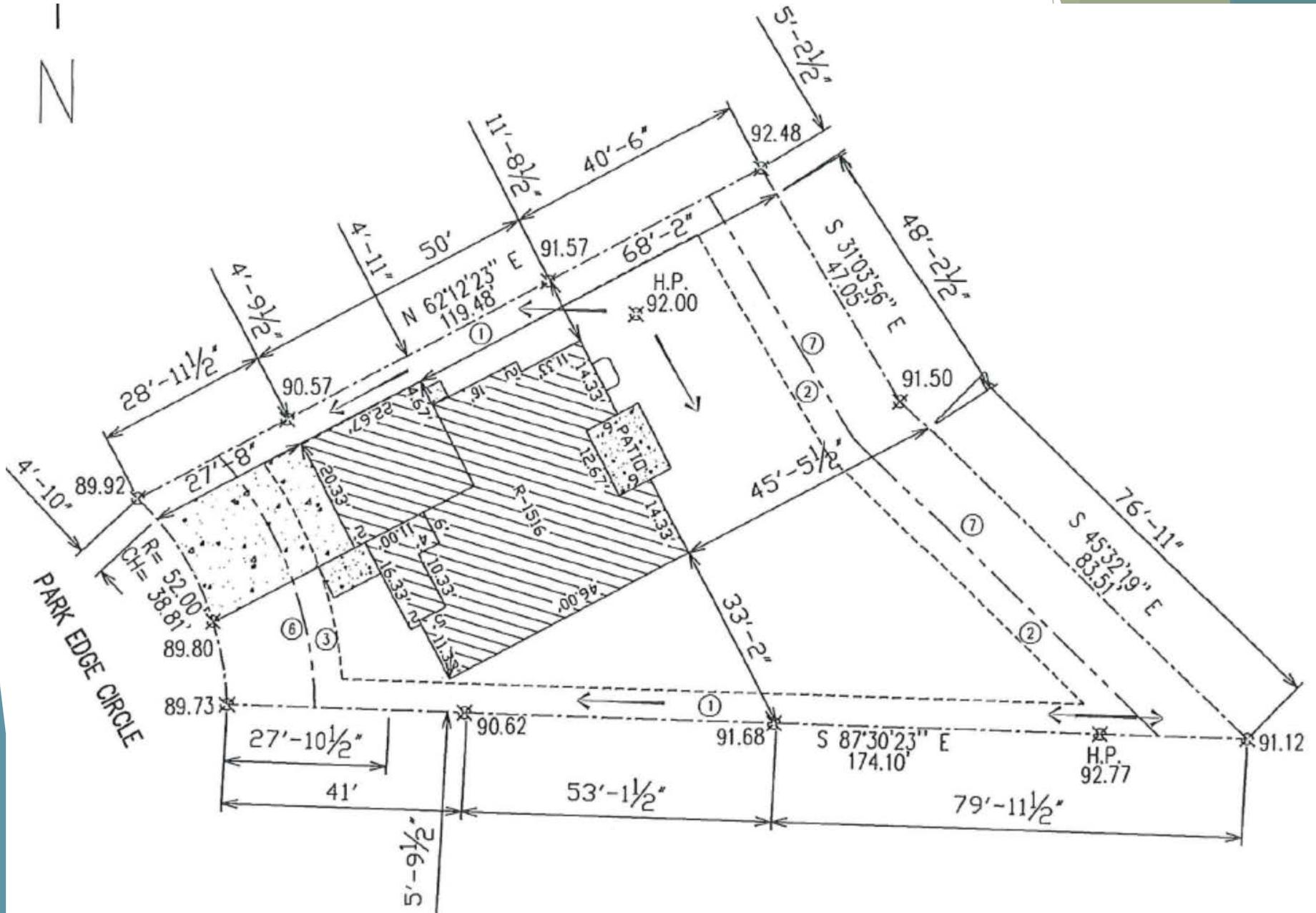


Approved Plat



Plot Plan - As Built

N



Site Images



Site Images



Analysis

Municipal Code Section 16-6-60(Variations) states the following:

Variations may be considered where, due to special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship. Variations 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.

Analysis (cont.)

- ▶ Section 16-6-60 defines unnecessary hardship as follows:

For the purposes of this Article, unnecessary hardship shall be defined 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.

Analysis (cont.)

- ▶ In this case, the front property line is a curve and contains multiple property pins, presenting circumstances unique to the property.
- ▶ The applicant has stated that measurements were taken from the incorrect pin, leading to the encroachment into the offset.
- ▶ The 2½" encroachment into the offset would not alter the essential character of the surrounding neighborhood.

Comments

The application materials were submitted to the Development Review Committee for their review. The following comments were received from Safebuilt, the Town's contract building plans review agency:

Exterior wall located less than 5 feet from a property line shall have a fire resistive rating of 1-Hour. An approved GA or UL assembly tested in accordance with ASTM E 119 or UL 263 with exposure from both sides is required.

Recommendation

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

1. The front property line is curved and contains multiple property pins; and
2. Measurements were taken off the wrong property pin, leading to the offset encroachment.

Staff recommends approval of the variance subject to the following condition:

1. Construction shall comply with building code requirements regarding fire resistive material.

Variance Request

Staff requests that the following be entered into the record:

- Application and supplemental materials
- Staff memorandum and supporting documents
- All testimony presented during the Public Hearing
- Recommendation