



BOARD OF ADJUSTMENT/APPEALS

REGULAR MEETING

April 19, 2018 - 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 7:01 p.m.

1. Roll Call

The following members were present:

Chairman Danny Horner
Julie Dionne
Jose Valdes
David White

Also Present:

Senior Planner

Millissa Berry

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. None

C. BOARD ACTION

1. Public Hearing – Variance of Municipal Code Section 16-9-100 (a)(4) pertaining to the prohibited use of building mounted illuminated signs within 150 feet of a residential district or development – Highlands Industrial Park Subdivision 1st filing, Lot 1, Block 4 – Nicole Vatrano, applicant
- Staff presentation: Millissa Berry, Senior Planner

Mr. Valdes moved to open the public hearing; Mr. White seconded the motion. All Members voted Aye. Motion carried.

Applicant Nicole Vatrano, 4555 Highland Meadows, explained she is seeking variance to have a mounted illuminated sign for her portion of the building. She explained that the location is zoned commercial and all other tenants of the building have illuminated signs. All of the signs on the building, including this one, face or would face west and do not project light or even face a residential district. She is asking for the same signage as all others at the location.

Public Comments: There were none.

Ms. Berry reported, the applicant is Ms. Nicole Vatrano of DeVinci Sign Systems, Inc., representing the business owner, NuMotion. The applicant is requesting a variance from Municipal Code Section 16-9- 100(a)(4) to allow for an internally illuminated building-mounted sign within 150 feet of a residential district or development.

Municipal Code Section 16-9-100(a)(4) states the following:

In no event shall any illuminated building-mounted sign be allowed within one hundred fifty (150) feet of the nearest residential district or development, with this distance being measured from the nearest portion of the sign to the nearest property line contained within any such residential district or development.

The property is located at 4555 Highland Meadows Parkway (Lot 1, Block 4 of the Highlands Industrial Park Subdivision 1st Filing) and is zoned Limited Industrial. The property is adjacent to the Estate Residential 2 (E-2) Zone with developed single family lots that back up to the subject property. The business, NuMotion, is located in a building that is approximately 55 feet from the shared property line. The building in which the business is located is approximately 28 feet tall.

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 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 the Code. It is the responsibility of the landowner to prove that an unnecessary hardship exists.

Municipal Code Section 16-1-10 (Declaration of Purpose) provides guidance on the purpose and spirit of the zoning code:

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...

Staff has analyzed:

- whether special site specific conditions exist
- whether an unnecessary hardship exists • the impact on public interest, safety, and welfare
- the impacts to the neighborhood character.

It does not appear that special site specific conditions exist that would support a variance. The rule is applied to all building mounted signs of non-residential uses within 150 feet of a residential district or development. The closest permitted illuminated sign on the building is 250 feet from the residential properties.

Staff does not find that an unnecessary hardship exists. The business is able to have a building mounted sign in the proposed location. It just cannot be illuminated.

The purpose of the regulation was to avoid the potential impact of illuminated signs on nonresidential uses on adjacent residential uses. This includes the visual impact of the illuminated sign and not necessarily solely light from the sign shining onto the adjacent properties. Although the sign will face west and the adjacent residential properties are to the north, the sign is located high on the building (approximately 24 feet), spans 17 feet by 2-4 feet (approximately 70 sf), and is viewable from two of the adjacent properties and a community trail. Although there are some evergreen trees between the subject building and the residential properties, the sign is visible between the trees. If any of the trees died and needed to be replaced, the view of the sign would be increased. Although the character of the industrial neighborhood may not be negatively impacted, the sign may cause a negative impact for the two neighbors with regard to the residential neighborhood character. Therefore, impacts to the public interest and neighborhood character are recognized.

Staff considers that the literal enforcement of the Code will not result in an unnecessary hardship or a practical difficulty, and therefore, is recommending denial of the variance request to allow for a building-mounted illuminated sign within 150 feet of a residential district of development.

Since all motions are to be made in the affirmative, staff 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 16-9-100 (a)(4)
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.

Furthermore, staff recommends the following findings of fact: 1. No hardship, as defined by the Municipal Code, exists in this case; and 2. Approval of the variance would alter the residential character of the neighborhood.

Mr. Valdes asked what the hours of operation where for the business.

Ms. Vatrano replied 8 am to 5 pm. Although there are occasional after hour customers.

Mr. Valdes asked if the applicant would consider having limited hours on illumination.

Ms. Vatrano said yes.

It was suggested that 8 pm would be a sufficient time.

Mr. White asked if the residents have been contacted.

Ms. Berry stated they are aware of the variance and the meeting tonight. None are in attendance.

Mr. Valdes moved to close the public hearing; Ms. Dionne seconded the motion. All Member voted Aye. Motion carried.

Mr. Valdes moved to approve the variance request as presented subject to the condition the sign’s illumination is turned off at 8 pm daily; Mr. White seconded the motion.

All Members voted Aye. Motion carried.

2. Public Hearing – Variance of Municipal Code Section 16-9-100 (a)(4) pertaining to major tenant building-mounted sign height – Eagle Crossing Subdivision 5th Filing Lot 2 - Marc Rogers, applicant

- Staff presentation: Millissa Berry, Senior Planner

Ms. Dionne moved to open the public hearing; Mr. White seconded the motion. All Members voted Aye. Motion carried.

The applicant, Marc Rogers, RBR Crossroads RE LLC, stated the existing sign ordinance does not allow for any vertical signage over 8 feet in height. The sign will be attached to a 25 foot high splice wall feature on the building. This vertical sign is an integral part of the Fuzzy’s corporate sign package.

The building design, splice wall feature, overall height of the building and proposed vertical sign height of 14 feet has been all approved and endorsed by the building department and planning personnel.

The sign if approved will conform to all other sign criteria from the Town of Windsor and was designed and engineered to blend in with the décor of the building. Additionally the vertical sign is over a landscaped area and will be a minimum of 10 feet from the ground.

The high visibility nature of our proposed 14 foot vertical sign will certainly drive more traffic to our business. The 8 foot height restriction of the current sign ordinance would not work in our particular situation.

Public Comments: No comments.

Ms. Berry reported, the applicant is Mr. Marc Rogers, representing the business owner, RBR Crossroads R.E. LLC (Fuzzy's Taco Shop). The applicant is requesting a variance from Municipal Code Section 16-9- 100(c)(2) to allow for building-mounted sign exceeding 8 feet in height / 25% of the building height.

The property is located at 4305 Fairgrounds Avenue (Lot 2 of the Eagle Crossing Subdivision 5th Filing), is zoned General Commercial (GC), and is surrounded by other GC-zoned properties. The building is greater than 5,000 square feet in area and, therefore, classified as a major tenant. The building is 25 feet in height.

Municipal Code Section 16-9-100(c)(2) states the following:

Major Tenant. The height of building-mounted signs for major tenants shall not exceed twenty-five percent (25%) of the height of the building elevation upon which the sign is mounted. However, in no event shall such sign exceed eight (8) feet in height.

The applicant is requesting to allow one building-mounted sign that is 14 feet in height on the south elevation. The proposed sign dimensions are 14' x 6' for an area of 84 square feet. Because the building is 25 feet in height, the maximum height allowed for the sign would be 6.25 feet. The sign meets the amount of signage allowable for the property but will have a vertical profile. The sign would be made of metal and be illuminated.

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 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 the Code. It is the responsibility of the landowner to prove that an unnecessary hardship exists.

Municipal Code Section 16-1-10 (Declaration of Purpose) provides guidance on the purpose and spirit of the zoning code:

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...

For this case, there are no site specific circumstances. However, staff recognizes that the current sign regulations do not adequately address vertically-oriented signs. This is one of the items that staff will be proposing to modify with the revisions to the sign code that are currently being prepared but have not yet been reviewed for adoption. Vertical sign height has been an issue in the past and is expected to continue as development continues. Retaining the current language in the code in regard to sign height is contrary to allowing variety in the types of signs seen in town.

The property is located at the intersection of major arterial roads – Crossroads Boulevard and Fairgrounds Avenue so the size of the sign is appropriate in this location. The proposed sign is proportional to the building, is within the allowed square footage of signage for the site, and fits in with the character of the neighborhood. The sign would have 10 feet of clearance between sign and ground. Although the sign is not over a walkway or accessible area of the site, there is adequate space below the sign to avoid conflicts with activities on site thus alleviating concerns with public safety and welfare.

Staff considers that the literal enforcement of the Code will result in an unnecessary hardship and, therefore, is recommending approval of the variance request for the proposed sign height as presented in the application be approved based on the following findings of fact:

1. The applicable sign regulation does not appear to adequately address vertically oriented signs;
2. The overall size of the sign is in proportion to the size of each building wall upon which it will mounted;
3. The granting of this variance request will not alter the character of the surrounding neighborhood;
4. The proposed height of the subject signs meets the spirit and intent of the sign regulations; and
5. The granting this variance will not pose any public safety or welfare concerns.

Staff 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 16-9-100 (c)(2) as depicted in the variance application to allow the construction of a wall mounted sign with a height of 14' based upon the aforesaid findings of fact and the applicant obtaining the applicable sign permit;
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.

Mr. Valdes moved to close the public hearing; Mr. White seconded the motion. All Member voted Aye. Motion carried.

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

All Members voted Aye. Motion carried.

D. COMMUNICATIONS

1. Communications from the Board Members
None
2. Communications from staff
None

E. ADJOURN

Ms. Dionne moved to adjourn; Mr. Valdes seconded the motion. All Members voted Aye. Motion carried.

The meeting was adjourned at 7:58 p.m.



Jessica Scheopner, Customer Service Supervisor