



**BOARD OF ADJUSTMENT / APPEALS
SPECIAL MEETING**

**June 21, 2018 // 7:00 p.m. // Third Floor Board Chambers
301 Walnut Street, Windsor, CO 80550**

MINUTES

A. CALL TO ORDER

Chairman Horner called the meeting to order at 7:03 p.m.

1. Roll Call

The following members were present:		Chairman	Danny Horner
			David White
			Grant Labaun
			Jose Valdes
			Jennifer Dionne
	(Absent)	Alternate	Patrick Miller
	(Absent)	Alternate	Charles Schinner
Also Present	Senior Planner		Millissa Berry
	Deputy Town Clerk		Amanda Mehlenbacher

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

No items

C. BOARD ACTION

1. Public Hearing – Variance of Municipal Code Section 16-9-100(c)(2) 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. Roll call on the vote resulted as follows: Yeas – Horner, White, Labaun, Valdes, Dionne; Nays – None; Motion passed

The applicant, Marc Rogers, 6334 Sanctuary Dr. Windsor, CO., addressed the Board and stated that he wishes to install a 14 foot by 3 foot wide vertical sign. Visual aids were provided to show the Board similar locations with the exact signage he is requesting.

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

Ms. Berry reported the applicant, Mr. Marc Rogers, is 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.

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 requests the following be entered into the record:

- Application and all supplemental materials
- Staff memorandum and supporting documents
- All testimony received during the public hearing
- Recommendation

Mr. Valdez inquired if the size of the sign being requested is standard for Fuzzy's Taco Shop.

Mr. Rodgers responded yes.

Mr. Valdez requested clarification on the intent of the code regarding this matter.
Ms. Berry responded that she doesn't believe that it was the intent of the code to limit orientation but rather to limit any billboard look on the property.

Mr. Horner moved to close the Public Hearing; Mr. White seconded the motion. Roll call on the vote resulted as follows: Yeas – Horner, White, Labaun, Valdes, Dionne; Nays – None; Motion passed

Mr. Horner asked for a motion on the variance.

Mr. White moved to approve the request for a variance from Section 16-9-100(c)(2) pertaining to major tenant building-mounted sign height; Ms. Dionne seconded the motion. Roll call on the vote resulted as follows: Yeas – Horner, White, Labaun, Valdes, Dionne; Nays – None ; Motion passed

2. Public Hearing – Variance of Municipal Code Section 16-12-40/16-13-40/16-24-40 pertaining to a building location / setback in the Residential Mixed Use District – Town of Windsor (original plat) Lot 14, Block 14 – Chris Medina, applicant
 - Staff presentation: Millissa Berry, Senior Planner

Mr. White moved to open the Public Hearing; Mr. Labaun seconded the motion. Roll call on the vote resulted as follows: Yeas – Horner, White, Labaun, Valdes, Dionne; Nays – None; Motion passed; Nays – None; Motion passed.

The applicant, Chris Medina, 29 Main Street, Windsor, CO, addressed the Board and stated he is currently in the process of building a garage with a bathroom and living room located above. After construction commenced issues arose regarding setbacks. He requested a variance to allow a lesser front setback for the garage.

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

Ms. Berry reported the applicant, Mr. Chris Medina, is requesting a variance from Municipal Code Section 16-24-40 / 16-12-40 / 16-13-40 to allow for an attached garage to be built within the minimum setback in the Residential Mixed Use (RMU) District.

Municipal Code Section 16-21-20(c)(5) states the following:

“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. For example, all single-family dwelling units in an RMU zoning district shall have a minimum lot size of six thousand (6,000) square feet, a minimum setback requirement of twenty (20) feet and a minimum offset requirement of five (5) feet.”

Sections 16-12-40 and 16-13-40 state:

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

The property is located at 29 Main Street in the original plat of the Town of Windsor. The proposal is for an attached garage with second floor living space above. The applicant obtained a building permit prior to commencing construction of the garage. When reviewing the building permit application, the west property line was considered as a side setback (offset) and not a front setback. Meeting that dimension, the permit was issued. After obtaining the building permit, the garage foundation was poured prior to conducting a setback survey to determine if setbacks were met. The error was found when the actual setback survey was conducted.

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 on the following findings of fact:

1. An undue hardship, as defined by the Municipal Code, exists in this case.

With the following condition:

1. The applicant submits a revised plot plan with the requested items (sanitary sewer location, material and depth; driveway, curb cut, curb ramp location and dimensions) from Town staff.
2. The applicant obtains a driveway permit from the Town.

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

Mr. Valdes inquired if the property has a Main Street address then would main street be considered the front setback and 1st street the side setback.

Ms. Berry responded that a front setback is for any property line fronting a street even if a property fronts more than one street.

Mr. Valdes inquired if the sewer line is located on the right-of-way or on private property.

Ms. Berry responded that the sewer line is on private property, however, due to the home being in the old part of town, the sewer line could be made out of clay pipe which could become a cost concern to the applicant with his garage being built on top shall the line ever need to be replaced.

Mr. White inquired about the driveway setback being 13.5 feet.

Ms. Berry stated that the typical parking space is 20 feet in length and 9 feet wide which will allow a vehicle to be completely within the stall and not hang over a sidewalk. The concern is if they hang over the sidewalk then people will be forced to walk around the vehicle. In this instance the setback is 13.5 feet with an additional 20 feet to the road. Staff feels that the vehicle can comfortably fit without blocking the sidewalk.

Mr. White moved to close the Public Hearing; Ms. Dionne seconded the motion. Roll call on the vote resulted as follows: Yeas – Horner, White, Labaun, Valdes, Dionne; Nays – None; Motion passed

Mr. Valdes asked for a motion on the variance.

Mr. Horner moved to approve the request for a variance from Section 16-12-40/16-13-40/16-24-40 pertaining to a building location / setback in the Residential Mixed Use District with conditions recommended by staff; Mr. Labaun seconded the motion. Roll call on the vote resulted as follows: Yeas – Horner, White, Labaun, Valdes, Dionne; Nays – None; Motion passed

3. Public Hearing – Variance of Municipal Code Section 16-12-40 pertaining to building location / setback in the Single-Family District – Winter Farm Subdivision 3rd Filing, Lot 18, Block 6 – Robert and Shauna Fagler, applicants
 - Staff presentation: Millissa Berry, Senior Planner

Per Ms. Berry the applicant has requested that the Board table item C.3. until Thursday, July 19, 2018 Special Meeting.

The question was presented to table item C.3 until Thursday, July 19, 2018 Special Meeting which was approved unanimously.

4. Public Hearing – Variance of Municipal Code Section 16-12-40 pertaining to building location / setback in the Single-Family Residential District and Variance of Municipal Code 16-11-70(a) pertaining to Minimum Exterior and Interior Standards – Park Addition Subdivision 5th Filing, Lot 2 – Meghan King, owner; Tim Rehnstrom, applicant.
 - Staff presentation: Millissa Berry, Senior Planner

Mr. Horner moved to open the Public Hearing; Mr. White seconded the motion. Roll call on the vote resulted as follows: Yeas – Horner, White, Labaun, Valdes, Dionne; Nays – None; Motion passed

The applicant, Mr. Tim Rehnstrom, requested a variance from Municipal Code Section 16-12- 40 pertaining to building location in the Single-Family Residential (SF-1) District and from Municipal Code Section 16-11-70(a) pertaining to minimum exterior and interior standards. The variance for the building location is to allow for a reduced front setback and the variance from the minimum exterior standards is to allow for a roof pitch less than three percent (3%) and a metal standing seam roof.

Ms. Berry reported that Municipal Code Section 16-12-40 states the following:

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

Section 16-11-70(a) states:

“All single-family detached dwellings shall meet the following minimum exterior and interior standards:

... (2) The pitch of the roof shall be not less than three (3) inches of rise for each one (1) foot of horizontal run.

(3) Roofing materials shall be asphalt shingles or the equivalent...”

The property is located at 110 N. 2nd Street the Park Addition Subdivision 5th Filing, Lot 2. The project is a new single-family house (the lot is currently vacant). The house is designed with approximately 2,900 sf of living space plus a garage of approximately 980 sf.

The project was reviewed at a May 2018 Development Review Committee (DRC) meeting to discuss any issues or constraints that the site may have. Engineering staff conveyed that there are known drainage issues on the property and in the immediate area. Toward the rear (west end) of the lot, there is a low point that typically does not drain. Therefore, the engineering staff recommended that runoff from newly developed impervious surfaces be routed to N. 2nd Street to the east. A house closer to the street would allow for the runoff to be conveyed as recommended. The house would need to be at a distance that would retain at least 20 feet between the house and the inside edge of the sidewalk so that an adequate driveway is provided. The revised site plan for the house shows a front setback of approximately 16 feet.

The design of the house was also reviewed at the DRC meeting. The house design includes a metal, standing seam roof with a 2.12:1 slope. The current code requires asphalt shingles or the equivalent and a roof pitch of 3:1.

Staff considers that the literal enforcement of the Code will result in an unnecessary hardship as defined by the Municipal Code and outlined above. Therefore, staff is recommending approval of the variance request to allow for a 16-foot building setback and to construct a metal roof at a 2.12 slope as proposed with the following condition:

1. A drainage plan is submitted with the building permit that shows lot grading, including runoff from impervious surfaces being directed to N. 2nd Street.
2. The applicant calls for Engineering inspection and provides a grade certification for approval of drainage plan implementation.
3. The approval is conditioned on the site maintaining compliance with the approved grade certification in perpetuity.

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 16-12-40 and Section 16- 11-70(a) with the three (3) conditions recommended 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.

Furthermore, staff recommends the following findings of fact:

1. An undue hardship, as defined by the Municipal Code, exists in this case for both variance requests.

Should the BOA be inclined to approve the variance request, findings of fact supporting the decision are required.

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

Mr. White clarified if the original application had sufficient setback and if it was staff who requested the change.

Ms. Berry confirmed that the original application did have sufficient setbacks. Once engineering staff conducted a history of the site the drainage became a concern.

Mr. Valdes inquired who would monitor the perpetuity of the lot.

Per Ms. Berry, the Engineering Department would monitor the drainage over time.

Mr. Valdes asked if language could be added that if there were to be a desire to modify the grading that the applicant would need to return to have it reviewed by the town.

Ms. Berry responded yes, if any grading or draining were to change it would have to be reviewed by the town prior.

Mr. Horner moved to close the Public Hearing; Mr. White seconded the motion. Roll call on the vote resulted as follows: Yeas – Horner, White, Labaun, Valdes, Dionne; Nays – None; Motion passed

Mr. Valdes asked for a motion on the variance.

Mr. Horner moved to approve the request for a variance from Section 16-12-40 pertaining to building location / setback in the Single-Family Residential District and Variance of Municipal Code 16-11-70(a) pertaining to Minimum Exterior and Interior Standards with conditions recommended by staff; Mr. Labaun seconded the motion. Roll call on the vote resulted as follows: Yeas – Horner, White, Labaun, Valdes, Dionne; Nays – None; Motion passed

5. Public Hearing – Variance of Municipal Code Section 16-12-40 pertaining to building location / setback in the Single-Family Residential District – Winter Farm

Subdivision 6th Filing, Lot 3 – Bridgewater Homes, owner; Lee Lindholm, applicant.

- Staff presentation: Millissa Berry, Senior Planner

Mr. Horner moved to open the Public Hearing; Mr. White seconded the motion. Roll call on the vote resulted as follows: Yeas – Horner, White, Labaun, Valdes, Dionne; Nays – None; Motion passed

The applicant, Mr. Lee Lindholm, requested a variance from Municipal Code Section 16-12-40 to allow for a reduced offset (side setback) in the Single-Family Residential (SF-1) District.

Ms. Berry reported that Municipal Code Section 16-12-40 states the following:
Minimum setback shall be twenty (20) feet. Minimum offset shall be five (5) feet.

The applicant is requesting a 10% variance to allow for an offset of 4.5 feet instead of the required 5 feet.

Bridgewater Homes poured a foundation for the house being constructed at 670 Vermilion Peak Drive. When the site survey was conducted, it was determined that the north foundation wall was 4.5 feet from the north property line. It was found that the original offset measurement to set the location of the foundation was based on a disturbed offset stake. The foundation contractor was unaware that the stake had been disturbed when the foundation was poured.

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

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 16-12-40.
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. An undue hardship, as defined by the Municipal Code, exists in this case.

Should the BOA be inclined to approve the variance request, findings of fact supporting the decision are required.

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

Mr. Valdes asked the Board if they had any questions for the applicant.

Ms. Dionne inquired if there is any room for error when setting an offset stake. Mr. Lindholm responded that it's not hard to have a stake moved though they try to be diligent in making sure everything is exactly precise. Mr. Lindholm stated that they work with top notch engineers and surveyors who use GPS guided equipment when staking the property in order to prevent this type of scenario from happening.

Mr. Valdes inquired about the affects this has on the operational use of the garage.

Mr. Lindholm responded that if the foundation would have been placed appropriately the first time there would be no need for a variance. If adjustments have to be made, we would lose 8" as opposed to 6" which would make the front corner of the garage look off.

Mr. Horner moved to close the Public Hearing; Mr. White seconded the motion. Roll call on the vote resulted as follows: Yeas – Horner, White, Labaun, Valdes, Dionne; Nays – None; Motion passed

Mr. Horner asked for a motion on the variance.

Mr. Horner moved to approve the request for a Variance of Municipal Code Section 16-12-40 pertaining to building location / setback in the Single-Family Residential District with conditions recommended by staff; Mr. Labaun seconded the motion. Roll call on the vote resulted as follows: Yeas – Horner, White, Labaun, Valdes, Dionne; Nays – None; Motion passed

D. COMMUNICATIONS

1. Communications from the Board Members

None

2. Communications from staff

Ms. Berry stated that there will be a Special Meeting held on July, 19, 2018.

The Town Board and Planning Departments have been discussing a potential administrative variance process. A memorandum was given to the Board Members for their review and comments on the matter.

ADJOURN

Upon a motion duly made, the meeting was adjourned at 8:38 p.m.



Deputy Town Clerk, Amanda Mehlenbacher