



**BOARD OF ADJUSTMENT / APPEALS
SPECIAL MEETING**

**July 19, 2018 // 7:00 p.m. // First Floor Conference Room
301 Walnut Street, Windsor, CO 80550**

MINUTES

A. CALL TO ORDER

Chairman Horner called the meeting to order at 7:00 p.m.

1. Roll Call

The following members were present:	Chairman	Danny Horner
		David White
		Grant Labaun
		Jennifer Dionne
	(Absent)	Jose Valdes
	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 16-12-40 pertaining to building location / setback in the Single-Family Residential District – Winter Farm Subdivision 3rd Filing, Lot 18, Block 6 – Robert and Shauna Fagler, applicants

- Staff presentation: Millissa Berry, Senior Planner

The applicant, Robert Fagler, 698 Vermilion Peak Dr., stated his request is to build a shed located in the northeast corner of the property, which will match the features, and colors of the main house. The request for the shed to be located in the setback was due to the required drainage on the lot and existing utility easements that limited where the shed could be located. Mr. Fagler has received

approval from his Home Owners Association in regards to the location and type of shed he wishes to build.

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

Ms. Berry reported the following:

The applicants, Mr. Robert Fagler and Ms. Shauna Fagler, are requesting a variance from Municipal Code Section 16-12-40 to allow a shed to be located in a front setback in the Single- Family Residential (SF-1) District. Municipal Code Section 16-12-40 states the following:

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

The proposed location of the shed is the result of several site factors.

- A large portion of the rear (east) yard and north side yard need to be graded in a certain manner to allow for adequate drainage around the house. The drainage area is to be kept clear of structures.
- A 5-foot utility easement (with utilities) is located along the east property line. Utility boxes and a non-potable irrigation system are located in the southeast corner of the lot limiting the area to place a shed between the boxes, irrigation system, and the drainage area.
- The house is built to the side setback (offset) leaving no room south of the house for a shed.

The proposed location is an area where the shed would be outside the drainage area and not located over utilities. There is a utility easement platted along the north property line but no utilities are currently located in the easement. The shed would not be on a permanent foundation but kept on skids so that it can be moved if necessary. If utilities were to be located in that area, the shed would be moved to allow for it.

Sundance Drive along the north of the property is not a through street. It was planned as a stub in the case that the property to the east is ever developed. The property to the east is currently outside town limits and would need to annex prior to being developed in a manner that connects to the Town's street system. Due to these conditions, the frontage along Sundance Drive currently functions as a side yard.

The Sundance Drive right-of-way does extend approximately 4.8 feet south of the sidewalk. The applicant has obtained a revocable encroachment permit from the Town's Engineering Department to allow for a 6-foot privacy fence along the Sundance frontage. The fence would be located 2 feet inside the sidewalk. The proposed shed would be located approximately 2 feet south of the fence. The encroachment permit does retain the right to have the fence or shed removed if, in the future, Sundance Drive needs to be widened. The extension or widening of Sundance Drive is not expected in the foreseeable future.

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 with the following conditions:

1. The shed is to remain moveable, i.e. on skids, so that that it can be moved if needed for utilities or right-of-way improvements.
2. If and when the property to the east is developed as a residential neighborhood and Sundance Drive is extended to the east, the shed will be relocated to another allowed location or removed if the Sundance right-of-way is needed for road improvements.
3. The encroachment permit for the fence is modified to include the shed.
4. The applicant obtain a building permit for the shed if it is taller than 8 feet.

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.

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

Mr. White addressed the applicant and inquired if he accepted the conditions set forth by staff.

Mr. Fagler responded; yes.

Chairman Horner inquired about the electrical box that sits close to the purposed site for the shed.

Mr. Fagler responded that the box consists of a Comcast cable line that only services his house.

Mr. White inquired if the Town had any issues with the shed impeding with drainage.

Ms. Berry stated that the Town engineers had reviewed the plan and saw no issues.

Ms. Dionne moved to close the Public Hearing; Mr. White seconded the motion. Roll call on the vote resulted as follows:

Yeas – Horner, White, Labaun, Dionne, Miller

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 16-12-40 with the two conditions recommended by staff; Mr. Labaun seconded the motion. Roll call on the vote resulted as follows:

Yeas – Horner, White, Labaun, Dionne, Miller

Nays – None

Motion passed

2. Election of vice-chair for the 2018 calendar year

The Board unanimously agreed to appoint Mr. Jose Valdes as Vice-Chair of the Board of Adjustment/Appeals.

D. COMMUNICATIONS

1. Communications from the Board Members

None

2. Communications from staff

None

E. ADJOURN

Upon a motion duly made, the meeting was adjourned at 7:19 p.m.



Deputy Town Clerk, Amanda Mehlenbacher