



**BOARD OF ADJUSTMENT / APPEALS  
REGULAR MEETING**

**January 24, 2019 // 7:00 p.m. // First Floor Conference Room  
301 Walnut Street, Windsor, CO 80550**

**MINUTES**

**A. CALL TO ORDER**

Vice-Chairman Valdes called the meeting to order at 7:02 p.m.

**1. Roll Call**

The following members were present:

		Jose Valdes
		David White
		Grant Lebahn
		Jennifer Dionne
Arrived at 7:10 p.m.	Alternate	Charles Schinner
	Absent	Danny Horner
Absent	Alternate	Patrick Miller
Also Present	Senior Planner	Millissa Berry
	Deputy Town Clerk	Amanda Mehlenbacher

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.

**2. 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 from March 22, 2018
2. Approval of the minutes from April 19, 2018
3. Approval of the minutes from June 21, 2018
4. Approval of the minutes from July 19, 2018

**Mr. White moved to approve the minutes, Ms. Dionne seconded the motion. All Members voted Aye, Motion carried.**

**C. BOARD ACTION**

1. Public Hearing – Variance of Municipal Code Section 16-12-30(d) pertaining to location of an accessory structure in the Residential Mixed Density (RMU) District – The Ridge at Harmony Road Subdivision Lot 8, Block 2; Darci and Shane Hale, owners/applicants
  - Staff presentation: Millissa Berry, Senior Planner

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

**Yeas – Valdes, White, Lebahn, Dionne, Schinner**

**Nays – None**

**Motion passed**

The applicant, Shane Hale, 1879 Atna Ct. Windsor, CO, stated that he is limited on the area he can have a shed due to his narrow back yard and site constraints such as drainage easements, a utility easement and window wells. Mr. Hale further added that building the shed on the west side of the house would be the best option as it would not interfere with the views from the neighbors to the east and would be out of the site preference from his neighbor to the west. The shed will be stucco and painted to match the house which has been approved by his neighbors and the HOA.

Per Ms. Berry, the applicants, Mr. Shane Hale and Ms. Darci Hale, are requesting a variance from Municipal Code Section 16-12-30(d) to allow for a shed to be located closer to the front property line than the rear corners of the principal building.

Municipal Code Section 16-12-30(d) states the following:

*...no accessory building, regardless of its size, shall be located any closer to the front property line than the rear corners of the principal building; that is, accessory buildings are only allowed in rear yards...*

The applicants are proposing a 72 square foot (6'x12') shed to be located in the side yard of the property addressed as 1879 Atna Court. The shed, which would be constructed to match the features and colors of the main house, is proposed to be located in the southwest corner of the lot flush with the house and immediately north of the rear corners of the house.

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.

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 16-8-30(d);
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.

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

Mr. Schinner wished to clarify that the applicant will use the exact materials on the shed as what is on the house.

Mr. Hale responded that his intent is to hire someone to stucco the shed and try to match the existing color on the house.

Mr. Valdes wished to reaffirm with staff that modifications will be made to this particular section of the code to help eliminate the repetitive number of variance requests for sheds.

Ms. Berry confirmed that it is included on the list of modifications to be on the code update.

Public Comments: No comments.

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

Mr. Valdes asked for a motion on the variance.

**Mr. Schinner moved to approve the request for a variance from Section 16-12-30(d) as recommended by staff; Ms. Dionne seconded the motion. Roll call on the vote resulted as follows:**

**Yeas – Valdes, White, Lebahn, Dionne, Schinner  
Nays – None  
Motion passed**

2. Public Hearing – Variance of Municipal Code Section 16-9-100(c)(2) pertaining to the height of building signs for major tenant – BBK II LLC, owner; Nicole Vatrano, DaVinci Signs, applicant

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

The applicant Nicole Vatrano, 4496 Bents Dr. Windsor, CO stated that they are requesting a variance due to the fact that the current height of 5' 7" that is allowed for a sign would not be legible from Crossroads Blvd. Ms. Vatrano further stated that customers do not realize that Brands Beverage is a liquor store rather it's thought of as a beverage distribution center. The applicant feels that having a larger sign would help mitigate these issues.

Per Ms. Berry, the applicant, Ms. Nicole Vatrano of DaVinci Signs, is requesting a variance from Municipal Code Section 16-9-100(c)(2) to allow for building-mounted projecting sign exceeding 8 feet in height / 25% of the building height.

The property is located at 4355 Fairgrounds Avenue (Lot 1 of the Eagle Crossing Subdivision 5<sup>th</sup> 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 22'8" feet in height with parapets of up to 26'8".

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 124 feet in height on the west elevation. The proposed sign dimensions are approximately 12' x 3.5' for an approximate area of 42 square feet. Because the building is 22'8" feet in height, the maximum height allowed for the sign would be 5'7" feet. The sign meets the amount of signage allowable for the property but will have a vertical profile.

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 nor projecting signs outside the Central Business Zone District;
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 vertically-oriented wall mounted projecting sign with a height of 12' 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 asked the Board if they had any questions for the applicant.

Mr. White inquired if the current sign on Brands Beverage will be removed.

Ms. Berry responded that the current sign will remain and that they do have adequate area on the building to have both signs.

Mr. Valdes inquired if the 12 feet is within the 25% limit to the height of the building and is the 12 feet in size arbitrary.

Ms. Berry responded that if the 25% limit was kept then the height of the sign would have to be 6 feet tall to meet what the code allows for now.

Ms. Berry further added that the 12 feet in height was chosen in order to allow the lettering to be legible from a 300 foot distance.

Mr. Schinner inquired if the purposed sign will stay below roofline and if the blue color in the sign is illuminated.

Ms. Berry confirmed that the sign will stay below roofline.

Ms. Vatrano responded that the lettering will be the only thing illuminated.

Mr. Schinner inquired as to what the sign size was for Fuzzy's Taco.

Ms. Berry responded that it is 14 feet in height.

Public Comments: No comments.

**Mr. Schinner moved to close the Public Hearing; Mr. Lebahn seconded the motion. Roll call on the vote resulted as follows:**

**Yeas – Valdes, White, Lebahn, Dionne, Schinner**

**Nays – None**

**Motion passed**

Mr. Valdes asked for a motion on the variance.

**Mr. Schinner moved to approve the request for a variance from Section 16-9-100(c)(2) as recommended by staff; Ms. Dionne seconded the motion.**

**Roll call on the vote resulted as follows:**

**Yeas – Valdes, White, Lebahn, Dionne, Schinner**

**Nays – None**

**Motion passed**

3. Election of officers (chairperson, vice-chair and secretary) for the 2019 calendar year

The Board unanimously agreed to appoint Mr. Horner as Chairperson, Mr. Jose Valdes as Vice-Chair and Mr. Schinner as Secretary of the Board of Adjustment/Appeals.

D. COMMUNICATIONS

1. Communications from the Board Members

Mr. Schinner requested that staff review the commercial parking requirements as the new developments appear to be either under/overburdened.

Mr. Valdes inquired when a common area is shared such as a shopping center, if going to a common parking area rather than private parking would eliminate the scenario of who's parking belongs to whom.

Ms. Berry responded that it depends on the developer and property owner.

2. Communications from staff  
None

E. ADJOURN

Upon a motion duly made, the meeting was adjourned at 7:43 p.m.



Deputy Town Clerk, Amanda Mehlenbacher