



**TOWN OF MILLIKEN
PLANNING COMMISSION
AGENDA MEMORANDUM**

To: Mayor Woodcock and Town Board of Trustees		Public Hearing Date:	
From: Martha Perkins, Community Development Director		September 14, 2016	
Via: Kent Brown, Town Administrator			
Agenda Item #	Action: x	Discussion:	Information:
Agenda Title: Possible Approval of a Variance of Required Front Yard Setback in a R-1 "Single Family Residential" Zoning District within the Town of Milliken's Land Use Code for a Residential Lot Addressed as 417 Broad Street in the Town of Milliken, Lots 12, 13, and the East ¾ of Lot 14, Block 45, in the County of Weld, Colorado.			
Attachments: Application Draft Planning Commission Minutes			

PURPOSE

To consider a request for a variance to the required front yard setback in the R-1 "Single Family Residential Zoning District" within the Town of Milliken's Land Use Code for a residential lot addressed as 417 Broad Street in Milliken Colorado. The agent is John Baily with 2 Valley Builders Inc. and the property owners are Brent M Coddington and Chelsea J Babb.

BACKGROUND INFORMATION

Type of Application:	Variance
Location:	Old Downtown Milliken Colorado in Weld County
Applicant:	Town Of Milliken
Existing Land Use:	Residential
Surrounding Land Use:	North: Residential South: Residential East: Residential South: Residential
Zoning:	R-1 "Single Family Residential"
Notice	The public hearing was noticed/published in the <i>Johnstown Breeze</i> on July 28, 2016. Referrals were sent on August 4, 2016. The certified mailing to the property owners within 300 feet were mailed on August 5, 2016. The property was posted the following week. The Planning & Zoning Commission met on September 7, 2016 in a public hearing to make a recommendation to the Board.



The Town sold 417 Broad Street to John Baily with 2 Valley Builders a vacant lot in August 2015. The Town received the property from the estate of Connie Hahn with the Heritage House on it. The Town paid to relocate the Heritage House behind Town Hall. To recoup the funds expended for the Heritage House relocation, the Town sold the vacant downtown lot to Mr. Baily for affordable housing.

Mr. Baily retained the Rocky Mountain Group to prepare a plot plan for the construction of a new residential dwelling unit. Rocky Mountain Group prepared a plot plan for the construction of a new residential dwelling unit showing a 21 foot front setback. The zoning of the property R-1 "Single Family Residential" requires a 20 feet front setback. Staff reviewed the plot plan as part of the building permit and based on this plot plan approved the building permit. The builder built the house according to this plot plan too.

Later, with the sale of the house, the builder retained a surveyor, Edmonds Land Surveying, Inc., to prepare an Improvement Location Certificate (ILC). The ILC showed the front setback as 11 feet and 2 inches, rather than as 21 feet. Apparently, the pins were set wrong along Broad Street. The right of way on Broad Street is 80 feet rather than 60 feet. Thus, Mr. Baily requests a front yard setback variance for ~ 8 feet and 10 inches.

COMPREHENSIVE PLAN GOALS IMPLEMENTED

Milliken's Comprehensive Plan is intended to provide guidance on where and how the community will grow and evolve over the next 10 years. The Plan is broad in nature, addressing issues relating to land use, growth, housing, economic development, transportation, environment, parks, recreation, open space, tourism, community character, historic preservation, and other topics, as relevant. The primary role of the Plan is to provide policy guidance to property owners, citizens, and decision makers on a wide range of issues in the form of specific goals, policies, and recommended actions that will help the community implement its vision.

Milliken's vision is based on eight "guiding principles", which serve as an organizing framework for the Comprehensive Plan and for supporting goals, policies, and recommended actions to help the community implement its vision over time. The property was sold to a builder in support of two guiding principles:

- A Fiscally Sustainable Pattern of Development - contains goals, policies, and recommended actions focused on establishing a clear and achievable land use plan; promoting a balanced mix of uses; promoting the efficient use and provision of infrastructure and services; and fostering local and regional collaboration.
- A Diverse Mix of Housing Types to Meet the Needs of Residents of All Ages, Incomes, and Abilities - contains goals, policies, and recommended actions focused on housing that is accessible to all income levels, age ranges, and household types, reinvestment in Milliken's Old Town and Downtown area neighborhoods, a specific emphasis on filling identified gaps in Milliken's housing stock, which include: rental, senior, and estate or "move up" housing.

The Comprehensive Plan also contains goals and actions under each of the guiding 8 principles. One of the goals is to promote continued reinvestment in Milliken's old town and downtown area neighborhoods to encourage the development of houses on vacant lots downtown where infrastructure and services already exist while providing for a mixed of housing types. This lot was sold as an infill lot for affordable housing. The house meets the Town's zoning which allows for only one dwelling unit. Thus, the house, even with the requested front yard setback variance, meets the intent of the Comprehensive Plan.

REVIEW CRITERIA

The Land Use Code Section 16-3-520 "Appeals and Variances" states that the Board of Adjustment or the Town Board shall not grant a variance to this Land Use Code, which:

- a. Permits a land use not allowed in the zoning district in which the property is located.
- b. Is in the public right-of-way or on public property.
- c. Alters any definition of this Chapter.
- d. Is other than the minimum variance that will afford relief with the least modification possible to the requirements of this Chapter.

- e. Is based on physical conditions or circumstances of the property so general or recurring in nature as to reasonably make practicable the formulation of a general regulation to be adopted as an amendment to this Chapter.
- f. Is based exclusively on findings of personal or financial hardship. Convenience, profit or caprice shall not constitute undue hardship.

The Board shall only grant a variance if all of the following have been satisfied:

- a. That there are unique physical circumstances or conditions such as irregularity, narrowness or shallowness of the lot, or exceptional topographical or other physical condition particular to the affected property.
- b. That, because of these unique physical circumstances or conditions, the property cannot be reasonably developed or used in compliance with the provisions of this Chapter.
- c. That due to such unique physical circumstances or conditions, the strict application of this Chapter would create a demonstrated hardship.
- d. That the demonstrable hardship is not self-imposed.
- e. That the variance, if granted, will not adversely affect the proposed development or use of adjacent property or neighborhood.
- f. That the variance, if granted, will not change the character of the zoning district in which the property is located.
- g. That the variance, if granted, is in keeping with the intent of this Chapter.
- h. That the variance, if granted, will not adversely affect the health, safety or welfare of the citizens of Town.

And, the condition of any variance authorized shall be stated in writing in the minutes of the Board with the justifications for doing so.

STAFF REVIEW OF THE CRITERIA

The builder did not intentionally put the house within the front yard setback and is now requesting the Town grant him a front yard setback variance for 8 feet and 10 inches. He paid Rocky Mountain Group to prepare a plot plan for the construction of a new residential dwelling unit for 417 Broad Street, which was submitted with the building permit. The Rocky Mountain Group is a large engineering company that provide architectural/land planning services as well as geotechnical, structural, and civil engineering services. The plot plan showed the house setback from the front property line 21 feet. Later, the builder paid a surveyor, Edmonds Land Surveying, Inc., for an ILC to sell the house, which showed the house setback from the front property line at 11.2 feet or approximately 11 feet and 2.4 inches. Mr. Baily says the discrepancy was made due to the property pins being in wrong place along Broad Street. In addition, Broad Street has a wider right-of-way than most streets; it is 80 feet wide rather than 60 feet.

A variance should only be given, when a property owner can document that their property is unique or has an inherent irregularity like topography that prohibits the property owner from having the same use or benefit from the property that their neighbors enjoy. The hardship must not be self-imposed. The variance should not be granted exclusively on findings of personal or financial hardship. The variance, if granted, may not be detrimental to the public good, create a conflict with the Comprehensive Plan or impair the intent and purpose of the Code. In addition, the criteria in the Code states that granting the variance may not adversely affect the proposed

development or use of adjacent property or neighborhood and may not change the character of the zoning district in which the property is located.

Staff finds the lot does not have any inherent irregularity that limits its development when compared with its neighbors. The hardship is self-imposed, except the house location is due to a mistake. Staff does not believe that the builder intentionally placed the new residential dwelling unit within the required front yard setback. Staff believes that the builder attempted to adhere to the existing Code and support the Comprehensive Plan by building a new dwelling unit on an infill lot with a 21 foot front setback given the plot plan he received from the Rocky Mountain Group. The Rocky Mountain Group folks are the ones that made the mistake.

The Community Development Director was not involved in the sale of the Town's property to the builder. She does not know what the terms were and how the bids for the property were made. Thus, staff's recommendation does not take into account any financial benefit or loss that the builder may have with this particular variance request. Financial considerations should not be factor in granting a variance, but this clarification should still be made.

The builder had previously asked the Community Development Director whether or not he could build more than one dwelling unit on the property to create more than one affordable housing unit. He found out, due to the current zoning, he could not.

The variance, if granted, will not adversely affect the proposed development or use of adjacent property or neighborhood, the character of the zoning district in which the property is located or the health, safety or welfare of the citizens of Town.

The Code states that the Board should only grant a variance if all of the criteria have been met and if the property owner can document their property is unique or some hardship exists that prohibits the property owner from having the same use or benefit from the property that the neighbors enjoy. In this case, the builder can't. He relied on Rocky Mountain Group's plot plan rather than a surveyor, but Rocky Mountain Group is a well-known, large company that provides architectural/land planning services including zoning verification, land use applications, architectural services, and cost estimating.

Staff recommends that the Planning and Zoning Commission deny the request to approve the variance for a front yard setback of approximately 8 feet and 10 inches because the Code requires all the criteria to be met for granting a variance. The builder should ask the Rocky Mountain Group to compensate him for their error.

On September 7, 2016, the Planning and Zoning Commission made a recommendation to the Board of Adjustment to approve the front yard variance of approximately 8 feet and 10 inches for 417 Broad Street in the Town of Milliken, Lots 12, 13, and the East $\frac{3}{4}$ of Lot 14, Block 45, in the County of Weld, Colorado after hearing testimony and examining the documents presented and the findings of fact with the condition that a mistake was made with the initial plot plan forcing the applicant, the builder, to request that a front year setback variance be granted even though the application did not meet the all criteria listed under the Town of Milliken's Land Use Development Code (LUDC) Chapter 16 Section 16-3-520.

In addition, the Planning & Zoning Commission after hearing testimony, examination of the documents presented and the findings of fact made additional recommendations to the Board that a boundary survey should be completed before the foundation of a building is put in to ensure

that new construction is in the correct location and meets setback requirements. In addition, the Commission recommended reducing Broad Street's right of way from 80 feet to 60 feet between Kathleen and Quentine.

FINDINGS OF FACT

1. Town of Milliken is a municipal corporation organized under Part 3, Article 4 of Title 31 of the Colorado Revised Statutes.
2. The Town Board of Trustees is obligated under Article 23, Title 31 of the Colorado Revised Statutes to establish a Board of Adjustment to hear and decide appeals from and review any order, requirement, decision, or determination made by any administrative official charged with the enforcement of the Town's zoning regulations.
3. In accordance with state law and as set forth in Section 16-3-520 of the Town of Milliken Municipal Code, the Board of Trustees has authorized the board of adjustment to hear and decide appeals and to consider variances under Chapter 16 of the Municipal Code.
4. The Board of Trustees has served as the board of adjustment and desires to codify the membership of the board of adjustment in accordance with C.R.S. Section 31-23-307 with the passage of Ordinance 730 adding a new Article XI to the Town's Municipal Code on June 29, 2016.
5. Pursuant to Colorado Revised Statutes, Section 31-23-307, the Town of Milliken created a Board of Adjustment.
6. The Board of Trustees previously enacted regulations governing the operation of home occupations in residentially zoned areas of the Town as codified in Section 16-3-620 of the Municipal Code.
7. Rocky Mountain Group prepared a plot plan for the construction of a new residential dwelling unit for 417 Broad Street, which was submitted with the building permit showing the house setback from the front property line as 21 feet.
8. The Town's Land Use Code Section 16-3-490 "Density and Dimensional Standards" requires a minimum of a 20 foot setback in the R-1 "Single Family Residential" Zoning District.
9. The Rocky Mountain Group provides architectural/land planning services and geotechnical, structural, and civil engineering services.
10. After the Mr. Baily, the builder, built a new residential dwelling unit according to the plot plan, he requested an Improvement Location Certificate (ILC) from a surveyor, Edmonds Land Surveying, Inc. for the sale of the house.
11. The ILC showed the house was built within the required front yard setback of 20 feet or 11.2 feet from the front property line; thus, the builder is requesting a front yard setback variance of approximately 8 feet and 10 inches.
12. The request for the variance was not created by a hardship that prohibits the property owner from having the same use or benefit from the property that the neighbors enjoy; it was due to a mistake made by the Rocky Mountain Group.

STAFF RECOMMENDATION

Staff recommends that the Planning and Zoning Commission deny the request to approve the variance for a front yard setback of approximately 8 feet and 10 inches because the Code requires all criteria to be met. However, staff does believe that a mistake was made by the Rocky Mountain Group on the plot plan, which allowed the new residential building permit to be issued and a new residential house to be built inside the required front setback forcing the request for front yard setback variance.

PLANNING AND ZONING COMMISSION RECOMMENDATION

On September 7, 2016, the Planning and Zoning Commission made a recommendation to the Board of Adjustment to approve the front yard requested variance of approximately 8 feet and 10 inches for 417 Broad Street in the Town of Milliken, Lots 12, 13, and the East $\frac{3}{4}$ of Lot 14, Block 45, in the County of Weld, Colorado after hearing testimony and examining the documents presented and the findings of fact with the condition that a mistake was made with the initial plot plan forcing the applicant, the builder, to request that a front yard setback variance be granted even though the application did not meet the all criteria listed under the Town of Milliken's Land Use Development Code (LUDC) Chapter 16 Section 16-3-520.

In addition, the Planning & Zoning Commission after hearing testimony, examination of the documents presented and the findings of fact made two additional recommendations to the Board:

1. Require a boundary survey before the foundation of a building is put in to ensure that new construction is in the correct location and meets setback requirements.
2. Reduce Broad Street's right of way from 80 feet to 60 feet from Kathleen to Quentine.

BOARD OF ADJUSTMENT APPROVAL

_____The Board of Adjustment after hearing testimony, examination of the documents presented and the findings of fact finds the application DOES NOT MEET the provisions of the Town of Milliken's Land Use Development Code (LUDC) Chapter 16 Section 16-3-520 relating to satisfying ALL the criteria necessary to grant a variance, but RECOMMENDS APPROVAL of the variance for the required front yard setback of approximately 8 feet and 10 inches for the property at 417 Broad Street in the Town of Milliken, Lots 12, 13, and the East $\frac{3}{4}$ of Lot 14, Block 45, in the County of Weld, Colorado with the condition that a mistake was made with the initial plot plan forcing the applicant to request a front yard setback variance be granted;

or:

_____The Board of Adjustment after hearing testimony, examination of the documents presented and the findings of fact finds the application DOES NOT MEET the provisions of the Town of Milliken's Land Use Development Code (LUDC) Chapter 16 Section 16-3-520 relating to satisfying ALL the criteria necessary to grant a variance and RECOMMENDS the Board of Adjustment DENY the variance request for the required front yard setback of approximately 8 feet and 10 inches for 417 Broad Street in the Town of Milliken, Lots 12, 13, and the East $\frac{3}{4}$ of Lot 14, Block 45, in the County of Weld, Colorado.



Town of Milliken Land Use Application Form

PROJECT NAME: **417 BROAD STREET**

DATE SUBMITTED: **7-25-2016** APPLICATION FEE: APPLICATION DEPOSIT:

TYPE OF APPLICATION:

- | | | |
|-----------------------------------------------------------|------------------------------------------------------------|--------------------------------------------------|
| <input type="checkbox"/> ANNEXATION | <input type="checkbox"/> SITE PLAN REVIEW | <input checked="" type="checkbox"/> VARIANCE |
| <input type="checkbox"/> SKETCH PLAN | <input type="checkbox"/> USE BY SPECIAL REVIEW - MAJOR | <input type="checkbox"/> WAIVER |
| <input type="checkbox"/> PRELIMINARY PLAT | <input type="checkbox"/> USE BY SPECIAL REVIEW - MINOR | <input type="checkbox"/> AMEND TO REC. PLAT |
| <input type="checkbox"/> FINAL PLAT | <input type="checkbox"/> USE BY SPECAIL REVIEW - GRAVEL | <input type="checkbox"/> FLOOD PLAIN DEV. PERMIT |
| <input type="checkbox"/> PLANNED UNIT DEVELOPMENT | <input type="checkbox"/> USE BY SPECAIL REVIEW - OIL & GAS | <input type="checkbox"/> COMP PLAN AMENDMENT |
| <input type="checkbox"/> MAJOR SUBDIVISION | <input type="checkbox"/> CHANGE OF ZONE | <input type="checkbox"/> HOME OCCUPATION |
| <input type="checkbox"/> MINOR SUBDIVISION/RE-SUBDIVISION | <input type="checkbox"/> OTHER: _____ | |
| <input type="checkbox"/> RURAL SUBDIVISION | | |

PRE-APPLICATION CONFERENCE WAS HELD WITH: Date:

PROJECT INFORMATION

Applicant's Name: JOHN BAILEY 2 VALLEY BUILDERS, INC	Project Location: 417 BROAD STREET
Address: 6637 SPANISH BAY DRIVE	Existing Use:
WINDSOR, COLORADO 80550	Proposed Use:
Phone/Fax: (970) 599-2134	Existing Zoning:
Relation to Property Owner:	Proposed Zoning:

Is site within Flood Plain? FEMA TOWN NO

Is site within Milliken's Planning Area? YES NO

Legal Description of Property (location within section, section, township and range): See attached **LOTS 12, 13 AND THE EAST 3/4 OF LOT 14, BLOCK 45**

Total Acreage of Property under Consideration: **8,268.75 SQ FT.**

Number of Existing Residential Lots:	Number of Proposed Residential Lots:
Number of Existing Commercial Lots:	Number of Proposed Commercial Lots:
Number of Existing Industrial Lots:	Number of Proposed Industrial Lots:

ADDITIONAL CONTACTS	
Property Owner:	Consultant:
Address:	Address:
City/State/Zip:	City/State/Zip:
Phone/Fax:	Phone/Fax:
Property Owner:	Consultant:
Address:	Address:
City/State/Zip:	City/State/Zip:
Phone/Fax:	Phone/Fax:



Town of Milliken Land Use Application Form

COMPREHENSIVE PLAN MAP DESIGNATIONS: Business/Industrial/Greenways/Residential

LAND USE & PUBLIC FACILITIES

Land Use Designations:

Public Facilities:

IMAGE AND DESIGN

Gateway: YES NO

Important Connection: YES NO

TRANSPORTATION

Street Connections:

UTILITY AND SPECIAL DISTRICTS

Water:

Sewer:

Fire Protection:

Other:

PARKS, OPEN SPACE AND RECREATION

Proposed park and/or trail:

ENVIRONMENTAL ISSUES

Property in floodplain: YES NO

Sensitive wildlife habitat area: YES NO

Soil Type:

OIL AND GAS

Oil and/or gas wells: YES NO

CERTIFICATION

I certify that I am the lawful owner of the parcel(s) of land which this application concerns and consent to this action.

Owner: John T. Bailey Date: 7-25-2016

I certify that the information and exhibits I have submitted are true and correct to the best of my knowledge. In filing this application I am acting with the knowledge and consent of the property owners. I understand that all materials and fees required by the Town of Milliken must be submitted prior to having this application processed. (Please fill out an Owner's Affidavit form if you wish to have someone act on your behalf for this application.)

Applicant: _____ Date: _____

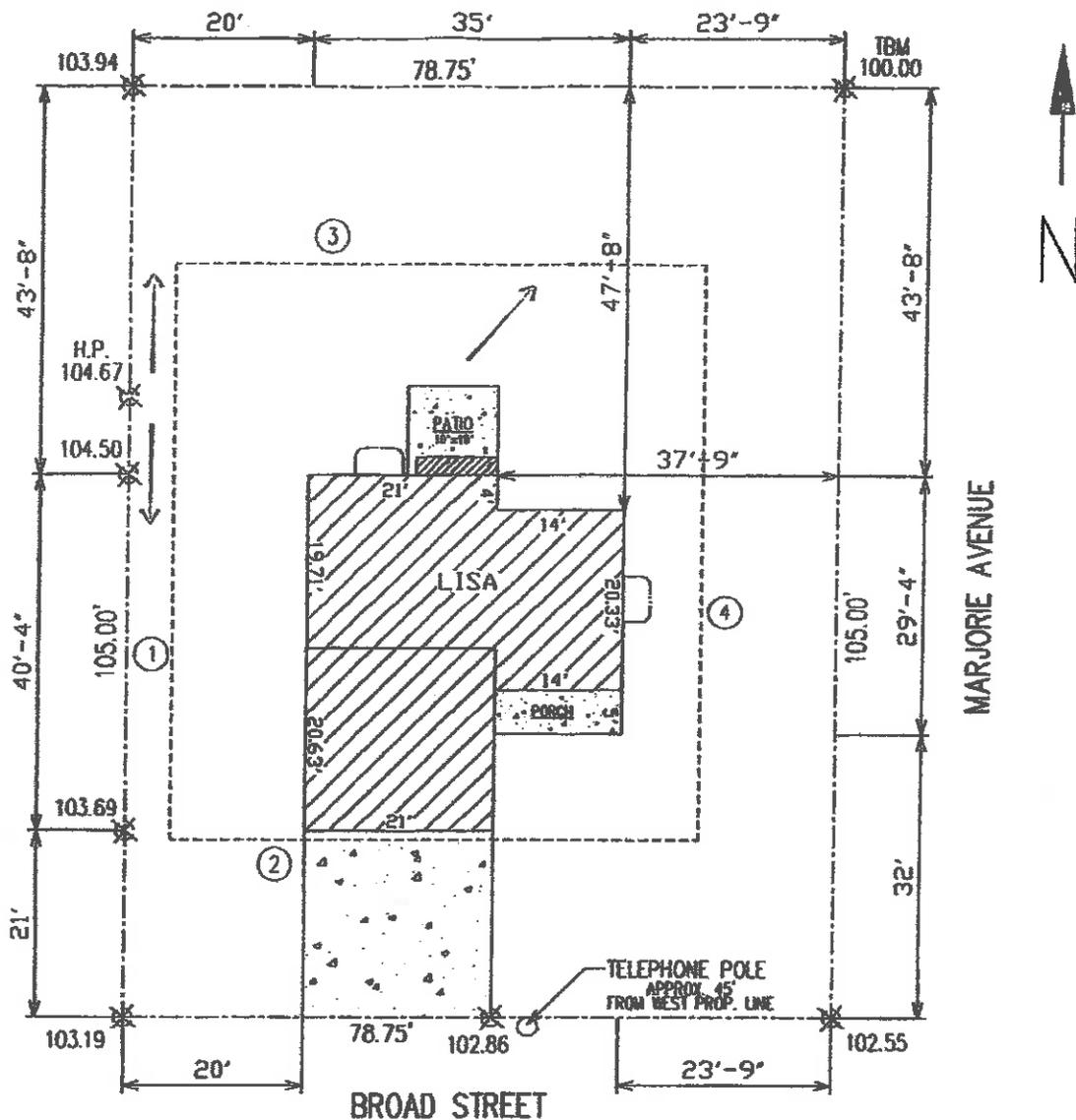
STAFF USE ONLY

APPLICATION ACCEPTED:

Date: _____

By: _____

Fee: _____



NOTE: PLAT INFORMATION OBTAINED FROM
 PLAT OF THE TOWN OF MILLIKEN
 WELD COUNTY CLERK & RECORDER
 RECEPTION No. 143902 7/23/1909

NOTE: TBM = NE CORNER TOP, BACK OF CURB, LOT 12, BLOCK 45
 ELEVATION = 100.00

417 BROAD STREET

SCALE: 1" = 20'-0"

LEGEND :

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

- ① 5' SIDE SETBACK ③ 20' FRONT SETBACK
- ② 20' REAR SETBACK ④ 15' SIDE STREET SETBACK

TOP OF FOUNDATION	106.20
MAX FINISH GRADE ELEV AT FOUNDATION WALL	105.53
DRIVE SLOPE	10.0%
FRONT GARAGE F.F.	104.96
GARAGE FLOOR ELEV. AT ENTRY DOOR	105.38
ELEV. OF FOOTING BOTTOM ⊙ FRONT OF GARAGE	102.46

SITE & GRADING PLAN
PLAN #417
 LOT 12, 13, & PART OF 14,
 BLOCK 45
 PLAT OF THE TOWN OF MILLIKEN
 MILLIKEN, COLORADO

CLIENT :
 2 VALLEY BUILDERS, INC
 6637 SPANISH BAY DR.
 WINDSOR, CO. 80550
 RMG PROJECT NO: 148721
 DATE: 4/8/16



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

Dud

IMPROVEMENT LOCATION CERTIFICATE

PROPERTY DESCRIPTION:

LOTS 12, 13 AND THE EAST 3/4 OF LOT 14, BLOCK 45,
TOWN OF MILLIKEN, COUNTY OF WELD, STATE OF COLORADO.

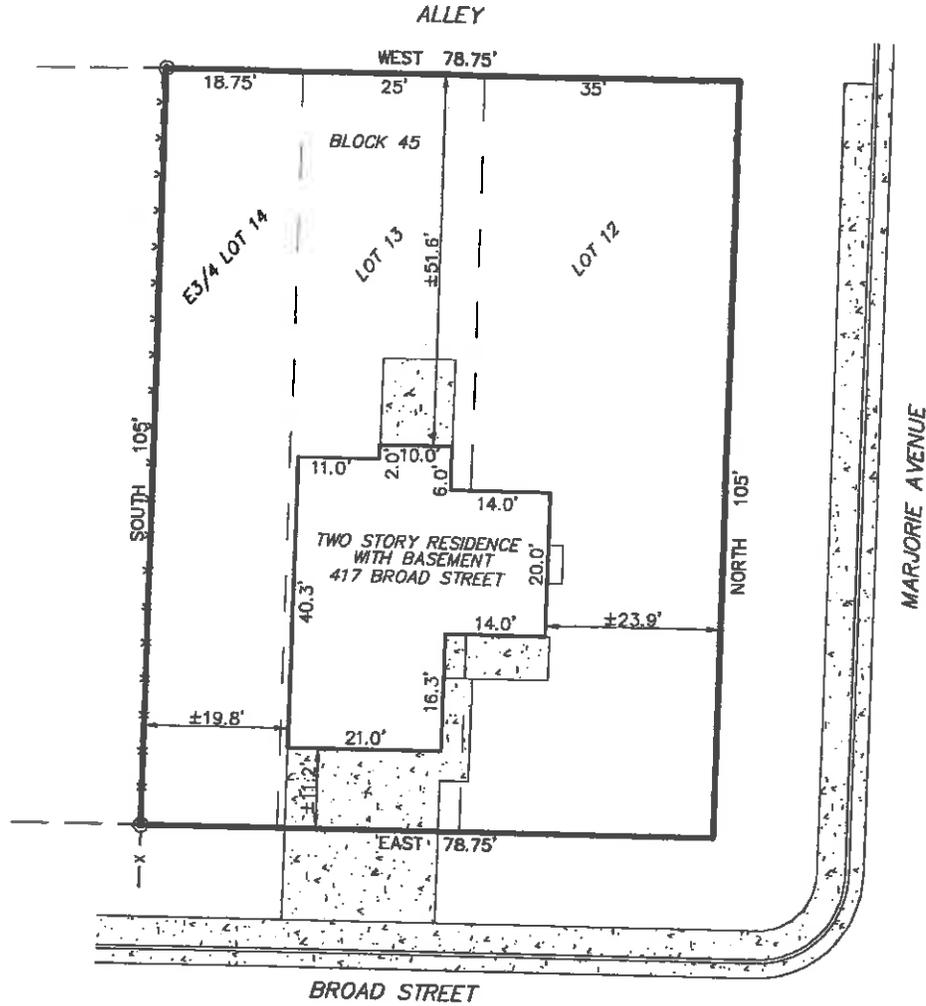
SOURCE:

WELD COUNTY ASSESSOR



SCALE: 1"=20'

© FOUND 1/2" REBAR WITH CAP, PLS 4392



NOTES:

- 1.) ALL LOT DIMENSIONS, EASEMENTS AND RIGHTS-OF-WAY SHOWN HEREON ARE TAKEN FROM THE PLAT OF TOWN OF MILLIKEN. LOT DIMENSIONS DO NOT REFLECT THOSE OF AN ACTUAL BOUNDARY SURVEY. THE LOCATION OF PROPERTY LINES CAN ONLY BE DETERMINED BY A MONUMENTED BOUNDARY SURVEY. THE FENCE LOCATIONS SHOWN HEREON (-X-) ARE APPROXIMATE. OWNERSHIP OF FENCES CANNOT BE DETERMINED BY AN IMPROVEMENT LOCATION CERTIFICATE.
- 2.) THIS IMPROVEMENT LOCATION CERTIFICATE WAS PREPARED FOR THE USE OF THE COMPANIES LISTED HEREON FOR A SPECIFIC TRANSACTION AND IS NOT TO BE USED AGAIN WITHOUT THE RE-CERTIFICATION OF THE SURVEYOR. EDMONDS LAND SURVEYING, INC. WILL NOT BE LIABLE FOR MORE THAN THE COST OF THIS IMPROVEMENT LOCATION CERTIFICATE AND THEN ONLY TO THE PERSON OR COMPANY FOR WHICH THE IMPROVEMENT LOCATION CERTIFICATE WAS PREPARED FOR.

IMPROVEMENT LOCATION CERTIFICATE

I HEREBY CERTIFY THAT THIS IMPROVEMENT LOCATION CERTIFICATE WAS PREPARED FOR **2 VALLEY BUILDERS**, THAT IT IS NOT A LAND SURVEY PLAT OR AN IMPROVEMENT SURVEY PLAT, AND IT IS NOT TO BE RELIED UPON FOR THE ESTABLISHMENT OF FENCE, BUILDING, OR OTHER FUTURE IMPROVEMENT LINES. THIS CERTIFICATE IS VALID ONLY FOR USE BY **2 VALLEY BUILDERS** AND DESCRIBES THE PARCELS APPEARANCE ON **JULY 22, 2016**. I FURTHER CERTIFY THAT THE IMPROVEMENTS ON THE ABOVE DESCRIBED PARCEL ON THIS DATE, **JULY 22, 2016**, EXCEPT UTILITY CONNECTIONS, ARE ENTIRELY WITHIN THE BOUNDARIES OF THE PARCEL, EXCEPT AS SHOWN, THAT THERE ARE NO ENCROACHMENTS UPON THE DESCRIBED PREMISES BY IMPROVEMENTS ON ANY ADJOINING PREMISES, EXCEPT AS INDICATED, AND THAT THERE IS NO APPARENT EVIDENCE OR SIGN OF ANY EASEMENT CROSSING OR BURDENING ANY PART OF SAID PARCEL EXCEPT AS NOTED.

THIS IMPROVEMENT LOCATION CERTIFICATE IS CERTIFIED TO THE FOLLOWING, AND DOES NOT EXTEND TO ANY UNNAMED PARTY WITHOUT THE RE-CERTIFICATION OF THE SURVEYOR:

BUYER: N/A

LENDER: N/A

TITLE CO.: N/A



BY ROBERT M. EDMONDS
COLORADO PLS NO. 37968
JULY 25, 2016

EDMONDS LAND SURVEYING, INC.
P.O. BOX 641
KERSEY, CO 80644
PHONE: (970) 686-6970
FAX: (970) 284-6802
www.EdmondsLandSurveying.com



PROPERTY ADDRESS	
417 BROAD STREET MILLIKEN, CO	
SCALE: 1"=20'	FORMAT: 8.5"x14"
DATE: 07/25/16	FIELD BK: P
DWG BY: RME	PROJ. NO: 16-0372

TOWN OF MILLIKEN
PLANNING COMMISSION
MEETING HOUSE, 1201 BROAD STREET

WEDNESDAY, SEPTEMBER 7, 2016 7:00 P.M.

The Planning Commission of Milliken convened into regular session on the 7th Day of September, 2016. Those present were: Chair Tim Woodcock, Vice-Chair Dave Bernhardt Commissioners: Dave Watson, Shellie Satterfield, Mitchell Portella, Andrew Hladik and Ron Blackmer. Also present: Town Administrator Kent Brown, Community Development Director Martha Perkins and Town Clerk Cheryl Powell.

Absent:

Chair Woodcock called the meeting to order and led the audience in the Pledge of Allegiance.

Call to Order Pledge of Allegiance

Agenda Approval Additions/Deletions to Agenda

Staff indicated that they did not have any changes to the Agenda.

Citizens Comments

None.

Minutes of Previous Meeting

Minutes for the August 17, 2016 meeting approved as distributed.

Commissioner Watson motioned to approve the minutes. Commissioner Bernhardt seconded.

All in favor, none opposed.

CONSENT AGENDA

Consent Agenda items are considered to be routine and will be enacted by one motion and vote. There will be no separate discussion of Consent Agenda items unless a Planning Commission member or citizen so requests, in which case the item may be removed from the Consent Agenda and considered at the end of the Action Agenda.

There were not any items.

ACTION AGENDA

1. Front Yard Setback Variance Request

Public Hearing Opened at: 7:04 P.M.

Community Development Director Martha Perkins explained to the Planning Commission a request for a Variance has been made for a front yard setback located at 417 Broad Street. The agent is John Bailey with 2 Valley Builders, Inc. and the property owners are Brent M. Coddington and Chesea Babb. Perkins explained that the applicant apologized for not attending due to a prior commitment he could not reschedule.

Director Perkins explained that the plot plan for the construction of the new residential dwelling unit was prepared by the Rocky Mountain Group. The zoning of the property R-1 "Single Family Residential" requires a 20-foot front setback. Staff reviewed the plot plan as part of the building permit and based on this plot plan approved the building permit. The builder built the house according to this plot plan.

Perkins reviewed the process with the Commission explaining how the LUCD defines the criteria of a Variance. A Variance requires a hardship and there is not a hardship in this case.

Perkins further explained that with the sale of the house, the builder retained a surveyor, Edmonds Land Surveying, Inc., to prepare an Improvement Location Certificate (ILC). The ILC showed the front setback as 11 feet and 2 inches, rather than the 21 feet. It appears that the pins were set incorrectly along Broad Street. The right-of-way on Broad Street is 80 feet rather than 60 feet. Mr. Bailey is requesting a front yard setback variance for 8 feet and 10 inches. Perkins explained that she believes that this was an honest mistake.

Commissioner Bernhardt explained that these types of mistakes need to be corrected. With all the building occurring in Town this needs to be verified. Perkins explained that the surveyors actually moved the pins since the pins were placed in the wrong place.

Blackmer explained that a survey should have been done prior to the building of the house. Administrator Brown spoke about the right-of-way perhaps being re-determined from the current 80 feet to 60 feet since it is no longer a main arterial. Bernhardt suggested narrowing the right-of-way. Portella asked if there are utilities in place that would create a problem with narrowing. Watson explained that there are not any other homes to be built in this area. Bernhardt explained that in other Town's old homes are being torn down and new structures erected.

Chair Woodcock suggested bringing the suggestion of the narrowing of the right-of-way to the Town Board.

Satterfield mentioned this is the second Variance request brought to the Commission

due to a “mistake”. That a survey should be done prior to the foundation being poured.

Public Hearing closed at 7:23 P.M.

Commissioner Bernhardt motioned that The Planning and Zoning Commission after hearing testimony, examination of the documents presented and the findings of fact finds the application does not meet the provisions of the Town of Milliken’s Land Use Development Code (LUDC) Chapter 16 Section 16-3-520 relating to satisfying all the criteria necessary to grant a variance, but recommends the Board of Adjustment approve the variance request for the required front yard setback of approximately 8 feet and 10 inches for 417 Broad Street in the Town of Milliken, Lots 12, 13, and the East ¾ of Lot 14, Block 45, in the County of Weld, Colorado with the condition that a mistake was made with the initial plot plan forcing the applicant to request a front yard setback variance be granted. Commissioner Watson seconded.

Roll Call Vote: Chair Woodcock – yes, Vice Chair Bernhardt – yes, Commissioners Watson – Yes, Blackmer – yes, Portella – yes, Hladik – yes and Satterfield – yes. Motion passed.

Commissioner Bernhardt made a recommendation that the right-of-way on this area of Broad Street from Kathleen to Quentine be narrowed.

Commissioner Blackmer recommended that a survey should be done before the foundation is poured.

DRAFT
DISCUSSION AGENDA

1. Weld County Referral ZPHC16-0009

D Attach-1

Weld County Referral# ZPHB16-0009: Property Owners James and Cynthia Franklin (Parcel# 1057-01-0-00-042) are requesting a Zoning Permit for a Home Occupation-Class II. The owners would like to have a Massage Therapy Office in their home and a Gun-Smithing Shop in the Existing Detached Shop on the Property located at 23522 County Road 35 in LaSalle, County of Weld, State of Colorado.

The Planning Commissioners did not have a conflict.

2. Weld County Referral PUDK16-0003

D Attach-2

Weld County Referral# PUDK16-0003: Property Owners Wayne Howard and Sharyn Frazer (Parcel 0957-30-3-00-049) are Requesting a Sketch Plan Application for 5225 Estates PUD (Planned Unit Development) Subdivision consisting of Three (3) Single Family Agricultural Residential Lots. The Proposed 18-Acre Subdivision would include three lots varying in size from 3-Acres to 4-Acres and located at 6450 CR 52.25 in Johnstown, County of Weld, Colorado.

The Planning Commissioners did not have a conflict.

3. Weld County Referral COZ16-0003

D Attach-3

Weld County Referral# COZ16-0003: Property Owners Jacob and Laura Owens (Parcel 0959-27-1-07-005) are Requesting a Change of Zone from A (Agricultural) Created in the Sixties when this 10.47 Acres was Developed as a Residential Subdivision and Left Undeveloped and Maintained to E (Estate) Zoning (in Conjunction with Referral# RES16-0001) for Two Single Family Residential Lots Consisting of 5.15-Acres and 5.23 Acres in Tract A of the Arrowhead 4th Filing Subdivision with the Addresses of 5300 Kiowa Drive and 5101 Pawnee Drive in Evans, County of Weld, Colorado.

The Planning Commissioners did not have a conflict.

4. Weld County Referral RES16-0001

D Attach-4

Weld County Referral# RES16-0001: Property Owners Jacob and Laura Owens (Parcel 0959-27-1-07-005) are requesting a Replat (in Conjunction with Referral# COZ16-0003) for Tract A of the Arrowhead 4th Filing Subdivision with Addresses of 5300 Kiowa Drive and 5101 Pawnee Drive in Evans, County of Weld, Colorado. The 10.47 Acres will be divided into 2 Lots consisting of 5.15-Acres and 5.23 Acres. The Surrounding Development is comprised of Single Family Residential Dwelling Units averaging just over Two and One-half Acres.

The Planning Commissioners did not have a conflict.

Other Business

Perkins explained that the Town's Attorney is reviewing the areas of the Code that have been suggested. Temporary Use Permit, Fences and Walls, Accessory Structures and the MUCD. An Attorney will be reviewing the Fence Code.

Satterfield asked if the Commissions comments were brought to the Town Board. Brown explained that some issues had been discussed.

Satterfield asked about the Land Use Code and having the entire Code reviewed. Brown indicated that there was a positive response from the Town Board but it will be a budgetary discussion for 2017.

Woodcock asked if a joint Work Session has been scheduled. Brown indicated a date has not been determined yet.

Woodcock asked about Home Occupations and currently the Town is placed in a liability situation.

Brown explained that the Board will probably not be in favor of spending money to

have an outside coming in to write the Land Use Code. There will funds asked for in the budget. Discussion between the Commission and staff was the parameters that the Code will be reviewed and how it will be approached. The Commission has reviewed the recently written Lakewood Land Use Code and suggested this may be a starting point. Perkins explained that the Board is aware of the need of correcting the Town's Code and the Lakewood Code and various other options were provided to the Town Board.

Brown suggested that perhaps Perkins could bring some procedure to the Town Board showing Lakewood's Code versus Milliken's Code, such as a Commercial Site Application.

Further discussion was the difference in the length of notice process and the simplicity for others to comprehend. A Work Session will be scheduled and these items will be discussed. Commissioner Bernhardt suggested that his attorney is willing to present free of charge, but would like to confer with the Town's attorney.

Unfinished Business

Adjournment

There being no further business, the meeting adjourned at: 8:15 P.M.

Prepared by:

Approved by:

DRAFT

Cheryl Powell, Town Clerk

Tim Woodcock, Chair