

<b>MEMBERS</b>	<b>PRESENT</b>	<b>ABSENT</b>	<b>EXCUSED</b>
SCOTT FRAZIER	X		
ELLEN HARRIMAN	X		
MARLA LARSON	X		
SHARON CAVE	X		

**OTHERS PRESENT:** Director Steve Westbay and Planning Technician Michelle Spain

**I. CALL TO ORDER AT 7:00 PM BY CHAIR SCOTT FRAZIER**

**II. CONTINUED PUBLIC HEARING – VA 16-3, SUBMITTED BY NAVID NAVIDI, REQUESTING A FRONT SETBACK VARIANCE ALONG REED STREET AND NEW YORK AVENUE.**

**Open the Continued Public Hearing.** Vice-Chair Harriman opened the public hearing at approximately 7:00 p.m. this is the continuation of the hearing on August 11, 2016, VA-16-3 Navid Navidi.

Chair Frazier entered the meeting.

**Proof of publication.** Proof of publication was entered into the record on the August 11, 2016 meeting. No further notices were required.

**Review of the Process.** Director Westbay reviewed the reason for this continuation of the public hearing. Staff was instructed to meet with the applicant and discuss the merits of the application and the merits of the previous testimony. Director Westbay and the applicant met on site and discussed his desire and reason for the 100 foot building, its placement, and the reasons for the 5-foot setbacks on New York and Reed Streets. The applicant is still requesting a 5-foot setback. The separation of 10 feet between the buildings is the similar to the uses in the commercial district. The 10-foot setback was recommended by staff making it consistent with the underlying zoning and provides adequate snow removal and storm water flows and grading at the site.

**Applicant Presentation.** Mr. Navid Navidi

Mr. Navidi submitted some handouts for the presentation. A copy was entered into the minutes. Mr. Navidi continues his request for the 5-foot setback on New York and Reed Streets. Mr. Navidi explained the width of his trucks and why the setback would be correct for this operation. The 10 feet between the two buildings is not adequate. The type of trucks in his business are 8 feet wide then add the mirrors that brings it to 10 feet wide. That statement that the 10 feet is adequate is inaccurate. Mr. Navidi stated that he needs this building to expand his business. This will be good for the neighborhood, the City and his seven employees. The setback he is asking for will have no negative effect on the neighborhood. The City Land Development Code

discriminates against property owners like himself, who have three frontages. 15-foot dimension is taking 7,995 sq. ft. and none of this can be developed. This makes 27% of this property not developable. Even with a 10-foot setback that will leave 5,700 sq. ft. that cannot be used. 15% snow storage and 10% for landscaping it brings it to 52% of the property that cannot be used. Mr. Navidi stated his equipment needs to be stored inside. This company is an emergency response company. He needs to be able to move this equipment as called for. The review of the building commenced. The drawing is in the attachments.

Drainage was discussed. The corner of New York and the frontage road you can see how much distance there is. Distances were reviewed. Property line is 24 feet from the street. With this building being setback 5 feet that will be a total of 30 feet from the street. This is not a typical City lot. Schmaltz Construction building was used as an example of construction. When he enters his building he blocks most of 10<sup>th</sup> street on a blind corner. Mr. Navidi submitted an example of a similar building. He showed it as an overlay to his lot. He showed that other properties on New York were already 10 feet from the street. Given these circumstances he felt he could continue his clean-up of this area if this variance was granted.

Mr. Navidi had a question for Director Westbay concerning the 24-foot City easement. It needs to be paved. It is full of pot holes. Who would pay for this? Director Westbay responded that under the street regulations the owner is responsible to maintain this area. Here is another reason for granting this request. Mr. Navidi does not get to use this but has to maintain it. At last week's meeting it was indicated that he had not studied this before he ordered the building. That is not true. He ordered this building because it will serve his immediate needs. Yes, he admitted he made a mistake in reading the code.

Mr. Navidi indicated he contacted the building official prior to ordering this structure. He asked if he needed it sprinkled. He was told that under 12,000 feet it was not necessary. Then the building official called and stated he had made a mistake and the sprinkler system is required. This will be adding another cost of \$30,000.00. Mr. Navidi will comply because he wants to make sure all is done correctly. He will absorb the cost of the street maintenance, landscaping, fire suppression requirements so this project can move forward and be in compliance.

A Conditional Use was given to Mr. Navidi's competitor. This person runs the same type of business, out of garage in the back of a house. He blocks the alley access and, they park these units on 12<sup>th</sup> St. The neighbors are constantly complaining and requesting police assistance to remove the junk cars. Mr. Navidi pleaded his case that he is investing time and money to make his business be in compliance. This variance will allow him to keep his vehicles stored in a secure environment.

**Public Input.** There was none.

**Staff Presentation.** Director Westbay stated that this Board is in charge of looking at dimensional standards based on the criteria of the code. Criteria statements must be met and finding and facts have been derived. So if the board feels this application has met the criteria statements than we can proceed.

**Commission Discussion.**

Vice-Chair Harriman indicated that last week the information was incomplete. She indicated that she expects the applicant to be prepared also. The access issues were discussed. Distance between buildings is not an issue here. Request from Vice-Chair Harriman on the location of entrance of doors. Applicant responded that the doors will only be facing on the Highway 50 side. 100' North/South & 70 feet East/West. Mr. Navidi looked at all kinds of configurations. The frontage road is actually a dead end. He has closed this area. This is for the safety of his customers' vehicles and his employees. He needs to discourage the public from taking access through his property so they can enter New York. Mr. Navidi is using the New York access currently. Mr. Navidi indicated that he owns three other business in Gunnison. With this one it will be number four. Sales tax is generated from this business and this will increase the sales tax revenue.

Chair Frazier did take a look at this area. The 5-foot setback would still allow the City to do its maintenance. Vice-Chair Harriman reiterated that their responsibility is to exam the criteria in the zoning. Director Westbay has discussed this with the applicant. Mr. Navidi stated that this code is unreasonable for this location. Board Member Larson reviewed the 5-foot setback at the rear and all the other items landscaping, snow storage etc. Vice-chair Harriman asked where the location of the landscaping was on this parcel. Director Westbay indicated that currently all the trees are in the front. Landscaping was never an issue for this application. The buffer standards were discussed. The buffer standards are very good on this parcel for this type of operation. There will also be landscaping on the side. Board Member Larson reiterated the board was looking at the criteria and examining if this application fit all the standards. Director Westbay responded that the way this has been written there is no conflict. Board Member Cave indicated that working around a 10-foot section with these large vehicles is difficult and she feels this may be a hardship. Mr. Navidi stated that the storm drain will have to have a valley and snow removal will also be difficult. Director Westbay then recommended changes to the review. So noted and changed.

**Close the Public Hearing.** Chair Frazier closed the public hearing at 7:35 p.m.

Chair Frazier indicated that after discussion and review there is definite hardship and he agrees with the 5-foot setback.

Board Member Larson is in agreement with the 5-foot setback on Reed Street and New York Street.

Board Member Cave agreed with the request.

Vice-Chair Harriman indicated that this may not be impossible, but this board should not determine if the applicant must struggle.

Director Westbay then recommended changes to the review. So noted and changed in the Staff Review and the Findings of Fact.

## ACTION

At the Zoning Board of Adjustments and Appeals meeting of August 18, 2016, Board Member Larson moved, and Board Member Cave seconded to APPROVE the request by Navid Navidi for Variance Application, VA 16-3 for a front yard setback variance on the Reed Street and New York Avenue, based on the following findings of fact that have been amended:

Findings of fact:

1. The Zoning Board of Adjustments and Appeals finds that the record of this action includes the application contents on file with the City of Gunnison; all comments entered into the Public Hearing record; provisions of the *City of Gunnison Land Development Code*; and the *City of Gunnison Master Plan (2007)*.
2. The Zoning Board of Adjustments and Appeals finds that the applicant is requesting a variance from the minimum front setback of 15 feet to five feet on the Reed Street and New York Avenue frontages, for the placement of a 70' by 100' shop.
3. The Zoning Board of Adjustments and Appeals finds that the site is constrained with a triple street frontage lot configuration. The Board further finds that, historically, with this type of configuration a setback variance from at least one of the street frontages has been approved.
4. The Zoning Board of Adjustments and Appeals finds that the majority of structures along Reed Street are situated with a five-foot setback and granting the variance for the Reed Street frontage is appropriate and provides consistency.
5. The Zoning Board of Adjustments and Appeals finds that the site contains a drainage swell to the south of the property and a 5-foot setback on the New York Avenue frontage accommodates this drainage swell and provides adequate area between buildings for snow removal.
6. The Zoning Board of Adjustments and Appeals finds that the additional area between buildings will allow ample area to maintain stormwater flow lines through the site.
7. The Zoning Board of Adjustments and Appeals finds that the variance request for the five-foot setback on Reed Street and on New York Avenue meets the seven review standards as defined in the *Land Development Code* for variances.
8. The Zoning Board of Adjustments and Appeals finds that a five-foot minimum setback on the New York Street frontage is warranted based on the submitted application materials and public hearing testimony.

9. The Zoning Board of Adjustments and Appeals finds that the Reed Street and New York Avenue setback variance promotes the long term health, safety, and welfare of the community.

Condition:

1. The applicant shall maintain a minimum five-foot setback on Reed Street and a minimum five-foot setback on New York Avenue.

Roll Call Yes: Frazier, Harriman, Cave, Larson

Roll Call No:

Roll Call Abstain:

Motion Carried

The applicant thanked the Board.

**III. CONSIDERATION OF THE AUGUST 11, 2016 MEETING MINUTES**

Board Member Cave moved and Board Member Harriman seconded to approve the August 11, 2016 meeting minutes as presented.

Roll Call Yes: Frazier, Larson, Harriman, Cave

Roll Call No:

Roll Call Abstain:

Motion Carried

**IV. UNSCHEDULED CITIZENS -There were no unscheduled citizens.**

**V. BOARD COMMENTS- None**

Density allowance variance reviewed. They are trying to maximize density in the VanTuyl subdivision.

**VI. STAFF COMMENTS**

Director Westbay updated the Board that there will be another application in the next few weeks.

**VII. ADJOURN**

The meeting was adjourned at approximately 7:50 p.m.

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Scott Frazier, Chair

Attest:

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Michelle Spain, Secretary