



## Memorandum

**TO:** Development Review Board

**FROM:** Eric Vorwald, AICP  
Planning & Zoning Manager

**RE:** **Variance Request – 101 Main Street (Including 109 Main Street)**

**DATE:** September 15, 2022

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In accordance with Section 6.8 of the City of Winooski's Unified Land Use and Development Regulations (effective August 30, 2022), the following information is being provided regarding a request for a variance. The Development Review Board (DRB) may grant a variance for a structure only if literal enforcement of the City's Unified Land Use and Development Regulations (ULUDR) results in an undue hardship to the appellant that precludes any reasonable use of the property. Information on variances, including the five parts required for an affirmative decision are outlined in Section 6.8.C of the ULUDR.

### History

On or about November 19, 2020, the Zoning Administrator issued Zoning Permit ZON19-060. This permit was issued for the construction of a 54-unit mixed use building. The project is located in the Gateway Zoning District as regulated by the Form-Based Code. For the purposes of this development, the properties at 101 and 109 Main Street were consolidated to one property, however the formal addressing has not been updated therefore it is referred to as 101 Main Street.

Section 6.11 of the ULUDR outlines the effective dates and options for renewal of zoning permits. Specifically, zoning permits expire one year from the date of issuance. The expiration of a zoning permit can be extended by an additional year if requested by the applicant, including information for a "reasonable delay" in why the project was not started. For reference, once a project covered by a zoning permit commences, there is no expiration of the permit.

On or about October 26, 2021, the applicant requested a one-year extension to their zoning permit citing delays due to the COVID-19 Pandemic, including supply chain issues. The Zoning Administrator granted a one-year extension of Zoning Permit ZON19-060. The new expiration date of this permit is November 19, 2022.

Since the issuing of the permit and the extension, the applicant has been working with Green Mountain Development Group, Inc. (GMDG) to secure funding that will allow for the development of a mixed-income project. GMDG applied for funding in 2022, but was not granted due to limited funding availability. GMDG did receive positive feedback on their application and are interested in pursuing this funding again, however the decision on funding awards will occur after the expiration of the

zoning permit. The next round of possible funding for affordable housing projects will open in the spring of 2023.

### **Updates to Form Based Code**

In April of 2022, the Winooski City Council approved amendments to the City's Form Based Code. The development approved under Zoning Permit ZON19-060 no longer conforms to the code as permitted. Specifically, any parking forward of the Parking Setback Line needs to be completely below the minimum fronting sidewalk elevation.

Based on this change, GMDG is requesting a variance from the DRB to extend the expiration of the Zoning Permit ZON19-060 until December 31, 2023; or to allow for the project to be re-permitted under the previous regulations as currently designed.

### **Variance Request**

Section 6.8 of the ULUDR outlines requirements for granting a variance. This is also outlined in state statute (24. V.S.A. § 4469). In order to grant a variance, the DRB must find in favor of the appellant in all five standards. To support their request, GMDG has provided a narrative outlining their position related to the five standards of a variance. Included below are the five required standards, including information from the Zoning Administrator related to these standards.

- a. *There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions and not the circumstances or conditions generally created by the provision of these regulations in the neighborhood or district in which the property is located.*

#### Relationship to Standard

The consolidated lot is approximately six tenths of an acre in size (approximately 26,000 square feet). The property has approximately 200 feet of frontage along Main Street. The property sits at the corner of Main Street and Mansion Street and drops approximately 14 feet (or seven percent) from the high point at the Main and Mansion Street intersection to the low point adjacent to the railroad tracks. The depth of the lot varies from approximately 130 feet along the Mansion Street side, to approximately 190 feet of depth along the railroad tracks.

- b. *Because of such physical circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the provisions of these regulations and that the authorization of a variance is necessary to enable the reasonable use of the property.*

#### Relationship to Standard

The subject property and proposed development are located in the Gateway Zoning District which is regulated by the form-based code. This property is specifically located in the Urban General Budling Form Standard, which permits the most uses with the most intense development potential. The

design of the project that is currently permitted through Zoning Permit ZON19-060 would not be permitted under the current ULUDR due to the location of the proposed parking.

*c. The unnecessary hardship has not been created by the applicant or appellant.*

Relationship to Standard

The applicant or appellant did not modify or change the designs of the project since the final approval. The regulations were amended during that time period by the City.

*d. The variance, if authorized, will not alter the essential character of the neighborhood or district which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare.*

Relationship to Standard

The variance, if authorized, would extend the expiration of the permit; or allow the applicant to re-permit the same design. This project is currently permitted and was consistent with the ULUDR at the time of permitting.

*e. The variance, if authorized, would represent the minimum that will afford relief and will represent the least deviation possible from these regulations and from the plan.*

Relationship to Standard

As noted previously, the applicant is requesting a variance to the expiration of the existing zoning permit; or the ability to re-permit the same project. Since this project is already permitted, the extension of the expiration would represent the minimum relief sought.

**Conclusion/Recommended Action**

The Development Review Board should review the above information and the documents included with the application and identify any additional information that may be needed in order to deliberate on the requested variance.