



**AGENDA AND NOTICE OF BOARD OF ADJUSTMENT  
SPECIAL MEETING AND PUBLIC HEARING  
WEDNESDAY, JANUARY 17, 2024 AT 6:30 P.M.  
DOORS OPEN AT 6:00 P.M.**

**City Hall Conference Room  
21 Williamson Avenue  
Winslow, Arizona 86047**

Pursuant to A.R.S. 38-431.02, notice is hereby given to the members of the Board of Adjustment of the City of Winslow, Arizona, and to the general public that the Board of Adjustment will hold a special meeting on Wednesday, January 17, 2024 at 6:30 p.m. at Winslow City Hall Conference Room, 21 Williamson Avenue, Winslow, Arizona 86047. **MEMBERS OF THE BOARD OF ADJUSTMENT AND THE PUBLIC MAY JOIN THE MEETING IN PERSON OR TELEPHONICALLY BY DIALING 928-289-8412 AND ENTERING PIN# 123321.**

- 1. CALL TO ORDER – *Please Remember to Silence all Cell Phones***
- 2. PLEDGE OF ALLEGIANCE AND INVOCATION**
- 3. ROLL CALL – EXCUSE ABSENT MEMBERS**
- 4. CALL TO THE PUBLIC**
- 5. DISCUSSION AND/OR ACTION TO APPROVE MNUTES OF THE JULY 26, 2023 SPECIAL MEETING & PUBLIC HEARING**
- 6. COMMISSION CONSIDERATION AND ACTION**

- A. Public Hearing and Discussion and/or Action regarding an appeal of a decision by the Zoning Administrator denying a permit to enclose a legal non-conforming structure, pursuant to Chapter 17.88, Section 17.88.020(A) and (D), as well as a possible request for a variance to the front yard setback requirement for structures located in the multi-family residence district required by Chapter 17.36 MFR Multiple-Family Residence District, Section 17.36.030, for Real Property Identified as Parcel 103-17-298, Township 19 North, Range 16 E, Section 19, located at 606 N. Williamson Ave in Winslow, Arizona.

**7. ADJOURNEMENT**

*The Board of Adjustment reserves the right to move into executive session for legal advice under authority of A.R.S. 38-431.03(A)(3) on any of the above agenda items. A copy of the agenda background materials already made available to Board Members is available at City Hall, 21 Williamson Avenue, Winslow, Arizona between the hours of 7:30 a.m. and 4:30 p.m., Monday through Friday.*

*Pursuant to the Americans with Disabilities Act (ADA) the Board of Adjustment endeavors to ensure the accessibility of its meetings to all persons with disabilities. Assistive listening devices are available for the public's use for meetings. Reasonable accommodations will be made upon request for persons with disabilities or for those who speak English other than very well. If you need an accommodation for a meeting, please call the City Clerk's Office at 928-289-1416 at least 48 hours prior to the meeting so that an accommodation can be arranged.*

*Notice is hereby given that pursuant to A.R.S. 1-602. A.9, subject to certain specified statutory exceptions, parents have a right to consent before the State or any of its political subdivisions make a video or audio recording of a minor child. Meetings of the Board are audio and/or video recorded, and as a result, proceedings in which children are present may be subject to such recording. Parents in order to exercise their rights may either file written consent with the City Clerk to such recording, or take personal action to ensure that their child or children are not present when a recording may be made. If a child is present at the time a recording is made, the City will assume that the rights afforded parents pursuant to A.R.S. 1-602. A.9 have been waived.*

Minutes of the special meeting and public hearing of the Winslow Board of Adjustment held on Wednesday, July 26, 2023 at 6:30 P.M. in the City Hall Conference Room, 21 Williamson Avenue, Winslow, Arizona.

**MEMBERS PRESENT**

Chairperson Pennington  
Board Member Evans  
Board Member Harrison  
Board Member Leary  
Board Member Pruett

**MEMBERS ABSENT**

**STAFF**

David Coolidge, City Manager  
Trish Stuhan, City Attorney (Via Zoom)  
Suzy Wetzel, City Clerk  
Marshall Larsen, City Inspector  
Larrilynn Oso, Recording Secretary

Chairperson Pennington called the meeting to order at 6:37 p.m. The Pledge of Allegiance was recited and the invocation was given by Board Member Evans. Roll was called all members were present.

**CALL TO THE PUBLIC**

Anthony Beavers, Real Estate Project Manager for Loves, introduced himself and stated that the proposed Winslow project is one that he is currently overseeing. Mr. Beavers also provided a brief history of Loves, which was founded in 1964.

**DISCUSSION AND/OR ACTION TO APPROVE MINUTES OF THE DECEMBER 8, 2022 SPECIAL MEETING & PUBLIC HEARING**

Motion: Moved by Board Member Evans, seconded by Board Member Pruett, to approve the meeting minutes of December 8, 2022 as presented. Motion passed unanimously with Chairperson Pennington and Board Members Evans, Harrison, Leary and Pruett voting yes.

**COMMISSION CONSIDERATION AND ACTION**

- A. Public Hearing and Discussion and/or Action regarding Request for a Variance from Sign Code Requirements Pursuant to Section 17.80.010 – Signs Permitted in Each Zoning District of the Winslow Municipal Code, for Real Property Identified as Parcel Nos. 103-31-007C, 103-31-007D and 103-31-007E located at the northeast corner of Interstate 40 & Transcon Lane, Winslow, Arizona, for increase in square footage and sign height. The effect of the variance would be to allow a freestanding freeway sign for the Love’s Travel Stop with commercial directional signs and an increase to the number of business signs on building sides**

Chairperson Pennington referred to the information included in the staff report outlining various code provisions related to signs and stated that the applicant’s request is also included under each section of the code referenced in the report.

Board Member Pruett stated that Section 17.80.010 B (7) allows for each business to have a maximum of one wall sign on each side of the building and asked Mr. Beavers how many wall signs they are proposing. Mr. Beavers referred to the drawing submittals and stated that the west elevation wall will include a Love’s sign with a heart logo, an echo heart logo, a Dunkin’ sign and an Arby’s sign with the east elevation wall including a Love’s sign with a heart logo and an echo heart logo. At the request of Chairperson Pennington, the City Inspector clarified the code provision for wall signs. The City Inspector stated that both the west and east elevation walls include two Love’s logos. Mr. Beavers provided additional information regarding the reason they are proposing the echo heart logos on the two walls.

In response to a question from Board Member Evans, the City Inspector stated that the Love's sign with the heart logo on top constitutes one sign. The City Attorney asked the City Inspector if the heart logos are considered to be signs to which he stated they are since the code does not provide a definition comparable to the echo heart logo. Mr. Beavers stated that the only signs that will be lit are the Love's sign with the logos, the Dunkin' sign and the Arby's sign.

There was additional discussion regarding the definition of a sign and why a variance is required. The City Manager referred to the variance criteria provided by the applicant and stated that there will be multiple businesses at the location and the request includes an allotment for one of the businesses that is not utilizing signs.

At the request of Chairperson Pennington, the City Inspector provided information regarding the directional signs by stating that a variance is required since the applicant is proposing two directional signs, each having thirty-two square feet in area and a height of eight feet, and the code only allows a maximum of six square feet in area and a maximum height of three feet. Mr. Beavers explained why the proposed size of these signs is important including safety factors and the fact that they must be tall enough for the semi-trucks to see. Mr. Beavers stated that the directional signs will assist drivers who will be parking their trucks overnight and backing into parking spaces. Mr. Beavers also responded to questions from the Board regarding sizes of directional signs at their other locations.

Board Member Evans asked Mr. Beavers if their LED illumination are dark sky friendly to which he replied that they would use the dark sky in their lighting. The City Attorney stated that technical requirements, including lighting, would be addressed by staff during the permitting process. Mr. Beavers discussed their Mayer location on Interstate 17 that is completely a dark sky site.

Discussion then took place regarding the variance request for a 1167.88 square feet freestanding freeway sign that included clarification from the City Inspector that the code allows for one freestanding freeway sign at a maximum square footage of 225 square feet. The City Inspector further clarified that the proposed sign is an additional 953.63 square feet, or five times, the amount allowed per the code. The discussion included the site location which consists of three parcels that will be combined into one. The City Attorney commented on the code provision that allows for one sign but does not allow for three signs to be combined into one larger sign. Mr. Beavers provided information regarding the freeway sign and the need for it to be visible from a distance. Mr. Beaver also stated that their proposed sign is no larger than the freeway sign for the Flying J Truck Stop.

Chairperson Pennington referred to the variance criteria that special conditions and circumstances exist which are peculiar to the land or building involved and which are not self-imposed by the owner and cited the applicant's justification that the freestanding freeway sign area needs are unique and extensive to cover all four intended uses plus the gas pricing. Chairperson Pennington also read the three additional criteria related to variances and the justifications that were provided by the applicant for each one.

At the request of Chairperson Pennington, Mr. Beavers provided information regarding which business will not be using their sign allotment. Mr. Beavers also responded to additional questions including how Love's would proceed if one or more of the variances were not granted.

Mr. Beavers inquired about the proposed street sign and the City Inspector stated that the Zoning Hearing Officer determined that a variance was not needed. Mr. Beavers also provided additional information regarding the location of the street sign.

Chairperson Pennington referred again to the following variance criteria and opened the discussion for questions from the Board:

1. That special conditions and circumstances exist which are peculiar to the land or building involved, which are not self-imposed by the owner;
2. That literal interpretation of the provisions of this Ordinance would deprive the property of rights enjoyed by other properties in the same zoning district;
3. The variance is the minimum necessary to alleviate the hardship; and
4. Granting the variance will not grant special privileges to this property that are not enjoyed by other properties in this district.

Mr. Beavers responded to additional questions and comments including what sign modifications would be made if the variance is not approved. The City Inspector also responded to questions from Chairperson Pennington regarding sizes of the proposed directional signs. In response to a question from Chairperson Pennington, the City Attorney confirmed that the Board can grant parts of the variance request.

Mr. Beavers referred to the freeway sign and stated that the lighting can be controlled. After Mr. Beavers stated that Love's is committed to complying with dark sky standards, the following motion was made:

Motion: Moved by Board Member Pruett, seconded by Board Member Leary, to approve the variance that includes all signage as submitted by Love's. Motion passed by roll call vote with Board Members Evans, Harrison, Leary and Pruett voting yes and Chairperson Pennington voting no.

Prior to voting on the motion, Board Member Evans requested that Love's seriously consider the dark skies. The City Attorney asked Board Member Evans if he is asking that dark skies be considered or if he is placing a condition on the variance. After the City Manager stated that the city does not have a dark sky ordinance, the City Attorney stated that lighting would be considered during the permit process wherein staff would recommend that it not be a condition of the variance. Board Member Evans confirmed that he would like for Love's to work with the city to make sure the signage is as dark sky as possible wherein it is not his intent for it to be a condition of the variance. There was a brief discussion regarding the code requirements related to lighting illumination.

## **ADJOURNMENT**

Motion: Moved by Board Member Evans, seconded by Board Member Harrison, to adjourn at 7:45 p.m. Motion passed unanimously with Chairperson Pennington and Board Members Evans, Harrison, Leary and Pruett voting yes.

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Chairperson Pennington

ATTEST:

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Suzy Wetzel  
City Clerk

**Mayor**  
Roberta W. Cano  
  
(928) 289-2422



**Council Members**  
Peter Cake  
Samantha Crisp  
Jim MacLean  
Darcey McKee  
Melissa Nelson  
Daniel T. Tafoya

*Discover Winslow-A City in Motion*

AGENDA DATE: January 17, 2024

TO: Board of Adjustment

FROM: Marshall Larsen, City Inspector

SUBJECT: Public Hearing and Discussion and/or Action regarding a request for a Permit for the enclosure of the existing front porch area located at 606 N. Williamson Avenue to a single-family residence in the Multiple-Family Residence District.

**DISCUSSION:**

The City Inspector received a permit application dated November 22, 2023, submitted by Daniel Merritt (“Applicant”) for the enclosure of the front porch area to add additional living space to the existing single-family residence.

Mr. Meritt was informed that the Building Department could not proceed with the issuance of the permit for the following reason:

1. The existing building does not meet the required set back of twenty (20) feet from the front property line as required by Chapter 17.36 of the Winslow Municipal Code (WMC) for the Multi-Family Residential (MFR) Zoning District.

**Applicant’s Front Porch is a Legal Nonconforming Structure and Cannot Be Altered or Expanded Under Code.**

The City Inspector’s reasoning was based on the fact that the building is a legal nonconforming building under code, and thus, no structural or physical alteration can be made to the building.

Winslow Municipal Code (WMC) § 17.08.020 defines a “nonconforming building” as “a building or portion thereof designed or constructed according to the zoning code in existence when permits were issued, but which does not conform to subsequent zoning ordinances or amendments.”

Under WMC § 17.88.020(A), “No structure or physical alteration shall be made to any nonconforming building, structure or lot except when required by law or ordinance. This does not prohibit routine repairs or maintenance.”

Further WMC § 17.88.020(D) states that, “No expansion shall be made to any nonconforming building, structure or use unless such expansion conforms to the regulations specified for the district in which it is located.”

Applicant’s front porch was in compliance with the WMC when it was built, but Applicant’s building does not meet the current WMC requirement of a minimum twenty-foot front setback for the primary use building, making it a legal nonconforming building. Because the front porch does not conform with the current setback regulations, no alterations or expansions can be permitted. Here, the Applicant’s request to enclose the porch is considered an alteration or expansion, and thus, should not be permitted.

**Because the Front Porch Does Not Conform with Current Setback Regulations, It May Only Be Altered if a Variance Were Granted; However, Applicant Has Not Demonstrated That Granting a Variance is Appropriate.**

Applicant’s front porch could be enclosed only if a variance is granted by the Board, however, Applicant has not demonstrated that a variance is appropriate in this circumstance. Under WMC § 17.100.070(B), the Board of Adjustment should grant a variance “only if, because of *special circumstances* applicable to the property, including, size, shape, topography, location or surroundings, the strict application of the zoning ordinance will *deprive such property of privileges enjoyed by other property* of the same classification in the same zoning district.” (emphasis added).

Further, WMC § 17.100.070(C) states that, “Any variance granted to such conditions as will assure that the adjustment authorized *shall not constitute a grant of special privileges* inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.” (emphasis added).

Finally, WMC § 17.100.080(B) states that the Board of Adjustment shall not “*grant a variance if the special circumstances applicable to the property are self-imposed by the owner.*” (emphasis added).

Here, Applicant has not stated any special circumstances about his property that are not self-imposed or would deprive him of privileges enjoyed by other properties in the same zoning district. Further, the granting of a variance could be viewed as one that “constitute(s) a grant of special privilege” that would not be guaranteed to other properties in the same zoning district.

Therefore, the City Inspector does not recommend granting a variance.

**RECOMMENDATION:**

Staff recommends the Board denies the permit because the existing building is a legal nonconforming building, and enclosing the structure would be a structural or physical alteration to a nonconforming building in violation of City Code.

In addition, Staff recommends that the Board denies Applicant’s request for a variance, unless the Applicant is able to show that:

1. Such special circumstances, as stated above, are applicable to this property.
2. If the variance were to be approved, no special privilege would exist that is not enjoyed by other residents in the district.
3. The circumstances for the request are not self-imposed by the owner.





# BOARD OF ADJUSTMENT APPLICATION

ADDRESS OF SITE: 606 N. Williamson Ave.

Applicant: Daniel Meritt Phone: 928 289-0821

Address: 606 N. Williamson Ave.

City: Winslow State: AZ Zip Code: 86047

Owner of Property: same Phone: \_\_\_\_\_  
(if different from applicant)

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

County Assessor's Parcel Number: 103-17-298 Zoning District: MFR

**TYPE OF VARIANCE REQUESTED**

Ordinance Requirement: \_\_\_\_\_

Your Request: \_\_\_\_\_

**APPEAL TO A DECISION**

Code section: 17.88 Section 17.88.020(A) & (D) State

**SIGNATURE** Daniel Meritt **DATE** 12/4/23

Property Owner or Authorized Representative

*The applicant expressly acknowledges that all development must occur in compliance with the site plan, as approved, and all pertinent City of Winslow Municipal Codes.*

## FOR OFFICE USE ONLY:

CITY FILE NO: \_\_\_\_\_ DATE: 12-5-23 RECEIPT NO. 209116221

AMOUNT PAID: 200.00 CASH \_\_\_\_\_ CHECK NO. \_\_\_\_\_

WRITTEN JUSTIFICATION: ف AGENDA DATE \_\_\_\_\_

Dec 4<sup>th</sup>, 2023

To Whom it may concern,

My name is Daniel Meritt. My wife, Shirley, and I own and occupy 606 N. Williamson, here in Winslow.

I recently submitted a request (permit application) to be able to enclose my front porch. My intent is to have two windows and one door installed. The request was denied due to the property being in a Multi-Family Residential (MFR) zoning district and my property did not meet the required "20 feet" setback required for the front yard.

I ask the board approve my request to be issued a permit to enclose my front porch, for, among other considerations, the following reasons:

① This house was originally built in 1905 and current zoning regulations were not in affect yet. Not to mention, the house was built before the roadway and sidewalk.

② Other homes on this same block have been allowed to enclose all or part of their front porches.

③ Enclosing the front porch is part of the outside beautification of our property. That will not only increase property values in the neighborhood, but, will also make our city look just a little bit better. (Isn't the city always encouraging residents to keep up their properties, and maintain and improve them?) That is exactly what I am

trying to do.

This porch will be used only as a sitting room with no structural changes to the property. Only 2 windows and 1 door to be framed in.

As the enclosed pictures show, several homes in my neighborhood have been allowed to do what I am asking for. I only ask to be allowed the same.

Thank you.

Daniel Meritt

Daniel Meritt

My house



2 doors down



3 doors down



next door

Across the street - 2 doors down





# PERMIT APPLICATION

CITY OF WINSLOW, ARIZONA

APPLICANT TO COMPLETE NUMBERED SPACES ONLY.  
PLANS MUST ALSO BE ATTACHED FOR REVIEW

- BUILDING
- PLUMBING
- MECHANICAL
- ELECTRICAL
- OTHER (SPECIFY)

**received**  
11-22-23

JOB ADDRESS: 606 N. Williamson Ave.

1. LEGAL	LOT NO. <u>9-10</u>	BLK <u>W</u>	TRACT <u>As P Addition</u>	ASSESSOR'S PARCEL <u>103-17-298</u>
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2. OWNER <u>Daniel Merritt</u>	MAIL ADDRESS <u>606 N. Williamson</u>	ZIP <u>86047</u>	PHONE <u>928 289 0821</u>
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3. CONTRACTOR <u>JOSE ?</u>	MAIL ADDRESS	ZIP	PHONE
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4. ARCHITECT	MAIL ADDRESS	ZIP	PHONE
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5. ENGINEER	MAIL ADDRESS	ZIP	PHONE
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6. USE OF BUILDING

7. CLASS OF WORK  
 NEW     ADDITION     ALTERATION     REPAIR     MOVE     REMOVE     REPLACE

8. DESCRIBE WORK  
Close in front porch - frame in 2 windows and 1 door  
Approx 11-12 feet from side walk to building from property line

9. CHANGE OF USE FROM:

10. CHANGE OF USE TO:

11. VALUATION OF WORK <u>\$ 4,000</u>	PLAN CHECK FEE
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PERMIT FEE	TOTAL FEE
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SPECIAL CONDITIONS: Owner to verify property lines. All work to conform to zoning ordinance, all local codes and applicable laws. Call 24 hours in advance to schedule all inspections.

TYPE OF CONST.	OCCUPANCY GROUP	DIVISION
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SIZE OF BLDG. (TOTAL) SQ. FT.	NO. OF STORIES	MAX. OCC. LOAD
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FIRE ZONE	USE ZONE <u>MFR</u>	FIRE SPRINKLERS REQ. <input type="checkbox"/> YES <input type="checkbox"/> NO
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APPLICATION ACCEPTED BY / DATE	PLANS CHECKED BY / DATE	APPROVED FOR ISSUANCE / DATE
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NO. OF DWELLING UNITS	OFFSTREET PARKING SPACES: COVERED:      UNCOVERED:
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SPEC. APPROVAL	REQUIRED	RECEIVED	NOT REQ.
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ZONING			
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**NOTICE**

Separate permits may be required for electrical, plumbing, heating, ventilating or air conditioning.

This permit becomes null and void if work or construction authorized is not commenced within 180 days, or if construction or work is suspended or abandoned for a period of 180 days at any time after work is commenced.

I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not, the granting of a permit does not presume to give authority to violate or cancel provisions of any other state or local law regulating construction or the performance of construction. Owner or authorized agent to verify all property license.

HEALTH DEPT.			
FIRE DEPT.			
FLOOD PLAN ZONE			
OTHER (SPECIFY)			

THE FOLLOWING INSPECTIONS REQUIRED FOR ISSUANCE OF CERTIFICATE OF OCCUPANCY

INSPECTIONS:			
SITE			
FOOTING			
UNDERSLAB:			
FRAME			
ELECT./MECHAN.			
PLUMBING			
FINAL			


Daniel Merritt      11/22/23  
SIGNATURE OF CONTRACTOR, AGENT OR OWNER      DATE

shidandakota@msn.com  
EMAIL ADDRESS

APPLICANT: \_\_\_\_\_

JOB ADDRESS: \_\_\_\_\_



## Discover Winslow-A City in Motion

Plan Review Comments and Corrections  
606 North Williamson Avenue  
Enclosure of Front Porch

### Comments and Corrections

1. The property is located in a Multi-Family Residential (MFR) Zoning District. The required setbacks for the MFR zoning are:
  - Front yard – 20 feet
  - Side yard – 5 feet interior
  - Rear yard – 20 feet

All setbacks are measured from the property line to the closest eave edge not the wall.

It appears that the building does not meet the required front yard setback of 20 feet from the property line.

Because the building does not meet the required setback the building is considered “Legal Nonconforming.” Chapter 17.88 of the Winslow Municipal Code Section 17.88.020 (A) and (D) state,

- A. “No structural or physical alteration shall be made to any nonconforming building, structure or lot except where required by law or ordinance. This does not prohibit routine repairs or maintenance.”
- D. “No expansion shall be made of any nonconforming building, structure or use unless such expansion conforms to the regulations specified for the district in which it is located.”

Because the enclosing of the porch would be considered a physical alteration to a nonconforming building, I am not able to issue a Permit for the work at this time. Please see the attached code section for nonconforming buildings, structures and uses.

If you feel that my interpretation or administration of the ordinance is incorrect you may make an appeal to the Board of Adjustments on the attached application.

Marshall Larsen  
City Inspector  
November 30, 2023

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