

## MEMORANDUM

To: The Town Council  
From: Nick Bond  
Date: August 16, 2011  
RE: Gary Malcolm Sidewalk Variance Request

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### At Issue

Gary Malcolm recently applied for and received a conditional use permit to construct and oversized garage at 769 Warner Lane. His proposed construction is valued at \$60,000 and the total assessed value of his property is \$153,700. In accordance with EMC 12.04.180 he is required to construct sidewalk improvements along his 1,100 feet of frontage on Center Street E. EMC 18.04.180 states:

#### ***12.04.180 Construction.***

*A. Whenever an application for a building permit is made for any new construction on a vacant real property, or repair or reconstruction of existing improvements on real property involving a cost of 25 percent or more of the current county assessed improvement value, and if there are no sidewalks abutting the real property on which the construction is to take place, then as a condition to issuing the building permit, the applicant shall be required to construct new sidewalks along all street frontages, except alleys. The town council has authority to waive this requirement for hardship upon the applicant filing an application setting forth the basis of the request for the waiver a filing fee of \$125.00. If the request for a waiver is filed, no building permit shall be issued until the town council determines*

Mr. Malcolm has filed his request and fee and has asked the Council to waive this requirement as authorized by EMC12.04.180.

### Findings

It is estimated the 1,100 feet of sidewalk frontage improvements would cost Mr. Malcolm in excess of \$50,000 and would nearly double his total project cost. Mr. Malcolm has stated that he will be unable to construct the oversized garage if this provision is enforced by the town. At the present time, the value of the proposed oversized garage equals 39% of the total assessed property value. If this project had the same value but was constructed in 2008 at the 2008 assessed value for the property, the project would only equal 22% of the total assessed value for the property and the requirement to construct sidewalks would not have been triggered.

### Conclusion

It is staff's conclusion that declining property values in recent years have triggered requirements that would not have been triggered in the past. In addition to reduced property value, Mr. Malcolm is now burdened with a hardship which will prevent him from constructing a project which would increase revenue from building permits and from property taxes.

### Possible Motion

"I move to adopt the findings and conclusion contained herein and approve Mr. Malcolm's variance request as authorized by EMC 12.04.180."