



**BOARD OF ADJUSTMENT
Minutes of Meeting
January 27, 2011**

1. CALL THE MEETING TO ORDER

The regular meeting of the Wheat Ridge Board of Adjustment was called to order by Acting Chair ABBOTT at 7:00 p.m. in the City Council Chambers of the Municipal Building, 7500 West 29th Avenue, Wheat Ridge, Colorado.

2. ROLL CALL

Board Members Present: Tom Abbott
Bob Blair
Paul Hovland
Bob Howard
Jennifer Walter

Board Members Absent: Janet Bell
Larry Linker
Betty Jo Page

Staff Members Present: Meredith Reckert, Senior Planner
Lauren Mikulak, Planner I
Ann Lazzeri, Secretary

Meredith Reckert introduced Lauren Mikulak who was recently hired as a Planner I.

3. PUBLIC FORUM (This is the time for anyone to speak on any subject not appearing on the agenda.)

No members of the public wished to speak at this time.

4. PUBLIC HEARING

- A. Case No. WA-10-11:** An application filed by Judy Helm for approval of a 1.5 foot variance to the 5-foot side yard setback requirement for a garage on property zoned Residential-One B (R-1B) located at 3861 Moore Street.

The case was presented by Lauren Mikulak. She entered all pertinent documents into the record and advised the Board there was jurisdiction to hear the case. She reviewed the staff report and digital presentation. Staff recommended approval for reasons outlined in the staff report.

Wilton Helm

320 Old Y Road, Golden, Colorado

Mr. Helm, the applicant, is the owner of the property. He was sworn by Acting Chair ABBOTT. Mr. Helm purchased the house as rental property. He stated his desire to maintain the property and rent to quality tenants. One drawback to the property is the lack of a garage and storage space. He stated that he has attempted to work with the neighbor who lodged a protest by moving the location of the garage from his original plan.

Board Member HOWARD asked what type of mature tree is in the back yard. Mr. Helm stated he was not sure but it could be a type of ash. Board Member HOWARD asked why he objected to removing the tree. Mr. Helm answered that it is an asset to the property in that it provides shade for his yard as well as the neighbor's yard.

Board Member WALTER asked if the applicant had considered an attached garage. Mr. Helm replied that an attached garage would be considerably more expensive and complicated to construct.

Board Member HOWARD suggested that the applicant decrease the size of the garage and then there would be no need for a variance. Mr. Helm stated that decreasing the size would make it difficult to get into and out of cars.

In response to a question from Board Member ABBOTT, Mr. Helm stated that the tree is approximately 8 to 10 feet from the back of the house.

Robert Erickson

2497 Fairplay Way, Aurora

Mr. Erickson, contractor for the applicant, was sworn by Acting Chair ABBOTT. He explained that attaching the garage to the house would require a footing foundation (at a cost of \$60 per square foot) instead of a monolithic foundation (at \$5 per square foot). Further, a detached garage would look better because the house is a raised ranch. A one-hour fire rated wall would be required with either type of garage.

In response to a question from Board Member ABBOTT, Mr. Helm stated that he did work with the neighbor who protested and made accommodations by altering the location of the garage in response to her protest. She is still not satisfied and he believed the neighbor is opposed to his building a garage anywhere on his property. He further stated that his wife has spoken with most of the neighbors

who have expressed full support of the garage and also expressed appreciation to the Helm's for improving a run-down property.

Ms. Mikulak advised Board Member ABBOTT that in addition to the one protest, there was an inquiry from a neighbor who only called to find out the details of the proposal.

Acting Chair ABBOTT opened the public hearing.

Jeanette Boro
10505 West 38th Place

Ms. Boro was sworn by Acting Chair ABBOTT. She stated her opposition to the variance request. She does not want a garage built that close to her property line.

Board Member HOVLAND asked how much a 1.5 foot variance would make since the applicant is allowed by law to build with a 5 foot setback. She replied that it makes a big difference to her. She also stated that she didn't care one way or another about the tree. She believed having the garage 1.5 feet closer to her property line presents a fire hazard.

Board Member WALTER asked if the staff had fire safety concerns. Ms. Mikulak stated that a fire wall will be required even if the garage is built without the variance. Further, the city's chief building official has reviewed the site plan and had no outstanding concerns.

Board Member BLAIR asked what unique circumstances applied to this case. Ms. Mikulak stated that the mature tree presented a hardship to finding an alternate location for the garage.

It was moved by Board Member HOWARD that the applicant remove the tree and build a garage without a variance. The motion died for lack of a second.

Upon a motion by Board Member BLAIR and second by Board Member HOVLAND, the following resolution was stated:

Whereas, the applicant was denied permission by an administrative officer; and

Whereas, Board of Adjustment application Case No. WA-10-11 is an appeal to the Board from the decision of an administrative officer; and

Whereas, the property has been posted the fifteen days required by law and in recognition of one protest registered against it; and

Whereas, the relief applied for may be granted without detriment to the public welfare and without substantially impairing the intent and purpose of the regulations governing the City of Wheat Ridge.

Now, therefore, be it resolved that Board of Adjustment application Case No. WA-10-11 be and hereby is APPROVED.

Type of Variance: A 1.5 foot variance to the 5 foot side yard setback requirement for property zoned Residential One-B.

For the following reasons:

- 1. The variance would not alter the essential character of the locality. Other variances have been granted and presently exist in the area.**
- 2. The applicant is proposing a substantial investment in the property that may not be possible without the variance.**
- 3. The alleged difficulty or hardship has not been created by any person presently having an interest in the property.**
- 4. The request would not be detrimental to public welfare.**
- 5. Alternate placement of the garage would require removal of a mature tree and eliminate a significant portion of usable backyard space which is therefore the major unique circumstance attributed to this request.**
- 6. The request is consistent with existing conditions in the surrounding area as a majority of the homes in the area have constructed garages or carports.**
- 7. Staff recommended approval.**

Board Member HOVLAND commended the owner for making improvements to the property. He stated that he would vote in favor of the request even though he had difficulty finding unique circumstances in the case.

Board Member ABBOTT stated that he would vote against the variance request because an adequately serviceable garage could be build on the lot without a variance and, a protest was received by the most immediately affected neighbor. The variance would also represent a substantial impairment to the intent and purpose of regulations governing the City.

Acting Chair ABBOTT advised that a super majority vote would require four affirmative votes for approval.

The motion failed by a vote of 3 to 2 with Board Members ABBOTT and HOWARD voting no.

5. CLOSE THE PUBLIC HEARING

Acting Chair ABBOTT closed the public hearing.

6. OLD BUSINESS

There was no old business to come before the Board.

7. NEW BUSINESS

A. Introduction of Alternate to the Board

Meredith Reckert introduced Jennifer Walter as an alternate to the Board of Adjustment.

B. Approval of Minutes – July 22, 2010

It was moved by Board Member BLAIR and seconded by Board Member HOVLAND to approve the minutes of July 22, 2010 as presented. The motion carried unanimously.

C. Resolution Designating a Public Place for Posting of Notices of Public Meetings.

It was moved by Board Member BLAIR and seconded by Board Member HOVLAND to approve Resolution No. 01-2011, a resolution establishing a designated public place for the posting of meeting notices as required by the Colorado Open Meetings Law. The motion carried 5-0.

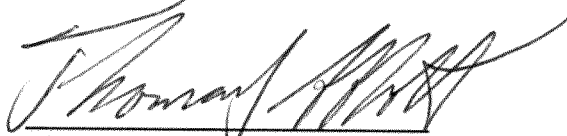
D. Ms. Reckert invited Board Members to attend the first public meeting regarding the 38th Avenue Subarea Plan will be held at the Wheat Ridge Middle School on March 15, 2011.

E. Ms. Reckert informed the Board that Planning Commission has requested a joint study session with Board of Adjustment. Ms. Reckert will also schedule a training session for the Board when the vacancies are filled. Board members responded that both meetings would be beneficial.

F. There was consensus to postpone election of officers until Board vacancies have been filled.

8. **ADJOURNMENT**

It was moved by Board Member HOVLAND and seconded by Board Member HOWARD to adjourn the meeting at 8:10 p.m. The motion carried unanimously.


Thomas Abbott, Acting Chair


Ann Lazzeri, Secretary