



**BOARD OF ADJUSTMENT
Minutes of Meeting
February 23, 2012**

1. CALL MEETING TO ORDER

The regular meeting of the Wheat Ridge Board of Adjustment was called to order by 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
Janet Bell
Bob Blair
Lily Griego
Paul Griffith
Russ Hedden
Betty Jo Page
Jennifer Walter

Staff Members Present: Meredith Reckert, Sr. Planner
Lauren Mikulak, Planner I
Ann Lazzeri, Recording secretary

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

No one wished to speak at this time.

4. PUBLIC HEARING

- A. Case No. WA-12-01:** An application filed by Leroy Kuczek for approval of a 5-foot side yard setback variance from the 15-foot side yard setback requirement resulting in a 10-foot side yard setback for property zoned Residential-One and located at 10561 West 38th Avenue.

This 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. The purpose of the variance is to allow for a 1,720 square foot manufactured home to be located on the property at 10561 West 38th Avenue. A variance was granted in 2009 but expired after 180 days because the applicant had not

obtained a building permit. Staff recommended approval for reasons, and with conditions, outlined in the staff report.

In response to a question from Board Member BLAIR, Ms. Mikulak stated that staff had not received any comments, inquiries, or objections from neighbors regarding the variance request.

Leroy Kuczek

Independence Street and 38th Avenue, Wheat Ridge

Mr. Kuczek, the applicant, was sworn in by Chair ABBOTT. In response to a question raised by the Board, Mr. Kuczek explained there is an Xcel easement along the west side. The poles are located on his neighbor's property; however, Mr. Kuczek stated that he would provide enough room on his property to allow access by Xcel.

Board Member GRIEGO asked why the applicant had not proceeded with his plans when he received the previous variance. Mr. Kuczek explained that his inexperience, the increased complexity of attaining and retaining construction money, the economy and uncertainty with job security all led to delaying the project. He stated that his employment situation is now secure and he has secured a general contractor to oversee the project. He also stated that the residence will be owner-occupied.

Chair ABBOTT asked if there were others who wished to address the Board. There was no response.

Upon a motion by Board Member BELL and second by Board Member PAGE, the following resolution was stated:

Whereas, application Case No. WA-12-01 was not eligible for administrative review; and

Whereas, the property has been posted the fifteen days required by law and in recognition that there were no protests 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-12-01 be, and hereby is approved.

Type of variance: A 5 foot side yard setback variance from the 15 foot side yard setback requirement resulting in a 10 foot side yard setback on the east side of the house.

For the following reasons:

1. **The variance would not alter the essential character of the locality.**
2. **The applicant is proposing a substantial investment in the property that may not be possible without the variance.**
3. **The request would not be detrimental to public welfare.**
4. **The request is consistent with the existing conditions in the surrounding area, as several R-1 properties in the area have primary or accessory structures that encroach into side yard setbacks.**

With the following conditions:

1. **The property shall comply with the landscape requirements of Section 26-502 for new single-family residences, including those requirements related to landscape coverage and street trees with a recommendation that drought resistant plant material be explored for possible landscaping.**
2. **The property shall comply with the vehicle access requirements of Section 26-501.F for single family dwellings, specifically that the first 25 feet of driveway area from the existing edge of pavement into the site be surfaced with recycled asphalt pavement (RAP), concrete, asphalt, brick pavers, or similar materials.**

Board Member ABBOTT offered the following friendly amendments:

Add the following reasons:

Reason No. 5: This is a sub-standard R-1 lot at 85 feet of width as opposed to the normal 100 foot width thereby creating an anomaly germane to the requested variance.

Reason No. 6: The proposed front yard setback is 50 feet as opposed to the minimum required 30 feet which will work to mitigate the visual impact of the variance.

Add the following conditions:

Condition No. 3: A western side yard setback shall be 17.5 feet as proposed by the applicant.

Condition No. 4: The building permit shall not be issued for less than the applicant's offered 50 feet.

Board Member BLAIR offered a friendly amendment to add the following reason:

Reason No. 7: There were no objections from the neighborhood.

Board Members BELL and PAGE accepted the friendly amendments.

The amended motion carried 8-0.

- B. Case No. WF-12-01:** An application filed by Tony Douglas for approval of a Class II Special Exception Floodplain permit for property located at 8955 West 44th Avenue to allow for construction of a 4,000 square foot structure in the Clear Creek 100-year floodplain.

This case was presented by Meredith Reckert. 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. The new building would replace two existing structures on the site. Staff recommended approval of the application for reasons, and with conditions, outlined in the staff report.

Henry Hollender

9201 West Tennessee Avenue, Lakewood

Mr. Hollender, engineer for the applicant, was sworn in by Chair ABBOTT.

Tony Douglas

15015 West 53rd Place, Golden

Mr. Douglas, tenant and owner of DTI Trucks on the property, was sworn in by Chair ABBOTT.

Vernon Solstice

2870 Wright Court, Lakewood

Mr. Solstice was sworn in by Chair ABBOTT. He owns property on the corner of 45th Place and Everett Court. He stated that his tenants are bothered by fumes from idling trucks and was hopeful that the new building would keep power washing activities further away from his tenants.

Mr. Douglas returned to the podium to state that power washing will take place in the new building. There will be sand traps inside the building to lessen the impact of power washing soaps and chemicals going back into the floodway.

In response to concern expressed by Board Member BELL, Ms. Reckert stated that Wheat Ridge is a Title IV City and participates in state and federal storm water regulations. Mr. Hollender stated the storm water drainage design will meet Urban Drainage standards.

Upon a motion Board Member GRIEGO and second by Board Member GRIFFITH, the following resolution was stated:

Whereas, application Case No. WF-12-01 was not eligible for administrative review; and

Whereas, the property has been posted the fifteen days required by law and in recognition that there were no protests 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. WF-12-01 be, and hereby is, approved.

Type of Variance: A Class II Special Exception Floodplain permit for property located at 8955 West 44th Avenue to allow for construction of a commercial structure on property zoned C-2 in the Clear Creek 100-year floodplain.

For the following reasons:

- 1. The proposed construction will not negatively impact the flood water elevations in the area.**
- 2. All site improvements will occur in the flood storage area.**
- 3. The Floodplain Administrator has reviewed and supports the findings of the floodplain analysis.**
- 4. The Director of Public Works finds the proposed plans to be acceptable.**
- 5. The applicant will ensure that building construction will adhere to the highest design standards for water quality facilities as required by the City.**

With the following conditions:

- 1. The lowest floor elevation of the proposed structure must be constructed one foot above the base flood level of 5,538 feet.**
- 2. The first floor elevation must be verified by an elevation survey after the foundation has been poured prior to other construction commencing.**

Chair ABBOTT offered the following friendly amendments:

Reason No. 6: Staff recommended approval.

Condition No. 3: The two existing ancillary structures will be removed from the property.

The amendments were accepted by Board Members GRIEGO and GRIFFITH.

The motion carried 8-0.

5. **CLOSE PUBLIC HEARING**

Chair ABBOTT closed the public hearing.

6. **OLD BUSINESS**

There was no old business to come before the Board.

7. **NEW BUSINESS**

A. **Approval of minutes – April 28, 2011**

It was moved by Board Member BLAIR and seconded by Board Member Hedden to approve the minutes of April 28, 2011. Motion passed unanimously.

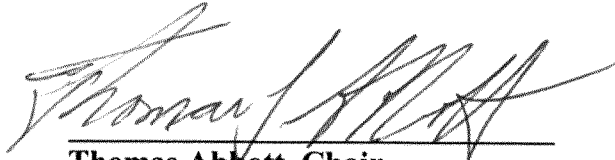
B. **Resolution Designating a Public Place for Posting of Notices of Public Meetings.**

Pursuant to the Colorado Open Meeting Law, Section 24-6-402(2)(C), Board of Adjustment is required to designate at its first meeting of each calendar year a public place for the posting of meeting notices.

It was moved by Board Member BLAIR and seconded by Board Member GRIEGO to adopt Resolution 01-2012 designating a public place for the posting of public meeting notices. The motion carried 8-0.

8. **ADJOURNMENT**

It was moved by Board Member BLAIR and seconded by Board Member GRIEGO to adjourn the meeting at 8:30 p.m. The motion carried 8-0.


Thomas Abbott, Chair


Ann Lazzeri, Recording Secretary