



**BOARD OF ADJUSTMENT
Minutes of Meeting
April 26, 2018**

1. CALL MEETING TO ORDER

The meeting was called to order by Chair BANGHART at 7:04 p.m. in the City Council Chambers of the Municipal Building, 7500 West 29th Avenue, Wheat Ridge, Colorado.

2. ROLL CALL

Board Members Present: Thomas Abbott
Sally Banghart
Janet Bell
Dan Bradford
Paul Hovland
David Kuntz
Betty Jo Page
Larry Richmond

Alternates Present:

Board Members Absent:

Staff Members Present: Kenneth Johnstone, Community Development
Director
Scott Cutler, Planner I
Tammy Odean, Recording Secretary

3. PUBLIC FORUM

No one wished to speak at this time.

4. PUBLIC HEARING

A. Case No.WA-18-02

The case was presented by Scott Cutler. He entered the contents of the case file and packet materials, the zoning ordinance and the digital presentation into the record. He stated all appropriate notification and posting requirements have been met and advised the board there was jurisdiction to hear the case. He reviewed the presentation and staff report.

The applicant is requesting approval of (A) request for approval of a 24-foot (96%) variance to the 25-foot side yard setback requirement for yards which abut a public street in the Residential-Two (R-2) zone district, and (B) a 120 square foot (100%) variance to the 120 square foot limit for a metal accessory building in the residential zone districts located at 6001 West 32nd Avenue.

Staff recommends denial of this variance, not having found the application in compliance with the majority of the review criteria.

Board Member PAGE asked how the motion is handled with both A and B in it together.

Mr. Cutler explained that the Board has to decide on an approval motion, the template is based on staff's recommendation for denial. He added the two variance requests can be split and voted on separately.

Board Member HOVLAND asked if a curb cut is allowed by the City on 32nd Avenue and wondered if it is worth pursuing.

Mr. Cutler said a petition would have to be applied for through the Public Works Department for a curb cut.

Board Member PAGE asked what the setback is for the east side of the property.

Mr. Cutler said that the setbacks for any property that abuts a public street in the R-2 zone district is 25 feet. He explained this house sits right on the setback and the measurement is taken from the City right-of-way (ROW) which is already 12 feet back from the street. So the structure in question currently sits in the setback.

Board Member BANGHART asked if the setback requirement was in effect when the house was built.

Mr. Cutler agreed it was not because the house was built in 1922; well before the City incorporated in 1969.

Board Member PAGE asked if the house and sheds are compliant with the setbacks.

Mr. Cutler said the house does meet current development standards except for one small corner, and the sheds he is not sure about because he is not aware of when they were built.

Board Member PAGE asked what the policy is about temporary structures. She also asked if the structure in question is permanent or temporary.

Mr. Cutler explained there are no formal regulations on temporary structures. There is a formal temporary building permit process, but that is more for commercial properties. He explained it is up to the property owner to make sure setback requirements are followed. Mr. Cutler added that the property owner received a stop

work order from the Building Department because it is considered a permanent structure due to the metal siding being added which requires a full building permit review.

Mr. Johnstone added the default is that this is a permanent structure even if it could be movable. This structure has a steel frame and siding; if approved it will need to be secured to the ground due to wind/lift concerns and inspected. He explained that tarp like structures with soft siding would not be considered permanent.

Board Member BELL felt the color is a nice blending compliment next to the vegetation.

Board Member HOVLAND asked if the structure is completely enclosed.

Mr. Cutler said yes it is completely enclosed with a door on either end for a car to park in the drive through.

Mala Sandoval, Applicant
6001 W 32nd Avenue

Ms. Sandoval gave a brief explanation about putting up the temporary structure when she bought the house and putting a tarp on it so she could preserve her Ford Thunderbird. She explained that she had replaced the tarp several times and was tired of doing so and decided to make the covering a green steel. She did not realize she needed a permit and felt the metal was improving her property. She explained she would like this variance to protect her car from another hailstorm and she does not feel there is another place on her property to relocate the structure.

Board Member PAGE asked if there was any discussion about the siding when she called the City.

Ms. Sandoval said no, she just wanted to know if she needed a permit for a temporary structure. She also mentioned it is secure to the ground.

Board Member KUNTZ asked if she would be open to a structure more architecturally pleasing if the setback variance was approved.

Ms. Sandoval said yes, if it would be something that would cover the metal. She explained the tarp does not protect the car. She added that she does not have a lot of income since her husband passed away.

Board Member BRADFORD asked if Ms. Sandoval is aware that if the Board approves the variance there could still be a complication with the Building Division.

Ms. Sandoval said she was not aware of that.

Board Member ABBOTT and PAGE asked who put the metal siding on the structure.

Ms. Sandoval said her friends helped her.

The Board Members then asked if she would be willing to move the structure to another spot on the property, for example to the west of the shed and north of the house.

Ms. Sandoval explained that the ground is not even and there is not much room behind the fence just north of the house. She said she will have to do some measuring and also said she is not willing to take down the shed.

Board Member RICHMOND wanted to know how the metal is attached to the frame of the structure.

Ms. Sandoval said that sheet metal screws were used to secure the metal to the frame.

Mr. Johnstone added to Member BRADFORD's statement with regards to the Building Department. He stated that Ms. Sandoval will have to get a permit if the variance is approved and the inspectors will make sure the structure is built to code.

**David Settles, Resident
6017 West 32nd Avenue**

Mr. Settles explained he has seen many of changes in the City of Wheat Ridge over the last few years and that Ms. Sandoval's house does not have many options for parking. He explained he has no complaints with the carport.

Board Member Hovland asked about the development to the west of Ms. Sandoval's house and if it used to be one property. He wondered if she created the hardship of no parking by subdividing the property after she moved there.

Ms. Sandoval said she believes it was one property some time ago because there were issues with the sewer lines on both properties, but she did not subdivide it.

**Ward Hart, Resident
3210 Ingalls Street**

Mr. Hart stated he is here to support Ms. Sandoval, he does not think the structure is an eye sore and she should be able to keep it.

Board Member ABBOTT asked if the decision of the Board runs with the land. He wondered if the variance is approved, can the next property owner have the same setbacks.

Mr. Johnstone explained that a future owner could keep the structure, and the variance runs with the structure. They could not build another structure with this approved variance, if approved.

There was more discussion about temporary versus permanent structures and Mr. Johnstone confirmed that a structure with a tarp over it is considered temporary and a structure with metal siding is considered permanent.

Upon a motion by Member KUNTZ and seconded by Member BELL, the following motion was stated:

WHEREAS, application Case No. WA-18-02 A 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; and

NOW, THEREFORE BE IT RESOLVED that Board of Adjustment application Case No. WA-18-02 A be, and hereby is, APPROVED

TYPE OF VARIANCE: Request for approval of a 24-foot (96%) variance to the 25-foot side yard setback requirement for yards which abut a public street in the Residential-Two (R-2) zone district.

FOR THE FOLLOWING REASONS:

- 1. The right-of way (ROW) extends into the property giving the appearance of a greater setback.**
- 2. The property does not have room elsewhere for a carport.**

Motion failed 5-3 (lack of a super majority) with Board Members BRADFORD, RICHMOND and PAGE voting against.

Upon a motion by Member HOVLAND and seconded by Member BELL, the following motion was stated:

WHEREAS, application Case No. WA-18-02 B 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; and

NOW, THEREFORE BE IT RESOLVED that Board of Adjustment application Case No. WA-18-02 B be, and hereby is, APPROVED

TYPE OF VARIANCE: Request for approval of a 120-square foot (100%) variance from the 120-square foot limit for metal accessory buildings in residential zone districts.

FOR THE FOLLOWING REASONS:

- 1. The granting of the variance would not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood.**
- 2. The unusual circumstances or conditions necessitating the variance request are present in the neighborhood and are not unique to the property.**
- 3. There are 8 letters in support of the variance.**
- 4. The horizontal orientation of the structural ribbing gives the general appearance of a textured metal material, therefore, it is interpreted by the Board of Adjustment as generally meeting the requirements for a metal material over the 120 sq. ft. maximum requirement for a metal structure.**

WITH THE FOLLOWING CONDITIONS:

- 1. The structure, if moved, be permitted to ensure the structural integrity.**

Motion failed 5-3 (lack of a super majority) with Board Members BRADFORD, RICHMOND and PAGE voting against.

5. CLOSE PUBLIC HEARING

Chair BANGHART closed the public hearing.

6. OLD BUSINESS

Board Member BELL was pleased with the head phones and said she could hear the meeting exceptionally well.

7. NEW BUSINESS

A. Approval of Minutes – March 22, 2018

It was moved by Board Member PAGE and seconded by Board Member BELL to approve the minutes as written. The motion carries 5-0-3 with Board Member ABBOTT, BANGHART and HOVLAND abstaining.

8. ADJOURNMENT

It was moved by Board Member Page and seconded by Board Member HOVLAND to adjourn the meeting at 8:31 p.m.



Thomas Abbott, Vice Chair



Tammy Odean, Recording Secretary