



**BOARD OF ADJUSTMENT
Minutes of Meeting
September 24, 2009**

1. CALL THE MEETING TO ORDER

The regular meeting of the Wheat Ridge Board of Adjustment was called to order by Chair Bucknam 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
Alan Bucknam
Ryan Fisher
Paul Hovland
Larry Linker
Betty Jo Page

Staff Members Present: Adam Tietz, Planner I
Mark Westberg, Flood Plain Administrator
Ann Lazzeri, Secretary

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

Bob Howard

Mr. Howard questioned why the Planning Commission heard a variance regarding signage at Exempla Lutheran. He believed this should have been a matter for the Board of Adjustment to consider. Mr. Tietz explained that this case was not a variance from city code, rather it was a request for a change to the Planned Hospital District which was initially approved by Planning Commission.

4. PUBLIC HEARING

- A. Case No. WA-09-09:** An application filed by Swiss Valley, LLC, for approval of a variance to Section 26-412.D.2 of the Subdivision Regulations to allow a new two-family residence at 6701 West 48th Avenue to have domestic water service from a well.

The case was presented by Adam Tietz. He entered all pertinent documents into the record and advised the Board there was jurisdiction to hear the case. He reviewed the staff report and digital presentation. Staff recommended approval for reasons, and with conditions, set forth in the staff report.

Board Member BELL stated that she would like to make sure the well permit reflects the current ownership.

Kevin Larsen
23924 Matterhorn Drive, Indian Hills

Mr. Larson, the applicant, was sworn by Chair BUCKNAM. He stated he has used the well for the past twelve years. There have never been negative results from monthly water testing. He stated that he would check on registration of the well. The subject site is the only one in the area that is buildable due to topographical issues. There is also a lift station for the sewer system that ties in with 48th Avenue.

In response to a question from Board Member HOVLAND, Mr. Larsen stated that the original house was destroyed by an arson fire. To replace the income lost from this house, he plans to build a two-family residence in its place.

In response to a question from Board Member BLAIR, Mr. Tietz stated that no negative comments have been received from the public.

Board Member ABBOTT asked if there would be a shared agreement for the well water. Mr. Larsen stated that there would be an agreement for both the well and the sewer system.

There were no other individuals present who wished to address the Board. Chair BUCKNAM closed the public hearing.

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

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

Whereas, Board of Adjustment application Case No. WA-09-09 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 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-09-09 be, and hereby is APPROVED.

Type of Variance: A variance to Section 26-412.D.2 of the Subdivision Regulations to allow a new two-family residence at 6701 West 48th Avenue to have domestic water service from a well.

For the following reasons:

- 1. An existing home on the property occurred up until a fire in 2008.**
- 2. The well is 400 feet plus or minus deep so is not infiltration well.**
- 3. The well has a state permit and has been tested for potability monthly for a significant time.**
- 4. No other development of additional properties is likely due to the topography.**
- 5. The economic feasibility of extending the domestic water to the property would preclude reasonable development.**
- 6. The variance was recommended for approval by staff.**

With the following conditions:

- 1. Prior to issuance of a building permit for the new residence, evidence of water potability must be provided and reviewed by the City.**
- 2. Prior to issuance of a Certificate of Occupancy for the structure, a consolidation plat must be recorded with Jefferson County Clerk and Recorder's Office.**
- 3. A legal document must be created assuring access rights to the water from the well to the residential property prior to issuance of the Certificate of Occupancy.**

The motion carried 8-0.

- B. Case No. WF-09-08: An application filed by Swiss Valley, LLC, for approval of a Class II special exception permit to allow construction of a two-family residence in the 100-year flood plain on property located at 6701 West 48th Avenue.**

The case was presented by Adam Tietz. He entered all pertinent documents into the record and advised the Board there was jurisdiction to hear the case. He reviewed the staff report and digital presentation. Staff recommended approval for reasons, and with conditions, as set forth in the staff report.

In response to a question from Board Member PAGE, Mr. Westberg explained that Urban Drainage created a new flood plain map in 2007 which now locates this property in a flood plain. The City has adopted this new flood plain map as its official document. However, the applicant will not be required to purchase flood insurance until the new map is adopted by FEMA which will probably occur in 2011. The applicant will be required to obtain a flood plain permit in order to build the duplex.

In response to a question from Board Member BELL, Mr. Westberg explained that the lowest habitable floor must be one foot above the flood plain level. Some fill in Arvada will be required to attain this level.

In response to a question from Board Member FISHER, Mr. Westberg explained that the flood plain review is very extensive and detailed.

**Kevin Larsen
23924 Matterhorn Drive, Indian Hills**

Mr. Larson was sworn by Chair BUCKNAM. He stated that when he first purchased the property, it was not located in a flood plain. He was notified about eighteen months ago when the flood plain map changed.

There were no other individuals present who wished to address the Board. Chair BUCKNAM closed the public hearing.

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

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

Whereas, Board of Adjustment application Case No. WF-09-08 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 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-09-08 be, and hereby is APPROVED.

Type of Variance: Approval of a Class II special exception permit to allow construction of a two-family residence in the 100-year flood plain on property zoned R-2 and located at 6701 West 48th Avenue.

For the following reasons:

- 1. The proposed construction will not result in raising the flood water height in the area.**
- 2. The damage due to floods will be minimized.**
- 3. The utilities will be installed in a manner that will be protected from flood damage.**
- 4. The flood plain administrator has reviewed and supports the findings of the flood plain analysis.**
- 5. There were no objections to the proposed development.**
- 6. A home existed previously and was destroyed by fire.**

With the following conditions:

- 1. Building plans and a site plan must be prepared for the proposed new building. The plans must be reviewed to insure compliance with the Flood plain Control ordinance.**
- 2. The lowest building floor elevation must be at or above 5,301.50 feet.**
- 3. A Wheat Ridge Fill Permit must be obtained prior to commencement of work.**
- 4. As fill is proposed in a portion of the flood plain within the City of Arvada, a Flood Plain Permit must be obtained from the City of Arvada, if applicable.**
- 5. Water and sanitary sewer services must be identified and not subject to flooding.**
- 6. The domestic water well shown adjacent to the proposed new building must be waterproofed in a manner acceptable to the City.**
- 7. A registered professional engineer shall certify that the building foundation construction forms are set at elevations in conformance with the building plans.**
- 8. A registered professional engineer shall certify that the lowest building floor elevation is at or above 5,301.50 feet as soon as possible following construction of the lowest building floor. This is to occur prior to assurance of a Certificate of Occupancy.**
- 9. The elevation must be verified by an elevation survey after the foundation has been poured, prior to other construction commencing.**
- 10. A lot consolidation plat must be approved prior to issuance of a Certificate of Occupancy.**

The motion carried 7-1 with Board Member PAGE voting no.

5. CLOSE THE PUBLIC HEARING

Chair BUCKNAM closed the public hearing.

6. OLD BUSINESS

There was no other business to come before the Board.

7. NEW BUSINESS

A. Approval of minutes – July 23, 2009

It was moved by Board Member BELL and seconded by Board Member HOVLAND to approve the minutes of July 23, 2009 as presented. The minutes were approved by acclamation.

8. ADJOURNMENT

The meeting was adjourned at 8:27 p.m.


Alan Bucknam Chair


Ann Lazzeri Secretary