



**BOARD OF ADJUSTMENT**

**Minutes of Meeting**

**January 28, 2010**

**1. CALL THE MEETING TO ORDER**

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

**2. ROLL CALL**

Board Members Present: Tom Abbott  
Janet Bell  
Bob Blair  
Ryan Fisher  
Paul Hovland  
Bob Howard  
Larry Linker

Board Members Absent: Alan Bucknam  
Betty Jo Page

Staff Members Present: Public Works  
Adam Tietz, Planner  
Meredith Reckert, Senior Planner  
Sarah Showalter, Planner II  
Tim Paranto, Public Works Director  
Ann Lazzeri, Secretary

Meredith Reckert introduced Sarah Showalter, Planner II in the Community Development Department.

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

**4. PUBLIC HEARING**

A. **Case No. WF-10-01:** An application filed by Kevin Larson 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 48<sup>th</sup> 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, set forth in the staff report.

A similar request was approved at the September 24, 2009 Board of Adjustment meeting for the same property. Due to difficulties on the site the applicant is proposing to locate the duplex in a different location on the property. Since the new location of the proposed duplex lies in the floodplain, a new flood study was required. Mr. Tietz submitted copies of a memo from Tim Paranto, Director of Public Works, indicating support of the application.

In response to a question from Board Member FISHER, Mr. Tietz stated that the present application does not affect the well on the property.

Board Member BELL asked if there was any concern about drainage or mud flow coming from the adjacent hillside. Mr. Tietz explained that this is not a concern since the properties in this area drain toward 48<sup>th</sup> Avenue.

Board Member HOWARD asked if the property had been legally subdivided. Mr. Tietz stated that this question had been researched and it was determined that the property is under one ownership, one address and a duplex is allowed on the lot. A cross-access easement will be required across the western lot so access will be available to public right-of-way in case the lot is sold in the future.

In response to a question from Board Member FISHER, Tim Paranto explained that the road down the hill is a State frontage road and the City has been maintaining it. Discussions are taking place with the City of Arvada regarding maintenance since approximately 60% of the road is located in the City of Arvada.

In response to a question from Board Member HOVLAND, Mr. Tietz explained that the property is presently under one address, but when the duplex is complete it will have its own address.

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

Mr. Larson, the applicant, was sworn by Vice Chair HOVLAND. He agreed with the staff presentation.

Board Member LINKER asked the applicant if it would be necessary to carry flood insurance on the duplex.

**Henry Hollender**  
**9201 W. Tennessee Avenue, Lakewood**

Mr. Hollender, engineer for the applicant, was sworn in by Vice Chair HOVLAND. He stated that flood insurance will be required until the building is completed. Once the elevation is accepted by FEMA, flood insurance will no longer be required. The proposed elevation is 1.5 foot above floodplain elevation. He stated that, although the duplex will be in a different location, nothing has changed from his original engineering analysis.

Board Member HOWARD asked if the applicant would consider changing the address to either West I-70 Service Road South or West 48<sup>th</sup> Place instead of Avenue. Meredith Reckert and Tim Paranto indicated that staff would not support a change in address.

In response to a question from Board Member LINKER, the applicant stated the structure will not have a basement.

There were no other individuals present to address this matter.

**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-10-01 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-10-01 be, and hereby is APPROVED.**

**Type of variance: A class II special exception permit to allow construction of a two-family residence in the 100-year flood plain.**

**For the following reasons:**

- 1. It will not increase the flood heights in the area.**
- 2. Damage due to floods will be minimized.**
- 3. Utilities will be installed in a manner that will be protected from flood damage.**
- 4. The Floodplain Administrator has reviewed and supports the findings of the floodplain analysis.**

**With the following conditions:**

- 1. The lowest floor elevation of the proposed duplex must be constructed one foot above the base flood level of 5,300.35 feet.**
- 2. The elevation must be verified by an elevation survey after the foundation has been poured prior to other construction commencing.**
- 3. A cross access easement must be obtained by the owner and recorded with Jefferson County.**

**Board Member HOWARD moved to amend the motion to require that the address be changed. The motion died due to lack of a second.**

**The motion passed 6-1 with Board Member HOWARD voting no.**

- B. Case No. WA-10-01: An application filed by Robert Chapman for approval of an 8-foot side yard setback variance from the 10-foot side yard setback requirement pursuant to Section 26-611.A.1 resulting in a 2-foot side yard setback for property zoned Residential-One and located at 11595 West 32<sup>nd</sup> Avenue.**

The case was presented by Sarah Showalter. 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 applicant replaced an older covered patio that was damaged by a severe storm. The new patio has the same footprint as the original. A building permit was not issued for the patio and the applicant received a stop work order. A setback variance is required to legitimize the location of the patio so a permit can be issued. Staff recommended approval for reasons set forth in the staff report.

Board Member LINKER asked if the original patio was constructed before Wheat Ridge became a city. Ms. Showalter stated that the house was constructed before the City's incorporation and there were no records concerning the patio.

In response to a concern expressed by Board Member HOWARD, Ms. Showalter noted that the house is located on a corner lot which allows plenty of room for emergency access to the back of the house.

**Robert Chapman**  
**11595 West 32<sup>nd</sup> Avenue**

Mr. Chapman, the applicant, was sworn in by Vice Chair HOVLAND.

Mr. Chapman stated that he purchased the house in 2006. The house and patio were severely damaged by last summer's hailstorm. The specs for the replacement are almost the same as the original patio. He stated the patio is complete except for installing a gutter.

In response to a question from Board Member HOVLAND, Mr. Chapman stated that the neighbors are in favor of the patio.

Board Member FISHER expressed concern about the size of the variance.

Board Member BELL commented that this type of situation that dates back to the county zoning is not uncommon in the neighborhood. The patio is barely visible from the street and fits in very well with the neighborhood.

There were no other individuals present to address this matter.

**Upon a motion by Board Member ABBOTT 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. WA-10-01 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-10-01 be, and hereby is APPROVED.**

**Type of Variance: An 8-foot side yard setback variance from the 10-foot side yard setback requirement pursuant to Section 26-611.A.1 resulting in a 2-foot side yard setback for property zoned Residential One.**

**For the following reasons:**

- 1. The variance is for the purpose of replacing an existing open-on-three-sides patio roof of similar dimensions and setback encroachments.**
- 2. The variance would not alter the essential character of the locality.**
- 3. The applicant is proposing a substantial investment in the property that may not be possible without the variance.**
- 4. The alleged difficulty or hardship has not been created by any person presently having an interest in the property.**
- 5. The request would not be detrimental to public welfare and would not be injurious to neighboring properties or improvements.**
- 6. The covered patio should have a very minimal impact, if any, on surrounding properties.**
- 7. Alternative locations for patio are limited especially due to the due to narrow lot width. The west side of house which is 18 feet from the side property line requires a 30-foot side setback since the side yard is adjacent to Simms, a public street, even with the provisions for the 2/3 reduction side setback for patios.**
- 8. Staff recommends approval.**

**With the following condition:**

- 1. None of the three open sides shall be allowed to be enclosed in the future.**

**The motion passed unanimously.**

**9. CLOSE THE PUBLIC HEARING**

Vice Chair HOVLAND closed the public hearing.

**10. OLD BUSINESS**

There was no old business to come before the Board.

**11. NEW BUSINESS**

**A. Approval of Minutes – October 22, 2009**

**It was moved by Board Member BLAIR and seconded by Board Member BELL to approve the minutes of October 22, 2009 as presented. The motion passed unanimously.**

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

**It was moved by Board Member FISHER and seconded by Board Member BLAIR to approve the resolution designating the lobby of city hall and the city's website as the public places for posting notices of public meetings. The motion passed unanimously.**

**C. Election of Officers**

Ryan Fisher was elected to serve as Chair of the Board of Adjustment.  
Janet Bell was elected to serve as Vice Chair of the Board of Adjustment.

**D. Subarea Plan**

Meredith Reckert invited interested Board members to participate in the 38<sup>th</sup> Avenue Subarea Plan process.

**E. Re-open Public Hearing**

Board Member ABBOTT requested that the public hearing be re-opened on Case No. WA-10-01 in order to add another condition.

**It was moved by Board Member BELL and seconded by Board Member FISHER to re-open the public hearing on Case No. WA-10-01. The motion passed unanimously.**

Vice Chair HOVLAND re-opened the hearing.

**Board Member ABBOTT moved and Board Member FISHER seconded to amend the motion approving Case No. WA-10-01 to add the following reason and condition:**

**Reason No. 9: Emergency access to the encroached deck area is adequate as currently described.**

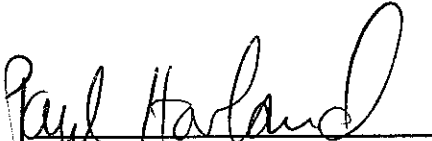
**Condition No. 2: The unimpaired emergency access to the deck area shall be maintained.**

**The motion passed unanimously.**

Vice Chair HOVLAND closed the public hearing.

8. ADJOURNMENT

It was moved by Board Member LINKER and seconded by Board Member HOVLAND to adjourn the meeting at 8:25 p.m. The motion passed unanimously.

  
Paul Hovland, Vice Chair

  
Ann Lazzeri Secretary