

## RECORD OF PROCEEDINGS

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**Regular Meeting of the Estes Valley Board of Adjustment  
July 7, 2009, 9:00 a.m.  
Board Room, Estes Park Town Hall**

**Board:** Chair Chuck Levine, Members John Lynch, Bob McCreery, Wayne Newsom, and Al Sager; Alternate Member Bruce Grant

**Attending:** Chair Levine, Members Lynch, McCreery, Newsom, and Sager

**Also Attending:** Director Joseph, Planner Alison Chilcott, Planner Dave Shirk, and Recording Secretary Thompson

**Absent:** None

**Chair Levine called the meeting to order at 9:00 a.m.**

**1. PUBLIC COMMENT**

None

**2. CONSENT AGENDA**

- a. Approval of minutes dated June 2, 2009

**It was moved and seconded (Newsom/Sager) to approve the minutes as presented, and the motion passed unanimously**

- 3. LOT 1, SILVER LANE STABLES ADDITION, located at 621 Big Thompson Avenue – Request for a variance from §5.1.Q.4.a of the Estes Valley Development Code, which requires that service stations and quick lubrication service uses shall be located at least one hundred (100) feet from the property boundary of any residential zoning district.**

**Staff Report:**

Planner Chilcott stated Safeway is proposing to construct a service (fueling) station and car wash on the current Silver Lane Stables site, at the corner of Highway 34 and Steamer Drive. The applicant has also submitted a development plan application for construction of the service station and car wash, which is being reviewed at staff level with a decision by July 21, 2009.

Planner Chilcott stated that staff reviewed the variance request for compliance with Estes Valley Development Code Section 3.6, which includes evaluating whether or not special circumstances and practical difficulty exist in complying with the code standards from which a variance is requested. Staff finds that special circumstances exist and practical difficulty may result from strict compliance with Code standards.

The Estes Valley Development Code (EVDC) requires that service station, car wash, and quick lubrication service uses be located a minimum of one hundred feet from the boundary of a residential zoning district. The setback requirement for this use is significantly larger than typically required between commercial and residential uses. For any other commercial use, the setback would be 15 or 25 feet, depending on zoning. The R-zoned property in question is an outlot of the Stanley Hills subdivision and contains postal cluster boxes and a driveway leading to the boxes. This outlot is available for future roadway if a deed of dedication from the Stanley Hills Subdivision HOA was submitted. The closest single-family lot to the proposed service station and car wash is approximately 135 feet away, with the closest house being about 370 feet away.

The setback is intended for a buffer between a service station, car wash, and/or quick lubrication service *use* and a residential *use*, but in this case the buffer will never serve its intended purpose. To layer on this increased setback adds a further and significant development constraint to the property.

In determining practical difficulty, Planner Chilcott stated the 100-foot required setback would provide a buffer against a lot that in the future could become a portion of the Steamer Drive right-of-way. She also stated the essential character of the neighborhood will not be substantially altered and adjoining properties will not suffer a substantial detriment if the variance is granted. Staff has received several letters from the public with strong opinions for and against the proposal.

Staff has determined the applicant cannot build as proposed without the requested variance. The variance would not reduce the size of the lot; and, if granted, represents the least deviation from the regulations that will afford relief.

Member Newsom questioned why staff recommended the variance be valid for three years, rather than the typical one-year time period. Planner Chilcott stated staff recommended this because Safeway does not plan on constructing the car wash immediately, if at all. A three-year period gives Safeway a longer timeframe in which to construct the car wash without reapplying to the Board of Adjustment.

**Public Comment:**

Jeff Fergot/Corporate Architect representing Safeway stated Safeway wants make sure they have the entitlement in place for the car wash so they can construct it in the future if there is a need or desire for it. He stated Safeway typically finds the highest demand for car washes is during the winter months, which are Estes Park's slowest months. Safeway would like to evaluate the need for the car wash after the gas station is constructed. If built, the car wash will be a closed system with water reclamation.

Leslie Peng/Discovery Lodge owner has concerns about the effect on the water supply for the Discovery Lodge fish pond. This water supply runs underground through the stables property. Director Joseph stated this concern is valid and Community Development will try to address the issue during the staff development plan review.

Greg Wheeler/Stanley Village has had positive experiences working with Safeway fueling stations at other shopping centers. He believes Estes Park would benefit from this facility.

Member Newsom has a concern about canopy lighting. Director Joseph stated this concern will be addressed in the development plan review. There is an illumination plan for this project.

**It was moved and seconded (Newsom/Sager) to APPROVE the request for a variance from EVDC §5.1.Q.4.a to allow construction of a fueling facility and car wash within 100 feet of the property boundary of a residential zoning district, with the following conditions:**

CONDITIONAL TO:

1. Approval of Safeway's development plan application #09-05.
2. Failure to apply for a building permit and commence construction or action with regard to the variance approval within three years of final development plan approval shall automatically render the decision of the Board of Adjustment null and void.
3. Exterior lighting under the canopy will be completely recessed.

**The motion passed unanimously.**

**4. REPORTS**

There being no further business, Chair Levine adjourned the meeting at 9:30 a.m.

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Chuck Levine, Chair

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Karen Thompson, Recording Secretary