

## RECORD OF PROCEEDINGS

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**Regular Meeting of the Estes Valley Board of Adjustment  
January 8, 2008, 9:00 a.m.  
Board Room, Estes Park Town Hall**

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

**Attending:** Chair Newsom; Members Dill, Levine, Lynch, and Sager

**Also Attending:** Planner Shirk and Recording Secretary Roederer

**Absent:** Director Joseph

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

### **1. PUBLIC COMMENT**

None.

### **2. CONSENT AGENDA**

#### **a. Approval of the minutes of the December 4, 2007 meeting.**

There being no changes or corrections, the minutes were approved as submitted.

#### **b. Metes and Bounds property located immediately north of 1895 Big Thompson Avenue, Yakutat Land Corporation/Applicant — Request for continuance to February 5, 2008 Estes Valley Board of Adjustment meeting**

It was moved and seconded (Levine/Dill) to approve the applicant's request for continuance to the February 5, 2008 meeting, and the motion passed unanimously.

#### **c. Confirmation of Election of Officers held December 4, 2007 as follows: Chair for 2008—John Lynch; Vice-Chair for 2008—Wayne Newsom**

It was moved and seconded (Sager/Levine) to confirm the officers elected at the December 4, 2007 meeting, and the motion passed unanimously.

#### **d. Appointment of Community Development Department Secretary or Designee as Recording Secretary for 2008**

It was moved and seconded (Lynch/Dill) to appoint the Community Development Department secretary or designee as the Recording Secretary for 2008, and the motion passed unanimously.

### **3. LOT 9, BLOCK 3, WINDCLIFF ESTATES 5<sup>TH</sup> FILING, 3323 Eiger Trail, Owner: Stephen Benno, Applicant: Roger Thorp — Request for variance from Estes Valley Development Code Section 4.3, Table 4-2, to allow a residence to be built five feet from the eastern property line and a deck to be constructed 19 feet from the western property line in lieu of the 25-foot setbacks required in the E-1 – Estate zoning district**

Planner Shirk summarized the staff report. This is a request for variance to allow a new single-family residence to be constructed with a five-foot setback from the eastern property line and a nineteen-foot setback from the western property line in lieu of the 25-foot setbacks required in the E-1 – Estate zoning district. Both setbacks are considered front-yard setbacks because streets front both the eastern and western property lines. Variance requests of this nature are common in this area of the Windcliff Subdivision due to the steep slope.

In considering whether special circumstances or conditions exist, the lot is steep and narrow and, at 0.38 acre, is sub-sized for the E-1 zoning district, which has a minimum lot size of one acre. The 25-foot front and rear setbacks combine to create a building

envelope that is only twenty-three feet wide. A narrow house could be constructed on the lot. However, in determining whether the essential character of the neighborhood would be substantially altered by approval of the variance, planning staff suggests that the proposed house would be more in keeping with the neighborhood than a 23-foot-wide residence.

If the variance is approved, the narrowness of the lot, combined with the reduced setback, will result in construction of a tall, steep retaining wall supporting the driveway. Staff recommends that the retaining wall be redesigned to include planting pockets to visually soften the wall.

The variance request was routed to all applicable reviewing agency staff and to neighboring property owners for consideration and comment. Comments were received from the Larimer County Engineering and Building departments. A letter of support was received from John Hiatt of the Windcliff Property Owners Association Architectural Control Committee, stating the Committee's belief the "setback variance is truly justified."

An email opposing the variance request was received from neighboring property owner Ken Pearson, stating the established setbacks should be adhered to, the request is inappropriate and inconsiderate, and expressing concern about devaluation of neighboring properties.

Given the special circumstances outlined above, primarily the width of the lot, planning staff recommends approval of the requested variance.

Member Levine requested background information on zoning for the Windcliff Subdivision, particularly since the E-1—*Estate* zoning results in a majority of the lots being subsized for the zone district. Planner Shirk explained that with the valley-wide rezoning in 2000, planning staff corresponded with the Windcliff property owners' association, suggesting the subdivision be rezoned to a more appropriate zoning designation. The property owners expressed a desire to maintain the zoning. Given that downzoning may have resulted in further subdivision of the lots, staff agreed. Planner Shirk estimated that in the southern portion of Windcliff, approximately 75% of the lots have received or will require a variance from the required setbacks in the E-1 district for construction of a residence. When the land was originally subdivided, development was condensed via the creation of small lots with interspersed open-space lots. Although front- and rear-yard setback variances are common in this subdivision, staff attempts to ensure that side-yard setbacks are maintained. Chair Newsom noted that height variances are common in this subdivision due to the steep slopes.

**Public Comment:**

Roger Thorp was present to represent the property owners. He stated over the last 25 years he has brought setback variance requests to this Board whenever his work has been in the south end of Windcliff Subdivision. By dividing the total acreage of that portion of the subdivision by the number of lots, including the open-space lots, the average lot size works out to be over one acre—that is why the Board of County Commissioners allowed that subdivision design for the zoning district. Member Levine pointed out that by retaining the E-1 zoning designation, Windcliff property owners have increased the cost of building in their subdivision [due to the expense of the variance process]. Mr. Thorp stated the Bennos have owned the lot for a number of years; the proposed design is the best possible for the site. The retaining wall will be constructed of boulders rather than concrete; additional shrubs and landscaping are planned to help break up the scale of the wall. He noted this is an aesthetic issue; it is not a requirement of the Estes Valley Development Code for residential applications.

Discussion followed regarding the slope of the driveway and connection to the sanitary sewer main. Mr. Thorp indicated the drive will have a slope of 10% or less and provided assurance that there will be gravity flow to the sewer main.

Member Levine referenced the Board's powers and duties, specifically, "In order for an applicant to be granted a variance, he must show that, by reason of exceptional narrowness, shallowness, or slope of his property, or by reason of exceptional topographic conditions or another extraordinary and exceptional situation or condition of his property,

he will be denied the use of his property for any economic use.” He stated his belief that the applicant’s request qualifies.

Member Lynch acknowledged the concerns expressed in Ken Pearson’s letter of objection and noted the proposed residence will not block views from neighboring properties. Member Sager stated that even if the property were zoned appropriately for the size of the lot, the variance would be equally justifiable.

**It was moved and seconded (Lynch/Sager) to approve the variance request for Lot 9, Block 3, Windcliff Estates 5<sup>th</sup> Filing, to allow an eastern property line setback of five feet and a western property line setback of 19 feet in lieu of the 25-foot setbacks required, with the findings and conditions recommended by staff, and the motion passed unanimously by voice vote.**

**CONDITIONS:**

1. Full compliance with the applicable building code.
2. Prior to pouring foundation, submittal of a setback certificate prepared by a registered land surveyor. This certificate shall verify the foundation complies with the approved site plan.
3. The proposed retaining wall shall comply with Section 7.2.B.6 of the Estes Valley Development Code.

**4. REPORTS**

None.

Chair Newsom stated that Member Lynch will take over as Chair at the February meeting.

**There being no further business, Chair Newsom adjourned the meeting at 9:34 a.m.**

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Wayne Newsom, Chair

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Julie Roederer, Recording Secretary