

**MINUTES FOR ADMISTRATIVE HEARING FOR**

**4152 Kipling Street**

**CITY OF WHEAT RIDGE, COLORADO**

**7500 WEST 29<sup>TH</sup> AVENUE**

**MUNICIPAL BUILDING**

**September 9, 2020**

**Building Code Advisory Board present:**

Ronald Abo - Chair, District III Representative

John Kellow - District IV Representative

Nathan Hoppe - At-Large Representative

Jason McCollough-At-Large Representative

Al Gallo-At-Large Representative

Also present: Ken Johnstone-Community Development Director, Randy Slusser-Chief Building Official, Nina Williams-Legal Counsel, Dina Kemp-Permit Technician, Tammy O'Dean, Administrative Assistant for Planning and Zoning, Mark Westberg for Engineering Department, Bart Buetow, Luke Buetow and Kelly Bernado.

Meeting was called to order by Chairman Ron Abo at 9:01 am. Mr. Abo then called for introductions of new members. After roll call by Ms. O'Dean, Mr. Abo called for opening statements.

Community Development Director Ken Johnstone started out the meeting by welcoming new board members and thanked them for their time and efforts in serving on the board, and expressed his appreciation for Charles Abbott Associates and Chief Building Official Randy Slusser, a third party building department he has outsourced for the City of Wheat Ridge. Mr. Johnstone briefly explained the history of the property at 4152 Kipling Street. He explained the property had a permit for an addition for over six years and explained the local amendment allows for 365 days in lieu of the standard 180 days. He explained that extensions can be granted with conditions at the sole discretion of the Chief Building Official. Mr. Johnstone explained that the building official has the right to set up specific time frames, conditions, bench marks along with notices and orders if the conditions are not met. He ended with explaining there had been many extensions granted on this property and that the time frames have not been met. He ended by explaining that the permit holder, Mr. Beutow has the right by code to appeal the notice posted August 7, 2020 and this has come before the board for this very matter.

Chief Building Official, Randy Slusser continued explaining that the permit applied for in June of 2014 for a second floor addition, exterior decks and some property fencing had come to 8 extensions totaling to the amount of \$1715.84. Mr. Slusser explained his permit had been renewed every year and with every

other request half the permit fee was applied, which is allowed by code. He continued explaining that over the past years slow progress has been made, however inspections didn't start until 2017 and continue to the year 2020. On Jan 6, 2020 Mr. Slusser sent a letter to Mr. Beutow outlining time frames to get the project to completion with a goal date of July 6, 2020. He explained specific time frames were to have been met and inspections were to be called in. These dates were not met for the completion date of July 15, 2020 which as Mr. Slusser explained started the initiation of the abatement process and would start the appeal process before the building code advisory board. An order was issued since the milestones had not been met on August 7, 2020. Mr. Slusser petitioned the board to allow them to seek a court order to abate and have access to the premise and hire someone to complete all of the outstanding construction items.

Mr. Johnstone clarified that the Chief Building Official and the City of Wheat Ridge has the right to issue a notice order and seek a court order to abate property. He clarified that they were not asking the building code advisory board to approve this but for the board to grant the appellant relief from that order.

Mr. Abo asked if the city would take over construction of the property. Mr. Johnstone and Mr. Slusser agreed. Mr. Johnstone clarified that abatement can take on many forms, but they were seeking an abatement to access property, hire a contractor to finish the work and a lien will be added on the property for what the City of Wheat Ridge's cost would be.

Mr. Abo asked if there was an issue with the flood zone. Mr. Westberg responded to the board stating that this property is entirely in the food zone with the exception of the drive going into the property. He explained that the second floor addition was on top of an existing structure so all of the new work is above the flood plain elevation. Mr. Westberg stated that a flood plain permit was issued in 2014 to allow the work, but there are no other flood plain issues because the addition work is above the flood elevation. He said the flood elevation is 4 to 5 feet deep at the house, but because the work is on the second floor and the addition is not affected and meets the flood plain regulations.

Mr. Hoppe asked if there were any issues with the sewer, flood plain water, runoff, and other sanitary issues.

Ms. Williams responded to Mr. Hoppe by explaining that this issue was remedied and they need to stay focused on the August 7, 2020 order on completion of *construction issues*.

Mr. Kellow asked if the sewer was connected to the septic system. Mr. Slusser replied that yes, it was connected.

Mr. Abo asked if the appellant was ready to make an opening statement.

Homeowner of 4125 Kipling Street, Mr. Beutow opened up his statement by expressing his appreciation for being heard and able to be before the board. He stated that the city has bent over backwards and has gone out of their way to help. He especially thanked Mr. Johnstone and Mr. Slusser for their help and assistance with helping to facilitate this process. He explained that his property is a unique property and that it has a higher profile as it borders Clear Creek and the open space of five to six acres. He stated it was a residential property but a large part of it was an agriculture zone. He stated that there were some financial considerations in finishing this property which he dubbed as a family legacy property. He said he realized the city is at their wit's end and knows they want the property to come

together. He stated that they are so close to the deadline with just a small digression from the last January 6th letter. He reiterated that he is motivated and the encouragement to complete the project was appropriate and well-intended but did not agree with particulars on the project, namely the 6 month time frame to complete project. He stated that there are other constraining issues such as the virus and access to certain areas that come into play for everyone. He explained that along with his son they have changed their lifestyle to make this a priority and they are 100% focused on getting this fixed and making substantial progress. He petitioned the board to give them even just a small amount of time to get the work complete and to take into consideration the variable factors that had come in to play such as hospitalization for a blood clot that left him inches from dying and some medical problems. He explained that the time table was too rigorous and safety factors contributed to delays. He insisted that he is very close to immediate striking distance to finish and petitioned Mr. Slusser to give him a final list and asked for help going over inspections underlying systems. He finished with explaining that the final building inspections was a matter of safety and because of custom decks with complicated designs along with railings made it hard to complete. Mr. Luke Buetow concurred by stating that the railings needed to be completed. Mr. Buetow stated the flooring needed to be complete along with the second level deck, minor kitchen modifications, interior stair case railing all need to be completed and is 2/3 done and 2 weeks would be needed.

Mr. Abo thanked and asked if this property was a pop top and if the whole interior was being remodeled. Mr. Beutow replied that yes it did need to be done but most work was not subject to permit and involved new cabinet and counters. Mr. Abo asked if the property was occupied and Mr. Beutow said he could not technically answer that but has been there on and off for six months. Mr. Beutow explained the bathrooms operate but the real safety issue was the stair case railing. Mr. Abo asked if the photos in the packet were recent. Mr. Slusser replied that they were as recent as his last inspection in August. Mr. Abo also asked the appellant, Mr. Beutow if the plumbing, mechanical and electrical was being done by licensed contractors. Mr. Beutow's response was that he was in fact doing the work with a homeowner permit. Mr. Abo asked what time frame Mr. Beutow needed to finish the project. The appellant Mr. Beutow explained that the other issue at hand was the code enforcement issue that he was cited for, which included building materials on property and was under an immediate order to have it removed. He stated that he has a contractor working to take materials off of the 6 acres. A dump truck is currently on the property taking off materials in conjunction with the code enforcement order. Mr. Beutow stated that this was a contributing time factor or the other interior construction could have been completed. He explained that a month or two of time would immensely help the progress on the property.

Mr. Abo then asked if finances were an issue in getting the project to completion. Mr. Beutow said he did have resources available, although he has extended his credit to complete the projects. He explained that the biggest issue is coordinating contractors to come and take a look at it. He explained the design of his deck is so unique with the complicated railing system that it has been hard to find a contractor to finish it. He stated within a week to a month he could have it complete.

Mr. Abo asked if any board members had questions. Mr. Kellow asked what inspections have been completed. Mr. Slusser spoke to the inspections by stating that the final electrical approved, final plumbing and mechanical had a partial approval pending a few minor items as the faucets not turning on, the dishwasher not being hooked up, the completion of counter tops in kitchen and bathroom, and the question of the combustion air. This was stated by Mr. Slusser to have been resolved. Mr. Slusser

explained that final plumbing, final mechanical and final building need to be completed which include deck, stairs and railings. Mr. Kellow asked if all roughs had been completed. Mr. Slusser explained that all rough inspections had been completed and that just the finals were needed.

Mr. Hoppe asked if a certificate of occupancy was existing on this property. Mr. Slusser explained that a certificate of completion would be issued in and not the certificate of occupancy.

Mr. Kellow asked if the project was close to completion. Mr. Luke Beutow replied that he had completed the adjustments on the plumbing already and with that they are very close to completion. He explained that the complicated design on the hard wood floor had complicated things a bit but that he was working alone. He added that aside from a few cosmetic things and the railings that they were close to completion and that the baluster needs to be completed.

Board member Mr. McCollough asked if there were any updated photos on the project. Mr. Luke Beutow offered to email to Ms. O'Dean so they could share on the zoom meeting. Mr. McCollough asked what portion of the home had been looked by a contractor. Mr. Luke Beutow responded that it was the stair railing they had looked at. The complexity of the deck railing was the issue that Mr. Luke Beutow explained was an issue. Property owner Mr. Beutow explained that the deck is the one danger part on the deck as it had a clear glass railing on the deck and explained it has a complex design and that the posts for the deck are complete as well as the interior staircase.

Mr. Abo asked if the City of Wheat Ridge had any witnesses present to come forward regarding the property.

Mr. Slusser responded that he did not have any witnesses but would like to clarify the statement made by the appellant that the cabinetry and finish work that did not need permitting. He stated that in order for the project to be complete he needs everything finished throughout home like flooring, places in the shower to be complete and the kitchen needs construction material removed. Mr. Beutow agreed and felt that if he had 60 days he knows he could get it done.

Mr. Hoppe asked the appellant if he could have all the items completed within the next one to two months. Mr. Beutow said he could have them done including complying with the code enforcement issue. Mr. Hoppe asked Mr. Beutow when he applied for the permit was he planning on doing it himself or hiring a contractor, and was he aware that permits are 365 days. Mr. Beutow responded that he intended to do the project himself and he didn't get started immediately in June of 2014, but the project wasn't started until 2017. He explained that the property is a legacy to him and his family, and he promised to get the work done despite the complicated design and issues with contractors. Ms. Bernado explained that there were parallel projects that were running as the same time as this project a means for income and that is why the extension was applied for.

Mr. Johnstone explained that the city did not have any rebuttal to the appellant Mr. Beutow's appeal and Mr. Slusser agreed. Mr. Johnstone wanted to make a public comment allowable by public representative Ryan, but he inadvertently dropped off of the zoom meeting.

Ms. O'Dean shared recent pictures of the home and the progress made and what needs to be done. Ms. Bernardo explained the hard wood floors, lighting and flooring and the progress that has been made and that the railings were the last thing to be completed.

Ms. Williams asked that the photos be added to the record for the hearing.

Mr. Abo asked for final questions on the property.

Mr. Kellow asked if the heat was working. Mr. Luke Beutow said it was working. Mr. Abo asked if there was a construction loan on the property. Mr. Luke Beutow explained there had been some in the past, but have since been paid off, and at this time it was being personally financed.

Mr. Abo asked for final statements from the appellant.

Mr. Luke Beutow asked for mercy and grace as they are highly motivated to finish the project and feel they are in striking distance to finish, despite issues coming out of left field.

Mr. Slusser stated that a realistic timeline will be set regardless of what the decision is made.

Mr. Hoppe questioned Mr. Beutow if two months would be enough time considering the fact that winter is coming and the exterior of the home needing to be cleared up. Mr. Beutow responded that yes with due diligence they could get it done and with the additional help he has enlisted with the contractor they were confident this would be enough time.

Mr. Gallo asked if there is a precedent being set by city by extending the permit by three months or not extending it.

Ms. Williams addressed the floor by stating the procedural options open the board's decision. The four options are:

The notice in order options are as follows:

- 1) Postpone hearing
- 2) Overturn the city's notice and order
- 3) Affirm the August 7, 2020 notice and order allowing the City of Wheat Ridge to abate the property
- 4) Affirming the August 7, 2020 order but delaying the city's enforcement until a future date.

Ms. Williams made clear that whatever decision was voted on that is the final option and that when the future date is decided upon there will be no more appeal to the board, and when said date hits the city enforcement will go to court.

After the four options were put before the board, Chair, Mr. Abo asked what the board's pleasure was and asked for a discussion or a vote on the options presented.

Mr. Gallo said he voted for the fourth option of 60 days and no more. Mr. Hoppe stated that he seems the appellant is aware of the severity of the deadlines to be met and agreed with 60 day extension. Mr. Kellow opted for 90 days as an extension. Mr. Gallo motioned for the 90 days extension for the stay of the city taking over.

Ms. Williams reiterated the order as the following:

“To affirm the City’s August 7, 2020 Notice and Order, but delay the City’s “Available Enforcement Remedies” as stated in the August 7, 2020 Notice and Order until December 9, 2020, with the additional clarification that it will be the Chief Building Official’s discretion to determine whether all outstanding items are completed.”

Mr. Gallo concurred with the statement read by Ms. Williams and Mr. Abo seconded the motion.

Mr. Abo asked for any further discussion.

Mr. McCollough asked what takeover would look like if the city takes over. Ms. William explained that the procedure would petition the court for an abatement order which is a contractor taking over to complete project and then the owner would be responsible for the fees, putting a lien on the property. Mr. Slusser also responded that they would have to be compliant with what the approved city plans show.

Mr. Abo asked for final comments and final vote. All members of the building code advisory Jason McCollough, Nathan Hoppe, Al Gallo, Ron Abo, and Jon Kellow replied with yes to the 90 day extension.

Chairman Ron Abo adjourned meeting at 10:04am