



**PUBLIC NOTICE
BOARD OF ADJUSTMENT
Monday, January 22, 2024, 6:30 P.M.
Council Chambers – 220 W. South Avenue
Woodland Park, Colorado
AGENDA**

This is a hybrid Zoom and in-person meeting. To Zoom - link from the City calendar at the bottom of the front page of the City website (www.city-woodlandpark.org). Public input is important to the Board and written comments are encouraged and should be submitted to the Secretary in advance of the meeting. Individuals wishing to be heard during the Public Hearing are encouraged to be prepared and will generally be limited to five (5) minutes, unless otherwise approved by the Chairman, in order to allow everyone the opportunity to be heard. Public comments are expected to be constructive. Please sign in to speak on a particular agenda item. For more information, call 719-687-5202.

1. ORDER & ROLL CALL

2. MINUTES: November 20, 2023
December 18, 2023

3. REQUESTS / PUBLIC HEARINGS:

A. ~~VAR2023-10: Nash front yard accessory building:~~ A request by Hayes Nash (applicant and land owner) to locate a 24' x 36' accessory building in a front yard (MC §18.06.020) on Lot 3 Aspen Acres (115 Trull Road, Woodland Park, CO) in the Suburban Residential (SR) zone district. **TO BE RESCHEDULED**

4. ELECTION of OFFICERS: Chair
Vice-Chair

5. REPORTS:

6. ADJOURN

WOODLAND PARK BOARD OF ADJUSTMENT

MEETING MINUTES – November 20, 2023

*City of Woodland Park, 220 W. South Avenue, Woodland Park, CO and by Zoom.
This meeting was a hybrid in-person and virtual electronic meeting. A Zoom link was posted on the front-page of the City website. Public input in the form of written comment submitted in advance of the meeting was encouraged and public comment in real time at the meeting was made.*

1. ORDER AND ROLL CALL. Order was called at 6:31 p.m. with attendance as follows:

Present	Chair Louis Ramon
Absent	Vice Chair Nick Abercrombie
Present	Regular Member Jim Rumsey
Present	Regular Member Valerie Lundy
Present	Regular Member Kevin O'Neill
Staff Present	Planning Director/BOA Secretary Karen Schminke
	Senior Planner CJ Gates

The Pledge of Allegiance was recited.

2. APPROVE MINUTES: Approval of the June 19, 2023

MOTION: Rumsey made a motion to approve the minutes from the June 19, 2023 meeting; Lundy seconded. Motion passed unanimously.

3. REQUESTS / PUBLIC HEARINGS:

A. VAR2023-07: Teller County Water and Sanitation District #1 Setback

Variance: A request by Jerry Duncan (Applicant) and Teller County Water and Sanitation District #1 (Property Owner) for a 1-foot setback variance on the eastern side of the building facing Piute Trail (from 25 feet required by MC §18.12.040.A to 24 feet) and a 6-foot setback variance on the western side of the building (from 25 feet required by MC §18.12.040.B to 19 feet) to accommodate a 24' X 26' building to house water treatment equipment on Lot 1, Park View Estates Filing No. 3 (201 Piute Trail) in the Suburban Residential (SR) zone district.

Director Schminke noted that this item is being rescheduled to December 18, 2023 at 6:30 p.m.

B. VAR2023-08: Victory Life Church Height Variance: A request by Seth Emerson of Kingdom Design Group (Applicant) and Legacy Title Holding Company (Property Owner) for a 5-foot height variance (from 30-feet required by MC §18.17.030 to 35-feet) to accommodate one two-story church building for Victory Life Church. The subject property is located north of the intersection of Highway 24 and Trout Creek Road in Sections 23 & 26, T12S, R69W of the 6th P.M., also known as "Gold Mountain" (5955 Trout Creek Road) in the Agricultural (AG) zone district.

To begin the public hearing, Chair Ramon noted that any appeals must be filed with the Teller County Courts within 30 days of the BOA decision; that four affirmative votes are required to approve a variance; the applicant may decide to withdraw or postpone the application; and

public comment is limited to five minutes per speaker. Chair Ramon then confirmed that none of the Board members has had any communications or has a conflict of interest on this item.

Senior Planner Gates presented the Staff presentation, noting the March 9, 2001 annexation agreement that contains a provision to limit development above 8,775-feet in elevation on this property. The proposed building will be at an elevation of 8,700 and the entire developed area will be below the 8,775-foot elevation. Mr. Gates noted the location of the property, the Agriculture (AG) zoning designation, the Future Land Use Map designation of 'Mixed-Use' for the southern part of the property, that a Conditional Use Permit and Site Plan Review will be heard by the Planning Commission and City Council, and that the applicant is first seeking a 5-foot height variance.

Mr. Gates then noted access to the site is from Trout Creek Road and they are proposing to locate the building in the southern portion of the property. He then reviewed a Slope Analysis Map that shows a majority of parcel has slopes in excess of 25%; the slopes in the building area (southern part of the parcel) are less at 15-25%; the actual buildable area is about six acres. To mitigate the slopes and existing utility easements, this variance application proposes setting the building into the existing hillside. He showed the color renderings of building elevations noting grading lines and a proposed building height of 35-feet.

Mr. Gates next reviewed the approval criteria and staff analysis that determined the request complies with all four conditions specified in MC Section 18.60.020; and the limitations in MC Section 18.60.050 are met. He also noted Staff believes that the applicant meets requirements in Section 18.06.040. All noticing requirements had been met, and no written public comments had been received. Mr. Gates concluded with the staff recommendation to grant a 5-foot variance to allow for a maximum building height of 35' for construction of a two-story Church at 5955 Trout Creek Road.

Chair Ramon asked if there were questions for staff. It was noted the title policy identified the property as 'Commercial' and Senior Planner Gates confirmed that the parcel is zoned AG, but staff has no control over what the title company may have noted as an allowed use. Chair Ramon added that any previous applications for this parcel do not affect the consideration of the current application before the BOA, they can only consider the 5-foot height variance tonight. Ms. Lundy asked about an existing cabin on the property, which the Teller County Assessor lists as a residential use; this was identified as historical and not currently in use.

Chair Ramon called upon the applicant for their presentation.

Seth Emerson, of Kingdom Design Group, reviewed the project, zoning, and comprehensive plan maps. The comp plan map shows the bottom third of this parcel as mixed use, and the building is proposed to be located in this area. He provided aerial photography of the site to illustrate the exceptional topography/slopes on the property. Of the 66.37 acres, the total buildable area is only six acres. Per the 2001 Annexation Agreement, the proposed building and development would all be in the south third of the parcel and below the protected open space above the 8,775' elevation. He identified the exceptional topography as one of the biggest challenges with this site. He reviewed the new plans and elevations. Even though the original application has no bearing on the current application, he wanted the BOA to see the changes made to try to conform to requirements, and showed the current proposed elevations being 12.5' lower than the previous proposal's elevations. He then showed a computer-generated video of the building renderings imposed on the site. A large retaining wall is now proposed on the northwest side of the development, 20-feet from the building, for life-safety (emergency services), egress, mechanical equipment storage, and day-lighting (windows) purposes.

Chair Ramon called for questions from the Board for the applicant:

The Board members clarified the design changes from the first application which resulted in a longer and shorter building with a maximum height of 35 feet.

David Mijares, with Catamount Engineering and civil engineer for the project, explained that the hillside could not be cut in five more feet to avoid a variance altogether because that would make the retaining wall too high, which could endanger the building, may not meet fire regulations, and could eliminate natural lighting and storage aesthetics.

Chair Ramon clarified with Mr. Emerson who explained that the applicant is not interested in lowering the building height to 30' because of the head room required in the sanctuary balcony.

Chair Ramon then opened the hearing for public comment and asked that comments focus on the height variance only; the use at this location would be addressed through a different application.

Pat Urban of Woodland Park and a member of VLC, is excited about a new building, believes the church serves, and is planning new ways of serving, the community, and we need a new building to expand our services, and noted the building will not obstruct views of the mountain.

Tom Urban of Woodland Park, commented that VLC is committed to serving the community, the proposed building is complimentary, and will enhance the view.

Laverne Atkins of Woodland Park, said VLC is a benefit to the community, teaches leadership and life skills, offers fellowship to the community, that VLC needs a building for all its services, and that the building will benefit the community.

Rick Christopher of Woodland Park, a VLC attendee and a graduate of Chairs, stated that VLC has lots of outreach, the Oklahoma VLC is active, and it would be a benefit to have our own building for outreach and community.

Kayleen Hipple of Stone Park Lane, commented that VLC is a blessing for her and her husband, especially the marriage conference since strong marriages build strong communities; and emphasized the need for a building to hold more trainings to spread their gospel.

Joshua Davis of Woodland Park, said that he visited the Oklahoma VLC and the community was better because of it as it offered drug rehab and helped homelessness, and that we need building to do that here.

Kelly Strong, a 30-year resident of Woodland Park, noted her comments actually apply to the variance; she noted it was difficult to see the public notice signs, she spoke at last hearing, the City and Teller County take care to limit signage and keep the mountain character. This variance sets a precedent and this was not what Gordon Jackson wanted when he donated the property to the Pikes Peak Foundation. Gold Mountain is a gateway, this project is not in the best interest of Woodland Park as it only benefits a non-tax paying entity, the driveway behind the building is not an evacuation route, believes this project will impact the community, and noted the other comments did not address the actual variance.

Chair Ramon noted that this case is only for a height variance, the Conditional Use Permit and Site Plan Review will go before the Planning Commission and City Council.

Julie Snyder, long-time resident and donor of this property from her father's estate to Pikes Peak Foundation, noted that 22 years ago Gordon Jackson put in place a height restriction for any development for a reason. There is soil contamination, asbestos, and an abandoned mine, all of which need mitigation. She requested the BOA deny this variance.

Deanne Betterman, a Woodland Park resident for 20 years, likes the church, approves of the building, noted the property is difficult to build on, and the building doesn't block anyone's view. She added that the church will be Jesus' hands and feet, is driven to do good for community, offers free lunch, invited the community to participate with us, that 4000 people can still move to our town, the city is a light on a hill, and she supports this asset.

Sharon Langhart, 34-year resident, sold the property to Gordon Jackson and noted that he actually wanted the height limit to be below the 8,775' mark in the annexation agreement, but didn't get it. She raised concerns about the sun glare and snow loads. The church can probably make the building meet the 30' height limit without a variance. She would rather have a mountain than a light on the hill, and added that Gordon Jackson said, "Sometimes the best thing to do is nothing."

Rachel Stewart, a neighbor of the property and eight-year resident, is also active in the community, and does not support a height variance because she's concerned about keeping the mountain western aesthetic, many Colorado towns have a 30-foot height limit on buildings, and believes this would set a precedent for the future, both for non-profit and for-profit entities.

Patricia Perry, a 10-year resident of Woodland Park, commented she objects to the variance application because the open aesthetic originally drew her to community, VLC was told what rules were, but still want to violate the requirements, noted that most of the proposed development is a parking lot, and that VLC bought the land and should abide to the rules.

Jennifer Connors, a 10-year resident of Woodland Park, commented that it's interesting that people are speaking against 5-foot height variance for a church when Verizon Wireless can put a 60' 5G tower at the pool and high school. She would like that explained.

Chair Ramon said that there is a different city code for other structures like cell towers.

Shawn Maddux, is opposed to the variance, noting that people can go anywhere for large churches; this area's draw for tourism is its natural features, the site plan is mostly a parking lot, the building will negatively affect the viewshed of entrance to Woodland Park, believes there will be more asks for other variances, and that there are rules and codes for a reason. She also questioned if an EIS, water usage, or traffic studies were completed.

Chair Ramon closed the public comment and asked if there were any questions of the applicant or staff.

Ms. Lundy made a statement that the applicant was following rules by asking for a variance. Their first variance application was for a 15-foot height variance, which was denied. The applicant is now applying for a different five-foot height variance. She asked the public to watch for the CUP & SPR applications which go through the Planning Commission and City Council.

BOA members asked the applicant and architect the impact if the height was designed to 30-feet. The explained that the programming requirements would not be met as 30-feet would eliminate the second floor; the sanctuary seating would also be reduced from 1500 to 1000. Redesigning the roof pitch could bring the height down to 30-feet, but then the mountain western design aesthetic wouldn't be met and snow loads could be affected. The applicant then reviewed the elevations, saying they worked from 30' down but the way the City calculates median grade required them to increase the height. The applicant did work with NETCFPD.

Chair Ramon opened deliberations. The Board discussed the capacity of 1500 seats for a current congregation of 400 and noted the church holds events, though, that can draw thousands. They also discussed if the proposed church could be redesigned to comply, but determined that aesthetically and structurally, this is the best they can do while keeping the grade. They then discussed if this variance request gives the applicant special privileges. Since this in the AG zone, there are no precedents for comparison. Brian Orvin, the campus pastor, added that the church has grown exponentially since Covid, giving membership numbers as well as reasons for their expected continued growth. Ms. Lundy noted that VLC is not violating the 8775' no-build zone, as the max elevation for the structure is actually at 8,770-feet.

MOTION:

Mr. Rumsey moved, and Ms. Lundy seconded, to accept **VAR2023-08 Victory Life Church Height Variance:** A request by Seth Emerson of Kingdom Design Group (Applicant), and Legacy Title Holding Company (Property Owner) for a 5-foot height variance (from 30-feet required by MC §18.17.030 to 35-feet) to accommodate one two-story church building for Victory Life Church; the subject property is located north of the intersection of Highway 24 and Trout Creek Road on Sections 23 & 26, T12S, R69W of the 6th P.M., also known as “Gold Mountain” (5955 Trout Creek Road) in the Agricultural (AG) zone district because the representations in the application are valid, the variance is justified and will make reasonable use of the land and structure, is in harmony and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

YES: O’Neill, Lundy, Rumsey, Ramon.

NO: None.

The motion passed 4-0.

Chair Ramon thanked Mr. Emerson for his presentation and the public for their comments. He reminded everyone that a separate case concerning the CUP and SPR will go before the Planning Commission.

4. **REPORTS:** Director Schminke said the next meeting is December 18, 2023 at 6:30 p.m. Chair Ramon also reminded everyone there are two openings for members on the BOA; he encouraged interested citizens to apply to be alternates. At the first meeting in 2024, the chair and vice-chair positions will be reconsidered.
5. **ADJOURN:** Chair Ramon adjourned the meeting at 8:14 p.m.

Approved by: _____
Lou Ramon, Chair *Date*

WOODLAND PARK BOARD OF ADJUSTMENT

MEETING MINUTES – December 18, 2023

*City of Woodland Park, 220 W. South Avenue, Woodland Park, CO and by Zoom.
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1. ORDER AND ROLL CALL. Order was called at 6:30 p.m. with attendance as follows:

Present	Chair Louis Ramon
Present	Vice Chair Nick Abercrombie
Present	Regular Member Valerie Lundy
Present	Regular Member Kevin O'Neill
Present	Regular Member Jim Rumsey
Staff Present	Planning Director/BOA Secretary Karen Schminke

The Pledge of Allegiance was recited.

2. APPROVE MINUTES: Chair Ramon stated that since the suggested corrections were not incorporated in the previous meetings' minutes, the vote on approval of the November 20, 2023 minutes will occur at the next meeting on January 22, 2024.

3. REQUESTS / PUBLIC HEARINGS:

- A. VAR2023-07: Teller County Water and Sanitation District #1 Setback**
Variance: A request by Jerry Duncan -RESPEC (Applicant) for a 3-foot setback variance on the eastern side of the building facing Piute Trail (from 25 feet required by MC §18.12.040.A to 22 feet) and a 9.5-foot setback variance on the western side of the building (from 25 feet required by MC §18.12.040.B to 15.5 feet) to accommodate a 24' X 26' building to house water treatment equipment on Lot 1, Park View Estates Filing No. 3 (201 Piute Trail) in the Suburban Residential (SR) zone district.

To begin the public hearing, Chair Ramon noted that any appeals must be filed with the Teller County Courts within 30 days of the BOA decision; that four affirmative votes are required to approve a variance; the applicant may decide to withdraw or postpone the application; and public comment is limited to five minutes per speaker. Chair Ramon confirmed that none of the Board members has had any communications or has a conflict of interest on this item, and handed out the BOA variance criteria checklist.

Planning Director Schminke presented the Staff presentation, including the setback variance requests. The vicinity map and aerial photos show this parcel as surrounded by Apache Trail to the north, Piute Trail to the east, and Valley View Drive to the south. The Zoning Map shows the surrounding areas as zoned SR and CC, but to the north is not in City limits. The future land use map, which is used as a guide, shows this parcel as commercial, but it is not unusual for the zoning and future land use maps to have discrepancies. The distribution station is "Permitted Conditionally," which means the use is allowed if it meets certain conditions, and is approved by staff. This site's original approval could not be found, so the conditions under which it was permitted are unknown. She then reviewed the proposed site plan: noting the subject property is a long and narrow parcel, and since the parcel is bordered by a street on the north, east, and south sides, each of those sides is considered to have a front setback of 25'. The west side could have possibly been a side 8' setback, or it could be considered a 25'

rear setback. The 24' x 26' building is proposed to be built in the middle of the property, just south of the service gas line and north of the flood plain boundary. Two buildings exist north of the gas line, which according to the Teller County Assessor site were built in 1993 and 1997. The City and County no longer have record of those permits, so it is thought that the west side may have been considered a side setback. Because the driveway is off of Piute Trail, it is considered the front of the property and thus the west property line is a rear lot line. Director Schminke explained that this proposal complies under the analysis criteria in Section 18.60.020, 18.060.040, and 18.060.050. This application was referred to internal and external agencies, and the public notice requirements were met. No problematic agency comments or public comments were received.

Director Schminke concluded with the staff recommendation to grant a 3-foot setback variance on the eastern side of the property adjacent to Piute Trail (from 25 feet required by MC Section 18.12.040.A to 22 feet) and a 9.5-foot setback variance on the western side of the building (from 25 feet required by MC Section 18.12.040.B to 15.5 feet) to accommodate a 24' x 26' building to house water treatment equipment on Lot 1, Park View Estates Filing No. 3 (201 Piute Trail) in the Suburban Residential (SR) zone district subject to the following condition:

1. After the foundation is poured, the builder must provide a letter to the City Inspector, prepared and stamped by a Colorado Licensed Professional Land Surveyor, certifying that the foundation has been surveyed, and the location of the foundation matches the location as shown on the Site Plan as submitted for this variance request.

The Board clarified with Staff, who confirmed that, the proposed building cannot be closer to Valley View because of the existing floodplain in the southern half of the property.

The applicant, Jerry Duncan on behalf of Teller County Water & Sanitation District No. 1, presented the proposal and variance request. The proposed 24' x 26' water treatment facility is designed to house equipment which removes radium from the ground water supply. The district owns the two existing treatment buildings on the property which were built in the 1990's. The land parcel is exceptionally narrow, and there is no feasible location to place the building that would meet the established setback requirements in 18.12.040.A. Although the property is wider to the south, the development any further south would encroach into the existing flood plain and would require the replacement of the existing chlorine contact pipe. Both factors would increase the project complexity and costs would ultimately be incurred by District rate payers. A variance of 3' is requested along Piute Trail and a variance of 9.5' is requested along the western side of the building, facing the Woodland Park Community Church.

The Board questioned if the shape of the building could be adjusted so that a smaller variance could then be considered. Mr. Duncan explained that the building is designed to fit the footprints, specifications, and clearances of specific equipment like an ion exchange skid, and then the required restroom, storage, etc., which all have footprint requirements. The building has been designed to the most efficient use of space as possible. The City and Teller County have no record of previous buildings, but Teller County Building Department was the building department at time of construction.

The current two structures, each measure 22' x 16', and provide water treatment and distribution functions; one has GAC filters to remove a certain pesticide from the water, and one is distribution where chlorine is dosed as well. The proposed building is 24' x 26', which is necessary due to the equipment specifications.

Several Board members expressed concern that there was no record of the existing two buildings having been permitted. Director Schminke clarified with the Board that what the BOA is doing tonight is creating a record for this application which includes a site plan of the proposed building as well as the two existing buildings previously approved by Teller County.

If this application is approved, the building locations are approved. The proposed and existing structures, floodplain, building plans, landscaping, etc. will also be reviewed and noted in the Flood Hazard Development Permit (FHDP), Zoning Development Permit (ZDP) and Building Permit (BP) processes, which they are still subject to.

Chair Ramon opened and closed the Public Comment with no comment.

Chair Ramon then opened deliberations. The BOA members pointed out that other buildings already exist, no neighbors have expressed concerns over this request, and the applicant is essentially forced to the proposed building footprint because of equipment specifications and requirements. This structure would provide positive and essential services. It was noted the BOA is only considering approving a variance, the other permitting is done by Planning and Building Departments. The existing floodplain and the narrowness of the parcel apply as hardships. The proposed floor plan is justified by the minimum tolerances for certain equipment, and staff trusts the applicant applied prudent design practices. The Board then reviewed the variance criteria and noted that if the variance is approved, it still has to meet the variance, ZDP, and BP criteria.

MOTION:

Ms. Lundy moved and Mr. O'Neill seconded, to accept **VAR2023-07: Teller County Water and Sanitation District #1 Setback Variance:** A 3-foot setback variance on the eastern side of the property adjacent to Piute Trail (from 25 feet required by MC Section 18.12.040.A to 22 feet) and a 9.5-foot setback variance on the western side of the building (from 25 feet required by MC Section 18.12.040.B to 15.5 feet) to accommodate a 24' x 26' building to house water treatment equipment on Lot 1, Park View Estates Filing No. 3 (201 Piute Trail) in the Suburban Residential (SR) zone district subject to the following condition:

1. After the foundation is poured, the builder must provide a letter to the City Inspector, prepared and stamped by a Colorado Licensed Professional Land Surveyor, certifying that the foundation has been surveyed, and the location of the foundation matches the location as shown on the Site Plan as submitted for this variance request,

because the representations in the application are valid, the variance is justified and will make reasonable use of the land and structure, is in harmony with the general purpose and intent of the comprehensive plan, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

YES: Rumsey, Lundy, O'Neill, Ramon, Abercrombie.

NO: None.

The motion passed 5-0.

Chair Ramon thanked Mr. Duncan for the presentation.

4. **REPORTS:** Director Schminke said the next meeting is January 22, 2024 at 6:30 p.m. There will be two sets of minutes to review and approve, and elections of chair and vice-chair will be held. Chair Ramon wished everyone a safe and happy holiday.
5. **ADJOURN:** Chair Ramon adjourned the meeting at 7:14 p.m.

Approved by: _____
Lou Ramon, Chair Date