

RESOLUTION No. 2010-031

**A RESOLUTION OF THE
OURAY COUNTY BOARD OF ZONING ADJUSTMENT
TO GRANT THE APPEAL FOR VIRGINIA L. BELLOWS AND STEPHEN M. BUDAI**

WHEREAS, Virginia L. Bellows and Stephen M. Budai ("Applicants") are the owners of property described as Lot 3, Ridgview Subdivision, also known as 13521 County Road 1, Ridgway, Colorado ("Property"); and

WHEREAS, Applicants filed an appeal of an administrative decision of the Ouray County Building Official dated July 29, 2010 finding that the Applicants' building permit application could not be processed as a result of the Building Official's determination that the Applicants' proposed structure (to replace an existing home that had been destroyed by fire) would break the skyline, in violation of the provisions of Section 9.3 C of the Ouray County Land Use Code ("Code"); and

WHEREAS, by letter dated July 30, 2010 the Applicants requested an appeal of the decision of the Building Official and specifically referred to the provisions of Section 19.7.D.3 of the Code in seeking to appeal the decision of the Building Official ("Application"); and

WHEREAS, notice of a Public Hearing on such Application was published on July 30, 2010 in the Ouray County Plaindealer and on August 4, 2010 in the Ridgway Sun and the Board of County Commissioners of Ouray County, Colorado, sitting as the Board of Zoning Adjustment ("Board"), held a public hearing on the Application on August 9, 2010 at 11:30 a.m.; and

WHEREAS, on August 9, 2010 the Board reviewed the Application and supporting materials, the Staff Report, and heard statements from the Applicants, the Ouray County Planner and the public; and

WHEREAS, Applicants stated that they had previously sought a variance in October 2000 because of visual impact concerns which variance was recommended for approval by the Board of Visual Appeals, certain visual mitigation measures were employed and a building permit was issued; and

WHEREAS, Applicants suffered a house fire in December 2009 that destroyed all but the original foundation of the residence; and

WHEREAS, Applicants testified that the home for which they were seeking a building permit would be rebuilt with the same profile as it had previously existed, using the same siding and roof colors; and

WHEREAS, the home as it existed before the fire was not visually obtrusive for the ten years that it had been in place and there was no evidence of any complaints having been received about the home; and

WHEREAS, the Applicants testified that the screening and mitigation measures that were employed in 2000 remain in place and continue to mitigate any visual impact of the home within the visual impact corridor; and

WHEREAS, to require the Applicants to seek a variance at this time would unnecessarily delay the Applicants' ability to diligently pursue reconstruction of their home and given that a variance of the visual impact regulations had been sought previously and a building permit issued for the construction of the Applicants' home, the likelihood is great that a variance would again be recommended by the Board of Visual Appeals and approved by the Board; and

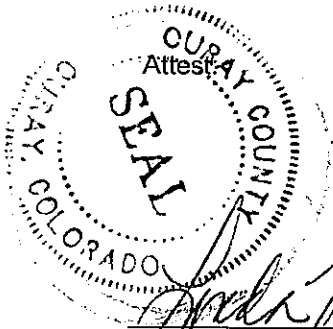
WHEREAS, based upon the documentation regarding the prior variance, the statements in the record, the Application, supporting materials and Staff Report, the Board confirms the variance as recommended in 2000 for the Applicants' reconstruction of their residence.

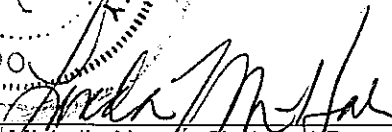
NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO, SITTING AS THE BOARD OF ZONING ADJUSTMENT, AS FOLLOWS:

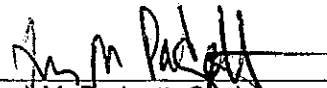
1. Based upon the information and statements received at the public hearing and the resulting findings set forth above, the Board of Zoning Adjustment reverses the Staff decision and confirms the variance previously recommended by the Board of Visual Appeals in 2000 and the Building Official may issue a building permit to the Applicants, provided that all other applicable rules and regulations are complied with and all fees are paid.
2. As provided by Section 19.7.D.(3) of the Code, the variance shall expire one year from the date it is granted unless the use for which it has been requested has occurred.

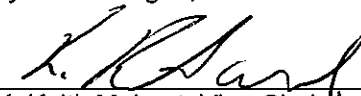
APPROVED AND ADOPTED THIS 23 DAY OF AUGUST, 2010 RATIFYING THE ACTION TAKEN BY THE BOARD ON AUGUST 9, 2010.

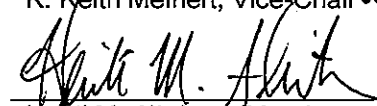
BOARD OF COUNTY COMMISSIONERS OF
OURAY COUNTY, COLORADO SITTING AS
THE BOARD OF ZONING ADJUSTMENT




Michelle Nauer, Clerk and Recorder
By: Linda Munson-Haley, Deputy Clerk of the Board


Lynri M. Padgett, Chair


K. Keith Meinert, Vice-Chair


Heidi M. Albritton, Member