



**BOARD OF ADJUSTMENTS**  
**January 28, 2021**  
**7:00pm**

**REGULAR MEETING**

Please click the link below to join the webinar:

<https://zoom.us/j/94048774301?pwd=cUJRaC9GZlI3b244a1dCcHY3SHF5dz09>

Passcode: 480164

Webinar ID: 940 4877 4301

Or iPhone one-tap :

US: +13462487799,,94048774301# or +16699009128,,94048774301#

Or Telephone:

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US: +1 346 248 7799 or +1 669 900 9128 or +1 253 215 8782

No member or officer will be present at a physical meeting location based on the Town's emergency declaration and the mayor's determination that presence would be inadvisable.

Members of the public may also provide public comment or comment on a specific agenda item by sending an email to [birdca@wellingtoncolorado.gov](mailto:birdca@wellingtoncolorado.gov). The email must be received by 5:00 p.m. Thursday January 28, 2021 and will be read into the record during public comment or public comment for the agenda item.

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- 1. CALL TO ORDER**
  - 2. ROLL CALL**
  - 3. ADDITIONS TO OR DELETIONS FROM THE AGENDA**
  - 4. PUBLIC FORUM**  
Public invited to be heard on non-agenda items (time limit of 3 minutes per person)
  - 5. CONSIDERATION OF MINUTES**
  - 5.A. Meeting Minutes**
    - Regular meeting minutes of May 28, 2020
  - 6. NEW BUSINESS**
  - 6.A. Election of Officers**
    - Conduct an election for Chair and Vice-Chair of the Wellington Board of Adjustments.
  - 6.B. Variance Request – Reduce Front Yard Setback for an Attached Garage from 25 ft. to 20 ft. on Lot 15, Block 1, Boxelder Commons Subdivision, Filing 2**
    - Grant a variance to vary the minimum front yard setback requirement for an attached garage within the R-2 Single-family Residential zoning district on Lot 15, Block 1, Boxelder Commons Subdivision, Filing 2 to reduce the garage setback from 25 ft. to 20 ft.
  - 7. ANNOUNCEMENTS**
  - 8. ADJOURNMENT**



**TOWN OF WELLINGTON  
BOARD OF ADJUSTMENTS**

**REGULAR MEETING MINUTES  
May 28, 2020**

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The Board of Adjustments of the Town of Wellington, Colorado met on May 28, 2020 at the Leeper Center, 3800 Wilson Ave., Wellington, Colorado at 7:00pm.

Members Present: Don Irwin, Chairman  
Christine Gaiter  
John Jerome  
Wyatt Knutson

Members Absent: Eric Wayker  
Mike Steely

Town Staff Present: Cody Bird, Planning Director

Call to Order

The Board of Adjustments Meeting of May 28, 2020 was called to order at 7:00 p.m. by Don Irwin, Chairman.

Consent Agenda:

- None

New Business

1) Election of Officers

**John Jerome** nominated Don Irwin for Chair, seconded by Wyatt Knutson.  
Approved 4-0.

**Don Irwin** nominated Christine Gaiter for Vice-Chair, seconded by Wyatt Knutson.  
Approved 4-0.

2) Variance Request – Reduce Side Yard Setback from 20 ft. to 10 ft. on Lot 15, Wellington West Subdivision

**Cody Bird, Planning Director**, presented the staff report.

**Nick Sulkowski, applicant**, shared that his request to reduce the side yard setback on his property was similar to other properties in the neighborhood that have existing structures within setbacks. He thanked the Board for considering the request and asked that the variance be granted to allow construction of the detached garage.

**Don Irwin, Chair**, asked for dimensions and height of the proposed structure.

**Sulkowski** replied that the garage would be 34 ft. by 38 ft. in size and the structure would have a 10 ft. ceiling. The overall height of the structure would be less than the height of the existing home on the property.

**Jerome** asked if there were any public objections.

**Bird** replied that there were no public comments opposed to the request submitted to Town staff. There was one letter of support provided.

**Irwin** shared that several years ago, the Town went through a process of updating the Town's zoning code and at that time, the setbacks for residential properties were changed to be reduced in some zoning districts and to be increased in other zoning districts. The changes to the setbacks could have caused some existing structures to be nonconforming and could have led to inconsistencies over time.

**Irwin** opened the public hearing.

**Todd Holman, neighbor** shared that he owns an adjacent property. He has a detached building that is less than 20 ft. from the side yard, similar to the circumstances and request being made by Nick Sulkowski. He explained that his yard has limitations from easements and a private septic system and the front yard setback on his property may also warrant a variance in his circumstances.

**Irwin**, seeing no other public comments, closed the public hearing.

**Moved by Irwin, seconded by Knutson** to grant a variance to vary the minimum side yard setback on Lot 15, Wellington West Subdivision to reduce the side yard setback to 10 ft. with no conditions.

Roll Call was taken and the variance was approved unanimously.

### Adjournment

Moved by Irwin, seconded by Gaiter to adjourn the meeting.

With all in favor, the meeting was adjourned at 7:42 pm.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

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Recording Secretary

## Board of Adjustments Meeting

## Agenda Item #6A

Meeting Date: January 28, 2021

Submitted By: Cody Bird, Planning Director

Agenda Category: New Business

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Subject:

### **Election of Officers**

Background:

- The Municipal Code requires the Board of Adjustments to elect a Chair and Vice-Chair during the first regular meeting of each calendar year.
- The Chair and Vice-Chair must be elected from the appointed members of the Board of Adjustments. Members serving as alternates are not eligible to hold office on the Board.
- The Chair presides at all meetings of the Board. The Vice-Chair will preside in the absence of the Chair.
- A member of Town staff is appointed to serve as the Secretary of the Board, and therefore, an election for that office is not required.

Staff Comments:

- The process for election of Chair and Vice-Chair should be as follows:
  - The floor is opened for nominations. Nominations (with seconds) are received. The floor is closed, and nominees are then voted on publicly.
  - A majority vote of the Board members present and voting is required to elect the officers.
  - The term for each office is one year.
  - Officers shall take office at the next regular meeting.

Recommendation:

- Conduct an election for Chair and Vice-Chair of the Wellington Board of Adjustments.
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## Board of Adjustments Meeting

## Agenda Item #6B

Meeting Date: January 28, 2021

Submitted By: Cody Bird, Planning Director

Agenda Category: New Business

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Subject:

**Variance Request – Reduce Front Yard Setback for an Attached Garage from 25 ft. to 20 ft. on Lot 15, Block 1, Boxelder Commons Subdivision, Filing 2**

Background:

- Applicant, Hartford Construction, LLC, has submitted a request seeking relief from section 16-6-10 of the Wellington Municipal Code to allow a reduction of the front yard setback for an attached garage on Lot 15, Block 1, Boxelder Commons Subdivision, Filing 2 (7569 Horsechestnut St.).
- Section 16-6-10 of the Wellington Municipal Code establishes a required 20 ft. front yard setback for attached garages on properties zoned R2 Single-family Residential.
- The applicant has requested a variance to reduce the garage setback to 20 ft. to accommodate a home with an attached garage that was constructed 5 ft. into the required garage setback. The construction was completed and has passed all building code inspections prior to the error being identified.
- A request for variance is a quasi-judicial proceeding and requires a public hearing. The Board will need to hear and weigh testimony presented at the public hearing.

Staff Comments:

- When considering a request for a variance, the Board of Adjustments must review certain findings of fact. The factors which are to be considered are listed below, and staff's opinion of each factor follows (*in italics*).
  1. There exist exceptional or extraordinary physical circumstances of the subject property that are not generally applicable to other properties in Town.
    - *The subject property is located within the subdivision recorded as Boxelder Commons Subdivision, Filing 2 (also known as Harvest Village).*
    - *All lots within the subdivision meet or exceed the Town's minimum lot size and dimensional requirements for the R-2 Single-family Residential zoning district.*
      - *Lots in this subdivision typically have a 14 ft. utility easement along the front property line and a 6 ft. easement along the rear property line.*
      - *The constructed dwelling and attached garage do not encroach on any platted setbacks.*
    - *Staff does not determine that circumstances are exceptional since all properties within the subdivision have similar constraints.*
  2. Literal interpretation of the provisions of the code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the land use code (a hardship).

- *Strict interpretation of the code does not allow attached garages within the R2 zoning district to be located within 25 ft. of the front property line.*
  - *Strict application of the 25 ft. front garage setback does not prevent use of the property for permitted uses within the district.*
  - *Strict application of the code would result in the applicant needing to make significant structural changes to the garage. Such modifications would compromise the use of the garage structure for the use it is intended – garage would not be long enough to securely park a vehicle.*
  - *The additional cost of re-designing and re-constructing the garage to meet the 25 ft. setback may also be considered a hardship.*
3. The exceptional circumstance or hardship does not result solely from an action or actions of the applicant.
- *The applicant did not construct the garage within the required 25 ft. garage setback with the purpose of deliberately reducing the setback. Multiple agencies had an opportunity to review the plot plan and did not identify an error in the setback dimensions. By the time the error was identified, all construction was completed, and the applicant was seeking a final certificate of occupancy.*
  - *Staff does not find that the action or actions taken by the applicant in the construction of the home and garage are the sole responsibility of the applicant.*
4. The variance, if granted, will not violate the spirit and intent of the code.
- *One of the reasons for the required 25 ft. garage setback is to allow adequate space for a vehicle to be parked in the driveway and not obstruct the public sidewalk.*
    - *Typical parking space design length is 20 ft.; however, it is assumed that vehicles in residential driveways will not be parked with the front bumper against the garage door, thus 5 additional ft. is required to allow the separation and still maintain access on the sidewalk.*
    - *As constructed, there is 26 ft. available between the sidewalk and the front wall of the garage, providing adequate space to park a vehicle and not obstruct the sidewalk (see attached site dimensions exhibit).*
  - *Another reason for minimum setback requirements is to provide a degree of consistency in the building form and massing within a zoning district or within a subdivision.*
    - *Many other homes within the subdivision have the dwelling portion of the home at or near the 20 ft. front yard setback for principal structures. The form and massing of buildings within the subdivision remains generally consistent.*
    - *As evidenced by the photos included in this report, it is not immediately noticeable that the subject property is in violation of the garage setback and the home is otherwise consistent or compatible with other homes in the neighborhood.*

- *For these reasons, staff suggests that the requested variance to reduce the front garage setback to 20 ft. does not violate the spirit and intent of the code.*
- 5. The variance, if granted, does not adversely affect the public health, safety and welfare, and in fairness to the applicant, substantial justice is done.
  - *Granting the requested variance is not expected to adversely affect the public health, safety and welfare.*
  - *The proposed reduction to the front garage setback will still be consistent with the minimum front yard setback for the dwelling and generally consistent with other dwellings within the subdivision.*
  - *In fairness to the applicant, granting the variance will allow continued use of the garage for its intended purpose and the setback requirement to prevent vehicles from overhanging a public sidewalk is not compromised.*
- Based upon the preceding findings, staff recommends approval of the variance without conditions.

Recommendation:

- Grant a variance to vary the minimum front yard setback requirement for an attached garage within the R-2 Single-family Residential zoning district on Lot 15, Block 1, Boxelder Commons Subdivision, Filing 2 to reduce the garage setback from 25 ft. to 20 ft.

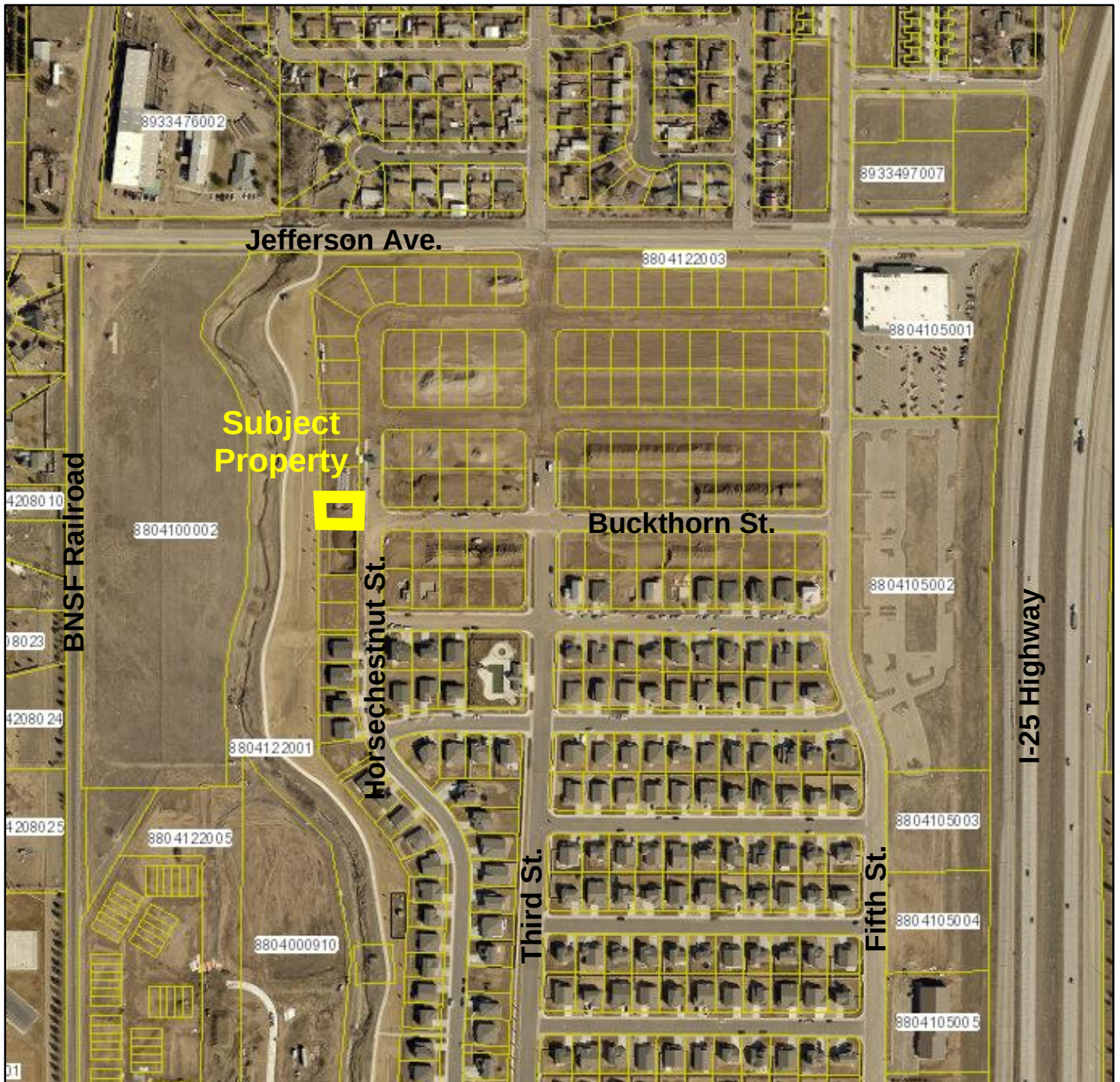
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Attachments

- Location Map
- Applicant Narrative
- Site Dimension Exhibit
- Site Photos

## LOCATION MAP

7569 Horsechestnut St.  
Wellington, CO 80549



APPLICANT NARRATIVE  
7569 HORSE CHESTNUT ST.

1. There exist exceptional or extraordinary physical circumstances of the subject property that are not generally applicable to other properties in Town.

The building was placed on the lot by our engineer. He understood that the setback was 20 feet, and was not aware that in cases where the garage is closer to the street than the house, it must be held back to 25 feet.

2. Literal interpretation of the provisions of the code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the land use code (a hardship).

This house placement was an oversight. This oversight was reviewed by King Surveying, Hartford Homes, The Town of Wellington, and SAFEbuilt Inspection Agency. There were numerous opportunities to prevent the construction from moving forward.

3. The exceptional circumstance or hardship does not result solely from an action or actions of the applicant.

The site plan was reviewed in our office and no one noticed. The site plan was submitted to the Town and no one noticed. The site plan was reviewed by the Town's inspection agency and nothing was mentioned. The Town then issued a permit. Our engineer inspected setbacks prior to the foundation concrete being placed, the engineer prepared a setback certification, the certification was reviewed by our office, and then the certification was sent to SAFEbuilt. Nothing was mentioned by SAFEbuilt at that time. The house was inspected repeatedly by the Town's inspection agency entirely through the inspection process, and the error was not noticed. No one during the entire process noticed the error.

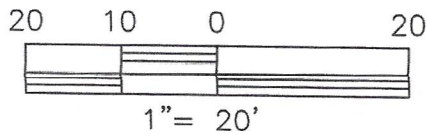
4. The variance, if granted, will not violate the spirit and intent of the code.

The placement of the house does not pose an inconsistency when viewed from the street, in fact it blends in so well that no one noticed that it was different.

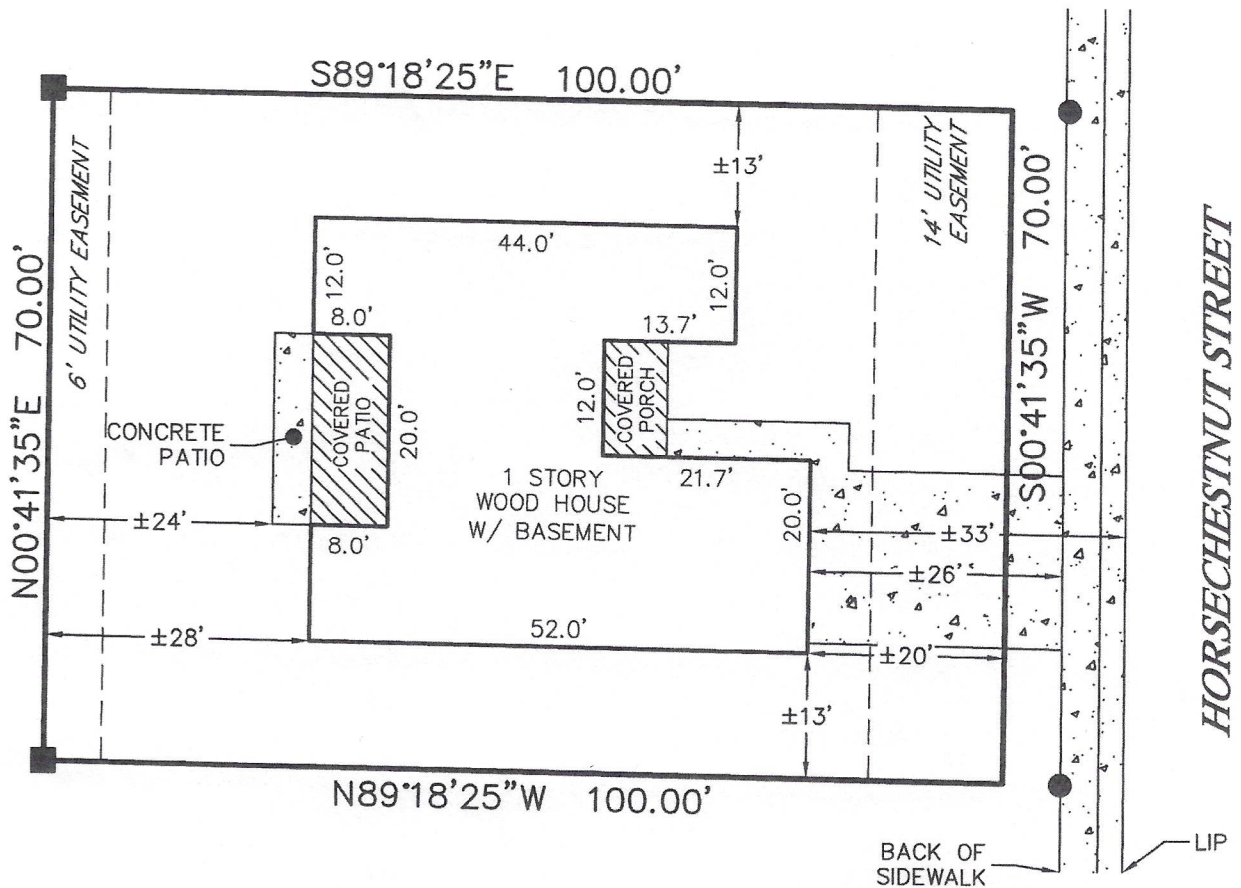
5. The variance, if granted, does not adversely affect the public health, safety and welfare, and in fairness to the applicant, substantial justice is done.

There is no safety concern, there is no health or life concern. There is no violation of building code. This was an error by all parties involved, no other way to explain it. We respectfully appeal to the Board of Adjustments for approval of this request, and we hope this oversight will not become an inconvenience or liability to the homeowner of this property.

# IMPROVEMENT LOCATION CERTIFICATE



- FOUND # 4 REBAR W/ ORANGE PLASTIC CAP LS 23503
- FOUND NAIL & BRASS TAG 6' WC LS 23503



ADDRESS: 7569 HORSECHESTNUT STREET, WELLINGTON, CO.

PROPERTY DESCRIPTION: (source: CLIENT) LOT 15, BLOCK 1, BOXELDER COMMONS FILING 2, TOWN OF WELLINGTON, COUNTY OF LARIMER, STATE OF COLORADO.

No title work was provided by our client for the purpose of preparing this Improvement Location Certificate. Only those easements on the recorded plat of this subdivision are shown hereon.

NOTE: The improvements are generally situated as shown and only apparent improvements and encroachments are noted. King Surveyors and Christopher DePaulis, PLS will not be liable for more than the cost of this Improvement Location Certificate and then only to the client specifically shown hereon or in our files by a signed work authorization. This document is valid for 90 days after the date as shown below. Acceptance and/or use of this instrument for any purpose constitutes agreement by the client to all terms stated hereon.

I hereby certify that this Improvement Location Certificate was prepared for HARTFORD HOMES, that it is not a Land Survey Plat or Improvement Survey Plat, and that it is not to be relied upon for the establishment of fence, building, or other future improvement lines. This certificate is valid only for use by HARTFORD HOMES and describes the parcel's appearance on 9/25/2020.

I further certify that the improvements on the above described parcel on this date, 9/25/2020, except utility connections, are entirely within the boundaries of the parcel, except as shown, that there are no encroachments upon the described premises by improvements on any adjoining premises, except as indicated, and that there is no apparent evidence or sign of any easement crossing or burdening any part of said parcel, except as noted.

## SITE PHOTOS

7569 Horsechestnut St.  
Wellington, CO 80549



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