

Minutes of the  
Board of Adjustment and Appeals of the City of Cherry Hills Village, Colorado  
Held on Thursday, August 8, 2013 at 6:30 p.m.  
At the Village Center

**CALL TO ORDER**

Vice Chair Seitz called the meeting to order at 6:32 p.m.

**ROLL CALL**

Present at the meeting were the following members of the Board of Adjustment and Appeals: Vice Chair Jamie Seitz, Councilor and alternate Board Member Mark Griffin, Board Member Susan Struna, Board Member Earl Hoellen, and Board Member Kerry Sullivan.

Present at the meeting were the following staff members: Robert Zuccaro, Community Development Director, Linda Michow, City Attorney, and Kim Stremel, Community Department Clerk.

**APPROVAL OF MINUTES**

Board Member Hoellen made a motion, which was seconded by Board Member Struna, to accept the June 6, 2013 minutes as written.

The motion passed unanimously.

**APPLICATION BY KEVIN T. COLLINS AND M. TRACY JAMES OF 4949 SOUTH ALBION STREET FOR THE APPROVAL OF A VARIANCE TO MUNICIPAL CODE SECTION 16-6-30 (C) TO ALLOW AN INCREASE IN HEIGHT OF AN EXISTING STRUCTURE THAT ENCROACHES APPROXIMATELY 15 FEET INTO THE REQUIRED 75 FOOT FRONT-YARD SETBACK FOR THE R-2 ZONE DISTRICT.**

Mr. Zuccaro stated the proposal is for an encroachment of 15 feet in the 75 front-yard setback. The property is zoned R-2, which has a minimum lot area of 1 ¼ acres and setbacks of 75 feet in the front and 40 feet on the sides and rear. In 1968, a variance was granted when the original house was built allowing a 50 foot front setback. The owners of the home would like to raise an area of the roof that encroaches into the front setback 1.5 feet. Per Municipal Code Section 16-6-30(g) a homeowner can maintain or make cosmetic alterations to areas within a setback encroachment, however, may not go up or out from the encroaching portions without a new variance. Mr. Zuccaro stated the purpose of this request, according to the applicant, is to bring more natural light into the home, improve the window height within the residence and the overall design element of the home.

Mr. Zuccaro reported there were numerous homes in this neighborhood that received variances back in the 1960's. The covenants of the neighborhood allow for a front setback of only 40 feet. It appears from reviewing old records from the City, there was a desire to have a consistent street front. When looking at the entire neighborhood, 9 of the 18 homes in the neighborhood have a front setback encroachment similar to the applicant's property.

Mr. Zuccaro said staff has provided findings for all of the approval criteria. The applicant's proposal is consistent with the conditions found in the neighborhood. Staff believes that the small nature in the increase of the bulk of the residence will have little impact to the character of the neighborhood. Staff finds "affirmative" on all of the review

criteria and recommends approval of the application. Mr. Zuccaro asked if the Board had any questions.

Board Member Hoellen inquired if this proposed change could be restricted due to the bulk plane envelope?

Mr. Zuccaro replied no because the bulk plane envelope is only restrictive on the sides and the rear. This application contains an issue with the front setback.

Board Member Sullivan inquired as to how the raising of the roof encroaches in the rear?

Mr. Zuccaro explained that in the rear the homeowners are doing a cantilever expansion which does not encroach into the setback.

Board Member Sullivan asked what the raising of the roof has to do with the encroachment.

Mr. Zuccaro responded that if you have existing areas of encroachment, Municipal Code Section 16-3-50(g) states you cannot enlarge any area within the encroachment. You must obtain a new variance.

Board Member Sullivan asked for further clarification as to where the improvements are being made to the home.

Mr. Zuccaro demonstrated on a site plan the area of the home where the improvements would be encroaching in the front setback.

Board Member Sullivan asked if the only reason an application has to be submitted is because the applicants are making changes to an area of the home that has an existing variance.

Mr. Zuccaro responded that is correct.

Board Member Struna inquired if there is a history of these types of variance on Albion Street.

Mr. Zuccaro replied there is a history of variances within the area.

Board Member Hoellen said there is a history of similar variances in the Devonshire neighborhood where some homeowners have chosen to raise the roofs on their homes.

Board Member Griffin asked if there wasn't an issue with the Murray property within the past three years.

Mr. Zuccaro said he couldn't recollect any issues.

Board Member Griffin clarified that the larger issue was the fact that the area where the homeowner desired to make improvements existed in a flood plain. This residence received a Flood Plain Development Permit.

Ms. M. Tracy James approached the lectern to answer questions and stated in the time she has owned the home (approximately 15 years) she is unaware of any residences that have increased the height of their roofs. She said the slide is correct in showing a small triangular area that is in the setback. Theoretically, the entire roof of the home could be raised with the exception of this one area.

Ms. James continued by saying she wanted to address the reason they feel the remodel is necessary. A previous remodel of the home left the kitchen area with no windows and no natural light. The applicants would like to expand the kitchen out approximately 4 feet at the rear of the house into a garden area which would allow room for an eating area off of the kitchen and would bring natural light into this portion of the home. The roof would need to be raised in order to connect property to the cantilevered area property. The applicants feel the plans are in keeping with the original design of the home.

Ms. James asked the Board if there were any other questions.

The Board replied there are no further questions.

Vice Chair Seitz asked for clarification as to why a new variance needs to be granted.

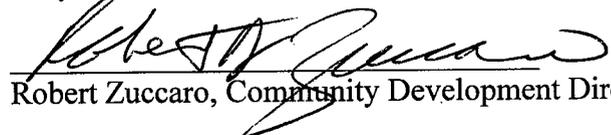
City Attorney Michow commented that the City code is very specific and applicants are held to the design of the original variance for which they apply. Therefore, a new variance would be required for this property in order to raise the roof.

Board Member Struna made a motion to approve the application of Kevin Collins and M. Tracy James and adopted the findings outlined in the August 8, 2013 staff memorandum. The motion was seconded by Earl Hoellen and the application passed unanimously.

#### ADJOURNMENT

The meeting was adjourned at 6:56 p.m.

  
Suzy Love, Chair

  
Robert Zuccaro, Community Development Director