

Minutes of the  
Board of Adjustment and Appeals of the City of Cherry Hills Village, Colorado  
Held on Thursday, October 3, 2013 at 6:30 p.m.  
At the Village Center

**CALL TO ORDER**

Vice Chair Seitz called the meeting to order at 6:30 p.m.

**ROLL CALL**

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

Present at the meeting were the following staff members: Robert Zuccaro, Community Development Director; Linda Michow, City Attorney; and Emily Kropf, Special Projects Coordinator.

Absent was Chair Suzy Love.

**APPROVAL OF MINUTES**

Board Member Struna made a motion, which was seconded by Board Member Hoellen, to accept the August 8, 2013 and September 5, 2013 minutes as written.

The motion passed unanimously.

**AGENDA ITEMS**

*Request by Ed and Betsy Huguez of 22 South Lane for Variances to Municipal Code Sections 16-7-30(c) and (e) to Allow an Encroachment of Approximately 10 Feet and 6 Inches into the 25-Foot Side-Yard Setback and to Allow an Extension into the Bulk Plane for the R-3, 1-Acre Residential District*

Vice Chair Seitz stated that the first application on the agenda is item 4a, a request by Ed and Betsy Huguez of 22 South Lane for variances to Municipal Code Sections 16-7-30(c) and (e) to allow an encroachment of approximately 10 feet and 6 inches into the 25-foot side-yard setback and to allow an extension into the bulk plane for the R-3, 1-Acre Residential District.

Vice Chair Seitz continued that this item is scheduled for a public hearing before the Board. The purpose of the Board of Adjustment and Appeals is to consider variance requests and appeals of administrative decisions. In considering an application before it, the Board must hold a public hearing and will follow certain procedures in order to conduct a hearing that is fair, impartial and orderly. Copies of the Board's public hearing procedures are available on the table where the public signs in. Each speaker will be given 5 minutes to speak, and the applicant's primary representative will have up to 10 minutes to present the application. Subsequent speakers representing the applicant may speak for up to 5 minutes per speaker. The Board may ask questions of the applicant, staff or any other speaker at any time. A concurring vote of 4 members of the Board is necessary to reverse or modify any decision or determination of the City or to approve a variance application.

Mr. Zuccaro stated that staff is presenting a request by Ed and Betsy Huguez of 22 South Lane for approval of variances from Municipal Code Section 16-7-30(c) and (e) to allow an encroachment of approximately 10 feet and 6 inches into the 25-foot side-yard setback and allow an extension into the bulk plane for the R-3 zone district. The variances are being requested in order to build a 12-foot by 14 foot master bedroom addition on the southeast side of the property. The addition is proposed to be 14 feet in height and 17.5 feet with a cupola, which is listed as optional on the plans.

Mr. Zuccaro continued that the property is zoned R-3, 1-Acre Residential District and is located in the Chenango Acres subdivision in "Old Cherry Hills." The property is approximately .824 net acres and includes a single family residence with 2,966 square feet of above-grade living area. Surrounding properties are zoned R-3 and consist of single family residences. The lot is triangular in shape, which results in a narrowing of the allowed building envelope towards the rear of the lot.

Mr. Zuccaro said that the existing home was built in 1962 and currently encroaches approximately 7 feet into the south 25-foot side-yard setback. The permit issued by the City to construct the home in 1961 indicates that the home should have been set back 25 feet. There is no record of a variance being granted for the encroachment. The existing non-conforming structure is considered lawful under the Zoning Ordinance, which grandfathers in existing structures that are not legally conforming but have existed unmodified for more than 20 years. Any further enlargement of the encroachment into the setback requires a variance by the Board.

Mr. Zuccaro stated that the applicant has revised the proposal from the original application to reduce the size of the addition and amount of encroachment. The original proposal included a 240 square foot addition that encroached 16 feet and 2 inches into the setback. The current proposal aligns the wall of the addition with the existing wall rather than protruding further into the side setback. The current proposal will increase the existing encroachment by 3.5 feet. The applicant had limited design options due to the location of an existing patio door and egress window.

Municipal Code Section 13-3-50(b)(1) through (9) outlines the approval criteria that the Board must use in determining whether or not to approve a variance request. For approval, the Board must find that the request meets all criteria. Staff finds that the triangular shape of the lot results in an unusually narrow building envelope compared to other lots in the neighborhood, which creates a hardship for the applicant. The majority of the homes in the neighborhood could make a similar expansion that aligns with the side of the home, but the applicant is unable to due to the unusual shape of the lot. The applicant has made efforts to minimize the encroachment, and the nearest neighbor to the south has provided a letter in support of the request. There are two emails in support of the variance, and staff has not received any other input. Staff recommends approval of the variance and has provided recommended findings for each of the approval criteria in the affirmative in Table 1 of the staff memorandum.

Board Member Struna asked if the home was originally moved in order to turn a car around after exiting the garage.

Mr. Zuccaro replied that he is not sure as there is not a record of the encroachment. The only documentation that the City has is the permit for the home. The home might have been built in the wrong location or relocated due to a design issue.

Councilor Griffin asked if a variance was issued for the parking court.

Mr. Zuccaro responded that a paved area that leads to a garage is considered a driveway and is not required to meet the minimum setbacks.

Vice Chair Seitz asked if there are any other questions for staff. He asked the applicant to present her application.

Ms. Betsy Huguez, resident of 22 South Lane, said that she would like to increase the size of her master bedroom, which is currently 13 feet by 15 feet and the master bathroom, which is 4.5 feet by 11 feet. The unusual shape of the lot restricts the size of the master bedroom and bathroom because they are located near the east corner of the lot. Ms. Huguez continued that the addition would be for a master bedroom and bathroom that is still smaller than what most other homes in the area have. The site is also heavily landscaped, which provides a buffer for any adjacent properties.

Vice Chair Seitz asked if the Board has any questions for Ms. Huguez. He opened the public comment portion of the hearing to allow members of the public an opportunity to address the Board.

Mr. Zuccaro stated that there are no members of the public in attendance.

Vice Chair Seitz closed the public comment portion of the public hearing in order for the Board to deliberate. He added that during deliberations no further input from staff, the public or the applicant is permitted, unless the Board requests clarification on specific issues.

Board Member Hoellen stated that he appreciates the applicant's willingness to work with staff and reduce the size of the addition to limit the encroachment.

Board Member Struna asked if the addition will impact the neighbor's view.

Ms. Huguez stated that the neighbor's living room faces the opposite direction. The portion of the neighbor's home that will face the addition is an area that is not regularly used. There is also landscaping and fencing situated between the two residences.

Vice Chair Seitz said that staff has found that the applicant has met all of the review criteria.

Board Member Struna made a motion to approve the request by Ed and Betsy Huguez of 22 South Lane for approval of variances to Municipal Code Sections 16-7-30(c) and (e) to allow an encroachment of 10 feet and 6 inches into the 25-foot side-yard setback and allow an extension into the bulk plane for the R-3 zone district in order to build an approximately 168 square-foot master bedroom addition to the existing home. The Board finds that the proposed variances meet all approval criteria as outlined in the Table 1 of the October 3, 2013 staff memorandum.

Board Member Hoellen seconded the motion.

The following votes were recorded:

Jamie Seitz	yes
Mark Griffin	yes
Susan Struna	yes
Earl Hoellen	yes
Kerry Sullivan	yes

The motion passed unanimously.

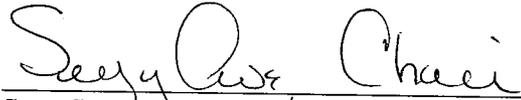
## **REPORTS**

Vice Chair Seitz asked if there were any other regular business items or reports.

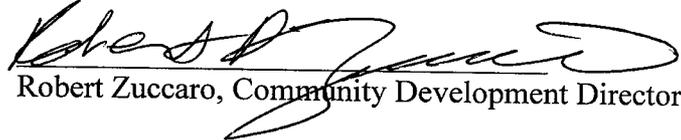
Mr. Zuccaro replied no.

**ADJOURNMENT**

The meeting was adjourned at 6:55 p.m.



Suzy Love, Chair



Robert Zuccaro, Community Development Director