

Minutes of the Board of Adjustment and Appeals of the City of Cherry Hills Village held on
Thursday, January 16, 2014 at 6:30 p.m.

At the Village Center

CALL TO ORDER

Chair Love 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:
Chair Suzy Love, 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, City Attorney Linda Michow, and Cesarina Dancy, Community
Development Clerk.

Absent from the meeting was Vice-Chair Jamie Seitz.

APPROVAL OF MINUTES

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

The motion passed unanimously.

AGENDA ITEMS

*Request by Bryan Hall and Pamela Guardo Hall of 79 Sedgwick Place for Variances to
Municipal Code Sections 16-6-30(c) and (e) to Allow and Addition that Encroaches 14 feet and 6
inches into the 40-Foot Side-yard Setback and Encroaches 11 Feet and 4 Inches Horizontally
and 4 Feet and 8 inches Vertically into the Bulk Plane for the R-2, 1 ¼ -Acre Residential
District. (Continued from December 5, 2013 Meeting).*

Mr. Zuccaro stated that this meeting is a continuance from the December 5, 2013 meeting. A
continuance was granted in order to allow the homeowners more time to submit alternate design
proposals. The reason for the variance request is that the applicant feels the current garage is too
small to be useful.

Mr. Zuccaro displayed a site plan and building elevations which showed the current layout of the
home with indicators on the plan which outlined the original proposed addition, including
heights, setback encroachments, and bulk plane encroachments.

Mr. Zuccaro then displayed a site plan and building elevations which outlined the new alternate
proposal by the homeowners, including heights, setback encroachments, and bulk plane
encroachments. He noted that the alternative design lowers the height of the addition, but the
layout of the plan is the same.

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Mr. Zuccaro presented the staff findings which were outlined in Tables 1 and 2 of the staff report. He stated that the first criteria for granting a variance would be to prove that a hardship exists, such as an easement, or that the lot or the structures on the lot are atypical in anyway. Staff findings indicated this to be negative on both the original and alternate designs presented.

Mr. Zuccaro stated that regarding criteria two, which indicates a lack of design alternatives that would eliminate or reduce the need for a variance, was found to be negative as a detached garage could be built that would meet the accessory structure setbacks. The HOA where the property is located does not allow front load garages, and a side load garage would necessitate the removal of trees, which the homeowners are opposed to. Mr. Zuccaro went on to state that the alternative proposal still includes a second story, which does not provide garage space and is unnecessary. If the second story were removed, the height of the garage would be minimized and would reduce the overall massing of the building and reduce the amount of variance needed.

Mr. Zuccaro stated that staff was not recommending approval. He also referred to alternative findings in the appendix which board members could use for approval.

Mr. Zuccaro then asked for any questions from the board.

Board Member Sullivan asked for clarification on what certain lines in the site plan graphic indicated.

Mr. Zuccaro indicated setback lines, bulk plane lines and the boundaries of the existing structure on the graphic.

Board Member Sullivan asked how the alternative plan differed from the original plan that was submitted in December.

Mr. Zuccaro said that the alternative plan had a lower roof line which eliminated the bulk plane encroachment. He also stated that the amount of setback encroachment was the same in both plans.

Board Member Sullivan asked if removing the bulk plane has a significant effect on the staff recommendation.

Mr. Zuccaro answered that the staff recommendation was denial of both the original and alternate design because the first criteria was not met which is in regards to unusual circumstances on the property. No unusual circumstances are found on this lot.

Chair Love asked for clarification on the graphic regarding the current structure location as well as the proposed addition.

Mr. Zuccaro indicated both the existing structure as well as the current addition on the graphic.

Chair Love asked for questions and stated that the public hearing was open.

Bryan and Pamela Hall of 79 Sedgwick Place thanked the board for granting them the continuance. Mrs. Hall stated that they disagree in regards to having an unusual circumstance. She said that they feel bound by the constraints of the pool location. She also stated that it would be architecturally undesirable to have a detached garage so close to the pool.

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Mrs. Hall stated some of the concerns with their current garage are that it is too small and configured narrowly. This makes it difficult to park and get out of their vehicles. She also said the storage in the rear of the garage is hard to get to when cars are parked in the garage.

Mrs. Hall stated that they are in the minority in their neighborhood. Most neighbors have a 3 bay garage or larger. At the minimum, the neighbors have a workable two car garage.

Board Member Struna asked was the house situated to the right of the lot as opposed to the center.

Mrs. Hall replied that yes the house is oriented to the right side of their lot.

Mrs. Hall stated that they have met with the architectural committee of their HOA to see if there was any chance of relief of the covenant restriction. The HOA denied their request.

Board Member Hoellen asked did the Halls officially go through a formal request process with the HOA or did they just meet with a representative.

Mrs. Hall stated that they had a discussion with a representative of the HOA.

Mr. Hall stated that they were given a firm rejection.

Mrs. Hall stated that she attempted to get a letter from the HOA for this meeting, but was unable to secure it for tonight.

Board Member Struna asked which of the two plans the HOA preferred.

Mrs. Hall stated that the HOA preferred the alternate design with the step down features in the roof.

Board Member Sullivan asked if there was a problem with the original design.

Mrs. Hall stated that there was no problem but the second design was more pleasing to the eye.

Mrs. Hall stated that the alternative that was previously proposed where the garage would be bumped out to the front of the house would cause the loss of two large cottonwood trees.

Mr. Hall stated this plan would cause the loss of trees and would add a lot of concrete which the neighbors would not like.

Scott Parker, of 601 Ogden St., Denver, CO 80218, the applicant's architect, stated that the HOA would frown upon removal of any trees and the addition to the front would require a 16 ft. variance into the front setback.

Board Member Struna asked why placing the garage on the opposite side of the house was not a possibility.

Mrs. Hall stated there were also attractive trees on that side of the property and a garage in that location would have no connection to the house.

Chair Love thanked the Halls for working on their application and stated that the Board appreciates their efforts.

Board Member Struna asked which design the Halls prefer.

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Mrs. Hall stated that the alternative design has the least impact on everyone.

Mr. Hall stated that the location of the pool, the location of the house on the property and the subscale size of the garage all combined make a hardship. He continued to say that by reducing the bulk plane they were only asking for one variance instead of two.

Board Member Struna asked which design the Halls prefer.

Mr. Hall said either design.

Board Member Struna asked if they would be able to effectively use the recreation room with a lower roof.

Mr. Hall stated that it would be the minimum required roof height.

Scott Parker gave a review of all possible locations for a garage and why these plans would not be feasible. He stated that the project in question was taken to and approved by the HOA. The new alternative design has reduced the need for a bulk plane variance and 1550 cubic feet has been reduced from the original plan.

Mr. Parker showed a diagram of a vehicle and the turning radius to indicate the difficulties parking in the current garage, and how that would translate to the side load garage that staff recommended.

Chair Love asked for questions and closed the public hearing.

Chair Love stated that the alternative designs proposed by staff are not working to meet the needs of the Halls. She stated that the purpose of the board is to interpret difficult situations.

Board Member Hoellen stated that he agreed but could not adopt based on problems with the findings.

Mr. Zuccaro stated that the Board could propose alternative language or take a recess in order to write a new draft then continue the hearing.

Chair Love asked should the board members have a preliminary vote.

Mr. Zuccaro stated that there could not be a vote until the findings were in place.

Board Member Sullivan stated that he has problems with the findings as they were in the negative and now are in the affirmative.

Councilor Griffin asked was he referring to the appendix in the packets.

City Attorney Michow stated that board members should identify which criterion and findings need to be revised and she and Mr. Zuccaro can assist with the language in the revisions. She reminded board members that four votes would be needed to approve the variance.

Board Member Struna stated that there is a problem with the wording in criterion number 1.

Board Member Hoellen said that the current language could make anyone's situation unique, but that is not what the criteria is referring to. He stated that he would be concerned that everyone could argue a unique situation.

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Board Member Struna asked did the setbacks combined with a cul de sac make a unique lot configuration.

Board Member Hoellen stated that the house was located in its current location on the lot for a purpose. The fact that the new homeowner does not like the location does not make it a unique situation.

Chair Love stated that the garage is unusual in relation to the size of the house. A one car garage is unique to Cherry Hills Village. She also stated that when faced with HOA restraints it can be more difficult to solve problems.

Board Member Sullivan stated that he agrees that it is a bad garage. He said that he wanted to vote in the affirmative but wants to work on some of the language in the alternate findings.

Board Member Struna asked where else could the garage be located that would make sense.

Board Member Sullivan stated that he agreed and that he wanted to vote in the affirmative but needed to work on the findings related to the situation being unique.

City Attorney Michow suggested that the board could go into Executive Session for the purpose of obtaining legal advice related to interpretation of the review criteria. She also stated that each application to the board should be evaluated on its own merit and treated individually.

EXECUTIVE SESSION

Chair Love, seconded by Board Member Hoellen moved to proceed into Executive Session for the purpose of receiving legal advice from the City Attorney in connection with application criterion.

The following votes were recorded:

Chair Love	yes
Councilor Griffin	yes
Board Member Hoellen	yes
Board Member Struna	yes
Board Member Sullivan	yes

The motion carried.

The Executive Session began at 7:39 p.m.

The Executive Session ended at 7:53 p.m., and Chair Love reopened deliberations.

City Attorney Michow stated that deliberations should continue unless there were questions for staff or the applicant.

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Board Member Sullivan stated that he was concerned about the affirmative recommendations by the staff found in the appendix, particularly for criterion 7.

Board Member Struna stated that the existing structure does not meet today's needs and it is unreasonable.

Board Member Sullivan stated that it was a matter of convenience.

Board Member Struna stated that not being able to fully open car doors is unreasonable.

Board Member Hoellen stated that the board cannot consider finances. If a project is deemed too cost prohibitive that does not mean that it is not an alternative.

Board Member Struna stated that being cost prohibitive means unreasonable as well if the cost is too high.

Board Member Hoellen asked if they were reasonably able to use their land and structure.

Board Member Struna stated that it is unreasonable to not be able to fully open car doors in a garage.

Board Member Sullivan stated that criterion 2 states no alternatives. He said there are alternatives but they are difficult. He said that he would like to grant the variance but change the wording in criteria 2 and 7.

Board Member Struna stated that the HOA would not approve a front load garage.

Councilor Griffin asked if there was a home in Devonshire Heights which has a front load garage.

Chair Love answered yes and reopened the public comment portion of the meeting.

Board Member Sullivan stated he has concerns with no design alternatives.

Mr. Parker stated that the only other feasible design alternative they had was denied by the HOA.

Board Member Sullivan asked how many designs were considered.

Mr. Parker stated that there were approximately 15 designs and 8 were presented to the board.

Board Member Sullivan asked the Halls if they in good faith assumed the HOA would deny their variance and subsequently any appeal.

Mr. Hall stated the HOA was clear about rejecting their plans.

Board Member Struna asked Board Member Sullivan if he was satisfied with criteria 2.

Board Member Sullivan said yes and would like to discuss criteria 7.

Board Member Hoellen requested to strike the word "undesirable" from criteria 2.

Board Member Sullivan requested to omit the phrase "at least two vehicles" from criteria 7.

Board Member Hoellen requested to omit "storage" from criteria 7.

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Councilor Griffin	No
Board Member Hoellen	yes
Board Member Struna	yes
Board Member Sullivan	yes

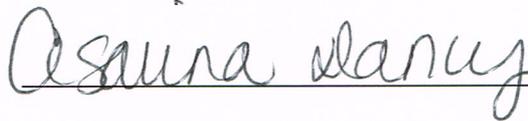
Chair Love stated that the variance was approved by a vote of 4-1.

ADJOURNMENT

The meeting was adjourned at 8:45 p.m.



Suzy Love, Chair



~~Robert Zuccaro, Community Development Director~~
Cesarina Dancy clerk