

Minutes of the Board of Adjustment and Appeals of the City of Cherry Hills Village held on
Thursday, June 5, 2014 at 6:30 p.m.

At the Village Center

CALL TO ORDER

Board Member Sullivan called the meeting to order at 6:37 p.m.

ROLL CALL

Present at the meeting were the following members of the Board of Adjustment and Appeals: Councilor Mark Griffin, Board Member Susan Struna, Board Member Kerry Sullivan, Board Member Jennifer Allen and Board Member Bill Rapson.

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

ELECTION OF CHAIR AND VICE CHAIR

The Board unanimously agreed to postpone the election of Chair and Vice Chair until the next scheduled meeting when all members would be present. The Board agreed to have Board Member Sullivan chair the meeting in lieu.

APPROVAL OF MINUTES

Board Member Sullivan made a motion, which was seconded by Board Member Struna, to accept the February 6, 2014 minutes as written.

The motion passed unanimously.

AGENDA ITEMS

Request by Nancy and Gordon Rockafellow of 4200 East Quincy Avenue for Variances from Municipal Code Sections 16-5-30(C) and (E) to Allow an Addition that Encroaches Approximately 32 Feet into the 50-Foot North Side-Yard Setback and Encroaches into the Bulk Plane at the North Side-Yard and East Rear-Yard Setbacks for the R-1 Zone District.

Mr. Zuccaro stated that staff is presenting a request from Nancy and Gordon Rockafellow of 4200 East Quincy Avenue for approval of variances from Municipal Code Sections 16-5-30(C) and (E) to allow an addition that encroaches approximately 32 feet into the 50 foot north side-yard setback and encroaches into the bulk plane at the north side-yard and east rear-yard setbacks for the R-1 Zone District.

Mr. Zuccaro displayed a vicinity map of the property and indicated the location of the property as well as its proximity to the Quincy Farms property, which is a parcel of land was recently given to the City by Cat Anderson, who currently lives on the property under a life estate.

Mr. Zuccaro indicated that the Rockafellow property is adjacent to the Highline Canal. He continued that the Rockafellows own 50 feet of the canal right of way and there is an easement in place to Denver Water.

Mr. Zuccaro reviewed the setback and bulk plane requirements for the R-1 Zone District.

Mr. Zuccaro displayed a graphic showing both the existing and the proposed garage. He stated that the homeowners would like to rebuild and expand their current garage.

Mr. Zuccaro displayed a graphic of the front elevation of the proposed structure, indicating the area of encroachment.

Mr. Zuccaro displayed a graphic of the proposed side elevation. He stated that the east side of the proposed garage meets setback requirements but encroaches in to the bulk plane.

Mr. Zuccaro stated that staff is recommending denial of the request and that staff has provided recommended findings for each of the review criteria. He continued to say that there were two criteria that he wished to highlight:

1. There are alternatives for expansion which could reduce the amount of encroachment into the bulk plane; for example, not including a second story to the structure or reducing the size from a three car garage to a two car garage.
2. The close proximity of the proposed structure to public open space could potentially detract from the rural character of the city.

Mr. Zuccaro stated that the applicant met all the requirements of public notification.

Board Member Sullivan asked for clarification on how bulk plane is calculated.

Mr. Zuccaro displayed a graphic of the proposed structure and indicated that the north and east sides would encroach, and explained how the starting point for the bulk plane is calculated.

Board Member Sullivan asked was there any discretion in where the starting point is measured from.

Mr. Zuccaro replied that the starting point is measured from where the front and rear areas of the bulk plane meet. He continued that City Code allows measurements to also be taken from where the side setbacks meet the front and rear setbacks if the slope of the property is 7 degrees or greater.

Board Member Rapson asked what the purpose of the bulk plane was.

Mr. Zuccaro replied that the bulk plane was added to the code about three years ago. He continued that the bulk plane eliminates tall walls along setback lines, as it pushes the taller elements of a structure towards the center of the building envelope.

Board Member Sullivan asked to see the proposed design of the structure with bulk plane encroachments indicated.

Mr. Zuccaro displayed the architectural rendering of the left side elevation. He indicated the encroachment that would be caused by the dormer elements. He continued that the red line indicated on the drawing was the bulk plane.

Councilor Griffin stated that there is a good drawing in tab 7 of the application materials.

Board Member Rapson stated that he and the applicant are both members of the Denver Country Club; however, they do not have a personal relationship and this connection would not impact his ability to be impartial.

Board Member Sullivan invited the applicant to make a presentation.

Gordon Rockafellow, 4200 East Quincy Avenue, thanked the Board and Mr. Zuccaro. He stated that Mr. Zuccaro had been very helpful in the application process and in helping to explain the bulk plane.

Mr. Rockafellow stated that he and his wife are looking to build a new garage with living quarters above that would increase the amount of current encroachment on the north side of their property from 21 feet to 32 feet. He also stated that they need relief from the bulk plane requirement.

Mr. Rockafellow displayed a graphic showing his lot. He stated that his home was originally the garage for the Anderson property and was built in 1916, and that he and his wife have lived there for 23 years. He continued that the most recent addition to the home was in 1985.

Mr. Rockafellow stated that the goals of his proposal are to increase the garage space as well as the living quarters. He continued that the living quarters could eventually be for a caregiver in future years; thus, this space is equally important.

Mr. Rockafellow stated that the previous resident of the living space above the garage was of young woman who had horses and lived there to provide animal care. He continued that the conditions in the garage apartment are minimal at best.

Mr. Rockafellow displayed photos of the current garage and indicated areas of rotting wood as well as electrical concerns. He stated that the stove in the apartment no longer has parts available for repair and that it was leaking gas so it had to be disconnected.

Mr. Rockafellow displayed photos of cracks in the apartment floor. He continued that a contractor he consulted with stated it would be unsafe to live in the apartment.

Mr. Rockafellow displayed a photo of the current garage. He indicated that it is not a true two car garage, it is one and three-quarters. He stated that the left garage bay is so undersized that it requires the driver to back in. He continued that his lawyer has stated that this is a legal hardship as it is a safety issue.

Mr. Rockafellow displayed a garage census of all garages in the R-1 Zone District. He stated that 11% of garages have two spaces; the median is four spaces with 17% of homes having this amount of spaces.

Mr. Rockafellow displayed the elevations of the proposed garage. He stated that with a 5 percent slope, his property does not qualify for relief from the bulk plane requirement. He stated that the angle of the garage would have to begin at approximately 18 inches above the ground. He continued to say that he would have to eliminate 2/3 of the garage to meet setback requirements, and that the current structure encroaches into the setbacks.

Mr. Rockafellow stated that the proposed garage would be 105 feet away from the Anderson garage, and that he would be glad to provide trees for screening purposes if Ms. Anderson requested.

Mr. Rockafellow stated that he would like to address the variance criteria. He stated that he is suffering a hardship due to his unusual property boundaries. He continued that he is not trying to change City Code or set a precedent for the entire Village. Mr. Rockafellow stated that there are no feasible design alternatives, and to put a new structure in front of the house would not be pleasing to the neighbors. He continued that even with a reduction to a two car garage, the bulk plane issue would still exist.

Mr. Rockafellow stated that the garage census proves that he is being denied the same garage standard provided to other residents. He continued to say that all of the adjacent homeowners are in agreement to his plan, and the garage will only be visible on his property. He continued that he would be glad to add any landscaping to reduce visibility.

Mr. Rockafellow stated that the addition of this structure would not in any way change the character of the neighborhood, much less the Village. He continued to say that there is no other feasible location to locate the garage.

Mr. Rockafellow stated that Cat Anderson wrote a letter on his behalf. He continued that she is the only property owner that would be affected and she is in support.

Board Member Struna stated that there were many negative findings from staff that the board needed to overcome. She stated that his property would eventually be surrounded by public space.

Mr. Rockafellow stated that no one has a definite idea of what Quincy Farms will eventually be. He continued to say that he has lived for years adjacent to the Highline Canal with no problems. He continued that his property does not detract from the Canal experience.

Mr. Rockafellow stated that had he purchased the home sooner, he would have scraped it and rebuilt it in a better location on the lot. He stated that the previous owners had done a lot of remodeling, so when he purchased it, it did not make sense to scrape and rebuild.

Board Member Sullivan asked if there had been any additions to the house or garage.

Mr. Rockafellow replied that the barn was replaced when it burned down, and electrical work had been completed in both the house and garage.

Board Member Sullivan asked if any alternate plans were explored when drafting the current plan.

Mr. Rockafellow replied that he was applying for what was most reasonable; therefore, he didn't presume to explore any alternatives. He continued to say that the only alternatives suggested were in the comments made by Mr. Zuccaro to mitigate the amount of variance requested.

Board Member Sullivan asked was the alternate design suggested by Mr. Zuccaro not acceptable.

Mr. Rockafellow replied that the carport suggested does not make sense as they require the living quarters above the garage. He continued to say that anyone building a new home in the R-1 Zone District would not build a one and three-quarters garage, as the median is four bays. He continued to say that when he requires a caregiver, there could be three cars on the property.

Board Member Sullivan asked did Mr. Rockafellow have any additional information to provide that was not already given in his presentation.

Mr. Rockafellow replied no. He continued to say that a two car garage would not work with the required living space. He stated that there would be an encroachment regardless.

Board Member Struna asked if Mr. Rockafellow would be interested in a continuance to explore some design alternatives. She continued to say that there was some space between the garage and the house that a new structure could be built.

Mr. Rockafellow replied that an exterior staircase will need to be included and that the three car garage would be angled and shifted closer to the house.

Board Member Struna asked if Mr. Rockafellow was interested in a two car design alternative.

Mr. Rockafellow replied that he was not interested until the three car garage was rejected. He continued to say that the variance he is requesting does not affect any other property owners and that the adjacent property owners did not mind if he builds the structure.

Board Member Sullivan asked if there were any other questions.

Board Member Sullivan closed the public portion of the hearing.

Board Member Struna asked if there could be a continuance for a different application.

Mr. Zuccaro replied that if the board was likely to vote in the negative then they could ask the applicant if he would like a continuance.

Board Member Struna stated that she also remodeled an older home and had to comply with City regulations. She continued that while she was empathetic, she could not approve the variance.

Board Member Rapson made a motion, which was seconded by Board Member Allen to deny the request by Nancy and Gordon Rockafellow for variances to Municipal Code Sections 16-5-30(C) and (E) to allow an addition to the residence at 4200 East Quincy Avenue, based on the analysis of review criteria in the June 6, 2014 staff memorandum.

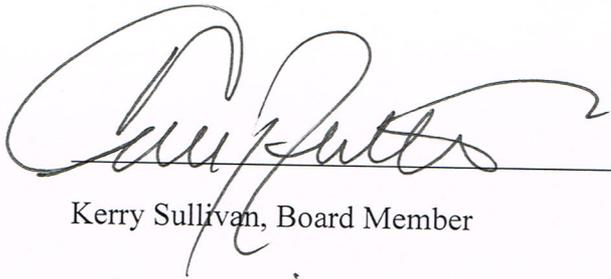
The following votes were recorded:

Councilor Griffin	yes
Board Member Struna	yes
Board Member Sullivan	yes
Board Member Allen	yes
Board Member Rapson	yes

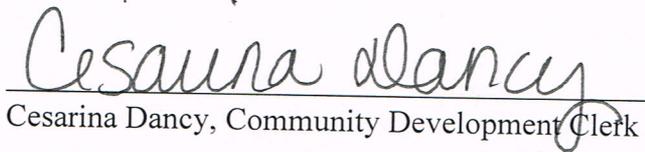
Board Member Sullivan stated that the variance was denied by a vote of 5-0.

ADJOURNMENT

The meeting was adjourned at 7:35 p.m.



Kerry Sullivan, Board Member



Cesarina Dancy, Community Development Clerk