

Minutes of the Board of Adjustment and Appeals of the City of Cherry Hills Village held on

Thursday, April 2, 2015 at 6:30 p.m.

At the Village Center

CALL TO ORDER

Chair Sullivan called the meeting to order at 6:31 p.m.

ROLL CALL

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

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

APPROVAL OF MINUTES

Chair Sullivan made a motion, which was seconded by Board Member Rapson, to accept the March 5, 2015 minutes as written.

The motion passed unanimously.

AGENDA ITEMS

- a. *A Request by Sissy Blount of 4500 S El Camino Drive for Variances from Municipal Code Sections 16-5-30(C) and (E) to Allow an Increase in Roof Height Over Existing Non-Conforming Portions of a Residence that Encroaches Up to 16 Feet and 3 Inches into the 50-Foot West Side Setback and 8 Feet into the 50-Foot Rear Setback and Encroaches into the Bulk Plane for the R-1 Zone District.*

Board Member Rapson stated that he knows the father of the applicant well but that his ability to make a fair and impartial determination would not be affected.

Mr. Zuccaro stated that Staff was presenting a request for approval of variances from Municipal Code Sections 16-5-30(c) and (e) to allow an increase in roof height over existing non-conforming portions of a structure that encroache approximately 16 feet into the west 50-foot side setback and 8 feet into the 50-foot rear setback. He stated that the structure would also encroach into the bulk plane. He stated that the overall proposed development includes a second story addition within the building envelope and increases the ceiling and roof height within the non-conforming portions of the structure.

Mr. Zuccaro stated that the proposal would increase the roof height for the non-conforming portions of the building from approximately 15 feet above finished grade to 19 feet above finished grade. He continued to say that ceiling height within the residence in the nonconforming portion of the structure would be raised from 8 feet to 10 feet.

Mr. Zuccaro stated that the applicant has also provided bulk plane diagrams showing the actual bulk plane requirement as well as a "theoretical" bulk plane based on the existing setbacks of the

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structure. He continued to say that the intent of the “theoretical” bulk plane is to demonstrate that the proposed increase in building massing would meet the bulk plane standards if measured from existing building setbacks; and thus, meet the intent of limiting massing of structures at the setback. Gable roof end sections of the structure encroach into the “theoretical” bulk plane, but fall within the allowed maximum encroachment for gabled roof ends of 11 feet horizontally, 9 feet vertically and 42 feet in width.

Mr. Zuccaro stated that based on a review of historical aerial photos, the original house was built sometime prior to 1974. The property was annexed into the City in 1967 and the original house was likely constructed prior to annexation and may have been built under different setback standards enforced by Arapahoe County. He continued to say that an addition was made to the house in 1998 to the north of the original house. The addition was made within the allowed building envelope; thus, no variances were required.

Mr. Zuccaro stated that under Municipal Code Section 16-14-10, any nonconforming structure established prior to adoption of the current ordinance or that has existed for at least 20 years is “grandfathered in” and considered legally non-conforming. He continued to say that under Municipal Code Section 16-14-40, a legally nonconforming structure containing a conforming use may only be altered or expanded with the approval of the Board of Adjustment and Appeals if the alteration or expansion is outside of the allowed building envelope.

Mr. Zuccaro stated that the subject property is zoned R-1, 2.5-Acre Residential District, and is part of the Charlou Park 3rd Filing Subdivision. According to Arapahoe County Assessor records, the property is 1.97 net acres and includes a one-story residence with 5,883 square feet of finished enclosed area; include an attached garage and 253 square-foot detached garage. He stated that all surrounding lots are also zoned R-1 and developed with single family residences.

Mr. Zuccaro stated the Code Requirements for R-1 setbacks and bulk plane. He stated that the Minimum Front Setback is 75 feet and the Minimum Rear and Side Setback is 50 feet. He stated that Bulk Plane Front Area is 21-foot starting height at setback and 40-degree angle, and the Bulk Plane Rear Area is 12.5-foot starting height at setback and 40-degree angle.

Mr. Zuccaro stated that staff’s findings could be found in Table 1 of the staff memorandum. He continued to say that all 9 criteria were found to be in the affirmative that that staff is recommending approval.

Mr. Zuccaro stated that one public comment letter was received after packets were sent out, and that a copy of the letter is on the dais.

Board Member Curtis asked for clarification on what building massing is.

Mr. Zuccaro replied that massing is a visual concept referring to how much building you see when you view a property.

Board Member Allen stated that the application stated that the home was built in 1980, which is contradictory to the staff report.

Mr. Zuccaro stated that the original house is visible on historical aerial photos dated 1974, but that there was no original building permit on file to reference.

Chair Sullivan asked if the designation of legal non-conforming gave the applicants any additional benefits as far as building an addition.

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Mr. Zuccaro replied that any legal non-conforming structure is allowed to be maintained in good repair. He continued to say that any time a legal non-conforming structure expands beyond the original three dimensional building envelope, the property owners are required to come to the board and request a variance.

Mr. Zuccaro stated that the first criteria considered which refers to hardship due to unique circumstances was found in the affirmative, as staff feels an existing non-conforming structure rises to the level of a hardship. He continued to say that other properties in the zone district would be able to raise the height of their roof without a variance.

Councilor Griffin asked for clarification on the architectural drawings on page 4, which refers to a "proposed second floor plan".

Melissa Mabe, architect for the applicant, stated that it should read "first floor plan".

Councilor Griffin asked if the detached garage was existing.

Mr. Zuccaro replied yes.

Councilor Griffin stated that the current garage appears to be having modifications and there will be additional hardscapes.

Mr. Zuccaro replied that a greenhouse portion of the garage was going to be removed. He continued to say that the existing garage meets accessory structure setbacks. He stated that the patio on the plans does appear to be encroaching into the setbacks but that the patio is not part of the variance and could be addressed when submitted for permit.

Don Ruggles and Melissa Mabe, representatives and architects for the applicant, stated that the encroachments were very minor when viewed in a three dimensional rendering. Mr. Ruggles continued to say that care was taken to mitigate any encroachments and in as low a volume of addition as possible.

Councilor Griffin asked when the home was built.

Mr. Ruggles replied in the 1960s.

Councilor Griffin asked if the home had caisson footings.

Mr. Ruggles replied yes.

Ms. Mabe stated that the project was a thoughtful renovation and they were careful not to obstruct any views. She continued to say that they have a letter of support from the only adjoining neighbor.

Chair Sullivan asked how long the applicants have owned the property.

Ms. Mabe replied four years.

Chair Sullivan asked for clarification on the nine review criteria.

Ms. Mabe reviewed the application materials, referencing the responses to each of the nine criteria.

Chair Sullivan asked for clarification on item seven.

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Ms. Mabe replied that the regarding the minimum variance necessary, the proposed renovation is within the spirit of the neighborhood, and that they are not proposing to add a full two stories, only 1 ½ stories. She continued to say that the applicants have done all they can to be reasonable and still have a functional home.

Board Member Allen asked what the material the roof would be made of.

Ms. Mabe replied that it would be a dark metal.

Board Member Allen asked if the applicant would be flexible regarding the patio.

Ms. Mabe replied yes.

Board Member Allen made a motion, which was seconded by Board Member Rapson, to approve the request by Sissy Blount of 4500 South El Camino Drive for variance to Municipal Code Sections 16-5-30(c) and (e) to allow an increase in roof height over existing non-conforming portions of the house as submitted. She stated that the Board finds that the proposed variance meets all approval criteria under Municipal Code Section 16-3-50(b), as outlined in the Table 1 of the April 2, 2015 staff memorandum.

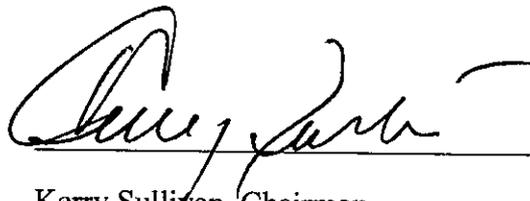
The motion passed unanimously.

REPORTS

Mr. Zuccaro stated that the election of the Vice-Chairman would be on the May agenda, and that the new Board Member appointed by City Council would be in attendance at the next meeting.

ADJOURNMENT

The meeting was adjourned at 7:07 p.m.



Kerry Sullivan, Chairman



Cesarina Dancy, Community Development Clerk