

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

Thursday, June 4, 2015 at 6:30 p.m.

At the Village Center

### **CALL TO ORDER**

Chair Sullivan 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: Chair Kerry Sullivan, Councilor Mark Griffin, Board Member Jennifer Allen, Board Member Bill Rapson, and Board Member John Love.

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 VICE CHAIR**

Board Member Rapson made a motion to nominate Board Member Jennifer Allen as Vice Chair. The motion passed unanimously.

### **APPROVAL OF MINUTES**

Chair Sullivan made a motion to accept the April 2, 2015 minutes as written. The motion passed unanimously.

### **AGENDA ITEMS**

- a. *A Request by Brian and Chelsea Harding of 4300 S. Lafayette St. for Approval of Variances to Municipal Code Sections 16-5-30 (e) and (g) to Allow an Accessory Structure that Encroaches 10 Feet into the 25-Foot Rear Yard Setback, 10 Feet into the 25-Foot Side Yard Setback, and into the Bulk Plane for the R-1 Zone District.*

Mr. Zuccaro stated that the applicants seek approval of setback encroachments of 10 feet into the rear 25-foot setback and 10 feet into the south side-yard 25-foot setback for accessory structures and encroachment into the bulk plane. The proposal is for a detached 24-foot x 30-foot two-car garage with a loft living space above. The height of the structure is proposed at just less than 23 feet to top of a cupola (20 feet to the top of the roof ridge). The applicants' property is 0.57 gross (0.42 net) acres in size, which is considerably below the 2.5-acre minimum lot size for the R-1 zone district. The existing home currently encroaches 37.6 feet into the front-yard setback and 21.5 feet into the north side-yard setback.

Mr. Zuccaro stated that in 2014, the applicants were granted a variance to construct a covered patio on the west and north side of the house. The applicants state that the size of the lot is an unusual configuration of the property boundaries that results in an unnecessary and exceptional hardship when applying the R-1 setbacks to the proposed detached accessory structure.

Mr. Zuccaro stated that the subject property is zoned R-1, 2 ½ Acre Residential District and is located southeast of the East Quincy Avenue and South Lafayette Street intersection. Surrounding properties are all zoned R-1 and developed with single-family residences.

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Mr. Zuccaro stated the code requirements pertaining to the R-1 Zone District. He stated that the minimum setbacks for accessory structures in the R-1 zone district are set forth in Municipal Code Section 16-5-30(g). The Minimum Front Setback is 75 feet, and the Minimum Rear and Side Setback is 25 feet.

Mr. Zuccaro stated that the bulk plane standards for the R-1 zone district are set forth in Municipal Code Sections 16-5-30(e) and 16-16-180. He stated that the Accessory Structure Bulk Plane has a 12.5-foot starting height at side and rear setback lines emanated back at 40-degree angle towards the center of the lot.

Mr. Zuccaro stated that Section 16-4-10 provides that any nonconforming lot on which a residence was located prior to September 6, 1987 is considered legal nonconforming. In addition, Section 16-4-10 provides that any structure that was legally established prior to adoption of the initial ordinance or a structure that has existed for more than twenty years, regardless of if it was originally legally established, is considered legal nonconforming.

He continued to say that although staff does not know the full history of the subdivision of the lot and construction of the original house, the Arapahoe County Assessor's on-line data shows the home was built in 1940, prior to incorporation of the City in 1945, and that a deed was recorded for the current lot boundaries in 1979. Based on this information, staff believes that the lot and house are legal nonconforming.

Mr. Zuccaro stated that Municipal Code Section 16-3-50(b) (1) through (9) outline 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. The applicants have provided a written response to each of the criteria in their application.

Mr. Zuccaro stated that as the lot size is typical of those in the R-4 Zone District, staff advised the applicants to use the zoning criteria for that district as a guideline for planning and design purposes. He stated that the design does not violate the bulk plane criteria of the R-4 Zone District.

Mr. Zuccaro stated that the findings off staff are located in Table 1 of the memo, and that all criteria were found to be in the affirmative.

Mr. Zuccaro stated that staff is recommending approval of the variance as proposed.

Board Member Allen asked what is the height of the proposed structure in relation to the height of the existing house.

Mr. Zuccaro replied that he wasn't sure and deferred to the applicant to answer that question.

Chair Sullivan asked was the property originally part of a 2 ½ acre parcel.

Mr. Zuccaro replied that the house was built in 1940 and the City was not incorporated until 1945 so there are no records regarding the history of the property.

Chair Sullivan asked if the property is being held to R-4 standards.

Mr. Zuccaro replied no. He continued to say that suggested to the applicant to use the R-4 standards as a guideline to determine appropriate setbacks for a lot of that size. He stated that it would not be appropriate to rezone properties individually.

Chair Sullivan asked if there had been any input received from the neighbors.

Mr. Zuccaro replied no. He continued to say that all notice requirements had been met.

Board Member Rapson stated that he is a neighbor of the property and that the improvements that applicant have already made are beautiful. He stated that he would like to encourage them to continue the improvements.

Board Member Love asked why neighbors were noticed regarding the meeting as their input was often irrelevant.

Mr. Zuccaro replied that the code dictates that the neighbors who are most impacted by any changes are to be noticed of the public hearing. He continued to say that the intent of public hearings is to gain input from the community, and that this input could be considered relevant to some of the review criteria.

City Attorney Michow stated that criterion number 5 states that reasonable protection is afforded to adjacent property owners.

Mr. Zuccaro stated that criterion number 6 states that the variance will not cause an undesirable change in the character of the neighborhood or have any adverse effects on adjacent properties.

Brian and Chelsea Harding, of 4300 S. Lafayette Street, thanked the Board for their consideration. Mr. Harding stated that the reason for wanting to build the garage is to replace the existing one car carport and to provide additional living space above. He stated that the garage would be about 23 feet in height and the house is approximately 20 feet in height.

Mr. Harding stated that they were working with a builder who has built several barns in the city.

Board Member Love asked what the material of the barn would be.

Mr. Harding replied that it would be a stained natural pine with white trim.

Councilor Griffin asked if the applicant had a survey which located the property pins, as mistakes have been made in the past regarding property boundaries.

Mr. Harding replied yes.

Mr. Zuccaro stated that boundaries would be checked as part of the permitting process.

Board Member Sullivan made a motion, which was seconded by Board Member Rapson, to approve the request by Brian and Chelsea Harding of 4300 S. Lafayette St. for Approval of Variances to Municipal Code Sections 16-5-30 (e) and (g) to Allow an Accessory Structure that Encroaches 10 Feet into the 25-Foot Rear Yard Setback, 10 Feet into the 25-Foot Side Yard Setback, and into the Bulk Plane for the R-1 Zone District. He stated that the Board finds that the application complies with all approval criteria as outlined in the Table 1 of the June 4, 2015 staff memorandum.

The motion passed unanimously.

Chair Sullivan welcomed Board Member Love to the board.

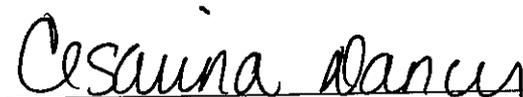
**ADJOURNMENT**

The meeting was adjourned at 7:00 p.m.



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Kerry Sullivan, Chairman



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Cesarina Dancy, Community Development Clerk