Minutes of the Board of Adjustment and Appeals of the City of Cherry Hills Village held on Wednesday, October 7, 2015 at 6:30 p.m.
At the Village Center

CALL TO ORDER
Chair Sullivan 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 Kerry Sullivan, Councilor Mark Griffin, Vice Chair Jennifer Allen, Board Member George Curtis, and Board Member John Love.

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
Board Member Love made a motion, which was seconded by Vice Chair Allen, to accept the June 4, 2015 minutes as written. The motion passed unanimously.

AGENDA ITEMS

a. *Request by Thomas E. Moore and Carolyn S. Moore of 10 Lynn Road for a Variance from Municipal Code Section 16-5-30(c) to Allow an Increase in Roof Height Over an Existing Nonconforming Structure that Encroaches Approximately 22 Feet and 1 Inch into the Minimum 75-Foot Front-Yard Setback for the R-1 Zone District*

Vice Chair Allen stated that she has known the applicants for years but this relationship would not affect her ability to make an impartial decision.

Mr. Zuccaro stated that the applicants request approval of a variance from Municipal Code Section 16-5-30(c) to allow an increase in roof height of 2 feet for an existing attached garage that encroaches 22 feet and 1 inch into the minimum 75-foot front-yard setback for the R-1 zone district. He continued to say that no changes are proposed to the building footprint within the minimum setback area.

He stated that that the current garage has an undersized door opening of 6 feet and 2 inches and the garage has a ceiling height of 7 feet and 6 inches making it difficult to park medium to full sized cars in the garage or vehicles with roof racks. Raising the roof height by 2 feet would allow the applicants to install an 8-foot tall garage door and add additional ceiling height to allow the door to fully open.

Mr. Zuccaro stated that based on a review of historical aerial photos, it appears that the encroaching portion of the house has existed since at least 1955, and that City building permit records indicate that the original house was constructed in 1951. He continued to say that the zoning requirements in place in 1951 state that the front and rear minimum setbacks were 100 feet and side setbacks were 50 feet, and that there are not records that a variance was ever issued to allow the encroachment and staff has not been able to find any record of how the original encroachment occurred.

Mr. Zuccaro stated that any nonconforming structure that has existed for at least 20 years is "grandfathered in" and considered legally nonconforming. He continued to say that based on the City's building permit records and historic aerial photos, staff finds that the encroaching portion of the structure is legally nonconforming.

Mr. Zuccaro stated that a legally nonconforming structure 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. He then displayed an elevation of the proposed changes to the garage.

Mr. Zuccaro displayed a vicinity map and stated that the subject property is zoned R-1, 2.5-Acre Residential District, and is part of the Cherry Hills Subdivision that was recorded in 1936. The Cherry Hills Subdivision was part of the original incorporation of the Village in 1945. He continued to say that according to City building permit records and Arapahoe County Assessor records, the property is 2.46 net acres and includes a two-story residence with 2,982 square feet of finished enclosed above-grade building area, a 546 square-foot attached garage and a 768 square-foot detached garage. He stated that Cherry Hills Village Elementary School borders the property to the south and all other surrounding lots are zoned R-1 and developed with single family residences.

Mr. Zuccaro stated that the minimum setbacks for structures in the R-1 zone district are set forth in Municipal Code Section 16-5-30(c). The minimum front setback is 75 feet and the minimum rear and side setback is 50 feet.

Mr. Zuccaro stated that Municipal Code Sections 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. He stated that the applicants have provided a written response to each of the criteria in their application packet included as Exhibit B to the staff report. He continued to say that staff's findings for each of the criteria can be found in the staff memorandum, and that all findings were found in the affirmative.

Mr. Zuccaro stated that staff is recommending approval of the variance as requested. He continued to say that two letters in support of the request have been received.
Chair Sullivan asked if there was any history of the property being sold and subdivided.
Mr. Zuccaro replied that there are no records of that. He continued to say that the lot size is conforming.

Thomas Moore, of 10 Lynn Road, thanked Mr. Zuccaro for his presentation. He stated that the garage is very undersized and the proposed changed would be imperceptible in the elevations of the house. He displayed photos of the current garage.

Board Member Allen asked if the height of the entire wall would be raised.

Mr. Moore replied yes.

Councilor Griffin asked how long the Moore's have lived in the home.

Mr. Moore replied since 1997.

Board Member Love asked if the exterior finished would be the same.

Mr. Moore replied yes.

Chair Sullivan stated that there were no members of the public present at the hearing.

Board Member Love made a motion, which was seconded by Board Member Allen, to approve the request by Thomas E. Moore and Carolyn S. Moore of 10 Lynn Road for variance to Municipal Code Sections 16-5-30(c) to allow an increase in roof height of 2 feet for an existing attached garage that encroaches 22 feet and 1 inch into the minimum 75-foot front-yard setback for the R-1 zone district. He 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 October 7, 2015 staff memorandum.

The motion passed unanimously.

ADJOURNMENT
The meeting was adjourned at 6:47 p.m.

Kerry Sullivan, Chairman

Cesarina Dancy, Community Development Clerk