

## RECORD OF PROCEEDINGS

Minutes of the Board of Adjustment and Appeals of the City of Cherry Hills Village held on  
Thursday, November 5, 2015 at 6:30 p.m.

At the Village Center

### CALL TO ORDER

Board Member Rapson 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 Bill Rapson, 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 Curtis made a motion, which was seconded by Board Member Love, to accept the October 7, 2015 minutes as written. The motion passed unanimously.

Board Member Love made a motion, which was seconded by Board Member Curtis to appoint Board Member Rapson as acting chair for the meeting in the absence of the chair and vice-chair.

### AGENDA ITEMS

- a. Request by Andrea Ellsworth of 5781 East Nassau Place for Approval of Variances from Municipal Code Sections 16-9-30(c) and (e) to Allow an Addition that Encroaches Approximately 10.3 Feet into the 20-Foot Side-Yard Setback and Encroaches into the Bulk Plane for the R-4 Zone District

Mr. Zuccaro stated that the applicant is requesting approval of variances from Municipal Code Sections 16-9-30(c) and (e) for a 322 square-foot, one-story home addition (see Exhibit B for application materials). He stated that the proposed addition encroaches approximately 10.3 feet into the 20-foot minimum side-yard setback on the northeast side of the lot, and the addition would align with the existing wall and roof line of the house that already encroaches into the setback. He continued to say that the height of the addition is approximately 12.5 feet above finished grade and the addition would include a study, bathroom, mudroom and laundry room.

Mr. Zuccaro displayed a vicinity map of the property and stated that the property is zoned R-4, ½-Acre Residential District. He continued to say that according to the Arapahoe County Assessor, the property is approximately .35 acres in size and includes an existing one-story residence with approximately 2,532 square feet of total building area. The gross area of the lot is .38 acres (16,708 square feet), which represents 77% of the minimum .5-acre (21,780 square-foot) lot area.

Mr. Zuccaro stated that the property was platted as part of the Southmoor Vista Subdivision under the jurisdiction of Arapahoe County in 1962 and later annexed into the City in 1967. Upon annexation, the property was zoned into the ½-acre district (titled as R-3 at that time) with setbacks of 40 feet from any street line and 25 feet from any non-street line.

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Mr. Zuccaro stated that in 1968, a variance was granted allowing 10-foot setbacks for each side of the house and a 25-foot setback for the front of the house (see Exhibit C for minutes), and that a building permit was subsequently issued for the house in 1968. In 1970, the ½-acre zone district was amended to include the current minimum setbacks of 25 feet from the front and rear property lines and 30 feet total from the side property lines, with each individual side setback a minimum of 10 feet.

Mr. Zuccaro stated that the minimum setbacks for structures in the R-4 zone district are set forth in Municipal Code Section 16-9-30(c). Minimum setbacks for the R-4 district are 25 feet from the front and rear property lines and 30 feet total from the side property lines, with each individual side setback not less than 10 feet. He continued to say that in addition to meeting the minimum setback requirements, all structures in the R-1 zone district must meet a bulk plane requirement, the standards of which are set forth in Municipal Code Section 16-16-180.

Mr. Zuccaro stated that under Municipal Code Section 16-14-10, any nonconforming structure or lot established prior to adoption of the current ordinance is "grandfathered in" and considered legally nonconforming. Mr. Zuccaro stated that staff finds that based on the development history of the site, the lot and current home are legally nonconforming. 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 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 applicant has provided a written response to each of the criteria in their application packet (Exhibit B).

Mr. Zuccaro stated that staff has found each criterion to be in the affirmative and that the variance is recommended for approval.

Councilor Griffin asked if there were any comments from the neighbors.

Mr. Zuccaro replied that no comments were received but that one neighbor was in attendance.

Board Member Love asked what the structure is located near the property line of the home facing Happy Canyon.

Jeff Book, of 5880 S. Happy Canyon Drive, stated that it is his property and that it is a retaining wall.

Councilor Griffin asked if Mr. Book has any objections to the proposal.

Mr. Book replied no.

Commissioner Love asked if the area between the properties was grass.

Mr. Book replied that there was a fence on the property line and the remaining area was grass.

Andrea Ellsworth, applicant, stated that she had copies of letters of support from the surrounding neighbors. She continued to say that she was a lifelong Village resident and the planned addition was basically going to be a continuation of the existing garage wall and would be a single-story addition. She stated that she works from home and the addition of a home office as well as a true laundry room would make her home much more efficient for her family.

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Board Member Curtis asked if there were concerns over a two-story addition.

Ms. Ellsworth replied that the neighbors did not want a two-story addition, as the configuration of the adjacent lots would create a privacy issue of being able to look down into someone else's home.

Board Member Curtis asked if the proposed addition was two stories.

Ms. Ellsworth replied that it was a single story addition.

Councilor Griffin asked what the structure is in the north corner of the property.

Ms. Ellsworth replied that it is a patio. She continued to say that drainage issues on the property led them to do work in the yard and patios.

Mr. Zuccaro stated that the letters provided by the applicant were being passed around for the commissioners to review.

Board Member Rapson asked if there were any other members of the public in attendance that would like to comment.

There were no other members of the public in attendance.

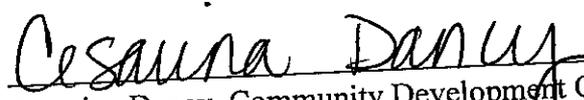
Councilor Griffin made a motion, which was seconded by Board Member Love, to approve the request by Andrea Ellsworth of 5781 Nassau Place for variances to Municipal Code Sections 16-9-30(c) and (e) for a 322 square-foot home addition that encroaches approximately 10.3 feet into the 20-foot minimum side-yard setback on northeast side of the lot based on the review criteria in Table 1 of the November 5, 2015 staff memorandum.

The motion passed unanimously.

### ADJOURNMENT

The meeting was adjourned at 6:57 p.m.

  
Kerry Sullivan, Chairman

  
Cesarina Dancy, Community Development Clerk