

RECORD OF PROCEEDINGS

Minutes of the
Planning and Zoning Commission of the City of Cherry Hills Village, Colorado
Held on Tuesday, July 12, 2016 at 6:30 p.m.
At the Village Center

CALL TO ORDER

Vice Chair Blum called the meeting to order at 7:00 p.m.

ROLL CALL

Present at the meeting were the following Planning and Zoning Commissioners: Vice Chair Al Blum, Commissioner David Wyman, Commissioner Dori Kaplan, and Commissioner Peter Niederman.

Present at the meeting were the following staff members: Kathie Guckenberger, Deputy City Attorney; Emily Kropf, Special Projects Coordinator; and Cesarina Dancy, Community Development Clerk.

APPROVAL OF MINUTES

Commissioner Niederman made a motion, which was seconded by Commissioner Kaplan, to approve the June 14, 2016 minutes as written.

The motion passed unanimously.

AGENDA ITEMS

- a. *Request for a Variance from Municipal Code Section 16-5-30(b) Concerning Minimum Lot Area for Approval of a Minor Lot Adjustment*

Ms. Kropf stated that staff is presenting a variance request from Municipal Code Section 16-5-30(b) concerning minimum lot area for approval of a minor lot adjustment for 1550 E. Oxford Lane and 4180 S. Humboldt Street. She stated that the applicant, David Mosteller, owns both the Oxford and Humboldt lots.

Ms. Kropf stated that the subject properties are both located in the R-1 zone district. The Oxford lot is 2.7 acres and the Humboldt lot is 1.44 acres. According to the Arapahoe County Assessor records, the Oxford lot has an existing 5,700 square foot home that was built in 1979. The Humboldt lot has a 2,800 square foot barn that was built in 2005.

Ms. Kropf stated that the applicant has submitted an application for a minor lot adjustment to relocate a lot line in order to build a new accessory structure that meets the required accessory structure setbacks for the R-1 zone district. The required setbacks for accessory structures in R-1 are 75 feet from the front property line and 25 feet from the side and rear property lines.

Ms. Kropf stated that minor lot adjustment applications may be administratively approved by City staff, but only when it does not result in a lot that fails to conform to the City's zoning standards. The minimum lot area for a residence in R-1 is 2 ½ acres. The proposed lot line

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configuration for the Humboldt lot results in a lot area of 1.65 acres. Therefore, a minimum lot area variance must be approved before the minor lot adjustment can be considered.

Ms. Kropf stated that Municipal Code Section 17-3-420 outlines the approval criteria that the Commission must use in determining whether or not to recommend approval of a variance to City Council. She continued to say that for approval, the Commission must find that the request meets all criteria. She stated that staff's findings for each of the criterion can be found in Table 1 of staff's memo.

Ms. Kropf stated that staff is recommending approval of the variance request based on the findings in staff's memo.

Commissioner Wyman asked if the structure could be constructed without that variance and lot line adjustment.

Ms. Kropf replied that the existing barn would be removed because it would exceed the allowed square footage for accessory structures. She displayed a graphic of the existing and proposed parcels.

Commissioner Wyman asked if the barn has living quarters.

Ms. Kropf stated she would defer to the applicant.

Commissioner Wyman asked how the barn was currently allowed if over the square footage.

Ms. Kropf replied that staff was unsure.

Commissioner Blum asked what the combined total square footage of the existing and proposed structures would be.

Ms. Kropf replied 3900 square feet.

Commissioner Wyman stated that there was a discrepancy in the parcel totals. He stated that parcel one is being reduced by .21 acres and parcel two is being increased by .16 acres. He asked what happened to the .05 acres.

Ms. Kropf stated she would defer to the applicant.

Commissioner Wyman asked if both parcels have the same owner.

Deputy City Attorney Guckenberger stated that parcel two is owned by an entity which the owner of parcel one is the principal holder of.

Michelle Wilson, architect for the applicant, stated that on the Humboldt parcel the barn is considered the primary structure, not an accessory structure. She continued to state that the "finger" portion of parcel one is unusable in the current configuration.

Ms. Wilson stated that the barn was built in 2005 and is very high end and there are no plans to demolish it. She continued to say that the guest house will be approximately 1100 square feet and will match the style of the barn.

Deputy City Attorney Guckenberger stated that agriculture is an allowed use in the R-1 Zone District.

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Ms. Wilson stated that the lot is only nonconforming in size and that accessory structures are allowed on nonconforming properties.

Commissioner Wyman asked if there are living facilities in the barn.

Ms. Wilson replied no.

Commissioner Wyman asked if there are horses on the property.

David Mosteller, property owner, stated that he would be bringing his horses from the mountains soon.

Commissioner Niederman asked if anyone would be residing in the guest house full time.

Mr. Mosteller replied that his caretaker would.

Commissioner Kaplan asked if the applicant would be selling the property.

Mr. Mosteller replied that there were no plans to sell and that he would be willing to put that in writing.

Commissioner Wyman asked if there would be a new curb cut.

Ms. Wilson replied no.

Commissioner Niederman asked if they considered consolidating into one parcel.

Ms. Wilson stated that would not work with the accessory structure square foot limit.

Vice Chair Blum stated that the smaller parcel is still nonconforming.

Deputy City Attorney Guckenberger stated that the additional acreage does bring it closer to compliance. She continued to say that the barn is allowed as a primary structure in the R-1 Zone District.

Vice Chair Blum asked if a nonconforming lot could still have an accessory structure.

Deputy City Attorney Guckenberger replied that the lot size is not pertinent to the type of structure being built.

Commissioner Wyman asked about the .05-acre discrepancy.

Ms. Wilson replied that all information is based on a current survey. She continued to say that it could be right of way.

Vice Chair Blum asked if the lots would be replatted.

Ms. Wilson replied yes.

Commissioner Kaplan asked if the preliminary plat would go to City Council.

Deputy City Attorney Guckenberger stated that there is no preliminary plat in cases such as these it is only replatting.

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Commissioner Niederman stated he was concerned about setting a precedent with a nonconforming lot. He stated it might be easier to allow for a variance for the accessory structure.

Commissioner Wyman stated that nonconforming lots can be replatted and remain nonconforming.

Vice Chair Blum stated that it would be a worse precedent to allow an increase in accessory structure size.

Commissioner Wyman asked if there could be two primary structures if the lots were merged.

Deputy City Attorney Guckenberger stated that there were no obstacles to merging the lots.

Commissioner Kaplan made a motion, which was seconded by Commissioner Niederman, to move to recommend approval to City Council of the request by David S. Mosteller for a minimum lot area variance from Municipal Code Section 16-5-30(b) to allow for approval of a minor lot adjustment for 1550 E. Oxford Lane and 4180 S. Humboldt Street. She stated that the Commission finds that the proposed variance meets all of the approval criteria outlined in Municipal Code Section 17-3-420 as outlined in Table 1 of the July 12, 2016 staff memorandum.

Commissioner Wyman suggested a condition that the lots remain under one ownership.

Commissioners discussed motion.

Applicant agreed to condition as stated.

Vice Chair Blum restated the condition.

The motion passed unanimously.

ADJOURNMENT

The meeting was adjourned at 7:45 p.m.


Peter Savone, Chairman


Cesarina Dancy, Community Development Clerk