

SUMMARY MINUTES OF BOARD OF ADJUSTMENT ACTION HELD MARCH 12, 2019

CALL TO ORDER – 6:15 P.M.

ROLL CALL OF MEMBERS – Those Present: Tom Aljinovich, Chairman; Alan Albrandt, Vice-Chairman; Russ Rizzo, Secretary; Nicholas Snow, Barbara Coffman, Kathy Drulard, Richard Derryberry.

It was moved by Mr. Aljinovich to excuse Mr. Derryberry and Mr. Albrandt from the meeting.

The following votes were cast on the motion:

Those voting Yes: Tom Aljinovich, Russ Rizzo, Nicholas Snow, Barbara Coffman, and Kathy Drulard

Those absent: Alan Albrandt and Richard Derryberry

The motion carried.

ALSO PRESENT: Emily Grogg, Asst. City Attorney; Jacob Nitchals, Sr. Planner; Jonathan Moore, Planner I; Jean Petramala, Recording Secretary, Dominique Petramala.

APPROVAL OF MINUTES FOR February 26, 2019 – The minutes of February 26, 2019 stand approved as printed.

EXPLANATION OF PROCEDURES OF THE BOARD – CHAIRPERSON

GENERAL BUSINESS -

RECONSIDERATION OF VAR2019-0002

Mr. Aljinovich addressed the reconsideration of the case heard on February 26, 2019 to reconsider the variance that was approved to construct a three story mixed-use building when the LDC restricts the number of building stories to two stories. The request was made part of the record along with the follow-up letter submitted. He explained that no public comments will be heard as it was not a public hearing. He asked if anyone would like to make a motion.

No motion was made.

Mr. Aljinovich made record that there was no motion to be made, and began to proceed to the case to be heard.

Ms. Grogg said that there was a request to speak tonight and if that could be entertained.

Mr. Foster wished to speak.

Mr. Aljinovich reiterated that since it was not a public hearing they would not be taking any public comments.

Ms. Grogg stated that the bylaws do not specifically allow any public comments whether they are factual or legal based, and if allowed, it would be the Chair's sole discretion.

Mr. Aljinovich said they would not be taking any public comments.

PUBLIC HEARINGS –

VAR2019-0003, JEFFREY & JOYCE STROKVIS, 6300 JOHNSON WAY :

The public hearing was opened.

Mr. Aljinovich explained the case to be heard tonight and asked if everything was in order.

The property was posted and the fee was paid.

Mrs. Joyce Strokvis, 6300 Johnson Way Arvada, CO 80004 is requesting to construct a ten foot privacy fence.

Mr. Aljinovich swore in the applicant.

Mrs. Strokvis began by stating that her home backs up to Ralston Rd. and the home sits four feet below grade. The noise is terrible and she is making the request for safety, noise and privacy. Many businesses along Ralston Rd. have had recent break-ins, and the passing traffic can look right into her yard. She would like the variance for those reasons.

Mr. Aljinovich asked if the fence length would just be along Ralston Rd.

Mrs. Strokvis said it would be.

Mr. Snow explained that the Board would need a special circumstance and a practical difficulty to vote in favor of the variance. Page five of the staff report outlines those issues for the Board. The grade difference between the street and home is unique to your home. He asked Mrs. Strokvis if that was what she was referring to in her previous statement.

Mrs. Strokvis said yes and referred to the picture provided. She said that prior to the concrete barrier the yard would often be filled with trash and debris going into the yard and continually had to maintain it. She had sent a letter to request the barrier. Now, passersby actually walk on the barrier and this allows them to look directly into their yard.

Mr. Snow said that brings him to his next point, which is the practical difficulty. He said that because the six foot fence sits so low it is not allowing the privacy, and the debris goes into the backyard because it is almost flush with the street.

Mrs. Strokvis said that was correct, and prior to the barrier it did allow water, trash, gravel, debris, etc. did flow into her yard. With the barrier, it helped to mitigate some of those issues.

Mr. Snow asked if privacy was a concern at this point.

Mrs. Strokvis said yes it is for privacy and noise.

Ms. Drulard asked the applicant if all her neighbors along her street had the three foot grade difference.

Mrs. Strokvis said she was not sure but it looks like it.

Mrs. Drulard said that she can clearly see that there is a difficulty there.

Mr. Aljinovich asked if the Board had any more questions.

There were none.

Mr. Aljinovich then asked if there was anyone to speak against.

There was none and the public portion of the hearing was closed.

Mr. Aljinovich asked if there were any questions from the Board for staff.

Mr. Rizzo asked the staff if there were any other alternatives.

Mr. Moore said that initially they had looked at a minor modification that would allow them to build a seven foot fence but due to the grade and a six foot fence being even with the three foot barrier it would actually only move it to a four foot fence. So both the applicant and Mr. Moore agreed that the minor modification would not get the ideal privacy they were seeking. Most of the property along Ralston Rd. does have dense foliage to help with the noise; however, there are power lines that run across this area that do pose an issue. Xcel often trims these trees to keep them clear for safety reasons. At one time there was a dense mature tree that did help but has since been removed. A much taller fence is the only option.

Mr. Rizzo asked how many homes would have similar circumstances.

Mr. Moore replied it is rare to have this scenario. He said that in most circumstances, when noise is an issue or backed up to a frontage, the homes are at grade and eight foot fence, which is also part of the code, would be applicable and would take care of the noise issue. He referred to page four of the staff report and regarding the grade change along Ralston Rd., causing the issue. He said as we update the code we are looking at preventing these cases coming to the Board in the future, but this time this is the only remedy.

Mr. Aljinovich asked if this would be creating a domino effect for the rest of the residences.

Mr. Moore said it is possible. There are only two houses to the northwest that have similar grade although the grade decreases so they do not have a great change, but they have limited screening. There is potential for that, but we are looking to address that in the update of the Land Development Code and he hopes the update would accommodate that.

Mr. Rizzo asked if this would adversely affect public services or cause any other issues. Nothing was mentioned in the staff report.

Mr. Moore said that it would not. The construction of fence of fence taller than six feet would require an engineer to design the plans and this would part of the permitting process. The applicant is aware of this.

Mr. Aljinovich asked about the chain link fence and who owns that.

Mr. Moore said that he did not find anything for the chain link fence. It does run along Ralston Rd.

Mr. Aljinovich asked if it would be the right-of-way.

Mr. Moore said that it is most likely part of the City's right-of-way.

Mr. Aljinovich asked if there were any more questions.

There were none.

MOTION:

It was moved by Ms. Drulard that VAR2019-0003, Jeffrey and Joyce Strokvis, 6300 Johnson Way, to increase the maximum allowed height of a solid fence to ten feet when Section 6.5.8 of the LDC establishes a maximum height of six feet, be approved.

The motion is based on Findings No. 1 through 8 on Page 10 of the staff report.

As to Finding No. 1, the special circumstance or condition is there is approximately a three foot grade difference between the adjacent adverl parkway and the subject parkway does meet the special circumstance as it is rare for the grade difference to exist.

The following votes were cast on the motion:

Those voting Yes: Aljinovich, Rizzo, Snow, Coffman, Drulard

Those absent: Derryberry Albrant

The motion carried.

OTHER ITEMS – NONE

NEXT MEETING – None scheduled at this time.

ADJOURNED -

Tom Aljinovich, Chairman

Russ Rizzo, Secretary

Jean Petramala, Recording Secretary