

Planning Department
City of Aurora, Colorado

SUMMARY OF BOARD OF ADJUSTMENT AND APPEALS ACTIONS

BOA Hearing Date: February 18, 2020
Hearing Location: Aurora Municipal Center, Aspen Room
Case Manager: Christopher Johnson

Board Members Present: Andris Berzins
Kari Gallo
Gary Raisio
Lynn Bittel

Case Number: 01-20 – 13061 E Arkansas Drive

Description:

Request by the property owner, Stephen Scott Dickerson Jr., to allow for the construction of a story addition to his home including an attached garage which would encroach into the required front setback, for the following single-family dwelling variance:

- To the requirement of City Code Section 146-4.2.2 Table 4.2-1, which requires single-family detached residences in the R-1 zone district to maintain a minimum front yard setback of 25 feet, to allow an expansion of the main residence which will have a final front yard setback of approximately 6 feet.

Recommendation from staff to approve the requested variance, with three conditions:

- That the applicant be permitted to encroach into the front yard setback, but that the closest point of the southeast corner of the building expansion be no closer than 8 feet to the property line to ensure no conflicts with the recorded easements;
- That the southern façade of the second floor of the building be stepped back an additional 4 feet from the ground floor in order to reduce the building massing to be more consistent with adjacent development; and
- That the existing 2-car driveway for the existing attached garage be removed and replaced with landscaping in order to adhere to code requirements for living material coverage in residential yards.

Case Presentation Given at the Hearing:

Staff gave a presentation describing the applicant's request, the context of the neighborhood and the subject property, and an analysis of the request with respect to the Code Criteria of Approval. The applicant's request was to construct a building expansion with a 30 by 42-foot building footprint and a final front yard setback of 6 feet. Staff presented that the request as stated by the applicant created a significant deviation from Code, and that certain controls such as those listed above should be employed in the event of approval to ensure conformance with the Criteria of Approval.

Mr. John Falco, the applicant's representative, gave a presentation describing the reasoning for the request, what the applicant does for a living, and his requirements in his business contract with the City of Aurora to respond in 30 minutes. The applicant works for a towing company and owns his own tow truck, which he states he has to park at his residence in order to be able to respond in the 30-minute window. Therefore, the applicant proposes this building expansion to include a garage

large enough to park the subject vehicle indoors in order to adhere with other Code requirements. During this presentation a community member present at the hearing, Mr. Randy Williams, asked how far beyond the existing façade of the home the expansion would extend? Mr. Dickerson told him it would extend approximately 18 feet.

After their presentation, Vice Chair Andris Berzins asked the applicant if they agreed with the terms outlined in Staff's recommendation of approval, including the Conditions of Approval as stated. Mr. Falco stated that they are ok with removing the existing driveway, however he discussed resistance to reduce the building footprint to have an 8-foot setback. Staff asked Mr. Falco if he could guarantee that, at the southeast corner of the new building, there would be no encroachments or overhangs of any kind into the recorded 6-foot easement. The applicant stated that right at that southeast corner the building would likely encroach. The Board members and the applicant discussed an alternative condition of approval that that became part of the adopted motion of approval.

Board Member Kari Gallo asked Mr. Falco a series of questions, specifically whether the roof peak of the expansion would exceed the height of the existing roof peak, whether the existing tree in the southeast corner of the property was to remain, and whether they would be parking additional cars on the street. Mr. Falco explained that the new roof height would exceed the existing roof height, that the existing tree on the property was to remain, and he also explained that with the expanded garage size there should be adequate space to fit Mr. Dickerson's vehicles on his property. Ms. Gallo asked staff if there was a limit on the size of the expansion, as there were limits under the previous zoning code for accessory structures. Staff informed the Board that per the provisions of the UDO, attached garages were no longer defined as accessory structures and are included in the total area of the principal structure.

Ms. Gallo asked Mr. Dickerson about his stated need to keep his tow truck at his residence and inquired about the location of his business. Mr. Dickerson stated that the tow company's offices are located about 10 miles from his home, and the time needed to get there to pick up the truck before responding to calls would make it impossible to respond in the allotted 30-minute window. Ms. Gallo asked staff about guidelines for what becomes operating a home business. Staff stated that this does not, as far as code is concerned, meet the definition for operating a home business. City Attorney Dan Money gave a longer explanation on the purvey of the Board of Adjustment and Appeals with regards to design versus use regulations. Ms. Gallo stated for the record that she found the proposed building size to be largely inconsistent with the existing homes in the neighborhood.

Public Comment Given at the Hearing:

An adjacent property owner, Mr. Randy Williams, stated opposition to Mr. Dickerson's request, citing concern about the size of the expansion, height of the building, and whether it would block views from his home. He also stated concern that this addition to his neighbors' home would increase his property value, thereby raising his property taxes. Staff explained to the group that cities do not have the ability to levy or assess property taxes, that is done by the county. Staff also explained that Mr. Williams could talk to the Arapahoe County Assessor's Office for further information on his property and to request reassessment if need be.

Board of Adjustment and Appeals Results

A motion was made by Mr. Berzins and seconded by Mr. Raisio.

Move to approve, with three conditions, the variance request because the proposal complies with the required findings of Code Section 146, and:

- Does not have an adverse impact on adjacent properties;
- Is consistent with the neighborhood character;
- Is compatible with adjacent development;
- Will not have a negative impact on existing city infrastructure or public improvements; and
- Will achieve an internal efficiency of design.

Approval to be subject to the following conditions:

- That the applicant be permitted to encroach into the front yard setback, provided that the closest point of the southeast corner of the building expansion creates no conflicts or encroachments with the recorded easements;
- That the southern façade of the second floor of the building be stepped back an additional 4 feet from the ground floor in order to reduce the building massing to be more consistent with adjacent development; and
- That the existing 2-car driveway for the existing attached garage be removed and replaced with landscaping in order to adhere to code requirements for living material coverage in residential yards.

Action Taken: Approved with Conditions

Votes for the Waiver: 3

Votes against the Waiver: 0

Absent: 1 (Ron Swope)

Abstaining: 1 (Kari Gallo)

Other Topics Discussed at the Hearing:

Staff and the members of the Board discussed scheduling for upcoming interviews for the two newly created vacant seats on the Board of Adjustments and Appeals. All those present agreed that interviews for the 4 current applicants to the Board would be held the week of March 9th, with a potential second round of interviews if more applications are received.

The Board also held elections for Chair and Vice Chair. Mr. Berzins nominated Lynn Bittel as Board Chair, and the nomination was supported unanimously by those present. Mr. Bittel moved to nominate Mr. Berzins as Board Vice Chair, which was also supported unanimously. The Board of Adjustments and Appeals will be chaired by Lynn Bittel, with Andris Berzins as Vice Chair, for the 2020 calendar year.