



NOTICE OF BOARD OF ADJUSTMENTS AND APPEALS MEETING

June 20, 2023

Members of the public are invited to attend remotely or in person through the options listed below. Public comment is welcome for items appearing on the agenda or on any matter of BOA concern. Each speaker is allotted a maximum of five minutes to speak.

Individuals wishing to comment on an agenda item must register in advance by contacting boaplanning@auroragov.org.

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Event Password: Aurora2020

Call-in Participation

Call 720.650.7664

Access Code: 248 753 23878

Event Password: 28767220

In-person Participation

Aurora Municipal Center
Aspen Room, 2nd Floor
15151 E Alameda Parkway
Aurora, CO 80012

Knock to be granted access to the building by security.

Translation/Accessibility

If you are in need of an interpreter, please contact the Office of International and Immigrant Affairs at 303-739-7521. Si necesita un intérprete, comuníquese con la oficina de asuntos internacionales e inmigrantes al número 303.739.7521.



AGENDA

Board of Adjustment and Appeals

Tuesday, June 20, 2023

6:00 p.m.

Hybrid Meeting

Aurora Municipal Center

15151 E Alameda Pkwy, 2nd Floor

Aurora, CO 80012

Pages

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF MINUTES
 - 3.a Draft 05-16-2023 BOA Meeting Minutes 2
4. ADOPTION OF AGENDA
5. GENERAL BUSINESS
 - 5.a 06-23 - 828 S Naples Way 8

A request by the property owner, Lance Martin, for the following Single-Family Dwelling Variance: To reduce the required interior side setback from five feet to two to allow for an attached carport/cover structure.
 - 5.b 07-23 - 14886 E Crestridge Place 25

A request by the property owner, Stephen Wickham, for the following Single-Family Dwelling Variance: To allow a deck greater than 30 inches in height above grade within one foot of the rear property line.
6. OTHER BUSINESS
7. ADJOURNMENT

Planning Department
City of Aurora, Colorado

SUMMARY OF BOARD OF ADJUSTMENT AND APPEALS ACTIONS

BOA Hearing Date: May 16, 2023
Hearing Location: Hybrid Public Hearing, held via WebEx and in-person
Case Manager: Stephen Gubrud

Board Members Present: Lynn Bittel
Marty Seldin
Richard Palestro
Kari Gallo

City Staff Present: Brandon Cammarata
Steve Timms
Daniel Money
Stephen Gubrud
Rachid Rabbaa
Stephanie Beard
Diane Webb
Sharyn Vellenga

Case Number: 05-23 – 1166 Jamaica Street

Description:

Request by the property owner, Ciara Bujanos, for the following Single-Family Dwelling Variance:

- An adjustment to the requirement of Section 146-4.7.9.L Table 4.7-4, which requires a maximum fence height of 42 inches and an open fence style with at least 50% visual permeability in the front yard area and should be constructed with like materials.

Recommendation from staff to deny the variance as requested.

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 would allow a fence in the front yard that does not meet height or transparency requirements. Staff corrected a clerical error that Exhibit F was mislabeled in the packet. It should be labeled Exhibit D.

The Board members did not ask staff questions.

Mr. Bittel asked the applicant if she would like to make a presentation.

The applicant, Ciara Bujanos, 1166 N Jamaica Street, Aurora, CO 80010, was available in person for questions. Ms. Bujanos stated that she wanted to improve the appearance and curb appeal of her front yard by covering the existing chain-link fence. She noted the new wooden

fence provides extra security, buffers sound, and mitigates trash accumulation. Ms. Bujanos also stated the fence looks nice, it is not impeding anyone's health or safety, nor is it blocking the sidewalk. Ms. Bujanos stated she had good intentions and never intended to violate the code because she was unaware of the code regarding front yard fences. She hoped to improve the neighborhood and encourage other neighbors to do the same. Ms. Bujanos noted support from her neighbors for the fence. Ms. Bujanos stated perhaps she should have thought of looking up the code. Ms. Bujanos stated she reviewed previous Board of Adjustment and Appeals meetings and found that most were regarding fence violations like her own. She noted this as a possible breakdown in communication between the City of Aurora and homeowners and suggested ways to improve communication.

Mr. Bittel agreed with Ms. Bujanos' comment regarding improved communication between the City of Aurora and homeowners, stating that he had suggested this previously.

Ms. Gallo asked the applicant how she determined how far back to set the fence.

Ms. Bujanos replied that there is a chain-link fence right behind, so the wooden fence was installed over the existing chain-link fence.

Ms. Gallo asked the applicant how difficult and abhorrent it would be to make the fence at least 50% transparent.

Ms. Bujanos replied that she could make the change but questioned the necessity. Her objective in appealing against the code violations was to receive the variances. She added that the fence is not a nuisance, it is not obstructing anyone's view, the neighbors like it, and she worked hard on it.

Mr. Bittel noted that if the applicant removed the top board, and every other board, the fence would meet the height requirement.

Ms. Bujanos stated she understood, but the height variance was not massive just ½ - 1 inch.

Mr. Bittel clarified the fence is 45 inches high, instead of the allowable 42 inches.

General discussion ensued regarding the side fence, transparency issues, and maintenance of the fence.

Mr. Seldin motioned to separate the issues of height and transparency to vote on them separately.

Mr. Palestro questioned whether the Board could do that.

Daniel Money, City Attorney, clarified that the Board could just make a motion to approve one variance but not the other. However, the Board is permitted to create a motion to separate the issues and vote on each one separately, if preferred.

General discussion ensued about the original chain-link fence being grandfathered in, and the height of the chain-link fence vs. the wooden fence.

Ms. Gallo noted that in the staff report pictures of Ms. Borunda's front yard, the neighbor's chain

link fence appeared to be higher than Ms. Borunda's fence.

Sharyn Vellenga, City of Aurora code enforcement officer, stated she checked the city records dating back to 2005 and there are no previous variances for the chain-link fence.

Board members concluded that the new fence is a new issue, but the old fence is not.

General discussion ensued about the code requirement that the front yard fence be at least 50% transparent. It was noted that a solid fence can appear offensive, and the opaque style is not consistent with the image the city wants to convey.

Mr. Bittel clarified the hearing results for the applicant, stating the fence must be made at least 50% transparent, but the 45" height is permissible.

General discussion ensued about methods the applicant could use to make the fence transparent enough to meet the code.

Ms. Bujanos expressed understanding.

Board members complimented the appearance of the applicant's fence.

Sharyn Vellenga, City of Aurora code enforcement office, asked if there would be any discussion regarding the need for like materials since the wood fence is attached to a chain-link fence, and the surrounding front yard fence is also chain-link.

Mr. Bittel stated he did not think the chain-link fence was part of the case.

Ms. Vellenga clarified the varying material is part of the report.

Mr. Money asked Ms. Vellenga if the ticket or notice was written for the material.

Ms. Vellenga stated the notice of violation was written for fence requirements, front yard requirements, and material.

Mr. Money advised Mr. Bittel the issue of the material must be addressed, and a third motion must be held.

General discussion ensued regarding the different fence materials and past hearings regarding fence violations and variances.

Brandon Cammarata, Planning Department Manager, clarified the staff recommendation and how the Planning Department arrived at its conclusion. He stated the Planning Department considers this a new fence. The maintenance section of the code is regarding the maintenance of an existing fence. The Planning Department viewed the issue as a new fence segment rather than the fence being fixed or maintained. It's not really repairing a chain-link fence with unlike materials.

Board members asked for guidance regarding their authority to grant a variance for the use of unlike materials.

Mr. Cammarata further clarified that the wood fence is fine, in the sense that it is a new fence. The section of code referenced is related to the maintenance of an existing fence, and it's fair to look at this as a new fence. The variance questions have already been addressed.

Mr. Money asked Ms. Vellenga if she supported not issuing a ticket regarding the use of unlike materials.

Ms. Vellenga expressed understanding and agreed not to issue a ticket regarding the use of unlike fence materials.

Mr. Money clarified the Board would be discussing code violations, but since the city is viewing it as a new fence and its compliance with height and transparency requirements, then the Board could proceed with the original motions made.

Mr. Cammarata agreed and stated he would contact Ms. Vellenga to provide further clarification on the Planning Department's conclusion. He thanked everyone for their efforts with the case.

Board members also thanked Mr. Cammarata for the information.

Mr. Bittel informed Ms. Borunda of the results of the hearing and thanked her for her time. Mr. Bittel advised Ms. Borunda that she would be contacted with further instructions, including receiving a letter and a timeline for completing the changes to her fence.

Ms. Borunda expressed understanding.

Public Comment Given at the Hearing:

No members of the public were present at the virtual hearing.

Board of Adjustment and Appeals Results

A motion was made by Mr. Seldin and seconded by Mr. Palestro.

Move to separate the issues of height and transparency and vote on them separately.

Action Taken: Approve

Votes to separate variance requests: 3

Votes against separating variance requests: 1 (Gallo)

Absent: 3

Abstaining: None

A motion was made by Mr. Palestro and seconded by Mr. Seldin.

Move to deny the variance request for an open fence style with at least 50% visual permeability in the front yard because the proposal does not comply with the required finding of Code Section 146-5.4.4.B.3, and:

- It is not consistent with the existing neighborhood character and adjacent properties;
- The closed style does not meet the intent of the UDO to enhance and support neighborhood character.

Action Taken: Deny

Votes for the Waiver: 1 (Gallo)

Votes against the Waiver: 3

Absent: 3

Abstaining: None

A motion was made by Mr. Seldin and seconded by Ms. Gallo.

Move to approve the variance request for a maximum fence height of 42 inches because the proposal complies with Code Section 146-5.4.4.B.3 of the Unified Development Ordinance.

Action Taken: Approve

Votes for the Waiver: 4

Votes against the Waiver: None

Absent: 3

Abstaining: None

Other Topics Discussed at the Hearing:

Draft Board of Adjustment and Appeals Meeting Minutes from April 16, 2023, meeting were approved unanimously by those present.

Ms. Gallo asked if the BOA packet the Board members receive is also shared with the applicant.

Stephanie Beard, Project Coordinator, responded that the packet is published on the City of Aurora website and is publicly available, along with meeting recordings. She stated the applicant also receives a copy of the agenda.

Ms. Gallo thanked Ms. Beard for the information.

SUMMARY OF PROCEEDINGS PREPARED AND SUBMITTED BY: Stephen Gubrud

Lynn Bittel, Chairman

Stephen Gubrud, City of Aurora

Planning Division
 15151 E. Alameda Parkway, Ste. 2300
 Aurora, Colorado 80012
 303.739.7250



MEMORANDUM

- To:** **To:** Lynn Bittel, Board of Adjustment Chairman
 Board members: Andris Berzins, Kari Gallo, Ron Swope, Gary Raisio, Richard Palestro, Marty Seldin
- From:** Stephen Gubrud, Planner, Board of Adjustment staff liaison
- Date:** June 7, 2023
- Hearing Date:** June 20, 2023
- Subject:** BOAA Case No. 06-23 – 828 S Naples Way
- Notification:** The Notice of Variance Request was mailed to abutting property owners on June 9, 2023, and a notice of virtual public hearing sign was posted on the property on the same day in accordance with Code.
- Summary:** Request by the property owner, Lance Martin, for the following Single-Family Dwelling Variance:
- A request by the property owner, Lance Martin, for the following Single Family Dwelling Variance(s): An adjustment to the requirement of Section 146-4.2.2, Table 4.2-2, which requires that the interior side setbacks be a minimum of 5 feet within the R-1 zone district.

Background Information: The subject property is located at 828 S Naples Way in the Centrepoin neighborhood, within the Tollgate Village subdivision. The property is approximately 0.25 acres with an approximately 1,940 square foot primary residence, constructed in 1980 according to the Arapahoe County Assessor’s records. The subject property and surrounding neighborhood are zoned R-1 (low-density single-family residential) and is made up of primarily single-family homes. The purpose of the R-1 district is to promote and preserve safe and attractive low-density, single-family residences. The R-1 district is generally comprised of medium to large suburban single-family lots, but development pursuant to a Small Residential Lot option is allowed in Subarea C. (See **Exhibit A – Vicinity Map**).

The applicant requests a variance to allow a carport style cover structure which will extend from the existing garage to within 2 feet of the property’s side lot line. City code requires that the interior side setbacks be a minimum of 5 feet within the R-1 zone district. Therefore a 3-foot side yard setback variance is requested. The applicant’s stated reason for wishing to construct this structure is to provide shelter from the elements for their boat which they store in the side yard area. The applicant was previously approved for this same variance on January 19th of 2016, however the approval has since lapsed therefore the applicant was instructed to apply for another variance with the City of Aurora. (See **Exhibit B– Application and Justification**).

Analysis: The proposed structure would meet all other setback requirements in the requested location. If the Board approves the variance request, the applicant will have to apply for a building permit to construct the structure and will have to meet all applicable building code requirements. The structure will need to incorporate fire rated materials within its design up to a distance of 5 feet from the side lot line. Additionally, the style, colors and materials will need to adhere to the requirements of city code including matching the overall aesthetic of the primary structure. There is an existing driveway with sufficient dimensions to serve the proposed covered area thus no expansion of impervious surfaces has been proposed. There should be no negative impacts on drainage patterns, as the 2-foot side setback will allow rain to fall on the subject property. Lastly, to reiterate, this proposal was previously approved by the Board in 2016 after a unanimous 3-0 vote (see Exhibit E).

Required Findings: According to Section 146-5.4.4.B.3 (Exhibit D), the Board of Adjustments and Appeals can grant variances based on the following criteria:

1. Effect on adjacent properties. The proposed variance will not adversely affect adjacent properties or the surrounding neighborhoods.

Staff Analysis: The proposed variance does not present a significant adverse effect on adjacent properties or the surrounding neighborhood.

2. The proposed variance is consistent with the majority of the criteria as follows:

a. Improved Design

Staff Analysis: Staff finds that the structure does achieve an improved design while maintaining the design and functionality of the public realm.

b. Consistency with Neighborhood Character

Staff Analysis: Staff finds the structures design is compatible with the surrounding neighborhood as other homes in the neighborhood, including the applicants adjacent neighbor, have similar structures within the prescribed setback.

c. Compatibility with Adjacent Development

Staff Analysis: The proposed variance would allow for a structure which is compatible with adjacent residential uses.

d. Impact on existing city infrastructure and public improvements

Staff Analysis: The proposed structure would meet front setback requirements and would not create any adverse impacts on existing city infrastructure or future improvements.

e. Internal efficiency of design

Staff Analysis: The location of the structure would not pose an impediment to the public realm. As such, staff finds that the structure does achieve internal efficiency of design.

f. Control of external effects

Staff Analysis: The proposal would not cause significant adverse external effects on the public realm.

Conclusion:

Based on the required findings of Code Section 146-5.4.4.B.3, staff finds the variance request meets the criteria because:

- It is consistent with the existing neighborhood character and that of adjacent properties;
- Does not produce any negative impacts on existing city infrastructure or public improvements;
- Will allow for typical use of the property and achieve efficiency of design and;

- Controls for any external effects.

Staff Recommendation:

Staff recommends **approval** of the proposed variance.

ATTACHMENTS:

- Exhibit A – Vicinity Map
- Exhibit B – Application and Justification
- Exhibit C – Site Photos
- Exhibit D – City Code Section 146-5.4.4.B.3
- Exhibit E – BOA Minutes: January 19, 2016



EXHIBIT A



PLANNING AND DEVELOPMENT SERVICES DEPARTMENT

15151 E. Alameda Pkwy, Suite 2300
Aurora, Colorado 80012
303-739-7250
FAX: 303-739-7268

CASE # 06-23

APPLICATION TO THE BOARD OF ADJUSTMENT & APPEALS
VARIANCE

ADDRESS OF PROPERTY AFFECTED: 828 S. Naples Way

Zone District _____

Applicant

Name: Lance Martin

Address: 828 S. Naples Way

Phone #: 720-335-2008 email lance.martin54@gmail.com

Property Owner:

Name: Same

Address: _____

Phone #: _____ email _____

Signature 

Variance requested:

A 2 Foot side setback

The above request does not conform to Section(s) 4.2.2 (table 4.2-2) of the Aurora City Code, which requires _____

CASE # 06-23

Type, or print clearly, the name and complete address (including zip code) of each abutting property owner:

ABUTTING PROPERTY ADDRESS:

NAME & ADDRESS OF PROPERTY OWNER

818 S. Naples way

Rick Kornblatt
818 S. Naples way

838 S. Naples way

Daron Cowens
838 S. Naples way

827 S. Naples way

Sage Chittock
827 S. Naples way

837 S. Naples way

Abha Gupta
15021 F Aberdeen Ave.
Centennial, Co. 80016

765 S. Oway St

Josh Kuczkowski
6000 S. Fraser St. Apt 8-301
Centennial, Co. 80016

803 S. Oway St.

Shirley Collins
803 S. Oway St

805 S. Oway St.

Carlos Jo. Ingado
805 S. Oway St.

WILLIS ECONYERS & KELLEY KERRY
830 S NORFOLK ST
AURORA CO 80017-3166

ABHA & PARVEEN GUPTA
15021 E ABERDEEN AVE
CENTENNIAL, CO 80016

SHIRLEY COLLINS
803 S OURAY ST
AURORA CO 80017-3154

ALAN & ELSA SCHAFFER
807 S NAPLES WAY
AURORA CO 80017-3170

ROBERT & MARGARET ROSSOW
847 S NAPLES WAY
AURORA CO 80017-3170

DANIEL BAISIE
808 S NAPLES WAY
AURORA, CO 80017-3170

XIAOSHENG CHEN & LIN ZHENG
848 S NAPLES WAY
AURORA, CO 80017-3170

JOSH KUCZKOWSKI & KALEY LEIGHNER
6000 S FRASER ST APT 8-301
CENTENNIAL, CO 80016-4732

SAGE & TANYA CHITTOCK
827 S NAPLES WAY
AURORA CO 80017-3170

JERRY & MICHELLE GYIMAH
820 S NORFOLK ST
AURORA, CO 80017

TIMOTHY & DONNA EHGOTZ
807 S OURAY ST
AURORA CO 80017-3154

DEVON COWANS
838 S NAPLES WAY
AURORA CO 80010-3170

CARLOS JURADO & CHRISTY SMITH
805 S OURAY ST
AURORA CO 80017-3154

JOSEPH & THERESE BRENNAN
801 S OURAY ST
AURORA CO 80017-3154

MICHAEL & RICKY KORNBLATT
818 S NAPLES WAY
AURORA CO 80017-3170



EXHIBIT C



B. Single-Family Dwelling Variance

All applicable provisions of Section 146-5.3 (Common Procedures) apply unless specifically modified by the provisions of this Section 146-5.4.4.B.

1. Applicability

This Section 146-5.4.4.B applies to all applications for a variance from the standards and of provisions of this UDO or to the provisions of Chapter 90 as they relate to the modification of an existing single-family dwelling or the lot on which it is located that do not qualify for approval as a Minor Amendment under Section 146-5.3.15.A. This section may not be used to vary the standards or provisions of this UDO for single-family homes that have not yet obtained a certificate of occupancy or Manufactured Homes that have not yet been installed in accordance with Chapter 90.

1. Procedure

- a. Planning Director shall review the application and forward a recommendation to the Board of Adjustment and Appeals pursuant to all applicable provisions of Section 146-5.3 (Common Procedures).
- b. The Board of Adjustment and Appeals shall conduct a public hearing on the application and shall make a decision on the application pursuant to all applicable provisions of Section 146-5.3.

2. Criteria for Approval

An application for a Single-family Dwelling Variance shall be approved if the Board finds that the proposed variance will not adversely affect adjacent properties or the surrounding neighborhoods and a majority of the following criteria have been met.

- a. The proposed variance results in improved design.
- b. The proposed variance does not adversely affect the character of lower density residential areas.
- c. The proposed variance will result in development that is compatibility with adjacent land development.
- d. The proposed variance will not result in undue or unnecessary burdens on existing infrastructure and public improvements, or arrangements have been made to mitigate those impacts.
- e. The proposed variance results in development that achieves internal efficiency for its residents and does not endanger public health or convenience.
- f. The proposed variance results in development that controls external effects on nearby land uses, movement and congestion of traffic, noise generated, arrangement of signs and lighting to prevent nuisances, landscaping, and features to prevent detrimental impacts on public health, welfare, safety or convenience.

**Historic
Landmark/District
Adjustment**



(P) Indicates Public Hearing Required

**SUMMARY OF PROCEEDINGS
BOARD OF ADJUSTMENT AND APPEALS
January 19, 2016**

The Board of Adjustment and Appeals was held on January 19, 2016, in the Aspen Conference Room at the Aurora Municipal Building, 15151 E Alameda Parkway, Aurora, CO

MEETING CALLED TO ORDER

Vice-Chairman Bittel called the meeting to order at 6:00 p.m.

Board Members Present: Lynn Bittel, Hassell Hill and Matt Hoppe

Board Members Absent: George Loescher and Andris Berzins

City Employess Present: Dan Money, Assistant City Attorney, Devin Yoder and Susan Chapel

APPROVAL OF PROCEEDINGS

A motion was made by Mr. Hill and seconded by Mr. Hoppe to approve the September 15, 2015 meeting minutes as submitted.

Motion passed unanimously.

A motion was made by Mr. Hill and seconded by Mr. Hoppe to approve the October 20, 2015 meeting minutes as submitted.

Motion passed unanimously.

A motion was made by Mr. Hill and seconded by Mr. Hoppe to approve the November 17, 2015 meeting minutes as submitted.

Motion passed unanimously.

EXPLANATION OF PROCEEDINGS

Vice-Chairman Bittel explained the function and procedures of the Board for the benefit of the applicant. He asked if anyone had any questions on the procedures or rules governing the hearing. Hearing none, he asked the City representative to present the case.

PUBLIC HEARING**CASE NO. 10-15****2760 N Worchester Street****Section 146-1103(B)3
Section 146-1103(B)5**

Jesus Ruiz is requesting a waiver to the requirement of Building and Zoning Code Section 146-1103(B) 3, to allow an accessory structure that exceed 50% of the gross floor area (gfa) of the principal buildings; and a waiver to the requirement of Building and Zoning Code Section 146-1103(B) 5, to allow a 5-foot side yard setback where, based on the proposed building design, a 7-foot, 2-inch side yard setback would be required.

City staff member, Devin Yoder, gave a presentation of the item. The property is a 7,405 square-foot lot in an R-1 low density single-family residential district. The house is a 933 square-foot one-story structure built in 1963. The house has a masonry veneer on the exterior. The house does not have an existing attached or detached garage, and has a concrete driveway that extends from the street to beyond the house.

While the applicant was gathering building permit information for a detached garage, the Building Department referred him to Planning to look at zoning code requirements for accessory structures. Based on the applicant's conceptual plan for the garage, staff found that the proposed structure would exceed 50% of the gross floor area of the home. Staff provided the applicant with information to apply for a Board of Adjustments waiver if he wanted to pursue his proposed design. In researching the case further, and getting more information from the applicant on the proposed structure, staff found that the applicant would also need to apply for a waiver to the side setback requirement to allow a 5-foot setback. The roof midpoint of 10 feet, 2 inches would be require a 7-foot, 2-inch side setback.

The applicant has indicated that he would use siding on the garage that would complement the color of the house. The applicant would also add pavement to the driveway to complete the paved area in front of the garage, and intended to do this in conjunction with pouring the garage foundation.

According to Section 106-100 of the Building and Zoning Code, the Board of Adjustment can grant waivers based on the following criteria:

1. Effect on adjacent properties. The proposed waiver will not adversely affect adjacent properties or the surrounding neighborhoods.

Staffa Analysis: Because the size of the garage is not relatively larger than other buildings in the neighborhood, and it's a use commonly associated with a residential neighborhood, the proposed waivers will not adversely affect adjacent properties.

2. The proposed waiver is consistent with the majority of the criteria as follows:

a. Comprehensive Plan

Staff Analysis: The Comprehensive Plan is still adhered to because the waivers will not promote a building that is incompatible with a residential area. The general neighborhood is improved through property owners investing in their properties.

b. Density

Staff Analysis: The proposed waivers will not change the density of the neighborhood.

c. Compatibility

Staff Analysis: The proposed waivers do not create a use that is incompatible with a single-family residential area.

d. Impact on existing city infrastructure and public improvements

Staff Analysis: The waivers will not have an impact on city infrastructure and public improvements because all the proposed work is contained on the site's interior.

e. Internal efficiency of design

Staff Analysis: The proposed waivers do not change the internal efficiency of design on this site.

f. Control of external effects

Staff Analysis: The waivers do not create external effects because the proposed garage is not significantly closer to the adjacent property, and over half of its front façade will be shielded from street-view by the house.

DISCUSSION BY THE BOARD

Motion was made by Mr. Hoppe and seconded by Mr. Hill to approve the requested waivers to allow an accessory building in a residential neighborhood to exceed 50 percent of the gross floor area of the principal building; and to allow a 5-foot side yard setback where a 7-foot, 2-inch side setback would be required based on the proposed building design.

Motion passed unanimously.

Vice-Chairman Bittell explained to the applicant that the application has been approved and that they would be receiving written notice of the approved waiver within seven days.

CASE NO. 01-16

828 S Naples Way

Section 146-502

Lance Martin is requesting a waiver to the requirement of Building and Zoning code Section 146-502 to allow a two-foot setback where a minimum of a five-foot side setback is required. City staff member, Devin Yoder, gave a presentation of the item.

City staff member, Devin Yoder, gave a presentation of the item. The property is a 10,934 square-foot lot in a PCZD-SFD (Planned Community Zone District – Single-Family Detached). The home is a 1,940 square foot structure built in 1980, and is part of the Tollgate Village Subdivision, 3rd Filing.

Mr. Martin initially came to the Building Department to research what he would need for permit approval to build an attached garage on the north side of his house to store his boat. He currently has a paved concrete slab that runs along the length of the north side of the home, and his boat is currently parked there. He would like to build the garage to have the boat stored in a covered structure to keep the boat dry to comply with state boat launching requirements. CO State Parks staff inspect all trailered vessels prior to entering water in order to prevent transferring aquatic invasive species. Any boat that is not dry (containing water inside the boat) would be considered contaminated and not allowed into the water until it is satisfactorily decontaminated.

Mr. Martin had also explored just building a carport, but with the reduced setback the building code would require any structure to have fire-rated walls.

The lot is narrowest at the front of the property, and widens away from the house towards the rear of the lot. However, the lot is not wide enough to meet the five-foot side setback along the whole length of the proposed garage.

While the site has more available space in the south side yard, the applicant has a garden on the south side of the home that he wants to remain there for the sun exposure. Since the north side of the house already has concrete slab, the applicant would rather just install the garage there instead of pouring more concrete on the south side. The applicant has indicated that the garage's design would complement the house's materials and colors.

If the board approves the waiver request, the applicant will have to apply for a building permit to construct the garage, and will have to meet all building code requirements.

According to Section 106-100, the board of adjustment can grant waivers based on the following criteria:

1. Effect on adjacent properties. The proposed waiver will not adversely affect adjacent properties or the surrounding neighborhoods.

Staff Analysis: Adding a garage onto the side of the house should not adversely affect the adjacent properties. Storing the boat in the proposed garage would present a more tidy appearance for the property. Due to the garage's proximity to the adjacent property's carport from the proposed reduce side yard setback, the garage walls will have to meet building code fire wall rating requirements to obtain a building permit. This requirement will address possible negative impacts that the garage could have to the property next door.

2. The proposed waiver is consistent with the majority of the criteria as follows:
a. Comprehensive Plan

Staff Analysis: The proposed waiver request is for a use consistent with residential areas and would be a property improvement, which addresses a Comprehensive Plan issue to avoid declining neighborhoods.

b. Density

Staff Analysis: The proposed waiver would not increase neighborhood density.

c. Compatibility

Staff Analysis: The proposed waiver would allow for a structure that is compatible with residential uses.

d. Impact on existing city infrastructure and public improvements

Staff Analysis: The proposed waiver would not create new impacts on city infrastructure.

e. Internal efficiency of design

Staff Analysis: The proposed waiver will still allow enough room for a person to access all sides of the applicant's property.

f. Control of external effects

Staff Analysis: The proposed waiver would not create new external impacts, and by matching the house, the proposed structure will not have a negative visual impact on the neighborhood.

DISCUSSION BY THE BOARD

Motion was made by Mr. Hill and seconded by Mr. Hoppe to approve the requested waiver to allow a 2-foot side yard setback where a minimum of a 5-foot side setback is required.

Motion passed unanimously.

Vice-Chairman Bittell explained to the applicant that the application has been approved and that they would be receiving written notice of the approved waiver within seven days.

CASE NO. 02-16

15937 E Mercer Circle

Section 146-1103(B)1

Section 146-1103(B)5

Sean Bastian, on behalf of the property owners, Corrine and James Jaster, is requesting waivers to the requirement of Building and Zoning Code Section 146-1103(B) 1 and 5, to allow an accessory building in a residential district to be built in the side yard where the rear yard is required and to allow a 2-foot 6-inch side yard setback where a 6-foot side setback would be required based on the proposed building design.

City staff member, Devin Yoder, gave a presentation of the item. The property is a 10,802 square foot lot in a PCZD-sfd (Planned Community Zone District – single-family detached). The home is a 2,232 square foot structure built in 1984, and is part of the Mission Viejo Subdivision, 16th Filing. The lot is a triangular shape, and has a greater amount of space on the north side of the house in the side yard than the rear yard on the west side of the house. The lot also has an 8' wide utility easement running along the western property boundary.

The property owners request the two waivers to allow them to build a 10'x16' shed on the north side of their house in the side yard. The shed would be for Mr. Jaster to use as a workshop and as storage. Mr. Jaster currently uses the garage for his workspace, and the couple is unable to park their wheelchair-accessible van in their garage due to lack of space. Mr. Jaster uses an electric wheelchair, and has challenges getting into the van in the driveway in the winter months due to snow and ice coupled with the driveway's slope. By building the proposed shed, Mr. Jaster can use that for his workspace, and the couple can then park and access their van in the garage. The couple is requesting the waiver to allow the shed in the side yard since it has more room than the rear yard, and to avoid building in the 8' utility easement, which would otherwise require a license agreement. The also lot slopes down away from the house, so the proposed shed would be easier for Mr. Jaster to access in his wheelchair in the side yard instead of the rear yard where the grade is lower. To place the proposed shed in the most suitable location based on all these factors, the couple is also requesting a waiver for a reduced side setback to 2'6". The required setback would be 6' because of a 9' high roof midpoint on the shed. The 10'x16' shed was designed to allow turning room for Mr. Jaster's wheelchair, along with a ramp up to a 10'x6' porch area, and requires the reduced setback to achieve this design in the proposed location.

According to Section 106-100, the board of adjustment can grant waivers based on the following criteria:

1. Effect on adjacent properties. The proposed waiver will not adversely affect adjacent properties or the surrounding neighborhoods.

Staff Analysis: Adding a garage onto the side of the house should not adversely affect the adjacent properties.

2. The proposed waiver is consistent with the majority of the criteria as follows
a. Comprehensive Plan

Staff Analysis: The Comprehensive Plan is still adhered to because the requested waivers are for a structure compatible with a residential area. The general neighborhood is improved through property owners investing in their properties.

b. Density

Staff Analysis: The proposed waivers will not change the density of the neighborhood.

c. Compatibility

Staff Analysis: The proposed waivers do not create an incompatible use with a single-family residential area.

d. Impact on existing city infrastructure and public improvements

Staff Analysis: The waivers will not have an impact on city infrastructure and public improvements because all of the proposed work is contained on the site's interior.

e. Internal efficiency of design

Staff Analysis: The proposed waivers will not have an impact on the internal efficiency of design.

f. Control of external effects

Staff Analysis: The proposed waiver would not create new external impacts, and by matching the house, the proposed structure will not have a negative visual impact on the neighborhood.

DISCUSSION BY THE BOARD

Motion was made by Mr. Hill and seconded by Mr. Hoppe to approve the requested waiver to allow a 2-foot side yard setback where a minimum of a 5-foot side setback is required.

Motion passed unanimously.

Vice-Chairman Bittell explained to the applicant that the application has been approved and that they would be receiving written notice of the approved waiver within seven days.

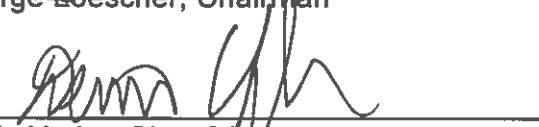
OTHER BUSINESS

Vice-Chairman Bittell adjourned the meeting at 6:21 p.m. since there was no additional business.

SUMMARY OF PROCEEDINGS PREPARED AND SUBMITTED BY: Susan Chapel



George Loescher, Chairman



Devin Yoder, City of Aurora



Planning Division
 15151 E. Alameda Parkway, Ste. 2300
 Aurora, Colorado 80012
 303.739.7250

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MEMORANDUM

To: Lynn Bittel, Board of Adjustment Chairman
 Board members: Andris Berzins, Kari Gallo, Ron Swope, Gary Raisio, Richard Palestro, Marty Seldin

From: Stephen Gubrud, Planner, Board of Adjustment staff liaison

Date: June 7, 2023

Hearing Date: June 20, 2023

Subject: BOAA Case No. 07-23 – 14886 E Crestridge Pl.

Notification: The Notice of Variance Request was mailed to abutting property owners on June 9, 2023, and a notice of virtual public hearing sign was posted on the property on the same day in accordance with Code.

Summary: Request by the property owner, Stephen Wickham, for the following Single-Family Dwelling Variance:

- A request on behalf of the property owner, Stephen Wickahm, by Jake Ostigaard of Deck Escapes, LLC for the following;
 Single Family Dwelling Variance(s): An adjustment to the requirement of section 146-4.2.4 Table 4.2-10 which requires that decks above 30 inches in grade not extend into within 10 feet of the rear property line.

Background Information: The subject property is located at 14886 E Crestridge Pl. in the Pioneer Hills neighborhood and subdivision. The property is approximately 0.05 acres with an approximately 2,042 square foot primary residence, constructed in 2017 according to the Arapahoe County Assessor’s records. The subject property and surrounding neighborhood are zoned R-2 (medium-density residential district) and is made up of primarily single-family homes. The subject property also abuts a portion of POS (parks and open space) zoning to the south. The R-2 zone district is intended to promote and preserve various types of medium density housing with adequate amounts of usable common space and amenities. The primary use in this district is single-family residences, but several types of attached dwellings are also permitted. **(See Exhibit A – Vicinity Map).**

The applicant is proposing an elevated deck to replace and expand upon the existing deck area which would extend to within 1 foot of their rear property line. The existing deck was constructed legally within 5 feet of the rear setback, which was allowed via code at that time. The current city code limits decks above 30 inches in grade to be set back a minimum of 10 feet from the rear property line. The applicant was directed to apply for a variance with the City of Aurora by the building division during the permit review process. **(See Exhibit B– Application and Justification).**

Analysis: When analyzing a setback reduction for these types of structures it is important to consider the potential impacts on the surrounding residents as well as the public realm as a whole. The applicant's property is free of easements in the rear yard and thus the proposed deck would not impede access to any utilities, drainage corridors, etc. Additionally, the proposed deck faces outward onto open space mitigating potential concerns regarding privacy as the structure would not be facing another dwelling.

There is also another example of a deck expansion which resulted in a setback of under 10 feet from the rear property line at one of the neighboring homes in this attached building cluster. The residence located at 14916 E Crestridge Pl. underwent a deck remodel beginning in July of 2022 and was also constructed by the applicants representative Deck Escapes, LLC. Although it is located 5 feet from the rear property line this approved permit does provide precedent for such structures to be granted a setback reduction if the context is similar.

The applicant will have to apply for a building permit to construct the structure and will need to meet all applicable building code requirements. The deck will need to meet the City's requirements for color, style and materials before issuance of any permit as well. The deck design has been presented to and approved by the neighborhood's HOA and will not limit access to landscape features requiring maintenance. Finally, the construction of the proposed deck should not negatively impact drainage patterns for this or surrounding properties.

Required Findings: According to Section 146-5.4.4.B.3 (Exhibit D), the Board of Adjustments and Appeals can grant variances based on the following criteria:

1. Effect on adjacent properties. The proposed variance will not adversely affect adjacent properties or the surrounding neighborhoods.

Staff Analysis: The proposed variance does not present an adverse effect on adjacent properties or the surrounding neighborhood

2. The proposed variance is consistent with the majority of the criteria as follows:

a. Improved Design

Staff Analysis: Staff finds that the proposed deck does achieve an improved design while maintaining the design and functionality of the surrounding public realm.

b. Consistency with Neighborhood Character

Staff Analysis: Staff finds the proposed structure's design is compatible with the surrounding neighborhood as it does fit the scale and aesthetic of the surrounding residential development.

c. Compatibility with Adjacent Development

Staff Analysis: Expanded decks are evident in the neighborhood and have been approved while encroaching into the 10-foot rear setback. The applicant's proposal is compatible with this pattern.

d. Impact on existing city infrastructure and public improvements

Staff Analysis: The proposed structure would not impede or negatively impact surrounding city infrastructure or future public improvements.

e. Internal efficiency of design

Staff Analysis: The location of the deck does not pose an impediment to users of the adjacent open space. As such, staff finds that the proposal does achieve an internal efficiency of design.

f. Control of external effects

Staff Analysis: The proposal would not cause any adverse external effects on the public realm.

Conclusion:

Based on the required findings of Code Section 146-5.4.4.B.3, staff finds the variance request meets the criteria because:

- It is consistent with the existing neighborhood character and that of adjacent properties;
- Does not produce any negative impacts on existing city infrastructure or public improvements;
- Will allow for typical use of the property and achieve efficiency of design and;
- Controls for any external effects.

Staff Recommendation:

Staff recommends **approval** of the proposed variance.

ATTACHMENTS:

Exhibit A – Vicinity Map

Exhibit B – Application and Justification

Exhibit C – Site Photos

Exhibit D – City Code Section 146-5.4.4.B.3





PLANNING DEPARTMENT

PLANNING AND DEVELOPMENT SERVICES DEPARTMENT

15151 E. Alameda Pkwy, Suite 2300
Aurora, Colorado 80012
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FAX: 303-739-7268

CASE # 07-23

APPLICATION TO THE BOARD OF ADJUSTMENT & APPEALS
VARIANCE

ADDRESS OF PROPERTY AFFECTED: 14886 E Crestridge

Zone District _____

Applicant Name: Deck Escapes, LLC (Jake Ostgaard)
Address: 12785 Strasburg Rd, Strasburg, CO 80136
Phone #: 710 717 2667 email Jake@deckescapesllc.com

Property Owner: Name: Stephen Wickham
Address: 14886 E Crestridge, Aurora, CO
Phone #: 710-626-4362 email Stephen.wickham@outlook.com

Signature _____

Variance requested:
Existing deck is 5' from property line. The proposed deck will be 1' from property line.

The above request does not conform to Section(s) 4.2-10 of the Aurora City Code, which requires 10' setback for all decks greater than 30" in elevation

CASE # 07-23

Type, or print clearly, the name and complete address (including zip code) of each abutting property owner:

ABUTTING PROPERTY ADDRESS: NAME & ADDRESS OF PROPERTY OWNER

14876 E Crestridge Han Da Hwan
14876 E Crestridge
Aurora, CO 80015

14896 E Crestridge Ra Ilkyeun
18146 E Calkley circle
Aurora, CO 80016

2073 -18 -23 -047 Pioneer Hills Owners Association
191 University Blvd 358
Denver, CO 80206-4613

EXHIBIT B

HAN DA HWAN
14876 E CRESTRIDGE PL
CENTENNIAL, CO 80015-4297

MICHAEL & LAURA ALLEN
625 E 4TH AVE
NEW LENOX, IL 60451-1893

PIONEER HILLS OWNERS ASSOC
191 UNIVERSITY BLVD 358
DENVER, CO 80206-4613

STEVEN & LINDA GOLDSTEIN
14916 E CRESTRIDGE PL
CENTENNIAL, CO 80015-4298

KANG HEE KIM & RA IN LEE
14926 E CRESTRIDGE PL
CENTENNIAL, CO 80015-4298

THOMAS & KAREN HENDRICK
5459 S ELKHART CT
AURORA, CO 80015

C CRESTRIDGE LLC
2370 HUDSON ST
DENVER, CO 80207-3260

JAYME GOLEMBESKI
14935 E CRESTRIDGE PL
AURORA, CO 80015-4298

ILKYEUN RA
18146 E CALEY CIR
AURORA, CO 80016-1174

ROMAN LEVIN & SOFYA SHKLYARSKAYA
14925 E CRESTRIDGE PL
AURORA, CO 80015-4298













B. Single-Family Dwelling Variance

All applicable provisions of Section 146-5.3 (Common Procedures) apply unless specifically modified by the provisions of this Section 146-5.4.4.B.

1. Applicability

This Section 146-5.4.4.B applies to all applications for a variance from the standards and of provisions of this UDO or to the provisions of Chapter 90 as they relate to the modification of an existing single-family dwelling or the lot on which it is located that do not qualify for approval as a Minor Amendment under Section 146-5.3.15.A. This section may not be used to vary the standards or provisions of this UDO for single-family homes that have not yet obtained a certificate of occupancy or Manufactured Homes that have not yet been installed in accordance with Chapter 90.

1. Procedure

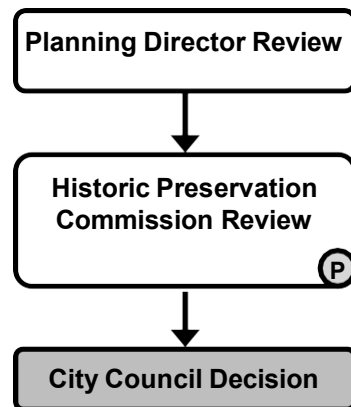
- a. Planning Director shall review the application and forward a recommendation to the Board of Adjustment and Appeals pursuant to all applicable provisions of Section 146-5.3 (Common Procedures).
- b. The Board of Adjustment and Appeals shall conduct a public hearing on the application and shall make a decision on the application pursuant to all applicable provisions of Section 146-5.3.

2. Criteria for Approval

An application for a Single-family Dwelling Variance shall be approved if the Board finds that the proposed variance will not adversely affect adjacent properties or the surrounding neighborhoods and a majority of the following criteria have been met.

- a. The proposed variance results in improved design.
- b. The proposed variance does not adversely affect the character of lower density residential areas.
- c. The proposed variance will result in development that is compatibility with adjacent land development.
- d. The proposed variance will not result in undue or unnecessary burdens on existing infrastructure and public improvements, or arrangements have been made to mitigate those impacts.
- e. The proposed variance results in development that achieves internal efficiency for its residents and does not endanger public health or convenience.
- f. The proposed variance results in development that controls external effects on nearby land uses, movement and congestion of traffic, noise generated, arrangement of signs and lighting to prevent nuisances, landscaping, and features to prevent detrimental impacts on public health, welfare, safety or convenience.

**Historic
Landmark/District
Adjustment**



(P) Indicates Public Hearing Required