RECORD OF PROCEEDINGS

Regular Meeting of the Estes Valley Board of Adjustment June 7, 2011, 9:00 a.m. Board Room, Estes Park Town Hall

Board: Chair Wayne Newsom, Members Bob McCreery, John Lynch, Chuck

Levine, and Pete Smith; Alternate Member Jeff Moreau

Attending: Chair Newsom, Members Moreau, Lynch, Levine, Smith

Also Attending: Planner Shirk, and Recording Secretary Thompson

Absent: Member McCreery

Chair Newsom called the meeting to order at 9:00 a.m.

The following minutes reflect the order of the agenda and not necessarily the chronological sequence.

1. PUBLIC COMMENT

None.

2. CONSENT

A. Approval of minutes of the May 3, 2011 meeting.

B. METES AND BOUNDS PARCEL, TBD HIGHWAY 66, RIPPLING RIVER ESTATES.

This request was to re-approve a variance previously approved in November, 2009. The approved variance was to Section 7.5.F.2b(6) "No Development in Street Frontage Buffer Area" of the Estes Valley Development Code (EVDC) to allow driveway access to be located within twelve feet of the property line, within the mandated 25-foot arterial landscaping buffer zone. Due to economic conditions, the owner has not initiated development. Staff recommended approval with the following conditions:

Conditions:

- 1. District Buffer landscaping standards shall be applied in place of arterial street standards.
- 2. Variance approval shall not lapse in the standard one year timeframe. Instead, variance approval shall be valid as long as the development plan approval does not expire.

It was moved and seconded (Levine/Smith) to approve the Consent Agenda as presented and the motion passed unanimously.

3. LOT 6 OF WEBSTERS SUBDIVISION OF LOT 14, BLOCK 10, TOWN OF ESTES PARK, 170 BOYD LANE

Planner Shirk reviewed the staff report. Cydney Springer/Applicant requests a variance from EVDC Section 4.3, Table 4-2, which requires side yard setbacks of 10 feet in the RM-*Multi-Family Residential* zone district. The applicant desires to encroach 5.5 feet into the west setback for construction of a proposed storage shed. The proposed 192 square foot shed would be located between the existing dwelling and existing outbuilding, and would be used as a painting studio. Planner Shirk stated that staff found special circumstances. The neighborhood is tightly built and the lots are very small. Staff found the neighborhood would not be substantially altered. There were no comments received from adjacent property owners, and no significant comments from reviewing agencies. Planner Shirk recommended approval with two conditions, listed below.

Staff Discussion

Member Levine stated it would be helpful if more detailed directions to the site could be included in the staff report when the site is difficult to locate. He also inquired about the existing power pole, and Planner Shirk stated the Light & Power Department had no significant comments concerning this variance request.

Estes Valley Board of Adjustment June 7, 2011

Public Comment

Greg Rosener/Applicant Representative clarified that electricity to the proposed shed will run underground from the north side of the existing dwelling.

Conditions

- 1. Compliance with the site plan and building design, as approved by the Board of Adjustment.
- 2. Setback Certificate. Prior to final inspection, a registered land surveyor shall provide to the Community Development Department a signed and stamped certificate that specifically verifies that the structure complies with the approved variance, and shall include a specific reference to the distance to property lines. Staff recommends a surveyor set survey stakes for foundation forms to ensure compliance with the approved variance.

It was moved and seconded (Smith/Moreau) to approve the variance request with the findings and conditions recommended by staff.

Member Moreau recused himself from the Board.

4. LOT 41B, REPLAT OF TRACT 41 AND A PORTION OF TRACT 46, FALL RIVER ADDITION, AND A PORTION OF TRACT 101, AL RESCO PLACE ADDITION, TBD BIG HORN DRIVE

Planner Shirk reviewed the staff report. The applicant, Dallman Construction Company, requests a variance from EVDC Section 4.3, Table 4-2, which limits structure height to 30 feet above natural grade in the E-1–Estate zone district. Specifically, the request is a variance from the adjusted maximum height limit of 35'6" to allow a maximum height of 37'8", a two foot two inch variance. Planned Shirk explained the 30-foot height limit has been in effect for at least 40 years. There was an amendment to the EVDC, approved in 2001, to allow a height adjustment on lots with slope; therefore, staff discourages height variances because of this built-in flexibility for grade and topographical features.

Planner Shirk stated there have been very few approved height variances since the amendment was approved. One approved variance was for a parapet around the top of a building downtown to conceal the air conditioning unit on the roof of the structure. Another approved variance was at the main building of the Good Samaritan facility, to allow for a parking garage to be built underneath the structure. That variance minimized the site footprint on the property.

Staff recommended disapproval of the variance request. There are options for the property owner; including but not limited to additional blasting to lower the entire structure, or reducing the 10-foot ceilings to nine feet. An adjacent property owner downhill from the property was in favor of the variance so additional blasting could be avoided. She was concerned that additional blasting could damage the foundation and/or walls of her historic home. If the Board approves the variance request, staff recommends two suggested conditions of approval, listed below.

Staff and Board Discussion

Member Lynch stated there was also a height variance approval for a building at the YMCA of the Rockies. Planner Shirk explained that staff is allowed to grant variances of 10% or less, but height variances are not included in that authority.

Public Comment

Jeff Moreau/Applicant stated that given the topography of the property, a disapproval of the variance would increase the steepness of the driveway. He stated the height of the foundation, not the ceiling height, determined the elevation of the property. Surrounding property owners have no objections to view obstruction. If the variance is approved, there would be blasting to the north to lower the grade about five (5) feet, with just a scraping of the topsoil on the south. Member Lynch asked if the applicant had considered having a consultant do seismic testing on the property. Mr. Moreau stated it was not required, but he would be willing to have it done if it was recommended by the Board. He stated the

Estes Valley Board of Adjustment June 7, 2011

design of the dwelling could be altered, but the great room ceiling would need to be lowered to less than eight feet to comply. He would rather not lower the foundation due to the increased driveway slope.

Kelly Brown/adjacent property owner stated there was some negative impact from previous blasting of another adjacent property owner. As the property owner of a historic residence, she wants to minimize any impact to their dwelling. She stated the applicant has already corrected other conflicts with neighbors prior to this variance request. Most of the trees on her property grow out of the rocks, and could be seriously damaged by blasting on the hillside. Mrs. Brown was in favor of the variance request. She stated the applicant redesigned the drainage plan on the property to mitigate problems on the lower properties. She discussed the blasting with Fairbanks Excavating, who indicated that surface blasting would be conducted to lessen the impact on neighboring properties.

Member Levine stated he was initially opposed to the variance request, but after the comments by Mrs. Brown, will support the request. Member Smith agreed with Member Levine. Chair Newsom commented the neighborhood impact would be minimal, and he would support the request.

It was moved and seconded (Levine/Smith) to approve the variance request with findings and conditions recommended by staff and the motion passed 4-0.

Member Moreau returned to the dias.

5. UNIT 1A, BUILDING 1, OLYMPUS VIEWS CONDOMINIUMS, 1690 BIG THOMPSON AVENUE

Planner Shirk reviewed the staff report. The applicant requests a variance from EVDC Section 4.4, Table 4-5, which requires a 15-foot side yard setback in the CO–Commercial Outlying zone district. The property is located at the eastern-most Town limit boundary, and the patio is adjacent to the access road for the Marina and Lakeshore Lodge. The request is to allow a side yard setback of eight feet from the east property line to allow an existing fenced patio seating area to remain at the southeast corner of the building. Planner Shirk stated the patio and access stairs were built without a building permit. Based on this, if the variance is approved, staff recommends a condition of approval be that all required permits for the patio and stairs, as well as other open permits, be finalized no later than July 5, 2011.

Planner Shirk stated the patio is an amenity for customers. Other than the Division of Building Safety, reviewing agencies had no significant issues, including the Estes Valley Recreation and Parks District. The Division of Building Safety indicated there were several unresolved issues concerning unpermitted work and unapproved work. Their recommendation was to add a condition of approval to resolve all issues with outstanding permits. The condominium association would need to resolve any issues with maintenance, common elements, etc.

Planner Shirk stated staff recommended conditional approval, with issues to be resolved prior to July 5, 2011. Specific conditions are listed below.

Staff and Board Discussion

Member Levine stated the variance request was not posted on site.

Public Comment

Don Hess/Business owner stated there was an existing patio that went up to the property line, which was recently moved back 8.5 feet from the property line. He stated he was under the impression that moving the patio away from the property would bring him into compliance with the setback. The patio was slightly reconfigured to improve accessibility, and also fenced and gated. Mr. Hess agreed to have the Division of Building Safety issues resolved by the July 5th deadline.

Planner Shirk read the Conditions of Approval. Chair Newsom asked the applicant if he was in agreement with the conditions of approval. Mr. Hess replied "Yes, I am."

4

Member Levine suggested streamlining the permit issues as much as possible.

Jes Reetz/Cornerstone Engineering representing the Olympus View Condominium Association, stated the Board approved the location of the patio, with no objections.

Conditions

- 1. The patio shall not be used by customers until the access steps and patio have been permitted and final inspection approved. This shall be completed on or before July 5, 2011.
- 2. Prior to issuance of the permit for the steps/patio, the applicant shall finalize all outstanding building permits.

It was moved and seconded (Lynch/Moreau) to approve the requested variance with the findings and conditions recommended by staff and the motion passed unanimously.

There being no further business, Chair Newsom adjourned the meeting at 9:56 a.m.

Secretary