



# City of Greenwood Village

6060 South Quebec Street  
Greenwood Village, CO  
80111

## Minutes - Final

### Board of Adjustments and Appeals

**HEARING IMPAIRED APPARATUS AVAILABLE**

**PLEASE TURN OFF ALL CELLULAR PHONES AND/OR AUDIBLE PAGERS**

**ALL BOARD, COMMISSION AND COUNCIL MEETINGS ARE DIGITALLY  
RECORDED**

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Thursday, March 23, 2017

6:00 PM

Council Chambers

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STUDY SESSION - 6:00 PM

Follow Up from City Council Discussion

REGULAR MEETING - 6:30 PM

**1. Call to Order**

**2. Roll Call**

**Present:** 8 - Seanna Mulligan, Tom Dougherty, Thomas Stahl, Ralph Wieleba, Toren Mushovic, Alecia Brown, Paul Wiesner and Donna Johnston

**3. Pledge of Allegiance**

**4. Approval of Minutes**

[ID# 17-41](#) February 23, 2017 Minutes

**Board Member Wiesner moved, seconded by Board Member Wieleba, to approve the February 23, 2017, minutes, as submitted. The motion carried by the following vote:**

**Yes:** 5 - Board Member Dougherty, Board Member Stahl, Board Member Wieleba, Board Member Brown and Board Member Wiesner

**Abstain:** 3 - Board Member Mulligan, Board Member Mushovic and Board Member Johnston

**5. Public Comment**

**6. Public Hearings**

- A.** [Case No. 16-31-VAR](#) Bill Switzenberg and Barbara Lunger-Switzenberg; 2152 Crestridge Drive; Request to encroach into the front setback for a front porch (Continued from January 26, 2017)

*Staff Presentation:*

*Bill Flanigan, Planner I, 6060 S. Quebec Street, was sworn in and presented the application, which was continued from January 26, 2017. He provided a brief overview of the site location in Greenwood Acres noting the property is zoned R-1.0, is regularly shaped and is 0.91 acres in size. The applicant requests a 10.25-foot encroachment into the 50-foot front setback for the addition of a roofed porch.*

*Planner Flanigan provided photos of the current conditions of the home and renderings of the proposed porch addition. He noted the applicants identified a problem with maintaining a safe front entrance due to the lack of protection from inclement weather. He presented photos provided by the applicant of ice build-up which occurred at the front entrance of the home during a recent snowstorm. He stated the home is constructed with a central hallway aligned with the main entrance and the applicant indicated it would not be practical to move the front door to eliminate the need for a variance.*

*He stated 12 of the 73 properties in the study area have received setback variances (16 percent) and four properties have front setback variances (five percent). The applicant provided a large number of approval signatures from neighbors in Greenwood Acres in support of the proposed front porch addition.*

*The current request is to encroach 10.25 feet into the front setback for a length of 30 feet, reduced 42 percent from the original application. The existing home was built in 1961 and encroaches 3 inches into the front setback.*

*Review Criteria/Staff Findings:*

*Planner Flanigan presented staff's findings:*

*Section A -*

- 1. Special Privilege - Negative; 95 percent of the lots in the vicinity have not been granted a variance to encroach into the front setback. The BOAA has previously denied five variances (mostly for sheds and tennis courts) in side and rear setbacks finding incompatibility with the neighborhood character. They previously approved four front setback variances which involved special circumstances which improved the aesthetic condition of the streetscape through lessened public-facing garage presence and included enhanced landscaping.*
- 2. Essential Character - Negative; the encroachment would represent a dilution of the spacious, residential and agricultural character of the R-1.0 zone district and neighborhood which is widely adhered to in the area.*
- 3. Injury to Appropriate Use - Affirmative; the variance would not result in substantial or permanent injury to the appropriate uses of the adjacent properties.*
- 4. Health, Safety and Welfare - Affirmative; the variance would not be detrimental to the public health, safety or welfare.*

*Section B:*

- 1. Special Conditions - Negative; there are no special conditions of the property which deprive the applicant of the privileges enjoyed by other properties in the vicinity. The lot is a regular shape and size.*
- 2. Reasonable Use - Negative; a roofed porch is not necessary for reasonable use of the property.*
- 3. Ameliorate a Difficulty - Affirmative; the variance would ameliorate issues with the front entrance facing north and built within the setback by a building error, which was outside of the control of the applicant.*

*Staff recommends denial of the application based on the negative findings.*

*Board Questions/Responses:*

*Harmony with the zone district - the Board asked for clarification how the front porch is not in harmony with the zone district when there are other homes with front porches in neighborhood. Planner Flanigan clarified that the setbacks are largely adhered to throughout the zone district to maintain the character and harmony does not speak to the style of home or presence (or lack) of porches, but to character of the zoning.*

*Previously approved variances - In response to questions from the Board, Planner Flanigan noted only two of the four approved front setback variances were for front porches. The remaining two were for garage additions.*

*Planner Flanigan noted previous variance approvals and denials were reviewed and provided because the applicant used them for contextual purposes. He noted each case should be judged on its own merit.*

*Reasonable use - When asked by the Board what staff finds to be reasonable when it comes to use of the front entryway with the presence of snow and ice, Planner Flanigan noted staff finds the entryway can be reasonably used even with a maintenance difficulty because there are other options to mitigate the snow and ice build-up besides installing a roof, such as shoveling the snow, paying someone to shovel the snow, or installing heated pavers.*

*Change from original application - Planner Flanigan noted the depth of the porch did not change from the original application but the wraparound nature was reduced.*

*Applicant Presentation:*

*Mr. Bill Switzenberg, 2152 Crestridge Drive, was sworn in and spoke regarding the application. He discussed the make up of Greenwood Acres, which includes Plaza Acres Subdivision and contains nine roads. He noted the Comprehensive Plan focuses on Greenwood Acres as a neighborhood, not just Plaza Acres. He stated each of the nine*

roads measure the same width but contain varying degrees of right-of-way; 40, 50 and 60 feet. He stated that he understood the right-of-way determines the location of the front property line. He stated their proposed porch roof would be 55 feet from the edge of the asphalt and the existing brick face of the home will remain at 65 feet from the asphalt.

He provided photos of neighboring homes as viewed from the street and provided physical measurements (taken by himself). He presented a number of site plans from neighboring homes demonstrating their distance from the right-of-way and/or the edge of the street.

Mr. Switzenberg felt there were inconsistencies between what is written on the plans and what they view in the community. He presented elevation renderings of the proposed improvements, including the porch. He stated a front porch would ameliorate the difficult condition of ice build-up at their north-facing front entryway and would enhance the aesthetic appeal of their home, thereby improving the aesthetics of the neighborhood. He stated the corner of the home would remain 65 feet from the property line and the porch area would be open with a 10 foot-high roof.

Mr. Switzenberg reviewed the criteria as he understood them, noting he disagreed with staff's findings for Section A1. He stated the goal was to remodel the existing home, not scrape and rebuild. The home's center hallway design cannot be easily modified to relocate the front entryway and would be cost-prohibitive. He felt the addition of the front porch would be in keeping with the character of the Greenwood Acres neighborhood and bring it into conformance with similar properties. Based on his research, he indicated 78.5 percent of the homes in Greenwood Acres have a front porch. Of the north-facing homes he reviewed, 33 of 37 homes have a front porch.

He agreed with staff regarding criteria A3, A4 and B3. With regards to criteria A1, he felt without a front porch, they would be denied a privilege enjoyed by others in the vicinity because of the location of the building on the lot compared to those in the vicinity who have front porches. He noted four of the homes with a front porch received a variance.

Chair Dougherty closed the public hearing at 7:20 p.m.

Right-of-way - Planner Flanigan replied to questions regarding the definition of right-of-way (ROW) noting the City is not obligated to build a road within the entire ROW. He clarified the applicant's measurements were taken from the edge of the roadway which may not be in line with the ROW. Senior Planner Ben Thurston clarified that Greenwood Acres contains two separate subdivisions, Greenwood Acres and Plaza Acres which were platted at separate times. Plaza Acres generally contains 50-foot rights-of-ways and Greenwood Acres generally contains 32-foot ROWs. He clarified Franklin Street is a collector roadway which has a larger ROW.

*Board Deliberation:*

*The Board deliberated and made the following observations:*

- During their site visit, one of the members of the Board observed the homes on Crestridge Drive appear to be lined up at the same distances to the roadway and felt the addition of a front porch would look out of character;*
- Setbacks are a fundamental tool for maintaining character and the applicant's experience with regards to the distance of neighboring homes to the edge of the street is irrelevant;*
- Some of the Board members felt the addition of the front porch was necessary to make reasonable use of the home for protection from the elements and would be in character with the surrounding homes;*
- The magnitude of the variance was reduced from the original request and is more in harmony with the neighborhood;*
- The variance would not constitute a special privilege as the porch would not be beyond what the rest of the neighborhood has.*

*In response to questions, Planner Flanigan clarified that the Land Development Code allows for a 3-foot roof overhang within the setback (with no support column) without a variance.*

*Deliberation continued:*

- One of the Board members felt it would be a special privilege as very few homes have approved variances for front porch setback encroachments;*
- The request is minimal in volume as the porch is open and would not create a large impact.*

**Board Member Wiesner moved, seconded by Board Member Mushovic, to approve Case No. 16-31-VAR; 2152 Crestridge Drive, as it meets all criteria in Section A, that it will not constitute a special privilege inconsistent with the limitations upon similar properties in the vicinity and the variance has a minimal impact; the variance is in harmony with the neighborhood as most have a front porch or overhang to protect the house from the elements, and will not weaken the spirit of the zone district. The Board finds in the affirmative for section A3 and A4, based on staff recommendations. The Board also agrees with staff's findings for B3 (ameliorates a difficulty), based on staff's findings. The motion carried by the following vote:**

**Yes:** 6 - Board Member Mulligan, Board Member Dougherty, Board Member Stahl, Board Member Mushovic, Board Member Brown and Board Member Wiesner

**No:** 2 - Board Member Wieleba and Board Member Johnston

- B.** [Case No. 16-32-VAR-Cont](#) Erin and Michael Verneris; 5407 S. Oneida Way; Request to encroach into the front and side setbacks to increase the height and modify the roofline of the existing garage (Continued from January 26, 2017 and

February 23, 2017)

*Staff Presentation:*

*Tiffany Holcomb, Planner II, 6060 South Quebec Street, was sworn in and noted the application had been continued from the January and February BOAA meetings. She provided a brief overview of the previously approved variances for the property. At the February hearing, the applicant requested a continuance for 3a and 3b to modify the garage height and roof pitch. As the garage is located almost entirely within the setback, almost any modification would require a variance.*

*She noted the property is 0.84 acres in size, is zoned R-1.0 and is surrounded by residential land uses.*

*She provided photos of the current site conditions. She provided an overview of the neighborhood history. The subject property has about 70 percent of the structure encroaching into the setback to some degree. She provided a history of the property including previously approved variances and vacation of City property. The Board previously approved three variances at the February 2017 meeting to re-align the west elevation, demolish and re-align the master bedroom and increase the roof height of the main structure, including a portion within the setback. The applicant agreed to re-dedicate the 5-foot by 8-foot piece of land back to the City.*

*The current request was to modify the pitch and height of the garage roof, increasing from a 4:12 pitch to a 10:12 pitch. The roof material would be replaced with asphalt to reduce the encroachment by 75 square feet. The proposed overhang over the window would increase the encroachment by one foot. The proposed net increase is 327 square feet.*

*Planner Holcomb provided elevation renderings of the garage from the east and north, as well as from the trail-users perspective. The eaves would be lowered on the end portions of the roof to seven feet in height and the existing garage bays would retain the existing ceiling height.*

*Review Criteria/Staff Findings:*

*Planner Holcomb reviewed the criteria and noted that staff finds the following:*

*Section A*

- 1. Special Privilege - Negative; because it allows for additional encroachment within an existing encroachment. This would create an even larger difference between the subject property and other similar properties.*
- 2. Essential Character - Negative; increased height in the setback would alter the character of the existing neighborhood and degrade the intent of the setbacks.*
- 3. Injury to Appropriate Use - Affirmative; the variance would not injure the appropriate use of the adjacent properties.*

4. *Health, Safety and Welfare – Negative; the addition of height in the setback is detrimental to the public enjoyment and welfare of the trail users.*

*Section B*

1. *Special Conditions - Affirmative; a special condition exists due to the location of the structure based on previous variances approved by the Board; the entire garage is located within the setback.*

2. *Reasonable Use - Negative; a remodel is not necessary to make reasonable use of the property.*

3. *Ameliorates a difficulty - Affirmative; any remodel efforts would likely trigger a variance request due to the large percentage of the home being located with the setbacks.*

*Staff recommends denial of the application based on the review criteria.*

*Board Questions/Responses:*

*Architectural style - The Board discussed how architectural style should be considered when comparing to similar properties with regards to special privilege. Planner Holcomb noted preference for architectural style is subjective and not part of the criteria.*

*Variance required - In response to questions from the Board, Planner Holcomb stated situations which may result in an improvement to the amount of encroachment, such as modifying the roof material to reduce the mass of encroachment may not be considered a special privilege but could still require a variance depending on the approval conditions of the original variance for the garage.*

*Roof height - It was clarified that any increase to the roof height of the garage required a variance because it represented an increase to an existing encroachment.*

*Detriment to public welfare - Planner Holcomb clarified in response to comments that because of the re-alignment of the master bedroom away from the trail, the garage now provides the greatest impact to the trail user experience and any increase in impact is a detriment.*

*Applicant Presentation:*

*Dr. and Mrs. Michael and Erin Verneris, 5407 S. Oneida Way, were sworn in and noted they had worked to take the Board's comments into consideration when modifying their application. Their goal was not to seek a height restriction variance, but to seek 360-degree architecture and align the roof of the garage with the height of the approved roofline of the main house.*

*Mr. Carlos Alvarez and Ms. Tina Stocklein, 424 N. Broadway, Denver, were sworn in and*

presented the modified application. They presented photos of the existing conditions and the previously approved variance components. Mr. Alvarez noted the initial height was equal to the master bedroom which was approved by the Board; however the master bedroom elevation is three feet lower and would have appeared lower in elevation than the garage. The current proposal lowered the walls of the garage closest to the bridle path. The roof height would now appear the same height as the master bedroom, as approved by the Board.

*Review Criteria:*

Mr. Alvarez reviewed the Criteria and felt all of Section A should be found in the affirmative because of the unique history of the property, would maintain the western views for the Ladera properties and was consistent with the objectives of the Greenwood Village Comprehensive Plan for the Greenwood Hills Planning Area regarding preservation of views and 360-degree architecture. He noted the new roof design would reduce the roof overhangs and make the walls along the bridle path shorter. The increased roof height would bring the garage into conformance with the design of the main house to maintain a consistent design throughout the entire residence. He agreed with staff's findings for Section A3 and stated the variance would not be a detriment to the public welfare as the design did not affect users ability to use the trail or create undesirable shadows.

He noted he agreed with staff's findings for Section B.

*Board Questions/Responses:*

Mr. Alvarez clarified for the Board the applicant's desire to raise the roof height to maintain 360-degree architecture and match the pitch of the roof of the garage with the rest of the house. Mr. Alvarez noted that by maintaining the height at the same top elevation as the master bedroom, the garage will lose some functional space. He noted the roof could not start any lower and still maintain cohesiveness with the rest of the house.

Chair Dougherty closed the Public Hearing at 8:29 p.m.

*Board Deliberation:*

The Board deliberated and made the following observations:

- They appreciated the creative method used to reduce the mass of the wall along the bridle path;
- The pitch of the roof looks less massive against the trail, it would no longer be a solid wall;
- Some of the Board members felt the garage would not impact views from neighbors any more than the main house would;
- The Board appreciated the applicant's reduction in height to match the approved height/elevation of the master bedroom;
- The Board agreed with staff's findings for Section B;



- Some of the Board members felt they were left with few options based on previous approvals by the Board, but, based on the considerable history of the property the modifications would make the structure look more pleasing;
- The Board felt the architectural improvements would improve the overall aesthetics and would keep the structure in harmony with the surrounding neighborhood;
- Some of the Board members felt the zoning had already been compromised by the number of previous approvals for variances on the property;
- They did not find the request to be a special privilege.

**Board Member Mulligan, seconded by Board Member Mushovic; to approve Case No. 16-32-VAR; 5407 S. Oneida Way; Erin and Michael Verneris; a request for a variance to the roof height on the garage, based on the findings that all criteria in Section A have been met, that the variance is appropriate to make reasonable use of the land or structure on the property. The variance is not subject to any conditions. The motion carried by the following vote:**

**Yes:** 7 - Board Member Mulligan, Board Member Dougherty, Board Member Stahl, Board Member Mushovic, Board Member Brown, Board Member Wiesner and Board Member Johnston

**No:** 1 - Board Member Wieleba

*The meeting went into recess at 8:46 p.m.*

*The meeting was reconvened at 8:53 p.m.*

- C.** [Case No. 17-03-VAR](#) Martin and Jenny Rankin; 7180 E Berry Avenue; Request for Variance to Accessory Structure Setbacks (Continued from March 23, 2017) - WITHDRAWN BY APPLICANT

**Staff Presentation:**

*Bill Flanigan, Planner I, being previously sworn, presented the case. He reviewed the site location and provided background of the property. The accessory structure was part of the original primary residence, most of which had been demolished when the new home was built. The previous owner had modified the exterior to add a stone veneer without a permit which was found to encroach into the setback by 9 inches. Renovations for the accessory structure were permitted in 2016, based on drawings from 2012 for the newly constructed home. The survey conducted in 2012 contained an error in the location of the property line which resulted in the accessory structure being located six feet into the setback, thereby requiring a variance.*

*He provided photos of the current condition of the home, including the corner of the accessory structure with the 9-inch encroachment, and the corner of the roof overhang of the*

patio cover which encroaches into the setback. He noted a 3-foot roof overhang is allowed by code.

*Review Criteria/Staff Findings:*

*Planner Flanigan reviewed the criteria and noted staff finds the following:*

*Variance 1 – Stone veneer on corner of the building*

*Section A*

- 1. Special Privilege - Affirmative; the encroachment is minor and would have a minimal impact. The increased encroachment is only for a stone veneer which was not an action by the applicant and was not a special privilege.*
- 2. Essential Character - Affirmative; the stone veneer encroachment would not weaken the spirit of the zone district or the surrounding neighborhood.*
- 3. Injury to Appropriate Use - Affirmative; the variance would not injure the appropriate use of adjacent properties.*
- 4. Health, Safety, Welfare - The requested encroachment would not be a detriment to the public health, safety or welfare*

*Section B*

- 1. Special Conditions - Affirmative; the stone veneer is an inherited condition and a special circumstance which was not a result of the actions of the applicant.*
- 2. Reasonable Use - Negative; the stone veneer is not necessary to make reasonable use of the property.*
- 3. Ameliorate a Difficulty - Affirmative; the encroachment is not the result of the actions of the applicant, but an inherited difficulty.*

*Based on the criteria, staff recommended approval of the corner encroachment for the stone veneer.*

*Variance 2 – Carport*

*Section A*

- 1. Special Privilege - Negative; the carport would be inconsistent with similar properties. Accessory guest houses are not common in Greenwood Hills.*
- 2. Essential Character - Negative; Large lots allow for opportunity to build within the building envelope. A large encroachment of seven feet into the 50-foot setback would dilute the rural character of the R-2.5 zone district.*
- 3. Injury to Appropriate Use - Affirmative; there would be no negative impact on neighboring properties and the carport is in line with the primary residence and does not impact neighboring views.*
- 4. Health, Safety and Welfare - Affirmative; the request would not be a detriment to the public health, safety or welfare.*

### Section B

1. *Special Conditions - Negative; no special conditions exist on the property and the surveyors who conducted the 2012 survey are considered an extension of the owners.*
2. *Reasonable Use - Negative; the carport is not necessary to make reasonable use of the property.*
3. *Ameliorate a Difficulty - Negative; the encroachment of the carport is the result of the actions of the applicant and/or applicant's surveyor.*

*Based on the findings, staff recommended denial of the variance for the carport.*

### *Board Questions/Responses:*

*Storage of Recreational Vehicles - Planner Flanigan responded to questions from the Board regarding the requirements to store recreational vehicles. He noted if the applicant intended to store recreational vehicles on the site, screening is required by the Land Development Code.*

*Survey error - The Board inquired about the City's process regarding acceptance of surveys. Senior Planner Ben Thurston stated the the City does not question the accuracy of surveys as Surveyors are licensed by the State of Colorado. Staff discovered the error as part of a subsequent plan review, unrelated to the accessory structure. The applicant then submitted a subsequent survey showing the correction to the property line which indicated the accessory structure was encroaching into the setback.*

### *Applicant Presentation:*

*Ms. Jenny Rankin, 7180 E. Berry Avenue, was sworn in and spoke regarding the request. She stated they felt they had complied with the City's requirements when they permitted and built the carport and modified the accessory structure. She stated their intention was to comply with all necessary regulations.*

### *Board Questions –*

*Letters of support - Ms. Rankin responded to questions from the Board noting they had received four letters of support from their neighbors.*

*There was discussion regarding the incorrect survey. Senior Planner Thurston noted the previous owners had submitted the survey and built the new primary residence. The current owner's architect relied upon the previous survey for the remodel of the guest house. He noted the City relies upon licensed professionals, such as Surveyors and Architects, to provided accurate plans.*

*Proposed driveway - The Board questioned the proposed driveway shown on the plans. Ms. Rankin stated there would be no new driveway to the existing guest house and it was not*

*their intent to construct a driveway.*

*Public Comment:*

*Ms. Kelly Seitz, 1180 Spotted Street, Parker, CO, representing the contractor, was sworn in and spoke regarding the project. She described in further detail the timeline of events from the permitting process to the discovery of the survey error. She stated they had explored alternatives to bring the carport into compliance but they were limited without removing and rebuilding the roof structure due to the location of the caissons and posts.*

*Planning Manager Joy McGee stated the guest house was a remnant of the original house and that the accessory structure should have been pulled out of the scope of the new home and permitted separately. Had the previous owners done so, the survey error may have been discovered at that time.*

*Board Questions/Responses:*

*Parking in the setback - Planning Manager McGee clarified regular vehicles may be parked in the setback but recreational vehicles and/or trailers cannot. If they are parked within the building envelope, they must be screened and a carport would not be sufficient.*

*Ms. Rankin stated they do not have recreational vehicles, boats, or trailers of any kind.*

*Chair Dougherty closed the public hearing at 9:39 p.m.*

*Board Deliberation:*

*The Board deliberated and made the following observations:*

- Some of the Board members stated felt the situation was unique as it was caused by an incorrect survey;*
- Some members felt there were options within the building envelope to place the patio and patio cover;*
- Other members of the Board thought it would be reasonable to consider the request because it is rare for a Surveyor to make a mistake of this magnitude;*
- The situation is unfortunate for the applicant, but they felt the applicant and the applicant's architect used the previous survey at their own risk;*
- The Board could not find in the affirmative for numerous criteria;*
- They encouraged the applicant's engineer to seek a solution to modify the existing patio cover and minimize the impact and avoid economic waste.*

*The Chair noted the affidavits of posting and notification had been received.*

*The applicant noted they were willing to separate the variance into two separate requests (the stone veneer and the carport). The Board considered each item separately.*

**Board Member Mulligan moved, seconded by Board Member Mushovic; to approve Case No. 17-03-VAR; Variance Request No. 1; Martin and Jenny Rankin; 7180 E. Berry Avenue; a request to encroach into the rear setback, acknowledge and approve the existing accessory structure and the stone veneer, based on the findings that all criteria in Section A have been met and to make reasonable use of the property [Section B2]. There are no conditions. The motion carried by the following vote:**

**Yes: 8 -** Board Member Mulligan, Board Member Dougherty, Board Member Stahl, Board Member Wieleba, Board Member Mushovic, Board Member Brown, Board Member Wiesner and Board Member Johnston

*With regard to Variance Request No. 2, the applicant requested a continuance to May 25, 2017.*

**Chair Dougherty moved to continue the case to May 25, 2017. There were no objections from the Board, so the case was deemed continued.**

- D. [Case No. 17-05-VAR](#)** Bradley and Jennifer Cofield; 1898 E. Oak Creek Drive; Request to Encroach into Rear Setback to Allow for Modification to Existing Deck

*Board Member Wiesner recused himself from the case as he serves as the President of the Green Oaks HOA.*

*Chair Dougherty noted the affidavits of posting and notice were received.*

*Bill Flanigan, Planner I, being previously sworn, presented the case. The subject property is zoned R-1.0 with development standards for a Planned Unit Development. The lot is an irregularly-shaped .51-acre lot, with a 10-foot greenbelt easement making the rear setback effectively 30 feet. The applicant has received support from the Green Oaks HOA.*

*He noted the home currently has a rear deck and the applicant is requesting a 20-inch variance to the rear setback to construct a different deck, as part of a larger remodel. He provided a bird's eye view of the distance of the home to the neighboring properties.*

*Planner Flanigan stated the home had one previously approved variance for the garage to encroach into the front setback. While irregular, the shape and size of the lot is not out of character for the Green Oaks neighborhood.*

*The remainder of the proposed improvements to the home are within the setbacks and not subject to a variance. The applicant is requesting an encroachment 21 feet across and 20 inches into the rear setback. The house contains a walkout basement and the deck would*

be 8.5 feet above grade, 11.5 feet including the railing. The applicant supplied a drawing of the existing conditions showing there is limited circulation space on the deck and the applicant determined they need a minimum of 15 feet of depth for their deck.

*Review Criteria/Staff Findings:*

*Section A*

- 1. Special Privilege - Negative; outdoor living amenities are common in Greenwood Village and in Green Oaks, however, they are generally within the setback. Granting a variance for the deck would be unusual.*
- 2. Essential Character - Affirmative; the physical and visual mass of structure along the depth in area are minor in context of the backyard and would not harm the essential character. In lots without specific Development Standards, a lot zoned R-.50 would have a 20-foot setback; this lot contains a PUD which requires larger setbacks.*
- 3. Injury to Appropriate Use - Affirmative; the variance would not substantially injure neighboring properties.*
- 4. Health, Safety and Welfare - Affirmative; the variance would not be a detriment to the public health, safety or welfare.*

*Section B*

- 1. Special Conditions - Negative; the entire Green Oaks subdivision has irregular lot shapes and sizes and other houses are able to work within their building envelope. There are no external factors which cause special conditions.*
- 2. Reasonable Use - Negative; the requested encroachment is not necessary to enjoy reasonable use of the property.*
- 3. Ameliorate a Difficulty - Negative; the addition to the deck is voluntary and not a result of actions taken by someone other than the applicant.*

*Board Questions/Responses:*

*Allowance for staff approval - In response to questions from the Board, Planner Flanigan noted staff can grant relief for up to a one percent encroachment without requiring a variance.*

*Applicant Presentation:*

*Mr. and Mrs. Bradley and Jennifer Cofield, 1898 Oak Creek Drive, were sworn in and spoke. With regards to criteria A1 they felt the request was not a special privilege but would be consistent with other homes in the neighborhood. They stated most homes in the area have a ground floor living whereas their home is a ranch with a walkout basement and they wanted to extend their main-floor living to the deck. They noted with the greenbelt easement, their deck would be approximately 71 feet to the closest home.*

*They noted they had received approval from the Green Oaks Homeowners Association*

*Architectural Control Committee and support from their adjacent neighbors.*

*Board Questions/Responses:*

*Need for additional space - Mrs. Cofield responded to questions regarding why the additional 20 inches was needed. She explained 12 feet (the existing deck) was not conducive to the way people use their outdoor space. They needed a less confined space within the deck railings for flow and egress.*

*Alternatives - The Board inquired about what alternative furniture layouts had been considered. Mrs. Cofield responded there were other options but she felt 15 feet was as narrow as they could go in order to have a space large enough for more than four people and still accomodate the fire pit feature. She felt it was common for homes to have a fire pit and if they did not have one, their property values would be compromised.*

*Chair Dougherty closed the public hearing at 10:28 p.m.*

*Board Deliberation:*

*The Board deliberated and made the following observations:*

- The encroachment was minimal;*
- The request is driven by something the applicant is choosing to do and not the result of a unique situation;*
- They understood the applicant's desire to maintain main floor living and expand into the outdoors;*
- Some members of the Board saw the request as a special privilege and the expansion of the outdoor space is not necessary for reasonable use of the property;*
- Other members of the Board felt fire pits were common and therefore the request for a variance to expand the deck to accomodate a fire pit is not a special privilege.*
- While the request is in harmony with the neighborhood and would not be a detriment to the public welfare, the Board could not come to consensus on special privilege.*

*The applicant withdrew the application. Chair Dougherty encouraged the applicant to work with staff to find an alternative within the setbacks.*

**7. Discussion Items**

**8. Adjournment**

*Board Member Mushovic moved, seconded by Board Member Johnston, to adjourn. The motion passed by a unanimous voice vote.*

*There being no further business, the meeting was adjourned at 10:38 p.m.*