



To: Mayor Schmidt and Town Council

From: Michael Yerman, Community Development Director

Subject: **Appeal of BOZAR decision of denial of a request to demolish a Single-Family Residence located at located at 20 Third Street, Block 3, West 100 feet of lots 20-21, and the West 100 feet of the South half of lot 19 in the R1 zone.**

Date: February 19, 2019

Background:

On December 18, 2018 the Board of Zoning and Architectural Review (BOZAR) denied the request of property owner Michael Haney to demolish his single-family residence located at 20 Third Street. Per the Town Municipal Code (Code) Section 16-2-20, Purpose and Intent of the Historic Preservation and Architectural Control Historic District in reviewing such applications for demolition is stated as follows:

“Unless otherwise specifically provided in this Article, any erection, moving, demolition, reconstruction, restoration improvement or alteration of any structure shall be prohibited unless the Board first reviews the plans and grants permission for said change in the structure,”

BOZAR is charged with reviewing such applications for demolition per section 16-22-100 (a)(5):

To review and decide on the appropriateness, both architecturally and historically, of any building permit pertaining to the erection, demolition, moving, reconstruction, restoration, improvement or alteration of any structure in the Town.

According to the Crested Butte building files, the residence was constructed in 1977 and is non-historic. The building is situated on the Southeast corner of Teocalli Avenue and Third Street. The scale and form of the “L” shaped foot print with steeply pitched gable roof and open rafter tails emulates Western Victorian architecture. The Floor Area Ratio (FAR) of the residence is under the matter of right FAR being .226 and 1,416 square feet. The building form and style conveys relationships with historic buildings in Town and is in conformance with the Town’s Design Guidelines.



During Design Review Committee the members present and write in comments varied in opinion for and against the demolition of the single-family structure. Two members of the Board expressed general support for the demolition and redevelopment of the property involving the construction of a new single-family residential structure. Other members have expressed opposition of the demolition of the building. Comments from Board members included that the architectural relationship between the existing building and historic structures in Town with regards to the traditional ell-shaped footprint, the gabled roof forms, and covered porch features are important to retain. The house is situated on a corner parcel, the form and style of the building is a classic example of new construction that conveys effective relationships with the historic buildings in Town while appearing as a product of its own time.

At the meeting on December 18, 2018 after taking public comment and going through the Review Criteria as defined in the Code and outlined below the BOZAR chair made a motion and the following finding to deny the request for demolition at 20 Third Street of the single-family residence:

The Board finds that the application to demolish the single family residence located at 20 Third Street, Block 3, the West 100 feet of Lots 20-21, and the West 100 feet of the South 12.5 feet of Lot 19, in the R1 zone will create excessive dissimilarity or inappropriateness for demolition of the residence because the application will not comply with one or more of the Criteria for Board denial decision as contained in Section 16-2-10; as follows:

- (1) (d) The form, style and design of the existing residence exemplifies the most appropriate development for the R1 zone neighborhood and demolition of the structure will cause disruption of the cohesive historic fabric of the Town.
- (3) Protect the unique character of the Town;

The residence exemplifies new in-fill construction of residences during the pre-design guideline era where the building scale, form and design appears relational with historic residences and protects the existing character of Town, and demolition of this structure will cause disruption of the cohesive fabric of the Town. The Board has also heard three public comments from local residents concerned with the loss of the period of significance that this house represents. The Board also cited the wastefulness and unsustainability of its full demolition with no plans for reuses. That the approval of the demolition would set a precedent for structures like this throughout the Town of Crested Butte. There was also concern for how demolition would impact the character of this block, neighborhood and Town as a whole.

The motion was made by Nauman and seconded by Ellis. The motion passed with Nauman, Ellis, Magner, and Doval voting for and Russell and Farnell voting against.

Council's Role in the Hearing:

Town Attorney Barbara Green, has provided the Council with information outlining the meeting process and how the hearing should be conducted.

The Town Council is charged with hearing an appeal of a BOZAR decision per Section 16-22-150 Appeal. The applicant filed their appeal within the required timeframe and a date for the hearing was mutually agreed upon by the Town and applicant. The Hearing was also properly noticed ten days prior as required per the Code.

Review Criteria:

The Council shall review the application as presented by the applicant and shall consider all pertinent information that was reviewed by the BOZAR including public comment that was taken at the meeting on December 18, 2018. The application, minutes, and applicant's response are attached to this staff report for the Council's review. In effect, the Council will act in the capacity of BOZAR per the Code. The following are the Review Criteria the Council will need to consider in its decision regarding the appeal for the demolition of the single-family residence at 20 Third Street.

Section 16-2-10 Purpose and Intent. (1) Requires that the BOZAR (Council) determine whether the demolition will involve one (1) or more harmful effects:

- (1) Prevent excessive uniformity, dissimilarity, inappropriateness or poor quality of design in the exterior appearance of buildings and structures throughout the Town from:
 - a. Adversely affecting the desirability of the immediate area, neighboring areas and/or the entire Town, for residential and business purposes or other uses;
 - b. Impairing the benefits of occupancy of existing property in such areas;
 - c. Impairing the stability and value of both improved and unimproved real property in such areas;
 - e. Producing degeneration of property in such areas, with attendant deterioration of conditions affecting the health, safety, comfort and general welfare of the inhabitants thereof.
- (2) Protect and enhance the Town's attractions for residents, visitors, tourists and the support and stimulus to business thereby provided;
- (3) Protect the unique character of the Town;
- (4) Safeguard the Town's historic, aesthetic and cultural heritage;
- (5) Foster civic pride in the beauty and accomplishments of the past;
- (6) Strengthen the economy of the Town;
- (7) Promote the use of the historic district for the education, pleasure and welfare of the people of the Town; and
- (8) Ensure compatible and orderly growth.

Sec. 16-2-30. Review criteria.

When reviewing the plans for the proposed structure or structural changes, the Board (*Council*) shall consider the following historic and architectural criteria:

- (1) Excessive similarity. If the proposed new construction, demolition, addition or alteration to an existing structure would be detrimental to the desirability, property values or development of the surrounding area and/or to the Town, so as to involve one (1) or more of the harmful effects set forth in Section 16-2-10 above or otherwise fail to enhance the Town's historic, aesthetic or cultural

heritage, by reason of excessive similarity to another structure, the Board shall deny approval of a building permit for the structure. Excessive similarity shall be determined by a review of all structures of like use, existing or approved, and of any other structure included in the same permit application, within the same zoning classification and within two hundred fifty (250) feet of the proposed site. The review shall be accomplished to prevent similarity to one (1) or more of the following features of exterior design and appearance:

- a. Apparently identical facade;
- b. Substantially identical size and arrangement of either doors, windows, porticos or other openings or breaks in the facade facing the street, including reverse arrangements;
- c. Substantially identical massing of patterns, scale, building footprint or materials, as seen from the street; or
- d. Other significant identical features of design.

(2) Excessive dissimilarity or inappropriateness. If the proposed new construction, demolition, addition or alteration to an existing structure would be detrimental to the desirability, property values or development of the surrounding area and/or to the Town, so as to involve one (1) of the harmful effects set forth in Section 16-2-10 above, or otherwise fail to enhance the Town's historic, aesthetic or cultural heritage, by reason of excessive dissimilarity or other inappropriateness to the Town's historic design, the Board shall deny approval of a building permit for the structure. Excessive dissimilarity or other inappropriateness shall be determined by reviewing the duly adopted Design Guidelines – Town, as well as by a comparison of all structures of like use, existing or approved, and of any other structure included in the same permit application, within the same zoning classification, to determine if one (1) or more of the following features of exterior design and appearance exist:

- a. Dissimilarity or inappropriateness as to cubical content or gross floor area;
- b. Dissimilarity or inappropriateness as to height of building or height of roof;
- c. Dissimilarity or inappropriateness as to historic architectural design; or
- d. Dissimilarity or inappropriateness as to other significant design features such as material, quality or architectural design.

Analysis:

1. The application is subject to Sec. 16-2-20 of the Code which provides; Unless otherwise specifically provided in this Article, any erection, moving, demolition, reconstruction, restoration, improvement or alteration of any structure shall be prohibited unless the Board first reviews the plans and grants permission for said change in the structure. No building permit shall be issued unless the Board first reviews and approves the architectural appropriateness of the proposed structure, except in the case when said structure or structural change is deemed by the Board to be "insubstantial." The application is not insubstantial and therefore subject the provisions of Code Sec. 16-2-30.
2. Pursuant to Code Sec. 16-2-30 any application for demolition must be reviewed for 1) excessive similarity; and 2) excessive dissimilarity or inappropriateness.

3. When determining dissimilarity or inappropriateness Code provides that: If the proposed new construction, demolition, addition or alteration to an existing structure would be detrimental to the desirability, property values or development of the surrounding area and/or to the Town, so as to involve one (1) of the harmful effects set forth in Sec. 16-2-20 above, or otherwise fail to enhance the Town's historic, aesthetic or cultural heritage, by reason of excessive dissimilarity or other inappropriateness to the Town's historic design, the Board shall deny approval of a building permit for the structure.
4. The application may involve more than one of the harmful effects identified in Sec. 16-2-10 such that the application may be denied. The harmful effects include:
 - a. The demolition of the existing structure will impair the stability and value of both improved and unimproved property by demolishing habitable, attainable housing critical to the community.
 - b. The demolition will impair the occupancy of existing property in the area by removing needed attainable housing from the market, replacing it with unattainable housing and causing further degradation of the fabric of the neighborhood.
 - c. The demolition of habitable attainable housing will further impair the stability and value of improved real property in the neighborhood by furthering the tear down approach to redevelopment which diminishes the availability of attainable housing within the community.
 - d. The demolition will prevent the most appropriate development of such areas because the form, style and design of the existing residence exemplifies the most appropriate development for the R1 zone neighborhood and demolition of the structure will cause disruption of the cohesive historic fabric of the Town.
 - e. The demolition fails to protect the unique character of the town.
5. The application proposes no mitigation for the above identified harmful effects other than to place the burden of mitigating those affects on the Town by way of a donation of the current structure to the Town with no provision financially or otherwise providing for its' preservation.
6. If Council finds the harmful effects identified above Council may be mitigated by the application of appropriate conditions of approval including:

Prior to demolition:

- (1) Architectural approval is granted by BOZAR for the construction of a new residential building,
- (2) A recycle plan is submitted to the Building inspector for review and approval at least two weeks prior to demolition per code section 16-14-190, and
- (3) Permits for a residence to be constructed on the property for which construction drawings have been submitted to and approved by the Building inspector and necessary fees paid to commence construction.

December 13, 2018

The Crested Butte Board of Zoning and Architectural Review

P. O. Box 39

Crested Butte, CO 81224

RE: Demolition Request for Existing Home at 20 Third Street

Dear Chair and Board Members,

It has come to my attention that a request has been made to demolish an existing home located at 20 Third Street, the Town of Crested Butte. While the house in question is not technically an historic structure, the structure is, by all accounts, a house that complies with the Design Guidelines of the Town of Crested Butte and was approved by a prior Board and constructed in the early 1970's. The request apparently is driven by the owner's desire to maximize the FAR on the site and their inability to easily accomplish this with the existing structure in place.

The request I believe has serious implications and precedent for how the Town deals with structures that have been built within the past fifty years. Because of the enormous cost of raw land within the Town, all structures that do not maximize the square footage allowed and do not conform with the current model for livability apparently are expendable. The danger here is that many structures built in the modern era do not meet this requirement. To allow them to be demolished erases an era of building within the Town. The particular house in question was built in the early 70s by a builder named Paul Hitchcock who also built several other houses in the same vicinity. The design reflects adherence to the elements and scale of structures historically constructed.

If these houses are allowed to be demolished then the Town will lose an era of building within Town and homes will either be small historic houses or larger two and a half story houses with second floor living which, while incorporating appropriate design elements, do not relate to the historic scale of Town or reflect the bridge between historic construction and today. This precedent may eventually homogenize the design and scale of houses in the new development areas in Town.

Homes which may be appropriate for a certain socio economic element of the community will cease to exist.

Another consideration is that the demolition of perfectly habitable houses is not a sustainable strategy and is not an efficient use of resources. "The greenest building is the one that is already built." (Carl Elefante, Director of Sustainable Design, Qunin Evans Architects)

These houses do not meet the previously applied criteria for demolition which was that they are dangerous or unsafe and are not reasonably rehabilitated or that the design is such that they are out of compliance with the design guidelines and do not bolster or contribute to the Historic District.

There is no right to demolish any structure within the Town and this privilege must be granted by the Board. It would be appropriate for the Board to make a finding that the demolition does not contribute to the integrity of the historic district of Crested Butte and is not consistent with sustainable building practices. In conclusion, I would like to urge the Board to not approve the request for the demolition of the existing house at 20 Third Street.

Thank you for your consideration.



Bob Gillie

28 Butte Avenue