



Appeal of an Administrative Decision to City Planning Commission

Project Name: Carport Accessory Structure
Site Address: 1315 Challenger Ave. Colorado Springs CO, 80916
Tax Schedule Number: 6423412001
Type of Application being appealed: Order To Abate Accessory Structure
Include all file numbers associated with application: 2009754
Project Planner's Name: Neighborhood Services Division
Administrative Decision Date or Date of Notice and Order: Dec. 22nd 2020

SUBMITTAL REQUIREMENTS: Submit an application for an appeal to City Planning Commission to the City Land Use Review office (30 S Nevada, Suite 105, Colorado Springs, CO 80903) with the following items included:

- An appeal statement including justification of City Code 7.5.906.A.4:
Criteria For Review Of An Appeal Of An Administrative Decision: In the written notice, the appellant must substantiate the following:
Identify the explicit ordinance provisions which are in dispute.
Show that the administrative decision is incorrect because of one or more of the following:
It was against the express language of this zoning ordinance, or
It was against the express intent of this zoning ordinance, or
It is unreasonable, or
It is erroneous, or
It is clearly contrary to law.
Identify the benefits and adverse impacts created by the decision, describe the distribution of the benefits and impacts between the community and the appellant, and show that the burdens placed on the appellant outweigh the benefits accrued by the community.
A copy of the NOTICE and ORDER from the issuing agency (if applicable).
For an appeal of a notice and order, you are stating that one or both of the following are true:
You are not in violation of City Code and believe the official is in error; and
The abatement period is unreasonable and should be lengthened.
A check for \$176 payable to the City of Colorado Springs.

CONTACT INFORMATION:

Appellant's Name: Matthew Lane, Krista Millard Telephone (719) 551-6327
Address: 1315 Challenger Ave. City Colorado Springs
State: CO Zip Code: 80916 e-mail: mplancirish33@gmail.com

APPELLANT AUTHORIZATION:

The signature(s) below certifies that I (we) is(are) the authorized appellant and that the information provided on this form is in all respects true and accurate to the best of my (our) knowledge and belief. I(we) familiarized myself(ourselves) with the rules, regulations and procedures with respect to preparing and filing this petition. I agree that if this request is approved, it is issued on the representations made in this submittal, and any approval or subsequently issued building permit(s) or other type of permit(s) may be revoked without notice if there is a breach of representations or conditions of approval.

Signature of Appellant [Handwritten Signature] Date 12/31/20

** If you would like additional assistance with this application or would like to speak with the neighborhood outreach specialist, contact Katie Sunderlin at sunderka@springsgov.com (719) 726-1118.

City Authorization:

Payment \$ _____

Date Application Accepted _____

Receipt No: _____

Appeal Statement _____

Intake Staff: _____

Completed Form _____

Copy of Notice and Order (if applicable): _____

Assigned to: _____

LETTER OF APPEAL

DATE: December 31,2020

FILED BY: Matthew Lane and Krista Millard, property owners
1315 Challenger Avenue
Colorado Springs, Colorado 80916

Parcel ID: 6423412001

Legal Description: LOT 11 BLK 4 HORIZON III SUB FIL NO 1 COLO SPGS

Property Zone: PUD AO Single-family residential

The citation issued to our residence citing the violation of city zoning code 7.3.105, 7.5.1007 & 7.5.906. has been issued erroneously and unfairly. We received a notice letter stating that a complaint had been filed against our carport. The city official with whom I spoke, Alex Osborne, openly told me during our Planners Meeting phone conversation that no complaint had been filed against our carport specifically. A local news report quoted Alex stating that his office only addresses carports when complaints are made. The letter of notice made a false claim of complaint against the structure on our property. Alex went on to explain that everyone in the area with a carport was receiving a violation letter "out of fairness". If the argument to be made is equity then this statement is also false. There are other residences in the immediate area that violate the setback ordinance who have not received any notices or citations. Not everyone in El Paso County has been issued a notice for violating this ordinance when applicable. This selective enforcement appears to be arbitrary and discriminative in its intent. One could even argue that only a certain neighborhood demographic seems to be targeted for this 'enforcement'.

Additionally, enforcement based on the opinion of a carport being 'unsightly' should also be null and void. Members of the city planning office have been quoted by local news sources that they have chosen not to issue violations over carport complaints in the past. It is also evident that these apparent violations have not been distributed for carports for a number of years, if ever. There are a number of residences in our area that have had carports for 10 or more years and they have never been notified that their structures were not in compliance with any city code. A precedent has been established that any carport 'violations' have been largely ignored for over a decade.

Publicly, an argument was made by a member of the city planning office that people should keep their vehicles in their garage instead of having a carport. There are a number of reasons that this opinion is ignorant and invalid. Depending on the age of the home, the dimensions of the garage may not be large enough to fit many of the cars people own today. For example, our home was built in 1985 and the garage is not deep enough for our truck or minivan to fit. The one vehicle we own that does fit in the garage is stored there. A home could have a single car garage while the residents own multiple vehicles.

A garage could have been converted into additional living space and no longer functions as a garage. Regardless, how a resident chooses to use the space within the walls of their home is not subject to this persons' personal opinion.


According to the ordinance being cited, any freestanding accessory structure within the established setback zone around a residence is in violation. During a phone conversation with Alex Osborne it was brought to light that this technically includes ANY structure including sheds, above ground pools, greenhouses, gazebos, etc... Obviously the code has not been enforced for the thousands of residences in El Paso County who have these structures. Why are carports being singled out as a target at this time? To begin a vigorous campaign specifically targeting them now is suspicious and unethical.

The benefits of carports are numerous. It is no secret that severe weather, most specifically hail storms, has caused millions of dollars in damage to personal property in Colorado Springs for the past 5 years. Insurance companies have increased homeowner and automobile insurance premiums as a direct result of the financial toll these storms have taken state wide. Our residence resides in a geographic zone that is prone to the most severe hail storm damage in recent years. The structure on our property is in place to protect the investments in our automobiles. If our vehicles were severely damaged in a hail storm, we would not be in a position to pay for the cost to repair or replace them. Having a carport also acts as an insurance benefit as it provides a discount toward our homeowner's insurance and deductible. In other cases, carports are a benefit to those with physical disabilities as it provides a safe space for them to enter and exit their vehicle in severe weather. Allowing for carport structures help Coloradans save economically, protect investments, and provide personal safety.

We understand that we have the right to file for a variance but have opted not to do so at this time based on a separate conversation with Alex Osbourne. He openly stated that it was highly unlikely we would receive the variance because none have been issued for years and attempted to discourage us from taking any action. Similar statements from another city planner have also been quoted by news reports. These statements are evidence of a predetermined bias by these city officials. Why are options for appeal and variance put in place when there is no intention to consider them for approval?

Recently, a local newspaper published that the City Council is reviewing the issue of carports. We can only assume that the large numbers of complaints by homeowners who have been targeted have brought this issue to light and merits investigation and review by the council. Any pending or active citations should be suspended while this process takes place and held for review until the City Council makes a ruling on the issue at hand.

Respectfully,

Handwritten signature in blue ink, appearing to read "Alex Osborne".

COPY

CITY OF COLORADO SPRINGS, STATE OF COLORADO Manager – Neighborhood Services Division Address: 30 S. Nevada Ave. Suite 105, Mail Code 155 Colorado Springs, CO 80901	
TO: LANE MATTHEW, MILLARD KRISTA 1315 CHALLENGER AVE COLORADO SPRINGS CO, 80916-2140 and OCCUPANTS OR OTHER PERSON WITH AN INTEREST IN THE PROPERTY KNOWN AS: 1315 CHALLENGER AVE COLORADO SPRINGS CO, 80916-2140 RESPONDENT	<hr/> Tax Schedule Number 6423412001
Case # 2009754	
NOTICE OF VIOLATION AND ORDER TO ABATE	

WHEREAS, it has been made to appear to the Manager – Land Use, Development and Planning, City of Colorado Springs, State of **LANE MATTHEW, MILLARD KRISTA 1315 CHALLENGER AVE COLORADO SPRINGS CO, 80916-2140** (“Respondent”), has violated the Additional Standard for Specific Uses Allowed in Residential Zones requirements of the Code of the City of Colorado Springs 2001, as amended (“City Code”) §7.3.105 (A) (1) (a) in the following particulars:

- I. The property at the approximate location **1315 CHALLENGER AVE COLORADO SPRINGS CO, 80916-2140** is zoned **PUD Single-family residential**
- II. **PUD Single-family residential** zone allows for single-family residences and their accessory uses. All accessory structures are subject to residential zoning standards and the setback standards
- III. Prior to **November 16, 2020** Respondent constructed an accessory structure “carport” in the property’s 17 foot front yard setback area. Accessory structures are not permitted within this 17’ front yard setback regardless of size or height.

YOU ARE HEREBY ADVISED that abatement of this zoning violation is your responsibility.

NOW THEREFORE, you are hereby **ORDERED** to relocate the accessory structure by the deadline identified in this notice and order to abate. The property must be brought into compliance with the accessory structure standards for a residential zone by or before **January 22, 2021**. **The accessory structure must be removed, from front yard setback.**

Should you choose to explore a possible variance for the current **carport** location you must submit a site plan for review to the Colorado Springs Planning Department. Contacting the City of Colorado Springs Planning Department to schedule a pre-application meeting with a City Planner to discuss the possibility of a variance to allow the encroachment to remain in the current location. However, meeting justification for a variance is challenging. You must schedule a pre-application meeting on-line by going to www.coloradosprings.gov/planning. For general questions, contact City Planning at 719-385-5905.

YOU ARE HEREBY ADVISED that failure to comply with this Notice of Violation and Order to Abate may result in the issuance of a criminal summons pursuant to City Code §§7.5.1008(A), (E). You are further advised that failure to comply with this Notice of Violation and Order to Abate may result in direct abatement by the Manager pursuant to City Code §7.5.1008(B) and that you may be assessed additional re-inspection fees pursuant to City Code §7.5.1008(C).

IF YOU WISH TO CONTEST this Notice of Violation and Order to Abate, you must file an appeal with the City of Colorado Springs Zoning Commission in accordance with §§7.5.1007 and 7.5.906 of the City Code, within 10 days of receipt of this Notice of Violation and Order to Abate.

If you have any questions regarding this NOTICE, please contact Kurt Arnoldussen, Senior Code Enforcement at 499-4989 or via e-mail at Kurt.Arnoldussen@Coloradosprings.gov

DONE THIS 22nd day of December 2020.

FOR THE MANAGER – NEIGHBORHOOD SERVICES DIVISION



Kurt Arnoldussen, IBM 6125
Senior Code Enforcement Officer



COPY

PLANNING & DEVELOPMENT DEPARTMENT
Neighborhood Services Division
PO Box 2169 MC 1525
Colorado Springs, CO 80901
(719) 444-7891

NOTIFICATION OF CARPORT AND SETBACK ZONING REGULATION

November 16, 2020

Code Enforcement Case #2009754

**LANE MATTHEW, MILLARD KRISTA
1315 CHALLENGER AVE
COLORADO SPRINGS CO, 80916-2140**

RE: 1315 CHALLENGER AVE COLORADO SPRINGS CO, 80916-2140– Setback regulations for carports and additions

Parcel Identification Number: 6423412001; Legal Description: LOT 11 BLK 4 HORIZON III SUB FIL NO 1
COLO SPGS Property zoning: **PUD AO Single-family residential**

Dear Property Owner,

A complaint has been filed alleging the freestanding carport, constructed on the property, violates the City of Colorado Springs zoning regulations for setback requirements.

Freestanding carports may not require a building permit. However, carports are considered accessory structures and must comply with zoning regulations for accessory structure setback and height requirements identified in subsection 7.3.105.A (Accessory Uses And Structures) of zoning regulation code. **The property is zoned, PUD Single-family residential**, which requires accessory structures (carports) to be placed no closer than five-feet 5' from the side property line and are not permitted within the twenty-five 25' front setback of the property as measured from the property line.

A field inspection indicates the freestanding carport located in the front yard of the property is encroaching into the required 17' front yard setback. **The structure appears to be located on the front property line** where 17' is required **and about 2 feet in the City of Colorado Springs Right of Way**. Therefore, this letter is our request for your voluntary cooperation in resolving this zoning violation by doing one of the following:

1. Removing the structure in order to meet the required setbacks for the zoning requirements of this property.
2. Contacting the City of Colorado Springs Planning Department to schedule a pre-application meeting with a City Planner to discuss the possibility of a variance to allow the encroachment to remain in the current location. However, meeting justification for a variance is challenging. You must schedule a pre-application meeting on-line by going to www.coloradosprings.gov/planning. For general questions, contact City Planning at 719-385-5905.

➤ Before contacting City Planning, please review the variance requirements on the following page.

To insure this matter is not advanced to the next level of enforcement action, I am asking that you remove or relocate the structure or schedule a pre-application meeting with a City Planner in order to determine the possible of a variance by **November 30, 2020**. I may be reached at 719-499-4989 or by e-mail at Kurt.Arnoldussen@coloradosprings.gov.

Additionally, property owners, whether knowingly or unknowingly, are responsible for the abatement of zoning code compliance on their property.

Sincerely,

K. Arnoldussen
Senior Code Enforcement Officer

Nonuse Variance Application Requirements

REVIEW CRITERIA: Applications for nonuse variances must meet all of the criteria listed in the Zoning Code before an application can be approved. As a guide to applying any of the criteria for nonuse variance applications, the applicant may consider any or all of the following circumstances in determining whether the applicable criteria have been met:

1. Extraordinary or Exceptional Conditions:

- a. The physical conditions of the property shall not be conditions general to the neighborhood or surrounding properties.
- b. The unique physical conditions of the property may be its size, shape, locations, topography, soils; or,
- c. The unique physical conditions of the property may be the size or location of existing structures on the property if such structures are not self-imposed conditions; or
- d. The unique physical conditions may be certain on-site or off-site environmental features which may positively or negatively affect the property in question, including but not limited to, adjacent land uses, traffic, noise, views and location of significant natural, architectural, or historic features.

2. No Reasonable Use:

- a. The demonstrated extraordinary or exceptional physical conditions of the property must directly relate to the inability to reasonably use the property in conformance with the applicable zoning ordinance regulations.
- b. The concept of less reasonable use may be considered if a neighborhood standard exists and if it is demonstrated that the property in question has a less reasonable use by comparison with proximate and similar properties in the same zoning district.
- c. The purchase price of the property, the desire for greater economic return on investment or mere inconvenience do not constitute, by themselves, evidence of no reasonable use.
- d. Self-imposed conditions such as prior voluntary rezoning, platting, or building in violation of City codes and ordinances do not constitute evidence of no reasonable use.
- e. Knowledge, ore lack of knowledge, of zoning restrictions and physical site constraints at the time the property is purchased is immaterial to evidence of no reasonable use of the property.

3. No Adverse Impact:

- a. The granting of a variance shall not be detrimental to public health, safety and welfare or injurious to surrounding properties.
- b. The granting of a variance shall not be inconsistent with any plans adopted by the City.
- c. The granting of a variance shall not weaken the general purpose of the Zoning Ordinance or its regulations.
- d. The variance, if granted, shall only be to the extent necessary to afford a reasonable use of property.

Development Application Review Fee Schedule

Effective February 1, 2017

Variations:	
Non-Use Variance or Administrative FBZ Warrant	\$575 for <u>each</u> of the first two variances; \$290 for each variance



City of Colorado Springs Planning Department Fee Receipt

[Return to Fee Calculator](#)

<u>Application</u>	<u>Department</u>	<u>Amount</u>	<u>Applicant</u>	<u>AnnexDisc</u>
Appeal of Administrative Decision	Land Use Review	\$176.00		
Total Fees		\$176.00		

Intake Staff:

Date: 1/5/2021
Planner: Matthew Alcuran
Receipt Number: 38739
Check Number: 3419
Amount: \$176.00
Received From: Matthew Lane-Krista Millard

