



**PLANNING AND COMMUNITY DEVELOPMENT
LAND USE REVIEW DIVISION**

**CITY OF COLORADO SPRINGS PLANNING DEPARTMENT
RECORD-OF-DECISION FOR A NON-USE VARIANCE**

**FILE: AR NV 20-00678
DECISION DATE: 12/15/2020**

INFORMATION

Name of Applicant: David Surofchek
Address of Premises Involved: 21 Marland Dr.
Zone District: R
Tax Schedule Number: 7436404006

Request by David Surofchek, for approval of a 7'-6" (seven feet and six inches) finished grade height of a fence after the 18" (eighteen inches) of a retaining wall are added to the fence height calculation per Section 7.4.102.A.2, as the retaining wall is within 3' (three feet) of the fence. If approved the proposal would allow for a Nonuse Variance on the max height of the top of the fence to the finish grade at the bottom of the retaining wall, within 3' (three feet), to exceed 6' (six feet) per code 7.4.102.A. The site is zoned R located at 21 Marland Road, and consists of 1.07 acres of lot.

STAFF ANALYSIS

CITY CODE CRITERIA TO GRANT A NON-USE VARIANCE	CRITERIA MET OR NOT MET
1. 7.5.802 (B.1) Exceptional or Extraordinary Conditions	X

This property exhibits unique physical conditions due to topography. Due to the topography of this lot the homeowner was required to construct a retaining wall in order to stabilize the driveway apron needed for property access and adequate use of existing attached garage. Due to the topography of the lot requiring a retaining a wall for the driveway, the homeowner is unable to place a 6' (six feet) fence further than 3' (three feet) from the existing retaining wall. This issue is why the fence is to be considered a 7' -8" (seven feet and eight inches) tall fence. To deny the homeowner this nonuse variance request, it would lead to exceptional and extraordinary conditions not general to the neighborhood as the fence would be required to be relocated 3' (three feet) off the property line and into the driveway limiting access.

2. 7.5.802 (B.2) Reasonable Use of Property	X
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The use of a fence for security at this property is a reasonable use allowed within the zoning district. The driveway is also a reasonable use to allow access to the single family dwelling. Due to the architectural design of the home with an attached garage facing west and existing driveway dimensions, the home owner cannot properly access attached garage without the driveway apron, which requires the retaining wall in order to be properly constructed and stabilized. The location of the fence is required to be located within 3 feet of the retaining wall to prevent access issues for the driveway. A denial of this request would not allow the reasonable use of the property for driveway access or fence security.

3. 7.5.802 (B.3)

No Adverse Impact to Surrounding Property

X

Multiple properties adjacent have similar retaining walls within 3' (three feet) of a fence that exceeds 6' (six feet) from top of fence to the finish grade at the bottom of the retaining wall. No adverse impacts are anticipated through the design and location of the fence.

A drainage complaint was received during review of this request. The applicant made corrective measures to minimize drainage issues to neighboring properties. City Engineering was asked to comment and provided that although lot-to-lot drainage is a concern, it is a private matter that City Engineering does not have jurisdiction or funding to correct.

STAFF DECISION

APPROVED / DENIED: Approved

12/15/2020

DATE OF DECISION



STAFF MEMBER: Alex Osborne
Planner I South Team

APPLICANTS: THE DECISION PERTAINS ONLY TO THE APPLICATION YOU SUBMITTED. YOU MUST COMPLY WITH ALL OTHER APPLICABLE REQUIREMENTS OF THE CITY OF COLORADO SPRINGS AND THE REGIONAL BUILDING DEPARTMENT. A COPY OF THE RECORD-OF-DECISION AND APPROVED SITE PLAN SHALL BE SUBMITTED IN CONJUNCTION WITH A BUILDING PERMIT APPLICATION. THIS VARIANCE DOES NOT SUPERSEDE OR NULLIFY PRIVATE COVENANTS THAT MAY LAWFULLY IMPOSE OTHER RESTRICTIONS ON THE USE OF YOUR PROPERTY.

*******IMPORTANT*******

Expiration: A nonuse or use variance together with the accompanying site plan granted pursuant to this part shall expire within twelve (12) months from the date of final approval if "action" is not taken within that time. Prior to the expiration of a nonuse or use variance, a twelve (12) month extension of the approval may be granted by the Manager upon demonstration of good cause. For purposes of this subsection, "action" means obtaining a building permit pursuant to the granting of the variance, or if a building permit is not required, the right which is granted pursuant to the variance is put to use pursuant to the variance.

The City of Colorado Springs is committed to excellent customer service. We would like to hear your comments about the service you received during the review of this application and your interaction with our department. Please consider completing the survey through Speak UP COS located at <https://coloradosprings.granicusideas.com/surveys/planning-department-customer-service-survey>. Your response is completely confidential.