

# 2215 Farragut Dr.

- CPC AP 16-00071
- City Council Hearing
- August 23, 2016
- Dennis Wolf



# Background

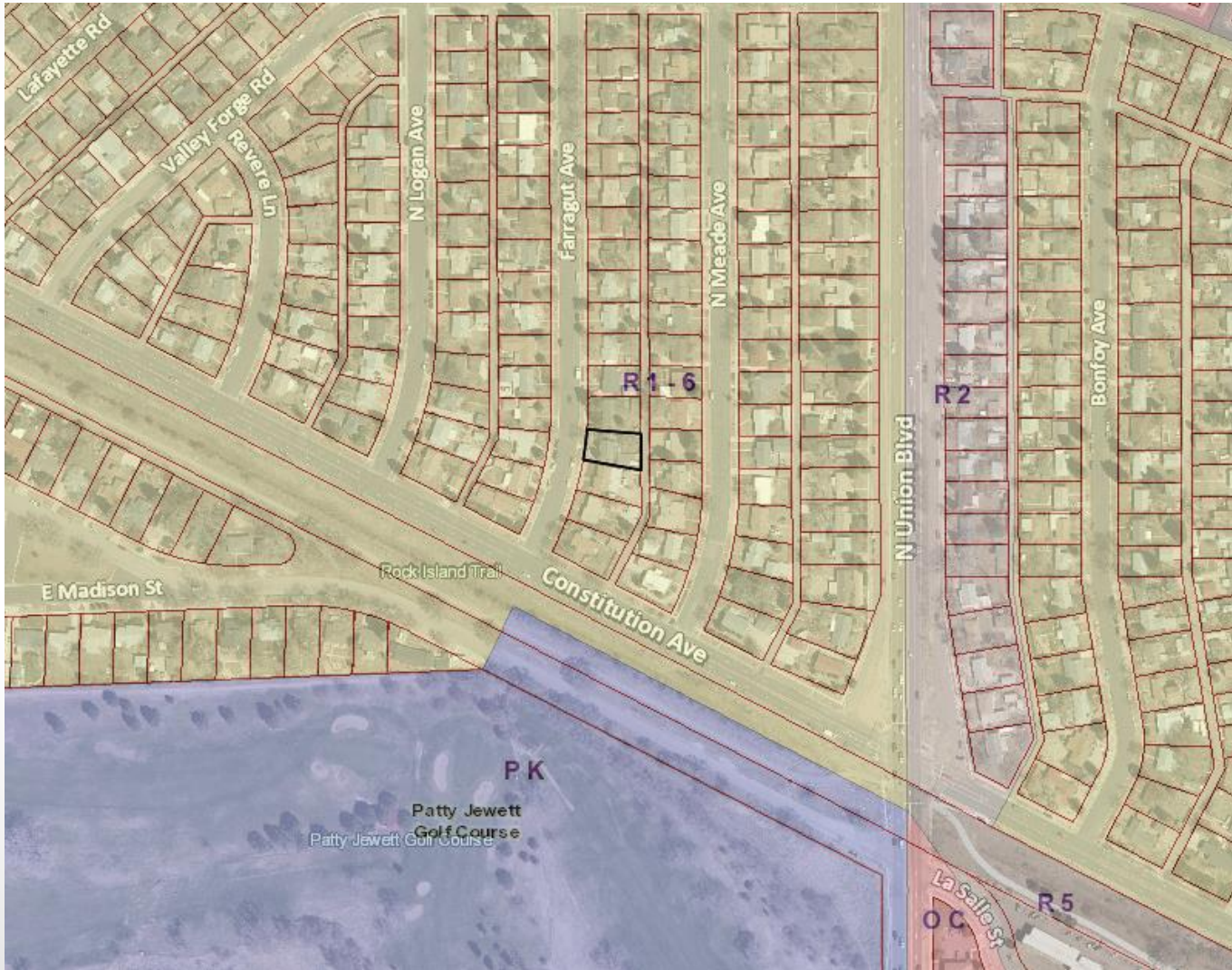


- Single Family lot in Belleville Addition
- 6,739 Square Foot lot
- Zoned R-16000 Single-Family Residential
- Existing two-story single family home constructed in 1953
- Retaining wall appears to be existing (unknown year of construction)
- 2014 Fence constructed adjacent to the retaining wall

# Subject Property



# Subject Property Surrounding Zoning



# Structures In Question



# Location of Arbor and Fence



# Enforcement History



- **Jan 2015** Complaint Received
- **Jan 28, 2015** Advisement Letter Issued
- **June 15& 23, 2015** Applicant met with City Planning requesting clarification to the current code reading for measurement of a fence.
- **June 15, 2015** Stay of enforcement pending ordinance clarification.
- **Dec 17, 2015** Planning Commission
- **Feb 23, 2016** City Council
- **March 30, 2016** Revised Advisement Letter Issued
- **May 4, 2016** Notice and order issue via certified mail – signed for on May 7, 2016
- **May 13, 2016** Appeal Filed
- **June 16, 2016** Planning Commission Appeal Decision

# Accessory Structure Regulation Prior to Ordinance Clarification



## **7.4.102: GENERAL STANDARDS:**

These standards shall apply to all new construction or modifications to an existing structure which is fifty percent (50%) or more of the existing floor area. No permit shall be approved unless it conforms to all of the applicable standards listed in this section.

A. Fences: Except in a TND and HS overlay zone, fences or walls six feet (6') or under in height may be placed anywhere on the property except within established preservation areas. Fences within preservation areas are subject to development plan approval to establish appropriate locations. All fences must comply with the corner visibility regulations described in this section. Fences or walls over six feet (6') are considered accessory structures and must meet accessory structure setback requirements and receive a building permit for construction. Fence height shall be measured from the top of the fence to the natural grade on both sides; if the height on the two (2) sides varies then the higher of the two (2) measurements shall be used in determining the height of the fence. See article 3, part 9 of this chapter for fence heights in front yard setback areas in the TND zone. Alternate requirements for fencing may be included as a part of an FBZ regulating plan.



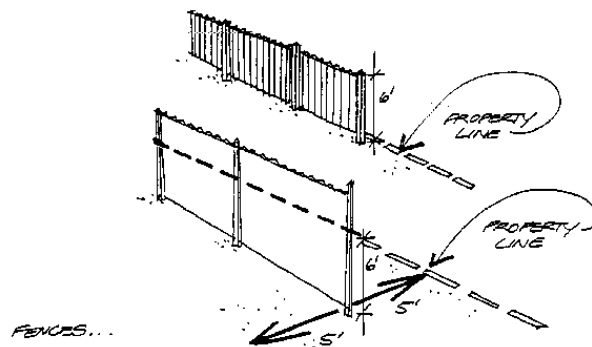
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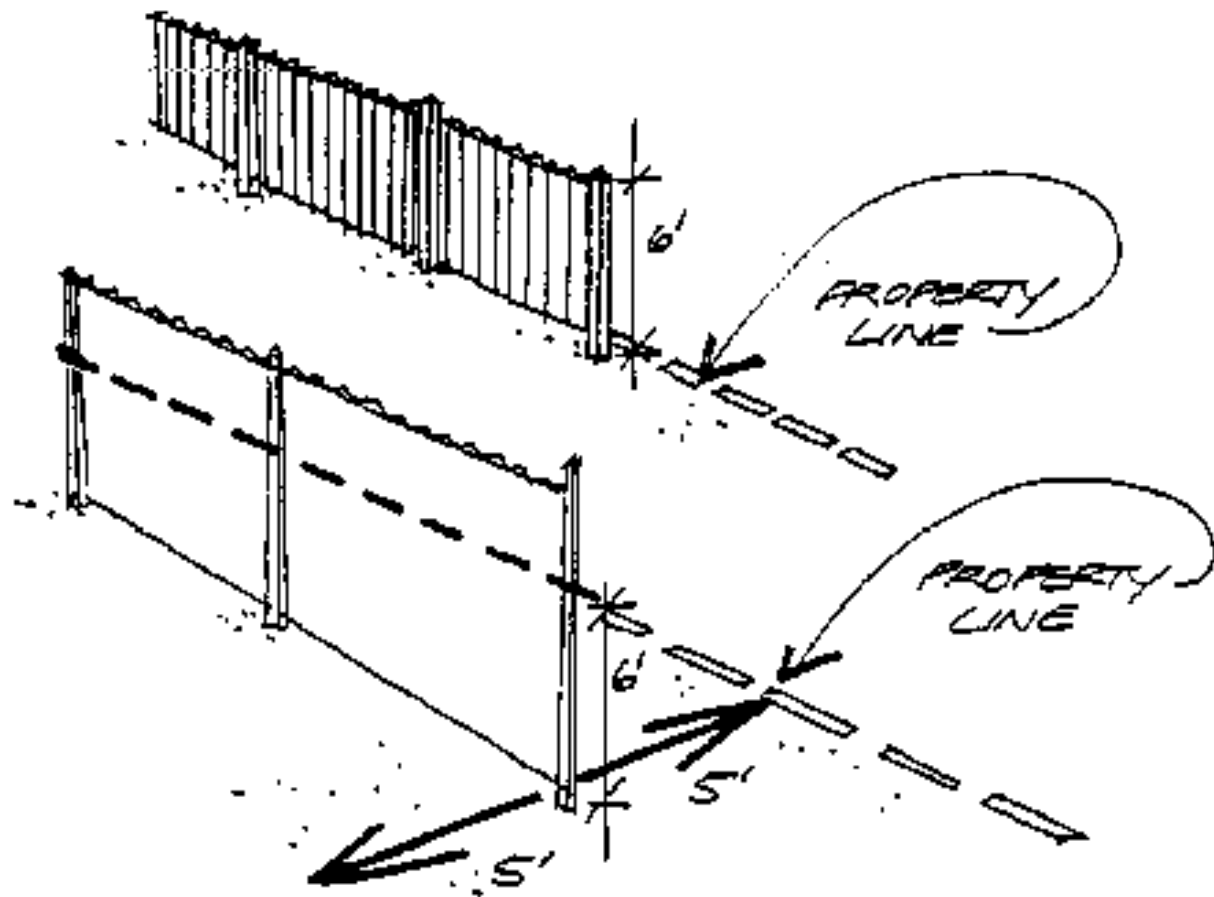


**ACCESSORY STRUCTURE:** A structure that is located on the same lot and detached and separate from the principal building. Accessory structures shall be incidental to the principal structure and devoted exclusively to an accessory use.

**ACCESSORY USE:** A use which is subordinate to and serves a principal building or a principal use; is subordinate in extent or purpose to the principal building or a principal use; contributes to the comfort, convenience or necessity of the occupants, business or industry in the principal building or principal use served; is located on the same lot as the principal building or principal use served.

**STRUCTURE:** Anything constructed or erected which is permanently located on the ground





FENCES...

# Accessory Structure Regulation

## ORDINANCE NO. 16-19



ORDINANCE NO. 16-19

AN ORDINANCE AMENDING SECTION 201 (DEFINITIONS ENUMERATED) OF PART 2 (DEFINITIONS) OF ARTICLE 2 (BASIC PROVISIONS, DEFINITIONS AND LAND USE TYPES AND CLASSIFICATIONS) AND SECTION 102 (GENERAL STANDARDS) OF PART 1 (GENERAL STANDARDS) OF ARTICLE 4 (SITE DEVELOPMENT STANDARDS) OF CHAPTER 7 (PLANNING, DEVELOPMENT AND BUILDING) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO FENCES AND ACCESSORY STRUCTURES

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. Section 201 (Definitions Enumerated) of Part 2 (Definitions) of Article 2 (Basic Provisions, Definitions and Land Use Types and Classifications) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

7.2.201: Definitions Enumerated

\* \* \*

**ACCESSORY STRUCTURE:** A structure that is located on the same lot and detached and separate from the principal building. Accessory structures shall be incidental to the principal structure and devoted exclusively to an accessory use. **Examples of accessory structures may include, but are not limited to: garages, carports, sheds, storage buildings, play structures, gazebos, arbors, greenhouses, barns, saunas, and other similar buildings. Fences and walls that exceed six feet (6') in height are considered accessory structures.**

\* \* \*

**DETACHED:** Not attached and having no wall in common and separated by three feet (3') or more; structures that are connected by a covered, unenclosed breezeway shall be considered detached if the breezeway is less than 12 feet (12') in height or less than six feet (6') in width.

# Accessory Structure Regulation

## ORDINANCE NO. 16-19



**FENCE or WALL:** A structure made of wood, **brick, stone, stucco, concrete, wrought iron, chain link, plastic, composite, vinyl** or other **similar** material that provides screening or encloses an area, most often a front or back yard. **Walls include both freestanding walls and retaining walls.**

Section 2. Section 102 (General Standards) of Part 1 (General Standards) of Article 4 (Site Development Standards) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

7.4.102: General Standards

\* \* \*

A. **Fences or Walls:** Except in a TND and HS overlay zone, fences or walls six feet (6') or under in height may be placed anywhere on the property except within established preservation areas. Fences within preservation areas are subject to development plan approval to establish appropriate locations. All fences must comply with the corner visibility regulations described in this section. Fences or walls over six feet (6') are considered accessory structures and must meet accessory structure setback **and height** requirements **identified in Section 7.3.105.A** ~~and receive a building permit for construction.~~ Fence height shall be measured from the top of the fence **including fence poles, posts, and finials** to the ~~natural~~ **finished** grade on both sides **of the fence**; ~~if the height on the two (2) sides varies then the higher of the two (2) measurements shall be used in determining the height of the fence. See article 3, part 9 of this chapter for fence heights in front yard setback areas in the TND zone. Alternate requirements for fencing may be included as a part of an FBZ regulating plan.~~

# Accessory Structure Regulation

## ORDINANCE NO. 16-19



- 1. If the height of the two (2) sides varies, then the larger of the two (2) measurements shall be used in determining the height of the fence.**
- 2. If the fence is located within three feet (3') of the face of a retaining wall, the height of the fence is measured from the top of the fence to the finished grade at the bottom of the retaining wall.**
- 3. The finished grade of the fence area shall not be altered to artificially comply with these regulations.**
- 4. An additional 12 inches (12") of height is permitted for fence posts, poles, and finials when spaced 8 feet (8') or more from each other.**

# Appeal of a Notice and Order



## **7.5.1007: APPEALS:**

All appeals of zoning enforcement decisions made by the Manager relating to enforcement of violations of this Zoning Code and the Subdivision Code of this chapter shall be heard by the Planning Commission in accord with the provisions of section **7.5.906** of this article. A perfected appeal shall operate as a stay of the zoning enforcement decision unless the Manager certifies in writing that the condition giving rise to the decision constitutes an imminent hazard to the public health, safety and welfare or the violation is of a short term nature that by the time an appeal hearing is held, the violation will have been terminated or moved to another site. The time frame in which violations of this nature operate is such that a stay of proceedings will make the enforcement process ineffective. Examples of short term violations include, but are not limited to, the following: temporary vendors, promotional events, and temporary signs. (Ord. 86-66; Ord. 89-9; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 03-16; Ord. 05-101; Ord. 09-80)

Questions?