

August 27, 2015

Re: Appeal of Non-Use Variance for 5675 Majestic Drive  
File Number AR NV 15- 00413

CITY CLERK'S OFFICE  
2015 AUG 27 P 1:02

To Whom It May Concern,

We respectfully request the opportunity of an appeal before City Council regarding the Non-Use Variance granted to Robert-Scott General Contractors on July 14<sup>th</sup>, 2015, and the denial of our appeal before the Planning Commission on August 20<sup>th</sup>. We feel that the decision to deny our appeal by the planning commission was not handled fairly since it was a tie vote; 3 in favor of, 3 against.

Furthermore, we believe that the criteria for a Non-Use Variance as per Colorado Springs City Code section 7.5.802.B have not been met for the following reasons:

1. Extraordinary or Exceptional Conditions:
  - a. The physical condition of the property at 5675 Majestic Drive is consistent with neighboring properties. There is nothing unusual about it. The lot is flat and is similar in size to other lots in the neighborhood. In fact, it is comparably larger than many other lots.
  - b. The driveway which is claimed to cause the problem is not an extraordinary or exceptional condition. The problem with the driveway should have been addressed before the foundation was put in.
2. The extraordinary or exceptional physical conditions of the property will not allow a reasonable use of the property in the absence of relief:
  - a. The planner states the size of the lot combined with the driveway and utilities at the back of the property will not permit a house to be built. We disagree. This lot is the same size and shape as the lot adjacent to it on the west side (lot 5). Mr. Hente completed a home on that lot earlier this year.
  - b. The issue with the driveway should have been addressed by city planning before allowing Mr. Hente to put in this foundation since they approved both our driveway and his plan.
  - c. The utilities at the back could have been moved as noted during the Planning Commission meeting.
  - d. The problem being complained of is a purely self-imposed condition. They built the foundation in the wrong place, admitting to making a mistake. The variance is not designed to provide forgiveness for mistakes.
3. That the granting of the variance will not have an adverse impact upon surrounding properties:
  - a. The expressly stated intent and purpose of the Code is "to protect property values, to preserve neighborhoods and to protect private property from adjacent nuisances such as noise, excessive traffic, [and] incompatibility of uses." Our property value may be compromised and it could be more difficult for us to sell the property in the future. Having 1.6 feet from the patio in the back of his house to the property line could scare off a potential buyer in light of possible trespassing and liability problems.
  - b. We will be left to deal with potential legal issues with the future homeowner of Mr. Hente's property due to the lack of space around the structure. The neighbor will not be able to walk on the rear east side of the house without coming onto our property.
  - c. At 2.3' per the approved variance the 24" window well will be inches away from the boundary line, creating a possible safety issue.

For these reasons, and those described in the attached documentation, we are requesting an appeal.

Thank you,



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