

CITY PLANNING COMMISSION AGENDA

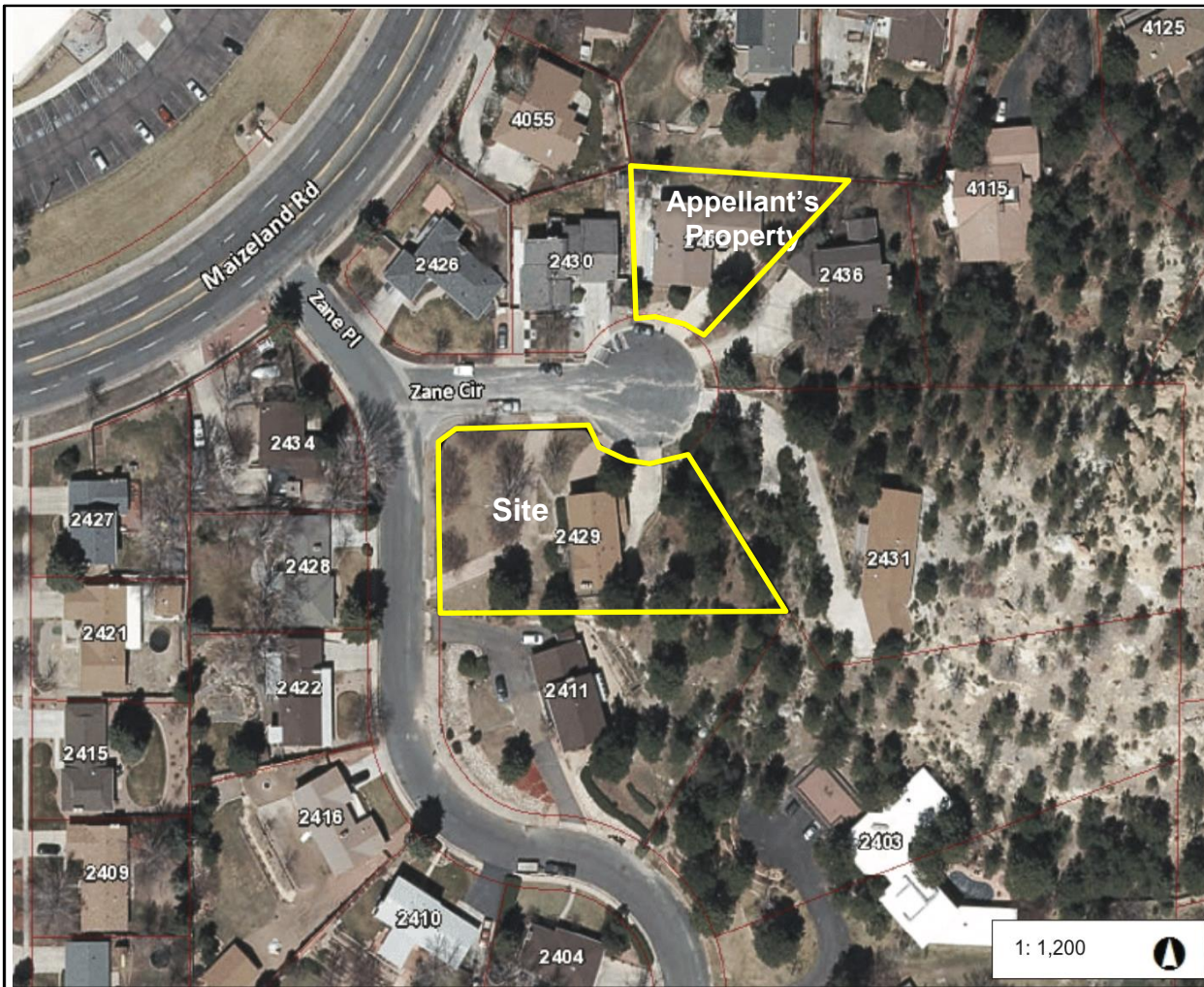
STAFF: SUSANNA DALSING

FILE NO(S):
AR NV 17-00569(AP) - QUASI-JUDICIAL

PROJECT: 2429 ZANE CIRCLE – NONUSE VARIANCE

APPLICANT: CHRIS AND STAYCIE SKINNER

OWNER: CHRIS AND STAYCIE SKINNER



PROJECT SUMMARY

1. **Project Description:** This is an appeal of an administrative approval for a nonuse variance to City Code Section 7.3.104; reducing the front yard setback to 18 feet where 25 feet is required in the R1-6000 (Single-Family Residential) zone district. The nonuse variance was approved administratively for the placement of a 120 square foot shed on the property.

The property in question is located at 2429 Zane Circle and is .54-acre in size. The lot layout is illustrated on the Improvement Location Certificate (ILC) that was provided with the submittal as the site plan illustrating the lot. **(FIGURE 1)**

The application was approved administratively on October 19, 2017 and appealed by neighbor Barkley Martin on October 30, 2017 **(FIGURE 2)**.

2. **Applicant's Project Statement:** **(FIGURE 3)**
3. **Planning and Development Team's Recommendation:** Staff recommends denial of the appeal, supporting the administrative decision approving the nonuse variance.

BACKGROUND

1. **Site Address:** 2429 Zane Circle
2. **Existing Zoning/Land Use:** R1-6000/Single-Family Residence
3. **Surrounding Zoning/Land Use:** North: R1-6000 /Single-Family Residential
South: R1-6000/Single-Family Residential
East: R1-6000/Single-Family Residential
West: R1-6000/Single-Family Residential
4. **Comprehensive Plan/Designated 2020 Land Use:** General Residential
5. **Annexation:** Northglen Heights Addition #1, 1963.
6. **Master Plan/Designated Master Plan Land Use:** There is not a master plan for this site.
7. **Subdivision:** Northglen Heights Filing 1.
8. **Zoning Enforcement Action:** The shed in question originally came in as a Code Enforcement case by an anonymous neighbor and Barkley Martin. The Code Enforcement case number is 1073494.
9. **Physical Characteristics:** The property in question is a corner lot located off of Zane Circle and Zane Place. The rear yard has mature vegetation and significant slopes starting from the back of the house and sloping upward toward the east. There is very little side yard off of the south property line; the secondary front yard off of Zane Place is relatively flat. **(FIGURE 4)**

STAKEHOLDER PROCESS AND INVOLVEMENT

The public process involved with the review of the nonuse variance application included posting the site and sending postcards to neighbors within 150 feet of the property in question, 14 property owners in total were notified. The poster was posted in the front yard off of Zane Place, as there is more traffic and would have better visibility to the surrounding neighborhood. During the internal review stage, there was one public comment regarding the nonuse variance from a neighbor opposing the shed **(FIGURE 5)**.

The letters and calls in opposition from the neighbor expressed the following concerns: diminished property value, neighborhood integrity, site plan discrepancies, removal of hillside vegetation, access to the shed, appearance of the shed, appearance of the property, access to the utility box, the number of vehicles on the property, number of driveways, and that the shed would be used as a workshop.

Staff did not send plans to the standard internal and external review agencies, as the 120 square foot shed is minor and does not encroach into any utility or drainage easements. However, the property owner contacted Colorado Springs Utilities and they did not have any objection to the shed being located near an existing utility box **(FIGURE 6)**.

ANALYSIS OF REVIEW CRITERIA/MAJOR ISSUES/COMPREHENSIVE PLAN & MASTER PLAN CONFORMANCE:

1. Review Criteria / Design & Development Issues:

Background

The homeowners originally constructed a shed on the property that encroached into the front setback and appeared to be located within the public right of way **(FIGURE 7)**, which led Code Enforcement to open a case on May 20, 2017. The homeowners worked with staff to move the shed to a less intrusive location that would meet the 25 foot front setback. The homeowners reconstructed the shed in a location that they believed would somewhat be disguised by the surrounding vegetation and would comply with City Code. The new shed was placed 26 feet back from the curb and Code Enforcement closed the case on August 29, 2017 as they were under the impression that the shed met the front setback. The case was reopened when the appellant called Code Enforcement and requested a re-review of the shed. During the re-review of the shed, Code Enforcement discovered that the shed did not meet the front setback off of Zane Circle and reopened the case. Once the case was reopened, the homeowners discussed moving the shed further up the hill to meet the front setback. However, to construct the shed further up the hill would require removal of vegetation and significant grading. After reviewing the criteria for a nonuse variance, the homeowners decided to apply for a nonuse variance as they felt that they met all three of the review criteria.

The nonuse variance approval is detailed below; the record of decision for the nonuse variance is attached as **(FIGURE 8)**. Staff found that the nonuse variance request met all three of the review criteria.

Nonuse Variance:

Nonuse variance justification for reduction to front setback:

7.5.802 (B.1) Exceptional or Extraordinary Conditions

The property in question is a corner lot located off of Zane Place and Zane Circle. The lot is a large lot at approximately one-half acre in size. The home currently sits approximately 90 feet from the front setback off of Zane Place and 19 feet back from the setback off of Zane Circle. Per City Code Section 7.2.201 a corner lot has two front yard setbacks that would not allow accessory structures.

The owner considered constructing the shed in the front yard off Zane Place, but felt that locating the shed off of a busy residential street would have more of an impact to the neighborhood as a whole rather than placing it adjacent to the cul-de-sac. In order to preserve the hillside nature of the rear yard, the shed is located in an area that is free of vegetation and relatively flat. Due to the small rear yard and the topography, placing the shed in the rear yard would not have required a nonuse variance, but would have required significant grading and removal of vegetation **(FIGURE 4)**.

7.5.802 (B.2) No Reasonable Use of Property

Granting of this variance does not permit an unreasonable use in the zoning district. A previous nonuse variance approved in the area, AR NV 12-00006, permitted an 18 foot front setback where 25 feet is required; the same setback requested for this variance. The aforementioned nonuse variance was approved to accommodate a garage-bay addition due to the fact that the property has three front yards. AR NV 12-00006 is a variance located at 4175 Brigadoon Lane which is approximately 600 feet away from the property in question. Due to the hillside nature of the rear yard, there isn't adequate space to construct a shed without doing significant grading and removing mature trees and other vegetation.

7.5.802 (B.3) No Adverse Impact to Surrounding Property

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

The property owner has also agreed to construct a fence and plant several trees in front of the shed to help buffer the shed from the appellant's view. The fence is currently under construction and the placement of the trees is yet to be determined by the homeowner. The fence and the general area the landscaping are placed on the site plan (**FIGURE 2**). The trees are to be planted when the weather allows.

The appellant has stated that the approval of the shed removes mature vegetation, interferes with the utility box, would be used as a workshop, and exceeds allowed storage space (**FIGURE 4**).

Staff has researched the appellant's claims of impact of the shed and disagrees with the appellant. Attached as (**FIGURE 9**) is an aerial view of the property dating back to 2012. The aerial view shows that there has been no significant vegetation removed in the approximate location of the shed. Per the guideline provided by Colorado Springs Utilities, the shed does not interfere with the utility box and would not be of concern to Colorado Springs Utilities. According to City Code section 7.2.201, the shed is an accessory structure and would be allowed to be used as a workshop. However, the homeowner has stated that he is not using the shed as a workshop, but to store tools, holiday decorations, and things of the like. City Code Section 7.3.105.A.2.J states that storage space on the property cannot exceed 400 square feet in gross floor area and the shed is only 120 square feet. The homeowner is well below the allowed maximum threshold for storage space.

2. Conformance with the City Comprehensive Plan

The proposed application is consistent with the envisioned development patterns for the subject area, which is identified as General Residential (average gross density of greater than three dwelling units per acre) per the Comprehensive Plan 2020 Land Use Map.

a. Strategy N 201b: *Revise Zoning and Subdivision Regulations to Recognize Neighborhood Character*

"Revise zoning and subdivision regulations to provide flexibility in code administration to recognize neighborhood character while respecting safety concerns." The site in question

and the surrounding neighborhood have mature trees and significant changes in grade throughout the property. In order to preserve the character of the site and of the neighborhood as a whole, the shed was placed in a location where there would be no grading or removal of vegetation required.

b. Strategy N 201a: Preserve and Enhance the Physical Elements that Define a Neighborhood's Character

"In considering development proposals, preserve the physical elements that contribute to a neighborhood's identity and character, such as natural features, buildings and development patterns, historic and cultural features, parks, open space and schools." The surrounding neighborhood is a mature neighborhood that has unique physical characteristics which are a main element in the neighborhood's character. The surrounding neighborhood has mature vegetation and hillside-like characteristics. The removal of mature vegetation and significant grading would change the integrity and the overall characteristic of the neighborhood. The shed as proposed does not remove any vegetation and does not require any grading in order to preserve the physical elements of the site and of the neighborhood.

c. Strategy N 203d: Incorporate Natural Features

"Protect natural environmental features, including rock outcroppings, drainage areas, wildlife habitat, unique topographic features, and view corridors..." The site in question homes some wildlife such as deer, birds, and squirrels. The removal of mature vegetation and significant grading for a 120 square foot shed would be detrimental to the wildlife that often passes through and uses the rear yard.

It is the finding of the Planning and Community Development Department that the requested nonuse variance at 2429 Zane Circle substantially conforms to the City Comprehensive Plan 2001 Land Use Map and the Plan's goals and objectives.

3. Conformance with the Area's Master Plan

No master plan exists for this site.

STAFF RECOMMENDATION

AR NV 17-00569(AP) – NONUSE VARIANCE

Deny the appeal and uphold the administrative approval of the nonuse variance, based upon the finding that the nonuse variance complies with the review criteria in City Code Section 7.5.802.B.