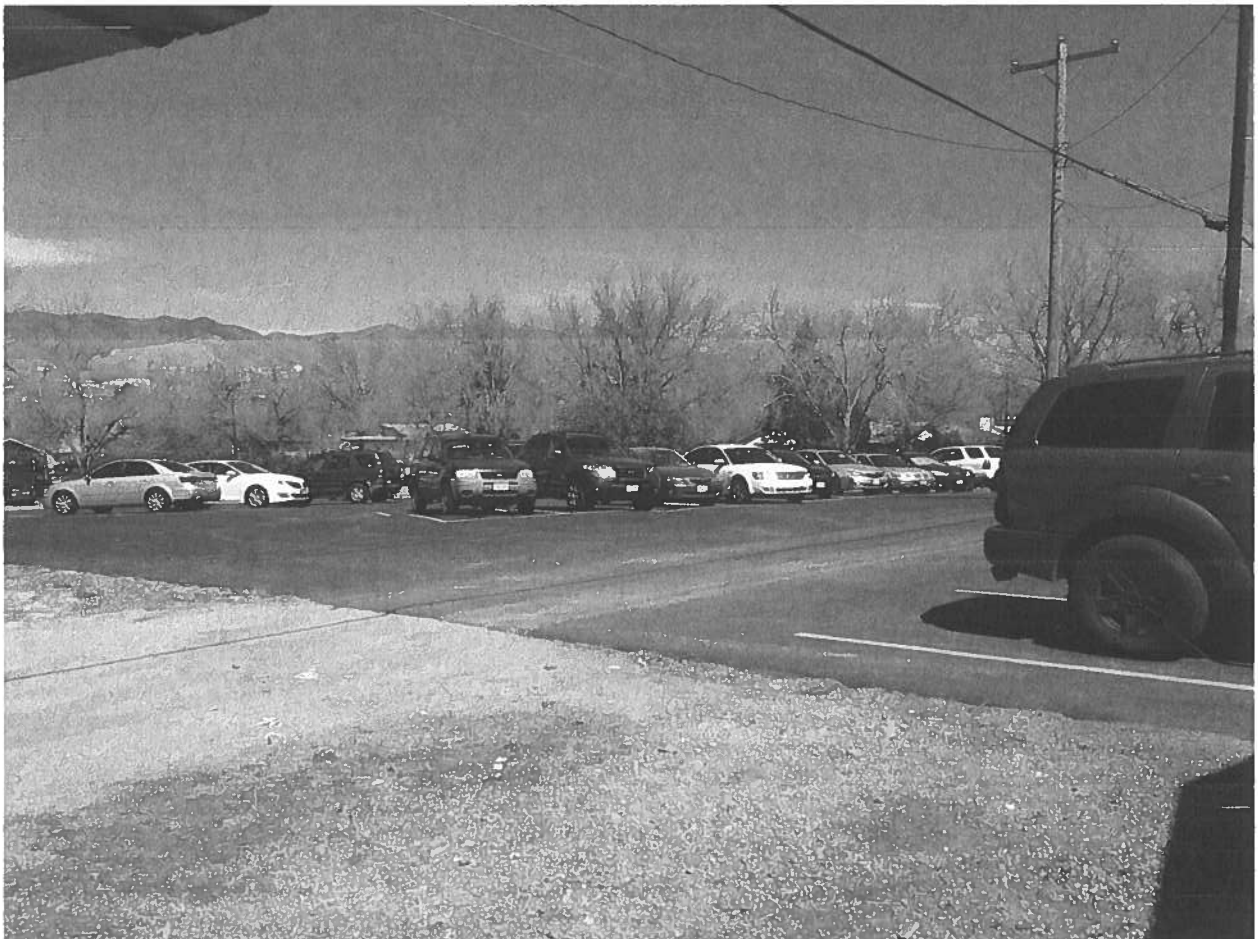


CPC Special Mtg.  
6.14.18  
Appellant  
Handout

## Supplemental Information

**File Number: AR NV 18-00243**

**Appeal of Administrative Decision Hearing Date: 6/14/18**



View from alley located on the 2700 Beacon block (looking north).

This alley is the only vehicle access for the ADU to be built at 2708 Beacon St.

## General Travel Alley Usage

Code 7.2.201 DEFINITIONS ENUMERATED states:

ALLEY: A public or private right of way, located at the rear or side of a property, designed for the special accommodation of the property it reaches, and not intended for general travel.

Critical Point: “**not intended for general travel.**”

Here are my comments about the alley sent to City Planning (comment letter dated 4/14/18) notated in black and Ms. Dalsing's response in red:

- 1) The Roswell Union Church (El Paso County Assessor's page Owner Name) is a neighborhood church located at 2728 Beacon St. They have a large paved parking lot which is contiguous with the unpaved alley located directly behind 2708 Beacon Street. This parking lot contains a total of 50 marked parking spaces and this church has many activities throughout the week. This places a higher usage on our unpaved alley, more than just residential demand. This is the same alley that will be the main access to the accessory structure dwelling unit at 2708 Beacon Street. *Although the alley may be heavily used to access the church, that is not something that is in my review purview for the accessory dwelling unit. When review an accessory dwelling unit, we look at height, setbacks, lot coverage, living area, parking requirements, etc.*

The church was built in 1890 and has been active for many decades. The general travel up and down the alley is a well establish occurrence. The church is well attended and has many activities throughout the week. Paving the alley will only invite more cars to use it, dust is not the problem. Signage could be a mitigating factor, however with no enforcement, results are not likely to be comprehensive.

In my citizen's opinion, City Planning should have reviewed this exceptional condition for possibly **failing No Adverse Impact to Surrounding Property Criterion 7.5.802(B.3)**. The size of the ADU can be correlated to the number of potential occupants which can be correlated to the number of potential additional vehicles that will be using the alley on a regular basis.

### The 2700 Beacon Block ALLEY:

- Traverses and is integrated within a 50 car parking lot
- Is the only vehicle access to my garage, which is my only off-street parking at 2714 Beacon
- Will be the only vehicle access to Mr. Juvera's soon to be built ADU Occupancy unit.
- All future ADU Occupancy units on the entire 2700 Beacon block will be built on this alley (due to the bowling lane lot shape of all lots in Roswell, including this entire block).

## Why a 26% increase in ADU Occupancy square feet Matters

**WITH VARIANCE:** Maximum allowed ADU Occupancy size = 741 square feet

**NO VARIANCE** using existing R2 code: Max. allowed ADU Occupancy size = 589 square feet

**IF VARIANCE GRANTED:** ADU Occupancy square footage increases by 26%.

(Calculations are provided on the bottom of this page. All values match published City Planning values.)

### *How many married/cohabiting couples do you know that do not own 2 cars?*

The ADU requirement of one additional parking space automatically falls short if two people (or more) wind up renting the ADU apartment.

### *What is the real life difference between 589 and 741 square feet?*

The probability of two occupants increases with the larger space of 741 sq. ft.. Of course, there is no guarantee that only one occupant will rent a 589 sq. ft. apartment but it is much **more probable to have a single occupant in a space of less than 600 SF.** This correlates directly to reducing the new associated vehicles that will most definitely be utilizing the alley.

### *Any 2708 Beacon ADU occupants will become regular travelers in the over utilized alley.*

The only vehicle access to the 2708 Beacon ADU apartment is using the same alley that is virtually integrated into the large 50 car church parking lot. Paving the alley will only invite more general travelers to use the alley and dust is not the problem.

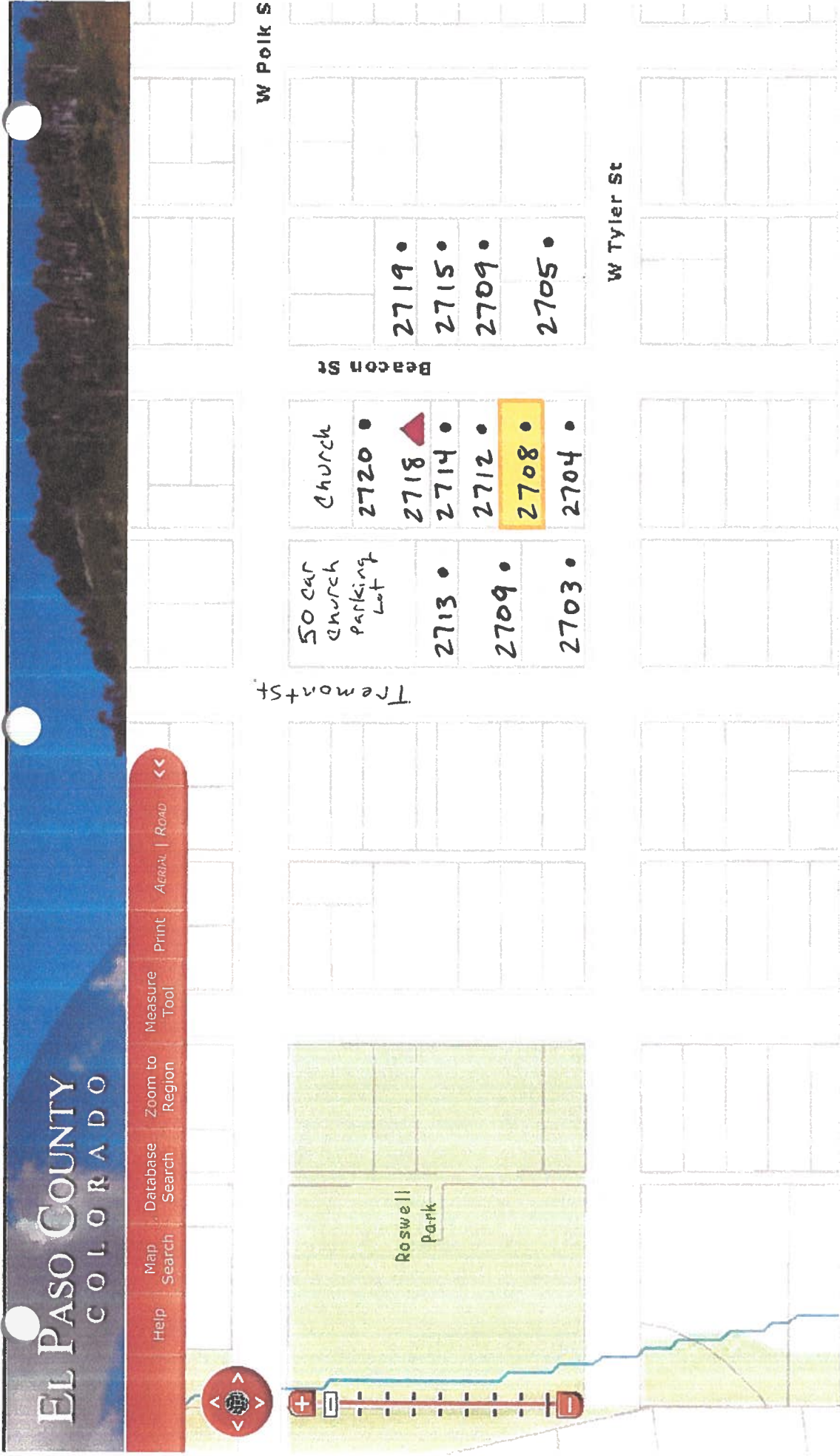
## Nothing is static

Mr. Juvera says his son will be the ADU tenant, implying one occupant. But this cannot be taken into consideration on the nonuse variance analysis because this is not a static or guaranteed condition. The ADU Occupancy unit will be a rental and Mr. Juvera can rent it to anyone he chooses at any time.

No Variance calculation:  $1,178 \div 2 = 589$

With Variance calculation:  $1,482 \div 2 = 741$

Increase % with Variance calculation:  $741 - 589 = 152$  then  $152 / 589 = 0.258 = 26\%$



Attachment "FIGURE 6 – Staff Analysis – home footprints" lists 12 houses used in City footprint analysis.

KEY

- = This house is included in City footprint size analysis (Fig 6, pg1)
- ▲ = This house is NOT included in City footprint size analysis (Fig 6, pg1)





## Small Footprint Houses are commonplace and intrinsic to the character of Roswell

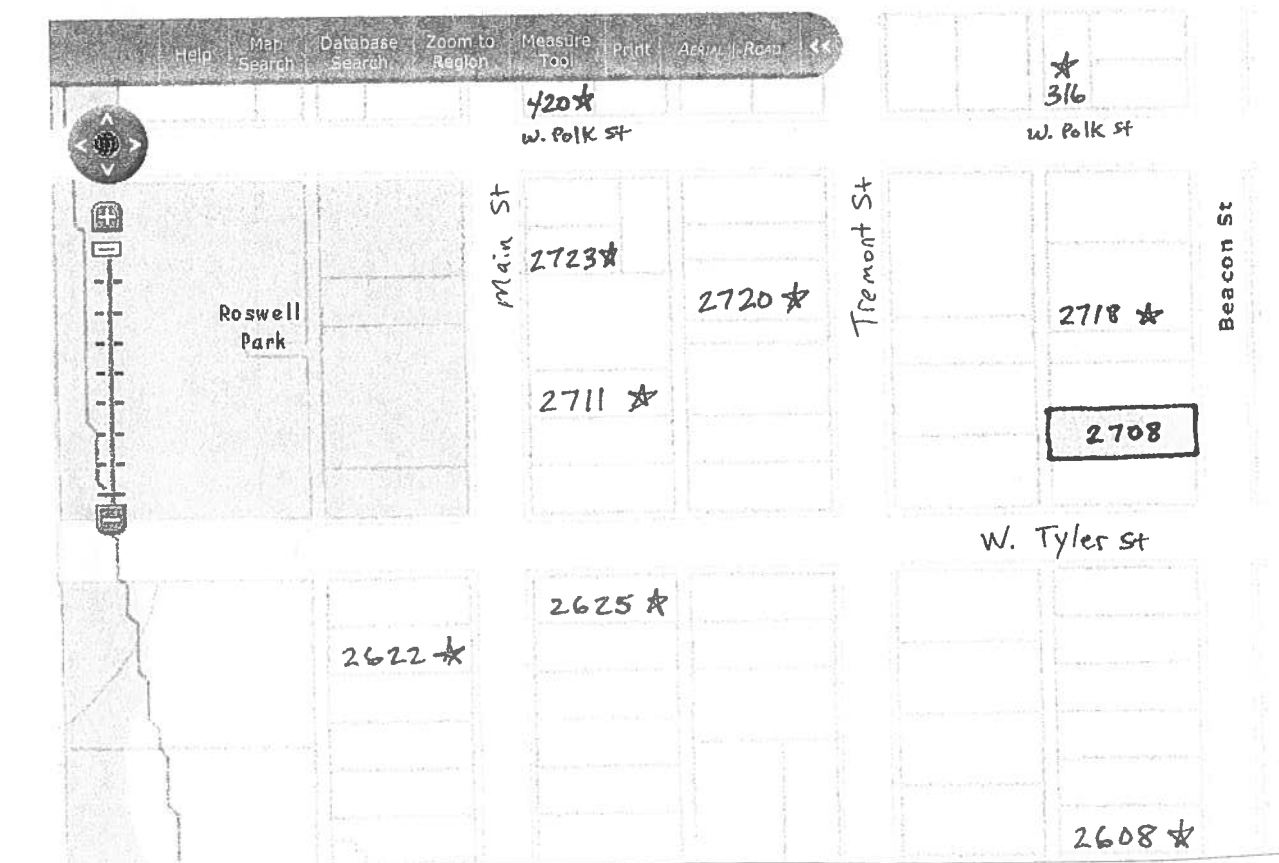
All data gathered from the El Paso County Assessor's website

These are just the ones in close proximity to 2708 Beacon St:

ADDRESS	FOOTPRINT in sq. ft.
2608 Beacon St	574
2718 Beacon St.	476
2622 Main St.	432
2625 Main St.	460
2711 Main St	576
2723 Main St.	480
316 W. Polk St.	646
420 W. Polk St.	659
2720 Tremont St.	554

It is unusual to find a block that does not have one of these small footprint houses.

Parcel map printed from El Paso County Assessor's website annotated with house locations:



### Contiguous Average FOOTPRINT sizes

All data gathered from El Paso County Assessor's website. Footprint size in square feet.

WEST Side of 2700 Blk of Beacon St	EAST Side of 2700 Blk of Beacon St	W&E Sides of 2700 Blk of Beacon St
------------------------------------	------------------------------------	------------------------------------

Address	Footprint	Address	Footprint	Address	Footprint
---------	-----------	---------	-----------	---------	-----------

2704 Beacon St	1094	2705 Beacon St	1295	2704 Beacon St	1094
2708 Beacon St	1178	2709 Beacon St	910	2708 Beacon St	1178
2712 Beacon St	1211	2715 Beacon St	1392	2712 Beacon St	1211
2714 Beacon St	1213	2719 Beacon St	728	2714 Beacon St	1213
2718 Beacon St	476			2718 Beacon St	476
2720 Beacon St	1272			2720 Beacon St	1272

				2705 Beacon St	1295
				2709 Beacon St	910
				2715 Beacon St	1392
				2719 Beacon St	728

Total:	6444	Total:	4325	Total:	10769
Average:	1074	Average:	1081	Average:	1077

2708 Beacon footprint size is **1178** sq ft.

2708 Beacon vs. WEST side AVG:	<b>1178</b> is 10% larger than <b>1074</b>	0.0968
2708 Beacon vs. EAST side AVG:	<b>1178</b> is 09% larger than <b>1081</b>	0.0897
2708 Beacon vs. W&E sides AVG:	<b>1178</b> is 09% larger than <b>1077</b>	0.0938

**CONCLUSION: The footprint size of 2708 Beacon is 9% larger than all 3 footprint averages**

Code 7.5.802B **NONUSE VARIANCES** states:

**B. Criteria For Granting:**

The following criteria must be met in order for any nonuse variance to be granted:

1. The property has extraordinary or exceptional physical conditions that do not generally exist in nearby properties in the same zoning district; and
2. That the extraordinary or exceptional physical condition of the property will not allow a reasonable use of the property in its current zone in the absence of relief; and
3. That the granting of the variance will not have an adverse impact upon surrounding properties.

7.5.802(B1) is referred to as "*Exceptional or Extraordinary Conditions*"

7.5.802(B2) is referred to as "*No Reasonable Use*"

7.5.802(B3) is referred to as "*No Adverse Impact on Surrounding Property*"

**Critical Points:**

**All (3) criteria must be met, otherwise the nonuse variance cannot be granted.**

**Each of the (3) criterion must be individually met. That is why they are separately stated in adopted code standard 7.5.802B.**

**There IS an existing precedent and a neighborhood standard exists** at 2703 Tremont St. This satisfies only 1 of the 3 requirements. This precedent **satisfies only 7.5.802(B2) *No Reasonable Use*.**

This precedent does NOT satisfy 7.5.802(B1) *Exceptional or Extraordinary Conditions* and it does NOT satisfy 7.5.802(B3) *No Adverse Impact on Surrounding Property*.

**\*\*\* The onus still lies with City Planning to substantiate that all three criterion are met, otherwise the nonuse variance cannot be granted. \*\*\***



## **Extraordinary Parking Condition in Roswell**

Roswell is a 100+ year old community. There were never any required off-street parking requirements when the vast majority of the existing principle residences were built. Therefore, the Roswell neighborhood, in general, presently does NOT comply with any current minimum off street requirement standards. This results in very heavy usage of on-street parking.

**Specific to an ADU, Code 7.3.105.M states:**

6. Off Street Parking Requirements: Minimum one parking space in addition to the minimum parking required for the principal structure.

Critical point: **"in addition to the minimum parking required for the principal structure."**

**THE EXTRAORDINARY CONDITION that exists on Beacon Street is that there are no existing minimum parking requirements for principle structures in Roswell.** Current ADU code does not take this situation into consideration and does not enforce the principle residence minimum parking requirements (because they do not exist) as part of an ADU application/build.

### **Excerpt from my comment letter (dated 4/14/18) to City Planning:**

We already have an existing street parking problem and we already have an over utilized alley. Existing city code marginally works here under present conditions. I implore you, please do not allow any more than existing code regulates and do not approve the variance application pertaining to the 2708 Beacon St. property.

The picture below was taken in front of 2714 Beacon St, looking south on Beacon St. The white car on the far left side of the picture is in its regular parking space, above the curb in front of 2709 Beacon St.



### **Lack of off street parking examples on 2700 Beacon block:**

2709 Beacon St: 1820 SF / 4 BDRM 1 designated off-street parking space

2720 Beacon St: 2048 SF / 4 BDRM 1 designated off-street parking space

## Neighbor Comments

Please take into consideration:

- **Voter participation is incredibly low in the 21<sup>st</sup> century.** Why would one have a different expectation on a City Planning notification posting or mailer?
- Roswell is an R2 zoned neighborhood so many of the properties are non-owner occupied. **It would be reasonable to expect very low participation with rental property owners or non-owner occupants.**
- Unfortunately, many people do not know their neighbors personally. In the present day, the world is a different place with school shootings and common acts of violence present in society.
- I personally spoke with Beacon Street 3 neighbors (all owner occupied) about the nonuse variance appeal. Here is what they said:
  - Neighbor 1: "I don't want to get involved."
  - Neighbor 2: "I don't want any trouble."
  - Neighbor 3: "I thought the mailer said it affected his (principal) house."

**Please do not misconstrue the lack of public comment as a lack of a neighborhood problem. Please take the time to fully examine the included pictures of the existing problems.**



Find messages, documents, photos or people

Compose

Back Archive Move Delete Spam

2016 Hudson  
2017 FALL asd20  
2017 July OURAY  
20170321 FIRST ...  
20170327 2nd DIG  
2018 CB  
2018 Coz June  
2018 Evan Sum...  
2018 ROOF  
2018 SPRING as...  
**2708 APPEAL**  
2708 APPEAL PIX  
2708 Beacon SU...  
2708 Beacon Var...  
2714 Beacon  
AAdvantage  
Amazon  
Archived 2012 B...  
bb  
Beacon  
Beacon Dig June...  
Beacon Improve...  
Beacon North Fe...  
Beacon Utilities  
Bed,Bath,Beyond  
belty  
Bonaire Nov 2012  
C and P  
Camper search f...  
camping  
capOne  
Carrie  
CDE  
Chase  
City contacts  
City Kudos  
City kudos  
concerts  
Corinne COLLEGE  
Corinne extra  
Corinne Friedman  
Corinne KUDOS  
Corinne SUMME...

RE: 2708 Beacon - Appeal

Yahoo/ 2708 AP... ★

**Dalsing, Susanna** <sdalsing@sj...>  
To: Cathy C.

May 2 at 7:17 AM ★

Good Morning,

All of the criteria on the appeal application was met. The timing of City Planning Commission in May and June is such that the appeal at 2708 Beacon Street does not meet City Code regarding how quickly an appeal should be heard by City Planning Commission. City Code states that an appeal must be heard no less than 20 days and no more than 48 days, this appeal meet neither of those criteria and thus, a special hearing must take place before the 48 day deadline. I apologize for any confusion.

Thank you,

Susanna

**From:** Cathy C. [mailto:verticalcc@yahoo.com]  
**Sent:** Tuesday, May 01, 2018 3:43 PM  
**To:** Dalsing, Susanna  
**Subject:** Re: 2708 Beacon - Appeal

What specific criteria was not met in my application appeal?

On Tuesday, May 1, 2018, 3:31:56 PM MDT, Dalsing, Susanna <sdalsing@springsgov.com> wrote:

Catherine,

I hope all is well. Thank you for submitting your appeal application yesterday, April 30th. City Code states that the appeal must be heard no less than 20 days and no more than 48 days to City Planning Commission. However, this appeal application meets neither of those criteria. My supervisor, Mike Schultz, has spoken with Marc and Ben and they recommended that we have a special public hearing meeting at City Council Chambers at 8:30 a.m. on June 14<sup>th</sup> before Informal Planning Commission starts. Once Planning Commission has heard the appeal, they will adjourn and we will not have to present at Informal Planning Commission. Please let me know if this day and time work well for you.

Thank you,

**Susanna  
Dalsing**Planner I – Central  
Team**Development  
Review  
Enterprise**Planning &  
Community**Susanna Dalsing** Q  
sdalsing@springsgov.com

## **7.5.802 E. Guidelines For Review Of A Nonuse Variance:**

### **1. Extraordinary Or Exceptional Physical 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, location, 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, or 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 this Zoning Code or its regulations.
- d. The variance, if granted, shall only be to the extent necessary to afford a reasonable use of property.



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT  
Development Review Enterprise Division

**Reviewing Planner:**  
Susanna R Dalsing  
(719) 385-5080  
sdalsing@springsgov.com

**Plans can be reviewed at:**  
2880 International Circle,  
Suite # 200-7  
Colorado Springs, CO 80910  
719-385-5982

**Hours of  
Operation:**  
Mon – Fri 8am-12pm  
1:00 pm-4pm

**PUBLIC NOTICE**

The Development Review Enterprise Division of the City of Colorado Springs has received a request from Al Juvera for consideration of the following land development application:

Al Juvera is seeking approval for a nonuse variance to the following section of City Code: 7.3.105.A.1.G; to allow an accessory structure's gross floor area to exceed the footprint of the principal structure. The approval of this nonuse variance will accommodate a detached garage with an accessory dwelling unit on the second story located at 2708 Beacon Street. The gross floor area of the structure is 1,482 square feet and the footprint of the home is 1,178 square feet. The property in question is zoned R2 (Two-Family Residential) and is 7,500 square feet in size. The nearest intersection is West Tyler Street and Beacon Street.

1,178



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT  
Land Use Review Division

4/19/2018

Alfred Juvera  
2708 Beacon Street  
Colorado Springs, CO 80907

RE: Nonuse Variance for 2708 Beacon Street – AR NV 18-00243

Mr. Juvera,

City Land Use Review administratively approved the aforementioned nonuse variance at 2708 Beacon Street to allow the gross floor area of an accessory structure to exceed the footprint of the principal structure. This request will accommodate a detached garage with an Accessory Dwelling Unit on the second story.

**STAFF ANALYSIS**

**CITY CODE CRITERIA TO GRANT A NON-USE VARIANCE**

**CRITERIA MET OR NOT MET**

**7.5.802 (B.1) Exceptional or Extraordinary Conditions**

**MET**

The home was constructed in 1908 and the footprint of the home is only 1,159 square feet in size. The footprint of the house is smaller than most in the immediate neighborhood. The approval of this nonuse variance will help reduce the parking on the street; the structure will provide two additional on-site parking spaces.

1,159

**7.5.802 (B.2) No Reasonable Use of Property**

**MET**

The property in question is zoned R2 (Two-Family Residential) and an Accessory Dwelling Unit is a use by right in the R2 zone. Condensing the garage and the Accessory Dwelling Unit into one structure will also reduce the bulk and scale on the lot

6.14.18  
CPC special  
Mtg.

May 19, 2018

City of Colorado Springs  
Land Use Review Division  
Community Development Department

To Whom It May Concern:

This letter serves as my support of the non-use variance being requested by Alfred Juvera for the property located at 2708 Beacon Street. The approval of this non-use variance will accommodate a detached garage with an accessory dwelling unit on the second story. The property in question is zoned R2 (Two-Family Residential). The detached garage will provide 2 parking spaces inside of the structure and one parking space on the side the structure.

Sincerely,



Janine Wieland

Neighbor: Michael + Janine Wieland

Address: 2712 Beacon St

City: Co Spgs

State: CO

Zipcode: 80907



CPC Special M  
6.14.18

May 19, 2018

City of Colorado Springs  
Land Use Review Division  
Community Development Department

To Whom It May Concern:

This letter serves as my support of the non-use variance being requested by Alfred Juvera for the property located at 2708 Beacon Street. The approval of this non-use variance will accommodate a detached garage with an accessory dwelling unit on the second story. The property in question is zoned R2 (Two-Family Residential). The detached garage will provide 2 parking spaces inside of the structure and one parking space on the side the structure.

Sincerely,

Neighbor: Carolyn Coker  
Address: 2705 Beacon St.  
City: C. S.  
State Co. Zipcode 80907

May 19, 2018

CPC  
Special Mtg  
6.14.18

City of Colorado Springs  
Land Use Review Division  
Community Development Department

To Whom It May Concern:

This letter serves as my support of the non-use variance being requested by Alfred Juvera for the property located at 2708 Beacon Street. The approval of this non-use variance will accommodate a detached garage with an accessory dwelling unit on the second story. The property in question is zoned R2 (Two-Family Residential). The detached garage will provide 2 parking spaces inside of the structure and one parking space on the side the structure.

Sincerely,

Neighbor: CHAD S. FUNCKES  
Address: 2708 BEACON ST  
City: COLORADO SPRINGS  
State: CO Zipcode: 80907