

Appeal
Package

to File Number:

AR NV 18-00243

RECEIVED

APR 30 2018

LAND USE REVIEW

2:45 PM

FIGURE 2



LAND USE REVIEW DIVISION
COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION FORM FOR APPEAL OF ADMINISTRATIVE DECISION

Appellant: Catherine Crawley Telephone (719) 271-4750 Fax N/A
Address: 2714 Beacon St. Zip Code 80907 e-mail verticalcc@yahoo.com

Premises Involved:

City Planning File Number (if applicable): AR NV 18-00243
Address: 2708 Beacon St. CSC 80907
Direction from nearest street intersection W. Tyler St. & Beacon St.

Tax Schedule No. 63313-20-008 Acreage 7,500 sq. ft.
(The tax schedule number can be obtained from the El Paso County Tax Assessor located at 27 E. Vermijo Avenue on the 2nd Floor; phone: 520-6600 or at their web site <http://www.land.elpasoco.com>)

Date of Receipt of Notice and Order or Date of Final Administrative Decision Date of Receipt: 4/4/18
Decision Date: 4/19/18

Appeal of Decision Regarding:

Development/Landscape Plan	Subdivision Plat	Notice and Order
Hillside Site Plan	Administrative Relief	Non-Conforming Use
Sexually Oriented Business	Temporary Use Permit	Relocation payments
Similar Use Determination	Property Boundary Adjustment	
Preservation Area Boundary Adjustment	Building Permit to Unplatted Land	
Building Permit prior to Platting	Historic Preservation Board Determination	
Home Occupation Permit	Human Service Establishment	
Other: <u>Non use Variance</u>		

OFFICIAL CITYUSE:

Fee Receipt #	Date Application Accepted
Completed Form	Intake Staff
Appeal Statement (2)	Vicinity Map
Authorization	Copy of Notice and Order (if applicable)
Applicant informed of Poster Pickup Date? Yes <input type="checkbox"/> No <input type="checkbox"/>	If Yes, Date of Poster Pickup
Notification Options: Waive Notification <input type="checkbox"/> Adjacent <input type="checkbox"/> 500' <input type="checkbox"/> 1,000' <input type="checkbox"/>	(Notice to be sent at time of CPC/CC Hearing only)
Assigned to:	

OWNER/APPLICANT AUTHORIZATION:

The signature(s) below certifies that I (we) is(are) the authorized appellant and that the information provided on this form is in all respects true and accurate to the best of my (our) knowledge and belief. I (we) familiarized myself(ourselves) with the rules, regulations and procedures with respect to preparing and filing this petition. I agree that if this request is approved, it is issued on the representations made in this submittal, and any approval or subsequently issued building permit(s) or other type of permit(s) may be revoked without notice if there is a breach of representations or conditions of approval.

Signature of Appellant

Date

PRE-APPLICATION CONFERENCE:

A pre-application conference with the planning staff is not mandatory for these applications. However, if you would like a pre-application meeting, please call 385-5905 and one will be scheduled for you.

PROJECT TRACKING

City Planning maintains an internet-based project tracking system (**LUIStrack**) that reflects all significant processing benchmarks associated with each development application. Go to <http://www.springsgov.com/luispublic/luispublic.asp> to search for your application in **LUIStrack** project tracking.

PUBLIC NOTICE:

The following public notice requirements will be imposed in conjunction with the review of these applications:

- Written notification to the adjoining property owners within 500 or 1,000 feet (at planner's discretion) of the property site will be required. City Planning will coordinate with the applicant on the required postage amount with the postage amount required to be paid when the applicant picks up the public notice poster.
- A public notice poster will be provided to the applicant a minimum of ten (10) days prior to the public hearing date. The proposed project site must be posted, by the applicant for a minimum of ten (10) consecutive days. The poster should be posted in a very visible location on the site, which can be viewed by passing motorists and/or pedestrians without trespassing. The applicant is required to complete the affidavit (a copy will be attached to the poster) attesting to the specific dates that the site was posted. The applicant must check the site occasionally to confirm that the property continues to be posted throughout the posting period. If the poster is no longer in good shape or has disappeared from the site, please contact the City Planning Office at 385-5905 for a replacement poster.

FEES:

An application review fee will be required to accompany these applications (checks payable to City of Colorado Springs). The fee schedule is as follows:

Appeal of Administrative Decision to Planning Commission	<u>Land Use Review Fee</u> \$176
Appeal of Planning Commission Decision to City Council	<u>Land Use Review Fee</u> \$176

If you are indigent, your fee may be waived; please ask the planning staff for an Indigent Fee Waiver form if you wish to apply for this fee waiver.

APPLICATION REQUIREMENTS:

This application should be submitted to the City of Colorado Springs-Planning Office at 30 South Nevada Avenue, Suite 105. All applications must be completed in full and accompanied by the following information:

APPLICANT

PLANNER

CP

1. Two (2) copies of an **APPEAL STATEMENT** identifying the following:
 - A clear **DESCRIPTION** of the appeal. The file number, ordinance and/or provision must be identified and a brief summary of facts.
 - A **JUSTIFICATION** based on the review criteria as set forth in Section 7.5.906 Justifying why the appeal should be approved.

CP

2. A **VICINITY MAP** showing the parcel outlined with the adjacent streets within the neighborhood noted on a separate 8½" x 11" page.

n/a

3. A copy of the **NOTICE and ORDER** from the issuing agency (if applicable).
4. City Planning, City Planning Commission and/or the City Council may require other **ADDITIONAL INFORMATION** for this application as needed.

INFORMATION REGARDING APPEAL OF A NOTICE and ORDER:

If you are appealing a Notice and Order issued by an official of the City of Colorado Springs, you are stating that one or both of the following are true:

1. You are not in violation of City Code and you believe the official is in error; and,
2. The abatement period is unreasonable and should be lengthened.

INFORMATION REGARDING APPEAL OF A NOTICE AND ORDER, continued:

A perfected appeal shall operate as a stay of the enforcement process unless the City Agency which issued the Notice and Order 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 such a short term nature that by the time an appeal hearing is held, the violation will have been terminated or moved to another site. You should take no further action regarding the alleged violation during this stay of proceedings. Do not continue construction, add on or otherwise modify your property or buildings. If you do, it is at your own risk and a completed project will not guarantee automatic approval. In no event will a variance be granted upon appeal from any order, requirement, decision or determination. Any variance will require the filing of a separate application and payment of applicable fees.

INFORMATION REGARDING AN APPEAL OF AN ADMINISTRATIVE DECISION:

An individual aggrieved by a decision made by an administrative officer of the City may appeal such a decision by filing a written notice specifying briefly the grounds of the appeal within ten (10) days from the date of mailing, posting, or personal service of notice of the decision. City Planning shall place the appeal on the Planning Commission agenda at the next regularly scheduled meeting occurring at least twenty-one (21) days but not more than forty-eight (48) days thereafter. After the public hearing, the Planning Commission shall have the power to affirm, reverse, or modify such decisions.

In accordance with the Zoning Code, individuals filing appeals of an administrative decision made by City Planning staff must substantiate the following in written form:

1. Identify the explicit ordinance provisions which are in dispute.
2. Show that the administrative decision is incorrect because of one or more of the following:
 - a) It was against the express language of the Zoning Ordinance, or
 - b) It was against the express intent of the Zoning Ordinance, or
 - c) It is unreasonable, or
 - d) It is erroneous, or
 - e) It is clearly contrary to law.
3. Identify the benefits and adverse impacts created by the decision, describe the distribution of the benefits and impacts between the community and the appellant, and show that the burdens placed on the appellant outweigh the benefits accrued by the community.

Investigation: City Planning shall investigate the application and the facts bearing on the case to provide the information necessary for action consistent with the intent, purpose and requirements of the Zoning Code. City Planning shall report the findings to the Planning Commission.

Appearance: If making an appearance of record, the following persons, are hereby defined as parties and shall be entitled by themselves or through a representative to participate in a public hearing before the Planning Commission:

1. The applicant or the appellant;
2. Either the owner or lessee of property of agent for the owner or lessee which is directly affected by the matter which is before the reviewing authority;
3. Any person, organization, group or governmental entity who demonstrate to the Planning Commission that they have a significant interest in the subject matter of the hearing;
4. Any member of the City administration.

The "appearance of record" shall mean either:

1. An oral statement sufficiently identifying the person making the same or by his representative made at the hearing, or
2. A written statement giving the name and address of the person making the appearance signed by their representative and filed with the Planning Commission either prior to the beginning of the hearing or when permitted by the Planning Commission.

FINAL DISPOSITION:

In consideration of an appeal, the Planning Commission may affirm, reverse or modify an administrative decision under their jurisdiction in accordance with the Zoning Code. After receiving testimony, the Planning Commission shall announce its decision at the conclusion of the public hearing. The decisions shall set forth the findings of fact together with conditions of approval considered necessary to mitigate impacts and protect the public health, safety and welfare. The Planning Commission may recommend conditions, which are necessary and reasonable in order to further the purpose of the Zoning Code. Such conditions may include, but are not limited to, setbacks, from adjacent uses or property lines, landscaping, screening, placement and size of signs, placement and amount of parking and access restrictions.

Appealing a Decision of the Planning Commission:

The decision of the City Planning Commission to approve or deny an application may be appealed to the City Council within ten days from the date of the public hearing decision. The appeal must be in writing and should be submitted to the City Clerk at 30 South Nevada Avenue, Suite 101 along with a \$176.00 non-refundable fee. The appeal must include the file number of the item and specify briefly the grounds for the appeal. If a perfected appeal is filed within this ten-day period, the decision to approve or deny will be suspended until the appeal process is finalized.

Upon receipt of the subsequent appeal, the City Clerk shall schedule a public hearing before the City Council at the next meeting occurring at least thirteen (13) days thereafter. City Council has the power to refer any matter appealed back to Planning Commission for further consideration or affirm, reverse or modify the action of the Planning Commission. In all matters before the City Council relating to the actions of the Planning Commission, the entire file from City Planning pertaining to such matters shall be made a part of the record of the City Council. The file shall include but not be limited to Planning Commission minutes, maps, drawings, departmental reports and application. If the appellant wants to submit additional exhibits to Council to include in the record, the original of such exhibit and twelve (12) copies must be submitted to the City Clerk. If the exhibits are electronic, a disk must be given to the City Clerk. All exhibits are kept for a maximum of ten (10) working days after the time of appeal has expired.

At the public hearing, City Planning staff will summarize their recommendation and the Planning Commission's recommendation for the record. The appellant may present an argument in support of their position. An individual who has not appealed may present an argument in support of the appellant's position. A short rebuttal by the applicant shall be limited to issues raised during the preceding argument. Final comments from the applicant and all other parties are allowed only by permission of the Mayor. Final comments from City staff and staff's recommendation shall conclude the hearing. All questions will be directed through the Mayor who will then direct the question to the appropriate person. Council may then make a decision on the matter or delay the decision. If final action is not taken at the public hearing, the Mayor will advise the audience when the matter will be considered.

Appealing a Decision of the City Council:

Once City Council has made a final decision to grant or deny an appeal, the administrative process shall be deemed to be exhausted. Any subsequent appeal must be made to the court.

DO NOT REMOVE THIS PAGE – IT MUST BE KEPT WITH THE ORIGINAL APPLICATION FORM!

The City of Colorado Springs-Planning Group is committed to ensuring that all of our services are accessible to those with disabilities. We encourage participation by all individuals. If you have a disability, advance notification of any special needs will help us better serve you. Please call the City at 385-5905 to request any special service that you may require. A one (1) week advance notice to allow us to accommodate your request is appreciated.

Appeal Statement

Appeal
Statement

FIGURE 2

Appeal Statement

Date: 04/30/2018

File number: AR NV 18-00243 pertaining to 2708 Beacon Street nonuse variance application

Applicant for nonuse variance: Mr. Al Juvera

Appellant: Catherine Crawley, neighbor of Mr. Juvera's (two houses to the north of 2708)

I am formally appealing the administrative decision made by the City Land Use Review regarding their approval of a nonuse variance at 2708 Beacon Street to allow the gross floor area of an accessory structure to exceed the footprint of the principal structure (City Code 7.3.105.A.1.G).

I will substantiate that the administrative decision was incorrect because of a significant data value error and additionally, provide evidence of false and erroneous statements made via "STAFF ANALYSIS" when attempting to substantiate that the City Code Criteria 7.5.802 had been met to in order to grant the nonuse variance.

This appeal and its well documented justifications will show that the City Land Use Review did not meet *all* 3 criteria of City Code 7.5.802 (B.1), 7.5.802 (B.2) and 7.5.802 (B.3). If only one Criterion is shown to be NOT MET, then subsequently the City Land Use Review will have *failed* to show that all three have been MET per City Code 7.5.802 and therefore the City Land Use Review will not be able grant the nonuse variance.

City Code 7.5.906.4.a requirement:

The ordinance in dispute is in 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". What is in dispute is the City Land Use Review's data value on *the footprint of the principal structure*. This dispute is substantiated in the Justification #1, in the Justification Section that follows this appeal statement.

City Code 7.5.906.4.b.4 requirement:

This code states "Show that the administrative decision is incorrect because of one or more of the following: ... (4) it is erroneous." Justification #1 - #4 will provide clear, documented evidence to show that this review process and subsequent approval are erroneous.

City Code 7.5.906.4.c requirement:

There are adverse impacts created by this decision to approve the nonuse variance and they are related to off street parking. This affects me somewhat but the larger adverse impact is to the neighborhood. Justification #5 provides evidence of the adverse impacts and their effect on the community.

The Justification Section follows:

All Justification write-ups and evidence are tabulated and labeled in this appeal packet.

All Justification pages are labeled in the upper right hand corner. Page one of Justification #1 is labeled J1_pg1; page two is labeled J1_pg 2. Page one of Justification#2 is label J2_pg1 and so on.

Respectfully,

Catherine Crawley

2714 Beacon Street

Colorado Springs, CO 80907

¹For future references throughout all documents in this appeal packet, "the Approval letter" references the Land Use Review Division letter dated 4/19/2018, RE: Nonuse Variance for 2708 Beacon Street – AR NV 18-00243, addressed to Mr. Juvera and signed by Susanna Dalsing.

²For future references throughout all documents in this appeal packet, "ADU" will represent Accessory Dwelling Unit.

J1

51

FIGURE 2

JUSTIFICATION #1

CLAIM:

Erroneous data for footprint size of the principle residence was used by City Land Use Review in its failed attempt to meet Criterion 7.5.802 (B.1) *Exceptional or Extraordinary Conditions*.

EVIDENCE:

- 1) Refer to the copy of PUBLIC NOTICE mailer from Planning, it states "the footprint of the home is **1,178** square feet" and this information is circled in heavy black ink on page J1_pg1.
- 2) Refer to Mr. Juvera's submitted Site Plan on page J1_pg2. He has provided the footprint size of the primary residence at 2708 Beacon and it is stated at "**1,178** 1st Floor". This information is circled in heavy black ink on page J1_pg2.
- 3) The paragraph labeled 7.5.802 (B.1) *Exceptional or Extraordinary Conditions* in the Approval letter states "the footprint of the home is only **1,159** square feet in size." Refer to page J1_pg3 and this erroneous information is circled in red.

CONCLUSION:

If the PUBLIC NOTICE is correct with 1178 value, then the Approval letter is erroneous with 1159 value. If the Approval letter is correct with 1159 value, the PUBLIC NOTICE is erroneous with 1178 value. **Either way, this is significant erroneous data.** Therefore, the administrative decision is erroneous and must be declared incorrect per City Code 7.5.906.A.4b.4.

The City Land Use Review has utilized erroneous data and therefore has NOT MET Criterion 7.5.802 (B.1) *Exceptional or Extraordinary Conditions*. Because City Land Use Review has NOT MET all three Criteria in 7.5.802 (B.1 and B.2 and B.3) they cannot grant a nonuse variance, this appeal should be approved.



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.

If you would like to review the plans for this project bring this postcard to the address listed above. **If you wish to provide comments regarding this application you may do so until 04/16/2018.** All comments received are public record and will be made available to the applicant. If you have questions contact the planner listed above.

To view this application and related documents, type <http://eoc.springsgov.com/ldrs/> into your Internet Browser. Type the entire file number: AR NV 18-00243 within the "Enter the File Number" field and click on the "Run Query" button. PDF documents may be viewed by clicking on the links that appear on the left-hand side of the resulting page. Contact the planner, **Susanna Dalsing**, listed above for assistance viewing the applications.

In accord with the Americans with Disabilities Act of 1990 ("ADA"), the City of Colorado Springs will not discriminate against qualified individuals with disabilities. Anyone requiring an auxiliary aid or service to participate in this process should make the request as soon as possible but no later than 48 hours before the hearing. Citizens who are deaf and hard of hearing may dial 711 or 1-800-659-3656 Relay Colorado (voice) or 1-800-659-2656 (TTY).

APPEAL INSTRUCTIONS

In accordance with Chapter 7, Article 5, of the City Code, any person may appeal to the City Planning Commission in relation to the Zoning Code, where the above approved application was adverse to that person. The notice of appeal, and a \$176 fee, shall be filed with the City Clerk no later than 10 days after the date of approval. The appeal letter should address specific Zoning Code requirements that were not adequately addressed by the approved administrative decision.

Site Plan

LEGEND

2708 BEACON STREET

LOT SIZE 7,500 Sqft

EXISTING HOUSE 2329 Sqft COMBINED 3 FLOORS

PROPOSED STRUCTURE 1482 Sqft COMBINED FOR BOTH FLOORS

AL JUNE 24 719-439-7806

LOT COVERAGE 3.3

SCALE 1" = 20'



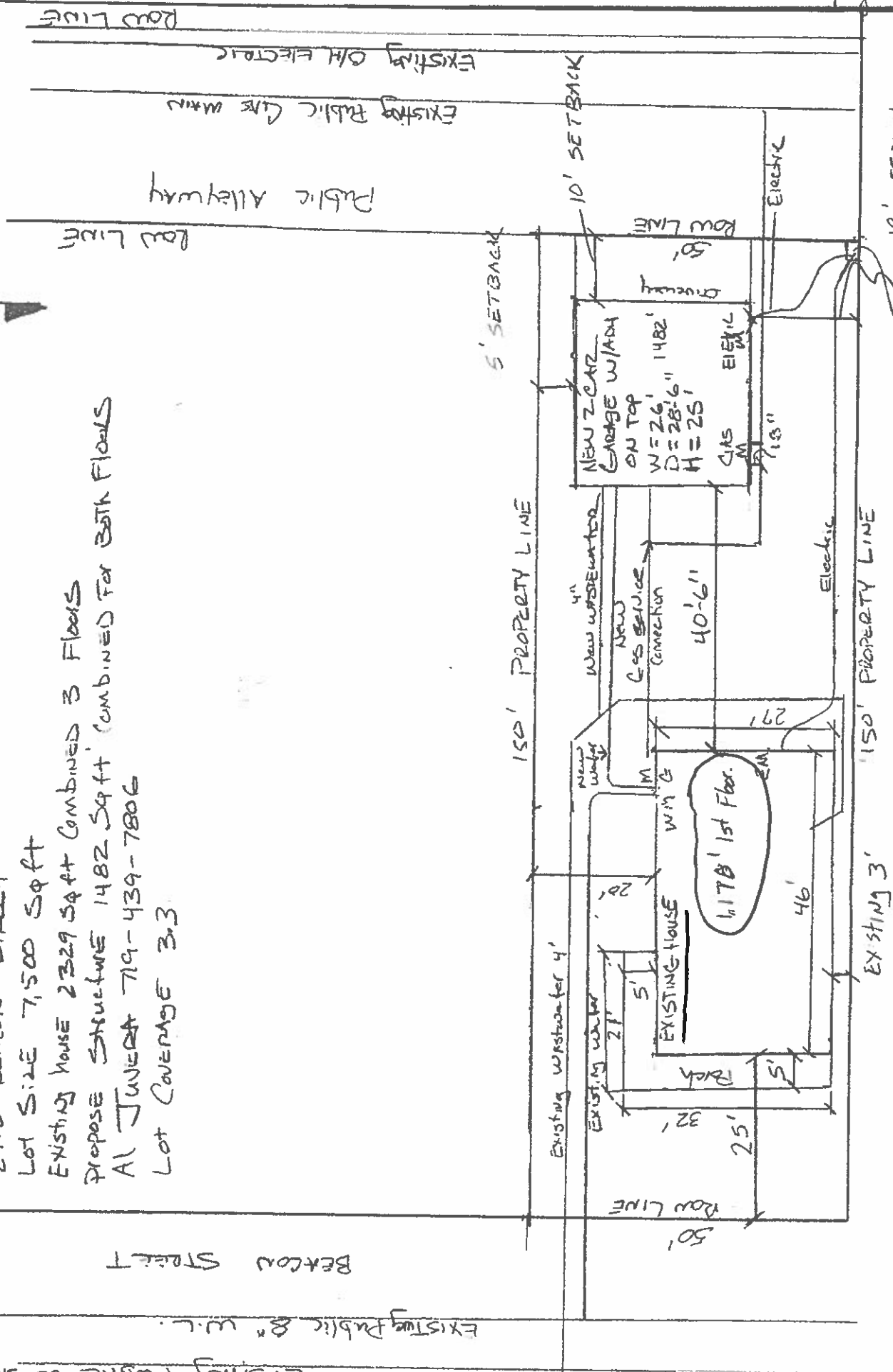
BEACON STREET

EXISTING Public 8" W.C.

EXISTING Public WASTEWATER MAIN

ROW LINE

FIGURE 2





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.

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.

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

MET

The granting of this variance will help reduce on street parking in the immediate neighborhood. The proposed Accessory Dwelling Unit will have two off street parking spaces, where there were none before. At least one of the parking spaces shall be used for the occupant of the Accessory Dwelling Unit. The granting of this variance is not inconsistent with any plans adopted by the City. A postcard was mailed to property owners within a 150-foot radius from the property in question and a poster was posted on the property for duration of 10 days. During this time, one formal complaint was made. Please see the attached document that outlines the complaints.

STAFF DECISION

APPROVED: Staff moves to approve the Nonuse Variance(s) requested based on all three (3) criteria being met and to further the intent of the 2001 City of Colorado Springs Comprehensive Plan:

Objective LU 2: Develop A Land Use Pattern That Preserves the City's Natural Environment, Livability, And Sense of Community

Objective LU 4: Infill and Redevelopment

Objective LU 5: Develop Cohesive Residential Area

30 S. Nevada Ave., Suite 105 • Tel: 719-385-5905 • Fax: 719-385-5167 • www.coloradosprings.gov
Mailing Address: P.O. Box 1575, Mail Code 155 • Colorado Springs, CO 80901-1575

J2

J2

JUSTIFICATION #2

FACT:

In the Approval letter, the paragraph labeled 7.5.802 (B.1) *Exceptional or Extraordinary Conditions* the City Land Use Review states "The footprint of the house is smaller than most in the immediate neighborhood."

CLAIM:

The City Land Use Review statement "smaller than most in the immediate neighborhood" is false and erroneous.

EVIDENCE:

This statistical mean of footprint size is provided in 3 different groupings to comprehensively cover the Planning Review Boards concept of "immediate neighborhood". Item 1) calculations include all houses on just the west side of the 2700 block of Beacon Street. Item 2) calculations include all houses on just the east side of the 2700 block of Beacon Street. Item 3) calculations include all houses on both the east and the west side of the 2700 block of Beacon Street. All footprint data was determined from Total Living Space data obtained directly from the El Paso County Assessor Page on 4/28/2018.

- 1) Refer to page J2_pg1 data and calculations. Average **footprint size** on West side of 2700 block of Beacon = **1074** sq. ft.
- 2) Refer to page J2_pg2 data and calculations. Average **footprint size** on East side of 2700 block of Beacon = **1081** sq. ft.
- 3) Refer to page J2_pg3 data and calculations. Average **footprint size** on Entire block of 2700 block of Beacon = **1077** sq. ft.
- 4) Refer to page J2_pg4 and read the red circled section of the Approval letter.

CONCLUSION is on the following page.

JUSTIFICATION #2 continued

CONCLUSION:

All three calculated footprint size mean values, stated above 1) through 3), are consistent with very little data spread. Rounded up to the nearest hundred, all three of calculated footprint means would round up to 1100 sq. ft. and still compare **SMALLER** to 2708 Beacon's footprint of **1178 sq. ft.** Therefore, the statement "smaller than most in the immediate neighborhood" is false and erroneous so Criterion 7.5.802 (B.1) *Exceptional or Extraordinary Conditions* is NOT MET. Because City Land Use Review has NOT MET all three Criteria in 7.5.802 (B.1 and B.2 and B.3) they cannot grant a nonuse variance, this appeal should be approved.

These are houses with the most "immediate" proximity to 2708 Beacon Street. 2704 and 2712 each share lot boundaries with the 2708 Beacon property. 2704,2708,2712,2714,2718, & 2720 all share the same alley that will serve as access to the proposed ADU.

Street Address	Description	Total Living Space	(sq. ft.) FOOTPRINT	
2704 Beacon St	One Story/Ranch	1094	1094	
2708 Beacon St	One and Half Story	2147	1178	***
2712 Beacon St	One Story/Ranch	1211	1211	
2714 Beacon St	One Story/Ranch	1213	1213	
2718 Beacon St	One Story/Ranch	476	476	
2720 Beacon St	One Story/Ranch	1272	1272	
		Total:	6444	
		Average:	1074	

WEST Side of 2700 Block of Beacon Street FOOTPRINT AVERAGE = 1074 sq. ft.

*** PLEASE NOTE: The Footprint size of 2708 Beacon was obtained from the Planning Review PUBLIC NOTICE notification mailer (green).

These houses all are located directly opposite 2708 Beacon on the other side of the street.
This page provides another footprint average in the "immediate neighborhood".

Street Address	Description	Total Living Space	(sq. ft.) FOOTPRINT
2705 Beacon St	One Story/Ranch	1295	1295
2709 Beacon St	One Story/Ranch	910	910
2715 Beacon St	One Story/Ranch	1392	1392
2719 Beacon St	One and Half Story	1214	728
		Total:	4325
		Average:	1081.25

EAST side 2700 Block of Beacon Street FOOTPRINT AVERAGE = 1081 sq. ft.

To show a larger "immediate neighborhood" sampling, I have combined the entire east side and the entire west side of the 2700 block of Beacon St to calculate an average footprint:

Street Address	Description	Total Living Space	(sq. ft.) FOOTPRINT
2704 Beacon St	One Story/Ranch	1094	1094
2708 Beacon St	One and Half Story	2147	1178 ***
2712 Beacon St	One Story/Ranch	1211	1211
2714 Beacon St	One Story/Ranch	1213	1213
2718 Beacon St	One Story/Ranch	476	476
2720 Beacon St	One Story/Ranch	1272	1272
2705 Beacon St	One Story/Ranch	1295	1295
2709 Beacon St	One Story/Ranch	910	910
2715 Beacon St	One Story/Ranch	1392	1392
2719 Beacon St	One and Half Story	1214	728
Total:		10769	
Average:		1076.9	

ENTIRE 2700 Block of Beacon Street FOOTPRINT AVERAGE = 1077 sq. ft.



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.

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.

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

MET

The granting of this variance will help reduce on street parking in the immediate neighborhood. The proposed Accessory Dwelling Unit will have two off street parking spaces, where there were none before. At least one of the parking spaces shall be used for the occupant of the Accessory Dwelling Unit. The granting of this variance is not inconsistent with any plans adopted by the City. A postcard was mailed to property owners within a 150-foot radius from the property in question and a poster was posted on the property for duration of 10 days. During this time, one formal complaint was made. Please see the attached document that outlines the complaints.

STAFF DECISION

APPROVED: Staff moves to approve the Nonuse Variance(s) requested based on all three (3) criteria being met and to further the intent of the 2001 City of Colorado Springs Comprehensive Plan:

- Objective LU 2: Develop A Land Use Pattern That Preserves the City's Natural Environment, Livability, And Sense of Community
- Objective LU 4: Infill and Redevelopment
- Objective LU 5: Develop Cohesive Residential Area

30 S. Nevada Ave., Suite 105 • Tel: 719-385-5905 • Fax: 719-385-5167 • www.coloradosprings.gov
Mailing Address: P.O. Box 1575, Mail Code 155 • Colorado Springs, CO 80901-1575

J3

J3

FIGURE 2

JUSTIFICATION #3

FACT:

In the Approval letter, City Land Use Review states in the paragraph labeled 7.5.802 (B.3) *No Adverse Impact to Surrounding Property* "The proposed Accessory Dwelling Unit will have two off street parking spaces, where there were none before."

CLAIM:

The City Land Use Review's statement of "**where there were none before**" is erroneous.

EVIDENCE:

- 1) Refer to page J3_pg1 for the red circled quote in the 3rd paragraph of the Approval letter by City Land Use Review. It states "Condensing the garage and the Accessory Dwelling Unit into one structure will also reduce the bulk and scale on the lot". City Land Use Review has clearly documented their acknowledgment of the existing garage structure on Mr. Juvera's property.
- 2) Refer to page J3_pg2 for Assessor Public Record Residential data on the existing garage on the property at 2708 Beacon Street. All data obtained from the El Paso County Assessor Page on 4/28/2018.
- 3) Refer to page J3_pg3 for Alley View picture of Existing Garage.

CONCLUSION:

Through their own Approval letter, City Land Use Review has clearly documented their acknowledgement of the existing garage on Mr. Juvera's property. Assessor data clearly shows the existence of a garage. The existence of that garage proves pre-existing off street parking abilities that the City Land Use Review wrongly proclaimed did not exist. The City Land Use Review statement of "The proposed Accessory Dwelling Unit will have two off street parking spaces, where there were none before." is false and erroneous. Therefore, Criterion 7.5.802(B.3) *No Adverse Impact to Surrounding Property* is NOT MET. Because City Land Use Review has NOT MET all three Criteria in 7.5.802 (B.1 and B.2 and B.3) they cannot grant a nonuse variance, this appeal should be approved.



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.

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.

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

MET

The granting of this variance will help reduce on street parking in the immediate neighborhood. The proposed Accessory Dwelling Unit will have two off street parking spaces, where there were none before. At least one of the parking spaces shall be used for the occupant of the Accessory Dwelling Unit. The granting of this variance is not inconsistent with any plans adopted by the City. A postcard was mailed to property owners within a 150-foot radius from the property in question and a poster was posted on the property for duration of 10 days. During this time, one formal complaint was made. Please see the attached document that outlines the complaints.

STAFF DECISION

APPROVED: Staff moves to approve the Nonuse Variance(s) requested based on all three (3) criteria being met and to further the intent of the 2001 City of Colorado Springs Comprehensive Plan:

Objective LU 2: Develop A Land Use Pattern That Preserves the City's Natural Environment, Livability, And Sense of Community

Objective LU 4: Infill and Redevelopment

Objective LU 5: Develop Cohesive Residential Area

30 S. Nevada Ave., Suite 105 • Tel: 719-385-5905 • Fax: 719-385-5167 • www.coloradosprings.gov
Mailing Address: P.O. Box 1575, Mail Code 155 • Colorado Springs, CO 80901-1575

Public Record Residential Data for 2708 Beacon Street obtained from El Paso County Assessor Page on 4/28/2018:

Property Description: FRAME AVERAGE QUALITY

Carport Area: 0

Garage Description: Detached

Garage Area: 324



FIGURE 2

J4

J4

JUSTIFICATION #4

FACT:

Mr. Juvera's application for the nonuse variance is incomplete.

CLAIM:

The Review process should have never been started because the application is not valid.

EVIDENCE:

- 1) Refer to page J4_pg1 for the red circled empty box at the top of the GENERAL APPLICATION FORM submitted by Mr. Juvera on 2/26/2018
- 2) Refer to City Code 7.5.802.A which states "A. Authorization: Subject to the requirements of this part and this Zoning Code, nonuse variances are hereby authorized."

CONCLUSION:

A Tax Schedule Number is one of the most important data items to the City Land Use Review, yet Mr. Juvera did not supply one on his application for nonuse variance. More significant is the fact that the application was not immediately rejected. This is erroneous procedure and per City Code 7.5.906.A.4b.4 the administrative decision is incorrect and the appeal should be approved.



GENERAL APPLICATION FORM

Edited 6/22/16

Project Name: garage / ADU Existing Zone: R2 Acreage: 7,500
Site Address: 2708 Beacon Direction from Nearest Street Intersection: W Tyler St & Beacon Street
Tax Schedule Number(s):

TYPE OF PLAN(S) - Check all that apply. Note: MJ=Major Amendment; MN=Minor Amendment; MM=Minor Modification

<input type="checkbox"/> 2020 Land Use Map Amendment	<input type="checkbox"/> Subdivision Plat <input type="checkbox"/> PP <input type="checkbox"/> PFP <input type="checkbox"/> FP
<input type="checkbox"/> Administrative Relief <input type="checkbox"/> HP	<input type="checkbox"/> Subdivision Waiver (Design/Process)
<input type="checkbox"/> Amendment to Plat Restriction	<input type="checkbox"/> Use Variance <input type="checkbox"/> New <input type="checkbox"/> MJ <input type="checkbox"/> MN <input type="checkbox"/> MM
<input type="checkbox"/> Annexation	<input type="checkbox"/> Vacation of Plat
<input type="checkbox"/> Building Permit to Unplatted Land	<input type="checkbox"/> Vacation of Public Right-of-Way
<input type="checkbox"/> Building Permit Prior to Platting	<input type="checkbox"/> Waiver of Replat
<input type="checkbox"/> CMRS No. <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3	<input type="checkbox"/> Zone Change; Proposed Zone: <u></u>
<input type="checkbox"/> Concept Plan <input type="checkbox"/> New <input type="checkbox"/> MJ <input type="checkbox"/> MN <input type="checkbox"/> MM	<input type="checkbox"/> PUD Zone Change
<input type="checkbox"/> Conditional Use <input type="checkbox"/> New <input type="checkbox"/> MJ <input type="checkbox"/> MN <input type="checkbox"/> MM	<input type="checkbox"/> PUD Concept Plan <input type="checkbox"/> New <input type="checkbox"/> MJ <input type="checkbox"/> MN <input type="checkbox"/> MM
<input type="checkbox"/> Development Agreement	<input type="checkbox"/> PUD Development Plan <input type="checkbox"/> New <input type="checkbox"/> MJ <input type="checkbox"/> MN <input type="checkbox"/> MM
<input type="checkbox"/> Development Plan <input type="checkbox"/> New <input type="checkbox"/> MJ <input type="checkbox"/> MN <input type="checkbox"/> MM	<input type="checkbox"/> FBZ Development Plan <input type="checkbox"/> New <input type="checkbox"/> MJ <input type="checkbox"/> MN <input type="checkbox"/> MM
<input type="checkbox"/> Landscape Plan <input type="checkbox"/> Preliminary <input type="checkbox"/> Final <input type="checkbox"/> Irrigation	<input type="checkbox"/> FBZ Conditional Use <input type="checkbox"/> New <input type="checkbox"/> MJ <input type="checkbox"/> MN <input type="checkbox"/> MM
<input type="checkbox"/> Master Plan <input type="checkbox"/> New <input type="checkbox"/> MJ <input type="checkbox"/> MN <input type="checkbox"/> MM	<input type="checkbox"/> FBZ Interim Use Plan
<input checked="" type="checkbox"/> Nonuse Variance	<input type="checkbox"/> FBZ Minor Improvement Plan
<input type="checkbox"/> Preservation Easement Adjustment	<input type="checkbox"/> FBZ Warrant
<input type="checkbox"/> Property Boundary Adjustment	
<input type="checkbox"/> Street Name Change	

PROPERTY OWNER AND/OR APPLICANT/CONSULTANT ACKNOWLEDGEMENT OF RESPONSIBILITIES:
The signature(s) hereby certify that the statements made by myself and constituting part of this application are true and correct. I am fully aware that any misrepresentation of any information on this application may be grounds for denial of this application. I agree that if this request is approved, it is issued on the representations made in this submittal, and any approval or subsequently issued building permit(s) or other type of permit(s) may be revoked without notice if there is a breach of representations or conditions of approval. The applicant/owner by his or her signature understands and agrees that he or she is responsible for the completion of all on-site and off-site improvements as shown and approved on the final plan (including landscaping, paving, lighting, etc.) prior to receiving a Certificate of Occupancy.

☐ I, as the property owner, wish to receive copies of all correspondence regarding this project.

[Signature] 2/26/18
Signature of Property Owner Date Signature of Applicant/Consultant Date

CONTACT INFORMATION; all information below to be printed or typed:

Applicant/Consultant: Alfred Juvera Contact Name: Alfred Juvera
Address: 2708 BEACON Street City: Colorado Springs Phone: 719-439-7806
State: CO Zip Code: 80907 E-Mail: 97455391@gmail.com
Property Owner: Alfred Juvera Phone: 719-439-7806
Address: 2708 BEACON Street City:
State: Zip Code: E-Mail:

PLANNER AUTHORIZATION: (CITY USE ONLY) ☐ Administrative Review ☐ CPC ☐ CC ☐ DRB ☐ HP

☒ Payment \$ 575.00 Assigned to: Date:
Receipt #: City File No: AR NV 18-00243

J5

J5

FIGURE 2

JUSTIFICATION #5

CLAIM:

Approval of the nonuse variance IS an *Adverse Impact to Surrounding Property* pertaining to City Code 7.5.802 (B.3)

EVIDENCE:

- 1) Refer to page J5_pg1 for the picture of 2700 Beacon Street. This photograph was taken by Catherine Crawley on 4/17/2018 at 11am from the corner of Polk and Beacon Street, looking south at the 2700 block of Beacon Street.
- 2) Refer to page J5_pg2 which documents City Code 6.12.303 Minimum Standards for Space, Use and Location
- 3) Refer to page J5_pg3 and J5_pg4 which contains Appellant's original comment letter and Susanna Dalsing's responses in red ink. Refer specifically to Comment 2) and Comment 3).
- 4) Refer online to El Paso County Assessor page information, which shows that 2714 Beacon Street (Appellant's residence) is not adjacent to the property located at 2708 Beacon Street (Applicant's residence).

CONCLUSION:

Mr. Juvera's property line is not in common with mine at 2714 Beacon Street and therefore the nonuse variance does not affect me directly. The adverse impacts will affect everyone in the neighborhood who are already dealing with the existing significant street parking problem.

CONCLUSION continued on following page.

JUSTIFICATION #5

CONCLUSION continued:

The picture on page J5_pg1 demonstrates a clear street parking problem on the 2700 Block of Beacon Street. This picture was taken mid-morning on a weekday and it was not a holiday. There were no exceptional circumstances on that day and time that would inaccurately represent the general parking situation in general. There IS an existing parking problem on the 2700 Block of Beacon Street. The lack of quantity of public comment on one variance application cannot be construed as a lack of a problem.

As presented on page J5_pg2, square footage size of a dwelling can be correlated to the quantity of occupant associated motor vehicles. The approval of the nonuse variance allows Mr. Juvera to build an accessory dwelling unit with occupancy square footage greater than he could if he had to follow existing R2 code without the variance.

Therefore, the City Land Use Review **cannot satisfy Criterion 7.5.802 (B.3) *No Adverse Impact to Surrounding Property***. Because City Land Use Review has NOT MET all three Criteria in 7.5.802 (B.1 and B.2 and B.3) they cannot grant a nonuse variance and this appeal should be approved.



FIGURE 2

City Code states:**6.12.303: SPACE, USE AND LOCATION:**

It shall be unlawful for any person to occupy or to lease to another for occupancy any dwelling or dwelling unit which does not comply with the following requirements:

A. Space Required: Every dwelling unit shall contain at least:

125 square feet	_ 1 person
200 square feet	_ 2 persons
275 square feet	_ 3 persons
350 square feet	_ 4 persons
425 square feet	_ 5 persons
500 square feet	_ 6 persons
560 square feet	_ 7 persons
620 square feet	_ 8 persons
680 square feet	_ 9 persons
740 square feet	_ 10 persons

APPELLANT COMMENTS:

I am not stating that the above code does or does not apply to the property located at 2708 Beacon Street. The fact that this general code is written and adopted by The City Code shows:

- 1) The possibility that any quantity of occupancy can exist.
- 2) **The square footage size of a dwelling can be correlated to the number of occupants it can house.**

By any logical, common sense metrics:

The quantity of occupants can be correlated to the quantity of occupant associated motor vehicles.

Therefore, by practical and logical reasoning, one can deduce that **the square footage size of a dwelling can be correlated to the quantity of occupant associated motor vehicles.**

What are the probabilities on the above deduction? Clearly, there is no way to ascertain an accurate answer.

IMPORTANT: What are the probabilities that Mr. Juvera will stay in his large, 2100 SF 4 bedroom house? What if a family of 6 moves in when he decides to rent or sell it? Clearly, there is no way to ascertain an accurate answer.

Catherine Crawley
2714 Beacon Street
Colorado Springs, CO 80907

April 14, 2018

City of Colorado Springs
Planning & Community Development Dept.
Reviewing Planner: Susanna R. Dalsing

Dear Development Review Team,

I have lived in Colorado Springs since 1978 and Colorado Springs is my chosen home. I own the property at 2714 Beacon Street, located two houses North of the 2708 Beacon Street property. I have lived in this property since I bought it in May 2010. I was completely aware of the R2 zoning of the neighborhood at the time of purchase.

Here are my comments on the variance application pertaining to the property located at 2708 Beacon Street:

- 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.
- 2) The Roswell Subdivision is home to many old houses with large total living areas. Additionally, all of the lot widths are at the absolute minimum requirement of 50 feet. Therefore the vast majority of these large homes have zero clearance for a driveway. This combination brings high density, high car counts and a street parking problem. A current example: The house at 2709 Beacon Street was sold in 2017. No driveway, 1820 sq. ft. of living space, only 50 feet of street parking. A three generation family moved in and there are now four additional cars that permanently park on the street. The approval of the accessory dwelling unit will actually help the on-street parking problem in the neighborhood as the accessory dwelling unit will allow for two on-site parking stalls.
- 3) There is an existing parking problem on Beacon Street and it is significant. I have had my tire slashed because I parked in front of someone else's house on Beacon Street (as there was no room to park in front of my own). To clarify, I am not complaining that I could not park in front

of my house. I understand this is public domain, I am just communicating the significance of the existing parking problem.

Same comment as number two.

- 4) Beacon St. is a city designated Bike Boulevard. It is virtually an extension of the P.P. Greenway trail system and highly utilized by cyclists. Strava data shows approximately 10 – 30% of the P.P. Greenway trail cyclists utilize Beacon Street in their bicycle travels. Bicycle safety is directly related to street parking density as just one parked car door opening can be deadly to a cyclist.

Same comment as number two.

I clearly understand that Roswell is designated R2 which means one can expect a certain amount of density. I also understand that a reasonable density is good in many ways; It prevents sprawl, it is better for the environment, it can help promote community. I respectfully ask the Review Enterprise to exercise reasonable judgement and consideration on the negative impact that would occur to the local neighborhood and the cycling community if this application is approved. We already have an existing street parking problem and we already have an over utilized unpaved 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.

Since the property is zoned R2 (Two-Family Residential) an accessory dwelling unit is a use by right. The nonuse variance is not to allow the use of an accessory dwelling, but to allow the gross floor area of the detached structure to exceed the footprint of the home. Allowing the garage and accessory dwelling unit will create two on-site parking stalls and Mr. Juvera will no longer have to park on the street. The occupant of the accessory dwelling unit will also park in the garage, and not on the street.

If the Review Enterprise considers approving the proposed variance at 2708 Beacon, what will this accomplish? It enables one citizen to improve their property for profit and provides them more rental income than they would be able to collect otherwise. Is individual profit more important than providing citizens a safe, orderly place to live? I urge you to please take into strong consideration why these existing standards were originally codified. Thank you for your consideration.

Very Respectfully,

Catherine Crawley



City of Colorado Springs Planning Department Fee Receipt

[Return to Worksheet List](#)

<u>Application</u>	<u>Department</u>	<u>Amount</u>	<u>Applicant</u>	<u>AnnexDisc</u>
Appeal of Administrative Decision Land Use Review		\$176.00		
Total Fees		\$176.00		

Planner:

Date: 4/30/2018

Intake Staff: PIC

Receipt Number: 31136

Check Number: 2271

Amount: \$176.00

Received From: Catherine Crawley - AR NV 18-00243 NV -

vicinity map

Vicinity
map

FIGURE 2

Vicinity Map for 2,08 Beacon Street

Planner: Susanna Dalsing

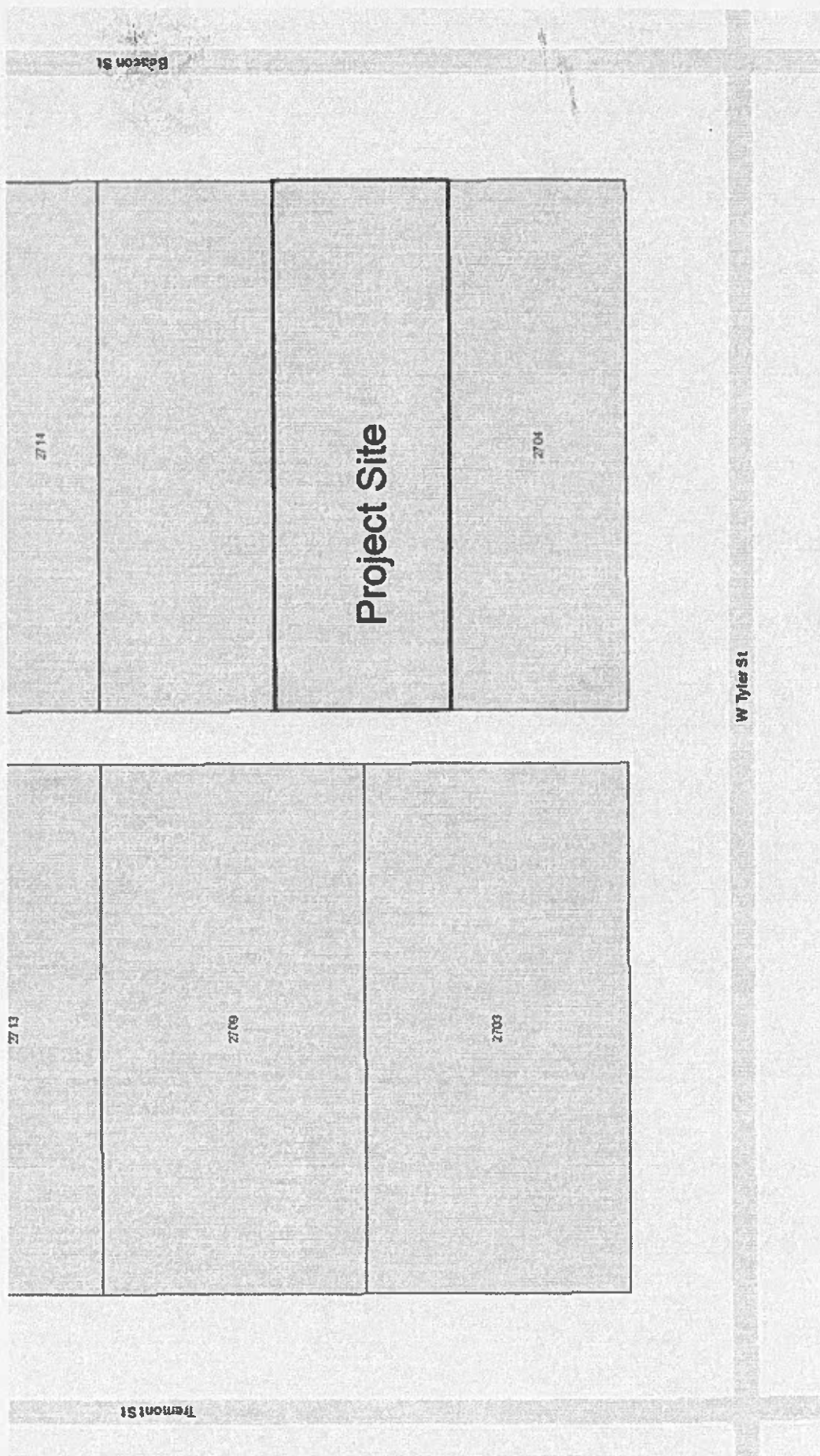


FIGURE 2

Planning and Development Distribution Form

Directions: Planners select at least one check box under each section to determine the application distribution.

Planner Intake Date: 4/30/18 Admin Receive Date: 5/25/2018

Project Name: 2708 Beacon Street

1. PUBLIC NOTICE:

- ☒ 150 feet ☐ 500 feet ☐ 1,000 feet ☐ modified (attach modified buffer)
☐ No public notice

2. Date buckslip comments are due (14 calendar days after submittal): _____

3. HOA: (Note HOA number or write N/A)

- | |
|--|
| <input type="checkbox"/> Check for full-size plan to be sent to HOA |
| <input type="checkbox"/> Check for Traffic, Drainage or Geo-Hazard reports to be sent to HOA |

4. STANDARD DISTRIBUTION: Choose one application – delete all other applications under #4.

Non Use Variance

Electronic Plans

	<input checked="" type="checkbox"/> None	
85	<input type="checkbox"/> Utilities Development Services	Buckslips@csu.org
9	<input type="checkbox"/> Fire Prevention	sdsmith@springsgov.com
24	<input type="checkbox"/> DR&S	SAPPLEGATE@springsgov.com
3	<input type="checkbox"/> CONO – Electronic Distribution ONLY	volunteer@cscono.org ; max@cscono.org
65	<input type="checkbox"/> Zaker Alazzezh, Traffic Eng (MC 460)	SAPPLEGATE@springsgov.com

8. LAND USE REVIEW:

Hard Copy Full sized plans

- | | |
|---|--|
| <input checked="" type="checkbox"/> Planner | Traffic Report, Drainage Report, Geo-Hazard Report |
|---|--|

Special notes or instructions: