

CITY PLANNING COMMISSION AGENDA

STAFF: SUSANNA DALSING

FILE NO(S):
AR NV 18-00243 - QUASI-JUDICIAL

PROJECT: 2708 BEACON STREET – NONUSE VARIANCE

APPLICANT: ALFRED JUVERA

OWNER: ALFRED JUVERA

APPELLANT: CATHERINE CRAWLEY



PROJECT SUMMARY

1. Project Description: This is an appeal of an administrative approval for a nonuse variance to City Code Section 7.3.105.A.1.G to allow an accessory structure's gross floor area to exceed the footprint of the principal structure. The nonuse variance was approved administratively for the accessory structure that will consist of a two-car garage and a second floor accessory dwelling unit. The footprint of the principal structure is 1,178 square feet in size and the gross floor area of the proposed accessory structure is 1,482 square feet in size.

The property in question is located at 2708 Beacon Street and consists of 7,500 square feet. The layout of the property is illustrated on the applicant's site plan for the nonuse variance. **(FIGURE 1)**

The application was approved administratively on April 19, 2018 and appealed by neighbor Catherine Crawley on April 30, 2018 **(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: 2708 Beacon Street
2. Existing Zoning/Land Use: R2/Two-Family Residence
3. Surrounding Zoning/Land Use:
 - North: R2 /Two-Family Residential/Single-Family residence with a detached garage.
 - South: R2/Two-Family Residential/Single-Family residence with a detached garage.
 - East: R2/Two-Family Residential/Single-Family residence with an attached garage.
 - West: R2/Two-Family Residential/ Two-Family residence with a detached garage and an ADU on the second story.
4. Comprehensive Plan/Designated 2020 Land Use: General Residential
5. Annexation: Roswell Addition, 1950.
6. Master Plan/Designated Master Plan Land Use: There is not a master plan for this site.
7. Subdivision: Roswell Addition Number 1
8. Zoning Enforcement Action: There are no open violations pending with Code Enforcement per a conversation with Code Enforcement Officer Tom Wasinger on May 24, 2018.
9. Physical Characteristics: The property is a platted and developed lot that contains a single-family residence and a detached garage. The lot is relatively flat and backs up to an existing alley at the rear of the property that runs north and south. The property fronts Beacon Street.

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. A total of 15 property owners were notified. A nonuse variance public notification poster was posted in the front yard for duration of ten days. During the internal review stage, staff received one opposing

comment from the appellant. No other objections or questions from the neighborhood were noted (**FIGURE 4**).

The letter and call in opposition from the neighbor expressed the following concerns: traffic through the alley, parking issues on Beacon Street, and site plan and application discrepancies.

Staff did not send plans to internal and external review agencies as no review by other agencies was deemed to be required. However, the applicant contacted Colorado Springs Utilities to discuss what would be required to place utility lines underground.

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

1. Review Criteria / Design & Development Issues:

- a. Background: The subject property was annexed into the City of Colorado Springs in 1950 and is currently zoned R2 (Two-Family Residential). The R2 zone district allows for single-family or two-family dwellings, accessory dwelling units, garages, sheds, and other principal and accessory uses as outlined in Code. All of these uses are a use by right in the R2 zone and are permitted if all development standards are met.
- b. Review Criteria: City Code Section 7.3.105.M establishes criteria for the establishment of detached accessory dwelling units (ADU). In summary, the Section states that:
 - An ADU cannot exceed a maximum footprint or finished living area size of 750 square feet,
 - If the accessory dwelling unit is constructed over a garage, the garage area will not be included as part of the maximum floor space of the accessory dwelling unit,
 - One additional off street parking space must be provided,
 - The unit cannot exceed 25 feet in height,
 - A 20 foot setback must be maintained from the principal structure, and
 - All rear and side setbacks must be met as they pertain to accessory structures.

All development standards for the construction of this specific ADU are being met. The size of the finished living area on the second floor is 741 square feet which does not exceed the allowable space for an accessory dwelling unit. An accessory dwelling unit cannot exceed 750 square feet in living area.

However, when the 741 square foot first floor garage and the 741 square foot ADU space are combined, the structure as a whole is not in conformance with City Code Section 7.3.105.A.1.G which states that the gross floor area of an accessory structure cannot exceed the footprint of the principal structure. The nonuse variance was approved to allow the gross floor area of the accessory structure (the combined floor area of both the first floor garage and the second floor accessory dwelling unit) to exceed the footprint of the home by 304 square feet or roughly 26% of the footprint area.

The nonuse variance approval is detailed below; the record of decision for the nonuse variance is attached **(FIGURE 5)**. Staff found that the nonuse variance request met all three of the review criteria. Please note that the record of decision has been updated to reflect the actual footprint size of the principal structure which was one of the justifications to deny the nonuse variance by the appellant. The actual square footage of the footprint of the principal structure is 1,178 square feet, however, the record of decision noted the footprint of the principal structure at 1,158 square feet. All other information on the record of decision remains unchanged.

- c. Nonuse Variance: The nonuse variance justification to allow the gross floor area of the accessory structure to exceed the footprint of the principal structure is outlined below. The record of decision with Staff comments is attached as **FIGURE 5**.

7.5.802 (B.1) Exceptional or Extraordinary Conditions

The property in question is zoned R2 (Two-Family Residential) and has a relatively small footprint compared to some of the other homes in the immediate neighborhood. The footprint of the home is 1,178 square feet in size. Staff analysis has found that the footprint of the principal structure is smaller than six (6) out of twelve (12) of the other homes in the neighborhood **(FIGURE 6)**. The homes that are a part of this analysis are:

- 2715 Beacon Street,
- 2719 Beacon Street,
- 2712 Beacon Street,
- 2714 Beacon Street,
- 2709 Beacon Street,
- 2720 Beacon Street,
- 2705 Beacon Street,
- 2704 Beacon Street,
- 2708 Beacon Street,
- 2713 Tremont Street,
- 2709 Tremont Street, and
- 2703 Tremont Street.

The footprint size of these structures range from 728 square feet to 1,392 square feet.

7.5.802 (B.2) No Reasonable Use of Property

Staff has found that a nonuse variance was approved at 2703 Tremont Street to allow for the gross floor area of an accessory structure to exceed the footprint of the home by 558 square feet. Staff has found that a neighborhood standard exists and it is demonstrated that there is no reasonable use of the property due to the relatively small footprint of the house. The granting of this variance shall not be inconsistent with any plans adopted by the City. The granting of this variance shall not weaken the general purpose of the Zoning Ordinance or its regulations. This variance, if granted, shall only be to the extent necessary to afford a reasonable use of the property in relationship to the neighboring properties.

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

The approval of this nonuse variance will improve the current on street parking conditions on Beacon Street. The construction of the accessory structure will create three (3) on-site parking stalls. Two of the parking stalls will be located in the garage and the third parking stall will be located just to the north of the accessory structure. During the public notification period Staff received only one complaint regarding the nonuse variance. Staff believes that the appellant's complaints will be mitigated by the on-site parking stalls or that they are unrelated to the nonuse variance application entirely.

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. Policy LU 401: Encourage Appropriate Uses and Designs for Redevelopment and Infill Projects

"Work with property owners in neighborhoods, the downtown, and other existing activity centers and corridors to determine appropriate uses and criteria for redevelopment and infill projects to ensure compatibility with surrounding area"

b. Policy N 202: Assist and Support Established and Redeveloping Neighborhoods

"Assist established and redeveloping neighborhoods in neighborhood planning, improving transportation and infrastructure systems, and promoting redevelopment efforts."

c. Objective LU 4: Encourage Infill and Redevelopment

"Encourage infill and redevelopment projects that are in character and context with existing, surrounding development. Infill and redevelopment projects in existing neighborhoods make good use of the City's infrastructure...."

d. Strategy N 302b: Support a Mix of Housing Types and Densities in Neighborhoods

"Amend and adopt zoning guidelines and standards to achieve a variety of housing types and densities in neighborhoods."

3. Conformance with the Infill Comprehensive Plan Supplement

The proposed application is consistent with the Infill Comprehensive Plan supplement which was largely supported by City Council. The three guiding principles of this document are: creating community benefit, removing barriers to infill, and minimizing infill investment risk.

a. "As addressed throughout this chapter, infill and redevelopment sites often have more complexity and challenges based on the established and mature nature of the surrounding neighborhoods....In respect to the value of the neighborhood process, it is suggested that city explore options for enhanced neighborhood services deliver and pursue actions like:

- develop and pilot a replicable process for small area and neighborhood plans, with neighborhood input, to include the establishment or amendment of development standards;
- revise the appeals process and development plan criteria and standards in city code."

b. "...In addition to support for zone change request that promote context sensitive infill and redevelopment – including mixed use, density and adaptive re-use, the recommendations are to:

- revise development standards and the zoning code to include more infill-supportive standards and relief from "suburban" standards;
- pursue strategic infill-supportive zoning improvements related to use by right, accessory dwelling units and transit oriented development"

It is the finding of the Planning and Community Development Department that the requested nonuse variance at 2708 Beacon Street substantially conforms to the City Comprehensive Plan 2001 Land Use Map and the Plan's goals, objectives and the Infill Comprehensive Plan Supplement.

4. Conformance with the Area's Master Plan

No master plan exists for this site.

STAFF RECOMMENDATION

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Deny the appeal and uphold the administrative approval of a nonuse variance, based on the finding that the appellant has not substantiated that the appeal satisfies the review criteria outlined in City Code Section 7.5.906(A)(4), and that the nonuse variance application meets the review criteria in City Code Section 7.5.802.B.