

NOTICE OF APPEAL

Action Being Appealed: 613 South Meldrum Street Modifications of Standards,
MOD 200001, Type 1 Administrative Hearing Decision

Date of Action: 07/15/2020 **Decision Maker:** Lori Strand

FOR CITY CLERK'S
USE ONLY:

DATE FILED:

INITIALS:

Appellant/Appellant Representative (if more than one appellant):

Name: Jeff Palomo

Phone #: (720) 560-1832

Address: 613 South Meldrum
Fort Collins, Colorado 80512

Email: japalomo@comcast.net

INSTRUCTIONS

For each allegation marked below, attach a separate summary of the facts contained in the record which support the allegation of no more than two pages, Times New Roman 12-point font. Please restate allegation at top of first page of each summary.

GROUND FOR APPEAL

The Decision Maker committed one (1) or more of the following errors (check all that apply):



Failure to properly interpret and apply relevant provisions of the City Code, the Land Use Code, and Charter. List relevant Code and/or Charter provision(s) here, by specific Section and subsection/subparagraph:

Division 4.9 of the City of Fort Collins Land Use Code (LUC)

- LUC Section 4.9(D)(2)
- LUC Section 4.9(D)(5)
- LUC Section 4.9(E)(2)

Failure to conduct a fair hearing in that:



(a) The Board, Commission, or other Decision Maker exceeded its authority or jurisdiction as contained in the Code or Charter. [New evidence not allowed]



(b) The Board, Commission or other Decision Maker substantially ignored its previously established rules of procedure. [New evidence not allowed]



(c) The Board, Commission or other Decision Maker considered evidence relevant to its findings which was substantially false or grossly misleading. [New evidence allowed]



(d) The Board, Commission or other Decision Maker improperly failed to receive all relevant evidence offered by the appellant. [New evidence allowed]



(e) The Board, Commission or other Decision Maker was biased against the appellant by reason of a conflict of interest or other close business, personal or social relationship that interfered with the Decision Maker's independence of judgment. [New evidence allowed]

NEW EVIDENCE


All new evidence the appellant wishes Council to consider at the hearing on the appeal must be submitted to the City Clerk within seven (7) calendar days after the deadline for filing a Notice of Appeal and must be clearly marked as new evidence. No new evidence will be received at the hearing in support of these allegations unless it is submitted to the City Clerk by the deadline (7 days after the deadline to file appeal) or offered in response to questions posed by Councilmembers at the hearing.

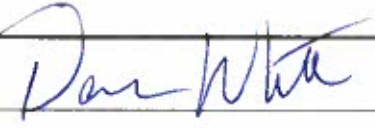
APPELLANTS

Parties-in-interest have the right to file an appeal.

A party-in-interest is a person who, or organization which, has standing to appeal the final decision of a board, commission or other decision maker. Such standing to appeal is limited to the following:

- The applicant.
- Anyone who owns or occupies the property which was the subject of the decision made by the board, commission or other decision maker.
- Anyone who received the mailed notice of, or spoke at, the hearing of the board, commission or other decision maker.
- Anyone who provided written comments to the appropriate City staff for delivery to the board, commission or other decision maker prior to or at the hearing on the matter that is being appealed.
- A City Councilmember.

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|---|------------------------------------|
| Signature:  | Date: 07/28/2020 |
| Name: Jeff Palomo | Email: japalomo@comcast.net |
| Address: 613 South Meldrum Street, Fort Collins, CO 80521 | Phone #: (720) 560-1832 |
| Describe how you qualify as a party-in-interest: The Applicant/Property Owner/Occupant | |

| | |
|--|--------------------------------------|
| Signature:  | Date: 07/28/2020 |
| Name: Denise White | Email: white.denise@ymail.com |
| Address: 2345 Walnut Street, Unit 23, Denver, CO 80205 | Phone #: (303) 638-2204 |
| Describe how you qualify as a party-in-interest: Spoke at the hearing/Applicant Partner/Part-Time Occupant | |

| | |
|---|-----------------|
| Signature: | Date: |
| Name: | Email: |
| Address: | Phone #: |
| Describe how you qualify as a party-in-interest: | |

ATTACH ADDITIONAL SIGNATURE SHEETS AS NECESSARY

APPEAL LETTER
for Jeff Palomo
613 South Meldrum Street
Fort Collins, Colorado 80521

July 28, 2020

Fort Collins City Councilmembers (Wade Troxell, Mayor; Kristin Stephens, Mayor Pro Tem; Susan Gutowsky; Julie Pignataro; Ken Summers; Ross Cunniff; and, Emily Gorgol)
City Hall West, LaPorte Avenue
Fort Collins, CO 80521

RE: Notice of Appeal for 613 South Meldrum Street Modifications of Standards, MOD 200001, Type 1 Administrative Hearing Decision

Dear City of Fort Collins Councilmembers,

I'm filing this appeal asking the Fort Collins City Council to change a hearing officer's decision denying a Modification of Use request. This written Notice of Appeal is filed within the required 14 calendar days following the decision dated July 15, 2020. I appeal this decision by Hearing Officer Lori Strand, which denied the request based on a "failure to properly interpret and apply relevant provisions of the City Code, the Land Use Code, and Charter."

As the property owner and occupant of a historic resource property, located at 613 S. Meldrum St., I've been exploring how best to develop additional living space on the back lot of my property. Through this process, I've engaged city planning staff in multiple conversations as development ideas evolved. My goal was to determine which use best complements the primary structure (built 1910) and the surrounding neighborhood, is allowable by Land Use Code, and meets the residential needs of the applicant and occupant (myself).

Following an initial Conceptual Review in January 2020, and a subsequent meeting on May 4, 2020, planning staff suggested the pursuit of a Modification of Standards through a Type 1 Administrative Hearing for the proposed design of an enhanced carriage house. The design is larger than permitted by current Neighborhood Conservation, Buffer (NCB) standards; it combines habitable living space and additional storage/hobby space for the primary property into one structure.

In a Project Review meeting (June 10, 2020), as well as the Development Review Staff Report prepared for the July 1, 2020 hearing, staff stated that as the project did not strictly comply with code, they could not approve it to move forward in the process. Staff must apply code objectively; however, a hearing officer could find differently based on an ability to evaluate the intent of the code. Upon this recommendation, I applied for a modification of five standards in Division 4.9, the Neighborhood Conservation, Buffer zone district.

My primary objection to the hearing officer's final decision is that she acknowledges she "lacks the authority under LUC 2.8.2(H) to grant the Modifications of Standards on the basis that the subject standards (i.e., LUC 4.9(D)(2), 4.9(D)(5), and 4.9(E)(2) might be outdated or that the Modification of Standards might facilitate development that is compatible with the surrounding area." The hearing officer's findings also state that she found that "the Modifications of Standards would not be detrimental to the public good." In fact, she says they would generally be "compatible with the floor areas, building footprints, and heights of existing and planned development in the area surrounding the Subject Property, the purposes of the N-C-B zone district, and the density and eclectic character of this area." The contradiction between these findings statement demonstrates a failure to interpret the Land Use Code.

Similarly, staff stated in the *Development Review Staff Report* that "to the extent that the proposal may represent compatibility with neighborhood character to a greater degree than zoning allows for other proposals on other properties, the larger question of whether the NCB zone standards are appropriate is beyond the scope of review of an individual development pursuant to the standards as adopted."

Throughout this process, the staff has been professional and helpful. In exchanges, they've shared that this is the "first time" they have received questions like mine regarding the NCB and that this proposal has revealed several apparent contradictions. The hearing officer and staff have also suggested a need to revisit the LUC for the NCB as code seems to be outdated and designed based on usage in other buffer zones, which may not be applicable here.

In various documents, the staff and the hearing officer refer to compatibility and other merits of the proposed design, and that it reveals contradictions contained in the LUC and NCB. Yet, neither party feels they have the authority to approve the modification of use request; this determination appears to be under the purview of City Council. I now turn to you, and your role as decision-makers, to review this matter and overturn the hearing officer's final decision.

As part of this process, I understand that the staff provides City Councilmembers with a transcript and recording of the July 1, 2020, proceeding. Likewise, they provide the exhibits shared in that proceeding, including the applicant's materials and submitted Modification Request. Similarly, I understand that councilmembers, alone or with city staff, may wish to inspect the site of the development plan. I welcome the opportunity to see the property, and its context in the NCB neighborhood to better understand this proposal and the challenges which exist if required to adhere strictly to current code requirements.

Thank you for your consideration of this appeal.

Jeff Palomo

