

**CITY OF FORT COLLINS  
ADMINISTRATIVE HEARING OFFICER  
TYPE I ADMINISTRATIVE HEARING  
FINDINGS, CONCLUSIONS AND DECISION**

**ADMINISTRATIVE HEARING DATE:** May 10, 2010

**PROJECT NAME:** 128 North Sherwood – Accessory  
Building and Habitable Space  
Project Development Plan

**CASE NUMBER:** #7-10

**APPLICANT:** Jan Krucky  
128 N. Sherwood  
Fort Collins, CO 80522

**OWNER:** Same as applicant

**HEARING OFFICER:** Ted Shepard  
Chief City Planner

**PROJECT DESCRIPTION:**

This is a request for an accessory structure with habitable space located on the rear of a lot at 128 North Sherwood Street. The property is located in the Neighborhood Conservation Medium Density (NCM) zone district. The accessory structure is existing and is currently used as a work shop. The proposal includes the addition of a bathroom facility and a second level with no exterior or structural changes. The City's Land Use Code (LUC) defines "habitable space" as "any building with water and/or sewer service" in the NCM zone district (LUC, Section 4.8(D)(3)). In this case habitable space does not mean a dwelling unit. The proposal also includes a modification request to the square footage limitation of 600 square feet for accessory structures, the lower, existing level is 598 The proposed use is permitted in the NCM zone district subject to administrative review (LUC, Section 4.8(B)(2)(c)1).

**SUMMARY OF HEARING OFFICER DECISION:**

**ZONING DISTRICT:** The parcel is zoned N-C-M

**STAFF RECOMMENDATION:** Approval of the Modification of Standard Request to Section 4.8(D)(3), and

Approval of the 128 North Sherwood Street Accessory Building with Habitable Space, Project Development Plan – #7-10.

**NOTICE OF PUBLIC HEARING:** Evidence presented to the Hearing Officer established no controversy or facts to refute that the hearing was properly posted, legal notices mailed and notice published.

### **PUBLIC HEARING**

The Hearing Officer, presiding pursuant to the Fort Collins Land Use Code, opened the hearing at approximately 5:30 p.m. on May 10, 2010 in 281 North College Avenue Conference Room A-C, Fort Collins, Colorado.

### **HEARING TESTIMONY, WRITTEN COMMENTS AND OTHER EVIDENCE:**

The Hearing Officer accepted during the hearing the following evidence: (1) Planning Department Staff Report; (2) application, plans, maps and other supporting documents submitted by the applicant and the applicant's representatives to the City of Fort Collins; (3) a sign-up sheet of persons attending the hearing; and (4) a tape recording of the hearing. The LUC, the City's Comprehensive Plan (City Plan), and the formally promulgated policies of the City are all considered part of the evidence considered by the Hearing Officer.

The following is a list of those who attended the meeting:

**From the City:**

Ted Shepard, Chief Planner  
Emma McArdle, Planner

**From the Applicant:**

Jan Krucky, 128 N Sherwood, Fort Collins, CO 80522

**From the Public:**

Dan George, 425 W Mountain Avenue, Fort Collins, CO 80522  
Heather Bean, 214 N Whitcomb Street, Fort Collins, CO 80522  
Kathleen Konen, 121 N Sherwood Street, Fort Collins, CO 80522  
Glenn Konen 121 N Sherwood Street, Fort Collins, CO 80522  
Ruth Rollins, 5029 Crest Road, Fort Collins 80524

**Written Comments:**

The applicant provided a list of eleven (11) neighbors that are in support of the proposal. See Attached.

## **FACTS AND FINDINGS**

The 128 North Sherwood Street, Accessory Building with Habitable Space, PDP complies with the applicable requirements of the *Land Use Code (LUC)*, more specifically:

- the process located in *Division 2.2 - Common Development Review Procedures for Development Applications of ARTICLE 2 - ADMINISTRATION*;
- the standards located in *Division 3.2 - Site Planning and Design Standards*; *Division 3.3 – Engineering Standards*; *Division 3.4 – Environmental, Natural and Cultural Standards*; and *Division 3.5 - Building Standards of ARTICLE 3 - GENERAL DEVELOPMENT STANDARDS*; and
- the proposed accessory building with habitable space is permitted in *Division 4.8 – Neighborhood Conservation, Medium Density District (NCM) of ARTICLE 4 – DISTRICTS*, subject to an administrative review.
  - The applicant is requesting a Modification of Standard to Section 4.8(D)(3) of the LUC, which limits the square footage of an accessory structure to 600 square feet square feet. The applicant is proposing a second floor with 449 square feet; the existing structure is 598 square feet. The total square footage is proposed to be 1047 square feet.

### **COMMENTS:**

#### **1. Background**

This property was annexed in the Original Town Site Annexation in 1873 and platted as Lot 12 of Block 51 of the Fort Collins 1873 Map.

#### **2. ARTICLE 3 – General Development Standards**

The 128 North Sherwood Street Accessory Building with Habitable Space, PDP complies with all of the applicable standards in Article 3 - General Development Standards of the *LUC*. Of specific note are Division 3.2 – Site Planning and Design Standards; Division 3.3 – Engineering Standards; and Division 3.5 Building Standards. Further discussions of these particular standards follow.

##### **A. Division 3.2 – Site Planning and Design Standards**

###### **1. Section 3.2.1 - Landscaping and Tree Protection**

The proposal complies with Section 3.2.1(E)(2) *Landscape Area Treatment* in that the nothing in the back yard is proposed to change. The existing mature trees and irrigated turf will remain on the site.

2. *Section 3.2.2 – Access, Circulation and Parking*

The proposal complies with Section 3.2.2(K)(1) *Residential Parking Requirements*, in that it provides a minimum of one off-street parking space since the lot has more than 40 feet of street frontage. At least 1 parking space will be provided within the accessory building with habitable space.

**B. Division 3.3 - Engineering Standards**

The proposal complies with the design standards, requirements, and specifications for the services as set forth in this section of the *LUC*.

**C. Division 3.5 - Building Standards**

1. *Section 3.5.1 - Building and Project Compatibility*

The accessory building is existing, the proposal is to add a second floor, and there are no proposed exterior changes to the structure. The existing structure was built in 2009 and was approved by the all applicable departments at that time. Please see the attached Workflow History, showing the comments made by each reviewing department.

A "Stop Work Order" was posted at the subject property on March 4, 2010 and two "Building Code Violation" notifications were sent to the applicant on March 24, 2010 and April 5, 2010 because the applicant was building the 2<sup>nd</sup> story without a permit. (These three documents are included in the attachments to this report.) Since then the applicant has submitted this application to the City for review.

**3. ARTICLE 4 - Districts**

A. Division 4.8 – Neighborhood Conservation Medium Density District

Accessory Buildings with Habitable Space are permitted in the NCM – Neighborhood Conservation Medium Density Zoning District, subject to an administrative (Type 1) Review. The NCM District is:

"intended to preserve the character of areas that have a predominance of developed single-family and low- to medium-density multi-family housing and have been given this designation in accordance with an adopted subarea plan."

This proposal complies with the purpose of the NCM District as it is an addition to an existing accessory building, designed to serve the existing residence, and the proposal will not change the nature of the existing single-family lot the building resides on.

1. *Section 4.8(D) – Land Use Standards*

The existing accessory building, which was built in early 2009, has 598 square feet of floor area. The proposed second story will add 449 square feet of floor area, making the total square footage of the structure 1047 square feet. Per *Section 4.8(D)(3) – Accessory Buildings with Habitable Space*, 600 square feet is the maximum floor area permitted for Accessory Buildings with Habitable Space located behind a street-fronting principal building. The applicant has submitted a Modification of Standard Request to this requirement. This will be discussed further in a subsection B of this section.

This proposal complies with *Section 4.8(D)(5) - Floor Area Ratio*, in that the Floor Area Ratio (FAR) on the rear fifty percent of the lot is 0.303, and the maximum FAR permitted on the rear fifty percent of the lot is 0.33.

2. *Section 4.8(E) – Dimensional Standards*

The placement of the structure was reviewed at the time of building permit in 2008. This proposal makes no changes to the exterior of the structure.

3. *Section 4.8(F) – Development Standards*

The design and massing of this structure were reviewed at the time of building permit in 2008. This proposal makes no changes to the structure to impact its compliance with these standards.

The proposed bathroom in this structure is what makes this accessory building an “accessory building with habitable space.” The LUC states that: “an accessory building with water and/or sewer service shall be considered as containing habitable space.” Habitable space does not mean a dwelling unit, but rather, space intended to serve for human occupancy. The proposed accessory building with habitable space will be used for a garage, storage and a workshop area.

B. Request for Modification of Standard

As specified in **Section 2.8.2 Modification Review Procedures, (H)** (Standards), the Administrative Hearing Officer may grant a modification of standards only if he/she finds that the granting of the modification would not be detrimental to the public good and meets one of the criteria set forth in **Section 2.8.2(H)(1)-(4)**.

1. The applicant is requesting a Modification of Standard to **Section 4.8(D)(3)**, which requires accessory buildings with habitable space have a maximum floor area of 600 square feet. The applicant is requesting an additional floor area of 447 square feet; 598 square feet is located on the

existing first floor and 449 square feet to be located on the proposed second floor, while making no exterior changes to the existing building.

Applicant's Justification:

*The objective is not detrimental to the public good and will promote the general standard equally well because there are no exterior or structural changes to the already existing Accessory Building in the rear of the lot. The property is directly adjacent to a 2 story apartment complex and many properties within the block already have detached accessory buildings with more than 600sft. Modification to 4.8(D)(3) of FC LUC is requested using 2.8.2 H(1) criteria.*

Staff's Evaluation of Applicant's Request

Staff has evaluated the applicant's request against the criteria provided in Section 2.8.2(H) of the LUC. Staff finds that the applicant's request to increase the floor area of the proposed accessory building with habitable space by 449 square feet to be "nominal and inconsequential" when "considered from the perspective of the entire development." This proposed second story, which will increase the floor area beyond the allowed 600 square feet, will make no exterior changes to the site and the applicant's intended workshop use will not impact the surrounding neighborhood anymore than what is there currently. Therefore, Staff recommends approval of this Modification of Standard Request.

**SUMMARY OF CONCLUSIONS**

- A) The proposed land use is permitted in the *NCM – Neighborhood Conservation, Medium Density Zone District* of the *Land Use Code*.
- B) The Project Development Plan complies with all applicable General Development Standards contained in *Article 3* of the *Land Use Code*.
- C) The Project Development Plan complies with all applicable Land Use and Development Standards contained in *Article 4, Division 4.8* of the *Land Use Code*, with the exception of:
  - *Section 4.8(D)(3) Accessory Buildings with Habitable Space (or Potential Future Habitable Space)*
- D) A Modification of Standard is requested for *Section 4.8(D)(3)*, Staff recommends approval of this request.

**DECISION**

128 North Sherwood – Accessory Building with Habitable Space Project Development Plan, # 7-10 is hereby approved by the Hearing Officer.

Dated this 12th day of May, 2010 per authority granted by Sections 1.4.9(E) and 2.1 of the Land Use Code.

  
Ted Shepard  
Chief City Planner

## Administrative Public Hearing Sign-In

Project: 128 N College Ave  
 Meeting Location: 281 N College  
 Date: 5/10/10

**PLEASE PRINT CLEARLY**

Name	Address	Phone	Email
Dan George	425 W. Mountain Ave	970-224-2250	gdaniel11@msn.com
HEATHER BEAN	214 N. WHITCOMB ST.	970-224-1248	BEAN@FR11.COM
Kathleen Konen	121 N. Sherwood St	970 4840190	ambejo3@gmail.com
GLENN KONEN	121 N. SHERWOOD ST	970-4840190	
Ruth Rollins	5029 Crest Road 80524	263-2393	ruthie.rollins@gmail.com
Jan Krucky	128 N. SHERWOOD	227-6331	jan.krucky@gmail.com



Administrative Review 128 N. Sherwood

Add an attic loft and water to an existing accessory building off the alley

Name	Yes/No	Comment	Date	Signature
Linda Ripky	OK	I have <sup>don't</sup> problem <sup>if</sup>	4-25-10	Linda Ripky
Tom Hackett	YES	I have no problem	4-25-10	Tom Hackett
Fileen Hackett	YES	No problem	4-25-10	Fileen Hackett
Jana Lawrence	yes	No Problem	4-25-	Jana Lawrence
Kathy Cohen	yes	No problem	4/25	Kathy Cohen
Alan Kon	YES	GREAT IDEA	4-25	Alan Kon
Lawrence White	YES	NO Problem	4-25	Lawrence White
Beth Ann Everett	yes	it's his private property!!	4-25	Beth Ann Everett
John Maguire	YES	no prob	4-25	John Maguire
Ben Kon	YES	AWESOME	4-25	Ben Kon
Shirley Kelly	YES	NO problem	5-1	Shirley Kelly