

RESOLUTION 90-170  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
MAKING FINDINGS OF FACT REGARDING THE APPEAL  
OF THE GRANTING BY THE BUILDING REVIEW  
BOARD OF A VARIANCE TO THE STATUTORY  
REQUIREMENT REGARDING HANDICAPPED  
ACCESSIBLE DWELLING UNITS IN  
THE FORT RAM VILLAGE PHASE 3, AND  
OVERTURNING THE DECISION  
OF THE BOARD

WHEREAS, on September 27, 1990, the Building Review Board, after notice and hearing, granted a variance to the requirement contained in Section 9-5-111, C.R.S., that, in the construction of the Fort Ram Village Phase 3 (the "Project"), one handicapped accessible dwelling unit be included for every seven dwelling units constructed; and

WHEREAS, on October 11, 1990, the Commission on Disability of the City of Fort Collins, through its Executive Committee and its Building Plan and Site Review Subcommittee, filed a Notice of Appeal appealing the aforesaid decision of the Building Review Board; and

WHEREAS, on November 6, 1990, the City Council, after notice and hearing in accordance with Chapter 2, Article II, Division 3 of the City Code, considered said appeal as filed by the Appellants; and

WHEREAS, upon hearing and after full consideration of the record on appeal as presented to the Building Review Board, and after hearing argument thereon, the Council made the following findings of fact:

1. The grounds for appeal as stated in the Notice of Appeal of the Appellants conform to the requirements of Section 2-48 of the City Code.
2. With respect to the grounds alleged by the Appellants in the Notice of Appeal:
  - a. The Building Review Board did not abuse its discretion; its decision was not arbitrary and without the support of competent evidence in the record.
  - b. The Building Review Board did not fail to conduct a fair hearing by reason of exceeding its jurisdiction as contained in the Code and Charter or by reason of considering evidence relevant to its findings which was substantially false or grossly misleading.
  - c. The Building Review Board did fail to properly interpret and apply the relevant provisions of Section 9-5-101, et seq., C.R.S. (the "Statute"), as referenced in Section 5-27(26) of the Code; and

WHEREAS, the record on appeal in this case, when taken as a whole, did not substantiate the Board's finding that an unusual hardship exists, nor did it demonstrate that the application of the standards and specifications in the Statute would be impractical or would unreasonably complicate the construction of the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

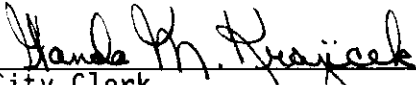
Section 1. The decision of the Building Review Board of September 27, 1990, varying and modifying the handicapped accessible dwelling unit requirements of the Statute with regard to the Project is hereby overturned.

Section 2. The Project should be constructed according to the requirements of Article 5, Title 9, C.R.S., without modification or exception.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins held this 20th day of November, A.D. 1990.

  
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Mayor

ATTEST:

  
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City Clerk