

Copy of Mark Seethaler letter

Dear Lawrence Circle-area Neighbors –

I met with our city manager, engineer, planner, building inspector, and assistant attorney until after 6:00pm this evening reviewing each of the allegations that surfaced surrounding the construction of a garage and accessory living unit at 2084 Lawrence Circle.

§ Bottom Line: Our city professionals have reviewed each claim and concluded that there is no legal basis to cause Mr. Wenzel to remove or significantly modify his building.

§ Further: There appears to be many technical violations of code within the general neighborhood.

§ Observation: The neighborhood CC&Rs have not been applied to building up and down the street making neighborhood interpretation and enforcement in any one particular case problematic.

§ Practice – City elected and professional leadership prefers less government over more government; less intrusion into individual lives; and less disruption of ‘peaceful enjoyment’ otherwise resulting from aggressive code enforcement. Other than issues that affect welfare, safety and health of our residents, the city has no desire to go door to door to ensure that all construction requiring a permit was properly permitted, that every out building meets current code, etc. This would only trigger an environment of hostility between city and neighborhoods, and between neighboring homeowners. Besides: it is a real challenge to review work performed years ago, under a different set of rules, and sometimes having been performed by earlier homeowners.

Which brings us to the current and to the future.

First the current, by way of allegations:

§ The structure is too large. By code, the garage structure is permitted to be 25’ high, and not to exceed the footprint of the primary dwelling. The garage measures 30X50 (1,500 square feet) and the principal residence is 1,560 (plus garage, totaling about 1,950). In addition, the accessory living unit is permitted to be up to 35% of the principal dwelling unit. 35% of 3,080 would be 1,080 square feet, while the 2nd floor guesthouse measures 957 square feet.

§ Similar look and style. Not regarding your heretofore unenforced CC&Rs, the city Planning Commission applied their discretion to the rule of ‘compatible with the exterior of the primary dwelling’. Color changes were required and the homeowner intends to match the brick on the house for a wainscot on the building.

§ False statement of compliance with neighborhood CC&Rs. The homeowner signed a statement indicating that the building ‘complies with all ordinances’ further representing that his attorney had given him the legal advice regarding compliance with the CC&Rs. Ultimately, the only final determination of this issue is through the judgment of a court.

§ Improper sewer hookup. It is permitted to hook an outbuilding to the main home lateral sewer line. Hook-up fees to the sewer district are on an escalating scale In the event there is more than a sink and toilet on this line.

§ Built on top of a 4" pressurized water line. The homeowner's building is 12-feet from the north property line and the water line is 4' from the north property line (within the 10-foot drainage and utility easement). However, an aerial view of the neighborhood indicates that many other property owner structures are, in fact resting over this pressurized water line.

Illegal renters. City code permits only one accessory rental unit per single-family home. This structure's approval as such is conditioned on permanently removing the door to the basement of his current home – thus disqualifying it as an accessory apartment. However, renting itself is governed by more than accessory living unit designations.

§ Roof pitch is not in compliance. The roof pitch of 5X12 is consistent with the requirement of the primary structure.

§ Improper finish with rooms being framed on the main level. A city planning manager visited this site today and the only main-floor framing was the stairway enclosure and a utility room. Certainly the city ordinance for accessory living units permits "periodic inspections may be required to determine compliance, as may be deemed appropriate by city staff."

§ Inspections have been lax and the building has not been constructed per code. To date 15 inspections are logged by the city – more than would typically be required by such a structure. City records reflect compliance and/or correction to compliance. The engineering specifications did not call for straps between floors, and the structure is being built according to those accepted plans and specifications.

§ Technical violation. The structure has been determined to be a few inches above height requirements. However, those requirements specify a measurement 'from grade' which does not always lend itself to precision. So, the city could technically require the homeowner to replace his roof trusses with a style that removes the peak in favor of a flat surface in the top-most area to lower the peak by a few inches. While this does not seem to be a solution that would enrich the lives of all neighboring residents, if we want 'justice and fairness' that requirement could be pursued by the city. As this would be the first volley in what will certainly rise to the level of a neighborhood code war (with no real winners), my view is to live and let live – or accuse and be accused.

The future –I am sponsoring Ordinance 2014-12 during tomorrow evening's City Council meeting which will temporarily restrict accessory buildings in all residential zones. During this (maximum 6 month) restriction, buildings higher than 16-feet and requiring a building permit will be unable to be passed through the Planning Commission without a review and public hearing by the City Council. In addition, code changes will be considered, and noticing practices will be revised. That's what we can do and what we will do to improve the situation where the 'normal' application of existing code results in a legal but out-of-place structure.

If you have read to this point, I thank you and encourage you efforts to reestablish the neighborliness that has contributed to your years of enjoyment.

Sincerely,

Mark Seethaler, CPA

City of South Jordan

City Council | District 1