

Richard Spitler

From: Joe Bob here <jbhitchcock44@gmail.com>
Sent: Thursday, October 31, 2013 1:34 PM
To: Richard Spitler
Cc: Bill McKinnon
Subject: Joe Bob Hitchcock appeal

October 31, 2013

Dear Mr. Spitler

This will confirm our conversation wherein I advised you that the Calistoga council's summary denial of rehearing of the LeStrange variance was ultra vires because I was not given the mandatory ten day notice required by the Calistoga Municipal Code. You have agreed that this was an error, and have agreed to re-calendar that hearing in a conforming manner. Relying upon that representation I have agreed to defer filing litigation.

Please be advised that my request will be based, in part, upon the following errors of the planning commission:

1. Improper notice and conduct of the hearing;
2. Improper admission of evidence;
3. Improper application of law;
4. The evidence does not support the findings;
4. The findings do not support the variance.

From your public comments I understand that you and the council wish to avoid unnecessary legal expenses. Given that I will have to produce largely the same evidence to both persuade the council to hear the appeal, and again to persuade them that the variance is illegal, I would like to suggest that council agree summarily, without a full-blown hearing, to hear my appeal and halve the considerable time and expense involved for all parties.

It is obviously my objective to bring this matter to an administrative conclusion as quickly as possible, and yet haste can make waste. As both the council and court must make reference to the planning commission record to properly consider my objections, I would suggest that it would be worthwhile to defer any new hearing until the record is prepared and available for review. It may well be that your own attorneys may counsel you differently once that is possible and we will be able to avoid judicial involvement.

Please be advised that I am not waiving any rights to object if council should decide to press forward without a full and fair hearing. The necessity for litigation may well be eliminated if courtesy and fairness can overcome the biased tendency on the part of some advocates in the City to cram down this decision. If we both apply the Golden Rule this process need not be as adversarial as it is becoming.

Respectfully,

Joe Bob Hitchcock

November 14, 2013

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To: Calistoga City Council, c/o Richard Spitler, Calistoga City Manager.

RE: 1328 Berry Street, Calistoga, CA - Variance PC 2013-6

RECEIVED

Thank you for agreeing to reconsider, on November 19, 2013, the Council's decision of October 1, 2013, whether to grant my application for an appeal hearing by Council of the Calistoga Planning Commission decision of September 11, 2013.

As informed by City Manager Richard Spitler, my request will be largely confined to the jurisdictional and procedural errors that warrant the hearing of an appeal, and will only tangentially touch upon the actual merits of the appeal. Following is an outline of the various grounds on which a rehearing of the merits is warranted.

First, the hearing violated my due process rights. As clearly indicated by the Commissioners, the notice given to me was inadequate to prepare and submit substantive opposition. From their comments it appears that this is a systemic problem that warrants Council consideration of this process. Further, and more particularly, notice given did not conform to Calistoga Municipal Code requirements.

Second, the Commissioners made findings that were not founded on properly admissible evidence.

Third, the evidence submitted does not support the findings made.

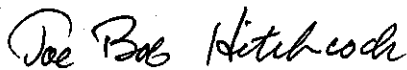
Fourth, the Commission and City Staff exhibited gross bias against me and in favor of the Applicant.

It is my understanding from communications sent to me by Mr. Spitler that there is no requirement for advance submission of documentation supporting my grounds for appeal, and therefore this letter is intended only as a courtesy to provide council with an overview of my presentation. In the absence of such a requirement I will defer further discussion and documentation until November 19. If my understanding is in error, please contact me immediately.

I will be guided by Mr. Spitler's email of November 12 regarding the hearing process and time constraints.

My understanding from conversations with Kathy Flamson is that there are computer and projection facilities for a PowerPoint presentation in the Council chamber, and that they will be made available for my use at the hearing. If that is not correct, please advise me at the earliest possible opportunity so that I might make alternative arrangements.

Respectfully,



Joe Bob Hitchcock