

Mike Castellucci  
*Chair*

Weston Burrer  
*Vice Chair*

# PUEBLO



## Zoning Board of Appeals

Allison Ernst  
*Secretary*

Steve Anselmo

Yvonne Lujan-Slak

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### Minutes for ZBA Hearing, July 22, 2014

City Council Chambers, 1 City Hall Place

#### MEETING CALLED TO ORDER

The meeting was called to order at 7:05 p.m. with Chairperson Mike Castellucci presiding.

**Board Members Present:** Mike Castellucci, Allison Ernst, Yvonne Lujan-Slak, and Brian Lucas

**Board Members Absent:** Steve Anselmo

**Staff Members Present:** Jerry M. Pacheco, Senior Planner; Steven Meier, Director; and Paul Willumstad, Board Attorney.

#### APPROVAL OF AGENDA

Motion to approve agenda for July 22, 2014, hearing by Ernst, second by Lucas

**Motion passed 4 - 0**

#### REGULAR BUSINESS

##### Consent Agenda

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None

##### Regular Agenda

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#### **ZBA 14-11 (2729 Farabaugh Lane - First Farabaugh Rental, LLC)**

A **Variance** from the minimum 1,000 foot separation buffer from an approved Medical Marijuana Facility.

The Applicant submitted a request to the Planning & Community Development Department seeking approval of a Location Determination Certificate that would verify that the subject property met all associated separation buffer requirements necessary to apply for a Medical Marijuana Facility Limited Use Permit. In review of the request Staff determined that a Location Determination Certificate could not be issued due to a then pending, and now approved, Medical Marijuana Facility within 1,000 feet of the

subject property. Specifically, the subject property is located 988.29 feet away from, or 11.71 feet to close to, the Medical Marijuana Facility approved at 2630 W. Pueblo Boulevard.

Don Pagano appeared representing the property ownership and reiterated the request. He stated he understood the staff recommendations and had no objections.

Kath Garcia spoke against granting the variance.  
Karen Lilly spoke against granting the variance.

**Commission Action:**

Motion to approve with staff recommendations, motion by Lujan-Slak, second by Ernst.

**Motion passed 3 - 1; Lucas voting no.**

**ZBA 14-15 (1037 E. 12th Street - Mark Johnson)**

A **Variance** from minimum setback requirements for a two-story garage.

No one appeared to represent the matter. Staff recommended continuing the case to the August 26th meeting.

**Commission Action:**

Motion to continue Case No. ZBA 14-15 to the August 26th meeting by Ernst, second by Lujan-Slak.

**Motion passed 4 - 0**

**ZBA 14-17 (2630 W. Pueblo Boulevard - Robert Ross)**

A **Limited Use Permit** to allow a Medical Marijuana Facility.

*Staff Report by Jerry M. Pacheco*

On December 11, 2013, the Property Owners obtained a Medical Marijuana Certificate of Location (MMCL) from the City which permitted the applicant to request approval for a Limited Use Permit for a Medical Marijuana Facility. On May 20 2014, Gary Amella had been granted approval from the Board to operate a Medical Marijuana Center for the subject property. Subsequently Mr. Amella notified the Property Owners and City Staff that he was withdrawing his application. This request, filed by the new Applicant and operator Mr. Ross, for the same location previously approved for Mr. Amella, would be the final land use approval from the City that would allow the Applicant to apply for state and local licensing.

Robert Ross explained his desire to replace Mr. Amella as the permittee and stated that he understood Staff's recommendations.

Gary Amella spoke in favor of the application and stated he would assist Mr. Ross in his endeavors.

**Commission Action:**

Motion to approve with staff recommendations, motion by Lujan-Slak, second by Ernst, with the following condition(s):

1. A final parking layout, fencing and loading plan must be submitted and approved by Staff prior to the issuance of the City business license.
2. The Applicant must submit to the City an official copy of their state issued license prior to the issuance of the City business license.

**Motion passed 3 - 1; Lucas voting no.**

**ZBA 14-18 (222 S. Victoria Avenue - Edmund Walrath)**

A **Special Use Permit** to allow a second story residence above a commercial business space.

*Staff Report by Jerry M. Pacheco*

Mr. Walrath would also like to live above his new business. Staff was unable to determine if a second floor dwelling unit existed prior to the City-wide zoning of 1968. Had a dwelling existed prior to 1968 it would be a legal use by right. In downtown Pueblo, second floor dwelling units are a common occurrence and in many cases those land uses are permissible by right if they existed prior to 1968. Staff researched available historical documents and was unable to determine that a dwelling unit had existed prior to 1968. In order for the Applicant to reside above the proposed business a special use permit must be granted. Adequate private parking for the residence would be provided at the rear of the property accessed off of the alley.

Mr. Walrath appeared and stated he understood Staff's recommendations.

**Commission Action:**

Motion to approve with staff recommendations, motion by Lujan-Slak, second by Ernst.

**Motion passed 4 - 0**

**ADJOURN**

There being no further business the meeting was adjourned at 8:15 p.m.