

Mike Castellucci  
*Chair*

Brian Lucas  
*Vice Chair*



Allison Ernst  
*Secretary*

Steve Anselmo

Yvonne Lujan-Slak

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## **Minutes for ZBA Hearing, September 22, 2015**

City Council Chambers, 1 City Hall Place

### **MEETING CALLED TO ORDER**

The meeting was called to order at 7:09 p.m. with Chairman Castellucci presiding.

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

**Board Member Absent:** Steve Anselmo

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

### **APPROVAL OF MINUTES**

Motion to approve the minutes from the meeting August 25, 2015, by Lujan-Slak, second by Ernst.

**Motion passed 4 - 0**

### **APPROVAL OF AGENDA**

Motion to approve the amended agenda for September 22, 2015, by Ernst, second by Lujan-Slak.

**Motion passed 4 - 0**

### **REGULAR BUSINESS**

#### **Consent Agenda**

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No items.

#### **Regular Agenda**

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#### **ZBA-15-19 (1322 Longwood Avenue)**

Variance to allow an addition to a legal non-conforming garage to encroach into the required five foot side yard setback.

*Staff Report by Jerry M. Pacheco*

A legal non-conforming garage is located on the east side of the property built on the side property line. With this request, the Applicants desire to have approval to construct an addition to the garage which would require a variance from side yard setback. As proposed by the Applicant, the addition to the garage would be in harmony with the neighborhood and would not negatively impact adjoining property owners.

Doug Bustos, Applicant, appeared and spoke in favor of the request answering questions from the Board.

**Commission Action:**

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

**Motion passed 4 - 0**

**ZBA-15-21 (217 Creston Drive)**

Variance to allow a garage to encroach 3.5 feet into the five foot side yard setback.

*Staff Report by Jerry M. Pacheco*

With this request, the Applicant proposes to construct a freestanding garage on the southern side of the home. The 19 foot wide, 24 foot deep, structure would be placed 1.5 feet from the home and 1.5 feet from the side lot line resulting in a 3.5 foot encroachment.

Steve Cooper appeared and entered into the record three letters of support.

Citizen Rod Johnson appeared and spoke in favor of the request.

**Commission Action:**

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

**Motion passed 3 - 1** Castellucci voting no.

**ZBA-15-22a (2810 Denver Boulevard)**

Variance to allow a greenhouse/accessory structure to encroach 3 feet into the required 5 foot side yard setback

*Staff Report by Jerry M. Pacheco*

The Applicant is requesting a variance to allow a recently constructed greenhouse/accessory structure to encroach 3 feet into the required 5 foot side yard setback. On August 26, 2015, City Code Enforcement filed a complaint to Municipal Court charging a tenant at the subject residence with one count of violating the City's marijuana home cultivation regulations. As part of this complaint, the Applicant was put on notice that the recently constructed greenhouse/accessory structure was erected in a setback and did not comply with architectural compatibility requirements. In response to the complaint, the Applicant has filed two companion requests, one variance and one special use permit, that if approved would allow the greenhouse structure to remain. The structure is 12ft x 16ft (192 sqft) and constructed of wood and clear plastic panels.

With respect to the setback variance, there are many other examples of accessory structure encroachments in the neighborhood and the location of the greenhouse is generally compatible compared to similar structures in the area. However, the architectural design of the existing greenhouse is not similar or compatible with the home on the property which is required by Ordinance. Assuming the greenhouse were to be made architecturally compatible with the home on the property, as determined by the Administrative Official, Staff has no objection to this request. The architectural compatibility requirement will be enforced unless a special exception is granted by the Board in the companion special use case.

Terry Berhman and Darrel Jordan appeared and answered questions from the board.

**Commission Action:**

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

**Motion passed 3 – 1** Castellucci voting no.

**ZBA-15-22b (2810 Denver Boulevard)**

Special Use Permit to allow a greenhouse to be exempted from architectural compatibility requirements.

*Staff Report by Jerry M. Pacheco*

On August 26, 2015, City Code Enforcement filed a complaint to Municipal Court charging a tenant at the subject residence with one count of violating the City’s marijuana home cultivation regulations. As part of this complaint, the Applicant was put on notice that the recently constructed greenhouse/accessory structure was erected in a setback and did not comply with architectural compatibility requirements. In response to the complaint, the Applicant has filed two companion requests, one variance and one special use permit, that if approved would allow the greenhouse structure to remain. The structure is 12ft x 16ft (192 sqft) and constructed of wood and clear plastic panels.

The Board instructed staff to work with the Applicant to address architectural issues and requested a continuance.

**Commission Action:**

Motion to continue the request to the October 27, 2015 Meeting, motion by Lujan-Slak, second by Lucas.

**Motion passed 4 – 0**

**ADJOURN**

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