

Weston Burrer
Chair

Rudy Martinez
Vice Chair

PUEBLO

Zoning Board of Appeals

Ralph Scaplo
Secretary

Mike Castellucci

Rod Johnson

Zoning Board of Appeals
City of Pueblo, Colorado
Tuesday, April 26, 2011-7:00 p.m.
Interim City Council Chambers-301 West B Street (Former Municipal Court)

Minutes

MEETING CALLED TO ORDER

The meeting was called to order at 7:00 p.m. with Chairperson Weston Burrer presiding.

Board Members Present: Ralph Scaplo, Rudy Martinez and Mike Castellucci

Board Members Absent: Rod Johnson

Staff Members Present: Jeff Bailey, P.E., Assistant City Manager for Development Services; Carrie Muchow, Planner; Ramona Baca, Court Reporter; and Paul Willumstad, Board Attorney.

APPROVAL OF MINUTES

Motion to approve the minutes from the February 22, 2011 meeting by Castellucci, second by Scaplo.

Motion passed 4-0.

APPROVAL OF AGENDA

Motion to approve the agenda for the April 26, 2011 meeting by Castellucci, second by Scaplo.

Motion passed 4-0.

PUBLIC HEARINGS AND ACTION

CONSENT AGENDA

Special Use Permit

1. **013-2011 311 S. Union Avenue (Rebecca Hooper de Dios) HB**
A **Special Use Permit** to allow a wellness center for a maximum of 30 people.

BACKGROUND

Staff Report by Carrie Muchow.

Synopsis

The subject property is located in Downtown. According to Section 17-4-51 (6)(c)(3.1) of the Pueblo Municipal Code (PMC), the applicant is requesting a Special Use Permit as a Use by Review to operate a wellness center for a maximum of thirty (30) people.

Analysis

The applicant is proposing a center that would incorporate fitness, education, and counseling for teaching people healthy lifestyles. This type of business will increase pedestrian traffic in the area throughout the day and add to the busy, active feel of downtown. There is some parking in the rear, street parking all around the block, and a public parking lot directly across the street so parking should not be a concern for this use. A business similar to this one was approved for the HB zone district in the past.

RECOMMENDED MOTION

Staff recommends **APPROVAL** with the following conditions:

1. Standard permit conditions 1-13.
2. All exterior changes, including signs, must be approved through the Historic Preservation Commission prior to construction.

COMMISSION ACTION

Motion to approve by Castellucci, second by Scaplo with the following conditions:

1. Standard permit conditions 1-13.
2. All exterior changes, including signs, must be approved through the Historic Preservation Commission prior to construction.

Motion passed 4-0.

Variances

2. **015-2011 1201 Paseo Del Norte (NorthStar Engineering) O-1**

A **Variance** to allow an existing building to encroach into the second front yard setback.

BACKGROUND

Staff Report by Carrie Muchow.

Synopsis

The subject property is located in the Ridge Neighborhood at the intersection of Fortino Blvd and Paseo Del Norte. The applicant is requesting a variance from Section 17-4-2 of the Pueblo Municipal Code (PMC), to allow an existing building to encroach into the second front yard setback by three feet (3'), or nine and a half feet (9.5') from the property line. The building was built by the previous owner and the current owner is unaware of the why or how it was built in the setback.

Analysis

The building has been in place for eleven (11) years and has not caused any problems being closer to Fortino than is typical. The space between the building and the street is well landscaped with grass and trees and the building does not feel imposing on the street or sidewalk.

This variance is necessary because the owner is trying to combine his property with an adjacent one that is currently vacant and can't be utilized by itself. By combining the underutilized parcel with the current property, a better development pattern for the street can be realized.

RECOMMENDED MOTION

Staff recommends **APPROVAL** with the following conditions:

1. Standard permit conditions 1-13.

COMMISSION ACTION

Motion to approve by Castellucci, second by Scaplo with the following conditions:

1. Standard permit conditions 1-13.

Motion passed 4-0.

3. 017-2011 2710 Bockman Avenue (Colorado Rescon) R-2

A **Variance** to allow an existing home to encroach into the front yard setback for the purpose of adding an addition.

BACKGROUND

Staff Report by Carrie Muchow.

Synopsis

The subject property is located in the Lake Minnequa Neighborhood near the intersection of Lakeview Ave. and Prairie Ave. The applicant is requesting a variance from Section 17-4-2 of the Pueblo Municipal Code (PMC), to allow an existing home to encroach into the front yard setback by eleven feet, three inches (11'3") or, thirteen feet, nine inches (13'9") from the property line.

Analysis

The house was built in 1961, before the zoning code was established and has been in this location for almost 50 years. It has not caused any problems with the road, surrounding homes, or the neighborhood.

The applicant is requesting the variance so that he can build an addition on to the home that would incorporate both living space and a new deck. The addition of living space and outside access will help the owner, who is disabled, get around the home and is necessary for the owner to continue living in this location. The addition is outside of all setbacks.

RECOMMENDED MOTION

Staff recommends **APPROVAL** with the following conditions:

1. Standard permit conditions 1-13.

COMMISSION ACTION

Motion to approve by Castellucci, second by Scaplo with the following conditions:

1. Standard permit conditions 1-13.

Motion passed 4-0.

REGULAR AGENDA

Variances

4. 011-2011 1514 Martin Street (Kenneth Huff) R-3

A **Variance** to allow a new garage to encroach into the required side and rear yard setbacks.

BACKGROUND

Staff Report by Carrie Muchow.

Synopsis

The subject property is located in the Northside Neighborhood just east of the State Hospital. The applicant is requesting a variance from Section 17-4-2 of the Pueblo Municipal Code (PMC), to allow a new garage to encroach into the side and rear setbacks and be built three feet (3') from both the North side property line and the rear property line. The proposed garage is twenty six feet (26') wide by twenty eight feet (28') deep or 728 square feet. The proposed location is in the Northeast corner of the property directly behind the house. Currently the home has no covered parking.

Analysis

The applicant's lot is a reverse frontage lot and faces Martin St. as opposed to most lots in this neighborhood that face the east-west streets. This makes the lot wider, but not as deep as most lots in the area. It also means that the property is bordered on the side by the alley as opposed to the rear like most lots.

Staff feels placing the garage in the proposed corner effectively uses up the back yard of this property especially with the driveway paving. The applicant had been proposing loading from the street and creating a "L" shaped driveway into the garage which would have effectively paved almost the entire lot but has since changed the driveway plan to load off the alley. The proposed garage is almost wide enough for a three (3) car garage but will only have a two (2) car garage door and is significantly longer than most two (2) and three (3) car garages.

Staff discussed the possibility of placing the garage in the other corner of the backyard, near the alley, with the applicant but he did not want to move it. He stated that placing the garage in the corner he has proposed leaves his yard more open feeling and keeps people from seeing into his garage if he leaves the door open. Staff also discussed the possibility of either shifting the garage out of the setbacks or shrinking the garage slightly to keep it out of the setbacks but the applicant declined.

The garage as proposed does not, in Staff's opinion, need a variance to be built. There is enough room between the house and rear yard setback to build the garage and still have plenty of room from the house to the garage to allow for maintenance and even an outdoor gathering area. There is also enough room between the North side setback and the alley to build the garage and have enough driveway for a car to be parked

outside the garage without crossing the property line. Basically, the rear yard of this property has enough room to build the very large garage while maintaining full setbacks. The garage is also large enough that if it were shrunk two feet (2') on the North and East sides to maintain setbacks it would still be larger than most two (2) car garages.

Staff would be willing to support a variance for the garage to be placed in the southeast corner of the yard near the alley, allowing the applicant to either pull in straight from the street or in off the alley, in order to keep almost half the backyard usable.

RECOMMENDED MOTION

Staff recommends **DENIAL** of the Variance to allow a new garage to encroach into the side and rear yard setbacks.

If the Board feels it is appropriate to approve the variance, Staff recommends the following conditions:

1. Standard permit conditions 1-13.
2. The garage must be architecturally compatible with the home.
3. All storm water must drain away from neighboring properties.
4. The proposed stone wall at the front of the property must cut in at a 45 degree angle at the Southwest corner to allow for visibility along Martin and the alley. If the proposed wall is going to be four feet (4') or lower, the 45 degree angle must start five feet (5') back from corner on both the West side and the South side. If the proposed wall is going to be higher than four feet (4'), up to the allowed six feet (6'), the 45 degree angle must start ten feet (10') back from corner on both the West side and the South side. The wall must also be on or inside the property line; it may not be built outside of the property. These requirements come from the City of Pueblo's Traffic Engineer and are to ensure the safety of pedestrians and motorists in the area. If the variance is denied, this condition on the wall must still be abided by. Any variance from this requirement must be approved by the City of Pueblo's Traffic Engineer prior to construction.

HEARING

Kenneth Huff, 1514 Martin Street, Pueblo, CO appeared and testified in favor of the application.

Mr. Huff stated that he was concerned with staff recommending denial; he states that his variance should be approved because his lot is different from other lots in the neighborhood. Mr. Huff also submits two exhibits for the record; they are marked Exhibit 1 and 2.

Mark Shipe, Pueblo, CO appeared and testified in favor of the application.

COMMISSION ACTION

Motion to deny by Castellucci, second by Martinez.

Motion passed 4-0.

5. 012-2011 918 Damson Street (Total Cash Investments) R-2

A **Variance** to allow an existing house to encroach into the side yard setback, a new addition encroach into the side yard setback, a new carport encroach into the side yard setback and to allow additions on a non-conforming structure to exceed 30% of the square footage.

BACKGROUND

Staff Report by Carrie Muchow.

Synopsis

The subject property is located in the Lower Eastside Neighborhood near Damson St. and Joplin Ave. The applicant is requesting a variance from Section 17-4-2 of the Pueblo Municipal Code (PMC), to allow an existing house to encroach into the East side yard setback and to allow new additions to encroach into both the side yard setbacks. The applicant is also requesting a variance from Section 17-3-4 (5) to allow an addition on a non-conforming, single family residence to exceed 30% of the gross floor area of the existing structure.

There are three proposed additions to the existing home, an East section, a West section, and a carport. The two living space additions would turn the house into a rectangle instead of the "T" shape it is currently. The East addition would be 252 square feet, would line up with the front and East plains of the home, and would require a variance to continue the East zero foot (0') side yard setback. The West addition would be 523.5 square feet, would continue the front plain of the home, and would be setback five feet (5') from the West side property line so would not require a setback variance. The carport would be attached to the West addition, would be five feet by eight feet (5' x 8'), and would require a side yard setback variance from five feet (5') to zero feet (0') on the West side. The current house is 793 square feet and the two living space additions would total 106% of the gross floor area of the existing house. If approved, the three additions would create a zero foot (0') side yard setback on both sides.

The front of the home, while only seven feet (7') from the front property line, does not require a variance because the two homes on either side are also at seven feet (7') so based on Section 17-4-31 (5) of the PMC, which discusses averaging setbacks, the house is considered conforming.

Analysis

Currently the home is in rough shape, with stucco coming off the historic brick and boarded up windows, which the owner is trying to remedy with renovations. The lot is a typical size and orientation for the neighborhood but the alley behind the lot has not been maintained and is no longer useable which is unlike most of the lots in the area. The owner plans to fix up the home completely and the proposed additions are to make the house larger with a more modern floor plan.

While creating a rectangle out of the current house and the two proposed living space additions is the easiest and most energy efficient way to add on, Staff does not feel it is appropriate for this particular lot. The homes on either side of the property are very close to their property lines so building all the way to both side property lines would affect the houses on the other properties. The lot is also deep enough to allow for additions on the rear of the home.

The West addition is a great location, will add on a sizable amount of living space to the current home and would meet all setback requirements. This addition would be approximately 66% of the existing gross floor area so require a variance to allow more than a 30% addition. Staff is in support of this addition.

Currently the Eastern most side of the house is four feet, eight inches (4'8") from the neighboring house (zero feet (0') from the property line) and while this is extremely close, only a small portion of the house is this close. Most of the home steps back to be approximately seventeen feet (17') from the neighboring house. The East side addition would bring the entire East side of the house four feet, eight inches (4'8") from the entire side of the neighboring home and would block two of the neighbors' windows, cutting the light off significantly. This close distance would also make it very difficult, if not impossible, to construct and maintain the house without trespassing onto the neighboring property. Any eaves and rain gutter would be trespassing. As mentioned previously, the rear of the home has a significant amount of space and can be utilized for another addition. Staff is not in support of this addition.

The carport, which is proposed to be added on to the West addition, would also be right in line with the neighboring house to the West, which is only a foot or two (2) from the property line, and while it would not block any windows on the neighboring home, the zero foot (0') setback would not allow for the maintenance of both structures or a maintenance easement. The rear yard has plenty of space to accommodate a carport, or even a garage, behind the home, even taking into consideration that due to the poor alley condition cars would have to load from Damson. Staff is not in support of this addition.

The Zoning Board of Appeals has rarely granted a zero foot (0') for a new structure and has never granted one where two neighboring structures would be so close to inhibit maintenance. In the few occasions where a zero foot (0') was granted, the neighbors had to agree on a five foot (5') maintenance easement which would not be possible on either side of this lot because the space is not there.

RECOMMENDED MOTION

Staff recommends **APPROVAL** of 66% addition on a non-conforming structure for the West addition and encroachment into the East side setback for the existing structure with the following conditions:

1. Standard permit conditions 1-13.
2. All storm water must be directed away from neighboring properties.
3. The encroachment into the East setback may never be increased.

Staff recommends **DENIAL** of the encroachment into the West Setback for the new carport and the encroachment into the East setback for the new addition. If the Board feels it is appropriate to approve the variance, Staff recommends the following conditions:

1. Standard permit condition 1-13
2. All storm water must be directed away from neighboring properties.
3. The carport must be architecturally compatible with the home.
4. The carport may never be enclosed.
5. No future additions may be within setbacks.
6. Maintenance easements must be secured from both the neighboring property owners for the maximum allowable width between structures, and for the full length of the additions and to the front property line, prior to beginning construction on the additions.
7. All new construction shall not trespass onto neighboring properties.

HEARING

Chad Lutolf, 918 Damson Street appeared and testified in favor of the application.

Tad Childers, 918 Damson Street appeared and testified in favor of the application.

COMMISSION ACTION

Motion to approve that the existing house encroach into the East side yard setback by Castellucci, second by Martinez with the following conditions.

1. Standard permit conditions 1-13.
2. All storm water must be directed away from neighboring properties.
3. The encroachment into the East setback may never be increased.

Motion passed 4-0.

Motion to deny the request to allow new additions to encroach into the East side yard setback by Castellucci, second by Martinez.

Motion passed 4-0.

Motion to approve an addition on a non-conforming structure to exceed the allowed 30% limit by Castellucci, second by Martinez.

1. Standard permit conditions 1-13.
2. All storm water must be directed away from neighboring properties.
3. The encroachment into the East setback may never be increased.

Motion passed 4-0.

Motion to deny the request that a carport encroach into the 5' side yard setback on the West side of the property by Castellucci, second by Martinez.

Motion passed 4-0.

NEW/OLD BUSINESS

Motion to approve and ratify the findings for ZBA Appeal Case #069-2010 (DBA: Tony's RV Park-3036 N. Elizabeth) by Castellucci, second by Scaplo.

Motion passed 4-0.

ADJOURN

There being no further business the meeting was adjourned at 8:20 p.m.