

Mike Castellucci
Chair

Brian Lucas
Vice Chair



Allison Ernst
Secretary

Steve Anselmo

Yvonne Lujan-Slak

Minutes for ZBA Hearing, July 26, 2016

City Council Chambers, 1 City Hall Place

MEETING CALLED TO ORDER

The meeting was called to order at 7:00 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: Steven Meier, Director Community Planning Parks and Recreation; Alan Lamberg, Planner; and Paul Willumstad, Board Attorney.

APPROVAL OF MINUTES

Motion to approve the minutes from the meeting of June 28, 2016, by Lucas, second by Lujan-Slak.

Motion passed 4 - 0

APPROVAL OF AGENDA

Motion to approve the agenda for July 26, 2016, by Ernst, second by Lujan-Slak.

Motion passed 4 - 0

REGULAR BUSINESS

Consent Agenda

No items.

Regular Agenda

Each case the follows proceeded in a uniform process as directed by Chair Castellucci. Beginning with a staff report presented by Planner Alan Lamberg, then questions, if any, from the Board to staff members. Next, the applicant is sworn in by Board Attorney Paul Willumstad, then the applicant states his or her name and address. The Board questions the applicant and confirms understanding of staff report and conditions for approval. Applicant may add further information, followed by further questions, if any, from the Board. Then the Board asks if anyone present in the audience will state support for the applicant, followed by those who state opposition. Then the Board closes the public hearing and reviews findings of fact. Then the Board may motion to approve or deny the application for permit. In some cases, permits may be conditionally approved.

ZBA-16-36A (927 East River Street)

Variance to allow residential patio to encroach as built into the second front yard setback.
Applicant Geovanny Gonzalez attended

Gonzalez stated that the previous property owner built the patio. No public comments.

Commission Action:

Motion to grant by Ernst, second by Lucas.

Motion with staff condition and standard permit conditions passed 4 – 0.

ZBA-16-37 (36 Posada Drive)

Variance to allow a residential garage to encroach into the side and rear yard setbacks.
Applicant Jason Quintana attended

Castellucci asked Lamberg to clarify that the photograph of the rear yard in the application is in fact the proposed area for construction. Castellucci asked Quintana why he requires a large detached garage in addition to his attached garage. Quintana responded that he asked for the largest possible and is willing to reduce the width from 24' to 21' if necessary. Quintana offered a correction that the proposed driveway to the new garage would be 21' feet wide, not 30'. Castellucci confirmed with Quintana that the El Camino homeowner association reserves the right to disapprove of this plan. No public comments.

Commission Action to approve request impacting side yard:

Motion to grant by Lucas, second by Ernst.

Motion with staff conditions and standard permit conditions failed 1 – 3, with Lucas dissenting.

There is a high architectural standard of the subdivision and a potential negative impact on the adjacent property owner. That same property owner did not appear to show support of the request.

Commission Action to approve request impacting rear yard:

Motion to grant by Lucas, second by Lujan-Slak.

Motion with staff conditions and standard permit conditions passed 4 – 0.

ZBA-16-38 (502 Utica Avenue)

Variance to allow a residential patio to encroach as built into the front yard setback.
Applicant Eva Maldonado and interpreter Maria Gutiérrez attended

Maldonado and Gutiérrez stated the resize as conditioned is too small because the current size shields the home from solar heat. Castellucci asked why the manufactured home was placed on the lot incorrectly according to the original plot plan. Maldonado and Gutiérrez replied that the original plan was addressed on 5th Street, so they presumed they were complying with the original front yard setback of 25 feet. Maldonado and Gutiérrez stated that she is experiencing financial hardship. The conditions and agreed upon single-family home design features will take time to do, "little by little."

Public comment in support: Elise Quintana & Mark Villegas, 300 South Neilson Avenue, affirmed that the larger patio shields the home from the heat, and would like to implement a similar plan for a large covered patio for their adult children who reside at the house across the street, 2124 East 5th Street. They asked why a five (5) foot sidewalk is required when most sidewalks in the neighborhood are three (3) feet.¹

A motion was made by Ernst to adjust the reduced size to four (4) feet deep and (20) twenty feet wide. Lucas motioned to strike the condition to reduce size entirely because of the cost of reconstruction. Castellucci stated concern in setting precedent. Lucas replied that this is contractor's fault, not the property owner. Castellucci confirmed that the current front setback is 15' instead of 25'. Ernst asked if this kind of variance has been denied in the past, which would require a costly removal of a patio. Willumstad confirmed that there is a cost. Meier offered new information about the prevailing pattern of the neighborhood, observing that the neighboring garage to the north seems just as close in the front setback. Ernst revised her motion to strike the condition to reduce size of the patio, but asked if condition of sidewalk is under the board's purview. Meier confirmed that sidewalks with new construction are normally required by the Public Works Department. Ernst revised her motion to include only the first two conditions (stucco siding and provide off-street parking space).

Commission Action:

Motion to grant by Castellucci, second by Lujan-Slak.

Motion with staff conditions 1 & 2, and standard permit conditions, passed 3 - 1, with Castellucci dissenting.

ZBA-16-39 (2400 & 2430 Oakshire Drive)

Variance to allow an assisted living facility multi-family addition to encroach into the rear yard setback..
Applicants John Chrisman and Matthew W. Coffman for Oakshire Gardens LLC attended

Castellucci disclosed that his employer may be involved in the project. Willumstad confirmed that Castellucci's employment will not impede his ability to be impartial.

Coffman clarified that there are two separate buildings, each assisted living facilities that will be connected and combined by the new addition. Subdivision procedure will not be necessary due to a lot line rearrangement. The existing drainage easement will be vacated and a new drainage easement will be dedicated on the new plat. No public comments.

Commission Action:

Motion to grant by Lucas, second by Ernst.

Motion with staff conditions and standard permit conditions passed 4 - 0.

¹ Note: new construction requires code compliance, and sidewalks may be required by the Director of Public Works.

ZBA-16-40 (2 Sepulveda Drive)

Variance to allow an attached residential garage to encroach into the second front yard setback.
Applicant David Bartunek attended

Castellucci asked about the height of the existing retaining wall. Bartunek corrected the staff report premise that the existing garage will not be converted into living space. Bartunek provided two exhibits, (A) an e-mail from El Camino Homeowner Association President Kurt Madic, stating his inclination for approval but will need input from other board members; and, (B) elevations of the proposed addition. Ernst asked about maintenance access to the side of the addition. Bartunek replied that the public right-of-way is legal access. Ernst asked about the height of the addition, and Bartunek referred to the elevations.

Castellucci stated that a variance request must show hardship, and that the request is not whether or not a garage can be built, but whether or not it can built completely into the second front setback. Bartunek asserted that building the garage in the rear yard would not fit the design of the neighborhood, and that his truck is too wide to access the rear yard from the side of the current attached garage. Ernst asked Lamberg for instruction on how to consider the elevations. Lamberg stated that this new information mitigates the concern about the height of the hip roof, which isn't a gable as presumed. The question that remains is the impact by building into the setback.

No public comments.

Commission Action:

Motion to grant by Ernst, second by Lucas.

Motion with staff condition and standard permit conditions failed 1 – 3, with Lucas dissenting. While it was clarified that Bartunek would upgrade his garage from a 2-car to a 3-car, it was not clear whether or not the hip roof would negatively impact the view along Encino. There didn't seem to be a sufficient hardship proven, since the backyard of his property seems to be sufficient for additional construction.

ZBA-16-41 (2229 West 22nd Street)

Variance to allow a residential addition to be larger than permitted, a patio to encroach into the front yard setback, and an accessory garage to encroach into the other front yard setback.

Applicant Jose Flores attended

Flores asked for clarification because he did not read the staff report. There was discussion from him, Lamberg, Meier, to clarify the location of the property line fronting the Bancroft right of way. The area was platted in 1892, after the establishment of a dairy farm that has continuously operated. This is why some neighboring fences and outbuildings exist in the Bancroft public right of way. Castellucci acknowledged Flores concerns about the front yard setback being applied to his case. His wife, Janet Flores, stated that the front porch requires shade from the sun.

Public testimony in support: Chris Cogley, 2304 Park Avenue, resides at the house across Bancroft Avenue. He stated that Flores plans will improve the value of the land.

Public testimony in opposition: Wilbur Hayes, 52 Louis Nelson Road, and Marla Lanham, 4016 Ridge Drive, while stating a neutral position, offered facts about the area because Hayes' grandmother owned the dairy farm in the past. He stated that the corrals (fence and outbuildings existing in the right of way) will disappear in time, so future development ought to be consistent and conform to the bounds of the Bancroft right of way. To that end, he submitted a land survey of the dairy farm (Exhibit A).

Commission Action to approve request impacting size of residence:

Motion to grant by Ernst, second by Lucas.

Motion with staff condition and standard permit conditions passed 4 - 0.

Commission Action to approve request impacting front yard of 22nd Street:

Motion to grant by Ernst, second by Lucas.

Motion with staff condition and standard permit conditions passed 3 - 1, with Ernst dissenting.

Commission Action to approve request impacting front yard of Bancroft Avenue:

Motion to grant by Ernst, second by Lucas.

Motion with staff condition and standard permit conditions passed 3 - 1, with Lujan-Slak dissenting.

OLD BUSINESS

Regular Agenda

None.

ADJOURNMENT

Motion to adjourn at 8:35 p.m. by Ernst, second by Lujan-Slak.

Motion passed 4 - 0

Minutes respectfully submitted by Lamberg.