

Mike Castellucci  
Chair

Brian Lucas  
Vice Chair



Allison Ernst  
Secretary

Steve Anselmo

Yvonne Lujan-Slak

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## Minutes for ZBA Hearing, June 28, 2016

City Council Chambers, 1 City Hall Place

### MEETING CALLED TO ORDER

The meeting was called to order at 7:05 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 of Planning & Community Development and Parks and Recreation; Alan Lamberg, Planner; and Paul Willumstad, Board Attorney.

### APPROVAL OF MINUTES

Motion to approve the corrected minutes from the meeting May 24, 2016, by Ernst, second by Lucas.

**Motion passed 4 - 0**

### APPROVAL OF AGENDA

Motion to approve the agenda for June 28, 2016, by Lucas, second by Lujan-Slak.

**Motion passed 4 - 0**

### REGULAR BUSINESS

#### Consent Agenda

No items.

#### Regular Agenda

Each case that follows proceeded in a uniform process as directed by Chairman 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, who 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 to review findings of fact. Then the Board may motion to approve or deny the application for permit. Permits may be conditionally approved.

**ZBA-16-31 (220 West 15th Street)**

Special use permit to allow an emergency standby generator at 220 West 15th Street to provide back-up power to their wireless facilities located on the Presbyterian Towers Building, which is allowed as an accessory use by review in a multiple-residential and office (R-5 zone) district.

*Applicant Anne Richards for AT&T Wireless, Commsite Development Services, present*

No public comments.

**Commission Action:**

Motion to grant by Ernst, second by Lucas.

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

**ZBA-16-32 (2430 Spruce Street)**

Variance to reduce architectural standard for a new residential shed that isn't architecturally compatibility with the principal structure, a house, and allow it to encroach two (2) feet into the five (5) foot side yard setback.

*Applicant Harold J. King present*

Public comments in support: Betty King stated the shed's purpose is to secure her and her son's property. Ralph Frescas of 2426 Spruce Street did not object since the shed will not cross over his property line.

**Commission Action:**

Motion to grant by Lucas, second by Ernst.

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

**ZBA-16-33 (4015 Ridge Drive)**

Variance to allow a residential detached garage to encroach five (5) feet into the five (5) foot side yard setback.

*Applicant Nicholas Lanham present*

Lamberg recalled that projections such as gutters, downspouts and eaves may be even with a property line adjacent to a public right-of-way, and so revised his staff recommendation. Noted that projections cannot cross over a property line. Lanham provided background about the plans. He stated that a representative from CenturyLink informed him that there were no telecommunication lines in the public right-of-way. No public comments.

**Commission Action:**

Motion to grant by Lucas, second by Ernst.

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

**ZBA-16-34 (1629 Saratoga Road)**

Variance to allow a residential detached garage to encroach five (5) feet into the five (5) foot side yard setback.

*Applicant Gerald Garcia present*

Garcia submitted a letter of approval from the owner-occupier of the adjacent property, Beatrice M. Reynolds, as Exhibit A. He questioned the necessity of a maintenance easement as required in staff condition #3. Castellucci asked for clarification. Willumstad explained that an agreement in writing should detail the ability of the property owner of 1629 Saratoga Road to access a two and one half (2 ½) feet portion of the southern side yard of 1633 Saratoga Road. The purpose of this access is to provide for maintenance of the garage wall and roof. This right in perpetuity, acknowledged by the current owners, Garcia and Reynolds, must be filed with the Pueblo County Recorder.

Garcia clarified that the garage gables will face north and south, the downspouts east and west. Castellucci asked why the garage needs to be built to the adjoining property line. Garcia answered that the driveway space is limited for his vehicle size. Castellucci asked if Garcia can record a maintenance easement with Reynolds. Garcia stated that he was not aware that this would be an issue when he applied for his building permit and variance.

Lamberg offered that city planners can conditionally approve a building permit so that a maintenance easement is recorded within a certain time period. (Permits granted by the Zoning Board of Appeals require a follow up inspection by city planners to show compliance. The time period is within one year.)

No public comments.

**Commission Action:**

Motion to grant by Ernst, second by Lucas.

**Motion passed 3 – 1 (Castellucci dissenting) with staff conditions and standard permit conditions.**

**ZBA-16-35 (3725 Ringtail Lane)**

Variance to allow a residential shed to encroach as built three (3) feet into the five (5) foot side yard setback.

*Applicant Aaron Gonzales present*

Gonzales stated that he observed four other homes in the neighborhood that appear to violate setbacks. He submitted a letter of support by a neighbor, Roman Castro, at 3713 Ringtail Lane, as Exhibit A.

Public comment in opposition: Katherine & Mark Higdon, 3729 Ringtail Lane, are the owner-occupiers of the adjacent property. They stated that, during installation of the shed, Gonzales implied that he could raise the height of the privacy fence. In the past at another residence they experienced fire damage from a neighboring shed. They submitted photos of the shed as it seen from their property as Exhibit B.

Gonzales affirmed with Higdon's conversation, and was willing to add patio stone in order to move the shed over. Castellucci asked why not comply with five (5) foot setback. Gonzales answered that he would prefer not to move it on installed artificial turf. Castellucci acknowledged strong opposition from the neighboring Higdon's, and that Gonzales' reasoning does not seem strong enough. Ernst observed that a photograph in Exhibit B shows what appears to be two and one half (2 ½) feet of landscape rock between the shed and the turf.

During the finding of facts, the Board was unanimous in their opinion that the variance will constitute a nuisance to nearby properties. Ernst motioned to grant a modified request so that the shed could encroach two (2) feet into the five (5) foot setback. Ernst clarified that the shed can be moved over. Lucas agreed that it may be moved instead of being completely removed.

**Commission Action:**

Motion to grant by Ernst, second by Lucas.

**Motion failed 0 - 4. The shed must be moved out of the 5' setback within 30 days.**

**OLD BUSINESS**

**Regular Agenda**

None.

**ADJOURNMENT**

Motion to adjourn at 8:55 p.m. by Castellucci, second by Lucas.

**Motion passed 4 - 0**

Minutes respectfully submitted by Lamberg.