

Yvonne Lujan-Slak
Chair

Steve Anselmo
Vice Chair



Lisa Bailey
Secretary

Mike Castellucci

Sarah French

Minutes for October 27, 2020
City Council Chambers, 1 City Hall Place

The meeting was called to order at 7:02 p.m. with Chair Lujan-Slak presiding.

Board Members Present: Yvonne Lujan-Slak, Elizabeth (Lisa) Bailey, Sarah French, Mike Castellucci, Steve Anselmo

Board Members Absent: None

Staff Members Present: Beritt Odom, Principal Planner; Daniel Kogovsek, Board Attorney; Alan Lamberg, Senior Planner; Chelsea Stromberg, Planner; Bartholomew Mikitowicz, Planner

This meeting was held via conference call. All votes were roll call, to distinguish each speaker.

~ Approval of Minutes

Motion to approve the minutes from the meeting of September 22, 2020, by French second by Castellucci.

Motion passed 5- 0

~ Approval of Agenda

French moved to amend the agenda and continue ZBA-20-35 and ZBA-20-39 to the November 17, 2020 hearing of the Zoning Board of Appeals. The motion was seconded by Castellucci.

Motion passed 5 - 0

REGULAR AGENDA

Each case that follows proceeded in a uniform process as directed by Chair Lujan-Slak. Beginning with a staff report presented by the Planner assigned, then questions, if any, from the Board to staff members. Next, the applicant is sworn in by Board Attorney Daniel Kogovsek, 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.

1. ZBA-20-36 SPECIAL USE PERMIT 2106 S PRAIRIE AVE. (Josette Rusk) A Special Use Permit to allow for a Child Care Center in a Single Family Residential (R-2) District.

Lujan-Slak asked whether the applicant was in the audience to represent the request. Once the applicant confirmed, from the audience, that they were present, Lujan-Slak asked for the staff presentation, which was given by Mr. Mikitowicz.

Southside Children's Center, is a Child Care Center, located at 2101 S. Prairie Ave in a Regional Business (B-4) Zone District. This business is seeking to expand operations into the detached property located immediately south at 2106 S. Prairie Ave. The new virtual learning center will provide support students and parents participating in online classes and distance learning activities for fifteen (15) students. This site will employ two teachers to supervise and assist students. The subject property (2106 S. Prairie Ave.) is located in an Single-Family Residential (R-2) Zone District, whereas a Child Care Center is not a use-by-right and a Special Use Permit is required to operate the proposed learning center.

Lujan-Slak then asked for the applicant to be sworn in. **Josette Rusk** was sworn in by Mr. Kogovsek. Following such actions, the applicant introduced herself and offered to answer any questions. **Ms. Rusk** summarized the proposed Special Use Permit. Lujan-Slak asked the applicant if she read the staff report, understand the conditions, and can comply with the staff conditions. **Ms. Rusk** stated that she read the staff report and can comply with the conditions. Lujan-Slak asked if there was anyone in the audience wishing to speak in favor of the application, there were none. Lujan-Slak asked if there was anyone wishing to speak in opposition of the application, there were none. The public hearing was then closed.

Commission Action:

Motion to grant by Anselmo. The motion was seconded by French.

Motion passed 4-0 (Bailey recused herself from the vote)

2. ZBA-20-40 VARIANCE 1016 E 2nd ST. (Scott Sinclair) A Variance to reduce the front yard setback for an as-built single-family residence to fourteen (14) feet in lieu of 25.

Lujan-Slak asked whether the applicant was in the audience to represent the request. Once the applicant confirmed, from the audience, that they were present, Lujan-Slak asked for the staff presentation, which was given by Mr. Lamberg.

The applicant is requesting a variance to allow a single-family residence to encroach 11 feet into the required 25-foot front yard setback. PMC Section 17-4-2(g) requires a 25' front yard setback for property zoned Single-Family Residential (R-2 Zone) District. The residence under construction is expected to comply with all other Zoning Code requirements. The property was among three parcels of vacant land with a steep grade to 2nd Street, which may reduce the functional enjoyment of front yards. Neighboring properties include residences built before the Zoning Code with similar front yard setbacks. The applicant's approved site plan depicted a 39-foot setback but not account for the public right of way between the back of sidewalk, approximately 17-feet wide. This discrepancy resulted in an as-built 14-foot front yard setback. The applicant discovered the discrepancy after the foundation was poured and the house was framed. The applicant admits that the mistake was an oversight on his part and has taken measures to make sure the error is not repeated. The Zoning Board of Appeals shall

have the authority to add reasonable conditions of approval related to mitigating negative impact, if any, to neighboring properties.

Lujan-Slak then asked for the applicant to be sworn in. **Scott Sinclair** was sworn in by Mr. Kogovsek. Following such actions, the applicant introduced himself and offered to answer any questions. **Mr. Sinclair** summarized the proposed Variance. Lujan-Slak asked the applicant if he read the staff report, understand the conditions, and can comply with the staff conditions. **Mr. Sinclair** stated that he read the staff report and can comply with the conditions. Lujan-Slak asked if there was anyone in the audience wishing to speak in favor of the application, there were none. Lujan-Slak asked if there was anyone wishing to speak in opposition of the application, there were none. The public hearing was then closed.

Commission Action:

Motion to grant by Bailey. The motion was seconded by Anselmo.

Motion passed 5-0

3. ZBA-20-42 VARIANCE 214 W ABRIENDO AVE. (Bruce Wagner) A Variance to allow three accessory structures and to allow accessory structures to be over combined size limitations.

Lujan-Slak asked whether the applicant was in the audience to represent the request. Once the applicant confirmed, from the audience, that they were present, Lujan-Slak asked for the staff presentation, which was given by Mr. Mikitowicz.

The applicant is applying for a Variance to allow for three accessory structures (over 200 sqf.) and a Variance to allow the combined area of accessory structures to exceed the maximum limit of 1,500 sq.in a Single Family Residential (R2) Zone District. The subject property, built in 1923, is located in the South Pueblo a mixed-use subdivision. Subject property currently has two existing detached accessory structures over two hundred (200) square feet and a third would bring the total square footage of these structures to sixteen hundred (1,600) square feet. According to Sec. 17-4-23. – Accessory building and structures. (c) (1) No detached accessory structure or combination of structures shall exceed fifteen percent (15%) of the lot area, up to a maximum of one thousand five hundred (1,500) square feet, or one hundred percent (100%) of the footprint of the principal structure, whichever is smaller; (2) Only one (1) detached accessory structure larger than two hundred (200) square feet shall be permitted for each principal structure on the building site. The subject property currently has two detached accessory structures; however, the applicant wishes to add third specifically as an artist studio, to help “maintain wife’s sanity.” There are no previous variances for this property on file.

Lujan-Slak then asked for the applicant to be sworn in. **Bruce Wagner** was sworn in by Mr. Kogovsek. Following such actions, the applicant introduced himself and offered to answer any questions. **Mr. Wagner** summarized the proposed Variance. Lujan-Slak asked the applicant if he read the staff report, understand the conditions, and can comply with the staff conditions. **Mr. Wagner** stated that he read the staff report and can comply with the conditions. Lujan-Slak asked if there was anyone in the audience wishing to speak in favor of the application, there were none. Lujan-Slak asked if there was anyone wishing to speak in opposition of the application, there were none. The public hearing was then closed.

Commission Action:

Motion to grant by Anselmo. The motion was seconded by Bailey.

Motion passed 4-1 with Lujan-Slak opposed

4. ZBA-20-43 SPECIAL USE PERMIT 2705 LAKE AVE (Patti Olenick) A Special Use Permit to allow a Minor Food Processing Facility in a Central Business (B-4 Zone) District.

Lujan-Slak asked whether the applicant was in the audience to represent the request. Once the applicant confirmed, from the audience, that they were present, Lujan-Slak asked for the staff presentation, which was given by Ms. Stromberg.

The applicant is requesting a Special Use Permit to convert a bar into a minor food processing facility. The Pueblo Municipal Code defines a minor food processing facility as "establishments producing or processing foods for human consumption and certain related products with relatively minor impacts to the surrounding neighborhood. Includes: (1) bakery products, sugar and confectionery products (except facilities that produce goods only for on-site sales with no wider distribution); (2) fruit and vegetable canning, preserving, and related processing; (3) non-potentially hazardous foods and foods that do not require refrigeration, such as spices, teas, dehydrated produce, nuts, seeds, jams, jellies, preserves, fruit butter, and baked goods, including candies; and (4) other similar food preparation from raw products where the impacts are minor, as determined by the Administrative Official. Use allows retail sale of food produced on site." The applicant processes hot sauce using local chili peppers and intends to produce the hot sauce and sell it on site as well as other local goods. The applicant also intends to rent the commercial kitchen to others. The Pueblo Municipal Code does not define a commercial kitchen separately, however, banquet hall, catering service, and restaurants are all uses by right in this zone district, and each includes a commercial kitchen, which makes a commercial kitchen an appropriate accessory use. The site is located in an Urban Renewal Area.

Lujan-Slak then asked for the applicant to be sworn in. **Patti Olenick** was sworn in by Mr. Kogovsek. Following such actions, the applicant introduced herself and offered to answer any questions. **Ms. Olenick** summarized the proposed Special Use Permit. Lujan-Slak asked the applicant if she read the staff report, understand the conditions, and can comply with the staff conditions. **Ms. Olenick** stated that she read the staff report and can comply with the conditions. Lujan-Slak asked if there was anyone in the audience wishing to speak in favor of the application, there were none. Lujan-Slak asked if there was anyone wishing to speak in opposition of the application, there were none. The public hearing was then closed.

Commission Action:

Motion to grant by Lujan-Slak. The motion was seconded by Bailey.

Motion passed 5-0

5. ZBA-20-44 SPECIAL USE PERMIT 502 W ABRIENDO (Scottie Kelder, EXPEDCO) A Special Use Permit to allow automobile rental in a Subregional Business (B-2 Zone) District.

Lujan-Slak asked whether the applicant was in the audience to represent the request. Once the applicant confirmed, from the audience, that they were present, Lujan-Slak asked for the staff presentation, which was given by Ms. Stromberg.

The applicant is requesting a special use permit to operate an automobile rental business in a Subregional Business (B-2 Zone) District. The Pueblo Municipal Code defines Automobile rental as "an establishment engaged in the rental of automobiles and light trucks and vans, including incidental parking and servicing of vehicles for rent. Typical uses include auto rental agencies and taxicab dispatch areas". The site contains a gravel lot that will be used for display of moving trucks and trailers, as well as a paved lot for customer and staff parking along with a small building which will house offices for the business. In 2019 the site was granted a Special Use Permit for an Automobile Dealership, however, the improvements were not completed within once year and the permit expired. The owner states that the property has a history of use as a used car dealership which was a grandfathered use. A Special Use Permit was granted in 1984 (ZBA-50-84) for use as an Automobile Dealership and in 1985 the landscaping condition of that Special Use Permit was recinded due to undue economic hardship. When the current owner purchased the site in 2011 use as an automobile dealership lapsed, necessitating another Special Use Permit to reinstate that use.

Lujan-Slak then asked for the applicant to be sworn in. **Scottie Kelver** was sworn in by Mr. Kogovsek. Following such actions, the applicant introduced himself and offered to answer any questions. **Mr. Kelver** summarized the proposed Special Use Permit. Lujan-Slak asked the applicant if he read the staff report, understand the conditions, and can comply with the staff conditions. **Mr. Kelver** stated that he read the staff report and can comply with the conditions. Lujan-Slak asked if there was anyone in the audience wishing to speak in favor of the application. Chris Vasquez spoke in favor of the application because there would be a viable business it would not be vacant and allowing homeless a spot. Lujan-Slak asked if there was anyone wishing to speak in opposition of the application. The following individuals spoke in the opposition to the application: Jean Latka, Shawn Conti and Tom Luchin. The statements made in opposition were primarily concerned with the appearance of the proposed business, impact of glare and noise on adjacent residences, unsavory activity at the site, and that Mr. Kelver already does not follow the rules and landscaping that needs to be done. Mr. Kelver apologized and said he would not sell anymore cars, he thought that the past special use permit would be sufficient for a business license, the staff adjusted the parking but the customer could improperly park the vehicle initially. He also stated that the business hours would be 9am to 1pm. The public hearing was then closed.

Castellucci discussed the discrepancy between the staff recommended hours of operation and the business hours the applicant stated. He also discussed the need for a more specific condition to include provisions for maintenance and placement of the planters.

Commission Action:

Motion to grant by Castellucci with staff conditions and the added conditions that business hours be limited from 7:00am to 6:00pm, that there must be a minimum of six (6) planters along Polk St. in groups of three, a minimum of one (1) planter along Abriendo Ave., and they must be planted and maintained year-round. The motion was seconded by Bailey.

Motion passed 4-1 with Anselmo in opposition

6. ZBA-20-45 SPECIAL USE PERMIT PARCEL 3329 N ELIZABETH (Rob Rolley, RE/MAX) A Special Use Permit to allow an Outdoor Storage Facility in a Central Business (B-4 Zone) District.

Lujan-Slak asked whether the applicant was in the audience to represent the request. Once the applicant confirmed, from the audience, that they were present, Lujan-Slak asked for the staff presentation, which was given by Mr. Mikitowicz. The applicant is requesting permission to establish an outdoor storage facility in a Central Business (B-4) Zone District, which is a use by review in a B-4.

The subject property is Lot 1 of the Taco Bell Subdivision (filled in 1999). The property was subdivided as a “flag lot” with the “pole” being a two-hundred-ninety-two (292’) foot long shared access easement that creates forty (40’) foot of frontage on North Elizabeth Street. In the “flag” section of the lot there are multiple recorded easements; a ten (10’) telephone easement to the north, a twenty (20’) drainage easement to the south and east, and an approximately six thousand (6,000 sq.) square-foot detention pond in the southeast corner. While addressed to North Elizabeth Street, in a high traffic area, the parcel itself is an undeveloped lot that sits behind the Taco Bell. The applicant is requesting a Special Use Permit so that they may, produce ancillary income from the property, through storage, while they decide how to proceed with future development opportunities.

Lujan-Slak then asked for the applicant to be sworn in. **Rob Rolley** was sworn in by Mr. Kogovsek. Following such actions, the applicant introduced himself and offered to answer any questions. **Mr. Rolley** summarized the proposed Special Use Permit. Lujan-Slak asked the applicant if he read the staff report, understand the conditions, and can comply with the staff conditions. **Mr. Rolley** stated that he read the staff report and can comply with the conditions. Lujan-Slak asked if there was anyone in the audience wishing to speak in favor of the application, there were none. Lujan-Slak asked if there was anyone wishing to speak in opposition of the application, there were none. The public hearing was then closed.

Commission Action:

Motion to grant by Anselmo. The motion was seconded by Bailey.

Motion passed 4-1 with Castellucci in opposition

~ **Adjourn:** Meeting adjourned at 9:15 p.m.

Minutes respectfully submitted by Chelsea Stromberg.