

Mike Castellucci
Chair

Steve Anselmo
Vice Chair



Lisa Bailey
Secretary

Yvonne Lujan-Slak

Georgia Way

Minutes for November 23, 2021

City Council Chambers, 1 City Hall Place

The meeting was called to order at 7:00 p.m. with Chair Castellucci presiding.

Board Members Present: Mike Castellucci, Elizabeth (Lisa) Bailey, Steve Anselmo, Yvonne Lujan-Slak, and Georgia Way.

Staff Members Present: Scott Hobson, Acting Director for Department of Planning and Community Development; Beritt Odom, Principal Planner; Daniel Kogovsek, Board Attorney; Bartholomew Mikitowicz, Planner and Danielle Baxter, Planner.

~ Approval of Minutes

Motion to approve the minutes from the meeting of October 26, 2021, by Bailey, second by Lujan-Slak.
Motion passed 5- 0.

~ Approval of Agenda

Bailey moved to approve the agenda. The motion was seconded by Lujan-Slak.
Motion passed 5 - 0.

Each case that follows proceeded in a uniform process as directed by Chair Castellucci. Beginning with a staff report presented by Planner Bartholomew Mikitowicz or Planner Danielle Baxter, 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.

OLD/NEW BUSINESS

1. **ZBA-20-41 Variance Extension 620 W. 18th St (Charles Hernandez)** A one-year extension request for a Variance to allow an additional accessory structure over two hundred (200') sq. ft. and to reduce the side yard and rear yard setbacks to two feet (2') in a Single Family Residential (R-2) Zone District.

Castellucci asked for the staff presentation, which was given by Ms. Baxter. Castellucci then asked for a motion to approve or deny the extension request.

Commission Action:

Motion to grant extension with same staff conditions, standard permit conditions, motioned by Anselmo, seconded by Way.

Motion passed 5-0.

REGULAR AGENDA

2. **ZBA-21-30 Special Use Permit 7 Dante Court Special Use Permit Child Care Center (Debbie Duran)** A special use permit to allow for a childcare, center in a Single-Family Residential (R-2) Zone District.

Mr. Castellucci asked whether the applicant was in the audience to represent. Castellucci then asked for the staff presentation, which was given by Mr. Mikitowicz. Castellucci then asked for the applicant to be sworn in. **Debbie Duran** affirmed her testimony to Mr. Kogovsek. Following such actions, the applicant introduced herself and offered to answer any questions. Castellucci asked the applicant if she read the staff report, understand the conditions, and can comply with the staff conditions, Ms. Duran agreed. Ms. Duran noted that her earliest child currently comes at 5:00 am and the staff had conditioned 7:00 am through 7:00 pm. Ms. Odom stated that the Board could change the hours of operation to 5:00 am and if there were complaints from neighbors of a noise nuisance the applicant would have to come back to amend the hours in front of the Board.

Tracy Pennetta was sworn in by Mr. Kogovsek and spoke in support of the applicant. Ms. Pennetta states there is a lack of home childcare slots in the neighborhood since Covid-19 pandemic.

No one spoke in opposition of the applicant.

Commission Action:

Motion to grant with staff conditioned hours of operation updated to 5:00 am – 7:00 pm Monday through Friday, other three staff conditions, and standard permit conditions, motioned by Lujan-Slak, seconded by Bailey.

Motion passed 5-0.

3. **ZBA-21-31 Variance 4764 Patriot Court (Melissa Harrison)** Variance to allow a ten foot (10') rear yard setback in the Walking Stick Vista Planned Unit Development (PUD).

Castellucci asked whether the applicant was in the audience to represent. Castellucci then asked for the staff presentation, which was given by Ms. Baxter. Castellucci asked Ms. Baxter for clarification on the development of Parcel F and ensured that the utility easements on the property would not be encroached upon with the variance. Ms. Odom added that Public Works is currently working with developers to phase Parcel F development. Castellucci then asked for the applicant to be sworn in. **Melissa Harrison** affirmed her testimony to Mr. Kogovsek. Following such actions, the applicant introduced herself and offered to answer any questions. Castellucci asked the applicant if they read the staff report, understand the conditions, and can comply with the staff conditions. Ms. Harrison agreed and added that her proposed home would still be located far off Cedarweed Blvd even with variance.

Mr. Castellucci asked if anyone wished to testify in support of the applicant. Jim Gilbertson was sworn in by Mr. Kogovsek to testify in support. Mr. Gilbertson stated Parcel F will be developed in the next six months as a part of a phasing plan. He also added that a new developer has purchased the remaining parcels and may want a variance for all other lots in this area. Mr. Gilbertson added that a smaller sized home would be able to fit on the parcel without the need for a variance.

Mr. Castellucci asked if anyone wished to testify in opposition. Steven Meier was sworn in by Mr. Kogovsek. Mr. Meier stated that he is in support of home being built but not setting precedence for a reduced rear yard setback along Cedarweed Blvd. The hardship is self-imposed, and variance request could be reduced by changing the porch dimensions.

Ms. Harrison came back to the stand to address comments. She stated the home is still going to be 46' off of Cedarweed Blvd with the requested variance.

Commission Action:

Motion to grant with standard permit conditions, motioned by Anselmo seconded by Way.

Motion passed 3-2 [Castellucci and Bailey opposed].

Resume at 51 minutes on recording

4. **ZBA-21-32 Variance 2616 Poplar Street (Francis Salazar)** A variance to allow a zero-foot (0') rear-yard setback for a detached accessory structure in a Single-Family Residential (R-2) Zone District.

Castellucci asked whether the applicant was in the audience to represent. Castellucci then asked for the staff presentation, which was given by Mr. Mikitowicz. Castellucci asked staff about the architectural compatibility component required for the garage to comply, Ms. Odom stated the compatibility is possible but may be costly to the applicant. Castellucci then asked for the applicant to be sworn in. **Francis Salazar** affirmed his testimony to Mr. Kogovsek. Following such actions, the applicant introduced themselves and offered to answer any

questions. Castellucci asked the applicant if they read the staff report, understand the conditions, and can comply with the staff conditions. Mr. Salazar agreed and stated he does not know that it is possible to stucco the garage and put shingles on the roof for architectural compatibility. Mr. Castellucci asked the applicant if they have reached out to the contractor. Mr. Salazar said the contractor stated the garage was allowed in his zip code and they would pull the permits for his garage.

Mr. Castellucci asked if anyone wished to testify in support or opposition of the applicant, there were none.

Commission Action:

Motion to grant with staff conditions, standard permit conditions, motioned by Lujan-Slak, seconded by Bailey.

Motion was denied 1-4 [Castellucci, Bailey, Way, and Lujan-Slak opposed].

5. **ZBA-21-29 Appeal 1906 N Hudson Ave, (Rev. Paul Elder)** Appeal to the Zoning Board of Appeals concerning the interpretation of Section 17-4-27, of the Pueblo Municipal Code, Parking, Storage or use of major recreational equipment.

Castellucci asked for the staff presentation, which was given by Mr. Hobson. Castellucci then asked for the applicant to be sworn in. **Andrew Nussbaum (representative attorney)** introduced himself and gave a presentation concerning the appeal.

Rev. Paul Elder was sworn in and presented his testimony regarding the appeal.

Paul Hicks (Associate Pastor at church) was sworn in and presented his testimony regarding the appeal.

Carol Lee was sworn in and presented her testimony regarding the appeal.

Mr. Castellucci asked for a motion to go into Executive Session to discuss the appeal with the City Attorney.

Commission Action:

Motion to adjourn to executive session for conference with the City Attorney to receive legal advice in regards to CRS 24-6-402(4)(b) motioned by Anselmo, seconded by Lujan-Slak.

Motion passed 5-0.

Mr. Kogovsek recommended that the Board take this case under advisement and render a public decision at the next Board meeting, December 28, 2021, at 7:00 pm. Mr. Kogovsek also recommend that the Board issue a written decision on that date because it is not clear how long the Executive Session will last, this will maintain compliance with the Colorado Open Meetings Law. Mr. Kogovsek is unsure that the Board will reach a decision tonight and recommends the Board take the testimony under advisement for one month. Mr. Kogovsek stated this is a

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complicated case and there are legal issues the Board needs to consider, but the decision is ultimately up to the Board. Mr. Kogovsek advises the Board study the record and take all testimony under advisement. Mr. Castellucci stated he is unsure if a decision will be reached tonight, and he takes the advisement of the City Attorney very heavily.

Mr. Castellucci asked for a motion to either go into Recess or a motion to adjourn into Executive Session to discuss the appeal with the City Attorney.

Commission Action:

A motion to adjourn and reconvene on December 28, 2021, motioned by Way, seconded by Lujan-Slak.

Motion passed 5-0.

~ Adjourn to Executive Session: Meeting adjourned at 9:04 p.m.

Minutes respectfully submitted by Danielle Baxter.