

Weston Burrer
Chair

Rudy Martinez
Vice Chair

PUEBLO

Zoning Board of Appeals

Allison Ernst
Secretary

Mike Castellucci

Yvonne Lujan-Slak

Zoning Board of Appeals
City of Pueblo, Colorado
Tuesday, August 28th, 2012-7:00 p.m.
Interim City Council Chambers-301 West "B" Street

Minutes

MEETING CALLED TO ORDER

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

Board Members Present: Mike Castellucci, Allison Ernst, Rudy Martinez, Yvonne Lujan-Slak

Board Members Absent: None

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 July 24th, 2012 meeting by Ernst, second by Martinez.

Motion passed 5-0.

APPROVAL OF AGENDA

Motion to move one item, ZBA 040-2012 off the consent agenda by Castellucci, second by Martinez. Mr. Burrer then called for a vote.

Motion passed 5-0.

COMMISSION ACTION

Motion to approve Consent agenda (cases ZBA 021-2012 and ZBA 042-2012) subject to staff conditions, by Castellucci, seconded by Lujan-Slak.

Motion passed 5-0.

PUBLIC HEARINGS AND ACTION

CONSENT AGENDA

Special Use Permits

1. 021-2012 13 Ibis Ln. (Lori Marinucci) R-2
A **Limited Use Permit** to allow a home daycare.

Staff Report by Wade Broadhead
Presented by Carrie Muchow

Synopsis

The subject property is located in the Regency Neighborhood. 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 home daycare for a maximum of eight children under 12 years of age.

Analysis

The State of Colorado requires 75-square feet of open play space per child for home day cares. With eight children, the minimum area needed is 600 square feet. The applicant's yard allows for more than 600 square feet as part of their designated play area. City Staff defers to the State Department of Human Services; Division of Child Care to further inspect and license the operation. Staff did not locate any sex offenders within one block of the proposed use.

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

1. Standard permit conditions 1-13.
2. Provide proof of State Daycare License in 180 days.

COMMISSION ACTION

Motion to approve by Castellucci, second by Lujan-Slak with the following condition(s):

1. Standard permit conditions 1-13.
2. Provide proof of State Daycare License in 180 days.

Motion passed 5-0.

2. 042-2012 538 Cactus St. (Ronald Dungan) R-3
A **Limited Use Permit** to allow the keeping of more than 40 pigeons.

Staff Report by Carrie Muchow.

Synopsis

The subject property is located in the Sunny Heights neighborhood. According to Section 17-5-32 (5) of the Pueblo Municipal Code (PMC), the applicant is requesting a Limited Use Permit to allow him to keep up to 100 pigeons.

The applicant races homing pigeons and has for many years at the proposed location. Six (6) to Eight (8) months back the health inspector discovered the birds while doing an inspection regarding a different complaint in the neighborhood and determined that the applicant was keeping more than the allowed forty (40) pigeons on his property. The Planning and Community Development worked with the applicant and other pigeon keepers

plus City Council in order to pass an Ordinance amending the PMC to allow the keeping of up to 100 pigeons as a Use by Review.

Analysis

During the initial review of keeping of pigeons for the Text Amendment, Staff was surprised to find that while Common Pigeons are noisy and a rather invasive nuisance, trained Homing Pigeons cause little to no affect on surrounding neighbors, even when up to 100 are present.

According to the applicant, Homing Pigeons can be trained to land only on specific locations and not make much noise. This, combined with an owner’s diligent cleaning of feathers and cages, means that neighbors may not even be aware that the birds are present.

Upon Staff’s unscheduled inspection for this case, Staff again found the birds to only be on the proposed property, you could not hear them from the street or even from the garage next to the cages, and there were few feathers on the ground. Staff also found the cages to be clean and the birds appeared to be well cared for.

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

1. As outlined in Section 17-5-32 (5) of the PMC,
 - a. There must be shelter of a sufficient size and design and constructed of material that can be maintained in a clean and sanitary condition, including at least one square foot of floor space in any shelter for each adult bird.
 - b. No more than 100 birds are allowed.
 - c. All feed is to be stored in containers as to protect against intrusion by other animals.
 - d. The birds shall be fed and kept within the confines of the shelter, except for limited periods necessary for exercise, training, and competition.
 - e. The birds shall not be released for flying which have been fed within the previous four (4) hours.
2. Standard permit conditions 1-13.

COMMISSION ACTION

Motion to approve by Castellucci, second by Lujan-Slak with the following condition(s):

1. As outlined in Section 17-5-32 (5) of the PMC,
 - f. There must be shelter of a sufficient size and design and constructed of material that can be maintained in a clean and sanitary condition, including at least one square foot of floor space in any shelter for each adult bird.
 - g. No more than 100 birds are allowed.
 - h. All feed is to be stored in containers as to protect against intrusion by other animals.
 - i. The birds shall be fed and kept within the confines of the shelter, except for limited periods necessary for exercise, training, and competition.
 - j. The birds shall not be released for flying which have been fed within the previous four (4) hours.
2. Standard permit conditions 1-13.

Motion passed 5-0.

PUBLIC HEARINGS AND ACTION
REGULAR AGENDA
Special Use Permits

3. 040-2012 1911 E. Routt Ave. (Ed Saban) R-2

A **Limited Use Permit** to allow the keeping of more than 40 pigeons.

Staff Report by Carrie Muchow
Presented by Carrie Muchow

Synopsis

The subject property is located in the Bessemer Neighborhood. According to Section 17-5-32 (5) of the Pueblo Municipal Code (PMC), the applicant is requesting a Limited Use Permit to allow him to keep up to 100 pigeons.

The applicant races homing pigeons and has since 1964 at the proposed location. Six (6) to Eight (8) months back the health inspector discovered the birds while doing an inspection regarding a different complaint in the neighborhood and determined that the applicant was keeping more than the allowed forty (40) pigeons on his property. The Planning and Community Development worked with the applicant and other pigeon keepers plus City Council in order to pass an Ordinance amending the PMC to allow the keeping of up to 100 pigeons as a Use by Review.

Analysis

During the initial review of keeping of pigeons for the Text Amendment, Staff was surprised to find that while Common Pigeons are noisy and a rather invasive nuisance, trained Homing Pigeons cause little to no affect on surrounding neighbors, even when up to 100 are present.

According to the applicant, Homing Pigeons can be trained to land only on specific locations and not make much noise. This, combined with an owners diligent cleaning of feathers and cages, means that neighbors may not even be aware that the birds are present.

Upon Staff's unscheduled inspection for this case, Staff again found the birds to only be on the proposed property, you could not hear them from the street or the lot next door, and there were few feathers on the ground. Staff also found the cages to be clean and the birds appeared to be well cared for.

The applicant has also worked with his surrounding neighbors in order to get them to stop feeding Common Pigeons which are a nuisance to the neighborhood and make it harder to train and keep his pigeons.

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

1. As outlined in Section 17-5-32 (5) of the PMC,
 - k. There must be shelter of a sufficient size and design and constructed of material that can be maintained in a clean and sanitary condition, including at least one square foot of floor space in any shelter for each adult bird.
 - l. No more than 100 birds are allowed.
 - m. All feed is to be stored in containers as to protect against intrusion by other animals.

- n. The birds shall be fed and kept within the confines of the shelter, except for limited periods necessary for exercise, training, and competition.
 - o. The birds shall not be released for flying which have been fed within the previous four (4) hours.
2. Standard permit conditions 1-13.

Ed Saban testified in favor of the application.

Cynthia Pino and Michael Ortiz of 1913 testified in opposition of the application, stating that the birds are a nuisance and are creating problems with their property.

COMMISSION ACTION

Motion to continue until the September 25th, 2012 Hearing by Castellucci, second by Martinez so that staff can investigate the property further and address the complaints made by the neighbor.

Motion passed 5-0.

4. 039-2012 1 Environmental Pl. (Waste Management of Colorado) I-3

A Special Use Permit to allow a waste transfer station.

Staff Report by Carrie Muchow

Presented by Carrie Muchow

Synopsis

The subject property is located in the South Gate neighborhood. According to Section 17-4-51 (15)(c) of the Pueblo Municipal Code (PMC), the applicant is requesting a Special Use Permit for a waste transfer station.

The proposed property is currently used as offices, maintenance shop, and storage for Waste Management. The applicant is proposing retrofitting an unused maintenance bay for a single stream recycling transfer station. The materials would be unloaded from the truck and loaded into a compactor. The material would then be transferred to another Waste Management site for further processing.

The applicant states that this project would allow the company to expand their services to customers.

Analysis

The I-3 zone is intended for heavier industrial uses such as a waste transfer station and, as waste transfer stations go, a recycling station is relatively clean since, typically, all materials must be cleaned by the customer prior to pick up.

The surrounding uses are compatible to the proposed use and include transfer station by Waste Connections and another parcel owned by Waste Management.

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

1. This permit is limited to a recycling waste transfer station and does not include a general waste transfer station.
2. All surfaces that any automobile, including semi-trucks and cars, drives on must be paved.
3. The site must be maintained in a clean, trash-free state.

4. Standard permit conditions 1-13.

Bruce Clabaugh testified in favor of the application.

COMMISSION ACTION

Motion to approve by Castellucci, second by Martinez with the following condition(s):

1. This permit is limited to a recycling waste transfer station and does not include a general waste transfer station.
2. All surfaces that any automobile, including semi-trucks and cars, drives on must be paved.
3. The site must be maintained in a clean, trash-free state.
4. Standard permit conditions 1-13.

Motion passed 5-0.

PUBLIC HEARINGS AND ACTION

REGULAR AGENDA

Variances

5. 038-2012 545 Windy Wy. (Ralph Gonzales) R-2

A **Variance** to allow a new shed to encroach into the side yard setback.

Staff Report by Carrie Muchow

Presented by None

Synopsis

The subject property is located in the Sunny Heights Neighborhood near the intersection of Windy Way and Thatcher Ave. The applicant is requesting a Variance from Section 17-4-2 of the Pueblo Municipal Code (PMC), to allow a new shed to encroach into the second front yard setback by two and a half feet (2.5'). The applicant states that in order to construct the shed he must encroach into the side yard setback because there is a water spigot and pole in the yard that he wants to avoid. The proposed shed is nineteen feet by seventeen feet (19' x 17').

Analysis

The house and property are standard sizes and placements for the neighborhood. The lot size is also relatively large for the size of house which leaves a large buildable area and not much need for a Variance for a backyard shed.

Even when considering the water spigot in the yard, there is a lot of room in other areas of the yard to place the shed rather than squeezing it between the spigot and the property line. The rest of the backyard is open and unlandscaped.

The other option would be to make the shed skinnier to fit between the spigot and setback line. The shed is much larger than typical sheds, at 323 square feet, and if the applicant were to make it a little smaller, it would be able to fit in the desired location with no Variance needed.

There is no reason that Staff can see that this property requires a Variance to make the property useable and there are other options available to the applicant that would allow a shed and not require a Variance.

Staff recommends **DENIAL**. If the Board feels that it is appropriate to grant this Variance, Staff recommends the following conditions:

1. The Variance only covers the length of the proposed shed and may never be expanded.
2. Gutters and downspouts must be installed and all storm water runoff must be diverted away from neighboring properties.
3. The shed must be architecturally compatible to the principal structure.
4. The shed may only be one story in height to avoid covering the neighboring yard in shadow.
5. Standard permit conditions 1-13.

The applicant did not show up to the hearing.

COMMISSION ACTION

Motion to continue until the September 25th Hearing by Castellucci, second by Martinez to allow the applicant another chance to make the meeting.

Motion passed 5-0.

PUBLIC HEARINGS AND ACTION

REGULAR AGENDA

Other Business

6. Discussion of Consent Agenda Definition – Items to include in the future.

Carrie Muchow led a discussion to determine what types of items the Board wanted to see on the Consent Agenda in the future. She stated that the Board had been heading towards cases where Staff agreed with the proposed action, there were no opposing comments, and the applicant agreed to the conditions, being placed on the Consent Agenda and that that is what other Municipalities do as well.

Allison Ernst clarified that if Staff knew of a complaint about the case that the case would not be placed on the Consent Agenda. Multiple Board Members also clarified that any item they wanted to hear could be pulled off at the start of the meeting.

ADJOURN

There being no further business the meeting was adjourned at 8:10 p.m.