

Weston Burrer  
Chair

Rudy Martinez  
Vice Chair

# PUEBLO

## Zoning Board of Appeals

Allison Ernst  
Secretary

Mike Castellucci

Yvonne Lujan-Slak

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**Zoning Board of Appeals**  
City of Pueblo, Colorado  
Tuesday, September 25, 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 7:05 p.m. with Chairperson Weston Burrer presiding.

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

**Board Members Absent:** Allison Ernst

**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 August 28, 2012 meeting by Castellucci, second by Martinez.

**Motion passed 4-0.**

#### APPROVAL OF AGENDA

Mr. Burrer asked if there were any changes or comments, seeing none, called for a vote.

Motion to approve the agenda by Castellucci, second by Martinez.

**Motion passed 4-0.**

#### PUBLIC HEARINGS AND ACTION

##### REGULAR AGENDA

##### **Special Use Permits**

##### **1. 040-2012 1911 E. Routt Ave. (Ed Saban) R-2**

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

(Continued from the August 28th, 2012 Meeting)

Staff Report by Carrie Muchow  
Presented by Carrie Muchow

### **Synopsis**

During the August 28<sup>th</sup>, 2012 Regular Hearing, the Board requested that Staff return to 1911 and 1913 E. Routt Ave. to further inspect 1911 E. Routt Ave. and to initially inspect 1913 E. Routt Ave. due to complaints about both properties. The owners at 1913 E. Routt Ave. accused the applicant of not keeping his property or cages as clean as he had stated and Staff had found at the first two visits and that this was causing problems in their house such as mice and feathers. The applicant stated that this was not due to the state of his property but rather due to the state of theirs.

### **Analysis**

Upon an un-announced inspection of both properties on August 29<sup>th</sup>, 2012, Staff again found that the property at 1911E. Routt Ave. was in good order, there were no feathers or other debris all over the property or neighboring properties, the applicant's birds were in their cages, and food was not being stored outside. Staff also found that specifically there were no feathers, birds, or bird droppings on the property at 1913 E. Routt Ave. Staff did find, however, that the rear yard at 1913 E. Routt Ave. had a large amount of stored trash that appeared to have been there awhile and have been a food source for animals. Staff sent the potential violation regarding the trash to the appropriate department to follow up on. Staff has not received an official update on if 1913 E. Routt Ave. was cited or if the problem has been removed.

The applicant also had a surprise inspection from Justin Gage at the Health Department in response to an anonymous complaint. Staff spoke with Mr. Gage who said that he found nothing on the property that would be considered a health risk and dismissed the complaint.

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.

**The Chair closed the hearing at the August 28<sup>th</sup>, 2012 Meeting so no one testified on the case.**

### **COMMISSION ACTION**

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

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.

**Motion passed 4-0.**

**2. 044-2012 909 N. Elizabeth St. (Positive Horizons) B-2**

A **Special Use Permit** to allow a therapy and educational center.

Staff Report by Carrie Muchow

Presented by Carrie Muchow

**Synopsis**

The subject property is located in the Northside Neighborhood. According to Section 17-4-51 (11)(c)4. of the Pueblo Municipal Code (PMC), the applicant is requesting a Special Use Permit for a therapy and educational center which would be a use by right in a B-3 Zone District.

The applicants are proposing mostly educational classes to help DUI offenders “understand why that is not a smart choice and how to become more productive member of society”. They will also provide some out-patient therapy to help with the in-patient treatment being received elsewhere and provide drug testing for employers and the judicial system.

The hours will be seven (7) days a week 10:00am to 6:00pm and the business will have only four (4) employees at first, the owners of the company.

**Analysis**

This neighborhood is a mix of uses and a mix of zones. Within a one (1) block radius there is R-4, R-5, B-2, and I-2. If you expand it to a two (2) block radius, the zones would include S-1 and B-4. This use would be a use by right in R-5 and B-4 and a use by review in S-1, R-4, and I-2 zones - so it could be allowed in all surrounding zones. Two (2) of the closest properties are vacant parking lots. This part of Elizabeth St. is still used primarily as a business district and will provide a fairly central, easily accessible location for the use.

The proposed use will not include any of the more severe DUI treatments such as in-patient care which makes the use closer to a typical therapy office which would be a use by right in this district. The piece that has the potential to impact the neighborhood is holding classes, which creates an influx in traffic. Staff believes that this parcel has the necessary amount of parking to accommodate the small classes proposed.

Staff does feel there is an immediate need to replan and restripe the parking lot to avoid cars parking or driving on the sidewalk. The way the site is currently laid out, with partial concrete paving across the side parking area,

around the front corner of the building, and into part of the front parking area, it looks as though there is a drive isle from the side parking to the front parking when there is not, this area is meant for pedestrians and landscaping. The misconception could create a potentially hazardous situation between vehicles and pedestrians and should be remedied prior to the Center opening. Staff sees a number of acceptable solutions including landscaping, bumper blocks, railing, and signs. It is up to the applicant or owner to choose the solution that best fits their parking plan and budget. The applicant or owner should work with Staff towards a solution that will keep pedestrians in the area safe and stop traffic conflicts.

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

1. Prior to any work being done on the building, the proper permits must be obtained.
2. A six foot (6') tall, opaque trash enclosure must be added to the property.
3. The tree lawns along both Elizabeth and 10<sup>th</sup> Streets must be restored to meet Section 17-4-7 of the PMC.
4. A parking plan must be submitted to the Planning and Community Development Department, to be reviewed and approved by it and the Transportation Division, which will depict where cars will safely park and drive and which will stop cars from driving in front of the corner of the building, across the sidewalk.
5. The parking lot must be restriped and the pedestrian/vehicle conflicts must be solved prior to opening.
6. All exterior lighting must be brought into compliance with Section 17-4-52 of the PMC.
7. Standard permit conditions 1-13.

Staff met with the applicant and City Traffic Engineer on site between the publication of the Staff Report and the hearing so amended the conditions for the presentation to the Board as follows:

1. Prior to any work being done on the building, the proper permits must be obtained.
2. A six foot (6') tall, opaque trash enclosure must be added to the property.
3. The tree lawns along both Elizabeth and 10<sup>th</sup> Streets must be restored to meet Section 17-4-7 of the PMC.
4. The parking plan and restriping as agreed to by Staff, the City Traffic Engineer, and the applicant, on-site, must be completed prior to opening.
5. All exterior lighting must be brought into compliance with Section 17-4-52 of the PMC.
6. Standard permit conditions 1-13.

**Bonifacio Cosyleon testified in favor of the application.**

**Adolph Garcia testified in favor of the application.**

**Leo Arguello testified in favor of the application.**

### **COMMISSION ACTION**

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

1. Prior to any work being done on the building, the proper permits must be obtained.
2. A six foot (6') tall, opaque trash enclosure must be added to the property if the applicant uses more than a 96 gallon, residential trash can.
3. The tree lawns along both Elizabeth and 10<sup>th</sup> Streets must be restored to meet Section 17-4-7 of the PMC.
4. The parking plan and restriping as agreed to by Staff, the City Traffic Engineer, and the applicant, on-site, must be completed prior to opening.

5. All exterior lighting must be brought into compliance with Section 17-4-52 of the PMC.
6. Standard permit conditions 1-13.

**Motion passed 4-0.**

## **PUBLIC HEARINGS AND ACTION**

### **REGULAR AGENDA**

#### **Variances**

#### **3. 041-2012 830 Beulah Ave. (Art Montoya) R-2**

A **Variance** to allow an existing garage and a new carport to encroach into the side yard setback.  
(Continued from the August 28th Hearing)

Staff Report by Carrie Muchow

Presented by Carrie Muchow

#### **Synopsis**

The subject property is located in the State Fair Neighborhood near the intersection of Small Ave. and Beulah Ave. The applicant is requesting a variance from Section 17-4-2 of the Pueblo Municipal Code (PMC), to allow an existing garage and a new carport to encroach into the side yard setback by three feet (3').

The applicant states the carport is necessary because the household has three cars and he doesn't want the third one out in the elements. He also states that he can not just build either a one-car or a two-car carport that would meet setbacks because the posts would be in the way of maneuvering cars down the driveway.

#### **Analysis**

Staff did not see any adverse affects of placing the carport within the setback, in front of the existing garage since it is an open-air structure and is set so far back from the street and the front of the house. However, Staff does not feel that in this case there is a true need for the Variance and that is one of the main criteria when determining a Variance. The property already has a twenty six foot square, functioning garage which is larger than a typical two and a half car garage and, according to GIS Imagery, is already larger than most garages in the surrounding block.

Because Staff does not necessarily see any negative impacts on the addition, Staff has determined that a neutral finding would be the most appropriate finding in this case and leave the decision completely to the Board.

Staff finds NEUTRALLY in this case. If the Board feels granting a Variance is appropriate in this case, Staff recommends the following conditions:

1. Gutters and downspouts must be installed and all water run-off must be diverted away from neighboring properties.
2. All gutters and downspouts must be installed on the property and may not hang over.
3. The Variance of three feet (3') is only for the length of the existing garage and proposed carport and may never be expanded.
4. The carport may never be enclosed in any way.
5. The carport must be architecturally compatible to the home.

6. Standard permit conditions 1-13.

**Art Montoya testified in favor of the application.**

**Rita Montoya testified in favor of the application.**

**COMMISSION ACTION**

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

1. Gutters and downspouts must be installed and all water run-off must be diverted away from neighboring properties.
2. All gutters and downspouts must be installed on the property and may not hang over.
3. The Variance of three feet (3') is only for the length of the existing garage and proposed carport and may never be expanded.
4. The carport may never be enclosed in any way.
5. The carport must be architecturally compatible to the home.
6. Standard permit conditions 1-13.

**ADJOURN**

There being no further business the meeting was adjourned at 7:50 p.m.