

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, January 22, 2013-7:00 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, Yvonne Lujan-Slak, Rudy Martinez

**Board Members Absent:** None

**Staff Members Present:** Jeff Bailey, P.E., Assistant City Manager for Development Services; Wade Broadhead, Planner; Joanna Murray, Court Reporter and Paul Willumstad, Board Attorney.

#### APPROVAL OF MINUTES

Motion to approve the minutes from the December 18th, 2012 Regular Hearing. Motion by Castellucci, Second by Martinez.

**Motion passed 5-0.**

#### APPROVAL OF AGENDA

Motion by Castellucci, second by Ernst to amend the agenda and move agenda items #4 and #6 to the Consent Agenda.

**Motion passes 5-0.**

#### COMMISSION ACTION

##### **First Consent Agenda Vote**

Motion to approve Consent Agenda (cases ZBA 001-2013, ZBA 002-2013, ZBA 003-2013, ZBA 004-2013) subject to staff conditions, by Castellucci, Second by Martinez.

**Motion passed 5-0.**

## **Second Consent Agenda Vote**

Burrer recused himself from the vote. Mike Castellucci assumed Chair. Motion to approve ZBA 005-2013 subject to Staff conditions by Ernst, Seconded by Martinez.

## **Motion passed 4-0**

Burrer returned and resumed Chair.

## **PUBLIC HEARINGS AND ACTION**

### **Variances**

#### **1. 051-2012 610 Veta Street (Lori Allen) R-3**

A **Variance** to allow an existing carport to extend into the side yard setback.

Staff Report by Wade Broadhead.

### **Synopsis**

The subject property is located in the Aberdeen / State Fair neighborhood adjacent to Thatcher and Veta Avenue. According to Section 17-4-2 of the Pueblo Municipal Code (PMC), the applicant is requesting a variance to allow a carport that was constructed without a permit, to encroach five feet into the required five foot side yard setback. The eave of the carport currently overhangs the neighbor's property by a matter of inches, and one side (northwest elevation) of the carport is currently enclosed.

### **Analysis**

The City received a complaint about an attached carport and issued a Notice of Violation and an Order to Correct to remove the carport since it was erected in a setback and encroaching on the neighbor's property. The applicant claims the carport has been there for 24 years. Checking on the date of construction via City Zoning permits, Regional Building records and the 1952 and 1963 Sandborn Fire Insurance Maps, it appears the carport was constructed sometime between 1963 and 1987 when it appears on a low quality aerial photography. Imagery from 1991 is too blurry to determine, but the carport clearly appears in 2001 imagery. There is no record the carport was ever lawfully permitted, nor has the applicant proved it existed prior to the adoption of the zoning code in 1968. The applicant currently has one small historic single detached car garage that loads off of the alley.

The applicant is claiming a hardship that the carport was preexisting when they took ownership, however the adjacent renter is upset that a closed wall abuts and trespasses onto their property. Although the house at 712 Veta is setback well from the side property line the 0' setback carport does block light and create periods of shade on the adjacent property. Finally, the City cannot allow structures to trespass on adjacent properties.

During the December 2012 hearing the Zoning Board indicated to the applicant that they rarely grant 0' setback variances without a maintenance easement from the adjacent property owner. The applicant also stated that the fence may be two feet off of the proper property line. The ZBA granted a continuance to allow the applicant to obtain a maintenance easement and for Staff to try and determine whether the property line may be off two feet. The applicant finally received a response from the adjacent property owner who would **not** grant a maintenance easement for the carport. City Staff visited the site and measured the property lines and it appears the fence is in the correct location on the northern property line, or the property line with the carport. Since the applicant

cannot get maintenance easement for the side yard setback Staff cannot recommend a 0' setback. However, since the property does suffer a hardship with regards to access and secure parking due to its position on a fast, blind curve, making alley garage access unsafe and since the removal of their one covered parking space would reduce the monetary value of the property, Staff recommends approving a variance for a four foot encroachment in the required five foot side yard setback with conditions.

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

1. Standard permit conditions 1-13.
2. The carport supports are relocated back one foot from the property line, and all eaves and gutters must not exceed eight inches, allowing a minimum four foot encroachment into the required five foot side yard setback.
3. The applicant must install a gutter and divert water from the adjacent property.
4. The carport must remain open (must remove the existing northwest facing wall) to avoid the reduction of light and air on the adjacent property.
5. The applicant obtains required permits for the structure from the Regional Building Department and all other applicable agencies.

Lori Allen, applicant, and Jerry Pacheco, owner, appeared and testified in support of the application.

### **COMMISSION ACTION**

Motion to approve by Castellucci, second by Ernst to approve subject to Staff Conditions:

1. Standard permit conditions 1-13.
2. The carport supports are relocated back one foot from the property line, and all eaves and gutters must not exceed eight inches, allowing a minimum four foot encroachment into the required five foot side yard setback.
3. The applicant must install a gutter and divert water from the adjacent property.
4. The carport must remain open (must remove the existing northwest facing wall) to avoid the reduction of light and air on the adjacent property.
5. The applicant obtains required permits for the structure from the Regional Building Department and all other applicable agencies.

**Motion passed 5-0.**

### **2. 006-2013 101 S. Main Street (Waterfront LLC) HB**

A **Variance** Application from Section 17-4-51 (12.2) of the Pueblo Municipal Code (PMC), to exceed the required amount of signage in the Historic Business District for a wall sign on Main Street frontage. Staff Report by Wade Broadhead.

### **Synopsis**

The subject property is located in the Union Avenue Historic District and fronts the Riverwalk development in downtown Pueblo. The applicant is requesting a variance from Section 17-4-51 (12.2) of the Pueblo Municipal

Code (PMC), to allow a new wall sign on the Main Street elevation. The applicant is proposing a linear building identification sign and three small tenant's signs, in approximately the same location as the original, historic sign. The multiple wall signs measure 42 square feet and one additional window sign measures 8 square feet for a total request of 50 square feet. Window signage is has a separate allowance of 25% per window pane, so the additional 8 square feet can be applied to the wall sign area. The sign panel will identify the building and contain smaller signs to identify its tenants and be anchored to the mortar per preservation best practice. The Historic Business District Guidelines allow ½ square foot of signage for every linear foot of frontage. Since the building's main Street façade is 50 feet this façade would only be allowed 25 square feet.

**Analysis**

The Waterfront Building was erected in 1917 and is currently part of the Union Avenue National Register Historic District and is zoned Historic Businesses which requires review for all exterior changes by the City's Historic Preservation Commission. The applicant has redeveloped a long time vacant historic warehouse and created a retail and office development. As the final part of the redevelopment the applicant proposed a sign package to the HPC on December 13, 2012 which approved signage on the Riverwalk frontage but noted the signage on Main St. exceeded the amount allowed by code. The applicant has already worked with staff to combined signage located across the Main Street façade into one sign panel area that more closely resembles the historic signage and reduces visual clutter on the building. It appears the historic sign panel would not have met current size allowances, and in this case a variance for a slightly increased amount of signage is historically appropriate and will help the redevelopment project be successful as this building is difficult to sign due to its warehouse design and primary frontage off the Riverwalk as compared to a street. An approval by the ZBA will be sent to the February HPC meeting for final approval by that board.

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

1. Standard permit conditions 1-13.
2. Approve a 'sign panel area' as proposed. Later tenant changes can be conducted administratively as long as the sign type is the same or other sign types which adhere to the Historic Businesses Guidelines. Now more than 50 square feet of signage is allowed in the area that measures 35 feet long by approximately six feet in the middle of the facade located above the front door and storefront but below the second story window sills.
3. The sign is as proposed and does not exceed 50 square feet.
4. The sign must also be approved the City's Historic Preservation Commission before installation.

Adolph Padula, owner appeared and testified in favor of the application.

**COMMISSION ACTION**

Motion to **APPROVE** by Castellucci, second by Martinez to approve subject to Staff Conditions:

1. Standard permit conditions 1-13.
2. Approve a 'sign panel area' as proposed. Later tenant changes can be conducted administratively as long as the sign type is the same or other sign types which adhere to the Historic Businesses Guidelines. Now more than 50 square feet of signage is allowed in the area that measures 35 feet long by approximately six feet in the middle of the facade located above the front door and storefront but below the second story window sills.
3. The sign is as proposed and does not exceed 50 square feet.

4. The sign must also be approved the City's Historic Preservation Commission before installation.
5. The applicant obtains required permits for the structure from the Regional Building Department and all other applicable agencies.

**Motion passed 5-0.**

### **ELECTION OF OFFICERS FOR 2013**

Motion by Castellucci, second by Martinez to have Mike Castellucci serve as Chair, Weston Burrer, Vice-Chair, and Allison Ernst as Secretary.

**Motion passes 5-0**

**With no other business the meeting was adjourned at 7:41 PM.**