

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, November 27, 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, Yvonne Lujan-Slak

Board Members Absent: Rudy Martinez

Staff Members Present: Jeff Bailey, P.E., Assistant City Manager for Development Services; Carrie Muchow, Planner; Kelly Grisham, Planner Ramona Baca, Court Reporter and Paul Willumstad, Board Attorney.

APPROVAL OF MINUTES

Motion to approve the minutes from the October 23, 2012 Regular Hearing , the October 16, 2012 Special Hearing, and the Findings of Fact from the October 16, 2012 Special Hearing by Castellucci, second by Ernst.

Motion passed 4-0.

APPROVAL OF AGENDA

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

Motion passed 4-0.

COMMISSION ACTION

Motion to approve Consent agenda (cases ZBA 057-2012 and ZBA 055-2012) subject to staff conditions, by Castellucci, seconded by Lujan-Slak.

Motion passed 4-0.

PUBLIC HEARINGS AND ACTION CONSENT AGENDA

Special Use Permits

1. 057-2012 70 Baylor St. (Crystal Sisneroa) R-1

A **Special Use Permit** to allow a home daycare.

Staff Report by Carrie Muchow.

Synopsis

The subject property is located in the Sunset neighborhood. According to Section 17-4-51 (3)(c)(3.1) of the Pueblo Municipal Code (PMC), the applicant is requesting a Limited Use Permit as a Use by Review to operate a home daycare for a maximum of six (6) children under twelve (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 locate the residence of one sex offender within one block of the proposed use, at Amherst St. and Dartmouth Ave, and the applicant has been notified.

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

1. Standard permit conditions 1-13.
2. The applicant must obtain a Business License from the Finance Department.
3. The applicant must provide proof of State Licensure to the Planning and Community Development Department within 180 days of this hearing or this Limited Use Permit will be void.

COMMISSION ACTION

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

1. Standard permit conditions 1-13.
2. The applicant must obtain a Business License from the Finance Department.
3. The applicant must provide proof of State Licensure to the Planning and Community Development Department within 180 days of this hearing or this Limited Use Permit will be void.

Motion passed 4-0.

PUBLIC HEARINGS AND ACTION

CONSENT AGENDA

Variances

2. 055-2012 327 Argyle St. (Premier Homes) R-1

A **Variance** to allow an existing garage and a new garage addition to encroach into the side yard setback.

Staff Report by Carrie Muchow.

Synopsis

The subject property is located in the Aberdeen Neighborhood near the intersection of Argyle St. and Goodnight Ave. The applicant is requesting a Variance from Section 17-4-2 of the Pueblo Municipal Code (PMC), to allow an existing garage to remain and a new addition to encroach into the side yard setback by one and a half feet (1.5’).

The applicant has stated that the addition cannot be offset from the existing garage in order to meet the setback because the garage is so narrow that to offset part of it, the depth of the garage would become unusable for purposes of "garaging" a modern vehicle. The existing garage is of good historic quality, matches the architecture of the existing residence, and was likely built at the same time as the house.

Analysis

While the property is large enough to accommodate a detached garage that would meet setbacks, according to the PMC, only one (1) detached accessory structure is allowed per lot; so in order to build a new garage, the existing structure would have to be torn down. Due to its existence for presumably almost 70 years and the quality of its historic building materials, it is Staff's opinion that it would be detrimental to the character and historic building pattern of the neighborhood and the lot, if the garage were to be removed to accommodate a new, and possibly larger, garage.

At its current size, the detached garage is unusable for modern vehicles, and without the Variance, would remain so. The applicant would like to maintain the existing garage, but add on to the rear portion, adjacent to the alley, in order to accommodate modern vehicles. Granting the requested one and a half foot (1.5’) Variance would encourage the continued use and maintenance of the existing structure, and would maintain the existing pattern of development, as exemplified by the neighboring garage immediately to the South, which also has legal, non-conforming setbacks (see Photos 3 and 4).

It is important to note that the property also has an existing attached two (2) car garage, accessed from Argyle St.

Based on the character of the immediate neighborhood and that the criteria for the variance have been met, Staff recommends **APPROVAL** with the following conditions:

1. The historic garage must remain architecturally as is, and was historically, with minimal adjustments required to add on to the exterior portion of the structure. The roof line must be maintained to the extent possible even though a hole in the West wall would be required to add on the addition. If, during construction, the historic garage is found to be structurally unsafe and cannot be saved due to structural or monetary reasons, any new garage must meet required setbacks.
2. The addition to the garage must be compatible to the historic architecture of the garage but should not mimic the historic architecture exactly. Elevations must be provided to the Planning and Community Development for review and approval prior to construction.
3. All storm water runoff must be diverted away from neighboring properties.
4. Standard permit conditions 1-13.

COMMISSION ACTION

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

1. The historic garage must remain architecturally as is, and was historically, with minimal adjustments required to add on to the exterior portion of the structure. The roof line must be maintained to the extent possible even though a hole in the West wall would be required to add on the addition. If, during

construction, the historic garage is found to be structurally unsafe and cannot be saved due to structural or monetary reasons, any new garage must meet required setbacks.

2. The addition to the garage must be compatible to the historic architecture of the garage but should not mimic the historic architecture exactly. Elevations must be provided to the Planning and Community Development for review and approval prior to construction.
3. All storm water runoff must be diverted away from neighboring properties.
4. Standard permit conditions 1-13.

Motion passed 4-0.

PUBLIC HEARINGS AND ACTION
REGULAR AGENDA
Special Use Permits

3. 058-2012 Lot 1, The Residences at Riverwalk Sub (Hendricks Communities) B-4
A Special Use Permit to allow a mixed use building and property.

Staff Report by Kelly Grisham.
Presented by Kelly Grisham.

Synopsis

The subject property is located in Downtown Pueblo, at the intersection of S. Grand Ave and Central Main St. According to Section 17-4-51 (12) of the Pueblo Municipal Code (PMC), the applicant is requesting a Special Use Permit for Residence-Commercial, which is defined as a combination of both commercial and residential uses on the same lot or in the same structure. In this definition, the commercial is limited to the commercial uses allowed in the B-4 Zone District.

The applicant is proposing to construct a 4-story building, with retail on the first floor adjacent to Main Street and Grand Avenue, with parking behind the retail spaces, and three (3) floors of residential one- and two-bedroom units above. In total, the project will provide 79 low-income residential units. The applicant is proposing to provide an on-site property manager on the first floor, and a club house on the second floor for the residences use.

Analysis

This neighborhood is a mix of high density residential, commercial and governmental uses, which is consistent with the proposed uses of residential and commercial; however, Staff has some concerns with the wide-open allowance for commercial on the ground floor of the project. The B-4 Zone District allows any uses which are "...primarily retail, office, commercial, finance, transient residence, adult entertainment, government, service, social or cultural in nature, which serve the public good and which does not involve the manufacture or production, fabrication or rebuilding, or the bulk storage, warehousing or wholesaling of merchandise." The project is specifically set up for retail, which is considered compatible with the surrounding uses, as well as the residential uses above. Staff's concerns are that the uses, beyond the ground floor retail, allowed in the commercial portion of the structure are much too vague and could potentially be incompatible with the residential uses above; therefore, Staff is recommending a condition of approval to restrict the ground floor uses to uses that are compatible with the residential uses above. In addition, the applicant is providing for parking

spaces off-site in compliance with the requirements for retail uses. Staff is also concerned that a change to use with a higher parking requirement, such as a restaurant, will create additional parking demands that are not currently being addressed; therefore, staff is also recommending that a change of use to higher parking requirement use should trigger additional parking spaces be provided in addition to the parking provided for the retail uses (28 parking spaces). The proposed use is consistent with the Comprehensive Plan designation of Urban Mixed Use, which promotes a mix of commercial and higher density residential uses. This project is also complying with the designation of Urban Mixed Use, by placing the building at the property line, as is permitted in the proposed B-4 Zone District. In addition, the project is proposing to comply with the proposed City Center Streetscape Standards, which will provide for enhanced streetscape development, further supporting the residences living at this property.

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

4. The ground floor commercial uses must be compatible with the residences located above the first floor, in regards to hours of operation, potential for excessive noise, odor and/or fumes, as determined by the Administrative Official at the time of zoning sign off for business license.
5. The second through fourth floors shall only permit residential uses only, with the only exception being an accessory club house (common space) shall be permitted on the second floor.
6. A change of use to any use with a parking requirement of greater than that required for general retail, shall provide additional parking spaces to supplement the additional spaces required in addition those provided for the retail uses (28 parking spaces).
7. If the parking variance, ZBA-059-2012, is denied, the applicant must satisfy the full parking requirement or this special use permit shall be considered null and void.
8. The refuse and service areas shall be kept in generally the proposed location, which is significantly (at least 60') away from Grand Avenue and (at least 30') from Main Street.
9. Staff must review the location of all above-ground utilities, meters and above-ground boxes, specifically gas and electrical, and will require screening of these as required by PMC.
10. The property must be rezoned to B-4 (P&Z case Z-12-07). If the property fails to be rezoned, the Special Use Permit shall become null and void.
11. Standard permit conditions 1-13.

Marc Hendricks testified in favor of the application.

Doug Wagner testified in favor of the application.

COMMISSION ACTION

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

1. The ground floor commercial uses must be compatible with the residences located above the first floor, in regards to hours of operation, potential for excessive noise, odor and/or fumes, as determined by the Administrative Official at the time of zoning sign off for business license.
2. The second through fourth floors shall only permit residential uses only, with the only exception being an accessory club house (common space) shall be permitted on the second floor.
3. A change of use to any use with a parking requirement of greater than that required for general retail, shall provide additional parking spaces to supplement the additional spaces required in addition those provided for the retail uses (28 parking spaces).
4. If the parking variance, ZBA-059-2012, is denied, the applicant must satisfy the full parking requirement or this special use permit shall be considered null and void.

5. The refuse and service areas shall be kept in generally the proposed location, which is significantly (at least 60') away from Grand Avenue and (at least 30') from Main Street.
6. Staff must review the location of all above-ground utilities, meters and above-ground boxes, specifically gas and electrical, and will require screening of these as required by PMC.
7. The property must be rezoned to B-4 (P&Z case Z-12-07). If the property fails to be rezoned, the Special Use Permit shall become null and void.
8. Standard permit conditions 1-13.

Motion passed 4-0.

PUBLIC HEARINGS AND ACTION

REGULAR AGENDA

Variances

4. 050-2012 1905 Bonforte Blvd. (RH Builders) R-1

A **Variance** to allow a new attached carport to encroach into the front yard setback.

Staff Report by Carrie Muchow.

Presented by Carrie Muchow.

Synopsis

The subject property is located in the Belmont Neighborhood near the intersection of Bonforte Blvd. and Mac Naughton Rd. The applicant is requesting a variance from Section 17-4-2 of the Pueblo Municipal Code (PMC), to allow a new carport to extend from the front of the existing, attached garage twenty four feet (24') placing it seven feet (7') from the front property line.

The applicant states the carport is necessary because the owner's vehicle does not fit in the existing garage and that the carport will help keep snow and ice off the driveway.

Analysis

The Belmont neighborhood has had few Variances over the years, especially front yard setback Variances. The few houses throughout the neighborhood that have some encroachment into any setback appear to have been built with the original home and likely before the Zoning Code went into effect. In no cases are these encroachments for a carport. Since the severity and location of the encroachment would be out of character for the neighborhood, Staff does not feel the proposed addition would be appropriate.

In addition, not only does the property already have a two car garage, normal for this neighborhood, but the property has a large rear yard that would be able to accommodate the proposed carport while meeting all setbacks. The North side of the house also has enough room to allow a car to comfortably pass between the house and fence to access a carport in the rear yard. Again, Staff does not feel that the proposed project would be appropriate since there is another viable location on the property that would allow the owner more covered parking while meeting the PMC requirements.

The applicant noted an encroachment on 1903 Bonforte Blvd. in his narrative and Code Enforcement Staff has researched the property and determined that the situation does not warrant the issuance of a violation because it was built in conformity with the PMC at the time it was constructed so the garage is legal, non-conforming.

Based on the character of the immediate neighborhood and the fact that the criteria for the variance have not been met, Staff recommends **DENIAL**. If the Board feels approval of the Variance is appropriate, Staff recommends the following conditions:

1. All storm water runoff must be diverted away from neighboring properties.
2. The carport must be architecturally compatible, as defined by Section 17-4-23 (c) (5), with the home even though it will be attached.
3. The variance applies to the carport use only; if the owner chooses to enclose the carport to convert it to a garage or any other use, a new setback Variance for the new proposed use will be required.
4. The setback Variance applies to the length of the carport only. No other structures or future structures are approved to encroach.
5. Standard permit conditions 1-13.

Randy Nobinsky testified in favor of the application.

Art Dalton testified in favor of the application.

COMMISSION ACTION

Motion to deny by Castellucci, second by Lujan-Slak.

Motion passed 4-0.

5. 054-2012 18 San Marino Ct. (Ed Butkovich) R-1

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

Staff Report by Carrie Muchow.

Presented by Carrie Muchow.

Synopsis

The subject property is located in the El Camino / La Vista Neighborhood near the intersection of Bridle Trail and Alhambra Dr. The applicant is requesting a variance from Section 17-4-2 of the Pueblo Municipal Code (PMC), to allow a new detached garage to encroach into the side yard setback by two feet (2'), placing it three feet (3') from the property line. The proposed garage would be eighteen feet by twenty two feet (18'x22') and would replace an existing shed that currently meets all setbacks.

The applicant stated that the garage needs to be set five feet (5') from the house in order to move around the garage, including getting a lawn mower through and meeting the setback would put it three feet (3') from the house which would not allow them access to the rear yard.

Analysis

The El Camino / La Vista neighborhood is a relatively new neighborhood and because of this Variances have not been common. Houses were built to follow the current PMC and already had larger floor plans and modern expectations such as two (2), and sometimes three (3), car garages already integrated in the home so Variances have not been necessary.

This particular property has a larger rear yard than most lots in the neighborhood and with such a large rear yard, that can easily be accessed from the side of the house, Staff does not feel there is a need for a Variance to build additional garage space.

There are at least three (3) viable options for providing additional garage space. The first is simply to move the garage elsewhere on the property where it will fit to meet all required setbacks. The lot is large enough to accommodate the proposed garage while still leaving a generous size back yard. The second is to shift the garage so that it is next to the house, leaving an eight foot (8') walkway between the garage and the fence for the owner to maintain movement around the garage as the applicant stated was necessary. The third option, if the owner needed to leave the proposed garage in its proposed location, is to make the proposed garage two feet (2') smaller, to meet all required setbacks, which still allows for a longer than average, one and a half (1.5) car garage.

Based on the character of the immediate neighborhood and the fact that the criteria for the variance have not been met, Staff recommends **DENIAL**. If the Board feels the Variance is appropriate, Staff recommends the following conditions:

1. The garage must be architecturally compatible to the home per section 17-4-23 (c) (5)
2. The Variance only applies to the length of the proposed garage. All future structures or expansions of the garage must meet required setbacks.
3. All storm water runoff must be diverted away from neighboring properties.
4. Standard permit conditions 1-13.

Joe Prutch testified in favor of the application.

Ed Butkovich Jr. testified in favor of the application.

COMMISSION ACTION

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

1. The garage must be architecturally compatible to the home per section 17-4-23 (c) (5)
2. The Variance only applies to the length of the proposed garage. All future structures or expansions of the garage must meet required setbacks.
3. All storm water runoff must be diverted away from neighboring properties.
4. Standard permit conditions 1-13.

Motion passed 4-0.

6. 059-2012 Lot 1, The Residences at Riverwalk Sub (Hendricks Communities) B-4

A **Variance** to allow a reduction in the required amount of parking.

Staff Report by Kelly Grisham.

Presented by Kelly Grisham.

Synopsis

The subject property is located in Downtown Pueblo, at the intersection of S. Grand Ave and Central Main St. The applicant is requesting a variance from Section 17-4-43 (b) (7) of the Pueblo Municipal Code (PMC), to allow a reduction in the required amount of parking. The applicant is proposing to construct a 4-story building, with commercial and parking on the first floor and three (3) floors of residential above, which requires the

property to come into compliance on parking. The property is required to have 119 on-site spaces for the residences (79 residential units) and 28 on-site spaces for the commercial portion of the structure; however the property can only fit 80 spaces on-site. The applicant is proposing to lease 28 parking spaces from the Pueblo Urban Renewal Authority (PURA) at the lot located just north of the property at the corner of Richmond Ave and Central Main St, which is permitted by the PMC without variance, if the parking is within 300 feet of the site. The parking lot proposed for lease is approximately 150 feet away from the subject property; therefore, no variance is required for the commercial parking spaces. We do recognize that the lot owned by PURA is slated for a future parking garage and the applicant is aware that there may be issues during construction. In total, the applicant is requesting a variance to reduce the parking requirement for the residential units only from 1.5 spaces per unit (119) to 1 space per unit (79 spaces) for a total of a 40 space variance (33% variance). PMC permits a variance of up to 50%. The applicant is also requesting to allow the off-street loading zone to be located in the alley behind the property rather than on-site.

Analysis

The residential parking requirement in the PMC is based on an unlimited number of bedrooms per unit, in a suburban setting. This project is unique in that it is only providing 1 and 2 bedroom units in an urban setting, for low-income residents. The restricted number of bedrooms per unit will reduce the number of people that will likely be residing at this property, and the low income residents may not have as many cars as residents of market-rate apartment complexes. In addition, the property is located in Downtown Pueblo, allowing for additional parking opportunities nearby, but off-site, as well as greater availability of alternative modes of transportation; thus reducing the need for some parking. If the variance is denied, the applicant will be required to provide for the remainder of the required parking for the residential units either by reducing the number of units on-site, or by leasing additional parking spaces in the nearby parking lot. Staff has reviewed the request with the City Traffic Engineer, and have determined that leasing an additional 40 spaces in the nearby parking lot would not be of any benefit because it would then encumber those spaces reducing what is available for other uses in the future and Staff feels the 79 parking spaces provided are sufficient for the intended use. In addition, the applicant is providing two (2) bicycle racks in the right-of-way for the commercial uses, and five (5) bicycle parking spaces on-site for residential use. In order to provide for additional methods of transportation, especially for low-income residents, Staff is also recommending the applicant be required to provide an additional five (5) bicycle parking spaces, and a fleet of five (5) bicycles that will be available for the occupants of the residences. By providing for additional resources for the residents to use for transportation, we can encourage them to not have a car.

The City of Pueblo is planning a change in the parking and access to the City-owned Senior Resource Development Agency (SRDA) property located across the alley to the northwest. These changes will create better access to the property by creating a single entrance from the alley, rather than two entrances from Grand Avenue; however, with these changes, the SRDA on-site parking spaces will be reduced. Staff is aware that the reduction of parking spaces on the SRDA site and the increase in parking demand on the subject property could potentially cause a greater parking demand than what can be accommodated on these two sites; however, this property is making accommodations to aid the SRDA in keeping their parking spaces that are accessed from the alley, which overhang into the alley by up to two (2) feet in some locations. The applicant is proposing to locate their parking spaces set back from the alley, allowing for sufficient back out space for the existing SRDA parking spaces. In addition, Staff feels that the subject project is providing sufficient parking for its intended use and Staff cannot consider nearby properties parking short-fall when determining the effects of the variance on adjoining properties.

Regarding the off-street loading zone, staff fully supports the request for this variance. The proposed B-4 Zone District encourages the full use of the entire property, and permits 100% lot coverage. The proposed project will occupy nearly the entire site, making it nearly impossible to provide a loading zone on site. In addition, it is common practice for the alleys to be used for deliveries and loading in the downtown area. Lastly, given the fact that the project is creating structured parking, by placing the residential units above the parking lot, the floor to ceiling height is not enough to allow deliveries or loading within the parking area.

Staff has discussed the site with Transportation Staff and they are in support of the proposed project, parking plan, and number of provided spaces considering the on- and off-site parking provided.

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

1. The applicant must provide a copy of an executed and recorded, long-term (minimum 20 year) lease with the Pueblo Urban Renewal Authority to lease 28 parking spaces on their lot located to the north of the proposed project.
2. The applicant shall include in the lease agreement the parking that is available to the residents, including what is available for overflow parking, and specifically notify the residents that the SRDA lot, and the Richmond Apartment parking lots are not public parking areas and shall not be used for overflow parking. A copy of the lease agreement shall be provided to the Department of Planning and Community Development prior to Certificate of Occupancy.
3. In order to accommodate the use of alternative modes of transportation, the applicant must provide two (2) bike racks along Central Main St. and Grand Ave. for the commercial portion of the building, and provide ten (10) additional secured, bicycle parking/storage spaces for the residential units.
4. Applicant shall provide a bicycle fleet of five (5) bikes for the residences of the property to use.
5. Standard permit conditions 1-13.

Marc Hendricks testified in favor of the application.

Doug Wagner testified in favor of the application.

COMMISSION ACTION

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

1. The applicant must provide a copy of an executed and recorded, long-term (minimum 20 year) lease with the Pueblo Urban Renewal Authority to lease 28 parking spaces on their lot located to the north of the proposed project.
2. The applicant shall include in the lease agreement the parking that is available to the residents, including what is available for overflow parking, and specifically notify the residents that the SRDA lot, and the Richmond Apartment parking lots are not public parking areas and shall not be used for overflow parking. A copy of the lease agreement shall be provided to the Department of Planning and Community Development prior to Certificate of Occupancy.
3. In order to accommodate the use of alternative modes of transportation, the applicant must provide two (2) bike racks along Central Main St. and Grand Ave. for the commercial portion of the building, and provide ten (10) additional secured, bicycle parking/storage spaces for the residential units.
4. Applicant shall provide a bicycle fleet of five (5) bikes for the residences of the property to use.
5. Standard permit conditions 1-13.

Motion passed 4-0.

ADJOURN

There being no further business the meeting was adjourned at 9:10 p.m.