

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, December 18, 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; Wade Broadhead, Planner; Joanna Murray, Court Reporter and Paul Willumstad, Board Attorney.

### APPROVAL OF MINUTES

Motion to approve the minutes from the November 27, 2012 Regular Hearing. Motion by Castellucci, Second by Ernst.

**Motion passed 4-0.**

### APPROVAL OF AGENDA

Motion to approve the agenda by Ernst. Second by Castellucci.

**Motion passed 4-0.**

### COMMISSION ACTION

Motion to approve Consent agenda (cases ZBA 053-2012) subject to staff conditions, by Castellucci, Second by Ernst.

**Motion passed 4-0.**

### PUBLIC HEARINGS AND ACTION

#### CONSENT AGENDA

**Special Use Permits**

**1. 053-2012 40 Hayhurst Avenue (Robert Cornella) B-3  
A Special Use Permit to allow RV and storage pods storage.**

Staff Report by Wade Broadhead.

**Synopsis**

The subject property is located in the Southgate neighborhood. According to Section 17-4-51 (11.1)(c)(1) of the Pueblo Municipal Code (PMC), the applicant is requesting a Special Use Permit as a Use by Review to allow RVs and storage pods.

**Analysis**

Multiple properties in the area, including those adjacent to the property in question are being used for similar storage and have received Special Use Permits for such. Because of the surrounding businesses being used for similar uses, Staff feels this is an appropriate location for such a use. According to Pueblo Municipal Code Section 17-2-1(41.1) a *Recreational vehicle* means a vehicle type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. Vehicles included are: travel trailer, camping trailer, truck camper and motor home.

Staff recommends that the property comply with similar conditions to those applied to properties directly to the North, as listed below.

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

1. Standard permit conditions 1-13.
2. Landscaping must be provided along Hayhurst Ave. per Section 17-4-7 of the Pueblo Municipal Code.
3. The sidewalk to the North must be extended the full length of the property. The applicant must obtain approval from the Public Works Department, along with any other applicable approvals, prior to installation.
4. A opaque six foot (6') tall fence must be installed on all sides of the property.
5. No pods shall be stacked.
6. Aside from RVs, nothing shall be stored outside the pods.
7. All pods will be well maintained, free of rust or other damage. All RVs will be maintained in working and drivable order.
8. In the event a building is desired in the future, a full Commercial Site Plan must be submitted for review and approval by the Planning and Community Development Department, the Public Works Department, the Transportation Division, and any other applicable agencies prior to issuance of a Building Permit.
9. The number and location of driveway cuts must be approved by the Transportation Division and Public Works prior to construction.

**COMMISSION ACTION**

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

1. Standard permit conditions 1-13.
2. Landscaping must be provided along Hayhurst Ave. per Section 17-4-7 of the Pueblo Municipal Code.

3. The sidewalk to the North must be extended the full length of the property. The applicant must obtain approval from the Public Works Department, along with any other applicable approvals, prior to installation.
4. A opaque six foot (6') tall fence must be installed on all sides of the property.
5. No pods shall be stacked.
6. Aside from RVs, nothing shall be stored outside the pods.
7. All pods will be well maintained, free of rust or other damage. All RVs will be maintained in working and drivable order.
8. In the event a building is desired in the future, a full Commercial Site Plan must be submitted for review and approval by the Planning and Community Development Department, the Public Works Department, the Transportation Division, and any other applicable agencies prior to issuance of a Building Permit.
9. The number and location of driveway cuts must be approved by the Transportation Division and Public Works prior to construction.

**Motion passed 4-0.**

## **PUBLIC HEARINGS AND ACTION**

### **Variances**

#### **2. 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 a long time. 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 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. Since the property in question has a single car garage they do not qualify for a hardship to have a 0' setback carport. Although the house at 712 Veta is setback well from the side property line the 0' setback carport does block light and create

long periods of shade on the adjacent property. Finally, the City cannot allow structures to trespass on adjacent properties.

Staff recommends **DENIAL**.

Should the board recommend approval, the following conditions should be made by the Zoning Board to ensure the safety and welfare of adjacent property:

1. Standard permit conditions 1-13.
2. The carport supports are cut back eight inches from the property line, and all eaves and gutters must not overhang the property line.
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.
6. Applicant must obtain a maintenance easement from the adjacent property owner if the approved side yard setback from the property line is less than 2 feet.

Lori Allen, applicant, and Jerry Pacheco, owner, appeared and testified in support. Kendra Hill and Roger Martinez, tenants, testified in support of the application.

The ZBA directed staff to assist the applicant in confirming their property line and the applicant pledged to try and obtain a maintenance easement from the adjacent property owner.

### **COMMISSION ACTION**

Motion to approve by Castellucci, second by Ernst to continue the hearing to the January 22, 2013 meeting.

**Motion passed 4-0.**

**With no other business the meeting was adjourned at 8 PM.**