

Mike Castellucci  
Chair

Steve Anselmo  
Vice Chair



Lisa Bailey  
Secretary

Yvonne Lujan-Slak

Georgia Way

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## Minutes for March 22, 2022

City Council Chambers, 1 City Hall Place

The meeting was called to order at 7:00 p.m. with Chair Castellucci presiding.

**Board Members Present:** Mike Castellucci, Elizabeth (Lisa) Bailey, Yvonne Lujan-Slak, Georgia Way, and Steve Anselmo.

**Board Members Absent:** none

**Staff Members Present:** Scott Hobson, Acting Director for Department of Planning and Community Development; Beritt Odom, Principal Planner; Daniel Kogovsek, Board Attorney; Bartholomew Mikitowicz, Planner; Danielle Baxter, Planner.

### ~ Approval of Minutes

Motion to approve the minutes from the meeting of January 25, 2022, by Bailey, second by Lujan-Slak.

**Motion passed 5- 0.**

### ~ Approval of Agenda

Bailey moved to amend the agenda with ZBA-22-09 being continued to April 26, 2022 hearing. The motion was seconded by Lujan-Slak.

**Motion passed 5 – 0.**

Each case that follows proceeded in a uniform process as directed by Chair Castellucci. Beginning with a staff report presented by the planner assigned, then questions, if any, from the Board to staff members. Next, the applicant is sworn in by Board Attorney, Daniel Kogovsek, then the applicant states his or her name and address. The Board questions the applicant and confirms understanding of staff report and conditions for approval. Applicant may add further information, followed by further questions, if any, from the Board. Then the Board asks if anyone present in the audience will state support for the applicant, followed by those who state opposition. Then the Board closes the public hearing and reviews findings of fact. Finally, the Board may motion to approve or deny the application for permit. In some cases, permits may be conditionally approved.

## REGULAR AGENDA

1. **ZBA-22-01 209 S Prairie Ave Special Use Permit (Douglas Miller)** Special Use Permit to allow for a Residence, two-family (duplex) in a Single Family Residential (R-2) Zone District. Staff report by Bart Mikitowicz.

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Mr. Castellucci asked whether the applicant was in the audience to represent. Castellucci then asked for the staff presentation, which was given by Mr. Mikitowicz. Castellucci then asked for the applicant to be sworn in. Doug Miller (522 Linda Vista, Pueblo, CO 81005) affirmed his testimony to Mr. Kogovsek. Following such actions, the applicant introduced himself and offered to answer any questions. Castellucci asked the applicant if he read the staff report, understand the conditions, and can comply with the staff conditions, Mr. Miller agreed.

Charles Sampson (410 Collins Ave, Pueblo, CO 81005) spoke in opposition of the application stating that it will negatively affect property value. Also that it will bring unnecessary traffic on Collins Ave

**Commission Action:**

Motion to grant with standard permit conditions, motioned by Lujan-Slak, seconded by Bailey.

**Motion passed 5-0.**

2. **ZBA-22-02 2014 E 5<sup>th</sup> St Variance (Ernesto Burgos)** Variance to reduce the required side yard setback from 5 feet to 9 inches in a Single Family Residential (R-2 Zone) District. Staff report by Danielle Baxter.

Mr. Castellucci asked whether the applicant was in the audience to represent. Castellucci then asked for the staff presentation, which was given by Ms. Baxter. Castellucci then asked for the applicant to be sworn in. **Ernesto Burgos** (2014 E 5<sup>th</sup> St, Pueblo, CO) affirmed his testimony to Mr. Kogovsek. Following such actions, the applicant introduced himself and offered to answer any questions. Castellucci asked the applicant if he read the staff report, understand the conditions, and can comply with the staff conditions, Mr. Burgos agreed and stated he is willing to comply to keep the structure and make it legal.

No one spoke in favor of the applicant.

Marcella Ybarra (2016 E 5<sup>th</sup> St, Pueblo, CO) was sworn in by Mr. Kogovsek and spoke in opposition of the application. Ms. Ybarra stated that Mr. Burgos came and spoke to her before constructing the garage and asked if he could be granted access onto her property to construct the garage. Ms. Ybarra asked if the garage needed to be built so far from fence and Mr. Burgos said no and that he does this for a living and if anything was wrong, he would have to knock it down. Ms. Ybarra also asked Mr. Burgos if constructing the garage close to her home was a fire hazard and he said no. Mr. Barros also told her that he would continue the front yard stucco fence around the entire property line. Ms. Ybarra stated she must clean the debris from the hole in the gutter when it rains so the water does not come onto her property. Ms. Ybarra stated she was looking to refinance or sell her home and that is when it was brought to her attention that this structure was not to code and there was no building permit. Also, Ms. Ybarra stated there are issues with noise and vibrations when he plays loud music in the garage.

Mr. Anselmo asked Ms. Ybarra what the distance was from his garage wall to her home. Ms. Ybarra stated approximately eight feet and that Mr. Burgos had mentioned purchasing four feet of her property along his property line and she denied his request. No one else spoke in opposition.

Mr. Burgos was given the opportunity to address Ms. Ybarra's concerns and he stated he had nothing else to add.

**Commission Action:**

Motion to approve with staff condition, and standard permit conditions, motioned by Lujan-Slak, seconded by Bailey.

**Motion denied 0-5 with all members voting nay.**

3. **ZBA-22-03 1103 Damson St Variance (Benito Garcia)** Variance to reduce the required second front yard setback from 12.5 feet to 9.5 feet in a Single Family Residential (R-2 Zone) District. Staff report by Danielle Baxter.

Mr. Castellucci asked whether the applicant was in the audience to represent. Castellucci then asked for the staff presentation, which was given by Ms. Baxter. Castellucci then asked for the applicant to be sworn in. **Benito Garcia**, (705 Locust Ave, Lochbuie, CO) affirmed his testimony to Mr. Kogovsek. Following such actions, the applicant introduced himself and offered to answer any questions. Castellucci asked the applicant if he read the staff report, understand the conditions, and can comply with the staff conditions, Mr. Garcia agreed but stated he is concerned with the sidewalk requirement.

No one spoke in favor or opposition of the applicant.

**Commission Action:**

Motion to grant with staff conditions and standard permit conditions, motioned by Bailey, seconded by Anselmo and Way.

**Motion passed 5-0.**

4. **ZBA-22-05 Variance 1726 Conley Street (Gary Amella)** Variance to reduce the required second front setback in a One and Two Family Residential (R-3) Zone District. Staff report by Bart Mikitowicz.

Mr. Castellucci asked whether the applicant was in the audience to represent. Castellucci then asked for the staff presentation, which was given by Mr. Mikitowicz. Castellucci then asked for the applicant to be sworn in. **Gary Amella** (54 MacArthur, Pueblo, CO 81001) affirmed his testimony to Mr. Kogovsek. Following such actions, the applicant introduced himself and offered to answer any questions. Castellucci asked the applicant if he read the staff report, understand the conditions, and can comply with the staff conditions, Mr. Amella agreed.

No one spoke in favor or opposition of the applicant.

**Commission Action:**

Motion to approve with staff condition, and standard permit conditions, motioned by Lujan-Slak, seconded by Bailey.

**Motion passed 5-0.**

5. **ZBA-22-06 4625 N Elizabeth Street (Gary Anzuini)** Special Use Permit to allow for a Residence, watchman or caretaker in a Central Business (B-4) Zone District. Staff report by Bart Mikitowicz.

Mr. Castellucci asked whether the applicant was in the audience to represent. Castellucci then asked for the staff presentation, which was given by Mr. Mikitowicz. Castellucci then asked for the applicant to be sworn in. **Gary Anzuini** (9 Ditmar Cir, Pueblo, CO 81005) affirmed his testimony to Mr. Kogovsek. Following such actions, the applicant introduced himself and offered to answer any questions. Castellucci asked the applicant if he read the staff report, understand the conditions, and can comply with the staff conditions, Mr. Lopez agreed.

No one spoke in favor or opposition of the applicant.

**Commission Action:**

Motion to grant with shared maintenance agreement, staff conditions, and standard permit conditions, motioned by Bailey, seconded by Lujan-Slak.

**Motion passed 5-0**

6. **ZBA-22-07 528 W Adams Ave Variance (Stephen Garcia)** Variance to reduce the required front yard setback in a Single Family Residential (R-2 Zone) District. Staff report by Danielle Baxter.

Mr. Castellucci asked whether the applicant was in the audience to represent. Castellucci then asked for the staff presentation, which was given by Ms. Baxter. Castellucci then asked for the applicant to be sworn in. **Stephen Garcia** (Ft. Carson, CO) affirmed his testimony to Mr. Kogovsek. Following such actions, the applicant introduced himself and offered to answer any questions. Castellucci asked the applicant if he read the staff report, understand the conditions, and can comply with the staff conditions, Mr. Garcia agreed. Mr. Garcia added that his attorney stated that based on the American Disability Act of 1990 requires him to install handrails and a patio cover over the patio. Mr. Garcia is about to deploy and his current tenant at the 528 W Adams is 70 years old, and Mr. Garcia wants to construct this cover and railing for his safety. Mr. Garcia states the structure will not impede any traffic sight lines or be a bother to any neighbors.

No one spoke in favor or opposition of the applicant.

**Commission Action:**

Motion to approve with staff condition and standard permit conditions, motioned by Anselmo, seconded by Way.

**Motion passed 5-0**

7. **ZBA-22-08 2039 Alma Ave Special Use Permit (Kevin Bush)** Special Use Permit to allow a warehouse use in a Business Park (BP Zone) District. Staff report by Danielle Baxter.

Mr. Castellucci asked whether the applicant was in the audience to represent. Castellucci then asked for the staff presentation, which was given by Ms. Baxter. Castellucci then asked for the applicant to be sworn in. **Kevin Bush** (208 E 150 N, Washington, IN 47501) affirmed his testimony to Mr. Kogovsek. Following such actions, the applicant introduced himself and offered to answer any questions. Castellucci asked the applicant if he read the staff report, understand the conditions, and can comply with the staff conditions, Mr. Bush agreed. Mr. Bush asked for clarification of staff condition #3 referring to BP Zone District performance standards in Sec 17-4-5. Mr. Castellucci stated this code refers to the uses allowed and requirements of zone district. Ms. Baxter added that this was a staff condition for the prior variance (ZBA-21-08) that was approved the prior year to allow a BP zone district building within one hundred feet of a residential zone district.

No one spoke in favor or opposition of the applicant.

**Commission Action:**

Motion to approve with staff conditions and standard permit conditions, motioned by Way, seconded by Bailey.

**Motion passed 5-0**

~ **Adjourn:** Meeting adjourned at 8:32 p.m.

Minutes respectfully submitted by Danielle Baxter & Bart Mikitowicz.