# PLANNING AND ZONING COMMISSION



Minutes January 14, 2013

### **Meeting Summary**

PZ Resolution 2012-27, Mustang Acres Replat A, Block 1, Lot 1 Variance request public hearing was continued to February 11, 2013. The motion was adopted by unanimous vote of the Commission.

PZ Resolution 2013-1, Broomfield Heights Filing No. 1, Amended, Block 7, Lot 19, Variance request public hearing was continued to February 11, 2013. The motion was adopted by unanimous vote of the Commission.

# Roll Call - 7:00 P.M.

Chairman Tom Silvers called the meeting to order at 7:00 p.m.

Commission Members Present: Charles Hastings

Roger Kelley Phil Russell Tom Silvers Kathryn Turner Scott Weeks

Commission Members Absent: Jacklynn Gould

Archie Lind

Staff Members Present: Dave Shinneman, Community Development Director

Tami Yellico, Deputy City & County Attorney

Michael Sutherland, Senior Planner

Chairman Tom Silvers stated there was a quorum present.

## **Disposition of Minutes**

The minutes of the regular Planning and Zoning Commission meeting of December 10, 2012, were approved as printed and previously submitted.

#### **Petitions and Communications**

Community Development Director Dave Shinneman stated that written comments from the neighbor, Mrs. Mary Mock, at 205 Garnet Street, had been submitted and distributed to the Planning Commission and the applicant.

#### **CONTINUED PUBLIC HEARING - PZ RESOLUTION 2012-27**

Mustang Acres Replat A, Block 1, Lot 1 Variance request to reduce minimum lot area from 1.0 acres to 0.8 acres and reduce minimum lot width from 150 feet to 133 feet to allow future subdivision of one lot into two lots

Location 15536 Santa Fe Drive

Applicant: Imagine!

Planner: Anna Bertanzetti

Chairman Silvers noted for the record the public hearing was opened at the December 10, 2012, meeting. Testimony was taken at the hearing and continued to the January 14, 2013, meeting, to allow the applicant additional time to respond to the information requested of the applicant. The applicant has requested additional time to talk with neighbors and gather the requested information. Staff recommended a continuance of the public hearing to February 11, 2013, to encourage adequate time for the applicant to gather the information and for staff to prepare an updated memorandum for the Commission.

Commissioner Kelley moved to continue the hearing to February 11, 2013.

Commissioner Hastings seconded the motion.

The motion was approved by unanimous vote of the Commission.

Chairman Silvers stated that Commissioners Lind, Kelley and Weeks were absent from the December 10 meeting. Each commissioner had the opportunity to review the minutes and/or listen to the meeting audio. Commissioners Kelley and Weeks confirmed they had either reviewed the minutes and/or listened to the meeting audio. Commissioner Lind was absent from the meeting.

Deputy City Attorney Tami Yellico stated the action tonight is to continue the meeting to February 11, 2013, and public comment will be taken at the continued public hearing on February 11, 2013, as the applicant has requested additional time to prepare for the public hearing.

Derek Malgram, 864 West 154<sup>th</sup> Avenue, said he is one of the five closest houses to this proposed development and has never been contacted for any reason by Imagine. He said that he would like to know there is a plan for the next meeting and this is not just some sort of delay tactic.

## **PUBLIC HEARING -- PZ RESOLUTION 2013-1**

Broomfield Heights Filing No. 1, Amended, Block 7, Lot 19, Variance request to reduce the required ten foot side yard setback by eight feet, four inches for the purpose of allowing a non conforming garage to remain

Location: 211 Garnet Street

Applicant: Juan Sanchez, Jr. and Nadia Sanchez

Planner: Michael Sutherland

Chairman Silvers opened the public hearing at 7:11 p.m.

Senior Planner Michael Sutherland summarized the staff report and asked that the memorandum and attachments be entered into the public record. Mr. Juan Sanchez, Jr. and Mrs. Nadia Sanchez applied for a variance under the provisions of the Broomfield Municipal Code Section 2-40-070 to allow an existing attached garage at 211 Garnet Street to encroach eight feet, four inches into the required ten foot side yard on the south side of the property.

A public hearing is required for the requested variance. The applicant paid all required fees and the notification requirements of Broomfield Municipal Code Section 17-52 were fulfilled for this hearing. The property is located near the northwest corner of Garnet Street and West 2nd Avenue. The property is zoned R-1 Low-Density Residential and is in the Neighborhood Overlay District. The minimum required yard on the south side of this property is ten feet. In 1962, Broomfield issued a building permit for a tenfoot wide patio roof on the south side of the house. The existing garage has not been permitted through Broomfield. According to the applicant, the garage was in existence prior to purchase of the home in 2006. According to the best available information, the existing garage wall is one foot, eight inches from the property line and the eve and gutter extends to the property line. Staff received comments and photographs from Mrs. Mary Mock and distributed the comments to the Planning and Zoning Commission both electronically and with paper copies.

Juan Sanchez, Jr., the applicant, addressed the Commission. He purchased the home in April, 2006, after renting the property for about a year. The one car garage was attached to it. His father owned the home for several years and did minor improvements to the home. They haven't had any issues with the neighbors and would like to keep the garage. Mr. Sanchez said Tim Pate of the City and County of Broomfield's Building Department informed him there would be work needed to make the garage met Code. The garage was used for a car but recently the family uses it for storage of bikes, skate boards, tools and other items.

Mary Mock, 205 Garnet Street, addressed the Commission. She lives next door to 211 Garnet Street. She spoke of the lack of maintenance of the property, the probably fire hazard, years of overgrowth of vegetation, encroachment, fence needing replacement, lack of property maintenance, passage between the property is limited because of encroachment of debris and foot traffic has been forced over the installed drainage because of the miscellaneous debris that sits around the property. Her concerns are largely environmental but feel the focal point is the garage. She said it is a wonderful neighborhood with wonderful neighbors. She said she is sad the issues had to be aired at a public meeting but it may be beneficial for the neighborhood.

Robert Wisdom, 225 Garnet Street, spoke of the property prior to Juan Sanchez (father to the applicant) purchasing the property. The property was bank owned and there was over eight cubic yards of household trash removed from a homemade dumpster in the backyard. This was prior to Juan Sancehz's father owning the property. Mr. Wisdom stated he was not aware that Juan's father actually enclosed the carport. The neighborhood homes were built in 1956 and the enclosed garages were made out of brick. He said he counted twenty-two garages made out of wood, which he believed would indicate that there may be twenty-two garages in the neighborhood built without a permit. The carport was originally permitted for a ten foot encroachment off of the home. When the garage was built it was not increased in size and did not change the roof line or the eave overlap. The garage appears not to have been permitted and he believes all that was done was the walls were enclosed between the support pillars and a garage door installed. He had helped Mr. Sanchez, the applicant, pull weeds on the side of the house and said work is slowly being done on the maintenance of the backyard to bring it up to Code and neighborhood standards. Mr. Wisdom stated that Mr. Sanchez just needed some encouragement and cares about his property. The outdoor storage and out of position trash cans have been taken care of. Mr. Wisdom said he doesn't believe a fire hazard exists.

Kevin Davis, 210 Garnet Street, said that in 1987 he moved into his home. The lean-to garage (carport) had always existed since that time and nothing ever has been said about this for twenty or twenty-five years. The property now looks better than it has in years. He echoed the comments about the neighborhood being a great neighborhood and would like to see a win-win situation for his neighbors.

Commissioners' comments and concerns were:

- Date the property was purchased by Mr. Sanchez's father;
- Objections are more to conditions around the garage than the garage itself;
- The trash and debris is a Code Enforcement issue.
- Drainage.
- Staff report on page 3 shows illustration is for 205 Garnet Street.
- Construction businesses are aware of the requirement of permits.
- Covenants for the community.
- Fence replacement.
- Denial of a fence permit because the fence may be a fire safety hazard.
- The zoning regulations intent is to prevent the overcrowding of the land and to promote safety and to reduce any potential fire danger.
- This is an existing non conformity and we may never get to why this was built the way it was.
- As a Board, our decision is do we want the existing non conformity to remain or should it revert back to what the permit said back in 1962. If the roof line hasn't been altered in all those years, it was simply enclosed; we need to balance what is considered adverse impact and what is considered safety issues. The environmental impact due to trash, debris, et cetera, on other property needs to be reduced.

- Some of the issues discussed tonight are code compliance issues, the Planning and Zoning Commission focus needs to be on the building and suggest a condition of no expansion of the non-conformity.
- The encroachment of the trash onto the neighbor's property.
- Access to the backyard of the property.
- Length of time the lack of maintenance has existed.
- Inspection of the electrical in the existing garage.

Juan Sanchez, Jr., applicant, addressed some of the Commissioners' comments:

- His father purchased the property during the middle of 2004.
- His father enclosed the garage leaving the original supports.
- The roof line shown in the 1996 picture is the same as it is today.
- The driveway in front of the garage lines up with the garage so this is an indication that no additional space has been added to the original carport.
- He expressed a willingness to do what is required to be able to keep the garage.
- By the time he worked on the house, the carport was already enclosed.
- There are no covenants for this property.
- The garage has been there for seven years.
- Willing to work with the neighbors and has talked with the Building Division about the improvements to meet the requirements of the building code.

Mrs. Mock stated the garage is just the ripple effect of the conditions around it. She expressed concern about the negative impacts the encroachment from the garbage cans and debris along the side of the garage and the general poor maintenance of the property. She is also expressed concerned the impacts debris has on the drainage of the property. The drainage system installed on her property was to correct problems caused by tree roots. The fence needs to be replaced, there are numerous voluntary trees that impact the fence and the posts have rotted out. Mrs. Mock does not wish to extend the fence. Mrs. Mock said she has been addressing her concerns to Mr. Sanchez since 2006, possibly 2004.

Deputy City Attorney Tami Yellico advised the Commission they may wish to provide for the opportunity for staff to work with Mr. Sanchez and the neighbors about the issues of debris and encroachment. Ms. Yellico stated that it appears, through the statements made during this hearing, the parties are willing to communicate a bit more on the issues that are a result of the garage. The issue is whether or not the garage should be allowed to encroach and a variance should be granted, whether the garage has a detrimental impact on the neighborhood and if the garage was required to be removed would it create an economic hardship on the owner.

Community Development Director Dave Shinneman stated the issue of weeds and trash is all enforceable under the Code by making a complaint to the Code Enforcement Division. The drainage issue would need to be addressed by experts in the field.

Senior Planner Michael Sutherland stated there is no plot plan for 211 Garnet Street. The improvement survey (on page 3 of the staff report) shows where the property line is for between 205 and 211 Garnet Street. The side yard requirement is ten feet. The permit was issued in 1962 and staff does not have any record of how the permit was approved or processed. The time that an individual can protest an administrative decision long past. Staff does not believe the gutter crosses the property line. Mr. Sutherland stated there are no utility or access easements on that side of the property.

Mrs. Mary Mock reviewed the date of the pictures in the material she provided. She said that she did get a permit for her carport and sunroom. She said she has talked with Mr. Sanchez about the over growth of vegetation for years and that Code Enforcement has been involved.

Community Development Director Dave Shinneman said staff reviews a fence permit based on height and location. The fire safety issue, relating to the location of a fence to the building, is a building issue.

Mr. Wisdom stated all the houses in the neighborhood have access to the backyard only on one side of the house. The building issue needs to be addressed by the Planning and Zoning Commission. Code Enforcement was required to motivate Mr. Sanchez. He suggested that North Metro Fire District look at the issue of access to the back of the homes as their professional opinion would be beneficial.

Commissioner Kelley suggested a continuance and the following needs to be address: 1) access; 2) structure impeding access to the back; and 3) what is required to make the structure legal to pass a building code inspection. We also need to encourage further discussion between the neighbors, and involve the staff to facilitate the issue to allow for a win-win situation for both parties.

Community Development Director Dave Shinneman suggested a one month continuance. Staff can contact North Metro Fire Department to look at the situation as it relates to fire safety. Staff has already provided information to Mr. Sanchez about code required and suggested Mr. Sanchez obtain the costs associated with bringing the structure up to code.

Deputy City Attorney Tami Yellico said the applicant and neighbors need to address the practical difficulties and the undue hardship to Mr. Sanchez if he was required to remove the garage. Any other evidence of detriment to the neighborhood or to the public good would also be taken.

Commissioner Weeks said there needs to be an effort by the applicant to address the variance criteria.

Commissioner Hastings moved the hearing be continued to February 11.

Commissioner Kelley seconded the motion.

Deputy City Attorney Tami Yellico advised the Commission to make it clear the continuance is being granted so the applicant and those present can bring additional evidence to the hearing with regard to the difficulties or hardships of removing the garage from the property or the substantial detriment to the neighborhood or the to the public good if the garage was left on the property.

Commissioner Hastings accepted Deputy City Attorney Tami Yellico's comments as part of his motion:

The continuance is granted so the applicant and those present can bring additional evidence to the hearing with regard to the difficulties or hardships of removing the garage from the property or for others to present information supporting the opinion the garage is detrimental to the neighborhood or the to the public good should the garage remain on the property.

Commissioner Kelley offered the following friendly amendment:

The public safety issues needs further review and staff will facilitate the review by contacting North Metro Fire District.

Commissioner Kelley accepted Commissioner Hastings addition to the motion and Commissioner Hastings accepted Commissioner Kelley's friendly amendment.

The motion was approved by unanimous vote.

#### Special Report --

Community Development Director Dave Shinneman discussed Commissioner Jacklynn Gould's notification to the Planning and Zoning Commission that she would be absent through April 30, 2013, as her out of state work assignment has been extended. Ms. Gould has expressed an interest in remaining on the Commission. Mr. Shinneman spoke of the relevant section of the by-laws that address commissioner's absences. General consensus of the Commission was that Ms. Gould's absence was job specific and had no issues with her being unable to attend meetings for the time her job takes her out of state.

Commissioner Hastings asked about the information provided tonight that there are non-compliant homes in the Broomfield Heights neighborhood and the obligation we have since it has been brought to our attention.

Deputy City Attorney Tami Yellico said that our Code Compliance Division works on complaints. The Planning and Zoning Commission is to look at applications that come before them.

Community Development Director Dave Shinneman said we do not have staff to look at lot by lot compliance. If complaints are called in, staff will look into them.

# Adjournment – 8:37 p.m.

The meeting was adjourned at 8:37 p.m.

Approval	
Minutes Prepared by:	
Diana K. Tangsrud, Recording Secretary	
Approved by:	
Chairman	
Chairman	