



PLANNING AND ZONING COMMISSION

***Minutes
March 11, 2013***

Meeting Summary

PZ Resolution 2013-1, a Resolution approving a variance request (PZ-12-00477) for a side yard setback was approved by a 4-3 vote. The variance allows for the reduction of the required ten foot yard on the south side of 211 Garnet Street in the Broomfield Heights Filing No. 1 Amended Subdivision to one foot, eight inches for the purpose of retaining a non-conforming attached garage, with the following findings: 1) The existing building does not have an adverse impact on the neighborhood; 2) That such relief does allow the occupant to not have an adverse financial hardship; 3) That this is not an usual condition in the neighborhood; and 4) That a covered garage is an asset to the neighborhood over a carport.

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
Archie Lind
Phil Russell
Tom Silvers
Kathryn Turner
Scott Weeks

Commission Members Absent: Jacklynn Gould

Staff Members Present: Dave Shinneman, Acting Community Development Director
Tami Yellico, Deputy City & County Attorney
Michael Sutherland, Senior Planner

Petitions and Communications -- None

Disposition of Minutes

The minutes of the regular Planning and Zoning Commission meeting of February 11, 2013 were approved as printed and previously submitted.

**CONTINUED 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 approximately 9 feet for the purpose of allowing a non
conforming garage to remain in place**

**Location: 211 Garnet Street
Applicant: Juan Sanchez, Jr. and Nadia Sanchez
Planner: Michael Sutherland**

Chairman Silvers declared the public hearing open at 7:05 p.m. The public hearing was opened at the January 14, 2013, meeting. Testimony was taken at the hearing and continued to the February 11, 2013, meeting to allow the applicant and other interested parties to bring additional evidence regarding the difficulties or hardships of removing the garage from the property, of the substantial detriment to the neighborhood or to the public good if the garage remains in place, and to gather additional information from the North Metro Fire and Rescue District. On February 11, the applicant again requested additional time to talk with neighbors and gather the requested information. The Commission continued the public hearing to March 11, 2013. Commissioner Gould was the only member absent from the January 14 meeting.

Michael Sutherland summarized the staff report Mr. Juan Sanchez, Jr. and Mrs. Nadia Sanchez applied for a variance under the provisions of 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. 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 ten-foot 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 their 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 eave and gutter extends to the property line. Since the January 14, 2013 opening of the public hearing, the applicant provided a letter addressing additional evidence regarding the difficulties and hardships of removing the garage from the property and the substantial affect to the neighborhood or to the public good if the garage remains in place. The letter is attached to the memorandum as Attachment 2. Mrs. Mary Mock, 605 Garnet Street, provided a letter of support, shown as Attachment 3. Mr. David Waller, Fire Safety Engineer for the North Metro Fire Rescue District, provided a safety analysis for the property, shown as Attachment 1.

Juan Sanchez, Jr., applicant, stated that Mrs. Mock and he had spoke and he is aware of the items that need to be taken care to address Mrs. Mock's concerns.

Public comment was requested, there was no one wishing to speak

Commissioners' questions, comments and concerns were:

- Timeline of activities related to the home;
- Construction of a fence;
- Concerns about the restriction of emergency access should a fence be constructed;
- Future habitability of the residences considering the letter provided by North Metro Fire District;
- Number of electrical outlets in the garage;
- This isn't an unusual circumstance, for rooflines fairly close to each other, in this neighborhood;
- Measurements of the 1962 building permit;
- Impact to Mrs. Mock should she wish to sell her home, buyers may not buy the home because of the amount of space between the homes;
- There should be fifteen feet between the two structures; and
- If the variance is granted the structure will need to be brought up to building code standards.

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

- He works in the construction business doing interior trim. Approximately five to six years ago he started working for himself. His father also worked in interior trim in the construction business.
- His father purchased the house sometime in 2004.
- He moved into the house in late 2005, early 2006 and then purchased the house from his father in April 2006.
- The garage already existed by the time he was living there.
- The only electrical outlet is where the motor for the garage door would be. There is an electrical light switch by the backdoor of the garage.
- If the structure is allowed to stay it will be necessary for the structure to go through all the inspections. Mr. Sanchez said he would make the structure code compliant whether it requires cement siding and an electrical inspection.
- He was not aware of when his father might have enclosed the carport, becoming a garage.

Senior Planner Michael Sutherland confirmed a building permit is required for construction of any fence. Fences are allowed to be up to six foot high except in a front yard and a fence could be placed on the property line of the property. There is a 1962 building permit issued for a patio roof to extend ten feet, which is a little bit shorter than what currently exists. Mr. Sutherland stated there are other similar existing situations in the neighborhood where buildings are close to each other. The 1962 building permit would allow the measurement of ten feet to the wall. Staff tried to look up the code from 1962, but was unable to find that Code. The earliest Code staff could find, which goes back to 1973, has the setback for the R-1 District is similar to today's requirement. It appears these homes, built back in the 1950's were built on the pattern of five foot separation in one yard and a ten foot separation in another yard which is what the current code requires. Mr. Sutherland stated the Sanchez's will have to apply for a building permit and the permit would be reviewed against the current international building code standards.

Nadia Sanchez, 211 Garnet Street, stated there are other homes in the neighborhood that are similar where the roof lines are so close and they have sold. This is an older neighborhood, most of the homes were built in the 1950's.

Ms. Mary Mock said she appreciated your comments and questions. She said this was the first opportunity to view the comments from the fire department. She said that she and Mr. Sanchez have talked. She expressed concern about other issues that may come up if the garage is torn down (the accommodation of storage, displacement of everything in the garage, financial hardship for Mr. Sanchez. She said she would rather act with grace and forgiveness and that the Commission would take the responsibility. She stated that she would lean towards keeping the garage but is not aware how this would affect with hers or the Sanchez's insurance rates.

Chairman Silvers thanked Mrs. Mock for her comments.

Chairman Silvers closed the public hearing at 7:31 p.m.

RESOLUTION PZ 2013-1 WAS READ BY TITLE

Commissioner Kelley moved for approval of Resolution PZ 2013-1, a Resolution approving a variance request to reduce the required ten foot yard on the south side of 211 Garnet Street in the Broomfield Heights Filing No. 1 Amended Subdivision to one foot, eight inches for the purpose of retaining a non-conforming attached garage, with the following findings:

1. The existing building does not have an adverse impact on the neighborhood;
2. That such relief does allow the occupant to not have an adverse financial hardship;
3. That this is not an usual condition in the neighborhood; and
4. That a covered garage is an asset to the neighborhood over a carport.

Commissioner Weeks seconded the motion.

Discussion of the motion was called for.

Commissioner Lind asked if we approve this as stated, what assurances do we have on time line for compliance.

Community Development Director Dave Shinneman stated there isn't any strict timeline, if Mr. Sanchez does not pull a building permit he could be issued a stop work order and he could also be issued a notice from Code Compliance.

The following votes were cast on the motion:

Those voting in Support: Kelley, Silvers, Russell, and Weeks

Those voting in Opposition: Hastings, Lind and Turner

The motion passed.

Special Report --

Acting Community Development Director Dave Shinneman, reviewed the Tentative Planning Commission schedule. The next Planning and Zoning Commission meeting will be March 25, 2013.

The Commission recognized Scott Weeks for his services to the City and County of Broomfield by his participation on the Planning and Zoning Commission. Mr. Weeks stated he would be moving to Longmont and therefore did not reapply for the Commission.

Adjournment – 7:38 p.m.

The meeting was adjourned at 7:38 p.m.

Approval

Minutes Prepared by:

Diana K. Tangsrud, Recording Secretary

Approved by:

Chairman